UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 106th CONGRESS
FIRST SESSION

VOLUME 145—PART 1

JANUARY 6, 1999 TO JANUARY 29, 1999
(PAGES 1 TO 1496)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1999

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *106th* CONGRESS, FIRST SESSION

SENATE—*Wednesday, January 6, 1999*

The 6th day of January being the day prescribed by House Joint Resolution 138 for the meeting of the 1st session of the 106th Congress, the Senate assembled in its Chamber at the Capitol, at 12:04 p.m.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

Almighty God, recapture our minds, rivet our attention, galvanize our wills. You alone are Sovereign of this land and demand our indefatigable loyalty; You are our Lord and require our obedience. This is an awesome moment of encounter with You for the Senators-elect who will make an unreserved commitment to You, to our beloved Nation, and to our cherished Constitution. Give them a vision of their greatness as leaders of this Nation that You had in mind when You first thought of them before they were born. Thank You for the families who nurtured them, the mentors who sculpted their characters, the loved ones who now sustain and encourage them. They are here by Your choice and are ultimately accountable to You for how they lead this Nation under Your guidance. May the vows they take and the immense responsibilities they assume bring them to profound humility and an unreserved openness to You. Save them from the seduction of human power by the steady flow of Your power; free them from any addiction to popularity by the reminder that You only must be pleased; and replace any aggrandizement of pride with an aggregate of praise for You and the privilege of being servant leaders. In the pressures, keep their priorities straight: You and their families, first; the good of the Nation, second; consensus around truth, third; party loyalties, fourth; and, last of all, personal success.

And now, gracious God, we claim Your faithfulness for the Senators-elect and for all the Senators. May the soul-sized issues before them bring them to deeper prayer than ever before. Anoint their minds with Your Spirit, guide them to creative solutions, grant them Your supernatural power for facing this challenging hour. Through our Lord and Saviour. Amen.

CERTIFICATES OF ELECTION

The VICE PRESIDENT. The Chair lays before the Senate the credentials of 34 Senators elected for 6-year terms beginning on January 3, 1999.

All certificates, the Chair is advised, are in the form suggested by the Senate or contain all the essential requirements of the form suggested by the Senate. If there be no objection, the reading of the above-mentioned certificates will be waived, and they will be printed in full in the RECORD.

The documents ordered to be printed in the RECORD are as follows:

STATE OF INDIANA

CERTIFICATE OF ELECTION FOR A SIX-YEAR TERM

Be it known by these presents:

Whereas, according to certified statements submitted by the Circuit Court Clerks of the several counties to the Election Division of the Office of the Secretary of State of Indiana, and based upon a tabulation of those statements performed by the Election Division, the canvass prepared by the Election Division states that at the General Election conducted on the third day of November, 1998, the electors chose Evan Bayh to serve the People of the State of Indiana as United States Senator from Indiana.

Now, therefore, in the name of and by the authority of the State of Indiana, I certify the following in accordance with title 2 United States Code Section 1:

To the President of the Senate of the United States:

This is to certify that on the 3rd day of November, 1998, Evan Bayh was duly chosen by the qualified electors of the State of Indiana a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1999.

Witness: His excellency our governor Frank O'Bannon, and our seal hereto affixed at Indianapolis, this twentieth day of November, in the year of our Lord, 1998,

By the Governor:

FRANK O'BANNON,
Governor.

STATE OF UTAH

CERTIFICATE OF ELECTION FOR A SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 3rd day of November, 1998, Robert F. Bennett was duly chosen by the qualified electors of the State of Utah a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1999.

By the Governor:

MICHAEL O. LEAVITT,
Governor.

STATE OF MISSOURI

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 3rd day of November, 1998, Christopher (Kit) Bond was duly chosen by the qualified electors of the State of Missouri a Senator from the State of Missouri to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day January, 1999.

Witness: His excellency our governor Mel Carnahan, and our seal hereto affixed at the City of Jefferson this 3rd day of December, in the year of our Lord 1998.

By the Governor:

MEL CARNAHAN,
Governor.

STATE OF CALIFORNIA

A PROCLAMATION BY THE GOVERNOR OF THE STATE OF CALIFORNIA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 3rd day of November, 1998, Barbara Boxer was duly chosen by the qualified electors of the State of California a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1999.

In Witness Whereof I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 16th day of December 1998.

By the Governor:

PETE WILSON,
Governor.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

STATE OF LOUISIANA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

I, M.J. "Mike" Foster, Jr., Governor of the state of Louisiana, do hereby certify that, in accordance with the provisions of the Louisiana Election Code, on the 3rd day of November, 1998, John B. Breaux was elected by the qualified electors of the state of Louisiana a Senator to represent the state of Louisiana in the United States Senate for the term of six years, beginning on the 3rd day of January, 1999. The votes cast, 620,502 for John B. Breaux (Democrat), 12,203 for Raymond Brown (Other), 3,227 for Jeffrey R. Diket (Other), 306,616 for "Jim" Donelon (Republican), 6,366 for L.D. "Nota" Knox, Sr. (Other), 9,893 for Sam Houston Melton, Jr. (Democrat), 2,394 for Martin A. Rosenthal (Other), and 7,964 for Darryl Paul Ward (Republican), are on file and of record in the office of the Secretary of State of Louisiana.

In Witness Whereof, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 19th day of November, 1998.

By the Governor:

M.J. FOSTER,
Governor.

STATE OF KANSAS

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the third day of November, nineteen hundred ninety-eight, Sam Brownback was duly chosen by the qualified electors of the State of Kansas a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred ninety-nine.

Witness: His excellency our governor Bill Graves, and our seal hereto affixed at Topeka this seventh day of December, in the year of our Lord nineteen hundred ninety-eight.

By the Governor:

BILL GRAVES,
Governor.

COMMONWEALTH OF KENTUCKY

To all to Whom These Presents Shall Come, Greeting: Know Ye, That Honorable Jim Bunning having been duly certified, that on November 3, 1998, was duly chosen by the qualified electors of the Commonwealth of Kentucky a Senator from said state to represent said state in the Senate of the United States for the term of six years, beginning the 3rd day of January 1999.

I hereby invest the above named with full power and authority to execute and discharge the duties of the said office according to law. And to have and to hold the same, with all the rights and emoluments thereunto legally appertaining, for and during the term prescribed by law.

In testimony whereof, I have caused these letters to be made patent, and the seal of the Commonwealth to be hereunto affixed. Done at Frankfort, the 1st day of December in the year of our Lord one thousand nine hundred and ninety-eight and in the 207th year of the Commonwealth.

By the Governor:

PAUL E. PATTON,
Governor.

STATE OF COLORADO

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 3rd day of November, 1998, Ben Nighthorse Campbell was duly chosen by the qualified electors of the State of Colorado a Senator from said State to represent said State in the Senate of the United States for the term of six years beginning on the 3rd day of January 1999.

Witness: His excellency our governor Roy Romer, and our seal hereto affixed at the City and County of Denver this 8th day of December, in the year of our Lord 1998.

By the governor:

ROY ROMER,
Governor.

STATE OF GEORGIA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States

This is to certify that on the third day of November, 1998, Paul Coverdell was duly chosen by the qualified electors of the State of Georgia a Senator from said State to represent said State in the Senate of the United States for a term of six years, beginning on the 3rd day of January, 1999.

Witness: His excellency our Governor Zell Miller, and our seal hereto affixed at the Capitol, in the City of Atlanta, this third day of December, in the year of our Lord 1998.

By the Governor:

ZELL MILLER,
Governor.

STATE OF IDAHO

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States

This is to certify that on the third day of November, 1998, Mike Crapo was duly chosen by the qualified electors of the State of Idaho a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 1999.

Witness: His excellency our governor Philip E. Batt, and our seal hereto affixed at Boise this 20th day of November, in the year of our Lord 1998.

By the Governor:

PHILIP E. BATT,
Governor.

STATE OF SOUTH DAKOTA

CERTIFICATE OF ELECTION

This is to certify, That on the third day of November, 1998, at a general election Tom Daschle was duly chosen by the qualified voters of the State of South Dakota to the office of United States Senate for the term of six years, beginning the third day of January, nineteen hundred ninety-nine.

In Witness Whereof, We have hereunto set our hands and caused the Seal of the State to be affixed at Pierre, the Capital, this 16th day of November, nineteen hundred ninety-eight.

By the Governor:

WILLIAM J. JANKLOW,
Governor.

STATE OF CONNECTICUT

To the President of the Senate of the United States:

This is to Certify that on the third day of November, nineteen hundred and ninety-eight Christopher J. Dodd was duly chosen by the qualified electors of the State of Connecticut Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred and ninety-nine.

Witness: His Excellency our Governor, John G. Rowland and our seal hereto affixed at Hartford, this twenty-fifth day of November, in the year of our Lord nineteen hundred and ninety-eight.

By the Governor:

JOHN G. ROWLAND,
Governor.

STATE OF NORTH DAKOTA

CERTIFICATE OF ELECTION

At North Dakota's General Election held on the 3rd day of November, 1998, Byron L. Dorgan was elected to the United States Senate from the State of North Dakota. The term of office is 6 years and begins at noon on the 3rd day of January in the year 1999 and continues until a successor is elected and duly qualified.

In witness whereof, we have set our hands at the Capitol in the City of Bismarck this 1st day of December, 1998, and affixed the Great Seal of the State of North Dakota.

By the Governor:

EDWARD T. SCHAFER,
Governor.

STATE OF NORTH CAROLINA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 3rd day of November, 1998, John Edwards was duly chosen by the qualified electors of the State of North Carolina a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1999.

Witness: His excellency our Governor James B. Hunt, Jr., and our seal hereto affixed at Raleigh the 2nd day of December, in the year of our Lord 1998.

By the Governor:

JAMES B. HUNT, JR.,
Governor.

STATE OF WISCONSIN

CERTIFICATE OF ELECTION, UNITED STATES SENATOR, NOVEMBER 3, 1998

To the President of the Senate of the United States:

This is to certify that on the 3rd day of November, 1998 Russ Feingold was duly chosen by the qualified electors of the State of Wisconsin a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1999.

In testimony whereof, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done at the Capitol in the City of Madison this tenth day of December in the year of one thousand nine hundred and ninety-eight.

By the Governor:

TOMMY G. THOMPSON,
Governor.

STATE OF ILLINOIS

To the President of the Senate of the United States:

This is to certify that on the third day of November, nineteen hundred ninety-eight, Peter G. Fitzgerald was duly chosen by the qualified electors of the State of Illinois, a

Senator from said State, to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred ninety-nine.

Witness: His excellency our Governor Jim Edgar, and our seal hereto affixed at the City of Springfield this twenty-third day of November, in the year of our Lord nineteen hundred ninety-eight.

By the Governor:

JIM EDGAR,
Governor.

STATE OF FLORIDA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the third day of November, 1998, Bob Graham was duly chosen by the qualified electors of the State of Florida a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd of January, 1999.

Witness: His excellency our governor, Lawton Chiles, and our seal hereto affixed at Tallahassee, this Fourth day of December in the year of our Lord 1998.

By the Governor:

LAWTON CHILES,
Governor.

STATE OF IOWA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM TO THE SENATE OF THE UNITED STATES

To the President of the Senate of the United States:

This is to certify that on the 3rd day of November, 1998, Charles Grassley was duly chosen, by the qualified electors of the State of Iowa, a Senator from said State to represent Iowa in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1999.

In testimony whereof, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 30th day of November in the year of our Lord one thousand nine hundred ninety-eight.

TERRY E. BRANSTAD,
Governor.

STATE OF NEW HAMPSHIRE

To the President of the Senate of the United States:

This is to certify that on the third day of November, nineteen hundred and ninety-eight, Judd Gregg, was duly chosen by the qualified electors of the State of New Hampshire a Senator from said State to represent said State in the Senate of the United States for the term of six years beginning on the third day of January, nineteen hundred and ninety-nine.

Witness: Her Excellency, Governor Jeanne Shaheen and the Seal of the State of New Hampshire hereto affixed at Concord, this eighteenth day of November, in the year of our Lord nineteen hundred and ninety-eight.

By the Governor, with advice of the Council:

JEANNE SHAHEEN,
Governor.

STATE OF SOUTH CAROLINA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the third day of November, 1998, the Honorable Ernest F. Hollings was duly chosen by the qualified electors of the State of South Carolina a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January 1999.

Witness: His excellency our Governor, David M. Beasley, and our seal hereto affixed at Columbia, South Carolina this nineteenth day of November, in the year of our Lord, 1998.

DAVID M. BEASLEY,
Governor.

STATE OF HAWAII

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the third day of November, 1998, Daniel K. Inouye was duly chosen by the qualified electors of the State of Hawaii a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1999.

Witness: His excellency our governor, Benjamin J. Cayetano and our seal hereto affixed at Honolulu this 23rd day of November, in the year of our Lord 1998.

By the governor:

BENJAMIN J. CAYETANO,
Governor.

STATE OF VERMONT

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 3rd day of November, 1998, Patrick Leahy was duly chosen by the qualified electors of the State of Vermont a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1999.

Witness: His excellency our governor, Howard Dean, and our seal hereto affixed at this 3rd day of December, in the year of our Lord 1998.

HOWARD DEAN,
Governor.

STATE OF ARKANSAS

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 3rd day of November, 1998, Blanche Lambert Lincoln was duly chosen by the qualified electors of the State of Arkansas a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1999.

Witness: His excellency our governor, Mike Huckabee, and our seal hereto affixed at Little Rock, Arkansas, this 25th day of November, in the year of our Lord 1998.

By the governor:

MIKE HUCKABEE,
Governor.

STATE OF ARIZONA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 3rd day of November 1998, John McCain was duly chosen by the qualified electors of the State of Arizona a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning the 3rd Day of January 1999.

Witness: Her excellency the Governor of Arizona, and the Great Seal of the State of Arizona hereto affixed at the Capitol in Phoenix this 23rd day of November 1998.

JANE DEE HULL,
Governor.

STATE OF MARYLAND

To the President of the Senate of the United States:

This is to certify that on the 3rd day of November, 1998, Barbara A. Mikulski was duly chosen by the qualified voters of the State of Maryland a Senator from said State to represent said State in the Senate of the United States for a term of six years, beginning on the 3rd day of January, 1999.

Witness: His Excellency our Governor, Parris Glendening, and our seal hereto affixed at the City of Annapolis, this 30th day of November, in the Year of Our Lord, One Thousand, Nine Hundred and Ninety-eight.

PARRIS N. GLENDENING,
Governor.

STATE OF ALASKA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that in an election held on the 3rd day of November, 1998 and certified on the 1st day of December, 1998, Frank H. Murkowski (R) was duly elected by the qualified voters of the State of Alaska to serve as Senator from Alaska to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1999.

Witness: His excellency our Governor, Tony Knowles, and the Seal of the State of Alaska, at Juneau, the Capital, are affixed hereto this 3rd day of December, in the year of our Lord 1998.

TONY KNOWLES,
Governor.

STATE OF WASHINGTON

To the President of the Senate of the United States:

This is to certify that on the third day of November, nineteen hundred and ninety-eight Patty Murray was duly chosen by the qualified electors of the State of Washington a Senator from said state to represent said state in the Senate of the United States for a term of six years, beginning on the third day of January, nineteen hundred and ninety-nine.

In witness whereof, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed at Olympia this third day of December, A.D., nineteen hundred and ninety-eight.

GARY LOCKE,
Governor.

STATE OF OKLAHOMA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 3rd day of November, 1998, Don Nickles was duly chosen by the qualified electors of the State of Oklahoma a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1999.

Witness: His excellency our Governor Frank Keating and our seal hereto affixed at Oklahoma City, Oklahoma this 16th day of November in the year of our Lord 1998.

By the Governor:

FRANK KEATING,
Governor.

STATE OF NEVADA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that at a general election held in the State of Nevada on Tuesday, the third day of November, nineteen hundred and ninety-eight Harry Reid was duly chosen by the qualified electors of the State of Nevada a Senator from said State to represent said State in the Senate of the United States for a term of six years, beginning on the third day of January, nineteen hundred and ninety-nine.

Witness: His excellency our Governor Bob Miller, and our seal hereto affixed at Carson City this twenty-fifth day of November, in the year of our Lord nineteen hundred and ninety-eight.

By the Governor:

BOB MILLER,
Governor.

STATE OF NEW YORK

To the President of the Senate of the United States:

This is to certify that on the third day of November, nineteen hundred and ninety-eight, Charles E. Schumer was duly chosen by the qualified electors of the State of New York a Senator from said State to represent said State in the Senate of the United States for a term of six years, beginning on the third day of January, nineteen hundred and ninety-nine.

Witness: His excellency our Governor George E. Pataki, and our seal hereto affixed at Albany, New York, this sixteenth day of December in the year nineteen hundred and ninety-eight.

By the Governor:

GEORGE E. PATAKI,
Governor.

STATE OF ALABAMA

To the President of the Senate of the United States:

This is to certify that on the third day of November, 1998, the Honorable Richard Shelby was duly chosen by the qualified electors of the State of Alabama a Senator from said State to represent said State in the United States Senate for the term of six years, beginning on the third day of January 1999.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Alabama, at the Capitol, in the City of Montgomery, on this 18th day of November, in the year of our Lord, 1998.

FOB JAMES, Jr.,
Governor.

COMMONWEALTH OF PENNSYLVANIA

To the President of the Senate of the United States:

This is to certify that on the third day of November, 1998, Arlen Specter was duly chosen by the qualified electors of the Commonwealth of Pennsylvania as a United States Senator to represent Pennsylvania in the Senate of the United States for a term of six years, beginning on the third day of January, 1999.

Witness: His excellency our Governor, Thomas J. Ridge, and our seal hereto affixed at Harrisburg this sixteenth day of December, in the year of our Lord, 1998.

By the Governor:

THOMAS J. RIDGE,
Governor.

STATE OF OHIO

CERTIFICATE OF ELECTION

To the Clerk of the Senate of the United States:

This is to certify that on the 3rd day of November, 1998, George V. Voinovich was duly elected by the qualified electors of the State of Ohio as the Senator to Congress from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 1999.

In testimony Whereof, I have hereunto subscribed my name and caused the great seal of the State of Ohio, to be hereto affixed at Columbus, Ohio, this 14th day of December, 1998.

By the Governor:

GEORGE V. VOINOVICH,
Governor.

STATE OF OREGON

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 3rd day of November, 1998, Ron Wyden was duly chosen by the qualified electors of the State of Oregon a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1999.

Witness: His excellency our Governor, John Kitzhaber, and our seal hereto affixed at Salem, Oregon this 3rd day of December, 1998.

By the Governor:

JOHN A. KITZHABER,
Governor.

ADMINISTRATION OF OATH OF OFFICE

The VICE PRESIDENT. If the Senators to be sworn will now present themselves at the desk in groups of four as their names are called in alphabetical order, the Chair will administer their oaths of office.

The clerk will read the names of the first group.

The legislative clerk called the names of Mr. BAYH, Mr. BENNETT, Mr. BOND, and Mrs. BOXER.

These Senators, escorted by Senators LUGAR, HATCH, ASHCROFT, and FEINSTEIN, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, and Mr. CAMPBELL.

These Senators, escorted by Ms. LANDRIEU, Mr. ROBERTS, Mr. MCCONNELL, and Mr. ALLARD, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. COVERDELL, Mr. CRAPO, Mr. DASCHLE, and Mr. DODD.

These Senators, escorted by Mr. CLELAND, Mr. CRAIG, Mr. JOHNSON, and Mr. LIEBERMAN, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. DORGAN, Mr. EDWARDS, Mr. FEINGOLD, and Mr. FITZGERALD.

These Senators, escorted by Mr. CONRAD, Mr. HELMS, Mr. KOHL, and Mr. DURBIN, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, and Mr. HOLLINGS.

These Senators, escorted by Mr. MACK, Mr. HARKIN, Mr. SMITH of New Hampshire, and Mr. THURMOND, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. INOUYE, Mr. LEAHY, Mrs. LINCOLN, and Mr. MCCAIN.

These Senators, escorted by Mr. AKAKA, Mr. JEFFORDS, Mr. HUTCHINSON, and Mr. KYL, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Ms. MIKULSKI, Mr. MURKOWSKI, Mrs. MURRAY, and Mr. NICKLES.

These Senators, escorted by Mr. SARBANES, Mr. STEVENS, Mr. GORTON, and

Mr. INHOFE, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. REID, Mr. SCHUMER, Mr. SHELBY, and Mr. SPECTER.

These Senators, escorted by Mr. BRYAN, Mr. MOYNIHAN, Mr. SESSIONS, and Mr. SANTORUM, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the final group.

The legislative clerk called the names of Mr. VOINOVICH and Mr. WYDEN.

These Senators, escorted by Mr. DEWINE and Mr. SMITH of Oregon, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

Mr. LOTT addressed the Chair.

The VICE PRESIDENT. The majority leader is recognized.

Mr. LOTT. Mr. President, on behalf of the Senate, I extend congratulations to all of the newly-elected Members of the Senate.

CALL OF THE ROLL

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 1]

Abraham
Akaka
Allard
Ashcroft
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bunning
Burns
Byrd
Campbell
Chafee
Cleland
Cochran
Collins
Conrad
Coverdell
Craig
Crapo
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Gorton
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

The VICE PRESIDENT. A quorum is present.

The majority leader is recognized.

INFORMING THE HOUSE OF REPRESENTATIVES THAT A QUORUM OF THE SENATE IS ASSEMBLED

Mr. LOTT. Mr. President, I send a resolution to the desk notifying the House that a quorum is present, and I ask that it be reported by title, agreed to, and the motion to reconsider be laid upon the table.

The VICE PRESIDENT. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 1), informing the House of Representatives that a quorum of the Senate is assembled.

The VICE PRESIDENT. If there is no objection to the request of the majority leader, the resolution is agreed to.

The resolution (S. Res. 1) was agreed to.

The resolution is as follows:

S. RES. 1

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

INFORMING THE PRESIDENT OF THE UNITED STATES THAT A QUORUM OF THE SENATE IS ASSEMBLED

Mr. LOTT. Mr. President, I send a resolution to the desk creating a subcommittee consisting of two Senators to notify the President that a quorum of each House is assembled and ask that it be reported by title, agreed to, and the motion to reconsider be laid upon the table.

The VICE PRESIDENT. The clerk will report the resolution by title.

Mr. BYRD. Mr. President, may we have order in the Senate.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. BYRD. The Senate is transacting business.

The VICE PRESIDENT. The Senate will be in order. Senators will take their seats or retire to the cloakroom. Senators will cease audible conversation. Senators in the well to the right of the Chair will take their seats or retire to the cloakroom.

Mr. BYRD. Mr. President, I thank the Chair.

The VICE PRESIDENT. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 2) informing the President of the United States that a quorum of the Senate is assembled.

The VICE PRESIDENT. If there is no objection to the request by the majority leader, the resolution is agreed to.

The resolution (S. Res. 2) reads as follows:

S. RES. 2

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

The VICE PRESIDENT. Pursuant to Senate Resolution No. 2, the Chair appoints the Senator from Mississippi, Mr. LOTT, and the Senator from South Dakota, Mr. DASCHLE, as a committee to join the committee on the part of the House of Representatives to wait upon the President of the United States and inform him that a quorum is assembled and that the Congress is ready to receive any communication he may be pleased to make.

Mr. LOTT. Mr. President, I suggest the absence of a quorum so that the leaders will be able to notify the President we are in session as required by the resolution.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LOTT. Mr. President, Senator DASCHLE and I have notified the President that a quorum is present and the Senate is ready to proceed with business.

HOUR OF DAILY MEETING

Mr. LOTT. Mr. President, I, therefore, now send a resolution to the desk fixing the daily meeting of the Senate at 12 noon, and ask for that resolution to be reported by title, agreed to, and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 3), fixing the hour of daily meeting of the Senate.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 3) was considered and agreed to, as follows:

S. RES. 3

Resolved, That the hour of daily meeting of the Senate be 12 o'clock meridian unless otherwise ordered.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENTS EN BLOC—STANDING ORDERS

Mr. LOTT. Mr. President, the following unanimous consent requests are those of the standing orders—for example, setting the leader's time each day—which are obtained at the beginning of each Congress, which govern the day-to-day activity. As in the past, these consents have been cleared by the Democratic leader. Therefore, I send to the desk 11 unanimous consent requests and ask for their immediate consideration en bloc, that the requests be agreed to en bloc, and that the various consents be shown separately in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

STANDING ORDER FOR ETHICS COMMITTEE TO MEET

Mr. LOTT. Mr. President, I ask unanimous consent that for the duration of the 106th Congress, the Ethics Committee be authorized to meet during the session of the Senate.

The PRESIDENT pro tempore. Without objection, it is so ordered.

STANDING ORDER FOR 15-MINUTE ROLLCALL VOTES

Mr. LOTT. Mr. President, I ask unanimous consent that for the duration of the 106th Congress, there be a limitation of 15 minutes each upon any rollcall vote, with the warning signal to be sounded at the midway point, beginning at the last 7½ minutes, and when rollcall votes are of 10-minute duration, the warning signal be sounded at the beginning of the last 7½ minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

STANDING ORDER FOR SECRETARY OF THE SENATE TO RECEIVE REPORTS

Mr. LOTT. Mr. President, I ask unanimous consent that for the duration of the Congress, it be in order for the Secretary of the Senate to receive reports at the desk when presented by a Senator at any time during the day of the session of the Senate.

The PRESIDENT pro tempore. Without objection, it is so ordered.

STANDING ORDER FOR PROVISION OF LEADERSHIP TIME

Mr. LOTT. Mr. President, I ask unanimous consent that the Majority and Minority Leaders may daily have up to 10 minutes each on each calendar day following the prayer and disposition of the reading of, or approval of, the Journal.

The PRESIDENT pro tempore. Without objection, it is so ordered.

STANDING ORDER FOR FLOOR PRIVILEGES TO HOUSE PARLIAMENTARIAN

Mr. LOTT. Mr. President, I ask unanimous consent that the Parliamentarian of the House of Representatives and his four assistants be given the privilege of the floor during the 106th Congress.

The PRESIDENT pro tempore. Without objection, it is so ordered.

STANDING ORDER CONCERNING PRINTING OF CONFERENCE REPORTS AND STATEMENTS

Mr. LOTT. Mr. President, I ask unanimous consent that, notwithstanding the provisions of Rule XXVIII, conference reports and statements accompanying them not be printed as Senate reports when such conference reports and statements have been printed as a House report unless specific request is made in the Senate in each instance to have such a report printed.

The PRESIDENT pro tempore. Without objection, it is so ordered.

STANDING ORDER FOR ACTION BY COMMITTEE ON APPROPRIATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Appropriations be authorized during the 106th Congress to file reports during adjournments or recesses of the Senate on appropriation bills, including joint resolutions, together with any accompanying notices of motions to suspend Rule XVI, pursuant to Rule V, for the purpose of offering certain amendments to such bills or joint resolutions, which proposes amendments shall be printed.

The PRESIDENT pro tempore. Without objection, it is so ordered.

STANDING ORDER FOR SECRETARY OF THE SENATE TO MAKE CERTAIN CORRECTIONS

Mr. LOTT. Mr. President, I ask unanimous consent that, for the duration of the 106th Congress, the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of all Senate-passed bills and resolutions, Senate amendments to House bills and resolutions, Senate amendments to House amendments to Senate bills and resolutions, and Senate amendments to House amendments to Senate amendments to House bills or resolutions.

The PRESIDENT pro tempore. Without objection, it is so ordered.

STANDING ORDER FOR CERTAIN ACTIONS BY OFFICERS OF THE SENATE

Mr. LOTT. Mr. President, I ask unanimous consent that for the duration of the 106th Congress, when the Senate is in recess or adjournment, the Secretary of the Senate be authorized to receive messages from the President of the United States, and—with the exception of House bills, joint resolutions, and concurrent resolutions—messages from the House of Representatives; and that they be appropriately referred; and that the President of the Senate, the President pro tempore, and the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

The PRESIDENT pro tempore. Without objection, it is so ordered.

STANDING ORDER FOR GRANTING OF FLOOR PRIVILEGES

Mr. LOTT. Mr. President, I ask unanimous consent that for the duration of the 106th Congress, Senators be allowed to leave at the desk with the Journal Clerk the names of two staff members who will be granted the privilege of the floor during the consideration of the specific matter noted, and that the Sergeant at Arms be instructed to rotate such staff members as space allows.

The PRESIDENT pro tempore. Without objection, it is so ordered.

STANDING ORDER FOR REFERRAL OF TREATIES AND NOMINATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that for the duration of the 106th Congress, it be in order to refer treaties and nominations on the day when they are received from the President, even when the Senate has no executive session that day.

The PRESIDENT pro tempore. Without objection, it is so ordered.

CHANGING SENATE RULES

Mr. LOTT. Mr. President, as all Members are aware, I have been working for some time on various rules changes that would ensure a more efficient process by which the Senate considers appropriations bills. One of our concerns has been reinstating rule XVI with respect to legislation on appropriations bills. I believe that many of the extraneous items that have been added to appropriations bills over the past few Congresses would have been ruled out of order if the Senate still had the ability to raise a point of order against legislation on appropriations bills formerly contained in rule XVI.

Other rule abuses occurred during the closing days of the 105th Congress. Consequently, I will shortly introduce five Senate resolutions regarding rules and budget process changes and will ask for their proper referral. Once the resolutions have been referred to the appropriate committee, it is my hope the chairmen of the committees will begin swift committee work on the resolutions so the committees can act on the changes as early as possible in the 106th Congress. I urge Senators to consider these resolutions and hope when the Senate votes on these measures they will receive huge bipartisan votes.

ORDER PROVIDING FOR THE INTRODUCTION OF LEGISLATION AND STATEMENTS ON JANUARY 19, 1999

Mr. LOTT. Mr. President, I ask unanimous consent that on January 19, 1999, all Senators be permitted to introduce legislation and read or submit accompanying statements for the RECORD. This would represent the first day that legislation can be introduced in the 106th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION AND REFERRAL OF S. RES. 4, S. RES. 5, S. RES. 6, S. RES. 7, AND S. RES. 8

Mr. LOTT. Mr. President, I send five Senate resolutions to the desk and ask that they be appropriately referred en bloc and that they appear as introduced separately in the CONGRESSIONAL RECORD. They are: A Senate resolution regarding the rule XVI change, legislation on appropriations bills; a Senate resolution regarding procedures in the Senate for consideration of emergency legislation; a Senate resolution regarding budget process reforms; a Senate resolution regarding extending the Special Committee of the Year 2000; and a Senate resolution regarding rules changes to general appropriations bills.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(The texts of the resolutions are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

THE PUBLIC'S ACCESS TO THE IMPEACHMENT PROCEEDINGS

Mr. LOTT. Mr. President, during the impeachment trial of President Andrew Johnson, the Senate limited access to the Senate wing of the Capitol, the Senate floor, and the Senate galleries to those with official business and those with tickets to the proceedings.

Over the Christmas holidays, staff of the Office of the Secretary of the Senate, including the Parliamentarian, legislative clerk and others, and staff of the Office of the Sergeant at Arms, and others, have reviewed the historical precedents but also considered what we could do to facilitate the public's access to the proceedings while taking into account contemporary security requirements and the flow of business here in the Chamber. Staff have recommended some restrictions to the access of the Senate wing, floor, and galleries coupled with a ticketing system that will make as many seats in the gallery available to the public and others as is possible for us to do.

Accordingly, in a few minutes I will ask unanimous consent be given to a set of policies that reflect the staff recommendations which will confine access to the Senate floor and galleries and to the second and third floors of the Senate wing of the Capitol during the consideration of the articles of impeachment and at all times the Chief Justice is presiding.

I thank the distinguished Democratic leader for his efforts and his cooperation in this matter. We have been very careful to make sure we reviewed all the precedents, all the rules; that he has had a chance to check off on these rules, as I have. And I wish to thank all staff who researched the precedent and evaluated current conditions to develop these recommendations. Before seeking unanimous consent, however, I will now yield to the assistant Democratic leader.

The PRESIDING OFFICER (Mr. HAGEL). The assistant Democratic leader is recognized.

Mr. REID. Mr. President, I appreciate the statement of the majority leader. He has been very gracious in reaching out to this side of the aisle on the standards that are going to be initiated and actually used during the impeachment proceedings. I think that the Secretary of the Senate and the Sergeant at Arms did an excellent job today of explaining to the Democratic caucus the procedures. I think there was general agreement that they were favorable and would certainly make the process here one of which we could all be proud.

UNANIMOUS-CONSENT AGREEMENT —SENATE ACCESS

Mr. LOTT. Mr. President, I ask unanimous consent that access to the Senate wing, the Senate floor, and the Senate Chamber galleries, during all proceedings involving the exhibition or consideration of the articles of impeachment of the President of the United States, and all times that the Senate is sitting for trial with the Chief Justice of the United States presiding, be in accordance with the allocations and provisions on the documents I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The documents follow:

ENFORCEMENT OF SENATE RULE XXIII—SENATE FLOOR ACCESS

Rule XXIII.—Persons with privileges under Senate Rule XXIII shall access the Senate floor through the cloakrooms only and such access will be limited to the number of vacant seats available on the Senate floor based on protocol considerations enforced by the Secretaries for the Majority and Minority and the Sergeant at Arms. All persons with access to the Senate floor will remain seated at all times.

Staff Access.—Access to the floor will be strictly limited to those having official impeachment proceedings duties, using the guidelines below:

Majority and Minority leaders will be limited to not more than three assistants each.

Majority and Minority Whips will be limited to not more than two each.

Secretary, Sergeant at Arms, and Secretaries for majority and minority will be limited to themselves or designated replacement.

Legal Counsel, Deputy Legal Counsel, and Counsel for the Secretary and Sergeant at Arms will have access on an as-needed basis.

Pages will be appropriately limited.

Cloakroom staff will be permitted as needed, under supervision of secretaries for the majority or minority, as appropriate.

The Secretary of the Senate's legislative staff will be permitted as needed, under supervision of the Secretary.

Doorkeepers will be permitted as needed, under the supervision of the Sergeant at Arms.

Committee and Member Staff.—Committee and Member Staff will not be permitted on the Senate floor other than as noted above. Accordingly, all messages to Members will be processed in the regular manner, i.e., through the party cloakrooms or the reception room message desk.

Sergeant at Arms.—The Sergeant at Arms shall enforce the above provisions and take such other actions as necessary to fulfill his responsibilities.

EXTENDING PRIVILEGES OF FLOOR ACCESS

In addition to persons with privileges under Senate Rule XXIII, the following shall be admitted to the floor of the Senate while the Senate is sitting for impeachment proceedings;

Not more than two assistants to the Chief Justice.

Assistants to the House Managers.

Counsel and assistants to counsel for the President of the United States.

TICKET ALLOCATIONS AND RELATED PROVISIONS

300 daily tickets; 3 for each Senator.

50 seats reserved daily for the public through established tour procedures using regular gallery passes.

100 permanent numbered tickets; 1 for each Senator, for seating in the family section (enlarged to 100 seats by the Sergeant at Arms) and which may be used on any day and by anyone holding such ticket.

30 daily tickets; 10 each for the Majority and Minority Leaders; 5 each for the Majority and Minority Whips.

20 daily tickets for the White House.

20 tickets for the House of Representatives.

19 daily tickets for diplomats, for use only in the diplomatic gallery.

3 daily tickets for the President of the Senate, for use only in the diplomatic gallery.

9 daily tickets for the Supreme Court.

Press Galleries.—The press galleries shall remain open and available for members of the press under established procedures.

Diplomatic Gallery.—The diplomatic gallery shall remain open and available for diplomatic personnel and guests of the President of the Senate with appropriate tickets, as noted above.

Family Gallery.—The family gallery shall remain open and available for persons holding a permanent ticket as noted above, and such gallery shall be augmented by additional seats located adjacent to the family gallery, so that a total of 100 seats are reserved for persons holding a permanent ticket.

Public Seating.—The Sergeant at Arms shall designate and reserve 50 seats in the Senate Chamber galleries, outside the family and press galleries, for members of the public holding regular gallery passes. All other gallery seats shall be available for persons with daily tickets, except that the Sergeant at Arms shall, in addition to seating the general public in the seats reserved for that purpose, seat the general public holding regular gallery passes in any vacant seats outside the family and press galleries, with the understanding that such members of the general public are subject to being displaced by a permanent ticket holder at the request of the Sergeant at Arms or a member of his staff designated to perform such duties.

Senate Staff.—Senate staff may be seated in any open seat in the family seating area, and will be subject to being displaced by a permanent ticket holder at the request of the Sergeant at Arms or a member of his staff designated to perform such duties.

Printing of the Rules.—The rules of the galleries shall be printed on all tickets.

Sergeant at Arms.—The Sergeant at Arms shall ensure timely and appropriate distribution of all tickets and take such other actions as necessary to fulfill his responsibilities.

ACCESS TO THE SENATE WING OF THE CAPITOL

2nd & 3rd floors.—Access to the second and third floors of the Senate Wing of the Capitol shall be limited to Senators, Senate staff with appropriate Senate identification cards, press with appropriate credentials, Architect of the Capitol staff as necessary, those with Senate Rule XXIII privileges, those with special gallery tickets, those with regular Senate Gallery tickets when the bearer is admitted through tour lines, and anyone with official business related to the impeachment trial.

Architect of the Capitol.—The Architect of the Capitol shall advise the Sergeant at Arms of all Architect staff who require access to the Senate Wing.

Sergeant at Arms.—The Sergeant at Arms shall enforce the above provisions and take such other actions as necessary to fulfill his responsibilities.

UNANIMOUS-CONSENT AGREEMENT—ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I understand that many Members will want to comment on the impeachment proceedings in the Senate. Others will want to comment on the fact that this is their first day as Senators, and perhaps even discuss what they hope to achieve in the year ahead. Others will want to talk about agenda items. With that in mind, I ask unanimous consent that the next 2 hours be equally divided between the two leaders, or their designees, for statements only regarding impeachment or other general business of their desire, and following that period, the majority leader, or his designee, be recognized by the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID addressed the Chair.

Mr. LOTT. I will be glad to yield to the assistant Democratic leader.

Mr. REID. It is my understanding both the majority and Democratic leaders are going to make statements regarding impeachment and that will be in addition to this time, is that right?

Mr. LOTT. We would have the leaders' time. Certainly we would both want to accommodate the other in any parameters we would want to outline today.

Mr. REID. There is no objection to the consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I believe the President has some appointments to be read by the Chair?

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 95–521, reappoints Thomas B. Griffith as Senate Legal Counsel, effective January 3, 1999, for a term of service to expire at the end of the 107th Congress.

The Chair, on behalf of the President pro tempore, pursuant to Public Law 95–521, appoints Morgan J. Frankel as Deputy Senate Legal Counsel, effective as of January 3, 1999, for a term of service to expire at the end of the 107th Congress.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I send two resolutions to the desk appointing the Senate legal counsel and deputy legal counsel and ask they be considered en bloc and agreed to en bloc and they be printed in the RECORD separately.

The PRESIDING OFFICER. Without objection, it is so ordered.

REAPPOINTMENT OF SENATE LEGAL COUNSEL

The PRESIDING OFFICER. The clerk will state the first resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 9) to make effective reappointment of Senate Legal Counsel.

The resolution was considered and agreed to as follows:

S. RES. 9

Resolved, That the reappointment of Thomas B. Griffith to be Senate Legal Counsel made by the President pro tempore this day is effective as of January 3, 1999, and the term of service of the appointee shall expire at the end of the One Hundred Seventh Congress.

REAPPOINTMENT OF DEPUTY SENATE LEGAL COUNSEL

The PRESIDING OFFICER. The clerk will state the second resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 10) to make effective reappointment of Deputy Senate Legal Counsel.

The resolution was considered and agreed to as follows:

S. RES. 10

Resolved, That the reappointment of Morgan J. Frankel to be Deputy Senate Legal Counsel made by the President pro tempore this day is effective as of January 3, 1999, and the term of service of the appointee shall expire at the end of the One Hundred Seventh Congress.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A SENSE OF HOPE AND OPTIMISM

Mr. DASCHLE. Mr. President, for those of us granted the rare privilege of representing our citizens as United States Senators, the convening of a new Congress is a moment filled with hope and optimism. I know this is a sentiment shared by my colleagues who have served here together for many years; I am equally certain it is a feeling in the heart of every new member whom we welcome into the Chamber today.

We all choose to enter public service in the belief that small differences made every day somehow contribute in large measure to the betterment of our national life. For me, this has always been a day that represented great promise and potential.

And despite the difficult circumstances that confront us on the first day of the 106th Congress, I choose to face the grim task of the impeachment proceedings with a sense of hope and optimism, too.

It is my sincere hope that we can continue to be guided in the Senate by a completely nonpartisan approach to our responsibilities—and I pledge the cooperation of the entire Democratic caucus in that effort. We remain optimistic that Republicans and Democrats in the Senate can come together on a sensible plan that adheres to the principles of fairness, expedition and due process.

The promise of bipartisan consensus is within our grasp. If we succeed in coming to closure on an acceptable resolution to govern these proceedings, then we have the potential for not only ending this unfortunate episode, but for laying a foundation for rebuilding a working coalition to address the critical policy issues that so demand our absolute attention.

But to complete the work at hand, we must first set some things aside. We must set aside our partisan instincts. We should reject any notion of political advantage in this process, and act solely in the national interest.

We must set aside feelings of grave disappointment and anger directed at the President for his actions. We must also set aside the resentment many feel over the manner and method of the long investigation that begat these articles of impeachment.

Regrettably, we must also set aside—until this matter is resolved—important legislative work on matters like education, health care, Medicare and Social Security. This, in and of itself, should serve to motivate us to proceed with deliberate dispatch on these articles, accepting not even a day's delay in the coming trial.

And finally, we should set aside the rancor and recriminations that have marked these sad deliberations, and rise to a level of dignity and decency that will be judged favorably in history's long light.

But we will not set aside our responsibility. We will not defer our duty.

Make no mistake: Senate Democrats will follow the Constitution. We intend to abide by the Senate's procedures. We will respect past precedents. We will duly consider these articles. We will insist on fair treatment of the President. And we will hear the evidence presented by the House Republicans who have made these charges.

But we should not put process ahead of progress in this matter. We must find a way to resolve this, and move forward.

The United States Constitution is a document that continues to reveal an uncanny resiliency after two centuries. It's as if the framers found a formula to adapt to contingencies unseen; and to circumstances unknowable. Their wisdom in drafting the Impeachment clause affords us the opportunity to seize one of the options we are considering today. If we now simply apply some common sense, we will find common ground, and the result will be the common good.

I have faith in the Senate, and faith in my colleagues, that we will do so.

The Senate may never decisively resolve this maddening legal argument; but we must find a way to end this lingering national torment.

As do all my colleagues, I love this country. And I care deeply for this institution, the Senate of the United States. I want to do right by both. Working together, Republican and Democrat, I think we can.

Just as we have sworn an oath today to put the Nation's interests above all others, tomorrow when we are sworn as judge and juror, we must do the same. That will require absolute fairness, due process, deliberate speed, and a final resolution of these charges. The Democratic caucus is committed to each and every one of those goals, and is prepared to proceed immediately toward achieving them.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE AGENDA

Mr. LOTT. Mr. President, I want to welcome all the Senators to the 106th Congress. We have had an all too brief and somewhat overwhelming interlude since the last day of the 105th Congress in October. That interval turned out to be dramatic and eventful in more ways than one, and because of events that occurred therein, the Senate's agenda for this year will be more important than ever.

We will soon be considering charges brought by the House of Representatives against the President of the United States. I cannot think of a more serious subject. Yet the Senate has its well-established procedures to deal with this situation. While it is not exactly routine, neither is it totally unique.

We have our responsibilities under the Constitution, and we will meet those responsibilities in an orderly fashion. That is why I have met several times and talked by phone other times with Senator DASCHLE, the Democratic leader, and why the two of us have met with the Chief Justice of the Supreme Court, whose duty it is to preside over a Senate trial involving the President. We have both consulted and are still very actively involved in consulting with fellow Senators, with constitutional scholars, with officers of the Senate, in terms of the law and the rules of the Senate.

Our duty is clear: To demonstrate anew our national commitment to justice and fair play. That is what the public expects from us, regardless of their individual opinions concerning the President. That is why I am confident that is what they will receive. No Senator in this Chamber needs to be reminded that we are here first and foremost to serve the American people. Americans today look to the future with the same hopes that have inspired and sustained this country for more than 200 years. They want a better life for themselves and, more importantly, for their children. Not just economically, but also in terms of a decent future and a just and caring society.

I want to emphasize now that I have not gone to the media and outlined exactly how this impeachment process will go forward because no final conclusion has been made. This is not something that can be reported in an evolutionary way because there are too many things that have to be considered, too many different parties—Senate Republicans, Senate Democrats, House Members, the White House—and we have had to continue to consider the opinions of all to try to develop a fair way to have an expeditious trial that gets justice based on the rule of law. I think that it is more important that we hear from all parties and come to, hopefully, a conclusion that sets an outline of how we will proceed from beginning to end than it is to always be reporting on the current developments.

Never before have I had so much reported about what I was thinking, doing, or saying when I have said so little. I have been accused of being "holed up" in my hometown of Pascagoula, MS. Where would you expect me to be during the holidays? How about at home with my family and with my constituents, enjoying that precious season of the year.

However, I had no moss growing under my feet. I was talking with my colleagues on both sides of the aisle, listening and thinking and developing and evolving a process that I think will get the job done. I believe we can very well achieve that goal within the next 24 hours—one that neither the House nor the White House will necessarily think is wonderful—giving all parties a fair chance to make the case and reach a conclusion that is equitable. We will get that done. And we will get it done, hopefully, in a relatively short period of time, without limiting it to a day or 3 days, or 3 weeks for that matter. It could very well take longer than that. But it will be a fair trial.

Then we have other very serious responsibilities that we must deal with. It has been said as long as we are dealing with this issue that we can't deal with any other substantive issue in the Senate. Wrong.

We have responsibilities that go forward, and we will do our very best to have a dual track. Now, we may not be having debate and votes on the floor of the Senate on bills or on changes in the budget procedures around here, but we will begin to prepare. We will have our committee assignments all completed today. There will be committee hearings this week before the Judiciary Committee, before the Armed Services Committee, before the Education and Labor Committee—although it has a different name here in the Senate, I prefer to call it the Education Committee because it has that very important jurisdiction under its responsibilities.

We will begin the process and have hearings and meetings. Depending on how this process goes forward, and realizing that we have to understand the Supreme Court has a schedule that it has to comply with, which might give us some time to do some business, we will do our very best to get prepared for the regular legislative process while we are doing our duty with regard to impeachment.

But the goal that I hope we will move to immediately after the completion of the impeachment process, whenever that may be, is to develop some constant themes we want to work on during the 106th Congress. I think they can be described in words like these: security, responsibility, opportunity, and freedom. Now, those are not conflicting goals; they complement and support one another. Security, after all, enables responsibility; responsibility gives purpose to freedom; freedom ensures opportunity; and opportunity fosters security. When I talk about security, I think about security for my mother, security for my son and my daughter and my grandson. I think about health security, Social Security, national security, security in our neighborhoods. So that word encompasses an awful lot.

Our task is to advance on all four fronts this year: To enhance security, promote responsibility, strengthen freedom, and foster opportunity for all. In doing so, we face a tight schedule. We always do, but it is a manageable one if the Senators will help the leadership do our jobs. There are matters that we can consider promptly before our legislative committees even begin reporting major bills that must compete for a place and time on the Senate schedule.

One of the first matters we should take up is a clarification of Senate rules, to restore this institution's position regarding the consideration of authorizing legislation on appropriation bills. It is out of hand. The biggest fight now in all the appropriations bills occurs not on the appropriations but on amendments that are legislating on appropriations bills. I believe we can accomplish that change back to the way it was in a bipartisan fashion. I certainly hope so.

I hope we can do the same thing regarding our budget process, although I may be erring on the side of optimism in that regard. This is priority legislation, I think, that is required to restore public confidence in the budget process. Do any of us feel that the process at the end of the last year was a good one? I don't think so. In the end, it is going to require will and determination by Senators and House Members to do their jobs on time and on schedule. There are some changes in the process that will help facilitate that. It will enable us to prevent Government shutdowns. It is ridiculous that there is even that possibility. It will control emergency spending. It has reached the point where we have not one super or extra special emergency bill each year, now we have to have two. And it makes a requirement that we take a long, hard look at how that is paid for and at current budget rules.

Important as budget reform is, rebuilding America's national security is even more pressing. Press reports have indicated that the administration will propose some increases in defense spending. That is good, and the Senate will take a very close look at that in committee and in the full Senate. I worry that those proposals are not sufficient or maybe the way it would be done is not the best way in trying to address the questions of pay and pensions and readiness for our military. But we should give that a very high priority. We have been losing ground in this area. This Congress must stop that erosion of our readiness and the morale of our military if we are going to be able to preserve our own national security and protect peace wherever our interests are in the world.

Education is going to be a central issue this year. Democrats say it is important and it will be a high priority. Republicans say it is a high priority. This past Congress passed not one, not two, but five major education bills, and we got very little credit for it. There was everything from some additional funds for IDEA to vocational education, higher education, and other things in between.

For starters, we must reauthorize the Elementary and Secondary Education Act. That is important. Since its enactment more than 30 years ago, that legislation has been the channel through which tens of billions of dollars have flown from the taxpayers to Washington and back to the school districts again at the local level. In retrospect, perhaps that has not been the most productive system that we could devise, to put it mildly. I think we need to look at ways to cut out some of those stops along the way, the distance between the taxpayers, parents, and government, and how we improve our schools.

We need to find more ways to get more dollars back to the schools and especially back to the classrooms. We need to strengthen local decisionmaking so the parents and teachers—the people most involved with their children—can act in the best interest of those youngsters.

We should foster quality teaching and promote family choice in education, especially for poor families whose kids are stuck in dead-end schools that are dangerous and drug infested and where they are not learning. We should not, on the other hand, presume to dictate to parents and educators what their priorities should be and how they should spend their tax dollars. So, clearly, this is something on which we will spend a lot of time.

We must continue to address the question of oppressive taxation. Most people will acknowledge that Americans are paying a heavy burden in taxes now. It affects the way they think and act as a family or how they save or invest. One of the most crushing tax burdens in this country is the payroll tax; it is a high percentage. That is the one in everybody's check at the end of the work week and they say, gee, this FICA tax is the one that is nailing me. Congress needs to look at that. We need more tax relief for working families so they can keep more of their own money. We need to have a tax code that is pro growth, pro investment, and pro jobs, so that we don't just give people a tax break but we give consideration to how the changes or tax reductions would lead to improvement in lives and jobs all across this country.

Tax simplification is a continuing need. We need to think about how we can get lower insurance premiums for the taxpayers, whether it is for their automobile insurance or their health insurance. We need to promote regulatory reform and relief across the board, but especially for small businesses.

Nothing this 106th Congress might do—whether in education, tax policy, or environmental protection—would mean as much to the American people as a long-term solution to the problems of Social Security and Medicare. So from the first day of this Congress right up to the last day toward the end of the year 2000, it will be my goal to see if we can find a broad, bipartisan agreement in those two crucial areas.

The Congress can't do it alone, though. The President has to provide leadership. It is not enough to just have conferences and talk about options. What is the solution? What are we going to be able to do to resolve the problems on Medicare? Will the Medicare Commission that reports back in March have a report we can act on or not? Or will it decay in partisan disagreement? Can we find a way to act in good faith on Social Security?

To show my good faith, I have said that if the President will send us a proposal he would like for us to consider, I will introduce his bill and we will begin hearings the next day in the Senate Finance Committee and see if we can go forward. Or if that is not the way it can be done, I am willing to look at other ways that we can accomplish that goal. It is too important to just set it aside because it is too tough.

There are a lot of other issues we will deal with in the regular order. For example, bankruptcy reform, liability reform for charities, charitable choice in Federal programs, to end discrimination against faith-based organizations, prohibition against partial-birth abortions, as well as child custody protections to safeguard family rights, and modernization of financial services. I have spoken with Senator GRAMM and encouraged him, as the new chairman of the Banking Committee, which has jurisdiction, to pick up the legislation and see if he can forge an agreement that we can move forward on so that we will have broader choices and better service for consumers.

In due time, we will deal with all of those and a great many other subjects. During the next few weeks, I realize that the news media will be focused on one thing. My remarks here will be little noted or remembered—other than the part on the impeachment proceedings. But the record must begin to be made now that we have other very important priorities that are the people's priorities back in our respective States.

This Senate was designed by the Framers of the Constitution to be the steady element in Government, the place where passions are cooled and judgments come slowly.

It serves us well when we take our time and we make sure that the process is fair and the result is equitable.

I expect that to happen in the days ahead. No one can predict the outcome of the deliberations on impeachment, but everyone can expect the calm and careful exercise of our duty under the Constitution. That will not conflict with our role as legislators. It will rather confirm that we are more than mere lawmakers. As Members of the Senate, we are guardians of the rule of law and defenders of the rights of every American. That is our most important role, our most solemn charge, and our most enduring honor.

I yield the floor, Mr. President. I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

CHALLENGES FACING THE SENATE IN 1999

Mr. DORGAN. Mr. President, I wanted to take just a moment following the presentation by the majority leader to say that he begins this session of Congress with a very substantial weight on his shoulders. He is a leader in a Congress that is facing a very unique challenge. I consider the majority leader a friend. I know that these are not easy times for him, and I hope that as we proceed with the important matter of impeachment that all of us in this Chamber can work together with Senator LOTT and the Democratic leader, Senator DASCHLE, to see that we do the job that we are required to do by the Constitution in a thoughtful, deliberative, and bipartisan way.

I know there are some outside these Chambers who are worried about the Senate proceeding too quickly with the impeachment trial. Those who have had an opportunity to read two centuries of history of the U.S. Senate know that one of the last worries that one ought to entertain is that the Senate will ever move to quickly, or follow too closely.

The U.S. Senate is an extraordinary, deliberative body. The problem has seldom ever, in the history of this country, been that the Senate moves too quickly. Rather, my concern is that we discharge our responsibilities to do our duty and do it in a way that will give the American people confidence that the Senate exhibited the dignity they would expect from this institution.

The Senator from Mississippi, the majority leader, indicated that there are many other issues that challenge us and that will require our attention. He is absolutely correct about that. I, too, hope that we can join together to deal with these issues in a more bipartisan spirit in this Congress than we have seen in recent Congresses.

I want to mention just a couple of those challenges.

The Senator from Mississippi said that the way the last session ended was not a good way to end. He is right about that. It was shameful that so much business was left on the table at the end to be considered and dealt with by a few people—many of them unelected—behind closed doors and then brought to the floor by unanimous consent. That is not a way to do the Senate's business. It is not a way to do the business of Congress. All of us know that. All of us knew it then, and we ought to see if we can find a way to change the rules to prevent that from happening in the future.

With respect to challenges that we face, first the challenges abroad: All of us understand the dilemma that is posed to us and the entire world in what is increasingly a global economy as a result of the economic collapse and significant challenges facing the economies of the Asian countries. All you have to do is ask American farmers what they have experienced as a result of Asian economies being weak and, therefore, purchasing less in farm commodities from our country, and you will understand the direct impact, not just in that sector, but in virtually every sector in this country. We have a stake in how well other countries in the world are doing. When the Asian economies experience significant trouble—recession and collapse—it affects our country and our future. When the Russian economy collapses, it affects us. When the Brazilian economy is in trouble, it affects us.

So these difficulties that are being experienced in many areas of the world have the capacity to affect in a significant way the American economy. And we must work with our Secretary of Treasury, with the President, and with Members of Congress, to reach out and see that we try to contain the spreading financial problems that exist in other parts of the world.

The other challenges are pretty obvious as well.

When the country of North Korea tests medium-range missiles, when the country of Iran begins testing medium-range missiles, presumably to hoist something aloft and threaten someone down the road, do we need to be concerned about that? You bet. The testing of missiles by North Korea and Iran is a very ominous threat to this country and ought to be of great concern to us.

When India and Pakistan decide to punctuate their poor relationship by exploding nuclear weapons virtually under each other's chin, is that destabilizing to the world? You bet it is. Do we need to be concerned about that? Of course.

We have about 7,500 nuclear weapons in our arsenal. I expect that in Russia and other parts of the world there are 7,500 nuclear weapons. And if the Russian Duma decides to approve START II at some point in the future, we whittle that number of nuclear weapons down to 5,000. That is still far too many—5,000 nuclear weapons on each side? It doesn't make any sense.

So we have a challenge to try to respond to that. We must respond to the issue of the proliferation of nuclear weapons.

When you look at the potential threat to the entire world posed by India and Pakistan, two adversaries detonating these nuclear weapons virtually in front of each other, and then consider that other countries are trying to acquire weapons of mass destruction, as well as the capability of delivering them on the top of a missile, is that a concern. When countries like Iran and North Korea start testing missiles, is that a challenge to this country? You bet it is. And this Congress needs to be concerned about it and work with this President to develop policies to try to prevent the proliferation of nuclear weapons and the technology for delivering those weapons.

Here at home the challenges also are obvious.

We are blessed with an economy that is growing and strong. Virtually every indicator of economic health in this country is positive. Unemployment is down—way down. Inflation is down, almost nonexistent. Home ownership is up. Crime is down. Violent crime is way down.

You can take a look at a whole range of statistics to determine what is happening in this country. While we have a lot of challenges, you have to conclude that things are better in this country as a result of economic growth and other public policies that have encouraged changes in America.

That doesn't mean everything is just fine.

Among the challenges we have in this country is still to deal with the issues of education and health care, for example.

The majority leader mentioned education. We don't run the education system in this country, and we shouldn't. Elementary and secondary education is largely operated and controlled by local school boards, and by State legislatures. Local control of schools has been a hallmark in this country, and I don't quarrel with that. I support that. But we can and should in this country develop national goals and aspirations of what we want to accomplish in education. Among the things we can do will be to commit ourselves to repair or construct new school buildings to replace those that are falling down.

At the end of the Second World War, we had folks come back to this country who fought for our country's liberty and beat back the fascism of Hitler. They came back and got an education under the GI bill and had families. They paid taxes to build schools. We had a lot of new schools built all over America in the 1950s. Today, many of those schools are in disrepair. We need new schools and bigger classrooms. We need to repair schools that are crumbling.

I have spoken at length on this floor about going into a school that educates largely Indian children—the Cannon Ball Elementary School. At this school, sewer gas comes up into a room used as a classroom at least once or twice a week and the classroom has to be evacuated. 150 kids go to school in a building where there are two bathrooms and one water fountain, where you can't connect a computer to the Internet because the wiring is so old, a building that has largely been condemned.

Do we need to do something about that? Is it fair to a third grader to go to school in conditions like that? No. We can do something to encourage additional school construction and school repair to make these facilities good facilities. We can also do something to encourage the reduction of class size by the hiring of more teachers. We can encourage that through public policy here without deciding that we should run the local school systems in this country.

But I will tell you, if we improve education nationally through public policies that say education matters, this country will be stronger and better because of it. Education must be a priority. Our children are our future, and our ability to educate our children to become the best they can be is a significant investment in the future of America.

Health care is another important issue we must address. We had a debate about this in the last session of Congress, but we did not solve the problem. Mr. President, 160 million people are now herded into health care chutes called managed care organizations. And now too often a family enrolled in an HMO discovers when a loved one gets sick that the question of what kind of care they are going to get is not necessarily just a function of what the doctor says that care ought to be but also a function of whether an accountant 500 or 1,000 miles away in the insurance company office decides they want to allow that kind of medical treatment to be performed.

We have talked on the floor of the Senate about the horror stories. I am not alleging that these incidents happen with all HMOs, but I am alleging that they happen all too often. We need to pass in this Congress a Patients' Bill of Rights to say to the American people that when you go to a doctor, you have the right to go to a doctor of your choice who can meet your medical needs. You have a right to go to an emergency room if you need to.

I told a story several months ago about a woman who broke her neck and was taken to the hospital unconscious. She was told later that her care was not covered because she didn't get prior approval to come to the emergency room. Now, what kind of nut case would make that kind of judgment—that someone who is unconscious and has a broken neck needs prior approval to get emergency treatment.

We need a Patients' Bill of Rights, and this Congress ought to pass it. We didn't in the last session, and we need to this session. I hope we can join together on this issue. If there are specific debates about the details, let's work them out. Let's pass a Patients' Bill of Rights to respond to these problems.

I come from farm country. While this country is doing better, and there are a lot of reasons to say our country is in pretty good shape, family farmers aren't in good shape. Those who went out and bought a Christmas ham probably paid $30 or $35 for a pretty good sized ham. Do you know that at about the same time, there was a farmer who put a hog in a pickup truck and hauled that hog to market and sold it. That 200-pound hog brought that farmer $20. The shopper bought a ham for $35 and the farmer gets $20 for selling a 200-pound hog. Somebody is stealing in between. That is strong language, but the fact is that all of the packing plants, for beef, sheep, chickens and hogs, are now tightly controlled by just a few companies. If you are selling a cow, you sell it into a market system in which four companies control over 80 percent of the cattle slaughtered in this country. The same is true with hogs—slightly less but pretty much true.

The point is that these family farmers are experiencing collapsed prices for hogs, collapsed prices for cattle, collapsed prices for grain. This country will end up without family farmers in its future if it doesn't come to grips with a better farm policy that gives family farmers a chance to make a living.

Every single institution, every single enterprise that touches what farmers raise is making record profits. Farmers who gas up the tractor and tend to the cattle are the ones who are losing their shirts. But everybody else is making record profits—railroads are making record profits; the slaughter plants, record profits; the cereal manufacturers, record profits. The farmer gets practically nothing for his grain, and the manufacturer puts it in a plant someplace and puffs it up, and then puts it on the grocery store shelf as puffed wheat. The farmer got close to nothing for the wheat and the folks who puff it up and put it in the box get rich because they are providing the puff to the consumer.

Why have we decided in this country that family farming doesn't matter? Because a majority of this Congress in recent years apparently doesn't care whether we have family farmers in our future. I hope that changes, and I hope in the 106th Congress we can go back and revise that and have a farm program that really matters. We need a farm policy that says to family farmers: this country is a better place if we have a network of family farmers all across America, out there working and raising families under those yard lights that we call family farms.

You talk about family values. You can't be for family values if you are not for family farmers. The history of this country is one of nurturing family values on family farms. Those values roll out to our big towns and big cities from our family farms. So that is another of the challenges.

Finally, Senator LOTT mentioned appropriately the challenge of dealing with the entitlements programs. We must in this Congress deal with the long-term financial difficulties facing Social Security and Medicare. Is that a tough job? Sure, but we need to do it. The issues facing Social Security and Medicare are born of success. If people weren't living longer, we wouldn't have financial strains on these programs.

One hundred years ago, in the year 1900, if you were living in the United States of America, you were expected to live to be about 48 years of age. Now a century later, you are expected to live, on average, about 78 years in the United States. Is that good news? Absolutely.

I was at a place a while back where there was a 94-year-old woman. She danced all night at this place where they polka and waltz, and so on. You can go out and find people living much longer, healthier lives, doing things they never expected to do. Part of it is perhaps a better lifestyle, safer workplaces, part of it is better nutrition, part of it is the result of breathtaking medical changes. Fifty years ago, someone who had cataracts would be blind. Today they get an operation, and they can see. It used to be if you had bad knees or bad hips, you were in a wheelchair. Today you get new knees or new hips. Those who half a century ago would die of heart disease have heart surgery. You can find people 80 years old who have new knees, new hips, heart surgery and no cataracts, and they say, "We feel like a million bucks."

All of these breathtaking medical advances have helped improve life in this country. People are living longer. That provides us with a challenge. With more people living longer, it means we have more strain on Social Security and the Medicare programs, but, gosh, that challenge is born of success. We ought not shrink from that. So we make some adjustments here and there, thoughtful adjustments that recognize these programs work and they are good programs, but we can do that. This Congress can do that and should.

Mr. GREGG assumed the Chair.

Mr. DORGAN. President Clinton has proposed at a meeting I was at with the bipartisan leadership of the Congress, that this is the year in which we tackle the challenges facing Social Security and Medicare. I think the Presiding Officer was at that meeting. I think there is a determination by Republicans and Democrats in Congress, by the President and Congress, that we owe it to the American people to address these entitlement questions, to make the kinds of changes that are necessary so that we can give the American people confidence that these programs will be around for a long, long while. But I do want to emphasize this challenge is born of success because people are living longer and better lives. I don't want people to come here saying these programs don't work. The Social Security program and the Medicare program have been remarkably successful. Just before the Medicare program was developed, over half of the senior citizens in America had no health care coverage at all. None. Now, 99 percent of the senior citizens in America are covered with health care. That is a dramatic difference and an improvement in the lives of tens and tens of millions of Americans.

Mr. President, those are some of the challenges we face. I agree with the majority leader that the sooner we get to them the better. We must discharge our responsibility first on the impeachment issues, but then we must turn to the business of this country and respond to the challenges I have just described.

Mr. President, I yield the floor, and I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

(Mr. SMITH of Oregon assumed the Chair.)

Mr. SMITH of OREGON. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

RECESS

Mr. SMITH of OREGON. I ask unanimous consent that the Senate stand in recess until 5 p.m. today and the majority leader be recognized at that time.

There being no objection, the Senate, at 3:09 p.m., recessed until 4:58 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ABRAHAM).

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Georgia.

RECESS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Senate stand in recess until 6 p.m. today, with the majority leader recognized at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, the Senate, at 4:58 p.m., recessed until 6 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GRAMS).

RECESS

Mr. BURNS. Mr. President, seeing no Senator seeking the floor, I ask unanimous consent that the Senate stand in recess until 6:30 p.m. today and that the majority leader be recognized at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 6 p.m., the Senate recessed until 6:31 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BROWNBACK).

The PRESIDING OFFICER. In my capacity as a Senator from the State of Kansas, I suggest the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING THE REVEREND PETER CHEI ON RECEIVING HIS U.S. CITIZENSHIP

Mr. ASHCROFT. Mr. President, it is a great honor and privilege to extend congratulations to the Reverend Peter (Yee Chung) Chei as he celebrates the granting of his United States citizenship on Friday, October 16th, 1998. Reverend Peter Chei has served our nation admirably during the thirty-three years he has made his home on our shores, and now, as a United States citizen, his continuing commitment to this nation has been sealed with the words of the Oath of Allegiance. The United States has thereby greatly profited.

The Reverend Peter Chei has long been held in my highest regard. His dedication to the redemptive mission of Christ has been an inspiration for many people across the state of Missouri, this country, and the world.

It was my good fortune to meet Reverend Chei when he was still living in Hong Kong. His father had escaped with the Chei family to Hong Kong after the communists took over the Chinese mainland in 1950. The trials faced by the Chei family as they were uprooted from Peter's birthplace parallel the trials faced by many of America's first adopted citizens escaping religious persecution. Peter Chei's decision to move to the United States in 1965 and his decision to become a United States citizen are made all the more meaningful by this stark comparison.

Having arrived in this country, Reverend Chei determined to serve God and his adopted country through a life of evangelism. His long history of ministerial and community service demonstrates his commitment. Reverend Chei has volunteered as Head Start Policy Council President, Head Start Parents Association President, Coordinator for the American Bible Society, Coordinator for the National Day of Prayer, Coordinator for the International Year of Bible Reading, Coordinator for the 1999 Year of the Bible, and as a member of the Crosswalk Teen Center. The Reverend Peter Chei founded Missouri Head Start Parents' Association, Singles and Families Educational Seminar, Christians Together in the City of Nevada, His Hope House, the Christian Artist Series, Hope for

America, and Missionary to America. He has taken on all of these extra responsibilities while serving faithfully as a minister of music and as a pastor.

I consider it a great blessing to be counted among Reverend Chei's friends and it is my distinct honor to salute this patriot on the occasion of his swearing in as a citizen of our great country.

HAROLD A. SHAUB: NOVEMBER 28, 1915–NOVEMBER 29, 1998

Mr. HELMS. Mr. President, although the late Honorable Harold A. Shaub was not a citizen of my State, I regarded his friendship, and his interest in North Carolina, sufficient to qualify him to be declared an honorary Tar Heel.

He was a remarkable gentleman whom I met casually one morning when he was trying to find the office of then Senator Curtis of Nebraska. From that day on, he was a friend for whom I had great admiration. He visited occasionally when he was in Washington, and I enjoyed his company fairly often in the Senate Dining Room. Occasionally, Mrs. Shaub and one or more of his and Mrs. Shaub's children joined us.

Mr. President, there was not one iota of pretense in Harold Shaub's personality. Yet he was one of America's leading business men, perhaps most notably as president and chief executive officer of the Campbell Soup Co.

I never asked Harold for a special favor, nor did he of me. There was one occasion, a number of years ago, when North Carolina was one of the States seeking to acquire a Campbell Soup Co. plant. I had studied the data on each of the States competing against mine for the Campbell plant. I was convinced that North Carolina met Campbell Soup's needs better than did our competitors. So I called Harold, told him of my interest in the proposed plant, and asked if he would object to my sending to him the details of why I sincerely believed North Carolina should be chosen.

His response was that I should send the information as quickly as possible because the first decision deadline was near. I did—that very day. Within a week, he was on the telephone. He said, simply: "I suspect you would be wise to make arrangements for some news about a new corporate citizen coming to North Carolina."

Mr. President, I have at hand an obituary about my friend, Harold Shaub, published in Pennsylvania. I ask that it be printed in the RECORD.

HAROLD A. SHAUB: NOVEMBER 28, 1915–NOVEMBER 29, 1998

Harold A. Shaub, 83, former President and Chief Executive Officer of the Campbell Soup Company, died November 29 in Bryn Mawr Hospital of heart failure.

Mr. Shaub, a native of Lancaster County, was a resident of the Gladwyne/Bryn Mawr area for the past 30 years. He graduated from Drexel University in 1939 with a Bachelor of Science degree in Commerce.

Mr. Shaub's career at the Campbell Soup Company spanned 38 years. He joined the Company in 1942 as Assistant to the General Superintendent of the Camden, New Jersey plant and subsequently held other supervisory positions there and at the Company's Chicago plant. In 1957 he was elected Vice President/General Manager of the Campbell Soup Company Ltd., the Canadian subsidiary headquartered in Toronto, and from 1961 to 1966 served as President of the Canadian Company. From 1966 to 1968 he was President of Pepperidge Farm, Inc. in Norwalk, Connecticut.

Mr. Shaub returned to the Philadelphia area in 1968 following his transfer to the Campbell Soup Company's headquarters in Camden, New Jersey. He served as Senior Vice President and then Executive Vice President prior to serving as President and Chief Executive Officer from 1972 through 1980. He was elected to the Campbell Soup Company Board of Directors in 1970 and served on the Board until 1988.

In addition in serving as a Director for the Campbell Soup Company, Mr. Shaub served on the Board of Directors of the Exxon Corporation, R.H. Macy & Co., Scott Paper Company, The Federal Reserve Bank in Philadelphia, New Jersey Bell Telephone, Westminster Paper Company, LTD., the Food Processors Institute, and the Grocery Manufacturers of America. He was also a member of the National Association of Manufacturers, the International Advisory Council of the Canadian Imperial Bank of Commerce in Toronto, the Board of Trade of Metropolitan Toronto, the Industries Advisory Committee of the Advertising Council, and The Conference Board.

He was a Past Chairman of the Penjerdel Corporation, a regional business organization serving eleven counties in Pennsylvania, Delaware and New Jersey. He played a key role in the successful effort that brought the Saratoga for overhaul to the Philadelphia Shipyard.

Throughout his lifetime Mr. Shaub was committed to community service. He served on the Drexel University Board of Trustees and was named an Emeritus Trustee. He was a Life Trustee and Distinguished Fellow for the Cornell Institute for Medical Research. His directorships included the United Medical Corporation in Haddonfield, New Jersey, Queenway General Hospital in Toronto; the Citizens Crime Commission in Philadelphia; and Valley Forge Military Academy and Junior College. He was also a member of the Board of Managers of The Franklin Institute in Philadelphia and a former Trustee of the Nutrition Foundation and the Foundation of the College of Medicine and Dentistry of New Jersey. He had worked on behalf of many other organizations including the Boy Scouts of America, the United Way, and the Cooper Medical Center.

Mr. Shaub was the recipient of many awards and honors. The Philadelphia Chamber of Commerce and Penjerdel Council awarded him the prestigious William Penn Award in 1980 and honored him as one of Fifty Distinguished Pennsylvanians in 1979. In 1979, he also received the U.S. Marine Corps Semper Fidelis Award and an honorary Doctor of Laws degree from Lebanon Valley College. He received the Corporate Leadership Award in 1976 and the South Jersey Chamber of Commerce named him Businessman of the Year in 1980. Drexel University honored him numerous times, naming him Drexel Businessman of the Year in 1973 and conferring upon him the A.J. Drexel Paul Award in 1975, the Distinguished Alumni Achievement Award, and "The Drexel 100" Award in 1992.

Mr. Shaub was a world traveler and outdoorsman. He was an avid salmon and trout fisherman and a charter member of the Tunkhanna Fishing Association in the Poconos where he shared his enthusiasm for fly fishing with others and worked to preserve the trout stream and surrounding area.

He was predeceased by his son Harold (Bud) Shaub Jr. He is survived by his wife Eileen, his son John Shaub of Oakville, Ontario, Canada; and daughters Carole Hoffman of Dayton, Ohio; and Lynn Benton of Ellicott City, Maryland; 10 grandchildren; and 9 great grandchildren.

A memorial service will be held on Monday, December 14 at 11:00 a.m. at Bryn Mawr Presbyterian Church, 625 Montgomery Avenue, Bryn Mawr. A private burial service will be held in Lancaster County. Donations in Mr. Shaub's memory may be made to the Cornell Institute for Medical Research, 401 Haddon Avenue, Camden, NJ 08103.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED SUBSEQUENT TO SINE DIE ADJOURNMENT

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on December 19, 1998, subsequent to the sine die adjournment of the Senate, received a message from the House of Representatives announcing that the House of Representatives has impeached for high crimes and misdemeanors William Jefferson Clinton, President of the United States; the House of Representatives adopted articles of impeachment against William Jefferson Clinton, which the managers on the part of the House of Representatives have been directed to carry to the Senate; and Mr. HYDE of Illinois, Mr. SENSENBRENNER of Wisconsin, Mr. MCCOLLUM of Florida, Mr. GEKAS of Pennsylvania, Mr. CANADY of Florida, Mr. BUYER of Indiana, Mr. BRYANT of Tennessee, Mr. CHABOT of Ohio, Mr. BARR of Georgia, Mr. HUTCHINSON of Arkansas, Mr. CANNON of Utah, Mr. ROGAN of California, and Mr. GRAHAM of South Carolina, have been appointed as managers.

HOUSE RESOLUTION 611, IN THE HOUSE OF REPRESENTATIVES, DECEMBER 19, 1998

Resolved, That William Jefferson Clinton, President of the United States, is impeached for high crimes and misdemeanors, and that the following articles of impeachment be exhibited to the United States Senate:

Articles of impeachment exhibited by the House of Representatives of the United States of America in the name of itself and of the people of the United States of America, against William Jefferson Clinton, President of the United States of America, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

ARTICLE I

In his conduct while President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has willfully corrupted and manipulated the judicial process of the United States for his personal gain and exoneration, impeding the administration of justice, in that:

On August 17, 1998, William Jefferson Clinton swore to tell the truth, the whole truth, and nothing but the truth before a Federal grand jury of the United States. Contrary to that oath, William Jefferson Clinton willfully provided perjurious, false and misleading testimony to the grand jury concerning one or more of the following: (1) the nature and details of his relationship with a subordinate Government employee; (2) prior perjurious, false and misleading testimony he gave in a Federal civil rights action brought against him; (3) prior false and misleading statements he allowed his attorney to make to a Federal judge in that civil rights action; and (4) his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence in that civil rights action.

In doing this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the United States.

Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

ARTICLE II

In his conduct while President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has prevented, obstructed, and impeded the administration of justice, and has to that end engaged personally, and through his subordinates and agents, in a course of conduct or scheme designed to delay, impede, cover up, and conceal the existence of evidence and testimony related to a Federal civil rights action brought against him in a duly instituted judicial proceeding.

The means used to implement this course of conduct or scheme included one or more of the following acts:

(1) On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading.

(2) On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to give perjurious, false and misleading testimony if and when called to testify personally in that proceeding.

(3) On or about December 28, 1997, William Jefferson Clinton corruptly engaged in, encouraged, or supported a scheme to conceal evidence that had been subpoenaed in a Federal civil rights action brought against him.

(4) Beginning on or about December 7, 1997, and continuing through and including January 14, 1998, William Jefferson Clinton intensified and succeeded in an effort to secure job assistance to a witness in a Federal civil rights action brought against him in order to corruptly prevent the truthful testimony of that witness in that proceeding at a time when the truthful testimony of that witness would have been harmful to him.

(5) On January 17, 1998, at his deposition in a Federal civil rights action brought against him, William Jefferson Clinton corruptly allowed his attorney to make false and misleading statements to a Federal judge characterizing an affidavit, in order to prevent questioning deemed relevant by the judge. Such false and misleading statements were subsequently acknowledged by his attorney in a communication to that judge.

(6) On or about January 18 and January 20–21, 1998, William Jefferson Clinton related a false and misleading account of events relevant to a Federal civil rights action brought against him to a potential witness in that proceeding, in order to corruptly influence the testimony of that witness.

(7) On or about January 21, 23, and 26, 1998, William Jefferson Clinton made false and misleading statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence the testimony of those witnesses. The false and misleading statements made by William Jefferson Clinton were repeated by the witnesses to the grand jury, causing the grand jury to receive false and misleading information.

In all of this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the United States.

Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

HOUSE RESOLUTION 614, IN THE HOUSE OF REPRESENTATIVES, DECEMBER 19, 1998

Resolved, That Mr. Hyde of Illinois, Mr. Sensenbrenner of Wisconsin, Mr. McCollum of Florida, Mr. Gekas of Pennsylvania, Mr. Canady of Florida, Mr. Buyer of Indiana, Mr. Bryant of Tennessee, Mr. Chabot of Ohio, Mr. Barr of Georgia, Mr. Hutchinson of Arkansas, Mr. Cannon of Utah, Mr. Rogan of California, and Mr. Graham of South Carolina are appointed managers to conduct the impeachment trial against William Jefferson Clinton, President of the United States, that a message be sent to the Senate to inform the Senate of these appointments, and that the managers so appointed may, in connection with the preparation and the conduct of the trial, exhibit the articles of impeachment to the Senate and take all other actions necessary, which may include the following:

(1) Employing legal, clerical, and other necessary assistants and incurring such other expenses as may be necessary, to be paid from amounts available to the Committee on the Judiciary under applicable expense resolutions or from the applicable accounts of the House of Representatives.

(2) Sending for persons and papers, and filing with the Secretary of the Senate, on the part of the House of Representatives, any pleadings, in conjunction with or subsequent to, the exhibition of the articles of impeachment that the managers consider necessary.

MESSAGES FROM THE HOUSE

At 7:09 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. CON. RES. 2

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Wednesday, January 6, 1999, it stand adjourned until 2 p.m. on Tuesday, January 19, 1999.

The message also announced that the House has agreed to the following resolution:

H. RES. 2

Resolved, That the Senate be informed that a quorum of the House of Representatives has assembled; that J. Dennis Hastert, a Representative from the State of Illinois, has been elected Speaker; and Jeffrey J. Trandahl, a citizen of the Commonwealth of Virginia, has been elected Clerk of the House of Representatives of the One Hundred Sixth Congress.

The message further announced that the House has agreed to the following resolution:

HOUSE RESOLUTION 10, IN THE HOUSE OF REPRESENTATIVES, JANUARY 6, 1999

Resolved, That in continuance of the authority conferred in House Resolution 614 of the One Hundred Fifth Congress adopted by the House of Representatives and delivered to the Senate on December 19, 1998, Mr. Hyde of Illinois, Mr. Sensenbrenner of Wisconsin, Mr. McCollum of Florida, Mr. Gekas of Pennsylvania, Mr. Canady of Florida, Mr. Buyer of Indiana, Mr. Bryant of Tennessee, Mr. Chabot of Ohio, Mr. Barr of Georgia, Mr. Hutchinson of Arkansas, Mr. Cannon of Utah, Mr. Rogan of California, and Mr. Graham of South Carolina are appointed managers to conduct the impeachment trial against William Jefferson Clinton, President of the United States, that a message be sent to the Senate to inform the Senate of these appointments, and that the managers so appointed may, in connection with the preparation and the conduct of the trial, exhibit the articles of impeachment to the Senate and take all other actions necessary, which may include the following:

(1) Employing legal, clerical, and other necessary assistants and incurring such other expenses as may be necessary, to be paid from amounts available to the Committee on the Judiciary under applicable expense resolutions or from the applicable accounts of the House of Representatives.

(2) Sending for persons and papers, and filing with the Secretary of the Senate, on the

part of the House of Representatives, any pleadings, in conjunction with or subsequent to, the exhibition of the articles of impeachment that the managers consider necessary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1. A communication from the President of the United States, transmitting, pursuant to law, a report on the deferral of budgetary resources affecting programs of the Department of State and International Security Assistance dated October 22, 1998; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on Foreign Relations, and to the Committee on the Budget.

EC–2. A communication from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting, pursuant to law, the Bureau of Indian Affairs' report on Contracts and Grants for fiscal year 1995 and 1996; to the Committee on Indian Affairs.

EC–3. A communication from the Director of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, the report of a rule entitled "CHAMPUS TRICARE Management Activity; State Victims of Crime Compensation Program; Voice Prostheses" (RIN0720–AA42) received on October 26, 1998; to the Committee on Armed Services.

EC–4. A communication from the Director of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, the Department's report on printing and duplicating services procured in-house or from external sources during fiscal year 1997; to the Committee on Armed Services.

EC–5. A communication from the President of the United States, transmitting, pursuant to law, a report on the national emergency with respect to significant narcotics traffickers centered in Columbia; to the Committee on Banking, Housing, and Urban Affairs.

EC–6. A communication from the President of the United States, transmitting, pursuant to law, a report on the national emergency with respect to Angola that was declared in Executive Order 12865 of September 1993; to the Committee on Banking, Housing, and Urban Affairs.

EC–7. A communication from the Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Reports to be Made by Certain Brokers and Dealers" (RIN3235–AH36) received on October 28, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–8. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "Organization and Operation of Federal Credit Unions; Trustees and Custodians of Pension Plans" received on October 26, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–9. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Interstate Land Sales Registration Fees; Change in Mailing Address and Authority to Make Electronic Payment" (RIN2502–AH22) received on October 21, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–10. A communication from the Office of the Comptroller of the Currency, transmitting, pursuant to law, the report of a rule entitled "International Banking Activities" (RIN1557–AB58) received on October 21, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–11. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "1998 Marketing Quota and Price Support for Flue-Cured Tobacco" (RIN0560–AF19) received on October 28, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–12. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "1998 Marketing Quota and Price Support for Burley Cured Tobacco" (RIN0560–AF189) received on October 28, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–13. A communication from the Executive Director of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "Rules of Practice" received on October 26, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–14. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Raisins Produced From Grapes Grown in California; Relaxations to Substandard and Maturity Dockage Systems" (Docket FV99–989–1 IFR) received on October 26, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–15. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Onions Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon, and Imported Onions; Increase in Grade Requirements for White Onions" (Docket FV97–958–2 FR) received on October 26, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–16. A communication from the Director of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, the report of a rule entitled "Military Recruiting and Reserve Officer Training Corps Program Access to Institutions of Higher Education" (RIN0790–AG42) received on October 26, 1998; to the Committee on Armed Services.

EC–17. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Interim Rules For Group Health Plans and Health Insurance Issuers Under the Newborns and Mothers' Health Protection Act" (RIN0938–AI17) received on October 27, 1998; to the Committee on Finance.

EC–18. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Last-in, First-out Inventories" (Rev. Rul. 98–51) received on October 27, 1998; to the Committee on Finance.

EC–19. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Last-in, First-out Inventories" (Rev. Rul. 98–54) received on October 28, 1998; to the Committee on Finance.

EC–20. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Returns Relating to Interest on Educational Loans" (Notice 98–54) received on October 28, 1998; to the Committee on Finance.

EC–21. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Basis Reduction Due to Discharge of Indebtedness" (RIN1545–AU71) received on October 22, 1998; to the Committee on Finance.

EC–22. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, the Commission's 1998 revision of its Strategic Plan; to the Committee on Finance.

EC–23. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 1999" (RIN0938–AJ02) received on October 26, 1998; to the Committee on Finance.

EC–24. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Part A Premium for 1999 for the Uninsured Aged and For Certain Disabled Individuals Who Have Exhausted Other Entitlement" (RIN0938–AJ03) received on October 26, 1998; to the Committee on Finance.

EC–25. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Monthly Actuarial Rates and Monthly Supplementary Medical Insurance Premium Rate Beginning January 1, 1999" (RIN0938–AI98) received on October 26, 1998; to the Committee on Finance.

EC–26. A communication from the Acting Assistant Attorney General, Department of Justice, transmitting, pursuant to law, the Department's report on the activities and operations of the Public Integrity Section for 1996; to the Committee on the Judiciary.

EC–27. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of the Department's approval of danger pay for civilian employees in Liberia; to the Committee on Foreign Relations.

EC–28. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "Statistical Programs of the United States Government" for fiscal year 1999; to the Committee on Governmental Affairs.

EC–29. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the Commission's report under the Government in the Sunshine Act for calendar year 1997; to the Committee on Governmental Affairs.

EC–30. A communication from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Taxpayer Identification Numbers" (RIN9000–AI14) received on October 28, 1998; to the Committee on Governmental Affairs.

EC–31. A communication from the Executive Director of the United States Government Office of Navajo and Hopi Indian Relocation, transmitting, pursuant to law, the

Office's combined report under the Inspector General Act and the Federal Managers' Fiscal Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–32. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Student Educational Employment Program" (RIN3206–AH82) received on October 26, 1998; to the Committee on Governmental Affairs.

EC–33. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Cost of Living Allowances (Nonforeign Areas); Honolulu, HI" (RIN3206–AI38) received on October 20, 1998; to the Committee on Governmental Affairs.

EC–34. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Student Educational Employment Program" (RIN3206–AH82) received on October 23, 1998; to the Committee on Governmental Affairs.

EC–35. A communication from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, a list of additions and deletions to the Committee's Procurement List dated October 19, 1998; to the Committee on Governmental Affairs.

EC–36. A communication from the Office of Independent Counsel Lancaster, transmitting, pursuant to law, the Office's report under the Inspector General Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–37. A communication from the Office of Independent Counsel Starr, transmitting, pursuant to law, the Office's report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–38. A communication from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Electronic Commerce in Federal Procurement" (RIN9000–AI10) received on October 28, 1998; to the Committee on Governmental Affairs.

EC–39. A communication from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Alternative Dispute Resolution-1996" (RIN9000–AH72) received on October 28, 1998; to the Committee on Governmental Affairs.

EC–40. A communication from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Pay-As-You-Go Pension Costs" (RIN9000–AC90) received on October 28, 1998; to the Committee on Governmental Affairs.

EC–41. A communication from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Rehabilitation Act, Workers with Disabilities" (RIN9000–AH99) received on October 28, 1998; to the Committee on Governmental Affairs.

EC–42. A communication from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Civil Defense Costs" (RIN9000–AH95) received on October 28, 1998; to the Committee on Governmental Affairs.

EC–43. A communication from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Costs Related to Legal/Other Proceedings" (RIN9000–AH05) received on October 28, 1998; to the Committee on Governmental Affairs.

EC–44. A communication from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Service Contracts" (RIN9000–AI09) received on October 28, 1998; to the Committee on Governmental Affairs.

EC–45. A communication from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Payment Due Dates" (RIN9000–AI11) received on October 28, 1998; to the Committee on Governmental Affairs.

EC–46. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the Agency's report under the Program Fraud Civil Remedies Act for fiscal year 1998; to the Committee on Environment and Public Works.

EC–47. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule listing the Atlantic Sturgeon as Endangered or Threatened (I.D. 0730098C) received on October 21, 1998; to the Committee on Environment and Public Works.

EC–48. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule extending the common period with regard to the Pennsylvania Enhanced I/M SIP Revision (FRL6182–4) received on October 28, 1998; to the Committee on Environment and Public Works.

EC–49. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding the approval of the Maintenance Plan, Carbon Monoxide Redesignation Plan and the Emissions Inventory for the Connecticut Portion of the New York—N. New Jersey—Long Island Area (FRL6182–2) received on October 28, 1998; to the Committee on Environment and Public Works.

EC–50. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Guidance for Utilization of Small, Minority and Women's Business Enterprise in Procurement Under Assistance Agreements—6010, FY 1999 Non-State Revolving Funds MBE/WBE Terms and Conditions" received on October 16, 1998; to the Committee on Environment and Public Works.

EC–51. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Arizona: Final Authorization of State Hazardous Waste Management Program Revisions" (FRL6560–5) received on October 22, 1998; to the Committee on Environment and Public Works.

EC–52. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Asbestos-Containing Materials in Schools; Final Decision on State Requests for Waiver From requirements" (FRL6038–1) received on October 22, 1998; to the Committee on Environment and Public Works.

EC–53. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Michigan: Final Authorization of State Hazardous Waste Management Program Revision" (FRL6179–7) received on October 22, 1998; to the Committee on Environment and Public Works.

EC–54. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory commission, transmitting, pursuant to law, the report of a rule entitled "Standard Review Plan for Trial Use for the Review of Risk-Informed Inservice Inspection of Piping" (NUREG–0800) received on October 26, 1998; to the Committee on Environment and Public Works.

EC–55. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "An Approach for Plant-Specific Risk-Informed Decisionmaking Inservice Inspection of Piping" (Guide 1.178) received on October 26, 1998; to the Committee on Environment and Public Works.

EC–56. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for Virginia Sneezeweed (Helenium Virginicum), a Plant From the Shenandoah Valley of Virginia" (RIN1018–AE37) received on October 28, 1998; to the Committee on Environment and Public Works.

EC–57. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Endangered Status for Three Aquatic Snails, and Threatened Status for Three Aquatic Snails in the Mobile River Basin of Alabama" (RIN1018–AE36) received on October 23, 1998; to the Committee on Environment and Public Works.

EC–58. A communication from the Secretary of Labor, transmitting, pursuant to law, the report of a rule entitled "Protection of Individual Privacy and Access to Records Under the Privacy Act of 1974" (RIN1290–AA16) received on October 26, 1998; to the Committee on Labor and Human Resources.

EC–59. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's consolidated report on the Community Food and Nutrition Program for fiscal years 1992 through 1995; to the Committee on Labor and Human Resources.

EC–60. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule regarding the Office of Education Research and Improvement's evaluation of the performance of recipients of Grants, Cooperative Agreements, and Contracts (RIN1850–AA54) received on October 22, 1998; to the Committee on Labor and Human Resources.

EC–61. A communication from the Director of the Regulations Policy and Management

Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers (polymer colorant)" (Docket 98F–0390) received on October 23, 1998; to the Committee on Labor and Human Resources.

EC–62. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Indirect Food Additives: Polymers" (Docket 96F–0107) received on October 23, 1998; to the Committee on Labor and Human Resources.

EC–63. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Quality Mammography Standards; Correcting Amendment" (RIN0919–AA24) received on October 27, 1998; to the Committee on Labor and Human Resources.

EC–64. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Indirect Food Additives: Adhesives and Components of Coatings" (Docket 98F–0433) received on October 27, 1998; to the Committee on Labor and Human Resources.

EC–65. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; Western Pacific Precious Coral Fisheries; Amendment 3" (I.D. 061898B) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–66. A communication from the Acting Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Implement Revisions to the Dealer and Vessel Reporting Requirements" (I.D. 040798C) received on October 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–67. A communication from the Acting Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Golden Crab Fishery of the South Atlantic Region; Gear and Vessel Management Measures" (I.D. 122497B) received on October 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–68. A communication from the Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Tuna Fisheries; Archival Tag Recovery" (I.D. 121697B) received on October 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC–69. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding vessels catching pollock for processing by the offshore component in the Bering Sea (I.D. 101698A) received on October 23, 1998; to the Committee on Commerce, Science, and Transportation.

EC–70. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Economic Exclusive Zone Off Alaska; Trawl Gear in the Gulf of Alaska" (I.D. 100998A) received on October 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–71. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Economic Exclusive Zone Off Alaska; Pollock in Statistical Area 620 of the Gulf of Alaska" (I.D. 100998C) received on October 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–72. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Economic Exclusive Zone Off Alaska; Pacific Cod in the Western Regulatory Area of the Gulf of Alaska" (I.D. 100998B) received on October 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–73. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entiteld "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Central Regulatory Area of the Gulf of Alaska" (I.D. 100898C) received on October 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–74. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Economic Exclusive Zone Off Alaska; Pacific Cod in the Central Regulatory Area of the Gulf of Alaska" (I.D. 100898B) received on October 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–75. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Billfishes; Atlantic Blue Marlin and Atlantic White Marlin Minimum Size; Billfish Tournament Notification Requirements; Atlantic Marlin Bag Limit" (I.D. 020398B) received on October 23, 1998; to the Committee on Commerce, Science, and Transportation.

EC–76. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Tuna Fisheries; Atlantic Bluefin Tuna General Category" (I.D. 100798C) received on October 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC–77. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Western Regulatory Area in the Gulf of Alaska" (I.D. 102098E) received on October 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC–78. A communication from the Associate Managing Director of Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding the assignment of licenses for public safety stations to operate in the newly reallocated 700 MHz band (WT Docket 96–86) received on October 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC–79. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for New York" (I.D. 102298A) received on October 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC–80. A communication from the Associate Managing Director of Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Closed Captioning and Video Description of Video Programming" (MM Docket 95–176) received on October 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC–81. A communication from the Associate Managing Director of Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations (Chehalis, Washington)" (MM Docket 97–7) received on October 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC–82. A communication from the Associate Managing Director of Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations (King Salmon, Alaska)" (MM Docket 98–139) received on October 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC–83. A communication from the Associate Managing Director of Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations (Las Vegas, New Mexico)" (MM Docket 98–49) received on October 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC–84. A communication from the Associate Managing Director of Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations (Twin Falls and Hailey, Idaho)" (MM Docket 97–131) received on October 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC–85. A communication from the Associate Managing Director of Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast

Stations (Gaylord, Michigan)" (MM Docket 98-107) received on October 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC-86. A communication from the Associate Managing Director of Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations (Yuma, Colorado)" (MM Docket 98-101) received on October 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC-87. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Harmonization with the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions" (RIN2137-AD15) received on October 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC-88. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Transportation Equity Act for the 21st Century; Interim Implementation of the Congestion Mitigation and Air Quality Improvement Program" (Docket 98-4317) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-89. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Pilotage for Vessels in Foreign Trade" (Docket 97-073) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-90. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Algiers Alternate Route, Louisiana" (Docket 08-98-061) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-91. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Review of Existing Rules" (Docket 28910) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-92. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Lake Charles, LA" (Docket 98-ASW-41) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-93. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; The New Piper Aircraft, Inc. Models PA-23-235, PA-23-250, and PA-E23-250 Airplanes" (Docket 82-CE-36-AD) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-94. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes" (Docket 98-NM-188-AD) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-95. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes" (Docket 98-NM-191-AD) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-96. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Construcciones Aeronauticas, S,A, (CASA) Model C-212 Series Airplanes" (Docket 98-NM-185-AD) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-97. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A320 Series Airplanes" (Docket 98-NM-29-AD) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-98. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Forest City, IA" (Docket 98-ACE-30) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-99. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Kearney, NE" (Docket 98-ACE-34) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-100. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Beatrice, NE" (Docket 98-ACE-32) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-101. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Spencer, IA" (Docket 98-ACE-31) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-102. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class D Airspace; Albemarle, NC" (Docket 98-ASO-14) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-103. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Chester, SC" (Docket 98-ASO-15) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-104. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class D Airspace; Concord, NC" (Docket 98-ASO-16) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-105. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Hugo, OK" (Docket 98-ASW-46) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-106. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Oak Grove, LA" (Docket 98-ASW-45) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-107. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Raytheon Aircraft Company Models A200CT, B200, B200C, B200CT, 200T/B200T, 300, B300, and B300C Airplanes" (Docket 97-CE-148-AD) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-108. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Series Airplanes" (Docket 97-NM-278-AD) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-109. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A300, A310, and A300-600 Series Airplanes" (Docket 97-NM-341-AD) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-110. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A300 Series Airplanes" (Docket 98-NM-288-AD) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-111. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A300, A310, and A300-600 Series Airplanes" (Docket 98-NM-187-AD) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-112. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A300, A310, and A300-600 Series Airplanes" (Docket 98-NM-74-AD) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-113. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Pratt and Whitney JT8D Series Turbofan Engines" (Docket 97-ANE-45-AD) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-114. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; CFM International, S.A. CFM56-7B Series Turbofan Engines" (Docket 98-ANE-65-AD) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-115. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Pilatus Aircraft Ltd. Models PC-12 and

PC–12/45 Airplanes" (Docket 98–CE–69–AD) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–116. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Pratt and Whitney JT9D Series Turbofan Engines" (Docket 95–ANE–69) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–117. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Robinson Helicopter Company Model R44 Helicopters" (Docket 97–SW–01–AD) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–118. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model DC–10–10, –15, –30, and –40 Series Airplanes" (Docket 98–NM–73–AD) received on October 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–119. A communication from the Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Electric Program Standard Contract Forms" (RIN0572–AB42) received on November 3, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–120. A communication from the Director of Audit Oversight and Liaison, Accounting and Information Management Division, General Accounting Office, transmitting, pursuant to law, a report on Presidential and Vice Presidential Certificated Expenditures and Related Matters for fiscal year 1996; to the Committee on Appropriations.

EC–121. A communication from the Acting Assistant Attorney General, Department of Justice, transmitting, pursuant to law, the Department's Annual Report on the Asset Forfeiture Program for fiscal year 1995 and 1996; to the Committee on the Judiciary.

EC–122. A communication from the Chief Counsel, Foreign Claims Settlement Commission of the United States, Department of Justice, transmitting, pursuant to law, the Commission's annual report for calendar year 1997; to the Committee on Foreign Relations.

EC–123. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a list of international agreements other than treaties entered into by the United States (98–158 to 98–165) received on November 6, 1998; to the Committee on Foreign Relations.

EC–124. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the Administration's report entitled "Emissions of Greenhouse Gases in the United States 1997"; to the Committee on Energy and Natural Resources.

EC–125. A communication from the Director of the Public Health Service, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "National Institutes of Health Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds" (RIN0925–AA09) received on November 3, 1998; to the Committee on Labor and Human Resources.

EC–126. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Helping Disadvantaged Children Meet High Standards" (RIN1810–AA89) received on November 6, 1998; to the Committee on Labor and Human Resources.

EC–127. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Additives Permitted For Direct Addition to Food For Human Consumption; Polydextrose" (Docket 97F–0388) received on November 3, 1998; to the Committee on Labor and Human Resources.

EC–128. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Contract Action Reporting—1998" (Case 98–D009) received on November 3, 1998; to the Committee on Armed Services.

EC–129. A communication from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations: Resolution of Claims Regarding Blocked Montenegrin Vessel Accounts" received on November 3, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–130. A communication from the Director of the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Organization and Functions, Availability and Release of Information, Contracting Outreach Program" (RIN 1557–AB65) received on November 6, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–131. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Regulation T, Credit by Brokers and Dealers" received on November 6, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–132. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Awards of Costs and Certain Fees in Tax Litigation" (Notice 98–55) received on November 2, 1998; to the Committee on Finance.

EC–133. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Examination of Returns and Claims for Refund, Credit or Abatement; Determination of Correct Tax Liability" (Rev. Proc. 98–55) received on November 3, 1998; to the Committee on Finance.

EC–134. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Revisions to Payment Policies and Adjustments to the Relative Value Units Under the Physician Fee Schedule for Calendar Year 1999" (HCFA–1006–FC) received on November 3, 1998; to the Committee on Finance.

EC–135. A communication from the Office of Independent Counsel (Deputy Independent Counsel Smith), transmitting, pursuant to law, the Office's report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–136. A communication from the Office of Independent Counsel Pearson, transmitting, pursuant to law, a report under the Inspector General Act for the period April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–137. A communication from the Office of Independent Counsel Pearson, transmitting, pursuant to law, the Office's report under the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC–138. A communication from the Office of Independent Counsel von Kann, transmitting, pursuant to law, a report under the Inspector General Act for the period April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–139. A communication from the Office of Independent Counsel von Kann, transmitting, pursuant to law, the Office's report under the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC–140. A communication from the Office of Independent Counsel Bruce, transmitting, pursuant to law, the Office's consolidated report under the Federal Managers' Financial Integrity Act and the Inspector General Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–141. A communication from the Director of the Morris K. Udall Foundation, transmitting, pursuant to law, the Foundation's report under the Federal Managers' Financial Integrity Act and the Inspector General Act for fiscal year 1997; to the Committee on Governmental Affairs.

EC–142. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Employment in the Senior Executive Service; Promotion and Internal Placement" (RIN3206–AH92) received on November 6, 1998; to the Committee on Governmental Affairs.

EC–143. A communication from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, a list of additions to and deletions from the Committee's Procurement List dated November 3, 1998; to the Committee on Governmental Affairs.

EC–144. A communication from the Director of the U.S. Trade and Development Agency, transmitting, pursuant to law, the Agency's report under the Inspector General Act and the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–145. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the report of the Office of Inspector General for the period April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–146. A communication from the Chief Management Officer, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, a report entitled "Fiscal Year 1998 Annual Performance Report; A Report on Service Improvements and Management Reform"; to the Committee on Governmental Affairs.

EC–147. A communication from the Executive Director of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, the Authority's annual report for fiscal Year 1998; to the Committee on Governmental Affairs.

EC–148. A communication from the Director of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Financial Assistance for Research and Development Projects in the Gulf of Mexico and off the U.S. South Atlantic Coastal States; Marine Fisheries Initiative (MARFIN)" (RIN0648–ZA48) received on November 3, 1998; to the Committee on Commerce, Science, and Transportation.

EC–149. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding vessels catching pollock for processing by the inshore component in the Bering Sea (I.D. 102898B) received on November 3, 1998; to the Committee on Commerce, Science, and Transportation.

EC–150. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the Gulf of Alaska Statistical Area 620" (I.D. 102798A) received on November 3, 1998; to the Committee on Commerce, Science, and Transportation.

EC–151. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Transportation Equity Act for the 21st Century; Implementation Information for Innovative Bridge Research and Construction Program Funds" (RIN2125–ZZ08) received on November 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–152. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Risk-Based Alternative to Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipeline Rules" (RIN2137–AC78) received on November 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–153. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Slingsby Aviation Limited Models Dart T.51, Dart T.51/17, and Dart T.51/17R Sailplanes" (Docket 98–CE–67–AD) received on November 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–154. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Rolladen Schneider Flugzeugbau GmbH Models LS 3–A, LS 4, and LS 4a Sailplanes" (Docket 95–CE–49–AD) received on November 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–155. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Fokker Model F.28 Mark 0100 Series Airplanes" (Docket 98–NM–101–AD) received on November 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–156. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Riverton, WY" (Docket 98–ANM–15) received on November 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–157. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of the Phoenix Class B Airspace Area; AZ" (Docket 94–AWA–1) received on November 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–158. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; The New Piper Aircraft, Inc. Models PA–28–140, PA–28–150, PA–28–160, and PA–28–180 Airplanes" (Docket 95–CE–51–AD) received on November 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–159. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "IFR Altitudes; Miscellaneous Amendments" (Docket 29371) received on November 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–160. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; The New Piper Aircraft, Inc. PA–24, PA–28R, PA–30, PA–32R, PA–34, and PA–39 Series Airplanes" (Docket 96–CE–09–AD) received on November 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–161. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Approval of Recission to the VOC Rule Governing Automotive and Light-duty Truck Coating Operations" (FRL6183–9) received on November 3, 1998; to the Committee on Environment and Public Works.

EC–162. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Texas; 1990 Base Year Emissions Inventories, 15% Rate of Progress Plans, Contingency Plans, and Motor Vehicle Emission Budgets" (FRL6173–8) received on November 3, 1998; to the Committee on Environment and Public Works.

EC–163. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Reclassification; Arizona-Phoenix Nonattainment Area; Ozone; Extension of Plan Submittal Deadline" (FRL6183–7) received on November 3, 1998; to the Committee on Environment and Public Works.

EC–164. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of a rule entitled "Designation of Areas for Air Quality Planning Purposes: State of Idaho and the Fort Hall Indian Reservation" (FRL6185–8) received on November 3, 1998; to the Committee on Environment and Public Works.

EC–165. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of a rule entitled "Revised Allotment Formulas for State and Interstate Monies Appropriated Under Section 106 of the Clean Water Act" (FRL6184–9) received on November 3, 1998; to the Committee on Environment and Public Works.

EC–166. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of a rule entitled "Significant New Uses of Certain Chemical Substances; Correction" (FRL6042–2) received on November 3, 1998; to the Committee on Environment and Public Works.

EC–167. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of a rule regarding various California State Implementation Plan Revisions (FRL6184–4) received on November 6, 1998; to the Committee on Environment and Public Works.

EC–168. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of a rule entitled "Hazardous Remediation Waste Management Requirements (WHIR–media)" (FRL6186–6) received on November 6, 1998; to the Committee on Environment and Public Works.

EC–169. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, the final sequestration report for fiscal year 1999; referred jointly, pursuant to the order of January 30, 1975, as modified by the order April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Armed Services, to the Committee on Banking, Housing, and Urban Affairs, to the Committee on Commerce, Science, and Transportation, to the Committee on Energy and Natural Resources, to the Committee on Environment and Public Works, to the Committee on Finance, to the Committee on Foreign Relations, to the Committee on Governmental Affairs, to the Committee on the Judiciary, to the Committee on Labor and Human Resources, to the Committee on Small Business, to the Committee on Veterans' Affairs, to the Select Committee on Intelligence, and to the Committee on Indian Affairs.

EC–170. A communication from the President of the United States of America, transmitting, pursuant to law, the Administration's report on the National Security Strategy of the United States; to the Committee on Armed Services.

EC–171. A communication from the Assistant Secretary of Defense for Health Affairs, Department of Defense, transmitting, pursuant to law, a report on the cost and feasibility of integrating DoD and VA medical care; to the Committee on Armed Services.

EC–172. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Contract Action Reporting—Reform of Affirmative Action" (Case 98–D018) received on November 3, 1998; to the Committee on Armed Services.

EC–173. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Weighted Guidelines—Federally Funded Research and Development Centers" (Case 97–

D025) received on November 12, 1998; to the Committee on Armed Services.

EC–174. A communication from the Under Secretary of Defense for Acquisition and Technology, Department of Defense, transmitting, pursuant to law, a report on Selected Acquisition Reports for the quarter ending September 30, 1998; to the Committee on Armed Services.

EC–175. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, the report of a cost comparison on the Training Equipment Maintenance and Precision Measurement Equipment Laboratory functions at Keesler Air Force Base, Mississippi; to the Committee on Armed Services.

EC–176. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Asian Longhorned Beetle; Addition to Quarantined Areas" (Docket 98–088–1) received on November 9, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–177. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Closure of Harry S. Truman Animal Import Center" (Docket 98–070–3) received on November 16, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–178. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Mexican Fruit Fly Regulations; Addition of Regulated Area" (Docket 98–082–3) received on November 19, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–179. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tuberculosis Testing of Livestock Other than Cattle and Bison" (Docket 97–062–2) received on November 17, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–180. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the report of a rule entitled "Organization; Balloting and Stockholder Reconsideration Issues" (RIN3052–AB71) received on November 18, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–181. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Apricots Grown in Designated Counties in Washington; Change in Container Regulations" (Docket FV98–922–1 FIR) received on October 30, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–182. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Domestic Dates Produced or Packed in Riverside County, CA; Increased Assessment Rate" (Docket FV98–987–1 FR) received on October 30, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–183. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Irish Potatoes Grown in Colorado; Decreased Assessment Rate" (Docket FV98–948–1 FIR) received on October 30, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–184. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Kiwifruit Grown in California; Decreased Assessment Rate" (Docket FV98–920–3 FIR) received on November 16, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–185. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida and Imported Grapefruit; Relaxation of the Minimum Size Requirement for Red Seedless Grapefruit" (Docket FV99–905–1 IFR) received on November 16, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–186. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Dairy Promotion and Research Order; Amendment to the Order" (Docket DA–98–05) received on November 16, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–187. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Nectarines and Peaches Grown in California; Relaxation of Quality Requirements for Fresh Nectarines and Peaches" (Docket FV98–916–2 FIR) received on November 16, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–188. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Limes and Avocados Grown in Florida; Relaxation of Container Dimension, Weight, and Marketing Requirements" (Docket FV98–911–2 FIR) received on November 16, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–189. A communication from the Regulatory Review Officer, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Raisins Produced From Grapes Grown in California; Relaxations to Substandard and Maturity Dockage Systems" (Docket FV99–989–1 IFR) received on November 16, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–190. A communication from the Regulatory Review Officer, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Domestically Produced Peanuts; Decreased Assessment Rate" (Docket FV98–997–1 FIR and FV98–998–1 FIR) received on November 16, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–191. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Special Combinations for Tobacco Allotments and Quotas" (RIN0560–AF14) received on November 9, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–192. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tobacco Warehouses" (RIN0560–AD92) received on November 9, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–193. A communication from the Administrator of the Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Foreign Donation of Agricultural Commodities" (RIN0551–AA57) received on November 10, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–194. A communication from the Administrator of the Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Regulations Governing the Financing of Commercial Sales of Agricultural Commodities" (RIN 0551–AA54) received on November 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–195. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Utah Regulatory Program" (SPATS No. UT–039–FOR) received on November 10, 1998; to the Committee on Energy and Natural Resources.

EC–196. A communication from the Acting Director of the Office of Rulemaking Support, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Acquisition Regulation; Technical and Administrative Amendments" (RIN1991–AB40) received on November 16, 1998; to the Committee on Energy and Natural Resources.

EC–197. A communication from the Acting Director of the Office of Rulemaking Support, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Occupational Radiation Protection" (RIN1901–AA59) received on November 16, 1998; to the Committee on Energy and Natural Resources.

EC–198. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Cash or Deferred Arrangements; Nondiscrimination" (Notice 98–52) received on October 29, 1998; to the Committee on Finance.

EC–199. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rulings and Determination Letters" (Rev. Proc. 98–56) received on October 30, 1998; to the Committee on Finance.

EC–200. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Test of Mediation Procedure for Appeals" (Announcement 98–99) received on October 30, 1998; to the Committee on Finance.

EC–201. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update" (Notice 98–51) received on November 2, 1998; to the Committee on Finance.

EC–202. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Earned Income Credit for Taxable Years Beginning after December 31, 1978" (Rev. Rul. 98–56) received on November 9, 1998; to the Committee on Finance.

EC–203. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rules and Regulations" (Rev. Proc. 98–57) received on November 12, 1998; to the Committee on Finance.

EC–204. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property" (Rev. Rul. 98–57) received on November 19, 1998; to the Committee on Finance.

EC–205. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation dated October 21, 1998; to the Committee on the Budget.

EC–206. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation dated October 27, 1998; to the Committee on the Budget.

EC–207. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation dated November 4, 1998; to the Committee on the Budget.

EC–208. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation dated November 16, 1998; to the Committee on the Budget.

EC–209. A communication from the Director of the Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Minimum Income Annuity and Gratuitous Annuity" (RIN2900–AJ17) received on November 9, 1998; to the Committee on Veterans Affairs.

EC–210. A communication from the National Commander of the American Ex-Prisoners of War, transmitting, pursuant to law, the Organization's audit reports for the years ended August 31, 1998 and 1997; to the Committee on the Judiciary.

EC–211. A communication from the Director of the Defense Security Cooperation Agency, transmitting, pursuant to law, a report on the delivery of defense articles and services to the Government of Bosnia-Herzegovina for the period from 29 August 1996 through 21 September 1998; to the Committee on Foreign Relations.

EC–212. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, notice of a violation of the Antideficiency Act with respect to a banned expenditure of funds for human embryo research; to the Committee on Appropriations.

EC–213. A communication from the Chairman of the National Women's Business Council, transmitting, pursuant to law, the Council's annual report for fiscal year 1998; to the Committee on Small Business.

EC–214. A communication from the Acting Chairman of the Federal Election Commission, transmitting, pursuant to law, the Commission's budget request for fiscal year 2000; to the Committee on Rules and Administration.

EC–215. A communication from the Director of the Executive Office of the President, Office of Management and Budget, transmitting, pursuant to law, a report on direct spending or receipts legislation with respect to the Agriculture and Rural Development Appropriations Act dated November 25, 1998; to the Committee on the Budget.

EC–216. A communication from the Director of the Executive Office of the President, Office of Management and Budget, transmitting, pursuant to law, a report on direct spending or receipts legislation within seven days of enactment dated November 25, 1998; to the Committee on the Budget.

EC–217. A communication from the Secretary of the Interior, transmitting, pursuant to law, the Department's Annual Report and Annual Operating Plan for Colorado River System Reservoirs for 1999; to the Committee on Energy and Natural Resources.

EC–218. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the Administration's report entitled "Annual Energy Outlook 1999"; to the Committee on Energy and Natural Resources.

EC–219. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, transmitting, pursuant to law, the report of a rule entitled "Alabama Regulatory Program" (SPATS No. AL–068–FOR) received on December 1, 1998; to the Committee on Energy and Natural Resources.

EC–220. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, transmitting, pursuant to law, the report of a rule entitled "Ohio Regulatory Program" (SPATS No. OH–243–FOR, #76) received on December 1, 1998; to the Committee on Energy and Natural Resources.

EC–221. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, transmitting, pursuant to law, the report of a rule entitled "Texas Abandoned Mine Land Reclamation Plan" (SPATS No. TX–039–FOR) received on November 20, 1998; to the Committee on Energy and Natural Resources.

EC–222. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, transmitting, pursuant to law, the report of a rule entitled "Arkansas Regulatory Program" (SPATS No. AR–032–FOR) received on November 20, 1998; to the Committee on Energy and Natural Resources.

EC–223. A communication from the Acting Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Helium Contracts" (RIN1004–AD24) received on December 1, 1998; to the Committee on Energy and Natural Resources.

EC–224. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the Office's Annual Report to Congress on Veterans' Employment in the Federal Government for fiscal year 1997; to the Committee on Veterans' Affairs.

EC–225. A communication from the Director of the Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Dependents Education: Increase in Educational Assistance Rates" (RIN2900–AJ42) received on December 9, 1998; to the Committee on Veterans' Affairs.

EC–226. A communication from the Director of the Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "VA Acquisition Regulation: Title and Reference Updates" (RIN2900–AJ29) received on December 14, 1998; to the Committee on Veterans' Affairs.

EC–227. A communication from the Chairman of the United States Advisory Commission on Public Diplomacy, transmitting, pursuant to law, the Commission's report entitled "Publics and Diplomats in the Global Communications Age"; to the Committee on Foreign Relations.

EC–228. A communication from the Chairman of the J. William Fulbright Scholarship Board, transmitting, pursuant to law, the Board's annual report for 1997; to the Committee on Foreign Relations.

EC–229. A communication from the Administrator of the U.S. Agency for International Development, transmitting, pursuant to law, the Agency's quarterly report on Development Assistance Program Allocations for fiscal year 1998 (as of June 30, 1998); to the Committee on Foreign Relations.

EC–230. A communication from the Administrator of the U.S. Agency for International Development, transmitting, pursuant to law, the Agency's annual report on activities under the Denton Program for the period July 1, 1997 through June 30, 1998; to the Committee on Foreign Relations.

EC–231. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the texts of international agreements other than treaties entered into by the United States (98–166 to 98–175); to the Committee on Foreign Relations.

EC–232. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the texts of international agreements other than treaties entered into by the United States (98–176 to 98–179); to the Committee on Foreign Relations.

EC–233. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of the designation of a danger pay rate for Belgrade, Serbia-Montenegro; to the Committee on Foreign Relations.

EC–234. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report on the drawdown of articles and services from the inventory and resources of the Department of Defense with respect to Presidential Determination 99–04; to the Committee on Foreign Relations.

EC–235. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Documentation of Immigrants under the Immigration and Nationality Act — International Organization and NATO Civilian Employee Special Immigrants" (Public Notice 2935) received on December 1, 1998; to the Committee on Foreign Relations.

EC–236. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "VISAS: Passports and Visas Not Required for Certain Nonimmigrants-VWPP" (Public Notice 2939) received on November 20, 1998; to the Committee on Foreign Relations.

EC–237. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "VISAS: Regulations Regarding Public Charge Requirements under the Immigration and Nationality Act, as Amended" (Public Notice

2903) received on November 20, 1998; to the Committee on Foreign Relations.

EC–238. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of the President's intent to drawdown articles and services from the inventory and resources of the Department of Defense to provide critical disaster relief for Honduras, Nicaragua, El Salvador, and Guatemala; to the Committee on Foreign Relations.

EC–239. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of the President's intent to drawdown additional articles and services from the inventory and resources of the Department of Defense (up to $45,000,000) to provide critical disaster relief for Honduras, Nicaragua, El Salvador, and Guatemala; to the Committee on Foreign Relations.

EC–240. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report on the drawdown of articles and services from the inventory and resources of the Department of Defense with respect to Presidential Determination 99–03; to the Committee on Foreign Relations.

EC–241. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended—Waiver by Secretary of State and Attorney General of Passport and/or Visa Requirements for Certain Categories of Nonimmigrants" (Public Notice 2926) received on November 19, 1998; to the Committee on Foreign Relations.

EC–242. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the texts of International Labor Organization Convention No. 181 and Recommendation No. 188 Concerning Private Employment Agencies; to the Committee on Foreign Relations.

EC–243. A communication from the Secretary of Defense, transmitting, notice of a routine military retirement in the Air Force; to the Committee on Armed Services.

EC–244. A communication from the Secretary of Defense, transmitting, notice of a routine military retirement in the Navy; to the Committee on Armed Services.

EC–245. A communication from the Assistant Secretary of Defense for Health Affairs, transmitting, pursuant to law, a report on the feasibility and advisability of expanding the current Department of Defense mail order pharmacy program; to the Committee on Armed Services.

EC–246. A communication from the Acting Assistant Secretary of Defense for Force Management Policy, transmitting, pursuant to law, the Department's annual report on the effective use and costs of the civilian voluntary separation incentive pay program for fiscal year 1997; to the Committee on Armed Services.

EC–247. A communication from the Deputy Director of the Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison of the Civil Engineering, Transportation, and Library functions at Edwards Air Force Base, California; to the Committee on Armed Services.

EC–248. A communication from the Deputy Director of the Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison of the Civil Engineering functions at Hanscom Air Force Base, Massachusetts; to the Committee on Armed Services.

EC–249. A communication from the Deputy Director of the Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison of the Civil Engineering functions at Kirtland Air Force Base, New Mexico; to the Committee on Armed Services.

EC–250. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison of the Supply and Transportation functions at Bolling Air Force Base, District of Columbia; to the Committee on Armed Services.

EC–251. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison of the Civil Engineering functions at the United States Air Force Academy, Colorado; to the Committee on Armed Services.

EC–252. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison of the Base supply functions at Tinker Air Force Base, Oklahoma; to the Committee on Armed Services.

EC–253. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Competition Exception for International Agreements" (DFARS Case 97–D324) received on December 8, 1998; to the Committee on Armed Services.

EC–254. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Hazardous Waste Disposal" (DFARS Case 98–D301) received on December 8, 1998; to the Committee on Armed Services.

EC–255. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Service Contracts that Cross Fiscal Years" (DFARS Case 97–D328) received on December 8, 1998; to the Committee on Armed Services.

EC–256. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Waiver Authority to Support Humanitarian or Peacekeeping Operations" (DFARS Case 97–D319) received on December 8, 1998; to the Committee on Armed Services.

EC–257. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Short Form Research Contract" (DFARS Case 97–D030) received on December 8, 1998; to the Committee on Armed Services.

EC–258. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Architectural and Engineering Services and Construction Design" (DFARS Case 98–D313) received on December 14, 1998; to the Committee on Armed Services.

EC–259. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Adoption of Interim Rules as Final Rules Without Change" (DFARS Case 98–D313) received on November 24, 1998; to the Committee on Armed Services.

EC–260. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Reform of Affirmative Action in Federal Procurement, Part II" (DFARS Case 98–D021) received on November 24, 1998; to the Committee on Armed Services.

EC–261. A communication from the Director of the Federal Bureau of Prisons, transmitting, pursuant to law, the report of a rule entitled "Designation of Offenses Subject to Sex Offender Release Notification" (RIN1120–AA85) received on December 2, 1998; to the Committee on the Judiciary.

EC–262. A communication from the Deputy Assistant Secretary of Commerce and Deputy Commissioner of Patents and Trademarks, transmitting, pursuant to law, the report of a rule entitled "Revision of Patent Fees for Fiscal Year 1999" (RIN0651–AA96) received on December 4, 1998; to the Committee on the Judiciary.

EC–263. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule "Temporary Protected Status, Exception to Registration Deadlines" (RIN1115–AC30) received on November 30, 1998; to the Committee on the Judiciary.

EC–264. A communication from the Acting Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the National Institute of Justice's annual report for 1997; to the Committee on the Judiciary.

EC–265. A communication from the Director of the Federal Bureau of Investigation, transmitting, pursuant to law, the report of a rule entitled "National Instant Criminal Background Check System Regulation" (RIN 1105–AA51) received on November 18, 1998; to the Committee on the Judiciary.

EC–266. A communication from the Director of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, the report of a rule entitled "Compensation of Certain Former Operatives Incarcerated by the Democratic Republic of Vietnam" (RIN0790–AG67) received on December 4, 1998; to the Committee on the Judiciary.

EC–267. A communication from the Director of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, the report of a rule entitled "DoD Freedom of Information Act Program Regulation" (RIN0790–AG58) received on November 19, 1998; to the Committee on the Judiciary.

EC–268. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the Department's annual Horse

Protection Enforcement Report for fiscal year 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–269. A communication from the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services, transmitting, pursuant to law, the report of a rule entitled "Implementation of WIC Mandates of Public Law 103–448, the Healthy Meals for Healthy Americans Act of 1994 and Public Law 103–227, the Pro-Children Act of 1994" (RIN0584–AC02) received on November 19, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–270. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "American Indian Livestock Feed Program" (RIN0560–AF29) received on November 30, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–271. A communication from the Administrator of the Food Safety and Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Termination of Designation of the State of Minnesota with Respect to the Inspection of Meat and Meat Food Products" (Docket 98–048F) received on December 9, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–272. A communication from the Administrator of the Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Clear Title—Protection for Purchasers of Farm Products" (RIN0580–AA63) received on December 2, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–273. A communication from the Deputy Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "Requests for Exemptive, No-Action and Interpretative Letters" received on December 8, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–274. A communication from the Deputy Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule regarding adverse registration actions by the National Futures Association received on December 1, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–275. A communication from the Manager of the Federal Corp Insurance Program, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Common Crop Insurance Regulations; Cotton and ELS Cotton Crop Insurance Provisions" (RIN0563–AB62) received on December 1, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–276. A communication from the Manager of the Federal Corp Insurance Program, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Common Crop Insurance Regulations; Basic Provisions" (RIN0563–AB69) received on December 1, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–277. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Irish potatoes Grown in Colorado; Exemption From Area No. 2 handling Regulation for Potatoes Shipped for Experimentation and the Manufacture or Conversion into Specific Products" (Docket FV98–948–2 FIR) received on December 7, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–278. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Regulations Under the Perishable Agricultural Commodities Act (PACA); Renewal of License" (Docket FV98–359) received on December 1, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–279. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule regarding compensation for certain Michigan Cherry Industry Administrative Board Public Members (Docket FV97–930–2 FR) received on December 14, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–280. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "High-Temperature Forced-Air Treatments for Citrus" (Docket 96–069–2) received on December 7, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–281. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Changes in Disease Status of Belgium, France, Greece, Luxembourg, Portugal, and Spain" (Docket 97–086–2) received on December 4, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–282. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Importation of Fruits and Vegetables" (Docket 97–107–2) received on December 1, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–283. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Fruit from Hawaii" (Docket 97–005–2) received on December 1, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–284. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Importation of Coffee" (Docket 97–011–2) received on December 1, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–285. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Mediterranean Fruit Fly; Addition to Quarantined Areas" (Docket 98–083–3) received on December 2, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–286. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Regulations Requiring Manufacturers to Assess the Safety and Effectiveness of New Drugs and Biological Products in Pediatric Patients" (RIN0910–AB20) received on December 4, 1998; to the Committee on Labor and Human Resources.

EC–287. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Dissemination of Information on Unapproved/New Uses for Marketed Drugs, Biologics, and Devices" (RIN0910–AB23) received on December 1, 1998; to the Committee on Labor and Human Resources.

EC–288. A communication from the Secretary of Education, transmitting, pursuant to law, the Department's annual report on the implementation of the Individuals with Disabilities Education Act for 1998; to the Committee on Labor and Human Resources.

EC–289. A communication from the Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Class Exemption Relating to Certain Employee Benefit Plan; Foreign Exchange Transactions Executed Pursuant to Standing Instructions" (Exemption 98–54) received on December 4, 1998; to the Committee on Labor and Human Resources.

EC–290. A communication from the Assistant Secretary of Labor for Employment and Training, transmitting, pursuant to law, the report of a rule entitled "Unemployment Insurance Program Letter No. 3–95, Change 2" received on November 10, 1998; to the Committee on Labor and Human Resources.

EC–291. A communication from the Assistant Secretary of Labor for Mine Safety and Health, transmitting, pursuant to law, the report of a rule entitled "Safety Standards for Reporting Daily Inspections of Surface Coal Mines; Technical Amendment" (RIN1219–AB15) received on November 23, 1998; to the Committee on Labor and Human Resources.

EC–292. A communication from the Assistant Secretary of Labor for Employment Standards, transmitting, pursuant to law, the report of a rule entitled "Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Special Disabled Veterans and Vietnam Era Veterans" (RIN1215–AA62) received on November 4, 1998; to the Committee on Labor and Human Resources.

EC–293. A communication from the Assistant Secretary of Labor for Employment Standards, transmitting, pursuant to law, the report of a rule entitled "Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities" (RIN1215–AB19) received on November 4, 1998; to the Committee on Labor and Human Resources.

EC–294. A communication from the Assistant Secretary for Occupational Safety and Health, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Permit-Required Confined Spaces" (RIN1218–AA51) received on November 25, 1998; to the Committee on Labor and Human Resources.

EC–295. A communication from the Assistant Secretary for Occupational Safety and Health, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Powered Industrial Truck Operator Training" (RIN1218–AB33) received on November 30, 1998; to the Committee on Labor and Human Resources.

EC–296. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits" received on November 9, 1998; to the Committee on Labor and Human Resources.

EC–297. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled “Payment of Premiums” (RIN1212–AA79) received on December 9, 1998; to the Committee on Labor and Human Resources.

EC–298. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled “Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits” received on December 9, 1998; to the Committee on Labor and Human Resources.

EC–299. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled “Disclosure to Participants; Benefits Payable in Terminated Single-Employer Plans” received on November 5, 1998; to the Committee on Labor and Human Resources.

EC–300. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Food Additives Permitted for Direct Addition to Food for Human Consumption; Natamycin (Pimaricin)” (Docket 98F–0063) received on December 9, 1998; to the Committee on Labor and Human Resources.

EC–301. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Food Additives Permitted for Direct Addition to Food for Human Consumption; White Mineral Oil, USP” (Docket 94F–0454) received on December 9, 1998; to the Committee on Labor and Human Resources.

EC–302. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Medical Devices; Investigational Device Exemptions” (RIN0910–ZA14) received on December 1, 1998; to the Committee on Labor and Human Resources.

EC–303. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Food Labeling: Warning and Notice Statement: Labeling of Juice Products; Correction” (RIN0910–AA43) received on December 1, 1998; to the Committee on Labor and Human Resources.

EC–304. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “General and Plastic Surgery Devices: Reclassification of the Tweezer-Type Epilater” (Docket 97N–0199) received on October 29, 1998; to the Committee on Labor and Human Resources.

EC–305. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Medical Devices; Exemptions From Premarket Notification; Class II Devices” (Docket 98–0015) received on November 9, 1998; to the Committee on Labor and Human Resources.

EC–306. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Medical Devices; Humanitarian Use of Devices” (Docket 98N–0171) received on November 9, 1998; to the Committee on Labor and Human Resources.

EC–307. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Food Labeling: Health Claims; Reopening of Comment Period” received on December 14, 1998; to the Committee on Labor and Human Resources.

EC–308. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers (Colorant)” (Docket 96F–0214) received on November 9, 1998; to the Committee on Labor and Human Resources.

EC–309. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Effective Date of Approval of an Abbreviated New Drug Application” (Docket 85N–0214) received on November 16, 1998; to the Committee on Labor and Human Resources.

EC–310. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Indirect Food Additives: Adhesives and Components of Coatings” (Docket 97F–0428) received on November 10, 1998; to the Committee on Labor and Human Resources.

EC–311. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “General Hospital and Personal Use Devices: Classification of the Apgar Timer, Lice Removal Kit, and Infusion Stand” (Docket 98N–0087) received on November 10, 1998; to the Committee on Labor and Human Resources.

EC–312. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers (Colorant)” (Docket 98F–0432) received on November 10, 1998; to the Committee on Labor and Human Resources.

EC–313. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Over the Counter Drug Products Containing Analgesic/Antipyretic Active Ingredients for Internal Use; Required Alcohol Warning” (Docket 77N–094W) received on November 10, 1998; to the Committee on Labor and Human Resources.

EC–314. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Indirect Food additives: Adjuvants, Production Aids, and Sanitizers (Stabliizer)” (Docket 98F–0292) received on October 26, 1998; to the Committee on Labor and Human Resources.

EC–315. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule regarding the labeling of aspirin products for over-the-counter use (RIN0910–AA01) received on November 10, 1998; to the Committee on Labor and Human Resources.

EC–316. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Indirect Food Additives: Paper and Paperboard Components” (Docket 98F–0054) received on November 10, 1998; to the Committee on Labor and Human Resources.

EC–317. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Dental Devices; Classification of Sulfide Detection Device” (Docket 98P–0731) received on November 10, 1998; to the Committee on Labor and Human Resources.

EC–318. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Tamper Evident Packaging Requirements for Over-the-Counter Human Drug Products” (Docket 92N–0314) received on December 14, 1998; to the Committee on Labor and Human Resources.

EC–319. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule regarding professional labeling of over-the-counter aspirin products (Docket 77N–094A) received on December 14, 1998; to the Committee on Labor and Human Resources.

EC–320. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Administrative Practices and Procedures; Internal Review of Decisions” (Docket 98N–0361) received on December 14, 1998; to the Committee on Labor and Human Resources.

EC–321. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Indirect Food Additives: Paper and Paperboard Components” (Docket 96F–0401) received on November 17, 1998; to the Committee on Labor and Human Resources.

EC–322. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule regarding mutual recognition of certain reports on pharmaceutical goods and medical devices between the United States and the European Community (RIN0910–ZA11) received on November 16, 1998; to the Committee on Labor and Human Resources.

EC–323. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Indirect Food Additives: Polymers" (Docket 96F–0489) received on December 14, 1998; to the Committee on Labor and Human Resources.

EC–324. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets; Expected Retirement Age" received on November 5, 1998; to the Committee on Labor and Human Resources.

EC–325. A communication from the President of the United States, transmitting, pursuant to law, a report on the national emergency with respect to the Bosnian Serbs and the Federal Republic of Yugoslavia (Serbia and Montenegro) for the period from May 30, 1998 through November 29, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–326. A communication from the President of the United States, transmitting, pursuant to law, a report on the national emergency with respect to Burma (Executive Order 13047) dated November 23, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–327. A communication from the President of the United States, transmitting, pursuant to law, a report continuing the national emergency with respect to Sudan (Executive Order 13067) dated October 27, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–328. A communication from the President of the United States, transmitting, pursuant to law, a report continuing the national emergency with respect to Iran (Executive Order 12170) dated November 9, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–329. A communication from the President of the United States, transmitting, pursuant to law, a report on the national emergency with respect to Sudan (Executive Order 13067) dated November 6, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–330. A communication from the President of the United States, transmitting, pursuant to law, a report on the national emergency with respect to Iran (Executive Order 12170) dated November 16, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–331. A communication from the President of the United States, transmitting, pursuant to law, a report on the continuation of the national emergency with respect to weapons of mass destruction (Executive Order 12938) dated November 12, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–332. A communication from the Secretary of the Senate, transmitting, pursuant to law, a statement of the receipts and expenditures of the Senate from April 1, 1998 through September 30, 1998; ordered to lie on the table.

EC–333. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report entitled "1998 Report on Foreign Treatment of U.S. Financial Institutions"; to the Committee on Banking, Housing, and Urban Affairs.

EC–334. A communication from the Chief Counsel of the Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Iraqi Sanctions Regulations" dated November 5, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–335. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (Docket FEMA–7269) received on November 10, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–336. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a statement on certain transactions involving U.S. Exports to Chile dated November 19, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–337. A communication from the Assistant to the Board of Directors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Appraisal Standards for Federally Regulated Transactions" (Docket R–0990) received on November 23, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–338. A communication from the Assistant to the Board of Directors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule regarding amendments to the System's Regulations H, K, O, Y, the Rules of Practice for Hearings, and Rules Regarding Delegation of Authority (Docket R–1021) received on October 27, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–339. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Export Administration Regulations; Conforming Revisions to the Wassenaar Arrangement List of Dual-Use Items and Revisions to Antiterrorism Controls" (RIN0694–AB35) received on November 16, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–340. A communication from the Deputy Director for Policy and Programs, Community Development Financial Institutions Fund, Department of the Treasury, transmitting, pursuant to law, a report on two Notices of Funds Availability dated November 10, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–341. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled "Community Investment Cash Advance Programs" (RIN3069–AA75) received on December 1, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–342. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled "Federal Home Loan Bank Standby Letters of Credit" (RIN3069–AA61) received on December 1, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–343. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled "Election of Federal Home Loan Bank Directors" (RIN3069–AA55) received on December 1, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–344. A communication from the Federal Register Liaison Officer, Office of Thrift Supervision, transmitting, pursuant to law, the report of a rule entitled "Financial Management Policies; Financial Derivatives" (RIN1550–AB13) received on November 30, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–345. A communication from the Federal Register Liaison Officer, Office of Thrift Supervision, transmitting, pursuant to law, the report of a rule entitled "Electronic Operations" (RIN1550–AB00) received on November 30, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–346. A communication from the Federal Register Liaison Officer, Office of Thrift Supervision, transmitting, pursuant to law, the report of a rule entitled "Assessments and Fees" (RIN1550–AB20) received on November 30, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–347. A communication from the Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment to Rule Filing Requirements for Self-Regulatory Organizations Regarding New Derivative Securities Products" (RIN3235–AH39) received on December 11, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–348. A communication from the Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Year 2000 Readiness Reports to be Made by Certain Non-Bank Transfer Agents" (RIN3235–AH42) received on October 27, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–349. A communication from the Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "OTC Derivatives Dealers" (RIN3235–AH16) received on October 27, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–350. A communication from the Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Regulation of Exchanges and Alternative Trading Systems" (RIN3235–AH41) received on December 11, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–351. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (63 FR 58319) received on November 10, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–352. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (63 FR 59316) received on November 10, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–353. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" (Docket FEMA–7699) received on November 10, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–354. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (63 FR 55037) received on November 10, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–355. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (63 FR 58321) received on November 10, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–356. A communication from the Assistant Secretary for Import Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Countervailing Duties" (RIN0625–AA45) received on November 20, 1998; to the Committee on Finance.

EC–357. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare sProgram; Limited Additional Opportunity to Request Certain Hospital Wage Data Revisions for FY 1999" (RIN0938–AJ26) received on December 1, 1998; to the Committee on Finance.

EC–358. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Interim Rules for Group Health Plans and Health Insurance Issuers Under the Newborns' and Mothers' Health Protection Act" (RIN0938–AI17) received on December 1, 1998; to the Committee on Finance.

EC–359. A communication from the Secretary of Labor, transmitting, pursuant to law, the Department's report entitled "Trade and Employment Effects of the Andean Trade Preference Act"; to the Committee on Finance.

EC–360. A communication from the Secretary of Labor, transmitting, pursuant to law, the Department's report entitled "Trade and Employment Effects of the Caribbean Basin Economic Recovery Act"; to the Committee on Finance.

EC–361. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the United States Government Annual Report for the fiscal year ended September 30, 1997; to the Committee on Finance.

EC–362. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Last-in, First-out Inventories" (Rev. Rul. 98–62) received on December 9, 1998; to the Committee on Finance.

EC–363. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Small Business Taxpayer Advance Pricing Agreements" (Notice 98–65) received on December 9, 1998; to the Committee on Finance.

EC–364. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Qualified Long-Term Care Insurance Contracts" (RIN1545–AV56) received on December 9, 1998; to the Committee on Finance.

EC–365. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Guidance Regarding Charitable Remainder Trusts and Special Valuation Rules for Transfers of Interests in Trusts" (RIN1545–AU25) received on December 9, 1998; to the Committee on Finance.

EC–366. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Definition of a Real Estate Investment Trust" (Rev. Rul. 98–60) received on December 9, 1998; to the Committee on Finance.

EC–367. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Definition of Reasonable Basis" (RIN1545–AU38) received on December 7, 1998; to the Committee on Finance.

EC–368. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Interest Rate" (Rev. Rul. 98–61) received on December 7, 1998; to the Committee on Finance.

EC–369. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Alternative Identifying Numbers for Income Tax Return Preparers" (Notice 98–63) received on December 7, 1998; to the Committee on Finance.

EC–370. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Special Rules for Certain Transactions Where Stated Principal Amount Does Not Exceed $2,800,000" (Rev. Rul. 98–58) received on December 8, 1998; to the Committee on Finance.

EC–371. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Treatment of Loans with Below-Market Interest Rates" (Rev. Rul. 98–59) received on December 8, 1998; to the Committee on Finance.

EC–372. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Action on Decision in Fluor v. United States" (Docket 96–5130) received on November 24, 1998; to the Committee on Finance.

EC–373. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Returns Relating to Higher Education Tuition and Related Expenses" (Notice 98–59) received on November 19, 1998; to the Committee on Finance.

EC–374. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Changes in Accounting Periods and in Methods of Accounting" (Rev. Proc. 98–58) received on November 23, 1998; to the Committee on Finance.

EC–375. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Cafeteria Plans Election Changes" (Announcement 98–105) received on November 23, 1998; to the Committee on Finance.

EC–376. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "D.C. Enterprise Zone / Census Tracts" (Notice 98–57) received on November 23, 1998; to the Committee on Finance.

EC–377. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Taxation of DISC Income to Shareholders" (Rev. Rul. 98–55) received on November 23, 1998; to the Committee on Finance.

EC–378. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Administrative Appeal of Adverse Determination of Tax-Exempt Status of Bond Issue" (Notice 98–58) received on November 19, 1998; to the Committee on Finance.

EC–379. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Administrative, Procedural and Miscellaneous Rulings and Determination Letters (Roth IRAs)" (Rev. Proc. 98–59) received on November 30, 1998; to the Committee on Finance.

EC–380. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Changes in Accounting Periods and in Methods of Accounting" (Rev. Proc. 98–60) received on December 11, 1998; to the Committee on Finance.

EC–381. A communication from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Offering and Governing Regulations for United States Savings Bonds, Series I; Issuing and Paying Agents; and Payments Under Special Endorsement" received on December 9, 1998; to the Committee on Finance.

EC–382. A communication from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Regulations for the Issue and Offering of United States Savings Bonds, Including Sales by Electronic Means" received on November 19, 1998; to the Committee on Finance.

EC–383. A communication from the Chief of Staff, Office of Commissioner, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Final Rules on Application of State Law in Determining Child Relationship" (RIN0960–AE30) received on December 1, 1998; to the Committee on Finance.

EC–384. A communication from the Chief of Staff, Office of Commissioner, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Permit the Department of State and the Immigration and Naturalization Service to Collect Information Needed to Assign Social Security Numbers to Aliens" (RIN0960–AE36) received on December 1, 1998; to the Committee on Finance.

EC–385. A communication from the Chief of Staff, Office of Commissioner, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Listening-In to or Recording Telephone Conversations" (RIN0960–AE66) received on December 1, 1998; to the Committee on Finance.

EC–386. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's report on nondisclosure of safeguards information for the period from July 1, 1998 through September 30, 1998; to the Committee on Environment and Public Works.

EC–387. A communication from the Chief Financial Officer of the National Aeronautics and Space Administration, transmitting, pursuant to law, the Administration's report on mixed wastes for fiscal year 1998; to the Committee on Environment and Public Works.

EC–388. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Migratory Bird Hunting; Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds" (RIN1018–AE93) received on November 10, 1998; to the Committee on Environment and Public Works.

EC–389. A communication from the Administrator of the Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the Department's report entitled "Progress Made in Implementing Sections 6016 and 1038 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA)"; to the Committee on Environment and Public Works.

EC–390. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Rule to list the Arkansas River Basin Population of the Arkansas River Shiner (Notropis girardi) as Threatened" (RIN1018–AC62) received on November 17, 1998; to the Committee on Environment and Public Works.

EC–391. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Rule to list the Topeka Shiner as Endangered" (RIN1018–AE42) received on December 9, 1998; to the Committee on Environment and Public Works.

EC–392. A communication from the Assistant Secretary of the Army for Civil Works, transmitting, a recommendation relative to the flood damage reduction project at Wood River, Grand Island, Nebraska; to the Committee on Environment and Public Works.

EC–393. A communication from the Assistant Secretary of the Army for Civil Works, transmitting, pursuant to law, a report on the construction of a navigation lock in the Houma Navigation Canal, Morganza, Louisiana; to the Committee on Environment and Public Works.

EC–394. A communication from the Assistant Secretary of the Army for Civil Works, transmitting, pursuant to law, the report of a rule entitled "Naval Restricted Area, Naval Station Annapolis, Maryland" received on December 9, 1998; to the Committee on Environment and Public Works.

EC–395. A communication from the Assistant Secretary of the Army for Civil Works, transmitting, a report recommending a flood damage reduction project along the Red Lake River at Crookston, Minnesota; to the Committee on Environment and Public Works.

EC–396. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Criticality Accident Requirements" (RIN3150–AF87) received on November 16, 1998; to the Committee on Environment and Public Works.

EC–397. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule regarding examination requirements for certain reactor pressure vessel welds (Letter 98–05) received on November 16, 1998; to the Committee on Environment and Public Works.

EC–398. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Integrated Materials Performance Evaluation Program" (MD 5.6) received on December 1, 1998; to the Committee on Environment and Public Works.

EC–399. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Streamlined Hearing Process for NRC Approval of License Transfers" (RIN3150–AG09) received on December 8, 1998; to the Committee on Environment and Public Works.

EC–400. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; State of Maryland—General Conformity Rule" (FRL6197–3) received on December 7, 1998; to the Committee on Environment and Public Works.

EC–401. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Stage II Vapor Recovery Comparability Plan" (FRL6199–3) received on December 7, 1998; to the Committee on Environment and Public Works.

EC–402. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision: South Coast Air Quality Management District, San Diego County Air Pollution Control District, and Kern County Air Pollution Control District" (FRL6195–7) received on December 7, 1998; to the Committee on Environment and Public Works.

EC–403. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Interim Final Determination of Correction of Deficiencies in 15 Percent Rate-of-Progress and Contingency Plans; Rhode Island" (FRL6192–7) received on December 2, 1998; to the Committee on Environment and Public Works.

EC–404. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Delaware and District of Columbia; Revised Format for Materials Being Incorporated by Reference" (FRL6193–6) received on December 2, 1998; to the Committee on Environment and Public Works.

EC–405. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; 15 Percent Rate-of-Progress and Contingency Plans; Vapor Recovery Controls for Gasoline Distribution and Dispensing" (FRL6196–1) received on December 2, 1998; to the Committee on Environment and Public Works.

EC–406. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Diego Air Pollution Control District and Ventura County Air Pollution Control District" (FRL6195–8) received on December 2, 1998; to the Committee on Environment and Public Works.

EC–407. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Control of Air Pollution From Motor Vehicles and New Motor Vehicle Engines; Modification of Federal On-board Diagnostic Regulations for Light-Duty Vehicles and Light-Duty Trucks; Extension of Acceptance of California OBD II Requirements" (FRL6196–4) received on December 2, 1998; to the Committee on Environment and Public Works.

EC–408. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri" (FRL6197–1) received on December 2, 1998; to the Committee on Environment and Public Works.

EC–409. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Commonwealth of Kentucky" (FRL6192–1) received on December 2, 1998; to the Committee on Environment and Public Works.

EC–410. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Primary Drinking Water Regulations: Interim Enhanced Surface Water Treatment" (FRL6199–9) received on December 11, 1998; to the Committee on Environment and Public Works.

EC–411. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pesticide Worker Protection Standard; Respirator Designations" (FRL6022–3) received on December 2, 1998; to the Committee on Environment and Public Works.

EC–412. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding clarification of emission standards for synthetic organic chemical manufacture and certain other processes (FRL6197–8) received on December 2, 1998; to the Committee on Environment and Public Works.

EC–413. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Reportable Quantities: Removal of Caprolactam From the List of CERCLA Hazardous Substances" (FRL6202–4) received on December 10, 1998; to the Committee on Environment and Public Works.

EC–414. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection

Agency, transmitting, pursuant to law, the report of a rule entitled "Tralkoxydim; Time-Limited Pesticide Tolerances" (FRL6048-4) received on December 9, 1998; to the Committee on Environment and Public Works.

EC-415. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Bifenthrin; Pesticide Tolerances for Emergency Exemptions" (FRL6048-1) received on December 9, 1998; to the Committee on Environment and Public Works.

EC-416. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Copper Ammonium Complex; Exemption from the Requirement of a Tolerance" (FRL6048-5) received on December 9, 1998; to the Committee on Environment and Public Works.

EC-417. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Primary Drinking Water: Disinfectants and Fisifection Byproducts" (FRL6199-8) received on December 11, 1998; to the Committee on Environment and Public Works.

EC-418. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; South Carolina: Approval of Revisions to the South Carolina SIP Regarding Volatile Organic Compounds (VOC) Definition Adoptions" (FRL6197-6) received on December 1, 1998; to the Committee on Environment and Public Works.

EC-419. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Any Edible Food Commodity Used as a Pesticide; Exemption From the Requirement of a Tolerance" (FRL6039-5) received on December 1, 1998; to the Committee on Environment and Public Works.

EC-420. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Triasulfuron; Pesticide Tolerance" (FRL6040-4) received on November 23, 1998; to the Committee on Environment and Public Works.

EC-421. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tebuconazole; Pesticide Tolerances for Emergency Exemptions" (FRL6036-3) received on November 23, 1998; to the Committee on Environment and Public Works.

EC-422. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Significant New Uses for Certain Chemical Substances" (FRL6033-6) received on November 23, 1998; to the Committee on Environment and Public Works.

EC-423. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Primisulfuron-Methyl; Extension of Tolerance for Emergency Exemptions" (FRL6041-3) received on November 23, 1998; to the Committee on Environment and Public Works.

EC-424. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Imidacloprid; Pesticide Tolerances for Emergency Exemptions" (FRL6045-3) received on November 23, 1998; to the Committee on Environment and Public Works.

EC-425. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revocation of Significant New Use Rules for Certain Chemical Substances" (FRL6044-6) received on November 20, 1998; to the Committee on Environment and Public Works.

EC-426. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Carfentrazone-ethyl; Pesticide Tolerances for Emergency Exemptions" (FRL6040-7) received on November 20, 1998; to the Committee on Environment and Public Works.

EC-427. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Azoxystrobin; Pesticide Tolerances for Emergency Exemptions" (FRL6045-4) received on November 20, 1998; to the Committee on Environment and Public Works.

EC-428. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri" (FRL6134-3) received on November 20, 1998; to the Committee on Environment and Public Works.

EC-429. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; New York" (FRL6193-5) received on November 20, 1998; to the Committee on Environment and Public Works.

EC-430. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Thiabendazole; Extension of Tolerance for Emergency Exemptions" (FRL6044-5) received on November 25, 1998; to the Committee on Environment and Public Works.

EC-431. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Myclobutanil; Extension of Tolerance for Emergency Exemptions" (FRL6046-9) received on November 25, 1998; to the Committee on Environment and Public Works.

EC-432. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Metolachlor; Extension of Tolerance for Emergency Exemptions" (FRL6038-4) received on November 25, 1998; to the Committee on Environment and Public Works.

EC-433. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Imidacloprid; Extension of Tolerance for Emergency Exemptions; Correction" (FRL6043-6) received on November 25, 1998; to the Committee on Environment and Public Works.

EC-434. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Cymoxanil; Extension of Tolerances for Emergency Exemptions" (FRL6038-5) received on November 25, 1998; to the Committee on Environment and Public Works.

EC-435. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Santa Barbara County Air Pollution Control District" (FRL6194-5) received on November 25, 1998; to the Committee on Environment and Public Works.

EC-436. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of VOC and NOx RACT Determinations for Individual Sources" (FRL6194-3) received on November 25, 1998; to the Committee on Environment and Public Works.

EC-437. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Zinc Phosphide; Pesticide Tolerances for Emergency Exemptions" (FRL6046-1) received on December 4, 1998; to the Committee on Environment and Public Works.

EC-438. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Oklahoma: Final Authorization of State Hazardous Waste Management Program Revisions" (FRL6198-9) received on December 4, 1998; to the Committee on Environment and Public Works.

EC-439. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emissions Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations" (FRL6192-8) received on December 4, 1998; to the Committee on Environment and Public Works.

EC-440. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Permits and Sulfur Dioxide Allowance System Regulations Under Title IV of the Clean Air Act: Allowance Transfer Deadline and Signature Requirements" (FRL6201-3) received on December 8, 1998; to the Committee on Environment and Public Works.

EC-441. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning" (FRL6201–2) received on December 8, 1998; to the Committee on Environment and Public Works.

EC–442. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Maine; Plan for Controlling MWC Emissions From Existing MWC Plants" (FRL6201–1) received on December 8, 1998; to the Committee on Environment and Public Works.

EC–443. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Illinois; Control of Landfill Gas Emissions from Existing Municipal Solid Waste Landfills" (FRL6191–1) received on November 17, 1998; to the Committee on Environment and Public Works.

EC–444. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of Section 112(l) Program of Delegation; Michigan" (FRL6189–8) received on November 17, 1998; to the Committee on Environment and Public Works.

EC–445. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emissions Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations" (FRL6192–8) received on November 19, 1998; to the Committee on Environment and Public Works.

EC–446. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hydramethylnon; Extension of Tolerance for Emergency Exemptions" (FRL6040–9) received on November 19, 1998; to the Committee on Environment and Public Works.

EC–447. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Standards of Performance for New Stationary Sources: Residential Wood Heaters" (FRL6192–9) received on November 19, 1998; to the Committee on Environment and Public Works.

EC–448. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tebufenozide; Extension of Tolerance for Emergency Exemptions" (FRL6041–4) received on November 19, 1998; to the Committee on Environment and Public Works.

EC–449. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans: Washington" (FRL6188–1) received on November 13, 1998; to the Committee on Environment and Public Works.

EC–450. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of the Clean Air Act, Section 112(l), Delegation of Authority to Three Local Air Agencies in Washington" (FRL6187–8) received on November 17, 1998; to the Committee on Environment and Public Works.

EC–451. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Application of Minority and Women-Owned Business Enterprise Requirements in the Clean Water and Drinking Water State Revolving Fund Programs" received on November 12, 1998; to the Committee on Environment and Public Works.

EC–452. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Use of Alternative Analytical Test Methods in the Reformulated Gasoline Program and Revision of the Specification for the Mixing Chamber Associated with Animal Toxicity Testing of Fuels and Fuel Additives" (FRL6187–6) received on November 9, 1998; to the Committee on Environment and Public Works.

EC–453. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Georgia" (FRL6187–4) received on November 9, 1998; to the Committee on Environment and Public Works.

EC–454. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Solvents" (FRL6185–3) received on November 4, 1998; to the Committee on Environment and Public Works.

EC–455. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Sacramento Metropolitan Air Quality Management District" (FRL6185–1) received on November 4, 1998; to the Committee on Environment and Public Works.

EC–456. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of New Jersey; Clean Fuel Fleet Opt Out" (FRL6174–4) received on November 4, 1998; to the Committee on Environment and Public Works.

EC–457. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Alabama" (FRL6188–9) received on November 10, 1998; to the Committee on Environment and Public Works.

EC–458. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Federal Plan Requirements for Large Municipal Waste Combustors Constructed on or Before September 20, 1994" (FRL6185–4) received on November 5, 1998; to the Committee on Environment and Public Works.

EC–459. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Revised Format for Materials Being Incorporated by Reference" (FRL6168–5) received on November 5, 1998; to the Committee on Environment and Public Works.

EC–460. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Technical Amendments to Approval and Promulgation of Air Quality State Implementation Plans, Texas; Recodification of, and Revisions to the State Implementation Plan; Chapter 114; Correction of Effective Date Under the Congressional Review Act" (FRL6182–9) received on October 29, 1998; to the Committee on Environment and Public Works.

EC–461. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Oklahoma" (FRL6183–5) received on October 30, 1998; to the Committee on Environment and Public Works.

EC–462. A communication from the General Counsel of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, notice of a vacancy in the Office of Management and Budget's office of Controller received on December 14, 1998; to the Committee on Governmental Affairs.

EC–463. A communication from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the Committee's combined report under the Inspector General Act and the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–464. A communication from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, a list of additions to and deletions from the Committee's Procurement List dated October 26, 1998; to the Committee on Governmental Affairs.

EC–465. A communication from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, a list of additions to and deletions from the Committee's Procurement List dated November 9, 1998; to the Committee on Governmental Affairs.

EC–466. A communication from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, notice of additions to the Committee's Procurement List dated November 17, 1998; to the Committee on Governmental Affairs.

EC–467. A communication from the Executive Director of the Committee for Purchase

From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, notice of additions to and deletions from the Committee's Procurement List dated November 24, 1998; to the Committee on Governmental Affairs.

EC–468. A communication from the Director of the Office of Governmental Ethics, transmitting, pursuant to law, the report of a rule entitled "Paperwork Revisions to Model Qualified Trust Certificates of Independence and Compliance" (RIN3209–AA00) received on October 28, 1998; to the Committee on Governmental Affairs.

EC–469. A communication from the Chief Judge of the Superior Court of the District of Columbia, transmitting, pursuant to law, a report on amendments to the Jury Plan for the Superior Court of the District of Columbia; to the Committee on Governmental Affairs.

EC–470. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Federal Employees Health Benefits Program: Disenrollment" (RIN3206–AH61) received on November 2, 1998; to the Committee on Governmental Affairs.

EC–471. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Temporary and Term Employment" (RIN3206–AH47) received on November 16, 1998; to the Committee on Governmental Affairs.

EC–472. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Reduction in Force Offers of Vacant Positions" (RIN3206–AH95) received on November 16, 1998; to the Committee on Governmental Affairs.

EC–473. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Prevailing Rate Systems; Redefinition of Philadelphia, PA, and New York, NY, Appropriated Fund Wage Areas" (RIN3206–AI30) received on November 16, 1998; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT:

S. Res. 1. A resolution informing the House of Representatives that a quorum of the Senate is assembled; considered and agreed to.

S. Res. 2. A resolution informing the President of the United States that a quorum of the Senate is assembled; considered and agreed to.

S. Res. 3. A resolution fixing the hour of daily meeting of the Senate; considered and agreed to.

By Mr. LOTT (for Mr. MCCAIN):

S. Res. 4. A resolution relative to Rule 16; to the Committee on Rules and Administration.

By Mr. LOTT (for Mr. DOMENICI):

S. Res. 5. A resolution to establish procedures for the consideration of emergency legislation in the Senate; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, to the Committee on the Budget and Governmental Affairs, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

S. Res. 6. A resolution to reform the Senate's consideration of budget measures; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, to the Committees on the Budget and Governmental Affairs, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. LOTT (for Mr. BENNETT):

S. Res. 7. A resolution to amend Senate Resolution 208 of the 105th Congress to increase funding of the Special Committee on the Year 2000 Technology-related Problems; to the Committee on Rules and Administration.

By Mr. LOTT (for Mr. STEVENS (for himself and Mr. BYRD)):

S. Res. 8. A resolution amending rule XVI of the Standing Rules of the Senate relating to amendments to general appropriation bills; to the Committee on Rules and Administration.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 9. A resolution to make effective reappointment of Senate Legal Counsel; considered and agreed to.

S. Res. 10. A resolution to make effective reappointment of Deputy Senate Legal Counsel; considered and agreed to.

SENATE RESOLUTION 1—INFORMING THE HOUSE OF REPRESENTATIVES THAT A QUORUM OF THE SENATE IS ASSEMBLED

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 1

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

SENATE RESOLUTION 2—INFORMING THE PRESIDENT OF THE UNITED STATES THAT A QUORUM OF THE SENATE IS ASSEMBLED

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 2

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

SENATE RESOLUTION 3—FIXING THE HOUR OF DAILY MEETING OF THE SENATE

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 3

Resolved, That the hour of daily meeting of the Senate be 12 o'clock meridian unless otherwise ordered.

SENATE RESOLUTION 4—RELATIVE TO RULE XVI

Mr. LOTT submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 4

SECTION 1. Notwithstanding any precedent to the contrary, the prohibition against legislative proposals contained in Rule 16 shall be enforced by the Chair.

SENATE RESOLUTION 5—TO ESTABLISH PROCEDURES FOR THE CONSIDERATION OF EMERGENCY LEGISLATION IN THE SENATE

Mr. LOTT (for Mr. DOMENICI) submitted the following resolution; which was referred to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977:

S. RES. 5

Resolved,

SECTION 1. CONSIDERATION OF EMERGENCY LEGISLATION.

(a) DESIGNATIONS.—

(1) GUIDANCE.—In the Senate for purposes of making a designation of a provision of legislation as an emergency requirement under section 251(b)(2)(A) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985, the committee report, if any, accompanying such legislation, shall analyze whether a proposed emergency requirement meets all the criteria in paragraph (2).

(2) CRITERIA.—

(A) IN GENERAL.—A proposed expenditure or tax change is an emergency requirement if it is—

(i) necessary, essential, or vital (not merely useful or beneficial);

(ii) sudden, quickly coming into being, and not building up over time;

(iii) an urgent, pressing, and compelling need requiring immediate action;

(iv) subject to subparagraph (B), unforeseen, unpredictable, and unanticipated; and

(v) not permanent, temporary in nature.

(B) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

(3) JUSTIFICATION FOR FAILURE TO MEET CRITERIA.—If the proposed emergency requirement does not meet all the criteria set forth in paragraph (2), the committee report accompanying such legislation shall provide a justification of why the requirement is an emergency.

(b) POINT OF ORDER.—

(1) IN GENERAL.—When the Senate is considering a bill, resolution, amendment, motion, or conference report, upon a point of order being made by a Senator against any provision in that measure designated as an emergency requirement pursuant to section 251(b)(2)(A) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 and the Presiding Officer sustains that point of order, that provision along with the language making the designation shall be stricken from the measure and may not be offered as an amendment from the floor.

(2) EMERGENCY LEGISLATION.—When the Senate is considering an emergency supplemental appropriations bill, an amendment thereto, a motion thereto, or a conference report therefrom, upon a point of order being

made by a Senator against any provision in that measure that is not designated as an emergency requirement pursuant to section 251(b)(2)(A) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 and the Presiding Officer sustains that point of order, that provision shall be stricken from the measure and may not be offered as an amendment from the floor.

(c) WAIVER.—Paragraphs (1) and (2) of subsection (b) may be waived in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(d) APPEAL.—Appeals in the Senate from the decisions of the Chair relating to any provision of this resolution shall be limited to 1 hour of debate, to be equally divided between, and controlled by, the appellant and the manager of the legislation. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this resolution.

(e) DEFINITION.—In this resolution, the term "emergency supplemental appropriations bill" means a bill or joint resolution appropriating funds in addition to those enacted in the appropriations Act for that year as defined in section 105 of title 1, United States Code.

SENATE RESOLUTION 6—TO REFORM THE SENATE CONSIDERATION OF BUDGET MEASURES

Mr. LOTT (for Mr. DOMENICI) submitted the following resolution; which was referred to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977:

S. RES. 6

Resolved,

SECTION 1. CONSIDERATION OF BUDGET MEASURES IN THE SENATE.

(a) IN GENERAL.—Notwithstanding section 305 (b) and (c) and section 310(e) of the Congressional Budget Act of 1974, budget resolutions and reconciliation legislation shall be considered in the Senate under the procedures set forth in this resolution.

(b) PROCEDURE IN SENATE FOR THE CONSIDERATION OF A CONCURRENT RESOLUTION ON THE BUDGET.—

(1) LEGISLATION AVAILABLE.—It shall not be in order to proceed to the consideration of a concurrent resolution on the budget unless the text of that resolution has been available to Members for at least 1 calendar day (excluding Sundays and legal holidays unless the Senate is in session) prior to the consideration of the measure.

(2) TIME FOR DEBATE.—

(A) IN GENERAL.—Debate in the Senate on any concurrent resolution on the budget, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 30 hours, except that with respect to any conference report on a concurrent resolution on the budget all such debate shall be limited to not more than 10 hours. Of this 30 hours, 10 hours shall be reserved for general debate on the resolution (including debate on economic goals and policies) and 20 hours shall be reserved for debate of amendments, motions, and appeals. The time for general debate shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader or their designees.

(B) DISPOSITION OF AMENDMENTS AND OTHER MATTERS.—After no more than 30 hours of debate on the concurrent resolution on the budget, the Senate shall, except as provided in subparagraph (C), proceed, without any further action or debate on any question, to vote on the final disposition thereof.

(C) ACTION PERMITTED AFTER 30 HOURS.—After no more than 30 hours of debate on the concurrent resolution on the budget, the only further action in order shall be disposition of—

(i) all amendments then pending before the Senate;

(ii) all points of order arising under this Act which have been previously raised; and

(iii) motions to reconsider and 1 quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins.

Disposition shall include raising points of order against pending amendments, motions to table, and motions to waive.

(3) AMENDMENTS.—

(A) DEBATE.—Debate in the Senate on any amendment to a concurrent resolution on the budget shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, except that in the event the manager of the concurrent resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the Minority Leader or his designee. No amendment that is not germane to the provisions of that concurrent resolution shall be received. An amendment that includes precatory language shall not be considered germane. Such leaders, or either of them, may, from the time for general debate under their control on the adoption of the concurrent resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(B) FILING OF AMENDMENTS.—Except by unanimous consent, no amendment shall be proposed after 15 hours of debate of a concurrent resolution on the budget have elapsed, unless it has been submitted in writing to the Journal Clerk by the 15th hour if an amendment in the first degree (or if a complete substitute for the underlying measure), and unless it has been so submitted by the 20th hour if an amendment to an amendment (or an amendment to the language proposed to be stricken).

(C) LIMIT ON OFFERING AMENDMENTS.—No Senator shall call up more than a total of 2 amendments until every other Senator shall have had the opportunity to do likewise.

(D) LIMITATION ON NUMBER OF SECOND DEGREE AMENDMENTS.—No more than a total of 2 consecutive amendments to any amendment may be offered by either the majority or minority party.

(4) DEBATE.—General debate time may only be yielded back by unanimous consent and a motion to further limit the time for general debate shall be debatable for 30 minutes. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution.

(5) MATHEMATICAL CONSISTENCY.—

(A) IN GENERAL.—Notwithstanding any other rule, and except as provided in subparagraph (B), an amendment or series of amendments to a concurrent resolution on the budget proposed in the Senate shall always be in order only if such amendment or series of amendments proposes to change any figure or figures then contained in such concurrent resolution so as to make such concurrent resolution mathematically consistent or so as to maintain such consistency.

(B) EFFECT OF ADOPTION OF SUBSTITUTE AMENDMENTS.—Once an amendment to an amendment (which is a complete substitute for the underlying amendment) has been agreed to, no further amendments to the underlying amendment shall be in order.

(c) ACTION ON CONFERENCE REPORTS IN THE SENATE.—

(1) MOTION TO PROCEED.—A motion to proceed to the consideration of the conference report on any concurrent resolution on the budget (or a reconciliation bill or resolution) may be made even though a previous motion to the same effect has been disagreed to.

(2) CONSIDERATION.—

(A) IN GENERAL.—During the consideration in the Senate of the conference report (or a message between Houses) on any concurrent resolution on the budget, and all amendments in disagreement, and all amendments thereto, and debatable motions and appeals in connection therewith, debate shall be limited to 10 hours, to be equally divided between, and controlled by, the Majority Leader and Minority Leader or their designees. Debate on any debatable motion or appeal related to the conference report (or a message between Houses) shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report (or a message between Houses).

(B) DISPOSITION.—After no more than 10 hours of debate on the conference report (or message between Houses) accompanying a concurrent resolution on the budget, and all amendments in disagreement, and all amendments thereto, the Senate shall, except as provided in subparagraph (C), proceed, without any further action or debate on any question, to vote on the final disposition thereof.

(C) ACTION PERMITTED AFTER 10 HOURS.—After no more than 10 hours of debate on the conference report (or message between the Houses) accompanying a concurrent resolution on the budget, and all amendments in disagreement, and all amendments thereto, the only further action in order shall be disposition of: all amendments then pending before the Senate; all points of order arising under this Act which have been previously raised; and motions to reconsider and 1 quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins. Disposition shall include raising points of order against pending amendments, motions to table, and motions to waive.

(3) CONFERENCE REPORT DEFEATED.—Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the Minority Leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on that motion shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and

the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(4) AMENDMENTS IN DISAGREEMENT.—In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the Minority Leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.

(d) RECONCILIATION LEGISLATION.—The provisions of this resolution for the consideration in the Senate of concurrent resolutions on the budget and conference reports thereon, except for the provisions of subsection (b)(5)(B), shall also apply to the consideration in the Senate of reconciliation bills considered under section 310 of the Congressional Budget Act of 1974 and conference reports thereon.

SENATE RESOLUTION 7—TO INCREASE FUNDING OF THE SPECIAL COMMITTEE ON THE YEAR 2000 TECHNOLOGY-RELATED PROBLEMS

Mr. LOTT (for Mr. BENNETT) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 7

Resolved, That section 5(a)(1) of Senate Resolution 208, agreed to April 2, 1998 (105th Congress), as amended by Senate Resolution 231, agreed to May 18, 1998, is amended by—

(1) striking "$575,000" both places it appears and inserting "$875,000"; and

(2) striking "$200,000" and inserting "$500,000".

SENATE RESOLUTION 8—AMENDING RULE XVI OF THE STANDING RULES OF THE SENATE RELATING TO AMENDMENTS TO GENERAL APPROPRIATIONS BILLS

Mr. LOTT (for Mr. STEVENS for himself and Mr. BYRD) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 8

Resolved, That rule XVI of the Standing Rules of the Senate is amended to read as follows:

"RULE XVI

"APPROPRIATIONS AND AMENDMENTS TO APPROPRIATIONS BILLS

"1. On a point of order made by any Senator, no amendments shall be received to any appropriations bill the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law, or treaty stipulation, or act or resolution previously passed by the Senate during that session; or unless the same be moved by direction of the Committee on Appropriations or of a committee of the Senate having legislative jurisdiction of the subject matter, or proposed in pursuance of an estimate submitted in accordance with law.

"2. The Committee on Appropriations shall not report an appropriations bill or an appropriations bill containing amendments to such bill proposing new or general legislation, or any restriction on the expenditure of the funds appropriated which proposes a limitation not authorized by law if such restriction is to take effect or cease to be effective upon the happening of a contingency, and if any such appropriations bill is reported to the Senate, a point of order may be made against the bill, and if the point is sustained, the bill shall be recommitted to the Committee on Appropriations. This paragraph may be waived only by the affirmative vote of those Senators present and voting. No debate shall be allowed on a motion to waive the application of this paragraph. No appeal from a ruling of the Chair under this paragraph shall negate its future application unless the Senate specifically amends this paragraph.

"3. All amendments to appropriations bills moved by direction of a committee having legislative jurisdiction of the subject matter proposing to increase an appropriation already contained in the bill, or to add new items of appropriation, shall, at least one day before they are considered, be referred to the Committee on Appropriations, and when actually proposed to the bill no amendment proposing to increase the amount stated in such amendment shall be received on a point of order made by any Senator.

"4. (a) Upon a point of order made by any Senator against a provision of legislation contained in an amendment to an appropriations bill, and if the point of order is sustained by the Chair, any such Senate amendment shall fall. This subparagraph may be waived only by the affirmative vote of those Senators present and voting. No debate shall be allowed on a motion to waive the application of this subparagraph. No appeal from a ruling of the Chair under this subparagraph shall negate its future application unless the Senate specifically amends this subparagraph.

"(b) No amendment not germane or relevant to the subject matter contained in the bill shall be received; nor shall any amendment to any item or clause of such bill be received which does not directly relate thereto; nor shall any restriction on the expenditure of the funds appropriated which proposes a limitation not authorized by law be received if such restriction is to take effect or cease to be effective upon the happening of a contingency; and all questions of germaneness or relevancy of amendments under this rule, when raised, shall be ruled upon by the Presiding Officer, unless the provisions of this subparagraph are waived by a majority of the Senate. All proceedings dealing with germaneness or relevancy shall be decided without debate; and any such amendment or restriction to an appropriations bill may be laid on the table without prejudice to the bill.

"5. On a point of order made by any Senator, no amendment, the object of which is to provide for a private claim, shall be received to any appropriations bill, unless it be to carry out the provisions of an existing law or a treaty stipulation, which shall be cited on the face of the amendment.

"6. When a point of order is made against any restriction on the expenditure of funds appropriated in an appropriations bill on the ground that the restriction violates this rule, the rule shall be construed strictly and, in case of doubt, in favor of the point of order.

"7. Every report on appropriations bills filed by the Committee on Appropriations shall identify with particularity each recommended amendment which proposes an item of appropriation which is not made to carry out the provisions of an existing law, a treaty stipulation, or an act or resolution previously passed by the Senate during that session.

"8. On a point of order made by any Senator, no appropriations bill or amendment thereto shall be received or considered if it contains a provision reappropriating unexpended balances of appropriations; except that this provision shall not apply to appropriations in continuation of appropriations for public works on which work has commenced.

"9. A motion to proceed to an appropriations bill shall, when it is otherwise in order, be nondebatable.

"10. (a) When the Senate is considering a conference report or an amendment between Houses on an appropriations bill, upon a point of order being made by any Senator against any legislative provision or provisions extraneous to the provisions that were committed to conference in disagreement between the Houses, and if the point of order is sustained in whole or in part by the Chair, such legislative provision or provisions on such appropriations bill shall be stricken from the conference report or the amendment between Houses. Such point of order may be made notwithstanding the fact that another point of order under this paragraph has been made against the same conference report.

"(b) Matters to be considered extraneous are any significant legislative provision not addressed in either version of the bill committed to the conference or any appropriations bill not committed to the conference, but such legislative provision shall not be considered extraneous if it qualifies, limits, or authorizes spending contained in the bill. Any vetoed appropriations bill or modifications thereof shall not be considered extraneous nor shall any provision providing funds pursuant to an authorizing bill passed after the appropriations bill.

"(c) If any such point of order is sustained, such legislative material contained in such conference report or amendment between Houses shall be stricken, and the Senate shall proceed, without intervening action or motion, to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or amendment between Houses not so stricken. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subparagraph), no further amendment shall be in order. However, an amendment between Houses against which a point of order was sustained under this subparagraph shall if otherwise amendable, remain amendable.

"(d) This paragraph may be waived only by an affirmative vote of three-fifths of the Senators duly chosen and sworn. Debate on a motion to waive the provisions of this paragraph shall be limited to 2 hours. Any appeal from a ruling of the Chair under this paragraph shall require an affirmative vote of three-fifths of the Senators duly chosen and sworn to overturn such ruling of the Chair. No appeal from a ruling of the Chair under this paragraph shall negate its future application unless the Senate specifically amends this paragraph.''.

SENATE RESOLUTION 9—TO MAKE EFFECTIVE REAPPOINTMENT OF SENATE LEGAL COUNSEL

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 9

Resolved, That the reappointment of Thomas B. Griffith to be Senate Legal Counsel made by the President pro tempore this day is effective as of January 3, 1999, and the term of service of the appointee shall expire at the end of the One Hundred Seventh Congress.

SENATE RESOLUTION 10—TO MAKE EFFECTIVE REAPPOINTMENT OF DEPUTY SENATE LEGAL COUNSEL

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 10

Resolved, That the reappointment of Morgan J. Frankel to be Deputy Senate Legal Counsel made by the President pro tempore this day is effective as of January 3, 1999, and the term of service of the appointee shall expire at the end of the One Hundred Seventh Congress.

ADDITIONAL STATEMENTS

FEDERAL VACANCIES REFORM ACT

• Mr. THOMPSON. Mr. President, the Federal Vacancies Reform Act was passed as part of the omnibus appropriations bill. As reported by the Governmental Affairs Committee, and as confirmed in all the statements made when the bill passed the Senate, section 3347 of that statute made clear that so-called vesting and delegation statutes allowing the heads of departments to delegate duties to other officials in their departments do not constitute statutes providing for the filling of a specific vacant position that the law retains in lieu of the procedures contained in the Federal Vacancies Reform Act. The vesting and delegation statutes were cross-referenced to not fall within the statutes that subparagraph (a)(2) of the bill retained. While that was the appropriate cross-reference as the bill was reported, subsequent language changes made to clarify the issue altered the numbering of the subsections, but the earlier cross-reference was retained. As is obvious by reading the statements and the statutory language itself, the clear intent was to state that vesting and delegation statutes fall not within subsection (a)(2), which relates to recess appointments, but to subsection (a)(1), statutes that provide for the temporary filling of specific positions. We will make a technical change to the language next year, as the urgency of the legislation sent this bill directly to the President for his signature without the chance to make that technical correction. There is no question that the vesting and delegation statutes do not constitute provisions for the temporary appointment of specific officers, even without the crossreference, which was designed to be even more emphatic.•

IN MEMORY OF KEITH PUTNAM

• Mr. HOLLINGS. Mr. President, today I want to call attention to a brave and selfless deed by a heroic young man from Hanahan, South Carolina. On August 6, 15-year-old Keith Putnam sacrificed his own life to save two women and a small child from a speeding train.

When Keith saw Maurica Hovey, her 3-year-old son John, and her friend Layonee Phillips stuck in the path of an oncoming train, he did what all of us hope we would have the courage to do in such a situation: he leapt from his truck and raced to aid those in danger. After saving Maurica, John, and Layonee, Keith returned to the abandoned car to make sure no one was left inside. At the moment he approached the car, the onrushing train slammed into it, sending it careening into Keith and fatally wounding him. Thanks to Keith's quick thinking and heroic action, all three of the people he saved from the train escaped without harm.

Mr. President, I have seen many heroic acts in my lifetime, in World War II and in peacetime, but I don't believe I have ever seen a young man who has been more respected by his community than Keith Putnam. In every way, he was a model citizen. Just before his death, Keith had been made an usher at Peace Lutheran Church, which he attended every Sunday. A great patriot, Keith was dedicated to his country as well as his neighbors. In fact, he planned to attend my alma mater, The Citadel, and then serve as a pilot in the Air Force.

Perhaps what was most noteworthy about Keith, especially in this day and age, was his willingness to help his neighbors and even total strangers without ever thinking of himself or asking for anything in return. Keith was committed to public service through large and small acts, whether helping strangers carry groceries to their cars or saving them from a fatal train collision. Since his death, his community has seen an incredible outpouring of emotion, as his neighbors, friends, and family express their grief at the loss of such an admirable and caring young man.

Today, Mr. President, I would like to add my voice to theirs. It was not my privilege to know Keith Putnam personally, but his heroism and generosity are an inspiration and an example to us all. I hope the tremendous admiration everyone felt for Keith, and the knowledge that their son's life was exemplary in every way possible, will be of some comfort to Keith's family in their trying time of grief.•

TRIBUTE TO SERGEANT DENNIS W. FINCH

• Mr. ABRAHAM. Mr. President, I rise to pay homage to Sergeant Dennis W. Finch of the Traverse City Police Department. Sergeant Finch was not only a great family man, police officer, and Michigander, he was a great American. The day of May thirteenth 1998 will forever be a day of mourning for the Traverse City community, a tragic day that will leave an indelible change on the fabric of life in Traverse City. Sergeant Finch lost his life in the line of duty, protecting a community that he loved. His dedication and pride is a testament to the extremely difficult and admirable role that police officers play in this country. Sergeant Finch protected us proudly with the shield of the Traverse City Police Department, and we will be forever thankful.

Sergeant Finch lived the life of hero, before becoming a Traverse City Police Officer, Dennis served proudly in the United States Marine Corps in Vietnam. Dennis distinguished himself as a soldier, and was a decorated combat veteran. In his thirty years of service to the Traverse City Police Department, Sergeant Finch was the Department's most seniored Sergeant. He was a command officer in both the Investigative Services Division and the Patrol Division for twenty-four years.

During this difficult time, my thoughts and prayers go out to Sergeant Finch's family, friends and all police officers who risk their lives every day in this country. Thank you and God bless.•

ANNOUNCEMENT OF THE 1999 CONGRESS-BUNDESTAG/BUNDESRAT EXCHANGE

• Mr. LIEBERMAN. Mr. President, since 1983, the United States Congress and the German legislature have conducted an annual exchange program for staff members from both countries. The program gives professional staff the opportunity to observe and learn about each other's political institutions and convey Members' views on issues of mutual concern.

A staff delegation from the United States Congress will be selected to visit Germany May 22 to June 5 of this year. During the two week exchange, the delegation will attend meetings with Bundestag Members, Bundestag party staff members, and representatives of numerous political, business, academic, and media agencies. Cultural activities and a weekend visit in a Bundestag Member's district will complete the schedule.

A comparable delegation of German staff members will visit the United States for three weeks this summer. They will attend similar meetings here in Washington and visit the districts of Congressional Members.

The Congress-Bundestag Exchange is highly regarded in Germany, and is one of several exchange programs sponsored by public and private institutions in the United States and Germany to foster better understanding of the politics and policies of both countries. The ongoing situation in the Persian Gulf, the expansion of NATO, the proposed expansion of the European Union, and the introduction of the Euro will make this year's exchange particularly relevant.

The U.S. delegation should consist of experienced and accomplished Hill staff members who can contribute to the success of the exchange on both sides of the Atlantic. The Bundestag sends senior staff professionals to the United States.

Applicants should have a demonstrable interest in events in Europe. Applicants need not be working in the field of foreign affairs, although such a background can be helpful. The composite U.S. delegation should exhibit a range of expertise in issues of mutual concern in Germany and the United States such as, but not limited to, trade, security, the environment, immigration, economic development, health care, and other social policy issues.

In addition, U.S. participants are expected to help plan and implement the program for the Bundestag staff members when they visit the United States. Participants are expected to assist in planning topical meetings in Washington, and are encouraged to host one or two Bundestag staffers in their Member's district in July, or to arrange for such a visit to another Member's district.

Participants are selected by a committee composed of U.S. Information Agency personnel and past participants of the exchange.

Senators and Representatives who would like a member of their staff to apply for participation in this year's program should direct them to submit a resume and cover letter in which they state why they believe they are qualified and some assurances of their ability to participate during the time stated. Applications may be sent to Connie Veillette in Congressman REGULA's office, 2309 Rayburn House Building by noon on Friday, March 12.•

A TRIBUTE TO GOFFSTOWN POLICE CHIEF MONIER

• Mr. GREGG. Mr. President, I rise today to pay tribute to Stephen R. Monier, Chief of Police for Goffstown, New Hampshire. Throughout Chief Monier's 28 year career with the Goffstown Police Department, he has continuously demonstrated all that is honorable about law enforcement and public service.

His professional and personal life have been characterized by excellence, leadership and service to others. The resume he has compiled is extraordinary. To no one's surprise, he graduated magna cum laude from St. Anselm College. After joining the police department, Chief Monier rose through its ranks, serving as Patrol Officer, Director of the Juvenile Division, Sergeant and Lieutenant before being appointed Chief on July 1, 1984. In addition, he is past President of the New Hampshire Association of Chiefs of Police and served 9 years on the Council of New Hampshire Police Standards & Training. He is also a member of the New England Association of Chiefs of Police and the International Association of Chiefs of Police. In a well-deserved honor, Chief Monier was selected to the 1996 Centennial Summer Olympics security team in Atlanta.

His service to others goes beyond law enforcement. Even while growing up, this quality was apparent. At Goffstown High School, for example, he served as President of the Junior Class and President of the National Honor Society. This leadership continues to this day. Chief Monier is a past President and member of the Goffstown Chapter of Rotary International and a founding member of Crispin's House, a non-profit organization designed to assist at-risk youths and families. He has also been assistant coach for the Goffstown Youth Basketball League. In his spare time, Chief Monier coauthored "Crime of the Century," a fascinating account of the kidnapping of the Lindbergh baby. Although following his example may be difficult to do, it is my hope that everyone will see the Chief as a role model.

Finally, I consider Steve Monier a true friend and someone whose advice and support I deeply value. I expect that I can continue to call on his wisdom. I wish him the very best as he moves onto the next challenge in his life. He will undoubtedly approach this phase with the same level of commitment and dedication that has marked his entire career. With this thought in mind, I wish to say thank you, Chief Monier.•

CLOVER TECHNOLOGIES GRAND OPENING

• Mr. ABRAHAM. Mr. President, I rise today to honor Clover Technologies as they celebrate the Grand Opening Ceremonies for their new 93,000 square foot headquarters in Wixom, Michigan.

Established in 1952, Clover Technologies' new headquarters makes Clover one of the largest employers in Wixom with over 400 employees.

With the high-tech industry playing an increasingly important role in the Michigan economy, expansions such as this serve as a testament to the competitiveness of Michigan-based industries in the global market. Clover Technologies has proven that the right combination of quality and dedication can lead to a prosperous future.

The vision and leadership of Clover has made them an industry leader, and has enabled them, the employees of Clover, and others in the community to continue in sharing the American dream.

Their worldwide commitment to excellence in the automotive industry and customer service is to be commended.

I want to express my congratulations to Clover Technologies in recognition of the dedication of their new headquarters which was held on October 29, 1998. I send them best wishes in their future endeavors.•

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 106-1

Mr. LOTT. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on January 6, 1999, by the President of the United States: The Hague Convention and Hague Protocol, Treaty Document No. 106-1.

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (the Convention) and, for accession, the Hague Protocol, concluded on May 14, 1954, and entered into force on August 7, 1956. Also enclosed for the information of the Senate is the report of the Department of State on the Convention and the Hague Protocol.

I also wish to take this opportunity to reiterate my support for the prompt approval of Protocol II Additional to the Geneva Conventions of 12 August 1949, concluded at Geneva on June 10, 1977 (Protocol II). Protocol II, which deals with noninternational armed conflicts, or civil wars, was transmitted to the Senate for advice and consent to ratification in 1987 by President Reagan but has not been acted upon.

THE HAGUE CONVENTION

The Convention was signed by the United States on May 14, 1954, the same day it was concluded; however, it has not been submitted to the Senate for advice and consent to ratification until now.

The Hague Convention, to which more than 80 countries are party, elaborates on obligations contained in earlier treaties. It also establishes a regime for special protection of a highly limited category of cultural property. It provides both for preparations in peacetime for safeguarding cultural property against foreseeable effects of armed conflicts, and also for respecting such property in time of war or military occupation. In conformity with the customary practice of nations, the protection of cultural property is not absolute. If cultural property is used for military purposes, or in the event of imperative military necessity, the protection afforded by the Convention is waived, in accordance with the Convention's terms.

Further, the primary responsibility for the protection of cultural property rests with the party controlling that property, to ensure that the property is properly identified and that it is not used for an unlawful purpose.

The Hague Protocol, which was concluded on the same day as the Convention, but is a separate agreement, contains provisions intended to prevent the exportation of cultural property from occupied territory. It obligates an occupying power to prevent the exportation of cultural property from territory it occupies, requires each party to take into its custody cultural property exported contrary to the Protocol, and requires parties to return such cultural property at the close of hostilities. However, as described in the report of the Secretary of State, there are concerns about the acceptability of Section I of the Hague Protocol. I therefore recommend that at the time of accession, the United States exercise its right under Section III of the Hague Protocol to declare that it will not be bound by the provisions of Section I.

The United States signed the Convention on May 14, 1954. Since that time, it has been subject to detailed interagency reviews. Based on these reviews, I have concluded that the United States should now become a party to the Convention and to the Hague Protocol, subject to the understandings and declaration contained in the report of the Department of State.

United States military policy and the conduct of operations are entirely consistent with the Convention's provisions. In large measure, the practices required by the Convention to protect cultural property were based upon the practices of U.S. military forces during World War II. A number of concerns that resulted in the original decision not to submit the Convention for advice and consent have not materialized in the decades of experience with the Convention since its entry into force. The minor concerns that remain relate to ambiguities in language that should be addressed through appropriate understandings, as set forth in the report of the Department of State.

I believe that ratification of the Convention and accession to the Protocol will underscore our long commitment, as well as our practice in combat, to protect the world's cultural resources.

I am also mindful of the international process underway for review of the Convention. By becoming a party, we will be in a stronger position to shape any proposed amendments and help ensure that U.S. interests are preserved.

I recommend, in light of these considerations, that the Senate give early and favorable consideration to the Convention and the Protocol and give its advice and consent to ratification and accession, subject to the understandings and declaration contained in the report of the Department of State.

PROTOCOL II ADDITIONAL

In his transmittal message dated January 29, 1987, President Reagan requested the advice and consent of the Senate to ratification of Protocol II. The Senate, however, did not act on Protocol II. I believe the Senate should not renew its consideration of this important law-of-war agreement.

Protocol II expands upon the fundamental humanitarian provisions contained in the 1949 Geneva Conventions with respect to internal armed conflicts. Such internal conflicts have been the source of appalling civilian suffering, particularly over the last several decades. Protocol II is aimed specifically at ameliorating the suffering of victims of such internal conflicts and, in particular, is directed at protecting civilians who, as we have witnessed with such horror this very decade, all too often find themselves caught in the crossfire of such conflicts. Indeed, if Protocol II's fundamental rules were observed, many of the worst human tragedies of recent internal armed conflicts would have been avoided.

Because the United States traditionally has held a leadership position in matters relating to the law of war, our ratification would help give Protocol II the visibility and respect it deserves and would enhance efforts to further ameliorate the suffering of war's victims—especially, in this case, victims of internal armed conflicts.

I therefore recommend that the Senate renew its consideration of Protocol II Additional and give its advice and consent to ratification, subject to the understandings and reservations that are described fully in the report attached to the original January 29, 1987, transmittal message to the Senate.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 6, 1999.*

UNANIMOUS-CONSENT AGREEMENT—RELATING TO ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

Mr. LOTT. Mr. President, pursuant to rule I of the Rules of Procedure and Practice When Sitting on Impeachment Trials, I ask unanimous consent that the Secretary of the Senate inform the House of Representatives that the Senate is ready to receive the managers appointed by the House for the purpose of exhibiting articles of impeachment against William Jefferson Clinton, President of the United States, agreeably to the notice communicated to the Senate, and that at the hour of 10 a.m., on Thursday, January 7, 1999, the Senate will receive the honorable managers on the part of the House of Representatives in order that they may present and exhibit the articles of impeachment against William Jefferson Clinton, President of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, pursuant to rules III and IV of the Rules of Procedure and Practice When Sitting on Impeachment Trials, I ask unanimous consent that at the hour of 1 p.m., on Thursday, January 7, 1999, the Senate proceed to the consideration of the articles of impeachment and that the Presiding Officer, through the Secretary of the Senate, notify the Chief Justice of the United States of the time and place fixed for consideration of the articles and requesting his attendance as presiding officer pursuant to Article I, section 3, clause 6, of the U.S. Constitution.

I further ask consent that the Presiding Officer be authorized to appoint a committee of Senators, three upon the recommendation of the majority leader and two upon the recommendation of the Democratic leader, to escort the Chief Justice into the Senate Chamber.

Finally, I ask consent that the Secretary of the Senate be directed to notify the House of Representatives of the time and place fixed for the Senate to proceed upon the impeachment of William Jefferson Clinton in the Senate Chamber.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, JANUARY 7, 1999

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9:45 a.m., on Thursday, January 7. I further ask that when the Senate reconvenes on Thursday, immediately following the prayer, the Journal of proceedings be approved, the morning hour be deemed to have expired, and the majority leader then be immediately recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. For the information of all Senators, the Senate will convene then at 9:45 a.m.

The majority leader will be recognized in order to begin a live quorum. Following that live quorum at approximately 10 a.m., the Senate will prepare to receive the managers from the House of Representatives for the purpose of exhibiting Articles of Impeachment.

In addition, it is expected that at 1 p.m., the Senate will commence with the swearing in of the Chief Justice of the United States and all Senators.

Mr. President, just one further note, if I might. I know that Senators, members of the media and the American people are anxious to know how we plan to proceed. I think I should say at this point I think we had a very productive day. A lot of activities have been going on in a bipartisan way between Republicans, among themselves, and with the Democrats in the Senate and in the House. There is, in fact, a meeting underway right now with a bipartisan group of the Senate meeting with a group of managers from the House.

We intend to continue to try to narrow the list of questions and come forward with a proposal that would provide for an early beginning, an appropriate time for briefings to be filed, for a full trial to be provided for, and votes on Articles of Impeachment at the end of the process. There are a lot of gaps around what I just said, but I think that there is a sincere bipartisan effort and a nonpartisan effort to do it in a way that is fair and that would get us to a conclusion on this matter which has been presented to us or will be presented to us by the House of Representatives.

We have a duty. We will do our very best to carry it out in a way that the American people will feel is appropriate for the Senate and that is dignified and fair.

Mr. MOYNIHAN. Mr. President, will the distinguished majority leader yield?

Mr. LOTT. I am delighted to yield to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, might I just confirm the observations of the distinguished majority leader. He has been faultless in his effort to find agreement on all sides in regard to all questions of which there is yet no list or likely ever to be a final one. But we admire him so and appreciate his efforts and will continue to work with him.

Mr. LOTT. I thank Senator MOYNIHAN for his remarks, for his wisdom, for his leadership, counsel, and legislative acumen he has exhibited for so many years, but also his efforts over this very day to remind us of what our responsibilities are and how difficult they will be and how they can be misconstrued. We will do our best to stand together to get this done in an appropriate way. I thank you for your comments.

Mr. President, I believe we are about ready to receive the official notification of the managers for the purpose of exhibiting Articles of Impeachment. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE—REAPPOINTING MANAGERS IN RELATION TO THE IMPEACHMENT OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

A message from the House of Representatives by Mr. Hays, one of its reading clerks, announced that the House of Representatives had passed a resolution (H. Res. 10) reappointing managers in relation to the impeachment of William Jefferson Clinton, President of the United States.

The PRESIDING OFFICER. The message will be received and the Senate takes notice of the action by the House.

ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES UNTIL TUESDAY, JANUARY 19, 1999

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 2, the adjournment resolution, the resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (H. Con. Res. 2) was agreed to.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:10 p.m., adjourned until Thursday, January 7, 1999, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate January 6, 1999:

INTER-AMERICAN FOUNDATION

KAY KELLEY ARNOLD, OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2004, VICE NEIL H. OFFEN, TERM EXPIRED.

LEGAL SERVICES CORPORATION

HULETT HALL ASKEW, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1999. (REAPPOINTMENT)

DEPARTMENT OF STATE

RICHARD W. BOGOSIAN, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL COORDINATOR FOR RWANDA/BURUNDI.

NATIONAL CONSUMER COOPERATIVE BANK

HARRY J. BOWIE, OF MISSISSIPPI, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CONSUMER COOPERATIVE BANK FOR A TERM OF THREE YEARS, VICE TONY SCALLON, TERM EXPIRED.

DEPARTMENT OF LABOR

KENNETH M. BRESNAHAN, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF LABOR, VICE EDMUNDO A. GONZALES, RESIGNED.

METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

ROBERT CLARKE BROWN, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY FOR A TERM EXPIRING NOVEMBER 22, 1999, VICE JACK EDWARDS, TERM EXPIRED.

DEPARTMENT OF TRANSPORTATION

WILLIAM CLYBURN, JR., OF SOUTH CAROLINA, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2000, VICE J. J. SIMMONS III, TERM EXPIRED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

GORDON DAVIDSON, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2004, VICE KENNETH MALERMAN JARIN, TERM EXPIRED.

NATIONAL INDIAN GAMING COMMISSION

MONTIE R. DEER, OF KANSAS, TO BE CHAIRMAN OF THE NATIONAL INDIAN GAMING COMMISSION FOR THE TERM OF THREE YEARS, VICE TADD JOHNSON.

REFORM BOARD (AMTRAK)

SYLVIA DE LEON, OF TEXAS, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS. (NEW POSITION)

AFRICAN DEVELOPMENT FOUNDATION

VIVIAN LOWERY DERRYCK, AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 27, 2003, VICE JOHN F. HICKS, SR., TERM EXPIRED.

UNITED STATES ADVISORY COMMISSION OF PUBLIC DIPLOMACY

CHARLES H. DOLAN, JR., OF VIRGINIA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2000. (REAPPOINTMENT)

DEPARTMENT OF STATE

CRAIG GORDON DUNKERLEY, OF MASSACHUSETTS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL ENVOY FOR CONVENTIONAL FORCES IN EUROPE.

LEGAL SERVICES CORPORATION

DOUGLAS S. EAKELEY, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1999. (REAPPOINTMENT)

EXECUTIVE OFFICE OF THE PRESIDENT

SUSAN G. ESSERMAN, OF MARYLAND, TO BE DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, VICE JEFFREY M. LANG, RESIGNED.

ENVIRONMENTAL PROTECTION AGENCY

TIMOTHY FIELDS, JR., OF VIRGINIA, TO BE ASSISTANT ADMINISTRATOR, OFFICE OF SOLID WASTE, ENVIRONMENTAL PROTECTION AGENCY, VICE ELLIOTT PEARSON LAWS, RESIGNED.

SMALL BUSINESS ADMINISTRATION

PHYLLIS K. FONG, OF MARYLAND, TO BE INSPECTOR GENERAL, SMALL BUSINESS ADMINISTRATION, VICE JAMES F. HOOBLER.

DEPARTMENT OF THE TREASURY

TIMOTHY F. GEITHNER, OF NEW YORK, TO BE AN UNDER SECRETARY OF THE TREASURY, VICE DAVID A. LIPTON.

GARY GENSLER, OF MARYLAND, TO BE AN UNDER SECRETARY OF THE TREASURY, VICE JOHN D. HAWKE, JR.

DEPARTMENT OF ENERGY

T. J. GLAUTHIER, OF CALIFORNIA, TO BE DEPUTY SECRETARY OF ENERGY, VICE ELIZABETH ANNE MOLER.

ROSE EILENE GOTTEMOELLER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (NON-PROLIFERATION AND NATIONAL SECURITY), VICE ARCHER L. DURHAM, RESIGNED.

SOCIAL SECURITY ADMINISTRATION

RICHARD A. GRAFMEYER, OF MARYLAND, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 30, 2000, VICE HARLAN MATTHEWS, RESIGNED.

DEPARTMENT OF STATE

FRANK J. GUARINI, OF NEW JERSEY, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-SECOND SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

UNITED STATES INSTITUTE OF PEACE

STEPHEN HADLEY, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2003.

METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

JOHN PAUL HAMMERSCHMIDT OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY FOR A TERM OF FOUR YEARS. (NEW POSITION)

SPECIAL PANEL ON APPEALS

DENIS J. HAUPTLY, OF MINNESOTA, TO BE CHAIRMAN OF THE SPECIAL PANEL ON APPEALS FOR A TERM OF SIX YEARS, VICE BARBARA JEAN MAHONE, TERM EXPIRED.

DEPARTMENT OF THE TREASURY

JOHN D. HAWKE, JR., OF THE DISTRICT OF COLUMBIA, TO BE COMPTROLLER OF THE CURRENCY FOR A TERM OF FIVE YEARS, VICE EUGENE ALLAN LUDWIG, RESIGNED.

DEPARTMENT OF STATE

JAMES CATHERWOOD HORMEL, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO LUXEMBOURG.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

A. E. DICK HOWARD, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM OF SIX YEARS, VICE LANCE BANNING.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

ALBERT S. JACQUEZ, OF CALIFORNIA, TO BE ADMINISTRATOR OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION FOR A TERM OF SEVEN YEARS, VICE GAIL CLEMENTS MCDONALD, RESIGNED.

NATIONAL MUSEUM SERVICES BOARD

AYSE MANYAS KENMORE, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2000. (REAPPOINTMENT)

UNITED STATES INSTITUTE OF PEACE

ZALMAY KHALILZAD, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2001, VICE CHRISTOPHER H. PHILLIPS, RESIGNED.

DEPARTMENT OF VETERANS AFFAIRS

KENNETH W. KIZER, OF CALIFORNIA, TO BE UNDER SECRETARY OF HEALTH OF THE DEPARTMENT OF VETERANS AFFAIRS FOR A TERM OF FOUR YEARS. (REAPPOINTMENT)

NATIONAL SCIENCE FOUNDATION

GEORGE M. LANGFORD, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2004, VICE CHARLES EDWARD HESS, TERM EXPIRED.

JOSEPH A. MILLER, JR., OF DELAWARE, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2004, VICE JOHN HOPCROFT, TERM EXPIRED.

METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

NORMAN Y. MINETA, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY FOR A TERM OF SIX YEARS. (NEW POSITION)

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

ARTHUR J. NAPARSTEK, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2003. (REAPPOINTMENT)

DEPARTMENT OF JUSTICE

JOSE ANTONIO PEREZ, OF CALIFORNIA, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF CALIFORNIA FOR THE TERM OF FOUR YEARS, VICE STEVEN SIMPSON GREGG.

AFRICAN DEVELOPMENT FOUNDATION

SUSAN E. RICE, AN ASSISTANT SECRETARY OF STATE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 27, 2003, VICE GEORGE EDWARD MOOSE, TERM EXPIRED.

DEPARTMENT OF STATE

BILL RICHARDSON, OF NEW MEXICO, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-SECOND SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY.

NATIONAL SCIENCE FOUNDATION

ROBERT C. RICHARDSON, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2004, VICE JAMES L. POWELL, TERM EXPIRED.

DEPARTMENT OF STATE

STANLEY A. RIVELES, OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS U. S. COMMISSIONER TO THE STANDING CONSULTATIVE COMMISSION.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

CLEO PARKER ROBINSON, OF COLORADO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2004, VICE IRA RONALD FELDMAN, TERM EXPIRED.

DEPARTMENT OF STATE

PETER F. ROMERO, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AN ASSISTANT SECRETARY OF STATE, VICE JEFFREY DAVIDOW.

NATIONAL SCIENCE FOUNDATION

MAXINE L. SAVITZ, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2004, VICE FRANK H. T. RHODES, TERM EXPIRED.

DEPARTMENT OF JUSTICE

PAUL L. SEAVE, OF CALIFORNIA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF CALIFORNIA FOR A TERM OF FOUR YEARS, VICE CHARLES JOSEPH STEVENS, RESIGNED.

NATIONAL SCIENCE FOUNDATION

LUIS SEQUEIRA, OF WISCONSIN, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2004, VICE IAN M. ROSS, TERM EXPIRED.

SOCIAL SECURITY ADMINISTRATION

GERALD M. SHEA, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR A TERM EXPIRING SEPTEMBER 30, 2004. (REAPPOINTMENT)

CENTRAL INTELLIGENCE

JAMES M. SIMON, JR., OF ALABAMA, TO BE ASSISTANT DIRECTOR OF CENTRAL INTELLIGENCE FOR ADMINISTRATION. (NEW POSITION)

DEPARTMENT OF STATE

JACK J. SPITZER, OF WASHINGTON, TO BE ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-SECOND SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

WILLIAM LACY SWING, OF NORTH CAROLINA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF THE CONGO.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

RUTH Y. TAMURA, OF HAWAII, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2001. (REAPPOINTMENT)

NATIONAL SCIENCE FOUNDATION

CHANG-LIN TIEN, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2004, VICE RICHARD NEIL ZARE, TERM EXPIRED.

DEPARTMENT OF THE TREASURY

EDWIN M. TRUMAN, OF MARYLAND, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY, VICE TIMOTHY F. GEITHNER.

DEPARTMENT OF JUSTICE

MARK REID TUCKER, OF NORTH CAROLINA, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF NORTH CAROLINA FOR THE TERM OF FOUR YEARS, VICE WILLIAM I. BERRYHILL.

POSTAL SERVICE

JOHN F. WALSH, OF CONNECTICUT, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2006, VICE BERT H. MACKIE, TERM EXPIRED.

DEPARTMENT OF STATE

DIANE EDITH WATSON, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERATED STATES OF MICRONESIA.

KENT M. WIEDEMANN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF CAMBODIA.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ALICE RAE YELEN, OF LOUISIANA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2001, VICE FAY S. HOWELL, TERM EXPIRED.

DEPARTMENT OF STATE

J. BRIAN ATWOOD, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERATIVE REPUBLIC OF BRAZIL.

DEPARTMENT OF TRANSPORTATION

WAYNE O. BURKES, OF MISSISSIPPI, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2002, VICE GUS A. OWEN, TERM EXPIRED.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

MELVIN E. CLARK, JR., OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1999, VICE GLORIA ROSE OTT, TERM EXPIRED.

DEPARTMENT OF ENERGY

CAROLYN L. HUNTOON, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENTAL MANAGEMENT), VICE ALAN L. ALM, RESIGNED.

DEPARTMENT OF STATE

REGINA MONTOYA, OF TEXAS, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-THIRD SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

HASSAN NEMAZEE, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ARGENTINA.

ROBERT A. SEIPLE, OF WASHINGTON, TO BE AMBASSADOR AT LARGE FOR INTERNATIONAL RELIGIOUS FREEDOM. (NEW POSITION)

THE JUDICIARY

HIRAM E. PUIG-LUGO, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE ARTHUR L. BURNETT, SR., RESIGNED.

STEPHEN H. GLICKMAN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF FIFTEEN YEARS, VICE JOHN MAXWELL FERREN, TERM EXPIRED.

ERIC T. WASHINGTON, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF FIFTEEN YEARS, VICE WARREN ROGER KING, RESIGNED.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDER, ATLANTIC AREA, UNITED STATES

COAST GUARD, AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 50:

To be vice admiral

REAR ADM. JOHN E. SHKOR, 0602.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. EUGENE L. TATTINI, 3329.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. JAMES B. ARMOR, JR., 7031.
COL. BARBARA C. BRANNON, 0424.
COL. DAVID M. CANNAN, 3149.
COL. RICHARD J. CASEY, 7432.
COL. KELVIN R. COPPOCK, 0425.
COL. KENNETH M. DECUIR, 9876.
COL. ARTHUR F. DIEHL III, 6363.
COL. LLOYD E. DODD, JR., 5193.
COL. BOB D. DULANEY, 3361.
COL. FELIX DUPRE, 5938.
COL. ROBERT J. ELDER, JR., 7484.
COL. FRANK R. FAYKES, 4797.
COL. THOMAS J. FISCUS, 5444.
COL. PAUL J. FLETCHER, 5438.
COL. JOHN H. FOLKERTS, 4060.
COL. WILLIAM M. FRASER III, 9314.
COL. STANLEY GORENC, 8279.
COL. MICHAEL C. GOULD, 3374.
COL. PAUL M. HANKINS, 1000.
COL. ELIZABETH A. HARRELL, 1522.
COL. PETER J. HENNESSEY, 1571.
COL. WILLIAM W. HODGES, 4545.
COL. DONALD J. HOFFMAN, 5449.
COL. WILLIAM J. JABOUR, 2791.
COL. THOMAS P. KANE, 9763.
COL. CLAUDE R. KEHLER, 6600.
COL. FRANK G. KLOTZ, 6089.
COL. ROBERT H. LATIFF, 2190.
COL. MICHAEL G. LEE, 9675.
COL. ROBERT E. MANSFIELD, JR., 9591.
COL. HENRY A. OBERING III, 3819.
COL. LORRAINE K. POTTER, 9945.
COL. NEAL T. ROBINSON, 0542.
COL. ROBIN E. SCOTT, 8526.
COL. NORMAN R. SEIP, 6765.
COL. BERNARD K. SKOCH, 2109.
COL. ROBERT L. SMOLEN, 7953.
COL. JOSEPH P. STEIN, 2625.
COL. JERALD D. STUBBS, 0457.
COL. KEVIN J. SULLIVAN, 2930.
COL. JAMES P. TOTSCH, 3674.
COL. MARK A. VOLCHEFF, 3790.
COL. MARK A. WELSH III, 4911.
COL. STEPHEN G. WOOD, 7553.
COL. DONALD C. WURSTER, 1815.

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. MICHAEL B. SMITH, 0409.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. HARRY D. GATANAS, 5957.

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. DANIEL B. WILKINS, 1631.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. HAROLD L. TIMBOE, 9807.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. LEO V. WILLIAMS III, 3893.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. ROBERT R. BLACKMAN, JR., 0141.
BRIG. GEN. WILLIAM G. BOWDON III, 2940.
BRIG. GEN. JAMES T. CONWAY, 2270.
BRIG. GEN. ARNOLD FIELDS, 0640.
BRIG. GEN. JAN C. HULY, 6184.
BRIG. GEN. JERRY D. HUMBLE, 2378.
BRIG. GEN. PAUL M. LEE, JR., 3948.
BRIG. GEN. HAROLD MASHBURN, JR., 6435.
BRIG. GEN. GREGORY S. NEWBOLD, 6783.
BRIG. GEN. CLIFFORD L. STANLEY, 4000.

HOUSE OF REPRESENTATIVES—*Wednesday, January 6, 1999*

This being the day fixed by the 20th amendment to the Constitution of the United States, and Public Law 105–350 for the meeting of the Congress of the United States, the Members-elect of the 106th Congress met in their Hall, and at noon were called to order by the Clerk of the House of Representatives, Hon. Jeffrey J. Trandahl.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are thankful, gracious God, for the opportunities of a new day and a new season, and we pledge by Your grace to be messengers of peace in our world, representatives of honor in our communities, and share together as colleagues the qualities of respect and esteem.

May we so examine our hearts and souls that our thoughts contain visions of great opportunity for the works of justice among all people, and for security and understanding and mercy for the neediest among us. As we share together a hope for a better tomorrow, may each of us do what we can so that the good words we say with our lips may be believed in our hearts, and all that we believe in our hearts we may practice in our daily lives.

This is our earnest prayer.

Amen.

PLEDGE OF ALLEGIANCE

The CLERK. The Members-elect and their guests will please remain standing and join in the Pledge of Allegiance to the flag.

The Clerk led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

The CLERK. Representatives-elect, this is the day fixed by the 20th amendment to the Constitution and Public Law 105–350 for the meeting of the 106th Congress and, as the law directs, the Clerk of the House at the end of the 105th Congress, appointed pursuant to 2 U.S.C. 75a-1(a), has prepared the official roll of the Representatives-elect.

Certificates of election covering 435 seats in the 106th Congress have been received by the Clerk of the House, and the names of those persons whose credentials show that they were regularly elected as Representatives in accordance with the laws of their respective States or of the United States will be called.

Without objection, the Representatives-elect will record their presence by electronic device and their names will be reported in alphabetical order by States, beginning with the State of Alabama, to determine whether a quorum is present.

There was no objection.

The call was taken by electronic device, and the following Representatives-elect responded to their names:

[Roll No. 1]

ANSWERED "PRESENT"—427

ALABAMA

Aderholt
Bachus
Callahan
Cramer
Everett
Hilliard
Riley

ALASKA

Young

ARIZONA

Hayworth
Kolbe
Pastor
Salmon
Shadegg
Stump

ARKANSAS

Berry
Dickey
Hutchinson
Snyder

CALIFORNIA

Becerra
Berman
Bilbray
Bono
Brown
Calvert
Campbell
Capps
Condit
Cox
Cunningham
Dixon
Dooley
Doolittle
Dreier
Eshoo
Filner
Herger
Horn
Hunter
Kuykendall
Lantos
Lee
Lewis
Lofgren
Martinez
Matsui
McKeon
Millender-McDonald
Miller
Napolitano
Ose
Packard
Pelosi
Pombo
Radanovich
Rogan
Rohrabacher
Roybal-Allard
Royce
Sanchez
Sherman
Tauscher
Thomas
Thompson
Waters
Waxman
Woolsey

COLORADO

DeGette
Hefley
McInnis
Schaffer
Tancredo
Udall

CONNECTICUT

DeLauro
Gejdenson
Johnson
Larson
Maloney
Shays

DELAWARE

Castle

FLORIDA

Bilirakis
Boyd
Brown
Canady
Davis
Deutsch
Diaz-Balart
Foley
Fowler
Goss
Hastings
McCollum
Meek
Mica
Miller
Ros-Lehtinen
Scarborough
Shaw
Stearns
Thurman
Weldon
Wexler
Young

GEORGIA

Barr
Bishop
Chambliss
Collins
Deal
Kingston
Lewis
Linder
McKinney
Norwood

HAWAII

Abercrombie
Mink

IDAHO

Chenoweth
Simpson

ILLINOIS

Biggert
Blagojevich
Costello
Crane
Davis
Evans
Ewing
Gutierrez
Hastert
Hyde
Jackson
LaHood
Lipinski
Manzullo
Phelps
Porter
Rush
Schakowsky
Shimkus
Weller

INDIANA

Burton
Buyer
Carson
Hill
Hostettler
McIntosh
Pease
Roemer
Souder
Visclosky

IOWA

Boswell
Ganske
Latham
Leach
Nussle

KANSAS

Moore
Moran
Ryun
Tiahrt

KENTUCKY

Fletcher
Lewis
Lucas
Northup
Rogers
Whitfield

LOUISIANA

Baker
Cooksey
Jefferson
John
Livingston
McCrery
Tauzin

MAINE

Allen
Baldacci

MARYLAND

Bartlett
Cardin
Cummings
Ehrlich
Gilchrest
Morella
Wynn

MASSACHUSETTS

Capuano
Delahunt
Frank
Markey
McGovern
Meehan
Moakley
Neal
Olver
Tierney

MICHIGAN

Bonior
Camp
Conyers
Dingell
Ehlers
Hoekstra
Kildee
Kilpatrick
Knollenberg
Levin
Rivers
Smith
Stabenow
Stupak
Upton

MINNESOTA

Gutknecht
Luther
Minge
Oberstar
Peterson
Ramstad
Sabo
Vento

MISSISSIPPI

Pickering
Shows
Taylor
Thompson
Wicker

MISSOURI

Blunt
Clay
Danner
Emerson
Gephardt
Hulshof
McCarthy
Skelton
Talent

MONTANA

Hill

NEBRASKA

Barrett
Bereuter
Terry

NEVADA

Berkley
Gibbons

NEW HAMPSHIRE

Bass
Sununu

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

NEW JERSEY

Andrews
Franks
Frelinghuysen
Holt
LoBiondo
Menendez
Pallone
Pascrell
Payne
Rothman
Roukema
Saxton
Smith

NEW MEXICO

Skeen
Udall
Wilson

NEW YORK

Ackerman
Boehlert
Crowley
Engel
Forbes
Fossella
Gilman
Hinchey
Houghton
Kelly
King
LaFalce
Lazio
Lowey
Maloney
McCarthy
McHugh
McNulty
Meeks
Nadler
Owens
Quinn
Rangel
Reynolds
Serrano
Slaughter
Sweeney
Towns
Velázquez
Walsh
Weiner

NORTH CAROLINA

Ballenger
Burr
Clayton
Coble
Etheridge
Hayes
Jones
McIntyre
Myrick
Price
Taylor
Watt

NORTH DAKOTA

Pomeroy

OHIO

Boehner
Brown
Chabot
Gillmor
Hall
Hobson
Jones
Kaptur
Kasich
Kucinich
LaTourette
Ney
Oxley
Portman
Pryce
Regula
Sawyer
Strickland
Traficant

OKLAHOMA

Coburn
Istook
Largent
Lucas
Watkins
Watts

OREGON

Blumenauer
DeFazio
Hooley
Walden
Wu

PENNSYLVANIA

Borski
Brady
Coyne
Doyle
English
Fattah
Gekas
Goodling
Greenwood
Hoeffel
Holden
Kanjorski
Klink
Mascara
Murtha
Peterson
Pitts
Sherwood
Shuster
Toomey
Weldon

RHODE ISLAND

Kennedy
Weygand

SOUTH CAROLINA

Clyburn
DeMint
Graham
Sanford
Spence
Spratt

SOUTH DAKOTA

Thune

TENNESSEE

Bryant
Clement
Duncan
Ford
Gordon
Hilleary
Jenkins
Tanner
Wamp

TEXAS

Archer
Armey
Barton
Bentsen
Bonilla
Brady
Combest
DeLay
Doggett
Edwards
Frost
Gonzalez
Granger
Green
Hall
Hinojosa
Jackson-Lee
Johnson, E. B.
Johnson, Sam
Lampson
Ortiz
Paul
Reyes
Rodriguez
Sandlin
Sessions
Smith
Stenholm
Thornberry
Turner

UTAH

Cannon
Cook
Hansen

VERMONT

Sanders

VIRGINIA

Bateman
Bliley
Boucher
Davis
Goode
Goodlatte
Moran
Pickett
Scott
Sisisky
Wolf

WASHINGTON

Baird
Dicks
Dunn
Hastings
Inslee
McDermott
Metcalf
Nethercutt
Smith

WEST VIRGINIA

Rahall
Wise

WISCONSIN

Baldwin
Barrett
Green
Kind
Kleczka
Obey
Petri
Ryan
Sensenbrenner

WYOMING

Cubin

NOT VOTING—7

Barcia
Farr
Gallegly
Hoyer
Miller, George
Mollohan
Stark

□ 1230

The CLERK. The quorum call discloses that 427 Representatives-elect have responded to their name. A quorum is present.

ANNOUNCEMENT BY THE CLERK

The CLERK. The Clerk will state that credentials regular in form have been received showing the election of the Honorable CARLOS ROMERO-BARCELÓ as Resident Commissioner from the Commonwealth of Puerto Rico for a term of 4 years beginning January 3, 1997; the election of the Honorable ELEANOR HOLMES NORTON as Delegate from the District of Columbia; the election of the Honorable DONNA M. CHRISTIAN-GREEN as Delegate from the Virgin Islands; the election of the Honorable ENI F.H. FALEOMAVAEGA as Delegate from American Samoa; and the election of the Honorable ROBERT A. UNDERWOOD as Delegate from Guam.

RESIGNATION AS MEMBER OF HOUSE OF REPRESENTATIVES

The CLERK. The Clerk is in receipt of a letter of resignation from the Honorable Newt Gingrich from the State of Georgia.

Without objection, the letters relating to the resignation of the Honorable Newt Gingrich will be printed in the RECORD.

There was no objection.

The text of the letters is as follows:

WASHINGTON, DC, *December 17, 1998.*

Hon. ROBIN H. CARLE,
Clerk of the House, the Capitol, Washington, D.C.

DEAR ROBIN: As you are no doubt aware, I have decided that I will not seek re-election in the 106th Congress as Speaker of the United States House of Representatives. In conjunction with that decision, I have notified the Governor of Georgia that I have withdrawn pursuant to Section 21–2–503 of the Official Code of Georgia Annotated and will not take the seat of congressman for the Sixth District of Georgia for the 106th Congress.

I will, however, complete my term as congressman for the Sixth District of Georgia for the entirety of the 105th Congress. I will also continue to serve as Speaker until the completion of the 105th Congress.

Please contact me if you have any questions.

Sincerely,

NEWT GINGRICH,
Speaker.

NOVEMBER 22, 1998.

Governor Zell Miller,
Atlanta, Georgia.

DEAR GOVERNOR MILLER: As you are no doubt aware, I have decided that I will not seek re-election in the 106th Congress as Speaker of the United States House of Representatives. In conjunction with this decision, I hereby notify you that I have withdrawn pursuant to Section 21–2–504 of the Official Code of Georgia Annotated and will not take the seat of congressman for the Sixth District of Georgia for the 106th Congress.

I will, however, complete my term as congressman for the Sixth District of Georgia for the entirety of the 105th Congress. I will also continue to serve as Speaker until the completion of the 105th Congress.

Please contact me if you have any questions.

Very truly yours,

NEWT GINGRICH.

ELECTION OF SPEAKER

The CLERK. Pursuant to law and to precedent, the next order of business is the election of the Speaker of the House of Representatives for the 106th Congress.

Nominations are now in order.

The Clerk recognizes the gentleman from Oklahoma (Mr. WATTS).

Mr. WATTS of Oklahoma. Mr. Clerk, happily for our country and happily for you and me, Republicans and Democrats, DENNIS HASTERT has answered his Nation's call. This common man will bring his strong common sense, sharpened in the school of adversity, to bear on the Speakership. He has many qualities of another Congressman from Illinois, the Great Emancipator, Abraham Lincoln, and he will not hesitate, he will not doubt and he will not falter. We are grateful that he has resolved at whatever peril, at whatever cost, the most wonderful Nation in the world should be preserved.

As Chairman of the Republican Conference, I am directed by the unanimous vote of that conference to present for election to the Office of the Speaker of the House of Representatives for the 106th Congress, the name of the Honorable J. DENNIS HASTERT, a Representative-elect from the State of Illinois.

The CLERK. The Clerk recognizes the gentleman from Texas (Mr. FROST).

Mr. FROST. Mr. Clerk, as Chairman of the Democratic Caucus, I am directed by the unanimous vote of that caucus to present for election to the Office of the Speaker of the House of Representatives for the 106th Congress the name of one of most articulate and thoughtful Members of this Congress, the Honorable RICHARD A. GEPHARDT, a Representative-elect from the State of Missouri.

The CLERK. The Honorable J. DENNIS HASTERT, a Representative-elect from the State of Illinois, and the Honorable RICHARD A. GEPHARDT, a Representative-elect from the State of Missouri, have been placed in nomination.

Are there further nominations?

There being no further nominations, the Clerk will appoint tellers.

The Clerk appoints the gentleman from California (Mr. THOMAS), the gentleman from Connecticut (Mr. GEJDENSON), the gentlewoman from New Jersey (Mrs. ROUKEMA), and the gentlewoman from Ohio (Ms. KAPTUR).

The tellers will come forward and take their seats at the desk in front of the Speaker's rostrum.

The roll will now be called, and those responding to their names will indicate by surname the nominee of their choice.

The reading clerk will now call the roll.

The tellers having taken their places, the House proceeded to vote for the Speaker.

□ 1315

PARLIAMENTARY INQUIRY

Mr. ROMERO-BARCELÓ (during the vote). Have we been eliminated already? Have we been eliminated from the voting procedure?

The CLERK. Delegates and the Resident Commissioners are not qualified to vote.

Mr. ROMERO-BARCELÓ. We have always been qualified to vote.

The CLERK. That is not the case.

Mr. ROMERO-BARCELÓ. What is that?

The CLERK. That is not the case.

Mr. ROMERO-BARCELÓ. Yes. We voted the last time.

PARLIAMENTARY INQUIRY

Mr. KENNEDY of Rhode Island. Mr. Clerk, would the Clerk respond to a parliamentary inquiry?

The CLERK. The gentleman will state his inquiry.

Mr. KENNEDY of Rhode Island. The parliamentary inquiry for the Clerk is for the delegates who represent American citizens. Where does that vote come today? Will they not be allowed to vote for Speaker of this House? The Member from Puerto Rico represents 4 million American citizens.

The CLERK. Representatives-elect are the only individuals qualified to vote in the election of the Speaker.

Mr. KENNEDY of Rhode Island. All right. Can we just make sure that is duly noted under this majority, the disenfranchisement.

The following is the result of the vote:

[Roll No. 2]

HASTERT—220

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
King (NY)
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Paul
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Upton
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

GEPHARDT—205

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Fattah
Filner
Ford
Frank (MA)
Frost
Gejdenson
Gonzalez
Goode
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Minge
Mink
Moakley
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pickett
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Sherman
Shows
Sisisky
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stabenow
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

ANSWERED "PRESENT"—2

Gephardt
Hastert

NOT VOTING—7

Barcia
Farr
Gallegly
Hoyer
Miller, George
Mollohan
Stark

The CLERK. The tellers agree in their tallies that the total number of votes cast is 427, of which the Honorable J. DENNIS HASTERT of the State of Illinois has received 222, and the Honorable RICHARD A. GEPHARDT of the State of Missouri has received 205, with two voting present.

Therefore, the Honorable J. DENNIS HASTERT of the State of Illinois is duly elected Speaker of the House of Representatives for the 106th Congress, having received a majority of the votes cast.

□ 1330

The CLERK. The Clerk appoints the following committee to escort the Speaker-elect to the Chair: The gentleman from Missouri (Mr. GEPHARDT), the gentleman from Texas, (Mr. ARMEY), the gentleman from Texas (Mr. DELAY), the gentleman from Michigan (Mr. BONIOR), the gentleman from Oklahoma (Mr. WATTS), the gentleman from Texas (Mr. FROST), the gentleman from Illinois (Mr. CRANE), the gentleman from Illinois (Mr. HYDE), the gentleman from Illinois (Mr. PORTER), the gentleman from Illinois (Mr. EVANS) the gentleman from Illinois, (Mr. LIPINSKI), the gentleman from Illinois, (Mr. COSTELLO), the gentleman from Illinois (Mr. EWING), the gentleman from Illinois (Mr. GUTIERREZ), the gentleman from Illinois (Mr. MANZULLO), the gentleman from Illinois (Mr. RUSH), the gentleman from Illinois (Mr. LAHOOD), the gentleman from Illinois (Mr. WELLER), the gentleman from Illinois (Mr. JACKSON), the gentleman from Illinois (Mr. BLAGOJEVICH), the gentleman from Illinois (Mr. DAVIS) the gentleman from Illinois (Mr. SHIMKUS), the gentlewoman from Illinois (Mrs. BIGGERT), the gentleman from Illinois (Mr. PHELPS), and the gentlewoman from Illinois (Ms. SCHAKOWSKY).

The committee will retire from the Chamber to escort the Speaker-elect to the chair.

The Deputy Sergeant at Arms announced the Speaker-elect of the House of Representatives of the 106th Congress, who was escorted to the chair by the Committee of Escort.

Mr. GEPHARDT. Mr. Speaker and Members of the House, before I hand the gavel over to our new Speaker, let me say to him simply, let us bury the hatchet.

First, I want to say to the new Speaker that Jane Gephardt and I would like to invite him and his wife, Jean, to our congressional district in Missouri, and I hope that in the days ahead Jane and I can come to your congressional district in Illinois.

The only problem that I have with this new Speaker is that as I understand it, he is a Chicago Cubs fan, and all of my colleagues know that I am a St. Louis Cardinals fan. He tells me his wife is a St. Louis, Cardinals fan, which gives me real hope. But if Sammy Sosa and Mark McGwire can figure it out, so can we.

Now, Mr. Speaker, you know that over the next 2 years I am going to work hard to win a majority back for Democratic values and ideas. But I want to shift the focus today away from politics to other ideas, to other efforts that we can make together to do us all proud. Let us put to rest finally the poisonous politics that has infected this place. Let us join together not only in words, but in deeds, to do right by the people, to live up to our oaths, and to move our nation forward into a new century of prosperity.

This is hallowed ground. This is a precious place where we have nurtured and protected for generations our democracy. We have a burden, all of us, and we have a responsibility to live up to those who have gone before us, and today and in the future, to reach toward the sky and to listen to our better angels. It is in this spirit that I am proud to hand the gavel to the new Speaker of the House, to our new Speaker of the House, the gentleman from Illinois, DENNIS HASTERT.

Mr. HASTERT. Thank you, Mr. Leader, for your kind and thoughtful remarks. I am going to break tradition, and at this point I am going to ask you to hold the gavel so that I may go down to the floor.

Customarily, a new Speaker gives his first remarks from the Speaker's chair. And while I have great respect for the traditions of this House and this institution, I am breaking tradition this once, because my legislative home is here on the floor with you, and so is my heart.

To you, the Members of the 106th Congress, to my family and friends and constituents, I say, thank you. This is not a job that I sought, but one that I embrace with determination and enthusiasm. In the next few minutes, I will share with you how I plan to carry out the job that you have given me. But first, I think we need to take a moment, and I want to say goodbye to a Member of this House who made history.

Newt, this institution has been forever transformed by your presence, and for years to come all Americans will benefit from the changes that you have championed: a balanced budget, welfare reform, tax relief, and in fact, this week, families all over America are beginning to calculate their taxes, and to help them, they will find a child tax credit made possible by the Congress that you led. Thank you, Newt. Good luck, and God bless you in your new endeavors.

Those of you here in this House know me, but Hastert is not exactly a household name across America. So our fellow citizens deserve to know who I am and what I am going to do.

What I am is a former high school teacher, a wrestling and football coach, a small businessman and a State legislator. And for the last 12 years, I have been a Member of this House. I am indebted to the people of the 14th Congressional District of Illinois who have continued to send me here to represent them.

I believe in limited government, but when government does act, it must be for the good of the people.

Serving in this body is a privilege, it is not a right, and each of us was sent here to conduct the people's business. I intend to get down to business. That means formulating, debating, and voting on legislation that addresses the problems that the American people want solved.

In the turbulent days behind us, debate on merits often gave way to personal attacks.

□ 1345

Some have felt slighted, insulted, or ignored. That is wrong. That will change. Solutions to problems cannot be found in a pool of bitterness. They can be found in an environment in which we trust one another's word; where we generate heat and passion, but where we recognize that each member is equally important to our overall mission of improving life for the American people. In short, I believe all of us, regardless of party, can respect one another, even as we fiercely disagree on particular issues.

Speaking of people who find ways to work together across the political fence, let me bring an analogy to a personal level. Two good Illinois friends of mine, George Ryan, the Republican Governor-elect, and Richard Daley, the Democratic mayor of Chicago, are in the visitors' gallery side by side. I will ask them to stand to be recognized.

Those who know me well will tell you that I am true to my word. To me, a commitment is a commitment. What you see and hear today is what you will see and hear tomorrow.

No one knows me better than my family. My wife, Jean, and our sons, Josh and Ethan, are here today. They are my reason for being, and Jean, she helps me keep my feet on the ground. She and the boys are my daily reminder that home is on the Fox River, and not the Potomac River.

To Jean, Josh, and Ethan, thank you for everything, and I love you.

As a teacher, I explained the story of America year after year. I soon came to realize that it was a story, but a story that keeps changing, for we Americans are restless people, and we like to tackle and solve problems. We are constantly renewing our Nation, experimenting and creating new ways of doing things. I like to work against the backdrop of American basics: freedom, liberty, responsibility, and opportunity. You can count on me to be a workhorse.

My experience as a football and wrestling coach taught me some other lessons that apply here. A good coach knows when to step back and let others shine in the spotlight. President Reagan for years had a plaque in his office that said it all: "There is no limit to what can be accomplished if you don't mind who gets the credit."

A good coach does not rely on only a few star players, and everyone in the squad has something to offer. You never get to the finals without a well-rounded team. Above all, a coach worth his salt will instill in his team a sense of fair play, camaraderie, respect for the game, and for the opposition. Without those, victory is hollow and defeat represents opportunities lost. I have found that to be true around here, too.

So where do we go from here? Some media pundits say that we will have 2 years of stalemate because the Republican majority is too small. Some say that a White House bent on revenge will not give us a moment's peace. Some say the minority in this House will prevent passage of serious legislation so that they can later claim this was a "do-nothing" Congress.

Washington is a town of rumors and guesses and speculation, so none of this comes as a surprise, but none of it needs to come true; that is, if we really respect the voters that sent us here.

To my Republican colleagues, I say, it is time to put forward the major elements of our legislative program. We will succeed or fail depending upon how sensible a program we offer.

To my Democratic colleagues, I will say, I will meet you halfway; maybe more so, on occasion. But cooperation is a two-way street. I expect you to meet me halfway, too.

The President and a number of Democrats here in the House have been saying it is time to address several issues head-on. I will buy that, but I think we should agree that stalemate is not an option; solutions are.

To all my colleagues, I say: We must get our job done and done now. We have an obligation to pass all the appropriation bills by this summer. We will not leave this Chamber until we do. I intend to be a good listener, but I want to hear ideas and the debate that flows from them. I will have a low tolerance for campaign speeches masquerading as debate, whatever the source.

Our country faces four big challenges which we must address, and not next month or next year or the year after that, but now. Each challenge involves an element of our security.

First is retirement and health security. Both our social security and Medicare programs will run into brick walls in a few years if we do not do something about them now. We must make sure that social security is there for those who depend on it and those who expect to. We also must consider options for younger workers, so they can look forward to an even brighter retirement.

Nearly a year ago President Clinton came here to give his State of the Union Address. He called for reform of social security. This year I invite him to return to give us his reform plan, and he has my assurance that it will be taken seriously.

Second, we must ensure a secure future for America's children by insisting that every child has a good school and a safe, drug-free environment. In my 16 years as a teacher, I learned that most of the decisions having to do with education are best left to the people closest to the situation: parents, teachers, school board members. What should the Federal government's role be? It should be to see that as many education dollars as possible go directly to the classrooms, where they will do the most good.

Next is economic security. In the early eighties we adopted policies that laid the foundation for long-term growth. Except for one brief period, that growth has continued ever since. We want our economy to keep on growing. Toward that end, it is time for us in Congress to put a microscope to the ways that government takes money from our fellow citizens and how it spends it.

There is a culture here in Washington that has grown unchallenged for too long. It combines three notions. One is that government has a prior claim to the earnings of all Americans, as if they worked for the government and not the other way around. Another notion is that a government program, once it is begun, will never end. A third notion is that every program must grow each passing year.

To borrow a musical line, it just ain't necessarily so; at least, it will not be as long as I am around here to have something to say about it. We must measure every dollar we spend by this criterion: Is it really necessary?

This is important. For most Americans, money does not come easy. When I was a kid, to make ends meet my dad had a feed business and he worked nights in a restaurant. My mom raised chickens and sold the eggs. I still remember, when tax time came around, our family really felt it. What we need is a leaner, more efficient government, along with tax policies that spur and sustain growth by giving tax relief to all working Americans.

Finally, there is the challenge of America's security in a world of danger and uncertainty. Without it, other elements of our security will not be possible. We no longer worry about Soviet nuclear bombs raining down on us. Today there are different worries: the sudden violence of a terrorist bomb, the silent threat of biological weapons, or the rogue state that aims a deadly missile at one of our cities.

We need a defense capability that matches these turn-of-the-century threats. We have asked the men and women of our Armed Forces to take on assignments in many corners of the Earth. Yet, we have not given them the best equipment or preparation that they need to match those assignments. That must be corrected.

These are not Democratic or Republican issues, they are American issues. We should be able to reach agreement quickly on the goals. And yes, we are going to argue about the means, but if we are in earnest about our responsibilities, we will find common ground to get the job done. In the process, we will build the people's faith in this great United States Congress.

As a classroom teacher and coach, I learned the value of brevity. I learned that it is work, not talk, that wins championships.

In closing, I want you to know just how proud I am to be chosen to be your Speaker. There is a big job ahead for all of us, so I ask that God bless this House as we move forward together. I thank the Members very much. Now, let us bring an end to talk and let us get to work.

I recognize my friend, the distinguished gentleman from Michigan (Mr. DINGELL), Dean of the House, my colleague from the Committee on Commerce, whose common sense and fairness I admire. He will administer the oath of office.

Mr. DINGELL then administered the oath of office to Mr. HASTERT, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

(Applause, the Members rising.)

□ 1400

SWEARING IN OF MEMBERS

The SPEAKER. According to the precedents, the Chair will swear in all Members of the House at this time.

If the Members will rise, the Chair will now administer the oath of office.

The Members-elect and Delegates-elect and the Resident Commissioner-elect rose, and the Speaker administered the oath of office to them as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations. You are now Members of the 106th Congress.

SWEARING IN OF MEMBER-ELECT

The SPEAKER. Will the gentleman from Maryland (Mr. EHRLICH) kindly come to the well of the House and take the oath of office at this time.

Mr. EHRLICH appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations. You are now a Member of the United States Congress.

MAJORITY LEADER

Mr. WATTS of Oklahoma. Mr. Speaker, as chairman of the Republican Conference, I am directed by that conference to notify the House officially that the Republican Members have selected as their majority leader the gentleman from Texas, the Honorable RICHARD K. ARMEY.

MINORITY LEADER

Mr. FROST. Mr. Speaker, as chairman of the Democratic Caucus, I have been directed to report to the House that the Democratic Members have selected as minority leader the gentleman from Missouri, the Honorable RICHARD A. GEPHARDT.

MAJORITY WHIP

Mr. WATTS of Oklahoma. Mr. Speaker, as chairman of the Republican Conference, I am directed by that conference to notify the House officially that the Republican Members have selected as our majority whip the gentleman from Texas, the Honorable TOM DELAY.

MINORITY WHIP

Mr. FROST. Mr. Speaker, as chairman of the Democratic Caucus, I have been directed to report to the House that the Democratic Members have selected as minority whip the gentleman from Michigan, the Honorable DAVID E. BONIOR.

□ 1415

ELECTION OF CLERK OF THE HOUSE, SERGEANT AT ARMS, CHIEF ADMINISTRATIVE OFFICER, AND CHAPLAIN

Mr. WATTS of Oklahoma. Mr. Speaker, I offer a privileged resolution (H. Res. 1) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1

Resolved, That Jeffrey J. Trandahl of the Commmonwealth of Virginia be, and is hereby, chosen Clerk of the House of Representatives;

That Wilson S. Livingood of the Commmonwealth of Virginia be, and is hereby, chosen Sergeant at Arms of the House of Representatives;

That James M. Eagen III, of the Commmonwealth of Pennsylvania be, and is hereby, chosen Chief Administrative Officer of the House of Representatives; and

That Reverend James David Ford of the Commmonwealth of Virginia be, and is hereby, chosen Chaplain of the House of Representatives.

Mr. FROST. Mr. Speaker, I have an amendment to the resolution, but before offering the amendment, I request that there be a division of the question on the resolution so that we may have a separate vote on the Chaplain.

The SPEAKER. The question will be divided.

The question is on agreeing to that portion of the resolution providing for the election of the Chaplain.

That portion of the resolution was agreed to.

AMENDMENT OFFERED BY MR. FROST

Mr. FROST. Mr. Speaker, I offer an amendment to the remainder of the resolution.

The Clerk read as follows:

Amendment offered by Mr. FROST: Strike out all after the resolving clause and insert:

That Dan Turton of the Commmonwealth of Virginia be, and is hereby, chosen Clerk of the House of Representatives;

That Sharon Daniels of the State of Maryland be, and is hereby, chosen Sergeant at Arms of the House of Representatives; and

That Steve Elmendorf of the District of Columbia be, and is hereby, chosen Chief Administrative Officer of the House of Representatives.

The SPEAKER. The question is on the amendment offered by the gentleman from Texas (Mr. Frost).

The amendment was rejected.

The SPEAKER. The question is on the remainder of the resolution offered by the gentleman from Oklahoma (Mr. WATTS).

The remainder of the resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. Will the officers-elect present themselves in the well of the House?

The officers-elect presented themselves at the bar of the House and took the oath of office as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations, you have been sworn in as officers of the House.

NOTIFICATION TO THE SENATE

Mr. ARMEY. Mr. Speaker, I offer a privileged resolution (H. Res. 2) to inform the Senate that a quorum of the House has assembled, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 2

Resolved, That the Senate be informed that a quorum of the House of Representatives has assembled; that J. Dennis Hastert, a Representative from the State of Illinois, has been elected Speaker; and Jeffrey J. Trandahl, a citizen of the Commmonwealth of Virginia, has been elected Clerk of the House of Representatives of the One Hundred Sixth Congress.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMITTEE TO NOTIFY THE PRESIDENT

Mr. ARMEY. Mr. Speaker, I offer a privileged resolution (H. Res. 3) providing for a committee to notify the President of the assembly of the Congress, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 3

Resolved, That a committee of two Members be appointed by the Speaker on the part of the House of Representatives to join with a committee on the part of the Senate to notify the President of the United States that a quorum of each House has assembled and Congress is ready to receive any communication that he may be pleased to make.

The resolution was agreed to.

A motion to consider was laid on the table.

APPOINTMENT AS MEMBERS OF COMMITTEE TO NOTIFY THE PRESIDENT, PURSUANT TO HOUSE RESOLUTION 3

The SPEAKER. The Chair appoints as members of the committee on the part of the House to join a committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled, and that Congress is ready to receive any communication that he may be pleased to make, the gentleman from Texas (Mr. ARMEY) and the gentleman from Missouri (Mr. GEPHARDT).

AUTHORIZING THE CLERK TO INFORM THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF THE SPEAKER AND THE CLERK OF THE HOUSE OF REPRESENTATIVES

Mr. ARMEY. Mr. Speaker, I offer a privileged resolution (H. Res. 4) to inform the President of the United States of the election of the Speaker and the Clerk of the House of Representatives, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 4

Resolved, That the Clerk be instructed to inform the President of the United States that the House of Representatives has elected J. Dennis Hastert, a Representative from the State of Illinois, Speaker; and Jeffrey J. Trandahl, a citizen of the Commmonwealth of Virginia, Clerk of the House of Representatives of the One Hundred Sixth Congress.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RULES OF THE HOUSE

Mr. ARMEY. Mr. Speaker, by direction of the House Republican Conference, I call up a privileged resolution (H. Res. 5) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 5

Resolved, That the Rules of the House of Representatives of the One Hundred Fifth Congress, including applicable provisions of law or concurrent resolution that constituted rules of the House at the end of the One Hundred Fifth Congress, are adopted as the Rules of the House of Representatives of the One Hundred Sixth Congress, with amendments to the standing rules, and with other orders, as follows:

SECTION 1. CHANGES IN STANDING RULES.

Amend the standing rules to read as follows:

RULES OF THE HOUSE OF REPRESENTATIVES

RULE I

THE SPEAKER

Approval of the Journal

1. The Speaker shall take the Chair on every legislative day precisely at the hour to which the House last adjourned and immediately call the House to order. Having examined and approved the Journal of the last day's proceedings, the Speaker shall announce to the House his approval thereof. The Speaker's approval of the Journal shall be deemed agreed to unless a Member, Delegate, or Resident Commissioner demands a vote thereon. If such a vote is decided in the affirmative, it shall not be subject to a motion to reconsider. If such a vote is decided in the negative, then one motion that the Journal be read shall be privileged, shall be decided without debate, and shall not be subject to a motion to reconsider.

Preservation of order

2. The Speaker shall preserve order and decorum and, in case of disturbance or disorderly conduct in the galleries or in the lobby, may cause the same to be cleared.

Control of Capitol facilities

3. Except as otherwise provided by rule or law, the Speaker shall have general control of the Hall of the House, the corridors and passages in the part of the Capitol assigned to the use of the House, and the disposal of unappropriated rooms in that part of the Capitol.

Signature of documents

4. The Speaker shall sign all acts and joint resolutions passed by the two Houses and all writs, warrants, and subpoenas of, or issued by order of, the House. The Speaker may sign enrolled bills and joint resolutions whether or not the House is in session.

Questions of order

5. The Speaker shall decide all questions of order, subject to appeal by a Member, Delegate, or Resident Commissioner. On such an appeal a Member, Delegate, or Resident Commissioner may not speak more than once without permission of the House.

Form of a question

6. The Speaker shall rise to put a question but may state it sitting. The Speaker shall put a question in this form: “Those in favor (of the question), say ‘Aye.’ ”; and after the affirmative voice is expressed, “Those opposed, say ‘No.’ ”. After a vote by voice under this clause, the Speaker may use such voting procedures as may be invoked under rule XX.

Discretion to vote

7. The Speaker is not required to vote in ordinary legislative proceedings, except when his vote would be decisive or when the House is engaged in voting by ballot.

Speaker pro tempore

8. (a) The Speaker may appoint a Member to perform the duties of the Chair. Except as specified in paragraph (b), such an appointment may not extend beyond three legislative days.

(b)(1) In the case of his illness, the Speaker may appoint a Member to perform the duties of the Chair for a period not exceeding 10 days, subject to the approval of the House. If the Speaker is absent and has omitted to make such an appointment, then the House shall elect a Speaker pro tempore to act during the absence of the Speaker.

(2) With the approval of the House, the Speaker may appoint a Member to act as Speaker pro tempore only to sign enrolled bills and joint resolutions for a specified period of time.

Term limit

9. A person may not serve as Speaker for more than four consecutive Congresses (disregarding for this purpose any service for less than a full session in any Congress).

Designation of travel

10. The Speaker may designate a Member, Delegate, Resident Commissioner, officer, or employee of the House to travel on the business of the House within or without the United States, whether the House is meeting, has recessed, or has adjourned. Expenses for such travel may be paid from applicable accounts of the House described in clause 1(i)(1) of rule X on vouchers approved and signed solely by the Speaker.

Committee appointment

11. The Speaker shall appoint all select, joint, and conference committees ordered by the House. At any time after an original appointment, the Speaker may remove Members, Delegates, or the Resident Commissioner from, or appoint additional Members, Delegates, or the Resident Commissioner to, a select or conference committee. In appointing Members, Delegates, or the Resident Commissioner to conference committees, the Speaker shall appoint no less than a majority who generally supported the House position as determined by the Speaker, shall name those who are primarily responsible for the legislation, and shall, to the fullest extent feasible, include the principal proponents of the major provisions of the bill or resolution passed or adopted by the House.

Declaration of recess

12. To suspend the business of the House for a short time when no question is pending before the House, the Speaker may declare a recess subject to the call of the Chair.

Other responsibilities

13. The Speaker, in consultation with the Minority Leader, shall develop through an appropriate entity of the House a system for drug testing in the House. The system may provide for the testing of a Member, Delegate, Resident Commissioner, officer, or employee of the House, and otherwise shall be comparable in scope to the system for drug testing in the executive branch pursuant to Executive Order 12564 (Sept. 15, 1986). The expenses of the system may be paid from applicable accounts of the House for official expenses.

RULE II

OTHER OFFICERS AND OFFICIALS

Elections

1. There shall be elected at the commencement of each Congress, to continue in office until their successors are chosen and qualified, a Clerk, a Sergeant-at-Arms, a Chief Administrative Officer, and a Chaplain. Each of these officers shall take an oath to support the Constitution of the United States, and for the true and faithful exercise of the duties of his office to the best of his knowledge and ability, and to keep the secrets of the House. Each of these officers shall appoint all of the employees of his department provided for by law. The Clerk, Sergeant-at-Arms, and Chief Administrative Officer may be removed by the House or by the Speaker.

Clerk

2. (a) At the commencement of the first session of each Congress, the Clerk shall call the Members, Delegates, and Resident Commissioner to order and proceed to record their presence by States in alphabetical order, either by call of the roll or by use of the electronic voting system. Pending the election of a Speaker or Speaker pro tempore, the Clerk shall preserve order and decorum and decide all questions of order, subject to appeal by a Member, Delegate, or Resident Commissioner.

(b) At the commencement of every regular session of Congress, the Clerk shall make and cause to be printed and delivered to each Member, Delegate, and the Resident Commissioner a list of the reports that any officer or Department is required to make to Congress, citing the law or resolution in which the requirement may be contained and placing under the name of each officer the list of reports he is required to make.

(c) The Clerk shall—

(1) note all questions of order, with the decisions thereon, the record of which shall be appended to the Journal of each session;

(2) enter on the Journal the hour at which the House adjourns;

(3) complete the printing and distribution of the Journal to Members, Delegates, and the Resident Commissioner, together with an accurate and complete index, as soon as possible after the close of a session; and

(4) send a printed copy of the Journal to the executive of and to each branch of the legislature of every State as may be requested by such State officials.

(d) The Clerk shall attest and affix the seal of the House to all writs, warrants, and subpoenas issued by order of the House and certify the passage of all bills and joint resolutions.

(e) The Clerk shall cause the calendars of the House to be printed and distributed each legislative day.

(f) The Clerk shall—

(1) retain in the library at the Office of the Clerk for the use of the Members, Delegates, Resident Commissioner, and officers of the House, and not to be withdrawn therefrom, two copies of all the books and printed documents deposited there; and

(2) deliver or mail to any Member, Delegate, or the Resident Commissioner an extra copy, in binding of good quality, of each document requested by that Member, Delegate, or Resident Commissioner that has been printed by order of either House of Congress in any Congress in which the Member, Delegate, or Resident Commissioner served.

(g) The Clerk shall provide for his temporary absence or disability by designating an official in the Office of the Clerk to sign all papers that may require the official signature of the Clerk and to do all other official acts that the Clerk may be required to do under the rules and practices of the House, except such official acts as are provided for by statute. Official acts done by the designated official shall be under the name of the Clerk. The designation shall be in writing and shall be laid before the House and entered on the Journal.

(h) The Clerk may receive messages from the President and from the Senate at any time when the House is not in session.

(i)(1) The Clerk shall supervise the staff and manage the office of a Member, Delegate, or Resident Commissioner who has died, resigned, or been expelled until a successor is elected. The Clerk shall perform similar duties in the event that a vacancy is declared by the House in any congressional district because of the incapacity of the person representing such district or other reason. Whenever the Clerk is acting as a supervisory authority over such staff, he shall have authority to terminate employees and, with the approval of the Committee on House Administration, may appoint such staff as is required to operate the office until a successor is elected.

(2) For 60 days following the death of a former Speaker, the Clerk shall maintain on the House payroll, and shall supervise in the same manner, staff appointed under House Resolution 1238, Ninety-first Congress (as enacted into permanent law by chapter VIII of the Supplemental Appropriations Act, 1971) (2 U.S.C. 31b–5).

(j) In addition to any other reports required by the Speaker or the Committee on House Administration, the Clerk shall report to the Committee on House Administration not later than 45 days following the close of each semiannual period ending on June 30 or on December 31 on the financial and operational status of each function under the jurisdiction of the Clerk. Each report shall include financial statements and a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.

(k) The Clerk shall fully cooperate with the appropriate offices and persons in the performance of reviews and audits of financial records and administrative operations.

Sergeant-at-Arms

3. (a) The Sergeant-at-Arms shall attend the House during its sittings and maintain order under the direction of the Speaker or other presiding officer. The Sergeant-at-Arms shall execute the commands of the House, and all processes issued by authority thereof, directed to him by the Speaker.

(b) The symbol of the office of the Sergeant-at-Arms shall be the mace, which shall be borne by him while enforcing order on the floor.

(c) The Sergeant-at-Arms shall enforce strictly the rules relating to the privileges of the Hall of the House and be responsible to the House for the official conduct of his employees.

(d) The Sergeant-at-Arms may not allow a person to enter the room over the Hall of the House during its sittings; and from 15 minutes before the hour of the meeting of the House each day until 10 minutes after adjournment, he shall see that the floor is cleared of all persons except those privileged to remain.

(e) In addition to any other reports required by the Speaker or the Committee on House Administration, the Sergeant-at-Arms shall report to the Committee on House Administration not later than 45 days following the close of each semiannual period ending on June 30 or on December 31 on the financial and operational status of each function under the jurisdiction of the Sergeant-at-Arms. Each report shall include financial statements and a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.

(f) The Sergeant-at-Arms shall fully cooperate with the appropriate offices and persons in the performance of reviews and audits of financial records and administrative operations.

Chief Administrative Officer

4. (a) The Chief Administrative Officer shall have operational and financial responsibility for functions as assigned by the Committee on House Administration and shall be subject to the policy direction and oversight of the Committee on House Administration.

(b) In addition to any other reports required by the Committee on House Administration, the Chief Administrative Officer shall report to the Committee on House Administration not later than 45 days following the close of each semiannual period ending on June 30 or December 31 on the financial and operational status of each function under the jurisdiction of the Chief Administrative Officer. Each report shall include financial statements and a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.

(c) The Chief Administrative Officer shall fully cooperate with the appropriate offices and persons in the performance of reviews and audits of financial records and administrative operations.

Chaplain

5. The Chaplain shall offer a prayer at the commencement of each day's sitting of the House.

Office of Inspector General

6. (a) There is established an Office of Inspector General.

(b) The Inspector General shall be appointed for a Congress by the Speaker, the Majority Leader, and the Minority Leader, acting jointly.

(c) Subject to the policy direction and oversight of the Committee on House Administration, the Inspector General shall only—

(1) conduct periodic audits of the financial and administrative functions of the House and of joint entities;

(2) inform the officers or other officials who are the subject of an audit of the results of that audit and suggesting appropriate curative actions;

(3) simultaneously notify the Speaker, the Majority Leader, the Minority Leader, and the chairman and ranking minority member of the Committee on House Administration in the case of any financial irregularity discovered in the course of carrying out responsibilities under this clause;

(4) simultaneously submit to the Speaker, the Majority Leader, the Minority Leader, and the chairman and ranking minority member of the Committee on House Administration a report of each audit conducted under this clause; and

(5) report to the Committee on Standards of Official Conduct information involving possible violations by a Member, Delegate, Resident Commissioner, officer, or employee of the House of any rule of the House or of any law applicable to the performance of official duties or the discharge of official responsibilities that may require referral to the appropriate Federal or State authorities under clause 3(a)(3) of rule XI.

Office of the Historian

7. There is established an Office of the Historian of the House of Representatives. The Speaker shall appoint and set the annual rate of pay for employees of the Office of the Historian.

Office of General Counsel

8. There is established an Office of General Counsel for the purpose of providing legal assistance and representation to the House. Legal assistance and representation shall be provided without regard to political affiliation. The Office of General Counsel shall function pursuant to the direction of the Speaker, who shall consult with a Bipartisan Legal Advisory Group, which shall include the majority and minority leaderships. The Speaker shall appoint and set the annual rate of pay for employees of the Office of General Counsel.

RULE III

THE MEMBERS, DELEGATES, AND RESIDENT COMMISSIONER OF PUERTO RICO

Voting

1. Every Member shall be present within the Hall of the House during its sittings, unless excused or necessarily prevented, and shall vote on each question put, unless he has a direct personal or pecuniary interest in the event of such question.

2. (a) A Member may not authorize any other person to cast his vote or record his presence in the House or the Committee of the Whole House on the state of the Union.

(b) No other person may cast a Member's vote or record a Member's presence in the House or the Committee of the Whole House on the state of the Union.

Delegates and the Resident Commissioner

3. (a) Each Delegate and the Resident Commissioner shall be elected to serve on standing committees in the same manner as Members of the House and shall possess in such committees the same powers and privileges as the other members of the committee.

(b) The Delegates and the Resident Commissioner may be appointed to any select committee and to any conference committee.

RULE IV

THE HALL OF THE HOUSE

Use and admittance

1. The Hall of the House shall be used only for the legislative business of the House and for caucus and conference meetings of its Members, except when the House agrees to take part in any ceremonies to be observed therein. The Speaker may not entertain a motion for the suspension of this clause.

2. (a) Only the following persons shall be admitted to the Hall of the House or rooms leading thereto:

(1) Members of Congress, Members-elect, and contestants in election cases during the pendency of their cases on the floor.

(2) The Delegates and the Resident Commissioner.

(3) The President and Vice President of the United States and their private secretaries.

(4) Justices of the Supreme Court.

(5) Elected officers and minority employees nominated as elected officers of the House.

(6) The Parliamentarian.

(7) Staff of committees when business from their committee is under consideration.

(8) Not more than one person from the staff of a Member, Delegate, or Resident Commissioner when that Member, Delegate, or Resident Commissioner has an amendment under consideration (subject to clause 5).

(9) The Architect of the Capitol.

(10) The Librarian of Congress and the assistant in charge of the Law Library.

(11) The Secretary and Sergeant-at-Arms of the Senate.

(12) Heads of departments.

(13) Foreign ministers.

(14) Governors of States.

(15) Former Members, Delegates, and Resident Commissioners; former Parliamentarians of the House; and former elected officers and minority employees nominated as elected officers of the House (subject to clause 4).

(16) One attorney to accompany a Member, Delegate, or Resident Commissioner who is the respondent in an investigation undertaken by the Committee on Standards of Official Conduct when a recommendation of that committee is under consideration in the House.

(17) Such persons as have, by name, received the thanks of Congress.

(b) The Speaker may not entertain a unanimous consent request or a motion to suspend this clause.

3. (a) Except as provided in paragraph (b), all persons not entitled to the privilege of the floor during the session shall be excluded at all times from the Hall of the House and the cloakrooms.

(b) Until 15 minutes of the hour of the meeting of the House, persons employed in its service, accredited members of the press entitled to admission to the press gallery, and other persons on request of a Member, Delegate, or Resident Commissioner by card or in writing, may be admitted to the Hall of the House.

4. (a) Former Members, Delegates, and Resident Commissioners; former Parliamentarians of the House; and former elected officers and minority employees nominated as elected officers of the House shall be entitled to the privilege of admission to the Hall of the House and rooms leading thereto only if—

(1) they do not have any direct personal or pecuniary interest in any legislative measure pending before the House or reported by a committee; and

(2) they are not in the employ of, or do not represent, any party or organization for the purpose of influencing, directly or indirectly, the passage, defeat, or amendment of any legislative measure pending before the House, reported by a committee, or under consideration in any of its committees or subcommittees.

(b) The Speaker shall promulgate such regulations as may be necessary to implement this rule and to ensure its enforcement.

5. A person from the staff of a Member, Delegate, or Resident Commissioner may be admitted to the Hall of the House or rooms leading thereto under clause 2 only upon prior notice to the Speaker. Such persons, and persons from the staff of committees admitted under clause 2, may not engage in efforts in the Hall of the House or rooms leading thereto to influence Members with regard to the legislation being amended. Such persons shall remain at the desk and are admitted only to advise the Member, Delegate, Resident Commissioner, or committee responsible for their admission. A person who violates this clause may be excluded during the session from the Hall of the House and rooms leading thereto by the Speaker.

Gallery

6. (a) The Speaker shall set aside a portion of the west gallery for the use of the President, the members of the Cabinet, justices of the Supreme Court, foreign ministers and suites, and the members of their respective families. The Speaker shall set aside another portion of the same gallery for the accommodation of persons to be admitted on the cards of Members, Delegates, or the Resident Commissioner.

(b) The Speaker shall set aside the southerly half of the east gallery for the use of the families of Members of Congress. The Speaker shall control one bench. On the request of a Member, Delegate, Resident Commissioner, or Senator, the Speaker shall issue a card of admission to his family, which may include their visitors. No other person shall be admitted to this section.

Prohibition on campaign contributions

7. A Member, Delegate, Resident Commissioner, officer, or employee of the House, or any other person entitled to admission to the Hall of the House or rooms leading thereto by this rule, may not knowingly distribute a political campaign contribution in the Hall of the House or rooms leading thereto.

RULE V

BROADCASTING THE HOUSE

1. The Speaker shall administer a system subject to his direction and control for closed-circuit viewing of floor proceedings of the House in the offices of all Members, Delegates, the Resident Commissioner, and committees and in such other places in the Capitol and the House Office Buildings as he considers appropriate. Such system may include other telecommunications functions as the Speaker considers appropriate. Any such telecommunications shall be subject to rules and regulations issued by the Speaker.

2. (a) The Speaker shall administer a system subject to his direction and control for complete and unedited audio and visual broadcasting and recording of the proceedings of the House. The Speaker shall provide for the distribution of such broadcasts and recordings to news media, for the storage of audio and video recordings of the proceedings, and for the closed-captioning of the proceedings for hearing-impaired persons.

(b) All television and radio broadcasting stations, networks, services, and systems (including cable systems) that are accredited to the House Radio and Television Correspondents' Galleries, and all radio and television correspondents who are so accredited, shall be provided access to the live coverage of the House.

(c) Coverage made available under this clause, including any recording thereof—

(1) may not be used for any political purpose;

(2) may not be used in any commercial advertisement; and

(3) may not be broadcast with commercial sponsorship except as part of a bona fide news program or public affairs documentary program.

3. The Speaker may delegate any of his responsibilities under this rule to such legislative entity as he considers appropriate.

RULE VI

OFFICIAL REPORTERS AND NEWS MEDIA GALLERIES

Official reporters

1. Subject to the direction and control of the Speaker, the Clerk shall appoint, and may remove for cause, the official reporters of the House, including stenographers of committees, and shall supervise the execution of their duties.

News media galleries

2. A portion of the gallery over the Speaker's chair as may be necessary to accommodate representatives of the press wishing to report debates and proceedings shall be set aside for their use. Reputable reporters and correspondents shall be admitted thereto under such regulations as the Speaker may prescribe from time to time. The Standing Committee of Correspondents for the Press Gallery, and the Executive Committee of Correspondents for the Periodical Press Gallery, shall supervise such galleries, including the designation of its employees, subject to the direction and control of the Speaker. The Speaker may assign one seat on the floor to Associated Press reporters and one to United Press International reporters, and may regulate their occupation. The Speaker may admit to the floor, under such regulations as he may prescribe, one additional representative of each press association.

3. A portion of the gallery as may be necessary to accommodate reporters of news to be disseminated by radio, television, and similar means of transmission, wishing to report debates and proceedings, shall be set aside for their use. Reputable reporters and correspondents shall be admitted thereto under such regulations as the Speaker may prescribe. The Executive Committee of the Radio and Television Correspondents' Galleries shall supervise such gallery, including the designation of its employees, subject to the direction and control of the Speaker. The Speaker may admit to the floor, under such regulations as he may prescribe, one representative of the National Broadcasting Company, one of the Columbia Broadcasting System, and one of the American Broadcasting Company.

RULE VII

RECORDS OF THE HOUSE

Archiving

1. (a) At the end of each Congress, the chairman of each committee shall transfer to the Clerk any noncurrent records of such committee, including the subcommittees thereof.

(b) At the end of each Congress, each officer of the House elected under rule II shall transfer to the Clerk any noncurrent records made or acquired in the course of the duties of such officer.

2. The Clerk shall deliver the records transferred under clause 1, together with any other noncurrent records of the House, to the Archivist of the United States for preservation at the National Archives and Records Administration. Records so delivered are the permanent property of the House and remain subject to this rule and any order of the House.

Public availability

3. (a) The Clerk shall authorize the Archivist to make records delivered under clause 2 available for public use, subject to paragraph (b), clause 4, and any order of the House.

(b)(1) A record shall immediately be made available if it was previously made available for public use by the House or a committee or a subcommittee.

(2) An investigative record that contains personal data relating to a specific living person (the disclosure of which would be an unwarranted invasion of personal privacy), an administrative record relating to personnel, or a record relating to a hearing that was closed under clause 2(g)(2) of rule XI

shall be made available if it has been in existence for 50 years.

(3) A record for which a time, schedule, or condition for availability is specified by order of the House shall be made available in accordance with that order. Except as otherwise provided by order of the House, a record of a committee for which a time, schedule, or condition for availability is specified by order of the committee (entered during the Congress in which the record is made or acquired by the committee) shall be made available in accordance with the order of the committee.

(4) A record (other than a record referred to in subparagraph (1), (2), or (3)) shall be made available if it has been in existence for 30 years.

4. (a) A record may not be made available for public use under clause 3 if the Clerk determines that such availability would be detrimental to the public interest or inconsistent with the rights and privileges of the House. The Clerk shall notify in writing the chairman and ranking minority member of the Committee on House Administration of any such determination.

(b) A determination of the Clerk under paragraph (a) is subject to later orders of the House and, in the case of a record of a committee, later orders of the committee.

5. (a) This rule does not supersede rule VIII or clause 9 of rule X and does not authorize the public disclosure of any record if such disclosure is prohibited by law or executive order of the President.

(b) The Committee on House Administration may prescribe guidelines and regulations governing the applicability and implementation of this rule.

(c) A committee may withdraw from the National Archives and Records Administration any record of the committee delivered to the Archivist under this rule. Such a withdrawal shall be on a temporary basis and for official use of the committee.

Definition of record

6. In this rule the term "record" means any official, permanent record of the House (other than a record of an individual Member, Delegate, or Resident Commissioner), including—

(a) with respect to a committee, an official, permanent record of the committee (including any record of a legislative, oversight, or other activity of such committee or a subcommittee thereof); and

(b) with respect to an officer of the House elected under rule II, an official, permanent record made or acquired in the course of the duties of such officer.

Withdrawal of papers

7. A memorial or other paper presented to the House may not be withdrawn from its files without its leave. If withdrawn certified copies thereof shall be left in the office of the Clerk. When an act passes for the settlement of a claim, the Clerk may transmit to the officer charged with the settlement thereof the papers on file in his office relating to such claim. The Clerk may lend temporarily to an officer or bureau of the executive departments any papers on file in his office relating to any matter pending before such officer or bureau, taking proper receipt therefor.

RULE VIII

RESPONSE TO SUBPOENAS

1. When a Member, Delegate, Resident Commissioner, officer, or employee of the House is properly served with a subpoena or other judicial order directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any document relating to the official functions of the House, such Member, Delegate, Resident Commissioner, officer, or employee shall comply, consistently with the privileges and rights of the House, with the subpoena or other judicial order as hereinafter provided, unless otherwise determined under this rule.

2. Upon receipt of a properly served subpoena or other judicial order described in clause 1, a Member, Delegate, Resident Commissioner, officer, or employee of the House shall promptly notify the Speaker of its receipt in writing. Such notification shall promptly be laid before the House by the Speaker. During a period of recess or adjournment of longer than three days, notification to the House is not required until the reconvening of the House, when the notification shall promptly be laid before the House by the Speaker.

3. Once notification has been laid before the House, the Member, Delegate, Resident Commissioner, officer, or employee of the House shall determine whether the issuance of the subpoena or other judicial order described in clause 1 is a proper exercise of jurisdiction by the court, is material and relevant, and is consistent with the privileges and rights of the House. Such Member, Delegate, Resident Commissioner, officer, or employee shall notify the Speaker before seeking judicial determination of these matters.

4. Upon determination whether a subpoena or other judicial order described in clause 1 is a proper exercise of jurisdiction by the court, is material and relevant, and is consistent with the privileges and rights of the House, the Member, Delegate, Resident Commissioner, officer, or employee of the House shall immediately notify the Speaker of the determination in writing.

5. The Speaker shall inform the House of a determination whether a subpoena or other judicial order described in clause 1 is a proper exercise of jurisdiction by the court, is material and relevant, and is consistent with the privileges and rights of the House. In so informing the House, the Speaker shall generally describe the records or information sought. During a period of recess or adjournment of longer than three days, such notification is not required until the reconvening of the House, when the notification shall promptly be laid before the House by the Speaker.

6. (a) Except as specified in paragraph (b) or otherwise ordered by the House, upon notification to the House that a subpoena or other judicial order described in clause 1 is a proper exercise of jurisdiction by the court, is material and relevant, and is consistent with the privileges and rights of the House, the Member, Delegate, Resident Commissioner, officer, or employee of the House shall comply with the subpoena or other judicial order by supplying certified copies.

(b) Under no circumstances may minutes or transcripts of executive sessions, or evidence of witnesses in respect thereto, be disclosed or copied. During a period of recess or adjournment of longer than three days, the Speaker may authorize compliance or take such other action as he considers appropriate under the circumstances. Upon the reconvening of the House, all matters that transpired under this clause shall promptly be laid before the House by the Speaker.

7. A copy of this rule shall be transmitted by the Clerk to the court when a subpoena or other judicial order described in clause 1 is issued and served on a Member, Delegate, Resident Commissioner, officer, or employee of the House.

8. Nothing in this rule shall be construed to deprive, condition, or waive the constitutional or legal privileges or rights applicable or available at any time to a Member, Delegate, Resident Commissioner, officer, or employee of the House, or of the House itself, or the right of such Member, Delegate, Resident Commissioner, officer, or employee, or of the House itself, to assert such privileges or rights before a court in the United States.

RULE IX

QUESTIONS OF PRIVILEGE

1. Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; and second, those affecting the rights, reputation, and conduct of Members, Delegates, or the Resident Commissioner, individually, in their representative capacity only.

2. (a)(1) A resolution reported as a question of the privileges of the House, or offered from the floor by the Majority Leader or the Minority Leader as a question of the privileges of the House, or offered as privileged under clause 1, section 7, article I of the Constitution, shall have precedence of all other questions except motions to adjourn. A resolution offered from the floor by a Member, Delegate, or Resident Commissioner other than the Majority Leader or the Minority Leader as a question of the privileges of the House shall have precedence of all other questions except motions to adjourn only at a time or place, designated by the Speaker, in the legislative schedule within two legislative days after the day on which the proponent announces to the House his intention to offer the resolution and the form of the resolution. Oral announcement of the form of the resolution may be dispensed with by unanimous consent.

(2) The time allotted for debate on a resolution offered from the floor as a question of the privileges of the House shall be equally divided between (A) the proponent of the resolution, and (B) the Majority Leader, the Minority Leader, or a designee, as determined by the Speaker.

(b) A question of personal privilege shall have precedence of all other questions except motions to adjourn.

RULE X

ORGANIZATION OF COMMITTEES

Committees and their legislative jurisdictions

1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned by this clause and clauses 2, 3, and 4. All bills, resolutions, and other matters relating to subjects within the jurisdiction of the standing committees listed in this clause shall be referred to those committees, in accordance with clause 2 of rule XII, as follows:

(a) **Committee on Agriculture.**

(1) Adulteration of seeds, insect pests, and protection of birds and animals in forest reserves.

(2) Agriculture generally.

(3) Agricultural and industrial chemistry.

(4) Agricultural colleges and experiment stations.

(5) Agricultural economics and research.

(6) Agricultural education extension services.

(7) Agricultural production and marketing and stabilization of prices of agricultural products, and commodities (not including distribution outside of the United States).

(8) Animal industry and diseases of animals.

(9) Commodity exchanges.

(10) Crop insurance and soil conservation.

(11) Dairy industry.

(12) Entomology and plant quarantine.

(13) Extension of farm credit and farm security.

(14) Inspection of livestock, poultry, meat products, and seafood and seafood products.

(15) Forestry in general and forest reserves other than those created from the public domain.

(16) Human nutrition and home economics.

(17) Plant industry, soils, and agricultural engineering.

(18) Rural electrification.

(19) Rural development.

(20) Water conservation related to activities of the Department of Agriculture.

(b) **Committee on Appropriations.**

(1) Appropriation of the revenue for the support of the Government.

(2) Rescissions of appropriations contained in appropriation Acts.

(3) Transfers of unexpended balances.

(4) Bills and joint resolutions reported by other committees that provide new entitlement authority as defined in section 3(9) of the Congressional Budget Act of 1974 and referred to the committee under clause 4(a)(2).

(c) **Committee on Armed Services.**

(1) Ammunition depots; forts; arsenals; and Army, Navy, and Air Force reservations and establishments.

(2) Common defense generally.

(3) Conservation, development, and use of naval petroleum and oil shale reserves.

(4) The Department of Defense generally, including the Departments of the Army, Navy, and Air Force, generally.

(5) Interoceanic canals generally, including measures relating to the maintenance, operation, and administration of interoceanic canals.

(6) Merchant Marine Academy and State Maritime Academies.

(7) Military applications of nuclear energy.

(8) Tactical intelligence and intelligence-related activities of the Department of Defense.

(9) National security aspects of merchant marine, including financial assistance for the construction and operation of vessels, maintenance of the U.S. shipbuilding and ship repair industrial base, cabotage, cargo preference, and merchant marine officers and seamen as these matters relate to the national security.

(10) Pay, promotion, retirement, and other benefits and privileges of members of the armed forces.

(11) Scientific research and development in support of the armed services.

(12) Selective service.

(13) Size and composition of the Army, Navy, Marine Corps, and Air Force.

(14) Soldiers' and sailors' homes.

(15) Strategic and critical materials necessary for the common defense.

(d) **Committee on Banking and Financial Services.**

(1) Banks and banking, including deposit insurance and Federal monetary policy.

(2) Bank capital markets activities generally.

(3) Depository institutions securities activities generally, including activities of any affiliates (except for functional regulation under applicable securities laws not involving safety and soundness).

(4) Economic stabilization, defense production, renegotiation, and control of the price of commodities, rents, and services.

(5) Financial aid to commerce and industry (other than transportation).

(6) International finance.

(7) International financial and monetary organizations.

(8) Money and credit, including currency and this issuance of notes and redemption thereof; gold and silver, including the coinage thereof; valuation and revaluation of the dollar.

(9) Public and private housing.

(10) Urban development.

(e) **Committee on the Budget.**

(1) Concurrent resolutions on the budget (as defined in section 3(4) of the Congressional Budget Act of 1974), other matters required to be referred to the committee under titles III and IV of that Act, and other measures setting forth appropriate levels of budget totals for the United States Government.

(2) Budget process generally.

(3) Establishment, extension, and enforcement of special controls over the Federal budget, including the budgetary treatment of off-budget Federal agencies and measures providing exemption from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(f) **Committee on Commerce.**

(1) Biomedical research and development.

(2) Consumer affairs and consumer protection.

(3) Health and health facilities (except health care supported by payroll deductions).

(4) Interstate energy compacts.

(5) Interstate and foreign commerce generally.

(6) Exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including all fossil fuels, solar energy, and other unconventional or renewable energy resources.

(7) Conservation of energy resources.

(8) Energy information generally.

(9) The generation and marketing of power (except by federally chartered or Federal regional power marketing authorities); reliability and interstate transmission of, and ratemaking for, all power; and siting of generation facilities (except the installation of interconnections between Government waterpower projects).

(10) General management of the Department of Energy and management and all functions of the Federal Energy Regulatory Commission.

(11) National energy policy generally.

(12) Public health and quarantine.

(13) Regulation of the domestic nuclear energy industry, including regulation of research and development reactors and nuclear regulatory research.

(14) Regulation of interstate and foreign communications.

(15) Securities and exchanges.

(16) Travel and tourism.

The committee shall have the same jurisdiction with respect to regulation of nuclear facilities and of use of nuclear energy as it has with respect to regulation of nonnuclear facilities and of use of nonnuclear energy.

(g) **Committee on Education and the Workforce.**

(1) Child labor.

(2) Gallaudet University and Howard University and Hospital.

(3) Convict labor and the entry of goods made by convicts into interstate commerce.

(4) Food programs for children in schools.

(5) Labor standards and statistics.

(6) Education or labor generally.

(7) Mediation and arbitration of labor disputes.

(8) Regulation or prevention of importation of foreign laborers under contract.

(9) Workers' compensation.

(10) Vocational rehabilitation.

(11) Wages and hours of labor.

(12) Welfare of miners.

(13) Work incentive programs.

(h) **Committee on Government Reform.**

(1) Federal civil service, including intergovernmental personnel; and the status of officers and employees of the United States, including their compensation, classification, and retirement.

(2) Municipal affairs of the District of Columbia in general (other than appropriations).

(3) Federal paperwork reduction.

(4) Government management and accounting measures generally.

(5) Holidays and celebrations.

(6) Overall economy, efficiency, and management of government operations and activities, including Federal procurement.

(7) National archives.

(8) Population and demography generally, including the Census.

(9) Postal service generally, including transportation of the mails.

(10) Public information and records.

(11) Relationship of the Federal Government to the States and municipalities generally.

(12) Reorganizations in the executive branch of the Government.

(i) **Committee on House Administration.**

(1) Appropriations from accounts for committee salaries and expenses (except for the Committee on Appropriations); House Information Resources; and allowance and expenses of Members, Delegates, the Resident Commissioner, officers, and administrative offices of the House.

(2) Auditing and settling of all accounts described in subparagraph (1).

(3) Employment of persons by the House, including staff for Members, Delegates, the Resident Commissioner, and committees; and reporters of debates, subject to rule VI.

(4) Except as provided in paragraph (q)(11), the Library of Congress, including management thereof; the House Library; statuary and pictures; acceptance or purchase of works of art for the Capitol; the Botanic Garden; and purchase of books and manuscripts.

(5) The Smithsonian Institution and the incorporation of similar institutions (except as provided in paragraph (q)(11)).

(6) Expenditure of accounts described in subparagraph (1).

(7) Franking Commission.

(8) Printing and correction of the Congressional Record.

(9) Accounts of the House generally.

(10) Assignment of office space for Members, Delegates, the Resident Commissioner, and committees.

(11) Disposition of useless executive papers.

(12) Election of the President, Vice President, Members, Senators, Delegates, or the Resident Commissioner; corrupt practices; contested elections; credentials and qualifications; and Federal elections generally.

(13) Services to the House, including the House Restaurant, parking facilities, and administration of the House Office Buildings and of the House wing of the Capitol.

(14) Travel of Members, Delegates, and the Resident Commissioner.

(15) Raising, reporting, and use of campaign contributions for candidates for office of Representative, of Delegate, and of Resident Commissioner.

(16) Compensation, retirement, and other benefits of the Members, Delegates, the Resident Commissioner, officers, and employees of Congress.

(j) **Committee on International Relations.**

(1) Relations of the United States with foreign nations generally.

(2) Acquisition of land and buildings for embassies and legations in foreign countries.

(3) Establishment of boundary lines between the United States and foreign nations.

(4) Export controls, including nonproliferation of nuclear technology and nuclear hardware.

(5) Foreign loans.

(6) International commodity agreements (other than those involving sugar), including all agreements for cooperation in the export of nuclear technology and nuclear hardware.

(7) International conferences and congresses.

(8) International education.

(9) Intervention abroad and declarations of war.

(10) Diplomatic service.

(11) Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.

(12) International economic policy.

(13) Neutrality.

(14) Protection of American citizens abroad and expatriation.

(15) The American National Red Cross.

(16) Trading with the enemy.

(17) United Nations organizations.

(k) **Committee on the Judiciary.**

(1) The judiciary and judicial proceedings, civil and criminal.

(2) Administrative practice and procedure.

(3) Apportionment of Representatives.

(4) Bankruptcy, mutiny, espionage, and counterfeiting.

(5) Civil liberties.

(6) Constitutional amendments.

(7) Federal courts and judges, and local courts in the Territories and possessions.

(8) Immigration and naturalization.

(9) Interstate compacts generally.

(10) Claims against the United States.

(11) Meetings of Congress; attendance of Members, Delegates, and the Resident Commissioner; and their acceptance of incompatible offices.

(12) National penitentiaries.

(13) Patents, the Patent and Trademark Office, copyrights, and trademarks.

(14) Presidential succession.

(15) Protection of trade and commerce against unlawful restraints and monopolies.

(16) Revision and codification of the Statutes of the United States.

(17) State and territorial boundary lines.

(18) Subversive activities affecting the internal security of the United States.

(l) **Committee on Resources.**

(1) Fisheries and wildlife, including research, restoration, refuges, and conservation.

(2) Forest reserves and national parks created from the public domain.

(3) Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.

(4) Geological Survey.

(5) International fishing agreements.

(6) Interstate compacts relating to apportionment of waters for irrigation purposes.

(7) Irrigation and reclamation, including water supply for reclamation projects and easements of public lands for irrigation projects; and acquisition of private lands when necessary to complete irrigation projects.

(8) Native Americans generally, including the care and allotment of Native American lands and general and special measures relating to claims that are paid out of Native American funds.

(9) Insular possessions of the United States generally (except those affecting the revenue and appropriations).

(10) Military parks and battlefields, national cemeteries administered by the Secretary of the Interior, parks within the District of Columbia, and the erection of monuments to the memory of individuals.

(11) Mineral land laws and claims and entries thereunder.

(12) Mineral resources of public lands.

(13) Mining interests generally.

(14) Mining schools and experimental stations.

(15) Marine affairs, including coastal zone management (except for measures relating to oil and other pollution of navigable waters).

(16) Oceanography.

(17) Petroleum conservation on public lands and conservation of the radium supply in the United States.

(18) Preservation of prehistoric ruins and objects of interest on the public domain.

(19) Public lands generally, including entry, easements, and grazing thereon.

(20) Relations of the United States with Native Americans and Native American tribes.

(21) Trans-Alaska Oil Pipeline (except ratemaking).

(m) **Committee on Rules.**

(1) Rules and joint rules (other than those relating to the Code of Official Conduct) and the order of business of the House.

(2) Recesses and final adjournments of Congress.

(n) **Committee on Science.**

(1) All energy research, development, and demonstration, and projects therefor, and all federally owned or operated nonmilitary energy laboratories.

(2) Astronautical research and development, including resources, personnel, equipment, and facilities.

(3) Civil aviation research and development.

(4) Environmental research and development.

(5) Marine research.

(6) Commercial application of energy technology.

(7) National Institute of Standards and Technology, standardization of weights and measures, and the metric system.

(8) National Aeronautics and Space Administration.

(9) National Space Council.

(10) National Science Foundation.

(11) National Weather Service.

(12) Outer space, including exploration and control thereof.

(13) Science scholarships.

(14) Scientific research, development, and demonstration, and projects therefor.

(o) **Committee on Small Business.**

(1) Assistance to and protection of small business, including financial aid, regulatory flexibility, and paperwork reduction.

(2) Participation of small-business enterprises in Federal procurement and Government contracts.

(p) **Committee on Standards of Official Conduct.**

The Code of Official Conduct.

(q) **Committee on Transportation and Infrastructure.**

(1) Coast Guard, including lifesaving service, lighthouses, lightships, ocean derelicts, and the Coast Guard Academy.

(2) Federal management of emergencies and natural disasters.

(3) Flood control and improvement of rivers and harbors.

(4) Inland waterways.

(5) Inspection of merchant marine vessels, lights and signals, lifesaving equipment, and fire protection on such vessels.

(6) Navigation and laws relating thereto, including pilotage.

(7) Registering and licensing of vessels and small boats.

(8) Rules and international arrangements to prevent collisions at sea.

(9) The Capitol Building and the Senate and House Office Buildings.

(10) Construction or maintenance of roads and post roads (other than appropriations therefor).

(11) Construction or reconstruction, maintenance, and care of buildings and grounds of the Botanic Garden, the Library of Congress, and the Smithsonian Institution.

(12) Merchant marine (except for national security aspects thereof).

(13) Purchase of sites and construction of post offices, customhouses, Federal courthouses, and Government buildings within the District of Columbia.

(14) Oil and other pollution of navigable waters, including inland, coastal, and ocean waters.

(15) Marine affairs, including coastal zone management, as they relate to oil and other pollution of navigable waters.

(16) Public buildings and occupied or improved grounds of the United States generally.

(17) Public works for the benefit of navigation, including bridges and dams (other than international bridges and dams).

(18) Related transportation regulatory agencies.

(19) Roads and the safety thereof.

(20) Transportation, including civil aviation, railroads, water transportation, transportation safety (except automobile safety), transportation infrastructure, transportation labor, and railroad retirement and unemployment (except revenue measures related thereto).

(21) Water power.

(r) **Committee on Veterans' Affairs.**

(1) Veterans' measures generally.

(2) Cemeteries of the United States in which veterans of any war or conflict are or may be buried, whether in the United States or abroad (except cemeteries administered by the Secretary of the Interior).

(3) Compensation, vocational rehabilitation, and education of veterans.

(4) Life insurance issued by the Government on account of service in the Armed Forces.

(5) Pensions of all the wars of the United States, general and special.

(6) Readjustment of servicemen to civil life.

(7) Soldiers' and sailors' civil relief.

(8) Veterans' hospitals, medical care, and treatment of veterans.

(s) **Committee on Ways and Means.**

(1) Customs, collection districts, and ports of entry and delivery.

(2) Reciprocal trade agreements.

(3) Revenue measures generally.

(4) Revenue measures relating to insular possessions.

(5) Bonded debt of the United States, subject to the last sentence of clause 4(f).

(6) Deposit of public monies.

(7) Transportation of dutiable goods.

(8) Tax exempt foundations and charitable trusts.

(9) National social security (except health care and facilities programs that are supported from general revenues as opposed to payroll deductions and except work incentive programs).

General oversight responsibilities

2. (a) The various standing committees shall have general oversight responsibilities as provided in paragraph (b) in order to assist the House in—

(1) its analysis, appraisal, and evaluation of—

(A) the application, administration, execution, and effectiveness of Federal laws; and

(B) conditions and circumstances that may indicate the necessity or desirability of enacting new or additional legislation; and

(2) its formulation, consideration, and enactment of changes in Federal laws, and of such additional legislation as may be necessary or appropriate.

(b)(1) In order to determine whether laws and programs addressing subjects within the jurisdiction of a committee are being implemented and carried out in accordance with the intent of Congress and whether they should be continued, curtailed, or eliminated, each standing committee (other than the Committee on Appropriations) shall review and study on a continuing basis—

(A) the application, administration, execution, and effectiveness of laws and programs addressing subjects within its jurisdiction;

(B) the organization and operation of Federal agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within its jurisdiction;

(C) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within its jurisdiction (whether or not a bill or resolution has been introduced with respect thereto); and

(D) future research and forecasting on subjects within its jurisdiction.

(2) Each committee to which subparagraph (1) applies having more than 20 members shall establish an oversight subcommittee, or require its subcommittees to conduct oversight in their respective jurisdictions, to assist in carrying out its responsibilities under this clause. The establishment of an oversight subcommittee does not limit the responsibility of a subcommittee with legislative jurisdiction in carrying out its oversight responsibilities.

(c) Each standing committee shall review and study on a continuing basis the impact or probable impact of tax policies affecting subjects within its jurisdiction as described in clauses 1 and 3.

(d)(1) Not later than February 15 of the first session of a Congress, each standing committee shall, in a meeting that is open to the public and with a quorum present, adopt its oversight plan for that Congress. Such plan shall be submitted simultaneously to the Committee on Government Reform and to the Committee on House Administration. In developing its plan each committee shall, to the maximum extent feasible—

(A) consult with other committees that have jurisdiction over the same or related laws, programs, or agencies within its jurisdiction with the objective of ensuring maximum coordination and cooperation among committees when conducting reviews of such laws, programs, or agencies and include in its plan an explanation of steps that have been or will be taken to ensure such coordination and cooperation;

(B) give priority consideration to including in its plan the review of those laws, programs, or agencies operating under permanent budget authority or permanent statutory authority; and

(C) have a view toward ensuring that all significant laws, programs, or agencies within its jurisdiction are subject to review every 10 years.

(2) Not later than March 31 in the first session of a Congress, after consultation with the Speaker, the Majority Leader, and the Minority Leader, the Committee on Government Reform shall report to the House the oversight plans submitted by committees together with any recommendations that it, or the House leadership group described above, may make to ensure the most effective coordination of oversight plans and otherwise to achieve the objectives of this clause.

(e) The Speaker, with the approval of the House, may appoint special ad hoc oversight committees for the purpose of reviewing specific matters within the jurisdiction of two or more standing committees.

Special oversight functions

3. (a) The Committee on Appropriations shall conduct such studies and examinations of the organization and operation of executive departments and other executive agencies (including an agency the majority of the stock of which is owned by the United States) as it considers necessary to assist it in the determination of matters within its jurisdiction.

(b) The Committee on the Budget shall study on a continuing basis the effect on budget outlays of relevant existing and proposed legislation and report the results of such studies to the House on a recurring basis.

(c) The Committee on Commerce shall review and study on a continuing basis laws, programs, and Government activities relating to nuclear and other energy and nonmilitary nuclear energy research and development including the disposal of nuclear waste.

(d) The Committee on Education and the Workforce shall review, study, and coordinate on a continuing basis laws, programs, and Government activities relating to domestic educational programs and institutions and programs of student assistance within the jurisdiction of other committees.

(e) The Committee on Government Reform shall review and study on a continuing basis the operation of Government activities at all levels with a view to determining their economy and efficiency.

(f) The Committee on International Relations shall review and study on a continuing basis laws, programs, and Government activities relating to customs administration, intelligence activities relating to foreign policy, international financial and monetary organizations, and international fishing agreements.

(g) The Committee on Armed Services shall review and study on a continuing basis laws, programs, and Government activities relating to international arms control and disarmament and the education of military dependents in schools.

(h) The Committee on Resources shall review and study on a continuing basis laws, programs, and Government activities relating to Native Americans.

(i) The Committee on Rules shall review and study on a continuing basis the congressional budget process, and the committee shall report its findings and recommendations to the House from time to time.

(j) The Committee on Science shall review and study on a continuing basis laws, programs, and Government activities relating to nonmilitary research and development.

(k) The Committee on Small Business shall study and investigate on a continuing basis the problems of all types of small business.

Additional functions of committees

4. (a)(1)(A) The Committee on Appropriations shall, within 30 days after the transmittal of the Budget to Congress each year, hold hearings on the Budget as a whole with particular reference to—

(i) the basic recommendations and budgetary policies of the President in the presentation of the Budget; and

(ii) the fiscal, financial, and economic assumptions used as bases in arriving at total estimated expenditures and receipts.

(B) In holding hearings under subdivision (A), the committee shall receive testimony from the Secretary of the Treasury, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and such other persons as the committee may desire.

(C) A hearing under subdivision (A), or any part thereof, shall be held in open session, except when the committee, in open session and with a quorum present, determines by record vote that the testimony to be taken at that hearing on that day may be related to a matter of national security. The committee may by the same procedure close one subsequent day of hearing. A transcript of all such hearings shall be printed and a copy thereof furnished to each Member, Delegate, and the Resident Commissioner.

(D) A hearing under subdivision (A), or any part thereof, may be held before a joint meeting of the committee and the Committee on Appropriations of the Senate in accordance with such procedures as the two committees jointly may determine.

(2) Pursuant to section 401(b)(2) of the Congressional Budget Act of 1974, when a committee reports a bill or joint resolution that provides new entitlement authority as defined in section 3(9) of that Act, and enactment of the bill or joint resolution, as reported, would cause a breach of the committee's pertinent allocation of new budget authority under section 302(a) of that Act, the bill or joint resolution may be referred to the Committee on Appropriations with instructions to report it with recommendations (which may include an amendment limiting the total amount of new entitlement authority provided in the bill or joint resolution). If the Committee on Appropriations fails to report a bill or joint resolution so referred within 15 calendar days (not counting any day on which the House is not in session), the committee automatically shall be discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed on the appropriate calendar.

(3) In addition, the Committee on Appropriations shall study on a continuing basis those provisions of law that (on the first day of the first fiscal year for which the congressional budget process is effective) provide spending authority or permanent budget authority and shall report to the House from time to time its recommendations for terminating or modifying such provisions.

(4) In the manner provided by section 302 of the Congressional Budget Act of 1974, the Committee on Appropriations (after consulting with the Committee on Appropriations of the Senate) shall subdivide any allocations made to it in the joint explanatory statement accompanying the conference report on such concurrent resolution, and promptly report the subdivisions to the House as soon as practicable after a concurrent resolution on the budget for a fiscal year is agreed to.

(b) The Committee on the Budget shall—

(1) review on a continuing basis the conduct by the Congressional Budget Office of its functions and duties;

(2) hold hearings and receive testimony from Members, Senators, Delegates, the

Resident Commissioner, and such appropriate representatives of Federal departments and agencies, the general public, and national organizations as it considers desirable in developing concurrent resolutions on the budget for each fiscal year;

(3) make all reports required of it by the Congressional Budget Act of 1974;

(4) study on a continuing basis those provisions of law that exempt Federal agencies or any of their activities or outlays from inclusion in the Budget of the United States Government, and report to the House from time to time its recommendations for terminating or modifying such provisions;

(5) study on a continuing basis proposals designed to improve and facilitate the congressional budget process, and report to the House from time to time the results of such studies, together with its recommendations; and

(6) request and evaluate continuing studies of tax expenditures, devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and report the results of such studies to the House on a recurring basis.

(c)(1) The Committee on Government Reform shall—

(A) receive and examine reports of the Comptroller General of the United States and submit to the House such recommendations as it considers necessary or desirable in connection with the subject matter of the reports;

(B) evaluate the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(C) study intergovernmental relationships between the United States and the States and municipalities and between the United States and international organizations of which the United States is a member.

(2) In addition to its duties under subparagraph (1), the Committee on Government Reform may at any time conduct investigations of any matter without regard to clause 1, 2, 3, or this clause conferring jurisdiction over the matter to another standing committee. The findings and recommendations of the committee in such an investigation shall be made available to any other standing committee having jurisdiction over the matter involved and shall be included in the report of any such other committee when required by clause 3(c)(4) of rule XIII.

(d)(1) The Committee on House Administration shall—

(A) examine all bills, amendments, and joint resolutions after passage by the House and, in cooperation with the Senate, examine all bills and joint resolutions that have passed both Houses to see that they are correctly enrolled and forthwith present those bills and joint resolutions that originated in the House to the President in person after their signature by the Speaker and the President of the Senate, and report to the House the fact and date of their presentment;

(B) provide policy direction for, and oversight of, the Clerk, Sergeant-at-Arms, Chief Administrative Officer, and Inspector General;

(C) have the function of accepting on behalf of the House a gift, except as otherwise provided by law, if the gift does not involve a duty, burden, or condition, or is not made dependent on some future performance by the House; and

(D) promulgate regulations to carry out subdivision (C).

(2) An employing office of the House may enter into a settlement of a complaint under the Congressional Accountability Act of 1995 that provides for the payment of funds only after receiving the joint approval of the chairman and ranking minority member of the Committee on House Administration concerning the amount of such payment.

(e)(1) Each standing committee shall, in its consideration of all public bills and public joint resolutions within its jurisdiction, ensure that appropriations for continuing programs and activities of the Federal Government and the government of the District of Columbia will be made annually to the maximum extent feasible and consistent with the nature, requirement, and objective of the programs and activities involved. In this subparagraph programs and activities of the Federal Government and the government of the District of Columbia includes programs and activities of any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or of the government of the District of Columbia.

(2) Each standing committee shall review from time to time each continuing program within its jurisdiction for which appropriations are not made annually to ascertain whether the program should be modified to provide for annual appropriations.

Budget Act responsibilities

(f)(1) Each standing committee shall submit to the Committee on the Budget not later than six weeks after the President submits his budget, or at such time as the Committee on the Budget may request—

(A) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year that are within its jurisdiction or functions; and

(B) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction that it intends to be effective during that fiscal year.

(2) The views and estimates submitted by the Committee on Ways and Means under subparagraph (1) shall include a specific recommendation, made after holding public hearings, as to the appropriate level of the public debt that should be set forth in the concurrent resolution on the budget and serve as the basis for an increase or decrease in the statutory limit on such debt under the procedures provided by rule XXIII.

Election and membership of standing committees

5. (a)(1) The standing committees specified in clause 1 shall be elected by the House within seven calendar days after the commencement of each Congress, from nominations submitted by the respective party caucus or conference. A resolution proposing to change the composition of a standing committee shall be privileged if offered by direction of the party caucus or conference concerned.

(2)(A) The Committee on the Budget shall be composed of members as follows:

(i) Members, Delegates, or the Resident Commissioner who are members of other standing committees, including five who are members of the Committee on Appropriations and five who are members of the Committee on Ways and Means;

(ii) one Member from the elected leadership of the majority party; and

(iii) one Member from the elected leadership of the minority party.

(B) Except as permitted by subdivision (C), a member of the Committee on the Budget other than one from the elected leadership of a party may not serve on the committee during more than four Congresses in a period of six successive Congresses (disregarding for this purpose any service for less than a full session in a Congress).

(C) A member of the Committee on the Budget who served as either the chairman or the ranking minority member of the committee in the immediately previous Congress and who did not serve in that respective capacity in an earlier Congress may serve as either the chairman or the ranking minority member of the committee during one additional Congress.

(3)(A) The Committee on Standards of Official Conduct shall be composed of 10 members, five from the majority party and five from the minority party.

(B) Except as permitted by subdivision (C), a member of the Committee on Standards of Official Conduct may not serve on the committee during more than three Congresses in a period of five successive Congresses (disregarding for this purpose any service for less than a full session in a Congress).

(C) A member of the Committee on Standards of Official Conduct may serve on the committee during a fourth Congress in a period of five successive Congresses only as either the chairman or the ranking minority member of the committee.

(4)(A) At the beginning of a Congress, the Speaker or his designee and the Minority Leader or his designee each shall name 10 Members, Delegates, or the Resident Commissioner from his respective party who are not members of the Committee on Standards of Official Conduct to be available to serve on investigative subcommittees of that committee during that Congress. The lists of Members, Delegates, or the Resident Commissioner so named shall be announced to the House.

(B) Whenever the chairman and the ranking minority member of the Committee on Standards of Official Conduct jointly determine that Members, Delegates, or the Resident Commissioner named under subdivision (A) should be assigned to serve on an investigative subcommittee of that committee, each of them shall select an equal number of such Members, Delegates, or Resident Commissioner from his respective party to serve on that subcommittee.

(b)(1) Membership on a standing committee during the course of a Congress shall be contingent on continuing membership in the party caucus or conference that nominated the Member, Delegate, or Resident Commissioner concerned for election to such committee. Should a Member, Delegate, or Resident Commissioner cease to be a member of a particular party caucus or conference, that Member, Delegate, or Resident Commissioner shall automatically cease to be a member of each standing committee to which he was elected on the basis of nomination by that caucus or conference. The chairman of the relevant party caucus or conference shall notify the Speaker whenever a Member, Delegate, or Resident Commissioner ceases to be a member of that caucus or conference. The Speaker shall notify the chairman of each affected committee that the election of such Member, Delegate, or Resident Commissioner to the committee is automatically vacated under this subparagraph.

(2)(A) Except as specified in subdivision (B), a Member, Delegate, or Resident Commissioner may not serve simultaneously as a member of more than two standing committees or more than four subcommittees of the standing committees.

(B)(i) Ex officio service by a chairman or ranking minority member of a committee on each of its subcommittees under a committee rule does not count against the limitation on subcommittee service.

(ii) Service on an investigative subcommittee of the Committee on Standards of Official Conduct under paragraph (a)(4) does not count against the limitation on subcommittee service.

(iii) Any other exception to the limitations in subdivision (A) must be approved by the House on the recommendation of the relevant party caucus or conference.

(C) In this subparagraph the term "subcommittee" includes a panel (other than a special oversight panel of the Committee on Armed Services), task force, special subcommittee, or other subunit of a standing committee that is established for a cumulative period longer than six months in a Congress.

(c)(1) One of the members of each standing committee shall be elected by the House, on the nomination of the majority party caucus or conference, as chairman thereof. In the temporary absence of the chairman, the member next in rank (and so on, as often as the case shall happen) shall act as chairman. Rank shall be determined by the order members are named in resolutions electing them to the committee. In the case of a permanent vacancy in the elected chairmanship of a committee, the House shall elect another chairman.

(2) A member of a standing committee may not serve as chairman of the same standing committee, or of the same subcommittee of a standing committee, during more than three consecutive Congresses (disregarding for this purpose any service for less than a full session in a Congress).

(d)(1) Except as permitted by subparagraph (2), a committee may have not more than five subcommittees.

(2) A committee that maintains a subcommittee on oversight may have not more than six subcommittees. The Committee on Appropriations may have not more than 13 subcommittees. The Committee on Government Reform may have not more than seven subcommittees.

(e) The House shall fill a vacancy on a standing committee by election on the nomination of the respective party caucus or conference.

Expense resolutions

6. (a) Whenever a committee, commission, or other entity (other than the Committee on Appropriations) is granted authorization for the payment of its expenses (including staff salaries) for a Congress, such authorization initially shall be procured by one primary expense resolution reported by the Committee on House Administration. A primary expense resolution may include a reserve fund for unanticipated expenses of committees. An amount from such a reserve fund may be allocated to a committee only by the approval of the Committee on House Administration. A primary expense resolution reported to the House may not be considered in the House unless a printed report thereon was available on the previous calendar day. For the information of the House, such report shall—

(1) state the total amount of the funds to be provided to the committee, commission, or other entity under the primary expense resolution for all anticipated activities and programs of the committee, commission, or other entity; and

(2) to the extent practicable, contain such general statements regarding the estimated foreseeable expenditures for the respective anticipated activities and programs of the committee, commission, or other entity as may be appropriate to provide the House with basic estimates of the expenditures contemplated by the primary expense resolution.

(b) After the date of adoption by the House of a primary expense resolution for a committee, commission, or other entity for a Congress, authorization for the payment of additional expenses (including staff salaries) in that Congress may be procured by one or more supplemental expense resolutions reported by the Committee on House Administration, as necessary. A supplemental expense resolution reported to the House may not be considered in the House unless a printed report thereon was available on the previous calendar day. For the information of the House, such report shall—

(1) state the total amount of additional funds to be provided to the committee, commission, or other entity under the supplemental expense resolution and the purposes for which those additional funds are available; and

(2) state the reasons for the failure to procure the additional funds for the committee, commission, or other entity by means of the primary expense resolution.

(c) The preceding provisions of this clause do not apply to—

(1) a resolution providing for the payment from committee salary and expense accounts of the House of sums necessary to pay compensation for staff services performed for, or to pay other expenses of, a committee, commission, or other entity at any time after the beginning of an odd-numbered year and before the date of adoption by the House of the primary expense resolution described in paragraph (a) for that year; or

(2) a resolution providing each of the standing committees in a Congress additional office equipment, airmail and special-delivery postage stamps, supplies, staff personnel, or any other specific item for the operation of the standing committees, and containing an authorization for the payment from committee salary and expense accounts of the House of the expenses of any of the foregoing items provided by that resolution, subject to and until enactment of the provisions of the resolution as permanent law.

(d) From the funds made available for the appointment of committee staff by a primary or additional expense resolution, the chairman of each committee shall ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the rules of the committee and that the minority party is treated fairly in the appointment of such staff.

(e) Funds authorized for a committee under this clause and clauses 7 and 8 are for expenses incurred in the activities of the committee.

Interim funding

7. (a) For the period beginning at noon on January 3 and ending at midnight on March 31 in each odd-numbered year, such sums as may be necessary shall be paid out of the committee salary and expense accounts of the House for continuance of necessary investigations and studies by—

(1) each standing and select committee established by these rules; and

(2) except as specified in paragraph (b), each select committee established by resolution.

(b) In the case of the first session of a Congress, amounts shall be made available under this paragraph for a select committee established by resolution in the preceding Congress only if—

(1) a resolution proposing to reestablish such select committee is introduced in the present Congress; and

(2) the House has not adopted a resolution of the preceding Congress providing for termination of funding for investigations and studies by such select committee.

(c) Each committee described in paragraph (a) shall be entitled for each month during the period specified in paragraph (a) to 9 percent (or such lesser percentage as may be determined by the Committee on House Administration) of the total annualized amount made available under expense resolutions for such committee in the preceding session of Congress.

(d) Payments under this paragraph shall be made on vouchers authorized by the committee involved, signed by the chairman of the committee, except as provided in paragraph (e), and approved by the Committee on House Administration.

(e) Notwithstanding any provision of law, rule of the House, or other authority, from noon on January 3 of the first session of a Congress until the election by the House of the committee concerned in that Congress, payments under this paragraph shall be made on vouchers signed by—

(1) the member of the committee who served as chairman of the committee at the expiration of the preceding Congress; or

(2) if the chairman is not a Member, Delegate, or Resident Commissioner in the present Congress, then the ranking member of the committee as it was constituted at the expiration of the preceding Congress who is a member of the majority party in the present Congress.

(f)(1) The authority of a committee to incur expenses under this paragraph shall expire upon adoption by the House of a primary expense resolution for the committee.

(2) Amounts made available under this paragraph shall be expended in accordance with regulations prescribed by the Committee on House Administration.

(3) This clause shall be effective only insofar as it is not inconsistent with a resolution reported by the Committee on House Administration and adopted by the House after the adoption of these rules.

Travel

8. (a) Local currencies owned by the United States shall be made available to the committee and its employees engaged in carrying out their official duties outside the United States or its territories or possessions. Appropriated funds, including those authorized under this clause and clauses 6 and 8, may not be expended for the purpose of defraying expenses of members of a committee or its employees in a country where local currencies are available for this purpose.

(b) The following conditions shall apply with respect to travel outside the United States or its territories or possessions:

(1) A member or employee of a committee may not receive or expend local currencies for subsistence in a country for a day at a rate in excess of the maximum per diem set forth in applicable Federal law.

(2) A member or employee shall be reimbursed for his expenses for a day at the lesser of—

(A) the per diem set forth in applicable Federal law; or

(B) the actual, unreimbursed expenses (other than for transportation) he incurred during that day.

(3) Each member or employee of a committee shall make to the chairman of the

committee an itemized report showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, and funds expended for any other official purpose and shall summarize in these categories the total foreign currencies or appropriated funds expended. Each report shall be filed with the chairman of the committee not later than 60 days following the completion of travel for use in complying with reporting requirements in applicable Federal law and shall be open for public inspection.

(c)(1) In carrying out the activities of a committee outside the United States in a country where local currencies are unavailable, a member or employee of a committee may not receive reimbursement for expenses (other than for transportation) in excess of the maximum per diem set forth in applicable Federal law.

(2) A member or employee shall be reimbursed for his expenses for a day, at the lesser of—

(A) the per diem set forth in applicable Federal law; or

(B) the actual unreimbursed expenses (other than for transportation) he incurred during that day.

(3) A member or employee of a committee may not receive reimbursement for the cost of any transportation in connection with travel outside the United States unless the member or employee actually paid for the transportation.

(d) The restrictions respecting travel outside the United States set forth in paragraph (c) also shall apply to travel outside the United States by a Member, Delegate, Resident Commissioner, officer, or employee of the House authorized under any standing rule.

Committee staffs

9. (a)(1) Subject to subparagraph (2) and paragraph (f), each standing committee may appoint, by majority vote, not more than 30 professional staff members to be compensated from the funds provided for the appointment of committee staff by primary and additional expense resolutions. Each professional staff member appointed under this subparagraph shall be assigned to the chairman and the ranking minority member of the committee, as the committee considers advisable.

(2) Subject to paragraph (f) whenever a majority of the minority party members of a standing committee (other than the Committee on Standards of Official Conduct or the Permanent Select Committee on Intelligence) so request, not more than 10 persons (or one-third of the total professional committee staff appointed under this clause, whichever is fewer) may be selected, by majority vote of the minority party members, for appointment by the committee as professional staff members under subparagraph (1). The committee shall appoint persons so selected whose character and qualifications are acceptable to a majority of the committee. If the committee determines that the character and qualifications of a person so selected are unacceptable, a majority of the minority party members may select another person for appointment by the committee to the professional staff until such appointment is made. Each professional staff member appointed under this subparagraph shall be assigned to such committee business as the minority party members of the committee consider advisable.

(b)(1) The professional staff members of each standing committee—

(A) may not engage in any work other than committee business during congressional working hours; and

(B) may not be assigned a duty other than one pertaining to committee business.

(2) Subparagraph (1) does not apply to staff designated by a committee as "associate" or "shared" staff who are not paid exclusively by the committee, provided that the chairman certifies that the compensation paid by the committee for any such staff is commensurate with the work performed for the committee in accordance with clause 8 of rule XXIV.

(3) The use of any "associate" or "shared" staff by a committee shall be subject to the review of, and to any terms, conditions, or limitations established by, the Committee on House Administration in connection with the reporting of any primary or additional expense resolution.

(4) This paragraph does not apply to the Committee on Appropriations.

(c) Each employee on the professional or investigative staff of a standing committee shall be entitled to pay at a single gross per annum rate, to be fixed by the chairman and that does not exceed the maximum rate of pay as in effect from time to time under applicable provisions of law.

(d) Subject to appropriations hereby authorized, the Committee on Appropriations may appoint by majority vote such staff as it determines to be necessary (in addition to the clerk of the committee and assistants for the minority). The staff appointed under this paragraph, other than minority assistants, shall possess such qualifications as the committee may prescribe.

(e) A committee may not appoint to its staff an expert or other personnel detailed or assigned from a department or agency of the Government except with the written permission of the Committee on House Administration.

(f) If a request for the appointment of a minority professional staff member under paragraph (a) is made when no vacancy exists for such an appointment, the committee nevertheless may appoint under paragraph (a) a person selected by the minority and acceptable to the committee. A person so appointed shall serve as an additional member of the professional staff of the committee until such a vacancy occurs (other than a vacancy in the position of head of the professional staff, by whatever title designated), at which time that person is considered as appointed to that vacancy. Such a person shall be paid from the applicable accounts of the House described in clause 1(i)(1) of rule X. If such a vacancy occurs on the professional staff when seven or more persons have been so appointed who are eligible to fill that vacancy, a majority of the minority party members shall designate which of those persons shall fill the vacancy.

(g) Each staff member appointed pursuant to a request by minority party members under paragraph (a), and each staff member appointed to assist minority members of a committee pursuant to an expense resolution described in paragraph (a) of clause 6, shall be accorded equitable treatment with respect to the fixing of the rate of pay, the assignment of work facilities, and the accessibility of committee records.

(h) Paragraph (a) may not be construed to authorize the appointment of additional professional staff members of a committee pursuant to a request under paragraph (a) by the minority party members of that committee if 10 or more professional staff members provided for in paragraph (a)(1) who are satisfactory to a majority of the minority party members are otherwise assigned to assist the minority party members.

(i) Notwithstanding paragraph (a)(2), a committee may employ nonpartisan staff, in lieu of or in addition to committee staff designated exclusively for the majority or minority party, by an affirmative vote of a majority of the members of the majority party and of a majority of the members of the minority party.

Select and joint committees

10. (a) Membership on a select or joint committee appointed by the Speaker under clause 11 of rule I during the course of a Congress shall be contingent on continuing membership in the party caucus or conference of which the Member, Delegate, or Resident Commissioner concerned was a member at the time of appointment. Should a Member, Delegate, or Resident Commissioner cease to be a member of that caucus or conference, that Member, Delegate, or Resident Commissioner shall automatically cease to be a member of any select or joint committee to which he is assigned. The chairman of the relevant party caucus or conference shall notify the Speaker whenever a Member, Delegate, or Resident Commissioner ceases to be a member of a party caucus or conference. The Speaker shall notify the chairman of each affected select or joint committee that the appointment of such Member, Delegate, or Resident Commissioner to the select or joint committee is automatically vacated under this paragraph.

(b) Each select or joint committee, other than a conference committee, shall comply with clause 2(a) of rule XI unless specifically exempted by law.

Permanent Select Committee on Intelligence

11. (a)(1) There is established a Permanent Select Committee on Intelligence (hereafter in this clause referred to as the "select committee"). The select committee shall be composed of not more than 16 Members, Delegates, or the Resident Commissioner, of whom not more than nine may be from the same party. The select committee shall include at least one Member, Delegate, or the Resident Commissioner from each of the following committees:

(A) the Committee on Appropriations;

(B) the Committee on Armed Services;

(C) the Committee on International Relations; and

(D) the Committee on the Judiciary.

(2) The Speaker and the Minority Leader shall be ex officio members of the select committee but shall have no vote in the select committee and may not be counted for purposes of determining a quorum thereof.

(3) The Speaker and Minority Leader each may designate a member of his leadership staff to assist him in his capacity as ex officio member, with the same access to committee meetings, hearings, briefings, and materials as employees of the select committee and subject to the same security clearance and confidentiality requirements as employees of the select committee under this clause.

(4)(A) Except as permitted by subdivision (B), a Member, Delegate, or Resident Commissioner, other than the Speaker or the Minority Leader, may not serve as a member of the select committee during more than four Congresses in a period of six successive Congresses (disregarding for this purpose any service for less than a full session in a Congress).

(B) A member of the select committee who served as either the chairman or the ranking minority member of the select committee in the immediately previous Congress and who did not serve in that respective capacity in an earlier Congress may serve as either the chairman or the ranking minority member of the select committee during one additional Congress.

(b)(1) There shall be referred to the select committee proposed legislation, messages, petitions, memorials, and other matters relating to the following:

(A) The Central Intelligence Agency, the Director of Central Intelligence, and the National Foreign Intelligence Program as defined in section 3(6) of the National Security Act of 1947.

(B) Intelligence and intelligence-related activities of all other departments and agencies of the Government, including the tactical intelligence and intelligence-related activities of the Department of Defense.

(C) The organization or reorganization of a department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence or intelligence-related activities.

(D) Authorizations for appropriations, both direct and indirect, for the following:

(i) The Central Intelligence Agency, the Director of Central Intelligence, and the National Foreign Intelligence Program as defined in section 3(6) of the National Security Act of 1947.

(ii) Intelligence and intelligence-related activities of all other departments and agencies of the Government, including the tactical intelligence and intelligence-related activities of the Department of Defense.

(iii) A department, agency, subdivision, or program that is a successor to an agency or program named or referred to in (i) or (ii).

(2) Proposed legislation initially reported by the select committee (other than provisions solely involving matters specified in subparagraph (1)(A) or subparagraph (1)(D)(i)) containing any matter otherwise within the jurisdiction of a standing committee shall be referred by the Speaker to that standing committee. Proposed legislation initially reported by another committee that contains matter within the jurisdiction of the select committee shall be referred by the Speaker to the select committee if requested by the chairman of the select committee.

(3) Nothing in this clause shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review an intelligence or intelligence-related activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of that committee.

(4) Nothing in this clause shall be construed as amending, limiting, or otherwise changing the authority of a standing committee to obtain full and prompt access to the product of the intelligence and intelligence-related activities of a department or agency of the Government relevant to a matter otherwise within the jurisdiction of that committee.

(c)(1) For purposes of accountability to the House, the select committee shall make regular and periodic reports to the House on the nature and extent of the intelligence and intelligence-related activities of the various departments and agencies of the United States. The select committee shall promptly call to the attention of the House, or to any other appropriate committee, a matter requiring the attention of the House or another committee. In making such report, the select committee shall proceed in a manner consistent with paragraph (g) to protect national security.

(2) The select committee shall obtain annual reports from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such reports shall review the intelligence and intelligence-related activities of the agency or department concerned and the intelligence and intelligence-related activities of foreign countries directed at the United States or its interests. An unclassified version of each report may be made available to the public at the discretion of the select committee. Nothing herein shall be construed as requiring the public disclosure in such reports of the names of persons engaged in intelligence or intelligence-related activities for the United States or the divulging of intelligence methods employed or the sources of information on which the reports are based or the amount of funds authorized to be appropriated for intelligence and intelligence-related activities.

(3) Within six weeks after the President submits a budget under section 1105(a) of title 31, United States Code, or at such time as the Committee on the Budget may request, the select committee shall submit to the Committee on the Budget the views and estimates described in section 301(d) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

(d)(1) Except as specified in subparagraph (2), clauses 6(a), (b), and (c) and 8(a), (b), and (c) of this rule, and clauses 1, 2, and 4 of rule XI shall apply to the select committee to the extent not inconsistent with this clause.

(2) Notwithstanding the requirements of the first sentence of clause 2(g)(2) of rule XI, in the presence of the number of members required under the rules of the select committee for the purpose of taking testimony or receiving evidence, the select committee may vote to close a hearing whenever a majority of those present determines that the testimony or evidence would endanger the national security.

(e) An employee of the select committee, or a person engaged by contract or otherwise to perform services for or at the request of the select committee, may not be given access to any classified information by the select committee unless such employee or person has—

(1) agreed in writing and under oath to be bound by the Rules of the House, including the jurisdiction of the Committee on Standards of Official Conduct and of the select committee concerning the security of classified information during and after the period of his employment or contractual agreement with the select committee; and

(2) received an appropriate security clearance, as determined by the select committee in consultation with the Director of Central Intelligence, that is commensurate with the sensitivity of the classified information to which such employee or person will be given access by the select committee.

(f) The select committee shall formulate and carry out such rules and procedures as it considers necessary to prevent the disclosure, without the consent of each person concerned, of information in the possession of the select committee that unduly infringes on the privacy or that violates the constitutional rights of such person. Nothing herein shall be construed to prevent the select committee from publicly disclosing classified information in a case in which it determines that national interest in the disclosure of classified information clearly outweighs any infringement on the privacy of a person.

(g)(1) The select committee may disclose publicly any information in its possession after a determination by the select committee that the public interest would be served by such disclosure. With respect to the disclosure of information for which this paragraph requires action by the select committee—

(A) the select committee shall meet to vote on the matter within five days after a member of the select committee requests a vote; and

(B) a member of the select committee may not make such a disclosure before a vote by the select committee on the matter, or after a vote by the select committee on the matter except in accordance with this paragraph.

(2)(A) In a case in which the select committee votes to disclose publicly any information that has been classified under established security procedures, that has been submitted to it by the executive branch, and that the executive branch requests be kept secret, the select committee shall notify the President of such vote.

(B) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of the vote to disclose is transmitted to the President unless, before the expiration of the five-day period, the President, personally in writing, notifies the select committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by the disclosure is of such gravity that it outweighs any public interest in the disclosure.

(C) If the President, personally in writing, notifies the select committee of his objections to the disclosure of information as provided in subdivision (B), the select committee may, by majority vote, refer the question of the disclosure of such information, with a recommendation thereon, to the House. The select committee may not publicly disclose such information without leave of the House.

(D) Whenever the select committee votes to refer the question of disclosure of any information to the House under subdivision (C), the chairman shall, not later than the first day on which the House is in session following the day on which the vote occurs, report the matter to the House for its consideration.

(E) If the chairman of the select committee does not offer in the House a motion to consider in closed session a matter reported under subdivision (D) within four calendar days on which the House is in session after the recommendation described in subdivision (C) is reported, then such a motion shall be privileged when offered by a Member, Delegate, or Resident Commissioner. In either case such a motion shall be decided without debate or intervening motion except one that the House adjourn.

(F) Upon adoption by the House of a motion to resolve into closed session as described in subdivision (E), the Speaker may declare a recess subject to the call of the Chair. At the expiration of the recess, the pending question, in closed session, shall be, "Shall the House approve the recommendation of the select committee?".

(G) Debate on the question described in subdivision (F) shall be limited to two hours equally divided and controlled by the chairman and ranking minority member of the select committee. After such debate the previous question shall be considered as ordered on the question of approving the recommendation without intervening motion except one motion that the House adjourn. The House shall vote on the question in open session but without divulging the information with respect to which the vote is taken. If the recommendation of the select committee is not approved, then the question is considered as recommitted to the select committee for further recommendation.

(3)(A) Information in the possession of the select committee relating to the lawful intelligence or intelligence-related activities of a department or agency of the United States that has been classified under established security procedures, and that the select committee has determined should not be disclosed under subparagraph (1) or (2), may not be made available to any person by a Member, Delegate, Resident Commissioner, officer, or employee of the House except as provided in subdivision (B).

(B) The select committee shall, under such regulations as it may prescribe, make information described in subdivision (A) available to a committee or a Member, Delegate, or Resident Commissioner, and permit a Member, Delegate, or Resident Commissioner to attend a hearing of the select committee that is closed to the public. Whenever the select committee makes such information available, it shall keep a written record showing, in the case of particular information, which committee or which Member, Delegate, or Resident Commissioner received the information. A Member, Delegate, or Resident Commissioner who, and a committee that, receives information under this subdivision may not disclose the information except in a closed session of the House.

(4) The Committee on Standards of Official Conduct shall investigate any unauthorized disclosure of intelligence or intelligence-related information by a Member, Delegate, Resident Commissioner, officer, or employee of the House in violation of subparagraph (3) and report to the House concerning any allegation that it finds to be substantiated.

(5) Upon the request of a person who is subject to an investigation described in subparagraph (4), the Committee on Standards of Official Conduct shall release to such person at the conclusion of its investigation a summary of its investigation, together with its findings. If, at the conclusion of its investigation, the Committee on Standards of Official Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, Delegate, Resident Commissioner, officer, or employee of the House, it shall report its findings to the House and recommend appropriate action. Recommendations may include censure, removal from committee membership, or expulsion from the House, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

(h) The select committee may permit a personal representative of the President, designated by the President to serve as a liaison to the select committee, to attend any closed meeting of the select committee.

(i) Subject to the Rules of the House, funds may not be appropriated for a fiscal year, with the exception of a bill or joint resolution continuing appropriations, or an amendment thereto, or a conference report thereon, to, or for use of, a department or agency of the United States to carry out any of the following activities, unless the funds shall previously have been authorized by a bill or joint resolution passed by the House during the same or preceding fiscal year to carry out such activity for such fiscal year:

(1) The activities of the Central Intelligence Agency and the Director of Central Intelligence.

(2) The activities of the Defense Intelligence Agency.

(3) The activities of the National Security Agency.

(4) The intelligence and intelligence-related activities of other agencies and subdivisions of the Department of Defense.

(5) The intelligence and intelligence-related activities of the Department of State.

(6) The intelligence and intelligence-related activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

(j)(1) In this clause the term "intelligence and intelligence-related activities" includes—

(A) the collection, analysis, production, dissemination, or use of information that relates to a foreign country, or a government, political group, party, military force, movement, or other association in a foreign country, and that relates to the defense, foreign policy, national security, or related policies of the United States and other activity in support of the collection, analysis, production, dissemination, or use of such information;

(B) activities taken to counter similar activities directed against the United States;

(C) covert or clandestine activities affecting the relations of the United States with a foreign government, political group, party, military force, movement, or other association;

(D) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by a department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States; and

(E) covert or clandestine activities directed against persons described in subdivision (D).

(2) In this clause the term "department or agency" includes any organization, committee, council, establishment, or office within the Federal Government.

(3) For purposes of this clause, reference to a department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that a successor engages in intelligence or intelligence-related activities now conducted by the department, agency, bureau, or subdivision referred to in this clause.

(k) Clause 12(a) of rule XXII does not apply to meetings of a conference committee respecting legislation (or any part thereof) reported by the Permanent Select Committee on Intelligence.

RULE XI

PROCEDURES OF COMMITTEES AND UNFINISHED BUSINESS

In general

1. (a)(1)(A) Except as provided in subdivision (B), the Rules of the House are the rules of its committees and subcommittees so far as applicable.

(B) A motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, each shall be privileged in committees and subcommittees and shall be decided without debate.

(2) Each subcommittee is a part of its committee and is subject to the authority and direction of that committee and to its rules, so far as applicable.

(b)(1) Each committee may conduct at any time such investigations and studies as it considers necessary or appropriate in the exercise of its responsibilities under rule X. Subject to the adoption of expense resolutions as required by clause 6 of rule X, each committee may incur expenses, including travel expenses, in connection with such investigations and studies.

(2) A proposed investigative or oversight report shall be considered as read in committee if it has been available to the members for at least 24 hours (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day).

(3) A report of an investigation or study conducted jointly by more than one committee may be filed jointly, provided that each of the committees complies independently with all requirements for approval and filing of the report.

(4) After an adjournment sine die of the last regular session of a Congress, an investigative or oversight report may be filed with the Clerk at any time, provided that a member who gives timely notice of intention to file supplemental, minority, or additional views shall be entitled to not less than seven calendar days in which to submit such views for inclusion in the report.

(c) Each committee may have printed and bound such testimony and other data as may be presented at hearings held by the committee or its subcommittees. All costs of stenographic services and transcripts in connection with a meeting or hearing of a committee shall be paid from the applicable accounts of the House described in clause 1(i)(1) of rule X.

(d)(1) Each committee shall submit to the House not later than January 2 of each odd-numbered year a report on the activities of that committee under this rule and rule X during the Congress ending at noon on January 3 of such year.

(2) Such report shall include separate sections summarizing the legislative and oversight activities of that committee during that Congress.

(3) The oversight section of such report shall include a summary of the oversight plans submitted by the committee under clause 2(d) of rule X, a summary of the actions taken and recommendations made with respect to each such plan, a summary of any additional oversight activities undertaken by that committee, and any recommendations made or actions taken thereon.

(4) After an adjournment sine die of the last regular session of a Congress, the chairman of a committee may file an activities report under subparagraph (1) with the Clerk at any time and without approval of the committee, provided that—

(A) a copy of the report has been available to each member of the committee for at least seven calendar days; and

(B) the report includes any supplemental, minority, or additional views submitted by a member of the committee.

Adoption of written rules

2. (a)(1) Each standing committee shall adopt written rules governing its procedure. Such rules—

(A) shall be adopted in a meeting that is open to the public unless the committee, in open session and with a quorum present, determines by record vote that all or part of the meeting on that day shall be closed to the public;

(B) may not be inconsistent with the Rules of the House or with those provisions of law having the force and effect of Rules of the House; and

(C) shall in any event incorporate all of the succeeding provisions of this clause to the extent applicable.

(2) Each committee shall submit its rules for publication in the Congressional Record not later than 30 days after the committee is elected in each odd-numbered year.

Regular meeting days

(b) Each standing committee shall establish regular meeting days for the conduct of its business, which shall be not less frequent than monthly. Each such committee shall meet for the consideration of a bill or resolution pending before the committee or the transaction of other committee business on all regular meeting days fixed by the committee unless otherwise provided by written rule adopted by the committee.

Additional and special meetings

(c)(1) The chairman of each standing committee may call and convene, as he considers necessary, additional and special meetings of the committee for the consideration of a bill or resolution pending before the committee or for the conduct of other committee business, subject to such rules as the committee may adopt. The committee shall meet for such purpose under that call of the chairman.

(2) Three or more members of a standing committee may file in the offices of the committee a written request that the chairman call a special meeting of the committee. Such request shall specify the measure or matter to be considered. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If the chairman does not call the requested special meeting within three calendar days after the filing of the request (to be held within seven calendar days after the filing of the request) a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held. The written notice shall specify the date and hour of the special meeting and the measure or matter to be considered. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour and the measure or matter to be considered. Only the measure or matter specified in that notice may be considered at that special meeting.

Temporary absence of chairman

(d) A member of the majority party on each standing committee or subcommittee thereof shall be designated by the chairman of the full committee as the vice chairman of the committee or subcommittee, as the case may be, and shall preside during the absence of the chairman from any meeting. If the chairman and vice chairman of a committee or subcommittee are not present at any meeting of the committee or subcommittee, the ranking majority member who is present shall preside at that meeting.

Committee records

(e)(1)(A) Each committee shall keep a complete record of all committee action which shall include—

(i) in the case of a meeting or hearing transcript, a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved; and

(ii) a record of the votes on any question on which a record vote is demanded.

(B)(i) Except as provided in subdivision (B)(ii) and subject to paragraph (k)(7), the result of each such record vote shall be made available by the committee for inspection by the public at reasonable times in its offices. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition, the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and the names of those members of the committee present but not voting.

(ii) The result of any record vote taken in executive session in the Committee on Standards of Official Conduct may not be made available for inspection by the public without an affirmative vote of a majority of the members of the committee.

(2)(A) Except as provided in subdivision (B), all committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the member serving as its chairman. Such records shall be the property of the House, and each Member, Delegate, and the Resident Commissioner shall have access thereto.

(B) A Member, Delegate, or Resident Commissioner, other than members of the Committee on Standards of Official Conduct, may not have access to the records of that committee respecting the conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House without the specific prior permission of that committee.

(3) Each committee shall include in its rules standards for availability of records of the committee delivered to the Archivist of the United States under rule VII. Such standards shall specify procedures for orders of the committee under clause 3(b)(3) and clause 4(b) of rule VII, including a requirement that nonavailability of a record for a period longer than the period otherwise applicable under that rule shall be approved by vote of the committee.

(4) Each committee shall make its publications available in electronic form to the maximum extent feasible.

Prohibition against proxy voting

(f) A vote by a member of a committee or subcommittee with respect to any measure or matter may not be cast by proxy.

Open meetings and hearings

(g)(1) Each meeting for the transaction of business, including the markup of legislation, by a standing committee or subcommittee thereof (other than the Committee on Standards of Official Conduct or its subcommittee) shall be open to the public, including to radio, television, and still photography coverage, except when the committee or subcommittee, in open session and with a majority present, determines by record vote that all or part of the remainder of the meeting on that day shall be in executive session because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, would tend to defame, degrade, or incriminate any person, or otherwise would violate a law or rule of the House. Persons, other than members of the committee and such noncommittee Members, Delegates, Resident Commissioner, congressional staff, or departmental representatives as the committee may authorize, may not be present at a business or markup session that is held in executive session. This subparagraph does not apply to open committee hearings, which are governed by clause 4(a)(1) of rule X or by subparagraph (2).

(2)(A) Each hearing conducted by a committee or subcommittee (other than the Committee on Standards of Official Conduct or its subcommittees) shall be open to the public, including to radio, television, and still photography coverage, except when the committee or subcommittee, in open session and with a majority present, determines by record vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would violate a law or rule of the House.

(B) Notwithstanding the requirements of subdivision (A), in the presence of the number of members required under the rules of the committee for the purpose of taking testimony, a majority of those present may—

(i) agree to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger national security, would compromise sensitive law enforcement information, or would violate clause 2(k)(5); or

(ii) agree to close the hearing as provided in clause 2(k)(5).

(C) A Member, Delegate, or Resident Commissioner may not be excluded from nonparticipatory attendance at a hearing of a committee or subcommittee (other than the Committee on Standards of Official Conduct or its subcommittees) unless the House by majority vote authorizes a particular committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members, Delegates, and the Resident Commissioner by the same procedures specified in this subparagraph for closing hearings to the public.

(D) The committee or subcommittee may vote by the same procedure described in this subparagraph to close one subsequent day of hearing, except that the Committee on Appropriations, the Committee on Armed Services, and the Permanent Select Committee on Intelligence, and the subcommittees thereof, may vote by the same procedure to close up to five additional, consecutive days of hearings.

(3) The chairman of each committee (other than the Committee on Rules) shall make public announcement of the date, place, and subject matter of a committee hearing at least one week before the commencement of the hearing. If the chairman of the committee, with the concurrence of the ranking minority member, determines that there is good cause to begin a hearing sooner, or if the committee so determines by majority vote in the presence of the number of members required under the rules of the committee for the transaction of business, the chairman shall make the announcement at the earliest possible date. An announcement made under this subparagraph shall be published promptly in the Daily Digest and made available in electronic form.

(4) Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written

statements of proposed testimony and to limit their initial presentations to the committee to brief summaries thereof. In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness.

(5)(A) Except as provided in subdivision (B), a point of order does not lie with respect to a measure reported by a committee on the ground that hearings on such measure were not conducted in accordance with this clause.

(B) A point of order on the ground described in subdivision (A) may be made by a member of the committee that reported the measure if such point of order was timely made and improperly disposed of in the committee.

(6) This paragraph does not apply to hearings of the Committee on Appropriations under clause 4(a)(1) of rule X.

Quorum requirements

(h)(1) A measure or recommendation may not be reported by a committee unless a majority of the committee is actually present.

(2) Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence, which may not be less than two.

(3) Each committee (other than the Committee on Appropriations, the Committee on the Budget, and the Committee on Ways and Means) may fix the number of its members to constitute a quorum for taking any action other than the reporting of a measure or recommendation, which may not be less than one-third of the members.

Limitation on committee sittings

(i) A committee may not sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress.

Calling and questioning of witnesses

(j)(1) Whenever a hearing is conducted by a committee on a measure or matter, the minority members of the committee shall be entitled, upon request to the chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.

(2)(A) Subject to subdivisions (B) and (C), each committee shall apply the five-minute rule during the questioning of witnesses in a hearing until such time as each member of the committee who so desires has had an opportunity to question each witness.

(B) A committee may adopt a rule or motion permitting a specified number of its members to question a witness for longer than five minutes. The time for extended questioning of a witness under this subdivision shall be equal for the majority party and the minority party and may not exceed one hour in the aggregate.

(C) A committee may adopt a rule or motion permitting committee staff for its majority and minority party members to question a witness for equal specified periods. The time for extended questioning of a witness under this subdivision shall be equal for the majority party and the minority party and may not exceed one hour in the aggregate.

Investigative hearing procedures

(k)(1) The chairman at an investigative hearing shall announce in an opening statement the subject of the investigation.

(2) A copy of the committee rules and of this clause shall be made available to each witness.

(3) Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.

(5) Whenever it is asserted that the evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person—

(A) notwithstanding paragraph (g)(2), such testimony or evidence shall be presented in executive session if, in the presence of the number of members required under the rules of the committee for the purpose of taking testimony, the committee determines by vote of a majority of those present that such evidence or testimony may tend to defame, degrade, or incriminate any person; and

(B) the committee shall proceed to receive such testimony in open session only if the committee, a majority being present, determines that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

In either case the committee shall afford such person an opportunity voluntarily to appear as a witness, and receive and dispose of requests from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (5), the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.

(7) Evidence or testimony taken in executive session, and proceedings conducted in executive session, may be released or used in public sessions only when authorized by the committee, a majority being present.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinence of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

Supplemental, minority, or additional views

(l) If at the time of approval of a measure or matter by a committee (other than the Committee on Rules) a member of the committee gives notice of intention to file supplemental, minority, or additional views for inclusion in the report to the House thereon, that member shall be entitled to not less than two additional calendar days after the day of such notice (excluding Saturdays, Sundays, and legal holidays except when the House is in session on such a day) to file such views, in writing and signed by that member, with the clerk of the committee.

Power to sit and act; subpoena power

(m)(1) For the purpose of carrying out any of its functions and duties under this rule and rule X (including any matters referred to it under clause 2 of rule XII), a committee or subcommittee is authorized (subject to subparagraph (2)(A))—

(A) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings as it considers necessary; and

(B) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it considers necessary.

(2) The chairman of the committee, or a member designated by the chairman, may administer oaths to witnesses.

(3)(A)(i) Except as provided in subdivision (A)(ii), a subpoena may be authorized and issued by a committee or subcommittee under subparagraph (1)(B) in the conduct of an investigation or series of investigations or activities only when authorized by the committee or subcommittee, a majority being present. The power to authorize and issue subpoenas under subparagraph (1)(B) may be delegated to the chairman of the committee under such rules and under such limitations as the committee may prescribe. Authorized subpoenas shall be signed by the chairman of the committee or by a member designated by the committee.

(ii) In the case of a subcommittee of the Committee on Standards of Official Conduct, a subpoena may be authorized and issued only by an affirmative vote of a majority of its members.

(B) A subpoena duces tecum may specify terms of return other than at a meeting or hearing of the committee or subcommittee authorizing the subpoena.

(C) Compliance with a subpoena issued by a committee or subcommittee under subparagraph (1)(B) may be enforced only as authorized or directed by the House.

Committee on Standards of Official Conduct

3. (a) The Committee on Standards of Official Conduct has the following functions:

(1) The committee may recommend to the House from time to time such administrative actions as it may consider appropriate to establish or enforce standards of official conduct for Members, Delegates, the Resident Commissioner, officers, and employees of the House. A letter of reproval or other administrative action of the committee pursuant to an investigation under subparagraph (2) shall only be issued or implemented as a part of a report required by such subparagraph.

(2) The committee may investigate, subject to paragraph (b), an alleged violation by a Member, Delegate, Resident Commissioner, officer, or employee of the House of the Code of Official Conduct or of a law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, Delegate, Resident Commissioner, officer, or employee in the performance of his duties or the discharge of his responsibilities. After notice and hearing (unless the right to a hearing is waived by the Member, Delegate, Resident Commissioner, officer or employee), the committee shall report to the House its findings of fact and recommendations, if any, for the final disposition of any such investigation and such action as the committee may consider appropriate in the circumstances.

(3) The committee may report to the appropriate Federal or State authorities, either with the approval of the House or by an affirmative vote of two-thirds of the members of the committee, any substantial evidence of a violation by a Member, Delegate, Resident Commissioner, officer, or employee of the House, of a law applicable to the performance of his duties or the discharge of his responsibilities that may have been disclosed in a committee investigation.

(4) The committee may consider the request of a Member, Delegate, Resident Commissioner, officer, or employee of the House

for an advisory opinion with respect to the general propriety of any current or proposed conduct of such Member, Delegate, Resident Commissioner, officer, or employee. With appropriate deletions to ensure the privacy of the person concerned, the committee may publish such opinion for the guidance of other Members, Delegates, the Resident Commissioner, officers, and employees of the House.

(5) The committee may consider the request of a Member, Delegate, Resident Commissioner, officer, or employee of the House for a written waiver in exceptional circumstances with respect to clause 4 of rule XXIV.

(b)(1)(A) Unless approved by an affirmative vote of a majority of its members, the Committee on Standards of Official Conduct may not report a resolution, report, recommendation, or advisory opinion relating to the official conduct of a Member, Delegate, Resident Commissioner, officer or employee of the House, or, except as provided in subparagraph (2), undertake an investigation of such conduct.

(B)(i) Upon the receipt of information offered as a complaint that is in compliance with this rule and the rules of the committee, the chairman and ranking minority member jointly may appoint members to serve as an investigative subcommittee.

(ii) The chairman and ranking minority member of the committee jointly may gather additional information concerning alleged conduct that is the basis of a complaint or of information offered as a complaint until they have established an investigative subcommittee or either of them has placed on the agenda of the committee the issue of whether to establish an investigative subcommittee.

(2) Except in the case of an investigation undertaken by the committee on its own initiative, the committee may undertake an investigation relating to the official conduct of an individual Member, Delegate, Resident Commissioner, officer, or employee of the House only—

(A) upon receipt of information offered as a complaint, in writing and under oath, from a Member, Delegate, or Resident Commissioner and transmitted to the committee by such Member, Delegate, or Resident Commissioner; or

(B) upon receipt of information offered as a complaint, in writing and under oath, from a person not a Member, Delegate, or Resident Commissioner provided that a Member, Delegate, or Resident Commissioner certifies in writing to the committee that he believes the information is submitted in good faith and warrants the review and consideration of the committee.

If a complaint is not disposed of within the applicable periods set forth in the rules of the Committee on Standards of Official Conduct, the chairman and ranking minority member shall establish jointly an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. However, if at any time during those periods either the chairman or ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee.

(3) The committee may not undertake an investigation of an alleged violation of a law, rule, regulation, or standard of conduct that was not in effect at the time of the alleged violation. The committee may not undertake an investigation of such an alleged violation that occurred before the third previous Congress unless the committee determines that the alleged violation is directly related to an alleged violation that occurred in a more recent Congress.

(4) A member of the committee shall be ineligible to participate as a member of the committee in a committee proceeding relating to the member's official conduct. Whenever a member of the committee is ineligible to act as a member of the committee under the preceding sentence, the Speaker shall designate a Member, Delegate, or Resident Commissioner from the same political party as the ineligible member to act in any proceeding of the committee relating to that conduct.

(5) A member of the committee may disqualify himself from participating in an investigation of the conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House upon the submission in writing and under oath of an affidavit of disqualification stating that the member cannot render an impartial and unbiased decision in the case in which the member seeks to be disqualified. If the committee approves and accepts such affidavit of disqualification, the chairman shall so notify the Speaker and request the Speaker to designate a Member, Delegate, or Resident Commissioner from the same political party as the disqualifying member to act in any proceeding of the committee relating to that case.

(6) Information or testimony received, or the contents of a complaint or the fact of its filing, may not be publicly disclosed by any committee or staff member unless specifically authorized in each instance by a vote of the full committee.

(7) The committee shall have the functions designated in titles I and V of the Ethics in Government Act of 1978, in sections 7342, 7351, and 7353 of title 5, United States Code, and in clause 11(g)(4) of rule X.

(c)(1) Notwithstanding clause 2(g)(1) of rule XI, each meeting of the Committee on Standards of Official Conduct or a subcommittee thereof shall occur in executive session unless the committee or subcommittee, by an affirmative vote of a majority of its members, opens the meeting to the public.

(2) Notwithstanding clause 2(g)(2) of rule XI, each hearing of an adjudicatory subcommittee or sanction hearing of the Committee on Standards of Official Conduct shall be held in open session unless the committee or subcommittee, in open session by an affirmative vote of a majority of its members, closes all or part of the remainder of the hearing on that day to the public.

(d) Before a member, officer, or employee of the Committee on Standards of Official Conduct, including members of a subcommittee of the committee selected under clause 5(a)(4) of rule X and shared staff, may have access to information that is confidential under the rules of the committee, the following oath (or affirmation) shall be executed:

"I do solemnly swear (or affirm) that I will not disclose, to any person or entity outside the Committee on Standards of Official Conduct, any information received in the course of my service with the committee, except as authorized by the committee or in accordance with its rules."

Copies of the executed oath shall be retained by the Clerk as part of the records of the House. This paragraph establishes a standard of conduct within the meaning of paragraph (a)(2). Breaches of confidentiality shall be investigated by the Committee on Standards of Official Conduct and appropriate action shall be taken.

(e)(1) If a complaint or information offered as a complaint is deemed frivolous by an affirmative vote of a majority of the members of the Committee on Standards of Official Conduct, the committee may take such action as it, by an affirmative vote of a majority of its members, considers appropriate in the circumstances.

(2) Complaints filed before the One Hundred Fifth Congress may not be deemed frivolous by the Committee on Standards of Official Conduct.

Audio and visual coverage of committee proceedings

4. (a) The purpose of this clause is to provide a means, in conformity with acceptable standards of dignity, propriety, and decorum, by which committee hearings or committee meetings that are open to the public may be covered by audio and visual means—

(1) for the education, enlightenment, and information of the general public, on the basis of accurate and impartial news coverage, regarding the operations, procedures, and practices of the House as a legislative and representative body, and regarding the measures, public issues, and other matters before the House and its committees, the consideration thereof, and the action taken thereon; and

(2) for the development of the perspective and understanding of the general public with respect to the role and function of the House under the Constitution as an institution of the Federal Government.

(b) In addition, it is the intent of this clause that radio and television tapes and television film of any coverage under this clause may not be used, or made available for use, as partisan political campaign material to promote or oppose the candidacy of any person for elective public office.

(c) It is, further, the intent of this clause that the general conduct of each meeting (whether of a hearing or otherwise) covered under authority of this clause by audio or visual means, and the personal behavior of the committee members and staff, other Government officials and personnel, witnesses, television, radio, and press media personnel, and the general public at the hearing or other meeting, shall be in strict conformity with and observance of the acceptable standards of dignity, propriety, courtesy, and decorum traditionally observed by the House in its operations, and may not be such as to—

(1) distort the objects and purposes of the hearing or other meeting or the activities of committee members in connection with that hearing or meeting or in connection with the general work of the committee or of the House; or

(2) cast discredit or dishonor on the House, the committee, or a Member, Delegate, or Resident Commissioner or bring the House, the committee, or a Member, Delegate, or Resident Commissioner into disrepute.

(d) The coverage of committee hearings and meetings by audio and visual means shall be permitted and conducted only in strict conformity with the purposes, provisions, and requirements of this clause.

(e) Whenever a hearing or meeting conducted by a committee or subcommittee is open to the public, those proceedings shall be open to coverage by audio and visual means. A committee or subcommittee chairman may not limit the number of television or still cameras to fewer than two representatives from each medium (except for legitimate space or safety considerations, in which case pool coverage shall be authorized).

(f) Each committee shall adopt written rules to govern its implementation of this clause. Such rules shall contain provisions to the following effect:

(1) If audio or visual coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(2) The allocation among the television media of the positions or the number of television cameras permitted by a committee or subcommittee chairman in a hearing or meeting room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(3) Television cameras shall be placed so as not to obstruct in any way the space between a witness giving evidence or testimony and any member of the committee or the visibility of that witness and that member to each other.

(4) Television cameras shall operate from fixed positions but may not be placed in positions that obstruct unnecessarily the coverage of the hearing or meeting by the other media.

(5) Equipment necessary for coverage by the television and radio media may not be installed in, or removed from, the hearing or meeting room while the committee is in session.

(6)(A) Except as provided in subdivision (B), floodlights, spotlights, strobelights, and flashguns may not be used in providing any method of coverage of the hearing or meeting.

(B) The television media may install additional lighting in a hearing or meeting room, without cost to the Government, in order to raise the ambient lighting level in a hearing or meeting room to the lowest level necessary to provide adequate television coverage of a hearing or meeting at the current state of the art of television coverage.

(7) In the allocation of the number of still photographers permitted by a committee or subcommittee chairman in a hearing or meeting room, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If requests are made by more of the media than will be permitted by a committee or subcommittee chairman for coverage of a hearing or meeting by still photography, that coverage shall be permitted on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(8) Photographers may not position themselves between the witness table and the members of the committee at any time during the course of a hearing or meeting.

(9) Photographers may not place themselves in positions that obstruct unnecessarily the coverage of the hearing by the other media.

(10) Personnel providing coverage by the television and radio media shall be currently accredited to the Radio and Television Correspondents' Galleries.

(11) Personnel providing coverage by still photography shall be currently accredited to the Press Photographers' Gallery.

(12) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

Pay of witnesses

5. Witnesses appearing before the House or any of its committees shall be paid the same per diem rate as established, authorized, and regulated by the Committee on House Administration for Members, Delegates, the Resident Commissioner, and employees of the House, plus actual expenses of travel to or from the place of examination. Such per diem may not be paid when a witness has been summoned at the place of examination.

Unfinished business of the session

6. All business of the House at the end of one session shall be resumed at the commencement of the next session of the same Congress in the same manner as if no adjournment had taken place.

RULE XII

RECEIPT AND REFERRAL OF MEASURES AND MATTERS

Messages

1. Messages received from the Senate, or from the President, shall be entered on the Journal and published in the Congressional Record of the proceedings of that day.

Referral

2. (a) The Speaker shall refer each bill, resolution, or other matter that relates to a subject listed under a standing committee named in clause 1 of rule X in accordance with the provisions of this clause.

(b) The Speaker shall refer matters under paragraph (a) in such manner as to ensure to the maximum extent feasible that each committee that has jurisdiction under clause 1 of rule X over the subject matter of a provision thereof may consider such provision and report to the House thereon. Precedents, rulings, or procedures in effect before the Ninety-Fourth Congress shall be applied to referrals under this clause only to the extent that they will contribute to the achievement of the objectives of this clause.

(c) In carrying out paragraphs (a) and (b) with respect to the referral of a matter, the Speaker—

(1) shall designate a committee of primary jurisdiction;

(2) may refer the matter to one or more additional committees for consideration in sequence, either initially or after the matter has been reported by the committee of primary jurisdiction;

(3) may refer portions of the matter reflecting different subjects and jurisdictions to one or more additional committees;

(4) may refer the matter to a special, ad hoc committee appointed by the Speaker with the approval of the House, and including members of the committees of jurisdiction, for the specific purpose of considering that matter and reporting to the House thereon;

(5) may subject a referral to appropriate time limitations; and

(6) may make such other provision as may be considered appropriate.

(d) A bill for the payment or adjudication of a private claim against the Government may not be referred to a committee other than the Committee on International Relations or the Committee on the Judiciary, except by unanimous consent.

Petitions, memorials, and private bills

3. If a Member, Delegate, or Resident Commissioner has a petition, memorial, or private bill to present, he shall endorse his name, deliver it to the Clerk, and may specify the reference or disposition to be made thereof. Such petition, memorial, or private bill (except when judged by the Speaker to be obscene or insulting) shall be entered on the Journal with the name of the Member, Delegate, or Resident Commissioner presenting it and shall be printed in the Congressional Record.

4. A private bill or private resolution (including an omnibus claim or pension bill), or amendment thereto, may not be received or considered in the House if it authorizes or directs—

(a) the payment of money for property damages, for personal injuries or death for which suit may be instituted under the Tort Claims Procedure provided in title 28, United States Code, or for a pension (other than to carry out a provision of law or treaty stipulation);

(b) the construction of a bridge across a navigable stream; or

(c) the correction of a military or naval record.

Prohibition on commemorations

5. (a) A bill or resolution, or an amendment thereto, may not be introduced or considered in the House if it establishes or expresses a commemoration.

(b) In this clause the term "commemoration" means a remembrance, celebration, or recognition for any purpose through the designation of a specified period of time.

Excluded matters

6. A petition, memorial, bill, or resolution excluded under this rule shall be returned to the Member, Delegate, or Resident Commissioner from whom it was received. A petition or private bill that has been inappropriately referred may, by direction of the committee having possession of it, be properly referred in the manner originally presented. An erroneous reference of a petition or private bill under this clause does not confer jurisdiction on a committee to consider or report it.

Sponsorship

7. (a) All other bills, memorials, petitions, and resolutions, endorsed with the names of Members, Delegates, or the Resident Commissioner introducing them, may be delivered to the Speaker to be referred. The titles and references of all bills, memorials, petitions, resolutions, and other documents referred under this rule shall be entered on the Journal and printed in the Congressional Record. An erroneous reference may be corrected by the House in accordance with rule X on any day immediately after the Pledge of Allegiance to the Flag by unanimous consent or motion. Such a motion shall be privileged if offered by direction of a committee to which the bill has been erroneously referred or by direction of a committee claiming jurisdiction and shall be decided without debate.

(b)(1) The primary sponsor of a public bill or public resolution may name cosponsors. The name of a cosponsor added after the initial printing of a bill or resolution shall appear in the next printing of the bill or resolution on the written request of the primary sponsor. Such a request may be submitted to the Speaker at any time until the last committee authorized to consider and report the bill or resolution reports it to the House or is discharged from its consideration.

(2) The name of a cosponsor of a bill or resolution may be deleted by unanimous consent. The Speaker may entertain such a request only by the Member, Delegate, or Resident Commissioner whose name is to be deleted or by the primary sponsor of the bill or resolution, and only until the last committee authorized to consider and report the bill or resolution reports it to the House or is discharged from its consideration. The Speaker may not entertain a request to delete the name of the primary sponsor of a

bill or resolution. A deletion shall be indicated by date in the next printing of the bill or resolution.

(3) The addition or deletion of the name of a cosponsor of a bill or resolution shall be entered on the Journal and printed in the Congressional Record of that day.

(4) A bill or resolution shall be reprinted on the written request of the primary sponsor. Such a request may be submitted to the Speaker only when 20 or more cosponsors have been added since the last printing of the bill or resolution.

(5) When a bill or resolution is introduced "by request," those words shall be entered on the Journal and printed in the Congressional Record.

Executive communications

8. Estimates of appropriations and all other communications from the executive departments intended for the consideration of any committees of the House shall be addressed to the Speaker for referral as provided in clause 2 of rule XIV.

RULE XIII

Calendars and Committee Reports

Calendars

1. (a) All business reported by committees shall be referred to one of the following three calendars:

(1) A Calendar of the Committee of the Whole House on the state of the Union, to which shall be referred public bills and public resolutions raising revenue, involving a tax or charge on the people, directly or indirectly making appropriations of money or property or requiring such appropriations to be made, authorizing payments out of appropriations already made, releasing any liability to the United States for money or property, or referring a claim to the Court of Claims.

(2) A House Calendar, to which shall be referred all public bills and public resolutions not requiring referral to the Calendar of the Committee of the Whole House on the state of the Union.

(3) A Private Calendar as provided in clause 5 of rule XV, to which shall be referred all private bills and private resolutions.

(b) There is established a Corrections Calendar as provided in clause 6 of rule XV.

(c) There is established a Calendar of Motions to Discharge Committees as provided in clause 2 of rule XV.

Filing and printing of reports

2. (a)(1) Except as provided in subparagraph (2), all reports of committees (other than those filed from the floor as privileged) shall be delivered to the Clerk for printing and reference to the proper calendar under the direction of the Speaker in accordance with clause 1. The title or subject of each report shall be entered on the Journal and printed in the Congressional Record.

(2) A bill or resolution reported adversely shall be laid on the table unless a committee to which the bill or resolution was referred requests at the time of the report its referral to an appropriate calendar under clause 1 or unless, within three days thereafter, a Member, Delegate, or Resident Commissioner makes such a request.

(b)(1) It shall be the duty of the chairman of each committee to report or cause to be reported promptly to the House a measure or matter approved by the committee and to take or cause to be taken steps necessary to bring the measure or matter to a vote.

(2) In any event, the report of a committee on a measure that has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which a written request for the filing of the report, signed by a majority of the members of the committee, has been filed with the clerk of the committee. The clerk of the committee shall immediately notify the chairman of the filing of such a request. This subparagraph does not apply to a report of the Committee on Rules with respect to a rule, joint rule, or order of business of the House, or to the reporting of a resolution of inquiry addressed to the head of an executive department.

(c) All supplemental, minority, or additional views filed under clause 2(l) of rule XI by one or more members of a committee shall be included in, and shall be a part of, the report filed by the committee with respect to a measure or matter. When time guaranteed by clause 2(l) of rule XI has expired (or, if sooner, when all separate views have been received), the committee may arrange to file its report with the Clerk not later than one hour after the expiration of such time. This clause and provisions of clause 2(l) of rule XI do not preclude the immediate filing or printing of a committee report in the absence of a timely request for the opportunity to file supplemental, minority, or additional views as provided in clause 2(l) of rule XI.

Content of reports

3. (a)(1) Except as provided in subparagraph (2), the report of a committee on a measure or matter shall be printed in a single volume that—

(A) shall include all supplemental, minority, or additional views that have been submitted by the time of the filing of the report; and

(B) shall bear on its cover a recital that any such supplemental, minority, or additional views (and any material submitted under paragraph (c)(3) or (4)) are included as part of the report.

(2) A committee may file a supplemental report for the correction of a technical error in its previous report on a measure or matter.

(b) With respect to each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report. The preceding sentence does not apply to votes taken in executive session by the Committee on Standards of Official Conduct.

(c) The report of a committee on a measure that has been approved by the committee shall include, separately set out and clearly identified, the following:

(1) Oversight findings and recommendations under clause 2(b)(1) of rule X.

(2) The statement required by section 308(a) of the Congressional Budget Act of 1974, except that an estimate of new budget authority shall include, when practicable, a comparison of the total estimated funding level for the relevant programs to the appropriate levels under current law.

(3) An estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 if timely submitted to the committee before the filing of the report.

(4) A summary of oversight findings and recommendations by the Committee on Government Reform under clause 4(c)(2) of rule X if such findings and recommendations have been submitted to the reporting committee in time to allow it to consider such findings and recommendations during its deliberations on the measure.

(d) Each report of a committee on a public bill or public joint resolution shall contain the following:

(1) A statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.

(2)(A) An estimate by the committee of the costs that would be incurred in carrying out the bill or joint resolution in the fiscal year in which it is reported and in each of the five fiscal years following that fiscal year (or for the authorized duration of any program authorized by the bill or joint resolution if less than five years);

(B) A comparison of the estimate of costs described in subdivision (A) made by the committee with any estimate of such costs made by a Government agency and submitted to such committee; and

(C) When practicable, a comparison of the total estimated funding level for the relevant programs with the appropriate levels under current law.

(3)(A) In subparagraph (2) the term "Government agency" includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or the government of the District of Columbia.

(B) Subparagraph (2) does not apply to the Committee on Appropriations, the Committee on House Administration, the Committee on Rules, or the Committee on Standards of Official Conduct, and does not apply when a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been included in the report under paragraph (c)(3).

(e)(1) Whenever a committee reports a bill or joint resolution proposing to repeal or amend a statute or part thereof, it shall include in its report or in an accompanying document—

(A) the text of a statute or part thereof that is proposed to be repealed; and

(B) a comparative print of any part of the bill or joint resolution proposing to amend the statute and of the statute or part thereof proposed to be amended, showing by appropriate typographical devices the omissions and insertions proposed.

(2) If a committee reports a bill or joint resolution proposing to repeal or amend a statute or part thereof with a recommendation that the bill or joint resolution be amended, the comparative print required by subparagraph (1) shall reflect the changes in existing law proposed to be made by the bill or joint resolution as proposed to be amended.

(f)(1) A report of the Committee on Appropriations on a general appropriation bill shall include—

(A) a concise statement describing the effect of any provision of the accompanying bill that directly or indirectly changes the application of existing law; and

(B) a list of all appropriations contained in the bill for expenditures not previously authorized by law (except classified intelligence or national security programs, projects, or activities).

(2) Whenever the Committee on Appropriations reports a bill or joint resolution including matter specified in clause 1(b)(2) or (3) of rule X, it shall include—

(A) in the bill or joint resolution, separate headings for "Rescissions" and "Transfers of Unexpended Balances"; and

(B) in the report of the committee, a separate section listing such rescissions and transfers.

(g) Whenever the Committee on Rules reports a resolution proposing to repeal or amend a standing rule of the House, it shall include in its report or in an accompanying document—

(1) the text of any rule or part thereof that is proposed to be repealed; and

(2) a comparative print of any part of the resolution proposing to amend the rule and of the rule or part thereof proposed to be amended, showing by appropriate typographical devices the omissions and insertions proposed.

(h)(1) It shall not be in order to consider a bill or joint resolution reported by the Committee on Ways and Means that proposes to amend the Internal Revenue Code of 1986 unless—

(A) the report includes a tax complexity analysis prepared by the Joint Committee on Internal Revenue Taxation in accordance with section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998; or

(B) the chairman of the Committee on Ways and Means causes such a tax complexity analysis to be printed in the Congressional Record before consideration of the bill or joint resolution.

(2) A report from the Committee on Ways and Means on a bill or joint resolution designated by the Majority Leader, after consultation with the Minority Leader, as major tax legislation may include a dynamic estimate of the changes in Federal revenues expected to result from enactment of the legislation. The Joint Committee on Internal Revenue Taxation shall render a dynamic estimate of such legislation only in response to a timely request from the chairman of the Committee on Ways and Means, after consultation with the ranking minority member. A dynamic estimate under this paragraph may be used only for informational purposes.

(3) In this paragraph the term "dynamic estimate" means a projection based in any part on assumptions concerning probable effects of macroeconomic feedback. A dynamic estimate shall include a statement identifying all such assumptions.

Availability of reports

4. (a)(1) Except as specified in subparagraph (2), it shall not be in order to consider in the House a measure or matter reported by a committee until the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) on which each report of a committee on that measure or matter has been available to Members, Delegates, and the Resident Commissioner.

(2) Subparagraph (1) does not apply to—

(A) a resolution providing a rule, joint rule, or order of business reported by the Committee on Rules considered under clause 6;

(B) a resolution providing amounts from the applicable accounts described in clause 1(i)(1) of rule X reported by the Committee on House Administration considered under clause 6 of rule X;

(C) a resolution presenting a question of the privileges of the House reported by any committee;

(D) a measure for the declaration of war, or the declaration of a national emergency, by Congress; and

(E) a measure providing for the disapproval of a decision, determination, or action by a Government agency that would become, or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress. In this subdivision the term "Government agency" includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or of the government of the District of Columbia.

(b) A committee that reports a measure or matter shall make every reasonable effort to have its hearings thereon (if any) printed and available for distribution to Members, Delegates, and the Resident Commissioner before the consideration of the measure or matter in the House.

(c) A general appropriation bill reported by the Committee on Appropriations may not be considered in the House until the third calendar day (excluding Saturdays, Sundays, and legal holidays except when the House is in session on such a day) on which printed hearings of the Committee on Appropriations thereon have been available to Members, Delegates, and the Resident Commissioner.

Privileged reports, generally

5. (a) The following committees shall have leave to report at any time on the following matters, respectively:

(1) The Committee on Appropriations, on general appropriation bills and on joint resolutions continuing appropriations for a fiscal year after September 15 in the preceding fiscal year.

(2) The Committee on the Budget, on the matters required to be reported by such committee under titles III and IV of the Congressional Budget Act of 1974.

(3) The Committee on House Administration, on enrolled bills, on contested elections, on matters referred to it concerning printing for the use of the House or the two Houses, on expenditure of the applicable accounts of the House described in clause 1(i)(1) of rule X, and on matters relating to preservation and availability of noncurrent records of the House under rule VII.

(4) The Committee on Rules, on rules, joint rules, and the order of business.

(5) The Committee on Standards of Official Conduct, on resolutions recommending action by the House with respect to a Member, Delegate, Resident Commissioner, officer, or employee of the House as a result of an investigation by the committee relating to the official conduct of such Member, Delegate, Resident Commissioner, officer, or employee.

(b) A report filed from the floor as privileged under paragraph (a) may be called up as a privileged question by direction of the reporting committee, subject to any requirement concerning its availability to Members, Delegates, and the Resident Commissioner under clause 4 or concerning the timing of its consideration under clause 6.

Privileged reports by the Committee on Rules

6. (a) A report by the Committee on Rules on a rule, joint rule, or the order of business may not be called up for consideration on the same day it is presented to the House except—

(1) when so determined by a vote of two-thirds of the Members voting, a quorum being present;

(2) in the case of a resolution proposing only to waive a requirement of clause 4 or of clause 8 of rule XXII concerning the availability of reports; or

(3) during the last three days of a session of Congress.

(b) Pending the consideration of a report by the Committee on Rules on a rule, joint rule, or the order of business, the Speaker may entertain one motion that the House adjourn. After the result of such a motion is announced, the Speaker may not entertain any other dilatory motion until the report shall have been disposed of.

(c) The Committee on Rules may not report—

(1) a rule or order proposing that business under clause 7 of rule XV be set aside by a vote of less than two-thirds of the Members voting, a quorum being present;

(2) a rule or order that would prevent the motion to recommit a bill or joint resolution from being made as provided in clause 2(b) of rule XIX, including a motion to recommit with instructions to report back an amendment otherwise in order, if offered by the Minority Leader or a designee, except with respect to a Senate bill or resolution for which the text of a House-passed measure has been substituted.

(d) The Committee on Rules shall present to the House reports concerning rules, joint rules, and the order of business, within three legislative days of the time when they are ordered. If such a report is not considered immediately, it shall be referred to the calendar. If such a report on the calendar is not called up by the member of the committee who filed the report within seven legislative days, any member of the committee may call it up as a privileged question on the day after the calendar day on which the member announces to the House his intention to do so. The Speaker shall recognize a member of the committee who rises for that purpose.

(e) An adverse report by the Committee on Rules on a resolution proposing a special order of business for the consideration of a public bill or public joint resolution may be called up as a privileged question by a Member, Delegate, or Resident Commissioner on a day when it is in order to consider a motion to discharge committees under clause 2 of rule XV.

(f) If the House has adopted a resolution making in order a motion to consider a bill or resolution, and such a motion has not been offered within seven calendar days thereafter, such a motion shall be privileged if offered by direction of all reporting committees having initial jurisdiction of the bill or resolution.

(g) Whenever the Committee on Rules reports a resolution providing for the consideration of a measure, it shall (to the maximum extent possible) specify in the resolution the object of any waiver of a point of order against the measure or against its consideration.

Resolutions of inquiry

7. A report on a resolution of inquiry addressed to the head of an executive department may be filed from the floor as privileged. If such a resolution is not reported to the House within 14 legislative days after its introduction, a motion to discharge a committee from its consideration shall be privileged.

RULE XIV

ORDER AND PRIORITY OF BUSINESS

1. The daily order of business (unless varied by the application of other rules and except for the disposition of matters of higher precedence) shall be as follows:

First. Prayer by the Chaplain.

Second. Reading and approval of the Journal, unless postponed under clause 9(a) of rule XX.

Third. The Pledge of Allegiance to the Flag.

Fourth. Correction of reference of public bills.

Fifth. Disposal of business on the Speaker's table as provided in clause 2.

Sixth. Unfinished business as provided in clause 3.

Seventh. The morning hour for the consideration of bills called up by committees as provided in clause 4.

Eighth. Motions that the House resolve into the Committee of the Whole House on the state of the Union subject to clause 5.

Ninth. Orders of the day.

2. Business on the Speaker's table shall be disposed of as follows:

(a) Messages from the President shall be referred to the appropriate committees without debate.

(b) Communications addressed to the House, including reports and communications from heads of departments and bills, resolutions, and messages from the Senate, may be referred to the appropriate committees in the same manner and with the same right of correction as public bills and public resolutions presented by Members, Delegates, or the Resident Commissioner.

(c) Motions to dispose of Senate amendments on the Speaker's table may be entertained as provided in clauses 1, 2, and 4 of rule XXII.

(d) Senate bills and resolutions substantially the same as House measures already favorably reported and not required to be considered in the Committee of the Whole House on the state of the Union may be disposed of by motion. Such a motion shall be privileged if offered by direction of all reporting committees having initial jurisdiction of the House measure.

3. Consideration of unfinished business in which the House may have been engaged at an adjournment, except business in the morning hour and proceedings postponed under clause 9 of rule XX, shall be resumed as soon as the business on the Speaker's table is finished, and at the same time each day thereafter until disposed of. The consideration of all other unfinished business shall be resumed whenever the class of business to which it belongs shall be in order under the rules.

4. After the unfinished business has been disposed of, the Speaker shall call each standing committee in regular order and then select committees. Each committee when named may call up for consideration a bill or resolution reported by it on a previous day and on the House Calendar. If the Speaker does not complete the call of the committees before the House passes to other business, the next call shall resume at the point it left off, giving preference to the last bill or resolution under consideration. A committee that has occupied the call for two days may not call up another bill or resolution until the other committees have been called in their turn.

5. After consideration of bills or resolutions under clause 4 for one hour, it shall be in order, pending consideration thereof, to entertain a motion that the House resolve into the Committee of the Whole House on the state of the Union or, when authorized by a committee, that the House resolve into the Committee of the Whole House on the state of the Union to consider a particular bill. Such a motion shall be subject to only one amendment designating another bill. If such a motion is decided in the negative, another such motion may not be considered until the matter that was pending when such motion was offered is disposed of.

6. All questions relating to the priority of business shall be decided by a majority without debate.

RULE XV

BUSINESS IN ORDER ON SPECIAL DAYS

Suspensions, Mondays and Tuesdays

1. (a) A rule may not be suspended except by a vote of two-thirds of the Members voting, a quorum being present. The Speaker may not entertain a motion that the House suspend the rules except on Mondays and Tuesdays and during the last six days of a session of Congress.

(b) Pending a motion that the House suspend the rules, the Speaker may entertain one motion that the House adjourn. After the result of such a motion is announced, the Speaker may not entertain any other motion until the vote is taken on the suspension.

(c) A motion that the House suspend the rules is debatable for 40 minutes, one-half in favor of the motion and one-half in opposition thereto.

Discharge motions, second and fourth Mondays

2. (a) Motions to discharge committees shall be in order on the second and fourth Mondays of a month.

(b)(1) A Member may present to the Clerk a motion in writing to discharge—

(A) a committee from consideration of a public bill or public resolution that has been referred to it for 30 legislative days; or

(B) the Committee on Rules from consideration of a resolution that has been referred to it for seven legislative days and that proposes a special order of business for the consideration of a public bill or public resolution that has been reported by a standing committee or has been referred to a standing committee for 30 legislative days.

(2) Only one motion may be presented for a bill or resolution. A Member may not file a motion to discharge the Committee on Rules from consideration of a resolution providing for the consideration of more than one public bill or public resolution or admitting or effecting a nongermane amendment to a public bill or public resolution.

(c) A motion presented under paragraph (b) shall be placed in the custody of the Clerk, who shall arrange a convenient place for the signatures of Members. A signature may be withdrawn by a Member in writing at any time before a motion is entered on the Journal. The Clerk shall make signatures a matter of public record, causing the names of the Members who have signed a discharge motion during a week to be published in a portion of the Congressional Record designated for that purpose on the last legislative day of the week and making cumulative lists of such names available each day for public inspection in an appropriate office of the House. The Clerk shall devise a means for making such lists available to offices of the House and to the public in electronic form. When a majority of the total membership of the House shall have signed the motion, it shall be entered on the Journal, printed with the signatures thereto in the Record, and referred to the Calendar of Motions to Discharge Committees.

(d)(1) On the second and fourth Mondays of a month (except during the last six days of a session of Congress), immediately after the Pledge of Allegiance to the Flag, a motion to discharge that has been on the calendar for at least seven legislative days shall be privileged if called up by a Member whose signature appears thereon. When such a motion is called up, the House shall proceed to its consideration under this paragraph without intervening motion except one motion to adjourn. Privileged motions to discharge shall have precedence in the order of their entry on the Journal.

(2) When a motion to discharge is called up, the bill or resolution to which it relates shall be read by title only. The motion is debatable for 20 minutes, one-half in favor of the motion and one-half in opposition thereto.

(e)(1) If a motion prevails to discharge the Committee on Rules from consideration of a resolution, the House shall immediately consider the resolution, pending which the Speaker may entertain one motion that the House adjourn. After the result of such a motion to adjourn is announced, the Speaker may not entertain any other dilatory motion until the resolution has been disposed of. If the resolution is adopted, the House shall immediately proceed to its execution.

(2) If a motion prevails to discharge a standing committee from consideration of a public bill or public resolution, a motion that the House proceed to the immediate consideration of such bill or resolution shall be privileged if offered by a Member whose signature appeared on the motion to discharge. The motion to proceed is not debatable. If the motion to proceed is adopted, the bill or resolution shall be considered immediately under the general rules of the House. If unfinished before adjournment of the day on which it is called up, the bill or resolution shall remain the unfinished business until it is disposed of. If the motion to proceed is rejected, the bill or resolution shall be referred to the appropriate calendar, where it shall have the same status as if the committee from which it was discharged had duly reported it to the House.

(f)(1) When a motion to discharge originated under this clause has once been acted on by the House, it shall not be in order to entertain during the same session of Congress—

(A) a motion to discharge a committee from consideration of that bill or resolution or of any other bill or resolution that, by relating in substance to or dealing with the same subject matter, is substantially the same; or

(B) a motion to discharge the Committee on Rules from consideration of a resolution providing a special order of business for the consideration of that bill or resolution or of any other bill or resolution that, by relating in substance to or dealing with the same subject matter, is substantially the same.

(2) A motion to discharge on the Calendar of Motions to Discharge Committees that is rendered out of order under subparagraph (1) shall be stricken from that calendar.

Adverse report by the Committee on Rules, second and fourth Mondays

3. An adverse report by the Committee on Rules on a resolution proposing a special order of business for the consideration of a public bill or public joint resolution may be called up under clause 6(e) of rule XIII as a privileged question by a Member, Delegate, or Resident Commissioner on a day when it is in order to consider a motion to discharge committees under clause 2.

District of Columbia business, second and fourth Mondays

4. The second and fourth Mondays of a month shall be set apart for the consideration of such District of Columbia business as may be called up by the Committee on Government Reform after the disposition of motions to discharge committees and after the disposal of such business on the Speaker's table as requires reference only.

Private Calendar, first and third Tuesdays

5. (a) On the first Tuesday of a month, the Speaker shall direct the Clerk to call the

bills and resolutions on the Private Calendar after disposal of such business on the Speaker's table as requires reference only. If two or more Members, Delegates, or the Resident Commissioner object to the consideration of a bill or resolution so called, it shall be recommitted to the committee that reported it. No other business shall be in order before completion of the call of the Private Calendar on this day unless two-thirds of the Members voting, a quorum being present, agree to a motion that the House dispense with the call.

(b)(1) On the third Tuesday of a month, after the disposal of such business on the Speaker's table as requires reference only, the Speaker may direct the Clerk to call the bills and resolutions on the Private Calendar. Preference shall be given to omnibus bills containing the texts of bills or resolutions that have previously been objected to on a call of the Private Calendar. If two or more Members, Delegates, or the Resident Commissioner object to the consideration of a bill or resolution so called (other than an omnibus bill), it shall be recommitted to the committee that reported it. Two-thirds of the Members voting, a quorum being present, may adopt a motion that the House dispense with the call on this day.

(2) Omnibus bills shall be read for amendment by paragraph. No amendment shall be in order except to strike or to reduce amounts of money or to provide limitations. An item or matter stricken from an omnibus bill may not thereafter during the same session of Congress be included in an omnibus bill. Upon passage such an omnibus bill shall be resolved into the several bills and resolutions of which it is composed. The several bills and resolutions, with any amendments adopted by the House, shall be engrossed, when necessary, and otherwise considered as passed severally by the House as distinct bills and resolutions.

(c) The Speaker may not entertain a reservation of the right to object to the consideration of a bill or resolution under this clause. A bill or resolution considered under this clause shall be considered in the House as in the Committee of the Whole. A motion to dispense with the call of the Private Calendar under this clause shall be privileged. Debate on such a motion shall be limited to five minutes in support and five minutes in opposition.

Corrections Calendar, second and fourth Tuesdays

6. (a) After a bill has been favorably reported and placed on either the Union or House Calendar, the Speaker, after consultation with the Minority Leader, may direct the Clerk also to place the bill on the "Corrections Calendar." At any time on the second and fourth Tuesdays of a month, the Speaker may direct the Clerk to call a bill that has been on the Corrections Calendar for three legislative days.

(b) A bill called from the Corrections Calendar shall be considered in the House, is debatable for one hour equally divided and controlled by the chairman and ranking minority member of the primary committee of jurisdiction, and shall not be subject to amendment except those recommended by the primary committee of jurisdiction or offered by the chairman of the primary committee or a designee. The previous question shall be considered as ordered on the bill and any amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

(c) The approval of three-fifths of the Members voting, a quorum being present, shall be required to pass a bill called from the Corrections Calendar. The rejection of a bill so called, or the sustaining of a point of order against it or against its consideration, does not cause its removal from the Calendar to which it was originally referred.

Calendar Call of Committees, Wednesdays

7. (a) On Wednesday of each week, business shall not be in order before completion of the call of the committees (except as provided by clause 4 of rule XIV) unless two-thirds of the Members voting, a quorum being present, agree to a motion that the House dispense with the call. Such a motion shall be privileged. Debate on such a motion shall be limited to five minutes in support and five minutes in opposition.

(b) A bill or resolution on either the House or the Union Calendar, except bills or resolutions that are privileged under the Rules of the House, may be called under this clause. A bill or resolution called up from the Union Calendar shall be considered in the Committee of the Whole House on the state of the Union without motion, subject to clause 3 of rule XVI. General debate on a measure considered under this clause shall be confined to the measure and may not exceed two hours equally divided between a proponent and an opponent.

(c) When a committee has occupied the call under this clause on one Wednesday, it shall not be in order on a succeeding Wednesday to consider unfinished business previously called up by that committee until the other committees have been called in their turn unless—

(1) the previous question has been ordered on such unfinished business; or

(2) the House adopts a motion to dispense with the call under paragraph (a).

(d) If any committee has not been called under this clause during a session of a Congress, then at the next session of that Congress the call shall resume where it left off at the end of the preceding session.

(e) This rule does not apply during the last two weeks of a session of Congress.

(f) The Speaker may not entertain a motion for a recess on a Wednesday except during the last two weeks of a session of Congress.

RULE XVI

MOTIONS AND AMENDMENTS

Motions

1. Every motion entertained by the Speaker shall be reduced to writing on the demand of a Member, Delegate, or Resident Commissioner and, unless it is withdrawn the same day, shall be entered on the Journal with the name of the Member, Delegate, or Resident Commissioner offering it. A dilatory motion may not be entertained by the Speaker.

Withdrawal

2. When a motion is entertained, the Speaker shall state it or cause it to be read aloud by the Clerk before it is debated. The motion then shall be in the possession of the House but may be withdrawn at any time before a decision or amendment thereon.

Question of consideration

3. When a motion or proposition is entertained, the question, "Will the House now consider it?" may not be put unless demanded by a Member, Delegate, or Resident Commissioner.

Precedence of motions

4. (a) When a question is under debate, only the following motions may be entertained (which shall have precedence in the following order):

(1) To adjourn.

(2) To lay on the table.

(3) For the previous question.

(4) To postpone to a day certain.

(5) To refer.

(6) To amend.

(7) To postpone indefinitely.

(b) A motion to adjourn, to lay on the table, or for the previous question shall be decided without debate. A motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, may not be allowed again on the same day at the same stage of the question.

(c)(1) It shall be in order at any time for the Speaker, in his discretion, to entertain a motion—

(A) that the Speaker be authorized to declare a recess; or

(B) that when the House adjourns it stand adjourned to a day and time certain.

(2) Either motion shall be of equal privilege with the motion to adjourn and shall be decided without debate.

Divisibility

5. (a) Except as provided in paragraph (b), a question shall be divided on the demand of a Member, Delegate, or Resident Commissioner before the question is put if it includes propositions so distinct in substance that, one being taken away, a substantive proposition remains.

(b)(1) A motion or resolution to elect members to a standing committee of the House, or to a joint standing committee, is not divisible.

(2) A resolution or order reported by the Committee on Rules providing a special order of business is not divisible.

(c) A motion to strike and insert is not divisible, but rejection of a motion to strike does not preclude another motion to amend.

Amendments

6. When an amendable proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order, and it also shall be in order to offer a further amendment by way of substitute for the original motion to amend, to which one amendment may be offered but which may not be voted on until the original amendment is perfected. An amendment may be withdrawn in the House at any time before a decision or amendment thereon. An amendment to the title of a bill or resolution shall not be in order until after its passage or adoption and shall be decided without debate.

Germaneness

7. No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

Readings

8. Bills and joint resolutions are subject to readings as follows:

(a) A first reading is in full when the bill or joint resolution is first considered.

(b) A second reading occurs only when the bill or joint resolution is read for amendment in a Committee of the Whole House on the state of the Union under clause 5 of rule XVIII.

(c) A third reading precedes passage when the Speaker states the question: "Shall the bill [or joint resolution] be engrossed [when applicable] and read a third time?" If that question is decided in the affirmative, then the bill or joint resolution shall be read the final time by title and then the question shall be put on its passage.

RULE XVII

DECORUM AND DEBATE

Decorum

1. (a) A Member, Delegate, or Resident Commissioner who desires to speak or deliver a matter to the House shall rise and respectfully address himself to "Mr. Speaker" and, on being recognized, may address the House from any place on the floor. When invited by the Chair, a Member, Delegate, or Resident Commissioner may speak from the Clerk's desk.

(b)(1) Remarks in debate shall be confined to the question under debate, avoiding personality.

(2)(A) Except as provided in subdivision (B), debate may not include characterizations of Senate action or inaction, references to individual Members of the Senate, or quotations from Senate proceedings.

(B) Debate may include references to actions taken by the Senate or by committees thereof that are a matter of public record; references to the pendency or sponsorship in the Senate of bills, resolutions, and amendments; factual descriptions relating to Senate action or inaction concerning a measure then under debate in the House; and quotations from Senate proceedings on a measure then under debate in the House that are relevant to the making of legislative history establishing the meaning of that measure.

Recognition

2. When two or more Members, Delegates, or the Resident Commissioner rise at once, the Speaker shall name the Member, Delegate, or Resident Commissioner who is first to speak. A Member, Delegate, or Resident Commissioner may not occupy more than one hour in debate on a question in the House or in the Committee of the Whole House on the state of the Union except as otherwise provided in this rule.

Managing Debate

3. (a) The Member, Delegate, or Resident Commissioner who calls up a measure may open and close debate thereon. When general debate extends beyond one day, that Member, Delegate, or Resident Commissioner shall be entitled to one hour to close without regard to the time used in opening.

(b) Except as provided in paragraph (a), a Member, Delegate, or Resident Commissioner may not speak more than once to the same question without leave of the House.

(c) A manager of a measure who opposes an amendment thereto is entitled to close controlled debate thereon.

Call to order

4. (a) If a Member, Delegate, or Resident Commissioner, in speaking or otherwise, transgresses the Rules of the House, the Speaker shall, or a Member, Delegate, or Resident Commissioner may, call to order the offending Member, Delegate, or Resident Commissioner, who shall immediately sit down unless permitted on motion of another Member, Delegate, or the Resident Commissioner to explain. If a Member, Delegate, or Resident Commissioner is called to order, the Member, Delegate, or Resident Commissioner making the call to order shall indicate the words excepted to, which shall be taken down in writing at the Clerk's desk and read aloud to the House.

(b) The Speaker shall decide the validity of a call to order. The House, if appealed to, shall decide the question without debate. If the decision is in favor of the Member, Delegate, or Resident Commissioner called to order, the Member, Delegate, or Resident Commissioner shall be at liberty to proceed, but not otherwise. If the case requires it, an offending Member, Delegate, or Resident Commissioner shall be liable to censure or such other punishment as the House may consider proper. A Member, Delegate, or Resident Commissionermay not be held to answer a call to order, and may not be subject to the censure of the House therefor, if further debate or other business has intervened.

Comportment

5. When the Speaker is putting a question or addressing the House, a Member, Delegate, or Resident Commissioner may not walk out of or across the Hall. When a Member, Delegate, or Resident Commissioner is speaking, a Member, Delegate, or Resident Commissioner may not pass between the person speaking and the Chair. During the session of the House, a Member, Delegate, or Resident Commissioner may not wear a hat or remain by the Clerk's desk during the call of the roll or the counting of ballots. A person may not smoke or use any personal, electronic office equipment, including cellular phones and computers, on the floor of the House. The Sergeant-at-Arms is chaged with the strict enforcement of this clause.

Exhibits

6. When the use of an exhibit in debate is objected to by a Member, Delegate, or Resident Commissioner, its use shall be decided without debate by a vote of the House.

Galleries

7. During a session of the House, it shall not be in order for a Member, Delegate, or Resident Commissioner to introduce to or to bring to the attention of the House an occupant in the galleries of the House. The Speaker may not entertain a request for the suspension of this rule by unanimous consent or otherwise.

Congressional Record

8. (a) The Congressional Record shall be a substantially verbatim account of remarks made during the proceedings of the House, subject only to technical, grammatical, and typographical corrections authorized by the Member, Delegate, or Resident Commissioner making the remarks.

(b) Unparliamentary remarks may be deleted only by permission or order of the House.

(c) This clause establishes a standard of conduct within the meaning of clause 3(a)(2) of rule XI.

Secret sessions

9. When confidential communications are received from the President, or when the Speaker or a Member, Delegate, or Resident Commissioner informs the House that he has communications that he believes ought to be kept secret for the present, the House shall be cleared of all persons except the Members, Delegates, Resident Commissioner, and officers of the House for the reading of such communications, and debates and proceedings thereon, unless otherwise ordered by the House.

RULE XVIII

THE COMMITTEE OF THE WHOLE HOUSE ON THE STATE OF THE UNION

Resolving into the Committee of the Whole

1. Whenever the House resolves into the Committee of the Whole House on the state of the Union, the Speaker shall leave the chair after appointing a Chairman to preside. In case of disturbance or disorderly conduct in the galleries or lobby, the Chairman may cause the same to be cleared.

2. (a) Except as provided in paragraph (b) and in clause 7 of rule XV, the House resolves into the Committee of the Whole House on the state of the Union by motion. When such a motion is entertained, the Speaker shall put the question without debate: "Shall the House resolve itself into the Committee of the Whole House on the state of the Union for consideration of this matter?", naming it.

(b) After the House has adopted a resolution reported by the Committee on Rules providing a special order of business for the consideration of a measure in the Committee of the Whole House on the state of the Union, the Speaker may at any time, when no question is pending before the House, declare the House resolved into the Committee of the Whole for the consideration of that measure without intervening motion, unless the special order of business provides otherwise.

Measures requiring initial consideration in the Committee of the Whole

3. All bills, resolutions, or Senate amendments (as provided in clause 3 of rule XXII) involving a tax or charge on the people, raising revenue, directly or indirectly making appropriations of money or property or requiring such appropriations to be made, authorizing payments out of appropriations already made, releasing any liability to the United States for money or property, or referring a claim to the Court of Claims, shall be first considered in the Committee of the Whole House on the state of the Union. A bill, resolution, or Senate amendment that fails to comply with this clause is subject to a point of order against its consideration.

Order of business

4. (a) Subject to subparagraph (b) business on the calendar of the Committee of the Whole House on the state of the Union may be taken up in regular order, or in such order as the Committee may determine, unless the measure to be considered was determined by the House at the time of resolving into the Committee of the Whole.

(b) Motions to resolve into the Committee of the Whole for consideration of bills and joint resolutions making general appropriations have precedence under this clause.

Reading for amendment

5. (a) Before general debate commences on a measure in the Committee of the Whole House on the state of the Union, it shall be read in full. When general debate is concluded or closed by order of the House, the measure under consideration shall be read for amendment. A Member, Delegate, or Resident Commissioner who offers an amendment shall be allowed five minutes to explain it, after which the Member, Delegate, or Resident Commissioner who shall first obtain the floor shall be allowed five minutes to speak in opposition to it. There shall be no further debate thereon, but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to an amendment. An amendment, or an amendment to an amendment, may be withdrawn by its proponent only by the unanimous consent of the Committee of the Whole.

(b) When a Member, Delegate, or Resident Commissioner offers an amendment in the Committee of the Whole House on the State of the Union, the Clerk shall promptly transmit five copies of the amendment to the majority committee table and five copies to the minority committee table. The Clerk also shall deliver at least one copy of the amendment to the majority cloakroom and at least one copy to the minority cloakroom.

Quorum and voting

6. (a) A quorum of a Committee of the Whole House on the state of the Union is 100 Members. The first time that a Committee of the Whole finds itself without a quorum during a day, the Chairman shall invoke the procedure for a quorum call set forth in clause 2 of rule XX, unless he elects to invoke an alternate procedure set forth in clause 3 or clause 4(a) of rule XX. If a quorum appears, the Committee of the Whole shall continue its business. If a quorum does not appear, the Committee of the Whole shall rise, and the Chairman shall report the names of absentees to the House.

(b)(1) The Chairman may refuse to entertain a point of order that a quorum is not present during general debate.

(2) After a quorum has once been established on a day, the Chairman may entertain a point of order that a quorum is not present only when the Committee of the Whole House on the state of the Union is operating under the five-minute rule and the Chairman has put the pending proposition to a vote.

(3) Upon sustaining a point of order that a quorum is not present, the Chairman may announce that, following a regular quorum call under paragraph (a), the minimum time for electronic voting on the pending question shall be five minutes.

(c) When ordering a quorum call in the Committee of the Whole House on the state of the Union, the Chairman may announce an intention to declare that a quorum is constituted at any time during the quorum call when he determines that a quorum has appeared. If the Chairman interrupts the quorum call by declaring that a quorum is constituted, proceedings under the quorum call shall be considered as vacated, and the Committee of the Whole shall continue its sitting and resume its business.

(d) A quorum is not required in the Committee of the Whole House on the state of the Union for adoption of a motion that the Committee rise.

(e) In the Committee of the Whole House on the state of the Union, the Chairman shall order a recorded vote on a request supported by at least 25 Members.

(f) In the Committee of the Whole House on the state of the Union, the Chairman may reduce to five minutes the minimum time for electronic voting without any intervening business or debate on any or all pending amendments after a record vote has been taken on the first pending amendment.

Dispensing with the reading of an amendment

7. It shall be in order in the Committee of the Whole House on the state of the Union to move that the Committee of the Whole dispense with the reading of an amendment that has been printed in the bill or resolution as reported by a committee, or an amendment that a Member, Delegate, or Resident Commissioner has caused to be printed in the Congressional Record. Such a motion shall be decided without debate.

Closing debate

8. (a) Subject to paragraph (b) at any time after the Committee of the Whole House on the state of the Union has begun five-minute debate on amendments to any portion of a bill or resolution, it shall be in order to move that the Committee of the Whole close all debate on that portion of the bill or resolution or on the pending amendments only. Such a motion shall be decided without debate. The adoption of such a motion does not preclude further amendment, to be decided without debate.

(b) If the Committee of the Whole House on the state of the Union closes debate on any portion of a bill or resolution before there has been debate on an amendment that a Member, Delegate, or Resident Commissioner has caused to be printed in the Congressional Record at least one day before its consideration, the Member, Delegate, or Resident Commissioner who caused the amendment to be printed in the Record shall be allowed five minutes to explain it, after which the Member, Delegate, or Resident Commissioner who shall first obtain the floor shall be allowed five minutes to speak in opposition to it. There shall be no further debate thereon.

(c) Material submitted for printing in the Congressional Record under this rule shall indicate the full text of the proposed amendment, the name of the Member, Delegate, or Resident Commissioner proposing it, the number of the bill or resolution to which it will be offered, and the point in the bill or resolution or amendment thereto where the amendment is intended to be offered. The amendment shall appear in a portion of the Record designated for that purpose. Amendments to a specified measure submitted for printing in that portion of the Record shall be numbered in the order printed.

Striking the enacting clause

9. A motion that the Committee of the Whole House on the state of the Union rise and report a bill or resolution to the House with the recommendation that the enacting or resolving clause be stricken shall have precedence of a motion to amend, and, if carried in the House, shall constitute a rejection of the bill or resolution. Whenever a bill or resolution is reported from the Committee of the Whole with such adverse recommendation and the recommendation is rejected by the House, the bill or resolution shall stand recommitted to the Committee of the Whole without further action by the House. Before the question of concurrence is submitted, it shall be in order to move that the House refer the bill or resolution to a committee, with or without instructions. If a bill or resolution is so referred, then when it is again reported to the House it shall be referred to the Committee of the Whole without debate.

Concurrent resolution on the budget

10. (a) At the conclusion of general debate in the Committee of the Whole House on the state of the Union on a concurrent resolution on the budget under section 305(a) of the Congressional Budget Act of 1974, the concurrent resolution shall be considered as read for amendment.

(b) It shall not be in order in the House or in the Committee of the Whole House on the state of the Union to consider an amendment to a concurrent resolution on the budget, or an amendment thereto, unless the concurrent resolution, as amended by such amendment or amendments—

(1) would be mathematically consistent except as limited by paragraph (c); and

(2) would contain all the matter set forth in paragraphs (1) through (5) of section 301(a) of the Congressional Budget Act of 1974.

(c)(1) Except as specified in subparagraph (2), it shall not be in order in the House or in the Committee of the Whole House on the state of the Union to consider an amendment to a concurrent resolution on the budget, or an amendment thereto, that proposes to change the amount of the appropriate level of the public debt set forth in the concurrent resolution, as reported.

(2) Amendments to achieve mathematical consistency under section 305(a)(5) of the Congressional Budget Act of 1974, if offered by direction of the Committee on the Budget, may propose to adjust the amount of the appropriate level of the public debt set forth in the concurrent resolution, as reported, to reflect changes made in other figures contained in the concurrent resolution.

Unfunded mandates

11. (a) In the Committee of the Whole House on the state of the Union, an amendment proposing only to strike an unfunded mandate from the portion of the bill then open to amendment, if otherwise in order, may be precluded from consideration only by specific terms of a special order of the House.

(b) In this clause the term "unfunded mandate" means a Federal intergovernmental mandate the direct costs of which exceed the threshold otherwise specified for a reported bill or joint resolution in section 424(a)(1) of the Congressional Budget Act of 1974.

Applicability of Rules of the House

12. The Rules of the House are the rules of the Committee of the Whole House on the state of the Union so far as applicable.

RULE XIX

MOTIONS FOLLOWING THE AMENDMENT STAGE

Previous question

1. (a) There shall be a motion for the previous question, which, being ordered, shall have the effect of cutting off all debate and bringing the House to a direct vote on the immediate question or questions on which it has been ordered. Whenever the previous question has been ordered on an otherwise debatable question on which there has been no debate, it shall be in order to debate that question for 40 minutes, equally divided and controlled by a proponent of the question and an opponent. The previous question may be moved and ordered on a single question, on a series of questions allowable under the rules, or on an amendment or amendments, or may embrace all authorized motions or amendments and include the bill or resolution to its passage, adoption, or rejection.

(b) Incidental questions of order arising during the pendency of a motion for the previous question shall be decided, whether on appeal or otherwise, without debate.

Recommit

2. (a) After the previous question has been ordered on passage or adoption of a measure, or pending a motion to that end, it shall be in order to move that the House recommit (or commit, as the case may be) the measure, with or without instructions, to a standing or select committee. For such a motion to recommit, the Speaker shall give preference in recognition to a Member, Delegate, or Resident Commissioner who is opposed to the measure.

(b) Except as provided in paragraph (c), if a motion that the House recommit a bill or joint resolution on which the previous question has been ordered to passage includes instructions, it shall be debatable for 10 minutes equally divided between the proponent and an opponent.

(c) On demand of the floor manager for the majority, it shall be in order to debate the motion for one hour equally divided and controlled by the proponent and an opponent.

Reconsideration

3. When a motion has been carried or lost, it shall be in order on the same or succeeding day for a Member on the prevailing side of the question to enter a motion for the reconsideration thereof. The entry of such a motion shall take precedence over all other questions except the consideration of a conference report or a motion to adjourn, and

may not be withdrawn after such succeeding day without the consent of the House. Once entered, a motion may be called up for consideration by any Member. During the last six days of a session of Congress, such a motion shall be disposed of when entered.

4. A bill, petition, memorial, or resolution referred to a committee, or reported therefrom for printing and recommitment, may not be brought back to the House on a motion to reconsider.

RULE XX

VOTING AND QUORUM CALLS

1. (a) The House shall divide after the Speaker has put a question to a vote by voice as provided in clause 6 of rule I if the Speaker is in doubt or division is demanded. Those in favor of the question shall first rise from their seats to be counted, and then those opposed.

(b) If a Member, Delegate, or Resident Commissioner requests a recorded vote, and that request is supported by at least one-fifth of a quorum, the vote shall be taken by electronic device unless the Speaker invokes another procedure for recording votes provided in this rule. A recorded vote taken in the House under this paragraph shall be considered a vote by the yeas and nays.

(c) In case of a tie vote, a question shall be lost.

2. (a) Unless the Speaker directs otherwise, the Clerk shall conduct a record vote or quorum call by electronic device. In such a case the Clerk shall enter on the Journal and publish in the Congressional Record, in alphabetical order in each category, the names of Members recorded as voting in the affirmative, the names of Members recorded as voting in the negative, and the names of Members answering present as if they had been called in the manner provided in clause 3. Except as otherwise permitted under clause 9 or 10 of this rule or under clause 6 of rule XVIII, the minimum time for a record vote or quorum call by electronic device shall be 15 minutes.

(b) When the electronic voting system is inoperable or is not used, the Speaker or Chairman may direct the Clerk to conduct a record vote or quorum call as provided in clause 3 or 4.

3. The Speaker may direct the Clerk to conduct a record vote or quorum call by call of the roll. In such a case the Clerk shall call the names of Members, alphabetically by surname. When two or more have the same surname, the name of the State (and, if necessary to distinguish among Members from the same State, the given names of the Members) shall be added. After the roll has been called once, the Clerk shall call the names of those not recorded, alphabetically by surname. Members appearing after the second call, but before the result is announced, may vote or announce a pair.

4. (a) The Speaker may direct a record vote or quorum call to be conducted by tellers. In such a case the tellers named by the Speaker shall record the names of the Members voting on each side of the question or record their presence, as the case may be, which the Clerk shall enter on the Journal and publish in the Congressional Record. Absentees shall be noted, but the doors may not be closed except when ordered by the Speaker. The minimum time for a record vote or quorum call by tellers shall be 15 minutes.

(b) On the demand of a Member, or at the suggestion of the Speaker, the names of Members sufficient to make a quorum in the Hall of the House who do not vote shall be noted by the Clerk, entered on the Journal, reported to the Speaker with the names of the Members voting, and be counted and announced in determining the presence of a quorum to do business.

5. (a) In the absence of a quorum, a majority comprising at least 15 Members, which may include the Speaker, may compel the attendance of absent Members.

(b) Subject to clause 7(b) a majority of those present may order the Sergeant-at-Arms to send officers appointed by him to arrest those Members for whom no sufficient excuse is made and shall secure and retain their attendance. The House shall determine on what condition they shall be discharged. Unless the House otherwise directs, the Members who voluntarily appear shall be admitted immediately to the Hall of the House and shall report their names to the Clerk to be entered on the Journal as present.

6. (a) When a quorum fails to vote on a question, a quorum is not present, and objection is made for that cause (unless the House shall adjourn)—

(1) there shall be a call of the House;

(2) the Sergeant-at-Arms shall proceed forthwith to bring in absent Members; and

(3) the yeas and nays on the pending question shall at the same time be considered as ordered.

(b) The Clerk shall record Members by the yeas and nays on the pending question, using such procedure as the Speaker may invoke under clause 2, 3, or 4. Each Member arrested under this clause shall be brought by the Sergeant-at-Arms before the House, whereupon he shall be noted as present, discharged from arrest, and given an opportunity to vote; and his vote shall be recorded. If those voting on the question and those who are present and decline to vote together make a majority of the House, the Speaker shall declare that a quorum is constituted, and the pending question shall be decided as the requisite majority of those voting shall have determined. Thereupon further proceedings under the call shall be considered as dispensed with.

(c) At any time after Members have had the requisite opportunity to respond by the yeas and nays, but before a result has been announced, the Speaker may entertain a motion that the House adjourn if seconded by a majority of those present, to be ascertained by actual count by the Speaker. If the House adjourns on such a motion, all proceedings under this clause shall be considered as vacated.

7. (a) The Speaker may not entertain a point of order that a quorum is not present unless a question has been put to a vote.

(b) Subject to paragraph (c) the Speaker may recognize a Member, Delegate, or Resident Commissioner to move a call of the House at any time. When a quorum is established pursuant to a call of the House, further proceedings under the call shall be considered as dispensed with unless the Speaker recognizes for a motion to compel attendance of Members under clause 5(b).

(c) A call of the House shall not be in order after the previous question is ordered unless the Speaker determines by actual count that a quorum is not present.

Postponement of proceedings

8. (a)(1) When a recorded vote is ordered, or the yeas and nays are ordered, or a vote is objected to under clause 6 on any of the questions specified in subparagraph (2), the Speaker may postpone further proceedings on that question to a designated place in the legislative schedule on that legislative day (in the case of the question of agreeing to the Speaker's approval of the Journal) or within two legislative days (in the case of any other question).

(2) The questions described in the subparagraph (1) are as follows:

(A) The question of passing a bill or joint resolution.

(B) The question of adopting a resolution or concurrent resolution.

(C) The question of agreeing to a motion to instruct managers on the part of the House (except that proceedings may not resume on such a motion under clause 7(c) of rule XXII if the managers have filed a report in the House).

(D) The question of agreeing to a conference report.

(E) The question of agreeing to a motion to recommit a bill considered under clause 6 of rule XV.

(F) The question of ordering the previous question on a question described in subdivision (A), (B), (C), (D), or (E).

(G) The question of agreeing to an amendment to a bill considered under clause 6 of rule XV.

(H) The question of agreeing to a motion to suspend the rules.

(b) At the time designated by the Speaker for further proceedings on questions postponed under paragraph (a), the Speaker shall resume proceedings on each postponed question in the order in which it was considered.

(c) The Speaker may reduce to five minutes the minimum time for electronic voting on a question postponed under this clause, or on a question incidental thereto, that follows another electronic vote without intervening business, so long as the minimum time for electronic voting on the first in any series of questions is 15 minutes.

(d) If the House adjourns on a legislative day designated for further proceedings on questions postponed under this clause without disposing of such questions, then on the next legislative day the unfinished business is the disposition of such questions in the order in which they were considered.

Five-minute votes

9. The Speaker may reduce to five minutes the minimum time for electronic voting—

(a) after a record vote on a motion for the previous question, on any underlying question that follows without intervening business, or on a question incidental thereto;

(b) after a record vote on an amendment reported from the Committee of the Whole House on the state of the Union, on any subsequent amendment to that bill or resolution reported from the Committee of the Whole, or on a question incidental thereto;

(c) after a record vote on a motion to recommit a bill, resolution, or conference report, on the question of passage or adoption, as the case may be, of such bill, resolution, or conference report, or on a question incidental thereto, if the question of passage or adoption follows without intervening business the vote on the motion to recommit; or

(d) as provided in clause 6(b)(3) of rule XVIII, clause 6(f) of rule XVIII, or clause 8 of this rule.

Automatic yeas and nays

10. The yeas and nays shall be considered as ordered when the Speaker puts the question on passage of a bill or joint resolution, or on adoption of a conference report, making general appropriations, or increasing Federal income tax rates (within the meaning of clause 5 of rule XXI), or on final adoption of a concurrent resolution on the budget or conference report thereon.

Ballot votes

11. In a case of ballot for election, a majority of the votes shall be necessary to an election. When there is not such a majority on

the first ballot, the process shall be repeated until a majority is obtained. In all balloting blanks shall be rejected, may not be counted in the enumeration of votes, and may not be reported by the tellers.

RULE XXI

RESTRICTIONS ON CERTAIN BILLS

Reservation of certain points of order

1. At the time a general appropriation bill is reported, all points of order against provisions therein shall be considered as reserved.

General appropriation bills and amendments

2. (a)(1) An appropriation may not be reported in a general appropriation bill, and may not be in order as an amendment thereto, for an expenditure not previously authorized by law, except to continue appropriations for public works and objects that are already in progress.

(2) A reappropriation of unexpended balances of appropriations may not be reported in a general appropriation bill, and may not be in order as an amendment thereto, except to continue appropriations for public works and objects that are already in progress. This subparagraph does not apply to transfers of unexpended balances within the department or agency for which they were originally appropriated that are reported by the Committee on Appropriations.

(b) A provision changing existing law may not be reported in a general appropriation bill, including a provision making the availability of funds contingent on the receipt or possession of information not required by existing law for the period of the appropriation, except germane provisions that retrench expenditures by the reduction of amounts of money covered by the bill (which may include those recommended to the Committee on Appropriations by direction of a legislative committee having jurisdiction over the subject matter) and except rescissions of appropriations contained in appropriation Acts.

(c) An amendment to a general appropriation bill shall not be in order if changing existing law, including an amendment making the availability of funds contingent on the receipt or possession of information not required by existing law for the period of the appropriation. Except as provided in paragraph (d), an amendment proposing a limitation not specifically contained or authorized in existing law for the period of the limitation shall not be in order during consideration of a general appropriation bill.

(d) After a general appropriation bill has been read for amendment, a motion that the Committee of the Whole House on the state of the Union rise and report the bill to the House with such amendments as may have been adopted shall, if offered by the Majority Leader or a designee, have precedence over motions to amend the bill. If such a motion to rise and report is rejected or not offered, amendments proposing limitations not specifically contained or authorized in existing law for the period of the limitation or proposing germane amendments that retrench expenditures by reductions of amounts of money covered by the bill may be considered.

(e) A provision other than an appropriation designated an emergency under section 251(b)(2) or section 252(e) of the Balanced Budget and Emergency Deficit Control Act, a rescission of budget authority, or a reduction in direct spending or an amount for a designated emergency may not be reported in an appropriation bill or joint resolution containing an emergency designation under section 251(b)(2) or section 252(e) of such Act and may not be in order as an amendment thereto.

(f) During the reading of an appropriation bill for amendment in the Committee of the Whole House on the state of the Union, it shall be in order to consider en bloc amendments proposing only to transfer appropriations among objects in the bill without increasing the levels of budget authority or outlays in the bill. When considered en bloc under this paragraph, such amendments may amend portions of the bill not yet read for amendment (following disposition of any points of order against such portions) and is not subject to a demand for division of the question in the House or in the Committee of the Whole.

Transportation obligation limitations

3. It shall not be in order to consider a bill, joint resolution, amendment, or conference report that would cause obligation limitations to be below the level for any fiscal year set forth in section 8103 of the Transportation Equity Act for the 21st Century, as adjusted, for the highway category or the mass transit category, as applicable.

Appropriations on legislative bills

4. A bill or joint resolution carrying an appropriation may not be reported by a committee not having jurisdiction to report appropriations, and an amendment proposing an appropriation shall not be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A point of order against an appropriation in such a bill, joint resolution, or amendment thereto may be raised at any time during pendency of that measure for amendment.

Tax and tariff measures and amendments

5. (a) A bill or joint resolution carrying a tax or tariff measure may not be reported by a committee not having jurisdiction to report tax or tariff measures, and an amendment in the House or proposed by the Senate carrying a tax or tariff measure shall not be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A point of order against a tax or tariff measure in such a bill, joint resolution, or amendment thereto may be raised at any time during pendency of that measure for amendment.

Passage of tax rate increases

(b) A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present. In this paragraph the term "Federal income tax rate increase" means any amendment to subsection (a), (b), (c), (d), or (e) of section 1, or to section 11(b) or 55(b), of the Internal Revenue Code of 1986, that imposes a new percentage as a rate of tax and thereby increases the amount of tax imposed by any such section.

Consideration of retroactive tax rate increases

(c) It shall not be in order to consider a bill, joint resolution, amendment, or conference report carrying a retroactive Federal income tax rate increase. In this paragraph—

(1) the term "Federal income tax rate increase" means any amendment to subsection (a), (b), (c), (d), or (e) of section 1, or to section 11(b) or 55(b), of the Internal Revenue Code of 1986, that imposes a new percentage as a rate of tax and thereby increases the amount of tax imposed by any such section; and

(2) a Federal income tax rate increase is retroactive if it applies to a period beginning before the enactment of the provision.

RULE XXII

HOUSE AND SENATE RELATIONS

Senate amendments

1. A motion to disagree to Senate amendments to a House bill or resolution and to request or agree to a conference with the Senate, or a motion to insist on House amendments to a Senate bill or resolution and to request or agree to a conference with the Senate, shall be privileged in the discretion of the Speaker if offered by direction of the primary committee and of all reporting committees that had initial referral of the bill or resolution.

2. A motion to dispose of House bills with Senate amendments not requiring consideration in the Committee of the Whole House on the state of the Union shall be privileged.

3. Except as permitted by clause 1, before the stage of disagreement, a Senate amendment to a House bill or resolution shall be subject to the point of order that it must first be considered in the Committee of the Whole House on the state of the Union if, originating in the House, it would be subject to such a point under clause 3 of rule XVIII.

4. When the stage of disagreement has been reached on a bill or resolution with House or Senate amendments, a motion to dispose of any amendment shall be privileged.

5. (a) Managers on the part of the House may not agree to a Senate amendment described in paragraph (b) unless specific authority to agree to the amendment first is given by the House by a separate vote with respect thereto. If specific authority is not granted, the Senate amendment shall be reported in disagreement by the conference committee back to the two Houses for disposition by separate motion.

(b) The managers on the part of the House may not agree to a Senate amendment described in paragraph (a) that—

(1) would violate clause 2(a)(1) or (c) of rule XXI if originating in the House; or

(2) proposes an appropriation on a bill other than a general appropriation bill.

6. A Senate amendment carrying a tax or tariff measure in violation of clause 5(a) of rule XXI may not be agreed to.

Conference reports; amendments reported in disagreement

7. (a) The presentation of a conference report shall be in order at any time except during a reading of the Journal or the conduct of a record vote, a vote by division, or a quorum call.

(b)(1) Subject to subparagraph (2) the time allotted for debate on a motion to instruct managers on the part of the House shall be equally divided between the majority and minority parties.

(2) If the proponent of a motion to instruct managers on the part of the House and the Member, Delegate, or Resident Commissioner of the other party identified under subparagraph (1) both support the motion, one-third of the time for debate thereon shall be allotted to a Member, Delegate, or Resident Commissioner who opposes the motion on demand of that Member, Delegate, or Resident Commissioner.

(c)(1) A motion to instruct managers on the part of the House, or a motion to discharge all managers on the part of the House and to appoint new conferees, shall be privileged—

(A) after a conference committee has been appointed for 20 calendar days without making a report; and

(B) on the first legislative day after the calendar day on which the Member, Delegate, or Resident Commissioner offering the motion announces to the House his intention to do so and the form of the motion.

(2) The Speaker may designate a time in the legislative schedule on that legislative day for consideration of a motion described in subparagraph (1).

(3) During the last six days of a session of Congress, the period of time specified in subparagraph (1)(A) shall be 36 hours.

(d) Each conference report to the House shall be printed as a report of the House. Each such report shall be accompanied by a joint explanatory statement prepared jointly by the managers on the part of the House and the managers on the part of the Senate. The joint explanatory statement shall be sufficiently detailed and explicit to inform the House of the effects of the report on the matters committed to conference.

8. (a)(1) Except as specified in subparagraph (2), it shall not be in order to consider a conference report until—

(A) the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) on which the conference report and the accompanying joint explanatory statement have been available to Members, Delegates, and the Resident Commissioner in the Congressional Record; and

(B) copies of the conference report and the accompanying joint explanatory statement have been available to Members, Delegates, and the Resident Commissioner for at least two hours.

(2) Subparagraph (1)(A) does not apply during the last six days of a session of Congress.

(b)(1) Except as specified in subparagraph (2), it shall not be in order to consider a motion to dispose of a Senate amendment reported in disagreement by a conference committee until—

(A) the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) on which the report in disagreement and any accompanying statement have been available to Members, Delegates, and the Resident Commissioner in the Congressional Record; and

(B) copies of the report in disagreement and any accompanying statement, together with the text of the Senate amendment, have been available to Members, Delegates, and the Resident Commissioner for at least two hours.

(2) Subparagraph (1)(A) does not apply during the last six days of a session of Congress.

(3) During consideration of a Senate amendment reported in disagreement by a conference committee on a general appropriation bill, a motion to insist on disagreement to the Senate amendment shall be preferential to any other motion to dispose of that amendment if the original motion offered by the floor manager proposes to change existing law and the motion to insist is offered before debate on the original motion by the chairman of the committee having jurisdiction of the subject matter of the amendment or a designee. Such a preferential motion shall be separately debatable for one hour equally divided between its proponent and the proponent of the original motion. The previous question shall be considered as ordered on the preferential motion to its adoption without intervening motion.

(c) A conference report or a Senate amendment reported in disagreement by a conference committee that has been available as provided in paragraph (a) or (b) shall be considered as read when called up.

(d)(1) Subject to subparagraph (2), the time allotted for debate on a conference report or on a motion to dispose of a Senate amendment reported in disagreement by a conference committee shall be equally divided between the majority and minority parties.

(2) If the floor manager for the majority and the floor manager for the minority both support the conference report or motion, one-third of the time for debate thereon shall be allotted to a Member, Delegate, or Resident Commissioner who opposes the conference report or motion on demand of that Member, Delegate, or Resident Commissioner.

(e) Under clause 6(a)(2) of rule XIII, a resolution proposing only to waive a requirement of this clause concerning the availability of reports to Members, Delegates, and the Resident Commissioner may be considered by the House on the same day it is reported by the Committee on Rules.

9. Whenever a disagreement to an amendment has been committed to a conference committee, the managers on the part of the House may propose a substitute that is a germane modification of the matter in disagreement. The introduction of any language presenting specific additional matter not committed to the conference committee by either House does not constitute a germane modification of the matter in disagreement. Moreover, a conference report may not include matter not committed to the conference committee by either House and may not include a modification of specific matter committed to the conference committee by either or both Houses if that modification is beyond the scope of that specific matter as committed to the conference committee.

10. (a)(1) A Member, Delegate, or Resident Commissioner may raise a point of order against nongermane matter, as specified in subparagraph (2), before the commencement of debate on—

(A) a conference report;

(B) a motion that the House recede from its disagreement to a Senate amendment reported in disagreement by a conference committee and concur therein, with or without amendment; or

(C) a motion that the House recede from its disagreement to a Senate amendment on which the stage of disagreement has been reached and concur therein, with or without amendment.

(2) A point of order against nongermane matter is one asserting that a proposition described in subparagraph (1) contains specified matter that would violate clause 7 of rule XVI if it were offered in the House as an amendment to the underlying measure in the form it was passed by the House.

(b) If a point of order under paragraph (a) is sustained, a motion that the House reject the nongermane matter identified by the point of order shall be privileged. Such a motion is debatable for 40 minutes, one-half in favor of the motion and one-half in opposition thereto.

(c) After disposition of a point of order under paragraph (a) or a motion to reject under paragraph (b), any further points of order under paragraph (a) not covered by a previous point of order, and any consequent motions to reject under paragraph (b), shall be likewise disposed of.

(d)(1) If a motion to reject under paragraph (b) is adopted, then after disposition of all points of order under paragraph (a) and any consequent motions to reject under paragraph (b), the conference report or motion, as the case may be, shall be considered as rejected and the matter remaining in disagreement shall be disposed of under subparagraph (2) or (3), as the case may be.

(2) After the House has adopted one or more motions to reject nongermane matter contained in a conference report under the preceding provisions of this clause—

(A) if the conference report accompanied a House measure amended by the Senate, the pending question shall be whether the House shall recede and concur in the Senate amendment with an amendment consisting of so much of the conference report as was not rejected; and

(B) if the conference report accompanied a Senate measure amended by the House, the pending question shall be whether the House shall insist further on the House amendment.

(3) After the House has adopted one or more motions to reject nongermane matter contained in a motion that the House recede and concur in a Senate amendment, with or without amendment, the following motions shall be privileged and shall have precedence in the order stated:

(A) A motion that the House recede and concur in the Senate amendment with an amendment in writing then available on the floor.

(B) A motion that the House insist on its disagreement to the Senate amendment and request a further conference with the Senate.

(C) A motion that the House insist on its disagreement to the Senate amendment.

(e) If, on a division of the question on a motion described in paragraph (a)(1)(B) or (C), the House agrees to recede, then a Member, Delegate, or Resident Commissioner may raise a point of order against nongermane matter, as specified in paragraph (a)(2), before the commencement of debate on concurring in the Senate amendment, with or without amendment. A point of order under this paragraph shall be disposed of according to the preceding provisions of this clause in the same manner as a point of order under paragraph (a).

11. It shall not be in order to consider a conference report to accompany a bill or joint resolution that proposes to amend the Internal Revenue Code of 1986 unless

(a) the joint explanatory statement of the managers includes a tax complexity analysis prepared by the Joint Committee on Internal Revenue Taxation in accordance with section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998; or

(b) the chairman of the Committee on Ways and Means causes such a tax complexity analysis to be printed in the Congressional Record before consideration of the conference report.

12. (a)(1) Subject to subparagraph (2), a meeting of each conference committee shall be open to the public.

(2) In open session of the House, a motion that managers on the part of the House be permitted to close to the public a meeting or meetings of their conference committee shall be privileged, shall be decided without debate, and shall be decided by a record vote.

(b) A point of order that a conference committee failed to comply with paragraph (a) may be raised immediately after the conference report is read or considered as read. If such a point of order is sustained, the conference report shall be considered as rejected, the House shall be considered to have insisted on its amendments or on disagreement to the Senate amendments, as the case may be, and to have requested a further conference with the Senate, and the Speaker may appoint new conferees without intervening motion.

RULE XXIII

STATUTORY LIMIT ON PUBLIC DEBT

1. Upon adoption by Congress of a concurrent resolution on the budget under section 301 or 304 of the Congressional Budget Act of 1974 that sets forth, as the appropriate level of the public debt for the period to which the concurrent resolution relates, an amount that is different from the amount of the statutory limit on the public debt that otherwise would be in effect for that period, the Clerk shall prepare an engrossment of a joint resolution increasing or decreasing, as the case may be, the statutory limit on the public debt in the form prescribed in clause 2. Upon engrossment of the joint resolution, the vote by which the concurrent resolution on the budget was finally agreed to in the House shall also be considered as a vote on passage of the joint resolution in the House, and the joint resolution shall be considered as passed by the House and duly certified and examined. The engrossed copy shall be signed by the Clerk and transmitted to the Senate for further legislative action.

2. The matter after the resolving clause in a joint resolution described in clause 1 shall be as follows: “That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof ‘$ ’.”, with the blank being filled with a dollar limitation equal to the appropriate level of the public debt set forth pursuant to section 301(a)(5) of the Congressional Budget Act of 1974 in the relevant concurrent resolution described in clause 1. If an adopted concurrent resolution under clause 1 sets forth different appropriate levels of the public debt for separate periods, only one engrossed joint resolution shall be prepared under clause 1; and the blank referred to in the preceding sentence shall be filled with the limitation that is to apply for each period.

3. (a) The report of the Committee on the Budget on a concurrent resolution described in clause 1 and the joint explanatory statement of the managers on a conference report to accompany such a concurrent resolution each shall contain a clear statement of the effect the eventual enactment of a joint resolution engrossed under this rule would have on the statutory limit on the public debt.

(b) It shall not be in order for the House to consider a concurrent resolution described in clause 1, or a conference report thereon, unless the report of the Committee on the Budget or the joint explanatory statement of the managers complies with paragraph (a).

4. Nothing in this rule shall be construed as limiting or otherwise affecting—

(a) the power of the House or the Senate to consider and pass bills or joint resolutions, without regard to the procedures under clause 1, that would change the statutory limit on the public debt; or

(b) the rights of Members, Delegates, the Resident Commissioner, or committees with respect to the introduction, consideration, and reporting of such bills or joint resolutions.

5. In this rule the term “statutory limit on the public debt” means the maximum face amount of obligations issued under authority of chapter 31 of title 31, United States Code, and obligations guaranteed as to principal and interest by the United States (except such guaranteed obligations as may be held by the Secretary of the Treasury), as determined under section 3101(b) of such title after the application of section 3101(a) of such title, that may be outstanding at any one time.

RULE XXIV

CODE OF OFFICIAL CONDUCT

There is hereby established by and for the House the following code of conduct, to be known as the “Code of Official Conduct”:

1. A Member, Delegate, Resident Commissioner, officer, or employee of the House shall conduct himself at all times in a manner that shall reflect creditably on the House.

2. A Member, Delegate, Resident Commissioner, officer, or employee of the House shall adhere to the spirit and the letter of the Rules of the House and to the rules of duly constituted committees thereof.

3. A Member, Delegate, Resident Commissioner, officer, or employee of the House may not receive compensation and may not permit compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in Congress.

4. A Member, Delegate, Resident Commissioner, officer, or employee of the House may not accept gifts except as provided by clause 5 of rule XXVI.

5. A Member, Delegate, Resident Commissioner, officer, or employee of the House may not accept an honorarium for a speech, a writing for publication, or other similar activity, except as otherwise provided under rule XXVI.

6. A Member, Delegate, or Resident Commissioner—

(a) shall keep his campaign funds separate from his personal funds;

(b) may not convert campaign funds to personal use in excess of an amount representing reimbursement for legitimate and verifiable campaign expenditures; and

(c) may not expend funds from his campaign account that are not attributable to bona fide campaign or political purposes.

7. A Member, Delegate, or Resident Commissioner shall treat as campaign contributions all proceeds from testimonial dinners or other fund-raising events.

8. (a) A Member, Delegate, Resident Commissioner, or officer of the House may not retain an employee who does not perform duties for the offices of the employing authority commensurate with the compensation he receives.

(b) In the case of a committee employee who works under the direct supervision of a member of the committee other than a chairman, the chairman may require that such member affirm in writing that the employee has complied with clause 8(a) (subject to clause 7 of rule X) as evidence of compliance by the chairman with this clause and with clause 7 of rule X.

9. A Member, Delegate, Resident Commissioner, officer, or employee of the House may not discharge and may not refuse to hire an individual, or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment, because of the race, color, religion, sex (including marital or parental status), disability, age, or national origin of such individual, but may take into consideration the domicile or political affiliation of such individual.

10. A Member, Delegate, or Resident Commissioner who has been convicted by a court of record for the commission of a crime for which a sentence of two or more years' imprisonment may be imposed should refrain from participation in the business of each committee of which he is a member, and a Member should refrain from voting on any question at a meeting of the House or of the Committee of the Whole House on the state of the Union, unless or until judicial or executive proceedings result in reinstatement of the presumption of his innocence or until he is reelected to the House after the date of such conviction.

11. A Member, Delegate, or Resident Commissioner may not authorize or otherwise allow an individual, group, or organization not under the direction and control of the House to use the words “Congress of the United States,” “House of Representatives,” or “Official Business,” or any combination of words thereof, on any letterhead or envelope.

12. (a) Except as provided in paragraph (b), an employee of the House who is required to file a report under rule XXVII may not participate personally and substantially as an employee of the House in a contact with an agency of the executive or judicial branches of Government with respect to nonlegislative matters affecting any nongovernmental person in which the employee has a significant financial interest.

(b) Paragraph (a) does not apply if an employee first advises his employing authority of a significant financial interest described in paragraph (a) and obtains from his employing authority a written waiver stating that the participation of the employee in the activity described in paragraph (a) is necessary. A copy of each such waiver shall be filed with the Committee on Standards of Official Conduct.

13. Before a Member, Delegate, Resident Commissioner, officer, or employee of the House may have access to classified information, the following oath (or affirmation) shall be executed:

“I do solemnly swear (or affirm) that I will not disclose any classified information received in the course of my service with the House of Representatives, except as authorized by the House of Representatives or in accordance with its Rules.”

Copies of the executed oath (or affirmation) shall be retained by the Clerk as part of the records of the House.

14. (a) In this Code of Official Conduct, the term “officer or employee of the House” means an individual whose compensation is disbursed by the Chief Administrative Officer.

(b) An individual whose services are compensated by the House pursuant to a consultant contract shall be considered an employee of the House for purposes of clauses 1, 2, 3, 4, 8, 9, and 13 of this rule.

RULE XXV

LIMITATIONS ON USE OF OFFICIAL FUNDS

Limitations on use of official and unofficial accounts

1. A Member, Delegate, or Resident Commissioner may not maintain, or have maintained for his use, an unofficial office account. Funds may not be paid into an unofficial office account.

2. Notwithstanding any other provision of this rule, if an amount from the Official Expenses Allowance of a Member, Delegate, or Resident Commissioner is paid into the House Recording Studio revolving fund for telecommunications satellite services, the Member, Delegate, or Resident Commissioner may accept reimbursement from nonpolitical entities in that amount for transmission to the Clerk for credit to the Official Expenses Allowance.

3. In this rule the term “unofficial office account” means an account or repository in which funds are received for the purpose of defraying otherwise unreimbursed expenses allowable under section 162(a) of the Internal

Revenue Code of 1986 as ordinary and necessary in the operation of a congressional office, and includes a newsletter fund referred to in section 527(g) of the Internal Revenue Code of 1986.

Limitations on use of the frank

4. A Member, Delegate, or Resident Commissioner shall mail franked mail under section 3210(d) of title 39, United States Code at the most economical rate of postage practicable.

5. Before making a mass mailing, a Member, Delegate, or Resident Commissioner shall submit a sample or description of the mail matter involved to the House Commission on Congressional Mailing Standards for an advisory opinion as to whether the proposed mailing is in compliance with applicable provisions of law, rule, or regulation.

6. A mass mailing that is otherwise frankable by a Member, Delegate, or Resident Commissioner under the provisions of section 3210(e) of title 39, United States Code, is not frankable unless the cost of preparing and printing it is defrayed exclusively from funds made available in an appropriation Act.

7. A Member, Delegate, or Resident Commissioner may not send a mass mailing outside the congressional district from which he was elected.

8. In the case of a Member, Delegate, or Resident Commissioner, a mass mailing is not frankable under section 3210 of title 39, United States Code, when it is postmarked less than 60 days before the date of a primary or general election (whether regular, special, or runoff) in which he is a candidate for public office. If the mail matter is of a type that is not customarily postmarked, the date on which it would have been postmarked, if it were of a type customarily postmarked, applies.

9. In this rule the term "mass mailing" means, with respect to a session of Congress, a mailing of newsletters or other pieces of mail with substantially identical content (whether such pieces of mail are deposited singly or in bulk, or at the same time or different times), totaling more than 500 pieces of mail in that session, except that such term does not include a mailing—

(a) of matter in direct response to a communication from a person to whom the matter is mailed;

(b) from a Member, Delegate, or Resident Commissioner to other Members, Delegates, the Resident Commissioner, or Senators, or to Federal, State, or local government officials; or

(c) of a news release to the communications media.

Prohibition on use of funds by Members not elected to succeeding Congress

10. Funds from the applicable accounts described in clause 1(i)(1) of rule X, including funds from committee expense resolutions, and funds in any local currencies owned by the United States may not be made available for travel by a Member, Delegate, Resident Commissioner, or Senator after the date of a general election in which he was not elected to the succeeding Congress or, in the case of a Member, Delegate, or Resident Commissioner who is not a candidate in a general election, after the earlier of the date of such general election or the adjournment sine die of the last regular session of the Congress.

RULE XXVI

LIMITATIONS ON OUTSIDE EARNED INCOME AND ACCEPTANCE OF GIFTS

Outside earned income; honoraria

1. (a) Except as provided by paragraph (b), a Member, Delegate, Resident Commissioner, officer, or employee of the House may not—

(1) have outside earned income attributable to a calendar year that exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of that calendar year; or

(2) receive any honorarium, except that an officer or employee of the House who is paid at a rate less than 120 percent of the minimum rate of basic pay for GS–15 of the General Schedule may receive an honorarium unless the subject matter is directly related to the official duties of the individual, the payment is made because of the status of the individual with the House, or the person offering the honorarium has interests that may be substantially affected by the performance or nonperformance of the official duties of the individual.

(b) In the case of an individual who becomes a Member, Delegate, Resident Commissioner, officer, or employee of the House, such individual may not have outside earned income attributable to the portion of a calendar year that occurs after such individual becomes a Member, Delegate, Resident Commissioner, officer, or employee that exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of that calendar year multiplied by a fraction, the numerator of which is the number of days the individual is a Member, Delegate, Resident Commissioner, officer, or employee during that calendar year and the denominator of which is 365.

(c) A payment in lieu of an honorarium that is made to a charitable organization on behalf of a Member, Delegate, Resident Commissioner, officer, or employee of the House may not be received by that Member, Delegate, Resident Commissioner, officer, or employee. Such a payment may not exceed $2,000 or be made to a charitable organization from which the Member, Delegate, Resident Commissioner, officer, or employee or a parent, sibling, spouse, child, or dependent relative of the Member, Delegate, Resident Commissioner, officer, or employee, derives a financial benefit.

2. A Member, Delegate, Resident Commissioner, officer, or employee of the House may not—

(a) receive compensation for affiliating with or being employed by a firm, partnership, association, corporation, or other entity that provides professional services involving a fiduciary relationship;

(b) permit his name to be used by such a firm, partnership, association, corporation, or other entity;

(c) receive compensation for practicing a profession that involves a fiduciary relationship;

(d) serve for compensation as an officer or member of the board of an association, corporation, or other entity; or

(e) receive compensation for teaching, without the prior notification and approval of the Committee on Standards of Official Conduct.

Copyright royalties

3. (a) A Member, Delegate, Resident Commissioner, officer, or employee of the House may not receive an advance payment on copyright royalties. This paragraph does not prohibit a literary agent, researcher, or other individual (other than an individual employed by the House or a relative of a Member, Delegate, Resident Commissioner, officer, or employee) working on behalf of a Member, Delegate, Resident Commissioner, officer, or employee with respect to a publication from receiving an advance payment of a copyright royalty directly from a publisher and solely for the benefit of that literary agent, researcher, or other individual.

(b) A Member, Delegate, Resident Commissioner, officer, or employee of the House may not receive copyright royalties under a contract entered into on or after January 1, 1996, unless that contract is first approved by the Committee on Standards of Official Conduct as complying with the requirement of clause 4(d)(1)(E) (that royalties are received from an established publisher under usual and customary contractual terms).

Definitions

4. (a)(1) In this rule, except as provided in subparagraph (2), the term "officer or employee of the House" means an individual (other than a Member, Delegate, or Resident Commissioner) whose pay is disbursed by the Chief Administrative Officer, who is paid at a rate equal to or greater than 120 percent of the minimum rate of basic pay for GS–15 of the General Schedule, and who is so employed for more than 90 days in a calendar year; and

(2) when used with respect to an honorarium, the term "officer or employee of the House" means an individual (other than a Member, Delegate, or Resident Commissioner) whose salary is disbursed by the Chief Administrative Officer.

(b) In this rule the term "honorarium" means a payment of money or a thing of value for an appearance, speech, or article (including a series of appearances, speeches, or articles) by a Member, Delegate, Resident Commissioner, officer, or employee of the House, excluding any actual and necessary travel expenses incurred by that Member, Delegate, Resident Commissioner, officer, or employee (and one relative) to the extent that such expenses are paid or reimbursed by any other person. The amount otherwise determined shall be reduced by the amount of any such expenses to the extent that such expenses are not so paid or reimbursed.

(c) In this rule the term "travel expenses" means, with respect to a Member, Delegate, Resident Commissioner, officer or, employee of the House, or a relative of such Member, Delegate, Resident Commissioner, officer, or employee, the cost of transportation, and the cost of lodging and meals while away from his residence or principal place of employment.

(d)(1) In this rule the term "outside earned income" means, with respect to a Member, Delegate, Resident Commissioner, officer, or employee of the House, wages, salaries, fees, and other amounts received or to be received as compensation for personal services actually rendered, but does not include—

(A) the salary of a Member, Delegate, Resident Commissioner, officer, or employee;

(B) any compensation derived by a Member, Delegate, Resident Commissioner, officer, or employee of the House for personal services actually rendered before the adoption of this rule or before he became a Member, Delegate, Resident Commissioner, officer, or employee;

(C) any amount paid by, or on behalf of, a Member, Delegate, Resident Commissioner, officer, or employee of the House to a tax-qualified pension, profit-sharing, or stock bonus plan and received by him from such a plan;

(D) in the case of a Member, Delegate, Resident Commissioner, officer, or employee of the House engaged in a trade or business in which he or his family holds a controlling interest and in which both personal services and capital are income-producing factors, any amount received by the Member, Delegate, Resident Commissioner, officer, or employee, so long as the personal services actually rendered by him in the trade or business do not generate a significant amount of income; or

(E) copyright royalties received from established publishers under usual and customary contractual terms; and

(2) outside earned income shall be determined without regard to community property law.

(e) In this rule the term "charitable organization" means an organization described in section 170(c) of the Internal Revenue Code of 1986.

Gifts

5. (a)(1) A Member, Delegate, Resident Commissioner, officer, or employee of the House may not knowingly accept a gift except as provided in this clause.

(2)(A) In this clause the term "gift" means a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

(B)(i) A gift to a family member of a Member, Delegate, Resident Commissioner, officer, or employee of the House, or a gift to any other individual based on that individual's relationship with the Member, Delegate, Resident Commissioner, officer, or employee, shall be considered a gift to the Member, Delegate, Resident Commissioner, officer, or employee if it is given with the knowledge and acquiescence of the Member, Delegate, Resident Commissioner, officer, or employee and the Member, Delegate, Resident Commissioner, officer, or employee has reason to believe the gift was given because of his official position.

(ii) If food or refreshment is provided at the same time and place to both a Member, Delegate, Resident Commissioner, officer, or employee of the House and the spouse or dependent thereof, only the food or refreshment provided to the Member, Delegate, Resident Commissioner, officer, or employee shall be treated as a gift for purposes of this clause.

(3) The restrictions in subparagraph (1) do not apply to the following:

(A) Anything for which the Member, Delegate, Resident Commissioner, officer, or employee of the House pays the market value, or does not use and promptly returns to the donor.

(B) A contribution, as defined in section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, a lawful contribution for election to a State or local government office, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

(C) A gift from a relative as described in section 109(16) of title I of the Ethics in Government Act of 1978 (2 U.S.C. App. 109(16)).

(D)(i) Anything provided by an individual on the basis of a personal friendship unless the Member, Delegate, Resident Commissioner, officer, or employee of the House has reason to believe that, under the circumstances, the gift was provided because of his official position and not because of the personal friendship.

(ii) In determining whether a gift is provided on the basis of personal friendship, the Member, Delegate, Resident Commissioner, officer, or employee of the House shall consider the circumstances under which the gift was offered, such as:

(I) The history of his relationship with the individual giving the gift, including any previous exchange of gifts between them.

(II) Whether to his actual knowledge the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift.

(III) Whether to his actual knowledge the individual who gave the gift also gave the same or similar gifts to other Members, Delegates, the Resident Commissioners, officers, or employees of the House.

(E) Except as provided in paragraph (c)(3), a contribution or other payment to a legal expense fund established for the benefit of a Member, Delegate, Resident Commissioner, officer, or employee of the House that is otherwise lawfully made in accordance with the restrictions and disclosure requirements of the Committee on Standards of Official Conduct.

(F) A gift from another Member, Delegate, Resident Commissioner, officer, or employee of the House or Senate.

(G) Food, refreshments, lodging, transportation, and other benefits—

(i) resulting from the outside business or employment activities of the Member, Delegate, Resident Commissioner, officer, or employee of the House (or other outside activities that are not connected to his duties as an officeholder), or of his spouse, if such benefits have not been offered or enhanced because of his official position and are customarily provided to others in similar circumstances;

(ii) customarily provided by a prospective employer in connection with bona fide employment discussions; or

(iii) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such organization.

(H) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

(I) Informational materials that are sent to the office of the Member, Delegate, Resident Commissioner, officer, or employee of the House in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.

(J) Awards or prizes that are given to competitors in contests or events open to the public, including random drawings.

(K) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

(L) Training (including food and refreshments furnished to all attendees as an integral part of the training) if such training is in the interest of the House.

(M) Bequests, inheritances, and other transfers at death.

(N) An item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

(O) Anything that is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

(P) A gift of personal hospitality (as defined in section 109(14) of the Ethics in Government Act) of an individual other than a registered lobbyist or agent of a foreign principal.

(Q) Free attendance at a widely attended event permitted under subparagraph (4).

(R) Opportunities and benefits that are—

(i) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

(ii) offered to members of a group or class in which membership is unrelated to congressional employment;

(iii) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

(iv) offered to a group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

(v) in the form of loans from banks and other financial institutions on terms generally available to the public; or

(vi) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

(S) A plaque, trophy, or other item that is substantially commemorative in nature and that is intended for presentation.

(T) Anything for which, in an unusual case, a waiver is granted by the Committee on Standards of Official Conduct.

(U) Food or refreshments of a nominal value offered other than as a part of a meal.

(V) Donations of products from the district or State that the Member, Delegate, or Resident Commissioner represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any single recipient.

(W) An item of nominal value such as a greeting card, baseball cap, or a T-shirt.

(4)(A) A Member, Delegate, Resident Commissioner, officer, or employee of the House may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

(i) the Member, Delegate, Resident Commissioner, officer, or employee of the House participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to his official position; or

(ii) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, Delegate, Resident Commissioner, officer, or employee of the House.

(B) A Member, Delegate, Resident Commissioner, officer, or employee of the House who attends an event described in subdivision (A) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual.

(C) A Member, Delegate, Resident Commissioner, officer, or employee of the House, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event.

(D) In this paragraph the term "free attendance" may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, nor does it include food or refreshments taken other than in a group setting with all or substantially all other attendees.

(5) A Member, Delegate, Resident Commissioner, officer, or employee of the House may not accept a gift the value of which exceeds $250 on the basis of the personal friendship exception in subparagraph (3)(D) unless the Committee on Standards of Official Conduct issues a written determination that such exception applies. A determination under this subparagraph is not required for gifts given on the basis of the family relationship exception in subparagraph (3)(C).

(6) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.

(b)(1)(A) A reimbursement (including payment in kind) to a Member, Delegate, Resident Commissioner, officer, or employee of the House from a private source other than a registered lobbyist or agent of a foreign principal for necessary transportation, lodging, and related expenses for travel to a meeting, speaking engagement, factfinding trip, or similar event in connection with his duties as an officeholder shall be considered as a reimbursement to the House and not a gift prohibited by this clause, if the Member, Delegate, Resident Commissioner, officer, or employee—

(i) in the case of an employee, receives advance authorization, from the Member, Delegate, Resident Commissioner, or officer under whose direct supervision the employee works, to accept reimbursement; and

(ii) discloses the expenses reimbursed or to be reimbursed and the authorization to the Clerk within 30 days after the travel is completed.

(B) For purposes of subdivision (A), events, the activities of which are substantially recreational in nature, are not considered to be in connection with the duties of a Member, Delegate, Resident Commissioner, officer, or employee of the House as an officeholder.

(2) Each advance authorization to accept reimbursement shall be signed by the Member, Delegate, Resident Commissioner, or officer of the House under whose direct supervision the employee works and shall include—

(A) the name of the employee;

(B) the name of the person who will make the reimbursement;

(C) the time, place, and purpose of the travel; and

(D) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

(3) Each disclosure made under subparagraph (1)(A) of expenses reimbursed or to be reimbursed shall be signed by the Member, Delegate, Resident Commissioner, or officer (in the case of travel by that Member, Delegate, Resident Commissioner, or officer) or by the Member, Delegate, Resident Commissioner, or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

(A) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

(B) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

(C) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

(D) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

(E) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in subparagraph (4); and

(F) in the case of a reimbursement to a Member, Delegate, Resident Commissioner, or officer, a determination that the travel was in connection with his duties as an officeholder and would not create the appearance that the Member, Delegate, Resident Commissioner, or officer is using public office for private gain.

(4) In this paragraph the term "necessary transportation, lodging, and related expenses"—

(A) includes reasonable expenses that are necessary for travel for a period not exceeding four days within the United States or seven days exclusive of travel time outside of the United States unless approved in advance by the Committee on Standards of Official Conduct;

(B) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in subdivision (A);

(C) does not include expenditures for recreational activities, nor does it include entertainment other than that provided to all attendees as an integral part of the event, except for activities or entertainment otherwise permissible under this clause; and

(D) may include travel expenses incurred on behalf of either the spouse or a child of the Member, Delegate, Resident Commissioner, officer, or employee.

(5) The Clerk shall make available to the public all advance authorizations and disclosures of reimbursement filed under subparagraph (1) as soon as possible after they are received.

(c) A gift prohibited by paragraph (a)(1) includes the following:

(1) Anything provided by a registered lobbyist or an agent of a foreign principal to an entity that is maintained or controlled by a Member, Delegate, Resident Commissioner, officer, or employee of the House.

(2) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a registered lobbyist or an agent of a foreign principal on the basis of a designation, recommendation, or other specification of a Member, Delegate, Resident Commissioner, officer, or employee of the House (not including a mass mailing or other solicitation directed to a broad category of persons or entities), other than a charitable contribution permitted by paragraph (d).

(3) A contribution or other payment by a registered lobbyist or an agent of a foreign principal to a legal expense fund established for the benefit of a Member, Delegate, Resident Commissioner, officer, or employee of the House.

(4) A financial contribution or expenditure made by a registered lobbyist or an agent of a foreign principal relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, for or on behalf of Members, Delegates, the Resident Commissioner, officers, or employees of the House.

(d)(1) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a registered lobbyist or an agent of a foreign principal in lieu of an honorarium to a Member, Delegate, Resident Commissioner, officer, or employee of the House are not considered a gift under this clause if it is reported as provided in subparagraph (2).

(2) A Member, Delegate, Resident Commissioner, officer, or employee who designates or recommends a contribution to a charitable organization in lieu of an honorarium described in subparagraph (1) shall report within 30 days after such designation or recommendation to the Clerk—

(A) the name and address of the registered lobbyist who is making the contribution in lieu of an honorarium;

(B) the date and amount of the contribution; and

(C) the name and address of the charitable organization designated or recommended by the Member, Delegate, or Resident Commissioner.

The Clerk shall make public information received under this subparagraph as soon as possible after it is received.

(e) In this clause—

(1) the term "registered lobbyist" means a lobbyist registered under the Federal Regulation of Lobbying Act or any successor statute; and

(2) the term "agent of a foreign principal" means an agent of a foreign principal registered under the Foreign Agents Registration Act.

(f) All the provisions of this clause shall be interpreted and enforced solely by the Committee on Standards of Official Conduct. The Committee on Standards of Official Conduct is authorized to issue guidance on any matter contained in this clause.

Claims against the Government

6. A person may not be an officer or employee of the House, or continue in its employment, if he acts as an agent for the prosecution of a claim against the Government or if he is interested in such claim, except as an original claimant or in the proper discharge of official duties.

RULE XXVII

FINANCIAL DISCLOSURE

1. The Clerk shall send a copy of each report filed with the Clerk under title I of the Ethics in Government Act of 1978 within the seven-day period beginning on the date on which the report is filed to the Committee on Standards of Official Conduct. By August 1 of each year, the Clerk shall compile all such reports sent to him by Members within the period beginning on January 1 and ending on June 15 of each year and have them printed as a House document, which shall be made available to the public.

2. For the purposes of this rule, the provisions of title I of the Ethics in Government Act of 1978 shall be considered Rules of the House as they pertain to Members, Delegates, the Resident Commissioner, officers, and employees of the House.

RULE XXVIII

GENERAL PROVISIONS

1. The provisions of law that constituted the Rules of the House at the end of the previous Congress shall govern the House in all

cases to which they are applicable, and the rules of parliamentary practice comprised by Jefferson's Manual shall govern the House in all cases to which they are applicable and in which they are not inconsistent with the Rules and orders of the House.

2. In these rules words importing the masculine gender include the feminine as well.

SEC. 2. SEPARATE ORDERS.

(a) BUDGET ENFORCEMENT.—(1) Pending the adoption by the Congress of a concurrent resolution on the budget for fiscal year 1999—

(A) the chairman of the Committee on the Budget, when elected, shall publish in the Congressional Record budget totals contemplated by section 301 of the Congressional Budget Act of 1974 and allocations contemplated by section 302(a) of that Act for each of the fiscal years 1999 through 2003;

(B) those totals and levels shall be effective in the House as though established under a concurrent resolution on the budget and sections 301 and 302 of that Act; and

(C) the publication of those totals and levels shall be considered as the completion of Congressional action on a concurrent resolution on the budget for fiscal year 1999.

(2) Pending the adoption by the Congress of a concurrent resolution on the budget for fiscal year 2000, a provision in a bill or joint resolution, or in an amendment thereto or a conference report thereon, that establishes prospectively for a Federal office or position a specified or minimum level of compensation to be funded by annual discretionary appropriations shall not be considered as providing new entitlement authority within the meaning of the Congressional Budget Act of 1974.

(3) In the case of a reported bill or joint resolution considered pursuant to a special order of business, a point of order under section 303 of the Congressional Budget Act of 1974 shall be determined on the basis of the text made in order as an original bill or joint resolution for the purpose of amendment or to the text on which the previous question is ordered directly to passage, as the case may be.

(b) TENURE ON BUDGET COMMITTEE.—Notwithstanding clause 5(a)(2)(B) of rule X, during the One Hundred Sixth Congress tenure on the Committee on the Budget shall not be limited.

(c) STANDARDS COMMITTEE RULES.—Each provision of House Resolution 168 of the One Hundred Fifth Congress that was not executed as a change in the standing rules is hereby reaffirmed for the One Hundred Sixth Congress.

(d) CENSUS SUBCOMMITTEE.—Notwithstanding clause 5(d) of rule X, during the One Hundred Sixth Congress the Committee on Government Reform may have not more than eight subcommittees.

(e) EXPLANATORY MATERIAL RELATING TO CODIFICATION OF RULES.—Upon the adoption of this resolution, the Majority Leader and the Minority Leader or their designees may submit for inclusion in the Congressional Record as part of the debate hereon such extraneous and tabular matter as they may consider to constitute legislative history concerning the codification of the standing rules.

(f) CONTINUATION OF SELECT COMMITTEE.—

(1) IN GENERAL.—Solely for the purpose of completing activities directly associated with the declassification and public release of its report, the Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of China (hereafter referred to as the "Select Committee"), created by House Resolution 463, One Hundred Fifth Congress, agreed to June 18, 1998 (hereafter referred to as the "Authorizing Resolution"), may sit and act during the One Hundred Sixth Congress at any time prior to April 1, 1999, as it may deem appropriate, without regard to whether or not the House of Representatives is in session at the time.

(2) CONTINUATION OF POWERS AND JURISDICTION.—Solely for the purpose described in paragraph (1), the Select Committee's jurisdiction, and all other powers, authorities, responsibilities, and procedures of the Select Committee and of other Committees of the House of Representatives, shall remain as set forth in the Authorizing Resolution, except as follows:

(A) Section 10 of the Authorizing Resolution shall not be continued.

(B) Sections 8 and 9 of the Authorizing Resolution shall apply only to the enforcement of requests for information which are issued prior to January 3, 1999, and to issuing and enforcing requests for information directly related to the declassification and public release of the Select Committee's report.

(3) DISPOSITION OF RECORDS.—In addition to the powers and authorities extended under paragraph (2), upon the termination of the Select Committee, all records of the Select Committee shall be transferred to other committees of the House of Representatives, stored by the Clerk of the House of Representatives, or otherwise disposed of as the Select Committee may direct, consistent with applicable rules and laws concerning classified information.

(4) NO ADDITIONAL FUNDS.—Funds for the Select Committee for carrying out activities under this subsection during the One Hundred Sixth Congress shall be derived solely from amounts provided pursuant to the Authorizing Resolution which remain unobligated and unexpended as of the end of the One Hundred Fifth Congress.

(g) NUMBERING OF BILLS.—In the One Hundred Sixth Congress, the first 10 numbers for bills (H.R. 1 through H.R. 10) shall be reserved for assignment by the Speaker to such bills as he may designate when introduced before March 1, 1999.

SEC. 3. SPECIAL ORDER OF BUSINESS.

Upon the adoption of this resolution it shall be in order to consider in the House a resolution amending clause 5 of rule XXVI, if offered by the Majority Leader or his designee. The resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion or demand for division of the question except one hour of debate equally divided and controlled by the Majority Leader and the Minority Leader or their designees.

Mr. ARMEY (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The gentleman from Texas (Mr. ARMEY) is recognized for 1 hour.

Mr. ARMEY. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the distinguished minority leader, the gentleman from Missouri (Mr. GEPHARDT), or his designee, pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, I ask unanimous consent that the time allocated to me under the previous unanimous consent request be conceded to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The gentleman from California (Mr. DREIER) is recognized.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before you leave the Chair, I want to extend my hearty congratulations to you.

Mr. Speaker, as has been said, the customary 30 minutes is already yielded to my very good friend and the distinguished ranking member, the gentleman from South Boston, Massachusetts (Mr. MOAKLEY).

Mr. Speaker, I think it is fair to characterize this House rules package as one of the most bipartisan in decades. The overwhelming majority of the changes provided for in this package were developed by a bipartisan task force of the House Committee on Rules.

Working extensively over the past 2 years, with the nonpartisan office of the Office of Parliamentarian, the task force developed a more rational and orderly set of House rules, and their recommendations are fully embedded in this resolution.

Adopting the rules of the House in a recodified format will make the House easier to understand. The House has not undertaken a comprehensive revision of its rules since 1880. Many of the previous rules are obsolete, confusing, misleading, incomplete and poorly organized. Some of the rules have been understood and implied inconsistently due to the awkward way in which those rules were drafted. The result is that the legislative process and the activities of the House frequently prove difficult to understand and learn, much less to master.

Now, Mr. Speaker, I want to heartily commend my colleagues on the other side of the aisle, specifically the gentleman from Massachusetts (Mr. MOAKLEY), the ranking member of the committee; the gentleman from Texas (Mr. FROST), the gentleman from Ohio (Mr. HALL) and the gentlewoman from New York (Ms. SLAUGHTER) for the tremendous effort that they and members of their staff put into this project.

We owe special thanks to the Parliamentarians, and I specifically want to mention Mr. Johnson and his staff. They worked long and hard on this issue. They spent countless hours, weeknights and weekends, drafting this new structure of the rules. As a result of their work, the rules for the 106th Congress will be clearly more logical and user friendly.

Mr. Speaker, specifically the rules have been cut nearly in half, condensed from 51 rules down to 28 rules. Obsolete and archaic provisions have been removed, but the most important citations have been retained for purposes of consistency with precedent and practice. These are significant bipartisan institutional reforms which will make it easier for Members to do their work and for the average American to understand and appreciate the legislative process.

In light of the remarks by the Speaker here in the well about his desire to see greater faith in this institution by the American people, I believe that having this process more understandable is a very, very important thing, and that is accomplished with this package.

Now, Mr. Speaker, in addition to the recodification that makes up the vast majority of H. Res. 5, the resolution makes a number of technical changes to the standing rules of the House and those are contained in section 1 of the resolution.

For example, H. Res. 6 in the 104th Congress included a provision in clause 2 of rule X which requires committees to approve an oversight plan before February 15th of the first session of each Congress and submit it to the Committee on Government Reform and Oversight and the Committee on House Oversight. In addition, the rule established a point of order against consideration of the entire committee funding resolution on the House floor if the oversight plan was not adopted and submitted before February 15th.

In 1997, the committee assignment process on both sides of the aisle was not completed by February 15th and certain committees were unable to organize in time. Also, the Committee on Standards of Official Conduct was unable to organize until September 1997 due to the establishment of the ethics reform task force. Consideration of the committee funding resolution on the floor should not be tied to the adoption of oversight plans by committees, particularly if one or both parties have not completed the committee assignment process.

The purpose of the rule change was to encourage committees to plan oversight activities in advance, and to adopt those plans in public session. Therefore, the resolution retains the February 15th date to encourage committees to adopt their oversight plans early.

Now, Mr. Speaker, clause 5(d) of rule X limits the number of subcommittees that a committee may have to not more than five subcommittees. Exemptions are provided for the Committee on Appropriations, the Committee on Government Reform and Oversight, and the Committee on Transportation and Infrastructure. To facilitate more responsible programmatic oversight, which is a priority of the Speaker, the resolution permits those committees, subject to the five-subcommittee limitation, to establish a sixth subcommittee if one of the six subcommittees is an "oversight" subcommittee.

The practice of pairing, which involves absent Members arranging with other absent Members on opposite sides of a specific question the ability to stipulate how they would have voted, would be eliminated in favor of the more certain system of putting a statement in the RECORD as to how the Member would have voted, which appears immediately after the vote. The headings for these statements will read "stated 'yea'" or "stated 'nay.'" These statements do not have to be read from the floor if they are submitted in a timely fashion to the clerks, generally 1 to 2 hours after the vote.

If a significant time has elapsed since the vote, a Member can ask unanimous consent on the floor that his statement of how he might have voted appear immediately after the vote.

Finally, section 1 contains two ethics-related rules, changes which were recommended in a bipartisan fashion by the Committee on Standards of Official Conduct. The first change closes an existing loophole in the rules by requiring committee consultants to abide by the key provisions of the Code of Official Conduct. Those provisions include the requirement that they conduct themselves in a manner which reflects credibly on the House, the conflict-of-interest provisions and the gift rule.

Mr. Speaker, the second change conforms House rules to recent Supreme Court decisions relating to honoraria earned by certain lower-level Federal employees. Such employees would be permitted to receive honoraria, such as compensation for an article, speech or appearance for activities not related to official duties.

Section 2 of the resolution consists of "Separate Orders" which do not change any of the standing rules of the House. These are more or less housekeeping provisions which deem certain actions will waive the application of certain rules of the House. For example, because Congress failed to adopt a concurrent budget resolution for fiscal year 1999, the Congressional Budget Act is unenforceable, absent the establishment of budget allocations for committees in the House. Therefore, the resolution authorizes the chairman of the Committee on the Budget to publish allocations contemplated by section 302(a) of the Congressional Budget Act in the CONGRESSIONAL RECORD.

On September 18th of 1997, the House adopted recommendations of a 12-member bipartisan task force on ethics reform with certain amendments which included not only changes to the standing rules of the House, but also freestanding directives to the Committee on Standards of Official Conduct.

□ 1430

Those freestanding directives address committee agendas, committee staff, meetings and hearings, public disclosure, requirements to constitute a complaint, duties of the chairman and ranking member, investigative and adjudicatory subcommittees, standard of proof for adoption of statement of alleged violation, subcommittee powers, due process rights of respondents, and committee reporting requirements. In order to have force and effect in the 106th Congress, the freestanding provisions of H. Res. 168 are being carried forward by the resolution.

Mr. Speaker, on November 13th, 1997, the House approved H. Res. 326, which provided an exception for the Committee on Government Reform and Oversight to temporarily establish an eighth subcommittee for the remainder of the 105th Congress. This rules package allows the committee to again establish an eighth subcommittee to accommodate the need for extensive oversight over the census.

The Committee on Rules believes that the type of oversight which is needed for issues such as sampling, questionnaire content, and continuous measurement cannot be done effectively by the full committee or by its other subcommittees. Therefore, this resolution grants the Committee on Government Reform and Oversight another waiver of clause 5(d) of rule X to permit an eighth subcommittee for the duration of the 106th Congress.

The resolution contains a provision continuing the Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China in the 106th Congress. The Select Committee, ably chaired by my colleague, the gentleman from California (Mr. COX), was established by House adoption of H. Res. 463 on June 18, 1998, by an overwhelming vote of 409–10.

The Select Committee, operating in an extraordinary atmosphere of bipartisan cooperation, has produced a thorough and detailed report addressing the question of whether U.S. national security has been endangered by certain technology transfers to the People's Republic of China during the Clinton administration. The report was agreed to by all nine members of the Select Committee, on both the Democratic and Republican sides of the aisle, and all the members are also in agreement on the need to briefly, I underscore "briefly," extend the life of the Select Committee. The report of the Select Committee, however, is classified.

Solely for the purpose of declassification and public release of the report of the Select Committee, the Select Committee will be continued in the 106th Congress for 3 months. The procedural authorities at the disposal of the Select Committee are limited by the language in the rules package and there are no additional funds authorized. The Select Committee will be maintained by unobligated balances remaining from the establishing resolution of the 105th Congress.

Finally, section 3 makes it in order to separately consider a resolution introduced by the majority leader or his designee, amending clause 5 of rule XXVI to conform the House gift rule to the Senate gift rule. The resolution shall be debatable for 1 hour, equally divided and controlled by the majority leader and the minority leader or their designees.

At this point, Mr. Speaker, I would like to include for the RECORD a section-by-section summary of H. Res. 5, as well as other relevant material. And also, pursuant to section 2 of this resolution, and as the designee of the majority leader, I will be inserting for the RECORD certain extraneous and tabular information for the purpose of establishing a legislative history to the recodification package that we have put into place after 2 years of long and drawn-out work.

Mr. Speaker, I think it would be fair to characterize this House rules package as one of the most bipartisan in decades. The overwhelming majority of the changes provided for in this package were developed by a bipartisan task force of the House Rules Committee.

Working extensively over the past 2 years with the nonpartisan Office of the Parliamentarian, the task force developed a more rational and orderly set of House rules, and their recommendations are fully embedded in this resolution.

Adopting the rules of the House in a recodified format will make the work of the House easier to understand.

The House has not undertaken a comprehensive revision of its rules since 1880. Many of the previous rules are obsolete, confusing, misleading, incomplete and poorly organized. Some of the rules have been understood and applied inconsistently due to the awkward way in which the those rules were drafted. The result is that the legislative process and the activities of the House frequently prove difficult to learn and understand, much less master.

I want to commend my colleagues on the other side (Mr. MOAKLEY, Mr. FROST, Mr. HALL, and Mrs. SLAUGHTER) for the tremendous effort that they and their staffs have put into this project. We owe special thanks to the parliamentarians, who spent countless hours, weeknights and weekends drafting the new structure of the rules. As a result of their work, the rules of the House for the 106th Congress will be more logical and user-friendly.

Specifically, the rules have been condensed from 51 to 28.

Obsolete and archaic provisions have been removed, but the most important citations have been retained for purposes of consistency with precedent and practice.

These are significant bipartisan institutional reforms which will make it easier for Members to do their work, and for the average American to understand and appreciate the legislative process.

In addition to the recodification that makes up the vast majority of H. Res. 5, the resolution makes a number of technical changes to the standing rules of the House, and those are contained in section 1 of the resolution. For example:

The name of the Committee on Government Reform and Oversight will be changed to the Committee on Government Reform.

The name of the Committee on House Oversight will be changed to the Committee on House Administration.

The name of the Committee on National Security will be changed to the Committee on Armed Services.

The resolution clarifies that the Speaker appoints and sets the annual rate of pay for employees of the Office of the Historian, which was established in old clause X of Rule I in the 101st Congress. An earlier form of this clause provided for the seven-year establishment of an Office for the Bicentennial to coordinate the commemoration of the 200th anniversary of the House of Representatives. The management, supervision, and administration of the Office was under the direction of the Speaker and was staffed by a professional historian appointed by the Speaker on a nonpartisan basis.

In 1984, the Office of Bicentennial was removed from the standing rules and established by law for the remainder of its existence. This technical change clarifies that the Speaker appoints and sets the annual rate of pay for employees of the Office of the Historian.

The requirement that the full text of a resolution proposing a question of the privilege of the House to read could be dispensed with by unanimous consent at the point of its initial announcement to the House. Questions of privilege are brought before the House in the form of a resolution, which may be called up by any Member after proper notice and announcement of the form of the resolution.

Currently, rule IX requires that a Member giving notice of a question of the privileges of the House orally announce (read) the full text of his proposed resolution. If the Speaker rules that the question of privilege is admissible, the resolution is required to be read in full when it is called up. Therefore, the requirement that it be read at the point of its initial announcement to the House is unnecessary and redundant. This change would make it possible in cases of mutual convenience to dispense with the oral announcement by unanimous consent.

As part of the Balanced Budget Act of 1997, Congress passed the Budget Enforcement Act containing reforms of the budget process dealing with various procedural and enforcement matters. Due to the breadth and scope of these reforms, there are four areas where technical amendments are necessary to conform the rules of the House with various statutory laws relating to the budget process. The areas of technical correction involve oversight requirements of the Budget Committee, the consideration of bills providing new entitlement authority, the submission of views and estimates on the President's budget, and the application of certain points of order relating to the timing of consideration of legislation. These are very minor and technical changes that are necessary to remove current conflicts between the Budget Act and the rules of the House.

H. Res. 6 in the 104th Congress included a provision in clause 2 of rule X which requires committees to approve an oversight plan before February 15th of the first session of each Congress and submit it to the Government Reform and Oversight Committee and the House Oversight Committee. In addition, the rule established a point of order against consideration of the entire committee funding resolution on the House floor if the oversight plan was not adopted and submitted before February 15. In 1997, the committee assignment process, on both sides of the aisle, was not completed by February 15 and certain committees were unable to organize in time.

Also, the Ethics Committee was unable to organize until September 1997 due to the establishment of the Ethics Reform Task Force. Consideration of the Committee funding resolution on the floor should not be tied to the adoption of oversight plans by committees, particularly if one or both parties have not completed the committee assignment process.

The purpose of the rule change was to encourage committees to plan oversight activities in advance, and adopt those plans in a public session. Therefore, the resolution retains the February 15 date to encourage committees to adopt their oversight plans early.

Clause 5(d) of House Rule X limits the number of subcommittees that a committee may have to not more than five subcommittees. Exemptions are provided for the Committee on Appropriations, the Committee on Government Reform and Oversight, and the Committee on Transportation and Infrastructure.

To facilitate more responsible programmatic oversight of executive branch agencies and programs, the resolution permits those committees subject to the five subcommittee limitation to establish a sixth subcommittee if one of the six subcommittees is an "oversight" subcommittee.

H. Res. 5 in the 105th Congress permitted committees to adopt a rule or motion permitting an equal number of its majority and minority party Members to question a witness for not longer than 30 minutes. Also, the rule change permitted committees to adopt a rule or motion permitting committee staff for its majority and minority party members to question a witness. The legislative history accompanying this change established an aggregate cap of 60 minutes on Member or staff questioning. This resolution clarifies the rule allowing extended Member questioning and staff questioning to address ambiguities in its implementation. This will eliminate any confusion surrounding the question of whether an aggregate cap on extended Member questioning or staff questioning exists under the rule.

The change in the rules in clause 2(m) of rule XI relating to subpoenas for documents issued by House committees is designed to clarify that a subpoena need not be returned to a formal meeting or hearing of a committee. A committee may prescribe the terms of return other than at a meeting or hearing of the committee.

The practice of pairing, which involves absent Members arranging with other absent members on opposite sides of a specified question the ability to stipulate how they would have voted, would be eliminated in favor of the more certain system of putting a statement in the RECORD as to how the Member would have voted, which appears immediately after the vote. The headings for these statements will read "Stated Yea" or "Stated Nay." These statements do not have to be read from the floor if they are submitted in a timely fashion to the RECORD clerks (generally 1 or 2 hours after the vote). If a significant time has elapsed since the vote, a Member can ask unanimous consent on the floor that his statement of how he might have voted appear immediately after the vote.

The resolution extends the Speaker's authority to postpone votes to any vote on an original motion to instruct conferees. The Speaker has the discretionary authority under Rule XX, clause 8 to postpone certain questions and to "cluster" them for voting at a designated time or place in the legislative schedule. Currently, the list of questions on which record votes may be postponed does not include the motion to instruct conferees at the time of their appointment (although it does include the "20-day" motion).

The Speaker's authority to reduce to five minutes the voting time on postponed votes would be extended to all postponed questions, and on questions incidental thereto, so long as the first vote on a question in a series of questions is no less than 15 minutes. Currently, the first record vote in a series of postponed questions has to be a 15-minute vote even if immediately following another record vote on a non-postponed question.

In particular, a vote on a motion to reconsider or a motion to table a motion to reconsider—even though held not to abrogate the Chair's authority to continue 5-minute voting on a series of postponed questions—nevertheless must be a 15-minute vote. This change would allow even the first in a series of postponed questions to be a 5-minute vote so long as the first record vote in any unbroken series were 15 minutes. More specific, votes "incidental" to postponed questions could be conducted as 5-minute votes.

In the rules of the House for the 105th Congress, the Transportation Committee's jurisdiction included "measures related to the construction or maintenance of roads and bridges, other than appropriations therefor." This clause also contained a proviso which provides that "it shall not be in order for any bill providing for general legislation in relation to roads to contain any provision for any specific road nor for any bill in relation to a specific road to embrace a provision in relation to any other specific road." In the recodified form of the House rules, this proviso would have been transferred to clause 3 of Rule XXI. However, the provision will be deleted by the resolution because it is obsolete.

Clause 8 of rule XXIV (Code of Official Conduct) prohibits a Member or officer of the House from retaining an employee who does not perform official duties commensurate with the compensation received in the offices of the employing authority. The resolution conforms House rules with other statutory changes which permit telecommuting by federal employees. It is anticipated that the House Administration Committee would follow up with appropriate regulations defining what is permissible under the rule.

Finally, section 1 contains two ethics-related rules changes which were recommended in a bipartisan fashion by the Committee on Standards of Official Conduct.

The first change closes an existing loophole in the rules by requiring committee consultants to abide by the key provisions of the Code of Official Conduct. Those provisions include the requirement that they conduct themselves in a manner which reflects creditably on the House, the conflict-of-interest provisions, and the gift rule.

The second change conforms House rules to recent Supreme Court decisions relating to honoraria earned by certain lower level Federal employees. Such employees would be permitted to receive honoraria, such as compensation for an article, speech, or appearance, for activities not related to official duties.

Section 2 of the resolution consists of "Separate Orders" which do not change any of the standing rules of the House. These are more or less housekeeping provisions which deem certain actions or waive the application of certain rules of the House. For example:

Because Congress failed to adopt a concurrent budget resolution for fiscal year 1999, the Congressional Budget Act is unenforceable absent the establishment of budget allocations for committees in the House. Therefore, the resolution authorizes the chairman of the Budget Committee to publish allocations contemplated by section 302(a) of the Congressional Budget Act in the CONGRESSIONAL RECORD.

On September 18, 1997, the House adopted the recommendations of a 12-member bipartisan task force on ethics reform with certain amendments, which included not only changes to the standing rules of the House but also free-standing directives to the Committee on Standards of Official Conduct. Those free-standing directives address committee agendas, committee staff, meetings and hearings, public disclosure, requirements to constitute a complaint, duties of the chairman and ranking member, investigative and adjudicatory subcommittees, standard of proof for adoption of statement of alleged violation, subcommittee powers, due process rights of respondents, and committee reporting requirements. In order to have force and effect in the 106th Congress, the free-standing provisions of H. Res. 168 are being carried forward by the resolution.

When the House adopted H. Res. 5 in the 104th Congress, it adopted a new provision [House Rule X, clause 5(d)] which stipulates that no House committee "shall have more than five subcommittees." The rule made an exception for the Government Reform Committee, the panel was authorized by the rule to have "no more than seven" subcommittees. Government Reform was granted the exception because it absorbed the functions of two standing committees (District of Columbia and Post Office and Civil Service), which the House abolished on January 4, 1995.

On November 13, 1997, the House approved H. Res. 326, which provided an exception for the Committee on Government Reform to temporarily establish an eighth subcommittee for the remainder of the 105th Congress. This rules package allows the Committee to again establish an eighth subcommittee to accommodate the need for extensive oversight over the census.

The Rules Committee believes that the type of oversight that is needed for issues such as sampling, questionnaire content, and continuous measurement cannot be done effectively by the full Committee or by its other subcommittees. Therefore, this resolution grants the Government Reform Committee another waiver of clause 5(d) of rule X to permit an eighth subcommittee for the duration of the 106th Congress.

The resolution contains a provision continuing the Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of China in the 106th Congress. The Select Committee, ably chaired by my California colleague, Mr. COX, was established by House adoption of H. Res. 463 on June 18, 1998 by an overwhelming vote of 409–10.

The Select Committee, operating in an extraordinary atmosphere of bipartisan cooperation, has produced a thorough and detailed report addressing the question of whether U.S. national security has been endangered by certain technology transfers to the People's Republic of China during the Clinton administration. The report was agreed to by all nine members of the Select Committee—on both sides of the aisle—and all the members are also in agreement on the need to briefly extend the life of the Select Committee. The Select Committee's report, however, is classified.

Solely for the purpose of declassification and public release of the Select Committee's report, the Select Committee will be continued in the 106th Congress for 3 months. The procedural authorities at the disposal of the Select Committee are limited by the language in the rules package, and there are no additional funds authorized. The Select Committee will be maintained by unobligated balances remaining from the establishing resolution of the 105th Congress.

Finally, section 3 makes it in order to separately consider a resolution introduced by the majority leader or his designee, amending clause 5 of rule XXVI to conform the House gift rule to the Senate gift rule. The resolution shall be debatable for 1 hour equally divided and controlled by the majority leader and the minority leader or their designees.

At this point, Mr. Speaker, I would like to include for the RECORD a section-by-section summary of H. Res. 5, as well as other relevant material. Also, pursuant to section 2 of this resolution and, as the designee of the majority leader, I will be inserting for the RECORD certain extraneous and tabular information for the purpose of establishing a legislative history relating to the recodification of the rules of the House.

Section-by-Section Summary of Substantive Changes Contained in H. Res. 5—Adopting House Rules for the 106th Congress

1. Redesignation of Committee on Government Reform and Oversight. The Committee on Government Reform and Oversight is redesignated as the Committee on Government Reform in each place it appears in the rules.

2. Redesignation of Committee on House Oversight. The Committee on House Oversight is redesignated as the Committee on House Administration in each place it appears in the rules.

3. Redesignation of Committee on National Security. The Committee on National Security is redesignated as the Committee on Armed Services in each place it appears in the rules.

4. Office of the Historian. Clarifies that the Speaker appoints and sets the annual rate of pay for employees of the Office of the Historian. [Rule II, clause 7]

5. Notice of form of question of privilege. The requirement that the full text of a resolution proposing a question of the privilege of the House be read could be dispensed with by unanimous consent at the point of its initial announcement to the House. [Rule IX, clause 2(a)(1)]

6. Budget Process. These provisions are necessary to conform certain rules of the House with the amendments made to the Budget Act by the Balanced Budget Enforcement Act of 1997. These changes relate to the oversight requirements of the Budget Committee, the consideration of bills providing new entitlement authority, and the submission of views and estimates on the President's budget. [Rule X: clause 1(b)(4); clause 2(b)(1); clause 4(f); clause 4(g)]

7. Committee oversight plans. The prohibition against the consideration of any committee expense resolution when a committee has not adopted and submitted its oversight plans to the Committee on House Administration and the Committee on Government Reform by February 15 of the first session of the Congress would be repealed. [Rule X, clause 2(d)(2)]

8. Service on the Committee on Standards of Official Conduct. The House rule requiring four members to rotate off the Standards Committee every Congress would be eliminated. The House rule prohibiting Members from serving more than two Congresses in any period of three successive Congresses on the Standards Committee would be amended to prohibit Members from serving more than three Congresses in any period of five successive Congresses. [Rule X, clause 5]

9. Oversight Subcommittees. The restriction on committees maintaining more than five subcommittees would be maintained in the rule, while committees that maintain a subcommittee on oversight would be restricted to not more than six subcommittees. [Rule X, clause 5(d)]

10. Exceptions to five-minute rule in hearings. The rule, adopted at the beginning of the 105th Congress, to permit committees to adopt a rule or motion to extend questioning for selected majority and minority members and to permit the questioning of witnesses by staff is clarified to address ambiguities in the rule. [Rule XI, clause 2(j)]

11. Subpoenas. The House rule granting committees authority to issue subpoenas is clarified to state the common practice that a subpoena may specify the terms of return other than at a meeting or hearing of a committee or subcommittee. [Rule XI, clause 2(m)]

12. Abolishment of pairs other than "live pairs." The practice of pairing, which involves absent Members arranging with other absent Members on opposite sides of a specified question the ability to stipulate how they would have voted, would no longer be permitted. However, "live pairs," which involve an agreement between one Member who is present and voting and another on the opposite side of the question, who is absent, would continue to be permitted. [Rule XX, clause 8]

13. Postponement of vote on original motion to instruct conferees. The Speaker's current authority to postpone votes would be extended to any vote on an original motion to instruct conferees. [Rule XX, clause 8]

14. Five-minute voting. The Speaker's authority to reduce to five minutes the voting time on postponed votes would be extended to all postponed questions, and on questions incidental thereto, so long as the first vote on a question in a series of questions is no less than 15 minutes. [Rule XX, clause 10]

15. Elimination of Specific Road Point of Order. The obsolete point of order against consideration of a general roads bill containing provisions relating to specific roads is deleted. [Rule XXI, clause 3]

16. Technical amendments. The requirement that a House employee must perform duties commensurate with the compensation received "in the offices of the employing authority" is modified to conform with other statutory changes which permit telecommuting by federal employees. [Rule XXIV, clause 8(a)] To conform with administrative changes put in place at the beginning of the 104th Congress, "Chief Administrative Officer" is substituted for "Clerk" with respect to the entity responsible for dispersing the pay of officers and employees of the House. [Rule XXIV, clause 1]

17. Consultants. Consultants would be required to abide by the key provisions of House rule XXIV, the Code of Official Conduct, including the requirement that they conduct themselves in a manner that reflects creditably on the House, the conflict-of-interest provision, and the gift rule. [Rule XXIV, clause 14(b)]

18. Honoraria. Certain lower-level House employees would be permitted to receive honoraria (i.e., compensation for an article, speech, or appearance) for activities not related to official duties. [Rule XXVI, clause 2]

SECTION 2. SEPARATE ORDERS

1. Budget Enforcement. This provision authorizes the chairman of the Committee on the Budget to publish budget allocations contemplated by section 302(a) of the Congressional Budget Act in the Congressional Record pending the adoption by the Congress of a concurrent resolution on the budget for fiscal year 1999. Once published, those budget levels shall be effective in the House as though established by passage of a concurrent resolution on the budget. This provision also clarifies the application of section 315 of the Congressional Budget Act with respect to points of order raised under section 303 of the Budget Act (relating to consideration of spending or revenue measures prior to the adoption of a concurrent resolution on the budget.)

2. Tenure on the Budget Committee. Clause 5(a)(2) of House rule X prohibits Members from serving on the Budget Committee for more than 4 congresses (8 years) in any period of six successive congresses (12 years). The applicability of this rule would be waived for the duration of the 106th Congress.

3. Standards Committee rules. The freestanding directives of H. Res. 168 of the 105th Congress (sections 3, 4, 5, 7, 10, 11, 12, 13, 14, 15, 16, 17, 20, and 21) regarding ethics reform would be carried forward in the 106th Congress.

4. Census Subcommittee. Clause 5(d) of House rule X restricts House committees from establishing more than 5 subcommittees, with an exception for the Committee on Government Reform, which is permitted to have seven. For the purpose of effective oversight of the census, this provision provides a waiver for the Committee on Government Reform to have eight subcommittees in the 106th Congress.

5. Explanatory Material Relating to Recodification of Rules. This provision gives the Majority Leader and the Minority Leader or their designees the ability to submit certain extraneous and tabular information in the Congressional Record for the purpose of legislative history relating to the recodification of the standing rules of the House.

6. Continuance of Select Committee. This provision establishes in the 106th Congress a Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of China solely for the purpose of completing the declassification and public release of its report prepared by the Select Committee of the 105th Congress. [The Select Committee was established by the House agreeing to H. Res. 463 on June 18, 1998 by a vote of 409–10.] The procedural authorities of the Select Committee contained in sections 8 and 9 of H. Res. 463, relating to transfers of information and information gathering, shall be limited in the 106th Congress to enforcing requests for information issued before January 3, 1999 and to issue and enforce requests directly related to the declassification and public release of the Select Committee's report. Also, the provisions of section 10 of H. Res. 463, relating to tax information, shall not apply in the 106th Congress. Expenses of the Select Committee may be paid from applicable accounts of the House which may not exceed those available as unexpended balances of the Select Committee from the 105th Congress. The Select Committee shall cease to exist on March 31, 1999.

7. Numbering of Bills. The first ten numbers for bills (H.R. 1 through H.R. 10) shall be reserved for assignment by the Speaker when introduced on or before March 1, 1999.

SECTION 3. SPECIAL ORDER OF BUSINESS

This provision provides that upon the adoption of H. Res. 5, it shall be in order to separately consider a resolution introduced by the Majority Leader or his designee, amending clause 5 of rule XXVI, the House gift rule. The resolution shall be debatable for one hour equally divided and controlled by the Majority Leader and the Minority Leader or their designees.

Description of resolution to be offered by the majority leader or his designee

The House gift rule would be amended to incorporate verbatim the text of a provision of the Senate gift rule which would allow a Member, officer, or employee to accept a gift (other than cash or cash equivalent) that he or she reasonably and in good faith believes to have a value of less than $50, and a cumulative value from one source in a calendar year of less than $100. No gift with a value below $10 would count toward the annual limit.

HOUSE OF REPRESENTATIVES, SELECT COMMITTEE ON U.S. NATIONAL SECURITY AND MILITARY/COMMERCIAL CONCERNS WITH THE PEOPLE'S REPUBLIC OF CHINA,
Washington, DC, December 30, 1998.

Hon. J. DENNIS HASTERT,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. HASTERT: The Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China will submit its report on or before January 3, 1999, as provided in H. Res. 463. That report, however, will be classified.

The Select Committee's report will be submitted to the President for declassification. Since the process of declassification review will require consultation with Select Committee staff who are expert in the details and contents of the report, we have discussed with you the advisability of authorizing the Select Committee, on the opening day of the 106th Congress, to complete the process of declassification so that the Select Committee's report may be made publicly available.

Enclosed herewith for your review and approval is a resolution for this purpose. It authorizes no new funds; under its terms the Select Committee's public version of the report would be completed on or before March 31, 1999.

Please let us know if this resolution, and its adoption on January 6, 1999, meets with your approval.

Sincerely,
CHRIS COX,
Chairman.
NORM DICKS,
Ranking Member.

HOUSE OF REPRESENTATIVES, SELECT COMMITTEE ON U.S. NATIONAL SECURITY AND MILITARY/COMMERCIAL CONCERNS WITH THE PEOPLE'S REPUBLIC OF CHINA,
Washington, DC, January 3, 1999.

Hon. NEWT GINGRICH,
Speaker of the House,
The Capitol, Washington DC.

DEAR MR. SPEAKER: The Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China, established pursuant to H. Res. 463, hereby submits its classified Report, which has been unanimously approved by the Select Committee.

Since the Select Committee's Report contains highly classified and sensitive information that must be retained in a Sensitive Compartmented Information Facility (SCIF), the Report is being held in the SCIF at 1036 Longworth House Office Building.

Sincerely,
CHRIS COX,
Chairman.
PORTER GOSS,
Vice Chairman.
DOUG BEREUTER.
JAMES V. HANSEN.
CURT WELDON.
NORM DICKS,
Ranking Democrat.
JOHN M. SPRATT, Jr.,
LUCILLE ROYBAL-ALLARD.
BOBBY SCOTT.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATIONAL SECURITY,
Washington, DC, December 17, 1998.

Hon. DAVID DREIER,
Chairman-elect, Committee on Rules, Capitol, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to respectfully request your support for a change in the name of the House Committee on National Security back to the original Committee on Armed Services.

We believe that the committee's original name more properly reflects the unique constitutional responsibility of the Congress to provide for the nation's military forces. The special relationship between our men and women in uniform and their elected representatives has been integral to the success of the all-volunteer force and central to the tradition of bipartisanship that has characterized our committee's work for decades. Given the serious quality of life, readiness and modernization problems that our armed forces confront today, we believe that the change to the Committee on Armed Services is appropriate and justified.

Thank you for your consideration.
FLOYD D. SPENCE,
Chairman.
IKE SKELTON,
Ranking Minority Member.

RECODIFICATION HEADINGS AND SUBHEADINGS OF THE RULES OF THE HOUSE

RULE I: THE SPEAKER

Clause 1: Approval of the Journal.
Clause 2: Preservation of Order.
Clause 3: Control of Capitol Facilities.
Clause 4: Signature of Documents.
Clause 5: Questions of Order.
Clause 6: Form of a Question.
Clause 7: Discretion to Vote.
Clause 8: Speaker Pro Tempore.
Clause 9: Term Limit.
Clause 10: Designation of Travel.
Clause 11: Committee Appointment.
Clause 12: Declaration of Recess.
Clause 13: Other Responsibilities.

RULE II: OTHER OFFICERS AND OFFICIALS

Clause 1: Elections.
Clause 2: Clerk.
Clause 3: Sergeant-at-Arms.
Clause 4: Chief Administrative Officer.
Clause 5: Chaplain.
Clause 6: Office of Inspector General.
Clause 7: Office of the Historian.
Clause 8: Office of General Counsel.

RULE III: THE MEMBERS, DELEGATES AND THE RESIDENT COMMISSIONER OF PUERTO RICO

Clause 1–2: Voting.
Clause 3: Delegates and the Resident Commissioner.

RULE IV: THE HALL OF THE HOUSE

Clause 1–5: Use and Admittance.
Clause 6: Gallery.
Clause 7: Prohibition on Campaign Contributions.

RULE V: BROADCASTING THE HOUSE

RULE VI: OFFICIAL REPORTERS AND NEWS MEDIA GALLERIES

Clause 1: Official Reporters.
Clause 2–3: News Media Galleries.

RULE VII: RECORDS OF THE HOUSE

Clause 1–2: Archiving.
Clause 3–5: Public Availability.
Clause 6: Definition of Record.
Clause 7: Withdrawal of Papers.

RULE VIII: RESPONSE TO SUBPOENAS

RULE IX: QUESTIONS OF PRIVILEGE

RULE X: ORGANIZATION OF COMMITTEES

Clause 1: Committees and their Legislative Jurisdictions.
Clause 2: General Oversight Responsibilities.
Clause 3: Special Oversight Functions.
Clause 4(a)–(e): Additional Functions of Committees.
Clause 4(f)–(h): Budget Act Responsibilities.
Clause 5: Election and Membership of Standing Committees.
Clause 6: Expense Resolutions.
Clause 7: Interim Funding.
Clause 8: Travel.
Clause 9: Committee Staffs.
Clause 10: Select and Joint Committees.
Clause 11: Permanent Select Committee on Intelligence.

RULE XI: PROCEDURES OF COMMITTEES AND UNFINISHED BUSINESS

Clause 1: In General.
Clause 2(a): Adoption of Written Rules.
Clause 2(b): Regular Meeting Days.
Clause 2(c): Additional and Special Meetings.
Clause 2(d): Temporary Absence of Chairman.
Clause 2(e): Committee Records.
Clause 2(f): Prohibition Against Proxy Voting.
Clause 2(g): Open Meetings and Hearings.
Clause 2(h): Quorum Requirements.
Clause 2(i): Limitation on Committee Sittings.
Clause 2(j): Questioning Witnesses.
Clause 2(k): Investigative Hearing Procedures.
Clause 2(l): Supplemental, Minority, or Additional Views.
Clause 2(m): Power to Sit and Act; Subpoena Power.
Clause 3: Committee on Standards of Official Conduct.
Clause 4: Audio and Visual Coverage of Committee Proceedings.
Clause 5: Pay of Witnesses.
Clause 6: Unfinished Business of the Session.

RULE XII: RECEIPT AND REFERRAL OF MEASURES AND MATTERS

Clause 1: Messages.
Clause 2: Referral.
Clause 3–4: Petitions, Memorials, and Private Bills.
Clause 5: Prohibition on Commemorations.
Clause 6: Excluded Matters.
Clause 7: Sponsorship.
Clause 8: Executive Communications.

RULE XIII: CALENDARS AND COMMITTEE REPORTS

Clause 1: Calendars.
Clause 2: Filing and Printing of Reports.
Clause 3: Content of Reports.
Clause 4: Availability of Reports.
Clause 5: Privileged Reports, Generally.
Clause 6: Privileged Reports by the Committee on Rules.
Clause 7: Resolutions of Inquiry.

RULE XIV: ORDER AND PRIORITY OF BUSINESS

RULE XV: BUSINESS IN ORDER ON SPECIAL DAYS

Clause 1: Suspensions, Mondays and Tuesdays.
Clause 2: Discharge Motions, second and fourth Mondays.
Clause 3: Adverse Report by the Committee on Rules, second and fourth Mondays.
Clause 4: District of Columbia Business, second and fourth Mondays.
Clause 5: Private Calendar, first and third Tuesdays.
Clause 6: Corrections Calendar, second and fourth Tuesdays.
Clause 7: Calendar Call of Committees, Wednesdays.

RULE XVI: MOTIONS AND AMENDMENTS

Clause 1: Motions.
Clause 2: Withdrawal.
Clause 3: Question of Consideration.
Clause 4: Precedence of Motions.
Clause 5: Divisibility.
Clause 6: Amendments.

Clause 7: Germaneness.
Clause 8: Readings.

RULE XVII: DECORUM AND DEBATE

Clause 1: Decorum.
Clause 2: Recognition.
Clause 3: Managing Debate.
Clause 4: Call to Order.
Clause 5: Comportment.
Clause 6: Exhibits.
Clause 7: Galleries.
Clause 8: Congressional Record.
Clause 9: Secret Sessions.

RULE XVIII: THE COMMITTEE OF THE WHOLE HOUSE ON THE STATE OF THE UNION

Clause 1–2: Resolving into the Committee of the Whole.
Clause 3: Measures Requiring Initial Consideration in the Committee of the Whole.
Clause 4: Order of Business.
Clause 5: Reading for Amendment.
Clause 6: Quorum and Voting.
Clause 7: Dispensing With the Reading of an Amendment.
Clause 8: Closing Debate.
Clause 9: Striking the Enacting Clause.
Clause 10: Concurrent Resolution on the Budget.
Clause 11: Unfunded Mandates.
Clause 12: Applicability of Rules of the House.

RULE XIX: MOTIONS FOLLOWING THE AMENDMENT STAGE

Clause 1: Previous Question.
Clause 2: Recommit.
Clause 3-4: Reconsideration.

RULE XX: VOTING AND QUORUM CALLS

Clause 8: Pairs.
Clause 9: Postponement of Proceedings.
Clause 10: Five-minute Votes.
Clause 11: Automatic Yeas and Nays.
Clause 12: Ballot Votes.

RULE XXI: RESTRICTIONS ON CERTAIN BILLS

Clause 1: Reservation of Certain Points of Order.
Clause 2: General Appropriations Bills and Amendments.
Clause 3: Roads.
Clause 4: Appropriations on Legislative Bills.
Clause 5(a): Tax and Tariff Measures and Amendments.
Clause 5(b): Passage of Tax Rate Increases.
Clause 5(c): Consideration of Retroactive Tax Rate Increases.
Clause 6: Transportation Obligation Limitations.

RULE XXII: HOUSE AND SENATE RELATIONS

Clause 1–6: Senate Amendments.
Clause 7–12: Conference Reports; Amendments Reported in Disagreement.

RULE XXIII: STATUTORY LIMIT ON THE PUBLIC DEBT

RULE XXIV: CODE OF OFFICIAL CONDUCT

RULE XXV: LIMITATIONS ON THE USE OF OFFICIAL FUNDS

Clause 1–3: Limitations on Use of Official and Unofficial Accounts.
Clause 4–9: Limitations on Use of the Frank.
Clause 10: Prohibition on Use of Funds by Members Not Elected to Succeeding Congress.

RULE XXVI: LIMITATIONS ON OUTSIDE EARNED INCOME AND ACCEPTANCE OF GIFTS

Clause 1–2: Outside Earned Income; Honoraria.
Clause 3: Copyright Royalties.
Clause 4: Definitions.
Clause 5: Gifts.
Clause 6: Claims Against the Government.

RULE XXVII: FINANCIAL DISCLOSURE

RULE XXVIII: GENERAL PROVISIONS

MAJOR RULE CITATION CHANGES PURSUANT TO THE RECODIFICATION OF THE RULES OF THE HOUSE

[This only reflects changes in rule citations. Any current citations that remained the same are not included in this list.]

	Old Citation	New Citation
Speaker's Discretion to Vote	Rule I, clause 5	Rule XX, clause 1
Lame Duck Travel Authority	Rule I, clause 8	Rule XXV, clause 10
Broadcasting of House Proceedings	Rule I, clause 9	Rule V
Office of the Historian	Rule I, clause 10	Rule II, clause 7
Office of the General Counsel	Rule I, clause 11	Rule II, clause 8
Clerk	Rule III	Rule II, clause 2
Sergeant-at-Arms	Rule IV	Rule II, clause 3
Chief Administrative Officer	Rule V	Rule II, clause 4
Office of the Inspector General	Rule VI	Rule II, clause 6
Chaplain	Rule VII	Rule II, clause 5
Duties of Members	Rule VIII	Rule III, clauses 1–2
Pairs	Rule VIII, clause 2	Rule XX, clause 8
General/Specific Roads	Rule X, clause 1(q)	Rule XXI, clause 3
Standards Committee	Rule X, clause 4(e)	Rule XI, clause 3
Referrals	Rule X, clause 5	Rule XII, clause 2
Committee Membership	Rule X, clause 6	Rule X, clause 5(a)(1)
Select and Joint Committees	Rule X, clause 6(g)	Rule X, clause 10
Conference Committees	Rule X, clause 6(f)	Rule X, clause 10
Committee Reporting Procedures	Rule XI, clause 2(l)	Rule XIII, clauses 2–4
Committee Broadcast Rule	Rule XI, clause 3	Rule XI, clause 4
Privileged Reports	Rule XI, clause 4	Rule XIII, clause 5
Rules Committee Reports	Rule XI, clause 4	Rule XIII, clause 6
Adverse Rules Committee Reports	Rule XI, clause 4(c)	Rule XV, clause 3
Expense Resolutions	Rule XI, clause 5	Rule X, clause 6
Committee Staffs	Rule XI, clause 6	Rule X, clause 9
Resident Commissioner/Delegates	Rule XII	Rule III, clause 3
Corrections Calendar	Rule XIII, clause 4	Rule XV, clause 6
Dynamic Estimates	Rule XIII, clause 7(e)	Rule XIII, clause 3(h)(2)
Decorum and Debate	Rule XIV	Rule XVII
Voting and Quorum Calls	Rule XV	Rule XX
Previous Question	Rule XVII	Rule XIX, clause 1
Motion to Recommit	Rule XVIII, clause 1; Rule XVI, clause 4	Rule XIX, clause 2
Reconsideration	Rule XVIII	Rule XIX, clause 3
Amendments	Rule XIX	Rule XVI, clause 6
Senate Amendments	Rule XX, clause 1	Rule XXII, clause 1
Reading of Bills	Rule XXI, clause 1	Rule XVI, clause 8
General Appropriations Bills	Rule XXI, clause 2(a)	Rule XXI, clause 2
Appropriations in Legislation	Rule XXI, clause 5(a)	Rule XXI, clause 4
Reappropriations	Rule XXI, clause 6	Rule XXI, clause 2(a)(2)
Printing of Appropriations Hearings	Rule XXI, clause 7	Rule XIII, clause 4
Reservations of Points of Order	Rule XXI, clause 8	Rule XXI, clause 1
Transport. Obligation Limitations	Rule XXI, clause 9	Rule XXI, clause 6
Resolutions of Inquiry	Rule XXII, clause 5	Rule XIII, clause 7
Committees of the Whole House	Rule XXIII	Rule XVIII
Order of Business	Rule XXIV	Rule XIV
Private Calendar	Rule XXIV, clause 6	Rule XV, clause 5
Calendar Wednesday	Rule XXIV, clause 7	Rule XV, clause 7
D.C. Legislative Business	Rule XXIV, clause 8	Rule XV, clause 4
Priority of Business	Rule XXV	Rule XIV
Unfinished Business	Rule XXVI	Rule XI, clause 6
Suspension of the Rules	Rule XXVII	Rule XV, clause 1
Discharge Motions	Rule XXVII, clause 3	Rule XV, clause 2
Conference Reports	Rule XXVIII	Rule XXII, clauses 7–12
Secret Sessions	Rule XXIX	Rule XVII, clause 9
Exhibits	Rule XXX	Rule XVII, clause 6
Hall of the House	Rule XXXI	Rule IV, clause 1
Admission to the Floor	Rule XXXII	Rule IV, clauses 2–5
Admission to the Galleries	Rule XXXIII	Rule IV, clause 6
Official Reporters and the Media	Rule XXXIV	Rule VI
Pay of Witnesses	Rule XXXV	Rule XI, clause 5
Records of the House	Rule XXXVI	Rule VII
Withdrawal of Papers	Rule XXXVII	Rule VII, clause 7
Ballot Votes	Rule XXXVIII	Rule XX, clause 12
Messages	Rule XXXIX	Rule XII, clause 1
Code of Official Conduct	Rule XLIII	Rule XXIV
Financial Disclosure	Rule XLIV	Rule XXVII

MAJOR RULE CITATION CHANGES PURSUANT TO THE RECODIFICATION OF THE RULES OF THE HOUSE—Continued

[This only reflects changes in rule citations. Any current citations that remained the same are not included in this list.]

	Old Citation	New Citation
Unofficial Office Accounts	Rule XLV	Rule XXV, clauses 1–3
Limitation on Use of the Frank	Rule XLVI	Rule XXV, clauses 4–9
Outside Earned Income	Rule XLVII	Rule XXVI, clauses 1–2
Intelligence Committee	Rule XLVIII	Rule X, clause 9
Debt Limit	Rule XLIX	Rule XXIII
Response to Subpoenas	Rule L	Rule VIII
Gift Rule	Rule LI	Rule XXVI, clause 5

COMMITTEE ON RULES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 5, 1999.

Hon. DENNIS HASTERT,
Speaker-nominee, the Capitol,
Washington, DC.

Hon. RICHARD GEPHARDT,
Minority Leader, the Capitol,
Washington, DC.

DEAR MR. SPEAKER-NOMINEE AND MR. LEADER: At the beginning of the 105th Congress, the Committee on Rules established a bipartisan, ad hoc task force to develop a more rational and orderly set of House rules without making substantive changes in the rules, procedures or precedents of the House as they stand today. The Task Force consisted of Representatives Dreier, Frost, Pryce, and Slaughter.

In this letter, we formerly present to you the recommendations of the Task Force.

We have worked closely with the Office of the Parliamentarian to develop this proposal. It is our hope that the recommendations will be incorporated as a part of the opening day rules package. Our proposal reorganizes the rules to provide a more logical, user-friendly structure and, in the process, pares down the number of rules from 51 to 28. Obsolete and archaic provisions have been excised. The proposal, however, retains the location of certain major rules to retain consistency with precedent and practice volumes already published (e.g., germaneness remains as clause 7 of rule XVI and legislation in an appropriation bill remains clause 2 of rule XXI).

A large part of the effort consisted of maintaining uniformity of word usage and style. The same ideas have been expressed over the years in many very different ways. For example, a privileged question is sometimes called "privileged" or "highly privileged" or "of highest privilege" or "is in order at any time" or "shall always be in order." But by consistent and long-standing precedents, these different expressions have been treated as strictly identical. The requirement for collegial action by a committee has been written in a variety of ways, for example "not without the consent of the committee" or "only when authorized by the committee, a majority being present." This has led to confusion. In these and similar circumstances, the Task Force sought, whenever possible, a single convention to be used consistently. For example, the convention used to express a mandatory negative is "may not." Gender references, where avoidable, have been deleted; otherwise, they are treated as in the U.S. Code, so that the terms "he" or "his" are defined in proposed rule XXVIII, to be a reference to "she" or "her" as applicable.

While we continue to have substantive disagreements about the existing rules and appropriate changes to them, the Task Force fully agrees that the proposal presents the rules in a more coherent format and makes their meaning more transparent but is in no way intended to alter the interpretation or content of any rule.

Sincerely,

DAVID DREIER.
JOHN JOSEPH MOAKLEY.

Enclosure.

RULE HEADINGS

Existing rule	Proposed new rule
I. Duties of the Speaker	The Speaker
II. Election of Officers	Other Officers and Officials
III. Duties of the Clerk	The Members, Delegates and Resident Commissioner of Puerto Rico
IV. Duties of the Sergeant-at-Arms	The Hall of the House
V. Chief Administrative Officer	Broadcasting the House
VI. Office of Inspector General	Official reporters and News Media galleries
VII. Duties of the Chaplain	Records of the House
VIII. Duties of the Members	Response to subpoenas
IX. Questions of privilege	Questions of privilege
X. Establishment and jurisdiction of standing committees.	Organization of Committees
XI. Rules of procedures for committees.	Procedures of committees and Unfinished Business
XII. Resident Commissioner and Delegates.	Receipt and Referral of Measures and Matters
XIII. Calendars and reports of committees.	Calendars and Committee Reports
XIV. Of decorum and debate	Order and Priority of Business
XV. On calls of the roll and House	Business in order on special days
XVI. On motions, their precedence, etc..	Motions and Amendments
XVII. Previous question	Decorum and Debate
XVIII. Reconsideration	The Committee of the Whole House on the State of the Union
XIX. Of amendments	Motions following the amendment stage
XX. Of amendments of the Senate	Voting and Quorum Calls
XII. On bills	Restrictions on certain bills
XXII. Of petitions, memorials, bills and resolutions.	House and Senate Relations
XXIII. Of Committees of the Whole House.	Statutory limit on the public debt
XXIV. Order of business	Code of Official Conduct
XXV. Priority of business	Limitations on the use of official funds
XXVI. Unfinished business of the session.	Limitations on outside earned income and Acceptance of Gifts
XXVII. Change of suspension of rules	Financial disclosure
XXVIII. Conference reports	General provisions
XXIV. Secret session	
XXX. Use of exhibits	
XXXI. Hall of the House	
XXXII. Of admission to the floor	
XXXIII. Of admission to the galleries	
XXXIV. Official and other reporters	
XXXV. Pay of witnesses	
XXXVI. Preservation and availability of noncurrent records of the House.	
XXXVII. Withdrawal of papers	
XXXVIII. Ballot	
XXXIX. Messages	
XL. Executive communications	
XLI. Qualifications of officers and employees.	
XLII. General provisions	
XLIII. Code of Official Conduct	
XLIV. Financial disclosure	
XLV. Prohibition of unofficial office accounts.	
XLVI. Limitations on use of the frank	
XLVII. Limitations on outside employment and earned income.	
XLVIII. Permanent Select Committee on Intelligence.	
XLIX. Establishment of statutory limit on public debt.	
L. Procedure for response to subpoenas.	
LI. Gift rule	

PROPOSED NEW RULES

[RECODIFICATION COMMITTEE PRINT]

[JANUARY ___, 1999]

106TH CONGRESS
1ST SESSION

H. RES. ___

Recodifying the standing Rules of the House of Representatives.

IN THE HOUSE OF REPRESENTATIVES

JANUARY __, 1999

Mr. ___ submitted the following resolution; which was referred to the Committee on __

RESOLUTION

Resolved, That the standing Rules of the House of Representatives are recodified to read as follows:

EXISTING RULES

COMMENTARY

The Parliamentarians have met with bi-partisan staff from the Task Force on recodification of the rules and have agreed upon a revised structural format of the rules which reduces their number from 52 to 28 in a logical sequence. This format arranges the rules by addressing the organization and operation of the House as follows: duties of Officers and Members (rules I–III), administration of the House (rules IV–VI), institutional prerogatives (rules VII–IX), committees (rules X–XI), consideration of legislation (rules XII–XXIII), conduct of Members, Officers and Employees (rules XXIV–XXVII), and miscellaneous provisions (rule XXVIII). This draft was initially based on the 1985 draft of recodification and incorporates changes in the rules from that year through 1998. The current draft minimizes the change of some major rules citations in order to retain consistency with precedent and practice volumes already published (e.g., germaneness remains as clause 7 of rule XVI, and general appropriation bill matters remain clause 2 of rule XXI). It is acknowledged, however, that the overriding reorganization consensus will necessitate cross references to citations in subsequent precedent and practice volumes where rule numbers have been changed. The current draft also reflects a specific review of the language within each rule to incorporate accepted understandings without substantive change. For instance, this draft includes "Delegates" and "the Resident Commissioner" along with "Members" in those situations where the rules do not distinguish between an individual's status. Their omission in the rules (such as voting, Committee of the Whole, and selection of presiding officers) is indicative of authorities limited to Members. Gender references are treated as in the U.S. Code, whereby a reference to "he" or "his" is defined in rule XXVIII to constitute a reference to "she" or "her" where applicable. Provisos are replaced by sentence restructing to assure clarity of meaning. The concept of a "privileged question" or "privileged motion" is consistently utilized to replace current references to matters "of highest privilege" or "in order at any time" or "it shall always be in order." References to certain voting procedures are changed from "rollcall" to "record" votes and supermajority voting requirements are consistently referred to as "two-thirds" or "three-fifths" of the Members voting, a quorum being present.

		The clerical and stylistic changes reflected in the proposed recodification seek to achieve clarity, readability, and uniformity of word usage and style with the goals of removing possible ambiguities and promoting predictability of interpretation. No substantive change to the rules is intended. The conventions used in the proposed recodification resolve most of the lapses in stylistic uniformity in the current text of the rules. However, certain well-known, time-honored rules (or phrases), although stilted in style, are retained for their historic value. For example, even though one convention used in recodification achieves a mandatory negative within "may not," the time-honored phraseology of the germaneness rule in clause 7 of rule XVI is nevertheless retained.
RULES OF THE HOUSE OF REPRESENTATIVES **RULE I** **THE SPEAKER**	RULES OF THE HOUSE OF REPRESENTATIVES RULE I DUTIES OF THE SPEAKER	
Approval of the Journal 1. The Speaker shall take the Chair on every legislative day precisely at the hour to which the House last adjourned and immediately call the House to order. Having examined and approved the Journal of the last day's proceedings, the Speaker shall announce to the House his approval thereof. The Speaker's approval of the Journal shall be deemed agreed to unless a Member, Delegate, or Resident Commissioner demands a vote thereon. If such a vote is decided in the affirmative, it shall not be subject to a motion to reconsider. If such a vote is decided in the negative, then one motion that the Journal be read shall be privileged, shall be decided without debate, and shall not be subject to a motion to reconsider.	1. The Speaker shall take the Chair on every legislative day precisely at the hour to which the House shall have adjourned at the last sitting and immediately call the Members to order. The Speaker, having examined the Journal of the proceedings of the last day's sitting and approved the same, shall announce to the House his approval of the Journal, and the Speaker's approval of the Journal shall be deemed to be agreed to subject to a vote on agreeing to the Speaker's approval on the demand of any Member, which vote, if decided in the affirmative, shall not be subject to a motion to reconsider. It shall be in order to offer one motion that the Journal be read only if the Speaker's approval of the Journal is not agreed to, and such motion shall be determined without debate and shall not be subject to a motion to reconsider.	**Rules I–II—Duties of Officers and Members** In proposed rule I, the existing provisions on the Speaker's conduct of votes have been transferred to rule XX. All voting procedures are consolidated under rule XX, including ballot voting currently under rule XXXVIII. The Speaker's authority to provide broadcast coverage of House proceedings (currently clause 9, rule I) has been transferred to proposed rule V. The Speaker's authority to appoint select and conference committees is transferred from clause 6(f) of rule X, since more appropriately addressed as a duty of the Speaker. Recent additions to the rules on term limits for Speaker, as well as recess authority and drug testing, remain in rule I.
Preservation of order 2. The Speaker shall preserve order and decorum and, in case of disturbance or disorderly conduct in the galleries or in the lobby, may cause the same to be cleared.	2. He shall preserve order and decorum, and in case of disturbance or disorderly conduct in the galleries, or in the lobby, may cause the same to be cleared.	
Control of Capitol facilities 3. Except as otherwise provided by rule or law, the Speaker shall have general control of the Hall of the House, the corridors and passages in the part of the Capitol assigned to the use of the House, and the disposal of unappropriated rooms in that part of the Capitol.	3. He shall have general control, except as provided by rule or law, of the Hall of the House, and of the corridors and passages and the disposal of the unappropriated rooms in that part of the Capitol assigned to the use of the House, until further order.	The phrase "until further order" in existing clause 3 is deleted as superfluous given existing language of "Except as otherwise provided by rule or law."
4. The Speaker shall sign all acts and joint resolutions passed by the two Houses and all writs, warrants, and subpoenas of, or issued by order of, the House. The Speaker may sign enrolled bills and joint resolutions whether or not the House is in session.	4. He shall sign all acts, addresses, joint resolutions, writs, warrants, and subpoenas of, or issued by order of, the House and decide all questions of order, subject to an appeal by any Member, on which appeal no Member shall speak more than once, unless by permission of the House. The Speaker is authorized to sign enrolled bills whether or not the House is in session.	Proposed clause 4, rule I—Existing clause 4 divided into clauses 4 and 5, to separate Speaker's signing authority from authority to decide questions of order, subject to appeal. The term "addresses" is deleted as obsolete.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
Questions of order 5. The Speaker shall decide all questions of order, subject to appeal by a Member, Delegate, or Resident Commissioner. On such an appeal a Member, Delegate, or Resident Commissioner may not speak more than once without permission of the House.		
Form of a question 6. The Speaker shall rise to put a question but may state it sitting. The Speaker shall put a question in this form: "Those in favor (of the question), say 'Aye.' "; and after the affirmative voice is expressed, "Those opposed, say, 'No.' ". After a vote by voice under this clause, the Speaker may use such voting procedures as may be invoked under rule XX.	5. (a) He shall rise to put a question, but may state it sitting; and shall put questions in this form, to wit: "As many as are in favor (as the question may be), say 'Aye'."; and after the affirmative voice is expressed, "As many as are opposed, say 'No'."; . . . **[Remainder transferred to Rule XX].**	Proposed clause 6, rule I—Existing provisions in clause 5, rule I on division votes and recorded votes are transferred to new rule XX on voting. Also, existing provisions in that clause on postponing votes are transferred to the new voting rule. Both provisions make more sense under voting procedures than under Speaker's authority.
Discretion to vote 7. The Speaker is not required to vote in ordinary legislative proceedings, except when his vote would be decisive or when the House is engaged in voting by ballot.	6. He shall not be required to vote in ordinary legislative proceedings, except where his vote would be decisive, or where the House is engaged in voting by ballot; . . . **[Remainder transferred to Rule XX].**	Proposed clause 7, rule I—Existing provisions in clause 6, rule I, stating that the question loses on a tie vote are transferred to new clause 1, rule XX as a voting question.
Speaker pro tempore 8. (a) The Speaker may appoint a Member to perform the duties of the Chair. Except as specified in paragraph (b), such an appointment may not extend beyond three legislative days. (b)(1) In the case of his illness, the Speaker may appoint a Member to perform the duties of the Chair for a period not exceeding 10 days, subject to the approval of the House. If the Speaker is absent and has omitted to make such an appointment, then the House shall elect a Speaker pro tempore to act during the absence of the Speaker. (2) With the approval of the House, the Speaker may appoint a Member to act as Speaker pro tempore only to sign enrolled bills and joint resolutions for a specified period of time.	7. (a) He shall have the right to name any Member to perform the duties of the Chair, but such substitution shall not extend beyond three legislative days, except that with the permission of the House he may name a Member to act as Speaker pro tempore only to sign enrolled bills and joint resolutions for a period of time specified in the designation, notwithstanding any other provision of this clause: Provided, however, That in case of his illness, he may make such appointment for a period not exceeding ten days, with the approval of the House at the time the same is made; and in his absence and omission to make such appointment, the House shall proceed to elect a Speaker pro tempore to act during his absence.	Only Members, and not Delegates or the Resident Commissioner, may preside over the House or the Committee of the Whole. The Speaker's designation of a Speaker pro tempore to sign enrolled bills and joint resolutions is approved ordinarily by unanimous consent.
Term Limit 9. A person may not serve as Speaker for more than four consecutive Congresses (disregarding for this purpose any service for less than a full session in any Congress).	(b) No person may serve as Speaker for more than four consecutive Congresses, beginning with the One Hundred Fourth Congress (disregarding for this purpose any service for less than a full session in any Congress).	The phrase "beginning with the One Hundred Fourth Congress" is deleted as no longer necessary.
Designation of travel 10. The Speaker may designate a Member, Delegate, Resident Commissioner, officer, or employee of the House to travel on the business of the House within or without the United States, whether the House is meeting, has recessed, or has adjourned. Expenses for such travel may be paid from applicable accounts of the House described in clause 1(h)(1) of rule X on vouchers approved and signed solely by the Speaker.	8. He shall have the authority to designate any Member, officer or employee of the House of Representatives to travel on the business of the House of Representatives, as determined by him, within or without the United States, whether the House is meeting, has recessed or has adjourned, and all expenses for such travel may be paid for from the applicable accounts of the House described in clause 1(h)(1) of rule X on vouchers solely approved and signed by the Speaker .	Proposed clause 10, rule I—The existing clause 8, rule I, prohibition on use of applicable accounts for travel of "lame duck" Members has been transferred to a new rule XXV. The Speaker's television coverage authority, now in clause 9, rule I, has been transferred to a new rule V, and the committee hearing broadcast rule is now in clause 4, rule XI.

Committee appointment

11. The Speaker shall appoint all select, joint, and conference committees ordered by the House. At any time after an original appointment, the Speaker may remove Members, Delegates, or the Resident Commissioner from, or appoint additional Members, Delegates, or the Resident Commissioner to, a select or conference committee. In appointing Members, Delegates, or the Resident Commissioner to conference committees, the Speaker shall appoint no less than a majority who generally supported the House position as determined by the Speaker, shall name those who are primarily responsible for the legislation, and shall, to the fullest extent feasible, include the principal proponents of the major provisions of the bill or resolution passed or adopted by the House.

Declaration of recess

12. To suspend the business of the House for a short time when no question is pending before the House, the Speaker may declare a recess subject to the call of the Chair.

Other responsibilities

13. The Speaker, in consultation with the Minority Leader, shall develop through an appropriate entity of the House a system for drug testing in the House. The system may provide for the testing of a Member, Delegate, Resident Commissioner, officer, or employee of the House, and otherwise shall be comparable in scope to the system for drug testing in the executive branch pursuant to Executive Order 12564 (Sept. 15, 1986). The expenses of the system may be paid from applicable accounts of the House for official expenses.

RULE II

OTHER OFFICERS AND OFFICIALS

Elections

1. There shall be elected at the commencement of each Congress, to continue in office until their successors are chosen and qualified, a Clerk, a Sergeant-at-Arms, a Chief Administrative Officer, and a Chaplain. Each of these officers shall take an oath to support the Constitution of the United States, and for the true and faithful exercise of the duties of his office to the best of his knowledge and ability, and to keep the secrets of the House. Each of these officers shall appoint all of the employees of his department provided for by law. The Clerk, Sergeant-at-Arms, and Chief Administrative Officer may be removed by the House or by the Speaker.

Derived from clause 6(f), rule X: The Speaker shall appoint all select and conference committees which shall be ordered by the House from time to time. At any time after an original appointment, the Speaker may remove Members or appoint additional Members to select and conference committees. In appointing members to conference committees the Speaker shall appoint no less than a majority of members who generally supported the House position as determined by the Speaker. The Speaker shall name Members who are primarily responsible for the legislation and shall, to the fullest extent feasible, include the principal proponents of the major provisions of the bill as it passed the House.

Derived from clause 12, rule I: 12. To suspend the business of the House for a short time when no question is pending before the House, the Speaker may declare a recess subject to the call of the Chair.

13. The Speaker, in consultation with the Minority Leader, shall develop through an appropriate entity of the House a system for drug testing in the House of Representatives. The system may provide for the testing of any Member, officer, or employee of the House, and otherwise shall be comparable in scope to the system for drug testing in the executive branch pursuant to Executive Order 12564 (Sept. 15, 1986). The expenses of the system may be paid from applicable accounts of the House for official expenses.

RULE II

ELECTION OF OFFICERS

There shall be elected by a viva voce vote, at the commencement of each Congress, to continue in office until their successors are chosen and qualified, a Clerk, Sergeant-at-Arms, Chief Administrative Officer, and Chaplain, each of whom shall take an oath to support the Constitution of the United States, and for the true and faithful discharge of the duties of his office to the best of his knowledge and ability, and to keep the secrets of the House; and each shall appoint all of the employees of his department provided for by law. The Clerk, Sergeant-at-Arms, and Chief Administrative Officer may be removed by the House or by the Speaker.

RULE III

Clause 11, rule I, has been transferred from existing clause 6(f), rule X as it is more logical under rule I (Speaker's authority) than under rule X (jurisdiction of committees). It is desirable for this clause to include joint committees as part of the Speaker's appointment authority since the Speaker does appoint members to some joint committees under existing law, such as the Joint Economic Committee. Other joint committees could be similarly structured in the future.

Existing clauses 10 and 11, rule I on the Historian and General Counsel have been transferred to new rule II.

In proposed rule II, the election and duties of other offices of the House are combined as one new organizational rule, rather than separately addressed as in current rules III through VII, with the duties of each officer addressed in separate clauses and the establishment of the offices of Inspector General, Historian, and General Counsel moved from rules VI and I respectively, although they are not elected officers.

Officers are elected by adoption of one resolution under modern practice. Old procedure whereby voting was for named candidates is obsolete.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
Clerk 2. (a) At the commencement of the first session of each Congress, the Clerk shall call the Members, Delegates, and Resident Commissioner to order and proceed to record their presence by States in alphabetical order, either by call of the roll or by use of the electronic voting system. Pending the election of a Speaker or Speaker pro tempore, the Clerk shall preserve order and decorum and decide all questions of order, subject to appeal by a Member, Delegate, or Resident Commissioner.	DUTIES OF THE CLERK 1. The Clerk shall, at the commencement of the first session of each Congress, call the Members to order, proceed to call the roll of Members by States in alphabetical order, and, pending the election of a Speaker or Speaker pro tempore, preserve order and decorum, and decide all questions of order subject to appeal by any Member.	On the opening day of each Congress since 1981 the House has permitted by unanimous consent the alphabetical roll call of Members by States to be conducted by electronic device to establish a quorum. Proposed clause 2(a) codifies this practice by permitting the Clerk to use the electronic system in this situation.
(b) At the commencement of every regular session of Congress, the Clerk shall make and cause to be printed and delivered to each Member, Delegate, and the Resident Commissioner a list of the reports that any officer or Department is required to make to Congress, citing the law or resolution in which the requirement may be contained and placing under the name of each officer the list of reports he is required to make.	2. He shall make and cause to be printed and delivered to each Member, or mailed to his address, at the commencement of every regular session of Congress, a list of the reports which it is the duty of any officer or Department to make to Congress, referring to the act or resolution and page of the volume of the laws or Journal in which it may be contained, and placing under the name of each officer the list of reports required of him to be made.	
(c) The Clerk shall— (1) note all questions of order, with the decisions thereon, the record of which shall be appended to the Journal of each session; (2) enter on the Journal the hour at which the House adjourns; (3) complete the printing and distribution of the Journal to Members, Delegates, and the Resident Commissioner, together with an accurate and complete index, as soon as possible after the close of a session; and (4) send a printed copy of the Journal to the executive of and to each branch of the legislature of every State as may be requested by such State officials. (d) The Clerk shall attest and affix the seal of the House to all writs, warrants, and subpoenas issued by order of the House and certify the passage of all bills and joint resolutions. (e) The Clerk shall cause the calendars of the House to be printed and distributed each legislative day. (f) The Clerk shall— (1) retain in the library at the Office of the Clerk for the use of the Members, Delegates, Resident Commissioner, and officers of the House, and not to be withdrawn therefrom, two copies of all the books and printed documents deposited there; and (2) deliver or mail to any Member, Delegate, or the Resident Commissioner an extra copy, in binding of good quality, of each document requested by that Member, Delegate, or Resident Commissioner that has been printed by order of either House of Congress in any Congress in which the Member, Delegate, or Resident Commissioner served.	3. He shall note all questions of order, with the decisions thereon, the record of which shall be printed as an appendix to the Journal of each session; and complete, as soon after the close of the session as possible, the printing and distribution to Members, Delegates, and the Resident Commissioner from Puerto Rico of the Journal of the House, together with an accurate and complete index; retain in the library at his office, for the use of the Members, Delegates, the Resident Commissioner from Puerto Rico and officers of the House, and not to be withdrawn therefrom, two copies of all the books and printed documents deposited there; send, at the end of each session, a printed copy of the Journal thereof to the executive and to each branch of the legislature of every State as may be requested by such State officials; deliver or mail to any Member, Delegate, or the Resident Commissioner from Puerto Rico an extra copy, in binding of good quality, of each document requested by that Member, Delegate, or the Resident Commissioner which has been printed, by order of either House of the Congress, in any Congress in which he served; attest and affix the seal of the House to all writs, warrants, and subpoenas issued by order of the House; and certify to the passage of all bills and joint resolutions.	Consolidation of Clerk's authority as noted below: In proposed clause 2, rule II, all legislative duties of the Clerk are consolidated in the first portion of this clause, and his remaining administrative duties are consolidated in the last portion of this clause. Existing clause 6, rule XIII requiring daily printing of calendars has been transferred to new clause 2(e), rule II to consolidate Clerk's authority under one rule. The requirement of existing clause 5, rule XVI that the Journal note the hour of adjournment is also transferred to the new clause 2(c)(2).

(g) The Clerk shall provide for his temporary absence or disability by designating an official in the Office of the Clerk to sign all papers that may require the official signature of the Clerk and to do all other official acts that the Clerk may be required to do under the rules and practices of the House, except such official acts as are provided for by statute. Official acts done by the designated official shall be under the name of the Clerk. The designation shall be in writing and shall be laid before the House and entered on the Journal.

(h) The Clerk may receive messages from the President and from the Senate at any time when the House is not in session.

(i)(1) The Clerk shall supervise the staff and manage the office of a Member, Delegate, or Resident Commissioner who has died, resigned, or been expelled until a successor is elected. The Clerk shall perform similar duties in the event that a vacancy is declared by the House in any congressional district because of the incapacity of the person representing such district or other reason. Whenever the Clerk is acting as a supervisory authority over such staff, he shall have authority to terminate employees and, with the approval of the Committee on House Oversight, may appoint such staff as is required to operate the office until a successor is elected.

(2) For 60 days following the death of a former Speaker, the Clerk shall maintain on the House payroll, and shall supervise in the same manner, staff appointed under House Resolution 1238, Ninety-first Congress (as enacted into permanent law by chapter VIII of the Supplemental Appropriations Act, 1971) (2 U.S.C. 31b–5).

(j) In addition to any other reports required by the Speaker or the Committee on House Oversight, the Clerk shall report to the Committee on House Oversight not later than 45 days following the close of each semiannual period ending on June 30 or on December 31 on the financial and operational status of each function under the jurisdiction of the Clerk. Each report shall include financial statements and a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.

(k) The Clerk shall fully cooperate with the appropriate offices and persons in the performance of reviews and audits of financial records and administrative operations.

Sergeant-at-Arms

3. (a) The Sergeant-at-Arms shall attend the House during its sittings and maintain order under the direction of the Speaker or other presiding officer. The Sergeant-at-Arms shall execute the commands of the House, and all processes issued by authority thereof, directed to him by the Speaker.

4. He shall, in case of temporary absence or disability, designate an official in his office to sign all papers that may require the official signature of the Clerk of the House, and to do all other acts except such as are provided for by statute, that may be required under the rules and practices of the House to be done by the Clerk. Such official acts, when so done by the designated official, shall be under the name of the Clerk of the House. The said designation shall be in writing, and shall be laid before the House and entered on the Journal.

5. The Clerk is authorized to receive messages from the President and from the Senate at any time that the House is not in session.

6. He shall supervise the staff and manage any office of a Member who is deceased, has resigned, or been expelled until a successor is elected and shall perform similar duties in the event that a vacancy is declared by the House in any congressional district because of the incapacity of the Member representing such district or other reason. Whenever the Clerk is acting as a supervisory authority over such staff, he shall have authority to terminate employees; and he may appoint, with the approval of the Committee on House Oversight, such staff as is required to operate the office until a successor is elected. He shall maintain on the House payroll and supervise in the same manner staff appointed pursuant to section 800 of Public Law 91-665 (2 U.S.C. 31b-5) for sixty days following the death of a former Speaker.

7. In addition to any other reports required by the Speaker or the Committee on House Oversight, the Clerk shall report to the Committee on House Oversight not later than 45 days following the close of each semiannual period ending on June 30 or on December 31 on the financial and operational status of each function under the jurisdiction of the Clerk. Each report shall include financial statements, a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.

8. The Clerk shall fully cooperate with the appropriate offices and persons in the performance of reviews and audits of financial records and administrative operations.

RULE IV

DUTIES OF THE SERGEANT-AT-ARMS

1. It shall be the duty of the Sergeant-at-Arms to attend the House during its sittings, to maintain order under the direction of the Speaker or Chairman, and, pending the election of a Speaker or Speaker pro tempore, under the direction of the Clerk, execute the commands of the House, and all processes issued by authority thereof, directed to him by the Speaker.

In proposed clause 3, rule II only grammatical changes are made: "or other presiding officer" replaces "chairman" and "clerk" in existing rule.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(b) The symbol of the office of the Sergeant-at-Arms shall be the mace, which shall be borne by him while enforcing order on the floor.	2. The symbol of his office shall be the mace, which shall be borne by him while enforcing order on the floor.	
(c) The Sergeant-at-Arms shall enforce strictly the rules relating to the privileges of the Hall of the House and be responsible to the House for the official conduct of his employees.	3. He shall enforce strictly the rules relating to the privileges of the Hall and be responsible to the House for the official conduct of his employees.	
(d) The Sergeant-at-Arms may not allow a person to enter the room over the Hall of the House during its sittings; and from 15 minutes before the hour of the meeting of the House each day until 10 minutes after adjournment, he shall see that the floor is cleared of all persons except those privileged to remain.	4. He shall allow no person to enter the room over the Hall of the House during its sittings; and fifteen minutes before the hour of the meeting of the House each day he shall see that the floor is cleared of all persons except those privileged to remain, and kept so until ten minutes after adjournment.	The "room over the Hall of the House" houses mechanical equipment and thus admission is restricted during sittings of the House.
(e) In addition to any other reports required by the Speaker or the Committee on House Oversight, the Sergeant-at-Arms shall report to the Committee on House Oversight not later than 45 days following the close of each semiannual period ending on June 30 or on December 31 on the financial and operational status of each function under the jurisdiction of the Sergeant-at-Arms. Each report shall include financial statements and a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.	5. In addition to any other reports required by the Speaker or the Committee on House Oversight, the Sergeant-at-Arms shall report to the Committee on House Oversight not later than 45 days following the close of each semiannual period ending June 30 or on December 31 on the financial and operational status of each function under the jurisdiction of the Sergeant-at-Arms. Each report shall include financial statements, a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.	
(f) The Sergeant-at-Arms shall fully cooperate with the appropriate offices and persons in the performance of reviews and audits of financial records and administrative operations.	6. The Sergeant-at-Arms shall fully cooperate with the appropriate offices and persons in the performance of reviews and audits of financial records and administrative operations.	
	RULE V CHIEF ADMINISTRATIVE OFFICER	
Chief Administrative Officer 4. (a) The Chief Administrative Officer shall have operational and financial responsibility for functions as assigned by the Committee on House Oversight and shall be subject to the policy direction and oversight of the Committee on House Oversight.	1. The Chief Administrative Officer of the House shall have operational and financial responsibility for functions as assigned by the Committee on House Oversight, and shall be subject to the policy direction and oversight of the Committee on House Oversight.	
(b) In addition to any other reports required by the Committee on House Oversight, the Chief Administrative Officer shall report to the Committee on House Oversight not later than 45 days following the close of each semiannual period ending on June 30 or December 31 on the financial and operational status of each function under the jurisdiction of the Chief Administrative Officer. Each report shall include financial statements and a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.	2. In addition to any other reports required by the Committee on House Oversight, the Chief shall report to the Committee on House Oversight not later than 45 days following the close of each semiannual period ending on June 30 or December 31 on the financial and operational status of each function under the jurisdiction of the Chief. Each report shall include financial statements, a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.	
(c) The Chief Administrative Officer shall fully cooperate with the appropriate offices and persons in the performance of reviews and audits of financial records and administrative operations.	3. The Chief shall fully cooperate with the appropriate offices and persons in the performance of reviews and audits of financial records and administrative operations. **Derived from:** RULE VII	
Chaplain 5. The Chaplain shall offer a prayer at the commencement of each day's sitting of the House.	DUTIES OF THE CHAPLAIN The Chaplain shall attend at the commencement of each day's sitting of the House and open the same with prayer. **Derived from:** RULE VI	

Office of Inspector General

6. (a) There is established an Office of Inspector General.

(b) The Inspector General shall be appointed for a Congress by the Speaker, the Majority Leader, and the Minority Leader, acting jointly.

(c) Subject to the policy direction and oversight of the Committee on House Oversight, the Inspector General shall only—

(1) conduct periodic audits of the financial and administrative functions of the House and of joint entities;

(2) inform the officers or other officials who are the subject of an audit of the results of that audit and suggesting appropriate curative actions;

(3) simultaneously notify the Speaker, the Majority Leader, the Minority Leader, and the chairman and ranking minority member of the Committee on House Oversight in the case of any financial irregularity discovered in the course of carrying out responsibilities under this clause;

(4) simultaneously submit to the Speaker, the Majority Leader, the Minority Leader, and the chairman and ranking minority member of the Committee on House Oversight a report of each audit conducted under this clause; and

(5) report to the Committee on Standards of Official Conduct information involving possible violations by a Member, Delegate, Resident Commissioner, officer, or employee of the House of any rule of the House or of any law applicable to the performance of official duties or the discharge of official responsibilities that may require referral to the appropriate Federal or State authorities under clause 3(a)(3) of rule XI.

Office of the Historian

7. There is established an Office of the Historian of the House of Representatives.

Office of General Counsel

8. There is established an Office of General Counsel for the purpose of providing legal assistance and representation to the House. Legal assistance and representation shall be provided without regard to political affiliation. The Office of General Counsel shall function pursuant to the direction of the Speaker, who shall consult with a Bipartisan Legal Advisory Group, which shall include the majority and minority leaderships. The Speaker shall appoint and set the annual rate of pay for employees of the Office of General Counsel.

OFFICE OF INSPECTOR GENERAL

1. There is established an Office of Inspector General.

2. The Inspector General shall be appointed for a Congress by the Speaker, the Majority Leader, and the Minority Leader, acting jointly.

3. Subject to the policy direction and oversight of the Committee on House Oversight, the Inspector General shall be responsible only for—

(a) conducting periodic audits of the financial and administrative functions of the House and joint entities;

(b) informing the Officers or other officials who are the subject of an audit of the results of that audit and suggesting appropriate curative actions;

(c) simultaneously notifying the Speaker, the Majority Leader, the Minority Leader, and the chairman and ranking minority party member of the Committee on House Oversight in the case of any financial irregularity discovered in the course of carrying out responsibilities under this rule;

(d) simultaneously submitting to the Speaker, the Majority Leader, the Minority Leader, and the chairman and ranking minority party member of the Committee on House Oversight a report of each audit conducted under this rule; and

(e) reporting to the Committee on Standards of Official Conduct information involving possible violations by any Member, officer, or employee of the House of any rule of the House or of any law applicable to the performance of official duties or the discharge of official responsibilities which may require referral to the appropriate Federal or State authorities pursuant to clause 4(e)(1)(C) of rule X.

Derived from clause 10, rule I: 10. There is established in the House of Representatives an office to be known as the Office of the Historian of the House of Representatives.

Derived from clause 11, rule I: 11. There is established in the House of Representatives an office to be known as the Office of General Counsel for the purpose of providing legal assistance and representation to the House. Legal assistance and representation shall be provided without regard to political affiliation. The Office of General Counsel shall function pursuant to the direction of the Speaker, who shall consult with a Bipartisan Legal Advisory Group, which shall include the majority and minority leaderships. The Speaker shall appoint and set the annual rate of pay for employees of the Office of General Counsel.

Conforming changes are required when existing rule VI becomes clause 6, rule II.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
RULE III **THE MEMBERS, DELEGATES, AND RESIDENT COMMISSIONER OF PUERTO RICO**	**Derived from:** RULE VIII	
Voting 1. Every Member shall be present within the Hall of the House during its sittings, unless excused or necessarily prevented, and shall vote on each question put, unless he has a direct personal or pecuniary interest in the event of such question. 2. (a) A Member may not authorize any other person to cast his vote or record his presence in the House or the Committee of the Whole House on the state of the Union.	DUTIES OF THE MEMBERS 1. Every Member shall be present within the Hall of the House during its sittings, unless excused or necessarily prevented, and shall vote on each question put, unless he has a direct personal or pecuniary interest in the event of such question. 3.(a) A Member may not authorize any other individual to cast his vote or record his presence in the House or Committee of the Whole.	In proposed rule III the duty of Members with respect to attendance and voting, currently in rule VIII, are combined with provisions currently in rule XII authorizing Delegates and the Resident Commissioner from Puerto Rico to serve on standing, select and conference committees but are kept separate from a code of conduct and other rules regarding official conduct also applicable to officers and employees (moved to new rules XXIV through XXVII). This rule is specific as to the respective duties and prerogatives of Members, Delegates and the Resident Commissioner. Existing clause 2, rule VIII on announcement of pairs has been transferred to new clause 8, rule XX as logically belonging to the voting rule.
(b) No other person may cast a Member's vote or record a Member's presence in the House or the Committee of the Whole House on the state of the Union.	(b) No individual other than a Member may cast a vote or record a Member's presence in the House or the Committee of the Whole.	
	(c) A Member may not cast a vote for any other Member or record another Member's presence in the House or Committee of the Whole. **Derived from:** RULE XII	
Delegates and the Resident Commissioner 3. (a) Each Delegate and the Resident Commissioner shall be elected to serve on standing committees in the same manner as Members of the House and shall possess in such committees the same powers and privileges as the other members of the committee. (b) The Delegates and the Resident Commissioner may be appointed to any select committee and to any conference committee.	RESIDENT COMMISSIONER AND DELEGATES The Resident Commissioner to the United States from Puerto Rico and each Delegate to the House shall be elected to serve on standing committees in the same manner as Members of the House and shall possess in such committees the same powers and privileges as the other Members. **Derived from clause 6(h), rule X:** (h) The Speaker may appoint the Resident Commissioner from Puerto Rico and Delegates to the House to any select committee and to any conference committee.	
RULE IV **THE HALL OF THE HOUSE**	**Derived from:** RULE XXXI	
Use and admittance 1. The Hall of the House shall be used only for the legislative business of the House and for caucus and conference meetings of its Members, except when the House agrees to take part in any ceremonies to be observed therein. The Speaker may not entertain a motion for the suspension of this clause.	HALL OF THE HOUSE The Hall of the House shall be used only for the legislative business of the House and for the caucus meetings of its Members, except upon occasions where the House by resolution agrees to take part in any ceremonies to be observed therein; and the Speaker shall not entertain a motion for the suspension of this rule.	**Rules IV–VI—Administration of the House** In proposed rule IV, current provisions regulating the Hall of the House (rule XXXI), admission to the floor (rule XXXII), and to the galleries (rule XXXIII) are combined as one administrative rule consisting of seven clauses. "By resolution" is deleted as an acknowledgment that means other than resolution exist to order the use of the Hall of the House, such as by unanimous consent or by law.
	Derived from: RULE XXXII	

2. (a) Only the following persons shall be admitted to the Hall of the House or rooms leading thereto:

(1) Members of Congress, Members-elect, and contestants in election cases during the pendency of their cases on the floor.

(2) The Delegates and the Resident Commissioner.

(3) The President and Vice President of the United States and their private secretaries.

(4) Justices of the Supreme Court.

(5) Elected officers and minority employees nominated as elected officers of the House.

(6) The Parliamentarian.

(7) Staff of committees when business from their committee is under consideration.

(8) Not more than one person from the staff of a Member, Delegate, or Resident Commissioner when that Member, Delegate, or Resident Commissioner has an amendment under consideration (subject to clause 5).

(9) The Architect of the Capitol.

(10) The Librarian of Congress and the assistant in charge of the Law Library.

(11) The Secretary and Sergeant-at-Arms of the Senate.

(12) Heads of departments.

(13) Foreign ministers.

(14) Governors of States.

(15) Former Members, Delegates, and Resident Commissioners; former Parliamentarians of the House; and former elected officers and minority employees nominated as elected officers of the House (subject to clause 4).

(16) One attorney to accompany a Member, Delegate, or Resident Commissioner who is the respondent in an investigation undertaken by the Committee on Standards of Official Conduct when a recommendation of that committee is under consideration in the House.

(17) Such persons as have, by name, received the thanks of Congress.

(b) The Speaker may not entertain a unanimous consent request or a motion to suspend this clause.

3. (a) Except as provided in paragraph (b), all persons not entitled to the privilege of the floor during the session shall be excluded at all times from the Hall of the House and the cloakrooms.

(b) Until 15 minutes of the hour of the meeting of the House, persons employed in its service, accredited members of the press entitled to admission to the press gallery, and other persons on request of a Member, Delegate, or Resident Commissioner by card or in writing, may be admitted to the Hall of the House.

OF ADMISSION TO THE FLOOR

1. The persons hereinafter named, and none other, shall be admitted to the Hall of the House or rooms leading thereto, viz: The President and Vice President of the United States and their private secretaries, judges of the Supreme Court, Members of Congress and Members-elect, contestants in election cases during the pendency of their cases in the House, the Secretary and Sergeant-at-Arms of the Senate, heads of departments, foreign ministers, governors of States, the Architect of the Capitol, the Librarian of Congress and his assistant in charge of the Law Library, the Resident Commissioner to the United States from Puerto Rico, each Delegate to the House, such persons as have, by name, received the thanks of Congress, the Parliamentarian, elected officers and elected minority employees of the House (other than Members); and ex-Members of the House of Representatives, former Parliamentarians of the House, and former elected officers and elected minority employees of the House, subject to the provisions of clause 3 of this rule; and clerks of committees when business from their committee is under consideration and not more than one person from a Member's staff when that Member has an amendment under consideration, subject to the provisions of clause 4 of this rule; and one attorney to accompany any Member who is the respondent in an investigation undertaken by the Committee on Standards of Official Conduct when the recommendation of such committee is under consideration; and it shall not be in order for the Speaker to entertain a request for the suspension of this rule or to present from the chair the request of any Member for unanimous consent.

2. There shall be excluded at all times from the Hall of the House of Representatives and the cloakrooms all persons not entitled to the privilege of the floor during the session, except that until fifteen minutes of the hour of the meeting of the House persons employed in its service, accredited members of the press entitled to admission to the press gallery, and other persons on request of Members, by card or in writing may be admitted.

Proposed clause 2(a)(1) of this rule clarifies that contestants in election cases have privileges of the House floor only when their cases are the business on the floor and not merely before a committee.

The minority employees referred to in proposed subparagraphs (5) and (15) are not elected by the House; rather they are nominated by the minority to be their candidates for the elected offices of the House. The language is added for clarity.

PROPOSED NEW RULES

4. (a) Former Members, Delegates, and Resident Commissioners; former Parliamentarians of the House; and former elected officers and minority employees nominated as elected officers of the House shall be entitled to the privilege of admission to the Hall of the House and rooms leading thereto only if—

(1) they do not have any direct personal or pecuniary interest in any legislative measure pending before the House or reported by a committee; and

(2) they are not in the employ of, or do not represent, any party or organization for the purpose of influencing, directly or indirectly, the passage, defeat, or amendment of any legislative measure pending before the House, reported by a committee, or under consideration in any of its committees or subcommittees.

(b) The Speaker shall promulgate such regulations as may be necessary to implement this rule and to ensure its enforcement.

5. A person from the staff of a Member, Delegate, or Resident Commissioner may be admitted to the Hall of the House or rooms leading thereto under clause 2 only upon prior notice to the Speaker. Such persons, and persons from the staff of committees admitted under clause 2, may not engage in efforts in the Hall of the House or rooms leading thereto to influence Members with regard to the legislation being amended. Such persons shall remain at the desk and are admitted only to advise the Member, Delegate, Resident Commissioner, or committee responsible for their admission. A person who violates this clause may be excluded during the session from the Hall of the House and rooms leading thereto by the Speaker.

Gallery

6. (a) The Speaker shall set aside a portion of the west gallery for the use of the President, the members of the Cabinet, justices of the Supreme Court, foreign ministers and suites, and the members of their respective families. The Speaker shall set aside another portion of the same gallery for the accommodation of persons to be admitted on the cards of Members, Delegates, or the Resident Commissioner.

(b) The Speaker shall set aside the southerly half of the east gallery for the use of the families of Members of Congress. The Speaker shall control one bench. On the request of a Member, Delegate, Resident Commissioner, or Senator, the Speaker shall issue a card of admission to his family, which may include their visitors. No other person shall be admitted to this section.

EXISTING RULES

3. Ex-Members of the House of Representatives, former Parliamentarians of the House, and former elected officers and former elected minority employees of the House, shall be entitled to the privilege of admission to the Hall of the House and rooms leading thereto only if they do not have any direct personal or pecuniary interest in any legislative measure pending before the House or reported by any committee of the House and only if they are not in the employ of, or do not represent, any party or organization for the purpose of influencing, directly or indirectly, the passage, defeat or amendment of any legislative measure pending before the House, reported by any committee of the House or under consideration in any of its committees or subcommittees. The Speaker shall promulgate such regulations as may be necessary to implement the provisions of this rule and to ensure its enforcement.

4. Persons from Member's staffs admitted to the Hall of the House or rooms leading thereto under clause 1 shall be admitted only upon prior notification to the Speaker. No such person or clerk of a committee so admitted under clause 1 shall engage in efforts in the Hall of the House or rooms leading thereto to influence Members with regard to the legislation being amended. Such persons and clerks shall remain at the desk and are admitted only to advise the Member or committee responsible for their admission. Any such person or clerk who violates this clause may be excluded during the session from the Hall of the House and rooms leading thereto by the Speaker.

Derived from: RULE XXXIII

OF ADMISSION TO THE GALLERIES

The Speaker shall set aside a portion of the west gallery for the use of the President of the United States, the members of his Cabinet, justices of the Supreme Court, foreign ministers and suites, and the members of their respective families, and shall also set aside another portion of the same gallery for the accommodation of persons to be admitted on the card of Members. The southerly half of the east gallery shall be assigned exclusively for the use of the families of Members of Congress, in which the Speaker shall control one bench, and on request of a Member the Speaker shall issue a card of admission to his family, which shall include their visitors, and no other person shall be admitted to this section.

COMMENTARY

Prohibition on campaign contributions

7. A Member, Delegate, Resident Commissioner, officer, or employee of the House, or any other person entitled to admission to the Hall of the House or rooms leading thereto by this rule, may not knowingly distribute a political campaign contribution in the Hall of the House or rooms leading thereto.

Derived from clause 5, rule XXXII: 5. No Member, officer, or employee of the House of Representatives, or any other person entitled to admission to the Hall of the House or rooms leading thereto by this rule, shall knowingly distribute any political campaign contribution in the Hall of the House or rooms leading thereto.

RULE V

BROADCASTING THE HOUSE

1. The Speaker shall administer a system subject to his direction and control for closed-circuit viewing of floor proceedings of the House in the offices of all Members, Delegates, the Resident Commissioner, and committees and in such other places in the Capitol and the House Office Buildings as he considers appropriate. Such system may include other telecommunications functions as the Speaker considers appropriate. Any such telecommunications shall be subject to rules and regulations issued by the Speaker.

2. (a) The Speaker shall administer a system subject to his direction and control for complete and unedited audio and visual broadcasting and recording of the proceedings of the House. The Speaker shall provide for the distribution of such broadcasts and recordings to news media, for the storage of audio and video recordings of the proceedings, and for the closed-captioning of the proceedings for hearing-impaired persons.

(b) All television and radio broadcasting stations, networks, services, and systems (including cable systems) that are accredited to the House Radio and Television Correspondents' Galleries, and all radio and television correspondents who are so accredited, shall be provided access to the live coverage of the House.

(c) Coverage made available under this clause, including any recording thereof—

(1) may not be used for any political purpose;

(2) may not be used in any commercial advertisement; and

(3) may not be broadcast with commercial sponsorship except as part of a bona fide news program or public affairs documentary program.

3. The Speaker may delegate any of his responsibilities under this rule to such legislative entity as he considers appropriate.

Derived from clause 9, rule I: 9. (a) He shall devise and implement a system subject to his direction and control for closed circuit viewing of floor proceedings of the House of Representatives in the offices of all Members and committees and in such other places in the Capitol and the House Office Buildings as he deems appropriate. Such system may include other telecommunications functions as he deems appropriate. Any such telecommunications function shall be subject to rules and regulations issued by the Speaker.

(b)(1) He shall devise and implement a system subject to his direction and control for complete and unedited audio and visual broadcasting and recording of the proceedings of the House of Representatives. He shall provide for the distribution of such broadcasts and recordings thereof to news media, the storage of audio and video recordings of the proceedings, and the closed captioning of the proceedings for hearing-impaired individuals.

(2) All television and radio broadcasting stations, networks, services, and systems (including cable systems) which are accredited to the House radio and television correspondents' galleries, and all radio and television correspondents who are accredited to the radio and television correspondents' galleries shall be provided access to the live coverage of the House of Representatives.

(3) No coverage made available under this clause nor any recording thereof shall be used for any political purpose.

(4) Coverage made available under this clause shall not be broadcast with commercial sponsorship except as part of bona fide news programs and public affairs documentary programs. No part of such coverage or any recording thereof shall be used in any commercial advertisement.

(c) He may delegate any of his responsibilities under this clause to such legislative entity as he deems appropriate.

In proposed rule V, current provisions in clause 9 of rule I with respect to the Speaker's authority to control broadcasting of proceedings of the House are transferred to become a separate administrative rule.

RULE VI

OFFICIAL REPORTERS AND NEWS MEDIA GALLERIES

Official reporters

1. Subject to the direction and control of the Speaker, the Clerk shall appoint, and may remove for cause, the official reporters of the House, including stenographers of committees, and shall supervise the execution of their duties.

Derived from: RULE XXXIV

OFFICIAL AND OTHER REPORTERS

1. The appointment and removal, for cause, of the official reporters of the House, including stenographers of committees, and the manner of the execution of their duties shall be vested in the Clerk, subject to the direction and control of the Speaker.

In proposed rule VI, current provisions in rule XXXIV regarding official and other reporters are redesignated as a new administrative rule and are redescribed to refer to news media galleries (rather than "other reporters").

The term "supervise" in clause 1 describes the vesting of authority in the Clerk.

PROPOSED NEW RULES

News media galleries

2. A portion of the gallery over the Speaker's chair as may be necessary to accommodate representatives of the press wishing to report debates and proceedings shall be set aside for their use. Reputable reporters and correspondents shall be admitted thereto under such regulations as the Speaker may prescribe from time to time. The Standing Committee of Correspondents for the Press Gallery and the Executive Committee of Correspondents for the Periodical Press Gallery, shall supervise such galleries, including the designation of its employees, subject to the direction and control of the Speaker. The Speaker may assign one seat on the floor to Associated Press reporters and one to United Press International reporters, and may regulate their occupation. The Speaker may admit to the floor, under such regulations as he may prescribe, one additional representative of each press association.

3. A portion of the gallery as may be necessary to accommodate reporters of news to be disseminated by radio, television, and similar means of transmission, wishing to report debates and proceedings, shall be set aside for their use. Reputable reporters and correspondents shall be admitted thereto under such regulations as the Speaker may prescribe. The Executive Committee of the Radio and Television Correspondents' Galleries shall supervise such gallery, including the designation of its employees, subject to the direction and control of the Speaker. The Speaker may admit to the floor, under such regulations as he may prescribe, one representative of the National Broadcasting Company, one of the Columbia Broadcasting System, and one of the American Broadcasting Company.

RULE VII

RECORDS OF THE HOUSE

Archiving

1. (a) At the end of each Congress, the chairman of each committee shall transfer to the Clerk any noncurrent records of such committee, including the subcommittees thereof.

(b) At the end of each Congress, each officer of the House elected under rule II shall transfer to the Clerk any noncurrent records made or acquired in the course of the duties of such officer.

EXISTING RULES

2. Such portion of the gallery over the Speaker's chair as may be necessary to accommodate representatives of the press wishing to report debates and proceedings shall be set aside for their use, and reputable reporters and correspondents shall be admitted thereto under such regulations as the Speaker may from time to time prescribe; and the supervision of such gallery, including the designation of its employees, shall be vested in the standing committee of correspondents, subject to the direction and control of the Speaker; and the Speaker may assign one seat on the floor to Associated Press reporters and one to United Press International, and regulate the occupation of the same. And the Speaker may admit to the floor, under such regulations as he may prescribe, one additional representative of each press association.

3. Such portion of the gallery of the House of Representatives as may be necessary to accommodate reporters of news to be disseminated by radio, television, and similar means of transmission, wishing to report debates and proceedings, shall be set aside for their use, and reputable reporters thus engaged shall be admitted thereto under such regulations as the Speaker may from time to time prescribe; and the supervision of such gallery, including the designation of its employees, shall be vested in the Executive Committee of the Radio and Television Correspondents' Galleries, subject to the direction and control of the Speaker; and the Speaker may admit to the floor, under such regulations as he may prescribe, one representative of the National Broadcasting Company, one of the Columbia Broadcasting System, one of the Mutual Broadcasting System, and one of the American Broadcasting Company.

Derived from: RULE XXXVI

PRESERVATION AND AVAILABILITY OF NONCURRENT RECORDS OF THE HOUSE

1. (a) At the end of each Congress, the chairman of each committee of the House shall transfer to the Clerk any noncurrent records of such committee, including the subcommittees thereof.

(b) At the end of each Congress, each officer of the House elected pursuant to rule II shall transfer to the Clerk any noncurrent records made or acquired in the course of the duties of such officer.

COMMENTARY

Rules VII–IX—Institutional Prerogatives

In proposed rule VII, current provisions in rules XXXVI and XXXVII regarding preservation and availability of noncurrent records of the House and withdrawal of papers presented to the House are combined as one administrative rule consisting of seven clauses. The two rules are related logically.

2. The Clerk shall deliver the records transferred under clause 1, together with any other noncurrent records of the House, to the Archivist of the United States for preservation at the National Archives and Records Administration. Records so delivered are the permanent property of the House and remain subject to this rule and any order of the House.	2. The Clerk shall deliver the records transferred pursuant to clause 1 of the rule, together with any other noncurrent records of the House, to the Archivist of the United States for preservation at the National Archives and Records Administration. Records so delivered are the permanent property of the House and remain subject to this rule and the orders of the House.
Public availability 3. (a) The Clerk shall authorize the Archivist to make records delivered under clause 2 available for public use, subject to paragraph (b), clause 4, and any order of the House.	3. (a) Subject to paragraph (b) of the clause, clause 4 of this rule, and orders of the House, the Clerk shall authorize the Archivist of the United States to make available for public use the records delivered to the Archivist under clause 2 of this rule.
(b)(1) A record shall immediately be made available if it was previously made available for public use by the House or a committee or a subcommittee.	(b)(1) Any record that the House or a committee of the House (or a subcommittee thereof) makes available for public use before such record is delivered to the Archivist under clause 2 of this rule shall be made available immediately.
(2) An investigative record that contains personal data relating to a specific living person (the disclosure of which would be an unwarranted invasion of personal privacy), an administrative record relating to personnel, or a record relating to a hearing that was closed under clause 2(g)(2) of rule XI shall be made available if it has been in existence for 50 years.	(2) Any investigative record that contains personal data relating to a specific living individual (the disclosure of which would be an unwarranted invasion of personal privacy), any administrative record with respect to personnel, and any record with respect to a hearing closed pursuant to clause 2(g)(2) of rule XI shall be available if such record has been in existence for 50 years.
(3) A record for which a time, schedule, or condition for availability is specified by order of the House shall be made available in accordance with that order. Except as otherwise provided by order of the House, a record of a committee for which a time, schedule, or condition for availability is specified by order of the committee (entered during the Congress in which the record is made or acquired by the committee) shall be made available in accordance with the order of the committee.	(3) Any record for which a time, schedule, or condition for availability is specified by order of the House shall be made available in accordance with that order. Except as otherwise provided by order of the House, any record of a committee for which a time, schedule, or condition for availability is specified by order of the committee (entered during the Congress in which the record is made or acquired by the committee) shall be made available in accordance with the order of the committee.
(4) A record (other than a record referred to in subparagraph (1), (2), or (3)) shall be made available if it has been in existence for 30 years.	(4) Any record (other than a record referred to in subparagraph (1), (2), or (3) of this paragraph) shall be made available if such record has been in existence for 30 years.
4. (a) A record may not be made available for public use under clause 3 if the Clerk determines that such availability would be detrimental to the public interest or inconsistent with the rights and privileges of the House. The Clerk shall notify in writing the chairman and ranking minority member of the Committee on House Oversight of any such determination.	4. (a) A record shall not be made available for public use under clause 3 of this rule if the Clerk determines that such availability would be detrimental to the public interest or inconsistent with the rights and privileges of the House. The Clerk shall notify in writing the chairman and the ranking minority party member of the Committee on House Oversight of any determination under the preceding sentence.
(b) A determination of the Clerk under paragraph (a) is subject to later orders of the House and, in the case of a record of a committee, later orders of the committee.	(b) A determination of the Clerk under paragraph (a) is subject to later order of the House and, in the case of a record of a committee, later order of the committee.
5. (a) This rule does not supersede rule VIII or clause 9 of rule X and does not authorize the public disclosure of any record if such disclosure is prohibited by law or executive order of the President.	5. (a) This rule does not supersede rule XLVIII or rule L and does not authorize the public disclosure of any record if such disclosure is prohibited by law or executive order of the President.
(b) The Committee on House Oversight may prescribe guidelines and regulations governing the applicability and implementation of this rule.	(b) The Committee on House Oversight may prescribe guidelines and regulations governing the applicability and implementation of this rule.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(c) A committee may withdraw from the National Archives and Records Administration any record of the committee delivered to the Archivist under this rule. Such a withdrawal shall be on a temporary basis and for official use of the committee.	(c) A committee may withdraw from the National Archives and Records Administration any record of the committee delivered to the Archivist of the United States under this rule. Such withdrawal shall be on a temporary basis and for official use of the committee.	
Definition of record 6. In this rule the term "record" means any official, permanent record of the House (other than a record of an individual Member, Delegate, or Resident Commissioner), including—	6. As used in the rule the term "record" means any official permanent record of the House, including—	Proposed clause 2(e)(2)(A), rule XI (existing clause 2(e)(2), rule XI) requires all committee records be kept separate and distinct from the congressional office records of the member serving as chairman.
(a) with respect to a committee, an official, permanent record of the committee (including any record of a legislative, oversight, or other activity of such committee or a subcommittee thereof); and (b) with respect to an officer of the House elected under rule II, an official, permanent record made or acquired in the course of the duties of such officer.	(a) with respect to a committee of the House, an official, permanent record of the committee (including any record of a legislative, oversight, or other activity of such committee or subcommittee thereof); and (b) with respect to an officer of the House elected pursuant to rule II, an official, permanent record made or acquired in the course of the duties of such officer. Such term does not include a record of an individual Member of the House. **Derived from:** RULE XXXVII	
Withdrawal of papers 7. A memorial or other paper presented to the House may not be withdrawn from its files without its leave. If withdrawn certified copies thereof shall be left in the office of the Clerk. When an act passes for the settlement of a claim, the Clerk may transmit to the officer charged with the settlement thereof the papers on file in his office relating to such claim. The Clerk may lend temporarily to an officer or bureau of the executive departments any papers on file in his office relating to any matter pending before such officer or bureau, taking proper receipt therefor.	WITHDRAWAL OF PAPERS No memorial or other paper presented to the House shall be withdrawn from its files without its leave, and if withdrawn therefrom certified copies thereof shall be left in the office of the Clerk; but when an act may pass for the settlement of a claim, the Clerk is authorized to transmit to the officer in charge with the settlement thereof the papers on file in his office relating to such claim, or may loan temporarily to an officer or bureau of the executive departments any papers on file in his office relating to any matter pending before such officer or bureau, taking proper receipt therefor. **Derived from:** RULE L	
RULE VIII **RESPONSE TO SUBPOENAS** 1. When a Member, Delegate, Resident Commissioner, officer, or employee of the House is properly served with a subpoena or other judicial order directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any document relating to the official functions of the House, such Member, Delegate, Resident Commissioner, officer, or employee shall comply, consistently with the privileges and rights of the House, with the subpoena or other judicial order as hereinafter provided, unless otherwise determined under this rule.	PROCEDURE FOR RESPONSE TO SUBPOENAS 1. When any Member, officer, or employee of the House of Representatives is properly served with a subpoena or other judicial order directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any documents relating to the official functions of the House, such Member, officer, or employee shall comply, consistently with the privileges and rights of the House, with said subpoena or other judicial order as hereinafter provided, unless otherwise determined pursuant to the provisions of this rule	In proposed rule VIII, current provisions in rule L regarding responses to judicial subpoenas are transferred to this portion of the rules covering institutional prerogatives. These responses are to be distinguished from those involving congressional subpoenas.

2. Upon receipt of a properly served subpoena or other judicial order described in clause 1, a Member, Delegate, Resident Commissioner, officer, or employee of the House shall promptly notify the Speaker of its receipt in writing. Such notification shall promptly be laid before the House by the Speaker. During a period of recess or adjournment of longer than three days, notification to the House is not required until the reconvening of the House, when the notification shall promptly be laid before the House by the Speaker.	2. Upon receipt of a properly served subpoena or other judicial order directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any documents relating to the official functions of the House, such Member, officer, or employee shall promptly notify, in writing, the Speaker of its receipt and such notification shall then be promptly laid before the House by the Speaker, except that during a period of recess or adjournment of longer than three days, no such notification to the House shall be required. However, upon the reconvening of the House, such notification shall then be promptly laid before the House by the Speaker.	
3. Once notification has been laid before the House, the Member, Delegate, Resident Commissioner, officer, or employee of the House shall determine whether the issuance of the subpoena or other judicial order described in clause 1 is a proper exercise of jurisdiction by the court, is material and relevant, and is consistent with the privileges and rights of the House. Such Member, Delegate, Resident Commissioner, officer, or employee shall notify the Speaker before seeking judicial determination of these matters.	3. Once notification has been laid before the House, the Member, officer, or employee shall determine whether the issuance of the subpoena or other judicial order is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House. The Member, officer, or employee shall notify the Speaker prior to seeking judicial determination of these matters.	The changes in proposed clauses 3 and 4 are intended to avoid the use of possessives, as in the current rule.
4. Upon determination whether a subpoena or other judicial order described in clause 1 is a proper exercise of jurisdiction by the court, is material and relevant, and is consistent with the privileges and rights of the House, the Member, Delegate, Resident Commissioner, officer, or employee of the House shall immediately notify the Speaker of the determination in writing.	4. Upon determination whether the subpoena or other judicial order is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House, the Member, officer, or employee shall immediately notify, in writing, the Speaker of such a determination.	
5. The Speaker shall inform the House of a determination whether a subpoena or other judicial order described in clause 1 is a proper exercise of jurisdiction by the court, is material and relevant, and is consistent with the privileges and rights of the House. In so informing the House, the Speaker shall generally describe the records or information sought. During a period of recess or adjournment of longer than three days, such notification is not required until the reconvening of the House, when the notification shall promptly be laid before the House by the Speaker.	5. The Speaker shall inform the House of the determination of whether the subpoena or other judicial order is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House, and shall generally describe the records or information sought, except that during any recess or adjournment of the House for longer than three days, no such notification is required. However, upon the reconvening of the House, such notification shall then be promptly laid before the House by the Speaker.	

PROPOSED NEW RULES

6. (a) Except as specified in paragraph (b) or otherwise ordered by the House, upon notification to the House that a subpoena or other judicial order described in clause 1 is a proper exercise of jurisdiction by the court, is material and relevant, and is consistent with the privileges and rights of the House, the Member, Delegate, Resident Commissioner, officer, or employee of the House shall comply with the subpoena or other judicial order by supplying certified copies.

(b) Under no circumstances may minutes or transcripts of executive sessions, or evidence of witnesses in respect thereto, be disclosed or copied. During a period of recess or adjournment of longer than three days, the Speaker may authorize compliance or take such other action as he considers appropriate under the circumstances. Upon the reconvening of the House, all matters that transpired under this clause shall promptly be laid before the House by the Speaker.

7. A copy of this rule shall be transmitted by the Clerk to the court when a subpoena or other judicial order described in clause 1 is issued and served on a Member, Delegate, Resident Commissioner, officer, or employee of the House.

8. Nothing in this rule shall be construed to deprive, condition, or waive the constitutional or legal privileges or rights applicable or available at any time to a Member, Delegate, Resident Commissioner, officer, or employee of the House, or of the House itself, or the right of such Member, Delegate, Resident Commissioner, officer, or employee, or of the House itself, to assert such privileges or rights before a court in the United States.

RULE IX

QUESTIONS OF PRIVILEGE

1. Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; and second, those affecting the rights, reputation, and conduct of Members, Delegates, or the Resident Commissioner, individually, in their representative capacity only.

EXISTING RULES

6. Upon such notification to the House that said subpoena is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House, the Member, officer, or employee shall comply with such subpoena or other judicial order by supplying certified copies, unless the House adopts a resolution to the contrary; except that under no circumstances shall any minutes or transcripts of executive sessions, or any evidence of witnesses in respect thereto, be disclosed or copied. Should the House be in recess or adjournment for longer than three days, the Speaker may authorize compliance or take such other action as he deems appropriate under the circumstances during the pendency of such recess or adjournment. And upon the reconvening of the House, all matters having transpired under this clause shall be laid promptly before the House by the Speaker.

7. A copy of this rule shall be transmitted by the Clerk of the House to any of said courts whenever any such subpoena or other judicial order is issued and served on a Member, officer, or employee of the House.

8. Nothing in this rule shall be construed to deprive, condition or waive the constitutional or legal rights applicable or available to any Member, officer, or employee of the House, or of the House itself, or the right of a Member or the House to assert such privilege or right before any court in the United States, or the right of the House thereafter to assert such privilege or immunity before any court in the United States.

Derived from: RULE IX

QUESTIONS OF PRIVILEGE

1. Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; and second, those affecting the rights, reputation, and conduct of Members, individually, in their representative capacity only.

COMMENTARY

Proposed rule IX on questions of privilege, including privileges of the House and personal privilege, retains the same number as the existing rule, in order to preserve many precedent citations to rule IX and consistent with the treatment in this portion of the rules of matters involving institutional prerogatives. Questions of privilege remain distinguished from "privileged questions," matters which are merely eligible for expedited consideration under the rules (see proposed rule XIII).

2. (a)(1) A resolution reported as a question of the privileges of the House, or offered from the floor by the Majority Leader or the Minority Leader as a question of the privileges of the House, or offered as privileged under clause 1, section 7, article I of the Constitution, shall have precedence of all other questions except motions to adjourn. A resolution offered from the floor by a Member, Delegate, or Resident Commissioner other than the Majority Leader or the Minority Leader as a question of the privileges of the House shall have precedence of all other questions except motions to adjourn only at a time or place, designated by the Speaker, in the legislative schedule within two legislative days after the day on which the proponent announces to the House his intention to offer the resolution and the form of the resolution.

(2) The time allotted for debate on a resolution offered from the floor as a question of the privileges of the House shall be equally divided between (A) the proponent of the resolution, and (B) the Majority Leader, the Minority Leader, or a designee, as determined by the Speaker.

(b) A question of personal privilege shall have precedence of all other questions except motions to adjourn.

RULE X

ORGANIZATION OF COMMITTEES

2. (a)(1) A resolution reported as a question of the privileges of the House, or offered from the floor by the Majority Leader or the Minority Leader as a question of the privileges of the House, or offered as privileged under clause 1, section 7, article I of the Constitution, shall have precedence of all other questions except motions to adjourn. A resolution offered from the floor by a Member other than the Majority Leader or the Minority Leader as a question of the privileges of the House shall have precedence of all other questions except motions to adjourn only at a time or place, designated by the Speaker, in the legislative schedule within two legislative days after the day on which the proponent announces to the House his intention to offer the resolution and the form of the resolution.

(2) The time allotted for debate on a resolution offered from the floor as a question of the privileges of the House shall be equally divided between (A) the proponent of the resolution, and (B) the Majority Leader or the Minority Leader or a designee, as determined by the Speaker.

(b) A question of personal privilege shall have precedence of all other questions except motions to adjourn.

Derived from: RULE X

ESTABLISHMENT AND JURISDICTION OF STANDING COMMITTEES

PROPOSED NEW RULES

Committees and their legislative jurisdictions

1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned by this clause and clauses 2, 3, and 4. All bills, resolutions, and other matters relating to subjects within the jurisdiction of the standing committees listed in this clause shall be referred to those committees, in accordance with clause 2 of rule XII, as follows:

(a) **Committee on Agriculture**.

(1) Adulteration of seeds, insect pests, and protection of birds and animals in forest reserves.

(2) Agriculture generally.

(3) Agricultural and industrial chemistry.

(4) Agricultural colleges and experiment stations.

(5) Agricultural economics and research.

(6) Agricultural education extension services.

(7) Agricultural production and marketing and stabilization of prices of agricultural products, and commodities (not including distribution outside of the United States).

(8) Animal industry and diseases of animals.

(9) Commodity exchanges.

(10) Crop insurance and soil conservation.

(11) Dairy industry.

(12) Entomology and plant quarantine.

(13) Extension of farm credit and farm security.

(14) Inspection of livestock, poultry, meat products, and seafood and seafood products.

EXISTING RULES

The Committees and Their Jurisdiction

1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned to it by this clause and clauses 2, 3, and 4; and all bills, resolutions, and other matters relating to subjects within the jurisdiction of any standing committee as listed in this clause shall (in accordance with and subject to clause 5) be referred to such committees, as follows:

(a) Committee on Agriculture.

(1) Adulteration of seeds, insect pests, and protection of birds and animals in forest reserves.

(2) Agriculture generally.

(3) Agricultural and industrial chemistry.

(4) Agricultural colleges and experiment stations.

(5) Agricultural economics and research.

(6) Agricultural education extension services.

(7) Agricultural production and marketing and stabilization of prices of agricultural products, and commodities (not including distribution outside of the United States).

(8) Animal industry and diseases of animals.

(9) Commodities exchanges.

(10) Crop insurance and soil conservation.

(11) Dairy industry.

(12) Entomology and plant quarantine.

(13) Extension of farm credit and farm security.

(14) Inspection of livestock, and poultry, and meat products, and seafood and seafood products.

COMMENTARY

Rules X–XI—Committees

In proposed rule X, clauses 1 through 3 remain the same with respect to statements of legislative jurisdiction of standing committees (clause 1), general oversight responsibilities (clause 2), and special oversight functions (clause 3). In clause 4, under additional functions of committees, the provisions currently in clause 4(e) regarding the Committee on Standards of Official Conduct are transferred to rule XI to become a separate clause 3 following committee procedures generally, as they are more appropriately "procedure" provisions than "functions" provisions. Rule X retains organizational provisions relating to committee membership in clause 5 (currently clause 6). Proposed clause 6 relates to committee expense resolutions (currently clause 5 of rule XI) since this matter is more appropriately an organizational matter than a committee procedure provision. Interim committee funding logically follows as a proposed clause 7 (currently clause 5(f), rule XI), and then committee travel as proposed clause 8 (currently clause 2(n), rule XI). The committee staff provisions currently in clause 6 of rule XI are transferred to become a new clause 9 of rule X, also more appropriately an organizational matter. Provisions relating to select and conference committees currently clause 6(f) and (g) are transferred to proposed clause 10. The provisions of rule XLVIII establishing the Permanent Select Committee on Intelligence are transferred to rule X to become proposed clause 11. In sum, rule X covers all organizational matters relating to all committees, except committee procedure which remains rule XI. This achieves a logical sequence and retains existing citations to committee jurisdictions and committee procedural issues found in precedent and practice volumes.

(15) Forestry in general and forest reserves other than those created from the public domain.

(16) Human nutrition and home economics.

(17) Plant industry, soils, and agricultural engineering.

(18) Rural electrification.

(19) Rural development.

(20) Water conservation related to activities of the Department of Agriculture.

(b) **Committee on Appropriations**.

(1) Appropriation of the revenue for the support of the Government.

(2) Rescissions of appropriations contained in appropriation Acts.

(3) Transfers of unexpended balances.

(4) The amount of new authority to enter into contracts under which the United States is obligated to make outlays, the budget authority for which is not provided in advance by appropriation Acts; new authority to incur indebtedness (other than indebtedness incurred under chapter 31 of title 31 of the United States Code) for the repayment of which the United States is liable, the budget authority for which is not provided in advance by appropriation Acts; new entitlement authority as defined in section 3(9) of the Congressional Budget Act of 1974, including bills and joint resolutions (reported by other committees) that provide new entitlement authority as defined in section 3(9) of the Congressional Budget Act and are referred to the committee under clause 4(a); authority to forego the collection by the United States of proprietary offsetting receipts, the budget authority for which is not provided in advance by appropriation Acts to offset such foregone receipts; and authority to make payments by the United States (including loans, grants and payments from revolving funds) other than those covered by this subparagraph, the budget authority for which is not provided in advance by appropriation Acts.

(15) Forestry in general, and forest reserves other than those created from the public domain.

(16) Human nutrition and home economics.

(17) Plant industry, soils, and agricultural engineering.

(18) Rural electrification.

(19) Rural development.

(20) Water conservation related to activities of the Department of Agriculture.

(b) Committee on Appropriations.

(1) Appropriation of the revenue for the support of the Government.

(2) Rescissions of appropriations contained in appropriation Acts.

(3) Transfers of unexpended balances.

(4) The amount of new authority to enter into contracts under which the United States is obligated to make outlays, the budget authority for which is not provided in advance by appropriation Acts; new authority to incur indebtedness (other than indebtedness incurred under chapter 31 of title 31 of the United States Code) for the repayment of which the United States is liable, the budget authority for which is not provided in advance by appropriation Acts; new entitlement authority as defined in section 3(9) of the Congressional Budget Act of 1974, including bills and resolutions (reported by other committees) which provide new entitlement authority as defined in section 3(9) of the Congressional Budget Act of 1974 and are referred to the committee under clause 4(a); authority to forego the collection by the United States of proprietary offsetting receipts, the budget authority for which is not provided in advance by appropriation Acts to offset such foregone receipts; and authority to make payments by the United States (including loans, grants, and payments from revolving funds) other than those covered by this subparagraph, the budget authority for which is not provided in advance by appropriation Acts.

The committee shall include separate headings for "Rescissions" and "Transfers of Unexpended Balances" in any bill or resolution as reported from the committee under its jurisdiction specified in subparagraph (2) or (3), with all proposed rescissions and proposed transfers listed therein; and shall include a separate section with respect to such rescissions or transfers in the accompanying committee report. In addition to its jurisdiction under the preceding provisions of this paragraph, the committee shall have the fiscal oversight function provided for in clause 2(b)(3) and the budget hearing function provided for in clause 4(a).

In clause 1(b), rule X, the legislative jurisdiction of the Committee on Appropriations includes only statements of legislative jurisdiction. The additional paragraph in the existing rule on headings for rescissions and transfers of appropriations is transferred to a new clause 3(f)(2), rule XIII as more logically under committee reporting requirements.

Also in rule X, existing statements of oversight jurisdiction carried in clause 1, following statements of legislative jurisdiction for the following standing committees, were eliminated, since they already appear under clauses 2, 3 or 4 of rule X as general or special oversight functions or additional functions: Appropriations, Commerce, Education and the Workforce, Government Reform and Oversight, House Oversight, International Relations, National Security, Resources, Science, and Small Business. All of the above "in addition" statements of oversight jurisdictions are merely repetitive.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(c) **Committee on Banking and Financial Services.**	(c) Committee on Banking and Financial Services.	
(1) Banks and banking, including deposit insurance and Federal monetary policy.	(1) Banks and banking, including deposit insurance and Federal monetary policy.	
(2) Bank capital markets activities generally.	(2) Bank capital markets activities generally.	
(3) Depository institutions securities activities generally, including activities of any affiliates (except for functional regulation under applicable securities laws not involving safety and soundness).	(3) Depository institution securities activities generally, including the activities of any affiliates, except for functional regulation under applicable securities laws not involving safety and soundness.	
(4) Economic stabilization, defense production, renegotiation, and control of the price of commodities, rents, and services.	(4) Economic stabilization, defense production, renegotiation, and control of the price of commodities, rents, and services.	
(5) Financial aid to commerce and industry (other than transportation).	(5) Financial aid to commerce and industry (other than transportation).	
(6) International finance.	(6) International finance.	
(7) International financial and monetary organizations.	(7) International financial and monetary organizations.	
(8) Money and credit, including currency and this issuance of notes and redemption thereof; gold and silver, including the coinage thereof; valuation and revaluation of the dollar.	(8) Money and credit, including currency and the issuance of notes and redemption thereof; gold and silver, including the coinage thereof; valuation and revaluation of the dollar.	
(9) Public and private housing.	(9) Public and private housing.	
(10) Urban development.	(10) Urban development.	
(d) **Committee on the Budget.**	(d)(1) Committee on the Budget, consisting of the following Members: (A) Members who are members of other standing committees, including five Members who are members of the Committee on Appropriations, and five Members who are members of the Committee on Ways and Means; (B) one Member from the leadership of the majority party; and (C) one Member from the leadership of the minority party. No Member other than a representative from the leadership of a party may serve as a member of the Committee on the Budget during more than four Congresses in any period of six successive Congresses (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress), except that an incumbent chairman or ranking minority member having served on the committee for four Congresses and having served as chairman or ranking minority member of the committee for not more than one Congress shall be eligible for reelection to the committee as chairman or ranking minority member for one additional Congress.	In proposed clause 1(d), rule X, only the legislative jurisdiction of the Committee on the Budget remains. The existing provision on the composition of the committee is transferred to proposed clause 5(a)(2) of rule X under election of standing committees. The duty of the Budget Committee regarding tax expenditures currently stated in its legislative jurisdiction is transferred to clause 4 of rule X under additional functions of committees.
(1) Concurrent resolutions on the budget (as defined in section 3(4) of the Congressional Budget Act of 1974), other matters required to be referred to the committee under titles III and IV of that Act, and other measures setting forth appropriate levels of budget totals for the United States Government.	(2) All concurrent resolutions on the budget (as defined in section 3 of the Congressional Budget Act of 1974), other matters required to be referred to the committee under titles III and IV of that Act, and other measures setting forth appropriate levels of budget totals for the United States Government.	
(2) Budget process generally.	(3) Measures relating to the budget process, generally.	

(3) Establishment, extension, and enforcement of special controls over the Federal budget, including the budgetary treatment of off-budget Federal agencies and measures providing exemption from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.	(4) Measures relating to the establishment, extension, and enforcement of special controls over the Federal budget, including the budgetary treatment of off-budget Federal agencies and measures providing exemption from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.	
	(5) The committee shall have the duty— (A) to report the matters required to be reported by it under titles III and IV of the Congressional Budget Act of 1974; (B) to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the House on a recurring basis; (C) to request and evaluate continuing studies of tax expenditures; to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the House on a recurring basis; and (D) to review, on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.	
(e) **Committee on Commerce.**	(e) Committee on Commerce.	
(1) Biomedical research and development.	(1) Biomedical research and development.	
(2) Consumer affairs and consumer protection.	(2) Consumer affairs and consumer protection.	
(3) Health and health facilities (except health care supported by payroll deductions).	(3) Health and health facilities, except health care supported by payroll deductions.	
(4) Interstate energy compacts.	(4) Interstate energy compacts.	
(5) Interstate and foreign commerce generally.	(5) Interstate and foreign commerce generally.	
(6) Exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including all fossil fuels, solar energy, and other unconventional or renewable energy resources.	(6) Measures relating to the exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including all fossil fuels, solar energy, and other unconventional or renewable energy resources.	The phrase "measures relating to" appearing in the rule X jurisdictional statements of a number of committees has been deleted in the recodification as unnecessary. No jurisdictional addition or subtraction is intended by the change.
(7) Conservation of energy resources.	(7) Measures relating to the conservation of energy resources.	
(8) Energy information generally.	(8) Measures relating to energy information generally.	
(9) The generation and marketing of power (except by federally chartered or Federal regional power marketing authorities); reliability and interstate transmission of, and ratemaking for, all power; and siting of generation facilities (except the installation of interconnections between Government waterpower projects).	(9) Measures relating to (A) the generation and marketing of power (except by federally chartered or Federal regional power marketing authorities), (B) the reliability and interstate transmission of, and ratemaking for, all power, and (C) the siting of generation facilities; except the installation of interconnections between Government water power projects.	
(10) General management of the Department of Energy and management and all functions of the Federal Energy Regulatory Commission.	(10) Measures relating to general management of the Department of Energy, and the management and all functions of the Federal Energy Regulatory Commission.	
(11) National energy policy generally.	(11) National energy policy generally.	
(12) Public health and quarantine.	(12) Public health and quarantine.	
(13) Regulation of the domestic nuclear energy industry, including regulation of research and development reactors and nuclear regulatory research.	(13) Regulation of the domestic nuclear energy industry, including regulation of research and development reactors and nuclear regulatory research.	
(14) Regulation of interstate and foreign communications.	(14) Regulation of interstate and foreign communications.	
(15) Securities and exchanges.	(15) Securities and exchanges.	
(16) Travel and tourism.	(16) Travel and tourism.	

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
The committee shall have the same jurisdiction with respect to regulation of nuclear facilities and of use of nuclear energy as it has with respect to regulation of nonnuclear facilities and of use of nonnuclear energy.	The committee shall have the same jurisdiction with respect to regulation of nuclear facilities and of use of nuclear energy as it has with respect to regulation of nonnuclear facilities and of use of nonnuclear energy. In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight functions under clause 2(b)(1)), such committee shall have the special oversight functions provided for in clause (3)(h) with respect to all laws, programs, and Government activities affecting nuclear and other energy, and nonmilitary nuclear energy and research and development including the disposal of nuclear waste.	
(f) **Committee on Education and the Workforce.**	(f) Committee on Education and the Workforce.	
(1) Child labor.	(1) Child labor.	
(2) Gallaudet University and Howard University and Hospital.	(2) Columbia Institution for the Deaf, Dumb, and Blind; Howard University; Freedmen's Hospital.	References to specific entities in subparagraphs (2) and (9) of proposed clause 1(f), rule X have been modernized in the jurisdictional statement of the Committee on Education and the Workforce. No substantive changes to the jurisdictional statement is intended.
(3) Convict labor and the entry of goods made by convicts into interstate commerce.	(3) Convict labor and the entry of goods made by convicts into interstate commerce.	
(4) Food programs for children in schools.	(4) Food programs for children in schools.	
(5) Labor standards and statistics.	(5) Labor standards and statistics.	
(6) Education or labor generally.	(6) Measures relating to education or labor generally.	
(7) Mediation and arbitration of labor disputes.	(7) Mediation and arbitration of labor disputes.	
(8) Regulation or prevention of importation of foreign laborers under contract.	(8) Regulation or prevention of importation of foreign laborers under contract.	
(9) Workers' compensation.	(9) United States Employees' Compensation Commission.	
(10) Vocational rehabilitation.	(10) Vocational rehabilitation.	
(11) Wages and hours of labor.	(11) Wages and hours of labor.	
(12) Welfare of miners.	(12) Welfare of miners.	
(13) Work incentive programs.	(13) Work incentive programs.	
	In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(c) with respect to domestic educational programs and institutions, and programs of student assistance, which are within the jurisdiction of other committees.	See comment at beginning of rule X.
(g) **Committee on Government Reform and Oversight.**	(g) Committee on Government Reform and Oversight.	
(1) Federal civil service, including intergovernmental personnel; and the status of officers and employees of the United States, including their compensation, classification, and retirement.	(1) The Federal Civil Service, including intergovernmental personnel; the status of officers and employees of the United States, including their compensation, classification, and retirement.	
(2) Municipal affairs of the District of Columbia in general (other than appropriations).	(2) Measures relating to the municipal affairs of the District of Columbia in general, other than appropriations.	
(3) Federal paperwork reduction.	(3) Federal paperwork reduction.	
(4) Government management and accounting measures generally.	(4) Government management and accounting measures, generally.	
(5) Holidays and celebrations.	(5) Holidays and celebrations.	

(6) Overall economy, efficiency, and management of government operations and activities, including Federal procurement.	(6) The overall economy, efficiency and management of government operations and activities, including Federal procurement.	
(7) National archives.	(7) National archives.	
(8) Population and demography generally, including the Census.	(8) Population and demography generally, including the Census.	
(9) Postal service generally, including transportation of the mails.	(9) Postal service generally, including the transportation of the mails.	
(10) Public information and records.	(10) Public information and records.	
(11) Relationship of the Federal Government to the States and municipalities generally.	(11) Relationship of the Federal Government to the States and municipalities generally.	
(12) Reorganizations in the executive branch of the Government.	(12) Reorganizations in the executive branch of the Government. In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its oversight functions under clause 2(b) (1) and (2)), the committee shall have the function of performing the duties and conducting the studies which are provided for in clause 4(c).	See comment at beginning of rule X.
(h) **Committee on House Oversight.**	(h) Committee on House Oversight.	
(1) Appropriations from accounts for committee salaries and expenses (except for the Committee on Appropriations); House Information Resources; and allowance and expenses of Members, Delegates, the Resident Commissioner, officers, and administrative offices of the House.	(1) Appropriations from accounts for committee salaries and expenses (except for the Committee on Appropriations), House Information Resources, and allowances and expenses of Members, House Officers and administrative offices of the House.	
(2) Auditing and settling of all accounts described in subparagraph (1).	(2) Auditing and settling of all accounts described in subparagraph (1).	
(3) Employment of persons by the House, including staff for Members, Delegates, the Resident Commissioner, and committees; and reporters of debates, subject to rule VI.	(3) Employment of persons by the House, including clerks for Members and committees, and reporters of debates.	Under proposed clause 1, rule VI the official reporters of the House are subject to the direction and control of the Speaker. The reference to rule VI in subparagraph (3) is added for clarity.
(4) Except as provided in paragraph (q)(11), the Library of Congress, including management thereof; the House Library; statuary and pictures; acceptance or purchase of works of art for the Capitol; the Botanic Garden; and purchase of books and manuscripts.	(4) Except as provided in clause 1(q)(11), matters relating to the Library of Congress and the House Library; statuary and pictures; acceptance or purchase of works of art for the Capitol; the Botanic Gardens; management of the Library of Congress; purchase of books and manuscripts.	
(5) The Smithsonian Institution and the incorporation of similar institutions (except as provided in paragraph (q)(11)).	(5) Except as provided in clause 1(q)(11), matters relating to the Smithsonian Institution and the incorporation of similar institutions.	
(6) Expenditure of accounts described in subparagraph (1).	(6) Expenditure of accounts described in subparagraph (1).	
(7) Franking Commission.	(7) Franking Commission.	
(8) Printing and correction of the Congressional Record.	(8) Matters relating to printing and correction of the Congressional Record.	
(9) Accounts of the House generally.	(9) Measures relating to accounts of the House generally.	
(10) Assignment of office space for Members, Delegates, the Resident Commissioner, and committees.	(10) Measures relating to assignment of office space for Members and committees.	
(11) Disposition of useless executive papers.	(11) Measures relating to the disposition of useless executive papers.	
(12) Election of the President, Vice President, Members, Senators, Delegates, or the Resident Commissioner; corrupt practices; contested elections; credentials and qualifications; and Federal elections generally.	(12) Measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; and Federal elections generally.	
(13) Services to the House, including the House Restaurant, parking facilities, and administration of the House Office Buildings and of the House wing of the Capitol.	(13) Measures relating to services to the House, including the House Restaurant, parking facilities and administration of the House Office Buildings and of the House wing of the Capitol.	
(14) Travel of Members, Delegates, and the Resident Commissioner.	(14) Measures relating to the travel of Members of the House.	

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(15) Raising, reporting, and use of campaign contributions for candidates for office of Representative, of Delegate, and of Resident Commissioner.	(15) Measures relating to the raising, reporting and use of campaign contributions for candidates for office of Representative in the House of Representatives, of Delegate, and of Resident Commissioner to the United States from Puerto Rico.	
(16) Compensation, retirement, and other benefits of the Members, Delegates, the Resident Commissioner, officers, and employees of Congress.	(16) Measures relating to the compensation, retirement and other benefits of the Members, officers, and employees of the Congress.	See comment at beginning of rule X.
	In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the function of performing the duties which are provided for in clause 4(d).	
(i) **Committee on International Relations.**	(i) Committee on International Relations.	
(1) Relations of the United States with foreign nations generally.	(1) Relations of the United States with foreign nations generally.	
(2) Acquisition of land and buildings for embassies and legations in foreign countries.	(2) Acquisition of land and buildings for embassies and legations in foreign countries.	
(3) Establishment of boundary lines between the United States and foreign nations.	(3) Establishment of boundary lines between the United States and foreign nations.	
(4) Export controls, including nonproliferation of nuclear technology and nuclear hardware.	(4) Export controls, including nonproliferation of nuclear technology and nuclear hardware.	
(5) Foreign loans.	(5) Foreign loans.	
(6) International commodity agreements (other than those involving sugar), including all agreements for cooperation in the export of nuclear technology and nuclear hardware.	(6) International commodity agreements (other than those involving sugar), including all agreements for cooperation in the export of nuclear technology and nuclear hardware.	
(7) International conferences and congresses.	(7) International conferences and congresses.	
(8) International education.	(8) International education.	
(9) Intervention abroad and declarations of war.	(9) Intervention abroad and declarations of war.	
(10) Diplomatic service.	(10) Measures relating to the diplomatic service.	
(11) Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.	(11) Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.	
(12) International economic policy.	(12) Measures relating to international economic policy.	
(13) Neutrality.	(13) Neutrality.	
(14) Protection of American citizens abroad and expatriation.	(14) Protection of American citizens abroad and expatriation.	
(15) The American National Red Cross.	(15) The American National Red Cross.	
(16) Trading with the enemy.	(16) Trading with the enemy.	
(17) United Nations organizations.	(17) United Nations Organizations.	
	In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight functions provided for in clause 3(d) with respect to customs administration, intelligence activities relating to foreign policy, international financial and monetary organizations, and international fishing agreements.	See comment at beginning of rule X.
(j) **Committee on the Judiciary.**	(j) Committee on the Judiciary.	
(1) The judiciary and judicial proceedings, civil and criminal.	(1) The judiciary and judicial proceedings, civil and criminal.	
(2) Administrative practice and procedure.	(2) Administrative practice and procedure.	
(3) Apportionment of Representatives.	(3) Apportionment of Representatives.	
(4) Bankruptcy, mutiny, espionage, and counterfeiting.	(4) Bankruptcy, muting, espionage, and counterfeiting.	
(5) Civil liberties.	(5) Civil liberties.	

(6) Constitutional amendments.	(6) Constitutional amendments.	
(7) Federal courts and judges, and local courts in the Territories and possessions.	(7) Federal courts and judges, and local courts in the Territories and possessions.	
(8) Immigration and naturalization.	(8) Immigration and naturalization.	
(9) Interstate compacts generally.	(9) Interstate compacts, generally.	
(10) Claims against the United States.	(10) Measures relating to claims against the United States.	
(11) Meetings of Congress; attendance of Members, Delegates, and the Resident Commissioner; and their acceptance of incompatible offices.	(11) Meetings of Congress, attendance of Members and their acceptance of incompatible offices.	
(12) National penitentiaries.	(12) National penitentiaries.	
(13) Patents, the Patent and Trademark Office, copyrights, and trademarks.	(13) Patents, the Patent Office, copyrights, and trademarks.	The reference in subparagraph (13) to the "Patent Office" has been modernized to the "Patent and Trademark Office".
(14) Presidential succession.	(14) Presidential succession.	
(15) Protection of trade and commerce against unlawful restraints and monopolies.	(15) Protection of trade and commerce against unlawful restraints and monopolies.	
(16) Revision and codification of the Statutes of the United States.	(16) Revision and codification of the Statutes of the United States.	
(17) State and territorial boundary lines.	(17) State and territorial boundaries.	
(18) Subversive activities affecting the internal security of the United States.	(18) Subversive activities affecting the internal security of the United States.	
(k) **Committee on National Security.**	(k) Committee on National Security.	
(1) Ammunition depots; forts; arsenals; and Army, Navy, and Air Force reservations and establishments.	(1) Ammunition depots; forts; arsenals; Army, Navy, and Air Force reservations and establishments.	
(2) Common defense generally.	(2) Common defense generally.	
(3) Conservation, development, and use of naval petroleum and oil shale reserves.	(3) Conservation, development, and use of naval petroleum and oil shale reserves.	
(4) The Department of Defense generally, including the Departments of the Army, Navy, and Air Force, generally.	(4) The Department of Defense generally, including the Departments of the Army, Navy, and Air Force generally.	
(5) Interoceanic canals generally, including measures relating to the maintenance, operation, and administration of interoceanic canals.	(5) Interoceanic canals generally, including measures relating to the maintenance, operation, and administration of interoceanic canals.	
(6) Merchant Marine Academy and State Maritime Academies.	(6) Merchant Marine Academy, and State Maritime Academies.	
(7) Military applications of nuclear energy.	(7) Military applications of nuclear energy.	
(8) Tactical intelligence and intelligence-related activities of the Department of Defense.	(8) Tactical intelligence and intelligence related activities of the Department of Defense.	
(9) National security aspects of merchant marine, including financial assistance for the construction and operation of vessels, maintenance of the U.S. shipbuilding and ship repair industrial base, cabotage, cargo preference, and merchant marine officers and seamen as these matters relate to the national security.	(9) National security aspects of merchant marine, including financial assistance for the construction and operation of vessels, the maintenance of the U.S. shipbuilding and ship repair industrial base, cabotage, cargo preference and merchant marine officers and seamen as these matters relate to the national security.	
(10) Pay, promotion, retirement, and other benefits and privileges of members of the armed forces.	(10) Pay, promotion, retirement, and other benefits and privileges of members of the armed forces.	
(11) Scientific research and development in support of the armed services.	(11) Scientific research and development in support of the armed services.	
(12) Selective service.	(12) Selective service.	
(13) Size and composition of the Army, Navy, Marine Corps, and Air Force.	(13) Size and composition of the Army, Navy, Marine Corps, and Air Force.	
(14) Soldiers' and sailors' homes.	(14) Soldiers' and sailors' homes.	
(15) Strategic and critical materials necessary for the common defense.	(15) Strategic and critical materials necessary for the common defense.	

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
	In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(a) with respect to international arms control and disarmament, and military dependents education.	See comment at beginning of rule X.
(l) **Committee on Resources.**	(l) Committee on Resources.	Previous references to "Indians" in the jurisdictional statement of the Committee on Resources have been updated. No substantive change to jurisdiction is intended.
(1) Fisheries and wildlife, including research, restoration, refuges, and conservation.	(1) Fisheries and wildlife, including research, restoration, refuges, and conservation.	
(2) Forest reserves and national parks created from the public domain.	(2) Forest reserves and national parks created from the public domain.	
(3) Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.	(3) Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.	
(4) Geological Survey.	(4) Geological Survey.	
(5) International fishing agreements.	(5) International fishing agreements.	
(6) Interstate compacts relating to apportionment of waters for irrigation purposes.	(6) Interstate compacts relating to apportionment of waters for irrigation purposes.	
(7) Irrigation and reclamation, including water supply for reclamation projects and easements of public lands for irrigation projects; and acquisition of private lands when necessary to complete irrigation projects.	(7) Irrigation and reclamation, including water supply for reclamation projects, and easements of public lands for irrigation projects, and acquisition of private lands when necessary to complete irrigation projects.	
(8) Native Americans generally, including the care and allotment of Native American lands and general and special measures relating to claims that are paid out of Native American funds.	(8) Measures relating to the care and management of Indians, including the care and allotment of Indian lands and general and special measures relating to claims which are paid out of Indian funds.	
(9) Insular possessions of the United States generally (except those affecting the revenue and appropriations).	(9) Measures relating generally to the insular possessions of the United States, except those affecting the revenue and appropriations.	
(10) Military parks and battlefields, national cemeteries administered by the Secretary of the Interior, parks within the District of Columbia, and the erection of monuments to the memory of individuals.	(10) Military parks and battlefields, national cemeteries administered by the Secretary of the Interior, parks within the District of Columbia, and the erection of monuments to the memory of individuals.	
(11) Mineral land laws and claims and entries thereunder.	(11) Mineral land laws and claims and entries thereunder.	
(12) Mineral resources of public lands.	(12) Mineral resources of the public lands.	
(13) Mining interests generally.	(13) Mining interests generally.	
(14) Mining schools and experimental stations.	(14) Mining schools and experimental stations.	
(15) Marine affairs, including coastal zone management (except for measures relating to oil and other pollution of navigable waters).	(15) Marine affairs (including coastal zone management), except for measures relating to oil and other pollution of navigable waters.	
(16) Oceanography.	(16) Oceanography.	
(17) Petroleum conservation on public lands and conservation of the radium supply in the United States.	(17) Petroleum conservation on the public lands and conservation of the radium supply in the United States.	
(18) Preservation of prehistoric ruins and objects of interest on the public domain.	(18) Preservation of prehistoric ruins and objects of interest on the public domain.	
(19) Public lands generally, including entry, easements, and grazing thereon.	(19) Public lands generally, including entry, easements, and grazing thereon.	
(20) Relations of the United States with Native Americans and Native American tribes.	(20) Relations of the United States with the Indians and the Indian tribes.	

(21) Trans-Alaska Oil Pipeline (except ratemaking).	(21) Trans-Alaska Oil Pipeline (except ratemaking).	See comment at beginning of rule X.
	In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight functions provided for in clause 3(e) with respect to all programs affecting Indians.	
(m) **Committee on Rules.**	(m) Committee on Rules.	
(1) Rules and joint rules (other than those relating to the Code of Official Conduct) and the order of business of the House.	(1) The rules and joint rules (other than rules or joint rules relating to the Code of Official Conduct), and order of business of the House.	
(2) Recesses and final adjournments of Congress.	(2) Recesses and final adjournments of Congress. The Committee on Rules is authorized to sit and act whether or not the House is in session.	Existing clause 1(m)(2), rule X on authority of the Committee on Rules to sit whether the House is in session or not has been eliminated, since it merely duplicates the provision in clause 2(m), rule XI already applicable to all standing committees. This authority for the Rules Committee to sit predates the standing authority for other committees.
(n) **Committee on Science.**	(n) Committee on Science.	
(1) All energy research, development, and demonstration, and projects therefor, and all federally owned or operated nonmilitary energy laboratories.	(1) All energy research, development, and demonstration, and projects therefor, and all federally owned or operated nonmilitary energy laboratories.	
(2) Astronautical research and development, including resources, personnel, equipment, and facilities.	(2) Astronautical research and development, including resources, personnel, equipment, and facilities.	
(3) Civil aviation research and development.	(3) Civil aviation research and development.	
(4) Environmental research and development.	(4) Environmental research and development.	
(5) Marine research.	(5) Marine research.	
(6) Commercial application of energy technology.	(6) Measures relating to the commercial application of energy technology.	
(7) National Institute of Standards and Technology, standardization of weights and measures, and the metric system.	(7) National Institute of Standards and Technology, standardization of weights and measures, and the metric system.	
(8) National Aeronautics and Space Administration.	(8) National Aeronautics and Space Administration.	
(9) National Space Council.	(9) National Space Council.	
(10) National Science Foundation.	(10) National Science Foundation.	
(11) National Weather Service.	(11) National Weather Service.	
(12) Outer space, including exploration and control thereof.	(12) Outer space, including exploration and control thereof.	
(13) Science scholarships.	(13) Science Scholarships.	
(14) Scientific research, development, and demonstration, and projects therefor.	(14) Scientific research, development, and demonstration, and projects therefor.	
	In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(f) with respect to all nonmilitary research and development.	See comment at beginning of rule X.
(o) **Committee on Small Business.**	(o) Committee on Small Business.	
(1) Assistance to and protection of small business, including financial aid, regulatory flexibility, and paperwork reduction.	(1) Assistance to and protection of small business, including financial aid, regulatory flexibility, and paperwork reduction.	
(2) Participation of small-business enterprises in Federal procurement and Government contracts.	(2) Participation of small-business enterprises in Federal procurement and Government contracts.	

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
	In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(g) with respect to the problems of small business.	See comment at beginning of rule X.
(p) **Committee on Standards of Official Conduct.**	(p) Committee on Standards of Official Conduct.	
The Code of Official Conduct.	(1) Measures relating to the Code of Official Conduct.	
	In addition to its legislative jurisdiction under the preceding provision of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the functions with respect to recommendations, studies, investigations, and reports which are provided for in clause 4(e), and the functions designated in titles I and V of the Ethics in Government Act of 1978 and sections 7342, 7351, and 7353 of title 5, United States Code.	The additional functions of the Committee on Standards of Official Conduct now contained in clause 1(p), rule X are transferred to proposed clause 3(b)(7), rule XI since clause 1, rule X is to be confined to statements of legislative jurisdiction only.
(q) **Committee on Transportation and Infrastructure.**	(q) Committee on Transportation and Infrastructure.	
(1) Coast Guard, including lifesaving service, lighthouses, lightships, ocean derelicts, and the Coast Guard Academy.	(1) Coast Guard, including lifesaving service, lighthouses, lightships, ocean derelicts, and the Coast Guard Academy.	
(2) Federal management of emergencies and natural disasters.	(2) Federal management of emergencies and natural disasters.	
(3) Flood control and improvement of rivers and harbors.	(3) Flood control and improvement of rivers and harbors.	
(4) Inland waterways.	(4) Inland waterways.	
(5) Inspection of merchant marine vessels, lights and signals, lifesaving equipment, and fire protection on such vessels.	(5) Inspection of merchant marine vessels, lights and signals, lifesaving equipment, and fire protection on such vessels.	
(6) Navigation and laws relating thereto, including pilotage.	(6) Navigation and laws relating thereto, including pilotage.	
(7) Registering and licensing of vessels and small boats.	(7) Registering and licensing of vessels and small boats.	
(8) Rules and international arrangements to prevent collisions at sea.	(8) Rules and international arrangements to prevent collisions at sea.	
(9) The Capitol Building and the Senate and House Office Buildings.	(9) Measures relating to the Capitol Building and the Senate and House Office Buildings.	
(10) Construction or maintenance of roads and post roads (other than appropriations therefor).	(10) Measures relating to the construction or maintenance of roads and post roads, other than appropriations therefor; but it shall not be in order for any bill providing general legislation in relation to roads to contain any provision for any specific road, nor for any bill in relation to a specific road to embrace a provision in relation to any other specific road.	The prohibition in the existing Transportation and Infrastructure jurisdictional rule (now clause 1(q)(10)) regarding consideration of general road bills containing specific road provisions has been transferred to new clause 3, rule XXI since it more logically belongs in a rule precluding consideration of certain provisions in bills rather than in a jurisdictional rule.
(11) Construction or reconstruction, maintenance, and care of buildings and grounds of the Botanic Garden, the Library of Congress, and the Smithsonian Institution.	(11) Measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Botanic Gardens, the Library of Congress, and the Smithsonian Institution	
(12) Merchant marine (except for national security aspects thereof).	(12) Measures relating to merchant marine, except for national security aspects of merchant marine.	
(13) Purchase of sites and construction of post offices, customhouses, Federal courthouses, and Government buildings within the District of Columbia.	(13) Measures relating to the purchase of sites and construction of post offices, customhouses, Federal courthouses, and Government buildings within the District of Columbia	

(14) Oil and other pollution of navigable waters, including inland, coastal, and ocean waters.

(15) Marine affairs, including coastal zone management, as they relate to oil and other pollution of navigable waters.

(16) Public buildings and occupied or improved grounds of the United States generally.

(17) Public works for the benefit of navigation, including bridges and dams (other than international bridges and dams).

(18) Related transportation regulatory agencies.

(19) Roads and the safety thereof.

(20) Transportation, including civil aviation, railroads, water transportation, transportation safety (except automobile safety), transportation infrastructure, transportation labor, and railroad retirement and unemployment (except revenue measures related thereto).

(21) Water power.

(r) **Committee on Veterans' Affairs.**

(1) Veterans' measures generally.

(2) Cemeteries of the United States in which veterans of any war or conflict are or may be buried, whether in the United States or abroad (except cemeteries administered by the Secretary of the Interior).

(3) Compensation, vocational rehabilitation, and education of veterans.

(4) Life insurance issued by the Government on account of service in the Armed Forces.

(5) Pensions of all the wars of the United States, general and special.

(6) Readjustment of servicemen to civil life.

(7) Soldiers' and sailors' civil relief.

(8) Veterans' hospitals, medical care, and treatment of veterans.

(s) **Committee on Ways and Means.**

(1) Customs, collection districts, and ports of entry and delivery.

(2) Reciprocal trade agreements.

(3) Revenue measures generally.

(4) Revenue measures relating to insular possessions.

(5) Bonded debt of the United States, subject to the last sentence of clause 4(f).

(6) Deposit of public monies.

(7) Transportation of dutiable goods.

(8) Tax exempt foundations and charitable trusts.

(9) National social security (except health care and facilities programs that are supported from general revenues as opposed to payroll deductions and except work incentive programs).

General oversight responsibilities

2. (a) The various standing committees shall have general oversight responsibilities as provided in paragraph (b) in order to assist the House in—

(14) Oil and other pollution of navigable waters, including inland, coastal, and ocean waters.

(15) Marine affairs (including coastal zone management) as they relate to oil and other pollution of navigable waters.

(16) Public buildings and occupied or improved grounds of the United States generally.

(17) Public works for the benefit of navigation, including bridges and dams (other than international bridges and dams).

(18) Related transportation regulatory agencies.

(19) Roads and the safety thereof.

(20) Transportation, including civil aviation, railroads, water transportation, transportation safety (except automobile safety), transportation infrastructure, transportation labor, and railroad retirement and unemployment (except revenue measures related thereto).

(21) Water power.

(r) Committee on Veterans' Affairs.

(1) Veterans' measures generally.

(2) Cemeteries of the United States in which veterans of any war or conflict are or may be buried, whether in the United States or abroad, except cemeteries administered by the Secretary of the Interior.

(3) Compensation, vocational rehabilitation, and education of veterans.

(4) Life insurance issued by the Government on account of service in the Armed Forces.

(5) Pensions of all the wars of the United States, general and special.

(6) Readjustment of servicemen to civil life.

(7) Soldiers' and sailors' civil relief.

(8) Veterans' hospitals, medical care, and treatment of veterans.

(s) Committee on Ways and Means.

(1) Customs, collection districts, and ports of entry and delivery.

(2) Reciprocal trade agreements.

(3) Revenue measures generally.

(4) Revenue measures relating to the insular possessions.

(5) The bonded debt of the United States (subject to the last sentence of clause 4(g) of this rule).

(6) The deposit of public moneys.

(7) Transportation of dutiable goods.

(8) Tax exempt foundations and charitable trusts.

(9) National social security, except (A) health care and facilities programs that are supported from general revenues as opposed to payroll deductions and (B) work incentive programs.

General Oversight Responsibilities

2. (a) In order to assist the House in—

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(1) its analysis, appraisal, and evaluation of— (A) the application, administration, execution, and effectiveness of Federal laws; and (B) conditions and circumstances that may indicate the necessity or desirability of enacting new or additional legislation; and (2) its formulation, consideration, and enactment of changes in Federal laws, and of such additional legislation as may be necessary or appropriate.	(1) its analysis, appraisal, and evaluation of (A) the application, administration, execution, and effectiveness of the laws enacted by the Congress, or (B) conditions and circumstances which may indicate the necessity or desirability of enacting new or additional legislation, and (2) its formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate, the various standing committees shall have oversight responsibilities as provided in paragraph (b).	
(b)(1) In order to determine whether laws and programs addressing subjects within the jurisdiction of a committee are being implemented and carried out in accordance with the intent of Congress and whether they should be continued, curtailed, or eliminated, each standing committee (other than the Committee on Appropriations and the Committee on the Budget) shall review and study on a continuing basis— (A) the application, administration, execution, and effectiveness of laws and programs addressing subjects within its jurisdiction; (B) the organization and operation of Federal agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within its jurisdiction; (C) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within its jurisdiction (whether or not a bill or resolution has been introduced with respect thereto); and (D) future research and forecasting on subjects within its jurisdiction. (2) Each committee to which subparagraph (1) applies having more than 20 members shall establish an oversight subcommittee, or require its subcommittees to conduct oversight in their respective jurisdictions, to assist in carrying out its responsibilities under this clause. The establishment of an oversight subcommittee does not limit the responsibility of a subcommittee with legislative jurisdiction in carrying out its oversight responsibilities.	(b)(1) Each standing committee (other than the Committee on Appropriations and the Committee on the Budget) shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress and whether such programs should be continued, curtailed, or eliminated. In addition, each such committee shall review and study any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of that committee (whether or not any bill or resolution has been introduced with respect thereto), and shall on a continuing basis undertake future research and forecasting on matters within the jurisdiction of that committee. Each such committee having more than twenty members shall establish an oversight subcommittee, or require its subcommittees, if any, to conduct oversight in the area of their respective jurisdiction, to assist in carrying out its responsibilities under this subparagraph. The establishment of oversight subcommittees shall in no way limit the responsibility of the subcommittees with legislative jurisdiction from carrying out their oversight responsibilities.	Proposed clause 2(b), rule X is rewritten and reorganized in its entirety here to emphasize general oversight responsibilities for all standing committees. Directions to specific committees in the existing clause have been transferred.
(c) Each standing committee shall review and study on a continuing basis the impact or probable impact of tax policies affecting subjects within its jurisdiction as described in clauses 1 and 3.	(c) Each standing committee of the House shall have the function of reviewing and studying on a continuing basis the impact or probable impact of tax policies affecting subjects within its jurisdiction as described in clauses 1 and 3.	The general oversight responsibilities of the Committees on Appropriations and Government Reform and Oversight currently specified in subparagraphs (3) and (4) of clause 2(b), rule X, have been transferred to paragraphs (a) and (e) respectively in proposed clause 3, rule X. These responsibilities are more accurately characterized as special oversight functions of those two committees and thus belong in that clause.

(d)(1) Not later than February 15 of the first session of a Congress, each standing committee shall, in a meeting that is open to the public and with a quorum present, adopt its oversight plan for that Congress. Such plan shall be submitted simultaneously to the Committee on Government Reform and Oversight and to the Committee on House Oversight. In developing its plan each committee shall, to the maximum extent feasible—	(d)(1) Not later than February 15 of the first session of a Congress, each standing committee of the House shall, in a meeting that is open to the public and with a quorum present, adopt its oversight plans for that Congress. Such plans shall be submitted simultaneously to the Committee on Government Reform and Oversight and to the Committee on House Oversight. In developing such plans each committee shall, to the maximum extent feasible—	
(A) consult with other committees that have jurisdiction over the same or related laws, programs, or agencies within its jurisdiction with the objective of ensuring maximum coordination and cooperation among committees when conducting reviews of such laws, programs, or agencies and include in its plan an explanation of steps that have been or will be taken to ensure such coordination and cooperation;	(A) consult with other committees of the House that have jurisdiction over the same or related laws, programs, or agencies within its jurisdiction, with the objective of ensuring that such laws, programs, or agencies are reviewed in the same Congress and that there is a maximum of coordination between such committees in the conduct of such reviews; and such plans shall include an explanation of what steps have been and will be taken to ensure such coordination and cooperation;	
(B) give priority consideration to including in its plan the review of those laws, programs, or agencies operating under permanent budget authority or permanent statutory authority; and (C) have a view toward ensuring that all significant laws, programs, or agencies within its jurisdiction are subject to review every 10 years.	(B) give priority consideration to including in its plans the review of those laws, programs, or agencies operating under permanent budget authority or permanent statutory authority; and (C) have a view toward ensuring that all significant laws, programs, or agencies within its jurisdictions are subject to review at least once every ten years.	
(2) It shall not be in order to consider a committee expense resolution (within the meaning of clause 6), or an amendment thereto, proposing to fund the expenses of a committee that has not submitted its oversight plan as required by this paragraph.	(2) It shall not be in order to consider any committee expense resolution (within the meaning of clause 5 of rule XI), or any amendment thereto, for any committee that has not submitted its oversight plans as required by this paragraph.	
(3) Not later than March 31 in the first session of a Congress, after consultation with the Speaker, the Majority Leader, and the Minority Leader, the Committee on Government Reform and Oversight shall report to the House the oversight plans submitted by committees together with any recommendations that it, or the House leadership group described above, may make to ensure the most effective coordination of oversight plans and otherwise to achieve the objectives of this clause.	(3) Not later than March 31 in the first session of a Congress, after consultation with the Speaker, the Majority Leader, and the Minority Leader, the Committee on Government Reform and Oversight shall report to the House the oversight plans submitted by each committee together with any recommendations that it, or the House leadership group referred to above, may make to ensure the most effective coordination of such plans and otherwise achieve the objectives of this clause.	
(e) The Speaker, with the approval of the House, may appoint special ad hoc oversight committees for the purpose of reviewing specific matters within the jurisdiction of two or more standing committees.	(e) The Speaker, with the approval of the House, may appoint special ad hoc oversight committees for the purpose of reviewing specific matters within the jurisdiction of two or more standing committees.	
Special oversight functions 3. (a) The Committee on Appropriations shall conduct such studies and examinations of the organization and operation of executive departments and other executive agencies (including an agency the majority of the stock of which is owned by the United States) as it considers necessary to assist it in the determination of matters within its jurisdiction.	**Derived from clause 2(b)(3), rule X:** (3) The Committee on Appropriations shall conduct such studies and examinations of the organization and operation of executive departments and other executive agencies (including any agency the majority of the stock of which is owned by the Government of the United States) as it may deem necessary to assist it in the determination of matters within its jurisdiction. **Derived from clause 3, rule X:** Special Oversight Functions.	This function of the Appropriations Committee is more appropriately described as one of special, rather than general, oversight and is thus transferred here. This proposed clause is largely derived from existing clause 3, rule X and is reordered in this recodification.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(b) The Committee on the Budget shall study on a continuing basis the effect on budget outlays of relevant existing and proposed legislation and report the results of such studies to the House on a recurring basis. (c) The Committee on Commerce shall review and study on a continuing basis laws, programs, and Government activities relating to nuclear and other energy and nonmilitary nuclear energy research and development including the disposal of nuclear waste. (d) The Committee on Education and the Workforce shall review, study, and coordinate on a continuing basis laws, programs, and Government activities relating to domestic educational programs and institutions and programs of student assistance within the jurisdiction of other committees.	3. (a) The Committee on National Security shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving international arms control and disarmament and the education of military dependents in schools. (b) The Committee on the Budget shall have the function of— (1) making continuing studies of the effect on budget outlays of relevant existing and proposed legislation, and reporting the results of such studies to the House on a recurring basis; and (2) requesting and evaluating continuing studies of tax expenditures, devising methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and reporting the results of such studies to the House on a recurring basis.	
(e) The Committee on Government Reform and Oversight shall review and study on a continuing basis the operation of Government activities at all levels with a view to determining their economy and efficiency.	(c) The Committee on Education and the Workforce shall have the function of reviewing, studying, and coordinating, on a continuing basis, all laws, programs, and Government activities dealing with or involving domestic educational programs and institutions, and programs of student assistance, which are within the jurisdiction of other committees.	This function of the Government Reform Committee is more appropriately described as one of special, rather than general, oversight and is thus transferred here from existing clause 2(b), rule X.
(f) The Committee on International Relations shall review and study on a continuing basis laws, programs, and Government activities relating to customs administration, intelligence activities relating to foreign policy, international financial and monetary organizations, and international fishing agreements. (g) The Committee on National Security shall review and study on a continuing basis laws, programs, and Government activities relating to international arms control and disarmament and the education of military dependents in schools.	(d) The Committee on International Relations shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving customs administration, intelligence activities relating to foreign policy, international financial and monetary organizations, and international fishing agreements.	
(h) The Committee on Resources shall review and study on a continuing basis laws, programs, and Government activities relating to Native Americans.	(e) The Committee on Resources shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with Indians.	Previous reference to "Indians" has been updated.
(i) The Committee on Rules shall review and study on a continuing basis the congressional budget process, and the committee shall report its findings and recommendations to the House from time to time.	(f) The Committee on Science shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving nonmilitary research and development.	

(j) The Committee on Science shall review and study on a continuing basis laws, programs, and Government activities relating to nonmilitary research and development.

(k) The Committee on Small Business shall study and investigate on a continuing basis the problems of all types of small business.

Additional functions of committees

4. (a)(1)(A) The Committee on Appropriations shall, within 30 days after the transmittal of the Budget to Congress each year, hold hearings on the budget as a whole with particular reference to—

(i) the basic recommendations and budgetary policies of the President in the presentation of the Budget; and

(ii) the fiscal, financial, and economic assumptions used as bases in arriving at total estimated expenditures and receipts.

(B) In holding hearings under subdivision (A), the committee shall receive testimony from the Secretary of the Treasury, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and such other persons as the committee may desire.

(C) A hearing under subdivision (A), or any part thereof, shall be held in open session, except when the committee, in open session and with a quorum present, determines by record vote that the testimony to be taken at that hearing on that day may be related to a matter of national security. The committee may by the same procedure close one subsequent day of hearing. A transcript of all such hearings shall be printed and a copy thereof furnished to each Member, Delegate, and the Resident Commissioner.

(D) A hearing under subdivision (A), or any part thereof, may be held before a joint meeting of the committee and the Committee on Appropriations of the Senate in accordance with such procedures as the two committees jointly may determine.

(g) The Committee on Small Business shall have the function of studying and investigating, on a continuing basis, the problems of all types of small business.

(h) The Committee on Commerce shall have the function of reviewing and studying on a continuing basis, all laws, programs and Government activities relating to nuclear and other energy, and nonmilitary nuclear energy and research and development including the disposal of nuclear waste.

(i) The Committee on Rules shall have the function of reviewing and studying, on a continuing basis, the congressional budget process, and the committee shall, from time to time, report its findings and recommendations to the House.

Derived from clause 2(b)(2), rule X: (2) The Committee on Government Reform and Oversight shall review and study, on a continuing basis, the operation of Government activities at all levels with a view to determining their economy and efficiency.

Additional Functions of Committees

4. (a)(1)(A) The Committee on Appropriations shall, within thirty days after the transmittal of the Budget to the Congress each year, hold hearings on the Budget as a whole with particular reference to—

(i) the basic recommendations and budgetary policies of the President in the presentation of the Budget; and

(ii) the fiscal, financial, and economic assumptions used as bases in arriving at total estimated expenditures and receipts.

(B) In holding hearings pursuant to subdivision (A), the committee shall receive testimony from the Secretary of the Treasury, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and such other persons as the committee may desire.

(C) Hearings pursuant to subdivision (A), or any part thereof, shall be held in open session, except when the committee, in open session and with a quorum present, determines by rollcall vote that the testimony to be taken at that hearing on that day may be related to a matter of national security: Provided, however, That the committee may by the same procedure close one subsequent day of hearing. A transcript of all such hearings shall be printed and a copy thereof furnished to each Member, Delegate, and the Resident Commissioner from Puerto Rico.

(D) Hearings pursuant to subdivision (A), or any part thereof, may be held before joint meetings of the committee and the Committee on Appropriations of the Senate in accordance with such procedures as the two committees jointly may determine.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(2) Pursuant to section 401(b)(2) of the Congressional Budget Act of 1974, when a committee reports a bill or joint resolution that provides new entitlement authority as defined in section 3(9) of that Act, and enactment of the bill or joint resolution, as reported, would cause a breach of the committee's pertinent allocation of new budget authority under section 302(a) of that Act, the bill or joint resolution may be referred to the Committee on Appropriations with instructions to report it with recommendations (which may include an amendment limiting the total amount of new entitlement authority provided in the bill or joint resolution). If the Committee on Appropriations fails to report a bill or joint resolution so referred within 15 calendar days (not counting any day on which the House is not in session), the committee automatically shall be discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed on the appropriate calendar.	(2) Whenever any bill or resolution which provides new entitlement authority as defined in section 3(9) of the Congressional Budget Act of 1974 is reported by a committee of the House and the amount of new budget authority which will be required for the fiscal year involved if such bill or resolution is enacted as so reported exceeds the appropriate allocation of new budget authority reported as described in clause 4(h) in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year, such bill or resolution shall then be referred to the Committee on Appropriations with instructions to report it, with the committee's recommendations and (if the committee deems it desirable) with an amendment limiting the total amount of new entitlement authority provided in the bill or resolution, within 15 calendar days (not counting any day on which the House is not in session) beginning with the day following the day on which it is so referred. If the Committee on Appropriations fails to report the bill or resolution within such 15-day period, the committee shall be automatically discharged from further consideration of the bill or resolution and the bill or resolution shall be placed on the appropriate calendar.	In proposed clause 4(a)(2), rule XI, "may" is substituted for "shall" to conform with the discretionary authority to refer reported bills containing new entitlement authority to the Appropriations Committee pursuant to section 401(b)(2) of the Congressional Budget Act. This is a conforming change that properly should have been made in 1997.
(3) In addition, the Committee on Appropriations shall study on a continuing basis those provisions of law that (on the first day of the first fiscal year for which the congressional budget process is effective) provide spending authority or permanent budget authority and shall report to the House from time to time its recommendations for terminating or modifying such provisions.	(3) In addition, the Committee on Appropriations shall study on a continuing basis those provisions of law which (on the first day of the first fiscal year for which the congressional budget process is effective) provide spending authority or permanent budget authority, and shall report to the House from time to time its recommendations for terminating or modifying such provisions.	
(4) In the manner provided by section 302 of the Congressional Budget Act of 1974, the Committee on Appropriations (after consulting with the Committee on Appropriations of the Senate) shall subdivide any allocations made to it in the joint explanatory statement accompanying the conference report on such concurrent resolution, and promptly report the subdivisions to the House as soon as practicable after a concurrent resolution on the budget for a fiscal year is agreed to.	**Derived from clause 4(h), rule X:** (h) As soon as practicable after a concurrent resolution on the budget for any fiscal year is agreed to, each standing committee of the House (after consulting with the appropriate committee or committees of the Senate) shall subdivide any allocations made to it in the joint explanatory statement accompanying the conference report on such resolution, and promptly report such subdivisions to the House, in the manner provided by section 302 of the Congressional Budget Act of 1974.	This duty of the Appropriations Committee to subdivide allocations made to it in a budget resolution is properly grouped with other additional functions of that committee and is thus transferred here from its former placement later in this clause.
(b) The Committee on the Budget shall—	(b) The Committee on the Budget shall have the duty—	
(1) review on a continuing basis the conduct by the Congressional Budget Office of its functions and duties;	(1) to review on a continuing basis the conduct by the Congressional Budget Office of its functions and duties;	
(2) hold hearings and receive testimony from Members, Senators, Delegates, the Resident Commissioner, and such appropriate representatives of Federal departments and agencies, the general public, and national organizations as it considers desirable in developing concurrent resolutions on the budget for each fiscal year;	(2) to hold hearings, and receive testimony from Members of Congress and such appropriate representatives of Federal departments and agencies, the general public, and national organizations as it deems desirable, in developing the concurrent resolutions on the budget for each fiscal year;	
(3) make all reports required of it by the Congressional Budget Act of 1974;	(3) to make all reports required of it by the Congressional Budget Act of 1974, including the reporting of reconciliation bills and resolutions when so required;	

(4) study on a continuing basis those provisions of law that exempt Federal agencies or any of their activities or outlays from inclusion in the Budget of the United States Government, and report to the House from time to time its recommendations for terminating or modifying such provisions; (5) study on a continuing basis proposals designed to improve and facilitate the congressional budget process, and report to the House from time to time the results of such studies, together with its recommendations; and (6) request and evaluate continuing studies of tax expenditures, devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and report the results of such studies to the House on a recurring basis.	(4) to study on a continuing basis those provisions of law which exempt Federal agencies or any of their activities or outlays from inclusion in the Budget of the United States Government, and to report to the House from time to time its recommendations for terminating or modifying such provisions; and (5) to study on a continuing basis proposals designed to improve and facilitate methods of congressional budget-making, and to report to the House from time to time the results of such study together with its recommendations.	Subparagraph (6) derives from the Committee on the Budget jurisdictional statement in existing clause 1(d)(5)(C), rule X.
(c)(1) The Committee on Government Reform and Oversight shall— (A) receive and examine reports of the Comptroller General of the United States and submit to the House such recommendations as it considers necessary or desirable in connection with the subject matter of the reports; (B) evaluate the effects of laws enacted to reorganize the legislative and executive branches of the Government; and (C) study intergovernmental relationships between the United States and the States and municipalities and between the United States and international organizations of which the United States is a member.	(c)(1) The Committee on Government Reform and Oversight shall have the general function of— (A) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the House as it deems necessary or desirable in connection with the subject matter of such reports; (B) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and (C) studying intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.	
(2) In addition to its duties under subparagraph (1), the Committee on Government Reform and Oversight may at any time conduct investigations of any matter without regard to clause 1, 2, 3, or this clause conferring jurisdiction over the matter to another standing committee. The findings and recommendations of the committee in such an investigation shall be made available to any other standing committee having jurisdiction over the matter involved and shall be included in the report of any such other committee when required by clause 3(c)(4) of rule XIII.	(2) In addition to its duties under subparagraph (1), the Committee on Government Reform and Oversight may at any time conduct investigations of any matter without regard to the provisions of clause 1, 2, or 3 (or this clause) conferring jurisdiction over such matter upon another standing committee. The committee's findings and recommendations in any such investigation shall be made available to the other standing committee or committees having jurisdiction over the matter involved (and included in the report of any such other committee when required by clause 2(l)(3) of rule XI).	
(d)(1) The Committee on House Oversight shall—	(d)(1) The Committee on House Oversight shall have the function of—	
(A) examine all bills, amendments, and joint resolutions after passage by the House and, in cooperation with the Senate, examine all bills and joint resolutions that have passed both Houses to see that they are correctly enrolled and forthwith present those bills and joint resolutions that originated in the House to the President in person after their signature by the Speaker and the President of the Senate, and report to the House the fact and date of their presentment;	(A) examining all bills, amendments, and joint resolutions after passage by the House and, in cooperation with the Senate, examining all bills and joint resolutions which shall have passed both Houses to see that they are correctly enrolled, forthwith presenting those which originated in the House to the President of the United States in person after their signature by the Speaker of the House and the President of the Senate and reporting the fact and date of such presentation to the House;	
(B) provide policy direction for, and oversight of, the Clerk, Sergeant-at-Arms, Chief Administrative Officer, and Inspector General;	(B) providing policy direction for, and oversight of, the Clerk, Sergeant-at-Arms, Chief Administrative Officer, and Inspector General; and	

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(C) have the function of accepting on behalf of the House a gift, except as otherwise provided by law, if the gift does not involve a duty, burden, or condition, or is not made dependent on some future performance by the House; and	(C) accepting a gift, other than as otherwise provided by law, if the gift does not involve any duty, burden, or condition, or is not made dependent upon some future performance by the House of Representatives and promulgating regulations to carry out this paragraph.	
(D) promulgate regulations to carry out subdivision (C).		
(2) An employing office of the House may enter into a settlement of a complaint under the Congressional Accountability Act of 1995 that provides for the payment of funds only after receiving the joint approval of the chairman and ranking minority member of the Committee on House Oversight concerning the amount of such payment.	(2) An employing office of the House of Representatives may enter a settlement of a complaint under the Congressional Accountability Act of 1995 that provides for the payment of funds only after receiving the joint approval of the chairman and the ranking minority party member of the Committee on House Oversight concerning the amount of such payment.	
(e)(1) Each standing committee shall, in its consideration of all public bills and public joint resolutions within its jurisdiction, ensure that appropriations for continuing programs and activities of the Federal Government and the government of the District of Columbia will be made annually to the maximum extent feasible and consistent with the nature, requirement, and objective of the programs and activities involved. In this subparagraph programs and activities of the Federal Government and the government of the District of Columbia includes programs and activities of any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or of the government of the District of Columbia.	(f)(1) Each standing committee of the House shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, insure that appropriations for continuing programs and activities of the Federal Government and the District of Columbia government will be made annually to the maximum extent feasible and consistent with the nature, requirements, and objectives of the programs and activities involved. For the purposes of this paragraph a Government agency includes the organizational units of government listed in clause 7(c) of rule XIII.	Current clause 4(e), rule X relating to procedures of the Committee on Standards of Official Conduct is transferred to proposed clause 3, rule XI as a committee procedure. This proposed subparagraph lists the covered governmental entities rather than utilizing a cross-reference.
(2) Each standing committee shall review from time to time each continuing program within its jurisdiction for which appropriations are not made annually to ascertain whether the program should be modified to provide for annual appropriations.	(2) Each standing committee of the House shall review, from time to time, each continuing program within its jurisdiction for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefor would be made annually.	
Budget Act responsibilities (f)(1) Each standing committee shall submit to the Committee on the Budget not later than six weeks after the President submits his budget— (A) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year that are within its jurisdiction or functions; and (B) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction that it intends to be effective during that fiscal year. (2) The views and estimates submitted by the Committee on Ways and Means under subparagraph (1) shall include a specific recommendation, made after holding public hearings, as to the appropriate level of the public debt that should be set forth in the concurrent resolution on the budget and serve as the basis for an increase or decrease in the statutory limit on such debt under the procedures provided by rule XXIII.	(g) Each standing committee of the House shall, not later than 6 weeks after the President submits his budget, submit to the Committee on the Budget (1) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year which are within its jurisdiction or functions, and (2) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction which it intends to be effective during that fiscal year. The views and estimates submitted by the Committee on Ways and Means under the preceding sentence shall include a specific recommendation, made after holding public hearings, as to the appropriate level of the public debt which should be set forth in the concurrent resolution on the budget referred to in such sentence and serve as the basis for an increase or decrease in the statutory limit on such debt under the procedures provided by rule XLIX.	

(g) Each standing committee that is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process shall promptly make its determinations and recommendations and either report a reconciliation bill or resolution to the House or submit its recommendations to the Committee on the Budget in accordance with the Congressional Budget Act of 1974.

Election and membership of standing committees

5. (a)(1) The standing committees specified in clause 1 shall be elected by the House within seven calendar days after the commencement of each Congress, from nominations submitted by the respective party caucus or conference. A resolution proposing to change the composition of a standing committee shall be privileged if offered by direction of the party caucus or conference concerned.

(2)(A) The Committee on the Budget shall be composed of members as follows:

(i) Members, Delegates, or the Resident Commissioner who are members of other standing committees, including five who are members of the Committee on Appropriations and five who are members of the Committee on Ways and Means;

(ii) one Member from the elected leadership of the majority party; and

(iii) one Member from the elected leadership of the minority party.

(B) Except as permitted by subdivision (C), a member of the Committee on the Budget other than one from the elected leadership of a party may not serve on the committee during more than four Congresses in a period of six successive Congresses (disregarding for this purpose any service for less than a full session in a Congress).

(C) A member of the Committee on the Budget who served as either the chairman or the ranking minority member of the committee in the immediately previous Congress and who did not serve in that respective capacity in an earlier Congress may serve as either the chairman or the ranking minority member of the committee during one additional Congress.

Derived from clause 4(i), rule X: (i) Each standing committee of the House which is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process shall promptly make such determination and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget, in accordance with the Congressional Budget Act of 1974.

Derived from clause 6, rule X: Election and Membership of Committees; Chairmen; Vacancies; Select and Conference Committees.

6. (a)(1) The standing committees specified in clause 1 shall be elected by the House within the seventh calendar day beginning after the commencement of each Congress, from nominations submitted by the respective party caucuses. It shall always be in order to consider resolutions recommended by the respective party caucuses to change the composition of standing committees.

[Composition of Budget Committee derived from clause 1(d), rule X]: . . . consisting of the following Members:

(A) Members who are members of other standing committees, including five Members who are members of the Committee on Appropriations, and five Members who are members of the Committee on Ways and Means;

(B) one Member from the leadership of the majority party; and

(C) one Member from the leadership of the minority party.

No Member other than a representative from the leadership of a party may serve as a member of the Committee on the Budget during more than four Congresses in any period of six successive Congresses (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress), except that an incumbent chairman or ranking minority member having served on the committee for four Congresses and having served as chairman or ranking minority member of the committee for not more than one Congress shall be eligible for reelection to the committee as chairman or ranking minority member for one additional Congress.

Existing clause 5, rule X, on referral of bills and other matters to committees, is transferred to proposed clause 2, rule XII.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(3)(A) One-half of the members of the Committee on Standards of Official Conduct shall be from the majority party and one-half shall be from the minority party. (B) Except as permitted by subdivision (C), a member of the Committee on Standards of Official Conduct may not serve on the committee during more than two Congresses in a period of three successive Congresses (disregarding for this purpose any service for less than a full session in a Congress). (C) A member of the Committee on Standards of Official Conduct who served on the committee in the two immediately previous Congresses may serve as either the chairman or the ranking minority member of the committee during one additional Congress. (D) Not fewer than two members of the Committee on Standards of Official Conduct from each party shall rotate off the committee at the end of each Congress.	**Derived from clause 6(a)(2), rule X:** (2) One-half of the members of the Committee on Standards of Official Conduct shall be from the majority party and one-half shall be from the minority party. No Member shall serve as a member of the Committee on Standards of Official Conduct for more than two Congresses in any period of three successive Congresses (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress), except that a Member having served on the committee for two Congresses shall be eligible for election to the committee as chairman or ranking minority member for one additional Congress. Not less than two Members from each party shall rotate off the committee at the end of each Congress.	
(4)(A) At the beginning of a Congress, the Speaker or his designee and the Minority Leader or his designee each shall name 10 Members, Delegates, or the Resident Commissioner from his respective party who are not members of the Committee on Standards of Official Conduct to be available to serve on investigative subcommittees of that committee during that Congress. The lists of Members, Delegates, or the Resident Commissioner so named shall be announced to the House.	(3)(A) At the beginning of each Congress— (i) the Speaker (or his designee) shall designate a list of 10 Members from the majority party; and (ii) the Minority Leader (or his designee) shall designate a list of 10 Members from the minority party; who are not members of the Committee on Standards of Official Conduct and who may be assigned to serve as a member of an investigative subcommittee of that committee during that Congress. Members so chosen shall be announced to the House.	
(B) Whenever the chairman and the ranking minority member of the Committee on Standards of Official Conduct jointly determine that Members, Delegates, or the Resident Commissioner named under subdivision (A) should be assigned to serve on an investigative subcommittee of that committee, each of them shall select an equal number of such Members, Delegates, or Resident Commissioner from his respective party to serve on that subcommittee.	(B) Whenever the chairman and ranking minority member of the Committee on Standards of Official Conduct jointly determine that Members designated under subdivision (A) should be assigned to serve on an investigative subcommittee of that committee, they shall each select the same number of Members of his respective party from the list to serve on that subcommittee.	The naming of the 10 Members from the two parties available to serve on investigative subcommittees is unchangeable, absent unanimous consent, after its announcement at the beginning of a Congress.
(b)(1) Membership on a standing committee during the course of a Congress shall be contingent on continuing membership in the party caucus or conference that nominated the Member, Delegate, or Resident Commissioner concerned for election to such committee. Should a Member, Delegate, or Resident Commissioner cease to be a member of a particular party caucus or conference, that Member, Delegate, or Resident Commissioner shall automatically cease to be a member of each standing committee to which he was elected on the basis of nomination by that caucus or conference. The chairman of the relevant party caucus or conference shall notify the Speaker whenever a Member, Delegate, or Resident Commissioner ceases to be a member of that caucus or conference. The Speaker shall notify the chairman of each affected committee that the election of such Member, Delegate, or Resident Commissioner to the committee is automatically vacated under this subparagraph.	(b)(1) Membership on standing committees during the course of a Congress shall be contingent on continuing membership in the party caucus or conference that nominated Members for election to such committees. Should a Member cease to be a member of a particular party caucus or conference, said Member shall automatically cease to be a member of a standing committee to which he was elected on the basis of nomination by that caucus or conference. The chairman of the relevant party caucus or conference shall notify the Speaker whenever a Member ceases to be a member of a party caucus or conference and the Speaker shall notify the chairman of each standing committee on which said Member serves, that in accord with this rule, the Member's election to such committee is automatically vacated.	When a Member ceases to be a member of a party caucus or conference, the Speaker notifies the chairman of each committee on which that Member serves that the Member's election to that committee is automatically vacated; thus these are the "affected" committees.

(2)(A) Except as specified in subdivision (B), a Member, Delegate, or Resident Commissioner may not serve simultaneously as a member of more than two standing committees or more than four subcommittees of the standing committees. (B)(i) Ex officio service by a chairman or ranking minority member of a committee on each of its subcommittees under a committee rule does not count against the limitation on subcommittee service. (ii) Service on an investigative subcommittee of the Committee on Standards of Official Conduct under paragraph (a)(4) does not count against the limitation on subcommittee service. (iii) Any other exception to the limitations in subdivision (A) must be approved by the House on the recommendation of the relevant party caucus or conference. (C) In this subparagraph the term "subcommittee" includes a panel (other than a special oversight panel of the Committee on National Security), task force, special subcommittee, or other subunit of a standing committee that is established for a cumulative period longer than six months in a Congress.	(2)(A) No Member, Delegate, or Resident Commissioner may serve simultaneously as a member of more than two standing committees or four subcommittees of the standing committees of the House, except that ex officio service by a chairman and ranking minority member of a committee on each of its subcommittees by committee rule shall not be counted against the limitation on subcommittee service. Service on an investigative subcommittee of the Committee on Standards of Official Conduct pursuant to paragraph (a)(3) shall not be counted against the limitation on subcommittee service. Any other exception to these limitations must be approved by the House upon the recommendation of the respective party caucus or conference. (B) For the purposes of this subparagraph, the term "subcommittee" includes any panel (other than a special oversight panel of the Committee on National Security), task force, special subcommittee, or any subunit of a standing committee that is established for a cumulative period longer than six months in any Congress.	
(c)(1) One of the members of each standing committee shall be elected by the House, on the nomination of the majority party caucus or conference, as chairman thereof. In the temporary absence of the chairman, the member next in rank (and so on, as often as the case shall happen) shall act as chairman. Rank shall be determined by the order members are named in resolutions electing them to the committee. In the case of a permanent vacancy in the elected chairmanship of a committee, the House shall elect another chairman. (2) A member of a standing committee may not serve as chairman of the same standing committee, or of the same subcommittee of a standing committee, during more than three consecutive Congresses (disregarding for this purpose any service for less than a full session in a Congress).	(c) One of the members of each standing committee shall be elected by the House, from nominations submitted by the majority party caucus, at the commencement of each Congress, as chairman thereof. No Member may serve as the chairman of the same standing committee, or as the chairman of the same subcommittee thereof, for more than three consecutive Congresses, beginning with the One Hundred Fourth Congress (disregarding for this purpose any service for less than a full session in any Congress). In the temporary absence of the chairman, the member next in rank in the order named in the election of the committee, and so on, as often as the case shall happen, shall act as chairman; and in case of a permanent vacancy in the chairmanship of any such committee the House shall elect another chairman.	The proposed language clarifies the overlap during the absence of the chairman between paragraph (c) (the member next in rank shall act as chairman) and clause 2(d), rule XI (the vice chairman shall preside). The vice chairman is not necessarily the member next in rank.
(d)(1) Except as permitted by subparagraph (2), a committee may have not more than five subcommittees. (2) The Committee on Appropriations may not have more than 13 subcommittees. The Committee on Government Reform and Oversight may have not more than seven subcommittees. The Committee on Transportation and Infrastructure may have not more than six subcommittees.	(d) No committee of the House shall have more than five subcommittees (except the Committee on Appropriations, which shall have no more than 13; the Committee on Government Reform and Oversight, which shall have no more than seven; and the Committee on Transportation and Infrastructure, which shall have no more than six).	
(e) The House shall fill a vacancy on a standing committee by election on the nomination of the respective party caucus or conference.	(e) All vacancies in standing committees shall be filled by election by the House from nominations, submitted by the respective party caucus or conference.	

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
Expense resolutions	**Derived from clause 5, rule XI:** Committee Expenses	
6. (a) Whenever a committee, commission, or other entity (other than the Committee on Appropriations) is granted authorization for the payment of its expenses (including staff salaries) for a Congress, such authorization initially shall be procured by one primary expense resolution reported by the Committee on House Oversight. A primary expense resolution may include a reserve fund for unanticipated expenses of committees. An amount from such a reserve fund may be allocated to a committee only by the approval of the Committee on House Oversight. A primary expense resolution reported to the House may not be considered in the House unless a printed report thereon was available on the previous calendar day. For the information of the House, such report shall—	5. (a) Whenever any committee, commission, or other entity (except the Committee on Appropriations) is to be granted authorization for the payment of its expenses (including all staff salaries) for a Congress, such authorization initially shall be procured by one primary expense resolution reported by the Committee on House Oversight. A primary expense resolution may include a reserve fund for unanticipated expenses of committees. An amount from such a reserve fund may be allocated to a committee only by the approval of the Committee on House Oversight. A primary expense resolution reported to the House shall not be considered in the House unless a printed report on that resolution has been available to the Members of the House for at least one calendar day prior to the consideration of that resolution in the House. Such report shall, for the information of the House—	Existing clause 2(l)(6) of rule XI states the general rule that measures may not be considered until the third calendar day on which the committee report is available. A primary committee expense resolution is an exception to this general rule of report availability, as it is subject to the separate one day rule stated here. In this case, a committee report must be available on the calendar day prior to consideration. A supplemental expense resolution is subject to a similar availability requirement (see proposed clause 6(b), rule X).
(1) state the total amount of the funds to be provided to the committee, commission, or other entity under the primary expense resolution for all anticipated activities and programs of the committee, commission, or other entity; and	(1) state the total amount of the funds to be provided to the committee, commission or other entity under the primary expense resolution for all anticipated activities and programs of the committee, commission or other entity; and	
(2) to the extent practicable, contain such general statements regarding the estimated foreseeable expenditures for the respective anticipated activities and programs of the committee, commission, or other entity as may be appropriate to provide the House with basic estimates of the expenditures contemplated by the primary expense resolution.	(2) to the extent practicable, contain such general statements regarding the estimated foreseeable expenditures for the respective anticipated activities and programs of the committee, commission or other entity as may be appropriate to provide the House with basic estimates with respect to the expenditure generally of the funds to be provided to the committee, commission or other entity under the primary expense resolution.	
(b) After the date of adoption by the House of a primary expense resolution for a committee, commission, or other entity for a Congress, authorization for the payment of additional expenses (including staff salaries) in that Congress may be procured by one or more supplemental expense resolutions reported by the Committee on House Oversight, as necessary. A supplemental expense resolution reported to the House may not be considered in the House unless a printed report thereon was available on the previous calendar day. For the information of the House, such report shall—	(b) After the date of adoption by the House of any such primary expense resolution for any such committee, commission, or other entity for any Congress, authorization for the payment of additional expenses (including staff salaries) in that Congress may be procured by one or more supplemental expense resolutions reported by the Committee on House Oversight, as necessary. Any such supplemental expense resolution reported to the House shall not be considered in the House unless a printed report on that resolution has been available to the Members of the House for at least one calendar day prior to the consideration of that resolution in the House. Such report shall, for the information of the House—	
(1) state the total amount of additional funds to be provided to the committee, commission, or other entity under the supplemental expense resolution and the purposes for which those additional funds are available; and	(1) state the total amount of additional funds to be provided to the committee, commission or other entity under the supplemental expense resolution and the purpose or purposes for which those additional funds are to be used by the committee, commission or other entity; and	
(2) state the reasons for the failure to procure the additional funds for the committee, commission, or other entity by means of the primary expense resolution.	(2) state the reason or reasons for the failure to procure the additional funds for the committee, commission or other entity by means of the primary expense resolution.	

(c) The preceding provisions of this clause do not apply to—

(1) a resolution providing for the payment from committee salary and expense accounts of the House of sums necessary to pay compensation for staff services performed for, or to pay other expenses of, a committee, commission, or other entity at any time after the beginning of an odd-numbered year and before the date of adoption by the House of the primary expense resolution described in paragraph (a) for that year; or

(2) a resolution providing each of the standing committees in a Congress additional office equipment, airmail and special-delivery postage stamps, supplies, staff personnel, or any other specific item for the operation of the standing committees, and containing an authorization for the payment from committee salary and expense accounts of the House of the expenses of any of the foregoing items provided by that resolution, subject to and until enactment of the provisions of the resolution as permanent law.

(d) From the funds made available for the appointment of committee staff by a primary or additional expense resolution, the chairman of each committee shall ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the rules of the committee and that the minority party is treated fairly in the appointment of such staff.

(e) Funds authorized for a committee under this clause and clauses 7 and 8 are for expenses incurred in the activities of the committee.

Interim funding

7. (a) For the period beginning at noon on January 3 and ending at midnight on March 31 in each odd-numbered year, such sums as may be necessary shall be paid out of the committee salary and expense accounts of the House for continuance of necessary investigations and studies by—

(1) each standing and select committee established by these rules; and

(2) except as specified in paragraph (b), each select committee established by resolution.

(c) The preceding provisions of this clause do not apply to—

(1) any resolution providing for the payment from committee salary and expense accounts of the House of sums necessary to pay compensation for staff services performed for, or to pay other expenses of, any committee, commission or other entity at any time from and after the beginning of any odd-numbered year and before the date of adoption by the House of the primary expense resolution providing funds to pay the expenses of that committee, commission or other entity for that Congress; or

(2) any resolution providing in any Congress, for all of the standing committees of the House, additional office equipment, airmail and special delivery postage stamps, supplies, staff personnel, or any other specific item for the operation of the standing committees, and containing an authorization for the payment from committee salary and expense accounts of the House of the expenses of any of the foregoing items provided by that resolution, subject to and until enactment of the provisions of the resolution as permanent law.

(d) From the funds made available for the appointment of committee staff pursuant to any primary or additional expense resolution, the chairman of each committee shall ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the rules of the committee, and that the minority party is fairly treated in the appointment of such staff.

Derived from clause 5(f)(1), rule XI: (f)(1) For continuance of necessary investigations and studies by—

(A) each standing committee and select committee established by these rules; and (B) except as provided in subparagraph (2), each select committee established by resolution;

there shall be paid out of committee salary and expense accounts of the House such amounts as may be necessary for the period beginning at noon on January 3 and ending at midnight on March 31 in each odd-numbered year.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(b) In the case of the first session of a Congress, amounts shall be made available under this paragraph for a select committee established by resolution in the preceding Congress only if— (1) a resolution proposing to reestablish such select committee is introduced in the present Congress; and (2) the House has not adopted a resolution of the preceding Congress providing for termination of funding for investigations and studies by such select committee.	(2) In the case of the first session of a Congress, amounts shall be made available under this paragraph for a select committee established by resolution in the preceding Congress only if— (A) a reestablishing resolution for such select committee is introduced in the present Congress; and (B) no resolution of the preceding Congress provided for termination of funding of investigations and studies by such select committee at or before the end of the preceding Congress.	
(c) Each committee described in paragraph (a) shall be entitled for each month during the period specified in paragraph (a) to 9 percent (or such lesser percentage as may be determined by the Committee on House Oversight) of the total annualized amount made available under expense resolutions for such committee in the preceding session of Congress.	(3) Each committee receiving amounts under this paragraph shall be entitled, for each month in the period specified in subparagraph (1), to 9 per centum (or such lesser per centum as may be determined by the Committee on House Oversight) of the total annualized amount made available under expense resolutions for such committee in the preceding session of Congress.	
(d) Payments under this paragraph shall be made on vouchers authorized by the committee involved, signed by the chairman of the committee, except as provided in paragraph (e), and approved by the Committee on House Oversight.	(4) Payments under this paragraph shall be made on vouchers authorized by the committee involved, signed by the chairman of such committee, except as provided in subparagraph (5), and approved by the Committee on House Oversight.	
(e) Notwithstanding any provision of law, rule of the House, or other authority, from noon on January 3 of the first session of a Congress until the election by the House of the committee concerned in that Congress, payments under this paragraph shall be made on vouchers signed by— (1) the member of the committee who served as chairman of the committee at the expiration of the preceding Congress; or (2) if the chairman is not a Member, Delegate, or Resident Commissioner in the present Congress, then the ranking member of the committee as it was constituted at the expiration of the preceding Congress who is a Member of the majority party in the present Congress.	(5) Notwithstanding any provision of law, rule of the House, or other authority, from noon on January 3 of the first session of a Congress, until the election by the House of the committee involved in that Congress, payments under this paragraph shall be made on vouchers signed by— (A) the chairman of such committee as constituted at the close of the preceding Congress; or (B) if such chairman is not a Member in the present Congress, the ranking majority party member of such committee as constituted at the close of the preceding Congress who is a Member in the present Congress.	
(f)(1) The authority of a committee to incur expenses under this paragraph shall expire upon adoption by the House of a primary expense resolution for the committee.	(6)(A) The authority of a committee to incur expenses under this paragraph shall expire upon agreement by the House to a primary expense resolution for such committee.	
(2) Amounts made available under this paragraph shall be expended in accordance with regulations prescribed by the Committee on House Oversight.	(B) Amounts made available under this paragraph shall be expended in accordance with regulations prescribed by the Committee on House Oversight.	
(3) This clause shall be effective only insofar as it is not inconsistent with a resolution reported by the Committee on House Oversight and adopted by the House after the adoption of these rules.	(C) The provisions of this paragraph shall be effective only insofar as not inconsistent with any resolution, reported by the Committee on House Oversight and adopted after the date of adoption of these rules.	

Travel

8. (a) Local currencies owned by the United States shall be made available to the committee and its employees engaged in carrying out their official duties outside the United States or its territories or possessions. Appropriated funds, including those authorized under this clause and clauses 6 and 8, may not be expended for the purpose of defraying expenses of members of a committee or its employees in a country where local currencies are available for this purpose.

(b) The following conditions shall apply with respect to travel outside the United States or its territories or possessions:

(1) A member or employee of a committee may not receive or expend local currencies for subsistence in a country for a day at a rate in excess of the maximum per diem set forth in applicable Federal law.

(2) A member or employee shall be reimbursed for his expenses for a day at the lesser of—

(A) the per diem set forth in applicable Federal law; or

(B) the actual, unreimbursed expenses (other than for transportation) he incurred during that day.

(3) Each member or employee of a committee shall make to the chairman of the committee an itemized report showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, and funds expended for any other official purpose and shall summarize in these categories the total foreign currencies or appropriated funds expended. Each report shall be filed with the chairman of the committee not later than 60 days following the completion of travel for use in complying with reporting requirements in applicable Federal law and shall be open for public inspection.

(c)(1) In carrying out the activities of a committee outside the United States in a country where local currencies are unavailable, a member or employee of a committee may not receive reimbursement for expenses (other than for transportation) in excess of the maximum per diem set forth in applicable Federal law.

(2) A member or employee shall be reimbursed for his expenses for a day, at the lesser of—

(A) the per diem set forth in applicable Federal law; or

(B) the actual unreimbursed expenses (other than for transportation) he incurred during that day.

Derived from clause 2(n), rule XI: Use of committee funds for travel

(n)(1) Funds authorized for a committee under clause 5 are for expenses incurred in the committee's activities; however, local currencies owned by the United States shall be made available to the committee and its employees engaged in carrying out their official duties outside the United States, its territories or possessions. No appropriated funds, including those authorized under clause 5 shall be expended for the purpose of defraying expenses of members of the committee or its employees in any country where local currencies are available for this purpose; and the following conditions shall apply with respect to travel outside the United States or its territories or possessions:

(A) No member or employee of the committee shall receive or expend local currencies for subsistence in any country for any day at a rate in excess of the maximum per diem set forth in applicable Federal law, or if the Member or employee is reimbursed for any expenses for such day, then the lesser of the per diem or the actual, unreimbursed expenses (other than for transportation) incurred by the Member or employee during that day.

(B) Each member or employee of the committee shall make to the chairman of the committee an itemized report showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, any funds expended for any other official purpose and shall summarize in these categories the total foreign currencies and/or appropriated funds expended. All such individual reports shall be filed no later than sixty days following the completion of travel with the chairman of the committee for use in complying with with reporting requirements in applicable Federal law and shall be open for public inspection.

(2) In carrying out the committee's activities outside of the United States in any country where local currencies are unavailable, a member or employee of the committee may not receive reimbursement for expenses (other than for transportation) in excess of the maximum per diem set forth in applicable Federal law, or if the member or employee is reimbursed for any expenses for such day, then the lesser of the per diem or the actual unreimbursed expenses (other than for transportation) incurred, by the member or employee during any day.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(3) A member or employee of a committee may not receive reimbursement for the cost of any transportation in connection with travel outside the United States unless the member or employee actually paid for the transportation.	(3) A member or employee of a committee may not receive reimbursement for the cost of any transportation in connection with travel outside of the United States unless the member or employee has actually paid for the transportation.	
(d) The restrictions respecting travel outside the United States set forth in paragraph (c) also shall apply to travel outside the United States by a Member, Delegate, Resident Commissioner, officer, or employee of the House authorized under any standing rule.	(4) The restrictions respecting travel outside of the United States set forth in subparagraphs (2) and (3) shall also apply to travel outside of the United States by Members, officers, and employees of the House authorized under clause 8 of rule I, clause 1(b) of this rule, or any other provision of these Rules of the House of Representatives.	"Lame duck" travel prohibitions currently contained in clause 2(n)(5), rule X and clause 8, rule I are consolidated in proposed rule XXV.
Committee staffs 9. (a)(1) Subject to subparagraph (2) and paragraph (f), each standing committee may appoint, by majority vote, not more than 30 professional staff members to be compensated from the funds provided for the appointment of committee staff by primary and additional expense resolutions. Each professional staff member appointed under this subparagraph shall be assigned to the chairman and the ranking minority member of the committee, as the committee considers advisable.	**Derived from clause 6, rule XI:** Committee Staffs 6. (a)(1) Subject to subparagraph (2) and paragraph (f), each standing committee may appoint, by majority vote of the committee, not more than thirty professional staff members from the funds provided for the appointment of committee staff pursuant to primary and additional expense resolutions. Each professional staff member appointed under this subparagraph shall be assigned to the chairman and the ranking minority party member of such committee, as the committee considers advisable.	
(2) Subject to paragraph (f) of this clause, whenever a majority of the minority party members of a standing committee (except the Committee on Standards of Official Conduct and the Permanent Select Committee on Intelligence) so request, not more than ten persons (or one-third of the total professional committee staff appointed under this clause, whichever is less) may be selected, by majority vote of the minority party members, for appointment by the committee as professional staff members from among the number authorized by subparagraph (1) of this paragraph. The committee shall appoint any persons so selected whose character and qualifications are acceptable to a majority of the committee. If the committee determines that the character and qualifications of any person so selected are unacceptable to the committee, a majority of the minority party members may select other persons for appointment by the committee to the professional staff until such appointment is made. Each professional staff member appointed under this subparagraph shall be assigned to such committee business as the minority party members of the committee consider advisable.	(2) Subject to paragraph (f) of this clause, whenever a majority of the minority party members of a standing committee (except the Committee on Standards of Official Conduct and the Permanent Select Committee on Intelligence) so request, not more than ten persons (or one-third of the total professional committee staff appointed under this clause, whichever is less) may be selected, by majority vote of the minority party members, for appointment by the committee as professional staff members from among the number authorized by subparagraph (1) of this paragraph. The committee shall appoint any persons so selected whose character and qualifications are acceptable to a majority of the committee. If the committee determines that the character and qualifications of any person so selected are unacceptable to the committee, a majority of the minority party members may select other persons for appointment by the committee to the professional staff until such appointment is made. Each professional staff member appointed under this subparagraph shall be assigned to such committee business as the minority party members of the committee consider advisable.	
(b)(1) The professional staff members of each standing committee— (A) may not engage in any work other than committee business during congressional working hours; and (B) may not be assigned a duty other than one pertaining to committee business.	(b)(1) The professional staff members of each standing committee— (A) may not engage in any work other than committee business during congressional working hours; and (B) may not be assigned any duties other than those pertaining to committee business.	

(2) Subparagraph (1) does not apply to staff designated by a committee as "associate" or "shared" staff who are not paid exclusively by the committee, provided that the chairman certifies that the compensation paid by the committee for any such staff is commensurate with the work performed for the committee in accordance with clause 8 of rule XXIV.	(2) Subparagraph (1) does not apply to any staff designated by a committee as "associate" or "shared" staff who are not paid exclusively by the committee, provided that the chairman certifies that the compensation paid by the committee for any such employee is commensurate with the work performed for the committee, in accordance with the provisions of clause 8 of rule XLIII.
(3) The use of any "associate" or "shared" staff by a committee shall be subject to the review of, and to any terms, conditions, or limitations established by, the Committee on House Oversight in connection with the reporting of any primary or additional expense resolution.	(3) The use of any "associate" or "shared" staff by any committee shall be subject to the review of, and to any terms, conditions, or limitations established by, the Committee on House Oversight in connection with the reporting of any primary or additional expense resolution.
(4) This paragraph does not apply to the Committee on Appropriations.	(4) The foregoing provisions of this clause do not apply to the Committee on Appropriations.
(c) Each employee on the professional or investigative staff of a standing committee shall be entitled to pay at a single gross per annum rate, to be fixed by the chairman and that does not exceed the maximum rate of pay as in effect from time to time under applicable provisions of law.	(c) Each employee on the professional and investigative staff of each standing committee shall be entitled to pay at a single gross per annum rate, to be fixed by the chairman, which does not exceed the maximum rate of pay, as in effect from time to time, under applicable provisions of law.
(d) Subject to appropriations hereby authorized, the Committee on Appropriations may appoint by majority vote such staff as it determines to be necessary (in addition to the clerk of the committee and assistants for the minority). The staff appointed under this paragraph, other than minority assistants, shall possess such qualifications as the committee may prescribe.	(d) Subject to appropriations hereby authorized, the Committee on Appropriations may appoint such staff, in addition to the clerk thereof and assistants for the minority, as it determines by majority vote to be necessary, such personnel, other than minority assistants, to possess such qualifications as the committee may prescribe.
(e) A committee may not appoint to its staff an expert or other personnel detailed or assigned from a department or agency of the Government except with the written permission of the Committee on House Oversight.	(e) No committee shall appoint to its staff any experts or other personnel detailed or assigned from any department or agency of the Government, except with the written permission of the Committee on House Oversight.
(f) If a request for the appointment of a minority professional staff member under paragraph (a) is made when no vacancy exists for such an appointment, the committee nevertheless may appoint under paragraph (a) a person selected by the minority and acceptable to the committee. A person so appointed shall serve as an additional member of the professional staff of the committee until such a vacancy occurs (other than a vacancy in the position of head of the professional staff, by whatever title designated), at which time that person is considered as appointed to that vacancy. Such a person shall be paid from the applicable accounts of the House described in clause 1(h)(1) of rule X. If such a vacancy occurs on the professional staff when seven or more persons have been so appointed who are eligible to fill that vacancy, a majority of the minority party members shall designate which of those persons shall fill the vacancy.	(f) If a request for the appointment of a minority professional staff member under paragraph (a) is made when no vacancy exists to which that appointment may be made, the committee nevertheless shall appoint, under paragraph (a), the person selected by the minority and acceptable to the committee. The person so appointed shall serve as an additional member of the professional staff of the committee, and shall be paid from the applicable accounts of the House described in clause 1(h)(1) of rule X, until such a vacancy (other than a vacancy in the position of head of the professional staff, by whatever title designated) occurs, at which time that person shall be deemed to have been appointed to that vacancy. If such vacancy occurs on the professional staff when seven or more persons have been so appointed who are eligible to fill that vacancy, a majority of the minority party members shall designate which of those persons shall fill that vacancy.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(g) Each staff member appointed pursuant to a request by minority party members under paragraph (a), and each staff member appointed to assist minority members of a committee pursuant to an expense resolution described in paragraph (a) of clause 6, shall be accorded equitable treatment with respect to the fixing of the rate of pay, the assignment of work facilities, and the accessibility of committee records.	(g) Each staff member appointed pursuant to a request by minority party members under paragraph (a) of this clause, and each staff member appointed to assist minority party members of a committee pursuant to an expense resolution described in paragraph (a) of clause 5, shall be accorded equitable treatment with respect to the fixing of his or her rate of pay, the assignment to him or her of work facilities, and the accessibility to him or her of committee records.	
(h) Paragraph (a) may not be construed to authorize the appointment of additional professional staff members of a committee pursuant to a request under paragraph (a) by the minority party members of that committee if 10 or more professional staff members provided for in paragraph (a)(1) who are satisfactory to a majority of the minority party members are otherwise assigned to assist the minority party members.	(h) Paragraph (a) shall not be construed to authorize the appointment of additional professional staff members of a committee pursuant to a request under such paragraph by the minority party members of that committee if ten or more professional staff members provided for in paragraph (a)(1) who are satisfactory to a majority of the minority party members, are otherwise assigned to assist the minority party members.	
(i) Notwithstanding paragraph (a)(2), a committee may employ nonpartisan staff, in lieu of or in addition to committee staff designated exclusively for the majority or minority party, by an affirmative vote of a majority of the members of the majority party and of a majority of the members of the minority party.	(i) Notwithstanding paragraph (a)(2), a committee may employ nonpartisan staff, in lieu of or in addition to committee staff designated exclusively for the majority or minority party, upon an affirmative vote of a majority of the members of the majority party and a majority of the members of the minority party.	
Select and joint committees 10. (a) Membership on a select or joint committee appointed by the Speaker under clause 11 of rule I during the course of a Congress shall be contingent on continuing membership in the party caucus or conference of which the Member, Delegate, or Resident Commissioner concerned was a member at the time of appointment. Should a Member, Delegate, or Resident Commissioner cease to be a member of that caucus or conference, that Member, Delegate, or Resident Commissioner shall automatically cease to be a member of any select or joint committee to which he is assigned. The chairman of the relevant party caucus or conference shall notify the Speaker whenever a Member, Delegate, or Resident Commissioner ceases to be a member of a party caucus or conference. The Speaker shall notify the chairman of each affected select or joint committee that the appointment of such Member, Delegate, or Resident Commissioner to the select or joint committee is automatically vacated under this paragraph.	**Derived from clause 6(g), rule X:** (g) Membership on select and joint committees during the course of a Congress shall be contingent on continuing membership in the party caucus or conference the Member was a member of at the time of his appointment to a select or joint committee. Should a Member cease to be a member of that caucus or conference, said Member shall automatically cease to be a member of any select or joint committee to which he is assigned. The chairman of the relevant party caucus or conference shall notify the Speaker whenever a Member ceases to be a member of a party caucus or conference and the Speaker shall notify the chairman of each select or joint committee on which said Member serves, that in accord with this rule, the Member's appointment to such committee is automatically vacated.	
(b) Each select or joint committee, other than a committee of conference, shall comply with clause 2(a) of rule XI unless specifically exempted by law.	**Derived from clause 2(a), rule XI:** . . . Each select or joint committee shall comply with the provisions of this paragraph unless specifically prohibited by law.	Exception for conference committees (which are select committees) is added for clarification.
	Derived from rule XLVIII: RULE XLVIII	

Permanent Select Committee on Intelligence 11. (a)(1) There is established a Permanent Select Committee on Intelligence (hereafter in this clause referred to as the "select committee"). The select committee shall be composed of not more than 16 Members, Delegates, or the Resident Commissioner, of whom not more than nine may be from the same party. The select committee shall include at least one Member, Delegate, or the Resident Commissioner from each of the following committees: (A) the Committee on Appropriations; (B) the Committee on National Security; (C) the Committee on International Relations; and (D) the Committee on the Judiciary. (2) The Speaker and the Minority Leader shall be ex officio members of the select committee but shall have no vote in the select committee and may not be counted for purposes of determining a quorum thereof. (3) The Speaker and Minority Leader each may designate a member of his leadership staff to assist him in his capacity as ex officio member, with the same access to committee meetings, hearings, briefings, and materials as employees of the select committee and subject to the same security clearance and confidentiality requirements as employees of the select committee under this clause.	Permanent Select Committee on Intelligence 1. (a) There is hereby established a permanent select committee to be known as the Permanent Select Committee on Intelligence (hereinafter in this rule referred to as the "select committee"). The select committee shall be composed of not more than sixteen Members, of whom not more than nine may be from the same party. The select committee shall include at least one Member from: (1) the Committee on Appropriations; (2) the Committee on National Security; (3) the Committee on International Relations; and (4) the Committee on the Judiciary. (b)(1) The Speaker of the House and the Minority Leader of the House shall be ex officio members of the select committee, but shall have no vote in the select committee and shall not be counted for purposes of determining a quorum. (2) The Speaker and Minority Leader each may designate a member of their leadership staff to assist them in their capacity as ex officio members, with the same access to committee meetings, hearings, briefings, and materials as if employees of the select committee, and subject to the same security clearance and confidentiality requirements as employees of the select committee under this rule.	While the Permanent Select Committee on Intelligence is the only active select committee established in the standing rules, other select committees (Aging, for example) have been so constituted in the past. Any future select committee carried in the standing rules could also be added to rule X.
(4)(A) Except as permitted by subdivision (B), a Member, Delegate, or Resident Commissioner, other than the Speaker or the Minority Leader, may not serve as a member of the select committee during more than four Congresses in a period of six successive Congresses (disregarding for this purpose any service for less than a full session in a Congress).	(c) No Member of the House other than the Speaker or the Minority Leader may serve on the select committee during more than four Congresses in any period of six successive Congresses (disregarding for this purpose any service for less than a full session in any Congress), except the incumbent chairman or the ranking minority member having served on the select committee for four Congresses and having served as chairman or ranking minority member for not more than one Congress shall be eligible for reappointment to the select committee as chairman or ranking minority member for one additional Congress.	
(B) A member of the select committee who served as either the chairman or the ranking minority member of the select committee in the immediately previous Congress and who did not serve in that respective capacity in an earlier Congress may serve as either the chairman or the ranking minority member of the select committee during one additional Congress.		
(b)(1) There shall be referred to the select committee proposed legislation, messages, petitions, memorials, and other matters relating to the following: (A) The Central Intelligence Agency, the Director of Central Intelligence, and the National Foreign Intelligence Program as defined in section 3(6) of the National Security Act of 1947. (B) Intelligence and intelligence-related activities of all other departments and agencies of the Government, including the tactical intelligence and intelligence-related activities of the Department of Defense.	2. (a) There shall be referred to the select committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following: (1) The Central Intelligence Agency, the Director of Central Intelligence, and the National Foreign Intelligence Program as defined in section 3(6) of the National Security Act of 1947. (2) Intelligence and intelligence-related activities of all other departments and agencies of the Government, including (but not limited to) the tactical intelligence and intelligence-related activities of the Department of Defense.	

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(C) The organization or reorganization of a department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence or intelligence-related activities.	(3) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence or intelligence-related activities.	
(D) Authorizations for appropriations, both direct and indirect, for the following:	(4) Authorizations for appropriations, both direct and indirect, for the following:	
(i) The Central Intelligence Agency, Director of Central Intelligence, and the National Foreign Intelligence Program as defined in section 3(6) of the National Security Act of 1947.	(A) The Central Intelligence Agency, Director of Central Intelligence, and the National Foreign Intelligence Program as defined in section 3(6) of the National Security Act of 1947.	
(ii) Intelligence and intelligence-related activities of all other departments and agencies of the Government, including the tactical intelligence and intelligence-related activities of the Department of Defense.	(B) Intelligence and intelligence-related activities of all other departments and agencies of the Government, including (but not limited to) the tactical intelligence and intelligence-related activities of the Department of Defense.	
(iii) A department, agency, subdivision, or program that is a successor to an agency or program named or referred to in (i) or (ii).	(C) Any department, agency, or subdivision, or program that is a successor to any agency or program named or referred to in subdivision (A) or (B).	
(2) Proposed legislation initially reported by the select committee (other than provisions solely involving matters specified in subparagraph (1)(A) or subparagraph (1)(D)(i)) containing any matter otherwise within the jurisdiction of a standing committee shall be referred by the Speaker to that standing committee. Proposed legislation initially reported by another committee that contains matter within the jurisdiction of the select committee shall be referred by the Speaker to the select committee if requested by the chairman of the select committee.	(b) Any proposed legislation initially reported by the select committee, except any legislation involving matters specified in subparagraph (1) or (4)(A) of paragraph (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee by the Speaker for its consideration of such matter and be reported to the House by such standing committee within the time prescribed by the Speaker in the referral; and any proposed legislation initially reported by any committee, other than the select committee, which contains any matter within the jurisdiction of the select committee shall, at the request of the chairman of the select committee, be referred by the Speaker to the select committee for its consideration of such matter and be reported to the House within the time prescribed by the Speaker in the referral.	
(3) Nothing in this clause shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review an intelligence or intelligence-related activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of that committee.	(c) Nothing in this rule shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence or intelligence-related activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee.	
(4) Nothing in this clause shall be construed as amending, limiting, or otherwise changing the authority of a standing committee to obtain full and prompt access to the product of the intelligence and intelligence-related activities of a department or agency of the Government relevant to a matter otherwise within the jurisdiction of that committee.	(d) Nothing in this rule shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the House to obtain full and prompt access to the product of the intelligence and intelligence-related activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.	

(c)(1) For purposes of accountability to the House, the select committee shall make regular and periodic reports to the House on the nature and extent of the intelligence and intelligence-related activities of the various departments and agencies of the United States. The select committee shall promptly call to the attention of the House, or to any other appropriate committee, a matter requiring the attention of the House or another committee. In making such report, the select committee shall proceed in a manner consistent with paragraph (g) to protect national security.

(2) The select committee shall obtain annual reports from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such reports shall review the intelligence and intelligence-related activities of the agency or department concerned and the intelligence and intelligence-related activities of foreign countries directed at the United States or its interests. An unclassified version of each report may be made available to the public at the discretion of the select committee. Nothing herein shall be construed as requiring the public disclosure in such reports of the names of persons engaged in intelligence or intelligence-related activities for the United States or the divulging of intelligence methods employed or the sources of information on which the reports are based or the amount of funds authorized to be appropriated for intelligence and intelligence-related activities.

(3) Within six weeks after the President submits a budget under section 1105(a) of title 31, United States Code, the select committee shall submit to the Committee on the Budget the views and estimates described in section 301(d) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

(d)(1) Except as specified in subparagraph (2), clauses 6(a), (b), and (c) and 8(a), (b), and (c) of this rule, and clauses 1, 2, and 4 of rule XI shall apply to the select committee to the extent not inconsistent with this clause.

(2) Notwithstanding the requirements of the first sentence of clause 2(g)(2) of rule XI, in the presence of the number of members required under the rules of the select committee for the purpose of taking testimony or receiving evidence, the select committee may vote to close a hearing whenever a majority of those present determines that the testimony or evidence would endanger the national security.

(e) An employee of the select committee, or a person engaged by contract or otherwise to perform services for or at the request of the select committee, may not be given access to any classified information by the select committee unless such employee or person has—

3. (a) The select committee, for purposes of accountability to the House, shall make regular and periodic reports to the House on the nature and extent of the intelligence and intelligence-related activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the House or to any other appropriate committee of the House any matters requiring the attention of the House or such other committee or committees. In making such reports, the select committee shall proceed in a manner consistent with clause 7 to protect national security.

(b) The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such reports shall review the intelligence and intelligence-related activities of the agency or department concerned and the intelligence and intelligence-related activities of foreign countries directed at the United States or its interest. An unclassified version of each report may be made available to the public at the discretion of the select committee. Nothing herein shall be construed as requiring the public disclosure in such reports of the names of individuals engaged in intelligence or intelligence-related activities for the United States or the divulging of intelligence methods employed or the sources of information on which such reports are based or the amount of funds authorized to be appropriated for intelligence and intelligence-related activities.

(c) Within 6 weeks after the President submits a budget under section 1105(a) of title 31, United States Code, the select committee shall submit to the Committee on the Budget the views and estimates described in section 301(d) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

4. To the extent not inconsistent with the provisions of this rule, the provisions of clauses 1, 2, 3, and 5 (a), (b), (c), and 6 (a), (b), (c) of rule XI shall apply to the select committee, except that, notwithstanding the requirements of the first sentence of clause 2(g)(2) of rule XI, a majority of those present, there being in attendance the requisite number required under the rules of the select committee to be present for the purpose of taking testimony or receiving evidence, may vote to close a hearing whenever a majority of those present determines that such testimony or evidence would endanger the national security.

5. No employee of the select committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has—

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(1) agreed in writing and under oath to be bound by the Rules of the House, including the jurisdiction of the Committee on Standards of Official Conduct and of the select committee concerning the security of classified information during and after the period of his employment or contractual agreement with the select committee; and	(1) agreed in writing and under oath to be bound by the rules of the House (including the jurisdiction of the Committee on Standards of Official Conduct and of the select committee as to the security of such information during and after the period of his employment or contractual agreement with such committee); and	
(2) received an appropriate security clearance, as determined by the select committee in consultation with the Director of Central Intelligence, that is commensurate with the sensitivity of the classified information to which such employee or person will be given access by the select committee.	(2) received an appropriate security clearance as determined by such committee, in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.	
(f) The select committee shall formulate and carry out such rules and procedures as it considers necessary to prevent the disclosure, without the consent of each person concerned, of information in the possession of the select committee that unduly infringes on the privacy or that violates the constitutional rights of such person. Nothing herein shall be construed to prevent the select committee from publicly disclosing classified information in a case in which it determines that national interest in the disclosure of classified information clearly outweighs any infringement on the privacy of a person.	6. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines that national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.	
(g)(1) The select committee may disclose publicly any information in its possession after a determination by the select committee that the public interest would be served by such disclosure. With respect to the disclosure of information for which this paragraph requires action by the select committee— (A) the select committee shall meet to vote on the matter within five days after a member of the select committee requests a vote; and (B) a member of the select committee may not make such a disclosure before a vote by the select committee on the matter, or after a vote by the select committee on the matter except in accordance with this paragraph.	7. (a) The select committee may, subject to the provisions of this clause, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this clause, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the select committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this clause.	
(2)(A) In a case in which the select committee votes to disclose publicly any information that has been classified under established security procedures, that has been submitted to it by the executive branch, and that the executive branch requests be kept secret, the select committee shall notify the President of such vote.	(b)(1) In any case in which the select committee votes to disclose publicly any information that has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, the select committee shall notify the President of such vote.	

(B) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of the vote to disclose is transmitted to the President unless, before the expiration of the five-day period, the President, personally in writing, notifies the select committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by the disclosure is of such gravity that it outweighs any public interest in the disclosure.

(C) If the President, personally in writing, notifies the select committee of his objections to the disclosure of information as provided in subdivision (B), the select committee may, by majority vote, refer the question of the disclosure of such information, with a recommendation thereon, to the House. The select committee may not publicly disclose such information without leave of the House.

(D) Whenever the select committee votes to refer the question of disclosure of any information to the House under subdivision (C), the chairman shall, not later than the first day on which the House is in session following the day on which the vote occurs, report the matter to the House for its consideration.

(E) If the chairman of the select committee does not offer in the House a motion to consider in closed session a matter reported under subdivision (D) within four calendar days on which the House is in session after the recommendation described in subdivision (C) is reported, then such a motion shall be privileged when offered by a Member, Delegate, or Resident Commissioner. In either case such a motion shall be decided without debate or intervening motion except one that the House adjourn.

(F) Upon adoption by the House of a motion to resolve into closed session as described in subdivision (E), the Speaker may declare a recess subject to the call of the Chair. At the expiration of the recess, the pending question, in closed session, shall be, "Shall the House approve the recommendation of the select committee?".

(G) Debate on the question described in subdivision (F) shall be limited to two hours equally divided and controlled by the chairman and ranking minority member of the select committee. After such debate the previous question shall be considered as ordered on the question of approving the recommendation without intervening motion except one motion that the House adjourn. The House shall vote on the question in open session but without divulging the information with respect to which the vote is taken. If the recommendation of the select committee is not approved, then the question is considered as recommitted to the select committee for further recommendation.

(2) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President unless, prior to the expiration of such five-day period, the President, personally in writing, notifies the select committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in the disclosure.

(3) If the President, personally, in writing, notifies the select committee of his objections to the disclosure of such information as provided in subparagraph (2), such committee may, by majority vote, refer the question of this disclosure of such information with a recommendation thereon to the House for consideration. The select committee shall not publicly disclose such information without leave of the House.

(4) Whenever the select committee votes to refer the question of disclosure of any information to the House under subparagraph (3), the chairman shall, not later than the first day on which the House is in session following the day on which the vote occurs, report the matter to the House for its consideration.

(5) If within four calendar days on which the House is in session, after such recommendation is reported, no motion has been made by the chairman of the select committee to consider, in closed session, the matter reported under subparagraph (4), then such a motion shall be deemed privileged and may be made by any Member. The motion under this subparagraph shall not be subject to debate or amendment. When made, it shall be decided without intervening motion except one motion to adjourn.

(6) If the House adopts a motion to resolve into closed session, the Speaker shall then be authorized to declare a recess subject to the call of the Chair. At the expiration of such recess, the pending question, in closed session, shall be, "Shall the House approve the recommendation of the select committee?".

(7) After not more than two hours of debate on the motion, such debate to be equally divided and controlled by the chairman and ranking minority member of the select committee, or their designees, the previous question shall be considered as ordered and the House, without intervening motion except one motion to adjourn, shall immediately vote on the question, in open session, but without divulging the information with respect to which the vote is being taken. If the recommendation of the select committee is not agreed to, the question shall be deemed recommitted to the select committee for further recommendation.

The phrase "or their designees" in existing subparagraph (7) is unnecessary since the House has always permitted a chairman and ranking minority member controlling debate time under circumstances like that of proposed subdivision (G) to designate another committee member to control that time in their stead. Most special order of business resolutions from the Rules Committee regarding general debate in the Committee of the Whole are stated in a similar fashion, and unanimous consent is not required to designate another committee member to control time.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(3)(A) Information in the possession of the select committee relating to the lawful intelligence or intelligence-related activities of a department or agency of the United States that has been classified under established security procedures, and that the select committee has determined should not be disclosed under subparagraph (1) or (2), may not be made available to any person by a Member, Delegate, Resident Commissioner, officer, or employee of the House except as provided in subdivision (B). (B) The select committee shall, under such regulations as it may prescribe, make information described in subdivision (A) available to a committee or a Member, Delegate, or Resident Commissioner, and permit a Member, Delegate, or Resident Commissioner to attend a hearing of the select committee that is closed to the public. Whenever the select committee makes such information available, it shall keep a written record showing, in the case of particular information, which committee or which Member, Delegate, or Resident Commissioner received the information. A Member, Delegate, or Resident Commissioner who, and a committee that, receives information under this subdivision may not disclose the information except in a closed session of the House.	(c)(1) No information in the possession of the select committee relating to the lawful intelligence or intelligence-related activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to paragraphs (a) or (b) of this clause, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the House except as provided in subparagraphs (2) and (3). (2) The select committee shall, under such regulations as the committee shall prescribe, make any information described in subparagraph (1) available to any other committee or any other Member of the House, and permit any other Member of the House to attend any hearing of the select committee that is closed to the public. Whenever the select committee makes such information available (other than to the Speaker), the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the House received such information. No Member of the House who, and no committee which, receives any information under this subparagraph, shall disclose such information except in a closed session of the House.	
(4) The Committee on Standards of Official Conduct shall investigate any unauthorized disclosure of intelligence or intelligence-related information by a Member, Delegate, Resident Commissioner, officer, or employee of the House in violation of subparagraph (3) and report to the House concerning any allegation that it finds to be substantiated. (5) Upon the request of a person who is subject to an investigation described in subparagraph (4), the Committee on Standards of Official Conduct shall release to such person at the conclusion of its investigation a summary of its investigation, together with its findings. If, at the conclusion of its investigation, the Committee on Standards of Official Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, Delegate, Resident Commissioner, officer, or employee of the House, it shall report its findings to the House and recommend appropriate action. Recommendations may include censure, removal from committee membership, or expulsion from the House, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.	(d) The Committee on Standards of Official Conduct shall investigate any unauthorized disclosure of intelligence or intelligence-related information by a Member, officer, or employee of the House in violation of paragraph (c) and report to the House concerning any allegation which it finds to be substantiated. (e) Upon the request of any person who is subject to any such investigation, the Committee on Standards of Official Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation, together with its findings. If, at the conclusion of its investigation, the Committee on Standards of Official Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the House, it shall report its findings to the House and recommend appropriate action such as censure, removal from committee membership, or expulsion from the House, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.	
(h) The select committee may permit a personal representative of the President, designated by the President to serve as a liaison to the select committee, to attend any closed meeting of the select committee.	8. The select committee is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to the select committee, to attend any closed meeting of the such committee.	

(i) Subject to the Rules of the House, funds may not be appropriated for a fiscal year, with the exception of a bill or joint resolution continuing appropriations, or an amendment thereto, or a conference report thereon, to, or for use of, a department or agency of the United States to carry out any of the following activities, unless the funds shall previously have been authorized by a bill or joint resolution passed by the House during the same or preceding fiscal year to carry out such activity for such fiscal year:	9. Subject to the rules of the House, no funds shall be appropriated for any fiscal year, with the exception of a continuing bill or resolution continuing appropriations, or an amendment thereto, or conference report thereon, to, or for use of, any department or agency of the United States to carry out any of the following activities, unless such funds shall previously have been authorized by a bill or joint resolution passed by the House during the same or preceding fiscal year to carry out such activity for such fiscal year:
(1) The activities of the Central Intelligence Agency and the Director of Central Intelligence.	(a) The activities of the Central Intelligence Agency and the Director of Central Intelligence.
(2) The activities of the Defense Intelligence Agency.	(b) The activities of the Defense Intelligence Agency.
(3) The activities of the National Security Agency.	(c) The activities of the National Security Agency.
(4) The intelligence and intelligence-related activities of other agencies and subdivisions of the Department of Defense.	(d) The intelligence and intelligence-related activities of other agencies and subdivisions of the Department of Defense.
(5) The intelligence and intelligence-related activities of the Department of State.	(e) The intelligence and intelligence-related activities of the Department of State.
(6) The intelligence and intelligence-related activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.	(f) The intelligence and intelligence-related activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.
(j)(1) In this clause the term "intelligence and intelligence-related activities" includes—	10. (a) As used in this rule, the term "intelligence and intelligence-related activities" includes—
(A) the collection, analysis, production, dissemination, or use of information that relates to a foreign country, or a government, political group, party, military force, movement, or other association in a foreign country, and that relates to the defense, foreign policy, national security, or related policies of the United States and other activity in support of the collection, analysis, production, dissemination, or use of such information; (B) activities taken to counter similar activities directed against the United States; (C) covert or clandestine activities affecting the relations of the United States with a foreign government, political group, party, military force, movement, or other association; (D) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by a department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States; and (E) covert or clandestine activities directed against persons described in subdivision (D).	(1) the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in a foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and other activity in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement, or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons.
(2) In this clause the term "department or agency" includes any organization, committee, council, establishment, or office within the Federal Government.	(b) As used in this rule, the term "department or agency" includes any organization, committee, council, establishment, or office within the Federal Government.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(3) For purposes of this clause, reference to a department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that a successor engages in intelligence or intelligence-related activities now conducted by the department, agency, bureau, or subdivision referred to in this clause.	(c) For purposes of this rule, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence or intelligence-related activities now conducted by the department, agency, bureau, or subdivision referred to in this rule.	
(k) Clause 12(a) of rule XXII does not apply to meetings of a conference committee respecting legislation (or any part thereof) reported by the Permanent Select Committee on Intelligence.	11. Clause 6(a) of rule XXVIII does not apply to meetings of a committee of conference respecting legislation (or any part thereof) reported by the Permanent Select Committee on Intelligence.	
RULE XI **PROCEDURES OF COMMITTEES AND UNFINISHED BUSINESS**	RULE XI RULES OF PROCEDURE FOR COMMITTEES	
In general 1. (a)(1)(A) Except as provided in subdivision (B), the Rules of the House are the rules of its committees and subcommittees so far as applicable.	In General 1. (a)(1) The Rules of the House are the rules of its committees and subcommittees so far as applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege in committees and subcommittees.	Proposed rule XI remains dedicated to issues of committee procedure and retains all current provisions of clauses 1 and 2, through the point of ordering a measure reported from full committee and the filing of views. Reporting requirements applicable to all committees have been transferred to rule XIII. Current clause 4 on privileged reports has been transferred to rule XIII to become a new clause 5, and provisions relating to consideration of reports from the Committee on Rules (clauses 4(b), (c) and (e) of rule XI have become clause 6 of rule XIII. Rule XI includes procedural matters relating to the Committee on Standards of Official Conduct as a new clause 3, transferred from clause 4 of rule X. The provisions on broadcasting of committee proceedings are renumbered as clause 4 (from current clause 3) with a modernized heading. The current rule XXXV on pay of witnesses is transferred to a new clause 5 of rule XI, since this is more appropriate as a committee procedural issue. The current rule XXVI on unfinished business of the session is transferred to a new clause 6 of rule XI since bearing some relevance to committee business (but also making explicit reference to House business) and to provide for a new rule XXV on use of official accounts.
(B) A motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, each shall be privileged in committees and subcommittees and shall be decided without debate.		
(2) Each subcommittee is a part of its committee and is subject to the authority and direction of that committee and to its rules, so far as applicable.	(2) Each subcommittee of a committee is a part of that committee, and is subject to the authority and direction of that committee and to its rules so far as applicable.	

(b)(1) Each committee may conduct at any time such investigations and studies as it considers necessary or appropriate in the exercise of its responsibilities under rule X. Subject to the adoption of expense resolutions as required by clause 6 of rule X, each committee may incur expenses, including travel expenses, in connection with such investigations and studies.	(b)(1) Each committee is authorized at any time to conduct such investigations and studies as it may consider necessary or appropriate in the exercise of its responsibilities under rule X, and (subject to the adoption of expense resolutions as required by clause 5) to incur expenses (including travel expenses) in connection therewith.	The recodification does not alter the existing relationship between a committee and its subcommittees. Under clause 1(a)(2), rule XI, the Rules of the House, including rule XI, remain generally applicable to subcommittees (except where considered inapplicable under current interpretations). Also, each subcommittee of a committee is a part of that committee and subject to its authority, direction and rules (proposed clause 1(a)(2), rule XI). On the other hand, certain authorities remain specifically granted to committees *and subcommittees*, such as authorizing and issuing subpoenas (proposed, rule XI). Current interpretations as to the applicability to subcommittees clause 2(m) are not to be changed or modified merely by the lack of inclusion of "subcommittee" in each clause. These interpretations of the applicability of House rules to subcommittee proceedings include: paragraph (c) provides that subcommittee chairs or three members of a subcommittee can call special meetings; paragraph (e) includes subcommittee files; paragraph (g)(3) is applicable to the announcement of hearing dates of subcommittees; paragraph (g)(4) applies the requirement for written statements of proposed testimony to subcommittees; paragraph (h)(3) allows subcommittees to have a one-third member working quorum if permitted by full committee rules; paragraph (i) prevents subcommittees from meeting during joint sessions and meetings; paragraph (j) applies the interrogation of witnesses rule to subcommittees; and paragraph (k) applies investigative hearing procedures to subcommittees.
(2) A proposed investigative or oversight report shall be considered as read in committee if it has been available to the members for at least 24 hours (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day).	(2) A proposed investigative or oversight report shall be considered as read in committee if it has been available to the members for at least 24 hours (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day).	
(3) A report of an investigation or study conducted jointly by more than one committee may be filed jointly, provided that each of the committees complies independently with all requirements for approval and filing of the report.	(3) A report of an investigation or study conducted jointly by more than one committee may be filed jointly, provided that each of the committees complies independently with all requirements for approval and filing of the report.	
(4) After an adjournment sine die of the last regular session of a Congress, an investigative or oversight report may be filed with the Clerk at any time, provided that a member who gives timely notice of intention to file supplemental, minority, or additional views shall be entitled to not less than seven calendar days in which to submit such views for inclusion in the report.	(4) After an adjournment of the last regular session of a Congress sine die, an investigative or oversight report may be filed with the Clerk at any time, provided that if a member gives timely notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than seven calendar days in which to submit such views for inclusion with the report.	
(c) Each committee may have printed and bound such testimony and other data as may be presented at hearings held by the committee or its subcommittees. All costs of stenographic services and transcripts in connection with a meeting or hearing of a committee shall be paid from the applicable accounts of the House described in clause 1(h)(1) of rule X.	(c) Each committee is authorized to have printed and bound testimony and other data presented at hearings held by the committee. All costs of stenographic services and transcripts in connection with any meeting or hearing of a committee shall be paid from the applicable accounts of the House described in clause 1(h)(1) of rule X.	

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(d)(1) Each committee shall submit to the House not later than January 2 of each odd-numbered year a report on the activities of that committee under this rule and rule X during the Congress ending at noon on January 3 of such year. (2) Such report shall include separate sections summarizing the legislative and oversight activities of that committee during that Congress. (3) The oversight section of such report shall include a summary of the oversight plans submitted by the committee under clause 2(d) of rule X, a summary of the actions taken and recommendations made with respect to each such plan, a summary of any additional oversight activities undertaken by that committee, and any recommendations made or actions taken thereon.	(d)(1) Each committee shall submit to the House not later than January 2 of each odd-numbered year, a report on the activities of that committee under this rule and rule X during the Congress ending on January 3 of such year. (2) Such report shall include separate sections summarizing the legislative and oversight activities of that committee during that Congress. (3) The oversight section of such report shall include a summary of the oversight plans submitted by the committee pursuant to clause 2(d) of rule X, a summary of the actions taken and recommendations made with respect to each such plan, and a summary of any additional oversight activities undertaken by that committee, and any recommendations made or actions taken thereon.	
(4) After an adjournment sine die of the last regular session of a Congress, the chairman of a committee may file an activities report under subparagraph (1) with the Clerk at any time and without approval of the committee, provided that— (A) a copy of the report has been available to each member of the committee for at least seven calendar days; and (B) the report includes any supplemental, minority, or additional views submitted by a member of the committee.	(4) After an adjournment of the last regular session of a Congress sine die, the chairman of a committee may file a report pursuant to subparagraph (1) with the Clerk at any time and without approval of the committee, provided that a copy of the report has been available to each member of the committee for at least seven calendar days and includes any supplemental, minority, or additional views submitted by a member of the committee.	
Adoption of written rules 2. (a)(1) Each standing committee shall adopt written rules governing its procedure. Such rules—	Committee Rules Adoption of written rules 2. (a) Each standing committee of the House shall adopt written rules governing its procedure. Such rules—	
(A) shall be adopted in a meeting that is open to the public unless the committee, in open session and with a quorum present, determines by record vote that all or part of the meeting on that day shall be closed to the public;	(1) shall be adopted in a meeting which is open to the public unless the committee, in open session and with a quorum present, determined by rollcall vote that all or part of the meeting on that day is to be closed to the public;	
(B) may not be inconsistent with the Rules of the House or with those provisions of law having the force and effect of Rules of the House; and	(2) shall be not inconsistent with the Rules of the House or with those provisions of law having the force and effect of Rules of the House; and	
(C) shall in any event incorporate all of the succeeding provisions of this clause to the extent applicable.	(3) shall in any event incorporate all of the succeeding provisions of this clause to the extent applicable.	
(2) Each committee shall submit its rules for publication in the Congressional Record not later than 30 days after the committee is elected in each odd-numbered year.	Each committee's rules specifying its regular meeting days, and any other rules of a committee which are in addition to the provisions of this clause, shall be published in the Congressional Record not later than thirty days after the committee is elected in each odd-numbered year. Each select or joint committee shall comply with the provisions of this paragraph unless specifically prohibited by law.	The requirement of existing clause 2(a), rule XI that each select or joint committee shall comply with its provisions unless specifically prohibited by law is deleted here since proposed clause 10(b), rule X will require each select or joint committee to comply with the provisions of clause 2(a), rule XI (this paragraph). Often a resolution creating a select committee will specify that specified portions of the rules will apply in order to further clarify the point.

Regular meeting days	Regular meeting days
(b) Each standing committee shall establish regular meeting days for the conduct of its business, which shall be not less frequent than monthly. Each such committee shall meet for the consideration of a bill or resolution pending before the committee or the transaction of other committee business on all regular meeting days fixed by the committee unless otherwise provided by written rule adopted by the committee.	(b) Each standing committee of the House shall adopt regular meeting days, which shall be not less frequent than monthly, for the conduct of its business. Each such committee shall meet, for the consideration of any bill or resolution pending before the committee or for the transaction of other committee business, on all regular meeting days fixed by the committee, unless otherwise provided by written rule adopted by the committee.
Additional and special meetings	Additional and special meetings
(c)(1) The chairman of each standing committee may call and convene, as he considers necessary, additional and special meetings of the committee for the consideration of a bill or resolution pending before the committee or for the conduct of other committee business, subject to such rules as the committee may adopt. The committee shall meet for such purpose under that call of the chairman.	(c)(1) The Chairman of each standing committee may call and convene, as he or she considers necessary, additional meetings of the committee for the consideration of any bill or resolution pending before the committee or for the conduct of other committee business. The committee shall meet for such purpose pursuant to that call of the chairman.
(2) Three or more members of a standing committee may file in the offices of the committee a written request that the chairman call a special meeting of the committee. Such request shall specify the measure or matter to be considered. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If the chairman does not call the requested special meeting within three calendar days after the filing of the request (to be held within seven calendar days after the filing of the request) a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held. The written notice shall specify the date and hour of the special meeting and the measure or matter to be considered. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour and the measure or matter to be considered. Only the measure or matter specified in that notice may be considered at that special meeting.	(2) If at least three members of any standing committee desire that a special meeting of the committee be called by the chairman, those members may file in the offices of the committee their written request to the chairman for that special meeting. Such request shall specify the measure or matter to be considered. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If, within three calendar days after the filing of the request, the chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date and hour of, and the measure or matter to be considered at, that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour and the measure or matter to be considered; and only the measure or matter specified in that notice may be considered at that special meeting. Vice chairman or ranking majority member to preside in absence of chairman.
Temporary absence of chairman	
(d) A member of the majority party on each standing committee or subcommittee thereof shall be designated by the chairman of the full committee as the vice chairman of the committee or subcommittee, as the case may be, and shall preside during the absence of the chairman from any meeting. If the chairman and vice chairman of a committee or subcommittee are not present at any meeting of the committee or subcommittee, the ranking majority member who is present shall preside at that meeting.	(d) A member of the majority party on any standing committee or subcommittee thereof designated by the chairman of the full committee shall be vice chairman of the committee or subcommittee, as the case may be, and shall preside at any meeting during the temporary absence of the chairman. If the chairman and vice chairman of the committee or subcommittee are not present at any meeting of the committee or subcommittee, the ranking member of the majority party who is present shall preside at that meeting.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
Committee records (e)(1)(A) Each committee shall keep a complete record of all committee action which shall include— (i) in the case of a meeting or hearing transcript, a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved; and	Committee records (e)(1) Each committee shall keep a complete record of all committee action which shall include— (A) in the case of any meeting or hearing transcript, a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved; and	
(ii) a record of the votes on any question on which a record vote is demanded.	(B) a record of the votes on any question on which a rollcall vote is demanded.	Paragraph (k)(7) of this clause precludes release of evidence or testimony taken in executive session of a committee without its approval. This prohibition has been interpreted to apply also to votes taken in an executive session. These would not be released without the appropriate approval and so would not automatically be made public. The "subject to paragraph (k)(7)" language is added to subdivision (B) for clarity. Otherwise, the release of record votes taken in executive session could compromise and reveal the nature of the questions voted upon.
(B)(i) Except as provided in subdivision (B)(ii) and subject to paragraph (k)(7), the result of each such record vote shall be made available by the committee for inspection by the public at reasonable times in its offices. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition, the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and the names of those members of the committee present but not voting. (ii) The result of any record vote taken in executive session in the Committee on Standards of Official Conduct may not be made available for inspection by the public without an affirmative vote of a majority of the members of the committee.	The result of each such rollcall vote shall be made available by the committee for inspection by the public at reasonable times in the offices of the committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and the names of those Members present but not voting, except that in the case of rollcall votes in the Committee on Standards of Official Conduct taken in executive session, the result of any such vote shall not be made available for inspection by the public without an affirmative vote of a majority of the members of the committee.	
(2)(A) Except as provided in subdivision (B), all committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the member serving as its chairman. Such records shall be the property of the House, and each Member, Delegate, and the Resident Commissioner shall have access thereto. (B) A Member, Delegate, or Resident Commissioner, other than members of the Committee on Standards of Official Conduct, may not have access to the records of that committee respecting the conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House without the specific prior permission of that committee.	(2) All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access thereto, except that in the case of records in the Committee on Standards of Official Conduct respecting the conduct of any Member, officer, or employee of the House, no Member of the House (other than a member of such committee) shall have access thereto without the specific, prior approval of the committee.	
(3) Each committee shall include in its rules standards for availability of records of the committee delivered to the Archivist of the United States under rule VII. Such standards shall specify procedures for orders of the committee under clause 3(b)(3) and clause 4(b) of rule VII, including a requirement that nonavailability of a record for a period longer than the period otherwise applicable under that rule shall be approved by vote of the committee.	(3) Each committee shall include in its rules standards for availability of records of the committee delivered to the Archivist of the United States under rule XXXVI. Such standards shall specify procedures for orders of the committee under clause 3(b)(3) and clause 4(b) of rule XXXVI, including a requirement that nonavailability of a record for a period longer than the period otherwise applicable under that rule shall be approved by vote of the committee.	

(4) Each committee shall make its publications available in electronic form to the maximum extent feasible.	(4) Each committee shall, to the maximum extent feasible, make its publications available in electronic form.	
Prohibition against proxy voting (f) A vote by a member of a committee or subcommittee with respect to any measure or matter may not be cast by proxy.	Prohibition against proxy voting (f) No vote by any member of any committee or subcommittee with respect to any measure or matter may be cast by proxy.	
Open meetings and hearings (g)(1) Each meeting for the transaction of business, including the markup of legislation, by a standing committee or subcommittee thereof (other than the Committee on Standards of Official Conduct or its subcommittee) shall be open to the public, including to radio, television, and still photography coverage, except when the committee or subcommittee, in open session and with a majority present, determines by record vote that all or part of the remainder of the meeting on that day shall be in executive session because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, would tend to defame, degrade, or incriminate any person, or otherwise would violate a law or rule of the House. Persons, other than members of the committee and such noncommittee Members, Delegates, Resident Commissioner, congressional staff, or departmental representatives as the committee may authorize, may not be present at a business or markup session that is held in executive session. This subparagraph does not apply to open committee hearings, which are governed by clause 4(a)(1) of rule X or by subparagraph (2).	Open meetings and hearings (g)(1) Each meeting for the transaction of business, including the markup of legislation, of each standing committee or subcommittee thereof (except the Committee on Standards of Official Conduct) shall be open to the public, including to radio, television, and still photography coverage except when the committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, would tend to defame, degrade or incriminate any person, or otherwise would violate any law or rule of the House: Provided, however, That no person other than members of the committee and such congressional staff and such departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This paragraph does not apply to open committee hearings which are provided for by clause 4(a)(1) of rule X or by subparagraph (2) of this paragraph.	The term "executive session" is substituted for "closed to the public" to achieve consistency with clause 2(k)(7) of this rule. Under paragraph (g)(1), noncommittee members can be admitted or excluded from executive session meetings in contrast to noncommittee members nonparticipatory attendance at hearings under paragraph (g)(2) unless precluded by the House. The last sentence in subparagraph (1) is added to distinguish further between meetings and hearings.
(2)(A) Each hearing conducted by a committee or subcommittee (other than the Committee on Standards of Official Conduct or its subcommittees) shall be open to the public, including to radio, television, and still photography coverage, except when the committee or subcommittee, in open session and with a majority present, determines by record vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would violate a law or rule of the House. (B) Notwithstanding the requirements of subdivision (A), in the presence of the number of members required under the rules of the committee for the purpose of taking testimony, a majority of those present may—	(2) Each hearing conducted by each committee or subcommittee thereof (except the Committee on Standards of Official Conduct) shall be open to the public, including to radio, television, and still photography coverage, except when the committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security, would compromise sensitive law enforcement information, or would violate any law or rule of the House of Representatives. Notwithstanding the requirements of the preceding sentence, a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony,	
(i) agree to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger national security, would compromise sensitive law enforcement information, or would violate clause 2(k)(5); or	(A) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security, would compromise sensitive law enforcement information, or violate clause 2(k)(5) of rule XI; or	A committee may agree to close a hearing either by a vote or by unanimous consent. Otherwise, committee hearings are held in the sunshine.
(ii) agree to close the hearing as provided in clause 2(k)(5).	(B) may vote to close the hearing, as provided in clause 2(k)(5) of rule XI.	

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(C) A Member, Delegate, or Resident Commissioner may not be excluded from nonparticipatory attendance at a hearing of a committee or subcommittee (other than the Committee on Standards of Official Conduct or its subcommittees) unless the House by majority vote authorizes a particular committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members, Delegates, and the Resident Commissioner by the same procedures specified in this subparagraph for closing hearings to the public. (D) The committee or subcommittee may vote by the same procedure described in this subparagraph to close one subsequent day of hearing, except that the Committee on Appropriations, the Committee on National Security, and the Permanent Select Committee on Intelligence, and the subcommittees thereof, may vote by the same procedure to close up to five additional, consecutive days of hearings.	No Member may be excluded from nonparticipatory attendance at any hearing of any committee or subcommittee, with the exception of the Committee on Standards of Official Conduct, unless the House of Representatives shall by majority vote authorize a particular committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this subparagraph for closing hearings to the public: Provided, however, That the committee or subcommittee may by the same procedure vote to close one subsequent day of hearing except that the Committee on Appropriations, the Committee on National Security, and the Permanent Select Committee on Intelligence and the subcommittees therein may, by the same procedure, vote to close up to five additional consecutive days of hearings.	
(3) The chairman of each committee (other than the Committee on Rules) shall make public announcement of the date, place, and subject matter of a committee hearing at least one week before the commencement of the hearing. If the chairman of the committee, with the concurrence of the ranking minority member, determines that there is good cause to begin a hearing sooner, or if the committee so determines by majority vote in the presence of the number of members required under the rules of the committee for the transaction of business, the chairman shall make the announcement at the earliest possible date. An announcement made under this subparagraph shall be published promptly in the Daily Digest and made available in electronic form.	(3) The chairman of each committee of the House (except the Committee on Rules) shall make public announcement of the date, place, and subject matter of any committee hearing at least one week before the commencement of the hearing. If the chairman of the committee, with the concurrence of the ranking minority member, determines there is good cause to begin the hearing sooner, or if the committee so determines by majority vote, a quorum being present for the transaction of business, the chairman shall make the announcement at the earliest possible date. Any announcement made under this subparagraph shall be promptly published in the Daily Digest and promptly entered into the committee scheduling service of House Information Resources.	
(4) Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial presentations to the committee to brief summaries thereof. In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness.	(4) Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial oral presentations to the committee to brief summaries thereof. In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of any Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness.	
(5)(A) Except as provided in subdivision (B), a point of order does not lie with respect to a measure reported by a committee on the ground that hearings on such measure were not conducted in accordance with this clause. (B) A point of order on the ground described in subdivision (A) may be made by a member of the committee that reported the measure if such point of order was timely made and improperly disposed of in the committee.	(5) No point of order shall lie with respect to any measure reported by any committee on the ground that hearings on such measure were not conducted in accordance with the provisions of this clause; except that a point of order on that ground may be made by any member of the committee which reported the measure if, in the committee, such point of order was (A) timely made and (B) improperly overruled or not properly considered.	

(6) This paragraph does not apply to hearings of the Committee on Appropriations under clause 4(a)(1) of rule X.	(6) The preceding provisions of this paragraph do not apply to the committee hearings which are provided for by clause 4(a)(1) of rule X.	
Quorum requirements (h)(1) A measure or recommendation may not be reported by a committee unless a majority of the committee is actually present.	**Derived from clause 2(l)(2)(A), rule XI:** (2)(A) No measure or recommendation shall be reported from any committee unless a majority of the committee was actually present.	The requirement of existing clause 2(l)(2)(A), rule XI that a majority constitute a quorum to order a measure reported is transferred to proposed clause 2(h)(1) to consolidate all committee quorum requirements in one clause.
(2) Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence, which may not be less than two.	**Derived from clause 2(h), rule XI:** Quorum for taking testimony and certain other action. (h)(1) Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence which shall be not less than two.	
(3) Each committee (other than the Committee on Appropriations, the Committee on the Budget, and the Committee on Ways and Means) may fix the number of its members to constitute a quorum for taking any action other than the reporting of a measure or recommendation, which may not be less than one-third of the members.	(2) Each committee (except the Committee on Appropriations, the Committee on the Budget, and the Committee on Ways and Means) may fix the number of its members to constitute a quorum for taking any action other than the reporting of a measure or recommendation which shall be not less than one-third of the members.	
Limitation on committee sittings (i) A committee may not sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress.	Limitation on committees' sittings (i) No committee of the House may sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress.	
Calling and questioning of witnesses (j)(1) Whenever a hearing is conducted by a committee on a measure or matter, the minority members of the committee shall be entitled, upon request to the chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.	Calling and interrogation of witnesses (j)(1) Whenever any hearing is conducted by any committee upon any measure or matter, the minority party members on the committee shall be entitled, upon request to the chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.	
(2)(A) Subject to subdivisions (B) and (C), each committee shall apply the five-minute rule during the questioning of witnesses in a hearing until such time as each member of the committee who so desires has had an opportunity to question each witness.	(2)(A) Subject to subdivisions (B) and (C), each committee shall apply the five-minute rule in the interrogation of witnesses in any hearing until such time as each member of the committee who so desires has had an opportunity to question each witness.	
(B) A committee may adopt a rule or motion permitting an equal number of its majority and minority members each to question a witness for a specified period not longer than 30 minutes.	(B) A committee may adopt a rule or motion permitting an equal number of its majority and minority party members each to question a witness for a specified period not longer than 30 minutes.	
(C) A committee may adopt a rule or motion permitting committee staff for its majority and minority members to question a witness for equal specified periods.	(C) A committee may adopt a rule or motion permitting committee staff for its majority and minority party members to question a witness for equal specified periods.	
Investigative hearing procedures (k)(1) The chairman at an investigative hearing shall announce in an opening statement the subject of the investigation.	Investigative hearing procedures (k)(1) The chairman at an investigative hearing shall announce in an opening statement the subject of the investigation.	
(2) A copy of the committee rules and of this clause shall be made available to each witness.	(2) A copy of the committee rules and this clause shall be made available to each witness.	
(3) Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.	(3) Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.	

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.	(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.	
(5) Whenever it is asserted that the evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person—	(5) Whenever it is asserted that the evidence or testimony at an investigatory hearing may tend to defame, degrade, or incriminate any person,	
(A) notwithstanding paragraph (g)(2), such testimony or evidence shall be presented in executive session if, in the presence of the number of members required under the rules of the committee for the purpose of taking testimony, the committee determines by vote of a majority of those present that such evidence or testimony may tend to defame, degrade, or incriminate any person; and	(A) such testimony or evidence shall be presented in executive session, notwithstanding the provisions of clause 2(g)(2) of this rule, if by a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony, the committee determines that such evidence or testimony may tend to defame, degrade, or incriminate any person; and	
(B) the committee shall proceed to receive such testimony in open session only if the committee, a majority being present, determines that such evidence or testimony will not tend to defame, degrade, or incriminate any person. In either case the committee shall afford such person an opportunity voluntarily to appear as a witness, and receive and dispose of requests from such person to subpoena additional witnesses.	(B) the committee shall proceed to receive such testimony in open session only if the committee, a majority being present, determines that such evidence or testimony will not tend to defame, degrade, or incriminate any person. In either case the committee shall afford such person an opportunity voluntarily to appear as a witness, and receive and dispose of requests from such person to subpoena additional witnesses.	
(6) Except as provided in subparagraph (5), the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.	(6) Except as provided in subparagraph (5), the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.	
(7) Evidence or testimony taken in executive session, and proceedings conducted in executive session, may be released or used in public sessions only when authorized by the committee, a majority being present.	(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee.	The requirement of existing clause 2(k)(7), rule XI that the "consent" of the committee is necessary to release executive session evidence or testimony is clarified in proposed clause 2(g)(7) to require committee authorization, a majority being present, before release. This reflects legislative history when the rule was adopted in 1955 and consistent interpretations since that date that the committee or subcommittee must actually meet to approve the release, not separate polling of members.
(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinence of testimony and evidence adduced at its hearing.	(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.	
(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.	(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.	

Supplemental, minority, or additional views

(l) If at the time of approval of a measure or matter by a committee (other than the Committee on Rules) a member of the committee gives notice of intention to file supplemental, minority, or additional views for inclusion in the report to the House thereon, that member shall be entitled to not less than two additional calendar days after the day of such notice (excluding Saturdays, Sundays, and legal holidays except when the House is in session on such a day) to file such views, in writing and signed by that member, with the clerk of the committee.

Power to sit and act; subpoena power

(m)(1) For the purpose of carrying out any of its functions and duties under this rule and rule X (including any matters referred to it under clause 2 of rule XII), a committee or subcommittee is authorized (subject to subparagraph (2)(A))—

(A) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings as it considers necessary; and

(B) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it considers necessary.

(2) The chairman of the committee, or a member designated by the chairman, may administer oaths to witnesses.

(3)(A)(i) Except as provided in subdivision (A)(ii), a subpoena may be authorized and issued by a committee or subcommittee under subparagraph (1)(B) in the conduct of an investigation or series of investigations or activities only when authorized by the committee or subcommittee, a majority being present. The power to authorize and issue subpoenas under subparagraph (1)(B) may be delegated to the chairman of the committee under such rules and under such limitations as the committee may prescribe. Authorized subpoenas shall be signed by the chairman of the committee or by a member designated by the committee.

(ii) In the case of a subcommittee of the Committee on Standards of Official Conduct, a subpoena may be authorized and issued only by an affirmative vote of a majority of its members.

(B) Compliance with a subpoena issued by a committee or subcommittee under subparagraph (1)(B) may be enforced only as authorized or directed by the House.

Derived from clause 2(l)(5), rule XI:

(5) If, at the time of approval of any measure or matter by any committee, other than the Committee on Rules, any member of the committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than two additional calendar days after the day of such notice (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) in which to file such views, in writing and signed by that member, with the clerk of the committee. All such views so filed by one or more members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that measure or matter . . . **[Remainder of clause 2(l)(5), rule XI transferred to new rule XIII]**.

Derived from clause 2(m), rule XI:

Power to sit and act; subpoena power

(m)(1) For the purpose of carrying out any of its functions and duties under this rule and rule X (including any matters referred to it under clause 5 of rule X), any committee, or any subcommittee thereof, is authorized (subject to subparagraph (2)(A) of this paragraph)—

(A) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings, and

(B) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents

as it deems necessary. The chairman of the committee, or any member designated by such chairman, may administer oaths to any witness.

(2)(A) A subpoena may be authorized and issued by a committee or subcommittee under subparagraph (1)(B) in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present, except in the case of a subcommittee of the Committee on Standards of Official Conduct, a subpoena may be authorized and issued only when authorized by an affirmative vote of a majority of its members. The power to authorize and issue subpoenas under subparagraph (1)(B) may be delegated to the chairman of the committee pursuant to such rules and under such limitations as the committee may prescribe. Authorized subpoenas shall be signed by the chairman of the committee or by any member designated by the committee.

(B) Compliance with any subpoena issued by a committee or subcommittee under subparagraph (1)(B) may be enforced only as authorized or directed by the House.

Committee procedures for reporting bills and resolutions in existing clause 2(l), rule XI have been transferred to proposed clause 2(b), rule XIII where all committee reporting requirements will be included except those provisions for requesting two days for filing supplemental, minority or additional views at the time the measure is ordered reported to the House. That two-day provision is retained in proposed clause 2(l), rule XI and is cross referenced in clause 2, rule XIII. The phrase "for inclusion in the report to the House thereon" clarifies that the right to supplemental, minority, or additional views attaches to matters filed as committee reports to the House, in contrast to matters transmitted elsewhere, such as views submitted to another committee.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
Committee on Standards of Official Conduct 3. (a) The Committee on Standards of Official Conduct has the following functions: (1) The committee may recommend to the House from time to time such administrative actions as it may consider appropriate to establish or enforce standards of official conduct for Members, Delegates, the Resident Commissioner, officers, and employees of the House. A letter of reproval or other administrative action of the committee pursuant to an investigation under subparagraph (2) shall only be issued or implemented as a part of a report required by such subparagraph. (2) The committee may investigate, subject to paragraph (b), an alleged violation by a Member, Delegate, Resident Commissioner, officer, or employee of the House of the Code of Official Conduct or of a law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, Delegate, Resident Commissioner, officer, or employee in the performance of his duties or the discharge of his responsibilities. After notice and hearing (unless the right to a hearing is waived by the Member, Delegate, Resident Commissioner, officer or employee), the committee shall report to the House its findings of fact and recommendations, if any, for the final disposition of any such investigation and such action as the committee may consider appropriate in the circumstances. (3) The committee may report to the appropriate Federal or State authorities, either with the approval of the House or by an affirmative vote of two-thirds of the members of the committee, any substantial evidence of a violation by a Member, Delegate, Resident Commissioner, officer, or employee of the House, of a law applicable to the performance of his duties or the discharge of his responsibilities that may have been disclosed in a committee investigation. (4) The committee may consider the request of a Member, Delegate, Resident Commissioner, officer, or employee of the House for an advisory opinion with respect to the general propriety of any current or proposed conduct of such Member, Delegate, Resident Commissioner, officer, or employee. With appropriate deletions to ensure the privacy of the person concerned, the committee may publish such opinion for the guidance of other Members, Delegates, the Resident Commissioner, officers, and employees of the House. (5) The committee may consider the request of a Member, Delegate, Resident Commissioner, officer, or employee of the House for a written waiver in exceptional circumstances with respect to clause 4 of rule XXIV.	**Derived from clause 4(e), rule X:** (e)(1) The Committee on Standards of Official Conduct is authorized: (A) to recommend to the House from time to time such administrative actions as it may deem appropriate to establish or enforce standards of official conduct for Members, officers, and employees of the House, and any letter of reproval or other administrative action of the committee pursuant to an investigation under subdivision (B) shall only be issued or implemented as a part of a report required by such subdivision; (B) to investigate, subject to subparagraph (2) of this paragraph, any alleged violation, by a Member, officer, or employee of the House, of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his duties or the discharge of his responsibilities, and after notice and hearing (unless the right to a hearing is waived by the Member, officer, or employee), shall report to the House its findings of fact and recommendations, if any, upon the final disposition of any such investigation, and such action as the committee may deem appropriate in the circumstances; (C) to report to the appropriate Federal or State authorities, either with the approval of the House or by an affirmative vote of two-thirds of the members of the committee, any substantial evidence of a violation, by a Member, officer, or employee of the House, of any law applicable to the performance of his duties or the discharge of his responsibilities, which may have been disclosed in a committee investigation; (D) to give consideration to the request of any Member, officer, or employee of the House for an advisory opinion with respect to the general propriety of any current or proposed conduct of such Member, officer, or employee and, with appropriate deletions to assure the privacy of the individual concerned, to publish such opinion for the guidance of other Members, officers, and employees of the House; and (E) to give consideration to the request of any Member, officer, or employee of the House for a written waiver in exceptional circumstances with respect to clause 4 of rule XLIII.	The additional functions of the Committee on Standards of Official Conduct currently in clause 4(e), rule X are transferred to proposed clause 3, rule XI as a committee procedure.

(b)(1)(A) Unless approved by an affirmative vote of a majority of its members, the Committee on Standards of Official Conduct may not report a resolution, report, recommendation, or advisory opinion relating to the official conduct of a Member, Delegate, Resident Commissioner, officer or employee of the House, or, except as provided in subparagraph (2), undertake an investigation of such conduct.

(B)(i) Upon the receipt of information offered as a complaint that is in compliance with this rule and the rules of the committee, the chairman and ranking minority member jointly may appoint members to serve as an investigative subcommittee.

(ii) The chairman and ranking minority member of the committee jointly may gather additional information concerning alleged conduct that is the basis of a complaint or of information offered as a complaint until they have established an investigative subcommittee or either of them has placed on the agenda of the committee the issue of whether to establish an investigative subcommittee.

(2) Except in the case of an investigation undertaken by the committee on its own initiative, the committee may undertake an investigation relating to the official conduct of an individual Member, Delegate, Resident Commissioner, officer, or employee of the House only—

(A) upon receipt of information offered as a complaint, in writing and under oath, from a Member, Delegate, or Resident Commissioner and transmitted to the committee by such Member, Delegate, or Resident Commissioner; or

(B) upon receipt of information offered as a complaint, in writing and under oath, from a person not a Member, Delegate, or Resident Commissioner provided that a Member, Delegate, or Resident Commissioner certifies in writing to the committee that he believes the information is submitted in good faith and warrants the review and consideration of the committee.

If a complaint is not disposed of within the applicable periods set forth in the rules of the Committee on Standards of Official Conduct, the chairman and ranking minority member shall establish jointly an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. However, if at any time during those periods either the chairman or ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee.

(2)(A)(i) No resolution, report, recommendation, or advisory opinion relating to the official conduct of a Member, officer, or employee of the House shall be made by the Committee on Standards of Official Conduct, and, except as provided by subdivision (ii), no investigation of such conduct shall be undertaken by such committee, unless approved by the affirmative vote of a majority of the members of the committee.

(ii)(I) Upon the receipt of information offered as a complaint that is in compliance with this rule and the committee rules, the chairman and ranking minority member may jointly appoint members to serve as an investigative subcommittee.

(II) The chairman and ranking minority member of the committee may jointly gather additional information concerning alleged conduct which is the basis of a complaint or of information offered as a complaint until they have established an investigative subcommittee or the chairman or ranking minority member has placed on the committee agenda the issue of whether to establish an investigative subcommittee.

(B) Except in the case of an investigation undertaken by the committee on its own initiative, the committee may undertake an investigation relating to the official conduct of an individual Member, officer, or employee of the House of Representatives only—

(i) upon receipt of information offered as a complaint, in writing and under oath, made by a Member of the House and transmitted to the committee by such Member, or

(ii) upon receipt of information offered as a complaint, in writing and under oath, from an individual not a Member of the House provided that a Member of the House certifies in writing to the committee that he or she believes the information is submitted in good faith and warrants the review and consideration of the committee.

If a complaint is not disposed of within the applicable time periods set forth in the rules of the Committee on Standards of Official Conduct, then the chairman and ranking minority member shall jointly establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. However, if, at any time during those periods, either the chairman or ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(3) The committee may not undertake an investigation of an alleged violation of a law, rule, regulation, or standard of conduct that was not in effect at the time of the alleged violation. The committee may not undertake an investigation of such an alleged violation that occurred before the third previous Congress unless the committee determines that the alleged violation is directly related to an alleged violation that occurred in a more recent Congress.	(C) No investigation shall be undertaken by the committee of any alleged violation of a law, rule, regulation, or standard of conduct not in effect at the time of the alleged violation; nor shall any investigation be undertaken by the committee of any alleged violation which occurred before the third previous Congress unless the committee determines that the alleged violation is directly related to any alleged violation which occurred in a more recent Congress.	
(4) A member of the committee shall be ineligible to participate as a member of the committee in a committee proceeding relating to the member's official conduct. Whenever a member of the committee is ineligible to act as a member of the committee under the preceding sentence, the Speaker shall designate a Member, Delegate, or Resident Commissioner from the same political party as the ineligible member to act in any proceeding of the committee relating to that conduct.	(D) A member of the committee shall be ineligible to participate, as a member of the committee, in any committee proceeding relating to his or her official conduct. In any case in which a member of the committee is ineligible to act as a member of the committee under the preceding sentence, the Speaker of the House shall designate a Member of the House from the same political party as the ineligible member of the committee to act as a member of the committee in any committee proceeding relating to the official conduct of such ineligible member.	
(5) A member of the committee may disqualify himself from participating in an investigation of the conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House upon the submission in writing and under oath of an affidavit of disqualification stating that the member cannot render an impartial and unbiased decision in the case in which the member seeks to be disqualified. If the committee approves and accepts such affidavit of disqualification, the chairman shall so notify the Speaker and request the Speaker to designate a Member, Delegate, or Resident Commissioner from the same political party as the disqualifying member to act in any proceeding of the committee relating to that case.	(E) A member of the committee may disqualify himself from participating in any investigation of the conduct of a Member, officer, or employee of the House upon the submission in writing and under oath of an affidavit of disqualification stating that he cannot render an impartial and unbiased decision in the case in which he seeks to disqualify himself. If the committee approves and accepts such affidavit of disqualification, the chairman shall so notify the Speaker and request the Speaker to designate a Member of the House from the same political party as the disqualifying member of the committee to act as a member of the committee in any committee proceeding relating to such investigation.	
(6) Information or testimony received, or the contents of a complaint or the fact of its filing, may not be publicly disclosed by any committee or staff member unless specifically authorized in each instance by a vote of the full committee.	(F) No information or testimony received, or the contents of a complaint or the fact of its filing, shall be publicly disclosed by any committee or staff member unless specifically authorized in each instance by a vote of the full committee.	
(7) The committee shall have the functions designated in titles I and V of the Ethics in Government Act of 1978, in sections 7342, 7351, and 7353 of title 5, United States Code, and in clause 11(g)(4) of rule X.	**Derived from clause 1(p), rule X:** . . . the committee shall have the functions with respect to recommendations, studies, investigations, and reports which are provided for in clause 4(e), and the functions designated in titles I and V of the Ethics in Government Act of 1978 and sections 7342, 7351, and 7353 of title 5, United States Code.	These functions of the Committee on Standards of Official Conduct were formerly contained in that committee's jurisdictional statement in rule X. A cross reference to the functions of the Committee to investigate unauthorized disclosures of intelligence information in proposed clause 11(g), rule X, is added for clarity.
(c)(1) Notwithstanding clause 2(g)(1) of rule XI, each meeting of the Committee on Standards of Official Conduct or a subcommittee thereof shall occur in executive session unless the committee or subcommittee, by an affirmative vote of a majority of its members, opens the meeting to the public.	**Derived from clause 4(e), rule X:** (3)(A) Notwithstanding clause 2(g)(1) of rule XI, each meeting of the Committee on Standards of Official Conduct or any subcommittee thereof shall occur in executive session, unless the committee or subcommittee by an affirmative vote of a majority of its members opens the meeting to the public.	

(2) Notwithstanding clause 2(g)(2) of rule XI, each hearing of an adjudicatory subcommittee or sanction hearing of the Committee on Standards of Official Conduct shall be held in open session unless the committee or subcommittee, in open session by an affirmative vote of a majority of its members, closes all or part of the remainder of the hearing on that day to the public.	(B) Notwithstanding clause 2(g)(2) of rule XI, hearings of an adjudicatory subcommittee or sanction hearings held by the Committee on Standards of Official Conduct shall be held in open session unless the subcommittee or committee, in open session by an affirmative vote of a majority of its members, closes all or part of the remainder of the hearing on that day to the public.	
(d) Before a member, officer, or employee of the Committee on Standards of Official Conduct, including members of a subcommittee of the committee selected under clause 5(a)(4) of rule X and shared staff, may have access to information that is confidential under the rules of the committee, the following oath (or affirmation) shall be executed: "I do solemnly swear (or affirm) that I will not disclose, to any person or entity outside the Committee on Standards of Official Conduct, any information received in the course of my service with the committee, except as authorized by the committee or in accordance with its rules." Copies of the executed oath shall be retained by the Clerk as part of the records of the House. This paragraph establishes a standard of conduct within the meaning of paragraph (a)(2). Breaches of confidentiality shall be investigated by the Committee on Standards of Official Conduct and appropriate action shall be taken.	(4) Before any member, officer, or employee of the Committee on Standards of Official Conduct, including members of any subcommittee of the committee selected pursuant to clause 6(a)(3) and shared staff, may have access to information that is confidential under the rules of the committee, the following oath (or affirmation) shall be executed: "I do solemnly swear (or affirm) that I will not disclose, to any person or entity outside the Committee on Standards of Official Conduct, any information received in the course of my service with the committee, except as authorized by the committee or in accordance with its rules." Copies of the executed oath shall be retained by the Clerk of the House as part of the records of the House. This subparagraph establishes a standard of conduct within the meaning of subparagraph (1)(B). Breaches of confidentiality shall be investigated by the Committee on Standards of Official Conduct and appropriate action shall be taken.	
(e)(1) If a complaint or information offered as a complaint is deemed frivolous by an affirmative vote of a majority of the members of the Committee on Standards of Official Conduct, the committee may take such action as it, by an affirmative vote of a majority of its members, considers appropriate in the circumstances. (2) Complaints filed before the One Hundred Fifth Congress may not be deemed frivolous by the Committee on Standards of Official Conduct.	(5)(A) If a complaint or information offered as a complaint is deemed frivolous by an affirmative vote of a majority of the members of the Committee on Standards of Official Conduct, the committee may take such action as it, by an affirmative vote of a majority of its members, deems appropriate in the circumstances. (B) Complaints filed before the One Hundred Fifth Congress may not be deemed frivolous by the Committee on Standards of Official Conduct.	
	Derived from clause 3, rule XI:	
Audio and visual coverage of committee proceedings	Broadcasting of Committee Hearings and Meetings	
4. (a) The purpose of this clause is to provide a means, in conformity with acceptable standards of dignity, propriety, and decorum, by which committee hearings or committee meetings that are open to the public may be covered by audio and visual means—	3. (a) It is the purpose of this clause to provide a means, in conformity with acceptable standards of dignity, propriety, and decorum, by which committee hearings, or committee meetings, which are open to the public may be covered, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage—	Proposed clause 4 adopts the phrase "audio and visual means" to include not only television broadcast, radio broadcast and still photography covered by the existing clause 3, rule XI, but also to continue its application to new technologies, such as transmittal on the internet.
(1) for the education, enlightenment, and information of the general public, on the basis of accurate and impartial news coverage, regarding the operations, procedures, and practices of the House as a legislative and representative body, and regarding the measures, public issues, and other matters before the House and its committees, the consideration thereof, and the action taken thereon; and	(1) for the education, enlightenment, and information of the general public, on the basis of accurate and impartial news coverage, regarding the operations, procedures, and practices of the House as a legislative and representative body and regarding the measures, public issues, and other matters before the House and its committees, the consideration thereof, and the action taken thereon; and	

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(2) for the development of the perspective and understanding of the general public with respect to the role and function of the House under the Constitution as an institution of the Federal Government.	(2) for the development of the perspective and understanding of the general public with respect to the role and function of the House under the Constitution of the United States as an organ of the Federal Government.	
(b) In addition, it is the intent of this clause that radio and television tapes and television film of any coverage under this clause may not be used, or made available for use, as partisan political campaign material to promote or oppose the candidacy of any person for elective public office.	(b) In addition, it is the intent of this clause that radio and television tapes and television film of any coverage under this clause shall not be used, or made available for use, as partisan political campaign material to promote or oppose the candidacy of any person for elective public office.	
(c) It is, further, the intent of this clause that the general conduct of each meeting (whether of a hearing or otherwise) covered under authority of this clause by audio or visual means, and the personal behavior of the committee members and staff, other Government officials and personnel, witnesses, television, radio, and press media personnel, and the general public at the hearing or other meeting, shall be in strict conformity with and observance of the acceptable standards of dignity, propriety, courtesy, and decorum traditionally observed by the House in its operations, and may not be such as to—	(c) It is, further, the intent of this clause that the general conduct of each meeting (whether of a hearing or otherwise) covered, under authority of this clause, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, and the personal behavior of the committee members and staff, other Government officials and personnel, witnesses, television, radio, and press media personnel, and the general public at the hearing or other meeting shall be in strict conformity with and observance of the acceptable standards of dignity, propriety, courtesy, and decorum traditionally observed by the House in its operations and shall not be such as to—	
(1) distort the objects and purposes of the hearing or other meeting or the activities of committee members in connection with that hearing or meeting or in connection with the general work of the committee or of the House; or	(1) distort the objects and purposes of the hearing or other meeting or the activities of committee members in connection with that hearing or meeting or in connection with the general work of the committee or of the House; or	
(2) cast discredit or dishonor on the House, the committee, or a Member, Delegate, or Resident Commissioner or bring the House, the committee, or a Member, Delegate, or Resident Commissioner into disrepute.	(2) cast discredit or dishonor on the House, the committee, or any Member or bring the House, the committee, or any Member into disrepute.	
(d) The coverage of committee hearings and meetings by audio and visual means shall be permitted and conducted only in strict conformity with the purposes, provisions, and requirements of this clause.	(d) The coverage of committee hearings and meetings by television broadcast, radio broadcast, or still photography shall be permitted and conducted only in strict conformity with the purposes, provisions, and requirements of this clause.	
(e) Whenever a hearing or meeting conducted by a committee or subcommittee is open to the public, those proceedings shall be open to coverage by audio and visual means. A committee or subcommittee chairman may not limit the number of television or still cameras to fewer than two representatives from each medium (except for legitimate space or safety considerations, in which case pool coverage shall be authorized).	(e) Whenever a hearing or meeting conducted by any committee or subcommittee of the House is open to the public, those proceedings shall be open to coverage by television, radio, and still photography. A committee or subcommittee chairman may not limit the number of television or still cameras to fewer than two representatives from each medium (except for legitimate space or safety considerations, in which case pool coverage shall be authorized).	
(f) Each committee shall adopt written rules to govern its implementation of this clause. Such rules shall contain provisions to the following effect:	(f) Each committee of the House shall adopt written rules to govern its implementation of this clause. Such rules shall include provisions to the following effect:	
(1) If audio or visual coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.	(1) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.	

(2) The allocation among the television media of the positions or the number of television cameras permitted by a committee or subcommittee chairman in a hearing or meeting room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.	(2) The allocation among the television media of the positions of the number of television cameras permitted by a committee or subcommittee chairman in a hearing or meeting room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.
(3) Television cameras shall be placed so as not to obstruct in any way the space between a witness giving evidence or testimony and any member of the committee or the visibility of that witness and that member to each other.	(3) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the committee or the visibility of that witness and that member to each other.
(4) Television cameras shall operate from fixed positions but may not be placed in positions that obstruct unnecessarily the coverage of the hearing or meeting by the other media.	(4) Television cameras shall operate from fixed positions but shall not be placed in positions which obstruct unnecessarily the coverage of the hearing or meeting by the other media.
(5) Equipment necessary for coverage by the television and radio media may not be installed in, or removed from, the hearing or meeting room while the committee is in session.	(5) Equipment necessary for coverage by the television and radio media shall not be installed in, or removed from, the hearing or meeting room while the committee is in session.
(6)(A) Except as provided in subdivision (B), floodlights, spotlights, strobelights, and flashguns may not be used in providing any method of coverage of the hearing or meeting. (B) The television media may install additional lighting in a hearing or meeting room, without cost to the Government, in order to raise the ambient lighting level in a hearing or meeting room to the lowest level necessary to provide adequate television coverage of a hearing or meeting at the current state of the art of television coverage.	(6) Floodlights, spotlights, strobelights, and flashguns shall not be used in providing any method of coverage of the hearing or meeting, except that the television media may install additional lighting in the hearing or meeting room, without cost to the Government, in order to raise the ambient lighting level in the hearing or meeting room to the lowest level necessary to provide adequate television coverage of the hearing or meeting at the then current state of the art of television coverage.
(7) In the allocation of the number of still photographers permitted by a committee or subcommittee chairman in a hearing or meeting room, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If requests are made by more of the media than will be permitted by a committee or subcommittee chairman for coverage of a hearing or meeting by still photography, that coverage shall be permitted on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.	(7) In the allocation of the number of still photographers permitted by a committee or subcommittee chairman in a hearing or meeting room, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If requests are made by more of the media than will be permitted by a committee or subcommittee chairman for coverage of the hearing or meeting by still photography, that coverage shall be made on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.
(8) Photographers may not position themselves between the witness table and the members of the committee at any time during the course of a hearing or meeting.	(8) Photographers shall not position themselves, at any time during the course of the hearing or meeting, between the witness table and the members of the committee.
(9) Photographers may not place themselves in positions that obstruct unnecessarily the coverage of the hearing by the other media.	(9) Photographers shall not place themselves in positions which obstruct unnecessarily the coverage of the hearing by the other media.
(10) Personnel providing coverage by the television and radio media shall be currently accredited to the Radio and Television Correspondents' Galleries.	(10) Personnel providing coverage by the television and radio media shall be then currently accredited to the Radio and Television Correspondents' Galleries.
(11) Personnel providing coverage by still photography shall be currently accredited to the Press Photographers' Gallery.	(11) Personnel providing coverage by still photography shall be then currently accredited to the Press Photographers' Gallery.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(12) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.	(12) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.	
Pay of witnesses 5. Witnesses appearing before the House or any of its committees shall be paid the same per diem rate as established, authorized, and regulated by the Committee on House Oversight for Members, Delegates, the Resident Commissioner, and employees of the House, plus actual expenses of travel to or from the place of examination. Such per diem may not be paid when a witness has been summoned at the place of examination.	**Derived from:** RULE XXXV PAY OF WITNESSES The rule for paying witnesses to appear before the House or any of its committees shall be as follows: For each day a witness shall attend, the same per diem rate as established, authorized, and regulated by the Committee on House Oversight for Members and employees of the House, and actual expenses of travel in coming to or going from the place of examination; but no per diem shall be paid when a witness has been summoned at the place of examination.	The current rule XXXV on pay of witnesses is transferred to rule XI since it is more appropriate as a committee procedural issue.
Unfinished business of the session 6. All business of the House at the end of one session shall be resumed at the commencement of the next session of the same Congress in the same manner as if no adjournment had taken place.	**Derived from:** RULE XXVI UNFINISHED BUSINESS OF THE SESSION All business before committees of the House at the end of one session shall be resumed at the commencement of the next session of the same Congress in the same manner as if no adjournment had taken place.	The proposed unfinished business of the session rule, currently rule XXVI, refers to all House business and would therefore also include committee business making it relevant to the new rule XI.
RULE XII **RECEIPT AND REFERRAL OF MEASURES AND MATTERS** ***Messages*** 1. Messages received from the Senate, or from the President, shall be entered on the Journal and published in the Congressional Record of the proceedings of that day.	**Derived from:** Rule XXXIX MESSAGES Messages received from the Senate and the President of the United States, giving notice of bills passed or approved, shall be entered in the Journal and published in the Record of that day's proceedings.	**Rules XII–XXIII: Consideration of Legislation** In proposed rule XII, various provisions relating to receipt, introduction and referral of messages, bills, resolution, petitions, memorials and executive communications are transferred and consolidated, including the ban on introduction of commemorative measures now in rule XXII. Proposed clause 1 is clarified to reflect that the entirety of messages from the President and the Senate are entered on the Journal and not merely notice of bills passed. Current rule XII relating to the Resident Commissioner and Delegates is transferred to clause 3 of rule III.
Referral 2. (a) The Speaker shall refer each bill, resolution, or other matter that relates to a subject listed under a standing committee named in clause 1 of rule X in accordance with the provisions of this clause. (b) The Speaker shall refer matters under paragraph (a) in such manner as to ensure to the maximum extent feasible that each committee that has jurisdiction under clause 1 of rule X over the subject matter of a provision thereof may consider such provision and report to the House thereon. Precedents, rulings, or procedures in effect before the Ninety-Fourth Congress shall be applied to referrals under this clause only to the extent that they will contribute to the achievement of the objectives of this clause.	**Derived from clause 5, rule X:** Referral of Bills, Resolutions, and Other Matters to Committees 5. (a) Each bill, resolution, or other matter which relates to a subject listed under any standing committee named in clause 1 shall be referred by the Speaker in accordance with the provisions of this clause. (b) Every referral of any matter under paragraph (a) shall be made in such manner as to assure to the maximum extent feasible that each committee which has jurisdiction under clause 1 over the subject matter of any provision thereof will have responsibility for considering such provision and reporting to the House with respect thereto. Any precedents, rulings, and procedures in effect prior to the Ninety-Fourth Congress shall be applied with respect to referrals under this clause only to the extent that they will contribute to the achievement of the objectives of this clause.	

(c) In carrying out paragraphs (a) and (b) with respect to the referral of a matter, the Speaker—

(1) shall designate a committee of primary jurisdiction;

(2) may refer the matter to one or more additional committees for consideration in sequence, either initially or after the matter has been reported by the committee of primary jurisdiction;

(3) may refer portions of the matter reflecting different subjects and jurisdictions to one or more additional committees;

(4) may refer the matter to a special, ad hoc committee appointed by the Speaker with the approval of the House, and including members of the committees of jurisdiction, for the specific purpose of considering that matter and reporting to the House thereon;

(5) may subject a referral to appropriate time limitations; and

(6) may make such other provision as may be considered appropriate.

(d) A bill for the payment or adjudication of a private claim against the Government may not be referred to a committee other than the Committee on International Relations or the Committee on the Judiciary, except by unanimous consent.

Petitions, memorials, and private bills

3. If a Member, Delegate, or Resident Commissioner has a petition, memorial, or private bill to present, he shall endorse his name, deliver it to the Clerk, and may specify the reference or disposition to be made thereof. Such petition, memorial, or private bill (except when judged by the Speaker to be obscene or insulting) shall be entered on the Journal with the name of the Member, Delegate, or Resident Commissioner presenting it and shall be printed in the Congressional Record.

4. A private bill or private resolution (including an omnibus claim or pension bill), or amendment thereto, may not be received or considered in the House if it authorizes or directs—

(a) the payment of money for property damages, for personal injuries or death for which suit may be instituted under the Tort Claims Procedure provided in title 28, United States Code, or for a pension (other than to carry out a provision of law or treaty stipulation);

(b) the construction of a bridge across a navigable stream; or

(c) the correction of a military or naval record.

Prohibition on commemorations

5. (a) A bill or resolution, or an amendment thereto, may not be introduced or considered in the House if it establishes or expresses a commemoration.

(c) In carrying out paragraphs (a) and (b) with respect to any matter, the Speaker shall designate a committee of primary jurisdiction; but also may refer the matter to one or more additional committees, for consideration in sequence (subject to appropriate time limitations), either on its initial referral or after the matter has been reported by the committee of primary jurisdiction; or may refer portions of the matter to one or more additional committees (reflecting different subjects and jurisdictions) for the consideration only of designated portions; or may refer the matter to a special ad hoc committee appointed by the Speaker with the approval of the House (with members from the committees having jurisdiction) for the specific purpose of considering that matter and reporting to the House thereon; or may make such other provisions as may be considered appropriate.

Derived from clause 4, rule XXI: 4. No bill for the payment or adjudication of any private claim against the Government shall be referred, except by unanimous consent, to any other than the following committees, namely: To the Committee on International Relations or to the Committee on the Judiciary.

Derived from: RULE XXII

OF PETITIONS, MEMORIALS, BILLS, AND RESOLUTIONS

1. Members having petitions or memorials or bills of a private nature to present may deliver them to the Clerk, endorsing their names and the reference or disposition to be made thereof; and said petitions and memorials and bills of a private nature, except such as, in the judgment of the Speaker, are of an obscene or insulting character, shall be entered on the Journal, with the names of the Members presenting them, and the Clerk shall furnish a transcript of such entry to the official reporters of debates for publication in the Record.

2. (a) No private bill or resolution (including so-called omnibus claims or pension bills), and no amendment to any bill or resolution, authorizing or directing (1) the payment of money for property damages, for personal injuries or death for which suit may be instituted under the Tort Claims Procedure as provided in title 28, United States Code, or for a pension (other than to carry out a provision of law or treaty stipulation); (2) the construction of a bridge across a navigable stream; or (3) the correction of a military or naval record, shall be received or considered in the House.

(b)(1) No bill or resolution, and no amendment to any bill or resolution, establishing or expressing any commemoration may be introduced or considered in the House.

Since the advent in 1974 of referrals to multiple committees, it has been the case that a committee receiving an initial referral of a bill that has also been referred to other committees only receives those portions of the bill that fall within its jurisdiction. Indeed, now the printed version of a multiple-referred bill states that the referral is "in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned." The recodification does not alter this situation. Also retained is the Speaker's broad authority under the precedents to impose time limitations on committees, including a limitation on the duration of the initial referral.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(b) In this clause the term "commemoration" means a remembrance, celebration, or recognition for any purpose through the designation of a specified period of time.	(2) For purposes of this paragraph, the term "commemoration" means any remembrance, celebration, or recognition for any purpose through the designation of a specified period of time.	
Excluded matters 6. A petition, memorial, bill, or resolution excluded under this rule shall be returned to the Member, Delegate, or Resident Commissioner from whom it was received. A petition or private bill that has been inappropriately referred may, by direction of the committee having possession of it, be properly referred in the manner originally presented. An erroneous reference of a petition or private bill under this clause does not confer jurisdiction on a committee to consider or report it.	3. Any petition or memorial or bill or resolution excluded under this rule shall be returned to the Member from whom it was received; and petitions and private bills which have been inappropriately referred may, by the direction of the committee having possession of the same, be properly referred in the manner originally presented; and an erroneous reference of a petition or private bill under this clause shall not confer jurisdiction upon the committee to consider or report the same.	
Sponsorship 7. (a) All other bills, memorials, petitions, and resolutions, endorsed with the names of Members, Delegates, or the Resident Commissioner introducing them, may be delivered to the Speaker to be referred. The titles and references of all bills, memorials, petitions, resolutions, and other documents referred under this rule shall be entered on the Journal and printed in the Congressional Record. An erroneous reference may be corrected by the House in accordance with rule X on any day immediately after the Pledge of Allegiance to the Flag by unanimous consent or motion. Such a motion shall be privileged if offered by direction of a committee to which the bill has been erroneously referred or by direction of a committee claiming jurisdiction and shall be decided without debate.	4. (a) All other bills, memorials, and resolutions may, in like manner, be delivered, endorsed with the names of Members introducing them, to the Speaker, to be by him referred, and the titles and references thereof and of all bills, resolutions, and documents referred under the rules shall be entered on the Journal and printed in the Record of the next day, and correction in case of error of reference may be made by the House, without debate, in accordance with rule X, on any day immediately after the reading of the Journal, by unanimous consent, or on motion of a committee claiming jurisdiction, or on the report of the committee to which the bill has been erroneously referred. Two or more Members may introduce jointly any bill, or resolution to which this paragraph applies.	A motion to correct the erroneous reference of a bill is privileged if offered by the direction of the committee receiving or claiming the bill, and is not debatable under the precedents. Due to changes in the order of business rule (proposed rule XIV), it is now in order immediately after the Pledge of Allegiance rather than after the Journal. The authority of two or more members to introduce jointly any public bill (last sentence of existing clause 4(a)) is the source for the first sentence in proposed clause 4(b)(1).
(b)(1) The primary sponsor of a public bill or public resolution may name cosponsors. The name of a cosponsor added after the initial printing of a bill or resolution shall appear in the next printing of the bill or resolution on the written request of the primary sponsor. Such a request may be submitted to the Speaker at any time until the last committee authorized to consider and report the bill or resolution reports it to the House or is discharged from its consideration.	(b)(1) The name of any Member shall be added as a sponsor of any bill or resolution to which paragraph (a) applies, and shall appear as a sponsor in the next printing of that bill or resolution: Provided, That a request signed by such Member is submitted by the first sponsor to the Speaker (in the same manner as provided in paragraph (a)) no later than the day on which the last committee authorized to consider and report such bill or resolution reports it to the House.	The current co-sponsorship rule in clause 4(b), rule XXII, could be interpreted to permit only the Member erroneously added as a co-sponsor to seek unanimous consent to remove his name. The proposed rule would allow either that Member or the first sponsor to request unanimous consent, reflecting current practice. The cut-off for adding or deleting co-sponsors is clarified (when a bill is discharged from committee and is under consideration in the House or in the Committee of the Whole). For example, co-sponsors could be added to an unreported bill considered under suspension of the rules until the time the motion is agreed to.
(2) The name of a cosponsor of a bill or resolution may be deleted by unanimous consent. The Speaker may entertain such a request only by the Member, Delegate, or Resident Commissioner whose name is to be deleted or by the primary sponsor of the bill or resolution, and only until the last committee authorized to consider and report the bill or resolution reports it to the House or is discharged from its consideration. The Speaker may not entertain a request to delete the name of the primary sponsor of a bill or resolution. A deletion shall be indicated by date in the next printing of the bill or resolution.	(2) The name of any Member listed as a sponsor of any such bill or resolution may be deleted by unanimous consent, but only at the request of such Member, and such deletion shall be indicated in the next printing of the bill or resolution (together with the date on which such name was deleted). Such consent may be granted no later than the day on which the last committee authorized to consider and report such bill or resolution reports it to the House: Provided, however, That the Speaker shall not entertain a request to delete the name of the first sponsor of any bill or resolution.	

(3) The addition or deletion of the name of a cosponsor of a bill or resolution shall be entered on the Journal and printed in the Congressional Record of that day.	(3) The addition of the name of any Member, or the deletion of any name by unanimous consent, of a sponsor of any such bill or resolution shall be entered on the Journal and printed in the Record of that day.	
(4) A bill or resolution shall be reprinted on the written request of the primary sponsor. Such a request may be submitted to the Speaker only when 20 or more cosponsors have been added since the last printing of the bill or resolution.	(4) Any such bill or resolution shall be reprinted (A) if the Member whose name is listed as the first sponsor submits to the Speaker a written request that it be reprinted, and (B) if twenty or more Members have been added as sponsors of that bill or resolution since it was last printed.	
(5) When a bill or resolution is introduced "by request," those words shall be entered on the Journal and printed in the Congressional Record.	**Derived from clause 6, rule XXII:** 6. When a bill, resolution, or memorial is introduced "by request", these words shall be entered upon the Journal and printed in the Record.	
Executive communications 8. Estimates of appropriations and all other communications from the executive departments intended for the consideration of any committees of the House shall be addressed to the Speaker for referral as provided in clause 2 of rule XIV.	**Derived from:** RULE XL EXECUTIVE COMMUNICATIONS Estimates of appropriations and all other communications from the executive departments, intended for the consideration of any committees of the House, shall be addressed to the Speaker, and by him referred as provided by clause 2 of rule XXIV.	
RULE XIII **CALENDARS AND COMMITTEE REPORTS**	**Derived from:** RULE XIII CALENDARS AND REPORTS OF COMMITTEES	
Calendars 1. (a) All business reported by committees shall be referred to one of the following three calendars: (1) A Calendar of the Committee of the Whole House on the state of the Union, to which shall be referred public bills and public resolutions raising revenue, involving a tax or charge on the people, directly or indirectly making appropriations of money or property or requiring such appropriations to be made, authorizing payments out of appropriations already made, releasing any liability to the United States for money or property, or referring a claim to the Court of Claims. (2) A House Calendar, to which shall be referred all public bills and public resolutions not requiring referral to the Calendar of the Committee of the Whole House on the state of the Union. (3) A Private Calendar as provided in clause 5 of rule XV, to which shall be referred all private bills and private resolutions.	1. There shall be three calendars to which all business reported from committees shall be referred, viz: First. A Calendar of the Committee of the Whole House on the state of the Union, to which shall be referred bills raising revenue, general appropriation bills, and bills of a public character directly or indirectly appropriating money or property. Second. A House Calendar, to which shall be referred all bills of a public character not raising revenue nor directly or indirectly appropriating money or property. Third. A Calendar of the Committee of the Whole House, to which shall be referred all bills of a private character.	In proposed clause 1, rule XIII, the definition of Union Calendar bills has been modified to conform with existing provisions in clause 3, rule XXIII and clause 1, rule XIII, defining propositions which must be considered in Committee of the Whole. Note also cross references to rule XXV for the Corrections Calendar and the Calendar of Motions to Discharge Committees since both are more properly order of business on certain days issues than just calendar ones. Proposed rule XIII has seven clauses and headings all involving the committee reporting process as follows: Clause 1, "Calendars"—includes references to all calendars, with cross references to the Private Calendar, Corrections Calendar, and Calendar of Motions to Discharge Committees, which are being transferred into rule XV. Clause 2, "Filing and printing of reports"—including matter transferred from rule XI regarding the responsibility of the chairman and the committee to file a report and the provisions of current clause 2(l)(5) of rule XI regarding accompanying views and automatic filing with the Clerk within two days.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
		Clause 3, "Content of reports"—including matter transferred from clause 2(l) of rule XI regarding printing as a single volume, rollcall votes in committee, oversight and CBO estimates, constitutional authority statements, and committee cost estimates (from current clause 7). Because violations of reporting requirements prevent consideration of the measure, subject to technical correction by filing a supplemental report under clause 3(a)(2), there is no need to state that sanction selectively (as in current clause 7 on committee cost estimates), "Ramseyer" requirements to show changes in existing law, changes in application of existing law in general appropriation bills (transferred from clause 3 of rule XXI), rescission and transfer headings in general appropriation bills and separate sections in reports (transferred from clause 1 of rule X), changes in standing rules "Ramseyered" when reported by the Rules Committee (transferred from clause 4(d) of rule XI), and "dynamic estimates" of tax legislation (transferred from clause 5(e) of current rule XIII). Clause 4, "Availability of reports"—transferred from current clause 2(l)(6) of rule XI and from rule XXI, on appropriations reports and hearings. Clause 5, "Privileged Reports, Generally"—transferred from clause 4(a) of rule XI. Clause 6, "Privileged Reports by the Committee on Rules"—transferred from clause 4(b) of rule XI and expanded to include current clause 2(.1)(7) of rule XI regarding a privileged motion to consider a bill made in order after seven days of House adoption of a special order. Clause 7 transferring provisions on resolutions of inquiry from clause 5 of rule XXII.
(b) There is established a Corrections Calendar as provided in clause 6 of rule XV. (c) There is established a Calendar of Motions to Discharge Committees as provided in clause 2 of rule XV.		
Filing and printing of reports 2. (a)(1) Except as provided in subparagraph (2), all reports of committees (other than those filed from the floor as privileged) shall be delivered to the Clerk for printing and reference to the proper calendar under the direction of the Speaker in accordance with clause 1. The title or subject of each report shall be entered on the Journal and printed in the Congressional Record. (2) A bill or resolution reported adversely shall be laid on the table unless a committee to which the bill or resolution was referred requests at the time of the report its referral to an appropriate calendar under clause 1 or unless, within three days thereafter, a Member, Delegate, or Resident Commissioner makes such a request.	2. All reports of committees, except as provided in clause 4(a) of rule XI, together with the views of the minority, shall be delivered to the Clerk for printing and reference to the proper calendar under the direction of the Speaker, in accordance with the foregoing clause, and the titles or subject thereof shall be entered on the Journal and printed in the Record: Provided, That bills reported adversely shall be laid on the table, unless the committee reporting a bill, at the time, or any Member within three days thereafter, shall request its reference to the calendar, when it shall be referred, as provided in clause 1 of this rule. **Derived from clause 2(l)(1)(A), rule XI:** Committee procedures for reporting bills and resolutions	As indicated in proposed paragraph (c), all timely submitted supplemental, minority, or additional views are part of, and must be included in, the committee report. It is therefore unnecessary to include the reference to minority views in paragraph (a).

(b)(1) It shall be the duty of the chairman of each committee to report or cause to be reported promptly to the House a measure or matter approved by the committee and to take or cause to be taken steps necessary to bring the measure or matter to a vote. (2) In any event, the report of a committee on a measure that has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which a written request for the filing of the report, signed by a majority of the members of the committee, has been filed with the clerk of the committee. The clerk of the committee shall immediately notify the chairman of the filing of such a request. This subparagraph does not apply to a report of the Committee on Rules with respect to a rule, joint rule, or order of business of the House, or to the reporting of a resolution of inquiry addressed to the head of an executive department.	(l)(1)(A) It shall be the duty of the chairman of each committee to report or cause to be reported promptly to the House any measure approved by the committee and to take or cause to be taken necessary steps to bring a matter to a vote. (B) In any event, the report of any committee on a measure which has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the committee a written request, signed by a majority of the members of the committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the committee shall transmit immediately to the chairman of the committee notice of the filing of that request. This subdivision does not apply to a report of the Committee on Rules with respect to the rules, joint rules, or order of business of the House or to the reporting of a resolution of inquiry addressed to the head of an executive department.	Proposed clause 2(b)(1) and (2), rule XIII transferred from existing clause 2(l)(1)(A) and (B), rule XI.
(c) All supplemental, minority, or additional views filed under clause 2(l) of rule XI by one or more members of a committee shall be included in, and shall be a part of, the report filed by the committee with respect to a measure or matter. When time guaranteed by clause 2(l) of rule XI has expired (or, if sooner, when all separate views have been received), the committee may arrange to file its report with the Clerk not later than one hour after the expiration of such time. This clause and provisions of clause 2(l) of rule XI do not preclude the immediate filing or printing of a committee report in the absence of a timely request for the opportunity to file supplemental, minority, or additional views as provided in clause 2(l) of rule XI.	**Derived from clause 2(l)(5), rule XI:** All such views so filed by one or more members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that measure or matter. When time guaranteed by this subparagraph has expired (or, if sooner, when all separate views have been received), the committee may arrange to file its report with the Clerk not later than one hour after the expiration of such time . . . This subparagraph does not preclude— (i) the immediate filing or printing of a committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by this subparagraph; . . .	The procedure for obtaining the two days to file additional, minority or supplemental views has been transferred to new clause 2(l), rule XI as a committee procedure. A cross reference is included in proposed clause 2(c), rule XIII under filing and printing of committee reports. The provisions of existing clause 2(l)(5) on printing of committee reports in a single volume and filing of supplemental reports have been transferred to proposed clause 3(a), rule XIII.
Content of reports 3. (a)(1) Except as provided in subparagraph (2), the report of a committee on a measure or matter shall be printed in a single volume that— (A) shall include all supplemental, minority, or additional views that have been submitted by the time of the filing of the report; and (B) shall bear on its cover a recital that any such supplemental, minority, or additional views (and any material submitted under paragraph (c)(3) or (4)) are included as part of the report.	**Derived from clause 2(l)(5), rule XI:** The report of the committee upon that measure or matter shall be printed in a single volume which— (A) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and (B) shall bear upon its cover a recital that any such supplemental, minority, or additional views (and any material submitted under subdivisions (C) and (D) of subparagraph (3)) are included as part of the report.	The proposed clause 3 consolidates in one clause the prescribed contents for committee reports now contained in rules X, XI, XIII and XXI.
(2) A committee may file a supplemental report for the correction of a technical error in its previous report on a measure or matter.	This subparagraph does not preclude— (ii) the filing by any such committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by that committee upon that measure or matter.	A committee may file a supplemental report to correct a technical error only in a previous report filed by that committee on that matter.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(b) With respect to each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report. The preceding sentence does not apply to votes taken in executive session by the Committee on Standards of Official Conduct.	**Derived from clause 2(l)(2)(B), rule XI:** (B) With respect to each rollcall vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in the committee report on the measure or matter. The preceding sentence shall not apply to votes taken in executive session by the Committee on Standards of Official Conduct.	
(c) The report of a committee on a measure that has been approved by the committee shall include, separately set out and clearly identified, the following: (1) Oversight findings and recommendations under clause 2(b)(1) of rule X. (2) The statement required by section 308(a) of the Congressional Budget Act of 1974, except that an estimate of new budget authority shall include, when practicable, a comparison of the total estimated funding level for the relevant programs to the appropriate levels under current law. (3) An estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 if timely submitted to the committee before the filing of the report. (4) A summary of oversight findings and recommendations by the Committee on Government Reform and Oversight under clause 4(c)(2) of rule X if such findings and recommendations have been submitted to the reporting committee in time to allow it to consider such findings and recommendations during its deliberations on the measure.	**Derived from clause 2(l)(3), rule XI:** (3) The report of any committee on a measure which has been approved by the committee shall include (A) the oversight findings and recommendations required pursuant to clause 2(b)(1) of rule X separately set out and clearly identified; (B) the statement required by section 308(a)(1) of the Congressional Budget Act of 1974, separately set out and clearly identified, if the measure provides new budget authority (other than continuing appropriations), new entitlement authority as defined in section 3(9) of such Act, new credit authority, or an increase or decrease in revenues or tax expenditures, except that the estimates with respect to new budget authority shall include, when practicable, a comparison of the total estimated funding level for the relevant program (or programs) to the appropriate levels under current law; (C) the estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of such Act, separately set out and clearly identified, whenever the Director (if timely submitted prior to the filing of the report) has submitted such estimate and comparison to the committee; and (D) a summary of the oversight findings and recommendations made by the Committee on Government Reform and Oversight under clause 4(c)(2) of rule X separately set out and clearly identified whenever such findings and recommendations have been submitted to the legislative committee in a timely fashion to allow an opportunity to consider such findings and recommendations during the committee's deliberations on the measure.	Section 308(a)(1) of the Congressional Budget Act no longer requires a committee report statement concerning new entitlement authority.
(d) Each report of a committee on a public bill or public joint resolution shall contain the following: (1) A statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.	**Derived from clause 2(l)(4), rule XI:** (4) Each report of a committee on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution.	
(2)(A) An estimate by the committee of the costs that would be incurred in carrying out the bill or joint resolution in the fiscal year in which it is reported and in each of the five fiscal years following that fiscal year (or for the authorized duration of any program authorized by the bill or joint resolution if less than five years);	**Derived from clause 7, rule XIII:** 7. (a) The report accompanying each bill or joint resolution of a public character reported by any committee shall contain— (1) an estimate, made by such committee, of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported, and in each of the five fiscal years following such fiscal year (or for the authorized duration of any program authorized by such bill or joint resolution, if less than five years);	

(B) A comparison of the estimate of costs described in subdivision (A) made by the committee with any estimate of such costs made by a Government agency and submitted to such committee; and (C) When practicable, a comparison of the total estimated funding level for the relevant programs with the appropriate levels under current law.	(2) a comparison of the estimate of costs described in subparagraph (1) of this paragraph made by such committee with any estimate of such costs made by any Government agency and submitted to such committee; and (3) when practicable, a comparison of the total estimated funding level for the relevant program (or programs) with the appropriate levels under current law. **Omitted:** (b) It shall not be in order to consider any such bill or joint resolution in the House if the report of the committee which reported that bill or joint resolution does not comply with paragraph (a) of this clause.	Proposed clause 3(d)(2), rule XIII on committee cost estimates is the same as existing clause 7(a), rule XIII, but deletes clause 7(b) of the existing rule which prohibits consideration of a reported bill or joint resolution unless the committee cost estimate is in the report, since all reporting requirements if not complied with render the bill subject to a point of order against its consideration. To include such a prohibition only in this instance and not where other reporting requirements are not met is to give the impression that such other failures do not give rise to a point of order against consideration. This merely conforms to existing precedents that points of order may be raised against consideration of a bill where the report fails to comply with any of the reporting requirements now consolidated in rule XIII, subject to filing of supplemental reports to correct technical errors in clause 3(a)(2) of this rule.
(3)(A) In subparagraph (2) the term "Government agency" includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or the government of the District of Columbia. (B) Subparagraph (2) does not apply to the Committee on Appropriations, the Committee on House Oversight, the Committee on Rules, or the Committee on Standards of Official Conduct, and does not apply when a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been included in the report under paragraph (c)(3).	(c) For the purposes of subparagraph (2) of paragraph (a) of this clause, a Government agency includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or the government of the District of Columbia. (d) The preceding provisions of this clause do not apply to the Committee on Appropriations, the Committee on House Oversight, the Committee on Rules, and the Committee on Standards of Official Conduct, and do not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and included in the report pursuant to clause 2(1)(3)(C) of rule XI.	
(e)(1) Whenever a committee reports a bill or joint resolution proposing to repeal or amend a statute or part thereof, it shall include in its report or in an accompanying document— (A) the text of a statute or part thereof that is proposed to be repealed; and (B) a comparative print of any part of the bill or joint resolution proposing to amend the statute and of the statute or part thereof proposed to be amended, showing by appropriate typographical devices the omissions and insertions proposed. (2) If a committee reports a bill or joint resolution proposing to repeal or amend a statute or part thereof with a recommendation that the bill or joint resolution be amended, the comparative print required by subparagraph (1) shall reflect the changes in existing law proposed to be made by the bill or joint resolution as proposed to be amended.	**Derived from clause 3, rule XIII:** 3. Whenever a committee reports a bill or a joint resolution repealing or amending any statute or part thereof it shall include in its report or in an accompanying document— (1) The text of the statute or part thereof which is proposed to be repealed; and (2) A comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended, showing by stricken-through type and italic, parallel columns, or other appropriate typographical devices the omissions and insertions proposed to be made: Provided, however, That if a committee reports such a bill or joint resolution with amendments or an amendment in the nature of a substitute for the entire bill, such report shall include a comparative print showing any changes in existing law proposed by the amendments or substitute instead of as in the bill as introduced.	

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(f)(1) A report of the Committee on Appropriations on a general appropriation bill shall include— (A) a concise statement describing the effect of any provision of the accompanying bill that directly or indirectly changes the application of existing law; and (B) a list of all appropriations contained in the bill for expenditures not previously authorized by law (except classified intelligence or national security programs, projects, or activities).	**Derived from clause 3, rule XXI:** 3. A report from the Committee on Appropriations accompanying any general appropriation bill making an appropriation for any purpose shall contain a concise statement describing fully the effect of any provision of the accompanying bill which directly or indirectly changes the application of existing law, and shall contain a list of all appropriations contained in the bill for any expenditure not previously authorized by law (except for classified intelligence or national security programs, projects, or activities).	Proposed clause 3(f)(1), rule XIII regarding changes in existing law contained in general appropriation bills is transferred from existing clause 3, rule XXI, to consolidate reporting requirements for the Appropriations Committee. Proposed clause 3(f)(2) is transferred from existing clause 1(b), rule X as part of that consolidation.
(2) Whenever the Committee on Appropriations reports a bill or joint resolution including matter specified in clause 1(b)(2) or (3) of rule X, it shall include— (A) in the bill or joint resolution, separate headings for "Rescissions" and "Transfers of Unexpended Balances"; and (B) in the report of the committee, a separate section listing such rescissions and transfers.	**Derived from clause 1(b), rule X:** The committee shall include separate headings for "Rescissions" and "Transfers of Unexpended Balances" in any bill or resolution as reported from the committee under its jurisdiction specified in subparagraph (2) or (3), with all proposed rescissions and proposed transfers listed therein; and shall include a separate section with respect to such rescissions or transfers in the accompanying committee report.	
(g) Whenever the Committee on Rules reports a resolution proposing to repeal or amend a standing rule of the House, it shall include in its report or in an accompanying document—	**Derived from clause 4(d), rule XI:** (d) Whenever the Committee on Rules reports a resolution repealing or amending any of the Rules of the House of Representatives or part thereof it shall include in its report or in an accompanying document—	The existing clause 4(d), rule XI, the "Ramseyer" requirement showing changes in standing rules when reported by Rules Committee is transferred to proposed clause 3(g), rule XIII as part of the consolidation of committee reporting requirements.
(1) the text of any rule or part thereof that is proposed to be repealed; and	(1) the text of any part of the Rules of the House of Representatives which is proposed to be repealed; and	
(2) a comparative print of any part of the resolution proposing to amend the rule and of the rule or part thereof proposed to be amended, showing by appropriate typographical devices the omissions and insertions proposed.	(2) a comparative print of any part of the resolution making such an amendment and any part of the Rules of the House of Representatives to be amended, showing by an appropriate typographical device the omissions and insertions proposed to be made.	
(h)(1) It shall not be in order to consider a bill or joint resolution reported by the Committee on Ways and Means that proposes to amend the Internal Revenue Code of 1986 unless— (A) the report includes a tax complexity analysis prepared by the Joint Committee on Internal Revenue Taxation in accordance with section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998; or (B) the chairman of the Committee on Ways and Means causes such a tax complexity analysis to be printed in the Congressional Record before consideration of the bill or joint resolution.	**Derived from clause 2(l) of rule XI:** (8) The report of the Committee on Ways and Means on any bill or joint resolution containing any provision amending the Internal Revenue Code of 1986 shall include a Tax Complexity Analysis prepared by the Joint Committee on Taxation in accordance with section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 unless the Committee on Ways and Means causes to have such Analysis printed in the Congressional Record prior to the consideration of the bill or joint resolution.	Proposed clause 3(h), rule XIII was added to the rules by the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206), to be effective after January 1, 1999.

(2) A report from the Committee on Ways and Means on a bill or joint resolution designated by the Majority Leader, after consultation with the Minority Leader, as major tax legislation may include a dynamic estimate of the changes in Federal revenues expected to result from enactment of the legislation. The Joint Committee on Internal Revenue Taxation shall render a dynamic estimate of such legislation only in response to a timely request from the chairman of the Committee on Ways and Means, after consultation with the ranking minority member. A dynamic estimate under this paragraph may be used only for informational purposes.

(3) In this paragraph the term "dynamic estimate" means a projection based in any part on assumptions concerning probable effects of macroeconomic feedback. A dynamic estimate shall include a statement identifying all such assumptions.

Availability of reports

4. (a)(1) Except as specified in subparagraph (2), it shall not be in order to consider in the House a measure or matter reported by a committee until the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) on which each report of a committee on that measure or matter has been available to Members, Delegates, and the Resident Commissioner.

Derived from clause 7(e), rule XIII: (e)(1) A report from the Committee on Ways and Means on a bill or joint resolution designated by the Majority Leader (after consultation with the Minority Leader) as major tax legislation may include a dynamic estimate of the changes in Federal revenues expected to result from enactment of the legislation. The Joint Committee on Taxation shall render a dynamic estimate of such legislation only in response to a timely request from the chairman of the Committee on Ways and Means (after consultation with the ranking minority member of the committee). A dynamic estimate pursuant to this paragraph may be used only for informational purposes.

(2) In this paragraph, "dynamic estimate" means a projection based in any part on assumptions concerning probable effects of macroeconomic feedback. A dynamic estimate shall include a statement identifying all such assumptions.

Derived from clause 2(l)(6), rule XI: (6) A measure or matter reported by any committee (except the Committee on Rules in the case of a resolution making in order the consideration of a bill, resolution, or other order of business), shall not be considered in the House until the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) on which the report of that committee upon that measure or matter has been available to the Members of the House . . .

A dynamic revenue estimate of a Ways and Means reported bill or joint resolution, now authorized in rule XIII, is transferred as a matter included in a committee report.

The proposed clause 4, rule XIII on availability of committee reports is transferred from existing clause 2(l)(6), rule XI with some simplification to eliminate duplicative statements of three-day requirements. The Appropriations Committee three-day rule currently contained in clause 7, rule XXI is redundant and the availability requirements for that Committee's reports are merged into the general three-day rule in this clause, with the added requirement that printed hearings on general appropriation bills also be available for three days. The exception from the three-day requirement for funding resolutions reported from House Oversight reflects the separate one-day availability rule there. The exception for privileged resolutions reported from other committees is refined to refer only to reported resolutions raising questions of the privileges of the House, e.g., contempt resolutions, impeachment resolutions and matters incidental thereto, and disciplinary resolutions reported by the Standards Committee which are not presently covered by the three-day rule. This proposed rule reflects present interpretation that privileged resolutions of inquiry, for example, are covered by the three-day rule, and that only questions of privilege which might need to be immediately considered are exempt from the three-day rule.

The portion of existing clause 2(l)(6), rule XI permitting same day consideration of resolutions reported from the Committee on Rules that only waive availability requirements for committee reports is transferred to proposed clause 6(a). The portion of existing clause 2(l)(6) requiring reasonable efforts by reporting committees to have printed hearings available prior to consideration of the reported measure is transferred to proposed clause 4(b).

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(2) Subparagraph (1) does not apply to— (A) a resolution providing a rule, joint rule, or order of business reported by the Committee on Rules considered under clause 6; (B) a resolution providing amounts from the applicable accounts described in clause 1(h)(1) of rule X reported by the Committee on House Oversight considered under clause 6 of rule X; (C) a resolution presenting a question of the privileges of the House reported by any committee;	**Derived from clause 2(l)(6), rule XI:** . . . This subparagraph shall not apply to—	The exception from the general three-day availability rule for resolutions reported from the Committee on Rules is derived from existing clause 4(b), rule XI (proposed clause 6, rule XIII). The exception for resolutions providing amounts from applicable accounts reported from the Committee on House Oversight is derived from clause 5, rule XI (proposed clause 6, rule X).
(D) a measure for the declaration of war, or the declaration of a national emergency, by Congress; and (E) a measure providing for the disapproval of a decision, determination, or action by a Government agency that would become, or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress. In this subdivision the term "Government agency" includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or of the government of the District of Columbia.	(A) any measure for the declaration of war, or the declaration of a national emergency, by the Congress; or (B) any decision, determination, or action by a Government agency which would become or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress. For the purposes of the preceding sentence, a Government agency includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or the government of the District of Columbia.	
(b) A committee that reports a measure or matter shall make every reasonable effort to have its hearings thereon (if any) printed and available for distribution to Members, Delegates, and the Resident Commissioner before the consideration of the measure or matter in the House.	**Derived from clause 2(l)(6), rule XI:** . . . If hearings have been held on any such measure or matter so reported, the committee reporting the measure or matter shall make every reasonable effort to have such hearings printed and available for distribution to the Members of the House prior to the consideration of such measure or matter in the House.	
(c) A general appropriation bill reported by the Committee on Appropriations may not be considered in the House until the third calendar day (excluding Saturdays, Sundays, and legal holidays except when the House is in session on such a day) on which printed hearings of the Committee on Appropriations thereon have been available to Members, Delegates, and the Resident Commissioner.	**Derived from clause 7, rule XXI:** 7. No general appropriation bill shall be considered in the House until printed committee hearings and a committee report thereon have been available for the Members of the House for at least three calendar days (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day).	The portion of existing clause 7, rule XXI requiring three-day availability for committee reports on general appropriation bills is subsumed by the general three-day availability rule in proposed clause 4(a)(1). The portion of that existing rule requiring three-day availability for printed committee hearings on general appropriation bills remains as proposed clause 4(c).
	Derived from clause 4, rule XI:	

Privileged reports, generally

5. (a) The following committees shall have leave to report at any time on the following matters, respectively:

(1) The Committee on Appropriations, on general appropriation bills and on joint resolutions continuing appropriations for a fiscal year after September 15 in the preceding fiscal year.

(2) The Committee on the Budget, on the matters required to be reported by such committee under titles III and IV of the Congressional Budget Act of 1974.

(3) The Committee on House Oversight, on enrolled bills, on contested elections, on matters referred to it concerning printing for the use of the House or the two Houses, on expenditure of the applicable accounts of the House described in clause 1(h)(1) of rule X, and on matters relating to preservation and availability of noncurrent records of the House under rule VII.

(4) The Committee on Rules, on rules, joint rules, and the order of business.

(5) The Committee on Standards of Official Conduct, on resolutions recommending action by the House with respect to a Member, Delegate, Resident Commissioner, officer, or employee of the House as a result of an investigation by the committee relating to the official conduct of such Member, Delegate, Resident Commissioner, officer, or employee.

(b) A report filed from the floor as privileged under paragraph (a) may be called up as a privileged question by direction of the reporting committee, subject to any requirement concerning its availability to Members, Delegates, and the Resident Commissioner under clause 4 or concerning the timing of its consideration under clause 6.

Privileged Reports and Amendments

4. (a) The following committees shall have leave to report at any time on the matters herein stated, namely: The Committee on Appropriations-on general appropriation bills and on joint resolutions continuing appropriations for a fiscal year if reported after September 15 preceding the beginning of such fiscal year; the Committee on the Budget—on the matters required to be reported by such committee under Titles III and IV of the Congressional Budget Act of 1974; the Committee on House Oversight—on enrolled bills, contested elections, and all matters referred to it of printing for the use of the House or the two Houses, and on all matters of expenditure of the applicable accounts of the House described in clause 1(h)(1) of rule X, and on all matters relating to preservation and availability of noncurrent records of the House under rule XXXVI; the Committee on Rules—on rules, joint rules, and the order of business; and the Committee on Standards of Official Conduct—on resolutions recommending action by the House of Representatives with respect to an individual Member, officer, or employee of the House of Representatives as a result of any investigation by the committee relating to the official conduct of such Member, officer, or employee of the House of Representatives.

Proposed paragraph (b) embodies current practice that privileged reports may be called up as privileged questions subject to the relevant availability rule.

PROPOSED NEW RULES

Privileged reports by the Committee on Rules

6. (a) A report by the Committee on Rules on a rule, joint rule, or the order of business may not be called up for consideration on the same day it is presented to the House except—

(1) when so determined by a vote of two-thirds of the Members voting, a quorum being present;

(2) in the case of a resolution proposing only to waive a requirement of clause 4 or of clause 8 of rule XXII concerning the availability of reports; or

(3) during the last three days of a session of Congress.

(b) Pending the consideration of a report by the Committee on Rules on a rule, joint rule, or the order of business, the Speaker may entertain one motion that the House adjourn. After the result of such a motion is announced, the Speaker may not entertain any other dilatory motion until the report shall have been disposed of.

(c) The Committee on Rules may not report—

(1) a rule or order proposing that business under clause 7 of rule XV be set aside by a vote of less than two-thirds of the Members voting, a quorum being present;

(2) a rule or order that would prevent the motion to recommit a bill or joint resolution from being made as provided in clause 2(b) of rule XIX, including a motion to recommit with instructions to report back an amendment otherwise in order, if offered by the Minority Leader or a designee, except with respect to a Senate bill or resolution for which the text of a House-passed measure has been substituted.

(d) The Committee on Rules shall present to the House reports concerning rules, joint rules, and the order of business, within three legislative days of the time when they are ordered. If such a report is not considered immediately, it shall be referred to the calendar. If such a report on the calendar is not called up by the member of the committee who filed the report within seven legislative days, any member of the committee may call it up as a privileged question on the day after the calendar day on which the member announces to the House his intention to do so. The Speaker shall recognize a member of the committee who rises for that purpose.

EXISTING RULES

Derived from clause 4(b), rule XI: (b) It shall always be in order to call up for consideration a report from the Committee on Rules on a rule, joint rule, or the order of business (except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting, but this provision shall not apply during the last three days of the session), and, pending the consideration thereof, the Speaker may entertain one motion that the House adjourn; but after the result is announced the Speaker shall not entertain any other dilatory motion until the report shall have been fully disposed of. The Committee on Rules shall not report any rule or order which provides that business under clause 7 of rule XXIV shall be set aside by a vote of less than two-thirds of the Members present; nor shall it report any rule or order which would prevent the motion to recommit from being made as provided in clause 4 of rule XVI, including a motion to recommit with instructions to report back an amendment otherwise in order (if offered by the Minority Leader or a designee), except with respect to a Senate bill or resolution for which the text of a House-passed measure has been substituted.

Derived from clause 4(c), rule XI: (c) The Committee on Rules shall present to the House reports concerning rules, joint rules, and order of business, within three legislative days of the time when the bill or resolution involved is ordered reported by the committee. If any such rule or order is not considered immediately, it shall be referred to the calendar and, if not called up by the Member making the report within seven legislative days thereafter, any member of the Committee on Rules may call it up as a question of privilege (but only on the day after the calendar day on which such Member announces to the House his intention to do so) and the Speaker shall recognize any member of the Committee on Rules seeking recognition for that purpose.

COMMENTARY

The authority of the Rules Committee to call up on the same day reported amendment reported in disagreement, currently in clause 2(a) and (b), rule XXVIII, is carried here as it relates to privileged reports of that committee. This recodification transfers these availability requirements to clause 8 of rule XXII.

Proposed paragraph (c)(1) utilizes the convention that the Rules Committee may not report a rule setting aside Calendar Wednesday business by a vote of less than two-thirds of the Members voting, a quorum being present.

(e) An adverse report by the Committee on Rules on a resolution proposing a special order of business for the consideration of a public bill or public joint resolution may be called up as a privileged question by a Member, Delegate, or Resident Commissioner on a day when it is in order to consider a motion to discharge committees under clause 2 of rule XV.	If the Committee on Rules makes an adverse report on any resolution pending before the committee, providing for an order of business for the consideration by the House of any public bill or joint resolution, on days when it shall be in order to call up motions to discharge committees it shall be in order for any Member of the House to call up for consideration by the House such adverse report, and it shall be in order to move the adoption by the House of such resolution adversely reported notwithstanding the adverse report of the Committee on Rules, and the Speaker shall recognize the Member seeking recognition for that purpose as a question of the highest privilege.	
(f) If the House has adopted a resolution making in order a motion to consider a bill or resolution, and such a motion has not been offered within seven calendar days thereafter, such a motion shall be privileged if offered by direction of all reporting committees having initial jurisdiction of the bill or resolution.	**Derived from clause 2(l)(7), rule XI:** If, within seven calendar days after a measure has, by resolution, been made in order for consideration by the House, no motion has been offered that the House consider that measure, any member of the committee which reported that measure may be recognized in the discretion of the Speaker to offer a motion that the House shall consider that measure, if that committee has duly authorized that member to offer that motion.	Proposed paragraph (f) is infrequently utilized since most special orders permitting consideration in Committee of the Whole give the Speaker designation authority rather than requiring a motion. Thus this paragraph is similar to existing mechanisms like morning hour (proposed clauses 4 and 5, rule XIV) in that it is not currently utilized in modern practice but is not totally obsolete since it may still apply to measures to be considered in the House. The Speaker has the discretion to recognize for such a motion if properly authorized by all reporting committees of initial referral, similar to proposed clause 1, rule XXII on motions to go to conference.
(g) Whenever the Committee on Rules reports a resolution providing for the consideration of a measure, it shall (to the maximum extent possible) specify in the resolution the object of any waiver of a point of order against the measure or against its consideration.	**Derived from clause 4(e), rule XI:** (e) Whenever the Committee on Rules reports a resolution providing for the consideration of any measure, it shall, to the maximum extent possible, specify in the resolution the object of any waiver of a point of order against the measure or against its consideration.	
Resolutions of inquiry 7. A report on a resolution of inquiry addressed to the head of an executive department may be filed from the floor as privileged. If such a resolution is not reported to the House within 14 legislative days after its introduction, a motion to discharge a committee from its consideration shall be privileged.	**Derived from clause 5, rule XXII:** 5. All resolutions of inquiry addressed to the heads of executive departments shall be reported to the House within fourteen legislative days after presentation.	Existing clause 5, rule XXII regarding resolutions of inquiry, is transferred to proposed clause 7, rule XIII since it is more logical in the rule on privileged reports than under the rule on introduction and referral. The clause thus codifies its privileged status. The clause also retains the anomaly where one of two committees has reported, even adversely, only the reporting committee can call up the resolution, although the motion to discharge the other committee is privileged.
RULE XIV **ORDER AND PRIORITY OF BUSINESS**	**Derived from:** RULE XXIV ORDER OF BUSINESS	

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
1. The daily order of business (unless varied by the application of other rules and except for the disposition of matters of higher precedence) shall be as follows:	1. The daily order of business shall be as follows:	Proposed rule XIV begins the chronological series of rules governing business in the full House. Rule XIV constitutes a transfer of those portions of current rule XXIV relating to general order of business priorities and disposition of matters on the Speaker's table, and rule XV becomes the rule providing for business in order only on certain days. As the preface to the revised clause 1 suggests, the daily order of business can be and often is varied by the application of other rules and by the disposition of privileged motions disposing of matters of higher precedence. While the "morning hour" rule (clause 4) is currently not utilized in modern practice (other than morning hour debates) since the order of business is normally determined by special orders or privileged motions, nevertheless it remains available for the relatively few House Calendar bills in the event that the House cannot, through the Rules Committee or otherwise, determine its order of business. In clause 2, relating to disposition of business from the Speaker's table, paragraph (c) is modified to cross reference to provisions in clauses 1, 2 and 4 of rule XXII which will govern motions to dispose of Senate amendments on the Speaker's table and conference procedures. Paragraph (d) permits the motion to dispose of Senate passed bills similar to House Calendar bills only when authorized by all reporting committees of original referral (reflecting modern multiple referral practices). Clause 1 contains cross references to other clauses and reflects various precedents which establish the relative priorities among the business mentioned therein.
First. Prayer by the Chaplain.	First. Prayer by the Chaplain.	
Second. Reading and approval of the Journal, unless postponed under clause 9(a) of Rule XX.	Second. Reading and approval of the Journal, unless postponed pursuant to the provisions of clause 5(b)(1) of the rule 1.	
Third. The Pledge of Allegiance to the Flag.	Third. The Pledge of Allegiance to the Flag.	
Fourth. Correction of reference of public bills.	Fourth. Correction of reference of public bills.	
Fifth. Disposal of business on the Speaker's table as provided in clause 2.	Fifth. Disposal of business on the Speaker's table.	
Sixth. Unfinished business as provided in clause 3.	Sixth. Unfinished business.	
Seventh. The morning hour for the consideration of bills called up by committees as provided in clause 4.	Seventh. The morning hour for the consideration of bills called up by committees.	
Eighth. Motions that the House resolve into the Committee of the Whole House on the state of the Union subject to clause 5.	Eighth. Motions to go into Committee of the Whole House on the state of the Union.	
Ninth. Orders of the day.	Ninth. Orders of the day.	
2. Business on the Speaker's table shall be disposed of as follows:	2. Business on the Speaker's table shall be disposed of as follows:	
(a) Messages from the President shall be referred to the appropriate committees without debate.		

(b) Communications addressed to the House, including reports and communications from heads of departments and bills, resolutions, and messages from the Senate, may be referred to the appropriate committees in the same manner and with the same right of correction as public bills and public resolutions presented by Members, Delegates, or the Resident Commissioner. (c) Motions to dispose of Senate amendments on the Speaker's table may be entertained as provided in clauses 1, 2, and 4 of rule XXII. (d) Senate bills and resolutions substantially the same as House measures already favorably reported and not required to be considered in the Committee of the Whole House on the state of the Union may be disposed of by motion. Such a motion shall be privileged if offered by direction of all reporting committees having initial jurisdiction of the House measure.	Messages from the President shall be referred to the appropriate committees without debate. Reports and communications from heads of departments, and other communications addressed to the House, and bills, resolutions, and messages from the Senate may be referred to the appropriate committees in the same manner and with the same right of correction as public bills presented by Members; but House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine, as may also Senate bills substantially the same as House bills already favorably reported by a committee of the House, and not required to be considered in Committee of the Whole, be disposed of in the same manner on motion directed to be made by such committee.	Motions to dispose of Senate amendments on the Speaker's table, currently made in order under clause 2, are being transferred to rule XXII, Senate amendments, and are now being cross referenced in paragraph (c). Paragraph (d) is modernized to reflect multiple committee referrals.
3. Consideration of unfinished business in which the House may have been engaged at an adjournment, except business in the morning hour and proceedings postponed under clause 9 of rule XX, shall be resumed as soon as the business on the Speaker's table is finished, and at the same time each day thereafter until disposed of. The consideration of all other unfinished business shall be resumed whenever the class of business to which it belongs shall be in order under the rules.	3. The consideration of the unfinished business in which the House may be engaged at an adjournment, except business in the morning hour, shall be resumed as soon as the business on the Speaker's table is finished, and at the same time each day thereafter until disposed of, and the consideration of all other unfinished business shall be resumed whenever the class of business to which it belongs shall be in order under the rules.	
4. After the unfinished business has been disposed of, the Speaker shall call each standing committee in regular order and then select committees. Each committee when named may call up for consideration a bill or resolution reported by it on a previous day and on the House Calendar. If the Speaker does not complete the call of the committees before the House passes to other business, the next call shall resume at the point it left off, giving preference to the last bill or resolution under consideration. A committee that has occupied the call for two days may not call up another bill or resolution until the other committees have been called in their turn.	4. After the unfinished business has been disposed of, the Speaker shall call each standing committee in regular order, and then select committees, and each committee when named may call up for consideration any bill reported by it on a previous day and on the House Calendar, and if the Speaker shall not complete the call of the committees before the House passes to other business, he shall resume the next call where he left off, giving preference to the last bill under consideration: Provided, That whenever any committee shall have occupied the morning hour on two days, it shall not be in order to call up any other bill until the other committees have been called in their turn.	Clauses 4 and 5 on Morning Hour and motion to go into Committee of the Whole after one hour of morning hour business are not currently utilized in modern practice but are not totally obsolete.
5. After consideration of bills or resolutions under clause 4 for one hour, it shall be in order, pending consideration thereof, to entertain a motion that the House resolve into the Committee of the Whole House on the state of the Union or, when authorized by a committee, that the House resolve into the Committee of the Whole House on the state of the Union to consider a particular bill. Such a motion shall be subject to only one amendment designating another bill. If such a motion is decided in the negative, another such motion may not be considered until the matter that was pending when such motion was offered is disposed of.	5. After one hour shall have been devoted to the consideration of bills called up by committees, it shall be in order, pending consideration or discussion thereof, to entertain a motion to go into Committee of the Whole House on the state of the Union, or, when authorized by a committee, to go into the Committee of the Whole House on the state of the Union to consider a particular bill, to which motion one amendment only, designating another bill, may be made; and if either motion be determined in the negative, it shall not be in order to make either motion again until the disposal of the matter under consideration or discussion. **Derived from:** RULE XXV.	Existing rule XXV on priority of business is more appropriate as a clause in a rule on the order of business than as a separate rule, thus transferred here as a new clause 6, rule XIV.

PRIORITY OF BUSINESS

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
6. All questions relating to the priority of business shall be decided by a majority without debate.	All questions relating to the priority of business shall be decided by a majority without debate.	
RULE XV **BUSINESS IN ORDER ON SPECIAL DAYS** ***Suspensions, Mondays and Tuesdays*** 1. (a) A rule may not be suspended except by a vote of two-thirds of the Members voting, a quorum being present. The Speaker may not entertain a motion that the House suspend the rules except on Mondays and Tuesdays and during the last six days of a session of Congress.	**Derived from:** RULE XXVII CHANGE OR SUSPENSION OF RULES 1. No rule shall be suspended except by a vote of two-thirds of the Members voting, a quorum being present; nor shall the Speaker entertain a motion to suspend the rules except on Mondays and Tuesdays, and during the last six days of a session.	Proposed rule XV combines all current rules relating to business in order on special days in chronological order as follows: (clause 1) suspension of the rules every Monday and Tuesday (currently in rule XXVII); (clause.2) motions on second and fourth Mondays to discharge committee and to call up adverse reports from Committee on Rules (currently in rule XXVII) (clause 3); (clause 4) consideration on second and fourth Mondays of District of Columbia business reported from Committee on Government Reform and Oversight (currently in rule XXIV); (clause 5) call of the Private Calendar on the first and third Tuesdays (currently in rule XXIV); (clause 6) call of the Corrections Calendar on the second and fourth Tuesdays (currently in rule XIII); (clause 7) Calendar Wednesday (currently in rule XXIV).
(b) Pending a motion that the House suspend the rules, the Speaker may entertain one motion that the House adjourn. After the result of such a motion is announced, the Speaker may not entertain any other motion until the vote is taken on the suspension.	2. When a motion to suspend the rules has been submitted to the House, it shall be in order, before the final vote is taken thereon, to debate the proposition to be voted upon for forty minutes, one-half of such time to be given to debate in favor of, and one-half to debate in opposition to, such proposition; . . . **[Remainder transferred to rule XIII].**	Paragraph (b) is derived from existing clause 8, rule XVI.
(c) A motion that the House suspend the rules is debatable for 40 minutes, one-half in favor of the motion and one-half in opposition thereto.	**Derived from clause 8, rule XVI:** 8. Pending a motion to suspend the rules, the Speaker may entertain one motion that the House adjourn; but after the result thereon is announced he shall not entertain any other motion until the vote is taken on suspension.	

Discharge motions, second and fourth Mondays

2. (a) Motions to discharge committees shall be in order on the second and fourth Mondays of a month. (b)(1) A Member may present to the Clerk a motion in writing to discharge—

(A) a committee from consideration of a public bill or public resolution that has been referred to it for 30 legislative days; or

(B) the Committee on Rules from consideration of a resolution that has been referred to it for seven legislative days and that proposes a special order of business for the consideration of a public bill or public resolution that has been reported by a standing committee or has been referred to a standing committee for 30 legislative days.

(2) Only one motion may be presented for a bill or resolution. A Member may not file a motion to discharge the Committee on Rules from consideration of a resolution providing for the consideration of more than one public bill or public resolution or admitting or effecting a nongermane amendment to a public bill or public resolution.

(c) A motion presented under paragraph (b) shall be placed in the custody of the Clerk, who shall arrange a convenient place for the signatures of Members. A signature may be withdrawn by a Member in writing at any time before a motion is entered on the Journal. The Clerk shall make signatures a matter of public record, causing the names of the Members who have signed a discharge motion during a week to be published in a portion of the Congressional Record designated for that purpose on the last legislative day of the week and making cumulative lists of such names available each day for public inspection in an appropriate office of the House. The Clerk shall devise a means for making such lists available to offices of the House and to the public in electronic form. When a majority of the total membership of the House shall have signed the motion, it shall be entered on the Journal, printed with the signatures thereto in the Record, and referred to the Calendar of Motions to Discharge Committees.

(d)(1) On the second and fourth Mondays of a month (except during the last six days of a session of Congress), immediately after the Pledge of Allegiance to the Flag, a motion to discharge that has been on the calendar for at least seven legislative days shall be privileged if called up by a Member whose signature appears thereon. When such a motion is called up, the House shall proceed to its consideration under this paragraph without intervening motion except one motion to adjourn. Privileged motions to discharge shall have precedence in the order of their entry on the Journal.

Derived from clause 3, rule XXVII: 3. A Member may present to the Clerk a motion in writing to discharge a committee from the consideration of a public bill or resolution which has been referred to it thirty days prior thereto (but only one motion may be presented for each bill or resolution). Under this rule it shall also be in order for a Member to file a motion to discharge the Committee on Rules from further consideration of any resolution providing a special rule for the consideration of a public bill or resolution reported by a standing committee, or a special rule for the consideration of a public bill or resolution which has remained in a standing committee thirty or more days without action: Provided, That a Member may not file a motion to discharge the Committee on Rules from consideration of a resolution providing for the consideration of more than one public bill or resolution, or admitting or effecting a nongermane amendment to a public bill or resolution: Provided further, That said resolution from which it is moved to discharge the Committee on Rules has been referred to that committee at least seven days prior to the filing of the motion to discharge. The motion shall be placed in the custody of the Clerk, who shall arrange some convenient place for the signature of Members. A signature may be withdrawn by a Member in writing at any time before the motion is entered on the Journal. Once a motion to discharge has been filed, the Clerk shall make the signatures a matter of public record. The Clerk shall cause the names of the Members who have signed a discharge motion during any week to be published in a portion of the Congressional Record designated for that purpose on the last legislative day of that week. The Clerk shall make available each day for public inspection in an appropriate office of the House cumulative lists of such names. The Clerk shall devise a means by which to make such lists available to offices of the House and to the public in electronic form. When a majority of the total membership of the House shall have signed the motion, it shall be entered on the Journal, printed with the signatures thereto in the Congressional Record, and referred to the Calendar of Motions to Discharge Committees.

On the second and fourth Mondays of each month, except during the last six days of any session of Congress, immediately after the approval of the Journal, any Member who has signed a motion to discharge which has been on the calendar at least seven days prior thereto, and seeks recognition, shall be recognized for the purpose of calling up the motion, and the House shall proceed to its consideration in the manner herein provided without intervening motion except one motion to adjourn. Recognition for the motions shall be in the order in which they have been entered on the Journal.

"Legislative" days has been added consistent with precedents interpreting the thirty and seven day requirements to be legislative day and not calendar day requirements.

A committee is discharged from consideration of a measure only when it files its report or otherwise brings it up on the floor. Other types of committee activity, such as hearings, do not prevent the application of this rule.

PROPOSED NEW RULES

(2) When a motion to discharge is called up, the bill or resolution to which it relates shall be read by title only. The motion is debatable for 20 minutes, one-half in favor of the motion and one-half in opposition thereto.

(e)(1) If a motion prevails to discharge the Committee on Rules from consideration of a resolution, the House shall immediately consider the resolution, pending which the Speaker may entertain one motion that the House adjourn. After the result of such a motion to adjourn is announced, the Speaker may not entertain any other dilatory motion until the resolution has been disposed of. If the resolution is adopted, the House shall immediately proceed to its execution.

(2) If a motion prevails to discharge a standing committee from consideration of a public bill or public resolution, a motion that the House proceed to the immediate consideration of such bill or resolution shall be privileged if offered by a Member whose signature appeared on the motion to discharge. The motion to proceed is not debatable. If the motion to proceed is adopted, the bill or resolution shall be considered immediately under the general rules of the House. If unfinished before adjournment of the day on which it is called up, the bill or resolution shall remain the unfinished business until it is disposed of. If the motion to proceed is rejected, the bill or resolution shall be referred to the appropriate calendar, where it shall have the same status as if the committee from which it was discharged had duly reported it to the House.

(f)(1) When a motion to discharge originated under this clause has once been acted on by the House, it shall not be in order to entertain during the same session of Congress—

(A) a motion to discharge a committee from consideration of that bill or resolution or of any other bill or resolution that, by relating in substance to or dealing with the same subject matter, is substantially the same; or

(B) a motion to discharge the Committee on Rules from consideration of a resolution providing a special order of business for the consideration of that bill or resolution or of any other bill or resolution that, by relating in substance to or dealing with the same subject matter, is substantially the same.

(2) A motion to discharge on the Calendar of Motions to Discharge Committees that is rendered out of order under subparagraph (1) shall be stricken from that calendar.

EXISTING RULES

When any motion under this rule shall be called up, the bill or resolution shall be read by title only. After twenty minutes' debate, one-half in favor of the proposition and one-half in opposition thereto, the House shall proceed to vote on the motion to discharge. If the motion prevails to discharge the Committee on Rules from any resolution pending before the committee, the House shall immediately consider such resolution, the Speaker not entertaining any dilatory motion except one motion to adjourn, and, if such resolution is adopted, the House shall immediately proceed to its execution. If the motion prevails to discharge one of the standing committees of the House from any public bill or resolution pending before the committee, it shall then be in order for any Member who signed the motion to move that the House proceed to the immediate consideration of such bill or resolution (such motion not being debatable), and such motion is hereby made of high privilege; and if it shall be decided in the affirmative, the bill shall be immediately considered under the general rules of the House, and if unfinished before adjournment of the day on which it is called up it shall remain the unfinished business until it is fully disposed of. Should the House by vote decide against the immediate consideration of such bill or resolution, it shall be referred to its proper calendar and be entitled to the same rights and privileges that it would have had had the committee to which it was referred duly reported same to the House for its consideration: Provided, That when any perfected motion to discharge a committee from the consideration of any public bill or resolution has once been acted upon by the House it shall not be in order to entertain during the same session of Congress any other motion for the discharge from that committee of said measure, or from any other committee of any other bill or resolution substantially the same, relating in substance to or dealing with the same subject matter, or from the Committee on Rules of a resolution providing a special order of business for the consideration of any other such bill or resolution, in order that such action by the House on a motion to discharge shall be res adjudicata for the remainder of that session: Provided further, That if before any one motion to discharge a committee has been acted upon by the House there are on the Calendar of Motions to Discharge Committees other motions to discharge committees from the consideration of bills or resolutions substantially the same, relating in substance to or dealing with the same subject matter, after the House shall have acted on one motion to discharge, the remaining said motions shall be stricken from the Calendar of Motions to Discharge Committees and not acted on during the remainder of that session of Congress.

COMMENTARY

Adverse report by the Committee on Rules, second and fourth Mondays

3. An adverse report by the Committee on Rules on a resolution proposing a special order of business for the consideration of a public bill or public joint resolution may be called up under clause 6(e) of rule XIII as a privileged question by a Member, Delegate, or Resident Commissioner on a day when it is in order to consider a motion to discharge committees under clause 2.

Derived from clause 4(c), rule XI: If the Committee on Rules makes an adverse report on any resolution pending before the committee, providing for an order of business for the consideration by the House of any public bill or joint resolution, on days when it shall be in order to call up motions to discharge committees it shall be in order for any Member of the House to call up for consideration by the House such adverse report, and it shall be in order to move the adoption by the House of such resolution adversely reported notwithstanding the adverse report of the Committee on Rules, and the Speaker shall recognize the Member seeking recognition for that purpose as a question of the highest privilege.

Proposed clause 3 is derived from existing clause 4(c), rule XI and is additional business in order on the second and fourth Mondays.

District of Columbia business, second and fourth Mondays

4. The second and fourth Mondays of a month shall be set apart for the consideration of such District of Columbia business as may be called up by the Committee on Government Reform and Oversight after the disposition of motions to discharge committees and after the disposal of such business on the Speaker's table as requires reference only.

Derived from clause 8, rule XXIV: 8. The second and fourth Mondays in each month, after the disposition of motions to discharge committees and after the disposal of such business on the Speaker's table as requires reference only, shall, when claimed by the Committee on Government Reform and Oversight, be set apart for the consideration of such business relating to the District of Columbia as may be presented by said committee.

Private Calendar, first and third Tuesdays

5. (a) On the first Tuesday of a month, the Speaker shall direct the Clerk to call the bills and resolutions on the Private Calendar after disposal of such business on the Speaker's table as requires reference only. If two or more Members, Delegates, or the Resident Commissioner object to the consideration of a bill or resolution so called, it shall be recommitted to the committee that reported it. No other business shall be in order before completion of the call of the Private Calendar on this day unless two-thirds of the Members voting, a quorum being present, agree to a motion that the House dispense with the call.

(b)(1) On the third Tuesday of a month, after the disposal of such business on the Speaker's table as requires reference only, the Speaker may direct the Clerk to call the bills and resolutions on the Private Calendar. Preference shall be given to omnibus bills containing the texts of bills or resolutions that have previously been objected to on a call of the Private Calendar. If two or more Members, Delegates, or the Resident Commissioner object to the consideration of a bill or resolution so called (other than an omnibus bill), it shall be recommitted to the committee that reported it. Two-thirds of the Members voting, a quorum being present, may adopt a motion that the House dispense with the call on this day.

Derived from clause 6, rule XXIV: 6. On the first Tuesday of each month after disposal of such business on the Speaker's table as requires reference only, the Speaker shall direct the Clerk to call the bills and resolutions on the Private Calendar. Should objection be made by two or more Members to the consideration of any bill or resolution so called, it shall be recommitted to the committee which reported the bill or resolution, and no reservation of objection shall be entertained by the Speaker. Such bills and resolutions, if considered, shall be considered in the House as in the Committee of the Whole. No other business shall be in order on this day unless the House, by two-thirds vote on motion to dispense therewith, shall otherwise determine. On such motion debate shall be limited to five minutes for and five minutes against said motion.

On the third Tuesday of each month after the disposal of such business on the Speaker's table as requires reference only, the Speaker may direct the Clerk to call the bills and resolutions on the Private Calendar, preference to be given to omnibus bills containing bills or resolutions which have previously been objected to on a call of the Private Calendar. All bills and resolutions on the Private Calendar so called, if considered, shall be considered in the House as in the Committee of the Whole. Should objection be made by two or more Members to the consideration of any bill or resolution other than an omnibus bill, it shall be recommitted to the committee which reported the bill or resolution and no reservation of objection shall be entertained by the Speaker.

The Private Calendar rule is transferred from rule XXIV to proposed clause 5, rule XV as an order of business matter on special days. In clause 5(a), the words "before completion of the call of the Private Calendar" were added to clarify existing practice that the Private Calendar is to be given priority over other business on the first and third Tuesdays, but that other business can be conducted after the call of the Private Calendar or if the call of the calendar is dispensed with by two-thirds vote. In clause 5(b) language has been added to clarify that the call on a third Tuesday can also be dispensed with by a two-thirds vote. The ten minutes debate on a motion to dispense with the call is transferred to clause 5(c).

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(2) Omnibus bills shall be read for amendment by paragraph. No amendment shall be in order except to strike or to reduce amounts of money or to provide limitations. An item or matter stricken from an omnibus bill may not thereafter during the same session of Congress be included in an omnibus bill. Upon passage such an omnibus bill shall be resolved into the several bills and resolutions of which it is composed. The several bills and resolutions, with any amendments adopted by the House, shall be engrossed, when necessary, and otherwise considered as passed severally by the House as distinct bills and resolutions. (c) The Speaker may not entertain a reservation of the right to object to the consideration of a bill or resolution under this clause. A bill or resolution considered under this clause shall be considered in the House as in the Committee of the Whole. A motion to dispense with the call of the Private Calendar under this clause shall be privileged. Debate on such a motion shall be limited to five minutes in support and five minutes in opposition.	Omnibus bills shall be read for amendment by paragraph, and no amendment shall be in order except to strike out or to reduce amounts of money stated or to provide limitations. Any item or matter stricken from an omnibus bill shall not thereafter during the same session of Congress be included in any omnibus bill. Upon passage of any such omnibus bill, said bill shall be resolved into the several bills and resolutions of which it is composed, and such original bills and resolutions, with any amendments adopted by the House, shall be engrossed, where necessary, and proceedings thereon had as if said bills and resolutions had been passed in the House severally. In the consideration of any omnibus bill the proceedings as set forth above shall have the same force and effect as if each Senate and House bill or resolution therein contained or referred to were considered by the House as a separate and distinct bill or resolution.	
Corrections Calendar, second and fourth Tuesdays 6. (a) After a bill has been favorably reported and placed on either the Union or House Calendar, the Speaker, after consultation with the Minority Leader, may direct the Clerk also to place the bill on the "Corrections Calendar." At any time on the second and fourth Tuesdays of a month, the Speaker may direct the Clerk to call a bill that has been on the Corrections Calendar for three legislative days.	**Derived from clause 4, rule XIII:** 4. (a) After a bill has been favorably reported and placed on either the Union or House Calendar, the Speaker may, after consultation with the Minority Leader, file with the Clerk a notice requesting that such bill also be placed upon a special calendar to be known as the "Corrections Calendar." At any time on the second and fourth Tuesdays of each month, the Speaker may direct the Clerk to call any bill that has been on the Corrections Calendar for three legislative days.	Existing clause 4, rule XIII providing for a call of the Corrections Calendar on the second and fourth Tuesdays is transferred to the new rule XV since it relates to business in order on special days.
(b) A bill called from the Corrections Calendar shall be considered in the House, is debatable for one hour equally divided and controlled by the chairman and ranking minority member of the primary committee of jurisdiction, and shall not be subject to amendment except those recommended by the primary committee of jurisdiction or offered by the chairman of the primary committee or a designee. The previous question shall be considered as ordered on the bill and any amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.	(b) A bill so called shall be considered in the House, shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the primary committee of jurisdiction reporting the bill, and shall not be subject to amendment except those amendments recommended by the primary committee of jurisdiction or those offered by the chairman of the primary committee or a designee. The previous question shall be considered as ordered on the bill and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.	
(c) The approval of three-fifths of the Members voting, a quorum being present, shall be required to pass a bill called from the Corrections Calendar. The rejection of a bill so called, or the sustaining of a point of order against it or against its consideration, does not cause its removal from the Calendar to which it was originally referred.	(c) A three-fifths vote of the Members voting shall be required to pass any bill called from the Corrections Calendar but the rejection of any such bill, or the sustaining of any point of order against it or its consideration, shall not cause it to be removed from the Calendar to which it was originally referred.	

Calendar Call of Committees, Wednesdays

7. (a) On Wednesday of each week, business shall not be in order before completion of the call of the committees (except as provided by clause 4 of rule XIV) unless two-thirds of the Members voting, a quorum being present, agree to a motion that the House dispense with the call. Such a motion shall be privileged. Debate on such a motion shall be limited to five minutes in support and five minutes in opposition.

(b) A bill or resolution on either the House or the Union Calendar, except bills or resolutions that are privileged under the Rules of the House, may be called under this clause. A bill or resolution called up from the Union Calendar shall be considered in the Committee of the Whole House on the state of the Union without motion, subject to clause 3 of rule XVI. General debate on a measure considered under this clause shall be confined to the measure and may not exceed two hours equally divided between a proponent and an opponent.

(c) When a committee has occupied the call under this clause on one Wednesday, it shall not be in order on a succeeding Wednesday to consider unfinished business previously called up by that committee until the other committees have been called in their turn unless—

(1) the previous question has been ordered on such unfinished business; or

(2) the House adopts a motion to dispense with the call under paragraph (a).

(d) If any committee has not been called under this clause during a session of a Congress, then at the next session of that Congress the call shall resume where it left off at the end of the preceding session.

(e) This rule does not apply during the last two weeks of a session of Congress.

(f) The Speaker may not entertain a motion for a recess on a Wednesday except during the last two weeks of a session of Congress.

RULE XVI

MOTIONS AND AMENDMENTS

Derived from clause 7, rule XXIV:

7. On Wednesday of each week no business shall be in order except as provided by clause 4 of this rule unless the House by a two-thirds vote on motion to dispense therewith shall otherwise determine. On such a motion there may be debate not to exceed five minutes for and against. On a call of committees under this rule bills may be called up from either the House or the Union Calendar, excepting bills which are privileged under the rules; but bills called up from the Union Calendar shall be considered in the Committee of the Whole House on the state of the Union. This rule shall not apply during the last 2 weeks of the session. It shall not be in order for the Speaker to entertain a motion for a recess on any Wednesday except during the last 2 weeks of the session: Provided, That not more that 2 hours of general debate shall be permitted on any measure called up on Calendar Wednesday, and all debate must be confined to the subject matter of the bill, the time to be equally divided between those for and against the bill: Provided further, That whenever any committee shall have occupied one Wednesday it shall not be in order, unless the House by a two-thirds vote shall otherwise determine, to consider any unfinished business previously called up by such committee, unless the previous question had been ordered thereon, upon any succeeding Wednesday until the other committees have been called in their turn under this rule: Provided, That when, during any one session of a Congress, all of the committees of the House are not called under the Calendar Wednesday rule, at the next session of that Congress, the call shall commence where it left off at the end of the preceding session.

Derived from rule XVI: RULE XVI

ON MOTIONS, THEIR PRECEDENCE, ETC.

Proposed clause 7, rule XV, the Calendar Wednesday rule, has been clarified to indicate that the House resolves into the Committee of the Whole to consider Union calendar bills called up on Calendar Wednesday without motion unless a Member raises the question of consideration (proposed clause 3 of rule XVI). No other business in order prior to completion of call of the committees on Calendar Wednesday reflects the current interpretation that other business can be conducted on Wednesdays after the committee have been called without a two-thirds vote being required. Cross references have also been revised and the super-majority voting requirements have been added for consistency.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
Motions 1. Every motion entertained by the Speaker shall be reduced to writing on the demand of a Member, Delegate, or Resident Commissioner and, unless it is withdrawn the same day, shall be entered on the Journal with the name of the Member, Delegate, or Resident Commissioner offering it. A dilatory motion may not be entertained by the Speaker.	1. Every motion made to the House and entertained by the Speaker shall be reduced to writing on the demand of any Member, and shall be entered on the Journal with the name of the Member making it, unless it is withdrawn the same day. **Derived from clause 10, rule XVI:** 10. No dilatory motion shall be entertained by the Speaker.	Proposed rule XVI is a consolidation of various current rules relating to procedural motions and questions in the House, and has been structured where possible to maintain current numberings of often cited rules such as the precedence of motions (clause 4) and germaneness (clause 7). Beginning with rule XVI through rule XXII, the recodification presents procedures in the House and in Committee of the Whole in a sequence generally reflecting the various stages of consideration, debate, amendment, recommittal, voting and House-Senate relations. In rule XVI, clauses 1 and 2 on motions and clause 3 on the question of consideration remain the same, except that existing clause 10 on dilatoriness of motions becomes the last sentence of clause 1. In clause 4, provisions concerning the motion to recommit have been transferred to rule XIX, consolidating all rules on the motion to recommit and its relation to the motion for the previous question under rule XIX, while retaining the ordinary motion to refer under clause 4 in the general precedence of motions. The current clause 5 on journalizing the time of adjournment has been moved to clause 2(c) rule II under duties of the Clerk. Current clause 6 on division of the question has been moved ahead to clause 5, combining the portion of existing clause 7 that deals with nondivisibility of the motion to strike and insert. The proposed clause 6 on amendments has been transferred from current rule XIX as all treatment of amendments in the House belongs in one rule. The germaneness rule remains as clause 7 since it is essential to maintain that citation throughout the Precedents. Proposed clause 8 on readings of bills has been transferred from current clause 1 of rule XXI since more logically related to the sequence of motions generally and includes the question of engrossment and third reading by title. In this clause, clarifications have been made to reflect current practice of first reading in full in the House, and second reading for amendment only in Committee of the Whole, with a cross reference to the proposed clause 5 of rule XVII governing consideration in Committee of the Whole.
Withdrawal 2. When a motion is entertained, the Speaker shall state it or cause it to be read aloud by the Clerk before it is debated. The motion then shall be in the possession of the House but may be withdrawn at any time before a decision or amendment thereon.	**Derived from clause 2, rule XVI:** 2. When a motion has been made, the Speaker shall state it or (if it be in writing) cause it to be read aloud by the Clerk before being debated, and it shall then be in possession of the House, but may be withdrawn at any time before a decision or amendment.	
Question of consideration 3. When a motion or proposition is entertained, the question, "Will the House now consider it?" may not be put unless demanded by a Member, Delegate, or Resident Commissioner.	3. When any motion or proposition is made, the question, Will the House now consider it? shall not be put unless demanded by a Member.	

Precedence of motions 4. (a) When a question is under debate, only the following motions may be entertained (which shall have precedence in the following order): (1) To adjourn. (2) To lay on the table. (3) For the previous question. (4) To postpone to a day certain. (5) To refer. (6) To amend. (7) To postpone indefinitely. (b) A motion to adjourn, to lay on the table, or for the previous question shall be decided without debate. A motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, may not be allowed again on the same day at the same stage of the question. (c)(1) It shall be in order at any time for the Speaker, in his discretion, to entertain a motion— (A) that the Speaker be authorized to declare a recess; or (B) that when the House adjourns it stand adjourned to a day and time certain. (2) Either motion shall be of equal privilege with the motion to adjourn and shall be decided without debate.	4. When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely; which several motions shall have precedence in the foregoing order; and no motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, shall be again allowed on the same day at the same stage of the question . . . **[Portion transferred to rule XIX]** . . . It shall be in order at any time during a day for the Speaker, in his discretion, to entertain motions that (1) the Speaker be authorized to declare a recess; and (2) when the House adjourns it stand adjourned to a day and time certain. Either motion shall be of equal privilege with the motion to adjourn provided for in this clause and shall be determined without debate.	The Speaker may not entertain a motion for a recess during the call of committees on Calendar Wednesday (proposed clause 7(f) of rule XV). The requirement of existing clause 5, rule XVI that the Journal note the hour of adjournment is transferred to proposed clause 2(c), rule II.
Divisibility 5. (a) Except as provided in paragraph (b), a question shall be divided on the demand of a Member, Delegate, or Resident Commissioner before the question is put if it includes propositions so distinct in substance that, one being taken away, a substantive proposition remains. (b)(1) A motion or resolution to elect members to a standing committee of the House, or to a joint standing committee, is not divisible. (2) A resolution or order reported by the Committee on rules providing a special order of business is not divisible.	**Derived from clause 6, rule XVI:** 6. On the demand of any Member, before the question is put, a question shall be divided if it includes propositions so distinct in substance that one being taken away a substantive proposition shall remain: Provided, That any motion or resolution to elect the members or any portion of the members of the standing committees of the House and the joint standing committees shall not be divisible, nor shall any resolution or order reported by the Committee on Rules, providing a special order of business be divisible.	
(c) A motion to strike and insert is not divisible, but rejection of a motion to strike does not preclude another motion to amend.	**Derived from clause 7, rule XVI:** 7. A motion to strike out and insert is indivisible, but a motion to strike out being lost shall neither preclude amendment nor motion to strike out and insert; . . . **[remainder in clause 7, rule XVI].**	Existing clause 7, rule XVI says "a motion to strike out being lost shall neither preclude amendment nor motion to strike out and insert". This is duplicative since a motion to strike out and insert *is* an amendment.
Amendments 6. When an amendable proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order, and it also shall be in order to offer a further amendment by way of substitute for the original motion to amend, to which one amendment may be offered but which may not be voted on until the original amendment is perfected. An amendment may be withdrawn in the House at any time before a decision or amendment thereon. An amendment to the title of a bill or resolution shall not be in order until after its passage or adoption and shall be decided without debate.	**Derived from rule XIX:** RULE XIX OF AMENDMENTS When a motion or proposition is under consideration a motion to amend and a motion to amend that amendment shall be in order, and it shall also be in order to offer a further amendment by way of substitute, to which one amendment may be offered, but which shall not be voted on until the original matter is perfected, but either may be withdrawn before amendment or decision is had thereon. Amendments to the title of a bill or resolution shall not be in order until after its passage, and shall be decided without debate.	

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
Germaneness 7. No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.	**Derived from clause 7, rule XVI:** . . . and no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.	
Readings 8. Bills and joint resolutions are subject to readings as follows: (a) A first reading is in full when the bill or joint resolution is first considered. (b) A second reading occurs only when the bill or joint resolution is read for amendment in a Committee of the Whole House on the State of the Union under clause 5 of rule XVIII. (c) A third reading precedes passage when the Speaker states the question: "Shall the bill [or joint resolution] be engrossed [when applicable] and read a third time?" If that question is decided in the affirmative, then the bill or joint resolution shall be read the final time by title and then the question shall be put on its passage.	**Derived from clause 1, rule XXI:** RULE XXI ON BILLS 1. Bills and joint resolutions on their passage shall be read the first time by title and the second time in full, when, if the previous question is ordered, the Speaker shall state, the question to be: Shall the bill be engrossed and read a third time? and, if decided in the affirmative, it shall be read the third time by title, and the question shall then be put upon its passage.	The proposed clause 8 on readings has been clarified to reflect current practice in the House and in the Committee of the Whole for the actual readings of bill and joint resolutions. There might be only two readings of bills considered in the House-the first reading at the time consideration begins (in full unless dispensed with), and the final reading by title just prior to final passage upon engrossment. There are normally three readings of bills considered in the Committee of the Whole. The first is upon initial consideration in the Committee, the second upon reading for amendment after the completion of general debate, and the third by title after engrossment pending final passage in the House. Special rules from the Rules Committee often waive the first reading in full in Committee of the Whole and often vary the way the bill is read a second time for amendment. The clause then restates the general House rules absent a special variation from the Rules Committee or by unanimous consent.
RULE XVII **DECORUM AND DEBATE** ***Decorum*** 1. (a) A Member, Delegate, or Resident Commissioner who desires to speak or deliver a matter to the House shall rise and respectfully address himself to "Mr. Speaker" and, on being recognized, may address the House from any place on the floor. When invited by the Chair, a Member, Delegate, or Resident Commissioner may speak from the Clerk's desk. (b)(1) Remarks in debate shall be confined to the question under debate, avoiding personality. (2)(A) Except as provided in subdivision (B), debate may not include characterizations of Senate action or inaction, references to individual Members of the Senate, or quotations from Senate proceedings. (B) Debate may include references to actions taken by the Senate or by committees thereof that are a matter of public record; references to the pendency or sponsorship in the Senate of bills, resolutions, and amendments; factual descriptions relating to Senate action or inaction concerning a measure then under debate in the House; and quotations from Senate proceedings on a measure then under debate in the House that are relevant to the making of legislative history establishing the meaning of that measure.	**Derived from:** RULE XIV OF DECORUM AND DEBATE 1. When any Member desires to speak or deliver any matter to the House, he shall rise and respectfully address himself to "Mr. Speaker", and, on being recognized, may address the House from any place on the floor or from the Clerk's desk, and shall confine himself to the question under debate, avoiding personality. Debate may include references to actions taken by the Senate or by committees thereof which are a matter of public record, references to the pendency or sponsorship in the Senate of bills, resolutions, and amendments, factual descriptions relating to Senate action or inaction concerning a measure then under debate in the House, and quotations from Senate proceedings on a measure then under debate in the House and which are relevant to the making of legislative history establishing the meaning of that measure, but may not include characterizations of Senate action or inaction, other references to individual Members of the Senate, or other quotations from Senate proceedings.	Proposed rule XVII becomes a consolidation of various rules governing decorum and debate, including the provisions currently in rule XIV, the use of exhibits currently in rule XXX and secret sessions currently in rule XXIX. The Chair under his power of recognition should have the ability to control when members may speak from the Clerk's desk and thus the phrase "when invited by the Chair" is added in clause 1(a). Existing clause 6 of Rule XIV on the right to speak a second time is moved into clause 3 as paragraph (b), since relevant to the manager's or mover's right to close.

Recognition 2. When two or more Members, Delegates, or the Resident Commissioner rise at once, the Speaker shall name the Member, Delegate, or Resident Commissioner who is first to speak. A Member, Delegate, or Resident Commissioner may not occupy more than one hour in debate on a question in the House or in the Committee of the Whole House on the state of the Union except as otherwise provided in this rule.	2. When two or more Members rise at once, the Speaker shall name the Member who is first to speak; and no Member shall occupy more than one hour in debate on any question in the House or in committee, except as further provided in this rule.	Clause 2 is clarified to apply to general debate in the House and in the Committee of the Whole and eliminates the ambiguity concerning standing committees where only the five-minute rule applies.
Managing Debate 3. (a) The Member, Delegate, or Resident Commissioner who calls up a measure may open and close debate thereon. When general debate extends beyond one day, that Member, Delegate, or Resident Commissioner shall be entitled to one hour to close without regard to the time used in opening. (b) Except as provided in paragraph (a), a Member, Delegate, or Resident Commissioner may not speak more than once to the same question without leave of the House. (c) A manager of a measure who opposes an amendment thereto is entitled to close controlled debate thereon.	3. The Member reporting the measure under consideration from a committee may open and close, where general debate has been had thereon; and if it shall extend beyond one day, he shall be entitled to one hour to close, notwithstanding he may have used an hour in opening. **Derived from clause 6, rule XIV:** 6. No Member shall speak more than once to the same question without leave of the House, unless he be the mover, proposer, or introducer of the matter pending, in which case he shall be permitted to speak in reply, but not until every Member choosing to speak shall have spoken.	The "leave of the House" referred to in clause 3(b) should be read broadly to include unanimous consent requests and special orders from the Rules Committee. This clause is clarified to enhance the normal ability of the committee manager to close debate. The right of the manager (majority or minority) of the measure representing the committee position to close controlled debate on an amendment is clarified also.
Call to order 4. (a) If a Member, Delegate, or Resident Commissioner, in speaking or otherwise, transgresses the Rules of the House, the Speaker shall, or a Member, Delegate, or Resident Commissioner may, call to order the offending Member, Delegate, or Resident Commissioner, who shall immediately sit down unless permitted on motion of another Member, Delegate, or the Resident Commissioner to explain. If a Member, Delegate, or Resident Commissioner is called to order, the Member, Delegate, or Resident Commissioner making the call to order shall indicate the words excepted to, which shall be taken down in writing at the Clerk's desk and read aloud to the House.	**Derived from clause 4, rule XIV:** 4. If any Member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any Member may, call him to order; in which case he shall immediately sit down, unless permitted, on motion of another Member, to explain, and the House shall, if appealed to, decide on the case without debate; if the decision is in favor of the Member called to order, he shall be at liberty to proceed, but not otherwise; and, if the case requires it, he shall be liable to censure or such punishment as the House may deem proper.	
(b) The Speaker shall decide the validity of a call to order. The House, if appealed to, shall decide the question without debate. If the decision is in favor of the Member, Delegate, or Resident Commissioner called to order, the Member, Delegate, or Resident Commissioner shall be at liberty to proceed, but not otherwise. If the case requires it, an offending Member, Delegate, or Resident Commissioner shall be liable to censure or such other punishment as the House may consider proper. A Member, Delegate, or Resident Commissioner may not be held to answer a call to order, and may not be subject to the censure of the House therefor, if further debate or other business has intervened.	5. If a Member is called to order for words spoken in debate, the Member calling him to order shall indicate the words excepted to, and they shall be taken down in writing at the Clerk's desk and read aloud to the House; but he shall not be held to answer, nor be subject to the censure of the House therefor, if further debate or other business has intervened.	

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
Comportment 5. When the Speaker is putting a question or addressing the House, a Member, Delegate, or Resident Commissioner may not walk out of or across the Hall. When a Member, Delegate, or Resident Commissioner is speaking, a Member, Delegate, or Resident Commissioner may not pass between the person speaking and the Chair. During the session of the House, a Member, Delegate, or Resident Commissioner may not wear a hat or remain by the Clerk's desk during the call of the roll or the counting of ballots. A person may not smoke or use any personal, electronic office equipment, including cellular phones and computers, on the floor of the House. The Sergeant-at-Arms is charged with the strict enforcement of this clause.	7. While the Speaker is putting a question or addressing the House no Member shall walk out of or across the hall, nor, when a Member is speaking, pass between him and the Chair; and during the session of the House no Member shall wear his hat, or remain by the Clerk's desk during the call of the roll or the counting of ballots or smoke upon the floor of the House; and the Sergeant-at-Arms is charged with the strict enforcement of this clause. Neither shall any person be allowed to smoke or to use any personal, electronic office equipment (including cellular phones and computers) upon the floor of the House at any time.	
	Derived from rule XXX: RULE XXX	
Exhibits 6. When the use of an exhibit in debate is objected to by a Member, Delegate, or Resident Commissioner, its use shall be decided without debate by a vote of the House.	USE OF EXHIBITS When the use of any exhibit in debate is objected to by any Member, it shall be determined without debate by a vote of the House.	
Galleries 7. During a session of the House, it shall not be in order for a Member, Delegate, or Resident Commissioner to introduce to or to bring to the attention of the House an occupant in the galleries of the House. The Speaker may not entertain a request for the suspension of this rule by unanimous consent or otherwise.	8. It shall not be in order for any Member to introduce to or to bring to the attention of the House during its sessions any occupant in the galleries of the House; nor may the Speaker entertain a request for the suspension of this rule by unanimous consent or otherwise.	Proposed clauses 7 and 8 are transferred from existing clauses 8 and 9 of rule XIV.
Congressional Record 8. (a) The Congressional Record shall be a substantially verbatim account of remarks made during the proceedings of the House, subject only to technical, grammatical, and typographical corrections authorized by the Member, Delegate, or Resident Commissioner making the remarks. (b) Unparliamentary remarks may be deleted only by permission or order of the House. (c) This clause establishes a standard of conduct within the meaning of clause 3(a)(2) of rule XI.	9. (a) The Congressional Record shall be a substantially verbatim account of remarks made during the proceedings of the House, subject only to technical, grammatical, and typographical corrections authorized by the Member making the remarks involved. (b) Unparliamentary remarks may be deleted only by permission or order of the House. (c) This clause establishes a standard of conduct within the meaning of clause 4(e)(1)(B) of rule X.	
	Derived from rule XXIX: RULE XXIX	
Secret sessions 9. When confidential communications are received from the President, or when the Speaker or a Member, Delegate, or Resident Commissioner informs the House that he has communications that he believes ought to be kept secret for the present, the House shall be cleared of all persons except the Members, Delegates, Resident Commissioner, and officers of the House for the reading of such communications, and debates and proceedings thereon, unless otherwise ordered by the House.	SECRET SESSION Whenever confidential communications are received from the President of the United States, or whenever the Speaker or any Member shall inform the House that he has communications which he believes ought to be kept secret for the present, the House shall be cleared of all persons except the Members and officers thereof, and so continue during the reading of such communications, the debates and proceedings thereon, unless otherwise ordered by the House.	
RULE XVIII	**Derived from:** RULE XXIII	
THE COMMITTEE OF THE WHOLE HOUSE ON THE STATE OF THE UNION	OF COMMITTEES OF THE WHOLE HOUSE	

Resolving into the Committee of the Whole 1. Whenever the House resolves into the Committee of the Whole House on the state of the Union, the Speaker shall leave the chair after appointing a Chairman to preside. In case of disturbance or disorderly conduct in the galleries or lobby, the Chairman may cause the same to be cleared.	1. (a) In all cases, in forming a Committee of the Whole House, the Speaker shall leave his chair after appointing a Member as Chairman to preside, who shall, in case of disturbance or disorderly conduct in the galleries or lobby, have power to cause the same to be cleared.	Proposed rule XVIII is basically transferred from current rule XXIII, since Committee of the Whole procedures come chronologically prior to motions for the previous question, recommittal, final passage and reconsideration which become rule XIX. The rule is reorganized to clarify the first reading of bills in full (clause 5(a). Obsolete provisions such as consideration of revenue bills and rivers and harbors bills, no longer privileged, are stricken (existing clause 4). This rule maintains provisions relating to voting and quorum procedures unique to Committee of the Whole.
2. (a) Except as provided in paragraph (b) and in clause 7 of rule XV, the House resolves into the Committee of the Whole House on the state of the Union by motion. When such a motion is entertained, the Speaker shall put the question without debate: "Shall the House resolve itself into the Committee of the Whole House on the state of the Union for consideration of this matter?", naming it.		Proposed clause 2(a) codifies the form of proceeding on a motion to resolve into the Committee of the Whole except where a special order from the Rules Committee authorizes the Speaker to declare the House resolved into Committee of the Whole or under Calendar Wednesday business where the House resolves into Committee of the Whole to consider Union Calendar bills without motion.
(b) After the House has adopted a resolution reported by the Committee on Rules providing a special order of business for the consideration of a measure in the Committee of the Whole House on the state of the Union, the Speaker may at any time, when no question is pending before the House, declare the House resolved into the Committee of the Whole for the consideration of that measure without intervening motion, unless the special order of business provides otherwise.	(b) After the House has adopted a special order of business resolution reported by the Committee on Rules providing for the consideration of a measure in the Committee of the Whole House on the state of the Union, the Speaker may at any time within his discretion, when no question is pending before the House, declare the House resolved into the Committee of the Whole House on the state of the Union for the consideration of that measure without intervening motion, unless the resolution in question provides otherwise.	
Measures requiring initial consideration in the Committee of the Whole 3. All bills, resolutions, or Senate amendments (as provided in clause 3 of rule XXII) involving a tax or charge on the people, raising revenue, directly or indirectly making appropriations of money or property or requiring such appropriations to be made, authorizing payments out of appropriations already made, releasing any liability to the United States for money or property, or referring a claim to the Court of Claims, shall be first considered in the Committee of the Whole House on the state of the Union. A bill, resolution, or Senate amendment that fails to comply with this clause is subject to a point of order against its consideration.	**Derived from clause 3, rule XXIII:** 3. All motions or propositions involving a tax or charge upon the people, all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriation to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, or referring any claim to the Court of Claims, shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of a bill has commenced.	Proposed clause 3 cross references clause 3 of rule XXII regarding Senate amendments requiring consideration in Committee of the Whole. This also conforms to definition of Union Calendar bills in proposed clause 1, rule XIII defining propositions which must be considered in Committee of the Whole. Ordinarily a bill requiring consideration in Committee will be so considered under the terms of a special order of business from the Rules Committee. Alternatively, the need for Committee of the Whole may be altered by consideration in the House by unanimous consent or by suspension of the rules.
Order of business 4. (a) Subject to subparagraph (b) business on the calendar of the Committee of the Whole House on the state of the Union may be taken up in regular order, or in such order as the Committee may determine, unless the measure to be considered was determined by the House at the time of resolving into the Committee of the Whole. (b) Motions to resolve into the Committee of the Whole for consideration of bills and joint resolutions making general appropriations have precedence under this clause.	4. In Committees of the Whole House business on their calendars may be taken up in regular order, or in such order as the committee may determine, unless the bill to be considered was determined by the House at the time of going into committee, but bills for raising revenue, general appropriation bills, and bills for the improvement of rivers and harbors shall have precedence.	The last portion of the existing clause 4, rule XXIII giving priority to motions to go into Committee of the Whole on revenue, general appropriation bills and rivers and harbors bills is deleted since revenue bills and rivers and harbors bills are no longer privileged to be reported at any time, that privilege having been removed by the Committee Reform Amendments of 1974. General appropriation bills are given privilege under proposed clause 5, rule XIII. Hence the motion to resolve into the Committee of the Whole for the purpose of considering general appropriation bills provided in existing clause 9, rule XVI is unnecessary.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
Reading for amendment 5. (a) Before general debate commences on a measure in the Committee of the Whole House on the state of the Union, it shall be read in full. When general debate is concluded or closed by order of the House, the measure under consideration shall be read for amendment. A Member, Delegate, or Resident Commissioner who offers an amendment shall be allowed five minutes to explain it, after which the Member, Delegate, or Resident Commissioner who shall first obtain the floor shall be allowed five minutes to speak in opposition to it. There shall be no further debate thereon, but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to an amendment. An amendment, or an amendment to an amendment, may be withdrawn by its proponent only by the unanimous consent of the Committee of the Whole. (b) When a Member, Delegate, or Resident Commissioner offers an amendment in the Committee of the Whole House on the state of the Union, the Clerk shall promptly transmit five copies of the amendment to the majority committee table and five copies to the minority committee table. The Clerk also shall deliver at least one copy of the amendment to the majority cloakroom and at least one copy to the minority cloakroom.	5. (a) When general debate is closed by order of the House, any Member shall be allowed five minutes to explain any amendment he may offer, after which the Member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate thereon, but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to an amendment; and neither an amendment nor an amendment to an amendment shall be withdrawn by the mover thereof unless by the unanimous consent of the committee. Upon the offering of any amendment by a Member, when the House is meeting in the Committee of the Whole, the Clerk shall promptly transmit to the majority committee table five copies of the amendment and five copies to the minority committee table. Further, the Clerk shall deliver at least one copy of the amendment to the majority cloak room and at least one copy to the minority cloak room.	Proposed clause 5 is clarified to describe first and second readings of bills in the Committee of the Whole. Proposed clause 8, rule XVI also reflects current practice on readings in the House.

Quorum and voting

6. (a) A quorum of a Committee of the Whole House on the state of the Union is 100 Members. The first time that a Committee of the Whole finds itself without a quorum during a day, the Chairman shall invoke the procedure for a quorum call set forth in clause 2 of rule XX, unless he elects to invoke an alternate procedure set forth in clause 3 or clause 4(a) of rule XX. If a quorum appears, the Committee of the Whole shall continue its business. If a quorum does not appear, the Committee of the Whole shall rise, and the Chairman shall report the names of absentees to the House.

(b)(1) The Chairman may refuse to entertain a point of order that a quorum is not present during general debate.

(2) After a quorum has once been established on a day, the Chairman may entertain a point of order that a quorum is not present only when the Committee of the Whole House on the state of the Union is operating under the five-minute rule and the Chairman has put the pending proposition to a vote.

(3) Upon sustaining a point of order that a quorum is not present, the Chairman may announce that, following a regular quorum call under paragraph (a), the minimum time for electronic voting on the pending question shall be five minutes.

(c) When ordering a quorum call in the Committee of the Whole House on the state of the Union, the Chairman may announce an intention to declare that a quorum is constituted at any time during the quorum call when he determines that a quorum has appeared. If the Chairman interrupts the quorum call by declaring that a quorum is constituted, proceedings under the quorum call shall be considered as vacated, and the Committee of the Whole shall continue its sitting and resume its business.

(d) A quorum is not required in the Committee of the Whole House on the state of the Union for adoption of a motion that the Committee rise.

(e) In the Committee of the Whole House on the state of the Union, the Chairman shall order a recorded vote on a request supported by at least 25 Members.

(f) In the Committee of the Whole House on the state of the Union, the Chairman may reduce to five minutes the minimum time for electronic voting without any intervening business or debate on any or all pending amendments after a recorded vote has been taken on the first pending amendment.

Derived from clause 2, rule XXIII: 2. (a) A quorum of a Committee of the Whole shall consist of one hundred Members. The first time that a Committee of the Whole finds itself without a quorum during any day, the Chairman shall invoke the procedure for the call of the roll under clause 5 of rule XV, unless, in his discretion, he orders a call of the Committee to be taken by the procedure set forth in clause 1 or clause 2(b) of rule XV: Provided, That the Chairman may in his discretion refuse to entertain a point of order that a quorum is not present during general debate only. If on such call, a quorum shall appear, the Committee shall continue its business; but if a quorum does not appear, the Committee shall rise and the Chairman shall report the names of the absentees to the House. After the roll has been once called to establish a quorum during such day, the Chairman may not entertain a point of order that a quorum is not present unless the Committee is operating under the five-minute rule and the Chairman has put the pending motion or proposition to a vote; and if the Chairman sustains a point of order that a quorum is not present after putting the question on such a motion or proposition, he may announce that following a regular quorum call conducted pursuant to the previous provisions of this clause, he will reduce to not less than five minutes the period of time within which a recorded vote on the pending question may be taken if such a vote is ordered. If, at any time during the conduct of any quorum call in a Committee of the Whole, the Chairman determines that a quorum is present, he may, in his discretion and subject to his prior announcement, declare that a quorum is constituted. Proceedings under the call shall then be considered as vacated, and the Committee shall not rise but shall continue its sitting and resume its business.

(b) In the Committee of the Whole, the Chair shall order a recorded vote on request supported by at least twenty-five Members.

(c) In the Committee of the Whole, the Chairman may, in his discretion, reduce to not less than five minutes the period of time within which a rollcall vote by electronic device may be taken without any intervening business or debate on any or all pending amendments after the vote has been taken on the first pending amendment.

Proposed clause 6 clarifies that if the Chairman of the Committee of the Whole utilizes a notice quorum call the first time in the Committee of the Whole and a quorum appears, such quorum call counts and a subsequent point of order cannot be made unless the Chair is putting the question to a vote. If a quorum is established on a recorded vote, that also counts as the first establishment of a quorum.

Proposed clause 6(d) is transferred from the existing clause 6(b), rule XV as more logically included in the Committee of the Whole rule than in the voting rule.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
Dispensing with the reading of an amendment 7. It shall be in order in the Committee of the Whole House on the state of the Union to move that the Committee of the Whole dispense with the reading of an amendment that has been printed in the bill or resolution as reported by a committee, or an amendment that a Member, Delegate, or Resident Commissioner has caused to be printed in the Congressional Record. Such a motion shall be decided without debate.	**Derived from clause 5(b), rule XXIII:** (b) It shall be in order to move in the Committee of the Whole to dispense with the reading of an amendment if the amendment has been printed in the bill as reported from a committee, or if any Member shall have caused the amendment to be printed in the Congressional Record, and to be submitted to the Clerk, or to any responsible staff member designated by the Chairman, of the reporting committee or committees, at least one day prior to floor consideration, and said motion shall be decided without debate.	The "responsible staff member" provisions in the existing rule have never been used and are deleted as unworkable.
Closing debate 8. (a) Subject to paragraph (b) at any time after the Committee of the Whole House on the state of the Union has begun five-minute debate on amendments to any portion of a bill or resolution, it shall be in order to move that the Committee of the Whole close all debate on that portion of the bill or resolution or on the pending amendments only. Such a motion shall be decided without debate. The adoption of such a motion does not preclude further amendment, to be decided without debate. (b) If the Committee of the Whole House on the state of the Union closes debate on any portion of a bill or resolution before there has been debate on an amendment that a Member, Delegate, or Resident Commissioner has caused to be printed in the Congressional Record at least one day before its consideration, the Member, Delegate, or Resident Commissioner who caused the amendment to be printed in the Record shall be allowed five minutes to explain it, after which the Member, Delegate, or Resident Commissioner who shall first obtain the floor shall be allowed five minutes to speak in opposition to it. There shall be no further debate thereon. (c) Material submitted for printing in the Congressional Record under this rule shall indicate the full text of the proposed amendment, the name of the Member, Delegate, or Resident Commissioner proposing it, the number of the bill or resolution to which it will be offered, and the point in the bill or resolution or amendment thereto where the amendment is intended to be offered. The amendment shall appear in a portion of the Record designated for that purpose. Amendments to a specified measure submitted for printing in that portion of the Record shall be numbered in the order printed.	**Derived from clause 6, rule XXIII:** 6. The committee may, by the vote of a majority of the members present, at any time after the five minutes' debate has begun upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph or, at its election, upon the pending amendments only (which motion shall be decided without debate); but this shall not preclude further amendment, to be decided without debate. However, if debate is closed on any section or paragraph under this clause before there has been debate on any amendment which any Member shall have caused to be printed in the Congressional Record at least one day prior to floor consideration of such amendment, the Member who caused such amendment to be printed in the Record shall be given five minutes in which to explain such amendment, after which the first person to obtain the floor shall be given five minutes in opposition to it, and there shall be no further debate thereon; but such time for debate shall not be allowed when the offering of such amendment is dilatory. Material placed in the Record pursuant to this provision shall indicate the full text of the proposed amendment, the name of the proponent Member, the number of the bill to which it will be offered and the point in the bill or amendment thereto where the amendment is intended to be offered, and shall appear in a portion of the Record designated for that purpose. All amendments to a specified measure submitted for printing in that portion of the Record shall be given numerical designations in the order printed.	The term "portion" in proposed clause 8 means the pending section, title, or other subdivision of the measure, as the case may be. The five minutes for debate on a printed amendment would be unavailable for a dilatory amendment because the Chair would not recognize a member for the offering of such an amendment under the general prohibition against entertaining dilatory motions in proposed clause 1, rule XVI. Therefore, the rule need not address debatability of dilatory amendments.

Striking the enacting clause

9. A motion that the Committee of the Whole House on the state of the Union rise and report a bill or resolution to the House with the recommendation that the enacting or resolving clause be stricken shall have precedence of a motion to amend, and, if carried in the House, shall constitute a rejection of the bill or resolution. Whenever a bill or resolution is reported from the Committee of the Whole with such adverse recommendation and the recommendation is rejected by the House, the bill or resolution shall stand recommitted to the Committee of the Whole without further action by the House. Before the question of concurrence is submitted, it shall be in order to move that the House refer the bill or resolution to a committee, with or without instructions. If a bill or resolution is so referred, then when it is again reported to the House it shall be referred to the Committee of the Whole without debate.

Concurrent resolution on the budget

10. (a) At the conclusion of general debate in the Committee of the Whole House on the state of the Union on a concurrent resolution on the budget under section 305(a) of the Congressional Budget Act of 1974, the concurrent resolution shall be considered as read for amendment.

(b) It shall not be in order in the House or in the Committee of the Whole House on the state of the Union to consider an amendment to a concurrent resolution on the budget, or an amendment thereto, unless the concurrent resolution, as amended by such amendment or amendments—

(1) would be mathematically consistent except as limited by paragraph (c); and

(2) would contain all the matter set forth in paragraphs (1) through (5) of section 301(a) of the Congressional Budget Act of 1974.

(c)(1) Except as specified in subparagraph (2), it shall not be in order in the House or in the Committee of the Whole House on the state of the Union to consider an amendment to a concurrent resolution on the budget, or an amendment thereto, that proposes to change the amount of the appropriate level of the public debt set forth in the concurrent resolution, as reported.

(2) Amendments to achieve mathematical consistency under section 305(a)(5) of the Congressional Budget Act of 1974, if offered by direction of the Committee on the Budget, may propose to adjust the amount of the appropriate level of the public debt set forth in the concurrent resolution, as reported, to reflect changes made in other figures contained in the concurrent resolution.

Unfunded mandates

11. (a) In the Committee of the Whole House on the state of the Union, an amendment proposing only to strike an unfunded mandate from the portion of the bill then open to amendment, if otherwise in order, may be precluded from consideration only by specific terms of a special order of the House.

Derived from clause 7, rule XXIII: 7. A motion to strike out the enacting words of a bill shall have precedence of a motion to amend, and, if carried, shall be considered equivalent to its rejection. Whenever a bill is reported from a Committee of the Whole with an adverse recommendation and such recommendation is disagreed to by the House, the bill shall stand recommitted to the said committee without further action by the House, but before the question of concurrence is submitted it is in order to entertain a motion to refer the bill to any committee, with or without instructions, and when the same is again reported to the House it shall be referred to the Committee of the Whole without debate.

8. At the conclusion of general debate in a Committee of the Whole on any concurrent resolution on the budget pursuant to section 305(a) of the Congressional Budget Act of 1974, the concurrent resolution shall be considered as having been read for amendment. It shall not be in order in the House or in a Committee of the Whole to consider an amendment to a concurrent resolution on the budget, or any amendment to an amendment thereto, unless the concurrent resolution as amended by such amendment or amendments: (a) would be mathematically consistent (except to the extent that the amendment involved is limited by the third sentence of this clause); and (b) would contain all the matter set forth in paragraphs (1) through (5) of section 301(a) of the Congressional Budget Act of 1974. It shall not be in order in the House or in a Committee of the Whole to consider an amendment to a concurrent resolution on the budget, or any amendment to an amendment thereto, which changes the amount of the appropriate level of the public debt set forth in the concurrent resolution as reported; except that the amendments to achieve mathematical consistency which are permitted under section 305(a)(6) of the Congressional Budget Act of 1974 may include an amendment, offered by or at the direction of the Committee on the Budget, to adjust the amount of such level to reflect any changes made in the other figures contained in the resolution.

Derived from clause 5(c), rule XXIII: (c)(1) In the Committee of the Whole, an amendment proposing only to strike an unfunded mandate from the portion of the bill then open to amendment, if otherwise in order, may be precluded from consideration only by specific terms of a special order of the House.

Proposed clause 9 states the exact wording of the preferential motion that "the Committee rise and report the bill to the House with recommendation that the enacting clause or resolving clause be stricken out" replaces the current description of the "motion to strike out the enacting clause", since the motion is only relevant in Committee of the Whole, has been construed to be applicable to resolutions and should be stated in its precise form.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(b) In this clause the term "unfunded mandate" means a Federal intergovernmental mandate the direct costs of which exceed the threshold otherwise specified for a reported bill or joint resolution in section 424(a)(1) of the Congressional Budget Act of 1974.	(2) In this paragraph, "unfunded mandate" means a Federal intergovernmental mandate the direct costs of which exceed the threshold otherwise specified for a reported bill or joint resolution in section 424(a)(1) of the Congressional Budget Act of 1974.	
Applicability of Rules of the House 12. The Rules of the House are the rules of the Committee of the Whole House on the state of the Union so far as applicable.	**Derived from clause 9, rule XXIII:** 9. The rules of proceeding in the House shall be observed in Committees of the Whole House so far as they may be applicable.	
RULE XIX **MOTIONS FOLLOWING THE AMENDMENT STAGE** ***Previous question*** 1. (a) There shall be a motion for the previous question, which, being ordered, shall have the effect of cutting off all debate and bringing the House to a direct vote on the immediate question or questions on which it has been ordered. Whenever the previous question has been ordered on an otherwise debatable question on which there has been no debate, it shall be in order to debate that question for 40 minutes, equally divided and controlled by a proponent of the question and an opponent. The previous question may be moved and ordered on a single question, on a series of questions allowable under the rules, or on an amendment or amendments, or may embrace all authorized motions or amendments and include the bill or resolution to its passage, adoption, or rejection.	**Derived from:** RULE XVII PREVIOUS QUESTION 1. There shall be a motion for the previous question, which, being ordered by a majority of Members voting, if a quorum be present, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill to its passage or rejection. **Derived from clause 2, rule XXVII:** . . . and the same right of debate shall be allowed whenever the previous question has been ordered on any proposition on which there has been no debate.	In proposed rule XIX, all provisions governing the motion for the previous question and the motion to recommit and for the motion to reconsider are transferred from current clause 4, rule XVI, from clause 1, rule XVII, and from rule XVIII respectively into one rule which generally governs House practice at final passage stage after Committee of the Whole consideration. Also, the provision requiring 40 minutes of debate where the previous question is ordered without debate is transferred from current clause 2 of rule XXVII to clause 1 of this rule. The provision currently in clause 2 of rule XVII prohibiting calls of the House following the ordering of the previous question unless the Speaker actually counts the absence of a quorum has been moved to clause 7(c) of rule XX as more appropriately a quorum matter. In clause 3, the motion to reconsider may only be made by a Member voting "on the prevailing side" rather than "in the majority" since a tie vote or one-third plus one on a constitutional amendment, though not in the majority would be on the prevailing side.
(b) Incidental questions of order arising during the pendency of a motion for the previous question shall be decided, whether on appeal or otherwise, without debate.	**Derived from clause 3, rule XVII:** 3. All incidental questions of order arising after a motion is made for the previous question, and pending such motion, shall be decided, whether on appeal or otherwise, without debate.	

Recommit 2. (a) After the previous question has been ordered on passage or adoption of a measure, or pending a motion to that end, it shall be in order to move that the House recommit (or commit, as the case may be) the measure, with or without instructions, to a standing or select committee. For such a motion to recommit, the Speaker shall give preference in recognition to a Member, Delegate, or Resident Commissioner who is opposed to the measure. (b) Except as provided in paragraph (c), if a motion that the House recommit a bill or joint resolution on which the previous question has been ordered to passage includes instructions, it shall be debatable for 10 minutes equally divided between the proponent and an opponent. (c) On demand of the floor manager for the majority, it shall be in order to debate the motion for one hour equally divided and controlled by the proponent and an opponent.	**Derived from clause 1, rule XVII:** It shall be in order, pending the motion for, or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee. **Derived from clause 4, rule XVI:** After the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution. However, with respect to any motion to recommit with instructions after the previous question shall have been ordered, it always shall be in order to debate such motion for ten minutes before the vote is taken on that motion, except that on demand of the floor manager for the majority it shall be in order to debate such motion for one hour. One half of any debate on such motions shall be given to debate by the mover of the motion and one half to debate in opposition to the motion.	The "one" motion to recommit specified in existing clause 4, rule XVI has been interpreted to mean that a proper motion to recommit remains available if prior motions are ruled out of order. The proposed rule eliminates "one" and the ambiguity. The source for the proper motion to recommit is based on existing rule XVII.
Reconsideration 3. When a motion has been carried or lost, it shall be in order on the same or succeeding day for a Member on the prevailing side of the question to enter a motion for the reconsideration thereof. The entry of such a motion shall take precedence over all other questions except the consideration of a conference report or a motion to adjourn, and may not be withdrawn after such succeeding day without the consent of the House. Once entered, a motion may be called up for consideration by any Member. During the last six days of a session of Congress, such a motion shall be disposed of when entered.	**Derived from:** RULE XVIII RECONSIDERATION 1. When a motion has been made and carried or lost, it shall be in order for any member of the majority, on the same or succeeding day, to move for the reconsideration thereof, and such motion shall take precedence of all other questions except the consideration of a conference report or a motion to adjourn, and shall not be withdrawn after the said succeeding day without the consent of the House, and thereafter any Member may call it up for consideration: Provided, That such motion, if made during the last six days of a session, shall be disposed of when made.	Entering the motion to reconsider and consideration of the motion are separate propositions. One Member may enter the motion and another Member may call up the motion. The motion must be made or entered within the two-day period allowed by the rule, but once entered remains pending indefinitely.
4. A bill, petition, memorial, or resolution referred to a committee, or reported therefrom for printing and recommitment, may not be brought back to the House on a motion to reconsider.	2. No bill, petition, memorial, or resolution referred to a committee, or reported therefrom for printing and recommitment, shall be brought back into the House on a motion to reconsider; and all bills, petitions, memorials, or resolutions reported from a committee shall be accompanied by reports in writing, which shall be printed.	The last portion of existing clause 2, rule XVIII regarding the printing of reported bills has been eliminated since proposed clause 2, rule XIII already requires the printing of committee reports.

RULE XX

VOTING AND QUORUM CALLS

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
1. (a) The House shall divide after the Speaker has put a question to a vote by voice as provided in clause 6 of rule I if the Speaker is in doubt or division is demanded. Those in favor of the question shall first rise from their seats to be counted, and then those opposed. (b) If a Member, Delegate, or Resident Commissioner requests a recorded vote, and that request is supported by at least one-fifth of a quorum, the vote shall be taken by electronic device unless the Speaker invokes another procedure for recording votes provided in this rule. A recorded vote taken in the House under this paragraph shall be considered a vote by the yeas and nays. (c) In case of a tie vote, a question shall be lost.	**Derived from clause 5(a), rule I:** . . . if he doubts, or a division is called for, the House shall divide; those in the affirmative of the question shall first rise from their seats, and then those in the negative. If any Member requests a recorded vote and that request is supported by at least one-fifth of a quorum, such vote shall be taken by electronic device, unless the Speaker in his discretion orders clerks to tell the names of those voting on each side of the question, and such names shall be recorded by electronic device or by clerks, as the case may be, and shall be entered in the Journal, together with the names of those not voting. A recorded vote taken pursuant to this paragraph shall be considered a vote by the yeas and nays. Members shall have not less than fifteen minutes to be counted from the ordering of the recorded vote or the ordering of clerks to tell the vote.	In proposed rule XX, all quorum and voting procedures have been consolidated from existing rule I and rule XV except those unique to the Committee of the Whole. Existing provisions in clause 5 of rule I concerning the Speaker's duties as to procedures for division and recorded votes are moved to clause 1. "Rollcall votes" are now described generally as "record votes", and are defined in clauses 2, 3 and 4 to include the normal electronic vote, and also votes by backup procedures of rollcall or by recorded tellers. Authority to postpone votes and to order five minute votes is also transferred to new clauses 9 and 10. In clause 7 (currently clause 6(e) of rule XV), the Speaker is foreclosed from entertaining a point of order unless a proposition has been put to a vote. This being the case, those provisions currently in clause 6 (a), (c), and (d) of rule XV which foreclose points of no quorum at certain designated times during the legislative process (e.g., before the prayer, during oath of office, reception of messages) are already obsolete and are therefore stricken, since overtaken by the more general prohibition in clause 6(e). In proposed clause 1, rule XX, the cross reference to the Speaker's putting the question to voice vote as provided in clause 6, rule I shows the relationship between Speaker's role under that rule and the voting rule. The provision in existing clause 5, rule I that a question loses on a tie vote is carried here as it is more appropriately a voting issue. The minimum of fifteen minutes for a recorded vote in existing clause 5(a), rule I is transferred to proposed clause 2(a).
2. (a) Unless the Speaker directs otherwise, the Clerk shall conduct a record vote or quorum call by electronic device. In such a case the Clerk shall enter on the Journal and publish in the Congressional Record, in alphabetical order in each category, the names of Members recorded as voting in the affirmative, the names of Members recorded as voting in the negative, and the names of Members answering present as if they had been called in the manner provided in clause 3. Except as otherwise permitted under clause 9 or 10 of this rule or under clause 6 of rule XVIII, the minimum time for a record vote or quorum call by electronic device shall be 15 minutes.	**Derived from clause 5(a), rule XV:** 5. (a) Unless, in his discretion, the Speaker orders the calling of the names of Members in the manner provided for under the preceding provisions of this rule, upon any roll call or quorum call the names of such Members voting or present shall be recorded by electronic device. In any such case, the Clerk shall enter in the Journal and publish in the Congressional Record, in alphabetical order in each category, a list of names of those Members recorded as voting in the affirmative, of those Members recorded as voting in the negative, and of those Members answering present, as the case may be, as if their names had been called in the manner provided for under such preceding provisions. Members shall have not less than fifteen minutes from the ordering of the roll call or quorum call to have their vote or presence recorded.	
(b) When the electronic voting system is inoperable or is not used, the Speaker or Chairman may direct the Clerk to conduct a record vote or quorum call as provided in clause 3 or 4.		Proposed clause 2(b) consolidates alternative back-up quorum or voting procedures (either by rollcall authorized by existing clause 1, rule XV or clerk-tellers authorized by existing clause 2(b), rule XV) to make clear that the Speaker has discretion as to which backup procedure to utilize.

3. The Speaker may direct the Clerk to conduct a record vote or quorum call by call of the roll. In such a case the Clerk shall call the names of Members, alphabetically by surname. When two or more have the same surname, the name of the State (and, if necessary to distinguish among Members from the same State, the given names of the Members) shall be added. After the roll has been called once, the Clerk shall call the names of those not recorded, alphabetically by surname. Members appearing after the second call, but before the result is announced, may vote or announce a pair.

4. (a) The Speaker may direct a record vote or quorum call to be conducted by tellers. In such a case the tellers named by the Speaker shall record the names of the Members voting on each side of the question or record their presence, as the case may be, which the Clerk shall enter on the Journal and publish in the Congressional Record. Absentees shall be noted, but the doors may not be closed except when ordered by the Speaker. The minimum time for a record vote or quorum call by tellers shall be 15 minutes.

(b) On the demand of a Member, or at the suggestion of the Speaker, the names of Members sufficient to make a quorum in the Hall of the House who do not vote shall be noted by the Clerk, entered on the Journal, reported to the Speaker with the names of the Members voting, and be counted and announced in determining the presence of a quorum to do business.

5. (a) In the absence of a quorum, a majority comprising at least 15 Members, which may include the Speaker, may compel the attendance of absent Members.

(b) Subject to clause 7(b) a majority of those present may order the Sergeant-at-Arms to send officers appointed by him to arrest those Members for whom no sufficient excuse is made and shall secure and retain their attendance. The House shall determine on what condition they shall be discharged. Unless the House otherwise directs, the Members who voluntarily appear shall be admitted immediately to the Hall of the House and shall report their names to the Clerk to be entered on the Journal as present.

Derived from clause 1, rule XV: 1. Subject to clause 5 of this rule, upon every roll call the names of the Members shall be called alphabetically by surname, except when two or more have the same surname, in which case the name of the State shall be added; and if there be two such Members from the same State, the whole name shall be called, and after the roll has been once called, the Clerk shall call in their alphabetical order the names of those not voting. Members appearing after the second call, but before the result is announced, may vote or announce a pair.

Derived from clause 2(b), rule XV: (b) Subject to clause 5 of this rule, when a call of the House in the absence of a quorum is ordered, the Speaker shall name one or more clerks to tell the Members who are present. The names of those present shall be recorded by such clerks, and shall be entered in the Journal and the absentees noted, but the doors shall not be closed except when so ordered by the Speaker. Members shall have not less than fifteen minutes from the ordering of a call of the House to have their presence recorded.

Derived from clause 3, rule XV: 3. On the demand of any Member, or at the suggestion of the Speaker, the names of Members sufficient to make a quorum in the Hall of the House who do not vote shall be noted by the Clerk and recorded in the Journal, and reported to the Speaker with the names of the Members voting, and be counted and announced in determining the presence of a quorum to do business.

Derived from clause 2(a), rule XV: 2. (a) In the absence of a quorum, fifteen Members, including the Speaker, if there is one, shall be authorized to compel the attendance of absent Members; and those for whom no sufficient excuse is made may, by order of a majority of those present, subject to clause 6(e)(2) of this rule be sent for and arrested, wherever they may be found, by officers to be appointed by the Sergeant-at-Arms for that purpose, and their attendance secured and retained; and the House shall determine upon what condition they shall be discharged. Members who voluntarily appear shall, unless the House otherwise direct, be immediately admitted to the Hall of the House, and they shall report their names to the Clerk to be entered upon the Journal as present.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
6. (a) When a quorum fails to vote on a question, a quorum is not present, and objection is made for that cause (unless the House shall adjourn)— (1) there shall be a call of the House; (2) the Sergeant-at-Arms shall proceed forthwith to bring in absent Members; and (3) the yeas and nays on the pending question shall at the same time be considered as ordered. (b) The Clerk shall record Members by the yeas and nays on the pending question, using such procedure as the Speaker may invoke under clause 2, 3, or 4. Each Member arrested under this clause shall be brought by the Sergeant-at-Arms before the House, whereupon he shall be noted as present, discharged from arrest, and given an opportunity to vote; and his vote shall be recorded. If those voting on the question and those who are present and decline to vote together make a majority of the House, the Speaker shall declare that a quorum is constituted, and the pending question shall be decided as the requisite majority of those voting shall have determined. Thereupon further proceedings under the call shall be considered as dispensed with. (c) At any time after Members have had the requisite opportunity to respond by the yeas and nays, but before a result has been announced, the Speaker may entertain a motion that the House adjourn if seconded by a majority of those present, to be ascertained by actual count by the Speaker. If the House adjourns on such a motion, all proceedings under this clause shall be considered as vacated.	**Derived from clause 4, rule XV:** 4. Subject to clause 5 of this rule, whenever a quorum fails to vote on any question, and a quorum is not present and objection is made for that cause, unless the House shall adjourn there shall be a call of the House, and the Sergeant-at-Arms shall forthwith proceed to bring in absent Members, and the yeas and nays on the pending question shall at the same time be considered as ordered. The Clerk shall call the roll, and each Member as he answers to his name may vote on the pending question, and, after the roll call is completed, each Member arrested shall be brought by the Sergeant-at-Arms before the House, whereupon he shall be noted as present, discharged from arrest and given an opportunity to vote and his vote shall be recorded. If those voting on the question and those who are present and decline to vote shall together make a majority of the House, the Speaker shall declare that a quorum is constituted, and the pending question shall be decided as the majority of those voting shall appear. And thereupon further proceedings under the call shall be considered as dispensed with. At any time after the roll call has been completed, the Speaker may entertain a motion to adjourn, if seconded by a majority of those present, to be ascertained by actual count by the Speaker; and if the House adjourns, all proceedings under this section shall be vacated.	
7. (a) The Speaker may not entertain a point of order that a quorum is not present unless a question has been put to a vote. (b) Subject to paragraph (c) the Speaker may recognize a Member, Delegate, or Resident Commissioner to move a call of the House at any time. When a quorum is established pursuant to a call of the House, further proceedings under the call shall be considered as dispensed with unless the Speaker recognizes for a motion to compel attendance of Members under clause 5(b). (c) A call of the House shall not be in order after the previous question is ordered unless the Speaker determines by actual count that a quorum is not present.	**Derived from clause 6, rule XV:** 6. (a) It shall not be in order to make or entertain a point of order that a quorum is not present: (1) before or during the offering of prayer; (2) during the administration of the oath of office to the Speaker or Speaker pro tempore or a Member, Delegate, or Resident Commissioner; (3) during the reception of any message from the President of the United States or the United States Senate; and (4) during the offering, consideration, and disposition of any motion incidental to a call of the House. (b) A quorum shall not be required in Committee of the Whole for agreement to a motion that the Committee rise. (c) After the presence of a quorum is once ascertained on any day on which the House is meeting, a point of order of no quorum may not be made or entertained— (1) during the reading of the Journal; (2) during the period after a Committee of the Whole has risen after completing its consideration of a bill or resolution and before the Chairman of the Committee has reported the bill or resolution back to the House; and	The provisions of existing clause 6(a), (c), and (d), rule XV are made unnecessary since the proposed clause 7, rule XV (from existing clause 6(e)) controls all these situations and they need not be spelled out separately. Since the Speaker cannot entertain points of no quorum unless he is putting the question to a vote in the House, other prohibitions as to specific times at which point of no quorum cannot be entertained are confusing and unnecessary. The statement in existing clause 6(b), rule XV that a quorum is not required to agree to a motion that the Committee of the Whole rise is transferred to proposed clause 6(d), rule XVIII which governs proceedings in Committee of the Whole. Proposed clause 7(c), rule XV, prohibiting a call of the House after the previous question is ordered unless the Speaker actually counts the absence of a quorum, is derived from existing clause 2, rule XVII. It is more logical in the voting and quorum rule than in the previous question rule and immediately follows existing provisions that the Speaker has discretion as to when to entertain motions for a call of the House.

	(3) during any period of a legislative day when the Speaker is recognizing Members (including a Delegate or Resident Commissioner) to address the House under special orders, with no measure or matter then under consideration for disposition by the House. (d) When the presence of a quorum is ascertained, a further point of order that a quorum is not present may not thereafter be made or entertained until additional business intervenes. For purposes of this paragraph, the term "business" does not include any matter, proceeding, or period referred to in paragraph (a), (b), or (c) of this clause for which a quorum is not required or a point of order of no quorum may not be made or entertained. (e)(1) Except as provided by subparagraph (2), it shall not be in order to make or entertain a point of order that a quorum is not present unless the Speaker has put the pending motion or proposition to a vote. (2) Notwithstanding subparagraph (1), it shall always be in order for a Member to move a call of the House when recognized for that purpose by the Speaker, and when a quorum has been established pursuant to a call of the House, further proceedings under the call shall be considered as dispensed with unless the Speaker, in his discretion, recognizes for a motion under clause (2)(a) of this rule or for a motion to dispense with further proceedings under the call. **Derived from clause 2, rule XVII:** 2. A call of the House shall not be in order after the previous question is ordered, unless it shall appear upon an actual count by the Speaker that a quorum is not present.	
Pairs 8. Pairs shall be announced by the Clerk from a list signed by the Members entering them immediately before the Chair announces the result of a vote by the House or Committee of the Whole House on the state of the Union. The Clerk shall publish the list in the Congressional Record as a part of the proceedings immediately following the names of those not voting.	**Derived from clause 2, rule VIII:** 2. Pairs shall be announced by the Clerk immediately before the announcement by the Chair of the result of the vote, by the House or Committee of the Whole from a written list furnished him, and signed by the Member making the statement to the Clerk, which list shall be published in the Record as a part of the proceedings, immediately following the names of those not voting. However, pairs shall be announced but once during the same legislative day.	Proposed clause 8, rule XV, announcement of pairs by the Clerk, is moved from clause 2, rule VIII, duties of Members. The last sentence providing that pairs shall be announced only once during a legislative day has been deleted as unnecessary since pairs are not announced at all in modern practice.
Postponement of proceedings 9. (a)(1) When a recorded vote is ordered, or the yeas and nays are ordered, or a vote is objected to under clause 6 on any of the questions specified in subparagraph (2), the Speaker may postpone further proceedings on that question to a designated place in the legislative schedule on that legislative day (in the case of the question of agreeing to the Speaker's approval of the Journal) or within two legislative days (in the case of any other question).	**Derived from clause 5, rule I:** (b)(1) On any legislative day whenever a recorded vote is ordered or the yeas and nays are ordered, or a vote is objected to under clause 4 of rule XV on any of the following questions, the Speaker may, in his discretion, postpone further proceedings on each such question to a designated time or place in the legislative schedule on that legislative day in the case of the question of agreeing to the Speaker's approval of the Journal, or within two legislative days, in the case of the other questions listed herein:	Proposed clause 9, rule XV is moved from clause 5, rule I since the Speaker's authority to postpone certain votes logically belongs in the voting rule.
(2) The questions described in the subparagraph (1) are as follows: (A) The question of passing a bill or joint resolution.	(A) the question of adopting a resolution;	

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(B) The question of adopting a resolution or concurrent resolution.	(B) the question of passing a bill;	
(C) The question of agreeing to a motion to instruct managers on the part of the House under clause 7(c) of rule XXII (except that proceedings may not resume on such a question if the managers have filed a report in the House).	(C) the question of agreeing to a motion to instruct conferees as provided in clause 1(c) of rule XXVIII: Provided, however, That proceedings shall not resume on said question if the conferees have filed a report in the House;	
(D) The question of agreeing to a conference report.	(D) the question of agreeing to a conference report;	
(E) The question of agreeing to a motion to recommit a bill considered under clause 6 of rule XV.	(E) the question of agreeing to a motion to recommit a bill considered pursuant to clause 4 of rule XIII;	
(F) The question of ordering the previous question on a question described in subdivision (A), (B), (C), (D), or (E).	(F) the question of ordering the previous question on a question described in subdivision (A), (B), (C), (D), or (E);	
(G) The question of agreeing to an amendment to a bill considered under clause 6 of rule XV.	(G) the question of agreeing to an amendment to a bill considered pursuant to clause 4 of rule XIII; and	
(H) The question of agreeing to a motion to suspend the rules.	(H) the question of agreeing to a motion to suspend the rules.	
(b) At the time designated by the Speaker for further proceedings on questions postponed under paragraph (a), the Speaker shall resume proceedings on each postponed question in the order in which it was considered.	(2) At the time designated by the Speaker for further consideration of proceedings postponed under subparagraph (1), the Speaker shall put each question on which further proceedings were postponed, in the order in which that question was considered.	
(c) After a record vote on a question on which proceedings were postponed under this clause, the Speaker may reduce to five minutes the minimum time for a record vote on any other such question on which proceedings resume without intervening business.	(3) At any time after the vote has been taken on the first question on which the Speaker has postponed further proceedings under this paragraph, the Speaker may, in his discretion, reduce to not less than five minutes the period of time within which a rollcall vote by electronic device on the question may be taken without any intervening business on any or all of the additional questions on which the Speaker has postponed further proceedings under this paragraph.	
(d) If the House adjourns on a legislative day designated for further proceedings on questions postponed under this clause without disposing of such questions, then on the next legislative day the unfinished business is the disposition of such questions in the order in which they were considered.	(4) If the House adjourns before all of the questions on which further proceedings were postponed under this paragraph have been put and determined, then, on the next following legislative day the unfinished business shall be the disposition of all such questions, previously undisposed of, in the order in which the questions were considered.	
Five-minute votes 10. The Speaker may reduce to five minutes the minimum time for electronic voting—	**Derived from clause 5, rule XV:** (b) The Speaker may, in his discretion, reduce to not less than five minutes the time within which a rollcall vote by electronic device may be taken—	
(a) after a record vote on a motion for the previous question, on any underlying question that follows without intervening business;	(1) after a rollcall vote has been ordered on a motion for the previous question, on any underlying question that follows without intervening business;	
(b) after a record vote on an amendment reported from the Committee of the Whole House on the state of the Union, on any subsequent amendment to that bill or resolution reported from the Committee of the Whole;	(2) after a rollcall vote has been ordered on an amendment reported from the Committee of the Whole House on the state of the Union, on any subsequent amendment to that bill or resolution reported from the Committee of the Whole; or	

(c) after a record vote on a motion to recommit a bill, resolution, or conference report, on the question of passage or adoption, as the case may be, of such bill, resolution, or conference report, if the question of passage or adoption follows without intervening business the vote on the motion to recommit; or	(3) after a rollcall vote has been ordered on a motion to recommit a bill, resolution, or conference report thereon, on the question of passage or adoption, as the case may be, of such bill, resolution, or conference report thereon, if the question of passage or adoption follows without intervening business the vote on the motion to recommit; or	
(d) as provided in clause 6(b)(3) of rule XVIII, clause 6(f) of rule XVIII, or clause 9 of this rule.		Proposed clause 10(d) catalogs the other instances of five-minute electronic voting so that the clause references all six authorities.
Automatic yeas and nays 11. The yeas and nays shall be considered as ordered when the Speaker puts the question on passage of a bill or joint resolution, or on adoption of a conference report, making general appropriations, or increasing Federal income tax rates (within the meaning of clause 5 of rule XXI), or on final adoption of a concurrent resolution on the budget or conference report thereon.	**Derived from clause 7, rule XV:** 7. The yeas and nays shall be considered as ordered when the Speaker puts the question on final passage or adoption of any bill, joint resolution, or conference report making general appropriations or increasing Federal income tax rates, or on final adoption of any concurrent resolution on the budget or conference report thereon.	
Ballot votes 12. In a case of ballot for election, a majority of the votes shall be necessary to an election. When there is not such a majority on the first ballot, the process shall be repeated until a majority is obtained. In all balloting blanks shall be rejected, may not be counted in the enumeration of votes, and may not be reported by the tellers.	**Derived from:** RULE XXXVIII BALLOT In all cases of ballot a majority of the votes given shall be necessary to an election, and where there shall not be such a majority on the first ballot the ballots shall be repeated until a majority be obtained; and in all balloting blanks shall be rejected and not taken into the count in enumeration of votes or reported by the tellers.	
RULE XXI **RESTRICTIONS ON CERTAIN BILLS** ***Reservation of certain points of order*** 1. At the time a general appropriation bill is reported, all points of order against provisions therein shall be considered as reserved.	**Derived from clause 8, rule XXI:** 8. At the time any appropriation bill is reported, all points of order shall be considered as reserved.	Clauses 1 and 2 of proposed rule XXI apply to "general" appropriation bills or amendments thereto. Examples of general appropriation bills include the 13 regular appropriation bills and most supplemental appropriation bills. Bills or joint resolutions continuing appropriations are not general bills and thus these clauses do not apply.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
General appropriation bills and amendments 2. (a)(1) An appropriation may not be reported in a general appropriation bill, and may not be in order as an amendment thereto, for an expenditure not previously authorized by law, except to continue appropriations for public works and objects that are already in progress.	**Derived from clause 2(a), rule XXI:** 2. (a) No appropriation shall be reported in a general appropriation bill, or shall be in order as an amendment thereto, for any expenditure not previously authorized by law, except to continue appropriations for public works and objects which are already in progress.	Rule XXI, currently headed "Bills", is a disjointed composite of unrelated rules relating to readings of bills, consideration of certain types of bills, and permissibility of provisions therein and amendments thereto. The new heading of rule XXI, "Restrictions on Certain Bills" still reflects its diverse nature in order to capture all remaining provisions prior to dealing with House-Senate relations in rule XXII. The rule is restructured to maintain citations to existing clauses (especially clause 2) carried in the Precedents to the greatest extent possible. Since readings of bills currently in clause 1 has been transferred to rule XVI, existing clause 8 of rule XXI on reservation of points of order on general appropriation bills has become clause 1 to fill that void. A new clause 3 has been added on "Roads" embodying the prohibition on inclusion of specific provisions in bills, currently contained in the Transportation Committee's jurisdictional statement in rule X. The other prohibition in rule X against one specific road offered to a bill containing another specific road, is removed as obsolete, since the Transportation and Infrastructure Committee doesn't report specific road bills in modern practice. (The germaneness rule also suggests that a point of order would lie against an amendment on a specific road offered to a bill containing only another specific road.) Current clause 5(a) on appropriations in legislative bills has reverted to clause 4—the citation until 1975—in order to have a separate clause 5 on tax and tariff bills.
(2) A reappropriation of unexpended balances of appropriations may not be reported in a general appropriation bill, and may not be in order as an amendment thereto, except to continue appropriations for public works and objects that are already in progress. This subparagraph does not apply to transfers of unexpended balances within the department or agency for which they were originally appropriated that are reported by the Committee on Appropriations.	**Derived from clause 6, rule XXI:** 6. No general appropriation bill or amendment thereto shall be received or considered if it contains a provision reappropriating unexpended balances of appropriations; except that this provision shall not apply to appropriations in continuation of appropriations for public works on which work has commenced, and shall not apply to transfers of unexpended balances within the department or agency for which they were originally appropriated, reported by the Committee on Appropriations.	Existing clause 6, rule XXI on reappropriations is transferred into proposed clause 2(a)(2) since it also deals with general appropriation bills and amendments thereto. It is logical to have one clause dealing with general appropriation bills and assures that a point of order lies only against an item in the bill and not against consideration of the entire bill. The "works in progress" exception in the existing clause 6 is modified to conform to the similar "works in progress" exception in the existing clause 2(a) to reflect precedents interpreting the clause.

(b) A provision changing existing law may not be reported in a general appropriation bill, including a provision making the availability of funds contingent on the receipt or possession of information not required by existing law for the period of the appropriation, except germane provisions that retrench expenditures by the reduction of amounts of money covered by the bill (which may include those recommended to the Committee on Appropriations by direction of a legislative committee having jurisdiction over the subject matter) and except rescissions of appropriations contained in appropriation Acts.	**Derived from clause 2, rule XXI:** (b) No provision changing existing law shall be reported in a general appropriation bill, including a provision making the availability of funds contingent on the receipt or possession of information not required by existing law for the period of the appropriation, except germane provisions that retrench expenditures by the reduction of amounts of money covered by the bill, which may include those recommended to the Committee on Appropriations by direction of a legislative committee having jurisdiction over the subject matter thereof, and except rescissions of appropriations contained in appropriation Acts.	
(c) An amendment to a general appropriation bill shall not be in order if changing existing law, including an amendment making the availability of funds contingent on the receipt or possession of information not required by existing law for the period of the appropriation. Except as provided in paragraph (d), an amendment proposing a limitation not specifically contained or authorized in existing law for the period of the limitation shall not be in order during consideration of a general appropriation bill.	(c) No amendment to a general appropriation bill shall be in order if changing existing law, including an amendment making the availability of funds contingent on the receipt or possession of information not required by existing law for the period of the appropriation. Except as provided in paragraph (d), no amendment shall be in order during consideration of a general appropriation bill proposing a limitation not specifically contained or authorized in existing law for the period of the limitation.	
(d) After a general appropriation bill has been read for amendment, a motion that the Committee of the Whole House on the state of the Union rise and report the bill to the House with such amendments as may have been adopted shall, if offered by the Majority Leader or a designee, have precedence over motions to amend the bill. If such a motion to rise and report is rejected or not offered, amendments proposing limitations not specifically contained or authorized in existing law for the period of the limitation or proposing germane amendments that retrench expenditures by reductions of amounts of money covered by the bill may be considered.	(d) After a general appropriation bill has been read for amendment, motions that the Committee of the Whole rise and report the bill to the House with such amendments as may have been adopted shall, if offered by the Majority Leader or a designee, have precedence over motions to further amend the bill. If any such motion is rejected, amendments proposing limitations not specifically contained or authorized in existing law for the period of the limitation or proposing germane amendments which retrench expenditures by reduction of amounts of money covered by the bill may be considered; but after the vote on any such amendment, the privileged motion made in order under this paragraph may be renewed.	Proposed clause 2(d), rule XXI indicates that if the motion to rise is not offered in Committee of the Whole following reading for amendment in its entirety, then a proper limitation amendment may be offered. The present form of the rule only permits limitation amendments if the motion to rise is "rejected".
(e) A provision other than an appropriation designated an emergency under section 251(b)(2) or section 252(e) of the Balanced Budget and Emergency Deficit Control Act, a rescission of budget authority, or a reduction in direct spending or an amount for a designated emergency may not be reported in an appropriation bill or joint resolution containing an emergency designation under section 251(b)(2) or section 252(e) of such Act and may not be in order as an amendment thereto.	(e) No provision shall be reported in any appropriation bill or joint resolution containing an emergency designation for purposes of section 251(b)(2)(D) or section 252(e) of the Balanced Budget and Emergency Deficit Control Act, or shall be in order as an amendment thereto, if the provision or amendment is not designated as an emergency, unless the provision or amendment rescinds budget authority or reduces direct spending, or reduces an amount for a designated emergency.	
(f) During the reading of an appropriation bill for amendment in the Committee of the Whole House on the state of the Union, it shall be in order to consider en bloc amendments proposing only to transfer appropriations among objects in the bill without increasing the levels of budget authority or outlays in the bill. When considered en bloc under this paragraph, such amendments may amend portions of the bill not yet read for amendment (following disposition of any points of order against such portions) and is not subject to a demand for division of the question in the House or in the Committee of the Whole.	(f) During the reading of any appropriation bill for amendment in the Committee of the Whole, it shall be in order to consider en bloc amendments proposing only to transfer appropriations among objects in the bill without increasing the levels of budget authority or outlays in the bill. When considered en bloc pursuant to this paragraph, such amendments may amend portions of the bill not yet read for amendment (following the disposition of any points of order against such portions) and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.	

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
Roads 3. A bill providing general legislation in relation to roads may not contain a provision for a specific road.	**Derived from clause 1(q), rule X:** . . . but it shall not be in order for any bill providing general legislation in relation to roads to contain any provision for any specific road, nor for any bill in relation to a specific road to embrace a provision in relation to any other specific road.	Proposed clause 3, rule XXI is currently contained in clause 1(q)(10), rule X, the Transportation and Infrastructure Committee's jurisdictional statement. It logically belongs in a rule prohibiting consideration of certain bills. This recodification draft also eliminates the present restriction in Transportation's jurisdictional rule against any bill in relation to a specific road embracing a provision in relation to any other specific road.
Appropriations on legislative bills 4. A bill or joint resolution carrying an appropriation may not be reported by a committee not having jurisdiction to report appropriations, and an amendment proposing an appropriation shall not be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A point of order against an appropriation in such a bill, joint resolution, or amendment thereto may be raised at any time during pendency of that measure for amendment.	**Derived from clause 5, rule XXI:** (a) No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.	The prohibition against appropriating on a legislative bill, currently in clause 5(a), rule XXI, reverts to clause 4, where it existed prior to 1975, in this draft. The "at any time" provisions of proposed clause 4 and 5(a) is clarified to reflect precedents from 1946 and 1975 interpreting this phrase.
Tax and tariff measures and amendments 5. (a) A bill or joint resolution carrying a tax or tariff measure may not be reported by a committee not having jurisdiction to report tax or tariff measures, and an amendment in the House or proposed by the Senate carrying a tax or tariff measure shall not be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A point of order against a tax or tariff measure in such a bill, joint resolution, or amendment thereto may be raised at any time during pendency of that measure for amendment.	(b) No bill or joint resolution carrying a tax or tariff measure shall be reported by any committee not having jurisdiction to report tax and tariff measures, nor shall an amendment in the House or proposed by the Senate carrying a tax or tariff measure be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on a tax or tariff measure in any such bill, joint resolution, or amendment thereto may be raised at any time.	
Passage of tax rate increases (b) A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present. In this paragraph the term "Federal income tax rate increase" means any amendment to subsection (a), (b), (c), (d), or (e) of section 1, or to section 11(b) or 55(b), of the Internal Revenue Code of 1986, that imposes a new percentage as a rate of tax and thereby increases the amount of tax imposed by any such section.	(c) No bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase shall be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting. For purposes of the preceding sentence, the term "Federal income tax rate increase" means any amendment to subsection (a), (b), (c), (d), or (e) of section 1, or to section 11(b) or 55(b), of the Internal Revenue Code of 1986, that imposes a new percentage as a rate of tax and thereby increases the amount of tax imposed by any such section.	
Consideration of retroactive tax rate increases (c) It shall not be in order to consider a bill, joint resolution, amendment, or conference report carrying a retroactive Federal income tax rate increase. In this paragraph—	(d) It shall not be in order to consider any bill, joint resolution, amendment, or conference report carrying a retroactive Federal income tax rate increase. For purposes of the preceding sentence—	
(1) the term "Federal income tax rate increase" means any amendment to subsection (a), (b), (c), (d), or (e) of section 1, or to section 11(b) or 55(b), of the Internal Revenue Code of 1986, that imposes a new percentage as a rate of tax and thereby increases the amount of tax imposed by any such section; and	(1) the term "Federal income tax rate increase" means any amendment to subsection (a), (b), (c), (d), or (e) of section 1, or to section 11(b) or 55(b), of the Internal Revenue Code of 1986, that imposes a new percentage as a rate of tax and thereby increases the amount of tax imposed by any such section; and	

(2) a Federal income tax rate increase is retroactive if it applies to a period beginning before the enactment of the provision.	(2) a Federal income tax rate increase is retroactive if it applies to a period beginning prior to the enactment of the provision.	
Transportation obligation limitations 6. It shall not be in order to consider a bill, joint resolution, amendment, or conference report that would cause obligation limitations to be below the level for any fiscal year set forth in section 8103 of the Transportation Equity Act for the 21st Century, as adjusted, for the highway category or the mass transit category, as applicable.	**Derived from clause 9, rule XXI:** 9. It shall not be in order to consider any bill or joint resolution, or any amendment thereto or conference report thereon, that would cause obligation limitations to be below the level for any fiscal year set forth in section 8103 of the Transportation Equity Act for the 21st Century, as adjusted, for the highway category or the mass transit category, as applicable.	

RULE XXII

HOUSE AND SENATE RELATIONS

Senate amendments 1. A motion to disagree to Senate amendments to a House bill or resolution and to request or agree to a conference with the Senate, or a motion to insist on House amendments to a Senate bill or resolution and to request or agree to a conference with the Senate, shall be privileged in the discretion of the Speaker if offered by direction of the primary committee and of all reporting committees that had initial referral of the bill or resolution.	**Derived from clause 1, rule XX:** . . . That a motion to disagree with the amendments of the Senate to a House bill or resolution and request or agree to a conference with the Senate, or a motion to insist on the House amendments to a Senate bill or resolution and request or agree to a conference with the Senate, shall always be in order if the Speaker, in his discretion, recognizes for that purpose and if the motion is made by direction of the committee having jurisdiction of the subject matter of the bill or resolution.	Proposed rule XXII consolidates all provisions currently in rule XX and rule XXVIII relating to Senate amendments, conference reports, and amendments reported from conference in disagreement. Clause 1 is clarified to indicate that the motion to go to conference must be authorized by all reporting committees of initial referral. Clauses 2 and 4 clarify the distinction between privilege in the House of motions to dispose of Senate amendment before and after the stage of disagreement has been reached. Clause 3 has been clarified to make clear that the rules on scope of conference apply to all amendments in disagreement committed to conference, not merely to amendments in the nature of a substitute. Existing clauses 4 and 5 of rule XXVIII contain three separate but similar provisions concerning nongermane Senate provisions in bills or amendments committed to conference and either resolved in conference or reported back in disagreement for disposition by separate vote. Rather than repeat virtually the same procedures with respect to points of order and motions to reject the nongermane matter specified in the point of order, the consolidated clause 10 combines all those provisions in one procedure applicable to any of the three situations.
2. A motion to dispose of House bills with Senate amendments not requiring consideration in the Committee of the Whole House on the state of the Union shall be privileged.	**Derived from clause 2, rule XXIV:** . . . but House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine . . .	
3. Except as permitted by clause 1, before the stage of disagreement, a Senate amendment to a House bill or resolution shall be subject to the point of order that it must first be considered in the Committee of the Whole House on the state of the Union if, originating in the House, it would be subject to such a point under clause 3 of rule XVIII.	**Derived from clause 1, rule XX:** Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the state of the Union, if, originating in the House, it would be subject to that point: Provided, however, That . . .	
4. When the stage of disagreement has been reached on a bill or resolution with House or Senate amendments, a motion to dispose of any amendment shall be privileged.		Proposed clause 4 is added since practice has always dictated handling amendments in disagreement as privileged.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
5. (a) Managers on the part of the House may not agree to a Senate amendment described in paragraph (b) unless specific authority to agree to the amendment first is given by the House by a separate vote with respect thereto. If specific authority is not granted, the Senate amendment shall be reported in disagreement by the conference committee back to the two Houses for disposition by separate motion. (b) The managers on the part of the House may not agree to a Senate amendment described in paragraph (a) that— (1) would violate clause 2 (a)(1) or (c) of rule XXI if originating in the House; or (2) proposes an appropriation on a bill other than a general appropriation bill.	**Derived from clause 2, rule XX:** 2. No amendment of the Senate to a general appropriation bill which would be in violation of the provisions of clause 2 of rule XXI, if said amendment had originated in the House, nor any amendment of the Senate providing for an appropriation upon any bill other than a general appropriation bill, shall be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall be first given by the House by a separate vote on every such amendment.	The last portion of the language in clause 5 has been added to codify existing practice.
6. A Senate amendment carrying a tax or tariff measure in violation of clause 5(a) of rule XXI may not be agreed to.		Currently clause 5(b), rule XXI precludes agreeing to Senate amendments carrying tax or tariff measures.
Conference reports; amendments reported in disagreement 7. (a) The presentation of a conference report shall be in order at any time except during a reading of the Journal or the conduct of a record vote, a vote by division, or a quorum call.	**Derived from:** RULE XXVIII CONFERENCE REPORTS 1. (a) The presentation of reports of committees of conference shall always be in order, except when the Journal is being read, while the roll is being called, or the House is dividing on any proposition.	
(b)(1) Subject to subparagraph (2) the time allotted for debate on a motion to instruct managers on the part of the House shall be equally divided between the majority and minority parties. (2) If the proponent of a motion to instruct managers on the part of the House and the Member, Delegate, or Resident Commissioner of the other party identified under subparagraph (1) both support the motion, one-third of the time for debate thereon shall be allotted to a Member, Delegate, or Resident Commissioner who opposes the motion on demand of that Member, Delegate, or Resident Commissioner.	(b) The time allotted for debate on any motion to instruct House conferees shall be equally divided between the majority and minority parties, except that if the proponent of the motion and the Member from the other party are both supporters of the motion, one-third of such debate time shall be allotted to a Member who is opposed to said motion.	
(c)(1) A motion to instruct managers on the part of the House, or a motion to discharge all managers on the part of the House and to appoint new conferees, shall be privileged— (A) after a conference committee has been appointed for 20 calendar days without making a report; and (B) on the first legislative day after the calendar day on which the Member, Delegate, or Resident Commissioner offering the motion announces to the House his intention to do so and the form of the motion. (2) The Speaker may designate a time in the legislative schedule on that legislative day for consideration of a motion described in subparagraph (1). (3) During the last six days of a session of Congress, the period of time specified in subparagraph (1)(A) shall be 36 hours.	(c) After House conferees on any bill or resolution in conference between the House and Senate shall have been appointed for twenty calendar days and shall have failed to make a report, it is hereby declared to be a motion of the highest privilege to move to discharge said House conferees and to appoint new conferees, or to instruct said House conferees (but in either case only at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member offering the motion announces to the House his intention to do so and the form of the motion); and, further, during the last six days of any session of Congress, it shall be a privileged motion to move to discharge, appoint, or instruct, House conferees after House conferees shall have been appointed thirty-six hours without having made a report.	A committee of conference only exists after *both* Houses have appointed their conferees.

(d) Each conference report to the House shall be printed as a report of the House. Each such report shall be accompanied by a joint explanatory statement prepared jointly by the managers on the part of the House and the managers on the part of the Senate. The joint explanatory statement shall be sufficiently detailed and explicit to inform the House of the effects of the report on the matters committed to conference.	(d) Each report made by a committee of conference to the House shall be printed as a report of the House. As so printed, such report shall be accompanied by an explanatory statement prepared jointly by the conferees on the part of the House and the conferees on the part of the Senate. Such statement shall be sufficiently detailed and explicit to inform the House as to the effect which the amendments or propositions contained in such report will have upon the measure to which those amendments or propositions relate.	
8. (a)(1) Except as specified in subparagraph (2), it shall not be in order to consider a conference report until— (A) the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) on which the conference report and the accompanying joint explanatory statement have been available to Members, Delegates, and the Resident Commissioner in the Congressional Record; and (B) copies of the conference report and the accompanying joint explanatory statement have been available to Members, Delegates, and the Resident Commissioner for at least two hours. (2) Subparagraph (1)(A) does not apply during the last six days of a session of Congress.	2. (a) It shall not be in order to consider the report of a committee of conference until the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) after such report and the accompanying statement shall have been filed in the House, and such consideration then shall be in order only if such report and accompanying statement shall have been printed in the daily edition of the Congressional Record for the day on which such report and statement shall have been filed; but the preceding provisions of this sentence do not apply during the last six days of the session. Nor shall it be in order to consider any conference report unless copies of the report and accompanying statement have been available to Members for at least two hours before the beginning of such consideration: Provided, however, That it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b) of rule XI, a report from the Committee on Rules only making in order the consideration of a conference report notwithstanding this restriction. The time allotted for debate in the consideration of any such report shall be equally divided between the majority party and the minority party, except that if the floor manager for the majority and the floor manager for the minority are both supporters of the conference report, one third of such debate time shall be allotted to a Member who is opposed to said conference report.	The authority of the Rules Committee to call up on the same day reported a resolution only waiving availability requirements for a conference report or amendment reported in disagreement, currently in existing clause 2(a) and (b), rule XXVIII, is retained in clause 8(e) of this rule and in clause 6(a)(2), rule XIII since it relates to privileged reports of that committee. The division of debate time for a conference report or amendment reported in disagreement is transferred to clause 8(d) of this rule.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(b)(1) Except as specified in subparagraph (2), it shall not be in order to consider a motion to dispose of a Senate amendment reported in disagreement by a conference committee until— (A) the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) on which the report in disagreement and any accompanying statement have been available to Members, Delegates, and the Resident Commissioner in the Congressional Record; and (B) copies of the report in disagreement and any accompanying statement, together with the text of the Senate amendment, have been available to Members, Delegates, and the Resident Commissioner for at least two hours. (2) Subparagraph (1)(A) does not apply during the last six days of a session of Congress.	(b)(1) It shall not be in order to consider any amendment (including an amendment in the nature of a substitute) proposed by the Senate to any measure reported in disagreement between the two Houses by a report of a committee of conference that the committee has been unable to agree, until the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) after such report and accompanying statement shall have been filed in the House, and such consideration then shall be in order only if such report and accompanying statement shall have been printed in the daily edition of the Congressional Record for the day on which such report and statement shall have been filed; but the preceding provisions of this sentence do not apply during the last six days of the session. Nor shall it be in order to consider any such amendment unless copies of the report and accompanying statement, together with the text of such amendment, have been available to Members for at least two hours before the beginning of such consideration: Provided, however, That it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b) of rule XI, a report from the Committee on Rules only making in order the consideration of such an amendment notwithstanding this restriction. The time allotted for debate on any such amendment shall be equally divided between the majority party and the minority party, except that if the floor manager for the majority and the floor manager for the minority are both supporters of the original motion offered by the floor manager for the majority to dispose of the amendment, one third of such debate time shall be allotted to a Member who is opposed to said motion.	
(3) During consideration of a Senate amendment reported in disagreement by a conference committee on a general appropriation bill, a motion to insist on disagreement to the Senate amendment shall be preferential to any other motion to dispose of that amendment if the original motion offered by the floor manager proposes to change existing law and the motion to insist is offered before debate on the original motion by the chairman of the committee having jurisdiction of the subject matter of the amendment or a designee. Such a preferential motion shall be separately debatable for one hour equally divided between its proponent and the proponent of the original motion. The previous question shall be considered as ordered on the preferential motion to its adoption without intervening motion.	(2) During consideration of such an amendment to a general appropriation bill, if the original motion offered by the floor manager proposes to change existing law, then pending such original motion and before debate thereon one motion to insist on disagreement to the amendment proposed by the Senate shall be preferential to any other motion to dispose of that amendment if offered by the chairman of a committee having jurisdiction of the subject matter of the amendment or by a designee. Such a preferential motion shall be separately debatable for one hour equally divided between its proponent and the proponent of the original motion. The previous question shall be considered as ordered on such a preferential motion to its adoption without intervening motion.	
(c) A conference report or a Senate amendment reported in disagreement by a conference committee that has been available as provided in paragraph (a) or (b) shall be considered as read when called up.	(c) Any conference report and Senate amendment in disagreement which has been available as provided in paragraphs (a) and (b) of this clause shall be considered as having been read when called up for consideration.	

(d)(1) Subject to subparagraph (2), the time allotted for debate on a conference report or on a motion to dispose of a Senate amendment reported in disagreement by a conference committee shall be equally divided between the majority and minority parties. (2) If the floor manager for the majority and the floor manager for the minority both support the conference report or motion, one-third of the time for debate thereon shall be allotted to a Member, Delegate, or Resident Commissioner who opposes the conference report or motion on demand of that Member, Delegate, or Resident Commissioner. (e) Under clause 6(a)(2) of rule XIII, a resolution proposing only to waive a requirement of this clause concerning the availability of reports to Members, Delegates, and the Resident Commissioner may be considered by the House on the same day it is reported by the Committee on Rules.		Paragraphs (d) and (e) are derived from existing clause 2(a) and (b), rule XXVIII.
9. Whenever a disagreement to an amendment has been committed to a conference committee, the managers on the part of the House may propose a substitute that is a germane modification of the matter in disagreement. The introduction of any language presenting specific additional matter not committed to the conference committee by either House does not constitute a germane modification of the matter in disagreement. Moreover, a conference report may not include matter not committed to the conference committee by either House and may not include a modification of specific matter committed to the conference committee by either or both Houses if that modification is beyond the scope of that specific matter as committed to the conference committee.	3. Whenever a disagreement to an amendment in the nature of a substitute has been committed to a conference committee it shall be in order for the Managers on the part of the House to propose a substitute which is a germane modification of the matter in disagreement, but the introduction of any language in that substitute presenting a specific additional topic, question, issue, or proposition not committed to the conference committee by either House shall not constitute a germane modification of the matter in disagreement. Moreover, their report shall not include matter not committed to the conference committee by either House, nor shall their report include a modification of any specific topic, question, issue, or proposition committed to the conference committee by either or both Houses if that modification is beyond the scope of that specific topic, question, issue, or proposition as so committed to the conference committee.	Clause 5 of this proposed rule also limits conferees' authority to agree to Senate amendments containing legislation or unauthorized appropriations in general appropriation bills or appropriations in legislative bills.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
10. (a)(1) A Member, Delegate, or Resident Commissioner may raise a point of order against nongermane matter, as specified in subparagraph (2), before the commencement of debate on— (A) a conference report; (B) a motion that the House recede from its disagreement to a Senate amendment reported in disagreement by a conference committee and concur therein, with or without amendment; or (C) a motion that the House recede from its disagreement to a Senate amendment on which the stage of disagreement has been reached and concur therein, with or without amendment.	4. (a) With respect to any report of a committee of conference called up before the House containing any matter which would be in violation of the provisions of clause 7 of rule XVI if such matter had been offered as an amendment in the House, and which— (1) is contained in any Senate amendment to that measure (including a Senate amendment in the nature of substitute for the text of that measure as passed by the House) accepted by the House conferees or agreed to by the conference committee with modification; or (2) is contained in any substitute agreed to by the conference committee; it shall be in order, at any time after the reading of the report has been completed or dispensed with and before the reading of the statement, or immediately upon consideration of a conference report if clause 2(c) of this rule applies, to make a point of order that such nongermane matter, as described above, which shall be specified in the point of order, is contained in the report. For the purposes of this clause, matter which— (A) is contained in any substitute agreed to by the conference committee; (B) is not proposed by the House to be included in the measure concerned as passed by the House; and (C) would be in violation of clause 7 of rule XVI if such matter had been offered in the House as an amendment to the provisions of that measure as so proposed in the form passed by the House; shall be considered in violation of such clause 7.	Existing clauses 4 and 5 of rule XXVIII contain three separate but similar provisions concerning nongermane Senate provisions in bills or amendments committed to conference and either resolved in conference or reported back in disagreement for disposition by separate vote. Rather than repeat virtually the same procedures with respect to points of order and motions to reject the nongermane matter specified in the point of order, the new clause 10 represents an effort to consolidate all those provisions in one procedure applicable to any of the three situations. This new clause makes no substantive change in the way points of order are made and motions to reject considered whether nongermane matter is contained in a conference report, in a motion to recede and concur in a Senate amendment, or in a motion to recede and concur with an amendment. In the event that a motion to reject in any of those situations prevails, the new clause restates the pending question or the available alternative motion as currently stated. The test is whether the matter would have been ruled nongermane if offered to the House-passed measure.
(2) A point of order against nongermane matter is one asserting that a proposition described in subparagraph (1) contains specified matter that would violate clause 7 of rule XVI if it were offered in the House as an amendment to the underlying measure in the form it was passed by the House.		
(b) If a point of order under paragraph (a) is sustained, a motion that the House reject the nongermane matter identified by the point of order shall be privileged. Such a motion is debatable for 40 minutes, one-half in favor of the motion and one-half in opposition thereto.	(b) If such point of order is sustained, it then shall be in order for the Chair to entertain a motion, which is of high privilege, that the House reject the nongermane matter covered by the point of order. It shall be in order to debate such motion for forty minutes, one-half of such time to be given to debate in favor of, and one-half in opposition to, the motion.	
(c) After disposition of a point of order under paragraph (a) or a motion to reject under paragraph (b), any further points of order under paragraph (a) not covered by a previous point of order, and any consequent motions to reject under paragraph (b), shall be likewise disposed of.	(c) Notwithstanding the final disposition of any point of order made under paragraph (a), or of any motion to reject made pursuant to a point of order under paragraph (b), of this clause, it shall be in order to make further points of order on the ground stated in such paragraph (a), and motions to reject pursuant thereto under such paragraph (b), with respect to other nongermane matter in the report of the committee of conference not covered by any previous point of order which has been sustained.	

(d)(1) If a motion to reject under paragraph (b) is adopted, then after disposition of all points of order under paragraph (a) and any consequent motions to reject under paragraph (b), the conference report or motion, as the case may be, shall be considered as rejected and the matter remaining in disagreement shall be disposed of under subparagraph (2) or (3), as the case may be.

(2) After the House has adopted one or more motions to reject nongermane matter contained in a conference report under the preceding provisions of this clause—

(A) if the conference report accompanied a House measure amended by the Senate, the pending question shall be whether the House shall recede and concur in the Senate amendment with an amendment consisting of so much of the conference report as was not rejected; and

(B) if the conference report accompanied a Senate measure amended by the House, the pending question shall be whether the House shall insist further on the House amendment.

(3) After the House has adopted one or more motions to reject nongermane matter contained in a motion that the House recede and concur in a Senate amendment, with or without amendment, the following motions shall be privileged and shall have precedence in the order stated:

(A) A motion that the House recede and concur in the Senate amendment with an amendment in writing then available on the floor.

(B) A motion that the House insist on its disagreement to the Senate amendment and request a further conference with the Senate.

(C) A motion that the House insist on its disagreement to the Senate amendment.

(e) If, on a division of the question on a motion described in paragraph (a)(1) (B) or (C), the House agrees to recede, then a Member, Delegate, or Resident Commissioner may raise a point of order against nongermane matter, as specified in paragraph (a)(2), before the commencement of debate on concurring in the Senate amendment, with or without amendment. A point of order under this paragraph shall be disposed of according to the preceding provisions of this clause in the same manner as a point of order under paragraph (a).

(d) If any such motion to reject has been adopted, after final disposition of all points of order and motions to reject under the preceding provisions of this clause, the conference report shall be considered as rejected and the question then pending before the House shall be—

(1) whether to recede and concur in the Senate amendment with an amendment which shall consist of that portion of the conference report not rejected; or

(2) if the last sentence of paragraph (a) of this clause applies, whether to insist further on the House amendment.

If all such motions to reject are defeated, then, after the allocation of time for debate on the conference report as provided in clause 2(a) of this rule, it shall be in order to move the previous question on the adoption of the conference report.

5. (a)(1) With respect to any amendment (including an amendment in the nature of a substitute) which—

(A) is proposed by the Senate to any measure and thereafter—

(i) is reported in disagreement between the two Houses by a committee of conference; or

(ii) is before the House, the stage of disagreement having been reached; and

(B) contains any matter which would be in violation of the provisions of clause 7 of rule XVI if such matter had been offered as an amendment in the House;

it shall be in order, immediately after a motion is offered that the House recede from its disagreement to such amendment proposed by the Senate and concur therein and before debate is commenced on such motion, to make a point of order that such nongermane matter, as described above, which shall be specified in the point of order, is contained in such amendment proposed by the Senate.

(2) If such point of order is sustained, it then shall be in order for the Chair to entertain a motion, which is of high privilege, that the House reject the nongermane matter covered by the point of order. It shall be in order to debate such motion for forty minutes, one-half of such time to be given to debate in favor of, and one-half in opposition to, the motion.

(3) Notwithstanding the final disposition of any point of order made under subparagraph (1), or of any motion to reject made pursuant to a point of order under subparagraph (2), of this paragraph, it shall be in order to make further points of order on the ground stated in such subparagraph (1), and motions to reject pursuant thereto under such subparagraph (2), with respect to other nongermane matter in the amendment proposed by the Senate not covered by any previous point of order which has been sustained.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
	(4) If any such motion to reject has been adopted, after final disposition of all points of order and motions to reject under the preceding provisions of this clause, the motion to recede and concur shall be considered as rejected, and further motions—	
	(A) to recede and concur in the Senate amendment with an amendment, where appropriate (but the offering of which is not in order unless copies of the language of the Senate amendment, as proposed to be amended by such motion, are then available on the floor when such motion is offered and is under consideration);	
	(B) to insist upon disagreement to the Senate amendment and request a further conference with the Senate; and	
	(C) to insist upon disagreement to the Senate amendment; shall remain of high privilege for consideration by the House. If all such motions to reject are defeated, then, after the allocation of time for debate on the motion to recede and concur as provided in clause 2(b) of this rule, it shall be in order to move the previous question on such motion.	
	(b)(1) With respect to any such amendment proposed by the Senate as described in paragraph (a) of this clause, it shall not be in order to offer any motion that the House recede from its disagreement to such Senate amendment and concur therein with an amendment, unless copies of the language of the Senate amendment, as proposed to be amended by such motion, are then available on the floor when such motion is offered and is under consideration.	
	(2) Immediately after any such motion is offered and is in order and before debate is commenced on such motion, it shall be in order to make a point of order that nongermane matter, as described in subparagraph (1) of paragraph (a) of this clause, which shall be specified in the point of order, is contained in the language of the Senate amendment, as proposed to be amended by such motion, copies of which are then available on the floor.	
	(3) If such point of order is sustained, it then shall be in order for the Chair to entertain a motion, which is of high privilege, that the House reject the nongermane matter covered by the point of order. It shall be in order to debate such motion for forty minutes, one-half of such time to be given to debate in favor of, and one-half in opposition to, the motion.	

11. It shall not be in order to consider a conference report to accompany a bill or joint resolution that proposes to amend the Internal Revenue Code of 1986 unless—

(a) the joint explanatory statement of the managers includes a tax complexity analysis prepared by the Joint Committee on Internal Revenue Taxation in accordance with section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998; or

(4) Notwithstanding the final disposition of any point of order under subparagraph (2), or of any motion to reject made pursuant to a point of order under subparagraph (3), of this paragraph, it shall be in order to make further points of order on the ground stated in subparagraph (1) of paragraph (a) of this clause, and motions to reject pursuant thereto under subparagraph (3) of this paragraph, with respect to other nongermane matter in the language of the Senate amendment, as proposed to be amended by the motion described in subparagraph (1) of this paragraph, not covered by any previous point of order which has been sustained.

(5) If any such motion to reject has been adopted, after final disposition of all points of order and motions to reject under the preceding provisions of this paragraph, the motion to recede and concur in the Senate amendment with an amendment shall be considered as rejected, and further motions—

(A) to recede and concur in the Senate amendment with an amendment, where appropriate (but the offering of which is not in order unless copies of the language of the Senate amendment, as proposed to be amended by such motion, are then available on the floor when such motion is offered and is under consideration);

(B) to insist upon disagreement to the Senate amendment and request a further conference with the Senate; and

(C) to insist upon disagreement to the Senate amendment;

shall remain of high privilege for consideration by the House. If all such motions to reject are defeated, then, after the allocation of time for debate on the motion to recede and concur in the Senate amendment with an amendment as provided in clause 2(b) of this rule, it shall be in order to move the previous question on such motion.

(c) If, on a division of a motion that the House recede and concur, with or without amendment, from its disagreement to any such Senate amendment as described in paragraph (a)(1) of this clause, the House agrees to recede, then, before debate is commenced on concurring in such Senate amendment, or on concurring therein with an amendment it shall be in order to make and dispose of points of order and motions to reject with respect to such Senate amendment in accordance with applicable provisions of this clause and to effect final determination of these matters in accordance with such provisions.

From clause 7 of rule XXVIII:

7. It shall not be in order to consider the report of a committee of conference which contains any provision amending the Internal Revenue Code of 1986 unless—

(a) the accompanying joint explanatory statement contains a Tax Complexity Analysis prepared by the Joint Committee on Taxation in accordance with section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998; or

Proposed clause 11, rule XXII was added to the rules by the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206), to be effective after January 1, 1999.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(b) the chairman of the Committee on Ways and Means causes such a tax complexity analysis to be printed in the Congressional Record before consideration of the conference report.	(b) such Analysis is printed in the Congressional Record prior to the consideration of the report.	
12. (a)(1) Subject to subparagraph (2), a meeting of each conference committee shall be open to the public. (2) In open session of the House, a motion that managers on the part of the House be permitted to close to the public a meeting or meetings of their conference committee shall be privileged, shall be decided without debate, and shall be decided by a record vote. (b) A point of order that a conference committee failed to comply with paragraph (a) may be raised immediately after the conference report is read or considered as read. If such a point of order is sustained, the conference report shall be considered as rejected, the House shall be considered to have insisted on its amendments or on disagreement to the Senate amendments, as the case may be, and to have requested a further conference with the Senate, and the Speaker may appoint new conferees without intervening motion.	**Derived from clause 6, rule XXVIII:** 6. (a) Each conference committee meeting between the House and Senate shall be open to the public except when the House, in open session, has determined by a rollcall vote of a majority of those Members voting that all or part of the meeting shall be closed to the public. (b)(1) After the reading of the report and before the reading of the joint statement, or immediately upon consideration of a conference report if clause 2(c) of this rule applies, a point of order may be made that the committee of conference making the report to the House has failed to comply with paragraph (a) of this clause. (2) If such point of order is sustained, the conference report shall be considered as rejected, the House shall be considered to have insisted upon its amendment(s) or upon disagreement to the amendment(s) of the Senate, as the case may be, and to have requested a further conference with the Senate, and the Speaker shall be authorized to appoint new conferees without intervening motion.	Once authorized by the House to close a conference committee hearing, the conferees may choose to close only a portion.
RULE XXIII **STATUTORY LIMIT ON PUBLIC DEBT** 1. Upon adoption by Congress of a concurrent resolution on the budget under section 301 or 304 of the Congressional Budget Act of 1974 that sets forth, as the appropriate level of the public debt for the period to which the concurrent resolution relates, an amount that is different from the amount of the statutory limit on the public debt that otherwise would be in effect for that period, the Clerk shall prepare an engrossment of a joint resolution increasing or decreasing, as the case may be, the statutory limit on the public debt in the form prescribed in clause 2. Upon engrossment of the joint resolution, the vote by which the concurrent resolution on the budget was finally agreed to in the House shall also be considered as a vote on passage of the joint resolution in the House, and the joint resolution shall be considered as passed by the House and duly certified and examined. The engrossed copy shall be signed by the Clerk and transmitted to the Senate for further legislative action.	**Derived from:** RULE XLIX ESTABLISHMENT OF STATUTORY LIMIT ON THE PUBLIC DEBT 1. Upon the adoption by the Congress (under section 301 or 304 of the Congressional Budget Act of 1974) of any concurrent resolution on the budget setting forth as the appropriate level of the public debt for the period to which such concurrent resolution relates an amount which is different from the amount of the statutory limit on the public debt that would otherwise be in effect for such period, the enrolling clerk of the House of Representatives shall prepare an engrossment of a joint resolution, in the form prescribed in clause 2, increasing or decreasing the statutory limit on the public debt. The vote by which the conference report on the concurrent resolution on the budget was agreed to in the House (or by which the concurrent resolution itself was adopted in the House, if there is no conference report) shall be deemed to have been a vote in favor of such joint resolution upon final passage in the House of Representatives. Upon the engrossment of such joint resolution it shall be deemed to have passed the House of Representatives and been duly certified and examined; the engrossed copy shall be signed by the Clerk and transmitted to the Senate for further legislative action; and (upon final passage by both Houses) the joint resolution shall be signed by the presiding officers of both Houses and presented to the President for his signature (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.	Existing rule XLIX becomes rule XXIII relating to the establishment of statutory limit on the public debt and carries without substantive change the procedures for automatic engrossment of a joint resolution adjusting the public debt limit upon final adoption of a concurrent resolution on the budget. The phrase "finally agreed to in the House" in proposed clause 1 means the vote by which the House adopts the conference report, or if there is no conference report, on the concurrent resolution itself. The last sentence of existing clause 1 is deleted as unnecessary as the transmittal of the engrossment and enrollment of this joint resolution are handled just like any other legislative measure.

2. The matter after the resolving clause in a joint resolution described in clause 1 shall be as follows: "That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof '$______'.", with the blank being filled with a dollar limitation equal to the appropriate level of the public debt set forth pursuant to section 301(a)(5) of the Congressional Budget Act of 1974 in the relevant concurrent resolution described in clause 1. If an adopted concurrent resolution under clause 1 sets forth different appropriate levels of the public debt for separate periods, only one engrossed joint resolution shall be prepared under clause 1; and the blank referred to in the preceding sentence shall be filled with the limitation that is to apply for each period.	2. The matter after the resolving clause in any joint resolution described in clause 1 shall be as follows: "That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof '$______'.", with the blank being filled in with a limitation equal to the appropriate level of the public debt as set forth, pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, in the concurrent resolution on the budget (whether such resolution was adopted under section 301, 304, or 310 of such Act). Only one joint resolution shall be prepared under clause 1 upon the adoption of any concurrent resolution on the budget; and, if the concurrent resolution set forth a different appropriate level of the public debt (pursuant to such section 301(a)(5)) for each of two separate periods, the blank referred to in the preceding sentence shall be filled in with both the limitation which is to apply for the later of the two periods (specifying the date on which that limitation is to take effect) and the limitation which is to apply for the earlier of such periods.
3. (a) The report of the Committee on the Budget on a concurrent resolution described in clause 1 and the joint explanatory statement of the managers on a conference report to accompany such a concurrent resolution each shall contain a clear statement of the effect the eventual enactment of a joint resolution engrossed under this rule would have on the statutory limit on the public debt. (b) It shall not be in order for the House to consider a concurrent resolution described in clause 1, or a conference report thereon, unless the report of the Committee on the Budget or the joint explanatory statement of the managers complies with paragraph (a)..	3. The report of the Committee on the Budget of the House of Representatives accompanying any concurrent resolution on the budget under section 301(d) of the Congressional Budget Act of 1974, as well as the joint explanatory statement accompanying the conference report on any concurrent resolution on the budget, shall contain a clear statement of the effect under this rule that the adoption by both the House and the Senate of such concurrent resolution in the form in which it is being reported (and the adoption of the joint resolution thereupon prepared and enrolled under clause 1) would have upon the statutory limit on the public debt. It shall not be in order in the House of Representatives at any time to consider or adopt any concurrent resolution on the budget (or agree to any conference report thereon) if at that time the report accompanying such concurrent resolution (or the joint statement accompanying such conference report) does not comply with the requirements of this clause.
4. Nothing in this rule shall be construed as limiting or otherwise affecting— (a) the power of the House or the Senate to consider and pass bills or joint resolutions, without regard to the procedures under clause 1, that would change the statutory limit on the public debt; or (b) the rights of Members, Delegates, the Resident Commissioner, or committees with respect to the introduction, consideration, and reporting of such bills or joint resolutions.	4. Nothing in this rule shall be construed as limiting or otherwise affecting the power of the House of Representatives or the Senate to consider and pass a bill which (without regard to the procedures under clause 1) changes the statutory limit on the public debt most recently established under this rule or otherwise; and the rights of Members and committees of the House with respect to the introduction, consideration, and reporting of any such bill shall be determined as though this rule had not been adopted.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
5. In this rule the term "statutory limit on the public debt" means the maximum face amount of obligations issued under authority of chapter 31 of title 31, United States Code, and obligations guaranteed as to principal and interest by the United States (except such guaranteed obligations as may be held by the Secretary of the Treasury), as determined under section 3101(b) of such title after the application of section 3101(a) of such title, that may be outstanding at any one time.	5. As used in this rule, the term "statutory limit on the public debt" means the maximum face amount of obligations issued under authority of chapter 31 of title 31, United States Code and obligations guaranteed as to principal and interest by the United States (except such guaranteed obligations as may be held by the Secretary of the Treasury), determined under section 3101(b) of title 31 after the application of section 3101(a) of title 31 which may be outstanding at any one time.	
RULE XXIV **CODE OF OFFICIAL CONDUCT**	**Derived from:** RULE XLIII CODE OF OFFICIAL CONDUCT	
There is hereby established by and for the House the following code of conduct, to be known as the "Code of Official Conduct":	There is hereby established by and for the House of Representatives the following code of conduct, to be known as the "Code of Official Conduct":	**Rules XXIV-XXVII—Conduct of Members, Officers and Employees** Proposed rules XXIV through XXVII consolidate all rules relating to the official conduct of Members, officers and employees in a sequential order, beginning with the Code of Conduct which is existing rule XLIII. Provisions relating to procedures of the Committee on Standards of Official Conduct are transferred from clause 4(e) of rule X into new clause 3 of rule XI as more appropriately a matter of committee procedure.
1. A Member, Delegate, Resident Commissioner, officer, or employee of the House shall conduct himself at all times in a manner that shall reflect creditably on the House.	1. A Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives.	
2. A Member, Delegate, Resident Commissioner, officer, or employee of the House shall adhere to the spirit and the letter of the Rules of the House and to the rules of duly constituted committees thereof.	2. A Member, officer, or employee of the House of Representatives shall adhere to the spirit and the letter of the Rules of the House of Representatives and to the rules of duly constituted committees thereof.	
3. A Member, Delegate, Resident Commissioner, officer, or employee of the House may not receive compensation and may not permit compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in Congress.	3. A Member, officer, or employee of the House of Representatives shall receive no compensation nor shall he permit any compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in the Congress.	
4. A Member, Delegate, Resident Commissioner, officer, or employee of the House may not accept gifts except as provided by clause 5 of rule XXVI.	4. A Member, officer, or employee of the House of Representatives shall not accept gifts except as provided by the provisions of rule LI (Gift Rule).	
5. A Member, Delegate, Resident Commissioner, officer, or employee of the House may not accept an honorarium for a speech, a writing for publication, or other similar activity.	5. A Member, officer, or employee of the House of Representatives shall accept no honorarium for a speech, writing for publication, or other similar activity.	
6. A Member, Delegate, or Resident Commissioner— (a) shall keep his campaign funds separate from his personal funds; (b) may not convert campaign funds to personal use in excess of an amount representing reimbursement for legitimate and verifiable campaign expenditures; and (c) may not expend funds from his campaign account that are not attributable to bona fide campaign or political purposes.	6. A Member of the House of Representatives shall keep his campaign funds separate from his personal funds. A Member shall convert no campaign funds to personal use in excess of reimbursement for legitimate and verifiable campaign expenditures and shall expend no funds from his campaign account not attributable to bona fide campaign or political purposes.	

7. A Member, Delegate, or Resident Commissioner shall treat as campaign contributions all proceeds from testimonial dinners or other fund-raising events.	7. A Member of the House of Representatives shall treat as campaign contributions all proceeds from testimonial dinners or other fund raising events.
8. (a) A Member, Delegate, Resident Commissioner, or officer of the House may not retain an employee who does not perform duties in the offices of the employing authority commensurate with the compensation he receives. (b) In the case of a committee employee who works under the direct supervision of a member of the committee other than a chairman, the chairman may require that such member affirm in writing that the employee has complied with clause 8(a) (subject to clause 7 of rule X) as evidence of compliance by the chairman with this clause and with clause 7 of rule X.	8. A Member or officer of the House of Representatives shall retain no one under his payroll authority who does not perform official duties commensurate with the compensation received in the offices of the employing authority. In the case of committee employees who work under the direct supervision of a Member other than a chairman, the chairman may require that such Member affirm in writing that the employees have complied with the preceding sentence (subject to clause 6 of rule XI) as evidence of the chairman's compliance with this clause and with clause 6 of rule XI.
9. A Member, Delegate, Resident Commissioner, officer, or employee of the House may not discharge and may not refuse to hire an individual, or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment, because of the race, color, religion, sex (including marital or parental status), disability, age, or national origin of such individual, but may take into consideration the domicile or political affiliation of such individual.	9. A Member, officer, or employee of the House of Representatives shall not discharge or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex (including marital or parental status), handicap, age, or national origin, but may take into consideration the domicile or political affiliation of such individual.
10. A Member, Delegate, or Resident Commissioner who has been convicted by a court of record for the commission of a crime for which a sentence of two or more years' imprisonment may be imposed should refrain from participation in the business of each committee of which he is a member, and a Member should refrain from voting on any question at a meeting of the House or of the Committee of the Whole House on the state of the Union, unless or until judicial or executive proceedings result in reinstatement of the presumption of his innocence or until he is reelected to the House after the date of such conviction.	10. A Member of the House of Representatives who has been convicted by a court of record for the commission of a crime for which a sentence of two or more years' imprisonment may be imposed should refrain from participation in the business of each committee of which he is a member and should refrain from voting on any question at a meeting of the House, or of the Committee of the Whole House, unless or until judicial or executive proceedings result in reinstatement of the presumption of his innocence or until he is reelected to the House after the date of such conviction.
11. A Member, Delegate, or Resident Commissioner may not authorize or otherwise allow an individual, group, or organization not under the direction and control of the House to use the words "Congress of the United States," "House of Representatives," or "Official Business," or any combination of words thereof, on any letterhead or envelope.	11. A Member of the House of Representatives shall not authorize or otherwise allow a non-House individual, group, or organization to use the words "Congress of the United States", "House of Representatives", or "Official Business", or any combination of words thereof, on any letterhead or envelope.
12. (a) Except as provided in paragraph (b), an employee of the House who is required to file a report under rule XXVII may not participate personally and substantially as an employee of the House in a contact with an agency of the executive or judicial branches of Government with respect to nonlegislative matters affecting any nongovernmental person in which the employee has a significant financial interest.	12. (a) Except as provided by paragraph (b), any employee of the House of Representatives who is required to file a report pursuant to rule XLIV shall refrain from participating personally and substantially as an employee of the House of Representatives in any contact with any agency of the executive or judicial branch of Government with respect to nonlegislative matters affecting any nongovernmental person in which the employee has a significant financial interest.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(b) Paragraph (a) does not apply if an employee first advises his employing authority of a significant financial interest described in paragraph (a) and obtains from his employing authority a written waiver stating that the participation of the employee in the activity described in paragraph (a) is necessary. A copy of each such waiver shall be filed with the Committee on Standards of Official Conduct.	(b) Paragraph (a) shall not apply if an employee first advises his employing authority of his significant financial interest and obtains from his employing authority a written waiver stating that the participation of the employee is necessary. A copy of each such waiver shall be filed with the Committee on Standards of Official Conduct.	
13. Before a Member, Delegate, Resident Commissioner, officer, or employee of the House may have access to classified information, the following oath (or affirmation) shall be executed: "I do solemnly swear (or affirm) that I will not disclose any classified information received in the course of my service with the House of Representatives, except as authorized by the House of Representatives or in accordance with its Rules." Copies of the executed oath (or affirmation) shall be retained by the Clerk as part of the records of the House.	13. Before any Member, officer, or employee of the House of Representatives may have access to classified information, the following oath (or affirmation) shall be executed: "I do solemnly swear (or affirm) that I will not disclose any classified information received in the course of my service with the House of Representatives, except as authorized by the House of Representatives or in accordance with its Rules." Copies of the executed oath shall be retained by the Clerk of the House as part of the records of the House.	
14. In this Code of Official Conduct, the term "officer or employee of the House" means an individual whose compensation is disbursed by the Chief Administrative Officer.	As used in this Code of Official Conduct of the House of Representatives—(a) the terms "Member" and "Member of the House of Representatives" include the Resident Commissioner from Puerto Rico and each Delegate to the House; and (b) the term "officer or employee of the House of Representatives" means any individual whose compensation is disbursed by the Clerk of the House of Representatives.	
RULE XXV **LIMITATIONS ON USE OF OFFICIAL FUNDS**	**Derived from:** RULE XLV	
Limitations on use of official and unofficial accounts 1. A Member, Delegate, or Resident Commissioner may not maintain, or have maintained for his use, an unofficial office account. Funds may not be paid into an unofficial office account.	PROHIBITION OF UNOFFICIAL OFFICE ACCOUNTS 1. No Member may maintain or have maintained for his use an unofficial office account. 2. After the date of adoption of this rule, no funds may be paid into any unofficial office account.	Proposed rule XXV transfers existing rules XLV and XLVI relating to limitations on use of official and unofficial accounts, limitations on the use of the frank, and existing clause 2(n)(5) and 5(e) of rule XI and clause 8 of rule I on prohibitions on use of funds by Members not elected to a succeeding Congress, into one rule on limitations of use of official funds.
2. Notwithstanding any other provision of this rule, if an amount from the Official Expenses Allowance of a Member, Delegate, or Resident Commissioner is paid into the House Recording Studio revolving fund for telecommunications satellite services, the Member, Delegate, or Resident Commissioner may accept reimbursement from non-political entities in that amount for transmission to the Clerk for credit to the Official Expenses Allowance.	3. Notwithstanding any other provision of this rule, if an amount from the Official Expenses Allowance of a Member is paid into the House Recording Studio revolving fund for telecommunications satellite services, the Member may accept reimbursement from non-political entities in that amount for transmission to the Clerk of the House of Representatives for credit to the Official Expenses Allowance.	

3. In this rule the term "unofficial office account" means an account or repository in which funds are received for the purpose of defraying otherwise unreimbursed expenses allowable under section 162(a) of the Internal Revenue Code of 1986 as ordinary and necessary in the operation of a congressional office, and includes a newsletter fund referred to in section 527(g) of the Internal Revenue Code of 1986.

Limitations on use of the frank

4. A Member, Delegate, or Resident Commissioner shall mail franked mail under section 3210(d) of title 39, United States Code at the most economical rate of postage practicable.

5. Before making a mass mailing, a Member, Delegate, or Resident Commissioner shall submit a sample or description of the mail matter involved to the House Commission on Congressional Mailing Standards for an advisory opinion as to whether the proposed mailing is in compliance with applicable provisions of law, rule, or regulation.

6. A mass mailing that is otherwise frankable by a Member, Delegate, or Resident Commissioner under the provisions of section 3210(e) of title 39, United States Code, is not frankable unless the cost of preparing and printing it is defrayed exclusively from funds made available in an appropriation Act.

7. A Member, Delegate, or Resident Commissioner may not send a mass mailing outside the congressional district from which he was elected.

8. In the case of a Member, Delegate, or Resident Commissioner, a mass mailing is not frankable under section 3210 of title 39, United States Code, when it is postmarked less than 60 days before the date of a primary or general election (whether regular, special, or runoff) in which he is a candidate for public office. If the mail matter is of a type that is not customarily postmarked, the date on which it would have been postmarked, if it were of a type customarily postmarked, applies.

4. For purposes of this rule—

(a) the term "unofficial office account" means an account or repository into which funds are received for the purpose of defraying otherwise unreimbursed expenses allowable under section 162(a) of the Internal Revenue Code of 1954 as ordinary and necessary in the operation of a congressional office, and includes any newsletter fund referred to in section 527(g) of the Internal Revenue Code of 1954; and

(b) the term "Member" means any Member of, Delegate to, or Resident Commissioner in, the House of Representatives.

Derived from: RULE XLVI

LIMITATIONS ON THE USE OF THE FRANK

1. Any franked mail which is mailed by a Member under section 3210(d) of title 39, United States Code, shall be mailed at the equivalent rate of postage which assures that such mail will be sent by the most economical means practicable.

2. A Member shall, before making any mass mailing, submit a sample or description of the mail matter involved to the House Commission on Congressional Mailing Standards for an advisory opinion as to whether such proposed mailing is in compliance with applicable provisions of law, rule, or regulation.

3. Any mass mailing which otherwise is frankable by a Member under the provisions of section 3210(e) of title 39, United States Code, shall not be frankable unless the cost of preparing and printing such mass mailing is defrayed exclusively from funds made available in any appropriations Act.

4. A Member may not send any mass mailing outside the congressional district from which the Member was elected.

5. In the case of any Representative in the House of Representatives, other than a Representative at Large, who is a candidate for any statewide public office, any mass mailing shall not be frankable under section 3210 of title 39, United States Code, when the same is delivered to any address which is not located in the area constituting the congressional district from which any such individual was elected.

6. In the case of any Member, any mass mailing shall not be frankable under section 3210 of title 39, United States Code, when the same is postmarked less than sixty days immediately before the date of any primary or general election (whether regular, special, or runoff) in which such Member is a candidate for public office. If mail matter is of a type which is not customarily postmarked, the date on which such matter would have been postmarked if it were of a type customarily postmarked shall apply.

Existing clause 5 of rule XLVI is unnecessary given the breadth of existing clause 4 (proposed clause 7, rule XXV). The recodification therefore deletes the clause.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
9. In this rule the term "mass mailing" means, with respect to a session of Congress, a mailing of newsletters or other pieces of mail with substantially identical content (whether such pieces of mail are deposited singly or in bulk, or at the same time or different times), totaling more than 500 pieces of mail in that session, except that such term does not include a mailing— (a) of matter in direct response to a communication from a person to whom the matter is mailed; (b) from a Member, Delegate, or Resident Commissioner to other Members, Delegates, the Resident Commissioner, or Senators, or to Federal, State, or local government officials; or (c) of a news release to the communications media.	7. For purposes of this rule-(a) the term "mass mailing" means, with respect to a session in Congress, any mailing of newsletters or other pieces of mail with substantially identical content (whether such mail is deposited singly or in bulk, or at the same time or different times), totaling more than 500 pieces in that session, except that such term does not include any mailing— (1) of matter in direct response to a communication from a person to whom the matter is mailed; (2) from a Member to other Members of Congress, or to Federal, State, or local government officials; or (3) of a news release to the communications media. (b) The term "Member" means any Member of the House of Representatives, a Delegate to the House of Representatives, or the Resident Commissioner in the House of Representatives. (c) The term "Members of Congress" means Senators and Representatives in, and Delegates and Resident Commissioners to, the Congress.	
Prohibition on use of funds by Members not elected to succeeding Congress 10. Funds from the applicable accounts described in clause 1(h)(1) of rule X, including funds from committee expense resolutions, and funds in any local currencies owned by the United States may not be made available for travel by a Member, Delegate, Resident Commissioner, or Senator after the date of a general election in which he was not elected to the succeeding Congress or, in the case of a Member, Delegate, or Resident Commissioner who is not a candidate in a general election, after the earlier of the date of such general election or the adjournment sine die of the last regular session of the Congress.	**Derived from clause 8, rule I:** However, expenses may not be paid from the applicable accounts of the House described in clause 1(h)(1) of rule X for travel of a Member after the date of the general election of Members in which the Member has not been elected to the succeeding Congress, or in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjournment sine die of the last regular session of the Congress.	This proposed clause combines prohibitions on funds for travel currently in clause 8, rule I, clause 2(n)(5), rule XI and clause 5(e), rule XI.

	Derived from clause 2(n)(5), rule XI: (5) No local currencies owned by the United States may be made available under this paragraph for the use outside of the United States for defraying the expenses of a member of any committee after— (A) the date of the general election of Members in which the Member has not been elected to the succeeding Congress; or (B) in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjournment sine die of the last regular session of the Congress. **Derived from clause 5(e), rule XI:** (e) No primary expense resolution or additional expense resolution of a committee may provide for the payment or reimbursement of expenses incurred by any member of the committee for travel by the member after the date of the general election of Members in which the Member is not elected to the succeeding Congress, or in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjournment sine die of the last regular session of the Congress.	
RULE XXVI **LIMITATIONS ON OUTSIDE EARNED INCOME AND ACCEPTANCE OF GIFTS**	**Derived from:** RULE XLVII LIMITATIONS ON OUTSIDE EMPLOYMENT AND EARNED INCOME	
Outside earned income; honoraria 1. (a) Except as provided by paragraph (b), a Member, Delegate, Resident Commissioner, officer, or employee of the House may not—	1. (a)(1) Except as provided by subparagraph (2), in calendar year 1991 or thereafter, a Member or an officer or employee of the House may not—	Proposed rule XXVI combines existing rule XLVII on limitations on outside earned income, and rule LI on acceptance of gifts, and also includes existing rule XLI regarding officers and employees of the House who are agents for claims against the government as new clause 11. These provisions commonly address existing rules relating to potential conflicts of interest.
(1) have outside earned income attributable to a calendar year that exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of that calendar year; or (2) receive any honorarium. (b) In the case of an individual who becomes a Member, Delegate, Resident Commissioner, officer, or employee of the House, such individual may not have outside earned income attributable to the portion of a calendar year that occurs after such individual becomes a Member, Delegate, Resident Commissioner, officer, or employee that exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of that calendar year multiplied by a fraction, the numerator of which is the number of days the individual is a Member, Delegate, Resident Commissioner, officer, or employee during that calendar year and the denominator of which is 365.	(A) have outside earned income attributable to such calendar year which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year; or (B) receive any honorarium. (2) In the case of any individual who becomes a Member or an officer or employee of the House during calendar year 1991 or thereafter, such individual may not have outside earned income attributable to the portion of that calendar year which occurs after such individual becomes a Member, officer or employee which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year multiplied by a fraction the numerator of which is the number of days such individual is a Member, officer, or employee during such calendar year and the denominator of which is 365.	Obsolete provisions in the existing rule, such as its application to years after 1991 in the provisions limiting outside employment and income, have been deleted.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(c) A payment in lieu of an honorarium that is made to a charitable organization on behalf of a Member, Delegate, Resident Commissioner, officer, or employee of the House may not be received by that Member, Delegate, Resident Commissioner, officer, or employee. Such a payment may not exceed $2,000 or be made to a charitable organization from which the Member, Delegate, Resident Commissioner, officer, or employee or a parent, sibling, spouse, child, or dependent relative of the Member, Delegate, Resident Commissioner, officer, or employee, derives a financial benefit.	(3) In calendar year 1991 or thereafter, any payment in lieu of an honorarium which is made to a charitable organization on behalf of a Member, officer or employee of the House may not be received by such individual. No such payment shall exceed $2,000 or be made to a charitable organization from which such individual or a parent, sibling, spouse, child, or dependent relative of such individual derives any financial benefit.	
	(b)(1) Except as provided by subparagraph (2), in calendar year 1990, a Member may not have outside earned income (including honoraria received in such calendar year) attributable to such calendar year which exceeds 30 percent of the annual pay as a Member to which the Member was entitled in 1989. (2) In the case of any individual who becomes a Member during calendar year 1990, such individual may not have outside earned income (including honoraria) attributable to the portion of that calendar year which occurs after such individual becomes a Member which exceeds 30 percent of $89,500 multiplied by a fraction the numerator of which is the number of days such individual is a Member during such calendar year and the denominator of which is 365.	Existing clause (b)(1), rule XLVII applied only in calendar year 1990 and has therefore been deleted as obsolete.
2. A Member, Delegate, Resident Commissioner, officer, or employee of the House may not—	2. On or after January 1, 1991, a Member or an officer or employee of the House shall not—	
(a) receive compensation for affiliating with or being employed by a firm, partnership, association, corporation, or other entity that provides professional services involving a fiduciary relationship;	(1) receive compensation for affiliating with or being employed by a firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship;	
(b) permit his name to be used by such a firm, partnership, association, corporation, or other entity;	(2) permit that Member's, officer's, or employee's name to be used by any such firm, partnership, association, corporation, or other entity;	
(c) receive compensation for practicing a profession that involves a fiduciary relationship;	(3) receive compensation for practicing a profession which involves a fiduciary relationship;	
(d) serve for compensation as an officer or member of the board of an association, corporation, or other entity; or	(4) serve for compensation as an officer or member of the board of any association, corporation, or other entity; or	
(e) receive compensation for teaching, without the prior notification and approval of the Committee on Standards of Official Conduct.	(5) receive compensation for teaching, without the prior notification and approval of the Committee on Standards of Official Conduct.	
Copyright royalties 3., (a) A Member, Delegate, Resident Commissioner, officer, or employee of the House may not receive an advance payment on copyright royalties. This paragraph does not prohibit a literary agent, researcher, or other individual (other than an individual employed by the House or a relative of a Member, Delegate, Resident Commissioner, officer, or employee) working on behalf of a Member, Delegate, Resident Commissioner, officer, or employee with respect to a publication from receiving an advance payment of a copyright royalty directly from a publisher and solely for the benefit of that literary agent, researcher, or other individual.	3. A Member, officer, or employee of the House may not— (1) receive any advance payment on copyright royalties, but this paragraph does not prohibit any literary agent, researcher, or other individual (other than an individual employed by the House or a relative of that Member, officer, or employee) working on behalf of that Member, officer, or employee with respect to a publication from receiving an advance payment of a copyright royalty directly from a publisher and solely for the benefit of that literary agent, researcher, or other individual; or	

(b) A Member, Delegate, Resident Commissioner, officer, or employee of the House may not receive copyright royalties under a contract entered into on or after January 1, 1996, unless that contract is first approved by the Committee on Standards of Official Conduct as complying with the requirement of clause 4(d)(1)(E) (that royalties are received from an established publisher under usual and customary contractual terms).	(2) receive any copyright royalties pursuant to a contract entered into on or after January 1, 1996, unless that contract is first approved by the Committee on Standards of Official Conduct as complying with the requirement of clause 4(e)(5) (that royalties are received from an established publisher pursuant to usual and customary contractual terms).	
Definitions 4. (a)(1) In this rule, except as provided in subparagraph (2), the term "officer or employee of the House" means an individual (other than a Member, Delegate, or Resident Commissioner) whose pay is disbursed by the Chief Administrative Officer, who is paid at a rate equal to or greater than 120 percent of the minimum rate of basic pay for GS–15 of the General Schedule, and who is so employed for more than 90 days in a calendar year; and (2) when used with respect to an honorarium, the term "officer or employee of the House" means an individual (other than a Member, Delegate, or Resident Commissioner) whose salary is disbursed by the Chief Administrative Officer.	4. For the purposes of this rule—(a) The term "Member" means any Member of the House of Representatives, a Delegate to the House of Representatives, or the Resident Commissioner in the House of Representatives. (b)(1) Except as provided by paragraph (2), the term "officer or employee of the House" means any individual (other than a Member) whose pay is disbursed by the Clerk and who is paid at a rate equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule under section 5332 of title 5, United States Code, and so employed for more than 90 days in a calendar year. (2) When used with respect to honoraria, the term "officer or employee of the House" means any individual (other than a Member) whose salary is disbursed by the Clerk.	In the existing definition of the term "officer or employee of the House", the grade of GS–16 in the General Schedule of the civil service no longer exists. Therefore the reference is updated to a rate of 120 percent of the minimum rate of basic pay for GS–15 to maintain that standard.
(b) In this rule the term "honorarium" means a payment of money or a thing of value for an appearance, speech, or article, by a Member, Delegate, Resident Commissioner, officer, or employee of the House, excluding any actual and necessary travel expenses incurred by that Member, Delegate, Resident Commissioner, officer, or employee (and one relative) to the extent that such expenses are paid or reimbursed by any other person. The amount otherwise determined shall be reduced by the amount of any such expenses to the extent that such expenses are not so paid or reimbursed.	(c) The term "honorarium" means a payment of money or any thing of value for an appearance, speech, or article, by a Member or an officer or employee of the House, excluding any actual and necessary travel expenses incurred by such individual (and one relative) to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that such expenses are not paid or reimbursed.	
(c) In this rule the term "travel expenses" means, with respect to a Member, Delegate, Resident Commissioner, officer or, employee of the House, or a relative of such Member, Delegate, Resident Commissioner, officer, or employee, the cost of transportation, and the cost of lodging and meals while away from his residence or principal place of employment.	(d) The term "travel expenses" means, with respect to a Member or an officer or employee of the House, or a relative of any such individual, the cost of transportation, and the cost of lodging and meals while away from his or her residence or principal place of employment.	
(d)(1) In this rule the term "outside earned income" means, with respect to a Member, Delegate, Resident Commissioner, officer, or employee of the House, wages, salaries, fees, and other amounts received or to be received as compensation for personal services actually rendered, but does not include—	(e) The term "outside earned income" means, with respect to a Member, officer or employee, wages, salaries, fees, and other amounts received or to be received as compensation for personal services actually rendered but does not include—	
(A) the salary of a Member, Delegate, Resident Commissioner, officer, or employee;	(1) the salary of such individual as a Member, officer or employee;	
(B) any compensation derived by a Member, Delegate, Resident Commissioner, officer, or employee of the House for personal services actually rendered before the adoption of this rule or before he became a Member, Delegate, Resident Commissioner, officer, or employee;	(2) any compensation derived by such individual for personal services actually rendered prior to the effective date of this rule or becoming such a Member, officer or employee, whichever occurs later;	The phrase "whichever occurs later" in subparagraph (2) is deleted as unnecessary.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(C) any amount paid by, or on behalf of, a Member, Delegate, Resident Commissioner, officer, or employee of the House to a tax-qualified pension, profit-sharing, or stock bonus plan and received by him from such a plan;	(3) any amount paid by, or on behalf of, a Member, officer or employee, to a tax-qualified pension, profit-sharing, or stock bonus plan and received by such individual from such a plan;	
(D) in the case of a Member, Delegate, Resident Commissioner, officer, or employee of the House engaged in a trade or business in which he or his family holds a controlling interest and in which both personal services and capital are income-producing factors, any amount received by the Member, Delegate, Resident Commissioner, officer, or employee, so long as the personal services actually rendered by him in the trade or business do not generate a significant amount of income; or	(4) in the case of a Member, officer or employee engaged in a trade or business in which the individual or his family holds a controlling interest and in which both personal services and capital are income-producing factors, any amount received by such individual so long as the personal services actually rendered by the individual in the trade or business do not generate a significant amount of income; and	
(E) copyright royalties received from established publishers under usual and customary contractual terms; and	(5) copyright royalties received from established publishers pursuant to usual and customary contractual terms.	
(2) outside earned income shall be determined without regard to community property law.	Outside earned income shall be determined without regard to any community property law.	
(e) In this rule the term "charitable organization" means an organization described in section 170(c) of the Internal Revenue Code of 1986.	(f) The term "charitable organization" means an organization described in section 170(c) of the Internal Revenue Code of 1986.	
	Derived from: RULE LI	
Gifts 5. (a)(1) A Member, Delegate, Resident Commissioner, officer, or employee of the House may not knowingly accept a gift except as provided in this clause.	GIFT RULE 1. (a) No Member, officer, or employee of the House of Representatives shall knowingly accept a gift except as provided in this rule.	
(2)(A) In this clause the term "gift" means a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.	(b)(1) For the purpose of this rule, the term "gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.	
(B)(i) A gift to a family member of a Member, Delegate, Resident Commissioner, officer, or employee of the House, or a gift to any other individual based on that individual's relationship with the Member, Delegate, Resident Commissioner, officer, or employee, shall be considered a gift to the Member, Delegate, Resident Commissioner, officer, or employee if it is given with the knowledge and acquiescence of the Member, Delegate, Resident Commissioner, officer, or employee and the Member, Delegate, Resident Commissioner, officer, or employee has reason to believe the gift was given because of his official position.	(2)(A) A gift to a family member of a Member, officer, or employee, or a gift to any other individual based on that individual's relationship with the Member, officer, or employee, shall be considered a gift to the Member, officer, or employee if it is given with the knowledge and acquiescence of the Member, officer, or employee and the Member, officer, or employee has reason to believe the gift was given because of the official position of the Member, officer, or employee.	
(ii) If food or refreshment is provided at the same time and place to both a Member, Delegate, Resident Commissioner, officer, or employee of the House and the spouse or dependent thereof, only the food or refreshment provided to the Member, Delegate, Resident Commissioner, officer, or employee shall be treated as a gift for purposes of this clause.	(B) If food or refreshment is provided at the same time and place to both a Member, officer, or employee and the spouse or dependent thereof, only the food or refreshment provided to the Member, officer, or employee shall be treated as a gift for purposes of this rule.	
(3) The restrictions in subparagraph (1) do not apply to the following:	(c) The restrictions in paragraph (a) shall not apply to the following:	

(A) Anything for which the Member, Delegate, Resident Commissioner, officer, or employee of the House pays the market value, or does not use and promptly returns to the donor.	(1) Anything for which the Member, officer, or employee pays the market value, or does not use and promptly returns to the donor.
(B) A contribution, as defined in section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, a lawful contribution for election to a State or local government office, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.	(2) A contribution, as defined in section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, a lawful contribution for election to a State or local government office, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.
(C) A gift from a relative as described in section 109(16) of title I of the Ethics in Government Act of 1978 (2 U.S.C. App. 109(16)).	(3) A gift from a relative as described in section 109(16) of title I of the Ethics in Government Act of 1978 (Public Law 95–521).
(D)(i) Anything provided by an individual on the basis of a personal friendship unless the Member, Delegate, Resident Commissioner, officer, or employee of the House has reason to believe that, under the circumstances, the gift was provided because of his official position and not because of the personal friendship.	(4)(A) Anything provided by an individual on the basis of a personal friendship unless the Member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the Member, officer, or employee and not because of the personal friendship.
(ii) In determining whether a gift is provided on the basis of personal friendship, the Member, Delegate, Resident Commissioner, officer, or employee of the House shall consider the circumstances under which the gift was offered, such as:	(B) In determining whether a gift is provided on the basis of personal friendship, the Member, officer, or employee shall consider the circumstances under which the gift was offered, such as:
(I) The history of his relationship with the individual giving the gift, including any previous exchange of gifts between them.	(i) The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between such individuals.
(II) Whether to his actual knowledge the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift.	(ii) Whether to the actual knowledge of the Member, officer, or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift.
(III) Whether to his actual knowledge the individual who gave the gift also gave the same or similar gifts to other Members, Delegates, the Resident Commissioners, officers, or employees of the House.	(iii) Whether to the actual knowledge of the Member, officer, or employee the individual who gave the gift also at the same time gave the same or similar gifts to other Members, officers, or employees.
(E) Except as provided in paragraph (c)(3), a contribution or other payment to a legal expense fund established for the benefit of a Member, Delegate, Resident Commissioner, officer, or employee of the House that is otherwise lawfully made in accordance with the restrictions and disclosure requirements of the Committee on Standards of Official Conduct.	(5) Except as provided in clause 3(c), a contribution or other payment to a legal expense fund established for the benefit of a Member, officer, or employee that is otherwise lawfully made in accordance with the restrictions and disclosure requirements of the Committee on Standards of Official Conduct.
(F) A gift from another Member, Delegate, Resident Commissioner, officer, or employee of the House or Senate.	(6) Any gift from another Member, officer, or employee of the Senate or the House of Representatives.
(G) Food, refreshments, lodging, transportation, and other benefits—	(7) Food, refreshments, lodging, transportation, and other benefits—
(i) resulting from the outside business or employment activities of the Member, Delegate, Resident Commissioner, officer, or employee of the House (or other outside activities that are not connected to his duties as an officeholder), or of his spouse, if such benefits have not been offered or enhanced because of his official position and are customarily provided to others in similar circumstances;	(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the Member, officer, or employee as an officeholder) of the Member, officer, or employee, or the spouse of the Member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the Member, officer, or employee and are customarily provided to others in similar circumstances;

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(ii) customarily provided by a prospective employer in connection with bona fide employment discussions; or	(B) customarily provided by a prospective employer in connection with bona fide employment discussions; or	
(iii) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such organization.	(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.	
(H) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.	(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.	
(I) Informational materials that are sent to the office of the Member, Delegate, Resident Commissioner, officer, or employee of the House in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.	(9) Informational materials that are sent to the office of the Member, officer, or employee in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.	
(J) Awards or prizes that are given to competitors in contests or events open to the public, including random drawings.	(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.	
(K) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).	(11) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).	
(L) Training (including food and refreshments furnished to all attendees as an integral part of the training) if such training is in the interest of the House.	(12) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a Member, officer, or employee, if such training is in the interest of the House of Representatives.	
(M) Bequests, inheritances, and other transfers at death.	(13) Bequests, inheritances, and other transfers at death.	
(N) An item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.	(14) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.	
(O) Anything that is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.	(15) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.	
(P) A gift of personal hospitality (as defined in section 109(14) of the Ethics in Government Act) of an individual other than a registered lobbyist or agent of a foreign principal.	(16) A gift of personal hospitality (as defined in section 109(14) of the Ethics in Government Act) of an individual other than a registered lobbyist or agent of a foreign principal.	
(Q) Free attendance at a widely attended event permitted under subparagraph (4).	(17) Free attendance at a widely attended event permitted pursuant to paragraph (d).	
(R) Opportunities and benefits that are—	(18) Opportunities and benefits which are—	
(i) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;	(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;	
(ii) offered to members of a group or class in which membership is unrelated to congressional employment;	(B) offered to members of a group or class in which membership is unrelated to congressional employment;	
(iii) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;	(C) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;	

(iv) offered to a group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

(v) in the form of loans from banks and other financial institutions on terms generally available to the public; or

(vi) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

(S) A plaque, trophy, or other item that is substantially commemorative in nature and that is intended for presentation.

(T) Anything for which, in an unusual case, a waiver is granted by the Committee on Standards of Official Conduct.

(U) Food or refreshments of a nominal value offered other than as a part of a meal.

(V) Donations of products from the district or State that the Member, Delegate, or Resident Commissioner represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any single recipient.

(W) An item of nominal value such as a greeting card, baseball cap, or a T-shirt.

(4)(A) A Member, Delegate, Resident Commissioner, officer, or employee of the House may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

(i) the Member, Delegate, Resident Commissioner, officer, or employee of the House participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to his official position; or

(ii) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, Delegate, Resident Commissioner, officer, or employee of the House.

(B) A Member, Delegate, Resident Commissioner, officer, or employee of the House who attends an event described in subdivision (A) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual.

(C) A Member, Delegate, Resident Commissioner, officer, or employee of the House, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event.

(D) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

(F) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

(19) A plaque, trophy, or other item that is substantially commemorative in nature and which is intended for presentation.

(20) Anything for which, in an unusual case, a waiver is granted by the Committee on Standards of Official Conduct.

(21) Food or refreshments of a nominal value offered other than as a part of a meal.

(22) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

(23) An item of nominal value such as a greeting card, baseball cap, or a T-shirt.

(d)(1) A Member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

(A) the Member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the Member's, officer's, or employee's official position; or

(B) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, officer, or employee.

(2) A Member, officer, or employee who attends an event described in subparagraph (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual.

(3) A Member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event.

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(D) In this paragraph the term "free attendance" may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, nor does it include food or refreshments taken other than in a group setting with all or substantially all other attendees.	(4) For purposes of this paragraph, the term "free attendance" may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, nor does it include food or refreshments taken other than in a group setting with all or substantially all other attendees.	
(5) A Member, Delegate, Resident Commissioner, officer, or employee of the House may not accept a gift the value of which exceeds $250 on the basis of the personal friendship exception in subparagraph (3)(D) unless the Committee on Standards of Official Conduct issues a written determination that such exception applies. A determination under this subparagraph is not required for gifts given on the basis of the family relationship exception in subparagraph (3)(C).	(e) No Member, officer, or employee may accept a gift the value of which exceeds $250 on the basis of the personal friendship exception in paragraph (c)(4) unless the Committee on Standards of Official Conduct issues a written determination that such exception applies. No determination under this paragraph is required for gifts given on the basis of the family relationship exception.	
(6) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.	(f) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.	
(b)(1)(A) A reimbursement (including payment in kind) to a Member, Delegate, Resident Commissioner, officer, or employee of the House from a private source other than a registered lobbyist or agent of a foreign principal for necessary transportation, lodging, and related expenses for travel to a meeting, speaking engagement, factfinding trip, or similar event in connection with his duties as an officeholder shall be considered as a reimbursement to the House and not a gift prohibited by this clause, if the Member, Delegate, Resident Commissioner, officer, or employee—	2. (a)(1) A reimbursement (including payment in kind) to a Member, officer, or employee from a private source other than a registered lobbyist or agent of a foreign principal for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the Member, officer, or employee as an officeholder shall be deemed to be a reimbursement to the House of Representatives and not a gift prohibited by this rule, if the Member, officer, or employee—	
(i) in the case of an employee, receives advance authorization, from the Member, Delegate, Resident Commissioner, or officer under whose direct supervision the employee works, to accept reimbursement; and	(A) in the case of an employee, receives advance authorization, from the Member or officer under whose direct supervision the employee works, to accept reimbursement, and	
(ii) discloses the expenses reimbursed or to be reimbursed and the authorization to the Clerk within 30 days after the travel is completed.	(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Clerk of the House of Representatives within 30 days after the travel is completed.	
(B) For purposes of subdivision (A), events, the activities of which are substantially recreational in nature, are not considered to be in connection with the duties of a Member, Delegate, Resident Commissioner, officer, or employee of the House as an officeholder.	(2) For purposes of paragraph (a)(1), events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of a Member, officer, or employee as an officeholder.	
(2) Each advance authorization to accept reimbursement shall be signed by the Member, Delegate, Resident Commissioner, or officer of the House under whose direct supervision the employee works and shall include—	(b) Each advance authorization to accept reimbursement shall be signed by the Member or officer under whose direct supervision the employee works and shall include—	
(A) the name of the employee;	(1) the name of the employee;	
(B) the name of the person who will make the reimbursement;	(2) the name of the person who will make the reimbursement;	
(C) the time, place, and purpose of the travel; and	(3) the time, place, and purpose of the travel; and	

(D) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

(3) Each disclosure made under subparagraph (1)(A) of expenses reimbursed or to be reimbursed shall be signed by the Member, Delegate, Resident Commissioner, or officer (in the case of travel by that Member, Delegate, Resident Commissioner, or officer) or by the Member, Delegate, Resident Commissioner, or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

(A) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

(B) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

(C) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

(D) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

(E) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in subparagraph (4); and

(F) in the case of a reimbursement to a Member, Delegate, Resident Commissioner, or officer, a determination that the travel was in connection with his duties as an officeholder and would not create the appearance that the Member, Delegate, Resident Commissioner, or officer is using public office for private gain.

(4) In this paragraph the term "necessary transportation, lodging, and related expenses"—

(A) includes reasonable expenses that are necessary for travel for a period not exceeding four days within the United States or seven days exclusive of travel time outside of the United States unless approved in advance by the Committee on Standards of Official Conduct;

(B) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in subdivision (A);

(C) does not include expenditures for recreational activities, nor does it include entertainment other than that provided to all attendees as an integral part of the event, except for activities or entertainment otherwise permissible under this clause; and

(D) may include travel expenses incurred on behalf of either the spouse or a child of the Member, Delegate, Resident Commissioner, officer, or employee.

(5) The Clerk shall make available to the public all advance authorizations and disclosures of reimbursement filed under subparagraph (1) as soon as possible after they are received.

(c) A gift prohibited by paragraph (a)(1) includes the following:

(4) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

(c) Each disclosure made under paragraph (a)(1) of expenses reimbursed or to be reimbursed shall be signed by the Member or officer (in the case of travel by that Member or officer) or by the Member or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

(1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

(2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

(3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

(4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

(5) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in paragraph (d); and

(6) in the case of a reimbursement to a Member or officer, a determination that the travel was in connection with the duties of the Member or officer as an officeholder and would not create the appearance that the Member or officer is using public office for private gain.

(d) For purposes of this clause, the term "necessary transportation, lodging and related expenses"—

(1) includes reasonable expenses that are necessary for travel for a period not exceeding 4 days within the United States or 7 days exclusive of travel time outside of the United States unless approved in advance by the Committee on Standards of Official Conduct;

(2) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in subparagraph (1);

(3) does not include expenditures for recreational activities, nor does it include entertainment other than that provided to all attendees as an integral part of the event, except for activities or entertainment otherwise permissible under this rule; and

(4) may include travel expenses incurred on behalf of either the spouse or a child of the Member, officer, or employee.

(e) The Clerk of the House of Representatives shall make available to the public all advance authorizations and disclosures of reimbursement filed pursuant to paragraph (a) as soon as possible after they are received.

3. A gift prohibited by clause 1(a) includes the following:

PROPOSED NEW RULES	EXISTING RULES	COMMENTARY
(1) Anything provided by a registered lobbyist or an agent of a foreign principal to an entity that is maintained or controlled by a Member, Delegate, Resident Commissioner, officer, or employee of the House.	(a) Anything provided by a registered lobbyist or an agent of a foreign principal to an entity that is maintained or controlled by a Member, officer, or employee.	
(2) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a registered lobbyist or an agent of a foreign principal on the basis of a designation, recommendation, or other specification of a Member, Delegate, Resident Commissioner, officer, or employee of the House (not including a mass mailing or other solicitation directed to a broad category of persons or entities), other than a charitable contribution permitted by paragraph (d).	(b) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a registered lobbyist or an agent of a foreign principal on the basis of a designation, recommendation, or other specification of a Member, officer, or employee (not including a mass mailing or other solicitation directed to a broad category of persons or entities), other than a charitable contribution permitted by clause 4.	
(3) A contribution or other payment by a registered lobbyist or an agent of a foreign principal to a legal expense fund established for the benefit of a Member, Delegate, Resident Commissioner, officer, or employee of the House.	(c) A contribution or other payment by a registered lobbyist or an agent of a foreign principal to a legal expense fund established for the benefit of a Member, officer, or employee.	
(4) A financial contribution or expenditure made by a registered lobbyist or an agent of a foreign principal relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, for or on behalf of Members, Delegates, the Resident Commissioner, officers, or employees of the House.	(d) A financial contribution or expenditure made by a registered lobbyist or an agent of a foreign principal relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, for or on behalf of Members, officers, or employees.	
(d)(1) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a registered lobbyist or an agent of a foreign principal in lieu of an honorarium to a Member, Delegate, Resident Commissioner, officer, or employee of the House are not considered a gift under this clause if it is reported as provided in subparagraph (2).	4. (a) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a registered lobbyist or an agent of a foreign principal in lieu of an honorarium to a Member, officer, or employee shall not be considered a gift under this rule if it is reported as provided in paragraph (b).	
(2) A Member, Delegate, Resident Commissioner, officer, or employee who designates or recommends a contribution to a charitable organization in lieu of an honorarium described in subparagraph (1) shall report within 30 days after such designation or recommendation to the Clerk— (A) the name and address of the registered lobbyist who is making the contribution in lieu of an honorarium; (B) the date and amount of the contribution; and (C) the name and address of the charitable organization designated or recommended by the Member, Delegate, or Resident Commissioner. The Clerk shall make public information received under this subparagraph as soon as possible after it is received.	(b) A Member, officer, or employee who designates or recommends a contribution to a charitable organization in lieu of honoraria described in paragraph (a) shall report within 30 days after such designation or recommendation to the Clerk of the House of Representatives— (1) the name and address of the registered lobbyist who is making the contribution in lieu of honoraria; (2) the date and amount of the contribution; and (3) the name and address of the charitable organization designated or recommended by the Member. The Clerk of the House of Representatives shall make public information received pursuant to this paragraph as soon as possible after it is received.	
(e) In this clause— (1) the term "registered lobbyist" means a lobbyist registered under the Federal Regulation of Lobbying Act or any successor statute; and	5. For purposes of this rule— (a) the term "registered lobbyist" means a lobbyist registered under the Federal Regulation of Lobbying Act or any successor statute; and	
(2) the term "agent of a foreign principal" means an agent of a foreign principal registered under the Foreign Agents Registration Act.	(b) the term "agent of a foreign principal" means an agent of a foreign principal registered under the Foreign Agents Registration Act.	

(f) All the provisions of this clause shall be interpreted and enforced solely by the Committee on Standards of Official Conduct. The Committee on Standards of Official Conduct is authorized to issue guidance on any matter contained in this clause.	6. All the provisions of this rule shall be interpreted and enforced solely by the Committee on Standards of Official Conduct. The Committee on Standards of Official Conduct is authorized to issue guidance on any matter contained in this rule.	
Claims against the Government 6. A person may not be an officer or employee of the House, or continue in its employment, if he acts as an agent for the prosecution of a claim against the Government or if he is interested in such claim, except as an original claimant or in the proper discharge of official duties.	**Derived from:** RULE XLI QUALIFICATIONS OF OFFICERS AND EMPLOYEES No person shall be an officer or employee of the House, or continue in its employment, who shall be an agent for the prosecution of any claim against the Government or be interested in such claim otherwise than as an original claimant or than in the proper discharge of official duties.	
RULE XXVII **FINANCIAL DISCLOSURE** 1. The Clerk shall send a copy of each report filed with the Clerk under title I of the Ethics in Government Act of 1978 within the seven-day period beginning on the date on which the report is filed to the Committee on Standards of Official Conduct. By August 1 of each year, the Clerk shall compile all such reports sent to him by Members within the period beginning on January 1 and ending on June 15 of each year and have them printed as a House document, which shall be made available to the public. 2. For the purposes of this rule, the provisions of title I of the Ethics in Government Act of 1978 shall be considered Rules of the House as they pertain to Members, Delegates, the Resident Commissioner, officers, and employees of the House.	**Derived from:** RULE XLIV FINANCIAL DISCLOSURE 1. A copy of each report filed with the Clerk under title I of the Ethics in Government Act of 1978 shall be sent by the Clerk within the seven-day period beginning the date on which the report is filed to the Committee on Standards of Official Conduct. By August 1 of each year, the Clerk shall compile all such reports sent to him by Members within the period beginning on January 1 and ending on June 15 of each year and have them printed as a House document, which document shall be made available to the public. 2. For the purposes of this rule, the provisions of title I of the Ethics in Government Act of 1978 shall be deemed to be a rule of the House as it pertains to Members, officers, and employees of the House of Representatives.	Proposed rule XXVII consists of existing rule XLIV relating to financial disclosure, and incorporates by reference title I of the Ethics in Government Act of 1978.
RULE XXV III **GENERAL PROVISIONS** 1. The provisions of law that constituted the Rules of the House at the end of the previous Congress shall govern the House in all cases to which they are applicable, and the rules of parliamentary practice comprised by Jefferson's Manual shall govern the House in all cases to which they are applicable and in which they are not inconsistent with the Rules and orders of the House. 2. In these rules words importing the masculine gender include the feminine as well.	**Derived from:** RULE XLII GENERAL PROVISIONS The rules of parliamentary practice comprised in Jefferson's Manual and the provisions of the Legislative Reorganization Act of 1946, as amended, shall govern the House in all cases to which they are applicable, and in which they are not inconsistent with the standing rules and orders of the House and joint rules of the Senate and House of Representatives.	Proposed rule XXVIII transfers existing rule XLII "General Provisions" to include the incorporation by reference of existing laws, including the Legislative Reorganization Act of 1946 currently constituting the Rules of the House, and to Jefferson's Manual. New clause 2 is a rule of construction concerning gender. A general provisions rule should be the last rule.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before we begin, I really want to take this opportunity to congratulate my dear friend for many years and the new chairman, the gentleman from California (Mr. DREIER), in his new position and wish him a reign filled with fairness and fair process and a record number of open rules.

My good friend, the gentleman from California (Mr. DREIER), has set a very good tone for his chairmanship. He ran the recodification task force. And as my Democratic colleagues, the gentleman from Texas (Mr. FROST) and the gentlewoman from New York (Ms. SLAUGHTER), will attest, he was bipartisan, he was fair, and he always acted as a gentleman. The task force came up with a way to make the House rules clear and more orderly.

I also want to thank the Parliamentarian, Charlie Johnson, and his colleagues, Tom Duncan and John Sullivan, Muftiah McCartin and Tom Wickham, for their very outstanding work on recodification. Mr. Speaker, I do not think enough people realize the depth of knowledge and expertise advising the Chair requires, but these people do the Congress an excellent service and deserve our appreciation.

Mr. Speaker, aside from a good recodification, today's rules package contains a handful of rules changes to which we in the minority object. Specifically, this rules package gives the chairman of the Committee on the Budget a blank check to write the budget resolution for fiscal year 1999.

Why do we need to do this, Mr. Speaker? Well, because my Republican colleagues failed to pass a budget last year. For the first time, for the very first time since the Budget Act was created, my Republican colleagues just could not get their act together. We all know they spent so much time on expensive partisan investigation that they failed to complete one of the most serious and one of the most basic responsibilities of the House, the adoption of the budget resolution.

It is one more way for my Republican colleagues to circumvent the committee process, to avoid hearing from the public, and to write legislation that makes a few powerful people very happy but ignores the rest.

Mr. Speaker, this is becoming a very worrisome pattern. Just because my Republican colleagues hold the slim majority in Congress does not mean that they can bypass the legislative process. Passing laws, enacting budgets is very serious business and should be treated as such. But even worse than that, even worse than what is in the rules is what is not in it.

Although the Democratic party won five more seats last November, this rule package does nothing to change the ratio of Democrats to Republicans on committees to better reflect the ratio of the House. By failing to do so, Mr. Speaker, my Republican colleagues are really denying millions upon millions of Americans their right to fair representation on congressional committees.

Although the Democrats make up 49 percent of the Congress, Mr. Speaker, they do not occupy 49 percent of the committee slots.

Mr. Speaker, I have a chart here from the Congressional Research Service which shows that three of the most unfair Congresses during the last 45 years in terms of committee ratios were all Republican Congresses.

Let me repeat, Mr. Speaker, over the last 40 years, the three most unfair Congresses, according to committee ratios, were all Republican, and the Republicans only controlled three Congresses in the last 40 years.

I include for the RECORD the chart that shows that.

HOUSE COMMITTEES, PARTY RATIOS—86TH–106TH CONGRESSES

Congress	House	Distribution of seats				Total committee seats	Distribution of com. seats				Percent Com. maj. compared to percent House maj.
		Number		Percentage			Number		Percentage		
		Dem	Rep	Dem	Rep		Dem	Rep	Dem	Rep	
106*	435	211	223	48.51	51.26	819	367	450	44.81	54.95	3.68
105*	435	207	227	47.59	52.18	804	356	446	44.28	55.47	3.29
104*	435	204	230	46.90	52.87	786	348	435	44.27	55.34	2.47
103	435	258	176	59.31	40.46	876	531	343	60.62	39.16	1.31
102	435	267	167	61.38	38.39	855	528	325	61.75	38.01	0.38
101	435	260	175	59.77	40.23	819	500	319	61.05	38.95	1.28
100	435	258	177	59.31	40.69	809	493	316	60.94	39.06	1.63
99	435	253	182	58.16	41.84	788	473	315	60.03	39.97	1.86
98	435	268	167	61.61	38.39	768	489	279	63.67	36.33	2.06
97	435	243	192	55.86	44.14	750	436	314	58.13	41.87	2.27
96	435	277	158	63.68	36.32	752	483	269	64.23	35.77	0.55
95	435	292	143	67.13	32.87	779	527	252	67.65	32.35	0.52
94	435	290	145	66.67	33.33	771	519	252	67.32	32.68	0.65
93	435	243	192	55.86	44.14	688	393	295	57.12	42.88	1.26
92	435	255	180	58.62	41.38	659	392	267	59.48	40.52	0.86
91	435	243	192	55.86	44.14	636	362	274	56.92	43.08	1.06
90	435	248	187	57.01	42.99	613	353	260	57.59	42.41	0.57
89	435	295	140	67.82	32.18	602	407	195	67.61	32.39	(0.21)
88	435	258	177	59.31	40.69	594	354	240	59.60	40.40	0.29
87	437	262	175	59.95	40.05	584	350	234	59.93	40.07	(0.02)
86	436	283	153	64.91	35.09	575	365	210	63.48	36.52	(1.43)

Source for data for the 86th–95th Congresses is U.S. Congress, House Select Committee on Committees, "Final Report of the Select Committees on Committees U.S. House of Representatives" (Washington; GPO, 1980), pp. 449–507. For the 96th and 97th Congresses, sources are Congressional Directory, and Congressional Record. For the 98th–105th Congresses, sources are Congressional Yellow Book, and Vital Statistics on Congress, 1997–1998. Data for 106th Congress are current estimates based on projected committee assignments. For the 106th Congress, data do not reflect post-election resignations. In the 86th and 87th Congresses, the House membership was increased to accommodate the admission of Alaska and Hawaii to the Union. Ratios do not include Resident Commissioners, or Delegates. Independents are calculated in the data for totals. Percentages in parentheses are negative, all others are positive. Percentages were calculated by computer, and reflect rounding. Asterisks indicate Congresses when Republicans were the majority, all other Congresses represent data when Democrats were the majority.

For the last 5 years, Republicans have awarded themselves more committee seats than fairness would dictate.

In this Congress, they control 54.9 percent of the committee seats, but yet only have 51 percent of the Congress. In other words, Mr. Speaker, the Republican leadership, and I want the Speaker to understand this because he just said how fair he is going to be, the Republican leadership has taken 30 committee seats away from Democratic Members.

Now, I think the best way to treat this new Congress in a very civil manner and a very fair manner is to distribute the seats according to the number of Congressmen that are elected. By stacking congressional committees with Republican Members, my Republican colleagues have ensured that they have the votes to derail the proposals of the American people, the ones that they are clamoring for and then some.

The Republican leadership is telling the millions of Americans who elected Democratic representatives to forget about protecting Social Security, forget about enacting managed care programs and shoring up our schools.

With this rules package, Mr. Speaker, the congressional committees are stacked at the outset, and it is going to be very difficult to enact anything that the Republican leadership does not want, despite the overwhelming results of last November's election.

One such issue is protecting the surplus of the Social Security trust fund. The Senate has already a point of order against spending budget surpluses. I think the House should follow suit.

Until we can ensure that Social Security will be protected well into the next millennium, we have no business spending the surplus on anything but Social Security checks.

For that reason, Mr. Speaker, I urge my colleagues to support the motion to recommit because if the motion to recommit passes, it will allow us to make the committee ratios closer to the ratio in the House and it will allow us to prevent Members from using the Social Security trust fund surplus to fund anything until Social Security itself is secure.

Furthermore, Mr. Speaker, I urge my colleagues to oppose the previous question so that we can offer an amendment to allow the citizens from Washington, D.C., the voice of their delegate, a voice in the Congress, to give disabled access to the House floor and also to prevent House Members from intimidating interest groups.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida (Mr. GOSS), vice chairman of the committee, my very good friend from Sanibel.

Mr. GOSS. Mr. Speaker, I would like to wish all of my colleagues a happy new year.

As we begin the 106th Congress today we all share in the commitment to move forward with the agenda of the American people, as we have heard in the statements already made this morning by leadership, including providing more efficient and responsive government, something we all want, tax reform, education reform, preservation of Social Security and protecting our national security, all those big challenges that we have as a body to take on.

Before we can proceed on these matters, however, we must put in place the rules under which we will operate. This rules package is fairly thin, actually. It does not need to be big. It is not particularly controversial and I do not think it should be at all.

The message here is that the rules we have, put in place by the reforms that began in 1995 when we took over as a majority, are working pretty well. I am proud to have been part of the effort in 1995 and the refinements we made in 1997, all of which assured us that only modest adjustment would be needed now in 1999, and that is what we are here about today, some modest adjustments.

I want to particularly applaud the chairman of the Committee on Rules, my friend and colleague, the gentleman from California (Mr. DREIER), the ranking member, my colleague and friend, the gentleman from Massachusetts (Mr. MOAKLEY), as well as all the Parliamentarians and staff, all of whom worked for literally years on the recodification of our rules reflected in today's package.

This effort, which leads to fewer, easier-to-read rules for this House, without making substantive changes in those rules, was indeed a monumental task. As anyone who has tried to follow the arcane specifics of House rules and parliamentary proceedings knows, this streamlining and housekeeping is truly a public service. I congratulate them for the work done.

All in all, I urge Members to support the basic package, which provides some commonsense updates and revisions to the rules of this House.

Mr. Speaker, I would like to speak a little longer about one provision of this package, that which extends the life of the Cox Select Committee on China, for the limited specific purpose of facilitating declassification of its report.

I was privileged to serve on this committee, which worked in a quiet, deliberative, efficient and bipartisan manner under the leadership of the chairman, the gentleman from California (Mr. COX), and the ranking member, the gentleman from Washington (Mr. DICKS), to conclude our serious and complicated business. The request the Select Committee makes of this House for an additional 3 months, without any additional funds, is very reasonable. A declassified version of the report will helpfully advance public understanding of our complicated relationship with China on the subject of transfer of technology and its effect on our national security, something that we are all charged with the responsibility for.

Having said that, I urge my colleagues to consider this package as favorable.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I want to compliment the gentleman from Florida (Mr. GOSS) on his statement.

Mr. Speaker, we have some problems with the rules, but we definitely support the extension of the Cox Select Committee.

Mr. Speaker, although I will be opposing the resolution establishing the Rules of the House of Representatives for the 106th Congress, I want to note for my colleagues my support for the provision which will extend for three months the life of the Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China (PRC).

The Select Committee in late December unanimously approved a lengthy classified report of its investigation of issues related to the transfer of United States technology to the PRC. As the Ranking Democrat of the Select Committee, I joined with Chairman CHRIS COX in sending a copy of the report to the President with a request that it be expeditiously declassified.

I want to underscore that the Select Committee's investigation is over. The extension provision makes clear that for the next three months, the Select Committee will be engaged solely in activities associated with the declassification and public release of the report. This will require a very small staff and no funds beyond some portion of those originally provided to the Select Committee, but neither obligated nor expended during the 105th Congress.

I believe the House needs to have the Select Committee in place to facilitate the declassification process. I support the Select Committee's extension to serve that limited purpose.

□ 1445

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, last year, along with the former Committee on Rules chairman, the gentleman from New York (Mr. SOLOMON), I introduced House Resolution 529, the Plain English In Law Rule.

When we introduced the resolution, there was a broad consensus that the idea was sound; and I was assured by the gentleman from New York (Mr. SOLOMON) that the House Republican leadership was in agreement with the proposal and that it would be incorporated into the rules package in the 106th Congress. I do not know why this was not done. I am not aware of any opposition whatsoever to this proposal, and I offer it as an amendment now.

Mr. Speaker, we all know that most of our amendments and bills are practically incomprehensible consisting, as they do, of a series of provisions adding a word or phrase in the middle of line 3 or line 5 on page 8 of the bill.

Mr. Speaker, my amendment would require that any bill or amendment clearly show the changes that would be made in the law by the bill or amendment. This should be accomplished by requiring the paragraph to be amended to be set forth in the bill or amendment with the old language proposed to be omitted in brackets and the new language proposed to be added in italics.

So a Member will be able, at a glance, to read the law as it is and as it is proposed to be, easily understanding the effect of the proposed bill or amendment. Most State legislatures draft their bills this way.

My amendment would cost no money and would allow Members and the public to be better informed about our proposal, about our proposed legislation. Again, I know of no opposition. I have been pushing this now for 4 years. I urge its adoption as an amendment today. If it is not adopted as an amendment, I urge the Republican leadership to consider it subsequently in this session.

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah (Mr. HANSEN) the very, very distinguished chairman of the Committee on Standards of Official Conduct.

Mr. HANSEN. Mr. Speaker, I appreciate my friend, the gentleman from California, for yielding to me.

The rules package for the 106th Congress includes two amendments proposed by the Committee on Standards of Official Conduct: one concerning the ethics rules and standards applicable to consultants retained by the House, and one that eases the honoraria ban for certain low-level House employees.

I am submitting for inclusion in the record a pair of brief memoranda prepared by the Committee on Standards of Official Conduct that summarizes these amendments. These memoranda cite to rule numbers in use prior to the recodification of the rules.

I also wish to state that the amendment concerning consultants is intended solely to subject consultants to applicable provisions of the House Code of Conduct. It is not intended to confer on any consultant the status of employee generally, nor does it subject consultants to any other provision of House rules or public law applicable to Members, officers, or employees of the House by virtue of such status.

In particular, consultants remain distinct from and are not to be considered employees with respect to the Internal Revenue Code, Federal appropriations law, the Congressional Accountability Act, and any of the statutory provisions relating to retirement or other benefits available to employees of the House.

Mr. Speaker, the documents I referred to above are as follows:

AMENDMENT OF THE HONORARIUM PROHIBITION

Rules Change.—Amend the honorarium provisions of House Rules 43 and 47 to permit certain lower-level House employees to receive honoraria (i.e., compensation for an article, speech or appearance) for activities unrelated to official duties. These amendments will bring the rules into conformity with the Supreme Court's decision in *United States* v. *National Treasury Employee's Union ("NTEU")*,[1] which struck down the honorarium ban found in §501(b) of the Ethics in Government Act as applied to lower-level Executive Branch employees.

Discussion.—Under both statutory provisions and House rules amendments enacted in the Ethics in Government Act of 1989, all Members, officers and employees are prohibited from receiving any honoraria.

NTEU was a class-action lawsuit that challenged the constitutionality of the honoraria ban as applied to executive branch employees. The Supreme Court held that the statutory honoraria prohibition was an impermissible infringement on the free speech of lower-level executive branch employees. Following the NTEU decision, the Justice Department, absent clear guidance from Congress to the contrary, has been unwilling to enforce the statutory prohibition against any federal employee, including those employees not covered by the NTEU decision.

The Supreme Court's ruling in NTEU suggested it would be constitutionally permissible for Congress to draft a statute (1) to prohibit Members of Congress, senior-level congressional employees, and senior-level executive branch officials and employees from receiving any honoraria, and (2) to prohibit lower-level federal employees from receiving an honorarium where an impermissible nexus exists between either the employees' congressional status or official duties and the subject matter of the activities, the reason the honorarium is paid, or the identity of the party paying the honorarium.

The officers and employees who would be allowed to receive honoraria under the terms of the amendment are those paid at a rate less than 120 percent of the minimum rate of basic pay for GS–15. In calendar year 1998, the rate was $87,030, and in 1999 this rate will be slightly higher.

LOBBYING BY HOUSE COMMITTEE CONSULTANTS

Rules Change.—Amend House Rule 43, the Code of Official Conduct, to make it key provisions applicable to consultants, including the requirement that they conduct themselves in a manner that reflects creditably on the House (clause 1), the conflict-of-interest provision (clause 3), and the gift rule (clause 4).

Discussion.—Controversy was generated in the 105th Congress by the practice of House committees retaining individuals under contracts that allow them to lobby the House on behalf of their other clients. Attorneys and other individuals are retained under a statutory provision that authorizes House and Senate committees to retain consultants for the purpose of providing certain services on a short-term basis.[1] Pursuant to implementing regulations issued by the House Oversight Committee, any House committee consultant is to act as an independent contractor and not as a committee employee.

However, both the Senate and the Executive Branch have taken the position that even though an individual is not formally designated as a government employee, the individual will be subject to the major ethics rules that apply to employees if he or she is (1) performing a governmental function and (2) working under the supervision of a Federal officer or employee. Indeed, it appears to be anomalous that a consultant who is, for example, leading a House committee investigation is subject to no ethics rules whatsoever, but both the Members who sit on the employing committee, as well as the committee employees who are working on the investigation, are subject to the full range of the rules.

The standard form consultant contract issued by the House Oversight Committee includes a provision that bars lobbying, but that prohibition can be waived. At times the Standards Committee has been asked to endorse a consultant contract that another committee is proposing to enter into, but Standards Committee policy has been to decline to do so unless the contract prohibits lobbying.

The amendment to House Rule 43 would subject consultants to the basic ethics rules—including rules under which lobbying of the House during the term of the contract would be prohibited—and would likewise subject them to Standards Committee jurisdiction. The amendment would not subject consultants to the entire range of the ethics rules. The Committee is aware that such an approach would be unduly burdensome for individuals who are to serve the House for a limited period of time only, and would unnecessarily diminish the pool of talent available to the House for short-term projects. The Committee would implement this amendment consistent with this concept.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MATSUI).

Mr. MATSUI. Mr. Speaker, I thank the gentleman for yielding to me. I would like to just refer a little bit to what the ranking member of the Committee on Rules talked about.

We talked about bipartisanship this morning, and I think the new Speaker really raised his hands, and he obviously reached out. One of the problems, however, is in the rule that the Republicans have just offered; and that is, it would basically allow the Chair of the Budget Committee to be the Committee on Rules and pretty much do anything he wants. He does not have to have any finding of facts. He can basically direct the Subcommittees of the Committee on Appropriations and also the Committee on Ways and Means on the whole reconciliation process. This is not the way to start off in a bipartisan fashion.

Secondly, we have in our bill, the Democrats, what we would hope that the Republicans would put in their bill, a provision that Speaker-elect LIVINGSTON 3 weeks ago talked about, he wanted to make it actually H.R. 2; and that would have been to take the Social Security surplus, the Social Security account off budget.

As we all know, there is a lot of talk about using spending programs, perhaps the defense increase that the President and Republicans are talking about, tax cuts the Republicans are talking about, to use from the Social Security surplus.

What our provision will basically do is preserve that surplus unless and until the Social Security trustees basically say that there is a budget surplus that exceeds the social security surplus. Right now, we are going to have $1.5 trillion worth of surpluses over the next 10 years. Nine percent of that is in the area of Social Security.

If in fact we use that for tax cuts or for spending programs, we are going to really default to our senior citizens who will be retiring in large numbers during the baby boom populations in the year 2009 and beyond. We cannot afford to let that happen.

This is a simple way basically to make sure that we preserve the Social Security surplus for future generations of Americans and not use it and squander it as we may do in this Congress if we are not careful.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island (Mr. WEYGAND).

Mr. WEYGAND. Mr. Speaker, I rise today in support of our motion to move the previous question because of an unfairness that we have within our rules system right now, Mr. Speaker.

Presently we are silent in our rules regarding handicapped access to the floor, allowing handicapped individuals to have aides and services that they may need to be on this floor, whether it be a staffer or a Member.

---

[1] 513 U.S. 454, 115 S.Ct. 1003 (1995).

[1] 2 U.S.C. §72a(1).

We have proposed an amendment that would allow for handicapped persons to bring such aides and services onto the floor unless the Speaker so decides that such would be a very difficult thing to occur. The difficulty would be expense for the operations of the House.

Mr. Speaker, 2 years ago in the Senate, a staffer who had an expertise that was necessary for the Member to have on the floor was denied access to the floor simply because she needed a seeing-eye dog. The rules in the Senate were silent. But they immediately changed it to allow for handicapped individuals to have those aides and services to be brought on the floor.

While our Parliamentarian and the clerks have indicated that would not be a problem here, our rule is also silent on that particular issue.

I ask the House to adopt a rule that will provide for a prospective, a proactive means of making sure that handicapped individuals be allowed onto the floor with the kinds of aides and services they need.

The Speaker just a little while ago talked about bipartisanship and fairness. Is it not fair that the same rules that we impose upon other government agencies and other individuals be so imposed upon us here on this floor? If this is a hallowed place, should not it be hallowed for all people who enter this chamber, and should not we allow all those people that need handicapped accessibility and services and aides be allowed on this floor?

Certainly right now, Mr. Speaker, the rules do not provide so. I ask for the majority's support to allow for those individuals to be here on the floor.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I welcome the bipartisanship that is apparent in some of these rules. A rules package worthy of this House, however, would return the vote in the Committee of the Whole to the taxpaying District's residents.

Some rules inevitably reflect partisan desires in either caucus. But surely there is no partisan answer to the question: Should taxpaying American citizens have voting representation in the Committee of the Whole in this body. The House said yes in 1993. The Court of Appeals and the U.S. District Court said yes when it was challenged.

The people I represent have met every obligation of citizenship. They have fought and died in every war. They sent more people to fight in Desert Storm than 47 States. Yet, it is our taxpaying status that might most move this tax-conscious body. We are third, per capita, in Federal income taxes sent to the Federal Treasury; $1.7 billion sent last year.

Do I have to remind this body that our forefathers went to war over taxation without representation? Make peace with the District of Columbia on the vote that was taken away in 1993.

We have a tough new mayor who has helped bring the city out of insolvency. We have a brand-new oversight-conscious city council. The city is running surpluses. Yet every law my city enacts comes here before it becomes law. Every cent we raise in the District must be appropriated by this body, although this body gives us no Federal payment.

Should I have to stand here voteless and watch others vote on local revenue raised in my city and local laws passed by my council? I ask for the vote as a minimal recognition of the citizens who live in our Nation's capital. Do not leave the people who live here to watch you vote while having none of their own.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, there has been much said recently about the rule of law and bipartisanship. The proposed amendment of the gentleman from Massachusetts (Mr. MOAKLEY) to Rule XXIV, clause 14 of the Rules of this House would enhance both.

With his amendment, we can cast a bipartisan vote that would protect the integrity of the lawmaking process. With this amendment, we can strengthen the rule of law by improving the rules by which we pass our laws. Specifically, this amendment says that our power as Members should be used to pass public laws, to punish private citizens for their political party affiliation.

Mr. Speaker, for a half a century, our Nation and its veterans stood up against a form of government that said one's job depended upon one's political party affiliation. It was wrong then, and it is wrong today.

This is a common-sense amendment that the gentleman from Massachusetts (Mr. MOAKLEY) has proposed. In the spirit of the comity of this day, I would urge Republicans and Democrats to support that amendment. Let our words and deeds be bipartisan.

In conclusion, let me let the amendment speak for itself. It says that a Member, Delegate or Resident Commissioner may not in his official capacity intervene, including threatening to deny access, to prevent the hiring of, or to encourage the dismissal of an individual by any lobbying organization, trade association, or law firm based upon the political party affiliation of such individual.

A Member who is a member of the leadership may not attempt to intimidate any interest group by threatening to base its decisions about scheduling legislation for consideration by the House based upon the pattern of political contributions by such interest group.

I urge Members on a bipartisan basis to vote against the previous question. Let us add this common-sense, fair amendment to the rules of the people's House.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I am one of those Members who hopes that 1999 will be a year in which both parties and the President come together to enact legislation to preserve and strengthen Social Security for the 21st century.

I was delighted with the emphasis Speaker HASTERT made on Social Security in his remarks. The rule we are proposing ought to serve as the bipartisan point of departure for important debate on Social Security. We ought to agree today, the first day of this Congress, that all of the revenue generated by Social Security will be dedicated to Social Security, that all budget surpluses will be saved until the long-term solvency of Social Security is secure.

Unlike the Senate, there is no House rule at present against consideration of a bill that uses the surplus generated by Social Security. Our rule proposed in this motion would provide for the first time real enforcement of Social Security's off-budget status.

The rule also maintains fiscal discipline and keeps our country on the course to a budget that is balanced and does not rely on Social Security to conceal deficits in the rest of the budget. According to the Congressional Budget Office, 98 percent of the unified budget surplus over the next 10 years is Social Security money.

Let us adopt this rule. If we do not, the temporary surpluses from Social Security may be dissipated, spent, devastating our ability to preserve the long-term solvency of Social Security. Let us agree, we are going to fix Social Security; and starting today, we are going to commit that Social Security dollars will only be used for Social Security benefits.

☐ 1500

Mr. MOAKLEY. Mr. Speaker, may I inquire how much time my Chairman has remaining.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Massachusetts (Mr. MOAKLEY) has 11 minutes remaining; the gentleman from California (Mr. DREIER) has 13½ minutes remaining.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I rise in support of the Democratic rules which will be offered on the motion to recommit and against the Republican rules for many reasons, but 2 in particular which affect the budget.

First, let me give everyone in this House a reason to vote for the motion to recommit if we are for saving Social Security. Our rules will make it out of order in this House to consider any bill or any amendment that would make any use of the budget surplus that stems from the surplus in the Social Security Trust Fund for anything other than Social Security. We even go a step further. We say that no budget surplus of any kind can be used for anything until Social Security is in actuarial bonds for 75 years. So if we truly want to take Social Security off budget and protect it, save it first, then we should vote for the motion to recommit.

Mr. Speaker, I also have to say with concern that the rules proposed by the majority will amend rule XXVIII and give the Chairman of the Committee on the Budget the unilateral power to set budget totals and committee spending allocations for fiscal years 1999 through 2003. This is a sweeping grant of authority, and I can only infer, because no one has explained it to me or consulted me about it, that the reason we are taking this extraordinary step is that last year, for the first time in 24 years, this House, this Congress failed to pass a concurrent budget resolution. This rule change would allow the House in effect to pretend that we passed that resolution even though we really did not.

This raises an important question, this phantom resolution. What are the spending and revenue levels going to be? Are they the levels that were in the House-passed resolution which the Senate, the other body would not agree to? Are they the caps in the balanced budget agreement of 1997? Are we abandoning the BBA? Are we going to require the Committee on Ways and Means and the Committee on Transportation and the Committee on Commerce to cut $56 billion?

This is not necessary, it is not wise, and it is not precedented. Every member has 2 good reasons to vote for the motion to recommit.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL), the dean of the House.

Mr. DINGELL. Mr. Speaker, I rise in support of the Democratic motion to recommit, which will occur shortly, and to object to the unfair ratios that the Republican majority has established for standing committees. I urge a "no" vote on the rule. We held an election just 2 months ago, and the American people voted in nearly equal numbers for Democrats and Republicans. On the House floor, 51 percent of the Members are Republicans. But in the Committee on Commerce, they will control 54.7 percent of the seats. The difference is the largest that has ever occurred in our committee in the past 50 years.

This is a very simple attempt to rig the results of the election against the people who they voted. And it is also an attempt to deny the American people who voted for a Democratic Congressman the same rights as those who voted for a Republican Congressman. It totally denigrates the concept of one man, one vote.

This is not just simply a matter of numbers. It is a matter of fairness and equality and democracy. It is unfair to Members who serve here.

But there is a greater unfairness, and that unfairness is that Members of this body who are Democrats achieve less weight to their vote than do Members who happen to be Republicans. What is important here is that this action denies the people the right to have issues of importance to them debated here in the House of Representatives in a fair and proper fashion, with proper weight being given to the vote of each voting American citizen.

Let me give an example. In the past Congress, with bipartisan support, the Congress nearly passed the Patients' Bill of Rights to allow patients and their doctors to make medical decisions rather than bureaucrats in HMOs. I am convinced that with the result of the recent elections, we could be successful in passing that legislation this year. However, by stacking the Committee on Commerce with a greater number of Republicans than the numbers would actually be justified in the House, the bill is probably going to get buried in the committee and we are going to then be compelled to address the problem under the mechanism of a discharge petition in order to have the people's will, which was clearly expressed, carried out.

The answer to the problems that we confront is simple. Establish committees that reflect the House as a whole. Force committees to work out their partisan differences before bringing them to the floor. Let the will of the American people, freely and clearly expressed in the last election, be felt and be heard here.

Mr. Speaker, at this point I will insert an analysis and a table showing the majority and minority ratios of the Committee on Commerce over the past years. The analysis shows that the ratios established by the Republican majority of the Congress for the Committee on Commerce are the most disproportionate and unfair of any of the past Congresses.

Does this sound like democracy? No. Does it sound like bipartisanship? No. Does it sound like comity and fair treatment? Clearly not. I urge a "no" vote on the rule, and I urge a vote on the motion to recommit.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
Washington, DC, December 16, 1998.

MEMORANDUM

To: Democratic Members and Member-Designates, Committee on Commerce.
From: The Honorable John D. Dingell.
Subject: Commerce Committee Ratios.

Over Democratic objections, the Republican Leadership has chosen committee ratios for the 106th Congress that significantly overstate the narrow Republican margin given by the voters last month. As for the Commerce Committee, the Republicans have decided that there will be 29 Republicans and 24 Democrats. The ratio for the 106th Congress is, unfortunately, the most unfair ratio established for the Commerce minority in the past 50 years. It should hardly be a surprise that the ratio established for the current congress has been the second most unfair.

As the accompanying chart shows, the ratio in the 105th Congress for our committee reflects the largest differential between Committee majority percentage and House majority percentage in 50 years (2.95%). The ratio established for the 106th Congress sets an even greater differential of 3.45%. Simply put, the Republicans are padding their meager advantage in the House.

Other than the current Congress, ratios have always been set in a manner that if a majority seat were transferred to the minority, it would result in a majority percentage that would be less than the majority percentage in the House. Put in a more positive way, until the Republicans took control in 1994, the test was this: *Assuming a given Committee size,* ratios have always been set that give the majority just enough seats to give them a majority Committee percentage that is greater than their percentage in the House.[1]

What does this mean for the 106th Congress? Our current ratio is 28–23. The Republican leadership now wants a 29–24 ratio. Given a committee size of 53, under historical practice we should be entitled to at least a 28–25 ratio, which would still give the Republicans a larger percentage than they hold in the House. If this unfair Committee ratio is not changed, the unfairness will be replicated in the Subcommittee ratios as well. This will mean many fewer Subcommittee slots for Democratic Members than we deserve.

Committee ratios were the first test of the new Republican House Leadership's claims of bipartisanship. Mr. Livingston and the rest have failed that test. This Republican unfairness greatly reduces the likelihood of a constructive and productive relationship in the forthcoming Congress.

---

[1] In the 86th, 89th, 90th, and 92nd Congresses, the majority Committee advantage was actually worse than the House advantage, but current Caucus rules would prohibit such a result.

Congress	House			Commerce			Analysis					
							Percentage					
	Dem	Rep	Maj. pct.	Dem	Rep	Maj. pct.	House	Com-merce	Dif.	House	If switch	Dif.
81	263	171	60.46	17	11	60.71	60.46	60.71	0.25	60.46	57.14	−3.32
82	234	199	53.79	17	13	56.67	53.79	56.67	2.87	53.79	53.33	−0.46
83	213	221	50.80	14	16	53.33	50.80	53.33	2.53	50.80	50.00	−0.80
84	232	203	53.33	17	14	54.84	53.33	54.84	1.51	53.33	51.61	−1.72
85	234	201	53.79	18	15	54.55	53.79	54.55	0.75	53.79	51.52	−2.28
86	283	153	65.06	21	12	63.64	65.06	63.64	−1.42	65.06	60.61	−4.45
87	262	175	60.23	20	13	60.61	60.23	60.61	0.38	60.23	57.58	−2.65
88	258	176	59.31	20	13	60.61	59.31	60.61	1.30	59.31	57.58	−1.73
89	295	140	67.82	22	11	66.67	67.82	66.67	−1.15	67.82	63.64	−4.18
90	248	187	57.01	18	14	56.25	57.01	56.25	−0.76	57.01	53.13	−3.89
91	243	192	55.86	21	16	56.76	55.86	56.76	0.89	55.86	54.05	−1.81
92	255	180	58.62	25	18	58.14	58.62	58.14	−0.48	58.62	55.81	−2.81
93	242	192	55.63	25	19	56.82	55.63	56.82	1.19	55.63	54.55	−1.09
94	291	144	66.90	30	14	68.18	66.90	68.18	1.29	66.90	65.91	−0.99
95	292	143	67.13	30	14	68.18	67.13	68.18	1.06	67.13	65.91	−1.22
96	277	158	63.68	27	15	64.29	63.68	64.29	0.61	63.68	61.90	−1.77
97	242	192	55.63	24	18	57.14	55.63	57.14	1.51	55.63	54.76	−0.87
98	269	166	61.84	26	15	63.41	61.84	63.41	1.58	61.84	60.98	−0.86
99	253	182	58.16	25	17	59.52	58.16	59.52	1.36	58.16	57.14	−1.02
100	258	177	59.31	25	17	59.52	59.31	59.52	0.21	59.31	57.14	−2.17
101	260	175	59.77	26	17	60.47	59.77	60.47	0.70	59.77	58.14	−1.63
102	267	167	61.38	27	16	62.79	61.38	62.79	1.41	61.38	60.47	−0.91
103	258	176	59.31	27	17	61.36	59.31	61.36	2.05	59.31	59.09	−0.22
104	204	230	52.87	23	27	54.00	52.87	54.00	1.13	52.87	52.00	−0.87
105	207	226	51.95	23	28	54.90	51.95	54.90	2.95	51.95	52.94	0.99
106	211	223	51.26	24	29	54.72	51.26	54.72	3.45	51.26	52.83	1.57
106	211	223	51.26	25	29	53.70	51.26	53.70	2.44	51.26	51.85	0.59
106	211	223	51.26	26	29	52.73	51.26	52.73	1.46	51.26	50.91	−0.36
106	211	223	51.26	27	29	51.79	51.26	51.79	0.52	51.26	50.00	−1.26
106	211	223	51.26	25	28	52.83	51.26	52.83	1.57	51.26	50.94	−0.32

The Bottom Line: The 105th Congress had the highest differential ever between majority ratio on committee and in the House (2.95%). The 105th Congress was also the first Congress in 50 years in which a committee seat could have been switched from Majority to Minority, and the Committee would still have a higher majority ratio than in House in general (.99%). If Republicans have 29 seats in the 106th Congress, Democrats could have 27 seats, and the ratio would still be above the House ratio. If the Committee were set at 53 Members, then a 28–25 ratio would still be above the House ratio.

Notes: Ratios for all Congresses do not include other parties. Committee ratios for 106th Congress assumes various scenarios. "If switch" means what the Committee ratio would have been if a Majority seat had been switched to the Minority.

The differential column shows that in every Congress (except the 105th and 106th) the resultant Committee majority percentage would have been less than the House majority percentage.

Mr. MOAKLEY. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, on this first day of this new Congress, we must recommit ourselves to saving Social Security first. By adopting our Democratic rule, the House can stand both for Social Security and against fiscal insecurity.

A few months ago, our Republican colleagues on this very floor attempted to fund election-year tax breaks out of the surplus generated by the Social Security Trust Fund. Their ill-advised proposal, which was ultimately not approved, would have used payroll taxes paid for by all Americans to fund tax breaks for a few Americans. That was wrong, and in 1999, by the adoption of this rule, we can prevent the compounding of that wrong.

Those of us who have struggled to achieve a balanced Federal budget know that our job is not complete. For this year, we would have no balance in the Federal budget were it not for the surplus generated by the payroll taxes in Social Security. Indeed, this year, we would have a $51 billion deficit without those Social Security revenues.

Our proposed Democratic rule would say that if one wants tax cuts, and I, for one, would like to see some tax cuts, pay for that lost revenue by closing tax loopholes and ending preferential treatment for the few special interests. But do not finance even more preferential tax treatment for the few by taking from the payroll taxes that are paid by the many, and which workers see go out of their paycheck every time they get a paycheck. And certainly, do not pay for tax breaks this year, or new spending, for that matter, by irresponsibly adding to the national debt.

To our Republican friends we say, do not make Social Security more insecure, and do not undermine the progress that we have been making on Federal deficit control that is so very important to our country's unprecedented economic vitality.

This Congress has convened under a cloud of uncertainty, created by the insistence that we proceed with a prolonged impeachment trial, no matter what the cost to the country. Let us at least in this first policy vote of 1999 in the House say that we will save Social Security first by adopting a Democratic pay-as-you-go rule that we are advancing today.

SWEARING IN OF MEMBER-ELECT

The SPEAKER. Will the gentleman from Michigan (Mr. BARCIA) kindly come to the well of the House and take the oath of office at this time.

Mr. BARCIA appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter, so help you God.

The SPEAKER. Congratulations.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I rise today with the optimism that has been flowing from this body all today, and in doing that, recognize that there are parts of the Republican rules package that I support and I think everyone does, but there are 2 glaring omissions. One is in the area of committee ratios, something that we on the blue dogs and our caucus in general suggested that it would be a good way to start this Congress by saying that all committees should have the ratios as made up in the House.

Unfortunately, many of the committee chairmen, Mr. Speaker, did not see fit to do that. I think that is a mistake for us, because I think it would produce the bipartisan legislation a lot better if we have balanced committees. The Democratic package provides for that.

But the area I am particularly concerned about and hopeful that we can have bipartisan cooperation on is Social Security reform. I have worked extremely hard with the gentleman from Arizona (Mr. KOLBE), the gentleman from South Carolina (Mr. SANFORD), the gentleman from Michigan (Mr. SMITH) and other Members on this side of the aisle, along with Members on my side of the aisle, to bring us to a point where we can seriously discuss Social Security.

The Democratic rules package contains an important provision that will reaffirm and strengthen our commitment to make Social Security secure for future generations. The Democratic rules package strengthens our budget rules to clarify that there is no surplus to be spent for any purpose until we balance the budget without counting Social Security, and prevents us from any budget surplus being used to do anything else. This will bring a greater honesty to the budget process and will ensure that fixing Social Security reform is our highest priority.

We should not talk about spending budget surpluses so long as we are counting the Social Security Trust Fund surplus. Under current projections, there is no surplus available to use for any purpose unless we are willing to use the Social Security Trust Fund. The conservative thing to do with the budget surplus is to be conservative. Do not spend it. It is extremely important that we follow the path of fiscal responsibility.

I encourage all Members who are committed to maintaining fiscal discipline and maintaining the integrity of the Social Security Trust Fund to vote for the Democratic rules package to maintain this fiscal discipline.

Mr. MOAKLEY. Mr. Speaker, I am awaiting the arrival of the gentleman from Michigan (Mr. BONIOR). I do not know if he is going to make it, but if he does, I will yield in the midst of my speech.

Mr. Speaker, I yield myself such time as I may consume.

I will have a motion to recommit. The motion requires fair committee ratios and establishes a point of order to protect Social Security. I ask Members to vote for that motion to recommit.

I also urge Members to vote "no" on the previous question, because if the previous question is defeated, I will offer an amendment and the amendment will provide for a vote in the Committee of the Whole for the delegate from the District of Columbia.

It will also provide access to the House floor for individuals needing supporting aids or services.

It will also prohibit House Members from improperly influencing hiring decisions of interest groups and prohibiting House leaders from basing decisions about scheduling legislation on patterns of political contributions from the interest groups that advocate any kind of legislation.

Also, Mr. Speaker, it would require all bills and all resolutions to be written in plain English.

Mr. Speaker, at this time I will insert for the RECORD the text of the amendment.

AMENDMENT TO H. RES. 5 OFFERED BY MR. MOAKLEY OF MASSACHUSETTS

In the amendment made by this resolution to clause 3 of rule III of the Rules of the House of Representatives, add at the end the following new paragraph:

"(c) In a Committee of the Whole House on the state of the Union, the Delegate to the House from the District of Columbia shall possess the same powers and privileges as Members of the House.".

In the amendment made by this resolution to clause 6 of rule XVIII of the Rules of the House of Representatives, add at the end the following new paragraph:

"(g) Whenever a recorded vote on any question has been decided by a margin within which the vote cast by the Delegate from the District of Columbia has been decisive, the Committee of the Whole shall automatically rise and the Speaker shall put that question de novo without intervening debate or other business. Upon the announcement of the vote on that question, the Committee of the Whole shall resume without intervention.".

In the amendment made by this resolution to rule IV of the Rules of the House of Representatives, redesignate clauses 6 and 7 as clauses 7 and 8, respectively, and after clause 5, insert the following new clause:

"6. An individual with a disability who is entitled to the privilege of the floor may bring any necessary supporting aids and services (including service dogs, wheelchairs, and interpreters) onto the floor unless the Sergeant-at-Arms determines that the use of such supporting aids and services would place a significant difficulty or expense on the operations of the House.".

In the amendment made by this resolution to rule XXIV of the Rules of the House of Representatives, redesignate clause 14 as clause 15, and after clause 13, add the following new clause:

"14. (a) A Member, Delegate, or Resident Commissioner may not, in his official capacity, intervene (including threatening to deny access) to prevent the hiring of or to encourage the dismissal of an individual by any lobbying organization, trade association, or law firm based on the political party affiliation of such individual.

"(b) A Member who is a member of the leadership may not attempt to intimidate an interest group by threatening to base his decisions about scheduling legislation for consideration by the House based on the pattern of political contributions by such interest group.".

In the amendment made by this resolution to rule XXI of the Rules of the House of Representatives, at the end add the following new clauses:

"7. A section or other provision of a bill or joint resolution which amends a law shall be in the form of a comparative print of the law proposed to be amended showing by black brackets and italics the omissions and the insertions proposed to be made in the law.

"8. An amendment to a section or other provision of a bill or joint resolution which is to be offered when a subcommittee or committee considers such bill or joint resolution or when such bill or joint resolution is to be considered in the House sitting as the Committee of the Whole House shall be in the form of a comparative print of the section or other provision proposed to be amended showing by black brackets and italics the omissions and the insertions proposed to be made in the section or other provision.".

Mr. Speaker, I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

I am going to take the next few minutes to respond to some of the criticisms of this package, but I do want to begin, as I had in my opening remarks, in underscoring that we are in the midst of what is a truly historic and extraordinarily positive development for this House.

As Speaker HASTERT said in his speech that he delivered in the well, he wants to rebuild the faith in this institution. There is no doubt about the fact that that is necessary, and it is very, very important. And while it may be seen by many as simply an inside baseball issue, trying to make the process of law-making more understandable for the average American is an important thing. Quite frankly, trying to make the process of law-making more understandable for the average member of the United States Congress is an important thing, and I believe that with this bipartisan package which we have been working for 2 years on, with the parliamentarians, with the Democratic staff, our very able Republican staff, we, I am happy to say, have been able to cut nearly in half, from 51 to 28, the number of rules that will govern this institution.

So it seems to me that, having done that, we are making tremendous strides.

Mr. Speaker, it appears that my friend, the gentleman from Michigan (Mr. BONIOR), is here and might like to make a statement.

Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts (Mr. MOAKLEY), who has yielded back the balance of his time, be able to reclaim time so we can get words of wisdom from my very good friend here.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MOAKLEY) for his leadership.

I also thank the gentleman from California (Mr. DREIER) for his courtesies and kindnesses this afternoon in allowing me to add my comments to this debate on the rules package.

Mr. Speaker, we have heard on the floor already this afternoon a lot of talk about a new spirit of cooperation; about working together, Republicans and Democrats alike. I think this is very encouraging. I think this should be nurtured, and I think we should strive in the direction of the comments that were made by both the Democratic leader and by the new Speaker this afternoon.

But I think we can begin that process right now, in a few minutes, on voting on the rules package. The rules are the rules which will govern how we act and how we will relate to each other for the next 2 years, what we will be voting on in the next few minutes.

What we are looking for in order to come the halfway that the gentleman from Illinois (Speaker HASTERT) mentioned in his speech is some sign from the majority that indeed they respect our numbers, they respect the fact that we represent 49 percent of this House.

Those numbers need to be reflected in the committee ratios in which we serve. If they are not, if they are not, then literally millions of Americans will be disenfranchised from representation on the committees that make a difference in their lives.

I just wanted to add, Mr. Speaker, my comments and thoughts on committee ratios. The Democratic package I think is much more balanced, much fairer this way. I think it is going to have to be through reaching out of this kind, something that may not be that well understood in the general public, but is certainly understood within this institution. That kind of reaching out is just so important and critical in terms of developing this relationship that will hopefully produce a productive Congress.

I hope the majority will recognize the fact that we do not have our fair ratios on committees, and we need them. I hope Members will support our motion to recommit, which will put that in balance.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in talking about this spirit of bipartisanship that I had mentioned earlier, we have in fact worked in a bipartisan way on this issue of completely recodifying the rules, going from 51 down to 28 rules. 1880 is the last time that any kind of project like this was undertaken, so I think it has been necessary, and it is very, very appropriate.

We have taken a lot of the outdated and obsolete provisions and made them history, and I think now have a package which does not substantively change the rules of the House themselves, but does in fact create a more understandable, workable process. I am very, very encouraged by that, and I am encouraged that the minority has chosen to join us in support of it.

Mr. Speaker, there were a number of provisions that have been raised during the past little while, during the debate. I would like to take a few minutes, for the RECORD, to respond to those items, and then we will look forward to an exciting vote on the previous question, a motion to commit, and then what I hope will be finally passage of this measure.

First, in relation to the question of granting Delegates the right to vote with respect to the Committee of the Whole, in 1993 a Federal judge found a House rule change to allow Delegate voting in the Committee of the Whole could be unconstitutional, so that clearly was addressed at that time.

I want to say, on the issue of social security, I understand the desire of our colleagues on the other side of the aisle to preserve social security, and we are very concerned about the preservation of social security, as was stated by the gentleman from Illinois (Speaker HASTERT) in his opening speech here today.

But we not only want to preserve social security, we want to strengthen it, because preservation of the status quo in fact creates a very, very serious problem for those who are looking towards retirement. We desperately need to find alternatives for those who want to have confidence that their retirement is going to be there. Our goal is not only to preserve but to strengthen it, and I think we have a very, very good chance to do that.

With respect to the issues that were raised by two individuals who had contacted me, I include for the RECORD letters that I sent to the gentleman from Rhode Island (Mr. WEYGAND) and the gentleman from New York (Mr. NADLER).

The letters referred to are as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RULES,
Washington, DC, January 6, 1999.

Hon. JERROLD NADLER,
Rayburn House Office Building,
Washington, DC.

DEAR JERRY: It was good to talk to you today about your "Plain English in Law Rule" proposal. I recall your thoughtfully prepared testimony on H. Res. 529 that you submitted to the House Rules Committee on September 17.

As you know, clause 3(e) of rule XIII (the Ramseyer rule) provides that whenever a committee reports a bill, a comparative print of the amendment and the statute must be included in its accompanying report or document, if the bill or joint resolution repeals or amends any statute or part of a statute. During consideration of the opening day rules package for the 106th Congress, H. Res. 529 was discussed at great length. However, there is significant concern that the proposal would be difficult to institute in practice, and that it would be cost prohibitive and would tremendously expand the workload of House Legislative Counsel.

If you would like to discuss this matter in greater detail, please feel free to contact me or Vince Randazzo at 5-9191. As always, I welcome your continued input on ways to improve House procedure.

Sincerely,
DAVID DREIER.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RULES,
Washington, DC, January 6, 1999.

Hon. BOB WEYGAND,
Cannon House Office Building, House of Representatives, Washington, DC.

DEAR BOB: Thank you for contacting me regarding your proposed amendment to the rules of the House to permit disabled individuals who have access to the House floor to bring supporting services.

I am aware of your sincere interest in this issue, your testimony before the Rules Committee last September and your correspondence with former Chairman Jerry Solomon.

I support the objective of your proposal, and have been informed that the Office of the Parliamentarian, the Sergeant-at-Arms, and the Rules Committee staff have all concluded that the existing language of clause 2 of rule IV, relating to the Hall of the House, already permits floor access to those needing support services. While the Senate may have needed an affirmative change in its precedents to achieve this objective, the rules of the House are already flexible enough to allow for such access.

If you would like to discuss this matter in greater detail, please feel free to contact me or Eric Pelletier at 5-9191. As always, I welcome your continued input on ways to improve House procedure.

Sincerely,
DAVID DREIER.

The gentleman from Rhode Island (Mr. WEYGAND) very appropriately raises a question or concern about those Members or others who are here on the Floor who might need assistance because they would need a seeing eye dog, or have some other problem that would lead to them needing assistance.

It is very, very clear in the rules that under the broad guidelines that the Speaker has that that authority is there. So we know from meetings that have been held with the Clerk and with others who would have jurisdiction, and within the Speaker's office, that that is clearly addressed and taken care of. If anyone needs any kind of assistance here on the Floor, they certainly will be able to utilize that.

With reference to the issue that the gentleman from New York (Mr. NADLER) raised and discussions that were held in testifying before the Committee on Rules, and in conversations that he had with my predecessor, Mr. Solomon, we very much want to have the ability for Members to see changes in laws side by side, the so-called Ramseyer provision which allows that.

No issue is voted on the House Floor without that provision already being put into place. It is there, and so any Member who is prepared to vote on an issue today has the opportunity to see what the current law is and what the changes are.

The concern that we have with the provision that has come forward from the gentleman from New York (Mr. NADLER) is that every single bill that has been introduced, and I myself have introduced five bills today, very, very important measures on campaign finance reform; dealing with the reduction of the capital gains tax; dealing with health care, so that the average American will have a chance to get into the Federal Employee Health Benefits program; so people are able to use flexible acts, we have lots of legislation that has been put out there.

I do not know exactly how far the measures that I have are going to go, but if we look at the tremendous cost burden that would be created from putting together that Ramseyer or side-by-side provision in the bill, with italics, it would virtually double the length or in many cases more than double the length of bills that are there, so the cost to the taxpayer would be tremendous.

But I totally agree with the gentleman from New York (Mr. NADLER) that we should not have measures here on the floor addressed and voted on unless we are able to see what kinds of changes are made in current law. I think we have addressed a number of these items.

On the issue of the budget concerns, let me just repeat, as I did in my opening remarks, because Congress failed to adopt a concurrent budget resolution for fiscal year 1999, the Congressional Budget Act is unenforceable, absent the establishment of budget allocations for committees in the House, so this does not have the force of law. This is simply an internal provision.

Then I want to address the issue that my friend, the gentleman from Massachusetts (Mr. MOAKLEY) brought up, the committee ratio question. It is a very, very important one and very justifiable, to raise questions about it.

But I would say to my friend that if we look at the past nearly quarter of a century, over the past quarter of a century Republicans have controlled this institution for 4 years. That is 4 out of nearly a quarter of a century. We have never in that quarter of a century period seen the committee ratios reflect the overall makeup of the House of Representatives, especially on those exclusive committees that we have.

So I think we are following a pattern that is right on target, which has been used overwhelmingly by my friends on the other side of the aisle, which has been in place here. We are proceeding in a fair and balanced way.

I want to do the best job that I possibly can as chairman of the Committee on Rules. I want the gentleman from Massachusetts (Mr. MOAKLEY) for many years to have the opportunity to serve as ranking member of the Committee on Rules. I think we can work well together in a very fair and balanced way. I do believe that this recodification plan is the first in a very, very important pattern that I hope will continue in the future.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I include for the RECORD the following amendment, which was referred to earlier.

The amendment referred to is as follows:

AMENDMENT TO H. RES. 5 TO BE OFFERED BY MR. MOAKLEY OF MASSACHUSETTS IF THE PREVIOUS QUESTION IS DEFEATED

In the amendment made by this resolution to clause 3 of rule III of the Rules of the House of Representatives, add at the end the following new paragraph:

"(c) In a Committee of the Whole House on the state of the Union, the Delegate to the House from the District of Columbia shall possess the same powers and privileges as Members of the House.".

In the amendment made by this resolution to clause 6 of rule XVIII of the Rules of the House of Representatives, add at the end the following new paragraph:

"(g) Whenever a recorded vote on any question has been decided by a margin within which the vote cast by the Delegate from the District of Columbia has been decisive, the Committee of the Whole shall automatically rise and the Speaker shall put that question de novo without intervening debate or other business. Upon the announcement of the vote on that question, the Committee of the Whole shall resume without intervention.".

In the amendment made by this resolution to rule IV of the Rules of the House of Representatives, redesignate clauses 6 and 7 as clauses 7 and 8, respectively, and after clause 5, insert the following new clause:

"6. An individual with a disability who is entitled to the privilege of the floor may bring any necessary supporting aids and services (including service dogs, wheelchairs, and interpreters) onto the floor unless the Sergeant-at-Arms determines that the use of such supporting aids and services would place a significant difficulty or expense on the operations of the House.".

In the amendment made by this resolution to rule XXIV of the Rules of the House of Representatives, redesignate clause 14 as clause 15, and after clause 13, add the following new clause:

"14. (a) A Member, Delegate, or Resident Commissioner may not, in his official capacity, intervene (including threatening to deny access) to prevent the hiring of or to encourage the dismissal of an individual by any lobbying organization, trade association, or law firm based on the political party affiliation of such individual.

"(b) A Member who is a member of the leadership may not attempt to intimidate an interest group by threatening to base his decisions about scheduling legislation for consideration by the House based on the pattern of political contributions by such interest group.".

In the amendment made by this resolution to rule XXI of the Rules of the House of Representatives, at the end add the following new clauses:

"7. A section or other provision of a bill or joint resolution which amends a law shall be in the form of a comparative print of the law proposed to be amended showing by black brackets and italics the omissions and the insertions proposed to be made in the law.

"8. An amendment to a section or other provision of a bill or joint resolution which is to be offered when a subcommittee or committee considers such bill or joint resolution or when such bill or joint resolution is to be considered in the House sitting as the Committee of the Whole House shall be in the form of a comparative print of the section or other provision proposed to be amended showing by black brackets and italics the omissions and the insertions proposed to be made in the section or other provision.".

Mr. DREIER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. MOAKLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 216, nays 207, not voting 4, as follows:

[Roll No. 3]

YEAS—216

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Istook
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
King (NY)
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas (OK)
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Paul
Pease
Peterson (PA)
Petri
Pickering
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Upton
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—207

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barcia
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Fattah
Filner
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Goode

Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Minge
Mink
Moakley
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pickett
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Sherman
Shows
Sisisky
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stabenow
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOT VOTING—4

Burr
Jenkins
Manzullo
Pitts

□ 1547

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER (during the vote). The Chair announces that any Member-elect who failed to take the oath of office may present himself or herself in the well of the House prior to completion of the vote on the previous question on the resolution now pending or any other rollcall vote.

SWEARING IN OF MEMBERS-ELECT

The SPEAKER (during the vote). Will the gentleman from Tennessee (Mr. BRYANT), the gentleman from Oregon (Mr. DEFAZIO), the gentleman from Virginia (Mr. GOODE), and the gentlewoman from New York (Ms. SLAUGHTER) kindly come to the well of the House and take the oath of office at this time.

Mr. BRYANT, Mr. DEFAZIO, Mr. GOODE, and Ms. SLAUGHTER appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations. You are now Members of the United States Congress.

Ms. BERKLEY and Mr. BERMAN changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

MOTION TO COMMIT OFFERED BY MR. MOAKLEY

Mr. MOAKLEY. Mr. Speaker, I offer a motion to commit.

The SPEAKER pro tempore (Mr. LAHOOD). The Clerk will report the motion.

The Clerk read as follows:

Mr. MOAKLEY moves to commit the resolution H. Res. 5 to a select committee comprised of the majority leader and the minority leader with instructions to report the same back to the House forthwith with the following amendments:

In the amendment made by this resolution to clause 5(a)(1) of rule X of the Rules of the House of Representatives, add at the end the following new sentence: "The ratio of majority party members to minority party members in the distribution of committee seats shall reflect the ratio of majority party members to minority party members in the House.".

At the end, add the following new rule:

"RULE XXIX

"PAY-AS-YOU-GO RULE

"1. This rule requires that all direct spending and revenue legislation be fully paid for until the Social Security Trust Fund is actuarially sound. After the Trust Fund becomes actuarially sound, this rule requires that such legislation be fully paid for except to the extent that the Federal budget is in surplus without counting the Social Security Trust Fund.

"2. For purposes of this rule, the term—

"(1) 'Social Security Trust Fund' means the Old Age and Survivors Insurance Trust Fund and the Disability Insurance Trust Fund, combined, established by title II of the Social Security Act;

"(2) 'Social Security solvency certification' means a written statement by the Board of Trustees of the Social Security Trust Fund that the Fund is in actuarial balance for the 75-year period used in the most recent annual report of that Board pursuant to rule 201(c)(2) of the Social Security Act;

"(3) 'direct spending legislation' means any bill, joint resolution, amendment, motion, or conference report that affects direct spending as that term is defined by and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, except any provision that funds or continues in effect the deposit insurance guarantee commitment in effect on the date of agreement to this rule;

"(4) 'to be fully paid for' means that net reduction in revenues do not exceed net reduction in direct spending, or net increases in outlays do not exceed net increases in revenues, when those increases and reductions are calculated relative to an estimate of current law;

"(5) 'current year' means the fiscal year starting on October 1 of the prior calendar year; and

"(6) 'budget year' means the fiscal year starting on October 1 of the current calendar year.

"3. (a) It shall not be in order to consider any direct spending or revenue legislation unless in the form proposed for consideration and during each of the applicable time periods specified in paragraph (b)—

"(1) that legislation fully pays for itself, or

"(2) that legislation is fully paid for when counting any credits available under paragraph (c).

"(b) For purposes of this clause, the applicable time periods are—

"(1) the current year and the budget year,

"(2) the five fiscal years following the current year, and

"(3) the five fiscal years following the time period specified in subparagraph (2).

"(c)(1) For purposes of paragraph (a) and with respect to direct spending or revenue legislation previously enacted during the current calendar year, the net extent (if any) by which all such legislation is more than fully paid for in one of the applicable time period shall count as a credit for that time period.

"(2) Once enacted, legislation considered pursuant to a reconciliation directive shall not be counted as previously enacted legislation for purposes of subparagraph (1), but such legislation itself shall be subject to the requirements of this rule.

"(3) When a Social Security solvency certification is issued, the chairman of the Committee on the Budget shall insert it in the Congressional Record. At the beginning of the first calendar year thereafter, projected budget surpluses (if any) shall be included as a separate entry on the Pay-As-You-Go scorecard and count as credits for purposes of paragraph (a). At the beginning of each subsequent calendar year, the previous entry of surpluses shall be replaced by an updated entry. For the purpose of the prior two sentences, surpluses shall—

"(A) be calculated excluding all the receipts and outlays of the Social Security Trust Fund (and any other off-budget Federal entity), and

"(B) be calculated separately for each of the applicable time period.

"4. For purposes of this rule, the levels of outlays, revenues, surpluses, and deficits under current law or resulting from proposed legislation for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget.".

The SPEAKER pro tempore. The motion to commit is not debatable.

Without objection, the previous question is ordered on the motion to commit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to commit offered by the gentleman from Massachusetts (Mr. MOAKLEY).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 201, nays 218, not voting 8, as follows:

[Roll No. 4]

YEAS—201

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barcia
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher

Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Danner
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Fattah
Filner
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Hooley
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Menendez
Millender-McDonald
Minge
Mink
Moakley
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Olver
Ortiz
Owens
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pickett
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Sherman
Shows
Sisisky
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stabenow
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NAYS—218

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Istook
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
King (NY)
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Paul
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Upton
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—8

Blunt
Davis (FL)
Holt
Jenkins
Meek (FL)
Meeks (NY)
Obey
Pallone

□ 1606

Mr. PORTMAN and Mr. GRAHAM changed their vote from "yea" to "nay."

Mr. GONZALEZ changed his vote from "nay" to "yea."

So the motion to commit was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PALLONE. Mr. Speaker, during rollcall vote No. 4, I was unavoidably detained. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Mr. HOLT. Mr. Speaker, during rollcall vote No. 4, I was unavoidably detained. Had I been present, I would have voted "yes."

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 217, nays 204, not voting 6, as follows:

[Roll No. 5]

YEAS—217

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hansen
Hastings (WA)
Hayes
Hayworth
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Istook
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
King (NY)
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Paul
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Upton
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—204

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barcia
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Capuano
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Fattah
Filner
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel

Holden
Holt
Hooley
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Minge
Mink
Moakley
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pickett
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Sherman
Shows
Sisisky
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stabenow
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOT VOTING—6

Blunt
Bonior
Cardin
Hefley
Jenkins
Lipinski

☐ 1624

Mr. BILBRAY changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on the resolution just adopted.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from California?

There was no objection.

ELECTION OF MAJORITY MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. WATTS of Oklahoma. Mr. Speaker, by direction of the Republican Conference, I offer a privileged resolution (H. Res. 6) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 6

Resolved, That the following named Members be, and are hereby elected to serve on standing committees as follows:

Committee on Agriculture: Mr. Combest, Chairman; Mr. Barrett of Nebraska; Mr. Boehner; Mr. Ewing; Mr. Goodlatte; Mr. Pombo; Mr. Canady; Mr. Smith of Michigan; Mr. Everett; Mr. Lucas of Oklahoma; Mrs. Chenoweth; Mr. Hostettler; Mr. Chambliss; Mr. LaHood; Mr. Moran of Kansas; Mr. Schaffer; Mr. Thune; Mr. Jenkins; Mr. Cooksey; Mr. Calvert; Mr. Gutknecht; Mr. Riley; Mr. Walden; Mr. Simpson; Mr. Ose; Mr. Hayes; and Mr. Fletcher.

Committee on Appropriations: Mr. Young of Florida, Chairman; Mr. Regula; Mr. Lewis of California; Mr. Porter; Mr. Rogers; Mr. Skeen; Mr. Wolf; Mr. DeLay; Mr. Kolbe; Mr. Packard; Mr. Callahan; Mr. Walsh; Mr. Taylor of North Carolina; Mr. Hobson; Mr. Istook; Mr. Bonilla; Mr. Knollenberg; Mr. Miller of Florida; Mr. Dickey; Mr. Kingston; Mr. Frelinghuysen; Mr. Wicker; Mr. Forbes; Mr. Nethercutt; Mr. Cunningham; Mr. Tiahrt; Mr. Wamp; Mr. Latham; Mrs. Northup; Mr. Aderholt; Mrs. Emerson; Mr. Sununu; Ms. Granger; and Mr. Peterson of Pennsylvania.

Committee on Armed Services: Mr. Spence, Chairman; Mr. Stump; Mr. Hunter; Mr. Kasich; Mr. Bateman; Mr. Hansen; Mr. Weldon of Pennsylvania; Mr. Hefley; Mr. Saxton; Mr. Buyer; Mrs. Fowler; Mr. McHugh; Mr. Talent; Mr. Everett; Mr. Bartlett of Maryland; Mr. McKeon; Mr. Watts of Oklahoma; Mr. Thornberry; Mr. Hostettler; Mr. Chambliss; Mr. Hilleary; Mr. Scarborough; Mr. Jones; Mr. Graham; Mr. Ryun of Kansas; Mr. Riley; Mr. Gibbons; Mrs. Bono; Mr. Pitts; Mr. Hayes; Mr. Kuykendall; and Mr. Sherwood.

Committee on Banking and Financial Services: Mr. Leach, Chairman; Mr. McCollum; Mrs. Roukema; Mr. Bereuter; Mr. Baker; Mr. Lazio; Mr. Bachus; Mr. Castle; Mr. King; Mr. Campbell; Mr. Royce; Mr. Lucas of Oklahoma; Mr. Metcalf; Mr. Ney; Mr. Barr of Georgia; Mrs. Kelly; Mr. Paul; Mr. Weldon of Florida; Mr. Ryun of Kansas; Mr. Cook; Mr. Riley; Mr. Hill of Montana; Mr. LaTourette; Mr. Manzullo; Mr. Jones of North Carolina; Mr. Ryan of Wisconsin; Mr. Ose; Mr. Sweeney; Mrs. Biggert; Mr. Terry; Mr. Green of Wisconsin; and Mr. Toomey.

Committee on the Budget: Mr. Kasich, Chairman; Mr. Chambliss; Mr. Shays; Mr. Herger; Mr. Miller of Florida; Mr. Franks of New Jersey; Mr. Smith of Michigan; Mr. Nussle; Mr. Hoekstra; Mr. Radanovich; Mr. Bass; Mr. Gutknecht; Mr. Hilleary; Mr. Sununu; Mr. Pitts; Mr. Knollenberg; Mr. Thornberry; Mr. Ryun of Kansas; Mr. Green of Wisconsin; Mr. Fletcher; Mr. Gary Miller of California; Mr. Ryan of Wisconsin; and Mr. Toomey.

Committee on Commerce: Mr. Bliley, Chairman; Mr. Tauzin; Mr. Oxley; Mr. Bilirakis; Mr. Barton of Texas; Mr. Upton; Mr. Stearns; Mr. Gillmor; Mr. Greenwood; Mr. Cox; Mr. Deal of Georgia; Mr. Largent; Mr. Burr of North Carolina; Mr. Bilbray; Mr. Whitefield; Mr. Ganske; Mr. Norwood; Mr. Coburn; Mr. Lazio; Mrs. Cubin; Mr. Rogan; Mr. Shimkus; Ms. Wilson; Mr. Shadegg; Mr. Pickering; Mr. Fossella; Mr. Blunt; Mr. Bryant; and Mr. Ehrlich.

Committee on Education and the Workforce: Mr. Goodling, Chairman; Mr. Petri; Mrs. Roukema; Mr. Ballenger; Mr. Barrett of Nebraska; Mr. Boehner; Mr. Hoekstra; Mr. McKeon; Mr. Castle; Mr. Sam Johnson of Texas; Mr. Talent; Mr. Greenwood; Mr. Graham; Mr. Souder; Mr. McIntosh; Mr. Norwood; Mr. Paul; Mr. Schaffer; Mr. Upton; Mr. Deal of Georgia; Mr. Hilleary; Mr. Ehlers; Mr. Salmon; Mr. Tancredo; Mr. Fletcher; and Mr. DeMint.

Committee on Government Reform: Mr. Burton of Indiana, Chairman; Mr. Gilman; Mrs. Morella; Mr. Shays; Mr. Cox; Ms. Ros-Lehtinen; Mr. McHugh; Mr. Horn; Mr. Mica; Mr. Davis of Virginia; Mr. McIntosh; Mr. Souder; Mr. Scarborough; Mr. LaTourette; Mr. Sandord; Mr. Barr of Georgia; Mr. Miller of Florida; Mr. Hutchinson; Mr. Terry; Mrs. Biggert; Mr. Walden; Mr. Ose; and Mr. Ryan of Wisconsin.

Committee on House Administration: Mr. Thomsas, Chairman; Mr. Boehner; Mr. Ehlers; Mr. Ney; Mr. Mica; and Mr. Ewing.

Committee on International Relations: Mr. Gilman, Chairman; Mr. Goodling; Mr. Leach; Mr. Hyde; Mr. Bereuter; Mr. Smith of New Jersey; Mr. Burton of Indiana; Mr. Gallegly (when sworn); Ms. Ros-Lehtinen; Mr. Ballenger; Mr. Rohrabacher; Mr. Manzullo; Mr. Royce; Mr. King; Mr. Chabot; Mr. Sanford; Mr. Salmon; Mr. Houghton; Mr. Campbell; Mr. McHugh; Mr. Brady of Texas; Mr. Burr of North Carolina; Mr. Gillmor; Mr. Radanovich; Mr. Cooksey; and Mr. Tancredo.

Committee on the Judiciary: Mr. Hyde, Chairman; Mr. Sensenbrenner; Mr. McCollum; Mr. Gekas; Mr. Coble; Mr. Smith of Texas; Mr. Gallegly (when sworn); Mr. Canady; Mr. Goodlatte; Mr. Buyer; Mr. Bryant; Mr. Chabot; Mr. Barr of Georgia; Mr. Jenkins; Mr. Hutchinson; Mr. Pease; Mr. Cannon; Mr. Rogan; Mr. Graham; and Mrs. Bono.

Committee on Resources: Mr. Young of Alaska, Chairman; Mr. Tauzin; Mr. Hansen; Mr. Saxton; Mr. Gallegly (when sworn); Mr. Duncan; Mr. Hefley; Mr. Doolittle; Mr. Gilchrest; Mr. Calvert; Mr. Pombo; Mrs. Cubin; Mrs. Chenoweth; Mr. Radanovich; Mr. Jones; Mr. Thornberry; Mr. Cannon; Mr. Brady of Texas; Mr. Peterson of Pennsylvania; Mr. Hill of Montana; Mr. Schaffer; Mr. Gibbons; Mr. Sounder; Mr. Walden; Mr. Sherwood; Mr. Hayes; Mr. Simpson, and Mr. Tancredo.

Committee on Rules: Mr. Dreier, Chairman; Mr. Goss; Mr. Linder; Ms. Pryce of Ohio; Mr. Diaz-Balart; Mr. Hastings of Washington; Mrs. Myrick; Mr. Sessions; and Mr. Reynolds.

Committee on Science: Mr. Sensenbrenner, Chairman; Mr. Boehlert; Mr. Smith of Texas; Mrs. Morella; Mr. Weldon of Pennsylvania; Mr. Rohrabacher; Mr. Barton of Texas; Mr. Calvert; Mr. Smith of Michigan; Mr. Bartlett of Maryland; Mr. Ehlers; Mr. Weldon of Florida; Mr. Gutknecht; Mr. Ewing; Mr. Cannon; Mr. Brady of Texas; Mr. Cook; Mr. Nethercutt; Mr. Lucas of Oklahoma; Mr. Green of Wisconsin; Mr. Kuykendall; Mr. Gary Miller of California; and Mrs. Biggert.

Committee on Small Business: Mr. Talent, Chairman; Mr. Combest; Mr. Hefley; Mr. Manzullo; Mr. Bartlett of Maryland; Mr. LoBiondo; Mrs. Kelly; Mr. Chabot; Mr. English; Mr. McIntosh; Mr. Hill of Montana; Mr. Pitts; Mr. Forbes; Mr. Sweeney; Mr. Toomey; and Mr. DeMint.

Committee on Standards of Official Conduct: Mr. Smith of Texas, Chairman.

Committee on Transportation and Infrastructure: Mr. Shuster, Chairman; Mr. Young of Alaska; Mr. Petri; Mr. Boehlert; Mr. Bateman; Mr. Coble; Mr. Duncan; Mr. Ewing; Mr. Gilchrest; Mr. Horn; Mr. Franks of New Jersey; Mr. Mica; Mr. Quinn; Mrs. Fowler; Mr. Ehlers; Mr. Bachus; Mr. LaTourette; Mrs. Kelly; Mr. LaHood; Mr. Baker; Mr. Bass; Mr. Ney; Mr. Metcalf; Mr. Pease; Mr. Hutchinson; Mr. Cook; Mr. Cooksey; Mr. Thune; Mr. LoBiondo; Mr. Watts of Oklahoma; Mr. Moran of Kansas; Mr. Doolittle; Mr. Terry; Mr. Sherwood; Mr. Gary Miller of California; Mr. Sweeney; and Mr. DeMint.

Committee on Veterans' Affairs: Mr. Stump, Chairman; Mr. Smith of New Jersey;

Mr. Bilirakis; Mr. Spence; Mr. Everett; Mr. Buyer; Mr. Quinn; Mr. Bachus; Mr. Stearns; Mr. Moran of Kansas; Mr Hayworth; Mrs. Chenoweth; Mr. LaHood; and Mr. Simpson.

Committee on Ways and Means: Mr. Archer, Chairman; Mr. Crane; Mr. Thomas; Mr. Shaw; Mrs. Johnson of Connecticut; Mr. Houghton; Mr. Herger; Mr. McCrery; Mr. Camp; Mr. Ramstad; Mr. Nussle; Mr. Sam Johnson of Texas; Ms. Dunn; Mr. Collins; Mr. Portman; Mr. English; Mr. Watkins; Mr. Hayworth; Mr. Weller; Mr. Hulshof; Mr. McInnis; Mr. Lewis of Kentucky; and Mr. Foley.

Mr. WATTS of Oklahoma (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ELECTION OF MINORITY MEMBERS, DELEGATES, AND RESIDENT COMMISSIONER TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. FROST. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 7) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 7

Resolved, That the following named Members, Delegates and the Resident Commissioner be, and are hereby, elected to serve on standing committees as follows:

Committee on Agriculture: Mr. Stenholm, Texas; Mr. Brown, California; Mr. Condit, California; Mr. Peterson, Minnesota; Mr. Dooley, California; Mrs. Clayton, North Carolina; Mr. Minge, Minnesota; Mr. Hillard, Alabama; Mr. Pomeroy, North Dakota; Mr. Holden, Pennsylvania; Mr. Bishop, Georgia; Mr. Thompson, Mississippi; Mr. Baldacci, Maine; Mr. Berry, Arkansas; Mr. Goode, Virginia; Mr. McIntyre, North Carolina; Ms. Stabenow, Michigan; Mr. Etheridge, North Carolina; Mr. John, Louisiana; Mr. Boswell, Iowa; Mr. Phelps, Illinois; Mr. Lucas, Kentucky; and Mr. Thompson, California.

Committee on Appropriations: Mr. Obey, Wisconsin; Mr. Murtha, Pennsylvania; Mr. Dicks, Washington; Mr. Sabo, Minnesota; Mr. Dixon, California; Mr. Hoyer, Maryland (When Sworn); Mr. Mollohan, West Virginia (When Sworn); Ms. Kaptur, Ohio; Ms. Pelosi, California; Mr. Visclosky, Indiana; Mrs. Lowey, New York; Mr. Serrano, New York; Ms. DeLauro, Connecticut; Mr. Moran, Virginia; Mr. Olver, Massachusetts; Mr. Pastor, Arizona; Mrs. Meek, Florida; Mr. Price, North Carolina; Mr. Edwards, Texas; Mr. Cramer, Alabama; Mr. Clyburn, South Carolina; Mr. Hinchey, New York; Ms. Roybal-Allard, California; Mr. Farr, California (When Sworn); Mr. Jackson, Illinois; Ms. Kilpatrick, Michigan; Mr. Boyd, Florida.

Committee on Banking and Financial Services: Mr. LaFalce, New York; Mr. Vento, Minnesota; Mr. Frank, Massachusetts; Mr. Kanjorski, Pennsylvania; Ms. Waters, California; Mrs. Maloney, New York; Mr. Gutierrez, Illinois; Ms. Velázquez, New York; Mr. Watt, North Carolina; Mr. Ackerman, New York; Mr. Bentsen, Texas; Mr. Maloney, Connecticut; Ms. Hooley, Oregon; Ms. Carson, Indiana; Mr. Weygand, Rhode Island; Mr. Sherman, California; Mr. Sandlin, Texas; Mr. Meeks, New York; Ms. Lee, California; Mr. Virgil Goode, Virginia; Mr. Mascara, Pennsylvania; Mr. Inslee, Washington; Ms. Schakowsky, Illinois; Mr. Moore, Kansas; Mr. Gonzalez, Texas; Ms. Tubbs Jones, Ohio; Mr. Capuano, Massachusetts.

Committee on the Budget: Mr. Spratt, South Carolina; Mr. McDermott, Washington; Ms. Rivers, Michigan; Mr. Thompson, Mississippi; Mr. Minge, Minnesota; Mr. Bentsen, Texas; Mr. Davis, Florida; Mr. Weygand, Rhode Island; Mrs. Clayton, North Carolina; Mr. Price, North Carolina; Mr. Markey, Massachusetts; Mr. Kleczka, Wisconsin; Mr. Clement, Tennessee; Mr. Moran, Virginia; Ms. Hooley, Oregon; Mr. Lucas, Kentucky; Mr. Holt, New Jersey; Mr. Hoeffel, Pennsylvania; Ms. Baldwin, Wisconsin.

Committee on Commerce: Mr. Dingell, Michigan; Mr. Waxman, California; Mr. Markey, Massachusetts; Mr. Hall, Texas; Mr. Boucher, Virginia; Mr. Towns, New York; Mr. Pallone, New Jersey; Mr. Brown, Ohio; Mr. Gordon, Tennessee; Mr. Deutsch, Florida; Mr. Rush, Illinois; Ms. Eshoo, California; Mr. Klink, Pennsylvania; Mr. Stupak, Michigan; Mr. Engel, New York; Mr. Sawyer, Ohio; Mr. Wynn, Maryland; Mr. Green, Texas; Ms. McCarthy, Missouri; Mr. Strickland, Ohio; Ms. DeGette, Colorado; Mr. Barrett, Wisconsin; Mr. Luther, Minnesota; Mrs. Capps, California.

Committee on Education and the Workforce: Mr. Clay, Missouri; Mr. George Miller, California (when sworn); Mr. Kildee, Michigan; Mr. Martinez, California; Mr. Owens, New York; Mr. Payne, New Jersey; Mrs. Mink, Hawaii; Mr. Andrews, New Jersey; Mr. Roemer, Indiana; Mr. Scott, Virginia; Ms. Woolsey, California; Mr. Romero-Barcelo, Puerto Rico; Mr. Fattah, Pennsylvania; Mr. Hinojosa, Texas; Mrs. McCarthy, New York; Mr. Tierney, Massachusetts; Mr. Kind, Wisconsin; Ms. Sanchez, California; Mr. Ford, Tennessee; Mr. Kucinich, Ohio; Mr. Wu, Oregon; Mr. Holt, New Jersey.

Committee on Government Reform (and Oversight): Mr. Waxman, California; Mr. Lantos, California; Mr. Wise, West Virginia; Mr. Owens, New York; Mr. Towns, New York; Mr. Kanjorski, Pennsylvania; Mr. Condit, California; Mrs. Mink, Hawaii; Mrs. Maloney, New York; Mrs. Norton, District of Columbia; Mr. Fattah, Pennsylvania; Mr. Cummings, Maryland; Mr. Kucinich, Ohio; Mr. Blagojevich, Illinois; Mr. Davis, Illinois; Mr. Tierney, Massachusetts; Mr. Turner, Texas; Mr. Allen, Maine, Mr. Ford, Tennessee.

Committee on House Administration: Mr. Hoyer, Maryland (When Sworn).

Committee on International Relations: Mr. Gejdenson, Connecticut; Mr. Lantos, California; Mr. Berman, California; Mr. Ackerman, New York; Mr. Faleomavaega, American Samoa; Mr. Martinez, California; Mr. Payne, New Jersey; Mr. Menendez, New Jersey; Mr. Brown, Ohio; Ms. McKinney, Georgia; Mr. Hastings, Florida; Ms. Danner, Missouri; Mr. Hillard, Alabama; Mr. Sherman, California; Mr. Wexler, Florida; Mr. Rothman, New Jersey; Mr. Davis, Florida; Mr. Crowley, New York; Mr. Hoeffel, Pennsylvania.

Committee on the Judiciary: Mr. Conyers, Michigan; Mr. Frank, Massachusetts; Mr. Berman, California; Mr. Boucher, Virginia; Mr. Nadler, New York; Mr. Scott, Virginia; Mr. Watt, North Carolina, Ms. Lofgren, California; Ms. Jackson-Lee, Texas; Mrs. Waters, California; Mr. Meehan, Massachusetts; Mr. Delahunt, Massachusetts; Mr. Wexler, Florida; Mr. Rothman, New Jersey; Ms. Baldwin, Wisconsin; Mr. Weiner, New York.

Committee on National Security: Mr. Skelton, Missouri; Mr. Sisisky, Virginia; Mr. Spratt, South Carolina; Mr. Ortiz, Texas; Mr. Pickett, Virginia; Mr. Evans, Illinois; Mr. Taylor, Mississippi; Mr. Abercrombie, Hawaii; Mr. Meehan, Massachusetts; Mr. Underwood, Guam; Mr. Kennedy, Rhode Island; Mr. Blagojevich, Illinois; Mr. Reyes, Texas; Mr. Allen, Maine; Mr. Snyder, Arkansas; Mr. Turner, Texas; Mr. Smith, Washington; Ms. Sanchez, California; Mr. Maloney, Connecticut; Mr. McIntyre, North Carolina; Mr. Rodriguez, Texas; Ms. McKinney, Georgia; Ms. Tauscher, California; Mr. Brady, Pennsylvania; Mr. Andrews, New Jersey; Mr. Hill, Indiana; Mr. Thompson, California.

Committee on Resources: Mr. George Miller, California (When Sworn); Mr. Rahall, West Virginia; Mr. Vento, Minnesota; Mr. Kildee, Michigan; Mr. DeFazio, Oregon; Mr. Faleomavaega, American Samoa; Mr. Abercrombie; Hawaii; Mr. Ortiz, Texas; Mr. Pickett, Virginia; Mr. Pallone, New Jersey; Mr. Dooley, California; Mr. Romero-Barcelo, Puerto Rico; Mr. Underwood, Guam; Mr. Kennedy, Rhode Island; Mr. Smith, Washington; Mr. Delahunt, Massachusetts; Mr. John, Louisiana; Ms. Christian-Green, Virgin Islands; Mr. Kind, Wisconsin; Mr. Inslee, Washington; Ms. Napolitano, California; Mr. Udall, New Mexico; Mr. Udall, Colorado; Mr. Crowley, New York.

Committee on Rules: Mr. Moakley, Massachusetts; Mr. Frost, Texas; Mr. Hall, Ohio; Mrs. Slaughter, New York.

Committee on Science: Mr. Brown, California; Mr. Hall, Texas; Mr. Gordon, Tennessee; Mr. Traficant; Ohio; Mr. Costello, Illinois; Mr. Roemer, Indiana; Mr. Barcia, Michigan; Ms. Johnson, Texas; Ms. Woolsey, California; Mr. Hastings, Florida; Ms. Rivers, Michigan; Ms. Lofgren, California; Mr. Doyle, Pennsylvania; Ms. Jackson-Lee, Texas; Ms. Stabenow, Michigan; Mr. Etheridge, North Carolina; Mr. Lampson, Texas; Ms. Lee, California; Mr. Larson, Connecticut; Mr. Udall, Colorado; Mr. Wu, Oregon.

Committee on Small Business: Ms. Velázquez, New York; Mr. Sisisky, Virginia; Ms. Millender-McDonald, California; Mr. Davis, Illinois; Mrs. McCarthy, New York; Mr. Pascrell, New Jersey; Mr. Hinojosa, Texas; Ms. Christian-Green, Virgin Islands; Mr. Brady, Pennsylvania; Mr. Udall, New Mexico; Mr. Moore, Kansas; Ms. Tubbs Jones, Ohio; Mr. Gonzalez, Texas; Mr. Phelps, Illinois; Ms. Napolitano, California.

Committee on Standards of Official Conduct: Mr. Berman, California; Mr. Sabo, Minnesota; Mr. Pastor, Arizona; Mr. Fattah, Pennsylvania; Ms. Lofgren, California.

Committee on Transportation and Infrastructure: Mr. Oberstar, Minnesota; Mr. Rahall, West Virginia; Mr. Borski, Pennsylvania; Mr. Lipinski, Illinois; Mr. Wise, West Virginia; Mr. Traficant, Ohio; Mr. DeFazio, Oregon; Mr. Clement, Tennessee; Mr. Costello, Illinois; Ms. Norton, District of Columbia; Mr. Nadler, New York; Ms. Danner, Missouri; Mr. Menendez, New Jersey; Ms. Brown, Florida; Mr. Barcia, Michigan; Mr. Filner, California; Ms. Johnson, Texas; Mr. Mascara, Pennsylvania; Mr. Taylor, Mississippi; Ms. Millender-McDonald, California; Mr. Cummings, Maryland; Mr. Blumenauer, Oregon; Mr. Sandlin, Texas; Ms. Tauscher, California; Mr. Pascrell, New Jersey; Mr. Boswell, Iowa; Mr. McGovern, Massachusetts; Mr. Holden, Pennsylvania; Mr.

Lampson, Texas; Mr. Baldacci, Maine; Mr. Berry, Arkansas; Mr. Shows, Mississippi; Mr. Baird, Washington; Ms. Berkley, Nevada.

Committee on Veterans' Affairs: Mr. Evans, Illinois; Mr. Filner, California; Mr. Gutierrez, Illinois; Ms. Brown, Florida; Mr. Doyle, Pennsylvania; Mr. Peterson, Minnesota; Mrs. Carson, Indiana; Mr. Reyes, Texas; Mr. Snyder, Arkansas; Mr. Rodriguez, Texas; Mr. Shows, Mississippi.

Committee on Ways and Means: Mr. Rangel, New York; Mr. Stark (When Sworn); California; Mr. Matsui, California; Mr. Coyne, Pennsylvania; Mr. Levin, Michigan; Mr. Cardin, Maryland; Mr. McDermott, Washington; Mr. Kleczka, Wisconsin; Mr. Lewis, Georgia; Mr. Neal, Massachusetts; Mr. McNulty, New York; Mr. Jefferson, Louisiana; Mr. Tanner, Tennessee; Mr. Becerra, California; Ms. Thurman, Florida; Mr. Doggett, Texas.

Permanent Select Committee on Intelligence: Mr. Dixon, California.

Mr. FROST (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ELECTION OF MINORITY MEMBER TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. FROST. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 8) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 8

Resolved, That the following named Member is, and is hereby, elected to serve on standing committees as follows:

Committee on Banking and Financial Institutions: Mr. Sanders.

Committee on Government Reform (and Oversight): Mr. Sanders.

The resolution was agreed to.

A motion to reconsider was laid on the table.

HOUSE GIFT RULE AMENDMENT

Mr. HANSEN. Mr. Speaker, pursuant to section 3 of House Resolution 5 and as the designee of the majority leader, I offer a resolution (H. Res. 9) amending clause 5 of rule XXVI, and ask for its immediate consideration in the House.

The Clerk read the resolution, as follows:

H. RES. 9

Resolved, That subparagraph (1) of clause 5(a) of rule XXVI is amended—

(1) by inserting "(A)" before "A Member"; and

(2) by adding at the end the following new subdivision:

"(B) A Member, Delegate, Resident Commissioner, officer, or employee of the House may accept a gift (other than cash or cash equivalent) that the Member, Delegate, Resident Commissioner, officer, or employee reasonably and in good faith believes to have a value of less than $50 and a cumulative value from one source during a calendar year of less than $100. A gift having a value of less than $10 does not count toward the $100 annual limit. Formal recordkeeping is not required by this subdivision, but a Member, Delegate, Resident Commissioner, officer, or employee of the House shall make a good faith effort to comply with this subdivision.".

Mr. HANSEN (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The SPEAKER pro tempore. Pursuant to section 3 of House Resolution 5, the gentleman from Utah (Mr. HANSEN) and the gentleman from California (Mr. BERMAN) each will control 30 minutes as the designee of their respective leaders.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this resolution which would amend the House gift rule so as to conform to the gift rule that has been in effect in the Senate since the beginning of 1996.

Specifically, this resolution would amend the rule so as to allow Members and staff to accept any gift having a value of less than $50 and a cumulative value from any one source in the calendar year of less than $100. Gifts having a value of less than $10 would not count toward the annual $100 limit. Formal recordkeeping is not required by the provision, but Members and staff are required to, in a good faith effort, comply with the provision.

As chairman of the Committee on Standards of Official Conduct for the past 2 years, I have learned more than I ever wanted to know about the gift rule that the House approved in 1995.

□ 1630

Based on my experience, I am entirely convinced of the need of the House to make this change, and I think just about everyone else who has had to deal with this rule would feel the same way.

The purpose of this resolution is straightforward. It is to simplify the gift rule and to make it clear and easier to apply, while still prohibiting the acceptance of gifts that raise genuine ethical concerns. The complexity of the current rule is apparent on its face, especially by comparison with the previous House gift rules. The current rule contains about 50 clauses and covers about 14 pages in the official House rules book. In contrast, the previous gift rule had only one clause.

In my judgment, the most serious flaw in the current gift rule is this: The fact is that under the current rule, modest and inexpensive gifts, the gifts that raise the least ethical concern, are governed by the most vague and complex provision of the rule. I think all of us have had this experience. Someone gives you something or sends you some small thing, like a pen, a framed picture, a box of candy, and the first question that pops in your mind is, can I accept this under the gift rule?

The gift rule sets out roughly 23 categories of acceptable gifts, but the problem is that all of these are descriptive categories. None of them is keyed to a particular dollar amount. What is more, many of these categories include multiple requirements, including many things that call for a subjective judgment. For example, depending on the number of circumstances, a member or staffer can violate the rule by accepting a free hamburger or hot dog at an event. Other provisions of the rule require Members and staff to make a recent determination on, for example, whether an item offered is "nominal value" or "commemorative in nature," or whether a gift has been offered to them on the basis of a personal friendship, rather than because of one's position with the House.

The overall result of the current rule is that Members and staff spend a grossly disproportionate amount of time and effort trying to decide whether these relatively modest, inexpensive gifts are acceptable under the rule. I think all of us, Members as well as staff, have a whole lot more important things to do than sit around deciding whether or not a gift of a pie or a can of popcorn is acceptable.

Furthermore, inadvertent violations of these provisions of the gift rule are practically inevitable, and it is only a matter of time before someone will be hauled before the Committee on Standards of Official Conduct for violating one of these principles when they are totally innocent.

The committee and its staff have always been available to answer questions on the gift rule. We have given briefings on the rule, we have issued pink sheets, and the committee staff has taken literally thousands and thousands of calls on the gift rule over the last few years. Also, in the last Congress alone, the Congress issued over 1,500 private advisory opinions to Members and staff and others dealing with the gift rule.

The point here is not the way the ethics rules should work. One should not need to have a lawyer at one's side at the time to tell us what is and what is not allowable under the gift rule. Each of us has a solemn obligation to know and adhere to the ethics rules and standards of the House, and this is no matter how complex these rules and standards may be. Each of us also has an obligation to see that our staff know and adhere to the rules.

But I suggest that we collectively also have an obligation to ourselves and our staff to make sure that the rules and standards are, to the extent possible, clear, understandable, and reasonable.

The resolution now before us is an important step in adding clarity and certainty to the House gift rule. With this change, we would not need to bother with all the complex and technical gift rule provisions that I have referred to. On any gift that one is offered, including a meal or a ticket to an event, one only needs to ask two questions. One, is the gift value less than $50; and two, have I accepted anything else from this source this year?

The 23 exceptions to the gift rule that now exist would continue in force, but the effect of this amendment would be to regulate those provisions to secondary importance, at least insofar as relatively inexpensive meals and other gifts are concerned.

As I noted in the beginning of this statement, the gift rule provision reflected in this resolution has been in effect in the Senate for the past 3 years. The information available to us is that the Senate gift rule is working well and that compliance is being attained.

Our understanding is that the Senate Members and the staff are being cautious to ensure that the clear dollar limits in this provision are not exceeded. We expected that if this resolution is approved, the experience of the House will be the same.

In implementing this gift rule provision over the past 3 years, the Senate Select Committee on Ethics has developed a number of rules of construction. The intention of this resolution is that the same rules of construction will apply in the House as well, unless and until the Committee on Standards of Official Conduct elects to make any changes in them. There are five rules of construction that are especially important.

First, a gift received from an individual affiliated with an organization such as a member of a law firm or an employee of a new corporation counts against the annual gift limitation of both the individual and the organization. So if an employee of a lobbying firm buys a staffer a $15 lunch, both the employee and the firm will be considered the "source" of the meal and the staffer's annual gift limit for both will be reduced accordingly.

Second, a Member or staffer may not buy down the value of a gift to bring it within the dollar limitation of the provision. So, for example, an individual who is offered a gift with a value of $55 may not accept the gift simply by paying the offerer $6. However, when an individual is offered a gift that is "naturally divisible" such as tickets to an event, he may accept one item less than $50 and either pay market value or decline the others.

Third, where a Member or staffer is offered multiple items at any one time, each of which is worth less than $50 individually, the gift being offered is deemed to be the aggregate of all of the items.

Fourth, for the purpose of simplicity, tax and gratuities are excluded in determining the value of any gift.

Finally, to repeatedly accept gifts valued at under $10 from a source would violate the spirit of the rule and hence be impermissible.

Even with the adoption of this resolution, there will be some differences in the provisions of the House and the Senate. However, the remaining differences are relatively minor, so I see no real need to attempt to reconcile these differences.

There are also some areas where the Committee on Standards of Official Conduct has decided gift rule questions differently from the Senate. For example, on the valuation of tickets to a sky box or an executive suite, we have said that as a general rule, these tickets are to be valued at the face price of the highest individually priced ticket for the event. In contrast, the Senate committee has allowed a lower value in at least some circumstances.

These differences between the House and Senate will also continue until one or both committees makes a change.

But with the passage of this resolution, the major difference between the House and Senate gift rule will be eliminated. This is a common-sense approach. It will add some much-needed clarity and certainty to the gift rule. In my judgment, it will also reduce the possibility that a Member or staffer will be subject to disciplinary action for what amounts to failing to be familiar with the roughly 50 clauses of the current rule.

Mr. Speaker, I urge the adoption of this resolution, and I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

My friend and esteemed colleague, the chairman of the committee, the gentleman from Utah (Mr. HANSEN), has described in detail the effects and provisions of this amendment that he and I are sponsoring to the existing rules, and along with the leadership of both of our parties in this House. I only wanted to add a couple of points.

Under this proposal, the rule provides a limit on gifts from any one source of $50 individually, $100 cumulatively. I ask the Members to recall that 2 years ago, the rule was at the indefensibly high level of $250, and we allowed individual gifts of up to $100. It excluded all limits on local meals and all personal hospitality. Setting limits at the Senate standard of $50 and a cumulative value from any source of $100, is a vast improvement, and groups like Common Cause and Public Citizen said in November of 1995 just that when the Committee on Rules first proposed that the House adopt the Senate standard.

At that time Ann McBride, President of Common Cause, told the Committee on Rules, "We strongly urge you to report to the floor the same gift and travel rules adopted by the Senate. Passage of this rule, which is just what we are doing now, would be an important step towards restoring the basic integrity of this institution, restoring public confidence in Congress, and curbing Washington's influence money culture."

Also, at those same hearings, Joan Claybrook of the Ralph Nader group Public Citizen, made these comments in her testimony before the Committee on Rules on a proposal identical to the one we have before us now. "We support the adoption of a rule identical to that approved by the Senate. We also believe that there is a significant advantage in having the same rules apply to the House and the Senate. The more differences there are between the Chambers, the more difficult it will be for lobbyists and the general public to understand what is permissible and what is not in a given circumstance."

Not one witness at the Committee on Rules's public hearings espoused the present "zero tolerance" rule which was adopted by floor amendment to the Committee on Rules package. Adopting the Senate standard will greatly simplify the House rule, and I concur with Ms. Claybrook that this action will greatly increase understanding of and compliance with the rule, and that should be our objective.

The Committee on Standards of Official Conduct, which I have the privilege of being the ranking minority member of, with the gentleman from Utah (Mr. HANSEN), our chairman, unanimously voted to support this recommendation. The impacts on our committee's resources will be benefited tremendously, and we will be able to focus on the serious issues with this kind of a rules change.

I strongly urge that the House join these reform organizations, the leadership of both of our parties, and the gentleman from Utah (Mr. HANSEN) in adopting this modification.

I just want to make one final comment. Mr. Speaker, the gentleman from Utah (Mr. HANSEN), after 14 years of membership and leadership on the Committee on Standards of Official Conduct, is going off for this Congress; and while I have had a chance to work with him for only the past 2 of those years, I just want to say in the most sincere possible fashion that it has been a pleasure and an honor to work with him and under his leadership.

He has done a tremendous job, I think, in restoring the sense of bipartisan confidence in the process. I can say, never once in the year-and-a-half since the moratorium ended and our committee has been functioning did the Democrats ever have to caucus as a party on that committee. Everything was done by consensus in a bipartisan and nonpartisan fashion.

We will miss the gentleman greatly. We look forward to working with a very distinguished member of the committee these past 2 years who will be taking over as Chair, but we will see the gentleman around and cannot wait to bring you before the committee sometime.

As ranking member of the Committee on Standards, I am completely convinced that amending the House gift rule to make it conform to the Senate standard is both in the interest of sound public policy and in the interest of the effective fulfillment by the Committee of its important responsibilities.

Under the bill I have introduced with my valued colleague JIM HANSEN, the House gift rule would still be vastly more restrictive than the pre-1996 House rule. That rule set a limit on gifts from any one source at the indefensibly high figure of $250, and allowed individual gifts up to $100. Just as bad, the old rule completely excluded from the limit all local meals, and all personal hospitality.

Clearly, setting limits at the Senate standard of $50 and a cumulative value from any source of $100 is a vast improvement—as groups like Common Cause and Public Citizen said in November of 1995, when the Rules Committee first proposed that the House adopt the Senate standard.

At that time, Ann McBride, President of Common Cause told the Rules Committee, "We strongly urge you to report to the Floor the same gift and travel rules adopted by the Senate. . . . Passage of this rule would be an important step toward restoring the basic integrity of the institution, restoring public confidence in Congress and curbing Washington's influence money culture."

Also at those hearings, Joan Claybrook, of the Ralph Nader group Public Citizen, made these comments in her testimony before the Rules Committee: "We support the adoption of a rule identical to that approved by the Senate. . . . We also believe that there is a significant advantage in having the same rules apply to the House and the Senate. The more differences there are between the chambers, the more difficult it will be for lobbyists and the general public to understand what is permissible and what is not in a given circumstance."

Not one witness at the Rules Committee's public hearings espoused the present "zero tolerance" rule which was adopted by Floor amendment to the Rules Committee package.

Adopting the Senate standard will greatly simplify the House rule and I concur with Ms. Claybrook that this action will greatly increase understanding of—and compliance with—the rule.

And that should be our objective.

Let me put this in terms of the expenditure of time and effort by the members and staff of the Committee on Standards of Official Conduct. An enormous percentage of the Committee's resources are devoted to answering innumerable questions about the current gift rule.

In many cases, those questions are raised by Members and their staffs because they hope to avoid the hurt feelings and the embarrassment that occur when they have to tell constituents and other outside groups that they cannot accept even small gifts extended as courtesies. Huge numbers of these questions would be eliminated—flat out eliminated—if we said that acceptance of gifts under $50 are no longer a concern.

And if we did so, we could focus the Committee's attention where it really belongs. Not on a free lunch, tendered by a group that wants to talk to one of us (or one of our staff members) away from ringing phones and office interruptions in a place where we can hear ourselves think—but rather on real problems which may exist and which we need to address.

The present zero tolerance rule mistakenly directs our attention to what some unfairly assume is the per se appearance of impropriety whenever a gift is tendered. I reject that assumption and I contend that it detracts from the Committee's proper function—which is to counsel our colleagues against activities which could constitute real impropriety and which we must marshal our resources to combat.

My view of each and every one of you is that you want to conduct yourselves ethically. I assume the best, not the worst, about everyone in this body.

And my view of lobbyists is that they perform an important and honorable function for us in the legislative branch, bringing us information about how bills may affect our constituents and our society as a whole. I do not assume that something illicit occurs every time a Member—or his or her staff—gets together with a lobbyist. But I do believe that it is our task as Members of the House of Representatives to make sure that we seek to understand the consequences of legislation for all Americans—not just the well-heeled, to make sure that we open our doors and our ears to the dedicated advocates who plead the case of the poor and disadvantaged.

Our present gift rule does nothing, absolutely nothing, to ensure that this House is accessible to all, but it does create problems which I, as ranking members of the Committee on Standards, believe we can avoid by adopting the Senate standard.

At our last meeting, my colleagues on the committee voted unanimously to endorse this rules change. We are telling you that this rules change is appropriate and it is sound. Please join us in approving it.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Let me thank my good friend from California for the very kind words. It has been a real pleasure for me to work with the gentleman, and the Democrats and the Republicans. I think we did what the House asked us to do when we were given this charge, and I thank the gentleman for the great work that he has done. He has really been a stalwart and an extremely fine member.

Ms. NORTON. Mr. Speaker, I ask Members to vote for a new gift ban rule today not for themselves, but for their Nation's Capital. For Members, the gift ban represents the loss of trivial token gifts. For the District of Columbia, the gift ban has caused millions of dollars in lost revenue.

The District is just now emerging from a financial crisis that brought insolvency to the Nation's Capital. The Congress made great strides last Congress to hasten the District's recovery with the passage of the National Capital Revitalization and Self-Government Improvement Act (the Revitalization Act) in 1997. Last Saturday, a new, tough, fiscally prudent mayor and new City Council took the oath of office, ushering in new era in the District's political culture. Most importantly, downtown D.C. is coming back and is increasingly alive with people taking advantage of new reasons to go to downtown. Despite these great strides, however, the District's recovery remains in its infancy. District revenues are significantly dependent on tax receipts from downtown businesses. Moreover, these revenues have been flat, partly because of the effect of the gift ban. Small retail businesses have been particularly hurt. However, the most prominent example of the effect of the gift ban is the new MCI Center, the centerpiece of the revitalization of downtown D.C. Abe Pollin, the owner of the Washington Wizards, Capitals, and Mystics did the unheard of when he invested $220 million of his own money into the construction of an arena in downtown D.C. when the District was insolvent and at its lowest point. In making this commitment to the city, Pollin relied in part on the gift rule in effect at the time that allowed tickets to be accepted as gifts. The MCI Center is an unusual example of a sports arena that has been built with private rather than public funds. It is unfair and unfortunate to have an abrupt change penalizing a private entrepreneur who has willingly taken on what in most jurisdictions is viewed as a public responsibility.

Private economic development is the key to maintaining the solvency of the District. Harmonizing the House gift rule with the Senate rule does not cost the Congress anything, but this change can mean millions to the city. If the Congress can't help us, at the very least, it should not hurt us. There is more than one way for the House to help the District. A reasonable gift ban would be a cost-free way for the Congress to help meet its obligation to continue to assist the recovery of the District of Columbia.

Mr. BRADY of Texas. Mr. Speaker, I strongly oppose amending House rule to increase the amount of gifts a member of Congress or their employees may receive, and am disappointed a recorded vote was not requested so that members would be held accountable to taxpayers for their vote.

There is a reason the institution of Congress is held in such low esteem by the American public: people simply don't believe we do the right things for the right reason, and that we are here to look out for our own interests rather than those of our constituents.

My experience is that that is not the case. But clearly we have a credibility problem and a trust problem. Increasing the gifts we can receive only reinforces that lack of trust and makes it harder for us to lead.

Congress needs to lead by example. We didn't today.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LaHood). Pursuant to section 3 of House Resolution 5, the resolution is considered read for amendment, and the previous question is ordered.

The question is on the resolution.

The resolution was agreed to.

A motion to reconsider is laid upon the table.

□ 1645

PROVIDING FOR CERTAIN APPOINTMENTS AND PROCEDURES RELATING TO IMPEACHMENT PROCEEDINGS

Mr. HYDE. Mr. Speaker, pursuant to clause 2(a)1 of rule IX, I hereby give notice of my intention to offer a resolution which raises a question of the privileges of the House.

The form of the resolution is as follows:

> H. Res. —
>
> *Resolved*, That in continuance of the authority conferred in House Resolution 614 of the One Hundred Fifth Congress adopted by the House of Representatives and delivered to the Senate on December 19, 1998, Mr. Hyde of Illinois, Mr. Sensenbrenner of Wisconsin, Mr. McCollum of Florida, Mr. Gekas of Pennsylvania, Mr. Canady of Florida, Mr. Buyer of Indiana, Mr. Bryant of Tennessee, Mr. Chabot of Ohio, Mr. Barr of Georgia, Mr. Hutchinson of Arkansas, Mr. Cannon of Utah, Mr. Rogan of California, and Mr. Graham of South Carolina are appointed managers to conduct the impeachment trial against William Jefferson Clinton, President of the United States, that a message be sent to the Senate to inform the Senate of these appointments, and that the managers so appointed may, in connection with the preparation and the conduct of the trial, exhibit the articles of impeachment to the Senate and take all other actions necessary, which may include the following:
>
> (1) Employing legal, clerical, and other necessary assistants and incurring such other expenses as may be necessary, to be paid from amounts available to the Committee on the Judiciary under applicable expense resolutions or from the applicable accounts of the House of Representatives.
>
> (2) Sending for persons and papers, and filing with the Secretary of the Senate, on the part of the House of Representatives, any pleadings, in conjunction with or subsequent to, the exhibition of the articles of impeachment that the managers consider necessary.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. Hyde) to call up the resolution.

The Clerk will report the resolution at this time under rule IX.

The Clerk read as follows:

> H. Res. 10
>
> *Resolved*, That in continuance of the authority conferred in House Resolution 614 of the One Hundred Fifth Congress adopted by the House of Representatives and delivered to the Senate on December 19, 1998, Mr. Hyde of Illinois, Mr. Sensenbrenner of Wisconsin, Mr. McCollum of Florida, Mr. Gekas of Pennsylvania, Mr. Canady of Florida, Mr. Buyer of Indiana, Mr. Bryant of Tennessee, Mr. Chabot of Ohio, Mr. Barr of Georgia, Mr. Hutchinson of Arkansas, Mr. Cannon of Utah, Mr. Rogan of California, and Mr. Graham of South Carolina are appointed managers to conduct the impeachment trial against William Jefferson Clinton, President of the United States, that a message be sent to the Senate to inform the Senate of these appointments, and that the managers so appointed may, in connection with the preparation and the conduct of the trial, exhibit the articles of impeachment to the Senate and take all other actions necessary, which may include the following:
>
> (1) Employing legal, clerical, and other necessary assistants and incurring such other expenses as may be necessary, to be paid from amounts available to the Committee on the Judiciary under applicable expense resolutions or from the applicable accounts of the House of Representatives.
>
> (2) Sending for persons and papers, and filing with the Secretary of the Senate, on the part of the House of Representatives, any pleadings, in conjunction with or subsequent to, the exhibition of the articles of impeachment that the managers consider necessary.

The SPEAKER pro tempore (Mr. LaHood). The resolution offered by the chairman of the Committee on the Judiciary constitutes a question of the privileges of the House.

Pursuant to clause 2(a)(2) of rule XI, the gentleman from Illinois (Mr. Hyde) and the gentleman from Virginia (Mr. Scott) each will control 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. Hyde).

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the resolution before us is a simple, straightforward housekeeping resolution which the House customarily adopts after adopting articles of the impeachment. Because this resolution is incidental to impeachment, the precedents of the House dictate that it is a question of privilege under rule IX.

On December 19, 1998, the House approved House Resolution 614, which appointed managers whose duty it was to exhibit the articles of impeachment in the Senate. On that day, the managers informed the Senate of the House's action. Because the House, unlike the Senate, is not a continuing body, it must again appoint managers in the 106th Congress. This is not a new concept, notwithstanding some protestations from one law professor. This procedure has been used on three previous occasions regarding the impeachments of Judges Pickering, Louderback, and Hastings.

Section 620 of Jefferson's Manual states, and I quote, "An impeachment is not discontinued by the dissolution of parliament, but may be resumed by the new parliament."

The commentary on this section is instructive, and is as follows:

> In Congress impeachment proceedings are not discontinued by a recess; and the Pickering impeachment was presented in the Senate on the last day of the Seventh Congress; and at the beginning of the eighth Congress the proceedings went on from that point. The resolution and articles of impeachment against Judge Louderback were presented in the Senate on the last day of the 72nd Congress, and the Senate organized for and conducted the trial in the 73rd Congress. The resolution and articles of impeachment against Judge Hastings were presented in the Senate during the second session of the 100th Congress but were still pending trial by the Senate in the 101st Congress, for which the House reappointed managers.

This resolution is procedural in nature. It merely appoints 13 managers who will present the case in the Senate. It also directs that a message be sent to the Senate to inform the other body of these appointments, and authorizes the managers to exhibit the articles of impeachment to the Senate.

Because this resolution is procedural, it should be noncontroversial. It is imperative that the House take this action today so that the constitutional process may move forward. If the House were to postpone this vote, the trial could not proceed in the Senate. It is my intention to move this process as expeditiously and as fairly as possible, and the House's approval of this resolution today will help ensure that the Senate can fulfill its constitutional duty as quickly as possible.

Mr. Speaker, I urge the adoption of the pending question, and I reserve the balance of my time.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we discuss the question of impeachment, we ought to start off with why impeachment is in the Constitution. It is in the Constitution to prohibit and protect the country against subversion by virtue of a president committing treason, bribery, or other high crimes and misdemeanors. The rule of law and the Constitution restricts our ability to remove the President to crimes that constitute treason, bribery, or other high crimes and misdemeanors.

We had a hearing and had 10 experts respond to the question, does treason, bribery, or other high crimes and misdemeanors cover all felonies? Most of those experts were invited by the Republican Party, and they, without discussion, said no, treason, bribery, or other high crimes and misdemeanors does not cover all felonies.

In fact, in the President Nixon impeachment, we found that treason, bribery, and other high crimes and misdemeanors did not cover a half-a-million-dollar income tax fraud. That is why most of the scholars that have addressed the question have concluded that these are not impeachable offenses.

To add insult to injury, we find that the allegations are not even proven, and it is unlikely that they can be proven. That is why the vote on these articles of impeachment was essentially partisan, and why, on a partisan vote in the Senate, the President will not be removed from office.

The best way to end this partisan charade is to fail to appoint managers, to bring this thing to a respectable end, and move on to the people's business.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not enjoy beginning on the divisive note of impeachment that consumed so much of the last Congress. I had hoped that we may have gleaned some lessons from the ordeals of last year, which began with an overzealous prosecutor consumed by a desire to bring down the President at any cost. This in turn led to the most polarizing impeachment in our Nation's history, culminating in an unprecedented party line vote. Not surprisingly, the net result was an impeachment totally lacking in credibility and overwhelmingly rejected by the American people.

Today we have a final opportunity to put this salacious activity behind us. If we reject the motion to reappoint managers, we will send a signal that we are prepared to move from the politics of personal destruction, which has been so costly to our Nation. The incoming Speaker made references to that today.

On the other hand, if we appoint and ratify the managers from the 105th session, this vote to appoint managers would be tantamount to a vote to remove the President from office. I remind the new Members who have not participated that they are not voting managers, they are voting two articles that call for the impeachment, conviction, and removal of the President of the United States.

A vote to appoint managers is a vote to execute the impeachment articles that passed the House. A vote for appointment of the managers is a vote for a protracted trial, a vote to hear witnesses in their lurid and graphic fullness, from the Goldbergs, the Tripps, the Lewinskys.

A vote for managers is to paralyze all of three branches of government while we pursue a futile attempt to remove a president from office. It is a vote to ignore the problems of social security and education and health care while we tilt at this impeachment windmill in total futility. It is a vote for more partisanship.

By voting down the managers' amendment, for which there is precedent, we send a signal that the American people want us to send. We will win the approval of the American people as we begin our 106th Congress session in its first day. By voting down the appointment of managers, we are exercising the same common sense that was exercised in this very House in 1873, when it declined to appoint managers in an impeachment matter.

□ 1700

There is no question that the Senate does not have the votes to convict the President, and so the only possible reason for pursuing this case now is to satisfy the hunger of a few people who wish to further tarnish the President. Vote against the appointment, and in so doing, you will be voting for bipartisanship, for encouraging the alternative common-sense route of censure and voting to move away from Lewinsky to the more pressing matters of the Senate.

Mr. Speaker, I yield 2 minutes and 30 seconds to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, some law professors argue that an impeachment, at least after the 20th amendment, dies with the Congress. Most of the precedents to the contrary predate the adoption of the 20th amendment, but we do not have to debate this.

As a practical matter, the new Congress must vote again on impeachment by voting on appointing managers. If we do not reappoint the managers, they cannot have a trial in the Senate and the impeachment dies. So the vote on this motion is really a new vote on impeachment.

A yes vote on this motion to appoint the managers is a vote to impeach the President and require the Senate to hold a trial. A no vote is a vote against impeaching a President and requiring a trial in the Senate. So our new Members will get a chance to vote for or against impeachment and removal of the President today.

Having said that, let us remind ourselves why the partisan vote of this House last month to impeach the President was so contrary to the intent of the Constitution and such an affront to this Nation. Impeachment, I remind Members, was never intended by the framers of the Constitution as a punishment. It was intended as a protection of the Constitution against a President who would abuse his power to make himself a tyrant. Benjamin Franklin called impeachment a substitute for assassination.

The charges in this impeachment, all relating to lying about a consensual sexual affair, do not constitute an abuse of presidential power designed or intended to undermine the functioning or integrity of government or to undermine constitutional liberty, and therefore they are not, under the Constitution, impeachable offenses.

Now, the gentleman may say, what about the rule of law? What about equality under the law? I remind everyone that if perjury or obstruction of justice could be proven, and I do not think they can be, but if they can be proven, the President, like anyone else, is subject to indictment and prosecution under law; and that is our assurance of the rule of law and equality under the law. But to impeach the President and to try to remove him from office and subject the country to a lengthy trial and drag it through the muck of the testimony of Ms. Lewinsky and everyone else, instead of getting on with the business of saving Social Security and Medicare and a threatening world economy and everything else is an affront to this Nation to appeal only to prurient interests and to try to embarrass the President. That is what is at stake in this vote.

A yes vote is a vote to impeach the President. A no vote is a vote against it. We have the opportunity to vote again and not only the opportunity, but it is unavoidable.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I do not believe we should continue the authority granted the managers by the lame duck 105th Congress. I do not believe we should approve managers or any of the expenditures they have requested, and I will tell Members why.

Since we voted in the lame duck Congress on December 19, I have been listening to my constituents, the people who live in my district, in the supermarkets, in the malls, on the street. People are very disturbed by what the House of Representatives has done. I have had citizens break down into tears talking to me about our Constitution and what they think we have done to our Constitution. I have never before seen feelings this intense among regular people about a political issue.

I think we ought to listen to what the people are saying. They understand at a very basic level what Ben Franklin told us: Impeachment is the alternative to assassination. Impeachment is to prevent damage so severe to our constitutional form of government that we dare not wait until the next election.

The people of this country have decided, for the most part, that what has been presented to us does not meet that constitutional test. And yet we are moving forward against the Constitution and against their sound advice. And I think we have finally today an opportunity to undo the wrong that we have done to our country.

If impeachment becomes just another tool for partisan Congresses, our American system of government will change. We may lose the strong presidencies that helped bring us success internationally. And in this dangerous world, that is very unwise.

Future Presidents and Congresses will look back on this mess for political lessons. If zealotry is the loser politically, it will be a positive outcome for America.

Americans will have the chance to deliver that message next year in the elections, but for now let us listen to the American people. Let us vote against appointment of the managers and the budget.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes and 30 seconds to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the ranking member very much for yielding time to me. And, again, let me thank him for his leadership during a process of which we have, as members of the Committee on the Judiciary and this Congress and this Nation lived with for many days and many months.

This morning I had the privilege of listening to the new Speaker of the House, and he asked that we get down to the people's business. So I rise to oppose the appointment of managers because I believe that I want to ask or answer the question affirmatively to the American people, who have asked me repeatedly as I have traveled about this Nation, when will we, this Congress, listen to the will of the American people? And what I want to say to the American people is that you have not only good sense but good judgment. For the Constitution of the United States does not prohibit, does not prohibit the censuring of the President of the United States. It does not provide for but it does not prohibit. But yet on this floor this lame duck Congress forbade some 200-plus Members of this House, as well the American people, to have fully debated a censure resolution that would heal this Nation.

I recollect what the constitutional framers had in mind when they offered the provision that said, treason, bribery and other high crimes and misdemeanors would be the grounds for impeachment. What they meant was what George Mason stated so eloquently. These are offenses that would undermine the Constitution and destroy the government. What we have here are private indiscretions. We have the politics of undermining of the individual.

Yes, we recognize the wrongness of the acts of the President. We recognize that they are unacceptable. But we also understand that if this country is to survive, if we are not to lower the bar of impeachment for the year 2020 or 2030, if we are not to accuse someone who is President, because of your religious beliefs or because you are divorced, you want to impeach, if we are not to give credence to the partisanship of this impeachment, we must now vote against the appointment of these managers.

I would simply say, I speak really to the new Members who have come. I speak in all humility and respect for each of you who have been elected to this great body. You now have a very historic opportunity to stop these divisive and unfair and partisan accusations on the grounds that this President should be impeached because there is no substance to it. You can now vote to censure this President and heal this Nation, a legitimate, constitutionally founded censure resolution that would not in fact let the President go free. It would indicate that he had done wrong.

I ask that we heal this Nation. Vote against the appointment of the managers and do what is right for the Nation.

Mr. CONYERS. Mr. Speaker, it is with great reluctance that I have to reduce the time of my dear friend from Hawaii, because now all my committee members have shown up. I nevertheless respect him so much that I want him to go at this point in time ahead of other Members.

Mr. Speaker, I yield 1½ minutes to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Speaker, I made an appeal in the impeachment hearings on the 19th. I did not engage in accusations back and forth as to what the motivations were or anything. I made an appeal for fairness. I thought that a vote on censure was something that would have given balance to the debate.

Since that time, and during that time, rather, I made an appeal to the gentleman from Illinois (Mr. HYDE), the chairman, on the basis of not just only personal friendship but on the basis of what he has represented to me and to other Members in the House.

We have heard accusations that the rule of law would be compromised even to the point of perhaps recreating circumstances of the Holocaust. I do not think anybody really meant that anyone opposed to impeachment intended that kind of thing, but that is how this thing has begun to run away.

Another Member who was for impeachment indicated that those of us who supported the President had engaged in an obscenity in going to the White House afterwards to show our support. If such a thing had been said on the floor, we would have taken down that Member's words because it would have meant that we were personally being attacked and accused, our character at point. So I ask again today for fairness. I ask that we turn down this motion on the managers so that we can get the opportunity to vote on a censure.

I understand that Members who voted for impeachment have now asked the Senate to censure, and so I think that is only the fair way. I appeal to the chairman and to Members who voted for impeachment, give us this opportunity for fairness. Give us an opportunity to vote on censure.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WATERS), who has done an incredible job as being Chair of the Congressional Black Caucus and serving on the impeachment committee all at the same time.

Ms. WATERS. Mr. Speaker, we do not have to appoint managers from this House to prosecute the President in the Senate. The lame duck Congress that impeached the President did so without the consent of the new Members.

Mr. Speaker, I do not know why new Members would get elected, come here to represent their constituents and take a vote today without having participated in the impeachment. They are being asked to take for granted that the Committee on the Judiciary, that the House, had the facts, they had the information. How could anyone who has said to their constituents that they are coming here to represent them, that they will be involved in the deliberations of this House, come here and on the first day after being sworn in vote mindlessly and blindly to send some managers over to the other House to prosecute the President of the United States? That is disrespectful of one's intelligence.

In addition to that, since the vote on this House floor, we have Republicans who have said in a letter that they signed to the Senate saying, we do not wish this to go any further, we would really like to censure. We did not have an opportunity to vote in this House on censure.

Well, Mr. Speaker, I believe that our new Members are more intelligent than they are thought to be by those who are saying, just blindly follow what has already been done, this partisan effort that was made in this House without an alternative on the floor that would give Members the opportunity to vote censure? I think the Members, the new Members on both sides of the aisle should rebel against that. I think the Republican Members, who come here knowing that some of their constituents do not want that, should not vote these managers to the Senate.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentleman from Washington (Mr. INSLEE).

☐ 1715

Mr. INSLEE. Mr. Speaker, I speak today as a new Member. We new Members should realize that it was not just the previous Congress that faced the historic vote on impeachment. Our vote today is every bit as historic, as crucial, and as telling as the vote in the 105th, and I say this impeachment process should stop and it should stop today. When the Nation's train is heading off a cliff and the bridge is out, it is our mutual duty to stop it and stop it today.

My fellow new Members should take note. Should they vote today to continue this partisan impeachment, it will be their hands and fingerprints on the dagger of impeachment. Their constituents will rightfully ask, "Et tu, the new House?" We are not bound by the dead hand of the lame duck Congress. The people of my district sent home a Republican advocate of impeachment and sent me to Congress in his place.

We hear glad tidings that the people want to end partisanship in this chamber. Today we can decide if that is rhetoric or reality. Our constituents are our masters, not the last Congress. Free us from the politics of the past. Join us in saying enough is enough. Let us get on with the Nation's business and defeat this measure.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentleman from New York (Mr. WEINER), who replaces the departing CHARLES SCHUMER, and we are delighted to have him make his first presentation on the floor.

Mr. WEINER. Mr. Speaker, this is indeed a day of extraordinary high honor for me, taking the oath to join this most distinguished body. It is also my great fortune and great honor to be designated by my colleagues on the Democratic side to serve on the Committee on the Judiciary.

I was particularly moved by the words of our new Speaker this morning, and the minority leader, the gentleman from Missouri (Mr. GEPHARDT), and how closely they agreed on what the mission of this body should be; that we should follow the high ideals of bipartisanship, of hard work, in trying to keep as much as possible our ears to the ground to hear where the folks we represent are directing us.

I think that that spirit is embodied in the freshman class of the 106th Congress on both sides of the aisle. As we convened, coming into this first day, we repeatedly said to one another, let us get back to work, let us try to work together, let us try to put some of the divisiveness behind us.

I would say to my colleagues in the freshman class, and all of my colleagues, that this is an opportunity. Why should we not take it. This is an opportunity for us to get back to work. This is an opportunity for us to clear the decks of many of the distractions, particularly those of us who know of the great work of the gentleman from Illinois (Mr. HYDE), and how important it is that we get back to the work in the Committee on the Judiciary. This is an opportunity for us to take that step by not reappointing the managers.

I would also point out that the precedence on this case are not so clear. We do have an opportunity to put this case behind us by voting "no" to reappointment.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. MEL WATT).

Mr. WATT of North Carolina. Mr. Speaker, the chairman of our committee has indicated that this is simply a noncontroversial administrative matter. I want to take issue with that because without managers to prosecute this case in the Senate, the case cannot be prosecuted. If we as a House, particularly a newly constituted House, with new Members, a substantial number of new Members, a number of new Members that could be decisive in whether this matter proceeds or does not proceed, if we do not reauthorize these managers, the case cannot go forward on the Senate side.

So anybody who approaches this vote as if it is just a noncontroversial administrative matter is doing so in the face of the public's demand that this matter be brought to an expeditious conclusion and should take this matter a lot more seriously.

I encourage my colleagues on both sides of the aisle to express their opinion that this matter should not go forward by not reappointing these managers to prosecute the case in the Senate and by voting against this resolution.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I have watched with fascination the acrobatics of some of my friends on the other side who found themselves torn between pressures to vote for impeachment and pressures to vote against it. I was particularly struck by the letter written by four of my colleagues who voted for impeachment on Saturday and wrote to the Senate on Sunday asking them please not to vote for impeachment, noting that just because they had voted to put the President out of office did not mean they wanted anyone else to vote to put the President out of office. What they have argued is they are really for censure.

Well, Members who have been engaging in that have to understand that with this motion the contortions have to stop. This is not an abstract motion to appoint managers in general. This is a motion to reappoint the specific managers who have gone over to the Senate and have said to them that they may not shortcircuit the trial; they must allow the managers to call witnesses, which we wish apparently they did before. We have a set of managers who have made it very clear that they are totally opposed to censure. They are opposed to anything in the Senate other than a full-scale trial.

It is no longer possible for Members to engage in the game of saying that they are for censure, that they are not for a full trial and voting down the line to do exactly that. If we vote for the managers, we are voting for these particular managers. We are voting for the gentleman from Illinois and others who have been in the Senate and who have made it clear to the Senate leadership that they do not want anything but a full trial. So understand that the game is over.

It is logically possible to be for a full trial and to press absolutely to the end for the removal of the President. It is possible to think that he should be censured instead and that there should not be a full trial. What it is not logically possible to do, certainly not with any intellectual honesty, is to vote for this motion, for these managers, who have made it clear they will be for an all-out trial, and then claim that that is not really what we are for.

Mr. CONYERS. Mr. Speaker, I am delighted to yield 2 minutes to the gentleman from New Jersey (Mr. ROTHMAN).

Mr. ROTHMAN. Mr. Speaker, this is wrong. This impeachment should never have occurred. The majority never met its burden of proof. The offenses do not meet the constitutional standard for an impeachable offense.

We are defining down the impeachment standard in the United States Constitution, to the permanent and irreparable damage of our Constitution. And we are turning back on what our Founders intended, which was a strong Presidency, only to be removed on the showing beyond a clear and convincing standard of treason, bribery or other high crimes and misdemeanors against the State.

But we still have the opportunity to bring this to an end, to do what the American people want us to do: To punish the President without punishing the Nation. We know because we were in fact witnesses who the President lied to about his relationship, which he chose to characterize to us, and about his unforgivable relationship with an intern in the White House. And for that, he should be censured.

Mr. Speaker, let us get back to the work of the people, issues like HMO reform, saving Social Security and Medicare, and improving our education. The rule of law prevails in America. The President can be held to the standards of the civil courts, which is why he paid the $850,000 settlement, to settle the civil case. The rule of law applies to him. And if some prosecutor decides to prosecute him for alleged criminal activities when he leaves office, the rule of law will apply against him, the criminal law, and he could go to prison if those charges are proven. The President is not above the rule of law.

Impeachment was not about punishment, it was about saving America from a tyrannical President who threatened the Republic. That is not what we have. That is what the American people know. The American people want the President censured, not impeached. Let us move on with the good work and important work of our Nation.

Mr. CONYERS. Mr. Speaker, I yield back the balance of my time.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

I appreciate the level of this debate. It is always interesting on an important subject such as impeachment. Let me just briefly respond to some of the remarks that were made.

There was criticism that a vote on censure was not authorized in the House in the last Congress, and that is certainly true. Many of us have a conviction that censure is not authorized by the Constitution. We realize it is not ruled out, but any censure, to be meaningful, would have to harm the President, would have to damage the President, and many of us take seriously the proscription in the Constitution against bills of attainder.

In any event, the Constitution provides one way to deal with a problem concerning cleansing the office, and that is impeachment. And our role in that, and our sole role, is to issue articles of impeachment, which are a request to the Senate to have a trial. And the Constitution says the Senate has the sole power to try the issues. We have the sole power to file and pass impeachment. We have done that and now we are seeking a trial in the Senate pursuant to the Constitution. The question of what is the appropriate sanction we leave to the Senate. That is not our concern. We leave to the founding fathers, we leave to the Senate to determine the sanction.

This is an interesting case. It belongs in the history books for more than one reason. One of the reasons I find this curious and fascinating and interesting is the Democrats are perfectly willing to condemn Presidential misconduct in the strongest terms, stronger terms that I would use. They do not mind doing that. They are not concerned with that. What they are concerned with are the consequences, the sanction to be imposed after finding that the President's conduct was, to coin a phrase, reprehensible, in their terms. The consequence they will not abide is his removal from office. They do not mind if he is stigmatized forever in the history books pursuant to their censure.

So the consequences of the condemnation, whether it is through impeachment or censure, we leave to the other body that is competent to impose a sanction. That is ultra vires. That is not within our job description. So I think that is something worth noting.

Insofar as whether an impeachment is appropriate, that horse has left the barn. We have voted articles of impeachment; and what is left for us to do, because a new Congress has begun, is to reappoint the managers so it can proceed. It is really a ministerial duty, albeit important and indispensable to the pursuit of the articles of impeachment.

But, really, what we are talking about is, again, the theme so often used by the defenders of the President, that whatever he did, it does not rise to the level of an impeachable offense. Well, that issue has been determined by the House. But I would just say I guess it depends on how seriously we take perjury, how seriously we take obstruction of justice, when we are the one person in the country, the one person in the world who is bound by a constitutional obligation to take care that the laws be faithfully executed. It does not say some laws. It does not say laws of this characterization or this category. It says take care that the laws be faithfully executed.

And so when the President, the chief law enforcement officer in the land, the man who appoints, nominates members of the Supreme Court, Federal courts, Department of Justice, Attorney General, perjures himself, and those are the charges, I am not saying they are true. We will find that out in the Senate if we get a trial there. So this is serious, and we are just seeking to advance the process which has already begun in the House.

Mr. DELAHUNT. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Massachusetts.

□ 1730

Mr. DELAHUNT. Mr. Speaker, I thank the gentleman for yielding.

The question I pose, because I want to be clear as to what the gentleman said, and that is that it is the province of the Senate to impose the particular sanction, and that could or could not be the remedy of censure.

Mr. HYDE. Mr. Speaker, reclaiming my time, except there is one more nuance to that.

I have been reminded several times that the last thing the Senate looks for is instruction from the House, and so I am not about to say what they can or what they cannot do. But I have this hope that, whatever the sanction is, it is in their department, not ours.

Mr. Speaker, I yield to the other learned gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding. I was hoping that I would get learned, as well.

Mr. HYDE. Mr. Speaker, reclaiming my time, I want to thank him for accusing us of acrobatics. It has been a long time since I have been acrobatic.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman would further yield, I was about to sell tickets to the performance of the gentleman.

The acrobatics that I was talking about were not those of the chairman, of course, because he has been consistent here, but some of his colleagues. So I want to make it clear.

It is the intention of the chairman, if he is reappointed as a manager, and I think the early returns are looking good, he is ahead in the exit polls, if he is reappointed as a manager, it is his intention to continue to press for a full trial in the Senate, for the calling of witnesses, and to continue his posture of objecting to proposals in the Senate to short-circuit a full trial. Am I correct?

Mr. HYDE. Mr. Speaker, reclaiming my time, I believe the Constitution requires a trial, and it is up to the Senate to shape the contours of that, but I am hoping a trial would be a fair opportunity for us to present the evidence.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman would yield further, I appreciate that. I think that is very straightforward from the gentleman. I would just address members of his party who are trying to have it both ways.

I think it is very clear. The gentleman from Illinois (Mr. HYDE) has made it very clear. A vote to reappoint this set of managers is a vote for a trial. It is a vote against the efforts to short-circuit it. It is clearly a statement that the Senate ought to go ahead and call the witnesses. And Members who vote for it have every right to vote for it, but they are not then entitled to go home and talk about how they were really for something different.

Mr. HYDE. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Illinois (Mr. HYDE) has 21 minutes remaining.

Mr. HYDE. Mr. Speaker, I yield 2 or 3 seconds to my friend, the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, again, just to pick up on the theme from my friend and colleague from Massachusetts about the reluctance to instruct the Senate when it comes to the issue of censure, and I presume that the position of the House managers would be reluctance to instruct the Senate as to how to conduct the trial and whether there would be a necessity for live witnesses.

Mr. HYDE. Mr. Speaker, reclaiming my time, on the contrary. I think we are reluctant to be instructed by the Senate as to how to conduct our trial, but we are at their mercy; and so we have used the speech-and-debate clause to express ourselves to them, and we can only hope.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I just want to congratulate the gentleman from Illinois (Mr. HYDE) because throughout this process he has shown a strong ability to overcome his various reluctances.

Mr. HYDE. Mr. Speaker, reclaiming my time, I think I thank the gentleman from Massachusetts (Mr. FRANK) but I will hold that in reserve.

Mr. INSLEE. Mr. Speaker, I speak today as a new Member. We new Members should realize that it wasn't just the previous Congress that faced a historic vote on impeachment. Our vote today is every bit as historic, every bit as crucial and every bit as telling as the vote in the 105th Congress.

I say this impeachment process should go no farther. It should stop today, and it will stop if we don't reappoint the impeachment managers. When the nation's train is headed off a cliff and the bridge is out, it is our duty to stop it today.

My fellow new members should take note. Should you vote today to continue this partisan impeachment, it will be your hand and fingerprints on the impeachment dagger. Your constituents will ask, "Et tu, new Congress?"

We are not bound by the dead hand of the "Lame Duck" Congress. The people of my district sent home a Republican advocate of impeachment and sent me to Congress in his place. We hear glad tidings that the people want to end partisanship. Today we can decide if that is rhetoric or reality. Our constituents are our masters, not the last Congress.

Free us from the politics of the past, join use in saying enough is enough. Let's get on with the nation's business.

Mr. ROTHMAN. Mr. Speaker, this is wrong. This impeachment should never had occurred.

The majority never met its burden of proof, the offenses do not meet the constitutional standard for an impeachable offense, and we are turning our backs on the founding fathers for partisan political purposes. It is wrong.

We still have the opportunity to bring this to an end—to do what the American people want us to do—to punish the president without punishing the nation.

If this trial commences in the Senate, we will be subject to months of partisan wrangling while issues like HMO reform, saving Social Security, and improving education are pushed to the sidelines.

Mr. Speaker, lets get back to work on the issues Americans sent us here to address. Let us or the Senate censure the president and get back to the issues that impact American's daily lives.

Do not fund this impeachment, do not appoint managers, do not do any more damage to the United States Constitution.

Bring this to an end.

Mr. HYDE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONYERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 223, nays 198, not voting 7, as follows:

[Roll No. 6]

YEAS—223

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Istook
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
King (NY)
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Paul
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Upton
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—198

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barcia
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Capuano
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Fattah
Filner
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Minge
Mink
Moakley
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pickett
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Sherman
Shows
Sisisky
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stabenow
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOT VOTING—7

Blunt
Cardin
Hefley
Jenkins
Lipinski
Neal
Pascrell

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider is laid on the table.

☐ 1758

Stated against:

Mr. PASCRELL. Mr. Speaker, during rollcall vote No. 6, House Resolution 10, I was unavoidably detained. Had I been present, I would have voted "no."

PERSONAL EXPLANATION

Mr. JENKINS. Mr. Speaker, due to illness, I was unable to be present for the following votes. I would like the RECORD to reflect how I would have voted.

Rollcall No. 3—On ordering the previous question, I would have voted "yea."

Rollcall No. 4—On a motion to commit with instructions with instructions, I would have voted "nay."

Rollcall No. 5—On agreeing to H. Res. 5, I would have voted "yea."

Rollcall No. 6—On H. Res. 10, Reappointment of the Impeachment Managers, I would have voted "yea."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to take this occasion to make an announcement regarding proper decorum during debate in the House in the 106th Congress, including 1-minute and Special Order speeches, specifically with regard to references to the President of the United States and references to the Senate. A further statement on decorum will be inserted into the RECORD.

As indicated, in section 17 of Jefferson's Manual, which under rule XXVIII is incorporated as a part of the Rules of the House for the 106th Congress as adopted today, Members engaged in debate must abstain from language that is personally critical of the President. This restriction extends to referencing extraneous material personally critical of the President that would be improper if spoken as the Member's own words.

As the Chair stated, with the concurrence of the minority leader on September 10, 1998, it is only during the actual pendency of proceedings in impeachment as the pending business on the floor of the House that remarks in debate may include references to personal misconduct on the part of the President.

While the rulings by the Chair in the 105th Congress may have preceded adoption of articles of impeachment against the President by the House, it is essential that the constraints against such remarks in debate continue to apply in the House in the 106th Congress.

The Chair will reiterate the bounds of permissible debate announced on September 10, 1998. Debate may include expressions of opinion about executive policy or competence to hold office. Members may continue to challenge the President on matters of policy. The line drawn by the rule of decorum remains one between political criticism and personal criticism.

What the rule of decorum requires is that the oratory remain above personality and refrain from terms personally offensive.

When an impeachment measure is not pending on the floor, a Member who feels a need to dwell on the personal, factual bases underlying the rationale on which he might question the fitness or competence of an incumbent President must do so in other forums, while confining his remarks in debate to the more rigorous standard of decorum that must prevail in this Chamber.

It is a general principle of comity that certain references to the Senate are to be avoided in debate in the House. Rule XVII specifically provides that debate in the House may not include characterizations of Senate action or inaction. As the Chair most recently ruled on October 10, 1997, and as recorded in section 371 of the House Rules and Manual, Members are also prohibited from urging the Senate to undertake a certain action. The Chair would remind all Members to refrain from such references on the floor of the House in the event of an impeachment trial in the Senate.

The Chair will enforce these rules of decorum with respect to references to the President and the Senate, and asks and expects the cooperation of all Members in maintaining a level of decorum that properly dignifies the proceedings of the House.

COMPENSATION OF CERTAIN MINORITY EMPLOYEES

Mr. MENENDEZ. Mr. Speaker, I offer a resolution (H. Res. 11) and I ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 11

Resolved, That pursuant to the Legislative Pay Act of 1929, as amended, the six minority employees authorized therein shall be the following named persons, effective January 3, 1999, until otherwise ordered by the House, to-wit: Steve Elmendorf, George Kundanis, Craig Hanna, Sharon Daniels, Dan Turton, and Laura Nichols, each to receive gross compensation pursuant to the provisions of House Resolution 119, Ninety-fifth Congress, as enacted into permanent law by section 115 of Public Law 95-94. In addition, the Minority Leader may appoint and set the annual rate of pay for up to three further minority employees.

The SPEAKER pro tempore (Mr. Pease). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER OR HIS DEPUTY TO ADMINISTER THE OATH OF OFFICE TO THE HONORABLE GEORGE MILLER OF CALIFORNIA

Mr. MENENDEZ. Mr. Speaker, I offer a privileged resolution (H. Res. 12) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 12

Resolved, Whereas, George Miller, a Representative-elect from the Seventh District of the State of California, has been unable from illness to appear in person to be sworn as a Member of the House, and there being no contest or question as to his election; Now, therefore, be it

Resolved, That the Speaker, or deputy named by him, is hereby authorized to administer the oath of office to the Honorable George Miller at Martinez, California, and that such oath be accepted and received by the House as the oath of office of the Honorable George Miller.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF HON. ELLEN SICKLES JAMES TO ADMINISTER OATH OF OFFICE TO HON. GEORGE MILLER OF CALIFORNIA

The SPEAKER pro tempore (Mr. PEASE). Without objection and pursuant to the provisions of House Resolution 12, 106th Congress, the Chair appoints the Honorable Ellen Sickles James, retired, Contra Costa County, California Superior Court Judge, to administer the oath of office to the Honorable George Miller.

There was no objection.

AUTHORIZING THE SPEAKER OR HIS DEPUTY TO ADMINISTER THE OATH OF OFFICE TO THE HONORABLE SAM FARR OF CALIFORNIA

Mr. MENENDEZ. Mr. Speaker, I offer a privileged resolution (H. Res. 13) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 13

Resolved, Whereas, Sam Farr, a Representative-elect from the Seventeenth District of the State of California, has been unable from illness to appear in person to sworn as a Member of the House, and there being no contest or question as to his election; Now, therefore, be it

Resolved, That the Speaker, or deputy named by him, is hereby authorized to administer the oath of office to the Honorable Sam Farr at Carmel, California, and that such oath be accepted and received by the House as the oath of office of the Honorable Sam Farr.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF HONORABLE MARC POCHE TO ADMINISTER OATH OF OFFICE TO HONORABLE SAM FARR OF CALIFORNIA

The SPEAKER pro tempore. Without objection and pursuant to the provisions of House Resolution 13, 106th Congress, the Chair appoints the Honorable Marc Poche, Associate Justice of the California Court of Appeals, to administer the oath of office to the Honorable SAM FARR of California.

There was no objection.

DAILY HOUR OF MEETING

Mr. DREIER. Mr. Speaker, I offer a privileged resolution (H. Res. 14) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 14

Resolved, That unless otherwise ordered, before Monday, May 10, 1999, the hour of daily meeting of the House shall be 2 p.m. on Mondays; 11 a.m. on Tuesdays; and 10 a.m. on all other days of the week; and from Monday, May 10, 1999, until the end of the second session, the hour of daily meeting of the House shall be noon on Mondays; 10 a.m. on Tuesdays, Wednesdays, and Thursdays; and 9 a.m. on all other days of the week.

The resolution was agreed to.

A motion to reconsider was laid on the table.

JOINT SESSION OF THE CONGRESS—STATE OF THE UNION MESSAGE

Mr. ARMEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 1) and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 1

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Tuesday, January 19, 1999, at 9 p.m., for the purpose of receiving such communication as the President of the United States shall be pleased to make to them.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GRANTING MEMBERS OF HOUSE PRIVILEGE TO EXTEND REMARKS AND INCLUDE EXTRANEOUS MATERIAL IN CONGRESSIONAL RECORD FOR FIRST SESSION OF 106TH CONGRESS

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that for the first session of the 106th Congress, all Members be permitted to extend their remarks and to include extraneous material within the permitted limit in that section of the RECORD entitled "Extensions of Remarks."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING THE SPEAKER, THE MAJORITY LEADER AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS AUTHORIZED BY LAW OR THE HOUSE, NOTWITHSTANDING ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Tuesday, January 19, 1999, the Speaker, Majority Leader and Minority Leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REPORT OF COMMITTEE TO NOTIFY THE PRESIDENT

Mr. ARMEY. Mr. Speaker, your committee appointed on the part of the House to join a like committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled and is ready to receive any communication that he may be pleased to make has performed that duty.

The President asked us to report that he will be pleased to deliver his message at 9 p.m., Tuesday, January 19, to a joint session of the two Houses.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair customarily takes this occasion on the opening day of a Congress to announce his policies with respect to particular aspects of the legislative process. The Chair will insert in the RECORD announcements by the Speaker concerning, first, privileges of the floor; second, the introduction of bills and resolutions; third, unanimous consent requests for the consideration of bills and resolutions; fourth, recognition for 1-minute speeches, Morning Hour debate and Special Orders; fifth, decorum in debate; sixth, the conduct of votes by electronic device; and seventh, the distribution of written material on the House floor.

These announcements, where appropriate, will reiterate the origins of the stated policies. Citations to House Rules in those statements have been updated to conform to the recodified House Rules (citations to the former House Rules have been retained in brackets). The Speaker intends to continue in the 106th Congress the policies reflected in these statements. The policy announced in the 102d Congress with respect to jurisdictional concepts related to [clause 5(b) of rule XXI] clause 5(a) of rule XXI—tax and tariff measures—will continue to govern but need not be reiterated, as it is adequately documented as precedent in the House Rules and Manual.

The announcements referred to follow:

1. PRIVILEGES OF THE FLOOR

The Speaker's instructions to the former Doorkeeper and the Sergeant-at-arms announced on January 25, 1983, and on January 21, 1986, regarding floor privileges of staff will apply during the 106th Congress. The Speaker's policy announced on August 1, 1996, regarding floor privileges of former Members will also apply during the 106th Congress.

Announcement by the Speaker, January 25, 1983

The SPEAKER. [Rule XXXII] Rule IV strictly limits those persons to whom the privileges of the floor during sessions of the House are extended, and that rule prohibits the Chair from entertaining requests for suspension or waiver of that rule. As reiterated as recently as August 22, 1974, by Speaker Albert under the principle stated in Deschler's Procedure, chapter 4, section 3.4, the rule strictly limits the number of committee staff permitted on the floor at one time during the consideration of measures reported from their committees. This permission does not extend to Members' personal staff except when a Member has an amendment actually pending during the five-minute rule. To this end, the Chair requests all Members and committee staff to cooperate to assure that not more than the proper number of staff are on the floor, and then only during the actual consideration of measures reported from their committees. The Chair will again extend this admonition to all properly admitted majority and minority staff by insisting that their presence on the floor, including the areas behind the rail, be restricted to those periods during which their supervisors have specifically requested their presence. The Chair stated this policy in the 97th Congress, and an increasing number of Members have insisted on strict enforcement of the rule. The Chair has consulted with and has the concurrence of the Minority Leader with respect to this policy and has directed [the Doorkeeper] and the Sergeant-at-arms to assure proper enforcement of the rule.

Announcement by the Speaker, January 21, 1986

The SPEAKER. [Rule XXXII] Rule IV strictly limits those persons to whom the privileges of the floor during sessions of the House are extended, and that rule prohibits the Chair from entertaining requests for suspension on waiver of that rule. As reiterated by the Chair on January 25, 1983, and January 3, 1985, and as stated in chapter 4, section 3.4 of Deschler-Brown's Procedure in the House of Representatives, the rule strictly limits the number of committee staff on the floor at one time during the consideration of measures reported from their committees. This permission does not extend to Members' personal staff except when a Member's amendment is actually pending during the five-minute rule. It also does not extend to personal staff of Members who are sponsors of pending bills or who are engaging in special orders. The Chair requests the cooperation of all Members and committee staff to assure that only the proper number of staff are on the floor, and then only during the consideration of measures reported from their committees. The Chair is making this statement and reiterating this policy because of concerns expressed by many Members about the number of committee staff on the floor during the last weeks of the first session. The Chair requests each chairman, and each ranking minority member, to submit to the [Doorkeeper] Sergeant-at-arms a list of staff who are to be allowed on the floor during the consideration of a measure reported by their committee. Each staff person should exchange his or her ID for a "committee staff" badge which is to be worn while on the floor. The Chair has consulted with the Minority Leader and will continue to consult with him. The Chair has furthermore directed the [Doorkeeper and] Sergeant-at-arms to assure proper enforcement of [rule XXXII] rule IV.

Announcement by the Speaker, August 1, 1996

The SPEAKER. The Chair will make a statement. On May 25, 1995, the Chair took the opportunity to reiterate guidelines on the prohibition against former Members exercising floor privileges during the consideration of a matter in which they have a personal or pecuniary interest or are employed or retained as a lobbyist.

[Clause 3 of House rule XXXII] Clause 4 of rule IV and the subsequent guidelines issued by previous Speakers on this matter make it clear that consideration of legislative measures is not limited solely to those pending before the House. Consideration also includes all bills and resolutions either which have been called up by a full committee or subcommittee or on which hearings have been held by a full committee or subcommittee of the House.

Former Members can be prohibited from privileges of the floor, the Speaker's lobby and respective Cloakrooms should it be ascertained they have direct interests in legislation that is before a subcommittee, full committee, or the House. Not only do those circumstances prohibit former Members but the fact that a former Member is employed or retained by a lobbying organization attempting to directly or indirectly influence pending legislation is cause for prohibiting access to the House Chamber.

First announced by Speaker O'Neill on January 6, 1977, again on June 7, 1978, and by Speaker Foley in 1994, the guidelines were intended to prohibit former Members from using their floor privileges under the restrictions laid out in this rule. This restriction extends not only to the House floor but adjacent rooms, the Cloakrooms, and the Speaker's lobby.

Members who have reason to know that a former Member is on the floor inconsistent with [clause 3, rule XXXII] clause 4 of rule IV should notify the Sergeant-at-arms promptly.

2. INTRODUCTION OF BILLS AND RESOLUTIONS

The Speaker's policy announced on January 3, 1983, will continue to apply in the 106th Congress.

Announcement by the Speaker, January 3, 1983

The SPEAKER. The Chair would like to make a statement concerning the introduction and reference of bills and resolutions. As Members are aware, they have the privilege today of introducing bills. Heretofore on the opening day of a new Congress, several hundred bills have been introduced. The Chair will do his best to refer as many bills as possible, but he will ask the indulgence of Members if he is unable to refer all the bills that may be introduced. Those bills which are not referred and do not appear in the Record as of today will be included in the next day's Record and printed with a date as of today.

The Chair has advised all officers and employees of the House that are involved in the processing of bills that every bill, resolution, memorial, petition or other material that is placed in the hopper must bear the signature of a Member. Where a bill or resolution is jointly sponsored, the signature must be that of the Member first named thereon. The bill clerk is instructed to return to the Member any bill which appears in the hopper without an original signature. This procedure was inaugurated in the 92d Congress. It has worked well, and the Chair thinks that it is essential to continue this practice to insure the integrity of the process by which legislation is introduced in the House.

3. UNANIMOUS-CONSENT REQUESTS FOR THE CONSIDERATION OF BILLS AND RESOLUTIONS

The Speaker will continue to follow the guidelines recorded in section 757 of the House Rules and Manual of the 105th Congress conferring recognition for unanimous-consent requests for the consideration of bills and resolutions only when assured that the majority and minority floor leadership and committee and subcommittee Chairmen and ranking minority members have no objection. Consistent with those guidelines, and with the Chair's inherent power of recognition under [clause 2 of rule XIV] clause 2 of rule XVII, the Chair, and any occupant of the Chair appointed as Speaker pro tempore pursuant to [clause 7 of rule I] clause 8 of rule I, will decline recognition for unanimous-consent requests for consideration of bills and resolutions without assurances that the request has been so cleared. This denial of recognition by the Chair will not reflect necessarily any personal opposition on the part of the Chair to orderly consideration of the matter in question, but will reflect the determination upon the part of the Chair that orderly procedures will be followed; that is, procedures involving consultation and agreement between floor and committee leadership on both sides of the aisle. In addition to unanimous-consent requests for the consideration of bills and resolutions, section 757 of the House Rules Manual of the 105th Congress also chronicles examples where the Speaker applied this policy on recognition to other related unanimous-consent requests, such as requests to consider a motion to suspend the rules on a nonsuspension day and requests to permit consideration of nongermane amendments to bills. Such applications of the Speaker's guidelines will continue in the 106th Congress.

As announced by the Speaker, April 26, 1984, the Chair will entertain unanimous-consent requests to dispose of Senate amendments to House bills on the Speaker's table if made by the chairman of the committee with jurisdiction, or by another committee member authorized to make the request.

4. RECOGNITION FOR ONE-MINUTE SPEECHES AND SPECIAL ORDERS

The Speaker's policy announced on January 25, 1984, with respect to recognition for one-minute speeches will apply during the 106th Congress with the continued understanding that the Chair reserves the authority to restrict one-minute speeches at the beginning the legislative day. The Speaker's following policies announced in the 104th Congress will also continue through the 106th Congress: (1) the Speaker's residual policy for the recognition of special-order speeches absent an agreement between the leaderships to the contrary; and (2) the Speaker's policy for recognition for "morning hour" debate and restricted special-order speeches, announced on May 12, 1995, with the further clarification that reallocations of time within each leadership special-order period will be permitted with notice to the Chair.

Annoucement by the Speaker, August 8, 1984, relative to recognition for one-minute speeches

The SPEAKER. After consultation with and concurrence by the Minority Leader, the Chair announces that he will institute a new policy of recognition for "one-minute" speeches and for special order requests. The Chair will alternate recognition for one-minute speeches between majority and minority Members, in the order in which they seek recognition in the well under present practice from the Chair's right to the Chair's left, with possible exceptions for Members of the leadership and Members having business requests. The Chair, of course, reserves the right to limit one-minute speeches to a certain period of time or to a special place in the program on any given day, with notice to the leadership.

Annoucement by the Speaker, January 4, 1995, relative to "residual" policy for recognition for special-order speeches

The SPEAKER. Absent an agreement between the leaderships regarding recognition for requests to address the House for "special-order speeches" at the end of legislative business, the Chair will decline recognition for permission to address the House for any period extending more than one week in advance of the request. In accordance with the Speaker's policy as enunciated on August 8, 1984, the Chair will first recognize Members who wish to address the House for five minutes or less, alternating between majority and minority Members in the order in which those permissions were granted by the House. Thereafter, the Chair will recognize Members who wish to address the House for longer than five members up to one hour, again alternating between majority and minority Members in the order in which those permissions were granted by the House. However, unlike the Speaker's policy of August 8, 1984, the Chair will alternate daily between parties recognition for the first special order longer than five minutes regardless of the order in which permissions were granted.

Annoucement by the Speaker January 4, 1995, relative to special-order speeches and morning-hour debate

The SPEAKER. Upon consultation with the Minority Leader, the Chair announces that the format for recognition for "morning-hour" debate and restricted special-order speeches, which began on February 23, 1994, will continue [through the 106th Congress], as outlined below:

On Tuesdays, following legislative business, the Chair may recognize Members for special-order speeches up to midnight, and such speeches may not extend beyond midnight. On all other days of the week, the Chair may recognize Members for special-order speeches up to four hours after the conclusion of five-minute special-order speeches. Such speeches may not extend beyond the four-hour limit without the permission of the Chair, which may be granted only with advance consultation between the leaderships and notification to the House. However, at no time shall the Chair recognize for any special-order speeches beyond midnight.

The Chair will first recognize Members for five-minute special-order speeches, alternating initially and subsequently between the parties regardless of the date the order was granted by the House. The Chair will then recognize longer special orders speeches. The four-hour limitation will be divided between the majority and minority parties. Each party is entitled to reserve its first hour for respective leaderships or their designees. Recognition will alternate initially and subsequently between the parties, regardless of the date the order was granted by the House.

The allocation of time within each party's two-hour period (or shorter period if prorated to end by midnight) is to be determined by a list submitted to the Chair by the respective leaderships. Members may not sign up for any special-order speeches earlier than one week prior to the special order, and additional guidelines may be established for such sign-ups by the respective leaderships.

Pursuant to [clause 9(b)(1) of rule I] clause 2(a) of rule V, the television cameras will not pan the Chamber, but a "crawl" indicating morning hour or that the House has completed its legislative business and is proceeding with special-order speeches will appear on the screen. Other television camera adaptations during this period may be announced by the Chair.

The continuation of this format for recognition by the Speaker is without prejudice to the Speaker's ultimate power of recognition under [clause 2 of rule XIV] clause 2 of rule XVII should circumstances so warrant.

5. DECORUM IN DEBATE

The Speaker's policies with respect to decorum in debate announced on January 3, 1991, and January 4, 1995, will apply during the 106th Congress as supplemented by an announcement made by the Speaker earlier today.

Announcement by the Speaker, January 3, 1991

The SPEAKER. It is essential that the dignity of the proceedings of the House be preserved, not only to assure that the House conducts its business in an orderly fashion but to permit Members to properly comprehend and participate in the business of the House. To this end, and in order to permit the Chair to understand and to correctly put the question on the numerous requests that are made by Members, the Chair requests that Members and others who have the privileges of the floor desist from audible conversation in the Chamber while the business of the House is being conducted. The Chair would encourage all Members to review [rule XIV] rule XVII to gain a better understanding of the proper rules of decorum expected of them, an especially: First, to avoid "personalities" in debate with respect to references to other Members, the Senate, and the President; second, to address the Chair while standing and only when and not beyond the time recognized, and not to address the television or other imagined audience; third, to refrain from passing between the Chair and the Member speaking, or directly in front of a Member speaking from the well; fourth, to refrain from smoking in the Chamber; and generally to display the same degree of respect to the Chair and other Members that every Member is due.

The Speaker's announcement of January 4, 1995, will continue to apply in the 106th Congress as follows:

The SPEAKER. The Chair will like all Members to be on notice that the Chair intends to strictly enforce time limitations on debate. Furthermore, the Chair has the authority to immediately interrupt Members in debate who transgress [rule XIV] rule XVII by failing to avoid "personalities" in debate with respect to reference to the Senate, the President, and other Members, rather than wait for Members to complete their remarks.

Finally, it is not in order to speak disrespectfully of the Speaker; and under the precedents the sanctions for such violations transcend the ordinary requirements for timeliness of challenges. This separate treatment is recorded in volume 2 of Hinds' Precedents, at section 1248 and was reiterated on January 19, 1995.

6. CONDUCT OF VOTES BY ELECTRONIC DEVICE

The Speaker's policy announced on January 4, 1995, will continue through 106th Congress.

The SPEAKER. The Chair wishes to enunciate a clear policy with respect to the conduct of electronic votes.

As Members are aware, [clause 5 of rule XV] clause 2(a) of rule XX provides that Members shall have not less than 15 minutes in which to answer an ordinary rollcall vote or quorum call. The rule obviously establishes 15 minutes as a minimum. Still, with the cooperation of the Members, a vote can easily be completed in that time. The events of October 30, 1991, stand out as proof of this point. On that occasion, the House was considering a bill in the Committee of the Whole under a special rule that placed an overall time limit on the amendment process, including the time consumed by rollcalls. The Chair announced, and then strictly enforced, a policy of closing electronic votes as soon as possible after the guaranteed period of 15 minutes. Members appreciated and cooperated with the Chair's enforcement of the policy on that occasion.

The Chair desires that the example of October 30, 1991, be made the regular practice of the House. To that end, the Chair enlists the assistance of all Members in avoiding the unnecessary loss of time in conducting the business of the House. The Chair encourages all Members to depart for the Chamber promptly upon the appropriate bell and light signal. As in recent Congresses, the cloakrooms should not forward to the Chair requests to hold a vote by electronic device, but should simply apprise inquiring Members of the time remaining on the voting clock.

Although no occupant of the Chair would prevent a Member who is in the well of the Chamber before the announcement of the result from casting his or her vote, each occupant of the Chair will have the full support of the Speaker in striving to close each electronic vote at the earliest opportunity. Members should not rely on signals relayed from outside the Chamber to assume that votes will be held open until they arrive in the Chamber.

7. USE OF HANDOUTS ON HOUSE FLOOR

The Speaker's policy announced on September 27, 1995, will continue through 106th Congress.

The SPEAKER. A recent misuse of handouts on the floor of the House has been called to the attention of the Chair and the House. At the bipartisan request of the Committee on Standards of Official Conduct, the Chair announces that all handouts distributed on or adjacent to the House floor by Members during House proceedings must bear the name of the Member authorizing their distribution. In addition, the content of those materials must comport with standards of propriety applicable to words spoken in debate or inserted in the Record. Failure to comply with this admonition may constitute a breach of decorum and may give rise to a question of privilege.

The Chair would also remind Members that, pursuant to [clause 4, rule XXXII] clause 5 of rule IV, staff are prohibited from engaging in efforts in the Hall of the House or rooms leading thereto to influence Members with regard to the legislation being amended. Staff cannot distribute handouts.

In order to enhance the quality of debate in the House, the Chair would ask Members to minimize the use of handouts.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 6, 1999.

Hon. J. DENNIS HASTERT,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Under Clause 4 of Rule III of the Rules of the House of Representatives, I herewith designate Mr. Gerasimos C. Vans, Special Assistant to the Clerk, to sign any and all papers and do all other acts for me under the name of the Clerk of the House which he would be authorized to do by virtue of this designation, except such as are provided by statute, in case of my temporary absence or disability.

This designation shall remain in effect for the 106th Congress or until modified by me.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk.

PROVIDING FOR AN ADJOURNMENT OF THE HOUSE FROM WEDNESDAY, JANUARY 6, 1999, TO TUESDAY, JANUARY 19, 1999

Mr. ARMEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 2) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 2

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Wednesday, January 6, 1999, it stand adjourned until 2 p.m. on Tuesday, January 19, 1999.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS OF HOUSE OFFICE BUILDING COMMISSION

The SPEAKER pro tempore. Without objection and pursuant to the provisions of 40 United States Code, 175 and 176, the Chair announces the Speaker's appointment of the gentleman from Texas, (Mr. ARMEY) and the gentleman from Missouri (Mr. GEPHARDT) as members of the House Office Building Commission to serve with himself.

There was no objection.

APPOINTMENT AS MEMBERS OF HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER pro tempore. Without objection and pursuant to the provisions of clause 11 of rule X and clause 11 of rule I, the Chair announces the Speaker's appointment of the following Members of the House to the Permanent Select Committee on Intelligence:

Mr. GOSS of Florida, Chairman;

Mr. DIXON of California.

There was no objection.

□ 1815

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PEASE). Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ENSURING BALANCED BUDGETS EVERY YEAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. SCHAFFER) is recognized for 5 minutes.

Mr. SCHAFFER. Mr. Speaker, one of our greatest accomplishments of the 105th Congress was providing Americans with the first balanced Federal budget and the first budget surplus since 1969.

Now that we have proved we can balance the budget, it is time to ensure that we always balance the budget every year by enacting the Balanced Budget Amendment to the United States Constitution during the 106th Congress.

As we know, the Balanced Budget Amendment's chief advocate and sponsor, Mr. Dan Schaefer, retired at the end of the 105th Congress following many years of distinguished and committed service to our country. It is my belief that we could not have finally balanced our books this year, for the first time in a generation, without the tireless efforts of Mr. Dan Schaefer in bringing this issue to the forefront of American political dialogue. It is for this reason that I am particularly proud he has asked me to carry on the fight for a constitutional amendment requiring the government's books to be balanced every year.

The Balanced Budget Amendment will lower interest rates and make mortgages, car loans, and student loans more affordable and available, annually saving the typical American family $1,500.

It will end waste and pork by requiring Washington to honestly and realistically identify needed and unneeded Federal programs and spending.

It will protect our children and grandchildren from the burden of paying for Washington's inability to budget responsibly.

The Founding Fathers of this great Nation understood and believed the Federal Government must not spend beyond its means. Thomas Jefferson said, "We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay themselves ourselves." Clearly, we have strayed far from this advice.

The Federal government's spending has built an enormous national debt, now exceeding $5.6 trillion. When this debt is divided among all men, women, and children in the country, each of us owes over $20,000. If a business lost $1,000 a day, it would take 15,000 years to accumulate our current debt. Unfortunately, beyond these stunning statistics is an even more unbelievable but all too real fact: Our debt is growing by $4,500 every second.

The economic rewards for ensuring a balanced budget would be significant. Many prominent economists predicted that interest rates would remain steady, and possibly drop even further, if the budget was always balanced. This could result in annual savings of at least $1,200 on an average home mortgage, $200 on a typical student loan, and $180 on an average car loan. While these savings might seem small in the world of congressional budgets, to the American family they would lead to more opportunities and a better life.

Although we have demonstrated more responsibility in balancing our books, we must look to the future and guarantee a strong, solvent Nation for the next generation.

The moment has come for Congress to pass a Balanced Budget Amendment and embrace lasting fiscal accountability. Again, the words of Thomas Jefferson offer guidance: "To preserve our independence, we must not let our rulers load us with perpetual debt."

Like the disastrous economic decisions that ultimately led the colonists to revolt against an unreasonable bloated and bankrupt government, Washington has allowed itself to grow beyond its means, spend without reason, and fall dangerously in debt. All the while, the Federal Government has increasingly burdened the hardworking, honest citizens of this country to support its reckless habit. Washington has fallen prey to the same traps and rationalizations, and is on a path that can only lead to ruin.

To quantify this historic perspective, we must only look to the dramatic growth in Federal spending which has caused the current national deficit crisis. As Senator ORRIN HATCH outlined in 1995, the first $100 billion budget in the history of our Nation occurred in 1962, more than 179 years after the founding of this great Republic.

However, once Washington acquired the habit, it quickly lost all sense of reality. The first $200 billion budget came only 9 years later, in 1971; the first $300 billion budget came 4 years later, in 1975; the first $400 billion budget, 2 years later in 1977; $500 billion in 1981; $700 billion in 1982; $800 billion in 1983; $900 billion in 1985, and the first $1 trillion budget in 1987. The budget for 1998 exceeded $1.7 trillion.

Is there any question we have a spending habit? Yet opponents of the Balanced Budget Amendment claim there is no problem. They repeatedly point to the statistically insignificant slowdown in the growth of the debt as though we have solved our problem. That is like telling an unfortunate person struggling with addiction they are cured if they manage to avoid their habit an extra second out of a 24-hour day. Clearly, we have only begun to grapple with this obsession.

We are, however, not doomed to repeat the mistakes of the past. By approving the Balanced Budget Amendment, the 106th Congress can join those who put patriotism and responsibility above personal gain and short-term satisfaction, as well as honor the past and protect the future from unreasonable spending.

The Balanced Budget Amendment is rooted in, and preserving, the fundamental American values of:

1. Integrity—It will instill credibility and principle to budget negotiations and the federal government.

2. Children's future—Passing the BBA is a vote for our children's economic freedom.

3. Families—Approving this amendment will improve the economic health and stability of America's families.

4. Economic strength—The BBA will stabilize Washington's budgets and the national economy, enabling us to rein in our monstrous national deficit.

The strength of the Constitution can ensure a responsible budgetary framework, saving us from being swallowed by accumulating debt. The BBA will improve and protect our economy, our families and our children.

I am following the wisdom of Thomas Jefferson, who said, "I wish it were possible to obtain a single amendment to our Constitution * * * an additional article taking from the Federal Government the power of borrowing," by introducing the Balanced Budget Amendment, along with Reps. STENHOLM, CASTLE, and a large and growing bipartisan group of Members.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

(Mrs. CLAYTON addressed the House. Her remarks will appear hereafter in the Extension of Remarks.)

PRESERVING THE HEALTH OF SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ROYCE) is recognized for 5 minutes.

Mr. ROYCE. Mr. Speaker, the 106th Congress started the day with a nationwide consensus that the health of social security is in jeopardy. Millions of American seniors have come to depend on social security, and it is our responsibility to see that a solution is found to address this looming crisis.

In the early 1980s, social security faced a similar, more immediate crisis. At that time projections showed that social security would be insolvent by 1983. Within months of that projected insolvency, reforms were enacted that provided for the continued health of the program, and included in these reforms were tax increases which would result in social security receiving more in revenue than it would pay out for benefits for several decades.

The surplus was to be placed in the social security trust fund, where it would earn interest and be saved for future retirees. American seniors were assured that the system was saved at least temporarily, and that the massive reserve account being created would ensure the fund's solvency and American seniors' security. It seemed that the crisis had been at least avoided temporarily.

Unfortunately, the surplus that was supposed to be placed in trust, ready for American seniors, was spent. Contrary to popular belief, when social security was first established in 1935, social security taxes were not placed in a trust, but instead, became part of the government's operating cash pool. Social security revenues that were not used to pay for social security benefits or administering the system were used for other government spending. This method of financing is commonly referred to as pay-as-you-go.

In reality, there is no cash in the trust fund, merely IOUs totaling the amount of money the government has borrowed and spent on other activities. The accumulated amount of IOUs currently stands at $757 billion. That is three-quarters of a trillion dollars in paper IOUs. That is not in dollars.

This was highlighted in a recent Washington Post article, which noted that every month bureaucrats at the Bureau of Public Debt turn on a laser printer and "turn out scores of plain paper certificates that represent the retirement security of millions of Americans." It goes on to say that the entire trust fund "fits in four ordinary brown accordian-style folders that one can easily hold in both hands." Only in Washington would four brown folders be considered a trust fund representing the retirement savings of millions of Americans.

We are all aware of the projections that show in 2013 social security will begin paying out more in benefits than it will take in. Many take comfort, noting that although the program will begin running deficits at that time, the program will not be completely bankrupt until 2032, since hundreds of billions of dollars have been placed in the trust fund.

But as we see, since there is no cash in the fund, it will effectively be bankrupt as soon as it pays out more than it takes in. That is just 14 years from today that insolvency would hit. At that point, benefits will have to be cut or the system will have to be funded through reductions in other spending, or tax increases, or return to chronic deficit spending.

That is why today I introduced legislation which honors the commitment made to American taxpayers and seniors. H.R. 160, the Social Security Strengthening and Protection Act, will pay back the money borrowed from social security and create a real trust fund with real assets.

Under my bill, 90 percent of the budget surplus would be used to purchase interest-bearing Treasury bonds. These are negotiable bonds. As opposed to IOUs, these are the same hard assets held by investors throughout the world. The use of 90 percent of the budget surplus in this fashion could continue until all IOUs in the trust fund were replaced with actual Treasury bonds.

Essentially, this legislation will create a trust fund in fact, not just in name. Social security revenue would no longer be used for anything except social security. That is how Americans think of social security. That is what they want.

I will point out that long-term, there are other challenges to be met in terms of social security. The facts are that in our parents' generation each family had four children, on average. In our generation, each family has 2 children, so clearly there has to be other fundamental changes made long-term for the solvency of social security.

But we should not compound the problem by taking a three-quarters of a trillion dollars in IOUs to social security and not having a trust fund there to depend upon. That is why I am sponsoring this legislation today, and ask my colleagues to join me in seeing that this commitment is met.

TENNESSEE PRIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. WAMP) is recognized for 5 minutes.

Mr. WAMP. Mr. Speaker, my ancestors' history in East Tennessee goes back 200 years. The region is rich in people, culture, and heritage, but our success has not come easily. At the turn of this great American century the Tennessee Valley, at the foothills of the Appalachian Mountains, was burdened by poverty and illiteracy.

However, two great institutions fueled the region's economy early in the 20th century, the University of Tennessee and the Tennessee Valley Authority. Then a powerful U.S. Senator from Tennessee helped to locate a critical defense mission called the Manhattan Project in Oak Ridge, and the Federal Government invested billions in Tennessee to help win the Cold War and break the back of communism, preserving peace in the world.

Today, as we turn into this next great American century, the East Tennessee region is home to a thriving technology corridor and a hotbed for investment and private sector economic opportunity.

With the combination of quality of life and great natural beauty, a highly-trained workforce, and investment opportunity, the East Tennessee area is one of the best examples in our country of turning lemons into lemonade.

With the siting of the Nation's top science project, the Spallation Neutron Source, at the Oak Ridge National Laboratory, the University of Tennessee will play an even greater role in international research and development and rise to an even higher level as one of the Nation's top educational institutions.

Mr. Speaker, we are indeed proud of the excellence in education at the University of Tennessee. But this week, this fine university celebrates another excellent achievement. The 1998 men's football team joined the Lady Vols basketball team as undisputed national champions. Led by Al Wilson, Raynoch Thompson, and Eric Westmoreland on defense, and Tee Martin and Peerless Price on offense, this national champion team is not only a team of destiny, but also serves as a good example for our young people of the "team approach."

These fine football players worked their way to an undefeated 13 and 0 season and the first national football championship for the University of Tennessee in 47 years.

To Coach Phillip Fulmer and his staff, Dr. Joe Johnson and the leadership of the University of Tennessee, 107,000 diehard fans and the best college football team in America, I salute you for your achievement, and thank you for instilling such pride throughout the Tennessee Valley.

☐ 1830

RECESS

The SPEAKER pro tempore (Mr. PEASE). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 6 o'clock and 31 minutes p.m.), the House stood in recess, subject to the call of the Chair.

☐ 1954

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PEASE) at 7 o'clock and 54 minutes p.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment, a concurrent resolution of the House of the following title:

H. Con. Res. 2. Concurrent resolution providing for adjournment of the House.

The message also announced that the Secretary of the Senate inform the House of Representatives that the Senate is ready to receive the Managers appointed by the House for the purpose of exhibiting articles of impeachment against William Jefferson Clinton, President of the United States, agreeably to the notice communicated to the Senate, and that at the hour of 10 o'clock a.m., on Thursday, January 7, 1999, the Senate will receive the honorable managers on the part of the House of Representatives, in order that they may present and exhibit the articles of impeachment against William Jefferson Clinton, President of the United States.

The message also announced that the Secretary of the Senate notify the House of Representatives that at the hour of 1 o'clock p.m., on Thursday, January 7, 1999, in the Senate Chamber, the Senate will proceed to the consideration of the articles of impeachment against William Jefferson Clinton, President of the United States.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GALLEGLY (at the request of Mr. ARMEY) for today and for the balance of the week on account of the death of his father.

Mr. JENKINS (at the request of Mr. ARMEY) after 2:30 p.m. today on account of recovery from surgery.

Mr. BLUNT (at the request of Mr. ARMEY) after 2:30 p.m. today, on account of the swearing-in of his son as a representative in the Missouri State legislature.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. BERMAN) to revise and extend their remarks and include extraneous material:

Ms. NORTON, for 5 minutes, today.

Ms. CLAYTON, for 5 minutes, today.

The following Members (at the request of Mr. HULSHOF) to revise and extend their remarks and include extraneous material:

Mr. MORAN of Kansas, for 5 minutes, today.

Mr. SCHAFFER, for 5 minutes, today.

Mr. ROYCE, for 5 minutes, today.

Mr. WAMP, for 5 minutes, today.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, and pursuant to House Concurrent Resolution 2 of the 106th Congress, the House stands adjourned until 2 p.m. on Tuesday, January 19, 1999.

There was no objection.

Thereupon (at 7 o'clock and 55 minutes p.m.), pursuant to House Concurrent Resolution 2, the House adjourned until Tuesday, January, 19, 1999, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XXII, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Deputy Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Trading Hours— received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Picloram; Time-Limited Pesticide Tolerances [OPP-300748; FRL-6039-4] (RIN: 2070-AB78) received December 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Copper-ethylenediamine complex; Exemption from the Requirement of a Tolerance [OPP-300777; FRL-6052-5] (RIN: 2070-AB78) received December 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Dicamba (3,6-dichloro-o-anisic acid); Pesticide Tolerance [OPP-300767; FRL-6049-2] (RIN: 2070-AB78) received December 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5. A communication from the President of the United States, transmitting Emergency Supplemental Appropriations for the Department of Defense regarding Operation and Maintenance; Defense-wide; (H. Doc. No. 105—1); to the Committee on Appropriations and ordered to be printed.

6. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Federal Motor Vehicle Safety Standards; Occupant Crash Protection [Docket No. NHTSA-98-4934] (RIN: 2127-AH24) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

7. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Accidental Release Prevention Requirements; Risk Management Programs Under Clean Air Act Section 112(r)(7); Amendments [FRL-6214-9] (RIN: 2050-AE46) received December 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Withdrawal of the National Primary Drinking Water Regulations: Analytical Methods for Regulated Drinking Water Contaminants; Direct Final Rule [WH-FRL-6212-4] (RIN: 2040-AC77) received December 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Designation of Areas for Air Quality Planning Purposes Florida: Redesignation of the Duval County sulfur dioxide unclassifiable area to attainment [FL-75-1-9806a; FRL-6196-8] received December 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—California State Implementation Plan Revision; Interim Final Determination That State Has Corrected Deficiencies [CA 211-0117; FRL-6211-9] received December 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

11. A communication from the President of the United States, transmitting notification that the national emergency declared with respect to Libya is to continue in effect beyond January 7, 1999, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 105—3); to the Committee on International Relations and ordered to be printed.

12. A letter from the Executive Director, Committee For Purchase From People Who Are Blind Or Severly Disabled, transmitting the Committee's final rule—Procurement List; Additions—received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

13. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Annual Adjustment of Monetary Threshold for Reporting Rail Equipment Accidents/Incidents (FRA-98-4898, Notice No. 1) [RIN: 2130-AB30) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

14. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule -Airworthiness Directives; Westland Helicopters Ltd. 30 Series 100 and 100-60 Helicopters [Docket No. 97-SW-40-AD; Amendment 39-10969; AD 99-01-02] (RIN: 2120-AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

15. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-10 Series Airplanes and KC-10A (Military) Airplanes [Docket No. 97-NM-288-AD; Amendment 39-10965; AD 98-26-22] received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

16. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 97-NM-309-AD; Amendment 39-10966; AD 98-26-23] (RIN: 2120-AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

17. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of VOR Federal Airway V-485; San Jose, CA; Correction [Airspace Docket No. 95-AWP-6] (RIN: 2120-AA66) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

18. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Rockland, ME [Airspace Docket No. 98-ANE-95] received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

19. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Metropolitan Oakland International Airport, California; Correction [Airspace Docket No. 98-AWP-22] received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

20. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision to Class E Airspace; Reno, NV [Airspace Docket No. 98-AWP-23] received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

21. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Federal Aviation Regulation No. 36, Development of Major Repair Data [Docket No. FAA-1998-4654; Amendment No. SFAR 36-7; Notice No. 98-15] (RIN: 2120-AG64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

22. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Crewmember Interference, Portable Electronic Devices, and Other Passenger Related Requirements [Docket No. FAA-1998-4954] (RIN: 2120-AG70) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

23. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Temporary Drawbridge Regulations; Mississippi River, Iowa and Illinois [CGD 08-98-079] (RIN: 2115-AE47) January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

24. A communication from the President of the United States, transmitting Report that nonmarket economy countries, receiving most-favored-nation status, do not impose unreasonable emigration restrictions, pursuant to 19 U.S.C. 2432(b); (H. Doc. No. 105—2); to the Committee on Ways and Means and ordered to be printed.

25. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—General Revision of Regulations Relating to Withholding of Tax on Certain U.S. Source Income Paid to Foreign Persons and Related Collection, Refunds, and Credits: Revision of Information Reporting and Backup Withholding Regulations; and Removal of Regulations Under Parts 1 and 35a and of Certain Regulations Under Income Tax Treaties [TD 8804] (RIN: 1545-AW39) received December 30, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[The following action occurred on December 29, 1998]

Mr. STUMP: Committee on Veterans' Affairs. Activities Report of the Committee on Veterans' Affairs, 105th Congress (Rept. 105-833). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. Report on Legislative and Oversight Activities of the Committee on Resources, 105th Congress (Rept. 105-834). Referred to the Committee of the Whole House on the State of the Union.

[The following action occurred on December 30, 1998]

Mr. LIVINGSTON: Committee on Appropriations. Report on Activities of the Committee on Appropriations 105th Congress (Rept. 105-835). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOODLING: Committee on Education and the Workforce. Report on the Activities of the Committee on Education and the Workforce. 105th Congress (Rept. 105-836). Referred to the Committee of the Whole House on the State of the Union.

[The following action occurred on December 31, 1998]

Mr. LEACH: Committee on Banking and Financial Services. Report on the Summary of Activities of the Committee on Banking and Financial Services, 105th Congress (Rept. 105-837). Referred to the Committee of the Whole House on the State of the Union.

[The following reports were filed on January 2, 1999]

Mr. GILMAN: Committee on International Relations. Legislative Review Activities of the Committee on International Relations During the 105th Congress (Rept. 105-838). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Permanent Select Committee on Intelligence. Survey of Activities of the Permanent Select Committee on Intelligence During the 105th Congress (Rept. 105-839). Referred to the Committee of the Whole House on the State of the Union.

Mr. SOLOMON: Committee on Rules. Survey of Activities of the House Committee on Rules, 105th Congress (Rept. 105-840). Referred to the Committee of the Whole House on the State of the Union.

Mr. SPENCE: Committee on National Security. Report of the Activities of the Committee on National Security for the 105th Congress (Rept. 105-841). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Oregon: Committee on Agriculture. Report on the Activities of the Committee on Agriculture During the 105th Congress (Rept. 105-842). Referred to the Committee of the Whole House on the State of the Union.

Mr. BURTON: Committee on Government Reform and Oversight. Report on the Activities of the House Committee on Government Reform and Oversight During the 105th Congress (Rept. 105-843). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASICH: Committee on the Budget. Activities and Summary Report of the Committee on the Budget During the 105th Congress (Rept. 105-844). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. Report on the Activity of the Committee on Commerce for the One Hundred Fifth Congress (Rept. 105-846). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BILBRAY (for himself, Ms. Eshoo, Ms. Millender-McDonald, Mrs. Tauscher, Mr. Campbell, Mr. George Miller of California, Mr. Dreier, Mr. Horn, Mr. Cox of California, Mr. Matsui, Mr. Packard, Mr. Thomas, Ms. Pelosi, Mr. Hunter, Mrs. Capps, Mr. Cunningham, Mr. Dixon, Mr. McKeon, Mr. Sherman, Mr. Radanovich, Mr. Lantos, Mr. Ose, Mrs. Bono, Mr. Kuykendall, Mr. Pombo, Ms. Woolsey, Mr. Becerra, Mr. Rohrabacher, Ms. Lofgren, Mr. Rogan, Mr. Condit, Mr. Doolittle, and Ms. Roybal-Allard):

H.R. 11. A bill to amend the Clean Air Act to permit the exclusive application of California State regulations regarding reformulated gas in certain areas within the State; to the Committee on Commerce.

By Mr. DeLAY:

H.R. 12. A bill to limit the jurisdiction of the Federal courts with respect to prison release orders; to the Committee on the Judiciary.

By Mr. LaHOOD:

H.R. 13. A bill to direct the Administrator of the Federal Aviation Administration to implement reforms to the Liaison and Familiarization Training Program; to the Committee on Transportation and Infrastructure.

By Mr. DREIER (for himself, Ms. McCarthy of Missouri, Mr. Forbes, Mr. Deutsch, Mr. Hall of Texas, Mr. Moran of Virginia, and Mr. English of Pennsylvania):

H.R. 14. A bill to amend the Internal Revenue Code of 1986 to provide maximum rates of tax on capital gains of 14 percent for individuals and 28 percent for corporations and to index the basis of assets of individuals for purposes of determining gains and losses; to the Committee on Ways and Means.

By Mr. BILBRAY:

H.R. 15. A bill to designate a portion of the Otay Mountain region of California as wilderness; to the Committee on Resources.

By Mr. DINGELL:

H.R. 16. A bill to provide a program of national health insurance, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EWING (for himself, Mr. Combest, Mr. Stenholm, Mr. Shimkus, Mr. Condit, Mr. LaHood, Mr. Minge, Mr. Barrett of Nebraska, Mr. Moran of Kansas, Mr. Bereuter, Mr. Thune, Mr. Smith of Michigan, Mrs. Emerson, Mr. Manzullo, Mr. Lewis of Kentucky, Mr. Weller, Mr. Canady of Florida, Mr. Kolbe, Mr. Nethercutt, and Mr. Walden):

H.R. 17. A bill to amend the Agricultural Trade Act of 1978 to require the President to report to Congress on any selective embargo on agricultural commodities, to provide a termination date for the embargo, to provide greater assurances for contract sanctity, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ARCHER:

H.R. 18. A bill to amend the Internal Revenue Code of 1986 to provide that the transfer of property subject to a liability shall be treated in the same manner as the transfer of property involving an assumption of liability; to the Committee on Ways and Means.

By Mr. BURTON of Indiana:

H.R. 19. A bill to amend the Internal Revenue Code of 1986 regarding the treatment of golf caddies for employment tax purposes; to the Committee on Ways and Means.

By Mr. GILMAN:

H.R. 20. A bill to authorize the Secretary of the Interior to construct and operate a visitor center for the Upper Delaware Scenic and Recreational River on land owned by the State of New York; to the Committee on Resources.

By Mr. LAZIO of New York (for himself, Mr. McCollum, Mr. Bentsen, Mr. LaFalce, Mr. Baker, Mr. Weygand, Mr. Sherman, Mr. Leach, Mrs. Roukema, Mr. Campbell, Mr. Metcalf, Mrs. Kelly, Mr. Ackerman, Mr. Maloney of Connecticut, Ms. Hooley of Oregon, Mr. Cooksey, Mr. Dreier, Mr. Young of Alaska, Mr. Frost, Mr. Farr of California, Mr. McCrery, Mrs. Meek of Florida, Ms. Christian-Green, Mr. Canady of

Florida, Mr. CALVERT, Mr. SHAW, Mr. CUNNINGHAM, Mr. EWING, Mr. DAVIS of Florida, Mr. PRICE of North Carolina, Mr. MCKEON, Mr. BILIRAKIS, Mr. BOYD, Mrs. FOWLER, Mr. LOBIONDO, Mr. BLUNT, Mr. LAHOOD, Mrs. THURMAN, Mr. WEXLER, Ms. ROS-LEHTINEN, Mr. KNOLLENBERG, Mr. MICA, Mr. DEUTSCH, Mr. STEARNS, Mr. TRAFICANT, and Mr. PORTER):

H.R. 21. A bill to establish a Federal program to provide reinsurance for State disaster insurance programs; to the Committee on Banking and Financial Services.

By Mr. MCHUGH (for himself and Mr. BURTON of Indiana):

H.R. 22. A bill to modernize the postal laws of the United States; to the Committee on Government Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DREIER:

H.R. 23. A bill to provide grants to local educational agencies to allow such agencies to promote certain education initiatives; to the Committee on Education and the Workforce.

By Mr. GILMAN (for himself and Mrs. KELLY):

H.R. 24. A bill to amend title 38, United States Code, to provide for certain improvements in the way in which health-care resources are allocated by the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BOEHLERT:

H.R. 25. A bill to reduce acid deposition under the Clean Air Act, and for other purposes; to the Committee on Commerce.

By Mr. GILMAN (for himself, Mr. FILNER, Mr. CAMPBELL, Mr. CUNNINGHAM, Mrs. MORELLA, Mr. EVANS, Mr. ABERCROMBIE, and Ms. MILLENDER-MCDONALD):

H.R. 26. A bill to allow certain individuals who provided service to the Armed Forces of the United States in the Philippines during World War II to receive a reduced SSI benefit after moving back to the Philippines; to the Committee on Ways and Means.

By Mr. DREIER:

H.R. 27. A bill to amend the Internal Revenue Code of 1986 to allow the carryover of unused nontaxable benefits under cafeteria plans and flexible spending arrangements, and for other purposes; to the Committee on Ways and Means.

By Mr. GILMAN (for himself, Mrs. MORELLA, Mrs. MALONEY of New York, Mr. WAXMAN, Mr. ROMERO-BARCELO, Mrs. KELLY, and Mr. SHAYS):

H.R. 28. A bill to provide for greater access to child care services for Federal employees; to the Committee on Government Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DREIER:

H.R. 29. A bill to amend the Congressional Budget Act of 1974 to require that the Director of the Congressional Budget Office and the Joint Committee on Taxation utilize dynamic scoring for provisions of bills or joint resolutions that reduce rates of taxation; to the Committee on the Budget, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEACH (for himself, Mrs. ROUKEMA, Mr. LAZIO of New York, Mr. CASTLE, Mr. LAFALCE, Mr. HINCHEY, and Mr. VENTO):

H.R. 30. A bill to protect consumers and financial institutions by preventing personal financial information from being obtained from financial institutions under false pretenses; to the committee on Banking and Financial Services.

By Mr. LEACH (for himself and Mr. VENTO):

H.R. 31. A bill to require the Secretary of the Treasury to mint coins in conjunction with the minting of coins by the Republic of Iceland in commemoration of the millennium of the discovery of the New World by Leif Ericsson; to the Committee on Banking and Financial Services.

By Mr. DREIER:

H.R. 32. A bill to amend the Federal Election Campaign Act of 1971 to expand the types of information on campaign spending required to be reported to the Federal Election Commission, to transfer responsibility for the enforcement of Federal laws governing the financing of campaigns for election for Federal office from the Commission to the Attorney General, and for other purposes; to the Committee on House Administration, and in addition to the Committees on Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the Committee concerned.

By Mr. GOSS (for himself, Mr. MILLER of Florida, Mr. MCCOLLUM, Mr. CANADY of Florida, Mr. FOLEY, Mr. SHAW, Mr. WEXLER, Mr. SHAYS, Mr. BILIRAKIS, Mr. DAVIS of Florida, Ms. ROS-LEHTINEN, and Mrs. THURMAN):

H.R. 33. A bill imposing certain restrictions and requirements on the leasing under the Outer Continental Shelf Lands Act of lands offshore Florida, and for other purposes; to the Committee on Resources.

By Mr. GOSS:

H.R. 34. A bill to direct the Secretary of the Interior to make technical corrections to a map relating to the Coastal Barrier Resources System; to the Committee on Resources.

By Mr. GUTIERREZ:

H.R. 35. A bill to prohibit the possession or transfer of junk guns, also known as Saturday Night Specials; to the Committee on the Judiciary.

By Mr. GUTIERREZ (for himself, Ms. WATERS, Mrs. MORELLA, Mr. BONIOR, Ms. ROYBAL-ALLARD, Ms. ROS-LEHTINEN, Mr. WYNN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DAVIS of Illinois, Mr. MOAKLEY, Mr. OWENS, Mr. FROST, Mr. ORTIZ, Mr. PASTOR, Mr. ENGEL, Mr. MCGOVERN, Ms. LEE, Mrs. MEEK of Florida, Mr. FRANK of Massachusetts, Mr. SERRANO, Mr. TOWNS, Mr. PASCRELL, Mr. LAFALCE, Ms. WOOLSEY, Ms. NORTON, Mr. HINCHEY, Mr. LANTOS, Mr. FILNER, Mr. STARK, Mr. ROMERO-BARCELO, Mr. GEORGE MILLER of California, Mr. BRADY of Texas, Mr. BECERRA, and Mr. MENENDEZ):

H.R. 36. A bill to amend the Nicaraguan Adjustment and Central American Relief Act to eliminate the requirement that spouses and children of aliens eligible for adjustment of status under such Act be nationals of Nicaragua or Cuba and to provide to nationals of El Salvador, Guatemala, Honduras, and Haiti an opportunity to apply for adjustment of status under that Act, and for other purposes; to the Committee on the Judiciary.

By Mr. LIVINGSTON:

H.R. 37. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to protect the Social Security trust funds; to the Committee on the Budget.

By Mr. STUMP:

H.R. 38. A bill to repeal the National Voter Registration Act of 1993; to the Committee on House Administration.

By Mr. YOUNG of Alaska (for himself, Mr. SAXTON, and Mr. GEORGE MILLER of California):

H.R. 39. A bill to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds; to the Committee on Resources.

By Mr. CONYERS (for himself, Mr. FATTAH, Mr. HASTINGS of Florida, Mr. HILLIARD, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. MEEK of Florida, Mr. OWENS, Mr. RUSH, and Mr. TOWNS):

H.R. 40. A bill to acknowledge the fundamental injustice, cruelty, brutality, and inhumanity of slavery in the United States and the 13 American colonies between 1619 and 1865 and to establish a commission to examine the institution of slavery, subsequently de jure and de facto racial and economic discrimination against African-Americans, and the impact of these forces on living African-Americans, to make recommendations to the Congress on appropriate remedies, and for other purposes; to the Committee on the Judiciary.

By Mr. STUMP (for himself, Mr. CALLAHAN, Mr. GOSS, Mr. NORWOOD, Mr. HERGER, Mr. TAYLOR of North Carolina, Mr. YOUNG of Alaska, Mr. GIBBONS, Mr. HEFLEY, Mr. DEAL of Georgia, Mr. SHADEGG, Mr. HANSEN, Mrs. CHENOWETH, Mr. SAM JOHNSON of Texas, Mr. COLLINS, Mr. WATKINS, Mrs. CUBIN, Mr. MCKEON, Mr. SPENCE, Mr. BARR of Georgia, Mr. COBLE, Mr. SENSENBRENNER, Mr. ROGERS, Mr. DICKEY, Mr. BACHUS, Mr. PACKARD, Mr. EWING, Mr. COOKSEY, Mr. BAKER, Mr. EVERETT, Mr. DOOLITTLE, Mr. TAUZIN, Mr. TAYLOR of Mississippi, Mr. LINDER, Mr. BARTLETT of Maryland, Mr. TRAFICANT, Mrs. EMERSON, Mr. SKEEN, Mr. LEWIS of Kentucky, Mr. JONES of North Carolina, Mr. HALL of Texas, Mr. RADANOVICH, Mr. HUNTER, Mr. COMBEST, Mr. GOODE, Mr. WICKER, Mr. DUNCAN, Mr. HAYES, and Mr. CAMP):

H.R. 41. A bill to effect a moratorium on immigration by aliens other than refugees, priority workers, and the spouses and children of United States citizens; to the Committee on the Judiciary.

By Mr. STUMP:

H.R. 42. A bill to repeal the Federal estate and gift taxes; to the Committee on Ways and Means.

By Mr. STUMP:

H.R. 43. A bill to amend the Internal Revenue Code of 1986 to accelerate the phasein of the $1,000,000 exclusion from the estate and gift taxes; to the Committee on Ways and Means.

By Mr. BILIRAKIS (for himself and Mr. NORWOOD):

H.R. 44. A bill to amend title 10, United States Code, to authorize the payment of special compensation to certain severely disabled uniformed services retirees; to the Committee on Armed Services.

By Mr. UPTON (for himself, Mr. Towns, Mr. Barton of Texas, Mr. Holden, Mr. Norwood, Mr. Gordon, Mr. Oxley, Mr. Burr of North Carolina, Mr. Klink, Mr. Whitfield, Mr. Spratt, Mr. Hoekstra, Mr. Livingston, Mr. Kanjorski, Mr. Bilirakis, Mr. Graham, Mr. Peterson of Pennsylvania, Mr. Canady of Florida, Mr. Manzullo, Mr. Ramstad, Mr. Hutchinson, Mr. Pickering, Mr. Gutknecht, Mr. LoBiondo, Mr. Shimkus, Mr. Nethercutt, Mr. Rohrabacher, Mr. Foley, Mr. Taylor of North Carolina, Mr. Bereuter, Mr. Oberstar, Mr. Lipinski, Mr. Stupak, Mr. Rush, Mr. Smith of Michigan, Mr. Ehlers, Mr. Knollenberg, Mr. Porter, Mr. Sisisky, Mr. Bonior, Mr. Camp, Mr. Kildee, Mr. Barcia of Michigan, Ms. Stabenow, Mr. Peterson of Minnesota, Ms. Jackson-Lee of Texas, and Mr. Allen):

H.R. 45. A bill to amend the Nuclear Waste Policy Act of 1982; to the Committee on Commerce, and in addition to the Committees on Resources, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McCOLLUM (for himself, Mr. Hyde, Mr. Conyers, Mr. Buyer, Mr. Gekas, Mr. Barr of Georgia, Mr. Hutchinson, Mr. Chabot, Mr. Graham, Mr. Scott, Ms. Jackson-Lee of Texas, Mr. Wexler, Mr. Cunningham, and Mr LoBiondo):

H.R. 46. A bill to provide for a national medal for public safety officers who act with extraordinary valor above and beyond the call of duty; to the Committee on the Judiciary.

By Mr. STUMP:

H.R. 47. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 48. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 increase in income taxes on Social Security benefits; to the Committee on Ways and Means.

By Mrs. KELLY (for herself, Mr. Ganske, Mr. Gilman, Mrs. Maloney of New York, and Mr. Condit):

H.R. 49. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverge and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the Committee concerned.

By Mr. STUMP (for himself and Mr. Tancredo):

H.R. 50. A bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. KELLY:

H.R. 51. A bill to amend title 18, United States Code, to prohibit taking a child hostage in order to evade arrest; to the Committee on the Judiciary.

By Mr. TRAFICANT:

H.R. 52. A bill to redesignate the naval facility located in Gricignano d'Aversa, Italy, and known as the Naples Support Site, as the "Thomas M. Foglietta Support Site"; to the Committee on Armed Services.

By Mr. WATKINS (for himself, Mr. Thomas, Mr. Istook, Mr. Moran of Kansas, Mr. Brady of Texas, Mr. Skeen, Mr. Thornberry, Mr. McCrery, Mr. Largent, Mr. Watts of Oklahoma, Mr. Lucas of Oklahoma, Mr. Smith of Texas, and Mr. Stenholm):

H.R. 53. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for marginal oil and natural gas well production; to the Committee on Ways and Means.

By Mr. GILMAN:

H.R. 54. A bill to extend the authorization for the Upper Delaware Citizens Advisory Council; to the Committee on Resources.

By Mr DREIER:

H.R. 55. A bill to make the Federal employees health benefits program available to individuals age 55 to 65 who would not otherwise have health insurance, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHAFFER (for himself, Mr. Stenholm, Mr. Castle, Mr. Tancredo, Mr. Andrews, Mr. Ballenger, Mr. Bass, Mr. Bachus, Mr. Barr of Georgia, Mr. Barrett of Nebraska, Mr. Bartlett of Maryland, Mr. Bereuter, Mr. Bonilla, Mr. Bilirakis, Mr. Boyd, Mr. Bryant, Mr. Burton of Indiana, Mr. Callahan, Mr. Campbell, Mr. Chabot, Mr. Chambliss, Mr. Condit, Mr. Cunningham, Mr. Duncan, Mr. Ehrlich, Mr. English of Pennsylvania, Mr. Foley, Mr. Forbes, Mr. Frelinghuysen, Mr. Gallegly, Ms. Granger, Mr. Greenwood, Mr. Goode, Mr. Goodling, Mr. Goss, Mr. Hall of Texas, Mr. Hansen, Mr. Herger, Mr. Hefley, Mr. Hoekstra, Mr. Horn, Mr. Kasich, Mrs. Kelly, Mr. Kolbe, Mr. Latham, Mr. LaHood, Mr. Leach, Mr. Lewis of Kentucky, Mr. Lucas of Oklahoma, Mr. McCollum, Mr. McInnis, Mr. McKeon, Mr. Meehan, Mr. Miller of Florida, Mr. Minge, Mrs. Myrick, Mr. Nethercutt, Mr. Ney, Mr. Pitts, Mr. Radanovich, Mr. Riley, Mr. Rogan, Mr. Royce, Mr. Ryun of Kansas, Mr. Salmon, Mr. Scarborough, Mr. Sessions, Mr. Shays, Mr. Shimkus, Mr. Skeen, Mr. Smith of Texas, Mr. Stearns, Mr. Stump, Mr. Tanner, Mr. Taylor of North Carolina, Mr. Thune, Mr. Walden, and Mr. Watts of Oklahoma):

H.J. Res. 1. Joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation; to the Committee on the Judiciary.

By Mr. McCOLLUM (for himself, Mrs. Fowler, Mr. Hilleary, Mr. Hansen, Mr. Gillmor, Mr. Metcalf, Mr. Bachus, Mr. Barr of Georgia, Mr. Barrett of Nebraska, Mr. Bartlett of Maryland, Mr. Bass, Mr. Bereuter, Mr. Bilbray, Mr. Bilirakis, Mr. Bonilla, Mr. Bryant, Mr. Buyer, Mr. Calvert, Mr. Campbell, Mr. Coburn, Mr. Cox of California, Mr. Crane, Mr. Cunningham, Mr. Deal of Georgia, Mr. Deutsch, Mr. Ehlers, Mrs. Emerson, Mr. English of Pennsylvania, Mr. Foley, Mr. Ganske, Mr. Goodling, Mr. Goss, Mr. Graham, Mr. Gutknecht, Mr. Hayworth, Mr. Istook, Mr. LaHood, Mr. Largent, Mr. LaTourette, Mr. Lazio of New York, Mr. Lewis of Kentucky, Mr. Linder, Mr. LoBiondo, Mr. Lucas of Oklahoma, Mr. McCrery, Mr. McKeon, Mr. Mica, Mr. Minge, Mr. Nethercutt, Mr. Ney, Mr. Norwood, Mr. Packard, Mr. Pease, Mr. Pombo, Ms. Pryce of Ohio, Mr. Radanovich, Mr. Rohrabacher, Mr. Scarborough, Mr. Sessions, Mr. Shadegg, Mr. Shimkus, Mr. Smith of Washington, Mr. Smith of Michigan, Mr. Souder, Mr. Stearns, Mr. Stump, Mr. Talent, Mr. Thornberry, Mr. Tiahrt, Mr. Wamp, Mr. Weller, and Mr. Whitfield):

H.J. Res. 2. Joint resolution proposing an amendment to the Constitution of the United States with respect to the number of terms of office of Members of the Senate and the House of Representatives; to the Committee on the Judiciary.

By Mr. ARMEY:

H. Con. Res. 1. Concurrent resolution providing for a joint session of Congress to receive a message from the President; considered and agreed to.

H. Con. Res. 2. Concurrent resolution providing for adjournment of the House; considered and agreed to.

By Mr. WATTS of Oklahoma:

H. Res. 1. Resolution electing officers of the House of Representatives; considered and agreed to.

By Mr. ARMEY:

H. Res. 2. Resolution to inform the Senate that a quorum of the House has assembled and of the election of the Speaker and the Clerk; considered and agreed to.

H. Res. 3. Resolution authorizing the Speaker to appoint a committee to notify the President of the assembly of the Congress; considered and agreed to.

H. Res. 4. Resolution authorizing the Clerk to inform the President of the election of the Speaker and the Clerk; considered and agreed to.

H. Res. 5. Resolution adopting rules for the One Hundred Sixth Congress in recodified form; considered and agreed to.

By Mr. WATTS of Oklahoma:

H. Res. 6. Resolution electing Members to serve on standing committees; considered and agreed to.

By Mr. FROST:

H. Res. 7. Resolution electing Members, Delegates, and the Resident Commissioner to serve on standing committees; considered and agreed to.

H. Res. 8. Resolution electing a Member to serve on standing committees; considered and agreed to.

By Mr. HANSEN (for himself, Mr. Berman, Mr. Hastert, Mr. Armey, Mr. Gephardt, Mr. DeLay, and Mr. Bonior):

H. Res. 9. Resolution amending clause 5 of rule XXVI; considered and agreed to.

By Mr. HYDE:

H. Res. 10. Resolution appointing the authorizing managers for the impeachment trial of William Jefferson Clinton, President of the United States; considered and agreed to.

By Mr. MENENDEZ:

H. Res. 11. Resolution providing for the designation of certain minority employees; considered and agreed to.

H. Res. 12. Resolution authorizing the Speaker to administer the oath of office; considered and agreed to.

H. Res. 13. Resolution authorizing the Speaker to administer the oath of office; considered and agreed to.

By Mr. DREIER:

H. Res. 14. Resolution fixing the daily hour of meeting of the First Session of the One Hundred Sixth Congress; considered and agreed to.

PROCEEDINGS OF THE HOUSE AFTER SINE DIE ADJOURNMENT OF THE 105TH CONGRESS 2D SESSION AND FOLLOWING PUBLICATION OF THE FINAL EDITION OF THE CONGRESSIONAL RECORD OF THE 105TH CONGRESS

COMMUNICATION FROM THE CLERK OF THE HOUSE AFTER SINE DIE ADJOURNMENT

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES
Washington, DC, December 21, 1998.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER: I write today to inform you of my decision to end my service as Clerk of the House effective January 1, 1999.

Because of your vision and support, many of the goals you set at the dawn of the 104th Congress have already been achieved, the most significant among them being the amount of immediate legislative information now available to all citizens via the Internet. Many others are well underway and when fully implemented will position this Office to support the efforts of the House in even more dramatic ways as we approach the millennium.

Thank you for providing such a magnificent opportunity for me to be a part of this unique institution.

With warm regards.

ROBIN H. CARLE.

APPOINTMENT BY THE SPEAKER AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of section 208(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 75a–1(a)), and section 5 of House Resolution 594, 105th Congress, the Speaker on Monday, December 21, 1998, appointed Jeffrey J. Trandahl of Virginia to act and to exercise temporarily the duties of Clerk of the House of Representatives effective Friday, January 1, 1999.

COMMUNICATION FROM THE SPEAKER AFTER SINE DIE ADJOURNMENT

OFFICE OF THE SPEAKER,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 21, 1998.

Re temporary appointment of Clerk.

Hon. WILLIAM M. THOMAS,
Chariman, Committee on House Oversight, Longworth House Office Building, Washington, DC

DEAR BILL: In accordance with 2 U.S.C. §75a–1, I hereby appoint Mr. Jeffrey J. Trandahl to fill the vacancy in the Office of the Clerk of the House of Representatives, effective January 1, 1999. Mr. Trandahl shall exercise all the duties, shall have all the powers, and shall be subject to all the requirements and limitations applicable to the position of Clerk until his successor is chosen by the House and duly qualifies as Clerk.

Plese contact Dan Crowley, General Counsel in the Office of the Speaker, if you have any questions.

Sincerely,

NEWT GINGRICH,
Speaker.

APPOINTMENT BY THE SPEAKER AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of 44 U.S.C. 2702 and section 5 of House Resolution 594, 105th Congress, the Speaker on Monday, December 21, 1998, appointed the following member on the part of the House to the Advisory Committee on the Records of Congress for a 2-year term:

Mr. John J. Kornacki, Virginia.

APPOINTMENT BY THE SPEAKER AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of section 491 of the Higher Education Act (20 U.S.C. 1098(c)), and section 5 of House Resolution 594, 105th Congress, the Speaker on Monday, December 21, 1998, reappointed the following member on the part of the House to the Advisory Committee on Student Financial Assistance for a 3-year term:

Mr. Thomas E. Dillon, California.

APPOINTMENT BY THE SPEAKER AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of section 2(b)(2) of Public Law 105–186 and section 5 of House Resolution 594, 105th Congress, the Speaker on Tuesday, December 22, 1998, appointed the following Member of the House to the Presidential Advisory Commission on Holocaust assets in the United States to fill the existing vacancy thereon:

Mr. LAZIO, New York.

APPOINTMENT BY THE SPEAKER AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of section 201(b) of Public Law 105–292 and section 5 of House Resolution 594, 105th Congress, the Speaker on Tuesday, December 22, 1998, appointed the following members on the part of the House to the Commission on International Religious Freedom to 2-year terms.

Mr. Elliott Abrams, Virginia.

Ms. Nina Shea, Washington, DC.

APPOINTMENT BY THE SPEAKER AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of section 203(b)(1) of Public Law 105–134 and section 5 of House Resolution 594, 105th Congress, the Speaker on Tuesday, December 22, 1998, appointed the following individual on the part of the House to the Amtrak Reform Council to fill the existing vacancy thereon:

Mr. Wendell Cox, Illinois.

APPOINTMENT BY THE SPEAKER AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of section 852(b) of the Web-Based Education Commission Act (112 STAT 1822) and section 5 of House Resolution 594, 105th Congress, the Speaker on Tuesday, December 22, 1998, appointed the following member on the part of the House to the Web-Based Education Commission:

Mr. David Winston, Maryland.

And the following Member on Friday, January 1, 1999:

Mr. Richard W. Brown, Minnesota.

APPOINTMENT BY THE SPEAKER AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of section 4(b) of Public Law 94–201 (20 U.S.C. 2103(b)) and section 5 of House Resolution 594, 105th Congress, the Speaker on Wednesday, December 23, 1998, appointed the following Members from private life on the part of the House to the board of trustees of the American Folklife Center in the Library of Congress for 6-year terms:

Mr. David W. Robinson, New Hampshire.

Mrs. Judith McCulloh, Illinois.

APPOINTMENT BY THE SPEAKER AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of section 4 of the Congressional Award Act (2 U.S.C. 803) and section 5 of House Resolution 594, 105th Congress, the Speaker on Wednesday, December 23, 1998, appointed the following Members on the part of the House to the Congressional Award Board:

Mrs. Altagracia Ramos, Ohio.

Mr. John McCallum, Georgia.

Mr. Thomas Campbell, Virginia.

APPOINTMENT BY THE SPEAKER AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of section 1 of the Act to create a Library of Congress Trust Fund Board (2 U.S.C. 154), amended by section 1 of Public Law 102-246, and section 5 of House Resolution 594, 105th Congress, the Speaker on Wednesday, December 23, 1998 appointed the following member on the part of the House to the Library of Congress Trust Fund Board for a five-year term to fill the existing vacancy thereon:

Mr. Donald G. Jones, Wisconsin.

APPOINTMENT BY THE SPEAKER AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of section 591(a)(2), division A, Public Law 105-277 and section 5 of House Resolution 594, 105th Congress, the Speaker on Wednesday, December 23, 1998 appointed the following member on the part of the House to the National Commission on Terrorism:

Mr. Gardner Peckham, Maryland.

And the following members on Friday, January 1, 1999:

Mr. Jay Paul Bremer, Maryland.

Mr. James Woolsey, Maryland.

APPOINTMENT BY THE SPEAKER AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of section 5(a) of Public Law 105-255 and section 5 of House Resolution 594, 105th Congress, the Speaker on Friday, January 1, 1999 appointed the following members on the part of the House to the Commission on the Advancement of Women and Minorities in Science, Engineering, and Technology Development:

Mrs. Molly Hering Bordonaro, Oregon.

Mr. Raul J. Fernandez, Maryland.

APPOINTMENT BY THE SPEAKER AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of section 3(b) of the Women's Progress Commemoration Act (Public Law 105-341) and section 5 of House Resolution 594, 105th Congress, the Speaker on Friday, January 1, 1999 appointed the following members on the part of the House to the Women's Progress Commemoration Commission:

Mrs. Nancy Linn Desmond, Georgia.

Mrs. Jane Chastain, California.

Mrs. Dorothy Stephens Gray, Virginia.

APPOINTMENT BY THE SPEAKER AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of section 711(b) of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996, amended by Public Law 105-277, and section 5 of House Resolution 594, 105th Congress, the Speaker on Friday, January 1, 1999 appointed the following members on the part of the House to the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction:

Mr. William Schneider, Virginia.

Mr. Stephen Cambone, Virginia.

APPOINTMENT BY THE SPEAKER AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of section 12(b)(1) of the Centennial of Flight Commemoration Act (section 12(b)(1) of Public Law 105-389) and section 5 of House Resolution 594, 105th Congress, the Speaker on Friday, January 1, 1999 appointed the following citizens on the part of the House to the First Flight Centennial Federal Advisory Board:

Mr. Terry Jodak Kohler, Minnesota.

Mr. Kurt Russell, California.

APPOINTMENT BY THE SPEAKER AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of section 710(a)(2) of the Office of National Drug Control Policy Reauthorization Act of 1998 (division c, section 710(a)(2) of Public Law 105-277) and section 5 of House Resolution 594, 105th Congress, the Speaker on Friday, January 1, 1999, appointed the following member on the part of the House to the Parents Advisory Council on Youth Drug Abuse for a three-year term:

Ms. Sunny Cloud, Georgia.

APPOINTMENT BY THE SPEAKER AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of section 603(b)(1), division A, of Public Law 105-277 and section 5 of House Resolution 594, 105th Congress, the Speaker on Friday, January 1, 1999 appointed the following member on the part of the House to the International Financial Institution Advisory Commission:

Mr. Lawrence Lindsay, Washington, DC.

APPOINTMENT BY THE SPEAKER AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of subsection (c)(3) of the Trade Deficit Review Commission Act (Division A, Public Law 105-277) and section 5 of House Resolution 594, 105th Congress, the Speaker on Friday, January 1, 1999 appointed the following persons on the part of the House to the Trade Deficit Review Commission:

Mr. Robert Zoelick, Virginia.

Mr. Donald Rumsfeld, Illinois.

OMISSIONS FROM THE CONGRESSIONAL RECORD OF SATURDAY, DECEMBER 19, 1998

COMMUNICATION FROM STAFF MEMBER OF THE HONORABLE MICHAEL BILIRAKIS

House of Representatives,
Washington, DC, November 10, 1998.

Hon. Newt Gingrich,
Speaker of the House of Representatives, Washington, DC.

Dear Mr. Speaker: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the United States District Court for the Middle District of Florida.

After consultation with the General Counsel, I will make the determination required by Rule L (50).

Sincerely,

Maureen Ahearn.

COMMUNICATION FROM STAFF MEMBER OF THE OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER

Office of the Chief
Administrative Officer,
House of Representatives,
Washington, DC, December 10, 1998.

Hon. Newt Gingrich,
Speaker of the House of Representatives, Washington, DC.

Dear Mr. Speaker: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that the Furniture Resource Center of the Office of the Chief Administrative Officer has received a subpoena for documents issued by the Superior Court of the District of Columbia.

After consultation with the Office of the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

Susan Graydon.

COMMUNICATION FROM STAFF MEMBER OF THE COMMITTEE ON SCIENCE

House of Representatives,
Committee on Science,
Washington, DC, December 9, 1998.

Hon. Newt Gingrich,
Speaker of the House of Representatives, Washington, DC.

Dear Mr. Speaker: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena for documents and testimony issued by the United States Court of Federal Claims.

I am currently consulting with the Office of General Counsel to determine whether compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

Richard Obermann.

EXTENSIONS OF REMARKS

IN SUPPORT OF LEGISLATION TO PREVENT THE EARLY RELEASE OF VIOLENT FELONS AND CONVICTED DRUG DEALERS

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. DELAY. Mr. Speaker, I rise to introduce a bill in this Congress that I first offered last April 23rd in the 105th Congress. The bill is simple—it ends forever, the early release of violent felons and convicted drug dealers by judges who care more about the ACLU's prisoner rights wish list than about the Constitution, and the safety of our towns, communities and fellow citizens.

Under the threat of federal courts, states are being forced to prematurely release convicts because of what activist judges call "prison overcrowding."

In Philadelphia, for instance, Federal Judge Norma Shapiro has used complaints filed by individual inmates to gain control over the prison system and establish a cap on the number of prisoners. To meet that cap, she ordered the release of 500 prisoners a week.

In an 18 month period alone, 9,732 arrestees that were out on the streets of Philadelphia on pre-trial release because of her prison cap, were re-arrested on second charges, including 79 murders, 90 rapes, 701 burglaries, 959 robberies, 1,113 assaults, 2,215 drug offenses and 2,748 thefts. How does she sleep at night?

Each one of these crimes was committed against a person with a family dreaming of a safe and peaceful future—a future that was snuffed out by a judge who has a perverted view of the Constitution.

Of course Judge Shapiro is not alone. There are many other examples. In a Texas case that dates back to 1972, federal Judge William Wayne Justice took control of the Texas prison System and dictated changes in basic inmate disciplinary practices that wrested administrative authority from staff and resulted in rampant violence behind bars.

Under the threats of Judge Justice, Texas was forced to adopt what is known as the "nutty release" law that mandates "good time credit" for prisoners. Murderers and drug dealers who should be behind bars are walking the streets of our Texas neighborhoods—thanks to Judge Justice.

Wesley Wayne Miller was convicted in 1982 of a brutal murder. He served only 9 years of a 25-year sentence for butchering an 18-year-old Fort Worth girl. Now, after another crime spree, he was re-arrested.

Huey Meaux was sentenced to 15 years for molesting a teen-age girl. He is eligible for parole this September after serving only two years in prison.

Kenneth McDuff was on death row for murder when his sentence was commuted. He ended up murdering someone else.

In addition to the cost to society of Judge Justice's activism, Texas is reeling from the financial impact of Judge Justice's sweeping order. I remember back when I was in the state legislature, the state of Texas spent about $8.00 per prisoner per day.

By 1994, when the full force of Judge Justice's edict was finally being felt, the state was spending more than $40.00 every day for each prisoner. That's a fivefold increase over a period when the state's prison population barely doubled.

The truth is no matter how Congress and state legislatures try to get tough on crime, we won't be effective until we deal with the judicial activism.

The courts have undone almost every major anti-crime initiative passed by the legislative branch. In the 1980s, as many states passed mandatory-minimum sentencing laws, the judges checkmated the public by imposing prison caps. When this Congress mandated the end of "consent decrees" regarding prison overcrowding in 1995, some courts just ignored our mandate.

There is an activist judge behind each of the most perverse failures of today's justice system: violent offenders serving barely 40% of their sentences; 3.5 million criminals, most of them repeat offenders, on the streets on probation and parole; 35% of all persons arrested for violent crime being on probation, parole, or pretrial release at the time of their arrest.

The Constitution of the United States gives us the power to take back our streets. Article III allows the Congress to set jurisdictional restraints on the Courts. My bill will set such restraints.

I presume we will hear cries of "court stripping" by opponents of my bill. These cries, however, will come from the same people who voted to limit the jurisdiction of federal courts in the 1990 Civil Rights Bill.

Let us not forget the pleas of our current Chief Justice of the United States, William Rehnquist. In his 1997 Year-end Report on the Federal Judiciary, he said, "I therefore call on Congress to consider legislative proposals that would reduce the jurisdiction of federal courts." We should heed Justice Rehnquist's call—right here, right now.

Mr. Speaker, this bill is also identical to an amendment I offered last Congress to HR 1252, the Judicial Reform Act. That amendment passed 367–52. That's right, 367–52. While that is an overwhelming victory, it is not enough. I am saddened that 52 Members so callously voted against protecting the families they represent.

Despite the fact that the liberal legal establishment will fight against my bill and the families it will help protect, many of my liberal Democrat colleagues voted for my amendment last year.

They couldn't afford not to. How can any member of this body go home to their district and face a mother whose son or daughter has been savagely beaten and killed by a violent felon—a felon let out of prison early to satisfy the legal community's liberal agenda.

Judicial activism threatens our safety and the safety of our children, if in the name of justice, murderers and rapists are allowed to prowl our streets before they serve their time. It's time to return some sanity to our justice system, and keep violent offenders in jail. I strongly urge my colleagues, for the sake of the families they represent, to support my bill.

INTRODUCTION OF BILL TO TAKE THE AIRPORT AND AIRWAY, THE INLAND WATERWAYS, AND THE HARBOR MAINTENANCE TRUST FUNDS OFF BUDGET

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. SHUSTER. Mr. Speaker, I am again standing before Congress requesting that the Transportation Trust Funds be treated fairly. The bill I am introducing today, referred to as the "Truth in Budgeting Act," is a bill I have introduced in the past. With the support of many members of Congress and of course, my colleague, Congressman JIM OBERSTAR, the Transportation and Infrastructure Committee was successful last Congress in passing into law the appropriate budget treatment for the Highway Trust Fund.

This Congress, we are asking that the remainder of the transportation trust funds be treated fairly. In short, the taxes which transportation users pay should be spent on the intended purposes.

During the past decade, aviation taxes have increased dramatically. In 1990, airline passengers and other users of the air transportation system paid $3.7 billion in taxes and fees for their use of that system. By 1995, taxes had increased to $5.5 billion. Now, in 1999, it is estimated that aviation users will pay over $10 billion in aviation taxes and fees, almost triple the amount that they paid at the beginning of the decade and almost double what they paid just 4 years ago.

This increase is partly due to the increase in passengers and aviation activity. But it is also due to the fact that the tax rates have been dramatically increased over the past few years.

All these taxes go into a Trust Fund that was created in 1970. When this aviation trust fund was created, it was designed primarily to pay for improvements in the aviation infrastructure, such as airport improvements and the modernization of air traffic control equipment.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The problem is that this Trust Fund is part of the unified budget. As a result, it does not operate like a true trust fund. Under current budget rules, there is no assurance that tax revenues deposited in the trust fund will actually be spent on aviation infrastructure needs. Arbitrary budget caps often limit the amount that can be spent.

In fact, over time, aviation infrastructure needs have been dramatically underfunded. And, on occasion, money has been taken out of the aviation trust fund to pay FAA salaries or meet general budget needs. More often, the money is not spent, in order to offset increased spending for other programs unrelated to aviation.

As a result, by the end of this year, it is expected that the uncommitted surplus in the Trust Fund will be $6.9 billion and the cash balance will be $12.6 billion. It would be even higher if not for the fact that the taxes temporarily expired a few years ago. In 10 years, if nothing is done, CBO projects that the uncommitted balance will balloon to $57 billion and the cash balance to $63 billion!

This is clearly unacceptable. If the government is not going to spend the money then it should not be collecting the tax. The only thing worse than paying taxes is paying the tax and then not getting the promised benefit from it.

Unfortunately, the same type of problem exists with the Inland Waterways Trust Fund and the Harbor Maintenance Trust Fund. Both are part of the unified budget and both are accumulating unacceptable surpluses in the face of enormous infrastructure needs.

The Inland Waterways Trust Fund helps to finance improvements to the nation's navigable waterways, including locks and dams. Notwithstanding the significant cost of keeping these arteries of commerce open and functioning, the trust fund's surplus continues to grow. As of October 1, 1998, the Inland Waterway Trust Fund balance was $342.3 million.

The Harbor Maintenance Trust Fund, which helps to finance navigation needs at the nation's ports and harbors, has an even larger surplus. As of October 1, 1998, the fund's balance was $1.29 billion. Harbor maintenance is critical to jobs, economic development and international trade. There is growing concern about the failure to adequately meet port infrastructure needs. There is also concern about the Supreme Court's March 1998 decision that the Harbor Maintenance Tax is unconstitutional as it relates to exports and the possibility it violates international commitments relating to imports. Both concerns emphasize the need for truth in budgeting.

Last year, we were confronted by the same problem in surface transportation. People who used the roads were paying gas taxes into a trust fund with no assurance that the money would be spent. We fixed that problem in the TEA–21 legislation by creating "firewalls" to ensure that all the gas tax money would be spent on road and transit improvements.

1999 will be the year of aviation. By that I mean, at a minimum, that we intend to do the same thing for aviation that we did for surface transportation last year. We intend to unlock the Trust Fund to ensure that the money can be spent to meet aviation infrastructure needs.

The needs are significant. Airports estimate, and GAO agrees, that meeting airport infrastructure needs will require about $10 billion per year. Currently airports have access to only about $7 billion per year from all sources. Therefore, there is about a $3 billion airport infrastructure funding gap that we need to close.

Over the last 5 years, the number of passengers in the U.S. has grown 37% to 655 million. It is expected to grow to 995 million in 10 years.

Daily aircraft delays were 19% higher in 1996 than in 1995. Mitre estimates that a 60% increase in airport capacity will be needed by 3015 just to prevent delays from increasing above current levels.

FAA's air traffic control facilities and equipment are also very old and badly in need of upgrades. The towers, TRACONs and centers that house air traffic controllers have building design lives of 20 years. Yet the average age of the towers and TRACONs is already 20 years and the Centers are on average 40 years old.

The FAA is still using computers that are so old that they are no longer used anywhere else in the world and replacement parts are no longer manufactured. When the old equipment breaks down, flights must be delayed to prevent endangering passengers.

The FAA is trying to expand airport capacity and modernize the air traffic control system. But this will take money, in many cases, a great deal of money. That money is in the Aviation Trust Fund and could be used if it were not for the current budget caps that are unrelated to the Trust Fund revenue.

Therefore, today, on a bipartisan basis, I am introducing legislation that will take the Aviation Trust Fund off budget. This will ensure that aviation tax revenue can be spent on aviation needs without regard to any arbitrary budget caps. To the extent the needs are demonstrated and the money is in the fund, it could be spent under this legislation.

I recognize that this will be controversial and we are prepared to work with the aviation community and others to perfect it.

As we do so, one of the things that will be absolutely vital to the final legislative package will be the assurance that the general fund payment will continue. I am not undertaking this effort merely to convert general fund obligations to trust fund spending. The general fund now pays a certain portion of the FAA's budget in lieu of taxes to compensate the FAA for government and military aircraft use of the system. In addition, the general fund payment is justified by the benefit aviation provides to the general economic well being of this country.

In TEA–21, the general fund payment for transit is within the "Firewalls" and is therefore guaranteed. I am committed to the same sort of treatment of the general fund in aviation.

I am also committed to ensure that the aviation needs are met using existing Trust Fund taxes and fees. I cannot conceive of a circumstance where I would support an increase in federal taxes. The current tax structure, coupled with the general fund contribution, provides enough money to meet aviation needs. If it is fully utilized, there will be no need for any new federal taxes.

The only possible exception involves the passenger facility charge (PFC). There, I am prepared to consider an increase if we unlock the Trust Fund and it does not provide enough for airport improvements. It is my hope that the airlines and airports would work together on this to ensure that airports needs are met while airline interests are respected.

The legislation also provides a unique opportunity to consider fundamental structural reform at the FAA. It is not enough for the FAA to spend more money. We also want them to spend it wisely. I look forward to working with the aviation community, the Administration, and others on this.

Finally, I want to thank Congressman OBERSTAR for his support for this effort. He has been a proponent of aviation infrastructure spending and water infrastructure for a long time. Under this Chairmanship, the Airport Improvement Program achieved one of its highest funding levels ever. I look forward to working with him, Subcommittee Chairman DUNCAN, and ranking member LIPINSKI as we carry this legislation to a successful conclusion. I also look forward to working with Chairman BOEHLERT and ranking member BORSKI of the Water Resources and Environment Subcommittee as they consider water resources development and infrastructure financing proposals.

A TRIBUTE TO SHIVA K. PANT

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. DAVIS of Virginia. Mr. Speaker, I rise today to pay tribute to Mr. Shiva K. Pant for his more than two decades of service to Fairfax County, Virginia commuters. Mr. Pant has faithfully served in the Fairfax County Government for the past twenty-five years and will be retiring in January of 1999. Even though the citizens of Fairfax County will be losing Mr. Pant's services with the Department of Transportation, he will still be working to clear our congested roads as the Government Relations Officer for Virginia with the Washington Metropolitan Area Transit Authority (WMATA).

The Washington Metropolitan Area has excessive traffic needs to say the least, and Shiva Pant has been preparing to tackle them since he began his education. While still in India, Shiva Pant earned a Bachelor of Technology in Civil Engineering from the Indian Institute of Technology in Kanpur, India in 1968. After relocating to the United States he immediately began work, and ultimately completed in 1969, a Master of Science in Civil Engineering (MSCE) with specialization in Transportation, at West Virginia University.

After mastering the academic theories of transportation and traffic control, Shiva Pant began his career with the State of Virginia as a Transportation Planner for the Virginia Department of Highways, the precursor to VDOT, starting in 1970. During his tenure in Richmond Mr. Pant established himself as a leader in the field of transportation through his service as project manager for the first Congressionally mandated statewide transit needs study.

In 1974, Shiva Pant relocated to Fairfax County to become Transportation Planning

Branch Chief for the Fairfax County Office of Comprehensive Planning. After recognizing the enormous scope of Fairfax County's future transportation needs, Mr. Pant lead the successful drive to establish an autonomous office of transportation for Fairfax County. Three years after transferring to Fairfax County, Shiva Pant, in 1977, became the first Director of the Fairfax County, Office of Transportation. A post he has faithfully held to this day.

As Director of the Office of Transportation, which now employs 60 staff full-time, Mr. Pant is head of the agency responsible for conducting and coordinating all aspects of highway and transit planning, implementation, operations and financing for all projects. Over the preceding two decades Mr. Pant was personally responsible for a number of key projects including the 35-mile Fairfax County Parkway, the Route 28 Transportation Tax District, he also designed a number of bond initiatives and lead the start-up of the County's own bus system which now operates over 120 buses.

Through out his career Shiva K. Pant has been an innovator and leader in the field of transportation for the State of Virginia and the County of Fairfax. After 28 years of service to the State and County, we will truly miss Mr. Pant's council and leadership. As much as we hate to lose his years of experience and personal expertise, I know he will be enormous value to both Virginia and WMATA in his new capacity as Government Relations Officer for Virginia.

REPEAL THE NATIONAL VOTER REGISTRATION ACT

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. STUMP. Mr. Speaker, I am today reintroducing my legislation to repeal the National Voter Registration Act of 1993, the "motor-voter" bill.

The law, which took effect in most states on January 1, 1995, requires states to establish voter registration procedures for federal elections so that citizens may register to vote by mail, at state and local public assistance agencies and while applying for a driver's license. Motor voter provides no funding to the states to carry out any of these prescribed features.

The motor voter law was crafted to increase voter turnout by making the ballot more accessible. In one sense, it has achieved its goal. Motor voter has extended voting rights to noncitizens, dead people, children and even animals. On a more serious note, motor voter has fallen woefully short of its intended goal. While it is responsible for adding massive numbers of new voters to the rolls, voter turnout remains at dismally low levels. In 1996, voter participation dropped to 49.7%, one of the lowest rates in this century.

Motor voter has been a nightmare for many state election officials. Some have stated that motor voter has caused them to lose control over potential voter fraud. It ties their hands in removing "dead wood" from their rolls by requiring them to keep registrants who fail to vote or who are unresponsive to voter registration correspondence to be maintained on voter rolls for years. Moreover, it fails to provide for citizenship verification. As troubling, the law has actually hindered citizens' voting rights. In the last election, in my home State of Arizona, voters who registered to vote while applying for a driver's license were turned away at the polls. Apparently, their applications were not properly forwarded to the election recorder. Mr. Speaker, this presents an interesting and poignant question: Why would we entrust our privileged right to vote to the wrong people?

Mr. Speaker, there is absolutely no need for this unyielding federal presence in voter registration. The states carry the responsibility for administering all elections and should be free to do so without unnecessary and heavy-handed federal intervention. Last Congress, we were unsuccessful in mitigating some of the more egregious provision of motor voter. Although I found this disappointing, I was encouraged by the heightened interest in reversing the law.

Mr. Speaker, the fraud perpetuated by motor voter will undoubtedly contribute to increasing voter apathy. I urge my colleagues to continue their fight to preserve the integrity of the vote by repealing motor voter. Voters must have assurances that a fraudulent ballot will not negate their precious vote. Please join me in repealing this ill-conceived federal mandate, which is a threat to our democracy.

THE NOTCH BABY HEALTH CARE RELIEF ACT INTRODUCTORY REMARKS

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mrs. EMERSON. Mr. Speaker, today I am again introducing legislation to assist the over 6 million senior citizens who have been negatively impacted by the Social Security Amendments of 1977. Seniors born between the years 1917 and 1921—the "Notch Babies"—have received lower Social Security monthly payments than those seniors born shortly before or after this five year period. My legislation, the Notch Baby Health Care Relief Act, will offset the reduction in Social Security benefits by providing a tax credit for Medicare Part B premiums.

The approach taken in this bill is different that taken in my Notch Baby Act of 1999 or in any other Notch bill that has been introduced in the previous Congress. This legislation is particularly noteworthy because it was suggested to me least year by one of my own constituents—adjust Medicare insurance payments for Notch Babies. Specifically, my new bill provides a refundable tax credit for monthly Medicare Part B premiums for senior citizens born between the years 1917 and 1921, their spouses and their widows or widowers. The bill also eliminates the Medicare Part B premium late enrollment penalty for these individuals.

As health care expenses can take up a large proportion of a senior's retirement income, this tax credit can go a long way to both correct the inequity caused by the Notch and to help seniors meet their health care needs. I urge my colleagues to review the Notch Baby Health Care Relief Act, to discuss this legislation with the seniors in their districts, and to join me in cosponsoring this important legislation.

AMERICA'S BLESSINGS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. BEREUTER. Mr. Speaker, this Member would like to commend to his colleagues this November 26, 1998, Omaha World Herald editorial. This extension would have been submitted earlier but the House was not in session. Of course, the sentiments expressed in the editorial are certainly worth sharing at the beginning of the new year and the new Congress.

[From the Omaha World-Herald, November 11, 1998]

AMERICA'S BLESSINGS EXTEND BEYOND THE NATION'S SHORES

As Americans count their blessings on Thanksgiving Day, it would be appropriate if they looked at the freedoms and opportunities that have been handed down from the Founding Fathers. It would be fitting if they gave thanks for family, health and prosperity.

However, they might also look beyond the borders of the United States as they identify things for which to be thankful. In this ever-shrinking world, global developments have a sustained influence on life in America.

The world has enough food. Indeed, surpluses are a bigger problem than hunger in some places. Certainly international relief efforts still must compensate for an inadequate market system that fails to get food to some hungry people. But the hunger that exists is not because the world's farmers have failed to produce enough.

Man is using less water. For many years, the prospect of regional water shortages, harming agriculture and industry, led to concerns about possible water wars in the next century, as water-short nations attempted to take possession of a neighbor's water supply. Now, with improved irrigation techniques and widespread conservation methods, many countries are demonstrating that existing water supplies can be stretched much further.

Negotiated agreements have produced a shaky peace between the factions in Northern Ireland and between the Israelis and Palestinians on the West Bank, raising hopes for a permanent decline in hostilities. A cease-fire has held up in Bosnia. Diplomacy has kept tensions in check on the Korean Peninsula. India and Pakistan have backed away from a violent confrontation over nuclear weapons.

Researchers are learning more about AIDS, although the epidemic still rages out of control in much of the world. The fact that HIV-positive men and women are being kept alive longer raises hopes of additional progress toward a treatment or immunization that would be both effective and affordable.

Because of declining birth rates in a number of countries, demographers are backing away from some of their more depressing population projections, including the projection of a population doubled to 12 billion by the middle of the next century. Overpopulation is at the root of many other problems, including deprivation, environmental degradation, illegal immigration and disease.

Even with the more optimistic projections of recent years, the world could still have too many people, perhaps more than it could feed.

But a lowered birth rate is the best hope for dealing with overpopulation. A prolonged slowdown in the rate of growth, leading to a stabilized world population at a sustainable level. Would be some of the best news that Americans could hope for as they consider the prospects of their children and grandchildren in the decades ahead.

FREEDOM AND PRIVACY RESTORATION ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. PAUL. Mr. Speaker, I rise to introduce the Freedom and Privacy Restoration Act of 1999. This act forbids the federal government from establishing any national ID cards or establishing any identifiers for the purpose of investigating, monitoring, overseeing, or regulating private transactions between American citizens. This legislation also explicitly repeals those sections of the 1996 Immigration Act that established federal standards for state drivers' licenses and those sections of the Health Insurance Portability and Accountability Act of 1996 that require the Department of Health and Human Services to establish a uniform standard health identifier.

The Freedom and Privacy Restoration Act halts the greatest threat to liberty today: the growth of the surveillance state. Unless Congress stops authorizing the federal bureaucracy to stamp and number the American people federal officials will soon have the power to arbitrarily prevent citizens from opening a bank account, getting a job, traveling, or even seeking medical treatment unless their "papers are in order!"

In addition to forbidding the federal government from creating national identifiers, this legislation forbids the federal government from blackmailing states into adopting uniform standard identifiers by withholding federal funds. One of the most onerous practices of Congress is the use of federal funds illegitimately taken from the American people to bribe states into obeying federal dictates.

Perhaps the most important part of the Freedom and Privacy Restoration Act is the section prohibiting the use of the Social Security number as an identifier. Although it has not received as much attention as some of the other abuses this legislation addresses, the abuse of the Social Security number may pose an even more immediate threat to American liberty. For all intents and purposes, the Social Security number is already a national identification number. Today, in the majority of states, no American can get a job, open a bank account, get a drivers' license, or even receive a birth certificate for one's child without presenting their Social Security number. So widespread has the use of the Social Security number become that a member of my staff had to produce a Social Security number in order to get a fishing license! Even members of Congress must produce a Social Security number in order to vote on legislation.

One of the most disturbing abuses of the Social Security number is the congressionally-authorized rule forcing parents to get a Social Security number for their newborn children in order to claim them as dependents. Forcing parents to register their children with the state is more like something out of the nightmares of George Orwell than the dreams of a free republic which inspired this nation's founders.

Since the creation of the Social Security number in 1935, there have been almost 40 congressionally-authorized uses of the Social Security number as an identification number for non-Social Security programs! Many of these uses, such as the requirement that employers report the Social Security number of new employees to the "new hires data base," have been enacted in the past few years. In fact, just last year, 210 members of Congress voted to allow states to force citizens to produce a Social Security number before they could exercise their right to vote.

Mr. Speaker, the section of this bill prohibiting the federal government from using identifiers to monitor private transactions is necessary to stop schemes such as the attempt to assign every American a "unique health identifier" for every American—an identifier which could be used to create a national data-base containing the medical history of all Americans. As an OB/GYN with more than 30 years in private practice, I know well the importance of preserving the sanctity of the physician-patient relationship. Oftentimes, effective treatment depends on a patient's ability to place absolute trust in his or her doctor. What will happen to that trust when patients know that any and all information given to their doctor will be placed in a government accessible data base?

A more recent assault on privacy is a regulation proposed jointly by the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Federal Reserve, known as "Know Your Customer." If this regulation takes effect in April 2000, financial institutions will be required not only to identify their customers but also their source of funds for all transactions, establish a "profile" and determine if the transaction is "normal and expected." If a transaction does not fit the profile, banks would have to report the transaction to government regulators as "suspicious." The unfunded mandate on financial institutions will be passed on to customers who would have to pay higher ATM and other fees and higher interest rates on loans for the privilege of being spied on by government-inspired tellers.

Many of my colleagues will claim that the federal government needs these powers to protect against fraud or some other criminal activities. However, monitoring the transactions of every American in order to catch those few who are involved in some sort of illegal activity turns one of the great bulwarks of our liberty, the presumption of innocence, on its head. The federal government has no right to treat all Americans as criminals by spying on their relationship with their doctors, employers, or bankers. In act, criminal law enforcement is reserved to the state and local governments by the Constitution's Tenth Amendment.

Other members of Congress will claim that the federal government needs the power to monitor Americans in order to allow the government to operate more efficiently. I would remind my colleagues that in a constitutional republic the people are never asked to sacrifice their liberties to make the job of government officials a little bit easier. We are here to protect the freedom of the American people, not to make privacy invasion more efficient.

Mr. Speaker, while I do not question the sincerity of those members who suggest that Congress can ensure citizens' rights are protected through legislation restricting access to personal information, the fact is the only solution is to forbid the federal government from using national identifiers. Legislative "privacy protections" are inadequate to protect the liberty of Americans for several reasons. First, federal laws have not stopped unscrupulous government officials from accessing personal information. Did laws stop the permanent violation of privacy by the IRS, or the FBI abuses by the Clinton and Nixon administrations?

Secondly, the federal government has been creating property interests in private information for certain state-favored third parties. For example, a little-noticed provision in the Patient Protection Act established a property right for insurance companies to access personal health care information. Congress also authorized private individuals to receive personal information from government data bases in last year's copyright bill. The Clinton Administration has even endorsed allowing law enforcement officials' access to health care information, in complete disregard of the fifth amendment. Obviously, "private protection" laws have proven greatly inadequate to protect personal information when the government is the one providing or seeking the information!

The primary reason why any action short of the repeal of laws authorizing privacy violation is insufficient is because the federal government lacks constitutional authority to force citizens to adopt a universal identifier for health care, employment, or any other reason. Any federal action that oversteps constitutional limitations violates liberty because it ratifies the principle that the federal government, not the Constitution, is the ultimate judge of its own jurisdiction over the people. The only effective protection of the rights of citizens is for Congress to follow Thomas Jefferson's advice and "bind (the federal government) down with the chains of the Constitution."

Mr. Speaker, those members who are unpersuaded by the moral and constitutional reasons for embracing the Freedom and Privacy Restoration Act should consider the overwhelming opposition of the American people toward national identifiers. My office has been inundated with calls from around the country protesting the movement toward a national ID card and encouraging my efforts to thwart this scheme. I have also received numerous complaints from Texans upset that they have to produce a Social Security number in order to receive a state drivers' license. Clearly, the American people want Congress to stop invading their privacy. Congress risks provoking a voter backlash if we fail to halt the growth of the surveillance state.

In conclusion, Mr. Speaker, I once again call on my colleagues to join me in putting an end to the federal government's unconstitutional use of national identifiers to monitor the actions of private citizens. National identifiers are incompatible with a limited, constitutional government. I therefore, hope my colleagues will join my efforts to protect the freedom of their constituents by supporting the Freedom and Privacy Restoration Act of 1999.

STEP FORWARD AGAIN TO PROTECT OLD GLORY: COSPONSOR THE FLAG PROTECTION AMENDMENT

HON. JOHN E. SWEENEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. SWEENEY. Mr. Speaker, on the opening day of the 106th Congress, I respectfully request that all of my colleagues contact Congressman DUKE CUNNINGHAM'S office to cosponsor the Flag Protection Amendment.

For more than 100 years, Americans have crafted laws to protect the American flag from physical desecration—until 1989, when on a 5–4 vote the Supreme Court denied them that right to protect the eternal symbol of freedom and democracy.

Across our country, our citizens have voiced loud and clear that Congress must enact the constitutional amendment that restores that right to protect the flag. 82% of Americans support it, 49 states have passed resolutions calling for it, 310 House Members responded in the 105th Congress to pass it, and 61 Senators cosponsored the Senate bill that came just a few votes shy of restoring the power to protect the flag that has been denied for the past nine years.

The 106th Congress must follow through and make the Flag Protection Amendment a reality.

PROTECT CALIFORNIA'S COASTLINE WITH A MORATORIUM ON OIL AND GAS DEVELOPMENT

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. CUNNINGHAM. Mr. Speaker, I rise today to introduce legislation to extend the moratorium on oil and gas development in the Outer Continental Shelf (OCS) off the coast of California. This legislation is similar to H.R. 133 from the 105th Congress.

Californians strongly favor continuing this moratorium. The State of California has enacted a permanent ban on all new offshore oil development in state coastal waters. In addition, former Governor Pete Wilson, Governor Gray Davis, and state and local community leaders up and down California's coast have endorsed the continuation of this moratorium.

I believe that the environmental sensitivities along the entire California coastline make the region an inappropriate place to drill for oil using current technology. A 1989 National Academy of Sciences (NAS) study confirmed that new exploration and drilling on existing leases and on undeveloped leases in the same area would be detrimental to the environment. Cultivation of oil and gas off the coast of California could have a negative impact on California's $27 billion a year tourism and fishing industries.

This legislation focuses on the entire state of California, and would prohibit the sale of new offshore leases in the Southern California, Central California, and Northern California planning areas through the year 2009. New exploration and drilling on existing active leases and on undeveloped leases in the same areas would be prohibited until the environmental concerns raised by the 1989 National Academy of Sciences study are addressed, resolved and approved by an independent scientific peer review. This measure ensures that there will be no drilling or exploration along the California coast unless the most knowledgeable scientists inform us that it is absolutely safe to do so.

I am proud to be working to protect the beaches, tourism, and the will of the people of California. I ask my colleagues to join me in co-sponsoring this legislation.

TRIBUTE TO JUDGE SCANLAN

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. GREEN of Texas. Mr. Speaker, I ask all of my colleagues in Congress to join me in paying tribute to an outstanding individual, Judge James "Jim" Scanlan. Judge Scanlan recently retired after serving Harris County residents for 21 years on the Probate Court No. 3 bench.

Judge Scanlan, a native of Dallas, landed in Houston after he got out of the Coast Guard in Galveston and could not afford to make it all the way back to Dallas. He worked as an elevator repairman while he earned a bachelor's degree and a law degree at the University of Houston. He decided to run for the Probate Court No. 3 while he was working for the Probate Court No. 2. Judge Scanlon won that first election and has not faced any opposition since.

While the majority of Jim's time was spent hearing cases on wills, guardianships, and estates, Judge Scanlon also spent two days a week for the last twenty one years hearing cases dealing with people with psychiatric problems. He recalled many humorous situations, such as the time there were two people scheduled on the docket—both claiming to be Jesus Christ. But his guiding principle and reason for his success is that he treats everyone gently and with respect.

There have been so many changes in the way society deals with mental illness since Judge Scanlon first started hearing cases. While he marvels at the improvements in medicine, he is most proud of the "miracle that happened" when Harris County replaced the old psychiatric hospital with the Harris County Psychiatric Hospital. That change signaled a real sense of responsibility that people with mental illness need and deserve quality medical care.

Judge Scanlon's decision to retire is definitely a blow to the Harris County community. His 21 years of dedicated service will leave a legacy for future judges. Those people who have found themselves before Judge Scanlon are very fortunate to have benefited from his dedication and understanding of the law.

Mr. Speaker, please join me in thanking Judge Scanlon for his service to Harris County. Those of us who know Judge Scanlon are truly grateful for his leadership and wish him well in all his future endeavors.

INTRODUCTION OF BILL TO EXTEND THE AVIATION WAR RISK INSURANCE PROGRAM

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. SHUSTER. Mr. Speaker, the War Risk Insurance Program has operated successfully for over 45 years. Last year, the program was extended to March 31, 1999. This bill would reauthorize the program for another four and a half years.

Airline insurance is essential to any airline operation. However, commercial insurance companies will often not insure flights to high risk areas, such as countries at war or on the verge of war.

In many cases, flights into these dangerous situations are required to further the United States' foreign policy or national security policy. For example, in Operation Desert Shield and Desert Storm, commercial airlines were needed to ferry troops and equipment to the Middle East. Commercial airlines would not have flown these flights without the insurance provided through the War Risk Program.

I intend to act promptly on this bill so as to guarantee that the War Risk Insurance Program does not expire.

INTRODUCTION OF DECLARATION OF OFFICIAL LANGUAGE ACT

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. STUMP. Mr. Speaker, today I am reintroducing my Declaration of Official Language Act, a bill I introduced in the last Congress. This legislation establishes English as the official language of government, requires that naturalization ceremonies be conducted solely in English, repeals the federal bilingual education requirements and repeals bilingual voting requirements.

My own State of Arizona is a crossroads for people of all sorts of backgrounds. I am reminded every day that America, like Arizona, has been enriched by the contributions of people from all over the world. This unified nation of immigrants has been made possible because we have a common national tongue—the English language. We only need to look to the nation to our north, Canada, to realize that a common language is not to be taken for granted.

Yet, Mr. Speaker, I would argue that we have not only taken this great gift for granted, but that our government has actively worked to undermine it. Voting ballots, welfare applications and all types of official government documents are now issued in languages other than English.

Recently, USA Today reported that eight immigrants have filed suit in Miami against English requirement for U.S. citizenship. A federal judge may now be able to strike down our long-standing requirement that prospective new citizens must demonstrate a minimum command of the English language. Elderly immigrants are already exempt from this fairly basic standard. This suit was brought because U.S. citizenship is required for full access to certain federal benefits. The attorney who filed the complaint will no doubt argue that since so many government services are already provided in languages other than English, an English requirement for citizenship is unnecessary.

I am not surprised that this case has been filed, only that it was not filed many years earlier. U.S. citizenship was something that immigrants took justifiable pride in earning. They carried their English workbooks with them everywhere. The Clinton Administration's 1995–96 Citizenship USA program effectively waived English requirements in an attempt to naturalize many more voters for the presidential ticket.

Today's immigrants have merely adapted the same disparaging stance toward English that many in our government adopted in the 1960's and 1970's. It is now a serious question whether the children of immigrants should be taught English in America's public schools. California voters were forced to pass an initiative last year in an attempt to force taxpayer-funded public schools to teach immigrant children English.

My Declaration of Official Language Act will restore the place of English in our nation's government and public school system. The legislation I am proposing is not only the right thing to do, it is also the popular thing to do. Opinion poll after opinion poll consistently finds that Americans want English to be America's official language. In fact, most Americans mistakenly believe that official English is already part of the national statutes and are surprised to learn that it is not.

The choice this nation confronts is crystal clear. We can reaffirm our national language or we can continue down the road upon which Canada has preceded us. We can be a one-language country or a Balkanized ruin. I urge my colleagues to support the Declaration of Official Language Act and invite their cosponsorship.

TRIBUTE TO THE HERNDON, VA CHAMBER OF COMMERCE

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. DAVIS of Virginia. Mr. Speaker, I rise today to pay tribute to an organization that has helped fuel the economy of Northern Virginia for the past 40 years. On January 20, 1999 the Herndon Chamber of Commerce will celebrate its 40th anniversary serving the needs and interests of the businesses of Herndon, VA. The Herndon Chamber of Commerce was founded by Town Attorney Marshall A. Martin, and was officially incorporated on January 20, 1959 with three members. As they approach their 40th anniversary, the Chamber will have been presided over by twenty-four presidents and its membership has grown to over 650 businesses.

Being the instrument of Herndon's commercial interests the Chamber is irrevocably linked to the Town and people they serve. In its early years, the Herndon Chamber was essential in raising money for the first Christmas decorations for downtown and led the fight to keep the W&OD Railroad in operation. Since its humble beginnings the Chamber has been quintessential in spearheading the combined fund-raising efforts for the new golf course and Community Center, helped found the Herndon Historical Society, and led the effort to preserve the Depot, a treasured Herndon landmark.

Over the last decade the Chamber has taken even greater steps to strengthen its relationship with the Herndon community. Most notably, the Chamber has formed a business partnership with Herndon High, developed a nationally recognized, award-winning recycling program at the High School with SAGA, and stages an annual Ethics Seminar for the junior class and the Herndon Middle School. The Chamber has recently lent its support to Vecinos Unidos—a group dedicated to tutoring Hispanic children in and around Herndon. They also host a Friday Night Live! Series that provides the community with an opportunity to come together and socialize during the summer, while highlighting the downtown area.

The Chamber's résumé of economic development initiatives is extensive. They include a joint project with the Town of Herndon to produce both print and CD versions of The Herndon Advantage as a business relocation marketing tool. In recognition of the telecommunications revolution being led by Northern Virginia, the Herndon Chamber recently participated in the World Congress on Information Technology as an affiliate sponsor. The Chamber was one of the very first in the country to establish and maintain a comprehensive and interactive home page and the second Chamber of Commerce in the State of Virginia to offer a free home page to its members.

From a legislative perspective, the Herndon Chamber has taken an aggressive leadership role to find and present transportation solutions to both the Virginia General Assembly and the U.S. Congress. It has also been supportive of BPOL and zoning ordinance amendments for the growing force of home-based businesses.

Ultimately, and most importantly, the Herndon Chamber of Commerce provides its members with a wide variety of networking opportunities all designed to promote and further the commercial interests of the Town of Herndon. For their four-decades long commitment to the businesses and community of Herndon, VA, it gives me great pleasure to acknowledge the work of the Herndon Chamber of Commerce on the eve of their 40th anniversary.

INTRODUCTION OF THE SWEEPSTAKES PROTECTION ACT

HON. JAMES E. ROGAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. ROGAN. Mr. Speaker, I rise in support of the Sweepstakes Protection Act, legislation I introduced today aimed at encouraging accuracy in advertising mail pieces.

Many of my constituents, especially seniors, regularly receive offers for products in the mail that include tantalizing promises of money and other grand prizes. I have in my office literally dozens of such offers received by just one resident of the 27th District. Some of these offers are legitimate, but too many are not.

The envelopes entice recipients with such promises as: "designated entry for cash settlement," "immediate response required, $3,450,000.00 cash payment pending;" and "you have won." While these promises are shouted in big, bold letters, the real details are hidden in fine print on the bottom of the last page. Expecting to win a prize, trusting consumers respond to offers of products that they do not need by sending money they cannot afford.

The Sweepstakes Protection Act will compel businesses that rely on such offers to identify their advertisements as a game of chance or sweepstakes on the mailing envelope. It will also require mailers to put a clear, legible disclaimer prominently on the first page of their literature.

By implementing these consumer protections, the Postmaster General will have authority to go after those who previously tried to portray marketing schemes as prize offerings.

Mr. Speaker, as we work on issues vital to all Americans, it is crucial that this House pursue policies that protect our senior citizens. Too many of our seniors have been exploited by fraudulent promises of prosperity that have depleted their savings.

With the Sweepstakes Protection Act, we take a step toward limiting the ability of opportunists to misrepresent their products and prey on the unsuspecting. For the sake of our seniors, I urge the House to support the Sweepstakes Protection Act.

DEFEND THE RIGHT TO LIFE

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mrs. EMERSON. Mr. Speaker, I rise today to introduce a constitutional amendment for the protection of the right to life. Tragically, this most basic human right has been disregarded, set aside, abused, spurned, and sometimes altogether forgotten. Even more tragically, the United States Government has been a willing partner in this affair, and the sad consequence is the sacrifice of something far more important than just principle.

One of the things that sets America apart from the rest of world is the fact that in this country, everyone is equal before the law. Regardless of race, religion, or background, each person has fundamental rights that are guaranteed by the law. However, we too often overlook the rights of perhaps the most vulnerable among us—the unborn. When abortion is legal and available on demand, then where are the rights of the unborn? When abortion is sanctioned and sometimes paid for by the government, then how do we measure the degree to which life has been cheapened? When an innocent life is taken before its time, then how can one say that this is justice in America?

My amendment would establish beyond a doubt the fundamental right to life. Congress has an obligation to do what it has failed to do for so long, fully protect the unborn. I urge this body to move forward with this legislation to put an end to a most terrible injustice.

INTRODUCTION OF THE NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to introduce today the Neotropical Migratory Bird Conservation Act.

This important conservation measure is modeled after the highly successful programs that Congress created to assist African and Asian elephants, rhinoceroses, and tigers.

Based on the success of the African Elephant Conservation Act, I am confident that this small investment of Federal funds will provide the lifeline that neotropical migratory birds need to survive in the wild.

Neotropical birds, like bluebirds, robins, orioles, and goldfinches, travel across international borders and depend upon thousands of miles of suitable habitat. In fact, according to the U.S. Fish and Wildlife Service, neotropical migratory birds typically spend five months of the year at Caribbean/Latin American wintering sites, four months in North American breeding areas, and three months traveling to these sites during spring and autumn migrations.

Sadly, there are 90 North American bird species that are listed as either threatened or endangered under the Endangered Species Act and an additional 124 birds that the U.S. Fish and Wildlife Service has identified on its list of Migratory Nongame Birds of Management Concern.

In North America, an estimated 70 percent of prairie birds are declining. The Government of Mexico lists approximately 390 birds species as endangered, threatened, vulnerable, or rare. What is lacking, however, is a strategic plan for bird conservation, money for on-the-ground projects, public awareness, and any real coordination among the various nations where neotropical migratory birds reside.

While the full extent of the problems facing neotropical migratory birds is unclear, there is no debate over the fact that both bird populations and critical habitat declined significantly in the 1990's. We must act now before more of these species become endangered or extinct. This bill will contribute to the recovery and conservation of migratory birds, without violating private property rights.

There are 60 million adult Americans who enjoy watching and feeding birds at their homes. In fact, these activities generate some $20 billion in economic activity each year. In addition, healthy bird populations are an invaluable asset for farmers and timber interests. By consuming detrimental insects, these birds prevent the loss of millions of dollars each year.

Under the terms of this legislation, an individual or an organization would be able to submit a project proposal to the Secretary of the Interior. While the bill does not limit the type of projects, I would expect that efforts to determine the condition of neotropical migratory bird habitat, implement new or improved conservation plans, undertake population studies, educate the public, and reduce the destruction of essential habitat would be forthcoming. Since these birds migrate between the Caribbean, Latin America, and North America, comprehensive plans must be developed. It does little good if we are successful in conserving suitable habitat in only a portion of their range.

During the previous Congress, I introduced a similar bill to assist neotropical migratory birds. In fact, that bill was the subject of a public hearing on September 17, 1998. At that time, the Administration testified that "H.R. 4517 goes a long way in promoting the effective conservation and management of neotropical migratory birds by supporting conservation programs and providing financial resources. We applaud this important and timely initiative." In addition, representatives from the National Fish and Wildlife Foundation and the National Audubon Society testified in strong support of my legislation.

I am confident that a Neotropical Migratory Bird Conservation Fund would provide much-needed support for projects designed to conserve critical habitat for declining migratory bird species in an innovative and cost-effective way.

I urge my colleagues to support the Neotropical Migratory Bird Conservation Act.

COUNTRY OF ORIGIN MEAT LABELING ACT

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. POMEROY. Mr. Speaker, I rise today to announce my original cosponsorship of the Country of Origin Meat Labeling Act of 1999. I am looking forward to working in a bipartisan manner with my colleague, Representative CHENOWETH of Idaho, on this important legislation for America's ranchers, farmers, and consumers.

The Country of Origin Meat Labeling Act of 1999 is designed to provide American consumers with the right to know where the meat products they are feeding their families are produced. As we all know, American consumers can easily determine which country their automobiles are from and which country their shoes, shirts, and trousers are from, but they have no idea where the meat and meat products they feed their families originate.

Throughout my service in the House of Representatives, I have been a strong supporter of country of origin labeling—especially for meat and meat products—because of its common-sense nature, its benefits to ranchers and consumers, and its cost-free benefit to taxpayers. During the 105th Congress, I joined Representative CHENOWETH as an original cosponsor of H.R. 1371, the Country of Origin Meat Labeling Act of 1997. I was pleased that the Senate adopted an amendment identical to H.R. 1371 by unanimous consent during consideration of the FY 1999 Agriculture Appropriations bill.

Unfortunately, the special interests prevailed during the Agriculture Appropriations Conference Committee and the meat labeling provision was dropped from the report. Instead, Congress directed the United States Department of Agriculture (USDA) to conduct another study to determine the empirical impacts of country of origin labeling for consumers, packers, and producers. Basically, the study provides the packing industry with yet more time to delay this important, consumer-friendly legislation.

Mr. Speaker, America's livestock industry is in dire straits. Livestock prices are near record lows while at the same time packers' profits are at near record highs. America's ranchers and farmers have invested heavily in genetic research and nutrients to produce the most cost-effective and nutritious products in the world. But, unfortunately, without country of origin labeling, consumers have no idea where the meat products they purchase originate, leaving American cattlemen's efforts for naught.

I look forward to working with my colleagues from both sides of the aisle, the National Farmers Union, the National Cattlemens Beef Association, the American Farm Bureau Federation, the American Sheep Industry Association, and the National Consumers League in the passage of this important legislation.

HEALTH INSURANCE TAX DEDUCTIBILITY ACT

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. GREEN of Texas. Mr. Speaker, today I am reintroducing the Health Insurance Tax Deductibility Act of 1998. This bill is the same simple, common sense solution to a very complex and destructive problem in our society.

Since I came to Congress in 1992, we have debated health care reform and considered a wide range of proposals—all designed to insure a greater number of Americans. When President Clinton signed the Health Insurance Portability and Accountability Act (HIPAA) into law in 1996, everyone said Congress had taken the first step towards ensuring access to health insurance to more individuals and families.

Unfortunately, a study completed last year by the General Accounting Office shows us this goal has not been achieved. Although HIPAA did expand access to health insurance, it did nothing to ensure that Americans can afford health insurance. And as the GAO study recognized, affordability has become the major hurdle for the American family to clear.

In the past, Congress has passed initiatives to encourage and assist people to get health insurance. We allow employers who sponsor health insurance for their employees to deduct the employer's share of the premium as a business expense. We allow self employed people to deduct a percentage of the health insurance premium they purchase. Yet we provide no assistance or incentive for individuals whose employers do not provide health insurance.

The Health Insurance Tax Deductibility Act of 1999 will do just this. Under this legislation, individuals will be able to deduct a portion—linked to the deduction for the self insured—of the money they pay for health and long-term care insurance. This proposal will make health insurance more affordable for individuals and their families, which in turn, will give American families greater peace of mind.

TRIBUTE TO REVEREND DR. MARTIN LUTHER KING, JR.

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. GILMAN. Mr. Speaker, I take this opportunity to honor the legacy of the Reverend Dr. Martin Luther King, Jr., whose birthday we will be commemorating later this month. It is now over 30 years that his life was senselessly snuffed out by an assassin in Memphis, TN.

Following his death, I joined my colleagues in calling for the establishment of the third Monday in January to be a national holiday in honor of Rev. King. While this holiday is not ingrained in the American fabric of life, many of us are bittersweet regarding the message the holiday conveys. Too many Americans view Martin Luther King day as a holiday just for black people. Rev. King himself would be the first person to repudiate that attitude, for his message was for all people, of all races, creeds, colors and backgrounds. Today, in 1999, we should dedicate ourselves to remembering the universality of his message.

Dr. King contributed more to the causes of national freedom and equality than any other man or woman of our century. His achievements as an author and as a minister were surpassed only by his leadership, which transformed a torn people into a beacon of strength and solidarity, and united a divided nation under a common creed of brotherhood and mutual prosperity.

It was Dr. King's policy of nonviolent protest which served to open the eyes of our nation to the horrors of discrimination and police brutality. This policy revealed the Jim Crow laws of the South as hypocritical and unfair, and forced civil right issues into the national dialectic. It is due to the increased scope and salience of the national civil rights discussion that the movement achieved so much during its decade of our greatest accomplishment, from 1957 to 1968.

It was in 1955 that Dr. King made his first mark on the nation, when he organized the black community of Montgomery, AL, during a 382-day boycott of the city's bus lines. The boycott saw Dr. King and many other civil rights activists incarcerated prison as "agitators," but their efforts were rewarded in 1956, when the U.S. Supreme Court declared that the segregational practices of the Alabama bus system was unconstitutional, and demanded that blacks be allowed to ride with equal and indistinguishable rights. The result proved the theory of nonviolent protest in practice, and roused our nation to the possibilities to be found through peace and perseverance.

In 1963, Dr. King and his followers faced their most ferocious test, when they set a massive civil protest in motion in Birmingham, Al. The protest was met with brute force by the local police, and many innocent men and women were injured through the violent response. However, the strength of the police department worked against the forces of discrimination in the nation, as many Americans came to sympathize with the plight of the blacks through the sight of their irrational and inhumane treatment.

By August of 1963 the civil rights movement had achieved epic proportions, and it was in a triumphant and universal air that Dr. King gave his memorable "I Have a Dream" speech on the steps of the Lincoln Memorial. In the next year, Dr. King was distinguished as Time magazine's Man of the Year for 1963, and he would later be awarded the Nobel Peace Prize for 1964.

Throughout his remaining years, Dr. King continued to lead our nation toward increased peace and unity. He spoke out directly against the Vietnam War, and led our nation's War on Poverty, which he saw as directly involved with the Vietnam struggle. To Dr. King, the international situation was inextricably linked to the domestic, and thus it was only through increased peace and prosperity at home that tranquility would be ensured abroad.

When Dr. King was gunned down in 1968 he had already established himself as a national hero and pioneer. As the years passed his message continued to gather strength and direction, and it is only in the light of his multi-generational influence that the true effects of his ideas can be measured.

Dr. King was a man who lacked neither vision nor the means and courage to express it. His image of a strong and united nation overcoming the obstacles of poverty and inequality continues to provide us with an ideal picture of the "United" states which will fill the hearts of Americans with feelings of brotherhood and a common purpose of years to come.

Mr. Speaker, I urge my colleagues to bear in mind the courageous, dedicated deeds of Rev. Dr. Martin Luther King, Jr., and to join together on Monday, January 18, in solemn recollection of his significant contributions for enhancing human rights throughout our nation and throughout the world.

INTRODUCTION OF BILL TO REAUTHORIZE THE FEDERAL AVIATION ADMINISTRATION PROGRAMS

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. SHUSTER. Mr. Speaker, today, I am introducing a simple authorization extension bill for the Federal Aviation Administration's programs. With the passage of this bill, $10.3 billion for FAA would be authorized for 1999.

The Omnibus Appropriations bill passed at the end of last Congress extended FAA's Airport Improvement Program for 6 months. The bill I am introducing today would extend AIP until the end of the fiscal year and reauthorize two other FAA programs for 1999—Facilities and Equipment, and Operations.

The AIP program authorization expires on March 31, 1999. Since AIP is funded with Contract Authority, the expiration of Contract Authority means no further funding of the program. Without this extension, the nation's airports will stop receiving new airport grants. These grants fund projects such as runway extensions, taxiway constructions, and other airport capacity enhancing projects.

Aviation delays already cost the industry billions of dollars. According to the Air Transport Association, aviation delays in 1997 cost the air carriers $2.4 billion. If this bill is not passed by March 31, 1999, the airport capacity enhancing projects supported by the AIP program could be delayed, possibly increasing the cost of delays in the future.

The bill also reauthorizes the formula that determines the Aviation Trust Fund contribution to the FAA's Operations account. In addition, the bill makes minor adjustments to the Airport Improvement Program formulas.

The House Transportation and Infrastructure Committee has always worked in a bipartisan fashion. I look forward to working with my, colleagues; Congressman JIM OBERSTAR, Congressman JOHN DUNCAN, Jr., and Congressman BILL LIPINSKI, on this bill and other important aviation issues we will face during the 106th Congress.

LIMIT CONGRESSIONAL TERMS

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. STUMP. Mr. Speaker, I rise today to again introduce a proposed amendment to the U.S. Constitution to limit the terms of Members of the House of Representatives. I do so on the first day of the 106th Congress to underscore my belief that this legislation is one of the most important reforms the new Congress can pursue.

My legislation would limit Members of the House to three four-year terms. I have long maintained that the current system of unlimited two-year terms frustrates our ability to advance legislation that is in the Nation's best interest. We have seen first-hand that reelection pressures can paralyze Members. All too often, Members succumb to special interests and cast their votes in favor of parochial causes, instead of what is best for the country. Under the system of nation-wide term limits that I am proposing, Members would have a new perspective on governing. They would have a sense of independence in knowing that they will be in Washington for a limited time and would no longer be beholden to special interest and contributors.

Mr. Speaker, I also believe that term limits must be enacted nationally to be truly effective. Some of my colleagues, who I admire and respect, have chosen to abide by self-imposed term limits. While their actions are clearly well-intentioned, I believe they are placing their states and districts at a disadvantage. Under a system of piecemeal term limits, unaffected states will build an inordinate amount of seniority and power.

Mr. Speaker, the courts have ruled that nothing short of a constitutional amendment can limit congressional terms. Last Congress, we failed to agree on term limit language to send to the 50 states for ratification. We should not repeat this mistake in the 106th Congress. I strongly urge all of my reform-minded colleagues to cosponsor my proposed amendment.

INTRODUCTION OF THE MILITARY RETIREE HEALTH CARE TASK FORCE ACT

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mrs. EMERSON. Mr. Speaker, I am here today to introduce the Military Retiree Health Care Task Force Act of 1999. This legislation will establish a Task Force that will look into all of the health care promises and representations made to members of the Uniformed Services by Department of Defense personnel and Department literature. The Task Force will submit a comprehensive report to Congress which will contain a detailed statement of its findings and conclusions. This report will include legislative remedies to correct the great injustices that have occurred to those men and women who served their country in good faith.

Let us not forget why we are blessed with freedom and democracy in this country. The sacrifices made by those who served in the military are something that must never be overlooked. Promises were made to those who served in the Uniformed Services. They were told that their health care would be taken care of for life if they served a minimum of twenty years of active federal service.

Well, those military retirees served their time and expected the government to hold up its end of the bargain. They are now realizing that these were nothing more than empty promises.

Those who served in the military did not let their country down in its time of need and we should not let military retirees down in theirs. It's time military retirees get what was promised to them and that's why I am introducing this legislation.

THE FILIPINO VETERANS SSI EXTENSION ACT, H.R. 26

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. GILMAN. Mr. Speaker, I rise today to introduce H.R. 26, the Filipino Veterans SSI Extension Act.

For the last several Congresses, I have introduced the Filipino Veterans Equity Act, a bill which would provide full veterans benefits to those veterans of the Commonwealth Army of the Philippines.

Although hearings were held on this bill last year, the prospect of legislative action on a comprehensive benefit package for Filipino veterans appears unlikely. Therefore, I am offering this measure in part to provide some relief for those Filipino veterans residing in the United States who currently receive supplemental security income benefits.

Under current law, individuals who receive SSI benefits must relinquish those benefits if they choose to leave the country. This bill would permit those who were members of the Filipino Commonwealth Army and recognized guerilla units during World War II to continue to receive SSI benefits if they elect to return to the Philippines.

These benefits would be reduced by 50 percent if the individual veteran returned to the Philippines, to reflect the lower cost of living and per capita income of that nation.

It is estimated that several thousand veterans would be affected, many of whom are financially unable to petition their families to immigrate to the United States. Should this bill be adopted, these veterans would be able to return to their families in the Philippines while bringing a decent income with them.

Accordingly, I urge my colleagues to join me in supporting this worthwhile measure.

H.R. 26

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROVISION OF REDUCED SSI BENEFIT TO CERTAIN INDIVIDUALS WHO PROVIDED SERVICE TO THE ARMED FORCES OF THE UNITED STATES IN THE PHILIPPINES DURING WORLD WAR II AFTER THEY MOVE BACK TO THE PHILIPPINES.

(a) IN GENERAL.—Notwithstanding sections 1611(b), 1611(f)(1), and 1614(a)(1)(B)(i) of the Social Security Act—

(1) the eligibility of a qualified individual for benefits under the supplemental security income program under title XVI of such Act shall not terminate by reason of a change in the place of residence of the individual to the Philippines; and

(2) the benefits payable to the individual under such program shall be reduced by 50 percent for so long as the place of residence of the individual is in the Philippines.

(b) QUALIFIED INDIVIDUAL DEFINED.—In subsection (a), the term "qualified individual" means an individual who—

(1) as of January 1, 1990, was eligible for benefits under the supplemental security income program under title XVI of the Social Security Act; and

(2) before August 15, 1945, served in the organized military forces of the Government of the Commonwealth of the Philippines while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent military authority in the Army of the United States.

HONORING MY FRIEND, BASEBALL LEGEND NOLAN RYAN, ON HIS ELECTION TO THE HALL OF FAME

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. PAUL. Mr. Speaker, I rise today to pay honor to my long-time friend, Nolan Ryan, on the announcement of his election to the Baseball Hall of Fame. I've known Nolan for many years, and I knew him as a kind, generous man who seeks to do what is right and just. It seems there are so few heroes for kids today, especially in athletics, but I can sincerely commend Nolan Ryan as a true hero of our times, a role-model for our youth, and a man worthy of honor and respect.

Nolan was born in Refugio, Texas, a historic town in my congressional district, but he was destined for the national stage. His successful career spanned 27 years, taking him from rural Texas to the dug-outs of the New York Mets, the California Angels, the Houston Astros and the Texas Rangers. He pitched a record seven no-hitter games, but his real fame comes from having pitched 5,714 strikeouts.

Nolan told newspaper reporters yesterday that he never viewed himself as a "hall of famer." For once, I have to disagree with my friend. He is Hall of Fame material not only for his prowess on the field, but for his strong character and unwavering dedication to his family, his friends, his beliefs, and his God.

I trust all my colleagues join me in congratulating Nolan Ryan.

GOOD ADVICE ON THE STATE OF THE UNION CEREMONIES

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. BEREUTER. Mr. Speaker, this Member strongly commends to the attention of his colleagues an editorial found in the January 5, 1999, edition of the Omaha World Herald entitled, "Discreet State of Union Would Do." The editorial appropriately points out that during recent years during a President's State of the Union address "supporters bounce up and down giving standing ovations in response to choreographed rhetorical flourishes. His opponents, also playing to the cameras, signify displeasure with stony silence. Or they disproportionately applaud such presidential lines as, "We must do better," when "better" refers to a policy that the opponents support."

Indeed, it should be obvious to Members of Congress and to much of the American public that the atmosphere now attending the delivery of a State of the Union address has become high political theater which does not serve the reputation of the Congress well; nor does it reassure the American public that the Congress or the President are seriously attempting to work together to address the problems and opportunities facing our nation. It has degenerated into the kind of exaggerated conduct that one would expect to find in an old-fashioned melodrama. It is time for a change, and the editorial makes some relevant points and suggestions about directions for such changes. This Member urges his colleagues and especially leaders of the Congress to work with the President and his successor to make appropriate modifications in the manner in which the State of the Union is presented to the Congress.

DISCREET STATE OF UNION WOULD DO

Some U.S. senators, including Democrats Robert Torricelli of New Jersey and Joseph Lieberman of Connecticut, say it would be inappropriate for President Clinton to appear before a joint session of Congress to report on the State of the Union while his impeachment trial is pending. It would not be a national tragedy if Clinton listened to them.

Nothing in the Constitution says a president must deliver a prime-time, televised speech from the House of Representatives every year. It says only that the president "shall from time to time give to the Congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient." George Washington and John Adams addressed joint sessions of Congress in person. Thomas Jefferson discontinued the practice. He said a personal appearance was too monarchical a ceremony for the leader of a democratic republic.

Written State of the Union addresses—often not much more than a collection of bureaucratic reports from the departments of the executive branch—were delivered to Congress until 1913, when Woodrow Wilson resurrected the tradition of a presidential speech. Wilson said he wanted to show "that the president of the United States is a person, not a mere department of the government hailing Congress from some isolated island of jealous power, sending messages, not speaking naturally with his own voice—that he is a human being trying to cooperate with other human beings in a common service."

It's hard to quibble with that proposition. But the development of television since Wilson's time has put the State of the Union address in a different light. The president is now one of the most visible persons in the world. And the event Wilson described as a chance for the president to speak naturally with his own voice about common service to the people has devolved into a glitzy production heavy on style and light on substance.

In the modern television age, the formula is the same regardless of which party holds the White House. As senators and representatives look on in the House chamber, the president's entrance is preceded by processions of Cabinet members and Supreme Court justices. Members of the president's party send up a raucous cheer when the chief executive enters the chamber. Even people who despise the president jostle to be captured on camera smiling, clapping and cheering for him.

Throughout the address, the president's supporters bounce up and down giving standing ovations in response to choreographed rhetorical flourishes. His opponents, also playing to the cameras, signify displeasure with stony silence. Or they disproportionately applaud such presidential lines as "We must do better," when "better" refers to a policy that the opponents support.

The president tosses rhetorical bouquets to people seated in the House gallery—his family, disabled veterans, civilian heroes.

The State of the Union address has become a long, shallow and predictable bit of political theater. A reversion to Jeffersonian discretion, considering the current circumstances, wouldn't be a bad thing.

COMMENTS ON 1ST SWEARING IN—THE 106TH CONGRESS

HON. JOHN E. SWEENEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. SWEENEY. Mr. Speaker, thank you, Mr. Speaker, and thank you, my newly confirmed colleagues of the 106th Congress. I am truly honored to be here today joining this distinguished group of Americans from across our great nation. Standing shoulder-to-shoulder in the U.S. Capitol today with these Members of the 106th Congress is an honor exceeded only by that of representing the wonderful people of the 22nd District of New York.

Mr. Speaker, I am truly humbled by the awesome responsibility and I am invigorated by the challenge before me—to carry on the tradition of my esteemed predecessor, Jerry Solomon, and to advance policies beneficial to the 600,000 people I now represent.

Today is a day dominated by idealistic visions and profound rhetoric. While I bring with me today the ideals of freedom and opportunity, I am riveted in the reality that these notions must be translated into concrete results in people's everyday life. Bringing tax relief to hard working families, promoting economic development to create new job opportunities, taking significant steps to ensure a safe and drug-free environment in our schools—All these examples make a difference in the homes of the people of the Hudson Valley and Adirondack Mountains of New York and all will be my priorities as I take the oath of office today.

Mr. Speaker, I would like to thank my family, those that are here today and those that could not make the trip, for all their love and support as we begin this new endeavor. I would like to thank Congressman Solomon a truly great American, for his two decades of dedicated and tireless service to the citizens of the 22nd District of New York. And thank you to those same citizens that have entrusted me to advance their views here in the U.S. Capitol.

THE IMPORTANCE OF PRESCRIBED BURNS IN AREA NATIONAL FORESTS

HON. JAMES E. ROGAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. ROGAN. Mr. Speaker, recent figures from the Department of the Interior indicate that the cost of fighting severe wildfires has risen from $100 million per year just two decades ago, to well over $1 billion today. In addition, wildfires every year destroy hundreds of acres of forest lands, threatening lives, home and air quality.

In many remote regions of the country, forestry officials use small, controlled fires known as "prescribed burns" to remove excess underbrush that fuels severe wildfires. In so doing, they eliminate a major source of fuel of wildfires, while also promoting healthier forest growth.

In metropolitan areas like Los Angeles, however, officials are prevented from expanding this procedure due to air quality regulations that limit emissions from all sources—wildfires, burns, smog, and the like. Last year alone, these officials wanted to burn more than 20,000 acres to protect local residents from out-of-control wildfires. Bureaucratic regulations, however, permitted the burning of only 2,000 acres—well below safety expert's recommendations.

Working with Representatives DREIER, MCKEON and local forestry and air quality officials, I have introduced the Forest Protection Act. This measure will ease current restrictions for ten years to allow officials to conduct an expanded prescribed burn program. Over the time-year period, local officials will monitor forest health and air quality to ensure that both improve over time.

Local forestry officials are not the only experts to recognize the importance of this procedure. Both Interior Secretary Babbit and Environmental Protection Agency chief Carol Browner have publicly supported prescribed burns as a means to promote forest health and prevent severe wildfires.

The Forest Health and Wildfire Prevention Act will give forestry officials the ability to use this time-tested technique to protect area residents and air quality while supporting the delicate ecological balance in our forests.

NOTCH BABY ACT OF 1999

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mrs. EMERSON. Mr. Speaker, I rise today to introduce the Notch Baby Act of 1999 which would create a new alternative transition computation formula for Social Security benefits for those seniors born between 1917 and 1921. These seniors, who are generally referred to as "Notch Babies," have been receiving lower monthly Social Security benefits than seniors born in the years just prior to or after this five year period.

There are those who dispute the existence of a Notch problem. However, take into consideration the following example presented in a 1994 report by the Commission on Social Security Notch Issue. There are two workers who retired at the same age with the same average career earnings. One was born on December 31, 1916 and the other was born on January 2, 1917. Both retired in 1982 at the age of 65. The retiree born in 1917 receives $110 a month less in Social Security benefits than did the retiree born just two days before in 1996. Also take into consideration that there are currently more than 6 million seniors in our Nation who are faced with this painfully obvious inequity in the Social Security benefit computation formula.

By phasing in an improved benefit formula over five years, the Notch Baby Act of 1999 will restore fairness and equality in the Social Security benefit computation formula for the Notch Babies. For once and for all this legislation would put to rest the Notch issue, and it would put an end to the constant barrage of mailings and fundraising attempts which target our Nation's seniors in the name of Notch reform. Our seniors deserve fairness and equality in the Social Security system. They deserve an end to the repeated congressional stalling on this issue. I urge my colleagues in the House to discuss this issue with the seniors in their districts, and to join me in ensuring that the Notch issue is addressed in the 106th Congress.

INTRODUCING H.R. 218, THE COMMUNITY PROTECTION ACT

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. CUNNINGHAM. Mr. Speaker, today I am reintroducing my legislation to permit qualified current and former law enforcement officers to carry a concealed firearm in any jurisdiction. This measure is called the Community Protection Act, and I have requested that it be assigned the same bill number as in previous Congresses—H.R. 218.

The Community Protection Act provides three benefits to our police and to our country.

First, it effectively provides thousands more trained cops on the beat—at zero taxpayer cost.

Second, it enables current and former law enforcement officers to protect themselves and their families from criminals. When a criminal completes his or her sentence, that criminal can find where their arresting officer lives, where their corrections officer travels, and other information about our brave law enforcement personnel and their families.

And, third, it helps keep our communities safer from criminals.

This measure is very similar to the H.R. 218 reported by the Judiciary Committee in the 105th Congress, with one exception: this version for the 106th Congress does not address the matter of interstate reciprocity for holders of civilian concealed carry licenses. This measure affects police only.

In the interest of providing Members and the public additional background information on the Community Protection Act, I have attached below some excerpts from the Committee report accompanying H.R. 218 from the 105th Congress (H. Rept. 105–819), and my testimony before the House Judiciary Subcommittee on Crime, the details of which remain applicable to the legislation I introduce today:

THE COMMUNITY PROTECTION ACT SELECTED EXCERPTS FROM H. REPT. 105–819

PURPOSE AND SUMMARY

H.R. 218, the "Community Protection Act of 1998," establishes federal regulations and procedures which may allow active-duty and retired law enforcement officers * * * to travel interstate with a firearm * * *.

For law enforcement officers, H.R. 218 creates strict guidelines which must be met before any law enforcement officer, active-duty or retired, may carry a firearm into another state * * *.

H.R. 218 establishes a mechanism by which law enforcement officers * * * may travel interstate with a firearm. Qualified active-duty law enforcement officers will be permitted to travel interstate with a firearm, subject to certain limitations and provided that the officer is carrying his or her official badge and photographic identification.

Generally, an active-duty officer is a qualified officer under H.R. 218 if the officer is authorized to engage in or supervise any violation of law, is authorized to carry a firearm at all times, is not subject to any disciplinary action by the agency, and meets any agency standards with respect to qualification with a firearm. A qualified active-duty officer may not carry a concealed firearm on any privately owned lands, if the owner prohibits or restricts such possession. A qualified officer may also not carry a firearm on any state or local government property, installation, building, base, or park. However, in their official capacity, law enforcement officers are permitted to carry weapons whenever federal, state, or local law allows. This legislation is not intended to interfere with any law enforcement officer's right to carry a concealed firearm, on private or government property, while on duty or in the course of official business.

A qualified retired officer may carry a concealed firearm, subject to the same restrictions as active-duty officers, with a few additional requirements. A retired officer must have retired in good standing, have a nonforfeitable right to collect benefits under a retirement plan, and have been employed before retirement for an aggregate of five years or more, unless forced to retire due to a service-related injury. In addition, a qualified retired officer must complete a state-approved firearms training or qualification course at his or her own expense * * *.

As you know, I am the sponsor of one of these measures, the Community Protection Act (HR 218). The Community Protection Act permits qualified current and retired sworn law enforcement officers in good standing to carry a concealed weapon into any jurisdiction. In effect, it means three things: More cops on the street, more protection for the public, at zero taxpayer cost.

Too often, State laws prevent highly qualified officers from assisting in crime prevention and protecting themselves while not on duty. An officer who has spent his life fighting crime can be barred from helping a colleague or a citizen in distress because he cannot use his service revolver—a handgun that he is required to train with on a regular basis. That same officer, active or retired, isn't allowed to defend himself from the criminals that he put in jail.

I would like to give you an example of how the Community Protection Act would work, based upon an incident in my own home town of San Diego. Following is a story from the April 29, 1997, San Diego Union-Tribune:

OFFICER FINDS WORK ON HER DAY OFF

(By Joe Hughes)

HILLCREST.—For San Diego police Officer Sandra Oplinger, it was anything but an off day.

Oplinger ended up capturing a suspected bank robber at gunpoint on her day off yesterday.

She happened to be in the area of Home Savings Of America on Fifth Avenue near Washington Street about 12:30 p.m. when she saw a man running from the bank, a trail of red smoke coming from an exploded red dye packet that had been inserted into a wad of the loot.

With her gun drawn, she tracked down and caught the man. Citizens helped by gathering up loose bank cash.

The incident began when a man entered the bank and asked a teller if he could open an account. The teller gave him a blank form and he left. He returned 10 minutes later, approached the same teller and declared it was a robbery, showing a weapon and a demand note he had written on the same form the teller had given him.

He then grabbed some money and ran out the door. The dye pack exploded outside, leaving a trail of smoke that attracted Oplinger's attention and led to the suspect's arrest.

The names of the man and a possible accomplice in a nearby car were not immediately released. A gun was recovered.

Mr. Chairman, it is a good thing that Officer Oplinger was in San Diego. If she was in many other states or in Washington, D.C., she could have been charged with a crime. That's wrong. We can fix it—with the Community Protection Act.

My bill seeks to change that by empowering qualified law enforcement officers to be equipped to handle any situation that may arise, wherever they are. . . .

In the tradition of less government, this bill offers protection to police officers and to all of our communities without creating new programs or bureaucracies, and without spending more taxpayer dollars. It helps protect officers and their families from criminals, and allows officers to respond immediately to crime situations.

I encourage my colleagues to support this common-sense legislation, which is supported by several of America's leading law enforcement organizations and by cops on the beat.

INTRODUCTION OF VETERANS' ACCESS TO EMERGENCY CARE ACT OF 1999

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. EVANS. Mr. Speaker, today I am introducing legislation to assure that all veterans enrolled in VA health care will receive coverage for emergency care services delivered both in and outside of VA facilities.

Currently, most veterans lack access to reimbursement for such care unless the emergency occurs on VA grounds.

Many VA medical centers don't routinely offer emergency services and those that do lack an emergency room that is open twenty-four hours a day. Compounding the problem is the fact that most VA medical centers are further from their patients' places of residence than other community providers.

If a veteran receives emergency room care from a non-VA provider, he or she is denied reimbursement even if a trip to the nearest VA hospital would be life threatening.

Last year the President asked all federal agencies to identify where they were deficient in complying with the Patient Bill of Rights. The VA determined it needed legislation to reimburse veterans for emergency care it didn't provide. Wile being encouraged to view VA as their managed care provider, veterans could risks financial ruin if VA failed to comply with the same emergency care reimbursement standards applied to private-sector managed health care providers.

Even before veterans began enrolling last year for VA care, VA's responsibility for reimbursing veterans for the cost of emergency health care services was confusing. VA would provide emergency care to only those veterans who were either already at VA when the emergency occurred or to those veterans who were able to physically present themselves at a VA facility before receiving required emergency care from a non-VA provider.

VA's physical "tag up" requirement creates confusion for the majority of veterans who are not on grounds during an emergency. Too often in crisis situations, veterans lack the time to resolve who will pay for their care before seeking treatment.

This situation is likely to become even more confusing as VA begins to market itself as a managed care provider featuring enrollment, a basic benefits package and a new primary care focus—characteristics commonly associated with Health Maintenance Organizations (HMOs). Most HMOs reimburse enrollees for pre-authorized emergency care. The pending legislation would give VA the authority to reimburse emergency care delivered by any provider if veterans had no other coverage for such care.

Many veterans are literally "banking on" VA either furnishing or reimbursing their care for any condition in an emergency. Too many veterans and their families have been financially devastated because they assume VA will be there for them in a health crisis. I believe veterans should be able to count on VA in an emergency.

I am encouraged by the recent recommendation by a coalition of veterans service organizations, the Independent Budget group, to add funds to the FY 2000 VA Medical Care budget in order to provide emergency care to veterans. I encourage my colleagues to cosponser and support this important legislation.

HONORING RABBI IRWIN GOLDENBERG FOR HIS SERVICE TO THE COMMUNITY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. GOODLING. Mr. Speaker, I rise today to honor Rabbi Irwin Goldenberg for his generous service to the community. For twenty-five years, Rabbi Goldenberg has served both his congregation at Temple Beth Israel and the community of York, Pennsylvania as a revered leader, teacher, and father.

In times of sorrow and in times of celebration, Rabbi Goldenberg has demonstrated a strong commitment to his congregation. He has always been there to provide loving support and strong leadership to people of his Temple. Rabbi Goldenberg has long served as the official voice for the Jewish community in York, establishing a sturdy link between his congregation and the community at large. To this day, he has remained very active in his faith serving on the central Conference of American Rabbis, the American Jewish Congress, the Philadelphia Board of Rabbis, and the Association of Reformed Zionists to highlight just a few of his many efforts.

One of the greatest aspects of this man is that his kind efforts are not simply confined within the Jewish community. Rather, his works extend far beyond his Temple and into the community at large. Rabbi Goldenberg's gracious outreach into the community has been consistent for over twenty-five years. He relishes his role as teacher and friend to troubled young people. He lends his time to countless charities and organizations, and has been showered with accolades including "Educator of the Year" and "Man of the Year."

And, despite the extraordinary constraints on his time, Rabbi Goldenberg has always remained lovingly committed to his family. The proud father of two exceptional young ladies, one of which is studying Judaism in Israel, Rabbi Goldenberg is an example to fathers everywhere. Recently, the Rabbi and his lovely wife Joyce celebrated their 30th wedding anniversary. Their loving devotion to each other and their family is the premier model of what marriage should be.

I ask my colleagues to join me in honoring Rabbi Irwin Goldenberg for twenty-five years of dedicated and selfless service to the congregation at Temple Beth Israel, the Jewish community, and the people of York, Pennsylvania.

ARTICLES OF IMPEACHMENT

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. TALENT. Mr. Speaker, it is not my preference or custom to speak on matters relating to the misconduct of others who hold public office. I have never done so before during my time in Congress. I hope never to have to do so again.

But the Constitution confides in Members of this House the obligation to decide whether high officers have acted in a manner that requires their impeachment. Where an official has a legal or moral obligation to judge misconduct and when that obligation cannot honorably be avoided, it is necessary to stand without flinching for what is clearly right.

Those failing to do so become inevitably part of the wrong against which they failed to act. The issue before the House is not whether Bill Clinton has acted with integrity. We all know the answer to that question. The issue is whether we have the integrity to do our duty under the Constitution and laws.

Public men and women commit private wrongs, just like everyone else. And just like everyone else, they are usually called to account for those wrongs in the fullness of time. If they act honorably when called to account, and accept responsibility for what they have done, they can emerge with a measure of their integrity intact. If they act less than honorably and refuse to own up to their actions, they may, and often are judged by the voters.

Their fellow officers in government have no warrant to judge them formally if they at least conform to the minimum standards of law and morality in how they react. But the minimum standards are just that: the minimum that we have the right to expect and insist upon. No one can fall below those standards with impunity. No officer of government can actively subvert the law, abuse the powers of his office and flout the standards of decency without facing the consequences that any other person in a position of trust would have to face.

That is the gravamen of the charges against President Clinton. The genesis of this matter was the President's liaison with Monica Lewinsky. But that affair, however sordid, was a private wrong. The Articles of Impeachment deal exclusively with what the President did to avoid the consequences when that private wrong reached the eyes and ears of the public. When the President was called to account before the people, he lied to the people; when he was called to account before a civil deposition, he lied under oath; and then, to cover up those initial lies, he tampered with witnesses, abused the trust of other officers of government, perjured himself before a federal grand jury, and abused the powers of the Presidency to avert investigations into his wrong doing.

From the record before the House, it is impossible to conclude anything other than that the President is guilty of these wrongs. He is therefore, in my judgment unfit to hold any position of trust, much less the Presidency.

I do not blame anyone for wishing somehow to avoid impeachment. It is a terrible thing to have to participate in the shipwreck of a person's reputation and public career, and it is not a sign of health for our country that two Presidents within a generation must face removal from office. But none of the arguments offered in defense of the President present an honorable alternative to impeachment. I will discuss them one by one:

(1) Some suggest that the misconduct in question does not meet the Constitutional standard for impeachment. But I believe the President's actions not only qualify as high crimes and misdemeanors; they present a classic example of what the term signifies, fully within the intentions of the Framers and the precedents of history.

The term "high crimes or misdemeanors" means a deliberate pattern of misconduct so grave as to disqualify the person committing it from holding a position of trust and responsibility. The President's misconduct qualifies as such an offense according to the commonly accepted understandings of civic responsibility, never before questioned until this controversy arose. No one would have argued a year ago that a President could perjure himself, obstruct justice, and tamper with witnesses without facing impeachment, and no one would argue that a business, labor, educational, or civic leader should stay in a position of trust having committed such misconduct. Congress has impeached and removed high officers for less than the President has done. Are we to lower the standards of our society because the President cannot live up to them?

(2) Others have suggested that the House censure the President. But the alternative of censure would constitute too small a penalty for Mr. Clinton's gross misconduct and too great a danger to the Presidency, suggesting that the House of Representatives has a power, never contemplated in the Constitution, to harass future Presidents for behavior not rising to the level of high crimes or misdemeanors.

As many have pointed out, this is not a parliamentary democracy. It is a constitutional republic with separate branches of government. The House may act formally against a President only when the Constitutional standard of impeachment has been met. If censure is intended as a meaningless action, a cover for those who for other reasons want to do nothing, it should be discarded as a sham. If it is intended as a formal and real punishment, it represents an extra—constitutional action, a power arrogated by the Congress to itself, with more potential for harm in the future than good for the present. I would prefer that the House do nothing rather than that—better not to act at all then to twist the Constitution because we are unwilling to enforce it.

(3) Finally, some have argued that impeachment is too traumatic for the country to endure. I believe the opposite is more nearly true. Hard as impeachment may be, to ignore misconduct so grave and notorious would be to suggest that the importance to the country of an office can place the holder of the office above the country's laws.

Mr. Speaker, this whole affair, distasteful as it is, presents an opportunity for the House to make a clear statement. There is such a thing as right and wrong. No society, and certainly not a constitutional republic like America, can endure without acknowledging that fact; and if we believe in right and wrong, we must give life to that belief by trusting that the right thing will be the best thing for our country. I urge each member of the House to do his duty today in the faith that only in that way can America emerge stronger.

SENATE—*Thursday, January 7, 1999*

The Senate met at 9:45 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

"Is there any word from the Lord?" We humbly fall on the knees of our hearts as this ancient, urgent biblical question reverberates in our minds and echoes in this historic Chamber. When there is nowhere else to turn, we return to You, dear God. We hear Your answer sounding in our souls: "Let him who glories glory in this, that he understands and knows Me, that I am the Lord, exercising loving kindness, judgment, and righteousness in the earth."—Jeremiah 9:24. Your righteous judgment is irreducible and your grace irrefutable.

Holy God, as this sacred Chamber becomes a court and these Senators become jurors, be omnipresent in the pressures of these impeachment proceedings. Grant the Senators the ability to exercise clear judgment without judgmentalism. Today, unite the Senate in nonpartisan commitment to the procedures that will most effectively resolve the grave matters before them and our Nation. Bind the Senators together as fellow patriots seeking Your best for our beloved land.

Oh, dear Father, author of this Republic and divine authority from whom the Senators' powers flow, we trust You. With one mind and heart, we rededicate ourselves to You and thank You for Your guidance each step of the way through these troubled times. You are our Lord and Savior. Amen.

Mr. STEVENS addressed the Chair.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I am about to suggest the absence of a quorum. For the information of Senators, this will be a live quorum and, under the previous order, at 10 a.m. the Senate will receive the managers of the House of Representatives to exhibit the articles of impeachment against William Jefferson Clinton, President of the United States.

QUORUM CALL

Mr. LOTT. Accordingly, Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names.

[Quorum No. 2]

Abraham
Akaka
Allard
Ashcroft
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bunning
Burns
Byrd
Campbell
Chafee
Cleland
Cochran
Collins
Conrad
Coverdell
Craig
Crapo
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

The PRESIDENT pro tempore. A quorum is present. The Sergeant at Arms will present the managers on the part of the House of Representatives.

EXHIBITION OF ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

At 10:05 a.m., the managers on the part of the House of Representatives of the impeachment of William Jefferson Clinton appeared below the bar of the Senate, and the Sergeant at Arms, James W. Ziglar, announced their presence, as follows:

> Mr. President and Members of the Senate, I announce the presence of the managers on the part of the House of Representatives to conduct the proceedings on behalf of the House concerning the impeachment of William Jefferson Clinton, President of the United States.

The PRESIDENT pro tempore. The managers on the part of the House will be received and escorted to the well of the Senate.

The managers were thereupon escorted by the Sergeant at Arms of the Senate, James W. Ziglar, to the well of the Senate.

The PRESIDENT pro tempore. The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, James W. Ziglar, made the proclamation, as follows:

> Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States articles of impeachment against William Jefferson Clinton, President of the United States.

The PRESIDENT pro tempore. The managers on the part of the House will proceed.

Mr. Manager HYDE. Mr. President, the managers on the part of the House of Representatives are here present and ready to present the articles of impeachment which have been preferred by the House of Representatives against William Jefferson Clinton, President of the United States.

The House adopted the following resolution, which with the permission of the Senate I will read.

HOUSE RESOLUTION 10

> *Resolved*, That in continuance of the authority conferred in House Resolution 614 of the One Hundred Fifth Congress adopted by the House of Representatives and delivered to the Senate on December 19, 1998, Mr. Hyde of Illinois, Mr. Sensenbrenner of Wisconsin, Mr. McCollum of Florida, Mr. Gekas of Pennsylvania, Mr. Canady of Florida, Mr. Buyer of Indiana, Mr. Bryant of Tennessee, Mr. Chabot of Ohio, Mr. Barr of Georgia, Mr. Hutchinson of Arkansas, Mr. Cannon of Utah, Mr. Rogan of California, and Mr. Graham of South Carolina are appointed managers to conduct the impeachment trial against William Jefferson Clinton, President of the United States, that a message be sent to the Senate to inform the Senate of these appointments, and that the managers so appointed may, in connection with the preparation and the conduct of the trial, exhibit the articles of impeachment to the Senate and take all other actions necessary, which may include the following:
>
> (1) Employing legal, clerical, and other necessary assistants and incurring such other expenses as may be necessary, to be paid from amounts available to the Committee on the Judiciary under applicable expense resolutions or from the applicable accounts of the House of Representatives.
>
> (2) Sending for persons and papers, and filing with the Secretary of the Senate, on the part of the House of Representatives, any pleadings, in conjunction with or subsequent to, the exhibition of the articles of impeachment that the managers consider necessary.

With the permission of the Senate, I will now read the articles of impeachment, House Resolution 611.

HOUSE RESOLUTION 611

Resolved, That William Jefferson Clinton, President of the United States, is impeached for high crimes and misdemeanors, and that the following articles of impeachment be exhibited to the United States Senate:

Articles of impeachment exhibited by the House of Representatives of the United States of America in the name of itself and of the people of the United States of America, against William Jefferson Clinton, President of the United States of America, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

ARTICLE I

In his conduct while President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has willfully corrupted and manipulated the judicial process of the United States for his personal gain and exoneration, impeding the administration of justice, in that:

On August 17, 1998, William Jefferson Clinton swore to tell the truth, the whole truth, and nothing but the truth before a Federal grand jury of the United States. Contrary to that oath, William Jefferson Clinton willfully provided perjurious, false and misleading testimony to the grand jury concerning one or more of the following: (1) the nature and details of his relationship with a subordinate Government employee; (2) prior perjurious, false and misleading testimony he gave in a Federal civil rights action brought against him; (3) prior false and misleading statements he allowed his attorney to make to a Federal judge in that civil rights action; and (4) his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence in that civil rights action.

In doing this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the United States.

Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

ARTICLE II

In his conduct while President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has prevented, obstructed, and impeded the administration of justice, and has to that end engaged personally, and through his subordinates and agents, in a course of conduct or scheme designed to delay, impede, cover up, and conceal the existence of evidence and testimony related to a Federal civil rights action brought against him in a duly instituted judicial proceeding.

The means used to implement this course of conduct or scheme included one or more of the following acts:

(1) On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading.

(2) On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to give perjurious, false and misleading testimony if and when called to testify personally in that proceeding.

(3) On or about December 28, 1997, William Jefferson Clinton corruptly engaged in, encouraged, or supported a scheme to conceal evidence that had been subpoenaed in a Federal civil rights action brought against him.

(4) Beginning on or about December 7, 1997, and continuing through and including January 14, 1998, William Jefferson Clinton intensified and succeeded in an effort to secure job assistance to a witness in a Federal civil rights action brought against him in order to corruptly prevent the truthful testimony of that witness in that proceeding at a time when the truthful testimony of that witness would have been harmful to him.

(5) On January 17, 1998, at his deposition in a Federal civil rights action brought against him, William Jefferson Clinton corruptly allowed his attorney to make false and misleading statements to a Federal judge characterizing an affidavit, in order to prevent questioning deemed relevant by the judge. Such false and misleading statements were subsequently acknowledged by his attorney in a communication to that judge.

(6) On or about January 18 and January 20–21, 1998, William Jefferson Clinton related a false and misleading account of events relevant to a Federal civil rights action brought against him to a potential witness in that proceeding, in order to corruptly influence the testimony of that witness.

(7) On or about January 21, 23, and 26, 1998, William Jefferson Clinton made false and misleading statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence the testimony of those witnesses. The false and misleading statements made by William Jefferson Clinton were repeated by the witnesses to the grand jury, causing the grand jury to receive false and misleading information.

In all of this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the United States.

Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

Passed the House of Representatives December 19, 1998. Newt Gingrich, Speaker of the House of Representatives. Attest: Robin H. Carle, Clerk.

Mr. President, that completes the exhibition of the articles of impeachment against William Jefferson Clinton, President of the United States. The managers request that the Senate take order for the trial. The managers now request leave to withdraw.

The PRESIDENT pro tempore. Thank you, Mr. Manager HYDE. The Senate will notify the House of Representatives when it is ready to proceed.

Mr. LOTT addressed the Chair.

The PRESIDENT pro tempore. The majority leader is recognized.

UNANIMOUS CONSENT-AGREEMENT

Mr. LOTT. Mr. President, I modify my previous request and ask unanimous consent that the Presiding Officer be authorized to appoint a committee of six Senators, three upon the recommendation of the majority leader and three upon the recommendation of the Democratic leader, to escort the Chief Justice into the Senate Chamber.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 12:45 today. Before the Chair rules on this request, I say as a reminder to all Senators that at 1 p.m. today, following a live quorum, the Chief Justice and all Senators will be sworn in. I thank all Senators.

There being no objection, the Senate, at 10:16 a.m., recessed; whereupon, at 12:49 p.m., the Senate reassembled when called to order by the President pro tempore.

Mr. LOTT addressed the Chair.

The PRESIDENT pro tempore. The majority leader is recognized.

AUTHORIZING THE TAKING OF A PHOTOGRAPH IN THE CHAMBER OF THE UNITED STATES SENATE

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 11 introduced earlier today.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 11) authorizing the taking of a photograph in the Chamber of the U.S. Senate.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 11) was agreed to.

The resolution reads as follows:

S. RES. 11

Resolved, That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting an official photograph to be taken on January 7, 1999, of the swearing in of Members of the United States Senate for the impeachment trial of the President of the United States.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefor, which arrangements shall provide for a minimum of disruption to Senate proceedings.

APPOINTMENT OF ESCORT COMMITTEE

The PRESIDENT pro tempore. The Chair, pursuant to the order of January 6, 1999, as modified, on behalf of the majority leader, appoints Mr. STEVENS of Alaska, Mr. HATCH of Utah, and Ms. SNOWE of Maine, and on behalf of the Democratic leader, Mr. BYRD of West Virginia, Mr. LEAHY of Vermont, and Ms. MIKULSKI of Maryland.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I am about to suggest the absence of a quorum. For the information of all Senators, this will be a live quorum, and we will under the previous order meet at 1 p.m. to proceed to the consideration of the articles of impeachment which will commence with the swearing in of the Chief Justice of the United States and all Senators.

QUORUM CALL

Mr. LOTT. Accordingly then, Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators entered the Chamber and answered to their name.

[Quorum No. 3]

Abraham
Akaka
Allard
Ashcroft
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bunning
Burns
Byrd
Campbell
Chafee
Cleland
Cochran
Collins
Conrad
Coverdell
Craig
Crapo
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

The PRESIDENT pro tempore. The Senate will come to order.

Senators will take their seats. All others will remove themselves from the floor.

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

The PRESIDENT pro tempore. Under the previous order, the hour of 1 p.m. having arrived, and a quorum having been established, the Senate will proceed to the consideration of the articles of impeachment against William Jefferson Clinton, President of the United States.

Mr. LOTT. Mr. President, at this time, pursuant to rule IV of the Senate Rules on Impeachment and the United States Constitution, the Presiding Officer will now administer the oath to William H. Rehnquist, Chief Justice of the United States.

The PRESIDENT pro tempore. Under the previous order, the escort committee will now conduct the Chief Justice of the United States to the dais to be administered the oath.

(Senators rising.)

The Chief Justice was thereupon escorted into the Chamber by Senators STEVENS, BYRD, HATCH, LEAHY, SNOWE, and MIKULSKI.

The PRESIDENT pro tempore. We are pleased to welcome you.

The CHIEF JUSTICE. Senators, I attend the Senate in conformity with your notice, for the purpose of joining with you for the trial of the President of the United States, and I am now ready to take the oath.

The PRESIDENT pro tempore. Will you place your left hand on the Bible, and raise your right hand.

Do you solemnly swear that in all things appertaining to the trial of the impeachment of William Jefferson Clinton, President of the United States, now pending, you will do impartial justice according to the Constitution and laws, so help you God?

The CHIEF JUSTICE. I do.

At this time I will administer the oath to all Senators in the Chamber in conformance with Article I, section 3, clause 6, of the Constitution and the Senate's impeachment rules.

Will all Senators now stand and raise your right hand.

Do you solemnly swear that in all things appertaining to the trial of the impeachment of William Jefferson Clinton, President of the United States, now pending, you will do impartial justice according to the Constitution and laws, so help you God?

SENATORS. I do.

The CHIEF JUSTICE. The clerk will call the names and record the responses.

The legislative clerk called the roll, and the Senators present answered "I do" and signed the Official Oath Book.

The CHIEF JUSTICE. The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, James W. Ziglar, made proclamation as follows:

> Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States articles of impeachment against William Jefferson Clinton, President of the United States.

The CHIEF JUSTICE. The majority leader is now recognized.

Mr. LOTT. Mr. Chief Justice, any Senator who was not in the Senate Chamber at the time the oath was administered to the other Senators will make the fact known to the Chair so that the oath may be administered as soon as possible to the Senator. The secretary will note the names of the Senators who have been sworn and will assure that they have signed the book, which will be the Senate's permanent record of the administration of the oath. I ask for the cooperation of all Senators present to please make sure that you sign the oath book today.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. LOTT. Mr. Chief Justice, if there is no objection, I ask that the Senate trial now stand in recess subject to the call of the Chair.

The CHIEF JUSTICE. Is there objection?

Hearing none, it is so ordered.

Thereupon, at 1:42 p.m., the Senate, sitting as a Court of Impeachment, recessed subject to the call of the Chair.

LEGISLATIVE SESSION

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate go into recess subject to call of the Chair.

There being no objection, the Senate, at 2:05 p.m., recessed subject to the call of the Chair; whereupon, the Senate, at 8:08 p.m., reassembled when called to order by the Presiding Officer (Mr. CRAPO).

MAKING MAJORITY PARTY APPOINTMENTS TO CERTAIN SENATE COMMITTEES FOR THE 106TH CONGRESS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 12 submitted earlier today by Senator LOTT.

The PRESIDING OFFICER. Without objection, the clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 12) making majority party appointments to certain Senate committees for the 106th Congress.

The Senate proceeded to consider the resolution.

Mr. SESSIONS. I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 12) was agreed to, as follows:

S. RES. 12

Resolved, That notwithstanding the provisions of Rule XXV, the following shall constitute the majority party's membership on the following standing committees for the 106th Congress, or until their successors are chosen:

Committee on Agriculture, Nutrition, and Forestry: Mr. Lugar (Chairman), Mr. Helms, Mr. Cochran, Mr. McConnell, Mr. Coverdell, Mr. Roberts, Mr. Fitzgerald, Mr. Grassley, Mr. Craig, and Mr. Santorum.

Committee on Appropriations: Mr. Stevens (Chairman), Mr. Cochran, Mr. Specter, Mr. Domenici, Mr. Bond, Mr. Gorton, Mr. McConnell, Mr. Burns, Mr. Shelby, Mr. Gregg, Mr. Bennett, Mr. Campbell, Mr. Craig, Mrs. Hutchison of Texas, and Mr. Kyl.

Committee on Armed Services: Mr. Warner (Chairman), Mr. Thurmond, Mr. McCain, Mr. Smith of New Hampshire, Mr. Inhofe, Mr. Santorum, Ms. Snowe, Mr. Roberts, Mr. Allard, Mr. Hutchinson of Arkansas, and Mr. Sessions.

Committee on Banking, Housing, and Urban Affairs: Mr. Gramm of Texas (Chairman), Mr. Shelby, Mr. Mack, Mr. Bennett, Mr. Grams, Mr. Allard, Mr. Enzi, Mr. Hagel, Mr. Santorum, Mr. Bunning, and Mr. Crapo.

Committee on Commerce, Science, and Transportation: Mr. McCain (Chairman), Mr. Stevens, Mr. Burns, Mr. Gorton, Mr. Lott, Mrs. Hutchison of Texas, Ms. Snowe, Mr. Ashcroft, Mr. Frist, Mr. Abraham, and Mr. Brownback.

Committee on Energy and Natural Resources: Mr. Murkowski (Chairman), Mr. Domenici, Mr. Nickles, Mr. Craig, Mr. Campbell, Mr. Thomas, Mr. Smith of Oregon, Mr. Bunning, Mr. Fitzgerald, Mr. Gorton, and Mr. Burns.

Committee on Environment and Public Works: Mr. Chafee (Chairman), Mr. Warner, Mr. Smith of New Hampshire, Mr. Inhofe, Mr. Thomas, Mr. Bond, Mr. Voinovich, Mr. Crapo, Mr. Bennett, and Mrs. Hutchison of Texas.

Committee on Finance: Mr. Roth (Chairman), Mr. Chafee, Mr. Grassley, Mr. Hatch, Mr. Murkowski, Mr. Nickles, Mr. Gramm of Texas, Mr. Lott, Mr. Jeffords, Mr. Mack, and Mr. Thompson.

Committee on Foreign Relations: Mr. Helms (Chairman), Mr. Lugar, Mr. Coverdell, Mr. Hagel, Mr. Smith of Oregon, Mr. Grams, Mr. Brownback, Mr. Thomas, Mr. Ashcroft, and Mr. Frist.

Committee on Governmental Affairs: Mr. Thompson (Chairman), Mr. Roth, Mr. Stevens, Ms. Collins, Mr. Voinovich, Mr. Domenici, Mr. Cochran, Mr. Specter, and Mr. Gregg.

Committee on the Judiciary: Mr. Hatch (Chairman), Mr. Thurmond, Mr. Grassley, Mr. Specter, Mr. Kyl, Mr. DeWine, Mr. Ashcroft, Mr. Abraham, Mr. Sessions, and Mr. Smith of New Hampshire.

Committee on Labor and Human Resources: Mr. Jeffords (Chairman), Mr. Gregg, Mr. Frist, Mr. DeWine, Mr. Enzi, Mr. Hutchinson of Arkansas, Ms. Collins, Mr. Brownback, Mr. Hagel, and Mr. Sessions.

MAKING MAJORITY PARTY APPOINTMENTS TO SENATE COMMITTEES FOR THE 106TH CONGRESS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 13 submitted earlier today by Senator LOTT.

The PRESIDING OFFICER. Without objection, the clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 13) making majority party appointments to Senate committees for the 106th Congress.

The Senate proceeded to consider the resolution.

Mr. SESSIONS. I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 13) was agreed to, as follows:

S. RES. 13

Resolved, That notwithstanding the provisions of S. Res. 400 of the 95th Congress, or the provisions of Rule XXV, the following shall constitute the majority party's membership on those Senate committees listed below for the 106th Congress, or until their successors are appointed:

Budget: Mr. Domenici (Chairman), Mr. Grassley, Mr. Nickles, Mr. Gramm of Texas, Mr. Bond, Mr. Gorton, Ms. Snowe, Mr. Abraham, Mr. Frist, Mr. Grams, Mr. Smith of Oregon.

Rules and Administration: Mr. McConnell (Chairman), Mr. Helms, Mr. Stevens, Mr. Warner, Mr. Cochran, Mr. Santorum, Mr. Nickles, Mr. Lott, and Mrs. Hutchison of Texas.

Small Business: Mr. Bond (Chairman), Mr. Burns, Mr. Coverdell, Mr. Bennett, Ms. Snowe, Mr. Enzi, Mr. Fitzgerald, Mr. Crapo, Mr. Voinovich, and Mr. Abraham.

Veterans' Affairs: Mr. Specter, Mr. Murkowski, Mr. Thurmond, Mr. Jeffords, Mr. Campbell, Mr. Craig, and Mr. Hutchinson of Arkansas.

Select Committee on Ethics: Mr. Smith of New Hampshire (Chairman), Mr. Roberts, and Mr. Voinovich.

Special Committee on Aging: Mr. Grassley (Chairman), Mr. Jeffords, Mr. Craig, Mr. Burns, Mr. Shelby, Mr. Santorum, Mr. Hagel, Ms. Collins, Mr. Enzi, and Mr. Bunning.

Committee on Indian Affairs: Mr. Campbell (Chairman), Mr. Murkowski, Mr. McCain, Mr. Gorton, Mr. Domenici, Mr. Thomas, Mr. Hatch, and Mr. Inhofe.

Intelligence: Mr. Shelby (Chairman), Mr. Chafee, Mr. Lugar, Mr. DeWine, Mr. Kyl, Mr. Inhofe, Mr. Hatch, Mr. Roberts, and Mr. Allard.

Joint Economic: Mr. Mack, Mr. Roth, Mr. Bennett, Mr. Grams, Mr. Brownback, and Mr. Sessions.

MINORITY PARTY APPOINTMENTS TO SENATE COMMITTEES

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 14, submitted earlier today by the Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 14) making minority party appointments to Senate committees for the 106th Congress.

The Senate proceeded to consider the resolution.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the resolution be agreed to and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 14) was agreed to, as follows:

S. RES. 14

Resolved, That notwithstanding the provisions of Rule XXV, the following shall constitute the minority party's membership on the standing committees for the 106th Congress, or until their successors are chosen:

Committee on Agriculture, Nutrition, and Forestry: Mr. Harkin, Mr. Leahy, Mr. Conrad, Mr. Daschle, Mr. Baucus, Mr. Kerrey of Nebraska, Mr. Johnson, and Mrs. Lincoln.

Committee on Appropriations: Mr. Byrd, Mr. Inouye, Mr. Hollings, Mr. Leahy, Mr. Lautenberg, Mr. Harkin, Ms. Mikulski, Mr. Reid of Nevada, Mr. Kohl, Mrs. Murray, Mr. Dorgan, Mrs. Feinstein, and Mr. Durbin.

Committee on Armed Services: Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Byrd, Mr. Robb, Mr. Lieberman, Mr. Cleland, Ms. Landrieu, and Mr. Reed of Rhode Island.

Committee on Banking, Housing, and Urban Affairs: Mr. Sarbanes, Mr. Dodd, Mr. Kerry of Massachusetts, Mr. Bryan, Mr. Johnson, Mr. Reed of Rhode Island, Mr. Schumer, Mr. Bayh, and Mr. Edwards.

Committee on Commerce, Science, and Transportation: Mr. Hollings, Mr. Inouye, Mr. Rockefeller, Mr. Kerry of Massachusetts, Mr. Breaux, Mr. Bryan, Mr. Dorgan, Mr. Wyden, and Mr. Cleland.

Committee on Energy and Natural Resources: Mr. Bingaman, Mr. Akaka, Mr. Dorgan, Mr. Graham of Florida, Mr. Wyden, Mr. Johnson, Ms. Landrieu, Mr. Bayh, and Mrs. Lincoln.

Committee on Environment and Public Works: Mr. Baucus, Mr. Moynihan, Mr. Lautenberg, Mr. Reid of Nevada, Mr. Graham of Florida, Mr. Lieberman, Mrs. Boxer, and Mr. Wyden.

Committee on Finance: Mr. Moynihan, Mr. Baucus, Mr. Rockefeller, Mr. Breaux, Mr. Conrad, Mr. Graham of Florida, Mr. Bryan, Mr. Kerrey of Nebraska, and Mr. Robb.

Committee on Foreign Relations: Mr. Biden, Mr. Sarbanes, Mr. Dodd, Mr. Kerry of Massachusetts, Mr. Feingold, Mr. Wellstone, Mrs. Boxer, and Mr. Torricelli.

Committee on Governmental Affairs: Mr. Lieberman, Mr. Levin, Mr. Akaka, Mr. Durbin, Mr. Torricelli, Mr. Cleland, and Mr. Edwards.

Committee on the Judiciary: Mr. Leahy, Mr. Kennedy, Mr. Biden, Mr. Kohl, Mrs. Feinstein, Mr. Feingold, Mr. Torricelli, and Mr. Schumer.

Committee on Labor and Human Resources: Mr. Kennedy, Mr. Dodd, Mr. Harkin, Ms. Mikulski, Mr. Bingaman, Mr. Wellstone, Mrs. Murray, and Mr. Reed of Rhode Island.

MINORITY PARTY APPOINTMENTS TO COMMITTEES UNDER RULE XXV

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 15, submitted earlier today by the Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 15) making minority party appointments to Senate committees in paragraph 3(a), (b) and (c) of rule XXV.

The Senate proceeded to consider the resolution.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the resolution be agreed to and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 15) was agreed to, as follows:

S. RES. 15

Resolved, That notwithstanding the provisions of S. Res. 400 of the 95th Congress, or the provisions of Rule XXV, the following shall constitute the minority party's membership on the committees named in paragraph 3(a), (b), and (c) of Rule XXV for the 106th Congress, or until their successors are appointed:

Committee on the Budget: Mr. Lautenberg, Mr. Hollings, Mr. Conrad, Mr. Sarbanes, Mrs. Boxer, Mrs. Murray, Mr. Wyden, Mr. Feingold, Mr. Johnson, and Mr. Durbin.

Committee on Rules and Administration: Mr. Dodd, Mr. Byrd, Mr. Inouye, Mr. Moynihan, Mrs. Feinstein, Mr. Torricelli, and Mr. Schumer.

Committee on Small Business: Mr. Kerry of Massachusetts, Mr. Levin, Mr. Harkin, Mr. Leiberman, Mr. Wellstone, Mr. Cleland, Ms. Landrieu, and Mr. Edwards.

Committee on Veterans' Affairs: Mr. Rockefeller, Mr. Graham of Florida, Mr. Akaka, Mr. Wellstone, and Mrs. Murray.

Select Committee on Indian Affairs: Mr. Inouye, Mr. Conrad, Mr. Reid of Nevada, Mr. Akaka, Mr. Wellstone, and Mr. Dorgan.

Special Committee on Aging: Mr. Breaux, Mr. Reid of Nevada, Mr. Kohl, Mr. Feingold, Mr. Wyden, Mr. Reed of Rhode Island, Mr. Bayh, and Mrs. Lincoln.

Committee on Intelligence: Mr. Kerrey of Nebraska, Mr. Bryan, Mr. Graham of Florida, Mr. Kerry of Massachusetts, Mr. Baucus, Mr. Robb, Mr. Lautenberg, and Mr. Levin.

Joint Economic Committee: Mr. Robb, Mr. Kennedy, Mr. Sarbanes, and Mr. Bingaman.

Select Committee on Ethics: Mr. Reid of Nevada (Vice Chair), Mr. Conrad, and Mr. Durbin.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 4:45 p.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 1. Concurrent resolution providing for a joint session of Congress to receive a message from the President.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–474. A communication from the Chief of the Benefits and Investments Branch, Treasury Division, Army and Air Force Exchange Service, transmitting, pursuant to law, the Service's annual Retirement and 401(k) Plan reports for calendar year 1997; to the Committee on Governmental Affairs.

EC–475. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports issued or released by the General Accounting Office in October 1998; to the Committee on Governmental Affairs.

EC–476. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on accounts containing unvouchered expenditures potentially subject to audit by the Comptroller General; to the Committee on Governmental Affairs.

EC–477. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Excepted Service; Promotion and Internal Placement" (RIN3206–AI51) received on December 1, 1998; to the Committee on Governmental Affairs.

EC–478. A communication from the Chief Administrative Officer of the Postal Rate Commission, transmitting, pursuant to law, the Commission's report under the Freedom of Information Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–479. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Authorization of Solicitations During the Combined Federal Campaign" (RIN3206–AH53) received on December 1, 1998; to the Committee on Governmental Affairs.

EC–480. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the Council's report entitled "DC Financial Responsibility and Management Assistance Authority Resolution, Recommendations, and Orders Relating to Street Vending" (AB 98–38); to the Committee on Governmental Affairs.

EC–481. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Firefighter Pay" (RIN3206–AI50) received on December 1, 1998; to the Committee on Governmental Affairs.

EC–482. A communication from the Commissioner of Social Security, transmitting, pursuant to law, the Administration's Accountability Report for fiscal year 1998; to the Committee on Governmental Affairs.

EC–483. A communication from the Director of the Bureau of the Census, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Cutoff Dates for Recognition of Boundary Changes for Census 2000" (RIN0607–AA18) received on December 8, 1998; to the Committee on Governmental Affairs.

EC–484. A communication from the Benefits Manager of CoBank, transmitting, pursuant to law, the Bank's annual report on the CoBank, ACB Retirement Plan for calendar year 1997; to the Committee on Governmental Affairs.

EC–485. A communication from the Special Counsel, U.S. Office of Special Counsel, transmitting, pursuant to law, the Office's annual report Under the Inspector General Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–486. A communication from the Independent Counsel, Office of Independent Counsel Barrett, transmitting, pursuant to law, a report of expenditures for the period ended March 31, 1998; to the Committee on Governmental Affairs.

EC–487. A communication from the Administrator of the U.S. Agency for International Development, transmitting, pursuant to law, the Agency's report under the Inspector General Act for the period April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–488. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the Corps' report under the Inspector General Act for the six month period beginning April 1, 1998, and ending September 30, 1998; to the Committee on Governmental Affairs.

EC–489. A communication from the Chairman of the African Development Foundation, transmitting, pursuant to law, the Foundation's report under the Inspector General Act for the six month period beginning April 1, 1998, and ending September 30, 1998; to the Committee on Governmental Affairs.

EC–490. A communication from the Acting Director of the Woodrow Wilson International Center for Scholars, transmitting, pursuant to law, the Center's combined report under the Inspector General Act and the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–491. A communication from the Executive Director of the Japan-United States Friendship Commission, transmitting, pursuant to law, the Commission's combined report under the Inspector General Act and the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–492. A communication from the Director of the National Gallery of Art, transmitting, pursuant to law, the Gallery's combined report under the Inspector General Act and the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–493. A communication from the President of the James Madison Memorial Fellowship Foundation, transmitting, pursuant to law, the Foundation's consolidated annual report under the Inspector General Act and the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–494. A communication from the Executive Director of the Federal Retirement Thrift Investment Board, transmitting, pursuant to law, the Board's report under the Inspector General Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–495. A communication from the Director of the U.S. Office of Government Ethics, transmitting, pursuant to law, the Office's consolidated annual report under the Inspector General Act and the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–496. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, the Board's consolidated annual report under the Inspector General Act and the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–497. A communication from the Chief Operating Officer of the Farm Credit System Insurance Corporation, transmitting, pursuant to law, the Corporation's consolidated annual report under the Inspector General Act and the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–498. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's report under the Inspector General Act for the six month period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–499. A communication from the General Counsel of the U.S. Government National Labor Relations Board, transmitting, pursuant to law, the Board's report under the Inspector General Act for the six month period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–500. A communication from the Chairman of the Board of Directors of the Presidio Trust, transmitting, pursuant to law, the Board's report under the Inspector General Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–501. A communication from the President of the Overseas Private Investment Corporation, transmitting, pursuant to law, the Corporation's report under the Inspector General Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–502. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the Department's report under the Inspector General Act for the six month period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–503. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Board's report under the Inspector General Act for the six month period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–504. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, the Agency's report under the Inspector General Act for the six month period beginning April 1, 1998, and ending September 30, 1998; to the Committee on Governmental Affairs.

EC–505. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the Commission's report under the Inspector General Act for the six month period beginning April 1, 1998, and ending September 30, 1998; to the Committee on Governmental Affairs.

EC–506. A communication from the Attorney General, transmitting, pursuant to law, the Department of Justice's report under the Inspector General Act and the Semiannual Management Report to Congress for the six month period beginning April 1, 1998, and ending September 30, 1998; to the Committee on Governmental Affairs.

EC–507. A communication from the Chairwoman of the U.S. Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–508. A communication from the Secretary of the Interior, transmitting, pursuant to law, the Department's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–509. A communication from the Secretary of the Labor, transmitting, pursuant to law, the Department's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–510. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the Commission's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–511. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, the Commission's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–512. A communication from the Chairman of the Board of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the Corporation's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–513. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the Administration's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–514. A communication from the Secretary of Education, transmitting, pursuant to law, the Department's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–515. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the Commission's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–516. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the Commission's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–517. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the Endowment's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–518. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the Department's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–519. A communication from the Chairman of the Federal Housing Finance Board, transmitting, pursuant to law, the Board's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–520. A communication from the Administrator of the U.S. General Services Administration, transmitting, pursuant to law, the Administration's consolidated annual report under the Inspector General Act and the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–521. A communication from the Chairman of the National Science Board, transmitting, pursuant to law, the Board's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–522. A communication from the Administrator of the United States Environmental Protection Agency, transmitting, pursuant to law, the Agency's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–523. A communication from the Chief Executive Officer of the Corporation for National Service, transmitting, pursuant to law, the Corporation's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–524. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 11. A resolution authorizing the taking of a photograph in the chamber of the United States Senate; considered and agreed to.

By Mr. LOTT:

S. Res. 12. A resolution making majority party appointments to certain Senate committees for the 106th Congress; considered and agreed to.

S. Res. 13. A resolution making majority party appointments to Senate committees for the 106th Congress; considered and agreed to.

By Mr. DASCHLE:

S. Res. 14. A resolution making minority party appointments to Senate committees for the 106th Congress; considered and agreed to.

S. Res. 15. A resolution making minority party appointments to Senate committees in paragraph 3(a), (b), and (c) of Rule XXV; considered and agreed to.

SENATE RESOLUTION 11—AUTHORIZING THE TAKING OF A PHOTOGRAPH IN THE CHAMBER OF THE UNITED STATES SENATE

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 11

Resolved, That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting an official photograph to be taken on January 7, 1999, of the swearing in of Members of the United States Senate for the impeachment trial of the President of the United States.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefor, which arrangements shall provide for a minimum of disruption to Senate proceedings.

SENATE RESOLUTION 12—MAKING MAJORITY PARTY APPOINTMENTS TO CERTAIN SENATE COMMITTEES FOR THE 106th CONGRESS

Mr. LOTT submitted the following resolution; which was considered and agreed to:

Resolved, That notwithstanding the provisions of Rule XXV, the following shall constitute the majority party's membership on the following standing committees for the 106th Congress, or until their successors are chosen:

Committee on Agriculture, Nutrition, and Forestry: Mr. Lugar (Chairman), Mr. Helms, Mr. Cochran, Mr. McConnell, Mr. Coverdell, Mr. Roberts, Mr. Fitzgerald, Mr. Grassley, Mr. Craig, and Mr. Santorum.

Committee on Appropriations: Mr. Stevens (Chairman), Mr. Cochran, Mr. Specter, Mr. Domenici, Mr. Bond, Mr. Gorton, Mr. McConnell, Mr. Burns, Mr. Shelby, Mr. Gregg, Mr. Bennett, Mr. Campbell, Mr. Craig, Mrs. Hutchison of Texas, and Mr. Kyl.

Committee on Armed Services: Mr. Warner (Chairman), Mr. Thurmond, Mr. McCain, Mr. Smith of New Hampshire, Mr. Inhofe, Mr. Santorum, Ms. Snowe, Mr. Roberts, Mr. Allard, Mr. Hutchinson of Arkansas, and Mr. Sessions.

Committee on Banking, Housing, and Urban Affairs: Mr. Gramm of Texas (Chairman), Mr. Shelby, Mr. Mack, Mr. Bennett, Mr. Grams, Mr. Allard, Mr. Enzi, Mr. Hagel, Mr. Santorum, Mr. Bunning, and Mr. Crapo.

Committee on Commerce, Science, and Transportation: Mr. McCain (Chairman), Mr. Stevens, Mr. Burns, Mr. Gorton, Mr. Lott, Mrs. Hutchison of Texas, Ms. Snowe, Mr. Ashcroft, Mr. Frist, Mr. Abraham, and Mr. Brownback.

Committee on Energy and Natural Resources: Mr. Murkowski (Chairman), Mr. Domenici, Mr. Nickles, Mr. Craig, Mr. Campbell, Mr. Thomas, Mr. Smith of Oregon, Mr. Bunning, Mr. Fitzgerald, Mr. Gorton, and Mr. Burns.

Committee on Environment and Public Works: Mr. Chafee (Chairman), Mr. Warner, Mr. Smith of New Hampshire, Mr. Inhofe, Mr. Thomas, Mr. Bond, Mr. Voinovich, Mr. Crapo, Mr. Bennett, and Mrs. Hutchison of Texas.

Committee on Finance: Mr. Roth (Chairman), Mr. Chafee, Mr. Grassley, Mr. Hatch, Mr. Murkowski, Mr. Nickles, Mr. Gramm of Texas, Mr. Lott, Mr. Jeffords, Mr. Mack, and Mr. Thompson.

Committee on Foreign Relations: Mr. Helms (Chairman), Mr. Lugar, Mr. Coverdell, Mr. Hagel, Mr. Smith of Oregon, Mr. Grams, Mr. Brownback, Mr. Thomas, Mr. Ashcroft, and Mr. Frist.

Committee on Governmental Affairs: Mr. Thompson (Chairman), Mr. Roth, Mr. Stevens, Ms. Collins, Mr. Voinovich, Mr. Domenici, Mr. Cochran, Mr. Specter, and Mr. Gregg.

Committee on the Judiciary: Mr. Hatch (Chairman), Mr. Thurmond, Mr. Grassley, Mr. Specter, Mr. Kyl, Mr. DeWine, Mr. Ashcroft, Mr. Abraham, Mr. Sessions, and Mr. Smith of New Hampshire.

Committee on Labor and Human Resources: Mr. Jeffords (Chairman), Mr. Gregg, Mr. Frist, Mr. DeWine, Mr. Enzi, Mr. Hutchinson of Arkansas, Ms. Collins, Mr. Brownback, Mr. Hagel, and Mr. Sessions.

SENATE RESOLUTION 13—MAKING MINORITY PARTY APPOINTMENTS TO SENATE COMMITTEES FOR THE 106TH CONGRESS

Mr. LOTT submitted the following resolution; which was considered and agreed to:

Resolved, That notwithstanding the provisions of S. Res. 400 of the 95th Congress, or the provisions of Rule XXV, the following shall constitute the majority party's membership on those Senate committees listed below for the 106th Congress, or until their successors are appointed:

Budget: Mr. Domenici (Chairman), Mr. Grassley, Mr. Nickles, Mr. Gramm of Texas, Mr. Bond, Mr. Gorton, Ms. Snowe, Mr. Abraham, Mr. Frist, Mr. Grams, Mr. Smith of Oregon.

Rules and Administration: Mr. McConnell (Chairman), Mr. Helms, Mr. Stevens, Mr. Warner, Mr. Cochran, Mr. Santorum, Mr. Nickles, Mr. Lott, and Mrs. Hutchison of Texas.

Small Business: Mr. Bond (Chairman), Mr. Burns, Mr. Coverdell, Mr. Bennett, Ms. Snowe, Mr. Enzi, Mr. Fitzgerald, Mr. Crapo, Mr. Voinovich, and Mr. Abraham.

Veterans' Affairs: Mr. Specter, Mr. Murkowski, Mr. Thurmond, Mr. Jeffords, Mr. Campbell, Mr. Craig, and Mr. Hutchinson of Arkansas.

Select Committee on Ethics: Mr. Smith of New Hampshire (Chairman), Mr. Roberts, and Mr. Voinovich.

Special Committee on Aging: Mr. Grassley (Chairman), Mr. Jeffords, Mr. Craig, Mr. Burns, Mr. Shelby, Mr. Santorum, Mr. Hagel, Ms. Collins, Mr. Enzi, and Mr. Bunning.

Committee on Indian Affairs: Mr. Campbell (Chairman), Mr. Murkowski, Mr. McCain, Mr. Gorton, Mr. Domenici, Mr. Thomas, Mr. Hatch, and Mr. Inhofe.

Intelligence: Mr. Shelby (Chairman), Mr. Chafee, Mr. Lugar, Mr. DeWine, Mr. Kyl, Mr. Inhofe, Mr. Hatch, Mr. Roberts, and Mr. Allard.

Joint Economic: Mr. Mack, Mr. Roth, Mr. Bennett, Mr. Grams, Mr. Brownback, and Mr. Sessions.

SENATE RESOLUTION 14—MAKING MINORITY PARTY APPOINTMENTS TO SENATE COMMITTEES FOR THE 106th CONGRESS

Mr. DASCHLE submitted the following resolution; which was considered and agreed to:

Resolved, That notwithstanding the provisions of Rule XXV, the following shall constitute the minority party's membership on the standing committees for the 106th Congress, or until their successors are chosen:

Committee on Agriculture, Nutrition, and Forestry: Mr. Harkin, Mr. Leahy, Mr. Conrad, Mr. Daschle, Mr. Baucus, Mr. Kerrey of Nebraska, Mr. Johnson, and Mrs. Lincoln.

Committee on Appropriations: Mr. Byrd, Mr. Inouye, Mr. Hollings, Mr. Leahy, Mr. Lautenberg, Mr. Harkin, Ms. Mikulski, Mr. Reid of Nevada, Mr. Kohl, Mrs. Murray, Mr. Dorgan, Mrs. Feinstein, and Mr. Durbin.

Committee on Armed Services: Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Byrd, Mr. Robb, Mr. Lieberman, Mr. Cleland, Ms. Landrieu, and Mr. Reed of Rhode Island.

Committee on Banking, Housing, and Urban Affairs: Mr. Sarbanes, Mr. Dodd, Mr. Kerry of Massachusetts, Mr. Bryan, Mr. Johnson, Mr. Reed of Rhode Island, Mr. Schumer, Mr. Bayh, and Mr. Edwards.

Committee on Commerce, Science, and Transportation: Mr. Hollings, Mr. Inouye, Mr. Rockefeller, Mr. Kerry of Massachusetts, Mr. Breaux, Mr. Bryan, Mr. Dorgan, Mr. Wyden, and Mr. Cleland.

Committee on Energy and Natural Resources: Mr. Bingaman, Mr. Akaka, Mr. Dorgan, Mr. Graham of Florida, Mr. Wyden, Mr. Johnson, Ms. Landrieu, Mr. Bayh, and Mrs. Lincoln.

Committee on Environment and Public Works: Mr. Baucus, Mr. Moynihan, Mr. Lautenberg, Mr. Reid of Nevada, Mr. Graham of Florida, Mr. Lieberman, Mrs. Boxer, and Mr. Wyden.

Committee on Finance: Mr. Moynihan, Mr. Baucus, Mr. Rockefeller, Mr. Breaux, Mr. Conrad, Mr. Graham of Florida, Mr. Bryan, Mr. Kerrey of Nebraska, and Mr. Robb.

Committee on Foreign Relations: Mr. Biden, Mr. Sarbanes, Mr. Dodd, Mr. Kerry of Massachusetts, Mr. Feingold, Mr. Wellstone, Mrs. Boxer, and Mr. Torricelli.

Committee on Governmental Affairs: Mr. Lieberman, Mr. Levin, Mr. Akaka, Mr. Durbin, Mr. Torricelli, Mr. Cleland, and Mr. Edwards.

Committee on the Judiciary: Mr. Leahy, Mr. Kennedy, Mr. Biden, Mr. Kohl, Mrs. Feinstein, Mr. Feingold, Mr. Torricelli, and Mr. Schumer.

Committee on Labor and Human Resources: Mr. Kennedy, Mr. Dodd, Mr. Harkin, Ms. Mikulski, Mr. Bingaman, Mr. Wellstone, Mrs. Murray, and Mr. Reed of Rhode Island.

SENATE RESOLUTION 15—MAKING MINORITY PARTY APPOINTMENTS TO SENATE COMMITTEES IN PARAGRAPH 3(a), (b), AND (c) OF RULE XXV

Mr. DASCHLE submitted the following resolution; which was considered and agreed to:

Resolved, That notwithstanding the provisions of S. Res. 400 of the 95th Congress, or the provisions of Rule XXV, the following shall constitute the minority party's membership on the committees named in paragraph 3(a), (b), and (c) of Rule XXV for the 106th Congress, or until their successors are appointed:

Committee on the Budget: Mr. Lautenberg, Mr. Hollings, Mr. Conrad, Mr. Sarbanes, Mrs. Boxer, Mrs. Murray, Mr. Wyden, Mr. Feingold, Mr. Johnson, and Mr. Durbin.

Committee on Rules and Administration: Mr. Dodd, Mr. Byrd, Mr. Inouye, Mr. Moynihan, Mrs. Feinstein, Mr. Torricelli, and Mr. Schumer.

Committee on Small Business: Mr. Kerry of Massachusetts, Mr. Levin, Mr. Harkin, Mr. Leiberman, Mr. Wellstone, Mr. Cleland, Ms. Landrieu, and Mr. Edwards.

Committee on Veterans' Affairs: Mr. Rockefeller, Mr. Graham of Florida, Mr. Akaka, Mr. Wellstone, and Mrs. Murray.

Select Committee on Indian Affairs: Mr. Inouye, Mr. Conrad, Mr. Reid of Nevada, Mr. Akaka, Mr. Wellstone, and Mr. Dorgan.

Special Committee on Aging: Mr. Breaux, Mr. Reid of Nevada, Mr. Kohl, Mr. Feingold, Mr. Wyden, Mr. Reed of Rhode Island, Mr. Bayh, and Mrs. Lincoln.

Committee on Intelligence: Mr. Kerrey of Nebraska, Mr. Bryan, Mr. Graham of Florida, Mr. Kerry of Massachusetts, Mr. Baucus, Mr. Robb, Mr. Lautenberg, and Mr. Levin.

Joint Economic Committee: Mr. Robb, Mr. Kennedy, Mr. Sarbanes, and Mr. Bingaman.

Select Committee on Ethics: Mr. Reid of Nevada (Vice Chair), Mr. Conrad, and Mr. Durbin.

CORRECTION TO THE RECORD

In the RECORD of January 6, 1999, on page S31, the sponsorship and disposition of the resolution (S. Res. 4) appears incorrectly. The permanent RECORD will be corrected to reflect the following:

SENATE RESOLUTION 4—RELATIVE TO RULE XVI

Mr. LOTT (for Mr. McCAIN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 4

SECTION 1. Notwithstanding any precedent to the contrary, the prohibition against legislative proposals contained in Rule 16 shall be enforced by the Chair.

ADDITIONAL STATEMENTS

U.S.S. "PHAON"

• Mrs. BOXER. Mr. President, I rise today to commend those brave Americans who served aboard the U.S.S. *Phaon*.

During World War II, the *Phaon* compiled an outstanding record as a battle damage repair ship. She was part of three major battles and helped the U.S. fleet to remain in action throughout the Central Pacific campaign.

The *Phaon* was an important part of mobile Service Squadron Ten, whose battle role was to remain within the battle area and conduct repairs—keeping fighting vessels in action, preventing the loss of damaged vessels by making them seaworthy, and returning repaired vessels to action as soon as possible. To accomplish this, the Navy converted tank transports into battle damage repair ships.

The *Phaon* was one of the original mobile service squadron vessels that arrived in the Central Pacific in late 1943 to test new concepts in naval logistics and mobile repair. Their work began under fire at Majuro with restoration of all types of craft from the invasion of Tarawa and repairs to the battleships *Washington* and *Indiana*.

By early 1944, the *Phaon*'s crew was skilled, experienced, and ready to participate in the campaigns to advance across the Pacific. In March she was with the fleet at Kwajalein and Eniwetok. In June she joined the invasion of Saipan. In July she was at Tinian. She was subject to more than 60 air raids while working.

Time and again, the *Phaon* heroically entered the fray to repair a damaged ship. At Saipan, the destroyer *Phelps* was hit while engaged in ground support shore bombardment. She called the *Phaon*, and the two ships tied bow to stern. While the *Phelps* continued to bomb the shore, the *Phaon* repaired her damage and replenished her ammunition. At the same time, the *Phaon* dispatched several off-ship repair crews to other vessels and had alongside for repairs a tank landing craft, a minesweeper, and the destroyer U.S.S. *Shaw*. One month later, at Tinian, the *Phaon* performed similar feats to repair the destroyer *Norman Scott* and the battleship *Colorado*.

By the war's end, the *Phaon* had repaired at least 96 ships and more than 2000 vessels and crafts of all types. She played a major role in the success of Service Squadron 10, of which Rear Admiral W.R. Carter said:

> Had it failed, the war would have lasted much longer at much greater cost in blood and dollars. . . . It was a never-ending job, and the men and officers . . . were as much a part of the fleet which defeated Japan as were . . . any battleship, carrier, cruiser, or destroyer.

Admiral Raymond A. Spruance, Commander of the Central Pacific Force, called the record of the *Phaon* and Service Squadron 10 "achievements of which all Americans can be justly proud, but about which most of them have little or no knowledge."

Mr. President, I hope that these remarks increase our knowledge and respect for the critical role that damage repair ships played in the Pacific campaigns. I know you will join me and every American in saluting the brave crew of the U.S.S. *Phaon*.•

COMMENDING WILLIAM F. HEIN

• Mrs. BOXER. Mr. President, today I would like to acknowledge the hard work and dedicated public service of Mr. William F. Hein, deputy executive director of the San Francisco Bay Area Metropolitan Transportation Commission (MTC). Mr. Hein retired in December, 1998.

Mr. Hein served as a deputy executive director of the MTC for 20 years, capping a distinguished four-decade career in the transportation field. The MTC is the transportation planning and finance agency for the nine-county San Francisco Bay Area, and Mr. Hein helped build the MTC into a regional transportation planning and finance agency that is a model for our nation. His expertise and leadership over the last two decades has brought about a transformation of the Bay Area's transportation system, resulting in an integrated, multimodal network of highways, local streets and roads, rail, car pool lanes, ferry services, bicycle and pedestrian access, and bus routes.

During his tenure with the MTC, William Hein has earned the respect and gratitude of numerous local elected officials, representing the diversity of the Bay Area, who have been fortunate enough to serve on the MTC.

Mr. Hein enjoyed a rich and distinguished career in public service prior to joining the MTC, including his work as director of planning for the Bay Area Rapid Transit District (BART), bureau chief for the New Jersey Department of Transportation, analyst for the California Legislative Analyst's Office, and engineer for the California Bridge Department and the City of Santa Clara. Mr. Hein has also served his country as a Peace Corps volunteer in Bangladesh.

Mr. President, and my distinguished colleagues in this United States Senate, the Bay Area transportation community will miss Mr. Hein and his valuable contributions to the quality of life in the Bay Area. I hope you will join me to wish a warm and fond farewell and to thank him for a job well done.•

ORDERS FOR FRIDAY, JANUARY 8, 1999

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12:30 p.m. on Friday, January 8. I further ask unanimous consent that on Friday, immediately following the prayer, the Journal of proceedings be approved to date, the time for the two leaders be reserved and that there then be a period for morning business for statements only until 1 p.m., with the time equally divided between the majority and the minority leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SESSIONS. Mr. President, for the information of all Senators, the Senate will convene tomorrow at 12:30 p.m. and begin a period for morning business until 1 p.m. Following morning business, it is expected that the Senate will resume sitting as a Court of Impeachment. It is also expected that at 1 p.m. an agreement may be reached with respect to the pending impeachment trial. A rollcall vote is therefore expected at approximately 1 p.m. tomorrow.

ADJOURNMENT UNTIL 12:30 P.M. TOMORROW

Mr. SESSIONS. Mr. President, if there be no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:11 p.m., adjourned until Friday, January 8, 1999, at 12:30 p.m.

NOMINATIONS

Executive nominations received by the Senate January 7, 1999:

EXECUTIVE OFFICE OF THE PRESIDENT

MYRTA K. SALE. OF MARYLAND. TO BE CONTROLLER. OFFICE OF FEDERAL FINANCIAL MANAGEMENT. OFFICE OF MANAGEMENT AND BUDGET. VICE G. EDWARD DESEVE.

JOHN T. SPOTILA. OF NEW JERSEY. TO BE ADMINISTRATOR OF THE OFFICE OF INFORMATION AND REGULATORY AFFAIRS. OFFICE OF MANAGEMENT AND BUDGET. VICE SALLY KATZEN.

DEPARTMENT OF JUSTICE

ALEJANDRO N. MAYORKAS. OF CALIFORNIA. TO BE UNITED STATES ATTORNEY FOR THE CENTRAL DISTRICT OF CALIFORNIA. VICE NORA MARGARET MANELLA. RESIGNED.

THOMAS LEE STRICKLAND. OF COLORADO. TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF COLORADO FOR THE TERM OF FOUR YEARS. VICE HENRY LAWRENCE SOLANO. RESIGNED.

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

JAMES ROGER ANGEL. OF ARIZONA. TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING FEBRUARY 4. 2002, VICE CHARLES SZU. TERM EXPIRED.

HOUSE OF REPRESENTATIVES—*Thursday, January 7, 1999*

(The House was not in Session)

[Pursuant to House Resolution 5, H.R. 1 through H.R. 9 are reserved]

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. LEACH (for himself, Mr. McCollum, Mrs. Roukema, Mr. Baker, Mr. Lazio of New York, Mr. Bachus, Mr. Castle, Mr. King of New York, Mr. Ney, Mr. Cook, Mr. LaTourette, and Mrs. Kelly):

H.R. 10. A bill to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes; referred to the Committee on Banking and Financial Services, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BILBRAY (for himself, Mr. Lewis of California, Ms. Eshoo, Ms. Millender-McDonald, Mrs. Tauscher, Mr. Campbell, Mr. George Miller of California, Mr. Dreier, Mr. Horn, Mr. Cox of California, Mr. Matsui, Mr. Packard, Mr. Thomas, Ms. Pelosi, Mr. Hunter, Mrs. Capps, Mr. Cunningham, Mr. Dixon, Mr. McKeon, Mr. Sherman, Mr. Radanovich, Mr. Lantos, Mr. Ose, Mrs. Bono, Mr. Kuykendall, Mr. Pombo, Ms. Woolsey, Mr. Becerra, Mr. Rohrabacher, Ms. Lofgren, Mr. Rogan, Mr. Condit, Mr. Doolittle, and Ms. Roybal-Allard):

H.R. 11. A bill to amend the Clean Air Act to permit the exclusive application of California State regulations regarding reformulated gas in certain areas within the State; to the Committee on Commerce.

By Mr. DELAY:

H.R. 12. A bill to limit the jurisdiction of the Federal courts with respect to prison release orders; to the Committee on the Judiciary.

By Mr. LAHOOD:

H.R. 13. A bill to direct the Administrator of the Federal Aviation Administration to implement reforms to the Liaison and Familiarization Training Program; to the Committee on Transportation and Infrastructure.

By Mr. DREIER (for himself, Ms. McCarthy of Missouri, Mr. Forbes, Mr. Deutsch, Mr. Hall of Texas, Mr. Moran of Virginia, and Mr. English of Pennsylvania):

H.R. 14. A bill to amend the Internal Revenue Code of 1986 to provide maximum rates of tax on capital gains of 14 percent for individuals and 28 percent for corporations and to index the basis of assets of individuals for purposes of determining gains and losses; to the Committee on Ways and Means.

By Mr. BILBRAY:

H.R. 15. A bill to designate a portion of the Otay Mountain region of California as wilderness; to the Committee on Resources.

By Mr. DINGELL:

H.R. 16. A bill to provide a program of national health insurance, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EWING (for himself, Mr. Combest, Mr. Stenholm, Mr. Shimkus, Mr. Condit, Mr. LaHood, Mr. Minge, Mr. Barrett of Nebraska, Mr. Moran of Kansas, Mr. Bereuter, Mr. Thune, Mr. Smith of Michigan, Mrs. Emerson, Mr. Manzullo, Mr. Lewis of Kentucky, Mr. Weller, Mr. Canady of Florida, Mr. Kolbe, Mr. Nethercutt, and Mr. Walden):

H.R. 17. A bill to amend the Agricultural Trade Act of 1978 to require the President to report to Congress on any selective embargo on agricultural commodities, to provide a termination date for the embargo, to provide greater assurances for contract sanctity, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ARCHER:

H.R. 18. A bill to amend the Internal Revenue Code of 1986 to provide that the transfer of property subject to a liability shall be treated in the same manner as the transfer of property involving an assumption of liability; to the Committee on Ways and Means.

By Mr. BURTON of Indiana:

H.R. 19. A bill to amend the Internal Revenue Code of 1986 regarding the treatment of golf caddies for employment tax purposes; to the Committee on Ways and Means.

By Mr. GILMAN:

H.R. 20. A bill to authorize the Secretary of the Interior to construct and operate a visitor center for the Upper Delaware Scenic and Recreational River on land owned by the State of New York; to the Committee on Resources.

By Mr. LAZIO of New York (for himself, Mr. McCollum, Mr. Bentsen, Mr. LaFalce, Mr. Baker, Mr. Weygand, Mr. Sherman, Mr. Leach, Mrs. Roukema, Mr. Campbell, Mr. Metcalf, Mrs. Kelly, Mr. Weldon of Florida, Mr. Ackerman, Mr. Maloney of Connecticut, Ms. Hooley of Oregon, Mr. Cooksey, Mr. Dreier, Mr. Young of Alaska, Mr. Frost, Mr. Farr of California, Mr. McCrery, Mrs. Meek of Florida, Ms. Christian-Green, Mr. Canady of Florida, Mr. Calvert, Mr. Shaw, Mr. Cunningham, Mr. Ewing, Mr. Davis of Florida, Mr. Price of North Carolina, Mr. McKeon, Mr. Bilirakis, Mr. Boyd, Mrs. Fowler, Mr. LoBiondo, Mr. Blunt, Mr. LaHood, Mrs. Thurman, Mr. Wexler, Ms. Ros-Lehtinen, Mr. Knollenberg, Mr. Mica, Mr. Deutsch, Mr. Stearns, Mr. Traficant, and Mr. Porter):

H.R. 21. A bill to establish a Federal program to provide reinsurance for State disaster insurance programs; to the Committee on Banking and Financial Services.

By Mr. McHUGH (for himself and Mr. Burton of Indiana):

H.R. 22. A bill to modernize the postal laws of the United States; to the Committee on Government Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DREIER:

H.R. 23. A bill to provide grants to local educational agencies to allow such agencies to promote certain education initiatives; to the Committee on Education and the Workforce.

By Mr. GILMAN (for himself and Mrs. Kelly):

H.R. 24. A bill to amend title 38, United States Code, to provide for certain improvements in the way in which health-care resources are allocated by the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BOEHLERT:

H.R. 25. A bill to reduce acid deposition under the Clean Air Act, and for other purposes; to the Committee on Commerce.

By Mr. GILMAN (for himself, Mr. Filner, Mr. Campbell, Mr. Cunningham, Mrs. Morella, Mr. Evans, Mr. Abercrombie, and Ms. Millender-McDonald):

H.R. 26. A bill to allow certain individuals who provided service to the Armed Forces of the United States in the Philippines during World War II to receive a reduced SSI benefit after moving back to the Philippines; to the Committee on Ways and Means.

By Mr. DREIER:

H.R. 27. A bill to amend the Internal Revenue Code of 1986 to allow the carryover of unused nontaxable benefits under cafeteria plans and flexible spending arrangements, and for other purposes; to the Committee on Ways and Means.

By Mr. GILMAN (for himself, Mrs. Morella, Mrs. Maloney of New York, Mr. Waxman, Mr. Romero-Barcelo, Mrs. Kelly, and Mr. Shays):

H.R. 28. A bill to provide for greater access to child care services for Federal employees; to the Committee on Government Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

By Mr. DREIER:

H.R. 29. A bill to amend the Congressional Budget Act of 1974 to require that the Director of the Congressional Budget Office and the Joint Committee on Taxation utilize dynamic scoring for provisions of bills or joint resolutions that reduce rates of taxation; to the Committee on the Budget, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEACH (for himself, Mrs. Roukema, Mr. Lazio of New York, Mr. Castle, Mr. LaFalce, Mr. Hinchey, and Mr. Vento):

H.R. 30. A bill to protect consumers and financial institutions by preventing personal financial information from being obtained from financial institutions under false pretenses; to the Committee on Banking and Financial Services.

By Mr. LEACH (for himself and Mr. Vento):

H.R. 31. A bill to require the Secretary of the Treasury to mint coins in conjunction with the minting of coins by the Republic of Iceland in commemoration of the millennium of the discovery of the New World by Leif Ericsson; to the Committee on Banking and Financial Services.

By Mr. DREIER:

H.R. 32. A bill to amend the Federal Election Campaign Act of 1971 to expand the types of information on campaign spending required to be reported to the Federal Election Commission, to transfer responsibility for the enforcement of Federal laws governing the financing of campaigns for election for Federal office from the Commission to the Attorney General, and for other purposes; to the Committee on House Administration, and in addition to the Committees on Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOSS (for himself, Mr. Miller of Florida, Mr. McCollum, Mr. Canady of Florida, Mr. Foley, Mr. Shaw, Mr. Wexler, Mr. Shays, Mr. Bilirakis, Mr. Davis of Florida, Ms. Ros-Lehtinen, and Mrs. Thurman):

H.R. 33. A bill imposing certain restrictions and requirements on the leasing under the Outer Continental Shelf Lands Act of lands offshore Florida, and for other purposes; to the Committee on Resources.

By Mr. GOSS:

H.R. 34. A bill to direct the Secretary of the Interior to make technical corrections to a map relating to the Coastal Barrier Resources System; to the Committee on Resources.

By Mr. GUTIERREZ:

H.R. 35. A bill to prohibit the possession or transfer of junk guns, also known as Saturday Night Specials; to the Committee on the Judiciary.

By Mr. GUTIERREZ (for himself, Ms. Waters, Mrs. Morella, Mr. Bonior, Ms. Roybal-Allard, Ms. Ros-Lehtinen, Mr. Wynn, Ms. Eddie Bernice Johnson of Texas, Mr. Davis of Illinois, Mr. Moakley, Mr. Owens, Mr. Frost, Mr. Ortiz, Mr. Pastor, Mr. Engel, Mr. McGovern, Ms. Lee, Mrs. Meek of Florida, Mr. Frank of Massachusetts, Mr. Serrano, Mr. Towns, Mr. Pascrell, Mr. LaFalce, Ms. Woolsey, Ms. Norton, Mr. Hinchey, Mr. Lantos, Mr. Filner, Mr. Stark, Mr. Romero-Barcelo, Mr. George Miller of California, Mr. Brady of Texas, Mr. Becerra, and Mr. Menendez):

H.R. 36. A bill to amend the Nicaraguan Adjustment and Central American Relief Act to eliminate the requirement that spouses and children of aliens eligible for adjustment of status under such Act, be nationals of Nicaragua or Cuba and to provide to nationals of El Salvador, Guatemala, Honduras, and Haiti an opportunity to apply for adjustment of status under that Act, and for other purposes; to the Committee on the Judiciary.

By Mr. LIVINGSTON:

H.R. 37. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to protect the Social Security trust funds; to the Committee on the Budget.

By Mr. STUMP:

H.R. 38. A bill to repeal the National Voter Registration Act of 1993; to the Committee on House Administration.

By Mr. YOUNG of Alaska (for himself, Mr. Saxton, and Mr. George Miller of California):

H.R. 39. A bill to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds; to the Committee on Resources.

By Mr. CONYERS (for himself, Mr. Fattah, Mr. Hastings of Florida, Mr. Hilliard, Mr. Jefferson, Ms. Eddie Bernice Johnson of Texas, Mrs. Meek of Florida, Mr. Owens, Mr. Rush, and Mr. Towns):

H.R. 40. A bill to acknowledge the fundamental injustice, cruelty, brutality, and inhumanity of slavery in the United States and the 13 American colonies between 1619 and 1865 and to establish a commission to examine the institution of slavery, subsequently de jure and de facto racial and economic discrimination against African-Americans, and the impact of these forces on living African-Americans, to make recommendations to the Congress on appropriate remedies, and for other purposes; to the Committee on the Judiciary.

By Mr. STUMP (for himself, Mr. Callahan, Mr. Goss, Mr. Norwood, Mr. Herger, Mr. Taylor of North Carolina, Mr. Young of Alaska, Mr. Gibbons, Mr. Hefley, Mr. Deal of Georgia, Mr. Shadegg, Mr. Hansen, Mrs. Chenoweth, Mr. Sam Johnson of Texas, Mr. Collins, Mr. Watkins, Mrs. Cubin, Mr. McKeon, Mr. Spence, Mr. Barr of Georgia, Mr. Coble, Mr. Sensenbrenner, Mr. Rogers, Mr. Dickey, Mr. Bachus, Mr. Packard, Mr. Ewing, Mr. Cooksey, Mr. Baker, Mr. Everett, Mr. Doolittle, Mr. Tauzin, Mr. Taylor of Mississippi, Mr. Linder, Mr. Bartlett of Maryland, Mr. Traficant, Mrs. Emerson, Mr. Skeen, Mr. Lewis of Kentucky, Mr. Jones of North Carolina, Mr. Hall of Texas, Mr. Radanovich, Mr. Hunter, Mr. Combest, Mr. Goode, Mr. Wicker, Mr. Duncan, Mr. Hayes, and Mr. Camp):

H.R. 41. A bill to effect a moratorium on immigration by aliens other than refugees, priority workers, and the spouses and children of United States citizens; to the Committee on the Judiciary.

By Mr. STUMP:

H.R. 42. A bill to repeal the Federal estate and gift taxes; to the Committee on Ways and Means.

H.R. 43. A bill to amend the Internal Revenue Code of 1986 to accelerate the phasein of the $1,000,000 exclusion from the estate and gift taxes; to the Committee on Ways and Means.

By Mr. BILIRAKIS (for himself and Mr. Norwood):

H.R. 44. A bill to amend title 10, United States Code, to authorize the payment of special compensation to certain severely disabled uniformed services retirees; to the Committee on Armed Services.

By Mr. UPTON (for himself, Mr. Towns, Mr. Barton of Texas, Mr. Hall of Texas, Mr. Holden, Mr. Norwood, Mr. Gordon, Mr. Oxley, Mr. Burr of North Carolina, Mr. Klink, Mr. Whitfield, Mr. Spratt, Mr. Hoekstra, Mr. Livingston, Mr. Kanjorski, Mr. Bilirakis, Mr. Graham, Mr. Peterson of Pennsylvania, Mr. Canady of Florida, Mr. Manzullo, Mr. Ramstad, Mr. Hutchinson, Mr. Pickering, Mr. Gutknecht, Mr. LoBiondo, Mr. Shimkus, Mr. Nethercutt, Mr. Rohrabacher, Mr. Foley, Mr. Taylor of North Carolina, Mr. Bereuter, Mr. Oberstar, Mr. Lipinski, Mr. Stupak, Mr. Rush, Mr. Smith of Michigan, Mr. Ehlers, Mr. Knollenberg, Mr. Porter, Mr. Sisisky, Mr. Bonior, Mr. Camp, Mr. Kildee, Mr. Barcia of Michigan, Ms. Stabenow, Mr. Peterson of Minnesota, Ms. Jackson-Lee of Texas, and Mr. Allen):

H.R. 45. A bill to amend the Nuclear Waste Policy Act of 1982; to the Committee on Commerce, and in addition to the Committees on Resources, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McCOLLUM (for himself, Mr. Hyde, Mr. Conyers, Mr. Buyer, Mr. Gekas, Mr. Barr of Georgia, Mr. Hutchinson, Mr. Chabot, Mr. Graham, Mr. Scott, Ms. Jackson-Lee of Texas, Mr. Wexler, Mr. Cunningham, and Mr. LoBiondo):

H.R. 46. A bill to provide for a national medal for public safety officers who act with extraordinary valor above and beyond the call of duty; to the Committee on the Judiciary.

By Mr. STUMP:

H.R. 47. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 48. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 increase in income taxes on Social Security benefits; to the Committee on Ways and Means.

By Mrs. KELLY (for herself, Mr. Ganske, Mr. Gilman, Mrs. Maloney of New York, and Mr. Condit):

H.R. 49. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUMP (for himself and Mr. Tancredo):

H.R. 50. A bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. KELLY:

H.R. 51. A bill to amend title 18, United States Code, to prohibit taking a child hostage in order to evade arrest; to the Committee on the Judiciary.

By Mr. TRAFICANT:

H.R. 52. A bill to redesignate the naval facility located in Gricignano d'Aversa, Italy, and known as the Naples Support Site, as the "Thomas M. Foglietta Support Site"; to the Committee on Armed Services.

By Mr. WATKINS (for himself, Mr. Thomas, Mr. Istook, Mr. Moran of Kansas, Mr. Brady of Texas, Mr. Skeen, Mr. Thornberry, Mr. McCrery, Mr. Largent, Mr. Watts of Oklahoma, Mr. Lucas of Oklahoma, Mr. Smith of Texas, and Mr. Stenholm):

H.R. 53. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for marginal oil and natural gas well production; to the Committee on Ways and Means.

By Mr. GILMAN:

H.R. 54. A bill to extend the authorization for the Upper Delaware Citizens Advisory Council; to the Committee on Resources.

By Mr. DREIER:

H.R. 55. A bill to make the Federal employees health benefits program available to individuals age 55 to 65 who would not otherwise have health insurance, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

[Omitted from the Record of January 6, 1999]

By Mr. ACKERMAN:

H.R. 56. A bill prohibiting the manufacture, sale, delivery, or importation of buses that do not have seat belts; to the Committee on Commerce.

By Mr. ARCHER:

H.R. 57. A bill to amend the Federal Election Campaign Act of 1971 to prohibit political action committees from making contributions or expenditures for the purpose of influencing elections for Federal office, and for other purposes; to the Committee on House Administration.

By Mr. BACHUS (for himself, Mr. Riley, Mr. Aderholt, and Mr. Everett):

H.R. 58. A bill to amend the Internal Revenue Code of 1986 to provide that distributions from qualified State tuition programs which are used to pay educational expenses shall not be includible in gross income; to the Committee on Ways and Means.

By Mr. BARR of Georgia:

H.R. 59. A bill to amend title 18, United States Code, to provide that the firearms prohibitions applicable by reason of a domestic violence misdemeanor conviction do not apply if the conviction occurred before the prohibitions became law; to the Committee on the Judiciary.

H.R. 60. A bill to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BENTSEN (for himself, Mr. Hall of Texas, and Mr. Sandlin):

H.R. 61. A bill to amend title XVIII of the Social Security Act to provide for Medicare reimbursement of routine patient care costs for individuals participating in Federally approved clinical trials and to require a report on costs of requiring coverage of these costs under group health plans and health insurance coverage; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARR of Georgia:

H.R. 62. A bill to provide that the provisions of Executive Order 13107, relating to the implementation of certain human rights treaties, shall not have any legal effect; to the Committee on International Relations.

H.R. 63. A bill to prohibit the use of funds to administer or enforce the provisions of Executive Order 13107, relating to the implementation of certain human rights treaties; to the Committee on International Relations.

By Mr. BEREUTER:

H.R. 64. A bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Lewis & Clark Expedition, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. BILIRAKIS (for himself and Mr. Norwood):

H.R. 65. A bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with veterans' disability compensation; to the Committee on Armed Services.

By Mrs. WILSON (for herself, Mr. Skeen, Mr. Udall of New Mexico, and Mr. Watkins):

H.R. 66. A bill to preserve the cultural resources of the Route 66 corridor and to authorize the Secretary of the Interior to provide assistance; to the Committee on Resources.

By Mr. BEREUTER:

H.R. 67. A bill to amend the Housing and Community Development Act of 1992 to extend the loan guarantee program for Indian housing; to the Committee on Banking and Financial Services.

By Mr. TALENT (for himself, Ms. Velázquez, Mrs. Kelly, Mr. Sisisky, Mr. Manzullo, Mr. Pascrell, Mr. LoBiondo, Mrs. McCarthy of New York, Mr. English of Pennsylvania, Ms. Millender-McDonald, Mr. Moore, and Mr. DeMint):

H.R. 68. A bill to amend section 20 of the Small Business Act and make technical corrections in Title III of the Small Business Investment Act; to the Committee on Small Business.

By Mr. BEREUTER:

H.R. 69. A bill to amend the Federal Election Campaign Act of 1971 to prohibit all individuals who are not citizens or nationals of the United States from making contributions or expenditures in connection with elections for Federal office; to the Committee on House Administration.

By Mr. STUMP (for himself, Mr. Evans, and Mr. Bilirakis):

H.R. 70. A bill to amend title 38, United States Code, to enact into law eligibility requirements for burial in Arlington National Cemetary, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. STUMP (for himself and Mr. Evans):

H.R. 71. A bill to amend the Internal Revenue Code of 1986 to clarify the exclusion from gross income for veterans' benefits; to the Committee on Ways and Means.

By Mr. STUMP (for himself and Mr. Norwood):

H.R. 72. A bill to amend title 10, United States Code, to revise the rules relating to the court-ordered apportionment of the retired pay of members of the Armed Forces to former spouses, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BILBRAY:

H.R. 73. A bill to amend the Immigration and Nationality Act to deny citizenship at birth to children born in the United States of parents who are not citizens or permanent resident aliens; to the Committee on the Judiciary.

H.R. 74. A bill to provide that outlays and revenues totals of the old-age, survivors, and disability insurance program under title II of the Social Security Act and of the related provisions of the Internal Revenue Code of 1986 shall be excluded from official budget pronouncements of the Office of Management and Budget and the Congressional Budget Office; to the Committee on the Budget, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. JACKSON-LEE of Texas:

H.R. 75. A bill to schedule Gamma y-hydroxybutyrate in schedule I of the Controlled Substances Act and to schedule Ketamine in schedule II of such Act and for other purposes; to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 76. A bill to amend title XVIII of the Social Security Act to require hospitals reimbursed under the Medicare system to establish and implement security procedures to reduce the likelihood of infant patient abduction and baby switching, including procedures for identifying all infant patients in the hospital in a manner that ensures that it will be evident if infants are missing from the hospital; to the Committee on Ways and Means, and in addition to the Committees on the Judiciary, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 77. A bill to enhance Federal enforcement of hate crimes, and for other purposes; to the Committee on the Judiciary.

H.R. 78. A bill to require the Secretary of Education to conduct a study and submit a report to the Congress on methods for identifying and treating children with dyslexia in kindergarten through 3rd grade; to the Committee on Education and the Workforce.

By Mr. BILIRAKIS:

H.R. 79. A bill to amend the Solid Waste Disposal Act to exempt pesticide rinse water degradation system from subtitle C permit requirements; to the Committee on Commerce.

H.R. 80. A bill to amend the Internal Revenue Code of 1986 to clarify the exclusion from gross income for veterans' benefits; to the Committee on Ways and Means.

H.R. 81. A bill to amend the Internal Revenue Code of 1986 to allow employers a tax credit for hiring displaced homemakers; to the Committee on Ways and Means.

H.R. 82. A bill to amend title 5, United States Code, to provide that the Civil Service Retirement and Disability Fund be excluded from the budget of the United States Government; to the Committee on Government Reform, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 83. A bill to modify the provision of law which provides a permanent appropriation for the compensation of Members of Congress, and for other purposes; to the Committee on Rules, and in addition to the Committee on Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BLAGOJEVICH:

H.R. 84. A bill to establish or expand existing community prosecution programs; to the Committee on the Judiciary.

H.R. 85. A bill to amend title 18, United States Code, to prohibit, with certain exceptions, the transfer of a handgun to, or the possession of a handgun by, an individual who has not attained 21 years of age; to the Committee on the Judiciary.

By Mr. COX of California (for himself, Mr. Aderholt, Mr. Andrews, Mr. Armey, Mr. Bachus, Mr. Baker, Mr. Barcia of Michigan, Mr. Barr of Georgia, Mr. Bartlett of Maryland, Mr. Barton of Texas, Mr. Bass, Mr. Bilbray, Mr. Bilirakis, Mr. Bliley, Mr. Blunt, Mr. Boehlert, Mr. Boehner, Mr. Bonilla, Mrs. Bono, Mr. Boucher, Mr. Brady of Texas, Mr. Bryant, Mr. Burr of North Carolina, Mr. Burton of Indiana, Mr. Calvert, Mr. Camp, Mr. Campbell, Mr. Cannon, Mr. Canady of Florida, Mr. Chabot, Mr. Chambliss, Mrs. Chenoweth, Mr. Cramer, Mr. Coble, Mr. Coburn, Mr. Collins, Mr. Combest, Mr. Condit, Mr. Cook, Mr. Cooksey, Mr. Crane, Mrs. Cubin, Mr. Cunningham, Ms. Danner, Mr. Deal of Georgia, Mr. DeLay, Mr. DeMint, Mr. Dickey, Mr. Doolittle, Mr. Dreier, Mr. Duncan, Ms. Dunn of Washington, Mr. Ehrlich, Mrs. Emerson, Mr. English of Pennsylvania, Mr. Everett, Mr. Ewing, Mr. Foley, Mr. Fossella, Mrs. Fowler, Mr. Forbes, Mr. Franks of New Jersey, Mr. Gallegly, Mr. Gekas, Mr. Gibbons, Mr. Gillmor, Mr. Gilman, Mr. Goode, Mr. Goodling, Mr. Goodlatte, Mr. Goss, Mr. Graham, Ms. Granger, Mr. Green of Wisconsin, Mr. Greenwood, Mr. Hall of Texas, Mr. Hansen, Mr. Hastings of Washington, Mr. Hayes, Mr. Hayworth, Mr. Hefley, Mr. Herger, Mr. Hill of Montana, Mr. Hilleary, Mr. Horn, Mr. Hostettler, Mr. Hulshof, Mr. Hunter, Mr. Hutchinson, Mr. Hyde, Mr. Istook, Mr. Jenkins, Mr. Sam Johnson of Texas, Mr. Jones of North Carolina, Mr. Kasich, Mrs. Kelly, Mr. King of New York, Mr. Kingston, Mr. Knollenberg, Mr. Kolbe, Mr. Kuykendall, Mr. Largent, Mr. Latham, Mr. LaHood, Mr. LaTourette, Mr. Lewis of California, Mr. Lewis of Kentucky, Mr. Linder, Mr. Livingston, Mr. LoBiondo, Mr. Lucas of Oklahoma, Mr. McCrery, Mr. McIntosh, Mr. McInnis, Mr. McHugh, Mr. McKeon, Mr. McCollum, Mr. Manzullo, Mr. Martinez, Mr. Metcalf, Mr. Mica, Mr. Miller of Florida, Mr. Gary Miller of California, Mr. Moran of Kansas, Mrs. Myrick, Mr. Nethercutt, Mr. Ney, Mrs. Northup, Mr. Norwood, Mr. Oxley, Mr. Packard, Mr. Paul, Mr. Pease, Mr. Peterson of Pennsylvania, Mr. Pickering, Mr. Pitts, Mr. Pombo, Mr. Porter, Ms. Pryce of Ohio, Mr. Radanovich, Mr. Rahall, Mr. Ramstad, Mr. Riley, Mr. Rogan, Mr. Rohrabacher, Ms. Ros-Lehtinen, Mrs. Roukema, Mr. Royce, Mr. Ryun of Kansas, Mr. Salmon, Mr. Saxton, Mr. Scarborough, Mr. Schaffer, Mr. Sensenbrenner, Mr. Sessions, Mr. Shadegg, Mr. Shaw, Mr. Shimkus, Mr. Shuster, Mr. Skeen, Mr. Smith of Texas, Mr. Smith of Michigan, Mr. Souder, Mr. Spence, Mr. Stearns, Mr. Stump, Mr. Sununu, Mr. Sweeney, Mr. Talent, Mr. Tancredo, Mr. Tauzin, Mr. Taylor of North Carolina, Mr. Terry, Mr. Thornberry, Mr. Thune, Mr. Tiahrt, Mr. Toomey, Mr. Upton, Mr. Walden, Mr. Walsh, Mr. Wamp, Mr. Watkins, Mr. Watts of Oklahoma, Mr. Weldon of Pennsylvania, Mr. Weldon of Florida, Mrs. Wilson, Mr. Whitfield, Mr. Wicker, Mr. Wolf, and Mr. Young of Alaska):

H.R. 86. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Ways and Means.

By Mr. BLAGOJEVICH (for himself and Mr. Kennedy):

H.R. 87. A bill to prohibit internet and mail-order sales of ammunition without a license to deal in firearms, and require licensed firearms dealers to record all sales of 1,000 rounds of ammunition to a single person; to the Committee on the Judiciary.

By Mr. BROWN of California:

H.R. 88. A bill to amend the Treasury and General Government Appropriations Act, 1999, to repeal the requirement regarding data produced under Federal grants and agreements awarded to institutions of higher education, hospitals, and other nonprofit organizations; to the Committee on Government Reform.

By Mr. BURR of North Carolina (for himself, Mr. Graham, Mr. DeFazio, Mr. Hutchinson, Mr. Norwood, Mr. Hall of Ohio, Mr. Bishop, Mr. Skeen, Mr. Smith of Washington, Mr. Metcalf, Mr. McInnis, Ms. Rivers, Mr. Taylor of North Carolina, Mr. Peterson of Pennsylvania, and Mr. Goode):

H.R. 89. A bill to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CLAY (for himself, Ms. Velázquez, Mr. Owens, Mrs. Mink of Hawaii, Mr. George Miller of California, Mr. Payne, Ms. Woolsey, Mr. Ford, Mr. Fattah, Mr. Abercrombie, Mr. Borski, Mr. Brown of Ohio, Ms. DeLauro, Mr. Dixon, Mr. Green of Texas, Mr. Hinchey, Mr. LaFalce, Mr. Lantos, Ms. Lee, Ms. Millender-McDonald, Mr. Olver, Mr. Pascrell, Mr. Price of North Carolina, Mr. Rahall, Mr. Rothman, Mr. Sanders, Mr. Wise, and Mr. Wynn):

H.R. 90. A bill to amend the Fair Labor Standards Act of 1938 to provide for legal accountability for sweatshop conditions in the garment industry, and for other purposes; to the Committee on Education and the Workforce.

By Mr. CLAY:

H.R. 91. A bill to amend the Family and Medical Leave Act of 1993, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Government Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COBLE:

H.R. 92. A bill to designate the Federal building and United States courthouse located at 251 North Main Street in Winston-Salem, North Carolina, as the "Hiram H. Ward Federal Building and United States Courthouse"; to the Committee on Transportation and Infrastructure.

H.R. 93. A bill to amend title 10 and title 14, United States Code, and the Merchant Marine Act, 1936, to increase the period of the service obligation for gradutes of the miltary service academics, the Coast Guard Academy, and the United States Merchant Marine Academy; to the Committee on Armed Services, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 94. A bill to repeal the provision of law under which pay for Members of Congress is automatically adjusted; to the Committee on Government Reform, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 95. A bill to make Members of Congress ineligible to participate in the Federal Employees' Retirement System; to the Committee on Government Reform, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 96. A bill to limit the duration of certain benefits afforded to former Presidents, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONYERS (for himself and Mr. McCollum):

H.R. 97. A bill to provide protection from personal intrusion for commercial purposes; to the Committee on the Judiciary.

By Mr. SHUSTER (for himself, Mr. Oberstar, Mr. Duncan, and Mr. Lipinski):

H.R. 98. A bill to amend chapter 443 of title 49, United States Code, to extend the aviation war risk insurance program; to the Committee on Transportation and Infrastructure.

By Mr. SHUSTER (for himself, Mr. Oberstar, Mr. Duncan, and Mr. Lipinski):

H.R. 99. A bill to amend title 49, United States Code, to extend Federal Aviation Administration programs through September 30, 1999, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. FATTAH:

H.R. 100. A bill to establish designations for United States Postal Service buildings in Philadelphia, Pennsylvania; to the Committee on Government Reform.

By Mr. CONYERS (for himself and Mr. Dingell):

H.R. 101. A bill to amend the Sherman Act and the Federal Trade Commission Act with respect to commerce with foreign nations; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONYERS (for himself and Mr. Hyde):

H.R. 102. A bill to provide grants to grassroots organizations in certain cities to develop youth intervention models; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COOK (for himself, Mr. Cannon, Mr. Moakley, and Mrs. Morella):

H.R. 103. A bill to suspend temporarily the duty on the personal effects of participants in, and certain other individuals associated with, the 1999 International Special Olympics, the 1999 Women's World Cup Soccer, the 2001 International Special Olympics, the 2002 Salt Lake City Winter Olympics, and the 2002 Winter Paralympic Games; to the Committee on Ways and Means.

By Mr. KNOLLENBERG:

H.R. 104. A bill to amend the Internal Revenue Code of 1986 to reduce individual income tax rates by 10 percent; to the Committee on Ways and Means.

H.R. 105. A bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for Social Security taxes; to the Committee on Ways and Means.

H.R. 106. A bill to amend the Internal Revenue Code of 1986 to eliminate the tax on the net capital gain of taxpayers other than corporations; to the Committee on Ways and Means.

H.R. 107. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 increase in income tax on Social Security benefits, to repeal the earnings limitation on Social Security recipients, and to repeal the estate and gift taxes; to the Committee on Ways and Means.

H.R. 108. A bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty in the standard deduction; to the Committee on Ways and Means.

By Mr. BLAGOJEVICH (for himself, Mr. Castle, Mr. Shays, Mr. Moran of Virginia, Mr. Wexler, Mr. Stark, Mr. Kennedy, Ms. DeGette, Mr. Jackson of Illinois, Mrs. McCarthy of New York, Mr. Nadler, Mrs. Morella, Mr. Lipinski, Ms. Kilpatrick, Mr. Waxman, Mr. Olver, Mrs. Maloney of New York, Mr. Underwood, Mr. Engel, Mr. Davis of Illinois, Mr. Markey, Ms. DeLauro, Ms. Christian-Green, Mr. Ford, Ms. Carson, Mr. Conyers, Ms. Lee, and Ms. Lofgren):

H.R. 109. A bill to better regulate the transfer of firearms at gun shows; to the Committee on the Judiciary.

By Mr. CUMMINGS:

H.R. 110. A bill to amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees and annuitants, and for other purposes; to the Committee on Government Reform.

By Mr. SHUSTER (for himself, Mr. Oberstar, Mr. Duncan, Mr. Boehlert, Mr. Lipinski, and Mr. Borski):

H.R. 111. A bill to provide off-budget treatment for the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CUNNINGHAM:

H.R. 112. A bill to require a temporary moratorium on leasing, exploration, and development on lands of the Outer Continental Shelf off the State of California, and for other purposes; to the Committee on Resources.

By Mr. CUNNINGHAM (for himself, Mr. Hansen, Mr. Moran of Virginia, Mr. Bilbray, and Ms. Granger):

H.R. 113. A bill to remove certain restrictions on participation in the demonstration project conducted by the Secretary of Defense to provide health care for Medicare-eligible Department of Defense beneficiaries under the Federal Employees Health Benefits program; to the Committee on Armed Services, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DeLAURO (for herself, Mr. George Miller of California, Mr. Olver, Mr. Filner, Ms. Millender-McDonald, Mr. Luther, and Ms. Lee):

H.R. 114. A bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to prohibit fees for using teller windows at depository institutions, and for other purposes; to the Committee on Banking and Financial Services.

By Ms. DeLAURO (for herself, Mr. Gephardt, Mr. Bonior, Mr. Frost, Ms. Pelosi, Mr. Borski, Mr. Wise, and Mr. Thompson of Mississippi):

H.R. 115. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Banking and Financial Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DELAURO (for herself, Mr. Dingell, Mrs. Roukema, Ms. Eshoo, Mr. Hastings of Florida, Mrs. Meek of Florida, Ms. Sanchez, Mr. Wynn, Mr. Mascara, Mr. Kildee, Mr. Burton of Indiana, Mr. Gejdenson, Mr. Maloney of Connecticut, Mr. Shays, Mr. Kleczka, Mrs. Maloney of New York, Ms. Lee, Mr. Moran of Virginia, Mr. McIntyre, Mr. Dixon, Mr. Frank of Massachusetts, Mr. Delahunt, Mr. Sherman, Mr. Romero-Barcelo, Mr. Andrews, Mrs. Mink of Hawaii, Mr. Filner, Mr. Turner, Mr. Sandlin, Mrs. Morella, Mr. Strickland, Mr. Deutsch, Mr. Pallone, Mr. Edwards, Mr. Rangel, Mr. Dooley of California, Mr. Boucher, Mr. Coyne, Mr. Brown of Ohio, Mr. Bentsen, Mr. Boyd, Mr. Meehan, Mr. Serrano, Mrs. Lowey, Mr. Hinchey, Mr. Cooksey, Mr. Baldacci, Mr. Faleomavaega, Mr. Price of North Carolina, Mr. Davis of Illinois, Ms. Pelosi, Mr. McNulty, Mr. Tierney, Ms. Kilpatrick, Mr. Towns, Mr. Barrett of Wisconsin, Mr. Hilliard, Ms. Danner, Mrs. Clayton, Mr. Horn, Mr. Wolf, Mr. Luther, Mr. Farr of California, Mr. Hoyer, Mr. Frost, Mr. Kucinich, Mr. Rahall, Mr. Rodriguez, Mr. Bonior, Mrs. Capps, Mr. Gutierrez, Ms. Norton, Ms. Millender-McDonald, Mr. Ford, Mrs. Thurman, Mr. DeFazio, Mr. Etheridge, Mr. Gephardt, Ms. Kaptur, Mr. LaFalce, Ms. Slaughter, Mr. Matsui, Mr. George Miller of California, Mr. Brady of Pennsylvania, Mr. King of New York, Mr. Lewis of Georgia, Mr. McGovern, Mrs. McCarthy of New York, Mr. Berry, Mr. Walsh, Ms. McCarthy of Missouri, Ms. Velázquez, Mr. Blagojevich, Mr. Boehlert, Ms. McKinney, Mr. Quinn, Mr. Ackerman, Mr. Olver, Mr. Stupak, Ms. Roybal-Allard, Mr. Pascrell, and Ms. Stabenow):

H.R. 116. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissections performed for the treatment of breast cancer; to the Committee on Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DICKEY (for himself, Mr. Taylor of North Carolina, Mr. Duncan, Ms. McKinney, Mr. Stump, Mr. Norwood, and Mr. Hefley):

H.R. 117. A bill to reform the independent counsel statute, and for other purposes; to the Committee on the Judiciary.

By Mr. DOGGETT:

H.R. 118. A bill to designate the Federal building located at 300 East 8th Street in Austin, Texas, as the "J.J. 'Jake' Pickle Federal Building"; to the Committee on Transportation and Infrastructure.

By Mrs. EMERSON (for herself, Mr. SKELTON, Mr. BRADY of Pennsylvania, Mr. ROMERO-BARCELO, Mr. ENGLISH of Pennsylvania, Mr. WATTS of Oklahoma, Mr. BENTSEN, Mr. HEFLEY, Mr. CUNNINGHAM, Mr. UNDERWOOD, Ms. WOOLSEY, Mr. BALDACCI, Mr. CONDIT, Ms. DANNER, Mr. DEFAZIO, Mr. DOYLE, Mr. GOODE, Mrs. MCCARTHY of New York, Mrs. NORTHUP, Mr. PASCRELL, Mr. TAYLOR of Mississippi, Mr. TIERNEY, Mr. MCINTYRE, Mrs. KELLY, Mr. BLUNT, and Mr. BARR of Georgia):

H.R. 119. A bill to establish the Medicare Eligible Military Retiree Health Care Consensus Task Force; to the Committee on Armed Services.

By Mrs. EMERSON (for herself, Mr. GOSS, Mr. GIBBONS, Mr. FORBES, Mr. TAYLOR of North Carolina, Mr. RAHALL, Mr. PETERSON of Minnesota, and Mr. SHUSTER):

H.R. 120. A bill to amend title II of the Social Security Act to provide for an improved benefit computation formula for workers who attain age 65 in or after 1982 and to whom applies the 5-year period of transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 (and related beneficiaries) and to provide prospectively for increases in their benefits accordingly; to the Committee on Ways and Means.

By Mrs. EMERSON (for herself, Mr. MCHUGH, Mr. BLUNT, and Mr. HUTCHINSON):

H.R. 121. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit to military retirees for premiums paid for coverage under Medicare Part B; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. EMERSON:

H.R. 122. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit to certain senior citizens for premiums paid for coverage under Medicare Part B; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARR of Georgia:

H.R. 123. A bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGEL:

H.R. 124. A bill to amend the Safe Drinking Water Act to allow public water systems to avoid filtration requirements, and for other purposes; to the Committee on Commerce.

H.R. 125. A bill to amend the Communications Act of 1934 to direct the Federal Communications Commission to establish an ethnic and minority affairs section; to the Committee on Commerce.

H.R. 126. A bill to provide for the recovery of insurance issued for victims of the Holocaust; to the Committee on Commerce.

H.R. 127. A bill to amend the Elementary and Secondary Education Act of 1965 to allow certain counties flexibility in spending funds; to the Committee on Education and the Workforce.

H.R. 128. A bill concerning paramilitary groups and British security forces in Northern Ireland; to the Committee on International Relations.

H.R. 129. A bill to amend title 49, United States Code, to exempt noise and access restrictions on aircraft operations to and from metropolitan airports from certain Federal review and approval requirements, and for other purposes; to the Committee on Transportation and Infrastructure.

H.R. 130. A bill to designate the United States Courthouse located at 40 Centre Street in New York, New York as the "Thurgood Marshall United States Courthouse"; to the Committee on Transportation and Infrastructure.

H.R. 131. A bill to amend title XVIII of the Social Security Act to provide for coverage of expanded nursing facility and in-home services for dependent individuals under the Medicare Program; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 132. A bill to amend the Internal Revenue Code of 1986 to provide for designation of overpayments and contributions to the United States Textbook and Technology Trust Fund, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH of Pennsylvania (for himself and Mr. COYNE):

H.R. 133. A bill to permit revocation by members of the clergy of their exemption from Social Security coverage; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 134. A bill to amend the Internal Revenue Code of 1986 to restructure and replace the income tax system of the United States to meet national priorities, and for other purposes; to the Committee on Ways and Means.

By Mr. EVANS:

H.R. 135. A bill to amend title 38, United States Code, to improve access of veterans to emergency medical care in non-Department of Veterans Affairs medical facilities; to the Committee on Veterans' Affairs.

By Mr. FOLEY (for himself, Mr. KLINK, Mr. CANADY of Florida, Mr. BOYD, and Mrs. KELLY):

H.R. 136. A bill to limit the authority of the Administrator of the Environmental Protection Agency to ban metered-dose inhalers; to the Committee on Commerce.

By Mr. FOLEY (for himself, Mr. KLINK, Mr. SERRANO, Mr. SANDLIN, Ms. KILPATRICK, Ms. DELAURO, Mr. GEORGE MILLER of California, Mr. STARK, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. GEJDENSON, Mr. KILDEE, Mr. BALDACCI, Mr. EHRLICH, Mr. MASCARA, Mr. DOYLE, Mr. FILNER, Ms. ROYBAL-ALLARD, Mr. KLECZKA, Mr. MARTINEZ, and Ms. WOOLSEY):

H.R. 137. A bill to prohibit discrimination or retaliation against health care workers who report unsafe conditions and practices which impact on patient care; to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. FOWLER:

H.R. 138. A bill to condemn those officials of the Chinese Communist Party, the Government of the People's Republic of China, and other persons who are involved in the enforcement of forced abortions by preventing such persons from entering or remaining in the United States; to the Committee on the Judiciary.

By Mr. FRANKS of New Jersey:

H.R. 139. A bill to provide for the extension of the New Jersey Coastal Heritage Trail into the Township of Woodbridge, New Jersey; to the Committee on Resources.

By Mr. FRELINGHUYSEN (for himself, Mr. FRANKS of New Jersey, Mr. MEEHAN, Mr. LOBIONDO, Mr. EHLERS, Mr. ROHRABACHER, Mr. SHAYS, Mr. RAMSTAD, Mr. UPTON, and Mr. MARKEY):

H.R. 140. A bill to amend the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, relating to the repurchase of bonds by the Tennessee Valley Authority; to the Committee on Transportation and Infrastructure.

By Mr. GEJDENSON (for himself, Ms. DELAURO, Mr. SANDLIN, Mrs. CAPPS, Mr. BALDACCI, Ms. KILPATRICK, Mr. FILNER, and Mr. HINCHEY):

H.R. 141. A bill to amend title XVIII of the Social Security Act to prevent sudden disruption of Medicare beneficiary enrollment in Medicare+Choice plans; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GEKAS (for himself, Mr. ROHRABACHER, Mr. WYNN, Mr. COX of California, Mr. ISTOOK, Mr. PITTS, Mr. EHLERS, Mr. DAVIS of Virginia, and Mr. HAYWORTH):

H.R. 142. A bill to prevent Government shutdowns; to the Committee on Appropriations.

By Mr. GILMAN (for himself and Mrs. KELLY):

H.R. 143. A bill to amend the Internal Revenue Code of 1986 to establish incentives to increase the demand for and supply of quality child care, to provide incentives to States that improve the quality of child care, to expand clearing-houses and electronic networks for the distribution of child care information, to improve the quality of child care provided through Federal facilities and programs, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Government Reform, Education and the Workforce, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GREEN of Texas:

H.R. 144. A bill to encourage States to enact laws to prohibit the sale of tobacco products to individuals under the age of 18; to the Committee on Commerce.

H.R. 145. A bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for amounts paid for insurance for medical care; to the Committee on Ways and Means.

By Mr. HALL of Texas (for himself and Mr. MCGOVERN):

H.R. 146. A bill to authorize the President to consent to third party transfer of the ex-USS Bowman County to the USS LST Ship Memorial, Inc.; to the Committee on Armed Services.

By Mr. HALL of Texas:

H.R. 147. A bill to amend title II of the Social Security Act to ensure the integrity of the Social Security trust funds by requiring the Managing Trustee to invest the annual surplus of such trust funds in marketable interest-bearing obligations of the United States and certificates of deposit in depository institutions insured by the Federal Deposit Insurance Corporation, and to protect such trust funds from the public debt limit; to the Committee on Ways and Means.

H.R. 148. A bill to amend title II of the Social Security Act to allow workers who attain age 65 after 1981 and before 1992 to choose either lump sum payments over four years totalling $5,000 or an improved benefit computation formula under a new 10-year rule governing the transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HANSEN:

H.R. 149. A bill to make technical corrections to the Omnibus Parks and Public Lands Management Act of 1996; to the Committee on Resources.

By Mr. HAYWORTH:

H.R. 150. A bill to amend the Act popularly known as the Recreation and Public Purposes Act to authorize disposal of certain public lands or national forest lands to local education agencies for use for elementary or secondary schools, including public charter schools, and for other purposes; to the Committee on Resources.

H.R. 151. A bill to repeal the Bennett Freeze thus ending a gross treaty violation with the Navajo Nation and allowing the Navajo Nation to live in habitable dwellings and raise their living conditions, and for other purposes; to the Committee on Resources.

H.R. 152. A bill to amend the Internal Revenue Code of 1986 to provide that housing assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 shall be treated for purposes of the low-income housing credit in the same manner as comparable assistance; to the Committee on Ways and Means.

By Mr. HEFLEY:

H.R. 153. A bill to establish certain requirements relating to the transfer or disposal of public lands managed by the Bureau of Land Management, and for other purposes; to the Committee on Resources.

H.R. 154. A bill to provide for the collection of fees for the making of motion pictures, television productions, and sound tracks in National Park System and National Wildlife Refuge System units, and for other purposes; to the Committee on Resources.

H.R. 155. A bill to amend the Federal Water Pollution Control Act to provide for the use of biological monitoring and whole effluent toxicity tests in connection with publicly owned treatment works, municipal separate storm sewer systems, and municipal combined sewer overflows, and for other purposes; to the Committee on Transportation and Infrastructure.

H.R. 156. A bill relating to denial of airport access to certain air carriers conducting operations as a public charter; to the Committee on Transportation and Infrastructure.

H.R. 157. A bill to amend the Internal Revenue Code of 1986 to reduce individual capital gains tax rates; to the Committee on Ways and Means.

By Mr. HILL of Montana (for himself and Mr. ROGAN):

H.R. 158. A bill to designate the Federal Courthouse located at 316 North 26th Street in Billings, Montana, as the "James F. Battin Federal Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. HILL of Montana (for himself, Mr. TALENT, Mrs. CHENOWETH, and Mr. SCHAFFER):

H.R. 159. A bill to amend the Internal Revenue Code of 1986 to lower the maximum capital gains rate to 15 percent with respect to assets held for more than 3 years, to replace the estate and gift tax rate schedules, and for other purposes; to the Committee on Ways and Means.

By Mr. ROYCE (for himself, Mr. CAMPBELL, Mr. HUTCHINSON, Mrs. BONO, Mr. MILLER of Florida, Mr. NORWOOD, Mr. LATOURETTE, Mr. REGULA, and Mr. MCINTOSH):

H.R. 160. A bill to amend title II of the Social Security Act to ensure the integrity of the Social Security trust funds by providing for investment of such trust funds in marketable interest-bearing obligations of the United States, and to protect such trust funds from the public debt limit; to the Committee on Ways and Means.

By Mr. HILL of Montana (for himself, Mr. PAUL, Mr. GIBBONS, Mr. HUTCHINSON, Mrs. CHENOWETH, and Mr. BLUNT):

H.R. 161. A bill to amend title XIX of the Social Security Act to restrict imposition of Medicaid liens and Medicaid estate recovery for long-term care services in the case of certain individuals who have received benefits under long-term care insurance policies for at least 3 years, and to amend the Internal Revenue Code of 1986 to allow the carryover of reimbursement maximums for flexible spending arrangements, to allow the reimbursement of long-term care insurance premiums by FSA's, and to repeal the inclusion in income of long-term care coverage provided through FSA's; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOLDEN:

H.R. 162. A bill to amend the Internal Revenue Code of 1986 to provide an investment credit to promote the conversion of United States coal and domestic carbonaceous feedstocks into liquid fuels; to the Committee on Ways and Means.

By Mr. HOLDEN (for himself, Mr. REGULA, Mr. TAYLOR of North Carolina, Mr. BRADY of Pennsylvania, Mr. FRANK of Massachusetts, Mr. OLVER, Mr. SHAYS, Mr. BOEHLERT, Mr. FROST, Mr. SANDERS, Ms. NORTON, Mrs. CAPPS, Ms. BROWN of Florida, Mr. MCNULTY, Mr. ROMERO-BARCELO, Mrs. MINK of Hawaii, Mr. FILNER, Mr. HINCHEY, Mr. FORBES, Mrs. BONO, Mr. MCINTYRE, Mr. GOODE, Mr. FORD, Mr. MASCARA, and Ms. DANNER):

H.R. 163. A bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies, subject to a reduction of 50 percent if the recipient dies during the first 15 days of such month, and for other purposes; to the Committee on Ways and Means.

By Mr. MORAN of Kansas:

H.R. 164. A bill to amend title 36, United States Code, to grant a Federal charter to The National Teachers Hall of Fame in Emporia, Kansas; to the Committee on the Judiciary.

By Mr. KLECZKA:

H.R. 165. A bill prohibiting the manufacture, sale, delivery, or importation of school buses that do not have seat belts; to the Committee on Commerce.

By Mr. KLINK:

H.R. 166. A bill to repeal the Federal estate and gift taxes; to the Committee on Ways and Means.

H.R. 167. A bill to reaffirm the off-budget status of the old-age, survivors, and disability insurance program under title II of the Social Security Act; to the Committee on Ways and Means, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LANTOS (for himself, Ms. PELOSI, Ms. ESHOO, Mr. CAMPBELL, Mr. GEORGE MILLER of California, Ms. WOOLSEY, Mr. STARK, Mrs. TAUSCHER, and Ms. LEE):

H.R. 168. A bill to revise the boundaries of the Golden Gate National Recreation Area, and for other purposes; to the Committee on Resources.

By Mr. LATHAM (for himself, Mr. LEACH, Mr. BLUNT, Mr. GUTKNECHT, Mr. THUNE, and Mr. HILL of Montana):

H.R. 169. A bill to amend the Packers and Stockyards Act, 1921, to expand the pilot investigation for the collection of information regarding prices paid for the procurement of cattle and sheep for slaughter and of muscle cuts of beef and lamb to include swine and muscle cuts of swine; to the Committee on Agriculture.

By Mr. LOBIONDO (for himself and Mr. CONDIT):

H.R. 170. A bill to require certain notices in any mailing using a game of chance for the promotion of a product or service, and for other purposes; to the Committee on Government Reform.

By Mr. LOBIONDO (for himself, Mr. FRELINGHUYSEN, and Mr. SAXTON):

H.R. 171. A bill to authorize appropriations for the Coastal Heritage Trail Route in New Jersey, and for other purposes; to the Committee on Resources.

By Mr. MCCOLLUM (for himself, Mr. SAXTON, Mr. MICA, and Mr. MCHUGH):

H.R. 172. A bill to amend the base closure laws to reform the process by which property at military installations being closed or realigned is made available for economic redevelopment and to improve the ability of the Secretary of Defense to contract for protective services at installations being closed; to the Committee on Armed Services.

By Mr. MCCOLLUM:

H.R. 173. A bill to amend the Community Reinvestment Act of 1977 to reduce onerous recordkeeping and reporting requirements for regulated financial institutions, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. MCCOLLUM (for himself, Mr. LEACH, Mr. BEREUTER, Mr. BAKER, Mr. ROYCE, Mr. ACKERMAN, Mr.

METCALF, Mr. PAUL, Mr. COOK, Mr. HILL of Montana, Mr. JONES of North Carolina, and Mr. EHRLICH):

H.R. 174. A bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to safeguard confidential banking and credit union information, and for other purposes; to the Committee on Banking and Financial Services.

By Mrs. JOHNSON of Connecticut (for herself, Mr. RANGEL, Mr. WELLER, Mr. LEWIS of Georgia, Mr. METCALF, Mr. LAZIO of New York, Mr. HOUGHTON, Mr. MATSUI, Mr. RAMSTAD, Mr. COYNE, Ms. DUNN of Washington, Mr. LEVIN, Mr. ENGLISH of Pennsylvania, Mr. CARDIN, Mr. WATKINS, Mr. JEFFERSON, Mr. HAYWORTH, Mr. BECERRA, Mr. MCINNIS, Mrs. THURMAN, and Mr. NEAL of Massachusetts):

H.R. 175. A bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on the low-income housing credit; to the Committee on Ways and Means.

By Mr. MCCOLLUM (for himself, Ms. PRYCE of Ohio, and Mr. BENTSEN):

H.R. 176. A bill to affirm the role of States in setting reasonable occupancy standards, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. MCCOLLUM (for himself, Mr. HOLDEN, and Mr. SHAW):

H.R. 177. A bill to amend the Uniform Time Act of 1966 to provide that Daylight Savings Time begins on the first Sunday in March; to the Committee on Commerce.

By Mr. MCCOLLUM:

H.R. 178. A bill to amend the Federal Election Campaign Act of 1971 to establish the Presidential Debate Commission on an ongoing basis and to amend the Internal Revenue Code of 1986 to reduce the amount of funds provided under such Act for party nominating conventions for any party whose nominee for President or Vice-President does not participate in any debate scheduled by the Commission, and for other purposes; to the Committee on House Administration.

By Mrs. THURMAN:

H.R. 179. A bill to allow a deduction from gross income for year 2000 computer coversion costs of small businesses; to the Committee on Ways and Means.

By Mr. MCCOLLUM:

H.R. 180. A bill to amend the National Voter Registration Act of 1993 to require each individual registering to vote in elections for Federal office to provide the individual's Social Security number and to permit a State to remove a registrant who fails to vote in two consecutive general elections for Federal office from the official list of eligible voters in elections for Federal office on the ground that the registrant has changed residence, if the registrant fails to respond to written notices requesting confirmation of the registrant's residence; to the Committee on House Administration.

By Mr. MCCOLLUM (for himself, Mr. GILMAN, Mr. BURTON of Indiana, Mr. BLUNT, and Ms. ROS-LEHTINEN):

H.R. 181. A bill to repeal the authority of the President to suspend the effective date of title III of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996; to the Committee on International Relations.

By Mr. MCCOLLUM:

H.R. 182. A bill to clarify that retirement income from pension plans of the government of the Commonwealth of Puerto Rico shall be exempt from nonresident taxation in the same manner as State pension plans; to the Committee on the Judiciary.

By Mr. MCCOLLUM (for himself, Mr. FRANK of Massachusetts, and Mr. PICKETT):

H.R. 183. A bill to provide a limited waiver for certain foreign students of the requirement to reimburse local educational agencies for the costs of the students' education; to the Committee on the Judiciary.

By Mr. MCCOLLUM (for himself, Mr. FOLEY, Mrs. THURMAN, and Mr. ABERCROMBIE):

H.R. 184. A bill to amend the Immigration and Nationality Act to permit certain aliens who are at least 55 years of age to obtain a nonimmigrant visitor's visa for a period of 4 years or more; to the Committee on the Judiciary.

By Mr. MCCOLLUM:

H.R. 185. A bill to establish the United States Immigration Court; to the Committee on the Judiciary.

By Mr. MCCOLLUM (for himself, Mr. CHABOT, Mr. HUTCHINSON, and Ms. JACKSON-LEE of Texas):

H.R. 186. A bill to ensure the safety of witnesses and to promote notification of the interstate relocation of witnesses by States and localities engaging in that relocation, and for other purposes; to the Committee on the Judiciary.

By Mr. MCCOLLUM:

H.R. 187. A bill to deem the Florida Panther to be an endangered species for purposes of the Endangered Species Act of 1973; to the Committee on Resources.

H.R. 188. A bill to amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from IRAs for certain purposes, to increase the amount of tax deductible IRA contributions, and for other purposes; to the Committee on Ways and Means.

By Mr. MCCOLLUM (for himself and Ms. DUNN of Washington):

H.R. 189. A bill to amend the Internal Revenue Code of 1986 to provide greater equity in savings opportunities for families with children, and for other purposes; to the Committee on Ways and Means.

By Mr. MCCOLLUM (for himself, Mr. ROYCE, Mr. PAUL, Mr. RILEY, and Mr. HILL of Montana):

H.R. 190. A bill to amend the Community Reinvestment Act of 1977, the Equal Credit Opportunity Act, and the Fair Housing Act to improve the administration of such Acts, to prohibit redlining in connection with the provision of credit, and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCCOLLUM (for himself, Mr. BEREUTER, Mr. BILBRAY, Mr. CAMPBELL, Mr. CUNNINGHAM, Mr. HORN, Mr. HUNTER, Mr. ROHRABACHER, Mr. SHAYS, Mr. SHERMAN, Mr. STARK, and Mr. STENHOLM):

H.R. 191. A bill to improve the integrity of the Social Security card and to provide for criminal penalties for fraud and related activity involving work authorization documents for purposes of the Immigration and Nationality Act; to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MANZULLO (for himself, Mr. DELAY, and Mr. DREIER):

H.R. 192. A bill to establish judicial and administrative proceedings for the resolution of year 2000 processing failures; to the Committee on the Judiciary.

By Mr. MEEHAN (for himself, Mr. MARKEY, Mrs. JOHNSON of Connecticut, Mr. MCGOVERN, Mr. DELAHUNT, Mr. NEAL of Massachusetts, Mr. OLVER, Mr. MOAKLEY, Mr. SHAYS, Mr. SUNUNU, Mr. TIERNEY, Mr. BASS, and Mr. FRANK of Massachusetts):

H.R. 193. A bill to designate a portion of the Sudbury, Assabet, and Concord Rivers as a component of the National Wild and Scenic Rivers System; to the Committee on Resources.

By Mr. MEEHAN (for himself, Mr. NEAL of Massachusetts, and Mr. HASTINGS of Washington):

H.R. 194. A bill to amend section 313 of the Tariff Act of 1930 to allow duty drawback for grape juice concentrates, regardless of color or variety; to the Committee on Ways and Means.

By Mr. MEEHAN (for himself and Mr. NEAL of Massachusetts):

H.R. 195. A bill to apply the rates of duty effective after December 31, 1994, to certain water resistant wool trousers that were entered, or withdrawn from warehouse for consumption, after December 31, 1988, and before January 1, 1995; to the Committee on Ways and Means.

By Mr. MINGE (for himself, Mr. LUTHER, Mr. JOHN, and Mr. DAVIS of Florida):

H.R. 196. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to extend and clarify the pay-as-you-go requirements regarding the Social Security trust funds; to the Committee on the Budget.

By Mr. MORAN of Kansas:

H.R. 197. A bill to designate the facility of the United States Postal Service at 410 North 6th Street in Garden City, Kansas, as the "Clifford R. Hope Post Office"; to the Committee on Government Reform.

By Mr. HUNTER (for himself, Mr. CUNNINGHAM, Mr. PACKARD, Mr. COX of California, Mrs. BONO, Mr. BARTLETT of Maryland, Mr. ROHRABACHER, Mr. TALENT, Mr. STUMP, and Mr. CALVERT):

H.R. 198. A bill to limit the types of commercial nonpostal services which may be offered by the United States Postal Service; to the Committee on Government Reform.

By Mr. MORAN of Virginia:

H.R. 199. A bill to protect children and other vulnerable subpopulations from exposure to certain environmental pollutants, and for other purposes; to the Committee on Commerce.

H.R. 200. A bill to provide for regional skills training alliances, and for other purposes; to the Committee on Education and the Workforce.

H.R. 201. A bill to amend the Job Training Partnership Act to establish regional private industry councils for labor market areas that are located in more than one State, and for other purposes; to the Committee on Education and the Workforce.

By Mr. LAZIO of New York (for himself, Mr. LEACH, and Mr. FRELINGHUYSEN):

H.R. 202. A bill to restructure the financing for assisted housing for senior citizens and otherwise provide for the preservation of such housing in the 21st Century, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. MORAN of Virginia:

H.R. 203. A bill to amend the Job Training Partnership Act to allow certain funds under that Act to be used for payment of incentive bonuses to certain jobs training providers that place large percentages of individuals in occupations for which a high demand exists; to the Committee on Education and the Workforce.

H.R. 204. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for high technology job training expenses; to the Committee on Ways and Means.

By Mr. MORAN of Virginia (for himself and Mr. Cunningham):

H.R. 205. A bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to Medicare to enroll in the Federal Employees Health Benefits program; to the Committee on Armed Services, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MORELLA (for herself, Mr. Davis of Virginia, Ms. DeLauro, Mr. Wynn, Ms. Norton, Ms. Lee, Mr. Sanders, Mr. Horn, Mr. DeFazio, Mr. Frost, Mr. Gilman, Mrs. Kelly, Mrs. Maloney of New York, Mr. Towns, Mr. Cummings, Mr. Forbes, Mr. Moran of Virginia, and Mr. Baldacci):

H.R. 206. A bill to provide for greater access to child care services for Federal employees; to the Committee on Government Reform.

By Mrs. MORELLA (for herself and Mr. Moran of Virginia):

H.R. 207. A bill to amend title 5, United States Code, to provide that physicians comparability allowances be treated as part of basic pay for retirement purposes; to the Committee on Government Reform.

By Mrs. MORELLA (for herself, Mr. Frost, Mr. Hinchey, Mr. Goss, Mr. Skeen, Mr. Bishop, and Mr. Sandlin):

H.R. 208. A bill to amend title 5, United States Code, to allow for the contribution of certain rollover distributions to accounts in the Thrift Savings Plan, to eliminate certain waiting-period requirements for participating in the Thrift Savings Plan, and for other purposes; to the Committee on Government Reform.

By Mrs. MORELLA (for herself and Mr. Brown of California):

H.R. 209. A bill to improve the ability of Federal agencies to license federally owned inventions; to the Committee on Science, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MORELLA:

H.R. 210. A bill to establish a commission to review, and make recommendations with respect to, leadership in mathematics education; to the Committee on Science, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NETHERCUTT (for himself, Mr. McDermott, Ms. Dunn of Washington, Mr. Hastings of Washington, Mr. Metcalf, Mr. Baird, Mr. Dicks, Mr. Inslee, and Mr. Smith of Washington):

H.R. 211. A bill to designate the Federal building and United States courthouse located at West 920 Riverside Avenue in Spokane, Washington, as the "Thomas S. Foley Federal Building and United States Courthouse", and the plaza at the south entrance of such building and courthouse as the "Walter F. Horan Plaza"; to the Committee on Transportation and Infrastructure.

By Mr. NETHERCUTT (for himself and Mr. Serrano):

H.R. 212. A bill to require the General Accounting Office to prepare a report assessing the impact and effectiveness of economic sanctions imposed by the United States, to prohibit the imposition of unilateral sanctions on exports of food, other agricultural products, medicines, or medical supplies or equipment, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NEY:

H.R. 213. A bill to provide for the continuation of oil and gas operations in the Wayne National Forest in the State of Ohio pursuant to certain existing leases; to the Committee on Resources.

By Ms. NORTON:

H.R. 214. A bill to restore the management and personnel authority of the Mayor of the District of Columbia and to expedite the suspension of activities of the District of Columbia Financial Responsibility and Management Assistance Authority; to the Committee on Government Reform.

H.R. 215. A bill to provide discretion to the Director of the Bureau of Prisons in the transfer of District of Columbia inmates to private contract facilities; to the Committee on Government Reform.

By Mr. NORWOOD:

H.R. 216. A bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and preserve against preemption certain State causes of action; to the Committee on Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NUSSLE (for himself, Mr. Leach, and Mr. Latham):

H.R. 217. A bill to authorize the provision of economic assistance to certain hog producers in response to current disastrously low prices for hogs; to the Committee on Agriculture.

By Mr. CUNNINGHAM (for himself, Mr. Young of Alaska, Mr. Talent, Ms. Pryce of Ohio, Mr. Callahan, Mr. Packard, Mr. Taylor of North Carolina, Mr. Hunter, Mr. Chambliss, Mr. Clement, Mr. Hayworth, Mr. Sununu, Ms. Danner, Mr. Goode, Mrs. Kelly, Mr. Ehrlich, Mr. LaTourette, Mr. Hilleary, Mr. Green of Texas, Mr. Rahall, Mr. Smith of Washington, Mr. Herger, Mr. Pickett, Mr. Lewis of Kentucky, Mr. Tiahrt, Mr. Barr of Georgia, Mr. Holden, Mr. Coburn, Mr. Jenkins, Mr. Kleczka, Mr. Salmon, Mr. Bryant, Mr. Hall of Texas, Mr. Lucas of Oklahoma, Mrs. Myrick, Mr. Peterson of Pennsylvania, and Mr. Cramer):

H.R. 218. A bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns; to the Committee on the Judiciary.

By Mr. PAUL:

H.R. 219. A bill to amend title II of the Social Security Act to ensure the integrity of the Social Security trust funds by requiring the Managing Trustee to invest the annual surplus of such trust funds in marketable interest-bearing obligations of the United States and certificates of deposit in depository institutions insured by the Federal Deposit Insurance Corporation, and to protect such trust funds from the public debt limit; to the Committee on Ways and Means.

H.R. 220. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1986 to protect the integrity and confidentiality of Social Security account numbers issued under such title, to prohibit the establishment in the Federal Government of any uniform national identifying number, and to prohibit Federal agencies from imposing standards for identification of individuals on other agencies or persons; to the Committee on Ways and Means, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PITTS (for himself, Mr. Martinez, Mr. Goodling, Mr. Kind of Wisconsin, Mr. Peterson of Pennsylvania, Mr. Souder, Mr. English of Pennsylvania, Mr. Klink, Mr. Fattah, Mr. Gekas, Mr. McIntosh, Mr. Regula, Mr. Pickering, and Mr. Aderholt):

H.R. 221. A bill to amend the Fair Labor Standards Act of 1938 to permit certain youth to perform certain work with wood products; to the Committee on Education and the Workforce.

By Mrs. CHENOWETH (for herself, Mr. Pomeroy, Mr. Traficant, Mr. Sessions, Mr. Farr of California, Mr. Hunter, Mr. Stump, Mr. Watkins, Mrs. Cubin, Mr. McHugh, Mrs. Bono, Mr. Nethercutt, Mr. Herger, Mr. Hill of Montana, Mr. Thune, Ms. Kaptur, Mr. Rohrabacher, Mr. Thompson of Mississippi, Mr. Sanders, Mr. Edwards, Mrs. Emerson, Mr. Pickering, Mr. Souder, Mrs. Thurman, Mr. LaTourette, Mr. Coburn, Mr. Doolittle, Mr. Kucinich, Mr. Regula, Mr. Chambliss, and Mr. Weldon of Florida):

H.R. 222. A bill to amend the Federal Meat Inspection Act to require that imported meat, and meat food products containing imported meat, bear a label identifying the country of origin; to the Committee on Agriculture.

By Mr. PITTS (for himself, Mrs. Myrick, Mr. McGovern, Mr. Gibbons, and Mr. Pickering):

H.R. 223. A bill to amend the Federal Election Campaign Act of 1971 to require the disclosure of certain information by persons conducting polls by telephone during campaigns for election for Federal office; to the Committee on House Administration.

By Mr. PITTS (for himself, Mr. Knollenberg, Mrs. Myrick, Mr. Pickering, and Mr. DeMint):

H.R. 224. A bill to repeal the Federal estate and gift taxes; to the Committee on Ways and Means.

By Mr. POMEROY (for himself and Mr. McHugh):

H.R. 225. A bill to amend the Internal Revenue Code of 1986 to increase to 100 percent the amount of the deduction for the health insurance costs of self-employed individuals; to the Committee on Ways and Means.

By Mr. POMEROY:

H.R. 226. A bill to amend the Internal Revenue Code of 1986 to allow certain individuals a credit against income tax for contributions to individual retirement accounts; to the Committee on Ways and Means.

By Mr. PRICE of North Carolina (for himself and Mr. HORN):

H.R. 227. A bill to amend the Federal Election Campaign Act of 1971 to require that communications advocating the election or defeat of a candidate for election for Federal office contain specific information regarding the sponsor of the communication and whether or not the communication is authorized by the candidate involved; to the Committee on House Administration.

By Mr. RAHALL:

H.R. 228. A bill to amend the Black Lung Benefits Act to provide for equity in the treatment of benefits for eligible survivors; to the Committee on Education and the Workforce.

By Mr. RANGEL:

H.R. 229. A bill to lift the trade embargo on Cuba, and for other purposes; to the Committee on International Relations, and in addition to the Committees on Ways and Means, Commerce, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RANGEL (for himself, Mr. LEACH, Mr. SHAYS, Mr. PAUL, Mr. CONDIT, Ms. LEE, Mr. CONYERS, Mr. FARR of California, Mr. CAMPBELL, Mr. NADLER, Mr. RODRIGUEZ, Mr. BOUCHER, Ms. WOOLSEY, Mr. HALL of Ohio, and Ms. MCKINNEY):

H.R. 230. A bill to make an exception to the United States embargo on trade with Cuba for the export of food, medicines, medical supplies, medical instruments, or medical equipment, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. REGULA:

H.R. 231. A bill to provide for the retention of the name of Mount McKinley; to the Committee on Resources.

By Mr. REGULA (for himself, Mr. LUTHER, and Mr. BILBRAY):

H.R. 232. A bill to provide for a two-year Federal budget cycle, and for other purposes; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. REYES:

H.R. 233. A bill to designate the Federal building located at 700 East San Antonio Street in El Paso, Texas, as the "Richard C. White Federal Building"; to the Committee on Transportation and Infrastructure.

By Mr. RILEY (for himself, Mr. BACHUS, Mr. NETHERCUTT, Mr. PICKERING, and Mr. HUTCHINSON):

H.R. 234. A bill to direct the Administrator of the Small Business Administration to review and adjust the size standards used to determine whether or not enterprises in certain industry categories are small business concerns for the purposes of competing for Federal contracting opportunities; to the Committee on Small Business.

By Mr. RILEY (for himself, Mr. SOUDER, Mr. COOKSEY, Mr. THUNE, and Mr. BRADY of Texas):

H.R. 235. A bill to eliminate automatic pay adjustments for Members of Congress; to the Committee on House Administration, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROGAN (for himself, Mr. DREIER, and Mr. MCKEON):

H.R. 236. A bill to exempt prescribed burning on National Forest System lands from regulation under the Clean Air Act; to the Committee on Commerce.

By Mr. ROGAN:

H.R. 237. A bill to amend title 39, United States Code, to require certain notices in any mailing using a game of chance for the promotion of a product or service, and for other purposes; to the Committee on Government Reform.

H.R. 238. A bill to amend section 274 of the Immigration and Nationality Act to impose mandatory minimum sentences, and increase certain sentences, for bringing in and harboring certain aliens and to amend title 18, United States Code, to provide enhanced penalties for persons committing such offenses while armed; to the Committee on the Judiciary.

By Mr. ROMERO-BARCELO:

H.R. 239. A bill to authorize the President to award a gold medal on behalf of the Congress to Senator John Herschel Glenn, Jr., in recognition of his outstanding and enduring contributions toward American society for more than fifty years; to the Committee on Banking and Financial Services.

By Mrs. ROUKEMA:

H.R. 240. A bill to amend title 31, United States Code, to prevent the smuggling of large amounts of currency or monetary instruments into or out of the United States, and for other purposes; to the Committee on Banking and Financial Services.

H.R. 241. A bill to amend the Internal Revenue Code of 1986 to provide that the $500,000 exclusion of gain on the sale of a principle residence shall apply to certain sales by a surviving spouse; to the Committee on Ways and Means.

H.R. 242. A bill to amend the Internal Revenue Code of 1986 to expand S corporation eligibility for banks, and for other purposes; to the Committee on Ways and Means.

By Ms. SANCHEZ (for herself, Mr. MARTINEZ, Mr. FROST, Mr. LIPINSKI, Mr. PALLONE, and Mrs. MALONEY of New York):

H.R. 243. A bill to provide for reviews of criminal records of applicants for participation in shared housing arrangements, and for other purposes; to the Committee on the Judiciary.

By Mr. SANFORD:

H.R. 244. A bill to provide for an annual statement of accrued liability of the Old-Age and Survivors Insurance Program; to the Committee on the Budget.

H.R. 245. A bill to amend the Social Security Act to require the Commissioner of Social Security to submit specific legislative recommendations to ensure the solvency of the Social Security trust funds; to the Committee on Ways and Means.

H.R. 246. A bill to provide for an accurate disclosure on individual pay checks of payments made under the Federal Insurance Contributions Act; to the Committee on Ways and Means.

By Mr. SANFORD (for himself, Mr. BILBRAY, Mr. EWING, Mr. GRAHAM, Mr. HANSEN, Mr. HOEKSTRA, Mr. SESSIONS, and Mr. SOUDER):

H.R. 247. A bill to amend the Social Security Act to provide simplified and accurate information on the Social Security trust funds, and personal earnings and benefit estimates to eligible individuals; to the Committee on Ways and Means.

By Mr. SANFORD:

H.R. 248. A bill to permit the transportaion of passengers between United States ports by certain foreign-flag vessels and to encourage United States-flag vessels to participate in such transportation; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 249. A bill to provide for the retirement of all Americans; to the Committee on Ways and Means, and in addition to the Committees on Banking and Financial Services, Rules, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 250. A bill to amend the Internal Revenue Code of 1986 and the Social Security Act to provide for personal investment plans funded by employee Social Security payroll deductions, to extend the solvency of the old-age, survivors, and disability insurance program, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 251. A bill to amend the Internal Revenue Code of 1986 and the Social Security Act to provide for personal investment plans funded by employee Social Security payroll deductions, to extend the solvency of the old-age, survivors, and disability insurance program, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SAXTON:

H.R. 252. A bill to amend the Internal Revenue Code of 1986 to remove the requirement of a mandatory beginning date for distributions from individual retirement accounts; to the Committee on Ways and Means.

H.R. 253. A bill to amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from retirement plans to provide medical care for relatives who are 55 years old or older; to the Committee on Ways and Means.

By Mr. SCARBOROUGH (for himself, Mr. WELLER, Mr. MILLER of Florida, Mr. RILEY, Mr. MASCARA, Mr. SALMON, Mr. EWING, and Mrs. CHENOWETH):

H.R. 254. A bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives for education; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SERRANO:

H.R. 255. A bill to permit members of the House of Representatives to donate used computer equipment to public elementary and secondary schools designated by the members; to the Committee on House Administration.

H.R. 256. A bill to repeal the Cuban Democracy Act of 1992 and the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996; to the Committee on International Relations.

H.R. 257. A bill to reinstate the authorization of cash remittances to family members in Cuba under the Cuban Assets Control Regulations; to the Committee on International Relations.

H.R. 258. A bill to allow for news bureau exchanges between the United States and Cuba; to the Committee on International Relations.

H.R. 259. A bill to allow travel and cultural exchanges between the United States and Cuba; to the Committee on International Relations.

H.R. 260. A bill to amend the Internal Revenue Code of 1986 to provide additional incentives for the use of clean-fuel vehicles by enterprise zone businesses within empowerment zones and enterprise communities; to the Committee on Ways and Means.

H.R. 261. A bill to amend the Food, Drug, and Cosmetic Act and the egg, meat, and poultry inspection laws to ensure that consumers receive notification regarding food products produced from crops, livestock, or poultry raised on land on which sewage sludge was applied; to the Committee on Commerce, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 262. A bill to waive certain prohibitions with respect to nationals of Cuba coming to the United States to play organized professional baseball; to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAW (for himself, Mr. STARK, Mrs. JOHNSON of Connecticut, Mr. MATSUI, Mr. LEVIN, Mr. SKEEN, Mr. LEWIS of Georgia, Mr. KLECZKA, Mr. HAYWORTH, Mr. HOUGHTON, and Mrs. THURMAN):

H.R. 263. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on persons who acquire structured settlement payments in factoring transactions, and for other purposes; to the Committee on Ways and Means.

By Mr. SHAW (for himself, Mr. MCCOLLUM, Mr. BILIRAKIS, Mr. MILLER of Florida, Mr. FOLEY, Mr. WEXLER, Mr. GOSS, Mrs. MEEK of Florida, Mr. CANADY of Florida, Mr. WELDON of Florida, Mr. BOYD, Mrs. THURMAN, Ms. BROWN of Florida, Mrs. FOWLER, Mr. DEUTSCH, Ms. ROS-LEHTINEN, Mr. STEARNS, and Mr. MICA):

H.R. 264. A bill to amend the Internal Revenue Code of 1986 to provide that an organization shall be exempt from income tax if it is created by a State to provide property and casualty insurance coverage for property for which such coverage is otherwise unavailable; to the Committee on Ways and Means.

By Mr. SHAW:

H.R. 265. A bill to amend the Internal Revenue Code of 1986 to provide for the elimination of certain foreign base company shipping income from foreign base company income; to the Committee on Ways and Means.

By Mr. SHAYS (for himself, Mr. LIPINSKI, and Mr. MARTINEZ):

H.R. 266. A bill to require recreational camps to report information concerning deaths and certain injuries and illnesses to the Secretary of Health and Human Services, to direct the Secretary to collect the information in a central data system, to establish a President's Advisory Council on Recreational Camps, and for other purposes; to the Committee on Education and the Workforce.

By Mr. SHAYS (for himself, Mr. GEJDENSON, Mrs. JOHNSON of Connecticut, Ms. DELAURO, Mr. MALONEY of Connecticut, Mr. LARSON, and Mr. NEAL of Massachusetts):

H.R. 267. A bill to amend title 49, United States Code, relating to the installation of emergency locator transmitters on aircraft; to the Committee on Transportation and Infrastructure.

By Mr. SHAYS (for himself and Mr. KIND of Wisconsin):

H.R. 268. A bill to amend title 49, United States Code, to permit a State located within 5 miles of an airport in another State to participate in the process for approval of airport development projects at the airport; to the Committee on Transportation and Infrastructure.

By Ms. SLAUGHTER:

H.R. 269. A bill to amend the Public Health Service Act with respect to employment opportunities in the Department of Health and Human Services for women who are scientists, and for other purposes; to the Committee on Commerce.

H.R. 270. A bill to amend the Civil Rights Act of 1964 to protect first amendment rights, and for other purposes; to the Committee on the Judiciary.

By Ms. SLAUGHTER (for herself, Mr. HORN, Mr. FARR of California, Mr. FROST, Mr. MCGOVERN, Mr. HASTINGS of Florida, Mrs. MINK of Hawaii, Mr. CALVERT, Mrs. MEEK of Florida, Mr. MCNULTY, Mrs. KELLY, Mr. FOLEY, Mr. HOLDEN, Mr. TIERNEY, Mr. GARY MILLER of California, Mrs. LOWEY, Mrs. MALONEY of New York, Mr. BILBRAY, Mr. TOWNS, Mr. ENGEL, Mr. GUTIERREZ, Mr. ACKERMAN, Mr. WEXLER, Mr. PASCRELL, Mr. HINCHEY, Ms. WATERS, Mr. DEUTSCH, Ms. ROS-LEHTINEN, Mr. PALLONE, Mr. PAYNE, Mr. LEVIN, Mrs. MORELLA, Mr. NADLER, Mr. LANTOS, Mr. FORBES, Mr. ROMERO-BARCELO, Mr. WEYGAND, Mr. SANDLIN, Mr. FRANKS of New Jersey, Mr. WALSH, Mr. MATSUI, Mr. REYES, Mr. BENTSEN, Mr. HEFLEY, Ms. WOOLSEY, Mr. SHERMAN, and Mr. CLYBURN):

H.R. 271. A bill to amend title 28, United States Code, relating to jurisdictional immunities of the Federal Republic of Germany, to grant jurisdiction to the courts of the United States in certain cases involving acts of genocide occurring against certain individuals during World War II in the predecessor states of the Federal Republic of Germany, or in any territories or areas occupied, annexed, or otherwise controlled by those states; to the Committee on the Judiciary.

By Ms. SLAUGHTER:

H.R. 272. A bill to enhance competition between airlines and reduce airfares, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SMITH of Michigan (for himself and Mr. MCHUGH):

H.R. 273. A bill to amend the Internal Revenue Code of 1986 to treat lands which are contiguous to a principal residence and which were farmed for 5 years before the sale of the principal residence as part of such residence; to the Committee on Ways and Means.

By Mr. SMITH of New Jersey (for himself and Mr. GREENWOOD):

H.R. 274. A bill to provide surveillance and research to better understand the prevalence and pattern of autism and other pervasive developmental disabilities so that effective treatment and prevention strategies can be implemented; to the Committee on Commerce.

By Mr. SMITH of New Jersey (for himself and Mr. SHAYS):

H.R. 275. A bill to amend the Internal Revenue Code of 1986 to provide for an exception from penalty tax and exclusion from income for certain amounts withdrawn from certain retirement plans for qualified long-term care insurance and a credit for taxpayers with certain persons requiring custodial care in their households; to the Committee on Ways and Means.

By Mr. SWEENEY:

H.R. 276. A bill to amend the vaccine injury compensation portion of the Public Health Service Act to permit a petition for compensation to be submitted within 48 months of the first symptoms of injury; to the Committee on Commerce.

H.R. 277. A bill to require States that receive funds under the Elementary and Secondary Education Act of 1965 to enact a law that requires the expulsion of students who are convicted of a crime of violence; to the Committee on Education and the Workforce.

H.R. 278. A bill to prohibit federally sponsored research pertaining to the legalization of drugs; to the Committee on Government Reform.

H.R. 279. A bill to require preemployment drug testing with respect to applicants for Federal employment; to the Committee on Government Reform.

H.R. 280. A bill to prohibit United States voluntary and assessed contributions to the United Nations if the United Nations imposes any tax or fee on United States persons or continues to develop or promote proposals for such taxes or fees; to the Committee on International Relations.

H.R. 281. A bill to prohibit the export to the People's Republic of China of satellites and related items; to the Committee on International Relations.

H.R. 282. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to reduce funding if States do not enact legislation that requires the death penalty in certain cases; to the Committee on the Judiciary.

H.R. 283. A bill to direct the Director of the Federal Emergency Management Agency to report to Congress on methods and procedures to accelerate the provision of Federal disaster assistance to agricultural communities; to the Committee on Transportation and Infrastructure.

H.R. 284. A bill to amend title 38, United States Code, to require employers to give employees who are members of a reserve component a leave of absence for participation in an honor guard for a funeral of a veteran; to the Committee on Veterans' Affairs.

H.R. 285. A bill to amend the Internal Revenue Code of 1986 to increase the child care credit for lower-income working parents, and for other purposes; to the Committee on Ways and Means.

H.R. 286. A bill to amend the Internal Revenue Code of 1986 to provide a refundable income tax credit for the recycling of hazardous wastes; to the Committee on Ways and Means.

H.R. 287. A bill to amend title II of the Social Security Act to provide that an individual's entitlement to any benefit thereunder shall continue through the month of his or her death (without affecting any other person's entitlement to benefits for that month) and that such individual's benefit shall be payable for such month only to the extent proportionate to the number of days in such month preceding the date of such individual's death; to the Committee on Ways and Means.

H.R. 288. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 289. A bill to direct the Secretary of the Treasury to determine and report to Congress an appropriate tax incentive to encourage individuals other than members of the Armed Forces to participate as members of honor guards at funerals for veterans; to the Committee on Ways and Means.

H.R. 290. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of a principal residence by a first-time homebuyer; to the Committee on Ways and Means.

H.R. 291. A bill to amend the Internal Revenue Code of 1986 to provide that tax-exempt interest shall not be taken into account in determining the amount of Social Security benefits included in gross income; to the Committee on Ways and Means.

H.R. 292. A bill to prohibit retroactive Federal income tax rate increases; to the Committee on Ways and Means.

H.R. 293. A bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to prohibit health issuers and group health plans from discriminating against individuals on the basis of genetic information; to the Committee on Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 294. A bill to ensure that Federal agencies establish the appropriate procedures for assessing whether or not Federal regulations might result in the taking of private property, and to direct the Secretary of Agriculture to report to the Congress with respect to such takings under programs of the Department of Agriculture; to the Committee on the Judiciary, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 295. A bill to provide a sentence of death for certain importations of significant quantities of controlled substances; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 296. A bill to provide regulatory relief for small business concerns, and for other purposes; to the Committee on Small Business, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THUNE (for himself, Mr. MINGE, and Mr. LATHAM):

H.R. 297. A bill to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes; to the Committee on Resources.

By Mr. TOWNS:

H.R. 298. A bill to improve health status in medically disadvantaged communities through comprehensive community-based managed care programs; to the Committee on Commerce.

H.R. 299. A bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish a program for the collection of information relating to the use of children and individuals with mental disabilities as subjects in biomedical and behavioral research; to the Committee on Commerce.

H.R. 300. A bill to authorize the Secretary of Health and Human Services to fund adolescent health demonstration projects; to the Committee on Commerce.

H.R. 301. A bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the Medicaid Program; to the Committee on Commerce.

H.R. 302. A bill to amend title XIX of the Social Security Act to require State Medicaid Programs to provide coverage of screening mammography and screening pap smears; to the Committee on Commerce.

By Mr. BILIRAKIS (for himself and Mr. NORWOOD):

H.R. 303. A bill to amend title 38, United States Code, to permit retired members of the Armed Forces who retired with over 20 years of service and who have service-connected disabilities to receive compensation from the Department of Veterans Affairs concurrently with retired pay, without deduction from either; to the Committee on Veterans' Affairs.

By Mr. TOWNS:

H.R. 304. A bill to improve health status in medically disadvantaged communities through comprehensive community-based managed care programs; to the Committee on Commerce.

H.R. 305. A bill to amend the Inspector General Act of 1978 to establish an Office of Inspector General Oversight Council; to the Committee on Government Reform.

By Ms. SLAUGHTER (for herself, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BALDACCI, Mr. BARRETT of Wisconsin, Mr. BENTSEN, Mr. BOUCHER, Mrs. CAPPS, Mr. DEFAZIO, Mr. DELAHUNT, Ms. DELAURO, Mr. DIXON, Mr. FILNER, Mr. FORD, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GEJDENSON, Mr. GREEN of Texas, Mr. GUTIERREZ, Mr. HINCHEY, Ms. HOOLEY of Oregon, Mr. HORN, Ms. JACKSON-LEE of Texas, Mr. KENNEDY, Mr. KILDEE, Ms. KILPATRICK, Mr. KING of New York, Mr. KLECZKA, Mr. LAFALCE, Mr. LEVIN, Mrs. LOWEY, Mrs. MALONEY of New York, Mr. MASCARA, Ms. MCCARTHY of Missouri, Mr. MCNULTY, Mr. MEEHAN, Mr. MEEKS of New York, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Mrs. MINK of Hawaii, Mr. MORAN of Virginia, Mrs. MORELLA, Ms. NORTON, Mr. PALLONE, Mr. PRICE of North Carolina, Mr. REGULA, Mr. ROMERO-BARCELÓ, Ms. ROYBAL-ALLARD, Mr. ROTHMAN, Mr. SANDERS, Mr. SANDLIN, Mr. SCOTT, Mr. SERRANO, Mr. SHERMAN, Mr. SISISKY, Mr. SNYDER, Mr. STARK, Mrs. THURMAN, Mr. WALSH, Ms. WATERS, Mr. WAXMAN, Mr. WISE, Ms. WOOLSEY, Mr. WYNN, and Ms. LEE):

H.R. 306. A bill to prohibit discrimination against individuals and their family members on the basis of genetic information or a request for genetic services; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TOWNS:

H.R. 307. A bill to amend section 552a of title 5, United States Code, to provide for the maintenance of certain health information in cases where a health care facility has closed or a health benefit plan sponsor has ceases to do business; to the Committee on Government Reform.

H.R. 308. A bill to improve Federal enforcement against health care fraud and abuse; to the Committee on Government Reform.

H.R. 309. A bill to amend the Internal Revenue Code of 1986 to deny the exemption from income tax for social clubs found to be practicing prohibited discrimination; to the Committee on Ways and Means.

H.R. 310. A bill to make any State whose child poverty rate increases by 5 percent or more in a fiscal year ineligible for a high performance bonus for the next fiscal year under the program of block grants to States for temporary assistance for needy families; to the Committee on Ways and Means.

H.R. 311. A bill to amend the Civil Rights Act of 1964 and the Fair Housing Act to prohibit discrimination on the basis of affectional or sexual orientation, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 312. A bill to amend title XVIII of the Social Security Act to provide for Medicare contracting reforms, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. VENTO:

H.R. 313. A bill to regulate the use by interactive computer services of personally identifiable information provided by subscribers to such services; to the Committee on Commerce.

H.R. 314. A bill to require that wages paid under a Federal contract are greater than the local poverty line, and for other purposes; to the Committee on Government Reform.

By Mr. WEXLER (for himself, Mr. ACKERMAN, Mr. BARRETT of Wisconsin, Mr. BLAGOJEVICH, Mr. BLUMENAUER, Ms. CARSON, Mr. CUMMINGS, Mr. DAVIS of Illinois, Ms. ESHOO, Mr. FILNER, Mr. FORD, Mr. FRANK of Massachusetts, Mr. GUTIERREZ, Ms. LEE, Ms. Lofgren, Mrs. Maloney of New York, Mrs. McCarthy of New York, Mr. McGovern, Ms. McKinney, Mr. Meehan, Mr. George Miller of California, Mr. Moran of Virginia, Mrs. Morella, Mr. Nadler, Mr. Pascrell, Ms. Pelosi, Mr. Rothman, Ms. Roybal-Allard, Mr. Sabo, Mr. Sherman, Mr. Stark, Mr. Tierney, Mr. Towns, Mr. Vento, Mr. Waxman, Mr. Weiner, and Ms. Woolsey):

H.R. 315. A bill to prevent handgun violence and illegal commerce in handguns; to the Committee on the Judiciary.

By Mr. WOLF (for himself, Mr. Gilchrest, and Mr. Shays):

H.R. 316. A bill to amend the Act popularly known as the Johnson Act to restore the effectiveness of State laws over gambling cruises-to-nowhere; to the Committee on Transportation and Infrastructure.

By Ms. SANCHEZ:

H.R. 317. A bill for the relief of the Boyd family by clarifying the status of Joseph Samuel Boyd as a public safety officer for purposes of payment of death benefits by the Bureau of Justice Assistance; to the Committee on the Judiciary.

By Mr. SHAW (for himself, Mr. Oxley, Mr. Foley, Mr. Goss, Mr. Souder, and Mr. English of Pennsylvania):

H.R. 318. A bill to provide for access by State and local authorities to information of the Department of Justice for the purpose of conducting criminal background checks on port employees and prospective employees; to the Committee on the Judiciary.

By Mr. STUMP:

H.R. 319. A bill to clarify the effect on the citizenship of an individual of the individual's birth in the United States; to the Committee on the Judiciary.

By Mr. SCHAFFER (for himself, Mr. Stenholm, Mr. Castle, Mr. Tancredo, Mr. Andrews, Mr. Ballenger, Mr. Bass, Mr. Bachus, Mr. Barr of Georgia, Mr. Barrett of Nebraska, Mr. Bartlett of Maryland, Mr. Bereuter, Mr. Bonilla, Mr. Bilirakis, Mr. Boyd, Mr. Bryant, Mr. Burton of Indiana, Mr. Callahan, Mr. Campbell, Mr. Chabot, Mr. Chambliss, Mr. Condit, Mr. Cunningham, Mr. Duncan, Mr. Ehrlich, Mr. English of Pennsylvania, Mr. Foley, Mr. Forbes, Mr. Frelinghuysen, Mr. Gallegly, Ms. Granger, Mr. Greenwood, Mr. Goode, Mr. Goodling, Mr. Goss, Mr. Hall of Texas, Mr. Hansen, Mr. Herger, Mr. Hefley, Mr. Hoekstra, Mr. Horn, Mr. Kasich, Mrs. Kelly, Mr. Kolbe, Mr. Latham, Mr. LaHood, Mr. Leach, Mr. Lewis of Kentucky, Mr. Lucas of Oklahoma, Mr. McCollum, Mr. McInnis, Mr. McKeon, Mr. Meehan, Mr. Miller of Florida, Mr. Minge, Mrs. Myrick, Mr. Nethercutt, Mr. Ney, Mr. Pitts, Mr. Radanovich, Mr. Riley, Mr. Rogan, Mr. Royce, Mr. Ryun of Kansas, Mr. Salmon, Mr. Scarborough, Mr. Sessions, Mr. Shays, Mr. Shimkus, Mr. Skeen, Mr. Smith of Texas, Mr. Stearns, Mr. Stump, Mr. Tanner, Mr. Taylor of North Carolina, Mr. Thune, Mr. Walden, and Mr. Watts of Oklahoma):

H.J. Res. 1. A joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation; to the Committee on the Judiciary.

By Mr. McCOLLUM (for himself, Mrs. Fowler, Mr. Hilleary, Mr. Hansen, Mr. Gillmor, Mr. Metcalf, Mr. Bachus, Mr. Barr of Georgia, Mr. Barrett of Nebraska, Mr. Bartlett of Maryland, Mr. Bass, Mr. Bereuter, Mr. Bilbray, Mr. Bilirakis, Mr. Bonilla, Mr. Bryant, Mr. Buyer, Mr. Calvert, Mr. Campbell, Mr. Coburn, Mr. Cox of California, Mr. Crane, Mr. Cunningham, Mr. Deal of Georgia, Mr. Deutsch, Mr. Ehlers, Mrs. Emerson, Mr. English of Pennsylvania, Mr. Foley, Mr. Ganske, Mr. Goodling, Mr. Goss, Mr. Graham, Mr. Gutknecht, Mr. Hayworth, Mr. Hill of Montana, Mr. Istook, Mr. Jones of North Carolina, Mr. LaHood, Mr. Largent, Mr. LaTourette, Mr. Lazio of New York, Mr. Lewis of Kentucky, Mr. Linder, Mr. LoBiondo, Mr. Lucas of Oklahoma, Mr. McCrery, Mr. McKeon, Mr. Mica, Mr. Minge, Mr. Nethercutt, Mr. Ney, Mr. Norwood, Mr. Packard, Mr. Pease, Mr. Pombo, Ms. Pryce of Ohio, Mr. Radanovich, Mr. Rohrabacher, Mr. Scarborough, Mr. Sessions, Mr. Shadegg, Mr. Shimkus, Mr. Smith of Washington, Mr. Smith of Michigan, Mr. Souder, Mr. Stearns, Mr. Stump, Mr. Talent, Mr. Thornberry, Mr. Tiahrt, Mr. Wamp, Mr. Weller, and Mr. Whitfield):

H.J. Res. 2. A joint resolution proposing an amendment to the Constitution of the United States with respect to the number of terms of office of Members of the Senate and the House of Representatives; to the Committee on the Judiciary.

[Omitted from the Record of January 6, 1999]

By Mr. DINGELL:

H.J. Res. 3. A joint resolution proposing an amendment to the Constitution of the United States to permit the Congress to limit expenditures in elections for Federal office; to the Committee on the Judiciary.

By Mrs. EMERSON:

H.J. Res. 4. A joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

H.J. Res. 5. A joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act; to the Committee on the Judiciary.

H.J. Res. 6. A joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation; to the Committee on the Judiciary.

H.J. Res. 7. A joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

By Mr. ENGEL:

H.J. Res. 8. A joint resolution proposing an amendment to the Constitution of the United States to permit the Congress to limit contributions and expenditures in elections for Federal office; to the Committee on the Judiciary.

By Mr. ENGLISH of Pennsylvania (for himself and Mr. Baldacci):

H.J. Res. 9. A joint resolution proposing an amendment to the Constitution of the United States to allow an item veto of appropriation bills; to the Committee on the Judiciary.

By Mr. FOLEY (for himself, Mr. Rohrabacher, Mr. Royce, Mr. Doolittle, Mr. Shays, Mr. Paul, Mr. Deal of Georgia, Mr. McCrery, and Mr. Bereuter):

H.J. Res. 10. A joint resolution proposing an amendment to the Constitution of the United States to provide that no person born in the United States will be a United States citizen unless a parent is a United States citizen, is lawfully in the United States, or has a lawful immigration status at the time of the birth; to the Committee on the Judiciary.

By Mr. HEFLEY:

H.J. Res. 11. A joint resolution proposing an amendment to the Constitution of the United States to provide that Federal judges be reconfirmed by the Senate every 10 years; to the Committee on the Judiciary.

By Mr. HOUGHTON (for himself and Mr. King of New York):

H.J. Res. 12. A joint resolution expressing the sense of Congress with respect to the censure of William Jefferson Clinton; to the Committee on the Judiciary.

By Ms. KAPTUR:

H.J. Res. 13. A joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect elections for Federal and State office; to the Committee on the Judiciary.

By Mr. LINDER (for himself and Mr. Dreier):

H.J. Res. 14. A joint resolution designating Monday, January 3, 2000, as the day for the observance of the New Year's Day holiday in that year; to the Committee on Government Reform.

By Mr. McCOLLUM (for himself, Mr. Graham, Mr. Bilbray, Mr. Pombo, Mr. Foley, Mr. Hansen, Mr. Campbell, Mr. Bartlett of Maryland, and Mr. Smith of Michigan):

H.J. Res. 15. A joint resolution proposing an amendment to the Constitution of the United States with respect to the terms of Senators and Representatives; to the Committee on the Judiciary.

By Mr. SANFORD:

H.J. Res. 16. A joint resolution proposing an amendment to the Constitution of the United States to allow the States to limit the period of time United States Senators and Representatives may serve; to the Committee on the Judiciary.

By Mr. SERRANO (for himself and Mr. Shays):

H.J. Res. 17. A joint resolution proposing an amendment to the Constitution of the United States to repeal the twenty-second article of amendment, thereby removing the limitation on the number of terms an individual may serve as President; to the Committee on the Judiciary.

By Mr. STUMP:

H.J. Res. 18. A joint resolution proposing an amendment to the Constitution of the United States to provide for 4-year terms for Representatives and to provide that no person may serve as a Representative for more than 12 years; to the Committee on the Judiciary.

H.J. Res. 19. A joint resolution proposing a balanced budget amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. ARMEY:

H. Con. Res. 1. Concurrent resolution providing for a joint session of Congress to receive a message from the President; considered and agreed to.

H. Con. Res. 2. Concurrent resolution providing for adjournment of the House; considered and agreed to.

[Omitted from the Record of January 6, 1999]

By Mr. COBLE:

H. Con. Res. 3. Concurrent resolution expressing the sense of the Congress that retirement benefits for Members of Congress should not be subject to cost-of-living adjustments; to the Committee on Government Reform, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SERRANO:

H. Con. Res. 4. Concurrent resolution entitled the "English Plus Resolution"; to the Committee on Education and the Workforce.

By Ms. MILLENDER-McDONALD:

H. Con. Res. 5. Concurrent resolution recognizing the severity of the issue of cervical health, and for other purposes; to the Committee on Commerce.

By Mr. ROHRABACHER (for himself, Mr. DeLay, Mr. Cox of California, Mr. Gilman, Mr. Smith of New Jersey, Mr. Spence, Mr. Brown of Ohio, Mr. Hunter, Mr. Porter, Mr. Burton of Indiana, Mr. Pombo, and Mr. Radanovich):

H. Con. Res. 6. Concurrent resolution expressing the sense of the Congress regarding support for the formation of the China Democracy Party (CDP) and to urge the Government of the People's Republic of China to guarantee the rights and safety of the CDP organizers; to the Committee on International Relations.

By Mrs. ROUKEMA:

H. Con. Res. 7. Concurrent resolution expressing the sense of the Congress that the current Federal income tax deduction for interest paid on debt secured by a first or second home should not be further restricted; to the Committee on Ways and Means.

By Mr. SHAYS (for himself, Mrs. Johnson of Connecticut, Mr. Greenwood, Mr. Lipinski, Ms. Dunn of Washington, Mr. Sandlin, Mr. Sessions, Mr. Farr of California, Mr. Canady of Florida, Mr. Hall of Texas, Mr. Hobson, Ms. Slaughter, Mr. Smith of New Jersey, Mr. Ford, Mr. Regula, Mr. LaFalce, Mr. Boehlert, Ms. DeLauro, Mrs. Morella, Mr. Boyd, Mr. Whitfield, Mr. Baldacci, Mr. Davis of Florida, Mr. Weygand, Mr. Maloney of Connecticut, Mr. Stenholm, Mr. Moran of Virginia, Mr. Minge, Mr. Nadler, Mr. English of Pennsylvania, and Mrs. Kelly):

H. Con. Res. 8. Concurrent resolution expressing the sense of Congress with respect to promoting coverage of individuals under long-term care insurance; to the Committee on Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TRAFICANT:

H. Con. Res. 9. Concurrent resolution expressing the sense of the Congress regarding the right of the Albanian People of Kosova to self-determination and independence from the repressive, authoritarian, and barbaric Serbian regime of Slobodan Milosevic, and for other purposes; to the Committee on International Relations.

By Mr. WELLER:

H. Con. Res. 10. Concurrent resolution expressing the sense of the Congress that the Government National Mortgage Association guaranty fee should not be increased; to the Committee on Banking and Financial Services.

By Mr. WATTS of Oklahoma:

H. Res. 1. A resolution electing officers of the House of Representatives; considered and agreed to.

By Mr. ARMEY:

H. Res. 2. A resolution to inform the Senate that a quorum of the House has assembled and of the election of the Speaker and the Clerk; considered and agreed to.

H. Res. 3. A resolution authorizing the Speaker to appoint a committee to notify the President of the assembly of the Congress; considered and agreed to.

H. Res. 4. A resolution authorizing the Clerk to inform the President of the election of the Speaker and the Clerk; considered and agreed to.

H. Res. 5. A resolution adopting rules for the One Hundred Sixth Congress in recodified form; considered and agreed to.

By Mr. WATTS of Oklahoma:

H. Res. 6. A resolution electing Members to serve on standing committees; considered and agreed to.

By Mr. FROST:

H. Res. 7. A resolution electing Members, Delegates, and the Resident Commissioner to serve on standing committees; considered and agreed to.

H. Res. 8. A resolution electing a Member to serve on standing committees; considered and agreed to.

By Mr. HANSEN (for himself, Mr. Berman, Mr. Hastert, Mr. Armey, Mr. Gephardt, Mr. DeLay, and Mr. Bonior):

H. Res. 9. A resolution amending clause 5 of rule XXVI; considered and agreed to.

By Mr. HYDE:

H. Res. 10. A resolution appointing the authorizing managers for the impeachment trial of William Jefferson Clinton, President of the United States; considered and agreed to.

By Mr. MENENDEZ:

H. Res. 11. A resolution providing for the designation of certain minority employees; considered and agreed to.

H. Res. 12. A resolution authorizing the Speaker to administer the oath of office; considered and agreed to.

H. Res. 13. A resolution authorizing the Speaker to administer the oath of office; considered and agreed to.

By Mr. DREIER:

H. Res. 14. A resolution fixing the daily hour of meeting of the First Session of the One Hundred Sixth Congress; considered and agreed to.

[Omitted from the Record of January 6, 1999]

By Mrs. KELLY (for herself, Ms. Millender-McDonald, Mrs. Maloney of New York, Mrs. Johnson of Connecticut, Ms. Norton, Mr. Shays, Mrs. McCarthy of New York, Mr. Abercrombie, and Mr. Neal of Massachusetts):

H. Res. 15. A resolution expressing the sense of the House of Representatives regarding Government procurement access for women-owned businesses; to the Committee on Government Reform.

By Mr. KING of New York:

H. Res. 16. A resolution to establish a Select Committee on POW and MIA Affairs; to the Committee on Rules.

By Mr. MORAN of Virginia:

H. Res. 17. A resolution concerning the extradition to the United States of Salvadorans; to the Committee on International Relations.

By Mr. PASCRELL:

H. Res. 18. A resolution expressing the sense of the House of Representatives that any unified budgetary surplus achieved by the end of fiscal year 2003 which is attributable to a surplus in the Social Security trust funds be saved for investment in the Social Security Program; to the Committee on Ways and Means.

By Mrs. ROUKEMA (for herself and Ms. Kaptur):

H. Res. 19. A resolution expressing the sense of the House of Representatives with respect to the seriousness of the national problems associated with mental illness and with respect to congressional intent to establish a 'Mental Health Advisory Committee'; to the Committee on Commerce.

By Mr. SMITH of Michigan (for himself, Mr. Metcalf, Mr. Shays, Mr. Hoekstra, Mr. Herger, Mr. Shadegg, Mr. Stearns, Mr. Bartlett of Maryland, and Mr. Scarborough):

H. Res. 20. A resolution repealing rule XXIII of the Rules of the House of Representatives relating to the statutory limit on the public debt; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. ENGEL:

H.R. 320. A bill for the relief of Inna Hecker Grade; to the Committee on the Judiciary.

By Mr. McCOLLUM:

H.R. 321. A bill for the relief of Robert Anthony Broley; to the Committee on the Judiciary.

By Mr. ROGAN:

H.R. 322. A bill for the relief of Suchada Kwong; to the Committee on the Judiciary.

PROCEEDINGS OF THE HOUSE AFTER SINE DIE ADJOURNMENT OF THE 105TH CONGRESS 2D SESSION AND FOLLOWING PUBLICATION OF THE FINAL EDITION OF THE CONGRESSIONAL RECORD OF THE 105TH CONGRESS

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[The following action occurred on December 29, 1998]

Mr. STUMP: Committee on Veterans' Affairs. Activities Report of the Committee on Veterans' Affairs, 105th Congress (Rept. 105–833). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. Report on Legislative and Oversight Activities of the Committee on Resources, 105th Congress (Rept. 105–834). Referred to the Committee of the Whole House on the State of the Union.

[The following action occurred on December 30, 1998]

Mr. LIVINGSTON: Committee on Appropriations. Report on Activities of the Committee on Appropriations 105th Congress (Rept. 105–835). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOODLING: Committee on Education and the Workforce. Report on the Activities of the Committee on Education and the Workforce. 105th Congress (Rept. 105–836). Referred to the Committee of the Whole House on the State of the Union.

[The following action occurred on December 31, 1998]

Mr. LEACH: Committee on Banking and Financial Services. Report on the Summary of Activities of the Committee on Banking and Financial Services, 105th Congress (Rept. 105–837). Referred to the Committee of the Whole House on the State of the Union.

[The following reports were filed on January 2, 1999]

Mr. GILMAN: Committee on International Relations. Legislative Review Activities of the Committee on International Relations During the 105th Congress (Rept. 105–838). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Permanent Select Committee on Intelligence. Survey of Activities of the Permanent Select Committee on Intelligence During the 105th Congress (Rept. 105–839). Referred to the Committee of the Whole House on the State of the Union.

Mr. SOLOMON: Committee on Rules. Survey of Activities of the House Committee on Rules, 105th Congress (Rept. 105–840). Referred to the Committee of the Whole House on the State of the Union.

Mr. SPENCE: Committee on National Security. Report of the Activities of the Committee on National Security for the 105th Congress (Rept. 105–841). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Oregon: Committee on Agriculture. Report on the Activities of the Committee on Agriculture During the 105th Congress (Rept. 105–842). Referred to the Committee of the Whole House on the State of the Union.

Mr. BURTON: Committee on Government Reform and Oversight. Report on the Activities of the House Committee on Government Reform and Oversight During the 105th Congress (Rept. 105–843). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASICH: Committee on the Budget. Activities and Summary Report of the Committee on the Budget During the 105th Congress (Rept. 105–844). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. Report on the Activity of the Committee on Commerce for the One Hundred Fifth Congress (Rept. 105–846). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on Science. Summary of Activities of the Committee on Science During the 105th Congress (Rept. 105–847). Referred to the Committee of the Whole House of the State of the Union.

Mr. HANSEN: Committee on Standards of Official Conduct. Report on the Activities of the Committee on Standards of Official Conduct, One Hundred Fifth Congress (Rept. 105–848). Referred to the Committee of the Whole House on the State of the Union.

EXTENSIONS OF REMARKS

A TRIBUTE TO LAURA KILLINGSWORTH—GIFTED PERFORMER AND CIVIC LEADER

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. HORN. Mr. Speaker, I rise today to pay tribute to one of the leading citizens of Long Beach who is celebrating her 75th Birthday on January 24, 1999. A gifted performer and civic leader, Laura Killingsworth has achieved a remarkable record of performance in scores of leading roles and making a significant contribution to the growth and administration of many cultural arts organizations in Long Beach and Southern California.

Laura Killingsworth has delighted Southland audiences as guest soloist with the Long Beach Symphony and as leading lady in most of the great musicals of our time. She has been a favorite because of her stunning voice, presence, and ability to move audiences whether in comedy or pathos. Laura has starred in the following: Auntie Mame; Applause; Bittersweet; Camelot; Company; Guys & Dolls; Hello Dolly; I Do, I Do; The King and I; Kismet; Kiss Me Kate; A Little Night Music; The Mikado, Naughty Marietta; Rose Marie; Side By Side By Sondheim; 42nd Street; and the Song of Norway. Her most recent role was as Sara Roosevelt in the musical "Eleanor, a Love Story", where she appeared to critical acclaim.

Laura's list of civic involvement leadership is as long as her performance repertoire. There is hardly an arts organization in Long Beach which has not benefitted from her leadership ability, sound ideas, and diplomatic skills. Laura has served as President of the Long Beach Symphony Association, the Long Beach Symphony Guild, the Long Beach Civic Light Opera Association and its Board of Trustees, the Long Beach Public Corporation for the Arts, and the Symphony Juniors of the Los Angeles Philharmonic Orchestra. She was a Founding Member of the Mayor's Community Arts Committee, the Long Beach Arts Committee, the Long Beach Regional Arts Council, Board Member of the Long Beach Community Players and California State University, Long Beach's Fine Arts Affiliates, and the Opera Ring of the Long Beach Opera. In addition to cultural arts organizations, Laura has contributed to the community at large as a Charter Member of the Long Beach Cancer League, Member of the Junior League of Long Beach, and Member of the Mayor's Task Force for the Arts.

Her outstanding record of accomplishment has been recognized by the Assistance League's Rick Racker "Woman of the Year" award. She was the first recipient of the "Distinguished Arts Award" from the Public Corporation for the Arts.

Laura Killingsworth is the mother of two sons, Greg and Kim, and the wife of Edward Killingsworth, internationally acclaimed architect. Long Beach enjoys a more vital cultural climate because of her significant talents and efforts, and it is because of her lifetime of achievement that we honor her today.

PROTECT OUR FLAG

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mrs. EMERSON. Mr. Speaker, I rise today to introduce a constitutional amendment for the protection of our nation's flag. The flag is a revered symbol of America's great tradition of liberty and democratic government, and it ought to be protected from acts of desecration that diminish us all.

As you know, there have been several attempts to outlaw by statute the desecration of the flag. Both Congress and state legislatures have passed such measures in recent years, only to be overruled later by decisions of the Supreme Court. It is clear that nothing short of an amendment to the Constitution will ensure that Old Glory has the complete and unqualified protection of the law.

The most common objection to this kind of amendment is that it unduly infringes on the freedom of speech. However, this objection disregards the fact that our freedoms are not practiced beyond the bounds of common sense and reason. As is often the case, there are reasonable exceptions to the freedom of speech, such as libel, obscenity, trademarks, and the like. Desecration of the flag is this kind of act, something that goes well beyond the legitimate exercising of a right. It is a wholly disgraceful and unacceptable form of behavior, an affront to the proud heritage and tradition of America.

Make no mistake, this constitutional amendment should be at the very top of the agenda of this Congress. We owe it to every citizen of this country, and particularly to those brave men and women who have stood in harm's way so that the flag and what it stands for might endure. I urge this body to take a strong stand for what is right and ensure the protection of our flag.

INTRODUCTION OF THE ALIEN SMUGGLER PUNISHMENT ACT

HON. JAMES E. ROGAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. ROGAN. Mr. Speaker, on the streets, they are known as "Coyotes." To law enforcement officials they are known simply as smugglers. Every night along our 1000-mile borders with Mexico, hundreds of undocumented aliens are loaded into vans, trucks, car trunks, and other concealed hiding spots. They all hope that the few hundred dollars they paid will get them across the border. Often, it is not. For many, the story ends in robbery, violence, rape or worse.

Today, I am introducing the Alien Smuggler Punishment Act, which increases the minimum penalties for criminals convicted of smuggling aliens into the United States. This legislation is designed to send the message that preying on innocent victims and then escaping across the border will no longer be tolerated.

Under current law, an alien smuggler can be sentenced to as little as 18 months in prison, even if the criminal was armed. Under this bill, a judge will have stricter guidelines when sentencing armed smugglers. This legislation will ensure that convicted alien smugglers, particularly those who carry guns, face penalties as stiff as those of convicted drug dealers and other violent criminals.

Mr. Speaker, efforts to stop the damage to this nation caused by illegal immigration are routinely thwarted by alien smugglers. These criminals ignore our nation's laws and take advantage of those incapable of protecting themselves. It is my hope that the Alien Smuggler Punishment Act will dramatically reduce the practice of alien smuggling.

THE QUALITY CHILD CARE FOR FEDERAL EMPLOYEES ACT, H.R. 28

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. GILMAN. Mr. Speaker, today I am introducing the Quality Child Care for Federal Employees Act, H.R. 28, which will improve the quality of federal child care facilities throughout our nation.

I was first introduced to the horrors of inadequate day care by former constituents, Mark and Julie Fiedelholtz of Pembroke Pines, Florida. Mr. Fiedelholtz asked for my help after the tragic death of his 3 month old son, Jeremy. Left at a day care center for merely two hours, little Jeremy died as a result of deplorable conditions, unqualified personnel and the blatant lack of respect for the laws intended to protect our children. Although this horrifying situation did not take place in a federal center, clean, safe and quality conditions for our children need to be ensured in every child care center throughout our nation.

Because many of these child care facilities are housed in federal buildings, state and local authorities have little or no jurisdiction regarding health, fire and safety codes. This Act would require all federal centers responsible

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

for maintaining these basic regulations. With over one thousand federally owned or operated child care centers in the United States capable of accommodating 200,000 children, this legislation is essential.

After conferring with representatives from various federal agencies, I learned that many federal centers, such as the facilities operated by GSA, follow their own standards which in most instances are higher than most states. I want to stress that it is not the intention of this bill to lower federal agency standards, should they be greater than the state or local regulations. Instead, we are looking to raise the standards of those federal centers across the country whose standards fall below state and local codes and hold them accountable for failure to do so. This bill does not allow state or local law enforcement officials to enter federal facilities to perform checks of any kind unless GSA agrees to it. This option is left up to the discretion of GSA and is not mandated by this bill.

This legislation includes language which will help GSA in its quest to provide a more comprehensive day care plan, by allowing GSA to expand its child care services to more children and let its centers join into a consortium of private businesses and health care providers. This provision will enable agencies to partner with external organizations, conduct pilot programs and search for new methods of providing child care assistance to federal employees.

Our children are so important and the care they receive during their first 5 years of development are essential to raising intelligent and productive members of society. This legislation is a great first step in ensuring the positive development and growth of our children and I look forward to working with my colleagues in the months ahead on additional child care measures.

H.R. 28

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Quality Child Care for Federal Employees Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) ACCREDITED CHILD CARE FACILITY.—The term "accredited child care facility" means—

(A) a facility that is accredited, by a child care accreditation entity, as defined in paragraph (2);

(B) a facility that is used as a Head Start center under the Head Start Act (42 U.S.C. 9831 et seq.) and is in compliance with any applicable performance standards established by regulation under such Act for Head Start programs; or

(C) an armed forces child development facility that is in compliance with any applicable performance standards established by regulation, rule, or military order.

(2) CHILD CARE ACCREDITATION ENTITY.—The term "child care accreditation entity" means a non-profit private organization or public agency that—

(A) is recognized by a State agency or by a national organization which serves as a peer review panel for the standards and procedures of public and private childcare or school accrediting bodies; and

(B) accredits a facility to provide child care on the basis of—

(i) an accreditation or credentialing instrument based on peer-validated research;

(ii) compliance with applicable State or local licensing requirements, as appropriate, for the facility;

(iii) outside monitoring of the facility; and

(iv) criteria that provide assurances of—

(I) developmentally appropriate health and safety standards at the facility;

(II) use of developmentally appropriate educational activities, as an integral part of the child care program carried out at the facility; and

(III) use of ongoing staff development or training activities for the staff of the facility, including related skills-based testing.

(3) STATE.—The term "State" has the meaning given the term in section 658P of the Child Care and Development Block Grant Act (42 U.S.C. 9858n).

SEC. 3. PROVIDING QUALITY CHILD CARE IN FEDERAL FACILITIES.

(a) DEFINITION.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of General Services.

(2) ENTITY SPONSORING A CHILD CARE FACILITY.—The term "entity sponsoring a child care facility" means a Federal agency that operates, or an entity that enters into a contract or licensing agreement with a Federal agency to operate, a child care center primarily for the use of Federal employees.

(3) EXECUTIVE AGENCY.—The term "Executive agency" has the meaning given the term in section 105 of title 5, United States Code, except that the term—

(A) does not include the Department of Defense and the Coast Guard; and

(B) includes the General Services Administration, with respect to the administration of a facility described in paragraph (4)(B).

(4) EXECUTIVE FACILITY.—The term "executive facility"—

(A) means a facility that is owned or leased by an Executive agency; and

(B) includes a facility that is owned or leased by the General Services Administration on behalf of a judicial office.

(5) FEDERAL AGENCY.—The term "Federal agency" means an Executive agency or a judicial office.

(6) JUDICIAL FACILITY.—The term "judicial facility" means a facility that is owned or leased by a judicial office (other than a facility that is also a facility described in paragraph (4)(B)).

(7) JUDICIAL OFFICE.—The term "judicial office" means an entity of the judicial branch of the Federal Government.

(b) EXECUTIVE BRANCH STANDARDS AND COMPLIANCE.—

(1) STATE AND LOCAL LICENSING REQUIREMENTS.—

(A) IN GENERAL.—Any entity sponsoring a child care facility in an executive facility shall—

(i) comply with childcare standards that minimally encompass State or local licensing requirements related to the provision of child care in that geographic area; or

(ii) obtain the appropriate State or local licenses for the facility.

(B) COMPLIANCE.—Not later than 6 months after the date of enactment of this Act—

(i) the entity shall comply, or make substantial progress (as determined by the Administrator) toward complying with subparagraph (A); and

(ii) any contract or licensing agreement used by an Executive agency for the operation of such a child care center shall include a condition that the child care be provided by an entity that complies with the appropriate State or local licensing requirements related to the provision of child care.

(2) HEALTH, SAFETY, AND FACILITY STANDARDS.—The Administrator shall by regulation establish standards relating to health, safety, facilities, facility design, and other aspects of child care that the Administrator determines to be appropriate for child care in executive facilities, and require child care facilities, and entities sponsoring child care facilities, in executive facilities to comply with the standards. Such standards shall include requirements that child care facilities be inspected for, and be free of, lead hazards.

(3) ACCREDITATION STANDARDS.—

(A) IN GENERAL.—The Administrator shall issue regulations requiring, to the maximum extent possible, any entity sponsoring an eligible child care center (as defined by the Administrator) in an executive facility to comply with child care accreditation standards as identified in section 2(2)(A).

(B) COMPLIANCE.—The regulations shall require that, not later than 5 years after the date of enactment of this Act—

(i) the entity shall comply, or make substantial progress (as determined by the Administrator) toward complying, with the standards; and

(ii) any contract or licensing agreement used by an Executive agency for the provision of child care services shall include a condition that the child care be provided by an entity that complies with the standards.

(A) EVALUATION AND COMPLIANCE.—

(4) IN GENERAL.—The Administrator shall evaluate the compliance, with the requirements of paragraph (1) and the regulations issued pursuant to paragraph (2) and (3), of child care facilities, and entities sponsoring child care services, in executive facilities. The Administrator may conduct the evaluation of such a child care center or entity directly, or through an agreement with another Federal agency or private entity, other than the Federal agency for which the child care facility is providing services. If the Administrator determines, on the basis of such an evaluation, that the child care facility or entity is not in compliance with the requirements, the Administrator shall notify the Executive agency.

(B) EFFECT OF NONCOMPLIANCE.—On receipt of the notification of noncompliance issued by the Administrator, the head of the Executive agency shall—

(i) if the entity operating the child care center is the agency—

(I) no later than 2 business days after the date of receipt of the notification correct any deficiencies that are determined by the Administrator to be life threatening or to present a risk of serious bodily harm;

(II) develop and provide to the Administrator a plan to correct any other deficiencies in the operation of the center and bring the center and entity into compliance with the requirements not later than 4 months after the date of receipt of the notification;

(III) provide the parents of the children receiving child care services at the center and employees of the center with a notification detailing the deficiencies described in subclauses (I) and (II) and actions that will be taken to correct the deficiencies and post a copy of the notification in a conspicuous place in the facility for a period of 5 working days or until the deficiencies are corrected, whichever is later;

(IV) bring the facility and entity into compliance with the requirements and certify to the Administrator that the facility and entity are in compliance, based on an on-site evaluation of the facility conducted by an independent entity with expertise in child care health and safety; and

(V) in the event that deficiencies determined by the Administrator to be life threatening or to present a risk of serious bodily harm cannot be corrected within 2 business days after the date of receipt of the notification, close the facility or the affected portion of the facility, until such deficiencies are corrected and notify the Administrator of such closure; and

(ii) if the entity operating the child care facility is a contractor or licensee of the Executive Agency—

(I) require the contractor or licensee no later than 2 business days after the date of receipt of the notification, to correct any deficiencies that are determined by the Administrator to be life threatening or to present a risk of serious bodily harm;

(II) require the contractor or licensee to develop and provide to the head of the agency a plan to correct any other deficiencies in the operation of the center and bring the center and entity into compliance with the requirements not later than 4 months after the date of receipt of the notification;

(III) require the contractor or licensee to provide the parents of the children receiving child care services at the facility and employees of the facility with a notification detailing the deficiencies described in subclauses (I) and (II) and actions that will be taken to correct the deficiencies, and to post a copy of the notification in a conspicuous place in the facility for 5 working days or until the deficiency is corrected, whichever is later;

(IV) require the contractor or licensee to bring the facility and entity into compliance with the requirements and certify to the head of the agency that the facility and entity are in compliance, based on an on-site evaluation of the facility conducted by an independent entity with expertise in child care health and safety; and

(V) in the event that deficiencies determined by the Administrator to be life threatening or to present a risk of serious bodily harm cannot be corrected within 2 business days after the date of receipt of the notification, close the facility or the affected portion of the facility until such deficiencies are corrected and notify the Administrator of such closure, which closure may be grounds for the immediate termination or suspension of the contract or license of the contractor or licensee.

(C) COST REIMBURSEMENT.—The Executive agency shall reimburse the Administrator for the costs of carrying out subparagraph (A) for child care facilities located in an executive facility other than an executive facility of the General Services Administration. If an entity is sponsoring a child care facility for 2 or more Executive agencies, the Administrator shall allocate the costs of providing such reimbursement with respect to the entity among the agencies in a fair and equitable manner, based on the extent to which each agency is eligible to place children in the facility.

(5) DISCLOSURE OF PRIOR VIOLATIONS TO PARENTS AND FACILITY EMPLOYEES.—The Administrator shall issue regulations that require that each Executive agency that operates a child care facility, and each entity that enters into a contract or licensing agreement with an Executive agency to operate a child care facility, upon receipt by the facility or the agency or entity (as applicable) of a request by any individual who is a parent of any child enrolled at the facility, a parent of a child for whom there has been submitted an application to enroll at the facility, or an employee of the facility, shall provide to the individual—

(A) copies of all notifications of deficiencies that have been provided in the past with respect to the facility under paragraph (4)(B)(i)(III) or (ii)(III), as applicable; and

(B) a description of the actions that were taken to correct the deficiencies.

(c) APPLICATION.—Notwithstanding any other provision of this section, if 8 or more child care facilities are sponsored in facilities owned or leased by an Executive agency, the Administrator shall delegate to the head of the agency the evaluation and compliance responsibilities assigned to the Administrator under subsection (b)(4)(A).

(d) TECHNICAL ASSISTANCE, STUDIES, AND REVIEWS.—The Administrator may provide technical assistance, and conduct and provide the results of studies and reviews, for Executive agencies, and entities sponsoring child care centers in executive facilities, on a reimbursable basis, in order to assist the entities in complying with this section.

(e) COUNCIL.—The Administrator shall establish an interagency council, comprised of all Executive agencies described in subsection (d), to facilitate cooperation and sharing of best practices, and to develop and coordinate policy, regarding the provision of child care, including areas for nursing mothers and other lactation support facilities and services, in the Federal Government.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $900,000 for fiscal year 2000 and such sums as may be necessary for each subsequent fiscal year.

SEC. 4. MISCELLANEOUS PROVISIONS RELATING TO CHILD CARE PROVIDED BY FEDERAL AGENCIES.

(a) AVAILABILITY OF FEDERAL CHILD CARE CENTERS FOR ON-SITE CONTRACTORS; PERCENTAGE GOAL.—Section 616(a) of the Act of December 22, 1987 (40 U.S.C. 490b), is amended—

(1) in subsection (a), by striking paragraphs (2) and (3) and inserting the following:

"(2) such officer or agency determines that such space will be used to provide child care and related services to children of Federal employees or on-site Federal contractors, or dependent children who live with Federal employees or on-site Federal contractors; and

"(3) such officer or agency determines that such individual or entity will give priority for available child care and related services in such space to Federal employees and on-site Federal contractors."; and

(2) by adding at the end the following:

"(e)(1) The Administrator of General Services must confirm that at least 50 percent of aggregate enrollment in Federal child care centers governmentwide are children of Federal employees or on-site Federal contractors, or dependent children who live with Federal employees or on-site Federal contractors. Each provider of child care services at an individual Federal child care center shall maintain this percentage as a goal for enrollment at the center. If enrollment at a center drops below the goal, the provider shall develop and implement a business plan with the sponsoring Federal agency to achieve the goal within a reasonable timeframe. This plan must be approved by the Administrator of General Services based on its compliance with standards established by the Administrator, and its effect on achieving the aggregate Federal enrollment percentage goal.

"(2) The Administrator of General Services Administration may enter into public-private partnerships or contracts with nongovernmental entities to increase the capacity, quality, affordability, or range of child care and related services and may, on a demonstration basis, waive subsection (a)(3) and paragraph (1) of this subsection.".

(b) PAYMENT OF COSTS OF TRAINING PROGRAMS.—Section 616(b)(3) of such Act (40 U.S.C. 490(b)(3)) is amended to read as follows:

"(3) If an agency has a child care facility in its space, or is a sponsoring agency for a child care facility in other Federal or leased space, the agency or the General Services Administration may pay accreditation fees, including renewal fees, for that center to be accredited. Any agency, department, or instrumentality of the United States that provides or proposes to provide child care services for children referred to in subsection (a)(2), may reimburse any Federal employee or any person employed to provide such services for the costs of training programs, conferences, and meetings and related travel, transportation, and subsistence expenses incurred in connection with those activities. Any per diem allowance made pursuant to this section shall not exceed the rate specified in regulations prescribed pursuant to section 5707 of title 5, United States Code.".

(c) PROVISION OF CHILD CARE BY PRIVATE ENTITIES.—Section 616(d) of such Act (40 U.S.C. 490b(d)) is amended to read as follows:

"(d)(1) If a Federal agency has a child care facility in its space, or is a sponsoring agency for a child care facility in other Federal or leased space, the agency, the child care center board of directors, or the General Services Administration may enter into an agreement with one or more private entities under which such private entities would assist in defraying the general operating expenses of the child care provider including, but not limited to, salaries and tuition assistance programs at the facility.

"(2)(A) Notwithstanding any other provision of law, if a Federal agency does not have a child care program, or if the Administrator of General Services has identified a need for child care for Federal employees at an agency providing child care services that do not meet the criteria of subsection (a), the agency or the Administrator may enter into an agreement with an existing non-Federal, licensed, and accredited child care facility, or a planned child care facility that will become licensed and accredited, for the provision of child care services for children of Federal employees.

"(B) Prior to entering into an agreement, the head of the Federal agency must determine that child care services to be provided through the agreement are more cost effectively provided through this arrangement than through establishment of an Executive child care facility.

"(C) The agency may provide any of the services described in subsection (b)(3) if, in exchange for such services, the facility reserves child care spaces for children referred to in subsection (a)(2), as agreed to by the parties. The cost of any such services provided by an agency to a child care facility on behalf of another agency shall be reimbursed by the receiving agency.

"(3) This subsection does not apply to residential child care programs.".

(d) PILOT PROJECTS.—Section 616 of such Act (40 U.S.C. 490b) is further amended by adding at the end the following:

"(f)(1) Upon approval of the agency head, an agency may conduct a pilot project not otherwise authorized by law for up to 2 years to test innovative approaches to providing alternative forms of quality child care assistance for Federal employees. An agency head may extend a pilot project for an additional 2-year period. Before any pilot project may be implemented, a determination must be made by the agency head that initiating the pilot project would be more cost effective than establishing a new child care facility. Costs of any pilot project shall be borne solely by the agency conducting the pilot project.

"(2) The Administrator of General Services shall serve as an information clearinghouse for pilot projects initiated by other agencies to disseminate information concerning the pilot projects to the other agencies.

"(3) Within 6 months after completion of the initial 2-year pilot project period, an agency conducting a pilot project under this subsection shall provide for an evaluation of the impact of the project on the delivery of child care services to Federal employees, and shall submit the results of the evaluation to the Administrator of General Services. The Administrator shall share the results with other Federal agencies.".

(e) BACKGROUND CHECK.—Section 616 of such Act (40 U.S.C. 490b) is further amended by adding at the end the following:

"(g) All existing and newly hired workers in any child care center located in federally owned or leased facilities shall undergo a criminal history background check as defined in 42 U.S.C. 13401.".

SEC. 5. REQUIREMENT TO PROVIDE LACTATION SUPPORT IN NEW EXECUTIVE CHILD CARE FACILITIES.

The head of each Federal agency shall require that each child care facility first operated after the one-year period beginning on the date of the enactment of this Act by the Federal agency, or under a contract or licensing agreement with the Federal agency, shall provide reasonable accommodations for the needs of breast fed infants and their mothers, including by providing a lactation area or a room for nursing mothers as part of the operating plan for the center.

RESOLUTION ON THE INDEPENDENCE OF KOSOVA

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. TRAFICANT. Mr. Speaker, today I am introducing a House Concurrent Resolution urging the Clinton Administration to publicly declare that the Albanians of Kosova have a legal right to self-determination and independence from Serbia. It is identical to the resolution I introduced in the last Congress. I urge all Members to support this important resolution.

The Clinton Administration has failed to deal forthrightly with the serious situation in Kosova. It is clear that diplomacy has failed in stopping Serbian President Slobodan Milosevic's dirty campaign of repression against the Kosovar Albanians. The time has come for the United States to support, in no uncertain terms, independence for Kosova.

The resolution expresses the sense of the Congress that: 1) the U.S. should publicly declare that the Albanians of Kosova have a legal right to self-determination and that independence is the only political solution acceptable to the Kosovars; 2) the U.S. should, in conformity with its principles and beliefs, support and sponsor the right of self-determination for the Kosovar Albanians and this should be a high priority for restoring peace and security to the region; 3) the U.S. should provide its share of any financial or other resources necessary to facilitate the independence of Kosova; 4) the U.S. in conjunction with members of the United Nations and other multilateral organizations, should convene a working group that deals with the specifics of secession in order to prevent future civil conflict from rising to the level of a breach of international peace and security and the facilitates constructive dialogue in order to prevent violence; and 5) the U.S. and others should use any and all means necessary to remove impediments to the Kosovar Albanian's right to self-determination.

The resolution asserts that the Kosovar Albanians satisfy the objective requirements for self determination according to well-established tenets of international law. The Kosovar Albanians comprise more than 90 percent of Kosova's population; share the common language of Albanian; are descendants of the Illyrian—the first group to occupy the Balkans well before the Common Era; share a common ethnicity; share a common history in the Kosova region; and share a common cultural identity as ethnic Albanians with an unbroken historic bond to the region. The resolution also notes that the Kosovar Albanians seek independence from Serbia in order to establish a democratic form of government.

Mr. Speaker, prior to the disintegration of the former Yugoslavia, Kosova was a separate political and legal entity with separate and distinct political, economic, social, judicial, legal, medical and educational institutions. Before it was forcibly absorbed into Serbia in the late 1980s, Kosova enjoyed the same legal and political status as the other six republics of the former Federal Republic of Yugoslavia.

Since Serbian President Milosevic came to power in 1987 Kosova has been brutally stripped of all vestiges of self-rule. We are now at a critical juncture in Kosova's history. Failure on the part of the U.S. and the world community to take decisive action could lead to further repression, genocide and regional instability. Diplomacy has failed. Fighting continues to rage. Innocent civilians are being slaughtered. Independence may be the only viable option the Kosovar Albanians have to realize self-determination. It's time for the Clinton Administration to stop coddling Milosevic and take a stand for freedom and self-determination.

CENSURE THE PRESIDENT AND GET BACK TO BUSINESS

SPEECH OF

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 19, 1998

Mrs. TAUSCHER. Mr. Speaker, from the day in early September that the Starr referral was delivered to the House, I have said that the decision to impeach the President called upon me to consider the Constitution, my constituents and my conscience. I have read and reread the Constitution and Federalist papers. I have heard from over 10,000 of my consistent by phone, mail and E-mail. I have searched my conscience. That is why I rise to urge my colleagues to strongly oppose the impeachment of the President.

Let me reiterate that the President's behavior has been reckless, wrong and harmful to his family, friends and the American people. His efforts to misled the American people were inappropriate for the leader of our great Nation. But, my review of the Constitution leads me to believe that while what the President did may be indictable, it is not impeachable.

The President did not undermine our constitutional form of government, nor did he commit treason or bribery. These are fundamental issues that must be considered when the Congress considers articles of impeachment. Also, I'm very troubled by the tampering with the separation of powers proposed by the House's action against the President. Those who support impeachment speak of the rule of law, but they fail to talk about the framers' clear and explicit delineation of the powers of each branch of our Government. It is the Judicial branch of government that enforces the rule of law and punishes those who violate it. If the President committed perjury, the grand jury can indict him when his is out of office.

My constituents and I are searching for a way to strongly but appropriately register our disgust with the President actions. Censure the President and move on, they say, by a 2-to 1 margin. I agree. But, we have been denied a vote on censure in spite of the fact that this is what an overwhelming number of Americans have told us that they want.

When I came to Congress 2 years ago I said that while I couldn't agree with anyone 100 percent of the time, it was my responsibility as a Representative of the people to LISTEN 100 percent of the time. My colleagues, we were sent here to be our constituents eyes and ears.

Americans want people in their elected Government who know more, not people who think they know better. Colleagues, please stop and listen. The American people say we must strongly censure the President and get back to their business. I urge you to vote no on impeaching the President.

CONGRATULATING COACH PHILLIP FULMER AND THE TENNESSEE VOLUNTEERS ON WINNING THE NATIONAL CHAMPIONSHIP

HON. VAN HILLEARY

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. HILLEARY. Mr. Speaker, I rise today to congratulate and honor Phillip Fulmer, the head football coach of the undefeated, unified national champion University of Tennessee Volunteers. Coach Fulmer is a native of Winchester, Tennessee, which I am honored to represent in the United States Congress.

In just his first seven years as a head coach, Phillip Fulmer has made his mark as one of the best coaches in the nation. He has won a national championship faster than many of the game's most legendary coaches. His 67–11 career record gives him the best winning percentage (.859) in Division I–A college football among active coaches. He has led the Volunteers to back-to-back Southeastern Conference Championships over the past two seasons, and on January 4 led the Vols to the national championship for the first time since 1951.

Coach Fulmer's success has not gone unnoticed by the media or his peers. Earlier this month, Fulmer was awarded the Eddie Robinson National Coach of the Year Award, and he was also named the national Coach of the Year by the Maxwell Football Club. He was also recently named the Southeastern Conference (SEC) Coach of the Year by the Associated Press and by his fellow SEC coaches.

However, Phillip Fulmer is more than a coach to the young men who play on his team. He genuinely cares about his players, and he leads them on and off the field by setting a good example for how they should live their lives. He personally embodies the values his players should incorporate into their lives long after their football days are over.

Mr. Speaker, as a University of Tennessee graduate (Class of 1981) and a dedicated Big Orange fan who proudly displays a real piece of the old artificial turf where so many great Vols played, I feel qualified to convey to you the immeasurable joy which Coach Fulmer, his staff and his players have brought to Tennesseans and Tennessee football fans around the world. Coach Phillip Fulmer has shown a great deal of class, dedication and excellence. For that, I say thank you, congratulations, and we will always cherish the memory of this national championship and this dream season.

HONORING MARY TRUSCOTT

HON. TILLIE K. FOWLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mrs. FOWLER. Mr. Speaker, I rise today to honor one of my constituents who has dedicated her life to something of which we speak so often in this Chamber, the pursuit of excellence in education. For the past 40 years, Mary Truscott has faithfully served as secretary and administrative assistant at Father Lopez High School in Daytona Beach, FL. Throughout this time, Mary had a profound positive influence on countless lives and helped to shape our future leaders. She has been the glue that binds the school together and is a shining constant in an all too rapidly changing world.

Mary Truscott's 40 years of selfless service to the Father Lopez school community and to the Diocese of Orlando is truly a remarkable accomplishment. To many students and teachers, she has been a real American hero. As she celebrates her anniversary this coming weekend, I am proud to recognize her accomplishments and to express my personal gratitude as well as that of the entire Daytona Beach community.

IT'S TIME FOR A TAX CUT

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. KNOLLENBERG. Mr. Speaker, as we begin the new year and the 106th Congress, there are many things that the American people can be optimistic about. Our economy is growing at a brisk pace. Unemployment is low. Inflation is almost non-existent. And interest rates are down.

While more Americans are working and earning more money because of our strong economy, excessive taxation is making it harder for families to get ahead. When looking at the burden taxes impose on the lives of the American people, I am reminded of an observation offered by Mark Twain. This great American author asked, "What's the difference between a taxidermist and a tax collector?" He answered, "the taxidermist takes only your skin."

The average family in America is currently paying more money in taxes than it spends on housing, food, and clothing combined. In fact, when State and local taxes are added to Federal taxes, the average family sees 40 percent of its income confiscated by the Government. This is outrageous. Working Americans should be allowed to take care of their basic needs before being asked to finance the Government.

With the budget balanced and the Federal Government projected to run a surplus of $1.6 trillion over the next 10 years, the 106th Congress has a historic opportunity to cut taxes so working Americans can keep more of their hard-earned money.

Today, I have introduced five bills which ease the burden of Federal taxation. These bills will strengthen families and promote economic growth by cutting income taxes and removing the penalties imposed on saving and investing.

The first bill in my tax relief package is entitled the Taxpayer Relief Act. This bill cuts marginal income tax rates by 10 percent across the board. This broad-based tax cut benefits every working American and rewards hard work and success.

The next bill in my package is the Taxpayer Fairness Act. This bill allows taxpayers to deduct the amount of payroll taxes they pay each year from their Federal income taxes. It's simply wrong to tax people on income they never receive. This bill ends this ridiculous policy and will benefit millions of middle income taxpayers, many who pay more in payroll taxes than they pay in income taxes.

The third bill in my package is the Job Creation Act. This bill will stimulate investment in new businesses and good paying jobs by eliminating the capital gains tax.

The fourth bill in my package is the Senior Citizen Tax Relief Act. This bill contains three provisions. It repeals the 1993 tax increase on Social Security benefits. It eliminates the earnings limitation for Social Security benefits, thereby encouraging more seniors to continue working and contributing to our Nation's economy. And it eliminates the taxes on estates and gifts. While death and taxes may be the only two certainties of life, any individual shouldn't have to encounter both at the same time.

The last bill in my package is the Marriage Penalty Relief Act. Under current law, approximately 21 million married couples pay about $1,400 more a year in taxes than they would if they were single. My bill provides some relief from this stiff penalty by increasing the standard deduction provided to married couples so that it equals twice the amount of the deduction provided to single taxpayers.

Mr. Speaker, the American people are paying too much in taxes and they want their Members of Congress to do something about it. The five bills I have just discussed provide significant tax relief to the American people. These tax cuts benefit every working American. They strengthen working families. They promote economic growth. And they restore fairness and simplicity to the tax code.

I urge my colleagues on both sides of the aisle to join me in this fight for lower taxes and yield back the balance of my time.

VETERANS HEALTH CARE ALLOCATION FAIRNESS ACT OF 1999, H.R. 24

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. GILMAN. Mr. Speaker, I rise today to introduce H.R. 24 the Veterans Health Care Allocation Fairness Act of 1999.

In 1996, the Veterans Administration was mandated by Congress to develop and implement a more equitable method for allocating health care resources. In response, the VA devised the veterans equity resource allocation (VERA) model.

While VERA was a noble effort, it is based on a flawed model. As a research method, VERA is unfairly biased against older veterans in major metropolitan areas. These veterans are those in need of inpatient, comprehensive health care, and they will suffer if VERA is allowed to go forward as planned.

This legislation is designed to correct these inherent flaws within VERA. Specifically, it does this in three ways:

First, the bill would raise the income level in the means test by 20% for any veteran who lives in a standard metropolitan statistical area (SMSA) as defined by the Bureau of the Census. This would make the VA more accessible to veterans who live in high-cost areas, thus increasing the number of veterans who use VA in those regions.

Second, the bill would move veterans with catastrophic health care expenses from category "C" (those who must meet the means test for non-service connected care) to category "A" (those eligible for free non-service connected care). These veterans are defined as those individuals whose medical expenses for the previous year exceeded 7.5% of their adjusted gross income.

Third, the bill would level the playing field between the northeast and southwest by removing the high-cost, "inefficient" speciality care programs from those funds which can be considered in reallocation calculations under VERA. The programs removed would include: Readjustment counseling and treatment, counseling and psychiatric care for the mentally ill, drug and alcohol related programs, programs for the homeless, PTSD programs, spinal cord injury programs, AIDS programs and geriatric and extended care programs.

In a memorandum prepared for me by the Congressional Research Service on this legislation, it estimates that this bill would result in an additional 5–6% of veterans in the northeast becoming eligible for free health care. That translates to approximately 75,000 additional veterans for New York alone. CRS also estimates that if 20% of these veterans seek to use VA services, a conservative assumption, it would result in an increased caseload for both VISN #2 and #3 of 15–20%. This would force a recomputation of VERA distributions, and result in more VA health care funds remaining in northern urban areas.

Accordingly, I urge my colleagues to support this legislation which will help ensure that all veterans receive equal opportunity to the health care which they have earned, regardless of where they have chosen to live.

H.R. 24

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CRITERIA FOR REQUIRED COPAYMENT FOR MEDICAL CARE PROVIDED BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) EXCEPTION BASED ON PRIOR CATASTROPHIC HEALTH CARE EXPENSES.—Subsection (a) of section 1722 of title 38, United States Code, is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(4) the veteran's expenses for medical care (as defined in section 213 of the Internal Revenue Code of 1986) for the previous year are in excess of 7½ percent of the veteran's adjusted gross income for the previous year (as determined for purposes of the personal income tax under the Internal Revenue Code of 1986).".

(b) ADJUSTMENT IN INCOME THRESHOLDS FOR VETERANS RESIDING IN SMSAS.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

"(3) The amounts in effect for purposes of this subsection for any calendar year shall be increased by 20 percent for any veteran who resides in a Standard Metropolitan Statistical Area (SMSA), as defined by the Bureau of the Census.".

(c) AMENDMENTS WITHIN EXISTING RESOURCES.—The Secretary of Veterans Affairs shall carry out the amendments made by this section for fiscal years 2000 and 2001 within the amount of funds otherwise available (or programmed to be available) for medical care for the Department of Veterans Affairs for those fiscal years.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2000.

SEC. 2. SERVICES FOR MENTALLY ILL VETERANS.

(a) MEMBERSHIP OF COMMITTEE ON CARE OF SEVERELY CHRONICALLY MENTALLY ILL VETERANS.—Section 7321 of title 38, United States Code, is amended—

(1) in subsection (a), by inserting "and members of the general public with expertise in the care of the chronically mentally ill" in the second sentence after "chronically mentally ill"; and

(2) by adding at the end the following new subsection:

"(e) The Secretary shall determine the terms of service and (for members appointed from the general public) the pay and allowances of the members of the committee, except that a term of service may not exceed five years. The Secretary may reappoint any member for additional terms of service.".

(b) CENTERS FOR MENTAL ILLNESS RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES.—Paragraph (3) of section 7320(b) of such title is amended to read as follows:

"(3) The Secretary shall designate at least one center under this section in each service network region of the Veterans Health Association.".

SEC. 3. ALLOCATION OF MEDICAL CARE RESOURCES FOR THE DEPARTMENT.

(a) IN GENERAL.—(1) Chapter 81 of title 38, United States Code, is amended by inserting after section 8116 the following new section:

"§ 8117. Allocation of medical care resources

"In applying the plan for the allocation of health care resources (including personnel and funds) known as the Veterans Equitable Resource Allocation system, developed by the Secretary pursuant to the requirements of section 429 of Public Law 104–204 (110 Stat. 2929) and submitted to Congress in March 1997, the Secretary shall exclude from consideration in the determination of the allocation of such resources the following (resources for which shall be allocated in such manner as the Secretary determines to be appropriate):

"(1) Programs to provide readjustment counseling and treatment.

"(2) Programs to provide counseling and treatment (including psychiatric care) for the mentally ill.

"(3) Programs relating to drug and alcohol abuse and dependence.

"(4) Programs for the homeless.

"(5) Programs relating to post-traumatic stress disorder.

"(6) Programs relating to spinal cord dysfunction.

"(7) Programs relating to AIDS.

"(8) Programs relating to geriatric and extended care.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8116 the following new item:

"8117. Allocation of medical care resources.".

(b) EFFECTIVE DATE.—Section 8117 of title 38, United States Code, as added by subsection (a), shall apply with respect to the allocation of resources for each fiscal year after fiscal year 1999.

COMMENDING THE CITY OF ARROYO, PUERTO RICO ON ITS 100TH ANNIVERSARY OF RELATIONS WITH THE UNITED STATES

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. DIAZ-BALART. Mr. Speaker, I rise today to recognize the special relationship between the city of Arroyo, Puerto Rico, and the United States. December 25, 1998, will mark the centennial Christmas celebrated with the United States.

In the summer of 1898, American troops landed in the city of Arroyo, Puerto Rico, to help free the Puerto Ricans from Spanish colonialism. General John Rutter Brooke and his troops spent Christmas in Arroyo that year, and that event marked the beginning of a close and lasting relationship between the people of the city of Arroyo and the United States. To memorialize General Brooke, there is a city street named in his honor.

The city of Arroyo resembles many typical U.S. small towns, with its "Main Street USA". This central street, running north-south through the town, is named Calle Morse, after Samuel Morse, the inventor of the Morse code. He came to Arroyo to visit his daughter, who resided at the Enriqueta estate, and was present when the first telegraph line was installed in Puerto Rico in 1858. The city of Arroyo has the esteem of being the first location in Puerto Rico to send a telegraph, welcoming Puerto Rico to the age of telecommunications.

The historical homes which line Main Street in Arroyo are fashioned after southern American styles of architecture, and the citizens of Arroyo are very proud of this feature of Main Street. The old U.S. customshouse in town has been well-preserved and today is an important center of the city's culture, serving as a museum which traces the historical connections with the United States.

The town of Arroyo has taken an active role in defending the United States. From the First World War, to the Second World War, to the war in Korea, and to Vietnam, to Desert Storm, young men from Arroyo have answered the call to duty, and brave soldiers such as Virgilio Sanchez in Korea and Raul Serrano in Vietnam, have heroically given their lives in these wars.

This year marks the 100th Christmas anniversary since that first Christmas that the U.S. officially spent in Arroyo. The town did their best to make General Brooke and his troops feel welcome, having to spend Christmas away from their immediate families. To commemorate this special Christmas celebration, students of welding at a local vocational technical school have crafted iron ornaments that will be placed throughout Main Street in recognition of the city's unique relationship with the United States. These beautiful handmade ornaments will be lighted on Christmas Eve, 1998, in remembrance of this joyous occasion.

I commend the people of the city of Arroyo, Puerto Rico, for their special relationship with the United States and congratulate them on their 100th Christmas anniversary.

UNDERLYING THE IMPEACHMENT CRISIS—HISTORY: THE WAY WE SEE IT

HON. JESSE L. JACKSON, JR.

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. JACKSON of Illinois. Mr. Speaker, Republicans say the underlying issue is not about sex, it's about perjury and obstruction of justice. Democrats say the underlying issue is about sex—a private consensual sexual relationship—and the President lied about it, possibly committing perjury in the process. But since lying about sex is not an act that involved using his official position against the state, as Nixon did, Democrats say Clinton's sins do not reach the Constitutional standard for impeachment.

That is the essence of the arguments we heard presented by members of the House Judiciary Committee and members on the floor of the Congress who voted, along partisan party lines, to impeach President Clinton. That is what the current Republicans and Democrats are saying. What will history say?

Underlying the Clinton impeachment is neither sex, nor lying, nor perjury, but American history itself. Essentially the same economic and political forces that drove the presidential impeachment process against Andrew Johnson in 1868 are driving the impeachment process 130 years later. There has been a "role reversal"—the Republicans of 1998 were the Democrats of 1868 and I will show how their roles reversed—but the underlying issue is essentially the same; reconstruction. Our nation's first effort at economic reconstruction after the Civil War was at issue in 1868, our nation's second effort at economic reconstruction after the Civil War, beginning with Brown in 1954, is at issue in 1998.

The end of the Civil War and the adoption of the 13th Amendment to the Constitution on December 18, 1865 ended legal slavery. Slavery, the Democratic Party, its geography and its ideology were all defeated. But Lincoln's assassination five days after Appomattox denied him and the Republican Party the opportunity to pursue a "Big Federal Government" policy of economic reconstruction and political enfranchisement for all Americans, leaving no American behind.

When legal slavery ended, there were nine million people in the old Confederacy, which was led by the party of Thomas Jefferson. Then, the Democratic Party defined itself in exclusive terms—as slave holders with private property rights, which were protected legally by "states' rights" governments. Four million of the southerners were uneducated and untrained former slaves who needed to be educated, trained and brought into the economic mainstream and politically enfranchised with the right and ability to vote. That didn't include poor and working class whites who had similar needs and had been exploited, manipulated, misused and politically diverted through a focus on social issues (then, perpetuating the fear of interracial marriage and sex) by the slave owners to preserve and protect the southern economic system of elite special interests.

Just eight years earlier, in 1857, in the Dred Scott decision, the Court had ruled that blacks had no rights that a white man must respect and that Congress could not outlaw slavery anywhere in the U.S. The Confederacy—its economy, religion, family, social customs, mores and politics—was based and built on the institution of slavery. The Civil War ended slavery, but there were still two outstanding problems: (1) How to bring four million former slaves into the economic mainstream? And (2) How to politically enfranchise them? That was the goal of the First Reconstruction and its goal has never been realized and those twin problems have never been completely fixed! One-hundred-and-thirty-two historically black colleges and universities were founded in this context.

It was a massive Federal government commitment to educate the newly freed slaves—who were nearly half the population of the eleven former confederate states—not a commitment by those states to educate them. This Federal commitment to educate the newly freed slaves was determined to be central to a new black middle-class that could then lift themselves or take advantage of opportunities in the general economy. Northern Republican Federal troops were occupying the South after the Civil War because they could not depend on the Democratic South to enforce federal laws. With regard to education, it was the only way the Federal Government could prevent racial discrimination and ensure that educated blacks had an equal opportunity of getting hired after they were educated and trained.

Lincoln fought to preserve the Union and to end slavery. He defeated the southern slave forces militarily at a national cost of 620,000 lives and was prepared to reconstruct the nation with a Republican program of inclusion and political enfranchisement. "Former" Democratic Confederates opposed and resisted the "Big Centralized Republican Federal Government" and wanted "the government off of their states' backs" so they could go back to a legal system ("States' Rights") that protected their economic interests (the ability to own slaves).

The identification of Lincoln and the Republican Party with ending slavery and commencing reconstruction led southern Democrats to refer to Lincoln as the Black President and the Republican Party as the Black Republican Party. Blacks, after Lincoln's assassination, remained loyal to the Republican Party until 1936, Franklin Delano Roosevelt's second term. The New Deal appealed to black economic interests. Roosevelt defined a new more inclusive Democratic Party by offering an economic agenda that appealed to every American. The political history of African Americans shows that their loyalty follows reconstructive efforts.

Senator Andrew Johnson was a Tennessee Democrat who had refused to join his fellow southern Democratic Confederates and stayed with the northern Unionists. Lincoln's concern about preserving and reunifying the nation following the war led our first Republican President to reward Johnson's loyalty by nominating him for Vice President in the 1864 campaign.

After Lincoln's assassination, President Johnson focused on putting the Union back together, but lacked the Republican commitment to build a "more perfect Union" for all Americans. Unlike Lincoln and the Republicans, he was willing to preserve the Union by leaving some Americans behind, sacrificing the rights and interests of the former slaves. As a result, angry northern Radical Republicans investigated a vulnerable Johnson—who was not unlike Bill Clinton in terms of his personal foibles—to try to come up with an excuse to impeach him. It was a partisan Republican attack on a Democratic President in order to preserve undertaking the Republicans' First Reconstruction program.

The struggle between these radical progressive northern Republicans and these radical conservative southern Democrats (Dixiecrats) continued following the Civil War, and finally came to a head in the 1876 presidential election and Tilden-Hayes Compromise of 1877—which ended reconstruction. Rutherford B. Hayes, a Republican, was finally elected President by one vote in the House in exchange for pulling out Federal troops protecting the newly freed slaves in the South, and agreeing to appoint conservative Dixiecrats to the Supreme Court. The Dixiecrats, with the help of new "black laws" of discrimination, psychological intimidation, physical violence and murder, were now on their way back to power in the South.

By 1896, the Supreme Court appointments resulted in Plessy, which ushered in Jim Crow, and by 1901 the first Congressional Black Caucus was completely eliminated from Congress, not to return for three decades.

It is the same elitist southern forces and their continuing anti-Federal government ideology—except today they are called Republicans—who want, this time, not to preserve but undo the nation's effort at reconstruction, a Second Reconstruction begun in 1954 with Brown—the desegregation of all aspects of American life, from public facilities to private corporate behavior—and continued with the 1964 Civil Rights Act and 1965 Voting Rights Act, affirmative action and majority-minority political districts. The southern Democratic Party, with the legacy of the Confederacy, generally found itself on the wrong side of history again in the 1960s. Governors George Wallace of Alabama, Lester Maddox of Georgia and Orville Faubus of Arkansas were all Democrats from Dixie. Renowed segregationists like Senator Richard Russell of Georgia and Congressman Howard Smith from Virginia were Democrats. Today's Senators STROM THURMOND of South Carolina and RICHARD SHELBY of Alabama were originally Dixiecrats, but are now Republicans.

Today's conservative southern-based Republicans' target is Second Reconstruction, especially the "liberalism" of Democratic President Lyndon Johnson's Great Society, but also ultimately including many of the "Big Government" economic programs of Franklin Delano Roosevelt's New Deal. The real underlying dynamic of this impeachment proceeding is not the removal of Bill Clinton, but the removal of the social and economic programs of the New Deal and the Second Reconstruction of the Great Society, a weakening of the Big Federal Government generally, and the destruction of liberalism as a viable political ideology in particular.

Whether these conservative anti-Federal government Republicans are successful or not will be determined by history. There will be a few pro-impeachment Democrats thrown in for good measure because, politically, they must factor in the old Democratic forces in the South, now controlled by the Republicans. The Republican impeachment strategy can only be measured by future elections. Will the American people be lead astray again by the Republicans' new sex diversion or will a strong political leader be able to get them to focus on their real economic interests of full employment, comprehensive and universal health care, affordable housing and a quality public education? History—not President Clinton or the current crop of Democrats and Republicans— will render that judgment!

Today, the political, ideological and geographical roots of the anti-reconstruction and anti-more-perfect-union effort is in the South, though its tentacles have spread beyond the South. This Republican impeachment effort allows us to look at the roots, dynamic and current political structure of this post-Civil War and Current conservative political movement. One-hundred-and-thirty-three years after the "Great Quake," the impeachment of President Clinton is a mere tremor in the on-going struggle to reconstruct America.

Begin with the Judiciary Committee. Ten of the eighteen Republican members of the Judiciary Committee are ultra-conservatives from former Confederate states. In the middle of the impeachment hearings, one of them, BOB BARR of Georgia, was exposed for having recently spoken before a white supremist group.

Move on to the House Republican leadership. The outgoing Speaker is Newt Gingrich (R–GA), whose history is laced with not-so-subtle new racial code words, and the Speaker-elect is BOB LIVINGSTON (R–LA). Their styles are different, but their substance is essentially the same. Both abdicated their leadership roles in the impeachment crisis only to have another southern conservative, Rep. TOM "The Hammer" DELAY (R–TX), fill the void. He, through intimidation, forced Republicans, not to vote against censure, but to vote with their party on a procedural vote—which, in essence, is a vote to kill a vote of conscience for censure of the President's private behavior.

In addition, call the roll of House leadership and committee chairmanships in the 105th Congress: RICHARD ARMEY (TX), Majority Leader; BILL ARCHER (TX), Ways & Means; BOB LIVINGSTON (LA), Appropriations; FLOYD SPENCE (SC), National Security; THOMAS BLILEY (VA), Commerce; PORTER GOSS (FL), Permanent Select Committee on Intelligence.

In the 105th Republican-controlled Senate: TRENT LOTT (MS), Senate Majority Leader; STROM THURMOND (SC), President Pro Tem (3rd in line to be President), Chairman, Armed Services; JESSE HELMS (NC), Senate Foreign Relations; JOHN WARNER (VA), Rules; RICHARD SHELBY (AL), Select Committee on Intelligence. Today in Congress there are more people arguing on behalf of States rights than there are people arguing on behalf of building a more perfect union. That is why fighting against racial injustice cannot be relegated to a department of the government. That is why several of the nation's top journalists have chosen to focus on what TRENT LOTT (R–MS) and BOB BARR (R–GA) do with their political spare time, including speaking before and having memberships in certain southern political organizations. The institutional nature of our historic problem requires eternal vigilance on many fronts and in every election.

The presiding officer at an impeachment trial in the Senate will be U.S. Supreme Court Chief Justice William Rehnquist, the ultimate conservative states' righter. Nominated to the Court by Nixon and elevated to Chief Justice by Reagan, this intellectually gifted conservative, while clerking for Justice Robert H. Jackson between 1952 and 1953, wrote a memorandum arguing in favor of upholding the "separate but equal" doctrine of Plessy versus Ferguson in preparation for the 1954 decision on Brown. As a conservative Phoenix lawyer, he appeared as a witness before the Phoenix City Council in opposition to a public accommodations ordinance and took part in a program of challenging African American voters at the polls.

From 1969 until 1971, he served as assistant attorney general for the Office of Legal Counsel. In that position, he supported executive authority to order wiretapping and surveillance without a court order, no-knock entry by the police, preventive detention and abolishing the exclusionary rule, that is, a rule to dismiss evidence gathered in an illegal way.

As a member of the Burger Court, Rehnquist played a crucial role in reviving the debate regarding the relationship between government and the states. The consequences of Rehnquist's state-centered federalism surfaced dramatically in the area of individual rights. Since the 1960s, the Court had held that nearly every provision in the Bill of Rights applies to the states through the Due Process Clause of the Fourteenth Amendment. Rehnquist voiced his disagreement with such a method of determining the constitutional requirements of state action, particularly in the context of criminal proceedings, urging a return to an earlier approach whereby the states were not required to comply with the Bill of Rights but only to treat individuals with "fundamental fairness."

Likewise, Rehnquist narrowly construed the Fourteenth Amendment's mandate to the states not to deny any person the equal protection of the laws. He contended that all that the framers of the Fourteenth Amendment hoped to achieve with the Equal Protection Clause was to prevent the states from treating black and white citizens differently. The most important value for Rehnquist is his state-centered federalism, followed by private property and individual rights. In other words, his current views are consistent with the core of the states' rights legal philosophy a century-and-a-half-ago, where the individual right to own property (slaves) was to be protected by a states' rights government! (Source: *The Oxford Companion To The Supreme Court)*

To capture a new political base, Republicans abandoned the essence of Lincoln and decided to go after Dixie, using social issues as cover for their narrow economic interests. Barry Goldwater launched this modern conservative anti-Federal government movement with his 1964 presidential campaign. Ronald Reagan picked it up and sent the same signal by launching his southern campaign from Philadelphia, Mississippi in 1980, in the name of states' rights, where two Jews and a Black were murdered, in the name of states' rights, fighting for the right to vote. Now Republicans want to complete Mr. GINGRICH's 1994 "Revolution of Devolution" by defeating and eliminating the twin evil forces of "liberalism" and "Big Government" in the 2000 election.

The Republicans know that, based on the information they have gathered, if the President is impeached in the House, he will not be convicted in the Senate. They don't want him convicted and out of office, with President Al Gore given two years to solidify his hold on the White House. They want an impeached, but not convicted, President twisting in the wind for two years leading up to the 2000 election. This is a continuation of the November 3, 1998, strategy of the Republican hard liners to motivate and build their conservative "social values" political base as a diversion from economic justice issues. The Republicans will not allow censure because that would allow Democrats to say that they took some action against the President for his immoral actions, which would take away their "social-moral" issue for 2000 campaign.

What the Republicans want out of this impeachment crisis is a "family values" issue for the 2000 presidential campaign. They want to say that Clinton's sexual misconduct is the result of the "decadent values" of the 1960's and liberalism generally. In other words, in some form, the Lewinsky matter will become a Republican "wedge issue" in the 2000 campaign. The fact that African Americans are so closely identified with both President Clinton and liberal "Big Government" programs fits perfectly with their consistent use of race to divide the electorate in presidential campaigns. They can send the subliminal race signal while publicly denying they are using race as an issue in the campaign,

The Republican goal in 2000 is to use this strategy to retain control of the House and Senate and to gain control of the White House. They can then appoint hardcore right wing conservatives to the Supreme Court after 2001. Remember, Kenneth Starr's ambition before being sullied by the Lewinsky affair was to be appointed to the Supreme Court.

Republicans, with Dixie as its geo-political and theological center, in control of the executive, legislative and judicial branches of the Federal government, could turn the clock back to a twenty-first century version of the States' Rights days of the 1850s and the 1896 "separate but equal" days of Plesssy versus Ferguson—not a return to slavery, but a return to the days when equal opportunity for all is twisted and converted to equal opportunity for a limited few.

By putting impeachment in the legislative rather than the judicial branch of government, the framers of the Constitution deliberately made it a political-legal affair. Republicans have done in 1998, what Democrats did in 1868. They have use the political-legal nature of the impeachment process to turn it into a political-political affair to further their anti-Big Government aims.

Clinton launched a dialogue to talk about race, but the real race dialogue is what will happen to economic reconstruction in 2001 if the reactionary Republican strategy works. Clinton has worked hard to separate the race dialogue from the economic dialogue—joining with the Republicans in 1997, and ignoring his strongest liberal supporters today, to cut a budget deal to "balance the budget" with conservative Republicans. That deal assures that there will not be enough money to fix our historic problem or build a bridge to the future for Americans left behind. He has reduced his own defense to a personal defense instead of a defense of history.

Republicans are trying to impeach reconstruction. The President's reckless behavior played into the political hands of Dixie's history-driven religiously-based self-righteous politics of advancing it's own lost cause.

To whom much is given, much is required. The President was not elected to be our pastor, priest, rabbi or imam. He was elected to protect our constitutional rights. All Presidents are public servants, not perfect servants. His error of private behavior and poor public judgment played perfectly into Dixie's regional politics to undermine a century-and-and-a quarter of economic progress for all. President Clinton risked all of that history of social and economic progress by lying about an issue of personal satisfaction. He has not committed treason as defined by the Constitution as an impeachable offense. His "teason" is against the cause of building a more perfect union.

After economic and socially conservative Presidents Nixon, Ford, Carter (and economic conservative, but more liberal socially), Reagan and Bush, a moderate-to-conservative southern Democrat, President Clinton, has helped to prepare an economic bridge which would allow us to again begin to work on some of the unfinished and unreconstructed tasks of the Civil War. The Monica Lewinsky affair has now reduced the defense of that agenda to a defense of him.

On December 19, 1998, Republicans are trying to impeach Social Security (privatize it), affirmative action, Medicare, Medicaid, a clean environment, women's freedom to choose, Supreme Court justices who believe in equal protection under the law for all Americans, public education for all over vouchers for some, universal and comprehensive health coverage over medical savings accounts for the few, affordable housing for all, versus mansions for a select few.

Something deeper in history than sex, lying and perjury is at issue here—just as something deeper in history than the removal of a cabinet secretary was at stake in 1868. At stake in 1868 was the First Reconstruction. At stake in 1998 is the Second Reconstruction. The struggle taking place in Congress and nationally today is between those political forces who want to build a more perfect union for all Americans, leaving no American behind, and those who want to return an elitist economic program of more perfect "States' Rights" for the few. That is what underlies the impeachment crisis.

[From the Washington Post, Dec. 13, 1998]

130 YEARS AGO, PARALLELS UP TO A BOILING POINT

(By Peter Carlson)

The president was a Southern Democrat who'd risen from the class scorned as "white trash." His personal life inspired widespread snickering. The Republicans who controlled Congress detested him. They investigated every aspect of his life and then voted to impeach him. With his fate in the hands of a few moderates, he hired a claque of lawyers skilled in nitpicking and pettifoggery.

The president was, of course, Andrew Johnson. The year was 1868. When news of Johnson's impeachment reached Philadelphia, Republicans celebrated by firing a 50-gun salute while Democrats threatened to send scores of armed men to defy Congress. In 1868, unlike 1998, Americans were not blase about impeachment. Passions ran high, at least at the beginning. The issue was not sex—or even perjury. It was far more incendiary. On paper, the question was whether the president could fire the secretary of war without the consent of Congress. In reality, it was a battle over Reconstruction—over the fate of former Confederates and former slaves.

Wild rumors spread: Johnson would use the Army to stay in power. Confederates were marching toward Washington to help him. The Houston Telegraph reported that the War Department had been burned, the secretary wounded in battle. The Louisville Democrat asked readers: "Are you ready once more to take up the musket?" Many Americans were ready to fight. Iowa's governor, who supported impeachment, cabled his state's congressional delegation: "100,000 Iowans are ready to maintain the integrity of the Union." On the same day, a man from Terre Haute cabled Johnson: "Indiana will sustain you with 100,000 of her brave, stalwart and tried men."

For a while, it seemed that America was on the verge of a second Civil War. But soon things settled into a spectacle more familiar to today's impeachment watchers—one part drama, one part farce and many, many parts legal hairsplitting, windy speechifying and mind-numbing tedium.

THE SECRETARY OF WAR

"I am in favor of the official death of Andrew Johnson," an Indiana congressman said during the House debate on impeachment. "I am not surprised that one who began his presidential career in drunkenness should end it in crime."

Other congressmen were almost as nasty. One said the president was stained with "the filth of treason." Another called him a "despicable, besotted, traitorous man."

The only American president ever impeached was a tailor by trade. He grew up dirt poor in Raleigh, N.C., and didn't learn to read until he married and his bride tutored him. He opened a tailor shop in Tennessee and drifted into politics. He had a gift for oratorical invective—populist volleys directed at the Southern planter elite. He was elected state legislator, then congressman, then governor, then senator.

In 1860, when Abraham Lincoln was elected president and Southern states began seceding from the Union, Sen. Johnson returned to Tennessee to campaign against secession. He wasn't opposed to slavery—he owned a few slaves himself—but he was loyal to the Union. When Tennessee joined the Confederacy, Johnson returned to Washington. On the way, he was nearly lynched by a rebel mob in Lynchburg, Va.

The only Southern senator who stayed with the Union, he was a hero in the North—"the greatest man of the age," said the New York Times. In 1864, Lincoln chose him as his vice presidential running mate. Feeling a tad sick on inauguration day in 1865, Johnson fortified himself with whiskey—too much whiskey. Visibly soused, he delivered an incoherent speech, and forever after his enemies mocked him as a drunk.

When Lincoln was assassinated, Johnson inherited the task of reuniting the nation. He was determined to bring the South back into the Union as quickly as possible. Under his rules, the rebel states merely had to end slavery and pledge loyalty and they could send representatives to Congress. In December 1865—only eight months after the war's end at Appomattox—those representatives arrived. Chosen in whites-only elections, they included the Confederate vice president, six members of the Confederate Cabinet and four Confederate generals.

Northern congressmen were incensed. Asked Sen. Ben Wade of Ohio: Did any nation in history ever welcome "traitors" into its Congress as equals? "Would a man who was not utterly insane advocate such a thing?"

Congress refused to seat the Southern delegations. Johnson was outraged. It was the beginning of the long battle that led to impeachment.

When the Republican-dominated Congress passed a bill giving full citizenship rights to blacks, Johnson vetoed it. When Congress passed a bill funding a Freedmen's Bureau to assist former slaves, Johnson vetoed it. When Congress passed a bill allowing blacks in the District of Columbia to vote, Johnson vetoed it.

In the South, the all-white "Johnson governments" passed laws denying blacks the right to vote or buy property or own firearms. Angry Republicans asked: Are we losing in peace what we won in war?

But Johnson wasn't interested in the problems of former slaves. He wanted only to reunite the country. He was for union in 1860, he said, and he was still for union in 1866. He broke with the Republicans and toured the country campaigning against them.

His strategy backfired. Republicans won big in the election of 1866. Emboldened, they started investigating Johnson, spreading rumors that he had conspired with the men who killed Lincoln. Over his veto, they enacted a Reconstruction Bill that dissolved the "Johnson governments" and put the South under military rule.

That law gave Secretary of War Edwin Stanton, who ran the military, a great deal of power over Reconstruction. Stanton was allied with the Republicans. To keep him in office, Congress passed the Tenure of Office Act, which barred the president from firing Cabinet secretaries without the consent of the Senate. Johnson asked for Stanton's resignation. Stanton refused. Johnson asked the Senate to fire him. The Senate refused. Johnson fired him anyway but Stanton refused to leave, barricading himself in his office.

Johnson's treasury secretary warned the president that he could be impeached if he persisted in removing Stanton.

"Impeach and be damned," Johnson replied.

THE SHOW

Slowly, painfully, Thaddeus Stevens, the aged, sickly leader of the House Republicans, shuffled into the hushed Senate chamber on Feb. 25, 1868, followed by a group of congressmen.

"We appear before you," Stevens said, "and in the name of the House of Representatives and all the people of the United States, do impeach Andrew Johnson, president of the United States, for high crimes and misdemeanors."

Clubfooted, gaunt and grim-faced, Stevens, 76, was an avid abolitionist who had spent the war urging Lincoln to crush the Confederates mercilessly, even if "their whole country is to be laid waste." The rebels hated him so much they detoured on their way to Gettysburg just to burn down his Pennsylvania ironworks. After the war, he lived in sin with his black housekeeper and didn't much care who gossiped about it. He sponsored the impeachment bill, and after it passed, 126–47, the House named him to the committee that would prosecute the president in the Senate.

The smart money was betting on conviction. Acquittal, the New York Times reported, "is looked upon as simply impossible, unless some new and startling development takes place."

The president hired five crafty lawyers, including his attorney general, and paid them each $2,000 out of his own pocket. They opted to stall. On March 13, they asked for another 40 days to prepare their case.

"Forty days!" roared Rep. Ben Butler, the former Union general who was serving with Stevens as a prosecutor. "As long as it took God to destroy the world by a flood!"

Butler wanted to start the trial immediately. The Senate compromised, scheduling the case for March 30.

When that day arrived, Chief Justice Salmon P. Chase presided over the Senate, which was stuffed with 150 extra chairs to accommodate House members. The President did not appear—nor was he expected—but the galleries were packed, mostly with well-dressed women who had connections to senators, who each got four gallery tickets, or to congressmen, who each got two.

"Congressmen appear to be very good judges of female beauty," the Washington Star reported. "We looked and looked in vain for a dozen plain-looking women in the galleries."

Butler delivered the prosecution's opening statement. He started slowly, droning on about this unique historical moment, but soon he was orating grandiloquently: "By murder most foul he succeeded to the presidency and is the elect of an assassin to that high office!"

After a few hours, Butler's audience began to wilt but Butler kept going. He was still chugging along on April Fool's Day, when wags in the press gallery amused themselves by sending notes, purportedly from women in the galleries, to the congressmen on the floor, and then snickering as they read the congressmen's replies.

When Butler finally finished his opening statement, he began calling witnesses who had observed the attempt to remove Stanton from office. The scene they described barely rose above farce: Gen. Lorenzo Thomas, the new appointee as secretary, went to Stanton's office and ordered him to leave. Stanton refused and ordered Thomas to leave. Thomas refused. Back and forth it went, each man ordering the other to leave, until finally Stanton poured two stiff shots of whiskey and the dueling secretaries sat down for a friendly chat.

One witness, a Delaware buddy of Thomas, recalled his efforts to buck up the general during this historic confrontation: "Said I to him. 'General, the eyes of Delaware are upon you.'"

The senators burst out laughing.

Next, Butler summoned several newspaper reporters to testify about the president's speeches during the 1866 campaign. The reporters confirmed that the president had indeed said many nasty things about his Republican congressional enemies. To Butler, this was proof that Johnson was subverting the power of Congress. To most observers, it was proof of nothing more than politics as usual.

Tedium was setting in. Many hours were spent in the reading of legal documents and senatorial speechifying. "Spectators found the proceedings rather uninteresting," the Star reported. Rep. James Garfield was equally bored: "This trial has developed, in the most remarkable manner, the insane love of speaking among public men," the congressman wrote in a letter. "We are wading knee deep in words, words, words . . . and are but little more than half across the turbid stream."

Newspaper editorialists began complaining about the lack of public interest in the impeachment controversy. The Baltimore Gazette lamented that "the greatest act known to the Constitution—the trial of a President of the United States" was inspiring "less interest in the public mind than the report of a prize fight."

Johnson could have enlivened things by appearing at his trial but he never did. He also refused to make any public comment on impeachment. Privately, he contemptuously referred to the proceedings as "the show."

Behind the scenes, the president was wooing moderate Republican senators by appointing officials whom they supported and by sending signals that he would stop obstructing Reconstruction. "The president," the Chicago Tribune reported, "has been on his good behavior."

Finally, at the end of April, both sides began to sum up their cases. The ailing Thaddeus Stevens, who spent most of the trial huddled under a blanket, rose on wobbly legs to make his final statement. The case was about Reconstruction, he said, about how the president had usurped congressional power and helped to create new Confederate governments in the South. Stevens denounced Johnson as a "wretched man" and a "pettifogging political trickster," but then his strength gave out and he had to sit down and let Butler read the rest of his speech.

The next day, while another prosecutor was delivering a long summation, British novelist Anthony Trollope fell asleep in the gallery, much to the amusement of the press corps.

Then the defense began its summation, and the president's lawyers more than earned their $2,000 fees. They quibbled about the definition of "high crimes and misdemeanors" and concluded that the president's actions did not rise to that level. They said the Tenure of Office Act was unconstitutional. They said that violating that act couldn't be an impeachable offense because the act hadn't been passed when the Constitution was adopted. Finally, in a delightful demonstration of the art of legal hairsplitting, they claimed that Johnson could not be convicted of removing Stanton from office but only of attempting to remove Stanton from office. After all, Stanton had never left his office—he was still barricaded in his suite at the War Department.

As the speakers droned on, the Washington Star tracked the daily fluctuations in the betting action. On May 2, the odds were 3 to 1 for conviction. On May 5, the odds were 2 to 1 for acquittal. The next day, the paper reported: "Today impeachment stock is as unaccountably up as it was unaccountably down yesterday. The bulls have it."

On May 6, as prosecutor John Bingham prepared to deliver the final summation of the trial, a false rumor swept the galleries that Sen. James Grimes had died. Grimes was a Johnson backer, and Republicans in the galleries began to sing gleefully: "Old Grimes is dead, that bad old man."

Justice Chase gaveled for order and then Bingham began his speech. It was a full-blown barn-burner. "We stand this day pleading for the violated majesty of the law, by the graves of half a million martyred hero-patriots who made death beautiful by the sacrifice of themselves for their country."

After much florid rhetoric, he spoke the last words of the trial: "Before man and God, he is guilty!"

Now it was time to decide the question—except the senators insisted on discussing the matter in secret sessions for a few days.

Finally, on May 16, 1868, they were ready to vote.

CLOSE CALL

The galleries and the Senate floor were packed but the room was absolutely silent as Chief Justice Chase called the roll. Conviction required a two-thirds majority, which meant 36 of the 54 senators, and everyone knew that the vote would be close.

"Mr. Senator Anthony, how say you?" Chase asked.

"Guilty," said Henry Anthony, a Rhode Island Republican.

"Mr. Senator Bayard, how say you?"

"Not guilty," said James Bayard, a Delaware Democrat.

Those votes were no surprise. Anthony and Bayard, like most of the senators, had already announced their opinions. There were 35 certain votes for conviction and three undecided. The first of the undecided was William Pitt Fessenden, a Republican from Maine.

"Mr. Senator Fessenden, how say you?" Chase asked.

"Not guilty."

Across the country, crowds packed newspaper offices to get news of each vote as it came over the telegraph. In the White House, Johnson also learned of each vote by a separate telegram.

The next undecided voter was Sen. Joseph Fowler. He was from Tennessee, Johnson's home state, but he was a Republican who'd frequently voted against the president.

"Mr. Senator Fowler, how say you?"

Fowler mumbled something that sounded like "guilty."

"Did the court hear his answer?" a senator called out.

Chase asked the question again.

"Not guilty," Fowler shouted.

Now it all came down to Edmund G. Ross. A Kansas Republican, Ross was new in office, having replaced a senator who had committed suicide in 1866. Ross disliked Johnson and voted against his Reconstruction policies. He'd been seen as a certain vote for conviction until he sided with Johnson supporters on some procedural motions. Since then, he'd been bombarded by mail demanding that he vote to convict. But he worried that conviction would damage the presidency forever. During the vote, he sat at his desk, nervously ripping papers into strips. When his name was called, he stood up and the strips fell to the floor.

"Mr. Senator Ross, how say you?"

"Not guilty."

It was over. The president was saved by a single vote. His lawyers sprinted to the White House to bring him the news. Johnson wept with joy. He called for whiskey, poured shots for his lawyers, and they celebrated with a silent toast.

Back in the Capitol, the senators elbowed their way through a rowdy crowd. "Fessenden, you villainous traitor!" somebody yelled. Fessenden said nothing and kept moving.

Too ill to walk, Thaddeus Stevens was carried from the chamber in a chair. Seething with rage, he glared down at the crowd. Someone asked him what had happened.

"The country," he screamed, "is going to the Devil!"

[From the Washington Post, Nov. 18, 1998]

THE MAN BEHIND THE VOTES

(By Joseph A. Califano, Jr.)

The president most responsible for the Democratic victories in 1998 is the stealth president whom Democrats are loath to mention: Lyndon Johnson.

In March of 1965, when racial tension was high and taking a pro-civil rights stand was sure to put the solid South (and much of the North) in political play, President Johnson addressed a joint session of Congress to propose the Voting Rights Act. Flying in the face of polls that showed his position was hurting his popularity, he said that ensuring everyone the right to vote was an act of obedience to the oath that the president and Congress take before "God to support and defend the Constitution." Looking members on the floor straight in the eye, he closed by intoning the battle hymn of the civil rights movement, "And we shall overcome." One southern congressman seated next to White House counsel Harry McPherson exclaimed in shocked surprise, "God damn!"

That summer, with Johnson hovering over it, Congress passed the Voting Rights Act. The president was so excited that he rushed over to the Capitol to have a few celebratory drinks with Senate Majority Leader Mike Mansfield and Republican Minority leader Everett Dirksen. The next day LBJ pressed Martin Luther King Jr. and other black leaders to turn their energy to registering black voters.

LBJ planned every detail of the signing ceremony in the Capitol Rotunda. He wanted "a section for special people I can invite," such as Rosa Parks (the 42-year-old black seamstress who refused to give up her seat on a bus in Montgomery) and Vivian Malone (the first black woman admitted to the University of Alabama, in 1963). He told me to get "a table so people can say, 'This is the table on which LBJ signed the Voting Rights Bill.'"

He was exuberant as he drove with me and other staffers up to Capitol Hill for the signing. Riding in the presidential limo he spoke of a new day, "If, if, if, if," he said, "the Negro leaders get their people to register and vote."

I rarely saw him happier than on that day. For years after that, he fretted that too many black leaders were more interested in a rousing speech or demonstration full of sound bites and action for the TV cameras than in marshaling the voting power of their people.

Well, if he was looking down on us on Nov. 3—and I'm sure he was up there counting votes—he saw his dream come true. Without the heavy black turnout, the Democrats would not have held their own in the Senate, picked up seats in the House and moved into more state houses. In Georgia, the black share of the total vote rose 10 points to 29 percent, helping to elect a Democratic governor and the state's first black attorney general.

In Maryland, that share rose eight points to 21 percent, saving the unpopular Gov. Parris Glendening from defeat. The black vote in South Carolina kept Fritz Hollings in his Senate seat, defeated Lauch Faircloth in North Carolina and ensured Chuck Schumer's victory over Al D'Amato in New York.

Here and there across the country, the black vote provided the margin of victory for democratic governors and congressmen—and where Republicans such as the Bush brothers attracted large percentages of Hispanic and black voters, helped roll up majorities with national implications.

The Voting Rights Act is not the only thing Democrats can thank LBJ for. Johnson captured for the Democratic Party issues that were decisively important in this election. He got Congress to pass the Elementary and Secondary Education Act, which for the first time told the people they could look to the federal government for help in local school districts. It is his Medicare that Democrats promised to protect from conservative Republican sledgehammers. LBJ was the president who ratcheted up Social Security payments to lift more than 2 million Americans above the poverty line.

Together Medicare and Social Security have changed the nature of growing old in America and freed millions of baby boomers to buy homes and send their kids to college rather than spend the money to help their aging parents. The Great Society's Clean Air and Clean Water Acts, Motor Vehicle Pollution, Solid Waste Disposal and Highway Beautification acts have given Democrats a lock on environmental issues.

LBJ was also the president who created the unified budget to include Social Security, which helped produce a balanced budget in fiscal year 1969. Without that budget system, President Clinton would not be able to claim credit for producing the first balanced budget in 30 years.

As exit polls showed, the Democratic command of the terrain of education, health care, Social Security, the economy and the environment—and the growth of the minority vote—paved the road to electoral success in 1998.

With the demise of Newt Gingrich, many Republicans think it's time to mute his libelous assault on the Great Society programs he loved to hate. Isn't it also time for Democrats to come out of the closet and recognize the legacy of the president who opened the polls to minorities and established federal beachheads in education, health care and the environment. After all, it's the Democrats' promise to protect these beachheads and forge forward that accounts for much of their success this November and offers their best chance to retain the White House and recapture the House of Representatives in 2000.

The writer was President Lyndon Johnson's special assistant for domestic affairs.

[From the Washington Post, Dec. 11, 1998]

Barr Spoke to White Supremacy Group

(By Thomas B. Edsal)

A spokesman for Rep. Robert L. Barr Jr. (R–Ga.) acknowledged yesterday that Barr was a keynote speaker earlier this year at a meeting of the Council of Conservative Citizens, an organization promoting views that interracial marriage amounts to white genocide and that Abraham Lincoln was elected by socialists and communists.

Barr spoke at the organization's semiannual convention on June 6 in Charleston, S.C. His presence was cited by Harvard law professor Alan M. Dershowitz, who testified against the impeachment of President Clinton at a hearing of the House Judiciary Committee. Barr, the most outspoken proponent of impeachment in the House, serves on the committee.

"Congressman Barr, who was fully aware of this organization's racist and antisemitic agenda, not only gave the keynote address to the CCC's national board, but even allowed himself to be photographed literally embracing one of their national directors," Dershowitz wrote Judiciary Committee Chairman Henry J. Hyde (R–Ill.) last week.

In a letter to Hyde responding to Dershowitz, Barr declared that Dershowitz's "accusations are unfounded and deplorable."

Asked to comment on the views of the council, Brad Alexander, Barr's spokesman, said Barr is working full time on impeachment, and "he is not going to take time away from it to respond to groundless attacks by Professor Dershowitz."

In the letter to Hyde, Barr counterattacked, accusing Dershowitz of "condoning the use of racism in court, most notably in the O.J. Simpson case," in which Dershowitz served as part of the defense team.

The World Wide Web site of the Council of Conservative Citizens is dominated by material portraying the "white race" as under siege. A council columnist described only as "H. Millard" writes:

"Take 10 bottles of milk to represent all humans on earth. Nine of them will be chocolate and only one white. Now mix all those bottles together and you have gotten rid of that troublesome bottle of white milk. There too is the way to get rid of the world of whites. Convince them to mix their few genes with the genes of the many. Genocide via the bedroom chamber is as long lasting as genocide via war."

Lott's Odd Friends

(By Colbert I. King)

When the Senate convenes in January, its first order of business should be to review Majority Leader Trent Lott's fitness to serve as guiding light of the world's most deliberative body. You heard it right. Before the senior senator from Mississippi sits in judgment of anybody, most of all the president, Lott's colleagues ought to pass fresh judgment on him.

The need for a closer look arises from recent articles by Port reporter Thomas Edsall on Georgia Republican Rep. Robert Barr's keynote address to the Council of Conservative Citizens, a white "racialist" group that, among other things, publishes anti-black screeds capable of making bigots weak in the knees with delight. And Barr isn't alone. Lott and the council have kept company, too.

Barr's link with the council was first disclosed by Harvard Law Prof. Alan Dershowitz during the House Judiciary Committee's impeachment hearing. Barr initially screamed like a stuck pig, claiming he knew nothing about the council's alleged racist and antisemitic agenda. He only schmoozed it up with council members at their meeting, said Barr, because the group enjoyed the blessings of other big-name southern conservatives, including Trent Lott, whom the council presses to the bosom as one of its own.

Lott, now at the peak of his GOP legislative career and recognizing a banana peel when he sees one, demonstrated the public relations smoothness that helped get him where he is today by swiftly denying through a spokesman any council membership. Lott has "no firsthand knowledge of the group's views," said the spokesman. Would that those words had been uttered under oath.

No sooner had Lott freed himself from the group than the head of the council's national capital branch, Mark Cerr, embraced the senator as an active member who had spoken to the group in the past. And guess what? The Post next produced a copy of the group's newsletter, Citizens Informer, with who else but Lott on the front page delivering a suck-up speech to a council gathering in Greenwood, Miss., in 1992. Lott told those staunch proponents of preserving the white race from immigration, intermarriage and "the dark forces" that are overwhelming America that the council "stand[s] for the right principles and the right philosophy."

Lott spokesman John Czwartacki told me this week that the '92 event was just another case of a politician, delivering a stump speech to a local group of unknown political pedigree—no big deal. What's more, after being confronted with evidence of the 1992 speech and the group's views, Lott renounced the council and said he won't truck with the likes of them now or henceforth forevermore.

Well, not so fast.

If, as it is now being argued in Lott's behalf, the majority leader is not comfortable with xenophobic, race-baiting bigots, when did he first grow suspicious and really start keeping his distance from the group? Because contrary to claims that he participated in the council event in '92 because he didn't know any better, they seem to have been keeping company for some time.

On my desk is a copy of a page from the 1997 Citizens Informer with a smiling Trent Lott pictured meeting in his Washington office with council national officers William D. Lord Jr., president Tom Dover and CEO Gordon Lee Baum. Lord and Baum were also in the '92 photo. And who is Lord? The Post reports Lord was a regional organizer for the southern-based segregationist Citizen Councils. In the '60s, white Citizen Council members shared the Ku Klux Klan's views on civil rights but tended to speak and dress better and not slink around after dark in white hoods.

So much could be said about the Council of Conservative Citizens. But let's let Citizens Informer, the group's Web site and its other document speak for themselves:

"Given what has come out in the press about Mr. Clinton's alleged [sexual] preferences, and his apparent belief that oral sex is not sex one wonders if perhaps Mr. Clinton isn't America's first liberal black president. . . . His beliefs are actually a result of his inner black culture. Call him an Oreo turned inside out" (H. Millard, 1998).

"Life Magazine, the glossy photo album of folksy liberals, has been enlarging depraved miscreants like John F. Kennedy and Martin Luther King into national heroes for decades" (1998).

"The most important issue facing us is the continued existence of our people, the European derived descendants of the founders of the American nation. As immigration fills our country with aliens, we risk being disposed and, ultimately displaced entirely" (1995).

"A Formal Protest of the [Arthur] Ashe Statue unveiling ceremony will be held on the site of a Confederate Fortification with Battle Flags. . . . Those with confederate battle flags will assemble behind the statue. . . . Come early and dress formal (coat and tie) No racial slurs please" (Richmond Chapter, June 30, 1996).

"Black rule in South Africa a total failure." "The increase of crime and barbarism in South Africa is nothing more than the emergence of the African ethos, so long submerged by strong pre-deKlerk National Party governments" (Citizens Informer, Winter, 1997–98).

"The Jews' motto is 'never forget, and never forgive.' One can't agree with the way they've turned spite into welfare billions for themselves, but the 'never forget' part is very sound" ("A Southern View," Citizens Informer, 1997).

"Our liberal establishment is using the media of television to promote racial intimacy and miscegenation. . . . all of the news teams on the major networks have black and white newscasters of opposite sexes" (Citizens Informer, 1998).

And as for Trent Lott's view of the council before the Citizens Informer article appeared in Edsall's story? A 1995 council promotional mailer quotes Lott: "America needs a national organization to mobilize conservative, patriotic citizens to help protect our flag, Constitution and other symbols of freedom."

Trent Lott's column regularly appears in the Informer newsletter (including its most recent issue in 1998) along with the publication's offensive racial columns and articles. However, Lott's spokesman said it would be wrong to associate his boss's noncontroversial and businesslike column, which is widely distributed, with the repugnant views and materials published by the council. Fair enough.

But has Lott kept his distance from the council—or are the ties long-running and cozy? And if the relationship is ended, when did he do it, and how clean is the break? Before hearing the case against Bill Clinton, the Senate and the country need to hear Republican majority leader Trent Lott's case for himself.

[From the Los Angeles Times, Dec. 21, 1998]

GOP IN SOUTH SEES A CIVIL WAR IT CAN WIN

(By Earl Ofari Hutchinson)

"RACISTS LEAD THE IMPEACHMENT BATTLE TO PUNISH CLINTON FOR HIS SOCIAL PROGRAMS AND CIVIL RIGHTS STANDS."

Rep. Bob Barr of Georgia gives us an answer to why so many House Republicans defy public opinion, ignore the advice of GOP governors, reject the advice of party moderates in the Senate and are willing to paralyze the government to nail President Clinton. Barr says that they are fighting a civil war.

Since November 1997, Barr has been the point man for Southern Republicans in calling for Bill Clinton's head. This isn't the usual conservative political rage at a politician they regard as a corrupt, immoral, big-spending, big-government Democrat.

Barr, who represents the mostly white, conservative, suburban 7th District in Georgia, is a big booster of the Council of Conservative Citizens. This is the outfit that issued "A Call to White Americans," has denounced blacks as intellectually inferior, champions the Confederate flag and maintains tight ties to Klansman David Duke.

In House speeches, Barr has slammed the Congressional Black Caucus, opposed hate crime laws and spending on social programs. His Web page is linked to the pages of the most extreme right-wing groups in the nation. His campaign against Clinton is part of the Republican Party's Southern strategy to roll back the civil rights gains and eliminate the social programs of the 1960s.

Although Barr is one of the most extreme GOP race-baiters in Congress, he has got the political muscle to push the South's vendetta. Southern Republicans control 82 out of 228 Republican House seats, by far the largest single bloc in Congress. Clinton's victory in 1992 temporarily derailed the Southern bloc's plan to gut civil rights and social programs. Southern Republicans watched as more than 85% of African Americans voted for Clinton in 1992 and 1996 and provided the swing vote for many Democrats in congressional and state races this November. African Americans regard Clinton more favorably than Jesse Jackson or Louis Farrakhan.

The Southern bloc is distressed that the Congressional Black Caucus has been Clinton's biggest defender against the GOP assault and dismayed that far more African Americans than whites oppose impeachment. These Republicans are disgusted that Clinton has appointed more blacks to high administrative offices than any other president, supported minority redistricting in the South, called for tougher action against church burnings and convened the first-ever White House conference to push for tougher penalties to combat hate crimes.

Barr and his cohorts are enraged that Clinton is the first president since Lyndon Johnson to empanel a commission to talk seriously about racial problems and supported the U.S. Sentencing Commission's recommendations to "equalize" the disproportionate drug sentences given to minority offenders. They are affronted that Clinton increased funding for job and education programs, made numerous high-profile appearances at black churches, conferences and ceremonies on school integration in the South and opposed the anti-affirmative action Proposition 209 in California. They are distressed that Clinton is the first president to travel to and support economic initiatives in Caribbean and sub-saharan African nations.

The faster the Southern Republicans rush to dump Clinton, the greater his popularity will be among African Americans. Many blacks see impeachment as a thinly disguised attempt to hammer the president for acting and speaking out on black causes, and as a backdoor power grab for the White House in the year 2000—and they're right. But as long as Southern Republicans control such a huge block of congressional votes, they believe that impeachment is the civil war they can win.

Earl Ofari Hutchinson is the author of "The Crisis in Black and Black" (Middle Passage Press, 1998)

TRIBUTE TO SACRAMENTO COUNTY ASSESSOR ROGER FONG

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. MATSUI. Mr. Speaker, I am honored to rise today in tribute to one of Sacramento County's most outstanding public servants, County Assessor Roger Fong. Today, as Mr. Fong celebrates his retirement, I ask all of my colleagues to join with me in saluting a great citizen, husband, and father.

As a native of Sacramento, Roger attended public schools in the area. After his exemplary service in the United States Navy, he graduated from California State University, Sacramento in 1956 with a degree in Business Administration.

Roger began his career in the Assessor's office in 1960. For the next 26 years, he held nearly every promotional position in that office. Then, in 1986 he was elected Assessor, a position to which he was returned in 1990 and 1994 by sizeable margins.

During Roger's tenure as Assessor, he has focussed on bringing technological advancements to his office of 156 employees and a budget of over $12 million annually. He and his staff have maintained current ownership data and property value on more than 380,000 parcels in Sacramento County with a combined value in excess of $53 billion.

Roger's leadership in the Assessor's office has earned him statewide recognition. In just the past 12 years, his professional tasks have grown immensely as our county's assessment roll has nearly doubled, as has the staff workload.

The professional distinctions which Roger has earned are too numerous to list in their entirety. But they include recognition as the Sacramento County Taxpayer League's "Tax Advocate of the Year"; California State University, Sacramento, "Alumni Distinguished Service Award" recipient; and the Sacramento Chinese Community Service Center's "August Moon" honoree.

Although his professional pursuits have occupied much of his time, Roger has managed to make great contributions locally with his tireless community service endeavors. He has been an active member in the United Way, on the Sacramento Symphony Board, St. Hope Academy Advisory Board, and the Chinese American Council of Sacramento, among other groups.

Roger has also maintained professional relationships with a variety of assessors' organizations. Among these are the Bay Area Assessor's Association, of which he was president in 1994. These memberships reflect Roger's qualities as an incredibly dedicated and hardworking individual who has always put the needs of his constituency above all other considerations.

Mr. Speaker, the people of Sacramento have been the fortunate beneficiaries of Roger Fong's great professionalism over the past 38 years. I ask all of my colleagues to join with me in wishing Roger and his wife Florence every future success in their retirement endeavors.

DESIGNATING THE U.S. NAVY SUPPORT SITE IN NAPLES AS THE "THOMAS M. FOGLIETTA SUPPORT SITE"

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. TRAFICANT. Mr. Speaker, today I am reintroducing legislation to designate the U.S. Navy facility in Gricignano d'Aversa, Italy, known as the Naples Support Site, as the "Thomas M. Foglietta Support Site." I introduced similar legislation in the 105th Congress, and I am honored to reintroduce this legislation on the first day of the 106th Congress.

As you well know, Tom Foglietta had a distinguished career in Congress representing the Philadelphia area of Pennsylvania. Last year he was appointed our Ambassador to Italy. Ambassador Foglietta's career has been dedicated to public service. He served for 20 years on the Philadelphia City Council. From 1976 to 1977 he represented the U.S. Department of Labor in Pennsylvania. From 1980 to 1998 he represented Pennsylvania's First Congressional District.

During that time Tom Foglietta distinguished himself as a hard working and effective legislator. In the 1980s he emerged as one of the leading advocates in the Congress of democratic reforms in South Korea. As a senior member of the Appropriations Subcommittee on Foreign Operations he was an outspoken advocate in the 1990s for advancing America's role in promoting free markets and democratic institutions in the newly independent states of the former Soviet Union.

In addition to his tireless efforts to ensure the United States maintained its stature as the moral and democratic leader of the free world, Tom Foglietta never forgot his constituents back home. He always maintained close ties to the working people of the district. He was always accessible to his constituents and fought hard on their behalf in Congress.

Throughout his congressional career Ambassador Foglietta maintained close ties to the land of ancestors—Italy. Many members of the Ambassador's large family still reside in Italy. Shortly after his election to Congress in 1980, a devastating earthquake struck southern Italy. In typical fashion, Tom Foglietta skipped freshman orientation and other freshman events in Congress to be in Italy to participate personally in the relief efforts.

While in Congress, Tom took notice of the poor living and working conditions for Navy personnel at the Naples Support Site in Gricignano d'Aversa. He worked tirelessly as a member of the Appropriations Committee to improve conditions for Navy personnel serving at the site. Not surprisingly, his efforts were extremely effective and Navy personnel have seen a dramatic improvement in the living conditions at the site.

It is only fitting that we name the facility for this fine public servant. I urge all of my colleagues to support this legislation.

MONGAUP VISITORS CENTER H.R. 20 AND UPPER DELAWARE CAC, H.R. 54

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. GILMAN. Mr. Speaker, today I would like to introduce two bills—one to authorize the Mongaup Visitor's Center, H.R. 20 and the other to extend the Upper Delaware Citizen's Advisory Counsel, H.R. 54.

Mr. Speaker, as you may know, in 1978, along with our good friend and colleague, Congressman JOE MCDADE, I introduced Federal legislation establishing the Upper Delaware Scenic and Recreational River as a component of the National Wild and Scenic Rivers System.

The property proposed as the location of the Upper Delaware Scenic and Recreational River's primary visitor facility—the Mongaup Visitor Center—is owned by the State of New York's Department of Environmental Conservation. The property was acquired by the State in 1986 as part of a much larger purchase of a 10,000-acre tract intended to provide habitat for a population of wintering bald eagles. New York State legislation authorizing Federal development of the property as a visitor center by means of a long-term lease was passed in 1993. A legislative support data package was prepared in 1994 for Federal legislation authorizing development of the site, to appropriate funds for development and to increase the Upper Delaware's operational base to provide for year-round operation.

The site for the Mongaup Visitor Center contains abundant natural and cultural resources and this proposal will identify and develop strategies to protect the Mongaup area's natural resources, including: wintering bald eagles; upland forest; hemlock and laurel gorges and steep slopes; riverline and flood plain forest, and a mile or river front with natural sand beaches. The possible presence of prehistoric elements will also be evaluated.

The visitor center will benefit the community in many respects. It will serve as an educational asset, a local museum, a classroom, and meeting place. Bordered by the Delaware River, the Mongaup River, and New York State highway route 97 in the town of Deerpark in Orange County, New York—it is the only center of its kind within an hour's drive from New York City. Both the proposed visitor center Mongaup site and the Upper Delaware valley have enormous unrealized potential to provide both the local and visiting public with an exceptional experience.

I am also introducing a bill, H.R. 54, that will extend the Upper Delaware Citizens Advisory Council for another ten years. The Upper Delaware CAC provides an excellent forum for citizens of the Upper Delaware to have an opportunity to impact and interact with the National Park Service and Department of the Interior.

Accordingly, I urge my colleagues to help pass these two measures which will benefit the State of New York on economic, environmental and educational levels.

H.R. 20

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Upper Delaware Scenic and Recreational River Mongaup Visitor Center Act of 1999".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Secretary of the Interior approved a management plan for the Upper Delaware Scenic and Recreational River, as required by section 704 of Public Law 95–625 (16 U.S.C. 1274 note), on September 29, 1987.

(2) The river management plan called for the development of a primary visitor contact facility located at the southern end of the river corridor.

(3) The river management plan determined that the visitor center would be built and operated by the National Park Service.

(4) The Act that designated the Upper Delaware Scenic and Recreational River and the approved river management plan limits the Secretary of the Interior's authority to acquire land within the boundary of the river corridor.

(5) The State of New York authorized on June 21, 1993, a 99-year lease between the New York State Department of Environmental Conservation and the National Park Service for the construction and operation of a visitor center by the Federal Government on State-owned land in the Town of Deerpark, Orange County, New York, in the vicinity of Mongaup, which is the preferred site for the visitor center.

SEC. 3. AUTHORIZATION OF VISITOR CENTER FOR UPPER DELAWARE SCENIC AND RECREATIONAL RIVER.

For the purpose of constructing and operating a visitor center for the Upper Delaware Scenic and Recreational River and subject to the availability of appropriations, the Secretary of the Interior may—

(1) enter into a lease with the State of New York, for a term of 99 years, for State-owned land within the boundaries of the Upper Delaware Scenic and Recreational River located at an area known as Mongaup near the confluence of the Mongaup and Upper Delaware Rivers in the State of New York; and

(2) construct and operate such a visitor center on land leased under paragraph (2).

H.R. 54

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORIZATION FOR UPPER DELAWARE CITIZENS ADVISORY COUNCIL

The last sentence of paragraph (1) of section 704(f) of the National Parks and Recreation Act of 1978 (16 U.S.C. 1274 note) is amended by striking "20" and inserting "30".

VOLUNTARY SCHOOL PRAYER

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mrs. EMERSON. Mr. Speaker, I rise today to introduce a constitutional amendment to ensure that students can choose to pray in school. Regrettably, the notion of the separation of church and state has been widely misrepresented in recent years, and the government has strayed far from the vision of America as established by the Founding Fathers.

Our Founding Fathers had the foresight and wisdom to understand that a government cannot secure the freedom of religion if at the same time it favors one religion over another through official actions. Their philosophy was one of even-handed treatment of the different faiths practiced in America, a philosophy that was at the very core of what their new nation was to be about. Somehow, this philosophy is often interpreted today to mean that religion has no place at all in public life, no matter what its form. President Reagan summarized the situation well when he remarked, "The First Amendment of the Constitution was not written to protect the people of this country from religious values; it was written to protect religious values from government tyranny." And this is what voluntary school prayer is about, making sure that prayer, regardless of its denomination, is protected.

There can be little doubt that no student should be forced to pray in a certain fashion or be forced to pray at all. At the same time, a student should not be prohibited from praying, just because he/she is attending a public school. This straightforward principle is lost on the liberal courts and high-minded bureaucrats who have systematically eroded the right to voluntary school prayer, and it is now necessary to correct the situation through a constitutional amendment. I urge my colleagues to support my amendment and make a strong statement in support of the freedom of religion.

CRUISES TO NOWHERE ACT 1999

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. WOLF. Mr. Speaker, today I am introducing legislation regarding so-called "cruises to nowhere." "Cruises to nowhere" are gambling cruises, ships where a destination, created for the sole purpose of allowing passengers to gamble on the high seas on board a floating casino. The cruises depart from a certain state, sail three miles into international waters for gambling, and then return to the same state. States receive no revenue from the cruises, but must absorb the social costs associated with the gambling traffic through their state.

Mr. Speaker, my legislation is about the fundamental principle that states should be able to determine on their own if they want gambling cruises in their state. My colleagues should be aware that on October 16, 1998, a federal district court ruled in the state of South Carolina that federal law preempts certain state laws prohibiting "cruises to nowhere," and are therefore unenforceable. (Casino Ventures v. Robert M. Stewart, et al. C/A No. 2:98–1923–18, October 1998) The federal law cited by the court is a poorly worded 1992 amendment to the Johnson Act buried a bill designating the "Flower Garden Banks National Marine Sanctuary" (P.L. 102–251). Congress did not intend for the 1992 amendment to supercede states' rights, and we should act to restore state sovereignty with regard high-states, unpoliced and unregulated casino gambling around the country.

Almost every state has a law making it illegal to possess gambling equipment (e.g., slot machines). Thus it should be patently illegal for a day-trip gambling boat to dock in a state with statues that clearly prohibit such operations, and it was illegal prior to enactment of the 1992 Johnson Act amendment.

In the meantime, casino "cruises to nowhere" have started operating out of Florida, Georgia, New York, Massachusetts, and South Carolina. Most recently, "cruises to nowhere" are planning to dock in Virginia and begin operations out of Virginia Beach. Unless Congress acts soon, almost all other states bordering the Atlantic Ocean, Pacific Ocean, or Gulf of Mexico could expect gambling ships to be docking very soon.

The legislation I am introducing today would make it clear that no preexisting state gambling law is weakened, preempted, or superseded by the 1992 Johnson Act amendment. My legislation will restore state sovereignty with regard to "cruises to nowhere." (It will give states the right to debate, vote and ultimately decide for themselves if they want this type of gambling). If states do choose to permit "cruises to nowhere," they can enact appropriate legislation, but will not be forced to by the federal government.

Mr. Speaker, I encourage my colleagues to join me in this fundamental issue of restoring states' rights. In particular, I urge members from coastal states to take a look at this issue and join me as a cosponsor.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cruises-to-Nowhere Act of 1999".

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) Gambling cruises-to-nowhere are voyages in which a vessel departs a State, sails 3 miles into international waters for the primary purpose of offering gambling beyond the jurisdication of Federal and State laws prohibiting that activity, and returns to the same State.

(2) Legal authorities have ruled that existing State laws cannot stop the operation of gambling cruises-to-nowhere, on the basis that the Congress preempted such State laws by the enactment of an obscure amendment buried in a 1992 law entitled "An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary" (Public Law 102–251).

(3) Gambling cruises-to-nowhere offer high-stakes, untaxed, unpoliced, and unregulated casino gambling.

(4) Accordingly, it is necessary to make absolutely clear that gambling cruises-to-nowhere enjoy no special exception from the operation of existing or future State laws and that relevant Federal law is not intended to preempt, supersede, or weaken the authority of States to apply their own laws to gambling cruises-to-nowhere.

SEC. 3. STATE AUTHORITY OVER CRUISES-TO-NOWHERE.

Section 5 of the Act of January 2, 1951, entitled "An Act to prohibit transportation of gambling devices in interstate and foreign commerce" (15 U.S.C. 1175; popularly known as the Johnson Act), is amended—

(1) in subsection (b)(2)(A), by striking "enacted"; and

(2) by adding at the end the following:

"(d) NO PREEMPTION OF STATE LAWS.—Nothing in this section shall be construed to preempt the law of any State or possession of the United States.".

THE STAND-BY-YOUR-AD ACT

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. PRICE of North Carolina. Mr. Speaker, I don't know if the 1998 campaign season marked a new low in political advertising or not. it is difficult to measure degrees of the bottom of the barrel or the volume of mud spread across the air. I know for a fact that the 1998 campaign season was more of the mess that results when intelligent discourse gives way to attack and counterattack.

Last year, the House of Representatives took an arduous and promising step toward cleaning up our Nation's political campaigns. We passed the Shays-Meehan campaign reform bill, which had been amended to include a version of the Stand-by-Your-Ad proposal that Representative STEPHEN HORN and I introduced in 1997. Unfortunately, the leadership of the Senate lacked the political will to see campaign reform through to a conclusion. I hope that 1999 will prove a more fruitful year for campaign reform.

In that light, Representative HORN and I are once again introducing the Stand-by-Your-Ad proposal. Our legislation would require candidates to appear full-screen in television ads and thus take responsibility for them. Candidates would be required to provide comparable disclosure, boldly and clearly, in both radio and print ads. These enhanced disclosure requirements would also apply to party and independent committees.

It is too easy for candidates to attack one another on television without the voter knowing who is behind the dirt. Candidates can obscure their identities with postage stamp size disclaimers. We need to make effective the requirement that candidates say who they are and take responsibility for their ads' content. This is an important step toward strengthening the accountability of candidates and campaigns. Campaign reform is not just about money; it is also about improving the quality and responsibility of debate. The bipartisan bill Mr. HORN and I recommend to the House would start us down that path, not by regulating the content of ads but by requiring candidates to assume responsibility for them.

Our Stand-by-Your-Ad legislation has its origins in the North Carolina General Assembly where it has been championed by Lt. Governor Dennis Wicker and was approved last session by the Senate but not the House.

Stand by Your Ad is compatible with and complementary to the full range of campaign reform proposals that will be considered by the 106th Congress, from Shays-Meehan to the disclosure-only bills. By approving this proposal, the Congress can strengthen disclosure so as to make sponsorship more clear and to require an assumption of personal responsibility in a way likely to discourage the most irresponsible and distorted attacks. We invite our colleagues to join us as cosponsors of this legislation.

PREVENTING GOVERNMENT SHUTDOWNS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. GEKAS. Mr. Speaker, today I introduced the Government Shutdown Prevention Act, legislation designed to maintain government operations that would otherwise be halted due to an impasse in budget negotiations between Congress and the President. I first introduced this legislation in 1989, and since then the need for it has become even more apparent. Joining me as original cosponsors are Representatives ROHRABACHER, WYNN, COX, ISTOOK, PITTS, EHLERS, DAVIS (VA), and HAYWORTH.

Since I entered Congress, there have been 8 government shutdowns, costing American taxpayer millions of dollars and diminishing his confidence in elected officials. The estimated cost of the 21-day shutdown of the 104th Congress was $44 million per day! During the first shutdown in the 104th Congress, 800,000 federal employees were "furloughed". Budget negotiations between Congress and the President should be about the American people, not a battleground for public relations.

This bill accomplishes a very simple function: to keep funding at levels allowing appropriators to complete their work while keeping the government operating. This bill essentially works as an automatic continuing resolution, providing for funding at the previous year's levels so the government can continue to operate, even through an impasse in budget negotiations. The legislation protects Medicare, Medicaid and Social Security by guaranteeing that they remain at their current funding levels.

As Members of Congress, we are duty-bound by the Constitution to forge a budget for the American people. At times our ideological disagreements have led to heartaches for our constituents. I propose, through this legislation, that we provide an environment whereupon we can work together and negotiate in good faith, and strive to reach a compromise that will be good for the people we serve.

We need to restore the public's faith in its leaders by showing that we have learned from our mistakes. Enactment of this legislation will send a clear message to the American people that we will no longer allow them to be pawns in budget disputes.

INTRODUCTION OF THE AFFORDABLE HOUSING OPPORTUNITY ACT OF 1999

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mrs. JOHNSON of Connecticut. Mr. Speaker, today I am introducing legislation to increase the cap on state authority to allocate Low Income Housing Tax Credits to $1.75 per capita and index the cap to inflation. The current cap of $1.25 per capita has not been adjusted since the program was created in 1986. Since that time, population growth has totaled about 5 percent.

Although building costs rise each year, as does the affordable housing needs of the nation, the federal government's most important and successful housing program is in effect being cut annually as a result of inflation. Since 1986, inflation has eroded the Housing Credit's purchasing power by nearly 50 percent, as measured by the Consumer Price Index. This cap is strangling state capacity to meet pressing low income housing needs.

Last year, I sponsored legislation with Representative LEWIS (D–GA) proposing this same increase in the Housing Credit cap and indexing it for inflation. Representatives ENSIGN (R–NV) and RANGEL (D–NY) also sponsored legislation to accomplish the same increase. Nearly 70 percent of the Ways and Means Committee and a total of 299 of our fellow House Members cosponsored one or both of these bills last year. Unfortunately, the Congress did not pass a Housing Credit increase because the Omnibus Appropriation bill eventually enacted was not large enough to accommodate it.

The Housing Credit is the primary federal-state tool for producing affordable rental housing all across the country. Since it was established, state agencies have allocated over $3 billion in Housing Credits to help finance nearly one million homes for low income families, including 70,000 apartments in 1997. In my own state of Connecticut, the Credit is responsible for helping finance over 7,000 apartments for low income families, including 650 apartments in 1997.

Despite the success of the Housing Credit in meeting affordable rental housing needs, the apartments it helps finance can barely keep pace with the nearly 100,000 low cost apartments which were demolished, abandoned, or converted to market rate use each year. Demand for Housing Credits currently outstrips supply by more than three to one nationwide. Increasing the cap as I propose would allow states to finance approximately 27,000 more critically-needed low income apartments each year using the Housing Credit, helping to meet this growing need.

A broad, bipartisan consensus exists for raising the Housing Credit cap, just as in 1993, when Congress made the Credit permanent. The Administration, the nation's governors and mayors, and virtually all major housing groups also support this increase.

I urge my colleagues to join me in a bipartisan effort to provide this long overdue increase in the Housing Credit cap.

REGARDING HOUSE RESOLUTION 612

HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mrs. CLAYTON. Mr. Speaker, I rise in support of the 24,000 men and women of the United States Armed Forces who are currently involved in operations in the Persian Gulf Region.

It is important that we protect the interests of the United States. It is important that we have peace in the Middle East. It is important that we do what we can to prevent the development of weapons of mass destruction.

However, Mr. Speaker, we must pursue these goals with great caution. We must exercise restraint in our use of force. We must use great care when putting our young men and women in harms way. We must be circumspect before putting the lives of other citizens at risk. We must be prudent in our decisions to intervene in the internal affairs of foreign nations. We may not like Saddam Hussein, but that does not give us the right to declare his death.

Mr. Speaker, I am certain that the advisors to the President were very deliberate and judicious before arriving at the recommendation to undertake military action against Iraq. However, I am not certain that the assumptions upon which they relied are correct. I am not certain that Saddam Hussein poses the threat to our national security interests that many believe he does. I am not certain that Iraq has the capacity to deliver the kind of mass destruction that should cause us the kind of concern that has triggered this reaction. I am not certain that peace is best achieved through war.

Nonetheless, I stand behind our men and women whose courage and patriotism cannot be questioned. I stand behind our President who, it is clear, painstakingly reached this difficult decision. I stand behind this Nation, at a time which calls upon us to cooperate with each other and be united in our resolve to promote and protect democracy.

TREATMENT OF CHILDREN'S DEFORMITIES ACT

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mrs. KELLY. Mr. Speaker, I rise today to reintroduce the Treatment of Children's Deformities Act, legislation that prohibits insurers from discriminating against children born with deformities by denying coverage of reconstructive surgery. Children should not only be provided reconstructive surgery to improve the function of a part of the body, but also should be given the opportunity to face the world with a normal appearance. Insurers would like for you to think that such surgery is merely cosmetic—parents of children dealing with the physical and psychological effects of such deformities would beg to differ.

Today, approximately seven percent of American children are born with pediatric deformities and congenital defects such as birth marks, cleft lip, cleft palate, absent external ears and other facial deformities. A recent survey of the American Society of Plastic and Reconstructive Surgeons indicated that over half of the plastic surgeons surveyed have had a pediatric patient who in the last two years has been denied, or experienced significant difficulty in obtaining, insurance coverage for their surgical procedures.

Some insurance companies claim that reconstructive procedures that do not improve function are not medically necessary and are, therefore, cosmetic. America's physicians recognize an important difference between reconstructive and cosmetic surgery to which this bill calls attention. The American Medical Association defines cosmetic surgery as being performed to reshape normal structures of the body in order to improve the patient's appearance and self-esteem. They define reconstructive surgery as being performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors or disease.

The Treatment of Children's Deformities Act acknowledges the importance of the AMA's definitions and requires that managed care and insurance companies do the same. The problems that Americans across the board are experiencing with various managed care companies who place cost over quality care are infuriating enough, but when it affects the physical and emotional well-being of children, Congress must be willing to put our foot down.

Please join me in defending the needs of children with deformities and congenital defects and their families by cosponsoring this important bill.

TRIBUTE TO LEOPOLDO "CONDO" GONZALES

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. FILNER. Mr. Speaker, I rise today to honor a husband and father, a veteran and war hero, and a member of the San Diego community who died on November 7, 1998, at the age of 75.

Leopoldo "Condo" Gonzales was born to Sophia and Francisco Gonzales on October 7, 1923. In 1941, he met Connie Briones, and they were married on July 14, 1943.

Condo joined the Army in 1942 to serve his country in World War II. He served with the 63d Engineer Battalion in Europe until the end of the war, and received the Campaign Medal, three Bronze Stars, and two Victory Medals.

Condo and Connie began their family with the birth of their first child, Robert, in 1946. Joining Robert was his brother, Frank, in 1948 and sister, Margie, in 1952.

After the war years, Condo worked for the Cannery and Cudahy Meat Packing Company. He was a member of Masonry Union Local No. 89 and worked for several construction companies before his retirement.

Condo and his family lived in the Linda Vista area of San Diego for many years before moving to their farm in Lakeside, CA. Condo enjoyed gardening, and his farm was full of watermelons, corn, and animals. In 1956, they moved back to San Diego, to the Sierra Mesa area. In his retirement years, Condo enjoyed especially his children, grandchildren, and great-grandchildren.

His was a wonderful life. He was a man who did his duty to his country, who raised his family well, and who contributed to his community. He is survived by Connie, his wife of 55 years, as well as his children, grandchildren, and great-grandchildren. My thoughts and prayers go out to his wife and family and to the larger community that was touched by his presence.

TRIBUTE TO PHILADELPHIA COLLEGE OF OSTEOPATHIC MEDICINE ON ITS CENTENNIAL ANNIVERSARY

HON. CHAKA FATTAH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. FATTAH. Mr. Speaker, I rise today to offer my enthusiastic congratulations to Philadelphia College of Osteopathic Medicine (PCOM), which this year celebrates its Centennial anniversary. For 100 years, PCOM has served as a national leader in the training of exceptional physicians. Today, the College is the largest osteopathic medical school in the United States, and graduates more primary health care physicians than any other medical school in the nation. PCOM was recently praised for its strong emphasis on primary care and early clinical exposure in the Princeton Review's 1998 Guide, "The Best Medical Schools." In addition, the College was awarded the highest possible ranking in the 1998 "Primary Care Scorecard," which ranks osteopathic medical schools according to the number of students entering primary care fields, and the presence of a family practice division within the College.

PCOM's success in educating high quality physicians is directly attributable to its interdisciplinary curriculum, and "Doctors from Day One" philosophy. While students are thoroughly trained in the science of medicine, they are also schooled in the humanistic application of their trade. Clinical experience beginning early in a student's career sets a tone, which values both a thorough assessment of a patient's medical symptoms, and an ability to discern the social, economic, and other individual factors which also play a role in determining a patient's health and wellness. This integrated approach to the practice of medicine is reinforced during the required four months students spend staffing the College's rural and urban health care facilities, which serve Philadelphia's underserved populations. Clearly, PCOM boasts a unique tradition of medical education.

PCOM has an exciting year ahead. Construction of its new Student Activity Center, a comprehensive exercise facility, will be completed this summer. The Student Activity Center underscores the College's commitment to its mission by encouraging its students and faculty to practice the good health habits that they advise their patients to practice. A book commemorating PCOM's 100 years of medical education has been published, with a special introduction by former United States Surgeon General C. Everett Koop. Two historical exhibits on display at the College throughout the year present photographs and papers, which document PCOM's proud history and the emergence of osteopathic medicine as a medical practice. PCOM will also be a 1999 Philadelphia sponsor of the nationally acclaimed Susan G. Komen Breast Cancer Foundation "Race for the Cure."

Mr. Speaker, and fellow Colleagues of the House, please join me in extending our gratitude to Philadelphia College of Osteopathic Medicine for its 100 years of outstanding medical leadership and service to our nation. May PCOM's distinguished tradition of medical education continue to thrive for the next 100 years and beyond.

TRIBUTE TO THE 50TH ANNIVERSARY OF OUR LADY OF CHALDEANS CATHEDRAL, MOTHER OF GOD CHURCH

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. BONIOR. Mr. Speaker, today I would like to recognize a parish that has dedicated 50 years to the service of God and community. On Friday, January 8, 1999, Our Lady of Chaldeans Cathedral, Mother of God Church will celebrate its Golden Jubilee Anniversary.

Located in Southfield, Michigan, Our Lady of Chaldeans Cathedral has been a center of religious and social activity for 50 years. During those years, the congregation has joyfully celebrated Christmas and Easter, baptisms and weddings, while lending a warm shoulder to those suffering. The Church has been a faithful friend to all who have walked through the front doors.

When the parish was founded in 1948, the church was named for the Holy Mother, calling it the Mother of God Church. In 1982, Pastor Ibrahim Ibrahim was named the first Chaldean Bishop in the United States. The Mother of God Parish was then elevated to a Cathedral. The Chaldean community is family oriented and religious. The congregation grew from 100 families to approximately four thousand in 1998. The clergy and membership have given their time and talents to serve God and their community.

Our Lady of Chaldeans Cathedral, Mother of God Church has been the center of many people's lives for 50 years. Although history and time have changed the congregation, the spirit of the church has remained strong. I would like to personally congratulate the parishioners on this historic milestone. Best wishes in the next 50 years.

HONORING SALLY JAMESON

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. HOYER. Mr. Speaker, I rise today to acknowledge the appointment of my good friend, Mrs. Sally Jameson as executive director of the Charles County Chamber of Commerce.

For the past six years, Sally has been affiliated with the Charles County Chamber of Commerce; five of those years she served the legislative committee.

Prior to her appointment, Sally was the director of the Waldorf Jaycee Community Center since it opened in 1992. Today, it has evolved as a focal point for Charles County and is currently undergoing expansion.

Mr. Speaker, she is working with the Charles County Public Schools on a student exchange with students in Walldorf, Germany and with the Charles County Commissioners on a twin-city establishment between Waldorf, Maryland and Walldorf, Germany.

Sally is a life-long resident of Charles County and resides in Bryantown with her husband, Gene and two children, Donnie and Michelle.

Mr. Speaker, I am convinced that Sally will be a tremendous asset to the Chamber of Commerce and southern Maryland. I am proud to be her representative in Congress and I ask you and the remainder of my colleagues to join with me in acknowledging the appointment of this fine American.

TRIBUTE TO REV. CANON JOSE DANIEL CARLO

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to Reverend Canon Jose Daniel Carlo, beloved spiritual leader of St. Simon's Episcopal Church in San Fernando. Father Carlo recently announced that he is retiring from St. Simon's after 18 years. I know his parishioners reacted to his decision with mixed emotions. While they wish him the best, they know that he is virtually irreplaceable. His extraordinary contributions to the Church and the Northeast San Fernando Valley will be remembered with great appreciation.

Father Carlo constantly sought ways for the Church to build strong bonds with the community. For example, every Sunday, he conducted four services, two in English and two in Spanish. In this way, Father Carlo ensured that St. Simon's would be a place of worship open to every resident of San Fernando and its surrounding areas.

Father Carlo also turned the Church into a home for many programs providing much-needed services to residents of the Northeast Valley. He recognized the special responsibility of the Church to become involved during a time of government cutbacks. The Parish became the site for community and outreach programs relating to alcoholism, drugs, teen pregnancy, senior citizens, pre-school kids and clothing and food.

In addition to these ongoing programs, Father Carlo was adamant that St. Simon's provide assistance during times of urgency or crisis. In 1986, the Church assisted over 4500 persons applying for their cards during the Amnesty Program for Undocumented Aliens. For six months after the devastating Northridge Earthquake of 1994, St. Simon's made available tons of emergency food, clothing, diapers, sleeping bags and other necessities to more than 2500 families.

Within the diocese of Los Angeles, Father Carlo promoted the implementation of the first Five Year Plan for the Development of Hispanic Ministry at the national and provincial levels.

I ask my colleagues to join me in saluting Father Daniel Carlo of St. Simon's Episcopal Church of San Fernando, whose dedication to his Parish and the community inspires us all. During his 18-year tenure at St. Simon's, Father Carlo had a positive affect on the lives of so many people. I join his congregation in wishing Father Carlo and his family all the best as he embarks on new challenges.

INTRODUCTION OF THE DISTRICT OF COLUMBIA DEMOCRACY 2000 ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Ms. NORTON. Mr. Speaker, today I am introducing the first bill in my D.C. Democracy Now Package. The bills to follow, as many as half a dozen, will be introduced at appropriate times throughout the 106th Congress.

The purpose of the first of these bills, the District of Columbia Democracy 2000 Act (D.C. Democracy 2000) is to ensure that the new city administration has sufficient control of the District government to be held accountable in preparation for the expiration of the control period. Among the other bills that will be included in the Package are: D.C. Budget Autonomy Act; D.C. Legislative Autonomy Act; D.C. City Employee Tax Fairness Act (Commuter Tax for District Government Employees); and Delegate Vote Restoration.

I am introducing D.C. Democracy 2000 first because it is the most urgent. This bill is essential to assure the stable transition to full self-government already begun by the District of Columbia Financial Responsibility and Management Assistance Authority. The heart of D.C. Democracy 2000 is the early return of Home Rule, allowing the Authority to expire a full year ahead of schedule. At the time that the Authority Act was passed, the District's insolvency led the Congress to estimate that it would take four years of balanced budgets to achieve the necessary stability. However, the District's reforms have far outstripped the estimate of Congress. It now seems clear that by Fiscal Year 2000 the District shall have had three consecutive years of balanced budgets. If the failure to achieve balanced budgets could delay the return of Home Rule, it should follow that the prudence reflected in continuous years of surpluses should be equally recognized. Further delay is especially unwarranted in light of the continued oversight of the City Council and Congress.

The District has just revolutionized its political culture by election of a new Mayor who earned his stripes as a tenacious Chief Financial Officer who cut budgets, prevented overspending, and helped create surpluses. To match the new Mayor, a new City Council has already shown a new, strict approach to oversight that holds the executive and the city agencies accountable. Moreover, the District has used most of its surplus revenues to pay down its accumulated deficit. As a result, the District is expected to eliminate its operating deficit without using the authority to borrow, that Congress granted the city in the Revitalization Package in 1997. This is performance that not only deserves recognition, it is performance that deserves encouragement by the return of authority that was stripped away only because of a fiscal crisis. Needless to say, it would lift the spirits of District residents to begin the Year 2000 with Home Rule restored.

The bill also includes a section that would give the Mayor authority to hire and fire department heads. This section carries out the purpose of the Authority Act "to ensure the most efficient and effective delivery of services, by the District government during a period of fiscal emergency." P.L. 104–8, Title I §2(b)(2). On January 2, Alice Rivlin, for the Authority, signed a memorandum of agreement delegating authority to the Mayor to run the District government to the fullest extent allowed by existing law. Viewed from the front lines of the District government's present progress, the Authority's considered judgment was that a transition to Home Rule through the delegation of power to the new Mayor was necessary in advance of the transfer of ultimate power at the end of the control period; a clean line of reporting authority unmistakably identifying the responsible officials was necessary for efficient and effective government operational reform; and Mayor Williams, in his role as Chief Financial Officer, had already demonstrated his capacity to administer complicated operations.

This section amends existing law to complete a transfer of power that the Authority desired but could not make because of the wording of the statute. The Authority transferred to the Mayor its jurisdiction over nine operating agencies, but believed it was unable to return that authority to hire and fire department heads. In returning this power, this section seeks to enhance and facilitate the Mayor's ability to control managers. It eliminates the possibility of an illusion of an appeal to a higher authority beyond the Mayor to acquire or retain a position.

The advantage of having a government that knows that it and it alone will be fully accountable cannot be overestimated in a democracy. Whatever justification some may have found for the denial of self-government has been stripped away by the growing fiscal health of the District government and its prudence in management of its finances and operations. Beyond securing more revenue, city officials have already shown that they know what to do with it. Their decision to use surplus revenues to pay down the city's accumulated deficit demonstrates they can and will make tough financial choices. In the face of the sacrifices that District residents have made and the unanticipated surpluses that have been produced, there is no justification for delaying a return to coherent and fully accountable self-government.

A TRIBUTE TO CASA LARIOS AND THE LARIOS FAMILY

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. DIAZ-BALART. Mr. Speaker, I rise today to pay tribute to Quintin and Maria Teresa Larios. The owners and operators of some of the best Cuban restaurants in the United States, Casa Larios, Larios on the Beach and Bongos Cuban Cafe.

I believe that Quintin and Maria Teresa typify the dream of so many who spend countless hours working hard in the food service industry—to open their own restaurant.

The Larios came to the United States in 1973, after first fleeing Cuba and then living in Spain, and their culinary skills expertly reflect their Cuban heritage. The couple worked in the restaurant business in Miami for 12 years, gaining valuable experience before embarking on their own venture.

Casa Larios opened in 1988, and in the tradition of Cuban restaurants, Maria Teresa worked out front with the customers while Quintin took over the kitchen as chief.

As its popularity has grown, the Larios expanded by opening a location in South Beach as well as Disney Downtown in Orlando. The popular vocal artist, Gloria Estefan, liked Casa Larios so much that she and her husband, Cuban-American entrepreneur Emilio Estefan, joined the Larios in the ownership of the South Beach and Orlando locations, Larios on the Beach and Bongos Cuban Cafe.

When Casa Larios outgrew its original location on West Flagler Street in Miami earlier this summer and moved a few blocks down the street, the Larios gave interested customers pieces of the memorabilia depicting the republican era in Cuba (1902–1959) from newspapers on the restaurant's walls.

We feel very fortunate to have such excellent cuisine in South Florida and I congratulate Maria Teresa and Quintin on their well-deserved, extraordinary success.

ELIMINATE THE FAA'S LIAISON AND FAMILIARIZATION TRAINING PROGRAM

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. LAHOOD. Mr. Speaker, I rise today to bring attention to the frequent flyer program that is currently being run down at the Federal Aviation Administration. But unlike other frequent flyer programs, you don't have to earn your free flight in this program—all you have to do is sign up. What I am referring to, of course, is the FAA's Liaison and Familiarization Training Program (FAM), a program that was originally created to give air traffic controllers an awareness of, and familiarization with, cockpit and pilot procedures by allowing them to ride in the cockpit's jump seat. This program, while laudable in purpose, has unfortunately turned into a "popular perk" for FAA employees who are more interested in getting free air travel for vacations and personal reasons than they are in observing and learning about cockpit and safety procedures. The abuses of this program were so bad, in fact, that the Inspector General of the Department of Transportation recently recommended a number of reforms be made to the program. It is, in the words of one airline's slogan, becoming obvious that FAA employees love to fly, and it shows. Today, I am introducing a bill that will implement the Inspector General's reforms in order to curb the rampant and widespread abuse of the FAM program by FAA employees.

In an August 3, 1998 memo to Jane Garvey, the FAA Administrator, Kenneth Mead, the DOT's Inspector General (IG), reiterated his concern over the "serious, continuing, and widespread lapse of ethics in the Liaison and Familiarization program (FAM)." This program, which dates back to the 1940's, was originally created in order to allow FAA employees, particularly air traffic controllers, to ride in an airline cockpit's jump seat in order to become familiar with the environment in which pilots operate. However, over the past two decades this program has been increasingly misused by employees. And, I don't think I need to remind you, Mr. Speaker, that accepting gifts of free travel is in direct contravention to a host of laws, regulations, and executive orders.

Among the rampant abuses that were detailed in a February 20, 1996 IG report were the following: an employee that took 12 weekend trips in a 15-month period to visit his family in Tampa, Florida; an employee that took 10 weekend trips in a 9-month period to visit the city where he ultimately retired; an employee that took 7 trips to Fort Myers or Tampa, Florida, and 2 trips to Las Vegas, Nevada, utilizing weekends and regular days off to travel; travel by an employee that utilized annual leave or regular days off to take 7 trips to Los Angeles, California, and 1 trip to Munich, Germany; an employee that took 17 trips to travel to his military reserve duty stations; and 7 couples that took 21 flights for extended weekends and vacations. And, according to an article published in the Washington Post, 247,840 authorizations for travel under the auspices of this program were issued by the FAA between January 1993 and April 1994. Unfortunately, the FAA failed to act on this 1996 report, and that is why I am introducing legislation that will reform this program so that these abuses and ethical violations will not occur in the future.

The Inspector General's August 3 memo makes several recommendations for reform. I believe these recommendations are valid, reasonable, and absolutely necessary in order to curb the ethical lapses that have occurred, while still preserving the program's valuable training and safety benefits. My bill simply adopts the recommendations of the Inspector General and requires the FAA to transmit a report to Congress on the implementation of these reforms. Specifically, the IG's report makes the following recommendations precluding FAM travel that "(1) involve travel on leave days or days off; (2) involve scheduled leave of days off between the outgoing flight and the return flight except when management makes an affirmative documented determination that such is for legitimate purposes and will not create an appearance of impropriety; or (3) involve foreign overseas travel for an employee in a facility that does not work oceanic airspace." In addition, the IG report makes the further recommendation that "appropriate controls must require preapproval of FAM flights by supervisory personnel and only then when the supervisor determines that the specific flight meets official training needs of the FAA."

It is time that we reform this program. The abuses have gone on far too long, so long, in fact, that the program is considered an entitlement by air traffic controllers in their contract negotiations with the FAA. This program has, according to the IG, become "what is widely understood to be a popular 'perk' for many FAA employees"—a perk that I believe needs to end.

THE 100TH ANNIVERSARY OF THE MORRISTOWN JEWISH CENTER—BEIT YISRAEL, COUNTY OF MORRIS, NEW JERSEY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to commemorate the 100th Anniversary of the Morristown Jewish Center—Beit Yisrael, County of Morris, New Jersey.

The Jewish community in Morristown first began meeting in the home of Abraham Mintz and for several years, held Hebrew school classes and religious services there. At that time Morristown was very underdeveloped and this meeting spot was quite inconvenient to access. Over the next several years, the Center relocated to several facilities including Eureka Hall, the Masonic Hall, Lippman Hall, Miller Hall and the estate of Heyward G. Hemmel.

The organization thrived throughout the first quarter of the century and offered numerous benefits of the surrounding community. During the 1920's the Rabbi Signer established the Jewish Center League for religious, cultural, physical and social purposes. In order to suit the diverse needs of the League, a new building was sought. With the help of local department store owner, Maurice Epstein, the cornerstone was laid on March 3, 1929 for a new multipurpose meeting space on Speedwell Avenue in Morristown.

In the 1950s, the Center enjoys a rather unique feature in that it housed Orthodox, Conservative and Reform Congregations with the building. As a result, it served as a model for like-sized communities throughout the nation.

The Morristown Jewish center has continued to grow throughout the century and continues its mission of the founders by being the religious, educational and social core of the Morristown Jewish community. Currently, 430 families comprise the membership of this prestigious congregation.

Mr. Speaker, for the past 100 years, the Morristown Jewish center has prospered enormously in order to unite the community and will continue to do so for many years to come. Mr. Speaker, I ask you and my colleagues to congratulate the members of the Morristown Jewish Center—Beit Yisrael, on this special anniversary year.

THE Y2K MILLENNIUM BUG

HON. JOHN LINDER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. LINDER. Mr. Speaker, there are approximately 359 Days, 11 Hours, 32 Minutes, and 26 Seconds until the Year 2000 computer problem affects computers and computer chips worldwide on the morning of January 1, 2000.

As we know, many computers will be unable to process dates beyond December 31, 1999, making the year 2000 indistinguishable from the year 1900. The potential technological turmoil could cause computers to generate incorrect data or stop running. Credit cards, ATM cards, security systems, hospital equipment, telephone service, electricity, and paycheck systems could be affected. I don't think anyone is sure what will happen.

Fortunately, in the year 2000, we have a few days to recover after the Y2K problem hits because January 1st falls on Saturday. However, we lose one potential additional day because the New Year's Day holiday—by law—must be observed on the previous Friday, December 31, 1999.

I have re-introduced legislation that will provide the public and technology professionals with an additional day, prior to the start of the first workweek in January 2000, to work on repairs on failed computer systems caused by the Year 2000 computer problem. My proposal will move the New Year's Day holiday in the year 2000 to Monday, January 3, 2000.

Mr. Speaker, congressional committees have been successfully working to prepare the nation for Y2K, and this is just another proposal that may help ease the difficulties we face. It is not a silver bullet to solve the problem. It is vital that all businesses and government agencies continue to mobilize and work to repair computers in the remaining 359 days before the Y2K problem strikes. This proposal simply ensures that businesses, the public and computer experts have an additional 24 hours to respond to problems that may arise.

STATEMENT ON THE ARTICLES OF IMPEACHMENT

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise to oppose the Articles of Impeachment before this House. I urge Members to step outside the passion of your convictions and think about our obligations to the Constitution, to our constituents, and our place in history.

Mr. Speaker, I hoped this moment could be avoided and that Members of the Judiciary Committee, after carefully examining the evidence, history and their consciences, would recognize that the charges do not rise to the level of an impeachable offense. With this vote, we have the opportunity, by censure, to live up to the Framers' vision and honorably close a sad chapter in our Republic's history, or open a new, more perilous one in which the private lives of public figures become fair game for scrutiny and prosecutorial entrapment.

The House Judiciary Committee process was unfair. It relied exclusively on material gathered by the Independent Counsel and failed to interview material witnesses or subject them to the rigors of cross examination.

Some Committee members abandoned the most fundamental precept of fairness—the presumption of innocence. While paying homage to the law and constitutional responsibilities, some of our colleagues are even pointing to the President's unwillingness to give up his constitutional right to avoid self-incrimination by demanding that he admit to perjury.

Can we call this process fair?

The shortcomings of our process: abrogation of basic tenets of jurisprudence; an unfair and flawed process; reliance on hearsay; abandonment of the presumption of innocence; and release of materials in a prejudicial manner indicate the need to exercise great caution.

Do we really think these charges rise to the level of impeachable offenses envisioned by the Framers? I fear we are falling victim to what Alexander Hamilton called "the greatest danger"—the danger of partisan impeachment.

Mr. Speaker, the American people and history will judge us!

As Members of the People's House, we must never forget that we were sent here by the American people to represent them. The majority of Americans have resoundingly said they do not support the impeachment. A vote for impeachment under these circumstances would go against the fabric of representative democracy and would overturn the will of the American people—a grave measure indeed!

As we vote, let us reflect on our own experiences, perceptions of fairness, justice, and our understanding of the facts, to conscientiously apply the requisite tests to determine our vote. We can ill afford to so endanger the future of our democracy by voting to impeach the President of these United States.

You have the votes to impeach. But can your conscience withstand the scrutiny that history will bring to bear on your vote?

TRIBUTE TO HOWARD L. OWENS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. MATSUI. Mr. Speaker, I am honored to rise in tribute to Mr. Howard L. Owens of Sacramento, California. Today, Mr. Owens will be presented the "Lifetime Health Care Advocate Award" by Health Access of California. I ask all of my colleagues to join with me in saluting him for this important accomplishment.

In 1984 Mr. Owens retired as Assistant Regional Director of the United Auto Workers after providing 35 years of health care advocacy for the working men and women of that union.

Since then, he has given an even greater amount of his time to the vital cause of health care advocacy. Mr. Owens has served as president and legislative chair of the Congress of California Seniors. Under his leadership, this organization has become a strong and constant voice for health care access and quality improvements.

Mr. Owens was also one of the chief proponents of Proposition 186, California's universal health care initiative which appeared on the 1992 ballot. Today he is a very prominent advocate for the Patients Bill of Rights in Congress.

He is the current president of Health Access California and has served in this capacity for more than five years. Additionally, Mr. Owens is the Regional Director of the National Council of Senior Citizens and the Executive Director of the Consumer Federation of California.

As a tireless advocate for these organizations, he directs their efforts to maintain and enhance Medicare coverage and supports other efforts to ensure that adequate health care is available to all.

Mr. Owens' many awards include the prestigious "Consumer Advocate of the Year" award which he received from the California Trial Lawyers Association.

In his efforts to keep energy affordable and accessible for all of California's citizenry, Mr. Owens has also devoted much time to his service on the boards of both Southern California Edison and Pacific Gas & Electric.

Mr. Speaker, I am honored to pay tribute to Howard Owens. He is a fine advocate for the senior citizens and working families of California. I ask all of my colleagues to join with me in congratulating him as he is honored today with the "Lifetime Health Care Advocate Award" in Sacramento.

TRIBUTE TO GEORGE SUAREZ, MAYOR OF THE CITY OF MADISON HEIGHTS

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. LEVIN. Mr. Speaker, I rise to honor Mayor George Suarez who is resigning after 25 years of faithful and dedicated service to the City of Madison Heights and its residents.

Mayor Suarez has governed the City of Madison Heights almost half of its city's 44 year history, and under his leadership and guidance, their residents have benefitted from new and expanded facilities.

A senior citizen center, a district court building, a "state-of-the-art" police station, a branch library, a second fire station, and a nature center built in Friendship Woods that proudly bears the Suarez name, are just a few of his outstanding accomplishments.

In addition, George Suarez has served on innumerable boards and committees, not merely as a member, but as an active participant. And on a more festive note, Mayor Suarez had the honor of performing 1,925 wedding ceremonies.

Mr. Speaker, I have known and worked with Mayor Suarez from my very first term in the United States House of Representatives and have seen first-hand his community's development and progress. My staff and I have worked closely with the Mayor and his administration throughout the years, and we have always enjoyed a friendly and productive relationship.

Serving the public has been a priority in the life of George Suarez and indeed, it will continue as his title changes from Mayor to Commissioner. In November, he ran and won the seat as Oakland County Commissioner for the 24th District and will begin serving in January 1999.

As he reflected on his retirement, he said, "Although I'm stepping down as your Mayor, I plan to be an active part of the community for the foreseeable future, helping Madison Heights to continue to be the city of progress." I agree, and with a bit of a twist to an old saying—you can take the man out of Madison Heights, but you can't take Madison Heights out of the man.

Mr. Speaker, I ask my colleagues to join me first, in thanking George Suarez for his friendship and all that he has accomplished for the residents of Madison Heights and second, to wish him good health and success in fulfilling his new assignment. We will miss you, Mayor Suarez.

HONORING WILLIAM D. "BILL" FARR

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. SCHAFFER. Mr. Speaker, I rise today to honor one of the most important pioneers of water development in Colorado history—William D. "Bill" Farr. Mr. Farr epitomizes the foresight of pioneering the water movement in Colorado. On January 11, 1999, W.D. Farr will receive the 1999 "Citizen of the West," award for his work on water issues for Colorado. This annual award is given to the person who exemplifies the spirit and determination of the western pioneer. W.D. Farr is recognized as a longtime leader and visionary in the area of water conservation and is also credited with pioneering the method for successful year round cattle feeding.

W.D. Farr was born in 1910 in Greeley, CO. He grew up managing his family's Crystal River Ranch in Carbondale, CO. The challenge of operating a ranch with a 13-mile irrigation ditch system, plus years of interest in water management, resulted in Farr's lifelong commitment to water policy. W.D. served as director of the Northern Colorado Water Conservancy District for more than 40 years, and was director and the first President of the Colorado Water and Power Development Authority.

W.D. Farr is additionally a renowned leader in the cattle industry. He served as a founder and director of the Colorado Cattle Feeders Association and a director and president of the American National Cattlemen's Association. His inestimable contributions to Colorado in both water and cattle are unequaled and we as a state owe a great deal to his efforts. Thank you W.D. Farr for all of your contributions to Colorado, and congratulations on receiving the "Citizen of the West" award, you truly deserve it!

U.S. IMMIGRATION COURT ACT

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. McCOLLUM. Mr. Speaker, I am introducing legislation to establish a new United States Immigration Court. The title of the bill is the "United States Immigration Court Act of 1999." This bill would remove the immigration adjudication functions from the Justice Department and invest them in a new Article I court. The court would be composed of a trial division and an appellate division whose decisions would be appealable to the Court of Appeals for the Federal Circuit.

The system for adjudicating immigration matters has matured tremendously over the last 15 years. Special inquiry judges have become true immigration judges. The Board of Immigration Appeals has been greatly expanded, and the whole Executive Office for Immigration Review has been separated from the Immigration and Naturalization Service.

Yet much of this system, including the Board of Immigration Appeals, does not exist in statute. And while separated from the INS, aliens still take their cases before judges who are employed by the same department as the trial attorneys who are prosecuting them.

It is time to take the next logical step and create a comprehensive adjudicatory system in statute. Such a system should be independent of this Justice Department. This is not a new concept—in fact, I first introduced legislation to take this step back in 1982. I continue to believe that an Article I court would allow for more efficient and streamline consideration of immigration claims with enhanced confidence by aliens and practitioners in the fairness and independence of the process.

The bill introduced today provides a solid framework on which to build debate on this important and far-reaching reform. I look forward to working with all interested parties in fine-tuning and further developing this proposal where necessary and enacting this much needed reform. It is my hope to see real progress made on this matter and I urge my colleagues to support the United States Immigration Court Act of 1999.

INTRODUCTION OF THE DISTRICT OF COLUMBIA PRISON SAFETY ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Ms. NORTON. Mr. Speaker, today, I introduce the District of Columbia Prison Safety Act, a bill to assure the safety of the District of Columbia and other Federal Bureau of Prisons (BOP) inmates, who may be placed in private prison facilities, as well as the communities where the prisons are placed. This provision has become necessary as a result of §11201 the 1997 District of Columbia Revitalization Act (P.L. 105–33). That bill requires that BOP house in privately contracted facilities at least 2000 D.C. sentenced felons by December 31, 1999 and at least 50 percent of D.C. felons by September 30, 2003. Under the Revitalization Act, the Lorton Correctional Complex is to be closed by December 31, 2001, and the BOP is to assume responsibility for the maintenance of the District's inmate population. My bill would give the Director of BOP the necessary discretion to decide whether to house D.C. inmates in private prison facilities, and if so, when and how many. This mandate would mark the first time that BOP has contracted for the housing of significant numbers of inmates in private facilities. The extremely short time frames were placed in the statute without any reference to the BOP capabilities, but rather, in order to meet the 6 year limit for the closure of Lorton. I am introducing this bill because recent events have driven home the necessity for informed expert judgement before decisions to contract out inmate housing are made.

On December 3, 1998, the Corrections Trustee for the District of Columbia released a report on the investigation of problems arising from the placement of D.C. inmates in the

Northeast Ohio Correctional Center (NEOCC). This highly critical report followed numerous violent confrontations between guards and inmates, an escape by six inmates, and the killing of two other inmates. The Trustee's report strongly and unequivocally criticized virtually all aspects of the operations of NEOCC. The company that runs this facility, Corrections Corporation of America (CCA), is the most experienced in the country.

The industry is a new one with relatively few vendors. The NEOCC experience is fair warning of what could happen if BOP proceeds on the basis of an automatic mandate in spite of the evidence that has accumulated here and around the country. The mounting troubles have been so great that the BOP was forced to revise the original request for proposal (RFP). The new process employs two RFPs, thereby separating low security male inmates from minimum security males, females and young offenders. Furthermore, the RFP for low security inmates now requires the BOP to consider prior performance of the vendors before awarding the contract.

However, this action puts BOP behind schedule for privatization mandated by the Revitalization Act. The experience of the private sector argues for a much more careful approach than Congress was aware of at the time the 1997 Revitalization Act was passed. Whereas 50 percent of D.C. inmates are to be privatized in 5 years time, the 50 percent far exceeds any comparable number of inmates currently housed in any private facility.

My provision does not bar privatization, but it could bar further disasters that have surrounded such privatization contracts. BOP may still decide to house the same, or different number in private facilities. The only point in this provision is to keep the BOP from believing it must go over the side of a cliff even if there would be a more sensible path.

INTRODUCTION OF LEGISLATION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. BROWN of California. Mr. Speaker, I am introducing a bill to repeal a legislative provision included in P.L. 105–277, the omnibus bill making appropriations for Fiscal Year 1999. This provision directs the Office of Management and Budget to amend section—.36 of Circular A110 to require Federal agencies to ensure that all data produced under grants made to institutions of higher education, hospitals, and non-profit organizations will be made available to the public through procedures established under the Freedom of Information Act (FOIA).

This provision should be repealed on the basis of both the flawed process through which it was adopted and because of the damage it is likely to do to the publicly funded research structure which we have developed over the past 50 years. This scope of this provision has never been examined in public and has never been the subject of a hearing. And, if protests from the research community are correct, this provision poses a major threat to academic freedom in the United States.

On the process issue, it is ironic, that a provision which some have described as a sunshine provision was tucked into a 4,000-page bill in the dead of night. There were no bills introduced in the 106th Congress containing this provision. There were no hearings held to determine whether there was a problem with the current situation with regard to data availability in the scientific community. We do not know what the scope of any existing problem is, or whether using the Freedom of Information Act is the best way to address this alleged problem. No one in the university, hospital, or non-profit community was provided an opportunity to comment on this legislative provision or the need for it. To alter the rules that the scientific community has operated under for decades without providing them an opportunity to speak to the need for this change or to participate in developing it, is not only unwise, it is unfair.

I fully support the free and open exchange of information, as I believe all Members do. I doubt we could have made the progress we have in science without sharing of new knowledge. Scientists, both publicly and privately funded, routinely use a variety of mechanisms to share data and information with one another and with the public. The proliferation of scientific journals, increased scientific programming on television and radio, and routine science coverage by daily news journals are all evidence of this. However, I believe there are numerous reasons to question the wisdom of mandating the application of the Freedom of Information Act to data generated under this category of federal research funding as a mechanism for achieving the laudable goal of facilitating the dissemination of scientific information.

A number of my colleagues joined me in sending a letter to the Administration to express some specific concerns regarding the implementation of this policy change, and I am appending this letter at the end of these remarks. One area of concern pertains to research involving human subjects. Public health and bio-medical research requires the voluntary participation of human subjects. Volunteers currently make agreements with researchers and their institutions to divulge personal medical information on the condition that their information will remain strictly confidential. They do this with the understanding that they are making this agreement with the research institution and not with the federal government. Although FOIA provides protections for some types of information, the provisions may not be adequate to ensure confidentiality. Even if they were, I believe individuals will be reluctant to divulge sensitive personal information knowing that this information effectively becomes the property of the U.S. Government as an official government record. Significant loss of voluntary participation in public health and bio-medical research would be devastating.

I am also concerned that this provision could facilitate the theft of intellectual property. We have numerous statutes, such as the Bayh-Dole Act, which provide protections for the intellectual property of researchers receiving Federal awards. Mandating the accessibility of all data produced under a Federal award would undermine the protections for researchers' intellectual property rights guaranteed under copyright and other technology transfer laws. Although Circular A110 does not cover Federal awards to businesses and contractors, there are numerous instances of university-private sector partnerships in which private and federal dollars are intermingled within research projects. While privately-funded research will not be subject to FOIA, companies may be reluctant to continue some areas of joint research with federally-funded institutions who must comply with this mandate because of ambiguities created in the determination of which data would or would not be subject to FOIA.

I am also concerned about the potential for increases in administrative burdens and costs for granting agencies and for award recipients. Universities and other grant receiving institutions are likely to feel compelled to create formal, centralized procedures for responding to requests for data and for implementing the requirements of FOIA. While the language of the Omnibus Bill indicates that agencies could charge a user fee for obtaining data at the request of a private party, there appears to be no mechanism available to award recipients to offset the administrative costs of complying with the required change in policy. Increased administrative costs associated with grants come at the expense of research. Increased administrative costs are not, in themselves, a reason not to move forward with policies in the public interest. However, we should have taken the time to consider what the nature and level of the costs of compliance with this provision were likely to be.

Obviously, some groups feel that an information-sharing problem exists. They may now feel that their concerns have been addressed. However, documentation of this problem has been no more than anecdotal. What we do know is that our nation has derived immeasurable public and private benefits from government-sponsored research. We should not jeopardize this enterprise by taking a hasty, ill-considered approach to remedy an alleged problem. If this problem is serious enough to require legislative remedy, then it is certainly serious enough to receive reasoned consideration by Congress. I encourage my Colleagues to join me in repealing this provision, and giving this issue the attention it deserves by proceeding through the normal process which gives all groups an opportunity to participate in the legislative process.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 7, 1998.

Hon. JACK LEW,
Director, Office of Management and Budget, Old Executive Office Building, Washington, DC.

DEAR MR. LEW: We are writing to you concerning the provision included in H.R. 4328, Making Omnibus Consolidated and Emergency Supplemental Appropriations for FY 1999, which requires OMB to amend Section –3.6 of Circular A110 to require Federal agencies to ensure that all data produced under grants made to institutions of higher education, hospitals, and non-profit organizations will be made available to the public through procedures established under the Freedom of Information Act (FOIA).

While we all support the free and open exchange of information, we have concerns that there may be a number of negative, unintended consequences for the conduct of research under federal awards if this Circular is amended in haste and without sufficient input from federal grand-awarding agencies and grant recipients. An amendment of similar intent was offered and defeated in the House Appropriations Committee one year ago because of Members' concerns about negative impacts of making this policy change on federally-funded research. At that time, a number of agencies provided comments indicating numerous potential problems associated with making all data from federal awards subject to FOIA. We believe these concerns were and are still valid. We urge you to consider the agencies' concerns as you develop the required proposal.

One area of concern pertains to research involving human subjects. Public health and bio-medical research requires the voluntary participation of human subjects. Volunteers currently make agreements with researchers and their institutions to divulge personal medical information on the condition that their information will remain strictly confidential. They do this with the understanding that they are making this agreement with the research institution and not with the federal government. Although FOIA provides protections for some types of information, the provisions may not be adequate to ensure confidentiality. Even if they were, we believe individuals will be reluctant to divulge sensitive personal information knowing that this information effectively becomes the property of the U.S. Government as an official government record. Significant loss of voluntary participation in public health and bio-medical research would be devastating.

We are also concerned that this provision could facilitate the theft of intellectual property. We have numerous statutes, such as the Bayh-Dole Act, which provide protections for the intellectual property of researchers' receiving federal awards. Mandating the accessibility of all data produced under a federal award would undermine the protections for researchers intellectual property rights guaranteed under copyright and other technology transfer laws. Although Circular A110 does not cover federal awards to businesses and contractors, there are numerous instances of university-private sector partnerships in which private and federal dollars are intermingled within research projects. While privately-funded research will not be subject to FOIA, companies may be reluctant to continue some areas of joint research with federally-funded institutions who must comply with this mandate because of ambiguities created in the determination of which data would or would not be subject to FOIA.

We are also concerned about the potential for increases in administrative burdens and costs for granting agencies and for award recipients. Universities and other grant receiving institutions are likely to feel compelled to create formal, centralized procedures for responding to requests for data and for implementing the requirements of FOIA. While the language of the Omnibus Bill indicates that agencies could charge a user fee for obtaining data at the request of a private party, there appears to be no mechanism available to award recipients to offset the administrative costs of complying with the required change in policy. Increased administrative cots associated with grants come at the expense of research. Increased administrative costs are not, in themselves, a reason not to move forward with policies in the public interest, but we would like to ensure that the benefits of making this change are commensurate with the costs. We encourage your office to explore this question and to work with agencies and award recipients to keep any required administrative costs to a minimum.

The above-mentioned concerns represent a few examples of the problems that we wish to see avoided in implementing this provision. Consequently, we urge you to solicit input from all federal grant-awarding agencies, and from the higher education, hospital, and non-profit grant recipient community before moving forward with this change.

Unfortunately, Congress did not hold hearings to examine whether the scope of potential problems with existing practices with regard to data sharing is sufficient to have warranted this type of change. Obviously, some groups feel that a problem exists; however, documentation of this problem has been no more than anecdotal. What we do know is that our nation has derived immeasurable public and private benefits from government-sponsored research. We do not wish to see this enterprise jeopardized by taking a hasty, ill-considered approach to remedy an alleged problem.

We encourage you to take every opportunity to explore methods of implementing this policy change in a way that serves the laudable goal of facilitating the dissemination of information without causing undue burdens or creating barriers to the continued pursuit of new knowledge through federally-funded research.

We also request that you contact Anthony McCann (Appropriations Committee; 225-3508) and Jean Fruci (Science Committee 225-6375) to schedule a meeting for interested Hill staff to brief us on your plans for implementing this provision. Thank you for your attention and consideration.

Sincerely,

John Edward Porter, James T. Walsh, Sherwood L. Boehlert, Constance A. Morella, Vernon J. Ehlers, George E. Brown, Jr., Nita M. Lowey, David E. Price, Howard L. Berman, Edolphus Towns, Bob Filner, Lynn C. Woolsey, Carolyn McCarthy, Maurice D. Hinchey, Major R. Owens, Henry A. Waxman, Albert R. Wynn, Lynn N. Rivers, Lois Capps, James A. Traficant, Jr., Louise M. Slaughter, Jose E. Serrano, Steven C. LaTourette.

INTRODUCTION OF LEGISLATION TO ELIMINATE THE WORKFORCE SHORTAGE IN THE HIGH TECHNOLOGY SECTOR

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. MORAN of Virginia. Mr. Speaker, we have been privileged to live in a time of unparalleled economic growth. Much of this growth is directly attributable to the high technology sector.

The information technology sector contributes a larger share of our gross domestic product than almost any other industry. U.S. firms dominate the world market in both high tech products and high tech services. Over 3.3 million Americans are directly employed in high technology jobs.

The workforce shortage faced by the technology sector threatens both our world dominance in the technology sector and our continued economic prosperity.

Over the next ten years, the global economy is projected to grow at three times the rate of the U.S. economy. Basic high technology infrastructure needs, in just eight of the fastest growing countries, are expected to reach $1.6 trillion. If the U.S. does not seize the opportunity to supply the goods and services to these emerging markets, others will.

But U.S. firms simply cannot compete if they do not have access to a highly trained workforce. There can be no doubt that our current workforce is failing to keep pace with the needs of industry. Some ten percent of high technology jobs are now vacant. U.S. firms who cannot find enough domestic workers are sending more and more contracts overseas. It is incumbent upon us to stop this trend.

The 105th Congress helped mitigate this problem by enacting legislation which would raise the annual limit on temporary immigrants who are skilled in jobs for which there are a shortage of American workers. However, we cannot reasonably expect to eliminate the workforce shortage without addressing the crux of the problem: our failure to adequately train and re-train American workers.

Existing government training programs have not sufficiently trained or placed workers in those sectors of our economy with the greatest need. To rectify this problem, I am introducing a legislative package to ensure that training programs provide the skills that American employers need by bolstering industry-driven training programs, creating incentives for successful placement, and providing for the special concerns that multi-state regions, such as the Washington Metropolitan Area, experience as they seek qualified workers.

The bills I have introduced today are:

H.R. , TO ESTABLISH FOR REGIONAL SKILLS TRAINING ALLIANCES

Modeled after the successful Manufacturing Extension Program, this bill recognizes that in rapidly expanding industry, employers are best positioned to identify the skills and knowledge needed for emerging jobs. It would provide matching funds to encourage companies to participate in consortia that would address their industry's specific skill needs. Every dollar in federal support will be matched by a dollar in state or local government support and a dollar in direct industry support.

H.R. , TO ESTABLISH REGIONAL PRIVATE INDUSTRY COUNCILS FOR LABOR MARKET AREAS THAT ARE LOCATED IN MORE THAN ONE STATE

This bill allows the Secretary of Labor to establish Regional Private Industry Councils (PICs). PICs play a constructive role in addressing the workforce needs within a state. These organizations, however, are state organizations and not formed to address problems that may cross state lines. To remedy that situation, this bill would allow the Secretary of Labor to certify, and fund, regional PICs that address regional problems. The new PICs would be funded directly by the Secretary of Labor to ensure that they do not take from existing state programs.

H.R. , TO PERMIT PAYMENT OF INCENTIVE BONUSES TO CERTAIN JOB TRAINING PROVIDERS THAT PLACE LARGE PERCENTAGES OF INDIVIDUALS IN OCCUPATIONS FOR WHICH A HIGH DEMAND EXISTS

This bill would ensure that the federal government's investment in training is well spent by allowing Private Industry Councils to reward bonuses to training providers with a high percentage of placement. This will help establish a more outcome-based system to ensure that training providers emphasize placing their students. This bill would amend JTPA to allow funds to be used for bonuses for training providers of specific direct training services. This creates an incentive for training providers to provide up-to-date training opportunities that coincide with market needs, and to help place trainees after they have completed their training.

H.R. , TO ALLOW EMPLOYERS A CREDIT AGAINST INCOME TAX FOR HIGH TECHNOLOGY JOB TRAINING EXPENSES

This bill would offer employers who train employees for information technology jobs a tax credit for 50 percent of the training costs up to $2,500 per year, per employee. The credit provides an important incentive, yet requires that industry bears at least half of the training costs.

IMPROVING OUR NATION'S RETIREMENT SAVINGS

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. McCOLLUM. Mr. Speaker, I am introducing a bill today which will help all Americans save for their retirement years. It is no secret that our current savings rate is among the lowest in the industrialized world. A low savings rate not only adversely impacts a person's retirement, it does not create much capital available for savings and investment. Without this capital, our economy cannot expand at its optimal rate. It is my hope that this legislation, if enacted, would help correct this problem.

My legislation would do several things. First, it would increase the amount of money one may contribute to an Individual Retirement Account (IRA), from $2,000 to $4,500, and still receive full deductibility. This amount is also indexed to inflation to protect its value from that silent thief of inflation. This would also remove a disincentive to establishing an IRA, that being the fear that the money will not be available without paying a substantial penalty when you need it. A person with an IRA would be able to make withdrawals, without penalty, for long-term care, financially devastating health care expenses, and during times of unemployment. Furthermore, no taxes would be paid on these withdrawals if they are repaid to the IRA within 5 years.

Current law offers no incentive for many people to establish IRA's. My bill would allow people who do not have access to a defined contribution plan—e.g., a 401(k) plan—to establish a tax-preferred IRA, regardless of their income. The legislation would also encourage the middle class to establish IRA's by raising the income phase-out levels from $25,000–$40,000 for joint filers—to $75,000–$120,000 for joint filers. This will provide not only incentives, but needed tax relief for the middle class. Again, these levels are indexed to inflation.

Turning to 401(k) reforms, currently folks are hit with tax liability when taking their 401(k) benefits as a lump sum when leaving a job even if it is rolled into an IRA. This is not fair. Therefore, under this proposal, people would not be exposed to tax liability if the lump sum distribution is rolled into an IRA within 60 days.

Just as contribution limits have been increased for IRA's in this legislation, they are increased for 401(k) plans as well. The tax-deductible contribution limits would be $20,000—in 1992 dollars—indexed to inflation. This would also encourage more firms to establish defined contribution plans by injecting some common sense into the law. It would allow firms to meet antidiscrimination requirements as long as they provide equal treatment for all employees and ensure that employees are aware of the company's 401(k) plan. This is truly nondiscriminatory as everyone would be treated the same.

Finally, this proposal would correct some of the serious problems involved with IRA's and 401(k)'s when the beneficiary passes away. As someone who believes the estate tax inherently unfair, indeed I advocate its abolishment, I feel that IRA and 401(k) assets should be excluded from gross estate calculations. This bill would do that. Furthermore, an IRA that is bequeathed to someone should be treated as the IRA of the person who inherited it. Current law forces the disbursement of the IRA when the deceased would have turned 70½ years old. This would change that pointless provision, allowing the inheritor to hold the money in savings until he or she turns 70½.

Similarly, anyone receiving 401(k) lump sum payments as a result of a death would not have the amount counted as gross income as long as it is rolled into an IRA. That amount would not be counted against the nondeductible IRA limit of $4,500.

Mr. Speaker, I am excited about this legislation. I expect to introduce this legislation again at the beginning of the next Congress and look forward to hearing debate on it. It is absolutely essential that we continue to encourage personal savings and this is certainly a step in the right direction.

COMMENDING BEACON COLLEGE IN LEESBURG, FLORIDA

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. STEARNS. Mr. Speaker, one of the world's greatest documents is our Declaration of Independence. It proclaims our unalienable rights, among them "Life, Liberty and the pursuant of Happiness." This is one of the central components of the American experience, the right to use your God-given abilities to pursue your goals. As Americans, we are entitled to go as far as our talents will carry us. That is why it is imperative to ensure that every individual has the chance to succeed.

A few weeks ago, I had the privilege of visiting Beacon College in Leesburg, Florida, a school in my district dedicated to providing opportunities. Beacon College offers the opportunity of a higher education to students with learning disabilities.

Learning disabilities can affect a person's ability to read, write, speak, or compute math, and can impair socialization skills. This disability can be a life-long condition affecting how that person functions in school, at home, or in the work place. And this is not a rare occurrence; 15 to 20 percent of the U.S. population have some form of learning disability.

People with learning disabilities can and do excel in their individual pursuits, they just need the chance. Beacon College is committed to working with a diverse student population, assisting each with an individual approach, taking into consideration differences in experiential backgrounds, pace and readiness to learn, learning styles, and individual strengths and weaknesses.

Beacon College offers Associate of Arts and Bachelor of Arts degree programs in Human Services and Liberal Studies. The Human Services program stimulates the student's interest in intellectual, philosophical, social, and public issues. This program concentrates on human development and public services. The Liberal Studies program provides a well-rounded liberal arts education. Both programs are designed to help students achieve their career goals.

Through small class sizes, with an average of eight students per class, the faculty can interact better with their students, leading to better academic success. However, the College is more than a learning institution, it also promotes responsibility and self-reliance. Beacon students are called upon to identify their own learning styles as well as their strengths and weaknesses to prepare them for their roles in society.

Beacon College goes beyond teaching, it prepares its students for a meaningful career and an independent lifestyle. I am glad that I am able to share with my colleagues the commitment of Beacon College to providing opportunities for those with learning disabilities. Through its efforts, the College is making a richer life for its students and their families.

REMARKS ON IMPEACHMENT PROCEEDINGS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. ACKERMAN. Mr. Speaker, I rise tonight to strongly oppose the impeachment of the President of the United States. My President. The People's President.

Today we embarrass the memory of our country's Founders as we torture the intent of the genius of their system of *balancing* the awesome powers of Government. Once our votes are cast on this despicable issue, no longer will we be able to look upon ourselves and our House as honorable; or even as men and women who are here to serve as a *check* on the power of the Executive. Instead, we will have become a House that sits in moral judgement over another man, meting out *punishment* for personal deeds which we deem unacceptable. The Majority party, however, has decided that this course is pre-determined, because we must uphold "the rule of law." Otherwise, our country will descend into chaos.

Yes, Mr. Speaker, no one is above the law—and there is no question that the law must be followed. But we also serve a greater document: and that is the Constitution of the United States. And it is the words within that great document that we must follow in this case as we decide whether the disgraceful behavior by the President merits his impeachment.

Mr. Speaker, under your leadership and that of your party, we stand here—small men with petty careers, and partisan of purpose, to diminish our great Republic. Devoid of a sense of proportion and overburdened with an excess of hubris, you claim conscience as your exclusive domain, and deny us the right to offer the People's Will—a motion of censure. I can only surmise the answer to that is because the Republican leadership is being driven by a core of short-sighted, bitter, and small-minded people who would do away with the *high-minded* principles espoused and framed for time immemorial by the Founders of this Nation. And they would do this for the sole reason that they do not agree with the President's actions. However, the President's behavior does not put him in the category of those who would commit treason, except perhaps in the minds of those conspiracy theorists who are consuming the Majority party.

Let me be clear that what we do here today is an oligarchical act that attempts to recreate a presidency that would serve at the Majority's *whim,* rather than at the *will* of the people. Mr. Speaker, please believe me that the gravity of this action will not go unnoticed by the public that we purport to serve.

To be sure, the President has shamed himself greatly.

To be clear, it is we who are about to become the shame of the Nation.

EXCELLENCE IN MILITARY SERVICE ACT

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. COBLE. Mr. Speaker, I rise today to introduce the "Excellence in Military Service Act."

This legislation would increase the active duty service obligation (ADSO) of Military Service Academy graduates from five to eight years. Many Americans do not realize that this free and highly competitive college education costs the average taxpayer over $270,000 per cadet/midshipman. While I believe that investing in our military is critical to the future stability of our nation, I do not think it is fair to burden the taxpayer with this expense without requiring academy graduates to exhibit a similar commitment in their ADSO. I maintain that it is not unreasonable that for a free education, with a monetary allowance, that a graduating cadet/midshipman be required to commit to a longer period of obligated service upon commissioning.

As college tuition continues to skyrocket, I believe our U.S. military academies will become even more attractive to prospective college students. In light of this fact, we need to ensure that a free education does not become a primary motivation for future applicants. I maintain that increasing the ADSO is an effective way to accomplish this without jeopardizing the viability of these historic institutions.

I hope my colleagues will join with me to protect the U.S. taxpayers' investment in one of our nation's most precious resources.

12-YEAR TERM LIMITS

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. MCCOLLUM. Mr. Speaker, today I am introducing a proposed amendment to the Constitution that will limit the number of terms a Member of Congress may serve to a uniform, lifetime term limit of 12 years in the House and 12 years in the Senate. This is a proposal I have enthusiastically pushed for over the years and one I continue to support. I am firmly convinced that this is the single biggest obstacle to making some of the tough decisions that have to be made as we move into the 21st century. Term limits is not a partisan issue. It is a sound proposal with broad popular support.

The arguments for term limits are numerous and persuasive. Volumes could be written on the issue but I would like to stress one point. Term limits are not simply to create turnover for the sake of turnover. It is important to get fresh blood in Congress, but it is more important to change the institution as a whole in a manner that only term limits can achieve. Term limits would end the pervasive careerism in Congress.

The status quo in Congress encourages longevity in service. One's impact in Congress is almost directly related to the length of time the Member has served. This is due to the fact that the House and Senate are directed primarily by the elected leadership and the full and subcommittee chairmen. Few rise to these levels without significant time served. Therefore, many Members will do their best to stay in Congress as long as possible, making it a career. Consequently the tendency of most will be to try to please every interest group in order to get reelected. While term limits would not completely end this attitude, it would mitigate it considerably because term limits would mean that when somebody is elected to Congress they would know that they were only coming here to serve a short period of time, not to make a career of it. I favor term limits not because of a hostility toward Congress but as an affectionate measure to restore Congress to its rightful role as a deliberative branch of government which governs with the next generation, not just the next election, in mind.

Term limits will give us the citizen legislature the Founding Fathers envisioned and effect fundamental reform in the attitude of those serving in Congress as well as in the attitude about service in Congress. Term limits will inject fresh ideas in Congress, ensure a rotation of influence and give people more choices with more open seat elections.

Congress has both an opportunity and an obligation to make fundamental changes which improve the way in which Congress works for the American people. Fighting for term limits is central to that effort and I urge my colleagues to support this proposal.

INTRODUCTION OF THE AUTISM STATISTICS, SURVEILLANCE, RESEARCH, AND EPIDEMIOLOGY ACT OF 1999 (ASSURE)

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. SMITH of New Jersey. Mr. Speaker, today I am re-introducing legislation that will provide $7.5 million to establish several centers of expertise in autism in an effort to quantify the incidence and prevalence of autism, as well as develop new ways to treat and prevent pervasive developmental disorders such as autism. My legislation—The Autism Statistics, Surveillance, Research, and Epidemiology Act of 1999 (ASSURE)—will empower the Centers for Disease Control and Prevention's (CDC) in the fight against autism.

This bill was crafted in close cooperation with the National Alliance for Autism Research (NAAR), the developmental disabilities experts at CDC, as well as with service providers from New Jersey. It is a health care and medical research bill which is long overdue, and I urge all of my colleagues to lend it their support.

According to the Centers for Disease Control and Prevention, "autism is a serious lifelong developmental disability characterized by impaired social interactions, an inability to communicate with others, and repetitive or restrictive behaviors." It is estimated that autism affects one out of every 500 children, although precise rates are unknown. There is also a general consensus that autism rates seem to be increasing, although it is not known whether these increases represent a better understanding of the developmental disability (i.e., better diagnosis), or an actual increase in developed cases of autism.

Under the Smith ASSURE legislation, CDC will uncover and monitor the prevalence of autism at a national level by establishing between three and five "Centers for Research in Autism Epidemiology" across the country. These centers would conduct population-based surveillance and epidemiologic studies of autism. Periodic screenings of the population (5- to 7-year-old children) would be undertaken to examine prenatal, perinatal, and postnatal factors that contribute to autism development.

These centers would combine data from multiple sites to gain a better understanding of how autism differs from other developmental disabilities and disorders. Because autism is suspected to be caused by a combination of both genetic and environmental factors, the ASSURE legislation would help CDC track the trends of autism and determine which factors are responsible for the apparent rise in autism cases nationwide. In short, the ASSURE legislation will build the research infrastructure critical to finding the cause or causes of autism. And once the cause or causes are identified, prevention strategies can be developed and a cure becomes more likely.

The collaborative efforts by CDC and state health departments will help scientists better understand which environmental exposures, if any, are most likely to cause children to develop autism in the womb. In addition, each center established under this legislation would tend to develop a certain niche of autism expertise. Such areas could include: specific genetic markers; early prenatal maternal drug and other exposures; and other autism spectrum disorders.

The story behind the creation of this legislation is in many ways illustrative of why we need to pass and enact the ASSURE act this year. For it was only after I had a meeting with a pair of courageous parents of autistic children in Brick Township that I realized the pressing need for better autism research.

Mr. and Mrs. William Gallagher, the parents of two beautiful children with autism, met with me to share their concerns that Brick Township seemed to have an abnormally high number of children diagnosed with autism. After presenting me with preliminary data suggesting that as many as 27 children may have been diagnosed with autism in Brick over the last decade, I relayed their concerns personally to Len Fishman, Commissioner of New Jersey's Department of Health and Senior Services (NJDHSS). I asked him to initiate a preliminary inquiry to determine if an autism "cluster" investigation was warranted.

Commissioner Fishman was very receptive to the concerns of the Brick parents, but after a few weeks of preliminary research by state officials, it became apparent that the current level of scientific knowledge in the United States about autism was inadequate to the task at hand. Quite simply, no one knew for certain what the national rate of autism was supposed to look like, and therefore no one could tell parents whether the rate of autism in their town was at, above, or below the national average.

This news came as a surprise to me and to the parents of autistic children. Although there are rough estimates of autism rates from studies in foreign countries, CDC and the NJDHSS did not have enough information to determine if the alleged autism "cluster" in Brick was a real public health problem or an illusion of chance. And without knowing whether or not a problem exists, it makes it tough for public health officials to respond to a community's concerns because the cause of autism and how to prevent it remain shrouded in mystery. Mr. Speaker, the experience of Brick should serve as a wake-up call that more autism research is needed if the causes of the disorder and a cure are to be found anytime soon.

As a first step, an intensive effort by CDC and the Agency for Toxic Substances and Disease Registry (ATSDR) is underway to try to derive national autism rates and to determine if an autism "cluster" exists in Brick. The study is one of the first of its kind ever undertaken in the United States, and the results of the investigation will prove invaluable for other communities that may be affected by similarly high numbers of autism cases.

But we need to take the second step and enact this legislation if we are going to generate real progress in the fight to eliminate autism. Mr. Speaker, CDC has already established a pilot program—an autism epidemiology center—near Atlanta, Georgia. The limited but promising results from this initiative points to the fact that current understanding of autism is woefully inadequate and that better surveillance and monitoring of developmental disabilities like autism are critical to providing answers and hope for the nearly 500,000 autistic persons in America.

SUMMARY OF AUTISM STATISTICS, SURVEILLANCE, RESEARCH, AND EPIDEMIOLOGY ACT OF 1999 (ASSURE)

$7.5 million in authorization for the Centers for Disease Control and Prevention (CDC) to create the National Autism and Pervasive Developmental Disabilities Surveillance Program.

Authorizes CDC to create between three and five "Centers of Excellence in Autism," which would: (1) monitor the prevalence of autism at the national level, (2) assist in development of state autism surveillance programs, (3) provide education and training for health professionals to improve treatment of autism, and (4) develop center-specific expertise in one or more areas of autism research.

Establishes CDC as the nation's clearinghouse for autism research and policy development.

Establishes an advisory committee and authorizes annual reports to Congress on the state of autism research.

ARLINGTON NATIONAL CEMETERY BURIAL ELIGIBILITY ACT

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. EVANS. Mr. Speaker, I am proud to join today with the gentleman from Arizona, the Chairman of the Veterans' Affairs Committee, to introduce the Arlington National Cemetery Burial Eligibility Act. This important legislation is deserving of the strong support of each Member and I am hopeful this measure will receive prompt attention and consideration early in the 106th Congress.

The measure which Chairman STUMP and I are introducing today is similar to legislation approved by the House last year. This measure, like the legislation approved by the House during the 105th Congress, establishes eligibility rules for burial at Arlington National Cemetery—one of our Nation's most hallowed sites.

As noted by the General Accounting Office, the eligibility requirements for burial at Arlington National Cemetery need clarification and the act introduced today provides that clarification. In particular, this important legislation is intended to eliminate the inconsistency in the granting of waivers for burial at Arlington National Cemetery which has occurred in the past.

As both a Marine and a member of the Committee on Veterans' Affairs, I know that Arlington National Cemetery is truly sacred ground, especially for our Nation's veterans and their loved ones. Like many others, I was extremely concerned by reports, later shown to be totally without any substantiation, that waivers for burial at Arlington National Cemetery had been granted in exchange for major political contributions.

While an expedited examination of this allegation by the General Accounting Office found "no evidence" of waivers for contributions, it did highlight some of the serious flaws in the existing process for burials at Arlington National Cemetery.

The Arlington National Cemetery Burial Eligibility Act which Chairman STUMP and I are introducing today addresses those concerns by removing most of the discretion, ambiguity and guesswork for eligibility for burials at Arlington National Cemetery. This legislation will also make it easier for the public to understand the requirements for burial at Arlington National Cemetery.

I commend the gentleman from Arizona, Chairman STUMP, for his strong and effective leadership and his stalwart efforts to establish, in law, eligibility for burial at Arlington National Cemetery. I invite all of my colleagues to support and cosponsor this most important legislation.

TRIBUTE TO AHMED SAMAWI

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. PORTMAN. Mr. Speaker, on October 19, 1998, the Greater Cincinnati religious community lost one of its finest leaders. Ahmed Samawi, a friend and a man who treasured his faith and the freedom to worship without consequence, passed away at the age of 65. A devoted family man and successful businessman, he will perhaps be best remembered for his vision of better understanding and closer relations between the Christian, Islamic, and Jewish communities.

Born in Damascus, Syria, Mr. Samawi realized that simple misunderstandings could create problems among people of different religions. His dream was to build an Islamic Center in the Cincinnati area to help bring an end to those misunderstandings. He spent his own resources and the last years of his life working towards that goal. His dream became a reality in 1995. What began as a plan for a modest meeting place blossomed into a glorious building. However, it was not the building for which he will be remembered for, but rather his vision for a better understanding of the Islamic religion.

One of the Center's missions, in addition to providing a place of worship for Muslims in the Cincinnati area, is to reach out to area Christians and Jews. Mr. Samawi felt that the Islamic faith was plagued by misunderstanding. He spent a great deal of his life trying to remove the barriers of misunderstanding so that all faithful people could live together. When he passed away, he was working toward expanding the Center to include a museum, library, and school. He wanted to create a place that Muslims would be proud of, and Christians and Jews would be comfortable exploring.

Mr. Samawi has inspired us all with his vision for a more spiritually united Greater Cincinnati. He will be missed by the entire religious community.

CONGRESSIONAL AND EXECUTIVE BENEFITS MUST BE CONTROLLED

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. COBLE. Mr. Speaker, when I first came to Congress in 1985, I took to the well of the House to protest members' perks. In particular, I cited the congressional pension plan and the federal employees Thrift Savings Plan as "overly generous at best, outrageously extravagant at worst." Although I've been waging this battle for fourteen years, no action has been taken to date to reduce either benefit.

So, once again, I am introducing a package of bills designed to relieve beleaguered taxpayers from footing the bill for certain congressional and executive branch benefits.

The first bill eliminates the congressional pension for members who are not yet vested. I do not believe extravagant retirement benefits are necessary to entice qualified Americans to run for Congress. They are costly and excessive.

The second bill revises former presidents' benefits. I am proposing to end Secret Service protection for future former presidents after one year; their spouses and minor children will no longer be entitled to Secret Service protection after Inauguration Day. We estimate this will save $15 million per year once it is implemented.

The bill also changes the law prospectively to prevent presidents from double- or triple-dipping from the federal government. Specifically, it requires a former president to waive the right to each other annuity or pension to which he (or she) is entitled under any other Act of Congress (that is, any other federal pension which he earned), in order to receive the presidential pension. The value of the presidential pension is equal to the annual rate of basic pay for cabinet-level officials. As of January 1, 1999, that figure is $151,800.

Finally, the bill will deny a presidential pension until a former president reaches the prevailing retirement age under Social Security.

Here is an example of the costs the taxpayers face following President Clinton's service. President Clinton will be in his mid-fifties at the end of his second term. Since his presidential pension kicks in immediately upon his leaving office on Inauguration Day, he could draw over two-and-one-quarter million dollars in pension benefits before he reaches retirement age.

Please don't misunderstand me. I hope that all current, former and future presidents lead long and fruitful lives upon leaving office. However, the vast majority of Americans struggle to make ends meet, and often are unable to save for their own retirement. Nevertheless, they are forced to contribute to the retirement packages of former presidents and members of Congress.

Over the years, my constituents have shared with me their outrage over the lavishness and cost of these benefits. I believe elected officials need to make real sacrifices if we hope to gain the support of the American people for shared sacrifice to keep our country on the path to fiscal prosperity.

I believe these bills represent bold and dramatic proposals. That is why I hope my colleagues will join me in pushing this legislation to passage.

TERM LIMITS WITH THREE 4-YEAR TERMS

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. McCOLLUM. Mr. Speaker, today, I am introducing a proposed amendment to the Constitution that will not only limit the number of terms a Member of Congress may serve. This proposal would extend the length of a single term in the House from 2 to 4 years. Senators would remain in 6-year terms.

The arguments for term limits are well-known. The Founding Fathers could not have envisioned today's government, with year-round sessions and careers in Congress. Term limits would eliminate the careerism that permeates this institution, enticing Members to work toward extending their careers—a goal sometimes at odds with the common good. There are simply too many competing interests groups.

However, my proposal takes the essence of term limits to limit the influence of careerism and the incessant campaigning it requires, by increasing the length of a term in the House of Representatives. Currently, each Member of the House serves 2-year terms. That means that after each election, a House incumbent must begin campaigning again almost immediately. This dangerous cycle almost never stops. A 4-year term would mitigate this to a certain degree. Looking at it another way, a person would have to run only three times to serve the maximum number of years. That is certainly an improvement, especially when tied to term limits.

Mr. Speaker, it is important to note that a 4-year term will not eliminate the House of Representatives' function as the people's House. Today's technology almost instantly allows people in Washington, DC to know how the people they represent in their district feel about issues of the day. No longer must Representatives periodically make the trek home to put themselves back in touch with the local wants and needs. Now we fly home on weekends, read our local papers in DC, receive countless polls and tune in to the news.

In the end, Mr. Speaker, there will be no loss of service by lengthening the term of office while limiting them. Indeed, it will improve as more attention is paid to legislating instead of campaigning. This is a complete reform package deserving of our attention.

MEDICAL CLINICAL TRIAL LEGISLATION

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. BENTSEN. Mr. Speaker, I rise today to introduce legislation, the Medicare Clinical Trial Coverage Act of 1999, that would provide Medicare coverage for patient costs related to participation in clinical trials. Clinical trials are research studies that test new medications and therapies in clinical settings and are often the only treatment available for people with life-threatening diseases such as cancer, AIDS, heart disease, and Alzheimers.

As the representative for the Texas Medical Center, where many of these life-saving trials are being conducted, I believe there is a real need for this legislation to guarantee that patients can receive the cutting-edge treatment they need. I believe we must ensure that Medicare beneficiaries can obtain the best available treatment for their illnesses. Without this guarantee, patients must work aggressively to make sure that they receive the care they need. We must end this uncertainty and guarantee the best available care for all Medicare patients.

I have been contacted by many researchers at the Texas Medical Center, including the University of Texas MD Anderson Cancer Center, University of Texas Health Science Center, Baylor College of Medicine, and the Childrens' Nutrition Research Center, about the need for this legislation. These researchers are conducting clinical trials to test new medical therapies and devices such as gene therapy, bone marrow transplantations, and targeted antibody therapy that will lead to better medical care and save lives.

Although there may be costs associated with more access to clinical trials, I believe that we should ensure access to clinical trials as a means to ensure quality health care services. I also believe that this Medicare reimbursement policy would encourage other health plans to cover these routine costs.

It is also important to note that providing Medicare coverage for clinical trials will increase participation in such trials and lead to faster development of therapies for those in need. If often takes three to five years to enroll enough participants in a cancer clinical trial to make the results legitimate and statistically meaningful. In addition, less than three percent of cancer patients, half of whom are over 65, currently participate in clinical trials. This legislation will likely increase enrollment and help researchers obtain meaningful results more quickly.

This legislation would apply to all federally-approved clinical trials, including those approved by the Departments of Health and Human Services, Veterans' Affairs, Defense, and Energy; the National Institutes of Health; and the Food and Drug Administration.

There are currently three types of costs associated with clinical trials—the cost of the treatment or therapy itself, the cost of monitoring such treatments, and the cost of health care services needed by the patient. Clinical trials usually cover the cost of providing and monitoring the therapies and medications that are being tested. However, such programs do not cover routine patient care costs—those medical items and services that patients would need even if they were not participating in a clinical trial. Under current law, Medicare does not provide coverage for these costs until these treatments are established as standard therapies. Medicare does not consider these patient costs to be reasonable and necessary to medical care. My legislation would explicitly guarantee Medicare coverage for patients' costs associated with clinical trials. Such costs serve as a significant obstacle to the ability of older Americans to participate in clinical trials.

As I stated earlier. Medicare claims for the health care services associated with clinical trials are not currently reimbursable. A recent GAO report concluded that Medicare is currently reimbursing for certain costs associated with clinical trials, even though the Health Care Financing Administration (HCFA), the federal agency responsible for Medicare, has stated that Medicare policy should not reimburse for these medical services. In fact, the GAO report estimates that HCFA reimburses as much as 50 percent of claims made under Part B and 15 percent of the claims made under Part A. While some physicians and hospitals have been able to convince Medicare to cover some of these patient care costs in certain trials, such coverage has been uneven and there is no firm rule governing them. I believe we must end this inconsistency and ensure that patient costs are fully covered. My legislation will also require all types of Medicare plans, including Medicare managed care plans, to guarantee such coverage.

My legislation would also ensure that all phases of clinical trials are explicitly covered under this new benefit. Under the New Drug application process, there are three types of clinical trials—Phase I, Phase II, and Phase III trials. Phase I trials test the safety of a potential treatment. Phase II and III trials examine both the efficacy and the safety of a treatment. Phase II trials are generally smaller and involve fewer patients. Phase III trials include a larger number of patients to ensure that the proposed treatments help patients. My legislation requires that Medicare pay for all types of clinical trials.

Last year, I was contacted by a constituent about the need for this legislation. Mr. Keith Gunning contacted our office regarding his mother-in-law, Mrs. Maria Guerra. Mrs. Guerra is suffering from pre-myelodysplastic (AML), a type of leukemia that is common among senior citizens. Mrs. Guerra was enrolled in a Medicare HMO that would not permit her to join a clinical trial at University of Texas MD Anderson Cancer Center for the treatment she needed. After much effort, Mrs. Guerra dropped her Medicare HMO coverage and returned to traditional, fee-for-service Medicare. With her new Medicare coverage, Mrs. Guerra petitioned MD Anderson to join a clinical trial. After much effort on the part of her son-in-law, Mr. Gunning, Mrs. Guerra joined a clinical trial. It is still unclear whether all of the cost associated with her clinical trials will be covered by Medicare. My legislation would guarantee that Mrs. Guerra would get the services she needs and would require all types of Medicare plans to provide coverage for clinical trials, including Medicare managed care plans. I have visited with Mrs. Guerra and she is currently undergoing treatment.

My legislation also includes a requirement that the Secretary of Labor and Health and Human Services prepare a report to determine how many group health plans currently cover the patient care costs associated with clinical trials and how much it would cost to cover all federally approved clinical trials. I believe that this report to Congress will show how cost-effective these treatments are and ensure that all health care plans provide access to clinical trials.

President Clinton has also proposed similar Medicare coverage for patient care costs related to clinical trials, but the Administration's plan is limited to cancer clinical trials and is a capped entitlement. My legislation would include more types of federally-approved clinical trials, so more patients would be able to participate in these cutting-edge therapies.

THE TRUTH IN BUDGETING ACT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. OBERSTAR. Mr. Speaker, I rise today to join my good friend and colleague, BUD SHUSTER, in introducing legislation to take the aviation, harbor maintenance, and inland waterways trust funds off-budget. This legislation will ensure that all revenues contributed by users of our transportation system to develop and maintain those systems are spent for their intended purposes.

For aviation, this legislation has a very simple, but critical, goal; ensuring that the American public continues to travel safely, securely, and efficiently in our nation's aviation system.

The airline and aerospace industries are important contributors to the U.S. economy, providing highly skilled, high paying jobs. They directly employ approximately 1.5 million people, and generate more than $100 billion in wages. The total, worldwide economic impact of air transport was $1.14 trillion in 1994 and this is expected to increase to $1.7 trillion by the year 2010.

However, these economic gains will only be achieved if we have the air traffic safety, security, and airport infrastructure to take advantage of them. Problems in the current system are already appearing and are projected to be even greater in the future. In 1987, the FAA estimated that there were 21 airports at which air carrier flights were delayed by a total of more than 20,000 hours; by 1997, there were 27 airports, and that number is expected to grow to 31 by 2007. In addition, according to Delta Airlines, air traffic inefficiencies cost it approximately $360 million a year. Furthermore, FAA's lack of progress on air traffic control (ATC) modernization has led to suggestions in international forums that current U.S. management of oceanic ATC be taken away. And as the National Civil Aviation Review Commission found "although 19 out of 20 of the busiest airports in the world are in the U.S., the nation can no longer claim that it has the world's most modern air traffic control system."

We tried to begin addressing these challenges in 1990, by passing legislation that would have increased investment in airports and air traffic modernization. Under that law, a plan was established to allow new revenues coming into the aviation trust fund to be fully spent and the trust fund surplus, that existed at the time, to be gradually drawn down. In a spirit of cooperation, the reported bill also eliminated the penalty clause that the then-House Committee on Public Works and Transportation used to limit funding of operations from the trust fund if capital development was insufficient. As the report accompanying the bill said at that time: "We believe that we can best meet our common goals by working cooperatively, rather than relying on penalty clauses and other legal forcing mechanisms."

Unfortunately, that agreement was violated by the Office of Management and Budget and the Appropriations Committee. In 1990, we set out modest amounts of funding for facilities and equipment (F&E) and the airport improvement program (AIP), but they soon went by the wayside. By 1994, rather than spending $2.1 billion for AIP and $2.5 billion for F&E, instead $1.69 billion was spent for AIP and $2.12 billion for F&E. In fiscal year 1991, capital investment was 50 percent of the FAA budget, by FY1998, it was 42 percent. And rather than drawing down the trust fund balance, the uncommitted balance in the trust fund is now estimated to be $22 billion by 2004 and $53 billion by 2008.

Additionally, the General Accounting Office has confirmed that airport capital needs are $10 billion a year. The present system of aviation financing provides about $6–7 billion a year, with the AIP program contributing less than $2 billion a year to those needs. Furthermore, funding for F&E is woefully inadequate. In fact, F&E is appropriated at $2 billion for FY1999, a level $400 million below an F&E level of $2.4 billion in FY1991. These inadequate levels of F&E and AIP funding contribute to delays for passengers and increased costs for airlines, and increased maintenance costs for FAA due to delayed replacement of obsolete equipment. These results are shameful, especially when money dedicated for investment in airports and air traffic equipment sits idle because of budget constraints unrelated to the needs of the aviation system. In effect, trust fund revenues are withheld to balance the rest of the budget.

To remedy this, we need to build on last year's historic TEA 21 legislation which established that revenues collected from users of the highway system for the Highway Trust Fund should be spent only for the purposes for which they are collected, the development of our highways and transit systems. The same principle should now be applied to the aviation system.

The bill we are introducing today is the first step to reversing the unfortunate recent trends in aviation funding and ensuring that we invest sufficiently to protect an irreplaceable economic jewel: our nation's aviation system. With Members' support, we will again be able to make the kind of investments we need in airport development and air traffic control modernization. If we are to ensure an efficient safe aviation system, we must begin to use aviation revenues for their collected purposes: to maintain and enhance our nation's aviation system.

In addition, historically, a general fund payment averaging about 30 percent has been made to support our aviation system. This payment has been made in recognition of both the direct and indirect benefits of our aviation system to our nation's security and economic health. These benefits should be funded by the nation as a whole not exclusively by users of the aviation system. Any off-budget plan passed by this Congress must guarantee this general fund payment continues.

We must also ensure that the money provided to the FAA is well-spent. Full implementation and validation of a cost accounting system, and effective use by FAA management, will be an important step forward. In addition, appointment of the Management Advisory Council—which has been delayed for two years—is absolutely essential. Other reforms will get my full consideration but we must ensure that the critical safety function of the FAA is not compromised or weakened.

The other critical component of this legislation will allow the nation's waterborne transportation system to remain among the best in the world. The nation's coastal ports provide access to foreign and U.S. markets for virtually all international trade, while the inland system provides safe and efficient transportation for both domestic and foreign products.

The contribution of the U.S. navigation system to the economy is impressive. The value of foreign trade exceeds $600 billion annually, creates 16 million jobs, and generates more than $150 billion in annual revenues for the Treasury. Yet, for all these benefits we continue to under invest in maintaining and improving this transportation system.

The inland waterway system is in particular need of investment. By the year 2000, 40 percent of the locks on the inland waterway will be more than 50 years old; 26 locks will be over 100 years old; and, the Nation's two oldest locks opened in 1839. Unfortunately, because of budget constraints, only about 75 percent of the funds available for investment are actually used, and the surplus continues to grow.

The Truth in Budgeting Act will change that.

For coastal ports, the failure to spend receipts is even greater. As vessel drafts increase, there is a continuing need for maintaining and deepening channels. Unfortunately, budget constraints have forced expenditures from the Harbor Maintenance Trust Fund to little more than one-half of available revenues.

The benefits of fully spending the trust fund extend beyond navigation. The Water Resources Development Act of 1996 expanded the uses of the fund to address critical needs related to disposal of dredged material. Environmental concerns dictate that increasing amounts of dredged material not be disposed of in open waters because of contamination of the sediment. Making the trust fund fully available not only benefits navigation, but the environment as well.

In closing, I urge all Members to sign on as co-sponsors of this legislation. Your support will be critical to ensuring the safety, security, and efficiency of our nation's aviation system and waterways.

HONORING UAW LOCAL 599

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. KILDEE. Mr. Speaker, I rise today as a member of the 106th Congress on behalf of a group of men and women who proudly represent the best of working America. On Sunday, January 10, 1999 the members of United Automobile Workers Local 599 in Flint, Michigan will honor an historic milestone. On that day they will celebrate the 60th anniversary of their charter as a UAW local.

If you have ever visited my birthplace, Flint, Michigan, you would be greeted by a sign welcoming you to "Buick City." This sign embodies the long, deep-rooted tradition and history that is UAW Local 599. For the men and women of Local 599, this history involves a high level of pride in the Buick name, their product, and the community in which they have invested much of their lives.

Over the years, the products that have been produced by the members of Local 599 have received numerous accolades. One of their products, the 3800 Engine, is largely considered by experts to be the best 6-cylinder engine in the world. In addition their products have won awards from J.D. Power and Associates, Consumer Reports, and Smart Money Magazine, among others. Each of these citations have recognized the members of Local 599 for the excellent quality of their workmanship and product.

The members of Local 599 have worked diligently to improve their facility's productivity and quality. They have established initiatives to cut in-factory repairs by over 90% and cut the time it takes to build a car by 25%. It is because of steps such as these that have allowed Buick City to be highly ranked in national quality standings, including a recent study in which it placed second of all General Motors factories.

Mr. Speaker, I have a personal reason to be very proud of the achievements of UAW Local 599. My father was a founding member of the Local, joining the UAW in the 1930s. From my own family's experience, I know the difference the UAW has made in the quality of life for the Kildee household.

Mr. Speaker, we in the great State of Michigan are more than proud of our reputation as the automotive capitol of the world, having recently celebrated the 100th anniversary of the automobile. Just as we are proud of the product, we are proud and grateful for the men and women who day-in and day-out work to provide these quality products for our Nation and the world. As the U.S. Representative for Buick City, and as the proud owner of a Buick LeSabre, I ask my colleagues in the 106th Congress to join me in recognizing the accomplishments of the men and women of UAW Local 599.

TRIBUTE TO JOHN L. HOLDEN

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. PORTMAN. Mr. Speaker, on December 29, 1998, the Greater Cincinnati area lost one of its finest citizens. John L. Holden, an inspiration to many people, passed away at the age of 75. He was many different things to many different people: author, philanthropist, Navy officer, a national leader in camping, and business executive. But it was his fervent desire to counsel and provide learning experiences to young people that has left a lasting impression on a countless number of people throughout the community.

Mr. Holden graduated from Cornell University in 1943. He served his country as a communications officer in the Pacific Ocean during World War II, and later commanded a Landing Ship Tank which supported Chinese Naitonalists in their fight against Communism. Upon his return home, he founded and directed Standard Laundry and Linen Service. He also served as a Vice President of Krause Hardware Company and as an estimator for Fisher-DeVore Construction Company.

However, as anyone who was acquainted with him knows, his real love and passion was camping. In 1948, he and others purchased Camp Kooch-i-ching. He later succeeded his mentor, Mr. Bernard S. Mason, as director of the camp, as well as the Wasaka Boys Club, a year-round program of camping and sports in Cincinnati. He later founded the Camping and Education Foundation to which he donated the camp. In 1969, he founded the Kee-Way-Din Ski Club, of which I was a member. This group takes youngsters on skiing trips throughout the western and northern United States.

Most importantly, however, was Mr. Holden's ability to be a positive role model in the lives of so many young people. Leading by example, he helped guide many children in their search for the difference between right and wrong. Mr. Holden had an uncanny way of opening the eyes of his campers if a problem existed. He would then lead them in finding a solution to that problem on their own. By helping them help themselves, Mr. Holden bolstered their self esteem and self worth. It also instilled a problem solving method in the children that could be used well into adulthood.

Mr. Holden's unfailing leadership and dedication to the youth of Cincinnati has touched and inspired many people. Mr. Holden's life is proof positive that one person can certainly make a difference. That difference will surely be felt for years to come.

INTEGRITY IN VOTER REGISTRATION ACT

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. McCOLLUM. Mr. Speaker, I rise today to reintroduce the Integrity in Voter Registration Act. Unfortunately, the issue of voter registration and the integrity of our election system sometimes goes overlooked. Indeed, the issue of who may vote and where they may do it is at the very heart of our democratic system. Preserving the integrity of this process is critical. But, there is significant evidence that vote fraud is not a rare occurrence.

There is a much bigger picture involving voter fraud that we do not always read about. However, I would recommend to my colleagues that they read a well-written book, "Dirty Little Secrets," by Larry J. Sabato and Glenn R. Simpson. Mr. Sabato is a well respected political scientist at the University of Virginia and Mr. Simpson used to work for the bi-weekly paper on Capitol Hill, Roll Call. These two authors tackle numerous topics, including voter fraud. And it's scary.

Vote fraud issues include dead people voting, people being able to game the system and lousy verification procedures. The tale of how a person was able to register his dog by mail is one of my favorites.

The election registration process is generally handled at the state level. However, Congress asserted itself quite boldly when we passed the so-called "motor-voter" registration legislation, the National Voter Registration Act of 1993. This legislation requires states to establish motor registration procedures for federal elections so that eligible citizens may apply to register to vote (1) simultaneously with applying for a driver's license, (2) by mail, and (3) at selected state and local offices that serve the public. I certainly have no problem with making it easier for people to register to vote. Of course, if someone would not take the time to register to vote prior to the change, I question whether he or she would actually vote once registered, but that debate has already been had.

The question we must now face deal with the potential for fraud in voter registration. To quote Sabato and Simpson, "[v]oting fraud is back, is becoming more serious with each passing election cycle, and soon—because of the recent changes in the law—is destined to become even worse." The reason why motor-voter will make voting fraud an issue that we will not be able to ignore is the same reason why the bill was so popular: it makes it easier to register to vote. Any one of my colleagues could sit at home and mail in voter registration cards with different addresses with little problem. I could even register my dog. As I said, it's been done.

To relate this another way, when I am back home doing precinct walks, my campaign will purchase voter rolls and have them sorted by household. In the past, there used to be a few duplicates or outdated names on the list, but nothing overwhelming. Nowadays, it is not uncommon to see several different names listed for one address. These people may or may not have really lived at the address given, but certainly not all of them are living there now. The rolls are filled with outdated names and addresses. It is no longer an error here, an outdated address there. To put it in fiscal terms, in California alone, "deadwood" voters cause state and local governments to waste $5 to $8 million of taxpayers' money printing and mailing voter pamphlets, unneeded ballots, and the like.

The more we allow our voting rolls to get out of hand, the less secure our election system will be. Some of this can be done locally by improving databases or centralizing the system. However, the federal government can also allow state and local governments to use a few tools at absolutely no cost to the taxpayer. This is what my legislation aims to do.

Mr. Speaker, the Florida State Association of Supervisors of Elections came to me toward the end of the 104th Congress with suggestions as to how the federal government can assist them in doing their jobs. I have turned their suggestions into the Integrity in Voter Registration Act. First, this bill would require applicants registering to vote in federal elections to provide their Social Security numbers. Second, a state would be allowed to remove a registrant's name from the list of eligible voters if the registrant has not voted in two consecutive federal general elections after having received a notice requesting confirmation of the registrant's address.

The Social Security number requirement would allow each person to have a unique identifier with their name. It would make it easier to spot duplicate registrations. The notification requirement gives guidance to states since federal law is currently a bit vague.

Mr. Speaker, this proposal was given to me by the Florida State Association of Supervisors of Elections and I have gotten letters from other people outside of Florida, including Texas and Illinois. These two changes would go a long way toward helping keep the voter rolls clean. Surely this is no silver bullet. Nothing is. But this proposal would make a serious dent in duplicative and sometimes fraudulent registrations, ensuring the integrity of our electoral system. I urge my colleagues to support the Integrity in Voter Registration Act.

THE CIDCARE ACT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. GILMAN. Mr. Speaker, today I am introducing CIDCARE, in an effort to effectively stimulate the demand for higher quality care for our Nation's children while simultaneously removing barriers and providing resources to improve the quality of child care in the United States.

Child care continues to be a worry for most families as stories continue to surface about the lack of quality child care. Moreover, research has clearly demonstrated that a high-quality child care program is one that makes the healthy development and education of children its first objective and strives to stimulate the learning process of all children through developmentally appropriate activities that foster social, emotional, and intellectual growth. In addition, families in today's society are increasingly required to have both parents enter the work force. The demand for quality child care is increasing as is the need for credentialed and accredited child care providers.

Accordingly, CIDCARE will stimulate the demand for higher quality child care for our Nation's children while simultaneously removing barriers and providing resources to improve the quality of child care in the United States.

Many of my colleagues may have read about the tragic circumstances surrounding the Fiedelhotz family in Florida. The Fiedelhotz' son Jeremy died after only 2 hours at a day care facility. Through this tragedy should have never happened, it is an unfortunate example of what can and may continue to happen unless we encourage and inform all parents about the need for accredited and credentialed child care providers and facilities.

CIDCARE through the Tax Code will encourage the demand for accredited or credentialed child care. This will be accomplished in the following manner: First, by increasing the amount which an employee can contribute to a dependent care assistance plan if a child is in accredited or credentialed child care; second, changing the dependent care tax credit to allow parents to receive a higher and more equitable dependent day care credit; third, providing tax benefits for employers which provide quality child care; fourth, extending eligibility for businesses to take a qualified charitable deduction for the donation of educational equipment and materials to public schools, accredited or credentialed nonprofit child care providers; fifth, establishing a $260 million competitive grant program to assist States in improving the quality of child care; sixth, expanding public information and technical assistance services to identify and disseminate to the public what is important for child development in child care; seventh, providing $50 million to create and operate a technology-based training infrastructure to enable child care providers nationwide to receive the training, education, and support they need to improve the quality of child care; eighth, creating a child care training revolving fund to enable child care providers and child care support entities to purchase computers, satellite dishes, and other technological equipment which enable them to participate in the child care training provided on the national infrastructure; ninth, requiring that all Federal child care centers will have to meet all State and local licensing and other regulatory requirements related to the provision of child care, within 6 months of the passage of this legislation; and tenth, extending the Perkins and Stafford Loan Forgiveness Program to include child care workers who are employed full time providing child care services and have a degree in early childhood education or development or receive professional child care credentials.

I urge all of my colleagues to review this bill and to join me in cosponsoring this important measure. Our children are our future and we insist that they receive the best care possible, especially during their early development years.

Accordingly, I will welcome your support.

INTRODUCTION OF THE LEWIS AND CLARK RURAL WATER SYSTEM ACT OF 1999

HON. JOHN R. THUNE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. THUNE. Mr. Speaker, today I, along with my colleagues Representative MINGE from Minnesota and Representative LATHAM from Iowa, am pleased to introduce the Lewis and Clark Rural Water System Act of 1999. This legislation would authorize the construction of the Lewis and Clark Rural Water System which, when completed, will serve over 180,000 people in 22 communities, covering almost 5,900 square miles throughout South Dakota, Minnesota, and Iowa. The project and legislation recognize the tremendous need the people of this region have for access to clean, safe, affordable drinking water.

The need for water development in South Dakota is great. In our state, water is a matter of health, economic development, and rural development. The ability of rural America to survive and grow is directly related to the ability of rural areas and growing communities to have access to adequate supplies of safe drinking water. Without a reliable supply of water, these areas cannot attract new businesses and cannot create jobs. In a rural state like South Dakota, the link between the creation of jobs and adequate water supplies cannot be emphasized enough.

Some cities and towns throughout the Lewis and Clark project region are preventing new building and development, just to preserve the existing water supplies. Because of these limitations, these same communities have permanent restrictions on the use of water for washing cars and watering the laws—something most of us take for granted. Further, over 75 percent of the population relies upon shallow wells and limited water supplies, posing the risk of exposing these residents to dangerous levels of contamination. Each of these factors point to the strong need for a comprehensive, regional solution to meet this most basic of needs.

The people of these three great states recognized this same need when they organized to form the Lewis and Clark Rural Water System almost nine years ago in 1990. Since that time, they have worked tirelessly to see their dream of clean, safe water become a reality. The project has been supported strongly by all three states, with the South Dakota legislature having already committed $400,000 to Lewis and Clark. The state legislatures of Minnesota and Iowa have authorized similar levels of support. The support of the Members of this body who represent the Lewis and Clark service area further demonstrates the regional cooperation at play. The regional approach offered by the Lewis and Clark System maximizes the number of people that can be served, and it also serves to offer the most cost-efficient manner to provide water.

This legislation, originally introduced in the 104th Congress and reintroduced in the 105th Congress, has been the subject of numerous hearings in the House and Senate and countless hours of discussions and negotiations between the project sponsors, the Administration, and many of our colleagues in Congress. Last September, the Senate companion bill met important success in its approval by the full Senate Energy and Natural Resources Committee. I am optimistic that we will see similar action on this important legislation here in the House.

In closing, Mr. Speaker, I would like to reiterate the importance of this vital project. People most familiar with the project have clearly seen that the need for water is great and indisputable. Likewise, the roll of the federal government in both participation and funding rural water supply has been set by numerous and lengthy historical precedents. Now it is up to the House to respond to this need. Congress has the opportunity to do so by supporting this important piece of legislation and moving forward with plans that will allow over 180,000 hard-working taxpayers the opportunity to turn on their taps and receive what many of us take for granted—a cool glass of clean, fresh water.

I look forward to working with each of you in seeing this dream for many South Dakotans, Minnesotans, and Iowans come to fruition.

YOUTH TOBACCO POSSESSION PREVENTION ACT

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. GREEN of Texas. Mr. Speaker, I am reintroducing the Youth Tobacco Possession Prevention Act today because I believe we have fallen well short of our responsibility to protect children from tobacco marketing. Last year, we considered a variety of "comprehensive" solutions to reverse the trend of youth smoking—all of which failed.

Now that the States have settled their cases with the tobacco companies, it is even less likely that the federal government will pass such broad legislation. However, there is one very important issue that still needs to be addressed that could significantly reduce the number of youth smokers is the issue of youth possession of tobacco products.

It is estimated that 3,000 young people start smoking every day. Worse yet, one third, or 1,000 of these people will eventually die from tobacco related disease. Consider the emotional and financial strain these horrible situations will place on American families in the future. In response to this national crisis, the public health community, State attorneys general, the U.S. Congress and even the tobacco industry proposed a variety of methods to reduce youth smoking rates during the 105th Congress.

Most of the proposals would have spent money on counteradvertising, tobacco cessation programs and tobacco education programs—all worthy and necessary components of comprehensive tobacco legislation. However, the leadership of the American government has been sending a mixed signal to America's youth and nothing in the proposed settlement would change this.

Under current law, it is illegal to sell tobacco products to anyone under the age of 18 in all 50 States. However, if a person under the age of 18 is somehow able to obtain tobacco products—which it is painfully clear they are easily able to do—there are only a few States that have enacted laws regarding the possession of tobacco by these young people. I find it incredibly hypocritical that we, as a government (either Federal or State), are so willing to make buying tobacco illegal but are virtually silent on possessing tobacco.

Despite the strides that were been made by the recent states settlement, this is still a huge problem. Barely half of the states have enacted tobacco possession laws that actually make it illegal for someone under the age of 18 to possess tobacco products.

The Youth Tobacco Possession Prevention Act will help solve this problem. There are two key components to this bill. First, in dealing with the youth, it focuses on education rather than punishment. For first and second time offenders, youth will be required to complete tobacco education and cessation programs, as well as tobacco related community service. If they continue to disregard the law and their health, their driver's license would be suspended from three to six months. This last resort was suggested during one of our Subcommittee hearings by a local teenager, who told the Commerce Health Subcommittee that kids would only respond to this type of approach.

Second, the bill would require States to enact stern punishments for people over the age of 18 who provide tobacco products to youth. At that same hearing, many of our teen witnesses admitted one of the primary sources of tobacco are older people who buy for teens. This is simply not acceptable. I believe every adult has the responsibility and moral obligation to do whatever we can to prevent our nation's youth from starting this deadly habit.

Unlike many proposals, this bill will not punish States who choose not to enact the outlined legislation. It will, however, reward those States which act responsibly and do. Each State that passes the provisions outlined in this bill will receive 5 additional points on their Health and Human Services competitive public health service grant applications. This incentive will hopefully encourage States to take action and do the right thing.

THE LIBERTAD ENFORCEMENT ACT

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. McCOLLUM. Mr. Speaker, I rise today to introduce the LIBERTAD Enforcement Act and to reflect on the actions of the Clinton Administration toward Cuba.

Just yesterday, January 5th, the President announced several new measures to "assist and support the Cuban people without strengthening the regime." While I understand that the regulations regarding these measures have not been developed, I am concerned about the proposal that would allow sales of food and agricultural inputs. Not only is it unclear whether President Clinton has the authority to make this change, but it is unlikely at this point that these sales would have much effect on the Cuban people, who it is designed to help. Without a private sector and very few non-governmental organizations, it will be difficult to get food to the people and keep it from Castro and his regime.

Cuba has been a dictatorship under Fidel Castro for some 40 years. During that time I think the world is fully aware of the many human rights violations this dictator has committed and his regime has committed. I think the world is probably also fully aware that Cuba and Fidel Castro remain only one of two Communist dictatorships left after the fall of the Soviet Union and changes around the world and tendencies towards more democracies, as we have seen in the last decade or so.

We have tried numerous times in small, incremental ways, to either oust Fidel Castro or to change his policies. It should be abundantly clear to anyone who has observed this man over the years that he is not about to change his stripes. He is not about to give up his ruthless power. And if he does, it will not be voluntarily.

For those who wish democracy in Cuba, I can only say I hope so too. However, it is wishful thinking if you think it is going to come about as long as Fidel Castro is in power. The only way to see democracy in Cuba and to see our hemisphere democratic and to have normal relations again with that small Nation state to the south is for Fidel Castro to leave office and for those who supported him for all these years to end that support.

Castro may make modest changes in how he does business, which have no bearing in reality upon ever becoming truly democratic or allowing a true market system to work, and he is given a reward to do this by the continued open door policies of these allies who pour these dollars in through the businesses that operate there.

In Title III of the law that is known as Helms-Burton that was passed in 1996, there was a provision very important to stopping this continued support of the Castro regime. That provision allows U.S. nationals to sue in U.S. Federal court those persons that traffic in property confiscated in Cuba. Unfortunately, the President is allowed to grant waivers of up to six months for implementation of this provision. Since Helms-Burton was enacted, President Clinton has routinely waived this section.

There can be no lawsuits, no litigation in American courts against foreign corporations, foreign business interests that invest in previously owned American property in Cuba or American interests in Cuba. That is a horrible decision by the President. It is outrageous what he did. It is something that kowtows to the big business interests of our allies and is detrimental to everything that we believe in and to the best interests of our national security and our interests in this hemisphere.

Our interest is in having democracy in Cuba and that can only happen when the noose is tied tightly enough around Castro and the current Cuban regime that he is ousted and that a new government comes into place. The economy of that country is dependent upon these investments and anything we can do to stop the money from flowing and the support from flowing into this government and into its economy is essential and important and critical, not only to the freedom-loving people who want to be free in Cuba, Cuban Americans and Cubans everywhere, but also to America, the United States' national security interest.

There is no real progress being made. Castro's playing us for a sucker and this administration is blind to that fact. You cannot have your cake and eat it, too, Mr. President. You must understand that if we are to end this tyrannical dictatorship south of the United States, only 90 miles off our coast, a true embargo has to be enforced, a true economic embargo. And this provision, Title III of the Helms-Burton law allowing Americans to sue in court companies abroad that are doing business and investing in American interests, formerly American interests in Cuba, has to be allowed to go forward. And if it does, then and only then do we have a chance of ousting Castro in some more peaceable manner other than short of some invading force, which none of us is predicting or expecting or advocating.

I hope and pray that my colleagues will join with me in the next few months as we go back and revisit this issue legislatively. If the President is not willing to enforce title III of Helms-Burton and is going to continue to waive it, then I would suggest it is within our power and this Congress should pass a law that says that title III is no longer eligible for waiver, that it indeed is the law of this land, that Americans who formerly had an interest in Cuba can sue foreign companies investing in those property interests in Cuba.

I would urge my colleagues to examine it. It is a very important ingredient in our foreign policy. We should never have allowed a dictatorship to exist for 40 years of such a vile nature as we have in Castro south of here, just 90 miles off our coast. And there is no reason, no reason to allow our allies and their business interests to continue to prop up that dictatorship with its human rights violations any longer. The time has long since passed to do something about it. Let us act in this Congress to force the hand of this President and to allow American citizens to sue, at the very least to try to bring some pressure that can be legitimately brought on the Cuban regime in addition to enforcing the embargo and whatever else we can do within our powers.

NAMING THE THOMAS S. FOLEY FEDERAL BUILDING AND UNITED STATES COURTHOUSE AND THE WALTER F. HORAN PLAZA

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. NETHERCUTT. Mr. Speaker, today I have introduced legislation, designating the federal building located at West 920 Riverside Avenue, Spokane, Washington, as the "Thomas S. Foley Federal Building and United States Courthouse." The bill also designates the plaza located immediately in front of the building as the "Walter F. Horan Plaza." Rep. Foley had offices in this building and Rep. Horan was instrumental in securing funding for its construction.

Many Members will recall the long and distinguished career of Rep. Tom Foley, who now serves as our nation's Ambassador to Japan. Mr. Foley was a Member of this body for 30 years, concluding his service as Speaker of the House in the 103rd Congress. He also served as Speaker in the 102nd Congress, and in prior years held positions as Majority Leader, Majority Whip, and as Chairman of the House Agriculture Committee.

Mr. Foley personified the high ideals to which all of us aspire as Members of Congress. First and foremost he was a gentleman who sought consensus among all Members. He loved Congress, believing it to be the best forum for democracy in the world.

Tom Foley is a native son of Spokane, Washington, having attended local schools earned his undergraduate and law degrees from the University of Washington. His parents were dignified and highly respected citizens of Spokane. He was first elected to Congress in 1964 and served in the House for 30 years. In 1997 he was nominated by President Clinton and confirmed by the Senate to serve as Ambassador to Japan.

Tom Foley was—and continues to be—widely regarded in eastern Washington State and has left a lasting legacy.

Today we also honor another native son, Walter F. Horan. He served 22 years—spanning the years 1943 to 1965—as the Congressman from eastern Washington. He was born in a log cabin on the banks of the Wenatchee River in an area settled by his father, a fact he proudly boasted of, raised in Wenatchee, served in the Navy during the First World War, graduated from Washington State University in Pullman, and returned to Wenatchee to raise apples on his family farm.

Following election to Congress he served on several committees, but for most of his tenure he sat on the Appropriations Committee, rising to third in seniority on the Republican side. He paid particularly close attention to agriculture and conservation interests and continued to share in the operation of his family farm while serving in Congress.

Representative Horan was a consummate advocate of western interests, especially those of eastern Washington, and he also conducted himself with dignity and honor as a Member of Congress. He died in 1966 and is buried in his beloved hometown of Wenatchee.

FEDERAL EMPLOYEES GROUP LONG-TERM CARE INSURANCE ACT OF 1999

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. CUMMINGS. Mr. Speaker, on behalf of the President of the United States, William Jefferson Clinton, I am pleased to introduce this important legislation that will provide long-term care insurance to federal employees. Long-term care refers to a broad range of health, social, and environmental support services and assistance provided by paid and unpaid caregivers in institutional, home, and community settings to persons who are limited in their ability to function independently on a daily basis. The need for long-term care insurance is evidence as the population ages and older Americans need assistance for their daily living.

The number of Americans over 65 will leap from 34 million in 1995 to 60 million by 2025. Americans will find it impossible to afford nursing home care which will increase from $40,000 today to $97,000 by 2030. Under current law, a family would have to deplete all their financial resources to qualify for medicaid which would only pay for a portion of needed long-term care services. By offering long-term care as a benefit option for its employees, the federal government, as the nation's largest employer, can set the example for other employers whose workforce will be facing the same long-term care needs.

The "Federal Employees Group Long-Term Care Insurance Act of 1999" would authorize the Office of Personnel Management (OPM) to purchase a policy or policies from one or more qualified private-sector contractors to make long-term care insurance available to federal employees and retirees, and family members whom OPM defines as eligible, at group rates. Coverage would be paid for entirely by those who elect it.

OPM will select a single or a very small number of carriers based on quality, service and price to offer a high-quality benefits package to eligible participants. This benefits package would be consistent with the most recent National Association of Insurance Commissioners standards. OPM will be open to various financing arrangements proposed by the carrier(s), such as the use of consortia or reinsurance arrangements to ensure the financial stability of the program. OPM would have broad flexibility to determine appropriate benefits and to contract competitively for benefits with one or more private carriers, without regard to section 5 of title 41, United States Code, or any law requiring competitive bidding. OPM needs the flexibility to capitalize on complex market factors to procure the best value for federal enrollees. OPM will ensure that resulting contracts are awarded on the basis of contractor qualifications, price, and reasonable competition to the maximum extent practicable. Qualified carriers shall: (a) be licensed to do business in all States and the District of Columbia to offer long-term care insurance; (b) agree to provide coverage for all eligible enrollees consistent with requirements for qualified long-term care insurance contracts and issuers enacted under subtitle C of Title III of the HIPAA; (c) propose rates which in OPM's judgment reasonably reflect the cost of benefits provided; (d) maintain funds associated with the federal employees contract separate and apart from the carriers' other funds; and (e) agree to all risk.

The contract or contracts would be for a duration of 5 years, unless terminated by OPM. OPM will issue regulations to provide for opportunities to enroll and benefit portability. With this statutory and regulatory authority, OPM will have the flexibility needed to administer the program as the market for long-term care services and protection evolves over time.

The program would be available to federal employees and retirees, and other spouses; a former spouse who is entitled to annuity under a federal retirement system; parents, and parents-in-law. All participants other than active employees would be fully underwritten as is standard practice with products of this kind. Coverage made available to individuals would be guaranteed renewable and could not be canceled except for nonpayment of premium. Though each participant would be responsible for paying the full amount of premiums, based on age at time of enrollment, group rates will save an estimated 15–20 percent off the cost of individual long-term care policies.

OPM will be responsible for the administrative costs of the program, which is estimated to be $15 million over a 5-year period. Initial year costs include developing and implementing a program to educate employees about long-term care insurance, procuring a contract or contracts, and validating the reasonableness of rate proposals. Employee and annuitant premiums would be withheld from salary or annuity and transmitted directly to respective contractors, and those enrollees could also elect withholdings for coverage of their spouses.

Any eligible enrollees shall, at the discretion of OPM, submit premiums directly to the appropriate contractor. As with the Federal Employees Health Benefits Program, the bill would require participating contractors to provide benefits when OPM finds the individual is entitled to benefits under the terms of the contract. Participating carriers would be required to reimburse OPM's expenses for adjudicating claims disputes.

The proposal would provide a substantial benefit to federal employees and retirees by providing access to quality long-term care insurance products at cost savings, group premiums. I urge members to support this important legislation.

RETIREMENT OF FORMER SATURN CHAIRMAN RICHARD G. "SKIP" LEFAUVE

HON. ED BRYANT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. BRYANT. Mr. Speaker, as you may know, my district in Tennessee is the home of one of the most innovative automobile companies in the world—The Saturn plant of Spring Hill. Since its inception, it has changed the automobile industry enormously, from labor and management relations to how customers shop for cars on a showroom floor.

Former Saturn Chairman, Richard G. "Skip" LeFauve, has announced his retirement from the automobile industry. Mr. LeFauve was elected to a new position of senior vice president for Global Leadership Development and Global Human Resources Processes. He was also appointed president of the newly created GM University, effective April 1, 1997.

Richard G. "Skip" LeFauve was named President of Saturn, a wholly-owned subsidiary of General Motors on February 3, 1986, with additional responsibilities on October 4, 1994, when GM vice-president and group executive in charge of the North American Operations (NAO) Small Car Group, and a member of the NAO Strategy Board. He was appointed Chairman of Saturn Corporation on August 8, 1995.

Prior to joining Saturn, he was vice-president of Manufacturing Operations for GM's former Buick-Oldsmobile-Cadillac (B–O–C) Group.

He began his General Motors career in 1956 as an engineer with Packard Electric Division in Warren, Ohio. In 1957, he joined the United States Navy and earned his wings as a Naval Aviator in 1958. Following six years of active duty, he rejoined the Packard Electric Division of GM, becoming plant manager in 1968. He was appointed manager of Production Engineering for the division in 1969. Two years later, Mr. LeFauve became director of manufacturing engineering and was promoted to general manufacturing manager in 1978.

Mr. LeFauve was appointed general manager for the former Diesel Equipment Division, Grand Rapids, Michigan, in 1980 and in the following year, he was named general manager for the former Rochester Products Division (now AC Rochester), Rochester, New York.

In 1983, he was named general manufacturing manager for Chevrolet Motor Division. He joined the former B–O–C Group the following year, and was named a GM vice-president in 1985.

A native of Orchard Park, New York, LeFauve was born November 30, 1934. He earned a bachelor of science degree in mechanical engineering from Case Institute of Technology in Cleveland in 1956 and attended the Senior Executive Program at the Massachusetts Institute of Technology (MIT).

LeFauve is a board member of the International Student Exchange Program—University of Illinois at Chicago, the Council of Competitiveness, and the Harley Davidson Board of Directors.

THE BANK EXAMINATION REPORT PROTECTION ACT

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. MCCOLLUM. Mr. Speaker, I rise today in support of legislation I am introducing, the Bank Examination Report Protection Act [BERPA] of 1999. This bill would establish that all confidential supervisory information shall be the property of the Federal banking agency that created or requested the information and shall be privileged from disclosure to any other person. The Federal banking agency may waive this privilege at its discretion. There are other appropriate exceptions in the bill, such as for the Comptroller General of the United States and for law enforcement.

Essentially, the issue of privilege is one that must be addressed. The fact that financial institutions may lose their privilege on information turned over to a regulator has made them more hesitant to share all relevant information with their regulators. This, in turn, makes it more difficult for the regulators to do a thorough job in their examinations of the institutions. In fact, this legislation is strongly supported by the affected Federal banking regulators.

I would like to make sure my colleagues are aware that this legislation would maintain existing privileges and protect any materials created by the regulators. This would not prevent litigants from discovering the underlying facts of any action. All nonprivileged sources would still be available in discovery. This would simply ensure that examination materials—the critically important function of which is facilitate free-flowing communication between the examiner and the institution to maximize the effectiveness of the supervisory process—are not turned into a weapon against the regulated financial institution.

BERPA would ensure that the safety and soundness of our institutions is maintained through a vigorous and thorough supervisory process. This process is not complete when institutions are not forthcoming with information for fear of having information that was at one time privileged suddenly become subject to subpoena. Therefore, not only does this help the supervisory process, but also the consumers and taxpayers that insure these institutions. I urge my colleagues to support this legislation.

IN HONOR OF MAESTRO RAUL ANGUIANO

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Ms. SANCHEZ. Mr. Speaker, today I rise to pay tribute to Mexico's greatest living muralist, the highly acclaimed artist, Maestro Raul Anguiano. It is also my great pleasure to welcome the Maestro to The Bowers Museum in Santa Ana, CA, where he will place the first brush stroke on a mural for the Museum.

The Maestro is known throughout the world as Mexico's ambassador of art. He has exhibited in major museums and galleries around the world including the Palace of Fine Arts, the National Museum of Prints and the Museum of Plastic Arts in Mexico City, the Museum of Man in San Diego, the Carnegie Art Museum, the Institute Italo, Latino Americao (Rome), Casas Reales Museum (Santo Domingo), and the Armand Hammer Museum in Los Angeles. His solo exhibits include Moscow, Leningrad, Peking, Rome, Assissi and Venice. His work has also been exhibited at the Santora Arts Center in Santa Ana, CA.

His works are included in permanent exhibits in many major museums around the world. Most recently his painting the "Crucifixation" was accepted by Pope John Paul II and is now in the collection at the Vatican.

Raul Anguiano was born in Guadalajara, Jalisco, Mexico, February 26, 1915. He began painting at the age of twelve. As a child, he would paint or draw on any space available; his creativity and genius could not be contained. His mother, Abigail, recognized her son's early signs of genius and encouraged him by providing him with sketch books. The young Raul was driven by sheer talent and desire to create the visions that were given to him.

Along with his contemporary, Diego Rivera, Maestro Anguiano has influenced other Mexican artists here in the United States. R.C. Gorman has credited Anguiano with his "aesthetic influence as well as subject matter."

Maestro Anguiano has given to the world a precious gift of beauty that will live on forever by creating a mural for the permanent collection of the Bowers Museum. I commend Maestro Raul Anguiano for his significant artistic contribution to the history of art and his impact on contemporary artists around the world.

USING CHILDREN AS HOSTAGES

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mrs. KELLY. Mr. Speaker, I rise today to introduce legislation to address a problem that is plaguing our nation—children being taken as hostages. Far too many scenarios have been documented in which children are exposed to violence, emotional trauma or physical harm at the hands of adults.

For example, in New York, a woman's estranged husband took her and their three children hostage at the point of a loaded shotgun. He held them for nearly four hours, and at one point, he even allegedly traded his seven-year-old for a pack of cigarettes.

In Texas, a man took 80 children hostage at an area day care facility, including two of his children. They were held at gunpoint and released over a 30-hour period before the standoff was brought to a non-violent conclusion.

In Florida, a suspected drug addict and murderer held two children, ages two and four, hostage for two-and-a-half days. An entire Orlando neighborhood was evacuated during the standoff. Only when he threatened to use the children as human shields did a SWAT team rescue the children in a raid that resulted in the death of the suspect.

In Baltimore, a man broke into a second-floor apartment, stabbing a young mother and holding her nine-month-old child hostage for two hours before a Quick Response Team could rescue the baby and apprehend the suspect.

Situations like these are unacceptable, and should not be tolerated by anyone. All over the country, children are being used as pawns in actions played by violent adults. We in Congress must do our part to help prevent these scenarios from developing in the first place.

My legislation will give new protections to children—our nation's most precious resource. I have joined forces with Senator OLYMPIA SNOWE to establish the strictest punishments for those who would evade arrest or obstruct justice by using children as hostages. This bill will toughen penalties against any person who takes a child, 18 years of age or younger, hostage in order to resist any officer or court in the United States, or to compel the federal government to do or to abstain from any act. Such a person would serve a minimum sentence of ten years to a maximum of death, depending on the extent of injury to the child.

Please join me in this important effort to protect the lives and well-being of our nation's young. I hope that together we can make our nation a safer place for everyone, especially those in our society least able to protect themselves.

CONGRATULATIONS TO NOLAN RYAN ON HIS ELECTION TO THE BASEBALL HALL OF FAME

HON. RICHARD K. ARMEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. ARMEY. Mr. Speaker, I rise today to congratulate and pay tribute to a true Texas legend. Yesterday, former Texas Rangers pitcher Nolan Ryan was elected to the Baseball Hall of Fame.

During Mr. Ryan's illustrious career, he became not only one of the greatest pitchers to play the game, but also one of the most beloved and respected. He struck out a record 5,714 batters, won 324 games, and played for 27 years—longer than any other player in history. These accomplishments earned him the second highest voting percentage ever for a Hall of Fame nominee.

His most important accomplishment, however, was the way he conducted himself as a player. Nolan Ryan played baseball with dignity and sportsmanship second to none. He showed our children that good guys do win. Tom Schieffer, President of the Texas Rangers, said it best: "Players like Nolan Ryan are the way the game endures. They renew people's faith in the sport."

Congratulations to Nolan Ryan, a true gentleman of sport. I know if he picked up a baseball at his ranch today, he'd still be good for twenty strikeouts a game.

HELP COMMUNITIES AFFECTED BY BASE CLOSURE

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. McCOLLUM. Mr. Speaker, today I am introducing legislation that will facilitate the swift transfer of closed military bases to local communities. This action is necessary because current law hinders the large and complex transfer of military base property with economic redevelopment in mind.

Many of the laws governing the reuse of military bases are antiquated and filled with confusing terms and conditions. One major existing hindrance is a clause prohibiting the obtainment of profit by local communities. This is a problem because it prevents local communities from generating profits through subleasing for the purpose of reinvestment to maintain and improve landscaping, maintenance, and infrastructure. The remedy for this situation is to replace the clause with legislation embodying the provisions of the base closure laws and amendments of the 1990's.

The interim lease provisions have not been as successful as planned because many of the terms and conditions act as disincentives to economic development conveyance. For example, there is no commitment for final ownership by federal agencies upon assumption of control or occupancy of transferred property. Commercial firms are willing to enter into leases, but are refusing this option because of the lack of commitment for final ownership. In addition, the new occupants of closed base property are unable to conduct major renovations unless they agree to restore the property to its original condition. Many of the facilities require major alterations from their original condition just to bring them to local code standards. Why are we requiring restoration of undesired conditions? This makes no sense and ultimately results in taxpayer waste.

Prior to 1996, departure of federal agencies reverted property to the federal government for disposal by GSA. A "leaseback provision" was established in the National Defense Authorization Act for fiscal year '96 to protect communities from a federal agency revolving door. Under this law, property approved for federal usage would be transferred to the local redevelopment agency, then leased to a federal agency at no cost for up to fifty years. The reasoning behind this is to ensure transfer of property to local communities in the event of departure by federal agencies. The lack of a mandatory requirement for leaseback acceptance allows for circumvention of the legislative intent. In Orlando, Florida, the Veterans Administration (VA) requested Orlando Naval Training Center property through the federal screen process. VA refused to enter into a long-term lease with the city. This created major problems for community redevelopment authorities as it limited their ability to finalize reuse plans. My legislation guarantees an option for communities to obtain reuse property after the departure from the property by the first federal agency lessee.

We must allow common sense to prevail in this base reuse process. There are some instances where it makes sense to lease to organizations affiliated with the branch of service that previously occupied the base property. This is currently prohibited; yet doesn't it make sense to relocate recruiting stations, reserve centers, and military processing centers onto closed base property?

The four branches of the U.S. Armed Forces are currently able to contract with local governments for fire and police services for only the last six months prior to the closure of a base. Many times a base is phased out over a long period of time and the military eliminates military fire and police services much longer before the base is fully closed. Families and military personnel remaining need fire and police services from the local community. The military should be able to contract for these services throughout a long closure process.

Mr. Speaker, the bill I'm introducing today will make major strides in reforming the base closure reuse process. We must enact this legislation to protect our local communities. I urge my colleagues' support.

IN SUPPORT OF THE 1999 TRUST FUND OFF-BUDGET BILL

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. LIPINSKI. Mr. Speaker, I am pleased to join Chairman SHUSTER and Ranking Member OBERSTAR in introducing a bill that will take the remaining user financed transportation trust funds off budget. Specifically, this bill removes three transportation trust funds—Aviation, Harbor Maintenance, and Inland Waterways—from the unified federal budget. These trust funds are user-financed, self-supporting funds which provide important federal assistance for infrastructure preservation and improvement projects. This bill would restore the integrity of the trust funds by allowing the full, prompt utilization of collected user fees for transportation improvements rather than artificially limiting their use to help mask the federal deficit. In other words, this bill puts the "trust" back into the trust fund.

This bill also launches off what Chairman SHUSTER has referred to as the "Year of Aviation." Chairman SHUSTER, Ranking Member OBERSTAR, Chairman DUNCAN and I will be working hard this year to significantly increase capital investment funding for our national aviation system. More and more people are flying each day. In fact, a record 600 million people will fly this year. Yet because of a lack of capital investment, our national aviation system will not be able to meet the increased demand that is expected in the near future. The Federal Aviation Administration has not modernized our air traffic control system. Our airports do not have an adequate number of gates or runways to accommodate future growth and competition. It is obvious that something need to be done to make sure our national aviation system is ready for the 21st century.

It is our belief that by lifting the artificial spending constraints on the aviation trust fund—by taking the aviation trust fund off-budget—the federal funds necessary to ensure that our national aviation systems survives well into the 21st century will finally be spent on aviation needs and aviation needs only. A strong aviation system is key to our strong economy. Aviation and aviation-related activities account for six percent of the United States' Gross Domestic Product. Businesses depend on aviation as the fastest way to move both people and goods. In addition, the tourism industry, which is one of the fastest growing, most successful industries in the world, would not survive without a strong national aviation system.

I look forward to the year ahead as we work to take the aviation trust fund off budget in order to significantly increase capital investment in aviation. We do not have much time. The Airport Improvement Program, one of the most important federal aviation capital investment programs, will expire on March 31, 1999. For this reason, I am proud to again join Chairman SHUSTER, Chairman DUNCAN and Ranking Member OBERSTAR in introducing a bill to authorize the AIP program through Fiscal Year 1999. Although the Transportation and Infrastructure Committee and the Aviation Subcommittee are committed to working on putting together a larger reauthorization bill before the end of March, Congress is not known for meeting tight schedules. It would be an indelible mark on the Year of Aviation if the AIP program expired at the same time Congress was working on increasing federal funding for our national aviation system.

I urge my colleagues to support this bill to take the remaining three transportation trust funds off budget. the future of our national aviation system depends on it.

THE LONG-TERM CARE ADVANCEMENT ACT OF 1999

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. SMITH of New Jersey. Mr. Speaker, today I am re-introducing the Long-Term Care Advancement Act to provide real assistance to families and jump-start debate over how to best prepare Americans for their long-term care needs.

Although the worsening long-term care situation in this country does not get a lot of media attention, it is very real and millions of families will find themselves under tremendous emotional and financial pressures unless measures are adopted now to address it. The rapid expansion of the group of Americans defined by the Bureau of the Census as "the oldest old"—those senior citizens aged 85 and above—is slated to double by the year 2030. In fact, the fastest growing demographic age group in the United States are the "oldest old," and about half of such individuals will eventually require assistance with various activities of daily living (ADLs).

The Long-Term Care Advancement Act of 1999 will assist Americans as they prepare for their future long-term care needs. To help families keep more of what they have earned over the years, my bill allows penalty-free withdrawals from IRAs and 401(k) plans when the funds are used to pay for 'qualified' long-term care (LTC) insurance premiums (as defined by the Health Insurance Portability and Accountability Act of 1996).

In addition, my legislation will enable a family to make an IRA/401(k) withdrawal to pay for an LTC insurance policy premium and a portion of the withdrawal will be excluded from their taxable income. Depending on one's tax bracket, age, and type of policy purchased, the savings on an LTC insurance policy under my bill are considerable.

Lastly, the Long-Term Care Advancement Act will provide a refundable $500 tax credit for families caring for a dependent elderly spouse or parent in the home. This tax credit is important because most of the long-term care provided in America is provided by families in the home, and these families desperately need and deserve tax relief. In my view, families trying to take care of their loved ones should be rewarded by the tax code, not punished as they are now.

The tax breaks contained in this legislation will help families provide the peace and security they want and need against the massive costs of professionally provided long-term care, including nursing home care, home health care, respite care, and adult day care services.

Last year, this legislation secured the support of the 60 Plus Association, the American Health Care Association, and the Home Health Assembly of New Jersey. The Health Insurance Association of America (HIAA) has also supported the concept behind the bill.

This year, I was very pleased to see the President Clinton has decided to join my colleagues and I in the long-term care debate by proposing a tax credit for elderly disabled persons as part of his fiscal year 2000 budget. Many will recall that the Republican "Contract with America" called for providing "tax incentives for private long-term care insurance to let older Americans keep more of what they have earned over the years." They say that imitation is the sincerest form of flattery, so Republicans should be flattered that Mr. Clinton has decided to make a plank in of the "Contract with America" the centerpiece of his new domestic initiatives contained in his budget.

However, in addition to providing a tax credit, I believe a vital part of any comprehensive proposal on long-term care must also be the promotion of private long-term care insurance. Although the number of persons insured under LTC policies has nearly doubled between 1992 and 1996, this growth is from a very low base. The fact of the matter is that the overwhelming majority of Americans still do not have any private LTC insurance coverage at all. This needs to change, and soon.

Unless it does, changing demographics will put an enormous strain on our nation's fragmented system of long-term care. Already, our Medicare and Medicaid programs have demonstrated their financial shortcomings when providing long-term care services to increasing numbers of the frail elderly. The Medicaid program already spends over $41 billion on nursing home care services for senior citizens. Medicaid expenditures are projected to double over the next 10 years, with nursing home care driving much of the growth.

By encouraging more Americans to plan for their future care needs, I believe we can improve the medical, social, and financial well being of families, as well as provide substantial future savings to the Medicaid and Medicare programs. According to the John Hancock Mutual Life Insurance Company, there is a 48% chance of any given individual needing long term care in one's lifetime. And the costs of nursing home care for one year is approximately $40,000. If we can successfully encourage families to purchase LTC insurance, the potential for savings to American families, as well as the Medicaid and Medicare programs, is simply enormous.

I look forward to working on and discussing long-term care issues with my colleagues throughout the 106th Congress, and urge all of my colleagues to support this important initiative.

SECTION BY SECTION ANALYSIS OF THE LONG-TERM CARE ADVANCEMENT ACT OF 1999

SECTION 1: SHORT TITLE

SECTION 2: EXCLUSION FROM INCOME FOR RETIREMENT PLAN WITHDRAWALS USED TO PURCHASE LONG-TERM CARE INSURANCE

Penalty taxes are waived on IRA/retirement plan withdrawals used to pay for LTC insurance policy premiums.

IRA/retirement plan withdrawals will not be included as taxable income if the withdrawal is used to pay for "qualified" LTC insurance policy premiums. The amounts excludable from taxation are as follows (the amounts are identical to the LTC tax breaks contained in P.L. 104-193):

Age of LTC policyholder	Exclusion from income allowed on IRA/401(k) withdrawals for "qualified" policies under [illegible]—
40 or less	$200.00
41 to 50	375.00
51 to 60	750.00
61 to 70	2,000.00
71 and up	2,500.00

"Qualified" LTC plans eligible for the incentives contained in this bill are defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA, or P.L. 104-193).

Double tax benefits are prohibited. For example, a taxpayer otherwise eligible to take a deduction for LTC premiums could either take the tax deduction allowed by P.L. 104-193, or make a tax-excludable withdrawal from their IRA or other retirement plan. They cannot do both.

Only the amounts withdrawn to pay for actual LTC premiums are eligible to receive tax benefits under LTCAA. Amounts withdrawn in excess of those needed to pay LTC premiums would be subject to normal tax rules (including applicable penalties, if any).

Provisions effective for taxable years beginning after December 31, 1998.

SECTION 3: TAX CREDIT FOR TAXPAYERS CARING FOR A DEPENDENT PARENT OR SPOUSE IN THE HOME

A $500 tax credit (refundable) can be claimed for each chronically ill spouse/parent who cannot perform two or more activities of daily living (ADLs) due to a physical or mental impairment.

Dependent spouse/parent must reside in the taxpayer's principal place of residence for more than half of the taxable year.

'Elder-care' tax credit phased in over the next five years as follows:

Calendar year	Applicable 'elder-care' tax credit amount
1999	$250
2000	350
2001	400
2002	450
2003	500

The tax credit is indexed for inflation after 2003. It will be indexed to the medical cost component of the Consumer Price Index (CPI).

Income limits for 'elder care' credit are identical to $500-per-child tax credit included in Taxpayer Relief Act of 1997 (P.L. 104-34).

Provisions effective for taxable years beginning after December 31, 1998.

TRIBUTE TO JOE MORAN

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to a distinguished educator from Northeastern Pennsylvania, Joe Moran. This month, Joe's colleagues, family, and students will gather to honor him as he retires. I am pleased to have been asked to participate in this tribute.

Joe Moran grew up in Luzerne County and had a distinguished athletic career at the University of Scranton. After earning his degree, he went to work as an engineer for Martin Aircraft of Baltimore, Maryland. Not long afterwards, Joe became a teacher in New Jersey and in 1959, he returned to Wilkes-Barre to teach. Joe spent twenty-four years as a physics teacher and coach at Coughlin High School. During Joe's tenure as coach, Coughlin's football team went to seven city championships and one Wyoming Valley Conference championship. As a result, Joe was named coach of the year in 1960 and 1966. He also led the track and field team to several championships. From 1973 to 1978, he was the Athletic Director at Coughlin High School. He later coached the defensive line at Wilkes College, helping to garner three Mid-Atlantic Conference crowns.

In 1982, Coughlin High School made Joe an Assistant Principal and he helped integrate computers into the academic program. A few years later, Joe became principal of the G.A.R. Memorial Junior High School, also in Wilkes-Barre. There, he was instrumental in establishing the state-of-the-art technology center. In 1998, he became principal of the high school.

Joe's love of sports and long career has helped shape the nature of high school athletics in the Wyoming Valley. He cofounded the Scholastic Tennis Conference and was Co-Commissioner of the Wyoming Valley Track and Field Conference for two decades. He organized the first junior high girls track meet in the state. He served on the State Committee for Scholastic Football, the Commission of the Wyoming Valley Football Conference, and the Eastern Football Conference. Joe has been a swimming official for more than twenty years and was executive director of the Wyoming Valley Track and Field Officials Association. During this time, he and his wife, Fran, have raised six children who have, in turn, produced six grandchildren.

Mr. Speaker, Joe Moran deserves our gratitude for the dedication he has shown our area youth for almost forty years. Not only is he an educator and administrator, but he is an inspiration to our young athletes. I am proud to join with his family, his friends, and the community in congratulating Joe on a job well done. I send him my very best wishes for a happy and healthy retirement.

THE WISE BILL

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. McCOLLUM. Mr. Speaker, today I take great pride in introducing the Women's Investment and Savings Equity Act of 1999, the WISE bill. Joining me in this effort is my colleague from Washington, Ms. JENNIFER DUNN.

The old proverb "a penny saved is a penny earned" has more truth today than people realize. Savings is not only a critical part of American's retirement security, but our long-term economic growth depends largely on what we save today. After all, the economy cannot grow unless there's an adequate supply of capital to invest. Money saved for retirement, whether it is through savings accounts, IRA's or employer-sponsored pensions, is a primary source of private investment capital.

Unfortunately, today's punitive, complex Tax Code encourages consumption while savings and investment are generally discouraged. Low savings rates means reduced growth potential. It also means a lower quality of life when the retirement years arrive.

In an effort to stimulate savings, the WISE bill would make some much needed changes to our Tax Code as it pertains to savings for parents, especially women. Right now, parents who take unpaid maternity or paternity leave have no way of making up pension contributions once they return to the work force. Many parents also realize that it may not be possible for both parents to work while raising a child. Even if both do, there may not be enough money to make pension contributions.

The lack of savings opportunities I have just described would be removed if we enacted the WISE bill. The WISE bill would allow those coming off of unpaid maternity or paternity leave to make up contributions to their employer-sponsored pension, for example, 401(k), that they would have been able to make had they not been on leave. The legislation would allow the person 3 years to make up the missed contributions.

The WISE bill would also allow parents who do not make contributions to their pension while raising a child, regardless of whether the parent has left the work force or if they simply cannot make a contribution due to other expenses, to make up those contributions at a later date. After all, piano lessons will sometimes come before retirement savings. For example, if a parent does not make contributions for 13 years while raising a child, he or she will have 13 years to make up the contributions. The make-up contributions will be equal to the lesser of what the parent could have otherwise contributed, of 120 percent of the contribution limit minus what is being contributed that year. For example, a $50,000 earner with a 401(k) allowing for a 5-percent deferral, $2,500, as defined by the employer could contribute his or her normal $2,500 plus another $2,500 if it is a make-up year. The added $2,500 is the lesser of the plan limit, $2,500, or 120 percent of the legal limit, $11,400, minus $2,500, the contribution already being made. The legal limit of a 401(k) is $9,500.

These reforms are needed to remove the inequities that parents, especially women, face when it comes to savings for retirement. This would clearly spur additional personal savings. More savings equals an increase in retirement income, a reduction in dependence on entitlements and much needed economic growth. For all these reasons, it is imperative that we make retirement savings more attractive and easier for parents who face unique financial strains. The WISE bill does just that. I urge my colleagues to support this needed reform.

CONGRATULATING TENNESSEE VOL PLACE KICKER JEFF HALL

HON. VAN HILLEARY

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. HILLEARY. Mr. Speaker, I rise today to honor and congratulate an outstanding young man from my district, Jeff Hall of Winchester, Tennessee.

Jeff Hall is many things. He is a captain of the National Champion Tennessee Volunteer football team. He is the all-time leading scorer in the history of the Southeastern Conference (SEC) and a four-time All-SEC team member. He is one of the best place kickers in America, who time after time has displayed grace under pressure, kicking last-minute, game-winning field goals against Syracuse and Florida in this perfect, 13–0, National Championship season.

However, Jeff Hall is more than just a great place kicker. He is a true student-athlete who has been named to the Academic All-SEC team and who recently graduated with a degree in marketing. He is a community servant who has participated in more than 150 community service events, including serving as president of UT's chapter of the Fellowship of Christian Athletes and visiting children's hospitals, speaking in anti-drug programs and youth clinics and Boy Scout chapters. For all his good deeds in the community, he has been named to the Football Good Works Team by the American Football Coaches Association (AFCA) and the SEC. He is also a man who has the courage to stand on his religious principles and make it known that his relationship with God is the most important part of his life.

Mr. Speaker, Jeff Hall is the kind of person we should encourage all our young people to emulate. He embodies a dedication to excellence, community service and moral values which would make our nation a better place if everybody demonstrated that same dedication.

SALUTING COLONEL "IRONMAN" LEE

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. BATEMAN. Mr. Speaker, at his death, all Americans need to be reminded of the career and valor of Col. William A. Lee, who died on December 27, 1998 at the age of 98 after a long battle with cancer.

Col. Lee, nicknamed "Ironman," was among my most distinguished constituents, and one of the most decorated Marines in the history of the Corps. He also was one of the last living World War I veterans in Virginia's First District. He resided for many years near Fredericksburg, Virginia.

In Colonel Lee's younger days, he gained renown as a knife fighter and expert marksman known for his toughness and endurance. He enlisted in the Marines in 1918 at the age of 17 and after serving in World War I, he fought in the Nicaraguan "Banana Wars" of the late 1920s and early 1930s at the side of another legendary warrior from Virginia's First District, the late Lewis B. "Chesty" Puller. It was Puller who bestowed upon Lee the nickname "Ironman" for his valor in battle. Col. Lee earned three Navy Crosses for his service in South America alone.

At the outbreak of World War II, Col. Lee served as chief gunner with the "Horse Marines" mounted infantry in China. On the day of the attack on Pearl Harbor, he and 200 other Marines were taken prisoner, herded into boats and trains and beaten. He remained in a Japanese prison camp for 44 months until the United States dropped atomic weapons on Japan. He retired from the Marines in 1950.

During his service, Col. Lee earned dozens of awards, including three Purple Hearts and two Medals of Valor. Mementoes of his long military career such as the Stetson hat he wore in South America and his World War II Smith and Wesson .44 caliber revolver are on display today at the Marine Corps museums at Quantico and in Washington. The rifle range at Quantico is named in his honor.

Col. Lee was a great American patriot who loved his country. His career is a shining example to all who respect those who have served in the military and still serve with a devotion to honor and duty. As the curator of material history for the Marine Corps said upon Colonel Lee's death, "His name is beyond legendary to Marines."

I was extremely proud to have had him as a constituent. Every American should be reminded of his patriotism and valor.

HONORING GEORGE HOWARD BRETT'S ELECTION TO THE BASEBALL HALL OF FAME

HON. KAREN McCARTHY

OF MISSOURI

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Ms. McCARTHY of Missouri. Mr. Speaker, my colleague, Mr. MOORE of Kansas, and I rise today to join my constituents in the Fifth District of Missouri and all baseball fans around the country in congratulating George Howard Brett, the first member of the Kansas City Royals to be elected to the Baseball Hall of Fame in Cooperstown, New York. This well-deserved recognition is the highest honor in baseball. I salute George Brett, his family, and the entire Kansas City Royals organization on this achievement.

George Brett's unique combination of talent, dedication, and commitment to one team, and his desire to give back to our community illustrates his worthiness of this honor. He played his entire career as No. 5 for 21 seasons in Kansas City where he achieved a career batting average of .305. Mr. Brett holds 3 American League batting titles and is a 13-time All Star. He is the only player in Major League history to have earned at least 3,000 hits, 300 home runs, 600 doubles, 100 triples and 200 stolen bases. Mr. Brett powered the Kansas City Royals to a World Championship in 1985 with a .370 batting average for the Series. The members of the Baseball Writers' Association of America voted 98.19 percent in selecting Mr. Brett to the Hall of Fame. This is the fourth highest percentage in history.

As a first and third baseman, George Brett was bigger than life when out on the field. Baseball fans remember when he chased the magical .400 batting average record set by Ted Williams of the Boston Red Sox. Mr. Brett was so admired during his playing days that around town there were "George Brett for President" bumper stickers. Hard work and dedication made him a sports hero that kids from all over the Midwest and the nation still look up to as a role model. He truly is an inspiration to the young people of our nation and has made the game exciting for fans of all ages.

We are all very proud of Mr. Brett and his accomplishments. Mr. Speaker, please join me in congratulating Mr. Brett, his family and the Kansas City Royals for this monumental achievement.

DESIGNATING THE FLORIDA PANTHER AS AN ENDANGERED SPECIES

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. McCOLLUM. Mr. Speaker, today I am introducing legislation that would declare the Florida Panther, specifically, to be an endangered species. As a longtime supporter of the recovery plan to restore the Florida Panther population, I believe that the Panther should be named by statute as a protected species under the Endangered Species Act.

The Florida Panther is one of the most seriously endangered subspecies in the United States. Like most endangered species, there are multiple problems threatening the Panther and its recovery. Along with the usual issues of habitat loss, the Florida Panther also suffers from genetic isolation and inbreeding. The Fish and Wildlife Service has been initiating a Habitat Protection Plan along with the genetic restoration effort for the Panther. I believe that we need to support this endeavor to restore the Florida Panther population and name this species by statute as an endangered species. I urge my colleagues to support this legislation.

STOP SWEATSHOPS—NOW

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. CLAY. Mr. Speaker, today I am joining with 26 of my colleagues to introduce legislation to curb the re-emergence of sweatshops in the domestic garment industry. This legislation is identical to a bill I introduced in the last Congress, H.R. 23.

Sweatshops have returned to the apparel industry in the United States in numbers and forms reminiscent of the turn of the century. A decade and a half ago, the General Accounting Office (GAO) documented the re-emergence of sweatshops. The GAO has identified sweatshop activity across the country, from California to New York and from Chicago to Texas and Florida. Despite significant and commendable enforcement efforts by the Department of Labor under the Clinton Administration, sweatshops continue to be a serious problem, particularly within the garment industry. Even my Republican colleagues on the Committee on Education and the Workforce, the Gentleman from Pennsylvania, Mr. GOODLING, and the Gentleman from Michigan, Mr. HOEKSTRA, have noted the re-emergence of sweatshops.

The re-emergence of sweatshops has impoverished workers and their families and has driven reputable contractors out of otherwise profitable businesses. It represents a problem that cannot and should not be tolerated.

The "Stop Sweatshops Act" establishes joint liability on the part of manufacturers in the garment industry who contract with sweatshop operators for violations of the Fair Labor Standards Act (FLSA). This legislation strengthens the ability of the Department of Labor to enforce the law and improves the ability of garment workers to obtain redress where violations occur. As importantly, by encouraging manufacturers in the garment industry to deal with reputable contractors, this legislation acts to balance market pressures that have encouraged the re-emergence of sweatshops.

One hundred of my colleagues joined me last Congress as cosponsors of this legislation. I urge those of my colleagues who have supported this legislation in the past to do so again. And, I urge those who have not previously cosponsored this legislation to do so now. We cannot continue to allow unscrupulous employers to drive responsible employers out of business. Nor should we continue to tolerate working conditions that undermine rather than promote the well being of workers. As we near the end of the 20th Century, we must eliminate this vestige of 19th Century exploitation.

THE CHILDREN'S ENVIRONMENTAL PROTECTION ACT

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. MORAN of Virginia. Mr. Speaker, I rise today to introduce legislation to protect the health of America's children, the Children's Environmental Protection Act.

In 1996, Congress unanimously passed the Food Quality Protection Act (FQPA) which requires the Environmental Protection Agency to consider children's exposure to pesticides in food limit pesticide exposure to children. While the FQPA focused on protecting children by ensuring that the food they eat does not contain harmful levels of pesticides, this bill establishes guidelines to help reduce and eliminate exposure of children to environmental pollutants in areas reasonably accessible to children. The bill also requires the collection of toxicity data by the EPA Administrator, the Secretary of Agriculture, and the Secretary of Health and Human Services so that we can begin to understand, with some level of accuracy, the long-term health effects and toxicity of pesticides and other environmental pollutants on children.

For too long risk assessments have been performed using the average, robust 170 pound male as a model. As a result, we really have no idea how these chemicals impact a child's system. This leaves our children at risk because their physiology, play habits, and patterns of exposure make them more vulnerable to toxic harm. For example, children breathe in more of an air pollutant per pound of body weight. They eat more fresh fruit by body weight and drink proportionally more tap water, juice, and milk.

This bill addresses that problem by requiring that all EPA standards for environmental pollutants be set at levels that protect children. In addition, the Act requires EPA to publish a "Safe for Children" list of products, in addition to providing parents and the public with advice on how to minimize a child's exposure to harmful pollutants.

This bill also helps families educate themselves about potential threats to their children's health through the creation of a family right-to-know information kit. The kit will include a summary of helpful information and guidance to families and practical suggestions on how parents can reduce their children's exposure to environmental pollutants.

This bill will begin to provide the essential information we need to quantify and evaluate the impact of environmental pollutants in children. The more we know about potential risks and the less toxic burden we put on the environment the healthier our children will be. This legislation has been endorsed by Administrator Browner and by several environmental and health organizations. I urge your support and co-sponsorship of this important legislation.

ARLINGTON NATIONAL CEMETERY BURIAL ELIGIBILITY ACT

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. STUMP. Mr. Speaker, today I am introducing the "Arlington National Cemetery Burial Eligibility Act." I invite members to join me as a cosponsor of this important legislation. It is my expectation that the VA Committee will take prompt actions so that the House may consider this legislation early in the Congress.

This bill is almost identical to the legislation passed by the House during the 105th Congress by a vote of 412–0. The VA Committee learned as a result of its investigative efforts that the practice of allowing burial of persons who did not meet Army regulations prescribing eligibility for burial at Arlington National Cemetery (ANC) had become the subject of serious controversy. Further, the practice of allowing burial of persons without military service at ANC has caused considerable anguish on the part of members of military and veterans organizations. As a result, the VA Committee recommended this legislation to codify existing burial regulations for ANC with two significant changes. First, there would not be authority to grant exceptions, or "waivers," under the proposed legislation. No one—not the Superintendent of ANC, the Secretary of the Army, or the President of the United States—could authorize the burial of a person who is not eligible under the proposed legislation. However, Congress could enact subsequent legislation on behalf of an individual whose accomplishments are deemed worthy of the honor of being buried at Arlington National Cemetery.

Second, this bill eliminates the "politically well-connected" category of eligibility now found in existing Army Regulations. Under existing Army regulations, veterans who do not meet the military criteria for burial at ANC are nevertheless eligible if they served as a member of the House or Senate, as a Federal judge, a diplomat, or a high-ranking cabinet officer. This legislation eliminates future eligibility of such persons so that Arlington will once more be the final resting place for those with distinguished military service.

As indicated, this bill passed the House by an overwhelming margin and had the active support of all the major veterans service and military organizations. Unfortunately, the other body did not debate the issue during the 105th Congress. By introducing this bill and planning for its early consideration by the House VA Committee, we hope to give the Senate ample opportunity to consider it and reach agreement on what the nation's policy should be on this issue of abiding importance to veterans and their families.

EXTENDING COVERAGE OF THE FMLA

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. CLAY. Mr. Speaker, today I am introducing legislation to expand the protections afforded by the Family and Medical Leave Act. The bill I am introducing is identical to legislation I introduced in the 105th Congress, H.R. 109.

The Family and Medical Leave Act of 1993 (FMLA) grants employees the right to take unpaid leave in the event of a family or medical emergency without jeopardizing their jobs. As a former Chairman of the Subcommittee on Labor-Management Relations of the Committee on Education and Labor, I was privileged to work closely with the Hon. MARGE ROUKEMA, Senator DODD, Senator BOND, our former colleagues the Hon. Pat Schroeder and the Hon. William D. Ford, and many others to bring about the enactment of this important law. Necessarily, however, many compromises were made to bring about this precedent setting legislation.

Among the most important of those compromises was one that limited the applicability of the law to employers of 50 or more employees. My original intention had been to extend the law to employers of 25 or more employees. However, because of uncertainty regrading the impact of the law on employers and in order to increase support for the legislation, I agreed to accept the 50 employee threshold.

The effect of this compromise was to leave tens of millions of employees and their families outside of the protections afforded by the FMLA. In fact, only 57% of the workforce is protected by the FMLA. The fact that an employee may work for an employer of 40 rather than 50 people does not immunize that employee from the vicissitudes of life nor diminish that employee's need of the protections afforded by the FMLA. For my part, this was a very difficult and reluctantly entered compromise. However, it was my hope at that time that experience under the law would prove that the law does not unduly or unreasonably disrupt employer operations.

The FMLA was signed into law on February 5, 1993. Experience has shown that the law does not unduly disrupted employer operations. Not only are the costs to employers of complying with the law negligible, but in many instances FMLA has led to improvements in employer operations by improving employee morale and productivity and reducing employee turnover. Experience has also shown that the protections afforded by the law are not only beneficial, but are essential in enabling workers to balance the demands of work and home when faced with a family or medical emergency. In short, we have now had sufficient experience under the law to justify extending the law to employers of 25 or more employees.

Beyond expanding the number of workplaces that are protected by the FMLA, the bill I am introducing would permit employees to take parental leave to participate in or attend their children's educational and extracurricular activities. In effect, employees subject to the FMLA would be able to take 4 hours of leave in any 30-day period, not to exceed 24 hours in any 12-month period, in order to participate in important educational activities undertaken by their children. In this way, the law would more effectively enable workers to meet parental responsibilities without sacrificing their economic security.

Despite the enactment of the Family and Medical Leave Act, too many workers continue to face an impossible dilemma, pitting the emotional and physical well-being of a family against its economic security, when faced with a family or medical emergency. Enactment of this legislation would extend coverage to 73% of the workforce. A mother should not unreasonably or unnecessarily be forced to choose between caring for a new born and maintaining her job. A husband, recovering from a heart attack, should not also needlessly face the loss of his job and the resulting financial insecurity that would mean for his family.

Requiring employers of 25 or more to provide temporary, unpaid leave to workers who face a family or medical emergency will not impose an unreasonable burden on those employers. Such a modest expansion of the law, however, will significantly benefit families in crisis by extending the protections of the FMLA to 15 million workers and their families. I urge my colleagues to join me in supporting this important legislation.

THE GUN SHOW SAFETY & ACCOUNTABILITY ACT

HON. ROD R. BLAGOJEVICH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. BLAGOJEVICH. Mr. Speaker, I rise today on behalf of 25 of my colleagues on both sides of the aisle to reintroduce the Gun Show Safety & Accountability Act, the nation's first legislation aimed at closing a deadly loophole that allows criminals to purchase firearms at gun shows without undergoing Brady background checks.

While it is unfortunate that my bill was not acted upon by the 105th Congress, it is our hope that with new leadership and a showing of bi-partisan support, the 106th Congress will pass this legislation and help me to cut off the deadly supply of firearms to violent criminals that result in the countless deaths of innocent American citizens every year.

When a person buys a handgun from a gun store, they must fill out a Brady Form, undergo a background check, show proof of identification and a record of the sale is also kept. What most people don't know is that a loophole in the federal law allows that same person to buy a handgun at a gun show without doing any of these things.

The gun show loophole has created a situation that is both dangerous and unfair. It allows gun show participants to sell guns with little, if any, legal obligation to insure that they aren't putting deadly weapons into the hands of violent criminals or juveniles. Furthermore, it creates unfair business competition between law-abiding gun store owners whose time-consuming background checks and sales records are much less attractive to potential customers than a quick purchase from a gun show participant.

Hundreds of thousands of firearms are sold at gun shows every year, and experts believe participation to be on the rise. As gun shows have grown, so has evidence illustrating that a lack of regulation is creating a black market for violent criminals. Knowing that background checks would prevent them from buying guns from a gun store, criminals have found that they can obtain unlimited numbers of firearms at gun shows with ease. Because no sales records are kept at gun shows, these firearms can be resold on the street and used in crimes without being traced.

A one-year study conducted by the Illinois State Police indicated that at least 25 percent of illegally trafficked firearms used in crimes originate at gun shows, and national news accounts indicate similar situations across the nation. Most recently, a 17-year-old Kentucky boy shot and killed another youth with a handgun that he told police he was able to purchase at a gun show with cash, no waiting period, and "no questions asked." In Florida, an escaped prison inmate was even able to purchase a handgun at a gun show.

As the link between guns used in crimes and gun shows grows, it makes sense that our nation should be rewarding gun store owners for taking time to keep guns out of the hands of dangerous criminals—not penalizing them. As stated by Bill Bridgewater, former executive director of the National Alliance of Stocking Gun Dealers, "The Grand Bazaar approach that we now have ensures that every pugnacious child with a grudge to settle and every other form of human predator have easy access to all the firearms that they might desire, while the legitimate firearms dealer is saddled with more and more onerous restrictions."

Aimed at keeping guns out of the hands of violent criminals and bringing fairness and accountability to gun shows without creating new, onerous restrictions, the "Gun Show Safety & Accountability Act" is a fair and reasonable solution. By requiring gun store owners and gun show participants to comply with the same laws, the bill would promote fair business competition, while cutting off a deadly supply of firearms to our nation's dangerous criminals.

I urge my colleagues to make public safety a priority this Congress and join me in cosponsoring this groundbreaking piece of legislation.

UNIFORMED SERVICES FORMER SPOUSES EQUITY ACT OF 1999

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. STUMP. Mr. Speaker, today I am introducing a bill to restore a small measure of balance to the way military retired pay is handled during a divorce.

Under the Uniformed Services Former Spouses Protection Act, courts, were given the authority to divide military retirement pay as property. Since then, the Courts have almost uniformly taken advantage of that provision. This has resulted in certain injustices to military retirees. Chief among them is the fact that former spouses continue to receive a share of the retired pay even after one or more remarriages, regardless of the respective financial positions of the former spouse and the retiree. Moreover, there is no limitation on when former spouses can seek a division of retired pay.

My bill has three principal components addressing problems created by the original legislation. First, it would terminate payments made as a division of property from retired pay upon remarriage of the former spouse. Second, it would require computation of the former spouse's portion of retired pay based on the rank and longevity of the individual at the time of divorce, not at the time of retirement. Third, it would limit the time in which a former spouse may seek a division of retired pay.

I urge my colleagues to join me in seeking equity for military retirees.

IN TRIBUTE TO JEAN FROHLICHER

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. GORDON. Mr. Speaker, I rise today with unfortunate news. While returning from West Virginia with her husband following the New Years weekend, I am sorry to report that Jean Frohlicher, the first president and general counsel of the National Council of Higher Education Loan Programs (NCHELP), passed away in Elkins, West Virginia. She is survived by her husband John, niece Sandra Neuse and two nephews, Lee and Carl Neuse.

Since coming to Congress, I have worked hard to enhance educational opportunities for students across the nation. I believe that it is imperative that we ensure access to a higher education for every child in America. And though I have done what I can to reach this goal, my efforts have been dwarfed by those of Jean Frohlicher.

As the Executive Vice President and General Council of NCHELP, Jean recognized early on that we truly are facing a crisis in the cost of higher education and need to provide more assistance to students. Working with her colleagues in the education community and my colleagues on Capitol Hill, Jean has helped reform and expand our student loan programs, making more money available to students each year. Her advice and guidance on higher education financing has been invaluable to me.

Mr. Speaker, several years ago when my father died, I found the words of Angelo Patri, the American educator and columnist very comforting. He said, "in one sense there is no death. You will always feel her life touching yours, her voice speaking to you, her spirit looking out other eyes, talking to you in the familiar things she touched, worked with, loved as familiar friends. She lives on in your life and in the lives of all others who knew her."

Jean's passing will truly be a loss to our country and our students. My thoughts and prayers go out to Jean's husband, John, as well their family and friends. She has left behind many who respected and admired her, and her absence will certainly be felt by all.

BLACK LUNG BENEFITS SURVIVORS EQUITY ACT

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. RAHALL. Mr. Speaker, today I am introducing legislation aimed at providing equity in the treatment of benefits for eligible survivors of recipients of black lung benefits. In past Congresses, I have introduced legislation to make more comprehensive reforms to the federal black lung benefits program in an effort to make it more responsive to those who suffer from this crippling disease. However, in light of a pending Labor Department rulemaking in this area, I am withholding the introduction of that comprehensive bill at this time. In this regard, I believe that some comity is in order as we wait the promulgation of final rules under that proceeding. In the interim, the bill I am introducing today is very limited in scope.

In 1981, Congress amended the Black Lung Benefits Act in several respects. Facing insolvency, at the time the driving motivation for the legislation was to shore up the Black Lung Disability Trust Fund through which benefit payments are made to beneficiaries where mine employment terminated prior to 1970, or where no mine operator can be assigned liability. Through a variety of measures, solvency was restored as a result of those 1981 amendments which had the support of the United Mine Workers of America as well as most of the coal industry. Yet, one provision of the 1981 Act in particular was most troublesome. This provision involved the treatment of surviving spouses of deceased coal miner beneficiaries and the manner by which they could continue to receive black lung benefits.

As it now stands, due to the 1981 amendments, there is a dual and inequitable standard governing how benefits are handled for surviving spouses of deceased beneficiaries. In the event a beneficiary died prior to January 1, 1982—the effective date of the 1981 Act—benefits continued uninterrupted to the surviving spouse. However, if the beneficiary dies after January 1, 1982, the surviving spouse must file a new claim in order to try to continue receiving the benefits and must prove that the miner died as a result of black lung disease despite the fact that the miner was already deemed eligible to receive benefits prior to death. This is illogical, unfair and outright insane.

The legislation I am introducing today simply removes the requirement that a surviving spouse must refile a claim in order to continue receiving benefits. It provides for equitable treatment and recognizes that since the Black Lung Trust Fund is very solvent, there is no need to penalize beneficiaries any further.

SEATS BELTS ON SCHOOL BUSES

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. KLECZKA. Mr. Speaker, I rise today to reintroduce legislation to require seat belts on school buses. My bill would prohibit the manufacture, sale, delivery, or importation of school buses that do not have seat belts, and impose civil penalties for those that do not comply.

The children of this country deserve safe transportation to and from school, and their parents deserve peace of mind. My fellow colleagues, we have the responsibility to do all we can to give it to them.

Since 1985, nearly 1,500 people have died in school bus-related crashes. School bus occupants accounted for 11 percent of these deaths.

Every year, approximately 394,000 public school buses travel about 4.3 billion miles to transport 23.5 million children to and from school-related activities. These numbers argue for the highest level of safety we can provide. I believe my bill is a step in the right direction.

I urge my colleagues to also support this important legislation, which has been endorsed by the American Medical Association and the American College of Emergency Physicians.

New Jersey and New York are the only two states that have school bus seat belt laws, but only New Jersey makes their use mandatory and enforces the law statewide. A New Jersey study concluded that despite the relative safety of school buses, they could be made safer. I agree, and so did the AMA when it wrote me, "We believe that, if enacted, your bill would provide millions of American school children with the same basic safeguard which has long been mandatory in all automobiles."

We must work together, at the local, State, and Federal level to prevent school bus injuries.

THREE NORTH CAROLINIANS HONOR FORGOTTEN AMERICAN HERO

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. ETHERIDGE. Mr. Speaker, so often the brave men and women who fought on the front lines of American wars are forgotten by our government and ignored in our society. People who risked everything to preserve our freedom now make up a significant portion of the homeless population, languish in hospital suffering from multiple disorders, and are laid to rest without the honors they have rightly earned. I rise today to honor three strong North Carolinians who fought to ensure that such a veteran received a proper burial.

Robert Joseph Burke, known around his community as Sarge, was a highly decorated, but down on his luck, veteran of the Korean War who passed away on November 5, 1998 in an apartment fire. His body laid unclaimed for weeks, the victim of government bureaucracy, until Dennis Rogers, a journalist for Raleigh's The News & Observer, learned of his plight from Mr. Burke's friends at the Scramble Dog Inn, his local hangout. Debbie Jernigan, the owner, had helped him over the years with food and medical care and was there with him the night he died from his burns. Mr. Rogers contacted a member of my staff, Miyoshi Jones for help. Ms. Jones worked untiringly fighting the bureaucratic red tape that held his remains hostage, and her efforts resulted in Mr. Burke's burial at the Sandhills Veterans Cemetery at Fort Bragg.

I would like to enter into the RECORD two articles written by Mr. Rogers that beautifully articulate the story of the valiant efforts of these brave North Carolinians to honor the memory of one of America's heroes.

[News & Observer, December 23, 1998]

DENNIS ROGERS: LIFE'S LESSONS, PART ONE

Every day at 2 p.m., Robert Joseph Burke would come through the doors of the Scramble Dog Inn on Western Boulevard. The bartender didn't have to ask: a hot beer and a bottle of Texas Pete on the side.

He'd leave about dark, easing his way to his nearby apartment. There he'd try again to chase the memories away with cheap wine.

The cops say he was drunk Nov. 5 when he fell asleep in his apartment with a cigarette in his hand. They took him to the burn center in Chapel Hill, but he died the next day. He was 68.

He was also a pain in the neck, a hopeless flirt and a proud man who once was a hero. Oh my, the stories he could weave of those days when he was a kid from Brooklyn, back when he was a soldier and young and sober. He liked to be called Sarge.

"You'd sit there all day and listen to his stories," said Debbie Jernigan, his friend and the owner of the Scramble Dog. "There was so much kindness in him. And so much bull."

But barroom war stories don't earn you the Silver Star for heroism. Or the Bronze Star, either. His military records say he once wore them both, along with the two Purple Hearts he earned for being twice wounded in combat in Korea. And there was his Combat Infantryman Badge and his Ranger insignia, solid proof that once this tale-telling old man was as tough as a cob, and brave, too.

That could be the end of this story, I guess.

But a remarkable thing happened when Sarge died. He may have lived his later years as a forgotten man from a forgotten war, a barfly taking up space, talking to anyone who'd listen and killing himself one beer and one cigarette at a time in a roadside tavern. But because of two strong women, he did not go quietly into that long, long night. Not Sarge.

The first is Debbie Jernigan, the den mother of the Scramble Dog crew. She is the best friend a down-and-outer ever had. She had turned the old bar that opened in 1956 into a working-class refuge, a place to see a friendly face smile when the real world turned mean and cold.

She is quick to give others the credit, but they know what she's done for them, how she nagged and mothered and fed them and paid for a cab to take them home on those nights when the beer and good times got too good. That's why they felt such a loss when the Dog burned to the ground earlier this year.

"We took care of each other there." Debbie said. "We took up collections or held cookouts or poker runs. We tried to help people stand on their feet and get back a little of their pride.

"Sarge was living in an old pickup truck behind the bar when we first got to know him. When the people in the bar found out he was homeless, they chipped in and bought him a tent."

Sarge proudly moved his new tent to the woods behind the Scramble Dog where, of course, he set it on fire with his hard drinking and endless smoking.

"You know what he did then?" Debbie asks. "His false teeth had been burned in the fire and he brought them to me and asked me to clean them. Can you believe that?"

Well, yes, because it wasn't the last time Sarge would test Debbie's patience.

Look for the rest of the story in this space Friday.

[News & Observer, December 25, 1998]

DENNIS ROGERS: FINALLY, A FAREWELL FOR SARGE

Robert Joseph Burke died in an apartment fire Nov. 5, just another old man who went to sleep with a cigarette in his hand.

Sarge, as he liked to be called, spent his days drinking at the Scramble Dog Inn on Western Boulevard and telling war stories that few people took seriously.

But the stories were true and he had the medals to back them up: the Silver Star, the Bronze Star and two Purple Hearts that proved he was everything he said, a combat-tested Ranger who fought bravely in Korea.

"He was a sweet old man," said Debbie Jernigan, the bar owner who had befriended him. "There was so much kindness in him. And so much bull.

"I had to ban him from the bar several times. He just would not leave the women who came in there alone. I wouldn't put up with mess. But when I'd throw him out, he'd go stand across the street and look at the front door like a sad puppy. I was hard on him sometimes, but he needed that."

Debbie let Sarge eat free when the bar had a charity cookout. She got him medical care. Once she learned that his war stories were true, she fought with the Veterans Administration to get him help. And when he died, she held his hand to help him through the last dark night of his life.

Sarge was dead. But other than Debbie and those who were his family at the bar, nobody seemed to care. His body was taken to the medical examiner's office in Chapel Hill, where it lay unclaimed for several weeks. Desperate, his friend Jerry Rengler called me for help.

I tried, but the bureaucracy would not be moved. That's just terrible, one suit after another said, and then came up with reasons why it was always someone else's responsibility.

Then came Myoshi Jones, who works for Rep. Bob Etheridge of the 2nd district. When I couldn't find anyone in government willing to do the right thing. I did what thousands do every day: I called my congressman. Myoshi, who works in Etheridge's Durham office, was assigned the case.

Standing maybe 5 feet tall and weighing about 100 pounds, she took on the entire government and it was not a fair fight. As a government official said of her later. "Who is that woman? She's chewing on people from one end of town to the other."

"They made me mad," Myoshi said. "They weren't treating that man right. I'm from a military family, and I'm sensitive to veteran issues."

The battle took a month, but on Monday, six weeks after he died, Robert Joseph Burke, American soldier and bona fide hero, was laid to rest in the Sandhills Veterans Cemetery at Fort Bragg. He was interred with the quiet dignity and honor he was due.

Rep. Etheridge, in the classiest move I've seen a congressman make lately, was there to pay his respects. When the brief service was over. Rengler accepted the flag that had covered his remains. He presented it to Myoshi Jones for her untiring efforts.

To all who helped, like Lois Raver, veterans service officer for Orange County, and my neighbor Alex Lee, who took care of the funeral arrangements, my gratitude. Thanks to you, an old soldier, almost forgotten by the nation he served so valiantly, is finally at rest with his comrades.

INTRODUCTION OF THE PROTECT AMERICAN JOBS THROUGH THE FOREIGN TRADE ANTITRUST IMPROVEMENTS AMENDMENTS ACT OF 1999

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. CONYERS. Mr. Speaker, I am pleased to join with my colleague, Commerce Committee Ranking member JOHN DINGELL, in introducing today the "Protect American Jobs Through the Foreign Trade Antitrust Improvements Amendments Act of 1999." This bill clarifies one of our most important U.S. antitrust laws in order to enshrine the principle that U.S. law reaches anti-competitive foreign cartels, acts, and conspiracies designed to unfairly exclude American products from overseas markets. The principal aim of my bill is to codify the U.S. Department of Justice's current and correct interpretation of the Foreign Trade Anti-trust Improvements Act ("FTAIA") which is embodied in footnote 62 of the International Antitrust Guidelines. The footnote makes it clear that there are no unnecessary jurisdictional or legal roadblocks to challenging anti-competitive acts and conspiracies that take place outside our borders.

We live in an era of economic globalization. Today, America's prosperity depends, not just on vigorous competition within our territorial borders, but on free and fair access to markets in Japan, Europe, Africa, Latin America, China, Russia, and a host of other countries. Anti-competitive practices that block foreign markets to U.S. exporters are just as much a threat to the U.S. economy, as the purely domestic cartels and combinations that the Sherman Act sought to address at the turn of the century.

The opening of global markets has advanced America's current economic prosperity, but it also poses fundamental challenges for U.S. antitrust laws. One example is the U.S. flat glass industry. For the better part of a decade, America's leading flat glass producers have been seeking access to the Japanese market, the biggest and richest in Asia. This isn't a situation where America doesn't have a good product, American companies are leaders in producing and selling high-quality innovative glass products around the world; and in fact, have succeeded in Europe, Asia, the Middle East, Latin America, but not Japan. The fact is that securing distribution effective channels for American glass products has not proved to be a significant barrier to entry in any country but Japan.

My bill aims to address this situation by making an important clarification in the U.S. antitrust laws that govern jurisdiction over foreign firms. It does not change U.S. antitrust law. Instead, it is designed to codify and clarify U.S. antitrust doctrine. Although most observers would agree that the FTAIA established conclusively that DOJ and U.S. firms have jurisdiction to bring an antitrust case against foreign firms engaged in anti-competitive conduct that harms U.S. exporters, enforcement officials misinterpreted the law and said so in a footnote to the International Antitrust Guidelines. That footnote—footnote 159—created a higher burden for U.S. exporters than Congress intended by requiring that they show harm to U.S. consumers in order to get their day in court. The bill would ensure that the will of Congress and the plain meaning of the FTAIA could never again be misconstrued by the federal antitrust agencies, a foreign litigant or a U.S. court. In doing so, it would assist in breaking down anti-competitive foreign barriers to U.S. exports.

While the correction to Footnote 159 was drafted by Assistant Attorney General Jim Rill in the Bush Administration, it has been fully endorsed by the Clinton Administration. I commend Assistant Attorney Generals Rill, Bingman, and Klein for their strong leadership in strengthening international antitrust enforcement and for bringing cases under the authority of the FTAIA.

By clarifying the jurisdictional requirements of the FTAIA, I hope to encourage the Department of Justice and injured industries to make any necessary use of this important power by challenging cartels, such as those blocking distribution of the U.S. courts, before U.S. juries, under U.S. law.

My bill makes a simple and straightforward point. Anti-competitive foreign cartels and conspiracies are subject to the long arm of U.S. antitrust law. Foreign producers can run . . . but they can't hide. The global economy may be a reality, but U.S. law applies fully to anti-competitive international cartels, combinations and conspiracies.

This bill already has the support of industry leaders, including Kodak, PP&G Industries, and Guardian International Corporation, and the National Association of Manufacturers. I look forward to working with other interested parties to bring U.S. law into a new era of international economic globalization, and to ensure that American firms and workers have a timely and effective remedy against those who engage in anti-competitive acts designed to exclude American products or services from the international marketplace.

CELEBRATING THE PRINCIPLES OF KWANZAA—A TRIBUTE TO DR. E. ALMA FLAGG

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. PAYNE. Mr. Speaker, it gives me great pleasure to inform my colleagues of a special event and a special person. In the African American community Kwanzaa, a festive, nonreligious celebration, is held reflecting upon our rich heritage. It begins on December 26 and lasts for seven days. Each day focuses on one of seven principles; unity, self-determination, collective work and responsibility, cooperative economics, purpose, creativity and faith.

The Beta Alpha Omega Chapter (Newark, NJ) of the Alpha Kappa Alpha Sorority in cooperation with the New Jersey Performing Arts Center sponsored the Second Annual Kwanzaa Festival honoring community elders. The person chosen to be honored on the first day of the 1998 Festival, December 17, was Dr. E. Alma Flagg. Dr. Flagg is truly deserving of this honor. She has spent most of her years in New Jersey working for the betterment of many. On May 2, 1995, I had the privilege and pleasure of bringing Dr. Flagg and her work to the attention of my fellow American citizens through remarks printed in the CONGRESSIONAL RECORD. It is not often that we are able to pay such important homage to the same individual within a short period of time. Dr. Flagg is one of the very few for whom a school has been named while still active.

Last year, Kwanzaa was recognized by the United States Postal Service with the printing of a postage stamp. Established in 1966, this celebration of family, community and culture is taking an important place in our diverse culture. I would like to thank Dr. Mabel B. Perry and Mrs. Greta D. Shepherd, Tribute Coordinators, for affording me this opportunity and bringing attention to this important commemoration.

As I stated on Tuesday, May 2, 1995, "Mr. Speaker, I am sure my colleagues would have joined me as I gave my best wishes to an outstanding human being and consummate role model, Dr. E. Alma Flagg".

THE WORLD WAR II GENERATION

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. BARR of Georgia. Mr. Speaker, today I rise to share with my colleagues a commencement speech delivered at the University of Georgia, entitled "Reflections from the World War II Generation," by former Attorney General and retired Federal appellate judge Griffin B. Bell, on December 19, 1998. I hope each Member of the House of Representatives will take a moment and read this inspiring document.

REFLECTIONS FROM THE WORLD WAR II GENERATION

I am from the World War II generation. My youth was in the Great Depression, which tempered all who lived it.

The discipline of military service, indeed, the service itself in World War II, had a marked effect on some 14 million Americans who served. Following our service, our country educated many of us under the GI Bill of Rights. Ours was the first generation of Americans to include substantial numbers of people who had graduated from college.

The electronic revolution had its genesis in World War II and has continued to develop at a rapid rate until this day. Much of it was developed in the vast defense and space enterprises, which followed World War II and in the Cold War with the Soviet Union.

Some of our generation had to participate in the Korean War along with many other Americans who had not been in World War II.

We sent our sons to Vietnam if our sons wanted to serve. Vietnam was the first of our peculiar wars where almost anyone could dodge service and, if all else failed, could run away to Canada. This meant that the Armed Forces during the Vietnam War were made up of poor people who did not know how to escape and those Americans who were patriotic enough to go even though they could have escaped.

The Vietnam War was the beginning of the sharp divisions in our country between those who served and those who did not or who did not support the war effort. It was during this era that we began to question values that had served us well for generations. Patriotism, to some, meant protest. The idea sprung up that there was no such thing as absolute truth; that truth was a relative term and therefore depended on the circumstances. We learned that there was such a thing as situational ethics; that ethics depended on the particular setting.

Our own children, known by some as the Yuppie Generation, were badly split over Vietnam and social mores. Many turned to drugs and the hippie life.

Our World War II generation had a large role in the civil rights revolution of the 60's. Many of the Yuppie Generation participated as well, thus a joint effort which reached across the two generations. The revolution was momentous in the history of our country. It stands as one of the nation's highest achievements—a revolution engaged in under law and contained within the law.

The Yuppie Generation has never had to face hard problems of war or depression. Its problems are smaller but still important. Our education system is in disrepair despite prosperous times, ill serving substantial numbers of people who are in the public schools. We experimented with leaving the neighborhood school concept and let the federal government into local education. We seem to have either lost the ability to manage the schools and the system or have lost the will to correct the problem. The school problem is exacerbated by poverty.

We are turning into a sound bite people. We catch the television news or hear the kibitzing on the radio. We are not readers. We are losing the ability to write well.

Politicians have learned to use the television and radio as a means of spinning the news to suit their purposes. A gullible populace seems to be taken in by the spinners. This is much like the medicine shows which passed through the small towns during my youth. As Oliver Goldsmith said in his poem, The Deserted Village, referring to the village schoolmaster when he spoke on the village square: "Amazed the gazing rustics ranged around; And still they gazed and still the wonder grew, How one small head could hold all he knew."

We must ask: Have we lost our capacity to govern in a representative government? Have the pollsters and polls taken over? Is there a need for us to have representatives or are representatives mere rubber stamps to obey the will of the polls? Pure democracy was a form of government rejected by the Founding Fathers. We must remember Jefferson's words that our representatives owe us their best judgment, not their votes. Their judgment is important.

During this period has come an era of bad manners—incivility and rancor in our private and political life, extremism in entertainment and sensationalism in the arts and in the media. How can we improve our discourse? What has happened to old fashioned courtesy? Nowhere is conduct worse than among the too-clever-by-half lawyers where the smart aleck and ill-mannered so-called advocate is destroying the nobility and high calling of the law, and perhaps the last vestige of good manners as taught us under the English Common Law practice. Sir Matthew Hale, a British judge who died in 1676, in writing on ethics, gave us a rule that would serve us well today. This was his rule: In all my actions, I will seek to know and follow my better instincts, never my worst; the nobler course, never the baser; [I will seek to know and follow] the high purpose, never the meaner.

I suggest this as a good rule for all people of good will and good manners. We should expect no less from our leaders, whether public or private; that they take the high road.

Our country is passing now into your hands. We call you Generation X, and we wonder what your values will be and what your aspirations will be for our country and for your fellow citizens.

Based on my observations of my own grandchildren, I believe that Generation X will be one of our greatest. Your values will increasingly be in the public interest. You will accept the challenge of doing something about the poor public schools and about the fifteen percent of our population who live below the poverty level. You are our hope—our highest hope. How will you deal with our greatest failure: the scourge of drugs? Poor education and poverty will weaken our country, but drugs can destroy it. The prisons are filled, largely because of drugs. Using drugs is unpatriotic, but our leaders do not put the problem in those terms.

You have received a good education and are in a better position to serve others than many Americans. I hope that you will adopt the standard of noblesse oblige—"To those to whom much is given, of them is much expected."

Supreme Court Justice Lewis Powell may have been the greatest Southerner of this era—and certainly among the greatest Americans. On the occasion of his death, the Richmond, Virginia Times-Dispatch, in an editorial of his life, quoted him as having written, "As to values, I was taught—and still believe—that a sense of honor is necessary to personal self-respect; that duty, recognizing an individual's subordination to community welfare, is as important as rights; that loyalty, which is based on the trust-worthiness of honorable men, is still a virtue; and that work and self-discipline are as essential to individual happiness as they are to a viable society. Indeed, I still believe in patriotism—not if it is limited to parades and flag-waving, but because worthy national goals and aspirations can be realized only through love of country and a desire to be a reponsible citizen."

There is a chapter in Sandberg's Life of President Lincoln entitled "A Tree Is Best Measured When It Is Down." This chapter includes many of the tributes paid to President Lincoln after his assassination. One of the tributes was by the great Russian writer, Tolstoy, who, when asked by Russian tribesmen to tell them about President Lincoln, responded, "Lincoln was a great man. He was greater than Alexander the Great and greater than George Washington. The reason he was great was his values. Everything that he did was rooted in four great values: humanity and justice, truth and pity."

Truth is important. It is the bedrock of our legal system, and the legal system is the bedrock of our country.

I speak of a legal system as being different from justice. Justice is that which is rendered in the legal system. It is the redeeming virtue of our country; that no person is above the law and no person is below the law; we are all equal before the law. you must take care to see that no fellow citizen is ever denied justice. You must also take care to see that there are no preferred citizens in the sense that the rich and well-to-do can have a different kind of justice. I direct your attention to the latterday style of trial where the witnesses or prosecutors or judges are attacked by packs of lawyers using the media as a way to avoid guilt, although the guilt is never denied. This will not do in a great country. It will not do among free people.

Humanity and pity are the two other values mentioned by Tolstoy. A strong feeling of humanity would make us evermore attentive to problems of poverty and education, and to seeing that every American is treated fairly and has a fair chance. Pity is more for the individual basis, but is a mark of decency—a standard to which we can all repair.

I hope that as you leave this great institution, you will take with you, as a part of your education, love of country and love of your fellow citizen. Even with its blemishes, ours is a great country; the greatest. I have always said that I am proud to be a Southerner, but am proudest of all to be an American.

And now ends your last lecture.

A TRIBUTE TO MINNETONKA POLICE CHIEF RICHARD W. SETTER UPON HIS RETIREMENT

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. RAMSTAD. Mr. Speaker, I rise today to pay tribute to a great Minnesotan who represents the absolute best in public service for his sterling leadership and remarkable professional career in law enforcement.

You see, Mr. Speaker, my hometown's Director of Public Safety and Chief of Police in Minnetonka, MN, Richard W. Setter, has had a profound impact on my career.

After 14 years in his current position, and following four distinguished decades in law enforcement, Richard Setter is retiring. He leaves an immense legacy.

Tough. Fair. Integrity. A real leader. Those are just a few of the descriptions that come to mind when you think about Dick Setter's impressive career.

He has superbly led the Minnetonka Police Department since April 30, 1984. In 1994, when he became Director of Public Safety as well as Chief of Police, he smoothly and effectively merged the police, fire and emergency management departments. With 149 full and part-time personnel serving our city of 53,000 people, Chief Setter has helped make the Minnetonka Department of Public Safety well known throughout Minnesota as a shining lighthouse of an example for other communities.

Mr. Speaker, when it comes to implementing community-oriented policing, organizing neighborhood crime watch groups, forging cooperative anti-drug task forces and creating anti-crime programs at multiple housing and shopping center sites, Chief Setter's Minnetonka Public Safety Department has shown the way. And when it comes to steering youth away from at-risk behavior, Dick Setter has been a real trend-setter. He knows how important it is to prevent crime by fighting its root sources and by putting resources into the front end, which saves our communities and the nation expensive resources in the long run.

It has been a long and remarkable run for Chief Setter, who has been honored repeatedly for this pioneering, visionary police work. The Boy Scouts of America named him recipient of the Silver Beaver and Youth Services Awards. Rotary selected him as a prestigious Paul Harris Fellow. The NAACP has praised Dick's public service. And our area's largest radio station, WCCO, has chosen him for its well-recognized "Good Neighbor" award.

This record of excellence pervades all that Dick Setter touches. Starting with his first position as a patrol officer in rural Owatonna, MN, and continuing wherever he has gone—including 23 years as a patrol officer, investigator, supervisor and chief of police in nearby St. Louis Park—Dick has been successful in making our streets, schools, and neighborhoods safer.

Dick Setter's superior performance has resulted in his repeatedly being asked to lead important law enforcement and crime-fighting efforts. Most recently, Chief Setter served as President of the 1,500-member FBI Law Enforcement Executive Development Association. He has been a member of that group for 17 years and in a leadership position for 12 years, including as a counselor at the FBI Academy in Quantico. He has also served as Chair and Vice Chair of the Minnesota Peace Officers Standards and Training Board, President and Vice President of the Hennepin County Chiefs of Police, a member of the board of the Minnesota Chiefs of Police Association, and in many other leadership positions.

Mr. Speaker, by any measure of merit, Chief Setter is one of America's best and brightest law enforcement professionals, and he will be sorely missed by the people of Minnetonka.

I truly value all the wise counsel Chief Setter has provided me through the years on so many matters. It is not possible to find words adequate enough to properly convey my appreciation for all Dick Setter has done for me and for the people of our community and State.

Mr. Speaker, Dick Setter's influence on my career has been substantial. As a direct result of my interaction with him, I have made the fight against crime and drugs—a battle which has ravaged our cities, infiltrated our schools and dramatically affected our neighborhoods and families—my top priority over the past 18 years as a State senator in Minnesota and here in Washington.

Because of Dick Setter and other good friends in law enforcement, I have successfully sought leadership positions in government to make a real difference on crime and drug policy, such as my present position as Co-Chair of the House Law Enforcement Caucus.

Mr. Speaker, I want to wish Dick Setter the very best in all his future endeavors, including his professorship at the Minnesota State University in Mankato—where he has been inspiring future law enforcement officers for two decades. I can't imagine a better role model.

Thanks again, Dick, for all you have done for the people of Minnetonka and for our State and Nation. God bless you and your wonderful wife Patty. You have made our community immeasurably stronger and safer, and we're deeply grateful!

INTRODUCTION OF THE MEDICARE HMO IMPROVEMENT ACT OF 1999

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. GEJDENSON. Mr. Speaker, I rise today to introduce the Medicare HMO Improvement Act of 1999.

By the end of 1998, over 8,000 senior citizens in my district—and over 13,000 throughout Connecticut—received perhaps the most frightening news any American can get. Their Medicare HMO's informed them that they are terminating their health insurance by the end of the year. Some of these seniors were recruited only months before through aggressive company marketing campaigns.

Insurers came to the Federal Government in the early 1980's and said "We're private industry, we can run Medicare better than you can while giving more services to seniors. Give us a chance." Well, we gave them a chance and they let our seniors down. The companies thought they could just jump in and jump out of my district, and others around the country, without regard to the health and well-being of the seniors that they had signed up just months ago. Across our Nation, Medicare HMO's have terminated health insurance for nearly 440,000 seniors. That is not acceptable. That is not a responsible way to operate a business whose primary purpose is to ensure people's health.

The termination announcements sent shock waves through Tolland, Windham and New London counties. At a public meeting I hosted with Senator CHRIS DODD in September 1998 following the announcement that 7,000 seniors would lose their coverage by year's end, 400 seniors gathered to hear about their options for the future. The tension, anxiety and desperation of my constituents pervaded the room. One of my constituents, whose wife had recently had a stroke, was so upset about losing health insurance that after asking a question, he had a heart attack. That man, Frederick Kral, died on the way to the hospital.

Under the current system, Medicare HMO's can act with impunity. There's no accountability, no responsibility. Profits are all that matter. Patients and quality health care are secondary. This is just wrong.

My legislation—the Medicare HMO Improvement Act of 1999—will inject some accountability into the Medicare HMO system. It will change the contract term from 1 year to 3 years. This change is designed to discourage HMO's from making short-term promises to seniors only to terminate coverage a year later when they don't make quite as much money as they hoped. It gives the Secretary of Health and Human Services (HHS) authority to enjoin contract terminations for up to one year if public health will be seriously threatened, insurance coverage will be compromised, or the Governor of the state affected requests that the Secretary exercise this authority.

Moreover, my legislation is designed to discourage HMO's from "cherry picking" between regions within a State by offering coverage only in those areas with the highest reimbursement rates. It accomplishes this goal by requiring the Secretary of HHS to terminate all contracts a Medicare HMO has for a metropolitan statistical area (MSA) if that HMO terminates coverage in any portion of the MSA in that state. I selected the MSA as the geographical unit because it is already used in the law and should discourage "cherry picking" without reducing coverage on a state-wide basis. Finally, if a company terminates coverage and a beneficiary is currently receiving treatment, this bill requires the HMO to provide 90 days of coverage to allow the patient to continue to receive such treatment. This will ensure that patients under active treatment will have a few additional months to make the transition to another doctor or health plan.

Mr. Speaker, what Medicare HMO's did in my district—and what they are doing across the country—is unreasonable and irresponsible. The Medicare HMO Improvement Act is a reasonable approach which will provide badly needed protection to older Americans. I invite my colleagues to join me as co-sponsors.

IN MEMORY OF HAL WALSH

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. DEUTSCH. Mr. Speaker, I rise today to recognize and commemorate the many contributions Hal Walsh made to the Key West community. Hal was the executive director of Truman's Little White House Museum and a columnist for the Key West Citizen newspaper.

Hal came to Key West from New York City in 1993 after a career as a stock broker. His lifelong interest in American history drew him to the Truman Little White House Museum. In addition to his dedicated service as museum director, Hal was also an active member of the Lambda Democrats and was a founder of the Key West Gay and Lesbian Center. He never hesitated to keep me apprised of how politicians on every level of government were doing—right or wrong—regarding issues of concern to the gay community. He was an articulate and passionate advocate who was never afraid to speak his mind.

Hal's other affiliations include being first vice president of Old Island Restoration Foundation and a member of the Lower Keys Friends of Animals. His devotion to his cocker spaniels, Savannah and Sachem, rang clear in his weekly newspaper column which often included their antics.

A Key West Citizen editor Bernie Hun wrote, "Hal Walsh was a big man in every sense . . . in generosity and spirit." He will be truly missed by those whose lives he touched.

MUNICIPAL BIOLOGICAL MONITORING USE ACT OF 1999

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. HEFLEY. Mr. Speaker, in this new Congress, I am again introducing the Municipal Biological Monitoring Use Act ("MBMUA" or

"Biomonitoring Bill"). This bill amends the federal Clean Water Act ("CWA" or "Act"). I would respectfully request its consideration this year as separate legislation or in connection with other bills to amend the CWA.

The purpose of this legislation is to ensure that our nation's wastewater, stormwater and combined sewer facilities owned by local governments are not unfairly exposed to fines and penalties under the federal Clean Water Act when biomonitoring or whole effluent toxicity tests conducted at those facilities indicate an apparent test failure.

Similar legislation applicable to sewage treatment facilities was introduced in previous Congresses. In recent years, various offices of EPA have sought to apply WET test limitations to municipal separate storm sewer systems, combined sewer overflows, and other wet weather facilities. Therefore, as in the last Congress, this bill would also apply to wet weather facilities owned by local or state governments.

Enforcement of biomonitoring test failures is a concern of local governments nationwide. Where whole effluent toxicity is a NPDES permit limit, the limit is defined as a test method as provided in EPA regulations at 40 C.F.R. part 136. Any permit with whole effluent toxicity tests expressed as a discharge limit is subject to enforcement by EPA or a state delegated to implement the NPDES permit program, or under the Act's citizen suit provisions. Fines and penalties for such tests failures are up to $27,000 per day of violation. These tests are known, however, for their high variability and unreliability. Furthermore, because the source of WET at any given facility is usually not known until the tests are conducted, local governments are unable to take appropriate action to guarantee against test failure, and hence permit violation, before such violation occurs.

The bill we reintroduce today would retain the use of biomonitoring tests as a management or screening tool for toxicity. Our bill would, however, shift fine and penalty liability from liability for test failures to liability for failure to implement required procedures for identifying and reducing the source of WET when detected. In so doing, this legislation would in the long-run strengthen environmental protection by removing the enforcement disincentive for its use.

BACKGROUND

EPA or delegated states regulate wastewater discharges from sewage treatment, separate storm sewers and combined sewer systems through the NPDES permit program. NPDES permits include narrative or numeric limitations on the discharge of specifically named chemicals. Treatment facilities can be and are designed and built in order to assure compliance with such chemical specific limitations before a violation occurs. Compliance is determined by conducting specific tests for these specifically known chemicals.

NPDES permits may also include limits to control the unspecified, unexpected, and unknown toxicity of the sewage plant effluent which is referred to as whole effluent toxicity or WET. The authority for biomonitoring tests was added to the Clean Water Act by the 1987 amendments. Since then, EPA has issued regulations describing biomonitoring or WET test methods under Part 136, permit requirements under Part 136, and enforcement policies for the use of WET tests as a monitoring requirement or as a permit effluent limitation at POTWs. Compliance with WET as limits is determined by the results of biomonitoring or WET tests.

Biomonitoring or WET tests are conducted on treatment plan effluent in laboratories using small aquatic species similar to shrimp or minnows. The death of these species or their failure to grow or reproduce as expected in the laboratory is considered by EPA to be a test failure and therefore a permit violation.

Where such tests are included in permits as effluent limits, these test failures are subject to administrative and civil penalties under the CWA of up to $27,000 per day of violation. Test failures also expose local governments to enforcement by third parties under the citizen suit provision of the Act.

WET test failures can also trigger toxicity identification and reduction evaluations that include additional testing, thus exposing local governments to additional penalties if these additional tests are expressed as permit limits and also fail. The use of biomonitoring test failures as the basis for fines and policies is the issue which this bill addresses.

WET TEST ACCURACY CANNOT BE DETERMINED

EPA recognizes that the accuracy of biomonitoring tests cannot be determined. An October 18, 1995 FEDERAL REGISTER preamble document issued by the Agency in promulgating test methods determined that: "Accuracy of toxicity test results cannot be ascertained, only the precision of toxicity can be estimated." (EPA, Guidelines for Establishing Test Procedures for the Analysis of Pollutants, 40 C.F.R. Part 136, 60 FR 53535, October 16, 1995.)

While the Agency cannot determine the accuracy of such tests, EPA still requires local governments to certify that WET test results are "true, accurate, and complete" in Discharge Monitoring Reports ("DMRs") required by NPDES permits. This is a true Catch–22 requirement.

Laboratory biomonitoring tests are known to be highly variable in performance and results. Aquatic species used as test controls may die or fail to reproduce normally during test performance through no fault of the POTW or its effluent. False positive tests occur frequently. Yet test failure is the basis for assessing administrative and civil penalties.

EPA also recognizes that WET is episodic and usually results from unknown sources. These unknown sources can include synergistic effects of chemicals, household products such as cleaning fluids or pesticides, and illegal discharges to sewer systems. Even a well-managed municipal pretreatment program for industrial users cannot assure against WET test failures.

The inaccuracy and high variability of WET tests is the basis of a judicial challenge to EPA Part 136 WET test methods brought by the Western Coalition of Arid States ("WESTCAS") in 1996. This litigation was settled by the Agency in 1998 but is still under court jurisdiction and supervision. Under the settlement, EPA agree to conduct additional tests as to the validity of WET testing and the test methods in Part 136. The responsibility for this new effort to justify the technical basis of WET testing is split between the EPA Office of Research and Development and the EPA Office of Water.

Scientific method blank or blind testing for WET tests was conducted by WESTCAS in 1997 preceding the settlement with EPA. These blind tests were conducted by a series of qualified laboratories throughout the United States. The purpose of these blind tests was to quantify the natural level of biological variability in test organisms and the variability inherent in the test procedures themselves. Without the knowledge of the participating laboratories, all of the samples tested contained no reference toxicants of any kind, i.e. The samples were pure dilution water.

The results of these tests is highly revealing. Thirty-five per cent of the tests failed. Failure in this case means that toxicity was reported in non-toxic water samples. The 35% false positives among these tests demonstrated the high inaccuracy of the test methods used and the inappropriateness of their use as an enforcement weapon. Had any of these false positives occurred in actual samples from municipal facilities, they would have been subject to fines and penalties of up to $27,000 for each violation of a permit limit.

Even if WET tests are improved, their use as enforcement tools is fundamentally unfair because the source of WET is usually unknown and cannot be controlled before test failures as permit violations, occur.

MUNICIPAL WASTEWATER FACILITIES

Municipal sewage treatment and combined facilities are designed to control specific chemical pollutants. Stormwater facilities are less able to control even specific chemicals. In any event, these local government facilities are not designed to control WET, especially in view of the fact that POTWs cannot be assured of knowing the specific nature of influent discharged to these facilities. To guarantee against these test failures before they occur, local governments would have to build sewage treatment facilities using reverse osmosis, micro filtration, carbon filtration or ion exchange, at great expense to citizen rate payers and with potentially very little benefit to the environment.

The CWA and EPA regulations (40 C.F.R. § 122.44(d)(1)(iv)) require that toxicity be determined based on actual stream conditions. An EPA administrative law judge decision issued in October, 1996, confirmed this interpretation in ruling:

> Although some form of WET monitoring may be legally permissible, there must be a reasonable basis to believe the Permittee's discharge could be or become acutely toxic. In addition, the proposed tests must be reasonably related to determining whether the discharge could lead to real world toxic effects. The CWA objective to prohibit the discharge of "toxic pollutants in toxic amounts" concerns toxicity in the receiving waters of the United States, not the laboratory tank.

In the Matter of Metropolitan-Dade County, Miami-Dade Water and Sewer Authority, NPDES Permit No. FL00224805.

In actual practice, however, NPDES permits often restrict species for WET tests to a limited number of standard species which may not be representative of the stream-specific conditions to which local facilities discharge. This situation can also result in false test results. The failure to allow for the use of indigenous test species is a particular concern to POTWs discharging to ephemeral streams located in Western states where nationally uniform species could not survive.

POTWs cannot be assured of knowing what substances are discharged to their facilities, as can industrial dischargers. They are community systems with thousands or even millions of connections, absolute control over which is not feasible. The inability of sewage treatment facilities to know the cause of WET failures so that the appropriate controls can be installed before test failures occur is fundamentally unfair because the local governments owning these plants do not have notice of what they must do to conform their behavior to the requirements of law. Constitutional fair notice in such situations is critical, and critical to fundamental fairness under the American legal system, whether at the federal or state level.

There is less basis for making WET test failures subject to fines and penalties for storm water-related discharges because local governments are able to exercise even less control over such storm sewer systems and over combined sanitary and storm sewage systems.

EPA may say that WET test failures often are not enforced under the Agency's exercise of administrative discretion. However, the opportunity for such enforcement remains, especially as more permittees are faced for the first time with enforceable WET permit limits and where an enforcement action is based on one or more alleged permit violations.

The Agency should not rely on a lack of enforcement or enforcement discretion to justify this fundamentally unfair enforcement method. Any legal requirement that is not based on fair notice lacks credibility and undermines basic due process principles whether enforcement occurs once or many times. Additionally, third party suits are not subject to the exercise of EPA review and discretion.

WET TESTS CAN BE USED AS EARLY-WARNING MANAGEMENT TOOLS

Procedures for locating and reducing the source toxicity can require accelerated testing which would expose local governments to additional penalty liability. Thus, the Agency's insistence on making WET tests subject to penalties has become counter-productive to preventing toxicity.

Nothing in the Clean Water Act requires EPA to make WET testing an enforceable permit limitation. As originally conceived by EPA personnel who developed biomonitoring test protocols, these tests, when made reliable, could be used as a screening or management tool for detecting WET, rather than for enforcement purposes. Since the 1987 amendments, however, through regulations and enforcement policies, EPA has persisted in making WET test failures violations of permit limitations even though these tests are technically unsound and fundamentally unfair for enforcement purposes. It is for these reasons that a legislative solution is necessary.

ALTERNATIVE, LEGISLATIVE SOLUTION NEEDED

One legislative alternative would make WET testing a monitoring-only permit requirement. Another alternative would shift the enforceability of WET permit requirements from WET tests failures to local government failure to implement a tiered compliance process and schedule for locating and reducing the source of toxicity.

The bill we reintroduce today adopts the second alternative and retains the use of WET as an enforceable part of the Clean Water Act by:

Amending Sections 303 and 402 of the CWA to prohibit the finding of a violation under the strict liability provisions of the Act for a failure of a WET test conducted at publicly owned treatment works, municipal separate storm sewer systems, and municipal combined sewer overflows, including control facilities, and other wet weather control facilities;

Requiring that criteria for WET must employ an aquatic species that is indigenous to the type of waters, a species that is representative of such species, or such other appropriate species as will indicate the toxicity of the effluent in the actual specific receiving waters. Such criteria must take into account the natural biological variability of the species, and must ensure that the accompanying test method accurately represents actual instream conditions, including conditions associated with dry and wet weather;

Authorizing NPDES permit terms, conditions or limitations to include enforceable procedures for further analysis, toxicity identification evaluation ("TIE") or toxicity reduction evaluation ("TRE") for WET where an NPDES permit authority determines that the discharge from the applicable facility causes, has the reasonable potential to cause, or contributes to an instream excursion above a narrative or numeric criterion for WET. Our bill would also direct that the NPDES permit must allow the permittee to discontinue such procedures, subject to future reinitiation of such procedures upon a showing by the permitting authority of changed conditions, if the source of such toxicity cannot, after thorough investigation, be identified; and

Requiring the use of such NPDES permit terms, conditions or limitations only upon determination that such terms, conditions or limitations are technically feasible, accurately represent toxicity associated with wet weather conditions, and can materially assist in an identification evaluation or reduction evaluation of such toxicity.

WET testing should be used as a management tool to locate and reduce WET. The assessment of penalties for test failures or the potential for assessment has become a recognized disincentive for the use of WET tests, including accelerated testing to locate and reduce toxicity.

This bill would assure the use of these tests as tools to prevent pollution by respecting their technical limitations, eliminating penalties for test failures, and preserving the enforceability of procedures to locate and reduce whole effluent toxicity when detected.

I urge my colleagues to join me in cosponsoring this legislation and I urge its consideration and enactment in this Congress.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Municipal Biological Monitoring Use Act".

SEC. 2. BIOLOGICAL MONITORING.

(a) BIOLOGICAL MONITORING CRITERIA.—Section 303(c)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1313(c)(2)) is amended—

(1) by inserting after the third sentence of subparagraph (B) the following: "Criteria for biological monitoring or whole effluent toxicity shall employ an aquatic species that is indigenous to the type of waters, a species that is representative of such species, or such other appropriate species as will indicate the toxicity of the effluent in the specific receiving waters. Such criteria shall take into account the natural biological variability of the species, and shall ensure that the accompanying test method accurately represents actual in-stream conditions, including conditions associated with dry and wet weather.";

(2) by striking the period at the end of subparagraph (B) and inserting the following: "; except that for publicly owned treatment works, municipal separate storm sewer systems, and municipal combined sewer overflows (including control facilities) and other wet weather control facilities, nothing in this Act shall be construed to authorize the use of water quality standards or permit effluent limitations which result in the finding of a violation upon failure of whole effluent toxicity tests or biological monitoring tests."; and

(3) by adding at the end the following:

"(C) Where the permitting authority determines that the discharge from a publicly owned treatment works, a municipal separate storm sewer system, or municipal combined sewer overflows (including control facilities) or other wet weather control facilities causes, has the reasonable potential to cause, or contributes to an in-stream excursion above a narrative or numeric criterion for whole effluent toxicity, the permit may contain terms, conditions, or limitations requiring further analysis, identification evaluation, or reduction evaluation of such effluent toxicity. Such terms, conditions, or limitations meeting the requirements of this section may be utilized in conjunction with a municipal separate storm sewer system, or municipal combined sewer overflows (including control facilities) or other wet weather control facilities only upon a demonstration that such terms, conditions, or limitations are technically feasible accurately represent toxicity associated with wet weather conditions, and can materially assist in an identification evaluation or reduction evaluation of such toxicity."

(b). INFORMATION ON WATER QUALITY CRITERIA.—Section 304(a)(8) of such Act (33 U.S.C. 1314(a)(8)) is amended by inserting ", consistent with subparagraphs (B) and (C) of section 303(c)(2)," after "publish".

(c) USE OF BIOLOGICAL MONITORING OR WHOLE EFFLUENT TOXICITY TESTING.—Section 402 of such Act (33 U.S.C. 1342) is amended by adding at the end the following:

"(q) USE OF BIOLOGICAL MONITORING OR WHOLE EFFLUENT TOXICITY TESTING.—

"(1) IN GENERAL.—Where the Administrator determines that it is necessary in accordance with subparagraphs (B) and (C) of section 303(c)(2) to include biological monitoring, whole effluent toxicity testing, or assessment methods as a term, condition, or limitation in a permit issued to a publicly owned treatment works, a municipal separate storm sewer system, or a municipal combined sewer overflow (including a control facility) or other wet weather control facility) permit term, condition, or limitation shall be in accordance with such subparagraphs.

"(2) RESPONDING TO TEST FAILURES.—If a permit issued under this section contains terms, conditions, or limitations requiring biological monitoring or whole effluent toxicity testing designed to meet criteria for biological monitoring or whole effluent toxicity, the permit may establish procedures for further analysis, identification evaluation, or reduction evaluation of such toxicity. The permit shall allow the permittee to discontinue such procedures, subject to future reinitiation of such procedures upon a showing by the permitting authority of changed conditions, if the source of such toxicity cannot, after thorough investigation, be identified.

"(3) TEST FAILURE NOT A VIOLATION.—The failure of a biological monitoring test or a whole effluent toxicity test at a publicly owned treatment works, a municipal separate storm sewer system, or a municipal combined sewer overflow (including a control facility) or other wet weather control facility shall not result in a finding of a violation under this Act.".

ON IMPEACHMENT

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mrs. MINK of Hawaii. Mr. Speaker, my constituents who ask me to vote for impeachment do so on the assumption that the President has been found guilty of perjury.

They ask me to apply the law to the President the same as I would apply for ordinary citizens.

I have analyzed my views in accordance with this direction.

I say with no doubt whatsoever, that the Articles of Impeachment or the record which accompanied it make no specific finding of facts as to exactly what statement was given under oath that forms the basis of the crime of perjury.

There are many suggestions and innuendoes and assumptions, but there is no specific listing of proof upon which the Judiciary Committee relied to make its recommendation to impeach and remove the President from office.

The Judiciary Committee takes the position that they are not required to provide the House with any degree of specificity. They interpret their report on impeachment as merely a referral of various and sundry allegations to the Senate and accordingly forfeited their duty to examine the facts independently and decide exactly what facts support the allegations of perjury. I believe that this view of our Constitutional duty is an abdication of our sworn responsibility.

If this House is prepared to remove the President from office it must do so on the basis of specific findings of criminal behavior. It cannot be on generalized allegations with a hope that the Senate will determine whether crimes have been committed.

I agree with my constituents who ask us to apply the same law to the President as would be applied to ordinary people.

Ordinary citizens would be given the specific basis underlying the charge of perjury.

The President has not been provided this information. He has been presumed guilty of perjury because he will not admit to it. How does this square with the rule of law?

I believe that it is the duty of the courts under which the President was required to provide sworn testimony to review the statements and to make a prompt determination as to which of the charges of perjury is sustainable.

What if the Courts refuse to charge the President of the crime of perjury as some commentators suggest? If he is driven out of office before the Court makes this finding, how will this House remedy this ultimate penalty?

To vote for these Articles of Impeachment is to vote to remove the President from office without any of us knowing what exactly he testified to under oath amounted to perjury. At the minimum this must be elaborated in the Articles of Impeachment so that the Public and the Senate may know what the specific charges are and so that the President may defend himself.

When I vote against these Articles of Impeachment, I will do so because I cannot allow this House to avoid its Constitutional duty to enumerate its allegations of perjury before recommending impeachment.

No President is above the law. He is at least entitled to the same protection that applies to each of us if we should be charged with criminal conduct.

People who are charged with crimes must be informed of the specific charges.

Without that, the call for the rule of law is an empty and hollow gesture.

IMPEACHMENT OF PRESIDENT CLINTON

HON. JOHN F. TIERNEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. TIERNEY. Mr. Speaker, I shall be voting against each of the articles of impeachment. I am convinced that impeachment is not in the best interest of the country and its citizens. President Clinton's conduct—inappropriate and wrong as it was—does not reach the threshold necessary to constitute the kind of high crimes and misdemeanors envisioned by the founding fathers and subsequent interpreters of the Constitution.

I have reached this decision after reviewing applicable law and precedence, after considering the views of academics, and after weighing the comments of constituents. A vote for impeachment ought to be a matter of conscience, but it should also not be unmindful of the strong opinion of the governed. Impeachment in this case would essentially undo the results of two popular elections.

As my colleague HOWARD BERMAN has stated, "That the President's conduct is not impeachable does not mean that society condones his conduct. Rather, it means that the popular vote of the people should not be abrogated for this conduct—when the people clearly do not wish for this conduct to cause the abrogation. * * * Conduct that may not be impeachable for the President * * * is not necessarily conduct that is acceptable in the larger society."

Indeed the President is not blameless for the sorry state of affairs now before us. His actions were, as he admitted, indefensible, and his obfuscation of facts has been "maddening." It would be entirely appropriate, I believe, for either or both bodies of Congress to strongly rebuke the President for his conduct and his lack of judgment.

It is regrettable that the leadership of the majority party, in the face of overwhelming public sentiment not to impeach—and in defiance of a fair number of its own party who have said that impeachment is not the appropriate course—has seemingly chosen to politicize this most serious matter. There is reason to believe that enormous pressure has been exerted on rank and file members of the majority party to support impeachment. The Republican leadership has compounded the situation by refusing to allow for a vote on the motion to censure the President—something that again its own members have said should be permitted. Leading members of the majority would have us believe they are acting out of conscience. Yet they would deny other members that same right. This sets the stage for bitter and needlessly divisive recriminations in the months ahead as the 106th Congress begins to confront the issues on our national agenda.

This country and its citizens will pay the price for such a course. While the President must bear responsibility for his role in allowing this scenario to develop, we cannot undo the past, and the Republican party must bear responsibility for prolonging a situation that most American rightfully want to be brought to a close.

The accusations against the President are serious. So too are the consequences of subjecting the nation to a Senate tribunal. To those who argue that the President should not be treated differently than others accused of similar misdeeds, let them be reminded that the President would still be subject to prosecution once out of office. It should be noted there is a large body of opinion that the statements in question made under oath by the President are not generally pursued criminally given the context in which they were made. However, the history of Ken Starr's relentless pursuit of William Clinton suggest that the President might stand little chance of receiving an objective analysis on the question of whether or not to prosecute.

The world may ask—how did it come to this? The answer may well rest in a combination of factors—blatant partisanship, unreasonably strong personal animosity toward the President, a righteousness by those who appear to have lost any capacity for forgiveness, and a total disregard for the larger issues at stake.

There are those who may truly believe that the facts do, in fact, require impeachment. However the process by which any such determination might have been made was deeply flawed and strained credulity. House Judiciary Committee Chairman HENRY HYDE said at the outset that successful impeachment would require bipartisanship. By that standard alone, the results are a failure. Unfortunately, the House Judiciary Committee chose to follow the lead of so-called Independent Counsel Ken Starr, and utterly failed to develop any facts of its own that would bear on the allegations. The Committee made a mockery of the responsibilities that come with consideration of impeachment and debased the Constitutional criteria by which impeachment is justified.

From the outset, I opposed the process pursued by the Committee. As members of the Committee noted, the majority proceeded from allegations to a conclusion, ignoring fact-finding or rational inquiry. In short, the process was unfair. By denying the House the opportunity to vote on censure, and by introducing raw partisanship into a vote of conscience, the majority has compounded that unfairness. Attempts to inflict the maximum amount of pain on the President by insisting on impeachment—the ultimate "scarlet letter" as Mr. MCCOLLUM put it—risks putting this country through an experience it need not endure. In view of the strong reasons not to impeach, and the strong public sentiments against such action, the partisan march toward impeachment is truly regretful.

HINDU NATIONALISTS DESTROY CHRISTIAN CHURCHES IN "SECULAR" INDIA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. TOWNS. Mr. Speaker, I was disturbed by recent reports that several Christian churches, prayer halls, and religious missions have recently been destroyed by Hindu extremists affiliated with the Vishwa Hindu Parishad (VHP), a militant Hindu organization. The Bharatiya Janata Party (BJP), the party that leads the governing coalition, is also part of the VHP.

The violence forced many Christian congregations to cancel New Year's celebrations for fear of offending the Hindu militants, which could lead to further violence. Is this the secularism that India boasts about? Clearly, there is no religious freedom for these Christians in India.

Unfortunately, these are just the latest incidents of violence against Christians in India. Four nuns were raped last year by a Hindu gang. The VHP described the rapists as "patriotic youth" and called the nuns "antinational elements." To be Christian in secular India is to be an antinational element! At least three priests were killed in 1997 and 1998, and in 1997 police opened fire on a Christian festival that was promoting the theme "Jesus is the Answer."

Apparently, the Hindu Nationalists are afraid that the Dalits, or "Untouchables", the aboriginal people of South Asia who are at the bottom of the caste structure, are switching to other religions, primarily Christianity, thus improving their status. This undermines the caste structure which is the foundation of the Hindu social structure.

The Indian government has killed more than 200,000 Christians since 1947 and the Christians of Nagaland, in the eastern part of India, are involved in one of 17 freedom movements within India's borders. But the Christians are not the only ones oppressed for their religion.

India has murdered more than 250,000 Sikhs since 1984 and over 60,000 Muslims in Kashmir since 1988, as well as many thousands of other people. The holest shrine in the Sikh religion, the Golden Temple in Amritsar, is still under occupation by plainclothes police, some 14 years after India's brutal military attack on the Golden Temple. The previous Jathedar of the Akal Takht, Gurdev Singh Kaunke, was killed in police custody by being torn in half. The police disposed of his body. He had been tortured before the Indian government decided to kill him.

The Babri mosque, the most sacred Muslim shrine in the state of Uttar Pradesh, was destroyed by the Hindu militants who advocate building a Hindu temple on the site. Yet India proudly boasts that it is a religiously tolerant, secular democracy.

This kind of religious oppression does not deserve American support. We should take tough measures to ensure that India learns to respect basic human rights. All U.S. aid to India should be cut off and we should openly declare U.S. support for self-determination for all the peoples of the subcontinent. By these measures we can help bring religious freedom and basic human rights to Christians, Sikhs, Muslims, and everyone else in South Asia.

Mr. Speaker, I would like to introduce Press reports on the attacks on Christian religious institutions into the RECORD.

[From the Washington Post, Jan. 3, 1999]

HINDUS BLAMED FOR ATTACKS ON CHRISTIANS

NEW DELHI.—India's main opposition Congress party said a wave of attacks on Christians appeared to be a campaign by Hindu right-wing groups to whip up conflict.

Police detained 45 Hindus Friday in connection with torching a Catholic prayer hall by mobs Wednesday. Four nuns and two priests were injured in the 10th reported attack against Christians since Christmas.

No one has claimed responsibility for the attacks in the western state of Gujarat, but Congress and Christian activists blame Hindu right-wing activists, including the Vishwa Hindu Parishad—World Hindu Council—and its affiliate, Bajrang Dal. Christians make up 2.3 percent of the 960 million people in politically secular India. More than 80 percent of the population are Hindus.

[From the Washington Post, Dec. 31, 1998]

INDIAN CHRISTIANS CANCEL NEW YEAR SERVICES

MULCHAND, INDIA.—Christian congregations in western India are canceling New Year prayer services this year, fearful of provoking more violence from radical Hindus who already have destroyed a dozen churches. The violence has put the governing Bharatiya Janata Party (BJP) in the awkward position of needing to protect India's Christian minority from groups affiliated with the Hindu nationalist party. Since Friday, mobs armed with axes, iron bars, hammers and stones have attacked 18 churches, prayer halls or Christian schools.

GENETIC INFORMATION NONDISCRIMINATION IN HEALTH INSURANCE ACT OF 1999

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Ms. SLAUGHTER. Mr. Speaker, I am proud to introduce today H.R. 306, the Genetic Information Nondiscrimination in Health Insurance Act of 1999.

Over the past few years, genetic discoveries have proceeded at a pace undreamt of less than a decade ago. Genes have been identified that are linked to common disorders like colon cancer, heart disease, and breast cancer. Doctors and researchers are moving rapidly to develop gene therapies and specialized drugs that attack only cells carrying damaged DNA.

A tiny sample of blood, tissue, or hair can now reveal the most intimate secrets of an individual's present and future health. While this information holds tremendous promise for curing disease and alleviating human suffering, it also carries an equal potential for abuse.

As a result, I am reintroducing the Genetic Information Nondiscrimination in Health Insurance Act. This vital legislation would prevent health insurers from denying, canceling, refusing to renew, or changing the terms, premiums, or conditions of coverage on the basis of genetic information. It would prohibit insurance companies from requesting or requiring that a person reveal genetic information. Finally, it would protect the privacy of genetic information by requiring that an insurer obtain prior, written consent from an individual before revealing his or her genetic information to a third party.

Since it was first introduced in 1995, support for my legislation has grown steadily. At the end of the 105th Congress, the Genetic Information Nondiscrimination in Health Insurance Act had 210 bipartisan cosponsors in the House and 25 in the Senate. It had also gained the endorsement of over 125 health-related organizations, ranging from advocacy groups like the National Breast Cancer Coalition and the March of Dimes to health professional organizations like the American Medical Association and the American Nurses Association. Religious organizations, health information managers, and consumer protection groups joined the fight.

In May 1998, the Senate Labor and Human Resources Committee under Chairman JIM JEFFORDS held a groundbreaking hearing on genetic discrimination in health insurance. Unfortunately, efforts to move this legislation to the Senate floor became bogged down in the debate over managed care reform. Nevertheless, genetic nondiscrimination language was included in some versions of managed care reform legislation—an important step toward recognizing the urgent need to ban genetic discrimination in health insurance.

Mr. Speaker, I am very hopeful that 1999 will be the year when Congress finally fulfills its duty to ensure that our nation's social policy keeps pace with scientific advances. Today, too many Americans are denying themselves access to information vital to their health—their genetic information—simply because they are afraid their insurers will learn this information and use it against them.

We must put an end to this unconscionable Hobson's choice. Congress should ban genetic discrimination in health insurance. I look forward to working with Members from both parties to protect all of our constituents against this practice. The American people deserve no less.

ANNOUNCEMENT OF THE 1999 CONGRESS-BUNDESTAG/BUNDESRAT STAFF EXCHANGE

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. REGULA. Mr. Speaker, since 1983, the U.S. Congress and the German legislature have conducted an annual exchange program for staff members from both countries. The program gives professional staff the opportunity to observe and learn about each other's political institutions and convey Members' views on issues of mutual concern.

A staff delegation from the United States Congress will be selected to visit Germany May 22 to June 5 of this year. During the 2-week exchange, the delegation will attend meetings with Bundestag members, Bundestag party staff members, and representatives of numerous political, business, academic, and media agencies. Cultural activities and a weekend visit in a Bundestag Member's district will complete the schedule.

A comparable delegation of German staff members will visit the United States for 3 weeks this summer. They will attend similar meetings here in Washington and visit the districts of Congressional Members.

The Congress-Bundestag exchange is highly regarded in Germany and is one of several exchange programs sponsored by public and private institutions in the United States and Germany to foster better understanding of the politics and policies of both countries. The ongoing situation in the Persian Gulf, the expansion of NATO, the proposed expansion of the European Union, and the introduction of the Euro will make this year's exchange particularly relevant.

The U.S. delegation should consist of experienced and accomplished Hill staff members who can contribute to the success of the exchange on both sides of the Atlantic. The Bundestag sends senior staff professionals to the United States.

Applicants should have a demonstrable interest in events in Europe. Applicants need not be working in the field of foreign affairs, although such a background can be helpful. The composite U.S. delegation should exhibit a range of expertise in issues of mutual concern in Germany and the United States such as, but not limited to, trade, security, the environment, immigration, economic development, health care, and other social policy issues.

In addition, U.S. participants are expected to help plan and implement the program for the Bundestag staff members when they visit the United States. Participants are expected to assist in planning topical meetings in Washington, and are encouraged to host one or two Bundestag staffers in their Member's district in July, or to arrange for such a visit to another Member's district.

Participants will be selected by a committee composed of U.S. Information Agency personnel and past participants of the exchange.

Senators and Representatives who would like a member of their staff to apply for participation in this year's program should direct them to submit a resume and cover letter in which they state why they believe they are qualified and some assurances of their ability to participate during the time stated. Applications may be sent to Connie Veillette at 2309 Rayburn Building by noon on Friday, March 12.

STATEMENT BY ALBANIAN AMERICAN CIVIC LEAGUE REGARDING SITUATION IN KOSOVO

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. GILMAN. Mr. Speaker, I would like to call the attention of the members of Congress to the following statement by the Albanian American Civil League regarding the current situation in Kosovo. It represents the views of a significant number of Albanian Americans, and I believe is of interest in view of the deteriorating situation in Kosovo:

STATEMENT BY THE ALBANIAN AMERICAN CIVIC LEAGUE

INDEPENDENCE FOR KOSOVO IS THE ONLY WAY TO STOP MILOSEVIC'S WAR

Recent events in Kosovo only confirm the Albanian American Civic League's prior assessment that the Milosevic-Holbrooke agreement is a death sentence for the Albanian people of Kosovo. How many mistakes and tragedies must the Albanian people bear before the United States realizes that it is being exploited by Slobodan Milosevic as a convenient tool of Slavic expansionism, at the expense of the Albanian people?

The first major mistake occurred in 1990, when Secretary of State James Baker gave Slobodan Milosevic the green light to consolidate his power by stating that the goal of the United States was to keep Yugoslavia together at all costs. Milosevic responded by waging war first in Slovenia in 1990, then in Croatia in 1991, and finally in Bosnia in 1992. (His brutal military occupation of Kosovo in 1989 continues unabated to this day.) In 1995, Richard Holbrooke authored the Dayton Accords, in which a fault-ridden peace was declared in Bosnia after negotiations that excluded the third largest ethnic group in the former Yugoslavia—the Albanians. Then, in February 1998, U.S. Special Envoy to Kosovo Robert Gelbard mistakenly declared the Kosovo Liberation Army a "terrorist" group, giving Milosevic the signal he needed to openly wage a one-sided war against the Albanian people of Kosovo. This led to massacres of unarmed and defenseless civilians in Drenice and Dukagjin, leaving over 2,000 dead, 1,000 missing, and 300,000 displaced.

In September 1998, in response to the public outcries around the world about the brutality of the Serbian military campaign against a civilian population, the United States promoted the threat of air strikes against Serbia. But, true to form, Holbrooke crafted an agreement that enabled Milosevic to avert the use of force against him and at every step accepted more of his false promises. One must ask why our State Department is allowing a chauvinistic and dictatorial pan-Slavic Orthodox regime, with direct links to ultranationalists in Russia, to emerge in the Balkans?

The so-called cease-fire of recent weeks never really took place. The Serbs began to move their troops out of Kosovo in October, but then they moved right back. Albanians insist that the brutal and criminal Serbian paramilitary forces staged the killing of six Serbian civilians in Peja this month in order to justify the continuation of Milosevic's ethnic cleansing in Kosovo. (The Kosovo Liberation Army was quick to condemn the killings of the Serbian civilians.)

The events in Podujeva on December 24, in which the Serbian military attacked five villages, killed twelve Albanian civilians, and caused the flight of thousands of others leave no question about Milosevic's real intentions to continue the "ethnic cleansing" of the Albanian majority of Kosovo. The Western response to these events also leaves no question about our role in the Balkan conflict—that we never had any intention of stopping Milosevic from using illegal and inhuman methods to destroy the right of Albanians to freedom, democracy, and self-determination.

For the past three weeks, our policy makers and the press have once again attempted to create a false parity between the Serbian military and the Kosovo Liberation Army, and to cast blame on the KLA for breaking the socalled cease-fire. They have promoted Serbia's false statements to the press, including listing names of people supposedly arrested and imprisoned by the KLA but who, according to reliable Albanian sources, do not even exist. Meanwhile 2,000 Albanians are being held and brutally tortured in barbaric Serbian jails. And while this information goes unreported, unconfirmed reports of atrocities committed by the KLA against innocent Serbs living in Kosovo are publicized widely, even though the KLA has repeatedly stated its policy against killing civilians.

As the misrepresentation of the conflict continues apace, so do the "diplomatic" initiatives designed to sell out the Albanian people of Kosovo. The French government for example, has been working behind the scenes to persuade Ibrahim Rugova, the leader of the Democratic League of Kosovo, to believe that he can find a solution to the Balkan conflict with Milosevic. Following a recent trip to France, Rugova made a public statement that Milosevic "was elected by the Serbian people in a legitimate way," and that he is the "only legitimate person" with whom he can negotiate. More astonishing still, Rugova stated that institutions in Kosovo that he controls "would do the utmost to persuade the UCK extremists to stop their provocations and attacks on Serbian security forces." Incredibly, this is tantamount to Rugova giving another green light to Milosevic to continue his reign of terror and murder against the Albanian people of Kosovo. Are we to assume that some forces inside LDK are being supported by the West to try to eliminate the KLA, and that they are willing to do so in order to retain their political control of Kosovo under any circumstances?

There has been great concern among Western diplomats that war has broken out again in Kosovo, well before the spring thaw. But, it should now be clear to all that as long as the Milosevic regime remains in power, the war will continue. To stop the war, NATO forces led by the United States must be mobilized to wage air strikes against Serbian military targets in Kosovo and Serbia. But, ultimately, the only way to peace and stability in the Balkans is to allow the Albanian people the right to declare their independence under international law, just as we allowed the Slovenes, Croatians, Macedonians, and Bosnians after the demise of the former Yugoslavia.

THE PUERTO RICAN SOURCE TAX FAIRNESS ACT

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. McCOLLUM. Mr. Speaker, I rise today in support of the Puerto Rican Source Tax Fairness Act, a bill to clarify that retirement income from pension plans of the government of the Commonwealth of Puerto Rico shall be exempt from nonresident taxation in the same manner as state pension plans. This may sound complicated, but it is not.

The 104th Congress passed important legislation banning the so-called "source tax." The source tax was a state tax placed on pension earnings of a nonresident for the portion of the pension that was earned while the worker was a resident of a state. If a person lives in New York and works for 25 years, builds a pension and then moves to Florida, New York had the opportunity to tax that pension income. That is no longer the case.

The issue at the time was one of fairness. This country was born under the cry "no taxation without representation." The source tax allowed a state to tax a person where he or she had no representation. Hence, the 104th Congress took action to remedy the situation.

Unfortunately, there is a glitch in the law. As written, the law prohibits source taxes on governmental retirement plans. However, the cross referenced section does not include the government of Puerto Rico in its definition. So, Puerto Rico may still tax the governmental pensions earned in Puerto Rico even though the person may no longer live in Puerto Rico. This could not have been the intent of the law, as the other 50 states and the District of Columbia may not tax government pensions. It is simply a glitch that is easily remedied.

As we did the first time, Mr. Speaker, we are again discussing an issue of fairness. Why should former state employees around the country escape the source tax on their pensions and not the former employees of the Commonwealth of Puerto Rico? The answer is that there is no reason for it. It is taxation without representation for former employees of the Commonwealth of Puerto Rico. A simple sense of fairness dictates that we need to make this change in the law to repeal the source tax in the way it was meant to be repealed. I urge my colleagues to support the Puerto Rican Source Tax Fairness Act.

SOUTH BRONX MENTAL HEALTH COUNCIL, INC. EIGHTH PATIENT RECOGNITION AND EMPOWERMENT DAY

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. SERRANO. Mr. Speaker, I rise today to once again pay tribute to the South Bronx Mental Health Council, Inc., which will celebrate its eight annual "patient Recognition and empowerment Day."

Created in 1968 as Lincoln Community Mental Health Center, the South Bronx Mental Health Council, Inc. is a community-based organization which provides treatment and mental health services to the local population and to area schools and senior centers. It is committed to helping empower its patients and their families through the rehabilitation of patients and their reintegration in their communities.

All of us, I am sure, have known someone who, whether we were aware of it or not, struggled with some form of mental illness. Tragically, a suicide or other crisis is too often our first—and only—indication of the individual's suffering.

While it is important, and appropriate, to recognize the care givers who provide these services, it is even more important that those individuals who have made special efforts to overcome their challenges also receive our attention and support.

Mr. Speaker, I ask my colleagues to join me in saluting our friends at the South Bronx Mental Health Council, who on Friday, January 29, will celebrate the eighth annual Patient Recognition and Empowerment Day.

CREDIT OPPORTUNITY AMENDMENTS ACT

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. McCOLLUM. Mr. Speaker, today I rise to reintroduce the Credit Opportunity Amendments Act which will fundamentally reform the Community Reinvestment Act [CRA] of 1977, and clarify the enforcement of our fair lending laws.

The original purpose of CRA was to encourage banks to loan into the communities in which they maintained deposit taking facilities. In addition, the 95th Congress, which passed CRA, was concerned about redlining, the practice of denying loans in certain neighborhoods based on racial or ethnic characteristics. The enforcement mechanism chosen was to have CRA performance taken into account when regulators were deciding on applications by the banks.

When CRA passed in 1977, the Senate report stated that no new paperwork would be required under the new law. It was believed that examiners had all the information they needed on hand from call reports and their examination reports to enforce CRA. This is not the case. Instead of relying on existing information, regulators have created expansive new reporting requirements resulting in mounds of additional paperwork and many wasted hours that could have been used to serve the community.

CRA's enforcement mechanism has gone completely haywire. It has become what many refer to as regulatory extortion. By holding up applications on the basis of CRA protests, some community groups hope to get sizable grants or other contracts from banks. This happens all too often. Recently, the Clinton administration has linked the enforcement of CRA with other fair lending statutes. This has placed the Justice Department in the position of being an additional bank regulator. This new bank regulator caught the lending industry off guard by using the disparate impact test for proving discrimination. Disparate impact is a controversial theory for proving discrimination in employment law using only statistical data. Using this scenario, a lender can be found to have discriminated without some element of intent or without proving that any harm resulted from a lending practice.

This legislation remedies these problems while ensuring that lenders reinvest in the communities in which they serve. First, it replaces the current system of enforcement and graded written evaluations with a public disclosure requirement. This will dramatically reduce unnecessary paperwork and end the extortion-like nature of the current enforcement mechanism.

This approach allows bank customers to decide whether the bank is doing an adequate job in meeting its community obligations; not bureaucrats in Washington or organized community groups. If not, consumers can take their business elsewhere.

This will not end the congressional requirement that banks invest in their community. Nor will it stop organized groups from being involved. They will have the enforcement from the public disclosure on the bank's intentions and performance. They can raise any concerns with the bank or the regulators at any time. Consumers and the groups representing their interests can make their concerns known without having the extraordinary authority to hold up mergers and other obligations.

The second change in this bill makes the practice of redlining a violation of the Equal Credit Opportunity Act and the Fair House Act. Redlining will be defined as failing to make a loan based on the characteristics of the neighborhood where the house or business is located. Currently no prohibition against redlining in fair housing or fair lending exists, however, courts have interpreted these statutes to prohibit redlining. By placing a prohibition on redlining in statute, we will be sending a clear message that we are opposed to discrimination in lending in all forms, whether based on an individual's race, gender, age, sex, or makeup of neighborhood where the individual lives or works.

This will also clarify that the method chosen to enforce our antidiscrimination laws is clear and resides in the fair housing and lending laws. No longer will regulators be forced to confront laws to attempt to address problems that the laws are inadequate for the purpose.

Third, the Credit Opportunity Amendment Act adds two criteria to the current use of the disparate impact theory. First, it requires regulators show actual proof that the lender discriminated and that the discrimination caused harm to the victim. Second, this legislation requires the party bringing suit to prove the lender intended to discriminate when making its lending criteria.

Finally, by designating a lead regulator to enforce our fair lending and community reinvestment statutes, we will have more even-handed enforcement of these laws. In turn, banks will be in a better position to know how to comply with them. Currently, confusion is the most prevailing reaction to the enforcement of CRA over the last 15 years and fair lending more recently.

The current bill makes substantial reforms to CRA which I strongly support. By enacting this legislation, we make a bold step to eliminate credit allocations in the guise of CRA and rationalize our regulation of the banking industry. At the same time, we make it absolutely clear that redlining is unacceptable and is against the law. Therefore, Mr. Speaker, I urge my colleagues to support my legislation in the 106th Congress.

TRIBUTE TO RALPH AND ROSE HITTMAN

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to the First Couple of Boys Brotherhood Republic, Ralph and Rose Hittman, two outstanding individuals who have dedicated their lives to public service. They will be honored on January 9 by parents, family, friends, and professionals for their outstanding contributions to the community. I have known them personally for many years, and I am very familiar with their background, experience, character, and personality. They are two people of enormous commitment.

An active citizen and police captain at the Boys Brotherhood Republic (BBR) in the 1930s, Ralph Hittman grew up on East Sixth Street just west of the present-day BBR "City Hall" at Avenue D. While a BBR citizen, Ralph was introduced to Rose Bader, whose parents owned a candy store just a block away, at a dance at the Christodora's House by Rose's cousin, who was also a BBR boy. They married in December 1939.

Mr. Speaker, during World War II, Mr. Hittman served as a noncommissioned officer in the Marine Corps, and both before and after the war he was associated with a West Seventeenth Street paper company, initially as sales manager then general manager.

Between 1954 and 1955 when the self-governing nature of the BBR had been all but lost and less than a hundred citizens frequented the "City Hall" building, then at 290 East Third Street, Ralph took on the responsibility of unpaid supervisor, working late afternoons and nights while still at the paper company. With the help and support of Rose (who took on administrative and bookkeeping duties during the daytime), the couple paid off some long overdue vendor bills, and began the task of steering the organization out of debt.

Rose was born on the Lower East Side, and she attended Public School 131, Junior High School 188 and graduated from Washington Irving High School at age 15. She received many honors while in school and the one she is most proud of is the citywide arithmetic medal which she won at J.H.S. 188. However, for financial reasons, it was impossible for her to attend college. She went to work as a switchboard operator and bookkeeper to help support her family.

Ralph Hittman has had a lifelong affiliation with Boys Brotherhood Republic of New York, having participated in its programs as a boy. During his forty-three years as executive director, Mr. Hittman oversaw the relocation and reorganization of Camp Wabenaki, the planning and construction of a new BBR City Hall at 888 East Sixth Street, and the expansion of program services. Rose Hittman had a critical role in each of these accomplishments. Since 1956, the Hittmans have lived on-site with the children at Camp Wabenaki during the summer months.

Over the years, Ralph and Rose Hittman have guided and nurtured tens of thousands of youngsters on the Lower East Side. This is ultimately the highest testament to their unsurpassed efforts.

Ralph and Rose Hittman are the proud parents of three sons, Michael, Jeffrey, and Stephen.

Mr. Speaker, I ask my colleagues to join me in commending and congratulating Ralph and Rose Hittman for their outstanding contributions to the community and in wishing them continued success.

COMMUNITY REINVESTMENT IMPROVEMENT ACT

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. McCOLLUM. Mr. Speaker, today I rise to reintroduce the Community Revinestment Improvement Act of 1999.

The original purpose of CRA was to encourage banks to loan into the communities in which they maintained deposit taking facilities. The enforcement mechanism chosen was to have CRA performance taken into account when regulators were deciding on applications by the banks. When CRA passed in 1977, the Senate report stated that no new paperwork would be required under the new law. It was believed that examiners had all the information they needed on hand from call reports and their examination reports to enforce CRA. This is not the case. Instead of relying on existing information, regulators have created expansive new reporting requirements resulting in mounds of additional paperwork and many wasted hours that could have been used to serve the community.

This paperwork and regulatory burden can create even larger problems for smaller banks which cannot absorb the costs of compliance without passing them on to consumers. This bill is geared to reduce the cost of credit to consumers by allowing smaller banks with a track record of reinvesting in their communities to be released from some of the regulatory red tape.

If a bank with assets under $500,000,000 is not in violation of section 701(a) of the Equal Credit Opportunity Act and has not received a rating of "needs to improve" or "substantial noncompliance" in its most recent evaluation, the bank would undergo a modified CRA evaluation. The bank would need to maintain internal policies to help meet the needs of its local community consistent with the safe and sound operation of a bank and make a record of its reinvestment efforts available for public inspection. The appropriate regulator, when checking for CRA compliance, would then use existing business documents for its review.

The bill would exempt small town banks of less then $100,000 from CRA evaluation altogether since, in order to survive, such banks have to meet the credit needs of their communities without government bureaucracy involvement.

Finally, the bill would specify that a bank shall not have an application to a regulator denied if such bank has received an "outstanding" or "satisfactory" rating within the past 24 months unless the bank's compliance has materially deteriorated since such evaluation.

Mr. Speaker, I believe this is a prudent step in reducing unnecessary government bureaucracy. Furthermore, by reducing the cost of federal regulation, we can help lower the cost of credit to consumers. It is my hope that my colleagues will support this reform.

RETIREE VISA ACT OF 1999

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. McCOLLUM. Mr. Speaker, today I am introducing legislation to create a 4-year non-immigrant visa to allow various people to spend some of their retirement years in the United States. This legislation is meant to make it easier for individuals who already enjoy the ability to spend time in the U.S. to have a 4-year non-immigrant visa to allow them to spend larger periods of time here.

Currently, Canadians may stay continuously in the United States for 6 months each year without a passport or visa. Visitors from countries participating in the Visa Waiver Pilot Program (VWPP) can stay in the U.S. continuously for a 90-day period without a visa. Since this visa is only intended for retirees, applicants would have to be at least 55 years of age to qualify.

The fact that these individuals can, in some ways, already spend some of their retirement in the U.S. reinforces the fact that this legislation is merely meant to reduce some of the procedural hurdles which currently deter foreign retirees from spending additional time here. For example, many German citizens use the Visa Waiver Pilot Program to come to Florida for 90 days at a time. Many of these individuals would like to spend more than 90 days in the U.S. but are scrupulous about not overstaying their visit. These foreign retirees leave the U.S. within 90 days, spend some time in their country and then come back to the United States for another 90 days. Many of these individuals may end up spending a large amount of time in the U.S. using the VWPP but they can do so only by constantly going back and forth from their country to the United States. Of course, foreign citizens also use the B–2 visitors visa to spend time for pleasure in the U.S. Again, the use of the B–2 visa requires the holder to return to their home after a relatively short period of time before coming back to the U.S.

The 4-year visa period proposed in the legislation is intended to reduce the need for foreign retirees to frequently travel back and forth from the U.S. to their home country in order to comply with U.S. immigration requirements. At the same time, a 4-year period would ensure that retirees making use of this visa do go home periodically to renew their status by demonstrating that they meet the requirements outlined in this proposal, such as residence in a foreign country which the alien has no intention of abandoning. The visa would be renewable as long as the application was filed from the retiree's country of citizenship.

Mr. Speaker, there are clearly important practical and policy distinctions between long-term nonimmigrants and permanent residents holding green cards. This legislation does not aim to change that. For example, an important distinction between these nonimmigrant foreign retirees and permanent residents is that the amount of time they spend in the United States would not accrue for naturalization purposes. Also, a green card confers important benefits on permanent residents, such as the ability to engage in employment or receive government aid, which would not be available to a nonimmigrant under this legislation. This bill would not provide work authorization or eligibility for any Federal means-tested programs. Instead, these nonimmigrants would be required to own a residence in the United States, maintain health coverage, and receive income at least twice the Federal poverty level.

In its simplest terms, this visa would serve as a much needed mechanism in which foreign retirees would have the opportunity to comfortably reside in the United States. Let me give you an example of how this will work by using August and Gerda Welz as an example. August and Gerda Welz have spent more than $380,000 in the United States since taking up a residence in Palm Coast, Florida three years ago. Native Germans, the Welz's saw Florida as an ideal place to spend their retirement years, with its pleasant climate and sound economy. They own a home, pay taxes and volunteer in the community. Couples, such as the Welz's, represent the growing number of foreign retirees who wish to stay for an extended period of time in the United States.

Mr. Speaker, by simplifying the process for this unique group of retirees, this legislation would provide new and exciting opportunities for foreign retirees—a practice that would benefit all parties involved. There is no reason to discourage such individuals from spending some of their retirement years in the U.S., contributing to the economy and enhancing our communities.

I urge my colleagues to support this proposal.

REFORMING PRESIDENTIAL DEBATES

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. McCOLLUM. Mr. Speaker, today I am introducing the Presidential Debate Reform Act. The situation surrounding the 1996 Presidential election has highlighted some flaws in our current method for selecting a President and Vice President of the United States of America. One critical flaw involves the way Presidential debates are scheduled.

My legislation would create the framework for deciding the participants and structure of Presidential debates. This framework would include a commission of three people nominated by the President. The President would nominate one person from a list submitted by the Republican National Committee, one person from a list submitted by the Democratic National Committee, and one person who is unaffiliated submitted jointly by the RNC and the DNC. These commissioners would then schedule several debates.

One such debate would be optional and include any Presidential candidate who is on the ballot in 50 states or polls at 5 percent in popular polls among likely voters. This could include major party candidates, although it would provide a forum for lesser known candidates to express their views.

The commission would then establish debates for Vice Presidential and Presidential candidates of the two major parties and anyone polling over 5 percent in polls taken after the optional debate. The penalty for a candidate choosing not to participate in the debates would be a reduction in the amount of Federal funds that candidate's party will receive to run the next convention. The reduction would be equal to the fraction of "mandatory" debates missed. I cannot imagine that a party would want to miss out on $3 million, which is approximately the amount that would be lost by missing one debate, based on the cost of the 1996 conventions.

This has nothing to do with whether I think certain people should or should not participate in debates. However, I do believe that we need to have an established framework with defined ground rules to ensure fairness in the system.

Mr. Speaker, I believe this is a good bill and I look forward to pursuing this as the 2000 election heats up. I urge my colleagues to review this legislation and support its passage.

F-1 STUDENT VISAS

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. McCOLLUM. Mr. Speaker, today I am introducing legislation to give American high schools the ability to welcome foreign exchange students into their schools without requiring them to charge tuition. I am pleased to be joined by my colleagues, Mr. FRANK of Massachusetts and Mr. PICKETT of Virginia.

It was brought to my attention that individual schools which participate in informal programs to allow foreign exchange students to attend school in the U.S. are required to charge these same students tuition. The F–1 visa is for students who seek to enter the U.S. temporarily and solely to pursue a course of study. Under existing law, even if the school and the local school district do not want to charge the student for accepting an invitation to study in the U.S., the student will not be able to receive an F–1 visa without paying the fee. In some cases, the school, which otherwise would welcome a foreign exchange student, may be deterred from allowing them to attend due to the administrative burden of administering the fee. In other cases, American schools entering into informal sister-school exchanges with a foreign school may find that they are forced to charge the foreign student tuition while the American student is attending their sister-school for free.

This tuition requirement does not apply to foreign students who come to the U.S. to study in a program designated by the Director of the United States Information Agency (USIA). These students receive a J visa and are not required to reimburse the school for the cost of their attendance. On the other hand, foreign exchange students in the U.S. under an F–1 visa are usually attending school under informal arrangements, with a teacher or parent having invited them to spend time in the U.S. as a gesture of American hospitality and goodwill. Some schools participate in informal sister-school exchanges where one of their students will go abroad and the school in turn will sponsor a foreign student here. Although these are informal, flexible, private arrangements between schools and students that are not designated by the USIA, they are no less valuable in developing goodwill and greater understanding among people of different nations. In many cases, it simply does not make sense to charge tuition to foreign exchange students simply because they have an F–1 visa rather than a J visa.

The legislation I am introducing today will give schools the ability to have the Attorney General waive the F–1 visa tuition fee requirement. Schools that certify that the waiver will promote the educational interest of the local educational agency and will not impose an undue financial burden on the agency will be able to allow foreign exchange students to attend without charging a fee. On the other hand, schools that do not want to waive the fee will still be able to collect it. This legislation will simply give schools added flexibility to sponsor foreign exchange students without limiting the right of schools to collect needed fees. I urge all my colleagues to support this legislation.

STATE OCCUPANCY STANDARDS AFFIRMATION ACT OF 1999

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. McCOLLUM. Mr. Speaker, today I am introducing legislation, the State Occupancy

Standards Affirmation Act of 1999, declaring the rights of States in establishing occupancy standards for housing providers.

During the 105th Congress the House Committee on Banking and Financing Services passed a public housing bill. Within the debate of this bill at the committee level, occupancy standards were discussed, but a real standard with real definitions was left out of the final product. This bill would amend the Quality Housing and Word Responsibility Act and insert the standards and definition that should have been put in originally.

I believe that it is important to firmly establish the rights of the states in determining this standard, especially when considering that the Department of Housing and Urban Development (HUD) could require housing providers to house more people than is considered appropriate and reasonable.

Currently, many states have occupancy laws or guidelines in place, and there is a national consensus among housing providers that the maximum number of occupants most housing can accommodate is two people per bedroom. This legislation allows the inclusion of one infant to the already established two-people-per-bedroom limit. Beyond this level, the negative effects of overcrowding, including providers possibly decreasing the stock of affordable housing, could be triggered. It is important that reasonable limits be set for the number of occupants in a housing unit to provide safe living conditions, to protect from property damage, and to make sure that requisite services can be provided for all residents.

The bill I am introducing is a simple clarification of existing law and practice. It says that States, not HUD, will set occupancy standards and that a two-per-bedroom plus an infant standard is reasonable in the absence of a State law. American taxpayers have spent billions of dollars on HUD programs designed to reduce crowding. It is time to ensure that overcrowding will not be a possibility. I urge my colleagues to support this legislation.

A SECURE SOCIAL SECURITY CARD

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. McCOLLUM. Mr. Speaker, today I am introducing legislation that will make the Social Security card more tamper-resistant and less susceptible to fraudulent use. Eliminating Social Security document fraud is a vital first step in controlling our borders and stopping illegal immigration. It is simply unacceptable that the one document that is most commonly used to prove eligibility for employment—the Social Security card—is nothing more than a paper document that is easily counterfeited. As it stands, an illegal alien wanting a Social Security card can go to a street corner and purchase a fake for as little as $30.

Improving the Social Security card is of the utmost importance for two fundamental reason: (1) it reduces the incentive for illegal aliens to come to the U.S. by making it more difficult for them to get a job, and (2) it makes it easier for employers to comply with existing law by making employment authorization documents more reliable. It is that simple.

Mr. Speaker, the only way to control the crisis of illegal immigration is to eliminate the lure of employment. The 1986 Immigration Reform and Control Act created employer sanctions, making it illegal to knowingly hire an illegal alien. That law requires everyone seeking employment in the U.S. to produce evidence of eligibility to work. The most commonly used form of verification is the combination of a driver's license with the Social Security card. These reforms were well intentioned but a decade later, it is clear that fraudulent documents have weakened the impact.

One of the primary reasons that employer sanctions are not working today is the rampant fraud in the documents used to prove eligibility to work, including the Social Security card. As long as the Social Security card can be easily counterfeited, employer sanctions will not work. The fact that illegal aliens can easily counterfeit authorization documents undermines this important law and the lure of easy jobs continues to pull illegal aliens into this country.

My legislation would require a simple upgrading of the Social Security card. This would replace today's card with one that offers the best possible security against counterfeiting, forgery, alteration and fraudulent use. This proposal would require the Commissioner of the Social Security Administration to make such improvements to the Social Security account number card as are necessary to make it as secure against counterfeiting as the 100 dollar bill and as protected against fraudulent use as the United States passport. I chose these performance standards because of the many counterfeit-resistance features that are built into these two documents, including the type of paper, watermarks, background pattern of inks and security threads.

Mr. Speaker, with this legislation, the Commissioner of Social Security would be required to offer more than a bare assertion concerning the card's security. This legislation directs the Comptroller General to perform an annual audit regarding the progress and status of developing a secured social security account number card, the incidence of counterfeit production and fraudulent use of social security account number cards, and the steps being taken to detect and prevent such counterfeiting and fraud.

The legislation also provides that, beginning on January 1, 2008, any Social Security card that is used for employer sanctions purposes, i.e., to show that an individual is eligible to work in the U.S., must be one of the new, secured Social Security cards. By a date certain we need an improved Social Security card to be the only Social Security card acceptable for employer sanctions. Other documents, such as the passport, would still be acceptable. This would make the older, easy to counterfeit cards, worthless to illegal aliens.

Immigrants bring growth, creativity and opportunity to America. They are the cornerstone of much of our great nation's cultural heritage. Immigration should once again be seen as a noble experience that enriches America—both economically and culturally—rather than one demeaned by criminality and deceit. To accomplish this, we must make employer sanctions work and cut off the magnet of jobs. Adopting measures, such as a secure Social Security card, to reduce document fraud is the first pivotal step that must be taken.

If we do nothing and continue to allow the use of the Social Security card without making it tamper-resistant, fraud will remain rampant, employer sanctions will not work, and the country will continue to be overrun by illegal aliens. This is a modest proposal to ensure that the SSA uses the latest inking and anti-counterfeiting mechanisms now used on paper issued in the form of the $100 bill and the U.S. passport—both of which boast extremely low rates of fraud. These would be specific, clearly outlined performance standards. In 9 years or so, only such an upgraded card would qualify as a Social Security card for the purposes of confirming employment eligibility. These modest steps are the least we can do to stop the unrivaled wave of illegal immigration hitting our nation.

RELIEF FOR ROBERT ANTHONY BROLEY

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. McCOLLUM. Mr. Speaker, today, I am introducing a bill for the relief of Robert Anthony Broley. After enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Immigration Judges lost most discretion in granting suspension of deportation of certain criminal aliens. Any relief must be sought from Congress. The case of Robert Anthony Broley is, in my opinion, sufficiently compelling to have Congress grant him relief from pending deportation.

Robert is the son of Robert M. Broley and Barbara Broley, Mrs. Broley was born in Canada but is a U.S. citizen, having been naturalized in 1962. Mr. Broley is also a naturalized U.S. citizen. The son, Robert Anthony Broley, was born in Canada in 1966 and remains a Canadian citizen.

Robert Anthony Broley entered the United States with his parents at the age of 2 in November 1968. He lived with his parents in the United States until they accepted employment in Canada when he was nine. Robert Anthony Broley was admitted again in October, 1978 and, for the most part, he has remained here since. He has an American citizen son, Mathew.

Robert Anthony Broley had personal problems beginning with his senior year in high school. He stole checks from his parents in 1990. In 1992 he was convicted of Driving Under the Influence. He stole furniture from his family in 1993 in order to sell it for cash. His parents felt the need to turn him in to the authorities in order to help Robert in the long run. He served 5 months in prison and was released in October, 1993 and given probation, which he violated by returning to Canada.

His father finally convinced Robert Anthony Broley to return to the United States in order to accept the consequences of this actions. While attempting to enter the United States to turn himself in for violating his probation, he was apprehended and is currently serving a term for parole violation with a release date of March 20, 1999. Once released, he is deportable under Section 212(a) and 237(a) of the Immigration and Naturalization Act (as amended by IIRIRA).

While serving time in prison, Robert was involved in a very serious accident that has left his face permanently disfigured. His family feels that their son has completely changed and has suffered for his crimes and that his deportation will hurt Matthew, Robert's American citizen son.

In view of Robert Anthony Broley's situation, insofar that he was arrested because his family felt it would be for his own good, I feel great sympathy for his family's struggles. They never intended for him to be deported. Therefore, I am introducing a private relief bill on behalf of Robert Anthony Broley. I urge my colleagues to support this bill.

SENATE—*Friday, January 8, 1999*

The Senate met at 12:30 p.m., and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Father Paul Lavin, pastor of St. Joseph's on Capitol Hill.

We are pleased to have you with us.

PRAYER

The guest Chaplain, the Reverend Paul E. Lavin, pastor of Saint Joseph's Catholic Church, Washington, DC, offered the following prayer:

In the Book of Wisdom, Solomon prays:

God of my fathers, Lord of mercy
You who have made all things by Your word
and in Your wisdom have established man
to rule the creatures produced by You
to govern the world in holiness and justice
and to render judgment in integrity of heart;
Give me wisdom, the attendant at Your throne
and reject me not from among Your children.—Wisdom 9: 1–5.

Let us pray:

We stand before You, Almighty God, conscious of our own sinfulness, but aware that we gather in Your name.

Come to us, remain with us and enlighten our hearts.

Give us light and strength to know Your will to make it our own, and to live it in our lives.

Guide us by Your wisdom, support us by Your power.

You desire justice for all: Enable us to uphold the rights of others; do not allow us to be misled by ignorance or corrupted by fear or favor.

May all our decisions be pleasing to You, and to You be glory for ever and ever. Amen.

Mr. THURMOND. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. DEWINE. On behalf of the majority leader, I ask unanimous consent that the Senate resume consideration of the articles of impeachment at a time to be determined by the majority leader after consultation with the Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. DEWINE. Mr. President, I now ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 1:03 p.m., recessed subject to the call of the Chair; whereupon, the Senate, at 4:02 p.m., reassembled when called to order by the President pro tempore.

Mr. LOTT addressed the Chair.

The PRESIDENT pro tempore. The distinguished majority leader.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, to inform all of our colleagues, I will shortly suggest the absence of a quorum. And when a quorum is established, the Senate will resume sitting as a Court of Impeachment.

QUORUM CALL

Mr. LOTT. I now suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 4]

Abraham
Akaka
Allard
Ashcroft
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bunning
Burns
Byrd
Campbell
Chafee
Cleland
Cochran
Collins
Conrad
Coverdell
Craig
Crapo
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

The PRESIDENT pro tempore. A quorum is present.

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

The CHIEF JUSTICE. Pursuant to rule III of the procedure and guidelines for impeachment trials in the U.S. Senate, the Senate will now resume consideration of the articles of impeachment of William Jefferson Clinton. The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, James W. Ziglar, made proclamation as follows:

> Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States articles of impeachment against William Jefferson Clinton, President of the United States.

The CHIEF JUSTICE. The majority leader is recognized.

PROVIDING FOR ISSUANCE OF A SUMMONS AND FOR RELATED PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

Mr. LOTT. Mr. Chief Justice, I am quite pleased to send a resolution to the desk on behalf of myself and the Democratic leadership, Senator DASCHLE, and, in fact, for the entire U.S. Senate, and I ask consent that if the resolution is agreed to by the Senate, it be considered to have the dignity of a unanimous-consent agreement up to the final paragraph.

The CHIEF JUSTICE. Is there objection to the request of the majority leader?

Mr. REID. No objection.

The CHIEF JUSTICE. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 16) to provide for issuance of a summons and for related procedures concerning the articles of impeachment against William Jefferson Clinton, President of the United States.

The CHIEF JUSTICE. The question occurs on Senate Resolution 16 submitted by the majority leader, Mr. LOTT. Pursuant to rule XXIV of the Senate rules on impeachment, the yeas and nays are required on this question.

Mr. BYRD addressed the Chair.

The CHIEF JUSTICE. The Senator from West Virginia.

Mr. BYRD. Parliamentary inquiry. Could the clerk read the resolution for the edification of the Senate at this time.

The CHIEF JUSTICE. If that is the will of the body, the resolution will be read.

Mr. BYRD. I ask unanimous consent that be done.

The CHIEF JUSTICE. Is there objection to the reading of the resolution?

Without objection, it is so ordered.

The clerk will read the resolution in its entirety.

The legislative clerk read as follows:

Resolved, That the summons be issued in the usual form provided that the President may have until 12 noon on Monday, January 11th, to file his answer with the Secretary of the Senate, and the House have until 12 noon on January 13th to file its replication with the Secretary of the Senate, together with the record which will consist of those publicly available materials that have been submitted to or produced by the House Judiciary Committee, including transcripts of public hearings or mark-ups and any materials printed by the House of Representatives or House Judiciary Committee pursuant to House Resolutions 525 and 581. Such record will be admitted into evidence, printed, and made available to Senators. If the House wishes to file a trial brief it shall be filed by 5 p.m. on January 11th.

The President and the House shall have until 5 p.m. on January 11th to file any motions permitted under the rules of impeachment except for motions to subpoena witnesses or to present any evidence not in the record. Responses to any such motions shall be filed no later than 10 a.m. on January 13th. The President may file a trial brief at or before that time. The House may file a rebuttal brief no later than 10 a.m. January 14th.

Arguments on such motions shall begin at 1 p.m. on January 13th, and each side may determine the number of persons to make its presentation, following which the Senate shall deliberate and vote on any such motions. Following the disposition of these motions, or if no motions occur then at 1 p.m. on January 14th, the House shall make its presentation in support of the articles of impeachment for a period of time not to exceed 24 hours. Each side may determine the number of persons to make its presentation. The presentation shall be limited to argument from the record. Following the House presentation. The President shall make his presentation for a period not to exceed 24 hours as outlined in the paragraph above with reference to the House presentation.

Upon the conclusion of the President's presentation, Senators may question the parties for a period of time not to exceed 16 hours.

After the conclusion of questioning by the Senate, it shall be in order to consider and debate a motion to dismiss as outlined by the impeachment rules. Following debate it shall be in order to make a motion to subpoena witnesses and/or present any evidence not in the record, with debate time on that motion limited to 6 hours, to be equally divided between the two parties. Following debate and any deliberation as provided in the impeachment rules, the Senate will proceed to vote on the motion to dismiss, and if defeated, an immediate vote on the motion to subpoena witnesses and/or to present any evidence not in the record, all without any intervening action, motion, amendment or debate.

If the Senate agrees to allow either the House or the President to call witnesses, the witnesses shall first be deposed and the Senate shall decide after deposition which witnesses shall testify, pursuant to the impeachment rules. Further, the time for depositions shall be agreed to by both leaders. No testimony shall be admissible in the Senate unless the parties have had an opportunity to depose such witnesses.

If the Senate fails to dismiss the case, the parties will proceed to present evidence. At the conclusion of the deliberations by the Senate, the Senate shall proceed to vote on each article of impeachment.

The CHIEF JUSTICE. The question occurs on Senate Resolution 16. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 1 Leg.]

YEAS—100

Abraham
Akaka
Allard
Ashcroft
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bunning
Burns
Byrd
Campbell
Chafee
Cleland
Cochran
Collins
Conrad
Coverdell
Craig
Crapo
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

The resolution (S. Res. 16) was agreed to.

NOTICE OF INTENT TO SUSPEND THE RULES OF THE SENATE BY SENATORS WELLSTONE AND HARKIN

In accordance to Rule V of the Standing Rules of the Senate, I (for myself and for Mr. Harkin) hereby give notice in writing that it is my intention to move to suspend the following portions of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials for the duration of the trial of President William Jefferson Clinton:

(1) The phrase "without debate" in Rule VII;

(2) The following portion of Rule XX: ", unless the Senate directs shall direct the doors to be closed while deliberating upon its decisions. A motion to close the doors may be acted upon without objection, or, if objected is heard, the motion shall be voted on without debate by the yeas and nays, which shall be entered on the Record"; and

(3) In Rule XXIV, the phrases "without debate", "except when the doors shall be closed for deliberation, and in that case" and ", to be had without debate".

NOTICE OF INTENT TO SUSPEND THE RULES OF THE SENATE BY SENATORS HARKIN AND WELLSTONE

In accordance to Rule V of the Standing Rules of the Senate, I (for myself and for Mr. Wellstone) hereby give notice in writing that it is my intention to move to suspend the following portions of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials for the duration of the trial of President William Jefferson Clinton:

(1) The phrase "without debate" in Rule VII;

(2) The following portion of Rule XX: ", unless the Senate directs shall direct the doors to be closed while deliberating upon its decisions. A motion to close the doors may be acted upon without objection, or, if objected is heard, the motion shall be voted on without debate by the yeas and nays, which shall be entered on the Record"; and

(3) In Rule XXIV, the phrases "without debate", "except when the doors shall be closed for deliberation, and in that case" and ", to be had without debate".

Mr. LOTT addressed the Chair.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Thank you, Mr. Chief Justice.

I remind all Senators to please remain in their seats until the Chief Justice has departed the Chamber.

ADJOURNMENT

Mr. LOTT. I now ask unanimous consent that the Court of Impeachment stand in adjournment, and that all Senators remain at their desks, as I just suggested, so the Chief Justice can depart the Chamber.

The CHIEF JUSTICE. Without objection, it is so ordered.

Thereupon, at 4:34 p.m., the Senate, sitting as a Court of Impeachment, adjourned.

LEGISLATIVE SESSION

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The majority leader is recognized.

Mr. LOTT. Mr. President, for the information of all Senators, momentarily we will do the closeout for the day, and we will, in that period, after consultation with the Democratic leader, notify the Senators about what the schedule will be next week and when the next anticipated time will occur for us to be here and expect votes. That will probably be Wednesday afternoon.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO MAJOR GENERAL RICHARD C. ALEXANDER

Mr. DEWINE. Mr. President, recently Major General Richard C. Alexander of Ohio retired as the Adjutant General of the Ohio National Guard. I rise today to pay tribute to this remarkable individual and dedicated public servant.

General Alexander's military career began in 1954 when he joined the Marine Corps and served honorably until

1958, when he was discharged with the rank of Sergeant. As a native of Cleveland, General Alexander returned to Ohio and enlisted in the Ohio National Guard and served in Battery C, 1st Missile Battalion, 137th Artillery.

Continuing his career, General Alexander completed the National Guard State Officer School and was commissioned a Second Lieutenant on May 6th, 1965. Following the completion of many advanced military education courses including graduating from the U.S. Army War College and U.S. Army Command and General Staff Course, General Alexander rose through the ranks within the Ohio National Guard and was selected to serve as the Ohio Adjutant General in December 1987.

When I was the Lieutenant Governor of Ohio, I became aware of how fortunate the citizens of Ohio were to have an individual such as Richard Alexander serving as the Adjutant General of the Ohio National Guard. During his tenure as the Adjutant General, he has met many challenges that have tasked the full scope of his ability to manage a citizen soldier force in a world environment of uncertainty and changing global priorities.

The Ohio National Guard has found itself a witness, participant and beneficiary to the many changes and successes that occurred under the leadership of General Alexander. During the Persian Gulf War, more than 1,600 Ohio National Guard members were activated in support of military operations. In 1993, the Ohio National Guard was called upon to respond to an inmate riot at the Lucasville Prison. Since that time Ohioans repeatedly have called upon the services of the Ohio National Guard to respond to various natural disasters involving flood recovery and various levels of snow emergencies. I have seen first hand the tremendous service and professionalism of the National Guard when I toured areas of the state that were damaged by the rain and flooding in the Spring of 1997.

In addition to assistance at the local level, defense officials repeatedly have called upon the services of Ohio National Guard members to supplement and support our national military defense in a variety of missions throughout the world. The strong leadership that has been provided by General Alexander has benefitted not only the Ohio National Guard, it has benefitted all Ohioans and our Nation. These leadership skills were recognized by the National Guard Association of the United States, which appointed General Alexander to the position of President of the association in 1996.

It is with a degree of sadness that I find myself saying "farewell" to such a strong leader and personal friend. General Alexander has served his country ably and honorably for the past forty-four years. The positive impact he has had on the lives of Ohioans is immeasurable and his compassion for people and pride in serving in the military epitomize the true meaning of the words—Duty, Honor, Country.

I join with all Ohioans in expressing my appreciation for a job well done to Major General Richard C. Alexander. I wish General Alexander, his wife, LaVera, and his entire family all the very best. Indeed, General Alexander deserves the very best because he gave the very best—to his family, his state, and his country.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–525. A communication from the Acting Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Reportable Item Definition" received on November 10, 1998; to the Committee on Commerce, Science, and Transportation.

EC–526. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on the Antarctic Marine Living Resources Directed Research Program; to the Committee on Commerce, Science, and Transportation.

EC–527. A communication from the Acting Deputy Director of the National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding the NIST Omnibus Availability of Funds Federal Register Announcement (RIN0693–ZA24) received on November 23, 1998; to the Committee on Commerce, Science, and Transportation.

EC–528. A communication from the Acting Deputy Director of the National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Advanced Technology Program" (RIN0693–AB48) received on November 23, 1998; to the Committee on Commerce, Science, and Transportation.

EC–529. A communication from the Assistant Secretary for Communications and Information, Department of Commerce, transmitting, pursuant to law, the Department's report on the identification of alternative bands to substitute for 15 MHz of the 2025–2110 MHz band that would otherwise be required to be reassigned by competitive bidding; to the Committee on Commerce, Science, and Transportation.

EC–530. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Community Development Quota Program" (I.D. 082798A) received on December 10, 1998; to the Committee on Commerce, Science, and Transportation.

EC–531. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Bering Sea and Aleutian Islands" (I.D. 111298A) received on December 14, 1998; to the Committee on Commerce, Science, and Transportation.

EC–532. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Vessel Monitoring System Power Down Exemption" (RIN0648–AL35) received on October 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–533. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for Maryland" (I.D. 110998G) received on November 19, 1998; to the Committee on Commerce, Science, and Transportation.

EC–534. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fraser River Sockeye and Pink Salmon Fisheries; Inseason Orders" (I.D. 110498A) received on November 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–535. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for New Jersey" (I.D. 111698E) received on December 1, 1998; to the Committee on Commerce, Science, and Transportation.

EC–536. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Reservations" (I.D. 111398A) received on December 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–537. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod for Vessels Using Hook-and-Line and Pot Gear in the Bering Sea and Aleutian Islands" (I.D. 120498A) received on December 14, 1998; to the Committee on Commerce, Science, and Transportation.

EC–538. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Commercial Red Snapper Component" (I.D. 102698A) received on October 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–539. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone

Off Alaska; Atka Mackerel in the Western Aleutian District of the Bering Sea and Aleutian Islands" (I.D. 110598A) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–540. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Naval Activities" (I.D. 071596C) received on December 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–541. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Telephone Number Portability" (Docket 95–116) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–542. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of two rules regarding the Board of Directors of the National Exchange Carrier Association, Inc. and the Federal-State Joint Board on Universal Service (Docket 97–21 and 96–45) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–543. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations; Linn, Missouri" (Docket 98–164) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–544. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations; Bunker, Missouri" (Docket 98–126) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–545. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations; Whitehall, Montana" (Docket 98–138) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–546. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations; Daingerfield and Ore City, Texas" (Docket 97–253) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–547. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two Way Transmissions" (Docket 97–217) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–548. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations; Humbolt, Nebraska" (Docket 98–110) received on November 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–549. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations; Elko, Nevada" (Docket 98–111) received on November 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–550. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations; Stevensville, Montana" (Docket 98–115) received on November 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–551. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations; Whitefish, Montana" (Docket 98–124) received on November 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–552. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of two rules regarding the Universal Licensing System in the Wireless Telecommunications Services and Visiting Foreign Amateur Operators (Dockets 98–20 and 96–188) received on November 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–553. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations; Galesburg, Illinois and Ottumwa, Iowa" (Docket 97–130) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–554. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations; Plattsmouth and Papillion, Nebraska, and Osceola, Iowa" (Docket 96–95) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–555. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Restrictions on Over-the-Air Reception Devices: Television Broadcast Service and Multichannel Multipoint Distribution Service" (Docket 96–95) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–556. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations; Wilson and Turrell, Arkansas" (Docket 97–215) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–557. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations; Roxton, Texas and Soper, Oklahoma" (Docket 98–7) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–558. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations; Hague, New York, and Addison, Vermont" (Docket 98–52) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–559. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations; Boulder, Montana" (Docket 98–127) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–560. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations; Questa, New Mexico" (Docket 98–83) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–561. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations; Center and Jacksonville, Texas" (Docket 98–57) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–562. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Insurer Reporting Requirements; List of Insurers Required to File Reports" (RIN 2127–AH05) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–563. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Motor Carrier Safety Regulations; Waivers, Exemptions, and Pilot Programs; Rules and Procedures" (RIN 2125–AE48) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–564. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class

E Airspace; Fairbury, NE" (Docket 98–ACE–28) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–565. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Dallas-Fort Worth, TX" (Docket 98–ASW–42) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–566. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145 Series Airplanes" (Docket 98–NM–66–AD) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–567. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Trenton, MO" (Docket 98–ACE–38) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–568. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Wichita Mid-Continent Airport, KS" (Docket 98–ACE–36) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–569. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29403) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–570. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29402) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–571. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29389) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–572. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29388) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–573. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; First Technology Fire and Safety Ltd. Toilet Compartment Fire Extinguishers" (Docket 98–ANE–29–AD) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–574. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Removal of Class D Airspace; Fort Leavenworth, KS" (Docket 98–ACE–44) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–575. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A321–111, –112, and –131 Series Airplanes" (Docket 98–NM–264–AD) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–576. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; BF Goodrich Avionics Systems, Inc. SKYWATCH SKY497 Installations with Top-Mounted Antenna" (Docket 98–CE–107–AD) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–577. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model MD–90–30 Series Airplanes" (Docket 97–NM–258–AD) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–578. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revocation of Class D and Class E Airspace, Crows Landing, CA; Correction" (Docket 98–AWP–12) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–579. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Wellington, KS" (Docket 98–ACE–42) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–580. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Cessna Aircraft Company Model 172R Airplanes" (Docket 98–CE–109–AD) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–581. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Air Tractor, Inc. AT–300, AT–400, and AT–500 Series Airplanes" (Docket 98–CE–62–AD) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–582. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; AlliedSignal, Inc. Model T5317A–1 Turboshaft Engines" (Docket 98–ANE–72–AD) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–583. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglass Model DC–9 and DC–9–80 Series Airplanes, Model MD–88 Airplanes, and C–9 (Military) Series Airplanes" (Docket 97–NM–21–AD) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 16. A resolution to provide for the issuance of a summons and for related procedures concerning the articles of impeachment against William Jefferson Clinton, President of the United States; considered and agreed to.

SENATE RESOLUTION 16—TO PROVIDE FOR ISSUANCE OF A SUMMONS AND FOR RELATED PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 16

Resolved, That the summons be issued in the usual form provided that the President may have until 12 noon on Monday January 11th, to file his answer with the Secretary of the Senate, and the House have until 12 noon on January 13th, to file its replication with the Secretary of the Senate, together with the record which will consist of those publicly available materials that have been submitted to or produced by the House Judiciary Committee, including transcripts of public hearings or mark-ups and any materials printed by the House of Representatives or House Judiciary Committee pursuant to House Resolutions 525 and 581. Such record will be admitted into evidence, printed, and made available to Senators. If the House wishes to file a trial brief it shall be filed by 5 p.m. on January 11th.

The President and the House shall have until 5 p.m. on January 11th to file any motions permitted under the rules of impeachment except for motions to subpoena witnesses or to present any evidence not in the record. Responses to any such motions shall be filed no later than 10 a.m. on January 13th. The President may file a trial brief at or before that time. The House may file a rebuttal brief no later than 10 a.m. on January 14th.

Arguments on such motions shall begin at 1 p.m. on January 13th, and each side may determine the number of persons to make its presentation, following which the Senate shall deliberate and vote on any such motions. Following the disposition of these motions, or if no motions occur then at 1 p.m. on January 14th, the House shall make its presentation in support of the articles of impeachment for a period of time not to exceed 24 hours. Each side may determine the number of persons to make its presentation. The presentation shall be limited to argument from the record. Following the House presentation, the President shall make his presentation for a period not to exceed 24 hours as outlined in the paragraph above with reference to the House presentation.

Upon the conclusion of the President's presentation, Senators may question the parties for a period of time not to exceed 16 hours.

After the conclusion of questioning by the Senate, it shall be in order to consider and debate a motion to dismiss as outlined by the impeachment rules. Following debate it shall be in order to make a motion to subpoena witnesses and/or to present any evidence not in the record, with debate time on that motion limited to 6 hours, to be equally divided between the two parties. Following debate and any deliberation as provided in the impeachment rules, the Senate will proceed to vote on the motion to dismiss, and if defeated, an immediate vote on the motion to subpoena witnesses and/or to present any evidence not in the record, all without intervening action, motion, amendment or debate.

If the Senate agrees to allow either the House or the President to call witnesses, the witnesses shall first be deposed and the Senate shall decide after deposition which witnesses shall testify, pursuant to the impeachment rules. Further, the time for depositions shall be agreed to by both leaders. No testimony shall be admissible in the Senate unless the parties have had an opportunity to depose such witnesses.

If the Senate fails to dismiss the case, the parties will proceed to present evidence. At the conclusion of the deliberations by the Senate, the Senate shall proceed to vote on each article of impeachment.

ADDITIONAL STATEMENTS

TRIBUTE TO RUSSELL BAKER

• Mr. MOYNIHAN. Mr. President, Thomas Carlyle remarked, "A well-written Life is almost as rare as a well-spent one." Truer words never were written, if construed as a double entendre, about my rare, dear friend, Russell Baker. Baker's last "Observer" column appeared in the New York Times this past Christmas, ending a 36-year run. Over the course of some 3 million words, by his own reckoning, Russell Baker has displayed grace, gentle wit, decency, and profound insight into the human condition. Nearly fifteen years ago, I stated that Russell Baker,

> * * * has been just about the sanest observer of American life that we've had. He has been gentle with us, forgiving, understanding. He has told us truths in ways we have been willing to hear, which is to say he has been humorous . . . on the rare occasion he turns to us with a terrible visage of near rage and deep disappointment, we do well to listen all the harder.

He leaves a huge hole I doubt any other journalist can fill.

A life well-spent? He's a patriot, having served as a Navy flyer during World War II. For nearly fifty years, he has been married to his beloved Mimi. They have three grown children. His career has taken him from the Baltimore Sun's London Bureau to the Times' Washington Bureau. He has covered presidential campaigns, and he has accompanied Presidents abroad. He has met popes, kings, queens—and common people, too, for whom he has such enormous and obvious empathy. And now he is the welcoming presence on Mobil Masterpiece Theatre.

A life well-written? The Washington Post's Jonathan Yardley calls Russell Baker "a columnist's columnist," writing, "Baker broke his own mold. He was, simply and utterly, sui generis." I would not use the past tense, because I doubt Russell Baker is done putting pen to paper. But the sentiment is spot on.

A life well-written? Baker has won two Pulitzer Prizes—one in 1979 for Distinguished Commentary and another in 1983 for his 1982 autobiography, "Growing Up." He has written thirteen other books and edited The Norton Book of Light Verse and his own book of American humor. Russell Baker isn't just one of the best newspaper writers around; as Yardley puts it, he is "one of the best writers around. Period."

Mr. President, I ask that Russell Baker's last regular "Observer" column, which appeared in the December 25, 1998 edition of the New York Times, appear in the CONGRESSIONAL RECORD following my remarks. I further ask that Jonathan Yardley's "Russell Baker: A Columnist's Columnist," which appeared in the January 4, 1999 edition of the Washington Post, also appear in the RECORD following my remarks.

The material follows:

[From the New York Times, Dec. 25, 1998]

A Few Words at the End

(By Russell Baker)

Since it is Christmas, a day on which nobody reads a newspaper anyhow, and since this is the last of these columns titled "Observer" which have been appearing in The Times since 1962, I shall take the otherwise inexcusable liberty of talking about me and newspapers. I love them.

I have loved them since childhood when my Uncle Allen regularly brought home Hearst's New York Journal-American with its wonderful comics, Burris Jenkins cartoons and tales of rich playboys, murderous playgirls and their love nests. At that age I hadn't a guess about what a love nest might be, and didn't care, and since something about "love nest" sounded curiously illegal, I never asked an adult for edification.

On Sundays Uncle Allen always brought The New York Times and read himself to sleep with it. Such a dismal mass of gray paper was of absolutely no interest to me. It was Katenzjammer Kids and Maggie and Jiggs of the King Features syndicate with whom I wanted to spend Sunday.

At my friend Harry's house I discovered the New York tabloids. Lots of great pictures. Dick Tracy! Plenty of stories about condemned killers being executed, with emphasis on what they had eaten for their last meal, before walking—the last mile! The tabloids left me enthralled by the lastness of things.

Inevitably, I was admitted to practice the trade, and I marveled at the places newspapers could take me. They took me to suburbs on sunny Saturday afternoons to witness the mortal results of family quarrels in households that kept pistols. They took me to hospital emergency rooms to listen to people die and to ogle nurses.

They took me to the places inhabited by the frequently unemployed and there taught me the smell of poverty. In winter there was also the smell of deadly kerosene stoves used for heating, though their tendency to set bedrooms on fire sent the morgue a predictable stream of customers every season.

The memory of those smells has been a valuable piece of equipment during my career as a columnist. Columnists' tendency to spend their time with life's winners and to lead lives of isolation from the less dazzling American realties makes it too easy for us sometimes to solve the nation's problems in 700 words.

Newspapers have taken me into the company of the great as well as the greatly celebrated. On these expeditions I have sat in the Elysee Palace and gazed on the grandeur that was Charles de Gaulle speaking as from Olympus. I have watched Nikita Khrushchev, fresh from terrifying Jack Kennedy inside a Vienna Embassy, emerge to clown with the press.

I have been apologized to by Richard Nixon. I have seen Adlai Stevenson, would-be President of the United States, shake hands with a department-store dummy in Florida.

I have been summoned on a Saturday morning to the Capitol of the United States to meet with Lyndon Johnson, clad in pajamas and urgently needing my advice on how to break a civil-rights filibuster. I have often been played for a fool like this by other interesting men and, on occasion, equally interesting women.

Pope John XXIII included me in an audience he granted the press group en route to Turkey, Iran and points east with President Eisenhower. The Pope's feet barely reached the floor and seemed to dance as he spoke.

Newspapers took me to Westminister Abbey in a rental white tie and topper to see Queen Elizabeth crowned and to Versailles in another rental white-tie-and-tails rig to share a theater evening with the de Gaulles and the John F. Kennedys.

Thanks to newspapers, I have made a four-hour visit to Afghanistan, have seen the Taj Mahal by moonlight, breakfasted at dawn on lamb and couscous while sitting by the marble pool of a Moorish palace in Morocco and once picked up a persistent family of fleas in the Balkans.

In Iran I have ridden in a press bus over several miles of Oriental carpets with which the Shah had ordered the street covered between airport and town to honor the visiting Eisenhower, a man who, during a White House news conference which I attended in shirtsleeves, once identified me as "that man that's got the shirt on."

I could go on and on, and probably will somewhere sometime, but the time for this enterprise is up. Thanks for listening for the past three million words.

[From the Washington Post, Jan. 4, 1999]

Russell Baker: A Columnist's Columnist

(By Jonathan Yardley)

Christmas 1998 was bright and beautiful here on the East Coast, but the happy day also brought a great loss. The announcement of it was made that morning on the Op-Ed page of the New York Times, under the chilling headline, "A Few Words at the End," and under the byline of Russell Baker.

The headline told the story, and the opening of Baker's column confirmed it. "Since it is Christmas," he wrote, "a day on which nobody reads a newspaper anyhow, and since this is the last of these columns titled 'Observer' which have been appearing in the Times since 1962 . . ." at which point it was all I could do to keep on reading. But read I did, out loud, right to the end—"Thanks for listening for the past three million words"—when I could only blurt out: "Well, my world just got a lot smaller."

That is no exaggeration. I cannot pretend to have read all 3 million of those words, for there were periods when my peregrinations up and down this side of the North American continent put me out of touch with the Times, but I read most of them and treasured every one. Baker's columns were the center of my life as a reader of newspapers, and it is exceedingly difficult to imagine what that life will be without them.

Thirty-six years! Has any American newspaper columnist maintained so high a standard of wit, literacy and intelligence for so long a time? Only two come to mind: H.L. Mencken and Walter Lippmann. But Mencken's columns for the Baltimore Evening Sun were on-and-off affairs, and Lippmann struggled through a long dry period during the 1950s before being brought back to life in the 1960s by the debate over the Vietnam War. Baker, by contrast, was, like that other exemplary Baltimorean Cal Ripken Jr., as consistent and reliable as he was brilliant. For all those years he was my idea of what a journalist should be, and I strived—with precious little success—to live up to this example.

Not that I tried to imitate him, or not that I was aware of doing so. One of the many remarkable things about Baker is that, unlike Mencken or Lippmann—or Baker's old boss, James Reston, or Dorothy Thompson, or Drew Pearson, or Dave Barry—he really has no imitators. Other journalists may envy what he did, but in a business where imitation is the sincerest form of self-promotion, Baker broke his own mold. He was, simply and utterly, sui generis.

This made him, in the cozy and self-congratulatory world of journalists, odd man out. His colleagues and competitors may have admired and respected him, but few understood him. While they chased around after ephemeral scoops and basked in the reflected glory of the famous and powerful, Baker wrote what he once called "a casual column without anything urgent to tell humanity," about aspects of life that journalists commonly regard as beneath what they fancy to be their dignity. Looking back to the column's beginnings, Baker once wrote:

"At the Times in those days the world was pretty much confined to Washington news, national news and foreign news. Being ruled off those turfs seemed to leave nothing very vital to write about, and I started calling myself the Times' nothing columnist.' I didn't realize at first that it was a wonderful opportunity to do a star turn. Freed from the duty to dilate on the global predicament of the day, I could build a grateful audience among readers desperate for relief from the Times' famous gravity."

That is precisely what he did. As he noticed in his valedictory column, Baker's years as a gumshoe reporter immunized him from "columnists' tendency to spend their time with life's winners and to lead lives of isolation from the less dazzling American realities." Instead of writing self-important thumb-suckers—"The Coming Global Malaise," "Nixon's Southern Strategy," "Whither Cyprus?"—he concentrated on ordinary life as lived by ordinary middle-class Americans in the second half of the 20th century. He wrote about shopping at the supermarket, about car breakdowns and mechanics who failed to remedy them, about television and what it told us about ourselves, about children growing up and parents growing older.

Quite surely it is because Baker insisted on writing about all this stuff that failed to meet conventional definitions of "news" that not until 1979 did his fellow journalists get around to giving him the Pulitzer Prize for commentary. Probably, too, it is because he insisted on being amused by the passing scene and writing about in an amusing way. He was only occasionally laugh-out-loud amusing in the manner of Dave Barry—who is now, with Baker's retirement, the one genuinely funny writer in American newspapers—but he was always witty and wry, and he possessed a quality of which I am in awe: an ability to ingratiate himself with readers while at the same time making the most mordant judgments on their society and culture.

There were times in the late years of his column when mordancy seemed to hover at the edge of bitterness. This struck me as inexplicable, but the inner life of another person is forever a mystery, and in any event there is much in *fin de siècle* America about which to be bitter. But mostly Baker dealt in his stock in trade: common-sensical wisdom, wry skepticism, transparent decency. He wasn't just the best newspaper writer around, he was one of the best *writers* around. Period.●

MORTENSEN WINS NATIONAL FINALS RODEO

● Mr. BURNS. Mr. President, I rise today to bring your attention to Dan Mortensen's fifth National Finals Rodeo Championship. Dan Mortensen hails from Manhattan, a small Montana town just off Interstate 90 near the headwaters of the Missouri River. He made the decision to ride saddle broncs on the pro rodeo circuit—and Montana is proud that he did.

In a year when Montana's agriculture community saw many defeats, we thank Dan for inspiring us. He gave us a great show and a championship to boot. We were there with him for his ten white knuckled rides. However, we had stationary seats while he had the notorious saddle bronc horse of the year, Skoal's Wild Card, trying to buck him off in a breaking 88 point ride in the final round. The 88 point ride earned Mortenson one more National Finals Rodeo Championship.

In winning his fifth world saddle bronc title, Dan is working toward a record established by the famous Casey Tibbs for consecutive world titles; a record established in the early days of professional rodeo in America.

I would like to personally thank Mortensen for entertaining us with his breathtaking rides and wish him the best of luck in upcoming rodeos. He is truly an inspiration to competitors in any sport.●

ORDER OF PROCEDURE

The PRESIDING OFFICER. The majority leader is recognized.

ORDERS FOR TUESDAY, JANUARY 12, AND WEDNESDAY, JANUARY 13, 1999

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon on Tuesday, January 12, for a pro forma session only. I further ask that the Senate then stand adjourned to reconvene at 1 p.m. on Wednesday, January 13, to consider the articles of impeachment.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. For the information of all Senators, the Senate will convene on Tuesday, January 12, for a pro forma session only. We will reconvene on Wednesday at 1 p.m. to consider the articles of impeachment. Rollcall votes on motions are possible if any were filed.

ADJOURNMENT UNTIL TUESDAY, JANUARY 12, 1999

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 4:46 p.m., adjourned until Tuesday, January 12, 1999, at 12 noon.

SENATE—*Tuesday, January 12, 1999*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

ADJOURNMENT UNTIL 1 P.M., THURSDAY, JANUARY 14, 1999

The PRESIDENT pro tempore. Under the previous order, the Senate will stand adjourned until 1 p.m., Thursday, January 14, 1999.

Thereupon, the Senate, at 12 o'clock and 21 seconds p.m., adjourned until Thursday, January 14, 1999, at 1 p.m.

SENATE—*Thursday, January 14, 1999*

The Senate met at 1:04 p.m. and was called to order by the Chief Justice of the United States.

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

The CHIEF JUSTICE. The Senate will convene as a Court of Impeachment. The Chaplain will offer a prayer.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, whose providential care has never varied all through our Nation's history, we ask You for a special measure of wisdom for the women and men of this Senate as they act as jurors in this impeachment trial. You have been our Nation's refuge and strength in triumphs and troubles, prosperity and problems. Now, dear Father, help us through this difficult time. As You guided the Senators to unity in matters of procedure, continue to make them one in their search for the truth and in their expression of justice. Keep them focused in a spirit of nonpartisan patriotism today and in the crucial days to come. Bless the distinguished Chief Justice as he presides over this trial. We commit to You all that is said and done and ultimately decided. In Your Holy Name. Amen.

The CHIEF JUSTICE. The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, James W. Ziglar, made proclamation as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against William Jefferson Clinton, President of the United States.

The CHIEF JUSTICE. The Presiding Officer recognizes the majority leader.

Mr. LOTT. Thank you, Mr. Chief Justice.

INSTALLING EQUIPMENT AND FURNITURE IN THE SENATE CHAMBER

Mr. LOTT. I send a resolution to the desk providing for installing equipment and furniture in the Senate Chamber and ask that it be agreed to and the motion to reconsider be laid upon the table.

The CHIEF JUSTICE. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 17), to authorize the installation of appropriate equipment and furniture in the Senate Chamber for the impeachment trial.

The CHIEF JUSTICE. Without objection, the resolution is considered and agreed to.

The resolution (S. Res. 17) was agreed to, as follows:

S. RES. 17

Resolved, That in recognition of the unique requirements raised by the impeachment trial of a President of the United States, the Sergeant at Arms shall install appropriate equipment and furniture in the Senate chamber for use by the managers from the House of Representatives and counsel to the President in their presentations to the Senate during all times that the Senate is sitting for trial with the Chief Justice of the United States presiding.

SEC. 2. The appropriate equipment and furniture referred to in the first section is as follows:

(1) A lectern, a witness table and chair if required, and tables and chairs to accommodate an equal number of managers from the House of Representatives and counsel for the President which shall be placed in the well of the Senate.

(2) Such equipment as may be required to permit the display of video, or audio evidence, including video monitors and microphones, which may be placed in the chamber for use by the managers from the House of Representatives or the counsel to the President.

SEC. 3. All equipment and furniture authorized by this resolution shall be placed in the chamber in a manner that provides the least practicable disruption to Senate proceedings.

PRIVILEGE OF THE FLOOR

Mr. LOTT. Mr. Chief Justice, I now ask unanimous consent floor privileges be granted to the individuals listed on the document I send to the desk, during the closed impeachment proceedings of William Jefferson Clinton, President of the United States.

The CHIEF JUSTICE. Without objection, it is so ordered.

The document follows.

FLOOR PRIVILEGES DURING CLOSED SESSION

David Hoppe, Administrative Assistant, Majority Leader.
Michael Wallace, Counsel, Majority Leader.
Robert Wilkie, Counsel, Majority Leader.
Bill Corr, Counsel, Democratic Leader.
Robert Bauer, Counsel, Democratic Leader.
Andrea La Rue, Counsel, Democratic Leader.
Peter Arapis, Floor Manager, Democratic Whip.
Kirk Matthew, Chief of Staff, Assistant Majority Leader.
Stewart Verdery, Counsel, Assistant Majority Leader.
Tom Griffith, Senate Legal Counsel.
Morgan Frankel, Deputy Senate Legal Counsel.
Loretta Symms, Deputy Sergeant at Arms.
Bruce Kasold, Chief Counsel, Secretary & Sergeant at Arms.
David Schiappa, Assistant Majority Secretary.
Lula Davis, Assistant Minority Secretary.
Alan Frumin, Assistant Parliamentarian.
Kevin Kayes, Assistant Parliamentarian.
Patrick Keating, Assistant Journal Clerk.
Scott Sanborn, Assistant Journal Clerk.
David Tinsley, Assistant Legislative Clerk.
Ronald Kavulick, Chief Reporter.
Jerald Linnell, Official Reporter.
Raleigh Milton, Official Reporter.
Joel Breitner, Official Reporter.
Mary Jane McCarthy, Official Reporter.
Paul Nelson, Official Reporter.
Katie-Jane Teel, Official Reporter.
Patrick Renzi, Official Reporter.
Lee Brown, Staff Assistant, Official Reporter.
Kathleen Alvarez, Bill Clerk.
Simon Sargent, Staff Assistant to Sen. Cleland.

UNANIMOUS-CONSENT AGREEMENT—AUTHORITY TO PRINT SENATE DOCUMENTS

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that the Secretary of the Senate be authorized to print as a Senate document all documents filed by the parties together with other materials for the convenience of all Senators.

The CHIEF JUSTICE. Without objection, it is so ordered.

Mr. LOTT. Mr. Chief Justice, I am about to submit a series of unanimous-consent agreements and a resolution for the consideration of the Senate. In addition to these matters, I would like to state for the information of all Senators that, pursuant to S. Res. 16, the evidentiary record on which the parties' presentations over the next days will be based was filed by the House managers yesterday and was distributed to all Senators through their offices. These materials are now being printed at the Government Printing Office as Senate documents. The initial documents of the record have been printed and are now at each Senator's desk. As the printing of the rest of the volumes of the record is completed over the next few days, they will also be placed on the Senators desks for their convenience.

THE JOURNAL

The CHIEF JUSTICE. Without objection, the Journal of the proceedings of the trial are approved to date.

The Presiding Officer submits to the Senate for printing in the Senate Journal the following documents:

The precept, issued on January 8, 1999;

The writ of summons, issued on January 8, 1999; and the receipt of summons, dated January 8, 1999.

The Presiding Officer submits to the Senate for printing in the Senate Journal the following documents, which were received by the Secretary of the Senate pursuant to Senate Resolution 16, 106th Congress, first session:

The answer of William Jefferson Clinton, President of the United States, to the articles of impeachment exhibited by the House of Representatives against him on January 7, 1999,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

received by the Secretary of the Senate on January 11, 1999;

The trial brief filed by the House of Representatives, received by the Secretary of the Senate on January 11, 1999;

The trial brief filed by the President, received by the Secretary of the Senate on January 13, 1999;

The replication of the House of Representatives, received by the Secretary of the Senate on January 13, 1999; and

The rebuttal brief filed by the House of Representatives, received by the Secretary of the Senate on January 14, 1999.

Without objection, the foregoing documents will be printed in the CONGRESSIONAL RECORD.

The documents follow:

THE UNITED STATES OF AMERICA, *ss:*

The Senate of the United States to James W. Ziglar, Sergeant at Arms, United States Senate, greeting:

You are hereby commanded to deliver to and leave with William Jefferson Clinton, if conveniently to be found, or if not, to leave at his usual place of abode, a true and attested copy of the within writ of summons, together with a like copy of this precept; and in whichsoever way you perform the service, let it be done at least 2 days before the answer day mentioned in the said writ of summons.

Fail not, and make return of this writ of summons and precept, with your proceedings thereon indorsed, on or before the day for answering mentioned in the said writ of summons.

Witness Strom Thurmond, President pro tempore of the Senate, at Washington, D.C., this 8th day of January, 1999, the two hundred and twenty-third year of the Independence of the United States.

Attest:

GARY SISCO,
Secretary of the Senate.

THE UNITED STATES OF AMERICA, *ss:*

The Senate of the United States to William Jefferson Clinton, greeting:

Whereas the House of Representatives of the United States of America did, on the 7th day of January, 1999, exhibit to the Senate articles of impeachment against you, the said William Jefferson Clinton, in the words following:

"Articles of impeachment exhibited by the House of Representatives of the United States of America in the name of itself and of the people of the United States of America, against William Jefferson Clinton, President of the United States of America, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

ARTICLE I

"In his conduct while President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has willfully corrupted and manipulated the judicial process of the United States for his personal gain and exoneration, impeding the administration of justice, in that:

"On August 17, 1998, William Jefferson Clinton swore to tell the truth, the whole truth, and nothing but the truth before a Federal grand jury of the United States. Contrary to that oath, William Jefferson Clinton willfully provided perjurious, false and misleading testimony to the grand jury concerning one or more of the following: (1) the nature and details of his relationship with a subordinate Government employee; (2) prior perjurious, false and misleading testimony he gave in a Federal civil rights action brought against him; (3) prior false and misleading statements he allowed his attorney to make to a Federal judge in that civil rights action; and (4) his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence in that civil rights action.

"In doing this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the United States.

"Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

ARTICLE II

"In his conduct while President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has prevented, obstructed, and impeded the administration of justice, and has to that end engaged personally, and through his subordinates and agents, in a course of conduct or scheme designed to delay, impede, cover up, and conceal the existence of evidence and testimony related to a Federal civil rights action brought against him in a duly instituted judicial proceeding.

"The means used to implement this course of conduct or scheme included one or more of the following acts:

"(1) On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading.

"(2) On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to give perjurious, false and misleading testimony if and when called to testify personally in that proceeding.

"(3) On or about December 28, 1997, William Jefferson Clinton corruptly engaged in, encouraged, or supported a scheme to conceal evidence that had been subpoenaed in a Federal civil rights action brought against him.

"(4) Beginning on or about December 7, 1997, and continuing through and including January 14, 1998, William Jefferson Clinton intensified and succeeded in an effort to secure job assistance to a witness in a Federal civil rights action brought against him in order to corruptly prevent the truthful testimony of that witness in that proceeding at a time when the truthful testimony of that witness would have been harmful to him.

"(5) On January 17, 1998, at his deposition in a Federal civil rights action brought against him, William Jefferson Clinton corruptly allowed his attorney to make false and misleading statements to a Federal judge characterizing an affidavit, in order to prevent questioning deemed relevant by the judge. Such false and misleading statements were subsequently acknowledged by his attorney in a communication to that judge.

"(6) On or about January 18 and January 20–21, 1998, William Jefferson Clinton related a false and misleading account of events relevant to a Federal civil rights brought against him to a potential witness in that proceeding, in order to corruptly influence the testimony of that witness.

"(7) On or about January 21, 23, and 26, 1998, William Jefferson Clinton made false and misleading statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence the testimony of those witnesses. The false and misleading statements made by William Jefferson Clinton were repeated by the witnesses to the grand jury, causing the grand jury to receive false and misleading information.

"In all of this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive to the rule of law and justice, to the manifest injury of the people of the United States.

"Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States."

And demand that you, the said William Jefferson Clinton, should be put to answer the accusations as set forth in said articles, and that such proceedings, examinations, trials, and judgments might be thereupon had as are agreeable to law and justice.

You, the said William Jefferson Clinton, are therefore hereby summoned to file with the Secretary of the United States Senate, S–220 The Capitol, Washington, D.C., 20510, an answer to the said articles of impeachment no later than noon on the 11th day of January, 1999, and therefore to abide by, obey, and perform such orders, directions, and judgments as the Senate of the United States shall make in the premises according to the Constitution and laws of the United States.

Hereof you are not to fail.

Witness Strom Thurmond, President pro tempore of the Senate, at Washington, D.C., this 8th day of January, 1999, the two hundred and twenty-third year of the Independence of the United States.

Attest:

GARY SISCO,
Secretary of the Senate.

The foregoing writ of summons, addressed to William Jefferson Clinton, President of the United States, and the foregoing precept, addressed to me, were duly served upon the said William Jefferson Clinton, by my delivering true and attested copies of the same to Charles Ruff, at the White House, on the 8th day of January, 1999, at 5:27 p.m.

Attest:

JAMES W. ZIGLAR,
Sergeant at Arms.
LORETTA SYMMS,
Deputy Sergeant at Arms.

Dated: January 8, 1999.

Witnesseth:

Gary Sisco, *Secretary,*
United States Senate.

[In the Senate of the United States Sitting as a Court of Impeachment]

In re Impeachment of William Jefferson Clinton, President of the United States

ANSWER OF PRESIDENT WILLIAM JEFFERSON CLINTON TO THE ARTICLES OF IMPEACHMENT

The Honorable William Jefferson Clinton, President of the United States, in response to the summons of the Senate of the United States, answers the accusations made by the House of Representatives of the United States in the two Articles of Impeachment it has exhibited to the Senate as follows:

PREAMBLE

THE CHARGES IN THE ARTICLES DO NOT CONSTITUTE HIGH CRIMES OR MISDEMEANORS

The charges in the two Articles of Impeachment do not permit the conviction and removal from office of a duly elected President. The President has acknowledged conduct with Ms. Lewinsky that was improper. But Article II, Section 4 of the Constitution provides that the President shall be removed from office only upon "Impeachment for, and Conviction of, Treason, Bribery or other high Crimes and Misdemeanors." The charges in the articles do not rise to the level of "high Crimes and Misdemeanors" as contemplated by the Founding Fathers, and they do not satisfy the rigorous constitutional standard applied throughout our Nation's history. Accordingly, the Articles of Impeachment should be dismissed.

THE PRESIDENT DID NOT COMMIT PERJURY OR OBSTRUCT JUSTICE

The President denies each and every material allegation of the two Articles of Impeachment not specifically admitted in this answer.

ARTICLE I

President Clinton denies that he made perjurious, false and misleading statements before the federal grand jury on August 17, 1998.

FACTUAL RESPONSES TO ARTICLE I

Without waiving his affirmative defenses, President Clinton offers the following factual responses to the allegations in Article I:

(1) The President denies that he made perjurious, false and misleading statements to the grand jury about "the nature and details of his relationship" with Monica Lewinsky

There is a myth about President Clinton's testimony before the grand jury. The myth is that the President failed to admit his improper intimate relationship with Ms. Monica Lewinsky. The myth is perpetuated by Article I, which accuses the President of lying about "the nature and details of his relationship" with Ms. Lewinsky.

The fact is that the President specifically acknowledged to the grand jury that he had an improper intimate relationship with Ms. Lewinsky. He said so, plainly and clearly: "When I was alone with Ms. Lewinsky on certain occasions in early 1996 and once in early 1997, I engaged in conduct that was wrong. These encounters . . . did involve inappropriate intimate contact." The President described to the grand jury how the relationship began and how it ended at his insistence early in 1997—long before any public attention or scrutiny. He also described to the grand jury how he had attempted to testify in the deposition in the *Jones* case months earlier without having to acknowledge to the *Jones* lawyers what he ultimately admitted to the grand jury—that he had an improper intimate relationship with Ms. Lewinsky.

The President read a prepared statement to the grand jury acknowledging his relationship with Ms. Lewinsky. The statement was offered at the beginning of his testimony to focus the questioning in a manner that would allow the Office of Independent Counsel to obtain necessary information without unduly dwelling on the salacious details of the relationship. The President's statement was followed by almost four hours of questioning. If it is charged that his statement was in any respect perjurious, false and misleading, the President denies it. The President also denies that the statement was in any way an attempt to thwart the investigation.

The President states, as he did during his grand jury testimony, that he engaged in improper physical contact with Ms. Lewinsky. The President was truthful when he testified before the grand jury that he did not engage in sexual relations with Ms. Lewinsky *as he understood that term to be defined by the Jones lawyers during their questioning of him in that deposition*. The President further denies that his other statements to the grand jury about the nature and details of his relationship with Ms. Lewinsky were perjurious, false, and misleading.

(2) The President denies that he made perjurious, false and misleading statements to the grand jury when he testified about statements he had made in the Jones deposition

There is a second myth about the President's testimony before the grand jury. The myth is that the President adopted his entire *Jones* deposition testimony in the grand jury. The President was not asked to and did not broadly restate or reaffirm his *Jones* deposition testimony. Instead, in the grand jury he discussed the bases for certain answers he gave. The President testified truthfully in the grand jury about statements he made in the *Jones* deposition. The President stated to the grand jury that he did not attempt to be helpful to or assist the lawyers in the *Jones* deposition in their quest for information about his relationship with Ms. Lewinsky. He truthfully explained to the grand jury his efforts to answer the questions in the *Jones* deposition without disclosing his relationship with Ms. Lewinsky. Accordingly, the full, underlying *Jones* deposition is not before the Senate.

Indeed, the House specifically considered and rejected an article of impeachment based on the President's deposition in the *Jones* case. The House managers should not be allowed to prosecute before the Senate an article of impeachment which the full House has rejected.

(3) The President denies that he made perjurious, false and misleading statements to the grand jury about "statements he allowed his attorney to make" during the Jones deposition

The President denies that he made perjurious, false and misleading statements to the grand jury about the statements his attorney made during the *Jones* deposition. The President was truthful when he explained to the grand jury his understanding of certain statements made by his lawyer, Robert Bennett, during the *Jones* deposition. The President also was truthful when he testified that he was not focusing on the prolonged and complicated exchange between the attorneys and Judge Wright.

(4) The President denies that he made perjurious, false and misleading statements to the grand jury concerning alleged efforts "to influence the testimony of witnesses and to impede the discovery of evidence" in the Jones case

For the reasons discussed more fully in response to Article II, the President denies that he attempted to influence the testimony of any witness or to impede the discovery of evidence in the *Jones* case. Thus, the President denies that he made perjurious, false and misleading statements before the grand jury when he testified about these matters.

FIRST AFFIRMATIVE DEFENSE: ARTICLE I DOES NOT MEET THE CONSTITUTIONAL STANDARD FOR CONVICTION AND REMOVAL

For the same reasons set forth in the preamble of this answer, Article I does not meet the rigorous constitutional standard for conviction and removal from office of a duly elected President and should be dismissed.

SECOND AFFIRMATIVE DEFENSE: ARTICLE I IS TOO VAGUE TO PERMIT CONVICTION AND REMOVAL

Article I is unconstitutionally vague. No reasonable person could know what specific charges are being leveled against the President. It alleges that the President provided the grand jury with "perjurious, false, and misleading testimony" concerning "one or more" of four subject areas. But it fails to identify *any* specific statement by the President that is alleged to be perjurious, false and misleading. The House has left the Senate and the President to guess at what it had in mind.

One of the fundamental principles of our law and the Constitution is that a person has a right to know what specific charges he or she is facing. Without such fair warning, no one can prepare the defense to which every person is entitled. The law and the Constitution also mandate adequate notice to jurors so they may know the basis for the vote they must make. Without a definite and specific identification of false statements, a trial becomes a moving target for the accused. In addition, the American people deserve to know upon what specific statements the President is being judged, given the gravity and effect of these proceedings, namely nullifying the results of a national election.

Article I sweeps broadly and fails to provide the required definite and specific identification. Were it an indictment, it would be dismissed. As an article of impeachment, it is constitutionally defective and should fail.

THIRD AFFIRMATIVE DEFENSE: ARTICLE I CHARGES MULTIPLE OFFENSE IN ONE ARTICLE

Article I is fatally flawed because it charges multiple instances of alleged perjurious, false and misleading statements in one article. The Constitution provides that "no person shall be convicted without the Concurrence of two thirds of the Members present," and Senate Rule XXIII provides that "an article of impeachment shall not be divisible for the purpose of voting thereon at any time during the trial." By the express terms of Article I, a Senator may vote for impeachment if he or she finds that there was perjurious, false and misleading testimony in "one or more" of four topic areas. This creates the very real possibility that conviction could occur even though Senators were in wide disagreement as to the alleged wrong committed. Put simply, the structure of Article I presents the possibility that the President could be convicted even though he would have been acquitted if separate votes were taken on each allegedly perjurious statement. For example, it would be possible for the President to be convicted and removed from office with as few as 17 Senators agreeing that any single statement was perjurious, because 17 votes for each of the four categories in Article I would yield 68 votes, one more than necessary to convict and remove.

By charging multiple wrongs in one article, the House of Representatives has made it impossible for the Senate to comply with the Constitutional mandate that any conviction be by the concurrence of two-thirds of the members. Accordingly, Article I should fail.

Factual Responses to Article II

Without waiving his affirmative defenses, President Clinton offers the following factual responses to the allegations in Article II:

(1) The President denies that on or about December 17, 1997, he "corruptly encouraged" Monica Lewinsky "to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading"

The President denies that he encouraged Monica Lewinsky to execute a false affidavit in the *Jones* case. Ms. Lewinsky, the only witness cited in support of this allegation, denies this allegation as well. Her testimony and proffered statements are clear and unmistakable:

- "[N]o one even asked me to lie and I was never promised a job for my silence."
- "Neither the President nor anyone ever directed Lewinsky to say anything or to lie . . ."
- "Neither the Pres[ident] nor Mr. Jordan (or anyone on their behalf) asked or encouraged Ms. L[ewinsky] to lie."

The President states that, sometime in December 1997, Ms. Lewinsky asked him whether she might be able to avoid testifying the *Jones* case because she knew nothing about Ms. Jones or the case. The President further states that he told her he believed other witnesses had executed affidavits, and there was a chance they would not have to testify. The President denies that he ever asked, encouraged or suggested that Ms. Lewinsky file a false affidavit or lie. The President states that he believed that Ms. Lewinsky could have filed a limited but truthful affidavit that might have enabled her to avoid having to testify in the *Jones* case.

(2) The President denies that on or about December 17, 1997, he "corruptly encouraged" Monica Lewinsky "to give perjurious, false and misleading testimony of and when called to testify personally" in the Jones litigation

Again, the President denies that he encouraged Ms. Lewinsky to lie if and when called to testify personally in the *Jones* case. The testimony and proffered statements of Monica Lewinsky, the only witness cited in support of this allegation, are clear and unmistakable:

- [N]o one ever asked me to lie and I was never promised a job for my silence."
- "Neither the President nor anyone ever directed Lewinsky to say anything or to lie . . ."
- "Neither the Pres[ident] nor Mr. Jordan (or anyone on their behalf) asked or encouraged Ms. L[ewinsky] to lie."

The President states that, *prior* to Ms. Lewinsky's involvement in the *Jones* case, he and Ms. Lewinsky might have talked about what to do to conceal their relationship from others. Ms. Lewinsky was not a witness in any legal proceeding at that time. Ms. Lewinsky's own testimony and statements support the President's recollection. Ms. Lewinsky testified that she "pretty much can" exclude the possibility that she and the President ever had discussions about denying the relationship *after* she learned she was a witness in the *Jones* case. Ms. Lewinsky also stated that "they did not discuss the issue [of what to say about their relationship] is specific relation to the *Jones* matter," and that "she does not believe they discussed the content of any deposition that [she] might be involved in at a later date."

(3) The President denies that on or about December 28, 1997, he "corruptly engaged in, encouraged, or supported a scheme to conceal evidence" in the Jones case

The President denies that he engaged in, encouraged, or supported any scheme to conceal evidence from discovery in the *Jones* case, including any gifts he had given to Ms. Lewinsky. The President states that he gave numerous gifts to Ms. Lewinsky prior to December 28, 1997. The President states that, sometime in December, Ms. Lewinsky inquired as to what to do if she were asked in the *Jones* case about the gifts he had given her, to which the President responded that she would have to turn over whatever she had. The President states that he was unconcerned about having given her gifts and, in fact, that he gave Ms. Lewinsky additional gifts on December 28, 1997. The President denies that he ever asked his secretary, Ms. Betty Currie, to retrieve gifts he had given Ms. Lewinsky, or that he ever asked, encouraged, or suggested that Ms. Lewinsky conceal the gifts. Ms. Currie told prosecutors as early as January 1998 and repeatedly thereafter that it was Ms. Lewinsky who had contacted her about retrieving gifts.

(4) The President denies that he obstructed justice in connection with Monica Lewinsky's efforts to obtain a job in New York to "corruptly prevent" her "truthful testimony" in the Jones case

The President denies that he obstructed justice in connection with Ms. Lewinsky's job search in New York or sought to prevent her truthful testimony in the *Jones* case. The President states that he discussed with Ms. Lewinsky her desire to obtain a job in New York months before she was listed as a potential witness in the *Jones* case. Indeed, Ms. Lewinsky was offered a job in New York at the United Nations more than a month before she was identified as a possible witness. The President also states that he believes that Ms. Lewinsky raised with him, again before she was ever listed as a possible witness in the *Jones* case, the prospect of having Mr. Vernon Jordan assist in her job search. Ms. Lewinsky corroborates his recollection that it was her idea to ask for Mr. Jordan's help. The President also states that he was aware that Mr. Jordan was assisting Ms. Lewinsky to obtain employment in New York. The President denies that any of these efforts had any connection whatsoever to Ms. Lewinsky's status as a possible or actual witness in the *Jones* case. Ms. Lewinsky forcefully confirmed the President's denial when she testified, "I was never promised a job for my silence."

(5) The President denies that he "corruptly allowed his attorney to make false and misleading statements to a Federal judge" concerning Monica Lewinsky's affidavit

The President denies that he corruptly allowed his attorney to make false and misleading statements concerning Ms. Lewinsky's affidavit to a Federal judge during the *Jones* deposition. The President denies that he was focusing his attention on the prolonged and complicated exchange between his attorney and Judge Wright.

(6) The President denies that he obstructed justice by relating "false and misleading statements" to "a potential witness," Betty Currie, "in order to corruptly influence [her] testimony"

The President denies that he obstructed justice or endeavored in any way to influence any potential testimony of Ms. Betty Currie. The President states that he spoke with Ms. Currie on January 18, 1998. The President testified that, in that conversation, he was trying to find out what the facts were, what Ms. Currie's perception was, and whether his own recollection was correct about certain aspects of his relationship with Ms. Lewinsky. Ms. Currie testified that she felt no pressure "whatsoever" from the President's statements and no pressure "to agree with [her] boss." The President denies knowing or believing that Ms. Currie would be a witness in any proceeding at the time of this conversation. Ms. Currie had not been on any of the witness lists proffered by the *Jones* lawyers. President Clinton states that, after the Independent Counsel investigation became public, when Ms. Currie was scheduled to testify, he told Ms. Currie to "tell the truth."

(7) The President denies that he obstructed justice when he relayed allegedly "false and misleading statements" to his aides

The President denies that he obstructed justice when he misled his aides about the nature of his relationship with Ms. Lewinsky in the days immediately following the public revelation of the Lewinsky investigation. The President acknowledges that, in the days following the January 21, 1998, Washington Post article, he misled his family, his friends and staff, and the Nation to conceal the nature of his relationship with Ms. Lewinsky. He sought to avoid disclosing his personal wrongdoing to protect his family and himself from hurt and public embarrassment. The President profoundly regrets his actions, and he has apologized to his family, his friends and staff, and the Nation. The President denies that he had any corrupt purpose or any intent to influence the ongoing grand jury proceedings.

First Affirmative Defense: Article II Does Not Meet the Constitutional Standard for Conviction and Removal

For the reasons set forth in the preamble of this answer, Article II does not meet the constitutional standard for convicting and removing a duly elected President from office and should be dismissed.

Second Affirmative Defense: Article II Is Too Vague To Permit Conviction and Removal

Article II is unconstitutionally vague. No reasonable person could know what specific charges are being leveled against the President. Article II alleges that the President "obstructed and impeded the administration of justice" in both the *Jones* case and the grand jury investigation. But it provides little or no concrete information about the *specific acts* in which the President is alleged to have engaged, or with whom, or when, that allegedly obstructed or otherwise impeded the administration of justice.

As we set forth in the Second Affirmative Defense to Article I, one of the fundamental principles of our law and the Constitution is that a person has the right to know what specific charges he or she is facing. Without such fair warning, no one can mount the defense to which every person is entitled. Fundamental to due process is the right of the

President to be adequately informed of the charges so that he is able to confront those charges and defend himself.

Article II sweeps too broadly and provides too little definite and specific identification. Were it an indictment, it would be dismissed. As an article of impeachment, it is constitutionally defective and should fail.

THIRD AFFIRMATIVE DEFENSE: ARTICLE II CHARGES MULTIPLE OFFENSES IN ONE ARTICLE

For the reasons set forth in the Third Affirmative Defense to Article I, Article II is constitutionally defective because it charges multiple instances of alleged acts of obstruction in one article, which makes it impossible for the Senate to comply with the Constitutional mandates that any conviction be by the concurrence of the two-thirds of the members. Accordingly, Article II should fail.

Respectfully submitted,

DAVID E. KENDALL,
NICOLE K. SELIGMAN,
EMMET T. FLOOD,
MAX STIER,
GLEN DONATH,
ALICIA MARTI,
Williams & Connolly,
725 12th Street, N.W.,
Washington, D.C. 20005.
CHARLES F. C. RUFF,
GREGORY B. CRAIG,
BRUCE R. LINDSEY,
CHERYL D. MILLS,
LANNY A. BREUER,
Office of the White House Counsel,
The White House,
Washington, D.C. 20502.

Submitted: January 11, 1999.

[In the Senate of the United States Sitting as a Court of Impeachment]

In re Impeachment of President William Jefferson Clinton

TRIAL MEMORANDUM OF THE UNITED STATES HOUSE OF REPRESENTATIVES

Now comes the United States House of Representatives, by and through its duly authorized Managers, and respectfully submits to the United States Senate its Brief in connection with the Impeachment Trial of William Jefferson Clinton, President of the United States.

SUMMARY

The President is charged in two Articles with: (1) Perjury and false and misleading testimony and statements under oath before a federal grand jury (Article I), and (2) engaging in a course of conduct or scheme to delay and obstruct justice (Article II).

The evidence contained in the record, when viewed as a unified whole, overwhelmingly supports both charges.

PERJURY AND FALSE STATEMENTS UNDER OATH

President Clinton deliberately and willfully testified falsely under oath when he appeared before a federal grand jury on August 17, 1998. Although what follows is not exhaustive, some of the more overt examples will serve to illustrate.

- At the very outset, the President read a prepared statement, which itself contained totally false assertions and other clearly misleading information.
- The President relied on his statement nineteen times in his testimony when questioned about his relationship with Ms. Lewinsky.
- President Clinton falsely testified that he was not paying attention when his lawyer employed Ms. Lewinsky's false affidavit at the Jones deposition.
- He falsely claimed that his actions with Ms. Lewinsky did not fall within the definition of "sexual relations" that was given at his deposition.
- He falsely testified that he answered questions truthfully at his deposition concerning, among other subjects, whether he had been alone with Ms. Lewinsky.
- He falsely testified that he instructed Ms. Lewinsky to turn over the gifts if she were subpoenaed.
- He falsely denied trying to influence Ms. Currie after his deposition.
- He falsely testified that he was truthful to his aides when he gave accounts of his relationship, which accounts were subsequently disseminated to the media and the grand jury.

OBSTRUCTION OF JUSTICE

The President engaged in an ongoing scheme to obstruct both the Jones civil case and the grand jury. Further, he undertook a continuing and concerted plan to tamper with witnesses and prospective witnesses for the purpose of causing those witnesses to provide false and misleading testimony. Examples abound:

- The President and Ms. Lewinsky concocted a cover story to conceal their relationship, and the President suggested that she employ that story if subpoenaed in the Jones case.
- The President suggested that Ms. Lewinsky provide an affidavit to avoid testifying in the Jones case, when he knew that the affidavit would need to be false to accomplish its purpose.
- The President knowingly and willfully allowed his attorney to file Ms. Lewinsky's false affidavit and to use it for the purpose of obstructing justice in the Jones case.
- The President suggested to Ms. Lewinsky that she provide a false account of how she received her job at the Pentagon.
- The President attempted to influence the expected testimony of his secretary, Ms. Currie, by providing her with a false account of his meetings with Ms. Lewinsky.
- The President provided several of his top aides with elaborate lies about his relationship with Ms. Lewinsky, so that those aides would convey the false information to the public and to the grand jury. When he did this, he knew that those aides would likely be called to testify, while he was declining several invitations to testify. By this action, he obstructed and delayed the operation of the grand jury.
- The President conspired with Ms. Lewinsky and Ms. Currie to conceal evidence that he had been subpoenaed in the Jones case, and thereby delayed and obstructed justice.
- The President and his representatives orchestrated a campaign to discredit Ms. Lewinsky in order to affect adversely her credibility as a witness, and thereby attempted to obstruct justice both in the Jones case and the grand jury.
- The President lied repeatedly under oath in his disposition in the Jones case, and thereby obstructed justice in that case.
- The President's lies and misleading statements under oath at the grand jury were calculated to, and did obstruct, delay and prevent the due administration of justice by that body.
- The President employed the power of his office to procure a job for Ms. Lewinsky after she signed the false affidavit by causing his friend to exert extraordinary efforts for that purpose.

The foregoing are merely accusations of an ongoing pattern of obstruction of justice, and witness tampering extending over a period of several months, and having the effect of seriously compromising the integrity of the entire judicial system.

The effect of the President's misconduct has been devastating in several respects.

(1) He violated repeatedly his oath to "preserve, protect and defend the Constitution of the United States."

(2) He ignored his constitutional duty as chief law enforcement officer to "take care that the laws be faithfully executed."

(3) He deliberately and unlawfully obstructed Paula Jones's rights as a citizen to due process and the equal protection of the laws, though he had sworn to protect those rights.

(4) By his pattern of lies under oath, misleading statements and deceit, he has seriously undermined the integrity and credibility of the Office of President and thereby the honor and integrity of the United States.

(5) His pattern of perjuries, obstruction of justice, and witness tampering has affected the truth seeking process which is the foundation of our legal system.

(6) By mounting an assault in the truth seeking process, he has attacked the entire Judicial Branch of government.

The Articles of Impeachment that the House has preferred state offenses that warrant, if proved, the conviction and removal from office of President William Jefferson Clinton. The Articles charge that the President has committed perjury before a federal grand jury and that he obstructed justice in a federal civil rights action. The Senate's own precedents establish beyond doubt that perjury warrants conviction and removal. During the 1980s, the Senate convicted and removed three federal judges for committing perjury. Obstruction of justice undermines the judicial system in the same fashion that perjury does, and it also warrants conviction and removal.

Under our Constitution, judges are impeached under the same standard as Presidents—treason, bribery, or other high crimes and misdemeanors. Thus, these judicial impeachments for perjury set the standard here. Finally, the Senate's own precedents further establish that the President's crimes need not arise directly out of his official duties. Two of the three judges removed in the 1980s were removed for perjury that had nothing to do with their official duties.

INTRODUCTION

This Brief is intended solely to advise the Senate generally of the evidence that the Managers intend to produce, if permitted, and of the applicable legal principles. It is not intended to discuss exhaustively all of the evidence, nor does it necessarily include each and every witness and document that the Managers would produce in the course of the trial. This Brief, then, is merely an outline for the use of the Senate in reviewing and assessing the evidence as it is set forth at trial—it is not, and is not intended to be a substitute for a trial at which all of the relevant facts will be developed.

H. RES. 611, 105TH CONG. 2ND SESS. (1998)

The House Impeachment Resolution charges the President with high crimes and misdemeanors in two Articles. Article One alleges that President Clinton "willfully corrupted and manipulated the judicial process of the United States for his personal gain and exoneration, impeding the administration of justice" in that he willfully provided perjurious, false and misleading testimony to a federal grand jury on August 17, 1998. Article Two asserts that the President "has prevented, obstructed, and impeded the administration of justice and engaged in a course of conduct or scheme designed to delay, impede, cover up, and conceal the existence of evidence and testimony related to a federal civil rights action brought against him." Both Articles are now before the Senate of the United States for trial as provided by the Constitution of the United States.

The Office of President represents to the American people and to the world, the strength, the philosophy and most of all, the honor and integrity that makes us a great nation and an example for the world. Because all eyes are focused upon that high office, the character and credibility of any temporary occupant of the Oval Office is vital to the domestic and foreign welfare of the citizens. Consequently, serious breaches of integrity and duty of necessity adversely influence the reputation of the United States.

This case is not about sex or private conduct. It is about multiple obstructions of justice, perjury, false and misleading statements, and witness tampering—all committed or orchestrated by the President of the United States.

Before addressing the President's lies and obstruction, it is important to place the events in the proper context. If this were only about private sex we would not now be before the Senate. But the manner in which the Lewinsky relationship arose and continued is important because it is illustrative of the character of the President and the decisions he made.

BACKGROUND

Monica Lewinsky, a 22 year old intern, (ML 8/6/98 GJ, p. 8; H.Doc. 105–311, p. 728) was working at the White House during the government shutdown in 1995. (ML 8/6/98 GJ, p. 10; H.Doc. 105–311, p. 730) Prior to their first intimate encounter, she had never even spoken with the President. Sometime on November 15, 1995, Ms. Lewinsky and President Clinton flirted with each other. (*Id.*) The President of the United States of America then invited this unknown young intern into a private area off the Oval Office where he kissed her. He then invited her back later and when she returned, the two engaged in the first of many acts of inappropriate contact. (ML 8/6/98 GJ, p. 12; H.Doc. 105–311, p. 732)

Thereafter, the two concocted a cover story. If Ms. Lewinsky were seen, she was bringing papers to the President. That story was totally false. (ML 8/6/98 GJ, p. 54; H.Doc. 105–311, p. 774; 8/26/98 Dep., p. 34; H.Doc. 105–311, p. 1314) The only papers she brought were personal messages having nothing to do with her duties or those of the President. (ML 8/6/98 GJ, pgs. 54–55; H.Doc. 105–311, pp. 774–775) After Ms. Lewinsky moved from the White House to the Pentagon, her frequent visits to the President were disguised as visits to Betty Currie. (*Id.*) Those cover stories are important, because they play a vital role in the later perjuries and obstructions.

ENCOUNTERS

Over the term of their relationship the following significant matters occurred:

1. Monica Lewinsky and the President were alone on at least twenty-one occasions;

2. They had at least eleven personal sexual encounters, excluding phone sex: Three in 1995, Five in 1996 and Three in 1997;

3. They had at least 55 telephone conversations, at least seventeen of which involved phone sex;

4. The President gave Ms. Lewinsky twenty presents; and,

5. Ms. Lewinsky gave the President forty presents (O.I.C. Referral, App., Tab E; H.Doc. 105–311, pgs. 104–111)

These are the essential facts which form the backdrop for all of the events that followed.

The sexual details of the President's encounters with Ms. Lewinsky, though relevant, need not be detailed either in this document or through witness testimony. It is necessary, though, briefly to outline that evidence, because it will demonstrate that the President repeatedly lied about that sexual relationship in his deposition, before the grand jury, and in his responses to the Judiciary Committee's questions. He has consistently maintained that Ms. Lewinsky merely performed acts on him, while he never touched her in a sexual manner. This characterization not only directly contradicts Ms. Lewinsky's testimony, but it also contradicts the sworn grand jury testimony of three of her friends and the statements by two professional counselors with whom she contemporaneously shared the details of her relationship. (O.I.C. Referral, H. Doc. 105–310, pgs. 138–140)

While his treatment of Ms. Lewinsky was offensive, it is much more offensive for the President to expect the Senate to believe that in 1995, 1996, and 1997, his intimate contact with Ms. Lewinsky was so limited that it did not fall within his narrow interpretation of a definition of "sexual relations". As later demonstrated, he did not even conceive his interpretation until 1998, while preparing for his grand jury appearance.

HOW TO VIEW THE EVIDENCE

We respectfully submit that the evidence and testimony must be viewed as a whole; it cannot be compartmentalized. It is essential to avoid considering each event in isolation, and then treating it separately. Events and words that may seem innocent or even exculpatory in a vacuum may well take on a sinister, or even criminal connotation when observed in the context of the whole plot. For example, everyone agrees that Monica Lewinsky testified "No one ever told me to lie; nobody ever promised me a job." (ML 8/20/98 GJ, p. 105; H. Doc. 105–311, p. 1161)

When considered alone this would seem exculpatory. However, in the context of the other evidence, another picture emerges. Of course no one said. "Now, Monica, you go in there and lie." They didn't have to. Ms. Lewinsky knew what was expected of her. Similarly, nobody *promised* her a job, but once she signed the false affidavit, she got one.

THE ISSUE

The ultimate issue is whether the President's course of conduct is such as to affect adversely the Office of the President and also upon the administration of justice, and whether he has acted in a manner contrary to his trust as President and subversive to the Rule of Law and Constitutional government.

THE BEGINNING

The events that form the basis of these charges actually began in late 1995. They reached a critical stage in the winter of 1997 and the first month of 1998. The event culminated when the President of the United States appeared before a federal grand jury, raised his right hand to God and swore to tell the truth, the whole truth, and nothing but the truth.

DECEMBER 5–6, 1997

On Friday, December 5, 1997, Monica Lewinsky asked Betty Currie if the President could see her the next day, Saturday, but Ms. Currie said that the President was scheduled to meet with his lawyers all day. (ML 8/6/98 GJ, pgs. 107–108; H. Doc. 105–311, pgs. 827–828) Later that Friday, Ms. Lewinsky spoke briefly to the President at a Christmas party. (ML 7/31/98 Int., p. 1; H. Doc. 105–311, p. 1451; ML 8/6/98 GJ, p. 108; H. Doc. 105–311, p. 828)

THE WITNESS LIST IS RECEIVED

That evening, Paula Jones's attorneys faxed a list of potential witnesses to the President's attorneys. (849–DC–00000128; 849–DC–00000121–37; Referral, H. Doc. 105–311, p. 88) The list included Monica Lewinsky. However, Ms. Lewinsky did not find out that her name was on the list until the President told her ten days later, on December 17. (ML 8/6/98 GJ, pgs. 121–123; H. Doc. 105–311, pgs. 841–843) That delay is significant.

MS. LEWINSKY'S FIRST VISIT

After her conversation with Ms. Currie and seeing the President at the Christmas party, Ms. Lewinsky drafted a letter to the President terminating their relationship. (ML–55–DC–0177); ML 7/31/98 Int., p. 2; H. Doc. 105–311, p. 1452) The next morning, Saturday, December 6, Ms. Lewinsky went to the White House to deliver the letter and some gifts for the President to Ms. Currie. (ML 8/6/98 GJ, pgs. 108–109; H. Doc. 105–311, pgs. 828–829) When she arrived at the White House, Ms. Lewinsky spoke to several Secret Service officers, and one of them told her that the President was not with his lawyers, as she thought, but rather, he was meeting with Eleanor Mondale. (ML 8/6/98 GJ, p. 111; H. Doc. 105–311, p. 831; Mondale 7/16/98 Int., p. 1; H. Doc. 105–316, pgs. 2907–2908; H. Doc. 105–311, p. 2654) Ms. Lewinsky called Ms. Currie from a pay phone, angrily exchanged words with her, and went home. (ML 8/6/98 GJ, pgs. 112–13; H. Doc. 105–311, pgs. 832–833; Currie 1/27/98 GJ, p. 27; H. Doc. 105–316, p. 553) After that phone call, Ms. Currie told the Secret Service watch commander that the President was so upset about the disclosure of his meeting with Ms. Mondale that he wanted somebody fired. (Purdie 7/23/98 GJ, pgs. 13, 18–19; H. Doc. 105–316, pgs. 3356–3357).

THE TELEPHONE CONVERSATIONS

At 12:05 p.m., records demonstrate that Ms. Currie paged Bruce Lindsey with the message: "Call Betty ASAP." (964–DC–00000862; H. Doc. 105–311, p. 2722) Around that same time, according to Ms. Lewinsky, while she was back at her apartment, Ms. Lewinsky and the President spoke by phone. The President was very angry; he told Ms. Lewinsky that no one had every treated him as poorly as she had. (ML 8/6/98 GJ, pgs. 113–14; H. Doc. 105–311, pgs. 833–834) The President acknowledged to the grand jury that he was upset about Ms. Lewinsky's behavior and considered it inappropriate. (WJC 8/17/98 GJ, p. 85; H.Doc. 105–311, p. 537). Nevertheless, in a sudden change of mood, he invited her to visit him at the White House that afternoon. (ML 8/6/98 GJ, p. 114; H.Doc. 105–311, p. 834)

MS. LEWINSKY'S SECOND VISIT

Monica Lewinsky arrived at the White House for the second time that day and was cleared to enter at 12:52 p.m. (WAVES: 827–DC–00000018) Although, in Ms. Lewinsky's words, the President was "very angry" with her during their recent telephone conversation, he was "sweet" and "very affectionate" during this visit. (ML 8/6/98 GJ, pgs. 113–15; H.Doc. 105–311, pgs. 833–835). He also told her that he would talk to Vernon Jordan about her job situation. (ML 8/6/98 GJ, pgs. 115–16; H.Doc. 105–311, pgs. 835–836)

The Discussions With the Secret Service

The President also suddenly changed his attitude toward the Secret Service. Ms. Currie informed some officers that if they kept quiet about the Lewinsky incident, there would be no disciplinary action. (Williams 7/23/98 GJ, pgs. 25, 27–28; H.Doc. 105-316, p. 4539; Chinery 7/23/98 GJ, p. 22–23; H.Doc. 105-316, p. 456). According to the Secret Service watch commander, Captain Jeffrey Purdie, the President personally told him, "I hope you use your discretion" or "I hope I can count on your discretion." (Purdie 7/23/98 GJ, p. 32; H.Doc. 105-316, p. 3360; Purdie 7/17/98 GJ, p. 3; H.Doc. 105-316, p. 3353) Deputy Chief Charles O'Malley, Captain Purdie's supervisor, testified that he knew of no other time in his fourteen years of service at the White House where the President raised a performance issue with a member of the Secret Service uniformed division. (O'Malley 9/8/98 Dep., pgs. 40–41; H.Doc. 105-316, pgs. 3168–3171) After his conversation with the President, Captain Purdie told a number of officers that they should not discuss the Lewinsky incident. (Porter 8/13/98 GJ, p. 12; H.Doc. 105-316, p. 3343; Niedzwiecki 7/30/98 GJ, pgs. 30–31, H.Doc. 105-316, p. 3114)

When the President was before the grand jury and questioned about his statements to the Secret Service regarding this incident, the President testified, "I don't remember what I said and I don't remember to whom I said it." (WJC 8/17/98 GJ, p. 86; H.Doc. 105-311, p. 534) When confronted with Captain Purdie's testimony, the President testified, "I don't remember anything I said to him in that regard. I have no recollection of that whatever." (WJC 8/17/98 GJ, p. 91; H.Doc. 105-311, p. 543)

The President's Knowledge of the Witness List

President Clinton testified before the grand jury that he learned that Ms. Lewinsky was on the Jones witness list that evening, Saturday, December 6, during a meeting with his lawyers. (WJC 8/17/98 GJ, p. 83–84; H.Doc. 105-311, p. 535–536) He stood by this answer in response to Request Number 16 submitted by the Judiciary Committee. (Exhibit 18). The meeting occurred around 5 p.m., after Ms. Lewinsky had left the White House. (WAVES: 1407–DC–00000005; Lindsey 3/12/98 GJ, pgs. 64–66; H.Doc. 105-316, pgs. 2418–19) According to Bruce Lindsey, at the meeting, Bob Bennett had a copy of the Jones witness list faxed to Mr. Bennett the previous night. (Lindsey 3/12/98 GJ, pgs. 65–67; H.Doc. 105-316, p. 2419) (Exhibit 15)

However, during his deposition, the President testified that he had heard about the witness list *before* he saw it. (WJC 1/17/98 Dep., p. 70) In other words, if the President testified truthfully in his deposition, then he knew about the witness list before the 5 p.m. meeting. It is valid to infer that hearing Ms. Lewinsky's name on a witness list prompted the President's sudden and otherwise unexplained change from "very angry" to "very affectionate" that Saturday afternoon. It is also reasonable to infer that it prompted him to give the unique instruction to a Secret Service watch commander to use "discretion" regarding Ms. Lewinsky's visit to the White House, which the watch commander interpreted as an instruction to refrain from discussing the incident. (Purdie 7/17/98 GJ, pgs. 20–21; H.Doc. 105-316, pgs. 3351–3352; Purdie 7/23/98 GJ, pgs. 32–33; H.Doc. 105-315, pgs. 3360–3361)

The Job Search for Ms. Lewinsky

Monica Lewinsky had been looking for a good paying and high profile job in New York since the previous July. She was not having much success despite the President's promise to help. In early November, Betty Currie arranged a meeting with Vernon Jordan who was supposed to help. (BC 5/6/98 GJ, p. 176; H.Doc. 105-316, p. 592)

On November 5, Ms. Lewinsky met for twenty minutes with Mr. Jordan (ML 8/6/98 GJ, pg. 104; H.Doc. 105-311, p. 824) No action followed; no job interviews were arranged and there were no further contacts with Mr. Jordan. It was obvious that he made no effort to find a job for Ms. Lewinsky. Indeed, it was so unimportant to him that he "had no recollection of an early November meeting" (VJ 3/3/98 GJ, pg. 50; H.Doc. 105-316, p. 1799) and that finding a job for Ms. Lewinsky was not a priority (VJ 5/5/98 GJ, p. 76; H.Doc. 105-316, p. 1804) (Chart R) Nothing happened throughout the month of November, because Mr. Jordan was either gone or would not return Monica's calls. (ML 8/6/98 GJ, p. 105–106; H.Doc. 105-311, pgs. 825–826)

During the December 6 meeting with the President, she mentioned that she had not been able to get in touch with Mr. Jordan and that it did not seem he had done anything to help her. The President responded by stating, "Oh, I'll talk to him. I'll get on it," or something to that effect. (ML 8/6/98 GJ, pgs. 115–116; H.Doc. 105-311, p. 836) There was obviously still no urgency to help Ms. Lewinsky. Mr. Jordan met the President the next day, December 7, but the meeting was unrelated to Ms. Lewinsky. (VJ 5/5/98 GJ. pgs. 83, 116; H.Doc. 105-316, pgs. 1805, 1810)

The December 11, 1997 Activity

The first activity calculated to help Ms. Lewinsky actually procure employment took place on December 11. Mr. Jordan met with Ms. Lewinsky and gave her a list of contact names. The two also discussed the President. (ML 8/6/98 GJ, pgs. 119, 120; H.Doc. 105-311, pgs. 839–840) That meeting Mr. Jordan remembered. (VJ 3/5/98 GJ, p. 41; H.Doc. 105-316, p. 1798) Vernon Jordan immediately placed calls to two prospective employers. (VJ 3/3/98 GJ, pgs. 54, 62–63; H.Doc. 105-316, pgs. 1800–1802) Later in the afternoon, he even called the President to give him a report on his job search efforts. (VJ 3/3/98 GJ, pgs. 64–66; H.Doc. 105-316, p. 1802) Clearly, Mr. Jordan and the President were now *very* interested in helping Monica find a good job in New York. (VJ 5/5/98 GJ, p. 95; H.Doc. 105-316, p. 1807)

Significance of December 11, 1997

This sudden interest was inspired by a court order entered on December 11, 1997. On that date, Judge Susan Webber Wright ordered that Paula Jones was entitled to information regarding any state or federal employee with whom the President had sexual relations, proposed sexual relations, or sought to have sexual relations.

The President knew that it would be politically and legally expedient to maintain an amicable relationship with Monica Lewinsky. And the President knew that that relationship would be fostered by finding Ms. Lewinsky a job. This was accomplished through enlisting the help of Vernon Jordan.

December 17, 1997, Ms. Lewinsky Learns of Witness List

On December 17, 1997, between 2:00 and 2:30 in the morning, Monica Lewinsky's phone rang unexpectedly. It was the President of the United States. The President said that he wanted to tell Ms. Lewinsky two things: one was that Betty Currie's brother had been killed in a car accident; secondly, the President said that he "had some more bad news," that he had seen the witness list for the Paula Jones case and her name was on it. (ML 8/6/98 GJ, p. 123; H.Doc. 105-311, p. 843) The President told Ms. Lewinsky that seeing her name on the list "broke his heart." He then told her that "if [she] were to be subpoenaed, [she] should contact Betty and let Betty know that [she] had received the subpoena." (*Id.*) Ms. Lewinsky asked what she should do if subpoenaed. The President responded: "Well, maybe you can sign an affidavit." (*Id.*) Both parties knew that the Affidavit would need to be false and misleading to accomplish the desired result.

The President's "Suggestion"

Then, the President had a very pointed suggestion for Monica Lewinsky, a suggestion that left little room for compromise. He did not specifically tell her to lie. What he did say is "you know, you can always say you were coming to see Betty or that you were bringing me letters." (ML 8/6/98 GJ, p. 123; H.Doc. 105-311, p. 843)

In order to understand the significance of this statement, it is necessary to recall the "cover stories" that the President and Ms. Lewinsky had previously structured in order to deceive those who protected and worked with the President.

Ms. Lewinsky said she would carry papers when she visited the President. When she saw him, she would say: "Oh, gee, 'here are your letters,' wink, wink, wink and he would answer, 'Okay that's good.'" (ML 8/6/98 GJ, p. 54; H.Doc. 105-311, p. 774) After Ms. Lewinsky left White House employment, she would return to the Oval Office under the guise of visiting Betty Currie, not the President. (ML 8/6/98 GJ, p. 55; H.Doc. 105-311, p. 775)

Moreover, Ms. Lewinsky promised the President that she would always deny the sexual relationship and always protect him. The President would respond "that's good" or similar language of encouragement. (ML 8/20/98 GJ, p. 22; H.Doc. 105-311, p. 1078)

So, when the President called Ms. Lewinsky at 2:00 a.m. on December 17 to tell her she was on the witness list, he made sure to remind her of those prior "cover stories." Ms. Lewinsky testified that when the President brought up the misleading stories, she understood that the two would continue their pre-existing pattern of deception.

The President's Intention

It became clear that the President had no intention of making his sexual relationship with Monica Lewinsky a public affair. And he would use lies, deceit, and deception to ensure that the truth would not be known.

It is interesting to note that when the grand jury asked the President whether he remembered calling Monica Lewinsky at 2:00 a.m., he responded: "No sir, I don't. But it would . . . it is quite possible that that happened. . . ." (WJC 8/17/98 GJ, p. 115; H.Doc. 105-311, p. 567)

And when he was asked whether he encouraged Monica Lewinsky to continue the cover stories of "coming to see Betty" or "bringing the letters," he answered: "I don't remember exactly what I told her that night." (WJC 8/17/98 GJ, p. 117; H.Doc. 105-311, p. 565)

Six days earlier, he had become aware that Paula Jones' lawyers were now able to inquire about other women. Ms. Lewinsky could file a false affidavit, but it might not work. It was absolutely essential that both parties told the same story. He knew that he would lie if asked about Ms. Lewinsky, and he wanted to make certain that she would lie also. That is why the President of the United States called a twenty-four year old woman at 2:00 in the morning.

The Evidence Mounts

But the President had an additional problem. It was not enough that he (and Ms. Lewinsky) simply deny the relationship. The evidence was beginning to accumulate. Because of the emerging evidence, the President found it necessary to reevaluate his defense. By this time, the evidence was establishing, through records and eyewitness accounts, that the President and Monica Lewinsky were spending a significant amount of time together in the Oval Office complex. It was no longer expedient simply to refer to Ms. Lewinsky as a "groupie", "stalker", "clutch", or "home wrecker" as the White House first attempted to do. The unassailable facts were forcing the President to acknowledge some type of relationship. But at this point, he still had the opportunity to establish a non-sexual explanation for their meetings, since his DNA had not yet been identified on Monica Lewinsky's blue dress.

Need for the Cover Story

Therefore, the President needed Monica Lewinsky to go along with the cover story in order to provide an innocent, intimate-free explanation for their frequent meetings. And that innocent explanation came in the form of "document deliveries" and "friendly chats with Betty Currie."

Significantly, when the President was deposed on January 17, 1998, he used the exact same cover stories that had been utilized by Ms. Lewinsky. In doing so, he stayed consistent with any future Lewinsky testimony while still maintaining his defense in the Jones lawsuit.

In the President's deposition, he was asked whether he was ever alone with Monica Lewinsky. He responded: "I don't recall . . . She—it seems to me *she brought things to me* once or twice on the weekends. In that case, whatever time she would be in there, *drop it off*, exchange a few words and go, she was there." (WJC 1/17/98 Dep., p. 52–53)

Additionally, when questions were posed regarding Ms. Lewinsky's frequent visits to the Oval Office, the President did not hesitate to mention Betty Currie in his answers, for example:

> And my recollection is that on a couple of occasions after [the pizza party meeting], she was there [in the oval office] but my secretary, Betty Currie, was there with her. (WJC 1/17/98 Dep., p. 58)
>
> Q. When was the last time you spoke with Monica Lewinsky?
>
> A. I'm trying to remember. Probably sometime before Christmas. She came by to see Betty sometime before Christmas. And she was there talking to her, and I stuck my head out, said hello to her. (WJC 1/17/98 Dep., p. 68)

December 19, 1997, Ms. Lewinsky Is Subpoenaed

On December 19, 1997, Ms. Lewinsky was subpoenaed to testify in a deposition scheduled for January 23, 1998 in the Jones case. (ML 8/6/98 GJ, p. 128; H.Doc. 105–311, p. 848) (Charts F and G) Extremely distraught, she immediately called the President's closest friend, Vernon Jordan. As noted Ms. Lewinsky testified that the President previously told her to call Betty Currie if she was subpoenaed. She called Mr. Jordan instead because Ms. Currie's brother recently died and she did not want to bother her. (ML 8/6/98 GJ, pgs. 128–129; H.Doc. 105–311, pgs. 848, 849)

Vernon Jordan's Role

Mr. Jordan invited Ms. Lewinsky to his office and she arrived shortly before 5 p.m., still extremely distraught. Around this time, Mr. Jordan called the President and told him Ms. Lewinsky had been subpoenaed. (VJ 5/5/98 GJ, p. 145; H.Doc. 105–316, p. 1815) (Exhibit 1) During the meeting with Ms. Lewinsky, which Mr. Jordan characterized as "disturbing" (VJ 3/3/98 GJ, p. 100; H.Doc. 105–316, p. 1716), she talked about her infatuation with the President. (VJ 3/3/98 GJ, p. 150; H.Doc. 105–316, p. 1724) Mr. Jordan decided that he would call a lawyer for her. (VJ 3/3/98 GJ, p. 161; H.Doc. 105–316, p. 1726)

Mr. Jordan Informs the President

That evening, Mr. Jordan met with the President and relayed his conversation with Ms. Lewinsky. The details are extremely important because the President, in his deposition, did not recall that meeting. Mr. Jordan told the President again that Ms. Lewinsky had been subpoenaed, that he was concerned about her fascination with the President, and that Ms. Lewinsky had asked Mr. Jordan if he thought the President would leave the First Lady. He also asked the President if he had sexual relations with Ms. Lewinsky. (VJ 3/3/98 GJ, p. 169; H.Doc 105–3316, p. 1727) The President was asked at his deposition:

> Q. Did anyone other than your attorneys ever tell you that Monica Lewinsky had been served with a subpoena in this case?
>
> A. I don't think so.
>
> Q. Did you ever talk with Monica Lewinsky about the possibility that she might be asked to testify in this case?
>
> A. Bruce Lindsey, I think Bruce Lindsey told me that she was, I think maybe that's the first person told me she was. I want to be as accurate as I can.

(WJC 1/17/98 Dep., pgs. 68–69)

In the grand jury, the President first repeated his denial that Mr. Jordan told him Ms. Lewinsky had been subpoenaed. (WJC 8/17/98 GJ, p. 39; H.Doc. 105–311, p. 491) Then, when given more specific facts, he admitted that he "knows now" that he spoke with Mr. Jordan about the subpoena on the night of December 19, but his "memory is not clear. . . ." (WJC 8/17/98 GJ, pgs. 41–42; H.Doc. 105–311, p. 493–494) In an attempt to explain away his false deposition testimony, the President testified in the grand jury that he was trying to remember who told him first. (WJC 8/17/98 GJ, p. 41; H.Doc. 105–311, pgs. 492–493) But that was not the question. So his answer was false and misleading. When one considers the nature of the conversation between the President and Mr. Jordan, the suggestion that it would be forgotten defies common sense.

December 28, 1997

December 28, 1997 is a crucial date, because the evidence shows that the President made false and misleading statements to the federal court, the federal grand jury and the Congress of the United States about the events on that date. (Chart J) It is also a date on which he obstructed justice.

The President's Account

The President testified that it was "possible" that he invited Ms. Lewinsky to the White House for this visit. (WJC 8/17/98 GJ, p. 33; H.Doc. 105–311, p. 485) He admitted that he "probably" gave Ms. Lewinsky the most gifts he had ever given her on that date, (WJC 8/17/98 GJ, p. 35; H.Doc. 105–311, p. 487) and that he had given her gifts on other occasions. (WJC 8/6/98 GJ, p. 35) (Chart D) Among the many gifts the President gave Ms. Lewinsky on December 28 was a bear that he said was a symbol of strength. (ML 8/6/98 GJ, p. 176; H.Doc. 105–311, p. 896) Yet only two-and-a-half weeks later, the President forgot that he had given any gifts to Ms. Lewinsky.

As an attorney, the President knew that the law will not tolerate someone who says, "I don't recall" when that answer is unreasonable under the circumstances. He also knew that, under those circumstances, his answer in the deposition could not be believed. When asked in the grand jury why he was unable to remember, even though he had given Ms. Lewinsky so many gifts only two-and-a-half weeks before the deposition, the President put forth an obviously contrived explanation.

> "I think what I meant there was I don't recall what they were, not that I don't recall whether I had given them."

(WJC 8/17/98 GJ, p. 51; H.Doc. 105–311, p. 503)

Response to Committee Requests

The President adopted that same answer in Response No. 42 to the House Judiciary Committee's Requests For Admission. (Exhibit 18) He was not asked in the deposition to identify the gifts. He was simply asked, "Have you ever" given gifts to Ms. Lewinsky. The law does not allow a witness to insert unstated premises or mental reservations into the question to make his answer technically true, if factually false. The essence of lying is in deception, not in words.

The President's answer was false. The evidence also proves that his explanation to the grand jury and to the Committee is also false. The President would have us believe that he was able to analyze questions as they were being asked, and pick up such things as verb tense in an attempt to make his statements at least literally true. But when he was asked a simple, straightforward question, he did not understand it. Neither his answer in the deposition nor his attempted explanation is reasonable or true.

Testimony Concerning Gifts

The President was asked in the deposition if Monica Lewinsky ever gave him gifts. He responded, "once or twice." (WJC 1/17/98 Dep., p. 77) This is also false testimony calculated to obstruct justice. He answered this question in his Response to the House Judiciary Committee by saying that he receives numerous gifts, and he did not focus on the precise number. (Exhibit 18) The law again does not support the President's position. An answer that baldly understates a numerical fact in response to a specific quantitative inquiry can be deemed technically true but actually false. For example, a witness is testifying falsely if he says he went to the store five times when in fact he had gone fifty, even though technically he had also gone five times. So too, when the President answered once or twice in the face of evidence that Ms. Lewinsky was frequently bringing gifts, he was lying. (Chart C)

Concealment of Gifts

On December 28, one of the most blatant efforts to obstruct justice and conceal evidence occurred. Ms. Lewinsky testified that she discussed with the President the fact that she had been subpoenaed and that the subpoena called for her to produce gifts. She recalled telling the President that the subpoena requested a hat pin, and that caused her concern. (ML 8/6/98 GJ, pgs. 151–152; H.Doc. 105–311, pgs. 871–872) The President told her that it "bothered" him, too. (ML 8/20/98 GJ, p. 66; H.Doc. 105–311, p. 1122) Ms. Lewinsky then suggested that she take the gifts somewhere, or give them to someone, maybe to Betty. The President answered: "I don't know" or "Let me think about that." (ML 8/6/98 GJ, pgs. 152–153; H.Doc. 105–311, pgs. 872–873) (Chart L) Later that day, Ms. Lewinsky got a call from Ms. Currie, who said: "I understand you have something to give me" or "the President said you have something to give me." (ML 8/6/98 GJ, pgs. 154–155; H.Doc. 105–311, pgs. 874–875) Ms. Currie has a fuzzy memory about this incident, but says that "the best she can remember," Ms. Lewinsky called her. (Currie 5/6/98 GJ, p. 105; H.Doc. 105–316, p. 581)

THE CELL PHONE RECORD

There is key evidence that Ms. Currie's fuzzy recollection is wrong. Ms. Lewinsky said that she thought Ms. Currie called from her cell phone. (ML 8/6/98 GJ, pgs. 154–155) (Chart K, Exhibit 2) Ms. Currie's cell phone record corroborates Ms. Lewinsky and proves conclusively that Ms. Currie called Monica from her cell phone several hours after she had left the White House. Moreover, Ms. Currie herself later testified that Ms. Lewinsky's memory may be better than hers on this point. (BC 5/6/98 GJ, p. 126; H.Doc. 105–316, p. 584) The facts prove that the President directed Ms. Currie to pick up the gifts.

MS. CURRIE'S LATER ACTIONS

That conclusion is buttressed by Ms. Currie's actions. If Ms. Lewinsky had placed the call requesting a gift exchange, Ms. Currie would logically ask the reason for such a transfer. Ms. Lewinsky was giving her a box of gifts from the President yet she did not tell the President of this strange request. She simply took the gifts and placed them under her bed without asking a single question. (BC 1/27/98 GJ, pgs. 57–58; H.Doc. 105–316, p. 557; BC 5/6/98 GJ, pgs. 105–108, 114; H.Doc. 105–316, pgs. 581–582)

The President stated in his Response to questions No. 24 and 25 from the House Committee that he was not concerned about the gifts. (Exhibit 18) In fact, he said that he recalled telling Monica that if the Jones lawyers request gifts, she should turn them over. The President testified that he is "not sure" if he knew the subpoena asked for gifts. (WJC 8/17/98 GJ, pgs. 42–43; H.Doc. 105–311, pgs. 494–495) Would Monica Lewinsky and the President discuss turning over gifts to the Jones lawyers if Ms. Lewinsky had not told him that the subpoena asked for gifts? On the other hand, if he knew the subpoena requested gifts, why would he give Ms. Lewinsky more gifts on December 28? Ms. Lewinsky's testimony reveals the answer. She said that she never questioned "that we were ever going to do anything but keep this private" and that meant to take "whatever appropriate steps needed to be taken" to keep it quiet. (ML 8/6/98 GJ, pgs. 166; H.Doc. 105–311, p. 886) The only logical inference is that the gifts—including the bear symbolizing strength—were a tacit reminder to Ms. Lewinsky that they would deny the relationship—even in the face of a federal subpoena.

THE PRESIDENT'S DEPOSITION TESTIMONY

Furthermore, the President, at various times in his deposition, seriously misrepresented the nature of his meeting with Ms. Lewinsky on December 28 in order to obstruct the administration of justice. First, he was asked: "Did she tell you she had been served with a subpoena in this case?" The President answered flatly: "No. I don't know if she had been." (WJC 1/17/98 Dep., p. 68)

He was also asked if he "ever talked to Monica Lewinsky about the possibility of her testifying." "I'm not sure . . .," he said. he then added that he may have joked to her that the Jones lawyers might subpoena every woman he has ever spoken to, and that "I don't think we ever had more of a conversation than that about it. . . ." (WJC 1/17/98 Dep., p. 70) Not only does Monica Lewinsky directly contradict this testimony, but the President also directly contradicted himself before the grand jury. Speaking of his December 28, 1997 meeting, he said that he "knew by then, of course, that she had gotten a subpoena" and that they had a "conversation about the possibility of her testifying." (WJC 8/17/98 Dep., pgs. 35–36) Remember, he had this conversation about her testimony only two-and-a-half weeks before his deposition. Again, his version is not reasonable.

JANUARY 5–9, 1998, MS. LEWINSKY SIGNS THE AFFIDAVIT AND GETS A JOB

The President knew that Monica Lewinsky was going to execute a false Affidavit. He was so certain of the content that when she asked if he wanted to see it, he told her no, *that he had seen fifteen of them.* (ML 8/2/98 Int., p. 3; H.Doc. 105–311, p. 1489) He got his information from discussions with Ms. Lewinsky and Vernon Jordan generally about the content of the Affidavit. Moreover, the President had suggested the Affidavit himself and he trusted Mr. Jordan to be certain the mission was accomplished.

ADDITIONAL PRESIDENTIAL ADVICE

In the afternoon of January 5, 1998, Ms. Lewinsky met with her lawyer, Mr. Carter, to discuss the Affidavit. (ML 8/6/98 GJ, p. 192; H.Doc. 105–311, p. 912) Her lawyer asked her some hard questions about how she got her job. (ML 8/6/98 GJ, p. 195; H.Doc. 105–311, p. 915) After the meeting, she called Betty Currie and said that she wanted to speak to the President before she signed anything. (ML 8/6/98 GJ, p. 195; H.Doc. 105–311, p. 915) Ms. Lewinsky and the President discussed the issue of how she would answer under oath if asked about how she got her job at the Pentagon. (ML 8/6/98 GJ, p. 197; H.Doc. 105–311, p. 917) The President told her: "Well, you could always say that the people in Legislative Affairs got it for you or helped you get it." (ML 8/6/98 GJ, p. 197; H.Doc. 105–311, p. 917) That, too, is false and misleading.

VERNON JORDAN'S NEW ROLE

The President was also kept advised as to the contents of the Affidavit by Vernon Jordan. (VJ 5/5/98 GJ, p. 224; H.Doc. 105–316, p. 1828) On January 6, 1998, Ms. Lewinsky picked up a draft of the Affidavit from Mr. Carter's office. (ML 8/6/98 GJ, p. 199; H.Doc. 105–311, p. 919) She delivered a copy to Mr. Jordan's office. (ML 8/6/98 GJ, p. 200; H.Doc. 105–311, p. 920) because she wanted Mr. Jordan to look at the Affidavit in the belief that if Vernon Jordan gave his imprimatur, the President would also approve. (ML 8/6/98 GJ, pgs. 194–195; H.Doc. 105–311, pgs. 914, 915) (Chart M) Ms. Lewinsky and Mr. Jordan conferred about the contents and agreed to delete a paragraph inserted by Mr. Carter which might open a line of questions concerning whether she had been alone with the President. (ML 8/6/98 GJ, p. 200; H.Doc. 105–311, p. 920) (Exhibit 3) Mr. Jordan maintained that he had nothing to do with the details of the Affidavit. (VJ 3/5/98 GJ, p. 12; H.Doc. 105–316, p. 1735) He admits, though, that he spoke with the President after conferring with Ms. Lewinsky about the changes made to her Affidavit. (VJ 5/5/98 GJ, p. 218; H.Doc. 105–316, p. 1827)

MS. LEWINSKY SIGNS THE FALSE AFFIDAVIT

The next day, January 7, Monica Lewinsky signed the false Affidavit. (ML 8/6/98 GJ, pgs. 204–205; H.Doc. 105–311, pgs. 924–925) (Chart N; Exhibit 12) She showed the executed copy to Mr. Jordan that same day. (VJ 5/5/98 GJ, p. 222; H.Doc. 105–316, p. 1828) (Exhibit 4) Mr. Jordan, in turn, notified the President that she signed an affidavit denying a sexual relationship. (VJ 3/5/98 GJ, p. 26; H.Doc. 105–316, p. 1739)

MS. LEWINSKY GETS THE JOB

On January 8, 1998, Mr. Jordan arranged an interview for Ms. Lewinsky with MacAndrews and Forbes in New York. (ML 8/6/98 GJ, p. 206; H.Doc. 105–311, p. 926) The interview went poorly, so Ms. Lewinsky called Mr. Jordan and informed him. (ML 8/6/98 GJ, p. 206; H.Doc. 105–311, p. 926) Mr. Jordan, who had done nothing to assist Ms. Lewinsky's job search from early November to mid December, then called MacAndrews and Forbes CEO, Ron Perelman, to "make things happen, if they could happen." (VJ 5/5/98 GJ, p. 231; H.Doc. 105–316, p. 1829) Mr. Jordan called Ms. Lewinsky back and told her not to worry. (ML 8/6/98 GJ, pgs. 208–209; H.Doc. 105–311, pgs. 928–929) That evening, Ms. Lewinsky was called by MacAndrews and Forbes and told that she would be given more interviews the next morning. (ML 8/6/98 GJ, p. 209; H.Doc. 105–311, p. 929)

After a series of interviews with MacAndrews and Forbes personnel, she was informally offered a job. (ML 8/6/98 GJ, p. 210; H.Doc. 105–311, p. 930) When Ms. Lewinsky called Mr. Jordan to tell him, he passed the good news on to Betty Currie stating, "Mission Accomplished." (VJ 5/28/98 GJ, p. 39; H.Doc. 105–316, p. 1898). Later, Mr. Jordan called the President and told him personally. (VJ 5/28/98 GJ, p. 41; H.Doc. 105–316, p. 1899) (Chart P)

THE REASON FOR MR. JORDAN'S UNIQUE BEHAVIOR

After Ms. Lewinsky had spent months looking for a job—since July according to the President's lawyers—Vernon Jordan made the critical call to a CEO the day after the false Affidavit was signed. Mr. Perelman testified that Mr. Jordan had never called him before about a job recommendation. (Perelman 4/23/98 Dep., p. 11; H.Doc. 105–316, p. 3281) Mr. Jordan, on the other hand, said that he called Mr. Perelman to recommend for hiring: (1) former Mayor Dinkins of New York; (2) a very talented attorney from Akin Gump; (3) a Harvard business school graduate; and (4) Monica Lewinsky. (VJ 3/5/98 GJ, p. 58–59; H.Doc. 105–316, p. 1747) Even if Mr. Perelman's testimony is mistaken, Ms. Lewinsky's qualifications do not compare to those of the individuals previously recommended by Mr. Jordan.

Vernon Jordan was well aware that people with whom Ms. Lewinsky worked at the White House did not like her (VJ 3/3/98 GJ, pgs. 43, 59) and that she did not like her Pentagon job. (VJ 3/3/98 GJ, pgs. 43–44; H.Doc. 105–316, pgs. 1706, 1707) Mr. Jordan was asked if at "any point during this process you wondered about her qualifications for employment?" He answered: "No, because that was not my judgment to make." (VJ 3/3/98 GJ, p. 44; H.Doc. 105–316, p. 1707) Yet, when he called Mr. Perelman the day after she signed the Affidavit, he referred to Ms. Lewinsky as a bright young girl who is "terrific." (Perelman 4/23/98 Dep., p. 10; H.Doc. 105–316, p. 3281) Mr. Jordan testified that she had been pressing him for a job and voicing unrealistic expectations concerning positions and salary. (VJ 3/5/98 GJ, pgs. 37–38; H.Doc. 105–316, p. 1742) Moreover, she narrated a disturbing story about the President leaving the First Lady, and how the President was not spending enough time with her. Yet, none of that gave Mr. Jordan pause in making the recommendation, especially after Monica was subpoenaed. (VJ 3/3/98 GJ, pgs. 156–157; H.Doc. 105–316, p. 1725)

The Importance of the False Affidavit

Monica Lewinsky's false Affidavit enabled the President, through his attorneys, to assert at his January 17, 1998 deposition ". . . there is absolutely no sex of any kind in any manner, shape or form with President Clinton. . . ." (WJC, 1/17/98 Dep., p. 54) When questioned by his own attorney in the deposition, the President stated specifically that paragraph 8 of Ms. Lewinsky's Affidavit was "absolutely true." (WJC, 1/17/98 Dep., p. 204) The President later affirmed the truth of that statement when testifying before the grand jury. (WJC, 8/17/98 GJ, p. 20–21; H.Doc. 105–311, pg. 473) Paragraph 8 of Ms. Lewinsky's Affidavit states:

"I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for rejecting a sexual relationship."

Significantly, Ms. Lewinsky reviewed the draft Affidavit on January 6, and signed it on January 7 after deleting a reference to being alone with the President. She showed a copy of the signed Affidavit to Vernon Jordan, who called the President and told him that she had signed it. (VJ, 3/5/98 GJ, pgs. 24–26; H.Doc. 105–316, pgs. 1728, 1739; VJ, 5/5/98 GJ, p. 222; H.Doc. 105–316, p. 1828)

The Rush To File the Affidavit

For the affidavit to work for the President in precluding questions by the Jones attorneys concerning Ms. Lewinsky, it had to be filed with the Court and provided to the President's attorneys in time for his deposition on January 17. On January 14, the President's lawyers called Ms. Lewinsky's lawyer and left a message, presumably to find out if he had filed the Affidavit with the Court. (Carrier 6/18/98 GJ, p. 123; H.Doc. 105–316, p. 423) (Chart O) On January 15, the President's attorneys called her attorney twice. When they finally reached him, they requested a copy of the Affidavit and asked him, "Are we still on time?" (Carter 6/18/98 GJ, p. 123; H.Doc. 105–216, p. 423) Ms. Lewinsky's lawyer faxed a copy on the 15th. (Carter 6/18/98 GJ, p. 123, H.Doc. 105–316, p. 423) The President's counsel was aware of its contents and used it powerfully in the deposition.

Ms. Lewinsky's lawyer called the court in Arkansas twice on January 15 to ensure that the Affidavit could be filed on Saturday, January 17. (Carter 6/18/98 GJ, pgs. 124–125; H.Doc. 105–316, pgs. 423–424) (Exhibit 5) He finished the Motion to Quash Ms. Lewinsky's deposition in the early morning hours of January 16 and mailed it to the Court with the false Affidavit attached, for Saturday delivery. (Carter 6/18/98 GJ, p. 134; H.Doc. 105–316, p. 426) The President's lawyers left him another message on January 16, saying, "You'll know what it's about." (Carter 6/18/98 GJ, p. 135; H.Doc. 105–316, p. 426) Obviously, the President needed that Affidavit to be filed with the Court to support his plans to mislead Ms. Jones' attorneys in the deposition, and thereby obstruct justice.

The Newsweek Inquiry

On January 15, Michael Isikoff of Newsweek called Betty Currie and asked her about Ms. Lewinsky sending gifts to her by courier. (BC 5/6/98 GJ, p. 123; H.Doc. 105–316, p. 584; ML 8/6/98 GJ, p. 228; H.Doc. 105–311, p. 948) Ms. Currie then called Ms. Lewinsky and told her about it. (ML 8/6/98 GJ, p. 228–229; H.Doc. 105–311, pgs. 948–949) The President was out of town, so later, Betty Currie called Ms. Lewinsky back, and asked for a ride to Mr. Jordan's office. (ML 8/6/98 GJ, p. 229; H.Doc. 105–311, p. 949; Currie 5/6/98 GJ, p. 130–131; H.Doc. 105–316, p. 585) Mr. Jordan advised her to speak with Bruce Lindsey and Mike McCurry. (VJ 3/5/98 GJ, p. 71) Ms. Currie testified that she spoke immediately to Mr. Lindsey about Isikoff's call. (BC 5/6/98 GJ, p. 127; H.Doc. 105–316, p. 584)

January 17, 1998, Deposition Aftermath

By the time the President concluded his deposition on January 17, he knew that someone was talking about his relationship with Ms. Lewinsky. He also knew that the only person who had personal knowledge was Ms. Lewinsky herself. The cover stories that he and Ms. Lewinsky created, and that he used himself during the deposition, were now in jeopardy. It became imperative that he not only contact Ms. Lewinsky, but that he obtain corroboration of his account of the relationship from his trusted secretary, Ms. Currie. At around 7 p.m. on the night of the deposition, the President called Ms. Currie and asked that she come in the following day, Sunday. (BC 7/22/98 GJ, p. 154–155; H.Doc. 105–316, p. 701 (Exhibit 6) Ms. Currie could not recall the President ever before calling her that late at home on a Saturday night. (BC 1/27/98 GJ, p. 69; H.Doc. 105–316, p. 559) (Chart S) Sometime in the early morning hours of January 18, 1998, the President learned of a news report concerning Ms. Lewinsky released earlier that day. (WJC 8/17/98 GJ, p. 142–143; H.Doc. 105–311, pgs. 594–595) (Exhibit 14)

The Tampering With the Witness, Betty Currie

As the charts indicate, between 11:49 a.m. and 2:55 p.m., there were three phone calls between Mr. Jordan and the President. (Exhibit 7) At about 5 p.m., Ms. Currie met with the President. (BC 1/27/98 GJ, p. 67; H.Doc. 105–316, p. 558) He told her that he had just been deposed and that the attorneys asked several questions about Monica Lewinsky. (BC 1/27/98 GJ, p. 69–70; H.Doc. 105–316, p. 559) He then made a series of statements to Ms. Currie: (Chart T)

(1) I was never really alone with Monica, right?

(2) You were always there when Monica was there, right?

(3) Monica came on to me, and I never touched her, right?

(4) You could see and hear everything, right?

(5) She wanted to have sex with me, and I cannot do that.

(BC 1/27/98 GJ, pgs. 70–75; H.Doc. 105–316, pgs. 559–560; BC 7/22/98 GJ, pgs. 6–7; H.Doc. 105–316, p. 664)

During Betty Currie's grand jury testimony, she was asked whether she believed that the President wished her to agree with the statements:

Q. Would it be fair to say, then—based on the way he stated [these five points] and the demeanor that he was using at the time that he stated it to you—that he wished you to agree with that statement?

A. I can't speak for him, but——

Q. How did you take it? Because you told us at these [previous] meetings in the last several days that that is how you took it.

A. [Nodding.]

Q. And you're nodding you head, "yes," is that correct?

A. That's correct.

Q. Okay, with regard to the statement that the President made to you, "You remember I was never really alone with Monica, right?" Was that also a statement that, as far as you took, that he wished you to agree with that?

A. Correct.

(BC 1/27/98 GJ, p. 74; H.Doc. 105–316, 559)

Though Ms. Currie would later intimate that she did not necessarily feel pressured by the President, she did state that she felt the President was seeking her agreement (or disagreement) with those statements. (BC 7/22/98 GJ, p. 27; H.Doc. 105–316, p. 669)

Was This Obstruction of Justice?

The President essentially admitted to making these statements when he knew they were not true. Consequently, he had painted himself into a legal corner. Understanding the seriousness of the President "coaching" Ms. Currie, the argument has been made that those statements to her could not constitute obstruction because she had not been subpoenaed, and the President did not know that she was a potential witness at the time. This argument is refuted by both the law and the facts.

The United States Court of Appeals rejected this argument, and stated, "[A] person may be convicted of obstructing justice if he urges or persuades a prospective witness to give false testimony. Neither must the target be scheduled to testify at the time of the offense, nor must he or she actually give testimony at a later time." *United States* v. *Shannon*, 836 F.2d 1125, 1128 (8th Cir. 1988) (citing, e.g., *United States* v. *Friedland*, 660 F.2d 919, 931 (3rd Cir. 1981)).

Of course Ms. Currie was a prospective witness, and the President clearly wanted her to be deposed to corroborate him, as his testimony demonstrates. The President claims that he called Ms. Currie into work on a Sunday night only to find out what she knew. But the President knew the truth about his relationship with Ms. Lewinsky, and if he had told the truth during his deposition the day before, then he would have no reason to worry about what Ms. Currie knew. More importantly, the President's demeanor, Ms. Currie's reaction to his demeanor, and the blatant lies that he suggested clearly prove that the President was not merely interviewing Ms. Currie. Rather, he was looking for corroboration for his false cover-up, and that is why he coached her.

January 18, the Search for Ms. Lewinsky

Very soon after his Sunday meeting with Ms. Currie, at 5:12 p.m., the flurry of telephone calls in search of Monica Lewinsky began. (Chart S) Between 5:12 p.m. and 8:28 p.m., Ms. Currie paged Ms. Lewinsky four times. "Kay" is a reference to a code name Ms. Lewinsky and Ms. Currie agreed to when contacting one another. (ML 8/6/98 GJ, p. 216; H.Doc. 105–311, pg. 936) At 11:02 p.m., the President called Ms. Currie at home to ask if she had reached Lewinsky. (BC 7/22/98 GJ, p. 160; H. Doc. 105–316, p. 702)

January 19, the Search Continues

The following morning, January 19, Ms. Currie continued to work diligently on behalf of the President. Between 7:02 a.m. and 8:41 a.m., she paged Ms. Lewinsky another five times. (Chart S) (Exhibit 8) After the 8:41 page, Ms. Currie called the President at 8:43 a.m. and said that she was unable to reach Ms. Lewinsky. (BC 7/22/98 GJ, pgs. 161–162; H.Doc. 105–316, p. 703) One minute later, at 8:44 a.m., she again paged Ms. Lewinsky. This time Ms. Currie's page stated "Family Emergency," apparently in an attempt to alarm Ms. Lewinsky into calling back. That may have been the President's idea, since Ms. Currie had just spoken with him. The President was obviously quite concerned because he called Betty Currie only six minutes later, at 8:50 a.m. Immediately thereafter, at 8:51 a.m., Ms. Currie tried a different tact, sending the message: "Good news." Again, perhaps at the President's suggestion. If bad news does not get her to call, try good news. Ms. Currie said that she was trying to encourage Ms. Lewinsky to call, but there was no sense of "urgency." (BC 7/22/98 GJ, p. 165; H.Doc. 105–316, p. 704) Ms. Currie's recollection of why she was calling was again fuzzy. She said at one point that she believes the President asked her to call Ms. Lewinsky, and she thought she was calling just to tell her that her name came up in the deposition. (BC 7/22/98 GJ, p. 162; H.Doc. 105-316, p. 703) Monica Lewinsky had been subpoenaed; of course her name came up in the deposition. There was obviously another and more important reason the President needed to get in touch with her.

Mr. Jordan and Ms. Lewinsky's Lawyers Join the Search

At 8:56 a.m., the President telephoned Vernon Jordan, who then joined in the activity. Over a course of twenty-four minutes, from 10:29 to 10:53 a.m., Mr. Jordan called the White House three times, paged Ms. Lewinsky, and called Ms. Lewinsky's attorney, Frank Carter. Between 10:53 a.m. and 4:54 p.m., there are continued calls between Mr. Jordan, Ms. Lewinsky's attorney and individuals at the White House.

Ms. Lewinsky Replaces Her Lawyer

Later that afternoon, at 4:54 p.m., Mr. Jordan called Mr. Carter. Mr. Carter relayed that he had been told he no longer represented Ms. Lewinsky. (VJ 3/5/98 GJ, p. 141; H.Doc. 105-316, p. 1771) Mr. Jordan then made feverish attempts to reach the President or someone at the White House to tell them the bad news, as represented by the six calls between 4:58 p.m. and 5:22 p.m. Vernon Jordan said that he tried to relay this information to the White House because "[t]he President asked me to get Monica Lewinsky a job," and he thought it was "information that they ought to have." (VJ 6/9/98 GJ, pgs. 45–46; H.Doc. 105-316, p. 1968) (Chart Q) Mr. Jordan then called Mr. Carter back at 5:14 p.m. to go over what they had already talked about. (VJ 3/5/98 GJ, p. 146; H.Doc. 104-316, p. 1772) Mr. Jordan finally reached the President at 5:56 p.m. and told him that Mr. Carter had been fired. (VJ 6/9/98 GJ, p. 54; H.Doc. 105-316, p. 1970)

The Reason for the Urgent Search

This activity shows how important it was for the President of the United States to find Monica Lewinsky to learn to whom she was talking. Betty Currie was in charge of contacting Ms. Lewinsky. The President had just completed a deposition in which he provided false and misleading testimony about his relationship with Ms. Lewinsky. She was a co-conspirator in hiding this relationship from the Jones attorneys, and he was losing control over her. The President never got complete control over her again.

Article I.—False and Misleading Statements to the Grand Jury

Article I addresses the President's perjurious, false, and misleading testimony to the grand jury. Four categories of false grand jury testimony are listed in the Article. Some salient examples of false statements are described below. When judging the statements made and the answers given, it is vital to recall that the President spent literally days preparing his testimony with his lawyer. He and his attorney were fully aware that the testimony would center around his relationship with Ms. Lewinsky and his deposition testimony in the *Jones* case.

Grand Jury Testimony

On August 17, after six invitations, the President of the United States appeared before a grand jury of his fellow citizens and took an oath to tell the complete truth. The President proceeded to equivocate and engage in legalistic fencing; he also lied. The entire testimony was calculated to mislead and deceive the grand jury and to obstruct its process, and eventually to deceive the American people. He set the tone at the very beginning. In the grand jury a witness can tell the truth, lie or assert his privileges against self incrimination. (Chart Y) President Clinton was given a fourth choice. The President was permitted to read a statement. (Chart Z; WJC 8/17/98 GJ, pgs. 8–9)

The President's Prepared Statement

That statement itself is demonstrably false in many particulars. President Clinton claims that he engaged in inappropriate conduct with Ms. Lewinsky "on certain occasions in early 1996 and once in 1997." Notice he did not mention 1995. There was a reason. On three "occasions" in 1995, Ms. Lewinsky said she engaged in sexual contact with the President. Ms. Lewinsky was a twenty-one year old intern at the time.

The President unlawfully attempted to conceal his three visits alone with Ms. Lewinsky in 1995 during which they engaged in sexual conduct. (ML 8/6/98 GJ, pgs. 27–28; H.Doc. 105-311, pgs. 747–748; ML 8/6/98 GJ, Ex. 7; H.Doc. 105-311, p. 1251; Chart A) Under Judge Wright's ruling, this evidence was relevant and material to Paula Jones' sexual harassment claims. (Order, Judge Susan Webber Wright, December 11, 1997, p. 3)

The President specifically and unequivocally states, "[The encounters] did not constitute sexual relations as I understood that term to be defined at my January 17, 1998 deposition." That assertion is patently false. It is directly contradicted by the corroborated testimony of Monica Lewinsky. (See eg: ML 8/20/98 GJ, pgs. 31–32; H.Doc. 311, p. 1174; ML 8/26/98 Dep., p. 25, 30; H.Doc. 311, pgs. 1357, 1358)

Evidence indicates that the President and Ms. Lewinsky engaged in "sexual relations" as the President understood the term to be defined at his deposition and as any reasonable person would have understood the term to have been defined.

Contrary to his statement under oath, the President's conduct during the 1995 visits and numerous additional visits did constitute "sexual relations" as he understood the term to be defined at his deposition. Before the grand jury, the President admitted that directly touching or kissing another person's breast, or directly touching another person's genitalia with the intent to arouse, would be "sexual relations" as the term was defined. (WJC 8/17/98 GJ, pgs. 94–95; H.Doc 105-311, pgs. 546–547) However, the President maintained that he did not engage in such conduct. (*Id.*) These statements are contradicted by Ms. Lewinsky's testimony and the testimony of numerous individuals with whom she contemporaneously shared the details of her encounters with the President. Moreover, the theory that Ms. Lewinsky repeated and unilaterally performed acts on the President while he tailored his conduct to fit a contorted definition of "sexual relations" which he had not contemplated at the time of the acts, defies common sense.

Moreover, the President had not even formed the contorted interpretation of "sexual relations" which he asserted in the grand jury until after his deposition had concluded. This is demonstrated by the substantial evidence revealing the President's state of mind during his deposition testimony. First, the President continuously denied at his deposition any fact that would cause the *Jones* lawyers to believe that he and Ms. Lewinsky had any type of improper relationship, including a denial that they had a sexual affair, (WJC 1/17/98 Dep., p. 78) not recalling if they were ever alone, (WJC 1/17/98 Dep., pgs. 52–53, 59) and not recalling whether Ms. Lewinsky had ever given him gifts. (WJC 1/17/98 Dep., pg. 75) Second, the President testified that Ms. Lewinsky's affidavit denying a sexual relationship was "absolutely true" when, even by his current reading of the definition, it is absolutely false. (WJC 1/17/98 Dep., p. 204) Third, the White House produced a document entitled "January 24, 1998 Talking Points," stating flatly that the President's definition of "sexual relations" included oral sex. (Chart W) Fourth, the President made statements to staff members soon after the deposition, saying that he did not have sexual relations, including oral sex, with Ms. Lewinsky, (Podesta 6/16/98 GJ, pg. 92; H.Doc. 105-316, p. 3311) and that she threatened to tell people she and the President had an affair when he rebuffed her sexual advances. (Blumenthal 6/4/98 GJ, p. 59; H.Doc. 105-316, p. 185) Fifth, President Clinton's Answer filed in Federal District Court in response to Paula Jones' First Amended Complaint states unequivocally that "President Clinton denies that he engaged in any improper conduct with respect to plaintiff or any other woman." (Answer of Defendant William Jefferson Clinton, December 17, 1997, p. 8, para. 39) Sixth, in President Clinton's sworn Answers to Interrogatories Numbers 10 and 11, as amended, he flatly denied that he had sexual relations with any federal employee. The President filed this Answer prior to his deposition. Finally, as described below, the President sat silently while his attorney, referring to Ms. Lewinsky's affidavit, represented to the court that there was no sex of any kind or in any manner between the President and Ms. Lewinsky. (WJC 1/17/98 Dep., pg. 54)

This circumstantial evidence reveals the President's state of mind at the time of the deposition: his concern was not in technically or legally accurate answers, but in categorically denying anything improper. His grand jury testimony about his state of mind during the deposition is false.

Reasons for the False Testimony

The President did not lie to the grand jury to protect himself from embarrassment, as he could no longer deny the affair. Before his grand jury testimony, the President's semen had been identified by laboratory tests on Ms. Lewinsky's dress, and during his testimony, he admitted an "inappropriate intimate relationship" with Ms. Lewinsky. In fact, when he testified before the grand jury, he was only hours away from admitting the affair on national television. Embarrassment was inevitable. But, if he truthfully admitted the details of his encounters with Ms. Lewinsky to the grand jury, he would be acknowledging that he lied under oath during his deposition when he claimed that he did not engage in sexual relations with Ms. Lewinsky. (WJC 1/17/98 Dep., pgs. 78, 109, 204) Instead, he chose to lie, not to protect his family or the dignity of his office, but to protect himself from criminal liability for his perjury in the *Jones* case.

Additional Falsity in the Prepared Statement

The President's statement continued, "I regret that what began as a friendship came to include this conduct [.]" (WJC 8/17/98 GJ, p. 9; H.Doc. 105-311, p. 461) The truth is much more troubling. As Ms. Lewinsky testified, her relationship with the President began with flirting, including Ms. Lewinsky showing the President her underwear. (ML 7/30/98

Int., p. 5; H.Doc. 105–311, p. 1431) As Ms. Lewinsky candidly admitted, she was surprised that the President remembered her name after their first two sexual encounters. (ML 8/26/98 Dep., p. 25; H.Doc. 105–311, p. 1295)

Reason for the Falsity

The President's prepared statement, fraught with untruths, was not an answer the President delivered extemporaneously to a particular question. It was carefully drafted testimony which the President read and relied upon throughout his deposition. The President attempted to use the statement to foreclose questioning on an incriminating topic on nineteen separate occasions. Yet, this prepared testimony, which along with other testimony provides the basis for Article I, Item 1, actually contradicts his sworn deposition testimony.

Contrary Deposition Testimony

In this statement, the President admits that he and Ms. Lewinsky were alone on a number of occasions. He refused to make this admission in his deposition in the *Jones* case. During the deposition, the following exchange occurred:

Q. Mr. President, before the break, we were talking about Monica Lewinsky. At any time were you and Monica Lewinsky together alone in the Oval Office?

A. I don't recall, but as I said, when she worked in the legislative affairs office, they always had somebody there on the weekends. I typically work some on the weekends. Sometimes they'd bring me things on the weekends. She—it seems to me she brought things to me once or twice on the weekends. In that case, whatever time she would be in there, drop if off, exchange a few words and go, she was there. I don't have any specific recollections of what the issues were, what was going on, but when the Congress is there, we're working all the time, and typically I would do some work on one of the days of the weekends in the afternoon.

Q. So I understand, your testimony is that it was possible, then, that you were alone with her, but you have no specific recollection of that ever happening?

A. Yes, that's correct. It's possible that she, in, while she was working there, brought something to me and that at the time she brought it to me, she was the only person there. That's possible.

(WJC 1/17/98 Dep., pgs. 52–53)

After telling this verbose lie under oath, the President was given an opportunity to correct himself. This exchange followed:

Q. At any time have you and Monica Lewinsky ever been alone together in any room in the White House?

A. I think I testified to that earlier. I think that there is a, it is—I have no specific recollection, but it seems to me that she was on duty on a couple of occasions working for the legislative affairs office and brought me some things to sign, something on the weekend. That's—I have a general memory of that.

Q. Do you remember anything that was said in any of those meetings?

A. No. You know, we just had conversation, I don't remember.

(WJC 1/17/98 Dep., pgs. 52–53)

Before the grand jury, the President maintained that he testified truthfully at his deposition, a lie which provides, in part, the basis for Article I, Item 2. He stated, "My goal in this deposition was to be truthful, but not particularly helpful . . . I was determined to walk through the mind field of this deposition without violating the law, and I believe I did." (WJC 8/17/98 GJ, p. 80; H.Doc. 105–311, p. 532) But contrary to his deposition testimony, he certainly was alone with Ms. Lewinsky when she was not delivering papers, as the President conceded in his prepared grand jury statement.

In other words, the President's assertion before the grand jury that he was alone with Ms. Lewinsky, but that he testified truthfully in his deposition, is inconsistent. Yet, to this day, both the President and his attorneys have insisted that he did not lie at his deposition and that he did not lie when he swore under oath that he did not lie at his deposition.

In addition to his lie about not recalling being alone with Ms. Lewinsky, the President told numerous other lies at his deposition. All of those lies are incorporated in Article I, Item 2.

Testimony Concerning the False Affidavit

Article I, Item 3 charges the President with providing perjurious, false and misleading testimony before a federal grand jury concerning false and misleading statements his attorney Robert Bennett made to Judge Wright at the President's deposition. In one statement, while objecting to questions regarding Ms. Lewinsky, Mr. Bennett misled the Court, perhaps knowingly, stating, "Counsel [for Ms. Jones] is fully aware that Ms. Lewinsky has filed, has an affidavit which they are in possession of saying that there is absolutely no sex of any kind in any manner, shape or form, with President Clinton[.]" (WJC 1/17/98 Dep., pgs. 53–54) When Judge Wright interrupted Mr. Bennett and expressed her concern that he might be coaching the President, Mr. Bennett responded, "In preparation of the witness for this deposition, the witness is *fully aware of Ms. Lewinsky's affidavit*, so I have not told him a single thing he doesn't know[.]" (WJC 1/17/98 Dep., p. 54) (Emphasis added)

When asked before the grand jury about his statement to Judge Wright, the President testified, "I'm not even sure I paid attention to what he was saying," (WJC 8/17/98 GJ, p. 24; H.Doc. 105–3131, p. 476) He added, "I didn't pay much attention to this conversation, which is why, when you started asking me about this, I asked to see the deposition." (WJC 8/17/98 GJ, p. 24; H.Doc. 105–311, p. 477) Finally, "I don't believe I ever even focused on what Mr. Bennett said in the exact words he did until I started reading this transcript carefully for this hearing. That moment, the whole argument just passed me by." (WJC 8/17/98 GJ, p. 29; H. Doc. 105–311, p. 481)

This grand jury testimony defies common sense. During his deposition testimony, the President admittedly misled Ms. Jones' attorneys about his affair with Ms. Lewinsky, which continued while Ms. Jones' lawsuit was pending, because he did not want the truth to be known. Of course, when Ms. Lewinsky's name is mentioned during the deposition, particularly in connection with sex, the President is going to listen. Any doubts as to whether he listened to Mr. Bennett's representations are eliminated by watching the videotape of the President's deposition. The videotape shows the President looking directly at Mr. Bennett, paying close attention to his argument to Judge Wright.

False Testimony Concerning Obstruction of Justice

Article I, Item 4 concerns the President's grand jury perjury regarding his efforts to influence the testimony of witnesses and his efforts to impede discovery in the *Jones* v. *Clinton* lawsuit. These lies are perhaps the most troubling, as the President used them in an attempt to conceal his criminal actions and the abuse of his office.

For example, the President testified before the grand jury that he recalled telling Ms. Lewinsky that if Ms. Jones' lawyers requested the gifts exchanged between Ms. Lewinsky and the President, she should provide them. (WJC 8/17/98 GJ, p. 43; H.Doc. 105–311, p. 495) He stated, "And I told her that if they asked her for gifts, she'd have to give them whatever she had, that that's what the law was." (Id.) This testimony is false, as demonstrated by both Ms. Lewinsky's testimony and common sense.

Ms. Lewinsky testified that on December 28, 1997, she discussed with the President the subpoena's request for her to produce gifts, including a hat pin. She told the President that it concerned her, (ML 8/6/98 GJ, p. 151; H.Doc. 105–311, p. 871) and he said that it "bothered" him too. (ML 8/20/98 GJ, p. 66; H.Doc. 105–311, p. 1122) Ms. Lewinsky then suggested that she give the gifts to someone, maybe to Betty. But rather than instructing her to turn the gifts over to Ms. Jones' attorneys, the President replied, "I don't know" or "Let me think about that." (ML 8/6/98 GJ, p. 152; H.Doc. 105–311, p. 872) Several hours later, Ms. Currie called Ms. Lewinsky on her cellular phone and said, "I understand you have something to give me" or "the President said you have something to give me." (ML 8/6/98 GJ, pgs. 154–155; H.Doc. 105–311, pgs. 874–875)

Although Ms. Currie agrees that she picked up the gifts from Ms. Lewinsky, Ms. Currie testified that "the best" she remembers is that Ms. Lewinsky called her. (BC 5/6/98 GJ, p. 105; H.Doc. 105–316, p. 581) She later conceded that Ms. Lewinsky's memory may be better than hers on this point. (BC 5/6/98 GJ, p. 126; H.Doc. 105–316, p. 584) A telephone record corroborates Ms. Lewinsky, revealing that Ms. Currie did call her from her cellular phone several hours after Ms. Lewinsky's meeting with the President. The only logical reason Ms. Currie called Ms. Lewinsky to retrieve gifts from the President is that the President told her to do so. He would not have given this instruction if he wished the gifts to be given to Ms. Jones' attorneys.

Testimony Concerning Ms. Currie

The President again testified falsely when he told the grand jury that he was simply trying to "refresh" his recollection when he made a series of statements to Ms. Currie the day after his deposition. (WJC 8/17/98 GJ, p. 131; H.Doc. 105–311, p. 583) Ms. Currie testified that she met with the President at about 5:00 P.M. on January 18, 1998, and he proceeded to make these statements to her:

(1) I was never really alone with Monica, right?

(2) You were always there when Monica was there, right?

(3) Monica came on to me, and I never touched her, right?

(4) You could see and hear everything, right?

(5) She wanted to have sex with me, and I cannot do that.

(BC 1/27/98 GJ, pgs. 70–75; H.Doc. 105–316, pgs. 559–560; BC 7/22/98 GJ, pgs. 6–7; H.Doc. 105–316, p. 664)

Ms. Currie testified that these were more like statements than questions, and that, as far as she understood, the President wanted her to agree with the statements. (BC 1/27/98 GJ, p. 74; H.Doc. 105–316, p. 559)

The President was asked specifically about these statements before the grand jury. He did not deny them, but said that he was "trying to refresh [his] memory about what the facts were." (WJC 8/17/98 GJ, p. 131; H.Doc. 105–311, p. 583) He added that he wanted to "know what Betty's memory was about what she heard," (WJC 8/17/98 GJ, p. 54; H.Doc. 105–316, p. 506) and that he was "trying to get as much information as quickly as [he] could." (WJC 8/17/98 GJ, p. 56; H.Doc. 105–311, p. 508) Logic demonstrates that the President's explanation is contrived and false.

A person does not refresh his recollection by firing declarative sentences dressed up as leading questions to his secretary. If the President was seeking information, he would have asked Ms. Currie what she recalled. Additionally, a person does not refresh his recollection by asking questions concerning factual scenarios of which the listener was unaware, or worse, of which the declarant and the listener knew were false. How would Ms. Currie know if she was always there when Ms. Lewinsky was there? Ms. Currie, in fact, acknowledged during her grand jury testimony that Ms. Lewinsky could have visited the President at the White House when Ms. Currie was not there. (BC 7/22/98 GJ, pgs. 65–66; H.Doc. 105–316, p. 679) Ms. Currie also testified that there were several occasions when the President and Ms. Lewinsky were in the Oval Office or study area without anyone else present. (BC 1/27/98 GJ, pgs. 32–33, 36–38; H.Doc. 105–316, pgs. 552–553)

More importantly, the President admitted in his statement to the grand jury that he was alone with Ms. Lewinsky on several occasions. (WJC 8/17/98 GJ, pgs. 9–10; H.Doc. 105–311, pgs. 460–461) Thus, by his own admission, his statement to Ms. Currie about never being alone with Ms. Lewinsky was false. And if they were alone together, Ms. Currie certainly could not say whether the President touched Ms. Lewinsky or not.

The statement about whether Ms. Currie could see and hear everything is also refuted by the President's own grand jury testimony. During his "intimate" encounters with Ms. Lewinsky, he ensured everyone, including Ms. Currie, was excluded. (WJC 8/17/98 GJ, p. 53; H.Doc. 105–311, p. 505) Why would someone refresh his recollection by making a false statement of fact to a subordinate? The answer is obvious—he would not.

Lastly, the President stated in the grand jury that he was "downloading" information in a "hurry," apparently explaining that he made these statements because he did not have time to listen to answers to open-ended questions. (WJC 8/17/98 GJ, p. 56; H.Doc. 105–311, p. 508) But, if he was in such a hurry, why did the President not ask Ms. Currie to refresh his recollection when he spoke with her on the telephone the previous evening? He also has no adequate explanation as to why he could not spend an extra five or 10 minutes with Ms. Currie on January 18 to get her version of the events. In fact, Ms. Currie testified that she first met the President on January 18 while he was on the White House putting green, and he told her to go into the office and he would be in in a few minutes. (BC 1/27/98 GJ, pgs. 67–70; H.Doc. 105–316, pgs. 558–559) And if he was in such a hurry, why did he repeat these statements to Ms. Currie a few days later? (BC 1/27/98 GJ, pgs. 80–81; H.Doc. 105–316, pgs. 560–561) The reason for these statements had nothing to do with time constraints or refreshing recollection; he had just finished lying during the *Jones* deposition about these issues, and he needed corroboration from his secretary.

Testimony About Influencing Aides

Not only did the President lie about his attempts to influence Ms. Currie's testimony, but he lied about his attempts to influence the testimony of some of his top aides. Among the President's lies to his aides, described in detail later in this brief, were that Ms. Lewinsky did not perform oral sex on him, and that Ms. Lewinsky stalked him while he rejected her sexual demands. These lies were then disseminated to the media and attributed to White House sources. They were also disseminated to the grand jury.

When the President was asked about these lies before the grand jury, he testified:

> "And so I said to them things that were true about this relationship. That I used—in the language I used, I said, there's nothing going on between us. That was true. I said, I have not had sex with her as I defined it. That was true. And did I hope that I never would have to be here on this day giving this testimony? Of course.
>
> "But I also didn't want to do anything to complicate this matter further. So I said things that were true. They may have been misleading, and if they were I have to take responsibility for it, and I'm sorry."

(WJC 8/17/98 GJ, p. 106; H.Doc. 105–311, p. 558)

To accept this grand jury testimony as truth, one must believe that many of the President's top aides engaged in a concerted effort to lie to the grand jury in order to incriminate him at the risk of subjecting themselves to a perjury indictment. We suggest that it is illustrative of the President's character that he never felt any compunction in exposing others to false testimony charges, so long as he could conceal his own perjuries. Simply put, such a conspiracy did not exist.

The above are merely highlights of the President's grand jury perjury, and there are numerous additional examples. In order to keep these lies in perspective, three facts must be remembered. First, before the grand jury, the President was not lying to cover up an affair and protect himself from embarrassment, as concealing the affair was now impossible. Second, the President could no longer argue that the facts surrounding his relationship with Ms. Lewinsky were somehow irrelevant or immaterial, as the Office of Independent Counsel and the grand jury had mandates to explore them. Third, he cannot claim to have been surprised or unprepared for questions about Ms. Lewinsky before the grand jury, as he spent days with his lawyer, preparing responses to such questions.

The President's Method

Again, the President carefully crafted his statements to give the appearance of being candid, when actually his intent was the opposite. In addition, throughout the testimony, whenever the President was asked a specific question that could not be answered directly without either admitting the truth or giving an easily provable false answer, he said, "I rely on my statement." 19 times he relied on this false and misleading statement; nineteen times, then, he repeated those lies in "answering" questions propounded to him. (See eg. WJC 8/17/98 GJ, pg. 139; H.Doc. 105–311, p. 591)

The House Committee's Request

In an effort to avoid unnecessary work and to bring its inquiry to an expeditious end, the Judiciary Committee of the House of Representatives submitted to the President 81 requests to admit or deny specific facts relevant to this investigation. (Exhibit 18) Although, for the most part, the questions could have been answered with a simple "admit" or "deny," the President elected to follow the pattern of selective memory, reference to other testimony, blatant untruths, artful distortions, outright lies, and half truths. When he did answer, he engaged in legalistic hair-splitting in an obvious attempt to skirt the whole truth and to deceive and obstruct the due proceedings of the Committee.

The President Repeats His Falsities

Thus, on at least 23 questions, the President professed a lack of memory. This from a man who is renowned for his remarkable memory, for his amazing ability to recall details.

In at least 15 answers, the President merely referred to "White House Records." He also referred to his own prior testimony and that of others. He answered several of the requests by merely restating the same deceptive answers that he gave to the grand jury. We will point out several false statements in this Brief.

In addition, the half-truths, legalistic parsings, evasive and misleading answers were obviously calculated to obstruct the efforts of the House Committee. They had the effect of seriously hampering its ability to inquire and to ascertain the truth. The President has, therefore, added obstruction of an inquiry and an investigation before the Legislative Branch to his obstructions of justice before the Judicial Branch of our constitutional system of government.

The Early Attack on Ms. Lewinsky

After his deposition, the power and prestige of the Office of President was marshaled to destroy the character and reputation of Monica Lewinsky, a young woman that had been ill-used by the President. As soon as her name surfaced, the campaign began to muzzle any possible testimony, and to attack the credibility of witnesses, in a concerted effort to obstruct the due administration of justice in a lawsuit filed by one female citizen of Arkansas. It almost worked.

When the President testified at his deposition that he had no sexual relations, sexual affair or the like with Monica Lewinsky, he felt secure. Monica Lewinksy, the only other witness was on board. She had furnished a false affidavit also denying everything. Later, when he realized from the January 18, 1998, Drudge Report that there were taped conversations between Ms. Lewinsky and Linda Tripp, he had to develop a new story, and he did. In addition, he recounted that story to White House aides who passed it on to the grand jury in an effort to obstruct that tribunal too.

On Wednesday, January 21, 1998, *The Washington Post* published a story entitled "Clinton Accused of Urging Aide to Lie; Starr Probes Whether President Told Woman to Deny Alleged Affair to Jones' Lawyers." The White House learned the substance of the *Post* story on the evening of January 20, 1998.

Mr. Bennett's Remark

After the President learned of the existence of the story, he made a series of telephone calls.

At 12:08 a.m. he called his attorney, Mr. Bennett, and they had a conversation. The next morning, Mr. Bennett was quoted in the Washington Post stating:

> "The President adamantly denies he ever had a relationship with Ms. Lewinsky and she has confirmed the truth of that." He added, "This story seems ridiculous and I frankly smell a rat."

Additional Calls

After that conversation, the President had a half hour conversation with White House counsel, Bruce Lindsey.

At 1:16 a.m., the President called Betty Currie and spoke to her for 20 minutes.

He then called Bruce Lindsey again.

At 6:30 a.m. the President called Vernon Jordan.

After that, the President again conversed with Bruce Lindsey.

This flurry of activity was a prelude to the stories which the President would soon inflict upon top White House aides and advisors.

THE PRESIDENT'S STATEMENTS TO STAFF

ERSKINE BOWLES

On the morning of January 21, 1998, the President met with White House Chief of Staff, Erskine Bowles, and his two deputies, John Podesta and Sylvia Matthews.

Erskine Bowles recalled entering the President's office at 9:00 a.m. that morning. He then recounts the President's immediate words as he and two others entered the Oval Office:

> And he looked up at us and he said the same thing he said to the American people.
>
> He said, "I want you to know I did not have sexual relationships with this woman, Monica Lewinsky. I did not ask anybody to lie. And when the facts come out, you'll understand."

(Bowles, 4/2/98 GJ, p. 84; H.Doc. 105–316, p. 239)

After the President made that blanket denial, Mr. Bowles responded:

> I said, "Mr. President, I don't know what the facts are. I don't know if they're good, bad, or indifferent. But whatever they are, you ought to get them out. And you ought to get them out right now."

(Bowles, 4/2/98 GJ, p. 84; H.Doc. 105–316, p. 239)

When counsel asked whether the President responded to Bowles' suggestion that he tell the truth, Bowles responded:

> I don't think he made any response, but he didn't disagree with me.

(Bowles, 4/2/98 GJ, p. 84; H.Doc. 105–316, p. 239)

JOHN PODESTA

January 21, 1998

Deputy Chief John Podesta also recalled a meeting with the President on the morning of January 21, 1998.

He testified before the grand jury as to what occurred in the Oval Office that morning:

> A. And we started off meeting—we didn't—I don't think we said anything. And I think the President directed this specifically to Mr. Bowles. He said, "Erskine, I want you to know that this story is not true."
>
> Q. What else did he say?
>
> A. He said that—that he had not had a sexual relationship with her, and that he never asked anybody to lie.

(Podesta, 6/16/98 GJ, p. 85; H.Doc. 105–316, p. 3310)

January 23, 1998

Two days later, on January 23, 1998, Mr. Podesta had another discussion with the President:

> "I asked him how he was doing, and he said he was working on this draft and he said to me that he never had sex with her, and that—and that he never asked—you know, he repeated the denial, but he was extremely explicit in saying he never had sex with her."

Then Podesta testified as follows:

> Q. Okay. Not explicit, in the sense that he got more specific than sex, than the word "sex."
>
> A. Yes, he was more specific than that.
>
> Q. Okay, share that with us.
>
> A. Well, I think he said—he said that—there was some spate. Of, you know, what sex acts were counted, and he said that he had never had sex with her in any way whatsoever——
>
> Q. Okay.
>
> A. That they had not had oral sex.

(Podesta, 6/16/98 GJ, p. 92; H.Doc. 105–316, p. 3311) (Exhibit V)

SIDNEY BLUMENTHAL

Later in the day on January 21, 1998, the President called Sidney Blumenthal to his office. It is interesting to note how the President's lies become more elaborate and pronounced when he has time to concoct this newest line of defense. When the President spoke to Mr. Bowles and Mr. Podesta, he simply denied the story. But, by the time he spoke to Mr. Blumenthal, the President has added three new angles to his defense strategy: (1) he now portrays Monica Lewinsky as the aggressor; (2) he launches an attack on her reputation by portraying her as a "stalker"; and (3) he presents himself as the innocent victim being attacked by the forces of evil.

Note well this recollection by Mr. Blumenthal in his June 4, 1998 testimony: (Chart U)

> And it was at this point that he gave his account of what had happened to me and he said that Monica—and it came very fast. He said, "Monica Lewinsky came at me and made a sexual demand on me." He rebuffed her. He said, "I've gone down that road before, I've caused pain for a lot of people and I'm not going to do that again." She threatened him. She said that she would tell people they'd had an affair, that she was known as the stalker among her peers, and that she hated it and if she had an affair or said she had an affair then she wouldn't be the stalker anymore.

(Blumenthal, 6/4/98 GJ, p. 49; H.Doc. 105–316, p. 185)

And then consider what the President told Mr. Blumenthal moments later:

> And he said, "I feel like a character in a novel. I feel like somebody who is surrounded by an oppressive force that is creating a lie about me and I can't get the truth out. I feel like the character in the novel *Darkness at Noon.*
>
> And I said to him, "When this happened with Monica Lewinsky, were you alone?" He said, "Well, I was within eyesight or earshot of someone."

(Blumenthal, 6/4/98 GJ, p. 50; H.Doc. 105–316, p. 185)

At one point, Mr. Blumenthal was asked by the grand jury to describe the President's manner and demeanor during the exchange.

> Q. In response to my question how you responded to the President's story about a threat or discussion about a threat from Ms. Lewinsky, you mentioned you didn't recall specifically. Do you recall generally the nature of your response to the President?
>
> A. It was generally sympathetic to the President. And I certainly believed his story. It was a very heartfelt story, he was pouring out his heart, and I believed him.

(Blumenthal, 6/25/98 GJ, pgs. 16–17; H.Doc. 105–316, pgs. 192–193)

BETTY CURRIE

When Betty Currie testified before the grand jury, she could not recall whether she had another one-on-one discussion with the President on Tuesday, January 20, or Wednesday, January 21. But she did state that on one of those days, the President summoned her back to his office. At that time, the President recapped their now-infamous Sunday afternoon post-deposition discussion in the Oval Office. It was at that meeting that the President made a series of statements to Ms. Currie, to some of which she could not possibly have known the answers. (e.g. "Monica came on to me and I never touched her, right?") (BC 1/27/98 GJ, pgs. 70–75; H.Doc. 105–316, pgs. 559–560; BC 7/22/98 GJ, pgs. 6–7; H.Doc. 105–316, p. 664)

When he spoke to her on January 20 or 21, he spoke in the same tone and demeanor that he used in his January 18 Sunday session.

Ms. Currie stated that the President may have mentioned that she might be asked about Monica Lewinsky. (BC, 1/24/98 Int., p. 8; H.Doc. 105–316, p. 536)

MOTIVE FOR LIES TO STAFF

It is abundantly clear that the President's assertions to staff were designed for dissemination to the American people. But it is more important to understand that the President intended his aides to relate that false story to investigators and grand jurors alike. We know that this is true for the following reasons: the Special Division had recently appointed the Office of Independent Counsel to investigate the Monica Lewinsky matter; the President realized that Jones' attorneys and investigators were investigating this matter; the *Washington Post* journalists and investigators were exposing the details of the Lewinsky affair; and, an investigation relating to perjury charges based on Presidential activities in the Oval Office would certainly lead to interviews with West Wing employees and high level staffers. Because the President would not appear before the grand jury, his version of events would be supplied by those staffers to whom he had lied. The President actually acknowledged that he knew his aides might be called before the grand jury. (WJC 8/17/98 GJ, pgs. 105–109; H.Doc. 105–311, pgs. 557–557)

In addition, Mr. Podesta testified that he knew that he was likely to be a witness in the ongoing grand jury criminal investigation. He said that he was "sensitive about not exchanging information because I knew I was a potential witness." (Podesta 6/23/98 GJ, p. 79; H.Doc. 105–316, p. 3332) He also recalled that the President volunteered to provide information about Ms. Lewinsky to him even though Mr. Podesta had not asked for these details. (Podesta 6/23/98 GJ, p. 79; H.Doc. 105–316, p. 3332)

In other words, the President's lies and deceptions to his White House aides, coupled with his steadfast refusal to testify had the effect of presenting a false account of events to investigators and grand jurors. The President's aides believed the President when he told them his contrived account. The aides' eventual testimony provided the President's calculated falsehoods to the grand jury which, in turn, gave the jurors an inaccurate and misleading set of facts upon which to base any decisions.

WIN, WIN, WIN

President Clinton also implemented a win-at-all-costs strategy calculated to obstruct the administration of justice in the *Jones* case and in the grand jury. This is demonstrated in testimony presented by Richard "Dick" Morris to the federal grand jury.

Mr. Morris, a former presidential advisor, testified that on January 21, 1998, he met President Clinton and they discussed the turbulent events of the day. The President again denied the accusations against him. After further discussions, they decided to have an overnight poll taken to determine if the American people would forgive the President for adultery, perjury, and obstruction of justice. When Mr. Morris received the results, he called the President:

> "And I said, 'They're just too shocked by this. It's just too new, it's too raw.' And I said, 'And the problem is they're willing to forgive you for adultery, but not for perjury or obstruction of justice or the various other things.'"

(Morris 8/18/98 GJ. p. 28; H.Doc. 105-316, p. 2929)

Morris recalls the following exchange:

> Morris: And I said, "They're just not ready for it." meaning the voters.
>
> WJC: Well, we just have to win, then.

(Morris 8/18/98 GJ, p. 30; H.Doc. 105-216, p. 2930)

The President, of course, cannot recall this statement, (Presidential Responses to Questions, Numbers 69, 70, and 71)

THE PLOT TO DISCREDIT MONICA LEWINSKY

In order to "win," it was necessary to convince the public, and hopefully the grand jurors who read the newspapers, that Monica Lewinsky was unworthy of belief. If the account given by Ms. Lewinsky to Linda Tripp was believed, then there would emerge a tawdry affair in and near the Oval Office. Moreover, the President's own perjury and that of Monica Lewinsky would surface. To do this, the President employed the full power and credibility of the White House and its press corps to destroy the witness. Thus on January 29, 1998:

> Inside the White House, the debate goes on about the best way to destroy That Woman, as President Bill Clinton called Monica Lewinsky. Should they paint her as a friendly fantasist or a malicious stalker? (*The Plain Dealer*)

Again:

> "That poor child has serious emotional problems," Rep. Charles Rangel, Democrat of New York, said Tuesday night before the State of the Union. "She's fantasizing. And I haven't heard that she played with a full deck in her other experiences." (*The Plain Dealer*)

From Gene Lyons, an Arkansas columnist on January 30:

> "But it's also very easy to take a mirror's eye view of this thing, look at this thing from a completely different direction and take the same evidence and posit a totally innocent relationship in which the President was, in a sense, the victim of someone rather like the woman who followed David Letterman around." (NBC News)

From another "source" on February 1:

> "Monica had become known at the White House, says one source, as 'the stalker.'"

And on February 4:

> "The media have reported that sources describe Lewinsky as 'infatuated' with the President, 'star struck' and even 'a stalker'." (*Buffalo News*)

Finally, on January 31:

> "One White House aide called reporters to offer information about Monica Lewinsky's past, her weight problems and what the aide said was her nickname—'The Stalker.'"
>
> "Junior staff members, speaking on the condition that they not be identified, said she was known as a flirt, wore her skirts too short, and was 'A little bit weird.'"
>
> "Little by little, ever since allegations of an affair between U.S. President Bill Clinton and Lewinsky surfaced 10 days ago, White House sources have waged a behind-the-scenes campaign to portray her as an untrustworthy climber obsessed with the President."
>
> "Just hours after the story broke, one White House source made unsolicited calls offering that Lewinsky was the 'troubled' product of divorced parents and may have been following the footsteps of her mother, who wrote a tell-all book about the private lives of three famous opera singers."
>
> "One story had Lewinsky following former Clinton aide George Stephanopoulos to Starbucks. After observing what kind of coffee he ordered, she showed up the next day at his secretary's desk with a cup of the same coffee to 'surprise him.'" (Toronto Sun)

This sounds familiar because it is the exact tactic used to destroy the reputation and credibility of Paula Jones. The difference is that these false rumors were emanating from the White House, the bastion of the free world, to protect one man from being forced to answer for his deportment in the highest office in the land.

On August 17, 1998, the President testified before the grand jury. He then was specifically asked whether he knew that his aides (Blumenthal, Bowles, Podesta and Currie) were likely to be called before the grand jury.

> Q. It may have been misleading, sir, and you knew though, after January 21st when the Post article broke and said that Judge Starr was looking into this, you knew that they might be witnesses. You knew that they might be called into a grand jury, didn't you?
>
> WJC. That's right. I think I was quite careful what I said after that. I may have said something to all these people to that effect, but I'll also—whenever anybody asked me any details, I said, look, I don't want you to be a witness or I turn you into a witness or give you information that would get you in trouble. I just wouldn't talk. I, by and large, didn't talk to people about it.
>
> Q. If all of these people—let's leave Mrs. Currie for a minute. Vernon Jordan, Sid Blumenthal, John Podesta, Harold Ickes, Erskine Bowles, Harry Thomasson, after the story broke, after Judge Starr's involvement was known on January 21st, have said that you denied a sexual relationship with them. Are you denying that?
>
> WJC. No.
>
> Q. And you've told us that you——
>
> WJC. I'm just telling you what I meant by it. I told you what I meant by it when they started this deposition.
>
> Q. You've told us now that you were being careful, but that it might have been misleading. Is that correct?
>
> WJC. It must have been * * * So, what I was trying to do was to give them something they could—that would be true, even if misleading in the context of this deposition, and keep them out of trouble, and let's deal—and deal with what I thought was the almost ludicrous suggestion that I had urged someone to lie or tried to suborn perjury, in other words.

(WJC 8/17/97 GJ, pgs. 106-108; H. Doc. 105-311, pgs. 558-560)

As the President testified before the grand jury, he maintained that he was being truthful with his aides. (Exhibit 20) He stated that when he spoke to them, he was very careful with his wording. The President stated that he wanted his statement regarding "sexual relations" to be literally true because he was only referring to intercourse.

However, recall that John Podesta said that the President denied sex "in any way whatsoever" "including oral sex." The President told Mr. Podesta, Mr. Bowles, Ms. Williams, and Harold Ickes that he did not have a "sexual relationship" with that woman.

Importantly, seven days after the President's grand jury appearance, the White House issued a document entitled, "Talking Points January 24, 1998." (Chart W; Exhibit 16) This "Talking Points" document outlines proposed questions that the President may be asked. It also outlines suggested answers to those questions. The "Talking Points" purport to state the President's view of sexual relations and his view of the relationship with Monica Lewinsky. (Exhibit 17)

The "Talking Points" state as follows:

> Q. *What acts does the President believe constitute a sexual relationship?*
>
> A. I can't believe we're on national television discussing this. I am not about to engage in an "act-by-act" discussion of what constitutes a sexual relationship.
>
> Q. *Well, for example, Ms. Lewinsky is on tape indicating that the President does not believe oral sex is adultery. Would oral sex, to the President, constitute a sexual relationship?*
>
> A. Of course it would.

The President's own talking points refute the President's "literal truth" argument.

EFFECT OF THE PRESIDENT'S CONDUCT

Some "experts" have questioned whether the President's deportment affects his office, the government of the United States or the dignity and honor of the country.

Our founders decided in the Constitutional Convention that one of the duties imposed upon the President is to "take care that the laws be faithfully executed." Furthermore, he is required to take an oath to "Preserve, protect and defend the Constitution of the United States." Twice this President stood on the steps of the Capitol, raised his right hand to God and repeated that oath.

The Fifth Amendment to the Constitution of the United States provides that no person shall "be deprived of life, liberty or property without due process of law."

The Seventh Amendment insures that in civil suits "the right of trial by jury shall be preserved."

Finally, the Fourteenth Amendment guarantees due process of law and the equal protection of the laws.

THE EFFECT ON MS. JONES' RIGHTS

Paula Jones is an American citizen, just a single citizen who felt that she had suffered a legal wrong. More important, that legal wrong was based upon the Constitution of the United States. She claimed essentially that she was subjected to sexual harassment, which, in turn, constitutes discrimination on the basis of gender. The case was not brought against just any citizen, but against the President of the United States, who was under a legal and moral obligation to preserve and protect Ms. Jones' rights. It is relatively simple to mouth high-minded platitudes and to prosecute vigorously right violations by someone else. It is, however, a test of courage, honor and integrity to enforce those rights against yourself. The President failed that test. As a citizen, Ms. Jones enjoyed an absolute constitutional right to petition the Judicial Branch of government to redress that wrong by filing a lawsuit in the United States District Court, which she did. At this point she became entitled to a trial by jury if she chose, due process of law and the equal protection of the laws no matter who the defendant was in her suit. Due process contemplates that right to a full and fair trial, which, in turn, means the right to call and question witnesses, to cross-examine adverse witnesses and to have her case decided by an unbiased and fully informed jury. What did she actually get? None of the above.

On May 27, 1997, the United States Supreme Court ruled in a nine to zero decision that, "like every other citizen," Paula Jones "has a right to an orderly disposition of her claims."In accordance with the Supreme Court's decision, United States District Judge Susan Webber Wright ruled on December 11, 1997, that Ms. Jones was entitled to information regarding state or federal employees with whom the President had sexual relations from May, 1986 to the present. Judge Wright had determined that the information was reasonably calculated to lead to the discovery of admissible evidence. Six days after this ruling, the President filed an answer to Ms. Jones' Amended Complaint. The President's Answer stated: "President Clinton denies that he engaged in any improper conduct with respect to plaintiff or any other woman."

Ms. Jones' right to call and depose witnesses was thwarted by perjurious and misleading affidavits and motions; her right to elicit testimony from adverse witnesses was compromised by perjury and false and misleading statements under oath. As a result, had a jury tried the case, it would have been deprived of critical information.

That result is bad enough, but it reaches constitutional proportions when denial of the civil rights is directed by the President of the United States who twice took an oath to preserve, protect and defend those rights. But we now know what the "sanctity of an oath" means to the President.

The Effect on the Office of President

Moreover, the President is the spokesman for the government and the people of the United States concerning both domestic and foreign matters. His honesty and integrity, therefore, directly influence the credibility of this country. When, as here, that spokesman is guilty of a continuing pattern of lies, misleading statements, and deceits over a long period of time, the believability of any of his pronouncements is seriously called into question. Indeed, how can anyone in or out of our country any longer believe anything he says? And what does that do to confidence in the honor and integrity of the United States?

Make no mistake, the conduct of the President is inextricably bound to the welfare of the people of the United States. Not only does it affect economic and national defense, but even more directly, it affects the moral and law-abiding fibre of the commonwealth, without which no nation can survive. When, as here, that conduct involves a pattern of abuses of power, of perjury, of deceit, of obstruction of justice and of the Congress, and of other illegal activities, the resulting damage to the honor and respect due to the United States is, of necessity, devastating.

The Effect on the System

Again: there is no such thing as non-serious lying under oath. Every time a witness lies, that witness chips a stone from the foundation of our entire legal system. Likewise, every act of obstruction of justice, of witness tampering or of perjury adversely affects the judicial branch of government like a pebble tossed into a lake. You may not notice the effect at once, but you can be certain that the tranquility of that lake has been disturbed. And if enough pebbles are thrown into the water, the lake itself may disappear. So too with the truth-seeking process of the courts. Every unanswered and unpunished assault upon it has its lasting effect and given enough of them, the system itself will implode.

That is why two women who testified before the Committee had been indicted, convicted and punished severely for false statements under oath in civil cases. And that is why only recently a federal grand jury in Chicago indicted four former college football players because they gave false testimony under oath to a grand jury. Nobody suggested that they should not be charged because their motives may have been to protect their careers and family. And nobody has suggested that the perjury was non-serious because it involved only lies about sports; i.e., betting on college football games.

Disregard of the Rule of Law

Apart from all else, the President's illegal actions constitute an attack upon and utter disregard for the truth, and for the rule of law. Much worse, they manifest an arrogant disdain not only for the rights of his fellow citizens, but also for the functions and the integrity of the other two co-equal branches of our constitutional system. One of the witnesses that appeared earlier likened the government of the United States to a three-legged stool. The analysis is apt, because the entire structure of our country rests upon three equal supports: the Legislative, the Judicial, and the Executive. Remove one of those supports, and the State will totter. Remove two and the structure will collapse altogether.

Effect on the Judicial Branch

The President mounted a direct assault upon the truth-seeking process which is the very essence and foundation of the Judicial Branch. Not content with that, though, Mr. Clinton renewed his lies, half-truths and obstruction to this Congress when he filed his answers to simple requests to admit or deny. In so doing, he also demonstrated his lack of respect for the constitutional functions of the Legislative Branch.

Actions do not lose their public character merely because they may not directly affect the domestic and foreign functioning of the Executive Branch. Their significance must be examined for their effect on the functioning of the entire system of government. Viewed in that manner, the President's actions were both public and extremely destructive.

The Conduct Charged Warrants Conviction and Removal

The Articles state offenses that warrant the President's conviction and removal from office. The Senate's own precedents establish that perjury and obstruction warrant conviction and removal from office. Those same precedents establish that the perjury and obstruction need not have any direct connection to the officer's official duties.

Precedents

In the 1980s, the Senate convicted and removed from office three federal judges for making perjurious statements. *Background and History of Impeachment Hearings Before the Subcomm. On the Constitution of the House Comm. on the Judiciary*, 105th Cong., 2nd Sess. at 190–193 (Comm. Print 1998), (Testimony of Charles Cooper) ("Cooper Testimony") Although able counsel represented each judge, none of them argued that perjury or making false statements are not impeachable offenses. Nor did a single Congressman or Senator, in any of the three impeachment proceedings, suggest that perjury does not constitute a high crime and misdemeanor. Finally, in the cases of Judge Claiborne and Judge Nixon, it was undisputed that the perjury was not committed in connection with the exercise of the judges' judicial powers.

Judge Nixon

In 1989, Judge Walter L. Nixon, Jr., was impeached, convicted, and removed from office for committing perjury. Judge Nixon's offense stemmed from his grand jury testimony and statements to federal officers concerning his intervention in the state drug prosecution of Drew Fairchild, the son of Wiley Fairchild, a business partner of Judge Nixon's.

Although Judge Nixon had no official role or function in Drew Fairchild's case (which was assigned to a state court judge), Wiley Fairchild had asked Judge Nixon to help out by speaking to the prosecutor. Judge Nixon did so, and the prosecutor, a long-time friend of Judge Nixon's, dropped the case. When the FBI and the Department of Justice interviewed Judge Nixon, he denied any involvement whatsoever. Subsequently, a federal grand jury was empaneled and Judge Nixon again denied his involvement before that grand jury.

After a lengthy criminal prosecution, Judge Nixon was convicted on two counts of perjury before the grand jury and sentenced to five years in prison on each count. Not long thereafter, the House impeached Judge Nixon by a vote of 417 to 0. The first article of impeachment charged him with making the false or misleading statement to the grand jury that he could not "recall" discussing the Fairchild case with the prosecutor. The second article charged Nixon with making affirmative false or misleading statements to the grand jury that he had "nothing whatsoever officially or unofficially to do with the Drew Fairchild case." The third article alleged that Judge Nixon made numerous false statements (not under oath) to federal investigators prior to his grand jury testimony. *See* 135 Cong. Rec. H1802–03.

The House unanimously impeached Judge Nixon, and the House Managers' Report expressed no doubt that perjury is an impeachable offense:

> "It is difficult to imagine an act more subversive to the legal process than lying from the witness stand. A judge who violates his testimonial oath and misleads a grand jury is clearly unfit to remain on the bench. If a judge's truthfulness cannot be guaranteed, if he sets less than the highest standard for candor, how can ordinary citizens who appear in court be expected to abide by their testimonial oath?"

House of Representatives' Brief in Support of the Articles of Impeachment at 59 (1989). House Manager Sensenbrenner addressed the question even more directly:

> "There are basically two questions before you in connection with this impeachment. First, does the conduct alleged in the three articles of impeachment state an impeachable offense? There is really no debate on this point. The articles allege misconduct that is criminal and wholly inconsistent with judicial integrity and the judicial oath. Everyone agrees that a judge who lies under oath, or who deceives Federal investigators by lying in an interview, is not fit to remain on the bench."

135 Cong. Rec. S14,497 (Statement of Rep. Sensenbrenner)

The Senate agreed, overwhelmingly voting to convict Judge Nixon of perjury on the first two articles (89–8 and 78–19, respectively). As Senator Carl Levin explained:

"The record amply supports the finding in the criminal trial that Judge Nixon's statements to the grand jury were false and misleading and constituted perjury. Those are the statements cited in articles I and II and it is on those articles that I vote to convict Judge Nixon and remove him from office."

135 Cong. Rec. S14,637 (Statement of Sen. Levin).

JUDGE HASTINGS

Also in 1989, the House impeached Judge Alcee L. Hastings for, among other things, committing numerous acts of perjury. The Senate convicted him, and he was removed from office. Initially, Judge Hastings had been indicted by a federal grand jury for conspiracy stemming from his alleged bribery conspiracy with his friend Mr. William Borders to "fix" cases before Judge Hastings in exchange for cash payments from defendants. Mr. Borders was convicted, but, at his own trial, Judge Hastings took the stand and unequivocally denied any participation in a conspiracy with Mr. Borders. The jury acquitted Judge Hastings on all counts. Nevertheless, the House impeached Judge Hastings, approving seventeen articles of impeachment, fourteen of which were for lying under oath at his trial.

The House voted 413 to 3 to impeach. The House Managers' Report left no doubt that perjury alone is impeachable:

"It is important to realize that each instance of false testimony charged in the false statement articles is more than enough reason to convict Judge Hastings and remove him from office. Even if the evidence were insufficient to prove that Judge Hastings was part of the conspiracy with William Borders, which the House in no way concedes, the fact that he lied under oath to assure his acquittal is conduct that cannot be tolerated of a United States District Judge. To bolster one's defense by lying to a jury is separate, independent corrupt conduct. For this reason alone, Judge Hastings should be removed from public office."

The House of Representatives' Brief in Support of the Articles of Impeachment at 127–28 (1989). Representative John Conyers (D–Mich.) also argued for the impeachment of Judge Hastings:

"[W]e can no more close our eyes to acts that constitute high crimes and misdemeanors when practiced by judges whose views we approve than we could against judges whose views we detested. It would be disloyal . . . to my oath of office at this late state of my career to attempt to set up a double standard for those who share my philosophy and for those who may oppose it. In order to be true to our principles, we must demand that all persons live up to the same high standards that we demand of everyone else."

134 Cong. Rec. H6184 (1988) (Statement of Rep. Conyers).

JUDGE CLAIBORNE

In 1986, Judge Harry E. Claiborne was impeached, convicted, and removed from office for making false statements under penalties of perjury. In particular, Judge Claiborne had filed false income tax returns in 1979 and 1980, grossly understating his income. As a result, he was convicted by a jury of two counts of willfully making a false statement on a federal tax return in violation of 26 U.S.C. §7206 (a). Subsequently, the House unanimously (406–0) approved four articles of impeachment. The proposition that Claiborne's perjurious personal income tax filings were not impeachable was never even seriously considered. As the House Managers explained:

"[T]he constitutional issues raised by the first two Articles of Impeachment [concerning the filing of false tax returns] are readily resolved. The Constitution provides that Judge Claiborne may be impeached and convicted for "High Crimes and Misdemeanors." Article II, Section 4. *The willful making or subscribing of a false statement on a tax return is a felony* offense under the laws of the United States. *The commission of such a felony is a proper basis for Judge Claiborne's impeachment and conviction in the Senate.*"

Proceedings of the United States Senate Impeachment Trial of Judge Harry E. Claiborne, S. Doc. No. 99–48, at 40 (1986) (*Claiborne Proceedings*") (emphases added).

House Manager Rodino, in his oral argument to the Senate, emphatically made the same point:

"Honor in the eyes of the American people lies in public officials who respect the law, not in those who violate the trust that has been given to them when they are trusted with public office. Judge Harry E. Claiborne has, sad to say, undermined the integrity of the judicial branch of Government. To restore that integrity and to maintain public confidence in the administration of justice, Judge Claiborne must be convicted on the fourth Article of Impeachment [that of reducing confidence in the integrity of the judiciary]."

132 Cong. Rec. S15,481 (1986) (Statement of Rep. Rodino).

The Senate agreed. Telling are the words of then-Senator Albert Gore, Jr. In voting to convict Judge Claiborne and remove him from office:

"The conclusion is inescapable that Claiborne filed false income tax returns and that he did so willfully rather than negligently. . . . Given the circumstances, it is incumbent upon the Senate to fulfill its constitutional responsibility and strip this man of his title. An individual who has knowingly falsified tax returns has no business receiving a salary derived from the tax dollars of honest citizens. More importantly, an individual quality of such reprehensible conduct ought not be permitted to exercise the awesome powers which the Constitution entrusts to the Federal Judiciary."

Claiborne Proceedings, S. Doc. No. 99–48, at 372 (1986).

APPLICATION TO THE PRESIDENT

To avoid the conclusive force of these recent precedents—and in particular the exact precedent supporting impeachment for, conviction, and removal for perjury—the only recourse for the President's defenders is to argue that a high crime or misdemeanor for a judge is not necessarily a high crime or misdemeanor for the President. The arguments advanced in support of this dubious proposition do not withstand serious scrutiny. *See generally* Cooper Testimony, at 193.

The Constitution provides that Article III judges "shall hold their Offices during good Behavior, U.S. Const. Art. III, 1. Thus, these arguments suggest that judges are impeachable for "misbehavior" while other federal officials are only impeachable for treason, bribery, and other high crimes and misdemeanors.

The staff of the House Judiciary Committee in the 1970s and the National Commission on Judicial Discipline and Removal in the 1990s both issued reports rejecting these arguments. In 1974, the staff of the Judiciary Committee's Impeachment Inquiry issued a report which included the following conclusion:

"Does Article III, Section 1 of the Constitution, which states that judges 'shall hold their Offices during good Behaviour,' limit the relevance of the ten impeachments of judges with respect to presidential impeachment standards as has been argued by some? It does not. The argument is that 'good behavior' implies an additional ground for impeachment of judges not applicable to other civil officers. However, the only impeachment provision discussed in the Convention and included in the Constitution is Article II, Section 4, which by its expressed terms, applies to all civil officers, including judges, and defines impeachment offenses as 'Treason, Bribery, and other high Crimes and Misdemeanors.' "

Staff of House Comm. on the Judiciary, 93rd Cong. 2d Sess., *Constitutional Grounds for Presidential Impeachment* (Comm. Print 1974) ("1974 Staff Report") at 17.

The National Commission on Judicial Discipline and Removal came to the same conclusion. The Commission concluded that "the most plausible reading of the phrase 'during good Behavior' is that it means tenure for life, subject to the impeachment power. . . . The ratification debates about the federal judiciary seem to have proceeded on the assumption that good-behavior tenure meant removal only through impeachment and conviction." National Commission on Judicial Discipline and Removal, *Report of the National Commission on Judicial Discipline and Removal 17–18* (1993) (footnote omitted).

The record of the 1986 impeachment of Judge Claiborne also argues against different impeachment standards for federal judges and presidents. Judge Claiborne filed a motion asking the Senate to dismiss the articles of impeachment against him for failure to state impeachable offenses. One of the motion's arguments was that "[t]he standard for impeachment of a judge is different than that for other officers" and that the Constitution limited "removal of the judiciary to acts involving misconduct related to discharge of office." *Memorandum in Support of Motion to Dismiss the Articles of Impeachment on the Grounds They Do Not State Impeachable Offenses 4* (hereinafter cited as "*Claiborne Motion*"), reprinted in Hearings Before the Senate Impeachment Trial Committee, 99th Cong., 2d Sess. 245 (1986) (hereinafter cited as "*Senate Claiborne Hearings*").

Representative Kastenmeier responded that "reliance on the term 'good behavior' as stating a sanction for judges is totally misplaced and virtually all commentators agree that that is directed to affirming the life tenure of judges during good behavior. It is not to set them down, differently, as judicial officers from civil officers." *Id.* at 81–82. He further stated that "[n]or . . . is there any support for the notion that . . . Federal judges are not civil officers of the United States, subject to the impeachment clause of article II of the Constitution." *Id.* at 81.

The Senate never voted on Claiborne's motion. However, the Senate was clearly not swayed by the arguments contained therein because it later voted to convict Judge Claiborne. 132 Cong. Rec. S15,760–62 (daily ed. Oct. 9, 1986). The Senate thus rejected the claim that the standard of impeachable offenses was different for judges than for presidents.

Moreover, even assuming that presidential high crimes and misdemeanors could be different from judicial ones, surely the President ought not be held to a lower standard of impeachability than judges. In the course of the 1980s judicial impeachments, Congress emphasized unequivocally that the removal from office of federal judges guilty of crimes indistinguishable from those currently charged against the President was essential to the preservation of the rule of law. If the perjury of just one judge so undermines the rule of law as to make it intolerable that he remain in office, then how much more so does perjury committed by the President of the United States, who alone is charged with the duty "to take Care that the Laws be faithfully executed." (*See generally*, Cooper Testimony at 194)

It is just as devastating to our system of government when a President commits perjury. As the House Judiciary Committee stated in justifying an article of impeachment against President Nixon, the President not only has "the obligation that every citizen has to live under the law," but in addition has the duty "not merely to live by the law but to see that law faithfully applied." *Impeachment of Richard M. Nixon, President of the United States*, H. Rept. No. 93-1305, 93rd Cong., 2d Sess. at 180 (1974). The Constitution provides that he "shall take Care that the Laws be faithfully executed." U.S. Const. Art. II, §3. When a President, as chief law enforcement officer of the United States, commits perjury, he violates this constitutional oath unique to his office and casts doubt on the notion that we are a nation ruled by laws and not men.

PERJURY AND OBSTRUCTION ARE AS SERIOUS AS BRIBERY

Further evidence that perjury and obstruction warrant conviction and removal comes directly from the text of the Constitution. Because the Constitution specifically mentions bribery, no one can dispute that it is an impeachable offense. U.S. Const., Art. II, §4. Because the constitutional language does not limit the term, we must take it to mean all forms of bribery. Our statutes specifically criminalize bribery of witnesses with the intent to influence their testimony in judicial proceedings. 18 U.S.C. §201(b)(3) & (4), (c)(2) & (3). *See also* 18 U.S.C. §§1503 (general obstruction of justice statute), 1512 (witness tampering statute). Indeed, in a criminal case, the efforts to provide Ms. Lewinsky with job assistance in return for submitting a false affidavit charged in the Articles might easily have been charged under these statutes. No one could reasonably argue that the President's bribing a witness to provide false testimony—even in a private lawsuit—does not rise to the level of an impeachable offense. The plain language of the Constitution indicates that it is.

Having established that point, the rest is easy. Bribing a witness is illegal because it leads to false testimony that in turn undermines the ability of the judicial system to reach just results. Thus, among other things, the Framers clearly intended impeachment to protect the judicial system from these kinds of attacks. Perjury and obstruction of justice are illegal for exactly the same reason, and they accomplish exactly the same ends through slightly different means. Simple logic establishes that perjury and obstruction of justice—even in a private lawsuit—are exactly the types of other high crimes and misdemeanors that are of the same magnitude as bribery.

HIGH CRIMES AND MISDEMEANORS

Although Congress has never adopted a fixed definition of "high crimes and misdemeanors," much of the background and history of the impeachment process contradicts the President's claim that these offenses are private and therefore do not warrant conviction and removal. Two reports prepared in 1974 on the background and history of impeachment are particularly helpful in evaluating the President's defense. Both reports support the conclusion that the facts in this case compel the conviction and removal of President Clinton.

Many have commented on the report on "Constitutional Grounds for Presidential Impeachment" prepared in February 1974 by the staff of the Nixon impeachment inquiry. The general principles concerning grounds for impeachment set forth in that report indicate that perjury and obstruction of justice are impeachable offenses. Consider this key language from the staff report describing the type of conduct which gives rise to impeachment:

"The emphasis has been on the significant effects of the conduct—*undermining the integrity of office, disregard of constitutional duties and oath of office*, arrogation of power, abuse of the governmental process, *adverse impact on the system of government*."

1974 Staff Report at 26 (emphasis added).

Perjury and obstruction of justice clearly "undermine the integrity of office." They unavoidably erode respect for the office of the President. Such offenses obviously involve "disregard of [the President's] constitutional duties and oath of office." Moreover, these offenses have a direct and serious "adverse impact on the system of government." Obstruction of justice is by definition an assault on the due administration of justice—a core function of our system of government.

The thoughtful report on "The Law of Presidential Impeachment" prepared by the Association of the Bar of the City of New York in January of 1974 also places a great deal of emphasis on the corrosive impact of presidential misconduct on the integrity of office:

It is our conclusion, in summary, that the grounds for

"impeachment are not limited to or synonymous with crimes . . . Rather, we believe that *acts which undermine the integrity of government* are appropriate grounds whether or not they happen to constitute offenses under the general criminal law. In our view, the essential nexus to damaging the integrity of government may be found in acts which constitute corruption in, or flagrant abuse of the powers of, official position. It may also be found in acts which, without directly affecting governmental processes, *undermine that degree of public confidence in the probity of executive and judicial officers that is essential to the effectiveness of government in a free society*."

Association of the Bar of the City of New York, *The Law of Presidential Impeachment*, (1974) at 161 (emphasis added). The commission of perjury and obstruction of justice by a President are acts that without doubt "undermine that degree of public confidence in the probity of the [the President] that is essential to the effectiveness of government in a free society." Such acts inevitably subvert the respect for law which is essential to the well-being of our constitutional system.

That the President's perjury and obstruction do not directly involve his official conduct does not diminish their significance. The record is clear that federal officials have been impeached for reasons other than official misconduct. As set forth above, two recent impeachments of federal judges are compelling examples. In 1989, Judge Walter Nixon was impeached, convicted, and removed from office for committing perjury before a federal grand jury. Judge Nixon's perjury involved his efforts to fix a state case for the son of a business partner—a matter in which he had no official role. In 1986, Judge Harry E. Claiborne was impeached, convicted, and removed from office for making false statements under penalty of perjury on his income tax returns. That misconduct had nothing to do with his official responsibilities.

Nothing in the text, structure, or history of the Constitution suggests that officials are subject to impeachment only for official misconduct. Perjury and obstruction of justice—even regarding a private matter—are offenses that substantially affect the President's official duties because they are grossly incompatible with his preeminent duty to "take care that the laws be faithfully executed." Regardless of their genesis, perjury and obstruction of justice are acts of public misconduct—they cannot be dismissed as understandable or trivial. Perjury and obstruction of justice are not private matters; they are crimes against the system of justice, for which impeachment, conviction, and removal are appropriate.

The record of Judge Claiborne's impeachment proceedings affirms that conclusion. Representative Hamilton Fish, the ranking member of the Judiciary Committee and one of the House managers in the Senate trial, stated that "[i]mpeachable conduct does not have to occur in the course of the performance of an officer's official duties. Evidence of misconduct, misbehavior, high crimes, and misdemeanors can be justified upon one's private dealings as well as one's exercise of public office. That, of course, is the situation in this case." 132 Cong. Rec. H4713 (daily ed. July 22, 1986).

Judge Claiborne's unsuccessful motion that the Senate dismiss the articles of impeachment for failure to state impeachable offenses provides additional evidence that personal misconduct can justify impeachment. One of the arguments his attorney made for the motion was that "there is no allegation . . . that the behavior of Judge Claiborne in any way was related to misbehavior in his official function as a judge; it was private misbehavior." (*Senate Claiborne Hearings*, at 77, Statement of Judge Claiborne's counsel, Oscar Goodman). (See also Claiborne Motion, at 3)

Representative Kastenmeier responded by stating that "it would be absurd to conclude that a judge who had committed murder, mayhem, rape, or perhaps espionage in his private life, could not be removed from office by the U.S. Senate." (*Senate Claiborne Hearings*, at 81) Kastenmeier's response was repeated by the House of Representatives in its pleading opposing Claiborne's motion to dismiss. (*Opposition to Claiborne Motion* at 2)

The Senate did not vote on Judge Claiborne's motion, but it later voted to convict him. 132 Cong. Rec. S15,760-62 (daily ed. Oct. 9, 1986). The Senate thus agreed with the House that private improprieties could be, and were in this instance, impeachable offenses.

The Claiborne case makes clear that perjury, even if it relates to a matter wholly separated from a federal officer's official duties—a judge's personal tax returns—is an impeachable offense. Judge Nixon's false statements were also in regard to a matter distinct from his official duties. In short, the Senate's own precedents establish that misconduct need not be in one's official capacity to warrant removal.

CONCLUSION

This is a defining moment for the Presidency as an institution, because if the President is not convicted as a consequence of the conduct that has been portrayed, then no House of Representatives will ever be able to impeach again and no Senate will ever convict. The bar will be so high that only a convicted felon or a traitor will need to be concerned.

Experts pointed to the fact that the House refused to impeach President Nixon for lying on an income tax return. Can you imagine a future President, faced with possible impeachment, pointing to the perjuries, lies, obstructions, and tampering with witnesses by the current occupant of the office as not rising to the level of high crimes and misdemeanors? If this is not enough, what is? How far can the standard be lowered without completely compromising the credibility of the office for all time?

Dated: January 11, 1999.

APPENDIX

[In the Senate of the United States Sitting as a Court of Impeachment]

In re Impeachment of President William Jefferson Clinton

Appendix to Trial Memorandum of the Managers Appointed by the U.S. House of Representatives

THE UNITED STATES
HOUSE OF
REPRESENTATIVES

HENRY J. HYDE,
F. JAMES SENSENBRENNER, Jr.,
BILL MCCOLLUM,
GEORGE W. GEKAS,
CHARLES T. CANADY,
STEPHEN E. BUYER,
ED BRYANT,
STEVE CHABOT,
BOB BARR,
ASA HUTCHINSON,
CHRIS CANNON,
JAMES E. ROGAN,
LINDSEY O. GRAHAM.
Managers on the Part of the House

TABLE OF CONTENTS

CHARTS

A. The President's Contacts Alone With Lewinsky

B. The President's Telephone Contacts With Lewinsky

C. Lewinsky's Gifts to The President

D. The President's Gifts to Lewinsky

E. 12/5/97 Facsimile Transmission of Witness List in *Jones* v. *Clinton*

F. The December 19, 1997 Subpoena to Lewinsky in *Jones* v. *Clinton*

G. December 19, 1997 Activities Following Lewinsky's Receipt of Subpoena

H. The President's December 23, 1997 Response to Interrogatory No. 10 in *Jones* v. *Clinton*

I. The President's December 23, 1997 Response to Interrogatory No. 11 in *Jones* v. *Clinton*

J. December 28, 1997, The President's Final Meeting With Lewinsky and Concealment of Gifts

K. Currie's Cell Phone Records for 12/28/97

L. The President's Statements About Concealing Gifts

M. Lewinsky's Draft Affidavit

N. Lewinsky Final Affidavit dated January 7, 1998 Paragraph 8, *Jones* v. *Clinton*

O. Filing Lewinsky's Affidavit and Motion to Quash (1/14/98–1/17/98)

P. Mission Accomplished: Lewinsky Signs Her Affidavit and Is Hired By Revlon in New York (1/5/98–1/9/98)

Q. The President's Involvement With Lewinsky's Job Search

R. Jordan's Testimony About His Pre-Witness List Job Search Efforts

S. Activity Following The President's Deposition (1/17/98–1/19/98)

T. The President's Statements to Currie 1/18/98

U. The President's Denial of Sexual Relations

V. The President's 1/21/98 Denial of Sexual Relations to Blumenthal, Podesta and Morris

W. The White House 1/24/98 "Talking Points"

X. The President's Claims That He Was Truthful With Aides

Y. The Three Options of a Grand Jury Witness

Z. The President's Grand Jury "Statement"

[Chart A]

THE PRESIDENT'S CONTACTS ALONE WITH LEWINSKY

LEWINSKY WHITE HOUSE EMPLOYEE (7/95–4/96)

1995

11/15/95 (Wed): The President meets alone twice with Lewinsky in Oval Office study and hallway outside the Oval Office. (Sexual Encounter)

11/17/95 (Fri): The President meets alone twice with Lewinsky in The President's private bathroom outside the Oval Office study. (Sexual Encounter)

12/5/95 (Tues): The President meets alone with Lewinsky in the Oval Office and study. (No Sexual Encounter)

12/31/95 (Sun): The President meets alone with Lewinsky in the Oval Office and Oval Office study. (Sexual Encounter)

1996

1/7/96 (Sun): The President meets alone with Lewinsky in the bathroom outside the Oval Office study. (Sexual Encounter)

1/21/96 (Sun): The President meets alone with Lewinsky in the hallway outside the Oval Office study. (Sexual Encounter)

2/4/96 (Sun): The President meets alone with Lewinsky in the Oval Office study and in the adjacent hallway. (Sexual Encounter)

2/19/96 (Mon): The President meets alone with Lewinsky in the Oval Office. (No Sexual Encounter)

3/31/96 (Sun): The President meets alone with Lewinsky in hallway outside the Oval Office. (Sexual Encounter)

4/7/96 (Sun): The President meets alone with Lewinsky in the hallway outside the Oval Office study and in the Oval Office study. (Sexual Encounter)

1997

2/28/97 (Fri): The President meets alone with Lewinsky in the Oval Office private bathroom. (Sexual Encounter)

3/29/97 (Sat): The President meets alone with Lewinsky in the Oval Office study. (Sexual Encounter)

5/24/97 (Sat): The President meets alone with Lewinsky in the Oval Office dining room, study and hallway. (No Sexual Encounter)

7/4/97 (Fri): The President meets alone with Lewinsky in the Oval Office study and hallway. (No Sexual Encounter)

7/14/97 (Mon): The President meets alone with Lewinsky in Heinreich's office. (No Sexual Encounter)

7/24/97 (Sat): The President meets alone with Lewinsky in the Oval Office study. (No Sexual Encounter)

8/16/97 (Sat): The President meets alone with Lewinsky in the Oval Office study. (Sexual Encounter)

10/11/97 (Sat): The President meets alone with Lewinsky in the Oval Office study. (No Sexual Encounter)

11/13/97 (Thurs): The President meets alone with Lewinsky in the Oval Office study. (No Sexual Encounter)

12/6/97 (Sat): The President meets alone with Lewinsky in the Oval Office study. (No Sexual Encounter)

12/28/97 (Sun): The President meets alone with Lewinsky in the Oval Office study. (No Sexual Encounter)

[Chart B]

THE PRESIDENT'S TELEPHONE CONTACTS WITH LEWINSKY

1/7/96 (Sun): Conversation—first call to ML's home.

1/7/96 (Sun): Conversation—ML at office.

1/15 or 1/16/96 (Mon or Tue): Conversation, approx. 12:30 a.m.—ML at home.*

Approx. 1/28/96 (Sun): Caller ID on ML's office phone indicated POTUS call.

1/30/96 (Tues): Conversation—during middle of workday at ML's office.

2/4/96 (Sun): Conversations—ML at office—multiple calls.

2/7 or 2/8/96 (Wed or Thur): Conversation—ML at home.

2/8 or 2/9/96 (Thur or Fri): Conversation—ML at home.*

2/19/96 (Mon): Conversation—ML at home.

Approx. 2/28 or 3/5/96: Conversation—approx. 20 min.—after chance meeting in hallway—ML at home.

3/26/96 (Tues): Conversation—approx. 11 a.m.—ML at office.

3/29/96: Conversation—ML at office—approx. 8 p.m.—invitation to movie.

3/31/96: Conversation—ML at office—approx. 1 p.m.—Pres. ill.

4/7/96 (Easter Sunday): Conversation——ML at home.

4/7/96 (Easter Sunday): Conversation—ML at home—why ML left.

4/12/96 (Fri): Conversation—ML at home—daytime.

4/12 or 4/13/96 (Fri or Sat): Conversation—ML at home—after midnight.

4/22/96 (Mon): Conversations—job talk—ML at home.

4/29 or 4/30/96 (Mon or Tues): Message—after 6:30 a.m.

5/2/96 (Thur): Conversation—ML at home.*

5/6/96 (Mon): Possible phone call.

5/16/96 (Thur): Conversation—ML at home.

5/21/96 (Tues): Conversation—ML at home.*

5/31/96 (Fri): Message.

6/5/96 (Wed): Conversation—ML at home—early evening.

6/23/96 (Sun): Conversation—ML at home.*

7/5 or 7/6/96 (Fri or Sat): Conversation—ML at home.*

7/19/96 (Fri): Conversation—6:30 a.m.—ML at home.*

7/28/96 (Sun): Conversation—ML at home.

8/4/96 (Sun): Conversation—ML at home.*

8/24/96 (Sat): Conversation—ML at home.*

9/5/96 (Thur): Conversation—Pres. In Fla—ML at home.*

9/10/96 (Tues): Message.

9/30/96 (Mon): Conversation.*

10/22/96 (Tues): Conversation—ML at home.*

10/23 or 10/24/96 (early am): Conversation—ML at home.

12/2/96 (Mon): Conversation—approx. 10–15 min.—ML at home.

12/2/96 (Mon): Conversation—later that evening—ML at home—approx. 10:30 p.m.—Pres fell asleep.*

12/18/96 (Wed): Conversation—approx. 5 min.—10:30 p.m.—ML at home.

12/30/96 (Mon): Message.

1/12/97 (Sun): Conversation—job talk—ML at home.*

2/8/97 (Sat): Conversation—ML at home—midday—11:30-12:00.

2/8/97 (Sat): Conversation—job talk—1:30 or 2:00 p.m.—ML at home.*

3/12/97 (Wed): Conversation—three minutes—ML at work.

4/26/97 (Sat): Conversation—late afternoon—20 min.—ML at home.

5/17/97 (Sat): Conversations—multiple calls.

5/18/97 (Sun): Conversations—multiple calls.

7/15/97 (Tues): Conversation—ML at home.

8/1/97 (Fri): Conversation.

9/30/97 (Tues): Conversation.*

10/9 or 10/10/97 (Thur or Fri): Conversation—long, from 2 or 2:30 a.m. until 3:30 or 4:00 a.m.—job talk—argument—ML at home.

10/23/97 (Thur): Conversation—ML at home—end b/c HRC.

10/30/97 (Thur): Conversation—ML at home—interview prep.

11/12/97 (Wed): Conversation—discuss re: ML visit.*

12/6/97 (Sat): Conversation—approx. 30 min—ML at home.

12/17/ or 12/18/97 (Wed or Thur): Conversation—b/t 2:00 a.m. and 3:00 a.m.—ML at home—witness list.

1/5/98 (Mon): Conversation.

*Conversation that involved and may have involved phone sex.

[Chart C]

LEWINSKY GIFTS TO THE PRESIDENT

10/24/95: Lewinsky (before the sexual relationship began) gives her first gift to The President of a matted poem given by her and other White House interns to commemorate "National Boss' Day". It is the only gift the President sent to the archives instead of keeping.

11/20/95: Lewinsky gives The President a Zegna necktie.

3/31/96: Lewinsky gives The President a Hugo Boss Tie.

Christmas 1996: Lewinsky gives The President a Sherlock Homes game and a glow in the dark frog.

Before 8/16/96: Lewinsky gives The President a Zegna necktie and a t-shirt from Bosnia.

Early 1997: Lewinsky gives The President *Oy Ve*, a small golf book, golf balls, golf tees, and a plastic pocket frog.

3/97: Lewinsky gives The President a care package after he injured his leg including a metal magnet with The Presidential seal for his crutches, a license plate with "Bill" for his wheelchair, and knee pads with The Presidential seal.

3/29/97: Lewinsky gives The President her personal copy of *Vox*, a book about phone sex, a penny medallion with the heart cut out, a framed Valentine's Day ad, and a replacement for the Hugo Boss tie that had the bottom cut off.

5/24/97: Lewinsky gives The President a Banana Republic casual shirt and a puzzle on gold mysteries.

7/14/97: Lewinsky gives The President a wooden B, with a frog in it from Budapest.

Before 8/16/97: Lewinsky gives The President *The Notebook*.

8/16/97: Lewinsky gives The President an antique book on *Peter the Great*, the card game "Royalty", and a book, *Disease and Misrepresentation*.

10/21/97 or 10/22/97: Lewinsky gives The President a Calvin Klein tie, and pair of sunglasses.

10/97: Lewinsky gives The President a package Before filled with Halloween-related items, such as a Halloween pumpkin lapel pin, a wooden letter opener with a frog on the handle, and a plastic pumpkin filled with candy.

11/13/97: Lewinsky gives The President an antique paperweight that depicted the White House.

12/6/97: Lewinsky gives The President *Our Patriotic President: His Life in Pictures, Anecdotes, Sayings, Principles and Biography;* an antique standing cigar holder; a Starbucks Santa Monica mug; a Hugs and Kisses box; and a tie from London.

12/28/97: Lewinsky gives The President a hand-painted Easter Egg and "gummy boobs" from Urban Outfitters.

1/4/98: Lewinsky gives Currie a package with her final gift to The President containing a book entitled *The Presidents of the United States* and a love note inspired by the movie Titanic.

[Chart D]

THE PRESIDENT'S GIFTS TO LEWINSKY

12/5/95: The President gives Lewinsky an autographed photo of himself wearing the Zenga necktie she gave him.*

2/4/96: The President gives Lewinsky a signed "State of the Union" Address.*

3/31/96: The President gives Lewinsky cigars.

2/28/97: The President gives Lewinsky a hat pin*, "Davidoff" cigars, and the book the *Leaves of Grass* by Walt Whitman as belated Christmas gifts.

The President gives Lewinsky a gold brooch.*

The President gives Lewinsky an Annie Lennox compact disk.

The President gives Lewinsky a cigar.

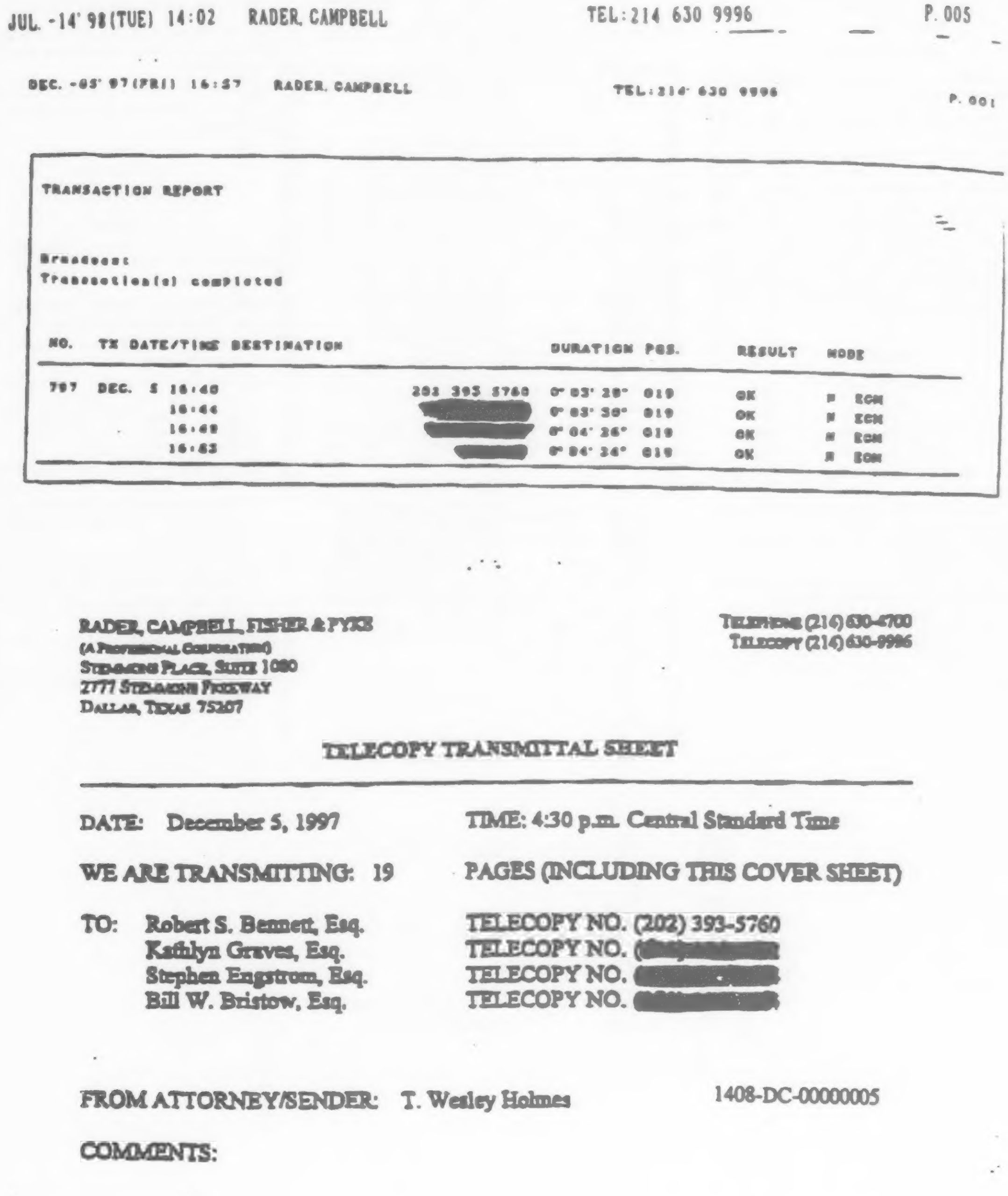
7/24/97: The President gives Lewinsky an antique flower pin in a wooden box, a porcelain object d'art, and a signed photograph of the President and Lewinsky.*

Early 9/97: The President brings Lewinsky several Black Dog items, including a baseball cap*, 2 T-shirts*, a hat and a dress.*

12/28/97: The President gives Lewinsky the largest number of gifts including:

1. a large Rockettes blanket,*
2. a pin of the New York skyline,*
3. a marblelike bear's head from Vancouver,*
4. a pair of sunglasses,*
5. a small box of cherry chocolates,
6. a canvas bag from the Black Dog,*
7. a stuffed animal wearing a T-shirt from the Black Dog.*

(*Denotes those items Lewinsky produced to the OIC on 7/29/98).



JUL. -14' 98 (TUE) 14:02 RADER, CAMPBELL TEL:214 630 9996 P. 005

DEC. -05' 97 (FRI) 16:57 RADER, CAMPBELL TEL:214 630 9996 P. 001

TRANSACTION REPORT

Broadcast
Transaction(s) completed

NO.	TX DATE/TIME	DESTINATION	DURATION	PGS.	RESULT	MODE
797	DEC. 5 16:40	202 393 5760	0° 03' 28"	019	OK	N ECM
	16:44	[redacted]	0° 03' 30"	019	OK	N ECM
	16:48	[redacted]	0° 04' 26"	019	OK	N ECM
	16:53	[redacted]	0° 04' 34"	019	OK	N ECM

RADER, CAMPBELL, FISHER & PYKE
(A PROFESSIONAL CORPORATION)
STEMMONS PLACE, SUITE 1080
2777 STEMMONS FREEWAY
DALLAS, TEXAS 75207

TELEPHONE (214) 630-4700
TELECOPY (214) 630-9996

TELECOPY TRANSMITTAL SHEET

DATE: December 5, 1997 TIME: 4:30 p.m. Central Standard Time

WE ARE TRANSMITTING: 19 PAGES (INCLUDING THIS COVER SHEET)

TO: Robert S. Bennett, Esq. TELECOPY NO. (202) 393-5760
Kathlyn Graves, Esq. TELECOPY NO. [redacted]
Stephen Engstrom, Esq. TELECOPY NO. [redacted]
Bill W. Bristow, Esq. TELECOPY NO. [redacted]

FROM ATTORNEY/SENDER: T. Wesley Holmes 1408-DC-00000005

COMMENTS:

Chart E

[Chart F]

LEWINSKY SUBPOENA

JONES V. CLINTON

DECEMBER 19, 1997

The Jones v. Clinton subpoena to Lewinsky called for:

(1) Her testimony on January 23, 1998 at 9:30 a.m.;

(2) Production of "each and every gift including but not limited to, any and all dresses, accessories, and jewelry, and/or hat pins given to you by, or on behalf of, Defendant Clinton;" and

(3) "Every document constituting or containing communications between you and Defendant Clinton, including letters, cards, notes, memoranda and all telephone records."

[Chart G]

DECEMBER 19, 1997

(Friday)

LEWINSKY IS SERVED WITH A SUBPOENA IN JONES V. CLINTON

1:47–1:48 p.m.: Lewinsky telephones Jordan's office.

3:00–4:00 p.m.: Lewinsky is served with a subpoena in *Jones* v. *Clinton*.

—: Lewinsky telephones Jordan immediately about subpoena.

3:51–3:52 p.m.: Jordan telephones The President and talks to Debra Schiff.

4:17–4:20 p.m.: Jordan telephones White House Social Office.

4:47 p.m.: Lewinsky meets Jordan and requests that Jordan notify The President about her subpoena.

5:01–5:05 p.m.: The President telephones Jordan; Jordan notifies The President about Lewinsky's subpoena.

5:06 p.m.: Jordan telephones attorney Carter to represent Lewinsky.

Later that Evening: The President meets alone with Jordan at the White House.

[Chart H]

DECEMBER 23, 1997

JONES V. CLINTON INTERROGATORY NO. 10

Interrogatory No. 10: Please state the name, address, and telephone number of each and every individual (other than Hillary Rodham Clinton) whom you had sexual relations when you held any of the following positions:

a. Attorney General of the State of Arkansas;

b. Governor of the State of Arkansas;

c. President of the United States.

(Court modifies scope to incidents from May 8, 1986 to the present involving state or federal employees.)

Supplemental Response to Interrogatory No. 10 (as modified by direction of the Court): None.

[Chart I]

DECEMBER 23, 1997

JONES V. CLINTON INTERROGATORY NO. 11

Interrogratory No. 11: Please state the name, address, and telephone number of each and every individual (other than Hillary Rodham Clinton) with whom you sought to have sexual relations, when you held any of the following positions:

a. Attorney General of the State of Arkansas;

b. Governor of the State of Arkansas;

c. President of the United States.

(Court modifies scope to incidents from May 8, 1986 to the present involving state or federal employees.)

Supplemental Response to Interrogatory No. 11 (as modified by direction of the Court): None.

[Chart J]

DECEMBER 28, 1997

(Sunday)

THE PRESIDENT'S FINAL MEETING WITH LEWINSKY AND THE CONCEALMENT OF THE GIFTS TO LEWINSKY

8:16 a.m.: Lewinsky meets The President at the White House at Currie's direction.

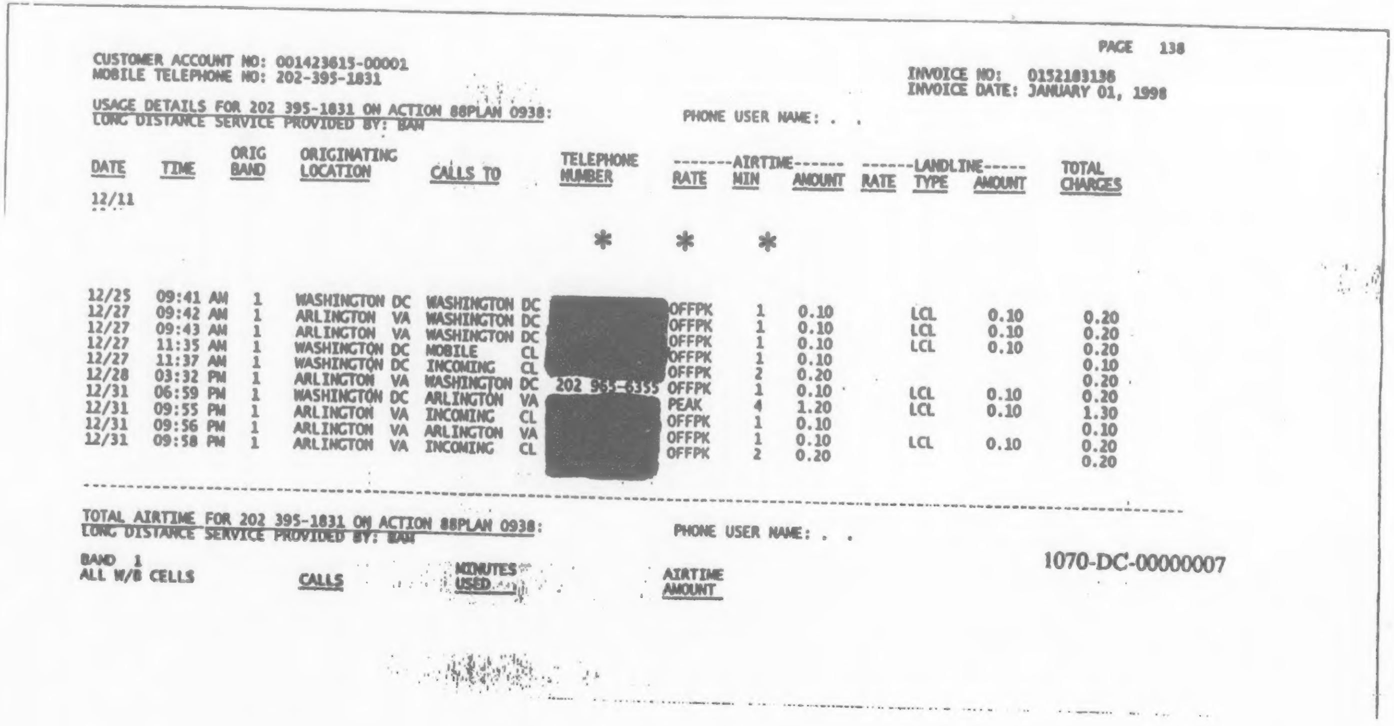
- The President gives Lewinsky numerous gifts.
- The President and Lewinsky discuss the subpoena, calling for, among other things, the hat pin. The President acknowledges "that sort of bothered [him] too."
- Lewinsky states to The President: "Maybe I should put the gifts away outside my house somewhere or give them to someone, maybe Betty [Currie]."

3:32 p.m.: Currie telephones Lewinsky at home from Currie's cell phone.

"I understand you have something to give me." or

"The President said you have something to give me."

Later that Day: Currie picks up gifts from Lewinsky.



PAGE 138

CUSTOMER ACCOUNT NO: 001423615-00001
MOBILE TELEPHONE NO: 202-395-1831

INVOICE NO: 0152183138
INVOICE DATE: JANUARY 01, 1998

USAGE DETAILS FOR 202 395-1831 ON ACTION 88PLAN 0938:
LONG DISTANCE SERVICE PROVIDED BY: BAN

PHONE USER NAME: . .

DATE	TIME	ORIG BAND	ORIGINATING LOCATION	CALLS TO	TELEPHONE NUMBER	AIRTIME			LANDLINE			TOTAL CHARGES
						RATE	MIN	AMOUNT	RATE	TYPE	AMOUNT	
12/11												

* * *

DATE	TIME	ORIG BAND	ORIGINATING LOCATION	CALLS TO	TELEPHONE NUMBER	AIRTIME RATE	AIRTIME MIN	AIRTIME AMOUNT	LANDLINE RATE	LANDLINE TYPE	LANDLINE AMOUNT	TOTAL CHARGES
12/25	09:41 AM	1	WASHINGTON DC	WASHINGTON DC	[redacted]	OFFPK	1	0.10		LCL	0.10	0.20
12/27	09:42 AM	1	ARLINGTON VA	WASHINGTON DC	[redacted]	OFFPK	1	0.10		LCL	0.10	0.20
12/27	09:43 AM	1	ARLINGTON VA	WASHINGTON DC	[redacted]	OFFPK	1	0.10		LCL	0.10	0.20
12/27	11:35 AM	1	WASHINGTON DC	MOBILE CL	[redacted]	OFFPK	1	0.10				0.10
12/27	11:37 AM	1	WASHINGTON DC	INCOMING CL	[redacted]	OFFPK	2	0.20				0.20
12/28	03:32 PM	1	ARLINGTON VA	WASHINGTON DC	202 965-6355	OFFPK	1	0.10		LCL	0.10	0.20
12/31	06:59 PM	1	WASHINGTON DC	ARLINGTON VA	[redacted]	PEAK	4	1.20		LCL	0.10	1.30
12/31	09:55 PM	1	ARLINGTON VA	INCOMING CL	[redacted]	OFFPK	1	0.10				0.10
12/31	09:56 PM	1	ARLINGTON VA	ARLINGTON VA	[redacted]	OFFPK	1	0.10		LCL	0.10	0.20
12/31	09:58 PM	1	ARLINGTON VA	INCOMING CL	[redacted]	OFFPK	2	0.20				0.20

TOTAL AIRTIME FOR 202 395-1831 ON ACTION 88PLAN 0938:
LONG DISTANCE SERVICE PROVIDED BY: BAN

PHONE USER NAME: . .

BAND 1
ALL W/B CELLS

CALLS	MINUTES USED	AIRTIME AMOUNT

1070-DC-00000007

Chart K

[Chart L]

THE PRESIDENT'S STATEMENTS ABOUT CONCEALING GIFTS

12/28/97

"[Lewinsky]: And then at some point I said to him [The President], 'Well, you know, should I—maybe I should put the gifts away outside my house somewhere or give them to someone, maybe Betty.' And he sort of said—I think he responded, 'I don't know' or 'Let me think about that.' And left that topic."—(Lewinsky Grand Jury 8/6/98 Tr. 152)

[Chart M]

AFFIDAVIT OF JANE DOE

1. My name is Jane Doe # . I am 24 years old and I currently reside at 700 New Hampshire Avenue, NW., Washington, DC 20037.

2. On December 19, 1997, I was served with a subpoena from the plaintiff to give a deposition and to produce documents in the lawsuit filed by Paula Corbin Jones against President William Jefferson Clinton and Danny Ferguson.

3. I can not fathom any reason that the plaintiff would seek information from me for her case.

4. I have never met Ms. Jones, nor do I have any information regarding the events she alleges occurred at the Excelsior Hotel on May 8, 1991 or any other information concerning any of the allegations in her case.

5. I worked at the White House in the summer of 1995 as a White House intern. Beginning in December, 1995, I worked in the Office of Legislative Affairs as a staff assistant for correspondence. In April, 1996, I accepted a job as assistant to the Assistant Secretary for Public Affairs at the U.S. Department of Defense. I maintained that job until December 26, 1997. I am currently unemployed but seeking a new job.

6. In the course of my employment at the White House, I met President Clinton on several occasions. I do not recall ever being alone with the President, although it is possible that while working in the White House Office of Legislative Affairs I may have presented him with a letter for his signature while no one else was present. This would have lasted only a matter of minutes.

7. I have the utmost respect for the President who has always behaved appropriately in my presence.

8. I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for rejecting a sexual relationship. I do not know of any other person who had a sexual relationship with the President, was offered employment or other benefits in exchange for a sexual relationship, or was denied employment or other benefits for rejecting a sexual relationship. The occasions that I saw the President, with crowds of other people, after I left my employment at the White House in April, 1996 related to official receptions, formal functions or events related to the U.S. Department of Defense, where I was working at the time. There were other people present on all of these occasions.

9. Since I do not possess any information that could possibly be relevant to the allegations made by Paula Jones or lead to admissible evidence in this case, I asked my attorney to provide this affidavit to plaintiff's counsel. Requiring my deposition in this matter would cause unwarranted attorney's fees and costs, disruption of my life, especially since I am looking for employment, and constitute an invasion of my right to privacy.

I declare under the penalty of perjury that the foregoing is true and correct.

MONICA S. LEWINSKY.

DISTRICT OF COLUMBIA, ss:

Monica S. Lewinsky, being first duly sworn on oath according to law, deposes and says that she has read the foregoing Affidavit of Jane Doe # by her subscribed, that the matters stated herein are true to the best of her information, knowledge and belief.

Monica S. Lewinsky.

Subscribed and sworn to before me this ____ day of ______, 1998.

____

NOTARY PUBLIC, D.C.

My Commission expires: ______

[Chart N]

FINAL AFFIDAVIT OF JANE DOE #6 [LEWINSKY]

1/7/98

8. I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for rejecting a sexual relationship. I do not know of any other person who had a sexual relationship with the President, was offered employment or other benefits in exchange for a sexual relationship, or was denied employment or other benefits for rejecting a sexual relationship. The occasions that I saw the President after I left my employment at the White House in April, 1996, were official receptions, formal functions or events related to the U.S. Department of Defense, where I was working at the time. There were other people present on those occasions.

[Chart O]

LEWINSKY'S AFFIDAVIT GETS FILED

(1/14/98–1/17/98)

JANUARY 14, 1998 (WEDNESDAY)

7:45 p.m.: Bennett's firm (Sexton) leaves Carter telephone message.

—: Carter faxes signed affidavit to Bennett's firm.

JANUARY 15, 1998 (THURSDAY)

9:17 a.m.: Sexton leaves Carter telephone message.

12:59 p.m.: Sexton leaves Carter telephone message.

—: Currie called by Newsweek.

—: Lewinsky drives Currie to meet Jordan.

—: Sexton telephones Carter: "STILL ON TIME?"

—: Carter telephones Court Clerk for Saturday (1/17/98) Filing of Affidavit and motion to quash.

JANUARY 16, 1998 (FRIDAY)

2 a.m. (Approx.): Carter completes motion to quash Lewinsky's deposition.

Carter sends by overnight mail motion to quash and affidavit to Bennett's firm and to the Court.

11:30 a.m.: Sexton message to Carter: "Please call."

JANUARY 17, 1998 (SATURDAY)

—: Lewinsky Affidavit is submitted to the Court.

—: The President is deposed.

[Chart P]

MISSION ACCOMPLISHED: LEWINSKY SIGNS AFFIDAVIT AND GETS A NEW YORK JOB

(1/5/98–1/9/98)

JANUARY 5, 1998

Lewinsky meets with attorney Carter for an hour; Carter drafts an Affidavit for Lewinsky in an attempt to avert her deposition testimony in *Jones* v. *Clinton* scheduled for January 23, 1998.

Lewinsky telephones Currie stating that she needs to speak to the President about an important matter; specifically that she was anxious about something she needed to sign—an Affidavit.

The President returns Lewinsky's call; Lewinsky mentions the Affidavit she'd be signing; Lewinsky offers to show the Affidavit to The President who states that he doesn't need to see it because he has already seen about fifteen others.

JANUARY 6, 1998

11:32 a.m.: Carter pages Lewinsky: "Please call Frank Carter." Lewinsky meets Carter and receives draft Affidavit.

2:08–2:10 p.m.: Jordan calls Lewinsky. Lewinsky delivers draft Affidavit to Jordan.

3:14 p.m.: Carter again pages Lewinsky: "Frank Carter at [telephone number] will see you tomorrow morning at 10:00 in my office."

3:26–3:32 p.m.: Jordan telephones Carter.

3:38 p.m.: Jordan telephones Nancy Hernreich, Deputy Assistant to The President.

3:48 p.m.: Jordan telephones Lewinsky.

3:49 p.m.: Jordan telephones Lewinsky to discuss draft Affidavit. Both agree to delete implication that she had been alone with The President.

4:19–4:32 p.m.: The President telephones Jordan.

4:32 p.m.: Jordan telephones Carter.

4:34–4:37 p.m.: Jordan again telephones Carter.

5:15–5:19 p.m.: Jordan telephones White House.

9:26–9:29 a.m.: Jordan telephones Carter.

10:00 a.m.: Lewinsky signs false Affidavit at Carter's Office.

—: Lewinsky delivers signed Affidavit to Jordan.

11:58 a.m.–12:09 p.m.: Jordan telephones the White House.

5:46–5:56 p.m.: Jordan telephones the White House (Hernreich's Office).

6:50–6:54 p.m.: Jordan telephones the White House and tells The President that Lewinsky signed an Affidavit.

JANUARY 8, 1998

9:21 a.m.: Jordan telephones the White House Counsel's Office.

9:21 a.m.: Jordan telephones the White House.

—: Lewinsky interviews in New York at MacAndrews & Forbes Holdings, Inc. (MFH)

11:50–11:51 a.m.: Lewinsky telephones Jordan.

3:09–3:10 p.m.: Lewinsky telephones Jordan.

4:48–4:53 p.m.: Lewinsky telephones Jordan and advises that the New York MFH Interview went "Very Poorly."

4:54 p.m.: Jordan telephones Ronald Perelman in New York, CEO of Revlon (subsidiary of MFH) "to make things happen . . . if they could happen."

4:56 p.m.: Jordan telephones Lewinsky stating, "I'm doing the best I can to help you out."

6:39 p.m.: Jordan telephones White House Counsel's Office (Cheryl Mills), possibly about Lewinsky.

Evening: Revlon in New York telephones Lewinsky to set up a follow-up interview.

9:02–9:03 p.m.: Lewinsky telephones Jordan about Revlon interview in New York.

JANUARY 9, 1998

—: Lewinsky interviews in New York with Senior V.P. Seidman of MacAndrews & Forbes and two Revlon individuals.

Lewinsky offered Revlon job in New York and accepts.

1:29 p.m.: Lewinsky telephones Jordan.

4:14 p.m.: Lewinsky telephones Jordan to say that Revlon offered her a job in New York.

Jordan notifies Currie: "Mission Accomplished" and requests she tell The President.

Jordan notifies The President of Lewinsky's New York job offer. The President replies "Thank you very much."

4:37 p.m.: Lewinsky telephones Carter.

5:04 p.m.: Lewinsky telephones Jordan.

5:05 p.m.: Lewinsky telephones Currie.

5:08 p.m.: The President telephones Currie.

5:09–5:11 p.m.: Lewinsky telephones Jordan.

5:12 p.m.: Currie telephones The President.

5:18–5:20 p.m.: Jordan telephones Lewinsky.

5:21–5:26 p.m.: Lewinsky telephones Currie.

[Chart Q]

THE PRESIDENT'S INVOLVEMENT WITH LEWINSKY JOB SEARCH

"Q Why are you trying to tell someone at the White House that this has happened [Carter had been fired]?

[Jordan]: Thought they had a right to know.

Q Why?

[Jordan]: The President asked me to get Monica Lewinsky a job. I got her a lawyer. The Drudge Report is out and she has new counsel. I thought that was information that they ought to have . . . ." (Jordan Grand Jury 6/9/98 Tr. 45–46)

"Q Why did you think the President needed to know that Frank Carter had been replaced?

[Jordan]: Information. He knew that I had gotten her a job, he knew that I had gotten her a lawyer. Information. He was interested in this matter. He is the source of it coming to my attention in the first place . . . ." (Jordan Grand Jury 6/9/98 Tr. 58–59)

[Chart R]

JORDAN'S PRE-WITNESS LIST JOB SEARCH EFFORTS

"[Jordan]: I have no recollection of an early November meeting with Ms. Monica Lewinsky. I have absolutely no recollection of it and I have no record of it." (Jordan Grand Jury 3/3/98 Tr. 50)

* * *

"Q Is it fair to say that back in November getting Monica Lewinsky a job on any fast pace was not any priority of yours?

[Jordan]: I think that's fair to say." (Jordan Grand Jury 5/5/98 Tr. 76)

* * *

"[Lewinsky]: [Referring to 12/6/97 meeting with the President]. I think I said that . . . I was supposed to get in touch with Mr. Jordan the previous week and that things did not work out and that nothing had really happened yet [on the job front].

Q Did the President say what he was going to do?

[Lewinsky]: I think he said he would—you know, this was not sort of typical of him, to sort of say, 'Oh, I'll talk to him. I'll get on it.'" (Lewinsky Grand Jury 8/6/98 Tr. 115–116)

* * *

"Q But what is also clear is that as of this date, December 11th, you are clear that at that point you had made a decision that you would try to make some calls to help get her a job.

[Jordan]: There is no question about that." (Jordan Grand Jury 5/5/98 Tr. 95)

[Chart S]

JANUARY 17, 1998

SATURDAY

- 4:00 p.m. (approx): THE PRESIDENT finishes testifying under oath in *Jones v. Clinton, et al.*
- 5:19 p.m.: Jordan telephones White House.
- 5:38 p.m.: THE PRESIDENT telephones Jordan at home.
- 7:02 p.m.: THE PRESIDENT telephones Currie at home but does not speak with her.
- 7:02 p.m.: THE PRESIDENT places a call to Jordan's office.
- 7:13 p.m.: THE PRESIDENT telephones Currie at home and asks her to meet with him on Sunday.

JANUARY 18, 1998

SUNDAY

- 6:11 a.m.: Drudge Report Released.
- —: The President learns of the Drudge Report and [Tripp] tapes.
- 11:49 a.m.: Jordan telephones the White House.
- 12:30 p.m.: Jordan has lunch with Bruce Lindsey. Lindsey informs Jordan about the Drudge Report and [Tripp] tapes.
- 12:50 p.m.: THE PRESIDENT telephones Jordan at home.
- 1:11 p.m.: THE PRESIDENT telephones Currie at home.
- 2:15 p.m.: Jordan telephones the White House.
- 2:55 p.m.: Jordan telephones THE PRESIDENT.
- 5:00 p.m.: THE PRESIDENT meets with Currie, concerning his contacts with Lewinsky.
- 5:12 p.m.: Currie pages Lewinsky: "Please call Kay at home."
- 6:22 p.m.: Currie pages Lewinsky: "Please call Kay at home."
- 7:06 p.m.: Currie pages Lewinsky: "Please call Kay at home."
- 7:19 p.m.: Jordan telephones Cheryl Mills, White House Counsel's Office.
- 8:28 p.m.: Currie pages Lewinsky: "Call Kay."
- 10:09 p.m.: Lewinsky telephones Currie at home.
- 11:02 p.m.: THE PRESIDENT telephones Currie at home and asks if she reached Lewinsky.

JANUARY 19, 1998

MONDAY—MARTIN LUTHER KING DAY

- 7:02 a.m.: Currie pages Lewinsky: "Please call Kay at home at 8:00 this morning."
- 8:08 a.m.: Currie pages Lewinsky: "Please call Kay ."
- 8:33 a.m.: Currie pages Lewinsky: "Please call Kay at home."
- 8:37 a.m.: Currie pages Lewinsky: "Please call Kay at home. It's a social call. Thank you."
- 8:41 a.m.: Currie pages Lewinsky: "Kay is at home. Please call."
- 8:43 a.m.: Currie telephones The President from home to say she has been unable to reach Lewinsky.
- 8:44 a.m.: Currie pages Lewinsky: "Please call Kate re: family emergency."
- 8:50 a.m. THE PRESIDENT telephones Currie at home.
- 8:51 a.m.: Currie pages Lewinsky: "Msg. From Kay. Please call, have good news."
- 8:56 a.m.: THE PRESIDENT telephones Jordan at home.
- 10:29 a.m.: Jordan telephones the White House from his office.
- 10:35 a.m.: Jordan telephones Nancy Hernreich at the White House.
- 10:36 a.m.: Jordan pages Lewinsky: "Please call Mr. Jordan at [number redacted]."
- 10:44 a.m.: Jordan telephones Erskine Bowles at the White House.
- 10:53 a.m.: Jordan telephones Carter.
- 10:58 a.m.: THE PRESIDENT telephones Jordan at his office.
- 11:04 a.m.: Jordan telephones Bruce Lindsey at the White House.
- 11:16 a.m.: Jordan pages Lewinsky: "Please call Mr. Jordan at [number redacted]."
- 11:17 a.m.: Jordan telephones Lindsey at the White House.
- 12:31 p.m.: Jordan telephones the White House from a cellular phone.
- —: Jordan lunches with Carter.
- 1:45 p.m.: THE PRESIDENT telephones Currie at home.
- 2:29 p.m.: Jordan telephones the White House from a cellular phone.
- 2:44 p.m.: Jordan enters the White House and over the course of an hour meets with THE PRESIDENT, Erskine Bowles, Bruce Lindsay, Cheryl Mills, Charles Ruff, Rahm Emanuel and others.
- 2:46 p.m.: Carter pages Lewinsky: "Please call Frank Carter at [number redacted]."
- 4:51 p.m.: Jordan telephones Currie at home.
- 4:53 p.m.: Jordan telephones Carter at home.
- 4:54 p.m.: Jordan telephones Carter at his office. Carter informs Jordan that Lewinsky has replaced Carter with a new attorney.
- 4:58 p.m.: Jordan telephones Lindsey, White House Counsel's Office.
- 4:59 p.m.: Jordan telephones Mills, White House Counsel's Office.
- 5:00 p.m.: Jordan telephones Lindsey, White House Counsel's Office.
- 5:00 p.m.: Jordan telephones Ruff, White House Counsel's Office.
- 5:05 p.m.: Jordan telephones Lindsey, White House Counsel's Office.
- 5:05 p.m.: Jordan again telephones Lindsey, White House Counsel's Office.
- 5:05 p.m.: Jordan telephones the White House.
- 5:09 p.m.: Jordan telephones Mills, White House Counsel's Office.
- 5:14 p.m.: Jordan telephones Carter concerning his termination as Lewinsky's attorney.
- 5:22 p.m.: Jordan telephones Lindsey, White House Counsel's Office.
- 5:22 p.m.: Jordan telephones Mills, White House Counsel's Office.
- 5:55 p.m.: Jordan telephones Currie at home.
- 5:56 p.m.: THE PRESIDENT telephones Jordan at his office; Jordan informs The President that Carter was fired.
- 6:04 p.m.: Jordan telephones Currie at home.
- 6:26 p.m.: Jordan telephones Stephen Goodin, an aide to THE PRESIDENT.

[Chart T]

THE PRESIDENT'S POST-DEPOSITION STATEMENTS TO CURRIE

1/18/98

- "I was never really alone with Monica, right?"
- "You were always there when Monica was there, right?"
- "Monica came on to me, and I never touched her, right?"
- "You could see and hear everything, right?"
- "She wanted to have sex with me, and I cannot do that."—(Currie Grand Jury 7/22/98 Tr. 6–7; Currie Grand Jury 1/27/98 Tr. 70–75)

[Chart U]

THE PRESIDENT'S DENIALS

1/21/98

"And it was at that point that he gave his account of what had happened to me [sic] and he said that Monica—and it came very fast. He said, 'Monica Lewinsky came at me and made a sexual demand on me.' He rebuffed her. He said, 'I've gone down that road before, I've caused pain for a lot of people and I'm not going to do that again.'

She threatened him. She said that she would tell people they'd had an affair, that she was known as the stalker among her peers, and that she hated it and if she had an affair or said she had an affair then she wouldn't be the stalker any more."—(Blumenthal Grand Jury 6/4/98 Tr. 49)

"And he said, 'I feel like a character in a novel. I feel like somebody who is surrounded by an oppressive force that is creating a lie about me and I can't get the truth out. I feel like the character in the novel Darkness at Noon.'

And I said to him, I said, 'When this happened with Monica Lewinsky, were you alone? He said, 'Well, I was within eyesight or earshot of someone.'"—(Blumenthal Grand Jury 6/4/98 Tr. 50)

[Chart V]

"Q. Okay. Share that with us.

A. Well, I think he said—he said that—there was some spate of, you know, what sex acts were counted, and he said that he had never had sex with her in any way whatsoever—

Q. Okay.

A—that they had not had oral sex"—(John Podesta Grand Jury 6/16/98 Tr. 92)

* * *

"And I said, 'They're just too shocked by this. It's just too new, it's too raw.' And I said, 'And the problem is they're willing to forgive you [The President] for adultery, but not for perjury or obstruction of justice or the various other things.'"—(Dick Morris Grand Jury 8/18/98 Tr. 10, 12, 20)

* * *

"And I said, 'They're just not ready for it,' meaning the voters.' And he [The President] said, 'Well, we just have to win, then.'"—(Dick Morris Grand Jury 8/18/98 Tr. 30)

[Chart W]

"TALKING POINTS"*

January 24, 1998

* * *

"Q. Well, for example, Ms. Lewinsky is on tape indicating that the President does not believe oral sex is adultery. Would oral sex, to the President, constitute a sexual relationship?"

"A. Of course it would."

* * *

*Produced by the White House pursuant to OIC Subpoena.

[Chart X]

THE PRESIDENT CLAIMS HE WAS TRUTHFUL WITH AIDES

[President]: And so I said to them things that were true about this relationship. That I used—in the language I used, I said, there's nothing going on between us. That was true. I said, I have not had sex with her as I defined it. That was true. And did I hope that I would never have to be here on this day giving this testimony? Of course.

But I also didn't want to do anything to complicate this matter further. So I said things that were true. They may have been misleading, and if they were I have to take responsibility for it, and I'm sorry.—(The President Grand Jury 8/17/98 Tr. 106)

[Chart Y]

GRAND JURY WITNESSES

A person testifying before a federal grand jury has three options under the law:

(1) To obey the oath and testify to the truth, the whole truth and nothing but the truth;

(2) To lie;

(3) To assert the Fifth Amendment or another legally recognized privilege.

[Chart Z]

PRESIDENT'S STATEMENT GRAND JURY TESTIMONY

"When I was alone with Ms. Lewinsky on certain occasions in early 1996 and once in early 1997, I engaged in conduct that was wrong. These encounters did not consist of sexual intercourse. They did not constitute sexual relations as I understood that term to be defined at my January 17th, 1998 deposition. But they did involve inappropriate intimate contact.

These inappropriate encounters ended, at my insistence, in early 1997. I also had occasional telephone conversations with Ms. Lewinsky that included inappropriate sexual banter.

I regret that what began as a friendship came to include this conduct, and I take full responsibility for my actions.

While I will provide the grand jury whatever other information I can, because of privacy considerations affecting my family, myself, and others, and in an effort to preserve the dignity of the office I hold, this is all I will say about the specifics of these particular matters.

I will try to answer, to the best of my ability, other questions including questions about my relationship with Ms. Lewinsky; questions about my understanding of the term 'sexual relations', as I understood it to be defined at my January 17th, 1998 deposition; and questions concerning alleged subornation of perjury, obstruction of justice, and intimidation of witnesses. That, Mr. Bittman, is my statement."

TABLE OF CONTENTS

EXHIBITS

Telephone records

(1) Summary chart, 12/19/97

(2) Currie Cell phone records, 12/28/97

(3) Summary chart, 1/6/98

(4) Summary chart, 1/7/98

(5) Summary chart, 1/15/98–1/16/98

(6) Summary chart, 1/17/98

(7) Summary chart, 1/18/98

(8) Summary chart, 1/19/98

Court Documents

(9) *Jones* v. *Clinton*. Jan. 29, 1998 District Court Order regarding discovery

(10) President Clinton's Answer to First Amended Complaint. *Jones* v. *Clinton*

(11) *In re: Sealed Case*, Nos. 98-3053 & 3059, U.S. Court of Appeals, District of Columbia

(12) Jane Doe #6 (Lewinsky) Affidavit filed in *Jones* v. *Clinton*

(13) "Sexual Relations" definition

Miscellaneous

(14) 1/18/98 Drudge Report

(15) *Jones'* attorneys fax cover sheet of witness list to Bennett

(16) White House "Talking Points," January 24, 1998

(17) LA Times 1/25/98 Article regarding White House "Talking Points"

(18) Response of William J. Clinton to Judiciary Committee Questions

(19) President Clinton Grand Jury Tr. 138 L. 16–23 (From GJ Tape 2)

(20) President Clinton Grand Jury Tr. 100 L. 20–25, Tr. 105 L. 19–25, Tr. 106 L. 1–12 (From GJ Tape 3)

(21) President Clinton Deposition Tr. 75 L. 2–8, Tr. 76 L. 24–25, Tr. 77 L. 1–2, (From Dep. Tape 1)

(22) President Clinton Deposition Tr. 52 L. 18–25, Tr. 53 L. 1–9, 10–18, Tr. 58 L. 22–25, Tr. 59 L. 1–3, 7–16, 17–20 (From Dep. Tape 3)

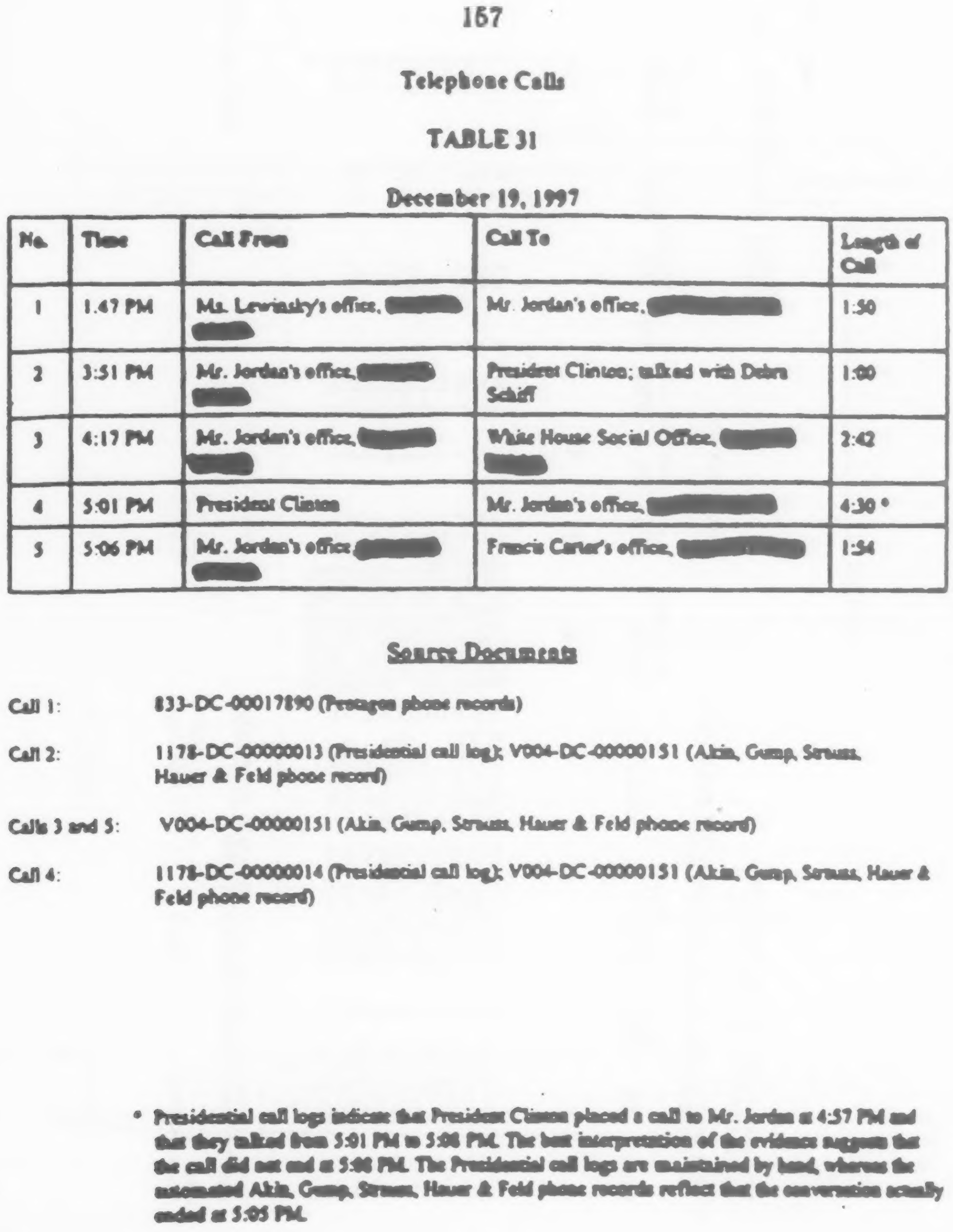
(23) President Clinton Deposition Tr. 78 L. 4–23, (From Dep. Tape 4)

(24) President Clinton Deposition Tr. 53 L. 22–25, Tr. 54 L. 1–7, 20–25, Tr. 55 L. 1–3 (From Dep. Tape 5)

(25) President Clinton Deposition Tr. 204 L. 5–14, (From Dep. Tape 8)

(26) President Clinton Grand Jury Tr. 9–11

[EXHIBIT 1]



167

Telephone Calls

TABLE 31

December 19, 1997

No.	Time	Call From	Call To	Length of Call
1	1:47 PM	Ms. Lewinsky's office, [redacted]	Mr. Jordan's office, [redacted]	1:50
2	3:51 PM	Mr. Jordan's office, [redacted]	President Clinton; talked with Debra Schiff	1:00
3	4:17 PM	Mr. Jordan's office, [redacted]	White House Social Office, [redacted]	2:42
4	5:01 PM	President Clinton	Mr. Jordan's office, [redacted]	4:30 *
5	5:06 PM	Mr. Jordan's office, [redacted]	Francis Carter's office, [redacted]	1:54

Source Documents

Call 1: 833-DC-00017890 (Pentagon phone records)

Call 2: 1178-DC-00000013 (Presidential call log); V004-DC-00000151 (Akin, Gump, Strauss, Hauer & Feld phone record)

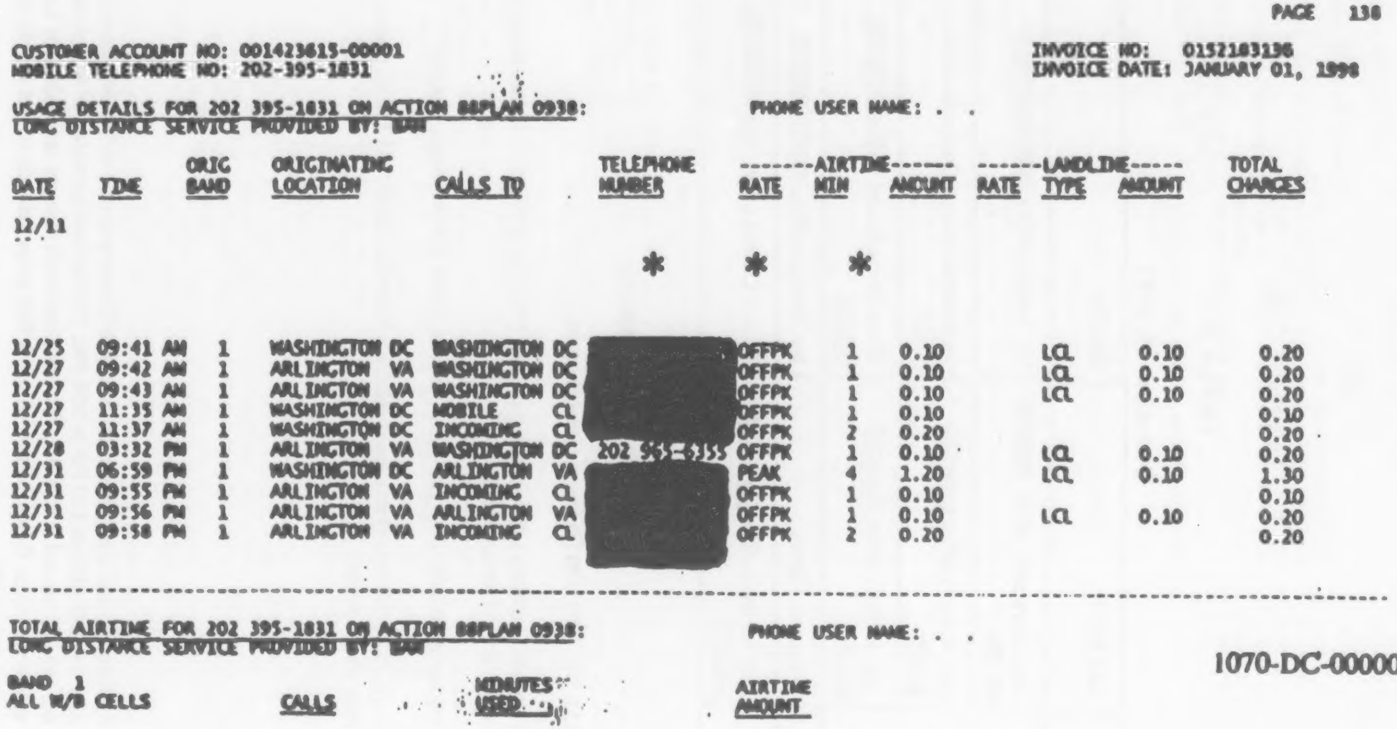
Calls 3 and 5: V004-DC-00000151 (Akin, Gump, Strauss, Hauer & Feld phone record)

Call 4: 1178-DC-00000014 (Presidential call log); V004-DC-00000151 (Akin, Gump, Strauss, Hauer & Feld phone record)

---

* Presidential call logs indicate that President Clinton placed a call to Mr. Jordan at 4:57 PM and that they talked from 5:01 PM to 5:08 PM. The best interpretation of the evidence suggests that the call did not end at 5:08 PM. The Presidential call logs are maintained by hand, whereas the automated Akin, Gump, Strauss, Hauer & Feld phone records reflect that the conversation actually ended at 5:05 PM.

[EXHIBIT 2]



PAGE 138

CUSTOMER ACCOUNT NO: 001423615-00001
MOBILE TELEPHONE NO: 202-395-1831

INVOICE NO: 0152183136
INVOICE DATE: JANUARY 01, 1998

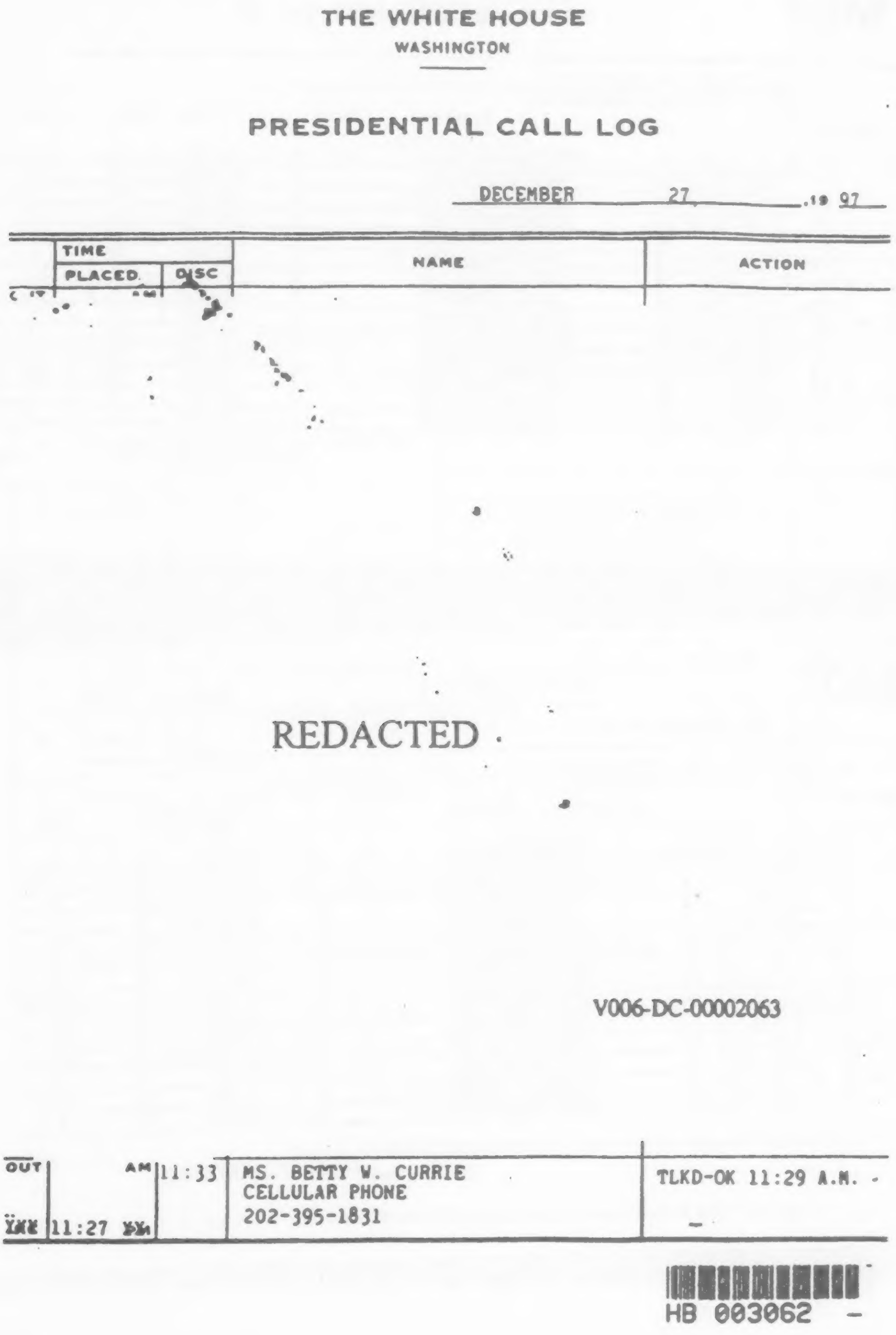
USAGE DETAILS FOR 202 395-1831 ON ACTION 88PLAN 0938: PHONE USER NAME: . .
LONG DISTANCE SERVICE PROVIDED BY: BAN

DATE	TIME	ORIG BAND	ORIGINATING LOCATION	CALLS TO	TELEPHONE NUMBER	AIRTIME RATE	AIRTIME MIN	AIRTIME AMOUNT	LANDLINE RATE	LANDLINE TYPE	LANDLINE AMOUNT	TOTAL CHARGES
12/11												
					*	*	*					
12/25	09:41 AM	1	WASHINGTON DC	WASHINGTON DC	[redacted]	OFFPK	1	0.10		LCL	0.10	0.20
12/27	09:42 AM	1	ARLINGTON VA	WASHINGTON DC	[redacted]	OFFPK	1	0.10		LCL	0.10	0.20
12/27	09:43 AM	1	ARLINGTON VA	WASHINGTON DC	[redacted]	OFFPK	1	0.10		LCL	0.10	0.20
12/27	11:35 AM	1	WASHINGTON DC	MOBILE CL	[redacted]	OFFPK	1	0.10				0.10
12/27	11:37 AM	1	WASHINGTON DC	INCOMING CL	[redacted]	OFFPK	2	0.20				0.20
12/28	03:32 PM	1	ARLINGTON VA	WASHINGTON DC	202 965-6355	OFFPK	1	0.10		LCL	0.10	0.20
12/31	06:59 PM	1	WASHINGTON DC	ARLINGTON VA	[redacted]	PEAK	4	1.20		LCL	0.10	1.30
12/31	09:55 PM	1	ARLINGTON VA	INCOMING CL	[redacted]	OFFPK	1	0.10				0.10
12/31	09:56 PM	1	ARLINGTON VA	ARLINGTON VA	[redacted]	OFFPK	1	0.10		LCL	0.10	0.20
12/31	09:58 PM	1	ARLINGTON VA	INCOMING CL	[redacted]	OFFPK	2	0.20				0.20

TOTAL AIRTIME FOR 202 395-1831 ON ACTION 88PLAN 0938: PHONE USER NAME: . .
LONG DISTANCE SERVICE PROVIDED BY: BAN

BAND 1			
ALL W/B CELLS	CALLS	MINUTES USED	AIRTIME AMOUNT

1070-DC-00000007



THE WHITE HOUSE
WASHINGTON

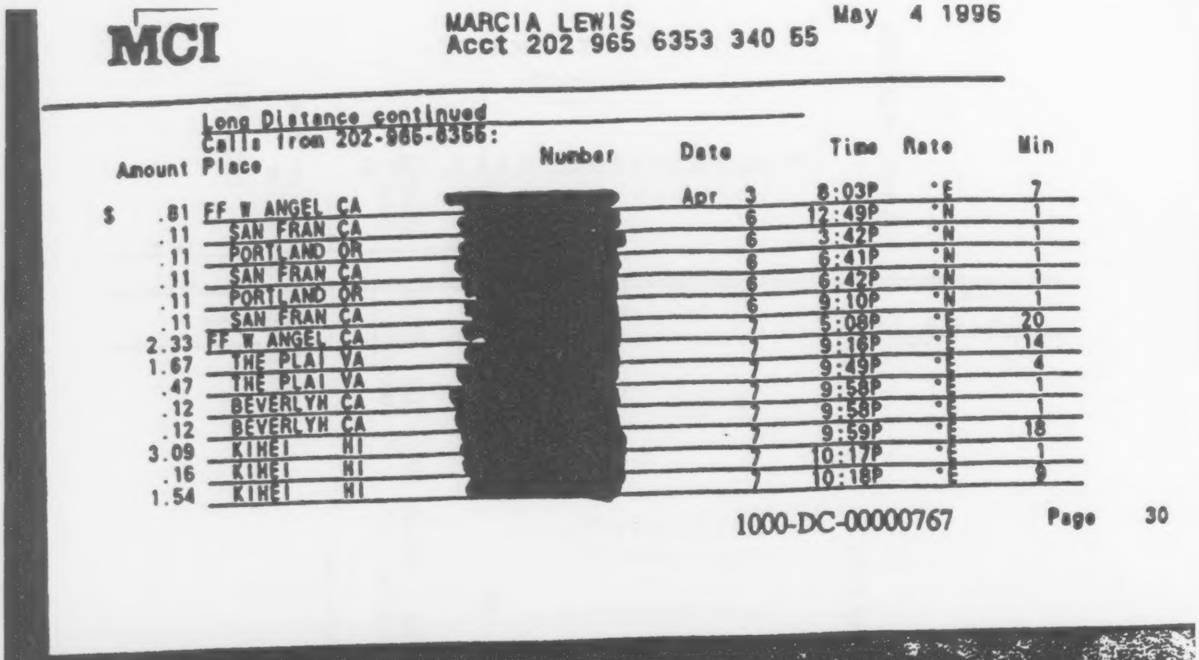
PRESIDENTIAL CALL LOG

DECEMBER 27, 19 97

	TIME PLACED	TIME DISC	NAME	ACTION

REDACTED

OUT	AM 11:27	11:33	MS. BETTY W. CURRIE CELLULAR PHONE 202-395-1831	TLKD-OK 11:29 A.M.



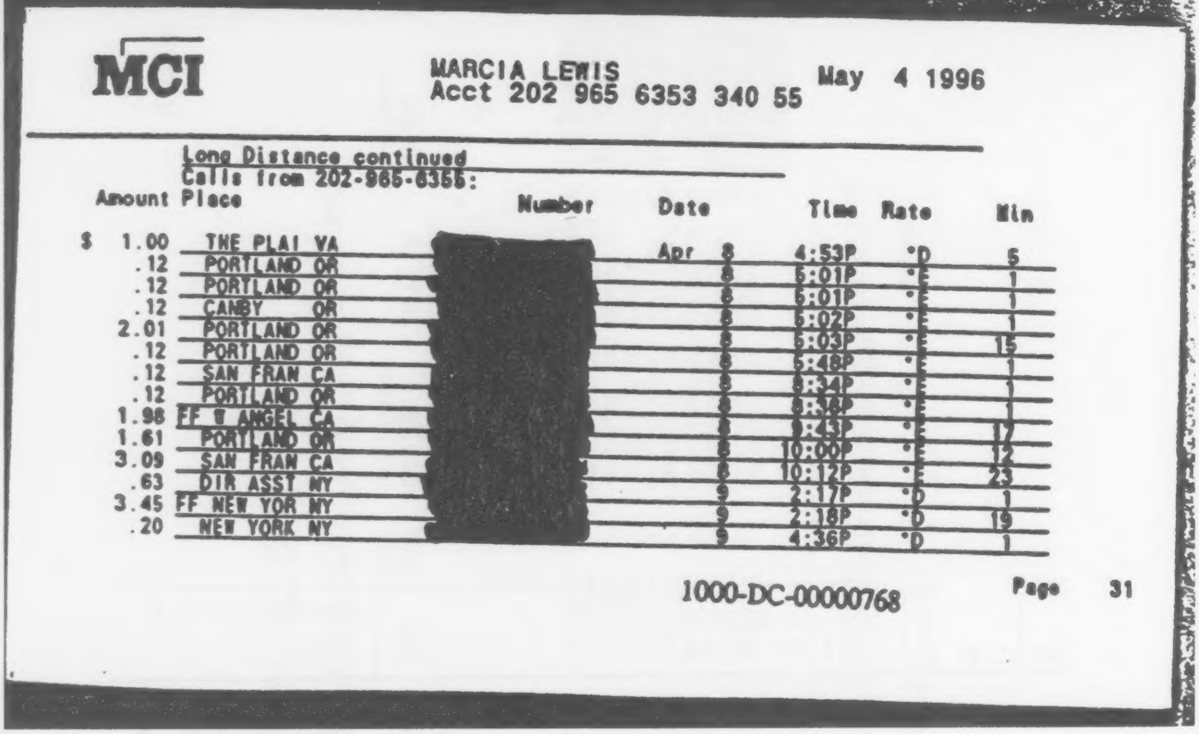
MCI

MARCIA LEWIS May 4 1996
Acct 202 965 6353 340 55

Long Distance continued
Calls from 202-965-6355:

Amount	Place	Number	Date	Time	Rate	Min
$ .81	FF W ANGEL CA	[redacted]	Apr 3	8:03P	*E	7
.11	SAN FRAN CA	[redacted]	6	12:49P	*N	1
.11	PORTLAND OR	[redacted]	6	3:42P	*N	1
.11	SAN FRAN CA	[redacted]	6	6:41P	*N	1
.11	PORTLAND OR	[redacted]	6	6:42P	*N	1
.11	SAN FRAN CA	[redacted]	6	9:10P	*N	1
2.33	FF W ANGEL CA	[redacted]	7	5:08P	*E	20
1.67	THE PLAI VA	[redacted]	7	9:16P	*E	14
.47	THE PLAI VA	[redacted]	7	9:49P	*E	4
.12	BEVERLYH CA	[redacted]	7	9:58P	*E	1
.12	BEVERLYH CA	[redacted]	7	9:58P	*E	1
3.09	KIHEI HI	[redacted]	7	9:59P	*E	18
.16	KIHEI HI	[redacted]	7	10:17P	*E	1
1.54	KIHEI HI	[redacted]	7	10:18P	*E	9

1000-DC-00000767 Page 30



MCI

MARCIA LEWIS May 4 1996
Acct 202 965 6353 340 55

Long Distance continued
Calls from 202-965-6355:

Amount	Place	Number	Date	Time	Rate	Min
$ 1.00	THE PLAI VA	[redacted]	Apr 8	4:53P	*D	5
.12	PORTLAND OR	[redacted]	8	5:01P	*E	1
.12	PORTLAND OR	[redacted]	8	5:01P	*E	1
.12	CANBY OR	[redacted]	8	5:02P	*E	1
2.01	PORTLAND OR	[redacted]	8	5:03P	*E	15
.12	PORTLAND OR	[redacted]	8	5:48P	*E	1
.12	SAN FRAN CA	[redacted]	8	8:34P	*E	1
.12	PORTLAND OR	[redacted]	8	8:38P	*E	1
1.98	FF W ANGEL CA	[redacted]	8	9:43P	*E	17
1.61	PORTLAND OR	[redacted]	8	10:00P	*E	12
3.09	SAN FRAN CA	[redacted]	8	10:12P	*E	23
.63	DIR ASST NY	[redacted]	9	2:17P	*D	1
3.45	FF NEW YOR NY	[redacted]	9	2:18P	*D	19
.20	NEW YORK NY	[redacted]	9	4:36P	*D	1

1000-DC-00000768 Page 31

[EXHIBIT 3]

161

Telephone Calls

TABLE 35

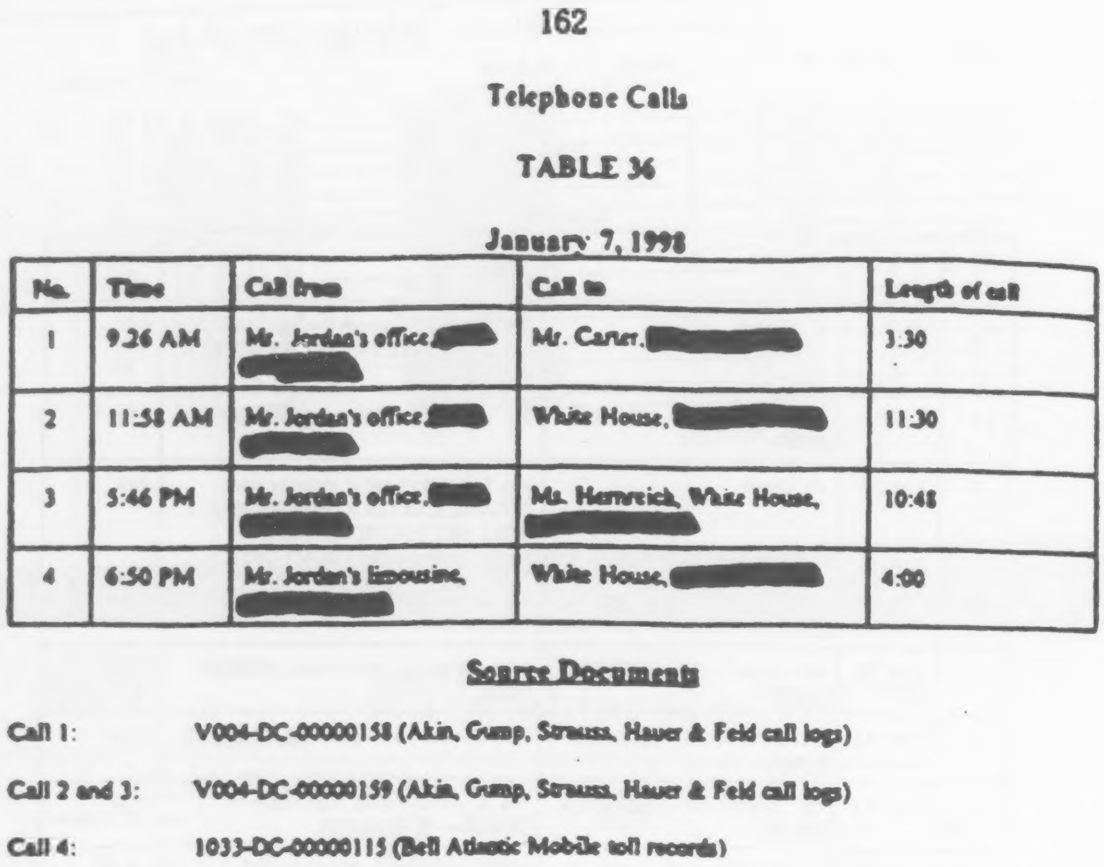
January 6, 1998

No.	Time	Call from	Call to	Length of call
1	11:32 AM	Mr. Carter	Ms. Lewinsky's pager, message reads: "PLEASE CALL FRANK CARTER @ [redacted]"	N/A
2	2:08 PM	Mr. Jordan's office, [redacted]	Ms. Lewinsky's residence, [redacted]	1:48
3	3:14 PM	Mr. Carter	Ms. Lewinsky's pager, message reads: "FRANK CARTER AT [redacted]. I WILL SEE YOU TOMORROW MORNING AT 10:00 IN MY OFFICE."	N/A
4	3:26 PM	Mr. Jordan's office, [redacted]	Mr. Carter, [redacted]	6:42
5	3:38 PM	Mr. Jordan's office, [redacted]	Ms. Hernreich, White House, [redacted]	2:12
6	3:48 PM	Mr. Jordan's office, [redacted]	Ms. Lewinsky's residence, [redacted]	0:24
7	3:49 PM	Mr. Jordan's office, [redacted]	Ms. Lewinsky at Ms. Finerman's residence, [redacted]	5:54
8	4:19 PM	President Clinton	Mr. Jordan's office, [redacted]	13:00
9	4:32 PM	Mr. Jordan's office, [redacted]	Mr. Carter, [redacted]	1:06
10	4:34 PM	Mr. Jordan's office, [redacted]	Mr. Carter, [redacted]	2:30
11	5:15 PM	Mr. Jordan's office, [redacted]	White House, [redacted]	4:06

Source Documents

Calls 1 and 3:	831-DC-00000010 (Pagemart; all times have been adjusted from Pacific to Eastern Standard Time)
Calls 2, 4, 5, 6, 7, 9, 10, and 11:	V004-DC-00000158 (Akin, Gump, Strauss, Hauer & Feld call log)
Call 8:	1178-DC-00000016 (Presidential call log)

[EXHIBIT 4]



162

Telephone Calls

TABLE 36

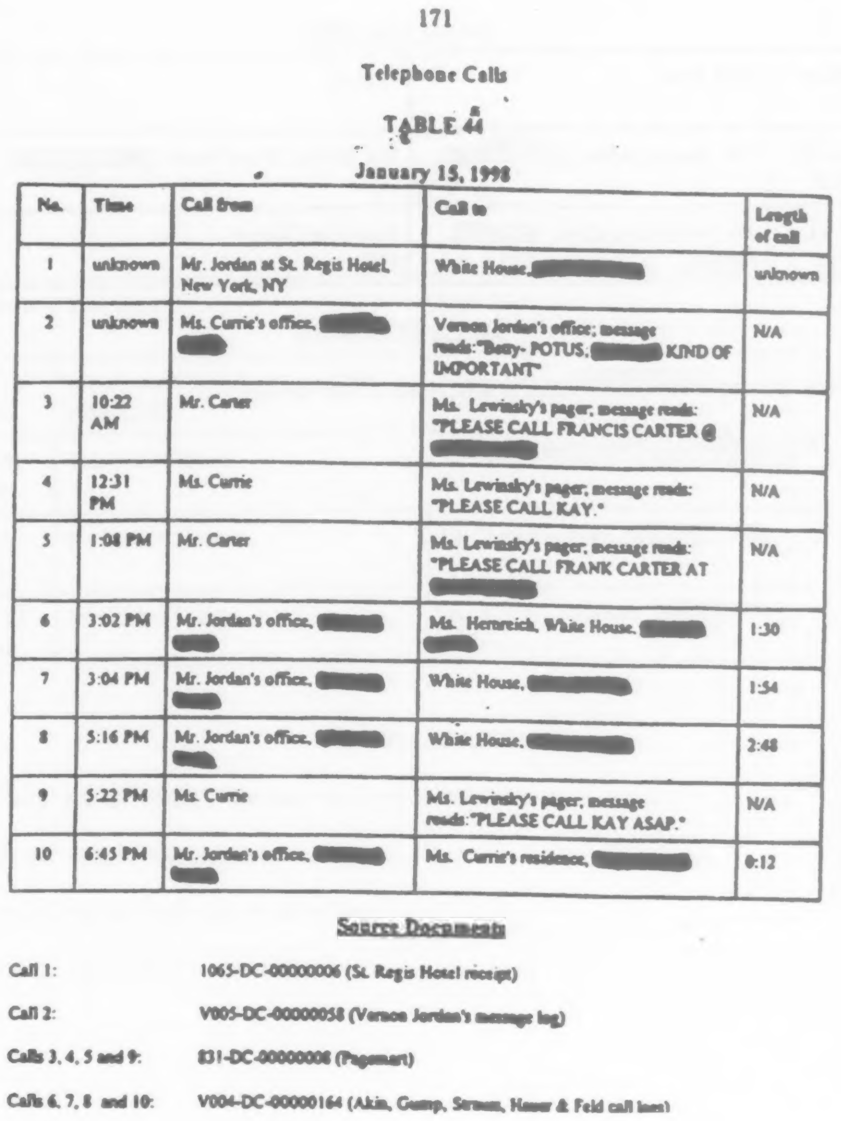
January 7, 1998

No.	Time	Call from	Call to	Length of call
1	9:26 AM	Mr. Jordan's office, [redacted]	Mr. Carter, [redacted]	3:30
2	11:58 AM	Mr. Jordan's office, [redacted]	White House, [redacted]	11:30
3	5:46 PM	Mr. Jordan's office, [redacted]	Ms. Hernreich, White House, [redacted]	10:48
4	6:50 PM	Mr. Jordan's limousine, [redacted]	White House, [redacted]	4:00

Source Documents

Call 1:	V004-DC-00000158 (Akin, Gump, Strauss, Hauer & Feld call logs)
Call 2 and 3:	V004-DC-00000159 (Akin, Gump, Strauss, Hauer & Feld call logs)
Call 4:	1033-DC-00000115 (Bell Atlantic Mobile toll records)

[EXHIBIT 5]



171

Telephone Calls

TABLE 44

January 15, 1998

No.	Time	Call from	Call to	Length of call
1	unknown	Mr. Jordan at St. Regis Hotel, New York, NY	White House, [redacted]	unknown
2	unknown	Ms. Currie's office, [redacted]	Vernon Jordan's office; message reads:"Betty- POTUS, [redacted] KIND OF IMPORTANT"	N/A
3	10:22 AM	Mr. Carter	Ms. Lewinsky's pager, message reads: "PLEASE CALL FRANCIS CARTER @ [redacted]	N/A
4	12:31 PM	Ms. Currie	Ms. Lewinsky's pager, message reads: "PLEASE CALL KAY."	N/A
5	1:08 PM	Mr. Carter	Ms. Lewinsky's pager, message reads: "PLEASE CALL FRANK CARTER AT [redacted]	N/A
6	3:02 PM	Mr. Jordan's office, [redacted]	Ms. Hernreich, White House, [redacted]	1:30
7	3:04 PM	Mr. Jordan's office, [redacted]	White House, [redacted]	1:54
8	5:16 PM	Mr. Jordan's office, [redacted]	White House, [redacted]	2:48
9	5:22 PM	Ms. Currie	Ms. Lewinsky's pager, message reads:"PLEASE CALL KAY ASAP."	N/A
10	6:45 PM	Mr. Jordan's office, [redacted]	Ms. Currie's residence, [redacted]	0:12

Source Documents

Call 1:	1065-DC-00000006 (St. Regis Hotel receipt)
Call 2:	V005-DC-00000058 (Vernon Jordan's message log)
Calls 3, 4, 5 and 9:	831-DC-00000008 (Pagemart)
Calls 6, 7, 8 and 10:	V004-DC-00000164 (Akin, Gump, Strauss, Hauer & Feld call lines)

TABLE 45

January 16, 1998

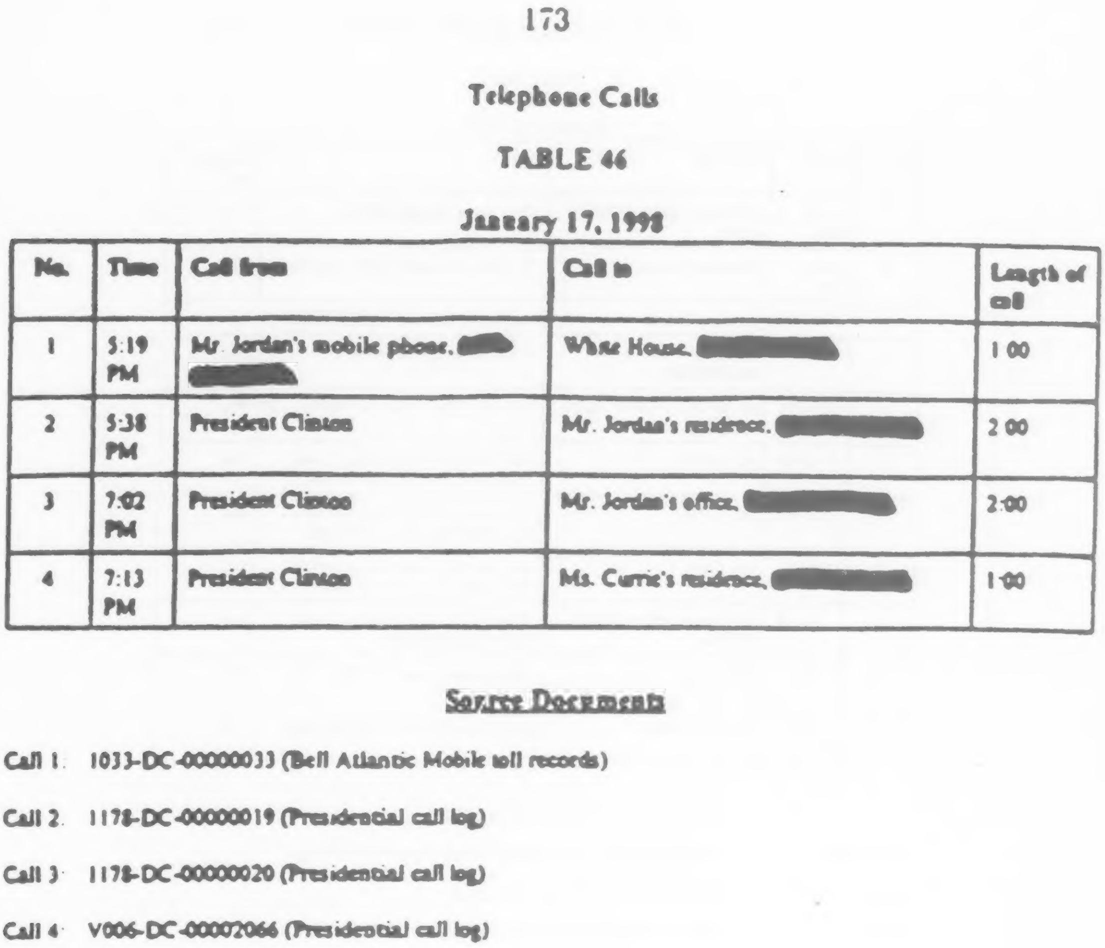
No.	Time	Call from	Call to	Length of call
1	11:17 AM	Mr. Jordan's office, [redacted]	Ms Currie, White House, [redacted]	1:24
2	9:41 PM	Mr. Jordan's residence, [redacted]	President Clinton	5:00

Source Documents

Call 1: V004-DC-00000164 (Akin, Gump, Strauss, Hauer & Feld call logs)

Call 2: 1178-DC-00000018 (Presidential call log)

[EXHIBIT 6]



173

Telephone Calls

TABLE 46

January 17, 1998

No.	Time	Call from	Call to	Length of call
1	5:19 PM	Mr. Jordan's mobile phone, [redacted]	White House, [redacted]	1:00
2	5:38 PM	President Clinton	Mr. Jordan's residence, [redacted]	2:00
3	7:02 PM	President Clinton	Mr. Jordan's office, [redacted]	2:00
4	7:13 PM	President Clinton	Ms. Currie's residence, [redacted]	1:00

Source Documents

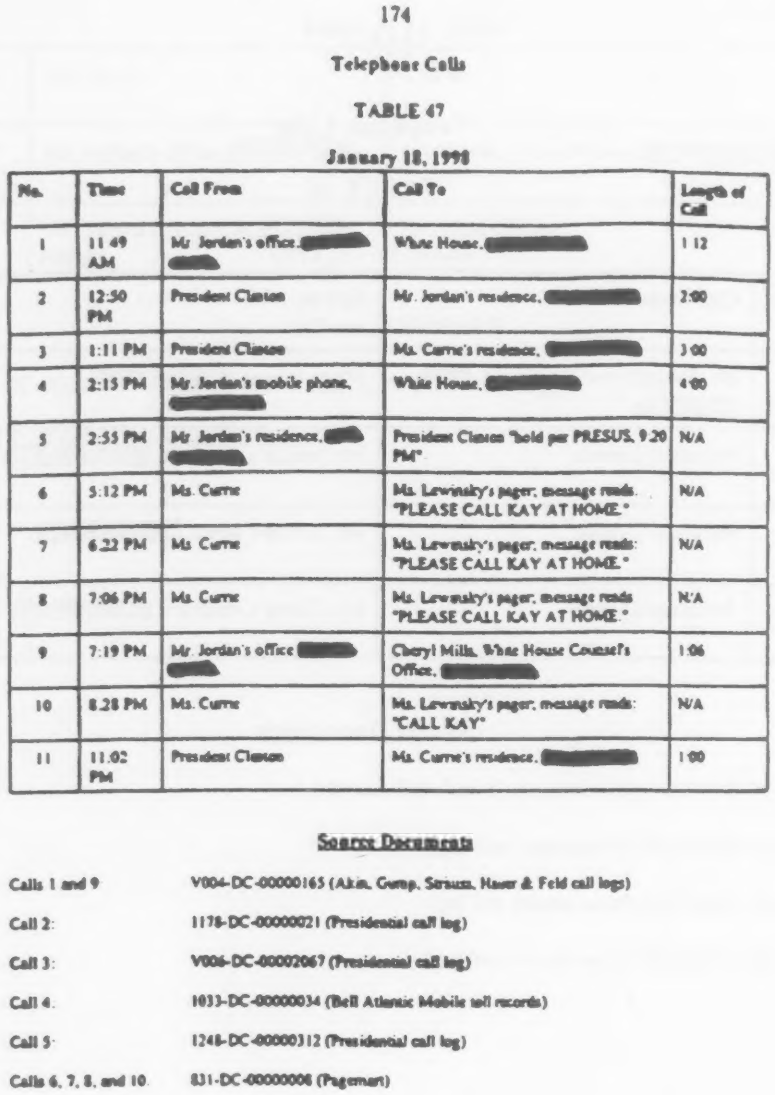
Call 1: 1033-DC-00000033 (Bell Atlantic Mobile toll records)

Call 2: 1178-DC-00000019 (Presidential call log)

Call 3: 1178-DC-00000020 (Presidential call log)

Call 4: V006-DC-00002066 (Presidential call log)

[EXHIBIT 7]



174

Telephone Calls

TABLE 47

January 18, 1998

No.	Time	Call From	Call To	Length of Call
1	11 49 AM	Mr Jordan's office, [redacted]	White House, [redacted]	1 12
2	12:50 PM	President Clinton	Mr. Jordan's residence, [redacted]	2:00
3	1:11 PM	President Clinton	Ms. Currie's residence, [redacted]	3:00
4	2:15 PM	Mr. Jordan's mobile phone, [redacted]	White House, [redacted]	4:00
5	2:55 PM	Mr Jordan's residence, [redacted]	President Clinton "hold per PRESUS, 9:20 PM"	N/A
6	5:12 PM	Ms. Currie	Ms. Lewinsky's pager; message reads. "PLEASE CALL KAY AT HOME."	N/A
7	6:22 PM	Ms Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY AT HOME."	N/A
8	7:06 PM	Ms. Currie	Ms. Lewinsky's pager; message reads "PLEASE CALL KAY AT HOME."	N/A
9	7:19 PM	Mr. Jordan's office [redacted]	Cheryl Mills, White House Counsel's Office, [redacted]	1:06
10	8:28 PM	Ms. Currie	Ms. Lewinsky's pager; message reads: "CALL KAY"	N/A
11	11:02 PM	President Clinton	Ms. Currie's residence, [redacted]	1:00

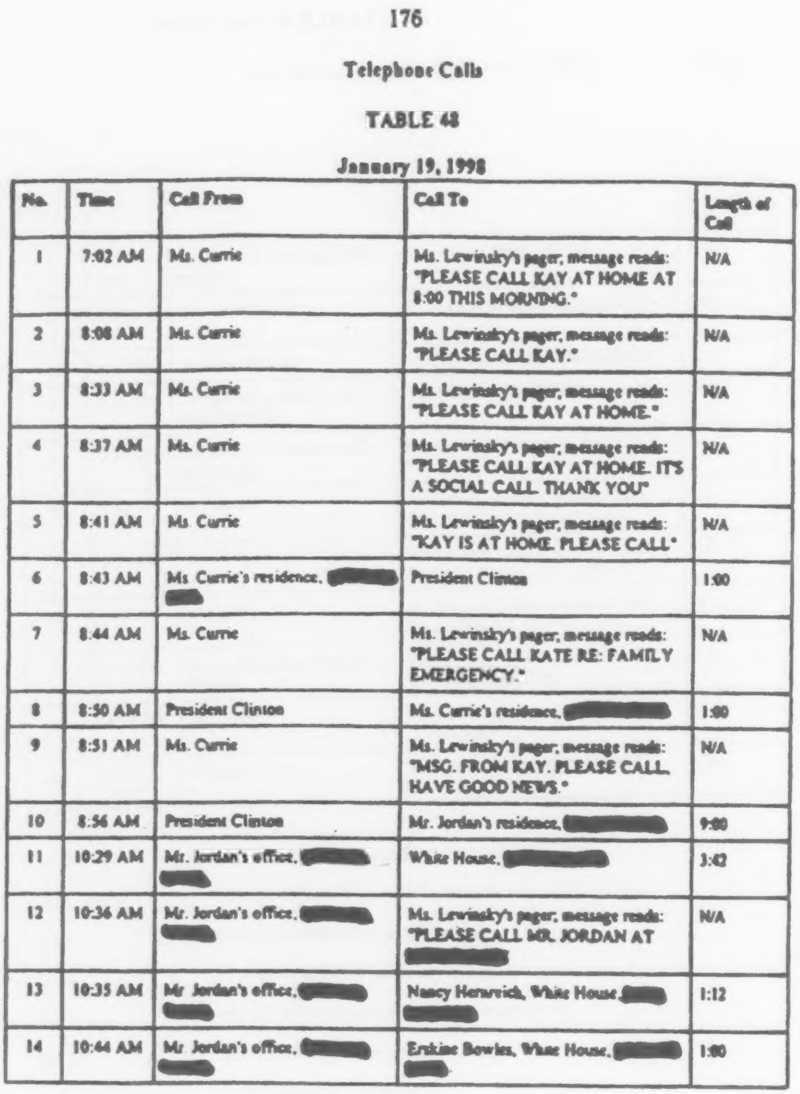
Source Documents

Calls 1 and 9:	V004-DC-00000165 (Akin, Gump, Strauss, Hauer & Feld call logs)
Call 2:	1178-DC-00000021 (Presidential call log)
Call 3:	V006-DC-00002067 (Presidential call log)
Call 4:	1033-DC-00000034 (Bell Atlantic Mobile toll records)
Call 5:	1248-DC-00000312 (Presidential call log)
Calls 6, 7, 8, and 10:	831-DC-00000008 (Pagemart)

TABLE 47 continued

Call 11	V006-DC-00002068 (Presidential call log)

[Exhibit 8]



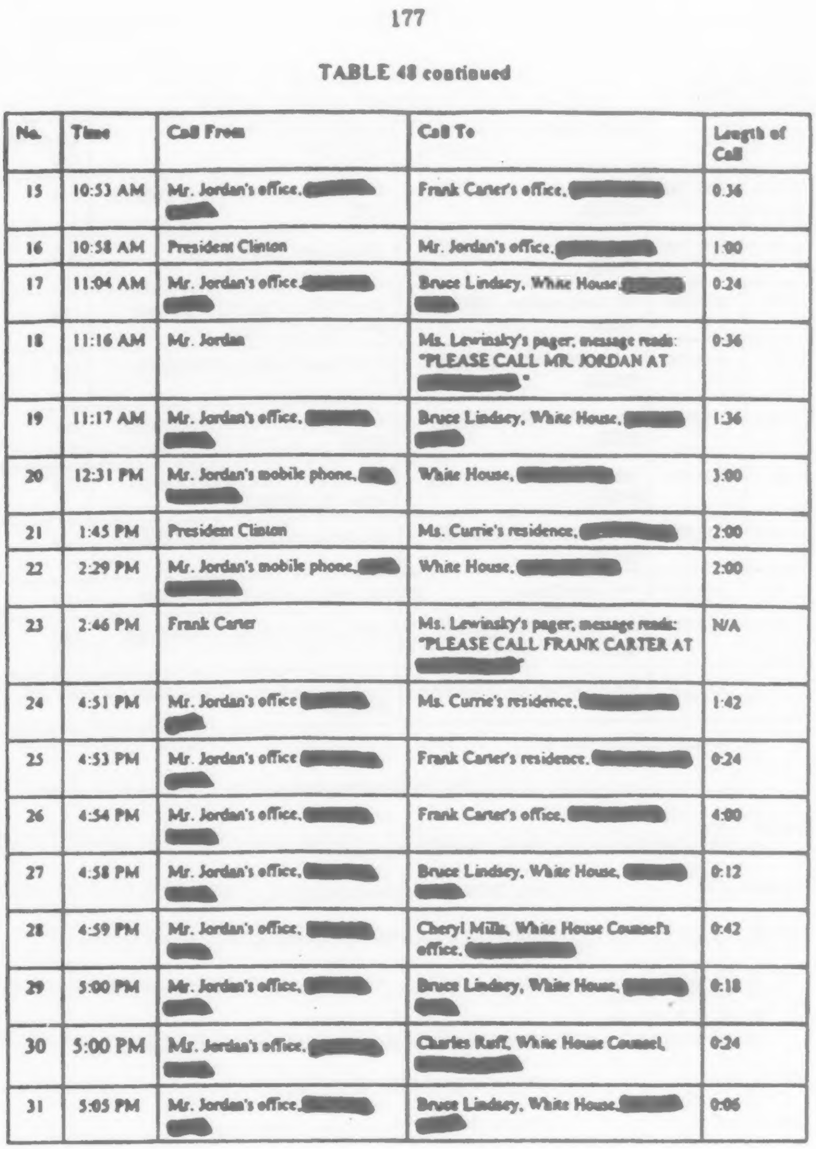
176

Telephone Calls

TABLE 48

January 19, 1998

No.	Time	Call From	Call To	Length of Call
1	7:02 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY AT HOME AT 8:00 THIS MORNING."	N/A
2	8:08 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY."	N/A
3	8:33 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY AT HOME."	N/A
4	8:37 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY AT HOME. IT'S A SOCIAL CALL. THANK YOU"	N/A
5	8:41 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "KAY IS AT HOME. PLEASE CALL"	N/A
6	8:43 AM	Ms. Currie's residence, [redacted]	President Clinton	1:00
7	8:44 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KATE RE: FAMILY EMERGENCY."	N/A
8	8:50 AM	President Clinton	Ms. Currie's residence, [redacted]	1:00
9	8:51 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "MSG. FROM KAY. PLEASE CALL, HAVE GOOD NEWS."	N/A
10	8:56 AM	President Clinton	Mr. Jordan's residence, [redacted]	9:00
11	10:29 AM	Mr. Jordan's office, [redacted]	White House, [redacted]	3:42
12	10:36 AM	Mr. Jordan's office, [redacted]	Ms. Lewinsky's pager; message reads: "PLEASE CALL MR. JORDAN AT [redacted]	N/A
13	10:35 AM	Mr Jordan's office, [redacted]	Nancy Hernreich, White House, [redacted]	1:12
14	10:44 AM	Mr Jordan's office, [redacted]	Erskine Bowles, White House, [redacted].	1:00



177

TABLE 48 continued

No.	Time	Call From	Call To	Length of Call
15	10:53 AM	Mr. Jordan's office, [redacted]	Frank Carter's office, [redacted]	0.36
16	10:58 AM	President Clinton	Mr. Jordan's office, [redacted]	1:00
17	11:04 AM	Mr. Jordan's office, [redacted]	Bruce Lindsey, White House, [redacted]	0:24
18	11:16 AM	Mr. Jordan	Ms. Lewinsky's pager; message reads: "PLEASE CALL MR. JORDAN AT [redacted]."	0:36
19	11:17 AM	Mr. Jordan's office, [redacted]	Bruce Lindsey, White House, [redacted]	1:36
20	12:31 PM	Mr. Jordan's mobile phone, [redacted]	White House, [redacted]	3:00
21	1:45 PM	President Clinton	Ms. Currie's residence, [redacted]	2:00
22	2:29 PM	Mr. Jordan's mobile phone, [redacted]	White House, [redacted]	2:00
23	2:46 PM	Frank Carter	Ms. Lewinsky's pager; message reads: "PLEASE CALL FRANK CARTER AT [redacted]"	N/A
24	4:51 PM	Mr. Jordan's office [redacted]	Ms. Currie's residence, [redacted]	1:42
25	4:53 PM	Mr. Jordan's office [redacted]	Frank Carter's residence, [redacted]	0:24
26	4:54 PM	Mr. Jordan's office, [redacted]	Frank Carter's office, [redacted]	4:00
27	4:58 PM	Mr. Jordan's office, [redacted]	Bruce Lindsey, White House, [redacted]	0:12
28	4:59 PM	Mr. Jordan's office, [redacted]	Cheryl Mills, White House Counsel's office, [redacted]	0:42
29	5:00 PM	Mr. Jordan's office, [redacted]	Bruce Lindsey, White House, [redacted]	0:18
30	5:00 PM	Mr. Jordan's office, [redacted]	Charles Ruff, White House Counsel, [redacted]	0:24
31	5:05 PM	Mr. Jordan's office, [redacted]	Bruce Lindsey, White House, [redacted]	0:06

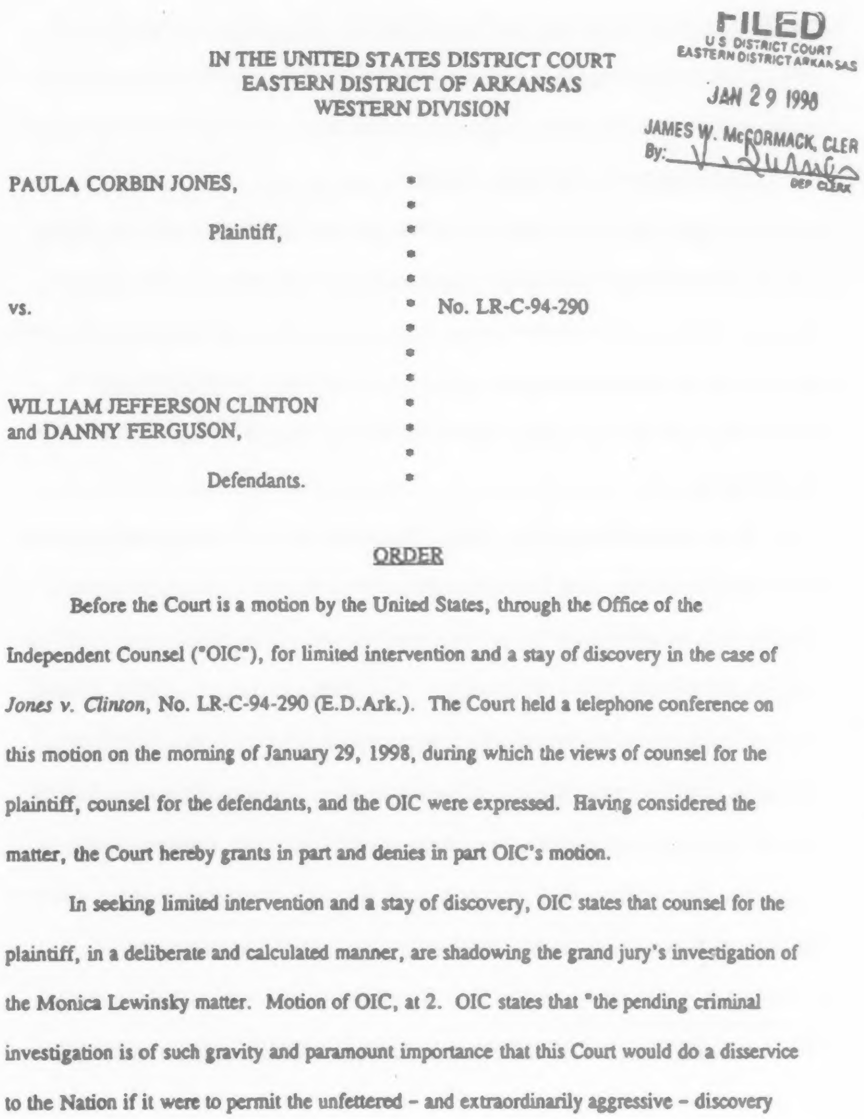
TABLE 48 continued

No.	Time	Call From	Call To	Length of Call
32	5:05 PM	Mr. Jordan's office, [redacted]	Bruce Lindsey, White House, [redacted]	0:18
33	5:05 PM	Mr. Jordan's office, [redacted]	White House, [redacted]	2:12
34	5:09 PM	Mr. Jordan's office, [redacted]	Cheryl Mills, White House Counsel's office, [redacted]	1:06
35	5:14 PM	Mr. Jordan's office, [redacted]	Frank Carter's office, [redacted]	8:24
36	5:22 PM	Mr. Jordan's office, [redacted]	Bruce Lindsey, White House, [redacted]	0:06
37	5:22 PM	Mr. Jordan's office, [redacted]	Cheryl Mills, White House Counsel's office, [redacted]	0:18
38	5:55 PM	Mr. Jordan's office, [redacted]	Ms. Currie's residence, [redacted]	0:24
39	5:56 PM	President Clinton	Mr. Jordan's office, [redacted]	7:00
40	6:04 PM	Mr. Jordan's office, [redacted]	Ms. Currie's residence, [redacted]	3:00
41	6:26 PM	Mr. Jordan's office, [redacted]	Stephen Goodin, White House, [redacted]	0:42

Source Documents

Calls 1, 2, 3, 4, 5, 7, 9, 12, 18, and 23:	831-DC-00000009 (Pagemart)
Calls 6 and 8:	V006-DC-00002069 (Presidential call log)
Call 10:	1178-DC-00000023 (Presidential call log)
Calls 11, 12, 13, 14, 15, 17, 19, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, and 37:	V004-DC-00000165 (Akin, Gump, Strauss, Hauer & Feld call log)
Call 16, 39:	1248-DC-00000319 (Presidential call log)
Calls 20 and 22:	1033-DC-00000035 (Bell Atlantic Mobile toll records)

[EXHIBIT 9]



FILED
U S DISTRICT COURT
EASTERN DISTRICT ARKANSAS
JAN 29 1998
JAMES W. McCORMACK, CLER
By: DEP CLERK

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

PAULA CORBIN JONES,
Plaintiff,

vs. No. LR-C-94-290

WILLIAM JEFFERSON CLINTON
and DANNY FERGUSON,
Defendants.

ORDER

Before the Court is a motion by the United States, through the Office of the Independent Counsel ("OIC"), for limited intervention and a stay of discovery in the case of *Jones v. Clinton*, No. LR-C-94-290 (E.D.Ark.). The Court held a telephone conference on this motion on the morning of January 29, 1998, during which the views of counsel for the plaintiff, counsel for the defendants, and the OIC were expressed. Having considered the matter, the Court hereby grants in part and denies in part OIC's motion.

In seeking limited intervention and a stay of discovery, OIC states that counsel for the plaintiff, in a deliberate and calculated manner, are shadowing the grand jury's investigation of the Monica Lewinsky matter. Motion of OIC, at 2. OIC states that "the pending criminal investigation is of such gravity and paramount importance that this Court would do a disservice to the Nation if it were to permit the unfettered – and extraordinarily aggressive – discovery efforts currently underway to proceed unabated." *Id.* at 3.[1] OIC's motion comes with less than 48 hours left in the period for conducting discovery, the cutoff date being January 30, 1998. Given the timing of OIC's motion and the possible impact that this motion could have on the proceedings in this matter, the Court is required to rule at this time on the admissibility at trial of evidence concerning Monica Lewinsky.

Rule 403 of the Federal Rules of Evidence provides that evidence, although relevant, "may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." This weighing process compels the conclusion that evidence concerning Monica Lewinsky should be excluded from the trial of this matter.

The Court acknowledges that evidence concerning Monica Lewinsky might be relevant to the issues in this case. This Court would await resolution of the criminal investigation currently underway if the Lewinsky evidence were essential to the plaintiff's case. The Court determines, however, that it is not essential to the core issues in this case. In fact, some of this evidence might even be inadmissable as extrinsic evidence under Rule 608(b) of the Federal Rules of Evidence. Admitting any evidence of the Lewinsky matter would frustrate the timely resolution of this case and would undoubtedly cause undue expense and delay.

This Court's ruling today does not preclude admission of any other evidence of alleged improper conduct occurring in the White House.

---

[1] For the record, counsel for the plaintiff take great issue with OIC's characterization of their discovery efforts.

In addition, and perhaps more importantly, the substantial interests of the Presidency militate against any undue delay in this matter that would be occasioned by allowing plaintiff to pursue the Monica Lewinsky matter. Under the Supreme Court's ruling in *Clinton v. Jones*, 117 S.Ct. 1636, 1651 (1997), "[t]he high respect that is owed to the Office of the Chief Executive ... is a matter that should inform the conduct of the entire proceeding, including the timing and scope of discovery." There can be no doubt that a speedy resolution of this case is in everyone's best interests, including that of the Office of the President, and the Court will therefore direct that the case stay on course.

One final basis for the Court's ruling is the integrity of the criminal investigation. This Court must consider the fact that the government's proceedings could be impaired and prejudiced were the Court to permit inquiry into the Lewinsky matter by the parties in this civil case. *See, e.g., Arden Way Associates v. Ivan F. Boesky*, 660 F.Supp. 1494 (S.D.N.Y. 1987). In that regard, it would not be proper for this Court, given that it must generally yield to the interests of an ongoing grand jury investigation, to give counsel for the plaintiff or the defendants access to witnesses' statements in the government's criminal investigation. *See* Fed.R.Crim.P. 16(a)(2), which generally prohibits the discovery of government witnesses. That being so, and because this case can in any event proceed without evidence concerning Monica Lewinsky, the Court will exclude evidence concerning her from the trial of this matter.

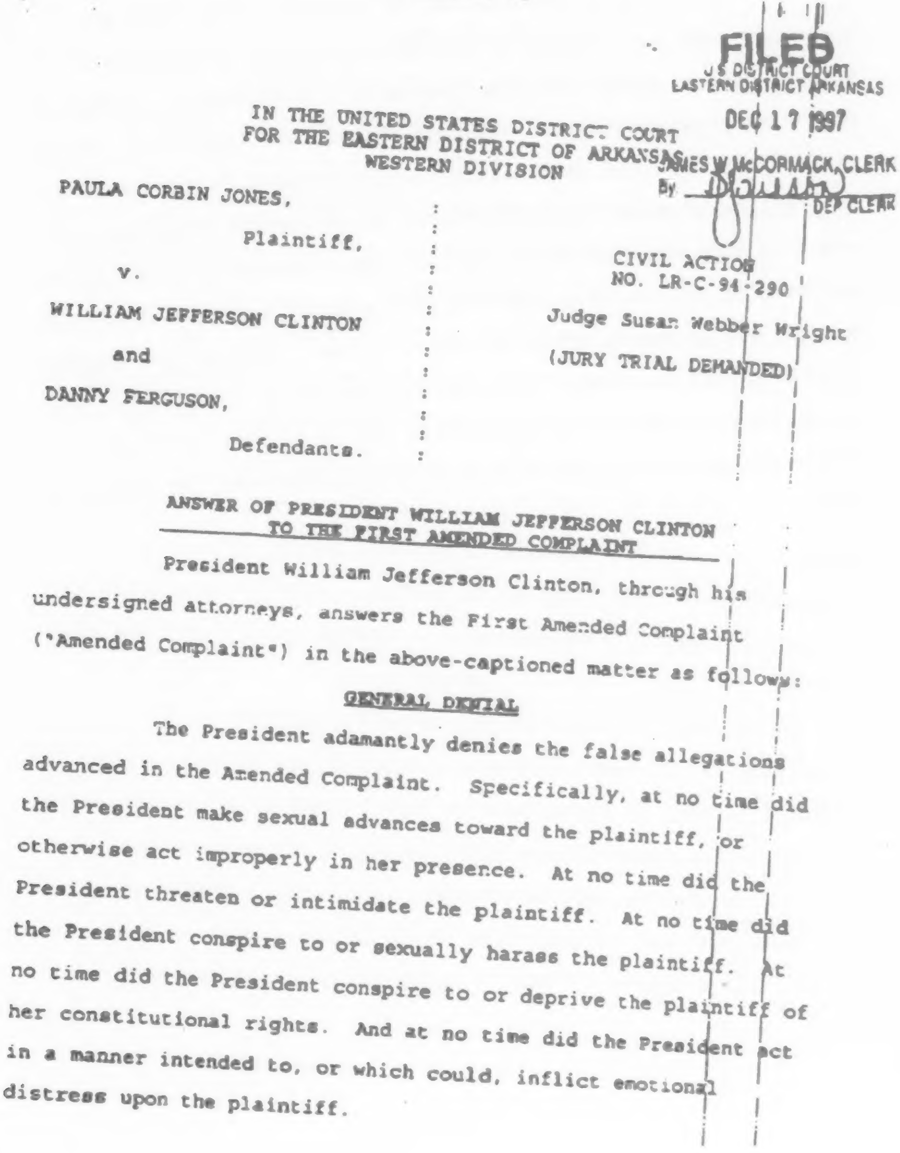
In sum, the plaintiff and defendants may not continue with discovery of those matters that concern Monica Lewinsky. In that regard, OIC's motion for limited intervention and stay of discovery is granted. Further, any evidence concerning Ms. Lewinsky shall be excluded from the trial of this matter. With respect to matters that do not involve Monica Lewinsky, OIC's motion is denied and the parties may continue with discovery. Because the telephone conference underlying today's ruling involved a discussion of discovery matters, the transcript of the conference shall remain under seal in accordance with the Court's Confidentiality Order on Consent of all Parties.

IT IS SO ORDERED this 29th day of January 1998.

Susan Webber Wright
UNITED STATES DISTRICT JUDGE

THIS DOCUMENT ENTERED ON DOCKET SHEET IN
COMPLIANCE WITH RULE 58 AND/OR 79(a) FRCP
ON 1/29/98 BY VI

[EXHIBIT 10]



FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
DEC 17 1997
JAMES W. McCORMACK, CLERK
By
DEP CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

PAULA CORBIN JONES,
Plaintiff,
v.
WILLIAM JEFFERSON CLINTON
and
DANNY FERGUSON,
Defendants.

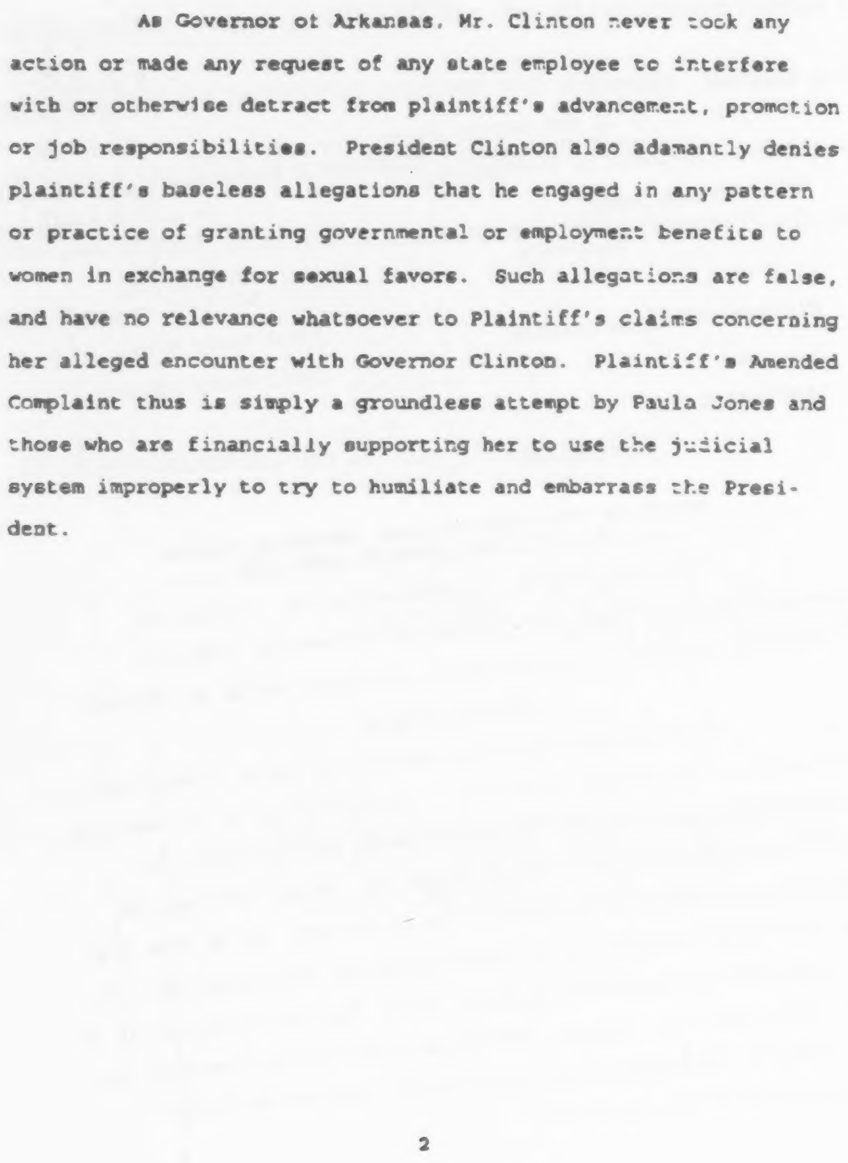
CIVIL ACTION
NO. LR-C-94-290
Judge Susan Webber Wright
(JURY TRIAL DEMANDED)

ANSWER OF PRESIDENT WILLIAM JEFFERSON CLINTON TO THE FIRST AMENDED COMPLAINT

President William Jefferson Clinton, through his undersigned attorneys, answers the First Amended Complaint ("Amended Complaint") in the above-captioned matter as follows:

GENERAL DENIAL

The President adamantly denies the false allegations advanced in the Amended Complaint. Specifically, at no time did the President make sexual advances toward the plaintiff, or otherwise act improperly in her presence. At no time did the President threaten or intimidate the plaintiff. At no time did the President conspire to or sexually harass the plaintiff. At no time did the President conspire to or deprive the plaintiff of her constitutional rights. And at no time did the President act in a manner intended to, or which could, inflict emotional distress upon the plaintiff.



As Governor of Arkansas, Mr. Clinton never took any action or made any request of any state employee to interfere with or otherwise detract from plaintiff's advancement, promotion or job responsibilities. President Clinton also adamantly denies plaintiff's baseless allegations that he engaged in any pattern or practice of granting governmental or employment benefits to women in exchange for sexual favors. Such allegations are false, and have no relevance whatsoever to Plaintiff's claims concerning her alleged encounter with Governor Clinton. Plaintiff's Amended Complaint thus is simply a groundless attempt by Paula Jones and those who are financially supporting her to use the judicial system improperly to try to humiliate and embarrass the President.

SPECIFIC DENIALS

JURISDICTION

1. Paragraph 1 of the Amended Complaint states legal conclusions as to which no response is required.

VENUE

2. Paragraph 2 of the Amended Complaint states legal conclusions as to which no response is required.

THE PARTIES

3. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3, and therefore denies the same.

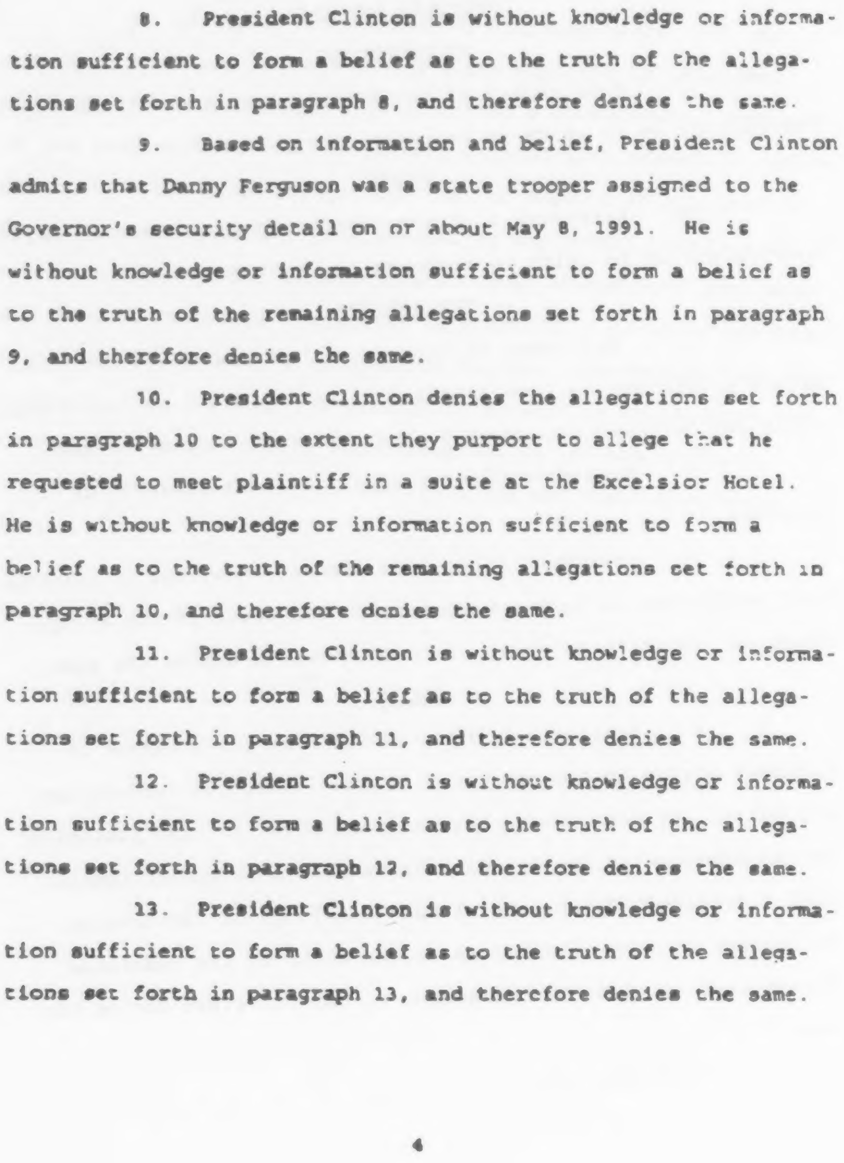
4. President Clinton admits he is a resident of Arkansas.

5. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5, and therefore denies the same.

FACTS

6. President Clinton admits that the Governor of Arkansas serves in the executive branch. Based on information and belief, he also admits that at some point in time plaintiff was an employee of the Arkansas Industrial Development Commission. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 6, and therefore denies the same.

7. Admitted.



8. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 8, and therefore denies the same.

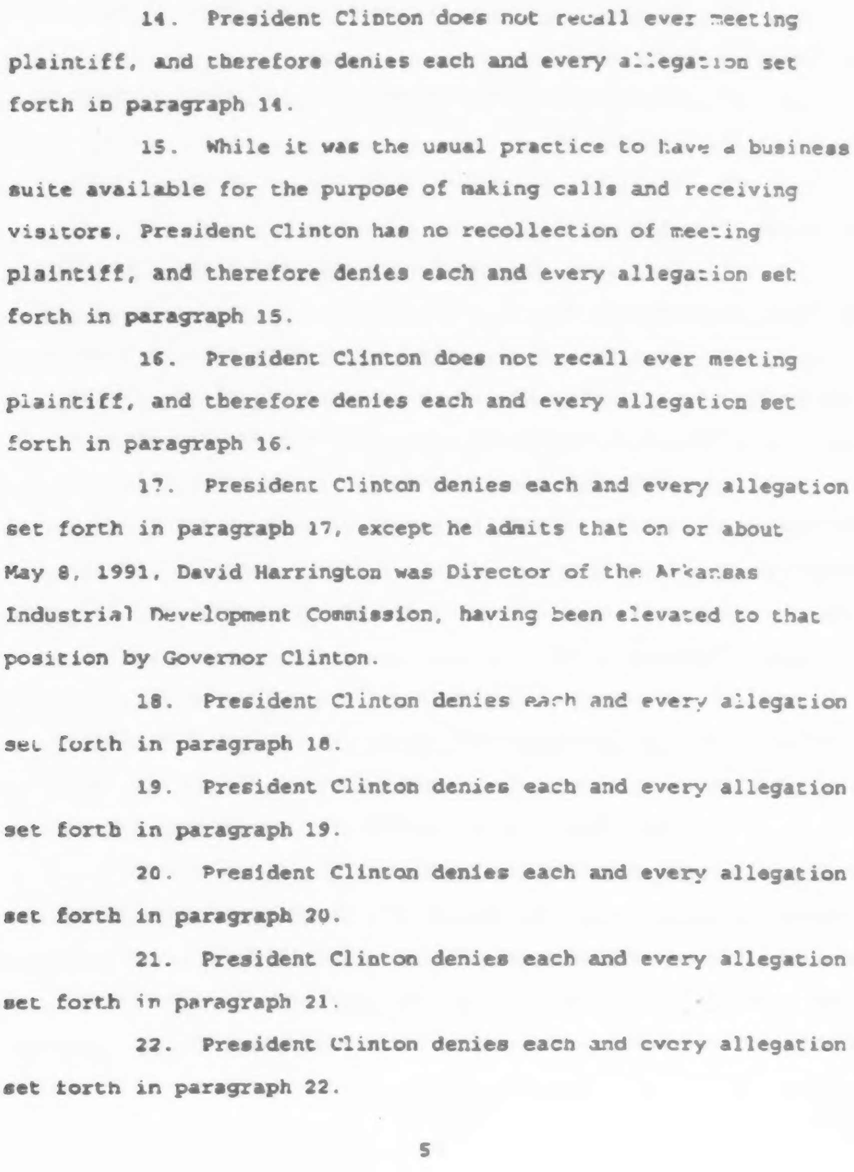
9. Based on information and belief, President Clinton admits that Danny Ferguson was a state trooper assigned to the Governor's security detail on or about May 8, 1991. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 9, and therefore denies the same.

10. President Clinton denies the allegations set forth in paragraph 10 to the extent they purport to allege that he requested to meet plaintiff in a suite at the Excelsior Hotel. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 10, and therefore denies the same.

11. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 11, and therefore denies the same.

12. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 12, and therefore denies the same.

13. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 13, and therefore denies the same.



14. President Clinton does not recall ever meeting plaintiff, and therefore denies each and every allegation set forth in paragraph 14.

15. While it was the usual practice to have a business suite available for the purpose of making calls and receiving visitors, President Clinton has no recollection of meeting plaintiff, and therefore denies each and every allegation set forth in paragraph 15.

16. President Clinton does not recall ever meeting plaintiff, and therefore denies each and every allegation set forth in paragraph 16.

17. President Clinton denies each and every allegation set forth in paragraph 17, except he admits that on or about May 8, 1991, David Harrington was Director of the Arkansas Industrial Development Commission, having been elevated to that position by Governor Clinton.

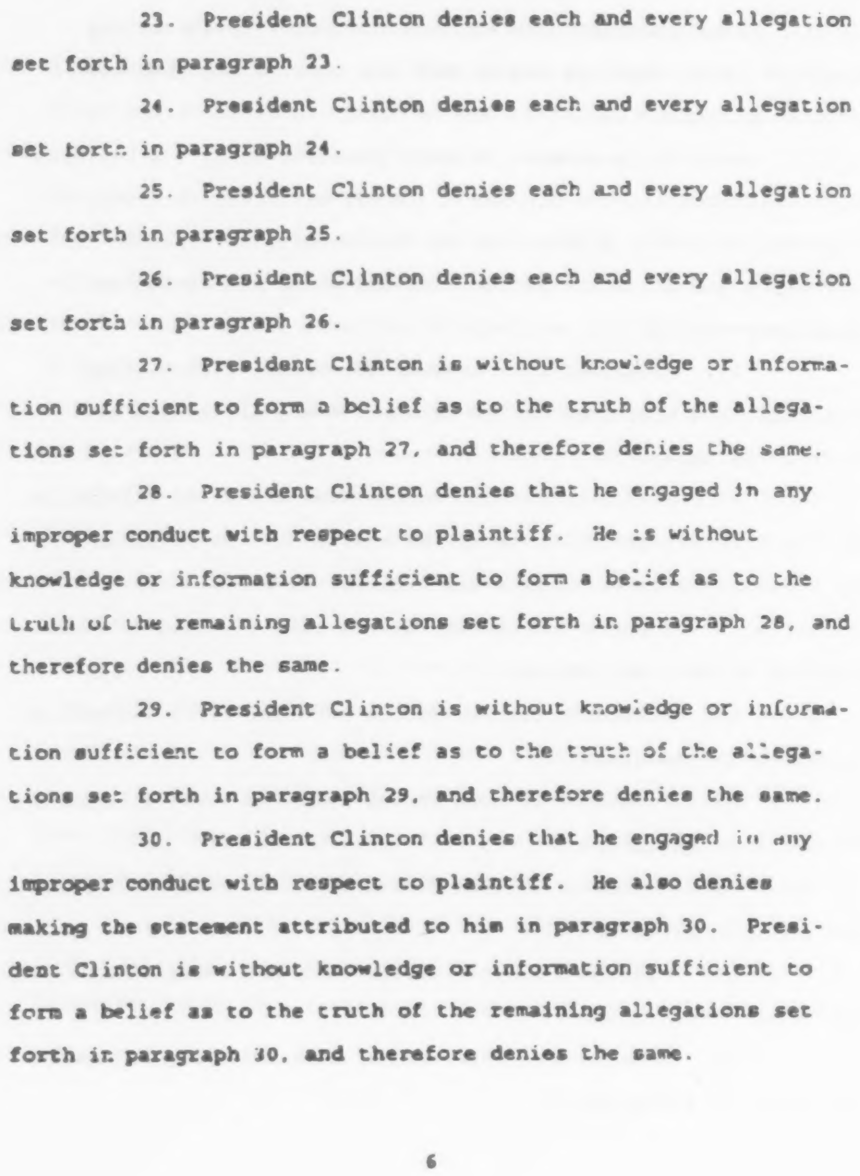
18. President Clinton denies each and every allegation set forth in paragraph 18.

19. President Clinton denies each and every allegation set forth in paragraph 19.

20. President Clinton denies each and every allegation set forth in paragraph 20.

21. President Clinton denies each and every allegation set forth in paragraph 21.

22. President Clinton denies each and every allegation set forth in paragraph 22.



23. President Clinton denies each and every allegation set forth in paragraph 23.

24. President Clinton denies each and every allegation set forth in paragraph 24.

25. President Clinton denies each and every allegation set forth in paragraph 25.

26. President Clinton denies each and every allegation set forth in paragraph 26.

27. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 27, and therefore denies the same.

28. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 28, and therefore denies the same.

29. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 29, and therefore denies the same.

30. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He also denies making the statement attributed to him in paragraph 30. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 30, and therefore denies the same.

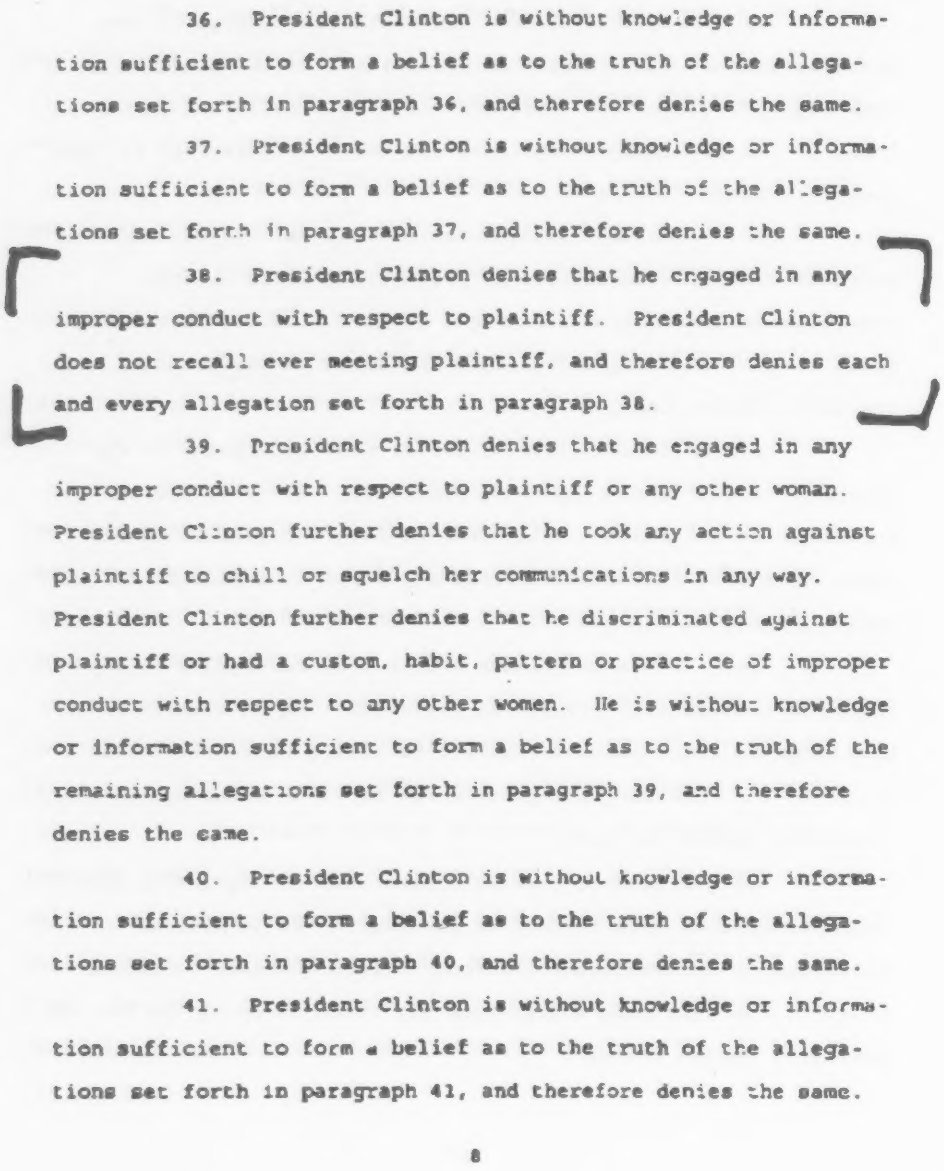
31. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 31, and therefore denies the same.

32. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 32, and therefore denies the same.

33. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 33, and therefore denies the same.

34. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 34 and therefore denies the same.

35. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 35, and therefore denies the same.



36. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 36, and therefore denies the same.

37. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 37, and therefore denies the same.

38. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. President Clinton does not recall ever meeting plaintiff, and therefore denies each and every allegation set forth in paragraph 38.

39. President Clinton denies that he engaged in any improper conduct with respect to plaintiff or any other woman. President Clinton further denies that he took any action against plaintiff to chill or squelch her communications in any way. President Clinton further denies that he discriminated against plaintiff or had a custom, habit, pattern or practice of improper conduct with respect to any other women. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 39, and therefore denies the same.

40. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 40, and therefore denies the same.

41. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 41, and therefore denies the same.

42. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. To the extent the allegations set forth in paragraph 42 merely refer to or quote from the article in the American Spectator, attached as exhibit A to the Amended Complaint, no response is required.

43. President Clinton denies that he engaged in any improper conduct with respect to plaintiff or others. President Clinton further denies that the American Spectator article is accurate. To the extent the allegations set forth in paragraph 43 merely refer to or quote from the article in the American Spectator, attached as exhibit A to the Amended Complaint, no response is required.

44. President Clinton denies each and every allegation set forth in paragraph 44.

45. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 45, and therefore denies the same.

46. President Clinton denies that he made sexual advances toward plaintiff. He also denies the quote attributed to him in paragraph 46. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 46, and therefore denies the same.

47. President Clinton denies each and every allegation in paragraph 47, except that he admits that a false article was published in the American Spectator, that plaintiff spoke publicly on February 11, 1994, and that representatives of plaintiff asked the President to acknowledge certain things which were untrue.

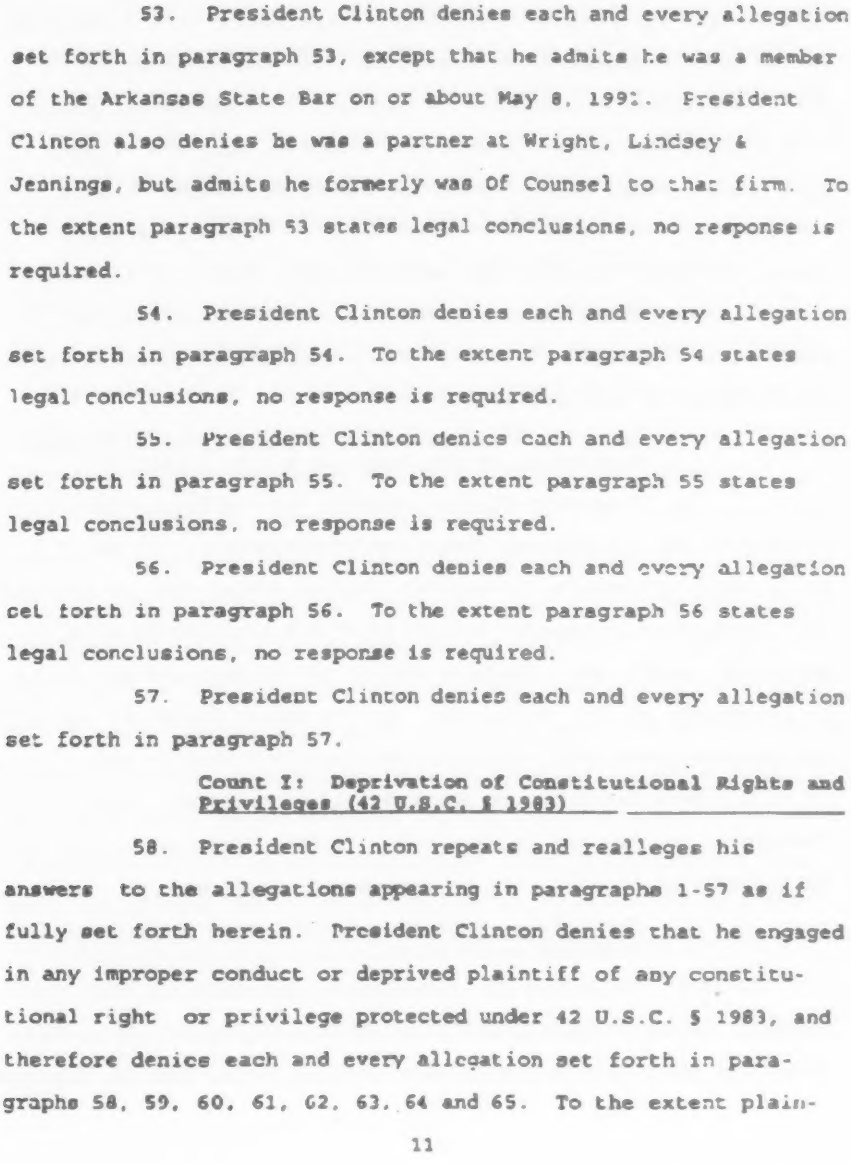
48. Based on information and belief, President Clinton admits that he and those acting on his behalf have denied plaintiff's allegations. Each and every other allegation set forth in paragraph 48 is denied.

49. Based on information and belief, President Clinton admits that his legal counsel made the statements set forth in paragraph 49. Each and every other allegation set forth in paragraph 49 is denied.

50. Based on information and belief, President Clinton admits that White House spokeswoman Dee Dee Meyers made the statement set forth in paragraph 50. Each and every other allegation set forth in paragraph 50 is denied. To the extent paragraph 50 states legal conclusions, no response is required.

51. President Clinton denies each and every allegation set forth in paragraph 51.

52. President Clinton admits that the general public reposes trust and confidence in the integrity of the holder of the office of the Presidency. Each and every other allegation set forth in paragraph 52 is denied.



53. President Clinton denies each and every allegation set forth in paragraph 53, except that he admits he was a member of the Arkansas State Bar on or about May 8, 1991. President Clinton also denies he was a partner at Wright, Lindsey & Jennings, but admits he formerly was Of Counsel to that firm. To the extent paragraph 53 states legal conclusions, no response is required.

54. President Clinton denies each and every allegation set forth in paragraph 54. To the extent paragraph 54 states legal conclusions, no response is required.

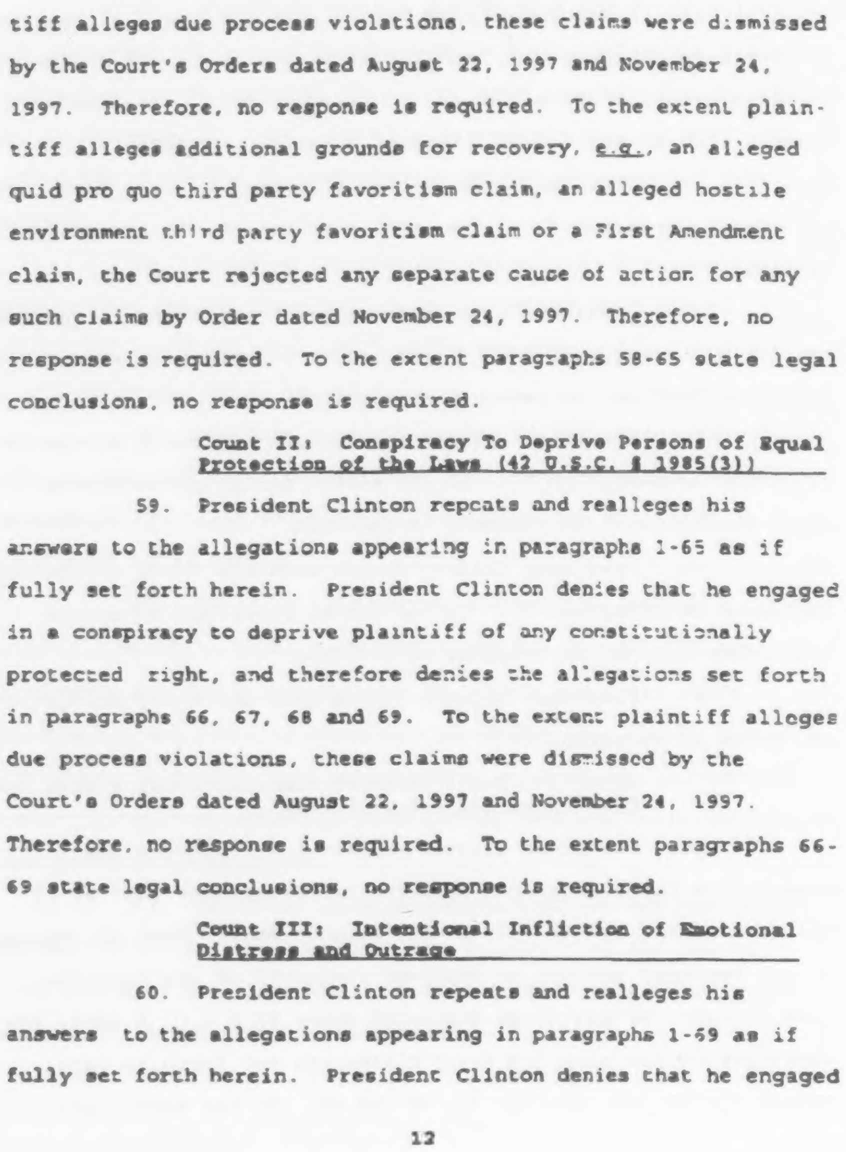
55. President Clinton denies each and every allegation set forth in paragraph 55. To the extent paragraph 55 states legal conclusions, no response is required.

56. President Clinton denies each and every allegation set forth in paragraph 56. To the extent paragraph 56 states legal conclusions, no response is required.

57. President Clinton denies each and every allegation set forth in paragraph 57.

Count I: Deprivation of Constitutional Rights and Privileges (42 U.S.C. § 1983)

58. President Clinton repeats and realleges his answers to the allegations appearing in paragraphs 1-57 as if fully set forth herein. President Clinton denies that he engaged in any improper conduct or deprived plaintiff of any constitutional right or privilege protected under 42 U.S.C. § 1983, and therefore denies each and every allegation set forth in paragraphs 58, 59, 60, 61, 62, 63, 64 and 65. To the extent plain-



tiff alleges due process violations, these claims were dismissed by the Court's Orders dated August 22, 1997 and November 24, 1997. Therefore, no response is required. To the extent plaintiff alleges additional grounds for recovery, e.g., an alleged quid pro quo third party favoritism claim, an alleged hostile environment third party favoritism claim or a First Amendment claim, the Court rejected any separate cause of action for any such claims by Order dated November 24, 1997. Therefore, no response is required. To the extent paragraphs 58-65 state legal conclusions, no response is required.

Count II: Conspiracy To Deprive Persons of Equal Protection of the Laws (42 U.S.C. § 1985(3))

59. President Clinton repeats and realleges his answers to the allegations appearing in paragraphs 1-65 as if fully set forth herein. President Clinton denies that he engaged in a conspiracy to deprive plaintiff of any constitutionally protected right, and therefore denies the allegations set forth in paragraphs 66, 67, 68 and 69. To the extent plaintiff alleges due process violations, these claims were dismissed by the Court's Orders dated August 22, 1997 and November 24, 1997. Therefore, no response is required. To the extent paragraphs 66-69 state legal conclusions, no response is required.

Count III: Intentional Infliction of Emotional Distress and Outrage

60. President Clinton repeats and realleges his answers to the allegations appearing in paragraphs 1-69 as if fully set forth herein. President Clinton denies that he engaged

in any improper conduct with respect to plaintiff or any conduct intended to or which he knew was likely to inflict emotional distress upon plaintiff, and therefore denies the allegation of paragraphs 70, 71, 72, 73 and 74. To the extent paragraphs 70-74 state legal conclusions, no response is required.

Count IV: Declaratory Judgment

61. President Clinton repeats and realleges his answers to the allegations appearing in paragraphs 1-74 as if fully set forth herein. President Clinton denies all of the claims asserted in Counts I-III, and therefore denies the allegations appearing in paragraphs 75, 76 and 77(a)-(m). To the extent plaintiff seeks relief in the form of declaratory judgment, the Court by Order dated November 24, 1997 held that such request for relief shall have no effect. Therefore, no response is required. Moreover, to the extent plaintiff seeks declaratory judgment for alleged First Amendment violations, or for alleged violations of the Equal Protection Clause based on alleged quid pro quo third party favoritism or hostile environment third party favoritism, such claims have been rejected as separate causes of action by Order dated November 24, 1997. Therefore, no response is required. To the extent plaintiff seeks a declaratory judgment for alleged due process violations, such claims were dismissed by Orders dated August 22, 1997 and November 24 1997. Therefore, no response is required. To the extent plaintiff seeks a declaratory judgment for alleged violations of "28 U.S.C. § 1983" or "28 U.S.C. § 1985(3)," (paragraphs 77(c) & (g)) no

such provisions exist, and therefore no response is required. To the extent paragraphs 75-77(a)-(m) state legal conclusions, no response is required.

62. To the extent any allegation set forth in the Amended Complaint is not specifically answered above, it is hereby denied.

AS TO PLAINTIFF'S REQUEST FOR RELIEF

63. President Clinton denies that plaintiff is entitled to any relief whatsoever in connection with the Amended Complaint. To the extent plaintiff seeks to recover costs and attorney's fees and expenses "under 28 U.S.C. § 1988" this request must be rejected as no such provision awarding fees and costs exists.

AFFIRMATIVE DEFENSES

President Clinton alleges the following affirmative defenses to the allegations that he engaged in conduct violative of federal or state law.

FIRST AFFIRMATIVE DEFENSE

64. The Amended Complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

65. Plaintiff's cause of action for intentional infliction of emotional distress is time-barred.

THIRD AFFIRMATIVE DEFENSE

66. Plaintiff's claims are barred because she did not incur any injury or damages cognizable at law.

FOURTH AFFIRMATIVE DEFENSE

67. Plaintiff's injuries and damages, if any, were caused by the acts of third persons, for which the President is not responsible.

FIFTH AFFIRMATIVE DEFENSE

68. Plaintiff's injuries and damages, if any, were caused by the acts of plaintiff and her representatives, for which the President is not responsible.

SIXTH AFFIRMATIVE DEFENSE

69. Plaintiff is not entitled to punitive damages under the applicable law.

* * *

Wherefore, President Clinton respectfully requests that the Amended Complaint be dismissed with prejudice and that this Court enter judgment in his favor and grant such other relief as the Court deems just and proper.

Respectfully submitted,

Robert S. Bennett

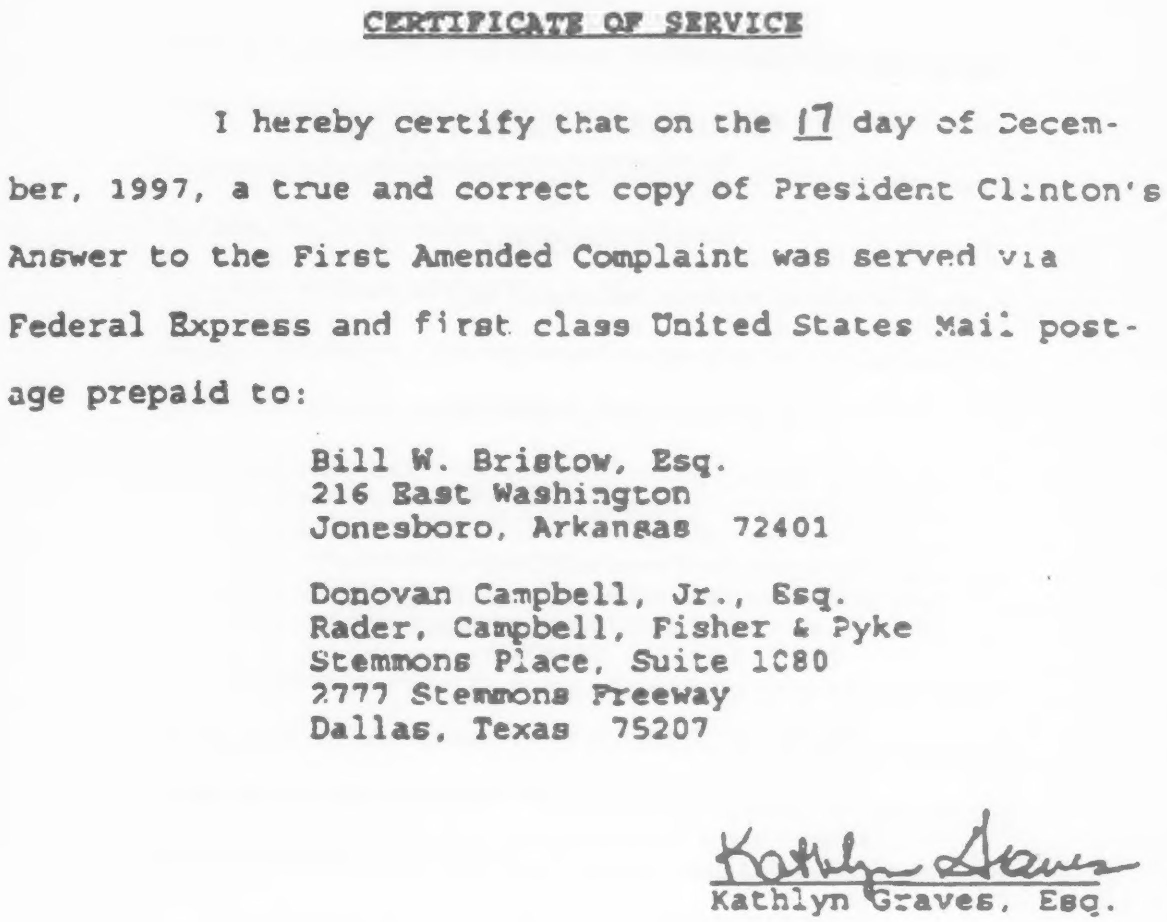
Robert S. Bennett, Esq.
Carl S. Rauh, Esq.
Mitchell S. Ettinger, Esq.
Amy Sabrin, Esq.
Katharine S. Sexton, Esq.
Skadden, Arps, Slate, Meagher
& Flom LLP
1440 New York Avenue, N.W.
Washington, D.C. 20005-2111
(202) 371-7000

Kathlyn Graves, Esq.
Wright, Lindsey & Jennings
200 West Capitol Avenue
Suite 2200
Little Rock, Arkansas 72201-3699
(501) 371-0808

Stephen Engstrom, Esq.
Wilson, Engstrom, Corum, Dudley
& Coulter
809 West Third Street
P.O. Box 71
Little Rock, Arkansas 72202
(501) 375-6453

Counsel to
President William J. Clinton

Dated: December 22, 1997



CERTIFICATE OF SERVICE

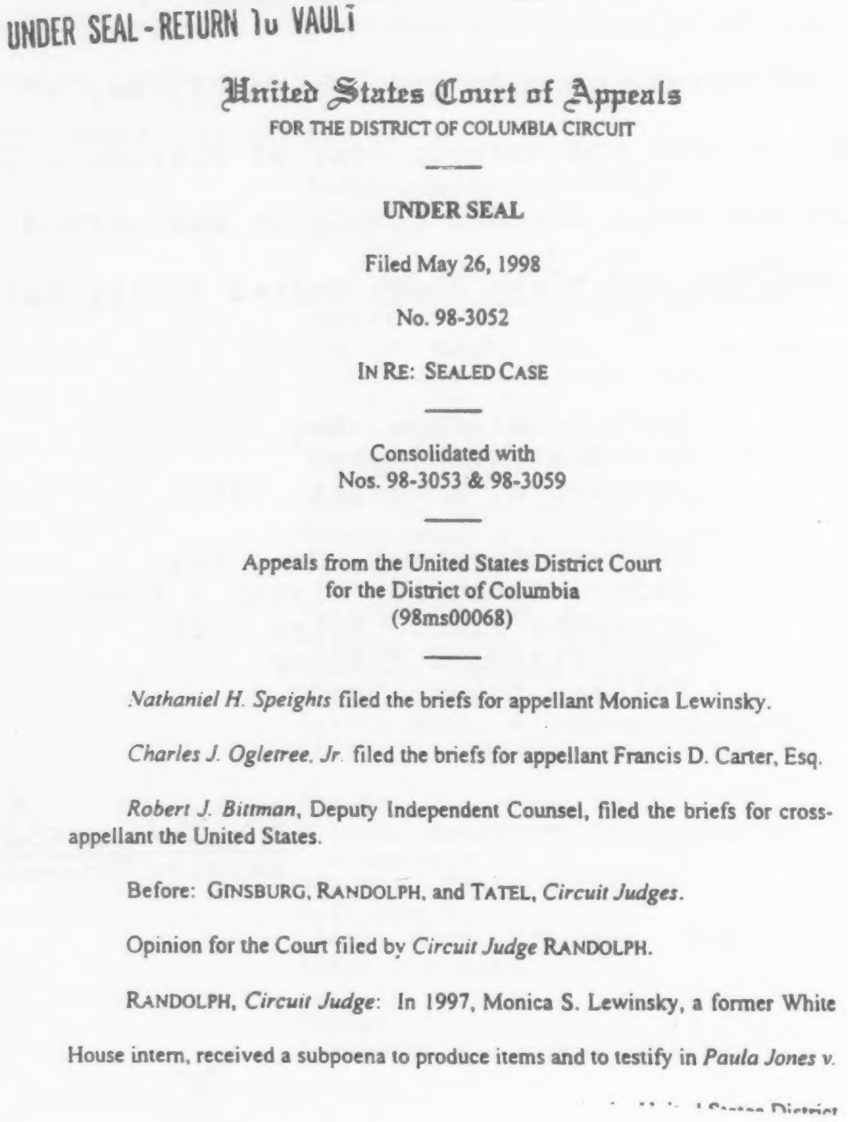
I hereby certify that on the 17 day of December, 1997, a true and correct copy of President Clinton's Answer to the First Amended Complaint was served via Federal Express and first class United States Mail postage prepaid to:

Bill W. Bristow, Esq.
216 East Washington
Jonesboro, Arkansas 72401

Donovan Campbell, Jr., Esq.
Rader, Campbell, Fisher & Pyke
Stemmons Place, Suite 1080
2777 Stemmons Freeway
Dallas, Texas 75207

Kathlyn Graves
Kathlyn Graves, Esq.

[EXHIBIT 11]



UNDER SEAL - RETURN TO VAULT

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

UNDER SEAL

Filed May 26, 1998

No. 98-3052

IN RE: SEALED CASE

Consolidated with
Nos. 98-3053 & 98-3059

Appeals from the United States District Court
for the District of Columbia
(98ms00068)

Nathaniel H. Speights filed the briefs for appellant Monica Lewinsky.

Charles J. Ogletree, Jr. filed the briefs for appellant Francis D. Carter, Esq.

Robert J. Bittman, Deputy Independent Counsel, filed the briefs for cross-appellant the United States.

Before: GINSBURG, RANDOLPH, and TATEL, *Circuit Judges*.

Opinion for the Court filed by *Circuit Judge* RANDOLPH.

RANDOLPH, *Circuit Judge*: In 1997, Monica S. Lewinsky, a former White House intern, received a subpoena to produce items and to testify in *Paula Jones v.*

Court for the Eastern District of Arkansas. The subpoena requested, among other things, documents relating to an alleged relationship between President Clinton and Lewinsky and any gifts the President may have given her. Lewinsky retained Francis D. Carter, Esq., to represent her regarding the subpoena.

Carter drafted an affidavit for Lewinsky, which she signed under penalty of perjury. The affidavit, submitted to the Arkansas district court as an exhibit to Lewinsky's motion to quash the subpoena, states in relevant part:

> I have never had a sexual relationship with the President, [and] he did not propose that we have a sexual relationship . . .. The occasions that I saw the President after I left my employment at the White House in April, 1996, were official receptions, formal functions or events related to the U.S. Department of Defense, where I was working at the time. There were other people present on those occasions.

On January 16, 1998, at the request of the Attorney General, a Special Division of this Court expanded the jurisdiction of the Office of Independent Counsel to include "authority to investigate . . . whether Monica Lewinsky or others suborned perjury, obstructed justice, intimidated witnesses, or otherwise violated federal law . . . in dealing with witnesses, potential witnesses, attorneys, or others concerning the civil case *Jones v. Clinton*." Order of the Special Division, Jan. 16, 1998. On February 2 and 9, 1998, as part of that investigation, a grand jury issued subpoenas to Carter, the first for documents and other items, the second for his testimony. Carter moved to quash the subpoenas, contending, *inter alia*, that the documents, testimony, and other items sought were protected from disclosure by the attorney-client privilege, the work-product privilege, and Lewinsky's Fifth Amendment privilege against self-incrimination. Lewinsky, as the real-party-in-interest, filed a response in support of Carter's motion. The United States opposed the motion, arguing among other things that the crime-fraud exception vitiated any claims of attorney-client or work-product privilege and that the Fifth Amendment did not bar production of the requested materials. The district court ordered Carter to comply with the two grand jury subpoenas except to the extent that compliance would "call for him to disclose materials in his possession that may not be revealed without violating Monica S. Lewinsky's Fifth Amendment rights."

Carter and Lewinsky argue in separate appeals that the district court erred in rejecting their motions to quash the grand jury subpoenas in their entirety. In its cross-appeal, the United States, through the Office of Independent Counsel, claims that the Fifth Amendment does not bar production of any of the materials the grand jury subpoenaed from Carter.

We dismiss Carter's appeal for want of jurisdiction. Well-settled law dictates that "one to whom a subpoena is directed may not appeal the denial of a motion to quash that subpoena but must either obey its commands or refuse to do so and contest the validity of the subpoena if he is subsequently cited for contempt on account of his failure to obey." *United States v. Ryan*, 402 U.S. 530, 532 (1971); *see Cobbledick v. United States*, 309 U.S. 323, 328 (1940); *In re Sealed Case*, 107 F.3d 46, 48 n.1 (D.C. Cir. 1997). Rather than risking contempt, Carter has sworn that he will comply with the subpoenas if ordered to do so.[1]

Our jurisdiction over Lewinsky's appeal is another matter. Lewinsky is the holder of the privilege. Given Carter's sworn declaration that he will give testimony if ordered, she is entitled to appeal the district court's ruling rejecting Carter's assertion of the privilege. *See In re Sealed Case*, 107 F.3d at 48 n.1.

The district court held that the crime-fraud exception to the attorney-client privilege applied. After reviewing the government's *in camera* submission, the court found that "Ms. Lewinsky consulted Mr. Carter for the purpose of committing perjury and obstructing justice and used the material he prepared for her for the purpose of committing perjury and obstructing justice."[2] Lewinsky tells us she could not have committed either crime: the government could not establish perjury because her denial of having had a "sexual relationship" with President Clinton was not "material" to the Arkansas proceedings within the meaning of 18 U.S.C. § 1623(a); and her affidavit containing this denial could not have constituted a "corrupt[] . . . endeavor[] to influence" the Arkansas district court within the meaning of 18 U.S.C. § 1503. Both of Lewinsky's propositions rely on the Arkansas district court's ruling on January 30, 1998, after Lewinsky had filed her affidavit, that although evidence concerning Lewinsky might be relevant, it would be excluded from the civil case under FED. R. EVID. 403 as unduly prejudicial, "not essential to the core issues in th[e] case," and to prevent undue delay resulting from the Independent Counsel's investigation.[3]

---

[1] In addition to adopting Lewinsky's arguments regarding the crime-fraud exception, Carter claims that the subpoenas are overbroad, unreasonable, and oppressive and that the district court's reliance on the Independent Counsel's *ex parte* submissions in enforcing the subpoenas violated due process. Contrary to Carter's contention, the issues he seeks to present are thus neither "virtually identical" to, nor "inextricably intertwined" with, those Lewinsky raises.

[2] The district court did not find, nor did the Independent Counsel suggest, any impropriety by Carter.

A statement is "material" if it "has a natural tendency to influence, or was capable of influencing, the decision of the tribunal in making a [particular] determination." *United States v. Barrett*, 111 F.3d 947, 953 (D.C. Cir.), *cert. denied*, 118 S. Ct. 176 (1997). The "central object" of any materiality inquiry is "whether the misrepresentation or concealment was predictably capable of affecting, *i.e.*, had a natural tendency to affect, the official decision." *Kungys v. United States*, 485 U.S. 759, 771 (1988). Lewinsky used the statement in her affidavit, quoted above, to support her motion to quash the subpoena issued in the discovery phase of the Arkansas litigation. District courts faced with such motions must decide whether the testimony or material sought is reasonably calculated to lead to admissible evidence and, if so, whether the need for the testimony, its probative value, the nature and importance of the litigation, and similar factors outweigh any burden enforcement of the subpoena might impose. *See* FED. R. CIV. P. 26(b)(1), 45(c)(3)(A)(iv); *Linder v. Department of Defense*, 133 F.3d 17, 24 (D.C. Cir. 1998); *see generally* 9A CHARLES ALAN WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE AND PROCEDURE § 2459 (2d ed. 1995). There can be no doubt that Lewinsky's statements in her affidavit were -- in the words of *Kungys v. United States* -- "predictably capable of affecting" this decision. She executed and filed her affidavit for this very purpose.

---

[3] Lewinsky does not appear to contest directly the district court's finding that she made one or more false statements in her sworn affidavit. Even so, we have independently reviewed the *in camera* materials considered by the district court and conclude that sufficient evidence existed to support the court's finding.

As to obstruction of justice, 18 U.S.C. § 1503 is satisfied whenever a person, with the "intent to influence judicial or grand jury proceedings," takes actions having the "natural and probable effect" of doing so. *United States v. Aguilar*, 515 U.S. 593, 600 (1995) (citations and quotation marks omitted); *see United States v. Russo*, 104 F.3d 431, 435-36 (D.C. Cir. 1997). Our review of the *in camera* materials on which the district court based its decision convinces us that the government sufficiently established the elements of a violation of § 1503. That is, the government offered "evidence that if believed by the trier of fact would establish the elements of" the crime of obstruction of justice. *In re Sealed Case*, 107 F.3d at 50 (citation and quotation marks omitted); *see In re Sealed Case*, 754 F.2d 395, 399-400 (D.C. Cir. 1985) (same).

Lewinsky maintains that the district court erred in treating, as admissible for *in camera* review, transcripts of taped conversations between Lewinsky and Linda Tripp. She relies on the following statement in *United States v. Zolin*, 491 U.S. 554, 575 (1989): "the threshold showing to obtain *in camera* review may be met by using any relevant evidence, lawfully obtained, that has not been adjudicated to be privileged." *Zolin*, and the statement just quoted, dealt with a rather different problem than the one presented here. Sometimes a party seeking to overcome the privilege by invoking the crime-fraud exception asks the district court to examine *in camera* the privileged material to determine whether it provides evidence of a crime. The issue *Zolin* addressed is under what circumstances a district court should undertake such *in camera* review. *Zolin's* answer, as the quotation indicates, was that the court should do so only when there has been a threshold showing through evidence lawfully obtained. *See In re Grand Jury Proceedings*, 33 F.3d 342, 350 (4th Cir. 1994). In this case, the district court reviewed *in camera* not the allegedly privileged material, but other evidence intended to establish that the crime-fraud exception applied. In any event, even if *Zolin* applied, Lewinsky gains nothing from the decision. She maintains that the Tripp tapes were not "lawfully obtained" and therefore should not have been considered *in camera*. But the government satisfied its burden wholly apart from the Tripp tapes. Other government evidence -- consisting of grand jury testimony and documents -- established that the crime-fraud exception applied. Because that other evidence, if believed by the trier of fact, combined with the circumstances under which Lewinsky retained Carter, would establish the elements of the crime-fraud exception, there is no reason for us to consider her arguments about the tapes.[4]

Lewinsky raises other objections to the district court's decision, including the argument that production of the subpoenaed materials would violate her Fifth Amendment privilege against self-incrimination. Our resolution of the cross-appeal, discussed next, disposes of that claim. As to the remainder of Lewinsky's arguments, we have accorded each of them full consideration and conclude that none has merit.[5]

---

[4] Lewinsky's brief suggests, in a short passage, that other evidence obtained by the grand jury is tainted by the alleged illegality of the Tripp tapes. *United States v. Callandra*, 414 U.S. 338 (1974), refused to extend the exclusionary rule -- and hence doctrines such as the fruit-of-the-poisonous-tree -- to grand jury proceedings. No grand jury witness may refuse to answer questions on the ground that the questions are based on illegally obtained evidence. *See* 414 U.S. at 353-55. It follows that regardless of the legality of the Tripp tapes, the grand jury did not unlawfully obtain the other evidence presented to the district court *in camera*.

This brings us to the Independent Counsel's cross-appeal. The district court ruled that compelling Carter to produce materials his client gave him would violate Lewinsky's Fifth Amendment privilege because it would compel her to admit the materials exist and had been in her possession. The Supreme Court foreclosed that line of reasoning in *Fisher v. United States*, 425 U.S. 391 (1976). Documents transferred from the accused to his attorney are "obtainable without personal compulsion on the accused," and hence the accused's "Fifth Amendment privilege is . . . not violated by enforcement of the [subpoena] directed toward [his] attorneys. This is true whether or not the Amendment would have barred a subpoena directing the [accused] to produce the documents while they were in his hands." *Id.* at 398, 397; *see also Couch v. United States*, 409 U.S. 322, 328 (1973).

Regardless whether Lewinsky herself would have been able to invoke her Fifth Amendment privilege, *but see Andresen v. Maryland*, 427 U.S. 463, 473-74 (1976), the district court's refusal to order full compliance with the subpoenas could be sustained only if the materials sought fell under a valid claim of attorney-client privilege. *See Fisher*, 425 U.S. at 403-05; *see also In re Feldberg*, 862 F.2d 622, 629 (7th Cir. 1988). But the district court held, correctly, that no valid attorney-client privilege existed. Under *Fisher*, the district court therefore should have denied the motions to quash in their entirety.[6]

---

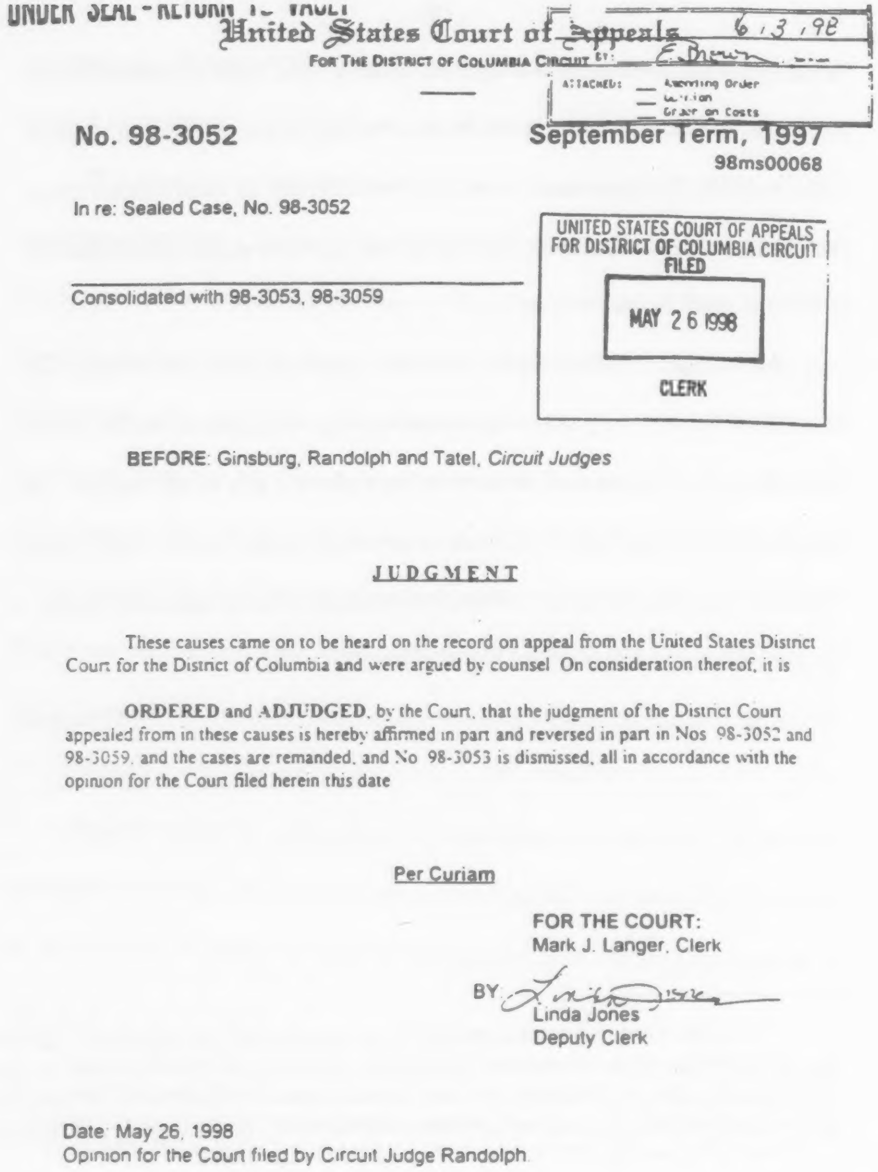
[5] In her reply brief, Lewinsky argues for first time that the district court should have permitted her to examine the material the court reviewed *in camera*. This argument comes too late to be considered. *See Rollins Envtl. Servs. (NJ) Inc. v. EPA*, 937 F.2d 649, 652 n.2 (D.C. Cir. 1991).

Accordingly, we affirm in part and reverse in part the order of the district court and remand the case for proceedings consistent with this opinion. No. 98-3053 is dismissed. The mandate shall issue seven days after the date of this opinion. *See* FED. R. APP. P. 41(a); D.C. CIR. R. 41(a)(1); *Johnson v. Bechtel Assocs. Prof'l. Corp.*, 801 F.2d 412, 415 (D.C. Cir. 1986); *Public Citizen Health Research Group v. Auchter*, 702 F.2d 1150, 1159 n.31 (D.C. Cir. 1983).

So ordered.

---

[6] As respondent in the cross-appeal, Carter makes additional arguments against the applicability of the crime-fraud exception. But because the only issue in the cross-appeal is the applicability of the Fifth Amendment, Carter may not use the cross-appeal to press arguments we will not consider in his direct appeal. *See Grimes v. District of Columbia*, 836 F.2d 647, 651-52 (D.C. Cir. 1988).



UNDER SEAL - RETURN TO VAULT

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

6/3/98
BY: E. Brown
ATTACHED: ___ Amending Order
___ Opinion
___ Order on Costs

No. 98-3052 **September Term, 1997**
98ms00068

In re: Sealed Case, No. 98-3052

Consolidated with 98-3053, 98-3059

UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT
FILED
MAY 26 1998
CLERK

BEFORE: Ginsburg, Randolph and Tatel, *Circuit Judges*

JUDGMENT

These causes came on to be heard on the record on appeal from the United States District Court for the District of Columbia and were argued by counsel On consideration thereof, it is

ORDERED and **ADJUDGED**, by the Court, that the judgment of the District Court appealed from in these causes is hereby affirmed in part and reversed in part in Nos 98-3052 and 98-3059, and the cases are remanded, and No 98-3053 is dismissed, all in accordance with the opinion for the Court filed herein this date

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: Linda Jones
Linda Jones
Deputy Clerk

Date: May 26, 1998
Opinion for the Court filed by Circuit Judge Randolph

[EXHIBIT 12]

GOVERNMENT EXHIBIT
ML-4

AFFIDAVIT OF JANE DOE #6

1. My name is Jane Doe #6. I am 24 years old and I currently reside at 700 New Hampshire Avenue, N.W., Washington, D.C. 20037.

2. On December 19, 1997, I was served with a subpoena from the plaintiff to give a deposition and to produce documents in the lawsuit filed by Paula Corbin Jones against President William Jefferson Clinton and Danny Ferguson.

3. I can not fathom any reason that the plaintiff would seek information from me for her case.

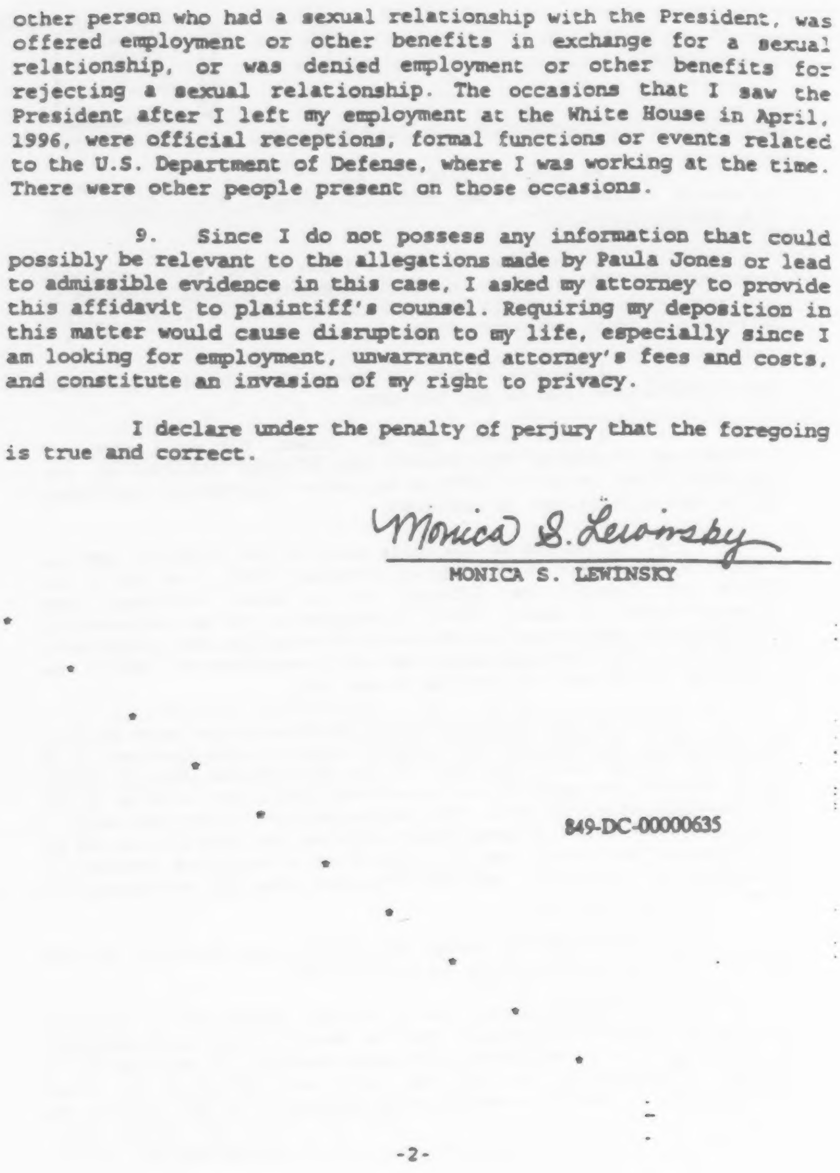
4. I have never met Ms. Jones, nor do I have any information regarding the events she alleges occurred at the Excelsior Hotel on May 8, 1991 or any other information concerning any of the allegations in her case.

5. I worked at the White House in the summer of 1995 as a White House intern. Beginning in December, 1995, I worked in the Office of Legislative Affairs as a staff assistant for correspondence. In April, 1996, I accepted a job as assistant to the Assistant Secretary for Public Affairs at the U.S. Department of Defense. I maintained that job until December 26, 1997. I am currently unemployed but seeking a new job.

6. In the course of my employment at the White House I met President Clinton several times. I also saw the President at a number of social functions held at the White House. When I worked as an intern, he appeared at occasional functions attended by me and several other interns. The correspondence I drafted while I worked at the Office of Legislative Affairs was seen and edited by supervisors who either had the President's signature affixed by mechanism or, I believe, had the President sign the correspondence itself.

7. I have the utmost respect for the President who has always behaved appropriately in my presence.

8. I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for rejecting a sexual relationship. I do not know of any



other person who had a sexual relationship with the President, was offered employment or other benefits in exchange for a sexual relationship, or was denied employment or other benefits for rejecting a sexual relationship. The occasions that I saw the President after I left my employment at the White House in April, 1996, were official receptions, formal functions or events related to the U.S. Department of Defense, where I was working at the time. There were other people present on those occasions.

9. Since I do not possess any information that could possibly be relevant to the allegations made by Paula Jones or lead to admissible evidence in this case, I asked my attorney to provide this affidavit to plaintiff's counsel. Requiring my deposition in this matter would cause disruption to my life, especially since I am looking for employment, unwarranted attorney's fees and costs, and constitute an invasion of my right to privacy.

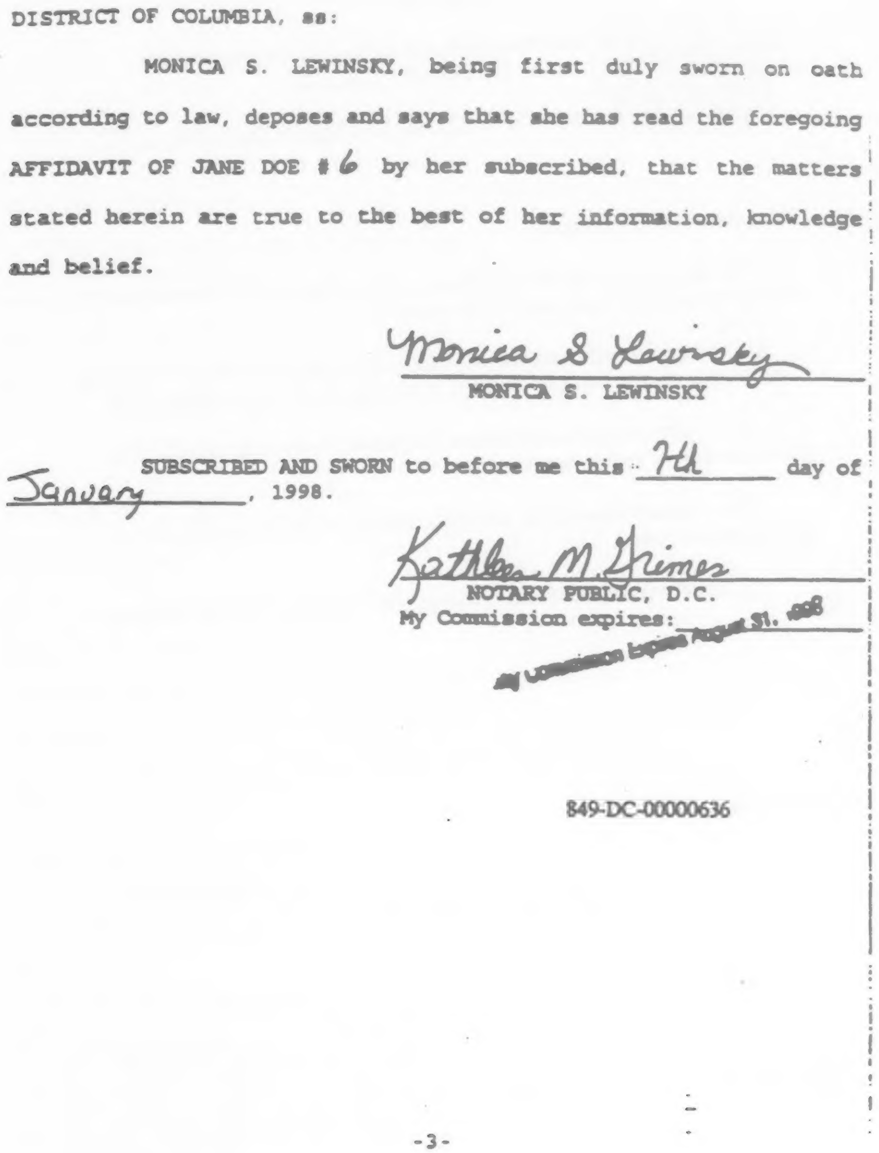
I declare under the penalty of perjury that the foregoing is true and correct.

Monica S. Lewinsky

MONICA S. LEWINSKY

849-DC-00000635

-2-



DISTRICT OF COLUMBIA, ss:

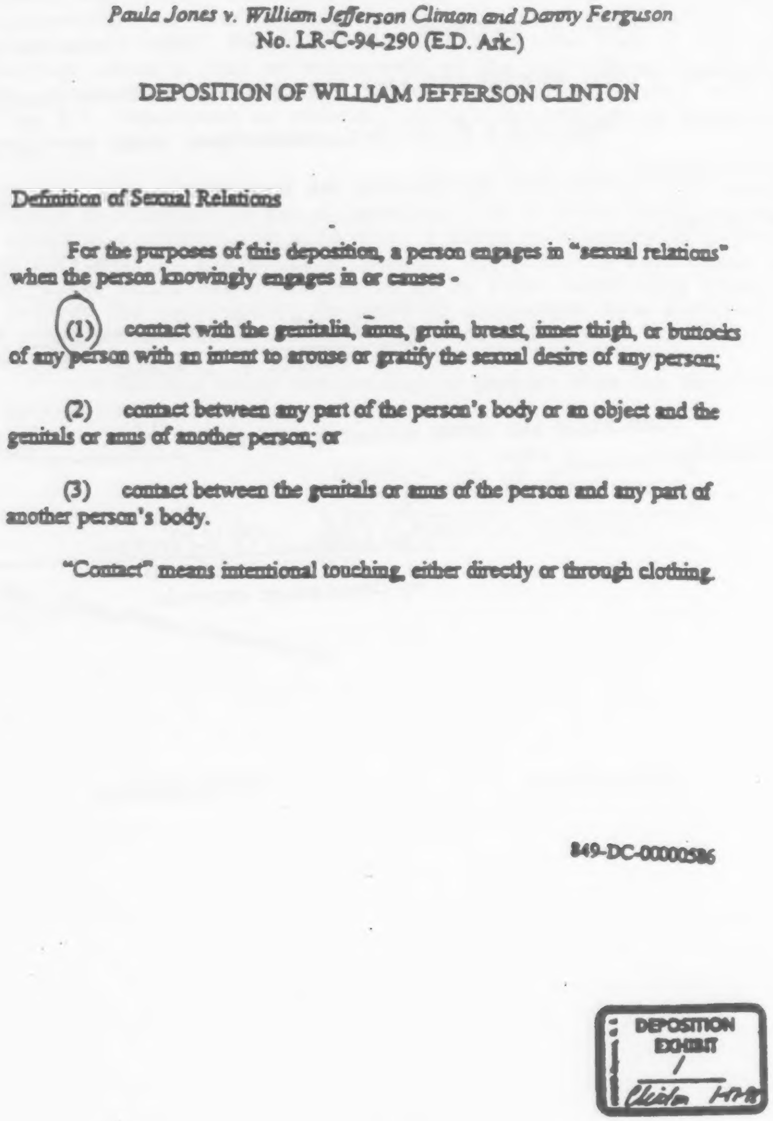
MONICA S. LEWINSKY, being first duly sworn on oath according to law, deposes and says that she has read the foregoing AFFIDAVIT OF JANE DOE # 6 by her subscribed, that the matters stated herein are true to the best of her information, knowledge and belief.

Monica S Lewinsky
MONICA S. LEWINSKY

SUBSCRIBED AND SWORN to before me this 7th day of January, 1998.

Kathleen M. Grimes
NOTARY PUBLIC, D.C.
My Commission expires: My Commission Expires August 31, 1998

[EXHIBIT 13]



Paula Jones v. William Jefferson Clinton and Danny Ferguson
No. LR-C-94-290 (E.D. Ark.)

DEPOSITION OF WILLIAM JEFFERSON CLINTON

Definition of Sexual Relations

For the purposes of this deposition, a person engages in "sexual relations" when the person knowingly engages in or causes -

(1) contact with the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to arouse or gratify the sexual desire of any person;

(2) contact between any part of the person's body or an object and the genitals or anus of another person; or

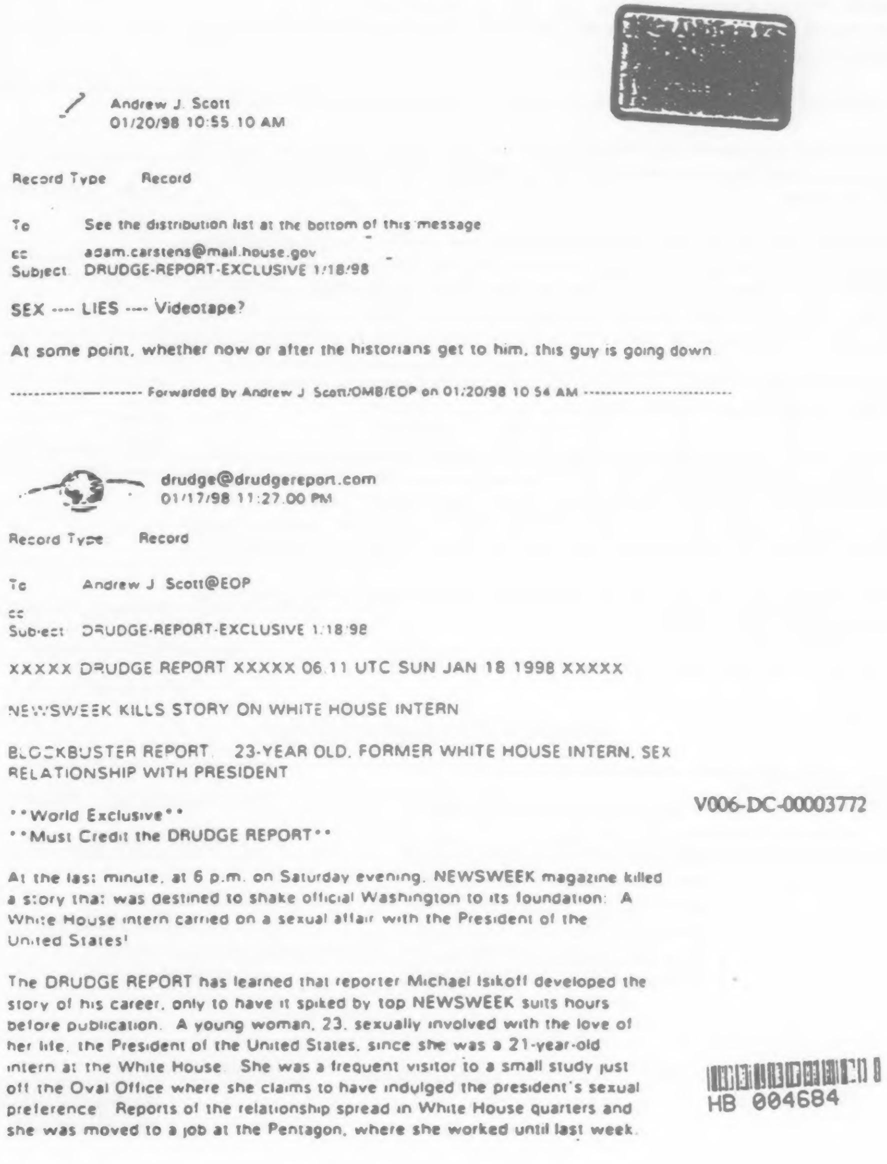
(3) contact between the genitals or anus of the person and any part of another person's body.

"Contact" means intentional touching, either directly or through clothing.

849-DC-00000586

DEPOSITION EXHIBIT
1
Clinton 1-17-98

[EXHIBIT 14]



[redacted]

Andrew J. Scott
01/20/98 10:55:10 AM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: adam.carstens@mail.house.gov
Subject: DRUDGE-REPORT-EXCLUSIVE 1/18/98

SEX ---- LIES ---- Videotape?

At some point, whether now or after the historians get to him, this guy is going down.

---------------------- Forwarded by Andrew J. Scott/OMB/EOP on 01/20/98 10:54 AM ---------------------------

drudge@drudgereport.com
01/17/98 11:27:00 PM

Record Type: Record

To: Andrew J. Scott@EOP
cc:
Subject: DRUDGE-REPORT-EXCLUSIVE 1/18/98

XXXXX DRUDGE REPORT XXXXX 06:11 UTC SUN JAN 18 1998 XXXXX

NEWSWEEK KILLS STORY ON WHITE HOUSE INTERN

BLOCKBUSTER REPORT: 23-YEAR OLD, FORMER WHITE HOUSE INTERN, SEX RELATIONSHIP WITH PRESIDENT

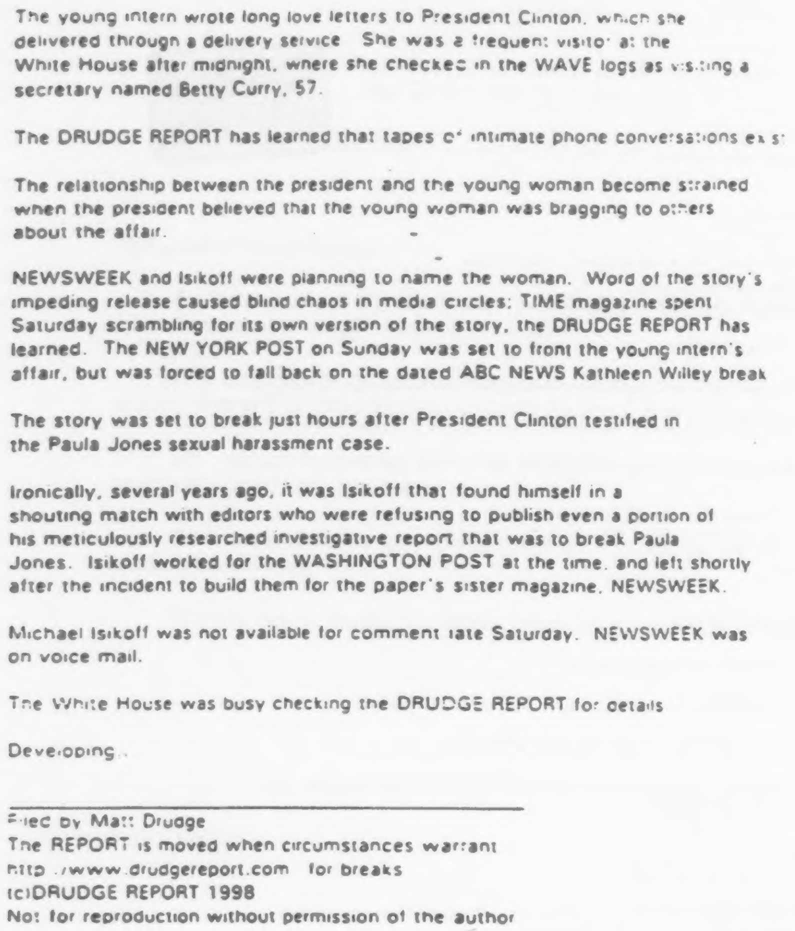
V006-DC-00003772

World Exclusive
Must Credit the DRUDGE REPORT

At the last minute, at 6 p.m. on Saturday evening, NEWSWEEK magazine killed a story that was destined to shake official Washington to its foundation: A White House intern carried on a sexual affair with the President of the United States!

The DRUDGE REPORT has learned that reporter Michael Isikoff developed the story of his career, only to have it spiked by top NEWSWEEK suits hours before publication. A young woman, 23, sexually involved with the love of her life, the President of the United States, since she was a 21-year-old intern at the White House. She was a frequent visitor to a small study just off the Oval Office where she claims to have indulged the president's sexual preference. Reports of the relationship spread in White House quarters and she was moved to a job at the Pentagon, where she worked until last week.

HB 004684



The young intern wrote long love letters to President Clinton, which she delivered through a delivery service. She was a frequent visitor at the White House after midnight, where she checked in the WAVE logs as visiting a secretary named Betty Curry, 57.

The DRUDGE REPORT has learned that tapes of intimate phone conversations exist.

The relationship between the president and the young woman become strained when the president believed that the young woman was bragging to others about the affair.

NEWSWEEK and Isikoff were planning to name the woman. Word of the story's impeding release caused blind chaos in media circles; TIME magazine spent Saturday scrambling for its own version of the story, the DRUDGE REPORT has learned. The NEW YORK POST on Sunday was set to front the young intern's affair, but was forced to fall back on the dated ABC NEWS Kathleen Willey break.

The story was set to break just hours after President Clinton testified in the Paula Jones sexual harassment case.

Ironically, several years ago, it was Isikoff that found himself in a shouting match with editors who were refusing to publish even a portion of his meticulously researched investigative report that was to break Paula Jones. Isikoff worked for the WASHINGTON POST at the time, and left shortly after the incident to build them for the paper's sister magazine, NEWSWEEK.

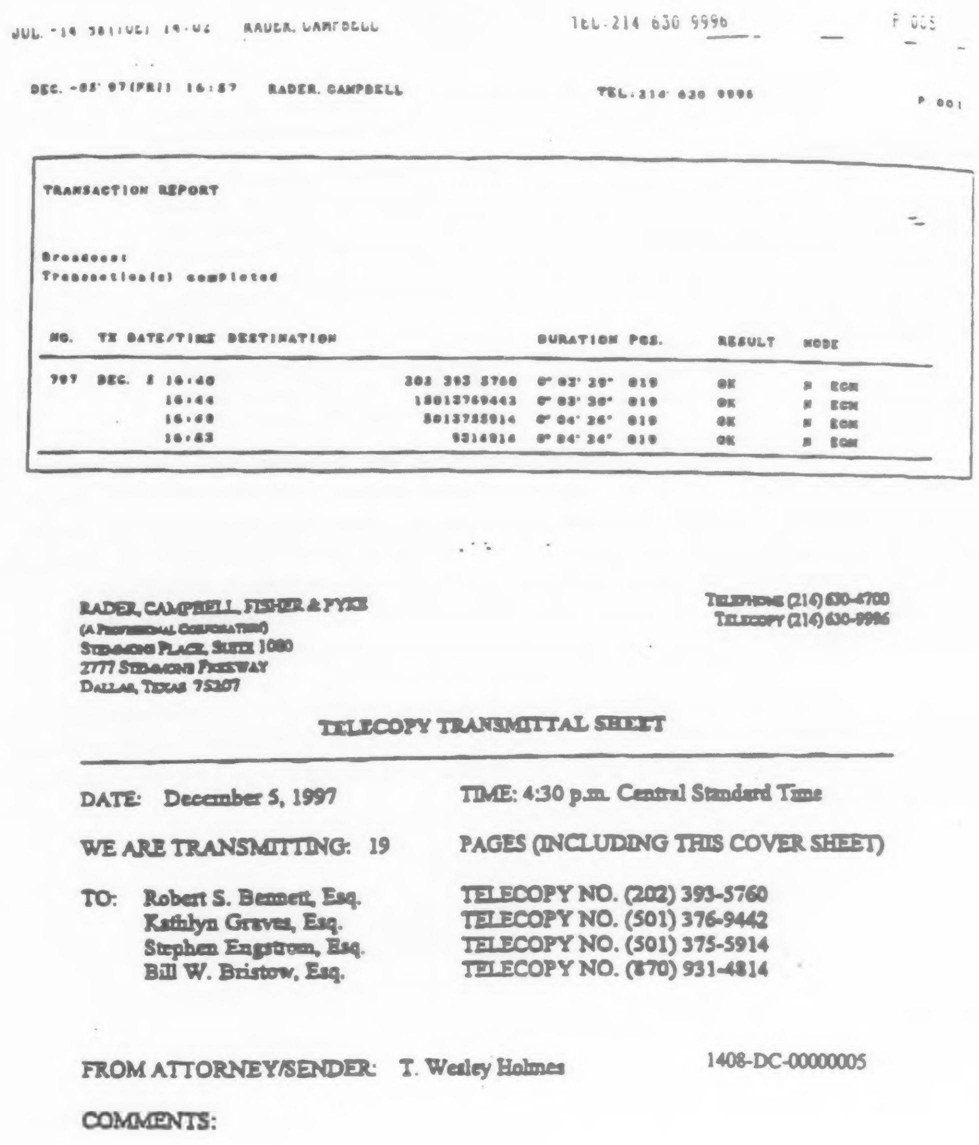
Michael Isikoff was not available for comment late Saturday. NEWSWEEK was on voice mail.

The White House was busy checking the DRUDGE REPORT for details.

Developing...

Filed by Matt Drudge
The REPORT is moved when circumstances warrant
http://www.drudgereport.com for breaks
(c)DRUDGE REPORT 1998
Not for reproduction without permission of the author

[EXHIBIT 15]



```
JUL.-14 '98(TUE) 19:02   RADER, CAMPBELL                TEL:214 630 9996          P 005

DEC.-05'97(FRI) 16:57   RADER, CAMPBELL                TEL:214 630 9996          P 001
```

```
TRANSACTION REPORT

Broadcast
Transaction(s) completed

NO.  TX DATE/TIME DESTINATION                   DURATION PGS.    RESULT   MODE
------------------------------------------------------------------------------
797  DEC.  5 16:40                 202 393 5760  0°03'29"  019     OK      N  ECM
             16:44                  15013769442  0°03'30"  019     OK      N  ECM
             16:49                   5013755914  0°04'26"  019     OK      N  ECM
             16:53                      9314814  0°04'24"  019     OK      N  ECM
------------------------------------------------------------------------------
```

RADER, CAMPBELL, FISHER & PYKE
(A PROFESSIONAL CORPORATION)
STEMMONS PLACE, SUITE 1080
2777 STEMMONS FREEWAY
DALLAS, TEXAS 75207

TELEPHONE (214) 630-4700
TELECOPY (214) 630-9996

TELECOPY TRANSMITTAL SHEET

DATE: December 5, 1997

TIME: 4:30 p.m. Central Standard Time

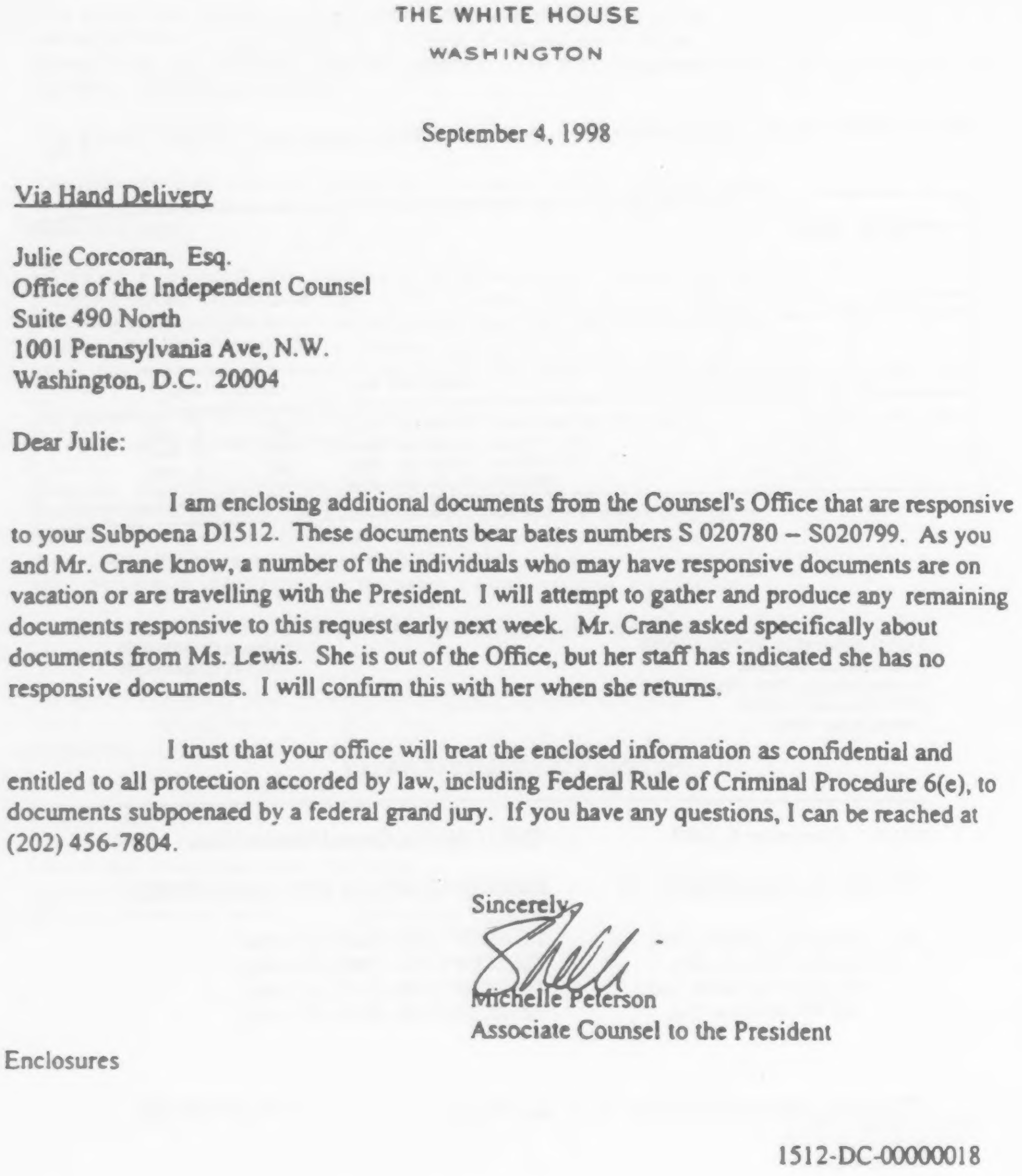
WE ARE TRANSMITTING: 19 PAGES (INCLUDING THIS COVER SHEET)

TO: Robert S. Bennett, Esq.	TELECOPY NO. (202) 393-5760
Kathlyn Graves, Esq.	TELECOPY NO. (501) 376-9442
Stephen Engstrom, Esq.	TELECOPY NO. (501) 375-5914
Bill W. Bristow, Esq.	TELECOPY NO. (870) 931-4814

FROM ATTORNEY/SENDER: T. Wesley Holmes

1408-DC-00000005

COMMENTS:



THE WHITE HOUSE
WASHINGTON

September 4, 1998

Via Hand Delivery

Julie Corcoran, Esq.
Office of the Independent Counsel
Suite 490 North
1001 Pennsylvania Ave, N.W.
Washington, D.C. 20004

Dear Julie:

I am enclosing additional documents from the Counsel's Office that are responsive to your Subpoena D1512. These documents bear bates numbers S 020780 – S020799. As you and Mr. Crane know, a number of the individuals who may have responsive documents are on vacation or are travelling with the President. I will attempt to gather and produce any remaining documents responsive to this request early next week. Mr. Crane asked specifically about documents from Ms. Lewis. She is out of the Office, but her staff has indicated she has no responsive documents. I will confirm this with her when she returns.

I trust that your office will treat the enclosed information as confidential and entitled to all protection accorded by law, including Federal Rule of Criminal Procedure 6(e), to documents subpoenaed by a federal grand jury. If you have any questions, I can be reached at (202) 456-7804.

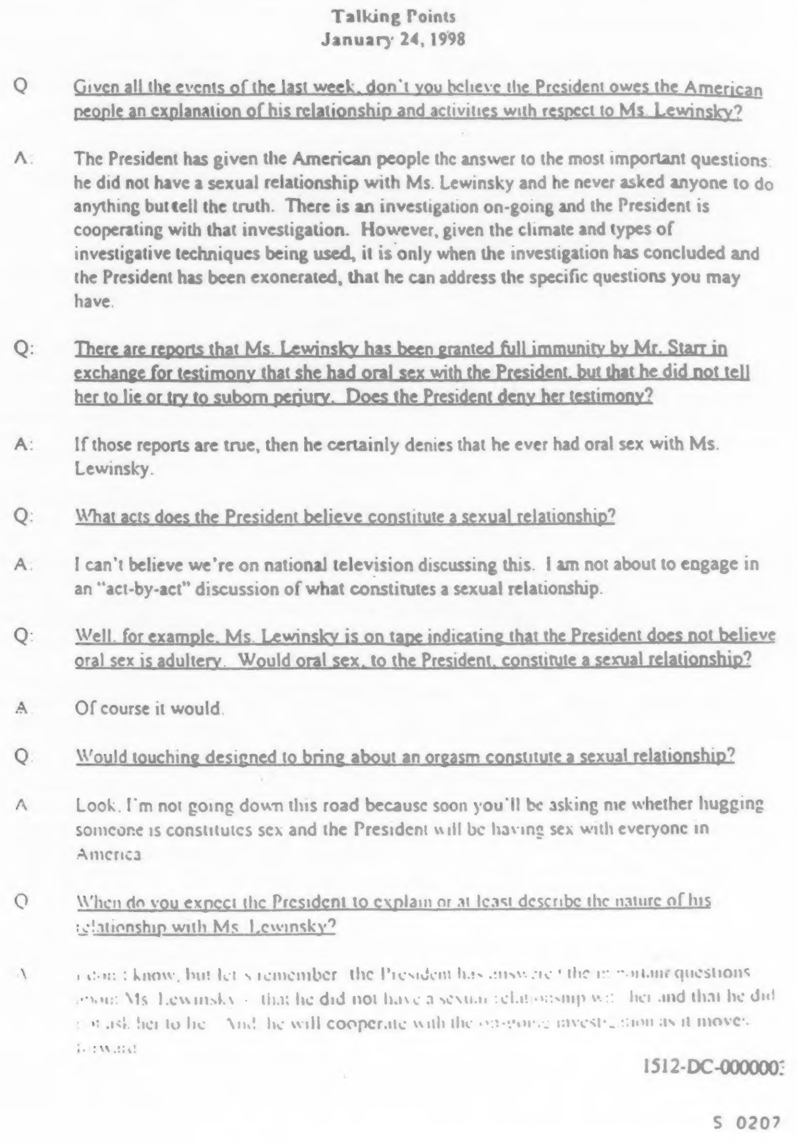
Sincerely,

Shelli

Michelle Peterson
Associate Counsel to the President

Enclosures

[EXHIBIT 16]



Talking Points
January 24, 1998

Q Given all the events of the last week, don't you believe the President owes the American people an explanation of his relationship and activities with respect to Ms. Lewinsky?

A: The President has given the American people the answer to the most important questions: he did not have a sexual relationship with Ms. Lewinsky and he never asked anyone to do anything but tell the truth. There is an investigation on-going and the President is cooperating with that investigation. However, given the climate and types of investigative techniques being used, it is only when the investigation has concluded and the President has been exonerated, that he can address the specific questions you may have.

Q: There are reports that Ms. Lewinsky has been granted full immunity by Mr. Starr in exchange for testimony that she had oral sex with the President, but that he did not tell her to lie or try to suborn perjury. Does the President deny her testimony?

A: If those reports are true, then he certainly denies that he ever had oral sex with Ms. Lewinsky.

Q: What acts does the President believe constitute a sexual relationship?

A: I can't believe we're on national television discussing this. I am not about to engage in an "act-by-act" discussion of what constitutes a sexual relationship.

Q: Well, for example, Ms. Lewinsky is on tape indicating that the President does not believe oral sex is adultery. Would oral sex, to the President, constitute a sexual relationship?

A Of course it would.

Q Would touching designed to bring about an orgasm constitute a sexual relationship?

A Look, I'm not going down this road because soon you'll be asking me whether hugging someone is constitutes sex and the President will be having sex with everyone in America

Q When do you expect the President to explain or at least describe the nature of his relationship with Ms. Lewinsky?

A I don't know, but let's remember: the President has answered the important questions about Ms. Lewinsky -- that he did not have a sexual relationship with her and that he did not ask her to lie. And, he will cooperate with the on-going investigation as it moves forward

Q:	A:
In light of the gifts they reportedly exchanged with one another, and reports of telephone calls and letters, would you at least describe the President's relationship with Ms Lewinsky as a friendship?	I'm sure they had a friendly relationship.
What was the nature of Ms Lewinsky's relationship with Ms Currie and how frequently did she see her?	We're not going to get in the business of addressing some but not other questions. There is an on-going investigation and given the types of investigative techniques, we simply will not be in a position to address these questions until it is complete.

REDACTED

[EXHIBIT 17]

Copr. (C) West 1998 No Claim to Orig. U.S. Govt. Works

1/25/98 LATIMES A1
1/25/98 L.A. Times A1
1998 WL 2392128

Los Angeles Times
Copyright 1998 / The Times Mirror Company

Sunday, January 25, 1998

National Desk

CLINTON UNDER FIRE Clinton Enlists Kantor, Offers Specific Denial

ELIZABETH SHOGREN; RICHARD A. SERRANO; DAVID WILLMAN
TIMES STAFF WRITERS

WASHINGTON -- President Clinton stepped up his defense against allegations of sexual misconduct, recruiting veteran political warrior and longtime advisor Mickey Kantor to become his personal counsel and signing off Saturday on a set of "talking points" for aides that significantly amplify his denial of a sexual relationship with a White House intern.

The president "certainly denies that he ever had oral sex" with 24-year-old former intern Monica S. Lewinsky, according to the memo to be used by his defenders. Lewinsky herself, in a sworn statement, has denied having a sexual relationship with Clinton. In telephone conversations secretly tape-recorded by a friend, however, Lewinsky reportedly said they had oral sex. The president's previous denials were viewed by some as being worded artfully so that they might exclude oral sex.

Approval of the talking points may be an early sign of the counterattack that some Clinton advisors hope Kantor will help the White House launch after a week of near-paralysis.

Kantor, who began helping the White House late Friday and continued to meet with aides there on Saturday, played a key role in devising the response that saved Clinton's 1992 bid for the presidency when nightclub singer Gennifer Flowers accused the then-Arkansas governor of sexual impropriety. And it is Kantor's political savvy, more than his legal expertise, that will be tested now.

In the tumultuous week since independent counsel Kenneth W. Starr began investigating claims that Lewinsky was involved sexually with Clinton, the White House has seen its position steadily erode. Aides, hobbled by legal concerns and unsure about the facts, have been unable to counterattack.

And, as senior administration officials noted bitterly on Saturday, efforts to persuade congressional or other prominent Democrats to speak out for Clinton have almost uniformly failed.

Indeed, Clinton's own former chief of staff, Leon E. Panetta, publicly suggested it might be best for Vice President Al Gore to take over if the allegations prove true.

What Other Developments Disclose

Against this darkening background, there were these other developments:

- Lewinsky's lawyer, William Ginsburg, said negotiations with Starr's office are at a standstill. Ginsburg demanded "complete immunity" from prosecution before Lewinsky will cooperate with the investigation into possible perjury, obstruction of justice or other criminal wrongdoing by Clinton.

"That's my line in the sand," he said.

- New excerpts of Linda Tripp's tapes of Lewinsky, released by Newsweek magazine, show the two women discussing Lewinsky's plan to lie about her relations with Clinton, as well as pressures she was under to cover it up.

- Television film was unearthed showing Clinton surrounded by voters at an outdoor rally in November 1996, with a broadly smiling Lewinsky standing right in front of him and then leaning forward for a presidential embrace.

- After a debate over tactics, the White House decided not to avoid today's television talk shows but instead to send three politically oriented aides, Rahm Emanuel, Paul Begala and Ann Lewis, before the cameras to defend the president.

The decision to bring Kantor onto the team reflected a realization by Clinton and his inner circle that events, and with them public opinion, were outrunning their efforts to protect themselves.

Not only was almost no prominent figure rising vigorously to the president's defense, but the torrent of leaks about the supposed nature of Clinton's alleged relationship with Lewinsky was so shocking that by Saturday, talk of impeachment and resignation was commonplace. "There's nobody for him," one veteran Democratic operative said, reflecting the pervasive gloom. "Even Nixon had a few people for him at the end."

Tacitly acknowledging the downward slide and the difficulty in arresting it, Rep. Charles B Rangel (D-N.Y.) said: "When the president has not more vigorously challenged those who make these allegations but speaks in terms of legal jargon, it creates a bad situation."

Said a senior administration official: "We are dealing with a rapidly moving legal situation caused by an extremely aggressive independent counsel. To some extent, the press is moving this story faster than it is possible for us to respond to."

It was not just the speed of press revelations that hampered the White House.

While his lawyers urged caution from the beginning, Clinton's political advisors, at first, argued for prompt disclosure of all the facts--taking it for granted that Clinton, as he had so often in the past, could make his case successfully to the public.

Only gradually have some senior aides come to realize that such a press conference or other public appearance might not be feasible.

"The political people are catching up with the legal people about the facts, and they recognize that the facts may be such that it would be better to wait and see what develops before he goes out" in public, one senior official said later Saturday.

The talking points represented a middle ground.

Members of the White House staff had been working for several days to draft the detailed set of authorized answers administration officials and other defenders could give to questions about the matter

In general, they affirm the president's contention that "there was no improper relationship" with Lewinsky. But they deal specifically with oral sex because some skeptics have suggested Clinton, in effect, had his fingers crossed in his earlier denials because--it was suggested--he does not believe having oral sex constitutes a sexual relationship.

Bringing Kantor aboard, as Clinton did with a face-to-face appeal at the White House, is seen by some aides as an even more important sign that the White House is finally beginning to marshal its resources.

"They trust and like him on a personal level and know that he is savvy. He's been there for the president for most of his political life," a knowledgeable official said.

Moreover, making Kantor a personal lawyer instead of a White House aide helps the Clintons deal with another problem: Legally, members of the White House staff can be compelled to reveal what they have heard from the president, even if the aides are lawyers.

Thus, at least some senior aides have been reluctant to talk candidly with Clinton for fear they might be subpoenaed by Starr. And Clinton's legal team, though protected by lawyer-client privilege, lacks the political experience to advise him on that aspect of the issue.

Kantor, as a private lawyer with years of political experience, can bridge the gap.

Whether Kantor can find a rabbit in the hat again remains to be seen, but by Saturday night the mood inside the White House was more hopeful.

"I've had a lot of experience with these kinds of things, and this is one of the nastiest " an advisor said, but "I think we're going forward now, and forward direction is a lot better."

Talks Stalled, Lawyer for Lewinsky Says

Ginsburg, Lewinsky's lawyer said negotiations with the independent counsel's office are stalled, though he has continued to seek ways to restart the talks.

If his client does not receive "complete immunity," he said, she will exercise her 5th Amendment protection against self-incrimination if called before a federal grand jury Tuesday, as she is scheduled to do.

"The clock is ticking," Ginsburg said. " . . . But I need a promise not to prosecute."

For his part, the independent counsel appeared unwilling to yield on his demand that Lewinsky submit a detailed proffer, summarizing what she is willing to say under oath before immunity is promised.

"There has been no deal," said one source. We're not on the same page."

Ginsburg said he believes Starr's office is hesitant about granting her immunity because of earlier problems with potential prosecution witnesses in the past.

Ginsburg pointed to former Department of Justice official and Clinton confidant Webster L. Hubbell and former Whitewater real estate partner Susan McDougal, both of whom initially agreed to help Starr's office, but in the end did not present damaging testimony against Clinton.

"Starr and his office are afraid that they will be burned thrice," Ginsburg said. "Webb Hubbell and Susan McDougal went south, or sour, on him and did not participate. So he is concerned that he will get burned again."

Attorney Describes Apartment Search

Ginsburg described in detail a search and seizure of Lewinsky's property from her Watergate apartment on Thursday. He said the search, to which Lewinsky voluntarily consented, lasted two hours. Lewinsky and her mother were both present.

"The federal agents knocked on the door and the girls said, 'Good morning,' and they had coffee and cakes laid out," he said. "They [the agents] were very courteous. They went room by room, and they didn't tear anything apart."

Taken were her computer, several dresses and at least one dark-colored pantsuit. Also seized were gifts Lewinsky allegedly had received from the president and other White House staffers, such as a T-shirt, a hatpin and a book of Walt Whitman poetry. s Regarding the dresses, Ginsburg said he assumed that agents were looking for any signs of Clinton's semen. There has been speculation that semen on Lewinsky's clothing could be used to establish a DNA link to Clinton.

Ginsburg said he had no knowledge of any stained dresses.

"I'm not aware of it," he said. "And if such a thing existed, you wouldn't think my client would have had her dress cleaned after she had sex?"

The lawyer also sharply denied reports that he and Lewinsky turned down an offer of immunity from Starr's office shortly after she was confronted with the tape-recordings at a meeting at the Ritz-Carlton hotel in Arlington, Va.

Meanwhile, Ginsburg said Lewinsky continues to be racked by the allegations surrounding her, and that she also feels betrayed by Tripp, the friend who made the tape recordings.

"Monica's agenda is to unruin her life, to bring it into equilibrium and balance again, and to avoid a felony conviction and avoid jail."

Regarding Tripp, Ginsburg said: "Monica is angry. She feels betrayed. She doesn't understand, nor do I. What did Linda Tripp get? What's her motive?"

*

Times staff writers Jack Nelson, Jonathan Peterson, Alan C. Miller, Jane Hall and Richard T. Cooper contributed to this story.

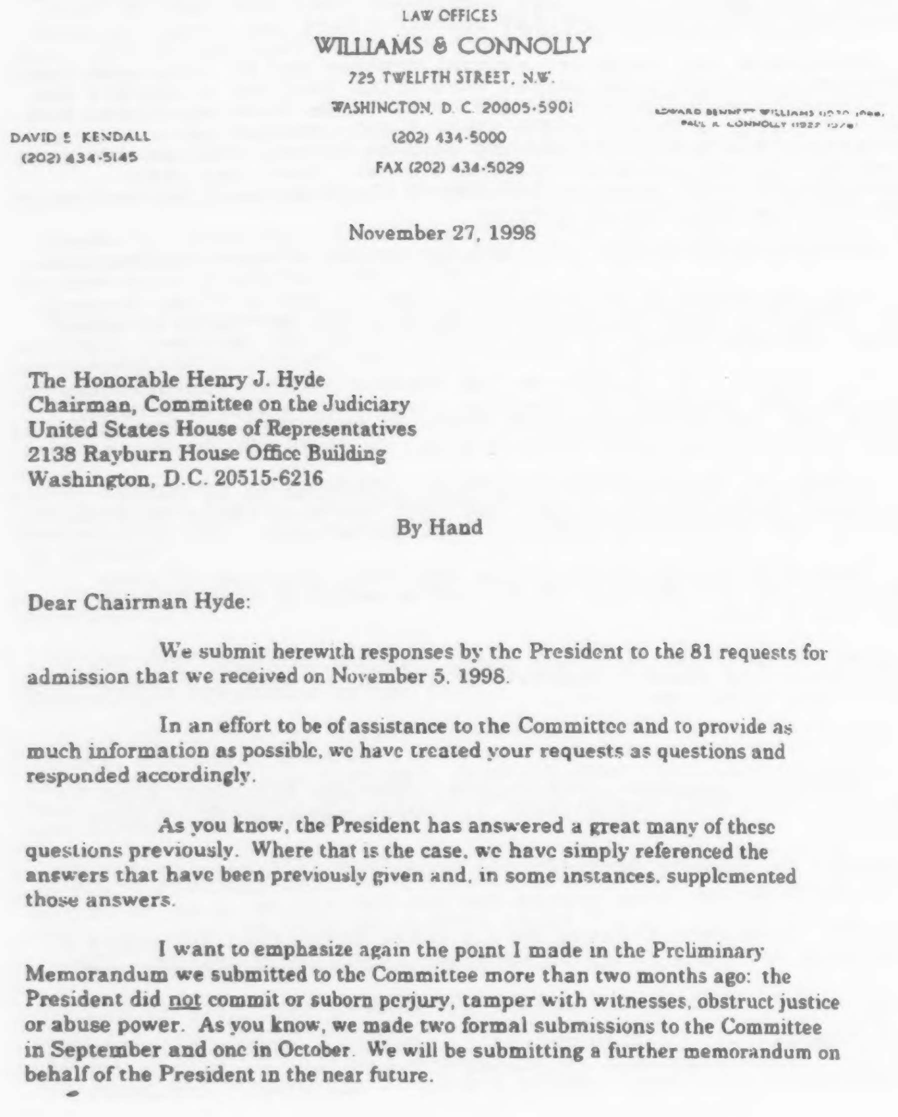
TABULAR OR GRAPHIC MATERIAL SET FORTH IN THIS DOCUMENT IS NOT DISPLAYABLE

PHOTO: President Clinton hugs a woman identified as Monica S. Lewinsky during a rally in November 1996.; PHOTOGRAPHER: CNN

---- INDEX REFERENCES ----

KEY WORDS: CLINTON, BILL; LEWINSKY, MONICA S; KANTOR, MICKEY; PRESIDENT (U.S.); GOVERNMENT MISCONDUCT; UNITED STATES -- GOVERNMENT OFFICIALS; UNITED STATES -- GOVERNMENT EMPLOYEES;

[EXHIBIT 18]



LAW OFFICES
WILLIAMS & CONNOLLY
725 TWELFTH STREET, N.W.
WASHINGTON, D. C. 20005-5901
(202) 434-5000
FAX (202) 434-5029

DAVID E. KENDALL
(202) 434-5145

EDWARD BENNETT WILLIAMS (1920-1988)
PAUL R. CONNOLLY (1922-1978)

November 27, 1998

The Honorable Henry J. Hyde
Chairman, Committee on the Judiciary
United States House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515-6216

By Hand

Dear Chairman Hyde:

We submit herewith responses by the President to the 81 requests for admission that we received on November 5, 1998.

In an effort to be of assistance to the Committee and to provide as much information as possible, we have treated your requests as questions and responded accordingly.

As you know, the President has answered a great many of these questions previously. Where that is the case, we have simply referenced the answers that have been previously given and, in some instances, supplemented those answers.

I want to emphasize again the point I made in the Preliminary Memorandum we submitted to the Committee more than two months ago: the President did not commit or suborn perjury, tamper with witnesses, obstruct justice or abuse power. As you know, we made two formal submissions to the Committee in September and one in October. We will be submitting a further memorandum on behalf of the President in the near future.

I will forward to you a sworn original of the responses before the end of the day.

Sincerely,

David E. Kendall

cc: The Honorable John Conyers, Jr.

RESPONSE OF WILLIAM J. CLINTON, PRESIDENT OF THE UNITED STATES, TO QUESTIONS SUBMITTED BY CONGRESSMAN HENRY HYDE, CHAIRMAN OF THE HOUSE JUDICIARY COMMITTEE

INTRODUCTORY STATEMENT

Set forth below are answers to the questions that you have asked me.

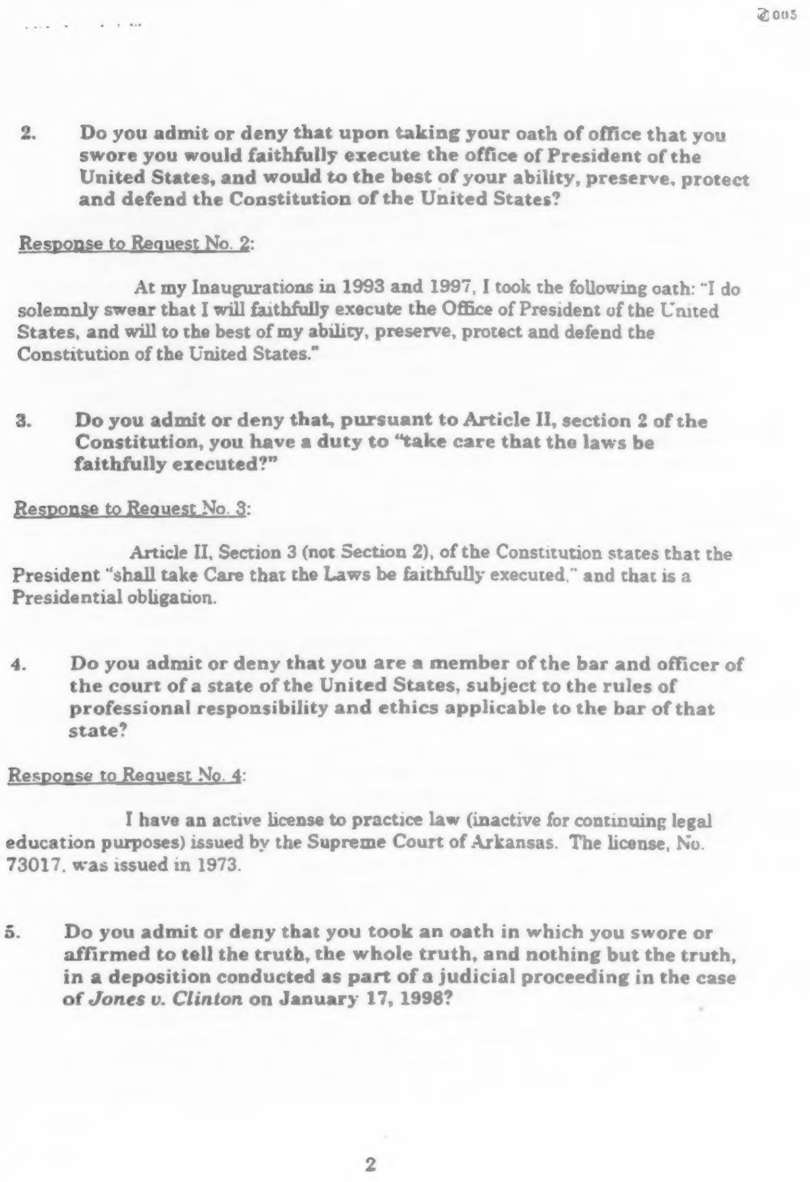
I would like to repeat, at the outset, something that I have said before about my approach to these proceedings. I have asked my attorneys to participate actively, but the fact that there is a legal defense to the various allegations cannot obscure the hard truth, as I have said repeatedly, that my conduct was wrong. It was also wrong to mislead people about what happened, and I deeply regret that.

For me, this long ago ceased to be primarily a legal or political issue and became instead a painful personal one, demanding atonement and daily work toward reconciliation and restoration of trust with my family, my friends, my Administration and the American people. I hope these answers will contribute to a speedy and fair resolution of this matter.

1. **Do you admit or deny that you are the chief law enforcement officer of the United States of America?**

Response to Request No. 1:

The President is frequently referred to as the chief law enforcement officer, although nothing in the Constitution specifically designates the President as such. Article II, Section 1 of the United States Constitution states that "[t]he executive Power shall be vested in a President of the United States of America," and the law enforcement function is a component of the executive power.



2. Do you admit or deny that upon taking your oath of office that you swore you would faithfully execute the office of President of the United States, and would to the best of your ability, preserve, protect and defend the Constitution of the United States?

Response to Request No. 2:

At my Inaugurations in 1993 and 1997, I took the following oath: "I do solemnly swear that I will faithfully execute the Office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

3. Do you admit or deny that, pursuant to Article II, section 2 of the Constitution, you have a duty to "take care that the laws be faithfully executed?"

Response to Request No. 3:

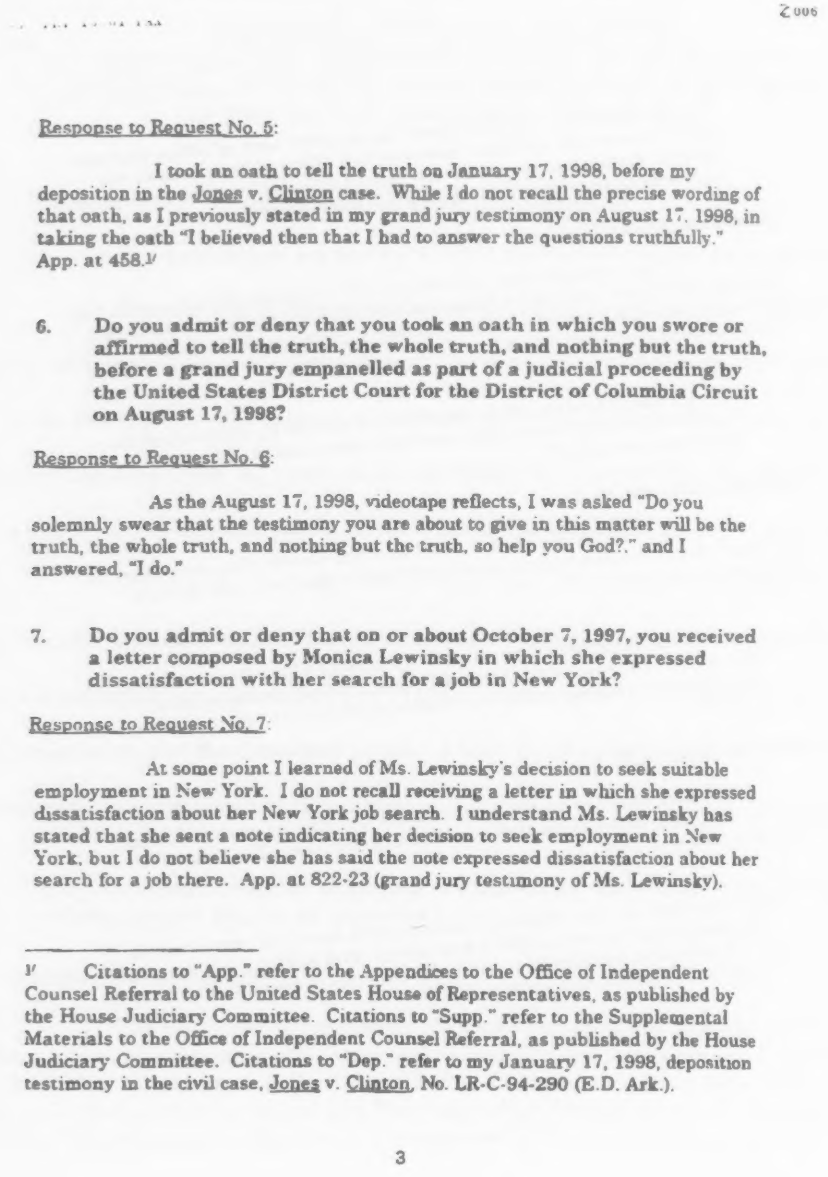
Article II, Section 3 (not Section 2), of the Constitution states that the President "shall take Care that the Laws be faithfully executed," and that is a Presidential obligation.

4. Do you admit or deny that you are a member of the bar and officer of the court of a state of the United States, subject to the rules of professional responsibility and ethics applicable to the bar of that state?

Response to Request No. 4:

I have an active license to practice law (inactive for continuing legal education purposes) issued by the Supreme Court of Arkansas. The license, No. 73017, was issued in 1973.

5. Do you admit or deny that you took an oath in which you swore or affirmed to tell the truth, the whole truth, and nothing but the truth, in a deposition conducted as part of a judicial proceeding in the case of *Jones v. Clinton* on January 17, 1998?



Response to Request No. 5:

I took an oath to tell the truth on January 17, 1998, before my deposition in the Jones v. Clinton case. While I do not recall the precise wording of that oath, as I previously stated in my grand jury testimony on August 17, 1998, in taking the oath "I believed then that I had to answer the questions truthfully." App. at 458.[1]

6. Do you admit or deny that you took an oath in which you swore or affirmed to tell the truth, the whole truth, and nothing but the truth, before a grand jury empanelled as part of a judicial proceeding by the United States District Court for the District of Columbia Circuit on August 17, 1998?

Response to Request No. 6:

As the August 17, 1998, videotape reflects, I was asked "Do you solemnly swear that the testimony you are about to give in this matter will be the truth, the whole truth, and nothing but the truth, so help you God?," and I answered, "I do."

7. Do you admit or deny that on or about October 7, 1997, you received a letter composed by Monica Lewinsky in which she expressed dissatisfaction with her search for a job in New York?

Response to Request No. 7:

At some point I learned of Ms. Lewinsky's decision to seek suitable employment in New York. I do not recall receiving a letter in which she expressed dissatisfaction about her New York job search. I understand Ms. Lewinsky has stated that she sent a note indicating her decision to seek employment in New York, but I do not believe she has said the note expressed dissatisfaction about her search for a job there. App. at 822-23 (grand jury testimony of Ms. Lewinsky).

---

[1] Citations to "App." refer to the Appendices to the Office of Independent Counsel Referral to the United States House of Representatives, as published by the House Judiciary Committee. Citations to "Supp." refer to the Supplemental Materials to the Office of Independent Counsel Referral, as published by the House Judiciary Committee. Citations to "Dep." refer to my January 17, 1998, deposition testimony in the civil case, Jones v. Clinton, No. LR-C-94-290 (E.D. Ark.).

8. Do you admit or deny that you telephoned Monica Lewinsky early in the morning on October 10, 1997, and offered to assist her in finding a job in New York?

Response to Request No. 8:

I understand that Ms. Lewinsky testified that I called her on the 9th of October, 1997. App. at 823 (grand jury testimony of Ms. Lewinsky). I do not recall that particular telephone call.

9. Do you admit or deny that on or about October 11, 1997, you met with Monica Lewinsky in or about the Oval Office dining room?

10. Do you admit or deny that on or about October 11, 1997, Monica Lewinsky furnished to you, in or about the Oval Office dining room, a list of jobs in New York in which she was interested?

11. Do you admit or deny that on or about October 11, 1997, you suggested to Monica Lewinsky that Vernon Jordan may be able to assist her in her job search?

12. Do you admit or deny that on or about October 11, 1997, after meeting with Monica Lewinsky and discussing her search for a job in New York, you telephoned Vernon Jordan?

Response to Request Nos. 9, 10, 11 and 12:

At some point, Ms. Lewinsky either discussed with me or gave me a list of the kinds of jobs she was interested in, although I do not know whether it was on Saturday, October 11, 1997. Records included in the OIC Referral indicate that Ms. Lewinsky visited the White House on October 11, 1997, App. at 2594, and I may have seen her on that day.

I do not believe I suggested to Ms. Lewinsky that Mr. Jordan might be able to assist her in her job search, and I understand that Ms. Lewinsky has stated that she asked me if Mr. Jordan could assist her in finding a job in New York. App. at 1079 (grand jury testimony of Ms. Lewinsky); App. at 1393 (7/27/98 FBI Form 302 Interview of Ms. Lewinsky); App. at 1461-62 (7/31/98 FBI Form 302 Interview of Ms. Lewinsky).

I speak to Mr. Jordan often, and I understand that records included in the OIC Referral indicate that he telephoned me shortly after Ms. Lewinsky left the White House complex. Supp. at 1836, 1839. I understand that Mr. Jordan testified that he and I did not discuss Ms. Lewinsky during that call. Supp. at 1793-94 (grand jury testimony of Vernon Jordan).

13. Do you admit or deny that you discussed with Monica Lewinsky prior to December 17, 1997, a plan in which she would pretend to bring you papers with a work-related purpose, when in fact such papers had no work-related purpose, in order to conceal your relationship?

14. Do you admit or deny that you discussed with Monica Lewinsky prior to December 17, 1997, that Betty Currie should be the one to clear Ms. Lewinsky in to see you so that Ms. Lewinsky could say that she was visiting with Ms. Currie instead of with you?

15. Do you admit or deny that you discussed with Monica Lewinsky prior to December 17, 1997, that if either of you were questioned about the existence of your relationship you would deny its existence?

19. Do you admit or deny that on or about December 17, 1997, you suggested to Monica Lewinsky that she could say to anyone inquiring about her relationship with you that her visits to the Oval Office were for the purpose of visiting with Betty Currie or to deliver papers to you?

Response to Request Nos. 13, 14, 15, and 19:

I was asked essentially these same questions by OIC lawyers. I testified that Ms. Lewinsky and I "may have talked about what to do in a non-legal context at some point in the past, but I have no specific memory of that conversation." App. at 569. That continues to be my recollection today -- that is, any such conversation was not in connection with her status as a witness in the Jones v. Clinton case.

16. Do you admit or deny that on or about December 6, 1997, you learned that Monica Lewinsky's name was on a witness list in the case of *Jones v. Clinton*?

Response to Request No. 16:

As I stated in my August 17th grand jury testimony, I believe that I found out that Ms. Lewinsky's name was on a witness list in the Jones v. Clinton case late in the afternoon on the 6th of December, 1997. App. at 535.

17. **Do you admit or deny that on or about December 17, 1997, you told Monica Lewinsky that her name was on the witness list in the case of *Jones v. Clinton*?**

18. **Do you admit or deny that on or about December 17, 1997, you suggested to Monica Lewinsky that the submission of an affidavit in the case of *Jones v. Clinton* might suffice to prevent her from having to testify personally in that case?**

Response to Requests Nos. 17 and 18:

As I previously testified, I recall telephoning Ms. Lewinsky to tell her Ms. Currie's brother had died, and that call was in the middle of December. App. at 567. I do not recall other particulars of such a call, including whether we discussed the fact that her name was on the Jones v. Clinton witness list. As I stated in my August 17th grand jury testimony in response to essentially the same questions, it is "quite possible that that happened . . . . I don't have any memory of it, but I certainly wouldn't dispute that I might have said that [she was on the witness list]." App. at 567.

I recall that Ms. Lewinsky asked me at some time in December whether she might be able to get out of testifying in the Jones v. Clinton case because she knew nothing about Ms. Jones or the case. I told her I believed other witnesses had executed affidavits, and there was a chance they would not have to testify. As I stated in my August 17th grand jury testimony, "I felt strongly that . . . [Ms. Lewinsky] could execute an affidavit that would be factually truthful, that might get her out of having to testify." App. at 571. I never asked or encouraged Ms. Lewinsky to lie in her affidavit, as Ms. Lewinsky herself has confirmed. See App. at 718 (2/1/98 handwritten proffer of Ms. Lewinsky); see also App. at 1161 (grand jury testimony of Ms. Lewinsky).

19. **For the Response to Request No. 19, see Response to Request No. 13 et al., supra.**

20. **Do you admit or deny that you gave false and misleading testimony under oath when you stated during your deposition in the case of *Jones v. Clinton* on January 17, 1998, that you did not know if Monica Lewinsky had been subpoenaed to testify in that case?**

Response to Request No. 20:

It is evident from my testimony on pages 69 to 70 of the deposition that I did know on January 17, 1998, that Ms. Lewinsky had been subpoenaed in the Jones v. Clinton case. Ms. Jones' lawyer's question, "Did you talk to Mr. Lindsey about what action, if any, should be taken as a result of her being served with a subpoena?", and my response, "No," id. at 70, reflected my understanding that Ms. Lewinsky had been subpoenaed. That testimony was not false and misleading.

21. **Do you admit or deny that you gave false and misleading testimony under oath when you stated before the grand jury on August 17, 1998, that you did know prior to January 17, 1998, that Monica Lewinsky had been subpoenaed to testify in the case of *Jones v. Clinton*?**

Response to Request No. 21:

As my testimony on January 17 reflected, and as I testified on August 17, 1998, I knew prior to January 17, 1998, that Ms. Lewinsky had been subpoenaed to testify in Jones v. Clinton. App. at 487. That testimony was not false and misleading.

22. **Do you admit or deny that on or about December 28, 1997, you had a discussion with Monica Lewinsky at the White House regarding her moving to New York?**

Response to Request No. 22:

When I met with Ms. Lewinsky on December 28, 1997, I knew she was planning to move to New York, and we discussed her move.

23. **Do you admit or deny that on or about December 28, 1997, you had a discussion with Monica Lewinsky at the White House in which you suggested to her that she move to New York soon because by moving to New York, the lawyers representing Paula Jones in the case of *Jones v. Clinton* may not contact her?**

Response to Request No. 23:

Ms. Lewinsky had decided to move to New York well before the end of December 1997. By December 28, Ms. Lewinsky had been subpoenaed. I did not suggest that she could avoid testifying in the Jones v. Clinton case by moving to New York.

24. Do you admit or deny that on or about December 28, 1997, you had a discussion with Monica Lewinsky at the White House regarding gifts you had given to Ms. Lewinsky that were subpoenaed in the case of *Jones v. Clinton*?

25. Do you admit or deny that on or about December 28, 1997, you expressed concern to Monica Lewinsky about a hatpin you had given to her as a gift which had been subpoenaed in the case of *Jones v. Clinton*?

Response to Request Nos. 24 and 25:

As I told the grand jury, "Ms. Lewinsky said something to me like, what if they ask me about the gifts you've given me," App. at 495, but I do not know whether that conversation occurred on December 28, 1997, or earlier. Ibid. Whenever this conversation occurred, I testified, I told her "that if they asked her for gifts, she'd have to give them whatever she had . . . ." App. at 495. I simply was not concerned about the fact that I had given her gifts. See App. at 495-98. Indeed, I gave her additional gifts on December 28, 1997. I also told the grand jury that I do not recall Ms. Lewinsky telling me that the subpoena specifically called for a hat pin that I had given her. App. at 496.

26. Do you admit or deny that on or about December 28, 1997, you discussed with Betty Currie gifts previously given by you to Monica Lewinsky?

27. Do you admit or deny that on or about December 28, 1998, you requested, instructed, suggested to or otherwise discussed with Betty Currie that she take possession of gifts previously given to Monica Lewinsky by you?

Response to Request Nos. 26 and 27:

I do not recall any conversation with Ms. Currie on or about December 28, 1997, about gifts I had previously given to Ms. Lewinsky. I never told Ms.

Response to Request No. 23:

Ms. Lewinsky had decided to move to New York well before the end of December 1997. By December 28, Ms. Lewinsky had been subpoenaed. I did not suggest that she could avoid testifying in the Jones v. Clinton case by moving to New York.

24. Do you admit or deny that on or about December 28, 1997, you had a discussion with Monica Lewinsky at the White House regarding gifts you had given to Ms. Lewinsky that were subpoenaed in the case of *Jones v. Clinton*?

25. Do you admit or deny that on or about December 28, 1997, you expressed concern to Monica Lewinsky about a hatpin you had given to her as a gift which had been subpoenaed in the case of *Jones v. Clinton*?

Response to Request Nos. 24 and 25:

As I told the grand jury, "Ms. Lewinsky said something to me like, what if they ask me about the gifts you've given me," App. at 495, but I do not know whether that conversation occurred on December 28. 1997, or earlier. Ibid. Whenever this conversation occurred, I testified, I told her "that if they asked her for gifts. she'd have to give them whatever she had . . . ." App. at 495. I simply was not concerned about the fact that I had given her gifts. See App. at 495-98. Indeed. I gave her additional gifts on December 28, 1997. I also told the grand jury that I do not recall Ms. Lewinsky telling me that the subpoena specifically called for a hat pin that I had given her. App. at 496.

26. Do you admit or deny that on or about December 28, 1997, you discussed with Betty Currie gifts previously given by you to Monica Lewinsky?

27. Do you admit or deny that on or about December 28, 1998, you requested, instructed, suggested to or otherwise discussed with Betty Currie that she take possession of gifts previously given to Monica Lewinsky by you?

Response to Request Nos. 26 and 27:

I do not recall any conversation with Ms. Currie on or about December 28, 1997, about gifts I had previously given to Ms. Lewinsky. I never told Ms.

Currie to take possession of gifts I had given Ms. Lewinsky; I understand Ms. Currie has stated that Ms. Lewinsky called Ms. Currie to ask her to hold a box. See Supp. at 531.

28. **Do you admit or deny that you had a telephone conversation on January 6, 1998, with Vernon Jordan during which you discussed Monica Lewinsky's affidavit, yet to be filed, in the case of *Jones v. Clinton*?**

Response to Request No. 28:

White House records included in the OIC Referral reflect that I spoke to Mr. Jordan on January 6, 1998. Supp. at 1886. I do not recall whether we discussed Ms. Lewinsky's affidavit during a telephone call on that date.

29. **Do you admit or deny that you had knowledge of the fact that Monica Lewinsky executed for filing an affidavit in the case of *Jones v. Clinton* on January 7, 1998?**

30. **Do you admit or deny that on or about January 7, 1998, you had a discussion with Vernon Jordan in which he mentioned that Monica Lewinsky executed for filing an affidavit in the case of *Jones v. Clinton*?**

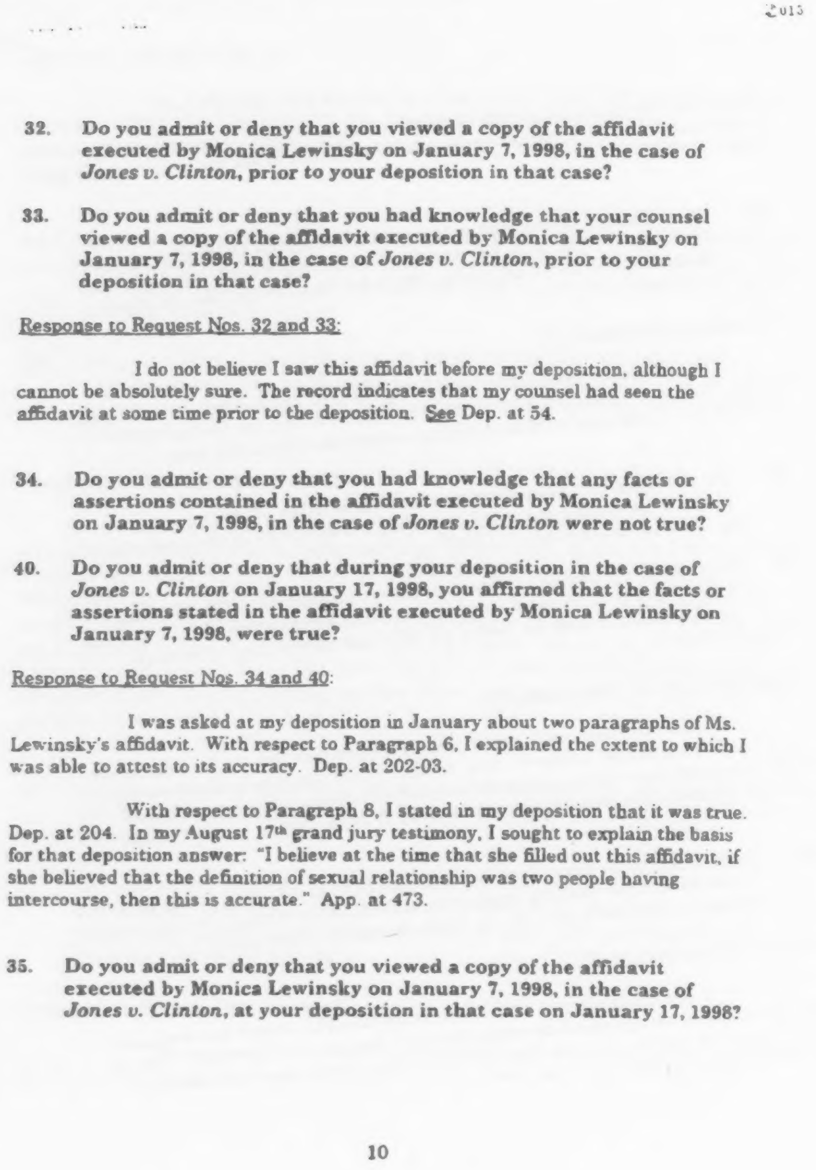
Response to Request Nos. 29 and 30:

As I testified to the grand jury, "I believe that [Mr. Jordan] did notify us" when she signed her affidavit. App. at 525. While I do not recall the timing, as I told the grand jury, I have no reason to doubt Mr. Jordan's statement that he notified me about the affidavit around January 7, 1998. Ibid.

31. **Do you admit or deny that on or about January 7, 1998, you had a discussion with Vernon Jordan in which he mentioned that he was assisting Monica Lewinsky in finding a job in New York?**

Response to Request No. 31:

I told the grand jury that I was aware that Mr. Jordan was assisting Ms. Lewinsky in her job search in connection with her move to New York. App. at 526. I have no recollection as to whether Mr. Jordan discussed it with me on or about January 7, 1998.



32. Do you admit or deny that you viewed a copy of the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton*, prior to your deposition in that case?

33. Do you admit or deny that you had knowledge that your counsel viewed a copy of the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton*, prior to your deposition in that case?

Response to Request Nos. 32 and 33:

I do not believe I saw this affidavit before my deposition, although I cannot be absolutely sure. The record indicates that my counsel had seen the affidavit at some time prior to the deposition. See Dep. at 54.

34. Do you admit or deny that you had knowledge that any facts or assertions contained in the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton* were not true?

40. Do you admit or deny that during your deposition in the case of *Jones v. Clinton* on January 17, 1998, you affirmed that the facts or assertions stated in the affidavit executed by Monica Lewinsky on January 7, 1998, were true?

Response to Request Nos. 34 and 40:

I was asked at my deposition in January about two paragraphs of Ms. Lewinsky's affidavit. With respect to Paragraph 6, I explained the extent to which I was able to attest to its accuracy. Dep. at 202-03.

With respect to Paragraph 8, I stated in my deposition that it was true. Dep. at 204. In my August 17th grand jury testimony, I sought to explain the basis for that deposition answer: "I believe at the time that she filled out this affidavit, if she believed that the definition of sexual relationship was two people having intercourse, then this is accurate." App. at 473.

35. Do you admit or deny that you viewed a copy of the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton*, at your deposition in that case on January 17, 1998?

36. **Do you admit or deny that you had knowledge that your counsel viewed a copy of the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton*, at your deposition in that case on January 17, 1998?**

Response to Request Nos. 35 and 36:

I know that Mr. Bennett saw Ms. Lewinsky's affidavit during the deposition because he read portions of it aloud at the deposition. See Dep. at 202. I do not recall whether I saw a copy of Ms. Lewinsky's affidavit during the deposition.

37. **Do you admit or deny that on or about January 9, 1998, you received a message from Vernon Jordan indicating that Monica Lewinsky had received a job offer in New York?**

Response to Request No. 37:

At some time, I learned that Ms. Lewinsky had received a job offer in New York. However, I do not recall whether I first learned it in a message from Mr. Jordan or whether I learned it on that date.

38. **Do you admit or deny that between January 9, 1998, and January 15, 1998, you had a conversation with Erskine Bowles in the Oval Office in which you stated that Monica Lewinsky received a job offer and had listed John Hilley as a reference?**

39. **Do you admit or deny that you asked Erskine Bowles if he would ask John Hilley to give Ms. Lewinsky a positive job recommendation?**

Response to Request Nos. 38 and 39:

As I testified to the grand jury, I recall at some point talking to Mr. Bowles "about whether Monica Lewinsky could get a recommendation that was not negative from the Legislative Affairs Office," or that "was at least neutral," although I am not certain of the date of the conversation. App. at 562-64. To suggest that I told Mr. Bowles that Ms. Lewinsky had received a job offer and had listed John Hilley as a reference is, as I testified, a "little bit" inconsistent with my memory. App. at 564. It is possible, as I also indicated, that she had identified Mr. Hilley as her supervisor on her resume and in that respect had already listed him as a reference. Ibid.

40. For the Response to Request No. 40, *see* Response to Request No. 34, *et al., supra*.

41. As to each, do you admit or deny that you gave the following gifts to Monica Lewinsky at any time in the past?

a. A lithograph
b. A hatpin
c. A large "Black Dog" canvas bag
d. A large "Rockettes" blanket
e. A pin of the New York skyline
f. A box of "cherry chocolates"
g. A pair of novelty sunglasses
h. A stuffed animal from the "Black Dog"
i. A marble bear's head
j. A London pin
k. A shamrock pin
l. An Annie Lennox compact disc
m. Davidoff cigars

Response to Request No. 41:

In my deposition in the *Jones* case, I testified that I "certainly . . . could have" given Ms. Lewinsky a hat pin and that I gave her "something" from the Black Dog. Dep. at 75-76. In my grand jury testimony, I indicated that in late December 1997, I gave Ms. Lewinsky a Canadian marble bear's head carving, a Rockettes blanket, some kind of pin, and a bag (perhaps from the Black Dog) to hold these objects. App. at 484-487. I also stated that I might have given her such gifts as a box of candy and sunglasses, although I did not recall doing so, and I specifically testified that I had given Ms. Lewinsky gifts on other occasions. App. at 487. I do not remember giving her the other gifts listed in Question 41, although I might have. As I have previously testified, I receive a very large number of gifts from many different people, sometimes several at a time. I also give a very large number of gifts. I gave Ms. Lewinsky gifts, some of which I remember and some of which I do not.

42. Do you admit or deny that when asked on January 17, 1998, in your deposition in the case of *Jones v. Clinton* if you had ever given gifts to Monica Lewinsky, you stated that you did not recall, even though you actually had knowledge of giving her gifts in addition to gifts from the "Black Dog"?

Response to Request No. 42:

In my grand jury testimony, I was asked about this same statement. I explained that my full response was "I don't recall. Do you know what they were?" By that answer, I did not mean to suggest that I did not recall giving gifts: rather, I meant that I did not recall what the gifts were, and I asked for reminders. See App. at 502-03.

43. Do you admit or deny that you gave false and misleading testimony under oath in your deposition in the case of *Jones v. Clinton* when you responded "once or twice" to the question "has Monica Lewinsky ever given you any gifts?"

Response to Request No. 43:

My testimony was not false and misleading. As I have testified previously, I give and receive numerous gifts. Before my January 17, 1998, deposition, I had not focused on the precise number of gifts Ms. Lewinsky had given me. App. at 495-98. My deposition testimony made clear that Ms. Lewinsky had given me gifts; at the deposition, I recalled "a book or two" and a tie. Dep. at 77. At the time, those were the gifts I recalled. In response to OIC inquiries, after I had had a chance to search my memory and refresh my recollection, I was able to be more responsive. However, as my counsel have informed the OIC, in light of the very large number of gifts I receive, there might still be gifts from Ms. Lewinsky that I have not identified.

44. Do you admit or deny that on January 17, 1998, at or about 5:38 p.m., after the conclusion of your deposition in the case of *Jones v. Clinton*, you telephoned Vernon Jordan at his home?

Response to Request No. 44:

I speak to Mr. Jordan frequently, so I cannot remember specific times and dates. According to White House records included in the OIC Referral, I telephoned Mr. Jordan's residence on January 17, 1998, at or about 5:38 p.m. App. at 2876.

45. Do you admit or deny that on January 17, 1998, at or about 7:02 p.m., after the conclusion of your deposition in the case of *Jones v. Clinton*, you telephoned Betty Currie at her home?

46. Do you admit or deny that on January 17, 1998, at or about 7:02 p.m., after the conclusion of your deposition in the case of *Jones v. Clinton*, you telephoned Vernon Jordan at his office?

47. Do you admit or deny that on January 17, 1998, at or about 7:13 p.m., after the conclusion of your deposition in the case of *Jones v. Clinton*, you telephoned Betty Currie at her home and asked her to meet with you the next day, Sunday, January 18, 1998?

Response to Request Nos. 45, 46 and 47:

According to White House records included in the OIC Referral, I placed a telephone call to Ms. Currie at her residence at 7:02 p.m. and spoke to her at or about 7:13 p.m. App. at 2877. I recall that when I spoke to her that evening, I asked if she could meet with me the following day. According to White House records included in the OIC Referral, I telephoned Mr. Jordan's office on January 17, 1998, at or about 7:02 p.m. Ibid.

48. Do you admit or deny that on January 18, 1998, at or about 6:11 a.m., you learned of the existence of tapes of conversations between Monica Lewinsky and Linda Tripp recorded by Linda Tripp?

Response to Request No. 48:

I did not know on January 18, 1998 that tapes existed of conversations between Ms. Lewinsky and Ms. Tripp recorded by Ms. Tripp. At some point on Sunday, January 18, 1998, I knew about the Drudge Report. I understand that, while the Report talked about tapes of phone conversations, it did not identify Ms. Lewinsky by name and did not mention Ms. Tripp at all. The Report did not state who the parties to the conversations were or who taped the conversations.

49. Do you admit or deny that on January 18, 1998, at or about 12:50 p.m., you telephoned Vernon Jordan at his home?

Response to Request No. 49:

According to White House records included in the OIC Referral, I telephoned Mr. Jordan's residence on January 18, 1998, at or about 12:50 p.m. App. at 2878.

50. Do you admit or deny that on January 18, 1998, at or about 1:11 p.m., you telephoned Betty Currie at her home?

Response to Request No. 50:

According to White House records included in the OIC Referral, I telephoned Ms. Currie's residence on January 18, 1998, at or about 1:11 p.m. App. at 2878.

51. Do you admit or deny that on January 18, 1998, at or about 2:55 p.m., you received a telephone call from Vernon Jordan?

Response to Request No. 51:

According to White House records included in the OIC Referral, Mr. Jordan telephoned me from his residence on January 18, 1998, at or about 2:55 p.m. App. at 2879.

52. Do you admit or deny that on January 18, 1998, at or about 5:00 p.m., you had a meeting with Betty Currie at which you made statements similar to any of the following regarding your relationship with Monica Lewinsky?

a. "You were always there when she was there, right? We were never really alone."
b. "You could see and hear everything."
c. "Monica came on to me, and I never touched her right?"
d. "She wanted to have sex with me and I couldn't do that."

Response to Request No. 52:

When I met with Ms. Currie, I believe that I asked her certain questions, in an effort to get as much information as quickly as I could, and made certain statements, although I do not remember exactly what I said. See App. at 508.

Some time later, I learned that the Office of Independent Counsel was involved and that Ms. Currie was going to have to testify before the grand jury. After learning this, I stated in my grand jury testimony, I told Ms. Currie, "Just relax, go in there and tell the truth." App. at 591.

53. Do you admit or deny that you had a conversation with Betty Currie within several days of January 18, 1998, in which you made statements similar to any of the following regarding your relationship with Monica Lewinsky?

a. "You were always there when she was there, right? We were never really alone."
b. "You could see and hear everything."
c. "Monica came on to me, and I never touched her right?"
d. "She wanted to have sex with me and I couldn't do that."

Response to Request No. 53:

I previously told the grand jury that, "I don't know that I" had another conversation with Ms. Currie within several days of January 18, 1998, in which I made statements similar to those quoted above. "I remember having this [conversation] one time." App. at 592. I further explained, "I do not remember how many times I talked to Betty Currie or when. I don't. I can't possibly remember that. I do remember, when I first heard about this story breaking, trying to ascertain what the facts were, trying to ascertain what Betty's perception was. I remember that I was highly agitated, understandably, I think." App. at 593.

I understand that Ms. Currie has said a second conversation occurred the next day that I was in the White House (when she was), Supp. at 535-36, which would have been Tuesday, January 20, before I knew about the grand jury investigation.

54. Do you admit or deny that on January 18, 1998, at or about 11:02 p.m., you telephoned Betty Currie at her home?

Response to Request No. 54:

According to White House records included in the OIC Referral, I called Ms. Currie's residence on January 18, 1998, at or about 11:02 p.m. App. at 2881.

55. Do you admit or deny that on Monday, January 19, 1998, at or about 8:50 a.m., you telephoned Betty Currie at her home?

Response to Request No. 55:

According to White House records included in the OIC Referral, I called Ms. Currie's residence on January 19, 1998, at or about 8:50 a.m. App. at 3147.

56. Do you admit or deny that on Monday, January 19, 1998, at or about 8:56 a.m., you telephoned Vernon Jordan at his home?

Response to Request No. 56:

According to White House records included in the OIC Referral, I called Mr. Jordan's residence on January 19, 1998, at or about 8:56 a.m. App. at 2864.

57. Do you admit or deny that on Monday, January 19, 1998, at or about 10:58 a.m., you telephoned Vernon Jordan at his office?

Response to Request No. 57:

According to White House records included in the OIC Referral, I called Mr. Jordan's office on January 19, 1998, at or about 10:58 a.m. App. at 2883.

58. Do you admit or deny that on Monday, January 19, 1998, at or about 1:45 p.m., you telephoned Betty Currie at her home?

Response to Request No. 58:

According to White House records included in the OIC Referral, I called Ms. Currie's residence on January 19, 1998, at or about 1:45 p.m. App. at 2883.

59. Do you admit or deny that on Monday, January 19, 1998, at or about 2:44 p.m., you met with individuals including Vernon Jordan, Erskine Bowles, Bruce Lindsey, Cheryl Mills, Charles Ruff, and Rahm Emanuel?

60. Do you admit or deny that on Monday, January 19, 1998, at or about 2:44 p.m., at any meeting with Vernon Jordan, Erskine Bowles, Bruce Lindsey, Cheryl Mills, Charles Ruff, Rahm Emanuel, and others, you

discussed the existence of tapes of conversations between Monica Lewinsky and Linda Tripp recorded by Linda Tripp, or any other matter related to Monica Lewinsky?

Response to Request Nos. 59 and 60:

I do not believe such a meeting occurred. White House records included in the OIC Referral indicate that Mr. Jordan entered the White House complex that day at 2:44 p.m. Supp. at 1995. According to Mr. Jordan's testimony, he and I met alone in the Oval Office for about 15 minutes. Supp. at 1763 (grand jury testimony of Vernon Jordan).

I understand that Mr. Jordan testified that we discussed Ms. Lewinsky at that meeting and also the Drudge Report, in addition to other matters. Supp. at 1763. Please also see my Response to Request No. 48, supra.

61. **Do you admit or deny that on Monday, January 19, 1998, at or about 5:56 p.m., you telephoned Vernon Jordan at his office?**

Response to Request No. 61:

According to White House records included in the OIC Referral, I called Mr. Jordan's office on January 19, 1998, at or about 5:56 p.m. App. at 2883.

62. **Do you admit or deny that on January 21, 1998, the day the Monica Lewinsky story appeared for the first time in the *Washington Post*, you had a conversation with Sidney Blumenthal, in which you stated that you rebuffed alleged advances from Monica Lewinsky and in which you made a statement similar to the following?: "Monica Lewinsky came at me and made a sexual demand on me."**

63. **Do you admit or deny that on January 21, 1998, the day the Monica Lewinsky story appeared for the first time in the *Washington Post*, you had a conversation with Sidney Blumenthal, in which you made a statement similar to the following in response to a question about your conduct with Monica Lewinsky?: "I haven't done anything wrong."**

64. **Do you admit or deny that on January 21, 1998, the day the Monica Lewinsky story appeared for the first time in the *Washington Post*, you had a conversation with Erskine Bowles, Sylvia Matthews and John Podesta, in which you made a statement similar to the**

following?: "I want you to know I did not have sexual relationships with this woman Monica Lewinsky. I did not ask anybody to lie. And when the facts come out, you'll understand."

65. Do you admit or deny than on or about January 23, 1998, you had a conversation with John Podesta, in which you stated that you had never had an affair with Monica Lewinsky?

66. Do you admit or deny that on or about January 23, 1998, you had a conversation with John Podesta, in which you stated that you were not alone with Monica Lewinsky in the Oval Office, and that Betty Currie was either in your presence or outside your office with the door open while you were visiting with Monica Lewinsky?

67. Do you admit or deny that on or about January 26, 1998, you had a conversation with Harold Ickes, in which you made statements to the effect that you did not have an affair with Monica Lewinsky?

68. Do you admit or deny that on or about January 26, 1998, you had a conversation with Harold Ickes, in which you made statements to the effect that you had not asked anyone to change their story, suborn perjury or obstruct justice if called to testify or otherwise respond to a request for information from the Office of Independent Counsel or in any other legal proceeding?

Responses to Requests Nos. 62 – 68:

As I have previously acknowledged, I did not want my family, friends, or colleagues to know the full nature of my relationship with Ms. Lewinsky. In the days following the January 21, 1998, Washington Post article, I misled people about this relationship. I have repeatedly apologized for doing so.

69. Do you admit or deny that on or about January 21, 1998, you and Richard "Dick" Morris discussed the possibility of commissioning a poll to determine public opinion following the *Washington Post* story regarding the Monica Lewinsky matter?

70. Do you admit or deny that you had a later conversation with Richard "Dick" Morris in which he stated that the polling results regarding the Monica Lewinsky matter suggested that the American people would forgive you for adultery but not for perjury or obstruction of justice?

71. **Do you admit or deny that you responded to Richard "Dick" Morris's explanation of these polling results by making a statement similar to the following: "[w]ell, we just have to win, then"?**

Response to Request Nos. 69, 70 and 71:

At some point after the OIC investigation became public, Dick Morris volunteered to conduct a poll on the charges reported in the press. He later called back. What I recall is that he said the public was most concerned about obstruction of justice or subornation of perjury. I do not recall saying, "Well, we just have to win then."

72. **Do you admit or deny the past or present existence of or the past or present direct or indirect employment of individuals, other than counsel representing you, whose duties include making contact with or gathering information about witnesses or potential witnesses in any judicial proceeding related to any matter in which you are or could be involved?**

Response to Request No. 72:

I cannot respond to this inquiry because of the vagueness of its terms (e.g., "indirect," "potential," "could be involved"). To the extent it may be interpreted to apply to individuals assisting counsel, please see my responses to Request Nos. 73-75, infra. To the extent the inquiry addresses specific individuals, as in Request Nos. 73-75, infra, I have responded and stand ready to respond to any other specific inquiries.

73. **Do you admit or deny having knowledge that Terry Lenzner was contacted or employed to make contact with or gather information about witnesses or potential witnesses in any judicial proceeding related to any matter in which you are or could be involved?**

Response to Request No. 73:

My counsel stated publicly on February 24, 1998, that Mr. Terry Lenzner and his firm have been retained since April 1994 by two private law firms that represent me. It is commonplace for legal counsel to retain such firms to perform legal and appropriate tasks to assist in the defense of clients. See also Response to No. 72.

74. Do you admit or deny having knowledge that Jack Palladino was contacted or employed to make contact with or gather information about witnesses or potential witnesses in any judicial proceeding related to any matter in which you are or could be involved?

Response to Request No. 74:

My understanding is that during the 1992 Presidential Campaign, Mr. Jack Palladino was retained to assist legal counsel for me and the Campaign on a variety of matters arising during the Campaign. See also Response to No. 72.

75. Do you admit or deny having knowledge that Betsy Wright was contacted or employed to make contact with or gather information about witnesses or potential witnesses in any judicial proceeding related to any matter in which you are or could be involved?

Response to Request No. 75:

Ms. Betsey Wright was my long-time chief of staff when I was Governor of Arkansas, and she remains a good friend and trusted advisor. Because of her great knowledge of Arkansas, from time to time my legal counsel and I have consulted with her on a wide range of matters. See also Response to No. 72.

76. Do you admit or deny that you made false and misleading public statements in response to questions asked on or about January 21, 1998, in an interview with Roll Call, when you stated "Well, let me say, the relationship was not improper, and I think that's important enough to say. But because the investigation is going on and because I don't know what is out – what's going to be asked of me, I think I need to cooperate, answer the questions, but I think it's important for me to make it clear what is not. And then, at the appropriate time, I'll try to answer what is. But let me answer – it is not an improper relationship and I know what the word means."?

Response to Request No. 76:

The tape of this interview reflects that in fact I said: "Well, let me say the relationship's not improper and I think that's important enough to say . . ." With that revision, the quoted words accurately reflect my remarks. As I stated in Response to Request Nos. 62 to 68, in the days following the January 21, 1998, disclosures, I misled people about this relationship, for which I have apologized.

77. **Do you admit or deny that you made false and misleading public statements in response to questions asked on or about January 21, 1998, in the Oval Office during a photo opportunity, when you stated "Now, there are a lot of other questions that are, I think, very legitimate. You have a right to ask them; you and the American people have a right to get answers. We are working very hard to comply and get all the requests for information up here, and we will give you as many answers as we can, as soon as we can, at the appropriate time, consistent with our obligation to also cooperate with the investigations. And that's not a dodge, that's really [what] I've – I've talked with [our] people. I want to do that. I'd like for you to have more rather than less, sooner rather than later. So we'll work through it as quickly as we can and get all those questions out there to you."?**

Response to Request No. 77:

I made this statement (as corrected), according to a transcript of a January 22, 1998 photo opportunity in the Oval Office. This statement was not false and misleading. It accurately represented my thinking.

78. **Do you admit or deny that you discussed with Harry Thomasson, prior to making public statements in response to questions asked by the press in January, 1998, relating to your relationship with Monica Lewinsky, what such statements should be or how they should be communicated?**

Response to Request No. 78:

Mr. Thomason was a guest at the White House in January 1998, and I recall his encouraging me to state my denial forcefully.

79. **Do you admit or deny that you made a false and misleading public statement in response to a question asked on or about January 26, 1998, when you stated "But I want to say one thing to the American people. I want you to listen to me. I'm going to say this again. I did not have sexual relations with that woman, Ms. Lewinsky?"**

Response to Request No. 79:

I made this statement on January 26, 1998, although not in response to any question. In referring to "sexual relations", I was referring to sexual intercourse. See also App. at 475. As I stated in Response to Request Nos. 62 to 68, in the days following the January 21, 1998, disclosures, answers like this misled people about this relationship, for which I have apologized.

80. Do you admit or deny that you made a false and misleading public statement in response to a question asked on or about January 26, 1998, when you stated "...I never told anybody to lie, not a single time. Never?"

Response to Request No. 80:

This statement was truthful: I did not tell Ms. Lewinsky to lie, and I did not tell anybody to lie about my relationship with Ms. Lewinsky. I understand that Ms. Lewinsky also has stated that I never asked or encouraged her to lie. See App. at 718 (2/1/98 handwritten proffer of Ms. Lewinsky); see also App. at 1161 (grand jury testimony of Ms. Lewinsky).

81. Do you admit or deny that you directed or instructed Bruce Lindsey, Sidney Blumenthal, Nancy Hernreich and Lanny Breuer to invoke executive privilege before a grand jury empanelled as part of a judicial proceeding by the United States District Court for the District of Columbia Circuit in 1998?

Response to Request No. 81:

On the recommendation of Charles Ruff, Counsel to the President, I authorized Mr. Ruff to assert the presidential communications privilege (which is one aspect of executive privilege) with respect to questions that might be asked of witnesses called to testify before the grand jury to the extent that those questions sought disclosure of matters protected by that privilege. Thereafter, I understand that the presidential communications privilege was asserted as to certain questions asked of Sidney Blumenthal and Nancy Hernreich. Further, I understand that, as to Mr. Blumenthal and Ms. Hernreich, all claims of official privilege were subsequently withdrawn and they testified fully on several occasions before the grand jury.

Mr. Lindsey and Mr. Breuer testified at length before the grand jury about a wide range of matters, but declined, on the advice of the White House Counsel, to answer certain questions that sought disclosure of discussions that they had with me and my senior advisors concerning, among other things, their legal advice as to the assertion of executive privilege. White House Counsel advised Mr. Lindsey and Mr. Breuer that these communications were protected by the attorney-

client privilege, as well as executive privilege. Mr. Lindsey also asserted my personal attorney-client privilege as to certain questions relating to his role as an intermediary between me and my personal counsel in the Jones v. Clinton case, a privilege that was upheld by the federal appeals court in the District of Columbia.

William J. Clinton
WILLIAM JEFFERSON CLINTON

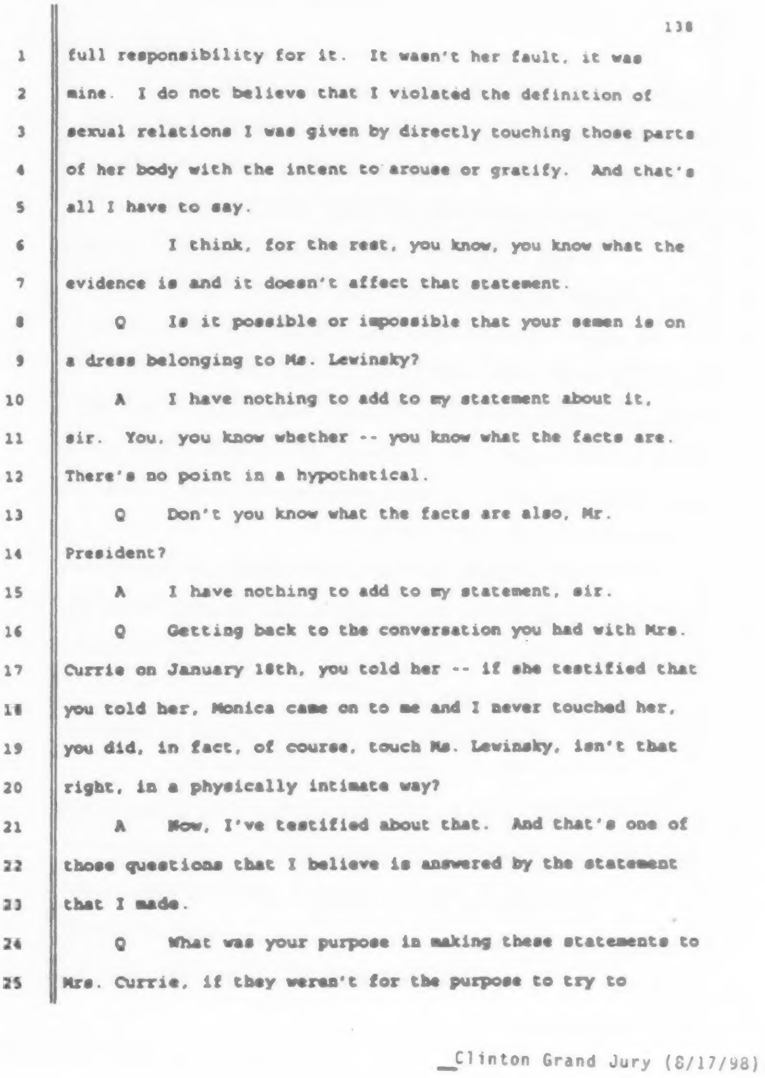
Subscribed and sworn to before me
this 27th day of November, 1998.

Moira K. Ricketts
Notary Public

MOIRA K. RICKETTS
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires February 28, 2003

[Exhibit 19]

690



full responsibility for it. It wasn't her fault, it was mine. I do not believe that I violated the definition of sexual relations I was given by directly touching those parts of her body with the intent to arouse or gratify. And that's all I have to say.

I think, for the rest, you know, you know what the evidence is and it doesn't affect that statement.

Q Is it possible or impossible that your semen is on a dress belonging to Ms. Lewinsky?

A I have nothing to add to my statement about it, sir. You, you know whether -- you know what the facts are. There's no point in a hypothetical.

Q Don't you know what the facts are also, Mr. President?

A I have nothing to add to my statement, sir.

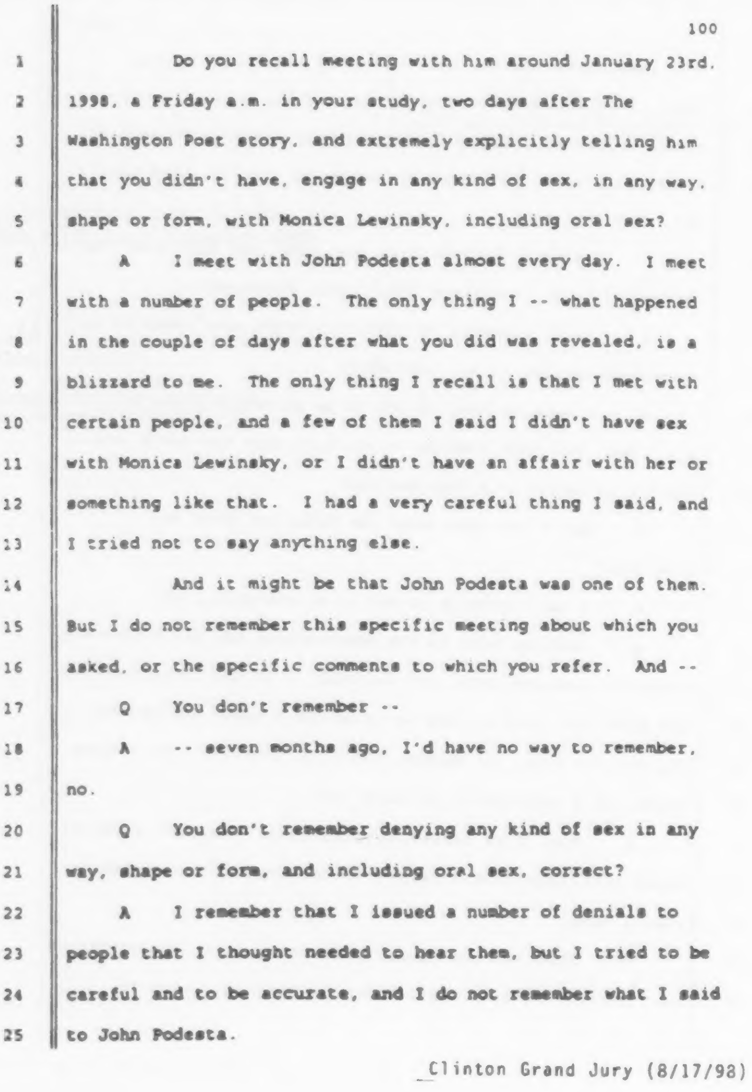
Q Getting back to the conversation you had with Mrs. Currie on January 18th, you told her -- if she testified that you told her, Monica came on to me and I never touched her, you did, in fact, of course, touch Ms. Lewinsky, isn't that right, in a physically intimate way?

A Now, I've testified about that. And that's one of those questions that I believe is answered by the statement that I made.

Q What was your purpose in making these statements to Mrs. Currie, if they weren't for the purpose to try to

[EXHIBIT 20]

552



100

Do you recall meeting with him around January 23rd, 1998, a Friday a.m. in your study, two days after The Washington Post story, and extremely explicitly telling him that you didn't have, engage in any kind of sex, in any way, shape or form, with Monica Lewinsky, including oral sex?

A I meet with John Podesta almost every day. I meet with a number of people. The only thing I -- what happened in the couple of days after what you did was revealed, is a blizzard to me. The only thing I recall is that I met with certain people, and a few of them I said I didn't have sex with Monica Lewinsky, or I didn't have an affair with her or something like that. I had a very careful thing I said, and I tried not to say anything else.

And it might be that John Podesta was one of them. But I do not remember this specific meeting about which you asked, or the specific comments to which you refer. And --

Q You don't remember --

A -- seven months ago, I'd have no way to remember, no.

Q You don't remember denying any kind of sex in any way, shape or form, and including oral sex, correct?

A I remember that I issued a number of denials to people that I thought needed to hear them, but I tried to be careful and to be accurate, and I do not remember what I said to John Podesta.

Clinton Grand Jury (8/17/98)

sexual relationship with Monica Lewinsky to those individuals?

A I recall telling a number of those people that I didn't have, either I didn't have an affair with Monica Lewinsky or didn't have sex with her. And I believe, sir, that -- you'll have to ask them what they thought. But I was using those terms in the normal way people use them. You'll have to ask them what they thought I was saying.

Q If they testified that you denied sexual relations or relationship with Monica Lewinsky, or if they told us that you denied that, do you have any reason to doubt them, in the days after the story broke; do you have any reason to doubt them?

A No. The -- let me say this. It's no secret to anybody that I hoped that this relationship would never become public. It's a matter of fact that it had been many, many months since there had been anything improper about it, in terms of improper contact. I --

Q Did you deny it to them or not, Mr. President?

A Let me finish. So, what -- I did not want to mislead my friends, but I wanted to find language where I could say that. I also, frankly, did not want to turn any of them into witnesses, because I -- and, sure enough, they all became witnesses.

Q Well, you knew they might be --

A And so --

Q -- witnesses, didn't you?

A And so I said to them things that were true about this relationship. That I used -- in the language I used, I said, there's nothing going on between us. That was true. I said, I have not had sex with her as I defined it. That was true. And did I hope that I would never have to be here on this day giving this testimony? Of course.

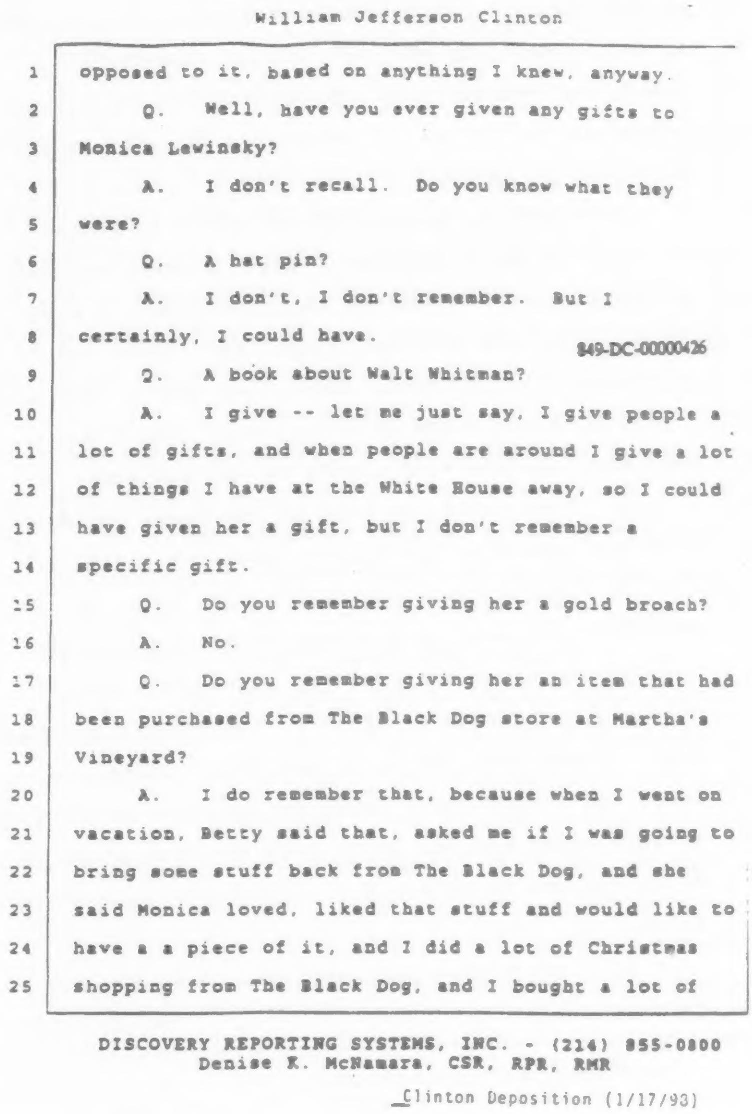
But I also didn't want to do anything to complicate this matter further. So, I said things that were true. They may have been misleading, and if they were I have to take responsibility for it, and I'm sorry.

Q It may have been misleading, sir, and you knew though, after January 21st when the Post article broke and said that Judge Starr was looking into this, you knew that they might be witnesses. You knew that they might be called into a grand jury, didn't you?

A That's right. I think I was quite careful what I said after that. I may have said something to all these people to that effect, but I'll also -- whenever anybody asked me any details, I said, look, I don't want you to be a witness or I turn you into a witness or give you information that could get you in trouble. I just wouldn't talk. I, by and large, didn't talk to people about this.

Q If all of these people -- let's leave out Mrs.

[Exhibit 21]



William Jefferson Clinton

opposed to it, based on anything I knew, anyway.

Q. Well, have you ever given any gifts to Monica Lewinsky?

A. I don't recall. Do you know what they were?

Q. A hat pin?

A. I don't, I don't remember. But I certainly, I could have.

849-DC-00000426

Q. A book about Walt Whitman?

A. I give -- let me just say, I give people a lot of gifts, and when people are around I give a lot of things I have at the White House away, so I could have given her a gift, but I don't remember a specific gift.

Q. Do you remember giving her a gold broach?

A. No.

Q. Do you remember giving her an item that had been purchased from The Black Dog store at Martha's Vineyard?

A. I do remember that, because when I went on vacation, Betty said that, asked me if I was going to bring some stuff back from The Black Dog, and she said Monica loved, liked that stuff and would like to have a a piece of it, and I did a lot of Christmas shopping from The Black Dog, and I bought a lot of

DISCOVERY REPORTING SYSTEMS, INC. - (214) 855-0800
Denise K. McNamara, CSR, RPR, RMR

Clinton Deposition (1/17/93)

things for a lot of people, and I gave Betty a couple of the pieces, and she gave I think something to Monica and something to some of the other girls who worked in the office. I remember that because Betty mentioned it to me.

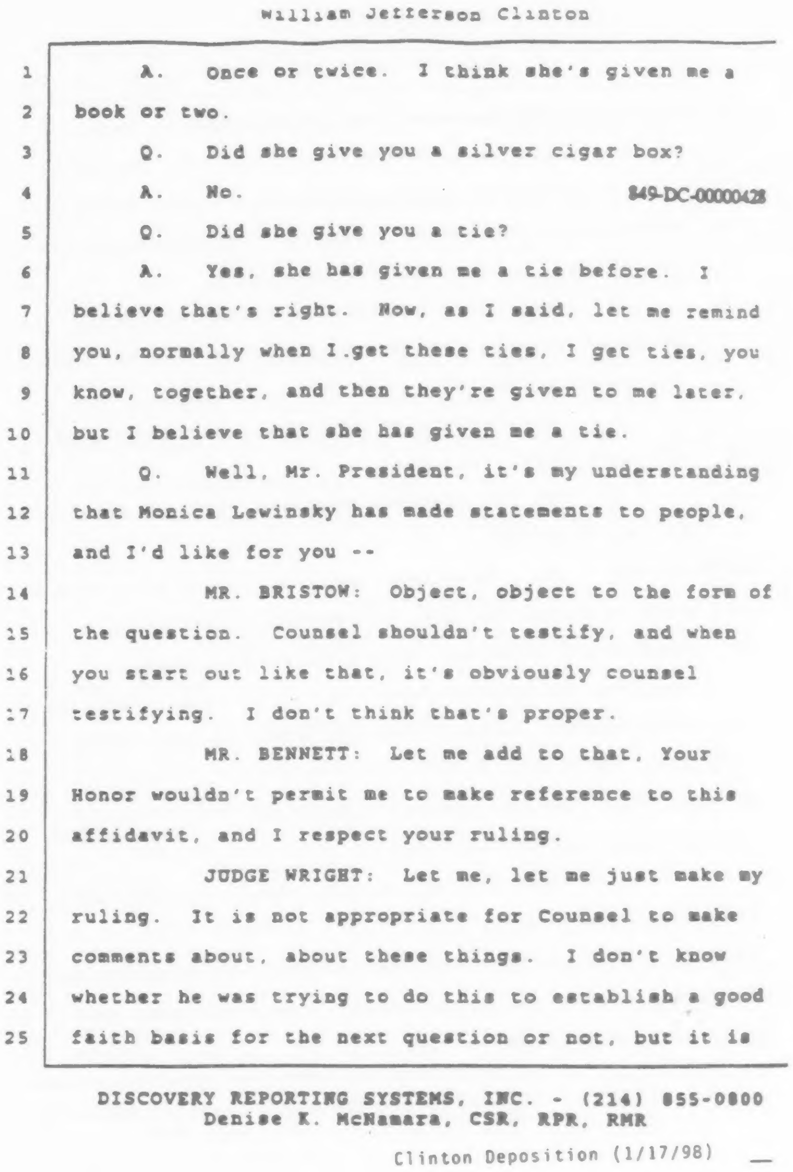
Q. What in particular was given to Monica?

A. I don't remember. I got a whole bag full of things that I bought at The Black Dog. I went there, they gave me some things, and I went and purchased a lot at their store, and when I came back I gave a, a big block of it to Betty, and I don't know what she did with it all or who got what.

Q. But while you were in the store you did pick out something for Monica, correct?

A. While I was in the store -- first of all, The Black Dog sent me a selection of things. Then I went to the store and I bought some other things, t-shirts, sweatshirts, shirts. Then when I got back home, I took out a thing or two that I wanted to keep, and I took out a thing or two I wanted to give to some other people, and I gave the rest of it to Betty and she distributed it. That's what I remember doing.

Q. Has Monica Lewinsky ever given you any gifts?



A. Once or twice. I think she's given me a book or two.

Q. Did she give you a silver cigar box?

A. No.

Q. Did she give you a tie?

A. Yes, she has given me a tie before. I believe that's right. Now, as I said, let me remind you, normally when I get these ties, I get ties, you know, together, and then they're given to me later, but I believe that she has given me a tie.

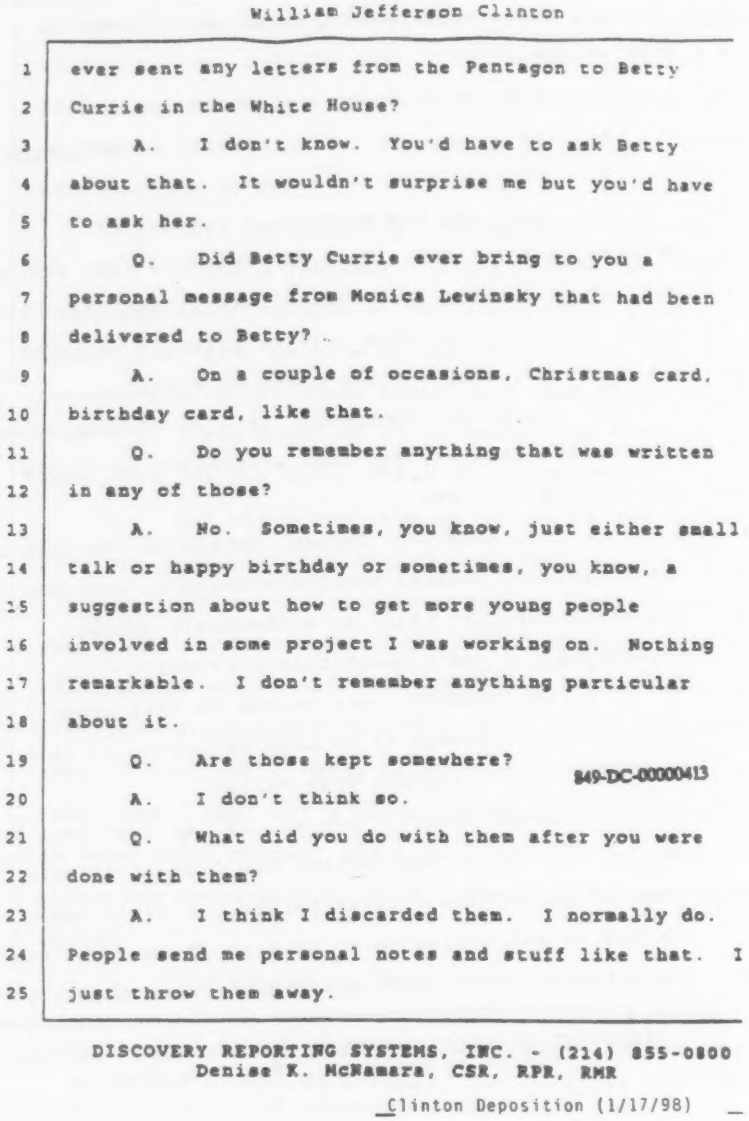
Q. Well, Mr. President, it's my understanding that Monica Lewinsky has made statements to people, and I'd like for you --

MR. BRISTOW: Object, object to the form of the question. Counsel shouldn't testify, and when you start out like that, it's obviously counsel testifying. I don't think that's proper.

MR. BENNETT: Let me add to that, Your Honor wouldn't permit me to make reference to this affidavit, and I respect your ruling.

JUDGE WRIGHT: Let me, let me just make my ruling. It is not appropriate for Counsel to make comments about, about these things. I don't know whether he was trying to do this to establish a good faith basis for the next question or not, but it is

[EXHIBIT 22]



William Jefferson Clinton

ever sent any letters from the Pentagon to Betty Currie in the White House?

A. I don't know. You'd have to ask Betty about that. It wouldn't surprise me but you'd have to ask her.

Q. Did Betty Currie ever bring to you a personal message from Monica Lewinsky that had been delivered to Betty?

A. On a couple of occasions, Christmas card, birthday card, like that.

Q. Do you remember anything that was written in any of those?

A. No. Sometimes, you know, just either small talk or happy birthday or sometimes, you know, a suggestion about how to get more young people involved in some project I was working on. Nothing remarkable. I don't remember anything particular about it.

Q. Are those kept somewhere?

A. I don't think so.

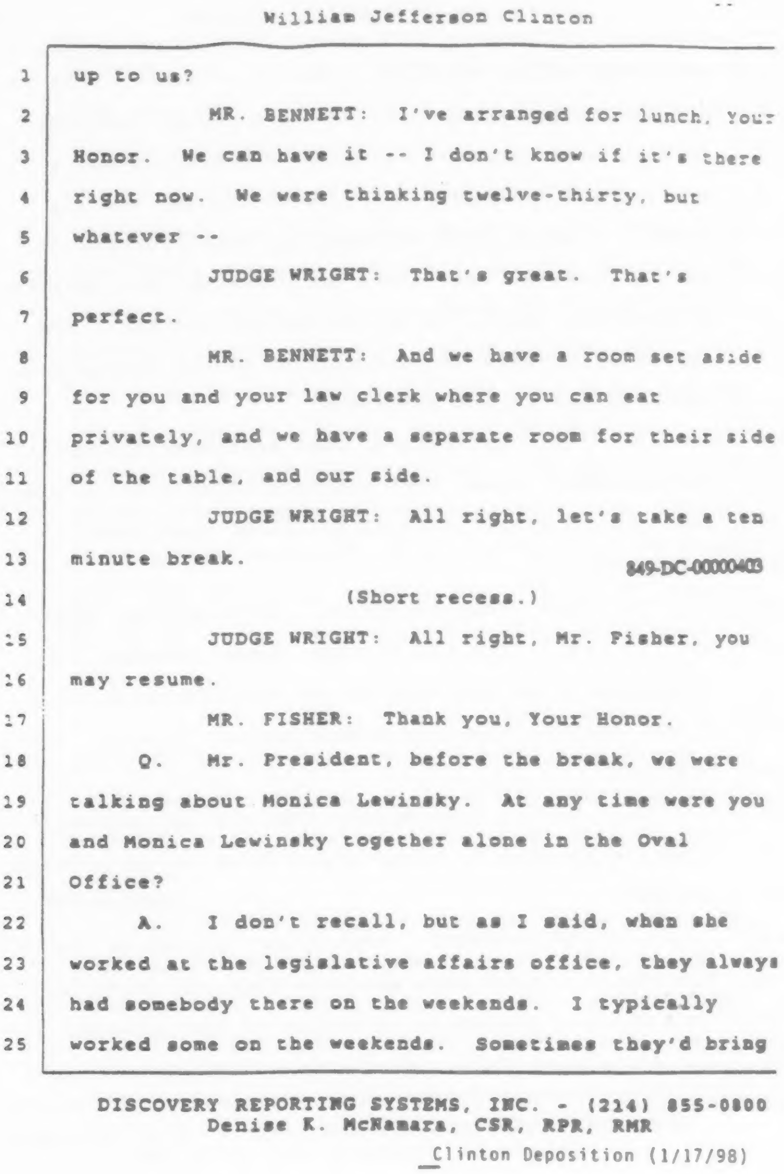
Q. What did you do with them after you were done with them?

A. I think I discarded them. I normally do. People send me personal notes and stuff like that. I just throw them away.

849-DC-00000413

DISCOVERY REPORTING SYSTEMS, INC. - (214) 855-0800
Denise K. McNamara, CSR, RPR, RMR

Clinton Deposition (1/17/98)



up to us?

MR. BENNETT: I've arranged for lunch, Your Honor. We can have it -- I don't know if it's there right now. We were thinking twelve-thirty, but whatever --

JUDGE WRIGHT: That's great. That's perfect.

MR. BENNETT: And we have a room set aside for you and your law clerk where you can eat privately, and we have a separate room for their side of the table, and our side.

JUDGE WRIGHT: All right, let's take a ten minute break.

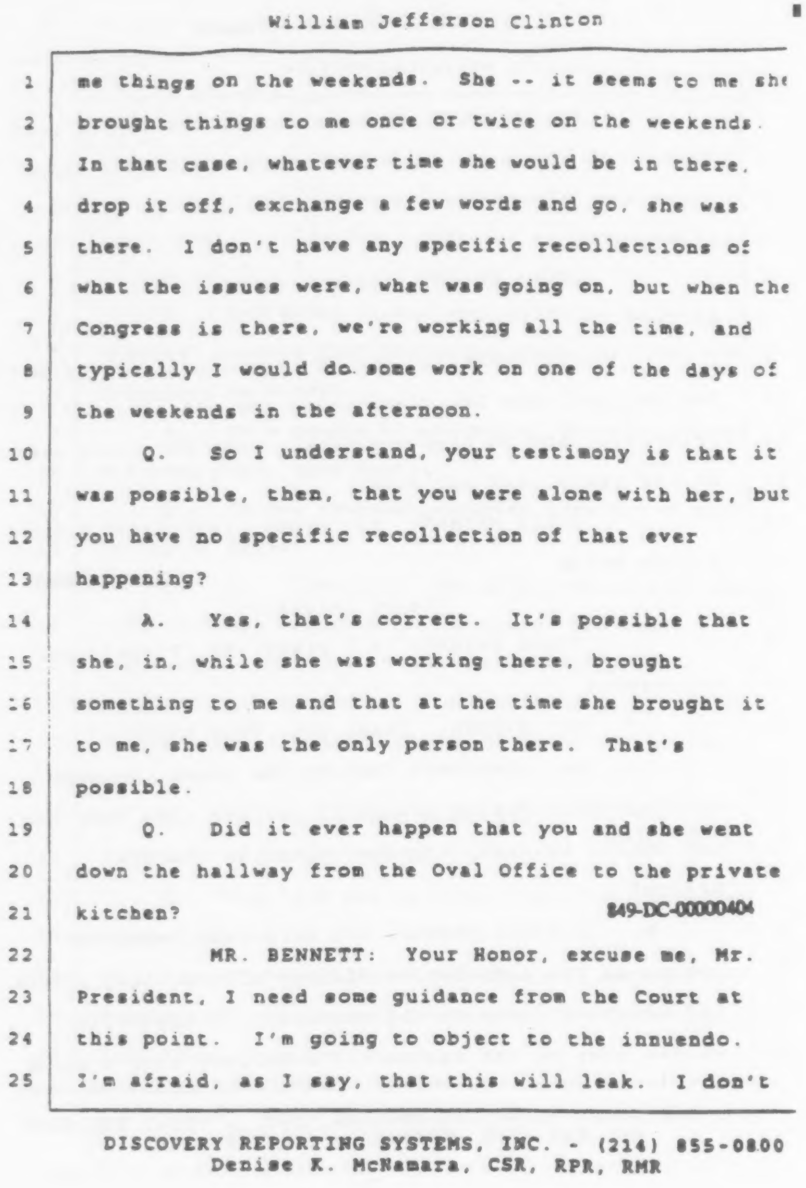
(Short recess.)

JUDGE WRIGHT: All right, Mr. Fisher, you may resume.

MR. FISHER: Thank you, Your Honor.

Q. Mr. President, before the break, we were talking about Monica Lewinsky. At any time were you and Monica Lewinsky together alone in the Oval Office?

A. I don't recall, but as I said, when she worked at the legislative affairs office, they always had somebody there on the weekends. I typically worked some on the weekends. Sometimes they'd bring



me things on the weekends. She -- it seems to me she brought things to me once or twice on the weekends. In that case, whatever time she would be in there, drop it off, exchange a few words and go, she was there. I don't have any specific recollections of what the issues were, what was going on, but when the Congress is there, we're working all the time, and typically I would do some work on one of the days of the weekends in the afternoon.

Q. So I understand, your testimony is that it was possible, then, that you were alone with her, but you have no specific recollection of that ever happening?

A. Yes, that's correct. It's possible that she, in, while she was working there, brought something to me and that at the time she brought it to me, she was the only person there. That's possible.

Q. Did it ever happen that you and she went down the hallway from the Oval Office to the private kitchen?

MR. BENNETT: Your Honor, excuse me, Mr. President, I need some guidance from the Court at this point. I'm going to object to the innuendo. I'm afraid, as I say, that this will leak. I don't kitchen, it's a little cubbyhole, and these guys keep the door open. They come and go at will. Now that's the factual background here.

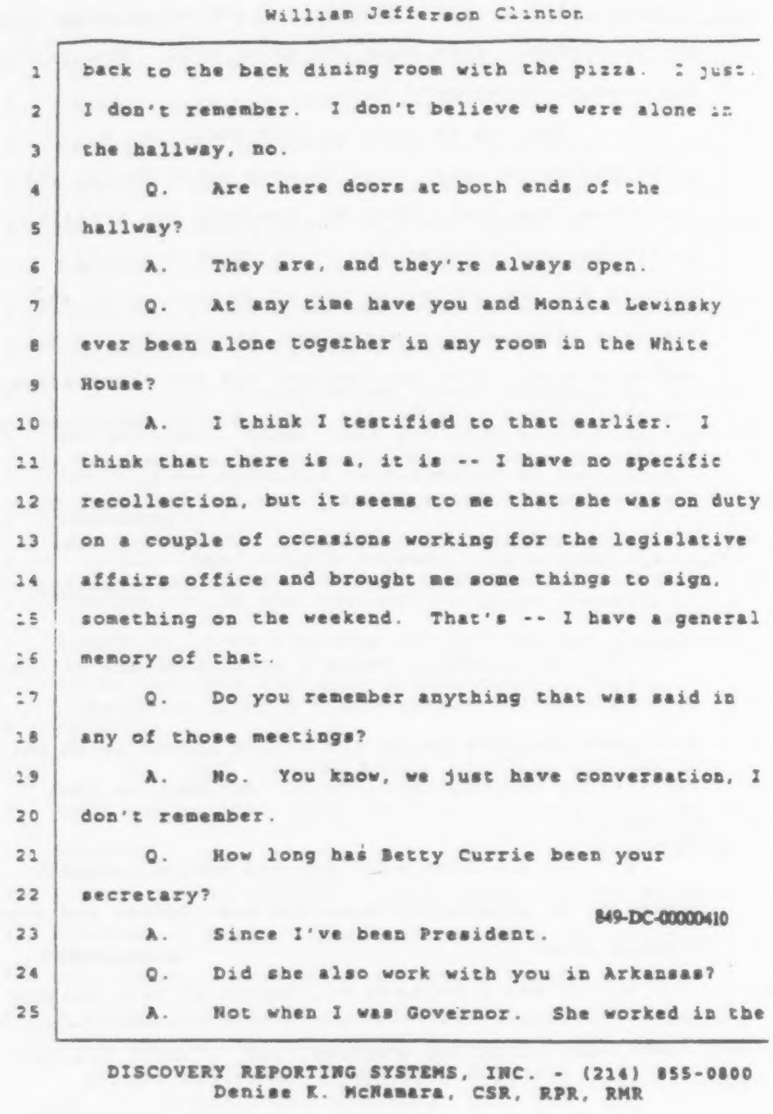
Now, to go back to your question, my recollection is that, that at some point during the government shutdown, when Ms. Lewinsky was still an intern but was working the chief staff's office because all the employees had to go home, that she was back there with a pizza that she brought to me and to others. I do not believe she was there alone, however. I don't think she was. And my recollection is that on a couple of occasions after that she was there but my secretary, Betty Currie, was there with her. She and Betty are friends. That's my, that's my recollection. And I have no other recollection of that.

MR. FISHER: While I appreciate all of that information, for the record I'm going to object. It's nonresponsive as to the entire answer up to the point where the deponent, said, "Now back to your question."

Q. At any time were you and Monica Lewinsky alone in the hallway between the Oval Office and this kitchen area?

A. I don't believe so, unless we were walking

[EXHIBIT 23]



back to the back dining room with the pizza. I just. I don't remember. I don't believe we were alone in the hallway, no.

Q. Are there doors at both ends of the hallway?

A. They are, and they're always open.

Q. At any time have you and Monica Lewinsky ever been alone together in any room in the White House?

A. I think I testified to that earlier. I think that there is a, it is -- I have no specific recollection, but it seems to me that she was on duty on a couple of occasions working for the legislative affairs office and brought me some things to sign, something on the weekend. That's -- I have a general memory of that.

Q. Do you remember anything that was said in any of those meetings?

A. No. You know, we just have conversation, I don't remember.

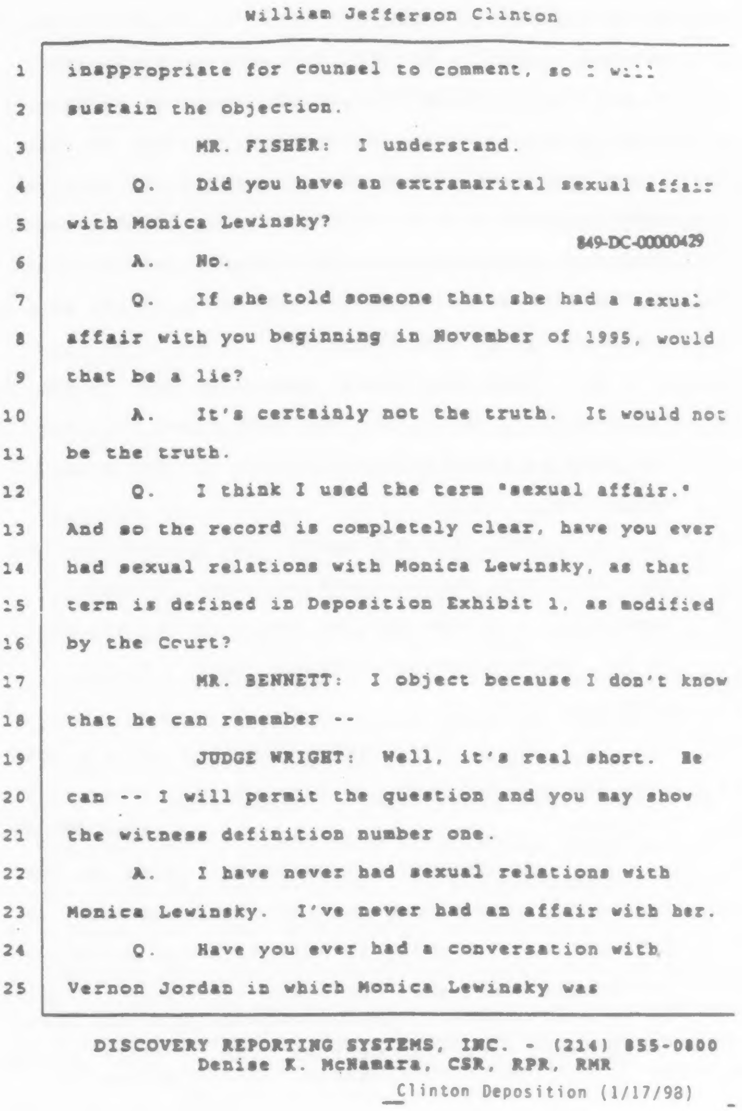
Q. How long has Betty Currie been your secretary?

A. Since I've been President.

Q. Did she also work with you in Arkansas?

A. Not when I was Governor. She worked in the

[Exhibit 24]



William Jefferson Clinton

inappropriate for counsel to comment, so I will sustain the objection.

MR. FISHER: I understand.

Q. Did you have an extramarital sexual affair with Monica Lewinsky?

849-DC-00000429

A. No.

Q. If she told someone that she had a sexual affair with you beginning in November of 1995, would that be a lie?

A. It's certainly not the truth. It would not be the truth.

Q. I think I used the term "sexual affair." And so the record is completely clear, have you ever had sexual relations with Monica Lewinsky, as that term is defined in Deposition Exhibit 1, as modified by the Court?

MR. BENNETT: I object because I don't know that he can remember --

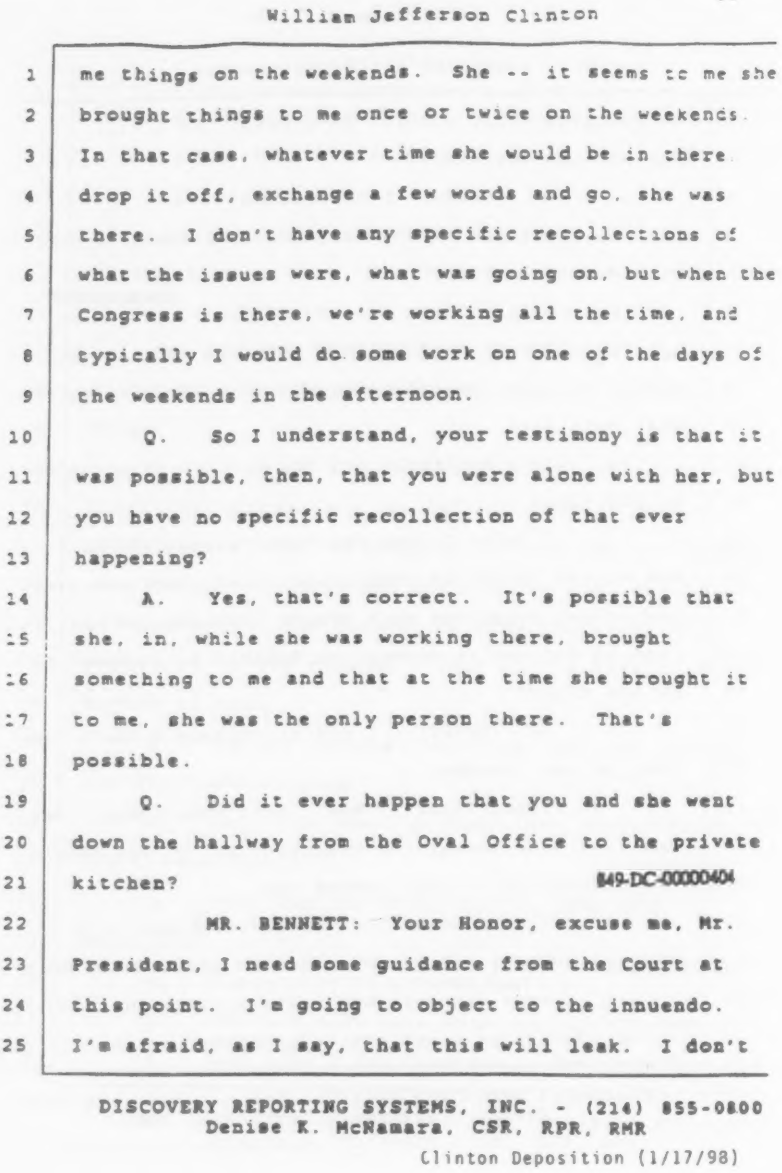
JUDGE WRIGHT: Well, it's real short. He can -- I will permit the question and you may show the witness definition number one.

A. I have never had sexual relations with Monica Lewinsky. I've never had an affair with her.

Q. Have you ever had a conversation with Vernon Jordan in which Monica Lewinsky was

DISCOVERY REPORTING SYSTEMS, INC. - (214) 855-0800
Denise K. McNamara, CSR, RPR, RMR

Clinton Deposition (1/17/98)



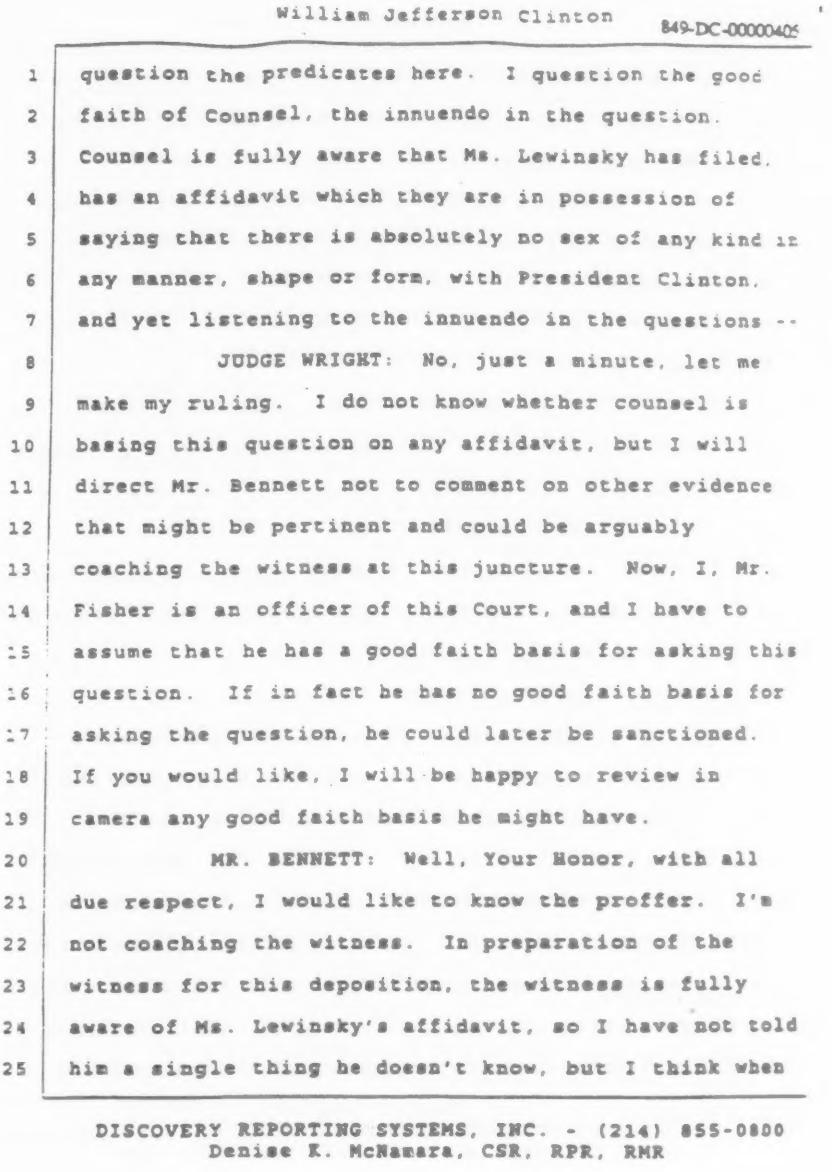
me things on the weekends. She -- it seems to me she brought things to me once or twice on the weekends. In that case, whatever time she would be in there drop it off, exchange a few words and go, she was there. I don't have any specific recollections of what the issues were, what was going on, but when the Congress is there, we're working all the time, and typically I would do some work on one of the days of the weekends in the afternoon.

Q. So I understand, your testimony is that it was possible, then, that you were alone with her, but you have no specific recollection of that ever happening?

A. Yes, that's correct. It's possible that she, in, while she was working there, brought something to me and that at the time she brought it to me, she was the only person there. That's possible.

Q. Did it ever happen that you and she went down the hallway from the Oval Office to the private kitchen?

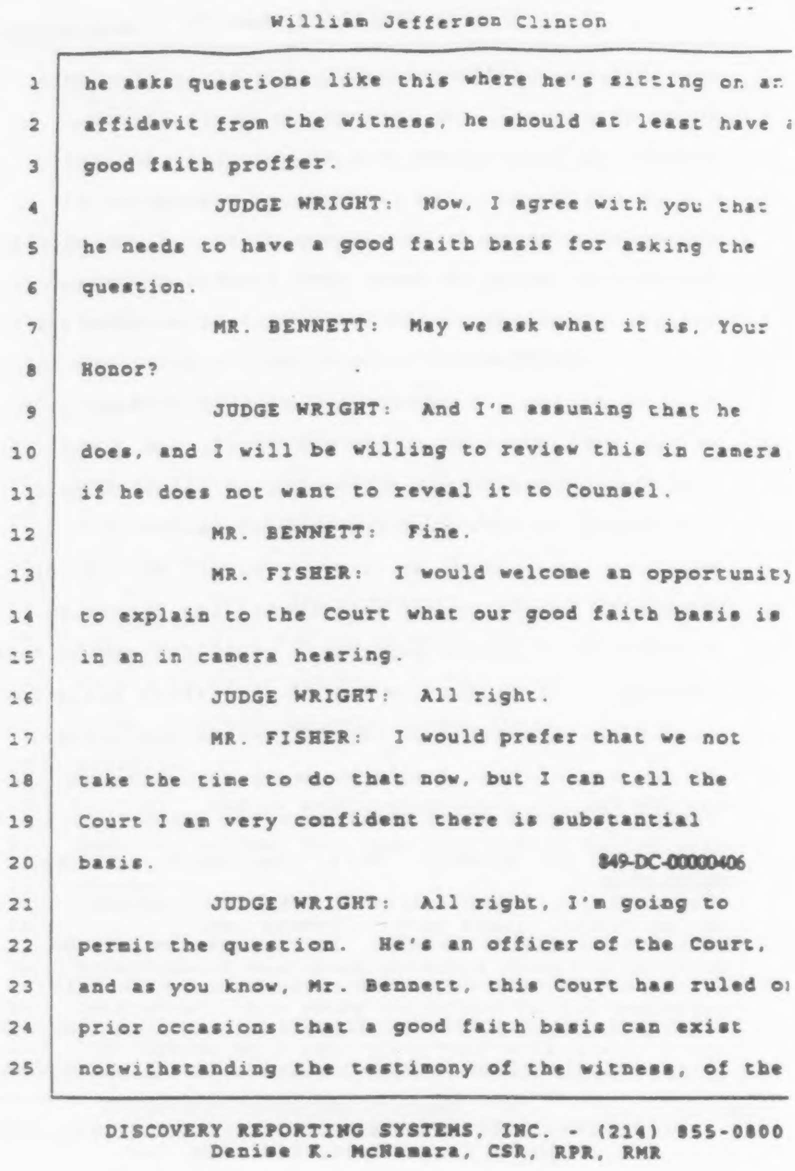
MR. BENNETT: Your Honor, excuse me, Mr. President, I need some guidance from the Court at this point. I'm going to object to the innuendo. I'm afraid, as I say, that this will leak. I don't



question the predicates here. I question the good faith of Counsel, the innuendo in the question. Counsel is fully aware that Ms. Lewinsky has filed, has an affidavit which they are in possession of saying that there is absolutely no sex of any kind in any manner, shape or form, with President Clinton, and yet listening to the innuendo in the questions --

JUDGE WRIGHT: No, just a minute, let me make my ruling. I do not know whether counsel is basing this question on any affidavit, but I will direct Mr. Bennett not to comment on other evidence that might be pertinent and could be arguably coaching the witness at this juncture. Now, I, Mr. Fisher is an officer of this Court, and I have to assume that he has a good faith basis for asking this question. If in fact he has no good faith basis for asking the question, he could later be sanctioned. If you would like, I will be happy to review in camera any good faith basis he might have.

MR. BENNETT: Well, Your Honor, with all due respect, I would like to know the proffer. I'm not coaching the witness. In preparation of the witness for this deposition, the witness is fully aware of Ms. Lewinsky's affidavit, so I have not told him a single thing he doesn't know, but I think when



he asks questions like this where he's sitting on a affidavit from the witness, he should at least have good faith proffer.

JUDGE WRIGHT: Now, I agree with you that he needs to have a good faith basis for asking the question.

MR. BENNETT: May we ask what it is, Your Honor?

JUDGE WRIGHT: And I'm assuming that he does, and I will be willing to review this in camera if he does not want to reveal it to Counsel.

MR. BENNETT: Fine.

MR. FISHER: I would welcome an opportunit to explain to the Court what our good faith basis is in an in camera hearing.

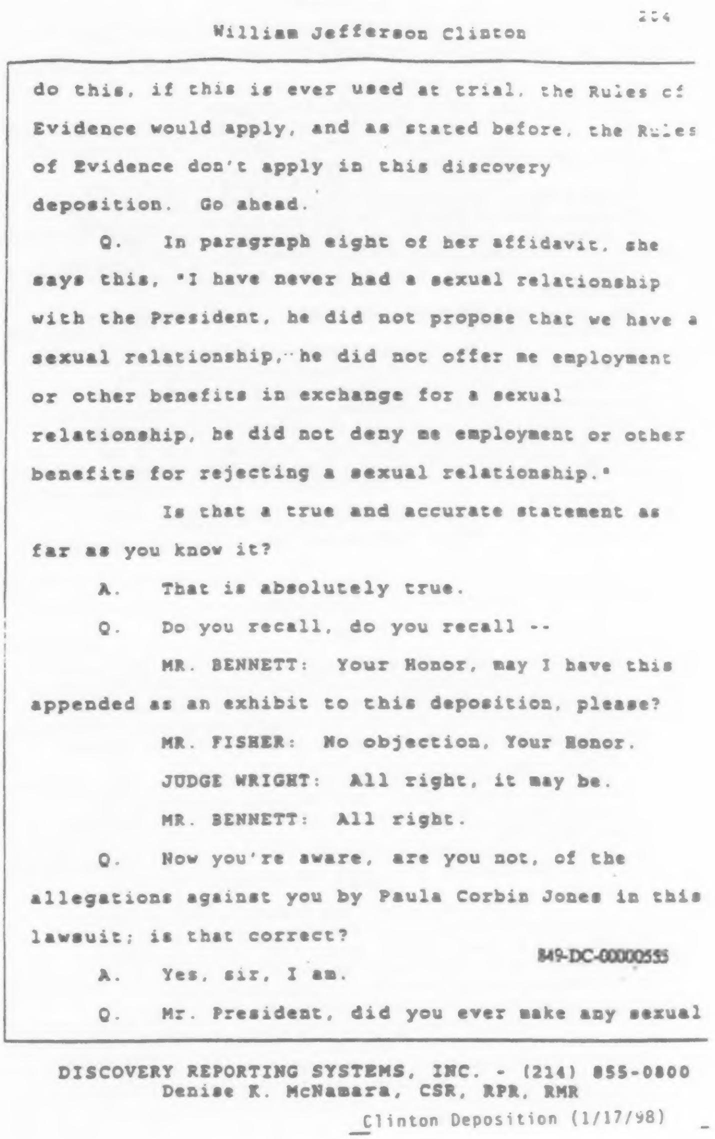
JUDGE WRIGHT: All right.

MR. FISHER: I would prefer that we not take the time to do that now, but I can tell the Court I am very confident there is substantial basis.

849-DC-00000406

JUDGE WRIGHT: All right, I'm going to permit the question. He's an officer of the Court, and as you know, Mr. Bennett, this Court has ruled o prior occasions that a good faith basis can exist notwithstanding the testimony of the witness, of the

[EXHIBIT 25]



William Jefferson Clinton 204

do this, if this is ever used at trial, the Rules of Evidence would apply, and as stated before, the Rules of Evidence don't apply in this discovery deposition. Go ahead.

Q. In paragraph eight of her affidavit, she says this, "I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for rejecting a sexual relationship."

Is that a true and accurate statement as far as you know it?

A. That is absolutely true.

Q. Do you recall, do you recall --

MR. BENNETT: Your Honor, may I have this appended as an exhibit to this deposition, please?

MR. FISHER: No objection, Your Honor.

JUDGE WRIGHT: All right, it may be.

MR. BENNETT: All right.

Q. Now you're aware, are you not, of the allegations against you by Paula Corbin Jones in this lawsuit; is that correct?

849-DC-00000555

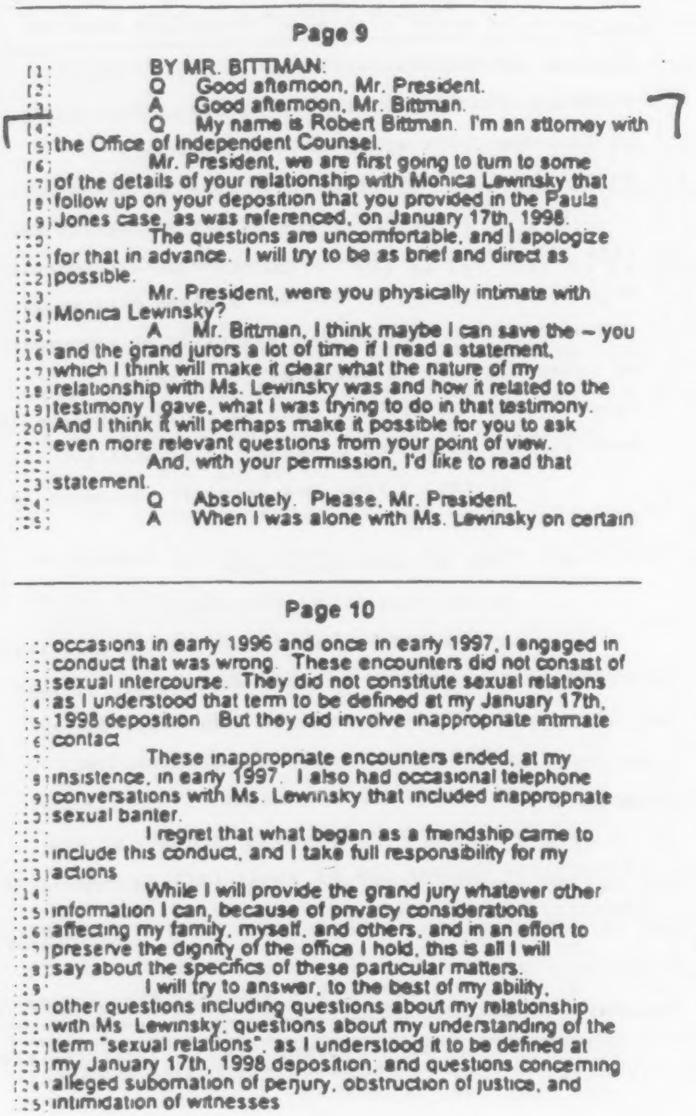
A. Yes, sir, I am.

Q. Mr. President, did you ever make any sexual

DISCOVERY REPORTING SYSTEMS, INC. - (214) 855-0800
Denise K. McNamara, CSR, RPR, RMR

Clinton Deposition (1/17/98)

[EXHIBIT 26]



Page 9

BY MR. BITTMAN:

Q Good afternoon, Mr. President.

A Good afternoon, Mr. Bittman.

Q My name is Robert Bittman. I'm an attorney with the Office of Independent Counsel.

Mr. President, we are first going to turn to some of the details of your relationship with Monica Lewinsky that follow up on your deposition that you provided in the Paula Jones case, as was referenced, on January 17th, 1998.

The questions are uncomfortable, and I apologize for that in advance. I will try to be as brief and direct as possible.

Mr. President, were you physically intimate with Monica Lewinsky?

A Mr. Bittman, I think maybe I can save the – you and the grand jurors a lot of time if I read a statement, which I think will make it clear what the nature of my relationship with Ms. Lewinsky was and how it related to the testimony I gave, what I was trying to do in that testimony. And I think it will perhaps make it possible for you to ask even more relevant questions from your point of view.

And, with your permission, I'd like to read that statement.

Q Absolutely. Please, Mr. President.

A When I was alone with Ms. Lewinsky on certain

Page 10

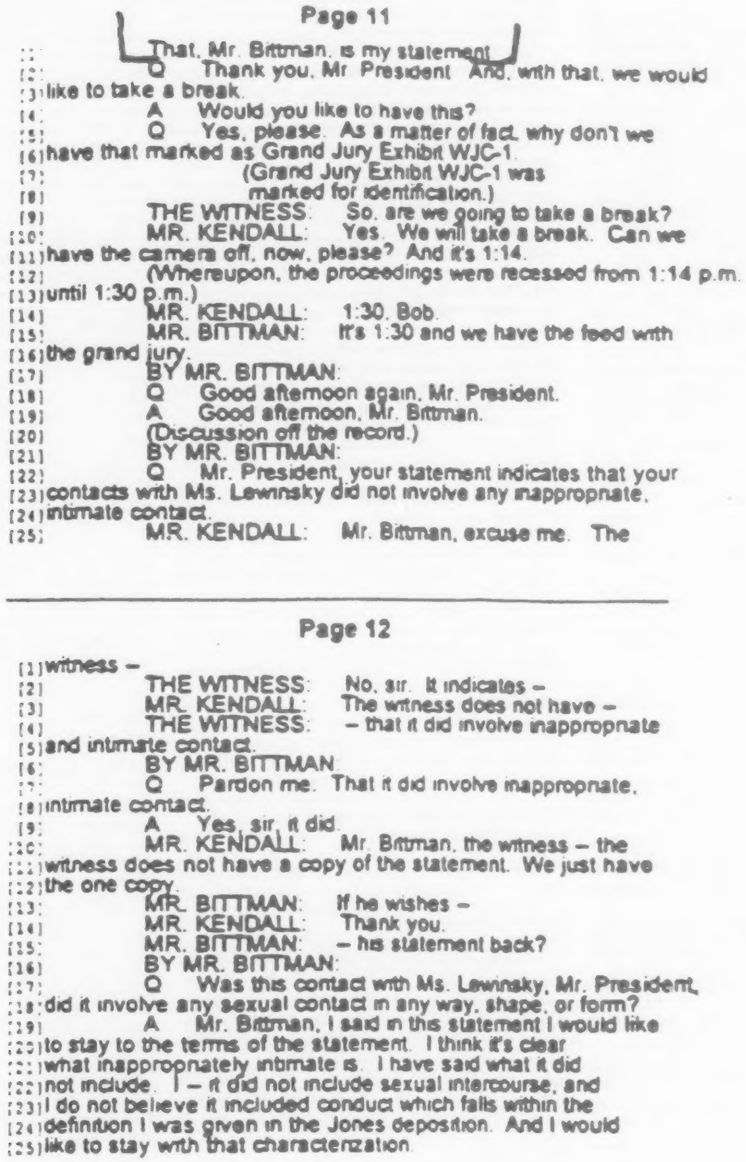
occasions in early 1996 and once in early 1997, I engaged in conduct that was wrong. These encounters did not consist of sexual intercourse. They did not constitute sexual relations as I understood that term to be defined at my January 17th, 1998 deposition. But they did involve inappropriate intimate contact.

These inappropriate encounters ended, at my insistence, in early 1997. I also had occasional telephone conversations with Ms. Lewinsky that included inappropriate sexual banter.

I regret that what began as a friendship came to include this conduct, and I take full responsibility for my actions.

While I will provide the grand jury whatever other information I can, because of privacy considerations affecting my family, myself, and others, and in an effort to preserve the dignity of the office I hold, this is all I will say about the specifics of these particular matters.

I will try to answer, to the best of my ability, other questions including questions about my relationship with Ms. Lewinsky; questions about my understanding of the term "sexual relations", as I understood it to be defined at my January 17th, 1998 deposition; and questions concerning alleged subornation of perjury, obstruction of justice, and intimidation of witnesses



Page 11

That, Mr. Bittman, is my statement.
Q Thank you, Mr President. And, with that, we would like to take a break.
A Would you like to have this?
Q Yes, please. As a matter of fact, why don't we have that marked as Grand Jury Exhibit WJC-1.
(Grand Jury Exhibit WJC-1 was marked for identification.)
THE WITNESS: So, are we going to take a break?
MR. KENDALL: Yes. We will take a break. Can we have the camera off, now, please? And it's 1:14.
(Whereupon, the proceedings were recessed from 1:14 p.m. until 1:30 p.m.)
MR. KENDALL: 1:30, Bob.
MR. BITTMAN: It's 1:30 and we have the feed with the grand jury.
BY MR. BITTMAN:
Q Good afternoon again, Mr. President.
A Good afternoon, Mr. Bittman.
(Discussion off the record.)
BY MR. BITTMAN:
Q Mr. President, your statement indicates that your contacts with Ms. Lewinsky did not involve any inappropriate, intimate contact.
MR. KENDALL: Mr. Bittman, excuse me. The

Page 12

witness –
THE WITNESS: No, sir. It indicates –
MR. KENDALL: The witness does not have –
THE WITNESS: – that it did involve inappropriate and intimate contact.
BY MR. BITTMAN:
Q Pardon me. That it did involve inappropriate, intimate contact.
A Yes, sir, it did.
MR. KENDALL: Mr. Bittman, the witness – the witness does not have a copy of the statement. We just have the one copy.
MR. BITTMAN: If he wishes –
MR. KENDALL: Thank you.
MR. BITTMAN: – his statement back?
BY MR. BITTMAN:
Q Was this contact with Ms. Lewinsky, Mr. President, did it involve any sexual contact in any way, shape, or form?
A Mr. Bittman, I said in this statement I would like to stay to the terms of the statement. I think it's clear what inappropriately intimate is. I have said what it did not include. I – it did not include sexual intercourse, and I do not believe it included conduct which falls within the definition I was given in the Jones deposition. And I would like to stay with that characterization.

the Senate of the United States Sitting
as a Court of Impeachment]

re Impeachment of William Jefferson
Clinton, President of the United States

RIAL MEMORANDUM OF PRESIDENT WILLIAM JEFFERSON CLINTON

id E. Kendall
ole K. Seligman
net T. Flood
Stier
Donath
ia L. Marti
iams & Connolly
2th Street, N.W.
hington, D.C.
005

Charles F.C. Ruff
Gregory B. Craig
Bruce R. Lindsey
Cheryl D. Mills
Lanny A. Breuer
Office of the White House Counsel
The White House
Washington, D.C.
20502

uary 13, 1999.

TABLE OF CONTENTS

INTRODUCTION
The Constitutional Standard for Im-hment Has Not Been Satisfied
The President Did Not Commit Perjury bstruct Justice
Compound Charges and Vagueness
BACKGROUND
The Whitewater Investigative Dead-End
The Paula Jones Litigation
The President's Grand Jury Testimony t Ms. Lewinsky
Proceedings in the House of Representa-
THE CONSTITUTIONAL STANDARD BURDEN OF PROOF FOR DECISION
The Offenses Alleged Do Not Meet the titutional Standard of High Crimes and emeanors
The Senate Has a Constitutional Duty to ront the Question Whether Impeachable ses Have Been Alleged
The Constitution Requires a High Stand-of Proof of "High Crimes and Mis-anors" for Removal
The Constitutional Text and Structure n Intentionally High Standard for Re-l
The Framers Believed that Impeach- and Removal Were Appropriate Only ffenses Against the System of Govern-
Past Precedents Confirm that Allega- of Dishonesty Do Not Alone State Im-able Offenses
The Fraudulent Tax Return Allegation st President Nixon
The Financial Misdealing Allegation st Alexander Hamilton
The Views of Prominent Historians and Scholars Confirm that Impeachable ses Are Not Present
No Impeachable Offense Has Been Stated
To Make Impeachable Offenses of These ations Would Forever Lower the Bar in y Inimical to the Presidency and to Our rnment of Separated Powers
Comparisons to Impeachment of Judges Wrong
The Standard of Proof
THE PRESIDENT SHOULD BE AC-TED ON ARTICLE I
Applicable Law
Structure of the Allegations
Response to the Particular Allegations ticle I
he President denies that he made mate- false or misleading statements to the jury about "the nature and details of lationship" with Monica Lewinsky
he President denies that he made per-s, false and misleading statements to rand jury about testimony he gave in ones case
3. The President denies that he made perjurious, false and misleading statements to the grand jury about the statements of his attorney to Judge Wright during the Jones deposition
4. The President denies that he made perjurious, false and misleading statements to the grand jury when he denied attempting "to influence the testimony of witnesses and to impede the discovery of evidence" in the Jones case
V. THE PRESIDENT SHOULD BE ACQUITTED ON ARTICLE II
A. Applicable Law
B. Structure of the Allegations
C. Response to the Particular Allegations in Article II
1. The President denies that on or about December 17, 1997, he "corruptly encouraged" Monica Lewinsky "to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading"
2. The President denies that on or about December 17, 1997, he "corruptly encouraged" Monica Lewinsky "to give perjurious, false and misleading testimony if and when called to testify personally" in the Jones litigation
3. The President denies that he "corruptly engaged in, encouraged, or supported a scheme to conceal evidence"—gifts he had given to Monica Lewinsky—in the Jones case
a. Ms. Lewinsky's December 28 Meeting with the President
b. Ms. Currie's Supposed Involvement in Concealing Gifts
c. The Obstruction-by-Gift-Concealment Charge Is at Odds With the President's Actions
4. The President denies that he obstructed justice in connection with Monica Lewinsky's efforts to obtain a job in New York in an effort to "corruptly prevent" her "truthful testimony" in the *Jones* case
a. The Complete Absence of Direct Evidence Supporting This Charge
b. Background of Ms. Lewinsky's New York Job Search
c. The Committee Report's Circumstantial Case
(1) Monica Lewinsky's December 11 meeting with Vernon Jordan
(2) The January job interviews and the Revlon employment offer
d. Conclusion
5. The President denies that he "corruptly allowed his attorney to make false and misleading statements to a Federal judge" concerning Monica Lewinsky's affidavit
6. The President denies that he obstructed justice by relating "false and misleading statements" to "a potential witness," Betty Currie, "in order to corruptly influence [her] testimony"
7. The President denies that he obstructed justice when he relayed allegedly "false and misleading statements" to his aides
VI. THE STRUCTURAL DEFICIENCIES OF THE ARTICLES PRECLUDE A CONSTITUTIONALLY SOUND VOTE
A. The Articles Are Both Unfairly Complex and Lacking in Specificity
1. The Structure of Article I
2. The Structure of Article II
B. Conviction on These Articles Would Violate the Constitutional Requirement That Two-Thirds of the Senate Reach Agreement that Specific Wrongdoing Has Been Proven
1. The Articles Bundle Together Disparate Allegations in Violation of the Constitution's Requirements of Concurrence and Due Process
a. The Articles Violate the Constitution's Two-Thirds Concurrence Requirement
b. Conviction on the Articles Would Violate Due Process Protections that Forbid Compound Charges in a Single Accusation
C. Conviction on These Articles Would Violate Due Process Protections Prohibiting Vague and Nonspecific Accusations
1. The Law of Due Process Forbids Vague and Nonspecific Charges
2. The Allegations of Both Articles Are Unconstitutionally Vague
D. The Senate's Judgment Will Be Final and That Judgment Must Speak Clearly and Intelligibly
VII. THE NEED FOR DISCOVERY
VIII. CONCLUSION

TRIAL MEMORANDUM OF PRESIDENT WILLIAM JEFFERSON CLINTON

I. INTRODUCTION

Twenty-six months ago, more than 90 million Americans left their homes and work places to travel to schools, church halls and other civic centers to elect a President of the United States. And on January 20, 1997, William Jefferson Clinton was sworn in to serve a second term of office for four years.

The Senate, in receipt of Articles of Impeachment from the House of Representatives, is now gathered in trial to consider whether that decision should be set aside for the remaining two years of the President's term. It is a power contemplated and authorized by the Framers of the Constitution, but never before employed in our nation's history. The gravity of what is at stake—the democratic choice of the American people—and the solemnity of the proceedings dictate that a decision to remove the President from office should follow only from the most serious of circumstances and should be done in conformity with Constitutional standards and in the interest of the Nation and its people.

The Articles of Impeachment that have been exhibited to the Senate fall far short of what the Founding Fathers had in mind when they placed in the hands of the Congress the power to impeach and remove a President from office. They fall far short of what the American people demand be shown and proven before their democratic choice is reversed. And they even fall far short of what a prudent prosecutor would require before presenting a case to a judge or jury.

Take away the elaborate trappings of the Articles and the high-flying rhetoric that has accompanied them, and we see clearly that the House of Representatives asks the Senate to remove the President from office because he:

- used the phrase "certain occasions" to describe the frequency of his improper intimate contacts with Ms. Monica Lewinsky. There were, according to the House Managers, eleven such contacts over the course of approximately 500 days.

Should the will of the people be overruled and the President of the United States be removed from office because he used the phrase "certain occasions" to describe eleven events over some 500 days? That is what the House of Representatives asks the Senate to do.

- used the word "occasional" to describe the frequency of inappropriate telephone conversations between he and Monica Lewinsky. According to Ms. Lewinsky, the President and Ms. Lewinsky engaged in between ten and fifteen such conversations spanning a 23-month period.

Should the will of the people be overruled and the President of the United States be removed from office because he used the word "occasional" to describe up to 15 telephone calls over a 23-month period? That is what

the House of Representat
ate to do.

- said the improper rel
Lewinsky began in early
calls that it began in Nov
said the contact did not
certain parts of her body
did.

Should the will of the
and the President of the U
moved from office because
different recollection of
wrongful relationship—wh
has admitted? That is w
Representatives asks the S

The Articles of Impeach
ited to the examples cit
other allegations of wro
larly unconvincing. There
the President unlawfully
by allegedly trying to fin
Lewinsky in exchange fo
their relationship. This
spite the fact that no one
fort to find work for Ms.
ing Ms. Lewinsky hers
there was any connectio
search and the affidavit. I
that allegation, Ms. Lew
to Ms. Tripp, was expre
Ms. Lewinsky under oath.

There is also the charge
conspired to obstruct ju
for Ms. Lewinsky to hid
given her, even though th
timony contain no evide
In fact, the evidence sho
dent gave her new gifts o
the articles allege he co
his gifts to her.

In the final analysis, t
the Senate to remove th
he had a wrongful relatio
keep the existence of th
vate.

Nothing said in this Tr
intended to excuse the
By his own admission,
sonal failings. As he has
don't think there is a fa
I have sinned." He has m
friends, his staff, and th
nature of his relati
Lewinsky. He hoped to av
sonal wrongdoing so as t
and himself and to avoi
ment. He has acknowledg
were wrong.

By the same token, the
be mischaracterized into
excuse for removing the
office to which he was t
American people. The all
cles and the argument
agers' Trial Memorandu
satisfy the stringent sho
Founding Fathers to re
President from office, ei
fact or law.

A. THE CONSTITUTIONA IMPEACHMENT HAS NOT

There is strong agreem
tional and legal scholars
the substance of the
amount to impeachable
ber 6, 1998, 430 Constitut
wrote:

"Did President Clin
Crimes and Misdemean
peachment under the Co
believe that the miscon
report of the Independe
not cross the threshold.
Members of Congress co

epresentatives asks the Sen-

nproper relationship with Ms.
n in early 1996, while she re-
gan in November 1995. And he
ct did not include touching
f her body, while she said it

ill of the people be overruled
nt of the United States be re-
ice because two people have a
lection of the details of a
onship—which the President
That is what the House of
s asks the Senate to do.
of Impeachment are not lim-
amples cited above, but the
ns of wrongdoing are simi-
ing. There is the charge that
nlawfully obstructed justice
ying to find a job for Monica
change for her silence about
nip. This charge is made de-
hat no one involved in the ef-
rk for Ms. Lewinsky—includ-
nsky herself—testifies that
connection between the job
affidavit. Indeed, the basis for
, Ms. Lewinsky's statements
was expressly repudiated by
nder oath.
the charge that the President
ostruct justice by arranging
ky to hide gifts that he had
though the facts and the tes-
no evidence that he did so.
idence shows that the Presi-
ew gifts on the very day that
ege he conspired to conceal

nalysis, the House is asking
emove the President because
ul relationship and sought to
nce of that relationship pri-

in this Trial Memorandum is
use the President's actions.
mission, he is guilty of per-
As he has publicly stated, "I
re is a fancy way to say that
He has misled his family, his
ff, and the Nation about the
s relationship with Ms.
oped to avoid exposure of per-
g so as to protect his family
l to avoid public embarrass-
knowledged that his actions

oken, these actions must not
ized into a wholly groundless
oving the President from the
he was twice elected by the
e. The allegations in the arti-
rgument in the House Man-
emorandum do not begin to
gent showing required by our
rs to remove a duly elected
office, either as a matter of

TITUTIONAL STANDARD FOR
T HAS NOT BEEN SATISFIED

g agreement among constitu-
scholars and historians that
of the articles does not
achable offenses. On Novem-
Constitutional law professors

> nt Clinton commit 'high
> sdemeanors' warranting im-
> r the Constitution? We . . .
> e misconduct alleged in the
> dependent Counsel . . . does
> reshold. . . . [I]t is clear that
> gress could violate their constitutional responsibilities if they sought to impeach and remove the President for misconduct, even criminal misconduct, that fell short of the high constitutional standard required for impeachment."

On October 28, 1998, more than 400 historians issued a joint statement warning that because impeachment had traditionally been reserved for high crimes and misdemeanors in the exercise of executive power, impeachment of the President based on the facts alleged in the OIC Referral would set a dangerous precedent. "If carried forward, they will leave the Presidency permanently disfigured and diminished, at the mercy as never before of caprices of any Congress. The Presidency, historically the center of leadership during our great national ordeals, will be crippled in meeting the inevitable challenges of the future."

We address why the charges in the two articles do not rise to the level of "high Crimes and Misdemeanors" in Section III, Constitutional Standard and Burden of Proof.

B. THE PRESIDENT DID NOT COMMIT PERJURY OR OBSTRUCT JUSTICE

Article I alleges perjury before a federal grand jury. Article II alleges obstruction of justice. Both perjury and obstruction of justice are statutory crimes. In rebutting the allegations contained in the articles of impeachment, this brief refers to the facts as well as to laws, legal principles, court decisions, procedural safeguards, and the Constitution itself. Those who seek to remove the President speak of the "rule of law." Among the most fundamental rules of law are the principles that those who accuse have the burden of proof, and those who are accused have the right to defend themselves by relying on the law, established procedures, and the Constitution. These principles are not "legalisms" but rather the very essence of the "rule of law" that distinguishes our Nation from others.

We respond, in detail, to those allegations whose substance we can decipher in Section IV, The President Should Be Acquitted on Article I, and in Section V, The President Should Be Acquitted on Article II.

C. COMPOUND CHARGES AND VAGUENESS

If there were any doubt that the House of Representatives has utterly failed in its constitutional responsibility to the Senate and to the President, that doubt vanishes upon reading the Trial Memorandum submitted by the House Managers. Having proferred two articles of impeachment, each of which unconstitutionally combines multiple offenses and fails to give even minimally adequate notice of the charges it encompasses, the House—three days before the Managers are to open their case—is still expanding, not refining, the scope of those articles. In further violation of the most basic constitutional principles, their brief advances, *merely as "examples,"* nineteen conclusory allegations—eight of perjury under Article I and eleven of obstruction of justice under Article II, some of which have never appeared before, even in the Report submitted by the Judiciary Committee ("Committee Report"), much less in the Office of Independent Counsel ("OIC") Referral or in the articles themselves.[1] If the target the Managers present to the Senate and to the President is *still* moving now, what can the President expect in the coming days? Is there any point at which the President will be given the right accorded a defendant in the most minor criminal case—to know with certainty the charges against which he must defend?

The Senate, we know, fully appreciates these concerns and has, in past proceedings, dealt appropriately with articles far less flawed than these. The constitutional concerns raised by the House's action are addressed in Section VI, The Structural Deficiencies of the Articles Preclude a Constitutionally Sound Vote.

II. BACKGROUND

A. THE WHITEWATER INVESTIGATIVE DEAD-END

The Lewinsky investigation emerged in January 1998 from the long-running Whitewater investigation. On August 5, 1994, the Special Division of the United States Court of Appeals for the District of Columbia Court Circuit appointed Kenneth W. Starr as Independent Counsel to conduct an investigation centering on two Arkansas entities, Whitewater Development Company, Inc., and Madison Guaranty Savings and Loan Association.

In the spring of 1997, OIC investigators, without any expansion of jurisdiction, interviewed Arkansas state troopers who had once been assigned to the Governor's security detail, and "[t]he troopers said Starr's investigators asked about 12 to 15 women by name, *including Paula Corbin Jones*. . . ." Woodward & Schmidt, "Starr Probes Clinton Personal Life," *The Washington Post* (June 25, 1997) at A1 (emphasis added). "The nature of the questioning marks a sharp departure from previous avenues of inquiry in the three-year old investigation. . . . Until now, . . . what has become a wide-ranging investigation of many aspects of Clinton's governorship has largely steered clear of questions about Clinton's relationships with women. . . ."[2] One of the most striking aspects of this new phase of the Whitewater investigation was the extent to which it focused on the *Jones* case. One of the troopers interviewed declared, "[t]hey asked me about Paula Jones, all kinds of questions about Paula Jones, whether I saw Clinton and Paula together and how many times."[3]

In his November 19, 1998, testimony before the House Judiciary Committee, Mr. Starr conceded that his agents had conducted these interrogations and acknowledged that at that time, he had not sought expansion of his jurisdiction from either the Special Division or the Attorney General.[4] Mr. Starr contended that these inquiries were somehow relevant to his Whitewater investigation: "we were, in fact interviewing, as good prosecutors, good investigators do, individuals who would have information that may be relevant to our inquiry about the President's involvement in Whitewater, in Madison Guaranty Savings and Loan and the like."[5] It seems irrefutable, however, that the OIC was in fact engaged in an unauthorized attempt to gather embarrassing information about the President—information wholly unrelated to Whitewater or Madison Guaranty

---

[1] For example, the House managers add a charge that the President engaged in "legalistic hair splitting [in his response to the 81 questions] in an obvious attempt to skirt the whole truth and to deceive and obstruct" the Committee. This charge was specifically rejected by the full House of Representatives when it rejected Article IV.

[2] *Ibid.* Trooper Roger Perry, a 21-year veteran of the Arkansas state police, stated that he "was asked about the most intimate details of Clinton's life: 'I was left with the impression that they wanted me to show he was a womanizer. . . . All they wanted to talk about was women.'" *Ibid.* (Ellipsis in original).

[3] *Ibid.*

[4] Transcript of November 19, 1998 House Judiciary Committee Hearing at 377-378.

[5] *Ibid.* at 378.

Savings and Loan, but potentially relevant to the lawsuit filed by Paula Jones.

B. THE PAULA JONES LITIGATION

The Paula Jones lawsuit made certain allegations about events she said had occurred three years earlier, in 1991, when the President was Governor of Arkansas. Discovery in the case had been stayed until the Supreme Court's decision on May 27, 1997, denying the President temporary immunity from suit.[6] Shortly thereafter, Ms. Jones' legal team began a public relations offensive against the President, headed by Ms. Jones' new spokesperson, Mr. Susan Carpenter-McMillan, and her new counsel affiliated with the conservative Rutherford Institute.[7] "I will never deny that when I first heard about this case I said, 'Okay, good. We're gonna get that little slimeball,' said Ms. Carpenter-McMillan."[8] While Ms. Jones' previous attorneys, Messrs. Gilbert Davis and Joseph Cammarata, had largely avoided the media, as the *Jones* civil suit increasingly became a partisan vehicle to try to damage the President, public personal attacks became the order of the day.[9] As is now well known, this effort led ultimately to the Jones lawyers being permitted to subpoena various women, to discover the nature of their relationship, if any, with the President, allegedly for the purpose of determining whether they had information relevant to the sexual harassment charge. Among these women was Ms. Lewinsky.

In January 1998, Ms. Linda Tripp notified the OIC of certain information she believed she had about Ms. Lewinsky's involvement in the *Jones* case. At that time, the OIC investigation began to intrude formally into the *Jones* case: the OIC met with Ms. Tripp through the week of January 12, and with her cooperation taped Ms. Lewinsky discussing the *Jones* case and the President. Ms. Tripp also informed the OIC that she had been surreptitiously taping conversations with Ms. Lewinsky in violation of Maryland law, and in exchange for her cooperation, the OIC promised Ms. Tripp immunity from federal prosecution, and assistance in protecting her from state prosecution.[10] On Friday, January 16, after Ms. Tripp wore a body wire and had taped conversations with Ms. Lewinsky for the OIC, the OIC received jurisdiction from the Attorney General and formalized an immunity agreement with Ms. Tripp in writing.

The President's deposition in the *Jones* case was scheduled to take place the next day, on Saturday, January 17. As we now know, Ms. Tripp met with and briefed the lawyers for Ms. Jones the night before the deposition on her perception of the relationship between Ms. Lewinsky and the President—doing so based on confidences Ms. Lewinsky had entrusted to her.[11] She was permitted to do so even though she has been acting all week at the behest of the OIC and was dependent on the OIC to use its best efforts to protect her from state prosecution. At the deposition the next day, the President was asked numerous questions about his relationship with Ms. Lewinsky by lawyers who already knew the answers.

The *Jones* case, of course, was not about Ms. Lewinsky. She was a peripheral player and, since her relationship with the President was concededly consensual, irrelevant to Ms. Jones's case. Shortly after the President's deposition, Chief Judge Wright ruled that evidence pertaining to Ms. Lewinsky would not be admissible at the *Jones* trial because "it is not essential to the core issues in this case."[12] The Court also ruled that, given the allegations at issue in the *Jones* case, the Lewinsky evidence "might be inadmissible as extrinsic evidence" under the Federal Rules of Evidence because it involved merely the "specific instances of conduct" of a witness.[13]

On April 1, 1998, the Court ruled that Ms. Jones had no case and granted summary judgment for the President. Although Judge Wright "viewed the record in the light most favorable to [Ms. Jones] and [gave] her the benefit of all reasonable factual inferences,"[14] the Court ruled that, as a matter of law, she simply had no case against President Clinton, both because "there is no genuine issue as to any material fact" and because President Clinton was "entitled to a judgment as a matter of law." *Id.* at 11–12. After reviewing all the proffered evidence, the Court ruled that "the record taken as a whole could not lead a rational trier of fact to find for" Ms. Jones. *Id.* at 39.

C. THE PRESIDENT'S GRAND JURY TESTIMONY ABOUT MS. LEWINSKY

On August 17, 1998, the President voluntarily testified to the grand jury and specifically acknowledged that he had had a relationship with Ms. Lewinsky involving "improper intimate contact," and that he "engaged in conduct that was wrong." App. at 461.[15] He described how the relationship began and how he had ended it early in 1997—long before any public attention or scrutiny. He stated to the grand jury "it's an embarrassing and personally painful thing, the truth about my relationship with Ms. Lewinsky," App. at 533, and told the grand jurors, "I take full responsibility for it. It wasn't her fault, it was mine." App. at 589-90.

The President also explained how he had tried to navigate the deposition in the *Jones* case months earlier without admitting what he admitted to the grand jury—that he had been engaged in an improper intimate relationship with Ms. Lewinsky. *Id.* a 530–531. He further testified that the "inappropriate encounters" with Ms. Lewinsky had ended, at his insistence, in early 1997. He declined to describe, because of considerations of personal privacy and institutional dignity, certain specifics about his conduct with Ms. Lewinsky,[16] but he indicated his willingness to answer,[17] and he did answer, the other questions put to him about his relationship with her. No one who watched the videotape of this grand jury testimony had any doubt that the President admitted to having had an improper intimate relationship with Ms. Lewinsky.

D. PROCEEDINGS IN THE HOUSE OF REPRESENTATIVES

On September 9, 1998, Mr. Starr transmitted a Referral to the House of Representatives that alleged eleven acts by the President related to the Lewinsky matter that, in the opinion of the OIC, "may constitute grounds for an impeachment."[18] The allegations fell into three broad categories: lying under oath, obstruction of justice, and abuse of power.

The House Judiciary held a total of four hearings and called but one witness: Kenneth W. Starr. The Committee allowed the President's lawyers two days in which to present a defense. The White House presented four panels of distinguished expert witnesses who testified that the facts, as alleged, did not constitute an impeachable offense, did not reveal an abuse of power, and would not support a case for perjury or obstruction of justice that any reasonable prosecutor would bring. White House Counsel Charles F.C. Ruff presented argument to the Committee on behalf of the President, which is incorporated into this Trial Memorandum by reference.[19]

On December 11 and 12, the Judiciary Committee voted essentially along party lines to

---

[6] *Clinton* v. *Jones*, 520 U.S. 681 (1997).

[7] Ms. Jones was described as having "accepted financial support of a Virginia conservative group," which intended to "raise $100,000 or more on Jones's behalf, although the money will go for expenses and not legal fees." "Jones Acquires New Lawyers and Backing," *The Washington Post* (October 2, 1998) at A1. Jones' new law firm, the Dallas-based Radar, Campbell, Fisher and Pyke, had "represented conservatives in antiabortion cases and other causes." *Ibid. See also* Dallas Lawyers Agree to Take on Paula Jones' Case—Their Small Firm Has Ties to Conservative Advocacy Group," *The Los Angeles Times* (Oct. 2, 1997) (Rutherford Institute a "conservative advocacy group.").

[8] "Cause Celebre: An Antiabortion Activist Makes Herself the Unofficial Mouthpiece for Paula Jones." *The Washington Post* (July 23, 1998) at C1. Ms. Carpenter-McMillan, "a cause-oriented, self-defined 'conservative feminist'", described her role as "flaming the White House" and declared "'Unless Clinton wants to be terribly embarrassed, he'd better cough up what Paula needs. Anybody that comes out and testifies against Paula better have the past of a Mother Teresa, because our investigators will investigate their morality.'" "Paula Jones' Team Not All About Teamwork," *USA Today* (Sept. 29, 1997) at 4A.

[9] After Ms. Jones's new team had been in action for three months, one journalist commented: "In six years of public controversy over Clinton's personal life, what is striking in some ways is how little the debate changes. As in the beginning, many conservatives nurture the hope that the past will be Clinton's undoing. Jones's adviser, Susan Carpenter-McMillan, acknowledged on NBC's 'Meet the Press' yesterday that her first reaction when she first heard Jones's claims about Clinton was, 'Good, we're going to get that little slime ball.'" (Harris, "Jones Case Tests Political Paradox," *The Washington Post* (Jan. 19, 1998) at A1.

[10] Supplemental Materials to the Referral to the United States House of Representatives Pursuant to Title 28, United States Code Section 595(C), H. Doc. 105-316 (hereinafter "Supp.") at 3758-3759, 4371-4373 (House Judiciary Committee) (Sept. 28, 1998).

[11] Baker, "Linda Tripp Briefed Jones Team on Tapes: Meeting Occurred Before Clinton Deposition." *The Washington Post* (Feb. 14, 1998) at A1.

[12] Order, at 2, *Jones* v. *Clinton*, No. LR-C-94-290 (E.D. Ark.) (Jan. 29, 1998).

[13] *Ibid.*

[14] *Jones* v. *Clinton*, No. LR-C-94-290 (E.D. Ark.), Memorandum Opinion and Order (April 1, 1998), at 3 n.3.

[15] Appendices to the Referral to the United States House of Representatives Pursuant to Title 28, United States Code Section 595(c), H. Doc. 105-311 (hereinafter "App.") at 461 (House Judiciary Committee) (Sept. 18, 1998).

[16] "While I will provide the grand jury whatever other information I can, because of privacy considerations affecting my family, myself, and others, and in an effort to preserve the dignity of the office I hold, this is all I will say about the specifics of these particular matters." App. at 461.

[17] "I will try to answer, to the best of my ability, other questions including questions about my relationship with Ms. Lewinsky, questions about my understanding of the term 'sexual relations,' as I understood it to be defined at my January 17th, 1998 deposition; and questions concerning alleged subornation of perjury, obstruction of justice, and intimidation of witnesses." App. at 461.

[18] Referral from Independent Counsel Kenneth W. Starr in Conformity with the Requirements of Title 28, United States Code, Section 595(c), at 1 (House Judiciary Committee) (printed September 11, 1998).

[19] Also incorporated by reference into this Trial Memorandum are the four prior submissions of the President to the House of Representatives: Preliminary Memorandum Concerning Referral of Office of Independent Counsel (September 11, 1998) (73 pages); Initial Response to Referral of Office of Independent Counsel (September 12, 1998) (42 pages); Memorandum Regarding Standards of Impeachment (October 2, 1998) (30 pages); Submission by Counsel for President Clinton to the Committee on the House Judiciary of the United States House of Representatives (December 8, 1998) (184 pages).

pprove four articles of impeachment. Re-
ublicans defeated the alternative resolution
censure offered by certain Committee
emocrats. Almost immediately after cen-
re failed in the Committee, the House Re-
ublican leadership declared publicly that no
nsure proposal would be considered by the
ll House when it considered the articles of
npeachment.[20]

On December 19, 1998, voting essentially on
rty lines, the House of Representatives ap-
oved two articles of impeachment: Article
which alleged perjury before the grand
ry, passed by a vote of 228 to 206 and Arti-
e III, which alleged obstruction of justice,
ssed by a vote of 221 to 212. The full House
feated two other Articles: Article II, which
leged that the President committed per-
ry in his civil deposition, and Article IV,
hich alleged abuse of power. Consideration
a censure resolution was blocked, even
ough members of both parties had ex-
essed a desire to vote on such an option.

From beginning to end the House process
s both partisan and unfair. Consider:

- The House released the entire OIC Refer-
l to the public without ever reading it, re-
ewing it, editing it, or allowing the Presi-
nt's counsel to review it;
- The Chairman of the House Judiciary
mmittee said he had "no interest in not
rking in a bipartisan way";[21]
- The Chairman also pledged a process the
nerican people would conclude was fair;[22]
- The Speaker-Designate of the House en-
rsed a vote of conscience on a motion to
nsure;[23]
- Members of the House were shown secret
vidence" in order to influence their vote—
idence which the President's counsel still
s not been able to review.

III. THE CONSTITUTIONAL STANDARD AND BURDEN OF PROOF FOR DECISION

THE OFFENSES ALLEGED DO NOT MEET THE CONSTITUTIONAL STANDARD OF HIGH CRIMES AND MISDEMEANORS

The Senate Has a Constitutional Duty to Confront the Question Whether Impeachable Offenses Have Been Alleged

t is the solemn duty of the Senate to con-
ler the question whether the articles state
impeachable offense.[24] That Constitu-
nal question has *not*, in the words of one
use Manager, "already been resolved by
e House."[25] To the contrary, that question
now awaits the Senate's measured consideration and independent judgment. Indeed, throughout our history, resolving this question has been an essential part of the Senate's constitutional obligation to "try all Impeachments." U.S. Const. Art. §3, cl.7. In the words of John Logan, a House Manager in the 1868 proceedings:

> "It is the rule that all questions of law or fact are to be decided, in these proceedings, by the final vote upon the guilt or innocence of the accused. It is also the rule, that in determining this general issue *senators must consider the sufficiency or insufficiency in law* or in fact *of every article of accusation.*"[26]

We respectfully suggest that the articles exhibited here do not state wrongdoing that constitutes impeachable offenses under our Constitution.

2. The Constitution Requires a High Standard of Proof of "High Crimes and Misdemeanors" for Removal

a. The Constitutional Text and Structure Set an Intentionally High Standard for Removal

The Constitution provides that the President shall be removed from office only upon "Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." U.S. Constitution, Art. II, section 4. The charges fail to meet the high standard that the Framers established.[27]

The syntax of the Constitutional standard "Treason, Bribery *or other* high Crimes and Misdemeanors" (emphasis added) strongly suggests, by the interpretive principle *noscitur a sociis*,[28] that, to be impeachable offenses, high crimes and misdemeanors must be of the seriousness of "Treason" and "Bribery."

Our Constitutional structure reaffirms that the standard must be a very high one. Ours is a Constitution of separated powers. In that Constitution, the President does not serve at the will of Congress, but as the directly elected,[29] solitary head of the Executive Branch. The Constitution reflects a judgment that a strong Executive, executing the law independently of legislative will, is a necessary protection for a free people.

These elementary facts of constitutional structure underscore the need for a very high standard for impeachment. The House Managers, in their Brief, suggest that the failure to remove the President would raise the standard for impeachment higher than the Framers intended. They say that if the Senate does not remove the President, "The bar will be so high that only a convicted felon or a traitor will need to be concerned." But that standard is just a modified version of the plain language of Article II, Section 4 of the Constitution, which says a President can only be impeached and removed for "Treason, Bribery, or other high Crimes and Misdemeanors." The Framers wanted a high bar. It was not the intention of the Framers that the President should be subject to the will of the dominant legislative party. As Alexander Hamilton said in a warning against the politicization of impeachment: "There will always be the greater danger that the decision will be regulated more by comparative strength of parties than by the real demonstrations of innocence or guilt." Federalist 65. Our system of government does not permit Congress to unseat the President merely because it disagrees with his behavior or his policies. The Framers' decisive rejection of parliamentary government is one reason they caused the phrase "Treason, Bribery or other high Crimes and Misdemeanors" to appear in the Constitution itself. They chose to specify those categories of offenses subject to the impeachment power, rather than leave that judgment to the unfettered whim of the legislature.

Any just and proper impeachment process must be reasonably viewed by the public as arising from one of those rare cases when the Legislature is compelled to stand in for all the people and remove a President whose continuation in office threatens grave harm to the Republic. Indeed, it is not exaggeration to say—as a group of more than 400 leading historians and constitutional scholars publicly stated—that removal on these articles would "mangle the system of checks and balances that is our chief safeguard against abuses of public power."[30] Removal of the President on these grounds would defy the constitutional presumption that the removal power rests with the people in elections, and it would do incalculable damage to the institution of the Presidency. If "successful," removal here "will leave the Presidency permanently disfigured and diminished, at the mercy as never before of the caprices of any Congress."[31]

The Framers made the President the sole nationally elected public official (together with the Vice-President), responsible to all the people. Therefore, when articles of impeachment have been exhibited, the Senate confronts this inescapable question: is the alleged misconduct so profoundly serious, so malevolent to our Constitutional system, that it justifies undoing the people's decision? Is the wrong alleged of a sort that not only demands removal of the President before the ordinary electoral cycle can do its work, but also justifies the national trauma that accompanies the impeachment trial process itself? The wrongdoing alleged here does not remotely meet that standard.

b. The Framers Believed that Impeachment and Removal Were Appropriate Only for Offenses Against the System of Government

"[H]igh Crimes and Misdemeanors" refers to nothing short of Presidential actions that

---

See Baker & Eilperin, "GOP Blocks Democrats'
to Debate Censure in House: Panel Votes Final,
mmed Article of Impeachment," *The Washington*
t (Dec. 13, 1998) at A1.

Associated Press (March 25, 1998).

"This whole proceeding will fall on its face if it's
perceived by the American people to be fair." *Fi-*
cial Times (Sept. 12, 1998).

"The next House Speaker, Robert Livingston,
l the coming impeachment debate should allow
makers to make a choice between ousting Presi-
t Clinton and imposing a lesser penalty such as
sure. The Louisiana Republican said the House
't duck a vote on articles of impeachment if re-
ted next month by its Judiciary Committee. But
'alternative measure is possible' he said, and the
P leadership should 'let everybody have a chance
vote on the option of their choice.'" *Wall Street*
rnal (Nov. 23, 1998).

In the impeachment trial of Andrew Johnson,
President's counsel answered (to at least one ar-
e) that the matters alleged "do not charge or al-
e the commission of any act whatever by this re-
ndent, in his office of President of the United
tes, nor the omission by this respondent of any
of official obligation or duty in his office of
sident of the United States." 1 *Trial of Andrew*
nson (1868) ("TAJ") 53.

See Statement of Rep. Bill McCollum: "[A]re
se impeachable offenses, which I think has al-
ly been resolved by the House. I think constitutionally that's our job to do." Fox News Sunday (January 3, 1999).

[26] Closing argument of Manager John H. Logan, 2 TAJ 18 (emphasis added). See also Office of Senate Legal Counsel, *Memorandum on Impeachment Issues* at 25–26 (Oct. 7, 1988) ("Because the Senate acts as both judge and jury in an impeachment trial, the Senate's conviction on a particular article of impeachment reflects the Senate's judgment not only that the accused engaged in the misconduct underlying the article but also that the article stated an impeachable offense").

[27] For a more complete discussion of the Standards for Impeachment, please see *Submission by Counsel for President Clinton to the House Judiciary of the United States House of Representatives* at 24–43 (December 8, 1998); *Memorandum Regarding Standards of Impeachment* (October 2, 1998); and *Impeachment of William Jefferson, President of the United States*, Report of the Committee on the Judiciary to Accompany H. Res. 611, H. Rpt. 105–830, 105th Cong., 2d Sess. at 332–39 (citing Minority Report). References to pages 2–203 of the Committee Report will be cited hereinafter as "Committee Report." References to pages 329–406 of the Committee Report will be cited hereinafter as "Minority Report."

[28] "'It is known from its associates' . . . the meaning of a word is or may be known from the accompanying words." *Black's Law Dictionary* 1209 (4th ed. 1968).

[29] Of course, that election takes place through the mediating activity of the Electoral College. *See* U.S. Const. Art. II, §1, cl. 2–3 and Amend. XII.

[30] Statement of Historians in Defense of the Constitution (Oct. 28, 1998) ("*Statement of Historians*"); *see also* Schmitt, "Scholars and Historians Assail Clinton Impeachment Inquiry," *The New York Times* (Oct. 19, 1998) at A18.

[31] *Statement of Historians.*

are "great and dangerous offenses" or "attempts to subvert the Constitution."[32] Impeachment was never intended to be a remedy for private wrongs. It was intended to be a method of removing a President whose continued presence in the Office would cause grave danger to the Nation and our Constitutional system of government.[33] Thus, "in all but the most extreme instances, impeachment should be limited to abuse of public office, not private misconduct unrelated to public office."[34]

Impeachment was designed to be a means of redressing wrongful public conduct. As scholar and Justice James Wilson wrote, "our President . . . is amendable to [the laws] in his private character as a citizen, and *in his public character* by impeachment."[35] As such, impeachment is limited to certain forms of wrongdoing. Alexander Hamilton described the subject of the Senate's impeachment jurisdiction as "those offenses which proceed from the misconduct of public men, or in other words from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated POLITICAL, as *they relate chiefly to injuries done to the society itself.*"[36]

The Framers "intended that a president be removable from office for the commission of great offenses against the Constitution."[37] Impeachment therefore addresses public wrongdoing, whether denominated a "political crime [ ] against the state,"[38] or "an act of malfeasance or abuse of office,"[39] or a "great offense [ ] against the federal government."[40] Ordinary civil and criminal wrongs can be addressed through ordinary judicial processes. And ordinary political wrongs can be addressed at the ballot box and by public opinion. Impeachment is reserved for the most serious public misconduct, those aggravated abuses of executive power that, given the President's four-year term, might otherwise go unchecked.

3. Past Precedents Confirm that Allegations of Dishonesty Do Not Alone State Impeachable Offenses

Because impeachment of a President nullifies the popular will of the people, as evidence by an election, it must be used with great circumspection. As applicable precedents establish, it should not be used to punish private misconduct.

a. The Fraudulent Tax Return Allegation Against President Nixon

Five articles of impeachment were proposed against then-President Nixon by the Judiciary Committee of the House of Representatives in 1974. Three were approved and two were not. The approved articles alleged *official wrongdoing*. Article I charged President Nixon with "using the powers of his high office [to] engage [ ] . . . in a course of conduct or plan designed to delay, impede and obstruct" the Watergate investigation.[41] Article II described the President as engaging in "repeated and continuing abuse of the powers of the Presidency in disregard of the fundamental principle of the rule of law in our system of government" thereby "us[ing] his power as President to violate the Constitution and the law of the land."[42] Article III charged the President with refusing to comply with Judiciary Committee subpoenas in frustration of a power necessary to "preserve the integrity of the impeachment process itself and the ability of Congress to act as the ultimate safeguard against improper Presidential conduct."[43]

On article not approved by the House Judiciary Committee charged that President Nixon both "knowingly and fraudulently failed to report certain income and claimed deductions [for 1969–72] on his Federal income tax returns which were not authorized by law."[44] The President had signed his returns for those years under penalty of perjury,[45] and there was reason to believe that the underlying facts would have supported a criminal prosecution against President Nixon himself.[46]

Specifying the applicable standard for impeachment, the majority staff concluded that "[b]ecause impeachment of a President is a grave step for the nation, it is to be predicated only upon conduct seriously incompatible with either the constitutional form and principles of our government or the proper performance of constitutional duties of the president office."[47]

And the minority views of many Republican members were in substantial agreement: "the framers . . . were concerned with preserving the government from being overthrown by the treachery or corruption of one man. . . . [I]t is our judgment, based upon this constitutional history, that the Framers of the United States Constitution intended that the President should be removable by the legislative branch only for serious misconduct dangerous to the system of government established by the Constitution."[48]

The legal principle that impeachable offenses required misconduct dangerous to our system of government provided one basis for the Committee's rejection of the fraudulent-tax-return charge. As Congressman Hogan (R-Md.) put the matter, the Constitution's phrase "high crime signified a crime against the system of government, not merely a serious crime,"[49] As noted, the tax-fraud charge, involving an act which did not demonstrate public misconduct, was rejected by an overwhelming (and bipartisan) 26-12 margin.[50]

b. The Financial Misdealing Allegation Against Alexander Hamilton

In 1792, Congress investigated Secretary of Treasury Alexander Hamilton for alleged financial misdealings with a convicted swindler. Hamilton had made payments to the swindler and had urged his wife (Hamilton's paramour) to burn incriminating correspondence. Members of Congress investigated the matter and it came to the attention of President Washington and future Presidents Adams, Jefferson, Madison and Monroe.

This private matter was not deemed worthy of removing Mr. Hamilton as Secretary of the Treasury.[51] Even when it eventually became public, it was no barrier to Hamilton's appointment to high position in the United States Army. Although not insignificant, Hamilton's behavior was essentially private. It was certain not regarded as impeachable.

4. The Views of Prominent Historians and Legal Scholars Confirm that Impeachable Offenses Are Not Present

a. No Impeachable Offense Has Been Stated Here

There is strong agreement among constitutional scholars and historians that the articles do not charge impeachable offenses. As Professor Michael Gerhardt summarized in his recent testimony before a subcommitte of the House of Representatives, there is "widespread recognition [of] a paradigmatic case for impeachment."[52] In such a case, "*there must be a nexus between the misconduct of an impeachable official and the latter's official duties.*"[53]

There is no such nexus here. Indeed the allegations are so far removed from official wrongdoing that their assertion here threatens to weaken significantly the Presidency itself. As the more than 400 prominent historians and constitutional scholars warned in their public statement: "[t]he theory of impeachment underlying these efforts is unprecedented in our history . . . [and is] are extremely ominous for the future of our political institutions. If carried forward, [the current processes] will leave the Presidency permanently disfigured and diminished, at the mercy as never before of the caprices of any Congress.[54]

Similarly, in a letter to the House of Representatives, an extraordinary group of 430 legal scholars argued together that these offenses, even if proven true, did not rise to the level of an impeachable offense.[55] The gist of these scholarly objections is that the alleged wrongdoing is insufficiently connected to the exercise of public office. Because the articles charge wrongdoing of an essentially private nature, any harm such behavior poses is too removed from our system of government to justify unseating the President. Numerous scholars, opining long before the current controversy, have emphasized the necessary connection of impeachable wrongs to threats against the state itself. They have found that impeachment should be reserved for:

---

[32] George Mason, 2 Farrand, *The Records of the Federal Convention of 1787* 550 (Rev. ed. 1966).

[33] As the 1975 Watergate staff report concluded "Impeachment is the first step in remedial process—removal from office and possible disqualification from holding future office. The purpose of impeachment is not personal punishment; its function is primarily to maintain constitutional government. . . . In an impeachment proceeding a President is called to account for abusing powers that only a President possesses." *Constitutional Grounds for Presidential Impeachment, Report by the Staff of the Impeachment Inquiry*, House Comm. on Judiciary, 93d Cong., 2d Sess. at 24 (1974) ("*Nixon Impeachment Inquiry*").

[34] Minority Report at 337.

[35] 2 *Elliot*, The Debate in the Several State Conventions on the Adoption of the Federal Constitution 480 (reprint of 2d ed.)

[36] *The Federalist* No. 65 at 331 (Gary Wills ed. 1982). As one of the most respected of the early commentators explained, the impeachment "power partakes of a political character, as it respects injuries to the society in its political character." Story, *Commentaries on the Constitution*, Sec. 744. (reprint of 1st ed. 1833).

[37] John Labovitz, *Presidential Impeachment* 94 (1978).

[38] Raoul Berger, *Impeachment* 61 (1973).

[39] Rotunda, *An Essay on the Constitutional Parameters of Federal Impeachment*, 76 Ky. L.J. 707, 724 (1987/1988).

[40] Gerhardt, *The Constitutional Limits to Impeachment and Its Alternatives*, 68 Tex. L. Rev. 1, 85 (1989).

[41] *Impeachment of Richard M. Nixon, President of the United States*, Report of the Comm. on the Judiciary, 93rd Cong., 2d Sess, H. Rep. 93-1305 (Aug. 20, 1974) (hereinafter "*Nixon Report*") at 133.

[42] *Nixon Report* at 180.

[43] *Id.* 212-13.

[44] *Id.* at 220. The President was alleged to have failed to report certain income, to have taken improper tax deductions, and to have manufactured (either personally or through his agents) false documents to support the deductions taken.

[45] Given the underlying facts, that act might have provided the basis for multiple criminal charges; conviction on, for example, the tax evasion charge, could have subjected President Nixon to a 5-year prison term.

[46] *See Nixon Report* at 344 ("the Committee was told by a criminal fraud tax expert that on the evidence presented to the Committee, if the President were an ordinary taxpayer, the government would seek to send him to jail") (Statement of Additional Views of Mr. Mezvinsky, *et al.*)

[47] *Nixon Impeachment Inquiry* at 26 (emphasis added).

[48] *Nixon Report* at 364–365 (Minority Views of Messrs. Hutchinson, Smith, Sandman, Wiggins, Dennis, Mayne, Lott, Moorhead, Maraziti and Latta).

[49] *Id.* (quoting with approval conclusion of *Nixon Impeachment Inquiry*).

[50] *Nixon Report* at 220.

[51] *See generally* Rosenfeld, "Founding Fathers Didn't Flinch," *The Los Angeles Times* (September 18, 1980).

[52] Statement of Professor Michael J. Gerhardt Before the House Subcommittee on the Constitution of the House Judiciary Committee Regarding the Background and History of Impeachment (November 9, 1998) at 13 ("*Subcommittee Hearings*").

[53] *Ibid.* (emphasis added).

[54] Statement of Historians.

[55] *See* Letter of 430 Law Professors to Messrs. Gingrich, Gephardt, Hyde and Conyers (released Nov. 6, 1998).

- "offenses against the government";[56]
- "political crime against the state";[57]
- "serious assaults on the integrity of the processes of government";[58]
- "wrongdoing convincingly established [and] so egregious that [the President's] continuation in office is intolerable";[59]
- "malfeasance or abuse of office,"[60] bearing a "functional relationship" to public office;[61]
- "great offense[s] against the federal government";[62]
- "acts which, like treason and bribery, undermine the integrity of government."[63]

The articles contain nothing approximating that level of wrongdoing. Indeed the House Managers themselves acknowledge that "the President's [alleged] perjury and obstruction do not directly involve his official conduct."[64]

b. To Make Impeachable Offenses of These Allegations would Forever Lower the Bar in a Way Inimical to the Presidency and to Our Government of Separated powers

These articles allege (1) sexual misbehavior, (2) statements about sexual misbehavior and (3) attempts to conceal the fact of sexual misbehavior. These kinds of wrongs are simply not subjects fit for impeachment. To remove a President on this basis would lower the impeachment bar to an unprecedented level and create a devastating precedent. As Professor Arthur Schlesinger, Jr., addressing this problem, has testified:

"Lowering the bar for impeachment creates a novel . . . revolutionary theory of impeachment, [and] . . . would send us on an adventure with ominous implications for the separation of powers that the Constitution established as the basis of our political order. It would permanently weaken the Presidency."[65]

The lowering of the bar that Professor Schlesinger described must stop here. Professor Jack Rakove made a similar point when he stated that "Impeachment [is] a remedy to be deployed only in . . . unequivocal cases where . . . the insult to the constitutional system is grave."[66] Indeed, he said, there "would have to be a high degree of consensus on both sides of the aisle in Congress and in both Houses to proceed."[67]

Bipartisan consensus was, of course, utterly lacking in the House of Representatives. No civil officer—no President, no judge, no cabinet member—has ever been impeached by so narrow a margin as supported the articles exhibited here.[68] The closeness and partisan division of the vote reflect the constitutionally dubious nature of the charges.

When articles are based on sexual wrongdoing, and when they have passed only by the narrowest, partisan margin, the future of our constitutional politics is in the balance. The very stability of our Constitutional government may depend upon the Senate's response to these articles. Nothing about this case justifies removal of a twice-elected President, because no "high Crimes and Misdemeanors" are alleged.

5. Comparisons to Impeachment of Judges Are Wrong

The House Managers suggest that perjury *per se* is an impeachable offense because (1) several federal judges have been impeached and removed for perjury, and (2) those precedents control this case. *See* House Br. at 95–105. That notion is erroneous. It is blind both to the qualitative differences among different allegations of perjury and the very basic differences between federal judges and the President.

First, the impeachment and removal of a Federal judge, while a very solemn task, implicates very different considerations than the impeachment of a president. Federal judges are appointed without public approval and enjoy life tenure without public accountability. Consequently, they hold their offices under our Constitution only "during good behavior." Under our system, impeachment is the *only* way to remove a Federal judge from office—even a Federal judge sitting in jail.[69] By contrast, a president is elected by the Nation to a term, limited to a specified number of years, and he faces accountability in the form of elections.

Second, whether an allegedly perjurious statement rises to the level of an impeachable offense depends necessarily on the particulars of that statement, and the relation of those statements to the fulfillment of official responsibilities. In the impeachment of Judge Harry Claiborne, the accused had been convicted of filing false income tax returns.[70] As a judge, Claiborne was charged with the responsibility of hearing tax-evasion cases. Once convicted, he simply could not perform his official functions because his personal probity had been impaired such that he could no longer be an arbiter of others' oaths. His wrongdoing bore a direct connection to the performance of his judicial tasks. The inquiry into President Nixon disclosed similar wrongdoing, but the House Judiciary Committee refused to approve an article of impeachment against the President on that basis. The case of Judge Walter Nixon is similar. He was convicted of making perjurious statements concerning his *intervention in a judicial proceeding*, which is to say, employing the power and prestige of his office to obtain advantage for a party.[71] Although the proceeding at issue was not in his court, his use of the judicial office for the private gain of a party to a judicial proceeding directly implicated his official functions. Finally, Judge Alcee Hastings was impeached and removed for making perjurious statements at his trial for conspiring to fix cases in his own court.[72] As with Judges Claiborne and Nixon, Judge Hastings' perjurious statements were immediately and incurably detrimental to the performance of his official duties. The allegations against the President, which (as the Managers acknowledge) "do not directly involve his official conduct," House Br. at 109, simply do not involve wrongdoing of gravity sufficient to foreclose effective performance of the Presidential office.

Impeachment scholar John Labovitz, writing of the judicial impeachment cases predating Watergate, observed that:

"For both legal and practical reasons, th[e] [judicial impeachment] cases did not necessarily affect the grounds for impeachment of a president. The practical reason was that *it seemed inappropriate to determine the fate of an elected chief executive on the basis of law developed in proceedings directed at petty misconduct by obscure judges*. The legal reason was that the Constitution provides that judges serve during good behavior. . . . [T]he [good behavior] clause made a difference in judicial impeachments, confounding the application of these cases to presidential impeachment".[73] Thus, the judicial precedents relied upon by the House Managers have only "limited force when applied to the impeachment of a President."[74]

The most telling rejoinder to the House's argument comes from President Ford. His definition of impeachable offenses, offered as a congressman in 1970 in connection with an effort to impeach Associate Justice William O. Douglas—that it is, in essence, "whatever the majority of the House of Representatives considers it to be"—has been cited. Almost never noted is the more important aspect of then-Congressman Ford's statement—that, in contrast to the life-tenure of judges, because presidents can be removed by the electorate, "to remove them in midterm . . . would indeed require crimes of the magnitude of treason and bribery."[75]

---

[56] Labovitz, *Presidential Impeachment* at 26.

[57] Berger, *Impeachment* at 61.

[58] Charles L. Black, Jr. *Impeachment: A Handbook* 38-39 (1974).

[59] Labovitz *Presidential Impeachment* at 110.

[60] Rotunda, 76 Ky. L.J. at 726.

[61] *Ibid*.

[62] Gerhardt, 68 Tex. L. Rev. at 85.

[63] Committee on Federal Legislation of the Bar Ass'n of the City of New York, *The Law of Presidential Impeachment* 18 (1974).

[64] House Br. at 109.

[65] *Subcommittee Hearings* (Written Statement of Arthur Schlesinger, Tr. at 2).

[66] *Subcommittee Hearings* (Written Statement of Professor Jack Rakove at 4).

[67] *Subcommittee Hearings* (Oral Testimony of Professor Rakove).

[68] The present articles were approved by margins of 228–206 (Article I) and 221–212 (Article II). All prior resolutions were approved by substantially wider margins in the House of Representatives. *See* Impeachments of the following civil officers: Judge John Pickering (1803) (45–8; Justice Samuel Chase (1804) (73–32; Judge James Peck (1830) 143–49; Judge West Humphreys (1862) (no vote available, but resolution of impeachment voted "without division," *see* 3 Hinds Precedents of the House of Representatives §2386); President Andrew Johnson (1868) (128–47; Judge James Belknap (1876) (unanimous); Judge Charles Swayne (1903) (unanimous); Judge Robert Archibald (1912) (223–1); Judge George English (1925) (306–62); Judge Harold Louderback (1932) (183–143); Judge Halsted Ritter (1933) (181–146); Judge Harry Claiborne (1986) (406–0); Judge Walter L. Nixon, Jr. (1988) (417–0); Judge Alcee L. Hastings (1988) (413–3). The impeachment resolution against Senator William Bount in 1797 was by voice vote and so no specific count was recorded.

[69] Former House Judiciary Committee Chairman Peter Rodino, during a recent judicial impeachment proceeding, cogently explained the unique position that Federal judges hold in our Constitutional system:

"The judges of our Federal courts occupy a unique position of trust and responsibility in our government: They are the only members of any branch that hold their office for life; they are purposely insulated from the immediate pressures and shifting currents of the body politic. *But with the special prerogative of judicial independence comes the most exacting standard of public and private conduct* . . . The high standard of behavior for judges is inscribed in article III of the Constitution, which provides that judges "shall hold offices during good behavior. . . ." (132 Cong. Rec. H4712 (July 22, 1986) (impeachment of Judge Harry E. Claiborne) (emphasis added).

[70] Proceedings of the United States Senate in the Impeachment Trial of Harry E. Claiborne, 99th Cong., 2d Sess., S. Doc. 99–48 at 291–98 (1986) ("*Claiborne Proceedings*").

[71] Proceedings of the United States Senate in the Impeachment Trial of Walter L. Nixon, Jr., 101st Cong., 1st Sess., S. Doc. 101–22 at 430–440 (1989) ("*Judge Nixon Proceedings*").

[72] *See* Proceedings of the United States Senate in the Impeachment Trial of Alcee L. Hastings, 101st Cong., 1st Sess., S. Doc. 101–18 (1989).

[73] Labovitz, *Presidential Impeachment* at 92–93 (emphasis added).

[74] Office of Senate Legal Counsel, *Memorandum on Impeachment Issues* at 26 (Oct. 7, 1988) (summarizing view of some commentators).

B. THE STANDARD OF PROOF

Beyond the question of what constitutes an impeachable offense, each Senator must confront the question of what standard the evidence must meet to justify a vote of "guilty." The Senate has, of course, addressed this issue before—most recently in the trials of Judge Claiborne and Judge Hastings. We recognize that the Senate chose in the Claiborne proceedings, and reaffirmed in the Hastings trial, not to impose itself any single standard of proof but, rather, to leave that judgment to the conscience of each Senator. Many Senators here today were present for the debate on this issue and chose a standard by which to test the evidence. For many Senators, however, the issue is a new one. And none previously has had to face the issue in the special context of a Presidential impeachment.

We argued before the House Judiciary Committee that it must treat a vote to impeach as, in effect, a vote to remove the President from office and that a decision of such moment ought not to be based on anything less than "clear and convincing" evidence. That standard is higher than the "preponderance of the evidence" test applicable to the ordinary civil case but lower than the beyond a reasonable doubt test applicable to a criminal case. Nonetheless, we felt that the clear and convincing standard was consistent with the grave responsibility of triggering a process that might result in the removal of a President. In fact, it had been the standard agreed upon by both Watergate Committee majority and minority counsel (as well as counsel for President Nixon) twenty-four years ago.

Certainly no lesser standard should be applied in the Senate. Indeed, we submit that the gravity of the decision the Senate must reach should lead each Senator to go further and ask whether the House has established guilt beyond a reasonable doubt.

Both lawyers and laymen too often treat the standard of proof as meaningless legal jargon with no application to the real world of difficult decisions. But it is much more than that. In our system of justice, it is the guidepost that shows the way through the labyrinth of conflicting evidence. It tells the factfinder to look within and ask: "Would I make the most important decisions of my life based on the degree of certainty I have about these facts?" In the unique legal-political setting of an impeachment trial, it protects against partisan overreaching, and it assures the public that this grave decision has been made with care. In sum, it is a disciplining force to carry into the deliberations.

This point is given added weight by the language of the Constitution. Article I, section 3, clause 6 of the United States Constitution gives to the Senate "the Power to *try* all Impeachments. . . . and no Person shall be *convicted* without the Concurrence of two thirds of the Members present." (Emphasis added.) Use of the words "try" and "convicted" strongly suggests that an impeachment trial is akin to a criminal proceeding and that the beyond-a-reasonable-doubt standard of criminal proceedings should be used. This position was enunciated in the Minority Views contained in the Report of the House Judiciary Committee on the impeachment proceedings against President Nixon (H. Rep. 93-1305 at 377-381) and has been espoused as the correct standard by such Senators as Robert Taft, Jr., Sam Ervin, Strom Thurmond and John Stennis.[76]

Even if the clear and convincing standard nonetheless is appropriate for judicial impeachments, it does not follow that it should be applied where the Presidency itself is at stake. With judges, the Senate must balance its concern for the independence of the judiciary against the recognition that, because judges hold life-time tenure, impeachment is the only available means to protect the public against those who are corrupt. On the other hand, when a President is on trial, the balance to be struck is quite different. Here the Senate is asked, in effect, to overturn the results of an election held two years ago in which the American people selected the head of one of the three coordinate branches of government. It is asked to take this action in circumstances where there is no suggestion of corruption or misuse of office—or any other conduct that places our system of government at risk in the two remaining years of the President's term, when once again the people will judge who they wish to lead them. In this setting, the evidence should be tested by the must stringent standard we know—proof beyond a reasonable doubt. Only then can the American people be confident that this most serious of constitutional decisions has been given the careful consideration it deserves.

IV. THE PRESIDENT SHOULD BE ACQUITTED ON ARTICLE I

The evidence does not support the allegations of Article I.

A. APPLICABLE LAW

Article I alleges perjury, along with false and misleading statements, before a federal grand jury. Perjury is a statutory crime that is set forth in the United States Code at 18 U.S.C. §1623.[77] Before an accused may be found guilty of perjury before a grand jury, a prosecutor must prove all elements of the offense.

In the criminal law context, §1623 requires proof beyond a reasonable doubt of the following elements: that an accused (1) while under oath (2) knowingly (3) made a false statement as to (4) material facts. The "materiality" element is fundamental: it means that testimony given to a grand jury may be found perjurious only if it had a tendency to influence, impede, or hamper the grand jury's investigation. *See, e.g., United States* v. *Reilly*, 33 F.3d 1396, 1419 (3d Cir. 1994); *United States* v. *Barrett*, 111 F.3d 947, 953 (D.C. Cir. 1997). If an answer provided to a grand jury has no impact on the grand jury's investigation, or if it relates to a subject that the grand jury is not considering, it is incapable as a matter of law of being perjurious. Thus, alleged false testimony concerning details that a grand jury is not investigating cannot as a matter of law constitute perjury, since such testimony by definition is immaterial. *See, e.g., United States* v. *Lasater*, 535 F.2d 1041, 1048 (8th Cir. 1976) (where defendant admitted signing letter and testified to its purpose, his denial of actually writing letter was not material to grand jury investigation and was incapable of supporting perjury charge); *United States* v. *Pyle*, 156 F.2d 852, 856 (D.C. Cir. 1946) (details such as whether defendant "paid the rent on her Washington apartment, as she testified that she did" were "not pertinent to the issue being tried;" therefore, "the false statement attributed to [defendant] was in no way material in the case in which she made it and did not constitute perjury within the meaning of the statute.") In other words, mere falsity—even knowing falsity—is not perjury if the statement at issue is not "material" to the matter under consideration.

An additional "element" of perjury prosecutions, at least as a matter of prosecutorial practice, is that a perjury conviction cannot rest solely on the testimony of one witness. In *United States* v. *Weiler*, 323 U.S. 606, 608-09 (1945), the Supreme Court observed that the "special rule which bars conviction for perjury solely upon the evidence of a single witness is deeply rooted in past centuries." While §1623 does not literally incorporate the so-called "two-witness" rule, the case law makes clear that perjury prosecutions under this statute require a high degree of proof, and that prosecutors should not, as a matter of reason and practicality, try to bring perjury prosecutions based solely on the testimony of a single witness. As the Supreme Court has cautioned, perjury cases should not rest merely upon "an oath against an oath." *Id.* at 609.

Indeed, that is exactly the point that experienced former federal prosecutors made to the House Judiciary Committee. A panel of former federal prosecutors, some Republican, testified that they would not charge perjury based upon the facts in this case. For example, Mr. Thomas Sullivan, a former United States Attorney for the Northern District of Illinois, told the Committee that "the evidence set out in the Starr report would not be prosecuted as a criminal case by a responsible federal prosecutor." *See* Transcript of "Prosecutorial Standards for Obstruction of Justice and Perjury" Hearing (Dec. 9, 1998); *see generally* Minority Report at 340-47. As Mr. Sullivan emphasized, "because perjury and obstruction charges often arise from private dealings with few observers, the courts have required either two witnesses who testified directly to the facts establishing the crime, or, if only one witness testifies to the facts constituting the alleged perjury, that there be substantial corroborating proof to establish guilt." *See* Transcript of "Prosecutorial Standards for Obstruction of Justice and Perjury" Hearing (Dec. 9, 1998). The other prosecutors on the panel agreed. Mr. Richard J. Davis, who served as an Assistant United States Attorney for the Southern District of New York and as a Task Force Leader for the Watergate Special Prosecution Force, testified that "it is virtually unheard of to bring a perjury prosecution based solely on the conflicting testimony of two people." *Id.* A review of the perjury alleged here thus requires both careful scrutiny of the materiality of any alleged falsehood and vigilance against conviction merely on an "oath against an oath." *Weiler*, 323 U.S. at 609.

B. STRUCTURE OF THE ALLEGATIONS

Article I charges that the President committed perjury when he testified before the grand jury on August 17, 1998. It alleges he "willfully provided perjurious, false and misleading testimony to the grand jury concerning "one or more of the following: (1) the nature and details of his relationship with a subordinate Government employee; (2) prior perjurious, false and misleading testimony he gave in a Federal civil rights action brought against him; (3) prior false and misleading statements he allowed his attorney to make to a Federal judge in that civil rights action; and (4) his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence in that civil rights action." As noted above, the article does not provide guidance on the particular statements alleged to be perjurious, false and misleading. But by reference to the different views in the House Committee Report, the presentation of House Majority Counsel David Schippers, the OIC Referral, and the Trial Memorandum of the House Managers, we have attempted to identify certain statements from which members of the House might have chosen.

---

[75] 116 Cong. Rec. 11912, 11913, (1970).

[76] *Claiborne Proceedings* at 106-107.

[77] Section 1623 provides in relevant part:

"(a) Whoever under oath . . . in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any false material declaration or makes or uses any other information . . . knowing the same to contain any false material declaration, shall be fined under this title or imprisoned not more than five years, or both." (18 U.S.C. §1623(a) (1994)).

Subpart (1) alleges that the President committed perjury before the grand jury about the details of his relationship with Ms. Lewinsky—including apparently such insignificant matters as mis-remembering the precise month on which certain inappropriate physical contact started, understating as "occasional" his infrequent inappropriate physical and telephone contacts with Ms. Lewinsky over a period of many months, characterizing their relationship as starting as a friendship, and touching Ms. Lewinsky in certain ways and for certain purposes during their intimate encounters.

Subpart (2) of Article I alleges that the President made perjurious, false and misleading statements to the grand jury when he testified about certain responses he had given in the *Jones* civil deposition. The House Managers erroneously suggest that in the grand jury President Clinton was asked about and reaffirmed his entire deposition testimony, including his deposition testimony about whether he had been alone with Ms. Lewinsky. *See* House Br. at 2, 60. That is demonstrably false. Those statements that the President did in fact make in the grand jury, by way of explaining his deposition testimony, were truthful. Moreover, to the extent this subpart repeats allegations of Article II of the original proposed articles of impeachment, the full House of Representatives has explicitly considered and specifically rejected those charges, and their consideration would violate the impeachment procedures mandated by the Constitution.

Subparts (3) and (4) allege that the President lied in the grand jury when he testified about certain activities in late 1997 and early 1998. They are based on statements about conduct that the House Managers claim constitutes obstruction of justice under Article II and in many respects track Article II. *Compare* Article I (3) (perjury in the grand jury concerning alleged "prior false and misleading statements he allowed his attorney to make to a Federal judge") *with* Article II (5) (obstructing justice by "allow[ing] his attorney to make false and misleading statements to a Federal judge) and *compare* Article I (4) (perjury in the grand jury concerning alleged "corrupt efforts to influence testimony of witnesses and to impede the discovery of evidence") *with* Article II (3), (6), (7) (obstructing justice when he (3) "engaged in, encouraged, or supported a scheme to conceal evidence," *i.e.*, gifts; (6) "corruptly influence[d] the testimony" of Betty Currie; (7) "made false and misleading statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence the testimony of those witnesses"). These perjury allegations are without merit both because the obstruction charges upon which they are based are wrong and because the statements that President Clinton made in the grand jury about these charges are true. Because of the close parallel, and for sake of brevity in this submission, we have dealt comprehensively with these overlapping allegations in the next section addressing Article II (obstruction of justice), and address them only briefly in this section.

C. RESPONSE TO THE PARTICULAR ALLEGATIONS IN ARTICLE I

The president testified truthfully before the grand jury. There must be no mistake about what the President said. He admitted to the grand jury that he had engaged in an inappropriate intimate relationship with Ms. Lewinsky over a period of many months. He admitted to the grand jury that he had been alone with Ms. Lewinsky. He admitted to the grand jury that he had misled his family, his friends and staff, and the entire Nation about the nature of that relationship. No one who heard the President's August 17 speech or watched the President's videotaped grand jury testimony had any doubt that he had admitted to an ongoing physical relationship with Ms. Lewinsky.

The article makes general allegations about his testimony but does not specify alleged false statements, so direct rebuttal is impossible. In light of this uncertainty, we set forth below responses to the allegations that have been made by the House Managers, the House Committee, and the OIC, even though they were not adopted in the article, in an effort to try to respond comprehensively to the charges.

1. The President denies that he made materially false or misleading statements to the grand jury about "the nature and details of his relationship" with Monica Lewinsky

(a) Early in his grand jury testimony, the President specifically acknowledged that he had had a relationship with Ms. Lewinsky that involved "improper intimate contact." App. at 461. He described how the relationship began and how it ended early in 1997—long before any public attention or scrutiny.

In response to the first question about Ms. Lewinsky, the President read the following statement:

"When I was alone with Ms. Lewinsky on certain occasions in early 1996 and once in early 1997, I engaged in conduct that was wrong. These encounters did not consist of sexual intercourse. They did not constitute sexual relations as I understood that term to be defined at my January 17th, 1998 deposition. But they did involve inappropriate intimate contact.

"These inappropriate encounters ended, at my insistence, in early 1997. I also had occasional telephone conversations with Ms. Lewinsky that included inappropriate sexual banter.

"I regret that what began as a friendship came to include this conduct, and I take full responsibility for my actions.

"While I will provide the grand jury whatever other information I can, because of privacy considerations affecting my family, myself, and others, and in an effort to preserve the dignity of the office I hold, this is all I will say about the specifics of these particular matters.

"I will try to answer, to the best of my ability, other questions including questions about my relationship with Ms. Lewinsky; questions about my understanding of the term 'sexual relations', as I understood it to be denied at my January 17th, 1998 deposition; and questions concerning alleged subornation of perjury, obstruction of justice, and intimidation of witnesses."

App. at 460–62. The President occasionally referred back to this statement—but only when asked very specific questions about his physical relationship with Ms. Lewinsky—and he otherwise responded fully to four hours of interrogation about his relationship with Ms. Lewinsky, his answers in the civil deposition, and his conduct surrounding the *Jones* deposition.

The articles are silent on precisely what statements the President made about his relationship with Ms. Lewinsky that were allegedly perjurious. But between the House Brief and the Committee Report, both drafted by the Managers, it appears there are three aspects of this prepared statement that are alleged to be false and misleading because Ms. Lewinsky's recollection differs—albeit with respect to certain very specific, utterly immaterial matters: *first*, when the President admitted that inappropriate conduct occurred "on certain occasions *in early 1996* and once in 1997," he allegedly committed perjury because in the Managers' view, the *first* instance of inappropriate conduct apparently occurred a few months prior to "early 1996," *see* House Br. at 53; *second*, when the President admitted to inappropriate conduct "*on certain occasions* in early 1996 and once in 1997," he allegedly committed perjury because, according to the House Committee, there were *eleven* total sexual encounters and the term "on certain occasions" implied something other than eleven. *see* Committee Report at 34; and *third*, when the President admitted that he "had *occasional* telephone conversations with Ms. Lewinsky that included sexual banter," he allegedly committed perjury because, according to the House Committee (although not Ms. Lewinsky), seventeen conversations may have included sexually explicit conversation, *ibid.* Apart from the fact that the record itself refutes some of the allegations (for example, seven of the seventeen calls were only "possible," according even to the OIC, App. at 116–26, and Ms. Lewinsky recalled fewer than seventeen, App. at 744), simply to state them is to reveal their utter immateriality.[78]

The President categorically denies that his prepared statement was perjurious, false and misleading in any respect. He offered his written statement to focus the questioning in a manner that would allow the OIC to obtain the information it needed without unduly dwelling on the salacious details of his relationship. It preceded almost four hours of follow-up questions about the relationship. It is utterly remarkable that the Managers now find fault even with the President's very painful public admission of inappropriate conduct.

In any event, the charges are totally without merit. The Committee Report takes issue with the terms "on certain occasions" and "occasional," but neither phrase implies a definite or maximum number. "On certain occasions"—the phrase introducing discussion of the physical contacts—has virtually no meaning other than "it sometimes happened." It is unfathomable what objective interpretation the Majority gives to this phrase to suggest that it could be false. An attack on the phrase "occasional"—the phrase introducing discussion of the inappropriate telephone contacts—is little different. Dictionaries define "occasional" to mean

---

[78] Even the OIC Referral did not allege perjury based on these latter two theories and mentioned the first only briefly.

"occurring at irregular or infrequent intervals" or "now and then."[79] It is a measure of the Committee Report's extraordinary overreaching to suggest that the eleven occasions of intimate contact alleged by the House Majority over well more than a year did not occur, by any objective reading, "on certain occasions." And since even the OIC Referral acknowledges that the inappropriate telephone contact occurred not "at least 17 times" (as the Committee Report and the Managers suggest, Committee Report at 8; House Br. at 11) but between 10 and 15 times over a 23-month period,[80] "occasional" would surely seem not just a reasonable description but the correct one.

Finally, these squabbles are utterly immaterial. Even if the President and Ms. Lewinsky disagreed as to the precise number of such encounters, it is of no consequence whatsoever to anything, given his admission of their relationship. This is precisely the kind of disagreement that the law does not intend to capture as perjury.

The date of the first intimate encounter is also totally immaterial. Having acknowledged the relationship, the President had no conceivable motive to misstate the date on which it began. The Managers assert that the President committed perjury when he testified about when the relationship began, but they offer no rationale for why he would have done so.[81] The President had already made a painful admission. Any misstatement about when the intimate relationship began (if there was a misstatement) cannot justify a charge of perjury, let alone the removal of the President from office. As Chairman Hyde himself stated in reference to this latter allegation, "It doesn't strike me as a terribly serious count." Remarks of Chairman Hyde at Perjury Hearing of December 1, 1998.

(b) The Managers also assert that the President lied when, after admitting that he had an inappropriate sexual relationship with Ms. Lewinsky, he maintained that he did not touch Ms. Lewinsky in a manner that met the definition used in the *Jones* deposition. *See* House Br. at 54. The President admits that he engaged in inappropriate physical contact with Ms. Lewinsky, but has testified that he did not engage in activity that met the convoluted and truncated definition he was presented in the *Jones* deposition.[82]

It is important to note that this *Jones* definition was not of the President's making. It was one *provided to him* by the Jones's lawyers for their questioning of him. Under that definition, oral sex performed by Ms. Lewinsky on the President would not constitute sexual relations, while touching certain areas of Ms. Lewinsky's body with the intent to arouse her would meet the definition. The President testified in the grand jury that believed that oral sex performed on him fell outside the *Jones* definition. App. at 544.[83] As strange as this may sound, a totally reasonable reading of the definition supports that conclusion, as many commentators have agreed.[84]

This claim comes down to an oath against an oath about immaterial details concerning an acknowledged wrongful relationship.

2. The President denies that he made perjurious, false and misleading statements to the grand jury about testimony he gave in the Jones case

First, it is important to understand that the allegation of Article I that the President "willfully provided false and misleading testimony to the grand jury concerning . . . prior perjurious, false and misleading testimony he gave in" the *Jones* deposition is premised on a misunderstanding of the President's grand jury testimony. The President was not asked to, and he did not, reaffirm his entire *Jones* deposition testimony during his grand jury appearance. For example, contrary to popular myth and the undocumented assertion of the House Managers, House Br. at 2, the President was never even asked in the grand jury about his answer to the deposition question whether he and Ms. Lewinsky had been "together alone in the Oval Office." Dep. at 52–53.[85] and he therefore neither reaffirmed it nor even addressed it. In fact, in the grand jury he was asked only about a small handful of his answers in the deposition. As is demonstrated below, his explanation of these answers were not reaffirmations or in any respect evasive or misleading—they were completely truthful, and they do not support a perjury allegation.

The extent to which this allegation of the House Majority misses the mark is dramatically apparent when it is compared with the OIC's Referral. The OIC did not charge that the President's statements about his prior deposition testimony were perjurious (apart from the charge discussed above concerning the nature and details of his relationship with Ms. Lewinsky).[86] *See* OIC Ref. at 145. It would be remarkable to contemplate charges beyond those brought by the OIC, particularly in the context of a perjury claim where the OIC chose what to ask the President and itself conducted the grand jury session.

The House Managers point to a single statement made by President Clinton in the grand jury to justify their contention that every statement from his civil deposition is now fair game. House Br. at 60. Specifically, the House Managers rely on President Clinton's explanation in the grand jury of his state of mind during the *Jones* deposition: "My goal in this deposition was to be truthful, but not particularly helpful . . . I was determined to walk through the mine field of this deposition without violating the law, and I believe I did." App. at 532. In addition to being a true statement of his belief as to his legal position, this single remark plainly was not intended as and was not a broad reaffirmation of the accuracy of all the statements the President made during the *Jones* deposition. Indeed, given that he told the grand jury that he had an intimate relationship with Ms. Lewinsky during which he was alone with her, no one who heard the grand jury testimony could have understood it to be the unequivocal reaffirmation that is alleged.

The Managers charge that the President did not really mean it when he told the grand jury how he was trying to be literally truthful in the *Jones* deposition without providing information about his relationship with Ms. Lewinsky. The President had endeavored to navigate the deposition without having to make embarrassing admissions about his inappropriate, albeit consensual, relationship with Ms. Lewinsky. And to do this, the President walked as close to the line between (a) truthful but evasive or nonresponsive testimony and (b) false testimony as he could without crossing it. He sought, as he explained to the grand jury, to give answers that were literally accurate, even if, as a result, they were evasive and thus misleading. We repeat: what is at issue here is not the underlying statements made by the President in the deposition, but the President's *explanations* in the grand jury of his effort to walk a fine line. Anyone who reads or watches that deposition *knows* the President was in fact trying to do precisely what he has admitted—to give the lawyers grudging, unresponsive or even misleading answers without actually lying. However successful or unsuccessful he might have been, there is no evidence that controverts the fact that this was indeed the President's intention.

---

[79] *Webster's Collegiate Dictionary* (10th ed. 1997) p. 803; *see also Webster's II New Riverside Dictionary* (1988) p. 812 ("occurring from time to time; infrequent"); *Chambers English Dictionary* (1988 ed.) p. 992 ("occurring infrequently, irregularly, now and then"); *The American Heritage Dictionary* (2d Coll. ed.) ("occurring from time to time"); *Webster's New World Dictionary* (3d Coll. ed.) p. 937 ("of irregular occurrence; happening now and then; infrequent").

[80] The OIC chart of contacts between Ms. Lewinsky and the President identifies ten phone conversations "including phone sex" and seven phone conversations "possibly" including phone sex. App. at 116–26.

[81] The Committee Report did not adopt the baseless surmise of the OIC Referral, *i.e.*, that the President lied about the starting date of his relationship because Ms. Lewinsky was still an intern at the time, whereas she later became a paid employee. For good reason. The only support offered by the Referral for this conjecture is a comment Ms. Lewinsky attributes to the President in which he purportedly said that her pink "intern pass" "might be a problem." Referral at 149–50. But even Ms. Lewinsky indicated that the President was not referring to her intern status, but rather was noting that, as an intern with a pink "intern pass," she had only limited access to the West Wing of the White House. App. at 1567 (Lewinsky FBI 302 8/24/98). Moreover, Ms. Lewinsky had in fact become an employee by late 1995, so even under the OIC theory the President could have acknowledged such intimate contact in 1995.

[82] At the deposition, the Jones attorneys presented a broad, three-part definition of the term "sexual relations" to be used by them in the questioning. Judge Wright ruled that two parts of the definition were "too broad" and eliminated them. Dep. at 22. The President, therefore, was presented with the following definition (as he understood it to have been amended by the Court):

Definition of Sexual Relations—

For the purposes of this deposition, a person engages in "sexual relations" when the person knowingly engages in or causes—

(1) contact with the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to arouse or gratify the sexual desire of any person;

~~(2) contact between any part of the person's body or an object and the genitals and anus of another person; or~~

~~(3) contact between the genitals or anus of the person and any part of another person's body.~~

~~"Contact" means intentional touching, either directly or through clothing.~~

[83] The Managers erroneously suggest that the President's explanation of his understanding of the *Jones* deposition definition of "sexual relations" is a recent fabrication rather than an accurate account of his view at the time of the deposition. House Br. at 54–55. To support this contention, the Managers, among other meritless arguments, point to a document produced by the White House entitled "January 24, 1998 Talking Points," stating that oral sex would constitute a sexual relationship for the President. *Id.* at 55. This document, however, was not created, reviewed or approved by the President and did not represent his views. It is irrelevant to the issue at hand for the additional reason that it does not speak by its own terms to the meaning of the contorted definition of "sexual relations" used in the *Jones* deposition.

[84] *See, e.g.*, Perjury Hearing of December 1, 1998 (Statement of Professor Stephen A. Saltzburg at 2) ("That definition defined certain forms of sexual contact as sexual relations but, for reasons known only to the Jones lawyers, limited the definition to contact with any person for the purpose of gratification."); MSNBC Internight, August 12, 1998 (Cynthia Alksne) ("[W]hen the definition finally was put before the president, it did not include the receipt of oral sex"); "DeLay Urges a Wait For Starr's Report," *The Washington Times* (August 31, 1998) ("The definition of sexual relations, used by lawyers for Paula Jones when they questioned the president, was loosely worded and may not have included oral sex"); "Legally Accurate," *The National Law Journal* (August 31, 1998) ("Given the narrowness of the court-approved definition in [the *Jones*] case, Mr. Clinton indeed may not have perjured himself back then if, say, he received oral sex but did not reciprocate sexually").

[85] The only questions the OIC asked the President about being alone with Ms. Lewinsky did not reference the deposition at all. Instead, the OIC asked the President to elaborate on his acknowledgement in his prepared statement before the grand jury that he had been alone with Ms. Lewinsky, App. at 481, and to explain why he made a statement, "I was never alone with her" *to Ms. Currie* on January 18th. *See, e.g.*, App. at 583.

[86] Specifically, the Referral alleges that the President lied when he testified (1) that "he believed that oral sex was not covered by any of the terms and definitions for sexual activity used at the *Jones* deposition"; (2) that their physical contact was more limited than Ms. Lewinsky's testimony suggests; and (3) that their intimate relationship began in early 1996 and not late 1995. *Id.* at 148–49.

An examination of the statements that the President actually did make in the grand jury about his deposition testimony further demonstrates the lack of merit in this article. In the grand jury, the President only was asked about three areas of his deposition testimony that were covered in the failed impeachment article alleging perjury in the civil deposition.[87] The first topic was the nature of any intimate contact with Ms. Lewinsky and has already been addressed above.

The second topic was the President's testimony about his knowledge of gifts he exchanged with Ms. Lewinsky. In his grand jury testimony, the President had the following exchange with the OIC:

> Q: When you testified in the Paula Jones case, this was only two and a half weeks after you had given her these six gifts, you were asked, at page 75 in your deposition, lines 2 through 5, "Well, have you ever given any gifts to Monica Lewinsky?" And you answered, "I don't recall."
>
> And you were correct. You pointed out that you actually asked them, for prompting, "Do you know what they were?"
>
> A: I think what I meant there was I don't recall what they were, not that I don't recall whether I had given them. And then if you see, they did give me these specifics, and I gave them quite a good explanation here. I remembered very clearly what the facts were about The Black Dog. . . .

App. at 502–03. The President's explanation that he could not recall the exact gifts that he had given Ms. Lewinsky and that he affirmatively sought prompting from the *Jones* lawyers is entirely consistent with his deposition testimony. This record plainly does not support a charge of perjury.

The third and last topic was the President's deposition testimony that Ms. Lewinsky's affidavit statement denying having a sexual relationship with the President was correct:

> Q: And you indicated that it [Ms. Lewinsky's affidavit statement that she had no sexual relationship with him] was absolutely correct.
>
> A: I did. . . . I believe at the time that she filled out this affidavit, if she believed that the definition of sexual relationship was two people having intercourse, then this is accurate. And I believe that this is the definition that most ordinary Americans would give it. . . .

App. at 473. The President's grand jury testimony was truthful. As Ms. Lewinsky and Ms. Tripp discussed long before any of this matter was public, this was in fact Ms. Lewinsky's definition of "sex" and apparently the President's as well. *See* Supp. at 2664 (10/3/97 Tape); *see also* App. at 1558 (Lewinsky FBI 302 8/19/98). There is no evidence whatever that the President did not believe this definition of sexual relations, and his belief finds support in dictionary definitions, the courts and commentators.[88] Moreover, the record establishes that Ms. Lewinsky shared this view.[89] Since the President's grand jury testimony about his understanding is corroborated both by dictionaries and by his prior statements to Ms. Lewinsky, it simply cannot be labeled "wrong" or, more seriously, "perjurious."

The President did not testify falsely and perjuriously in the grand jury about his civil deposition testimony.

3. The President denies that he made perjurious, false and misleading statements to the grand jury about the statements of his attorney to Judge Wright during the Jones deposition

It is remarkable that Article I contains allegations such as this one that even the OIC, which conducted the President's grand jury appearance, chose not to include in the Referral (presumably because there was no "substantial and credible information" to support the claim). Subpart (3) appears to allege that the President lied in his grand jury testimony when he characterized his state of mind in his civil deposition as his lawyer described the Lewinsky affidavit as meaning "there is no sex of any kind in any manner, shape or form." Dep. at 53–54. Specifically, the House Managers appear to base their perjury claim on President Clinton's grand jury statement that "I'm not even sure I paid attention to what he [Mr. Bennett] was saying." House Br. at 62.

The House Brief takes issue with President Clinton's statement that he was "not paying a great deal of attention to this exchange" because, it alleges, the "videotape [of the deposition] shows the President looking directly at Mr. Bennett, paying close attention to his argument to Judge Wright." *Ibid.* While it is true that the videotape shows the President staring in what is presumably Mr. Bennett's direction, there is no evidence whatsoever that he was indeed "paying close attention" to the lengthy exchange. Notably absent from the videotape is any action on the part of the President that could be read as affirming Mr. Bennett's statement, such as a nod of the head, or any other activity that could be used to distinguish between a fixed stare and true attention to the complicated sparring of counsel. The President was a witness in a difficult and complex deposition and, as he testified, he was "focussing on [his] answers to the questions." App. at 477. It is a safe bet that the common law has never seen a perjury charge based on so little.[90]

4. The President denies that he made perjurious, false and misleading statements to the grand jury when he denied attempting "to influence the testimony of witnesses and to impede the discovery of evidence" in the Jones case

The general language of the final proviso of Article I, according to the House Managers, is meant to signify a wide range of allegations, *see* House Br. at 60–69, although none were thought sufficiently credible to be included in the OIC Referral. These allegations were not even included in the summary of the Starr evidence presented to the Committee on October 5, 1998, by House Majority Counsel Schippers. They are nothing more than an effort to inflate the perjury allegations by converting every statement that the President made about the subject matter of Article II into a new count for perjury. As the discussion of Article II establishes, the President did not attempt to obstruct justice. Thus, his explanations of his statements in the grand jury were truthful.

The House Brief asserts that the President committed perjury with respect to three areas of his grand jury testimony about the obstruction allegations. These claims are addressed thoroughly in the next section along with the corresponding Article II obstruction claims, and they are addressed in a short form here. The first claim is that the President committed perjury "when he testified before the grand jury that he recalled telling Ms. Lewinsky that if Ms. Jones's lawyers requested the gifts exchanged between Ms. Lewinsky and the President, she should provide them." House Br. at 63. The House Managers contest the truthfulness of this statement by asserting that the President was responsible for Ms. Lewinsky's transfer of gifts to Ms. Currie in late December. In other words, if the obstruction claim is true, they allege, this statement is not true. As is laid out in greater detail in the next section, the House Manager's view of this matter ignores a wealth of evidence establishing that the idea to conceal some of the gifts she had received originated with, and was executed by, Ms. Lewinsky. *See e.g.*, Supp. at 557 (Currie GJ 1/27/98); Supp. at 531 (Currie FBI 302 1/24/98); Supp. at 582 (Currie GJ 5/6/98); App. at 1122 (Lewinsky GJ 8/20/98); *see also* App. at 1481 ("LEWINSKY . . . suggested to the President that Betty Currie hold the gifts") (Lewinsky FBI 302 8/1/98).

Second, the House Managers contend that the President provided perjurious testimony when he explained to the grand jury that he was trying to "refresh" his recollection when he spoke with Betty Currie on January 18, 1998 about his relationship with Ms. Lewinsky. House Br. at 65. The House Managers completely ignore the numerous statements that Ms. Currie makes in her testimony that support the President's assertion that he was merely trying to gather information. For example, Ms. Currie stated in her first interview with the OIC that "Clinton then mentioned some of the questions he was asked at his deposition. Currie advised the way Clinton phrased the queries, they were both statements and questions at the same time." Supp. at 534 (Currie FBI 302 1/24/98). Ms. Currie's final grand jury testimony on this issue also supports the President's explanation of his questioning:

---

[87] The proposed article of impeachment alleging perjury in the civil deposition, like the two that are before the Senate, did not identify any specific instances of false testimony, but we have made our comparison with the Committee Report's elaboration of the deposition perjury article as it undoubtedly represents the largest universe of alleged perjurious statements.

[88] As one court has stated, "[i]n common parlance the terms 'sexual intercourse' and 'sexual relations' are often used interchangeably." *J.Y.* v. *D.A*, 381 N.E.2d 1270, 1273 (Ind. App. 1978). Dictionary definitions make the same point:

- Webster's Third New International Dictionary (1st ed. 1981) at 2082, defines "sexual relations" as "coitus;"
- Random House Webster's College Dictionary (1st ed. 1996) at 1229, defines "sexual relations" as "sexual intercourse; coitus;"
- Merriam-Webster's Collegiate Dictionary (10th ed. 1997) at 1074, defines "sexual relations" as "coitus;"
- Black's Law Dictionary (Abridged 6th ed. 1991) at 560, defines "intercourse" as "sexual relations;" and
- Random House Compact Unabridged Dictionary (2d ed. 1996) at 1775, defines "sexual relations" as "sexual intercourse; coitus."

[89] Ms. Lewinsky took the position early on that her contact with the President did not constitute "sex" and reaffirmed that position even after she had received immunity and began cooperating with the OIC. For example, in one of the conversations surreptitiously taped by Ms. Tripp, Ms. Lewinsky explained to Ms. Tripp that she "didn't have sex" with the President because "[h]aving sex is having intercourse." Supp. at 2664; *see also* Supp. at 1066 (grand jury testimony of Ms. Neysa Erbland stated that Ms. Lewinsky had said that the President and she "didn't have sex"). Ms. Lewinsky reaffirmed this position even after receiving immunity, stating in an FBI interview that "her use of the term 'having sex' means having intercourse. . . ." App. at 1558 (Lewinsky FBI 302 8/19/98). Likewise, in her original proffer to the OIC, she wrote, "Ms. L[ewinsky] was comfortable signing the affidavit with regard to the 'sexual relationship' because she could justify to herself that she and the Pres[ident] did not have sexual intercourse." App. at 718 (2/1/98 Proffer).

[90] This allegation is nearly identical to the allegation of Article II(5), and, for the sake of brevity, it is addressed at greater length in the response to Article II, below.

> Q: Now, back again to the four statements that you testified the President made to you that were presented as statements, did you feel pressured when he told you those statements?
>
> A: *None whatsoever.*
>
> Q: What did you think, or what was going through your mind about what he was doing?
>
> A: *At that time I felt that he was—I want to use the word shocked or surprised that this was an issue, and he was just talking.*
>
> Q: That was your impression that he wanted you to say—because he would end each of the statements with "Right?," with a question.
>
> A: *I do not remember that he wanted me to say "Right." He would say "Right" and I could have said, "Wrong."*
>
> Q: But he would end each of those questions with a "Right?" and you could either say whether it was true or not true?
>
> A: *Correct.*
>
> Q: Did you feel any pressure to agree with your boss?
>
> A: *None.*

Supp. at 668 (Currie GJ 7/22/98) (emphasis added).

Ms. Currie's testimony supports the President's assertion that he was looking for information as a result of his deposition. There is no basis to doubt the President's explanation that his expectation of a media onslaught prompted the conversation. *See* App. at 583. Indeed, neither the testimony of Ms. Currie nor that of the President—the only two participants in this conversation—conceivably supports the inference that he had any other intent. The House Managers' contention that the President's explanation to the grand jury was perjurious totally disregards the testimony of the only two witnesses with first-hand knowledge and has no basis in fact or in the evidence.

Finally, the House Managers contend that President Clinton "lied about his attempts to influence the testimony of some of his top aides." House Br. at 68. The basis for this charge appears to be the President's testimony that, although he said misleading things to his aides about his relationship with Ms. Lewinsky, he *tried* to say things that were true. *Id.* at 69. Once again, the record does not even approach a case for perjury. The President acknowledged that he misled; he tried, however, not to lie. It is a mystery how the Managers could try to disprove this simple statement of intent.

V. THE PRESIDENT SHOULD BE ACQUITTED ON ARTICLE II

The evidence does not support the allegations of Article II.

A. APPLICABLE LAW

Article II alleges obstruction of justice, a statutory crime that is set forth in 18 U.S.C. §1503, the "Omnibus Obstruction Provision." In the criminal law context, §1503 requires proof of the following elements: (1) that there existed a pending judicial proceeding; (2) that the accused knew of the proceeding; and (3) that the defendant acted "corruptly" with the specific intent to obstruct or interfere with the proceeding or due administration of justice. *See, e.g., United States* v. *Bucey*, 876 F.2d 1297, 1314 (7th Cir. 1989). False statements alone cannot sustain a conviction under §1503. *See United States* v. *Thomas*, 916 F.2d 647, 652 (11th Cir. 1990).[91]

B. STRUCTURE OF THE ALLEGATIONS

Article II exhibited by the House of Representatives alleges that the President "has prevented, obstructed, and impeded the administration of justice, and has to that end engaged personally, and through his subordinates and agents, in a course of conduct or scheme designed to delay, impede, cover up, and conceal the existence of evidence and testimony" in the *Jones* case. The Article alleges that the President did so by engaging in "one or more of the following acts": the President (1) corruptly encouraged Ms. Lewinsky "to execute a sworn affidavit . . . that he knew to be perjurious, false and misleading"; (2) "corruptly encouraged Ms. Lewinsky to give perjurious, false, and misleading testimony if and when called to testify personally" in the *Jones* case; (3) "corruptly engaged in, encouraged, or supported a scheme to conceal evidence that had been subpoenaed" in the *Jones* case, namely gifts given by him to Ms. Lewinsky; (4) "intensified and succeeded in an effort to secure job assistance" for Ms. Lewinsky between December 7, 1997 and January 14, 1998, "in order to corruptly prevent [her] truthful testimony" in the *Jones* case; (5) "corruptly allowed his attorney to make false and misleading statements" to Judge Susan Webber Wright at the *Jones* deposition; (6) "related a false and misleading account of events" involving Ms. Lewinsky to Betty Currie, a "potential witness" in the *Jones* case, "in order to corruptly influence" her testimony; and (7) made false and misleading statements to certain members of his staff who were "potential" grand jury witnesses, in order to corruptly influence their testimony.

As noted above, this article essentially duplicates some of the perjury allegations of Article I (4): Article II alleges particular acts of obstruction while Article I (4) alleges that the President lied in the grand jury when he discussed those allegations.[92] Both sets of allegations are unsupported. Our discussion here of the details of these charges will, as well, serve in part as our response to the allegations in Article I (4).

C. RESPONSE TO THE PARTICULAR ALLEGATIONS IN ARTICLE II

1. The President denies that on or about December 17, 1997, he "corruptly encouraged" Monica Lewinsky "to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading"

Article II (1) alleges that the President "corruptly encouraged" Monica Lewinsky "to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading." The House Managers allege that during a December 17 phone conversation, Ms. Lewinsky asked the President what she could do if she were subpoenaed in the *Jones* case and that the President responded, "Well, maybe you can sign an affidavit." House Br. at 22. This admitted statement by the President of totally lawful conduct is *the Managers' entire factual basis* for the allegation in Article II (1).

The Managers do not allege that the President ever suggested to Ms. Lewinsky she should file a *false* affidavit or otherwise told her what to say in the affidavit. Indeed they could not, because Ms. Lewinsky has repeatedly and forcefully denied any such suggestions:

- "Neither the Pres[ident] nor Mr. Jordan (or anyone on their behalf) asked or encouraged Ms. L[ewinsky] to lie." App. at 718 (2/1/98 Proffer).
- "[N]o one ever asked me to lie and I was never promised a job for my silence." App. at 1161 (Lewinsky GJ 8/20/98).
- "Neither the President nor Jordan ever told Lewinsky that she had to lie." App. at 1398 (Lewinsky FBI 302 7/27/98).
- "Neither the President nor anyone ever directed Lewinsky to say anything or to lie. . . ." App. at 1400 (Lewinsky FBI 302 7/27/98).
- "I think I told [Linda Tripp] that—you know at various times the President and Mr. Jordan had told me I have to lie. That wasn't true." App. at 942 (Lewinsky GJ 8/6/98).

In an attempt to compensate for the total lack of evidence supporting their theory,[93] the Managers offer their view that "both parties knew the affidavit would have to be false and misleading in order to accomplish the desired result." House Br. at 22; *see also* Committee Report at 65 (the President "knew [the affidavit] would have to be false for Ms. Lewinsky to avoid testifying"). But there is no evidence to support such bald conjecture, and in fact the opposite is true. Both Ms. Lewinsky and the President testified that, given the particular claims in the *Jones* case, they thought a truthful, limited affidavit might establish that Ms. Lewinsky had nothing relevant to offer. The President explained to the grand jury why he believed that Ms. Lewinsky would execute a truthful but limited affidavit that would have established that she was not relevant to the *Jones* case:[94]

---

[91] 18 U.S.C. §1512 covers witness tampering. It is clear that the allegations in Article II could not satisfy the elements of §1512. That provision requires proof that a defendant knowingly engaged in intimidation, physical force, threats, misleading conduct, or corrupt persuasion with intent to influence, delay, or prevent testimony or cause any person to withhold objects or documents from an official proceeding. It is clear from the case law that "misleading conduct" as contemplated by §1512 does not cover scenarios where an accused urged a witness to give false testimony without resorting to coercive or deceptive conduct. *See, e.g., United States* v. *Kulczyk*, 931 F.2d 542, 547 (9th Cir. 1991) (reversing conviction under §1512 because "there is simply no support for the argument that [defendant] did anything other than ask the witnesses to lie"); *United States* v. *King*, 762 F.2d 232, 237 (2d Cir. 1985) ("Since the only allegation in the indictment as to the means by which [defendant] induced [a witness] to withhold testimony was that [the defendant] misled [the witness], and since the evidence failed totally to support any inference that [the witness] was, or even could have been, misled, the conduct proven by the government was not within the terms of §1512."). Deceit is thus the gravamen of an obstruction of justice charge that is predicated on witness tampering.

[92] *Compare* Article I (4) (perjury in the grand jury concerning alleged "corrupt efforts to influence testimony of witnesses and to impede the discovery of evidence") with Article II (1)-(3), (6) (obstructing justice when he (1) "encouraged witness . . . to execute a [false] sworn affidavit"; (2) "encouraged a witness . . . to give perjurious, false and misleading testimony"; (3) "engaged in, encouraged, or supported a scheme to conceal evidence"; (6) "corruptly influence[d] the testimony" of Betty Currie). *Compare also* Article I (3) (perjury in the grand jury concerning alleged "prior false and misleading statements he allowed his attorney to make to a Federal judge") with Article II (5) (obstructing justice by "allow[ing] his attorney to make false and misleading statements to a Federal judge).

[93] The myth that the President told Ms. Lewinsky to lie in her affidavit springs not from the evidence but from the surreptitiously recorded Tripp tapes. But as Ms. Lewinsky explained to the grand jury, many of the statements she made to Ms. Tripp—including on this subject—were not true: "I think I told [Linda Tripp] that—you know at various times the President and Mr. Jordan had told me I have to lie. *That wasn't true.*" App. at 942 (Lewinsky GJ 8/6/98).

- "But I'm just telling you that it's certainly true what she says here, that we didn't have—there was no employment, no benefit in exchange, there was nothing having to do with sexual harassment. And if she defined sexual relationship in the way I think most Americans do, meaning intercourse, then she told the truth." App. at 474.
- "You know, I believed then, I believe now, that Monica Lewinsky could have sworn out an honest affidavit, that under reasonable circumstances, and without the benefit of what Linda Tripp did to her, would have given her a chance not to be a witness in this case." App. at 521.
- "I believed then, I believe today, that she could execute an affidavit which, under reasonable circumstances with fair-minded, nonpolitically-oriented people, would result in her being relieved of the burden to be put through the kind of testimony that, thanks to Linda Tripp's work with you and with the Jones lawyers, she would have been put through. I don't think that's dishonest. I don't think that's illegal." App. at 529.
- "But I also will tell you that I felt quite comfortable that she could have executed a truthful affidavit, which would not have disclosed the embarrassing details of the relationship that we had had, which had been over for many, many months by the time this incident occurred." App. at 568–69.
- "I've already told you that I felt strongly that she could issue, that she could execute an affidavit that would be factually truthful, that might get her out of having to testify. . . . And did I hope she'd be able to get out of testifying on an affidavit? Absolutely. Did I want her to execute a false affidavit? No, I did not." App. at 571.

The *Jones* case involved allegations of a nonconsensual sexual solicitation. Ms. Lewinsky's relationship with the President was consensual, and she knew nothing about the factual allegations of the *Jones* case.

Ms. Lewinsky similarly recognized that an affidavit need not be false in order to accomplish the purpose of avoiding a deposition:

- LEWINSKY told TRIPP that the purpose of the affidavit was to avoid being deposed. LEWINSKY advised that *one does this by giving a portion of the whole story*, so the attorneys do not think you have anything of relevance to their case. App. at 1420 (Lewinsky FBI 302 7/29/98) (emphasis added).
- LEWINSKY advised the goal of an affidavit is to be *as benign as possible*, so as to avoid being deposed. App. at 1421 (Lewinsky FBI 302 7/29/98) (emphasis added).
- I thought that signing an affidavit could range from anywhere—the point of it would be to deter or to prevent me from being deposed and so that that could range from anywhere between *maybe just somehow mentioning, you know, innocuous things* or going as far as maybe having to deny any kind of a relationship. App. at 842 (Lewinsky GJ 8/6/98) (emphasis added).

The Committee Report argued that Ms. Lewinsky must have known that the President wanted her to lie because he never told her to fully detail their relationship in her affidavit and because an affidavit fully detailing the "true nature" of their relationship would have been damaging to him in the *Jones* case. Committee Report at 65. The Managers wisely appear to have abandoned this argument.[95] Ms. Lewinsky plainly was under no obligation to volunteer to the Jones lawyers every last detail about her relationship with the President—and the failure of the President to instruct her to do so is neither wrong nor an obstruction of justice. A limited, truthful affidavit might have established that Ms. Lewinsky was not relevant to the *Jones* case. The suggestion that perhaps Ms. Lewinsky could submit an affidavit in lieu of a deposition, as the President knew other potential deponents in the *Jones* case had attempted to do, in order to avoid the expense, burden, and humiliation of testifying in the *Jones* case was entirely proper. The notion that the President of the United States could face removal from office not because he told Monica Lewinsky to lie, or encouraged her to do so, but because he did not affirmatively instruct her to disclose every detail of their relationship to the *Jones* lawyers is simply not supportable.

Moreover, there is significant evidence in the record that, at the time she executed the affidavit, Ms. Lewinsky honestly believed that her denial of a sexual relationship was accurate given what she believed to be the definition of a "sexual relationship":

- "I never even came close to sleeping with [the President] . . . We didn't have sex . . . Having sex is having intercourse. That's how most people would—" Supp. at 2664 (Lewinsky-Tripp tape 10/3/97).[96]
- "Ms. L[ewinsky] was comfortable signing the affidavit with regard to the sexual relationship because she could justify to herself that she and the Pres[ident] did not have sexual intercourse." App. at 718 (2/1/98 Proffer).
- "Lewinsky said that her use of the term 'having sex' means having intercourse. . . ." App. at 1558 (Lewinsky FBI 302 8/19/98).

The allegation contained in Article II(1) is totally unsupported by evidence. It is the product of a baseless hypothesis, and it should be rejected.

2. The President denies that on or about December 17, 1997, he "corruptly encouraged" Monica Lewinsky "to give perjurious, false and misleading testimony if and when called to testify personally" in the Jones litigation

Article II (2) alleges that the President encouraged Ms. Lewinsky to give false testimony if and when she was called to testify personally in the *Jones* litigation. Again, Ms. Lewinsky repeatedly denied that anyone told her or encouraged her to lie:

- "Neither the Pres[ident] nor Mr. Jordan (or anyone on their behalf) asked or encouraged Ms. L[ewinsky] to lie." App. at 718 (2/1/98 Proffer).
- "[N]o one ever asked me to lie and I was never promised a job for my silence." App. at 1161 (Lewinsky GJ 8/20/98).
- "Neither the President nor Jordan ever told Lewinsky that she had to lie." App. at 1398 (Lewinsky FBI 302 7/27/98).
- "Neither the President nor anyone ever directed Lewinsky to say anything or to lie. . . . App. at 1400 (Lewinsky FBI 302 7/27/98).
- "I think I told [Linda Tripp] that—you know at various times the President and Mr. Jordan had told me I have to lie. *That wasn't true.*" App. at 942 (Lewinsky GJ 8/6/98) (emphasis added).

The Managers allege that the President called Ms. Lewinsky on December 17 to inform her that she had been listed as a potential witness in the *Jones* case, and that during this conversation, he "sort of said, 'You know, you can always say you were coming to see Betty or that you were bringing me letters.'" House Br. at 22; App. at 843 (Lewinsky GJ 8/6/98). Other than the fact that Ms. Lewinsky recalls this statement being made in the same conversation in which she learned that her name was on the *Jones* witness list, the Managers cite no evidence whatsoever that supports their claim that the President encouraged her to make such statements "if and when called to testify personally in the *Jones* case." They claim simply that Ms. Lewinsky had discussed such explanations for her visits with the President in the past. Unremarkably, the President and Ms. Lewinsky had been concerned about concealing their improper relationship from others while it was ongoing.

Ms. Lewinsky's own testimony and proffered statements undercut their case:

- *When asked what should be said if anyone questioned Ms. Lewinsky* about her being with the President, he said she should say she was bringing him letters (when she worked in Legislative Affairs) or visiting Betty Currie (after she left the WH). There is truth to both of these statements. . . . [This] occurred *prior to the subpoena* in the Paula Jones case. App. at 709 and 718 (2/1/98 Proffer) (emphasis added).
- After Ms. Lewinsky was informed, by the Pres[ident], that she was identified as a possible witness in the Jones case, the Pres[ident] and Ms. L[ewinsky] discussed what she should do. The President told her he was not sure she would be subpoenaed, but in the event that she was, she should contact Ms. Currie. When asked what to do if she was subpoenaed, the Pres[ident] suggested she could sign an affidavit to try to satisfy their inquiry and not be deposed. *In general*, Ms. L[ewinsky] should say she visited the WH to see Ms. Currie and, on occasion when working at the WH, she brought him letters when no one else was around. Neither of those statements untrue. App. at 712 (2/1/98 Proffer) (emphasis added).
- To the best of Ms. L[ewinsky]'s memory, she *does not believe they discussed the content*

---

[94] Indeed, the Committee Report alleges without support that the President lied to the grand jury when he indicated his *belief* that Ms. Lewinsky could indeed have filed a truthful but limited affidavit that might have gotten her out of testifying in the *Jones* case. Article I (4). This claim fails for the reasons discussed in the text.

[95] The Committee Report argued that Ms. Lewinsky "contextually understood that the President wanted her to lie" because he never told her to file an affidavit fully detailing the "true nature" of their relationship. Committee Report at 65. The only support cited for this "contextual understanding" obstruction theory advanced by the Committee Report was a reference back to the OIC Referral. The OIC Referral, in turn, advanced the same theory, citing only the testimony of Ms. Lewinsky that, while the President never encouraged her to lie, he remained silent about what she should do or say, and by such silence, "I knew what that meant." App. at 954 (Lewinsky GJ 8/6/98) (cited in Referral at 174). It is extraordinary that the President of the United States could face removal from office *not* because he told Ms. Lewinsky to lie, or said anything of the sort, but instead because he stayed silent—and Ms. Lewinsky thought she "knew what that meant."

[96] A friend of Ms. Lewinsky's also testified that, based on her close relationship with her, she believed that Ms. Lewinsky did not lie in her affidavit based on her understanding that when Ms. Lewinsky referred to "sex" she meant intercourse. Supp. at 4597 (6/23/98 grand jury testimony of Ms. Dale Young). *See also* Supp. at 1066 (grand jury testimony of Ms. Neysa Erbland stating that Ms. Lewinsky had said that the President and she "didn't have sex").

of any deposition that Ms. L[ewinsky] might be involved in at a later date. App. at 712 (2/1/98 Proffer) (emphasis added).

- LEWINSKY advised, though *they did not discuss the issue in specific relation to the JONES matter*, she and CLINTON had discussed what to say when asked about LEWINSKY's visits to the White House. App. at 1466 (Lewinsky FBI 302 7/31/98) (emphasis added).

Ms. Lewinsky's statements indicate that she asked the President what to say if "anyone" asked about her visits, that the President said "in general" she could give such an explanation, and that they "did not discuss the issue in specific relation to the *Jones* matter."

This is consistent with the President's testimony that he and Ms. Lewinsky "might have talked about what to do in a non-legal context at some point in the past," although he had no specific memory of that conversation. App. at 569. The President also stated in his grand jury testimony that he did not recall saying anything like that in connection with Ms. Lewinsky's testimony in the *Jones* case:

> Q: And in that conversation, or in any conversation in which you informed her she was on the witness list, did you tell her, you know, you can always say that you were coming to see Betty or bringing me letters? Did you tell her anything like that?
>
> A: I don't remember. She was coming to see Betty. I can tell you this. I absolutely never asked her to lie.

App. at 568. Ms. Lewinsky does not testify that this discussion was had in reference to testimony she may or may not have been called to give personally, and the Managers' implication is directly contradicted by Ms. Lewinsky's statement that she and the President did *not* discuss her deposition testimony in that conversation. *See* App. at 712 (2/1/98 Proffer) ("To the best of Ms. L[ewinsky's] memory, she does not believe they discussed [in the December 17 conversation] the content of any deposition that Ms. L[ewinsky] might be involved in at a later date.").

In support of this allegation, the Managers also cite Ms. Lewinsky's testimony that she told the President she would deny the relationship and that the President made some encouraging comment. House Br. at 23. Ms. Lewinsky never stated that she told the President any such thing on December 17, or at any other time after she had been identified as a witness. Indeed, Ms. Lewinsky testified that that discussion did not take place after she learned she was a witness in the *Jones* case:

> Q: It is possible that you also had these discussions [about denying the relationship] after you learned that you were a witness in the Paula Jones case?
>
> A: *I don't believe so. No.*
>
> Q: Can you exclude that possibility?
>
> A: *I pretty much can.* I really don't remember it. I mean, it would be very surprising for me to be confronted with something that would show me different, but I—it was 2:30 in the—I mean, the conversation I'm thinking of mainly would have been December 17th, which was——
>
> Q: The telephone call.
>
> A: Right. And it was—you know, 2:00, 2:30 in the morning. I remember the gist of it and I—I really don't think so.

App. at 1119–20 (Lewinsky GJ 8/20/98) (emphasis added).

Moreover, Ms. Lewinsky has stated several times that neither of these so-called "cover stories" was untrue. In her handwritten proffer, Ms. Lewinsky stated that she asked the President what to say if anyone asked her about her visits to the Oval Office and he said that she could say "she was bringing him letters (when she worked in Legislative Affairs) or visiting Betty Currie (after she left the White House)." App. at 709 (Lewinsky 2/1/98 Proffer). Ms. Lewinsky expressly stated: "*There is truth to both of these statements.*" *Id.* (emphasis added); *see also* App. at 712 (2/1/98 Proffer) ("*[n]either of those statements [was] untrue.*") (emphasis added). Indeed, Ms. Lewinsky testified to the grand jury that she did in fact bring papers to the President and that on some occasions, she visited the Oval Office only to see Ms. Currie:

> Q: Did you actually bring [the President] papers at all?
>
> A: Yes.
>
> Q: All right. Tell us a little about that.
>
> A: It varied. Sometimes it was just actual copies of letters. . . .

App. at 774–75 (Lewinsky GJ 8/6/98).

> "I saw Betty on every time that I was there . . . most of the time my purpose was to see the President, but there were some times when I did just go see Betty but the President wasn't in the office."

App. at 775 (Lewinsky GJ 8/6/98). The Managers assert that those stories were misleading. House Br. at 23; *see also* Committee Report at 66 (delivering documents to the President was a "ruse that had no legitimate business purpose."). In other words, while the so-called "cover stories" were literally true, such explanations might have been misleading. But literal truth is a critical issue in perjury and obstruction cases, as is Ms. Lewinsky's belief that the statements were, in fact, literally true.

The allegation contained in Article II (2) is unsupported by the evidence and should be rejected.

3. The President denies that he "corruptly engaged in, encouraged, or supported a scheme to conceal evidence"—gifts he had given to Monica Lewinsky—in the Jones case

This allegation charges that the President participated in a scheme to conceal certain gifts he had given to Monica Lewinsky. It apparently centers on two events allegedly occurring in December 1997: (a) a conversation between the President and Ms. Lewinsky in which the two allegedly discussed the gifts the President had given Ms. Lewinsky, and (b) Ms. Currie's receipt of a box of gifts from Ms. Lewinsky and storage of them under her bed. The evidence does not support the charge.

a. Ms. Lewinsky's December 28 Meeting with the President

Monica Lewinsky met with the President on December 28, 1997, sometime shortly after 8:00 a.m. to pick up Christmas presents. App. at 868 (Lewinsky GJ 8/6/98). According to Ms. Lewinsky, she raised the subject of gifts she had received from the President in relation to the *Jones* subpoena, and this was the first and only time that this subject arose. App. at 1130 (Lewinsky GJ 8/20/98); App. at 1338 (Lewinsky Depo. 8/26/98).

The House Trial Brief and the Committee Report quote one version of Ms. Lewinsky's description of that December 28 conversation:

> "[A]t some point I said to him, 'Well, you know, should I—maybe I should put the gifts away outside my house somewhere or give them to someone, maybe Betty.' And he sort of said—I think he responded, 'I don't know' or 'Let me think about that.' And left that topic." App. at 872 (Lewinsky GJ 8/6/98).

In fairness, the Senate should be aware that Ms. Lewinsky has addressed this crucial exchange with prosecutors on at least ten different occasions, which we lay out in the margin for review.[97] The accounts varied—in some Ms. Lewinsky essentially recalled that the President gave no response, but the House Managers, like the Committee Report and the OIC Referral, cite only the account most favorable to their case, failing even to take note of the other inconsistent recollections. But the important fact about Ms. Lewinsky's various descriptions of this conversation is that, at the *very* most, the President stated "I don't know" or "Let me think about it" when Ms. Lewinsky raised the issue of the gifts. Even by the account most unfavorable to the President, the record is clear and unambiguous that the President *never initiated* any discussion about the gifts *nor did he tell or even suggest to Ms. Lewinsky that she should conceal the gifts.*

---

[97] Those statements, from earliest to latest in time:

1. Proffer (2/1/98): "Ms. L then asked if she should put away (outside her home) the gifts he had given her or, maybe, give them so someone else." App. at 715.

2. FBI 302 (7/27/98): "LEWINSKY expressed her concern about the gifts that the President had given LEWINSKY and specifically the hat pin that had been subpoenaed by PAULA JONES. The President seemed to know what the JONES subpoena called for in advance and did not seem surprised about the hat pin. The President asked LEWINSKY if she had told anyone about the hat pin and LEWINSKY denied that she had, but may have said that she gave some of the gifts to FRANK CARTER. . . . LEWINSKY asked the President if she should give the gifts to someone and the President replied 'I don't know.'" App. at 1395.

3. FBI 302 (8/1/98): "LEWINSKY said that she was concerned about the gifts that the President had given her and suggested to the President that BETTY CURRIE hold the gifts. The President said something like, 'I don't know,' or 'I'll think about it.' The President did not tell LEWINSKY what to do with the gifts at that time." App. at 1481.

4. Grand Jury (8/6/98): "[A]t some point I said to him, 'Well, you know, should I—maybe I should put the gifts away outside my house somewhere or give them to someone, maybe Betty.' And he sort of said—I think he responded, 'I don't know' or 'Let me think about that.' And left that topic." App. at 872.

5. FBI 302 (8/13/97): "During their December 28, 1997 meeting, CLINTON did not specifically mention which gifts to get rid of." App. at 1549.

6. Grand Jury (8/20/98): "It was December 28th and I was there to get my Christmas gifts from him . . . And we spent maybe about five minutes or so, not very long, talking about the case. And I said to him, 'Well, do you think' . . . And at one point, I said, 'Well do you think I should—' I don't think I said 'get rid of,' I said, 'But do you think I should put away or maybe give to Betty or give someone the gifts?' And he—I don't remember his response. I think it was something like, 'I don't know,' or 'Hmm,' or—there really was no response." App. at 1121–22.

7. Grand Jury (8/20/98): "A JUROR: Now, did you bring up Betty's name [at the December 28 meeting during which gifts were supposedly discussed] or did the President bring up Betty's name? THE WITNESS: I think I brought it up. The President wouldn't have brought up Betty's name because he really didn't—he really didn't discuss it. . ." App. at 1122.

8. Grand Jury (8/20/98): "A JUROR: You had said that the President had called you initially to come get your Christmas gift, you had gone there, you had a talk, et cetera, and there was no—you expressed concern, the President really didn't say anything." App. at 1126.

9. FBI 302 (8/24/98): "LEWINSKY advised that CLINTON was sitting in the rocking chair in the Study. LEWINSKY asked CLINTON what she should do with the gifts CLINTON had given her and he either did not respond or responded 'I don't know.' LEWINSKY is not sure exactly what was said, but she is certain that whatever CLINTON said, she did not have a clear image in her mind of what to do next." App. at 1566.

10. FBI 302 (9/3/98): "On December 28, 1997, in a conversation between LEWINSKY and the President, the hat pin given to Lewinsky by the President was specifically discussed. They also discussed the general subject of the gifts the President had given Lewinsky. However, they did not discuss other specific gifts called for by the PAULA JONES subpoena. LEWINSKY got the impression that the President knew what was on the subpoena." App. at 1590.

Indeed, on several occasions, Ms. Lewinsky's accounts of the President's reaction depict the President as *not even acknowledging* her suggestion. Among those versions, ignored by the Committee Report and the Managers, are the following:

- "And he—I don't remember his response. I think it was something like, 'I don't know,'" or 'Hmm,' or—*there really was no response.*" App. at 1122 (Lewinsky GJ 8/20/98) (emphasis added).
- "[The President] either *did not respond* or responded 'I don't know.' LEWINSKY is not sure exactly what was said, but she is certain that whatever CLINTON said, she *did not have a clear image in her mind of what to do next.*" App. at 1566 (Lewinsky FBI 302 8/24/98) (emphasis added).
- "The President wouldn't have brought up Betty's name, because he really didn't—*he really didn't discuss it . . .*" App. at 1122 (Lewinsky GJ 8/20/98) (emphasis added).
- "A JUROR: You had said that the President had called you initially to come get your Christmas gift, you had gone there, you had a talk, et cetera, and there was no—you expressed concern, *the President didn't really say anything.*" App. at 1126 (Lewinsky GJ 8/20/98) (emphasis added).[98]

Thus, the evidence establishes that there was essentially no discussion of gifts. That December 28 meeting provides no evidence of any "scheme . . . designed to . . . conceal the existence" of any gifts.

b. Ms. Currie's Supposed Involvement in Concealing Gifts

Because the record is devoid of any evidence of obstruction by the President at his December 28 meeting with Monica Lewinsky, Article II (3) necessarily depends on the added assumption that, after the December 28 meeting, the President must have instructed his secretary, Ms. Betty Currie, to retrieve the gifts from Ms. Lewinsky, thereby consummating the obstruction of justice. As the following discussion will demonstrate, the record is devoid of any direct evidence that the President discussed this subject with Ms. Currie. At most, it conflicted on the question of whether Ms. Currie or Ms. Lewinsky initiated the gift retrieval.

We begin with what is certain. The record is undisputed that Ms. Currie picked up a box containing gifts from Ms. Lewinsky and placed them under her bed at home. The primary factual dispute, therefore, is which of the two initiated the pick-up. According to the logic of the Committee Report, if Ms. Currie initiated the retrieval, she must have been so instructed by the President. Committee Report at 69 ("there is no reason for her to do so unless instructed by the President").

But the facts are otherwise. *Both* Ms. Currie and the President have denied ever having any such conversation wherein the President instructed Ms. Currie to retrieve the gifts from Ms. Lewinsky. App. at 502 (President Clinton GJ 8/17/98); Supp. at 581 (Currie GJ 5/6/98). In other words, the only two parties who could have direct knowledge of such an instruction by the President have denied it took place.

In the face of this direct evidence that the President did not ask Ms. Currie to pick up these gifts, the Committee Report's obstruction theory hinges on the inference that Ms. Currie called Ms. Lewinsky and must have done so at the direction of the President. To be sure, Ms. Lewinsky has stated on several occasions that Ms. Currie initiated a call to her to inquire about retrieving something. The Managers and the Committee Report cited the following passage from Ms. Lewinsky's grand jury testimony:

> Q: What did [Betty Currie] say?
>
> A: She said, "I understand you have something to give me." Or, "The President said you have something to give me." Along those lines. . . .
>
> Q: When she said something along the lines of "I understand you have something to give me," or "The President says you have something for me," what did you understand her to mean?
>
> A: The gifts.

App. at 874 (Lewinsky GJ 8/6/98). *See also* App. at 715 (2/1/98 Proffer) ("Ms. Currie called Ms. L later that afternoon and said that the Pres. had told her Ms. L wanted her to hold onto something for her.").

However, Ms. Lewinsky acknowledged that it was she who first raised the prospect of Ms. Currie's involvement in holding the gifts:

> A JUROR: Now, did you bring up Betty's name or did the President bring up Betty's name?
>
> [MS. LEWINSKY]: I think I brought it up. The President wouldn't have brought up Betty's name because he really didn't—he really didn't discuss it.

App. at 1122 (Lewinsky GJ 8/20/98). And contrary to the Committee Report's suggestion that Lewinsky's memory of these events has been "consistent and unequivocal" and she has "recited the same facts in February, July, and August," Committee Report at 69, Ms. Lewinsky herself acknowledged at her last grand jury appearance that her memory of the crucial conversation is less than crystal clear:

> A JUROR: . . . Do you remember Betty Currie saying that the President had told her to call?
>
> [MS. LEWINSKY]: Right now. I don't. I don't remember. . . .

App. at 1141 (Lewinsky GJ 8/20/98).

Moreover, Ms. Currie has repeatedly and unvaryingly stated that it was Ms. Lewinsky who contacted Ms. Currie about the gifts, not the other way around. A few examples include:

- "LEWINSKY called CURRIE and advised she had to return all gifts CLINTON had given LEWINSKY as there was talk going around about the gifts." Supp. at 531 (Currie FBI 302 1/24/98);
- "Monica said she was getting concerned, and she wanted to give me the stuff the President had given her—or give me a box of stuff. It was a box of stuff." Supp. at 557 (Currie GJ 1/27/98);
- Q: . . . Just tell us for a moment how this issue first arose and what you did about it and what Ms. Lewinsky told you.
- A: The best I remember it first arose with a conversation. I don't know if it was over the telephone or in person. I don't know. She asked me if I would pick up a box. She said Isikoff had been inquiring about gifts." Supp. at 582 (Currie GJ 5/6/98);
- "The best I remember she said that she wanted me to hold these gifts—hold this—she may have said gifts, I'm sure she said gifts, box of gifts—I don't remember—because people were asking questions. And I said, 'Fine.'" Supp. at 581 (Currie GJ 5/6/98);
- "The best I remember is Monica calls me and asks me if she can give me some gifts, if I'd pick up some gifts for her." Supp. at 706 (Currie GJ 7/22/98).

The Committee Report attempts to portray Ms. Currie's memory as faulty on the key issue of whether Ms. Lewinsky initiated the gift retrieval by unfairly referencing Ms. Currie's answer *to a completely different question.* Ms. Currie was asked whether she had discussed with the President Ms. Lewinsky's "turning over to [her]" the gifts he had given her. Ms. Currie indicated that she could remember no such occasion. "If Monica said [Ms. Currie] talked to the President about it," she was then asked, "would that not be true?" Then, only on the limited question of whether Ms. Currie ever talked to the President about the gifts—wholly separate from the issue of who made the initial contact—did Ms. Currie courteously defer, "Then she may remember better than I. I don't remember." Supp. at 584 (Currie GJ 5/6/98). Ironically, it is the substance of this very allegation—regarding conversations between Ms. Currie and the President—that Ms. Lewinsky told the grand jury *she* could not recall. (In later testimony, referring to a conversation she had with the President on January 21, Ms. Currie testified that she was "sure" that she did not discuss the fact that she had a box of Ms. Lewinsky's belongings under her bed. Supp. at 705 (Currie GJ 7/22/98).)

To support its theory that Ms. Currie initiated a call to Ms. Lewinsky, the House Managers place great reliance on a cell phone record of Ms. Currie, calling it "key evidence that Ms. Currie's fuzzy recollection is wrong" and which "conclusively proves" that "the President directed Ms. Currie to pick up the gifts." House Br. at 33. There is record of a one-minute call on December 28, 1998 from Ms. Currie's cell phone to Ms. Lewinsky's home at 3:32 p.m. Even assuming Ms. Lewinsky is correct that Ms. Currie picked up the gifts on December 28, her own testimony refutes the possibility that the Managers' mysterious 3:32 p.m. telephone call could have been the initial contact by Ms. Currie to retrieve the gifts. To the contrary, the timing and duration of the call strongly suggest just the opposite. It is undisputed that Ms. Lewinsky entered the White House on the morning of December 28 at 8:16 a.m. App. at 111 (White House entry records). While no exit time for Ms. Lewinsky was recorded because she inadvertently left her visitor badge in the White House, she has testified that the visit lasted around an hour. App. at 870–72 (Lewinsky GJ 8/6/98). Consistent with this timing, records also indicate that the President left the Oval Office at 9:52 a.m., thus placing Ms. Lewinsky's exit around 9:30 to 9:45 a.m. App. at 111. Ms. Lewinsky has indicated on several occasions that her discussion with Betty Currie occurred just "several hours" after she left. App. at 875 (Lewinsky GJ 8/6/98); App. at 1395 (Lewinsky FBI 302 7/27/98). Ms. Lewinsky three times placed the timing of the actual gift exchange with Ms. Currie "at about 2:00 p.m." App at 1127 (Lewinsky GJ 8/20/98); App. at 1396 (Lewinsky FBI 302 7/27/98); App. at 1482 (Lewinsky FBI 302 8/1/98). This, in light of undisputed documentary evidence and Ms. Lewinsky's own testimony, it becomes clear that the 3:32 p.m. telephone record relied upon by the Committee Report in fact is unlikely to reflect a call placed to initiate the pick-up.

---

[98] Here a grand juror is restating Ms. Lewinsky's earlier testimony, with which Ms. Lewinsky appeared to agree (she did not dispute the accuracy of the grand juror's recapitulation).

Apart from this conspicuous timing defect, there is another, independent reason to conclude that the 3:32 p.m. telephone call could not have been the conversation Ms. Lewinsky describes. The 3:32 p.m. call is documented to have lasted *no longer* than one minute, and because such calls are rounded up to the nearest minute, it quite conceivably could have been much shorter in duration. It is difficult to imagine that the conversation reflected in Ms. Lewinsky's statements could have taken place in less than one minute. Both Ms. Currie and Ms. Lewinsky have described the various matters that were discussed in their initial conversation: not only was this the first time the topic of returning gifts was discussed, which quite likely generated some discussion between the two, but they also had to discuss and arrange a convenient plan for Ms. Currie to make the pick-up.[99]

What, then, to make of this call so heavily relied upon by the House Managers? The record is replete with references that Ms. Currie and Ms. Lewinsky communicated very frequently, especially during this December 1997–January 1998 time period. *See, e.g.*, Supp. at 554 (Currie GJ 1/27/98) (many calls around Christmas-time). They often called or paged each other to discuss a host of topics, including Ms. Lewinsky's pending job search, Ms. Currie's mother's illness, and her contacts with Mr. Jordan. There is simply no reason to believe this call was anything other than one of the many calls and exchanges of pages that these two shared during the period.

c. The Obstruction-by-Gift-Concealment Charge Is at Odds With the President's Actions

Ultimately, and irrespective of the absence of evidence implicating the President in Ms. Lewinsky's gift concealment, the charge fails because it is inconsistent with other events of the very same day. There is absolutely no dispute that the President gave Ms. Lewinsky numerous additional gifts during their December 28 meeting. It must therefore be assumed that on the very day the President and Ms. Lewinsky were conspiring to hide the gifts he had already given to her, the President added to the pile. No stretch of logic will support such an outlandish theory.

From the beginning, this inherent contradiction has puzzled investigators. If there were a plot to conceal these gifts, why did the President give Ms. Lewinsky several *more* gifts at the very moment the concealment plan was allegedly hatched? The House Managers OIC prosecutors, grand jurors, and even Ms. Lewinsky hopelessly searched for an answer to that essential question:

Q: Although, Ms. Lewinsky, I think what is sort of—it seems *a little odd* and, I guess really the grand jurors wanted your impression of it, was *on the same day that you're discussing basically getting the gifts to Betty to conceal them, he's giving you a new set of gifts.*

A: You know, I have come recently to look at that as *sort of a strange situation*, I think, in the course of the past few weeks. . . .

App. at 887–88 (Lewinsky GJ 8/6/98) (emphasis added). See House Br. at 34.

The Committee Report fails to resolve this significant flaw in its theory.[100] The report admits that Ms. Lewinsky "can't answer" why the President would in one breath give her gifts and in the next hatch a plan to take them back. But it cites only to Ms. Lewinsky's understanding of the relationship's pattern of concealment and how she contemplated it must apply to the gifts. It creates the erroneous impression that the President gave Ms. Lewinsky instructions to conceal the gifts in the December 28 meeting by quoting her testimony that "from everything he said to me" she would conceal the gifts. But we know that Ms. Lewinsky has repeatedly testified that no such discussion *ever* occurred. Her reliance on "everything he said to me" must, therefore, reflect her own plan to implement discussions the two had had about concealing the relationship long before her role in the *Jones* litigation.

What this passage confirms is that Ms. Lewinsky had very much in her mind that she would do what she could to conceal the relationship—a *modus operandi* she herself acknowledged well pre-dated the *Jones* litigation. That she took such steps does not mean that the President knew of or participated in them. Indeed, it appears that the entire gift-concealment plan arose not from any plan suggested by the President—which the Committee Report so desperately struggles to maintain—but rather more innocently from the actions of a young woman taking steps she thought were best.[101]

In any event, the record evidence is abundantly clear that the President has not obstructed justice by any plan or scheme to conceal gifts he had given to Ms. Lewinsky, and logic and reason fully undercut any such theory.

4. The President denies that he obstructed justice in connection with Monica Lewinsky's efforts to obtain a job in New York in an effort to "corruptly prevent" her "truthful testimony" in the Jones case

Again, in the absence of specifics in Article II itself, we look to the Committee Report for guidance on the actual charges. The Committee Report would like to portray this claim in as sinister a light as possible, and it alleges that the President of the United States employed his close friend Vernon Jordan to get Monica Lewinsky a job in New York to influence her testimony or perhaps get her away from the *Jones* lawyers. To reach this conclusion, and without the benefit of a single piece of direct evidence to support the charge, it ignores the direct testimony of several witnesses, assigns diabolical purposes to a series of innocuous events, and then claims that "[i]t is logical to infer from this chain of events" that the job efforts "were motivated to influence the testimony of" Ms. Lewinsky. Committee Report at 71. Again, the evidence contradicts the inferences the Committee Report strives to draw. Ms. Lewinsky's New York job search began on her own initiative long before her involvement in the *Jones* case. By her own forceful testimony, her job search had no connection to the *Jones* case.

Mr. Jordan agreed to help Ms. Lewinsky not at the direction of the President but upon the request of Betty Currie, Mr. Jordan's long-time friend. And bizarrely, the idea to involve Mr. Jordan (which arose well before Ms. Lewinsky became a possible *Jones* witness) came not from the President but apparently emanated from Ms. Tripp. In short, the facts directly frustrate the House Majority's theory.[102]

a. The Complete Absence of Direct Evidence Supporting This Charge

It is hard to overstate the importance of the fact that—*by the House Managers', the Committee Report's and the OIC's own admission*—there is not one single piece of direct evidence to support this charge. *Not one.* Indeed, just the contrary is true. Both Ms. Lewinsky and Mr. Jordan have repeatedly testified that there was never an *explicit or implicit* agreement, suggestion, or implication that Ms. Lewinsky would be rewarded with a job for her silence or false testimony. One need look no further than their own testimony:

Lewinsky: "[N]o one ever asked me to lie and I was never promised a job for my silence." App. at 1161 (Lewinsky GJ 8/20/98);

"There was no agreement with the President, JORDAN, or anyone else that LEWINSKY had to sign the Jones affidavit before getting a job in New York. LEWINSKY never demanded a job from Jordan in exchange for a favorable affidavit.

---

[99] The OIC Referral, which took great pains to point out every allegedly incriminating piece of evidence, made no reference to this telephone record, perhaps because the OIC knew it tended *not* to corroborate Ms. Lewinsky's time line. In its place, the Referral rested its corroboration hopes in the following bizarre analysis: "More generally, the person making the extra effort (in this case, Ms. Currie) is ordinarily the person requesting the favor." Referral at 170. Wisely, the House Managers chose not to pursue this groundless speculation.

[100] Incredibly, not only does the Committee Report fail to offer a sensible answer to this perplexity, but without any factual or logical support it accuses the President of lying to the grand jury when he testified that he was not particularly concerned about the gifts he had given Ms. Lewinsky and thus had no compunction about giving her additional gifts on December 28. Article I (4). For whatever reason, neither the Committee Report nor the OIC Referral acknowledges the most reasonable explanation for these events: as the President has testified repeatedly, he was not concerned about the gifts he had given Ms. Lewinsky.

- "I was never hung up about this gift issue. Maybe it's because I have a different experience. But, you know, the President gets hundreds of gifts a year, maybe more. I have always given a lot of gifts to people, especially if they give me gifts. And this was no big deal to me." App. at 495.
- "this gift business . . . didn't bother me." App. at 496.
- "I wasn't troubled by this gift issue." App. at 497.
- "I have always given a lot of people gifts. I have always been given gifts. I do not think there is anything improper about a man giving a woman a gift, or a woman giving a man a gift, that necessarily connotes an improper relationship. So, it didn't bother me." App. at 498.

[101] As the President has stated about this potentiality, "I didn't then, I don't now see this [the gifts] as a problem. And if she thought it was a problem, I think it—it must have been from a, really *a misapprehension of the circumstances.* I certainly never encouraged her not to, to comply lawfully with a subpoena." App. at 497–98 (emphasis added.)

[102] This allegation has gone through several iterations. As initially referred to the House of Representatives, the charge was that the President "help[ed] Ms. Lewinsky obtain a job in New York at a time when she would have been a witness against him" in the *Jones* case. OIC Referral at 181. Faced with the significant evidence that Ms. Lewinsky's job efforts had originated long before she became involved in the *Jones* case and were in fact entirely unrelated to the *Jones* case, the Judiciary Committee Majority was forced to recraft this claim. Instead of implying a complete connection between the job search and the *Jones* litigation, the article now oddly charges that the President *intensified and succeeded* in an effort to secure job assistance" for Ms. Lewinsky "at a time when the truthful testimony of [Ms. Lewinsky] would have been harmful to him," Article II (5) (emphasis added)—thereby *admitting* that the initial effort was motivated by appropriate concerns.

Nether the President nor JORDAN ever told LEWINSKY that she had to lie." App. at 1398 (Lewinsky FBI 302 7/27/98).

Jordan: "As far as I was concerned, [the job and the affidavit] were two very separate matters." Supp. at 1737 (Jordan GJ 3/5/98).

"Unequivocally, indubitably, no"—in response to the question whether the job search and the affidavit were in any way connected. Supp. at 1827 (Jordan GJ 5/5/98).[103]

This is the direct evidence. The House Managers' circumstantial "chain of events" case, House Br. 39–41, cannot overcome the hurdle the direct evidence presents.

b. Background of Ms. Lewinsky's New York Job Search

By its terms, Article II(4) would have the Senate evaluate Ms. Lewinsky's job search by considering only the circumstances "[b]eginning on or about December 7, 1997." Article II(4). Although barely mentioned in the Committee Report's "explanation" of Article II(4), the significant events occurring *before* December 7, 1997 cannot simply be ignored because they are inconsistent with the Majority's theory. Without reciting every detail, the undisputed record establishes that the following facts occurred long before Ms. Lewinsky was involved in the *Jones* case:

First, Ms. Lewinsky had contemplated looking for a job in New York as early as July 1997. App. at 1414 (Lewinsky FBI 302 7/29/98) (July 3 letter "first time [Lewinsky] mentioned the possibility of moving to New York"); App. at 787–788 (On July 4, 1997, Ms. Lewinsky wrote the President a letter describing her interest in a job "in New York at the United Nations"); Committee Report at 10 ("Ms. Lewinsky had been searching for a highly paid job in New York since the previous July.") She conveyed that prospect to a friend on September 2, 1997. App. at 2811 (Lewinsky e-mail).

Second, in early October, at the request of Ms. Currie, then-Deputy Chief of Staff John Podesta asked U.N. Ambassador Bill Richardson to consider Ms. Lewinsky for a position at the U.N. Supp. at 3404 (Richardson GJ 4/3/98). Ms. Currie testified that she was acting on her own in this effort. Supp. at 592 (Currie GJ 5/6/98).

Third, around October 6, Ms. Tripp told Ms. Lewinsky that an acquaintance in the White House reported that it was unlikely Ms. Lewinsky would ever be re-employed at the White House. After this disclosure, Ms. Lewinsky "was mostly resolved to look for a job in the private sector in New York." App. at 1543–44 (Lewinsky FBI 302) 8/13/98; *see also* App. at 1460 (Lewinsky FBI 302 7/31/98) (remarks by the Linda Tripp acquaintance were the "straw that broke the camel's back").

Fourth, sometime prior to October 9, 1997, Ms. Tripp and Ms. Lewinsky discussed the prospect of enlisting Mr. Vernon Jordan to assist Ms. Lewinsky in obtaining a private sector job in New York. App. at 822–24 (Lewinsky GJ 8/6/98); *see also* App. at 1079 (Lewinsky GJ 8/20/98) ("I don't remember . . . if [enlisting Jordan] was my idea or Linda's idea. And I know that that came up in discussions with her, I believe, before I discussed it with the President"). On either October 9 or 11, Ms. Lewinsky conveyed to the President this idea of asking Mr. Jordan for assistance. *Id.*

Fifth, in mid-October, 1997, Ms. Lewinsky purchased a book on jobs in New York. App. at 1462 (Lewinsky FBI 302 7/31/98). Ms. Lewinsky completed and sent to Betty Currie at the White House a packet of jobs-related materials on October 15 or 16. Supp. at 735 (Lewinsky Tripp tape of 10/15/97 conversation).

Sixth, on October 31, 1997, Ms. Lewinsky interviewed for a position with Ambassador Bill Richardson at the United Nations in New York. Ambassador Richardson was "impressed" with Ms. Lewinsky and, on November 3, offered her a position, which she ultimately rejected. Supp. at 3411 (Richardson GJ 4/30/98); Supp. at 3731 (Sutphen GJ 5/27/98). Ms. Currie informed the President that Ms. Lewinsky had received a job offer at the U.N. Supp. at 592 (Currie GJ 5/6/98). Ambassador Richardson never spoke to the President or Mr. Jordan about Ms. Lewinsky, and he testified emphatically and repeatedly that no one pressured him to hire her. Supp. at 3422–23 (Richardson GJ 4/30/98); Supp. at 3418 (same); Supp. at 3429 (same).

Seventh, as of late October or November, Ms. Lewinsky had told Mr. Kenneth Bacon, her boss at the Pentagon, that she wanted to leave the Pentagon and move to New York. In a series of conversations, she enlisted his assistance in obtaining a private sector job in New York. Supp. at 11 (Kenneth Bacon FBI 302 2/26/98). In response, Mr. Bacon contacted Howard Paster, CEO of the public relations firm Hill & Knowlton about Ms. Lewinsky. *Id.*

Eighth, in November, Ms. Lewinsky gave notice to the Pentagon that she would be leaving her Pentagon job at year's end. Supp. at 116 (Clifford Bernath GJ 5/21/98).

Ninth, Ms. Lewinsky apparently had a preliminary meeting with Mr. Jordan on November 5, 1997 to discuss her job search. During this twenty-minute meeting, Ms. Lewinsky and Mr. Jordan discussed a list of potential employers she had compiled. App. at 1464–65 (Lewinsky FBI 302 7/31/98). In that meeting, Ms. Lewinsky never informed Mr. Jordan of any time constraints on her need for job assistance. Supp. at 2647 (Lewinsky-Tripp Tape of 11/8/97 conversation). Mr. Jordan had to leave town the next day. App. at 1465 (Lewinsky FBI 302 Form 7/31/98). Ms. Lewinsky had a follow-up telephone conversation with Mr. Jordan around Thanksgiving wherein he advised her that he was "working on her job search" and instructed her to call him again "around the first week of December." App. at 1465 (Lewinsky FBI 302 7/31/98); *see also* App. at 825 (Lewinsky GJ 8/6/98) ("And so Betty arranged for me to speak with [Jordan] again and I spoke with him when I was in Los Angeles before—right before Thanksgiving.")[104] Inexplicably, the Committee Report, the presentation by its chief counsel, and the Starr Referral all choose to ignore this key piece of testimony—that contact resumed in early December because Ms. Lewinsky and Mr. Jordan agreed (in November) that it would. *See* Committee Report at 10 ("Ms. Lewinsky had no further contacts with Mr. Jordan at that time [early November to mid December]."); Schippers Dec. 10, 1998 Presentation at 38 ("Vernon Jordan, who, by the way, had done nothing from early November to mid-December."); Referral at 182 ("Ms. Lewinsky had no contact with . . . Mr. Jordan for another month [after November 5].").

In sum, the record is clear that Ms. Lewinsky decided on her own to seek a job in New York many months before her involvement in the *Jones* case. She had asked her Pentagon boss to help, as well as Ms. Currie, who arranged indirectly for Ms. Lewinsky to interview with Ambassador Richardson at the United Nations. Mr. Jordan became involved in the job search at the request of Ms. Currie (apparently at the suggestion of Ms. Tripp) and, notwithstanding his travels in November, Supp. at 1811 (Jordan GJ 5/5/98), kept in contact with Ms. Lewinsky with plans to reconvene early in December.

c. The Committee Report's Circumstantial Case

Article II ignores this background and merely alleges that efforts to aid Ms. Lewinsky's job search "intensified and succeeded" in December 1997. While not adopted in the article, the House Brief, the Committee Report, and the accompanying final presentation by Majority Counsel Schippers offer some guidance as to the meaning of the actual charge. They cite three events—Mr. Jordan's December 11 meeting with Ms. Lewinsky to discuss job prospects in New York, Ms. Lewinsky's execution of her *Jones* affidavit, and her receipt of a job—in an effort to portray Ms. Lewinsky's job search as sinister. But the full record easily dispels any suggestion that there were any obstructive or improper acts.

(1) Monica Lewinsky's December 11 meeting with Vernon Jordan

The House Managers and the Committee Report suggest that Mr. Jordan took action on Ms. Lewinsky's job search request only after, and because, Ms. Lewinsky's name appeared on the witness list on December 5 and only after, and because, Judge Wright ordered the President to answer certain questions about "other women" on December 11. *See* House Br. at 21. Consider the Committee Report portrayal:

"[T]he effort to obtain a job for Monica Lewinsky in New York intensified after the President learned, on December 6, 1997, that Monica Lewinsky was listed on the witness list for the case Jones v. Clinton.[105]

"On December 7, 1997, President Clinton met with Vernon Jordan at the White House. Ms. Lewinsky met with Mr. Jordan on December 11 to discuss specific job contacts in New York. Mr. Jordan then made calls to certain New York companies on Ms. Lewinsky's behalf. Jordan telephoned President Clinton to keep him informed of the efforts to get Ms. Lewinsky a job." Committee Report at 70.

"Something happened that changed the priority assigned to the job search. On the morning of December 11, 1997, Judge Susan Webber Wright ordered President Clinton to provide information regarding any state or federal employee with whom he had, proposed, or sought sexual relations. To keep Ms. Lewinsky satisfied was now of critical importance." Committee Report at 11.

The unmistakable intention of this narrative is to suggest that, after the President learned Ms. Lewinsky's name was on the witness list on December 6, he (1) contacted Mr.

---

[103] The only person who suggested any such *quid pro quo* was Ms. Tripp, who repeatedly urged Ms. Lewinsky to demand such linkage. App. at 1493 (Lewinsky FBI 302 8/2/98 ("TRIPP told LEWINSKY not to sign the affidavit until LEWINSKY had a job."). To appease Linda Tripp's repeated demands on this point, Ms. Lewinsky ultimately told Ms. Tripp that she had told Mr. Jordan she wouldn't sign the affidavit until she had a job. But as she later emphasized to the grand jury, "That was definitely a lie, based on something Linda had made me promise her on January 9th." App. at 1134 (Lewinsky GJ 8/20/98).

[104] Mr. Jordan was then out of the country from the day after Thanksgiving until December 4. Supp. at 1804 (Jordan GJ 5/5/98).

[105] Committee Report at 70. That portrayal flatly contradicts the Committee Report's earlier statement that on December 6 "there was still no urgency to help Lewinsky." Committee Report at 10-11.

Jordan on December 7 to engage his assistance for Ms. Lewinsky, and only then did Mr. Jordan agree to meet with Ms. Lewinsky, and further, that (2) Mr. Jordan met with Ms. Lewinsky on December 11 and took concrete steps to help Ms. Lewinsky only after and as a result of Judge Wright's December 11 order. Both suggestions are demonstrably false.

The President had nothing to do with arranging the December 11 meeting between Mr. Jordan and Ms. Lewinsky. As the record indicates, after receiving a request from Ms. Currie on December 5 that he meet with Ms. Lewinsky, and telling Ms. Currie to have Ms. Lewinsky call him, Ms. Lewinsky called Mr. Jordan on December 8. Supp. at 1705 (Jordan GJ 3/3/98). As noted above, that call had been presaged by a conversation between Mr. Jordan and Ms. Lewinsky around Thanksgiving in which Jordan told her "he was working on her job search" and asked her to contact him again "around the first week of December." App. at 1465 (Lewinsky FBI 302 7/31/98). In the December 8 call, the two arranged for Ms. Lewinsky to come to Mr. Jordan's office on December 11; on the same day, Ms. Lewinsky sent Mr. Jordan via courier a copy of her resume. Supp. at 1705 (Jordan GJ 3/3/98). At the time of that contact, Mr. Jordan did not even know that Ms. Lewinsky knew President Clinton. *Id.*

In the intervening period before Ms. Lewinsky's December 11 meeting with Mr. Jordan, the President met with Mr. Jordan on December 7. As the Committee Report acknowledges, that meeting had nothing to do with Ms. Lewinsky. Committee Report at 11. Yet the House Managers' Brief, like the Committee Report before it, states that "the sudden interest [in helping Ms. Lewinsky obtain a job] was inspired by a court order entered on December 11, 1997" in the *Jones* case.[106] House Br. at 21. No evidence supports that supposition. The December 11 meeting had been scheduled on December 8. Neither the OIC Referral nor the Committee Report nor the Managers' Brief cites *any* evidence that the President or Mr. Jordan had any knowledge of the contents of that Order at the time of the December 11 meeting.

Mr. Jordan met with Ms. Lewinsky shortly after 1:00 p.m. on December 11. Supp. at 1863 (Akin Gump visitor log); Supp. at 1809 (Jordan GJ 5/5/98). In anticipation of that meeting, Mr. Jordan had made several calls to prospective employers about Ms. Lewinsky. Supp. at 1807–09 (Jordan GJ 5/5/98). Mr. Jordan spoke about Ms. Lewinsky with Mr. Peter Georgescu of Young & Rubicam at 9:45 a.m. that morning, and with Mr. Richard Halperin of Revlon around 1:00 p.m., immediately before meeting with Ms. Lewinsky. Supp. at 1807–09 (Jordan GJ 5/5/98). Again, there is no evidence that any of this occurred after Mr. Jordan learned of Judge Wright's order.

Although the Committee Report claims that a heightened sense of urgency attached in December which "intensified" the job search efforts, it ignores the sworn testimony of Mr. Jordan denying any such intensification: "Oh, no. I do not recall any heightened sense of urgency [in December]. What I do recall is that I dealt with it when I had time to do it." Supp. at 1811 (Jordan GJ 5/5/98).[107]

The "heightened urgency" theory also is undermined by the simple fact that Mr. Jordan indisputably placed *no* pressure on any company to give Ms. Lewinsky a job and suggested no date by which Ms. Lewinsky had to be hired. The first person Mr. Jordan contacted, Mr. Georgescu of Young & Rubicam/Burson-Marsteller, told investigators that Mr. Jordan did not engage in a "sales pitch" for Lewinsky. Supp. at 1222 (Georgescu FBI 302 3/25/98). Mr. Georgescu told Mr. Jordan that the company "would take a look at [Ms. Lewinsky] in the usual way," Supp. at 1219 (Georgescu FBI 302 1/29/98), and that once the initial interview was set up, Ms. Lewinsky would be "on [her] own from that point." Supp. at 1222 (Georgescu FBI 302 3/25/98). The executive who interviewed Ms. Lewinsky at Burson-Marsteller stated that Ms. Lewinsky's recruitment process went "by the book" and, "while somewhat accelerated," the process "went through the normal steps." Supp. at 111 (Berk FBI 302 3/31/98).

At American Express, Mr. Jordan contacted Ms. Ursula Fairbairn, who stated that Mr. Jordan exerted "no . . . pressure" to hire Lewinsky. Supp. at 1087 (Fairbairn FBI 302 2/4/98). Indeed, she considered it "not unusual for board members" like Mr. Jordan to recommend talented people for employment and noted that Mr. Jordan had recently recommended another person just a few months earlier. *Id.* The person who interviewed Ms. Lewinsky stated that he felt "absolutely no pressure" to hire her and indeed told her she did not have the qualifications necessary for the position. Supp. at 3521 (Schick FBI 302 1/29/98).

Perhaps most telling of the absence of pressure applied by Mr. Jordan is the fact that neither Young & Rubicam/Burson-Marsteller or American Express offered Ms. Lewinsky a job.

Similarly, at MacAndrews & Forbes/Revlon, where Ms. Lewinsky ultimately was offered a job (see below), Mr. Jordan initially contacted Mr. Halperin, who has stated that it was not unusual for Mr. Jordan to make an employment recommendation. Supp. at 1281 (Halperin FBI 302 1/26/98). Moreover, he emphasized that Mr. Jordan did not "ask [him] to work on any particular timetable," Supp. at 1294 (Halperin GJ 4/23/98), and that "there was no implied time constraint or requirement for fast action." Supp. at 1286 (Halperin FBI 3/27/98.)

(2) The January job interviews and the Revlon employment offer

The Committee Report attempts to conflate separate and unrelated acts—the signing of the affidavit and the Revlon job offer—to sustain its otherwise unsustainable obstruction theory. The Committee Report's description of these events is deftly misleading:

> "The next day, January 7, Monica Lewinsky signed the false affidavit. She showed the executed copy to Mr. Jordan that same day. She did this so that Mr. Jordan could report to President Clinton that it had been signed and another mission had been accomplished.
>
> On January 8, Ms. Lewinsky had an interview arranged by Mr. Jordan with MacAndrews & Forbes in New York. The interview went poorly. Afterwards, Ms. Lewinsky called Mr. Jordan and informed him. Mr. Jordan, who had done nothing from early November to mid-December, then called the chief executive officer of MacAndrews & Forbes, Ron Perelman, to "make things happen, if they could happen." Mr. Jordan called Ms. Lewinsky back and told her not to worry. That evening, MacAndrews & Forbes called Ms. Lewinsky and told her that she would be given more interviews the next morning.
>
> The next morning, Ms. Lewinsky received her reward for signing the false affidavit. After a series of interviews with MacAndrews & Forbes personnel, she was informally offered a job. Committee Report at 18 (citations omitted).

By this portrayal, the Committee Report suggests two conclusions: first, that Ms. Lewinsky was "reward[ed]" with a job for her signing of the affidavit; second, that the only reason Ms. Lewinsky was given a second interview and ultimately hired at Revlon was Mr. Jordan's intervention with Mr. Perelman. Once again, both conclusions are demonstrably false.

Mr. Jordan and Ms. Lewinsky have testified under oath that there was no causal connection between the job search and the affidavit. The only person to draw (or, actually, recommend) any such linkage was Ms. Tripp. The factual record easily debunks the second insinuation—that Ms. Lewinsky was hired as a direct result of Mr. Jordan's call to Mr. Perelman. One fact is virtually dispositive: the Revlon executive who scheduled Ms. Lewinsky's January 9 interview and decided to hire her that same day never even knew about Mr. Jordan's call to Mr. Perelman, or any interest Mr. Perelman might have in Ms. Lewinsky, and thus could not have been acting in furtherance of such a plan.

Ms. Lewinsky initially interviewed with Mr. Halperin of MacAndrews & Forbes (Revlon's parent company) on December 18, 1997. (Mr. Jordan had spoken with Mr. Halperin on December 11.) Prior to interviewing Ms. Lewinsky, Mr. Halperin forwarded a copy of her resume to Mr. Jaymie Durnan, also of MacAndrews & Forbes, for his consideration. Supp. at 1286–87 (Halperin FBI 302 3/27/98). Following his interview of Ms. Lewinsky, Mr. Halperin thought that she would likely be "shipped to Revlon" for consideration. *Id.*

Mr. Durnan received Ms. Lewinsky's resume from Mr. Halperin in mid-December and, after reviewing it, decided to interview Ms. Lewinsky after the first of the year. (He was going on vocation the last two weeks of December). Supp. at 1053 (Durnan FBI 302 3/27/98). When he returned from vacation, his assistant scheduled an interview with Ms. Lewinsky for January 7, 1998, but, because of scheduling problems, he rescheduled the interview for the next day, January 8, 1998. Supp. at 1049 (Durnan FBI 302 1/26/98). Mr. Durnan's decision to interview Ms. Lewinsky was made independently of the decision by Mr. Halperin to interview her. Indeed, only when Mr. Durnan interviewed Ms. Lewinsky in January did he discover that she had had a December interview with Mr. Halperin. *Id.*

It was this interview with Mr. Durnan that Ms. Lewinsky later described as having gone poorly in her view. App. at 926 (Lewinsky GJ 8/6/98). The House Managers ("[t]he interview went poorly," House Br. at 38), the Committee Report ("The interview went poorly", *id.* at 21), and the OIC Referral ("The interview went poorly," *id.* at 184) all emphasize only *Ms. Lewinsky's* impression of the job interview—for obvious reasons: it tends to heighten the supposed relevance of the Jordan call to Mr. Perelman. In other words, under this theory, Ms. Lewinsky had no prospect of a job at MacAndrews & Forbes/Revlon until Mr. Jordan resurrected her chances with Mr. Perelman.

Unfortunately, like so much other "evidence" in the obstruction case, the facts do not bear out this sinister theory. *Mr. Durnan*

---

[106] That Order authorized Paula Jones's attorneys to obtain discovery relating to certain government employees "with whom the President had sexual relations, proposed sexual relations, or sought to have sexual relations." House Br. at 21.

[107] Mr. Jordan explained that not much activity occurred in November because "I was traveling." Supp. at 1811 (Jordan GJ 9/5/98).

had no similar impression that his interview with Ms. Lewinsky had gone "poorly." In fact, just the opposite was true: he was "impressed" with Ms. Lewinsky and thought that she would "fit in" with MacAndrews & Forbes but "there was nothing available at that time which suited her interests." Supp. at 1054 (Durnan FBI 302 3/27/98). Mr. Durnan therefore decided to forward Ms. Lewinsky's resume to Ms. Allyn Seidman of Revlon. After the interview, he called Ms. Seidman and left her a voicemail message about his interview with Ms. Lewinsky and explained that, while there was no current opening at MacAndrews & Forbes, "perhaps there was something available at Revlon." *Id.*

In the meantime, Mr. Jordan had called Mr. Perelman about Ms. Lewinsky. Mr. Perelman described this conversation as "very low key and casual." Supp. at 3273 (Perelman FBI 302 1/26/98). Mr. Jordan "made no specific requests and did not request" him "to intervene"; nonetheless, Mr. Perelman agreed to "look into it." *Id.* Later that day, Mr. Durnan spoke to Mr. Perelman, who mentioned that he had received a call from Mr. Jordan about a job candidate. Mr. Perelman told Mr. Durnan "let's see what we can do," Supp. at 3276 (Perelman FBI 302 3/27/98), but Mr. Durnan never concluded that hiring Ms. Lewinsky was "mandatory." Supp. at 1055 (Durnan FBI 302 3/27/98). Mr. Perelman later called Mr. Jordan and said they would do what they could; Mr. Jordan expressed no urgency to Mr. Perelman. Supp. at 3276 (Perelman FBI 302 3/27/98).

By the time Mr. Durnan had discussed Ms. Lewinsky with Mr. Perelman, he had *already* forwarded her resume to Ms. Seidman at Revlon. Supp. at 1049–50 (Durnan FBI 302 1/26/98). After speaking with Mr. Perelman, Mr. Durnan spoke with Ms. Seidman, following up on the voicemail message he had left earlier that day. Supp. at 1055 (Durnan FBI 302 3/27/98). Upon speaking to Ms. Seidman about Ms. Lewinsky, however, *Mr. Durnan did not tell Ms. Seidman that CEO Perelman has expressed any interest in Ms. Lewinsky. Id.* Rather, he simply said that if she liked Ms. Lewinsky, she should hire her. Supp. at 1050 (Durnan FBI 302 1/26/98).

For her part, Ms. Seidman has testified that she had no idea that Mr. Perelman had expressed interest in Ms. Lewinsky:

Q: Did [Mr. Durnan] indicate to you that he had spoken to anyone else within MacAndrews or Revlon about Monica Lewinsky?

A: Not that I recall, no.

Q: Do you have knowledge as to whether or not Mr. Perelman spoke with anyone either on the MacAndrews & Forbes side or the Revlon side about Monica Lewinsky?

A: No.

Supp. at 3642 (Seidman Depo. 4/23/98). Rather, Ms. Seidman's consideration of Ms. Lewinsky proceeded on the merits. Indeed, as a result of the interview, Ms. Seidman concluded that Ms. Lewinsky was "bright, articulate and polished," Supp. at 3635 (Seidman FBI 302 1/26/98), and "a talented, enthusiastic, bright young woman" who would be a "good fit in [her] department." Supp. at 3643 (Seidman Depo. 4/23/98). She decided after the interview to hire Ms. Lewinsky, and thereafter called Mr. Durnan "and told him I thought she was great," *Id.*

In sum, Ms. Seidman made the decision to grant an interview and hire Ms. Lewinsky on the merits. She did not even know that Mr. Perelman had expressed any interest in Ms. Lewinsky or that Mr. Jordan had spoken to Mr. Perelman the day before. As amply demonstrated, the House Managers' Jordan-Perelman intervention theory just doesn't hold water.

d. Conclusion

From the preceding discussion of the factual record, two conclusions are inescapable. First, there is simply no direct evidence to support the job-for-silence obstruction theory. From her initial proffer to the last minutes of her grand jury appearance, the testimony of Ms. Lewinsky has been clear and consistent: she was never asked or encouraged to lie or promised a job for her silence or for a favorable affidavit. Mr. Jordan has been equally unequivocal on this point. Second, the "chain of events" circumstantial case upon which this obstruction allegation must rest falls apart after inspection of the full evidentiary record. Ms. Lewinsky's job search began on her own volition and long before she was ever a witness in the *Jones* case. Mr. Jordan's assistance originated with a request from Ms. Currie, which had no connection to events in the *Jones* litigation. No pressure was applied to anyone at any time. And Ms. Lewinsky's ultimate hiring had absolutely no connection to her signing of the affidavit in the *Jones* case. Viewed on this unambiguous record, the job-search allegations are plainly unsupportable.

5. The President denies that he "corruptly allowed his attorney to make false and misleading statements to a Federal judge" concerning Monica Lewinsky's affidavit

Article II (5) charges that the President engaged in an obstruction of justice because he "did not say anything" during his *Jones* deposition when his attorney cited the Lewinsky affidavit to Judge Wright and stated that "there is no sex of any kind in any manner, shape, or form." Committee Report at 72. The rationale underlying this charge of obstruction of justice hinges on an odd combination of a bizarrely heightened legal obligation, a disregard of the actual record testimony, and a good does of amateur psychology. This claim is factually and legally baseless.

The law, of course, imposes no obligation on a client to monitor every statement and representation made by his or her lawyer. Particularly in the confines of an ongoing civil deposition, where clients are routinely counseled to focus on the questions posed of them and their responses and ignore all distractions, it is totally inappropriate to try to remove a President from office because of a statement by his attorney. Indeed, the President forcefully explained to the grand jury that he was not focusing on the exchange between lawyers but instead concentrating on his own testimony:

- "I'm not even sure I paid much attention to what he was saying. I was thinking, I was ready to get on with my testimony here and they were having these constant discussions all through the deposition." App. at 476;
- "I was not paying a great deal of attention to this exchange. I was focusing on my own testimony." App. at 510;
- "I'm quite sure that I didn't follow all the interchanges between the lawyers all that carefully." App. at 510;
- "I am not even sure that when Mr. Bennett made that statement that I was concentrating on the exact words he used." App. at 511;
- "When I was in there, I didn't think about my lawyers. I was, frankly, thinking about myself and my testimony and trying to answer the questions." App. at 512;
- "I didn't pay any attention to this colloquy that went on. I was waiting for my instructions as a witness to go forward. I was worried about my own testimony." App. at 513.

The Committee Report ignores the President's repeated and consistent description of his state of mind during the deposition exchange. Instead, the Committee Report and majority counsel's final presentation undertake a novel exercise in video psychology, claiming that by studying the President's facial expressions and by noting that he was "looking in Mr. Bennett's direction" during the exchange, it necessarily follows that the President was in fact listening to and concentrating on every single word uttered by his attorney[108] and knowingly made a decision not to correct his attorney.

The futility of such an exercise is manifest. It is especially unsettling when set against the President's adamant denials that he harbored any contemporaneous or meaningful realization of his attorney's colloquy with the Judge. The theory is factually flimsy, legally unfounded, and should be rejected.

6. The President denies that he obstructed justice by relating "false and misleading statements" to "a potential witness," Betty Currie, "in order to corruptly influence [her] testimony"

There is no dispute that the President met with his secretary, Ms. Currie, on the day after his *Jones* deposition and discussed questions he had been asked about Ms. Lewinsky. The Managers cast this conversation in the most sinister light possible and alleges that the President attempted to influence the testimony of a "witness" by pressuring Ms. Currie to agree with an inaccurate version of facts about Ms. Lewinsky. The Managers claim that "the President essentially admitted to making these statements when he knew they were not true." House Br. at 47. That is totally false. The President admitted nothing of the sort and the Managers cite nothing in support. The President has adamantly denied that he had any intention to influence Ms. Currie's recollection of events or her testimony in any manner. The absence of any such intention is further fortified by the undisputed factual record establishing that to the President's knowledge, Ms. Currie was neither an actual nor contemplated witness in the *Jones* litigation at the time of the conversation. And critically, Ms. Currie testified that, during the conversation, she did not perceive any pressure "whatsoever" to agree with any statement made by the President.

The President's actions could not as a matter of law support this allegation. To obstruct a proceeding or tamper with a witness, there must be both a known proceeding *and* a known witness. In the proceeding that the President certainly knew about—the *Jones* case—Ms. Currie was neither an actual nor prospective witness. As for the only proceeding in which Ms. Currie ultimately became a witness—the OIC investigation—no one asserts the President could have known it existed at that time.

---

[108] It is upon this same fanciful methodology that the Committee Report premises the allegation of Article I (3) that the President lied to the grand jury in providing these responses. Citing the President's oft-criticized response about Mr. Bennett's use of the present tense in his statement "there is no sex of any" ("It depends on what the meaning of the word 'is' is." App. at 510), the Committee Report claims that such parsing contradicts the President's claim that he was not paying close attention to the exchange. But contrary to the Committee Report's suggestion, the President's response to this question did not purport to describe the President's contemporaneous thinking at the deposition, but rather only in retrospect whether he agreed with the questioner that it was "an utterly false statement." *Id.* The President later emphasized that he "wasn't trying to give . . . a cute answer" in his earlier explanation, but rather only that the average person thinking in the present tense would likely consider that Mr. Bennett's statement was accurate since the relationship had ended long ago. App. at 513.

At the time of the January 18 conversation.[109] Ms. Currie was not a witness in the *Jones* case, as even Mr. Starr acknowledged: "The evidence is not that she was on the witness list, and we have never said that she was." Transcript of November 19, 1998 Testimony at 192.

Nor was there any reason to suspect Ms. Currie would play any role in the *Jones* case. The discovery period was, at the time of this conversation, in its final days, and a deposition of Ms. Currie scheduled and completed within that deadline would have been highly unlikely.

Just as the President could not have intended to influence the testimony of "witness" Betty Currie because she was neither an actual nor a prospective witness, so too is it equally clear that the President never pressured Ms. Currie to alter her recollection. Such lack of real or perceived pressure also fatally undercuts this charge. Despite the prosecutor's best efforts to coax Ms. Currie into saying she was pressured to agree with the President's statements, Ms. Currie adamantly denied any such pressure. As she testified:

> Q: Now, back again to the four statements that you testified the President made to you that were presented as statements, did you feel pressured when he told you those statements?
>
> A: *None whatsoever.*
>
> Q: What did you think, or what was going through your mind about what he was doing?
>
> A: At the time I felt that he was—I want to use the word shocked or surprised that this was an issue, and he was just talking.
>
> * * * * *
>
> Q: That was your impression, that he wanted you to say—because he would end each of the statements with "Right?", with a question.
>
> A: I do not remember that he wanted me to say "Right." *He would say "Right" and I could have said. "Wrong."*
>
> Q: But he would end each of those questions with a "Right?" and you could either say whether it was true or not true?
>
> A: Correct.
>
> Q: Did you feel any pressure to agree with your boss?
>
> A: *None.*

Supp. at 668 (Currie GJ 7/22/98). Ms. Currie explained that she felt no pressure because she basically agreed with the President's statements:

> Q: You testified with respect to the statements as the President made them, and, in particular, the four statements that we've already discussed. You felt at the time that they were technically accurate? Is that a fair assessment of your testimony?
>
> A: That's a fair assessment.
>
> Q: But you suggested that at the time. Have you changed your opinion about it in retrospect?
>
> A: I have not changed my opinion, no.

Supp. at 667 (Currie GJ 7/22/98); *see also* Supp. at 534 (Currie FBI 302 1/24/98) ("Currie advised that she responded "right" to each of the statements because as far as she knew, the statements were basically right."); Supp. at 665 (Currie GJ 7/22/98) ("I said 'Right' to him because I thought they were correct, 'Right, you were never really alone with Monica, right' ").

What, then, to make of this conversation if there was no effort to influence Ms. Currie's testimony? Well, to understand fully the dynamic, one must remove the memory of all that has transpired since January 21 and place oneself in the President's position after the *Jones* deposition. The President had just faced unexpectedly detailed questions about Ms. Lewinsky. The questions addressed, at times, minute details and at other times contained bizarre inaccuracies about the relationship. As the President candidly admitted in his grand jury testimony, he had long thought the day would come when his relationship with Ms. Lewinsky would become public:

> "I formed an opinion early in 1996, once I got into this unfortunate and wrong conduct, that when it stopped, which I knew I'd have to do and which I should have done long before I did, *that she would talk about it.* Not because Monica Lewinsky is a bad person. She's basically a good girl. She's a good young woman with a good heart and a good mind. . . . But I knew that the minute there was no longer any contact, *she would talk about this.* She would have to. She couldn't help it. It was, it was part of her psyche."

App. at 575–76 (emphasis added). Now, with the questioning about Ms. Lewinsky in the *Jones* case and the publication of the first internet report article about Ms. Lewinsky, the President knew that a media storm was about to erupt. And erupt it did.

So it was hardly surprising that the President reached out to Ms. Currie at this time. He was trying to gather all available information and assess the political and personal consequences that this revelation would soon have. Though he did not confide fully in Ms. Currie, he knew Ms. Currie was Ms. Lewinsky's main contact and thus could have additional relevant information to help him assess and respond to the impending media scrutiny. As the President testified:

> "I do not remember how many times I talked to Betty Currie or when. I don't. I can't possibly remember that. I do remember, when I first heard about this story breaking, trying to ascertain what the facts were, trying to ascertain what Betty's perception was. I remember that I was highly agitated, understandably, I think."

App. at 593. And further, "[W]hat I was trying to determine was whether my recollection was right and that she was always in the office complex when Monica was there. . . . *I thought what would happen is that it would break in the press, and I was trying to get the facts down.*" App. at 507–08 (emphasis added). As the President concluded: "I was not trying to get Betty Currie to say something that was untruthful. I was trying to get as much information as quickly as I could." App. at 508.

Ms. Currie's grand jury testimony confirms the President's "agitated" state of mind and information-gathering purpose for the discussion. She testified that the President appeared, in her words, to be "shocked or surprised that this was an issue, and he was just talking." Supp. at 668 (Currie GJ 7/22/98). She described the President's remarks as "both statements and questions at the same time." Supp. at 534 (Currie FBI 302 1/24/98).

Finally, the inference that the President intended to influence Ms. Currie's testimony before she ever became a witness is firmly undercut by the advice the President gave to her when she ultimately did become a witness in the OIC investigation:

> "And then I remember when I knew she was going to have to testify to the grand jury, and I, I felt terrible because she had been through this loss of her sister, this horrible accident Christmas that killed her brother, and her mother was in the hospital. I was trying to do—to make her understand that I didn't want her to, to be untruthful to the grand jury. And if her memory was different than mine, it was fine, just go in there and tell them what she thought. So, that's all I remember."

App. at 593; *see also* App. at 508 ("I think Ms. Currie would also testify that I explicitly told her, once I realized you were involved in the Jones case—you, the Office of Independent Counsel—and that she might have to be called as a witness, that she should just go in there and tell the truth, tell what she knew, and be perfectly truthful.").[110]

In sum, neither the testimony of Ms. Currie nor that of the President—the only two participants in this conversation—supports the inference that the conversation had an insidious purpose. The undisputed evidence shows that Ms. Currie was neither an actual nor contemplated witness in the *Jones* case. And when Ms. Currie did ultimately become a witness in the Starr investigation, the President told her to tell the truth, which she did.

7. *The President denies that he obstructed justice when he relayed allegedly "false and misleading statements" to his aides*

This final allegation of Article II should be rejected out of hand. The President has admitted misleading his family, his staff, and the Nation about his relationship with Ms. Lewinsky, and he has expressed his profound regret for such conduct. But this Article asserts that the President should be impeached and removed from office because he failed to be candid with his friends and aides about the nature of his relationship with Ms. Lewinsky. These allegedly impeachable denials took place in the immediate aftermath of the Lewinsky publicity—*at the very time* the President was denying any improper relationship with Ms. Lewinsky in nearly identical terms on national television. Having made this announcement to the whole country on television, it is simply absurd to believe that he was somehow attempting corruptly to influence the testimony of aides when he told them virtually the same thing at the same time.[111] Rather, the evidence demonstrates that the President spoke with these individuals regarding the allegations because of the longstanding professional and personal relationships he shared with them and the corresponding responsibility he felt to address their concerns once the allegations were aired. The Managers point to no *evidence*—for there is none—that the President spoke to these individuals for any other reason, and certainly not that he spoke with them intending to obstruct any proceeding.[112] They simply assert that since he knew there was an investigation, his intent had to be that they relate his remarks to the investigators and grand jurors. House Br. at 80.

---

[109] Ms. Currie remembers a second conversation similar in substance a few days after the January 18 discussion, but still in advance of the public disclosure of this matter on January 21, 1998. Supp. at 561 (Currie GJ 1/27/98).

[110] Only groundless speculation and unfounded inferences support the Committee Report's mirror allegation of Article I (4) that the President lied to the grand jury when he described his motivation in discussing these matters with Ms. Currie. That allegation should be rejected for the same reasons discussed more fully in the text of this section.

[111] As the Supreme Court has held, to constitute obstruction of justice such actions must be taken "with an intent to influence judicial or grand jury proceedings." *United States* v. *Aguilar*, 515 U.S. 592, 599 (1995).

However, there is no allegation that the President attempted to influence these aides' testimony about their *own personal knowledge or observations*. Nor is there any evidence that the President *knew* any of these aides would ultimately be witnesses in the grand jury when he spoke with them. None was under subpoena at the time the denials took place and none had any independent knowledge of any sexual activity between the President and Ms. Lewinsky. Indeed, the only evidence these witnesses could offer on this score was the hearsay repetition of the same public denials that the members of the grand jury likely heard on their home television sets. Under the strained theory of this article, every person who heard the President's public denial could have been called to the grand jury to create still additional obstructions of justice.

To bolster this otherwise unsupportable charge, the Managers point to an excerpt of the President's testimony wherein he acknowledged that, to the extent he shared *with anyone* any details of the facts of his relationship with Ms. Lewinsky, they could conceivably be called before the grand jury—which for the sake of his friends the President wanted to avoid:

"I think I was quite careful what I said after [January 21]. I may have said something to all of these people to that effect [denying an improper relationship], but I'll also—whenever anybody asked me any details, I said, look, I don't want you to be a witness or I turn you into a witness or give you information that could get you in trouble. I just wouldn't talk. I, by and large, didn't talk to people about this."

App. at 647. The point was not that the President believed these people would be witnesses and sc decided to mislead them, but rather that he decided to provide as little information as possible (consistent with his perceived obligation to address their legitimate concerns) in order to keep them from becoming witnesses solely because of what he told them.

In conclusion, this Article fails as a matter of law and as a matter of common sense. It should be soundly rejected.

VI. The Structural Deficiencies of the Articles Preclude a Constitutionally Sound Vote

The Constitution prescribes a strict and exacting standard for the removal of a popularly elected President. Because each of the two articles charges multiple unspecified wrongs, each is unconstitutionally flawed in two independent respects.

First, by charging multiple wrongs in one article, the House of Representatives has made it impossible for the Senate to comply with the Constitutional mandate that any conviction be by the concurrence of two-thirds of the members. Since Senate Rules require that an entire article be voted as a unit, sixty-seven Senators could conceivably vote to convict while in wide disagreement as to the alleged wrong committed—for example, they could completely disagree on what statement they believe is false—in direct violation of the Constitutional requirements of "Concurrence" and due process.

Second, by charging perjury without identifying a single allegedly perjurious statement, and charging obstruction of justice without identifying a single allegedly obstructive action by the President, the House of Representatives has failed to inform the Senate either of the statements it agreed were perjurious (if it agreed), or of the actual conduct by the President that it agreed constituted obstruction of justice (again, if it agreed). The result is that the President does not have the most basic notice of the charges against him required by due process and fundamental fairness. He is not in a position to defend against anything other than a moving target. The guesswork involved even in identifying the charges to be addressed in this Trial Memorandum highlights just how flawed the articles are.[113]

The result is a pair of articles whose structure does not permit a constitutionally sound vote to convict. If they were counts in an indictment, these articles would not survive a motion to dismiss. Under the unique circumstances of an impeachment trial, they should fail:

A. THE ARTICLES ARE BOTH UNFAIRLY COMPLEX AND LACKING IN SPECIFICITY

A cursory review of the articles demonstrates that they each allege multiple and unspecified acts of wrongdoing.

1. The Structure of Article I

Article I accuses the President of numerous different wrongful actions. The introductory paragraph charges the President with (i) violating his constitutional oath faithfully to execute his office and defend the Constitution; (ii) violating his constitutional duty to take care that the laws be faithfully executed; (iii) willfully corrupting and manipulating the judicial process; and (iv) impeding the administration of justice.

The second paragraph charges the President with (a) perjurious, (b) false, and (c) misleading testimony to the grand jury concerning "one or more" of four different subject areas:

(1) the nature and details of this relationship with a subordinate government employee;

(2) prior perjurious, false and misleading testimony he gave in a Federal civil rights action brought against him;

(3) prior false and misleading statements he allowed his attorney to make to a federal judge in that action;

(4) his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence in that civil rights action.

The third paragraph alleges that, as a consequence of the foregoing, the President has, to the manifest injury of the people of the United States:

- undermined the integrity of his office;
- brought disrepute on the Presidency;
- betrayed his trust as President; and
- acted in a manner subversive of the rule of law and justice.

It is imperative to note that although Article I alleges "perjurious, false and misleading" testimony concerning "one or more" of four general subject areas, it does not identify the particular sworn statements by the President that were allegedly "perjurious," (and therefore potentially illegal), or "false" or "misleading" (and therefore not unlawful). In fact, contrary to the most basic rules of fairness and due process, Article I does not identify a single specific statement that is at issue.

In sum, Article I appears to charge the President with four general forms of wrongdoing (violations of two oaths, manipulation of legal process, impeding justice), involving three (perjurious, false, misleading) distinct types of statements, concerning different subjects (relationship to Ms. Lewinsky, prior deposition testimony, prior statements of his attorney, obstruction of justice),[114] resulting in four species of harms either to the Presidency (undermining its integrity, bringing it into disrepute) or to the people (acting in a manner subversive of the rule of law and to the manifest injury of the people). And it alleges all of this without identifying a single, specific perjurious, false or misleading statement.

---

[112] The Committee Reports's allegation under Article I (4) that the President committed perjury before the grand jury when, in the course of admitting that he misled his close aides, he stated that he endeavored to say to his aides "things that were true," App. at 557-60, without disclosing the full nature of the relationship is simply bizarre.

[113] The House Managers cannot constitutionally unbundle the charges in the articles or provide the missing specifics. This is because the Constitution provides that only the House of Representatives can amend articles of impeachment, and judicial precedent demonstrates that unduly vague indictments cannot be cured by a *prosecutor* providing a bill of particulars. Only the charging body—here, the House—can particularize an impermissibly vague charge.

Indeed, Senate precedent confirms that the entire House must grant particulars when articles of impeachment are not sufficiently specific for a fair trial. During the 1933 impeachment trial of Judge Harold Louderback, counsel for the Judge filed a motion to make the original Article V, the omnibus or "catchall" article, more definite. 77 Cong Rec. 1852, 1854 (1933). The House Managers unanimously consented to the motion, which they considered to be akin to a motion for a bill of particulars, and the full House amended Article V to provide the requested specifics. *Id.* Thereafter, the Clerk of the House informed the Senate that the House had adopted an amendment to Article V. *Id.* Judge Louderback was then tried on the amended article. Judge Louderback was subsequently acquitted on all five articles. Impeachment of Richard M. Nixon, President of the United States, Report by Staff of the Impeachment Inquiry, House Comm. on the Judiciary, 93d Cong., 2d Sess., Appendix B at 55 (Feb. 1974).

The power to define and approve articles of impeachment is vested by the Constitution exclusively in the House of Representatives. U.S. Const. Art I, §2, cl. 5. It follows that any alteration of an Article of Impeachment can be performed only by the House. The House cannot delegate (and has not delegated) to the Managers the authority to amend or alter the Articles, and Senate precedent demonstrates that only the House (not the Managers unilaterally) can effect an amendment to articles of impeachment.

Case law is consistent with this precedent. When indictments are unconstitutionally vague, they cannot be cured by a prosecutor's provision of a bill of particulars, because only the charging body can elaborate upon vague charges. As the Supreme Court noted in *Russell* v. *United States*, 369 U.S. 749, 771 (1962):

"It is argued that any deficiency in the indictments in these cases could have been cured by bills of particulars. But it is a settled rule that a bill of particular cannot save an invalid indictment . . . To allow the prosecutor, or the court, to make a subsequent guess as to what was in the minds of the grand jury at the time they returned the indictment would deprive the defendant of a basic protection which the guaranty of the intervention of a grand jury was designed to secure. For a defendant could then be convicted on the basis of facts not found by, and perhaps not even presented to, the grand jury which indicted him. This underlying principle is reflected by the settled rule in the federal courts that an indictment may not be amended except by resubmission to the grand jury. . . ."

See also Stirone v. *United States*, 361 U.S. 212, 214, 216 (1960) quoting *Ex Parte Bain*, 121 U.S. 1 (1887) ("If it lies within the province of a court to charging part to an indictment to suit its own notions of what it ought to have been or what they grand jury would probably have made it if their attention had been called to suggested changes, the great importance which the common law attaches to an indictment by a grand jury . . . may be frittered away until its value is almost destroyed.").

[114] It appears that each of these topic areas includes various, unspecified allegedly perjurious, false and misleading statements.

Absent a clear statement of which statements are alleged to have been perjurious, and which specific acts are alleged to have been undertaken with the purpose of obstructing the administration of justice, it is impossible to prepare a defense. It is a fundamental tenet of our jurisprudence that an accused must be afforded notice of the specific charges against which he must defend. Neither the Referral of the Office of the Independent Counsel, nor the Committee Report of the Judiciary Committee, nor the House Managers' Trial Memorandum was adopted by the House, and none of them can provide the necessary particulars. It is impossible to know whether the different statements and acts charged in the Referral, or the Report, or the Trial Memorandum, or all, or none, are what the House had in mind when it passed the Articles.

2. The Structure of Article II

Article II accuses the President of a variety of wrongful acts. The introductory paragraph charges the President with (i) violating his constitutional oath faithfully to execute his office and defend the Constitution and (ii) violating his constitutional duty to take care that the laws be faithfully executed by (iii) preventing, obstructing and impeding the administration of justice by engaging (personally and through subordinates and agents) in a scheme designed to delay, impede, cover up, and conceal the existence of evidence and testimony related to a Federal civil rights action.

The second paragraph specifies the various ways in which the violations in the first paragraph are said to have occurred. It states that the harm was effectuated by "means" that are not expressly defined or delimited, but rather are said to include "one or more" of seven "acts" attributed to the President:

(1) corruptly encouraging a witness to execute a perjurious, false and misleading affidavit;

(2) corruptly encouraging a witness to give perjurious, false and misleading testimony if called to testify;

(3) corruptly engaging in, encouraging or supporting a scheme to conceal evidence;

(4) intensifying and succeeding in an effort to secure job assistance to a witness in order to corruptly prevent the truthful testimony of that witness at a time when that witness's truthful testimony would have been harmful;

(5) allowing his attorney to make false and misleading statements to a federal judge in order to prevent relevant questioning;

(6) relating a false and misleading account of events to a potential witness in a civil rights action in order to corruptly influence the testimony of that person;

(7) making false and misleading statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence their testimony and causing the grand jury to receive false and misleading information.

The third paragraph alleges that, as a result of the foregoing, the President has, to the manifest injury of the people of the United States:

- undermined the integrity of his office;
- brought disrepute on the Presidency;
- betrayed his trust as President; and
- acted in a manner subversive of the rule of law and justice.

As with the first article, Article II does not set forth a single specific act alleged to have been performed by the President. Instead, it alleges general "encourage[ment]" to execute a false affidavit, provide misleading testimony, and conceal subpoenaed evidence. This Article also includes general allegations that the President undertook to "corruptly influence" and/or "corruptly prevent" the testimony of potential witnesses and that he "engaged in . . . or supported" a scheme to conceal evidence. Again, the Senate and the President have been left to guess at the charges (if any) actually agreed upon by the House.

B. CONVICTION ON THESE ARTICLES WOULD VIOLATE THE CONSTITUTIONAL REQUIREMENT THAT TWO-THIRDS OF THE SENATE REACH AGREEMENT THAT SPECIFIC WRONGDOING HAS BEEN PROVEN

1. The Articles Bundle Together Disparate Allegations in Violation of the Constitution's Requirements of Concurrence and Due Process

a. The Articles Violate the Constitution's Two-Thirds Concurrence Requirement

Article I, section 3 of the Constitution provides that "no person shall be convicted [on articles of impeachment] without the Concurrence of two thirds of the Members present." U.S. Const. Art. I, §3, cl. 6. The Constitution's requirement is plain. These must be "Concurrence," which is to say genuine, reliably manifested, agreement, among those voting to convict. Both the committing of this task to the Senate and the two-thirds requirement are important constitutional safeguards reflecting the Framers' intent that conviction not come easily. Conviction demands real and objectively verifiable agreement among a substantial supermajority.

Indeed, the two-thirds supermajority requirement is a crucial constitutional safeguard. Supermajority provisions are constitutional exceptions[115] to the presumption that decisions by legislative bodies shall be made by majority rule.[116] These exceptions serve exceptional ends. The two-thirds concurrence rule serves the indispensable purpose of protecting the people who chose the President by election. By giving a "veto" to a minority of Senators, the Framers sought to ensure the rights of an electoral majority—and to safeguard the people in their choice of Executive. Only the Senate and only the requirement of a two-thirds concurrence could provide that assurance.

The "Concurrence" required is agreement that the charges stated in specific articles have in fact been proved, and the language of those articles is therefore critical. Since the House of Representatives is vested with the "sole Power of Impeachment," U.S. Const. Art. I, §2, cl. 5, the form of those articles cannot be altered by the Senate. And Rule XXIII of the Rules of Procedure and Practice in the Senate when Sitting on Impeachment Trials ("Senate Rules") provides that "[a]n article of impeachment shall not be divisible for the purpose of voting thereon at any time during the trial."

It follows that each Senator may vote on an article only in its totality. By the express terms of Article I, a Senator may vote for impeachment if he or she finds that there was perjurious, false and misleading testimony in *any* "one or more" of four topic areas. But that prospect creates the very real possibility that "conviction" could occur even though fewer than two-thirds of the Senators actually agree that any particular false statement was made.[117] Put differently, the article's structure presents the possibility that the President could be convicted on Article I even though he would have been acquitted if separate votes were taken on individual allegedly perjurious statements. To illustrate the point, consider that it would be possible for conviction to result even with as few as seventeen Senators agreeing that any single statement was perjurious, because seventeen votes for one statement in each of four categories would yield 68 votes, one more than necessary to convict. The problem is even worse if Senators agree that there is a single perjurious statement but completely disagree as to which statement within the 176 pages of transcript they believe is perjurious. Such an outcome would plainly violate the Constitution's requirement that there be conviction only when a two-thirds majority agrees.

The very same flaw renders Article II unconstitutional as well. That Article alleges a scheme of wrongdoing effected through "means" including "one or more" of seven factually and logically discrete "acts." That compound structure is fraught with the potential to confuse. For example, the Article alleges both concealment of gifts on December 28, 1997, and false statements to aides in late January 1998. These two allegations involve completely different types of behavior. They are alleged to have occurred in different months. They involved different persons. And they are alleged to have obstructed justice in different legal proceedings. In light of Senate Rule XXIII's prohibition on dividing articles, the combination of such patently different types of alleged wrongdoing in a single article creates the manifest possibility that votes for conviction on this article would not reflect any two-third agreement whatsoever.

The extraordinary problem posed by such compound articles is well-recognized and was illustrated by the proceedings in the impeachment of Judge Walter Nixon. Article III of the Nixon proceedings, like the articles here, was phrased in the disjunctive and charged multiple false statements as grounds for impeachment. Judge Nixon moved to dismiss Article III on a number of grounds, including on the basis of its compound structure.[118] Although that motion was defeated in the full Senate by a vote of 34–63,[119] the 34 Senators who voted to dismiss were a sufficient number to block conviction on Article III.

Judge Nixon (although convicted on the first two articles) was ultimately acquitted on Article III by a vote of 57 (guilty) to 40 (not guilty).[120] Senator Biden, who voted not guilty on the article, stated that the structure of the article made it "possible . . . for Judge Nixon to be convicted under article III even though two-thirds of the members present did not agree that he made any one of the false statements."[121] Senator Murkowski concurred: "I don't appreciate the omnibus nature of article III, and I agree with the argument that the article could easily be used to convict Judge Nixon by less than the super majority vote required by the Constitution." *Id.* at 464.[122] And Senator Dole stated that "Article III is redundant, complex and unnecessarily confusing. . . . It alleges that Judge Nixon committed five different offenses in connection with each of fourteen separate events, a total of seventy charges. . . . [I]t was virtually impossible for Judge Nixon and his attorney's to prepare an adequate defense."[123]

---

[115] *See e.g.*, U.S. Const. Art. I, §7, cl. 2 (two thirds vote required to override Presidential veto); U.S. Const. Art. II, §2, cl. 2 (two thirds required for ratification of treaties); U.S. Const. Art. V (two thirds required to propose constitutional amendments); U.S. Const. Art. I, §5, cl. 2 (two thirds required to expel members of Congress).

[116] Madison referred to majority voting as "the fundamental principal of free government." *Federalist No. 58* at 248 (G. Wills ed. 1982).

[117] There remains the additional problem that the articles allege not specific perjurious statements, but perjury within a topic area. Perjury as to *a category* (rather than as to specific statements) is an incomprehensible notion.

[118] *See* Report of the Senate Impeachment Trial Committee on the Articles of Impeachment Against Judge Walter L. Nixon, Jr., Hearings Before the Senate Impeachment Trial Committee, 101st Cong., 1st Sess. at 257, 281–84 (1989).

[119] *Judge Nixon Proceedings* at 430–32.

[120] *Id.* at 435–36.

In his written statement filed after the voting was completed, Senator Kohl pointed out the dangers posed by combining multiple accusations in a single article:

"Article III is phrased in the disjunctive. It says that Judge Nixon concealed his conversations through 'one or more' of 14 false statements.

"This wording presents a variety of problems. First of all, it means that Judge Nixon can be convicted even if two thirds of the Senate does not agree on which of his particular statements were false. . . .

"The House is telling us that it's OK to convict Judge Nixon on Article III even if we have different visions of what he did wrong. *But that's not fair to Judge Nixon, to the Senate, or to the American people.* Let's say we do convict on Article III. *The American people—to say nothing of history—would never know exactly which of Judge Nixon's statements were regarded as untrue. They'd have to guess. What's more, this ambiguity would prevent us from being totally accountable to the voters for our decision.*"[124]

As noted, the Senate acquitted Judge Nixon on the omnibus article—very possible because of the constitutional and related due process and fairness concerns articulated by Senator Kohl and others.[125]

The constitutional problems identified by those Senators are significant when a single federal judge (one of roughly 1000) is impeached. But when the Chief Executive and sole head of one entire branch of our government stands accused, those infirmities are momentous. Fairness and the appearance of fairness require that the basis for any action this body might take be clear and specific. The Constitution clearly forbids conviction unless two thirds of the Senate concurs in a judgment. Any such judgment would be meaningless in the absence of a finding that specific, identifiable, wrongful conduct has in fact occurred. No such conclusion is possible under either article as drafted.

b. Conviction on the Articles Would Violate Due Process Protections that Forbid Compound Charges in a Single Accusation

Even apart from the Constitution's clear requirement of "Concurrence" in Article I, section 3, the fundamental principles of fairness and due process that underlie our Constitution and permeate our procedural and substantive law compel the same outcome. In particular, the requirement that there be genuine agreement by the deciding body before an accused is denied life, liberty or property is a cornerstone of our jurisprudence.[126]

While in the federal criminal context due process requires that there be genuine agreement among the entire jury, *see United States* v. *Fawley*, 137 F.3d 458, 470 (7th Cir. 1998), *Schad* v. *Arizona*, 501 U.S. 624 (1991) (plurality), in the impeachment context, that requirement of genuine agreement must be expressed by a two-thirds supermajority. But the underlying due process principles is the same in both settings. This basic principle is bottomed on two fundamental notions: (1) that there be genuine agreement—mutuality of understanding—among those voting to convict, and (2) that the unanimous verdict be understood (by the accused and by the public) to have been the product of genuine agreement.

This principle is given shape in the criminal law in the well-recognized prohibition on "duplicitous" charges. "Duplicity is the joining in a single count of two or more distinct and separate offenses." *United States* v. *UCO Oil*, 546 F.2d 833, 835 (9th Cir. 1976.) In the law of criminal pleading, a single count that charges two or more separate offenses is duplicitous. *See United States* v. *Parker*, 991 F.2d 1493, 1497–98 (9th Cir. 1993); *United States* v. *Hawkes*, 753 F.2d 355, 357 (4th Cir. 1985).[127] A duplicitous charge in an indictment violates the due process principle that "the requisite specificity of the charge may not be compromised by the joining of separate offenses." *Schad* v. *Arizona*, 501 U.S. 624, 633 (1991) (plurality).

More specifically, a duplicitous charge poses the acute danger of conviction by a less-than-unanimous jury; some jurors may find the defendant guilty of one charge but not guilty of a second, while other jurors find him guilty of a second charge but not the first. *See United States* v. *Saleh*, 875 F.2d 535, 537 (6th Cir. 1989); *United States* v. *Stanley*, 597 F.2d 866, 871 (4th Cir. 1979); *Bins* v. *United States*, 331 F.2d 390, 393 (5th Cir. 1964).[128] Our federal system of justice simply does not permit conviction by less than unanimous agreement concerning a single, identified charge. *See United States* v. *Fawley*, 137 F.3d 471 (7th Cir. 1998) (conviction requires unanimous agreement as to particular statements); *United States* v. *Holley*, 942 F.2d 916, 929 (5th Cir. 1991) (reversal required where no instruction was given to ensure that all jurors concur in conclusion that at least one particular statement was false); *see also United States* v. *Gipson*, 553 F.2d 453, 458–59 (5th Cir. 1977) (right to unanimous verdict violated by instruction authorizing conviction if jury found defendant committed any one of six acts proscribed by statute).[129] The protection against conviction by less than full agreement by the factfinders is enshrined in Rule 31(a) of the Federal Rules of Criminal Procedure which dictates that "[t]he verdict shall be unanimous."[130]

Thus, where the charging instrument alleges multiple types of wrongdoing, the unanimity requirement "means more than a conclusory agreement that the defendant has violated the statute in question; *there is a requirement of substantial agreement as to the principal factual elements underlying a specified offense.*" *United States* v. *Ferris*, 719 F.2d 1405, 1407 (9th Cir. 1983) (emphasis added). Accordingly, although there need not be unanimity as to every bit of underlying evidence, due process "does require unanimous agreement as to the nature of the defendant's violation, not simply that a violation has occurred." *McKoy* v. *North Carolina*, 494 U.S. 433, 449 n.5 (1990) (Blackmun, J., concurring). Such agreement is necessary to fulfill the demands of fairness and rationality that inform the requirement of due process. *See Schad*, 501 U.S. at 637.[131]

---

[121] Statement of Senator Joseph R. Biden, Jr., *id.* at 459.

[122] *See also* Statement of Senator Bailey, Impeachment of Judge Harold Louderback, 77 Cong. Rec. 4238 (May 26, 1933) (respondent should be tried on individual articles and not on all of them assembled into one article).

[123] Statement of Senator Robert Dole, *Judge Nixon Proceedings* at 457.

[124] Statement of Senator Herbert H. Kohl, *id.* at 449 (emphasis added). Senator Kohl did not believe that the constitutional question concerning two-thirds concurrence had to be answered in the Judge Nixon proceedings because he believed that the bundling problem created an unfairness (in effect, a due process violation) that precluded conviction. *Id.*

[125] *See also* Constitutional Grounds for Presidential Impeachment: Modern Precedents, Report by the Staff of the Impeachment Inquiry, Comm. on Judiciary, 105th Cong., 2d Sess. at 12 (1998) (discussing Sen. Kohl's position).

[126] Judicial precedent is persuasive here on these due process and fairness questions. Indeed, in prior impeachment trials, the Senate has been guided by decisions of the courts, because they reflect cumulative wisdom concerning fairness and the search for justice. During the impeachment trial of Judge Alcee L. Hastings, Senator Specter stated:

"[T]he impeachment process relies in significant measure on decisions of the court and the opinion of judges . . . [T]he decisions and interpretations of the courts should be highly instructive to us. In our system of Government, it has been the courts that through the years have been called upon to construe, define and apply the provisions of our Constitution. Their decisions reflect our values and our evolving notions of justice . . . Although we are a branch of Government coequal with the judiciary, and by the Constitution vested with the 'sole' power to try impeachments, I believe that the words and reasoning of judges who have struggled with the meaning and application of the Constitution and its provisions ought to be given great heed because that jurisprudence embodies the values of fairness and justice that ought to be the polestar of our own determinations." (S. Doc. 101–18, 101st Cong., 1st Sess. at 740–41.)

As Senator Specter observed, judicial rules have been developed and refined over the years to assure that court proceedings are fair, and that an accused is assured the necessary tools to prepare a proper defense, including proper notice.

[127] *See also* Federal Rules of Criminal Procedure, Rule 8(a): "Two or more offenses may be charged in the same indictment or information *in a separate count for each offense* if the offenses charged . . . are of the same or similar charter or are based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan." (emphasis added).

[128] Each of the four categories charged here actually comprises multiple allegedly perjurious statements. Thus, the dangers of duplicitousness are increased exponentially.

[129] The ‚Supreme Court has stated that "[u]nanimity in jury verdicts is required where the Sixth and Seventh Amendments apply." *Andres* v. *United States*, 333 U.S. 740, 748 (1948); *Apodaca* v. *Oregon*, 406 U.S. 404 (1972) (same).

[130] That rule gives expression to a criminal defendant's due process right to a unanimous verdict. *See United States* v. *Fawley*, 137 F.2d 458, 4771 (7th Cir. 1988). Because the Constitution does not tolerate the risk of a less than unanimous verdict in the criminal setting, "where the complexity of a case or other factors create the potential for confusion as to the legal theory or factual basis which sustains a defendant's conviction, a specific unanimity instruction is required." *United States* v. *Jackson*, 879 F.2d 85, 88 (3d Cir. 1989) (citing *United States* v. *Beros*, 833 F.2d 455, 460 (3d Cir. 1987)). Such instructions are required where the government charges several criminal acts, any of which alone could have supported the offense charged, because of the need to provide sufficient guidance to assure that all members of the jury were unanimous on the same act or acts of illegality. *Id.* at 88. As the Seventh Circuit recently concluded in a case alleging multiple false statements, "the jury should have been advised that in order to have convicted [the defendant], they had to unanimously agree that a particular statement contained in the indictment was falsely made." *Fawley*, 137 F.2d at 470.

[131] In our federal criminal process, a duplicitous pleading problem may sometimes be cured by instructions to the jury requiring unanimous agreement on a single statement, *see Fawley*, *supra*, but

Continued

Where multiple accusations are combined in a single charge, neither the accused nor the factfinder can know precisely what that charge means. When the factfinder body cannot agree upon the meaning of the charge, it cannot reach genuine agreement that conviction is warranted. These structural deficiencies preclude a constitutionally sound vote on the articles.

C. CONVICTION ON THESE ARTICLES WOULD VIOLATE DUE PROCESS PROTECTIONS PROHIBITING VAGUE AND NONSPECIFIC ACCUSATIONS

1. The Law of Due Process Forbids Vague and Nonspecific Charges

Impermissibly vague indictments must be dismissed, because they "fail[] to sufficiently apprise the defendant 'of what he must be prepared to meet.'" *United States* v. *Russell*, 369 U.S. 749, 764 (1962) (internal quotation omitted). In *Russell*, the indictment at issue failed to specify the subject matter about which the defendant had allegedly refused to answer questions before a Congressional subcommittee. Instead, the indictment stated only that the questions to which the answers were refused "were pertinent to the question then under inquiry" by the Subcommittee. *Id.* at 752. The Court held that because the indictment did not provide sufficient specificity, it was unduly vague and therefore had to be dismissed. *Id.* at 773. The Supreme Court explained that dismissal is the only appropriate remedy for an unduly vague indictment, because only the charging body can elaborate upon vague charges:

> "To allow the prosecutor, or the court, to make a subsequent guess as to what was in the minds of the grand jury at the time they returned the indictment would deprive the defendant of a basic protection which the guaranty of the intervention of a grand jury was designed to secure. For a defendant could then be convicted on the basis of facts not found by, and perhaps not even presented to, the grant jury which indicted him. This underlying principle is reflected by the settled rule in the federal courts that an indictment may not be amended except by resubmission to the grand jury . . ."

Id. at 771. *See also Stirone* v. *United States*, 361 U.S. 212, 216 (1960); *see also United States* v. *Lattimore*, 215 F.2d 847 (D.C. Cir. 1954) (perjury count too vague to be valid cannot be cured even by bill of particulars); *United States* v. *Tonelli*, 557 F.2d 194, 200 (3d Cir. 1978) (vacating perjury conviction where "the indictment . . . did not 'set forth the precise falsehood[s] alleged'").

Under the relevant case law, the two exhibited Articles present paradigmatic examples of charges drafted too vaguely to enable the accused to meet the accusations fairly. More than a century ago, the Supreme Court stated that "[i]t is an elementary principle of criminal pleading, that where the definition of an offence, whether it be at common law or by statute, includes generic terms, it is not sufficient that the indictment shall charge the offence in the same generic terms as in the definition; but it must state the species—it must descend to particulars." *United States* v. *Cruikshank*, 92 U.S. 542, 558 (1875). The Court has more recently emphasized the fundamental "vice" of nonspecific indictments: that they "fail[] to sufficiently apprise the defendant 'of what he must be prepared to meet.'" *Russell*, 369 U.S. at 764.

The Supreme Court emphasized in *Russell* that specificity is important not only for the defendant, who needs particulars to prepare a defense, but also for the decision-maker, "so it may decide whether [the facts] are sufficient in law to support a conviction, if one should be had." *Id.* at 768 (internal citation and quotation marks omitted). An unspecific indictment creates a "moving target" for the defendant exposing the defendant to a risk of surprise through a change in the prosecutor's theory. "It enables his conviction to rest on one point and the affirmance of the conviction to rest on another. It gives the prosecution free hand on appeal to fill in the gaps of proof by surmise and conjecture." *Russell*, 369 U.S. at 766. Ultimately, an unspecific indictment creates a risk that "a defendant could . . . be convicted on the basis of facts not found by, and perhaps not even presented to, the grand jury which indicted him." *Id.* at 770.

2. The Allegations of Both Articles Are Unconstitutionally Vague

Article I alleges that in his August 17, 1998 grand jury testimony, President Clinton provided "perjurious, false and misleading" testimony to the grand jury concerning "one or more" of four subject areas. Article I does not, however, set forth a single specific statement by the President upon which its various allegations are predicated. The Article haphazardly intermingles alleged criminal conduct with totally lawful conduct, and its abstract generalizations provide no guidance as to actual alleged perjurious statements.

Article I thus violates the most fundamental requirement of perjury indictments. It is fatally vague in three distinct respects: (1) it does not identify *any* statements that form the basis of its allegations,[132] (2) it therefore does not specify which of the President's statements to the grand jury were allegedly "perjurious," which were allegedly "false," and which were allegedly "misleading," and (3) it does not even specify the *subject matter* of any alleged perjurious statement.

The first defect is fatal, because it is axiomatic that if the precise perjurious statements are not identified in the indictment, a defendant cannot possibly prepare his defense properly. *See, e.g.*, *Slawik*, 548 F.2d 75, 83–84 (3d Cir. 1977). Indeed, in past impeachment trials in the Senate where articles of impeachment alleged the making of false statements, the false statements were specified in the Articles. For example, in the impeachment trial of Alcee L. Hastings, Articles of Impeachment II–XIV specified the exact statements that formed the basis of the false statement allegations against Judge Hastings.[133] Similarly, in the impeachment trial of Walter L. Nixon, Jr., Articles of Impeachment I–III specified the exact statements that formed the basis of their false statement allegations.[134] In this case, Article I falls far short of specificity standards provided in previous impeachment trials in the Senate.

As to the second vagueness defect, there is a significant legal difference between, on the one hand, statements under oath which are "perjurious," and those, on the other hand, which are simply "false" or misleading." Only the former could form the basis of a criminal charge. The Supreme Court has emphatically held that "misleading" statements alone *cannot* form the basis of a prejury charge. In *Bronston* v. *United States*, 409 U.S. 352 (1973), the Court held that literally true statements are by definition nonperjurious, and "it is no answer to say that here the jury found that [the defendant] intended to *mislead* his examiner," since "[a] jury should not be permitted to enage in conjecture whether an unresponsive answer. . . was intended to *mislead* or divert the examiner." *Id.* at 358–60 (emphasis added). The Court emphasized that "the perjury statute is not to be loosely construed, nor the statute invoked simply because a wily witness succeeds in derailing the questioner so long as the witness speakes the literal truth." *Id.* Thus, specification of the exact statements alleged to be prejurious is required, because "to hold otherwise would permit the trial jury to inject its inferences into the grand jury's indictment, and would allow defendants to be convicted for immaterial falsehoods or for 'intent to mislead' or 'perjury by implication,' which Bronston specifically prohibited." Slawik, 538 F.2d at 83–84 (emphasis added). Thus, if the House meant that certain statements were misleading but literally truthful, they might be subject to a motion to dismiss on the ground that the offense was not impeachable.

The same is true for allegedly "false" answers, because it is clear that mere "false" answers given under oath, without more, are not criminal. 18 U.S.C. §1623, the statute proscribing perjury before a federal grand jury, requires additional elements beyond falsity, including the defendant's specific intent to testify falsely and the statement's materiality to the proceeding. A defense to a perjury charge is therefore tied directly to the specific statement alleged to have been perjurious. Did the defendant *know* the particular answer was false? Was it material?[135]

---

that option is not present here. Not only do the Senate Rules not provide for the equivalent of jury instructions, they expressly *rule out* the prospect of subdividing an article of impeachment for purposes of voting. *See* Senate Impeachment Rule XXIII. Nor is the duplicitousness problem presented here cured by any specific enumeration of elements necessary to be found by the factfinder. *See, e.g.*, *Santarpio* v. *United States*, 560 F.2d 448 (1st Cir. 1977) (duplicitous charge harmless because indictments adequately set out the elements of the federal crime; appellants were not misled or prejudiced). Article I does not enumerate specific elements to be found by the factfinder. To the contrary, the Article combines multiple types of wrong, allegedly performed by different types of statements, the different types occurring in multiple subject matter areas, and all having a range of allegedly harmful effects.

[132] One of the cardinal rules of perjury cases is that "[a] conviction under 18 U.S.C. §1623 may not stand where the indictment fails to set forth the precise falsehood alleged and the factual basis of its falsity with sufficient clarity to permit a jury to determine its verity and to allow meaningful judicial review of the materiality of those falsehoods." *United States* v. *Slawik*, 548 F.2d 75, 83-84 (3d Cir. 1977). Courts have vacated convictions for perjury in instances where "the indictment . . . did not 'set forth the precise falsehood(s) alleged." *Tonelli*, 577 F.2d at 200.

[133] Proceedings of the United States Senate in the Impeachment Trial Alcee L. Hastings, 101st Cong., 1st. Sess., S. Doc. 101-18 at 4-7 (1989). *See, e.g.*, *Id.* at 2 (Article II alleging that the false statement was "that Judge Hastings and William Borders, of Washington, D.C., never made any agreement to solicit a bribe from defendants in *United States* v. *Romano*, a case tried before Judge Hastings").

[134] Proceedings of the United States Senate in the Impeachment Trial of Walter L. Nixon, Jr., 101st Cong., 1st Sess., S. Doc. 101-22 at 430-32 (1989). *See, e.g.*, *Id.*, at 432 (Article I alleging that the false statement was "Forrest County District Attorney Paul Holmes never discussed the Drew Fairchild case with Judge Nixon.").

[135] Not surprisingly, courts have specifically held that because of these additional elements (the lack of which may undermine a perjury prosecution), a defendant must know exactly which statements are alleged to form the basis of a perjury indictment to test whether the requisite elements are present. *See, e.g.*, *United States* v. *Lattimore*, 215 F.2d 847, 850 (D.C. Cir. 1954) ("The accused is entitled under the Constitution to be advised as to every element in respect to which it is necessary for him to prepare a defense"). For example, because of the intent requirement, one potential defense to a perjury prosecution is that the *question* to which the allegedly

Article I's third vagueness defect is that it does not specify the *subject matter* of the alleged perjurious statements. Instead, it simply alleges that the unspecified statements by the President to the grand jury were concerning "one or more" of four enumerated areas. The "one or more" language underscores the reality that the President—and, critically, the Senate—cannot possibly know what the House majority had in mind, since it may have failed even to agree on the subject matter of the alleged perjury. The paramount importance of this issue may be seen by reference to court decisions holding that a jury has to "*unanimously* agree that a *particular statement* contained in the indictment was falsely made." *United States* v. *Fawley*, 137 F.3d 458, 471 (7th Cir. 1998) (emphasis added); *see also* discussion of unanimity requirement in Section VI.B, *supra*.

Article II is also unconstitutionally vague. It alleges that the President "obstructed and impeded the administration of justice * * * in a course of conduct or scheme designed to delay, impede, cover up and conceal" unspecified evidence and testimony in the *Jones* case. It sets forth seven instances in which the President allegedly "encouraged" false testimony or the concealment of evidence, or "corruptly influenced" or "corruptly prevented" various other testimony, also unspecified. In fact, not only does Article II fail to identify a single specific act performed by the President in this alleged scheme to obstruct justice, it does not even identify the "potential witnesses" whose testimony the President allegedly sought to "corruptly influence."

The President cannot properly defend against Article II without knowing, at a minimum, which specific acts of obstruction and/or concealment he is alleged to have performed, and which "potential witnesses" he is alleged to have attempted to influence. For example, it is clear that, in order to violate the federal omnibus obstruction of justice statute, 18 U.S.C. §1503, an accuser must prove that there was a pending judicial proceeding, that the defendant knew of the proceeding, and that the defendant acted "corruptly" with the specific intent to obstruct or interfere with the proceeding or due administration of justice. *See, e.g., United States* v. *Bucey*, 876 F.2d 1297, 1314 (7th Cir. 1989); *United States* v. *Smith*, 729 F. Supp. 1380, 1383–84 (D.D.C. 1990). Without knowing which "potential witnesses" he is alleged to have attempted to influence, and the precise manner in which he is alleged to have attempted to obstruct justice, the President cannot prepare a defense that would address the elements of the offense with which he has been charged—that he had no intent to obstruct, that there was no pending proceeding, or that the person involved was not a potential witness.

It follows that the requisite vote of two-thirds of the Senate required by the Constitution cannot possibly be obtained if there are no specific statements *whatsoever* alleged to be perjurious, false or misleading in Article I or no specific acts of obstruction alleged in Article II. Different Senators might decide that different statements or different acts were unlawful without any concurrence by two-thirds of the Senate as to any particular statement or act. Such a scenario is antithetical to the Constitution's due process guarantee of notice of specific and definite charges and it threatens conviction upon vague and uncertain grounds. As currently framed, neither Article I nor Article II provides a sufficient basis for the President to prepare a defense to the unspecified charges upon which the Senate may vote, or an adequate basis for actual adjudication.

D. THE SENATE'S JUDGMENT WILL BE FINAL AND THAT JUDGMENT MUST SPEAK CLEARLY AND INTELLIGIBLY

An American impeachment trial is not a parliamentary inquiry into fitness for office. It is not a vote of no confidence. It is not a mechanism whereby a legislative majority may oust a President from a rival party on political grounds. To the contrary, because the President has a limited term of office and can be turned out in the course of ordinary electoral processes, a Presidential impeachment trial is a constitutional measure of last resort designed to protect the Republic.

This Senate is therefore vested with an extremely grave Constitutional task: a decision whether to remove the President for the protection of the people themselves. In the Senate's hands there rests not only the fate of one man, but the integrity of our Constitution and our democratic process.

Fidelity to the Constitution and fidelity to the electorate must converge in the impeachment trial vote. If the Senate is to give meaning to the Constitution's command, any vote on removal must be a vote on one or more specifically and separately identified "high Crimes and Misdemeanors," as set forth in properly drafted impeachment articles approved by the House. If the people are to have their twice-elected President removed by an act of the Senate, that act must be intelligible. It must be explainable and justifiable to the people who first chose the President and then chose him again. The Senate must ensure that it has satisfied the Constitution's requirement of a genuine two-thirds concurrence that specific, identified wrongdoing has been proven. The Senate must also assure the people, through the sole collective act the Senate is required to take, that its decision has a readily discernible and unequivocal meaning.

As matters stand, the Senate will vote on two highly complex Articles of Impeachment. Its vote will not be shaped by narrowing instructions. Its rules preclude a vote on divisible parts of the articles. There will be no judicial review, no correction of error, and no possibility of retrial. The Senate's decision will be as conclusive as any known to our law—judicially, politically, historically, and most literally, irrevocable.

Under such circumstances, the Senate's judgment must speak clearly and intelligibly. That cannot happen if the Senate votes for conviction on these articles. Their compound structure and lack of specificity make genuine agreement as to specific wrongs impossible, and those factors completely prevent the electorate from understanding why the Senate as a whole voted as it did. As formulated, these articles satisfy neither the plain requirement of the Constitution nor the rightful expectations of the American people. The articles cannot support a constitutionally sound vote for conviction.

VII. THE NEED FOR DISCOVERY

The Senate need not address the issue of discovery at this time, but because the issue may arise at a later date, it is appropriate to remark here on its present status. Senate Resolution 16 provides that the record for purposes of the presentation by the House Managers and the President is the public record established in the House of Representatives.[136] Since this record was created by the House itself and is ostensibly the basis for the House's impeachment vote, and because this evidence has been publicly identified and available for scrutiny, comment, and rebuttal, it is both logical and fair that this be the basis for any action by the Senate. Moreover, Senate Resolution 16 explicitly prohibits the President and the House Managers from filing at this time any "motions to subpoena witnesses or to present any evidence not in the record."

In the event, however, that the Senate should later decide, pursuant to the provisions of Senate Resolution 16, to allow the House Managers to expand the record in some way, our position should be absolutely clear. At such time, the President would have an urgent need for the discovery of relevant evidence, because at no point in these proceedings has he been able to subpoena documents or summon and cross-examine witnesses. He would need to use the compulsory process authorized by Senate Impeachment Rules V and VI[137] to obtain documentary evidence and witness depositions. While

---

perjurious statement was addressed was fundamentally ambiguous, as courts have held that fundamentally ambiguous questions cannot as a matter of law produce perjurious answers. *See, e.g., Tonelli*, 577 F.2d at 199; *United States* v. *Wall*, 371 F.2d 398 (6th Cir. 1967). A separate defense to a perjury prosecution is that the statement alleged to have been perjurious was not material to the proceeding. Thus, "false" statements alone are not perjurious if they were not material to the proceeding. By not specifying which statements are alleged to be "false" or "misleading," Article I precludes the President from preparing a materiality defense, and it also fails to distinguish allegedly criminal conduct from purely lawful conduct. As one court explained,

"It is to be observed that * * * it is not sufficient to constitute the offense that the oath shall be merely false, but that it must be false in some 'material matter.' Applying that definition to the facts stated in either count of this indictment, and it would seem that there is an entire lack in any essential sense to disclose that the particulars as to which the oath is alleged to have been false were material in the essential sense required for purposes of an indictment for this offense." (*United States* v. *Cameron*, 282 F. 684, 692 (D. Ariz. 1922).).

[136] S. Res. 16 defined the record for the presentations as "those publicly available materials that have been submitted to or produced by the House Judiciary Committee, including transcripts of public hearings or mark-ups and any materials printed by the House of Representatives or House Judiciary Committee pursuant to House Resolutions 525 and 581."

[137] Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials (Senate Manual 99-2, as revised by S. Res. 479 (Aug. 16, 1986)). There is ample precedent for liberal discovery in Senate impeachment trials. For example, in the trial of Judge Alcee Hastings, the Senate issued numerous orders addressing a range of pretrial issues over several months including:

- requiring the parties to provide witness lists along with a description of the general nature of the testimony that was expected from each witness months in advance of the scheduled evidentiary hearing;
- requiring the House Managers to turn over exculpatory materials, certain prior statements of witnesses, and documents and other tangible evidence they intended to introduce into evidence;
- requiring the production from the House Managers of other documents in the interest of allowing the Senate to develop "a record that fully illuminates the matters that it must consider in rendering a judgment;"
- setting a briefing schedule for stipulations of facts and documents;
- setting a number of pretrial conferences;
- designating a date for final pretrial statements; and
- permitting a number of pre-trial depositions.
- Report of the Senate Impeachment Trial Committee on the Articles of Impeachment Against Judge Alcee L. Hastings, Hearings Before the Senate Impeachment Trial Committee, 101st Cong. 1st Sess. at 281, 286–87, 342–43, 606–07, 740.

Continued

the President has access to some of the grand jury transcripts and FBI interview memoranda of witnesses called by the OIC, the President's own lawyers were not entitled to be present when these witnesses were examined. The grand jury has historically been the engine of the prosecution, and it was used in that fashion in this case. The OIC sought discovery of evidence with the single goal of documenting facts that it believed were prejudicial to the President. It did not examine witnesses with a view toward establishing there was no justification for impeachment; it did not follow up obvious leads when they might result in evidence helpful to the President; and it did not seek out and document exculpatory evidence. It did not undertake to disclose exculpatory information it might have identified.

Nor did the House of Representatives afford the President any discovery mechanisms to secure evidence that might be helpful in his defense. Indeed, the House called no fact witnesses at all, and at the few depositions it conducted, counsel for the President were excluded. Moreover, the House made available only a selected portion of the evidence it received from the OIC. While it published five volumes of the OIC materials (two volumes of appendices and three volumes of supplements), it withheld a great amount of evidence, and it denied counsel for the President access to this material. It is unclear what the criterion was for selecting evidence to include in the published volumes, but there does not appear to have been an attempt to include all evidence that may have been relevant to the President's defense. The President has not had access to a great deal of evidence in the possession of (for example) the House of Representatives and the OIC which may be exculpatory or relevant to the credibility of witnesses on whom the OIC and the House Managers rely.

Should the Senate decide to authorize the House Managers to call witnesses or expand the record, the President would be faced with a critical need for the discovery of evidence useful to his defense—evidence which would routinely be available to any civil litigant involved in a garden-variety automobile accident case. The House Managers have had in their possession or had access at the OIC to significant amounts of non-public evidence, and they have frequently stated their intention to make use of such evidence. Obviously, in order to defend against such tactics, counsel for the President are entitled to discovery and a fair opportunity to test the veracity and reliability of this "evidence," using compulsory process as necessary to obtain testimony and documents. Trial by surprise obviously has no place in the Senate of the United States where the issues in the balance is the removal of the one political leader who, with the Vice-President, is elected by all the citizens of this country.[138]

The need for discovery does not turn on the number of witnesses the House Managers may be authorized to depose.[139] If the House Managers call a single witness, that will initiate a process that leaves the President potentially unprepared and unable to defend adequately without proper discovery. The sequence of discovery is critical. The President *first* needs to obtain and review relevant documentary evidence not now in his possession. He *then* needs to be able to depose potentially helpful witnesses, whose identity may only emerge from the documents and from the depositions themselves. Obviously, he also needs to depose potential witnesses identified by the House Managers. Only at *that* point will the President be able intelligently to designate his own trial witnesses. This is both a logical procedure and one which is the product of long experience designed to maximize the search for truth and minimize unfair surprise. There is no conceivable reason it should not be followed here—if the evidentiary record is opened.

Indeed, it is simply impossible to ascertain how a witness designated by the House Managers could fairly be rebutted without a full examination of the available evidence. It is also the case that many sorts of helpful evidence and testimony emerge in the discovery process that may at first blush appear irrelevant or tangential. In any event, the normal adversarial process is the best guarantor of the truth. The President needs discovery here not simply to obtain evidence to present a trial but also in order to make an informed judgment about what to introduce in response to the Managers' expanded case. The President's counsel must be able to make a properly knowledgeable decision about what evidence may be relevant and helpful to the President's defense, both in cross-examination and during the President's own case.

The consequences of an impeachment trial are immeasurably grave: The removal of a twice-elected President. Particularly given what is at stake, fundamental fairness dictates that the President be given at least the same right as an ordinary litigant to obtain evidence necessary for his defense, particularly when a great deal of that evidence is presently in the hands of his accusers, the OIC and the House Managers. The Senate has wisely elected to proceed on the public record established by the House of Representatives, and this provides a wholly adequate basis for Senate decision-making. In the event the Senate should choose to expand this record, affording the President adequate discovery is absolutely essential.

VIII. CONCLUSION

As the Senate considers these Articles of Impeachment and listens to the arguments, individual Senators are standing in the place of the Framers of the Constitution, who prayed that the power of impeachment and removal of a President would be invoked only in the gravest of circumstances, when the stability of our system of government hung in the balance—to protect the Republic itself from efforts to subvert our Constitutional system.

The Senate has an obligation to turn away an unwise and unwarranted misuse of the awesome power of impeachment. If the Senate removes this President for a wrongful relationship he hoped to keep private, for what will the House ask the Senate to remove the next President, and the next? Our Framers wisely gave us a constitutional system of checks and balances, with three co-equal branches. Removing this President on these facts would substantially alter the delicate constitutional balance, and move us closer to a quasi-parliamentary system, in which the President is elected to office by the choice of people, but continues in office only at the pleasure of Congress.

In weighing the evidence and assessing the facts, we ask that Senators consider not only the intent of the Framers but also the will and interests of the people. It is the citizens of these United States who will be affected by and stand in judgment of this process. It is not simply the President—but the vote the American people rendered in schools, church halls and other civic centers all across the land twenty-six months ago—that is hanging in the balance.

Respectfully submitted,

David E. Kendall
Nicole K. Seligman
Emmet T. Flood
Max Stier
Alicia L. Marti
Williams & Connolly
725 12th Street, N.W.
Washington, D.C.
20005

Charles F.C. Ruff
Gregory B. Craig
Bruce R. Lindsey
Cheryl D. Mills
Lanny A. Breuer
Office of the White
House Counsel
The White House
Washington, D.C.
20502

January 13, 1999.

[In the Senate of the United States Sitting as a Court of Impeachment]

In re Impeachment of President William Jefferson Clinton

REPLICATION OF THE HOUSE OF REPRESENTATIVES TO THE ANSWER OF PRESIDENT WILLIAM JEFFERSON CLINTON TO THE ARTICLES OF IMPEACHMENT

The House of Representatives, through its Managers and counsel, replies to the Answer of President William Jefferson Clinton to the Articles of Impeachment ("Answer"), as follows:

PREAMBLE

The House of Representatives denies each and every material allegation in the Preamble to the Answer, including the sections entitled "The Charges in the Articles Do Not Constitute High Crimes or Misdemeanors" and "The President Did Not Commit Perjury or Obstruct Justice." With respect to the allegations in the Preamble, the House of Representatives further states that each and every allegation in Articles I and II is true and that Articles I and II properly state impeachable offenses, are not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment.

ARTICLE I

The House of Representatives denies each and every allegation in the Answer to Article I that denies the acts, knowledge, intent, or wrongful conduct charged against President William Jefferson Clinton. With respect to the allegations in the Answer to Article I, the House of Representatives further states that each and every allegation in Article I is true and that Article I properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment.

FIRST AFFIRMATIVE DEFENSE TO ARTICLE I

The House of Representatives denies each and every material allegation in this purported defense. The House of Representatives

---

The need for discovery in this case is in fact greater than in prior impeachment proceedings. In all other impeachment trials, there were either substantive investigations by the House or prior judicial proceedings in which the accused had a full opportunity to develop the evidentiary record and cross-examine witnesses. *See Id.* at 163–64 (pretrial memorandum of Judge Hastings).

[138] In another context, the Supreme Court has observed that "the ends of justice will best be served by a system of liberal discovery which gives both parties the maximum possible amount of information from which to prepare their cases and thereby reduces the possibility of surprise at trial." *Wardius* v. *Oregon*, 412 U.S. 470, 473 (1973).

[139] It is not sufficient that counsel for the President have the right to depose the witnesses called by the Managers, essential as that right is. The testimony of a single witness may have to be refuted indirectly, circumstantially, or by a number of witnesses; it is often necessary to depose several witnesses in order to identify the one or two best.

further states that Article I properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment. The House of Representatives further states that the offense stated in Article I warrants the conviction, removal from office, and disqualification from holding further office of President William Jefferson Clinton.

Second Affirmative Defense to Article I

The House of Representatives denies each and every material allegation in this purported defense. The House of Representatives further states that Article I properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment. The House of Representatives further states that Article I is not unconstitutionally vague, and it provides President William Jefferson Clinton adequate notice of the offense charged against him.

Third Affirmative Defense to Article I

The House of Representatives denies each and every material allegation in this purported defense. The House of Representatives further states that Article I properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment. The House of Representatives further states that Article I does not charge multiple offenses in one article.

Article II

The House of Representatives denies each and every allegation in the Answer to Article II that denies the acts, knowledge, intent, or wrongful conduct charged against President William Jefferson Clinton. With respect to the allegations in the Answer to Article II, the House of Representatives further states that each and every allegation in Article II is true and that Article II properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment.

First Affirmative Defense to Article II

The House of Representatives denies each and every material allegation in this purported defense. The House of Representatives further states that Article II properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment. The House of Representatives further states that the offense stated in Article II warrants the conviction, removal from office, and disqualification from holding further office of President William Jefferson Clinton.

Second Affirmative Defense to Article II

The House of Representatives denies each and every material allegation in this purported defense. The House of Representatives further states that Article II properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment. The House of Representatives further states that Article II is not unconstitutionally vague, and it provides President William Jefferson Clinton adequate notice of the offense charged against him.

Third Affirmative Defense to Article II

The House of Representatives denies each and every material allegation in this purported defense. The House of Representatives further states that Article II properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment. The House of Representatives further states that Article II does not charge multiple offenses in one article.

Conclusion of the House of Representatives

The House of Representatives further states that it denies each and every material allegation of the Answer not specifically admitted in this Replication. By providing this Replication to the Answer, the House of Representatives waives none of its rights in this proceeding. Wherefore, the House of Representatives states that both of the Articles of Impeachment warrant the conviction, removal from office, and disqualification from holding further office of President William Jefferson Clinton. Both of the Articles should be considered and adjudicated by the Senate.

Respectfully submitted,

The United States House of Representatives.

Henry J. Hyde,
F. James Sensenbrenner, Jr.,
Bill McCollum,
George W. Gekas,
Charles T. Canady,
Stephen E. Buyer,
Ed Bryant,
Steve Chabot,
Bob Barr,
Asa Hutchinson,
Chris Cannon,
James E. Rogan,
Lindsey O. Graham,
Managers on the Part of the House.

Thomas E. Mooney,
General Counsel.

David P. Schippers,
Chief Investigative Counsel.

[In the Senate of the United States Sitting as a Court of Impeachment]

In re Impeachment of President William Jefferson Clinton

REPLY OF THE UNITED STATES HOUSE OF REPRESENTATIVES TO THE TRIAL MEMORANDUM OF PRESIDENT WILLIAM JEFFERSON CLINTON

I. Introduction

The President's Trial Memorandum contains numerous factual inaccuracies and misstatements of the governing law and the Senate's precedents. These errors have largely been addressed in the Trial Memorandum of the House of Representatives filed with the Senate on January 11, 1999, and given the 24-hour period to file this reply, the House cannot possibly address them all here. The House of Representatives will address them further in its oral presentation to the Senate, and it reserves the right to address these matters further in the briefing of any relevant motions. However, President Clinton has raised some new issues in his Trial Memorandum, and the House of Representatives hereby replies to those issues.

II. Facts

The President's Trial Memorandum outlines what he claims are facts showing that he did not commit perjury before the grand jury and did not obstruct justice. The factual issues President Clinton raises are addressed in detail in the Trial Memorandum of the House.

A complete and impartial review of the evidence reveals that the President did in fact commit perjury before the grand jury and that he obstructed justice during the *Jones* litigation and the grand jury investigation as alleged in the articles of impeachment passed by the House of Representatives. The House believes a review of the complete record, including the full grand jury and deposition testimony of the key witnesses in this case, will establish that.

The evidence which President Clinton claims demonstrates that he did not commit the offenses outlined in the Articles of Impeachment are cited in Sections IV and V of his Memorandum. Regarding Article I, President Clinton maintains that his testimony before the grand jury was entirely truthful. At the outset of his argument, he states that he told the truth about the nature and details of his relationship with Ms. Lewinsky, and he insists that any false impressions that his deposition testimony might have created were remedied by his admission of "improper intimate contact" with Ms. Lewinsky. However, his subsequent testimony demonstrates that this admission is narrowly tailored to mean that Ms. Lewinsky had "sexual relations" with him, but he did not have "sexual relations" with her, as he understood the term to be defined. In other words, he admitted only what he knew could be conclusively established through scientific tests. He denied what the testimony of Ms. Lewinsky, the testimony of a number of her confidantes, and common sense proves: that while she engaged in sexual relations with him, he engaged in sexual relations with her, regardless of how President Clinton attempts to redefine the term.

Following this pattern, President Clinton discounts substantial evidence as well as common sense when he maintains that he testified truthfully in the grand jury about, among other things, his prior deposition testimony, his attorney's statements to Judge Wright during his deposition, and his intent in providing a series of false statements to his secretary after his deposition. Again, a complete review of the record and witness testimony reveals that President Clinton committed perjury numerous times in his grand jury testimony.

In regard to Article II, President Clinton extracts numerous items of evidence from the record and analyzes them in isolation in an effort to provide innocent explanations for the substantial amount of circumstantial evidence proving his guilt. Yet when the record is viewed in its entirety, including the portions of President Clinton's deposition testimony concerning Ms. Lewinsky and his grant jury testimony, it demonstrates that President Clinton took a number of actions designed to prevent Paula Jones's attorneys, the federal district court, and a federal grand jury from learning the truth. These actions are described in detail in the Trial Memorandum of the House.

To the extent that President Clinton's Trial Memorandum raises issues of credibility, those issues are best resolved by live testimony subject to cross-examination. The Senate, weighing the evidence in its entirety, will make an independent assessment of the facts as they are presented, and a detailed, point-by-point argument of these matters is best resolved on the Senate floor. The House is confident that a thorough factual analysis will not only refute President Clinton's contentions, but will prove the very serious charges contained in the articles.

III. THE ARTICLES PROPERLY STATE REMOVAL OFFENSES

A. THE OFFENSES ALLEGED ARE HIGH CRIMES AND MISDEMEANORS

1. The Senate Has Never Exercised Its Power To Dismiss an Article of Impeachment Except When the Official Impeached Has Resigned

The House acknowledges that the Senate has the power to dismiss an article of impeachment on the ground that it does not state a removable offense. Beyond that, however, President Clinton completely ignores the Senate's precedents concerning the use of that power. In the fifteen cases in which the House has forwarded articles of impeachment to the Senate, the Senate has *never* granted a dispositive motion to preclude a trial on the articles with one exception. In the 1926 case of Judge George English, the Senate granted a motion to adjourn after Judge English resigned from office making a trial moot on the issue of removal. *See* Impeachment of George W. English, U.S. District Judge, Eastern District of Illinois, 68 Cong. Rec. 347–48 (1926). The Senate also granted a motion to adjourn in the 1868 trial of President Andrew Johnson, but only after a full trial and votes to acquit on three articles. III Cannon's Precedents of the House of Representatives §2443.

In addition, the Senate has *never* granted a motion to dismiss or strike an article of impeachment. However, in the 1936 case of Judge Halsted Ritter, the House managers themselves moved to strike two counts of a multi-count article to simplify the trial, and the motion was granted. 80 Cong. Rec. 4898–99 (April 3, 1936). However, the remainder of the article was fully considered, and Judge Ritter was convicted on that article. The House managers in the 1986 Judge Harry Claiborne case made the only motion for summary judgment in the history of impeachment. *Hearings of the Senate Impeachment Trial Committee (Judge Harry Claiborne)*, 99th Cong., 2d Sess. 145 (1986). They did so on the basis that Judge Claiborne had already been convicted of the charges in a criminal trial. *Id.* The Senate postponed a decision on the motion and never ruled on it, but it ultimately convicted Judge Claiborne. In short, the Senate precedents firmly establish that the Senate has always fulfilled its responsibility to give a full and fair hearing to articles of impeachment voted by the House of Representatives.

2. The Constitutional Text Sets One Clear Standard for Removal

a. There is Only One Impeachment Standard

The Constitution sets one clear standard for impeachment, conviction, and removal from office: the commission of "Treason, Bribery, or other high Crimes and Misdemeanors." U.S. Const. art. II, §4. The Senate has repeatedly determined that perjury is a high crime and misdemeanor. Simple logic dictates that obstruction of justice which has the same effect as perjury and bribery of witnesses must also be a high crime and misdemeanor. Endless repetition of the claim that this standard is a high one does not change the standard.

President Clinton claims that to remove him on these articles would permanently disfigure and diminish the Presidency and mangle the system of checks and balances. President's Trial Memorandum at 18. Quite the contrary, however, it is President Clinton's behavior as set forth in the articles that has had these effects. Essentially, President Clinton argues that the Presidency and the system of checks and balances can only be saved if we allow the President to commit felonies with impunity. To state that proposition is to refute it. Convicting him and thereby reaffirming that criminal behavior that strikes at the heart of the justice system will result in removal will serve to strengthen the Presidency, not weaken it.

b. Impeachment and Removal Are Appropriate for High Crimes and Misdemeanors Regardless of Whether They Are Offenses Against the System of Government

President Clinton argues that impeachment may only be used to redress wrongful public misconduct. The point is academic. Perjury and obstruction of justice as set forth in the articles are, by definition, public misconduct. *See generally* House Trial Memorandum at 107–12. Indeed, it is precisely their public nature that makes them offenses—acts that are not crimes when committed outside the judicial realm become crimes when they enter that realm. Lying to one's spouse about an extramarital affair, although immoral, is not a crime. Telling the same lie under oath in a judicial proceeding is a crime. Hiding gifts given to an adulterous lover to conceal the affair, although immoral, is not a crime. When those gifts become potential evidence in a judicial proceeding, the same act becomes a crime. One who has committed these kinds of crimes that corrupt the judicial system simply is not fit to serve as the nation's chief law enforcement officer.

Apart from that, the notion that high crimes and misdemeanors encompass only public misconduct will not bear scrutiny. Numerous "private" crimes would obviously require the removal of a President. For example, if he killed his wife in a domestic dispute or molested a child, no one would seriously argue that he could not be removed. All of these acts violate the President's unique responsibility to take care that the laws be faithfully executed.

3. President Clinton Cites Precedents That Do Not Apply Rather Than Relying on the Senate's Own Precedents Clearly Establishing Perjury as a Removable Offense

a. President Clinton Continues To Misrepresent the Fraudulent Tax Return Allegation Against President Nixon

In his trial memorandum, President Clinton argues that the failure in 1974 of the House Judiciary Committee to adopt an article of impeachment against President Nixon for tax fraud supports the claim that current charges against President Clinton do not rise to the level of impeachable and removable offenses. President's Trial Memorandum at 21. The President's lawyers acknowledge the charge in the article against President Nixon of "knowingly and fraudulently failed to report certain income and claimed deductions [for 1969–72] on his Federal income tax returns which were not authorized by law." *Id.* The President's lawyers go on to state that "[t]he President had signed his returns for those years under penalty of perjury," *Id.*, trying to distinguish away the Claiborne impeachment and removal precedent from 1986, and by extension all the judicial impeachments from the 1980s which clearly establish perjury as an impeachable and removable offense.

President Clinton's argument that a President was not and should not be impeached for tax fraud because it does not involve official conduct or abuse of presidential powers simply is unfounded based on the 1974 impeachment proceedings against President Nixon. Moreover, the fact that the President and his lawyers make this argument in defense of the President is telling. He effectively claims that a large scale tax cheat could be a viable chief executive.

It is undisputed that the Judiciary Committee rejected the proposed tax fraud article against President Nixon by a vote of 26 to 12. A slim minority of Committee members stated the view that tax fraud would not be an impeachable offense. That minority view is illustrated by the comments of Rep. Waldie that in the tax fraud article there was "not an abuse of power sufficient to warrant impeachment. . . ." *Debate on Article of Impeachment 1974: Hearings of the Comm. on the Judiciary Pursuant H. Res. 803*, 93rd Cong., 2nd Sess., at 548 (1974) (Statement of Rep. Waldie). Similar views were expressed by Rep. Hogan and Rep. Mayne. Rep. Railsback took the position that there was "a serious question," *id.* at 524 (Statement of Rep. Railsback), whether misconduct of the President in connection with his taxes would be impeachable.

Other members who opposed the tax fraud article based their opposition on somewhat different grounds. Rep. Thornton based his opposition to the tax fraud article on the "view that these charges may be reached in due course in the regular process of law." *Id.* at 549 (Statement of Rep. Thornton). Rep. Butler stated his view that the tax fraud article should be rejected on prudential grounds: "Sound judgment would indicate that we not add this article to the trial burden we already have." *Id.* at 550 (Statement of Rep. Butler).

The record is clear, however, that the overwhelming majority of those who expressed a view in the debate in opposition to the tax fraud article based their opposition on the *insufficiency of the evidence*, and not on the view that tax fraud, if proven, would not be an impeachable offense.

The comments of then-Rep. Wayne Owens in the debate in 1974 directly contradict the view that Mr. Owens has expressed in recent testimony before the House Judiciary Committee. Although Mr. Owens in 1974 expressed his "belief" that President Nixon was guilty of misconduct in connection with his taxes, he clearly stated his conclusion that "on the evidence available" Mr. Nixon's offenses were not impeachable. *Id.* at 549 (Statement of Rep. Owens). Mr. Owens spoke of the need for "hard evidence" and discussed his unavailing efforts to obtain additional evidence that would tie "the President to the fraudulent deed" or that would otherwise "close the inferential gap that has to be closed in order to charge the President." *Id.* He concluded his comments in the 1974 debate by urging the members of the Committee "to reject this article . . . based on that lack of evidence." *Id.*

In addition to Mr. Owens, eleven members of the Committee stated the view that there was not sufficient evidence of tax fraud to support the article against President Nixon. *Wiggins:* "fraud . . . is wholly unsupported in the evidence." *Id.* at 524 (Statement of Rep. Wiggins). *McClory:* "no substantial evidence of any tax fraud." *Id.* at 531 (Statement of Rep. McClory). *Sandman:* "There was absolutely no intent to defraud here." *Id.* at 532 (Statement of Rep. Sandman). *Lott:* "mere mistakes or negligence by the President in filing his tax returns should clearly not be grounds for impeachment." *Id.* at 533 (Statement of Rep. Lott). *Maraziti:* discussing absence of evidence of fraud. *Id.* at 534 (Statement of Rep. Maraziti). *Dennis:* "no fraud has been found." *Id.* at 538 (Statement of Rep. Dennis). *Cohen:* questioning whether "in fact there was criminal fraud involved." *Id.* at 548 (Statement of Rep. Cohen). *Hungate:* "I think there is a case here but in my judgment I am having trouble deciding if it has as yet been made." *Id.* at 553 (statement of Rep. Hungate). *Latta:* only "bad judgment and gross negligence." *Id.* at 554 (Statement of Rep. Latta). *Fish:* "There is not to be found before us evidence that the President acted wilfully to evade his taxes." *Id.* at 556 (Statement of Rep. Fish). *Moorhead:* "there is no showing that President Nixon in any way engaged in any fraud." *Id.* at 557 (Statement of Rep. Moorhead).

The group of those who found the evidence insufficient included moderate Democrats like Rep. Hungate and Rep. Owens, as well as Republicans like Rep. Fish, Rep. Cohen, and Rep. McClory, all of whom supported the impeachment of President Nixon.

In light of all these facts, it is not credible to assert that the House Judiciary Committee in 1974 determined that tax fraud by the President would not be an impeachable offense. The failure of the Committee to adopt the tax fraud article against President Nixon simply does not support the claim of President Clinton's lawyers that the offenses charged against him do not rise to the level of impeachable offenses.

In the Committee debate in 1974 a compelling case was made that tax fraud by a President—if proven by sufficient evidence—would be an impeachable offense. Rep. Brooks, who later served as chairman of the Committee, said:

> "No man in America can be above the law. It is our duty to establish now that evidence of specific statutory crimes and constitutional violations by the President of the United States will subject all Presidents now and in the future to impeachment.
>
> * * * * *
>
> "No President is exempt under our U.S. Constitution and the laws of the United States from accountability for personal misdeeds any more than he is for official misdeeds. And I think that we on this Committee in our effort to fairly evaluate the President's activities must show the American people that all men are treated equally under the law."

(Debate on Articles of Impeachment, 1974: Hearings of the Comm. on the Judiciary Pursuant to H. Res. 803, 93rd Cong., 2nd Sess., at 525, 554.)

Professor Charles Black stated it succinctly: "A large-scale tax cheat is not a viable chief magistrate." Charles Black, *Impeachment: A Handbook,* (Yale University Press, 1974) at 42. What is true of tax fraud is also true of a persistent pattern of perjury by the President. An incorrigible perjurer is not a viable chief magistrate.

b. President Clinton Continues to Misrepresent The Allegations Against Alexander Hamilton.

President Clinton continues to try to persuade the American public that the House of Representatives has impeached him for having an extramarital affair. *See Answer of President William Jefferson Clinton to the Articles of Impeachment* at 1 ("The charges in the two Articles of Impeachment do not permit the conviction and removal from office of a duly elected President. *The President has acknowledged conduct with Ms. Lewinsky that was improper.*") (emphasis added). In doing so, the President's lawyers refer to an incident involving then Secretary of the Treasury Alexander Hamilton being blackmailed by the husband of a woman named Maria Reynolds with whom he was having an adulterous affair. However, the President's lawyers omit the relevant distinguishing facts even as they cast aspersions upon Alexander Hamilton: none of Hamilton's "efforts" to cover up his affair involved the violation of any laws, let alone felonies. Indeed, the fact of the matter is that Hamilton was the victim of the crime of extortion.

Never did Hamilton raise his right hand to take a sacred oath and then willfully betray that oath and the rule of law to commit perjury. Never did Alexander Hamilton obstruct justice by tampering with witnesses, urging potential witnesses to sign false affidavits, or attempt to conceal evidence from a Federal criminal grand jury.

Again, the significance of the distinctions are glaringly obvious: it is apparent from the Hamilton case that the Framers did not regard private sexual misconduct as an impeachable offense. It is also apparent that efforts to cover up such private behavior outside of a legal setting, including even paying hush money to induce someone to destroy documents, did not meet the standard. Neither Hamilton's high position, nor the fact that his payments to a securities swindler created an enormous appearance problem, were enough to implicate the standard. These wrongs were real, and they were not insubstantial, but to the Framers they were essentially private and therefore not impeachable. David Frum, "Smearing Alexander Hamilton," *The Weekly Standard* (Oct. 19, 1998) at 14.

But the Alexander Hamilton incident President Clinton cites actually clarifies the precise point at which personal misconduct becomes a public offense. Hamilton could keep his secret only by a betrayal of public responsibilities. Hamilton came to that point and, at immense personal cost, refused to cross the line. President Clinton came to that point and, fully understanding what he was doing, knowingly charged across the line. President Clinton's public acts of perjury and obstruction of justice transformed a personal misconduct into a public offense.

4. The Views of the Prominent Historians and Legal Scholars the President Cites Do Not Stand Up to Careful Scrutiny.

It speaks volumes that the most distinguished of the 400 historians referred to in President Clinton's trial brief is Arthur Schlesinger, Jr. Professor Schlesinger had a different view of impeachment 25 years ago. President Clinton himself asserts that "the allegations are so far removed from official wrongdoing that their assertion here threatens to weaken significantly the Presidency itself." President's Trial Memorandum at 24. However, Schlesinger has written that:

> "The genius of impeachment lay in the fact that it could punish the man without the punishing the office. For, in the Presidency as elsewhere, power was ambiguous: the power to go good meant also the power to do harm, the power to serve the republic also the power to demand and defile it."

(Arthur Schlesinger, Jr., *The Imperial Presidency,* (Easton Press edit. 1973) (hereinafter "Schlesinger") at 415.)

The statement of the 400 historians cited with approval in the President's trial memorandum makes the following statement: "[t]he Framers explicitly reserved that step for high crimes and misdemeanors in the exercise of executive power." Statement of Historians in Defense of the Constitution, *The New York Times* (Oct. 30, 1998) at A15. The 400 historians then believe that commission of a murder or rape by the President of the United States in his personal capacity is not subject to the impeachment power of Article II, Section 4.

President Clinton in his trial memorandum asserts that this case does not fit the paradigmatic case for impeachment. President's Trial Memorandum at 24. However, none of his predecessors ever faced overwhelming evidence of repeatedly lying under oath before a federal court and grand jury and otherwise seeking to obstruct justice to benefit himself—directly contradicting his oath to "take care that the laws are faithfully executed." But as former Attorney General Griffin Bell, who served under President Carter, said before the House Judiciary Committee recently, "[a] President cannot faithfully execute the laws if he himself is breaking them." *Background and History of Impeachment: Hearings Before the Subcomm. on the Constitution of the House Comm. on the Judiciary,* 105th Cong., 2d Sess. at 203 (Comm. Print 1998) (Testimony of Judge Griffin B. Bell).

President Clinton goes on to state that to make the offenses alleged against him impeachable and removable conduct "would forever lower the bar in a way inimical to the Presidency and to our government of separated powers. These articles allege (1) sexual misbehavior, (2) statements about sexual misbehavior and (3) attempts to conceal the fact of sexual misbehavior." President's Trial Memorandum at 26. While President Clinton and his able counsel would like to define the case this way, what is at issue in the articles of impeachment before the Senate is clear: perjury and obstruction of justice committed by the President of the United States in order to thwart a duly instituted civil rights sexual harassment lawsuit against him as well as a subsequent grand jury investigation. While the President may think such allegations would forever lower the bar in terms of the conduct we expect from our public officials, we must square his opinion and that of his lawyers with the fact that his Justice Department puts people in prison for similar conduct. While the President's brief again quotes Arthur Schlesinger, Jr. for the proposition that we must not "lower the bar," President's Trial Memorandum at 26, Schlesinger held a different view during the impeachment of President Nixon:

> "If the Nixon White House escaped the legal consequences of its illegal behavior, why would future Presidents and their associates not suppose themselves entitled to do what the Nixon White House had done? Only condign punishment would restore popular faith in the Presidency and deter future Presidents from illegal conduct."

(Schlesinger at 418.)

5. The President and Federal Judges are Impeached, Convicted, and Removed From Office Under the Same Standard

President Clinton's argument that Presidents are held to a lower standard of behavior than federal judges completely misreads the Constitution and the Senate's precedents. *See generally* House Trial Brief at 101–06. The Constitution provides one standard for the impeachment, conviction, and removal from office of "[t]the President, the Vice President, and all civil officers of the United States." U.S. Const. art II, §4. It is the commission of "Treason, Bribery, or other high Crimes and Misdemeanors." *Id.* The Senate has already determined that perjury is a high crime and misdemeanor in the cases of Judge Nixon, Judge Hastings, and Judge Claiborne.

President Clinton argues that the standard differs because judges have life tenure whereas Presidents are accountable to the voters at elections. That argument fails on several grounds. The differing tenures are set forth in the Constitution, and there is simply no textual support for the idea that they affect the impeachment standard at all. If electoral accountability were a sufficient means of remedying presidential misconduct, the framers would not have explicitly included the President in the impeachment clause. Finally, even if this argument were otherwise valid, it does not apply to President Clinton because he will never face the voters again. U.S. Const. amend. XXII. Indeed, all of the conduct charged in the Articles occurred after the 1996 election.

Then President Clinton rejects the Senate's own precedents showing that perjury is a high crime and misdemeanor in the three judicial impeachments of the 1980s arguing that all of the lying involved there concerned the judges' official duties. That is true with respect to Judge Hastings, but completely false with respect to Judge Claiborne and Judge Nixon. Judge Claiborne was impeached and convicted for lying on his income tax returns, an entirely personal matter. President Clinton tries to explain this away by saying: "Once convicted, [Judge Claiborne] simply could not perform his official functions because his personal probity had been impaired such that he could not longer be an arbiter of others' oaths." President's Trial Memorandum at 29. The same is true of President Clinton. He ultimately directs the Department of Justice which must decide whether people are prosecuted for lying. If he has committed perjury and obstructed justice, how can he be the arbiter of other's oaths? As Professor Jonathan Turley put it:

> "As Chief Executive the President stands as the ultimate authority over the Justice Department and the Administration's enforcement policies. It is unclear how prosecutors can legitimately threaten, let alone prosecute, citizens who have committed perjury or obstruction of justice under circumstances nearly identical to the President's. Such inherent conflict will be even greater in the military cases and the President's role as Commander-in-Chief."

(Background and History of Impeachment: Hearings Before the Subcomm. on the Constitution of the House Comm. on the Judiciary, 105th Cong., 2d Sess. at 274 (Comm. Print 1998) (Testimony of Professor Jonathan Turley).)

In the same vein, President Clinton claims that Judge Nixon "employ[ed] the power and prestige of his office to obtain advantage for a party." President's Trial Brief at 29. In fact, Judge Nixon intervened in a state criminal case in which he had no official role. His ability to persuade the prosecutor to drop the case rested on his friendship with the state prosecutor—not his official position. President Clinton argues that it was Judge Nixon's intervention in a judicial proceeding that ties it to his official position. The same is true of President Clinton. He intervened in two judicial proceedings and his actions had the same effect as Judge Nixon's—to defeat a just result.

As the person who ultimately directs the Justice Department—the federal government's prosecutorial authority—the President must follow his constitutional duty to take care that the laws are faithfully executed. U.S. Const. art II, §3. His special constitutional duty is at least as high, if not higher, than the judge's. Indeed, President Clinton acknowledged as much early in his Administration when controversy arose about the nomination of Zoe Baird and the potential nomination of Judge Kimba Wood to be Attorney General. Questions were raised about whether they had properly complied with laws relating to their hiring of household help. At that time, President Clinton said the Attorney General "should be held to a higher standard than other Cabinet members on matters of this kind [i.e. strictly complying with the law]." Remarks of President Clinton with Reporters Prior to a Meeting with Economic Advisers, February 8, 1993, 29 Weekly Compilation of Presidential Documents 160. If the Attorney General is held to a higher standard of compliance with the law, then her superior, President Clinton, must be also.

B. THE INDIVIDUAL CONSCIENCES OF SENATORS DETERMINES THE BURDEN OF PROOF IN IMPEACHMENT TRIALS.

The Constitution does not discuss the standard of proof for impeachment trials. It simply states that "the Senate shall have the Power to try all Impeachments." U.S. Const., Art I, Sec. 3, clause 5. Because the Constitution is silent on the matter, it is appropriate to look at the past practice of the Senate. Historically, the Senate has never set a standard of proof for impeachment trials. "In the final analysis the question is one which historically has been answered by individual Senators guided by their own consciences." Congressional Research Service Report for Congress, Standard of Proof in Senate Impeachment Proceedings, Thomas B. Ripy, Legislative Attorney, American Law Division (January 7, 1999).

President Clinton argues that the impeachment trial is similar to a criminal trial and that the appropriate standard should therefore be "beyond a reasonable doubt." That argument is not new: it has been made in the past, and the Senate has rejected it, as indeed, President Clinton acknowledges. He asserts, however, that the impeachment trial of a President should proceed under special procedures that do not apply to the trial of other civil officers. His arguments are unpersuasive.

1. The Senate has Never Adopted the Criminal Standard of "Beyond a Reasonable Doubt" or Any Other Standard of Proof for Impeachment Trials.

The Senate has never adopted the standard of "beyond a reasonable doubt" in any impeachment trial in U.S. history. In fact, the Senate has chosen not to impose a standard at all, preferring to leave to the conscience of each senator the decision of how best to judge the facts presented.

In the impeachment trial of Judge Harry Claiborne, counsel for the respondent moved to designate "beyond a reasonable doubt" as the standard of proof for conviction. Gray & Reams, The Congressional Impeachment Process and the Judiciary: Documents and Materials on the Removal of Federal District Judge Harry E. Claiborne, Volume 5, Document 41, X (1987). The Senate overwhelmingly rejected the motion by a vote of 17–75. In the floor debate on the motion, House Manager Kastenmeier emphasized that the Senate has historically allowed each member to exercise his personal judgment in these cases. 132 Cong. Rec. S15489–S15490 (daily ed. October 7, 1986).

The question of the appropriate standard of proof was also raised in the trial of Judge Alcee Hastings. In the Senate Impeachment Trial Committee, Senator Rudman said in response to a question about the historical practice regarding the standard of proof that there has been no specific standard, "you are not going to find it. It is what is in the mind of every Senator. . . . I think it is what everybody decides for themselves." *Report of the Senate Impeachment Trial Committee on the Articles Against Judge Alcee Hastings: Hearings before the Senate Impeachment Trial Committee* (Part 1) 101st Cong., 1st Sess. 73–75, (discussion involving Senator Lieberman and Senator Rudman).

2. The Criminal Standard of Proof is Inappropriate for Impeachment Trials.

President Clinton argues that an impeachment trial is akin to a criminal trial and that, therefore, the criminal standard should apply. That assertion is, of course, at direct odds with his apparent opposition to the presentation of evidence through witnesses, another normal criminal trial procedure. The Senate Rules Committee rejected this analogy in 1974, stating, "an impeachment trial is not a criminal trial," and advocating a clear and convincing evidence standard. Executive Session Hearings, U.S. Senate Committee on Rules and Administration, "Senate Rules and Precedents Applicable to Impeachment Trials" 93rd Cong., 2d Sess. (August 5–6, 1974). Indeed, it is undisputed that impeachable offenses need not be criminal offenses. *See Submission by Counsel for President Clinton to the Committee on the Judiciary of the United States House of Representatives*, 105th Cong., 2d Sess. at 14 (Comm. Print Ser. No. 16 1998) ("Impeachable acts need not be criminal acts.")

Moreover, the result of conviction in an impeachment trial is removal from office, not punishment. As the House argued in the Claiborne trial, the reasonable standard was designed to protect criminal defendants who risked "forfeitures of life, liberty and property" (quoting *Brinegar* v. *United States*, 338 U.S. 160, 174 (1949)). This standard is inappropriate here because the Constitution limits the consequences of a Senate impeachment trial to removal from office and disqualification from holding office in the future, explicitly preserving the option for a subsequent criminal trial in the courts. U.S. Const. art. II, §3, cl. 6.

In addition, as the House argued in the Claiborne trial, the criminal standard is inappropriate because impeachment is, by its nature, a proceeding where the public interest weighs more heavily than the interest of the individual defendant. Gray & Reams, The Congressional Impeachment Process and the Judiciary: Documents and Materials on the Removal of Federal District Judge Harry E. Claiborne, Volume 5, Document 41, X (1987). During the course of the floor debate on this motion in the Claiborne trial, Representative Kastenmeier argued for the House that the use of the criminal standard was inappropriate where the public interest in removing corrupt officials was a significant factor. 132 Cong. Rec. S15489–S15490 (daily ed. October 7, 1986).

3. A President Who Is Impeached Should Not Receive Special Procedural Benefits That Do Not Apply in the Impeachment Trials of Other Civil Officers.

President Clinton argues that he should be exempted from the weight of historical practice and precedent and be given a special rule on the standard of proof. This argument is based on fallacious assertions, the first of which is that different constitutional standards apply to the impeachment of judges and presidents. See above at 14–16 and House Trial Memorandum at 101–06.

President Clinton also employs inflammatory rhetoric to suggest that a presidential impeachment trial ought to be treated differently, explaining that the criminal standard is needed because "the Presidency itself is at stake" and because conviction would "overturn the results of an election." President's Trial Memorandum at 32–33. The presidency is, of course, not at stake, though the tenure of its current office holder may be. The 25th Amendment to the Constitution ensures that impeachment and removal of a President would not overturn an election because it is the elected Vice President who would replace the President not the losing presidential candidate.

Finally, President Clinton argues that the evidence should be tested by the most stringent standard because "there is no suggestion of corruption or misuse of office—or any other conduct that places our system of government at risk in the two remaining years of the President's term." President's Trial Memorandum at 33. While the President might be expected to argue that he did not act corruptly, he cannot credibly assert that "there is no suggestion of corruption," because "corrupt" conduct is precisely what he is charged with in the articles of impeachment. Though not persuasive as an argument, this statement is significant in what it *concedes*—that corruption is among the "conduct that places our system of government at risk." President's Trial Memorandum at 33. Having acknowledged this, President Clinton cannot be heard to complain that the House has failed to charge him with conduct which rises to the level of an impeachable offense.

IV. THE STRUCTURE OF THE ARTICLES IS PROPER AND SUFFICIENT

A. THE ARTICLES ARE NOT UNCONSTITUTIONALLY VAGUE

President Clinton's trial memorandum argues that the two articles of impeachment are unfairly complex. To the contrary, the articles present the misdeeds of President Clinton and their consequences in as transparent and understandable a manner as possible.

The first article of impeachment charges that President Clinton violated his enumerated constitutional responsibilities by willfully corrupting and manipulating the judicial process. He did this by providing perjurious, false and misleading testimony to a grand jury in regard to one or more of four matters. The deleterious consequences his actions had for the people of the United States are then described. The second article charges that President Clinton violated his enumerated constitutional responsibilities by a course of conduct that prevented, obstructed, and impeded the administration of justice. One or more of seven listed acts constitute the particulars of President Clinton's course of conduct. As in the first article, the deleterious consequences his actions had for the people of the United States are then described.

To do as President Clinton requests would require separating out into a unique article of impeachment each possible combination of (a) a particular violation of his duties, (b) a particular wrongful act, and (c) a particular consequence of his actions. This would require 48 different articles in the case of the first article and 84 in the case of the second. Such a multiplicity of articles is not required and would assist no one. Of course, if the president had violated fewer presidential duties, committed fewer misdeeds, and been responsible for fewer harmful consequences to the American people, the articles could have been drafted more simply.

The trial memorandum then makes the contention that the two articles of impeachment are impermissibly vague and lacking in specificity in that they do not meet the standards of a criminal indictment. This contention clearly misses the mark. Impeachment is a political and not a criminal proceeding, designed, as recognized by Justice Joseph Story, the Constitution's greatest nineteenth century interpreter, "not . . . to punish an offender" by threatening deprivation of his life or liberty, but to "secure the state" by "divest[ing] him of his political capacity". J. Story, *Commentaries on the Constitution* (R. Rotunda & J. Nowak eds., 1987) §803. Justice Story thus found the analogy to an indictment to be invalid:

> "The articles . . . need not, and indeed do not, pursue the strict form and accuracy of an indictment. They are sometimes quite general in the form of the allegations; but always contain, or ought to contain, so much certainty, as to enable the party to put himself upon the proper defense, and also, in case of an acquittal, to avail himself of it, as a bar to another impeachment."

(*Id.* at §806).

In explaining the impeachment process to the citizens of New York in Federalist No. 65, Alexander Hamilton stated in more general terms that impeachment "can never be tied down by such strict rules, either in the delineation of the offense by the prosecutors or in the construction of it by the judges, as in common cases serve to limit the discretion of courts in favor of personal security." *The Federalist No. 65*, at 398 (Clinton Rossiter ed., 1961).

Can the president legitimately argue that he is unable to put on a proper defense? President Clinton has committed a great number of impeachable misdeeds. The House Judiciary Committee's committee report requires 20 pages just to list the most glaring instances of the president's perjurious, false, and misleading testimony before a federal grand jury and it requires 13 pages just to list the most glaring incidents in the president's course of conduct designed to prevent, obstruct, and impede the administration of justice. The House believes that President Clinton's attorneys have reviewed the committee report. They know exactly what he is being charged with, as is acknowledged in the president's trial memorandum. The memorandum states in its introduction that "[t]ake away the elaborate trappings of the Articles and the high-flying rhetoric that accompanied them, and we see clearly that the House of Representatives asks the Senate to remove the President from office because he . . ." President's Trial Memorandum at 2. In addition, in the House proceedings, the President filed three documents: a Preliminary Memorandum, an Initial Response, and a Submission by Counsel. The first two documents were printed together and ran to 57 pages. *Preliminary Memorandum of the President of the United States Concerning Referral of the Office of the Independent Counsel and Initial Response of the President of the United States to Referral of the Office of the Independent Counsel*, 105th Cong., 2d Sess., H. Doc. No. 105–317 (1998). The third was printed and ran to 404 pages. *Submission by Counsel for President Clinton to the Committee on the Judiciary of the United States House of Representatives*, 105th Cong., 2d Sess. (Comm. Print Ser. No. 16 1998). He was also given 30 hours to present his case before the House Committee on the Judiciary, during which he called numerous witnesses. The Committee repeatedly asked President Clinton to provide it with any exculpatory evidence, an offer which he never accepted. Now President Clinton's Trial Memorandum to the Senate runs to 130 pages. Clearly, President Clinton has not suffered from any lack of specificity in the articles of impeachment.

If he had, he would have availed himself of the opportunity to file a motion for a bill of particulars. He had that opportunity on January 11, 1999, and he waived it. He should not now be heard to claim that he does not know what the charges are.

Unlike the judicial impeachments of the 1980s, President Clinton has not committed a handful of specific misdeeds that can easily be listed in separate articles of impeachment. In order to encompass the whole melange of misdeeds that caused the House of Representatives to impeach President Clinton, the Judiciary Committee looked to the only analogous case—that of President Nixon. In 1974, the Committee was also faced with drafting articles of impeachment of a reasonable length against a president who had committed a long series of improper acts designed to achieve an illicit end.

The first article of impeachment against President Nixon charged that in order to cover up an unlawful entry into the headquarters of the Democratic National Committee and to delay, impede, and obstruct the consequent investigation (and for certain other purposes), he engaged in a series of acts such as "making or causing to be made false or misleading statements to lawfully authorized investigative officers", "endeavoring to misuse the Central Intelligence Agency", and "endeavoring to cause prospective defendants and individuals duly tried and convicted, to expect favored treatment and consideration in return for their silence or false testimony." *Impeachment of Richard M. Nixon, President of the United States*, H. Rept. No. 93–1305, 93rd Cong., 2d Sess. 2 (1974). The article did not list each false or misleading statement, did not list each misuse of the CIA, and did not list each prospective defendant and what they were promised.

In like fashion, the articles of impeachment against President Clinton charge him with providing perjurious, false, and misleading testimony concerning four subjects, such as an his relationship with a subordinate government employee, and engaging in a course of conduct designed to prevent, obstruct, and impede the administration of justice, such course including four general acts such as an effort to secure job assistance for that employee. An argument can be made that the articles of impeachment against President Clinton were drafted with more specificity than those against President Nixon. Unless President Clinton is arguing that the Senate should have dismissed the first article of impeachment against President Nixon (had the president not resigned), he has little ground to complain about the articles against himself. In short, President Clinton knows exactly what the charges are, and the Senate should now require him to account for his behavior.

B. THE ARTICLES DO NOT IMPROPERLY CHARGE MULTIPLE OFFENSES IN ONE ARTICLE

President Clinton argues unpersuasively that the articles of impeachment are "unconstitutionally flawed" in two respects. First, he argues that "by charging multiple wrongs in one article, the House of Representatives has made it impossible for the Senate to comply with the Constitutional mandate that any conviction be by the concurrence of two-thirds of the members." President's Trial Memorandum at 101. Second, he argues that the articles do not provide him "the most basic notice of the charges against him required by due process and fundamental fairness." *Id.* Both arguments are factually deficient, ignore Senate precedent and procedure, and are constitutionally flawed.

The articles of impeachment allege that the President made "one or more" "perjurious, false and misleading statements to "the grand jury" and committed "one or more" acts in which he obstructed justice. H. Res. 611, 105th Cong. 2nd Sess. (1998). The articles of impeachment are modeled after those adopted by the House Committee on the Judiciary against President Nixon and were drafted with the rules of the Senate in mind. Senate Rules specifically contemplate that the House may draft articles of impeachment in this manner and prior rulings of the Senate have held that such drafting is not deficient and will not sustain a motion to dismiss.

In 1986, the United States Senate amended the *Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials*. S. Res. 479, 99th Cong., 2nd Sess. (1986). As part of the reform, Rule XXIII, which deals generally with voting the final question, was amended to clarify the articles of impeachment are not divisible. Rule XXIII provides in relevant part that:

> "An article of impeachment shall not be divisible for the purpose of voting thereon at any time during the trial. Once voting has commenced on an article of impeachment, voting shall be continued until voting has been completed on all articles of impeachment unless the Senate adjourns for period not to exceed one day or adjourns sine die."

The Senate Committee on Rules and Administration, after thoroughly reviewing the impeachment rules, prior articles of impeachments, and prior Senate trials, decided that articles of impeachment should not be divisible. In drafting the amendment to Rule XXIII providing that articles of impeachment not be divided, the Senate was aware that the House may combine multiple counts of impeachable conduct in one article of impeachment. The Committee report explains the Senate's position:

> "The portion of the amendment effectively enjoining the divisions of an article into separate specifications is proposed to permit the most judicious and efficacious handling of the final question both as a general manner and, in particular, with respect to the form of the articles that proposed the impeachment of President Richard M. Nixon. The latter did not follow the more familiar pattern of embodying an impeachable offense in an individual article but, in respect to the first and second of those articles, set out broadly based charges alleging constitutional improprieties followed by a recital of transactions illustrative or supportive of such charges. The wording of Articles I and II expressly provided that a conviction could be had thereunder if supported by "one or more of the" enumerated specifications. The general review of the Committee at that time was expressed by Senators Byrd and Allen, both of whom felt that division of the articles in question into potentially 14 separately voted specifications might "be time consuming and confusing, and a matter which could create great chaos and division, bitterness, and ill will * * *." *Accordingly, it was agreed to write into the proposed rules language which would allow each Senator to vote to convict under either the first or second articles if he were convinced that the person impeached was "guilty" or one or more of the enumerated specifications.*"

Amending the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, Report of the Comm. on Rules and Administration, S. Rept. 99-401, 99th Cong., 2nd Sess., at 8 (1986) (emphasis added). Because the Senate was aware that multiple specifications of impeachment conduct may be contained in an article of impeachment, the Senate's rules implicitly countenance such drafting.

The issue regarding whether articles of impeachment are divisible is not new to the Senate. In fact, the Senate's Committee on Rules and Administration reviewed the Senate's impeachment procedures in 1974 to prepare for a possible trial of President Richard Nixon. The Committee passed the exact same language as the Committee did in 1986 prohibiting the division of an article of impeachment. Because President Nixon resigned, the full Senate never considered the amendments.

Senator Jacob K. Javits of New York submitted a statement to the Committee in 1974 addressing the divisibility issue and advised that Rule XXIII be amended to prohibit the division of an article of impeachment. His comments, as follows, are instructive:

> "Rule XXIII provides for the yeas and nays to be taken on each article separately but does not set any order for a vote when there are several articles. In the [President] Johnson trial, this was done by order of the Senate and several votes were taken on the order. This procedure, setting a vote for final consideration, should be stated in the rules. Also the rule is silent about the division of any article. In the Johnson trial a division was requested and the Chief Justice attempted to devise one, but could not, and the article as a whole was submitted for a vote to the Senate. *I believe articles should not be divided because this raises a further question of whether a two-thirds vote is required on each part of an article and whether the House action on the construction of a particular article can be changed without further action by the House.* Thus the rule should provide for no division of an article by the Senate."

(*Senate Rules and Precedents Applicable to Impeachment Trials*, Executive Session Hearings before the Comm. on Standing Rules and Administration, 93rd Cong., 2nd Sess. at 116 (August 5th and 6th, 1974) (emphasis added).)

In addition to implicitly recognizing that articles of impeachment may contain multiple specifications of impeachable offenses, the Senate has convicted a number of judges on such "omnibus" articles, including Judges Archbald, Ritter, and Claiborne. In the case of Judge Nixon, the Senate acquitted on the article, but refused to dismiss it.

The most recent example, that of Judge Nixon in 1989, is instructive. Judge Walter L. Nixon filed a motion to dismiss on the grounds that Article III was duplicative, among other things. Senator Fowler, the chairman of the committee appointed to take evidence in the impeachment trial of Judge Nixon explained the reasons for denying Nixon's motion to refer the motion to dismiss to the full Senate:

> "To the extent that the motion rests on the House's inclusion of fourteen distinct allegations of false statements in one article, we believe that Article III states an intelligible and adequately discrete charge of an impeachable offense by alleging that Judge Nixon concealed information concerning several conversations in which he had engaged by making "one or more" false statements to a grand jury. The House has substantial discretion in determining how to aggregate related alleged acts of misconduct in framing Articles of Impeachment and has historically frequently chosen to aggregate multiple factual allegations in a single impeachment article. The House's itemization of the fourteen particular statements whose knowing falsity it is alleging serves to give Judge Nixon fair notice of the contours of the charge against him without reducing the intelligibility of the article's essential accusation that Judge Nixon knowingly concealed material information from the government's law enforcement agents. Because the Committee believes that evidentiary proceedings may fairly be conducted on Article III as it is presently drafted, Judge Nixon's motion to refer his motion to dismiss Article III to the Senate at this time is denied."

(135 Cong. Rec. 19635–36 (September 6, 1989).)

The full Senate eventually rejected Judge Nixon's motion to dismiss by a vote of 34 to 63. Mr. Manager Cardin persuasively summed up the argument against the motion to dismiss as follows:

> "Judge Nixon argues, in his brief, that you must find all 14 statements to be false to vote guilty on article III. But that is untrue. Read the article closely. The question posed by article III is, did Judge Nixon conceal information? Did he conceal information, first by one or more false or misleading statements in his interview, and then by one or more false and misleading statements in his grand jury testimony?
>
> "You need not find all 14 statements to be false. The House is unanimously convinced that all 14 are complete and utter lies. We hope you will agree. But after considering the evidence, perhaps you will conclude that only 12 of the statements are false. It really does not matter. Just one intentionally false and misleading statement in the interview, or one in the grand jury, should be enough. Because if you conclude that Judge Nixon concealed information, whether by 1 false statement or 14, he should be removed from the bench. You should vote guilty on article III.
>
> "And you need not necessarily agree on which statements are false, if you reach the conclusion that he concealed information. If two-thirds of the Senators present believe Judge Nixon lied, regardless of how each individual Senator reached that conclusion, he will properly be removed from office.
>
> * * * * *
>
> "This is by no means unfair to Judge Nixon, for even if you might differ on which particular statements are lies, the bottom line is that two-thirds of you will have agreed that he concealed information, rendering him unfit for office. That is what the Constitution requires."

(*Id.* at 26751.)

Given the clear Senate precedent permitting articles of impeachment containing multiple specifications of impeachable offenses, the President's attack on the construction of the articles is an attack on Senate rules and precedent. The President's concerns, if assumed to be valid, could be addressed simply by permitting a division of the question. Under the standing rules of the Senate, any Senator may have the same divided if "the question in debate contains several propositions." Senate Rule XV. A question is divisible if it contains two or more separate and distinct propositions. The Senate, however, has made an affirmative decision to dispense with the regular order which governs bills, resolutions, and amendments thereto, and instead adopted a different procedure not permitting the division of articles of impeachment. The Senate has not acted unconstitutionally in the past regarding prior impeachments, and is not on a course to do so in the trial of President Clinton.

The claim that President Clinton is not on notice regarding the charges is ludicrous. The Lewinsky matter is arguably the most reported and scrutinized story of 1998 and possibly of 1999. The facts of the case are ontained in numerous documents, state- ents, reports, and filings. Specifically, resident Clinton has had the following doc- ments, among others, containing the facts nd specifics of the case: (1) *Referral from ndependent Counsel Kenneth W. Starr in Con- rmity with the Requirements of Title 28, nited States Code, Section 595(c)*, H. Doc. 105– 10, 105th Cong., 2nd Sess. (1998); (2) *Investiga- ry Powers of the Comm. on the Judiciary with espect to its Impeachment Inquiry*, H. Rept. 05–795, 105th Cong., 2nd Sess. (October 7, 998); (3) *Impeachment of William Jefferson linton, President of the United States*, 105th ong., 2nd Sess., H.R. Rept. 105–830 (Dec. 16, 998); and (4) *Trial Memorandum of the United tates House of Representatives*. If all of these eports and the thousands of pages of docu- ents are not enough, President Clinton will ave the opportunity to review the presen- tion of the Managers on the Part of the ouse for up to twenty-four hours.

. President Clinton Completely Misstates the Record as to the Discovery Procedures That Were Available to Him in the House of Representatives

President Clinton's trial memorandum aimed to the Senate that, should it decide o allow the House managers to expand the ecord in some way . . . the President would ave an urgent need for the discovery of rel- vant evidence, *because at no point in these oceedings has been able to subpoena docu- ents or summon or cross-examine witnesses.*" resident's Trial Memorandum at 125 (em- hasis added). The President also states that he House of Representatives [did not] af- rd the President any discovery mecha- sms to secure evidence that might be help- l in his defense." *Id.*

We will not address every discovery issue ere since those issues will be resolved in the ming days; however, the Senate should now that these claims are absolutely false. fact, the President's own brief refutes his aims. "The Committee allowed the Presi- nt's lawyers two days in which to present defense. The White House presented four nels of distinguished expert wit- sses. . . ." White House Counsel Charles C. Ruff presented argument to the Com- ittee on behalf of the President. . . ." *Id.* 13.

The House Committee on the Judiciary re- atedly asked the President's attorneys to pply any exculpatory evidence to the Com- ittee, both orally and in writing. They ver did. When, at the last minute, the esident's counsel requested witnesses, the mmittee invited to testify every witness ey requested. Aside from this, President inton nor his attorneys never asked to ubpoena documents" or "summon or cross- amine witnesses." If President Clinton's gument is that the Committee did not pro- de his staff a stack of blank subpoenas, at is correct. However, neither the House Representatives, nor the Senate, has the ility to "turn over" its constitutionally sed subpoena power to the executive anch.

President Clinton's attorneys never asked do the things they now claim they never d the ability to do. In fact, when minority embers of the Committee publicly asked at Judge Starr be called as a witness, dge Starr was called. In fact, President inton's attorney and minority counsel estioned Judge Starr for over two hours. ery Member of the Committee questioned n for at least five minutes each. Judge arr was a witness, and he was cross-exam- ed by David Kendall, President Clinton's vate attorney. President Clinton's claims just not accurate.

President Clinton's attorneys raise the issue of fairness. They are entitled to their own opinion about the House's proceedings, but they are not entitled to rewrite history. The truth is that the Committee's subpoena power could have been used to subpoena documents or witnesses on behalf of the President if they had so requested. They did not. All they requested, is that lawyers, law professors, and historians testify before the Committee. In short, President Clinton's statements about what happened in the House completely misstate what occurred.

VI. Conclusion

For the reasons stated herein and in the Trial Memorandum of the United States House of Representatives, the House respectfully submits that the articles properly state impeachable offenses, that the Senate should proceed to a full trial on the articles, and that after trial, the Senate should vote to convict President William Jefferson Clinton, remove him from office, and disqualify him from holding further office.

Respectfully submitted,

The United States
House of Representatives.
Henry J. Hyde,
F. James Sensenbrenner, Jr.,
Bill McCollum,
George W. Gekas,
Charles T. Canady,
Stephen E. Buyer,
Ed Bryant,
Steve Chabot,
Bob Barr,
Asa Hutchinson,
Chris Cannon,
James E. Rogan,
Lindsey O. Graham,
Managers on the Part of the House.
Thomas E. Mooney,
General Counsel.
David P. Schippers,
Chief Investigative Counsel.

Dated: January 14, 1999.

The CHIEF JUSTICE. I would like to inform Members of the Senate and the parties in this case of my need to stand on occasion to stretch my back. I have no intention that the proceedings should be in any way interrupted when I do so.

The Presiding Officer notes the presence in the Senate Chamber of the managers on the part of the House of Representatives and counsel for the President of the United States.

Pursuant to the provisions of Senate Resolution 16, the managers for the House of Representatives have 24 hours to make the presentation of their case. The Senate will now hear you.

The Presiding Officer recognizes Mr. Manager Hyde to begin the presentation of the case for the House of Representatives.

Mr. Manager HYDE. Mr. Chief Justice, distinguished counsel for the President, and Senators.

We are brought together on this solemn and historic occasion to perform important duties assigned to us by the Constitution.

We want you to know how much we respect you and this institution and how grateful we are for your guidance and your cooperation.

With your permission, we the managers of the House are here to set forth the evidence in support of two articles of impeachment against President William Jefferson Clinton. You are seated in this historic Chamber not to embark on some great legislative debate, which these stately walls have so often witnessed, but to listen to the evidence, as those who must sit in judgment.

To guide you in this grave duty, you have taken an oath of impartiality. With the simple words "I do," you have pledged to put aside personal bias and partisan interest and to do "impartial justice." Your willingness to take up this calling has once again reminded the world of the unique brilliance of America's constitutional system of Government. We are here, Mr. Chief Justice and distinguished Senators, as advocates for the rule of law, for equal justice under the law and for the sanctity of the oath.

The oath. In many ways the case you will consider in the coming days is about those two words "I do," pronounced at two Presidential inaugurations by a person whose spoken words have singular importance to our Nation and to the great globe itself.

More than 450 years ago, Sir Thomas More, former Lord Chancellor of England, was imprisoned in the Tower of London because he had, in the name of conscience, defied the absolute power of the King. As the playwright Robert Bolt tells it, More was visited by his family, who tried to persuade him to speak the words of the oath that would save his life, even while, in his mind and heart, he held firm to his conviction that the King was in error. More refused. As he told his daughter, Margaret, "When a man takes an oath, Meg, he's holding his own self in his hands. Like water. And if he opens his fingers then—he needn't hope to find himself again . . ." Sir Thomas More, the most brilliant lawyer of his generation, a scholar with an international reputation, the center of a warm and affectionate family life which he cherished, went to his death rather than take an oath in vain.

Members of the Senate, what you do over the next few weeks will forever affect the meaning of those two words "I do." You are now stewards of the oath. Its significance in public service and our cherished system of justice will never be the same after this. Depending on what you decide, it will either be strengthened in its power to achieve justice or it will go the way of so much of our moral infrastructure and become a mere convention, full of sound and fury, signifying nothing.

The House of Representatives has named myself and 12 other Members as Managers of its case. I have the honor of introducing those distinguished Members and explaining how we will make our initial presentation. The gentleman from Wisconsin, Representative

JIM SENSENBRENNER, will begin the presentation with an overview of the case. Representative SENSENBRENNER is the ranking Republican member of the House Judiciary Committee, and has served for 20 years. In 1989, Representative SENSENBRENNER was a House manager in the impeachment trial of Judge Walter L. Nixon who was convicted on two articles of impeachment for making false and misleading statements before a federal grand jury.

Following Representative SENSENBRENNER will be a team of managers who will make a presentation of the relevant facts of this case. From the very outset of this ordeal, there has been a great deal of speculation and misinformation about the facts. That has been unfortunate for everyone involved. We believe that a full presentation of the facts and the law by the House managers—will be helpful.

Representative ED BRYANT, from Tennessee was a United States Attorney from the Western District of Tennessee. As a captain in the Army, Representative BRYANT served in the Judge Advocate General Corps and taught at the United States Military Academy at West Point. Representative BRYANT will explain the background of the events that led to the illegal actions of the President.

Following Representative BRYANT, Representative ASA HUTCHINSON from Arkansas will give a presentation of the factual basis for article II, obstruction of justice. Representative HUTCHINSON is a former United States Attorney for the Western District of Arkansas.

Next, you will hear from Representative JIM ROGAN of California. Representative ROGAN is a former California State judge and Los Angeles County Deputy District Attorney. Representative ROGAN will give a presentation of the factual basis for article I, grand jury perjury. This should conclude our presentation for today.

Tomorrow, Representative BILL MCCOLLUM of Florida will tie all of the facts together and give a factual summation. Representative MCCOLLUM is the Chairman of the Subcommittee on Crime, a former Naval Reserve Commander and member of the Judge Advocate General Corps.

Following the presentation of the facts, a team of managers will present the law of perjury and the law of obstruction of justice and how it applies to the articles of impeachment before you. While the Senate has made it clear that a crime is not essential to impeachment and removal from office, these managers will explain how egregious and criminal the conduct alleged in the articles of impeachment is. This team includes Representative GEORGE GEKAS of Pennsylvania, Representative STEVE CHABOT of Ohio, Representative BOB BARR of Georgia, and Representative CHRIS CANNON of Utah. Representative GEKAS is the Chairman of the Subcommittee on Commercial and Administrative Law. And in 1989, Representative GEKAS served as a manager of the impeachment trial of Judge Alcee Hastings who the Senate convicted on eight articles for making false and misleading statements under oath and one article of conspiracy to engage in a bribery. Representative GEKAS is a former assistant district attorney. Representative CHABOT serves on the Subcommittee on Crime and has experience as a criminal defense lawyer. Representative BARR is a former United States Attorney for the Northern District of Georgia, where he specialized in public corruption. He also has experience as a criminal defense attorney. Representative CANNON has had experience as the Deputy Associate Solicitor General of the Department of the Interior and as a practicing attorney. That should conclude our presentation for Friday.

On Saturday, three managers will make a presentation on Constitutional law as it relates to this case. There has been a great deal of argument about whether the conduct alleged in the articles rises to the level of removable offenses. This team's analysis of the precedents of the Senate and application of the facts of this case will make it clear that the Senate has established the conduct alleged in the articles to be removable offenses. In this presentation you will hear from Representative CHARLES CANADY of Florida, Representative STEVE BUYER of Indiana and Representative LINDSEY GRAHAM of South Carolina. Representative CANADY is the Chairman of the Subcommittee on the Constitution and one of the leading voices on constitutional law in the House. Representative BUYER served in the United States Army as a member of the Judge Advocate General Corps where he was assigned as Special Assistant to the United States Attorney in Virginia. He also served as a deputy to the Indiana Attorney General. Representative GRAHAM served in the Air Force as a member of the Judge Advocate General Corps and as a South Carolina Assistant Attorney.

Following the presentation of the facts, the law of perjury and obstruction of justice and constitutional law, Mr. ROGAN and myself will give you a final summation and closing to our initial presentation.

The CHIEF JUSTICE. Mr. Manager SENSENBRENNER is recognized.

Mr. Manager SENSENBRENNER. Mr. Chief Justice, distinguished counsel to the President, and Senators, in his third annual message to Congress on December 7, 1903, President Theodore Roosevelt said:

> No man is above the law and no man is below it; nor do we ask any man's permission when we require him to obey it. Obedience to the law is demanded as a right; not asked as a favor.

We are here today because President William Jefferson Clinton decided to put himself above the law, not once, not twice, but repeatedly. He put himself above the law when he engaged in a multifaceted scheme to obstruct justice during the Federal civil rights case of Paula Corbin Jones versus William Jefferson Clinton, et. al. He put himself above the law when he made perjurious, false and misleading statements under oath during his grand jury testimony on August 17, 1998. In both instances, he unlawfully attempted to prevent the judicial branch of Government—a coequal branch—from performing its constitutional duty to administer equal justice under law.

The United States House of Representatives has determined that the President's false and misleading testimony to the grand jury and his obstruction of justice in the Jones lawsuit are high crimes and misdemeanors within the meaning of the Constitution. Should the Senate conduct a fair and impartial trial which allows each side to present its best case, then the American public can be confident that justice has been served, regardless of the outcome.

We hear much about how important the rule of law is to our Nation and to our system of government. Some have commented this expression is trite. But, whether expressed by these three words, or others, the primacy of law over the rule of individuals is what distinguishes the United States from most other countries and why our Constitution is as alive today as it was 210 years ago.

The Framers of the Constitution devised an elaborate system of checks and balances to ensure our liberties by making sure that no person, institution, or branch of Government became so powerful that a tyranny could ever be established in the United States of America.

We are the trustees of that sacred legacy and whether the rule of law and faith in our Nation emerges stronger than ever, or are diminished irreparably, depends upon the collective decision of the message each Senator chooses to send forth in the days ahead.

The evidence you will hear relates solely to the President's misconduct, which is contrary to his constitutional public responsibility to ensure the laws be faithfully executed. It is not about the President's affair with a subordinate employee, an affair that was both inappropriate and immoral. Mr. Clinton has recognized that this relationship was wrong. I give him credit for that. But he has not owned up to the false testimony, the stonewalling and legal hairsplitting, and obstructing the courts from finding the truth. In doing so, he has turned his affair into a public wrong. And for these actions, he must be held accountable through the only constitutional means the country has available—the difficult and painful process of impeachment.

Impeachment is one of the checks the Framers gave to Congress to protect the American people from a corrupt or tyrannical executive or judicial branch of Government. Because the procedure is cumbersome and because a two-thirds vote in the Senate is required to remove an official following an impeachment trial, safeguards are there to stop Congress from increasing its powers at the expense-of the other two branches. The process is long. It is difficult. It is unpleasant. But, above all, it is necessary to maintain the public's trust in the conduct of their elected officials—elected officials, such as myself and yourselves, who through our oaths of office have a duty to follow the law, fulfill our constitutional responsibilities, and protect our Republic from public wrongdoing.

The Framers of the Constitution envisioned a separate and distinct process in the House and in the Senate. They did not expect the House and Senate to conduct virtually identical proceedings with the only difference being that conviction in the Senate requires a two-thirds vote. That is why the Constitution reserves the sole power of impeachment to the House of Representatives and the sole power to try all impeachments to the Senate. History demonstrates different processes were adopted to reflect very different roles.

In the case of President Andrew Johnson, no hearings were held or witnesses called by the House on the President's decision to remove Secretary of War Stanton from office. The House first approved a general article of impeachment that simply stated that President Johnson was impeached for high crimes and misdemeanors. Five days later, a special House committee drew up specific articles. Eleven articles were passed by the House, all but two of which were based upon President Johnson's alleged violation of the Tenure of Office Act by his actions in removing Secretary of War Stanton. The trial was then conducted with witnesses in the Senate.

In the case of President Nixon, the House Judiciary Committee passed three articles of impeachment based not upon their own investigation, but upon the evidence gathered by the Ervin Committee, the Patman Committee, the Joint Tax Committee and material from the special prosecutor and various court proceedings. Nine witnesses were called at the end of the impeachment inquiry, five of them at the request of the White House, and their testimony was not at the center of the impeachment articles.

In the Judge Walter Nixon impeachment in 1989, a trial with live witnesses was held even after the Senate rejected by less than a two-thirds vote a defense motion to dismiss one article of impeachment on the grounds that it did not constitute an impeachable offense.

The House managers submit witnesses are essential to give heightened credence to whatever judgment the Senate chooses to make on each of the articles of impeachment against President Clinton.

The matter of how this proceeding will be conducted remains somewhat unsettled. Senate impeachment precedent has been to hold a trial. And, in every impeachment case, the Senate has heard from live witnesses. Should the President's counsel dispute the facts as laid out by the House of Representatives, the Senate will need to hear from live witnesses in order to reach a proper and fair judgment as to the truthful facts of this case.

The House concluded the President made perjurious, false and misleading statements before the grand jury, which the House believes constitutes a high crime and misdemeanor. Our entire legal system is based upon the courts being able to find the truth. That's why witnesses must raise their right hand and swear to tell the truth, the whole truth, and nothing but the truth. That's why there are criminal penalties for perjury and making false statements under oath. The need for obtaining truthful testimony in court is so important that the Federal sentencing guidelines have the same penalties for perjury as for bribery.

The Constitution specifically names bribery as an impeachable offense. Perjury is the twin brother of bribery. By making the penalty for perjury the same as that for bribery, Congress has acknowledged that both crimes are equally serious. It follows that perjury and making false statements under oath, which is a form of perjury, be considered among the "high crimes and misdemeanors" the Framers intended to be grounds for impeachment.

The three judicial impeachments of the 1980's were all about lies told by a federal judge. Judge Claiborne was removed from office for lying on his income tax returns. Judge Hastings was removed for lying under oath during a trial, and Judge Nixon was removed for making false statements to a grand jury. In each case, the Senate showed no leniency to judges who lie. Their misconduct was deemed impeachable and more than 2/3rds of the Senate voted to convict.

If the Senate is convinced that President Clinton lied under oath and does not remove him from office, the wrong message is given to our courts, those who have business before them, and to the country as a whole. That terrible message is that we as a nation have set a lower standard for lying under oath for Presidents than for judges. Should not the leader of our country be held to at least as high a standard as the judges he appoints? Should not the President be obliged to tell the truth when under oath, just as every citizen must? Should not our laws be enforced equally? Your decision in this proceeding will answer these questions and set the standard of conduct of public officials in town halls and courtrooms everywhere and the Oval Office for generations.

Justice is never served by the placing of any public official above the law. The Framers rejected the British law of, "The King can do no wrong", when they wrote our basic law in 1787. Any law is only as good as its enforcement, and the enforcement of the law against the President was left to Congress through the impeachment process.

A Senate conviction of the President in this matter will reaffirm the irrefutable fact that even the President of the United States has no license to lie under oath. Deceiving the courts is an offense against the public. It prevents the courts from administering justice and citizens from receiving justice. Every American has the right to go to court for redress of wrongs, as well as the right to a jury trial. The jury finds the facts. The citizens on the jury cannot correctly find the facts absent truthful testimony. That's why it's vital that the Senate protect the sanctity of the oath to obtain truthful testimony, not just during judicial proceedings but also during legislative proceedings as well.

Witnesses before Congress, whether presidential nominees seeking Senate confirmation to high posts in the executive or judicial branches, federal agency heads testifying during investigative hearings, or witnesses at legislative hearings giving their opinions on bills are sworn to tell the truth. Eroding the oath to tell the truth means that Congress loses some of its ability to base its decisions upon truthful testimony. Lowering the standard of the truthfulness of sworn testimony will create a cancer that will keep the legislative branch from discharging its constitutional functions as well.

Mr. Chief Justice, we are here today because William Jefferson Clinton decided to use all means possible—both legal and illegal—to subvert the truth about his conduct relevant to the federal civil rights suit brought against President Clinton by Mrs. Paula Jones. Defendants in civil lawsuits cannot pick and choose which laws and rules of procedure they will follow and which they will not. That's for the trial judge to decide, whether the defendant be President or pauper.

In this case, a citizen claimed her civil rights were violated when she refused then Governor Clinton's advances and was subsequently harassed at work, denied merit pay raises, and finally forced to quit. The court ruled she had the right to obtain evidence showing other women including Miss Lewinsky, got jobs, promotions, and raises after submitting to Mr. Clinton, and whether other women suffered job detriments after refusing similar advances.

When someone lies about an affair and tries to hide the fact, they violate the trust their spouse and family put in them. But when they lie about it during a legal proceeding and obstruct the parties from obtaining evidence, they prevent the courts from administering justice.

That is an offense against the public, made even worse when a poor or powerless person seeks the protections of our civil rights from the rich or powerful.

When an American citizen claims his or her civil rights have been violated, we must take those claims seriously. Our civil rights laws have remade our society for the better. The law gives the same protections to the child denied entry to a school or college based upon race as to an employee claiming discrimination at work. Once a hole is punched in civil rights protections for some, those protections are not worth as much for all. Many in the Senate have spent their lives advancing individual rights. Their successful efforts have made America a better place. In my opinion, this is no time to abandon that struggle—no matter the public mood or the political consequence.

Some have said that the false testimony given by the President relating to sex should be excused, since as the argument goes, "Everyone lies about sex." I would ask the Senate to stop to think about the consequences of adopting that attitude. Our sexual harassment laws would become unenforceable since every sexual harassment lawsuit is about sex, and much of domestic violence litigation is at least partly about sex. If defendants in these types of suits are allowed to lie about sex, justice cannot be done, and many victims, mostly women, will be denied justice.

Mr. Chief Justice, the House has adopted two articles of impeachment against President William Jefferson Clinton. Each meets the standard of "high crimes and misdemeanors" and each is amply supported by the evidence.

Article 1 impeaches the President for "perjurious, false and misleading" testimony during his August 17, 1998, appearance before a grand jury of the United States in four areas.

First, the nature and details of his relationship with a subordinate government employee.

Second, prior perjurious, false and misleading testimony he gave in a federal civil rights action brought against him.

Third, prior false and misleading statements he allowed his attorney to make to a federal judge in that federal civil rights lawsuit.

Fourth, his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence in that civil rights action.

The evidence will clearly show that President Clinton's false testimony to the grand jury was not a single or isolated instance which could be excused as a mistake, but rather a comprehensive and calculated plan to prevent the grand jury from getting the accurate testimony in order to do its job. Furthermore, it is important to dispel the notion that the President's false testimony before the grand jury simply relates to details of the relationship between President Clinton and Miss Lewinsky. These charges only make up a small part of Article 1. The fact is, the evidence will show that President Clinton made numerous perjurious, false and misleading statements regarding his efforts to obstruct justice.

Before describing what the evidence in support of Article 1 shows, it is also important to clearly demonstrate that the Senate has already decided that making false statements under oath to a federal grand jury is an impeachable offense.

The last impeachment decided by the Senate, that of United States District Judge Walter L. Nixon, Jr., of the United States District Court for the Southern District of Mississippi, involved the Judge's making false statements under oath to a federal grand jury, precisely the same charges contained in Article 1 against President Clinton. Following an unanimous 417 to 0 vote in the House, the Senate conducted a full trial and removed Judge Nixon from office on the two articles charging false statements to a grand jury by votes of 89 to 8 and 78 to 19. The Senate was clear that the specific misconduct, that is, making false statements to a grand jury, which was the basis for the Judge's impeachment, warranted his removal from office and the Senate proceeded to do just that.

These votes, a little more than nine years ago on November 3, 1989, set a clear standard that lying to a grand jury is grounds for removal from office. To set a different standard in this trial is to say that the standard for judicial truthfulness during grand jury testimony is higher than that of presidential truthfulness.

That result would be absurd. The truth is the truth and a lie is a lie. There cannot be different levels of the truth for judges than for presidents.

The President's perjurious, false and misleading statements regarding his relationship with Ms. Lewinsky began early in his grand jury testimony. These statements included parts of the prepared statement the President read at the beginning of his testimony. He referred or reverted to his statement at least 19 times during the course of his testimony.

Further, the evidence will show the President made other false statements to the grand jury regarding the nature and details of his relationship with Ms. Lewinsky at times when he did not refer to his prepared statement.

Second, the evidence will show that the President piled perjury upon perjury when he provided perjurious, false and misleading testimony to the grand jury concerning prior perjurious, false and misleading testimony given in Ms. Paula Jones' case.

On two occasions, the President testified to the grand jury that his deposition testimony was the truth, the whole truth, and nothing but the truth, and that he was required to give a complete answer to each question asked of him during the deposition. That means he brought to the grand jury his untruthful answers to questions at the deposition.

Third, the evidence will show the President provided perjurious, false and misleading testimony to a Federal grand jury regarding his attorney's use of an affidavit he knew to be false during the deposition in Ms. Paula Jones' case before Federal Judge Susan Webber Wright.

The President denied that he even paid attention to Mr. Bennett's use of the affidavit. The evidence will show he made this denial because his failure to stop his attorney from utilizing a false affidavit at a deposition would constitute obstruction of justice. The evidence will also show the President did not admit that Mr. Bennett's statement was false because to do so would be to admit that he had perjured himself earlier that day during the grand jury testimony, as well as at the deposition.

Fourth, the evidence will show that the President provided perjurious, false and misleading testimony to the grand jury concerning his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence in Ms. Paula Jones' civil rights action.

The evidence will show that these statements related to at least four areas:

First, his false statements relating to gifts exchanged between the President and Ms. Lewinsky. The subpoena served on Ms. Lewinsky in the Jones case required her to produce each and every gift she had received from the President. These gifts were not turned over as required by the subpoena, but ended up under Ms. Betty Currie's bed in a sealed container. The President denied under oath that he directed Ms. Currie to get the gifts, but the evidence will show that Ms. Currie did call Ms. Lewinsky about them and that there was no reason for her doing so unless directed by the President.

Second, the President made perjurious, false and misleading statements to the grand jury regarding his knowledge that the Lewinsky affidavit submitted at the deposition was untrue. The evidence will show that the President testified falsely on this issue on at least three separate occasions during his grand jury testimony. He also provided false testimony on whether he encouraged Ms. Lewinsky to file a false affidavit.

Third, the President made false and misleading statements to the grand jury by reciting a false account of the facts regarding his interactions with Ms. Lewinsky and Ms. Currie, who was a potential witness against him in Ms. Jones' case.

The record reflects the President tried to coach Ms. Currie to recite inaccurate answers to possible questions should she be called as a witness. The evidence will show the President testified to the grand jury that he was trying to figure out what the facts were, but in reality the conversation with Ms. Currie consisted of a number of very false and misleading statements.

Finally, the President made perjurious, false and misleading statements to aides regarding his relationship with Ms. Lewinsky. In his grand jury testimony, the President tried to have it both ways on this issue. He testified that his statements to aides were both true and misleading—true and misleading.

The evidence will show that he met with four aides who would later be called to testify before the grand jury. They included Mr. Sidney Blumenthal, Mr. John Podesta, Mr. Erskine Bowles, and Mr. Harold Ickes. Each of them related to the grand jury the untruths they had been told by the President. I have recited this long catalogue of false statements to show that the President's false statements to the grand jury were neither few in number nor isolated, but rather pervaded his entire testimony.

There can be no question that the President's false statements to the grand jury were material to the subject of the inquiry. Grand juries are utilized to obtain sworn testimony from witnesses to determine whether a crime has been committed. The Attorney General and the Special Division of the United States Court of Appeals for the District of Columbia Circuit appointed an independent counsel pursuant to law and added areas of inquiry because they believed there was evidence that the President may have committed crimes. Grand jury testimony relevant to the criminal probe is always material to the issue of whether someone has committed a crime.

Based upon the precedent in the Judge Nixon impeachment, the law, the facts, and the evidence, if you find the President made perjurious, false and misleading statements under oath to the grand jury, I respectfully submit that your duty will be to find William Jefferson Clinton guilty with respect to article I and to remove him from office.

Article II impeaches William Jefferson Clinton for preventing, obstructing and impeding the administration of justice in the Jones case by either directly or through subordinates and agents engaging in a scheme to delay, impede, cover up, and conceal the existence of evidence and testimony relating to Ms. Jones' Federal civil rights action.

As in the case of article I, the President's direct and indirect actions were not isolated mistakes, but were multifaceted actions specifically designed to prevent Ms. Paula Jones from having her day in court.

While the Senate determined in the Judge Nixon trial that the making of false statements to a Federal grand jury warranted conviction and removal from office, no impeachment on an obstruction of justice charge has ever reached the Senate.

Therefore, this article is a matter of first impression. However, the impeachment inquiry of the House Judiciary Committee into the conduct of President Richard Nixon, as well as the relevant Federal criminal statutes, clearly show President Clinton's actions to be within the definition of "high crimes and misdemeanors" contained in the Constitution.

The first article of impeachment against President Nixon approved by the Judiciary Committee charged Mr. Nixon with "engag(ing) personally and through his subordinates and agents in a course of conduct or plan designed to delay, impede and obstruct the investigation of such unlawful entry; to cover up, conceal and protect those responsible and to conceal the existence and scope of other unlawful activities."

The article charged that the implementation of the plan included nine separate areas of misconduct. Included among these were, one, making or causing to be made false and misleading statements to investigative officers and employees of the United States; two, withholding relevant and material evidence from such persons; three, approving, condoning, acquiescing in and counseling witnesses with respect to the giving of false and misleading statements to such persons as well as in judicial and congressional proceedings.

History shows us that President Nixon's resignation was the only act that prevented the Senate from voting on this article, and that the President's conviction and removal from office were all but certain.

There are two sections of the Federal Criminal Code placing penalties on those who obstruct justice. Title 18, United States Code, section 1503, punishes "(whoever * * * corruptly, or by threats or force * * * obstructs, or impedes or endeavors to influence, obstruct or impede the due administration of justice."

The courts have held that this section relates to pending judicial process, which can be a civil action. Ms. Jones' case fits that definition at the time of the President's actions as alleged in article II, as does the Office of Independent Counsel's investigation.

Title 18, United States Code, section 1512, punishes, "Whoever * * * corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to * * * influence, delay or prevent the testimony of any person in an official proceeding * * * (or) cause or induce any person to * * * withhold testimony, or withhold a record, document, or other object from an official proceeding * * *."

The evidence will show that President Clinton's actions constituted obstruction of justice in seven specific instances as alleged in Article II. Paragraph one alleges that on or about December 17, 1997, the President encouraged Miss Lewinsky, who would be subpoenaed as a witness in Mrs. Jones' case two days later, to execute a sworn affidavit that he knew would be perjurious, false, and misleading.

The evidence will show the President's actions violated both federal criminal obstruction statutes.

Second, Article II alleges that on or about that same day, the President corruptly encouraged Miss Lewinsky to give perjurious, false, and misleading testimony if and when called to testify personally in that proceeding. Miss Lewinsky, on the witness list at that time, could have been expected to be required to give live testimony in the Jones case and in fact she was subsequently subpoenaed for a deposition in that case.

The evidence will show the President's actions violated both federal criminal obstruction statutes.

Third, Article II alleges on or about December 28, 1997, the President corruptly engaged in, encouraged, or supported a scheme to conceal evidence which had been subpoenaed in Mrs. Jones' civil rights case. He did so by asking Ms. Betty Currie to retrieve evidence from Miss Lewinsky that had been subpoenaed in the case of Jones v. Clinton.

The evidence will show the President's actions violated the second federal criminal obstruction statute.

Fourth, Article II alleges that beginning on or about December 7, 1997, and continuing through and including January 14, 1998, the President intensified and succeeded in an effort to secure job assistance to Miss Lewinsky in order to corruptly prevent her truthful testimony in the Jones case at a time when her truthful testimony would have been harmful to him.

While Miss Lewinsky had sought employment in New York City long before the dates in question, helping her find a suitable job was clearly a low priority for the President and his associates until it became obvious she would become a witness in the Jones case. The evidence will clearly show an intensification of that effort after her name appeared on the witness list. This effort was ultimately successful and the evidence will show that the President's actions violated both federal obstruction statutes.

Fifth, Article II alleges on January 17, 1998, the President corruptly allowed his attorney to make false and misleading statements to Judge Wright characterizing the Lewinsky affidavit in order to prevent questioning deemed relevant by the judge. The President's attorney, Robert Bennett, subsequently acknowledged such false and misleading statements in a communication to Judge Wright.

The evidence will show the President's actions clearly violate the second federal criminal obstruction statute.

Sixth, Article II alleges that on or about January 18, 20, and 21, 1998, the President related a false and misleading account of events relevant to Mrs. Jones' civil rights suit to Ms. Betty Currie, a potential witness in the proceeding, in order to corruptly influence her testimony.

The evidence will show that President Clinton attempted to influence the testimony of Ms. Betty Currie, his personal secretary, by coaching her to recite inaccurate answers to possible questions that might be asked of her if called to testify in Mrs. Paula Jones' case. The President did this shortly after he had been deposed in the civil action.

During the deposition, he frequently referred to Ms. Currie and it was logical that based upon his testimony, Ms. Currie would be called as a witness.

The evidence will show that two hours after the completion of the deposition, the President called Ms. Currie to ask her to come to the office the next day, which was a Sunday.

When Ms. Currie testified to the grand jury, she acknowledged the President made a series of leading statements or questions and concluded that the President wanted her to agree with him.

The evidence will show the President's actions violated both statutes, but most particularly section 1512.

In *United States* v. *Rodolitz* 786 F2d 77 at 82 (2nd Cir 1986) cert. Den. 479 US 826 (1986), the United States Court of Appeals for the 2nd Circuit said,

> The most obvious example of a sec. 1512 violation may be the situation where a defendant tells a potential witness a false story as if the story were true, intending that the witness believes the story and testify to it before the grand jury.

If the President's actions do not fit this example, I'm at a loss to know what actions do.

Seventh, and last, Article II alleges on or about January 21, 23, and 26, 1998, the President made false and misleading statements to potential witnesses in a federal grand jury proceeding in order to corruptly influence this testimony of those witnesses. The articles further alleges these false and misleading statements were repeated by the witnesses to the grand jury, causing the grand jury to receive false and misleading information.

The evidence will show that these statements were made to presidential aides Mr. Sidney Blumenthal, Mr. Erskine Bowles, Mr. John Podesta and Mr. Harold Ickes. They all testified to the grand jury. By his own admission seven months later, on August 17, 1998, during his sworn grand jury testimony, the President said that he told a number of aides that he did not have an affair with Ms. Lewinsky and did not have sex with her. He told one aide, Mr. Sidney Blumenthal, that Miss Monica Lewinsky came on to him and he rebuffed her. President Clinton also admitted that he knew these aides might be called before the grand jury as witnesses. The evidence will show they were called; they related the President's false statements to the grand jury; and that by the time the President made his admission to the grand jury, the damage had already been done.

This is a classic violation of 18 U.S.C. Section 1512.

The seven specific, allegations of obstruction of justice contained in Article II were designed to prevent the judicial branch of government, a separate and coequal branch, from doing its work in Ms. Paula Jones' lawsuit. Based upon the allegation of Article 1 against President Nixon in 1974, as well as repeated and calculated violations of two key criminal obstruction statutes, William Jefferson Clinton committed an impeachable offense.

In Article II, the evidence is conclusive that President Clinton put himself above the law in obstructing justice, not once, not just a few times, but as a part of a extensive scheme to prevent Ms. Jones from obtaining the evidence she thought she needed to prove her civil rights claims.

Complying with the law is the duty of all parties to lawsuits and those who are required to give truthful testimony. A defendant in a federal civil rights action does not have the luxury to choose what evidence the court may consider. He must abide by the law and the rules of procedure. William Jefferson Clinton tried to say that the law did not apply to him during his term of office in civil cases were concerned. He properly lost that argument in the Supreme Court in a unanimous decision.

Even though the Supreme Court decided that the President wasn't above the law and that Ms. Jones' case could proceed, William Jefferson Clinton decided—and decided alone—to act as if the Supreme Court had never acted and that Judge Wright's orders didn't apply to him. What he did was criminal time and time again. These criminal acts were in direct conflict with the President's obligation to take care the laws be faithfully executed.

Based upon the repeated violations of federal criminal law, its effect upon the courts to find the truth, and the President's duty to take care that the laws be faithfully executed, if you find that the President did indeed obstruct the administration of justice through his acts, I respectfully submit your duty will be to find William Jefferson Clinton guilty with respect to Article II and to remove him from office.

It is truly sad when the leader of the greatest nation in the world gets caught up in a series of events where one inappropriate and criminal act leads to another, and another and another.

Even sadder is that the President himself could have stopped this process simply by telling the truth and accepting the consequences of his prior mistakes. At least six times since December 17, 1997, William Jefferson Clinton could have told the truth and suffered the consequences. Instead he chose lies, perjury, and deception. He could have told the truth when he first learned that Ms. Lewinsky would be a witness in the Ms. Jones' case. He could have told the truth at his civil deposition. He could have told the truth to Betty Currie. He could have told the truth when the news media first broke the story of his affair. He could have told the truth to his aides and cabinet. He could have told the truth to the American people. Instead, he shook his finger at each and every American and said, "I want you to listen to me," and proceeded to tell a straight-faced lie to the American people.

Finally, he had one more opportunity to tell the truth. He could have told the truth to the grand jury. Had he told the truth last January, there would have been no independent counsel investigation of this matter, no grand jury appearance, no impeachment inquiry and no House approval of articles of impeachment. And, we would not be here today fulfilling a painful but essential constitutional duty. Instead, he chose lies and deception, despite warnings from friends, aides, and members of the House and Senate that failure to tell the truth would have grave consequences.

When the case against him was being heard by the House Judiciary Committee, he sent his lawyers, who did not present any new evidence to rebut the facts and evidence sent to the House by the Independent Counsel. Rather, they disputed the Committee's interpretation of the evidence by relying on tortured, convoluted, and unreasonable interpretations of the President's words and actions.

During his presentation to the House Judiciary Committee, the President's very able lawyer, Charles Ruff, was asked directly, "Did the President lie?" during his sworn grand jury testimony.

Mr. Ruff could have answered that question directly. He did not, and his failure to do so speaks a thousand words.

Is there not something sacred when a witness in a judicial proceeding raises his or her right hand and swears before God and the public to tell the truth, the whole truth, and nothing but the truth? Do we want to tell the country that its leader gets a pass when he is required to give testimony under oath? Should we not be concerned about the effect of allowing perjurious, false, and misleading statements by the President to go unpunished on the truthfulness of anyone's testimony in future judicial or legislative proceedings? What do we tell the approximately 115 people now in federal prison for the crime of perjury?

The answers to all these questions ought to be obvious.

As elected officials, our opinions are frequently shaped by constituents telling us their own stories. Let me tell you one related to me about the poisonous results of allowing false statements under oath to go unpunished.

Last October while the Starr report was being hotly debated, one circuit court judge for Dodge County, Wisconsin approached me on the street in Mayville, Wisconsin. He said that some citizens had business in his court and suggested that one of them take the witness stand and be put under oath to tell the truth. The citizen then asked if he could tell the truth, "just like the President."

How many people who have to come to court to testify under oath about matters they would like to keep to themselves think about what that citizen asked Judge John Storck? And, how will the courts be able to administer the, "equal justice under law" we all hold so dear if we do not enforce the sanctity of that oath even against the President of the United States?

When each of us is elected or chosen to serve in public office, we make a compact with the people of the United States of America to conduct ourselves in an honorable manner, hopefully setting a higher standard for ourselves than we expect of others. That should mean we are careful to obey all the laws we make, execute and interpret.

There is more than truth in the words, "A public office is a public trust."

When someone breaks that trust, he or she must be held accountable and suffer the consequences for the breach. If there is no accountability, that means that a President can set himself above the law for four years, a Senator for six, a Representative for two, and a judge for life. That, Mr. Chief Justice, poses a far greater threat to the liberties guaranteed to the American people by the Constitution that anything imaginable.

For the past 11 months, the toughest questions I've had to answer have come from parents who want to know what to tell their children about what President Clinton did.

Every parent tries to teach their children to know the difference between right and wrong, to always tell the truth, and when they make mistakes, to take responsibility for them and to face the consequences of their actions.

President Clinton's actions at every step since he knew Ms. Lewinsky would be a witness in Mrs. Jones' case have been completely opposite to the values parents hope to teach their children.

But being a poor example isn't grounds for impeachment. Undermining the rule of law is. Frustrating the courts' ability to administer justice turns private misconduct into an attack upon the ability of one of the three branches of our government to impartially administer justice. This is a direct attack upon the rule of law in our country and a very public wrong that goes to the constitutional workings of our government and its ability to protect the civil rights of even the weakest American.

What is on trial here is the truth and the rule of law. Failure to bring President Clinton to account for his serial lying under oath and preventing the courts from administering equal justice under law will cause a cancer to be present in our society for generations.

Those parents who have asked the questions should be able to tell their children that even if you are the President of the United States, if you lie when sworn to tell the truth, the whole truth and nothing but the truth, you will face the consequences of that action even when you won't accept the responsibility for it.

How those parents will answer those questions is up to the United States Senate.

While how today's parents answer those questions is important, equally important is what parents tell their children in the generations to come about the history of our country and what has set our government in the United States of America apart from the rest of the world.

Above the President's dais in this Senate chamber appears our national motto. "E pluribus unum"—"out of many, one." When that motto was adopted more than two hundred years ago, the First Congress referred to how thirteen separate colonies turned themselves into one, united nation.

As the decades have gone by, that motto has taken an additional meaning. People of all nationalities, faiths, creeds, and values have come to our shores, shed their allegiances to their old countries and achieved their dreams to become Americans.

They came here to flee religious persecution, to escape corrupt, tyrannical and oppressive governments, and to leave behind the economic stagnation and endless wars of their homelands.

They came here to be able to practice their faiths as they saw fit—free of government dictates and to be able to provide better lives for themselves and their families by the sweat of their own brows and the use of their own intellect.

But they also came here because they knew America has a system of government where the Constitution and laws protect individual liberties and human rights. Everyone—yes, everyone—can argue that this country has been a beacon for individual citizen's ability to be what he or she can be.

They fled countries where the rulers ruled at the expense of the people, to America, where the leaders are expected to govern for the benefit of the people.

And, throughout the years, America's leaders have tried to earn the trust of the American people, not by their words, but by their actions.

America is a place where government exists by the consent of the governed. And, that means our Nation's leaders must earn and re-earn the trust of the people with every thing they do.

Whenever an elected official stumbles, that trust is eroded and public cynicism goes up. The more cynicism that exists about government, its institutions, and those chosen to serve in them, the more difficult the job is for those who are serving.

That's why it is important, yes vital, that when a cancer exists in the body politic, our job—our duty—is to excise it. If we fail in our duty, I fear the difficult and dedicated work done by thousands of honorable men and women elected to serve not just here in Washington, but in our State capitals, city halls, courthouses and school board rooms will be swept away in a sea of public cynicism. We must not allow the beacon of America to grow dim, or the American dream to disappear with each waking morning.

In 1974, the Congress did its painful public duty when the President of the United States broke the public trust.

During the last decade, both Houses impeached and removed three Federal judges who broke their trust with the people.

During the last 10 years, the House of Representatives disciplined two Speakers for breaking the rules and their trust with the public.

And, less than 6 years ago, this honorable Senate did the same to a senior Senator whose accomplishments were widely praised.

In each case, Congress did the right thing to help restore the vital trust upon which our Government depends. It wasn't easy, nor was it always popular, but Congress did the right thing. Now, this honorable Senate must do the right thing. It must listen to the evidence; it must determine whether William Jefferson Clinton repeatedly broke our criminal laws and thus broke his trust with the people—a trust contained in the Presidential oath put into the Constitution by the Framers—an oath that no other Federal official must take—an oath to insure that the laws be faithfully executed.

How the Senate decides the issues to be presented in this trial will determine the legacy we pass to future generations of Americans.

The Senate can follow the legacy of those who have made America what it is.

The Senate can follow the legacy of those who put their "lives, fortunes and Sacred Honor" on the line when they signed the Declaration of Independence.

The Senate can follow the legacy of the Framers of the Constitution whose preamble states that one of its purposes is, "to establish justice."

The Senate can follow the legacy of James Madison and the Members of the First Congress who wrote and passed a Bill of Rights to protect and preserve the liberties of the American people.

The Senate can follow the legacy of those who achieved equal rights for all Americans during the 1960s in Congress, in the courts, and on the streets and in the buses and at the lunch counters.

The Senate can follow the legacy of those who brought President Nixon to justice during Watergate in the belief that no President can place himself above the law.

The Senate can follow the legacy of Theodore Roosevelt who lived and governed by the principle that no man is above the law.

Within the walls of the Capitol and throughout this great country there rages an impassioned and divisive debate over the future of this presidency. This Senate now finds itself in the midst of the tempest. An already immense and agonizing duty is made even more so because the whims of public opinion polls, the popularity and unpopularity of individuals, even questions over the strength of our economy, risk subsuming the true nature of this grave and unwelcome task.

We have all anguished over the sequence of events that have led us to this, the conclusive stage in the process. We have all identified in our own minds where it could have, and should have stopped. But we have ended up here, before the Senate of the United States, where you, the Senators, will have to render judgment based upon the facts.

A scientist in search of the basic nature of a substance begins by boiling away what is not of the essence. Similarly, the Senate will sift through the layers of debris that shroud the truth. The residue of this painful and divisive process is bitter, even poisonous at times. But beneath it lies the answer. The evidence will show that at its core, the question over the President's guilt and the need for his conviction will be clear. Because at its core, the issues involved are basic questions of right versus wrong—deceptive, criminal behavior versus honesty, integrity and respect for the law.

The President engaged in a conspiracy of crimes to prevent justice from being served. These are impeachable offenses for which the President should be convicted. Over the course of the days and weeks to come, we, the House managers, will endeavor to make this case.

May these proceedings be fair and thorough. May they embody our highest capacity for truth and mutual respect. With these principles as our guides, we can begin with the full knowledge our democracy will prevail and that our Nation will emerge a stronger, better place.

Our legacy now must be not to lose the trust the people should have in our Nation's leaders.

Our legacy now must be not to cheapen the legacies left by our forebearers.

Our legacy must be to do the right thing based upon the evidence.

For the sake of our country, the Senate must not fail. Thank you.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager BRYANT.

Mr. Manager BRYANT. Mr. Chief Justice, Members of the Senate, and my distinguished colleagues from the bar, I am ED BRYANT, the Representative from the Seventh District of Tennessee. During this portion of the case, I, along with Representative ASA HUTCHINSON of Arkansas, Representative JAMES ROGAN of California, and Representative BILL MCCOLLUM of Florida, will present the factual elements of this case. Our presentation is a very broad roadmap with which first I will provide the history and background of the parties, followed by Mr. HUTCHINSON and Mr. ROGAN, who will review the articles of impeachment. Mr. MCCOLLUM will close with a summation of these facts and evidence.

It is our intent to proceed in a chronological fashion, although by necessity, there will be some overlap of the facts and circumstances arising from what I have called "the four-way intersection collision" of President William Jefferson Clinton, Ms. Paula Corbin Jones, Monica Lewinsky, and the U.S. Constitution.

As a further preface to my remarks, permit me to say that none of us present here today in these hallowed Chambers relishes doing this job before us. But we did not choose to be involved in that reckless misconduct, nor did we make those reasoned and calculated decisions to cover up that misconduct which underlies this proceeding. However, this collision at the intersection, if you will, of the President, Ms. Jones, and Ms. Lewinsky, is not in and of itself enough to bring us together today. No. Had truth been a witness at this collision, and prevailed, we would not be here. But when it was not present, even under an oath to tell the truth, the whole truth and nothing but the truth in a judicial matter, the impact of our Constitution must be felt. Hence, we are together today—to do our respective duties.

By voting these articles of impeachment, the House is not attempting to raise the standard of conduct to perfection for our political leadership. Such a person does not walk the world today. Everyone falls short of this mark everyday.

But political life is not so much about how an individual fails, but rather how the person reacts to that failure. For example, a person campaigning for a political office admits wrongdoing in his past and says he will not do that again. Most people accept that commitment. He is elected. Thereafter, he repeats this wrongdoing and is confronted again. What does he do? He takes steps to cover up this wrongdoing by using his workers and his friends. He lies under oath in a lawsuit which is very important to the person he is alleged to have harmed. He then takes a political poll as to whether he should tell the truth under oath. The poll indicates the voters would not forgive him for lying under oath. So he then denies the truth in a Federal grand jury. If this person is the President of the United States, the House of Representatives would consider articles of impeachment. It did and voted to impeach this President.

But do not let it be argued in these chambers that "We are not electing Saints, we are electing Presidents." Rather, let it be said that we are electing people who are imperfect and who have made mistakes in life, but who are willing to so respect this country and the Office of the President that he or she will now lay aside their own personal shortcomings and have the inner strength to discipline themselves sufficiently that they do not break the law which they themselves are sworn to uphold.

Every trial must have a beginning and this trial begins on a cold day in January 1993.

[Video presentation.]

Mr. Manager BRYANT. I had expected a video portion, but all of you heard the audio portion. As you can hear from the audio portion—perhaps some of you can see—William Jefferson Clinton, placed his left hand on the Bible in front of his wife, the Chief Justice and every American watching that day and affirmatively acknowledged his oath of office. On that every day and again in January of 1997, the President joined a privileged few. He became only the 42nd person in our Nation to make the commitment to "faithfully execute" the office of the President and to "preserve, protect and defend the Constitution." He has the complete executive power of the Nation vested in him by virtue of this Constitution.

As we progress throughout the day, I would ask that you be reminded of the importance of this oath. Before you is a copy of it and certainly available as anyone would like to look at it on breaks.

William Jefferson Clinton is a man of great distinction. He is well-educated with degrees from Georgetown University and Yale Law School. He has taught law school courses to aspiring young lawyers. He served as Governor and Attorney General for the State of Arkansas, enforcing the laws of that state. The President now directs our great Nation. He sets our agenda and creates national policy in a very public way—he is in fact a role model for many.

President Clinton also serves as the Nation's chief law enforcement officer.

It is primarily in this capacity that the President appoints Federal judges. Within the executive branch, he selected Attorney General Janet Reno and appointed each of the 93 United States Attorneys who are charged with enforcing all Federal, civil and criminal law in Federal courthouses from Anchorage, Alaska to Miami, Florida and from San Diego, California to Bangor, Maine.

Before you we have another chart which shows the schematics of the Department of Justice and how it is under the direct control of the President through his Cabinet, Attorney General and then down to such functions as the Federal Bureau of Investigation, the Drug Enforcement Administration, Immigration, U.S. Marshals Office, Bureau of Prisons and so many other very important legal functions this Federal Government performs.

As protectors of our Constitution, the U.S. Attorneys and their assistants prosecute more than 50,000 cases per year.

Through these appointments and his administration's policies, the President establishes the climate in this country for law and order. Each and every one of these 50,000 cases handled by his United States Attorneys is dependent upon the parties and witnesses telling the truth under oath. Equally as important in these proceedings is that justice not be obstructed by tampering with witnesses nor hiding evidence.

Quoting from the November 9, 1998 Constitution Subcommittee testimony of attorney Charles J. Cooper, a Washington, DC attorney, he states:

> The crimes of perjury and obstruction of justice, like the crimes of treason and bribery, are quintessentially offenses against our system of government, visiting injury immediately upon society itself, whether or not committed in connection with the exercise of official government powers. Before the framing of our Constitution and since, our law has consistently recognized that perjury primarily and directly injures the body politic, for it subverts the judicial process and this strikes at the heart of the rule of law itself.

Professor Gary McDowell, the Director at the Institute for United States Studies at the University of London, also testified in the same hearing in reference to the influential writer William Paley, and this is also in chart form for those who would like review it later. Paley saw the issue of oaths and perjury as one of morality as well as law. Because a witness swears that he will speak the truth, the whole truth and nothing but the truth, a person under oath cannot cleverly lie and not commit perjury. If the witness conceals any truth, Paley writes, that relates to the matter in adjudication, that is as much a violation of the oath, as to testify a positive falsehood. Shame or embarrassment cannot justify his concealment of truth, linguistic contortions with the words used cannot legitimately conceal a lie, or if under oath, perjury.

Professor McDowell concludes with a quote from Paley which accurately provides, I believe the essence of a lie or perjurious statement. "It is willful deceit that makes the lie; and we willfully deceive, where our expressions are not true in the sense in which we believe the hearer apprehends them."

Neither has this United States Senate been silent on the issue of perjury. You have rightfully recognized through previous impeachment proceedings the unacceptable nature of a high government official lying under oath, even in matters initially arising from what some would argue here are merely personal. In 1989, many of you present today, using the very same standard which is section 4 of the Constitution, which is set forth there, for impeaching a federal judge or the President, many of you actually voted in support of a conviction and the removal of a U.S. District judge under oath.

Indeed, truth-telling is the single most important judicial precept underpinning this great system of justice we have, a system which permits the courthouse doors to be open to all people, from the most powerful man in America to a young woman from Arkansas.

On May 6, 1994, Paula Corbin Jones attempted to open that courthouse door when she filed a Federal sexual harassment lawsuit against President Clinton. The case arose from a 1991 incident when she was a State employee and he was the Governor. Further details of the underlying allegations are not important to us today, but Ms. Jones' pursuit for the truth is worth a careful study.

The parties first litigated the question of whether Ms. Jones' lawsuit would have to be deferred until after the President left office. The Supreme Court unanimously rejected the President's contention and allowed the case to proceed without further delay.

Ms. Jones sought and, appropriately, won "her day in court." Incumbent with this victory, however, was the reasonable expectation that President Clinton would tell the truth.

After all, this was the most important case in the whole world to Paula Corbin Jones.

Notwithstanding this, that fact didn't happen, that the President told the truth. Even after the President was ordered to stand trial, pursuing the truth for Ms. Jones remained an elusive task. The evidence will indicate that President Clinton committed perjury and orchestrated a variety of efforts to obstruct justice, all of which—all of which—had the effect of preventing the discovery of truth in the Paula Jones case.

During the discovery phase, Judge Susan Webber Wright of the U.S. District Court for the Eastern District Court of Arkansas ordered the President to answer certain historical questions about his sexual relations with either State or Federal employees.

In part, Judge Wright said:

> The Court finds, therefore, that the plaintiff is entitled to information regarding any individuals with whom the President had sexual relations or proposed or sought to have sexual relations and who were during the relevant time frame state or federal employees.

Judge Wright validated Ms. Jones' right to use this accepted line of questioning in sexual harassment litigation. More often than not, these cases involve situations where "he said/she said," and they produce issues of credibility and are often done in private. Because of this, they are really difficult for a victim to prove.

Such standard questions are essential in establishing whether the defendant has committed the same kind of acts before or since—in other words, a pattern or practice of harassing conduct. The existence of such corroborative evidence, or the lack thereof, is likely to be critical in these types of cases. Both the Equal Employment Opportunity Commission guidelines and the Federal Rules of Evidence permit this type of evidence. In short, a defendant's sexual history, at least with respect to other employees, is ordinarily discoverable in a sexual harassment lawsuit.

To not expect a defendant in this type of litigation to speak the truth creates, in its worst case, a very real danger to the entire area of sexual harassment law which would be irreparably damaged and, in its best case, sends out a very wrong message. As such, the will and intent of Congress with regard to providing protection against sexual harassment in the workplace would be effectively undermined.

The "pattern and practice" witnesses whom Paula Corbin Jones was entitled to discover should have included the name of Monica Lewinsky. But before I discuss the Ms. Lewinsky matter, I want to offer three matters of cause to each of you as jurors in this very important matter.

No. 1, I do not intend to discuss the specific details of the President's encounters with Ms. Lewinsky. However, I do not want to give the Senate the impression that those encounters are irrelevant or lack serious legal implications. In fact, every day in the courtrooms all across America, victims of sexual harassment, of rape, assault, and abuse must testify, in many public cases, in order to vindicate their personal rights and society's right to be free of these intolerable acts.

The President's lies about his conduct in the Oval Office with Ms. Lewinsky also make these unseemly details highly relevant. If you are to accept the President's version about the relationship, you must in effect say to Ms. Lewinsky that she is the one who is disregarding the truth. But beyond this, his denials also directly contradict Ms. Lewinsky's testimony, not only directly contradict Ms. Lewinsky's testimony, but also contradict eight of her friends and the statements by two professional counselors with whom she contemporaneously shared details of her relationship. By law, their testimony may serve as proper and admissible evidence to corroborate her side of this important story.

No. 2, the evidence and testimony in this proceeding must be viewed as a whole; it cannot be compartmentalized. Please do not be misled into considering each event in isolation and then treating it separately. Remember, events and words that may seem innocent or even exculpatory in a vacuum may well take on a sinister or even criminal connotation when observed in the context of the whole plot.

For example, we all agree that Ms. Lewinsky testified, "No one ever told me to lie . . ." When considered alone, this statement would seem exculpatory. In the context of other evidence, however, we see that this one statement gives a misleading inference. Of course no one said, "Now, Monica, you go down there and lie." They didn't have to. Based upon their previous spoken and even unspoken words, Ms. Lewinsky knew what was expected of her. Surely, if the President were to come on to the Senate floor and give testimony during this proceeding, he would not tell you that he honestly expected her to tell the truth about their personal relationship. After all, the purpose of her filing the false affidavit was to avoid testifying in the Jones case and discussing the nature of their relationship. If she had told the truth in that affidavit, instead of lying, she would have been invited to testify immediately, if not sooner.

No. 3, throughout our presentation of the facts, especially as it relates to the various illegal acts, I ask you to pay particular attention to what I call the big picture. Look at the results of those various acts as well as who benefited. Please make a mental note now, if you can, and ask yourself always, as you look at each one of these illegal acts that are presented to you: A, What was the result of that illegal act? and, B, Who benefited from that illegal act?

I believe you will find that the evidence will show that while the President's "fingerprints" may not be directly on the evidence proving these illegal acts, the result of the acts usually inures to the benefit of the President, and the President alone. Subordinates and friends alike are drawn into this web of deceit. The President is insulated. Crimes are committed. Justice is denied. The rule of law is suspended. And this President is the beneficiary.

Some examples:

No. 1, subpoenaed evidence disappears from Ms. Lewinsky's apartment and reappears under Ms. Currie's bed. What was the result of that? Who had the benefit of that?

No. 2, Ms. Lewinsky files a false affidavit in the Jones case. What is the result of filing that false affidavit and who benefited from that?

No. 3, the President's attorney files the Lewinsky affidavit, not knowing it was false, representing to the Court that "there is absolutely no sex of any kind in any manner, shape, or form," while the President sits in the deposition and does not object to that—very silently sits in the deposition. What was the result of that? And who benefited from that filing of the affidavit?

No. 4, and finally, Ms. Lewinsky, after months of job searching in New York City, is offered a job with a Fortune 500 company in New York City within 48 hours of her signing this false affidavit. Who shared the results of that with Ms. Lewinsky? And who obtained the benefit of that?

Another example occurred in a meeting between the President and Ms. Lewinsky in July—on July 4, 1997, to be specific—when, as a part of their conversation, she mentioned she heard someone from Newsweek was working on a story about Kathleen Willey. The President has Ms. Lewinsky back for a visit on July 14, some 10 days later, following his return from an overseas trip. She was questioned about the Willey story, and specifically if Linda Tripp had been her source.

Important to this point—important to this point—the President then asked Ms. Lewinsky to try to persuade Ms. Tripp to call White House Legal Counsel Bruce Lindsey. The President told her to notify Ms. Currie the following day, "without getting into the details with her, even mentioning names with her," whether Ms. Lewinsky had "mission accomplished" with Linda. And as you will learn from Mr. HUTCHINSON, who will follow me with his presentation, this is very similar to the method of operation with another job the President requested be done, which in that case succeeded with a "mission accomplished." I ask you to watch for that in Mr. HUTCHINSON's presentation.

I want to now rewind the clock back to November of 1995. We are here in Washington where Ms. Lewinsky has been working at the White House since July of 1995.

As you continue to listen to the evidence, from this point on November 15 forward, remember that Ms. Lewinsky and the President were alone in the Oval Office workplace area at least 21 times. And I have a list of these, in chart form, beginning in November of 1995, and going through 1996 and into the early part of 1997, continuing through the year. During that time, they had at least 11 of the so-called salacious encounters there in the workplace at various times during the day and night: Three in 1995, five in 1996, and three in 1997.

They also had in excess of 50 telephone conversations, most of which appear to have been telephone calls to and from Ms. Lewinsky's home. And I have a schedule of all these telephone calls to show you, the 50-plus telephone calls. Also, they exchanged some 64 gifts, with the President receiving 40 of these gives and Ms. Lewinsky receiving 24 of these gifts. And again we have charts that reflect the receipt of both sets of gifts. And again these charts will be here in the front, always available for your inspection.

We also note that their affair began on November 15th. Interestingly, there is even a conflict here with the President. According to Ms. Lewinsky, they had never spoken to each other up to that point. Yet, he asked an unknown intern into the Oval Office and kissed her and then invited her back to return later that day, when the two engaged in the first of the 11 acts of misconduct.

The contradiction is in the statement that the President relied upon in his grand jury testimony that has been referenced earlier—very carefully worded—and that statement, the President gave in testimony before the grand jury about meeting in this relationship. And he says, "I regret that what began as a friendship came to include this conduct . . ." Almost as if it had evolved over a period of time. So there is very clearly a conflict there.

As Ms. Lewinsky's internship was ending that year, she did apply and receive a paying job with the White House Office of Legislative Affairs. This position allowed her even more access to the Oval Office area. She remained a White House employee until April 1996 when she was reassigned to the Pentagon. The proof will show that Ms. Evelyn Lieberman, Deputy Chief of Staff at the time, believed that the transfer was necessary because Ms.

Lewinsky was so persistent in her efforts to be near the President. Although Ms. Lieberman could not recall hearing any rumors linking her and the President, she acknowledged the President was vulnerable to these kinds of rumors. While Ms. Lewinsky tried to return to work in the White House, her absence was appreciated by those on the President's staff who wanted to protect him.

After she began her job at the Pentagon in April, there was no further physical contact with the President through the 1996 election and the remainder of that year. The two communicated by telephone and on occasion saw each other at public events. Their only attempt at a private visit in the Oval Office was thwarted because Ms. Lieberman was nearby. On December 17, she attended a holiday celebration at the White House and had a photograph made shaking hands with the President.

However, the evidence establishes that in 1997, Ms. Lewinsky was more successful in arranging visits to the White House. This was because she used the discreet assistance of Ms. Currie, the President's secretary, to avoid the likes of Ms. Lieberman. Ms. Currie indicated she did not want to know the details of this relationship. Ms. Currie testified on one occasion when Ms. Lewinksy told her, "As long as no one saw us—and no one did—then nothing happened." Ms. Currie responded, "Don't want to hear it. Don't say any more. I don't want to hear any more."

Early on during their secret liaisons, the two concocted a cover story to use if discovered. Ms. Lewinksy was to say she was bringing papers to the President. The evidence will show that statement to be false. The only papers that she ever brought were personal messages having nothing to do with her duties or the President's. The cover story plays an important role in the later perjuries and the obstruction of justice.

Ms. Lewinksy stated that the President did not expressly instruct her to lie. He did, however, suggest, indeed, the "misleading" cover story. When she assured him that she planned to lie about the relationship, he responded approvingly. On the frequent occasions that she promised that she would "always deny" the relationship and "always protect him," for example, the President responded, in her recollection, "That's good," or something affirmative. Not "Don't deny it."

The evidence will establish further that the two of them had, in her words, "a mutual understanding" that they would "keep this private, so that meant deny it and . . . take whatever appropriate steps needed to be taken." When she and the President both were subpoenaed in the Jones case, Ms. Lewinksy anticipated that "as we had on every other occasion and every other instance of this relationship, we would deny it."

In his grand jury testimony, President Clinton acknowledged that he and Ms. Lewinsky "might have talked about what to do in a nonlegal context" to hide their relationship and that he "might well have said" that Ms. Lewinsky should tell people she was bringing letters to him or coming to visit Ms. Currie. He always stated that "I never asked Ms. Lewinsky to lie."

But neither did the President ever say that they must now tell the truth under oath; to the contrary, as Ms. Lewinsky stated: "It wasn't as if the President called me and said, 'You know, Monica, you're on the witness list, this is going to be really hard for us, we're going to have to tell the truth and be humiliated in front of the entire world about what we've done,' which I would have fought him on probably," she said. "That was different. By not calling me and saying that, you know, I knew what that meant," according to Monica Lewinsky.

In a related but later incident that Mr. HUTCHINSON may refer to, Monica Lewinsky testified that President Clinton telephoned her at home around 2 o'clock or 3 o'clock one morning on December 17, 1997—2:00 or 2:30 a.m. He told her that her name was on the list of possible witnesses to be called in the Paula Jones lawsuit. When asked what to do if she was subpoenaed, the President suggested that she could sign an affidavit. Ms. Lewinsky indicated that she was 100 percent sure that he had suggested that she might want to sign an affidavit. She understood his advice to mean that she might be able to execute an affidavit that would not disclose the true nature of their relationship.

When Ms. Lewinsky agreed to that false affidavit, she told the President by telephone that she would be signing it and asked if he wanted to see it before she signed it. According to Ms. Lewinsky, the President responded that he did not, as he had already seen about 15 others.

Concurrent with these events I just described, the evidence will further demonstrate that as Ms. Lewinsky attempted to return to work at the White House after the 1996 elections, she spoke with the President. According to Betty Currie, the President instructed Betty Currie and Marsha Scott, Deputy Director of Personnel, to assist in her return to the White House. In the spring of 1997, she met with Ms. Scott. She complained in subsequent notes to Ms. Scott and the President about no progress being made with her getting back to the White House. On July 3rd of that year, she dispatched a more formal letter to the President—in fact, using the salutation, "Dear Sir,"—and raising a possible threat that she might have to tell her parents about why she no longer had a job at the White House if they don't get her another job. She also indicated a possible interest in a job in New York at the United Nations. The President and Ms. Lewinsky met the next day in what Ms. Lewinsky characterized as a "very emotional" visit, including the President scolding her that it was illegal to threaten the President of the United States. Their conversation eventually moved on to other topics, though primarily her complaining about his failure to get her a job at the White House.

Continuing with Ms. Lewinsky's effort to return to work near the President, there was a July 16th meeting and September 3rd telephone call with Ms. Scott. On the evening of September 30, the President advised Ms. Lewinsky that he would have Chief of Staff Erskine Bowles help with a job search, and Bowles later passed this on to John Podesta, although each recalled their involvement occurring earlier in the year.

A few days later, however, her hopes of a job at the White House quickly ended. On October 6, she had a conversation with Linda Tripp who told her that she would never return to the White House, according to a friend of hers on the staff. Learning this "secondhand" was, according to Ms. Lewinsky, the "straw that broke the camel's back." She decided to ask the President for a job in New York with the United Nations and sent him a letter to that effect on October 7.

During an October 11 meeting with the President, he suggested that she give him a list of New York companies which interested her. She asked if Vernon Jordan might also help. Five days later, she provided the President with her "wish list" and indicated that she was no longer interested in the U.N. position, although she did receive an offer on November 24th and declined it on January 5, 1998.

After this meeting with the President, arrangements were made through the President and Ms. Currie for Ms. Lewinsky to meet with Mr. Jordan. On the morning of November 5, 1997, Mr. Jordan spoke by telephone with the President about 5 minutes and later met with Ms. Lewinsky for the first time for about 20 minutes. According to Ms. Lewinsky, Mr. Jordan told her he had spoken with the President, that she came highly recommended and that "We're in business."

However, the evidence reflects that Mr. Jordan took no steps to help Ms. Lewinsky until early December of that year after she appeared on the witness list in the Jones case. Actually, Mr. Jordan testified in his grand jury testimony that he had no recollection of even having met Ms. Lewinsky on November 5.

When he was shown documentary evidence demonstrating that his first meeting with Ms. Lewinsky occurred in early November, he acknowledged that such meeting "was entirely possible." You can see that was not to be a high priority for Mr. Jordan at that time, until December.

For many months, Ms. Lewinsky had not been able to find a job to her satisfaction—even without the perceived "help" of various people. Then in December of 1997, something happened which caused those interested in finding Ms. Lewinsky a job in New York to intensify their search. Within 48 hours of her signing this false affidavit in the Paula Jones case, Ms. Lewinsky had landed a job with a prestigious Fortune 500 Company.

It is anticipated that attorneys for the President will present arguments which will contest much of the relationship with Monica Lewinsky. The President has maintained throughout the last several months that while there was no sexual relationship or sexual affair, in fact, there was some type of inappropriate, intimate contact with her. What has now been dubbed as "legal gymnastics" on the part of the President has made its appearance.

Other examples followed. Within his definition of the word "alone," he denies being alone with Ms. Lewinsky at any time in the Oval Office. He also questions the definition of the word "is." "It depends on what the word 'is' means in how you answer a particular question." Further, we would expect the President to continue to disavow knowledge of why evidence detrimental to his defense in the Jones case was removed from Ms. Lewinsky's apartment and hidden beneath Ms. Currie's bed or knowledge of how Ms. Lewinsky found herself with an employment offer in New York virtually at the same time she finally executed an affidavit in the Jones case.

Unfortunately, for your search for the truth in these proceedings, the President continues today to parse his words and use "legal hairsplitting" in his defense. I cite for your consideration his Answer filed with this body just days ago. For instance:

1. Responding in part to the impeachment article I, the President persists in a wrongheaded fashion with his legal hairsplitting of the term "sexual relations," which permits him to define that term in such a way that in the particular salacious act we are talking about here, one person has sex and the other person does not. As a graduate of one of the finest law schools in America and as a former law professor and attorney general for the State of Arkansas, the President knows better. I have this statement here extracted out of the President's Answer to this proceeding.

2. Responding to both articles of impeachment, the President now would have you believe that he "was not focusing" when his attorney, Bob Bennett, was objecting during the deposition and attempting to cut off a very important line of questioning of the President by representing to Judge Wright that Ms. Lewinsky's affidavit proved that there is no need to go into this testimony about the President's life. He said that this affidavit proves that "there is absolutely no sex of any kind, in any manner, shape or form." Remember that this is the same President who now pleads that he lost his focus during this very important part of this deposition. This is the very same President who is renowned for his intelligence and his ability "to compartmentalize," to concentrate and focus on whatever matter is at hand. And now he comes before this Senate, to each one of you, in his Answer, by and through his attorneys, and pleads that he simply wasn't paying attention at this very important point during his own deposition. In Tennessee, we have a saying for situations like that: "That dog won't hunt."

3. In his further response to article I, the President effectively admits guilt to obstruction. As I read this, his pleadings refer to the President himself, and he states that he, the President, "truthfully explained to the grand jury his efforts to answer the questions in the Jones deposition without disclosing his relationship with Ms. Lewinsky." So he said he did answer the questions in the Jones deposition in a way so as not to disclose his relationship with Ms. Lewinsky. At the bottom of the same page, he denies that he attempted "to impede the discovery of evidence in the Jones case." Think about this with me for a minute. Basically, the purpose of the Jones deposition of the President was to secure truthful testimony about these kinds of "pattern and practice" witnesses, and therein discover the likes of Monica Lewinsky. That is the purpose of being there. The President admitted in his Answer that he purposely answered questions so as not to disclose his relationship with Ms. Lewinsky. Said another way, he intentionally answered questions to avoid the discovery of one of these female employees with whom he was sexually involved. That is precisely, folks, what impeding the discovery of evidence is.

I ask you, if you get an opportunity, to look at this very closely.

4. In his answer to article II, the President "denies that he encouraged Monica Lewinsky to execute a false affidavit in the Jones case." When everything is said and done, Ms. Lewinsky had no motivation, no reason whatsoever to want to commit a crime by willfully submitting a false affidavit with a court of law. She really did not need to do this at that point in her life, but this 20-something-year-old young lady was listening to the most powerful man in the United States, whom she greatly admired, hearing him effectively instruct her to file a false affidavit to avoid having to testify about their relationship. And in order to do that, she had to lie about the physical aspects of their relationship. According to her, the President didn't even want to see that actual affidavit because he had seen 15 more just like it and as such he knew what it would be.

5. In an additional response to article II, the President answers and asserts that "he believed that Ms. Lewinsky could have filed a limited and truthful affidavit that might have enabled her to avoid having to testify in the Jones case." That is an incredible statement. That is an incredible statement given the fact that the President knew firsthand of the extent of their sexual relationship, and he also knew that the Jones discovery efforts were specifically after that type of conduct. Even with the best of the legal hairsplitting, it is still difficult to envision a truthful affidavit from Ms. Lewinsky that could have skirted this issue enough to avoid testifying.

And if you really think the President had this belief, don't you think he would have accepted Ms. Lewinsky's offer to review her affidavit and perhaps share this bit of wisdom he had with her before she signed it and lied? After all, in this answer he just filed, he says he had an out for her, a way for her to have the best of both worlds—not to have to lie and still avoid testifying in the Jones case. Why didn't he share that with her when she gave him the opportunity if he in fact had such an idea? I suggest that perhaps that is a recent idea.

Even if, for some reason, you don't believe Ms. Lewinsky offered to share that affidavit with him, don't you think it still would have been in the President's best interest to give Ms. Lewinsky his thoughts before she violated the law with a completely false affidavit?

Now, indeed, is the time to stop the legal gymnastics and hairsplitting and deal with these charges and facts appropriately.

As a House manager, I believe I can speak for all of us out of a sense of fairness, and again request that we and the President be permitted to call witnesses. I submit that the state of the evidence is such that unless and until the President has the opportunity to confront and cross-examine witnesses like Ms. Lewinsky, and himself, to testify if he desires, there could not be any doubt of his guilt on the facts. A reasonable and impartial review of the record as it presently exists demands nothing less than a guilty verdict.

While it has been the consistent defense of the White House to be inconsistent, it still comes as something of a surprise that the President has not made a stronger case for the calling of witnesses. Before now, he has aggressively sought the opportunity to challenge the truth and veracity of witnesses in these impeachment proceedings. During the hearings in the House, which many believe are analogous to a grand jury proceeding, the President's defenders and his attorneys consistently complained of the failure to call witnesses and the lack of fairness and due process. Almost every day, there were partisan attacks from the White House and its emissaries who were dispatched throughout the media talk shows with the same complaints of no witnesses.

And always, our measured response was a calm assurance that there would be witnesses called during the trial phase in the Senate. Is there any doubt that our forefathers intended a two-step impeachment proceeding?

The House would function as the Grand Jury and determine whether to charge—to impeach. Then you, as the trier of fact, would function as the jury to try the case and weigh the testimony of the fact witnesses. In recent days, some have publically asserted that the House is hypocritical because it didn't call some of the fact witnesses it now asks to call in the Senate. For the record, it must be noted that the House Judiciary Committee, out of an abundance of fairness, did allow the President's defense team 30 hours in which to present any witnesses that they could have chosen and they could have examined.

But any allegation of hypocrisy certainly appears to miss the point that the writers of our Constitution never contemplated two separate trials for an impeachment proceeding. But now we would respectfully suggest is the time for witnesses.

All Americans, including the President, are entitled to enjoy a private family life, free from public or governmental scrutiny. But the privacy concerns raised in this case are subject to limits, three of which I will briefly discuss here.

First. The first limit was imposed when the President was sued in federal court for alleged sexual harassment. The evidence in such litigation is often personal. At times, that evidence is highly embarrassing for both plaintiff and defendant. As Judge Wright noted at the President's January 1998 deposition, "I have never had a sexual harassment case where there was not some embarrassment." Nevertheless, Congress and the Supreme Court have concluded that embarrassment-related concerns must give way to the greater interest in allowing aggrieved parties to pursue their claims. Courts have long recognized the difficulties of proving sexual harassment in the work place, inasmuch as improper or unlawful behavior often takes place in private. To excuse a party who lied or concealed evidence on the ground that the evidence covered only "personal" or "private" behavior would frustrate the goals that Congress and the courts have sought to achieve in enacting and interpreting the Nations's sexual harassment laws. That is particularly true when the conduct that is being concealed—sexual relations in the workplace between a high official and a young subordinate employee—itself conflicts with those goals.

Second. The second limit was imposed when Judge Wright required disclosure of the precise information that is in part the subject of this hearing today. A federal judge specifically ordered the President, on more than one occasion, to provide the requested information about relationships with other women, including Ms. Lewinsky. The fact that Judge Wright later determined that the evidence would not be admissible at trial, and still later granted judgment in the President's favor, does not change the President's legal duty at the time he testified. Like every litigant, the President was entitled to object to the discovery questions, and to seek guidance from the court if he thought those questions were improper. But having failed to convince the court that his objections were well founded, the President was duty bound to testify truthfully and fully. Perjury and attempts to obstruct the gathering of evidence can never be an acceptable response to a court order, regardless of the eventual course or outcome of the litigation.

The Supreme Court has spoken forcefully about perjury and other forms of obstruction of justice: "In this constitutional process of securing a witness' testimony, perjury simply has no place whatever. Perjured testimony is an obvious and flagrant affront to the basic concepts of judicial proceedings. Effective restraints against this type of egregious offense are therefore imperative."

The insidious effects of perjury occur whether the case is civil or criminal. Only a few years ago, the Supreme Court considered a false statement made in a civil administrative proceeding: "False testimony in a formal proceeding is intolerable. We must neither reward nor condone such a 'flagrant affront' to truth-seeking function of adversary proceedings * * * Perjury should be severely sanctioned in appropriate cases." Stated more simply, "perjury is an obstruction of justice."

Third. The third limit is unique to the President. "The Presidency is more than an executive responsibility. It is the inspiring symbol of all that is highest in American purpose and ideals." As the head of the Executive Branch, the President has the constitutional duty to "take Care that the Laws be faithfully executed." The President gave his testimony in the Jones case under oath and in the presence of a federal judge, a member of a co-equal branch of government; he then testified before a federal grand jury, a body of citizens who had themselves taken an oath to seek the truth. In view of the enormous trust and responsibility attendant to his high Office, the President has a manifest duty to ensure that his conduct at all times complies with the law of the land.

In sum, perjury and acts that obstruct justice by any citizen—whether in a criminal case, a grand jury investigation, a congressional hearing, a civil trial or civil discovery—are profoundly serious matters. When such acts are committed by the President of the United States, those acts are grounds for conviction and removal from his Office.

Mr. LOTT addressed the Chair.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that there now be a recess of the proceedings for 15 minutes.

The CHIEF JUSTICE. Is there objection?

Mr. Manager BRYANT. Mr. Chief Justice, I have just about 1 minute, and I will conclude.

Mr. LOTT. I withhold my request.

The CHIEF JUSTICE. Very well.

Mr. Manager BRYANT. Thank you.

As I reach the conclusion of my presentation, the time line is now in December of 1997. Following her November 5th meeting with Mr. Jordan, Ms. Lewinsky had no communication with him or the President for a month. Then in early December, the parties in the Jones case exchanged witness lists and Ms. Lewinsky was scheduled as a potential witness by the Jones' attorneys. On or about that same day, Ms. Lewinsky attempted to make an uninvited visit to the White House and later that day, was allowed in by the President. But it was during this time, in December of 1997, that some of the seams began to unravel for the President.

I will conclude my remarks at this point and thank the Chief Justice and the Members of the Senate for their careful attention. My colleague from Arkansas, Mr. HUTCHINSON will follow me now or at the end of any recess as may be necessary.

RECESS

Mr. LOTT. Mr. Chief Justice, my apologies to the manager for the interruption at the end of his remarks.

I renew my request of unanimous consent to take a 15-minute recess.

The CHIEF JUSTICE. In the absence of an objection, it is so ordered.

(Thereupon, the Senate, sitting as a Court of Impeachment, at 3:07 p.m., recessed until 3:30 p.m.)

The CHIEF JUSTICE. The majority leader is recognized.

Mr. LOTT. I believe, Mr. Chief Justice, we are prepared now to go forward with the next manager's presentation.

The CHIEF JUSTICE. Very well, the Chair recognizes Manager HUTCHINSON.

Mr. Manager HUTCHINSON. Mr. Chief Justice, Senators, I am ASA HUTCHINSON, a Member of Congress from the Third Congressional District of Arkansas. I am grateful for this opportunity, although it comes with deep regret, to be before you. I do want to tell you in advance that we have presented to you, on your tables, a selection of charts that I will be referring to here so everyone will have the advantage of being able to see at least in some fashion the charts to which I will be referring. And we will have the charts here as well.

This is certainly a humbling experience for a smalltown lawyer. I learned to love and to respect the law trying cases in the courtrooms of rural Arkansas. The scene is different in this setting, in this historic Chamber with the Chief Justice presiding and Senators sitting as jurors. But what is at stake remains the same.

In every case heard in every courtroom across this great country, it is the truth, it is justice, it is the law that are at stake. In this journey on Earth, there is nothing of greater consequence for us to devote our energies than to search for the truth, to pursue equal justice and to uphold the law. It is for those reasons that I serve as a manager. And as you, I hope that I can help in some way to bring this matter to a conclusion for our country. This afternoon I will be discussing the evidence and the testimony from witnesses that we do hope to call, and during my presentation I will be focusing on the evidence that demonstrates obstruction of justice under article II.

You might wonder, well, why are we going to article II before we have covered article I on perjury? And the answer is that in a chronological flow, article II, the obstruction facts, precede much of the perjury allegations. And so, following my presentation, Manager ROGAN will present article I on perjury.

The presentation I make will be based upon the record, the evidence, the facts that have been accumulated, and I want you to know that I am going to be presenting those facts, and from time to time I will argue those facts. I believe they are well supported in the record, but I urge each of you, if you ever find anything that you question, to search the record and verify the facts, because I do not intend to misrepresent anything to this body. In fact, we will be submitting to each of your offices my presentation with annotations to the record, to the grand jury transcripts which will tie in the facts that I present to you. Again, I believe and trust that you will find that they are well supported.

So let's start with obstruction of justice. Later on, there will be a full discussion of the law on obstruction of justice, but for our purposes, it is simply any corrupt act or attempt to influence or impede the proper functioning of our system of justice. It is a criminal offense, a felony, and it has historically been an impeachable offense.

Let me first say, it is not a crime nor an impeachable offense to engage in inappropriate personal conduct. Nor is it a crime to obstruct or conceal personal embarrassing facts or relationships. It might be offensive, but there are no constitutional consequences. But as we go through the facts of the case, the evidence will show in this case that there was a scheme that was developed to obstruct the administration of justice, and that is illegal. And the obstruction of justice is of great consequence and significance to the integrity of our Nation when committed by anyone, but particularly by the Chief Executive of our land, the President of the United States.

Mr. BRYANT took us factually up to a certain point pertaining to the job search. This is chart No. 1 that you have before you. This puts it in perspective a little bit, and just for a brief review. You go back in the calendar, back into October. That is when Ms. Lewinsky sends the President her wish list for a list of jobs. And then shortly after that, Ms. Currie faxes Lewinsky the resume to Ambassador Richardson, and Ambassador Richardson gets involved in the job search.

October 30, the President promised to arrange a meeting between Lewinsky and Jordan. This was set up in November. It was actually November 5. But preceding that, there was a job offer at the United Nations extended to Ms. Lewinsky. Ms. Lewinsky decided that she was not interested in a job at the United Nations, she wanted to go into the private sector. And so that was the purpose on November 5 of the meeting between Jordan and Lewinsky. That is when Mr. Jordan says, "We're in business." But the facts will show that there was nothing really done in November, and that is when I will get in a little bit more to my presentation, and then I will get into December when some things happened there that picked up speed on this issue.

The obstruction, for our purposes, started on December 5, 1997, and that is when the witness list from the Paula Jones case was faxed to the President's lawyers. At that point, the wheels of obstruction started rolling, and they did not stop until the President successfully blocked the truth from coming out in the civil rights case.

These acts of obstruction included attempts to improperly influence a witness in a civil rights case—that is Monica Lewinsky—the procurement and filing of a false affidavit in the case; unlawful attempts to influence the testimony of a key witness, Betty Currie; the willful concealment of evidence under subpoena in that case, which are the gifts of December 28; and illegally influencing the testimony of witnesses—that is the aides who testified before the grand jury—before the grand jury of the United States. Each of these areas of obstruction will be covered in my presentation today.

As I said, it began on Friday, December 5, when the witness list came from the Paula Jones case. Shortly thereafter, the President learned that the list included Monica Lewinsky. This had to be startling news to the President, because if the truth about his relationship with a subordinate employee was known, the civil rights case against him would be strengthened and it might have totally changed the outcome.

But to compound the problem, less than a week later, Judge Wright, Federal district judge in Arkansas, on December 11, issued an order, and that order directed that the President had to answer questions concerning other relationships that he might have had during a particular timeframe with any State or Federal employee. And when I say "relationships," I am speaking of sexual relationships. So Judge Wright entered the order that is not in your stack, but I have it here. It was filed on December 11 in the district court in Arkansas and directs the President that he has to answer those questions within a timeframe, as Mr. BRYANT said, which is typical in a civil rights case of this nature.

The White House knew that Monica was on the witness list. The President knew that it was likely that she would be subpoenaed as a witness and that her truthful testimony would hurt his case.

What did the President do? What he had to do was he made sure that Monica Lewinsky was on his team and under control. And then on December 17, the President finally called Ms. Lewinsky to let her know she was on the list. This was a call between 2 a.m. and 2:30 a.m. in the morning.

Now, what happened in the time between the President learning Monica Lewinsky was on the list and when he notified her of that fact on December 17 is very important. The President, during that timeframe, talked to his friend, his confidante and his problem-solver, Vernon Jordan. Mr. Jordan had come to the President's rescue on previous occasions. He was instrumental in securing consulting contracts for Mr. Webb Hubbell while Mr. Hubbell was under investigation by the independent counsel.

Let me parenthetically go to that point, right before Mr. Hubbell announced his resignation from the Justice Department.

During that timeframe, there was a meeting at the White House in which the President, the First Lady and others were present. After that meeting, Vernon Jordan agreed to help obtain financial assistance for Mr. Hubbell. Mr.

Jordan then introduced Mr. Hubbell to the "right people." The introduction was successful, and Mr. Hubbell obtained a $100,000 contract. The "right people" that Mr. Jordan contacted happened to be the same right people for both Mr. Hubbell and ultimately for Monica Lewinsky, which is the parent company of Revlon. So the President was aware that Mr. Jordan had the contacts and the track record to be of assistance to the President in delicate matters.

Now let's go back a little. Monica Lewinsky had been looking for a good-paying and high-profile job in New York, since the previous July, as I pointed out.

She had been offered a job at the United Nations, but she wanted to work in the private sector. She was not having much success, and then in early November it was Betty Currie who arranged a meeting with Vernon Jordan, which was ultimately on November 5. At this meeting, Ms. Lewinsky met with Mr. Jordan for about 20 minutes.

Now, let's refer to Mr. Vernon Jordan's grand jury testimony on that meeting that occurred on November 5. And you have that, and it should be your chart No. 2, or exhibit 2.

As Mr. Jordan testified before the Federal grand jury on March 3, 1998, in reference to the November 5 meeting, he testifies:

> I have no recollection of an early November meeting with Ms. Monica Lewinsky. I have absolutely no recollection of it and I have no record of it.

He goes on to testify, at page 76 of the grand jury testimony. Question:

> Is it fair to say that back in November getting Monica Lewinsky a job on any fast pace was not any priority of yours?

His answer:

> I think that's fair to say.

Now, let's stop there for a moment. What happened as a result of this meeting? No action followed whatsoever. No job interviews were arranged and there were no further contacts with Mr. Jordan. Mr. Jordan made no effort to find a job for Ms. Lewinsky for over a month. Indeed, it was so unimportant to him that he "had no recollection of an early November meeting," and, in fact, he testified finding her a job was not a priority. And then you will see that during this timeframe the President's attitude was exactly the same.

And so look at the same exhibit 2, the last item on that chart, where it refers to Monica Lewinsky's grand jury testimony. And there she is referring to a December 6 meeting with the President.

> I think I said that . . . I was supposed to get in touch with Mr. Jordan the previous week and that things did not work out and that nothing had really happened yet [on the job front].

And the question was:

> Did the President say what he was going to do?

The answer:

> I think he said he would—you know, this was sort of typical of him, to sort of say, "Oh I'll talk to him. I'll get on it."

So you can see from that that it was not a high priority for the President, either. It was: Sure, I'll get to that. I will do that.

It was clear from Monica Lewinsky that nothing was happening.

But then the President's attitude suddenly changed. What started out as a favor for Betty Currie dramatically changed after Ms. Lewinsky became a witness, and the judge's order was issued, again, on December 11. And at that time, the President talked personally—personally—to Mr. Jordan and requested his help in getting Ms. Lewinsky a job. And that would be, again, back on exhibit 2 on that chart, the third item of testimony there; back to Mr. Jordan, his grand jury testimony, May 5, 1998.

The question is:

> But what is also clear is that as of this date, December 11th, you are clear that at that point you had made a decision that you would try to make some calls to help get her a job.

His answer:

> There is no question about that.

And so what triggered—let's look at the chain of events. The witness list came in. The judge's order came in. That triggered the President to action. And the President triggered Vernon Jordan into action. That chain reaction here is what moved the job search along.

Now, if we had Mr. Jordan on the witness stand—which I hope to be able to call Mr. Jordan—you would need to probe where his loyalties lie, listen to the tone of his voice, look into his eyes and determine the truthfulness of his statements. You must decide whether he is telling the truth or withholding information.

And so let's go to exhibit 3 in your booklet. Again, recalling Mr. Jordan, he testifies about that meeting. He testifies, in his March 3, 1998, grand jury testimony:

> I am certain after the 11th that I had a conversation with the President and as a part of that conversation I said to him that Betty Currie had called me about Monica Lewinsky. And the conversation was that he knew about her situation which was that she was pushed out of the White House, that she wanted to go to New York and he thanked me for helping her.

Remember what else happened on that day, again, the same day that Judge Wright ruled that the questions about other relationships could be asked by the Jones' attorneys.

Now, let's go back again to Mr. Jordan's testimony. What does he say about the involvement of the President of the United States in regard to these jobs? You look at exhibit 4. That is in your booklet. This is, again, Vernon Jordan's grand jury transcript of June 9, 1998.

Now, the question is on a different issue. The question is about why did he tell the White House that Frank Carter—Frank Carter was the attorney for Monica Lewinsky that Vernon Jordan arranged and introduced to Monica Lewinsky. He was hired. And at whatever point he was terminated, then Vernon Jordan notified the President. So the question relates to that:

> Why are you trying to tell someone at the White House that this has happened. [Carter had been fired]?

Answer:

> Thought they had a right to know.

Question:

> Why?

And here is the answer that is critical for my point:

> The President asked me to get Monica Lewinsky a job. I got her a lawyer. The Drudge Report is out and she has new counsel. I thought that was information that they ought to have. . . .

"The President asked me to get Monica Lewinsky a job." Clear, straightforward testimony; no doubt about it.

Then go on down to page 58 of his grand jury testimony of June 9.

The question:

> Why did you think the President needed to know that Frank Carter had been replaced?

Answer:

> Information. He knew that I had gotten her a job, he knew that I had gotten her a lawyer. Information. He was interested in this matter. He is the source of it coming to my attention in the first place.

"He is the source of it coming to my attention in the first place." Remember he had already met with Betty Currie. Nothing was happening in the November timeframe. Nothing was happening. Vernon Jordan—it was not a priority. Then the President of the United States called him, and it became a priority. And that is who he was acting for in trying to get Monica Lewinsky a job.

At this point we do not know all that the President was telling Vernon Jordan, but we do know that there were numerous calls back and forth between Mr. Jordan and the President. There were numerous calls being made by Mr. Jordan on behalf of Monica Lewinsky searching for a job, and that despite the fact that Monica Lewinsky did not know that she was witnessed—she did not know she was a witness—the President knew that she was a witness during his intensified efforts to get her a job.

Now, the President's counselors have made a defense that the job search started before Monica Lewinsky was a witness and there was nothing wrong with that. My response to that is, it is true there is nothing wrong with a public official, under the right circumstances, helping someone get a job. And what might have started out being innocent, if you accept that argument, crossed the line—crossed the line—whenever it was tied and interconnected with the President's desire to get a false affidavit from Monica Lewinsky, and whenever the job is out there and preparing the false affidavit, you will see that they are totally interconnected, intertwined, interrelated; and that is where the line has crossed into obstruction.

For example, when the President was waiting on Ms. Lewinsky to sign the false affidavit in the Jones case during the critical time in January a problem developed. The job interviews were unproductive, despite the numerous calls by Mr. Jordan. On one particular day, Monica called Mr. Jordan and said the interview with Revlon did not go well. Mr. Jordan, what did he do? He picked up the phone to the CEO of—the president of the company, Mr. Perelman, to, as Vernon Jordan testified, "make things happen—if they could happen." That is the request from Mr. Jordan to the CEO of a company, after a job interview with Monica Lewinsky did not go well.

What happened? Things happened. He did, he made things happen. Monica Lewinsky got a job. The affidavit was signed and the President was informed by Mr. Jordan, through Betty Currie, that the mission was accomplished.

The question here is not why did the President do a favor for an ex-intern, but why did he use the influence of his office to make sure it happened? The answer is that he was willing to obstruct, impede justice by improperly influencing a witness in order to protect himself in a civil rights case.

The next step in the obstruction is the false affidavit. This is directly related to the job mission. The President needed the signature of Monica Lewinsky on the false affidavit, and that was assured by the efforts to secure her a job. Again, the President brought Ms. Lewinsky into the loop on December 17. Over 10 days after the witness list was received by the President, the President was ready to tell Monica the news.

That timeframe is important. He gets the witness list. He could have called Monica Lewinsky immediately, but he needed 7 days because he needed to make sure the job situation was in gear. And in fact, the day after, if you look back on exhibit 1, you will see that the day after the December 17 timeframe that she was informed that she was on the witness list, the next day she already had lined up job interviews for her. So she felt confident. But she was notified on December 17. Between 2 and 2:30 a.m., her phone rang. It was the President of the United States. The President said that he had seen the witness list in the case and her name was on it. Ms. Lewinsky asked what she should do if subpoenaed, and the President responded, "Well, maybe you can sign an affidavit."

Well, how would this work? Both parties knew that the affidavit would need to be false and misleading in order to accomplish the desired result. Clearly, truthful testimony by Monica Lewinsky would make her a witness, would not keep her away from testifying. Only a false affidavit would avoid the deposition.

So look at what I have marked as exhibit 4.1, which is just a review of the key dates on this job search. Again, November 5 was the first meeting between Jordan and Ms. Lewinsky. In November nothing happened. According to Jordan, "not a high priority." December 5, the President receives the witness list. The 11th, things intensify with Judge Wright's order. The 11th, the President talks to Mr. Jordan about the job for Monica. He gets into action. On the 17th, they are ready to tell Monica that she is on the witness list. And then, on the 19th, she is actually served with a subpoena. Again, remember, after she was finally notified, it was the next day that she had the job interviews.

Now, still we will spend some time on the December 17 conversation, the day that Monica Lewinsky was notified that she was on the witness list. During that conversation, the President had a very pointed suggestion for Ms. Lewinsky in a suggestion that left no doubt about his purpose and the intended consequences. He did not say specifically, "Go in and lie." This is something that you will hear, and Monica Lewinsky testified in her grand jury testimony: "The President never told me to lie."

How do you tell people to lie? You can tell them the facts that they can use that would, in substance, be a false statement; or you can say, "Go in and lie and make up your own false testimony." The President chose to give her the ideas as to what she could testify to that would be false, but he never said the words, "You need to go in and lie." So what he did say to her was, "You know, you can always say you were coming to see Betty or that you were bringing me letters."

That, ladies and gentlemen of the Senate, is a false representation, is a false statement that he is telling Ms. Lewinsky to utter. Remember, at this point the President knows she is a witness, and what does he do? As evidenced by the testimony of Monica Lewinsky, he encourages her to lie, to say, "You can always say you were coming to see Betty or that you were bringing me letters."

It should also be remembered that the President, when questioned about encouraging Monica Lewinsky to lie, has denied these allegations, and therefore there is certainly a conflict in the testimony. It is our belief that Ms. Lewinsky's testimony is credible and she has the motive to tell the truth because of her immunity agreement with the independent counsel, where she gets in trouble only if she lies; whereas the President has the motive to cover up and to testify falsely.

In order to understand the significance of this statement made by the President, it is necessary to recall the cover stories that the President and Ms. Lewinsky had previously concocted in order to deceive those people who might inquire. It was to deceive those people that they worked with. The difference in the initial cover stories, though, to protect the President and Monica from an embarrassing personal relationship, from friends and coworkers and the media, now it is in a different arena, with the pending civil rights case and Ms. Lewinsky being on the witness list.

Despite the legal responsibilities, the President made the decision to continue the pattern of lying which ultimately became an obstruction of the administration of justice. We are still on December 17, when the President called Monica at 2 a.m. on that particular day to tell her she was on the witness list, to remind her of the cover stories. Monica Lewinsky testified, when the President brought up the cover story, she understood that the two of them would continue their preexisting pattern of deception and it became clear that the President had no intention of making his relationship with a subordinate Federal employee an issue in that civil rights case, no matter what the Federal courts told him he needed to answer. And he used lies, deceit, and deception to carry out that purpose.

It is interesting to note that the President, when he was asked by the grand jury whether he remembered calling Monica Lewinsky at 2 a.m. on that December 17th day, responded, "No, sir, I don't, but it is quite possible that that happened." When he was asked whether he encouraged Monica Lewinsky to continue the cover stories of coming to see Betty or bringing letters, he answered, "I don't remember exactly what I told her that night."

This is not a denial, and therefore I believe you should accept the testimony of Monica Lewinsky. If you say in your mind, well, I'm not going to believe her, then you should first give us the opportunity to present this witness so that you as jurors can fairly and honestly determine her credibility.

As expected, 2 days later, on December 19, Ms. Lewinsky received a subpoena to testify in the Jones case. This sets about an immediate flurry of activity. There are a series of telephone calls between Ms. Lewinsky, Vernon Jordan, the President, and his staff. You will see this pattern of telephone calls repeated and generated at any point in time when it appears that the truth may be told in the civil rights case.

Now, let's look at exhibit 5, which is the activity on Friday, December 19.

This is the day that Monica Lewinsky is served with a subpoena. Now, after Mr. Jordan is notified that Monica Lewinsky is served with a subpoena, what does he do? In the 3:51–3:52 notation, Jordan telephones the President and talks to Debra Schiff, his assistant. The subpoena is issued. Monica calls Jordan and Jordan immediately calls the President. "Lewinsky meets with Jordan and requests that Jordan notify the President about her subpoena"—this is at 4:47 p.m.

Presumably in the middle of that meeting, at 5:01 p.m., the President of the United States telephones Mr. Jordan and Jordan notifies the President about Ms. Lewinsky's subpoena.

Then that is whenever he arranged for Ms. Lewinsky's attorney—"Jordan telephones attorney Carter"—for representation, and that night, Vernon Jordan goes to the White House to meet privately with the President on these particular issues.

Now, in that meeting—and I am speaking of the meeting that happened late that night at the White House—Mr. Jordan told the President again that Ms. Lewinsky had been subpoenaed and related to the President the substance and details of his meeting with Ms. Lewinsky. It wasn't a casual consideration; the details were discussed, including her fascination with the President and other such issues.

This led Mr. Jordan to ask the President about his relationship with Ms. Lewinsky, and the response by the President of the United States was the first of many denials to his friends and aides. The President stated in his deposition that he does not recall that meeting. But you should remind yourselves of the testimony and the description provided by Vernon Jordan when he said, "The President has an extraordinary memory." In fact, we all know that he is world famous for that memory.

Now, the subpoena had been delivered, but the testimony of Monica Lewinsky was not scheduled until January 23, and the President's deposition, which was even more critical, was not scheduled until January 17. So the President and his team had some time to work. The work was not the business of the Nation, it was the distraction and self-preservation in the civil rights case.

Under the plan, Mr. Jordan would be the buffer; he would obtain an attorney—Mr. Carter—and that attorney would keep Mr. Jordan informed on the progress of the representation, including reviewing any copy of the affidavit, knowing about the motion to quash, and the general progress of the representation. All along the way, when Mr. Jordan gets information, what does he do with that? Mr. Jordan keeps the President informed both about the affidavit and the prospects of the job in New York, for which Ms. Lewinsky was totally dependent on the help of her friends in high places.

Let me go back again. There is nothing wrong with helping somebody get a job. But we all know there is one thing forbidden in public office: We must avoid quid pro quo, which is: This is for that. But Vernon Jordan testified he kept the President informed on the status of the false affidavit, the job search, and the status of Ms. Lewinsky's representation. Why? Is this just idle chatter with the President of the United States, or are these matters the President is vitally interested in and, in fact, coordinated? Mr. Jordan answers this question himself on page 25 of his grand jury testimony, where he testified, "I knew the President was concerned about the affidavit and whether or not it was signed. He was obviously." That was his March 5, 1998, grand jury testimony. The President was concerned not just about the affidavit but specifically about whether it was signed.

The President knew that Monica Lewinsky was going to make a false affidavit. He was so certain of the contents that when Monica Lewinsky asked if he wanted to see it, he told her no, that he had seen 15 of them. Besides, the President had suggested the affidavit himself, and he trusted Mr. Jordan to be certain to keep things under control. In fact, that was one of the main purposes of Mr. Jordan's continued communication with Monica Lewinsky's attorney, Frank Carter.

Even though Mr. Jordan testifies at one point he never had any substantive discussions on the representation with Mr. Carter, he contradicts himself in his March 3 grand jury testimony where he states: "Mr. Carter at some point told me—this is after January—that she had signed the affidavit, that he had filed a motion to quash her subpoena and that—I mean, there was no reason for accountability, but he reassured me that he had things under control."

Mr. Jordan was aware of the substance of the drafting of the affidavit, the representation, the motion to quash, and even had a part in the redrafting. This was clearly important to Mr. Jordan and clearly important to the President.

Now, let's go to the time when the false affidavit was actually signed, January 5, 1998. These will be exhibits 7, 8, and 9 in front of you. Let's go to January 5. This is sort of a summary of what happened on that day. Ms. Lewinsky meets with her attorney, Mr. Carter, for an hour. Carter drafts the affidavit for Ms. Lewinsky on the deposition. In the second paragraph, Ms. Lewinsky telephones Betty Currie, stating that she needs to speak to the President, that this is about an important matter; specifically, that she was anxious about something she needed to sign—an affidavit. Frank Carter drafts the affidavit she is concerned about. She calls the President. The President returns Ms. Lewinsky's call.

Big question: Should the President return Ms. Lewinsky's call? He does, that day, quickly. Ms. Lewinsky mentions the affidavit she is signing and offers to show it to the President. That is where he says no, he had seen 15 others.

Let's go to the next day. The next exhibit is January 6. On this particular day, Ms. Lewinsky picks up the draft affidavit. At 2:08 to 2:10 p.m., she delivers that affidavit. To whom? Mr. Jordan. That is after she got it. She delivers it to Jordan. And then, at 3:26 p.m., Mr. Jordan telephones Mr. Carter. At 3:38, Mr. Jordan telephones Nancy Hernreich of the White House. At 3:48, he telephones Ms. Lewinsky about the draft affidavit, and, at 3:49, you will see in red that both agree to delete a portion of the affidavit that created some implication that maybe she had been alone with the President.

So Mr. Jordan was very involved in drafting the affidavit and the contents of that.

And then at 4:19, presumably in response to some of the calls by Jordan earlier in the day, the President telephones Mr. Jordan and they have a discussion. And then Mr. Jordan telephones Carter and the conversations go back and forth. At the end of the day, Mr. Jordan telephones the White House. So the affidavit is still in the drafting process.

Let's go to the next day, exhibit 9. Monica signs the affidavit here. At 10 a.m., Ms. Lewinsky signs a false affidavit in Mr. Carter's office. Then she delivers the signed affidavit to Mr. Jordan. And then what does he do? The usual. At 11:58, Mr. Jordan telephones the White House. At 5:46, Mr. Jordan telephones the White House. At 6:50, Mr. Jordan telephones the White House and tells the President that Ms. Lewinsky signed the affidavit.

Is this important information for the President, to know he was vitally interested in it?

The next day, exhibit 10, January 8. After it is signed, what is important the next day? It was the other part of the arrangement, that she has the job interview with MacAndrews in New York. She had that job interview. The only problem was that it went poorly, very poorly. So at 4:48 p.m. on this particular day, Ms. Lewinsky telephones Jordan and advises that the New York interview went "very poorly."

What does Mr. Jordan do? He telephones Ron Perelman, the CEO of Revlon, the subsidiary of MFH, to make things happen if they could happen. What does he do next? Jordan telephones Ms. Lewinsky, saying, "I'm doing the best I can to help you out." And they set up another interview for the next day. Jordan telephones the White House Counsel's Office, and, in the evening, Revlon in New York telephones Ms. Lewinsky to set up a follow-up interview. They said the first interview didn't go well, but because Mr. Jordan intercedes—and why? Because the false affidavit has been signed and he wants to make sure this is carried out. At 9:02 p.m., Ms. Lewinsky telephones Jordan about the Revlon interview in New York, and presumably it went better on that particular day.

Then on January 9—exhibit 11—Monica is confirmed that she has the job. Lewinsky is offered the Revlon job in New York, and accepts.

Lewinsky telephones Jordan. And then, at 4:14, Jordan notifies Currie, calls Betty Currie, and says "Mission accomplished," and requests that she tell the President. Jordan notifies the President of Lewinsky's job offer, and says, "Thank you, very much, Mr. President." And then, that evening, the President telephones Currie, and so on. But the President is notified that the job has been secured, "mission accomplished."

Let me ask you a question, after I have gone through these exhibits. Would Mr. Jordan have pushed for a second interview without cooperation on the affidavit? Would Monica Lewinsky have received the support and secured the job if she had said "I don't want to sign an affidavit; I am just going to go in there and tell the truth; whatever they ask me, I am going to answer; I am going to tell the truth?" Does anyone in this room believe that she would have been granted the job—if Mr. Jordan had made that call to get that second interview—that she would ever have had the help from her friend in high places? Now the affidavit has been signed. The job is secure. Monica Lewinsky is on the team, and the President of the United States is armed for the deposition.

So let's move there.

Just how important was Monica Lewinsky's false affidavit to the President's deposition? Let's look. What did the President's attorney, Robert Bennett, say about that affidavit to the Federal judge during the deposition? That false affidavit allowed Mr. Bennett, the attorney for Mr. Clinton, when talking about the question of whether the relationship between the President and Ms. Lewinsky—it allowed him to assert that ". . . there is absolutely no sex of any kind in any manner, shape or form with President Clinton * * *."

That is a statement of Robert Bennett—his representation to the court about that relationship. It is a representation that he had to later, probably based upon his own professional embarrassment, withdraw, and to correct that inaccurate part of the record.

When questioned by his own attorney in the deposition, the President stated specifically the key paragraph of Ms. Lewinsky's affidavit was "absolutely true."

Paragraph 8 of her affidavit states:

> I have never had a sexual relationship with the President. . . .

If it enters your mind at this point as to what was meant by "sexual relationship," please remember that this affidavit was drafted upon a common understanding of that phrase at that point, and not based upon any definition used in the deposition of the President.

I am sure it was the President's hope and belief that the false affidavit used in the deposition to bolster his own testimony would be the end of the matter. But that was not the case. We know in life that one lie leads to another. And so it is when we attempt to thwart the administration of justice—one obstruction leads to another.

Now we move to another key witness, Betty Currie.

By the time the President concluded his deposition, he knew there were too many details out about his relationship with Ms. Lewinsky. He knew that the only person who would probably be talking was Ms. Lewinsky herself. He knew the cover story that he had carefully created and that was converted into false statements in the affidavit was now in jeopardy and had to be backed at this point by the key witnesses, Monica Lewinsky and Betty Currie. After the deposition, the President needed to do two things: He had to contact Ms. Lewinsky to see if she was still on the team, but he also had to make sure that his secretary, Betty Currie was lying to protect him. So let's look at how the concern became a frenzied and concerted effort to keep the holes plugged in the dike.

Let's look at exhibits 12 and 13.

What happened on the day the deposition—really the night of the deposition—on January 17. The President finishes testifying in the deposition around 4 p.m. At 5:38 p.m., the President telephones Mr. Jordan at home. And then, at 7:13, the President telephones Ms. Currie at home. At 7:02, the President places a call to Mr. Jordan's office. And then, at 7:13, he gets Ms. Currie at home finally, and asks her to meet with him on Sunday. It is vitally important that he meet with Ms. Currie at this point because he knows his whole operation is coming unglued.

So the next day, on January 18, which is exhibit 13, there is a whole flurry of activity here.

I am not going to go through all of them. You can see the frantic pace at the White House because at 6:11 in the morning, the President had some more bad news. The Drudge Report was released. And that created a greater flurry. Then between 11:49 and 2:55 p.m., two phone calls were made between Mr. Jordan and the President.

Then, at 5 p.m., we see the meetings. That is on the second page. At 5 p.m., Ms. Currie meets with the President. And the President then tells Ms. Currie to find Monica Lewinsky. The telephone calls were generated, and there was no success in that.

Then, that evening the President calls Ms. Currie at home to try once again to see if she had found Monica.

But it was on that day that there was that critical meeting on that Sunday in the Oval Office between Betty Currie and the President of the United States.

For that reason, we need next to hear from Betty Currie, the President's personal secretary, as to what occurred during that most unusual meeting on Sunday following the deposition.

Betty Currie testified in the grand jury that the President said that he had just been deposed and that the attorneys had asked several questions about Monica Lewinsky. This is a violation of the judge's gag order. And the President, you know, made some comments that were not in line. But he had some choices to make, and he made the wrong choices.

But let's look at exhibit 14, which covers the series of statements made to Ms. Currie. At this point there is the testimony of Betty Currie. She is reciting to the grand jury each of the statements the President made to her after his grand jury testimony.

The first: "I was never really alone with Monica, right?"

Second: "You were always there when Monica was there, right?"

"Monica came on to me, and I never touched her, right?"

I am not going to read each one of those. You can read them. You have heard those as well.

But the President is making those simple declaratory statements to her.

There are three areas that are covered.

First of all, the President makes a case that he was never alone with Monica Lewinsky.

Second, he is making a point to her that "she was the aggressor, not me."

The third point he is making, "I did nothing wrong."

Those are the basic three points of those five statements that the President made to Betty Currie.

During Betty Currie's grand jury testimony she was asked whether she believed that the President wished her to agree to the statements.

Let's look at Betty Currie for a second. She is the classical reluctant witness. Where are her loyalties? How would you examine her testimony? Where is she uncomfortable in her testimony when she is asked the question? How does she shift in the chair? Those are the kind of ways you have to evaluate the truthfulness of the testimony, where their loyalties lie, and their demeanor.

During the questioning she was clearly reluctant.

She was asked a series of questions, and she finally acknowledges that the

President was intending for her to agree with the statements that were made. She says, "That is correct." And that is page 74 of Betty Currie's grand jury testimony.

When the President testified in the August 17 grand jury, he was questioned about his intentions when he made those five statements to Ms. Currie in his office on that Sunday. And the President's explanation is as follows to the grand jury:

The President:

> . . . I thought we were going to be deluged by the press comments. And I was trying to refresh my memory about what the facts were.

Then he goes on to testify:

> So, I was not trying to get Betty Currie to say something that was untruthful. I was trying to get as much information as quickly as I could.

Ladies and gentlemen of the Senate, you have to determine what the purpose of those five statements to Betty Currie were. Were they to get information, or were they to get her to falsely testify when she was called as a witness? Logic tells us that the President's argument was that he was just trying to refresh his memory. Well, so much of a novel legal defense argument.

First, consider the President's options after he left the deposition.

He could have abided by the judge's gag order and not say anything.

Second, he could have called Betty Currie in and asked her an open-ended question: Ms. Currie, or Betty, what do you remember happened?

The third option was to call her in and to make these declaratory statements, violate the judge's order, and tamper with the anticipated testimony of Betty Currie.

That is the course that the President chose. He made sure it was a face-to-face meeting, not a telephone call. He made sure that no one else was present. He made sure that the meeting was on his territory and in his office where he could feel comfortable and he could utilize the power and prestige of his office to have the greatest influence on her future testimony.

After Ms. Currie was in the President's office, he made short, clear, understandable, declarative statements telling Ms. Currie what the story was. He was not interested in what she knew. Why? Because he knew the truth, but he did not want Ms. Currie to tell the truth. The only way to ensure that was by telling her what to say, not asking her what she remembered. You do not refresh someone's memory by telling that person what he or she remembers, and you certainly do not make the declarative statements to someone regarding factual scenarios of which the listener was unaware.

The statements that were made to her, Betty Currie could not have any possible knowledge about as to whether they were ever alone, as to whether she came on to him. No. This was not any attempt for the President to refresh his recollection. It was witness tampering, pure and simple.

Understanding the seriousness of the President's attempting to influence the testimony of Ms. Currie, his attorneys have tried to argue that those statements could not constitute obstruction of justice because she had not been subpoenaed and the President did not know that she was a potential witness at this time. Well, the argument is refuted by both the law and the facts.

The law is clear that a person may be convicted of obstructing justice if he corruptly influenced the testimony of a prospective witness. The witness does not actually have to give testimony. The witness does not have to be under any subpoena. The witness does not have to be on any witness list. And so the law is clear.

Secondly, let's examine the defense in light of the facts. The President himself brought Ms. Currie into the civil rights case as a corroborating witness when he repeatedly used her name in the deposition, and just as significantly the President had to be concerned about a looming perjury charge against him in light of his false testimony in the deposition. At least six times in that deposition the President challenged the plaintiff's attorneys to question Ms. Currie about the particular issue.

You don't have it in front of you, but you will see it when we distribute the copies of my remarks. I will go through those six times.

At page 58 of the deposition, the President, when asked whether he was alone with Ms. Lewinsky said that he was not alone with her or that Betty Currie was there with Monica.

At page 70, when asked about the last time the President saw Ms. Lewinsky, he falsely testified he only recalled that she was there to see Betty.

At page 64, he told the Jones lawyers to "ask Betty" whether Lewinsky was alone with him in the White House or not or with Betty in the White House between the late hours.

At page 65 of the deposition, the President was asked whether Ms. Lewinsky sent packages to him, and he stated that Betty handled the packages.

At page 72, the President was asked whether he may have assisted in any way with a job search. He said he thought Betty suggested Vernon Jordan talk to her.

At page 74, he said Monica asked Betty to ask someone to talk to Ambassador Richardson. He asserted Betty as a corroborating witness at least six times in the deposition.

There is no question that Ms. Currie was a prospective witness, and the President clearly wanted her to be deposed as a witness as his "ask Betty" testimony demonstrates.

But there is another fact that, thus far, has been overlooked, and let me draw your attention to this.

Two days before the President's deposition, Betty Currie receives a call from Michael Isikoff, a reporter with Newsweek magazine, inquiring about the records, the courier records of gifts going from Ms. Lewinsky to the President.

You've got a news reporter for a national publication two days before the President's deposition talking to the President's secretary, saying, "I need to see the courier records at the White House." What does Betty Currie do? She testified that she probably told the President this. Then she tells Bruce Lindsey, but she also goes to see Vernon Jordan. Why? Why would the secretary go see Vernon Jordan because she had a press inquiry? The reason is, as we see later on, remember, this is January 15th. What happened on December 28th that we will get to a little bit later? December 28th Betty Currie went and put those gifts under her bed. Why is she nervous? Because Mike Isikoff is calling about the gifts that are presently under her bed, and she is nervous. I would be nervous. And so she goes to see Bruce Lindsey. She goes to see Vernon Jordan. "I need help. What do I do?" And she probably told the President.

It is all breaking loose, the house of cards is falling down, and she is either going to report to Mr. Jordan or to seek advice from him. Either way, she knows it is serious, and it all has legal consequences. And she is a witness to it all.

And not only does Betty Currie's testimony talk about this call from Michael Isikoff and going to see Vernon Jordan, but Vernon Jordan's testimony confirms the visit as well.

The President claims he called Ms. Currie in to work on that Sunday night only to find out what she knew, but the President knew the truth about the relationship, and if he told the truth in deposition the day before, he would have had no reason to be refreshed by Betty Currie.

More importantly, the President's demeanor, Ms. Currie's reaction and the suggested lies clearly prove that the President was not merely interviewing Ms. Currie. Rather, he was looking for corroboration for his false coverup, and that is why he coached her. He needed a witness for him, not against him.

Now, let's go to exhibit 5, Betty Currie's testimony—excuse me, exhibit 15.

This is Betty Currie's testimony before the grand jury on January 27, 1998. And Betty Currie is asked about this. Now, remember, it was on a Sunday that Betty Currie was first called into the White House to go through these five statements, this coaching by the President. And then she testified to the grand jury:

> Question: Did there come a time after that that you had another conversation with the President about some other news about what was going on? That would have been Tuesday or Wednesday—when he called you into the Oval Office?

Betty Currie's answer:

> It was Tuesday or Wednesday. I don't remember which one this was, either. But the best I remember, when he called me in the Oval Office, it was sort of a recapitulation of what we had talked about on Sunday—you know, "I was never alone with her"—that sort of thing.
>
> Question: Did he pretty much list the same——
>
> Answer: To my recollection, sir, yes.
>
> Question: And did he say it in sort of the same tone and demeanor that he used the first time he told you on Sunday?
>
> Answer: The best I remember, yes, sir.

And this needs to be emphasized. Not only was that witness coaching taking place on Sunday, but it took place a couple days later. It was twice repeated by the President to Betty Currie. He needed to have her good and in line.

This is more than witness tampering. It is witness compulsion of false testimony by an employer to a subordinate employee. This has nothing to do with facts, nothing to do with media inquiries. It has to do with keeping his team on board, keeping the ship from sinking, and hiding the facts that are important. At this point we are not talking about hiding personal facts from inquiring minds but an effort to impede the legitimate and necessary functioning of our court system.

And now let's go to the Martin Luther King holiday, almost exactly a year ago, Monday, January 19. Again, you will see the example of the frantic search for Monica Lewinsky did continue.

Exhibit 16. I am not going to go through all of this, but I just want to briefly show the frantic activity on this particular day.

First of all, you will see Betty Currie is trying to fulfill her responsibility to get ahold of Ms. Lewinsky. She uses the pager system, and she says, "Please call Kay at home." Now "Kay" is the code name that is used for Betty Currie. That is the agreed upon signal. And she uses three messages: "Please call Kay. Please call Kay. Please call Kay."

Then she starts using different techniques to get her attention. "It's a social call." And then she later uses it's a "family emergency." Then she later uses it's "good news." She is using every means possible to get the attention of Monica Lewinsky. And then at 8:50 a.m. the President telephones Currie at home. At 8:56 a.m. the President telephones Jordan at home.

Go on down to 10:56 a.m. "The President telephones Jordan at his office." And so what is going on here? They are nervous; they are afraid; it is all breaking loose. They are trying to get ahold of Monica Lewinsky to find out what is going on, who she is talking to.

Later that day things continued to destabilize for the President. At 4:54 p.m. Mr. Jordan learned from the attorney, Frank Carter, that he no longer represented Ms. Lewinsky, and so Mr. Jordan's link had been cut off. Mr. Jordan continued to attempt to reach the President or someone at the White House. Between 4:58 and 5:22 p.m., he made six calls trying to get ahold of someone at the White House, the President.

When Mr. Jordan was asked about why he was urgently trying to get ahold of the White House, he responded, "Because the President asked me to get Monica Lewinsky a job" and he thought it was "information they ought to have." Jordan finally reaches the President about 6 p.m. and tells him that [Mr.] Carter had been fired.

Why this flurry of activity? It shows how important it was for the President of the United States to find Ms. Lewinsky. Betty Currie was in charge of contacting Monica, and it could not happen, it did not happen. Ms. Lewinsky was a co-conspirator in hiding this relationship from the Federal court and he was losing control over her. In fact, she ultimately agreed to testify truthfully, under penalty of perjury, in this matter. This was trouble for the President.

And, so, now let's continue; let's continue exploring the web of obstruction. But to do this, we have to backtrack to what I have already referred to, and that was the incident on December 28, the episode with the gifts.

On December 28, another brick in the wall of obstruction was laid. It was the concealment of evidence. Ms. Lewinsky testified that she discussed with the President the fact that she had been subpoenaed and that the subpoena called for her to produce gifts. And this is what Ms. Lewinsky was telling the President at the meeting with him on December 28. She testified before the grand jury that she recalled telling the President that the subpoena in question had requested a hatpin and other items, and this concerned her—the specificity of it. And the President responded it "bothered" him, too.

Well, let's look at the testimony of Ms. Lewinsky, which is exhibit 17. This is Lewinsky testifying about the meeting.

> And then at some point I said to him [the President], "Well, you know, should I—maybe I should put the gifts away outside my house somewhere or give them to someone, maybe Betty." And he sort of said—I think he responded, "I don't know," or, "Let me think about that," and left that topic.

Not exactly the response you would hope for or expect from the President. But the answer led to action. Later that day Ms. Lewinsky got a call from Ms. Currie, who said, "I understand you have something to give to me," or, according to Ms. Lewinsky, "The President said you have something to give me." She wasn't exactly sure of the phrase but it was either, "I understand you have something to give me," what Betty Currie said, or Betty Currie said, "The President said you have something to give to me."

And so, ladies and gentlemen, if you accept the testimony of Monica Lewinsky on that point, you must conclude that the directive to retrieve the gifts came from the President. I will concede that there is a conflict in the testimony on this point with the testimony of Betty Currie. Ms. Currie, in her grand jury testimony, had a fuzzy memory, a little different recollection. She testified that, "the best she can remember," Ms. Lewinsky called her. But whenever she was asked further, she said that maybe Ms. Lewinsky's memory is better than hers on that issue. But there is helpful evidence to clear up this discrepancy, or this inconsistency. Monica, you will recall, in her deposition said she thought that Betty had called her and she thought that the call came from her cell phone number.

Well, it was not known at the time of the questioning of Monica Lewinsky, but since then the cell phone record was retrieved. And you don't have it in front of you, but it will be available. The cell phone record was retrieved that showed, on Betty Currie's cell phone calls, that a call was made at 3:32, from Betty Currie to Monica Lewinsky. And this confirms the testimony of Monica Lewinsky that the followup to get the gifts came from Betty Currie. The only way she would know about it is if the President directed her to go retrieve the gifts, as was discussed with Monica earlier.

Now, the President will argue that Monica's timeline does not fit with the time of the cell phone call. But remember, the cell phone record was retrieved subsequent to both the testimony of Monica Lewinsky and Betty Currie before the grand jury, and therefore the record was not available to refresh the recollection or to make inquiry with him about that. Monica Lewinsky's time estimates as to when Betty Currie arrived to pick up the gifts was based upon her memory without the benefit of records.

The questions raised by the President on this issue are legitimate and demonstrate the need to call the key witnesses to a trial of this case and to assess which version of the events is believable and substantiated by the corroborating evidence. This is certainly an area of testimony where the juror needs to hear from Betty Currie and Monica Lewinsky and to examine all of the circumstantial evidence and documentary evidence to determine the truth. It is my belief, based upon common sense and based upon the documentary evidence, that the testimony of Monica Lewinsky is supported in the record and it leads to the conclusion that it was the President who initiated this retrieval of the gifts and the concealment of the evidence.

Now, there are many lawyers here in this room, and you know that in Federal cases all across this country judges instruct juries on circumstantial evidence. We have presented to you a great amount of direct evidence, grand jury testimony, eyewitness testimony, documentary evidence. But juries can use circumstantial evidence as well. And a typical line from the instruction that is given in Federal courts to Federal juries all across the land:

> The law makes absolutely no distinction between the weight or value to be given either to direct or circumstantial evidence. Nor is a greater degree of certainty required of circumstantial evidence than of direct evidence.

So I think it is incumbent upon you to evaluate the circumstances very carefully in addition to the testimony.

Now, let's examine the key question for a moment. Why did Betty Currie pick up the gifts from Monica Lewinsky? Monica Lewinsky states that she did not request this and the retrieval was initiated by the call from Betty Currie. This was after the meeting with the President. Monica Lewinsky's version is corroborated by the cell phone record and the pattern of conduct on the part of Betty Currie. What do I mean by that? As a loyal secretary to the President, it is inconceivable that she would go to retrieve gifts that she knows the President is very concerned about and could bring down the whole house. Betty Currie, a subordinate employee, would not engage in such activity on such a sensitive matter without the approval and direction of the President himself.

In addition, let's look further to the actions of Betty Currie. It becomes clear that she understands the significance of these gifts, their evidentiary value in a civil rights case, and the fact that they are under subpoena. She retrieves these items, and where does she place them? She hides them under her bed—significantly, a place of concealment.

Now, let's look at the President's defense. The President stated in his response to questions 24 and 25, that were submitted from the House to the President, he said he was not concerned about the gifts. In fact, he recalled telling Monica that if the Jones lawyers request the gifts, she should just turn them over to them. The President testified he is "not sure" if he knew the subpoena asked for gifts.

Now, why in the world would Monica and the President discuss turning over gifts to the Jones lawyer if Ms. Lewinsky had not told him that the subpoena asked for gifts? On the other hand, if he knew the subpoena requested gifts, why would he give Monica more gifts on December 28? This seems odd. But Ms. Lewinsky's testimony reveals the answer. She said that she never questioned "that we were ever going to do anything but keep this private," and that means to take "whatever appropriate steps need to be taken." That is from Monica's grand jury testimony of August 6.

Why would the President even meet with Monica Lewinsky on December 28 when their relationship was in question and he had a deposition coming up? Certainly he knew he would be questioned about it. Certainly if Monica became a witness she would be questioned about the relationship, that she would be asked when was the last time you met with the President, and now they have to say December 28, if they were going to tell the truth.

The answer is, the President knew that he had to keep Monica Lewinsky on the team and he was willing to take more risks so that she would continue to be a part of the conspiracy to obstruct the legitimate functions of the Federal court in a civil rights case.

It should be remembered that the President has denied each and every allegation of the two articles of impeachment, he has denied each element of the obstruction of justice charges, including this allegation that he encouraged a scheme to conceal evidence in a civil rights case. This straightforward denial illustrates the dispute in the evidence and testimony. It sets the credibility of Monica Lewinsky, the credibility of Betty Currie, the credibility of Vernon Jordan, and others against the credibility of the President of the United States.

How can you, as jurors, determine who is telling the truth? I have pointed to the corroborating evidence, the circumstantial evidence, as well as common sense supporting the testimony of Monica Lewinsky. But let me ask you two questions: Can you convict the President of the United States without hearing personally the testimony of one of the key witnesses? The second question is: Can you dismiss the charges under this strong set of facts and circumstances without hearing and evaluating the credibility of key witnesses?

Let me take this a step further and evaluate the credibility of the President. Let's first look back at his testimony on the December 28 meeting that he gave in his deposition. In that case, he seriously misrepresented the nature of his meeting with Ms. Lewinsky, and that was the gift exchange. First he was asked:

> Question: Did she tell you that she had been served with a subpoena in this case?

The President answered flatly, "No. I don't know if she had been."

Again, this is his testimony in the deposition. He was also asked in the deposition if he "ever talked to Monica Lewinsky about the possibility of her testifying." His answer: "I'm not sure * * *," he said. He then added that he may have joked that the Jones lawyers might subpoena every woman he has ever spoken to, and that "I don't think we ever had more of a conversation than that about it * * *."

Not only does Monica Lewinsky directly contradict his testimony, but the President later had to answer questions in the grand jury about these same set of circumstances and the President directly contradicted himself. Speaking of this December 28 meeting, he said that he "knew by then, of course, that she had gotten a subpoena" and they had a "conversation about the possibility of her testifying."

I submit to this body that the inconsistencies of the President's own testimony, as well as common sense, seriously diminish his credibility on this issue.

Now let's go forward, once again, to the time period in which the President gave his deposition in the Paula Jones case. The President testified under oath on January 17, and immediately thereafter, remember, he brought Betty Currie in to present a set of false facts to her, seeking her agreement and coaching her.

But the President is fully convinced that he can get by with his false denials because no one will be able to prove what did or did not happen in the Oval Office. There were no witnesses, and it boils down to a "he said, she said" scenario, and as long as that is the case, he believes he can win. If the President can simply destroy Monica Lewinsky's credibility in public and before the grand jury, then he will escape the consequences for his false statements under oath and obstruction in the civil rights case. Now, remember, this viewpoint, though, is all before the DNA tests were performed on the blue dress, forcing the President to acknowledge certain items.

In order to carry out this coverup and obstruction, the President needed to go further. He needed not only Betty Currie to repeat his false statements, but also other witnesses who would assuredly be called before the Federal grand jury and who would be questioned by the news media in public forums. And this brings us to the false statements that the President made to his White House staff and Presidential aides.

Let's call Sydney Blumenthal and John Podesta to the witness stand. I concede they would be adverse witnesses. This is referred to in exhibit 18 that you have in front of you.

First, the testimony of Sydney Blumenthal. Mr. Blumenthal, to put this in perspective, is testifying about his conversations when the President called him in to go through these facts of what happened. So Mr. Blumenthal testified that "it was at that point that he"—referring to the President—"gave his account as to what happened to me and he said that Monica—and it came very fast. He said, 'Monica Lewinsky came at me and made a sexual demand on me.' He rebuffed her. He said, 'I've gone down that road before, I've caused pain for a lot of people and I'm not going to do that again.'"

Look at this next line. "She threatened him. She said that she would tell people they'd had an affair, that she was known as the stalker among her peers, and that she hated it and if she had an affair or said she had an affair then she wouldn't be the stalker any more."

He talks about this character in a novel, and I haven't read that book. But the last line: "And I said to him, I said, "When this happened with Monica Lewinsky, were you alone?' He said, 'Well, I was within eyesight or earshot of someone.'"

Let's go to John Podesta's testimony where he was called in the same fashion. The President talked to him about what is happening:

> Question: Okay. Share that with us.
>
> Answer: Well, I think he said—he said that—there was some spate of, you know, what sex acts were counted, and he said that he had never had sex with her in any way whatsoever.
>
> Question: Okay.
>
> Answer: —that they had not had oral sex.

Very briefly, Dick Morris. You have heard this. I will refer to the last line: "'They're just not ready for it,' meaning the voters. And he [The President] said, 'Well, we just have to win, then.'"

As the President testified before the grand jury, he knew these witnesses would be called before the grand jury. At page 106 of the President's testimony before the grand jury—I just want to confirm this point because it is important—he testified—the question was: "You know that they"—and this is referring to John Podesta, Sydney Blumenthal and his aides—"that they might be witnesses, you knew they might be called into the grand jury, didn't you?"

His answer: "That's right."

So there is no question these were witnesses going to testify before the grand jury. He was giving them false information, and he did not limit it to that. The false statements to them constitute witness tampering and obstruction of justice.

I think there are two significant points in the statements the President made to his aides.

First of all, the President who wants to do away with the politics of personal destruction indicates a willingness to destroy the credibility and reputation of a young person who worked in his office for what reason? In order to preserve not only his Presidency but, more significantly, to defeat the civil rights case against him. It is not a matter of saying he didn't do it, because he could have simply uttered a denial, but he engaged in character assassination that he knew would be repeated to the Federal grand jury and throughout the public—she was a stalker, she threatened me, she came on to me, and it was—it was repeated.

Secondly, he makes it clear in his statements to John Podesta that he denies any sexual relations with Monica Lewinsky, including oral sex. There is no quibbling about definitions in this statement. It clearly reflects an attempt to deceive, lie and obstruct our system of justice.

In this case, at every turn, he used whatever means available to evade the truth, destroy evidence, tamper with witnesses and took any other action required to prevent evidence from coming forward in a civil rights case that would prove a truth contrary to the President's interest. He had obstructed the administration of justice before the U.S. district court in a civil rights case and before the Federal grand jury. But as we move toward a conclusion, let's not focus just on the supporting cast we talked about, but we need to look at the direct and personal actions of the President.

I want to look at exhibit 20. This just summarizes the seven pillars of obstruction. What did the President do that constitutes evidence of obstruction?

No. 1, he personally encouraged a witness, Monica Lewinsky, to provide false testimony.

No. 2, the President had direct involvement in assuring a job for a witness—underlining direct involvement. He made the calls, Vernon Jordan did, and it is connected with the filing of the false affidavit by that witness.

No. 3, the President personally, with corrupt intentions, tampered with the testimony of a prospective witness, Betty Currie.

No. 4, the President personally provided false statements under oath before a Federal grand jury.

No. 5, by direct and circumstantial evidence the President personally directed the concealment of evidence under subpoena in a judicial proceeding.

No. 6, the President personally allowed false representations to be made by his attorney, Robert Bennett, to a Federal district judge on January 17.

No. 7, the President intentionally provided false information to witnesses before a Federal grand jury knowing that those statements would be repeated with the intent to obstruct the proceedings before that grand jury and that is the statements that he made to the aides.

The seven pillars of this obstruction case were personally constructed by the President of the United States. It was done with the intent that the truth and evidence would be suppressed in a civil rights case pending against him. The goal was to win, and he was not going to let the judicial system stand in his way.

At the beginning of my presentation, I tried to put this case into perspective for myself by saying that this proceeding is the same as to what takes place in every courtroom in America—the pursuit of truth, seeking equal justice, and upholding the law. All of that is true. But we know there is even more at stake in this trial. What happens here affects the workings of our Constitution, it will affect the Presidency in future decades, and it will have an impact on a whole generation of Americans. What is at stake is our Constitution and the principle of equal justice for all.

I have faith in the Constitution of the United States, but the checks and balances of the Constitution are carried out by individuals—individuals who are entrusted under oath with upholding the trust given to us by the people of this great land. If I believe in the Constitution, that it will work, then I must believe in you.

Ladies and gentlemen of the Senate, I trust the Constitution of the United States. But today it is most important that I believe in you. I have faith in the U.S. Senate. You have earned the trust of the American people, and I trust each of you to make the right decision for our country.

Thank you, Mr. Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

RECESS

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that we take another 15-minute break in the proceedings. And I urge the Senators to return promptly to the Chamber so we can begin after the 15-minute break.

There being no objection, at 4:51 p.m., the Senate recessed until 5:10 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Mr. Chief Justice, I believe we are ready to resume final presentation of the afternoon. Several Senators have inquired what will happen the balance of the day. I believe the presentation by Congressman ROGAN will be the last of the day. It is anticipated we will complete today's presentation around 6:30 or 6:45.

I yield the floor.

The CHIEF JUSTICE. The Chair recognizes Mr. ROGAN.

Mr. Manager ROGAN. Mr. Chief Justice, counsel for the President, Members of the United States Senate, my name is Congressman JAMES E. ROGAN. I represent the 27th District of California.

May I say at the outset that some of the facts and evidence you will hear in my presentation may sound familiar in light of the last presentation. Although at times the facts may appear to be a crossover, the relevance will be presented in a different light.

Mr. Manager HUTCHINSON's presentation offered the evidence as it relates to the obstruction of justice charge against the President in article II. I will be inviting this body to view the evidence within the framework of article I, perjury before the grand jury.

On behalf of the House of Representatives and in the name of the people of the United States, I will be presenting to the Senate evidence against the President to demonstrate he committed perjury before a Federal grand jury as set forth in article I of the articles of impeachment.

Article I of the impeachment resolution against President Clinton alleges that he committed perjury before the grand jury.

On August 17, 1998, President Clinton swore to tell the truth, the whole truth, and nothing but the truth. The evidence shows that contrary to that oath, the President willfully provided perjurious, false, and misleading statements to the grand jury in four general areas:

First, he perjured himself when he gave a false accounting to the grand jury about the nature and details of his relationship with a 21-year-old intern, Ms. Monica Lewinsky, who was a subordinate Federal Government employee.

Second, he perjured himself before the grand jury when he repeated previous perjured answers he gave under oath in a sexual harassment suit, which was a Federal civil rights action brought against him by Paula Jones.

Third, he perjured himself before the grand jury when he repeated previous perjured answers to justify his attorney's false representations to a Federal judge in the Paula Jones sexual harassment lawsuit against him.

Finally, he perjured himself before the grand jury when he testified falsely about his attempts to get other potential grand jury witnesses to tell false stories to the grand jury, and to prevent the discovery of evidence in Paula Jones' sexual harassment lawsuit against him.

In a judicial proceeding, a witness has a very solemn obligation to tell the truth, the whole truth and nothing but the truth. Perjury is a serious crime because our judicial system can only succeed if citizens are required to tell the truth in court proceedings. If witnesses may lie with impunity for personal or political reasons, "justice" is no longer the product of the court system, and we descend into chaos. That is why the U.S. Supreme Court has placed a premium on truthful testimony and shows no tolerance for perjury.

More than 20 years ago, the Supreme Court addressed this very concept of perjury and its dangerous effect on our system of law. Listen to the words of the U.S. Supreme Court:

> In this constitutional process of securing a witness' testimony, perjury simply has no place whatever. Perjured testimony is an obvious and flagrant affront to the basic concepts of judicial proceedings. . . . Congress has made the giving of false answers a criminal act punishable by severe penalties; in no other way can criminal conduct be flushed into the open where the law can deal with it.

That is the framework under which the House of Representatives acted in impeaching the President of the United States, and now respectfully urges this body to call the President to constitutional accountability.

The key to understanding the facts of this case is to understand why the President was asked, under oath, questions about his private life in the first place.

Despite the popular spin, it wasn't because Members of Congress or lawyers from the Office of the Independent Counsel, or a gaggle of reporters suddenly decided to invade the President's privacy. No. This all came about because of a claim against the President from when he was the Governor of Arkansas.

During the discovery phase of the Paula Jones sexual harassment case against the President, Federal Judge Susan Webber Wright ordered him to answer questions under oath relating to any sexual relationship he may have had while Governor and President with subordinate female Government employees. These orders are common in similar cases, and the questions posed to President Clinton are questions routinely posed to defendants in civil rights sexual harassment cases every single day in courthouses throughout the land.

During the President's deposition in the Paula Jones case, he was asked questions about his relationship with Monica Lewinsky. The judge allowed these questions because they possibly could lead Mrs. Jones to discover if there was any pattern of conduct to help prove her case. The President repeatedly denied that he had a sexual relationship with Monica Lewinsky.

A few days later, the story about his relationship with Ms. Lewinsky broke in the press. A criminal investigation began to determine whether the President perjured himself in the Paula Jones sexual harassment case and obstructed justice by trying to defeat her claim against him by corrupt means.

On the afternoon of August 17, 1998, President Clinton raised his right hand and took an oath before the grand jury in their criminal investigation.

(Text of Videotape presentation:)

> William Jefferson Clinton, Do you solemnly swear that the testimony you are about to give in this matter will be the truth, the whole truth, and nothing but the truth, so help you God?

Note the incredibly solemn obligation of the oath the President took:

> Do you solemnly swear that the testimony you are about to give in this matter will be the truth, the whole truth, and nothing but the truth?

When the President made that solemn pledge, he was not obliging himself to tell the grand jury the partial truth, he was not obliging himself to tell the "I didn't want to be particularly helpful" truth; he was not obliging himself to tell the "this is embarrassing so I think I'll fudge on it a little bit" truth. He was required to tell the truth, the whole truth, and nothing but the truth, and he made that pledge in the name of God.

The attorneys for the Office of the Independent Counsel showed great deference to the President when they questioned him that day. The President's attorneys were allowed to be there with him during the entire proceeding so that he could confer with them at his leisure if he was unsure of how to respond to a question. As a matter of fact, the attorney who questioned the President encouraged him to confer with his lawyers if there arose in the President's mind any reason to hesitate before answering a question.

The following exchange occurred at the beginning of the President's testimony. The President was told:

> Normally, grand jury witnesses, while not allowed to have attorneys in the grand jury room with them, can stop and consult with their attorneys. Under our arrangement today, your attorneys are here and present for consultation and you can break to consult them as necessary. . . . Do you understand that, sir?

The President responded: "I do understand that."

As a practical matter, the President had three options as he appeared before the grand jury to testify.

First, the President could tell the truth about his true relationship with Miss Lewinsky.

However, the evidence will clearly show that the president rejected the option of telling the truth.

Second, the President knew he could invoke his Fifth Amendment privilege against self-incrimination.

The independent counsel's attorney explicitly reminded the President about his right to refuse to answer any question that might tend to incriminate him.

The President was asked:

> You have a privilege against self-incrimination. If a truthful answer to any question would tend to incriminate you, you can invoke the privilege and that invocation will not be used against you. Do you understand that?

The President's response was: "I do."

The President knew he had the right to refuse to answer any incriminating questions and that no legal harm would have come to him for doing so.

But he rejected this option, just as he rejected the option of telling the truth, the whole truth, and nothing but the truth.

Instead, he selected a third path.

He continued to lie about corrupt efforts to destroy Paula Jones' civil rights lawsuit against him.

If a trial is permitted before this body where live witnesses can be called, and where their credibility can be scrutinized, the evidence will show this distinguished body that the course the President charted was a course of perjury.

Despite the president's unique level of judicial sophistication and expertise, the attorneys at the grand jury were careful to make sure the president understood his responsibilities to tell the truth, the whole truth, and nothing but the truth.

They did this at the outset of his testimony, before any questions were asked that might tempt the president to lie under oath.

And they specifically warned him that if he were to lie or intentionally mislead the grand jury, he could face perjury and obstruction of justice charges, both of which are felonies under federal law.

This exchange occurred before the President's testimony:

> Q: Mr. President, you understand that your testimony here today is under oath?
>
> A: I do.
>
> Q: And you understand that because you have sworn to tell the truth, the whole truth, and nothing but the truth, that if you were to lie or intentionally mislead the grand jury, you could be prosecuted for perjury and/or obstruction of justice?
>
> A: I believe that's correct.
>
> Q: Is there anything that . . . I've stated to you regarding your rights and responsibilities that you would like me to clarify or that you don't understand?
>
> A: No, sir.

Despite this ominous warning, the prosecutors continued emphasizing the need for the President to resist lying to the grand jury.

Still intent on making sure the President understood his obligations, the attorneys further advised him:

> Q: Mr. President, I would like to read for you a portion of Federal Rule of Evidence 603, which discusses the important function the oath has in our judicial system.
>
> It says that the purpose of the oath is . . . calculated to awaken the witness' conscience and impress the witness' mind with the duty to tell the truth.
>
> Could you please tell the grand jury what that oath means to you for today's testimony?
>
> A: I have sworn an oath to tell the grand jury the truth, and that's what I intend to do.

When the President said in that very last answer I just read that he swore an oath to tell the grand jury "the truth," the prosecutor immediately followed up with this question. Here is what he was told.

Question to the President:

> Q: You understand that [the oath] requires you to give the whole truth, that is, a complete answer to each question, sir?
>
> A: I will answer each question as accurately and fully as I can.

One would think these repetitive explanations would be enough to warn even the most legally unsophisticated witness about the need to treat a grand jury criminal investigation seriously, and the need to tell the whole truth at any cost.

No reasonable person could believe at this point that the President did not understand his obligations.

Yet, just to be sure, the attorneys again impressed on the President his solemn duty to tell the truth:

Question to the President:

> Q: Now, you took the same oath to tell the truth, the whole truth, and nothing but the truth on January 17th, 1998, in a deposition in the Paula Jones litigation; is that correct, sir?
>
> A: I did take an oath then.
>
> Q: Did the oath you took on that occasion mean the same to you then as it does today?
>
> A: I believed then that I had to answer the questions truthfully. That is correct. . . .
>
> Q: And it meant the same to you then as it does today?
>
> A: Well, no one read me a definition then and we didn't go through this exercise then.
>
> I swore an oath to tell the truth, and I believed I was bound to be truthful and I tried to be.

Having just received his "refresher course" on either "taking the Fifth" and remaining silent, *or* telling the whole truth and nothing but the truth, the president acknowledged he was required to tell the truth when he gave answers to questions 8 months earlier in the Paula Jones sexual harassment civil rights lawsuit.

Question to the President:

> Q: At the Paula Jones deposition, you were represented by Mr. Robert Bennett, your counsel, is that correct?
>
> A: That is correct.
>
> Q: He was authorized by you to be your representative there, your attorney, is that correct?
>
> A: That is correct.
>
> Q: Your counsel, Mr. Bennett, indicated . . . and I'm quoting, "The President intends to give full and complete answers as Ms. Jones *is entitled* to have."
>
> My question to you is, do you agree with your counsel that a plaintiff in a sexual harassment case is, to use his words, *entitled* to have the truth?
>
> A: I believe that I was bound to give truthful answers, yes, sir.
>
> Q: But the question is, sir, do you agree with your counsel that a plaintiff in a sexual harassment case is entitled to have the truth?
>
> A. I believe when a witness is under oath in a civil case, or otherwise under oath, the witness should do everything possible to answer the questions truthfully.

Thus, the groundwork was laid for the President to testify under oath.

He knew how the rules worked respecting testimony before the grand jury.

If a question was vague or ambiguous, the President could ask for a clarification.

If he was unsure *how* to answer, or indeed *whether* to answer a question, he could stop the questioning, take a break, and consult privately with his attorneys who were present with him.

If giving an answer would tend to incriminate him, he could refuse to answer the question by claiming his Fifth Amendment rights.

But if, after all of this, he decided to give an answer, the answer he gave was *required* to be the truth, the whole truth, and nothing but the truth. And it was no different than the obligation when he testified in the Paula Jones deposition—the same oath, the same obligation.

Let's look at how the President chose to meet his obligation.

As noted in my opening remarks, the President's grand jury perjury is the basis for article I of the impeachment resolution. The evidence shows, and live witnesses clearly will demonstrate, that the President repeatedly committed perjury before the grand jury when he testified as a defendant in a sexual harassment civil rights lawsuit against him.

He intentionally failed in his lawful obligation to tell the truth in four general areas. First, the President committed perjury before the grand jury when he testified about the nature of his relationship with Monica Lewinsky, a 21-year-old White House intern who, by definition, was a subordinate Government employee.

On December 5, 1995, Monica Lewinsky's name appeared on the Paula Jones witness list. Later, the President was ordered by Federal Judge Susan Webber Wright to answer questions about Monica Lewinsky because the President was a defendant in a sexual harassment case.

At his deposition in the Paula Jones case, the President was shown a definition approved by Judge Wright of what constitutes sexual relations. I am going to read the definition that was presented to the President.

And let me say at the outset that I am going to slightly sanitize it. You have in your materials, Members of this body, a copy of the actual definition that was given to you, so you will be able to understand precisely what was put before the President.

Definition of sexual relations: "For the purposes of this deposition, a person engages in sexual relations when the person knowingly engages in or causes contact with the [certain enumerated body parts] of any person with an intent to arouse or gratify the sexual desire of any person."

Members of the Senate, just for clarification, I did not feel the need to actually relate to this body what those enumerated body parts are.

After reviewing the deposition, the President then denied that he ever had a sexual relationship with Monica Lewinsky. As we have already seen, from the day in January when the President testified in the Jones deposition until the day he appeared in August for his grand jury testimony, he vehemently denied ever having a sexual relationship with Monica Lewinsky.

Listen to the President addressing the American people on the subject of his credibility. The date is January 26, 1998, 5 days after the Lewinsky story broke in the press.

(Text of videotape presentation:)

> "But I want to say one thing to the American people. I want you to listen to me. I'm going to say this again."
>
> "I did not have sexual relations with that woman—Miss Lewinsky."
>
> "I never told anybody to lie—not a single time. Never. These allegations are false. And I need to go back to work for the American people."
>
> "Thank you."

Beginning in January 1998, the President went on an 8-month campaign, both under oath and in the press, denying any sexual relationship with Monica Lewinsky in any way, shape, or form. But 8 months after his deposition testimony and these passionate denials, the tide had turned against his story. By August, Monica Lewinsky was now cooperating with the office of the independent counsel. If she was telling the truth in her sworn testimony, then the President's January denial in the Paula Jones case would have been a clear case of him committing perjury and obstructing justice.

Why? Because she was describing, in very graphic detail, conduct occurring between her and the President that clearly fit the definition of "sexual relations" as used in the Paula Jones deposition—conduct that he repeatedly denied under oath.

So by the time the President sat down for his grand jury testimony to answer these questions under oath, he had put himself in a huge box. He could not continue the outright lie because Ms. Lewinsky had turned over her blue dress for DNA testing, and at the time of his grand jury testimony he didn't know what the results were of that FBI test. Under such circumstances, continuing the lie was too risky of a strategy even for the most accomplished of gamblers. But if he told the truth, his earlier perjury and obstruction of justice would have ended his Presidency. He was sure he would have been driven from office.

Remember that the President had actually authorized that a poll be taken for him by Dick Morris, and the poll wasn't just taken on whether the American people would forgive him for adultery; the President asked Dick Morris to poll in two other areas. He asked Dick Morris to poll whether the American people would forgive him for perjury and obstruction of justice. When he got the poll results back, he learned that the American people would forgive him for the adultery but they would not forgive him for perjury or for obstruction of justice.

Once he got the bad news from Dick Morris that his political career was over if he perjured himself, he told Dick Morris, "We'll just have to win." So at his grand jury testimony, once the first question was asked about his relationship with Monica Lewinsky, the President produced a prepared statement and read from it. This prepared statement he read to the grand jury on August 17, 1998, was the linchpin in his plan to "win."

(Text of videotape presentation:)

> Q. Mr. President, were you physically intimate with Monica Lewinsky?
>
> A. Mr. Bittman, I think maybe I can save you and the grand jurors a lot of time if I read a statement, which I think will make it clear what the nature of my relationship with Ms. Lewinsky was and how it related to the testimony I gave, what I was trying to do in that testimony. And I think it will perhaps make it possible for you to ask even more relevant questions from your point of view. And, with your permission, I'd like to read that statement.
>
> Q. Absolutely. Please, Mr. President.
>
> A. When I was alone with Ms. Lewinsky on certain occasions in early 1996 and once in early 1997, I engaged in conduct that was wrong. These encounters did not consist of sexual intercourse. They did not constitute sexual relations as I understood that term to be defined at my January 17th, 1998 deposition. But they did involve inappropriate intimate contact.
>
> These inappropriate encounters ended, at my insistence, in early 1997. I also had occasional telephone conversations with Ms. Lewinsky that included inappropriate sexual banter.
>
> I regret that what began as a friendship came to include this conduct. I take full responsibility for my actions. While I will provide the grand jury whatever other information I can, because of privacy considerations affecting my family, myself, and others, and in an effort to preserve the dignity of the office I hold, this is all I will say about the specifics of these particular matters.
>
> I will try to answer to the best of my ability other questions, including questions about my relationship with Ms. Lewinsky, questions about my understanding of the term of sexual relations, as I understood it to be defined at my January 17th, 1998, deposition, and questions concerning alleged subordination of perjury, obstruction of justice and intimidation of witnesses.
>
> That . . . is my statement.

Beyond that statement, the President generally refused to answer specific questions about his relationship with Monica Lewinsky. The President used that prepared statement as a substitute answer for specific questions about his conduct with Ms. Lewinsky 19 separate times during his testimony before the grand jury. The purpose of the prepared statement was to avoid answering the types of specific harassment lawsuit questions for which the U.S. Supreme Court and Judge Susan Webber Wright had earlier cleared the way. The evidence shows the President used this prepared statement in order to justify the perjurious answers he gave at his deposition which were intended to affect the outcome of the Paula Jones case. The fact that this statement was prepared in advance shows his intent to mislead the grand jury in this very area. Ironically, this prepared statement was supposed to inoculate the President from perjury. Instead, it opened him up to 19 more examples of giving perjurious, false, and misleading answers under oath.

For example, in that prepared statement, the President said his sexual contact with Ms. Lewinsky began in 1996, and not in 1995, as Ms. Lewinsky had testified. This was not a mere slip of memory over a meaningless timeframe; there is a discrepancy in the dates for a reason. You see, under the President's version, in 1996 Monica Lewinsky was a paid White House employee. Under the facts as testified to by Ms. Lewinsky, when the relationship really began in 1995, she was not a paid employee at the White House, she was a young, 21-year-old White House intern.

The concept of a President having a sexual relationship in the White House with a young intern less than half his age was a public relations disaster for the President, as everyone vividly remembers. It is clear that the President somehow viewed the concept as less combustible if he could take the "young intern" phrase out of the public lexicon. Yet, in his deposition testimony, the President admitted he met her and saw her when she was an intern working in the White House in November 1995, during the Government shutdown. Monica Lewinsky confirmed this. In fact, she testified that the first time she ever spoke to the President was on November 15, 1995, during the Government shutdown. And she also said that the very first time that she ever spoke to the President was the same day he invited her back to the Oval Office and began a sexual relationship with her.

It is obvious that the reference in the President's prepared statement to the grand jury that this relationship began in 1996 was intentionally false.

The President's statement was intentionally misleading when he described being alone with Ms. Lewinsky only on certain occasions. Actually, they were alone in the White House at least 20 times and had at least 11 sexual encounters at the White House. The President attempted to use language that subtly minimized the number of times they were alone.

The President's statement was intentionally misleading when he described his telephone conversations with Monica Lewinsky as "occasional." In fact, there are at least 55 documented telephone conversations between the President of the United States and the young intern. And, without going into further graphic detail, the evidence shows that, at least on 17 of those occasions, those conversations included much more than mere sexual banter, as the President described it.

The most unsettling part of that statement was uttered near the close. Listen to what the President said: "I regret that what began as a friendship came to include this conduct." "Friendship." The very day the President met and spoke with a young White House intern for the first time was the day he invited her back to the Oval Office to perform sex acts on him.

In fact, Monica Lewinsky said that after their sexual relationship was over a month old, she didn't even think the President knew her name. The President's statement about his relationship with Monica Lewinsky beginning as a friendship is a callous and deceptive mischaracterization of how his relationship with this young woman really began.

Thus, the President began his deposition testimony by reading a false and misleading statement to the grand jury. He then used that statement as an excuse not to answer specific questions that were directly relevant to allowing the grand jury to complete its criminal investigation. Had he given specific answers to specific questions about the true nature of his relationship, the grand jury would have been able to learn the whole truth about whether the President perjured himself and obstructed justice in the Paula Jones sexual harassment civil rights lawsuit.

Paula Jones had a legal and constitutional right to learn if the President, while as President or Governor, used his position of power and influence to get sexual favors from subordinate female employees in the workplace or to reward subordinate female employees for granting such favors to him. Instead, the President intentionally provided on 19 separate occasions a misleading statement instead of giving a true characterization of his conduct, as required by his oath.

He had no legal or constitutional right to refuse to answer such questions without claiming a fifth amendment privilege and then allowing Judge Wright to make a determination as to whether the privilege applied. The President's preliminary statement delivered 19 times was an initial shot across the perjury bow offered by the President throughout his grand jury testimony. It showed a premeditated effort to thwart the grand jury's criminal investigation, to justify his prior wrongdoing, and to deny Paula Jones her constitutional right to bring forward her claim in a court of law.

The President gave further perjurious, false, and misleading testimony regarding the nature and details of his relationship with Monica Lewinsky. One of the ways the President tried to justify his perjurious answers in the Jones deposition about his relationship was to deconstruct the English language. Remember, the President was shown a copy of the definition of "sexual relations" that Judge Wright approved in his January deposition. This definition was directed by Judge Wright to be used as the guide under which the President was to answer questions about his relationship with Monica Lewinsky. After carefully reviewing that definition, the President said under oath that it did not apply to his relationship with her.

It is important to remember that at the time the President testified that he never had sexual relations with Monica Lewinsky, this was not a risky perjury strategy. After all, he had successfully used Vernon Jordan to get Monica Lewinsky a good job in New York, despite her questionable qualifications. She had filed a false affidavit in the Jones case denying a sexual relationship with the President. She and the President had previously agreed to comprehensive cover stories to deny the truth of their relationship if anyone ever confronted them about it. And the bevy of gifts the President had given to Monica were now nestled safely under Betty Currie's bed so that they would never be produced to or discovered by Mrs. Jones' attorneys in compliance with their subpoena to have those gifts produced.

The perjury strategy was a safe bet in January at his deposition, but it soon turned upside-down for the President. By the time of his grand jury testimony in August, the President knew things had changed drastically, but not in his favor. In light of Ms. Lewinsky's cooperation with the independent counsel, the impending FBI report on the DNA testing on the blue dress, and the President's decision not to confess to his crime, the President needed to come up with some excuse. Here is how the President, at his August grand jury appearance, tried to explain away his January deposition denial of engaging in sexual relations with Monica Lewinsky.

(Text of video tape presentation:)

Q. Did you understand the words in the first portion of the [Jones deposition] exhibit, Mr. President, that is, "For the purposes of this deposition, a person engages in 'sexual relations' when the person knowingly engages in or causes . . ."?

Did you understand, do you understand the words there in that phrase?

A. Yes . . . I can tell you what my understanding of the definition is, if you want . . . My understanding of this definition is it covers contact by the person being deposed with the enumerated areas, if the contact is done with an intent to arouse or gratify. That's my understanding of the definition.

Q. What did you believe the definition to include and exclude? What kinds of activities?

A. I thought the definition included any activity by the person being deposed, where the person was the actor and came into contact with those parts of the bodies with the purpose or intent of gratification, and excluded any other activity. For example, kissing's not covered by that, I don't think.

Q. Did you understand the definition to be limited to sexual activity?

A. Yes, I understood the definition to be limited to physical contact with those areas of the body with the specific intent to arouse or gratify. That's what I understood it to be.

Q. What specific acts did the definition include, as you understood the definition on January 17th, 1998?

A. Any contact with the areas that are mentioned, sir. If you contacted those parts of the body with an intent to arouse or gratify, that is covered.

Q. What did you understand . . .

A. The person being deposed. If the person being deposed contacted those parts of another person's body with an intent to arouse or gratify, that was covered.

If that answer sounds confusing to you, there is a reason for that. It was meant to be.

What the President now was saying to the grand jury is that during their intimate relationship in the Oval Office, Monica Lewinsky had sexual relations with him; he didn't have sexual relations with her.

Consider that for a minute.

The President is asking everyone to believe that between the years 1995 and 1997, while Monica Lewinsky was engaged in a pattern of explicit availability for him as she described in her testimony, the President carefully avoided having any intimate contact with her as described in Judge Wright's very detailed definition.

And, according to the President, since he never intimately touched her as described in the definition—she only touched him—then he was under no obligation to answer questions in the harassment suit about Monica Lewinsky as Federal Judge Susan Webber Wright ordered him to do under oath.

Not only does the President's claim strain all boundaries of common sense, it is directly in conflict with Monica Lewinsky's detailed and corroborated accounts of their relationship.

As if this ridiculous expansion of Judge Wright's definition of what constituted sexual relations wasn't enough, the President then decided to take his interpretation of the judge's definition one step further. He added a new element as to why he claimed the definition didn't apply to him.

When asked again, at his grand jury testimony, what he thought the definition of sexual relations meant, here is the new twist that the President came up with.

(Text of videotape presentation:)

A. As I remember from the previous discussion this was some kind of definition that had something to do with sexual harassment. So, that implies it's forcing to me. And I—there was never any issue of forcing in the case involving—well, any of these questions they were asking me. They made it clear in this discussion I just reviewed that what they were referring to was intentional sexual conduct, not some sort of forcible abusive behavior.

So I basically—I don't think I paid any attention to it because it appeared to me that that was something that had no reference to the facts that they admitted they were asking me about.

The President now took the position that the definition didn't apply to him because it would only have applied if he forced himself on Monica Lewinsky. Remember the definition. And I will read it again:

For the purposes of this deposition, a person engages in sexual relations when the person knowingly engages in or causes—

> (1) contact with the [certain enumerated body parts] of any person with an intent to arouse or gratify the sexual desire of any person[.]

As you can see, this straightforward definition did not include the subject of force or harassment.

Yet when the independent counsel's attorney tried to clarify the President's newfound position, the President gave no ground. He simply plowed ahead with his new interpretation.

(Text of videotape presentation:)

> Q. I'm just trying to understand, Mr. President. You indicated that you put the definition in the context of a sexual harassment case . . .
>
> A. No, no, I think it was not in the context of sexual harassment. I just re-read those four pages, which obviously the grand jury doesn't have. But there was some reference to the fact that this definition apparently bore some—had some connection to some definition in another context and that this was being used not in that context, not necessarily in the context of sexual harassment.
>
> So I would think that this causes would be—means to force someone to do something. That's what I read it. That's the only point I'm trying to make. Therefore, I did not believe that any one had ever suggested that I had forced anyone to do anything and I did not do that. And so, that could not have had any bearing on any questions relating to Ms. Lewinsky.

The evidence clearly shows from Monica Lewinsky's sworn testimony that the President deconstructed the English language to deny Paula Jones the opportunity to find out if other witnesses were out there who would help bolster her case against the President, and she was legally entitled to do that under our sexual harassment laws.

No reasonable interpretation of the President's testimony could be made that he fulfilled his legal obligation to testify to the truth, the whole truth and nothing but the truth.

His statements were perjurious. They were designed to defeat Paula Jones' right to pursue her sexual harassment civil rights lawsuit against this President.

And by the way, in his testimony, the President conceded that if Monica Lewinsky's recitation of the facts was true, he would have perjured himself both in his deposition testimony and in repeating his denials before the grand jury. Listen to this.

(Text of videotape presentation:)

> Q. And you testified that you didn't have sexual relations with Monica Lewinsky in the Jones deposition under that definition, correct?
>
> A. That's correct, sir.
>
> Q. If the person being deposed touched the genitalia of another person, would that be in—with the intent to arouse the sexual desire, arouse or gratify, as defined in definition one, would that be, under your understanding, then and now, sexual relations?
>
> A. Yes, sir.
>
> Q. Yes, it would?
>
> A. Yes, it would if you had a direct contact with any of these places in the body, if you had direct contact with intent to arouse or gratify, that would fall within the definition.
>
> Q. So you didn't do any of those three things with Monica Lewinsky?
>
> A. You are free to infer that my testimony is that I did not have sexual relations as I understood this term to be defined.

So, who is telling the truth? The only way to really know is to bring forth the witnesses, put them under oath and give each juror, each Member of this body the opportunity to make that determination of credibility, because the record shows that Monica Lewinsky delivered consistent and detailed testimony under oath regarding many specific encounters with the President that clearly fell within the definition of sexual relations from the Jones deposition.

Monica Lewinsky's memory and accounts of these incidents are amazingly corroborated by her recollection of dates, places and phone calls which correspond with the official White House entrance logs and phone records.

Monica Lewinsky's testimony is further corroborated through DNA testing and the testimony of her friends and family members, to whom she made near contemporaneous statements about the relationship.

Most importantly, Monica Lewinsky had every reason to tell the truth to the grand jury. She was under a threat of prosecution for perjury, not only for her grand jury testimony, but also for the false affidavit she filed on behalf of the President in the Jones case.

She knew then and she knows today that her immunity agreement could be revoked at any time if she lies under oath or if she lied under oath in the past. Truthful testimony was and remains a condition for her immunity from prosecution.

By way of contrast, the President was under obligation to give complete answers. Instead, he offered false answers that violated his oath to tell the truth, the whole truth and nothing but the truth. And incidentally, during his grand jury testimony, the President actually suggested that he had a right to give less than complete answers. Why? Because he questioned the motives of Ms. Jones in bringing her lawsuit.

If this standard is acceptable, what does that do to the search for the truth when an oath is administered in a courtroom to one who claims to question the "motives" of their opponent in a trial? This suggestion has no basis in law. And it is destructive to the truth-seeking function of the courts.

The President's perjurious legal hairsplitting used to bypass the requirement of telling the complete truth denied Paula Jones her constitutional right to have her day in court and an orderly disposition of her claim in the sexual harassment case against the President.

To dismiss this conduct with a shrug because it is "just about sex" is to say that the sexual harassment laws protecting women in the workplace do not apply to powerful employers or others in high places of privilege. As one wag recently noted, if this case is "just about sex," then robbery is just a disagreement over money.

Next, the President perjured himself before the grand jury when he repeated previous perjured answers he gave in the deposition of the Paula Jones case. In his grand jury testimony in August, the President admitted he had to tell the truth, the whole truth, and nothing but the truth when he testified in the Paula Jones deposition.

The question to the President:

> Now, you took the same oath to tell the truth, the whole truth, and nothing but the truth on January 17th, 1998, in a deposition in the Paula Jones litigation; is that correct, sir?

Answer:

> I did take an oath then.

Question:

> Did the oath you took on that occasion mean the same to you then as it does today?

Answer:

> I believe then that I had to answer the questions truthfully; that is correct.

When the President testified in his January deposition, he knew full well that Monica Lewinsky's affidavit she filed in the case stating that they never had sexual relations was false. Yet, when this affidavit was shown to him at the deposition, he testified that her false claim was, in his words, "absolutely true."

He knew that the definition of "sexual relations" used in the earlier Jones deposition was meant to cover the same activity that was mentioned in Monica Lewinsky's false affidavit. Rather than tell the complete truth, the President lied about the relationship, the cover stories, the affidavit, the subpoena for gifts, and the search for a job for Ms. Lewinsky.

Later he denied to the grand jury in August that he committed any perjury during his January deposition. This assertion before the grand jury that he testified truthfully in the Jones case is in and of itself perjurious testimony because the record is clear he did not testify truthfully in January in the Paula Jones case. He perjured himself.

Thus, when the President testified before the grand jury in August, he knew he had given perjurious answers in the January deposition. If the President really thought, as he testified, that he had told the truth in his January deposition testimony, he would not have related a false account of events to his secretary, Betty Currie, whom he knew, by his own admission, might be called as a witness in the Jones case; he would not have repeatedly denied he was unable to recall being alone with Monica Lewinsky; and he would not have told false accounts to his aides whom he knew, by his own admission, were potential witnesses in later proceedings.

The evidence of perjury and obstruction of justice is overwhelming in this case. He continued to use illegal means to defeat Ms. Jones' constitutional right to bring her harassment case against him.

Next, the President committed perjury before the grand jury when he testified that he did not allow his attorney to make false representations while referring to Monica Lewinsky's affidavit before the judge in the Jones case, an affidavit that he knew was false.

Remember, at the Jones deposition in January 1998, Monica Lewinsky previously had filed a false affidavit that said, "I have never had a sexual relationship with the President" and that she had no relevant information to provide on the subject to Ms. Jones.

When Ms. Jones' attorneys attempted to question the President about his relationship with Ms. Lewinsky, the President's attorney, Mr. Bennett, objected to him even being questioned about the relationship.

Mr. Bennett claimed that in light of Monica Lewinsky's affidavit saying that there was no sexual relationship between the two, and there never had been, that Paula Jones' lawyer had no good faith belief even to question the President about a relationship with Monica Lewinsky.

Listen to what Mr. Bennett told Judge Wright in the deposition.

(Text of videotape presentation:)

Mr. BENNETT. Your Honor, excuse me, Mr. President, I need some guidance from the Court at this point. I'm going to object to the innuendo. I'm afraid, as I say, that this will leak. I don't question the predicates here. I question the good faith of counsel, the innuendo in the question. Counsel is fully aware that Ms. Jane Doe 6 [Monica Lewinsky] has filed, has an affidavit which they are in possession of saying that there is absolutely no sex of any kind in any manner, shape or form, with President Clinton, and yet listening to the innuendo in the questions——

Judge WRIGHT. No, just a minute, let me make my ruling. I do not know whether counsel is basing this question on any affidavit, but I will direct Mr. Bennett not to comment on other evidence that might be pertinent and could be arguably coaching the witness at this juncture. Now, Mr. Fisher is an officer of this court, and I have to assume that he has a good faith basis for asking the question. If in fact he has no good faith basis for asking this question, he could later be sanctioned. If you would like, I will be happy to review in camera any good faith basis he might have.

Mr. BENNETT. Well, Your Honor, with all due respect, I would like to know the proffer. I'm not coaching the witness. In preparation of the witness for this deposition, the witness is fully aware of Ms. Jane Doe 6's (Monica Lewinsky's) affidavit, so I have not told him a single thing he doesn't know, but I think when he asks questions like this where he's sitting on an affidavit from the witness, he should at least have a good faith proffer.

Judge WRIGHT. Now, I agree with you that he needs to have a good faith basis for asking the question.

Mr. BENNETT. May we ask what it is, Your Honor?

Judge WRIGHT. And I'm assuming that he does, and I will be willing to review this in camera if he does not want to reveal it to counsel.

Mr. BENNETT. Fine.

Mr. FISHER. I would welcome an opportunity to explain to the Court what our good faith basis is in an in camera hearing.

Judge WRIGHT. All right.

Mr. FISHER. I would prefer that we not take the time to do that now, but I can tell the Court I am very confident there is substantial basis.

Judge WRIGHT. All right, I'm going to permit the question. He's an officer of the Court, and as you know, Mr. Bennett, this Court has ruled on prior occasions that a good faith basis can exist notwithstanding the testimony of the witness, of the deponent, and the other party.

May I say as an aside that by presenting that, I am in no way questioning the quality or the integrity of the President's attorney, Mr. Bennett, on that day. Mr. Bennett was doing his job as the President's lawyer. He had an affidavit from Monica Lewinsky that said none of this ever happened. And so I hope that none of you will assume that by my showing this deposition tape today that I am trying to draw any unfair inference against the President's attorney on that date. But you can tell from what you have just observed that Mr. Bennett was using Monica Lewinsky's false affidavit in an attempt to stop questioning of the President about Ms. Lewinsky.

What did the President do during that exchange? He sat mute. He did not say anything to correct Mr. Bennett, even though the President knew that the affidavit upon which Mr. Bennett was relying was utterly false.

Judge Wright overruled Mr. Bennett's objection and allowed the questioning about Monica Lewinsky to proceed.

Later in the deposition, Mr. Bennett read to the President the portion of Ms. Lewinsky's affidavit in which she denied having a sexual relationship with the President. Mr. Bennett then asked the President, who was under oath, if Ms. Lewinsky's statement that they never had a sexual relationship was true and accurate.

Listen to the President as he responds.

(Text of videotape presentation:)

Q: In paragraph eight of her affidavit, she says this, "I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for reflecting a sexual relationship."

Is this a true and accurate statement as far as you know it?

A: That is absolutely true.

The President's answer: "That is absolutely true."

When President Clinton was asked during his grand jury testimony 8 months later how he could have sat silently at his earlier deposition while his attorney made the false statement that "there is no sex of any kind," in any manner, shape, or form, to Judge Wright, the President first said that he was not paying "a great deal of attention" to Mr. Bennett's comments.

(Text of videotape presentation:)

Q. Mr. President, I want to—before I go into a new subject area, briefly go over something you were talking about with Mr. Bittman. The statement of your attorney, Mr. Bennett, at the Paula Jones deposition—counsel is fully aware—it's page 54, line 5. "Counsel is fully aware that Ms. Lewinsky is filing, has an affidavit, which they were in possession of, saying that there was absolutely no sex of any kind in any manner, shape or form with President Clinton." That statement was made by your attorney in front of Judge Susan Webber Wright.

A. That's correct.

Q. Your—that statement is a completely false statement. Whether or not Mr. Bennett knew of your relationship with Ms. Lewinsky, the statement that there was "no sex of any kind in any manner, shape or form with President Clinton" was an utterly false statement. Is that correct?

A. It depends upon what the meaning of the word "is" means. If "is" means is, and never has been, that's one thing. If it means, there is none, that was a completely true statement. But as I have testified—I'd like to testify again—this is —it is somewhat unusual for a client to be asked about his lawyer's statements instead of the other way around. I was not paying a great deal of attention to this exchange. I was focusing on my own testimony.

The President added to this explanation he was giving to the attorney questioning him. This is what the President said: "And I'm not sure . . . as I sit here today that I sat there and followed all these interchanges between the lawyers. I'm quite sure that I didn't follow all the interchanges between the lawyers all that carefully. And I don't really believe, therefore, that I can say Mr. Bennett's testimony or statement is testimony and is imputable to me. I didn't—I don't know that I was really paying attention, paying that much attention to him."

This denial of the President while his attorney was proffering a false statement to Judge Wright in an effort to keep the Paula Jones lawyers from even questioning the President about his relationship with Monica Lewinsky simply does not withstand the test of truth. The videotape of the President's January deposition shows the President paying very close attention to Mr. Bennett when Mr. Bennett was making the statement about "no sex of any kind."

View again the video clip of the President during Mr. Bennett's argument that the Jones lawyers have no right to ask questions about Monica Lewinsky, only this time watch the President as he focuses on his lawyer speaking about one of the most important subjects he has ever faced in his entire life—the survival of his Presidency.

(Text of videotape presentation:)

Mr. BENNETT. Your Honor, excuse me, Mr. President, I need some guidance from the Court at this point. I'm going to object to the innuendo. I'm afraid, as I say, that this will leak. I don't question the predicates here. I question the good faith of counsel, the innuendo in the question. Counsel is fully aware that Ms. Jane Doe 6 [Monica Lewinsky] has filed, has an affidavit which they are in possession of saying that there is absolutely no sex of any kind in any manner, shape or form, with President Clinton, and yet listening to the innuendo in the questions——

Judge WRIGHT. No, just a minute, let me make my ruling. I do not know whether counsel is basing this question an any affidavit, but I will direct Mr. Bennett not to comment on other evidence that might be pertinent and could be arguably coaching the witness at this juncture. Now, I Mr. Fisher is as officer of this court, and I have to assume that he has a good faith basis for asking the question. If in fact he has no good faith basis for asking this question, he could later be sanctioned. If you would like, I will be happy to review in camera any good faith basis he might have.

Mr. BENNETT. Well, Your Honor, with all due respect, I would like to know the proffer. I'm not coaching the witness. In preparation of the witness for this deposition, the witness is fully aware of Ms. Jane Doe 6's (Monica Lewinsky's) affidavit, so I have not told him a single thing he doesn't know, but I think when he asks questions like this where he's sitting on an affidavit from the witness, he should at least have a good faith proffer.

Judge WRIGHT. Now, I agree with you that he needs to have a good faith basis for asking the question.

Mr. BENNETT. May we ask what it is, Your Honor?

Judge WRIGHT. And I'm assuming that he does, and I will be willing to review this in camera if he does not want to reveal it to counsel.

Mr. BENNETT. Fine.

Mr. FISHER. I would welcome an opportunity to explain to the Court what our good faith basis is in an in camera hearing.

Judge WRIGHT. All right.

Mr. FISHER. I would prefer that we not take the time to do that now, but I can tell the Court I am very confident there is substantial basis.

Judge WRIGHT. All right, I'm going to permit the question. He's an officer of the Court, and as you know, Mr. Bennett, this Court has ruled on prior occasions that a good faith basis can exist notwithstanding the testimony of the witness, of the deponent, and the other party.

By the way, lest there be any doubt in the minds of any Member of this body as to whom the President was looking at and focusing at, we are fully prepared to bring in a witness for you who was present at the deposition and who will draw a map for every Member of this body and show the location of the President and every other person around the table.

Just in case the President's "I wasn't paying any attention" excuse didn't fly, the President, in his grand jury testimony, decided to try another argument on for size. He suggested that when Mr. Bennett made his statement about "there is no sex of any kind," the President was focusing on the meaning of the word "is."

He then said that when Mr. Bennett made the assertion that "there is no sex of any kind," Mr. Bennett was speaking only in the present tense, as if the President understood that to mean "there is no sex" because there was no sex occurring at the time Mr. Bennett's remark was made.

The President stated, "It depends on what the meaning of the word 'is' is."

And that if it means there is none, that was a completely true statement. Listen and watch again to the same video clip from the President's grand jury testimony that we saw a few moments ago. Only this time, pay close attention to the President's excuse as to why he did not have to comply with the truth, because in his mind there is some question as to what the meaning of the word "is" is.

(Text of videotape presentation:)

Q. Mr. President, I want to, before I go into a new subject area, briefly go over something you were talking about with Mr. Bittman. The statement of your attorney, Mr. Bennett, at the Paula Jones deposition "counsel is fully aware"—it's page 54 line 5.—"counsel is fully aware that Ms. Lewinsky has filed, has an affidavit which they were in possession of saying that there is no sex of any kind in any manner, shape or form, with President Clinton?" That statement is made by your attorney in front of Judge Susan Webber Wright, correct?

A. That's correct.

Q. That statement is a completely false statement. Whether or not Mr. Bennett knew of your relationship with Ms. Lewinsky, the statement that there was "no sex of any kind in any manner, shape or form, with President Clinton," was an utterly false statement. Is that correct?

A. It depends on what the meaning of the word "is" is. If "is" means is, and never has been, that is one thing. If it means there is none, that was a completely true statement. But, as I have testified, and I'd like to testify again, this is—it is somewhat unusual for a client to be asked about his lawyer's statements, instead of the other way around. I was not paying a great deal of attention to this exchange. I was focusing on my own testimony.

In essence, here is what the President says in his own defense: I wasn't paying any attention to what my lawyer was saying when he offered the false affidavit on my behalf to the judge. However, if I was paying attention, I was focusing on the very narrow definition of what the word "is" is and the tense in which that was presented.

Now, I am a former prosecutor, and that is like the murderer who says: I have an ironclad alibi. I wasn't at the crime scene, I was home with my mother eating apple pie. But if I was there, it is a clear case of self-defense.

The President now asks this body of lawmakers to give acceptance to these ludicrous definitions of ordinary words and phrases. He asks you to believe this is what he really thought when he was asked if he ever had sexual relations with Monica Lewinsky, and when he was asked about her false affidavit.

By the way, as to the President's "tense" argument that he presented about what the meaning of the word "is" is, this fails to take into account another important fact. The false affidavit of Monica Lewinsky that Mr. Bennett was waiving that day before the judge made no such distinction. Her affidavit never said in the present tense, "I am not now having a sexual relationship with the President." Her affidavit said, "I have never had a sexual relationship with the President."

The President perjured himself when he said that Mr. Bennett's statement that there was no sex of any kind was "absolutely true," depending on what the meaning of the word "is" is.

The President did not admit to the grand jury that Mr. Bennett's statement was false, because to do so would have been to admit that the term "sexual relations" as used in Ms. Lewinsky's affidavit meant "no sex of any kind." Admitting that would be to admit that he perjured himself previously in his grand jury testimony and in his deposition.

Now, interestingly, Ms. Lewinsky doesn't bother attempting to match the President's linguistic deconstructions of the English language. After she was granted immunity, Monica Lewinsky testified under oath that the part of her affidavit denying a sexual relationship with the President was a lie.

I read from page 204 of Ms. Lewinsky's testimony:

Question: Let me ask you a straightforward question. Paragraph 8—

Referring to her affidavit—

at the start says, "I have never had a sexual relationship with the President." Is that true?

Answer: No.

Thus, the President engaged in an evolving series of lies during his sworn testimony in order to cover previous lies he told in sworn testimony, and to conceal his conduct that obstructed justice in the Paula Jones sexual harassment suit against him. He did this to deny Paula Jones her constitutional right to bring a case of sexual harassment against him, and to sidetrack the investigation of the Office of Independent Counsel into his misconduct.

Finally, the President committed perjury before the grand jury when he testified falsely about his blatant attempts to influence the testimony of potential witnesses and his involvement in a plan to hide evidence that had lawfully been subpoenaed in the civil rights action brought against him.

This perjurious testimony breaks down into four categories:

First, he made false and misleading statements to the grand jury concerning his knowledge of Monica Lewinsky's false affidavit.

Second, he made false and misleading statements to the grand jury when he related a false account of his interaction with his secretary, Betty Currie, when he reasonably knew she might later be called before the grand jury to testify.

Third, he made perjurious and misleading statements to the grand jury when he denied engaging in a plan to hide evidence that had been subpoenaed in the Jones civil rights case against him.

Finally, he made perjurious and misleading statements to the grand jury concerning statements he made to his aides about Monica Lewinsky when he reasonably knew these aides might be called later to testify.

Let's look briefly at the first area.

The President made false and misleading statements before the grand jury regarding his knowledge of the contents of Monica Lewinsky's affidavit.

As we now know conclusively, Monica Lewinsky filed an affidavit in the Jones case in which she denied ever having a sexual relationship with the President, and that was a lie when it was filed.

Remember—during his deposition in the Jones case, the President said that Ms. Lewinsky's denial of ever having a sexual relationship was "absolutely true."

Monica Lewinsky later testified that she is "100 percent sure" that the President suggested she might want to sign an affidavit to avoid testifying in the case of Jones versus Clinton. In fact, the President gave the following testimony before the grand jury:

> And did I hope she'd be able to get out of testifying on an affidavit? Absolutely. Did I want her to execute a false affidavit? No, I did not.

This testimony is false because it could not be possible that Monica Lewinsky could have filed a truthful affidavit in the Jones case, an affidavit acknowledging a sexual relationship with the President, that would have helped her to avoid having to appear as a witness in the Paula Jones case.

The attorneys for Paula Jones were seeking evidence of sexual relationships with the President, and ones that the President might have had with other State or Federal employees.

This information was legally obliged to be produced by the President to Paula Jones in her sexual harassment lawsuit against him to help prove her claim.

Judge Susan Webber Wright had already ruled that Paula Jones was entitled to this information from the President for purposes of discovery.

If Monica Lewinsky had filed a truthful affidavit that acknowledged a sexual relationship with the President, then she certainly could not have avoided having to testify in a deposition.

The President knew this.

His grand jury testimony on this subject is perjury.

Next, the President provided false testimony concerning his conversations with his personal secretary Betty Currie about Monica after he testified in the Jones deposition.

Recall Mr. Manager HUTCHINSON's presentation a short time ago. The President had just testified on January 17, 1998, in the Paula Jones deposition. He said he could not recall being alone with Monica Lewinsky and that he did not have a sexual relationship with her.

After his testimony, on the very next day and in a separate conversation with her a few days later, President Clinton made statements to Ms. Currie that he knew were false.

He made them to coach Ms. Currie and to influence her potential future testimony.

He coached her by reciting inaccurate answers to possible questions that she might be asked if she were called to testify in the Paula Jones case.

By the way: the President discussed his deposition testimony with Ms. Currie in direct violation of Judge Wright's order that he not discuss his testimony with anyone. Judge Wright warned the President at the deposition:

> Before he leaves, I want to remind him, as the witness in this matter, . . . that this case is subject to a Protective Order regarding all discovery, . . . [A]ll parties present, including . . . the witness are not to say anything whatsoever about the questions they were asked, the substance of the deposition, . . ., any details . . .

After he coached her, the President wanted Betty Currie to be a witness.

During his deposition testimony, the President did everything he could to suggest to the Jones lawyers they needed to depose Betty Currie. He did this by referring to her over and over again as the one with the information they need for information about him and Monica Lewinsky.

He stated to the Jones lawyer in his deposition, for example, that:

> . . . the last time he had seen Ms. Lewinsky was when she had come to the White House to see Ms. Currie; that Ms. Currie was present when the President had made a joking reference about the Jones case to Ms. Lewinsky; that Ms. Currie was his source of information about Vernon Jordan's assistance to Ms. Lewinsky; and that Ms. Currie had helped set up the meetings between Ms. Lewinsky and Mr. Jordan regarding her move to New York.

Because the President referred so often to Ms. Currie, it is obvious he wanted her to become a witness in the Jones matter, particularly if specific allegations of the President's relationship with Ms. Lewinsky came to light.

According to Ms. Currie, President Clinton even told her at some point that she might be asked about Monica Lewinsky.

Two and a half hours after he returned from the Paula Jones deposition, President Clinton called Ms. Currie at home and asked her to come to the White House the next day, a Sunday.

Ms. Currie testified that it was rare for the President to ask her to come in on a Sunday.

At about 5:00 p.m. on Sunday, January 18, Ms. Currie went to meet with President Clinton at the White House.

Listen to what Betty Currie told the grand jury:

> He said that he had had his deposition yesterday, and they had asked several questions about Monica Lewinsky. And I was a little shocked by that or—(shrugging). And he said—I don't know if he said—I think he may have said, "There are several things you may want to know," or "There are things—" He asked me some questions.

According to Ms. Currie, the President then said to her in rapid succession:

> You were always there when she was there, right? We were never really alone.
>
> You could see and hear everything.
>
> Monica came on to me, and I never touched her, right?
>
> She wanted to have sex with me, and I can't do that.

Ms. Currie indicated that these remarks were "more like statements than questions."

Ms. Currie concluded that the President wanted her to agree with him.

Ms. Currie also said that she felt the President made these remarks to see her reaction.

Ms. Currie said that she indicated her agreement with each of the President's statements, although she knew that the President and Ms. Lewinsky had in fact been alone in the Oval Office and in the President's study.

Ms. Currie also knew that she could not, and did not hear or see the President and Ms. Lewinsky while they were alone.

Ms. Currie testified that two or three days after her conversation with the President at the White House, he again called her into the Oval Office to discuss this.

She described their conversation as, quote, "sort of a recapitulation of what we had talked about on Sunday—you know, I was never alone with her"—that sort of thing."

> Q: [To Ms. Currie] Did he pretty much list the same?
>
> A. To my recollection, sir, yes.

In his grand jury testimony, the president was asked why he might have said to Ms. Currie in their meeting on that Sunday "we were never alone together, right?" and "you could see and hear everything."

Here is how the President testified:

> [W]hat I was trying to determine was whether my recollection was right and that she was always in the office complex when Monica was there, and whether she thought she could hear any conversations we had, or did she hear any—I was trying to—I knew . . . to a reasonable certainty that I was going to be asked more questions about this. I didn't really expect you to be in the Jones case at the time. I thought what would happen is that it would break in the press, and

> I was trying to get the facts down. I was trying to understand what the facts were.

The President told the grand jury that he was putting those questions to Betty Currie on that Sunday to refresh his recollection and trying to pin down what the facts were.

Later, the President stated that he was referring to a larger area than simply the room where he and Ms. Lewinsky were located. He also testified that his statements to Ms. Currie were intended to cover a limited range of dates.

Listen to the President's answer.

> A. [W]hen I said, we were never alone, right, I think I also asked her a number of other questions, because there were several times, as I'm sure she would acknowledge, when I either asked her to be around. I remember once in particular when I was talking with Ms. Lewinsky when I asked Betty to be in the, actually, in the next room in the dining room, and, as I testified earlier, once in her own office. But I meant that she was always in the Oval Office complex, in that complex, while Monica was there. And I believe that this was part of a series of questions I asked her to try to quickly refresh my memory. So, I wasn't trying to get her to say something that wasn't so. And, in fact, I think she would recall that I told her to just relax, go in the grand jury and tell the truth when she had been called as a witness.

Now the President was treating the grand jury to his construction of what the word "alone" means to him.

When asked he answered:

> it depends on how you define alone, and "there were a lot of times when we were alone, but I never really thought we were."

The President also was asked about his specific statement to Betty Currie that "you could see and hear everything." He testified that he was uncertain what he intended by that comment:

Question to the President:

> Q: When you said to Mrs. Currie, you could see and hear everything, that wasn't true either, was it, as far as you knew. . . .
>
> A. My memory of that was that, that she had the ability to hear what was going on if she came in the Oval Office from her office. And a lot of times, you know, when I was in the Oval Office, she just had the door open to her office. Then there was—the door was never completely closed to the hall. So I think there was—I'm not entirely sure what I meant by that, but I could have meant that she generally would be able to hear conversations, even if she couldn't see them. And I think that's what I meant.

The President also was asked about his comment to Ms. Currie that Ms. Lewinsky had "come on" to him, but that he had "never touched her."

Question to the President:

> Q: [I]f [Ms. Currie] testified that you told her, Monica came on to me and I never touched her, you did, in fact, of course, touch Ms. Lewinsky, isn't that right, in a physically intimate way?
>
> A. Now, I've testified about that. And that's one of those questions that I believe is answered by the statement that I made.
>
> Q: What was your purpose in making these statements to Mrs. Currie, if it weren't for the purpose to try to suggest to her what she should say if ever asked?
>
> A. Now, Mr. Bittman, I told you, the only thing I remember is when all this stuff blew up, I was trying to figure out what the facts were. I was trying to remember. I was trying to remember every time I had seen Ms. Lewinsky. . . . I knew this was all going to come out. . . . I did not know [at the time] that the Office of Independent Counsel was involved. And I was trying to get the facts and try to think of the best defense we could construct in the face of what I thought was going to be a media onslaught.

Finally, the President was asked why he would have called Ms. Currie into his office a few days after the Sunday meeting and repeated the statements about Ms. Lewinsky to her.

The President testified that although he would not dispute Ms. Currie's testimony to the contrary, he did not remember having a second conversation with her along these lines.

Thus, the president referred to Ms. Currie many times in his deposition when describing his relationship with Ms. Lewinsky.

He himself admitted that a large number of questions about Ms. Lewinsky were likely to be asked in the very near future.

The President reasonably could foresee that Ms. Currie either might be deposed or questioned, or might need to prepare an affidavit.

When he testified he was only making statements to Ms. Currie to "ascertain what the facts were, trying to ascertain what Betty's perception was," this statement was false, and it was perjurious.

We know it was perjury, because the President called Ms. Currie into the White House the day after his deposition to tell her—not ask her, to tell her—that

> he was never alone with Ms. Lewinsky;
>
> to tell her that Ms. Currie could always hear or see them
>
> and to tell her that he never touched Ms. Lewinsky.

These were false statements, and he knew that the statements were false at the time he made them to Betty Currie.

The President's suggestion that he was simply trying to refresh his memory when talking to Betty Currie is nonsense.

What if Ms. Currie had confirmed these statements—statements the president knew were false? It could not in any way remind the President of what really happened in the Oval Office with Monica Lewinsky because the President already knew he was alone with Monica Lewinsky. The President already knew that obviously Ms. Currie could not always see him back in the Oval Office area with Monica Lewinsky. And the President already knew that he had an intimate sexual relationship with Monica Lewinsky.

There is no logical way to justify his claim that he made these statements to Ms. Currie to refresh his recollection.

The only reasonable inference from the President's conduct is that he tried to enlist a potential witness to back up his perjury from the day before at the deposition.

The circumstances surrounding the president's statements clearly show, clearly show that he improperly sought to influence Ms. Currie's potential future testimony.

His actions were an obstruction of justice, and a blatant attempt to illegally influence the truthful testimony of a potential witness.

And his later denials about it under oath were perjurious.

Next, the President gave perjurious, false and misleading testimony before the grand jury when he denied he was engaged in a plot to hide evidence that had been subpoenaed in the Paula Jones case.

On December 19, 1997, Monica Lewinsky was served with a subpoena in the Paula Jones case.

The subpoena required her to testify at a deposition in January, and the subpoena required her to produce each and every gift President Clinton had given her.

Nine days after she received this subpoena, Ms. Lewinsky met with the President for about 45 minutes in the Oval Office.

By this time, President Clinton knew that she had been subpoenaed in the case.

At this meeting they discussed the fact that the gifts that he had given Monica Lewinsky had been subpoenaed, including a hat pin—the first gift the president had ever given Ms. Lewinsky.

Monica Lewinsky testified that at some point in this meeting she said to the President,

> Well, you know, I—maybe I should put the gifts away outside my house somewhere or give them to someone, maybe Betty.
>
> And he sort of said—I think he responded, "I don't know" or "Let me think about that." And left that topic.

President Clinton provided the following explanation to the grand jury and to the House Judiciary Committee regarding this conversation:

> Ms. Lewinsky said something to me like, "what if they ask me about the gifts you've given me," but I do not know whether that conversation occurred on December 28, 1997, or earlier.
>
> Whenever this conversation occurred, I testified, I told her "that if they [the Jones Lawyers] asked her for gifts, she'd have to give them whatever she had. . . ."
>
> I simply was not concerned about the fact that I had given her gifts. Indeed, I gave her additional gifts on December 28, 1997.

The President's statement that he told Ms. Lewinsky that if the attorneys for Paula Jones asked for the gifts, then she had to provide them, is perjurious.

It strains all logic to believe the President would encourage Monica Lewinsky to turn over the gifts. To do so would have raised questions about their relationship and would go against all of their other efforts to conceal the relationship, including filing a false affidavit about their relationship. The fact that the President gave Monica Lewinsky additional gifts on December 28, 1998, doesn't exonerate the President. It demonstrates that the President never believed that Monica Lewinsky in light of all of their relationship, all of the cover stories, all of the plans that they had put forward, her willingness to subject herself to a perjury prosecution by filing a false affidavit, all of that was because he knew that Monica Lewinsky would never turn those gifts over pursuant to the subpoena. And as Ms. Lewinsky testified, she never questioned, as she said, "that we were ever going to do anything but keep this quiet."

This meant that they would take, in her words, "whatever steps needed to be taken" to keep it quiet.

By giving more gifts to Monica Lewinsky after she received a subpoena to appear in the Jones case, the President believed that Monica Lewinsky would never testify truthfully about their relationship.

Additionally, Ms. Lewinsky said she could not answer why the President would give her more gifts on the 28th when he knew she had to produce gifts in response to the subpoena. She did testify, however, that——

> To me it was never a question in my mind and I—from everything he said to me, I never questioned him, that we were never going to do anything but keep this private, so that meant deny it and that meant do—take whatever appropriate steps needed to be taken, you know, for that to happen. . . . So by turning over these gifts, it would at least prompt [the Jones attorneys] to question me about what kind of friendship I had with the President. . . .

After this meeting on the morning of December 28, Betty Currie called Monica Lewinsky and made arrangements to pick up gifts the President had given to Ms. Lewinsky.

Monica Lewinsky testified under oath before the grand jury that a few hours after meeting with the President on December 28, 1997, where they discussed what to do about the gifts he gave to her, Betty Currie called Monica Lewinsky.

Monica Lewinsky explained it to the grand jury as follows:

> Question: What did [Betty Currie] say?
>
> Answer: She said, "I understand you have something to give me." Or, "The President said you have something to give me." Along those lines. . . .
>
> Question: When she said something along the lines of "I understand you have something to give me," or "The President says you have something for me," what did you understand her to mean?
>
> Answer: The gifts.

Later in the day on December 28, Ms. Currie drove to Monica Lewinsky's home.

Ms. Lewinsky gave Ms. Currie a sealed box that contained several gifts Ms. Lewinsky had received from the President, including the hat pin that was specifically named in the Jones subpoena.

As further corroboration, Monica Lewinsky had told the FBI earlier that when Betty Currie called her about these gifts, it sounded like Betty Currie was calling on her cell phone. Ms. Lewinsky gave her best guess on the time of day the call came on December 28.

Although Ms. Lewinsky's guess on the hour the call came was a bit off, phone records were later produced revealing that Betty Currie in fact called Monica Lewinsky on her cell phone, just as Ms. Lewinsky had described it. The only logical conclusion is that Betty Currie called Monica Lewinsky about retrieving the President's gifts. There would have been no reason for Betty Currie, out of the blue, to return gifts unless instructed to do so by the President. Betty Currie didn't know about the gift issue ahead of time. Only the President and Monica Lewinsky had discussed it. There is no other way Ms. Currie could have known to call Monica Lewinsky about the gifts unless the President told her to do it.

President Clinton perjured himself when he testified before the grand jury on this issue and reiterated to the House Judiciary Committee that he did not recall any conversation with Ms. Currie around December 28. He also perjured himself when he testified before the grand jury that he did not tell Betty Currie to take possession of the gifts that he had given Ms. Lewinsky.

Question to the President:

> After you gave her the gifts on December 28th, did you speak with your secretary, Ms. Currie, and ask her to pick up a box of gifts that were some compilation of gifts that Ms. Lewinsky would have——
>
> Answer: No, sir, I didn't do that.
>
> Question: —to give to Ms. Currie?
>
> Answer: I did not do that.

The President had a motive to conceal the gifts because both he and Ms. Lewinsky were concerned that the gifts might raise questions about their relationship. By confirming that the gifts would not be produced, the President ensured that these questions would never arise. The concealment of these gifts from Paula Jones' attorneys allowed the President to provide perjurious statements about the gifts at his deposition in the Jones case.

Finally, the President gave perjurious testimony to the grand jury concerning statements he gave to his top aides regarding his relationship with Monica Lewinsky. Here is a portion of his grand jury transcript, when the President testified about his conversation with key aides, once the Monica Lewinsky story became public.

Question to the President:

> Question: Did you deny to them or not, Mr. President?
>
> Answer: . . . I did not want to mislead my friends, but I want to define language where I can say that. I also, frankly, do not want to turn any of them into witnesses because I—and sure enough, they all became witnesses.
>
> Question: Well, you knew they might be witnesses, didn't you?
>
> Answer: And so I said to them things that were true about this relationship. That I used—in the language I used, I said, there is nothing go[ing] on between us. That was true. I said, I have not had sex with her as I defined it. That was true. And did I hope that I would never have to be here on this day giving this testimony? Of course. But I also didn't want to do anything to complicate this matter further. So, I said things that were true. They may have been misleading, and if they were, I have to take responsibility for it, and I'm sorry.

The President's testimony that day that he said things that were true to his aides is clearly perjurious. Just as the President predicted, several of the President's top aides were later called to testify before the grand jury as to what the President told them. And when they testified before the grand jury they passed along the President's false account, just as the President intended them to do.

I will not belabor the point any further with the Members of this body because I think Mr. Manager HUTCHINSON ably presented that testimony.

But we know from the evidence that Erskine Bowles, John Podesta, Sidney Blumenthal, all came before the grand jury. They all provided testimony to the grand jury establishing that the President's comments to them were the truth. The President had them go in. The President gave them that information so false information would be shared with the grand jury so that the grand jury would never be armed with the truth. And when witnesses are called to come before this body, you will have an opportunity to make that determination.

Mr. Chief Justice and Members of the United States Senate, posterity looks to this body to defend in a courageous way the public trust and take care that the basis of our Government is not undermined. On January 17, 1998, President Clinton, while a defendant in a civil rights sexual harassment lawsuit, gave sworn testimony in a deposition presided over by a Federal judge. In this deposition he raised his hand and he swore to tell the truth, the whole truth and nothing but the truth.

On August 17th, President Clinton testified before a Federal grand jury in a criminal investigation. At this appearance he raised his hand and he swore to tell the truth, the whole truth, and nothing but the truth. The evidence conclusively shows that the President rejected his obligations under oath on both occasions. He engaged in a serial pattern of perjury and obstruction of justice. These corrupt acts were done so he could deny a U.S. citizen, Mrs. Paula Jones, her constitutional right to bring her claim against him in a court of law. In so doing, he intentionally violated his oath of office, his constitutional duty to take

at the laws be faithfully exe-
and his solemn obligation to re-
Mrs. Jones' rights by providing
l testimony under oath.
evidence reviewed by the House
resentatives and relied upon by
dy in bringing articles of im-
ent against the President was
itical. It was overwhelming. He
ied all allegations set forth in
rticles. Who is telling the truth?
s only one way to find out.
half of the House of Representa-
ve urge this body to bring forth
nesses and place them all under
f the witnesses can make the
ainst the President, if the wit-
that make the case against the
nt who, incidentally, are his
ees, his top aides, his former in-
and his close friends—if all of
eople in the President's universe
g, then the President has been
grave disservice. He deserves
t an acquittal, he deserves the
ofound of apologies.
f they are not lying, if the evi-
true, if the Chief Executive Of-
our Nation used his power and
uence to corruptly destroy a
man's right to bring forth her
a court of law, then there must
stitutional accountability, and
I mean the kind of account-
the framers of the Constitution
d for such conduct and not the
accountability that satisfies
porary mood of the moment.
ounders bequeathed to us a Na-
laws, not of polls, not of focus
and not of talk show habitues.
is strong enough to absorb the
bout their leaders when those
act in a manner destructive to
th of office. God help our coun-
ure if we ever decide otherwise.
HIEF JUSTICE. The Chair rec-
the majority leader.

ADJOURNMENT

OTT. Mr. Chief Justice, I ask
ous consent that the court
adjournment until 1 p.m. to-
, and that all Members remain
at their desks as the Chief
departs the Chamber. I further
t after the court adjourns in a
, the Senate will, while in leg-
session, stand in recess subject
all of the Chair.
HIEF JUSTICE. Without objec-
s so ordered.
upon, at 6:59 p.m., the Senate,
s a Court of Impeachment, ad-

EGISLATIVE SESSION

SUBJECT TO THE CALL OF THE CHAIR

upon, at 6:59 p.m., the Senate
subject to the call of the

enate reassembled at 7:01 p.m.,
lled to order by the Presiding
Mr. SESSIONS).

ORDER FOR PRINTING OF APPOINTMENTS

Mr. LOTT. Mr. President, I ask unanimous consent that the appointments that are now at the desk, which were made pursuant to law during the sine die adjournment of the Senate, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The appointments are as follows:

To the Twenty-First Century Workforce Commission, pursuant to Public Law 105-220, Leo Reynolds of South Dakota (Representative of Business) (Oct. 29, 1998).

To the Congressional Award Board, pursuant to Public Law 96-114, as amended, Janice Griffin of Maryland. (Nov. 13, 1998).

To the Commission on the Advancement of Women and Minorities in Science, Engineering, and Technology Development, pursuant to Public Law 105-255, Kathryn O. Johnson of South Dakota. (Nov. 23, 1998).

To the Web-Based Education Commission, pursuant to Public Law 105-244, the Honorable J. Robert Kerrey of Nebraska and Dr. Richard J. Gowen of South Dakota. (Nov. 23, 1998)

To the Advisory Commission on Electronic Commerce, pursuant to Public Law 105-277, James Barksdale of California (Non-Government), Paul Clinton Harris, Sr., of Virginia (Government), Michel O. Leavitt of Utah (Government), John Sidgmore of Virginia (Non-Government), and Stanley S. Sokul of New Hampshire (Non-Government). (Dec. 3, 1998)

To the Advisory Commission on Electronic Commerce, pursuant to Public Law 105-277, Ted Waitt of South Dakota (Electronic Commerce), C. Michael Armstrong of New Jersey (Telecommunications), and Larry Carter of California (Electronic Commerce). (Dec. 4, 1998)

To the Advisory Commission on Electronic Commerce, pursuant to Public Law 105-277, Gene N. Lebrun of South Dakota (State/Local Government), vice Larry Carter of California (Electronic Commerce). (Dec. 11, 1998)

To the United States Commission on International Religious Freedom, pursuant to Public Law 105-292, William Armstrong of Colorado and John R. Bolton of Maryland. (Dec. 22, 1998)

To the Trade Deficit Review Commission, pursuant to Public Law 105-277, Wayne D. Angell of Virginia, Anne O. Krueger of California, and Murray Weidenbaum of Missouri. (Dec. 29, 1998)

MAKING CERTAIN MAJORITY APPOINTMENTS TO COMMITTEES

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 18, regarding majority committee assignments.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 18) making certain majority appointments to certain Senate committees for the 106th Congress.

The Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I further ask unanimous consent that the resolution be agreed to and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 18) was agreed to, as follows:

S. RES. 18

Resolved, That notwithstanding the provisions of S. Res. 400 of the 95th Congress, or the provisions of Rule XXV, the following shall constitute the majority membership on those Senate committees listed below for the 106th Congress, or until their successors are appointed:

Budget: Mr. Domenici (Chairman), Mr. Grassley, Mr. Nickles, Mr. Gramm of Texas, Mr. Bond, Mr. Gorton, Mr. Gregg, Ms. Snowe, Mr. Abraham, Mr. Frist, Mr. Grams, Mr. Smith of Oregon.

Special Committee on Aging: Mr. Grassley (Chairman), Mr. Jeffords, Mr. Craig, Mr. Burns, Mr. Shelby, Mr. Santorum, Mr. Hagel, Ms. Collins, Mr. Enzi, Mr. Bunning, Mr. Hutchinson of Arkansas.

PROVIDING FOR A JOINT SESSION OF CONGRESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 1, which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 1) providing for a joint session of Congress to receive a message from the President.

The Senate proceeded to consider the concurrent resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 1) was agreed to.

MORNING BUSINESS

During today's session, the following morning business was conducted.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–584. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Hamilton Standard 54H60 Series Propellers" (Docket 98–ANE–59–AD) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–585. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Allison Engine Company 250–B and 250–C Series Turboshaft and Turboprop Engines" (Docket 98–ANE–23–AD) received on December 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–586. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Capital Leases" (RIN2132–AA65) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–587. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations: Fort Point Channel, MA" (CGD01–98–039) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–588. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Explosive Load, Bath Iron Works, Bath, ME" (CGD01–98–171) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–589. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations for Marine Events; Patapsco River, Baltimore, MD" (CGD05–98–100) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–590. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations; Anacostia River, Washington, D.C." (CGD05–98–017) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–591. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 727 Series Airplanes" (Docket 98–NM–319–AD) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–592. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on various Aircraft Belts, Inc. restraint systems (Docket 98–SW–33–AD) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–593. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Rome, NY" (Docket 98–AEA–36) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–594. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Fishers Island, NY" (Docket 98–AEA–38) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–595. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 747–100, –200, –300, –400, 747SP, and 747SR Series Airplanes" (Docket 96–NM–260–AD) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–596. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglass Helicopter Systems Model 369D, 369E, 369FF, 500N, AH–6, and MH–6 Helicopters" (Docket 97–SW–47–AD) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–597. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; International Aero Engines AG (IAE) V2500–A1 Series Turbofan Engines" (Docket 98–ANE–63–AD) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–598. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; British Aerospace Jetstream Model 3101 Airplanes" (Docket 98–CE–63–AD) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–599. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class D and E Airspace, Amendment to Class D and E Airspace; Montgomery, AL" (Docket 98–ASO–12) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–600. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class D Airspace and Class E Airspace; Rome, NY" (Docket 98–AEA–37) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–601. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A310 and A300–600 Series Airplanes" (Docket 96–NM–172–AD) received on December 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–602. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Americans With Disabilities Act Accessibility Guidelines; Detectable Warnings" (RIN3014–AA24) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–603. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendments to Opiate Threshold Levels" (RIN2105–AC74) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–604. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Motor Vehicle Safety Standards; Compressed Natural Gas Fuel Containers" (RIN2127–AF51) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–605. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Minimum Driving Range for Dual Fueled Electric Passenger Automobiles" (RIN2127–AF37) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–606. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Motor Vehicle Safety Standards; Child Restraint Systems" (RIN2127–AH02) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–607. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Policy on the Use for Enforcement Purposes of Information Obtained from an Air Carrier Flight Operational Quality Assurance (FOQA) Program" (RIN2120–AF04) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–608. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Cincinnati/Northern Kentucky International Airport Class B Airspace Area, and Revocation for Cincinnati/Northern Kentucky International Class C Airspace Area; KY" (RIN2120–AE97) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–609. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; British Aerospace HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 Airplanes" (RIN2120–AA64) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–610. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Woodbine, NJ" (Docket 98–AEA–22) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–611. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Altoona, PA" (Docket 98–AEA–23) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–612. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Brookville, PA" (Docket 98–AEA–32) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–613. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Waynesburg, PA" (Docket

–33) received on November 30, 1998; to
mmittee on Commerce, Science, and
ortation.

4. A communication from the General
of the Department of Transpor-
transmitting, pursuant to law, the re-
a rule entitled "Amendment of Class
pace; Beaver Falls, PA" (Docket 98–
) received on November 30, 1998; to
mmittee on Commerce, Science, and
ortation.

5. A communication from the General
of the Department of Transpor-
transmitting, pursuant to law, the re-
a rule entitled "Establishment of
Airspace; Logan, PA" (Docket 98–
) received on November 30, 1998; to
mmittee on Commerce, Science, and
ortation.

6. A communication from the General
of the Department of Transpor-
transmitting, pursuant to law, the re-
a rule entitled "Amendment to Class
ace; Malone, NY" (Docket 98–AEA–21)
on November 30, 1998; to the Com-
on Commerce, Science, and Transpor-

7. A communication from the General
of the Department of Transpor-
transmitting, pursuant to law, the re-
a rule entitled "Amendment to Class
pace; Grove City, PA" (Docket 98–
received on November 30, 1998; to
mmittee on Commerce, Science, and
ortation.

8. A communication from the General
of the Department of Transpor-
transmitting, pursuant to law, the re-
a rule entitled "Amendment to Class
ace; Poughkeepsie, NY" (Docket 98–
received on November 30, 1998; to
mmittee on Commerce, Science, and
rtation.

9. A communication from the General
of the Department of Transpor-
transmitting, pursuant to law, the re-
a rule entitled "Amendment to Class
ace; East Hampton, NY" (Docket 98–
received on November 30, 1998; to
mmittee on Commerce, Science, and
rtation.

). A communication from the General
of the Department of Transpor-
transmitting, pursuant to law, the re-
a rule entitled "Airworthiness Direc-
oeing Model 737–100, –200, –300, –400,
Series Airplanes" (Docket 97–NM–
received on November 30, 1998; to the
tee on Commerce, Science, and
rtation.

. A communication from the General
of the Department of Transpor-
ransmitting, pursuant to law, the re-
rule entitled "Airworthiness Direc-
ugusta A109 Helicopters" (Docket 98–
D) received on November 30, 1998; to
mmittee on Commerce, Science, and
rtation.

. A communication from the General
of the Department of Transpor-
ransmitting, pursuant to law, the re-
rule entitled "Airworthiness Direc-
urocopter France Model AS 332C, AS
332L1, and AS 332L2 Helicopters"
98–SW–19–AD) received on November
to the Committee on Commerce,
and Transportation.

. A communication from the General
of the Department of Transpor-
ransmitting, pursuant to law, the re-
rule entitled "Airworthiness Direc-
obinson Helicopter Company Model
icopters" (Docket 98–SW–45–AD) re-
n November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–624. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model DC–10–10, –30, and –40 Series Airplanes" (Docket 97–NM–14–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–625. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; SOCATA—Groupe AEROSPATIALE Model TBM 700 Airplanes" (Docket 95–CE–65–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–626. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Stemme GmbH & Co. KG Models S10, S10–V, and S10–VT Sailplanes" (Docket 98–CE–106–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–627. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Aerostar Aircraft Corporation PA–60–600 and PA–60–700 Series Airplanes" (Docket 98–CE–139–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–628. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 747–400 Series Airplanes" (Docket 97–NM–13–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–629. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter France Model SE.3160, SA.316B, SA.316C, and SA.319B Helicopters" (Docket 98–SW–17–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–630. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145 Series Airplanes" (Docket 98–NM–317–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–631. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Grob Luft-und Raumfahrt, GmbH Models G 109 and G 109B Sailplanes" (Docket 96–CE–40–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–632. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes" (Docket 98–NM–71–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–633. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Lockheed Model L–188A and L–188C Series Airplanes" (Docket 98–NM–84–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–634. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter France Model AS–365N, SA360C, SA365C, C1, C2, N, N1, and SA–366G1 Helicopters" (Docket 98–SW–05–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–635. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Grand Junction, CO" (Docket 98–ANM–17) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–636. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bell Helicopter Textron Model 204B, 205A, 205A–1, 205B, and 212 Helicopters" (Docket 97–SW–20–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–637. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Dornier-Werke GmbH Model Do 27 Q–6 Airplanes" (Docket 97–CE–137–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–638. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bombardier Model DHC–8–100 and –300 Series Airplanes" (Docket 98–NM–299–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–639. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Mooney Aircraft Corporation Models M20B, M20C, M20D, M20E, M20F, M20G, M20J, M20K, M20L, M20M, and M20R Airplanes" (Docket 98–CE–20–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–640. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Ursula Hanle Model H101 "Salto" Sailplanes" (Docket 98–CE–35–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–641. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; EXTRA Flugzeubau GmbH Models EA–300, EA–300S, and EA–300L Airplanes" (Docket 98–CE–53–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–642. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; HOCA-Austria Model DV–20 Katana Airplanes" (Docket 97–CE–83–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–643. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Stemme GmbH & Co. KG Model S10 Sailplanes" (Docket 98–CE–103–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–644. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Burkhart Grob Luft–und Raumfahrt Models G115, G115A, G115B, G115C, G115C2, G115D, and G115D2 Airplanes" (Docket 98–CE–68–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–645. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Burkhart Grob Luft–und Raumfahrt GmbH Model G109B Gliders" (Docket 98–CE–71–AD) received on November 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–646. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operating Regulation; Mississippi River, Iowa and Illinois" (Docket 08–98–068) received on November 19, 1998; to the Committee on Commerce, Science, and Transportation.

EC–647. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines" (RIN2137–AD05) received on November 19, 1998; to the Committee on Commerce, Science, and Transportation.

EC–648. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A300 Series Airplanes" (Docket 98–NM–234–AD) received on November 19, 1998; to the Committee on Commerce, Science, and Transportation.

EC–649. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Parker Hannifan Airborne Dry Air Pumps, Conversion Kits, and Coupling Kits" (Docket 98–CE–108–AD) received on November 19, 1998; to the Committee on Commerce, Science, and Transportation.

EC–650. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes" (Docket 97–NM–1141–AD) received on November 19, 1998; to the Committee on Commerce, Science, and Transportation.

EC–651. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Valparaiso, IN" (Docket 98–AGL–53) received on November 19, 1998; to the Committee on Commerce, Science, and Transportation.

EC–652. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Duluth St. Mary's Hospital Heliport, MN" (Docket 98–AGL–52) received on November 19, 1998; to the Committee on Commerce, Science, and Transportation.

EC-653. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Crosby, ND; Correction" (Docket 98–AGL–42) received on November 19, 1998; to the Committee on Commerce, Science, and Transportation.

EC–654. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace, San Diego, North Islands NAS, CA" (Docket 98–AWP–20) received on November 19, 1998; to the Committee on Commerce, Science, and Transportation.

EC–655. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class D Airspace and Establishment of Class E Airspace; Klamath Falls, OR" (Docket 98–ANM–04) received on November 19, 1998; to the Committee on Commerce, Science, and Transportation.

EC–656. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Industrie Aeronautiche e Meccaniche Model Piaggio P–180 Airplanes" (Docket 98–CE–45–AD) received on November 19, 1998; to the Committee on Commerce, Science, and Transportation.

EC–657. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class D Airspace; San Diego-Gillespie Field, CA" (Docket 98–AWP–21) received on November 19, 1998; to the Committee on Commerce, Science, and Transportation.

EC–658. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Ulysses, KS" (Docket 98–ACE–41) received on November 19, 1998; to the Committee on Commerce, Science, and Transportation.

EC–659. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Pittsburgh, KS" (Docket 98–ACE–40) received on November 19, 1998; to the Committee on Commerce, Science, and Transportation.

EC–660. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Great Bend, KS" (Docket 98–ACE–39) received on November 19, 1998; to the Committee on Commerce, Science, and Transportation.

EC–661. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Grinnell, IA" (Docket 98–ACE–47) received on November 19, 1998; to the Committee on Commerce, Science, and Transportation.

EC–662. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Burlington, KS" (Docket 98–ACE–45) received on November 19, 1998; to the Committee on Commerce, Science, and Transportation.

EC–663. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Owatonna, NM" (Docket 98–AGL–54) received on November 19, 1998; to the Committee on Commerce, Science, and Transportation.

EC–664. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter Deutschland GmbH (ECD) (Eurocopter) Model MBB-BK117 A–1, A–3, A–4, B–1, B–2, and C–1 Helicopters" (Docket 98–SW–29–AD) received on November 23, 1998; to the Committee on Commerce, Science, and Transportation.

EC–665. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Open Container Laws" (RIN2127–AH41) received on December 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–666. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Temporary Exemption From Motor Vehicle Safety Standards" (RIN2127–AH44) received on December 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–667. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Prevention of Prohibited Drug Use in Transit Operations: Prevention of Alcohol Misuse in Transit Operations" (RIN2132–AA56) received on December 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–668. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Schedule of Fees Authorized by 49 U.S.C. 30141" (RIN2127–AH26) received on December 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–669. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Operation of Motor Vehicles by Intoxicated Persons" (RIN2127–AH39) received on December 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–670. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglass Model MD–11 Series Airplanes Equipped with Certain Collins LRA–900 Radio Altimeters" (Docket 98–NM–334–AD) received on December 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–671. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Cessna Aircraft Company Models 340A and 414A Airplanes" (Docket 98–CE–111–AD) received on December 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–672. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter France Model AS–350B, B1, B2, BA, C, D, D1, and AS 355E, F, F1, F2, and N Helicopters" (Docket 98–SW–41–AD) received on December 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–673. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations; BellSouth Winterfest Boat Parade, Broward County, Fort Lauderdale, Florida" (Docket 07–98–075) received on December 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–674. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations; Billy's Creek, Florida" (Docket 07–98–009) received on December 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–675. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class D Airspace; McKinney, TX" (Docket 98–ASW–32) received on November 12, 1998; to the Committee on Commerce, Science, and Transportation.

EC–676. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter France Model SA 330F, G, and J Helicopters" (Docket 97–SW–38–AD) received on November 12, 1998; to the Committee on Commerce, Science, and Transportation.

EC–677. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter Deutschland GmbH Model EC 135 Helicopters" (Docket 98–SW–35–AD) received on November 12, 1998; to the Committee on Commerce, Science, and Transportation.

EC–678. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Robinson Helicopter Company (RHC) Model R44 Helicopters" (Docket 98–SW–56–AD) received on November 12, 1998; to the Committee on Commerce, Science, and Transportation.

EC–679. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Incentive Grants for Use of Seat Belts—Allocations Based on State Seat Belt Use Rates" (Docket NHTSA–98–4494) received on October 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–680. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Transportation of Hazardous Materials; Miscellaneous Amendments; Response to Petitions for Reconsideration" (Docket RSPA–97–2905) received on October 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–681. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations for Marine Events; Blackbeard's Bounty Festival Pirate Attack, Bogue Sound, Morehead City, North Carolina" (Docket 05–98–093) received on October 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–682. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Atlantic Intracoastal Waterway, Vicinity of Marine Corps Base Camp Lejeune, NC" (Docket 05–98–038) received on October 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–683. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, and –40 Series Airplanes; and C–9 (Military) Series Airplanes" (Docket 97–NM–132–AD) received on October 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–684. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 767 Series Airplanes" (Docket 98–NM–281–AD) received on October 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–685. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Aerospatial Model SN 601 (Corvette) Series Airplanes" (Docket 98–NM–161–AD) received on October 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–686. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Dassault Model Falcon 2000 Series Airplanes" (Docket 98–NM–184–AD) received on October 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–687. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; General Electric Company CF6–6, –45, –50, –80a, and –80C2 Series Turbofan Engines" (Docket 98–ANE–53–AD) received on October 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–688. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Pratt and Whitney PW2000 Series Turbofan Engines" (Docket 95–ANE–37) received on October 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–689. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29370) received on October 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–690. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29369) received on October 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–691. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Dornier Model 328–100 Series Airplanes" (Docket 98–NM–305–AD) received on October 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–692. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 737 Series Airplanes" (Docket 98–NM–245–AD) received on October 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–693. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establish Class E Airspace; Guthrie, IA" (Docket 98–ACE–23) received on October 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–694. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Grand Rapids, MN" (Docket 98–AGL–48) received on October 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–695. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Longville, MN" (Docket 98–AGL–50) received on October 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–696. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Remove Class D Airspace; Fort Leavenworth, KS" (Docket 98–ACE–44) received on October 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–697. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Motor Vehicle Safety Standards; School Bus Joint Strength" (Docket NHTSA–98–4662) received on November 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–698. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Technical Amendments to the Track Safety Standards" (Docket RST–90–1 No. 9) received on November 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–699. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Technical Amendments to the Track Safety Standards" (Docket RST–90–1 No. 10) received on November 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–700. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Vessel Inspection User Fees" (Docket 96–AF40) received on November 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–701. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Building Owners and Managers Fireworks, Hudson River, Manhattan, New York" (Docket 01–98–157) received on November 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–702. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Atlantic Intracoastal Waterway, Florida" (Docket 07–97–020) received on November 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC-703. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revocation of Class D and Class E Airspace, Crows Landing, CA; Correction" (Docket 98-AWP-12) received on November 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC-704. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision to Class E Airspace; Reno, NV" (Docket 98-AWP-23) received on November 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC-705. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Cessna Aircraft Company 180 and 185 Series Airplanes" (Docket 97-CE-138-AD) received on November 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC-706. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Metropolitan Oakland International Airport, CA" (Docket 98-AWP-22) received on November 5, 1998; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT:

S. Res. 17. A resolution to authorize the installation of appropriate equipment and furniture in the Senate chamber for the impeachment trial; considered and agreed to.

S. Res. 18. A resolution making certain majority appointments to certain Senate committees for the 106th Congress; considered and agreed to.

SENATE RESOLUTION 17—TO AUTHORIZE THE INSTALLATION OF APPROPRIATE EQUIPMENT AND FURNITURE IN THE SENATE CHAMBER FOR THE IMPEACHMENT TRIAL

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 17

Resolved, That in recognition of the unique requirements raised by the impeachment trial of a President of the United States, the Sergeant at Arms shall install appropriate equipment and furniture in the Senate chamber for use by the managers from the House of Representatives and counsel to the President in their presentations to the Senate during all times that the Senate is sitting for trial with the Chief Justice of the United States presiding.

SEC. 2. The appropriate equipment and furniture referred to in the first section is as follows:

(1) A lectern, a witness table and chair if required, and tables and chairs to accommodate an equal number of managers from the House of Representatives and counsel for the President which shall be placed in the well of the Senate.

(2) Such equipment as may be required to permit the display of video, or audio evidence, including video monitors and microphones, which may be placed in the chamber for use by the managers from the House of Representatives or the counsel to the President.

SEC. 3. All equipment and furniture authorized by this resolution shall be placed in the chamber in a manner that provides the least practicable disruption to Senate proceedings.

SENATE RESOLUTION 18—MAKING CERTAIN MAJORITY APPOINTMENTS TO CERTAIN SENATE COMMITTEES FOR THE 106TH CONGRESS

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 18

Resolved, That notwithstanding the provision of S. Res. 400 of the 95th Congress, or the provisions of Rule XXV, the following shall constitute the majority membership on those Senate committees listed below for the 106th Congress, or until their successors are appointed:

Budget: Mr. Domenici (Chairman), Mr. Grassley, Mr. Nickles, Mr. Gramm of Texas, Mr. Bond, Mr. Gorton, Mr. Gregg, Ms. Snowe, Mr. Abraham, Mr. Frist, Mr. Grams, Mr. Smith of Oregon.

Special Committee on Aging: Mr. Grassley (Chairman), Mr. Jeffords, Mr. Craig, Mr. Burns, Mr. Shelby, Mr. Santorum, Mr. Hagel, Ms. Collins, Mr. Enzi, Mr. Bunning, Mr. Hutchinson of Arkansas.

ORDERS FOR FRIDAY, JANUARY 15, 1999

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 1 p.m. on Friday, January 15. I further ask unanimous consent that on Friday, immediately following the prayer, the Senate resume consideration of the articles of impeachment.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators then, the Senate will reconvene tomorrow at 1 p.m. to consider the articles of impeachment. Tomorrow's presentation is expected to last until approximately 6 p.m. and, therefore, Senators are asked to plan their schedules accordingly. If there is any change in that time, if it is completed earlier, if there is any indication of that, I certainly will make that known to all Senators by our notification system.

ADJOURNMENT UNTIL 1 P.M. TOMORROW

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:03 p.m., adjourned until Friday, January 15, 1999, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate January 14, 1999:

ENVIRONMENTAL PROTECTION AGENCY

GARY S. GUZY, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE JONATHAN Z. CANNON, RESIGNED.

DEPARTMENT OF THE TREASURY

DAVID C. WILLIAMS, OF MARYLAND, TO BE INSPECTOR GENERAL FOR TAX ADMINISTRATION, DEPARTMENT OF THE TREASURY. (NEW POSITION)

FEDERAL MEDIATION AND CONCILIATION DIRECTOR

CHARLES RICHARD BARNES, OF GEORGIA, TO BE FEDERAL MEDIATION AND CONCILIATION DIRECTOR, VICE JOHN CALHOUN WELLS, RESIGNED.

DEPARTMENT OF EDUCATION

LORRAINE PRATTE LEWIS, OF THE DISTRICT OF COLUMBIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF EDUCATION, VICE THOMAS R. BLOOM.

SENATE—*Friday, January 15, 1999*

The Senate met at 1:02 p.m., and was called to order by the Chief Justice of the United States.

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

The CHIEF JUSTICE. The Senate will convene as a Court of Impeachment. The Chaplain will offer a prayer.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Holy God, with awe and wonder we accept our responsibilities and our accountability to You. You are Sovereign of this land. When we commit our complexities to You, really seek Your guidance, You direct us. Make us attentive listeners, dedicated to the search for absolute truth. In the cacophony of voices, help us to hear Your voice.

Dear Father, Your faithfulness never fails. You are consistent, reliable, and true. You expect nothing less from us for Your glory and for the good of America. To that end, fill this Chamber with Your presence and the minds of the Senators with Your gift of discernment. You are our Lord and Saviour. Amen.

The CHIEF JUSTICE. The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, James W. Ziglar, made proclamation as follows:

> Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against William Jefferson Clinton, President of the United States.

The CHIEF JUSTICE. The majority leader is recognized.

Mr. LOTT. Mr. Chief Justice, there have been a number of inquiries from Senators and others about some clarification with regard to the approximate times or the times we would be meeting on Saturday and Tuesday, and also how the afternoon will proceed, so I will make some unanimous consent requests to clarify that and give you a brief rundown on what I think the schedule will be this afternoon.

ORDERS FOR SATURDAY, JANUARY 16, 1999 AND TUESDAY, JANUARY 19, 1999

Mr. Chief Justice, as in legislative session, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 a.m., on Saturday, January 16. I further ask that when the Senate reconvenes on Saturday, immediately following the prayer, the Senate resume consideration of the articles of impeachment.

The CHIEF JUSTICE. Without objection, it is so ordered.

Mr. LOTT. I further ask unanimous consent that when the Senate completes its business on Saturday, it then adjourn over until Tuesday, January 19, at 9:30 a.m. I ask unanimous consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use. I further ask consent that there then be a period for morning business until the hour of 11:30 a.m., with 60 minutes under the control of the majority leader or his designee, and 60 minutes under the control of the minority leader or his designee.

I ask unanimous consent that on Tuesday the Senate recess then from the hours of 11:30 a.m. until 1 p.m. for the weekly policy conferences. And I further ask consent that at 1 p.m., on Tuesday, the Senate resume consideration of the articles of impeachment.

The CHIEF JUSTICE. Without objection, it is so ordered.

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that on Tuesday, following the conclusion of the presentation during the Court of Impeachment, the Senate recess until the hour of 8:35 p.m., on Tuesday evening. And I ask consent that upon reconvening Tuesday evening the Senate proceed to the Hall of the House of Representatives in order to hear an address by the President regarding the State of the Union.

The CHIEF JUSTICE. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. LOTT. For the information of all my colleagues, then, I understand today's presentation is expected to continue until approximately 6 p.m., and there will be periodic breaks during the day to allow all Members to stand and stretch. I want to remind Senators to promptly return to their desks at the expiration of those 15-minute breaks in order that we can continue and complete at the earliest possible hour. I thank all Members for their cooperation.

This afternoon we will hear from Congressman McCOLLUM, take a 15-minute break, then hear from Congressmen GEKAS, CHABOT, and CANNON, and then take a break, and then Congressman BARR would complete the afternoon's presentations.

Mr. Chief Justice, I yield the floor.

THE JOURNAL

The CHIEF JUSTICE. If there is no objection, the Journal of proceedings of the trial are approved to date.

Pursuant to the provisions of Senate Resolution 16, the managers for the House of Representatives have 18 hours 56 minutes remaining to make the presentation of their case. The Senate will now hear you.

The Presiding Officer recognizes Mr. Manager McCOLLUM to resume the presentation of the case for the House of Representatives.

Mr. Manager McCOLLUM. Thank you, Mr. Chief Justice.

Mr. Chief Justice, and my colleagues in the Senate, I drove in this morning to this Capitol. I drove up the George Washington Parkway, and I looked at the magnificent display of ice that was all over the trees, all over the grass, all over the foliage—a beautiful panorama.

And just before I got to the 14th Street Bridge, I saw this incredible number of geese—I guess in the hundreds—that were lined up together between the highway and the Potomac River. It looked like they were an invading army. I thought of the awe of this, the awe of the beauty of it, the awe of Mother Nature, the awe of God. And I thought, also, of the awe of the responsibility we have to our children and our grandchildren about what we are commencing today. This is an awesome undertaking for all of us.

I am here today to summarize for you what you heard yesterday. I do not want to bore you. I do not intend to do that. I am going to be as brief as I can. I am also here to help you digest the voluminous quantities of material that you have before you. There is a huge record out there. And I am also here to prepare you for the law discussion that is going to come after me about the law of the crimes of perjury and obstruction of justice and witness tampering.

First of all, I want you to know I bear no personal animosity toward our President. But I happen to believe that if the President—if any President—commits the crimes of perjury, obstruction of justice, and witness tampering, he should not be allowed to remain in office, for if he is allowed to do so, it would undermine our courts and our system of justice.

But that is for you to determine in the end, really, not me. That is my opinion. But you will have to weigh the evidence, you are going to have to hear the arguments, and ultimately make that decision. In fact, the first thing you have to determine is whether or not the President committed crimes. It is only if you determine he committed the crimes of perjury, obstruction of justice, and witness tampering that you will move on to the question of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

whether he is removed from office. In fact, no one, none of us, would argue to you that the President should be removed from office unless you conclude he committed the crimes that he is alleged to have committed—not every one of them necessarily, but certainly a good quantity, and there are a whole bunch of them that have been charged.

I would like to call your attention to a couple of things. First of all, I don't want to be a schoolteacher; I just want to relate my own experience to you so you can understand it. I have been involved with this a lot longer than most of you have probably been dealing with the details. I constantly have to refer back to things. Every time I read something, there is so much detail here, I learn something new.

While I go over the evidence with you, we will summarize the evidence one more time. As you are deliberating, as you are thinking about it, I want to call a couple of places to your attention that are the easiest places to refer back to, to find the facts and evidence. First of all, there is the official report that is in the record of the House's consideration of this, the Judiciary Committee report. In that report, right in the first couple of pages, there is a table of contents. While a couple of the articles did not come over to you that are listed in here, there are detailed discussions you can get from this table of contents as to every single count and every single part of these articles so you can figure out what we are talking about today.

Secondly, I would like to bring to your attention that there is a Starr Report, and I know that has been maligned by some people. This thing is so dogeared—I have underlined it, torn it apart, done all kind of things with it. It is a good reference source. You can find from the footnotes where else to check it out. There are two parts. These are the appendices. In the first part, you can find the transcript of all the key depositions, all the key testimony, all of the evidence that we are talking about, and read it for yourselves.

I don't want to leave here today having summarized this evidence, as long as I may take—and I don't want to take a long time, but I will take a little while—and have you go away and think, gosh, what all did MCCOLLUM or HUTCHINSON or ROGAN or BRYANT say yesterday. You can find and refresh yourself through that and through whatever information you have—trial briefs and all that you have.

Let's look at what the record shows. President Clinton was sued by Paula Jones in a sexual harassment civil rights lawsuit. To bolster her case, she was trying to show that the President engaged in a pattern of illicit relations with women in his employment, where he rewarded those who became involved with him and disadvantaged those who rejected him, as Paula Jones did.

Whatever the merits of that approach, on May 27, 1997, the U.S. Supreme Court ruled in a unanimous decision that "like every other citizen"—and that is a quote—"like every other citizen, Paula Jones has a right to an orderly disposition of her claims." Then on December 11 of 1997, Judge Susan Webber Wright issued an order that said Paula Jones was entitled to information regarding any State or Federal employee with whom the President had sexual relations, proposed sexual relations, or sought to have sexual relations.

The record shows that President Clinton was determined to hide his relationship with Monica Lewinsky from the Jones court. His lawyers will argue to you next week, I am sure, that he did everything to keep the relationship hidden and he did it in a legal way. They will say that he may have split a few hairs and evaded answers and given misleading answers but that it was all within the framework of responses and actions that any good lawyer would advise his client to do.

They will also say if he crossed the line technically somewhere, he didn't do it knowingly or intentionally. Oh, how I wish that were true. We wouldn't be here today. But, alas, that is not so.

If you believe the sworn testimony of Monica Lewinsky, if you believe her testimony that is in the record—and she is very credible—the President knowingly, intentionally, and willfully set out on a course of conduct in December 1997 to lie to the Jones court, to hide his relationship, and to encourage others to lie and hide evidence and to conceal the relationship with Monica Lewinsky from the court. He engaged in a pattern of obstruction of justice, perjury, and witness tampering designed to deny the court what Susan Webber Wright, the judge in that court, had determined Paula Jones had the right to discover in order to prove her claim. If you believe the testimony of Monica Lewinsky, you cannot believe the President or accept the argument of his lawyers. You simply can't.

The record is so clear on this that if you have any significant doubt about Monica Lewinsky's credibility or testimony, you should bring her in here and let us examine her face to face so you can judge her credibility for yourself.

As you will hear explained later this afternoon, the same acts can constitute both the crimes of obstruction of justice and perjury, and the same acts can constitute the crimes of obstruction of justice and witness tampering. They are all cut from the same cloth. They are all crimes that obstruct the administration of justice and keep our courts from being able to get the evidence that they need to decide cases. Such obstruction is so detrimental to our system of justice that the Federal Sentencing Guidelines provide for a greater punishment for perjury and obstruction of justice than they do for bribery.

I want to show that to you. I know everybody can't see the chart. I think you have a handout of them. I will not show many charts today, but this is one about the sentencing guidelines. The guidelines rate these, in fact, in sequence. The most serious sentencing is a higher number; the lower number is the lower sentencing: Plain old vanilla bribery rights at a 10; other things are 8, 7, 4. Murder is way up there, much higher in the numbers. You will see that witness tampering is a 12, not a 10. Obstruction of justice is a 12, not a 10. Perjury is a 12, not a 10. All of them are the same. Interestingly enough, although I didn't put it on this chart, bribing a witness is different from plain vanilla bribery. If you try to bribe somebody in a business deal, that is one kind; if you go out and bribe a witness, that is another. Bribing a witness is also a 12.

Now, I want to point that out right up front because the most important point that makes is that when you read the phrase in the Constitution that what is impeachable is treason, bribery, and other high crimes and misdemeanors, bribery is not considered by our court system. Pure bribery, plain old bribery, is not considered as serious in sentencing as perjury, witness tampering, obstruction of justice, and of course bribing a witness. They are all of the same cloth. Why? Because that interferes with the administration of justice. Because we can't have justice if people block the courts from getting at the truth. And if you go about doing it intentionally, you have committed these crimes.

It should be pointed out that lies under oath in a court proceeding, whether or not they rise to the level of crimes of perjury, can be obstruction of justice. So when the President lied in the Jones deposition, this was part of the obstruction of justice charged under article II that is before you today, even though there is no separate count. And he lied a lot in that deposition. We will talk about that a little later. The fact that the House did not send you the article of impeachment for perjury in the Jones deposition does not keep you from considering the lies in that deposition as an obstruction of justice crime under article II that is before you. And you know that it is also incorporated in article I, because it is one of the four items specifically listed as the perjury that he lied about lying in the deposition.

Now, having said that, think about all of this as one big obstruction, because perjury can be obstruction. Just plain lying can be obstruction. Witness tampering, by the way, is a separate crime because it is titled that way, but it is one of two separate obstruction of justice sections in the United States Criminal Code. It is just another version of obstruction of justice. So don't be confused. Witness tampering is obstruction of justice—literally, figuratively, and in every other way. But people think about it separately because it has a separate element, a lesser element of proof actually than obstruction of justice. But it is all part of the same fabric, again.

To put the essence of all of this in a nutshell for you, think back on the evidence presented yesterday. I would suggest that President Clinton thought his scheme out well. He resented the Jones lawsuit. He was alarmed when Monica Lewinsky's name appeared on the witness list, and he was more alarmed when Judge Wright issued her orders signaling that the court would hear the evidence of other relationships. To keep his relationship with Monica Lewinsky from the court, once Judge Wright issued her ruling, he knew he would have to lie to the court. To succeed at this, he decided that he had to get Monica Lewinsky to file a false affidavit, to try to avoid having her testify. And he needed to get her a job to make her happy, to make sure she executed that false affidavit, and then stick with her lies when she was questioned about it.

Then the gifts were subpoenaed and he had to have her hide the gifts—the only tangible evidence of his relationship with her that would trigger questions. She came up with the idea of giving them to Betty Currie, and the President seized on it. Who would think Betty Currie should be called to produce the gifts? Nobody would. Then he would be free to lie in his deposition, and that is, of course, what he did. But after he did this, he realized that he had to make sure that Betty would lie and cover for him.

He got his aides convinced to repeat the lies to the grand jury and to the public, and all of this worked—until the dress showed up. Then he lied to the grand jury to try to cover up and explain away his prior crimes.

That is the case in a nutshell. That is why we are here today. That is what this evidence in the record shows, I believe, in an exceptionally compelling way.

Now, let's review what happened and, as we do, I ask you to think back to what Mr. BRYANT said to you yesterday. Always ask yourself what are the results of the act, and who benefited. I think you will find each time that it is the President who benefited. Now we are going to go over the facts.

On December 5, 1997, a year ago, about a week before Judge Wright issued her order making it clear that the President's relationship with Monica Lewinsky was relevant to the Jones case. Ms. Lewinsky's name appeared on the Jones witness list. The President learned this fact the next day, December 6. The President telephoned Monica Lewinsky at about 2 a.m. on December 17 and informed her about her name being on the witness list. That was about 10 days after he learned about it and about 5 days after Judge Wright's order. It was the order that made it clear that his relationship with Monica was discoverable by the Jones attorneys in that case.

Long before this, though, long before the President was called to give a deposition or Monica Lewinsky was named on the witness list in the Jones case, the evidence shows she and the President had concocted cover stories. They had an understanding that she would lie about the relationship, and so would he, if anybody asked about it.

During a telephone conversation on the 17th of December, the President told Monica she might be called as a witness, and he at that time suggested that she might file an affidavit to avoid being called as a witness to testify in person in that case. In the same conversation, they reviewed these cover stories that they had concocted to conceal their relationship. He brought them up. They went over them again.

Why do you think they did that? In her grand jury testimony, Monica said the President didn't tell her to lie, but because of their previous understanding she assumed that they both expected that she would lie in that affidavit. In this context, the evidence is compelling that the President committed both the crimes of obstruction of justice and witness tampering right then and there on December 17.

Now, Monica Lewinsky's testimony is so clear about this that the President's lawyers probably won't spend a lot of time with you on this; they didn't in the Judiciary Committee. I could be wrong, and they probably will just to show me I am wrong.

I want us to look at this and specifically look at her testimony together because it is so compelling. On pages 123 and 124 of her testimony—you can find it in Part 1 of the Starr Report. I know you can't see all of this that well back there, but you should have the charts. I point out in red on this chart the most important part of it. This is where she described the December 17 telephone conversation. I am going to read you part of it.

She said here in red:

> At some point in the conversation, and I don't know if it was before or after the subject of the affidavit came up, he sort of said, "You know, you can always say you were coming to see Betty or that you were bringing me letters," which I understood was really a reminder of things that we had discussed before.
>
> Question: So when you say things you had discussed, sort of ruses that you developed?
>
> Answer: Right. I mean, this was—this was something that—that was instantly familiar to me.
>
> Question: Right.
>
> Answer: And I knew exactly what he meant.
>
> Question: Had you talked with him earlier about these false explanations about what you were doing visiting him on several occasions?
>
> Answer: Several occasions throughout the entire relationship. Yes. It was the pattern of the relationship, to sort of conceal it.

Now, let's look at another chart. Monica Lewinsky's August 6 grand jury testimony, on pages 233 and 234. Both are from the August 6 grand jury testimony, where in the context of the affidavit she makes the now famous statement, "No one asked or encouraged me to lie." She did say that, but let's look at how she said that:

> For me, the best way to explain how I feel what happened was, you know, no one asked or encouraged me to lie, but no one discouraged me either.

". . . but no one discouraged me either." I don't know how many times anybody said that to you when they made their arguments, but that is what she said and the context.

Later on, she says in her testimony on the same pages:

> . . . it wasn't as if the President called me and said, "You know, Monica, you're on the witness list, this is going to be really hard for us, we're going to have to tell the truth and be humiliated in front of the entire world about what we've done," which I would have fought him on probably. That was different. And by him not calling me and saying that, you know, I knew what that meant. . . .
>
> Question: Did you understand all along that he would deny the relationship, also?
>
> Answer: Mm-hmm. Yes.
>
> Question: And when you say you understood what it meant when he didn't say, "Oh, you know, you must tell the truth," what did you understand that to mean?
>
> Answer: That—that—as we had on every other occasion and every other instance of this relationship, we would deny it.

After reading this, if you believe Monica Lewinsky, can there be any doubt that the President was suggesting that she file an affidavit that contains lies and falsehoods that might keep her from ever having to testify in the Jones case and give the President the kind of protection he needed when he testified?

And, of course, in that same December 17 conversation, the President encouraged Monica to use cover stories and tell the same lies as he expected her to do in the affidavit if and when she was called to testify live and in person. Both of those would be obstruction of justice and witness tampering. Taken together—encouraging her to file this false affidavit that she clearly describes here, and the encouraging of her to lie if she is ever called as a witness—both of these are counts 1 and 2 of the obstruction of justice charge.

If I don't leave you with any other impression walking away from here today, I want you to think about this. This is the clearest, boldest, most significant obstruction of justice charge. I don't see how anybody can walk away from it and explain it away. It is a pattern. It should not be looked at in isolation. Think about it. It is the kickoff to what really happened. It is why we got involved in this in the first place. The President had a scheme and he went through this process. And it all ties together with the rest of it.

Two days later, Monica Lewinsky was subpoenaed and contacted Vernon Jordan who put her in touch with Attorney Frank Carter. That is the attorney he picked out. As we all know, this very false affidavit that Frank Carter prepared—and, of course, knowing it was false when he prepared it, but Monica knew it and the President knew it—was filed just before the President's deposition in the Jones case January 17. The record shows that the President was kept abreast of the participation by Vernon Jordan and all of its contents, and Jordan advised the President when Monica signed the affidavit on January 7. He advised the President of that fact. Two days before Monica says in a conversation she asked the President if he wanted to see the draft affidavit, he replied—you recall from yesterday—he replied that he didn't need to see it because he had already seen "15 others."

I doubt seriously he was talking about 15 other affidavits of somebody else and didn't like looking at affidavits anymore. I suspect and I would suggest to you that he was talking about 15 other drafts of this proposed affidavit since it had been around the horn a lot of rounds.

The circumstantial evidence makes it clear the President knew the context of the Lewinsky affidavit and he knew it was false.

During the President's deposition in the Jones case on January 17, his attorney, Robert Bennett, at one point tried to stop the Jones lawyers from asking the President about his relationship with Monica Lewinsky by pointing out the affidavit she had signed.

I think we all remember that because there was a lot of that on TV up here yesterday. Mr. Bennett asserted at the time that the affidavit indicated "there is no sex of any kind, manner, shape or form." That is what he said. After a warning from Judge Wright, Mr. Bennett stated, "I'm not coaching the witness. In preparation of the witness for this deposition, the witness is fully aware of Ms. Lewinsky's affidavit, so I have not told him a single thing he doesn't know." The President did not say anything to correct Mr. Bennett, even though he knew the affidavit was false. The judge allowed the questioning to proceed and later Mr. Bennett read to the President a portion of paragraph 8 of Monica Lewinsky's affidavit in which she denied having a "sexual relationship" with the President and asked him if Ms. Lewinsky's statement was true and accurate, to which the President responded, "That is absolutely true."

I am not going back over and put that on the screen again. But I do want to put up here before you what you have in front of you, paragraph 8 of Monica Lewinsky's affidavit.

Paragraph 8 of her affidavit was absolutely false and the President knew it.

I want to go over that a little bit. What it says up here at the beginning of it is, "I have never had a sexual relationship with the President. He did not propose that we have a sexual relationship," and so on. And we have a lot about that. But look at what it says down at the end of this. What is down at the end of this—you have it in front of you. It says down here, "The occasions that I saw the President after I left my employment at the White House in April 1996 were official receptions, formal functions, or events related to the United States Department of Defense, where I was working at the time. There were other people present on those occasions."

I just want to point out to you that paragraph 8, which was the subject of a lot of discussions, which the President certainly was fully aware of—which you watched where he was intensely responding, with regard to Mr. Bennett yesterday in that deposition—didn't just contain a lie about a sexual relationship where you quibble over a word. It is a full-fledged lie and a cover story about this. None of that is true. Monica Lewinsky saw him a lot of other times, and the President certainly knew that. They weren't all official events or anything else. This is a complete falsehood, paragraph 8, and the President knew it.

At that point in time when he allowed his attorney on the day of the deposition to make a false and misleading statement to the judge—and the attorney didn't know that—but it was a false and misleading statement to the judge characterizing this affidavit, he knew better. And the President at that point in time committed the crime of obstruction of justice. And that is count 5 of article II.

Now the President's lawyers are going to argue that he sat silent because he wasn't paying attention, and he didn't hear or appreciate what Mr. Bennett was saying. We have already seen the video. And you know that he was looking so intently. Remember he was intensely following the conversation with his eyes. I don't know if you watched it on TV yesterday and observed that. It was played twice. I don't know how anybody can say this man wasn't paying attention. He certainly wasn't thinking about anything else. That was very obvious from looking at the video.

The President's other defense also falls apart on its face. During his grand jury testimony, the President argued that when Mr. Bennett characterized the Lewinsky affidavit as indicating "there is no sex of any kind, in any manner, shape or form" that it was a completely true statement because at that particular time, at that moment, when the statement was being made on January 17, 1998, there was no sex going on. That was when the President made his famous utterings to the jury, "It depends on what the meaning of the word 'is' is." That is when he said that. Of course the President knew perfectly well that the context of Mr. Bennett's discussions with the judge and characterization of the Lewinsky affidavit was referring to the denial in paragraph 8 of the affidavit that there had never been any sexual relationship at any time, not that there was no sex or sexual relationship going on on January 17, the day of the deposition.

I implore you not to get hung up on some of the details. It is absurd, some of the arguments that are being made and have been made by the President and his attorneys to try to explain this.

This is a perfect example of that. When we start looking around at this, you can't see the forest sometimes for the trees. The big picture is what you need to keep in mind, not the compartmentalized portion. There will be a lot of effort, I am sure, to try to go and pick at one thing or another. But this is an extraordinarily good example of how the argument failed when put in that situation. And we shouldn't play word games.

When Monica Lewinsky was subpoenaed to testify, she was also subpoenaed to produce any gifts that the President had given her. When she met with Vernon Jordan the day she received the subpoena, she told him of her concerns about the gifts and she asked him to tell the President about the subpoena.

Early in the morning on December 28, near the end of the year, they met, the President and Monica, in his office, and they exchanged gifts and discussed the gifts being subpoenaed. According to Ms. Lewinsky, she suggested that maybe she should put the gifts away outside of her house somewhere or give them to somebody like Betty Currie. She says he responded—the President responded—with an "I don't know," or "let me think about that." She was very clear that at no point did he ever give her the impression that she should turn the gifts over to the Jones attorneys.

That is consistent with their cover stories—the one later and later in the perjury where the count discusses his lying to the grand jury. Consistent with their cover stories and all the plans for denying the relationship, her testimony in this regard is very believable.

On the other hand, the President's testimony in front of the grand jury that encouraged her to turn all of the gifts over to the Jones attorneys is not believable. How can nobody believe that. When he said that to the grand jury, he committed perjury. When a few hours later, according to Monica Lewinsky, Betty Currie called her on the telephone and said, "I understand you have something to give me," or maybe she said, "the President said you have something to give me," and Betty Currie came over and got the gifts and took them back and hid them under her bed. At that moment, the President's crime of obstruction of justice as described in count 3 of article II was complete.

Remember by its nature obstruction of justice charges in crimes are most frequently proven by circumstantial evidence. As somebody said here the other day, we don't tell people we are going to go out under the elm tree and lie and obstruct things. Usually it is a lot more circuitous than that. In the context of all that was going on at the time and the general truthfulness of Monica Lewinsky's testimony, and other respects, how can anyone come to any other conclusion than that the President collaborated with Monica and Betty to hide these gifts on December 28? How can they? The sequence is there.

The President's lawyers may spend a lot of time attacking this particular obstruction of justice charge. They may question why the President would have given Monica Lewinsky more gifts on December 28 if he was expecting her to hide the gifts. Monica's explanation and her testimony is "from everything he said to me," he expected her to conceal the gifts, including the ones being given that day. When Ms. Currie's call came, wasn't it the logical thing for Monica to conclude that this was the result of the President's having thought about what to do with the gifts, which he said he was going to do according to her, and deciding to have Ms. Currie hide them?

That is the logical thing.

The President's attorney's will no doubt also question the veracity of Ms. Lewinsky with regard to who made the phone call, since Ms. Currie's recollection isn't very good. And at first she says she recalls Monica made it. Of course, the phone records indicate that Ms. Currie called Ms. Lewinsky. That is the much more logical sequence.

Also it doesn't make sense that the President's secretary, who is so close to him—think about it—that she would have taken the gifts and would have hidden them under her bed and never talked with the President about doing so before or after she did so. That doesn't make sense.

It is also noteworthy that the President did everything he could in his January 17 deposition to conceal the true nature of his relationship with Monica Lewinsky. This is consistent with the arguments that he never intended the gifts be kept from the Jones attorneys. He never intended them to be given to the Jones attorneys. If he had intended to give these gifts to the Jones attorneys, or have them given, why would he have gone through this elaborate series of lies in that deposition? Common sense tells us if he knew these gifts were revealed, questions would be raised and his relationship revealed.

So all the logic is there. I don't know how you refute it.

Another obstruction count the President's attorneys are likely to spend time on is one concerning the job search. There is no question that Monica Lewinsky was looking for a job in New York a long time before we get to December of 1997 and when the affidavit and all of this took place, long before the President had reason to be concerned that she would have to testify or he would have to testify in the case. There is no question about that. That is not the issue. The question is whether or not the President intensified his efforts to get her a job and make sure she got one after it became clear to him that he would need her to lie, sign a false affidavit, and stick with her lies in any questioning. That is what counts. That is what is important. Did he intensify his efforts and really go after it? Was it part of that pattern I described to you earlier which Mr. HUTCHINSON described yesterday? That is what is important.

In other words, as count 34 of article II alleges, did she make sure she was rewarded with sticking with him in a scheme of concealment in anticipation that this reward would keep her happy and keep her from turning on him? Did the President make sure Monica Lewinsky signed a false affidavit by getting her a job?

The record shows that while she did give some interviews from earlier contacts, including one involving the job with the U.S. Ambassador to the United Nations, no one of real influence around the President put on a full court press to get her a job and she had not had any success as of December 6.

She had not been able to get in touch with Vernon Jordan in her recent efforts. He had met with her once in November, but as you recall from yesterday's discussions, something he didn't even have a good memory of. He certainly wasn't very focused on it, and she wasn't getting where she wanted to get.

And so on December 6th she mentioned that fact to the President. Remember, that is one day after she was named on a witness list. In fact, that is the day that he learned or may have learned—we know he learned of her being on that witness list. The President met with Vernon Jordan the next day, but he apparently didn't mention Ms. Lewinsky, according to Jordan's testimony. The record shows that not only on December 11th did Mr. Jordan act to help Ms. Lewinsky find a job when he met with her and gave her a list of contact names on December 11th, Mr. Jordan that same day made calls to contacts at MacAndrews & Forbes, the parent corporation of Revlon, and two other New York companies. He also telephoned the President to keep him informed of his efforts.

Keep in mind that on this day, this very same day, December 11th, Judge Wright issued her order in the Jones case entitling Jones' lawyers to discover the President's sexual relations. Is that a mere coincidence?

Later in December, Monica Lewinsky interviewed with New York-based companies that had been contacted by Mr. Jordan. She discussed her move to New York with the President during that meeting on December 28th. On January 5th, she declined a United Nations offer. On January 7th, Ms. Lewinsky signed the false affidavit. The next day, on January the 8th, she interviewed in New York with MacAndrews & Forbes, but the interview went very poorly. Learning of this, Vernon Jordan, that very day, called Ronald Perelman, the chairman of the board of MacAndrews & Forbes. She was interviewed the next morning again, and a few hours later she received an informal offer. She told Jordan about it. He immediately told Betty Currie about it, and he personally told the President about it later.

On January 13th, her job offer at Revlon was formalized, and within a day or so President Clinton told Erskine Bowles that Ms. Lewinsky had found a job in the private sector. It was a big relief to him.

Then her false affidavit was filed, and on January 17th the President gave a deposition relying on the false affidavit and using their cover stories to conceal their relationship.

Was this full court press in December and early January to assure Monica Lewinsky had a job just a coincidence? Logical common sense says no; the President needed her to continue to cooperate in his scheme to hide their relationship, keeping her happy so he could control her and she would be—he would be assured that she had filed this false affidavit and testifying untruthfully if she was called. It is the only plausible rationale for this stepped up job assistance effort at this particular time. In doing so, the President committed the crimes of obstruction of justice and witness tampering as set forth in count 4 of article II.

Well, we have gone through quite a few of these, and I am trying to be brief with you, but I think each one of them is important. Each one of them entangles the President further in a web that fits together, and it is kind of sticky just like the spider weaves.

During his deposition in the Jones case, the President referred to Betty Currie several times and suggested that she might have answers to some of the questions. He used the cover story, the same ones he and Monica talked about, and he talked about Betty Currie a good deal because she was a part of those cover stories. When he finished the deposition, he telephoned Ms. Currie, and he asked her to come to his office the next day and talk with him. Betty Currie told the grand jury when she came in the next day the President raised his deposition with her and said there were several things he wanted to know, then rattled off what you heard yesterday in succession: You were always there when she was there, right? We never were really alone. You can see and hear everything. Monica came on to me, and I never touched her, right? She wanted to have sex with me, and I can't do that.

All of those weren't true. They were all falsehoods. They were all declaratory statements. They weren't questions. It is clear from the record that Ms. Currie always tried her best to be loyal to the President, her boss. That is normal. That is natural.

In answering the questions in her testimony, she tried to portray the events and the President's assertions in the light most favorable to him, even though she acknowledges that she could not hear and see everything that went on between Monica and the President and that she wasn't actually present in the same room with them on any number of occasions, so they were alone. And she could not say what they might have been doing or saying.

On January 20th or 21st, the President again met with Ms. Currie and, according to her, recapitulated what he said on Sunday, a day or two before, right after the deposition. In the context of everything, it seems abundantly clear that the President was trying to make sure that Betty Currie corroborated his lies and cover stories from the deposition if she was ever called to testify in the Jones case or grand jury or any other court proceeding. That is what he was doing. In doing so, the President committed the crimes of witness tampering and obstruction of justice.

Later, the President testified, rather disingenuously, in my judgment, that he was simply trying to refresh his memory when he was talking to Ms. Currie. Ms. Currie's confirmation of false statements that the President made in his deposition could not in any way remind him of the facts. They were patently untrue. The idea that he was trying to refresh his recollection is implausible.

Recognizing the weakness of their client's case on this, the President's attorneys have suggested that he was worried about what Ms. Currie might say if the press really got after her. That is what we heard, at least over in the Judiciary Committee. Of course, it is possible the President was worried about the press. I would suspect so. But common sense says he was much more worried about what Betty Currie might say to a court, after he had just named her several times and talked about her, if she were called as a witness.

As those who follow me will tell you, the arguments by the President's lawyers that Betty Currie wasn't on the Jones witness list at the time and the window of opportunity to call her as a witness in that case closed shortly thereafter is irrelevant. They are going to argue—they argued to us that Betty Currie's name wasn't on the witness list. That is a big deal, they say. They say. But it is irrelevant. It doesn't matter; witness tampering law doesn't even require that a pending judicial proceeding be going on for it to be a crime. So whether her name was on the witness list or not makes no difference.

There are two types of obstruction of justice. One does require a pending proceeding. I submit—and you will hear more about this later in the law—that in this instance the President committed both of them. He certainly should have anticipated that she would be called in the pending proceeding that was going on in the Jones case, but even if there was no pending proceeding—and you will, again, hear more about this later—for the witness tampering part of the obstruction of justice, it doesn't require there to have been an ongoing judicial proceeding.

Within 4 or 5 days of his Jones deposition, the President not only explicitly denied the true nature of his relationship with Monica Lewinsky to key White House aides, he also embellished the story when he talked with Sidney Blumenthal. To Sidney Blumenthal, he portrayed Monica Lewinsky as the aggressor, attacked her reputation by portraying her as a stalker and presented himself as the innocent victim being attacked by the forces of evil. Certainly he wanted his denial and his assertions to be spread to the public by these aides, but at the same time he knew that the Office of Independent Counsel had recently been appointed to investigate the Monica Lewinsky matter. He knew that at the time.

In the context of everything else that he was doing to hide his relationship, it seems readily apparent that his false and misleading statements to his staff members, whom he knew were potential witnesses before any grand jury proceeding, were designed in part to corruptly influence their testimony as witnesses. In fact, the President actually acknowledged this in his grand jury testimony, that he knew his aides might be called before the grand jury. And one of the aides testified he expected to be called. Sure enough, they were, and they repeated the false and misleading information he had given them. In this, the President committed the crimes of witness tampering and obstruction of justice as set forth in count 7 of article II.

Now, that is the obstruction of justice. Let's briefly review the grand jury perjury for a minute.

If you believe Monica Lewinsky, the President lied to the grand jury and committed perjury. If you believe her—and I think this one is very important, not that they all aren't. There was the web of the obstruction that I just described and then there is the grand jury perjury on top of it. I told you earlier, perjury and just plain lying can be all obstruction of justice as well. But the grand jury part is much later. It is after the President had time to really reflect on all of this, a long time later.

If you believe Monica Lewinsky, the President lied to the grand jury and committed perjury in denying he had sexual relations with Monica Lewinsky even if you accept his interpretation of the Jones court's definition of sexual relations. That is really important. There isn't anything clearer in the whole darned matter than that. Just look at the President's grand jury testimony. And I am not going to go over all of that, but it is on pages 93 and 96 of his grand jury testimony. It is laid out in this chart which you have in front of you, and I encourage you to read every page of it carefully. Specifically, I call your attention to the fact—again, I am not going to read all of this—but they asked him about touching certain parts of the body that are defined in the definition that you have had repeated many times, publicly and otherwise. And two of those body parts he acknowledges, the breast and genitalia, were in fact part of the definition. And at the end of this, and I think this is very important and I am going to read it because it is part of his testimony, he answers the question that is the compelling bottom line crime. This is where he perjured himself above all else.

> You are free to infer that my testimony is that I did not have sexual relations, as I understood this term to be defined.
>
> Question: Including touching her breasts, kissing her breasts, or touching her genitalia?
>
> Answer: That's correct.

In her sworn testimony, Monica Lewinsky described nine incidents of which the President touched and kissed her breasts and four incidents involving contact with her genitalia. On these matters, Lewinsky's testimony is corroborated by the sworn testimony of at least six friends and counselors to whom she related these incidents contemporaneously.

Again, if you believe the testimony of Monica Lewinsky, and it certainly is credible here—I think it is credible throughout but it is certainly credible, with all the corroboration you have got in the record—there is nothing clearer in all of this, in all of this you have before you, than that the President committed the crime of perjury in testifying before the grand jury regarding the nature and details of his relationship with Monica Lewinsky.

On the other hand, there is plenty here to indicate the President cleverly created his own narrow definition of sexual relations to include only sexual intercourse, absent the explicit definition of the court, after he had already lied in responding to the interrogatories and other pleadings and perhaps even in the depositions themselves in the Jones case. In other words, you are free to deduce that he knew full well what most people would include as sexual relations, oral sex and the other intimate activities that he was engaged in with Ms. Lewinsky, before he contrived his own definition. In that case, you don't even have to rely on Monica Lewinsky's testimony to conclude that he committed the crime of perjury in testifying before the grand jury on the nature of his relationship with her.

There are other perjurious lies the President's grand jury testimony contains regarding the nature and details of his relationship with her. I am not going to outline all of those. I want to call your attention to one. The President's prepared statement, given under oath, said, "I regret that what began as a friendship came to include this conduct." You may remember that from Mr. ROGAN, I think, yesterday. "I regret that what began as a friendship came to include this conduct." That is what he said in the grand jury. The evidence indicates that he lied. As Ms. Lewinsky testified, her relationship with the President began with flirting, including Ms. Lewinsky showing the President her underwear, and just a couple of hours later they were kissing and engaging in intimacies. That is a little bit more than friendship. He lied when he said that to the grand jury.

Before the grand jury, the President swore that he testified truthfully at his deposition. Remember, I told you I was going to come back to this. It is important because the grand jury—I mean the Paula Jones deposition testimony is relevant to obstruction of justice but it is also relevant to the perjury here, because one of the portions of the perjury article that you have before us includes this issue of lying in the deposition. The perjury in this case is not the lying in the deposition, it is the lying to the grand jury about whether he lied in the deposition. He didn't have to have committed perjury. We didn't send you the perjury count over from the deposition. But if he lied—lying can be less than perjury. If he lied in the deposition and then he told the grand jury that he didn't lie, he committed perjury in front of the grand jury.

The evidence indicates that he did lie. He testified before the grand jury that "my goal in this deposition was to be truthful, but not particularly helpful . . . I was determined to walk through the minefield of this deposition without violating the law and I believe I did."

Contrary to this testimony, the President was alone with Ms. Lewinsky when she was not delivering papers, which he even conceded in his grand jury statement. So he lied in the deposition then when he said he wasn't alone with her.

In the deposition the President swore he could never recall being in the Oval Office hallway with Ms. Lewinsky except when she was perhaps delivering pizza. The evidence indicates that he lied.

The President swore in the Jones deposition that he could not recall gifts exchanged between Monica Lewinsky and himself. The evidence indicates that he lied.

He swore in the deposition that he did not know whether Monica Lewinsky had been served a subpoena to testify in the Jones case at the last time that he saw her in December 1997. The evidence indicates that he lied.

In his deposition, the President swore that the last time he spoke to Monica Lewinsky was when she stopped by before Christmas 1997 to see Betty Currie at a Christmas party. The evidence indicates that he lied.

In his deposition in the Jones case, the President swore that he didn't know that his personal friend, Vernon Jordan, had met with Monica Lewinsky and talked about the case. The evidence indicates that he lied.

The President in his Paula Jones deposition indicated that he was "not sure" whether he had ever talked to Monica Lewinsky about the possibility that she might be asked to testify in the Jones case. Can anybody doubt the evidence indicates that he lied?

The President in his deposition swore that the contents of the affidavit executed by Monica Lewinsky in the Jones case, in which she denied they had a sexual relationship, were "absolutely true." The evidence indicates that he lied.

In other words, when the President swore in the grand jury testimony that his goal in the Jones deposition was to be truthful but not particularly helpful, the evidence is clear that he lied and committed the crime of perjury, inasmuch as he had quite intentionally lied on numerous occasions in his deposition testimony in the Jones case. His intention in that deposition was to be untruthful. That is what it was all about, to be untruthful. So he committed the crime of perjury in front of the grand jury—big time.

The third part of article I concerning grand jury perjury relates to his not telling the truth about false and misleading statements his attorney, Robert Bennett—unintentionally, Mr. Bennett, by the way, but nonetheless false and misleading statements—Robert Bennett made to Judge Wright during the President's Jones case deposition. We have been on that a lot. I don't want to bore you with going over all those details again, but this is the third part of the perjury count as well as an obstruction of justice count.

During the President's deposition in the Jones case, Mr. Bennett, however unintentional on his part, misled the court when he said, "Counsel [counsel for Ms. Jones] is fully aware that Ms. Lewinsky has filed, has an affidavit which they are in possession of saying that there is no sex of any kind, of any manner shape or form, with President Clinton . . ." Judge Wright, as you recall again, interrupted Mr. Bennett and expressed her concern that he might be coaching the President to which Mr. Bennett responded, "in preparation of the witness for this deposition, the witness is fully aware of Ms. Lewinsky's affidavit, so I have not told him a single thing he doesn't know . . ."

In his grand jury testimony about these statements by Mr. Bennett to the judge in the Jones case, the President testified:

> I'm not even sure I paid attention to what he was saying. . . . I didn't pay much attention to this conversation which is why, when you started asking me about this, I asked to see the deposition . . . I don't believe I ever even focused on what Mr. Bennett said in the exact words he did until I started reading this transcript carefully for this hearing. That moment, the whole argument just passed me by.

In so testifying before the grand jury, the President lied and committed the crime of perjury. As you saw yesterday in the video, during this portion of that deposition when Mr. Bennett was discussing this matter with Judge Wright, the President directly looked at Mr. Bennett, paying close attention to his argument to Judge Wright. He lied about that to the grand jury. He committed perjury when he said that he wasn't paying attention and he didn't know what Mr. Bennett was saying.

Several of the most blatant examples of grand jury perjury are found in that portion of his testimony cited in the fourth part, the last part of article I which goes to his efforts, the President's efforts, to influence the testimony of witnesses and to impede the discovery of evidence in the Jones case. The President swore during the grand jury testimony that he told Ms. Lewinsky that if the Jones lawyers requested the gifts exchanged between them, she should provide them. If you believe Monica Lewinsky's testimony, the President lied and committed perjury.

In her grand jury testimony, Ms. Lewinsky discussed in detail the December 28 meeting where gifts were discussed which preceded by a couple of hours Ms. Currie coming to her apartment and taking the gifts and hiding them under a bed. As you recall, she said she raised with the President the idea of removing her gifts from her house and giving them to somebody like Betty Currie and that his response was something to the effect of, "Let me think about that."

She went on to say that from everything he said to her, they were not going to do anything but keep these gifts private. In a separate sworn statement, she testified she was never under the impression from anything the President said that she should turn over the gifts to the Jones attorneys, and obviously she didn't have the idea that she should do that because she gave them all to Betty Currie to hide under the bed.

When the President told the grand jurors that he was simply trying to "refresh" his recollection when he made a series of statements to Betty Currie the day after his deposition, he lied and committed perjury. As I have already pointed out to you today, the evidence is compelling that those statements, such as "I was never really alone with Monica, right?" were made to try to influence Betty Currie's possible testimony, so that she would corroborate his cover stories and other false statements and lies that he had given the previous day in the Jones deposition, if she was called as a witness.

If you conclude that these series of statements constitute witness tampering and obstruction of justice, then you must also conclude that the President committed perjury when he asserted that the sole purpose of these statements to Betty Currie was to "refresh" his recollection. You have to. Even if you were to buy the President's counsel's suggestion these statements might have been made to influence her in order for her to corroborate him, not in actual testimony in a court case but with the press, which they have said again to us—I don't know if they will say it to you—you would still conclude he was lying when he said that this was simply only to refresh his own recollection.

In the context of all of this, the idea that he was refreshing his recollection by firing off these declarative statements doesn't make sense. It just doesn't make sense. If you read the statements and think about them on their face, they are inherently inconsistent with refreshing his recollection.

Also, the President told the grand jury that the things he told his top aides about his relationship with Monica Lewinsky may have been misleading but they were true. If you believe the aides testified truthfully to the grand jury about what the President told them about his relationship, the President told them many falsehoods, absolute falsehoods. So when the President described them under oath to the grand jury as truths, he lied and committed the crime of perjury.

One example of this comes from Deputy Chief John Podesta in his testimony before the grand jury on January 23 that the President explicitly told him that he and Monica Lewinsky had not had oral sex. Another is Sidney Blumenthal. His testimony was that on January 23 the President told him that Monica Lewinsky "came at me and made a sexual demand on me" and that he rebuffed her. And also Blumenthal's testimony that the President told him that Lewinsky threatened him and said that she would tell people that they had had an affair and that she was known as a stalker among her peers.

In short, the President lied numerous times before the grand jury, my colleagues; he lied numerous times under oath last August 17. He committed perjury numerous times under oath. He certainly wasn't caught by surprise by any of this, by any of the questions that were asked him during the grand jury appearance, and he was given a lot of latitude. He was given latitude normally that grand jury witnesses don't have—to give a prepared statement, to have his counsel present, to refuse to answer questions without taking the fifth amendment.

It is hard to imagine a case where it is clear that the lies meet the threshold of the crime of perjury. But I will leave the discussion of the elements and the law to the next group that is going to come up here.

The facts are clear that the President lied about having sexual relations with Monica Lewinsky even under his understanding of the definition of the Jones case if you believe Monica.

He lied when he said he gave truthful testimony in his Jones deposition.

He lied when he said he wasn't paying attention to his attorney's discussion of Monica Lewinsky's false affidavit during his deposition in the Jones case.

He lied when he said he told Monica Lewinsky she should turn over the gifts to the Jones lawyers if they asked for them.

He lied when he told the grand jury that he made the declaratory statements to Betty Currie to refresh his recollection.

And he lied when he told the grand jury that he only told the truth to his White House aides, such as John Podesta who testified the President told him he had not had oral sex with Lewinsky, and to Sidney Blumenthal who testified he told him very exaggerated and highly untrue characterizations of Monica Lewinsky's role in all of this.

These impeachment proceedings aren't before you because of one or two lies about a sexual relationship. This is not about sex. This is about obstruction of justice. This is about a pattern. This is about a scheme. This is about a lot of lies. This is about a lot of perjury. They are before you because the President lied again and again in a perjurious fashion to a grand jury and tried to get a number of people, other people, to lie under oath in the Jones lawsuit and to the grand jury and encouraged the concealment of evidence.

In a couple of days the President's lawyers are going to have their chance to talk to you, and I suspect they will try to get you to focus on 10, 15, or 20 or 30, maybe even 100 specific little details. They are going to argue that these details don't square with some of the facts about this presentation. But I would encourage you never to lose sight of the totality of this scheme to lie and obstruct justice; never lose sight of the big picture. Don't lose sight of the forest for the trees. It is easy to do because there are a lot of facts in this case.

I suggest you avoid considering any of this stuff in isolation and treating it separately. The evidence and the testimony needs to be viewed as a whole. The weight, we call it in law—and you are going to hear that in a few minutes—the weight of the evidence in this case is very great, it is huge in its volume, that the President engaged in a scheme starting in December 1997 to conceal from the court in the Jones case his true relationship with Monica Lewinsky and then cover up his acts of concealment which he had to know by that time were serious crimes.

The case against the President rests to a great extent on whether or not you believe Monica Lewinsky. But it is also based on the sworn testimony of Vernon Jordan, Betty Currie, Sidney Blumenthal, John Podesta, and corroborating witnesses. Time and again, the President says one thing and they say something entirely different. Time and again, somebody is not telling the truth. And time and again, an analysis of the context, the motivation, and all of the testimony taken together with common sense says it is the President who is not telling the truth. But if you have serious doubts about the truthfulness of any of these witnesses, I, again, as all my colleagues do, encourage you to bring them in here. Let's examine Monica Lewinsky, Vernon Jordan, Betty Currie and the other key witnesses, let you examine the testimony, invite the President to come, judge for yourself their credibility.

But on the record, the weight of the evidence, taken from what we have given you today, what you can read in all of these books back here, everything taken together is huge that the President lied. It is refutable, but it is not refutable if somebody doesn't come in here besides just making an argument.

I don't know what the witnesses will say, but I assume if they are consistent, they'll say the same that's in here. But you have a chance to determine whether they are telling the truth. The only way you will ever know that, other than just accepting it if you think the evidence and the weight is that huge—and it may be—is by looking them in the eye and determining their credibility.

I believe that when you finish hearing and weighing all of the evidence, you will conclude, as I have, that William Jefferson Clinton committed the crimes of obstruction of justice, witness tampering, and perjury, that these in this case are high crimes and misdemeanors, that he has done grave damage to our system of justice, and leaving him in office would do more, and that he should be removed from office as President of the United States.

Thank you, Mr. Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

RECESS

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that there now be a recess in the proceedings for 15 minutes. Please return to your positions within 15 minutes.

There being no objection, at 2:11 p.m., the Senate recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Mr. Chief Justice, as all Senators return to the Chamber, I believe now we are going to go to a segment where we will hear from three of the managers, including Congressmen GEKAS, CHABOT, and CANNON, and then we will take another break shortly after 3:30.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager GEKAS.

Mr. Manager GEKAS. Mr. Chief Justice, counsel for the President, my colleagues from the House, and Members of the Senate, up to now you have been fully informed of the state of the record in this case in many different ways, in very many different tonalities uttered by the managers, who so magnificently, in my judgment, wove the story that began in 1997 and has not ended yet.

But the narrative that the managers were able to produce for you and put on the record has met, even as we speak, with commentary in the public that "we have all known all of this before." The big difference is that now it is part of the history of the country. It is lodged in the records of the Senate of the United States. And together with the CONGRESSIONAL RECORD of the proceedings that preceded these in the House, we now have the dawning of the final chapters of this particular incident involving the President, in which you will have the final word. But that is what the importance is of what you have heard up until now—the complete record woven together, step by step, so that no one in this Chamber at this juncture does not know all the facts that are pertinent to this case. That is a magnificent accomplishment on the part of the managers.

But the record is not yet complete, and that is where I and Representative CHABOT, Representative CANNON, and Representative BARR come in, so that now we can take the next step in fulfillment of the record, and that is, to try to apply the statutory laws, the laws of our Nation as they obtain to the facts that you now have well ingrained into your consciences. To do that, we have to repeat some of the facts. Some of these matters overlap, and just as you have given your attention to the matters at hand up until now, your undivided attention is needed continuously.

For instance, we cannot discuss even the application of these statutes to the facts unless we repeat the series of events that catapulted us to this moment in history. And we must begin, as you have heard countless times now on and off this floor, in my judgment, with the Supreme Court of the United States, with all due deference to the Chief Justice, because the Supreme Court at one point in this saga determined in a suit brought by Paula Jones that indeed an average, day-to-day, ordinary citizen of our Nation would have the right to have a day in court, as it were, even against the President of the United States. It is there that all of this began.

That fellow American, Paula Jones—no matter how she may have been described by commentators and pundits and talking heads, et cetera—did have a bundle of rights at her command. Those rights went into the core of our system of justice to bring the President into the case as a defendant. That is an awesome and grand result of the Supreme Court decision at that juncture. This is what is being overlooked, in my judgment, as we pursue what we believe. If perjury indeed was committed—and the record is replete that it in fact was—and if indeed obstruction of justice was finally committed by the President of the United States—as the evidence abundantly demonstrates—then we must apply the rights of Paula Jones to what has transpired.

We are not saying that the President—even though the weight of the evidence demonstrates it amply—should be convicted of the impeachment which has brought us to this floor just because he committed perjury or obstructed justice, but because as a result of his actions both in rendering falsehoods under oath, as the evidence demonstrates amply, or in obstructing justice, that because of his conduct, he attempted to, or succeeded in, or almost succeeded in—it doesn't matter which of these results finally emerges—and attempted to destroy the rights of a fellow American citizen. That is what the gravamen of all that has occurred up to now really is.

In attempting to obstruct justice, we mean by that obstructing the justice of whom? It was an attempt, a bold attempt, one that succeeded in some respects, to obstruct the justice sought by a fellow American citizen. That is heavy. That is soul searching in its quality. That goes beyond those who would say, "He committed perjury about sex. So what?" That goes beyond saying that, "This is just about sex. So what? Everybody lies about sex." But when you combine all the features of the actions of the President of the United States and you see that they are funneled and tunneled and aimed and targeted toward obliterating from the landscape the rights of Paula Jones, a fellow American citizen, then you must take a second look at your own assertion that, "So what? It's just a question of fact about sex."

Many of the Members of this Chamber and others have already acknowledged that the President has lied under oath. But then they are quick to add, "So what?" which is so disturbing in view of the results of what has happened in this case.

Before the House of Representatives, as part of our record, we had a group of academicians, professors, testifying. Professor Higgenbotham—who, sadly I must relate, has passed away since his appearance—was trying to show how futile it was for us to even attempt to append perjury to an indictable, prosecutable offense, and that nowhere in the country is it prosecuted regularly, and that it is so trivial because it is based on sex. He went on to give an example of how trivial it is. I am paraphrasing it, but he said: Would you expect to indict the President of the United States for perjury if he lied about a 55-mile-an-hour speed limit, even though he was going 56? If he would say, "I was only going 51," would you indict him on that?

In the repertoire that I had with him at that juncture, I asked him would he feel the same if as a result of that perjurious testimony about only going 51 miles an hour if there was a victim in the case, that this might be a tort case, an involuntarily case, a negligence case in which someone died as a result of an automobile accident case, and the issue at hand would be the speed limit, would he feel the same way if as a result of the perjury committed as to the rate of speed, that someone's rights were erased in the case by virtue of that perjury, the gentleman acknowledged that that made a difference.

That is what the difference is here. The perjury per se, that being a phrase that we lawyers can adopt, the perjury per se is almost a given pursuant to the commentaries that we have heard from the people in and out of that Chamber. But when you add to it the terrible consequences of seeing a fellow citizen pursuing justice thwarted, stopped in her tracks as it were by reason of the actions of the President, that is what the core issue here is.

To take it, then, from the status of what consequence it had to that fellow American citizen to the next step is, in my judgment, an issue—to go to the determination of whether or not there was an impeachable offense—my colleagues will show you how the law of perjury and the law of obstruction of justice relates to this pattern of factual circumstance that we bring to you. But in the meantime we must recount, even at the risk of overlapping some of the testimony, that following the initial recognition by the President that there was going to be a witness list and that Monica Lewinsky would eventually appear as she did on that witness list. This occurred, which is little examined thus far in the world of the scandal in which we are all participants, and that is this: The first item of business on the part of the Jones lawyers in pursuing the rights of Paula Jones was to issue a set of interrogatories, a discovery procedure that is well recognized in our courts all over the land, that a set of interrogatories arrived at the President's desk.

At this juncture—this is way before the President appeared at the deposition about which you know everything now. The facts have been related to you in a hundred different ways and you know that pretty well. I know you do. But did you know, can you fasten your attention for a moment knowing that this happened at the deposition on a month before, on December 23rd, 1997, when the President had in front of him interrogatories that asked did he ever have sexual relations with anyone other than his spouse during the time that he was Governor of Arkansas or President of the United States, and there the President answered—or I think that the interrogatory stated, Name any persons with whom you have had sexual relations other than your wife. And the answer that the President rendered in those interrogatories under oath was none.

I say to the ladies and gentleman of the Senate that this was the first falsehood stated under oath which became a chain reaction of falsehoods under oath, and even without the oath, all the way to the nuclear explosion of falsehoods that were uttered in the grand jury in August of 1998.

This little innocuous piece of paper called interrogatories was placed before the President presumably with or without counsel. Let's even presume with counsel. And it was a straight question, not with any definitions, no confusing colloquy between a judge and a gaggle of lawyers, no interpretation being put on any particular word in the interrogatories, but whether or not sexual relations had been urged or participated in by the President of the United States, and the answer was none in naming those persons.

What does that mean to you? What does that not mean to you, that when confronted right at the outset with the phrase "sexual relations" that the President adopted and determined the common usage, well-understood definition of sexual relations that everybody in America recognizes as being the true meaning of sexual relations, meaning sex of any kind. Did not the President answer that under the common understanding that all of us entertain when we discuss, more so in the last year than ever before in our lives, the phrase "sexual relations"? To me that is a telling feature of this case because when you leap over that and get to the depositions and everything that the President might have said in those depositions, as his counsel have repeatedly asserted to us was true, that he did not lie, that he did not commit perjury, that he did not evade the truth, that some of it, puzzling to them even, but it did not amount to perjury, can they say about that the statement one month before on December 23rd in interrogatories?

That is extremely important. That is my recollection. Yours is the one that will have to predominate, of course.

But the weight that I put on it, I urge you to at least evaluate as you begin to level your weight on the evidence that has been presented.

If that were not enough, on January 15th, again before the deposition, another interrogatory—this one a request for documents—was submitted to the President, and again the question there was—you will see it in the record; it is in the record—the request of documents says to submit anything that pertained to Monica Lewinsky, the intern or employee, Monica Lewinsky, of whatever description—notes, gifts, whatever, and the President in that particular instance again said none. I am willing to give the President a reasonable doubt on that and even ask you if you do not place as much weight on it as I do to forget all about that. But the point is that these assertions under oath were made before the Jones deposition was ever even conceived, let alone undertaken on January 17th.

So he cannot, the President cannot use the lawyer talk and judge banter and the descriptions and definitions of sexual relations to cloud the answers that he gave at that time, and all of this in the continuous effort to destroy the rights of Paula Jones, a fellow American citizen.

That brings up the question. If someone, a member of your family, or someone who is a witness to these proceedings has a serious case in which one's self, one's property, one's family has been severely damaged, would you suffer without a whimper perjurious testimony given against you? Would you, knowing down deep that at the end of the day it had caused you to lose your chance at retribution and a chance to be compensated for damages, to restore your family life?

Isn't that what our system is all about? Isn't that what the adverse consequence is of the attempt to obliterate the Paula Jones civil suit?

That is what it is, not that he committed perjury. So what? It is what the end result of that perjury might be that you should weigh. Skip over the fact that he committed perjury. We all acknowledge that it is said. But now tell me what that does to Paula Jones, or potentially could do to Paula Jones, or to one of you, or to one of your spouses, or to one of the members of your community who wants to have justice done in the courts.

Obstruction of justice is obstruction of justice to an individual, to a family. You can take it from Paula Jones and telescope it upward to every community, in every courthouse, and every State and every community in our land, and there is a Paula Jones eager to assert certain rights and then confronted with someone who would tear it down by false testimony, by lies under oath.

That is what the gravamen of all this really is.

One more thing. The counsel for the President have repeatedly and very authoritatively, professionally, have asserted, as many of you have, that this is not an impeachable offense, for after all, they say, an impeachable offense is one in which there is a direct attack on the system of government; not perjury, not obstruction of justice.

So what, on those, they imply. They say it does not—perjury, especially about sex—attack the system of Government. I must tell you that as an 8- or 9- or 10-year-old, I would accompany my mother to naturalization school three or four nights a week where my mother was intent on learning the English language and learning about the history of the United States, as the teachers for naturalization were preparing these prospective citizens, and she was so proud that she learned that the first President of the United States was George Washington, was prepared to answer that question if it was posed to her in naturalization court, and she was so proud when I was testing her, preparing. Each time I would say, "Mom, what are the three branches of Government?" And she would say, "The 'Exec' and the 'legislate' and the 'judish,'" in her wonderful, lovable accent. She knew the system of Government. And she did have to answer that in naturalization court. And she knew that one wall of the creed that protects our rights is the "judish." She knew that the courthouse and the rights of citizens which are advanced in that courthouse are the system of Government. Can anyone say that purposely attempting to destroy someone's case in the courthouse is not an attack on the system of Government of our country?

Mr. CHABOT will elucidate on perjury.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager CHABOT.

Mr. Manager CHABOT. Mr. Chief Justice, Senators, distinguished counsel for the President, I am STEVE CHABOT. I represent the First District of Ohio. Prior to my election to Congress, I practiced law in Cincinnati for about 15 years. As I stand before you today, I must admit that I feel a long way away from that small neighborhood law practice that I had. Though, while this arena may be somewhat foreign to me, the law remains the same. As one of the managers who represents the House, I am here to summarize the law of perjury. While today's discussion of the law may not be as captivating as yesterday's discussion of the facts, it is nevertheless essential that we thoroughly review the law as we move forward in this historic process. I will try to lay out the law of perjury as succinctly as I can without using an extraordinary amount of the Senate's time but beg you to indulge me.

In the United States Criminal Code, there are two perjury offenses. The offenses are found in sections 1621 and 1623 of title 18 of the United States Criminal Code. Section 1621 is the broad perjury statute which makes it a Federal offense to knowingly and willfully make a false statement about a material matter while under oath. Section 1623 is the more specific perjury statute which makes it a Federal offense to knowingly make a false statement about a material matter while under oath before a Federal court or before a Federal grand jury.

It is a well-settled rule that when two criminal statutes overlap, the Government may charge a defendant under either one. As you know, the President's false statements covered in the first impeachment article were made before a Federal grand jury. Therefore, section 1623 is the most relevant statute. However, section 1621 is applicable as well.

The elements of perjury. There are four general elements of perjury. They are an oath, an intent, falsity, and materiality. I would like to walk you through each of those elements at this time.

First, the oath.

The oath need not be administered in a particular form, but it must be administered by a person or body legally authorized to do so. In this case, there has been no serious challenge made about the legitimacy of the oath administered to the President either in his civil deposition in the Jones v. Clinton case or before the Federal grand jury. Let's, once again, witness President Clinton swearing to tell the truth before a Federal grand jury.

(Videotape presentation.)

The oath element has clearly been satisfied in this case.

The next element is intent. To this day, the President has refused to acknowledge what the vast majority of Americans know to be true—that he knowingly lied under oath. The President's continued inability to tell the truth, the whole truth and nothing but the truth has forced this body, this jury, to determine the President's true intent.

The intent element requires that the false testimony was knowingly stated and described. This requirement is generally satisfied by proof that the defendant knew his testimony was false at the time it was provided. As with almost all perjury cases, you will have to make a decision regarding the President's knowledge of his own false statements based on the surrounding facts and, yes, by circumstantial evidence. This does not in any way weaken the case against the President. In the absence of an admission by the defendant, relying on circumstantial evidence is virtually the only way to prove the crime of perjury.

The Federal jury instructions which Federal courts use in perjury cases can provide helpful guidance in understanding what is meant by the requirement that the false statement must be made knowingly. Let me quote from the Federal jury instructions:

> When the word "knowingly" is used, it means that the defendant realized what he was doing and was aware of the nature of his conduct, and did not act through ignorance, mistake or accident.

So as you reflect on the President's carefully calculated statements, remember the Federal jury instructions and ask a few simple questions: Did the President realize what he was doing, what he was saying? Was he aware of the nature of his conduct or did the President simply act through ignorance, mistake or accident?

The answers to these questions are undeniably clear even to the President's own attorneys. In fact, Mr. Ruff and Mr. Craig testified before the Judiciary Committee that the President willfully misled the court. Let's listen to Mr. Ruff.

(Text of videotape presentation:)

> Mr. RUFF. I'm going to respond to your question. I have no doubt that he walked up to a line that he thought he understood reasonable people—and you maybe have reached this conclusion—could determine that he crossed over that line and that what for him was truthful but misleading or nonresponsive and misleading or evasive was in fact false.

In an extraordinary admission, the President's own attorney has acknowledged the care, the intention, the will of the President to say precisely what he said.

The President's actions speak volumes about his intent to make false statements under oath. For example, the President called his secretary, Betty Currie, within hours of concluding his civil deposition and asked her to come to the White House the following day. President Clinton then recited false characterizations to her about his relationship with Ms. Lewinsky. As you have already heard, Ms. Currie testified that the President made the following statements to her:

> You were always there when she was there, right? We were never really alone. You could see and hear everything. Monica came on to me, and I never touched her, right? She wanted to have sex with me, and I can't do that.

This is not the conduct of someone who believed he had testified truthfully. It is not the conduct of someone who acted through ignorance, mistake or accident. Rather, it is the conduct of someone who lied, knew he had lied, and needed others to modify their stories accordingly.

Finally, it is painstakingly clear during the President's grand jury testimony that he, again, knows exactly what he is doing. Let's again watch the following excerpt from that testimony.

(Text of videotape presentation:)

> . . . was an utterly false statement. Is that correct?
>
> A It depends on what the meaning of the word "is" is.

In this instance, and in many others that have been presented to you over the last 2 days, the facts and the law speak plainly.

The President's actions and demeanor make the case that President Clinton knowingly and willfully lied under oath in a grand jury proceeding and in a civil deposition. The compelling evidence in this case satisfies the intent element required under both sections 1621 and 1623 of the Federal Criminal Code.

The next element, falsity. The next element of perjury is falsity. In order for perjury to occur in this case, the President must have made one or more false statements. Yesterday my colleagues went through the evidence on this matter in great detail and clearly demonstrated that the President did, in fact, make false statements while under oath. Because of the evidence that was presented to date, without question the President's falsity and his false statements have been shown, so I am going to move forward to the final element of perjury, which is materiality.

The test for whether a statement is material, as stated by the Supreme Court in Kungys v. United States, is simply whether it had a "natural tendency to influence" or was "capable of influencing" the official proceeding. The law also makes clear that the false statement does not have to actually impede the grand jury's investigation for the statement to be material.

The law regarding the materiality of false statements before a grand jury is very straightforward. Because a grand jury's authority to investigate is broad, the realm of declarations regarded as material is broad. The President's false statements to the grand jury were material because the grand jury was investigating whether the President had obstructed justice and committed perjury in a civil deposition.

Now let's look at potential legal smokescreens. The President's attorneys will try to distract you from the relevant law and facts in this case. To help you stay focused on the law, I would like to preview some of the arguments that may be made by the President's attorneys.

Legal smokescreen No. 1, the Bronston case. You will probably hear opposing counsel argue that the President did not technically commit perjury, and appeal to the case of Bronston v. United States. This is a legal smokescreen. In the Bronston case, the Supreme Court held that statements that are literally truthful and nonresponsive cannot by themselves form the basis for a perjury conviction. This is the cornerstone of the President's defense. However, the Court also held that the unresponsive statements must be technically true in order to prevent a perjury conviction; such statements must not be capable of being conclusively proven false.

As we have seen, none of the President's perjurious statements before the grand jury, covered in the first impeachment article, are technically true. So, when the President's counsel cites the Bronston case, remember the facts. Ask yourselves, are the President's answers literally true? And remember, to be literally true they must actually be true.

It is also important to note that, consistent with the Bronston case, the response, "I don't recall," is not technically true if the President actually could recall. The factual record in the case, consisting of multiple sworn statements contradicting the President's testimony and highly specific corroborating evidence, demonstrates that the President's statements were not literally true or legally accurate. On the contrary, the record establishes that the President repeatedly lied, he repeatedly deceived, he repeatedly feigned forgetfulness.

There are other clear and important limitations on the Bronston case's scope. In United States v. DeZarn, handed down just 3 months ago by the 6th circuit court of appeals, the court made an important ruling that is directly on point in this case. The court of appeals stated:

> Because we believe that the crime of perjury depends not only upon the clarity of the questioning itself, but also upon the knowledge and reasonable understanding of the testifier [President Clinton] as to what is meant by the questioning, we hold that a defendant may be found guilty of perjury if a jury could find beyond a reasonable doubt from the evidence presented that the defendant knew what the question meant and gave knowingly untruthful and materially misleading answers in response.

The Bronston case has further limitations. For example, in United States v. Swindall, the court held that the jury can convict for perjury even if the questions or statements involved are capable of multiple interpretations where only one interpretation is reasonable under the circumstances surrounding their utterances.

In United States v. Doherty, the court held that the prosecution for perjury is not barred under Bronston, "whenever some ambiguity can be found by an implausibly strained reading of the question" posed. I would submit to this body that "implausibly strained reading of the question" posed is precisely what confronts us time and again in the case of the President before the grand jury.

Legal smokescreen No. 2, the two-witness rule. In the coming days you may hear opposing counsel argue that the President did not commit perjury by appealing to the so-called two-witness rule. Again, this is nothing but a legal smokescreen. This common law rule requires that there be either two witnesses to a perjurious statement or, in the alternative, that there be one witness and corroborating evidence of the perjury. Opposing counsel may suggest that, because there were not two witnesses present for some of the President's false statements, he did not technically commit perjury. Such an appeal to the two-witness rule is wrong for several reasons.

First, the two-witness rule is not applicable under section 1623, only under 1621. The language of 1623 expressly provides, "it shall not be necessary that such proof be made by any particular number of witnesses or by documentary or other type of evidence."

Congress passed section 1623 back in 1970 to eliminate the two-witness requirement and to facilitate the prosecution of perjury and enhance the reliability of testimony before Federal courts and Federal grand juries. The legislative history establishes this as the fundamental purpose of the statute.

Additionally, substantial evidence has been presented over the last 2 days to satisfy the requirements of the two-witness rule under section 1621. Remember, when the two-witness rule applies, it does not actually require two witnesses. Indeed, it requires either two witnesses or one witness and corroborating evidence. As you know, there is a witness to each and every one of the President's false statements and there is voluminous evidence which corroborates the falsehood of his statements.

Finally, case law tells us that the two-witness rule is not applicable under certain circumstances, when the defendant falsely claims an inability to recall a material matter.

Another possible legal smokescreen, the drafting of article I, article I being the first article of impeachment.

As you know, impeachment article I says:

> Contrary to that oath, William Jefferson Clinton willfully provided perjurious, false and misleading testimony to the grand jury . . .

You may hear opposing counsel argue that section 1621 is the only applicable statute because the article of impeachment accuses the President of willfully committing perjury. This is another legal smokescreen.

Following that reasoning, one could just as easily make the argument that 1623 was contemplated here because the term "false" does not appear in 1621 but does appear in 1623. However, that is not the point. The point is that the language of the impeachment article did not use these terms as terms of art as they are defined and used in various criminal statutes.

While the article of impeachment does not draw a distinction between the standards, evidence has been presented over the last 2 days that demonstrates that the President did knowingly and willfully lie under oath regarding material matters before a grand jury, and that satisfies both 1623 and 1621.

Again, in the context of perjury law, the distinction between a knowing falsehood and a willful falsehood is almost a distinction without a difference. In American Surety Company v. Sullivan, the Second Circuit stated that "the word 'willful,' even in a criminal statute, means no more than the person charged with the duty knows what he is doing."

So that, in essence, is the law of perjury.

Mr. Chief Justice, Members of the Senate, throughout this long and difficult process, apologists for the President have maintained that his actions might well have been reprehensible but are not necessarily worthy of impeachment and removal from office. I submit, however, that telling the truth under oath is critically important to our judicial system and that perjury, of which I believe a compelling case is being made, strikes a terrible blow against the machinery of justice in this country.

The President of the United States, the chief law enforcement officer of this land, lied under oath. He raised his right hand and he swore to tell the truth, the whole truth, and nothing but the truth, and then he lied. Pure and simple.

Why is perjury such a serious offense? Under the American system of justice, our courts are charged with seeking the truth. Every day, American citizens raise their right hands in courtrooms across the country and take an oath to tell the truth. Breaking that oath cripples our justice system. By lying under oath, the President did not just commit perjury, an offense punishable under our criminal code, but he chipped away at the very cornerstone of our judicial system.

The first Chief Justice of the United States of the Supreme Court, John Jay, eloquently stated why perjury is so dangerous over 200 years ago. On June 25, 1792, in a charge to the grand jury of the Circuit Court for the District of Vermont, the Chief Justice said:

> Independent of the abominable Insult which Perjury offers to the divine Being, there is no Crime more extensively pernicious to Society. It discolours and poisons Streams of Justice, and by substituting Falsehood for Truth, saps the Foundations of personal and public Rights—Controversies of various kinds exist at all Times, and in all Communities. To decide them, Courts of Justice are instituted—their Decisions must be regulated by Evidence, and the greater part of Evidence will always consist of the Testimony of witnesses. This Testimony is given under those solemn obligations which an appeal to the God of Truth impose; and if oaths should cease to be held sacred, our dearest and most valuable Rights would become insecure.

Why has the President been impeached by the U.S. House of Representatives? Why is he on trial here today in the U.S. Senate? Because he lied under oath. Because he committed perjury. Because if the oaths cease to be held sacred, our dearest and most valuable rights will become insecure.

During the course of this trial, Members of this distinguished body, the jurors in this case, will have to consider the law and the facts very carefully. It is a daunting task and an awesome responsibility, one that cannot be taken lightly. I humbly suggest to those sitting in judgment of the President that we must all weigh the impact of our actions, not only on our beloved Nation today, but on American history. It is my belief that if the actions of the President are ultimately disregarded or minimized, we will be sending a sorry message to the American people that the President of the United States is above the law. We will be sending a message to our children, to my children, that telling the truth doesn't really matter if you have a good lawyer or you are an exceptionally skilled liar. That would be tragic.

Mr. Chief Justice, Senators, let us instead send a message to the American people and to the boys and girls who will be studying American history in the years to come that no person is above the law and that this great Nation remains an entity governed by the rule of law. Let us do what is right. Let us do what is just. Thank you.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager CANNON.

Mr. Manager CANNON. Mr. Chief Justice, Senators, distinguished counsel of the President, my name is CHRIS CANNON. I represent Utah's Third Congressional District.

John Locke once said, "Wherever law ends, tyranny begins." And speaking to our American experience, Teddy Roosevelt added, "No man is above the law and no man is below it; nor do we ask any man's permission when we require him to obey it. Obedience to the law is demanded as a right; not as a favor."

This case is about the violation of law. My task is to clarify what the law states pertaining to obstruction of justice and what legal precedent is applicable to the charges against William Jefferson Clinton.

While both the laws and the violations in this case are clear and direct, the presentation I am about to make will not be simple. I ask your indulgence and attention as I walk you through case history and statutory elements. I promise to be brief—probably less than a half-hour—and direct.

I will present the legal underpinnings of the law of obstruction of justice. You should have before you the full text of this speech, including full citations to cases and copies of the charts I will use in this presentation.

Article II of the articles of impeachment alleges that the President prevented, obstructed, and impeded the administration of justice, both personally and through his subordinates and agents, and that he did so as part of a pattern designed to delay, impede, cover up, and conceal the existence of evidence and testimony related to a Federal civil rights action brought against him.

Article II specifies seven separate instances in which the President acted to obstruct justice. The House believes the evidence in this case proves that each of the seven separate acts which comprise the President's scheme constitutes obstruction of justice.

I would like to draw your attention at this time to the chart on my right, and the first page in your packet, which depicts elements of section 1503:

> (a) Whoever . . . corruptly . . . influences, obstructs or impedes; or endeavors to influence, obstruct or impede, the due administration of justice, shall be punished as provided in subsection (b).
>
> (b) The punishment for an offense under this section is . . .
>
> (3) . . . imprisonment for not more than 10 years, a fine under this title, or both.

Section 1503 is often referred to as the general obstruction statute. It describes obstruction simply as an impact on the due administration of justice.

Section 1503 deems it criminal to use force or threats, or to otherwise act corruptly, in order to influence, obstruct, or impede the due administration of justice.

Federal court rulings clarify that it is not necessary for a defendant to succeed in obstructing justice. Again, I direct your attention to the chart, or the accompanying chart, in your package.

Russell and Aguilar each ruled that it is not necessary that a defendant's endeavor succeed for him to have violated the law. Rather, simply attempting to influence, obstruct, or impede the due administration of justice violates the statute.

Maggitt clearly stated, "it is the endeavor to bring about a forbidden result and not the success in actually achieving the result, that is forbidden."

For the Government to prove a section 1503 crime, it must demonstrate that the defendant acted with intent. This can be shown through use of force, threats by the defendant, or by simply showing that the defendant acted "corruptly." The following chart gives three case histories regarding the term "acting corruptly."

Haldeman and Sprecher held that a defendant acts corruptly by having an evil or improper purpose or intent.

Barfield defined "acting corruptly" as knowingly and intentionally acting in order to encourage obstruction.

Sprecher also ruled the Government need not prove the actual intent of the defendant, but, rather, the intent to act corruptly can be inferred from that proof that the defendant knew corrupt actions would obstruct the justice being administered.

Under section 1503, the Government must also prove that the defendant endeavored to influence, obstruct or impede the due administration of justice. The statute is broadly applicable to all phases of judicial proceedings.

Brenson described due administration of justice as "providing a protective cloak over all judicial proceedings, regardless of the stage in which the improper activity occurs."

Section 1503 is also intended to protect the discovery phase of a judicial proceeding, stating that the phrase "due administration of justice" is intended to provide a "free and fair opportunity to every litigant in a pending case in Federal court to learn what he may learn . . . concerning the material facts and to exercise his option as to introducing testimony of such facts."

The House believes that the facts of this case make it very clear that the President did, corruptly, impair the ability of a litigant in Federal court to learn all of the facts that she was entitled to learn. In doing so, the President committed obstruction of justice under section 1503.

The other Federal crime which the President committed was witness tampering under section 1512 of title 18. Again, I refer you to the chart on my right, and to the second page in the package, which depicts the elements of the section.

> (b) Whoever knowingly . . . corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to—
>
> (1) influence, delay or prevent the testimony of any person in an official proceeding; or
>
> (2) cause or induce any person to—
>
> (A) withhold testimony, or withhold a . . . document . . . or an object . . . from an official proceeding;

> . . . shall be fined under this title, or imprisoned for not more than ten years or both.

Sections 1503 and 1512 differ in an important way. There does not need to be a case pending at the time the defendant acts to violate the law under section 1512. The statute specifically states that "for the purpose of this section, an official proceeding need not be pending or about to be instituted at the time of the offense . . ." for the crime to be committed.

Putting it another way, a person may attempt to tamper with a witness and commit the crime of witness tampering before such a person is called as a witness and even before there is a case underway in which that person might be called to testify.

For the Government to prove the crime of witness tampering, it must prove that the defendant acted with the intent to cause one of several results. The defendant can be convicted if he acted to influence, delay or prevent the testimony of any person in an official proceeding; or the defendant can be convicted if he acted to cause another person to withhold an object from an official proceeding.

In the case before us, the evidence proves that the President endeavored to cause both of these results on several occasions. And the Government may show intent on the part of the defendant in several ways. It may prove the use of intimidation, physical force or threats; or it may prove intent by showing the use of corrupt persuasion or misleading conduct.

In this case, the evidence shows that on several occasions the President acted corruptly to persuade some witnesses, and engaged in misleading conduct toward others, in order to influence their testimony and cause them to withhold evidence or give wrongful testimony. In each instance, the President violated the witness tampering statute.

How does acting corruptly to persuade a witness differ from engaging in misleading conduct? Section 1515 in title 18 states:

> (a) as used in section 1512 [the witness tampering section] . . . of this title and this section—
>
> (3) the term "misleading conduct" means—
>
> (A) knowingly making a false statement; or
>
> (B) intentionally omitting information from a statement and thereby causing a portion of such statement to be misleading, or intentionally concealing a material fact, and thereby creating a false impression by such statement; or
>
> (C) with intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered or otherwise lacking in authenticity;

The difference between corruptly persuading a witness and engaging in misleading conduct toward the witness depends on the witness' level of knowledge about the truth of the defendant's statement.

Rodolitz held that misleading conduct involves a situation "where a defendant tells a potential witness a false story as if the story were true, intending that the witness believe the story and testify to it before the grand jury."

Let me clarify this detail: If a defendant simply asks a witness to lie and the witness knows that he is being asked to lie, then the defendant is corruptly persuading the witness. In contrast, if a defendant lies to a witness, hoping the witness will believe his story, this is misleading conduct. They are different, but they are both criminal.

Some may ask if it is necessary that the witness who is influenced or tampered with know that he or she might be called to testify? The answer is no. And both sections 1503 and 1512 answer this question:

The witness tampering statute can be violated even if the victim has not been subpoenaed or listed as a potential witness in an ongoing proceeding.

In Shannon, the U.S. Court of Appeals for the Eighth Circuit reviewed the conviction of a defendant under section 1503 who had attempted to influence the testimony of a person who had not yet been subpoenaed or placed on a witness list. On appeal, the defendant argued that because the target of the obstruction had not yet become an official witness in the case, it was impossible for the defendant to have engaged in obstruction toward her. The court of appeals rejected that assertion. In affirming the conviction, the court held "neither must the target be scheduled to testify at the time of the offense nor must he or she actually give testimony at a later time. It is only necessary that there is a possibility that the target of the defendant's activities be called on to testify in an official proceeding."

The witness tampering statute can be violated even when no case is pending.

Therefore, it will not always be clear to whom the defendant intended the individual to testify—and the statute does not require proof of this.

In Morrison, the United States Court of Appeals for the District of Columbia explained that section 1512 is violated if the defendant asks a person to lie "to anyone who asks." The court held that it is not necessary that the defendant even use the words "testify" or "trial" when he tries to influence the testimony of the other person. In such a case, there are no subpoenas, there are no witness lists.

The mere attempt to influence the person to lie, if asked, is the crime.

So, under either section 1503 or 1512, the fact that the target of a defendant's actions is not named as a witness, or whether the person is not ever called to be a witness, is immaterial.

The focus of both statutes is on what the defendant believed.

If the defendant believes that it is possible that some person might some day be called to testify at some later proceeding and then acted to influence, delay or prevent his or her testimony, the defendant commits the crime.

Now, some have asserted that an obstruction of justice charge cannot, or should not, be made against the President because some of his acts occurred in the context of a civil trial. There is simply no merit to this view.

There is no question that the obstruction and witness tampering statutes can be violated by acts that occur in civil proceedings. And, case law is consistent in upholding that any attempt to influence, obstruct or impede the due administration of justice in a civil proceeding violates section 1503.

Lundwall, which I referred to earlier, is a perfect example, as it began as a civil case.

The actual language of the witness tampering statute makes it clear that it also applies to civil cases.

The statute provides for enhanced penalties in criminal proceedings—a provision that would be unnecessary if the law were only to apply to criminal cases.

In short, the fact that some instances of the President's misconduct occurred in the course of a civil proceeding does not absolve him of criminal liability.

As Mr. BARR will demonstrate, the President of the United States endeavored and did obstruct justice and tamper with witnesses in violation of the law of the United States.

On numerous occasions he acted with an improper purpose with the intent to interfere with the due administration of justice in the Federal civil rights lawsuit filed by Paula Jones.

President Clinton corruptly endeavored to persuade witnesses to lie. In some cases, he succeeded. In every case, he violated the law.

President Clinton engaged in misleading conduct in order to influence the testimony of witnesses in judicial proceedings. He succeeded. In each case, he violated the law.

President Clinton acted with an improper purpose to persuade a person to withhold objects from a judicial proceeding in which that person was required to produce them. He succeeded and in so doing he violated the law.

President Clinton made misleading statements for the purpose of deterring a litigant from further discovery that would lead to facts which the judge ordered relevant in a Federal civil rights case. In so doing, he obstructed the due administration of justice in that case and violated the law.

Whether attempting to persuade a person to testify falsely, or to ignore court orders to produce objects; whether suggesting to an innocent person a false story in hopes that he or she will repeat it in a judicial proceedings; or testifying falsely in the hopes of blocking another party's pursuit of the truth—all these acts obstruct justice;

all these acts are Federal felony crimes; all these acts were committed by William Jefferson Clinton.

Thank you.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

RECESS

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that there now be a recess again of the proceedings for 15 minutes. Please return promptly to the Chamber.

There being no objection, at 3:29 p.m., the Senate recessed until 3:47 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Mr. Chief Justice, I believe we are ready for the final subject today, from Manager BARR.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager BARR.

Mr. Manager BARR. Thank you, Mr. Chief Justice.

Mr. Chief Justice, Senators, learned counsel for the President, and fellow managers, on behalf of the House of Representatives, I thank the Senate for the opportunity to appear today and to present this argument. The House—and I, especially—greatly appreciate the time and effort the Senate has taken on this most important and notable matter.

You have heard the facts summarized by my colleagues. They have described for you the law of perjury and the law of obstruction. I will discuss several of the specific instances in which William Jefferson Clinton violated these laws as set forth in the articles of impeachment presented to you.

The process facing you as jurors, of fitting the Federal law of obstruction of justice and of witness tampering and of perjury into the facts of the case against President William Jefferson Clinton, is not a case in which there is nor should be a great deal of difficulty. It is not a problem of fitting a round peg into a square hole. Quite the contrary. We have a case here, you have a case here, for consideration in which the fit between fact and law is as precise as the finely tuned mechanism of a Swiss watch or as seamless a process as the convergence and confluence of two great rivers such as flow through many of the cities which you represent. The evidence that President William Jefferson Clinton committed perjury and obstruction of justice is overwhelming. These are pattern offenses.

I beg your attention to the following exposition of facts and law, but before commencing, I would like to address three issues that have come up during the course of the proceedings, which I believe might be helpful for all of us to keep in mind as we proceed not only through today's final presentations, but tomorrow's and those that will be made by learned counsel for the President.

First, by way of background on the process—that is, the process that brings us, the House managers, to the well of this great body and the trial of the President of the United States of America—as has been indicated previously by one of my colleague House managers, and as everyone here knows full well, the responsibilities, the jurisdiction, and the process between the House of Representatives and the Senate is very different in all three of those respects. Therefore, while coming as no surprise to all of you, all of us in this room, but perhaps to some in America, the steps that each body takes, and should take and must take, are very different.

Just as one example, one might ask, "Why were no witnesses called in the House of Representatives?" A valid question. It deserves a valid answer. That valid answer can be found not simply in impeachment proceedings and the history thereof, but also in the day-in/day-out proceedings in our Federal courts and in our State courts. It can be found in the difference between the body which has responsibility and jurisdiction for charging a crime and the jurisdiction and responsibility of the body that has responsibility for trying a crime, or an alleged crime. The House of Representatives, though it is not in every respect like a grand jury, operates much more like a grand jury than a petite jury. As something akin to a grand jury, we had in mind—and I know you have in mind—being very mindful and knowledgeable about the difference in procedure between the House and Senate on matters of impeachment, that frequently in court cases presented to Federal grand juries—and I suspect similarly to State grand juries—the evidence to the grand jurors themselves is not presented through a long array, a repetitive array of witnesses themselves—witnesses, that is, with firsthand knowledge of each and every fact, which would later be proved at trial. Rather, it is the more standard procedure—certainly in Federal courts, with which I am more familiar—for the Government to present its case to the grand jury by way of summary witnesses. Normally, that would mean case agents that have been working with the assistant U.S. attorneys, or with the U.S. attorney, in gathering and evaluating the evidence that will eventually be brought to bear in the trial of the case.

If one were to be a fly on the wall of a Federal grand jury, one would normally see witnesses for the Government that would come in and discuss the general parameters and the specific evidence of the case that they would present in court, frequently summarizing the actual evidence that would be presented in court by the witnesses themselves. That is the standard operating procedure. That is not to say that there is also not presented voluminous written evidence, documentary evidence. That is frequently the case as well. Nor is that to say that there are not, from time to time, cases presented to Federal grand juries in which there are actual witnesses with firsthand knowledge.

I will simply make a point of which we are all aware. I think as we begin, or in anticipation of your process of sifting through all of this procedure, this evidence, all of this law, we should keep in mind that our job in the House was to approach it necessarily very different from the way you approach your job as jurors, as triers of fact. We, in fact, presented to the House of Representatives, through the work on our Judiciary Committee, a large volume of evidence presented to us and through us to the House of Representatives as the charging body, not the trier of fact body. That is, to essentially summarize and discuss through the words, through the opinions of the independent counsel, as akin to the chief investigative officer in a grand jury in Federal district court, through the words of many expert witnesses, as it were, who placed all of that in context.

We did not want to usurp your duty, your responsibility given to you by the Constitution as the trier of fact. We are not that presumptuous. It is your responsibility, it is your solemn duty to be the trier of fact. That is very different from our solemn duty, which I believe the House performed admirably in essentially reaching the conclusion that there is probable cause to convict the President of perjury and obstruction of justice. And we did so in a way that is mindful and respectful of your responsibilities, that carried out our responsibilities, and that is familiar to citizens all across this land, because it is essentially the same process that operates in Federal courts where you see also, as here, a very clear distinction between the body that charges the crime, the grand jury, and the body that tries the crime—that is, the jury, and in this case it is the Senate of the United States of America.

A second point that may very well come up, perhaps, in the presentation of the defense by the President's learned counsel, which although very familiar to those of us, as there are many in this Chamber with a legal background, but which I think also is important to keep in mind as you reflect on and later deliberate on the evidence itself in this case; and that is that there are, indeed, two types of evidence. In virtually every case, whichever finds its way to a court of law and results in a trial, both types of evidence are found, used, considered, and form the basis, legitimately, for the eventual rendering of a decision by a jury. Those two types of evidence are direct and circumstantial.

Frequently—and I know this from actual experience—defense lawyers will attack the Government's case, and one of the standard attacks that they level against the Government's case is that it is based on circumstantial evidence. You even hear that by the folks out there today—not in this room—that are saying, "Oh, all we are seeing is circumstantial evidence and that is not as good as direct evidence."

Now, to the lay person who is unfamiliar with the ways of our laws, our courts, and the work of this great body, that may have some currency, it may have some surface appeal. They may say, "Well, that commentator was right, and that White House spokesman was right. If all they are doing is talking about circumstantial evidence, they can't have a very strong case, because if they had a strong case, they would have direct evidence."

Well, the fact of the matter is, it is a principle of long and consistent standing in every Federal court in our land, and I suspect every State court in our land, and as directed by every Federal judge to every Federal jury taking evidence, circumstantial evidence is to be, and shall not be afforded any less weight than direct evidence. And triers of fact are directed by judges in every case not to accord less weight to one type of evidence as opposed to the other. That is, in the words of one of my fellow managers, a smokescreen, a red herring if somebody raises as a defense in a case—this case or other cases—that the case is weakened somehow because there is a reliance on circumstantial evidence and it is not found solely on direct evidence.

That is a very important principle. I would appreciate your indulgence in that small foray into some basic precepts that I think all of us, certainly most of you included, need to keep in mind.

Finally, there is one other sort of process argument that one hears sort of floating around in the ether out there that I think also is important for all of us to keep in mind; that is, facts and the law do bear repeating—not endless, not pointless, but appropriate repetition. Even today, even yesterday in the first round of presentations to this body, there was in fact repetition of certain facts, certain aspects of the law. That is not presented to you simply to emphasize a point, simply to make it appear stronger because we say it five times instead of two. There is a very important reason for appropriate repetition.

For example, in a case such as this where you have two sets of laws alleged to have been violated—perjury laws and obstruction of justice laws—each one of those has several different elements. And, in addition to that, it is legitimate as presenters of facts in the law for managers, for prosecutors, or plaintiff's attorneys to take a particular fact, a particular note, and use it to illustrate several different points. For example, one particular fact may provide evidence of motive. It may also provide one of the substantive elements of perjury or obstruction of justice, or it may go to the state of mind of a declarant, a witness. It may provide important evidence with regard to a course of conduct, prior knowledge, and the list goes on.

That is why, Senators, frequently in the course of these particular presentations—and, again, no different from the course of presentation in Federal and, I suspect, State courts throughout the land—in trials there necessarily is and should be, in order to responsibly present all of the evidence in all of its elements, certain repetition. Our job as managers is to make sure we do not abuse that necessity and that we do not in fact offer repetitive notion, repetitive references, without having a very clear and specific purpose such as I mentioned for that process.

Finally, before turning to that merger of the law and the facts, which I believe will illustrate conclusively that this President has committed and ought to be convicted on perjury and obstruction of justice, I would respectfully ask that you remember that, under the law of impeachment based on our Constitution, proof beyond a reasonable doubt that the President committed each and every element of one or more violations of provisions of the Federal Criminal Code has never been required to sustain a conviction in any prior impeachment trial in the Senate. However—and I can say confidently that I speak for all House managers in relating to you our belief that the record and the law applicable to these two articles of impeachment clearly establish that President William Jefferson Clinton did in fact violate several provisions of title 18 of the United States Code—that is the criminal code—including perjury, obstruction, and tampering with witnesses.

At this point, a lawyer would face, a fortiori—I will not, but I will say at this point that it therefore goes without saying that indeed exists—under every historical standard, every historical benchmark which this Chamber has used, there is more than sufficient grounds on which you might face a conviction as to both articles.

Beginning then in looking at how the facts and the law, both of which you have heard through the words and exhibits of my colleagues and the evidence that you already have, let us look first at the submission of the false affidavit in the Jones case.

We believe the evidence presented clearly establishes that on December 17, 1997, the President encouraged a witness in a Federal civil rights action brought against him, that witness being Monica Lewinsky, to execute a sworn affidavit in that proceeding which he knew to be perjurious, false, and misleading. As other managers have outlined, Monica Lewinsky filed a sworn affidavit in the Jones case that denied the relationship between her and the President. That affidavit was false.

Ms. Lewinsky testified under oath before the grand jury that the scheme to file this false affidavit was devised or hatched during a telephone conversation with the President on December 17, 1997, a call the President initiated to Ms. Lewinsky at 2 or 2:30 a.m. ostensibly to give her the bad news that Betty Currie's brother had been killed in a car accident but apparently, since it consumed the vast majority of the time of that conversation, more importantly, for the President to tell Ms. Lewinsky her name was on the witness list filed in the Jones case and to thereafter discuss during that conversation the President's suggestion to her that she could file an affidavit in the Jones case in order for the purpose of avoiding having to testify in that case—not to cover up but in order to avoid having to testify in an ongoing legal proceeding in U.S. district court.

She testified that both she and the President understood from their conversation they would continue their pattern of covering up. She testified she knew that if she filed a truthful affidavit the Jones lawyers would certainly have deposed her in that case.

The testimony of Mr. Vernon Jordan confirms the President knew Ms. Lewinsky planned to file a false affidavit. He stated that, based on his conversations with the President, that the President knew in advance that Ms. Lewinsky planned to execute an affidavit denying their relationship and that he later informed the President Ms. Lewinsky had signed in fact that false affidavit.

For his part, the President denies asking Ms. Lewinsky to execute a false affidavit. Instead, as he asserted in his response to the House Judiciary Committee's request for admission, he seeks to have you now believe he sought simply to have Ms. Lewinsky execute an affidavit that will "get her out of having to testify."

While being factually correct, this statement reflects a legal impossibility. The President has admitted Ms. Lewinsky was the woman with whom he indeed had an improper intimate relationship while President. And he has admitted he was very concerned over the great personal embarrassment and humiliation he feared would have occurred if that relationship had been revealed in the Jones case. Yet, he would have you believe he cannot remember a call he made to that woman about that case which occurred at 2 o'clock in the morning. His statement is not credible, and the reason it is not credible is because it is not true.

As Mr. Jordan's grand jury testimony corroborates, the President knew what Ms. Lewinsky planned to allege in her affidavit, yet the President took no action to stop her from filing it. As you have heard in earlier presentations, the President's lawyer, Mr. Robert Bennett, stated in court directly to Judge Wright when he presented the false affidavit, "There is absolutely no sex of any kind in any manner, shape or form," and that the President was "fully aware of Ms. Lewinsky's affidavit." The President took no action to correct his lawyer's misstatement.

As you have also heard, the President, in his grand jury testimony, tried to disingenuously dissect the words of his attorney to remove his conduct from further examination, even though obviously, and by any reasonable interpretation or inference of the definition given the President, his conduct with Ms. Lewinsky was covered. And he disavowed knowledge of his lawyer's representations by claiming he was not paying attention. That canard has been most ably disposed of in prior presentations both through the words of the managers and the videotape presentations.

Later in the deposition, when Mr. Bennett read to the President the portion of the affidavit in which Ms. Lewinsky denies their relationship and asked him "is that a true and accurate statement as far as you know it," the President answered, "That is absolutely true." This statement is neither credible nor true. It is perjury.

The inescapable conclusion from this evidence is that the President has lied, and continues to lie, about the affidavit. His continued false statements and denials about the affidavit bolster the conclusion of our managers that, in fact, he was part of the scheme to file the false affidavit. The evidence supports Ms. Lewinsky's account that such a scheme did in fact exist between them. The evidence and all reasonable inferences drawn therefrom do not support the President's denial—inferences, I respectfully add, that in your deliberations, as in the deliberations of any jury, are to be and should be based on common sense and deliberated in terms of the light of your experiences in judging human behavior.

Moreover, in engaging in this course of conduct, referring here to the words of the obstruction statute found at section 1503 of the Criminal Code, the President's actions constituted an endeavor to influence or impede the due administration of justice in that he was attempting to prevent the plaintiff in the Jones case from having a "free and fair opportunity to learn what she may learn concerning the material facts surrounding her claim." These acts by the President also constituted an endeavor to "corruptly persuade another person with the intent to influence the testimony they might give in an official proceeding." Such are the elements of tampering with witnesses found at section 1512 of the Federal Criminal Code.

Ms. Lewinsky knew full well her only hope of not having to testify was to file an affidavit that did not truthfully reflect her relationship with the President. The President also knew that if she had filed a true affidavit, without any doubt, it would have caused the Jones lawyers to seek her further testimony—something both coconspirators desperately sought to avoid.

In encouraging her to file an affidavit that would prevent her from having to testify, President Clinton was, of necessity, asking her to testify falsely in an official proceeding. He was attempting to prevent, and in fact did prevent, the plaintiff in that case from discovering facts which may have had a bearing on her claim against the President. His motive was improper in the language of the law, that is, corrupt. And his actions did influence the testimony of Ms. Lewinsky as a witness in the pending official proceeding in U.S. district court.

Under both sections of the Federal Criminal Code, that is, 1503, obstruction, and 1512, obstruction in the form of witness tampering, the President's conduct constituted a Federal crime and satisfies the elements of those statutes.

With regard to the issue of perjury before the grand jury concerning the affidavit, we as managers would show that when asked before the grand jury whether he had instructed Ms. Lewinsky to file a truthful affidavit, President Clinton testified, "Did I hope she would be able to get out of testifying on an affidavit? Absolutely. Did I want her to execute a false affidavit? No, I did not."

The evidence, however, clearly establishes that the President's statement constitutes perjury, in violation of section 1623 of the U.S. Federal Criminal Code for the simple reason the only realistic way Ms. Lewinsky could get out of having to testify based on her affidavit would be to execute a false affidavit. There was no other way it could have happened. The President knew this. Ms. Lewinsky knew this. And the President's testimony on this point is perjury within the clear meaning of the Federal perjury statute. It was willful, it was knowing, it was material, and it was false.

Let us reflect and see also, members of the jury, how the use of cover stories and the development thereof ties in the facts and the law that constitute a basis on which you might properly find a conviction on perjury and obstruction of justice.

We, as managers, believe that the evidence presented to you also establishes that on December 17 the President encouraged a witness in a Federal civil rights action brought against him to give perjurious, false and misleading testimony when called to testify personally in that proceeding. This was, in essence, the conspiracy—18 USC 371—to commit both obstruction and perjury.

Throughout their relationship, the President and Ms. Lewinsky, understandably, wished to keep it secret, and they took steps to do that, steps that ultimately turned out to be and constitute criminal acts. For some time, in fact until Ms. Lewinsky testified under oath and under a grant of immunity, their efforts were remarkably successful, all things considered —all circumstances considered. Associates and employees testified in support of the President's stories, and even several Secret Service officers testified to the grand jury that they understood Ms. Lewinsky to be in the Oval Office to "pick up papers." Yet, as Ms. Lewinsky testified, her White House job never required her to deliver papers or obtain the President's signature on any documents. It was all a sham. It was all a cover story. It was all a conspiracy to obstruct.

Ms. Lewinsky testified later, after she left the White House job to work at the Pentagon, that phase 2 of the coverup went into effect. The two coconspirators began to use Ms. Currie as a source of clearance into the White House. This was so even though the purpose of Ms. Lewinsky's visits were almost always to simply see the President. As my colleagues have told you, on December 17, during that 2 a.m., or perhaps it was 2:30, telephone conversation placed by the President to Ms. Lewinsky, he told her her name appeared on the witness list in the Jones case. She testified that at some point in the conversation the President told her, "You know, you can always say you were coming to see Betty or that you were bringing me letters." Ms. Lewinsky testified that she understood this to be "really a reminder of things that they had discussed before." She said it was instantly familiar to her. He knew, or, "I knew," she says—that is, Ms. Lewinsky knew—"exactly what he meant." And so, I respectfully submit, do all of us here know exactly what the President meant.

When the President, then, was questioned before the Federal grand jury if he ever had said something like that to Ms. Lewinsky, he admitted that, well, "I might . . . have said that. Because I certainly didn't want this to come out, if I could help it. And I was concerned about that."

A cover story—which this was—between two teenagers trying to steal a date without their parents' knowledge is one thing. Such would not constitute a crime. It would be something we might even wink at, as long as it didn't happen too often. However, we are not here dealing with two love-struck teenagers trying to circumvent their parents' watchful eyes. We are dealing here with the President of the United States of America and a subservient employee concocting and implementing a scheme that, while perhaps not illegal in its inception—simply trying to keep the relationship private—

did in fact deteriorate into illegality once it left the realm of private life and entered that of public obstruction.

However—and this is critical in terms of establishing the illegality or convictability of the President's actions—the situation at the time of that early morning phone call from the President to Ms. Lewinsky was very different from that facing the President during any earlier discussions of a cover story.

Now, in early December 1997, Ms. Lewinsky had been officially named as a witness in a pending judicial proceeding. She was now under an obligation to give complete and truthful testimony and he, the President, was under a legal obligation at that time not to tamper with her or her possible testimony. This is precisely where private lies become public obstruction. This is, in fact, the bright line between childlike pranks and deadly serious obstruction of our legal system. The President and Ms. Lewinsky at that point entered the big leagues, and the President, a highly skilled lawyer, knew it, which is why he went to such lengths to continue the coverup for so many months.

The President knew that if Ms. Lewinsky were to testify that she only brought papers to the President or to see the President's secretary, her testimony would have been neither complete nor truthful. Yet, the President encouraged her to give that untruthful testimony and, in so doing, he broke the law of obstruction of justice. And, in lying about it, he compounded the problem by breaking the law of perjury.

As Mr. CANNON made clear, with regard to section 1503, the general Federal obstruction statute of the criminal code, a person commits the crime of obstruction of justice when he attempts to influence the due administration of justice, which includes all aspects of any civil or criminal case, including pretrial discovery.

Mr. Clinton's encouragement to Ms. Lewinsky to tell something other than the truth certainly would have influenced the discovery process in the Jones case. Courts have consistently held that civil discovery is every bit a part of the due administration of justice, protected by the obstruction statutes, as any other aspect of any other civil or criminal case. And, as Mr. CANNON also made clear with regard to section 1512 of the Federal Criminal Code, a person commits witness tampering when he attempts to influence another person to give false testimony in an official proceeding.

Mr. Clinton did encourage Ms. Lewinsky to give false testimony about her reasons for being in the White House with the President. By encouraging her to lie, the President committed the crime of obstruction of justice under section 1503 and the crime of witness tampering under section 1512 of the Federal Criminal Code.

You have also, Members of the Senate, heard about the President's statements to Ms. Currie on January 18, and then again on the 20th or 21st. The President spoke with her in what was clearly, demonstrably, unavoidably, another potential witness to be influenced in the civil rights case. The President did this in this case by relating to Ms. Currie false and misleading accounts of events about that case as to which he was going to testify, had testified, and, again, with the intent that his recitation of the so-called facts would in fact corruptly influence her testimony.

As the managers have previously described to you, the evidence in this case shows that on that Saturday, January 17, only 2½ hours after the President had been deposed in the Jones case, he called his secretary at home and asked her to come to the White House the next day, a Sunday. She testified—Ms. Currie, that is—testified this was very unusual. It was rare for the President to call and ask her to come in on a weekend, but of course she did—the next day, Sunday, January 18, 1998, at about 5 p.m.

She testified to the grand jury that during her meeting with the President he said to her, "There are several things you may want to know." He then proceeded to ask her a number of questions in succession. You were presented evidence of these five statements by other managers. I will only emphasize that it was at that time and in that way, in that manner, that the President led Ms. Currie through a series of statements and determinate questions to establish a set of facts describing his relationship with Ms. Lewinsky at the White House that supported his false testimony.

As you have heard, Ms. Currie stated under oath she indicated her agreement with each of the President's statements, even though she knew that the President and Ms. Lewinsky had, in fact, been alone in the Oval Office and in the President's study. Prosecutors frequently see this pattern. It is not unknown to prosecutors, Federal or State. You frequently see this pattern of agreeing to things that the person knows are not true, where you have a dominant person suggesting testimony to another person who is in a subordinate relationship. This, I submit, is yet another bright line between a private lie and public obstruction.

During the President's grand jury testimony he was asked about his statements to Ms. Currie. He testified he was trying to determine whether his recollection was accurate. As he put it, "I was trying to get the facts down. I was trying to understand what the facts were." This fits the same pattern of a classic obstruction of prosecution, in which a defendant suggests a story to someone in the hopes that they will later testify consistent with that earlier suggestion. Indeed, when defendants in Federal courts defend against obstruction prosecutions in those type cases, they frequently rely on the very same defense the President raises here—that he was merely and oh-so-innocently encouraging the other person to tell the truth.

You may want to see, as an example of an unsuccessful effort at such a defense, the case of United States v. O'Keefe, a Fifth Circuit case from 1983. In that case, Mr. O'Keefe did not ask someone to lie. He did not even say, "I suggest you lie." Rather, as is almost always the case in white-collar obstruction prosecutions, his words, along with their setting and their context, suggested a certain story—in that case as well as this, a false story. Just as Mr. O'Keefe did not expressly ask someone to lie, Mr. Clinton never asked someone to lie. He didn't have to. He was too smart for that, and he had witnesses who, at that time at least, were willing, ready, and able to do his bidding. The President lied to the grand jury when he made these statements mischaracterizing his earlier statements to Mrs. Currie, just as he tampered with her as a likely witness 9 months earlier, in January.

The President's assertion—that he simply was trying to understand what the facts were—lacks even colorable credibility, when one considers that he had already testified. It was obviously too late to try to recollect what the "facts" were. If in fact one accepts that, then he is admitting he didn't testify to what the facts were under oath at the deposition, because he didn't say, "I don't know; I have to ask Mrs. Currie." He testified under oath as to what the facts purportedly were. Then he would have us believe that he had to, after the fact of the deposition, go back and find out what the facts were from somebody else.

That is an argument that cannot be made with a straight face.

In any event, Ms. Currie could not have told him what the true facts were, because he alone knew what they were.

The defenses and explanations the President's defenders raise to justify why the President would make factual assertions to Ms. Currie about the circumstances of his relationship with Ms. Lewinsky, right after his testimony, are many. For example, one administration witness who appeared before the House Judiciary Committee actually suggested that such "coaching" is proper as a method whereby an attorney "prepares" a client or witness for testimony.

Of course, such a suggestion in this case would be ludicrous. President Clinton obviously did not and could not represent Ms. Currie as her attorney. Yet, it is this sort of explanation, straining credulity, that illustrates the lengths to which the President's defenders have gone to try to explain away the obvious—that there was no legitimate reason why the President made the statements to Ms. Currie after his grand jury testimony, other than to "suggest" to her what her testimony should be. In Federal criminal trials, defendants go to jail for such obstruction. In the case before you, we submit this clearly forms a proper basis on which to convict this President of obstruction of justice for witness tampering and subsequent perjury.

Please keep in mind also, it is not required that the target of the defendant's actions actually testify falsely. In fact, the witness tampering statute can be violated even when there is no proceeding pending at the time the defendant acted in suggesting testimony. As the cases discussed by Manager CANNON demonstrate, for a conviction under either section 1503, obstruction, or 1512, obstruction by witness tampering, it is necessary only to show it was possible the target of the defendant's actions might be called as a witness. That element has been more than met under the facts of this case.

It was not only likely Ms. Currie would be called; the President's own testimony, deliberate testimony to the grand jury, pretty much guaranteed that she would be called. He wanted her called so she could then buttress his false testimony. His actions clearly, we believe, violated both the general obstruction statute and the witness tampering statute in these particulars in this regard.

With regard to the obstruction regarding the subpoena for the President's gifts to Ms. Lewinsky, let us look at the merger of the facts and the law, as has been discussed. While the witness tampering statute makes it a crime to attempt to influence the testimony of a person, it also makes it a crime to influence a person to withhold an object from an official proceeding; in other words, to tamper with evidence. The facts of this case, we as House managers believe, clearly show the President corruptly engaged in, encouraged, or supported a scheme with Monica Lewinsky and possibly others to conceal evidence that had been subpoenaed lawfully in the Jones case.

On December 19 of 1997, Ms. Lewinsky was served with a subpoena in the Jones case requiring her to produce each and every gift given to her by the President. Then, on December 28, Ms. Lewinsky again met with the President in the Oval Office, at which time they exchanged gifts. They also discussed the fact that the lawyers in the Jones case had subpoenaed all the President's gifts to Ms. Lewinsky and especially a hatpin. The hatpin apparently had sentimental significance to both of them, in that it was the very first gift the President gave to Ms. Lewinsky. During that conversation, Ms. Lewinsky asked the President whether she should put the gifts away outside her house or give them to someone, maybe Betty.

At that time, according to Ms. Lewinsky's sworn testimony, the President responded, "Let me think about that." Apparently he did, because later that day, that very same day, only a few hours after Ms. Lewinsky and the President had met to discuss what to do with the gifts, Ms. Currie called Ms. Lewinsky, setting in motion the great gift exchange.

According to Ms. Lewinsky, Ms. Currie said, "I understand that you have something to give me," or "[t]he President said you have something to give me." In her earlier proffer, or offer of evidence, to the independent counsel, prior to her testimony before the grand jury, Ms. Lewinsky said Ms. Currie had said the President had told her—that is, Ms. Currie—that Ms. Lewinsky wanted her to hold on to something for her.

After their conversation at the Oval Office, Ms. Currie drove to Ms. Lewinsky's apartment for only the second time in her life. There she picked up a box sealed with tape and on which was written "Please, do not throw away." Ms. Currie then took the box, drove to her home, and placed the box under her bed.

In her grand jury testimony, Ms. Currie testified that she and Ms. Lewinsky did not discuss the content of the box, nor did she open it when she got it to her home, but she knew—she "understood" what was in the box—that it contained the gifts from the President to Ms. Lewinsky. In fact, Ms. Lewinsky testified Ms. Currie was not at all confused, surprised, or even interested when she handed the box over to her.

The legal impact, the legal import, of this is that there is no question that if the gifts had actually been produced to the Jones lawyers, they would have established a significant relationship between the President and Ms. Lewinsky. Knowledge of the gifts, at a minimum, would have caused the Jones lawyers to inquire further as to the nature of the relationship between the President and Ms. Lewinsky.

Her failure to turn over the gifts as required by the lawful subpoena served on her was, in the words of the witness tampering statute, the withholding of an object from an official proceeding. We believe the evidence shows, clearly establishes, that the President corruptly persuaded Ms. Lewinsky to withhold these objects from the lawful proceedings in the Jones case.

In his grand jury testimony, the President asserted he encouraged Ms. Lewinsky to turn over the gifts. Ms. Lewinsky's testimony directly contradicts that. Importantly, all other evidence of subsequent acts corroborates her testimony, not the President's. For one thing, the gifts were never turned over. In fact, Ms. Lewinsky testified she was never under any impression, from anything the President said, that she should turn over the gifts to the attorneys for Ms. Jones. Quite the opposite.

While the President asserts he never spoke about this matter with Betty Currie, he would have us believe that his personal and confidential secretary would, on a Sunday, drive to the home of the woman with whom he was having an inappropriate intimate relationship, take possession of a sealed box which she believed to contain gifts given by the President, hide the box under the bed in her home, never question the person giving her the box, and never even mention to the President she had received the box of gifts.

The President's position, as he would have you believe, is not credible. It defies the evidence. It defies any reasonable interpretation or inference from the evidence. It defies common sense. And it stands in defiance of Federal law.

The only reasonable interpretation of the facts is that, following the discussion between the President and Ms. Lewinsky earlier in the day on December 28, the President decided Ms. Lewinsky has actually come up with a pretty good suggestion: The gifts should be put away outside of her home.

As jurors, you may reasonably presume, based on the evidence and all reasonable inferences therefrom, along with common sense, that it was the President who directed Ms. Currie to call Ms. Lewinsky to tell her she understood she "had something for her." And that happened to be evidence under lawful subpoena in a civil proceeding in a U.S. district court.

Ms. Currie would have no independent reason to even consider such a course of action on her own. She had never, other than one time in her life, ever driven to Ms. Lewinsky's home. She did so on this Sunday not because she developed a sudden hankering to do so or because she routinely visited interns at their homes—she didn't—or because she had a vision; she did it because the President would have asked her to do it.

Now, the President further points out that Ms. Currie has testified that Ms. Lewinsky called her to arrange to pick up the gifts, rather than the other way around. In fact, although Ms. Currie has testified inconsistently as to whether Ms. Lewinsky called her or she called Ms. Lewinsky, she actually deferred to Ms. Lewinsky's superior knowledge of the facts.

However, even if one were to accept, for purposes of argument, that it was Ms. Lewinsky who initiated the call, the President's avowal that he had no knowledge of or involvement with the hiding or the transfer of the gifts is still not plausible. It is totally unreasonable to presume that the private secretary to the President of the United States would drop what she was doing, travel to the home of a former intern, pick up a box, and hide it in her home simply because the former intern demanded that she do so. All of this had to have been done—reasonably, plausibly, credibly was done—because of communication directed and an understanding between the President and his personal secretary.

There is one more point on this. Ms. Lewinsky testified she met with the President for 45 minutes on December 28, at which time they discussed the fact that she had been subpoenaed, along with the need to conceal the gifts. The President's testimony directly conflicts with hers on this point.

First, the evidence, however, establishes that his professed inability to remember whether she and the gifts had been subpoenaed is unbelievable and false.

Please keep in mind when evaluating the circumstantial evidence to determine whether a false statement was made intentionally, the most important evidence to consider is the existence of a motive to lie. It is the calculated falsehood, combined with a clear motive to lie, that leads, day in and day out in Federal court proceedings, to the conclusion that a false statement—false statements were intentional.

Also, we urge you to bear in mind that the law will not allow a person to testify, "I don't recall," or, "I'm not sure," when such answers are unreasonable under the circumstances.

Former U.S. Representative Patrick Swindall attempted this course of action when he appeared before a Federal grand jury in the Northern District of Georgia in 1988. His evasive and false answers to the grand jury provided the basis for his subsequent conviction.

Feigned forgetfulness or feigned assertions that grand jury questions are ambiguous and therefore cannot be answered cannot, and in fact in Federal proceedings do not, shield defendants from criminal liability for perjury or impeding the conduct of a Federal grand jury; nor should such efforts be allowed to shield President Clinton from conviction on these two articles of impeachment as to these facts.

The President, a man of considerable intelligence and gifted with an exceptional memory—as somebody described, "a prodigious memory"—can and should be inferred to have clearly understood what he was doing, as well as the logical and reasonable consequences of his actions, as well as the questions put to him by the independent counsel in the grand jury questioning.

And he had a clear motive to falsely state to the grand jury that he could not recall that he knew on December 28 that Ms. Lewinsky had been subpoenaed and that the subpoena called for her to produce the gifts, for to have acknowledged such would have helped establish a motive on his part for orchestrating the concealment of the gifts.

And as we have also seen and understand, there is no doubt the President's statement of feigned forgetfulness was material not only to the matters before the Jones case but to matters subsequently before the grand jury.

Now, the President's counsel may very well argue the fact that the President gave Ms. Lewinsky additional gifts on that same day—that is, December 28—as proof of the President's assertions that he didn't know there was anything wrong going on here. Their argument, if they make it, cannot be sustained in the face of so much evidence to the contrary. The evidence in fact points to a much more plausible explanation. The additional gifts given that day demonstrate the President's continued confidence that Ms. Lewinsky would keep to their earlier agreement to conceal their relationship.

It is also plausible that the additional gifts were intended as a further gesture of affection by the President to Ms. Lewinsky to help ensure she would not testify against him. Such a fact pattern also finds its way to those of us who have a prosecutorial background in Federal courts on a regular basis.

We have heard about the job search and its relationship to perjury and obstruction. Let me tie the facts related to job search and the law applicable thereto together. We believe, as managers, that the evidence shows that, beginning on or about December 7, 1997, and continuing through and including January 14 of last year, the President intensified and succeeded in an effort to secure job assistance for a witness in a Federal civil rights case brought against him in order to corruptly prevent the truthful testimony of that witness in that proceeding at a time when the truthful testimony of that witness would have been harmful to him.

Monica Lewinsky is, if nothing else, a persistent witness. After she was transferred out of the White House, and after being rebuffed repeatedly by others to secure assistance from the President in gaining a job that met her expectations and wishes, she decided to change tack. She wrote directly to the President, asked for, and received a meeting in which she asked him to find her a job in New York.

The day before the President filed his answers to the interrogatories in the Jones case, as Manager Gekas discussed, the President asked Ms. Currie to set up a meeting for Ms. Lewinsky with Mr. Vernon Jordan. Two days after he filed his answers, in which he refused to answer whether he had ever had any extramarital relationships in the context of his public jobs, that meeting in fact occurred. But Mr. Jordan made no particular effort to assist Ms. Lewinsky at that time. In fact, as he later testified, he had no recollection of the meeting. There was, of course, at that early stage, no urgency.

The situation, however, changed dramatically in early December, 1997. On December 6, the President became aware that Ms. Lewinsky had been named as a witness in the Jones case. Early that day, she had thrown a tantrum at the White House northwest gate when she was unable to meet with the President when she wanted. Despite the President's initial anger over Ms. Lewinsky's behavior and over the acts of some of the Secret Service officers a mere 5 days later, Ms. Lewinsky, in fact, secured a second meeting with Mr. Vernon Jordan. But this time, unlike previously, this powerful Washington lawyer jumped for the former intern. He immediately placed calls to three major corporations on her behalf.

On December 11, Judge Wright ordered the President to answer Paula Jones' interrogatories. On December 17, the President suggested to Ms. Lewinsky she file the affidavit and continue to use their cover stories in the event she was asked about her relationship with the President. The next day she had two interviews in New York City arranged by Mr. Jordan. On December 22nd, Ms. Lewinsky met with an attorney at a meeting arranged by Mr. Jordan. The following day she had another job interview arranged by Mr. Jordan.

On January 7, Ms. Lewinsky signed the false affidavit and proudly showed the executed copy to Mr. Jordan. The next day, Ms. Lewinsky had an interview arranged by Mr. Jordan with MacAndrews & Forbes in New York City, an interview that apparently went poorly. To remedy this, she called Mr. Jordan and so informed him. Mr. Jordan then called the CEO of MacAndrews & Forbes, Mr. Ron Perelman to, in Mr. Jordan's words, "make things happen, if they could happen." After Mr. Jordan's call to Mr. Perelman, Ms. Lewinsky was called and told that she would be interviewed again the very next morning. That following day she was reinterviewed and immediately offered a job. She then called Mr. Jordan to tell him and he passed the information on to Ms. Currie. "Tell the President, mission accomplished."

Now, what are you as jurors entitled to conclude from all of this as a matter of law and of fact? Until it became clear that Ms. Lewinsky would be a witness in the Jones case, little was done to help her with her job search. Once she was listed as a witness, things changed dramatically and rapidly. Just days after she is listed on the Jones witness list, she gets a second meeting with one of the most influential men in

Washington. But, unlike their first meeting, Mr. Jordan now makes three calls on her behalf to get her a job interview. A week later the President proposed the affidavit. The next day, Ms. Lewinsky has two job interviews in New York. A few days later, Mr. Jordan arranges for an attorney to represent her. The next day she has another job interview. Two weeks later she signed the affidavit. The next day she has another interview.

"Mission accomplished." Obstruction accomplished. Another potentially embarrassing witness in the bag.

Were Ms. Lewinsky to get a job and move to New York, this would help the President substantially in two very important ways. First, it would presumably create a happy and probably compliant witness, one willing, if not eager, to support the President's false testimony. Second, it would make Ms. Lewinsky much more difficult, if not impossible, to reach as a witness in the Jones case. In fact, this is precisely what the President himself suggested to Ms. Lewinsky during their December 28 meeting, according to her sworn testimony.

To put it plainly, but respectfully, if that is not obstruction by witness tampering, one would be hard pressed to find a fact pattern that was.

This aspect of the case against the President is extremely important. She gets the job. And what did the President get? The key affidavit to throw the Jones lawyers off the trail and possibly a witness outside the practical reach of the attorneys, much like the absent witnesses we have seen in large numbers in the campaign financing investigations.

The President's efforts were designed o and did obstruct justice and tamper with a witness. And his actions, we ubmit, were criminal under both secions 1503 and 1512 of the Federal Criminal Code.

The President's false statements to is senior aides. Here, too, the facts nd the law come together and would orm the basis, we respectfully submit, or a conviction on articles of impeachment. All that needs to be shown to rove a violation of the statute is that he defendant engaged in misleading onduct with another person to influnce that testimony. Misleading conuct is not a term of art for which here is no definition. It is specifically efined in the Federal Criminal Code as ection 1515. When you, as jurors, proprly apply these definitions to the erms of section 1512, the tampering atute, and then turn your attention o the facts in this case wherein the resident repeatedly and deliberately ave false explanations to aides he new or should reasonably have known ould be witnesses in Federal judicial roceedings, the conclusion he violated his statute is, we respectfully submit, navoidable. I point to one case previously mentioned, the O'Keefe case as particularly, perhaps, applicable to deliberations on this matter.

Finally, statements by the President and his lawyer concerning the affidavit during the Jones deposition. The obstruction statute may also be violated, as you know, by a person who gives false testimony. In the Jones case, the President allowed his attorney to make false and misleading statements to a Federal judge. This part of the obstruction scheme was accomplished by characterizing as true the false affidavit filed by Ms. Lewinsky in order to prevent questioning by the Jones lawyers, testimony which had already been deemed relevant by the judge in that case. The President's lawyer, as you have heard, objected to the innuendo of certain questions asked of the President, and at that point during the deposition pointed out that Ms. Lewinsky had signed an affidavit denying the relationship with the President. He then made the famous statement about there being no relationship in any way, shape or form or kind.

Following this statement, Judge Wright warned Mr. Bennett about making an assertion of fact in front of the witness—that is, in front of the President—in which he replied,

> I am not coaching the witness. In preparation of the witness for this deposition, the witness is fully aware of [the] affidavit, so I have not told him a single thing he doesn't know.

The President's lawyer did not know what an understatement that was.

Later on September 30 of 1998, long after the deposition and after the full evidence of Ms. Lewinsky's relationship with the President became public, Mr. Bennett wrote to Judge Wright to inform her that she should not rely upon the statements he made during the President's deposition because parts of the affidavit were "misleading and not true." "Misleading and not true." Sounds like perjury. Sounds like obstruction.

Which brings us full circle, full circle from a false affidavit confirming earlier concocted cover stories, through a web of obstruction, to a letter from a distinguished lawyer forced to do what no lawyer wants to do, but every honorable lawyer must do when confronted with clear evidence their client has misled a court, and that is to correct a record of falsity even to the detriment of their client.

What we have before us, Senators and Mr. Chief Justice, is really not complex. Critically important, yes, but not essentially complex. Virtually every Federal or State prosecutor—and there are many such distinguished persons on this jury—has prosecuted such cases of obstruction before in their careers—perhaps repeatedly—involving patterns of obstruction, compounded by subsequent coverup perjury. The President's lawyers may very well try to weave a spell of complexity over the facts of this case. They may nitpick over the time of a call or parse a specific word or phrase of testimony, much as the President has done. We urge you, the distinguished jurors in this case, not to be fooled.

Mr. HARKIN addressed the Chair.

The CHIEF JUSTICE. The Senator from Iowa.

Mr. HARKIN. Mr. Chief Justice, I object to the use and the continued use of the word "jurors" when referring to the Senate sitting as triers in a trial of the impeachment of the President of the United States.

Mr. Chief Justice, I base my objection on the following:

First, article I, section 3, of the Constitution says the Senate shall have the sole power to try all impeachments—not the courts, but the Senate.

Article III of the Constitution says the trial of all crimes, except in the cases of impeachment, shall be by jury—a tremendous exculpatory clause when it comes to impeachments.

Next, Mr. Chief Justice, I base my objection on the writings in "The Federalist Papers," especially No. 65 by Alexander Hamilton, in which he is outlining the reasons why the framers of the Constitution gave the Senate the sole power to try impeachments. I won't read it all, but I will read this pertinent sentence:

> There will be no jury to stand between the judges who are to pronounce the sentence of the law and the party who is to receive or suffer it.

Next, Mr. Chief Justice, I base my objection on the 26 rules of the Senate, adopted by the Senate, governing impeachments. Nowhere in any of those 26 rules is the word "juror" or "jury" ever used.

Next, Mr. Chief Justice, I base my objection on the tremendous differences between regular jurors and Senators sitting as triers of an impeachment. Regular jurors, of course, are chosen, to the maximum extent possible, with no knowledge of the case. Not so when we try impeachments. Regular jurors are not supposed to know each other. Not so here. Regular jurors cannot overrule the judge. Not so here. Regular jurors do not decide what evidence should be heard, the standards of evidence, nor do they decide what witnesses shall be called. Not so here. Regular jurors do not decide when a trial is to be ended. Not so here.

Now, Mr. Chief Justice, it may seem a small point, but I think a very important point. I think the framers of the Constitution meant us, the Senate, to be something other than a jury and not jurors. What we do here today does not just decide the fate of one man. Since the Senate sits on impeachment so rarely, and even more rarely on the impeachment of a President of the United States, what we do here sets precedence. Future generations will look back on this trial not just to find out what happened, but to try to decide what principles governed our actions. To leave the impression for future generations that we somehow are jurors and acting as a jury——

Mr. GREGG. Mr. Chief Justice, I call for the regular order and I ask, as a parliamentary point, whether it is appropriate to argue what I understand is a statement as to the proper reference relative to Members of the Senate. This is not a motion, and if it is a motion, it is nondebatable, as I understand it.

The CHIEF JUSTICE. Yes. I think you may state your objection, certainly, but not argue. The Chair is of the view that you may state the objection and some reason for it, but not argue it on ad infinitum.

Mr. HARKIN. Mr. Chief Justice, I was stating the reason because of the precedents that we set, and I do not believe it would be a valid precedent to leave future generations that we would be looked upon merely as jurors, but something other than being a juror. That is why I raise the objection.

The CHIEF JUSTICE. The Chair is of the view that the objection of the Senator from Iowa is well taken, that the Senate is not simply a jury; it is a court in this case. Therefore, counsel should refrain from referring to the Senators as jurors.

Mr. HARKIN. I thank the Chair.

Mr. Manager BARR. I thank the Court for his ruling. We urge the distinguished Senators who are sitting as triers of fact in this case not to be fooled. We urge you to use your common sense, your reasoning, your varied and successful career experiences, just as any trier of fact and law anywhere in America might do. Just as other triers of fact and law do, so, too, have each of you sworn to decide these momentous matters impartially. Your oath to look to the law and to our Constitution demands this of you. As this great body has done on so many occasions in the course of our Nation's history, I and all managers are confident you will neither shrink from nor cast aside that duty.

Rather, I urge and fully anticipate that you will look to the volume of facts and to the clear and fully applicable statutes and conclude that William Jefferson Clinton, in fact and under the law, violated his oath and violated the laws of this land and convict him on both articles of impeachment. Even though such a high burden—that is, proof of criminal violations—is not strictly required of you under the law of impeachment, in fact, such evidence is here. That higher burden is met.

Perjury is here; obstruction is here in the facts and the law which forms the basis for the articles of impeachment in the House which we believe properly would form the basis for conviction in the Senate. Perjury and obstruction, we respectfully ask you to strike down these insidious cancers that eat at the heart of our system of Government and laws. Strike them down with the Constitution so they might not fester as a gaping wound poisoning future generations of children, poisoning our court system, and perhaps even future generations of political leaders.

Just as Members of both Houses of Congress have unfortunately over the years been convicted and removed from office for perjury and obstruction, and just as Federal judges have been removed from life tenure for perjury and obstruction, so must a President; so sadly should this President.

Thank you, Mr. Chief Justice, and thank you, Members of the U.S. Senate sitting here as jurors of fact and law in the trial of President William Jefferson Clinton.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. LOTT. Mr. Chief Justice, I remind all who are participants in these proceedings that we will begin at 10 a.m. on Saturday, January 16, and we are expected to conclude sometime between 3 p.m. and 3:30 p.m. I had earlier indicated concluding as late as 5 p.m. I understand that we will conclude between 3 p.m. and 3:30 p.m. Therefore, pursuant to the previous consent agreement, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection at 5:10 p.m., the Senate, sitting as a Court of Impeachment, adjourned until Saturday, January 16, 1999, at 10 a.m.

SENATE—*Saturday, January 16, 1999*

e Senate met at 10:01 a.m., and was
ed to order by the Chief Justice of
United States.

AL OF WILLIAM JEFFERSON INTON, PRESIDENT OF THE ITED STATES

e CHIEF JUSTICE. The Senate
convene as a Court of Impeach-
. The Chaplain will offer a prayer.

PRAYER

e Chaplain, Dr. Lloyd John
vie, offered the following prayer:
acious God, You have given us
nificent promises to claim for
y. You have told us that if we wait
You, we will renew our strergth.
have assured us that You will use
minds to think clearly in response
our inspiration. Courage is offered,
nce provided, and wisdom engen-
l.
this quiet moment, grant the Sen-
Your power to persevere, Your
e for equipoise, Your judgment for
evaluation of the facts presented,
Your will to guide their decisions.
ou have blessed us with this day,
raise You that You will show the
Through our Lord and Saviour.
n.

e CHIEF JUSTICE. The Sergeant
ms will make the proclamation.

e Sergeant at Arms, James W.
r, made proclamation as follows:

r ye! Hear ye! Hear ye! All persons are
anded to keep silent, on pain of impris-
nt, while the Senate of the United
is sitting for the trial of the articles
peachment exhibited by the House of
sentatives against William Jefferson
n, President of the United States.

CHIEF JUSTICE. The majority
r is recognized.

LOTT. Mr. Chief Justice, it is my
standing that the House man-
intend to extend their presen-
n until approximately 3 p.m., with
ch break at approximately 12:40 or

emind all Senators to remain
ing at their desk each time the
Justice enters and departs the
ber. We want to maintain the
best decorum.

other point. We had been sched-
to go from 10:05 straight through
12:40, but we will probably take a
short 10-minute break after the
ntation by Manager GRAHAM. It
e very important that Members
to business and return promptly
e Chamber so that we can com-
activity as early as possible this
oon.

eld the floor, Mr. Chief Justice.

THE JOURNAL

The CHIEF JUSTICE. If there is no objection, the Journal of proceedings of the trial are approved to date.

Pursuant to the provisions of Senate Resolution 16, the managers for the House of Representatives have 15 hours 37 minutes remaining to make the presentation of their case. The Senate will now hear you. The Presiding Officer recognizes Mr. Manager BUYER.

Mr. Manager BUYER. I thank you, Mr. Chief Justice. I thank the Senators, the counsel for the President.

I am STEVE BUYER, the House manager from the Fifth District of Indiana. I thank all of you for your attention the past several days. It has not been easy for the House managers to argue from a dry record. I ask for your patience. The House managers are prepared to call witnesses and offer to develop the evidence as the trial proceeds.

This morning, the managers on the part of the House are going to present why the offenses you have been hearing over the course of the last several days require the President's removal from office. I will discuss why the offenses attack the judicial system which is a core function of the Government, and how perjury and obstruction of justice are not private acts. These are public crimes and therefore quintessential impeachable offenses, for the President's premeditated assault on the administration of justice must be interpreted as a threat to our system of Government.

I will be followed by Mr. Manager GRAHAM of South Carolina who will discuss the precedents in impeachment cases, and then he will be followed by Mr. Manager CANADY. He will discuss how the felonies constitute high crimes and misdemeanors as envisioned by the Founding Fathers and why they warrant his removal from office.

While this is day 3 of our presentation, it is important for the Senate to be fully informed as to the facts, the law and the consequences. Please indulge me for a quick reiteration of the facts.

On May 27, 1997, nine Justices of the Supreme Court of the United States unanimously ruled that Ms. Jones could pursue her Federal civil rights actions against William Jefferson Clinton. On December 11, 1997, U.S. District Court Judge Susan Webber Wright ordered President Clinton to provide Ms. Jones with answers to certain routine questions relevant to the lawsuit.

Acting under the authority of these court orders, Ms. Jones exercised her rights, rights every litigant has under our system of justice. She sought answers from President Clinton to help prove her case against him, just as President Clinton sought and received answers from her. President Clinton used numerous means, then, to prevent her from getting truthful answers.

On December 17, 1997, President Clinton encouraged a witness to file a false affidavit in the case and to testify falsely if she were called to testify in this case. Why? Because her truthful testimony would have helped Ms. Jones and hurt his case.

On December 23, 1997, he provided under oath false written answers to Ms. Jones' questions. On December 18, 1997, President Clinton began an effort to get the witness to conceal evidence that would have helped Ms. Jones. Throughout this period, he intensified efforts to provide the witness with help in getting a job to ensure that she carried out his designs.

On January 17, 1998, President Clinton provided under oath numerous false answers to Ms. Jones' questions during that deposition in the civil case. In the days immediately following the deposition, President Clinton provided a false and misleading account to another witness, his secretary, Betty Currie, in hopes that she would substantiate the false testimony he gave in the deposition.

All of these unlawful actions denied Ms. Jones her rights as a litigant, subverted the fundamental truth-seeking function of the U.S. District Court for the Eastern District of Arkansas, and violated President Clinton's constitutional oath to "preserve, protect, and defend the Constitution of the United States." And, further, it violated his constitutional duty to "take care that the laws be faithfully executed."

Beginning shortly after his deposition, President Clinton became aware that the Federal grand jury empaneled by the U.S. District Court for the District of Columbia was investigating his unlawful actions before and during his civil deposition. President Clinton made numerous false statements to potential grand jury witnesses in hopes that they would repeat these statements to the grand jury.

On August 17, 1998, President Clinton appeared before the grand jury by video under oath and he provided numerous false answers to questions asked. These actions impeded the grand jury's investigation; it subverted the fundamental truth-seeking function of the U.S. District Court for the District of Columbia, and they also violated President

Clinton's constitutional oath to "preserve, protect, and defend the Constitution of the United States" and his constitutional duty as the Chief Executive Officer to "take care that the laws be faithfully executed."

Now, you will hear next week, perhaps from the President's lawyers, that the offenses charged by the House are not impeachable; in other words, that even if the allegations as set forth in the articles of impeachment are true, so what? See, the House managers have begun to refer to this as the "so what" defense. I am not offended by the "so what" defense, because if that is all you have, then try it. You see, there are only a few basic ways that you can actually defend a case. You can defend a case on the facts, you can defend a case on the law, you can defend a case on the facts and the law.

Now, here we hear in this case—we hear very often—that the facts are indefensible. And you also hear that if you are not going to call witnesses on the facts, then I guess you better argue on the law. So, then, what is the argument on the law? What you do, then, in the defending of a case, is you argue procedure, you attack the prosecutor, you attempt to confuse those who sit in judgment on the laws so you don't follow your precedent. You go out and obtain, from your political allies and friends in the academic world, signatures on a letter saying that the offenses as alleged in the articles of impeachment do not rise to the level of an impeachable offense. You see, this "rise to the level" has somehow become the legal cliche of this case. You have all so often heard it and you have even—some have even spoken it.

You see, the House managers chose not to go out into the academic world and obtain signatures on our own letter that would have said why the offenses are impeachable. And then we would have had this war of dueling academics. They have a letter of 400 signatures. We get a letter of 400 signatures. They add 500 to it; now they have 900. We go out and get 1,000. We chose not to do that. Do you know why? Because the House managers have the precedents of the Senate on our side. We have the precedents of the Senate. Mr. Manager GRAHAM will discuss those precedents.

Now, if I am prosecuting a defendant for perjury and obstruction of justice in White County Superior Court before Judge Bob Mrzlack in Monticello, IN, and I have this perjury and obstruction of justice case on a Thursday, and I know that the judge has three other cases—he has got a case on Monday, he has got a case on Tuesday, and he has got a case on Wednesday—so I am watching what the judge is going to do because I am curious with regard to the precedent.

So, on Monday of that week Judge Mrzlack tries a case of a public official for perjury and I watch what he does. He convicts him for perjury. On Tuesday he tries a public official for obstruction of justice and he convicts him. On Wednesday, Judge Mrzlack tries a public official for grand jury perjury and he convicts him. My case now comes up on Thursday, for a public official for obstruction of justice and grand jury perjury and perjury on top of perjury. I would say that, based on the precedents, it is not looking good for the defendant that I am about to prosecute.

The White House lawyers are hoping that those of you who have voted—those of you in this Chamber who have voted to remove Federal judges for similar offenses in the past—that you have a feigned memory. And if you don't have a feigned memory, then we will try to confuse you—they will attempt to confuse you on the law.

So, when I hear the "so what," well, it is the position of the House that what the President did does matter; that by his actions, the President did commit high crimes and misdemeanors. The House is prepared to establish that the President, William Jefferson Clinton, willfully and repeatedly violated the rule of law and abused the trust placed upon him by the American people.

Now, let me address how the offenses charged in the articles of impeachment attack the judicial system. The offenses as charged in the articles of impeachment against our system of government are the core of the concept of high crimes and misdemeanors. You see, perjury and obstruction of justice are, therefore, quintessential impeachable offenses. Indeed, it is precisely their public nature that makes them offenses. Acts that are not crimes when committed outside the judicial realm become crimes when they enter the judicial realm. Lying to one's spouse about an extramarital affair is not a crime; it is a private matter. But telling that same lie under oath before a Federal judge, as a defendant in a civil rights sexual harassment lawsuit, is a crime against the state and is therefore a public matter.

Hiding gifts given to conceal the affair is not a crime; it is a private matter. But when those gifts are the subject of a court-ordered subpoena in a sexual harassment lawsuit, the act of hiding the gifts becomes a crime against the state called obstruction of justice and is, therefore, a public matter. Our law has consistently recognized that perjury subverts the judicial process. It strikes at our Nation's most fundamental value, the rule of law.

In "Commentaries on the Laws of England," Sir William Blackstone differentiated between crimes that "more directly infringe the rights of a public or commonwealth taken in its collective capacity, and those which, in a more peculiar manner, injure individuals or private subjects." This book was widely recognized by the Founding Fathers, such as James Madison. He described Blackstone's work at the time as "a book which is in every man's hand." Blackstone's private category contained crimes such as murder, burglary, and arson. In the public category, however, he cataloged crimes that could be understood as an assault upon the state. Within a subcategory denominated "offenses against public justice," Blackstone included the crimes of perjury and bribery. In fact, in his catalog of public justice offenses, Blackstone placed perjury and bribery side by side.

Now, in the Constitution, article II, section 4, when you read the impeachment clause, "The President, Vice President and all Civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors"—so, what did they mean when they thought "other high crimes"? I would submit to you that perjury, obstruction of justice, fit in this category of "other high crimes." Perjury and bribery are side by side.

You know, hypothetically—hypothetically, if, when William Jefferson Clinton sat at the table in the civil deposition in the Jones v. Clinton case, and as alleged in the record that he perjured himself, speaking hypothetically, if he had then offered Judge Susan Webber Wright a cash bribe, there would be no question in this body what we must—what you must do. But what I am saying unto all of you is that there is no difference here, and that is the pain of this case. There is no difference between a cash bribe or sitting before a Federal judge and perjuring one's self. Whether it be in the underlying civil deposition or, in fact, in the grand jury perjury. Perjury and bribery are side by side. Mr. Manager CANADY will develop that further.

The Constitution also recognizes that truth-telling under oath is central to the maintenance of our Republic.

We are all familiar with the Constitution. This is in its handwritten glory. The founders took such pride in the oath that it is mentioned in the Constitution on five separate occasions, not the least of which is the President's own oath to defend the Constitution. Article I, section 3, sets forth the requirement that the Senate be under oath when trying cases of impeachment, and I witnessed as that occurred. Article II, section 1, specifically prescribes the oath which must be taken before our President enter on the execution of his office.

The right against self-incrimination under the Constitution derives in some measure from the Republic's interest in preserving the truth-telling oath. You see, forced testimony is forbidden because it might lead many to violate their most solemn obligations and, over time, weaken the essential civic norm of the fidelity to that oath—fidelity.

The framers took the significance of the oath very, very seriously. The crime of perjury was among the few offenses that the first Congress outlawed by statute as they met, and that affirms the framers' view of the seriousness. In 1790, in a statute entitled "An Act for the Punishment of Certain Crimes Against the United States," Congress made the crime of perjury punishable by imprisonment of up to 3 years, a fine of up to $800, disqualification from giving future testimony and "stand[ing] in the pillory for one hour." Now, today, we don't force individuals convicted of perjury to stand in the pillory for up to 1 hour.

Today, perjury is punishable by up to 5 years imprisonment in a Federal penitentiary if you perjure yourself in a Federal jurisdiction. Likewise, the Supreme Court has repeatedly noted the extent to which perjury subverts the judicial process and, thus, the rule of law. For example, in 1976, in a case of United States v. Mandujano, the Supreme Court emphasized:

> Perjured testimony is an obvious and flagrant affront to the basic concepts of judicial proceedings. Effective restraints against this type of egregious offense are, therefore, imperative. Hence, Congress has made the giving of false answers a criminal act punishable by severe penalties. In no other way can criminal conduct be flushed into the open where law can deal with it.

Moreover, it is obvious that any testimony given to a grand jury must be truthful, for the grand jury process is, in fact, the truth-seeking process of our criminal justice system. As the Supreme Court stated in 1911 in the case of Glickstein v. the United States:

> It cannot be conceived that there is power to compel the giving of testimony where no right exists to require that the testimony shall be given under such circumstances and safeguards as to compel it to be truthful.

Indeed, giving false material testimony to a grand jury, perjuring one's self, totally destroys the value of one's testimony and interferes with the ability of a grand jury to accomplish its mission which, again, is to find the truth. Perjury before a grand jury is a crime against our system of Government and the American people, and in the case before us, this is a case of perjury upon perjury.

Before the grand jury, President Clinton testified that the testimony that he gave in the underlying civil case of Jones versus Clinton in a civil deposition, that it was truthful. We submit that that is a lie. So what we have is perjury on perjury.

You may hear the President's lawyers remark that the view of the founders is quaint, not really applicable to these settings today. Let's look at a few very recent examples to see if the view of the seriousness of telling the truth under oath, as envisioned by the Founding Fathers, has changed any here today.

In the case of the United States v. Landi in the Eastern District of Virginia in 1997, the defendant was convicted on two counts of perjury: one for lying in a declaration she made during a civil forfeiture case, and the other for lying to the grand jury in a related criminal investigation. Here is what the judge said in this case:

> . . . the defendant committed perjury on two separate occasions. There can be no question of it being done by mistake, and perjury is perhaps one of the most serious offenses that can be committed against the court itself. And the court does not believe that it's appropriate to consider probation in the case of somebody who's been convicted of perjury.

In a second case, United States v. Vincent Bono in the District of New Hampshire in 1998, the defendant was found guilty of lying before a grand jury in trying to cover his stepson's involvement in a robbery that the grand jury was investigating. Here is what the judge had to say about lying before a grand jury:

> As a [matter of policy], they—

Meaning Congress—

> they don't want people lying to grand juries. They particularly don't want people lying to grand juries about criminal offenses. They particularly don't want people lying to grand juries about criminal offenses that are being investigated. They don't like that. And Congress has said we as a people are going to tell you if you do that, you're going to jail and you're going to jail for a long time. And if you don't get the message, we'll send you to jail again. Maybe others will. But we're not going to have people coming to grand juries and telling lies because of their children or their mothers or fathers or themselves. It's just not acceptable. The system can't work that way.

In another case in United States v. Ronald Blackley in the District of Columbia in 1998, the defendant was the former chief of staff to the Secretary of the U.S. Department of Agriculture. The defendant was found guilty at trial on three counts of making false statements to the grand jury in connection with his official duties. Here is what the judge had to say in this case:

> In my view, providing a false statement under oath is a serious offense. The fact that the proceeding is civil or administrative does not make the crime less serious. We cannot fairly administer any kind of system of justice in this country if we do not penalize those who lie under oath.
>
> The defendant stands before me as a high-ranking Government official convicted of making false statements under oath. This is such a serious crime that it demands an even longer term of imprisonment in this court's view. This court has a duty to send a message to other high-level Government officials that there is a severe penalty to be paid for providing false information under oath. There is a strong reason to deter such conduct and to dispel all of the nonsense that's being publicly discussed and debated about the seriousness of lying under oath by Government officials. A democracy like ours depends on people having trust in our Government and its officials.

See, there are many other cases, and you can go to your Lexis and Westlaw and you can research them. These three cases make it very clear that lying under oath is as serious today in the 106th Congress as it was in 1790 in the first Congress when it enacted the perjury statute. The first Congress recognized the seriousness of perjury and its attack on the judicial system.

Now, I would like to discuss article II, which is the obstruction of justice, and how it is an attack on our judicial system. In either a criminal or a civil case, obstruction undermines the judicial system's ability to vindicate legal rights. If it is allowed to go unchecked, then the system will become a farce and ultimately a test of which side is better at using underhanded methods. Accordingly, Federal courts have called the Federal obstruction of justice statute "one of the most important laws ever adopted" in that it prevents the "miscarriage of justice."

This is "Black's Law Dictionary." "Black's Law Dictionary" defines "obstruction of justice" as "[i]mpeding or obstructing those who seek justice in a court, or those who have duties or powers of administering justice therein." It is very clear. Not only is obstruction of justice, on its own, a crime in the Federal Code, but, in addition, the Federal Sentencing Guidelines—the Federal Sentencing Guidelines—increase the sentence of a convicted defendant who has "willfully obstructed or impeded, or attempted to obstruct or impede, the administration of justice during the investigation, prosecution, or sentencing" of his offense. The commentary on the Guidelines specifically lists as examples of obstruction actions the House alleges that President Clinton has committed, including "committing, suborning, or attempting to suborn perjury" and "destroying or concealing or directing or procuring another person to destroy or conceal evidence that is material to an official investigation or judicial proceeding. . . ."

Yesterday, you learned from Mr. Manager MCCOLLUM of Florida, when he discussed, that perjury and obstruction of justice is punished more severely in the Federal Sentencing Guidelines than bribery. As I stated earlier, Blackstone put bribery and perjury side by side.

At a hearing on the background and history of impeachment as part of the House impeachment inquiry, we were privileged to have the testimony of Judge Griffin Bell, an individual who has highly distinguished himself in public service. Judge Bell was appointed to the Federal bench by President John Kennedy, and he served as the U.S. Attorney General under President Carter. Judge Bell said that, "I have thought about this a great deal.

This is a serious matter. Trifling with the Federal courts is serious. And I guess I am biased because I used to be a Federal judge. But I cannot imagine that it wouldn't be a serious crime to lie in a Federal grand jury or to lie before a Federal judge, and that is where I come down."

Judge Bell went on to say, "And all the civil rights cases that I was in in the South depended on the integrity of the Federal court and the Federal court orders and people telling the truth and fairness. Truth and fairness are the two essential elements in a justice system, and all of these statutes I mentioned, perjury, tampering with a witness, obstruction of justice, all deal in the interests of truth. If we don't have truth in the judicial process and in the court system in our country, we don't have anything. We don't have a system."

As you can see, according to Judge Bell, "truth and fairness" are the two cornerstones of our judicial system. President Clinton violated both of these bedrock principles.

Finally, Judge Bell spoke to the issue, if a President ever was convicted of a felony. Judge Bell stated: "If the President were indicted and convicted of a felony, such as perjury or obstruction of justice or witness tampering, before impeachment proceedings began, would anyone argue that he should continue to be President? I don't think so. If the President were subsequently indicted and convicted of a felony, which [Judge Bell believes] the Constitution clearly allows, [he went on to say] would anyone argue that he should continue to be President? I don't think so." He stated this: He said, "A President cannot faithfully execute the laws if he himself is breaking them."

Judge Bell hit it right on the head. Judge Bell said: "A President cannot faithfully execute the laws if he himself is breaking them. The statutes against perjury, obstruction of justice and witness tampering rest on vouchsafing the element of truth in judicial proceedings—civil and criminal—and particularly in the grand jury. Allegations of this kind are grave indeed."

To borrow the words of constitutional scholar Charles J. Cooper, "The crimes of perjury and obstruction of justice, like the crimes of treason and bribery, are quintessentially offenses against our system of government, visiting injury immediately on society itself, whether or not committed in connection with the exercise of official government powers." I believe all of you should have these charts at your table. "In a society governed by the rule of law, perjury and obstruction of justice simply cannot be tolerated because these crimes subvert the very judicial processes on which the rule of law so vitally depends."

It is no exaggeration to say that our Constitution and the American people entrust to the President singular responsibility for the enforcing of the rule of law. Perjury and obstruction of justice strike at the heart of the rule of law. A President who has committed these crimes has plainly and directly violated the most important executive duty. The core of the President's constitutional responsibilities is his duty to "take Care that the Laws be faithfully executed." And because perjury and obstruction of justice strike at the rule of law itself, it is difficult to imagine crimes that more clearly or directly violate this core Presidential constitutional duty.

When President Clinton had the opportunity to personally uphold the rule of law, to uphold the truth-seeking function of the courts, to uphold the fairness in a judicial proceeding, he failed. Far from taking care that the laws be faithfully executed, if a President is guilty of perjury and obstruction of justice, he has himself faithlessly subverted the very law that the rest of us are called upon to obey.

You may hear arguments that perjury and obstruction don't really have much consequence in this case because it was a private matter and, therefore, not really a serious offense. I would like to arm you with the facts. The courts do not trivialize perjury and obstruction of justice.

According to the U.S. Sentencing Commission, in 1997, 182 Americans were sentenced in Federal court for committing perjury. Also in 1997, 144 Americans were sentenced in Federal court for obstruction and witness tampering.

In State jurisdictions all across the country, they take the matter very seriously. I have chosen one State, the State of California, which brought 4,318 perjury prosecutions in 1997. There are now at least 115 persons serving sentences for perjury in Federal prisons. Where is the fairness to these Americans if they stay in jail and the President stays in the Oval Office?

If the allegations in the independent counsel's referral were made against a sitting Federal judge, would not the Senate convict? If William Jefferson Clinton were a sitting judge instead of the President, would not the Senate convict? While my colleague, Mr. Manager GRAHAM, will look into this further, let's look briefly at precedent for the moment. When we bring up the issues regarding the impeachment of former Federal judges Mr. Claiborne and Mr. Nixon, one standard was used: high crimes and misdemeanors. The Senate said the one standard that applies to the President and Vice President will also apply to these Federal judges and other civil officers.

You see, in the defense of Judges Claiborne and Nixon, the defense lawyers at the time in the trial here in the Senate argued that Federal judges should be treated differently from the President, that they could not be impeached for private misbehavior because it was extrajudicial. The Senate rejected that proposition as incompatible with common sense and the orderly conduct of government. You rejected that argument, the very same argument that we are about to hear, perhaps, from the White House defense team. And I believe this Senate will uphold your precedent, the precedent that Federal judges and the President should be treated by the same standard—impeachment for high crimes and misdemeanors.

Also, do not be tempted to believe the argument that lying under oath about sex doesn't matter, that it is private. I covered that earlier, but I want to bring it to your attention as some of the House managers did yesterday regarding American law. It makes rape a crime, domestic violence a crime, sexual harassment a civil rights violation, libel, a compensable offense. Without the protections of perjury and obstruction, none of the rights of the victims of such cases could be vindicated. That is why the courts take these matters so seriously.

If the President's lawyers try to tell you that this case is simply about an illicit affair, I believe that it demeans our civil rights laws. If, indeed, the President is successful in trying to make everyone believe that this case is only about an illicit affair, what will the message be from those in this hallowed body who have in the past been passionate advocates of our civil rights laws, whether it be by race, gender, religion, or disability? If the evidence-gathering process is unimportant in Federal civil rights sexual harassment lawsuits—remember, that was the underlying basis of this case—what message does that send to women in America?

There are some important questions we need to ask. Are sexual harassment lawsuits, which were designed to vindicate legitimate and serious civil rights grievances of women across America, now somewhat less important than other civil rights? Which of our civil rights laws will fall next? Will we soon decide that the evidence-gathering process is unimportant with respect to vindicating the rights of the disabled under the Americans with Disabilities Act? Will the evidence-gathering process become unimportant with respect to vindicating the voting rights of those discriminated against based on race or national origin? Who will tell the hundreds of Federal judges across the Nation that the evidence-gathering process in these cases is now unimportant?

Consider postal worker Diane Parker who was convicted of perjury and sentenced to 13 months in prison for making a false material declaration during the discovery deposition in a sexual harassment lawsuit. Judge Lacey Collier said: "One of the most troubling things in our society today is people who raise their hand, take the oath to tell the truth, and then fail to do that. . . . This, I hope, is sufficient punishment for you," the judge stated. The judge went on to say, "But more importantly, I hope that it is a deterrence to others. So your story can be taken far and wide to demonstrate to others the seriousness of the responsibility of telling the truth in court proceedings."

The Senate must now determine whether it is acceptable or whether it is appropriate to set a precedent to have an individual serve as President of the United States when that individual has committed, is alleged to have committed, serious offenses against our system of government while holding that office.

While we have been discussing how perjury and obstruction of justice are attacks on our judicial system, we must recognize how the judicial system is a core function of the government. When Mr. Manager HENRY HYDE speaks of the rule of law protecting us from the knock on the door at 3 a.m., what, exactly, was he referring to? Well, in totalitarian societies, rulers may drag the ruled off to prison at any time for any reason. Our system differs because we require our leaders to go through a judicial procedure before they put someone in prison or otherwise violate their individual rights. The President's offenses assault the administration of this judicial procedure. As such, they constitute an assault on the core function of the government and repudiate our most basic social contract. A core function of the government derives its role from the social contract that our civilized society has under which the fundamental exchange of rights takes place between those of us as individuals and unto the government.

We give up our individual rights to exercise brute force to settle our personal disputes. That is a situation where chaos reigns and the strongest most often prevails. Instead, we submit to the power delegated to the State under which the individual then submits to the governmental processes as part of the social contract. Indeed, when conflict arises in our society, we as individuals are compelled via the social contract to take disputes to our third branch of government—the courts. The judicial branch then peacefully decides which party is entitled to judgment in their favor after a full presentation of the truthful evidence.

Now, implicit in the social contract that we enter as a civilized society is the principle that the weak are equally entitled as the strong to equal justice under the law. Despite the tumbling tides of politics, ours is a government of laws, not of men. It was the inspired vision of our Founding Fathers that the judicial, legislative, and executive branch of government would work together to preserve the rule of law. The U.S. Constitution requires the judicial branch to apply the law equally and fairly to both the weak and the strong.

Once we as a society—and particularly our leaders—no longer submit to the social contract and no longer pay deference to the third branch of government, which is equally as important as the legislative and executive branches of government, we then begin to erode the rule of law and begin to erode the social contract of the great American experiment.

That, I believe, is why Judge Bell stated, "A President cannot faithfully execute the laws if he himself is breaking them."

The administration of justice is a core function of the Government precisely because of the importance we place on the fair resolution of disputes and on whom and for how long a person will be denied liberty for violating our criminal laws. Any assault on the administration of justice must be interpreted as a threat to our system of Government. Our President, who is our chief executive and chief law enforcement officer, and who alone is delegated the task under our Constitution to "take care that the laws be faithfully executed," cannot and must not be permitted to engage in such an assault on the administration of justice.

The articles of impeachment adopted by the House of Representatives establish an abuse of public trust and a betrayal of the social contract in that the President is alleged to have repeatedly placed his personal interests above the public interest and violated his constitutional duties. For if he is allowed to escape conviction by the Senate, we would allow the President to set the example for lawlessness. We would allow our President to serve as an example of the erosion of the concept of the social contract embraced and embodied in our Constitution. I don't believe the Senate will allow that to happen.

As you undertake your examination of the facts, the law, and your precedents, the Senate must weigh carefully its judgment, for the consequences are deeply profound, not for the moment but for the ages. Should the Senate choose to acquit, it must be prepared to accept a lower standard, a bad precedent, and a double standard. However, should the Senate choose to convict, it would be reinforcing high standards for high office, maintaining existing precedents, and upholding the principle of equal justice under the law.

I think it is important to pause here and reflect upon the constitutional duties of the President of the United States. I agree with the defense argument that this has not been alleged as a dereliction of the President's exercise of executive powers. So let me talk about his executive duties.

The President is reposed with a special trust by the American people. The President is a physical embodiment of America and the hope and freedom for which she stands. When the President goes abroad, he is honored as the head of a sovereign nation; our Nation is acknowledged, not just the individual who occupies the Office of the Presidency. When he walks into a room and receives a standing ovation, the ovation is not that of the individual, it is for the Nation for whom he represents.

The President has a constitutional role as Commander in Chief. The President plays a unique and indispensable role in the chain of command. In Federalist 74, Alexander Hamilton stated that, "Of all the cares or concerns of government, the direction of war most peculiarly demands those qualities, which distinguish the exercise of power by a single hand."

It is universally agreed that the President, in his role as Commander in Chief, is not an actual member of the military. However, as the "single hand" that guides the actions of the armed services, it is incumbent that the President exhibit sound, responsible leadership and set a proper example when acting as Commander in Chief.

That leadership is also at the core of the issue before us. In order to be an effective leader, an effective military leader, the President must exhibit the traits that inspire those who must risk their lives at his command. These traits include honor, integrity and accountability.

Admiral Thomas Moorer, a former Chairman of the Joint Chiefs of Staff, submitted testimony to the House impeachment inquiry. Admiral Moorer stated it this way:

> Military leaders also serve as role models for honorable and virtuous conduct.

You see, veracity and truthfulness are important components of a leader's character. In order to have the trust of their subordinates, military leaders must have honor and be truthful in all things. That trust, that bond between the leaders and the led, is an essential element of any successful military organization.

The President's own self-inflicted wounds have called his credibility into question. While a President's decisions are always critiqued, a President receives the benefit of the doubt in the decisionmaking process that he always places the interests of the Nation above his own. But by William Jefferson Clinton's present diminished veracity, he has now forfeited that benefit and has invited doubt into the decisionmaking process.

The lack of trust in the President's motives, his veracity and his judgment is inherently corrosive and can only have a detrimental effect on our military credibility overseas. This corrosion is difficult to measure, for it cannot be quantified easily in a readiness report or training exercise. But in squadbays and wardrooms around the world, and at bases in the United States, there can be heard whispers and conversations of those who know that had they merely been accused of the same offense, their careers would have ended long ago.

This is the intangible effect that the President's actions have had on our military. We cannot ignore the fact that the Commander in Chief's conduct sets a poor example to the men and women in the military. Worse, we cannot ignore the idea that to acquit the President would create a double standard.

The Constitution directs this body to provide advice and consent to the President's nominations for military officers. It is your singular responsibility to set high standards of conduct for these officers, and you have done that. The Senate has in the past—and you will likely again do so in the future—rejected those whose moral and legal misconduct makes them unsuitable to be officers in the military.

Let me indulge in a hypothetical. An officer is nominated by the President for promotion to the rank of major. After the list is submitted, but before the Senate's confirmation, an investigation of the individual's background results in a report that mirrors the allegations in the Office of Independent Counsel's referral. After a very careful review of the Uniform Code of Military Justice, this captain, after having committed similar offenses as are in the Office of Independent Counsel's referral, could be charged with article 105, false swearing, and face up to 3 years; he could be charged in article 107, false official statement, facing up to 5 years; he could be charged with article 131, perjury—probably several times—and face up to 5 years; he could be charged with article 133, conduct unbecoming an officer; he could be charged with article 134, prevent seizure of property, and face up to 1 year imprisonment; he could be charged with article 134, soliciting another to commit an offense, with a penalty of up to 5 years; he could be charged with article 134, subornation of perjury, and face confinement up to 5 years; he could be charged with article 134 again, obstructing justice, and face 5 years. I could probably come up with about four others, but I won't get into the salacious details.

You see, needless to say, the Senate would insist on this hypothetical officer's removal from the promotion list. You would do that. The Service would certainly relieve him of his duties.

In every warship, every squadbay, and every headquarters building throughout the U.S. military, those of you who have traveled to military bases have seen the picture of the Commander in Chief that hangs in the apex of the pyramid that is the military chain of command.

You should also know that all over the world military personnel look at the current picture and know that, if accused of the same offenses as their Commander in Chief, they would no longer be deserving of the privilege of serving in the military.

Some would say that what I just talked about doesn't matter—that in the military they live under different standards—they live under these high standards. They say words like "duty," "honor," "country." They are instilled with core values and core virtues—that really doesn't matter in this case—that the President really doesn't have to follow those types of high standards—that it elevates some form of high standards, if he stands accused of high crimes—it really is not high crimes; it was about a private matter—that they don't rise to the level needed to remove the President from office.

I would like to remind you of Gen. Douglas MacArthur. In his farewell address at West Point, Gen. Douglas MacArthur stated, when he referenced the words I spoke of, "duty" and "honor" and "country," and the high principles:

> The unbelievers will say they are but words, but a slogan, but a flamboyant phrase. Every pedant, every demagogue, every cynic, every hypocrite, every troublemaker, and I am sorry to say, some others of an entirely different character, will try to downgrade them to the extent of mockery and ridicule.

The ideal object must be held high even though we recognize that as humans we are not perfect. No matter how great we aspire, we are human and we will occasionally fail. But there must be the pursuit of such high ideals. We cannot degrade our standards as a people. By a conviction in the Senate of the President of the United States you will be upholding a high and lofty standard, not only for America, but in particular for those military leaders, rather than setting low standards for the President and a high lofty standard for military leaders.

Let me turn to the President's responsibility to see that "the laws are faithfully executed." According to scholar Philip B. Kurland, it was probably George Washington rather than the Constitution that is responsible for our hierarchy of Cabinet officers that have been taken for granted over the years. And we have heard of the President as the chief law enforcement officer of the land, and we can find it in the Constitution. So we have to give credit to George Washington and how he put together the Cabinet. And we have accepted it over time. So it has been accepted by custom, practice, and legislation that the executive branch is an entity for which the President is responsible both to Congress and to the public.

Mr. Kurland stated:

> The whole of the executive branch acts subordinately to the command of the President in the administration of Federal laws, so long as they act within the terms of those laws. Their offices confer no right to violate the laws, whether they take the form of constitution, statute, or treaty.

The President's Departments of Treasury and Justice seek to bring to account those who disturb our "domestic tranquility." And those who seek to disturb our "domestic tranquility," whether it be the drugpushers, or unabombers, gangsters, mobsters, church arsonists, violators of individual rights, dedicated men and women of the FBI, DEA, Customs, Secret Service, BATF, INS, the U.S. Marshals Office; they all pursue them methodically, thoughtfully, firmly, doggedly, applying the law while risking their lives to uphold the rule of law for our peace and security. They seek to ensure equal justice under the law for everyone.

In the book, "The Imperial Presidency," Professor Arthur Schlesinger, Jr. states:

> The continuation of a lawbreaker as chief magistrate would be a strange way to exemplify law and order at home or to demonstrate American probity before the world.

By a conviction, the Senate will be upholding the high calling of law enforcement in protecting the rule of law and equal justice under the law.

"Equal justice under law"—that principle so embodies the American constitutional order that we have carved it in stone on the front of the Supreme Court building right across the street. The carving across the street shines like a beacon from the highest sanctum across to us here in the Capitol, the home of the legislative branch, and it shines right down Pennsylvania Avenue to the White House, the home of the executive branch. It illuminates our national life and reminds those other branches that despite the tumbling tides of politics, ours is a government of laws and not of men. It was the inspired vision of our founders and framers, again, that the judicial, legislative, and executive branches would work together to preserve the rule of law.

But "equal justice under law" amounts for much more than a stone carving. Although we can't see it or hear it, this living, breathing force has very real consequences in the lives of every citizen every day in America. It allows Americans to claim the assistance of the government when someone has wronged us—even if the person is stronger or wealthier or more popular than we are. In America, unlike other countries, when an average citizen sues the Chief Executive of our Nation, they stand equal before the bar of justice. The Constitution requires the judicial branch of our government to apply the law equally to both. That is the living consequence of "equal justice under law" that shines brightly across our country.

The President of the United States must work with the judicial and the legislative branches to sustain that force. He is the temporary trustee of that office. But, unfortunately and sadly, William Jefferson Clinton worked to defeat it and to bring darkness upon that grand illumination. When he stood before the bar of justice, he acted without authority to award himself. Even if he believed in his heart that the case against him was politically motivated, he simply assumed unto himself that he had by virtue of his power special privileges that he could be clever, create his own definitions of words in his own mind—create what C.S. Lewis called "verbicide." He murdered the plain spoken English language so he could come up with these definitions in his own mind, state them, and then say, "Well, I never committed perjury because this is what I meant by this word," even though it fails the reasonableness test, and it is absurd that no one would believe his own definitions. He assumed these special privileges, and then lied and obstructed justice to gain advantage in a Federal civil rights action in the U.S. District Court for the Eastern District of Arkansas. And he did so then again when a Federal grand jury began to investigate that lawlessness. And he did it before the grand jury in the U.S. District Court for the District of Columbia. His resistance brings us to this most unfortunate juncture for which you sit in judgment.

So "equal justice under law" lies at the heart of this matter. It rests on three essential pillars: an impartial judiciary, an ethical bar, and a sacred oath. If litigants profane the sanctity of the oath, "equal justice under law" loses its protective force.

The House, as does the Senate, has the responsibility to uphold the Constitution. We have all taken our oaths to defend the Constitution. The Founding Fathers created a system of checks and balances, a system of accountability between the functions of Government. See, I believe, as I am sure you do, that the Founding Fathers knew the nature of the human heart. Sometimes, as much as we try, we fail, in that the human heart does in fact struggle at times between good and evil. We recognize that no person has perfect virtue and that we each have our human failings. And the founders could foresee a time when corruption could invade the institutions of Government, and they provided the means to address it. The impeachment proceeding is one such means. We are seeking to defend the rule of law.

America, again, is a Government of laws, not of men. What protects us from that knock on the door in the middle of the night is the law. What ensures the rights of the weak and the powerless against the powerful is the law. What provides the rights to the poor against the rich is the law. What upholds the rightness of the minority view against the popular but wrong is the law. As former President Andrew Jackson wrote, "The great can protect themselves, but the poor and the humble require the arm and shield of the law."

When our Nation began its journey in history over 200 years ago, the United States was nearly unique in depending on the rule of law as opposed to, at that time, the rule of kings and czars and chieftains and monarchs. Now that our unique, grand American experiment has proved unto the rest of the world a success, others now seek to follow us. They seek to follow. And we have seen in the crumbling of the Soviet Union that the former Soviet nations, now infant republics, look and turn to us. They turn to us, a Government ruled by law.

For the sake of ourselves and the sake of generations yet unborn, we, and in particular you who sit in judgment in the Senate, must preserve the rule of law.

I will leave you with the words of the first President of the Senate and the second President of our Nation, John Adams. He said:

> Facts are stubborn things; and whatever may be our wishes, our inclinations, or the dictates of our passions, they cannot alter the state of facts and evidence.

I believe John Adams was right. Facts and evidence. Facts are stubborn things. You can color the facts. You can shade the facts. You can misrepresent the facts. You can hide the facts. But the truthful facts are stubborn; they won't go away. Like the telltale heart, they keep pounding, and they keep coming, and they won't go away. What is also stubborn is the precedents of the Senate.

I will now yield the floor for Manager GRAHAM of South Carolina to discuss the precedents of the Senate.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager GRAHAM.

Mr. LOTT addressed the Chair.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

RECESS

Mr. LOTT. I sense the need for a 10-minute break, but, my colleagues, please tend to your business and return promptly so that we can get started with the proper decorum.

There being no objection, at 11:15 a.m., the Senate recessed until 11:29 a.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Mr. Chief Justice, I believe we are ready to begin with Manager GRAHAM. I have been asked about any changes in the schedule. It would depend on how things move forward. I would ask for consent to change it, depending on how things developed from this point, Mr. Chief Justice.

I yield the floor.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager GRAHAM

Mr. Manager GRAHAM. Thank you, Mr. Chief Justice. I think I broke the code there. When I hear stomachs growling, I know it will be time to wrap this up.

This is an unbelievable occasion for all of us. I am LINDSEY GRAHAM from South Carolina. We talk about civil rights. I am a child of the South and I will give you my views on civil rights and how we progressed in this country, but I am going to talk to you a bit about some decisions this body has made regarding the crime of perjury and obstruction of justice and the impeachment clause in the Constitution as it applies to Federal judges. I am not so presumptuous to tell you I know more about what you did than you did. I am going to try to highlight some of the things that you did that I think served this country well in this area. But before we get there, a couple of observations.

As I was walking over through the Rotunda today, there was a group of Japanese tourists there, and I stopped and talked. My dad, who is now deceased, was a World War II veteran, and it struck me, 50 years plus, how resilient this world is. My dad's generation I don't think would have ever envisioned 50 years ago that his son, one, would be a Congressman, which is a great thing about this country, would be stopping and talking to Japanese tourists in the Capitol of the United States.

So when we talk about the consequences of this case, no matter what you decide, in my opinion, this country will survive. If you acquit the President, we will survive. If you convict him, it will be traumatic, and if you remove him, it will be traumatic, but we will survive.

This has been billed as a constitutional drama, by some of the pundits, that is called a snoozer. I can understand that a little bit. I am the 12th lawyer you have had to listen to, and I think my colleagues have done a very good job. But it is a very long and tedious process in many ways. It is hard to sit here and listen to 12 lawyers talk to you. But you have done a wonderful job, I think. I am very proud of the U.S. Senate. You have paid great attention.

But the fact that people call this boring is not a bad thing to me. I think it shows the confidence we have achieved in 200 years as a Republic that people can go on about their business, and they are upset. I know my phone rings a lot, and your phone rings a lot, about what to do. But there is a calmness in this country in the midst of something so important like this that tells me we have done it right for a long time.

How many countries would love the chance to be bored when their government is in action? How many countries fear that the government won't work for them; that to get it right, you have to pick up a gun? That happens every day throughout this world. And the fact that we can come together and talk about something so important and the country can go on and people not be so anxious about their personal lives and their freedoms and their properties and their jobs is a compliment to every generation who has ever served this Republic.

Tom Brokaw has a book out called "The Greatest Generation," and I recommend it to you to read, because we will be talking about that in a moment. But let's talk about some of this country's imperfections. Mr. BUYER talked about, very eloquently, the rule of law and how it makes us so different and how it is something that people literally do die for and have died for.

But let me tell you, as a lawyer, it is not a perfect legal system. If you are a poor person and you are charged with a crime, you are likely to get a public defender right out of law school and, hopefully, that public defender will do the best he can or she can. But it is not a perfect system. Don't ever think it is.

Civil rights have been advanced a lot in my lifetime, but we have a long way to go in South Carolina. I think we have a long way to go in this Nation. In my lifetime, I started school with no black person in my class. By the sixth grade—I think it was the sixth grade—integration hit in my area, and I can remember my mom and dad being scared to death about what it would do and what it would mean. But we made it, and we are better off as a country.

We are here to judge our President. We are here to say whether or not he is guilty, to begin with, of some serious offenses that are colored by sex, and there is absolutely no way to get around that, and I know it is uncomfortable to listen to.

My father and mother owned a restaurant, a beer joint, I guess is what we would say in South Carolina. I can remember that if you were black, you came and you had to buy the beer and you had to go because you couldn't drink it there. That is just the way it was, is what my dad said. I always never quite understood that. My dad and mom were good people, but that is just the way it was. That is not the way it is now, and we are better off for that.

In sexual harassment cases, it is always uncomfortable to listen to. That is just the way it is. It used to be in this country, not long ago, there was really no recourse if you were sexually harassed. We have changed things for the better.

The reason we are here today is not because somebody wanted to look into the personal life of the President for no good reason. We are here today because somebody accused him when he was Governor of picking them out of a crowd, asking her to come to a hotel room, and if you believe her, did something very crude and rude that you wouldn't want to happen to anybody in your family. Now only God knows what happened there. That case has been settled. The parties know and God knows. We will never know.

Let me just say this. I am proud of my country where you, as a low-level employee, can sue the Governor of your State and if that Governor becomes President, you can still sue.

The Supreme Court said 9 to 0—a shutout legally—"Mr. President, you will stand subject to this suit." We are going to talk about is this private or public conduct; does this go to the heart of being President, or is this just some private matter he could be prosecuted for after he gets out of office? Is this really a big deal about being President?

I contend, ladies and gentlemen of the Senate, it became a big deal about being President when he raised the defense, "You can't sue me now because I am the President, I am a busy man, I have a lot going on." He used his office, or tried to, to avoid the day in court, but the Supreme Court said, "No, sir, you will stand subject to suit under some reasonable accommodation." And we are here today.

If I had been on the Supreme Court, I don't know if I would have ruled that way. There is not much chance of that happening any time soon, if you are worried about that. I don't think that is going to be in my future. [Laughter.]

I may not have ruled that way, and we in Congress, if we don't like the way all this has come out, we can change that law, we can change that ruling by law. But it is the law of the land, because the Chief Justice and his colleagues said so.

What did our President do? He tried to say, "You can't sue me because I am President." He participated in that lawsuit because he was told to, and I would argue, ladies and gentlemen, that we all assumed he would play fair. Now isn't there a lot of doubt about that?

Ladies and gentlemen of the Senate, what if he had not shown up? What if he refused to answer any court order? What if he had said, "I am not going to play, that is it; I am not going to listen to you, judicial branch?" You know the remedy we have to resolve problems like that when Presidential conduct gets out of bounds. Do you know where that remedy lies? It lies with us, the U.S. Congress. When a President gets out of bounds and doesn't do as he or she should do constitutionally—and I would argue that every President and every citizen has a constitutional duty not to cheat another citizen, especially the President—and they get out of bounds, it is up to us to put them back in bounds or declare it illegal.

And how do we do that? How do we regulate Presidential misconduct when it is done in a Presidential fashion? Through the laws and powers of impeachment. That is why we are here today.

It is going to take team work on our part to get this right, because I will argue to you in a moment that the President of the United States, through his conduct, flouted judicial authority and decisionmaking over him. When he chose to lie, when he chose to manipulate the evidence to witnesses against him and get his friends to go lie for him, he, in fact, I think, vetoed that decision.

It's worse than if he had not shown up at all. Is that out of bounds? That is what we are going to be talking about today. And we have some guidance as to what really is in or out of bounds for high Government officials. What is a high crime? How about if an important person hurts somebody of low means? It is not very scholarly, but I think it is the truth. I think that is what they meant by "high crimes." It doesn't have to be a crime. It is just when you start using your office and you are acting in a way that hurts people, you have committed a high crime.

When you decide that a course of conduct meets the high crimes standard under our Constitution for the President, what are we doing to the Presidency? I think we are putting a burden on the Presidency. And you should consider it that way, that if you determine that the conduct and the crimes in this case are high crimes, you need to do so knowing that you are placing a burden on every future occupant of that office and the office itself. So do so cautiously, because one branch of the Government should never put a burden on another branch of the Government that's not fair and they can't bear.

Ladies and gentlemen of the Senate, if you decide, from the conduct of this President, that henceforth any officeholder who occupies the office of President will have this burden to bear—let me tell you what it is: don't lie under oath to a Federal grand jury when many in the country are begging you not to—can the occupant bear that burden?

I voted against article 2 in the House, which was the deposition perjury allegations against the President standing alone. I think many of us may have thought that he didn't know about the tapes, that he and Ms. Lewinsky thought they had a story that was going to work, and he got caught off guard, and he started telling a bunch of lies that maybe I would have lied about, maybe you would have lied about, because it is personal to have to talk about intimate things; and our human nature is to protect ourselves, our family; that is just human nature.

But, ladies and gentlemen, what he stands charged of in this Senate happened 8 months later, after some Members of this body said, "Mr. President, square yourself by the law. Mr. President, if you go into that Federal grand jury and you lie again, you're risking your Presidency." People in this body said that. Legal commentators said that. Professor Dershowitz and I probably don't agree on a lot. I think he would probably agree with that statement. That would be one thing we would agree on. He said—and he is a very smart, passionate man; and I like passionate people even if I don't agree with them—even he said that if you go to a grand jury and you lie as President, that ought to be a high crime.

So the context in which you are going to decide this case has to understand human failings, because if you don't do that, you are not being fair. And I know you want to be fair.

Human failings exist in all of us. Only when it gets to be so premeditated, so calculated, so much "my interest over anybody else" or "the public be damned," should you really, really start getting serious about what to do. That happened in August, in my opinion, ladies and gentlemen. After being begged not to lie to the grand jury and end this matter, he chose to lie.

That is the burden you will be placing on the next President: "Don't do that. Don't lie under oath when you are a defendant in a lawsuit against an average citizen. Have the courage to apply the law in a fair manner to yourself."

Mr. BUYER talked about values and courage. Let me say something about President Clinton that I believe. I believe he does embrace civil rights for our citizens. I believe he has been an articulate spokesman for the civil rights for our citizens. I believe that may be one of the hallmarks of his Presidency. And I am not here to tell you that he doesn't. I am here to tell you that when it was his case, when those rights had to be applied to him, he failed miserably.

It is always easy to talk about what other people ought to do. The test of character is the way you judge people you disagree with: Don't cheat in a lawsuit by manipulating the testimony of others. Don't send public officials and friends to tell your lies before a Federal grand jury to avoid your legal responsibilities. Don't put your legal and political interests ahead of the rule of law and common decency.

If you find that these are high crimes, that is the burden you are placing on the next officeholder. If they can't meet that burden, this country has a serious problem. I don't want my country to be the country of great equivocators and compartmentalizers for the next century. And that is what this case is about, equivocation and compartmentalizing.

What I have described to you as the conduct of the President being a high crime I think is just his job description. We are asking no more of him than to be the chief law enforcement officer of the land—follow your job description. A determination that this conduct is a high crime is no burden that cannot be borne in a reasonable fashion by future occupants.

Now, why did I talk about constitutional teamwork? I am a child of the South. The civil rights litigation in matters that came about in the sixties was threefold: There was legislation passed in Congress, there were judicial decisions that were rendered, and the executive branch came in to help out. Remember when Governor Wallace was standing in the door of the University of Alabama? Remember how he was told to get aside?

What went on? It was a constitutional dance of magnificent proportions. You had litigation that was resolved for the individual citizen so they could go in and acquire the rights, full benefits, of a citizen of that State; you had legislation coming out of this body; and you had defiance against the Federal Government from the State level; and you had the President and the executive branch federalizing the National Guard. And Governor Wallace: "Step aside."

When it was 9 to nothing that Bill Clinton had to be a participant in the lawsuit and he chose to cheat in every manner you can cheat in a lawsuit, his conduct needs to be regulated, and it needs to be brought to bear under the Constitution. If you put him in jail after his office, that would not solve the constitutional problem he created. The constitutional conduct exhibited by the Executive, when he was told by the judicial branch, "You've got to participate in a lawsuit," was so far afield of what is fair, what is decent, that it became a high crime, and it happened to be against a little person.

The Senate has spoken before about perjury and obstruction of justice and how it applies to high Government officials. And those Government officials were judges.

Before we start this analysis, it is important to know—and some of you know this better than I will ever hope to know, the history of this Senate, the history of this body and how it works and why it works—that when a judge is impeached in the United States of America, the same legal standard—treason, bribery, or other high crimes and misdemeanors—is applied to that judge's conduct as it is to any high official, just like the President. So we are comparing apples to apples.

Now, in Judge Claiborne's trial they seized upon the language, "Judges shall hold their office during good behavior." And the defense was trying to say, unlike the President and other Government officials, high Government officials, the impeachment standard for judges is "good behavior." That is the term. It's a different impeachment standard. You know these cases better than I know these cases. And you said "Wrong." The good behavior standard doesn't apply to why you will be removed. It is just a reference to how long you will have your job.

Our President is two terms. A judge is for life, conditioned on good behavior. What gets you out of office is whether or not you violate the constitutional standard for impeachment, which is treason, bribery, or other high crimes and misdemeanors.

So as I talk to you about these cases and what you as a body did, understand we are using the same legal standard, not because I said so, but because you said so. Judge Claiborne, convicted and removed from office by the Senate, 90–7. For what? Filing a false income tax return under penalties of perjury. One thing they said in that case was, "I'm a judge and filing false income tax returns has nothing to do with me being a judge and I ought not lose my job unless you can show me or prove that I did something wrong as a judge." They were saying cheating on taxes has nothing to do with being a judge.

You know what the Senate said? It has everything to do with being a judge. And the reason you said that is because you didn't buy into this idea that the only way you can lose your job as a high Government official under the Constitution is to engage in some type of public conduct directly related to what you do every day. You took a little broader view, and I am certainly glad you did, because this is not a country of high officials who are technicians. This is a country based on character, this is a country based on having to set a standard that others will follow with that.

This is Manager Fish:

> Judge Claiborne's actions raise fundamental questions about public confidence in, and the public's perception of, the Federal court system. They serve to undermine the confidence of the American people in our judicial system . . . Judge Claiborne is more than a mere embarrassment. He is a disgrace—an affront—to the judicial office and to the judicial branch he was appointed to serve.

That is very strong language. Apparently, you agreed with that concept because 90 of you voted to throw him out. What did he do? He cheated on his taxes by making false statements under oath.

Now we will talk more about public versus private. Senator Mathias, about this idea of public versus private:

> It is my opinion . . . that the impeachment power is not as narrow as Judge Claiborne suggests. There is neither historical nor logical reason to believe that Framers of the Constitution sought to prohibit the House

> from impeaching . . . an officer of the United States who had committed treason or bribery or any other high crime or misdemeanor which is a serious offense against the government of the United States and which indicates that the official is unfit to exercise public responsibilities, but which is an offense which is technically unrelated to the officer's particular job responsibilities."

This hits it head on:

> Impeachable conduct does not have to occur in the course of the performance of an officer's official duties. Evidence of misconduct, misbehavior, high crimes, and misdemeanors can be justified upon one's private dealings as well as one's exercise of public office. That, of course, is the situation in this case.
>
> It would be absurd to conclude that a judge who had committed murder, mayhem, rape or perhaps espionage in his private life, could not be removed from office by the U.S. Senate.

The point you made so well was that we are not buying this. If you are a Federal judge and you cheat on your taxes and you lie under oath—it is true that it had nothing to do with your courtroom in a technical sense, but you are going to be judging others and they are going to come before you with their fate in your hands, and we don't want somebody like you running a courtroom because people won't trust the results.

Judge Walter Nixon, convicted and removed from office for what? Perjury before a grand jury. What was that about? He tried to fix a case for a business partner's son in State court. He went to the prosecutor who was in State court and tried to fix the case. When they investigated the matter, he lied about meeting with the prosecutor. He lied about doing anything related to trying to manipulate the results. He was convicted and he was thrown out of office by the U.S. Senate.

I guess you could say, what has that got to do with being a Federal judge? It wasn't even in his court? It has everything to do with being a high public official because if he stays in office, what signal are you sending anybody else that you send to his courtroom or anybody else's courtroom?

The question becomes, if a Federal judge could be thrown out of office for lying and trying to fix a friend's son's case, can the President of the United States be removed from office for trying to fix his case? That is not a scholarly work but that is what happened. He tried to fix his case. He tried to turn the judicial system upside down, every way but loose. He sent his friends to lie for him. He lied for himself. Any time any relevant question came up, instead of taking the honorable way out, he lied and dug a hole, and we are all here today because of that.

I am not going to go over the facts again because you have been bombarded with the facts. If you believe he committed perjury and if you believe he obstructed justice, the reason he did it was to fix his case. And you have some records to rely upon to see what you should do with somebody like that.

Judge Hastings: This Federal judge was convicted and removed from office by the U.S. Senate. But do you know what is interesting about this case to me? He was acquitted before he got here. He was accused of conspiring with another person to take money to fix results in his own court. He gave testimony on his own behavior. The conspirator was convicted but he was acquitted.

You know what the U.S. Senate and House said? We believe your conduct is out of bounds and we are not bound by that acquittal. We want to get to the truth and we don't want Federal judges that we have a strong suspicion or reasonable belief about that are trying to fix cases in their court.

So the point I am trying to make, you don't even have to be convicted of a crime to lose your job in this constitutional Republic if this body determines that your conduct as a public official is clearly out of bounds in your role. Thank God you did that, because impeachment is not about punishment. Impeachment is about cleansing the office. Impeachment is about restoring honor and integrity to the office. The remedy of prosecuting William Jefferson Clinton has no effect on the problem you are facing here today, in my opinion.

Now, every case was tried before it got here with different results. Two of them were convicted; one of them was acquitted. You had a factual record to go upon. I urge you, ladies and gentlemen of the U.S. Senate, that that cannot happen in this case unless we have a trial in the true sense of the word. The evidence is compelling and overwhelming, but it has only been half told. The learned counsel for the President will have their chance, and they are excellent lawyers.

If this were a football game, we would be almost at half time. Please, please wait, because I have sat where they are sitting, dying to say something. I know there are things they want to tell you about what we have said that may put this in a different light. That is coming, and it ought to come.

But there is another thing that you will have to decide: Has the factual record been developed enough that I can acquit with good conscience or that I can convict and remove with good conscience? In these judge cases, there was a full-blown trial. Because we can't prosecute the President criminally, we can't do the things that happened in the judge cases, so we don't have that record. I just submit that to you for your wisdom. None of this matters unless you believe he committed the offense. And I am not going to go over that again.

You know the facts pretty well. If there is any doubt, let's call witnesses and let's develop them fully, and leave no doubt on the table, and make sure that history will judge us well. Everybody, the House and the President, will have a fair shot at proving their case, that these things occurred, the high crimes.

I don't believe, ladies and gentlemen, that when you look at the totality of what the President did and prior precedents of the Senate, the fact that he was told by the Supreme Court to go into this litigation matter and he cheated so badly, you would consider these not to be high crimes. Because you are not placing a burden on this office that the office can't bear, I think that will be resolved, I hope and pray, in a bipartisan fashion.

If we can do nothing else for this country, let us state clearly that this conduct is unacceptable by any President. These are in fact high crimes. They go to the core of why we are all here as a Nation and to the rule of law, the rules of litigation. He cheated, and you have to put him back in bounds, remove him. Determining this as a high crime puts it back into bounds.

This is a hard question. I am not going to tell you it is not. I do not want to be where you are sitting. I think the evidence will be persuasive that he is guilty. The logic of your past rulings and just fundamental fairness and decency, and helping the Supreme Court enforce their rules, if nothing else, will lead you to a high crime determination.

But we are asking you to remove a popular President. I don't know why all this occurred. And we have a popular President. I know this. The American people are fundamentally fair, and they have an impression about this case from just tons and tons and tons of talk, tons and tons and tons of speaking. One in five, they tell me, are paying close attention to this. The question you must ask is: If every American were required to do what I have to do, sit in silence and listen to the evidence, would it be different? You are their representatives; they will trust you. This is a cynical age, but I am optimistic that whatever you do, this country will get up and go to work the next day, and they will feel good, no matter what it is.

To set aside an election is a very scary thought in a democracy. I do not agree with this President on most major policy initiatives. I did not vote for this President. But he won; he won twice. To undo that election is tough.

Let me give you some of my thoughts. How many times have you had to go to a child, a grandchild, or somebody who works for you, and give them a lecture that goes along the lines: Don't do as I do, do as I say? Isn't that a miserable experience? The problem with keeping this President in office, in my opinion, is that these crimes can't be ignored by anybody who looks at the evidence. They can be explained away, they can be excused; but they have far-reaching consequences for the law. And in his role as chief law enforcement officer of the land, how can we say to our fellow citizens that this will not be 20 months of "don't do as I do, do as I say." What effect will that have? I think it would be devastating.

This case is the butt of a thousand jokes. This case is requiring parents and teachers to sit down and explain what lying is all about. This case is creating confusion. This case is hitting America far harder than America knows it has been hit. It is tempting to let the clock tick, but I want to suggest to you, ladies and gentlemen of the Senate, if you believe he is a perjurer, that he obstructed justice in a civil rights lawsuit, the question is not, Should he stay? It is, what if he stays? If you believe this President committed perjury before a grand jury when he was begged not to, and people in this body told him, "Don't do it, because your political career is at stake," and if you believe he obstructed justice in a civil rights lawsuit, don't move the bar anymore. We have moved the bar for this case a thousand times.

Remember how you felt when you knew you had a perjurer as a judge, when you knew you had somebody who had fundamentally run over the law that they were responsible for upholding. Remember how you felt when you knew that judge got so out of bounds that you could not put him back in court, even though it was unrelated to his court, because you would be doing a disservice to the citizens who would come before him. A judge has a duty to take care of the individuals fairly who come before the court. The President, ladies and gentlemen of the Senate, has a duty to see that the law applies to everyone fairly—a higher duty, a higher duty in the Constitution. You could not live with yourself, knowing that you were going to leave a perjurer as a judge on the bench.

Ladies and gentlemen, as hard as it may be, for the same reasons, cleanse this office. The Vice President will be waiting outside the doors of this Chamber. Our constitutional system is simple and it is genius all at the same time. If that Vice President is asked to come in and assume the mantle of Chief Executive Officer of the land and chief law enforcement officer of the land, it will be tough, it will be painful, but we will survive and we will be better for it.

Thank you.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager CANADY.

Mr. Manager CANADY. Mr. Chief Justice, distinguished counsel, ladies and gentlemen of the Senate, I am Representative CHARLES CANADY of the 12th District of Florida, and I rise now to conclude the argument that my two fellow managers have begun and to address the fundamental question now before the Senate: Do the offenses charged against the President rise to the level of "high crimes and misdemeanors" under the Constitution?

Are these crimes—perjury before a federal grand jury and obstruction of justice—offenses for which the President has properly been impeached by the House of Representatives and for which he may now properly be convicted by the Senate? Or are these serious felonies offenses for which a Chief Executive may not constitutionally be called to account by either the House or the Senate?

To properly answer these questions, it must be understood, as my fellow manager Mr. BUYER has argued, that perjury and obstruction of justice are serious offenses against the system of justice. To properly answer these questions, it must also be understood—as my fellow manager Mr. GRAHAM has discussed—that the Senate has already determined that as a serious offense against the system of justice, perjury is proper grounds for removal from office.

There are several additional points that I now ask you to consider as you deliberate on the momentous issue you must decide.

First, I will argue that restricting the impeachment process to crimes involving the abuse of Presidential power is contrary to common sense. This is a key point in this case. The President's defense hinges to a large extent on his claim that the offenses charged against him do not involve official misconduct.

I will then review the history and purpose of the impeachment process to show that its fundamental object is to maintain the supremacy of law against the misconduct of public officials. After reviewing the background of the impeachment process, I will briefly discuss the prevailing views on the seriousness of perjury at the time the Constitution was adopted, and show that perjury and obstruction of justice are akin to bribery in their purpose and effect.

To conclude, I will discuss the proper role of the Senate in exercising the removal power—emphasizing three essential points:

First, that the removal power is designed to preserve, protect, and strengthen our Constitution by setting a standard of conduct for public officers.

Second, that the Senate should not establish a lower standard of integrity for the President than the standard it has already established for federal judges.

Third, that the Senate should not allow a President who has violated his constitutional duty and oath of office, and made himself a notorious example of lawlessness to remain in office.

The President's lawyers have argued that the "Constitution requires proof of official misconduct" for impeachment and conviction, and that removal from office is not proper for crimes that do not involve an abuse of the power of office. This view is endorsed by various academics who have signed a letter in support of the President. The Senate must now decide if this is a proper interpretation of the Constitution.

In deciding this question you should be guided by common sense and good judgment. It is by no means an abstruse and mysterious matter of constitutional law.

Nor is it a new question before the Senate. It has been decided in the recent judicial impeachments which Mr. GRAHAM has discussed. And it is a question which arose 200 years ago in the course of the first impeachment trial conducted by the Senate.

At that trial in January of 1799, as the Senate met in Philadelphia, an argument was made by counsel for the respondent, Senator Blount of Tennessee, that the impeachment power was properly exercised only with respect to "official offenses." Although Senator Blount escaped conviction on other grounds, the response to his claim that only official misconduct could justify impeachment and removal remains noteworthy. Robert Goodloe Harper of South Carolina, one of the House managers—and who, incidentally, subsequently served as a Member of this Senate representing the State of Maryland—refuted that claim by asking a simple question:

"Suppose a Judge of the United States were to commit a theft or perjury; would the learned counsel say that he should not be impeached for it? If so, he must remain in office with all his infamy * * * ."

Two hundred years to the month after Robert Goodloe Harper posed that question to the Senate, a very similar question is before the Senate today. Shall a President—if found guilty of perjury and obstruction of justice—be removed, or must he "remain in office with all his infamy"?

Although a judge who commits crimes may be subjected to criminal penalties and prevented from discharging judicial functions, he can be divested of his office only by impeachment and removal. The tenure of a President will necessarily expire with the passage of time, but most scholars of constitutional law agree that while he remains in office he is immune from the processes of the criminal law. So long as he is President, the only mechanism available to hold him accountable for his crimes is the power of impeachment and removal. Unless that power is exercised, no matter what crime he has committed, he must "remain in office with all his infamy."

The argument of the President's lawyers that no criminal act by the President subjects him to removal from office unless the crime involves the abuse of his power is an argument entailing consequences which—upon a moment's reflection—this body should be unwilling to accept.

Would a President guilty of murder be immune from the constitutional process of impeachment and removal so long as his crime involved no misuse of official power? Would a President guilty of sexual assault or child molesting remain secure in office because his crime did not involve an abuse of office?

In support of their position, the President's lawyers have vigorously argued that a President who committed tax fraud—a felony offense not involving official misconduct—would not be subject to impeachment and removal. They erroneously cite the decision of the House Judiciary Committee rejecting an article of impeachment against President Nixon for tax fraud. The record of the House proceedings establishes that the tax fraud article against President Nixon was rejected due to insufficient evidence that he was in fact guilty of tax fraud. The House Judiciary Committee never determined that tax fraud by a President would not be grounds for impeachment.

But, leaving aside the inaccurate characterization of the House Judiciary Committee's action, the claim of the President's lawyers that a President could commit tax fraud and remain immune from impeachment and removal is quite telling. It reveals a great deal about the sort of standard they would set for the conduct of the President of the United States.

The claim that tax fraud—a felony—does not rise to the level of a high crime or misdemeanor was, as you have heard, unequivocally rejected by the Senate in 1986 in the case of Judge Harry Claiborne, who was removed from office for filing false income tax returns.

Then-Senator Albert Gore, Jr., summarized the judgment of the Senate that Judge Claiborne should be removed from office. The comments of Senator Gore bear repeating:

> It is incumbent upon the Senate to fulfill its constitutional responsibility and strip this man of his title. An individual who has knowingly falsified tax returns has no business receiving a salary derived from the tax dollars of honest citizens.

Of course, the rationale expressed by Senator Gore for the conviction of Judge Claiborne for his criminal tax offenses applies with equal—if not greater—force to similar offenses committed by the President of the United States. Professor Charles Black, Jr., in his essay on the law of impeachment, recognized the appropriate application of these principles to the office of the Presidency. Professor Black said, "A large-scale tax cheat is not a viable chief magistrate."

I would respectfully submit to the Senate that the argument of the President's lawyers concerning tax fraud by a President is not a viable argument.

Who can seriously argue that our Constitution requires that a President guilty of crimes such as murder, sexual assault, or tax fraud remain in his office undisturbed? Who is willing to set such a standard for the conduct of the President of the United States? Who can in good conscience accept the consequences for our system of government that would necessarily follow? Could our Constitution possibly contemplate such a result? What other crimes of a President will we be told do not rise to the level of "high crimes and misdemeanors?" These are grave questions that must be addressed by this Senate. The President's defense requires that these questions be asked and answered.

Contrary to the claims of the President's lawyers, there is not a bright line separating official misconduct by a President from other misconduct of which the President is guilty. Some offenses will involve the direct and affirmative misuse of governmental power. Other offenses may involve a more subtle use of the prestige, status and position of the President to further a course of wrongdoing. There are still other offenses in which a President may not misuse the power of his office, but in which he violates a duty imposed on him under the Constitution.

Such a breach of constitutional duty—even though it does not constitute an affirmative misuse of governmental power—may be a very serious matter. It does violence to the English language to assert that a President who has violated a duty entrusted to him by the Constitution is not guilty of official misconduct. Common sense indicates that official misconduct has indeed occurred whenever a President breaches any of the duties of his office.

As we have been reminded repeatedly, the Constitution imposes on the President the duty to "take care that the laws be faithfully executed." The charges against the President involve multiple violations of that duty. A President who commits a calculated and sustained series of criminal offenses has—by his personal violations of the law—failed in the most immediate, direct, and culpable manner to do his duty under the Constitution.

In their defense of the President, his lawyers in essence contend that a President may be removed for misusing governmental power, but not for corruptly interfering with the proper exercise of governmental power. This argument exalts form over substance. It unduly focuses on the manner in which wrongdoing is carried out and neglects to consider the actual impact of that wrongdoing on our system of government. Whether the President misuses the power vested in him as President or wrongfully interferes with the proper exercise of the power vested in other parts of the government, the result is the same: the due functioning of our system of government is in some respect hindered or defeated.

There is no principled basis for contending that a President who interferes with the proper exercise of governmental power—as he clearly does when he commits perjury and obstruction of justice—is constitutionally less blameworthy than a President who misuses the power of his office. A President who lies to a federal grand jury in order to impede the investigation of crimes is no less culpable than a President who wrongfully orders a prosecutor to suspend an investigation of crimes that have been committed. The purpose and effect of the personal perjury and of the wrongful official command are the same: the laws of the United States are not properly enforced.

Although neither the Senate nor the House has ever adopted a fixed definition of "high crimes and misdemeanors," there is much in the background and history of the impeachment process that contradicts the narrow view of the removal power advanced by the President's lawyers.

There is no convincing evidence that those who framed and ratified our Constitution intended to limit the impeachment and removal power to acts involving the abuse of official power.

The key phrase defining the offenses for which the President, Vice President and other civil officers of the United States may be removed—"treason, bribery or other high crimes and misdemeanors"—simply does not limit the removal power in the way suggested by the President's lawyers.

The truth is as we have heard already today, that treason and bribery may be committed by an official who does not abuse the power of his office in the commission of the offense. A President might, for example, pay a bribe to a judge presiding over a case to which the President is an individual party. Or a judge might commit an act of treason without exercising any of the powers of his office in doing so. By the express terms of the Constitution those offenses would be impeachable. And there is no reason to impose a restriction on the scope of "other high crimes and misdemeanors" that is not imposed on treason and bribery.

Although having a means for the removal of officials guilty of abusing their power was no doubt very much in the minds of the framers, the purpose of the removal power was not restricted to that object.

To properly understand the purpose impeachment process under our Constitution, consideration must be given to use of impeachment by the English Parliament. Impeachment in the English system did not require an indictable crime, but the proceeding was nevertheless of a criminal nature: punishment upon conviction could extend to imprisonment and even death. It was a mechanism used by the Parliament to check absolutism and to establish the supremacy of the Parliament. Through impeachment, Parliament acted to curb the abuses of exalted persons who would otherwise have free reign. Impeachment was used by the Parliament to punish a wide range of offenses: misapplication of funds; abuse of official power; neglect of duty; corruption; encroachment on the prerogatives of the Parliament; and giving harmful advice to the Crown. In the English practice, "high crimes and misdemeanors" included all of these.

During the impeachment of Lord Chancellor Macclesfield in 1725, Serjeant Pengelly summed up the purpose of impeachment. It was, he said, for the "punishment of offenses of a public nature which may affect the nation." He went on to say that impeachment was also for use in "instances where the inferior courts have no power to punish the crimes committed by ordinary rules of justice . . . or in cases . . . where the person offending is by his degree raised above the apprehension of danger from a prosecution carried on in the usual course of justice; and whose exalted station requires the united accusation of all the Commons."

In the case of Warren Hastings—which was proceeding at the time the Constitution was framed—Edmund Burke described the impeachment process as ". . . a grave and important proceeding essential to the establishment of the national character for justice and equity."

As the British legal historian Holdsworth has written, the impeachment process was a mechanism in service of the "ideal . . . [of] government in accordance with law." It was a means by which "the greatest ministers of state could be made responsible, like humble officials, to the law." According to Holdsworth:

". . . [T]he greatest services rendered by this procedure to the cause of constitutional government have been, firstly, the establishment of the doctrine of ministerial responsibility to the law, secondly, its application to all ministers of the crown, and thirdly and consequently the maintenance of the supremacy of the law over all."

Thus the fundamental purpose of the impeachment process in England was "the maintenance of the supremacy of the law over all." Those who were impeached and called to account for "high crimes and misdemeanors" were those who by their conduct threatened to undermine the rule of law.

This English understanding of the purpose of impeachment serves as a backdrop for the work of the Framers of our Constitution. Despite some important differences in the functioning of impeachment in England and the United States, the fundamental purpose of impeachment remained the same: defending the rule of law.

The records of the proceedings of the Constitutional Convention also shed light on the meaning of "high crimes and misdemeanors," and the underlying purpose of the impeachment mechanism. The primary focus of the relevant discussions at the Convention was on the need for some means of removing the President. Early in the proceedings with respect to impeachment, the Committee of the Whole agreed to make the President removable "on impeachment and conviction of malpractice or neglect of duty," although concerns were expressed that impeachment would give the legislative branch undue control over the executive, and violate the separation of powers.

In the course of the proceedings, James Madison stated that "some provision was needed to defend the community against the President if he became corrupt, incapacitated, or perverted his administration into a scheme of peculation or oppression."

Arguing for a means of removing the President, George Mason said, "No point is of more importance than that the right of impeachment should be continued. Shall any man be above Justice? Above all shall that man be above it, who can commit the most extensive injustice?"

Before the Convention settled on the language that was ultimately adopted, a proposal was considered that would have limited impeachable offenses to treason and bribery. An effort was made to broaden this proposal by including "maladministration" as an impeachable offense. Madison objected. He objected that the inclusion of a term as "vague" as maladministration would result in the President having tenure during the pleasure of the Senate. As a compromise, the term "maladministration" was dropped and "high crimes and misdemeanors" was substituted. From this course of proceedings it can reasonably be concluded that poor administration—at least if it does not involve corrupt motives—is not a sufficient ground for impeachment.

In the debate concerning the Constitution in the various state ratification conventions, the grounds for impeachment were with some frequency said to include abuse or betrayal of trust and abuse of power. "Making a bad treaty" was also frequently mentioned as justifying impeachment. At the Virginia Convention, Governor Randolph spoke of "misbehavior" and "dishonesty," and James Madison gave two examples of impeachable conduct: pardoning a criminal with whom the President was in collusion, and summoning only a few Senators to approve a treaty.

One of the most extensive recorded discussions of impeachment occurred at the North Carolina ratification convention in remarks made by James Iredell. Iredell, who later served as a Justice of the Supreme Court, spoke of the supremacy of the law under the system of government proposed by the Constitution. He said:

> No man has an authority to injure another with impunity. No man is better than his fellow-citizens, nor can pretend to any superiority over the meanest man in the country. If the President does a single act, by which the people are prejudiced, he is punishable himself. . . . If he commits any misdemeanor in office, he is impeachable . . .

Iredell also expressed the view that impeachment may be used only in cases where there is some corrupt motive. He said:

> . . . [W]hen any man is impeached, it must be for an error of the heart, and not of the head. . . . Whatever mistake a man may make, he ought not to be punished for it, nor his posterity rendered infamous. But if a man be a villain, and wilfully abuse his trust, he is to be held up as a public offender, and ignominiously punished. . . . According to these principles, I suppose the only instances in which the President would be liable to impeachment, would be where he had received a bribe, or acted from some corrupt motive or other.

Iredell's comments buttress the view that impeachment is not to be used as a political weapon to resolve differences of policy between the legislative branch and the executive branch. Impeachment is not an appropriate remedy for errors—even serious errors—in the administration of government.

To justify impeachment, there must be "some corrupt motive," a willful "abuse of trust," an "error of the heart." You will note there is nothing in Iredell's comments to suggest that a President who engaged in a corrupt course of conduct by obstructing justice and committing perjury would be immune from impeachment and removal.

Another major discussion of impeachment during the debate over ratification occurs in the Federalist number 65, to which reference has already been made in those proceedings, where Alexander Hamilton describes the impeachment process as "a method of national inquest into the conduct of public men" and discusses the powers of the Senate "in their judicial character as a court for the trial of impeachments."

Now, before I discuss his views of impeachment, I would like to say a word in defense of Alexander Hamilton—who is a widely acknowledged champion of our Constitution, widely acknowledged as one of the most eloquent expositors and defenders of the Constitution. Unfortunately, the reputation of Hamilton has in recent days been traduced. It is unjust to the memory of this great man to compare his personal sins with the crimes of President Clinton. When Hamilton was questioned about his affair he told the truth. He took responsibility for his conduct. There is no evidence that he ever engaged in acts of corruption. He never lied under oath. He never obstructed justice. Notwithstanding the efforts of his lawyers, President Clinton by no means benefits from a comparison with Hamilton.

In the Federalist Hamilton writes of the Senate:

> The subjects of its jurisdiction are those offenses which proceed from the misconduct of public men, or in other words from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated political, as they relate chiefly to injuries done immediately to the society itself.

Hamilton recognized that the focus of the impeachment power is on the "misconduct of public men" or the "abuse or violation of some public trust." Impeachment is a remedy against officials for "injuries done . . . to the society itself."

Despite the claims of the President's lawyers, the comments of Hamilton do not support the view that a President can be impeached and removed only for an abuse of power. The "misconduct of public men," and "the abuse or violation of some public trust" to which Hamilton refers are not restricted to offenses involving the misuse of official power. The "misconduct of public men" encompasses a whole range of wrongful deeds committed by those who hold office when those offenses are committed. The "public trust" is violated whenever a public officer breaches any duty he has to the public. "Injuries done . . . to the society itself" similarly may occur as the result of misconduct that does not involve the misuse of the powers of office.

Now, I would submit to the Senate that the English precedents, the records of the Constitutional Convention debates, and the general principles set forth by Hamilton, Iredell, and others in the debate over ratification do not provide a definitive list of high crimes and misdemeanors. But they do provide broad guidance concerning the scope of the impeachment power. The theme running through all these background sources is that the impeachment process is designed to provide a remedy for the corrupt and lawless acts of public officials.

Not surprisingly, those who have been on the receiving end of impeachment proceedings have been quick to argue for a restrictive meaning of "high crimes and misdemeanors." President Clinton's lawyers follow in that well-established tradition.

They attempt to minimize the significance of the charges of perjury and obstruction of justice against the President. In essence, they argue that treason and bribery are the prototypical high crimes and misdemeanors, and that the crimes charged against the President are insufficiently similar in both their nature and seriousness to treason and bribery.

But, as the comments of my fellow manager, Mr. BUYER, have made clear, the crimes set forth in the articles of impeachment are indeed serious offenses against our system of justice. They were certainly viewed as serious offenses by those who drafted and ratified the Constitution.

As Mr. BUYER has mentioned, in his discussion of "offenses against the public justice," Sir William Blackstone—whose work James Madison said was in "every man's hand" during the creation of the Constitution—listed the offenses of perjury and bribery side-by-side, immediately after he listed treason. In 1790, the First Congress adopted a statute entitled "An Act for the punishment of certain crimes against the United States" making perjury a crime punishable as a felony. Nothing could be clearer: perjury is a crime against the United States; it is not a private matter.

As Mr. CHABOT noted yesterday, John Jay, the first Chief Justice of the United States, said that "there is no crime more extensively pernicious to Society" than perjury. According to Jay, perjury "discolors and poisons the Streams of Justice, and by substituting Falsehood for Truth, saps the Foundations of personal and public Rights. . . . [I]f oaths should cease to be held sacred, our dearest and most valuable Rights would become insecure." Given this understanding that was current at the time the Constitution was adopted, it is impossible to support the conclusion that perjury and the related offense of obstruction of justice are somehow trivial offenses that do not rise to the same level as the offense of bribery which is enumerated in the Constitution.

Moreover, perjury and obstruction of justice are by their very nature akin to bribery. When the crime of bribery is committed, money is given and received to corruptly alter the course of official action. When justice is obstructed, action is undertaken to corruptly thwart the due administration of justice. When perjury occurs, false testimony is given in order to deceive judges and juries and to prevent the just determination of causes pending in the courts. The fundamental purpose and the fundamental effect of each of these offenses—perjury, obstruction of justice and bribery alike—is to defeat the proper administration of government. They all are crimes of corruption aimed at substituting private advantage for the public interest. They all undermine the integrity of the functions of government.

The use of the impeachment process against misconduct which undermines the integrity of government is a central focus of two reports prepared in 1974 on the background and history of impeachment, and I would humbly bring these reports to your attention. I commend them to you for your consideration. One of the reports was prepared by the staff of the Nixon impeachment inquiry. The other was produced by the Bar of the City of New York. Both of these reports have gained bipartisan respect over the last 25 years for their balanced and judicious approach. They provide a well-informed analysis of the key issues related to impeachments. In doing so they stand in stark contrast to the recent pronouncements by some academics which substitute political opinion for scholarly analysis.

A review of these two important documents from 1974 supports the conclusion that the articles before the Senate set forth compelling grounds for the conviction and removal of President Clinton.

There has been a great deal of comment on the report on "Constitutional Grounds for Presidential Impeachment" prepared in February 1974 by the staff of the Nixon impeachment inquiry. Those who assert that the charges against the President do not rise to the level of "high crimes and misdemeanors" have pulled some phrases from that report out of context to support their position. In fact, the general principles concerning grounds for impeachment and removal set forth in that report indicate that perjury and obstruction of justice are high crimes and misdemeanors.

Consider this key language from the staff report describing the type of conduct which gives rise to the proper use of the impeachment and removal power:

In the report, they said:

> The emphasis has been on the significant effects of the conduct—undermining the integrity of office, disregard of constitutional duties and oath of office, arrogation of power, abuse of the governmental process, adverse impact on the system of government.

The report goes on to state:

> Because impeachment of a President is a grave step for the nation, it is to be predicated only upon conduct seriously incompatible with either the constitutional form and principles of our government or the proper performance of constitutional duties of the presidential office.

Perjury and obstruction of justice, I submit to you, clearly "undermine the integrity of office." I ask you, if these offenses do not undermine the integrity of office, what offenses would?

Their unavoidable consequence is to erode respect for the office of the President and to interfere with the integrity of the administration of justice. Such offenses are "seriously incompatible" with the President's "constitutional duties and oath of office," and with the principles of our government establishing the rule of law.

Moreover, they are offenses which have a direct and serious "adverse impact on the system of government." Obstruction of justice is by definition an assault on the due administration of justice—which is a core function of our system of government. Perjury has the same purpose and effect.

The second report, to which I have referred, the thoughtful report on "The Law of Presidential Impeachment" prepared by the Association of the Bar of the City of New York in January of 1974 also places a great deal of emphasis on the corrosive impact of presidential misconduct on the integrity of government. The report summarizes the proper basis for impeachment and removal in this way. It says:

> It is our conclusion, in summary, that the grounds for impeachment are not limited to or synonymous with crimes. . . . Rather, we believe that acts which undermine the integrity of government are appropriate grounds whether or not they happen to constitute offenses under the general criminal law. In our view, the essential nexus to damaging the integrity of government may be found in acts which constitute corruption in, or flagrant abuse of the powers of, official position. It may also be found in acts which, without directly affecting governmental processes, undermine that degree of public confidence in the probity of executive and judicial officers that is essential to the effectiveness of government in a free society.

Perjury and obstruction of justice—serious felony offenses against the United States—by a President are acts of corruption which without doubt "undermine that degree of public confidence in the probity of the [the President] that is essential to the effectiveness of government in a free society." Such acts are "high crimes and misdemeanors" because they inevitably subvert the respect for law which is essential to the well-being of our constitutional system.

A similar point is made by a contemporary commentator who has argued:

> . . . [T]here are certain statutory crimes that, if committed by public officials, reflect such lapses of judgment, such disregard for the welfare of the state, and such lack of respect for the law and the office held that the occupants may be impeached and removed, for lacking the minimal level of integrity and judgment sufficient to discharge the responsibilities of office.

Such a lack of the minimal level of integrity necessary for the proper discharge of the duties of the Presidency is evidenced by the commission of the statutory crimes of perjury and obstruction of justice.

Contrary to the claim that has been made by some, the issue before the Senate is not whether the offenses of this President will destroy our Constitution. We all know that our system of government will not come tumbling down because of the corrupt conduct of William Jefferson Clinton. Our Republic will survive the crimes of this President. No one doubts that. Of course, the same could be said of all the other federal officials who have been impeached and removed from office. And the same might be said of the crimes—serious as they were—of President Richard Nixon.

But the removal power is not restricted to offenses that would directly destroy our Constitution or system of government. The removal power is not so limited that it can be brought into play only when the immediate destruction of our institutions is threatened.

On the contrary, the removal power should be understood as a positive grant of authority to the Senate to preserve, protect and strengthen our constitutional system against the misconduct of federal officials when that misconduct would subvert, undermine, or weaken the institutions of our government. It is a power that has the positive purpose of maintaining the health and well-being of our system of government.

This power—the awesome power of removal vested in the Senate—carries with it an awesome responsibility. This power imposes on the Senate the responsibility to exercise its judgment in establishing the standards of conduct that are necessary to preserve, protect, and strengthen the Constitution which has served the people of the United States so well for more than two centuries.

Thus, the crucial issue before the Senate is what standard will be set for the conduct of the President of the United States. In this case, the Senate necessarily will establish such a standard. And make no mistake about it: the choice the Senate makes in this case will have consequences reverberating far into the future of our Republic. Will a President who has committed serious offenses against the system of justice be called to account for his crimes, or will his offenses be regarded as of no constitutional consequence? Will a standard be established that such crimes by a President will not be tolerated, or will the standard be that—at least in some cases—a President may "remain in office with all his infamy" after lying under oath and obstructing justice?

Regardless of the choice the Senate makes—whether it acquits or convicts the President—a standard will be established, and that standard will become an important part of our constitutional law of this Nation. The institutions of our Government will either be strengthened or weakened as a result. And if the Senate acquits this President, the conduct of future Presidents will inevitably be affected in ways that we cannot now confidently predict.

I would now like to take a very few minutes to examine some of the other specific arguments that have been made that this is not a proper case for use of the removal power.

Some have suggested that in setting a standard in this case the Senate should be guided by the popularity of the President. It is urged that a popular President—regardless of the offenses he may have committed—should not be removed from office. Such a view finds no support however, in our Constitution. On the contrary, the framers understood that a popular President might be guilty of crimes requiring his removal from office.

That is why they included the power of impeachment and removal in the Constitution. And that, no doubt, is why they specifically provided that an impeached official who was convicted and removed might also be perpetually disqualified "to hold and enjoy any office of honor, trust, or profit under the United States."

The potential threat posed to our institutions by Presidential misconduct would, in fact, be heightened by the popularity of the offending President. The harmful influence and example of a popular President would pose a far greater danger to the well-being of our Government than the influence and example of an unpopular President.

Moreover, the very framework of our Constitution establishing a representative democracy is at odds with the notion that the institutions of our Government should respond mechanically to the changing tides of public opinion. The Senate, in particular, was designed to act on the basis of the long-term best interests of the Nation rather than short-term political considerations.

When he was tried by the Senate 130 years ago, President Andrew Johnson was overwhelmingly unpopular. If the Senate had used Presidential popularity as a guide in the Johnson case, there is no doubt that he would have been convicted and removed from office. Yet today there is widespread agreement that such action by the Senate would have been an abuse of the constitutional process, and those who refused to use Presidential popularity as their guide are hailed as great statesmen and heroes. Those Senators who then stood against the tide of public sentiment today are revered as champions of constitutional government.

A popular President guilty of high crimes and misdemeanors should no more remain in office than an unpopular President innocent of wrongdoing should be removed from office. Under the standards of the Constitution, popularity is not a sufficient guide.

Nor should the Senate be swayed by the claims that setting a standard adverse to this President will weaken the institution of the Presidency. Describing the role of impeachment under our Constitution, Arthur M. Schlesinger, Jr.—who I will candidly admit takes a different view of the matter today—wisely observed that:

> The genius of impeachment lay in the fact that it could punish the man without punishing the office. For, in the Presidency as

> elsewhere, power was ambiguous: the power to do good meant also the power to do harm, the power to serve the republic also the power to demean and defile it.

Rather than weakening the Presidency, the removal from office of a President who has violated his constitutional duty and oath of office will reestablish the integrity of the Presidency. Setting a standard against the acts of perjury and obstruction of justice committed by President Clinton will reaffirm the dignity and the honor of the office of Chief Executive under our Constitution. That will strengthen—not weaken—the institution of the Presidency.

It has even been argued that the impeachment and removal of President Clinton would result in the virtual alteration of our system of government. It is contended that following the constitutional process in this case would move us toward a transformation of our Constitution: a quasi-parliamentary system, with the President serving at the pleasure of the legislative branch, would replace the framework based on the separation of powers.

I am, frankly, reluctant to dignify this argument by responding to it. President Nixon was driven from office for his crimes under threat of impeachment and removal. The disruption of the framework of our Government did not ensue. President Clinton may be removed from office for his crimes. The constitutional system will remain sound.

Who has so little confidence in the durability of the institutions of our Government that he would allow a President guilty of perjury and obstruction of justice to remain in office simply on the basis of a fanciful and irrational fear of the supposed consequences of his removal?

The Constitution contains wise safeguards against the misuse of the impeachment and removal power. As a practical matter, as we all know, the requirement of a two-thirds vote for conviction virtually ensures that a President will only be removed when a compelling case for removal has been made. And the periodic accountability to the people of Members of both the House and the Senate serves as a check on the improvident use of the impeachment power for unworthy or insubstantial reasons. Those who would abuse the power of impeachment and removal will be deterred by the certain knowledge that they ultimately must answer to the people.

But, of course, the ultimate safeguard against the abuse of this power is in the sober deliberation and sound judgment of the Senate itself. The framers of the Constitution vested the removal power and responsibility in the Senate because, as Hamilton observed, they "thought the Senate the most fit depositary of this important trust." The Senate was, in the view of the framers, uniquely qualified to exercise the "awful discretion, which a court of impeachment must necessarily have." As Hamilton explained:

> Where else, than in the Senate could have been found a tribunal sufficiently dignified, or sufficiently independent? What other body would be likely to feel confidence enough in its own situation, to preserve unawed and uninfluenced the necessary impartiality between an individual accused, and the representatives of the people, his accusers.

Ladies and gentlemen of the Senate, this is the great trust which the Constitution has reposed in you. It is a trust you exercise not only for those who elected you but for all other Americans, including generations yet unborn.

As you carry out this trust, we do not suggest that you hold this President or any President to a standard of perfection. We do not assert that this President or any President be called to account before the Senate for his personal failings or his sins. We will leave the President's sins to his family and to God. Nor do we suggest that this President or any President should be removed from office for offenses that are not serious and grave.

But we do submit that when this President, or any President, has committed serious offenses against the system of justice—offenses involving the stubborn and calculated choice to place personal interest ahead of the public interest—he must not be allowed to act with impunity.

Mr. Manager GRAHAM has reviewed the recent precedents of the Senate, establishing that offenses such as those committed by this President are grounds for removal from office. Those precedents, which were set in the impeachment trials of Federal judges, are rejected as totally irrelevant by the President's lawyers. They urge that a lower standard of integrity be established in this case for the President of the United States than the standard which the Senate has already established for Federal judges.

But the Constitution contains a single standard for the exercise of the impeachment and removal power. You have heard it before, but I will repeat. Article II, section 4, provides:

> The President, Vice President and all civil officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

And there is nothing in the Constitution suggesting that criminal offenses which constitute high crimes and misdemeanors if committed by one Federal official will not be high crimes and misdemeanors if committed by another Federal official. There is nothing in the Constitution to suggest that the President should be especially insulated from the just consequences of his criminal conduct.

Justice Joseph Story warned long ago against countenancing "so absolute a despotism of opinion and practice, which might make that a crime at one time, or in one person, which would be deemed innocent at another time, or in another person."

The Senate should heed the warning of Justice Story and refuse to arbitrarily establish a different standard for judging William Jefferson Clinton than the standard it has imposed already on others brought before the bar of the Senate sitting as a Court of Impeachment.

The Senate has never accepted the view that a separate standard applies to the impeachment and removal of Federal judges. Indeed, the Senate has specifically rejected attempts to establish such a separate standard for judicial officers. Every judge who has been impeached and removed from office has been found guilty of treason, bribery, or other high crimes and misdemeanors.

Contrary to the argument advanced by some, the constitutional provision that judges "shall hold their offices during good Behaviour" does not establish any authority to remove a judge for misconduct other than for those offenses involving treason, bribery, or other high crimes and misdemeanors. Rather than establishing a standard for removal, the "good behavior" clause simply provides for life tenure for all article III judges. To accept the "good behavior" clause, I would caution you to accept it as a separate basis for the removal of Federal judges would pose a serious threat to the independence of the judiciary under our Constitution.

Members of the Senate, the integrity of the administration of justice depends not only on the integrity of judges, but also on the integrity of the President. A President who has committed perjury and obstruction of justice is hardly fit to oversee the enforcement of the laws of the United States. As Professor Jonathan Turley has pointed out:

> As Chief Executive the President stands as the ultimate authority over the Justice Department and the Administration's enforcement policies. It is unclear how prosecutors can legitimately threaten, let alone prosecute, citizens who have committed perjury or obstruction of justice under circumstances nearly identical to the President's. Such inherent conflict will be even greater in the military cases and the President's role as Commander-in-Chief.

It would indeed be anomalous for the Senate to now hold the President of the United States to a lower standard of integrity than the standard applied to members of the judiciary. There is no sensible constitutional rationale for such a lower standard.

Who could successfully defend the view that in the framework established by our Constitution the integrity of the Chief Executive is of less importance than the integrity of any one of the hundreds of federal judicial officers? It is the President who appoints

Justices of the Supreme Court and all other federal judges. It is the President who appoints the Attorney General. It is the President who appoints the Director of the Federal Bureau of Investigation. It is the President who has the unreviewable power to grant pardons.

The power of the President far surpasses the power of any other individual under our Constitution. The authority and discretion vested in him under the Constitution and laws is great and wide-ranging. The requirement that he act with integrity and that he be a person of integrity is essential to the integrity of our system of government.

Soon after the adoption of the Constitution, Alexander Hamilton wrote that "an inviolable respect for the Constitution and the Laws" is the "most sacred duty and the greatest source of security in a Republic." Hamilton understood that respect for the Constitution itself grows out of a general respect for the law. And he understood the essential connection between respect for law and the maintenance of liberty in a Republic. Without respect for the law, the foundation of our Constitution is not secure. Without respect for the law, our freedom is at risk. Thus, according to Hamilton, those who "set examples which undermine or subvert the authority of the laws lead us from freedom to slavery. . . ."

Early in this century, Justice Brandeis spoke of the harm to our system of government which occurs when officials of the government act in a lawless manner. Justice Brandeis said:

> Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizens. In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy.

To conclude, I would observe in the case before it now, the Senate must decide if William Jefferson Clinton as President will be "subjected to the same rules of conduct that are commands to the citizens." It is no answer that he may one day after leaving office perhaps be called to account in a criminal court proceeding somewhere. Justice delayed is justice denied. Because he has taken and violated the oath as President, William Jefferson Clinton is answerable for his crimes to the Senate here and now.

Will he as President be vindicated by the Senate in the face of crimes for which other citizens are adjudicated felons and sent to prison? Or will this Senate acting in accordance with the provisions of the Constitution bring him as President into submission to the commands of the law? Will the Senate give force to the constitutional provision for impeachment and removal which Justice Story said "compels the chief magistrate, as well as the humblest citizen, to bend to the majesty of the laws"?

"For good or ill" William Jefferson Clinton "teaches the whole people by [his] example" as President. The President is not only the head of government but also the head of State. As President he has a unique ability to command the attention of the whole nation. In his words and his deeds he represents the American people and the system of government in a way that no other American can. Great honor and respect accrue to him by virtue of the high office he holds. The influence of his example is far-reaching and profound.

By his conduct President William Jefferson Clinton has set an example the Senate cannot ignore. By his example he has set a dangerous and subversive standard of conduct. His calculated and stubbornly persistent misconduct while serving as President of the United States he has set a pernicious example of lawlessness —an example which by its very nature subverts respect for the law. His perverse example has the inevitable effect of undermining the integrity of both the office of President and the administration of justice.

Ladies and Gentlemen of the Senate, I humbly submit to you that his harmful example as President must not stand. The maintenance in office of a President guilty of perjury and obstruction of justice is inconsistent with the maintenance of the rule of law.

In light of the historic purpose of impeachment, the offenses charged against the President demand that the Senate convict and remove him. He must not "remain in office with all his infamy." Our Constitution requires that this President who has shown such disrespect for the truth, such disrespect for the law, and such disrespect for the dignity of his high office be brought to justice for his high crimes and misdemeanors.

Thank you.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

RECESS

Mr. LOTT. Mr. Chief Justice, if there is no objection, I ask unanimous consent that the court of impeachment proceedings stand in recess for one hour. We will return at 2:10 p.m.

There being no objection, at 1:08 p.m., the Senate recessed until 2:11 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Mr. Chief Justice, I believe we are ready to proceed now with the next manager. I believe it is Mr. Manager GEKAS.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager GEKAS.

Mr. Manager GEKAS. Mr. Chief Justice, the President's counsel, Members of the House who form our group of managers, and Members of the Senate, we bring you to what now may be the culmination of the work and effort of the managers and of the House of Representatives for, and what is fast closing in to be, your final consideration. And that is true—the moment of truth is fast approaching.

That moment of truth will swoop down on you at some point in the near future, at which time the millions of words that have been spoken thus far, the thousands of pages of documents, hundreds of exhibits, and dozens of individuals who have been involved in the preparation, annotation, and accumulation of all the data and evidence—all of that will be funneled into that last moment you will have right before you cast that final vote. That is an awesome moment in the history of this Chamber, in the personal history of your own careers in public service, and of your own life, as well, your personal life, your surroundings, your family, all that means anything and everything to you. That moment of truth encompasses all of that in one fell swoop at that final time that is upon us.

We would not have even had to contemplate this, nor would you have had to, if very early on in the factual situation that arose in this case President Clinton had faced his moment of truth. As I pointed out yesterday, that first moment of truth that faced the President in the legal proceedings that were to engulf him at a later point was his answers, the answers that affixed to that first set of interrogatories under oath. The moment of truth was staring him right in the face, and if he would have acknowledged it at that moment, had paid faith and allegiance to that moment, we would not be arguing here today, nor would we have even heard of a possible impeachment inquiry. But the President chose to sweep away that moment of truth that was at hand and proceeded down the course that has led us to this moment.

In the words of our colleagues who made magnificent presentations of the facts and law to you, the words "truth" and "fairness" were some of the strongest and most profound that we heard in various degrees in touching upon various subjects that were important to our presentation. When I heard my colleagues emphasize those words, it dawned on me that the element of fairness is something which I submit to you and certify to you that these managers, the members of the committee who prepared this case, exalted in making certain would apply to their endeavors and to all that we would present to you—fairness.

When the record of the independent counsel, the referral, reached our doorsteps back in September of 1997 and we first read the details and allegations contained therein, we did not, as some people began to accuse and to orate, adopt 100 percent of what the independent counsel said were the allegations and accept them as fact, and then move on and skip from September to this moment, not having used our intellect, our sympathies, our sense of right, our sense of wrong, our sense of fairness, our elements of truth, our experience, our own intellect, and our own consciences. We didn't set all of those aside and take the referral of Kenneth Starr and make that the final moment that precedes your moment of truth. Everyone should know that. But it is not recognized. We have been pilloried many times over the course of these proceedings on the notion that we simply adopted that referral and walked with it into the Senate Chamber.

One thing has to be said right at the outset. When I saw one allegation of the independent counsel that was encompassed around the question of executive privilege, an allegation that the assertion by President Clinton of executive privilege in the context of all that had transpired in this case constituted an abuse of power, I must tell you that that hit me right between the eyes. I could not, by even just reading it, accept it at face value. From that moment until this, I had serious, grave doubts that we should embark upon a course in which we would somehow denigrate the issue and privilege known as "executive privilege."

As I worried about this and as I moved on through the process, trying to do my duty, along with everyone else, there came a time in the deliberations of our committee, our managers group, that we felt—and we acted on that feeling—that executive privilege is something that is owed to the President, and that we cannot fairly strip that away from him or in any way diminish the power and the usability of executive privilege. We felt that that was a trapping and a power of the Executive, of the President of the United States, which, no matter how it is exerted, or thereafter possibly set aside by the court, which is always a possibility, and history has shown that it has occurred.

Nevertheless, the exertion of it, the assertion of it, the use of it, the feel for it that the President of the United States must have and should have in the first instance, to assert it, should not be a part of our criticism, our projection of this case.

We felt pretty strongly about it, and we took action on that front by deciding among ourselves that one of the proposed articles—and that was bound to reach you if we had not acted as we did—we decided that we were going to remove that from the allegations in any of the articles of impeachment and not refer to it, except in the context in which I am referring to it, which is reporting to you what happened with that particular issue.

We did that in the face of the knowledge that in all our readings, in all our literature, we noted that when President Nixon attempted to use executive privilege, it was soundly criticized, and part of the impeachment process carried his alleged abuse of executive privilege as one of the tenets of that proceeding. And the report shows executive privilege as being ill-used by President Nixon.

But here is the point. The managers and I and every Member of the Senate, every individual who is with us here today reveres the office of the Presidency. We respect the office of the Presidency. The Presidency is we. The Presidency is America. The Presidency is the banner under which we all work and live and strive in this Nation. We revere the Presidency. Any innuendo, or any kind of impulse that anyone has to attribute any kind of motivation on the part of these men of honor who have prepared this case for you today on any whim on their part other than to do their constitutional duty should be rebuffed at every conversation, at every meeting, at every writing that will ultimately flow from the proceedings that we have embarked upon. We revere the Presidency. As a matter of fact, when next week we face the prospect of the President of the United States entering the House of Representatives to deliver his State of the Union message, we will greet the President. We will accord him the respect for the office which he holds. He is our President. He occupies the Presidency. And we will honor that. And so should we all.

But we are capable of and must, in the face of the solemn duty that we have, compartmentalize in the purest sense in greeting the President and applauding his entrance into the State of the Union message. As we will accord him that privilege, we do not set aside the impeachment inquiry. We do not set aside the serious charges that are hoisted against him at that juncture, because we will resume the consideration of them in due course. But in the meantime, we compartmentalize ourselves as Americans recognizing that he holds the most powerful, most respected, and most admired office on the face of the globe. That is part of our duty, as it is our duty to impart our knowledge and our work, our theories, and our analysis to the impeachment proceedings which are at hand.

"These are times that try men's souls," someone said. It was not my mother. And it is true. But anyone who can feel that the final votes that will take place on the part of each individual Member of the Senate, that a vote for conviction is based on a distaste for Bill Clinton, hatred of Bill Clinton—that kind of vote for conviction should never be recognized or countenanced, and history will condemn any individual who does that. And if the votes at the last moment, at this moment of truth, are based on an admiration of President Clinton, of friendship with President Clinton, a deep tie to and with the President, on family and community and national matters, a vote of acquittal should not be based on that. But only the Senate and each individual conscience will determine how that final vote is cast.

We cannot account for the friendship or enmity that might exist with and for President Clinton. All we can do is to do the job that was thrust upon us, that was placed in our hands by a statute that this Congress created—that independent counsel statute. The Congress said that we had to listen to the referral, to accept the referral. The Congress said that we must look towards whatever recommendations might be contained in that. It was the Congress, our Congress—many of you who voted for that statute—which mandated that we consider all of this. We did not simply walk around one day and seize upon a moment of deep thought and say let's impeach the President; let's find something upon which we can base a full 6 months inquiry into the President's actions in front of a court.

This was a duty, much as it is your duty to stay here and listen to what I am saying. The duty that I have of presenting it to you and speaking to you is born of the same statute and of the same process and of the same constitutional background that we all share.

So it worries me and us that any awkward motivation would be attributed to any one of us or collectively to us. And once you render your vote, I am not going to question whether it was done out of blind loyalty or enmity or friendship with the President, or enmity with the President; I am going to judge it as an American citizen, a Member of the House of Representatives, a Member of Congress, an interested community leader, and, last but not least, as a pure American citizen eager to do one's duty.

As the moment of truth approaches, there is only one speaker left for us in the Senate Chamber here to contemplate, and that is the summation to be given by the esteemed chairman of our committee. You should know, as we all feel, that the most stringent duty that he ever performed, the gentleman from Illinois, was to manage the managers. But he did that just as well and as profoundly as he has approached every single facet of this case. For as he sums up, know for a certainty that he brings to the podium our collective thoughts, our collective emotions, our passions for our work and our duty, and with an eye towards serving you, as we serve our constituents, as we serve the Congress, as we serve America. We are 20 minutes closer now to that moment of truth. Keep in mind your own histories, the history of your relationship with your colleagues in the Congress, and above all, the duty to the United States.

Mr. Hyde.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager HYDE.

Mr. Manager HYDE. Mr. Chief Justice, counsel for the President, distinguished Members of the Senate, 136 years ago, at a small military cemetery in Pennsylvania, one of Illinois' most illustrious sons asked a haunting question—whether a nation conceived in liberty and dedicated to the proposition that all men are created equal can long endure. America is an experiment never finished. It is a work in progress. And so that question has to be answered by each generation for itself, just as we will have to answer whether this Nation can long endure.

This controversy began with the fact that the President of the United States took an oath to tell the truth in his testimony before the grand jury, just as he had on two prior occasions sworn a solemn oath to preserve, protect, and defend the Constitution and to faithfully execute the laws of the United States.

One of the most memorable aspects of this proceeding was the solemn occasion wherein every Senator in this Chamber took an oath to do impartial justice under the Constitution.

But I must say, despite massive and relentless efforts to change the subject, the case before you Senators is not about sexual misconduct, infidelity or adultery—those are private acts and none of our business. It is not even a question of lying about sex. The matter before this body is a question of lying under oath. This is a public act.

The matter before you is a question of the willful, premeditated deliberate corruption of the Nation's system of justice, through perjury and obstruction of justice. These are public acts, and when committed by the chief law enforcement officer of the land, the one who appoints every United States district attorney, every Federal judge, every member of the Supreme Court, the Attorney General—they do become the concern of Congress.

That is why your judgment, respectfully, should rise above politics, above partisanship, above polling data. This case is a test of whether what the Founding Fathers described as "sacred honor" still has meaning in our time: two hundred twenty-two years after those two words—sacred honor—were inscribed in our country's birth certificate, our national charter of freedom, our Declaration of Independence.

Every school child in the United States has an intuitive sense of the "sacred honor" that is one of the foundation stones of the American house of freedom. For every day, in every classroom in America, our children and grandchildren pledge allegiance to a nation, "under God." That statement, is not a prideful or arrogant claim. It is a statement of humility: all of us, as individuals, stand under the judgment of God, or the transcendent truths by which we hope, finally, to be judged.

So does our country.

The Presidency is an office of trust. Every public office is a public trust, but the Office of President is a very special public trust. The President is the trustee of the national conscience. No one owns the Office of President, the people do. The President is elected by the people and their representatives in the electoral college. And in accepting the burdens of that great office, the President, in his inaugural oath, enters into a covenant—a binding agreement of mutual trust and obligation—with the American people.

Shortly after his election and during his first months in office, President Clinton spoke with some frequency about a "new covenant" in America. In this instance, let us take the President at his word: that his office is a covenant—a solemn pact of mutual trust and obligation—with the American people. Let us take the President seriously when he speaks of covenants: because a covenant is about promise-making and promise-keeping. For it is because the President has defaulted on the promises he made—it is because he has violated the oaths he has sworn—that he has been impeached.

The debate about impeachment during the Constitutional Convention of 1787 makes it clear that the Framers of the Constitution regarded impeachment and removal from office on conviction as a remedy for a fundamental betrayal of trust by the President. The Framers had invested the Presidential Office with great powers. They knew that those powers could be—and would be—abused if any President were to violate, in a fundamental way, the oath he had sworn to faithfully execute the Nation's laws.

For if the President did so violate his oath of office, the covenant of trust between himself and the American people would be broken.

Today, we see something else: that the fundamental trust between America and the world can be broken, if a Presidential Perjurer represents our country in world affairs. If the President calculatedly and repeatedly violates his oath, if the President breaks the covenant of trust he has made with the American people, he can no longer be trusted. And, because the Executive plays so large a role in representing the country to the world, America can no longer be trusted.

It is often said that we live in an age of increasing interdependence. If that is true, and the evidence for it is all around us, then the future will require an even stronger bond of trust between the President and the Nation: because with increasing interdependence comes an increased necessity of trust.

This is one of the basic lessons of life. Parents and children know this. Husbands and wives know it. Teachers and students know it, as do doctors and patients, suppliers and customers, lawyers and clients, clergy and parishioners: the greater the interdependence, the greater the necessity of trust; the greater the interdependence, the greater the imperative of promise-keeping.

Trust, not what James Madison called the "parchment barriers" of laws, is the fundamental bond between the people and their elected representatives, between those who govern and those who are governed. Trust is the mortar that secures the foundations of the American house of freedom. And the Senate of the United States, sitting in judgment in this impeachment trial, should not ignore, or minimize, or dismiss the fact that the bond of trust has been broken, because the President has violated both his oaths of office and the oath he took before his grand jury testimony.

In recent months, it has often been asked—so what? What is the harm done by this lying under oath, by this perjury? Well, what is an oath? An oath is an asking almighty God to witness to the truth of what you are saying. Truth telling—truth telling is the heart and soul of our justice system.

I think the answer would have been clear to those who once pledged their sacred honor to the cause of liberty. The answer would have been clear to those who crafted the world's most enduring written constitution.

No greater harm can be done than breaking the covenant of trust between the President and the people; among the three branches of our government; and between the country and the world.

For to break that covenant of trust is to dissolve the mortar that binds the foundation stones of our freedom into a secure and solid edifice. And to break that covenant of trust by violating one's oath is to do grave damage to the rule of law among us.

That none of us is above the law is a bedrock principle of democracy. To erode that bedrock is to risk even further injustice. To erode that bedrock is to subscribe, to a "divine right of kings" theory of governance, in which those who govern are absolved from adhering to the basic moral standards to which the governed are accountable. We must never tolerate one law for the ruler, and another for the ruled. If we do, we break faith with our ancestors from Bunker Hill, Lexington and Concord to Flanders Field, Normandy, Iwo Jima, Panmunjom, Saigon and Desert Storm.

Let us be clear: The vote that you are asked to cast is, in the final analysis, a vote about the rule of law.

The rule of law is one of the great achievements of our civilization. For the alternative to the rule of law is the rule of raw power. We here today are the heirs of three thousand years of history in which humanity slowly, painfully and at great cost, evolved a form of politics in which law, not brute force, is the arbiter of our public destinies.

We are the heirs of the Ten Commandments and the Mosaic law: a moral code for a free people who, having been liberated from bondage, saw in law a means to avoid falling back into the habit of slaves. We are the heirs of Roman law: the first legal system by which peoples of different cultures, languages, races, and religions came to live together in a form of political community. We are the heirs of the Magna Carta, by which the freeman of England began to break the arbitrary and unchecked power of royal absolutism. We are the heirs of a long tradition of parliamentary development, in which the rule of law gradually came to replace royal prerogative as the means for governing a society of free men and women. Yes, we are the heirs of 1776, and of an epic moment in human affairs when the founders of this Republic pledged their lives, fortunes and, yes, their sacred honor, to the defense of the rule of law. We are the heirs of a tragic civil war, which vindicated the rule of law over the appetites of some for owning others. We are the heirs of the 20th century's great struggles against totalitarianism, in which the rule of law was defended at immense cost against the worst tyrannies in human history. The "rule of law" is no pious aspiration from a civics textbook. The rule of law is what stands between all of us and the arbitrary exercise of power by the state. The rule of law is the safeguard of our liberties. The rule of law is what allows us to live our freedom in ways that honor the freedom of others while strengthening the common good.

Lying under oath is an abuse of freedom. Obstruction of justice is a degradation of law. There are people in prison for just such offenses. What in the world do we say to them about equal justice if we overlook this conduct in the President?

Some may say, as many have said in recent months, that this is to pitch the matter too high. The President's lie, it is said, was about a "trivial matter"; it was a lie to spare embarrassment about misconduct on a "private occasion."

The confusing of what is essentially a private matter, and none of our business, with lying under oath to a court and a grand jury has been only one of the distractions we have had to deal with.

Senators, as men and women with a serious experience of public affairs, we can all imagine, a situation in which a President might shade the truth when a great issue of the national interest or the national security was at stake. We have all been over that terrain. We know the thin ice on which any of us skates when blurring the edges of the truth for what we consider a compelling, demanding public purpose.

Morally serious men and women can imagine circumstances, at the far edge of the morally permissible, when, with the gravest matters of national interest at stake, a President could shade the truth in order to serve the common good. But under oath, for a private pleasure?

In doing this, the Office of President of the United States has been debased and the justice system jeopardized.

In doing this, he has broken his covenant of trust with the American people.

The framers also knew that the Office of President of the United States could be gravely damaged if it continued to be unworthily occupied. That is why they devised the process of impeachment by the House and trial by the Senate. It is, in truth, a direct process. If, on impeachment, the President is convicted, he is removed from office—and the office itself suffers no permanent damage. If, on impeachment, the President is acquitted, the issue is resolved once and for all, and the office is similarly protected from permanent damage.

But if, on impeachment, the President is not convicted and removed from office despite the fact that numerous Senators are convinced that he has, in the words of one proposed resolution of censure, "egregiously failed" the test of his oath of office, "violated the trust of the American people," and "dishonored the office which they entrusted to him," then the Office of the Presidency has been deeply, and perhaps permanently damaged.

And that is a further reason why President Clinton must be convicted of the charges brought before you by the House and removed from office. To fail to do so, while conceding that the President has engaged in egregious and dishonorable behavior that has broken the covenant of trust between himself and the American people, is to diminish the Office of President of the United States in an unprecedented and unacceptable way.

Senators, please permit me a word on my own behalf and on behalf of my colleagues of the House. It is necessary to clarify an important point.

None of us comes to this Chamber today without a profound sense of our own responsibilities in life, and of the many ways in which we have failed to meet those responsibilities, to one degree or another. None of us comes before you claiming to be a perfect man or a perfect citizen, just as none of you imagines yourself perfect. All of us, Members of the House and Senate, know that we come to this difficult task as flawed human beings, under judgment.

That is the way of this world: flawed human beings must, according to the rule of law, judge other flawed human beings.

But the issue before the Senate of the United States is not the question of its own Members' personal moral condition. Nor is the issue before the Senate the question of the personal moral condition of the Members of the House of Representatives. The issue here is whether the President has violated the rule of law and thereby broken his covenant of trust with the American people. This is a public issue, involving the gravest matter of the public interest. And it is not effected, one way or another, by the personal moral condition of any Member of either House of Congress, or by whatever expressions of personal chagrin the President has managed to express.

Senators, we of the House do not come before you today lightly. And, if you will permit me, it is a disservice to the House to suggest that it has brought these articles of impeachment before you in a mean-spirited or irresponsible way. That is not true.

We have brought these articles of impeachment because we are convinced, in conscience, that the President of the United States lied under oath; that the President committed perjury on several occasions before a Federal grand jury. We have brought these articles of impeachment because we are convinced, in conscience, that the President willfully obstructed justice and thereby threatened the legal system he swore a solemn oath to protect and defend.

These are not trivial matters. These are not partisan matters. These are matters of justice, the justice that each of you has taken a solemn oath to serve in this trial.

Some of us have been called "Clinton-haters." I must tell you, distinguished Senators, that this impeachment is not, for those of us from the House, a question of hating anyone. This is not a question of who we hate. It is a question of what we love. And among the things we love are the rule of law, equal justice before the law, and honor in our public life. All of us are trying as hard as we can to do our duty as we see it—no more and no less.

Senators, this trial is being watched around the world. Some of those watching, thinking themselves superior in their cynicism, wonder what it is all about. But others know.

Political prisoners know that this is about the rule of law—the great alternative to arbitrary and unchecked state power.

The families of executed dissidents know that this is about the rule of law—the great alternative to the lethal abuse of power by the state.

Those yearning for freedom know that this is about the rule of law—the hard-won structure by which men and women can live by their God-given dignity and secure their God-given rights in ways that serve the common good.

If they know this, can we not know it?

If, across the river in Arlington Cemetery, there are American heroes who died in defense of the rule of law, can we give less than the full measure of our devotion to that great cause?

I wish to read you a letter I recently received that expresses my feelings far better than my poor words:

> DEAR CHAIRMAN HYDE: My name is William Preston Summers. How are you doing? I am a third grader in room 504 at Chase Elementary School in Chicago. I am writing this letter because I have something to tell you. I have thought of a punishment for the president of the United states of America. The punishment should be that he should write a 100 word essay by hand. I have to write an essay when I lie. It is bad to lie because it just gets you in more trouble. I hate getting in trouble.
>
> It is just like the boy who cried wolf, and the wolf ate the boy. It is important to tell the truth. I like to tell the truth because it gets you in less trouble. If you do not tell the truth people do not believe you.
>
> It is important to believe the president because he is a important person. If you can not believe the president who can you believe. If you have no one to believe in then how do you run your life. I do not believe the president tells the truth anymore right now. After he writes the essay and tells the truth, I will believe him again.
>
> WILLIAM SUMMERS.

Then there is a P.S. from his dad:

> DEAR REPRESENTATIVE HYDE: I made my son William either write you a letter or an essay as a punishment for lying. Part of his defense for his lying was the President lied. He is still having difficulty understanding why the President can lie and not be punished.
>
> BOBBY SUMMERS.

Mr. Chief Justice and Senators, on June 6, 1994, it was the 50th anniversary of the Americans landing at Normandy. I went ashore at Normandy, walked up to the cemetery area, where as far as the eye could see there were white crosses, Stars of David. And the British had a bagpipe band scattered among the crucifixes, the crosses, playing "Amazing Grace" with that peaceful, mournful sound that only the bagpipe can make. If you could keep your eyes dry you were better than I.

But I walked to one of these crosses marking a grave because I wanted to personalize the experience. I was looking for a name but there was no name. It said, "Here lies in Honored Glory a Comrade in Arms Known but to God."

How do we keep faith with that comrade in arms? Well, go to the Vietnam Memorial on the National Mall and press your hands against a few of the 58,000 names carved into that wall, and ask yourself, How can we redeem the debt we owe all those who purchased our freedom with their lives? How do we keep faith with them? I think I know. We work to make this country the kind of America they were willing to die for. That is an America where the idea of sacred honor still has the power to stir men's souls.

My solitary—solitary—hope is that 100 years from today people will look back at what we have done and say, "They kept the faith."

I'm done.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

ADJOURNMENT UNTIL 9:30 A.M. TUESDAY, JANUARY 19, 1999

Mr. LOTT. Mr. Chief Justice, pursuant to the previous consent agreement, I now ask unanimous consent that the Senate stand in adjournment under that order.

The CHIEF JUSTICE. Without objection, it is so ordered. The Senate, under the previous order, stands adjourned until 9:30 a.m., Tuesday, January 19, at which time it will reconvene in legislative session. Under that same order, the Senate will next convene as a Court of Impeachment on Tuesday, January 19, at 1 p.m. The Senate stands adjourned.

Thereupon, the Senate, at 2:53 p.m., sitting as a Court of Impeachment, adjourned to reconvene in legislative session on Tuesday, January 19, 1999, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, January 19, 1999*

The House met at 2 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We and all the generations before us have found assurance and strength in the Book of Psalms and so we are bold to pray: We give thanks to the Lord, for He is good, for His steadfast love endures forever. We give thanks to the God of gods, for His steadfast love endures forever. O let us give thanks to the Lord of lords, for His steadfast love endures forever.

We pray, gracious God, that You would lift our eyes and hearts and minds so that we would see Your steadfast love in all we do. And help us to translate that abiding grace so that we relate to other people with deeds of justice and with hearts of mercy. This is our earnest Prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Nevada (Mr. GIBBONS) come forward and lead the House in the Pledge of Allegiance.

Mr. GIBBONS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

SWEARING IN OF MEMBERS-ELECT

The SPEAKER. Will the Members who were not sworn in on opening day kindly come to the well of the House and take the oath of office at this time.

Messrs. MOLLOHAN, HOYER, STARK and GALLEGLY appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office in which you are about to enter. So help you God.

The SPEAKER. Congratulations. You are now Members of the 106th Congress.

SWEARING IN OF SERGEANT AT ARMS

The SPEAKER. Will the Sergeant at Arms come to the well of the House and take the oath of office at this time.

The Sergeant at Arms, Wilson Livingood, appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office of which you are about to enter. So help you God.

The SPEAKER. Congratulations.

COMMUNICATION FROM THE HONORABLE ELLEN SICKLES JAMES

The SPEAKER laid before the House the following communication from the Honorable Ellen Sickles James:

Martinez, CA, January 7, 1999.

Hon. J. DENNIS HASTERT,
Speaker, U.S. House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER: On January 6, 1999 you designated me to administer the oath of office to Representative-elect George Miller of the Seventh District of the State of California under House Resolution 12, One Hundred Sixth Congress.

Under such designation, I have the honor to report that on January 7, 1999 at Martinez I administered the oath of office to Mr. Miller. Mr. Miller took the oath prescribed by 5 U.S.C. 3331. I have sent two copies of the oath, signed by Mr. Miller, to the Clerk of the House.

Sincerely,
Judge ELLEN SICKLES JAMES, Ret.

COMMUNICATION FROM THE HONORABLE MARC B. POCHÉ

The SPEAKER laid before the House the following communication from the Honorable Marc B. Poché:

COURT OF APPEAL,
San Francisco, CA, January 8, 1999.

Hon. J. DENNIS HASTERT,
Speaker, U.S. House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER: On January 6, 1999, you designated me to administer the oath of office to Representative-elect Sam Farr of the Seventeenth District of the State of California under House Resolution 13, One Hundred Sixth Congress.

Under such designation, I have the honor to report that on January 8, 1999, at Carmel, California, I administered the oath of office to Mr. Farr. Mr. Farr took the oath prescribed by 5 U.S.C. section 3331. I have sent two copies of the oath, signed by Mr. Farr, to the Clerk of the House.

Sincerely,
MARC B. POCHÉ.

PERMISSION FOR MORNING HOUR DEBATES

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that on legislative days of Monday and Tuesday during the first session of the 106th Congress,

the House shall convene 90 minutes earlier than the time otherwise established by order of the House solely for the purpose of conducting "morning-hour debate" (except that on Tuesdays after May 4, 1999, the House shall convene for that purpose one hour earlier than the time otherwise established by order of the House);

the time for morning-hour debate shall be limited to 30 minutes allocated to each party (except that on Tuesdays after May 4, 1999, the time shall be limited to 25 minutes allocated to each party and may not continue beyond 10 minutes before the hour appointed for the resumption of the session of the House); and,

the form of proceeding to morning-hour debate shall be as follows:

the prayer by the Chaplain, the approval of the Journal, and the Pledge of Allegiance to the Flag shall be postponed until resumption of the session of the House;

initial and subsequent recognitions for debate shall alternate between the parties;

recognition shall be conferred by the Speaker only pursuant to lists submitted by the majority leader and the minority leader;

no Member may address the House for longer than 5 minutes (except the majority leader, the minority leader, or the minority whip); and

following morning-hour debate, the Chair shall declare a recess pursuant to clause 12 of rule I until the time appointed for the resumption of the session of the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ADJOURNMENT OF THE HOUSE UNTIL TUESDAY, FEBRUARY 2, 1999

Mr. ARMEY. Mr. Speaker, I offer a privileged concurrent resolution (H.

□This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Con. Res. 11) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 11

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Tuesday, January 19, 1999, it stand adjourned until 12:30 p.m. on Tuesday, February 2, 1999.

The concurrent resolution was agreed to.

A motion to reconsider was laid upon the table.

PERMISSION FOR SPEAKER TO ENTERTAIN MOTIONS TO SUSPEND RULES ON WEDNESDAY, FEBRUARY 3, 1999

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that it be in order at any time on Wednesday, February 3, 1999, for the Speaker to entertain motions that the House suspend the rules, provided that the Speaker or his designee consult with the minority leader or his designee on the designation of any matter for consideration pursuant to this request.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REAPPOINTMENT OF MEMBERS TO THE HOUSE SELECT COMMITTEE ON U.S. NATIONAL SECURITY AND MILITARY/COMMERCIAL CONCERNS WITH THE PEOPLE'S REPUBLIC OF CHINA

The SPEAKER. Pursuant to the provisions of section 2(f) of House Resolution 5, 106th Congress, the Chair reappoints the following Members of the House to the Select Committee on U.S. National Security, Military/Commercial Concerns with the People's Republic of China:

Mr. COX of California, Chairman;
Mr. GOSS of Florida,
Mr. BEREUTER of Nebraska,
Mr. HANSEN of Utah,
Mr. WELDON of Pennsylvania,
Mr. DICKS of Washington,
Mr. SPRATT of South Carolina,
Ms. ROYBAL-ALLARD of California, and
Mr. SCOTT of Virginia.

CORRECTION OF NAMES OF COMMITTEES IN HOUSE RESOLUTION 7 AND VACATION OF ELECTION OF MEMBER TO PERMANENT SELECT COMMITTEE ON INTELLIGENCE

Mr. HOYER. Mr. Speaker, I ask unanimous consent that any references to the Committee on Government Reform and Oversight and the Committee on National Security in House Resolution 7 adopted on January 6, 1999, be changed to the Committee on Government Reform and the Committee on Armed Services, respectively, and that the election of Mr. Dixon of California to the Permanent Select Committee on Intelligence by the adoption of House Resolution 7 be vacated.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

APPOINTMENT OF MEMBERS TO BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

The SPEAKER. Pursuant to the provisions of sections 5580 and 5581 of the revised statutes (20 U.S.C. 42–43), the Chair appoints the following Members of the House to the Board of Regents of the Smithsonian Institution:

Mr. REGULA of Ohio,
Mr. SAM JOHNSON of Texas.

APPOINTMENT OF MEMBERS DURING FIRST SESSION OF 106TH CONGRESS AS OFFICIAL ADVISERS TO THE UNITED STATES DELEGATIONS TO INTERNATIONAL CONFERENCES, MEETINGS, AND NEGOTIATION SESSIONS RELATING TO TRADE AGREEMENTS

The SPEAKER. Pursuant to the provisions of section 161(a) of the Trade Act of 1974 (19 U.S.C. 2211), the Chair appoints the following Members of the House to be accredited by the President as official advisers to the United States delegations to international conferences, meetings and negotiation sessions relating to trade agreements during the first session of the 106th Congress:

Mr. ARCHER of Texas,
Mr. CRANE of Illinois,
Mr. THOMAS of California,
Mr. RANGEL of New York, and
Mr. LEVIN of Michigan.

APPOINTMENT OF MEMBERS TO THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER. Pursuant to the provisions of clause 11 of rule X and clause 11 of rule I, the Chair appoints the following Members of the House to the Permanent Select Committee on Intelligence:

Mr. LEWIS of California,
Mr. MCCOLLUM of Florida,
Mr. CASTLE of Delaware,
Mr. BOEHLERT of New York,
Mr. BASS of New Hampshire,
Mr. GIBBONS of Nevada,
Mr. LAHOOD of Illinois, and
Ms. WILSON of New Mexico.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The Speaker laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
Washington, DC, January 19, 1999.

Hon. J. DENNIS HASTERT,
The Speaker,
U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Under Clause 2(g) of Rule II of the Rules of the House of Representatives, I herewith designate Mr. Daniel F.C. Crowley, Deputy Clerk, to sign any and all papers and do all other acts for me under the name of the Clerk of the House which he would be authorized to do by virtue of this designation, except such as are provided by statute, in case of my temporary absence or disability.

This designation shall remain in effect for the 106th Congress or until modified by me.

With best wishes, I am
Sincerely,
JEFF TRANDAHL, *Clerk.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
Washington, DC, January 8, 1999.

Hon. J. DENNIS HASTERT,
The Speaker, U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted to Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on January 8, 1999 at 10:35 a.m.

that the Senate passed S. Res. 1
that the Senate passed S. Res. 2
that the Senate made two appointments:
Senate Legal Counsel
Deputy Senate Legal Counsel

With best wishes, I am
Sincerely,
JEFF TRANDAHL, *Clerk.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
Washington, DC, January 15, 1999.

Hon. J. DENNIS HASTERT,
The Speaker, U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted to Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on January 15, 1999 at 2:15 p.m.

that the Senate passed without amendment H. Con. Res. 1

With best wishes, I am
Sincerely,
JEFF TRANDAHL, *Clerk.*

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON WAYS AND MEANS

The SPEAKER laid before the House the following communication from the

Chairman of the Committee on Ways and Means:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, January 6, 1999.

Hon. DENNIS HASTERT,
Speaker, House of Representatives,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: I am forwarding to you the Committee's recommendations for certain designations required by law for the 106th Congress.

First, pursuant to Section 8002 of the Internal Revenue Code of 1986, the Committee designated the following members to serve on the Joint Committee on Taxation for the 106th Congress: Mr. Archer, Mr. Crane, Mr. Thomas, Mr. Rangel and Mr. Stark.

Second, pursuant to Section 161 of the Trade Act of 1974, the Committee recommended the following members to serve as official advisors for international conference meetings and negotiating sessions on trade agreements: Mr. Archer, Mr. Crane, Mr. Thomas, Mr. Rangel and Mr. Levin.

With best personal regards, I am

Sincerely,

BILL ARCHER, *Chairman.*

□ 1415

RESIGNATION AS MEMBER OF COMMITTEE ON GOVERNMENT REFORM

The SPEAKER laid before the House the following resignation as a member of the Committee on Government Reform:

CONGRESS OF UNITED STATES,
HOUSE OF REPRESENTATIVES,
January 7, 1999.

Hon. DENNIS J. HASTERT,
Speaker of the House, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I hereby respectfully request a leave of absence from the Committee on Government Reform, effective immediately. My request is made with the understanding that I will retain all seniority on the Committee.

If you have any questions regarding this request, please do not hesitate to contact me. Thank you for your attention to this matter.

Sincerely,

CHRISTOPHER COX,
U.S. Representative.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

PROPOSED BILL FOR YUCCA MOUNTAIN, NEVADA, TEMPORARY NUCLEAR WASTE STORAGE FACILITY HAS DISASTROUS IMPACTS ON DISTRICTS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, early on in the 106th session of Congress, in the first few weeks, we have already seen a disastrous bill introduced to establish a temporary nuclear waste storage facility in Nevada. Several problems, Mr. Speaker, become very evident when this legislation is examined.

First, it is moving nuclear waste from 109 reactor sites, which would traverse 43 States and endanger the lives of every person along these routes. Also, the geologic suitability of the site is in question. In the last 20 years there have been more than 621 earthquakes within a 50-mile radius of the proposed site.

The Congressional Budget Office estimates a central interim storage facility like this will cost $2.3 billion, seven times more expensive than expanding the current on-site storage at these power generating facilities.

The facts demonstrate some of the major problems associated with this bill: the safety of every American, and the fleecing of every taxpayer in this country. Educating the American people on issues as important as this should be every Member's responsibility, because they are the ones who will be held responsible for the devastating impacts on their districts.

FURBYS CITED AS THREAT TO U.S. NATIONAL SECURITY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the President is on trial, we are bombing Baghdad, Kosovo is in turmoil, and the American steel industry is literally being raped.

After all this, the National Security Agency has designated a new major threat to our Republic, the furby; that is right, this furby cyberpet, that stands 4 inches tall and sells for $30, has just been designated as the next great threat to our freedom.

Beam me up, Mr. Speaker. Beam me up. I say, the only threat these furbys really pose is they seem to appear to be much smarter than the bungling nincompoops at the National Security Agency. I recommend, for $30 a smack, here, that we hire furbys and fire those bureaucrats. Think about that one. Furby this, James Bond.

LET WORKERS OWN THEIR PORTION OF THE SOCIAL SECURITY FUND INVESTMENT IN THE STOCK MARKET

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, I rise to commend the President for his decision to tackle the social security issue in his tonight's State of the Union Address. I welcome his leadership on this critical issue, and I look forward to his proposal that I hope is complete and that can be scored by the Social Security Administration actuaries in a way that will keep social security solvent.

I am encouraged that the President has recognized the power of the capital markets to increase the return on social security taxes, and that he specifically is suggesting investments in the stock market. I urge the President to let workers own these investments themselves, rather than have government use and spend these revenues, as they have the social security trust fund.

The Supreme Court has ruled that there is no relation between the taxes that a worker pays and what the worker is entitled to receive in benefits when they retire. This means that worker-owned accounts are the only way to make sure workers benefit from these investments, rather than government.

EDUCATION: SPEND MONEY IN THE CLASSROOMS, NOT ON BUREAUCRACY

(Mr. ROYCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROYCE. Mr. Speaker, nothing is more important to Americans than the education of their children. Schools are one of the prides of our local communities, and we must do all that we can do to strengthen them. It is parents and it is teachers that know what is best for our children, and they are the ones that we must empower.

The Dollars to the Classroom Act signals a dramatic shift in how Federal education dollars are delivered to our Nation's schools. In today's system, too many precious education dollars get lost in the bureaucracy, in the red tape. This money must be spent in the classrooms, not on more bureaucracy. That is why the Dollars to the Classroom Act is so important. It represents what our schools should be, schools where parents and local school districts decide what is the best way to teach their children, not Washington.

This legislation requires that 95 percent of Federal funds be spent in the classrooms. This is one of our Republican education proposals. Currently only 65 percent of funds actually reach classrooms for our children. They are spent here in the bureaucracy.

Our children are our future leaders. It is strong moves like these that will improve our local schools, and improve the quality of life for every American. I urge support for the Dollars to the Classroom Act.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. LAHOOD). Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TRIBUTE TO THE TENNESSEE VOLUNTEERS FOOTBALL TEAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I have often said that in my district, the colors orange and white are almost as patriotic as red, white, and blue. That is because orange and white represents the official colors of the University of Tennessee and the Tennessee Volunteers football team, now the undisputed NCAA national football champion.

Mr. Speaker, just a few short weeks ago the Tennessee Vols completed a perfect 13–0 season and earned their first national championship in 47 years.

Under the eye of the great coach Phillip Fulmer, the winningest active coach in the NCAA, who has now won about 85 percent of his games as the head coach, the Vols captured their second consecutive SEC championship. To top it all off, Coach Fulmer was named both the SEC and National Football Coach of the Year.

Many other people also have helped make this past season more memorable than ever. The Vols defense, led by defensive coordinator John Chavis, held 7 opponents to 14 points or less and 8 to under 100 yards rushing this season. The Vol defense ended the 1998 season ranked 6th nationally in rushing defense, and had one of the best overall defenses in the Nation.

The Vol offense, led by now departed offensive coordinator David Cutcliffe, who took the top spot at the University of Mississippi, powered through opponents all season long. The new offensive coordinator is not new to aggressive and successful play. Coach Randy Sanders, who took over the offensive reins during the Fiesta Bowl, was previously the quarterbacks and running backs coach at UT.

Coach Sanders' first game saw his offense perform exceptionally well against the tough Florida State defense. The Volunteer offense had a tremendous season indeed, averaging over 211 yards rushing per game, leading the SEC and ranking among the top nationally.

Mr. Speaker, who else could assemble such a great coaching talent and staff but the greatest athletic director in the Nation, Doug Dickey? Coach Dickey has had amazing success in his career at UT. As head football coach from 1964 through '69, Coach Dickey put the UT football program back on the map, winning two SEC championships and leading the Vols to high national rankings in several bowl game appearances.

For the last 13 years Coach Dickey has been a true leader in the field of college athletics, and has built the University of Tennessee into a sports powerhouse in the NCAA. Additionally, his efforts to build scholarship fundraising have led to an increase in UT's level of giving from $800,000 to more than $9 million annually to the athletic department.

Mr. Speaker, the people I have mentioned thus far have contributed a great amount to the success of the UT football program, but they alone could not have done it without a host of great Volunteer athletes. The Volunteer football squad achieved a perfect season last year, and joined the 1951 Volunteers as the only other national championship team in Tennessee football history.

The championship team was led by four captains, all of whom brought outstanding leadership and exciting action to the Volunteer team. All American linebacker and co-Captain Al Wilson was the emotional leader of the Vol defensive team, and perhaps in the biggest game of the season Al Wilson broke the single game individual "caused fumble" record in a match-up against Florida.

Co-Captain and placekicker Jeff Hall had an amazing season, earning the SEC all-time scoring record with 371 points in his career. He also had a game-winning field goal at the buzzer, to win the season opener against Syracuse. More importantly, Jeff hall was named an academic All-American and SEC player.

Co-Captain Shawn Bryson and Mercedes Hamilton helped the Vol offense dominate opponents throughout the season. Both players started every game, and provided much needed support to the offensive effort. Bryson, who started every game as fullback, rushed in one game for over 200 yards on 21 carries with four touchdowns.

Mercedes Hamilton, who started every game as offensive right guard, was a key blocker who helped lead the Vol offensive running game. Mr. Speaker, without a doubt, most quarterbacks would rather not have had to follow a player like Peyton Manning. However, Tee Martin, the fantastic leader of the Tennessee offense, rose to the challenge.

Under enormous pressure, Martin posted a tremendous season, completing an NCAA record 24 consecutive passes in a 2-game period against Alabama and South Carolina.

His favorite receiver, Peerless Price, was another Vol who certainly lived unto his name Peerless. He led the Vols with 61 catches for over 900 yards in 1998, and finished his career ranked third on UT's all-time list for receptions and receiving yards, and also had a 100-yard kickoff return against Alabama.

Mr. Speaker, there were many key players and others that made this season a very special one for the Vols. As I said before, the Fiesta Bowl gave the Vols their second national title in 47 years.

The 1951 Volunteers, led by the Great Coach, General Robert Neyland, was the last Tennessee team to win the National championship. Some of the greatest names in Tennessee football history came from that very team. Names like: Jim Haslam, Col. Gene Moeller, Gordon Polofsky, Bill "Moose" Barbish, Herky Payne, Tex Davis, Boomer Boring, Any Myers, Pat Shires, Doug Atkins, Andy Kozar, Bob Davis, Bill Addonizio, John Michels, and Don Bordinger all shaped the history of Tennessee football and put the volunteers on the map of NCAA football powerhouses.

I know that the players of the 1951 team are extremely proud of the players and coaches of the 1998 Volunteers.

Finally Mr. Speaker, this year brought an end to the most outstanding college football radio show in the history of the game. The "Voice of the Vols" John Ward and his partner Bill Anderson stepped down after the Fiesta Bowl on January 4th. For over 30 years, Ward and Anderson have given Tennessee football fans around the world chill bumps, calling every game with a heartfelt passion that is second to none in college football. The two are the longest-running broadcast pair in Division 1–A college football.

Mr. Speaker, I congratulate the newly crowned NCAA National Champion Tennessee Volunteers and everyone who has contributed to their perfect season. Go Vols!

THE SURPLUS AND SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, reports today indicate that the Office of Management and Budget is estimating that there will be a $4.5 trillion surplus over the next 15 years. I think that is a tribute to the efforts of this Chamber, of the Senate, and of the President to work at reducing the expenditures of the Federal Government.

It is also a tribute to the tremendous market-oriented system of free enterprise that we have in this country, where business has decided to expand and offer more job opportunities which has resulted in a lower unemployment rate in this country.

I am particularly interested that reports show that the President is suggesting that $2.8 trillion be dedicated to social security. The question over the next several months is whether or not the President is willing to offer this Congress a proposal that can be scored by the Social Security Administration and their actuaries as keeping social security solvent.

It has been all too easy in the past for politicians in the House of Representatives and in the Senate and the President to tweak at the fringes while indicating that we have to save social security. The fact that there have been surpluses coming in from the social security tax indicates that American workers are being overtaxed for social security benefits and contributions to the theoretical trust fund. I say "theoretical trust fund" because it really does not exist.

When it becomes time sometime in the area between 2007 and 2013 that there are less revenues coming in from social security taxes than is needed to pay benefits, the Federal Government has three choices: We can borrow more from the public, we can reduce existing expenditures to come up with the additional money needed to pay benefits, or we can increase taxes on workers.

□ 1430

In the past, many times when there is shortage of money, we have simply increased the tax on American workers. Since 1971, Mr. Speaker, taxes, social security taxes, on working Americans have been increased 36 times. More often than once a year we have increased those taxes.

Now I want to come back to the word "surplus." The surplus coming in from the Social Security Trust Fund, in certain respects, can be considered taxing those workers for more than is necessary to meet the benefits. So I think there is merit in saying to the American workers, we are going to give some of that money back to them, that they have been paying more than what is needed to pay those benefits.

I think when the President suggests that some of those monies be invested in the capital market, that is consistent with what many of us have been suggesting for the last several years; that we need to increase the return on the investment from the tax money coming in from Social Security. We have a great opportunity, Mr. Speaker, to move ahead with truly saving social security. It should not be just verbiage that is politically popular, it should make tough decisions to come up with a social security bill that can be scored by the actuaries to keep social security solvent over this next 100 years.

Mr. Speaker, I urge my colleagues to look at the serious matters of social security and of medicare and to take this opportunity of surpluses coming in to this government as an opportunity to fix those two important programs.

TIME IS RIGHT TO SAVE SOCIAL SECURITY TRUST FUND

The SPEAKER pro tempore (Mr. LAHOOD). Under a previous order of the House, the gentleman from California (Mr. ROYCE) is recognized for 5 minutes.

Mr. ROYCE. Mr. Speaker, the time is now to save the Social Security Trust Fund. And I say that because it has been 30 years that the Federal Government has run chronic budget deficits, until last year. We were looking, 4 years ago, at budget deficits which were $200 billion a year, and we anticipated that they would go out as far as the eye could see. But, instead, we took some actions in the Congress. We slowed the rate of growth of government spending and we reformed welfare.

We reformed welfare, and close to 40 percent of the people on welfare are now in working jobs. When we slowed the rate of government growth and brought the revenues and expenditures into balance and eliminated much of the wasteful government spending, we found that the interest rates dropped by 2 full percentage points, and this has helped the economy.

When we instituted the cut in the capital gains tax to 20 percent and reduced that capital gains tax, we found that that further stimulated the economy. As a matter of fact, it brought in more in revenue than we had raised off the capital gains tax, a higher tax, the prior year. So we have cut taxes.

We have instituted a $500 per child tax credit. At the same time, we have balanced the budget so that now we have a surplus instead of a deficit.

So what should we do with that surplus? My bill, H.R. 160, would designate 90 percent of the total budget surplus to buy marketable U.S. securities that are out on the market. They are interest bearing.

Right now what we have in that trust fund is $757 billion worth of IOUs, three-quarters of a trillion dollars of IOUs that we print up and put in a drawer, in a file folder, and we say this is an asset. Well, how about replacing those IOUs with marketable U.S. securities, a true asset, which is interest bearing? And we can do this if we show the same discipline that we showed over the last 4 years as we eliminated that budget deficit.

That is why I am asking my colleagues to cosponsor this bill. I believe that not a dime of America's social security savings should be used for anything except social security, and that is what this bill will ensure. It will ensure that within the next 10 years the three-quarters of a trillion dollars owed to social security will be replaced with these marketable interest-bearing securities.

I also believe that as we look at the projections of $4.5 trillion in surpluses over the next 15 years, it will do us little good to take credit for what we have done in terms of balancing the budget and reducing expenditures if we simply return to the old practice of tax and spend, not putting in place a plan that is dedicated to setting aside money year by year, by statute, with a program which will, by 2013, have refunded this money.

Now clearly this is not the only challenge that social security faces, this three-quarters of a trillion dollar debt that has been borrowed out of that trust fund. That is not the only challenge, because we as a society have seen demographic shifts. We know that we used to have more people working for every person who is retired. We used to have four people per family, and now we have two people per family, and that means that the number of people that are working relative to the number of people who are retired are shifting from four-to-one to two-to-one.

Then we have a second problem. It is not really a problem. It is something actually we should feel proud about. But when social security came into being, people lived to 68 years of age, and then it went to 78, and then 88. And who knows what the future will bring? But one thing we do know, we cannot continue to borrow out of the Social Security Trust Fund and not have a plan to take care of the fact that a larger and larger percentage of our society are going to be seniors who are living longer and are going to be needing to depend on that social security.

So, yes, there are other long-term changes we need to make in the program. But as we begin to plan for those long-term changes, it is absolutely essential that we dig ourselves out of the hole that we have put ourselves in over the last 30 years and replenish the account, starting this year. And we can do it with H.R. 160. And that is why I urge my colleagues, please cosponsor this bill. Let us not just have the rhetoric, let us have a plan in place that starts today, and over the next 10 years replenishes that trust fund.

AMERICA MUST ENSURE THAT GENOCIDE IS STOPPED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOYER) is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, I rise with a combination of deep sorrow and great anger. Numerous times on the floor of this House I have risen and talked about war crimes in Bosnia. I have talked about Slobodan Milosevic branded by the State Department under George Bush as a war criminal. I have talked about the necessity of us confronting Slobodan Milosevic, not the Serbian people, but the leader of the Serbian Government, confronting him in a way that he clearly understood the West was serious; that the West would not tolerate genocide in Europe.

Mr. Speaker, unfortunately, in Bosnia, as all of us know, some 250,000 people lost their lives, over 2 million refugees were created by ethnic cleansing—the greatest tragedy in Europe since the Second World War.

Mr. Speaker, tragically, when dictators and despots are are not confronted effectively, the lesson of history is that they repeat their atrocities. Just the other day we saw such atrocities committed: When Ambassador Walker called it genocide, which

it was, a crime against human-
people lying on the ground, chil-
women shot at close range, in
faces and in the backs their
—Slobodan Milosevic told Ambas-
Walker to "Get out of my coun-

Speaker, as you may know, I'm
anking member on the Commis-
on Security and Cooperation in
pe, the Helsinki Commission. In
capacity, I have traveled to Bos-
nd to Kosovo, been to Pristina,
d to leaders, Albanian leaders and
an leaders. Tragically, there was
venue for communication offered
e Serbian authorities. They would
that there are atrocities com-
d on both sides, and they would
rrect. But, Mr. Speaker, as was
ase in Bosnia, the overwhelming
nsibility for the crimes against
nity which were committed in
a, and are now being committed
osovo, are the responsibility of
dan Milosevic.

, you will recall, Mr. Speaker,
when I and others made those ac-
ons, the response was, "Oh, no,
s in Bosnia, not in Serbia. That is
zic, Mladic, and other Serbian
s in Bosnia itself, not me," said
dan Milosevic. "I am not respon-
I want to stop the war. I want to
the safety of people."

, Mr. Speaker, there is no mask,
is no curtain, there is no veil. In
of fact, the world has seen the re-
of Slobodan Melosevic's deter-
ion to accomplish his ends by
ver means possible—no matter
legal they may be, no matter
vil they may be, no matter how
opponents' lives are lost, no mat-
at they are innocent women and
en, old men, noncombatants.
an Milosevic does not care.

Speaker, we focus on a lot of
in America, but we need to focus
fact that we are the leader. And
t position we have a responsi-
o come together with the rest of
to make sure that genocide has
nsequence, that genocide is
l, that people are saved.

IPLISHMENTS OF 105TH CON-
SS ARE MANY, BUT MUCH
E REMAINS TO BE DONE

SPEAKER pro tempore. Under a
s order of the House, the gen-
from Illinois (Mr. WELLER) is
zed for 5 minutes.

VELLER. Mr. Speaker, it is good
ere today. As I look back over
t 2 years, I am so proud of the
lishments of this Congress,
f what we have achieved in just
t few short years, accomplish-
hat include balancing the budg-
he first time in 28 years, cutting
or the middle class for the first
16 years, saving medicare and
medicare another 10 years of a
strong, good life; and also reforming welfare by emphasizing work and family and responsibility for the first time in over a generation.

Now, this House of Representatives, even though we have accomplished quite a bit, accomplishments we are proud of, balancing the budget, cutting taxes for the middle class, reforming welfare and saving medicare, we face some big challenges ahead. Our tax burden is still too high. In fact, for the average American family the tax burden today totals almost 40 percent, if we add State and local as well as Federal taxes. We need to make sure that taxes are lower for working middle class families.

We need to help our local schools and ensure that the dollars that we provided, because we have increased funding by 10 percent this last year at the Federal level for our local schools, we need to ensure those dollars actually reach the classroom.

We need to increase and strengthen our Nation's defense. I think it is just wrong that 11,000 American military men and women today subsist on food stamps in order to make ends meet. That is just wrong. We need to make up and fix that and strengthen our national defense.

We also need to save social security, an issue that is so important not just for today's seniors but for every working American.

Tonight we are going to hear the President's State of the Union speech. It is important we be here to hear what the President has to say, and I hope tonight we hear from the President that he has a specific plan, a specific proposal to save social security.

□ 1445

For the last year and a half now, the President has talked about saving Social Security but he has yet to give us a plan, a proposal, specifics that we can work with him on to accomplish that goal. I hope tonight to hear some specifics.

As a member of the Subcommittee on Social Security, I am anxious to learn the President's proposal, and I am wondering whether his solution will raise taxes on working Americans. Will it cut benefits for seniors? Will he give opportunity for working Americans, or will he just redistribute wealth? Those are important questions, and we are looking forward to hearing the President's proposal.

I also hope to hear the President address an important issue, a fundamental question of tax fairness. I have often asked in this well here this question: Is it right, is it fair that 21 million married working couples pay on average $1,400 more in taxes today just because they are married, $1,400 more than an identical working couple living together outside of marriage? I think that is wrong, and I know the folks back in Chicago and the south suburbs that I have the privilege of representing also believe that the marriage tax penalty is wrong and unfair and we believe it should be eliminated.

In the Chicago south suburbs, in a town like Joliet and the district that I have the privilege of representing, $1,400 is one year's tuition at our local community college, Joliet Junior College. It is 3 months of day-care at a local day-care center. It is just wrong that our tax code punishes marriage. We should make elimination of the marriage tax penalty a bipartisan priority.

This past year the House of Representatives passed and sent to the Senate legislation that helped the process of saving social security and legislation that specifically eliminated the marriage tax penalty for a majority of those that suffer it. In fact, our legislation that we passed out of the House of Representatives last fall reserved $1.4 trillion of the budget surplus, extra tax revenue that we are now collecting more than we are spending, but set aside $1.4 trillion to save social security, and the rest we use to help working families by lowering their taxes, including eliminating the marriage tax penalty for the majority of those who suffer it.

My hope is that the President tonight will outline a plan which does save social security. It is my hope that the President will also come forward and embrace a bipartisan effort to eliminate the marriage tax penalty. We can get the job done, just as we have in the past.

Over the last 2 years, we have balanced the budget for the first time in 28 years; we cut taxes for the middle class for the first time in 16 years; we reformed welfare for the first time in a generation; and we extended the life of medicare by working together.

It is my hope that by working together under the leadership of our new Speaker, the gentleman from Illinois (Mr. HASTERT), that we can save Social Security, that we can eliminate the marriage tax penalty, that we can strengthen our Nation's defenses and ensure that the dollars we provide for our local schools actually reach the classroom.

SUBMISSION OF RULES OF THE COMMITTEE ON RULES OF THE HOUSE FOR THE 106TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, at its organizational meeting on January 6, 1999, pursuant to clause 2(a)(1)(A) of rule XI of the rules of the House, the Rules Committee adopted in an open meeting, with a quorum present, its committee rules for the 106th Congress. Pursuant to clause 2(a)(1)(D) of rule XI of the rules of the House and clause (d) of rule I of the rules of the Committee on Rules, the rules of the Committee on Rules are hereby submitted for printing in the CONGRESSIONAL RECORD.

RULES OF THE COMMITTEE ON RULES

U.S. House of Representatives

106th Congress

RULE 1—GENERAL PROVISIONS

(a) The rules of the House are the rules of the Committee and its subcommittees so far as applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are non-debatable privileged motions in the Committee. A proposed investigative or oversight report shall be considered as read if it has been available to the members of the Committee for at least 24 hours (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such day).

(b) Each subcommittee is a part of the Committee, and is subject to the authority and direction of the Committee and to its rules so far as applicable.

(c) The provisions of clause 2 of rule XI of the rules of the House are incorporated by reference as the rules of the Committee to the extent applicable.

(d) The Committee's rules shall be published in the Congressional Record not later than 30 days after the Committee is elected in each odd-numbered year.

RULE 2—REGULAR, ADDITIONAL, AND SPECIAL MEETINGS

Regular Meetings

(a)(1) The Committee shall regularly meet at 10:30 a.m. on Tuesday of each week when the House is in session.

(2) a regular meeting of the Committee may be dispensed with if, in the judgment of the Chairman of the Committee hereafter in these rules referred to as the "Chair"), there is no need for a meeting.

(3) Additional regular meetings and hearings of the Committee may be called by the Chair.

Notice for Regular Meetings

(b) The Chair shall notify each member of the Committee of the agenda of each regular meeting of the Committee at least 48 hours before the time for the meeting and shall provide to each member of the Committee, at lease 24 hours before the time of each regular meeting.

(1) for each bill or resolution scheduled on the agenda for consideration of a rule, a copy of (A) the bill or resolution, (B) any committee reports thereon, and (C) any letter requesting a rule for the bill or resolution, and

(2) for each other bill, resolution, report, or other matter on the agenda a copy of—(A) the bill, resolution, report, or materials relating to the other matter in question; and (B) any report on the bill, resolution, report, or any other matter made by any subcommittee of the Committee.

Emergency Meetings

(c)(1) The Chair may call an emergency meeting of the Committee at any time on any measure or matter which the Chair determines to be of an emergency nature; provided however, that the Chair has made an effort to consult the ranking minority member, or, in such member's absence, the next ranking minority party members of the Committee.

(2) As soon as possible after calling an emergency meeting of the Committee, the Chair shall notify each member of the Committee of the time and location of the meeting.

(3) To the extent feasible, the notice provided under paragraph (2) shall include the agenda for the emergency meeting and copies of available materials which would otherwise have been provided under subsection (b) if the emergency meeting was a regular meeting.

Special Meetings

(d) Special meetings shall be called and convened as provided in clause 2(c)(2) of rule XI of the Rules of the House.

RULE 3—MEETING THE HEARING PROCEDURES

IN GENERAL

(a)(1) Meetings and hearings of the Committee shall be called to order and presided over by the Chair or, in the Chair's absence, by the member designated by the Chair as the Vice Chair of the Committee, or by the ranking majority member of the Committee present as Acting Chair.

(2) Meetings and hearings of the committee shall be open to the public unless closed in accordance with clause 2(g) of rule XI of the Rules of the House of Representatives.

(3) Any meeting or hearing of the Committee that is open to the public shall be open to coverage by television, radio, and still photography in accordance with the provisions of clause 4 of rule XI of the rules of the House (which are incorporated by reference as part of these rules).

(4) When a recommendation is made as to the kind of rule which should be granted for consideration of a bill or resolution, a copy of the language recommended shall be furnished to each member of the Committee at the beginning of the Committee meeting at which the rule is to be considered or as soon thereafter as the proposed language becomes available.

Quorum

(b)(1) For the purpose of hearing testimony on requests for rules, five members of the Committee shall constitute a quorum.

(2) For the purpose of taking testimony and receiving evidence on measures or matters of original jurisdiction before the Committee, three members of the Committee shall constitute a quorum.

(3) A majority of the members of the Committee shall constitute a quorum for the purposes of reporting any measure or matter, or authorizing a subpoena, of closing a meeting or hearing pursuant to clause 2(g) of rule XI of the Rules of the House (except as provided in clause 2(g)(2)(A) and (B), or of taking any other action.

Voting

(c)(1) No vote may be conducted on any measure or motion pending before the Committee unless a majority of the members of the Committee is actually present for such purpose.

(2) A record vote of the Committee shall be provided on any question before the Committee upon the request of any member.

(3) No vote by any member of the Committee on any measure or matter may be cast by proxy.

(4) A record of the vote of each Member of the Committee on each record vote on any matter before the Committee shall be available for public inspection at the offices of the Committee, and with respect to any record vote on any motion to amend or report, shall be included in the report of the Committee showing the total number of votes cast for and against and the names of those members voting for and against.

Hearing Procedures

(d)(1) With regard to hearings on matters of original jurisdiction, to the greatest extent practicable: (A) each witness who is to appear before the Committee shall file with the committee at least 24 hours in advance of the appearance a statement of proposed testimony in written and electronic form and shall limit the oral presentation to the Committee to a brief summary thereof; and (B) each witness appearing in a non-governmental capacity shall include with the statement of proposed testimony provided in written and electronic form a curriculum vitae and a disclosure of the amount and source (by agency and program) of any Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two preceding fiscal years.

(2) The five-minute rule shall be observed in the interrogation of each witness before the Committee until each member of the Committee has had an opportunity to question the witness.

(3) The provisions of clause 2(k) of rule XI of the rules of the House shall apply to any investigative hearing conducted by the committee.

Subpoenas and Oaths

(e)(1) Pursuant to clause 2(m) of rule XI of the rules of the House of Representatives, a subpoena may be authorized and issued by the Committee or a subcommittee in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present.

(2) The Chair may authorize and issue subpoenas under such clause during any period in which the House has adjourned for a period of longer than three days.

(3) Authorized subpoenas shall be signed by the Chair or by any member designated by the Committee, and may be served by any person designated by the Chair or such member.

(4) The Chair, or any member of the Committee designated by the Chair, may administer oaths to witnesses before the Committee.

RULE 4—GENERAL OVERSIGHT AND INVESTIGATIVE RESPONSIBILITIES.

(a) The Committee shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within its jurisdiction.

(b) Not later than February 15 of the first session of a Congress, the committee shall meet in open session, with a quorum present, to adopt its oversight plans for that Congress for submission to the Committee on House Administration and the Committee on Government Reform, in accordance with the provisions of clause 2(d) of House rule X.

RULE 5—SUBCOMMITTEES

Establishment and Responsibilities of Subcommittees

(a)(1) There shall be two subcommittees of the Committee as follows:

(A) Subcommittee on Legislative and Budget Process, which shall have general responsibility for measures or matters related to relations between the Congress and the Executive Branch.

(B) Subcommittee on Rules and Organization of the House, which shall have general responsibility for measures or matters related to relations between the two Houses of Congress, relations between the Congress and the Judiciary, and internal operations of the House.

(2) In addition, each such subcommittee shall have specific responsibility for such other measures or matters as the Chair refers to it.

(3) Each subcommittee of the Committee shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within its general responsibility.

Referral of Measures and Matters to Subcommittees

(b)(1) In view of the unique procedural responsibilities of the Committee, no special order providing for the consideration of any bill or resolution shall be referred to a subcommittee of the Committee.

(2) The Chair shall refer to a subcommittee such measures or matters of original jurisdiction as the Chair deems appropriate given its jurisdiction and responsibilities.

(3) All other measures or matters of original jurisdiction shall be subject to consideration by the full Committee.

(4) In referring any measure or matter of original jurisdiction to a subcommittee, the Chair may specify a date by which the subcommittee shall report thereon to the Committee.

(5) The Committee by motion may discharge a subcommittee from consideration of any measures or matter referred to a subcommittee of the Committee.

Composition of Subcommittees

(c) The size and ratio of each subcommittee shall be determined by the Committee and members shall be elected to each subcommittee, and to the positions of chairman and ranking minority member thereof, in accordance with the rules of the respective party caucuses. The Chair of the full committee shall designate a member of the majority party on each subcommittee as its vice chairman.

Subcommittee Meetings and Hearings

(d)(1) Each subcommittee of the Committee is authorized to meet, hold hearings, receive testimony, mark up legislation, and report to the full Committee on any measure or matter referred to it.

(2) No subcommittee of the Committee may meet or hold a hearing at the same time as a meeting or hearing of the full Committee is being held.

(3) The chairman of each subcommittee shall schedule meetings and hearings of the subcommittee only after consultation with the Chair.

Quorum

(e)(1) For the purpose of taking testimony, two members of the subcommittee shall constitute a quorum.

(2) For all other purposes, a quorum shall consist of a majority of the members of a subcommittee.

Effect of a Vacancy

(f) Any vacancy in the membership of a subcommittee shall not affect the power of the remaining members to execute the functions of the subcommittee.

Records

(g) Each subcommittee of the Committee shall provide the full Committee with copies of such records of votes taken in the subcommittee and such other records with respect to the subcommittee necessary for the Committee to comply with all rules and regulations of the House.

RULE 6—STAFF

In General

(a)(1) Except as provided in paragraphs (2) and (3), the professional and other staff of the Committee shall be appointed, by the Chair, and shall work under the general supervision and direction of the Chair.

(2) All professional, and other staff provided to the minority party members of the Committee shall be appointed, by the ranking minority member of the Committee, and shall work under the general supervision and direction of such member.

(3) The appointment of all professional staff shall be subject to the approval of the Committee as provided by, and subject to the provisions of, clause 9 of rule X of the rules of the House.

Associate Staff

(b) Associate staff for members of the Committee may be appointed only at the discretion of the Chair (in consultation with the ranking minority member regarding any minority party associate staff), after taking into account any staff ceilings and budgetary constraints in effect at the time, and any terms, limits, or conditions established by the Committee on House Administration under Clause 9 of rule X of the rules of the House.

Subcommittee Staff

(c) From funds made available for the appointment of staff, the Chair of the Committee shall, pursuant to clause 6(d) of rule X of the rules of the House, ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the rules of the Committee, and, after consultation with the ranking minority member of the Committee, that the minority party of the Committee is treated fairly in the appointment of such staff.

Compensation of Staff

(d) The Chair shall fix the compensation of all professional and other staff of the Committee, after consultation with the ranking minority member regarding any minority party staff.

Certification of Staff

(e)(1) To the extent any staff member of the Committee or any of its subcommittees does not work under the direct supervision and direction of the Chair, the Member of the Committee who supervises and directs the staff member's work shall file with the Chief of Staff of the Committee (not later than the tenth day of each month) a certification regarding the staff member's work for that member for the preceding calendar month.

(2) The certification required by paragraph (1) shall be in such form as the Chair may prescribe, shall identify each staff member by name, and shall state that the work engaged in by the staff member and the duties assigned to the staff member for the member of the Committee with respect to the month in question met the requirements of clause 9 of rule X of the rules of the House.

(3) Any certification of staff of the Committee, or any of its subcommittees, made by the Chair in compliance with any provision of law or regulation shall be made (A) on the basis of the certifications filed under paragraph (1) to the extent the staff is not under the Chair's supervision and direction, and (B) on his own responsibility to the extent the staff is under the Chair's direct supervision and direction.

RULE 7—BUDGET, TRAVEL, PAY OF WITNESSES

Budget

(a) The Chair, in consultation with other members of the Committee, shall prepare for each Congress a budget providing amounts for staff, necessary travel, investigation, and other expenses of the Committee and its subcommittees.

Travel

(b)(1) The Chair may authorize travel for any member and any staff member of the Committee in connection with activities or subject matters under the general jurisdiction of the Committee. Before such authorization is granted, there shall be submitted to the Chair in writing the following:

(A) The purpose of the travel.

(B) The dates during which the travel is to occur.

(C) The names of the States or countries to be visited and the length of time to be spent in each.

(D) The names of members and staff of the Committee for whom the authorization is sought.

(2) Members and staff of the Committee shall make a written report to the Chair on any travel they have conducted under this subsection, including a description of their itinerary, expenses, and activities, and of pertinent information gained as a result of such travel.

(3) Members and staff of the Committee performing authorized travel on official business shall be governed by applicable laws, resolutions, and regulations of the House and of the Committee on House Administration.

Pay of Witnesses

(c) Witnesses may be paid from funds made available to the Committee in its expense resolution subject to the provisions of clause 5 of rule XI of the rules of the House.

RULE 8—COMMITTEE ADMINISTRATION

Reporting

(a) Whenever the Committee authorizes the favorable reporting of a bill or resolution from the Committee—

(1) the Chair or acting Chair shall report it to the House or designate a member of the Committee to do so, and

(2) in the case of a bill or resolution in which the Committee has original jurisdiction, the Chair shall allow, to the extent that the anticipated floor schedule permits, any member of the Committee a reasonable amount of time to submit views for inclusion in the Committee report on the bill or resolution.

Any such report shall contain all matters required by the rules of the House of Representatives (or by any provision of law enacted as an exercise of the rulemaking power of the House) and such other information as the Chair deems appropriate.

Records

(b)(1) There shall be a transcript made of each regular meeting and hearing of the Committee, and the transcript may be printed if the Chair decides it is appropriate or if a majority of the Members of the Committee requests such printing. Any such transcripts shall be a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks. Nothing in this paragraph shall be construed to require that all such transcripts be subject to correction and publication.

(2) The Committee shall keep a record of all actions of the Committee and of its subcommittees. The record shall contain all information required by clause 2(e)(1) of rule XI of the rules of the House of Representatives and shall be available for public inspection at reasonable times in the offices of the Committee.

(3) All Committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office

records of the Chair, shall be the property of the House, and all members of the House shall have access thereto as provided in clause 2(e)(2) of rule XI of the rules of the House.

(4) The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with rule VII of the rules of the House. The Chair shall notify the ranking minority member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on written request of any member of the Committee.

Committee Publications on the Internet

(c) To the maximum extent feasible, the Committee shall makes its publications available in electronic form.

Calendars

(d)(1) The Committee shall maintain a Committee Calendar, which shall include all bills, resolutions, and other matters referred to or reported by the Committee and all bills, resolutions, and other matters reported by any other committee on which a rule has been granted or formally requested, and such other matters as the Chair shall direct. The Calendar shall be published periodically, but in no case less often than once in each session of Congress.

(2) The staff of the Committee shall furnish each member of the Committee with a list of all bills or resolutions (A) reported from the Committee but not yet considered by the House, and (B) on which a rule has been formally requested but not yet granted. The list shall be updated each week when the House is in session.

(3) For purposes of paragraphs (1) and (2), a rule is considered as formally requested when the Chairman of a committee which has reported a bill or resolution (or a member of such committee authorized to act on the Chairman's behalf) (A) has requested, in writing to the Chair, that a hearing be scheduled on a rule for the consideration of the bill or resolution, and (B) has supplied the Committee with an adequate number of copies of the bill or resolution, as reported, together with the final printed committee report thereon.

Other Procedures

(e) The Chair may establish such other Committee procedures and take such actions as may be necessary to carry out these rules or to facilitate the effective operation of the Committee and its subcommittees in a manner consistent with these rules.

RULE 9—AMENDMENTS TO COMMITTEE RULES

The rules of the Committee may be modified, amended or repealed, in the same manner and method as prescribed for the adoption of committee rules in clause 2 of rule XI of the Rules of the House, but only if written notice of the proposed change has been provided to each such Member at least 48 hours before the time of the meeting at which the vote on the change occurs. Any such change in the rules of the Committee shall be published in the Congressional Record within 30 calendar days after their approval.

SUBMISSION OF RULES FOR THE COMMITTEE ON COMMERCE OF THE HOUSE FOR THE 106TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. BLILEY) is recognized for 5 minutes.

Mr. BLILEY. Mr. Speaker, pursuant to clause 2(a)(2) of Rule XI of the Rules of the House of Representatives, the Committee on Commerce reports that it adopted the following rules for the 106th Congress and submits such rules for publication in the CONGRESSIONAL RECORD:

Rules for the Committee on Commerce, U.S. House of Representatives, 106th Congress, 1999–2000

Rule 1. General Provisions. (a) Rules of the Committee. The Rules of the House are the rules of the Committee on Commerce (hereinafter the "Committee") and its subcommittees so far as is applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable and privileged in the Committee and its subcommittees.

(b) Rules of the Subcommittees. Each subcommittee of the Committee is part of the Committee and is subject to the authority and direction of the Committee and to its rules so far as applicable. Written rules adopted by the Committee, not inconsistent with the Rules of the House, shall be binding on each subcommittee of the Committee.

Rule 2. Time and Place of Meetings. (a) Regular Meeting Days. The Committee shall meet on the fourth Tuesday of each month at 10 a.m., for the consideration of bills, resolutions, and other business, if the House is in session on that day. If the House is not in session on that day and the Committee has not met during such month, the Committee shall meet at the earliest practicable opportunity when the House is again in session. The chairman of the Committee may, at his discretion, cancel, delay, or defer any meeting required under this section, after consultation with the ranking minority member.

(b) Additional Meetings. The chairman may call and convene, as he considers necessary, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business. The Committee shall meet for such purposes pursuant to that call of the chairman.

(c) Vice Chairmen; Presiding Member. The chairman shall designate a member of the majority party to serve as vice chairman of the Committee, and shall designate a majority member of each subcommittee to serve as vice chairman of each subcommittee. The vice chairman of the Committee or subcommittee, as the case may be, shall preside at any meeting or hearing during the temporary absence of the chairman. If the chairman and vice chairman of the Committee or subcommittee are not present at any meeting or hearing, the ranking member of the majority party who is present shall preside at the meeting or hearing.

(d) Open Meetings and Hearings. Except as provided by the Rules of the House, each meeting of the Committee or any of its subcommittees for the transaction of business, including the markup of legislation, and each hearing, shall be open to the public including to radio, television and still photography coverage, consistent with the provisions of Rule XI of the Rules of the House.

Rule 3. Agenda. The agenda for each Committee or subcommittee meeting (other than a hearing), setting out the date, time, place, and all items of business to be considered, shall be provided to each member of the Committee at least 36 hours in advance of such meeting.

Rule 4. Procedure. (a)(1) Hearings. The date, time, place, and subject matter of any hearing of the Committee or any of its subcommittees shall be announced at least one week in advance of the commencement of such hearing, unless the Committee or subcommittee determines in accordance with clause 2(g)(3) of Rule XI of the Rules of the House that there is good cause to begin the hearing sooner.

(2)(A) Meetings. The date, time, place, and subject matter of any meeting (other than a hearing) scheduled on a Tuesday, Wednesday, or Thursday when the House will be in session, shall be announced at least 36 hours (exclusive of Saturdays, Sundays, and legal holidays except when the House is in session on such days) in advance of the commencement of such meeting.

(B) Other Meetings. The date, time, place, and subject matter of a meeting (other than a hearing or a meeting to which subparagraph (A) applies) shall be announced at least 72 hours in advance of the commencement of such meeting.

(b)(1) Requirements for Testimony. Each witness who is to appear before the Committee or a subcommittee shall file with the clerk of the Committee, at least two working days in advance of his or her appearance, sufficient copies, as determined by the chairman of the Committee or a subcommittee, of a written statement of his or her proposed testimony to provide to members and staff of the Committee or subcommittee, the news media, and the general public. Each witness shall, to the greatest extent practicable, also provide a copy of such written testimony in an electronic format prescribed by the chairman. Each witness shall limit his or her oral presentation to a brief summary of the argument. The chairman of the Committee or of a subcommittee, or the presiding member, may waive the requirements of this paragraph or any part thereof.

(2) Additional Requirements for Testimony. To the greatest extent practicable, the written testimony of each witness appearing in a non-governmental capacity shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of any federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two preceding fiscal years by the witness or by an entity represented by the witness.

(c) Questioning Witnesses. The right to interrogate the witnesses before the Committee or any of its subcommittees shall alternate between majority and minority members. Each member shall be limited to 5 minutes in the interrogation of witnesses until such time as each member who so desires has had an opportunity to question witnesses. No member shall be recognized for a second period of 5 minutes to interrogate a witness until each member of the Committee present has been recognized once for that purpose. While the Committee or subcommittee is operating under the 5-minute rule for the interrogation of witnesses, the chairman shall recognize in order of appearance members who were not present when the meeting was called to order after all members who were present when the meeting was called to order have been recognized in the order of seniority on the Committee or subcommittee, as the case may be.

(d) Explanation of Subcommittee Action. No bill, recommendation, or other matter reported by a subcommittee shall be considered by the full Committee unless the text of the matter reported, together with an explanation, has been available to members of the Committee for at least 36 hours. Such explanation shall include a summary of the major provisions of the legislation, an explanation of the relationship of the matter to present law, and a summary of the need for the legislation. All subcommittee actions shall be reported promptly by the clerk of the Committee to all members of the Committee.

(e) Opening Statements. Opening statements by members at the beginning of any hearing or markup of the Committee or any of its subcommittees shall be limited to 5 minutes each for the chairman and ranking minority member (or their respective designee) of the Committee or subcommittee, as applicable, and 3 minutes each for all other members.

Rule 5. Waiver of Agenda, Notice, and Layover Requirements. Requirements of rules 3, 4(a)(2), and 4(d) may be waived by a majority of those present and voting (a majority being present) of the Committee or subcommittee, as the case may be.

Rule 6. Quorum. Testimony may be taken and evidence received at any hearing at which there are present not fewer than two members of the Committee or subcommittee in question. A majority of the members of the Committee shall constitute a quorum for the purposes of reporting any measure of matter, of authorizing a subpoena, or of closing a meeting or hearing pursuant to clause 2(g) of Rule XI of the Rules of the House (except as provided in clause 2(g)(2)(A) and (B)). For the purposes of taking any action other than those specified in the preceding sentence, one-third of the members of the Committee or subcommittee shall constitute a quorum.

Rule 7. Official Committee Records. (a)(1) Journal. The proceedings of the Committee shall be recorded in a journal which shall, among other things, show those present at each meeting, and include a record of the vote on any question on which a record vote is demanded and a description of the amendment, motion, order, or other proposition voted. A copy of the journal shall be furnished to the ranking minority member.

(2) Record Votes. A record vote may be demanded by one-fifth for the members present or, in the apparent absence of a quorum, by any one member. No demand for a record vote shall be made or obtained except for the purpose of procuring a record vote or in the apparent absence of a quorum. The result of each record vote in any meeting of the Committee shall be made available in the Committee office for inspection by the public, as provided in Rule XI, clause 2(e) of the Rules of the House.

(b) Archived Records. The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule VII of the Rules of the House. The chairman shall notify the ranking minority member of any decision, pursuant to clause 3 (b)(3) or clause 4 (b) of the Rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any member of the Committee. The chairman shall consult with the ranking minority member on any communication from the Archivist of the United States or the Clerk of the House concerning the disposition of noncurrent records pursuant to clause 3(b) of the Rule.

Rule 8. Subcommittees. There shall be such standing subcommittees with such jurisdiction and size as determined by the majority party caucus of the Committee. The jurisdiction, number, and size of the subcommittees shall be determined by the majority party caucus prior to the start of the process for establishing subcommittee chairmanships and assignments.

Rule 9. Powers and Duties of Subcommittees. Each subcommittee is authorized to meet, hold hearings, receive testimony, mark up legislation, and report to the Committee on all matters referred to it. Subcommittee chairmen shall set hearing and meeting dates only with the approval of the chairman of the Committee with a view toward assuring the availability of meeting rooms and avoiding simultaneous scheduling of Committee and subcommittee meetings or hearings whenever possible.

Rule 10. Reference of Legislation and Other Matters. All legislation and other matters referred to the Committee shall be referred to the subcommittee of appropriate jurisdiction within two weeks of the date of receipt by the Committee unless action is taken by the full committee within those two weeks, or by majority vote of the members of the Committee, consideration is to be by the full Committee. In the case of legislation or other matter within the jursidiction of more than one subcommittee, the chairman of the Committee may, in his discretion, refer the matter simultaneously to two or more subcommittees for concurrent consideration, or may designate a subcommittee of primary jurisdiction and also refer the matter to one or more additional subcommittees for consideration in sequence (subject to appropriate time limitations), either on its initial referral or after the matter has been reported by the subcommittee of primary jurisdiction. Such authority shall include the authority to refer such legislation or matter to an ad hoc subcommittee appointed by the chairman, with the approval of the Committee, from the members of the subcommittee having legislative or oversight jurisdiction.

Rule 11. Ratio of Subcommittees. The majority caucus of the Committee shall determine an appropriate ratio of majority to minority party members for each subcommittee and the chairman shall negotiate that ratio with the minority party, provided that the ratio of party members on each subcommittee shall be no less favorable to the majority than that of the full Committee, nor shall such ratio provide for a majority of less than two majority members.

Rule 12. Subcommittee Membership. (a) Selection of Subcommittee Members. Prior to any organizational meeting held by the Committee, the majority and minority caucuses shall select their respective members of the standing subcommittees.

(b) Ex Officio Members. The chairman and ranking minority member of the Committee shall be ex officio members with voting privileges of each subcommittee of which they are not assigned as members and may be counted for purposes of establishing a quorum in such subcommittees.

Rule 13. Managing Legislation on the House Floor. The chairman, in his discretion, shall designate which member shall manage legislation reported by the Committee to the House.

Rule 14. Committee Professional and Clerical Staff Appointments. (a) Delegation of Staff. Whenever the chairman of the Committee determines that any professional staff member appointed pursuant to the provisions of clause 9 of Rule X of the House of Representatives, who is assigned to such chairman and not to the ranking minority member, by reason of such professional staff member's expertise or qualifications will be of assistance to one or more subcommittees in carrying out their assigned responsibilities, he may designate such member to such subcommittees for such purpose. A delegation of a member of the professional staff pursuant to this subsection shall be made after consultation with subcommittee chairmen and with the approval of the subcommittee chairman or chairmen involved.

(b) Minority Professional Staff. Professional staff members appointed pursuant to clause 9 of Rule X of the House of Representatives, who are assigned to the ranking minority member of the Committee and not to the chairman of the Committee, shall be assigned to such Committee business as the minority party members of the Committee consider advisable.

(c) Additional Staff Appointments. In addition to the professional staff appointed pursuant to clause 9 of Rule X of the House of Representatives, the chairman of the Committee shall be entitled to make such appointments to the professional and clerical staff of the Committee as may be provided within the budget approved for such purposes by the Committee. Such appointee shall be assigned to such business of the full Committee as the chairman of the Committee considers advisable.

(d) Sufficient Staff. The chairman shall ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the rules of the Committee.

(e) Fair Treatment of Minority Members in Appointment of Committee Staff. The chairman shall ensure that the minority members of the Committee are treated fairly in appointment of Committee staff.

(f) Contracts for Temporary or Intermittent Services. Any contract for the temporary services or intermittent service of individual consultants or organizations to make studies or advise the Committee or its subcommittees with respect to any matter within their jurisdiction shall be deemed to have been approved by a majority of the members of the Committee if approved by the chairman and ranking minority member of the Committee. Such approval shall not be deemed to have been given if at least one-third of the members of the Committee request in writing that the Committee formally act on such a contract, if the request is made within 10 days after the latest date on which such chairman or chairmen, and such ranking minority member or members, approve such contract.

Rule 15. Supervision, Duties of Staff. (a) Supervision of Majority Staff. The professional and clerical staff of the Committee not assigned to the minority shall be under the supervision and direction of the chairman who, in consultation with the chairmen of the subcommittees, shall establish and assign the duties and responsibilities of such staff members and delegate such authority as he determines appropriate.

(b) Supervision of Minority Staff. The professional and clerical staff assigned to the minority shall be under the supervision and direction of the minority members of the Committee, who may delegate such authority as they determine appropriate.

Rule 16. Committee Budget. (a) Preparation of Committee Budget. The chairman of the Committee, after consultation with the ranking minority member of the Committee and the chairmen of the subcommittees, shall for the 106th Congress prepare a preliminary budget for the Committee, with such budget including necessary amounts for professional and clerical staff, travel, investigations, equipment and miscellaneous expenses of the Committee and the subcommittees, and which shall be adequate to fully discharge the Committee's responsibilities for legislation and oversight. Such budget shall be presented by the chairman to the majority party caucus of the Committee and thereafter to the full Committee for its approval.

(b) Approval of the Committee Budget. The chairman shall take whatever action is necessary to have the budget as finally approved by the Committee duly authorized by the House. No proposed Committee budget may be submitted to the Committee on House Administration unless it has been presented to and approved by the majority party caucus and thereafter by the full Committee. The chairman of the Committee may authorize all necessary expenses in accordance with these rules and within the limits of the Committee's budget as approved by the House.

(c) Monthly Expenditures Report. Committee members shall be furnished a copy of each monthly report, prepared by the chairman for the Committee on House Administration, which shows expenditures made during the reporting period and cumulative for the year by the Committee and subcommittees, anticipated expenditures for the projected Committee program, and detailed information on travel.

Rule 17. Broadcasting of Committee Hearings. Any meeting or hearing that is open to the public may be covered in whole or in part by radio or television or still photography, subject to the requirements of clause 4 of Rule XI of the Rules of the House. The coverage of any hearing or other proceeding of the Committee or any subcommittee thereof by television, radio, or still photography shall be under the direct supervision of the chairman of the Committee, the subcommittee chairman, or other member of the Committee presiding at such hearing or other proceeding and may be terminated by such member in accordance with the Rules of the House.

Rule 18. Comptroller General Audits. The chairman of the Committee is authorized to request verification examinations by the Comptroller General of the United States pursuant to Title V, Part A of the Energy Policy and Conservation Act (Public Law 94-163), after consultation with the members of the Committee.

Rule 19. Subpoenas. The Committee, or any subcommittee, may authorize and issue a subpoena under clause 2(m)(2)(A) of Rule XI of the House, if authorized by a majority of the members of the Committee or subcommittee (as the case may be) voting, a quorum being present. Authorized subpoenas may be issued over the signature of the chairman of the Committee or any member designated by the Committee, and may be served by any person designated by such chairman or member. The chairman of the Committee may authorize and issue subpoenas under such clause during any period for which the House has adjourned for a period in excess of 3 days when, in the opinion of the chairman, authorization and issuance of the subpoena is necessary to obtain the material set forth in the subpoena. The chairman shall report to the members of the Committee on the authorization and issuance of a subpoena during the recess period as soon as practical but in no event later than one week after service of such subpoena.

Rule 20. Travel of Members and Staff. (a) Approval of Travel. Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, travel to be reimbursed from funds set aside for the Committee for any member or any staff member shall be paid only upon the prior authorization of the chairman. Travel may be authorized by the chairman for any member and any staff member in connection with the attendance of hearings conducted by the Committee or any subcommittee thereof and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the Committee. Before such authorization is given there shall be submitted to the chairman in writing the following: (1) the purpose of the travel; (2) the dates during which the travel is to be made and the date or dates of the event for which the travel is being made; (3) the location of the event for which the travel is to be made; and (4) the names of members and staff seeking authorization.

(b) Approval of Travel by Minority Members and Staff. In the case of travel by minority party members and minority party professional staff for the purpose set out in (a), the prior approval, not only of the chairman but also of the ranking minority member, shall be required. Such prior authorization shall be given by the chairman only upon the representation by the ranking minority member in writing setting forth those items enumerated in (1), (2), (3), and (4) of paragraph (a).

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now recognize Members for special orders until 5 p.m., at which time the Chair will declare the House in recess.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that tonight when the two Houses meet in a joint session to hear an address by the President of the United States, only the doors immediately opposite the Speaker and those on his left and right side will be open.

No one will be allowed on the floor of the House who does not have the privileges of the floor of the House.

Due to the large attendance which is anticipated, the Chair feels that the rules regarding the privileges of the floor must be strictly adhered to.

Children of Members will not be permitted on the floor, and the cooperation of all Members is requested.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 8:40 p.m. for the purpose of receiving in joint session the President of the United States.

Accordingly (at 2 o'clock and 50 minutes p.m.), the House stood in recess until approximately 8:40 p.m.

□ 2041

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 8 o'clock and 41 minutes p.m.

RESIGNATION AS MEMBER OF COMMITTEE ON THE BUDGET

The SPEAKER laid before the House the following resignation as a member of the Committee on the Budget:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, January 12, 1999.

Hon. J. DENNIS HASTERT,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I hereby resign my position on the Committee on the Budget effective immediately.

Sincerely,

DAN MILLER,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBERS TO COMMITTEE ON THE BUDGET

Mr. ARMEY. Mr. Speaker, I offer a resolution (H. Res. 21) and I ask unanimous consent for its immediate consideration in the House.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 21

Resolved, That the following named Members be, and are hereby, elected to the following standing committee of the House:

COMMITTEE ON THE BUDGET: Mr. Collins of Georgia; and Mr. Wamp of Tennessee; both to rank in the named order following Mr. Ryun of Kansas.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ELECTION OF MEMBERS TO COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. ARMEY. Mr. Speaker, I offer a resolution (H. Res. 22) and I ask unanimous consent for its immediate consideration in the House.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 22

Resolved, That the following named Members be, and are hereby, elected to serve on the following standing committee of the House:

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT: Mr. Hefley of Colorado; Mr. Knollenberg of Michigan; Mr. Portman of Ohio; and Mr. Camp of Michigan.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

HOUR OF MEETING ON TOMORROW PENDING MESSAGE FROM THE SENATE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it stand adjourned until 2 p.m. tomorrow, unless the House sooner receives a message from the Senate transmitting its concurrence in House Concurrent Resolution 11, in which case the House shall stand adjourned pursuant to that concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. FROST. Mr. Speaker, I offer a resolution (H. Res. 23) and I ask unanimous consent for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 23

Resolved, That the following named Members, Delegates and the Resident Commissioner by, and are hereby, elected to serve on standing committees as follows:

COMMITTEE ON AGRICULTURE: Mr. Hill, Indiana.

COMMITTEE ON ARMED SERVICES: Mr. Larson, Connecticut.

COMMITTEE ON INTERNATIONAL RELATIONS: Mr. Pomeroy, North Dakota; Mr. Delahunt, Massachusetts; Mr. Meeks, New York; Ms. Lee, California; Mr. Crowley, New York; and Mr. Hoeffel, Pennsylvania.

COMMITTEE ON SCIENCE: Mr. Weiner, New York; and Mr. Capuano, Massachusetts.

COMMITTEE ON SMALL BUSINESS: Mr. Baird, Washington; Ms. Schakowsky, Illinois.

Mr. FROST (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER, MAJORITY LEADER AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND TO MAKE APPOINTMENTS NOTWITHSTANDING ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Tuesday, February 2, 1999, the Speaker, majority leader and minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

JOINT SESSION OF THE HOUSE AND SENATE HELD PURSUANT TO THE PROVISIONS OF HOUSE CONCURRENT RESOLUTION 1 TO HEAR AN ADDRESS BY THE PRESIDENT OF THE UNITED STATES

The Speaker of the House presided.

The Deputy Sergeant at Arms, Mr. James Varey, announced the Vice President and Members of the U.S. Senate, who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort the President of the United States into the Chamber:

The gentleman from Texas (Mr. ARMEY);

The gentleman from Oklahoma (Mr. WATTS);

The gentlewoman from Florida (Mrs. FOWLER);

The gentleman from Arkansas (Mr. DICKEY);

The gentleman from Arkansas (Mr. HUTCHINSON);

The gentleman from Missouri (Mr. GEPHARDT);

The gentleman from Michigan (Mr. BONIOR);

The gentleman from Texas (Mr. FROST);

The gentlewoman from New Jersey (Mr. MENENDEZ);

The gentleman from Arkansas (Mr. BERRY); and

The gentleman from Arkansas (Mr. SNYDER).

The VICE PRESIDENT. The President of the Senate, at the direction of that body, appoints the following Senators as members of the committee on the part of the Senate to escort the President of the United States into the House Chamber:

The Senator from Mississippi (Mr. LOTT);

The Senator from Oklahoma (Mr. NICKLES);

The Senator from South Carolina (Mr. THURMOND);

The Senator from Alaska (Mr. STEVENS);

The Senator from New Mexico (Mr. DOMENICI);

The Senator from Virginia (Mr. WARNER);

The Senator from South Dakota (Mr. DASCHLE);

The Senator from Nevada (Mr. REID);

The Senator from Maryland (Ms. MIKULSKI);

The Senator from Louisiana (Mr. BREAUX);

The Senator from Massachusetts (Mr. KERRY);

The Senator from North Dakota (Mr. DORGAN);

The Senator from New Jersey (Mr. TORRICELLI);

The Senator from Washington (Mrs. MURRAY);

The Senator from West Virginia (Mr. ROCKEFELLER); and

The Senator from Illinois (Mr. DURBIN).

The Deputy Sergeant at Arms announced the Acting Dean of the Diplomatic Corps, His Excellency Roble Olhaye, Ambassador to the United States from Djibouti.

The Acting Dean of the Diplomatic Corps entered the Hall of the House of Representatives and took the seat reserved for him.

The Deputy Sergeant at Arms announced the Associate Justices of the Supreme Court of the United States of America.

The Associate Justices of the Supreme Court of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

The Deputy Sergeant at Arms announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 9 o'clock and 6 minutes p.m., the Sergeant at Arms, Mr. Wilson Livingood, announced the President of the United States.

The President of the United States, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

(Applause, the Members rising.)

The SPEAKER. Members of Congress, I have the high privilege and the distinct honor of presenting to you the President of the United States.

(Applause, the Members rising.)

THE STATE OF THE UNION ADDRESS BY THE PRESIDENT OF THE UNITED STATES

The PRESIDENT. Thank you very much.

Mr. Speaker, Mr. Vice President, Members of Congress, honored guests, my fellow Americans:

Tonight, I have the honor of reporting to you on the State of the Union.

Let me begin by saluting the new Speaker of the House and thanking him especially tonight for extending an invitation to two guests sitting in the gallery with Mrs. Hastert. Lyn Gibson and Wei Ling Chestnut are the widows of the two brave Capitol Hill Police Officers who gave their lives to defend freedom's house.

Mr. Speaker, at your swearing in, you asked us all to work together in a spirit of civility and bipartisanship. Mr. Speaker, let's do exactly that.

Tonight I stand before you to report that America has created the longest peacetime economic expansion in our history, with nearly 18 million new jobs, wages rising at more than twice the amount of inflation, the highest home ownership in history, the smallest welfare rolls in 30 years and the lowest peacetime unemployment since 1957.

For the first time in 3 decades, the budget is balanced. From a deficit of $290 billion in 1992, we had a surplus of $70 billion last year, and now we are on course for budget surpluses for the next 25 years.

Thanks to the pioneering leadership of all of you, we have the lowest violent crime rate in a quarter of a century. Our environment is the cleanest in a quarter of a century.

America is a strong force for peace from Northern Ireland, to Bosnia, to the Middle East.

Thanks to the leadership of Vice President GORE, we have a government for the Information Age. Once again, our government is a progressive instrument of the common good, rooted in our oldest values of opportunity, responsibility and community, devoted to fiscal responsibility, determined to give our people the tools they need to make the most of their own lives in the 21st century. A 21st century government for 21st century America.

My fellow Americans, I stand before you tonight to report that the state of our union is strong.

America is working again. The promise of our future is limitless. But we cannot realize that promise if we allow the hum of our prosperity to lull us into complacency. How we fare as a nation far into the 21st century depends upon what we do as a nation today.

So with our budget surplus growing, our economy expanding, our confidence rising, now is the moment for this generation to meet our historic responsibility to the 21st century.

Our fiscal discipline gives us an unsurpassed opportunity to address a remarkable new challenge: the aging of America.

With the number of elderly Americans set to double by 2030, the Baby Boom will become a Senior Boom.

So first and above all, we must save Social Security for the 21st century.

Early in this century, being old meant being poor. When President Roosevelt created Social Security, thousands wrote to thank him for eliminating what one woman called the "stark terror of penniless, helpless old age." Even today, without Social Security, half our Nation's elderly would be forced into poverty.

Today, Social Security is strong. But by 2013, payroll taxes will no longer be sufficient to cover monthly payments. And by 2032, the Trust Fund will be exhausted and Social Security will be unable to pay the full benefits older Americans have been promised.

The best way to keep Social Security a rock-solid guarantee is not to make drastic cuts in benefits; not to raise payroll tax rates; not to drain resources from Social Security in the name of saving it.

Instead, I propose that we make the historic decision to invest the surplus to save Social Security.

Specifically, I propose that we commit 60 percent of the budget surplus for the next 15 years to Social Security, investing a small portion in the private sector just as any private or State government pension would do. This will earn a higher return and keep Social Security sound for 55 years.

But we must aim higher. We should put Social Security on a sound footing for the next 75 years. We should reduce poverty among elderly women, who are nearly twice as likely to be poor as our other seniors, and we should eliminate the limits on what seniors on Social Security can earn.

Now, these changes will require difficult but fully achievable choices over and above the dedication of the surplus. They must be made on a bipartisan basis. They should be made this year. So let me say to you tonight, I reach out my hand to all of you in both Houses and in both parties and ask that we join together in saying to the American people, we will save Social Security now.

Last year, we wisely reserved all of the surplus until we knew what it would take to save Social Security. Again, I say, we should not spend any of it, not any of it, until after Social Security is truly saved. First things first.

Second, once we have saved Social Security, we must fulfill our obligation to save and improve Medicare. Already, we have extended the life of the Medicare Trust Fund by 10 years, but we should extend it for at least another decade. Tonight I propose that we use one out of every six dollars in the surplus for the next 15 years to guarantee the soundness of Medicare until the year 2020.

But again, we should aim higher. We must be willing to work in a bipartisan way and look at new ideas, including the upcoming report of the bipartisan Medicare commission. If we work together, we can secure Medicare for the next 2 decades, and cover the greatest growing need of seniors, affordable prescription drugs.

Third, we must help all Americans, from their first day on the job, to save, to invest, to create wealth. From its beginning, Americans have supplemented Social Security with private pensions and savings. Yet today, millions of people retire with little to live on other than Social Security. Americans living longer than ever simply must save more than ever.

Therefore, in addition to saving Social Security and Medicare, I propose a new pension initiative for retirement security in the 21st century. I propose that we use a little over 11 percent of the surplus to establish Universal Savings Accounts, USA Accounts, to give all Americans the means to save. With these new accounts, Americans can invest as they choose, and receive funds to match a portion of their savings, with extra help for those least able to save.

USA Accounts will help all Americans to share in our Nation's wealth, and to enjoy a more secure retirement. I ask you to support them.

Fourth, we must invest in long-term care. I propose a tax credit of $1,000 for the aged, ailing or disabled and the families who care for them. Long-term care will become a bigger and bigger challenge with the aging of America, and we must do more to help our families deal with it.

I was born in 1946, the first year of the Baby Boom. I can tell you that one of the greatest concerns of our generation is our absolute determination not to let our growing old place an intolerable burden on our children and their ability to raise our grandchildren. Our economic success and our fiscal discipline now give us an opportunity to lift that burden from their shoulders, and we should take it.

Saving Social Security and Medicare, creating USA Accounts, this is the right way to use the surplus. If we do so, if we do so, we will still have resources to meet critical needs in education and defense. And I want to point out that this proposal is fiscally sound. Listen to this: If we set aside 60 percent of the surplus for Social Security and 16 percent for Medicare, over the next 15 years, that saving will achieve the lowest level of publicly held debt since right before World War I in 1917.

So, with these four measures, saving Social Security, strengthening Medicare, establishing the USA Accounts, supporting long-term care, we can begin to meet our generation's historic responsibility to establish true security for 21st century seniors.

Now, there are more children from more diverse backgrounds in our public schools than at any time in our history. Their education must provide the knowledge and nurture the creativity that will allow our entire Nation to thrive in the new economy.

Today we can say something we could not say 6 years ago: With tax credits and more affordable student loans, with more work study grants and more Pell grants, with education IRAs and the new HOPE Scholarship tax cut that more than 5 million Americans will receive this year, we have finally opened the doors of college to all Americans.

With our support, nearly every State has set higher academic standards for public schools, and a voluntary national test is being developed to measure the progress of our students. With over $1 billion in discounts available this year, we are well on our way to our goal of connecting every classroom and library to the Internet.

Last fall, you passed our proposal to start hiring 100,000 new teachers to reduce class size in the early grades. Now I ask you to finish the job.

You know, our children are doing better. SAT scores are up, math scores have risen in nearly all grades. But there is a problem: While our fourth graders outperform their peers in other countries in math and science, our eighth graders are around average, and our twelfth graders rank near the bottom.

We must do better. Now, each year, the national government invests more than $15 billion in our public schools. I believe we must change the way we invest that money, to support what works and to stop supporting what does not work.

First, later this year I will send to Congress a plan that for the first time holds States and school districts accountable for progress, and rewards them for results. My Education Accountability Act will require every school district receiving Federal help to take the following five steps.

First, all schools must end social promotion. No child, no child should graduate from a high school with a diploma he or she can't read. We do our children no favors when we allow them to pass from grade to grade without mastering the material.

But we can't just hold students back because the system fails them, so my balanced budget triples the funding for summer school and after-school programs to keep 1 million children learning.

If you doubt this will work, just look at Chicago, which ended social promotion and made summer school mandatory for those who don't master the basics. Math and reading scores are up 3 years running, with some of the biggest gains in some of the poorest neighborhoods. It will work, and we should do it.

Second, all States and school districts must turn around their worst performing schools or shut them down. That is the policy established in North Carolina by Governor Jim Hunt. North Carolina made the biggest gains in test scores in the Nation last year. Our budget includes $200 million to help States turn around their own failing schools.

Third, all States and school districts must be held responsible for the quality of their teachers. The great majority of our teachers do a fine job, but in too many schools teachers don't have college majors, or even minors, in the subjects they teach. New teachers should be required to pass performance exams, and all teachers should know the subjects they are teaching.

This year's balanced budget contains resources to help them reach higher standards, and to attract talented young teachers to the toughest assignments, I recommend a six-fold increase in our program for college scholarships for students who commit to teach in the inner cities and isolated rural areas and in Indian communities. Let us bring excellence to every part of America.

Fourth, we must empower parents with more information and more choices. In too many communities it is easier to get information on the quality of local restaurants than on the quality of the local schools. Every school district should issue report cards on every school, and parents should be given more choices in selecting their public schools.

When I became President, there was just one independent public charter school in all America. With our support, on a bipartisan basis, today there are 1,100. My budget assures that early in the next century there will be 3,000.

Fifth, to ensure that our classrooms are truly places of learning and to respond to what teachers have been asking us to do for years, we should say that all States and school districts must both adopt and implement sensible discipline policies.

Now, let's do one more thing for our children. Today too many schools are so old they are falling apart, or so overcrowded students are learning in trailers. Last fall Congress missed the opportunity to change that. This year, with 53 million children in our schools, Congress must not miss that opportunity again. I ask you to help our communities build or modernize 5,000 schools.

Now, if we do these things—end social promotion, turn around failing schools, build modern ones, support qualified teachers, promote innovation, competition, and discipline—then we will begin to meet our generation's historic responsibility to create 21st century schools.

We also have to do more to support the millions of parents who give their all every day at home and at work.

The most basic tool of all is a decent income. So let's raise the minimum wage by $1 an hour over the next 2 years. And let's make sure that women and men get equal pay for equal work by strengthening enforcement of the equal pay laws.

That was encouraging, you know. There was more balance on the seesaw. I like that. Let's give them a hand. That's great.

Working parents also need quality child care. So again this year I ask Congress to support our plan for tax credits and subsidies for working families, for improved safety and quality, for expanded after-school programs.

Our plan also includes a new tax credit for stay-at-home parents, too. They need support, as well. Parents should never have to worry about choosing between their children and their work. The Family and Medical Leave Act, the very first bill I signed into law, has now, since 1993, helped millions and millions of Americans to care for a newborn baby or an ailing relative without risking their jobs. I think it is time, with all the evidence that it has been so little burdensome to employers, to extend family leave to 10 million more Americans working for smaller companies. I hope you will support it.

Finally, on the matter of work, parents should never have to face discrimination in the workplace. I want to ask Congress to prohibit companies from refusing to hire or promote workers simply because they have children. That is not right.

America's families deserve the world's best medical care. Thanks to bipartisan Federal support for medical research, we are now on the verge of new treatments to prevent or delay diseases, from Parkinsons to Alzheimers, from arthritis to cancer. But as we continue our advances in medical science, we can't let our medical system lag behind.

Managed care has literally transformed medicine in America, driving down costs, but threatening to drive down quality as well. I think we ought to say to every American, you should have the right to know all your medical options, not just the cheapest. If you need a specialist, you should have a right to see one. You have a right to the nearest emergency care, if you are in an accident. These are things that we ought to say. I think we ought to say, you should have a right to keep your doctor during a period of treatment, whether it is a pregnancy or a chemotherapy treatment or anything else. I believe this.

Now, I have ordered these rights to be extended to the 85 million Americans served by Medicare, Medicaid, and other Federal health programs. But only Congress can pass a Patients' Bill of Rights for all Americans. Last year, Congress missed that opportunity. We must not miss that opportunity again. For the sake of our families, I ask us to join together across party lines and pass a strong, enforceable Patients' Bill of Rights.

As more of our medical records are stored electronically, the threats to our privacy increase. Because Congress has given me the authority to act if it does not do so by August, one way or another, we can all say to the American people, we will protect the privacy of medical records, and we will do it this year.

Two years ago the Congress extended health coverage to up to 5 million children. Now we should go beyond that. We should make it easier for small businesses to offer health insurance. We should give people between the ages of 55 and 65 who lose their health insurance the chance to buy into Medicare. We should continue to ensure access to family planning.

No one should have to choose between keeping health care and taking a job. Therefore, I especially ask you tonight to join hands to pass the landmark bipartisan legislation proposed by Senators KENNEDY and JEFFORDS, ROTH and MOYNIHAN, to allow people with disabilities to keep their health insurance when they go to work.

We need to enable our public hospitals, our community, our university health centers, to provide basic, affordable care for all the millions of working families who don't have any insurance. They do a lot of that today, but much more can be done, and my balanced budget makes a good down payment toward that goal. I hope you will think about them and support that provision.

Let me say, we must step up our efforts to treat and prevent mental illness. No American should ever be afraid, ever, to address this disease. This year we will host a White House Conference on Mental Health. With sensitivity, commitment and passion, Tipper Gore is leading our efforts here, and I would like to thank her for what she is doing.

As everyone knows, our children are targets of a massive media campaign to hook them on cigarettes. I ask this Congress to resist the tobacco lobby, to reaffirm the FDA's authority to protect our children from tobacco, and to hold tobacco companies accountable while protecting tobacco farmers.

Smoking has cost taxpayers hundreds of billions of dollars under Medicare and other programs. The States have been right about this, taxpayers shouldn't pay for the cost of lung cancer, emphysema, and other smoking-related illnesses; the tobacco companies should. So tonight I announce that the Justice Department is preparing a litigation plan to take the tobacco companies to court, and with the funds we recover, to strengthen Medicare.

Now, if we act in these areas—minimum wage, family leave, child care, health care, the safety of our children—then we will begin to meet our generation's historic responsibilities to strengthen our families for the 21st century.

Today, America is the most dynamic competitive job creating economy in history.

But we can do even better in building a 21st century economy that embraces all Americans.

Today's income gap is largely a skills gap. Last year, the Congress passed a law enabling workers to get a skills grant to choose the training they need, and I applaud all of you here who were part of that. This year, I recommend a five-year commitment to this new system, so that we can provide over the next 5 years appropriate training opportunities for all Americans who lose their jobs and expand rapid response teams to help all towns which have been really hurt when businesses close. I hope you will support this.

Also, I ask your support for a dramatic increase in Federal support for adult literacy. We can mount a national campaign, aimed at helping the millions and millions of working people who still read at less than a fifth grade level. We need to do this.

Here is some good news. In the past 6 years, we have cut the welfare rolls nearly in half. Two years ago, from this podium, I asked five companies to lead a national effort to hire people off welfare. Tonight, our Welfare to Work Partnership includes 10,000 companies who have hired hundreds of thousands of people. Our balanced budget will help another 200,000 people move to the dignity and pride of work. I hope you will support it.

We must do more to bring the spark of private enterprise to every corner of America, to build a bridge from Wall Street to Appalachia, to the Mississippi Delta, to our Native American communities, with more support for community development banks, for empowerment zones, for 100,000 new vouchers for affordable housing, and I ask Congress to support our bold new plan to help businesses raise up to $15 billion in private sector capital to bring jobs and opportunities to our inner cities and rural areas, with tax credits, loan guarantees, including the new American Private Investment Companies modeled on our Overseas Private Investment Corporation.

Now, for years and years and years we have had this OPIC, this Overseas Private Investment Corporation, because we knew we had untapped markets overseas. But our greatest untapped markets are not overseas; they are right here at home, and we should go after them.

Now, we must work hard to help bring prosperity back to the family farm. You know, as this Congress knows very well, dropping prices and the loss of foreign markets have devastated too many family farms. Last year, the Congress provided substantial assistance to help stave off a disaster in American agriculture, and I am ready to work with lawmakers of both parties to create a farm safety net that will include crop insurance reform and farm income assistance. I ask you to join with me and do this.

This should not be a political issue. Everyone knows what an economic problem is going on out there in rural America today, and we need an appropriate means to address it.

We must strengthen our lead in technology. It was government investment that led to the creation of the Internet. I propose a 28 percent increase in long-term computing research. We also must be ready for the 21st century from its very first moment, by solving the so-called "Y2K" computer problem.

Now, we had one Member of Congress stand up and applaud, and we may have about that ratio out there applauding at home in front of their television sets. But, remember, this is a big, big problem and we have been working hard on it. Already we have made sure that the Social Security checks will come on time, but I want all the folks at home listening to know that we need every State and local government, every business, large and small, to work with us to make sure that this Y2K computer bug will be remembered as the last headache of the 20th century, not the first crisis of the 21st.

Now, for our own prosperity, we must support economic growth abroad. Until recently, a third of our economic growth came from exports, but over the past year and a half, financial turmoil overseas has put that growth at risk. Today, much of the world is in recession, with Asia hit especially hard.

This is the most serious financial crisis in half a century. To meet it, the United States and other nations have reduced interest rates and strengthened the International Monetary Fund, and while the turmoil is not over, we have worked very hard with other nations to contain it.

At the same time, we have to continue to work on the long-term project, building a global financial system for the 21st century that promotes prosperity and tames the cycle of boom and bust that has engulfed so much of Asia.

This June, I will meet with other world leaders to advance this historic purpose, and I ask all of you to support our endeavors. I also ask you to support creating a freer and fairer trading system for 21st century America.

I would like to say something really serious to everyone in this Chamber and both parties. I think trade has divided us and divided Americans outside this Chamber for too long. Somehow we have to find a common ground on which business and workers and environmentalists and farmers and government can stand together. I believe these are the things we ought to all agree on, so let me try.

First, we ought to tear down barriers, open markets and expand trade, but at the same time we must ensure that ordinary citizens in all countries actually benefit from trade, a trade that promotes the dignity of work and the rights of workers and protects the environment. We must insist that international trade organizations be more open to public scrutiny, instead of mysterious secret things subject to wild criticism.

When you come right down to it, now that the world economy is becoming more and more integrated, we have to do in the world what we spent the better part of this century doing here at home. We have got to put a human face on the global economy.

Now, we must enforce our trade laws when imports unlawfully flood our Nation. I have already informed the Government of Japan that if that nation's sudden surge of steel imports into our country is not reversed, America will respond.

We must help all manufacturers, hit hard by the present crisis, with loan guarantees and other incentives to increase American exports by nearly $2 billion.

I would like to believe we can achieve a new consensus on trade based on these principles, and I ask the Congress again to join me in this common approach and to give the President the trade authority long used and now overdue and necessary to advance our prosperity in the 21st century.

Tonight I issue a call to the nations of the world to join the United States in a new round of global trade negotiation to expand exports of services, manufacturers and farm products.

Tonight I say, we will work with the International Labor Organization on a new initiative to raise labor standards around the world and this year we will lead the international community to conclude a treaty to ban abusive child labor everywhere in the world.

If we do these things—invest in our people, our communities, our technology and lead in the global economy—then we will begin to meet our historic responsibility to build a 21st century prosperity for America.

No nation in history has had the opportunity and the responsibility we now have to shape a world that is more peaceful, more secure, more free. All Americans can be proud that our leadership helped to bring peace in Northern Ireland. All Americans can be proud that our leadership has put Bosnia on the path to peace, and with our NATO allies, we are pressing the Serbian Government to stop its brutal repression in Kosovo, to bring those responsible to justice and to give the people of Kosovo the self-government they deserve.

All Americans can be proud that our leadership renewed hope for lasting peace in the Middle East. Some of you were with me last December as we watched the Palestinian National Council completely renounce its call for the destruction of Israel. Now I ask Congress to provide resources so that all parties can implement the Wye Agreement, to protect Israel's security, to stimulate the Palestinian economy, to support our friends in Jordan. We must not, we dare not, let them down. I hope you will help.

As we work for peace, we must also meet threats to our Nation's security, including increased dangers from outlaw nations and terrorism. We will defend our security wherever we are threatened, as we did this summer when we struck at Osama bin Laden's network of terror. The bombing of our embassies in Kenya and Tanzania reminds us again of the risks faced every day by those who represent America to the world. So let us give them the support they need, the safest possible workplaces, and the resources they must have so America can continue to lead.

We must work to keep terrorists from disrupting computer networks. We must work to prepare local communities for biological and chemical emergencies, to support research into vaccines and treatments.

We must increase our efforts to restrain the spread of nuclear weapons and missiles from Korea to India and Pakistan. We must expand our work with Russia, Ukraine and other former Soviet nations to safeguard nuclear materials and technology so they never fall into the wrong hands.

Our balanced budget will increase funding for these critical efforts by almost two-thirds over the next 5 years. With Russia, we must continue to reduce our nuclear arsenals. The START II Treaty and the framework we have already agreed to for START III could cut them by 80 percent from their Cold War height.

It has been 2 years since I signed the Comprehensive Test Ban Treaty. If we do not do the right thing, other nations will not either. I ask the Senate to take this vital step: Approve the Treaty now to make it harder for other nations to develop nuclear arms and to make sure we can end nuclear testing forever.

For nearly a decade, Iraq has defied its obligations to destroy its weapons of terror and the missiles to deliver them. America will continue to contain Saddam and we will work for the day when Iraq has a government worthy of its people.

Last month, in our action over Iraq, our troops were superb. Their mission was so flawlessly executed that we risk taking for granted the bravery and the skill it required. Captain Jeff Taliaferro, a 10-year veteran of the Air Force, flew a B-1B bomber over Iraq as we attacked Saddam's war machine. He is here with us tonight. I would like to ask you to honor him and all the 33,000 men and women of Operation Desert Fox.

It is time to reverse the decline in defense spending that began in 1985. Since April, together we have added nearly $6 billion to maintain our military readiness. My balanced budget calls for a sustained increase over the next 6 years for readiness, for modernization and for pay and benefits for our troops and their families.

We are the heirs of a legacy of bravery represented in every community in America by millions of our veterans. America's defenders today still stand ready at a moment's notice to go where comforts are few and dangers are many, to do what needs to be done as no one else can. They always come through for America. We must come through for them.

The new century demands new partnerships for peace and security.

The United Nations plays a crucial role, with allies sharing burdens America might otherwise bear alone. America needs a strong and effective U.N. I want to work with this new Congress to pay our dues and our debts.

We must continue to support security and stability in Europe and Asia, expanding NATO and defining its new missions, maintaining our alliance with Japan, with Korea, with our other Asian allies, and engaging China.

In China last year, I said to the leaders and the people what I would like to say again tonight. Stability can no longer be bought at the expense of liberty. But I would also like to say again to the American people, it is important not to isolate China. The more we bring China into the world, the more the world will bring change and freedom to China.

Last spring, with some of you, I traveled to Africa, where I saw democracy and reform rising but still held back by violence and disease. We must fortify African democracy and peace by launching radio democracy for Africa, supporting the transition to democracy now beginning to take place in Nigeria, and passing the African Trade and Development Act.

We must continue to deepen our ties to the Americas and the Caribbean, our common work to educate children, fight drugs, strengthen democracy, and increase trade.

In this hemisphere, every government but one is freely chosen by its people. We are determined that Cuba, too, will know the blessings of liberty.

The American people have opened their hearts and their arms to our Central American and Caribbean neighbors who have been so devastated by the recent hurricanes. Working with Congress, I am committed to help them rebuild.

When the First Lady and Tipper Gore visited the region, they saw thousands of our troops and thousands of American volunteers. In the Dominican Republic, Hillary helped to rededicate a hospital that had been rebuilt by Dominicans and Americans working side by side.

With her was someone else who has been very important to the relief efforts. You know, sports records are made and sooner or later they are broken. But making other people's lives better and showing our children the true meaning of brotherhood, that lasts forever. So for far more than baseball, Sammy Sosa, you are a hero of two countries.

So I say to all of you, if we do these things, if we pursue peace, fight terrorism, increase our strength, renew our alliances, we will begin to meet our Nation's historic responsibility to build a stronger 21st century America in a freer, more peaceful world.

As the world has changed, so have our own communities. We must make them safer, more livable and more united. This year we will reach our goal of 100,000 community police officers ahead of schedule and under budget.

The Brady Bill has stopped a quarter million felons, fugitives, and stalkers from buying handguns. Now the murder rate is the lowest in 30 years, and the crime rate has dropped for 6 straight years.

Tonight I propose a 21st century crime bill to deploy the latest technologies and tactics to make our communities even safer. Our balanced budget will help to put up to 50,000 more police on the street in the areas hardest hit by crime and to equip them with new tools, from crime-mapping computers to digital mug shots.

We must break the deadly cycle of drugs and crime. Our budget expands support for drug testing and treatment, saying to prisoners, if you stay on drugs, you have to stay behind bars. And to those on parole, if you want to keep your freedom, you must stay free of drugs.

I ask Congress to restore the 5-day waiting period for buying a handgun and extend the Brady Bill to prevent juveniles who commit violent crimes from buying a gun.

We must do more to keep our schools the safest places in our communities. Last year, every American was horrified and heartbroken by the tragic killings in Jonesboro, Paducah, Pearl, Edinboro, and Springfield.

We were deeply moved by the courageous parents now working to keep guns out of the hands of children and making efforts so that other parents do not have to live through their loss.

After she lost her daughter, Suzann Wilson of Jonesboro, Arkansas, came here to the White House with a powerful plea. She said, "Please, please for the sake of your children, lock up your guns. Don't let what happened in Jonesboro happen in your town." It is a message she is passionately advocating every day.

Suzann is here with us tonight with the First Lady. I would like to thank her for her courage and her commitment. Thank you.

In memory of all the children who lost their lives to school violence, I ask you to strengthen the Safe and Drug-Free School Act, to pass legislation to require child trigger locks, to do everything possible to keep our children safe.

A century ago, President Theodore Roosevelt defined our "great central task" as "leaving this land even a better land for our descendants than it is for us."

Today we are restoring the Florida Everglades, saving Yellowstone, preserving the red-rock canyons of Utah, protecting California's redwoods and our precious coasts. But our most fateful new challenge is the threat of global warming.

1998 was the warmest year ever recorded. Last year's heat waves, floods, and storms are but a hint of what future generations may endure if we do not act now.

Tonight, I propose a new Clean Air Fund to help communities reduce greenhouse and other pollution, and tax incentives and investment to spur clean energy technology, and I want to work with Members of Congress in both parties to reward companies who take early, voluntary action to reduce greenhouse gases.

Now, all our communities face a preservation challenge as they grow, and green space shrinks. Seven thousand acres of farmland and open space are lost every day.

In response, I propose two major initiatives: first, a $1 billion Livability Agenda to help communities save open space, ease traffic congestion and grow in ways that enhance every citizen's quality of life; and, second, a $1 billion Lands Legacy Initiative to preserve places of natural beauty all across America, from the most remote wilderness to the nearest city park.

These are truly landmark initiatives, which could not have been developed without the visionary leadership of the Vice President, and I want to thank him very much for his commitment here. Thank you.

Now, to get the most out of your community, you have to give something back. That is why we created AmeriCorps, our national service program, that gives today's generation a chance to serve their communities and earn money for college. So far, in just 4 years, 100,000 young Americans have built low-income homes with Habitat for Humanity, helped to tutor children, with churches, worked with FEMA to ease the burden of natural disasters, and performed countless other acts of service that have made America better. I ask Congress to give more young Americans the chance to follow their lead and serve America in AmeriCorps.

Now, we must work to renew our national community as well for the 21st century. Last year, the House passed the bipartisan campaign finance reform legislation sponsored by Representatives SHAYS and MEEHAN and Senators MCCAIN and FEINGOLD. But a partisan minority in the Senate blocked reform. So I would like to say to the House, pass it again, quickly; and I would like to say to the Senate, I hope you will say yes to a stronger American democracy in the year 2000.

Since 1997, our Initiative on Race has sought to bridge the divides between and among our people. In its report last fall, the Initiative's Advisory Board found that Americans really do want to bring our people together across racial lines. We know it has been a long journey. For some it goes back to before the beginning of our Republic; for others, back since the Civil War; for others, throughout the 20th century. But for most of us alive today, in a very real sense, this journey began 43 years ago, when a woman named Rosa Parks sat down on a bus in Alabama and wouldn't get up. She is sitting down with the First Lady tonight, and she may get up or not as she chooses. We thank her.

We know that our continuing racial problems are aggravated, as the Presidential Initiative said, by opportunity gaps. The initiative I have outlined tonight will help to close them. But we know that the discrimination gap has not been fully closed either. Discrimination or violence because of race or religion, ancestry or gender, disability or sexual orientation, is wrong, and it ought to be illegal. Therefore, I ask Congress to make the Employment Nondiscrimination Act and the Hate Crimes Prevention Act the law of the land.

You know, since every person in America counts, every American ought to be counted. We need a census that uses modern scientific methods to do that.

Our new immigrants must be part of our One America. After all, they are revitalizing our cities, they are energizing our culture, they are building up our economy. We have a responsibility to make them welcome here, and they have a responsibility to enter the mainstream of American life. That means learning English and learning about our democratic system of government.

There are now long waiting lines of immigrants that are trying to do just that. Therefore, our budget significantly expands our efforts to help them meet their responsibility. I hope you will support it.

Whether our ancestors came here on the Mayflower or on slave ships, whether they came to Ellis Island or LAX in Los Angeles, whether they came yesterday or walked this land 1,000 years ago, our great challenge for the 21st century is to find a way to be One America. We can meet all the other challenges, if we can go forward as One America.

You know, barely more than 300 days from now, we will cross that bridge into the new millennium. This is a moment, as the First Lady has said, to honor the past and imagine the future. I would like to take just a minute to honor her for leading our Millennium Project, for all she has done for our children, for all she has done in her historic role to serve our Nation and our best ideals at home and abroad. I honor her.

Last year, I called on Congress and every citizen to mark the millennium by saving America's treasures. Hillary has traveled all across the country to inspire recognition and support for saving places like Thomas Edison's invention factory and Harriet Tubman's home.

Now we have to preserve our treasures in every community, and tonight, before I close, I want to invite every town, every city, every community, to become a nationally recognized millennium community, by launching projects that save our history, promote our arts and humanities, prepare our children for the 21st century.

Already the response has been remarkable, and I want to say a special word of thanks to our private sector partners and to Members in Congress of both parties for their support. Just one example: Because of you, the Star Spangled Banner will be preserved for the ages.

In ways large and small, as we look to the millennium, we are keeping alive what George Washington called "the sacred fire of liberty."

Six years ago, I came to office in a time of doubt for America, with our economy troubled, our deficit high, our people divided. Some even wondered whether our best days were behind us.

But across this country, in 1,000 neighborhoods, I had seen, even amidst the pain and uncertainty of recession, the real heart and character of America. I knew then that we Americans could renew this country.

Tonight, as I deliver the last State of the Union address of the 20th century, no one anywhere in the world can doubt the enduring resolve and boundless capacity of the American people to work toward that "more perfect union" of our founders' dream.

We are now at the end of a century when generation after generation of Americans answered the call to greatness, overcoming Depression, lifting up the dispossessed, bringing down barriers to racial prejudice, building the largest middle class in history, winning two World Wars in the "long twilight struggle" of the Cold War. We must all be profoundly grateful for the magnificent achievements of our forebears in this century.

Yet perhaps in the daily press of events, in the clash of controversy, we don't see our own time for what it truly is, a new dawn for America. Ten years from tonight, another American President will stand in this place and report on the State of the Union. He, or she, will look back on a 21st century shaped in so many ways by the decisions we make here and now.

So let it be said of us then that we were thinking not only of our time, but of their time; that we reached as high as our ideals; that we put aside our divisions and found a new hour of healing and hopefulness; that we joined together to serve and strengthen the land we love.

My fellow Americans, this is our moment. Let us lift our eyes as one nation, and from the mountain top of this American century, look ahead to the next one, asking God's blessing on our endeavors and on our beloved country.

Thank you, and good evening.

(Applause, the Members rising.)

At 10 o'clock and 27 minutes p.m. the President of the United States, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Deputy Sergeant at Arms escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet;

The Associate Justices of the Supreme Court of the United States;

The Acting Dean of the Diplomatic Corps.

JOINT SESSION DISSOLVED

The SPEAKER. The Chair declares the joint session of the two Houses now dissolved.

Accordingly, at 10 o'clock and 32 minutes p.m., the joint session of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

MESSAGE OF THE PRESIDENT REFERRED TO THE COMMITTEE OF THE WHOLE HOUSE ON THE STATE OF THE UNION

Mr. THUNE. Mr. Speaker, I move that the message of the President be referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

The motion was agreed to.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HOYER for 5 minutes today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. DUNCAN, for 5 minutes, today.

Mr. ROYCE, for 5 minutes, today.

Mr. DREIER, for 5 minutes, today.

Mr. BLILEY, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. SMITH of Michigan, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. WELLER, for 5 minutes, today.

ADJOURNMENT

Mr. THUNE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER. Pursuant to the provisions of House Concurrent Resolution 11 of the 106th Congress, the House stands adjourned until 12:30 p.m. Tuesday, February 2, 1999, for morning hour debates or, under the previous order of the House, until 2 p.m. tomorrow, unless the House sooner receives a message from the Senate transmitting its concurrence in House Concurrent Resolution 11.

Thereupon (at 10 o'clock and 34 minutes p.m.) pursuant to House Concurrent Resolution 11, the House adjourned until Tuesday, February 2, 1999, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

26. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Veterinary Services User Fees; Embryo Collection Center Approval Fee [Docket No. 98–005–2] received December 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

27. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Tart Cherries Grown in the States of Michigan, et al.; Final Free and Restricted Percentages for the 1998–99 Crop Year for Tart Cherries [Docket No. FV98–930–1 FR] received January 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

28. A letter from the Manager, Federal Crop Insurance Corporation, Department of Agriculture, transmitting the Department's final rule—General Administrative Regulations; Interpretations of Statutory and Regulatory Provisions—received January 13, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

29. A letter from the Deputy Under Secretary for Natural Resources and Environment, Department of Agriculture, transmitting the Department's final rule—Small Business Timber Sale Set-aside Program; Appeal Procedures On Recomputation Of Shares—received January 13, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

30. A letter from the Administrator, Farm and Foreign Agricultural Services, Department of Agriculture, transmitting the Department's final rule —Disaster Set-Aside Program—Second Installment Set-Aside (RIN: 0560-AF65) received January 13, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

31. A letter from the General Counsel, National Credit Union Administration, transmitting the Administration's final rule—Organization and Operations of Federal Credit Unions—received December 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

32. A letter from the Secretary of Education, transmitting the annual report of the National Advisory Committee on Institutional Quality and Integrity for fiscal year 1998, pursuant to Public Law 102—325, section 1203 (106 Stat. 794); to the Committee on Education and the Workforce.

33. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Mojave Desert Air Quality Management District [CA 207-0106a; FRL 6211-1] received December 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

34. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision Antelope Valley Air Pollution Control District [CA-207-0088; FRL; 6211-2] received December 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

35. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—1998 Reporting Notice and Amendment; Partial Updating of TSCA Inventory Data Base, Production and Site Reports [OPPTS-82052; FRL-6052-7] received December 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

36. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Kentucky; Approval of Revisions to Basic Motor Vehicle Inspection and Maintenance Program [KY98-9808a; FRL-6199-1] received December 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

37. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Antelope Valley Air Pollution Control District [CA 211-0116a; FRL-6214-1] received December 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

38. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plan Louisiana; Nonattainment Major Stationary Source Revision [LA40-1-7338a; FRL-6207-8] received December 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

39. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund, Section 104 [FRL-6220-7] received January 13, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

40. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Ventura County Air Pollution Control District [CA 095-0107; FRL-6213-9] received January 13, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

41. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Illinois [IL161-1a; FRL-6216-4] received January 13, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

42. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plan; Illinois [IL176-1a; FRL-6215-3] received January 13, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

43. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Joaquin Valley Unified Air Pollution Control District [CA 207-0121; FRL-6214-5] received January 13, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

44. A letter from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Implementation of Section 25 of the Cable Television Consumer Protection and Competition Act of 1992 [MM Docket 93-25] received December 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

45. A letter from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule— 1998 Biennial Regulatory Review—Amendment of Parts 73 and 74 Relating to Call Sign Assignments for Broadcast Stations [MM Docket No. 98-98] received January 13, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

46. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Guides for the Decorative Wall Paneling Industry—received December 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

47. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(b); to the Committee on International Relations.

48. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 99-2: Determination and Certification for Fiscal Year 1999 concerning Argentina's and Brazil's termination of eligibility Under Section 102(a)(2) of the Arms Export Control Act, pursuant to 22 U.S.C. 2799aa—2; to the Committee on International Relations.

49. A communication from the President of the United States, transmitting a report to the Congress on the Strategic Concept of NATO; to the Committee on International Relations.

50. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report entitled, "Report on Withdrawal of Russian Armed Forces and Military Equipment"; to the Committee on International Relations.

51. A letter from the NARA Regulatory Policy Official, National Archives and Records Administration, transmitting the Administration's final rule—Privacy Act Regulations (RIN: 3095-AA66) received December 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

52. A letter from the Secretary, Postal Rate Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1998, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

53. A letter from the Secretary of Defense, transmitting the semiannual report of the Inspector General and classified annex for the period ending September 30, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

54. A letter from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper Bag Limit Reduction [Docket No. 981224322-8322-01; I.D. 122298A] (RIN: 0648-AK97) received January 13, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

55. A letter from the Director, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—High Seas Fishing Compliance Act; Vessel Identification and Reporting Requirements; OMB Control Numbers [Docket No. 980602143-8309-02; I.D. 040197B] (RIN: 0648-AI99) received January 13, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

56. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Incentive Grants for Alcohol-Impaired Driving Prevention Programs [Docket No. NHTSA-98-4942] (RIN: 2127-AH42) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

57. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Truck Size and Weight; National Network; North Dakota [FHWA Docket No. 98-3467] (RIN: 2125-AE36) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

58. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Regulated Navigation Area: Navigable waters within

the First Coast Guard District [CGD1–98–151] (RIN: 2115–AE84) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

59. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Regattas and Marine Parades [CGD 95–054] (RIN: 2115–AF17) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

60. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Temporary Drawbridge Regulations; Mississippi River, Iowa and Illinois [CGD 08–98–077] (RIN: 2115–AE47) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

61. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Emergency Control Measures for Tank Barges [USCG 1998–4443] (RIN: 2115–AF65) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

62. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300 B4–600R and A300 F4–600R Series Airplanes [Docket No. 98–NM–361–AD; Amendment 39–10956; AD 98–25–53] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

63. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company Models 1900, 1900C, and 1900D Airplanes [Docket No. 97–CE–153–AD; Amendment 39–10959; AD 98–26–16] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

64. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A310 and A300–600 Series Airplanes Equipped with Pratt & Whitney JT9D–7R4 or 4000 Series Engines [Docket No. 98–NM–358–AD; Amendment 39–10952; AD 98–25–51] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

65. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–9–10, -20, -30, -40, and -50 Series Airplanes, and C–9 (Military) Airplanes [Docket No. 97–NM–56–AD; Amendment 39–10948; AD 98–26–08] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

66. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Jetstream Model 3201 Airplanes [Docket No. 98–CE–75–AD; Amendment 39–10960; AD 98–26–17] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

67. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—IFR Altitudes; Miscellaneous Amendments [Docket No. 29418; Amdt. No. 413] received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

68. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McCauley Propeller Systems Models 2A36C23/84B–0 and 2A36C82/84B–2 Propellers [Docket No. 98–ANE–34–AD; Amendment 39–10939, AD 98–25–13] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

69. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace (Operations) Limited Model B.121 Series 1,2, and 3 Airplanes [Docket No. 97–CE–122–AD; Amendment 39–10946; AD 98–26–05] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

70. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce Limited, Bristol Engines Division, Viper Models Mk.521 and Mk.522 Turbojet Engines [Docket No. 98–ANE–01–AD; Amendment 39–10947; AD 98–26–07] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

71. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes [Docket No. 98–NM–239–AD; Amendment 39–10951; AD 98–26–11] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

72. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dassault Model Mystere-Falcon 20 Series Airplanes, Fan Jet Falcon Series Airplanes, and Fan Jet Falcon Series D,E, and F Series Airplanes [Docket No. 98–NM–221–AD; Amendment 39–10950; AD 98–26–10] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

73. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC9–10,-20,-30,-40, and -50 Series Airplanes, and C–9 (Military) Airplanes [Docket No. 98–NM–06–AD; Amendment 39–10949; AD 98–26–09] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

74. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 97–NM–59–AD; Amendment 39–10954; AD 98–26–13] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

75. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Roswell, NM [Airspace Docket No. 98–ASW–53] received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

76. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 and 200) Series Airplanes [Docket No. 98–NM–330–AD; Amendment 39–10955; AD 98–26–14] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

77. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Model 328–100 Series Airplanes [Docket No. 98–NM–290–AD; Amendment 39–10953; AD 98–26–12] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

78. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes [Docket No. 97–NM–195–AD; Amendment 39–10958; AD 98–26–15] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

79. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class D and E Airspace, Amendment to Class D and E Airspace; Montgomery, AL [Airspace Docket No. 98–ASO–12] received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

80. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Burnet, TX [Airspace Docket No. 98–ASW–48] received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

81. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Austin, TX [Airspace Docket No. 98–ASW–49] received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

82. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Taylor, TX [Airspace Docket No. 98–ASW–50] received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

83. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Austin, Horseshoe Bay, TX and Revocation of Class E Airspace, Marble Falls, TX [Airspace Docket No. 98–ASW–51] received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

84. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; San Angelo, TX [Airspace Docket No. 98–ASW–52] received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

85. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Truck Size and Weight; Technical Corrections (RIN: 2125–AE47) received December 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

86. A letter from the General Counsel, Department of Transportation, transmitting

the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29404; Amdt. No. 1904] (RIN: 2120–AA65) received December 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

87. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29416; Amdt. No. 1905] (RIN: 2120–AA65) received December 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

88. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29417; Amdt. No. 1906] (RIN: 2120–AA65) received December 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

89. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company Models 1900, 1900C, and 1900D Airplanes [Docket No. 98–CE–23–AD; Amendment 39–10970; 99–01–03] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

90. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; All Airplane Models of The New Piper Aircraft, Inc. (formerly Piper Aircraft Corporation) That Are Equipped with Wing Lift Struts [Docket No. 96–CE–72–AD; Amendment 39–10972; AD 99–01–05] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

91. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Jetstream Model 3101 Airplanes [Docket No. 98–CE–99–AD; Amendment 39–10973; AD 99–01–06] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

92. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Jetstream Model 3101 Airplanes [Docket No. 98–CE–100–AD; Amendment 39–10974; AD 99–01–07] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

93. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whitney JT8D and JT3D Series Turbofan Engines [Docket No. 98–ANE–77–AD; Amendment 39–10975; AD 99–01–08] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

94. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Winchester, VA [Airspace Docket No. 98–AEA–42] received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

95. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Milton, WV [Airspace Docket No. 98–AEA–41] received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

96. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Wise, VA [Airspace Docket No. 98–AEA–39] received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

97. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 98–NM–327–AD; Amendment 39–10976; AD 99–01–10] (RIN: 2120–AA64) received January 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

98. A letter from the Acting Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule—Administrative Revisions to the NASA FAR Supplement, MidRange Procurement Procedures—received December 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

99. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Administrative, Procedural, and Miscellaneous [Revenue Procedure 99–7] received December 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

100. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Optional Standard Mileage Rates for Employees, Self-employed Individuals, and Other Taxpayers Used in Computing Deductible Costs [Announcement 99–7] received December 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

101. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Agency's final rule—Consolidated returns—Limitation on recapture of overall foreign loss accounts [TD 8800] (RIN: 1545–AW51) received December 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

102. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Agency's final rule—Weighted Average Interest Rate Update [Notice 98–64] received December 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

103. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Consolidated returns—Limitations on recapture of overall foreign loss accounts [TD 8800] (RIN: 1545–AW51) received December 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

104. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Modification of Rev. Proc. 65–17, 1965–1 C.B. 833 [Announcement 99–1] received December 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

105. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property—received December 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

106. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters [Rev. Proc. 99–3] received December 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

107. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Eligible Rollover Distributions [Notice 99–5] received December 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

108. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Alternative Methods for Reporting 1998 and 1999 IRA Recharacterizations and Reconversions [Announcement 99–5] received December 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

109. A letter from the Chief, Regulations Branch, U.S. Customs Service, transmitting the Service's final rule—Exemption of Israeli Products From Certain Customs User Fees [T.D. 99–1] (RIN: 1515–AC39) received January 13, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10. A communication from the President of the United States, transmitting the Annual Report to the Congress on Foreign Economic Collection and Industrial Espionage; to the Committee on Intelligence (Permanent Select).

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Filed on January 2, 1999]

Mr. TALENT: Committee on Small Business. Summary of Activities of the Committee on Small Business, 105th Congress (Rept. 105–849). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMAS: Committee on House Oversight. Report on the Activities of the Committee on House Oversight of the House of Representatives During the One Hundred Fifth Congress (Rept. 105–850). Referred to the Committee of the Whole House on the State of the Union.

[Filed on January 3, 1999]

Mr. COX: Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China. Report of the Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China (Rept. 105–851). Referred to the Committee of the Whole House on the State of the Union.

[Submitted January 19, 1999]

Mr. TALENT: Committee on Small Business. H.R. 68. A bill to amend section 20 of the Small Business Act and make technical corrections in Title III of the Small Business Investment Act (Rept. 106–1). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. LEVIN (for himself, Mr. SHAW, Mr. LEWIS of Georgia, Mr. CAMPBELL, Mr. MASCARA, Mr. SANDERS, Mr. MCCOLLUM, Mr. PAUL, Mrs. MORELLA, Mr. HOLDEN, Mrs. MEEK of Florida, Mr. OBERSTAR, Mr. KILDEE, Mr. ENGLISH of Pennsylvania, Mrs. MALONEY of New York, Mr. GEJDENSON, Mr. BROWN of Ohio, Ms. HOOLEY of Oregon, Mr. WEYGAND, Mr. COYNE, Mr. RAHALL, Mr. MATSUI, Mr. CONDIT, Mr. FORD, Mr. VENTO, and Mr. BALDACCI):

H.R. 323. A bill to amend the Internal Revenue Code of 1986 to permanently extend the exclusion for employer-provided educational assistance and to restore the exclusion for graduate level educational assistance; to the Committee on Ways and Means.

By Mr. LEVIN:

H.R. 324. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain amounts received as scholarships by an individual under the National Health Service Corps Scholarship Program; to the Committee on Ways and Means.

By Mr. BONIOR (for himself, Mr. GEPHARDT, Mr. FROST, Mr. MENENDEZ, Ms. DELAURO, Mr. LEWIS of Georgia, Mr. KENNEDY, Mr. CLAY, Mr. GEORGE MILLER of California, Mr. OWENS, Mr. ACKERMAN, Mr. ANDREWS, Ms. BALDWIN, Mr. BARRETT of Wisconsin, Ms. BERKLEY, Mr. BERMAN, Mr. BLAGOJEVICH, Ms. BROWN of Florida, Mr. BROWN of Ohio, Mr. CAPUANO, Mr. CARDIN, Ms. CARSON, Mrs. CLAYTON, Mr. CONYERS, Mr. COSTELLO, Mr. COYNE, Mr. DAVIS of Illinois, Mr. DELAHUNT, Mr. DINGELL, Mr. FALEOMAVAEGA, Mr. FILNER, Mr. FORD, Mr. FRANK of Massachusetts, Mr. GEJDENSON, Mr. GONZALEZ, Mr. GREEN of Texas, Mr. GUTIERREZ, Mr. HALL of Ohio, Mr. HINCHEY, Mr. JEFFERSON, Ms. KAPTUR, Mr. KILDEE, Ms. KILPATRICK, Mr. KLECZKA, Mr. KLINK, Mr. LAFALCE, Ms. LEE, Mr. LEVIN, Mrs. LOWEY, Mr. MARKEY, Mr. MATSUI, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCNULTY, Mr. MEEHAN, Mrs. MEEK of Florida, Ms. MILLENDER-MCDONALD, Mrs. MINK of Hawaii, Mr. NADLER, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OBEY, Mr. OLVER, Mr. PALLONE, Mr. PAYNE, Ms. PELOSI, Mr. RAHALL, Mr. RANGEL, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SHERMAN, Ms. SLAUGHTER, Mr. STARK, Mr. TOWNS, Mr. VENTO, Mr. WAXMAN, Mr. WEXLER, Ms. WOOLSEY, and Mr. WYNN):

H.R. 325. A bill to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage; to the Committee on Education and the Workforce.

By Mr. ARCHER (for himself, Mr. RANGEL, Mr. CRANE, and Mr. LEVIN):

H.R. 326. A bill to make miscellaneous and technical changes to various trade law, and for other purposes; to the Committee on Ways and Means.

By Mr. ADERHOLT (for himself and Mr. BACHUS):

H.R. 327. A bill to provide for the assessment of additional antidumping duties prior to the effective date of an antidumping order issued under the Tariff Act of 1930 with respect to steel products; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 328. A bill to prevent the implementation of parity payments and certain marketing quotas under the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949, to reduce the amounts available for payments under production flexibility contracts entered into under the Agricultural Market Transition Act, and to shorten the period during which such payments will be made; to the Committee on Agriculture.

By Mr. ANDREWS (for himself, Ms. DELAURO, and Mr. WELDON of Pennsylvania):

H.R. 329. A bill to provide that children's sleepwear shall be manufactured in accordance with stricter flammability standards; to the Committee on Commerce.

By Mr. FOSSELLA:

H.R. 330. A bill to amend the Internal Revenue Code of 1986 to reduce individual income tax rates by 30 percent; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 331. A bill to amend the Federal Election Campaign Act of 1971 to provide for public funding for House of Representatives elections, and for other purposes; to the Committee on House Administration.

H.R. 332. A bill to terminate the authorities of the Overseas Private Investment Corporation; to the Committee on International Relations.

H.R. 333. A bill to amend title 11 of the United States Code to modify the application of chapter 7 relating to liquidation cases; to the Committee on the Judiciary.

H.R. 334. A bill to amend the Immigration and Nationality Act to provide for the deportation of aliens who associate with known terrorists; to the Committee on the Judiciary.

H.R. 335. A bill to amend section 207 of title 18, United States Code, to increase to 5 years the period during which former Members of Congress may not engage in certain lobbying activities; to the Committee on the Judiciary.

H.R. 336. A bill to amend the Internal Revenue Code of 1986 to provide incentives for investments in tax enterprise zone businesses and domestic businesses; to the Committee on Ways and Means.

H.R. 337. A bill to amend the Internal Revenue Code of 1986 to exempt from income tax the gain from the sale of a business closely held by an individual who has attained age 62, and for other purposes; to the Committee on Ways and Means.

H.R. 338. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax to C corporations which have substantial employee ownership and to encourage stock ownership by employees by excluding from gross income stock paid as compensation for services, and for other purposes; to the Committee on Ways and Means.

H.R. 339. A bill to amend the Internal Revenue Code of 1986 to provide an inflation adjustment of the dollar limitation on the exclusion of gain on the sale of a principal residence; to the Committee on Ways and Means.

H.R. 340. A bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools; to the Committee on Ways and Means.

H.R. 341. A bill to establish a Fund for Environmental Priorities to be funded by a portion of the consumer savings resulting from retail electricity choice, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 342. A bill to amend the Controlled Substances Act to provide penalties for open air drug markets, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 343. A bill to protect the Social Security system and to amend the Congressional Budget Act of 1974 to require a two-thirds vote for legislation that changes the discretionary spending limits or the pay-as-you-go provisions of the Balanced Budget and Emergency Deficit Control Act of 1985 if the budget for the current year (or immediately preceding year) was not in surplus; to the Committee on Ways and Means, and in addition to the Committees on the Budget, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARRETT of Nebraska:

H.R. 344. A bill to modify the project for flood control, Wood River, Grand Island, Nebraska; to the Committee on Transportation and Infrastructure.

By Mr. BARTLETT of Maryland:

H.R. 345. A bill to authorize the President to issue a posthumous Army commission in the grade of captain in the Chaplains Corps to Ella E. Gibson, who served as chaplain of the First Wisconsin Heavy Artillery regiment during the Civil War; to the Committee on Armed Services.

H.R. 346. A bill to prohibit the payment to the United Nations of any contributions by the United States until United States overpayments to such body have been properly credited or reimbursed; to the Committee on International Relations.

H.R. 347. A bill to protect the right to obtain firearms for security, and to use firearms in defense of self, family, or home, and to provide for the enforcement of such right; to the Committee on the Judiciary.

H.R. 348. A bill to authorize the construction of a monument to honor those who have served the Nation's civil defense and emergency management programs; to the Committee on Resources.

By Mr. BENTSEN:

H.R. 349. A bill to amend the Act commonly called the "Flag Code" to add the Martin Luther King, Jr. holiday to the list of days on which the flag should especially be displayed; to the Committee on the Judiciary.

By Mr. CONDIT (for himself, Mr. PORTMAN, Mr. MORAN of Virginia, Mr. DAVIS of Virginia, Mr. BISHOP, Mr. DREIER, Ms. DANNER, Mr. HASTERT, Mr. STENHOLM, Mr. LINDER, Mr. CRAMER, Mr. ARMEY, Mr. HALL of Texas, Mr. GOSS, Mr. MCINTYRE, Mr. DELAY, Mr. GOODE, Ms. PRYCE of Ohio, Mr. BENTSEN, Mr. WATTS of Oklahoma, Mr. TANNER, Mr. HASTINGS of Washington, Mr. TURNER, Mr. KASICH, Mrs. MYRICK, Mr. SESSIONS, Mr. REYNOLDS, Mr. BONILLA, Mr. BOEHNER, Mr. SUNUNU, Mr. RILEY, Mr. HOBSON, Mr. CHABOT, Mr. NORWOOD, and Mr. HAYES):

H.R. 350. A bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes; to the Committee on Rules.

By Mr. BILIRAKIS (for himself, Mr. FRANKS of New Jersey, Mr. FOLEY, Mr. SANDERS, Mr. MILLER of Florida, Mr. HALL of Texas, Mr. COOKSEY, and Mr. DEUTSCH):

H.R. 351. A bill to prohibit the Secretary of Health and Human Services from treating any Medicaid-related funds recovered as part of State litigation from one or more tobacco companies as an overpayment under the Medicaid Program; to the Committee on Commerce.

By Mr. BLUNT (for himself, Mr. BENTSEN, Mr. HILL of Montana, Mr. FROST, Mr. McCOLLUM, Mr. TAYLOR of North Carolina, Mr. SCHAFFER, Mr. MORAN of Kansas, Mrs. KELLY, Mrs. MYRICK, Mr. THUNE, Mr. LaTOURETTE, Mr. SANDLIN, Mr. DELAHUNT, Mr. PETERSON of Pennsylvania, Mr. PITTS, Mr. HUTCHINSON, Mrs. EMERSON, Mr. COOK, Mr. METCALF, Mr. HINCHEY, Mr. YOUNG of Alaska, Mr. PASCRELL, Mr. SKEEN, Mr. BRADY of Texas, Mrs. CUBIN, Mr. McCRERY, Mr. RILEY, Mr. KANJORSKI, Mr. McINTYRE, Mr. TALENT, Mr. PAUL, Mr. LoBIONDO, Mr. HULSHOF, Mr. PICKERING, Mr. MORAN of Virginia, Mr. MANZULLO, Mr. DEAL of Georgia, Mr. ALLEN, Ms. McCARTHY of Missouri, Mr. BALDACCI, Ms. HOOLEY of Oregon, Mr. NORWOOD, Mr. PEASE, Mr. POMEROY, Ms. KILPATRICK, Mr. SUNUNU, Mr. ENGLISH of Pennsylvania, Mr. DICKEY, Mr. WATKINS, Mr. COOKSEY, and Mr. WELLER):

H.R. 352. A bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals; to the Committee on Ways and Means.

By Mrs. CAPPS (for herself, Mr. FORBES, Mr. VENTO, Mr. OBERSTAR, Mr. EVERETT, Mr. ACKERMAN, Ms. DANNER, Mrs. THURMAN, Mr. MEEHAN, Ms. JACKSON-LEE of Texas, Mr. WEYGAND, Mr. DELAHUNT, Mr. GILMAN, Mr. BILBRAY, Ms. RIVERS, Ms. KILPATRICK, Mr. BOEHLERT, Mr. SHERMAN, Mr. HORN, Mr. COYNE, Mr. OLVER, Mr. GREEN of Texas, Ms. ESHOO, Mr. BENTSEN, Mr. KUCINICH, Mr. BALDACCI, Mr. ROTHMAN, Mr. KLECZKA, Mr. ENGLISH of Pennsylvania, Mr. RODRIGUEZ, Mr. BORSKI, Mr. McDERMOTT, Mrs. CLAYTON, Mr. KENNEDY, and Mr. FOLEY):

H.R. 353. A bill to amend the Social Security Act to waive the 24-month waiting period for Medicare coverage of individuals disabled with amyotrophic lateral sclerosis (ALS), and to provide Medicare coverage of drugs used for treatment of ALS; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COBLE:

H.R. 354. A bill to amend title 17, United States Code, to provide protection for certain collections of information; to the Committee on the Judiciary.

By Mr. CONDIT (for himself, Mr. POMBO, Mr. HUTCHINSON, Mr. GOODE, Mr. PETERSON of Minnesota, Mr. BISHOP, Mr. DOYLE, Mr. STUMP, Mr. McINTYRE, Mr. SMITH of Washington, Mr. NORWOOD, Mr. STUPAK, Mrs. THURMAN, Mrs. FOWLER, Mr. GREEN of Texas, Mr. TAYLOR of Mississippi, Mr. COLLINS, Mr. LUCAS of Kentucky, Mr. MASCARA, Mr. KENNEDY, Mr. HEFLEY, Mr. JONES of North Carolina, Mr. CLEMENT, Mr. TURNER, Mr. ENGLISH of Pennsylvania, and Mr. TOWNS):

H.R. 355. A bill to amend title 10, United States Code, to provide that persons retiring from the Armed Forces shall be entitled to all benefits which were promised them when they entered the Armed Forces; to the Committee on Armed Services.

By Mr. CONDIT:

H.R. 356. A bill to provide for the conveyance of certain property from the United States to Stanislaus County, California; to the Committee on Science.

By Mr. CONYERS (for himself, Mrs. MORELLA, Ms. ROYBAL-ALLARD, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ALLEN, Mr. ANDREWS, Mr. BALDACCI, Ms. BALDWIN, Mr. BARRETT of Wisconsin, Mr. BISHOP, Mr. BLAGOJEVICH, Mr. BLUMENAUER, Ms. BROWN of Florida, Mr. BROWN of California, Mr. BOUCHER, Mr. CAPUANO, Ms. CARSON, Mrs. CLAYTON, Mr. CLEMENT, Mr. COSTELLO, Mr. CRAMER, Mr. CUMMINGS, Ms. DeGETTE, Ms. DeLAURO, Mr. DELAHUNT, Mr. DEUTSCH, Mr. EVANS, Mr. FARR of California, Mr. FILNER, Mr. FOLEY, Mr. FORD, Mr. GEJDENSON, Mr. GEPHARDT, Mr. GILMAN, Mr. GONZALEZ, Mr. GREEN of Texas, Mr. HINCHEY, Mr. HINOJOSA, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KENNEDY, Ms. KILPATRICK, Mr. LANTOS, Mr. LEACH, Mr. LEWIS of Georgia, Ms. LOFGREN, Mrs. LOWEY, Mrs. McCARTHY of New York, Mr. McDERMOTT, Mrs. MALONEY of New York, Mr. MARKEY, Mr. MEEHAN, Mrs. MEEK of Florida, Ms. MILLENDER-McDONALD, Mr. GEORGE MILLER of California, Mrs. MINK of Hawaii, Mr. MOAKLEY, Mr. MORAN of Virginia, Mr. NADLER, Mrs. NAPOLITANO, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. PALLONE, Mr. PASCRELL, Mr. PASTOR, Mr. PAYNE, Ms. PELOSI, Mr. POMEROY, Mr. RODRIGUEZ, Mr. ROMERO-BARCELO, Mr. RUSH, Mr. SANDERS, Mr. SANDLIN, Mr. SHERMAN, Ms. SLAUGHTER, Mr. STARK, Mrs. THURMAN, Mr. UNDERWOOD, Mr. VENTO, Mr. VISCLOSKY, Ms. WATERS, Mr. WAXMAN, Mr. WEINER, Mr. WEYGAND, Mr. WISE, Ms. WOOLSEY, and Mr. WYNN):

H.R. 357. A bill to prevent violence against women, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Education and the Workforce, Ways and Means, Commerce, Banking and Financial Services, Armed Services, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DINGELL (for himself, Mr. GEPHARDT, Mr. BROWN of Ohio, Mr. RANGEL, Mr. STARK, Mr. CLAY, Mr. ANDREWS, Mr. PALLONE, Ms. ESHOO, Mr. BERRY, Mr. WAXMAN, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ALLEN, Ms. BALDWIN, Mr. BARRETT of Wisconsin, Mr. BENTSEN, Ms. BERKLEY, Mr. BERMAN, Mr. BISHOP, Mr. BLAGOJEVICH, Mr. BLUMENAUER, Mr. BONIOR, Mr. BORSKI, Mr. BOUCHER, Mr. BRADY of Pennsylvania, Ms. BROWN of Florida, Mr. BROWN of California, Mrs. CAPPS, Mr. CAPUANO, Mr. CARDIN, Ms. CARSON, Mrs. CLAYTON, Mr. CLEMENT, Mr. CONYERS, Mr. COSTELLO, Mr. COYNE, Mr. CROWLEY, Mr. CUMMINGS, Mr. DAVIS of Florida, Ms. DeGETTE, Mr. DELAHUNT, Ms. DeLAURO, Mr. DIXON, Mr. DOYLE, Mr. ENGEL, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FARR of California, Mr. FILNER, Mr. FORD, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GEJDENSON, Mr. GONZALEZ, Mr. GREEN of Texas, Mr. HASTINGS of Florida, Mr. HILL of Indiana, Mr. HINCHEY, Mr. HOEFFEL, Mr. HOYER, Mr. INSLEE, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KANJORSKI, Ms. KAPTUR, Mr. KENNEDY, Mr. KILDEE, Ms. KILPATRICK, Mr. KLECZKA, Mr. KLINK, Mr. LaFALCE, Mr. LAMPSON, Mr. LANTOS, Ms. LEE, Mr. LEVIN, Mr. LEWIS of Georgia, Mrs. LOWEY, Mr. LUTHER, Mrs. MALONEY of New York, Mr. MALONEY of Connecticut, Mr. MARKEY, Mr. MASCARA, Mr. MATSUI, Mrs. McCARTHY of New York, Ms. McCARTHY of Missouri, Mr. McDERMOTT, Mr. McGOVERN, Ms. McKINNEY, Mr. MEEHAN, Mr. MEEKS of New York, Mr. MENENDEZ, Ms. MILLENDER-McDONALD, Mr. GEORGE MILLER of California, Mrs. MINK of Hawaii, Mr. MOAKLEY, Mr. MOORE, Mr. MURTHA, Mr. NADLER, Mrs. NAPOLITANO, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OLVER, Mr. OWENS, Mr. PASCRELL, Mr. PASTOR, Mr. PAYNE, Ms. PELOSI, Mr. PHELPS, Mr. PRICE of North Carolina, Ms. RIVERS, Mr. RODRIGUEZ, Mr. ROMERO-BARCELO, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. SABO, Mr. SANDLIN, Mr. SAWYER, Ms. SCHAKOWSKY, Mr. SERRANO, Mr. SHERMAN, Mr. SHOWS, Ms. SLAUGHTER, Mr. SNYDER, Mr. SPRATT, Ms. STABENOW, Mr. STRICKLAND, Mr. STUPAK, Mr. THOMPSON of Mississippi, Mr. THOMPSON of California, Mrs. THURMAN, Mr. TOWNS, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. UNDERWOOD, Ms. VELÁZQUEZ, Mr. VENTO, Mr. VISCLOSKY, Mr. WEINER, Mr. WEXLER, Mr. WEYGAND, Mr. WISE, Ms. WOOLSEY, Mr. WU, Mr. WYNN, Ms. CHRISTIAN-CHRISTENSEN, Mr. BALDACCI, Mr. GORDON, Mr. TIERNEY, Mr. BECERRA, Ms. LOFGREN, Mr. HALL of Ohio, Mrs. TAUSCHER, Mr. SCOTT, Mr. BARCIA of Michigan, Mr. HALL of Texas, Mr. OBEY, Mr. GUTIERREZ, Mr. HILLIARD, Mr. KUCINICH, Mr. BAIRD, Mrs. JONES of Ohio, and Mr. BOSWELL):

H.R. 358. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DOOLITTLE:

H.R. 359. A bill to clarify the intent of Congress in Public Law 93-632 to require the Secretary of Agriculture to continue to provide for the maintenance and operation of 18 concrete dams and weirs that were located in the Emigrant Wilderness at the time the wilderness area was designated in that Public Law; to the Committee on Resources.

By Mr. EWING (for himself, Mr. NETHERCUTT, Mr. LIPINSKI, Mr. LANTOS, Mr. SANDLIN, Mr. MATSUI, Mr. BENTSEN, Mr. JENKINS, Ms. KILPATRICK, Mr. ROMERO-BARCELO, Mr. POMEROY, Mr. EHLERS, Mr. NADLER, Mr. Hinchey, Mr. Cook, Mr. Delahunt, Mrs. Mink of Hawaii, Mr. Allen, Mrs. Thurman, Mr. Smith of New Jersey, Mr. LaFalce, Mr. Filner, and Mr. Condit):

H.R. 360. A bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of insulin pumps as items of durable medical equipment; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FALEOMAVAEGA (for himself and Mr. McIntyre):

H.R. 361. A bill to provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes; to the Committee on Resources.

By Mr. FILNER:

H.R. 362. A bill to amend title 10, United States Code, to extend commissary and exchange store privileges to veterans with a service-connected disability rated at 30 percent or more and to the dependents of such veterans; to the Committee on Armed Services.

H.R. 363. A bill to amend title 10, United States Code, to repeal the two-tier annuity computation system applicable to annuities for surviving spouses under the Survivor Benefit Plan for retired members of the Armed Forces so that there is no reduction in such an annuity when the beneficiary becomes 62 years of age; to the Committee on Armed Services.

H.R. 364. A bill to amend title 38, United States Code, to provide for a Veterans' Employment and Training Bill of Rights, to strengthen preference for veterans in hiring, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 365. A bill to amend title 38, United States Code, to reauthorize the pilot program providing an opportunity for veterans to buy down the interest rate on VA loans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 366. A bill to amend the Small Business Act to establish programs and undertake efforts to assist and promote the creation, development, and growth of small business concerns owned and controlled by veterans of service in the Armed Forces, and for other purposes; to the Committee on Small Business, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FRANKS of New Jersey:

H.R. 367. A bill to regulate the use by interactive computer services of Social Security account numbers and related personally identifiable information; to the Committee on Commerce.

H.R. 368. A bill to require the installation of a system for filtering or blocking matter on the Internet on computers in schools and libraries with Internet access, and for other purposes; to the Committee on Commerce.

H.R. 369. A bill to amend title 18, United States Code, to prohibit the sale of personal information about children without their parents' consent, and for other purposes; to the Committee on the Judiciary.

H.R. 370. A bill to amend the Violent Crime Control and Law Enforcement Act of 1994 to prevent luxurious conditions in prisons; to the Committee on the Judiciary.

By Mr. VENTO:

H.R. 371. A bill to expedite the naturalization of aliens who served with special guerrilla units in Laos; to the Committee on the Judiciary.

H.R. 372. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion from gross income for that portion of a governmental pension received by an individual which does not exceed the maximum benefits payable under title II of the Social Security Act which could have been excluded from income for the taxable year; to the Committee on Ways and Means.

By Mr. FRANKS of New Jersey (for himself and Mr. Ryun of Kansas):

H.R. 373. A bill to amend the Internal Revenue Code of 1986 to allow all taxpayers who maintain households with dependents a credit for dependents; to the Committee on Ways and Means.

By Mr. FRELINGHUYSEN:

H.R. 374. A bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to notify local law enforcement agencies of allegations of a missing patient or of certain crimes or other misconduct at medical facilities under the jurisdiction of that Secretary and to enable such agencies to investigate such allegations; to the Committee on Veterans' Affairs.

H.R. 375. A bill to amend the Comprehensive Environmental Response, Compensation, and Liablity Act of 1980 to restrict the liability under that Act of local educational agencies; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 376. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide that the United States Army Corps of Engineers perform contract oversight of Fund financed remedial actions under that Act; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GALLEGLY:

H.R. 377. A bill to authorize the Secretary of the Air Force to procure certain airborne firefighting equipment for the Air Force Reserve and Air National Guard; to the Committee on Armed Services.

By Mr. GILLMOR:

H.R. 378. A bill to authorize States to regulate certain solid waste; to the Committee on Commerce.

H.R. 379. A bill to permit States to prohibit the disposal of solid waste imported from other nations; to the Committee on Commerce.

By Mr. GREENWOOD (for himself, Mr. Norwood, Mr. Whitfield, Mr. Boehlert, Mr. Holden, Mr. Weygand, Mr. Hinchey, Mr. Boucher, Mr. Tierney, Mr. Kennedy, Mr. English of Pennsylvania, Mr. Burr of North Carolina, Mr. Shays, Mr. Ney, Mr. Gejdenson, Mr. Peterson of Pennsylvania, Mr. Andrews, Mr. Oxley, Mr. Allen, Mr. Price of North Carolina, Mr. Pallone, Mr. Nadler, Mr. Neal of Massachusetts, Mr. Metcalf, Mr. Hobson, Mr. Ackerman, Mr. King of New York, Mr. McNulty, Mr. Brown of Ohio, Mr. Bass, Mr. Rangel, Mr. Stupak, Mr. Franks of New Jersey, Mr. Gibbons, Ms. DeLauro, Mr. Mica, Mrs. Morella, Mr. Klink, Mrs. McCarthy of New York, Mrs. Myrick, Mr. Goode, Mr. Cardin, Mr. Towns, and Mr. Crowley):

H.R. 380. A bill to authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public, and for other purposes; to the Committee on Commerce.

By Mr. GREENWOOD (for himself, Mr. Boehlert, Mrs. Johnson of Connecticut, and Mr. Shays):

H.R. 381. A bill to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds; to the Committee on Resources.

By Mr. GUTIERREZ (for himself, Mr. Vento, Mr. Becerra, Mr. Filner, Mr. Hinchey, Mr. Owens, Mr. Rodriguez, Mr. Romero-Barcelo, Mr. Stark, and Mr. Ortiz):

H.R. 382. A bill to amend the Electronic Fund Transfer Act to require additional disclosures relating to exchange rates in transfers involving international transactions; to the Committee on Banking and Financial Services.

By Mrs. KELLY:

H.R. 383. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer, and coverage for secondary consultations; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. KILPATRICK (for herself, Mr. Bishop, Mr. Blagojevich, Ms. Brown of Florida, Mr. Brown of Ohio, Ms. Carson, Mr. Ford, Mr. Green of Texas, Ms. Lee, Mrs. Meek of Florida, Ms. Millender-McDonald, Mrs. Mink of Hawaii, and Mr. Sandlin):

H.R. 384. A bill to authorize the President to award a gold medal on behalf of the Congress honoring Wilma G. Rudolph in recognition of her enduring contributions to humanity and women's athletics in the United States and the world; to the Committee on Banking and Financial Services.

By Ms. KILPATRICK (for herself, Mrs. Clayton, Mr. Delahunt, Mr. Faleomavaega, Mr. Frost, Mr. Hastings of Florida, Ms. Hooley of Oregon, Ms. Lee, Mr. Lewis of Georgia, Mr. McIntyre, Ms. Millender-McDonald, Mr. Pastor, Mr. Paul, Mr. Rush, Mr. Sanders, Mr. Sandlin, Ms. Stabenow, and Mr. Stupak):

H.R. 385. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to primary health providers who establish practices in health professional shortage areas; to the Committee on Ways and Means.

By Mr. KING of New York:

H.R. 386. A bill to repeal the law establishing the independent counsel; to the Committee on the Judiciary.

By Mr. LOBIONDO:

H.R. 387. A bill to prohibit certain oil and gas leasing activities on portions of the Outer Continental Shelf, consistent with the President's Outer Continental Shelf moratorium statement of June 26, 1990; to the Committee on Resources.

H.R. 388. A bill to prohibit the Secretary of the Interior from issuing oil and gas leases on certain portions of the Outer Continental Shelf; to the Committee on Resources.

By Mrs. MALONEY of New York (for herself, Ms. Ros-Lehtinen, Mr. Lewis of Georgia, Mr. Kennedy, Mr. Rush, Mr. Gilman, Ms. Jackson-Lee of Texas, Mr. Faleomavaega, Ms. Lofgren, and Ms. Schakowsky):

H.R. 389. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide child care assistance for dependents of their employees, and for other purposes; to the Committee on Ways and Means.

By Mr. McINTOSH (for himself and Mr. Nadler):

H.R. 390. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received for settlement of certain claims of Holocaust survivors; to the Committee on Ways and Means.

By Mr. McINTOSH:

H.R. 391. A bill to amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small businesses with certain Federal paperwork requirements, to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small businesses, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MILLENDER-McDONALD (for herself, Mr. Abercrombie, Ms. Norton, Mr. Kennedy, Mr. Filner, Mr. Sanders, Ms. DeLauro, Mr. Frank of Massachusetts, Mr. Romero-Barcelo, Mr. Hinojosa, Mrs. Napolitano, Ms. Kilpatrick, Mrs. Meek of Florida, Mr. Kleczka, Ms. Schakowsky, Mr. Brown of Ohio, Ms. Christian-Christensen, and Ms. Lee):

H.R. 392. A bill to amend the Small Business Act to increase the authorization of appropriations for the women's business center program; to the Committee on Small Business.

By Mr. GEORGE MILLER of California (for himself, Mr. Filner, Ms. Pelosi, Mr. McInnis, and Mr. Gutierrez):

H.R. 393. A bill to amend the Uranium Mill Tailings Radiation Control Act of 1978 to provide for the remediation of the Atlas uranium milling site near Moab, Utah; to the Committee on Commerce.

By Mr. GEORGE MILLER of California (for himself, Mr. Rahall, Mr. Gutierrez, Mr. DeFazio, Mr. LaFalce, and Mr. Lewis of Georgia):

H.R. 394. A bill to ensure that Federal taxpayers receive a fair return for the extraction of locatable minerals on public domain lands, and for other purposes; to the Committee on Resources.

By Mr. GEORGE MILLER of California (for himself, Mr. Rahall, Mr. Gutierrez, Mr. LaFalce, and Mr. DeFazio):

H.R. 395. A bill to provide for the reclamation of abandoned hardrock mines, and for other purposes; to the Committee on Resources.

By Mr. GEORGE MILLER of California (for himself, Mr. Lewis of California, Ms. Lee, Mr. Condit, Mr. Berman, Mr. Farr of California, Ms. Carson, Mr. Frost, Mr. Portman, Mrs. Capps, Ms. Pelosi, Mr. Hall of Ohio, Mr. Waxman, Mr. Kennedy, Mr. Coyne, Mr. Stark, Mr. Traficant, Mr. Sherman, Mrs. Mink of Hawaii, Mr. Filner, Mr. Tierney, Mr. Watts of Oklahoma, Ms. Kilpatrick, Mr. Markey, Ms. Waters, Mr. Clay, Ms. Eddie Bernice Johnson of Texas, Mr. Turner, Ms. Norton, Ms. Eshoo, Mr. Becerra, Mr. Jackson of Illinois, Mr. Sisisky, Mr. Luther, Mr. Sanders, Mr. Wynn, Mr. Meehan, Mr. Kasich, Mr. Cunningham, Mr. Ford, Mr. Hinchey, Mr. Abercrombie, Mr. Dixon, Mr. Taylor of Mississippi, Mr. Smith of Washington, Mr. Dingell, Mr. Lantos, Mr. Cramer, Ms. Brown of Florida, Mr. Baldacci, Mr. Doyle, Mr. McNulty, Mr. Wolf, Mr. Underwood, Mr. Frank of Massachusetts, Ms. Woolsey, Mr. McDermott, Ms. Jackson-Lee of Texas, Mr. Payne, Mr. Cummings, Mr. Gejdenson, Mr. Sandlin, Mr. Jefferson, Mr. Spratt, Ms. Millender-McDonald, Mrs. Meek of Florida, Ms. McKinney, Mr. Kildee, Mrs. Clayton, Mr. Hastings of Florida, Mr. Dooley of California, Mr. Brown of California, Mr. Fattah, Mr. Rush, Mr. Spence, Mr. Towns, Mr. Owens, Ms. Christian-Christensen, Ms. Roybal-Allard, Mr. Weldon of Pennsylvania, Mr. Bishop, Mr. Hunter, Mr. Lewis of Georgia, Mr. Scott, Mrs. Maloney of New York, Mr. DeFazio, Mr. Skelton, Mr. Snyder, Mr. Hoyer, Mr. Clyburn, Mr. Edwards, Ms. DeLauro, Mr. Matsui, Mr. Conyers, Mrs. Tauscher, Mr. Gallegly, Mr. Boyd, Mr. Blagojevich, Mr. Rogan, Ms. Schakowsky, Mrs. Napolitano, Mr. Watt of North Carolina, Mr. Thompson of California, Ms. Lofgren, and Mr. Rangel):

H.R. 396. A bill to designate the Federal building located at 1301 Clay Street in Oakland, California, as the "Ronald V. Dellums Federal Building"; to the Committee on Transportation and Infrastructure.

By Mr. GEORGE MILLER of California (for himself, Mr. Rahall, Mr. Gutierrez, Mr. DeFazio, and Mr. Lewis of Georgia):

H.R. 397. A bill to amend the Internal Revenue Code of 1986 to repeal the percentage depletion allowance for certain hardrock mines; to the Committee on Ways and Means.

By Mrs. MINK of Hawaii:

H.R. 398. A bill to make appropriations for fiscal year 2000 for a plant genetic conservation program; to the Committee on Appropriations.

H.R. 399. A bill to amend the Federal Election Campaign Act of 1971 to prohibit the use of soft money to influence any campaign for election for Federal office; to the Committee on House Administration.

H.R. 400. A bill to amend the Federal Election Campaign Act of 1971 to prohibit candidates for election for Federal office from accepting unsecured loans from depository institutions regulated under Federal law, and for other purposes; to the Committee on House Administration.

H.R. 401. A bill to amend title II of the Social Security Act to provide for treatment of severe spinal cord injury equivalent to the treatment of blindness in determining whether earnings derived from services demonstrate an ability to engage in substantial gainful activity; to the Committee on Ways and Means.

By Mrs. MINK of Hawaii (for herself and Mr. Abercrombie):

H.R. 402. A bill to amend the Social Security Act to further extend health care coverage under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NETHERCUTT:

H.R. 403. A bill to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes; to the Committee on Resources, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. NORTON (for herself and Ms. Kilpatrick):

H.R. 404. A bill to amend title IX of the Education Amendments of 1972 to impose on employers responsibility for conduct of their employees under certain circumstances; to the Committee on Education and the Workforce.

By Mr. NUSSLE (for himself, Mr. Ewing, Mr. Boehlert, Ms. Sanchez, Mr. Condit, Mr. Oberstar, Mr. Sanders, Mr. Peterson of Minnesota, Mr. Mascara, Mr. Serrano, Mr. Price of North Carolina, and Mr. Meehan):

H.R. 405. A bill to amend title XVIII of the Social Security Act to repeal the restriction on payment for certain hospital discharges to post-acute care imposed by section 4407 of the Balanced Budget Act of 1997; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NUSSLE (for himself, Ms. Hooley of Oregon, Ms. Dunn of Washington, Mr. Metcalf, Mr. Bereuter, and Mr. Minge):

H.R. 406. A bill to amend title XVIII of the Social Security Act to eliminate the budget neutrality adjustment factor used in calculating the blended capitation rate for Medicare+Choice organizations; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL:

H.R. 407. A bill to amend title 18, United States Code, to provide for reciprocity in regard to the manner in which nonresidents of a State may carry certain concealed firearms in that State; to the Committee on the Judiciary.

By Mr. PETERSON of Minnesota:

H.R. 408. A bill to amend the Food Security Act of 1985 to expand the number of acres authorized for inclusion in the conservation reserve; to the Committee on Agriculture.

By Mr. PORTMAN (for himself, Mr. Hoyer, Mr. Davis of Virginia, Mr. Condit, Mr. Sessions, Ms. Kilpatrick, and Mr. Kucinich):

H.R. 409. A bill to improve the effectiveness and performance of Federal financial assistance programs, simplify Federal financial assistance application and reporting requirements, and improve the delivery of services to the public; to the Committee on Government Reform.

By Mr. RAHALL (for himself, Mr. George Miller of California, and Mr. DeFazio):

H.R. 410. A bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes; to the Committee on Resources.

By Mr. RAMSTAD:

H.R. 411. A bill to correct the tariff classification of 13" televisions; to the Committee on Ways and Means.

By Mr. REGULA (for himself, Mr. English of Pennsylvania, Mr. Aderholt, Mr. Dingell, Mr. Berry, and Mr. Klink):

H.R. 412. A bill to amend the Trade Act of 1974, and for other purposes; to the Committee on Ways and Means.

By Mr. RUSH (for himself, Mr. Leach, Mr. LaFalce, Mr. Vento, Mr. Olver, Ms. Kilpatrick, Mrs. Maloney of New York, Ms. DeGette, Mr. Metcalf, and Mr. Frank of Massachusetts):

H.R. 413. A bill to authorize qualified organizations to provide technical assistance and capacity building services to microenterprise development organizations and programs and to disadvantaged entrepreneurs using funds from the Community Development Financial Institutions Fund, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. RUSH (for himself and Mr. Hyde):

H.R. 414. A bill to amend the Immigration and Nationality Act with respect to the requirements for the admission of nonimmigrant nurses who will practice in health professional shortage areas; to the Committee on the Judiciary.

By Ms. SANCHEZ (for herself, Mr. Sandlin, Mr. Sherman, Mr. George Miller of California, Mr. Conyers, Mr. Wexler, Mr. Waxman, Ms. Norton, Ms. Kilpatrick, Mr. Farr of California, Ms. Millender-McDonald, Mr. Ford, Mr. Brown of California, Mr. Filner, Mr. Green of Texas, and Mr. Ackerman):

H.R. 415. A bill to amend the Internal Revenue Code of 1986 to encourage new school construction through the creation of a new class of bond; to the Committee on Ways and Means.

By Mr. SCARBOROUGH (for himself, Mr. Mica, Mr. Cummings, Mrs. Morella, Ms. Norton, Mr. Ford, Mr. Gilman, Mr. Leach, and Mr. Murtha):

H.R. 416. A bill to provide for the rectification of certain retirement coverage errors affecting Federal employees, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAYS (for himself, Mr. Meehan, Mr. Wamp, Mr. Levin, Mrs. Roukema, Mr. Dingell, Mr. Franks of New Jersey, Mrs. Maloney of New York, Mr. Leach, Mr. Farr of California, Mr. Houghton, Mr. Bonior, Mr. Greenwood, Mr. Gephardt, Mrs. Morella, Mr. Allen, Mr. Castle, Mr. Hoyer, Mr. Bilbray, Ms. DeLauro, Mr. Boehlert, Mr. Lewis of Georgia, Mr. Ramstad, Mr. Frank of Massachusetts, Mr. Metcalf, Mr. George Miller of California, Mr. Gilchrest, Ms. Rivers, Mr. Sanford, Mrs. Capps, Mr. Porter, Mr. Dooley of California, Mrs. Kelly, Mr. Cardin, Mr. Walsh, Mr. Gejdenson, Mr. Forbes, Mr. Barrett of Wisconsin, Mr. Horn, Mr. Tierney, Mr. Gallegly, Mr. Minge, Mr. Gillmor, Mr. Price of North Carolina, Mr. Gilman, Mr. Kind of Wisconsin, Mr. LoBiondo, Mr. Nadler, Mr. Frelinghuysen, Mr. Mascara, Mr. Sherman, Mr. Stark, Mr. Brady of Pennsylvania, Mr. Baldacci, Mr. Moran of Virginia, Mr. Smith of Washington, Mr. Luther, Mr. Maloney of Connecticut, Mr. Waxman, Mr. Pomeroy, Mr. Clement, Mr. Lantos, Mr. Pallone, Mr. Hinchey, Mr. Blumenauer, Mr. Vento, Mr. Wexler, Mr. McGovern, Mr. Markey, Mr. Rothman, Mr. Pascrell, Mr. Kanjorski, Mr. Ackerman, Mr. Davis of Florida, Mr. Holt, Mr. Green of Texas, Mr. Kleczka, Ms. Kilpatrick, Ms. Roybal-Allard, Mrs. Tauscher, Ms. Pelosi, Mr. Spratt, Mr. Hoeffel, Mr. Moore, Mr. Borski, Ms. Baldwin, Mr. Sawyer, Mr. Udall of New Mexico, Ms. Carson, Ms. McCarthy of Missouri, Mr. Hall of Ohio, Ms. Lofgren, Mrs. McCarthy of New York, Mr. Snyder, Mr. Baird, Mr. Gonzalez, and Mrs. Johnson of Connecticut):

H.R. 417. A bill to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes; to the Committee on House Administration, and in addition to the Committees on Education and the Workforce, Government Reform, the Judiciary, Ways and Means, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. SLAUGHTER (for herself and Mr. Houghton):

H.R. 418. A bill to amend title XVIII of the Social Security Act to require universal product numbers on claims forms submitted for reimbursement for durable medical equipment and other items under the Medicare Program; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Michigan:

H.R. 419. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to all families with young children, and for other purposes; to the Committee on Ways and Means.

H.R. 420. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to require that the size of the public debt be reduced during each fiscal year by the amount of the net surplus in the Social Security trust funds at the end of that fiscal year; to the Committee on the Budget, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK:

H.R. 421. A bill to direct the Secretary of Health and Human Services to reduce the amount of coinsurance payable in conjunction with outpatient department services furnished under the Medicare Program, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SWEENEY:

H.R. 422. A bill to increase the authorizations of appropriations for certain programs that combat violence against women; to the Committee on the Judiciary.

By Mr. THOMAS (for himself, Mr. Watkins, Mr. Cooksey, Mr. Bonilla, Mr. McInnis, and Mr. Smith of Texas):

H.R. 423. A bill to amend the Internal Revenue Code of 1986 to allow a 5-year net operating loss carryback for losses attributable to operating mineral interests of oil and gas producers; to the Committee on Ways and Means.

By Mr. TRAFICANT:

H.R. 424. A bill to amend title 5, United States Code, to provide that the mandatory retirement age for members of the Capitol Police be increased from 57 to 60; to the Committee on House Administration, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. VENTO:

H.R. 425. A bill to authorize the Secretary of Housing and Urban Development to make grants to States to supplement State assistance for the preservation ofaffordable housing for low-income families; to the Committee on Banking and Financial Services.

By Mr. ANDREWS:

H.J. Res. 20. A joint resolution proposing an amendment to the Constitution of the United States to authorize the line item veto; to the Committee on the Judiciary.

By Mr. DOOLITTLE (for himself, Mr. Manzullo, Mr. Cramer, Mr. Gutknecht, Mr. Stump, Mr. Tancredo, Mr. Goode, and Mrs. Chenoweth):

H.J. Res. 21. A joint resolution proposing an amendment to the Constitution of the United States establishing English as the official language of the United States; to the Committee on the Judiciary.

By Mr. ARMEY:

H. Con. Res. 11. Concurrent resolution providing for the adjournment of the House of Representatives; considered and agreed to.

By Mr. BALDACCI (for himself, Mr. Allen, and Mr. Hinchey):

H. Con. Res. 12. Concurrent resolution directing the Clerk of the House of Representatives and the Secretary of the Senate to compile and make available to the public the names of candidates for election to the House of Representatives and the Senate who agree to conduct campaigns in accordance with a Code of Election Ethics; to the Committee on House Administration.

By Mr. ENGEL (for himself, Mr. King of New York, Mr. Olver, Mrs. Kelly, Mr. Moran of Virginia, Mr. McGovern, and Mr. Hoyer):

H. Con. Res. 13. Concurrent resolution expressing the sense of the Congress that Serbia-Montenegro has failed to comply with the Holbrooke-Milosevic agreement of October 13, 1998, and that the North Atlantic Treaty Organization (NATO) should implement its activation order of October 12, 1998, to compel compliance; to the Committee on International Relations.

By Ms. KAPTUR (for herself and Mr. Latham):

H. Con. Res. 14. Concurrent resolution expressing the sense of the Congress regarding the actions needed to address the disastrous decline in hog prices for American pork producers and to relieve the wide-spread economic hardship currently being suffered by these producers; to the Committee on Agriculture.

By Mr. McNULTY:

H. Con. Res. 15. Concurrent resolution expressing the sense of the Congress regarding the primary author and the official home of "Yankee Doodle"; to the Committee on Government Reform.

By Mr. NETHERCUTT:

H. Con. Res. 16. Concurrent resolution expressing the sense of the Congress that Jonathan Jay Pollard should serve his full sentence of life imprisonment and should not receive pardon, reprieve, or any other form of executive clemency from the President of the United States; to the Committee on the Judiciary.

By Mr. SAWYER (for himself and Mrs. Morella):

H. Con. Res. 17. Concurrent resolution expressing the sense of the Congress that the United States should develop, promote, and implement voluntary policies to slow the population growth of the Nation; to the Committee on Commerce.

By Mr. UPTON (for himself and Mr. Goss):

H. Con. Res. 18. Concurrent resolution expressing the sense of Congress with respect to convicted spy Jonathan Pollard; to the Committee on the Judiciary.

By Mr. ARMEY:

H. Res. 21. A resolution designating majority membership to certain standing committees of the House; considered and agreed to.

H. Res. 22. A resolution designating majority membership to certain standing committees of the House; considered and agreed to.

By Mr. FROST:

H. Res. 23. A resolution designating minority membership to certain standing committees of the House; considered and agreed to.

By Mr. GALLEGLY:

H. Res. 24. A resolution expressing the sense of the House of Representatives congratulating President Pastrana and the people of Colombia for moving the peace process forward and calling on the government and all other parties to the current conflict in Colombia to end the guerrilla and paramilitary violence which continues to pose a serious threat to democracy as well as economic and social stability in Colombia; to the Committee on International Relations.

H. Res. 25. A resolution congratulating the Government of Peru and the Government of Ecuador for signing a peace agreement ending a border dispute which has resulted in several military clashes over the past 50 years; to the Committee on International Relations.

H. Res. 26. A resolution congratulating the people of Guatemala on the second anniversary of the signing of the peace accords in Guatemala; to the Committee on International Relations.

H. Res. 27. A resolution congratulating the people of the Republic of Venezuela on the success of their democratic elections held on December 6, 1998; to the Committee on International Relations.

By Mrs. MINK of Hawaii:

H. Res. 28. A resolution recognizing the success of Crime Stoppers International in stopping crimes; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Ms. PELOSI:

H.R. 426. A bill for the relief of Mounir Adel Hajjar; to the Committee on the Judiciary.

By Ms. PELOSI:

H.R. 427. A bill for the relief of Oleg Rasulyevich Rafikov, Alfia Fanilevna Rafikova, Evgenia Olegovna Rafikova, and Ruslan Khamitovich Yagudin; to the Committee on the Judiciary.

By Mr. RAHALL:

H.R. 428. A bill for the relief of certain Persian Gulf evacuees; to the Committee on the Judiciary.

By Mr. ROTHMAN:

H.R. 429. A bill for the relief of Alexandre Malofienko, Olga Matsko, and their son, Vladimir Malofienko; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 14: Mr. Sessions.

H.R. 17: Mr. Lucas of Oklahoma, Mr. Gutknecht, and Mr. McHugh.

H.R. 22: Mr. Walsh.

H.R. 23: Mr. Sessions.

H.R. 27: Mr. Sessions.

H.R. 29: Mr. Sessions.

H.R. 32: Mr. Sessions.

H.R. 36: Mr. Reyes, Mr. Deutsch, Mr. Brady of Pennsylvania, Mr. Underwood, and Mr. Weygand.

H.R. 38: Mr. Skeen.

H.R. 41: Mr. Tancredo.

H.R. 45: Mr. Callahan, Mr. Stearns, Mr. Gillmor, Mr. Baker, Mrs. Meek of Florida, Mr. Boehlert, Ms. Kilpatrick, Mr. Borski, and Mr. Skeen.

H.R. 49: Mr. Walsh, Mr. Frost, Mr. Berman, Mrs. McCarthy of New York, Mr. Ortiz, and Mrs. Myrick.

H.R. 51: Mr. McHugh, Mr. Gilman, Mr. Frost, and Mr. Oxley.

H.R. 58: Mr. Manzullo, Ms. Ros-Lehtinen, and Mr. Frost.

H.R. 61: Ms. Pelosi, Mr. Nadler, Mr. Frost, Mr. Filner, Mr. Ackerman, Mr. Meehan, Mr. Green of Texas, Mr. Serrano, and Mr. Frank of Massachusetts.

H.R. 70: Mr. Quinn, Mr. Saxton, Ms. Danner, Mrs. Chenoweth, Mr. McIntosh, Mr. Hilleary, Mr. Graham, Mr. Jenkins, Mrs. McCarthy of New York, Ms. Carson, Ms. Brown of Florida, Mr. Condit, Mr. Holden, Mr. McNulty, Mr. Bliley, Mr. Ackerman, Mrs. Thurman, Mr. Horn, Mr. Hastings of Washington, Mr. Tancredo, Mr. Davis of Florida, Mr. Borski, Mr. LaTourette, Mr. Stearns, Mr. Pallone, Ms. Kaptur, Mr. LaFalce, Mrs. Myrick, Mr. Gibbons, Mr. English of Pennsylvania, Mr. Green of Texas, and Ms. Granger.

H.R. 86: Mr. Ose, Mr. Fletcher, Mr. Sherwood, Mr. Ryan of Wisconsin, Ms. Biggert, and Mr. Simpson.

H.R. 116: Mr. Allen, Mr. Lampson, Mr. Kennedy, Mr. Vento, Mr. Pastor, Ms. Christian-Christensen, Ms. Brown of Florida, Mr. Costello, Mr. Borski, Mr. Hall of Ohio, Mr. Oberstar, Mr. Scott, Mr. Traficant, Mr. Visclosky, Ms. Waters, Mr. Wise, Ms. Woolsey, Mr. Cummings, Mr. Condit, Mr. Cramer, Mr. Pomeroy, Mr. Holden, Mrs. Tauscher, Mr. Spratt, Mr. Meeks of New York, Mr. Skelton, Mr. Moakley, Mr. Sanders, Ms. Eddie Bernice Johnson of Texas, Mr. Weygand, Ms. Schakowsky, Mr. Clement, Mr. Green of Texas, Mr. Hinojosa, Mr. Berman, Mr. Crowley, and Mr. Rothman.

H.R. 136: Mrs. Myrick.

H.R. 137: Ms. Jackson-Lee of Texas, Mr. Blumenauer, Mr. Wexler, Mr. Kucinich, Ms. Pelosi, Mr. Vento, Mr. Bonior, and Mr. Weygand.

H.R. 141: Mr. Olver and Mr. Maloney of Connecticut.

H.R. 155: Mr. Pastor.

H.R. 160: Mr. Hastings of Washington.

H.R. 175: Mr. McDermott, Mr. McKeon, Mr. Skelton, Mr. Taylor of North Carolina, Mr. Horn, Mrs. Meek of Florida, Mr. Weygand, Ms. Roybal-Allard, Mr. Capuano, Mr. LaFalce, Ms. Lee, and Ms. Eshoo.

H.R. 176: Mr. Hefley.

H.R. 179: Mr. Baldacci, Mr. Frost, Mr. Hinojosa, Mr. Matsui, Mrs. Meek of Florida, and Mr. Sanders.

H.R. 192: Mr. Bryant.

H.R. 196: Mr. Pomeroy and Mr. Sandlin.

H.R. 206: Mr. Barrett of Wisconsin, Ms. DeGette, Ms. Pelosi, Ms. Stabenow, Ms. Carson, Ms. Eddie Bernice Johnson of Texas, and Mrs. Wilson.

H.R. 208: Mr. LaFalce, Mrs. Meek of Florida, Mr. Castle, Mr. Filner, Mr. Davis of Virginia, Mr. Towns, Mr. Manzullo, Ms. Norton, Mr. Kucinich. and Mr. Stark.

H.R. 215: Mr. Davis of Virginia, Mr. Traficant, and Mr. Wynn.

H.R. 217: Mr. Boswell.

H.R. 219: Mr. Sherman, Mr. Duncan, Mr. Bachus, Ms. Danner, and Mr. LaTourette.

H.R. 220: Mr. Hinchey, Mr. Manzullo, and Mr. LaTourette.

H.R. 222: Mr. Cannon, Mr. Bachus, Mrs. Myrick, Mr. Sandlin, and Mr. Hall of Texas.

H.R. 232: Mr. McCrery. Mr. Gillmor, and Mr. English of Pennsylvania.

H.R. 271: Mr. Maloney of Connecticut, Ms. Eshoo, Mr. Crowley, Mr. Abercrombie, Ms. Lee, Mr. Brady of Pennsylvania, Mr. Saxton, Mr. Waxman Mr. Etheridge, Mr. Brown of Ohio, Ms. Schakowsky, and Mr. Green of Texas.

H.R. 306: Mr. Bishop, Mr. Borski, Ms. Carson, Mr. Clay, Mrs. Clayton, Mr. Clement, Mr. Costello, Ms. Eshoo, Mr. Hilliard, Mr. Holden, Ms. Eddie Bernice Johnson of Texas, Mr. Kanjorski, Ms. Kaptur, Mr. McDermott, Mrs. Meek of Florida, Mr. Olver, Mr. Ortiz, Mr. Pastor, Ms. Pelosi, Mr. Rangel, Mr. Rodriguez, Mr. Smith of Washington, Ms. Stabenow, Mr. Strickland, Mr. Tierney, Mr. Vento, Mr. Visclosky, and Mr. Weygand.

H.J. Res. 10: Mr. Burr of North Carolina, Mr. Collins, Mr. Shaw, and Mr. Weldon of Florida.

H. Con. Res. 5: Ms. Kilpatrick, Ms. Norton, Mr. Filner, Mrs. Mink of Hawaii, Ms. Jackson-Lee of Texas, Mr. Traficant, Mr. Gutierrez, Mr. Frost, Mr. Barrett of Wisconsin, Mr. Sherman, Ms. Roybal-Allard, Mr. Smith of Washington, Mr. Meehan, Mr. Sanders, Mr. Spratt, Mr. Horn, Mr. Ford, Ms. DeLauro, Mr. Dingell, Mr. Frank of Massachusetts, Mrs. McCarthy of New York, Mr. Clement, Mr. Faleomavaega, Mr. Abercrombie, Ms. Lofgren, Mrs. Christian-Christensen, Mr. Thompson of California, Mrs. Myrick, Mrs. Lowey, Ms. Carson, Ms. Pelosi, Ms. Lee, Mr. Baldacci, and Ms. Stabenow.

H. Con. Res. 8: Mr. Doyle, Mr. Berry, Ms. Stabenow, and Mr. Goode.

H. Res. 15: Mr. LEACH, Ms. SLAUGHTER, Mr. MALONEY of Connecticut, Mr. FROST, Mrs. MEEK of Florida, Mr. GILMAN, Ms. CARSON, Mr. SKELTON, Ms. STABENOW, Mr. BARRETT of Wisconsin, Mr. HINOJOSA, Mr. FALEOMAVAEGA, and Ms. LEE.

H. Res. 18: Ms. KILPATRICK and Mr. WYNN.

H. Res. 25. A resolution congratulating the Government of Peru and the Government of Ecuador for signing a peace agreement ending a border dispute which has resulted in several military clashes over the past 50 years; to the Committee on International Relations.

H. Res. 26. A resolution congratulating the people of Guatemala on the second anniversary of the signing of the peace accords in Guatemala; to the Committee on International Relations.

H. Res. 27. A resolution congratulating the people of the Republic of Venezuela on the success of their democratic elections held on December 6, 1998; to the Committee on International Relations.

By Mrs. MINK of Hawaii:

H. Res. 28. A resolution recognizing the success of Crime Stoppers International in stopping crimes; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Ms. PELOSI:

H.R. 426. A bill for the relief of Mounir Adel Hajjar; to the Committee on the Judiciary.

By Ms. PELOSI:

H.R. 427. A bill for the relief of Oleg Rasulyevich Rafikov, Alfia Fanilevna Rafikova, Evgenia Olegovna Rafikova, and Ruslan Khamitovich Yagudin; to the Committee on the Judiciary.

By Mr. RAHALL:

H.R. 428. A bill for the relief of certain Persian Gulf evacuees; to the Committee on the Judiciary.

By Mr. ROTHMAN:

H.R. 429. A bill for the relief of Alexandre Malofienko, Olga Matsko, and their son, Vladimir Malofienko; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 14: Mr. SESSIONS.

H.R. 17: Mr. LUCAS of Oklahoma, Mr. GUTKNECHT, and Mr. MCHUGH.

H.R. 22: Mr. WALSH.

H.R. 23: Mr. SESSIONS.

H.R. 27: Mr. SESSIONS.

H.R. 29: Mr. SESSIONS.

H.R. 32: Mr. SESSIONS.

H.R. 36: Mr. REYES, Mr. DEUTSCH, Mr. BRADY of Pennsylvania, Mr. UNDERWOOD, and Mr. WEYGAND.

H.R. 38: Mr. SKEEN.

H.R. 41: Mr. TANCREDO.

H.R. 45: Mr. CALLAHAN, Mr. STEARNS, Mr. GILLMOR, Mr. BAKER, Mrs. MEEK of Florida, Mr. BOEHLERT, Ms. KILPATRICK, Mr. BORSKI, and Mr. SKEEN.

H.R. 49: Mr. WALSH, Mr. FROST, Mr. BERMAN, Mrs. MCCARTHY of New York, Mr. ORTIZ, and Mrs. MYRICK.

H.R. 51: Mr. MCHUGH, Mr. GILMAN, Mr. FROST, and Mr. OXLEY.

H.R. 58: Mr. MANZULLO, Ms. ROS-LEHTINEN, and Mr. FROST.

H.R. 61: Ms. PELOSI, Mr. NADLER, Mr. FROST, Mr. FILNER, Mr. ACKERMAN, Mr. MEEHAN, Mr. GREEN of Texas, Mr. SERRANO, and Mr. FRANK of Massachusetts.

H.R. 70: Mr. QUINN, Mr. SAXTON, Ms. DANNER, Mrs. CHENOWETH, Mr. MCINTOSH, Mr. HILLEARY, Mr. GRAHAM, Mr. JENKINS, Mrs. MCCARTHY of New York, Ms. CARSON, Ms. BROWN of Florida, Mr. CONDIT, Mr. HOLDEN, Mr. MCNULTY, Mr. BLILEY, Mr. ACKERMAN, Mrs. THURMAN, Mr. HORN, Mr. HASTINGS of Washington, Mr. TANCREDO, Mr. DAVIS of Florida, Mr. BORSKI, Mr. LATOURETTE, Mr. STEARNS, Mr. PALLONE, Ms. KAPTUR, Mr. LAFALCE, Mrs. MYRICK, Mr. GIBBONS, Mr. ENGLISH of Pennsylvania, Mr. GREEN of Texas, and Ms. GRANGER.

H.R. 86: Mr. OSE, Mr. FLETCHER, Mr. SHERWOOD, Mr. RYAN of Wisconsin, Ms. BIGGERT, and Mr. SIMPSON.

H.R. 116: Mr. ALLEN, Mr. LAMPSON, Mr. KENNEDY, Mr. VENTO, Mr. PASTOR, Ms. CHRISTIAN-CHRISTENSEN, Ms. BROWN of Florida, Mr. COSTELLO, Mr. BORSKI, Mr. HALL of Ohio, Mr. OBERSTAR, Mr. SCOTT, Mr. TRAFICANT, Mr. VISCLOSKY, Ms. WATERS, Mr. WISE, Ms. WOOLSEY, Mr. CUMMINGS, Mr. CONDIT, Mr. CRAMER, Mr. POMEROY, Mr. HOLDEN, Mrs. TAUSCHER, Mr. SPRATT, Mr. MEEKS of New York, Mr. SKELTON, Mr. MOAKLEY, Mr. SANDERS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WEYGAND, Ms. SCHAKOWSKY, Mr. CLEMENT, Mr. GREEN of Texas, Mr. HINOJOSA, Mr. BERMAN, Mr. CROWLEY, and Mr. ROTHMAN.

H.R. 136: Mrs. MYRICK.

H.R. 137: Ms. JACKSON-LEE of Texas, Mr. BLUMENAUER, Mr. WEXLER, Mr. KUCINICH, Ms. PELOSI, Mr. VENTO, Mr. BONIOR, and Mr. WEYGAND.

H.R. 141: Mr. OLVER and Mr. MALONEY of Connecticut.

H.R. 155: Mr. PASTOR.

H.R. 160: Mr. HASTINGS of Washington.

H.R. 175: Mr. MCDERMOTT, Mr. MCKEON, Mr. SKELTON, Mr. TAYLOR of North Carolina, Mr. HORN, Mrs. MEEK of Florida, Mr. WEYGAND, Ms. ROYBAL-ALLARD, Mr. CAPUANO, Mr. LAFALCE, Ms. LEE, and Ms. ESHOO.

H.R. 176: Mr. HEFLEY.

H.R. 179: Mr. BALDACCI, Mr. FROST, Mr. HINOJOSA, Mr. MATSUI, Mrs. MEEK of Florida, and Mr. SANDERS.

H.R. 192: Mr. BRYANT.

H.R. 196: Mr. POMEROY and Mr. SANDLIN.

H.R. 206: Mr. BARRETT of Wisconsin, Ms. DEGETTE, Ms. PELOSI, Ms. STABENOW, Ms. CARSON, Ms. EDDIE BERNICE JOHNSON of Texas, and Mrs. WILSON.

H.R. 208: Mr. LAFALCE, Mrs. MEEK of Florida, Mr. CASTLE, Mr. FILNER, Mr. DAVIS of Virginia, Mr. TOWNS, Mr. MANZULLO, Ms. NORTON, Mr. KUCINICH, and Mr. STARK.

H.R. 215: Mr. DAVIS of Virginia, Mr. TRAFICANT, and Mr. WYNN.

H.R. 217: Mr. BOSWELL.

H.R. 219: Mr. SHERMAN, Mr. DUNCAN, Mr. BACHUS, Ms. DANNER, and Mr. LATOURETTE.

H.R. 220: Mr. HINCHEY, Mr. MANZULLO, and Mr. LATOURETTE.

H.R. 222: Mr. CANNON, Mr. BACHUS, Mrs. MYRICK, Mr. SANDLIN, and Mr. HALL of Texas.

H.R. 232: Mr. MCCRERY, Mr. GILLMOR, and Mr. ENGLISH of Pennsylvania.

H.R. 271: Mr. MALONEY of Connecticut, Ms. ESHOO, Mr. CROWLEY, Mr. ABERCROMBIE, Ms. LEE, Mr. BRADY of Pennsylvania, Mr. SAXTON, Mr. WAXMAN Mr. ETHERIDGE, Mr. BROWN of Ohio, Ms. SCHAKOWSKY, and Mr. GREEN of Texas.

H.R. 306: Mr. BISHOP, Mr. BORSKI, Ms. CARSON, Mr. CLAY, Mrs. CLAYTON, Mr. CLEMENT, Mr. COSTELLO, Ms. ESHOO, Mr. HILLIARD, Mr. HOLDEN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KANJORSKI, Ms. KAPTUR, Mr. MCDERMOTT, Mrs. MEEK of Florida, Mr. OLVER, Mr. ORTIZ, Mr. PASTOR, Ms. PELOSI, Mr. RANGEL, Mr. RODRIGUEZ, Mr. SMITH of Washington, Ms. STABENOW, Mr. STRICKLAND, Mr. TIERNEY, Mr. VENTO, Mr. VISCLOSKY, and Mr. WEYGAND.

H.J. Res. 10: Mr. BURR of North Carolina, Mr. COLLINS, Mr. SHAW, and Mr. WELDON of Florida.

H. Con. Res. 5: Ms. KILPATRICK, Ms. NORTON, Mr. FILNER, Mrs. MINK of Hawaii, Ms. JACKSON-LEE of Texas, Mr. TRAFICANT, Mr. GUTIERREZ, Mr. FROST, Mr. BARRETT of Wisconsin, Mr. SHERMAN, Ms. ROYBAL-ALLARD, Mr. SMITH of Washington, Mr. MEEHAN, Mr. SANDERS, Mr. SPRATT, Mr. HORN, Mr. FORD, Ms. DELAURO, Mr. DINGELL, Mr. FRANK of Massachusetts, Mrs. MCCARTHY of New York, Mr. CLEMENT, Mr. FALEOMAVAEGA, Mr. ABERCROMBIE, Ms. LOFGREN, Mrs. CHRISTIAN-CHRISTENSEN, Mr. THOMPSON of California, Mrs. MYRICK, Mrs. LOWEY, Ms. CARSON, Ms. PELOSI, Ms. LEE, Mr. BALDACCI, and Ms. STABENOW.

H. Con. Res. 8: Mr. DOYLE, Mr. BERRY, Ms. STABENOW, and Mr. GOODE.

H. Res. 15: Mr. LEACH, Ms. SLAUGHTER, Mr. MALONEY of Connecticut, Mr. FROST, Mrs. MEEK of Florida, Mr. GILMAN, Ms. CARSON, Mr. SKELTON, Ms. STABENOW, Mr. BARRETT of Wisconsin, Mr. HINOJOSA, Mr. FALEOMAVAEGA, and Ms. LEE.

H. Res. 18: Ms. KILPATRICK and Mr. WYNN.

SENATE—*Tuesday, January 19, 1999*

The Senate met at 9:30 a.m. and was called to order by the Honorable GEORGE B. VOINOVICH, a Senator from the State of Ohio.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, our Rock of Ages in the sifting sands of our times, You are our stability and strength. You have placed a homing spirit in our hearts, making us restless to return to You. And now in communion with You, we receive what we need—energizing power for this new day, enthusiasm for the demanding schedule of this long day, extraordinary intellectual resiliency for the challenges of this crucial day.

Lord, bless the Senators with an assuring awareness of Your presence in the varied responsibilities they will assume today: the morning business, the party caucuses, the resumption of the impeachment trial, the State of the Union Address by the President. May their consistently repeated prayer in each changing circumstance, conversation, or conflict be: "Lord, use me. Speak through me. Accomplish Your will in my life and leadership." And so we commit this day to live intentionally in the inspiration of Your Spirit. Amen.

APPOINTMENT OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The bill clerk read as follows:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 19, 1999.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable GEORGE B. VOINOVICH, a Senator from the State of Ohio, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. VOINOVICH thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. NICKLES. Thank you, Mr. President.

SCHEDULE

Mr. NICKLES. Mr. President, this morning the Senate will be in a period of morning business until 11:30 a.m. Following morning business the Senate will recess in order to accommodate the weekly party luncheons. The Senate will then reconvene at 1 p.m. this afternoon and immediately resume consideration of the articles of impeachment. Under the provisions of Senate Resolution 16 the White House will begin its opening arguments. At the conclusion of today's consideration of the articles of impeachment, the Senate will recess until 8:35 p.m. this evening and upon reconvening will proceed as a body to the House of Representatives for a joint session to receive a message from the President. I thank my colleagues for their attention.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until the hour of 11:30, with 60 minutes under the control of the majority leader and with 60 minutes under the control of the Democratic leader, or their designees.

The Senator from Illinois.

Mr. DURBIN. Mr. President, as I understand it, there are 2 hours equally divided. I ask unanimous consent to designate myself as the Senator in charge of the 1 hour designated to the Democrats.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Thank you, Mr. President.

DEMOCRATIC LEGISLATIVE AGENDA

Mr. DURBIN. Mr. President, very shortly we will be joined by the minority leader, Senator DASCHLE, who will speak to the issue at hand. Of course, the issue is one that is positively dwarfed by the events that will occur in this Chamber later this evening. It is very difficult to stand here in the context of the impeachment trial and to speak of legislation, but I think we would be remiss in our responsibilities to the American people if we did not realize that although the impeachment trial is an important constitutional responsibility, we have other responsibilities to the American people, as well.

The Democratic package, leadership package, of legislation speaks to specific issues which many families across America consider paramount in their lives. I think it is a very realistic and a very forward-looking approach to the problems which challenge us. It addresses the day-to-day issues that matter the most to the American people: Health care, education, income security, crime, child care, a safe and stable food supply, and other critical issues.

I am sorry to report that the last Congress—the last 2 years of Congress on Capitol Hill—was largely unproductive. The results of the last national election, I think, verified the fact that most people were disappointed by the outcome of the 105th Congress. There were so many opportunities missed in that Congress, so many chances to make real changes to improve life in America that were squandered. We failed to address patients' rights, we failed to reduce tobacco use by our children, we failed to reform the sorry state of campaign financing, and increase the minimum wage. In each instance, we were stymied by the other side of the aisle that simply did not want to deal with these issues.

It appears that the only issue of great moment—and I say that advisedly—was the decision to rename Washington National Airport after our former President, Ronald Reagan. Sadly, many of my colleagues in the Senate, once they had achieved that, decided to go straight to the airport and catch a plane and go home instead of sticking around and working on the issues for which we were called to Washington.

I think the American people have other things on their minds, and I think they are looking to us for leadership.

I am happy at this point to yield the floor to the Democratic leader, our minority leader in the U.S. Senate, who will speak to the agenda which we will try to forcefully address during this session of Congress.

THE OTHER IMPORTANT WORK THIS CONGRESS MUST DO: AN AGENDA TO HELP AMERICA'S WORKING FAMILIES

Mr. DASCHLE. Mr. President, for 3 full days now, this Senate has been sitting as a court of impeachment. We are only the second Senate in the history of our nation to sit in judgment of a President, and the first Senate ever to consider impeaching an elected President.

Deciding, ultimately, whether to overturn a free and democratic election is almost certainly the most awesome responsibility any of us will ever be called in our public lives to fulfill.

But it is not the only responsibility before this Senate, Mr. President. On many other urgent issues—from improving our children's schools, to passing HMO reform, to saving Social Security—the American people are waiting for us to act. They've been waiting—frankly, for too long. So today, on behalf of my fellow Democratic Senators, I am introducing our first bills of the 106th Congress.

Our proposals target the real needs of America's families and communities. They are relevant, not revolutionary. If they seem familiar, it's because most of what is in them we first introduced in the last Congress. But they did not pass, despite the support of the American people and, in some cases, by a bipartisan majority of Senators. We offer them again in this Congress because the need for them has not diminished. In fact, it has grown.

SENATE DEMOCRATS' FIRST 5 BILLS

Our first bill is S. 6, the Patients' Bill of Rights. Democratic Senators spoke about this bill so often last year, trying to persuade our Republican colleagues to permit a vote on it, that I think we may all know it inside and out. In a nutshell, our Patients' Bill of Rights is based on a fundamental premise that insurance company accountants have no business practicing medicine. Decisions about medical care should be made by doctors and patients. Period.

The Patients Bill of Rights guarantees HMO patients the right to go to an emergency room, and see a medical specialist, when they need to.

It guarantees doctors the right to tell patients all their treatment options, not merely the cheapest ones. If you're being treated for an illness, or you're pregnant, the Patients' Bill of Rights allows you stay with your own doctor, even if your employer changes health plans. It guarantees parents the right to take their child to a pediatric specialist if they need one.

And it holds HMOs accountable for their decisions. If an HMO refuses to cover a prescription or procedure, our bill allows patients to appeal that decision to an independent third-party.

And, if a patient suffers serious harm as a result of insurance company's decision to delay or deny needed care, the Patients' Bill of Rights guarantees them the right to sue their insurer—the same way every other industry can be sued for its bad decisions.

We're pleased that our Republican colleagues say HMO reform will be a priority for them this year as well. That's progress. The plan they offered last year covered only 1 in 3 privately insured Americans and contained other major holes as well. We hope their new proposal will correct those problems. We also hope the Republican leadership will allow an open, honest debate on this issue. That would be further progress. If we can have that debate, we can pass a real Patients' Bill of Rights this year.

Our second bill, S. 7, is the Public Schools Excellence Act.

There are more children in America's public schools this year than ever before in our nation's history. These record enrollments are already causing serious teacher shortages. One way some schools are trying to deal with the shortages is by lowering standards for new teachers.

Over the next 10 years, continued enrollment increases and teacher retirements will require America's public schools to hire more than 2 million new teachers. If we don't act now, the need for new teachers will put ever more pressure on communities to lower their teaching standards.

Enacting a proposal by Senator MURRAY, we made a historic commitment last year to help local communities hire 100,000 new teachers so they could reduce class size to an average of 18 students in first 3 grades, and give young children the personal attention and solid academic foundation they need.

This year, we are proposing a new partnership to increase both the quantity and quality of America's teachers. It is based on a proposal by Senator KENNEDY. We'll help local communities attract qualified new teachers by offering college scholarships to students and to professionals who want to switch careers. We'll also help them provide these new teachers with the intensive support they need—but too often do not get—during the first few years on the job. At the same time, we'll help communities keep good teachers who are already in the classroom, by providing them with the training they need to strengthen their skills, or learn new skills—like how to use computers in the classroom.

But even the best teachers can't teach, and students can't learn, in classrooms that are unsafe or crammed beyond capacity. That is why, as part of our education bill, we are also re-introducing our plan to help local communities repair and replace crumbling and overcrowded schools.

We all know the figures: According to the GAO, 14 million children in this country attend schools that require major renovations; and 7 million children attend schools with serious safety code violations such as asbestos, radon, and lead-based paint. Millions more children attend schools that hold far more students than they were designed for.

Our bill provides communities with reduced-rate bonds that will enable them to cut school construction and repair costs to local taxpayers by as much as 50 percent. Senators LAUTENBERG, ROBB, FEINSTEIN, and HARKIN have all helped put this proposal together.

More than 90 percent of America's children attend public schools. By strengthening their schools, we can give our children the skills to prosper in tomorrow's economy. But we also need to help families the tools to succeed in today's economy. That is the focus of Democrats' third bill, S. 8, the Income Security Enhancement Act.

For 20 years, beginning in the early 1970s, 80 percent of America's families didn't get a raise; their incomes stayed flat—even when they took on second or even third jobs. Fortunately, that's over. Since 1993, the average family income has gone up nearly $2,000 per year.

One way we can keep that trend moving in the right direction is by increasing the minimum wage by $1 over the next years—to $6.15 per hour. We know from experience that raising the minimum wage doesn't hurt the economy. It doesn't kill jobs. What it does is help families, and reinforce our belief as a society in the dignity of work. We hope our Republican colleagues will join us in supporting this modest increase for some of the hardest workers in our nation.

We are also hoping they will join us in supporting a true marriage penalty tax cut.

Last year, Republicans proposed a flat $1,400 tax credit to married couples filing jointly. For most middle-class couples, the tax cut we are proposing is a better proposal. Under our plan, two-income couples filing jointly could deduct 20 percent of whichever of their 2 incomes is lower. For example, a couple earning $35,000—split $20,000 and $15,000—would get a $3,000 tax cut. A couple earning $50,000—$25,000 each—would get a $5,000 tax cut.

Another difference between our marriage penalty tax cut and the one Republicans proposed last year is that our tax cut is factored into the Earned Income Tax Credit, so couples—like so many of the couples in my state of South Dakota—couples earning less than $30,000—can still receive it, even if they have no income tax liability.

We also need to close the pay gap between men and women.

In 1963, President Kennedy signed the Equal Pay Act, making it illegal for employers to pay women less than men for the same job. Thirty-six years later, women in this country still earn, on average, $9,000 a year less than men. Over a lifetime, the average American woman loses $420,000 in wages and benefits because of this pay gap.

Today, when women provide more than half the income in two-thirds of

America's families, and all the income in 2 out of every 5 families, this continued pay gap is just anti-woman. It's anti-family. Our bill will help narrow the gap by strengthening enforcement of the Equal Pay Act, toughening penalties for employers who break the law; and increasing the remedies available to women who suffer wage discrimination.

Increasing the minimum wage. Cutting the marriage penalty tax. Closing the pay gap. All of these things will help increase families' economic security today. We also need to help people plan for a secure economic future. That's the other half of our family-income package.

I talk to people all the time who tell me they're worried they won't have the "luxury" of retirement. Democrats believe we don't have the luxury of ignoring the coming retirement crisis. We need to deal with the serious issue of retirement security—in this Congress.

It is not OK that fewer than half of all American workers have pensions. That is why we are re-introducing our proposal to significantly increase the number of workers with pensions, and strengthen pension security. Our bill makes it easier and cheaper for small businesses to offer pension plans. It also strengthens auditing and other security measures designed to protect pension funds from misuse and mismanagement—so the pensions workers earn are actually there when they retire.

In addition, our bill changes some of the old rules about pensions to match the new reality of the way Americans work. Most people now switch jobs many times in their careers. That makes it hard for them to build up a significant pension. Our proposal makes it easier for workers to take their pensions with them when they change jobs. It also reduces from 5 to 3 years the time it takes to become "vested" in a 401(k) plan; and it allows workers who don't have pension coverage to build their own retirement savings through direct contributions from their paycheck into an IRA.

The other thing this Congress must do to increase Americans' retirement security is protect Social Security.

We don't need a detailed Democratic plan to save Social Security, or a detailed Republican plan. We need a detailed American plan to save Social Security. And we're ready and willing to work with our Republican colleagues to produce one. But until a plan is signed into law, we all need to keep our commitment to save Social Security first.

Some people are suggesting that we can walk away from that commitment now because the surplus projections are bigger today than we expected. They want to change the rules and make it easier to spend the surplus.

Let me be very clear: Senate Democrats will do everything in our power to prevent this from happening—until we fix Social Security. It doesn't matter how large the projected surplus is. We didn't go through all the hard work of balancing the budget just so Congress could once again start spending money we don't have and driving up the deficit.

We don't have a Social Security crisis today. But we could create a crisis for the future if we start spending the surplus now, before we know how much it will cost to keep Social Security solvent once the Baby Boomers start to retire.

Instead of making it easier to raid Social Security, let's work together in this Congress to save it. If our predecessors could summon the political will 60 years ago, during the worst economic times in our history, to create Social Security, surely we can summon the will, during the best economic times in a generation, to preserve it.

We also need to increase the personal security of America's families.

This year, for the sixth year in a row, crime is down in America. That's the longest period of decline in 25 years. Our fourth bill, S. 9, the Safe Schools, Safe Streets and Secure Borders Act of 1999, builds on the juvenile crime bill introduced by Senator LEAHY in the 105th Congress. It will help reduce crime even further by targeting violent crime in our schools. Reforming the juvenile justice system. Combating gang violence. Cracking down on the sale and use of illegal drugs. Giving police and prosecutors more tools and resources to fight street crime, international crime and terrorism. And strengthening the rights of crime victims.

In 1994, we made a commitment to put 100,000 new police officers on the street in communities all across America. Our new crime bill builds on that commitment by enabling communities to hire an additional 25,000 police officers through the COPS program.

It also expands Senator BIDEN's Violence Against Women Act—providing more money for more police officers, more support for prosecutors, more prevention programs, and more shelters and other services for victims of domestic and sexual violence.

It strengthens federal laws against hate crimes.

And it sets a national drunk-driving standard of .08 percent blood alcohol.

The final bill in our leadership package is S. 10, the Health Protection and Assistance for Older Americans Act.

Democrats have always made protecting Medicare and older Americans a top priority. Six weeks from now, this Congress will receive a report from the Bipartisan Commission on the Future of Medicare. Senate Democrats will consider the Commission's proposals carefully.

But there are 3 proposals we should all be able to agree on now—even before we see the Commission's report—to improve the health and lives of older Americans and their families.

The first proposal addresses a serious health care gap in our country—we refer to it as the "Medicare buy-in" proposal, which Senator MOYNIHAN introduced in the 105th Congress. It contains 3 parts. First, it allows people between ages of 55 and 65, and their spouses, to buy into Medicare when their employer downsizes, or their plant shuts down.

Second, it allows people between 62 and 65 who don't have access to group coverage to buy into Medicare. Participants don't have to be retired to be eligible. Some might work for small firms that don't offer benefits, or be self-employed or work part-time in a job that doesn't provide health benefits.

Both of these new coverage options are largely self-financing. The people "buying in" will pay premiums, just as they would for private health insurance.

The third part of our proposal is designed to help retirees whose promised health benefits are canceled. It allows these retirees to buy into their former employers' company health plan until they turn 65—a much more affordable option than buying private individual insurance.

We know what people between 55 and 65 are twice as likely as someone just 10 years younger to experience heart disease, cancer and other major health problems. They have less access to health care coverage. They're at greater risk of losing their coverage. And, they're the fastest-growing age group in our Nation. By the year 2010, the number of Americans between 55 and 65 will increase by 60 percent. Let's close this critical gap in our health care system now, before it gets worse.

I also want to tell my colleagues that—although it is not part of our package today—Democrats will be working on a proposal to expand basic Medicare coverage to include prescription drugs. There is no reason that seniors should have to choose between buying medicine and buying groceries.

We will also be making reauthorization of the Older Americans Act a top priority for this Congress. That is the second part of our seniors package.

The Older Americans Act provides "Meals on Wheels," counseling and other vital support services that allow older Americans to maintain their dignity and independence. Authorization for it expired in 1995. Older Americans deserve better. Democrats will be seeking not only appropriate funding, but improvements as well, and Senator MIKULSKI will help lead that effort.

The third proposal in our seniors package will help individuals and their families cope with the financial and emotional strains of long-term care. The centerpiece of this proposal is a new $1,000 tax credit. We'll also help communities create "one-stop" centers that provide counseling and support, ncluding respite care, to family care givers. And, we will create a model ong-term care insurance program that will be open to federal employees and retirees and their families. We'll use the negotiated-savings power of the federal government to provide long term care insurance at 15–20 percent below market prices.

That is our leadership package, Senate Democrats' first 5 priorities for the 106th Congress. Pass a real Patients' Bill of Right. Strengthen our children's schools. Increase family incomes. Make our schools and neighborhoods safer. And help older Americans and their families by strengthening Medicare, supporting programs that help seniors maintain their independence, and help- ng individuals and their families with the financial and emotional costs of ong-term care.

OTHER TOP PRIORITIES

Senate Democrats are also introducing 5 other bills today. They, too, are very important priorities for our caucus—and our Nation.

S. 16 is the Congressional Election Campaign Spending Limit and Reform Act. We must end the money chase in politics. It's out of control, and it's destroying people's faith in government, and the ability of government to function. We all know that.

This bill sets voluntary spending lim- ts for Senate candidates—including imits on candidates' personal spending —in exchange for substantially reduced TV costs. It also bans "soft money" contributions to national parties, curbs he use of so-called "issue ads" and "independent expenditures," and trengthens laws against foreign campaign contributions.

S. 17, the Child Care ACCESS Act, in- roduced by Senator DODD, gives work- ng parents more safe, affordable child are choices. It includes subsidies and ax credits to help low- and middle-in- ome parents pay for child care, and ax incentives for companies that offer hild care for their workers. It also helps states improve pay for child care eachers, and makes other changes hat will improve the quality of child are. In addition, it creates more and better after-school programs, so children aren't home alone. And, it pro- ides a new tax credit for "stay at ome parents."

Full-day child care can cost anywhere from $4,000 a year to $10,000—as much as tuition at a public university. By passing this bill, we can ease some f the financial strain on working families and make sure America's children re safe and well-cared for while their parents are at work.

S. 18, introduced by Senator HARKIN, is the SAFER Meat and Poultry Act. America has the safest food supply in he world. We need to make sure it tays that way. This bill will help by giving USDA the authority to order mandatory recalls of unsafe meat and poultry products instead of relying on voluntary recalls. It also authorizes USDA to levy fines for food violations. The bottom line: it gives USDA the tools it needs to make sure the meat and poultry we buy at the grocery store and eat at restaurants is free of e-coli, salmonella and other harmful bacteria.

In the coming months, Senate Democrats will also be proposing additional new safeguards to ensure that the produce and processed foods Americans eat also meet the highest safety standards.

S. 19 is our Agricultural Safety Net and Market Competitiveness Act of 1999. It is the product of many senators' efforts to bring to rural America some of the same prosperity the rest of America is enjoying.

America's family farmers are currently experiencing their worst economic crisis in at least a decade—and possibly since the Great Depression. This crisis is undermining the economic and social fabric of rural communities all across America. But the implications effect all consumers, regardless of where they live.

Our bill will help family farmers and rural communities get through this crisis by restoring the agricultural safety net, and by more aggressively enforcing laws against anti-competitive business practices in meatpacking and other agriculture industries. It will also reduce the chances of future farm crises by helping producers tap new markets for their products at home, and by ensuring that American farmers have fair access to foreign markets.

Our final bill, S. 20, the Brownfields and Environmental Cleanup Act of 1999, is being introduced by Senator LAUTENBERG. It encourages people to buy and redevelop the tens of thousands of contaminated former industrial sites in communities across the country. Specifically, it provides grants through EPA to help local communities evaluate and clean up contaminated industrial sites. It also provides relief from potential Superfund liability to owners and potential owners who had no hand in causing the contamination. By taking these steps, we can reduce public health risks and help create new jobs and opportunities were they are badly needed.

We do not claim to have all the right answers. But in these proposals, we believe we have at least identified the rights issues. It's clear these are the issues working families want this Congress to deal with. They've told us so time and time again.

Tonight in his State of the Union address, the President will outline his agenda for the coming year. We welcome his ideas. We also welcome the ideas of our Republican colleagues. We are ready to work with the White House and with our colleagues on both sides of the aisle in the spirit of consensus and teamwork to do the work the American people expect us to do.

Last month, there was a dinner in Washington honoring the political leaders who negotiated the "Good Friday Agreement," the historic Northern Ireland peace accord. These are people who have found a way somehow to overcome ancient hatreds and create a new government based on peace and justice. Their new government is still very fragile, and it faces many challenges. But the people at this dinner were convinced they would succeed. As one woman put it, "There's no turning back. For once, we're doing what Americans do. We believe in ourselves."

We must believe in ourselves. No generation of Americans has ever said "we can't meet the great challenges of our time." No Congress has ever said that. And this Congress must not say it, either. Let us agree to work together to help America's families. Let us believe in ourselves.

I yield the floor.

Ms. MIKULSKI. Mr. President, I'm proud to join my colleagues in introducing the Democratic agenda for the 106th Congress. I am so proud that the people of Maryland have returned me to the United States Senate for a third term. I promised to continue fighting for their agenda.

That agenda means keeping a robust economy. It means fighting for a safety net for seniors. Maryland's agenda means getting behind our kids and our families. It means fighting for safe streets and a safer world. It means that we have to continue to invest in science and technology. The legislation we are introducing today will help us achieve these goals. It is a Democratic agenda—and it's Maryland's agenda. I would like to highlight a few initiatives that are particularly important.

Our agenda strengthens the safety net for seniors. I believe that when we say "honor your mother and your father," it is not only a good commandment to live by but it is good public policy to govern by. What does that mean? First of all, it means helping Americans with long term care.

Since my first days in Congress, I have been fighting to help people afford the costs of long-term care. Ten years ago, I introduced legislation to change the cruel rules that forced elderly couples to go bankrupt before they could get any help in paying for nursing home care. Because of my legislation, the American Association of Retired Persons tells me that we've kept over six hundred thousand people out of poverty and stopped liens on family farms.

The Democratic agenda will make it easier for families to provide long term care. The agenda also includes my bill to provide long-term care insurance to federal employees and retirees. This provision is a down-payment on extending long-term care insurance to everyone. It will create a model for other employers to use in providing long-term care insurance for their workers.

The Democratic agenda also includes measures to expand access to Medicare for individuals aged 55 to 64, and, importantly, calls for reauthorizing the Older Americans Act, an effort I helped lead in the last Congress. Although we did not complete action on the reauthorization last year, I hope my colleagues on both sides of the aisle will recognize how critical the OAA programs are to American seniors. In 1994, the last year OAA was authorized, it provided health and welfare information to 3 million seniors, served 240 million meals to low- and moderate-income seniors, and provided more than 800,000 seniors with critical transportation to and from doctor visits and other needed services.

We also recognize that we must get behind our kids and families. We know that our children are our most important resource. Our Democratic agenda puts these words into action. We put the Public Schools Excellence Act at the top of our agenda. That bill will improve achievement by helping communities lower class sizes and help teachers get the training they need for the twenty-first century.

We're also helping communities create structured after school initiatives. The Democratic agenda will enable one million children to participate in safe and constructive after school programs. We'll do this by helping schools and community groups set up after school programs that provide academic enrichment, tutoring, recreation or other beneficial activities.

But we know that we've also got to get behind our families by making sure they have high-quality, affordable health care. The Democratic Patients' Bill of Rights will do just that. It will provide consumers of HMO health care enforceable patient protections. Democrats believe that health care decisions need to be made in the consultation room, not the board room.

This legislation will provide 161 million Americans with critical protections for their health care. It will ensure the right to treatment that is medically necessary by the most appropriate health care provider, using best practices. It will provide continuity of care and patients will have the right to hold their health plans accountable for medical decisions even if it means taking the company to court. Right now, we don't have managed care—we have manacled care, and the Democratic Patients' Bill of Rights will help make sure we put patients ahead of profits.

We're also fighting for a safe world for our children to grow up in. The Democratic crime initiative focuses on prevention, police and punishment. It continues to put more cops on the streets. It helps schools stay free of drugs and violence. And it gives law enforcement more tools to fight international drug pushers and terrorists—who threaten the safety of our world.

We will also focus on ensuring our nation's food supply is safe for consumption. S. 18, The SAFER Meat and Poultry Act, will be a top initiative in the coming Congress. Every person should have confidence that food is fit to eat and imported food is as safe as food produced domestically. Our food supply has gone global. We need global food safety. Too frequently, Americans suffer food borne illness and even death due to the contamination of imported foods. Just last year, infected raspberries were found in my home state, in Montgomery County.

I introduced the Safety of Imported Food Act 1998 and will work with the Democratic leadership to implement safe, effective, and common-sense improvements to our food inspection process, and authorize enforcement tools needed to revolutionize the process and ensure compliance with safety laws.

The Democratic agenda seeks to strengthen our economy by increasing the economic security of working Americans. It does this by increasing the minimum wage and by decreasing taxes that unfairly target working families—like the marriage penalty.

Mr. President, the Democratic agenda is the American agenda. It will help us meet the day to day needs of the American people—and it will also help prepare our nation for the twenty-first century.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, will the floor manager be kind enough to yield 10 minutes?

Mr. DURBIN. I would be happy to yield 10 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 10 minutes.

Mr. KENNEDY. Mr. President, first of all, I wish to join our colleagues in commending our leader for an excellent presentation on the unfinished agenda of the past Congress, as these are really the opening moments of the Congress in terms of dealing with our legislative agenda. It is entirely appropriate that our leaders speak to what we hope will be accomplished during this Congress. Tonight we will listen to the President of the United States meet his responsibilities under the Constitution, addressing the State of the Union. In the next day or so we will hear from the Democratic leader in the House of Representatives, Mr. GEPHARDT, who will outline an agenda for the country as well.

I must at this time say how impressed I am with the outlines of this very thoughtful proposal, a real challenge for the Congress as we begin our important legislative undertakings.

We currently have extraordinary economic prosperity in the United States. It is the excellent leadership of President Clinton, Vice President GORE, and the Administration that has put us into a position to have the strongest economy we have had in any recent period of time, with both economic growth and price stability. That is reflected in enhanced hopes and dreams for working families all across this country.

There are those who have not participated in that economic expansion as much as others, however. We hear the concerns expressed by our Democratic leader, and we will also hear the President tonight speak about how we can make our society a fairer and a more just society and how we can enhance the opportunity to reach out to those who are struggling hard, playing by the rules, trying to provide for their families, who also ought to be able to enjoy the kind of prosperity that we are experiencing.

The Democratic leader outlined a number of different areas with which working families in the United States are most concerned. Sure, we have many—about 75, 78 percent—of our working families that have some kind of health insurance, even though those numbers are gradually dropping and have been dropping quite precipitously in the last 3 or 4 years. But we want to make sure that those working families are going to be able to have health care decisions made by their doctors and by their nurses and not by the insurance companies.

That is why I joined with our Democratic leader in strong support of the Patients' Bill of Rights, a proposal that is effectively supported by every major medical society, every patient organization, and every nursing organization in the country.

We have asked and invited our Republican friends and colleagues to join with us. We have tried to point out the inadequacies of their particular proposal in the fact that it only covers a third of the Americans who are covered by any kind of health insurance, leaving two-thirds of the members of the American family out. But we have been unable to get them to join with us. The professional health community says the way to go is with the health care bill of rights as introduced by the Democratic leader.

Mr. President, the Democratic leader and the President outline another major concern that working families have, and that is the quality of education for their children. Sure, there is primary responsibility for education at the local level, and there is a State interest, but it should also be a matter of national priority. We are looking for partnerships. We are looking for ways of being able to work together.

This particular proposal which the Democratic leader has outlined, has recognized what the General Accounting Office recognized over 2 years ago, and that is that the cost to repair public schools in the United States of America, if they were all to be repaired, would be $110 billion. The President and the Democratic Party stand for trying to help and assist local communities to provide for that reconstruction and, importantly, the modernization of the schools, to work in partnership with the States—not only in terms of the construction but also to make sure we are going to have a qualified teacher in every classroom, that the classrooms, particularly in the early grades, are going to be smaller, and that there are going to be the afterschool programs to help keep children out of trouble and to help and assist children who may be falling further behind to be able to enhance their academic achievements and accomplishments. That makes a great deal of sense, Mr. President.

These particular proposals will be advanced for debate and discussion in the Elementary and Secondary Education Act. We are looking forward to that. We are doing the country's business in working in partnership with States and local communities.

There is also urgency, in terms of ensuring that the parents of working families are going to be secure, in dealing with Social Security. We will hear an outline this evening. The President was good enough to invite Democrats and Republicans to come to the White House and to sit down with him to try to find some common ground. We will hear tonight that he is still strongly committed to trying to work this out in a bipartisan, nonpartisan way. It is the only way that that can be managed. And that is going to be very important. It will be a top priority for our seniors, our children, and our working families.

As the leader has pointed out, there will be an additional program to try to help and assist with many of the needs of the children of this country. That is going to be in legislation which he has outlined here today and which many of us have been interested in in terms of the early start programs, the pre-K programs. We talked to the Nation and made a commitment with the Governors some years ago that every child was going to be ready for school. We have to continue with that commitment. We want every child to be ready for school. We want tough standards at schools. We want to make sure that graduation is more than just an attendance program—that it means children have learned in these schools. I believe we are going to hear about excellent programs this evening and we have the Public Schools Excellence Act's inclusion in education.

The list goes on for the elderly, including the continuation of the Older Americans Act, the Early Medicare Access Act, and Medicare coverage of prescription drugs. I hope we are going to be able, in this Congress, to address the issue of prescription drugs, which is of urgency for so many of our elderly and citizens with disabilities. It is such a burden—we find many of our citizens have to make a choice between the prescriptions that they need and a good meal.

Finally, I want to just mention the sense of hope that we have, many of us, as we look forward to this Congress. Just last week at the White House, the President indicated his strong support for legislation which has been introduced by Senator JEFFORDS from Vermont, Senator ROTH from Delaware, and cosponsored by myself and Senator MOYNIHAN, with regard to ensuring that those individuals, some 54 million Americans who have some disability, are going to be able to work without losing the benefits that they need.

The disabled want to work. They can work. But we have a system, under Medicaid, which discourages them from working by providing financial penalties and the denial of services if they go out and work. We have crafted an effective program that will encourage those disabled to participate in our workforce and in our workplace. They have been excluded for far too long. This legislation starts off as one of the principal pieces of bipartisan legislation, which augurs well, if we are going to be serious about dealing with serious issues. I am very hopeful that this will be one of the first pieces of legislation that will pass. It will make a great deal of difference, not just to the disabled but to all Americans, because who can say today that by this evening they are not going to face some kind of challenge and be faced with some kind of disability as well?

Mr. President, I am hopeful that we will be able to make progress on this agenda. I commend our Democratic leader for advancing it. I think it is one which demands action, and I look forward to working with our colleagues to see what can be achieved in this Congress for improving the quality of life for working families in this Congress.

Mr. President, I ask unanimous consent that the full text of my prepared remarks be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

Today, Democrats introduce legislation to carry out our priorities in the Senate and create greater opportunities for working families, strengthen our schools, and ensure that citizens are cared for properly in their later years.

We must complete our unfinished business of the last Congress—the Patients' Bill of Rights, high standards for schools, saving Social Security, and raising the minimum wage.

But we also have new ideas for the new century to help move our country forward more effectively.

First, we must improve the quality of health care for all Americans.

Today, we renew the battle in Congress to enact a strong Patients' Bill of Rights to protect American families from abuses by HMOs and managed care health plans that too often put profits over patients' needs.

Our Patients' Bill of Rights will protect families against arbitrary decisions that can rob average citizens of their savings and their peace of mind, and often their health and their very lives. Doctors and patients should make medical decisions, not insurance company accountants. For the millions of Americans who rely on health insurance to protect them and their loved ones when serious illness strikes, the Patients' Bill of Rights is truly a matter of life and death.

Soon, I also intend to offer legislation to deal with an increasingly urgent problem. Elderly and disabled Americans on Medicare spend a disproportionate share of their income on prescription drugs. The elderly make up 12 percent of the population, but account for one-third of all prescription drug purchases. The lack of insurance coverage for these expenses is the most serious gap in Medicare today. Virtually all employer plans offer this coverage, but Medicare does not. The elderly are practically the last group who pay full retail prices for drugs. And the price tag is growing by an astonishing 16 percent each year.

The time has come to address this glaring problem, and I intend to introduce legislation soon to do so.

Today, we also renew the battle for the Early Medicare Access Act. I commend Senator MOYNIHAN for his strong leadership on this issue. More than 3 million Americans aged 55 to 64 have no health insurance today. In the past year, the number of the uninsured in this age group increased at a faster rate than any other segment of the population. They are too young for Medicare, and unable to afford private coverage.

In response to this need, our proposal will enable many uninsured Americans between the ages of 55 and 64 to purchase coverage under Medicare.

In addition to addressing America's health care needs, we must continue our campaign to improve the quality of public schools and help children meet high educational standards.

A high school degree must be more than just a certificate of attendance. It must be a certificate of achievement.

We made progress last year in improving the quality of education, but we are still far from where we need to be. There are serious problems in the nation's schools, and they deserve serious solutions. We are introducing the Public Schools Excellence Act of 1999 to meet the pressing educational needs of communities and schools across the country. Our comprehensive bill addresses four key challenges facing public schools.

First, it will help communities rebuild, modernize and reduce overcrowding in more than 5,000 local public schools.

Second, it will reduce class size by building on the down payment in last year's budget agreement to hire more teachers. Our legislation authorizes a six-year effort to help local schools meet the goal of hiring 100,000 new, qualified teachers, especially for the lower grades.

Third, our bill will ensure that there is a well-trained teacher in every classroom in America. Such teachers are essential for student achievement. Our bill will invest $1.2

billion next year to provide scholarships to recruit outstanding new teachers and to enable current teachers to improve their skills through mentoring programs and other professional development.

Fourth, our proposal will expand the nation's after-school programs. Every day, over 5 million children are left home alone after school. Hundreds of thousands of families are on waiting lists. By investing in after-school programs, we keep children away from drugs, off the streets, and out of trouble, and provide a wholesome learning environment in the afternoons.

Improving education is clearly one of our highest national priorities. But in order for all children to achieve their full potential, we must make significant investments in children long before they ever walk through schoolhouse doors.

Ten years ago, the nation's governors said their number one educational goal was that by the year 2000, all children should enter school "ready to learn." Unfortunately, we will not reach this goal by 2000. One of my priorities in the new Congress is to renew this battle. We are already fighting hard for smaller classes, better teachers, and more modern school facilities, but we can't neglect to invest in education at the very earliest ages.

The next priority is save Social Security. Few issues facing Congress today will have greater long term impact on the lives of more Americans than strengthening Social Security for future generations. For two-thirds of America's senior citizens, Social Security retirement benefits provide more than half their annual income. Without Social Security, half the nation's elderly would be living in poverty.

But it is much more than a retirement program. Thirty percent of its benefits support disabled persons of all ages and their families, and the surviving dependents of breadwinners who have died prematurely. In 1996, Social Security benefits kept over one million children out of poverty as well.

Radical change is unnecessary and unwise. We face a Social Security problem, not a Social Security crisis. The program can be made healthy without dismantling it in the process. It now has enough resources to fully fund current benefits for more than 30 years. If we plan for the future by addressing this problem now, the long-run revenue shortfall can be eliminated with relatively minor adjustments to the system.

Some have suggested that the only way to save Social Security is to privatize a major part of it. Nothing could be further from the truth. In reality, diverting a portion of the payroll taxes from Social Security into private retirement accounts would only make the future Social Security shortfall far greater and would necessitate sharp cuts to the very benefits that senior citizens rely on.

Private accounts, subject to the ups and downs of the stock market, are fine as a supplement to Social Security. But, they are no substitute for Social Security. The guaranteed benefits which Social Security currently provides are the best foundation on which to build for a secure retirement.

More than half of the long-run shortfall can be closed by merely broadening the types of investments made by the trust fund, just as state and municipal public pension funds have done routinely for years. The remainder of the shortfall can be eliminated by several other minor adjustments to the program—without reducing benefit levels.

The overwhelming majority of today's workers would be unaffected by these changes. Current and future beneficiaries would be fully protected, and the guarantee of a secure retirement for America's workers would be preserved through the 21st century.

Another Democratic priority for this year is a much-needed increase in the minimum wage. Today, far too many workers work full time, and yet cannot make ends meet. Minimum wage workers who work 40 hours a week, 52 weeks a year earn just $10,700–$2,900 below the poverty level for a family of three.

Under the leadership of President Clinton, America has enjoyed 6 years of extraordinary economic growth. Unemployment is at its lowest level in a generation. Inflation is the lowest in 40 years. But for too many fellow citizens, it is someone else's boom. Twelve million working Americans are still earning poverty-level wages.

That is why we say now is the time to raise the minimum wage. The bill we introduce today will increase the level by a dollar—50 cents this year and 50 cents next year—and bring the minimum wage to $6.15 an hour by September 2000.

We know who minimum wage workers are. They clean our office buildings. They are teachers aides in classrooms. They care for the chronically ill and the elderly. They are child care workers. They are aides in nursing homes. They sell groceries at the supermarket, and serve coffee at local shops.

In good conscience, as we celebrate the nation's continuing prosperity, we should not consign the millions of Americans who have these jobs to continuing poverty. We must raise the minimum wage, and we must raise it now.

Finally, I look forward to early action by the Senate on the landmark, bipartisan disability legislation that Senator JEFFORDS, Senator ROTH, Senator MOYNIHAN, and I announced last week. Over 75 percent of Americans with disabilities are unemployed. Most want to work—to enjoy the same fruits of their labor and fulfillment of their talents as everyone else in our society.

Our proposal makes this possible. It allows disabled Americans to take jobs without losing the Medicare and other benefits that are their lifeline. It also provides valuable job training and rehabilitation assistance that will give persons with disabilities the skills they need to have and hold a job.

These are important initiatives for the American future—for children, for working families, for the elderly, and for the disabled. These are the kinds of issues that the Senate should already be taking up. It is time to bring the impeachment trial to a fair and quick conclusion, so that we can deal more effectively with these challenges that are of much higher concern to working families.

Mr. BROWNBACK. I ask unanimous consent to speak for up to 10 minutes in morning business.

The PRESIDING OFFICER. The Senator from Kansas.

SOCIAL SECURITY, EDUCATION, AND TAXES

Mr. BROWNBACK. Mr. President, I appreciate the opportunity to address this body for the first time in this legislative session. We will have an exciting session full of business that the American people need conducted in this body.

I am particularly excited about the opportunity for us to deal with issues such as Social Security, creating a real Social Security trust fund instead of robbing from that trust fund, as has taken place for so many years. That money needs to be saved, needs to be used, needs to be kept for the senior citizens or those soon to retire in this Nation. In this legislative session we have that opportunity to create that new Social Security trust fund. That is the top agenda item for the Republicans in the U.S. Senate: Social Security preservation and protection. We need to fight and get it done and do it in a bipartisan fashion.

Second is education, emphasizing local control of education. The notion of creating a national school board is not one that many of us are too enthusiastic about, feeling as if we have too much control out of Washington and not enough local control, not enough people on a localized basis saying here is what we need to do with education, and the notion that we are going to create a national school board is one that a number of us would be opposed to. But helping local units of government get access to Federal funds, more access to put more of that money in the classroom, is something many of us would be very supportive of and be excited about doing, and we are going to attack that tough issue of education to make the schools of this country better for the children of this country.

Third is taxes. Taxes are too high. It is time to reduce the marginal rates. It is time to eliminate the marriage penalty that is a penalty on married couples in this country. That is a ridiculous tax, if you think about it and the difficulties we are facing as a nation. Those three top items—Social Security, education, taxes—are lead items the Republican Senate is going to be putting forward, and I look forward to a hearty session full of those meaty items, dealt with, hopefully, in a bipartisan fashion. I welcome colleagues from the other side of the aisle to help us in solving those difficult issues.

TRIBUTE TO REV. DR. MARTIN LUTHER KING, JR.

Mr. BROWNBACK. Mr. President, the issue I specifically want to address this morning, more than just our legislative agenda, is something that we celebrated yesterday, and that is the tribute to Rev. Dr. Martin Luther King, Jr. and the celebration we had yesterday, on January 18, when we once again paused to remember Dr. King, a man who changed the course of history and America's conscience. Dr. King is one of the few individuals throughout history who has so nobly exemplified the principles of sacrificial love and devotion.

Yesterday, in Kansas, I attended two Dr. King celebrations, one in Topeka and one in Kansas City, and both full of people rededicating themselves to the life of Dr. King and what he had committed himself to and what he had done. Dr. King dedicated his life to the advancement of individuals in need. He selflessly gave of his time and energy—and his life—in order to bring this country to a higher moral plateau. Dr. King suggested that we should not, as he stated, "judge success by the index of our salaries or the size of our automobiles, but rather . . . by the quality of our service and relationship to humanity."

In keeping with that vision, it is not enough to discuss how we can foster change within our communities. We must act and become involved in our communities the way Dr. King involved himself in the late 1950s and throughout the 1960s.

This year, the Martin Luther King, Jr. Holiday observance theme was "Remember! Celebrate! Act! A day on, not a day off!" I cannot think of a better way to honor Dr. King's memory than taking part in our local communities and extending our help to those in need.

I am particularly pleased that Kansas organizations are working to honor Dr. King's memory by their outstanding work in their communities. I regularly visit different charity organizations throughout the State of Kansas, such as the Grace Center, which is a home for unwed mothers, and Bread of Life, which is an inner-city church that is leading community revitalization by partnering with schools and neighborhood organizations to provide scholastic, mentoring, and bible study programs. It is through this important work that we truly demonstrate the sacrificial love required to achieve Dr. King's "Dream" of an equal society.

Likewise, in order to realize Dr. King's "Dream" we must constantly work to improve our communities. Dr. King suggested that we will one day live in a society that encompasses all the principles for which he fought so hard and valiantly on April 3, 1968, the day before Dr. King's tragic death, he gave the following speech:

> I don't know what will happen now. We've got some difficult days ahead. But it doesn't matter with me now, because I've been to the mountain top. And I don't mind. Like anybody, I would like to live a long life; longevity has its place. But I'm not concerned about that now. I just want to do God's will. And He's allowed me to go up to the mountain. And I've looked over. And I've seen the Promised Land. I may not get there with you. But I want you to know tonight that we as a people will get to the Promised Land. And I'm happy tonight, I'm not worried about anything. I'm not fearing any man. Mine eyes have seen the glory of the coming of the lord.

The day before.

Let us keep pressing up the mountain. We are not in the Promised Land yet. We must keep his faith and his wisdom for our future.

We need to return to those basic values, which Dr. King promoted. Those values are work, family, and most important, the recognition of a higher moral authority. Only through those qualities will we become a nation truly worthy of Dr. King's legacy. Quoting again from Dr. King:

> The ultimate measure of a man is not where he stands in moments of comfort and convenience, but . . . at times of challenge and controversy. The true neighbor will risk his position, his prestige, and even his life for the welfare of others.

Indeed, Dr. King exemplified these qualities in his life. We should all join me in continuing his legacy.

So, as we start this legislative session on the day after we honor Dr. King, let us keep his principles in mind as we press forward in this Nation to the promised land.

Mr. President, I yield the floor.

Mr. DURBIN addressed the Chair

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I yield 10 minutes to the Senator from the State of Washington, Senator MURRAY.

The PRESIDING OFFICER. The Senator from Washington.

CLASS-SIZE REDUCTION

Mrs. MURRAY. Mr. President, I thank my colleague from Illinois for his work this morning, with our leader Senator TOM DASCHLE, in setting out the Democratic priorities that are so important to us and to the American people.

Having just returned from a very short weekend in my State, 2,500 miles away, it is clear that the American people are waiting anxiously to hear what the 106th Congress is planning to do regarding the business of the people. At the top of the list of people's concerns is the education of our young people.

Today, as you heard from our leader, we are presenting a comprehensive set of investments in America's public schools—school construction, before-and-after school care, improvements in teacher quality and class-size reduction.

In the fall of 1998, the U.S. Senate took the first important step on the path to reducing class size. In the fall of 1999, just a few months from now, when parents send their children off to school, they will ask them on the first day, as they always do: "Who is your teacher? And how many children are in your class?"

But the schools those children attend next fall will have a new tool for helping students learn. Approximately 30,000 new, well-prepared teachers will go into classrooms across this country. Demonstrating that Capitol Hill can listen to the people and get things done, we got the 105th Congress to agree to starting on this important path.

This year, we must finish the job we started last fall. We must provide schools the remainder of the funding necessary to hire 100,000 new and well-trained teachers over the next 6 years. This year, our work will include the reauthorization of the Elementary and Secondary Education Act, the major law that governs K–12 education in this country.

As part of our work, we must authorize the class-size reduction effort we started last year in appropriations. We must finish the job for the people in local school communities who are relying on us to do our job.

People in schools across this Nation are fully engaged in the debate over educational quality and in identifying what works to improve learning for students. Local education leaders know that reducing class size is an effective part of local school improvement.

Research shows that it works and so does the experience of teachers and parents and students. Policymakers and educators know that as they reduce class size, they can also improve the quality of their local teacher pool by improving professional development, training, certification and recruitment.

Local communities are using the Federal class size and teacher quality effort as a way to beef up their own investment in the future of their young people. School boards are taking action. Governors and State legislators are proposing class-size investments this year based on our successful effort last year.

All of these people are moving ahead with class-size reduction, because last year their representatives in Washington, DC, finally heard the call for funding for more and better teachers. They are counting on continued funding, and we have come back this year to get it for them. I just want to take this opportunity to tell people directly—we intend to keep class-size reduction a national priority.

The proposal in the bill that was outlined by our Democratic leader today, and in a bill I will be introducing separately, honors the agreement that we achieved last year. It requires no new forms and no red tape. It focuses on hiring new teachers, but it also makes investments in teacher quality from the onset, and it allows districts that meet their goals of getting to 18 or fewer students in classes in grades 1 through 3 to use the money to improve class size in other grades or to take other steps to improve the quality of their teaching pool.

I can't tell you how many times I have heard from people since the end of last Congress, how thankful they were that their Congress started this important investment in class-size reduction. Students learn better when they get the help they need in their classroom. I have been hearing it from students themselves. They want to thank us for doing the right thing, and they want us to keep it up.

Mr. President, education really matters. This year, we have the country behind us and several major opportunities to seriously improve American schools to meet American expectations. But it will take a lot of hard work and courage to get there. We need all our school laws to work better for local communities, for our teachers and staff, for parents and families, and most importantly, for our students. We must keep in mind that the students are our real clients and organize our work around their needs and not ours.

We need better flexibility, better accountability, better efficiency and better funding. We need to make some important investments in the nuts and bolts of providing education, class-size reduction, better facilities, better training for teachers and more opportunities for students to be safe and to learn. These investments cost money, and we just need to make it happen.

We also need better leadership and vision and articulation of why we are all working so hard—so that students learn better and faster and have more hope for the future.

As a former school board member, I can tell you that sometimes the decisions are not about money, they are about finding the best way to do things so students can learn. And we need to support those decisions as well.

A great example of this was our superintendent, John Stanford, of the Seattle school district. Superintendent Stanford, who died this year after a heroic battle with cancer, showed people in Seattle and around the Nation just what we can accomplish in our schools by setting the right tone, asking for the best effort possible, and not accepting less. Many adults in a community know the superintendent of their district, but never have I seen so many students, young children who knew that John Stanford was their superintendent and that he wanted desperately and personally for them to succeed and they responded.

You will see elements of all these ideas today that address all of these issues—clear vision, more flexibility, better accountability, increased efficiency and improved funding. You will see here what America is asking for its public schools: We need to set high standards, articulate a vision, and give people the support and backing they need to get the job done. When these bills pass into law, you will see American schools that work better, for better results, for all of our children.

I look forward to working with my colleagues and the American people to take these important steps for better schools across our land. As well, I thank our leader for speaking to legislation that he will introduce shortly on health care reform, retirement security, afterschool programs and more. These are the issues the American public wants us to address and work on, and I look forward to working with all of my colleagues to meet these challenges. I hope we can make progress this year and make a difference in the quality of life in all of the families in this country. Thank you, Mr. President.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. I thank the Chair.

(The remarks of Mr. BOND pertaining to the introduction of S. 52 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I yield 5 minutes to the Senator from Iowa, Senator HARKIN.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 5 minutes.

Mr. HARKIN. Mr. President, I thank the manager.

PRIVILEGE OF THE FLOOR

Mr. HARKIN. I ask unanimous consent that privileges of the floor be granted to Sarah Lister, a fellow on my staff, during the introduction of S. 18.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. HARKIN pertaining to the introduction of S. 18 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

STATE OF THE UNION

Mr. SPECTER. Mr. President, I have sought recognition this morning to comment briefly on the President's State of the Union speech and to introduce legislation, since this is the first day of the 106th Congress when legislation may be introduced.

I applaud President Clinton for proceeding with the State of the Union tonight. Some say that Capitol Hill is schizophrenic with impeachment proceedings in the Senate Chamber, and across the Rotunda we will hear the President's State of the Union speech in the House Chamber. But I believe that it is very important that we take care of the Nation's business. I think that can be accomplished at the same time that we move forward with the Senate being constituted as a Court of Impeachment to decide that issue.

I have noted the advance text of the President's statement commenting on education and his desire to set up incentives to be a condition for Federal funding. I chair the Appropriations' Subcommittee on Education and we will proceed very promptly with hearings on that subject to make a determination, legislatively, as to whether, at least in the view of our subcommittee, those kinds of standards and those kinds of conceptions are appropriate or whether they may constitute too much Federal interference with education which traditionally has been left to the State and local levels. But we are prepared to move right ahead with that legislation, with that consideration.

Noted also from the President's advance text about an intention to deal with the issue of local preparation for responding if—God forbid—there should be weapons of mass destruction unleashed on the American people—again, that is a matter which would come within our Subcommittee on Health. At the same time, there is a commission working on weapons of mass destruction, on legislation which I authored 2 years ago as chairman of the Senate Intelligence Committee. John Deutch, former CIA Director, chairs the commission and I serve as vice chairman of the committee.

We are prepared to move ahead with what the President has offered and what the President has to say. I compliment him for moving ahead with that State of the Union speech to take care of the Nation's business. I believe the Congress will cooperate by moving ahead on two tracks—we can have the Court of Impeachment in the Senate Chamber and the State of the Union speech in the House Chamber, and the Rotunda will not be schizophrenic and we can function.

HEALTH CARE

Mr. SPECTER. Mr. President, I am introducing three legislative matters, including legislation on health care, which has been a focal point of my attention and my tenure in the Senate, and again for my chairmanship of the Appropriations' Subcommittee on Health. I believe that we can move ahead to cover the 43 million Americans who are now not covered within the existing expenditures of $1.100 trillion a year. There are ways to economize. There can be an extension of health care by making it easier for small businesses to pool their resources and buy health insurance, by accelerating the date when there will be full deductibility for health care, and there could be very, very substantial savings possible on matters which are specified in the course of this legislation.

ENTERPRISE ZONES IN AMERICA

Mr. SPECTER. Mr. President, I am introducing, along with the distinguished Senator from Illinois, Senator DURBIN, legislation to deal with America's cities. Some are urgently in need of assistance. Our legislation is not to add new funding through appropriations but, instead, to have the General

Services Administration allocate 15 percent of new expenditures to enterprise zones, to distressed areas, to have Federal buildings constructed, with the priority in cities where there are depressed areas to provide jobs in those areas, and to reinstitute certain historical tax breaks which could be of great benefit for the cities.

ADDITIONAL ALLOCATION FOR NIH

Mr. SPECTER. Mr. President, a third legislative matter is a resolution calling for the Budget Committee to allocate an additional $2 billion to the health account to be used for the National Institutes of Health, being offered on behalf of myself and Senator HARKIN in our continuing effort to see to it that additional funds are allocated for the National Institutes of Health, which is really the crown jewel of the Federal Government. In fact, Mr. President, it may be the only jewel in the Federal Government. We understand that the allocation in health is to a category, but the funds are very, very limited on our subcommittee.

Last year, Senator HARKIN, ranking, and I as chairman, were able to take the lead in some $2 billion to NIH, but it was at the expense of other programs which were very, very important for worker safety, for education programs, for other health programs. We are committing this resolution with that specific request to the Budget Committee.

STEEL INDUSTRY RELIEF

Mr. SPECTER. Mr. President, tomorrow legislation will be introduced by a coalition of bipartisan Senators—Democrats and Republicans—to bring some relief to the steel industry. The steel industry has been very, very hard hit in America. In the past two decades, steel jobs have declined from some 500,000 to about 150,000. Billions of dollars have been invested in the steel industry, and we have had a surge of dumped steel—that is, steel which is sold in the United States at a lower price than it is sold in the country of origin. Russia, with their economy in great distress, will sell steel at any price in the United States to get dollars. A similar problem has evolved, too, in Japan, Korea, Indonesia and other countries.

The Senate Steel Caucus, both on the House side and the Senate side, has held hearings. Senator ROCKEFELLER, vice chairman of the Steel Caucus, and I, in my capacity as chairman, will be introducing the legislation tomorrow with many Senators in support—Senator BYRD, Senator SANTORUM, and many others—as well as representatives of the steelworkers union and the steel industry themselves. On the House side, Representative REGULA of Ohio, who chairs the House Steel Caucus, will be joining us in this legislative introduction.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

ANNUAL STATE OF THE UNION ADDRESS

Mr. DURBIN. Mr. President, this is indeed a strange day on Capitol Hill—January 19, 1999—and I am sure that history will look back on this day as one of stark contrast. It is a day when the President will deliver his State of the Union Address, and of course that is a historic ritual which began with President Wilson and will continue with President Clinton this evening.

The oddity, of course, is that some of the same Members of the House of Representatives who over the span of the last week have stood on the floor of this Senate Chamber and at various times described the President as being "corrupt" or "felonious," as being "one who has turned his back on the law" will be, tonight, in the House Chamber applauding this President as he comes to the floor.

Many people might view this as somewhat hypocritical. I do not. I think it reflects two basic values in American life: The first and most important is a presumption of innocence, a presumption which is extended to every person when they are accused by their accusers, be it government or otherwise, until proven otherwise.

Today, there is a suggestion that we will hear for the first time the defense of the President and hear the other side of the story. That presumption of innocence, I think, argues that all of us come to the State of the Union Address tonight with an open mind to the issues at hand, serious issues facing the country.

The second and equally important value that will be tested this evening is one which I have seen in my time on Capitol Hill tested time and time again. I can certainly recall at the height of the Iran-contra affair when President Reagan came to give a State of the Union Address. I had very serious concerns about the Iran-contra affair, the sale of arms to an avowed enemy of the United States, the diversion of proceeds from that sale to contras, rebels, in Nicaragua, in direct violation of the law, and all of that proceeding and all of that controversy which led to the eventual prosecution of members of the President's Cabinet.

In the midst of that was a State of the Union Address by President Reagan. Many of us who were critical of the Iran-contra affair came to that State of the Union Address and gave appropriate respect to the President in his presentation to Congress and to the American people.

I expect the same thing to occur tonight. And I expect that what we have heard this morning on the floor from the Democratic side about the agenda that we are hoping to propose and push forward during the coming months will be addressed by the President in his speech. At this point, I reserve the balance of my time.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, I ask unanimous consent to speak for seven minutes.

The PRESIDING OFFICER. Did the Senator request a period of time?

Mr. THOMAS. Seven minutes.

The PRESIDING OFFICER. The Senator is recognized for 7 minutes.

(The remarks of Mr. THOMAS pertaining to the introduction of the legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

(The remarks of Mr. ROBB pertaining to the introduction of the legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

(The remarks of Ms. COLLINS pertaining to the introduction of the legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. COLLINS. I thank the Chair. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll to determine the absence of presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. I thank the Chair.

(The remarks of Mr. DEWINE pertaining to the introduction of S. 5 and S. 61 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DEWINE. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE PRIORITIES

Mrs. HUTCHISON. Mr. President, I am pleased that we are finally getting to introduce bills today. This is, of course, the first day that we have had that option. I want to talk about the legislative priorities of the majority party in Congress as well as several of the bills that I will be introducing that I believe reflect those priorities.

The leadership of the majority in Congress has just had a press conference talking about the opportunity and the security that we are going to provide with our major bills and priorities this session. We are talking about Social Security reform, trying to make sure we have the security for those who have retired. We are going to add to that pension reform to give more Americans the opportunity to add to that Social Security base. Social Security is supposed to be a base, but every American ought to be adding savings, tax free, as an incentive to have retirement security.

We are going to address education as an opportunity, making sure that every child in America has a chance to succeed with a public education. By that, we are going to give more choices. I will introduce today a bill that I call Options for Excellence in Education, to try to replace the paperwork and bureaucracy of federal education programs with rewards for innovation, excellence, and choice.

In a bill that I will introduce today, the Options for Excellence in Education Act, we are going to give incentive grants to states and school districts that demonstrate exceptional educational progress and practices that translate directly into better student performance. The bill will also build upon a very successful program to place military veterans who wish to teach into schools where there is a need for qualified teachers by expanding the concept to include civilian professionals. Under the program, individuals with special skills and experience will be given stipend while they seek teacher certification under a streamlined state process so that they can translate those skills into benefits for students. We are going to give help to expedite certification so that if a retired military or civilian professional has the ability, for example, to speak Russian or French or has experience in computer science or math, and the school district has an unmet need for teachers with those skills, those professionals can enter the classroom much more easily and cheaply than they could otherwise.

And then we want to grade the ability of the schools through the ability of the children. If those schools that are in the bottom part of the achievement levels don't come up, we want to give more educational options for their students. States will be able under the bill to use federal funds for a variety of school choice options, including allowing students to attend another public school in their area, the expansion of charter schools, magnet schools, or even private school choice if that's what the state wants to do to give kids trapped in failed schools the chance to succeed.

Finally, the bill addresses the need for the construction of new schools that so many of our school districts are facing by giving tax incentives for the private construction or renovation of public schools in low-income and high-growth parts of our country. So that is what my Options for Excellence in Education bill that I am introducing today will do.

We in Congress must also address the issue of economic opportunity. More people in this country are paying more taxes than ever before in our peacetime history. Thirty-eight percent of the average American's salary goes to pay taxes to some government entity. Well, I want to give more of the money people earn back to them to spend as they wish. So one of our key priorities is going to be tax cuts. We are going to propose a 10-percent across-the-board tax cut for every American.

We are also going to supplement that by doing away with the marriage tax penalty. Why in the world do we have tax laws that say to people, if you get divorced we are going give you $1,400? That is essentially what we have today. Twenty-one million American couples pay $1,400 more, on the average, just because they got married.

So I am introducing two bills today to grant marriage tax penalty relief. The first will allow a married couple to split their incomes right down the middle, if doing so would be better for their bottom line tax liability.

The other option for married couples I am proposing to alleviate their tax penalty for having said their vows to just double the standard deduction. Today, the standard deduction for a married couple is $7,100. Instead, we would double the single exemption so it would be $8,500. These are things we can do to equalize the tax burden for those who choose to be married and those who choose to stay single. So certainly in the area of economic opportunity, tax cuts have to be our very first priority.

So we are going to try to do these things and also at the same time make sure that we have a strong national defense. Security for our country as a whole is the No. 1 responsibility of Congress. So we are going to immediately propose legislation to raise military pay.

I will also soon introduce a bill that will go beyond the important issue of pay, and address one of the critical quality of life factors facing our service men and women and their dependents—the quality of health care for military personnel and retirees. One of the biggest complaints that I get when I visit bases in Texas or bases overseas, when I am talking to our troops, is they worry about the health care of their families. They worry that their families are not getting the quality health care that they were promised, that they deserve, and that they must have. Beyond that, they worry about what will happen to their health care and that of their families if they make a long-term commitment and retire from the military.

So I am introducing a bill that will give more choices to our military families so that they can receive quality health care for themselves, and for their families, so that we can retain the best people in the military. We need to recruit better; we need to retain better. To do that, we must pay them a wage that is fair, more competitive with the outside civilian life, and we need to make sure they and their families have quality health care.

On top of that, we want to give them the equipment they need to do the job.

Senator WARNER, the chairman of the Armed Services Committee, is going to have a comprehensive bill that increases the spending on the equipment and on the technology for the future. The main technology that we want to deploy immediately is a missile defense system for our country. Senator THAD COCHRAN has introduced a missile defense technology bill in this Congress. Last year, he lost that bill twice by only one vote. He is going to be up front and center with an absolute priority for our missile defense technology, to go forward at the earliest moment that we can because we don't have a ballistic missile defense not only for our own country and our own shores, but we don't have an effective missile defense for our troops to protect them in the field wherever they might be in the world. That is not acceptable for the world's greatest superpower.

Mr. President, you can see that our priorities for this Congress are fairly simple: enhance the security and expand the educational and economic opportunities of all Americans. Security and opportunity. Security for America through a strong national defense. Economic security for every American to have more of the money they work so hard to earn, to give them more opportunities for retirement security, for better Social Security, and more pension options, and economic opportunity so that every child in America can fulfill his or her potential with a quality education. That is what sets us apart from every other country in the world—a universal, quality education system, which ensures that every child who works hard can reach his or her full potential.

We are eager to move forward with this agenda for security and opportunity for our country. We believe we have a solid agenda with good bills to back it up. And we are starting today. We are going to focus on the people's business. We are going to make sure that at the end of this year we can say we have given more Americans the money they earn back in their pockets, better retirement security with Social Security reform, and the feeling that they can be secure in the quality of both their national defense and educational systems.

I appreciate very much the opportunity to start talking about our agenda today, to introduce our bills, to get them into committee and to get started on the people's business.

SENATE REPUBLICAN LEGISLATIVE AGENDA

Mr. LOTT. Mr. President, in recent weeks, I have made clear that the Senate would proceed, full speed ahead, with the people's business. Today's legislative action is an important part of that business.

Today, by mutual agreement of Members on both sides of the aisle, we begin the actual introduction of bills and resolutions. Following tradition, Republicans will introduce the first five bills. Senator DASCHLE will then introduce the following five bills.

Of course, this is an occasion, not just to introduce major legislation, but for both parties to explain to the American people the principles behind their bills, and the values that shape them. That is what I would like to do today.

Today's Americans want the same things our people have always sought. They want a better life for themselves and for their children—better, not just in personal economic or financial terms, but also in terms of their community. They want a healthier environment, and decent neighborhoods where children can play without fear or danger.

They want to be able to plan for their own future, while ensuring for their elders the security they want for themselves.

They want a just social order. That means a society that rewards labor and thrift, punishes those who harm others, and cares for those who cannot care for themselves.

Those goals form the great common ground on which the American people stand united. Whatever our many differences and disagreements, we share a commitment to opportunity, to security, and to personal responsibility.

Put the three of those together—opportunity, security, and responsibility—and you have the formula for freedom.

Freedom, after all, is the one overarching concept for which our country stands. It is what the word "America" has meant from the very beginning—and not only to those who were blessed enough to live here, but also to the millions of people around the world who lived, and often died, in the hope that someday they might share in that freedom.

But freedom is not a negative commodity.

It is not just the absence of oppression that allows every individual to do whatever he or she wants to do. True freedom is a positive force that turns responsibility into a creative energy that can empower individuals, lift their families, and improve their communities.

That is why the starting point for the Senate Republican agenda is freedom. Not as a slogan, but as the sum total of everything the American people, day by day, work for and hope for: broader opportunity, enhanced security, and stronger personal responsibility.

From that starting point come the first five bills of the 106th Congress. They address both educational opportunity and economic opportunity, because the two are really interdependent. And they deal with issues of security—retirement security, community security, and national security—as fulfillments of our ideal of freedom.

Our first bill deals with one of the most pressing concerns of the American people: Social Security. We are strongly committed to preserving and protecting Social Security for future generations.

Many in the Senate, like RICK SANTORUM and JUDD GREGG, have shown great leadership on this issue. We want this bill to carry the symbolic title of S. 1, even though its substance will not be introduced today. We will hold the number for a while. That is a highly unusual procedure, and I should explain why we are using it in this case.

Over the last several weeks, I have repeatedly urged the President to submit to the Congress and the Nation his own bill to save and strengthen Social Security.

I repeated that plea as recently as this weekend, in a joint letter that Speaker HASTERT and I gave the White House. In that letter, the Speaker and I promised to arrange an unprecedented joint meeting of the House Ways and Means Committee and the Senate Finance Committee to receive and hold hearings on the President's bill.

I have made clear that, if the President will give us his proposals in legislative form, I will introduce his bill here in the Senate. Today, I pledge to honor the President's bill by introducing it as S. 1.

But first, he must send us his bill. That is the way Presidents do business. It is part of presidential leadership. It is part of his job.

I continue to hope that the job will get done. And as a token of our good faith in the Senate, and our willingness to work in a bipartisan spirit, to make sure that Social Security is there for both our parents and our children, I will withhold introducing of S. 1 and reserve that title for the President's bill on Social Security. I hope he will send it to us soon.

The second item on the Republican Senate agenda is education.

Here we have a dilemma: an overabundance of great ideas. Starting today, and in the weeks to follow, Republican Senators will be introducing many bills dealing with education. They will all have one common goal: To make sure this country has the world's best schools.

I won't attempt to offer a comprehensive list of those proposals, because there are so many of them. One consistent theme is to shift decision-making out of Washington and back to parents, teachers, and local officials. In short, the folks who know the kids best—and who know what our schools need to succeed.

That's the principle behind Senator BOND's "Direct Check," Senator HUTCHISON's "Options for Excellence," Senator HUTCHINSON's "Dollars to the Classroom," and Senator GORTON's stalwart campaign to renew and empower State and local education systems.

The same princple—that excellence in education begins at the State and local level—has shaped what will be one of the most important bills of the 106th Congress. It's called Ed-Flex, for Educational Flexibility, and it is not a partisan initiative. It has been jointly advanced by Senators FRIST and WYDEN.

It is strongly supported by all the Nation's Governors. It should be something we can consider and pass quickly.

If we want the 106th Congress to be known as the Education Congress, Ed-Flex is a great way to start. Right off the bat, with virtual unanimity, we can give the States the leeway they need to use their share of federal dollars to meet the needs of students. Around this flag, we should all rally.

A second principle of Republican education reform is consumer choice.

We believe that what is right and productive in every other sector of the economy is equally right—and will be equally productive—in schooling. So we renew our commitment to consumer rights and choice in education: whether through Senator COVERDELL's tax-free education savings accounts, or Senator MCCONNELL's expansion of tuition savings plans; or through Senator SESSION's Class Act extending those plans to non-government colleges; or through Senator KYL's plan to provide parents financial breaks to supplement their children's educational needs; or through the Emergency Scholarships and other lifelines we should extend to low-income families.

A third principle of Republican education reform is equality teaching. Senator MACK's bill on teacher testing leads the way in that regard, along with our other proposals for teacher training and merit pay.

Those three principles, and the issues to which we apply them, come together in the largest education bill that will come before the 106th Congress: the reauthorization of the Elementary and Secondary Education Act, universally known as the E.S.E.A.

In the cafeteria fare of education bills, this one is pizza with the works, even the anchovies. Over the last 33 years, we have spent more than $120 billion through the ESEA. Its reauthorization during the 106th Congress will be our opportunity to assess what has gone right, or wrong, in that process—and to adjust the ESEA to meet the challenges of a changing society in a new century in an unpredictable world.

Senator JEFFORDS, chairman of the Committee on Health, Education, Labor and Pensions, will introduce the reauthorization of the Elementary and Secondary Education Act as the second bill of the 106th Congress.

Our third bill, S. 3, is a tax cut, introduced by Senator GRAMS, Senator ROTH, and others. To be precise, a 10-percent reduction in personal income tax rates. Hence the bill's title: the Tax Cuts for All Americans Act.

Whatever justification this may need in the Congress, it requires no explanation to the American people. They are overworked and overtaxed to meet the demands of government. Senate Republicans want them to keep more of what they earn.

We believe it is wrong—morally wrong—to make the American family pay more in taxes than it spends on food, clothing, housing, and transportation combined. So we propose to reduce their tax burden while making government smaller, smarter, and more efficient.

Our fourth bill, S. 4, is the Soldiers' Bill of Rights, to be introduced by Senator WARNER and his Republican colleagues on the Armed Services Committee. This bill represents the determination of Senate Republicans to rebuild America's national security by restoring the readiness and morale of our Armed Forces.

In other words, it is a small symbol of an enormous commitment.

At the end of the last Congress, the administration proposed to deal with military retirement by robbing the military's readiness funds. That was a terrible idea. It made no sense to offer our servicemen and women a little better retirement while depriving them of the wherewithal to defend themselves and their country. So we blocked that dishonest ploy, and we promised to address the problems of inadequate military pay and retirement early in 1999. Enactment of this bill, S. 4, will fulfill that commitment.

I caution, however, that this legislation must be only the beginning of a larger effort to reverse the decline our Armed Forces have suffered under the current administration. That's going to be a tough job, and a long one, both in the appropriations process and in authorizing legislation. But we owe it to our country—and we owe it to the men and women in uniform—to start that job now, in the 106th Congress, so that America can enter a new century with renewed strength and security.

Crucial to that effort will be the actual deployment of a missile defense system that will protect this country from attack.

President Clinton's opposition frustrated our efforts on this in the 105th Congress. This time around, I hope he will work with us to enact Senator COCHRAN's National Missile Defense Act.

The fifth bill on our agenda, S. 5, deals with the personal safety of the American people. But in this case, the threat to their security comes from within.

The danger is the plague of narcotics. It has become a clear and present danger to our families, our neighborhoods, and even to the security of our Nation.

To combat that danger, Senators DEWINE, ABRAHAM, ASHCROFT, GRASSLEY, and HATCH will introduce the Drug Free Century Act. That title says it all. Our goal is nothing less than laying the groundwork for the day when our country will be free of the curse of drugs. Some will think that is too high a goal, and that Senate Republicans are unrealistic in pursuing it. We are not unrealistic; we are undaunted.

For more years than I like to recall, the Federal Government has tried to reduce the drug plague. And indeed, there was some success, specifically during the Reagan and Bush presidencies.

But its one thing to trim the claws of the narcotics monster, and quite another thing to break its loathsome back.

That is what we propose to do, step by step, with a bill that deals with virtually every aspect of both the domestic and the international fight against drugs. It will impact the operations of most of the federal government, from the Justice Department to the Pentagon, from the State Department to the Coast Guard. It addresses some of the most pressing questions on national drug policy, including the sentencing differential between powder cocaine and crack.

Drug traffickers and their allies in certain foreign countries will not like this bill, nor will the creeps who peddle drugs to school kids. But parents, teachers, and law enforcement officers will cheer it. For its passage will be a clear signal, throughout this country and around the world, that we are serious about winning the war on drugs.

Mr. President, these five pieces of legislation—four introduced today, and one awaiting a draft from President Clinton—lead the Republican agenda for the 106th Congress. But they are not the whole story.

They set the foundation I mentioned earlier—the foundation of opportunity, security, responsibility, and freedom—and we are going to build on that foundation in many ways.

Along with the Drug Free Century Act, we will be moving against juvenile crime, following the lead of Senator HATCH and his colleagues on the Judiciary Committee. And in tandem with the House, we should consider legislation that will prevent Federal judges from turning loose hardened criminals in violation of their own sentences.

On another front, we will soon—by March 1 at the latest—receive the recommendations of our Bipartisan Medicare Commission, and we hope to act on that report.

Even sooner, I will bring to the Senate floor the first major reform of the budget process since it was established in 1974. Our reform package will put an end to the threat of Government shutdowns and stop the abuses of what is dubiously called "emergency spending."

We hope to schedule early action on a vital piece of legislation, the Water Resources Development Act, under the leadership of Senator CHAFEE, chairing our Committee on Environment and Public Works.

We will move ahead with a Patients' Bill of Rights that will protect individuals without undermining the integrity and efficiency of our health care system.

And we will continue to uphold the right to life, by advancing again a ban on partial-birth abortions, as proposed by Senator SANTORUM and the Child Custody Protection Act, proposed by Senator ABRAHAM.

To the legislation I have already outlined must be added a score of other matters, from bankruptcy reform and financial services reform to export expansion and trade reform, especially with regard to agricultural products.

And we intend to build upon our landmark welfare reforms by strengthening families, communities, and religious institutions. We should undertake nothing less than the renewal of civil society.

It will take both compassion and common sense to revitalize those areas of our country where the American dream has been no more than a slogan. One approach is to foster the public-private partnerships that can best address the real needs of our communities and enable them to overcome crime, drug abuse, poverty, and educational decay.

That is an agenda of hope and dignity that acknowledges that the solutions to America's problems will ultimately come, not from the Congress or the White House, but from the people.

Granted, the renewal of civil society will be a heroic enterprise, but Americans are equal to it. Today, on behalf of the Republican Members of the Senate, I pledge that we will do our part to make the 106th Congress, not so much the finale to the troubles and trials of the 20th century, but the threshold to a new American era.

1999—THE YEAR OF AVIATION CAN BE ACCOMPLISHED IN 3 MONTHS

Mr. LOTT. Mr. President, last year the Senate passed S. 2279, the Wendell H. Ford National Air Transportation System Improvement Act of 1998. The Ford Act promised to bring much needed air service to under served communities throughout the Nation through policy changes and market-based incentives. Unfortunately, the Ford Act was not passed into law by the last Congress. I believe that Congress has an obligation to enhance the development of America's smaller air service markets. That is a promise that this Congress can fulfill. It is a promise that this session of Congress will fulfill.

The First Session of the 106th Congress will prove to be critical for our Nation's air passengers. The top aviation policy priority remains a full FAA reauthorization—not just a quick extension of this important agency and the Airports Improvements Program (AIP). A full reauthorization—money plus policies. Commerce Committee Chairman McCAIN's aviation legislation, submitted this morning, reflects the bipartisan, fundamental provisions for rural air service built in the Ford Act.

Last year, the FAA bill's informal conference was able to reach a consensus on almost all issues. I encourage my colleagues to continue the good work in addressing aviation policies by resuming where the 105th Congress left off. If the provisions that were agreed upon late last year are adopted, Congress will be able to clear this bill before the March 31 deadline and guarantee a smooth, clean continuation of AIP funds.

Mr. President, there is talk of an increase in airline user fees through the passenger facility charges (PFCs). I'm not a fan of user fees and I hope this mechanism is not used for aviation services. These are taxes, period. The goal of this Congress is to cut taxes, not increase them.

Last year, tens of thousands of Mississippians used the skies to travel. Many of these passengers were new customers that chose air travel as a result of greater air service, options and lower fares from a new entrant. These changes allowed the jackson Airport to make several upgrades. I believe that a PFC increase will force passengers to reconsider their travel plans. An increase in the cost of air service, shouldered by the customer, will only serve as a detriment to the commercial airlines, airports and passengers.

Mr. President, increasing regional jet competition and flight service to smaller markets is my focus. Most Americans do not live in hub cities and thus do not benefit from the range of choices through the concentration of air service options. I look forward to working with my colleagues, on both sides of the aisle, and especially on the Commerce Committee to insure that rural and under served communities receive improved flight service options and more affordable airline tickets.

Because Chairman McCAIN understands the needs of under served markets, and fully appreciates that adequate and affordable air service is a vital economic development issue for smaller cities and rural areas he has been a tremendous help. I am pleased that the chairman has crafted this year's FAA bill according to the principles as set forth in the Ford Act. He too wants to improve the quality and quantity of flights going to and from small airports. He also understands the bipartisan and constructive efforts that went into last year's FAA bill and the need for a full reauthorization.

In addition to the leadership of Chairman McCAIN, two more of my colleagues have played a vital role in the advancement of this policy. Senator SLADE GORTON of Washington, chairman of the Subcommittee on Aviation, has provided pivotal guidance and has been instrumental in bringing focus to the many aspects of aviation. Senator BILL FRIST proved to be a great asset and a very effective advocate for the rural aviation community during this past session. His hard work and passion brought small and under served communities closer to receiving much needed public policy changes for flight service improvements. I look forward to again working with them this year.

Aviation policy changes always affect the management and administration of our local airports, and this makes many of our airport executives nervous. I rely on their wisdom, because these are the managers who deal day-to-day, face-to-face with Mississippians. Mr. Dirk Vanderleest of Jackson's airport has counseled me on the needs of small and under served markets. His conference in 1998 was key to may aviation thinking, and his efforts to push Mississippi's aviation priorities are appreciated.

I also rely on Mr. Gene Smith of the Golden Triangle Regional Airport in Columbus. He is a patriot who served our Nation during the Vietnam war and for more than 20 years has worked to ensure the east central pocket of Mississippi is involved in commercial aviation. He served as a member of the National Civil Aviation Review Commission where he again distinguished himself.

It is my hope that the recommendations from this commission are not overlooked by this Congress. I implore my colleagues to seek out their Dirk or Gene to find out what their states need.

Mr. President, this Congress does not need a year for aviation policy—it needs 3 months and the work left from the last Congress. Quality air service for all Americans must be the focus of any aviation legislation. Never forget that not everyone lives near a hub. Quality air service is essential for economic development. Quality air service will enable rural Americans to be competitive and spur economic development to under served communities in the 21st century.

DATABASE ANTIPIRACY LEGISLATION

Mr. HATCH. Mr. President, I rise today to speak on an issue of great and escalating importance: database piracy. While perhaps not an issue on the tips of most Americans' tongues, it is nevertheless an issue that has garnered considerable attention in recent years both in the United States and in international forums. The 106th Congress is now the third consecutive Congress in which database legislation will be considered. This is an appropriate reflection of the fact that while intellectual property has become the heart of our Nation's economy, information is its lifeblood.

Utahns are interested in an appropriate balance of interest here. Utah is a leader in the hi-tech and information industries, and is home to both producers and users of information and database collections. Utah is blessed with world class scientists and scholars, genealogists, and computer and hi-tech companies that create new information, organize information, and use information—often using information created by others in innovative ways to create new information or to make it more easily or inexpensively accessible. I would guess that most of my colleagues would find that similarly in their own home states that many of their constituents are interested in this issue at some level because so many are producers or users of information, and often both.

American database providers render an invaluable service by collecting, organizing, and disseminating billions of bits of information from myriad sources of every possible sector of our economy. They give us such widely-used tools as phone books, directories, catalogs, almanacs, encyclopedias, and other reference guides. They provide specialized products like statistical abstracts, medical and pharmaceutical reference tools, stock quotes, pricing guides, genealogical data and countless other sources of information for businesses, researchers, scientists, educators, and consumers. Indeed, it is the information they collect that allows us to predict the weather, to treat disease, to preserve our national security, to use computers to communicate over global networks, like the Internet, to travel, to buy a home, and even to watch the evening news.

It is not surprising that the cost of creating and maintaining accurate, reliable, and user-friendly databases is significant. Yet, the commercial viability of these products has, for many years, served as an incentive to investment and spawned a thriving information industry in the United States. Nevertheless, events in the past several years have caused some to question the continued viability of these products, raising the question of whether current law is sufficient to maintain the same sort of incentives that have served to keep the United States on the cutting edge of the information age.

The most debated among these is perhaps the 1991 decision in *Feist Publications* v. *Rural Telephone Service Co.*, 499 U.S. 340, in which the Supreme Court rejected the so-called "sweat of the brow" theory as a basis for copyright protection for databases. Under Feist, the degree of labor and investment associated with producing a database is irrelevant to the question of copyrightability. Rather, a database may be protected by copyright only where it exhibits a minimum level of originality in the selection and arrangement of its contents. And, even then, the copyright in the database is said to be "thin" in that it extends only to the original selection and arrangement of the material but does not protect against the wholesale appropriation of the facts themselves. Thus, Feist made clear that a database owner who spends several years and a substantial amount of money to respond to an unmet market for data cannot look to copyright law for protection against a competitor who seeks "to reap where he has not sown" by reproducing and commercializing the same information in a different format, so long as the competing product does not copy the original selection or arrangement of the underlying information, if any. For example, in *Martindale-Hubbell, Inc.* v. *Dunhill Int'l List Co.*, No. 88-6767-CIV-ROETTGER (S.D. Fla. Dec. 30, 1994), the court held that wholesale copying of attorney's names, addresses, and other information from the Martindale-Hubbell directory for inclusion in a competing directly was not infringing.

Having no recourse to copyright law, such database producers must rely on State law regimes of contract and unfair competition to protect their investment. While there has been an ongoing and healthy debate as to whether such protections are sufficient, it is clear that the varying nature of the patchwork of state laws has led, at the very least, to some uncertainty among database producers regarding the degree of protection they may expect.

Also of growing importance is the effect of technology on the database industry as a whole. To a large extent, technology has been the fire that has fueled the growth of the database industry. Many also look to emerging technology as the solution to many of the problems sought to be addressed in the current debate. But while technological measures for protecting databases are still emerging, current technology has greatly contributed to the uncertainty that surrounds existing database protections. As databases move from hard-bound printed text versions to fully searchable electronic information-bases, selection and arrangement of the material becomes less important, and copyright protection is further removed. Thus, a database that in print form might be protected by copyright based on its arrangement of facts would likely no be protected by copyright when the same information is placed in a searchable electronic database where the arrangement of the facts is unimportant. And the digital networked environment has made piracy of databases much easier, both in terms of the facility of reproduction and in terms of the ease of unauthorized access to the contents of the database itself.

Finally, recent international proposals for database legislation and have heightened awareness of database piracy and prompted a greater sense of urgency among some to elevate the level of protection for databases in the United States. Most significant among these is the 1996 directive of the European Union requiring its member states to adopt certain protections for both copyrightable and noncopyrightable databases by January 1, 1998. Of particular relevance is a provision withholding protection for those databases produced in countries that do not afford a similar level of protection for European databases. Thus, failure by the United States to exact legislation extending federal protection to noncopyrightable databases will likely result in the withholding of protection for American databases in Europe—a significant market for U.S. database providers.

Mr. President, I have long been on record as supporting some form of federal protection to fill the gap of protection created by Feist for those databases that are the result of significant effort and investment. Nearly 2 years ago I initiated a process that I hoped would enable Congress to balance the varied interests at stake in order to preserve appropriate incentives for investment in information while promoting the widest possible dissemination of information, as well as the greatest innovation in making information inexpensive and easy to use. I began this process by asking the Copyright Office to conduct a comprehensive study of the issues involved and to make recommendations to the Judiciary Committee. The Register of Copyrights and her staff did an outstanding job in responding to my request, and the Copyright Office issued a formal report in August 1997, shortly before the 104th Congress adjourned.

Congressman COBLE, chairman of the Subcommittee on Courts and Intellectual Property in the House of Representatives, spearheaded the effort to report database legislation in the 105th Congress. His subcommittee reported legislation, which was ultimately passed twice by the House of Representatives in the 105th Congress—once under suspension of the rules an then again as title V of the H.R. 2281, the Digital Millenium Copyright Act. I commend him for the hard work that he has done and for his work in bringing the various parties together on this particular issue.

As my Senate colleagues will recall, while the Coble bill encountered very limited opposition on the House floor, it proved to be more controversial in the Senate. In order to address the outstanding concerns of various information users, I requested that the parties sit down under the auspices of the Judiciary Committee to discuss their differences and seek a resolution that was favorable to all. These discussions went on almost daily for approximately three weeks, and considerable progress was made. Based on these meetings, I put forward a series of discussion drafts that sought to narrow the gaps and arrive at an acceptable solution. While ultimately a solution could not be reached before the Congress adjourned, we did make considerable progress. Each of these discussion drafts represented an additional step toward a resolution, and I believe that in the end we were close to a workable compromise.

As we begin the 106th Congress, I want to stand before my colleagues to reiterate my commitment to the timely enactment of database legislation. There are many people that stand to be affected by such legislation, and many points of view about what the proper approach should be. While I am not wedded to a specific proposal or a particular approach, I do believe that any bill should keep in mind the dual priorities of providing the protections necessary to ensure the continued proliferation of databases in the United States and of protecting widespread access to and dissemination of information. In an effort to build upon the progress we made in the Senate last year, I am sharing with my colleagues a discussion draft that is identical to the last of the discussion drafts I offered last year. I ask unanimous consent that the text of this draft be included in the RECORD immediately after my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. By putting forward this particular draft I do not mean to suggest that this is necessarily the appropriate starting point for debate in the 106th Congress. Provisions of this draft must be read in light of the circumstances in which they were written, mainly the consideration of the conference report on the Digital Millennium Copyright Act. It does, however, represent a number of significant advances toward consensus as well as ideas and principles that I expect will prove useful in crafting a database bill that meets the above-stated objectives. For these reasons I commend it to my colleagues for their consideration. But there are other approaches we should be cognizant of as we work toward the best possible solution.

First, there is a broad unfair competition model that approaches in some ways a property rights model. The foremost example of this approach has been the House's bills over the past few years. I understand that Chairman COBLE has introduced a bill in the House that largely reflects the bill that passed by the House last year and that he will be seeking to forge a consensus in the House based on that proposal. I am pleased that he has made this a priority again this year, and I look forward to working with him as I have been privileged to do on so many prior occasions. For the reference of my colleagues, I ask unanimous consent that Mr. COBLE's bill be printed in the RECORD as an exemple of the broad model of database protection.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Collections of Information Antipiracy Act”.

SEC. 2. MISAPPROPRIATION OF COLLECTIONS OF INFORMATION.

Title 17, United States Code, is amended by adding at the end the following new chapter:

“CHAPTER 14—MISAPPROPRIATION OF COLLECTIONS OF INFORMATION

“Sec.
“1401. Definitions.
“1402. Prohibition against misappropriation.
“1403. Permitted acts.
“1404. Exclusions.
“1405. Relationship to other laws.
“1406. Civil remedies.
“1407. Criminal offenses and penalties.
“1408. Limitations on actions.

“§ 1401. Definitions

“As used in this chapter:

“(1) Collection of information.—The term ‘collection of information’ means information that has been collected and has been organized for the purpose of bringing discrete items of information together in one place or through one source so that users may access them.

“(2) Information.—The term ‘information’ means facts, data, works of authorship, or any other intangible material capable of being collected and organized in a systematic way.

“(3) Potential market.—The term ‘potential market’ means any market that a person claiming protection under section 1402 has current and demonstrable plans to exploit or that is commonly exploited by persons offering similar products or services incorporating collections of information.

“(4) Commerce.—The term ‘commerce’ means all commerce which may be lawfully regulated by the Congress.

“§ 1402. Prohibition against misappropriation

“Any person who extracts, or uses in commerce, all or a substantial part, measured either quantitatively or qualitatively, of a collection of information gathered, organized, or maintained by another person through the investment of substantial monetary or other resources, so as to cause harm to the actual or potential market of that other person, or a successor in interest of that other person, for a product or service that incorporates that collection of information and is offered or intended to be offered for sale or otherwise in commerce by that other person, or a successor in interest of that person, shall be liable to that person or successor in interest for the remedies set forth in section 1406.

“§ 1403. Permitted acts

“(a) Educational, Scientific, Research, and Additional Reasonable Uses.—

“(1) Certain nonprofit educational, scientific, or research uses.—Notwithstanding section 1402, no person shall be restricted from extracting or using information for nonprofit educational, scientific, or research purposes in a manner that does not harm directly the actual market for the product or service referred to in section 1402.

“(2) Additional reasonable uses.—

“(A) In general.—Notwithstanding section 1402, an individual act of use or extraction of information done for the purpose of illustration, explanation, example, comment, criticism, teaching, research, or analysis, in an amount appropriate and customary for that purpose, is not a violation of this chapter, if it is reasonable under the circumstances. In determining whether such an act is reasonable under the circumstances, the following factors shall be considered:

“(i) The extent to which the use or extraction is commercial or nonprofit.

“(ii) The good faith of the person making the use or extraction.

“(iii) The extent to which and the manner in which the portion used or extracted is incorporated into an independent work or collection, and the degree of difference between the collection from which the use or extraction is made and the independent work or collection.

“(iv) Whether the collection from which the use or extraction is made is primarily developed for or marketed to persons engaged in the same field or business as the person making the use or extraction.

In no case shall a use or extraction be permitted under this paragraph if the used or extracted portion is offered or intended to be offered for sale or otherwise in commerce and is likely to serve as a market substitute for all or part of the collection from which the use or extraction is made.

“(B) Definition.—For purposes of this paragraph, the term ‘individual act’ means an act that is not part of a pattern, system, or repeated practice by the same party, related parties, or parties acting in concert with respect to the same collection of information or a series of related collections of information.

“(b) Individual Items of Information and Other Insubstantial Parts.—Nothing in this chapter shall prevent the extraction or use of an individual item of information, or other insubstantial part of a collection of information, in itself. An individual item of information, including a work of authorship, shall not itself be considered a substantial part of a collection of information under section 1402. Nothing in this subsection shall permit the repeated or systematic extraction or use of individual items or insubstantial parts of a collection of information so as to circumvent the prohibition contained in section 1402.

“(c) Gathering or Use of Information Obtained Through Other Means.—Nothing in this chapter shall restrict any person from independently gathering information or using information obtained by means other than extracting it from a collection of information gathered, organized, or maintained by another person through the investment of substantial monetary or other resources.

“(d) Use of Information for Verification.—Nothing in this chapter shall restrict any person from extracting or using a collection of information within any entity or organization, for the sole purpose of verifying the accuracy of information independently gathered, organized, or maintained by that person. Under no circumstances shall the information so used be extracted from the original collection and made available to others in a manner that harms the actual or potential market for the collection of information from which it is extracted or used.

“(e) News Reporting.—Nothing in this chapter shall restrict any person from extracting or using information for the sole purpose of news reporting, including news gathering, dissemination, and comment, unless the information so extracted or used is time sensitive and has been gathered by a news reporting entity, and the extraction or use is part of a consistent pattern engaged in for the purpose of direct competition.

“(f) Transfer of Copy.—Nothing in this chapter shall restrict the owner of a particular lawfully made copy of all or part of a collection of information from selling or otherwise disposing of the possession of that copy.

“§ 1404. Exclusions

“(a) Government Collections of Information.—

“(1) Exclusion.—Protection under this chapter shall not extend to collections of information gathered, organized, or maintained by or for a government entity, whether Federal, State, or local, including any employee or agent of such entity, or any person exclusively licensed by such entity, within the scope of the employment, agency, or license. Nothing in this subsection shall preclude protection under this chapter for information gathered, organized, or maintained by such an agent or licensee that is not within the scope of such agency or license, or by a Federal or State educational institution in the course of engaging in education or scholarship.

“(2) Exception.—The exclusion under paragraph (1) does not apply to any information required to be collected and disseminated—

“(A) under the Securities Exchange Act of 1934 by a national securities exchange, a registered securities association, or a registered securities information processor, subject to section 1405(g) of this title; or

“(B) under the Commodity Exchange Act by a contract market, subject to section 1405(g) of this title.

"(b) Computer Programs.—

"(1) Protection not extended.—Subject to paragraph (2), protection under this chapter shall not extend to computer programs, including, but not limited to, any computer program used in the manufacture, production, operation, or maintenance of a collection of information, or any element of a computer program necessary to its operation.

"(2) Incorporated collections of information.—A collection of information that is otherwise subject to protection under this chapter is not disqualified from such protection solely because it is incorporated into a computer program.

"(c) Digital Online Communications.—Protection under this chapter shall not extend to a product or service incorporating a collection of information gathered, organized, or maintained to address, route, forward, transmit, or store digital online communications or provide or receive access to connections for digital online communications.

"§ 1405. Relationship to other laws

"(a) Other Rights Not Affected.—Subject to subsection (b), nothing in this chapter shall affect rights, limitations, or remedies concerning copyright, or any other rights or obligations relating to information, including laws with respect to patent, trademark, design rights, antitrust, trade secrets, privacy, access to public documents, and the law of contract.

"(b) Preemption of State Law.—On or after the effective date of this chapter, all rights that are equivalent to the rights specified in section 1402 with respect to the subject matter of this chapter shall be governed exclusively by Federal law, and no person is entitled to any equivalent right in such subject matter under the common law or statutes of any State. State laws with respect to trademark, design rights, antitrust, trade secrets, privacy, access to public documents, and the law of contract shall not be deemed to provide equivalent rights for purposes of this subsection.

"(c) Relationship to Copyright.—Protection under this chapter is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection or limitation, including, but not limited to, fair use, in any work of authorship that is contained in or consists in whole or part of a collection of information. This chapter does not provide any greater protection to a work of authorship contained in a collection of information, other than a work that is itself a collection of information, than is available to that work under any other chapter of this title.

"(d) Antitrust.—Nothing in this chapter shall limit in any way the constraints on the manner in which products and services may be provided to the public that are imposed by Federal and State antitrust laws, including those regarding single suppliers of products and services.

"(e) Licensing.—Nothing in this chapter shall restrict the rights of parties freely to enter into licenses or any other contracts with respect to the use of collections of information.

"(f) Communications Act of 1934.—Nothing in this chapter shall affect the operation of the provisions of the Communications Act of 1934 (47 U.S.C. 151 et seq.), or shall restrict any person from extracting or using subscriber list information, as such term is defined in section 222(f)(3) of the Communications Act of 1934 (47 U.S.C. 222(f)(3)), for the purpose of publishing telephone directories in any format.

"(g) Securities and Commodities Market Information.—

"(1) Federal agencies and acts.—Nothing in this chapter shall affect—

"(A) the operation of the provisions of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the Commodity Exchange Act (7 U.S.C. 1 et seq.);

"(B) the jurisdiction or authority of the Securities and Exchange Commission and the Commodity Futures Trading Commission; or

"(C) the functions and operations of self-regulatory organizations and securities information processors under the provisions of the Securities Exchange Act of 1934 and the rules and regulations thereunder, including making market information available pursuant to the provisions of that Act and the rules and regulations promulgated thereunder.

"(2) Prohibition.—Notwithstanding any provision in subsection (a), (b), (c), (d), or (f) of section 1403, nothing in this chapter shall permit the extraction, use, resale, or other disposition of real-time market information except as the Securities Exchange Act of 1934, the Commodity Exchange Act, and the rules and regulations thereunder may otherwise provide. In addition, nothing in subsection (e) of section 1403 shall be construed to permit any person to extract or use real-time market information in a manner that constitutes a market substitute for a real-time market information service (including the real-time systematic updating of or display of a substantial part of market information) provided on a real-time basis.

"(3) Definition.—As used in this subsection, the term 'market information' means information relating to quotations and transactions that is collected, processed, distributed, or published pursuant to the provisions of the Securities Exchange Act of 1934 or by a contract market that is designated by the Commodity Futures Trading Commission pursuant to the Commodity Exchange Act and the rules and regulations thereunder.

"§ 1406. Civil remedies

"(a) Civil Actions.—Any person who is injured by a violation of section 1402 may bring a civil action for such a violation in an appropriate United States district court without regard to the amount in controversy, except that any action against a State governmental entity may be brought in any court that has jurisdiction over claims against such entity.

"(b) Temporary and Permanent Injunctions.—Any court having jurisdiction of a civil action under this section shall have the power to grant temporary and permanent injunctions, according to the principles of equity and upon such terms as the court may deem reasonable, to prevent a violation of section 1402. Any such injunction may be served anywhere in the United States on the person enjoined, and may be enforced by proceedings in contempt or otherwise by any United States district court having jurisdiction over that person.

"(c) Impoundment.—At any time while an action under this section is pending, the court may order the impounding, on such terms as it deems reasonable, of all copies of contents of a collection of information extracted or used in violation of section 1402, and of all masters, tapes, disks, diskettes, or other articles by means of which such copies may be reproduced. The court may, as part of a final judgment or decree finding a violation of section 1402, order the remedial modification or destruction of all copies of contents of a collection of information extracted or used in violation of section 1402, and of all masters, tapes, disks, diskettes, or other articles by means of which such copies may be reproduced.

"(d) Monetary Relief.—When a violation of section 1402 has been established in any civil action arising under this section, the plaintiff shall be entitled to recover any damages sustained by the plaintiff and defendant's profits not taken into account in computing the damages sustained by the plaintiff. The court shall assess such profits or damages or cause the same to be assessed under its direction. In assessing profits the plaintiff shall be required to prove defendant's gross revenue only and the defendant shall be required to prove all elements of cost or deduction claims. In assessing damages the court may enter judgment, according to the circumstances of the case, for any sum above the amount found as actual damages, not exceeding three times such amount. The court in its discretion may award reasonable costs and attorney's fees to the prevailing party and shall award such costs and fees where it determines that an action was brought under this chapter in bad faith against a nonprofit educational, scientific, or research institution, library, or archives, or an employee or agent of such an entity, acting within the scope of his or her employment.

"(e) Reduction or Remission of Monetary Relief for Nonprofit Educational, Scientific, or Research Institutions.—The court shall reduce or remit entirely monetary relief under subsection (d) in any case in which a defendant believed and had reasonable grounds for believing that his or her conduct was permissible under this chapter, if the defendant was an employee or agent of a nonprofit educational, scientific, or research institution, library, or archives acting within the scope of his or her employment.

"(f) Actions Against United States Government.—Subsections (b) and (c) shall not apply to any action against the United States Government.

"(g) Relief Against State Entities.—The relief provided under this section shall be available against a State governmental entity to the extent permitted by applicable law.

"§ 1407. Criminal offenses and penalties

"(a) Violation.—

"(1) In general.—Any person who violates section 1402 willfully, and—

"(A) does so for direct or indirect commercial advantage or financial gain, or

"(B) causes loss or damage aggregating $10,000 or more in any 1-year period to the person who gathered, organized, or maintained the information concerned,

shall be punished as provided in subsection (b).

"(2) Inapplicability.—This section shall not apply to an employee or agent of a nonprofit educational, scientific, or research institution, library, or archives acting within the scope of his or her employment.

"(b) Penalties.—An offense under subsection (a) shall be punishable by a fine of not more than $250,000 or imprisonment for not more than 5 years, or both. A second or subsequent offense under subsection (a) shall be punishable by a fine of not more than $500,000 or imprisonment for not more than 10 years, or both.

"§ 1408. Limitations on actions

"(a) Criminal Proceedings.—No criminal proceeding shall be maintained under this chapter unless it is commenced within three years after the cause of action arises.

"(b) Civil Actions.—No civil action shall be maintained under this chapter unless it is commenced within three years after the cause of action arises or claim accrues.

"(c) Additional Limitation.—No criminal or civil action shall be maintained under this chapter for the extraction or use of all or a substantial part of a collection of information that occurs more than 15 years after the portion of the collection that is extracted or used was first offered for sale or otherwise in commerce, following the investment of resources that qualified that portion of the collection for protection under this chapter. In no case shall any protection under this chapter resulting from a substantial investment of resources in maintaining a preexisting collection prevent any use or extraction of information from a copy of the preexisting collection after the 15 years have expired with respect to the portion of that preexisting collection that is so used or extracted, and no liability under this chapter shall thereafter attach to such acts of use or extraction.".

SEC. 3. CONFORMING AMENDMENTS.

(a) Table of Chapters.—The table of chapters for title 17, United States Code, is amended by adding at the end the following:

"14. Misappropriation of Collections of Information .... **1401**".

(b) District Court Jurisdiction.—(1) Section 1338 of title 28, United States Code, is amended—

(A) in the section heading by inserting "**misappropriations of collections of information,**" after "**trade-marks,**"; and

(B) by adding at the end the following:

"(d) The district courts shall have original jurisdiction of any civil action arising under chapter 14 of title 17, relating to misappropriation of collections of information. Such jurisdiction shall be exclusive of the courts of the States, except that any action against a State governmental entity may be brought in any court that has jurisdiction over claims against such entity.".

(2) The item relating to section 1338 in the table of sections for chapter 85 of title 28, United States Code, is amended by inserting "misappropriations of collections of information," after "trade-marks,".

(c) Place for Bringing Actions.—(1) Section 1400 of title 28, United States Code, is amended by adding at the end the following:

"(c) Civil actions arising under chapter 14 of title 17, relating to misappropriation of collections of information, may be brought in the district in which the defendant or the defendant's agent resides or may be found.".

(2) The section heading for section 1400 of title 28, United States Code, is amended to read as follows:

"§ 1400. Patents and copyrights, mask works, designs, and collections of information".

(3) The item relating to section 1400 in the table of sections at the beginning of chapter 87 of title 28, United States Code, is amended to read as follows:

"1400. Patents and copyrights, mask works, designs, and collections of information.".

(d) Court of Federal Claims Jurisdiction.—Section 1498(e) of title 28, United States Code, is amended by inserting "and to protections afforded collections of information under chapter 14 of title 17" after "chapter 9 of title 17".

SEC. 4. EFFECTIVE DATE.

(a) In General.—This title and the amendments made by this title shall take effect on the date of the enactment of this Act, and shall apply to acts committed on or after that date.

(b) Prior Acts Not Affected.—No person shall be liable under chapter 14 of title 17, United States Code, as added by section 2 of this Act, for the use of information lawfully extracted from a collection of information prior to the effective date of this Act, by that person or by that person's predecessor in interest.

Mr. HATCH. Second, there are many who believe a narrower unfair competition model is preferable to the model set forth in the Coble bill. One such proposal has been proposed by certain commercial database users, with the support of the scientific, education, and library communities. I ask unanimous consent that this proposal also be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

PROPOSED BILL TO AMEND TITLE 17, UNITED STATES CODE, TO PROMOTE RESEARCH AND FAIR COMPETITION IN THE DATABASES INDUSTRY

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Database Fair Competition and Research Promotion Act of 1999".

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States workforce is increasingly engaged in the creation, processing, distribution, and maintenance of information in interstate and foreign commerce;

(2) comprehensive, trustworthy databases are increasingly a fundamental component of scientific, educational, and social progress;

(3) such databases are also critical to the operation of financial markets and the burgeoning electronic commerce;

(4) the United States public benefits from having ready access to reliable, up-to-date databases concerning virtually all the endeavors of mankind;

(5) the production of accurate, trustworthy databases requires the investment of substantial amounts of human, technical, and financial resources to compile, sort, organize, maintain, verify, and distribute;

(6) the wholesale, unauthorized duplication and dissemination of another person's information product constitutes market-destructive free riding on the investment of the information compiler;

(7) advances in digital technology render information products increasingly vulnerable to database piracy as unauthorized copies may be made and transmitted around the world in a few seconds;

(8) current Federal and State laws, including laws governing copyright, contract, and misappropriation, do not adequately protect investments against this free riding;

(9) the continuing development of digital technology has enabled even the smallest information provider to transact business on a national scale, rendering uniformity essential to the continued growth of interstate commerce;

(10) technology safeguards do not adequately deter database piracy, because such safeguards are not foolproof, add to the cost and difficulty of accessing and delivering information, and provide no recourse once the safeguards have been circumvented;

(11) the United States should set the world standard for effective and balanced database protection, and make a determined effort to ensure similar international protection of these valuable information products;

(12) while wholesale duplication by a competitor diminishes the incentive to invest in database creation, transformative use of the information in new products promotes fair competition, innovation, and consumer welfare;

(13) transformative uses of information are also critical to scientific research and the advancement of knowledge;

(14) transformative uses of information are essential to free speech, a free press, and democratic institutions;

(15) any legal regime designed to prevent unfair competition in databases must be carefully crafted so as not to prevent fair competition;

(16) in addition to database piracy, database publishers are also harmed by other publishers misrepresenting various aspects of the information included in their database, including its source, currency, and comprehensiveness;

(17) these misrepresentations also harm consumers who rely upon them, thereby diminishing the credibility of the database industry as a whole;

(18) new legislation is needed to protect the substantial investments involved in the production and dissemination of databases in interstate commerce.

SEC. 3. PROMOTION OF FAIR DATABASE COMPETITION.

Title 17, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 14—FAIR DATABASE COMPETITION

Sec.
"1401. Prohibition Against Duplication.
"1402. Permitted acts.
"1403. Exclusions.
"1404. Prohibition Against Misrepresentation.
"1405. Definitions.
"1406. Relationship to other laws.
"1407. Limitations on Liability.
"1408. Civil remedies.
"1409. Limitations on actions.

"SEC. 1401. PROHIBITION AGAINST DUPLICATION.

"It is unlawful for a person to duplicate a database collected and organized by another person in a database that competes in commerce with that other database.

"SEC. 1402. PERMITTED ACTS.

"(a) Collecting or Use of Information Obtained Through Other Means.—Nothing in this chapter shall restrict any person from independently collecting information or using information obtained by means other than by duplicating it from a database collected and organized by another person.

"(b) News Reporting.—Nothing in this chapter shall restrict any person from duplicating a database for the sole purpose of news reporting, including news gathering and dissemination, or comment, unless the information duplicated is time sensitive and has been collected by a news reporting entity, and the duplication is part of a consistent pattern engaged in for the purpose of direct competition.

"(c) Law Enforcement and Intelligence Activities.—Nothing in this chapter shall prohibit an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or a person acting under contract of one of the enumerated officers, agents or employees, from duplicating a database as part of lawfully authorized confidential investigative, protective, or intelligence activities.

"(d) Genealogical Information.—

"(1) In general.—No person shall be restricted from using genealogical information for nonprofit, religious purposes, or from using, for private, noncommercial purposes, genealogical information that has been gathered, organized, or maintained for nonprofit, religious purposes.

"(2) Definition.—For purposes of this subsection, "genealogical information" includes, but is not limited to, data indicating the date, time, and/or place of an individual's birth, christening, marriage, death, or burial, the identity of an individual's parents, spouse, children or siblings, and other information useful in determining the identity of ancestors.

"(e) Scientific, Educational, or Research Uses.—No person or entity who for scientific, educational, or research purposes duplicates the same information that has been collected or generated by another person or entity shall incur liability under this chapter so long as such conduct is not part of a consistent pattern engaged in either for the purpose of direct competition with that other person or for the purpose of avoiding payment of reasonable fees for access to a database incorporated into a product or service specifically marketed for educational or research purposes.

"SEC. 1403. EXCLUSIONS.

"(a) Government Information.—

"(1) Exclusion.—Protection under Section 1 shall not extend to government databases.

"(2) The incorporation of all or part of a government database into a non-government database does not preclude protection for the portions of the non-government database which came from a source other than the government database.

"(3) Nothing in this chapter shall prevent a federal, state, or local government entity from determining that a database, the creation or maintenance of which is substantially funded by that entity, shall not be subject to the protection afforded under this chapter.

"(b) Databases Related to Digital Communications.—Protection under Section 1 does not extend to a database incorporating information collected or organized to perform the function of addressing, routing, forwarding, transmitting, or storing digital online communications or the function of providing or receiving connections for digital online communications.

"(c) Computer Programs.—

"(1) Protection not extended.—Subject to paragraph (2), protection under Section 1 shall not extend to computer programs, including, but not limited to, any computer program used in the manufacture, production, operation, or maintenance or a database, or any element of a computer program necessary to its operation.

"(2) Incorporated databases.—A database that is otherwise subject to protection under Section 1 is not disqualified from such protection solely because it resides in a computer program, so long as the database does not, in whole or in part, function as an element necessary to the operation of the computer program.

"(d) Nonprotectable Subject Matter.—Protection for databases under Section 1 does not extend to any idea, fact, procedure, system, method of operation, concept, principle or discovery, as distinct from a database protected under Section 1.

"SEC. 1404. PROHIBITION AGAINST MISREPRESENTATION.

"It shall be unlawful for any person, in connection with the use in commerce of any database, to misrepresent:

"(a) the sponsorship or approval of the database by any other person;

"(b) the affiliation, connection, or association of the person with any other person;

"(c) the qualities of the information contained in the database, including its source, currency, or comprehensiveness; or

"(d) the extent of the person's responsibility for the collection and organization of the information contained in the database.

"SEC. 1405. DEFINITIONS.

"As used in this chapter:

"(1) Database.—The term 'database' means a collection of discrete items of information that have been collected and organized in a single place, or in such a way as to be accessible through a single source, through the investment of substantial monetary or other resources, for the purpose of providing access to those discrete items of information by users of the database.

"(2) Information.—The term 'information' means facts, data, or any other intangible material capable of being collected and organized in a systematic way, with the exception of works of authorship.

"(3) Commerce.—The term 'commerce' means all commerce which may be lawfully regulated by the Congress.

"(4) Competes in commerce.—The term 'competes in commerce' means that the database (A) is substantially the same as the protected database, (B) displaces substantial sales or licenses of the protected database; and (C) is either offered for sale or license for commercial advantage or is distributed to the public over a digital network, in such a manner as to significantly diminish the incentive to invest in the collecting or organizing of the protected database.

"(5) Government database.—The term 'government database' means a database (A) that has been collected or maintained by the United States of America; or (B) that is required by federal statute or regulation to be collected or maintained, to the extent so required.

"SEC. 1406. RELATIONSHIP TO OTHER LAWS.

"(a) Other Rights Not Affected.—Subject to subsection (b), nothing in this chapter shall affect rights, limitations, or remedies concerning copyright, or any other rights or obligations relating to information, including laws with respect to patent, trademark, design rights, antitrust, trade secrets, privacy, access to public documents, misuse, and the law of contract.

"(b) Preemption of State Law.—On or after the effective date of this chapter, all rights that are equivalent to the rights specified in section 1 with respect to the subject matter of this chapter shall be governed exclusively by Federal law, and no person is entitled to any equivalent right in such subject matter under the common law or statutes of any State.

"(c) Licensing.—Subject to the provisions on misuse in Section 7(b), nothing in this chapter shall restrict the rights of parties freely to enter into licenses or any other contracts with respect to the use of information.

"(d) Communications Act of 1934.—Nothing in this chapter shall affect the operation of the Communications Act of 1934 (47 U.S.C. 151 et seq.). Nor shall this chapter restrict any person from using subscriber list information, as such term is defined in section 222(f)(3) of the Communications Act of 1934 (47 U.S.C. 222(f)(3)).

"(e) Securities Exchange and Commodity Exchange Act.—Nothing in this chapter shall affect the operation of the provisions of the Securities Exchange Act of 1934 of the Commodity Exchange Act.

"SEC. 1407. LIMITATIONS ON LIABILITY.

"(a) Service Provider Liability.—

"(1) Subject to the limitations of paragraph (2), a provider of online services or network access, or the operator of facilities therefor, shall not be liable for a violation of Section 1 by reason of:

"(A) transmitting, routing, or providing connections for, material through a system or network controlled or operated by or for the service provider;

"(B) providing storage of that material on a system or network controlled by or operated for the service provider; or

"(C) referring or linking users to an online location at which infringing material is located.

"(2) Conditions.—The limitation on liability set forth in paragraph (1)(B) and (C) shall apply, provided that—

"(A) the service provider did not initially place the material on the system;

"(B) the service provider does not have actual knowledge that the material violates Section 1 or, in the absence of such actual knowledge, is not aware of facts or circumstances from which such violation is apparent; or

"(C) upon obtaining such knowledge or awareness, acts expeditiously to remove the material or to disable its use, to the extent such removal or disablement is technically feasible, effective and economically reasonable.

"(3) Notification of claimed violation.—A service provider will be presumed to have actual knowledge of a violation of Section 1 if it receives adequate notification of a claimed violation in compliance with the requirements as set forth in 17 U.S.C. §512(c)(4) from a person who is injured by a violation of Section 1 or his designated agents.

"(4) Reenabling of use.—If a person claiming to be injured by a violation of Section 1 does not obtain a court order enjoining the alleged violation within ten days of the service provider disabling the use, the alleged infringer may request the service provider to reenable the use; and upon receiving such request in compliance with the requirements as set forth in 17 U.S.C. §512(f)(3), the service provider may reenable the use without becoming liable for a violation of Section 1.

"(5) Limitation on other liability.—A service provider shall not be liable to any claim based on the service provider's good faith removal, or disabling of a use, of material claimed to violate Section 1 or based on facts or circumstances from which such violation is apparent, regardless of whether a violation is ultimately determined to have occurred.

"(6) Misrepresentations.—Any person who knowingly misrepresents that material or activities violate Section 1 shall be liable for any damages, including costs and attorneys' fees, incurred by the alleged violator or by the service provider who is injured by such misrepresentation.

"(b) Misuse.—The relief provided under this chapter shall not be available to a person who misuses the protection afforded a database under this chapter. In determining whether a person has misused the protection afforded under this chapter, a court shall consider, among other factors:

"(1) The extent to which the ability of persons to engage in the permitted acts under this chapter has been frustrated by contractual arrangements or technological measures;

"(2) the extent to which information contained in a database that is the sole source of the information contained therein is made available through licensing or sale on reasonable terms and conditions;

"(3) the extent to which the license or sale of information contained in a database protected under this chapter has been conditioned on the acquisition or license of any other product or service, or on the performance of any action, not directly related to the license or sale;

"(4) the extent to which access to information necessary to research, competition, or innovation purposes has been prevented;

"(5) the extent to which the manner of asserting rights granted under this chapter constitutes a barrier to entry into the relevant database market; and

"(6) the extent to which the judicially developed doctrines of misuse in other areas of the law may appropriately be extended to the case in controversy.

"SEC. 1408. CIVIL REMEDIES.

"(a) CIVIL ACTIONS.—Any person who is injured by a violation of Section 1 or Section 4 may bring a civil action for such a violation in an appropriate United States district court without regard to the amount in controversy, except that any action against a State government entity may be brought in any court that has jurisdiction over claims against such entity.

"(b) TEMPORARY AND PERMANENT INJUNCTIONS.—Any court having jurisdiction of a civil action under this section shall have the power to grant temporary and permanent injunctions, according to the principles of equity and upon such terms as the court may deem reasonable, to prevent a violation of section 1 or 4. Any such injunction may be served anywhere in the United States on the person enjoined, and may be enforced by proceedings in contempt or otherwise by any United States district court having jurisdiction over that person.

"(c) IMPOUNDMENT.—At any time while an action under this section is pending, the court may order the impounding, on such terms as it deemds reasonable, of all copies of databases made in violaiton of section 1, and of all masters, tapes, disks, diskettes, or other articles by means of which such copies may be reproduced. The court may, as part of a final judgment or decree finding a violation of section 1, order the remedial modification or destruction of all copies of databases made in violation of section 1, and of all masters, tapes, disks, diskettes, or other articles by means of which such copies may be reproduced.

"(d) MONETARY RELIEF.—

"(1) When a violation of section 1 has been established in any civil action arising under this section, the plaintiff shall be entitled, subject to the principles of equity, to recover defendant's profits and any damages sustained by the plaintiff. In assessing profits the plaintiffs shall be required to prove defendant's sales only; defendant must prove all elements of cost or deduction claims. In assessing damages the court may enter judgment, according to the circumstances of the case, for any sum above the amount found as actual damages, not exceeding three times such amount.

"(2) When a violation of Section 4 has been established, the plaintiff shall be entitled to recover, subject to the principles of equity, any damages sustained.

"(3) The court in its discretion may award reasonable costs and attorney's fees to the prevailing party and shall award such costs and fees where it determines that an action was brought under this chapter in bad faith against a nonprofit scientific, research, or educational institution, library or archives, or against an employee or agent of such entity, acting within the scope of his or her employment.

"(e) REDUCTION OR REMISSION OF REMEDIES FOR NONPROFIT SCIENTIFIC, EDUCATIONAL, OR RESEARCH INSTITUTIONS.—The court shall reduce or remit entirely monetary relief under subsection (d) in any case in which the defendant believed, and had reasonable grounds for believing, that his or her conduct was permissible under this chapter, if the defendant was an employee or agent of a nonprofit scientific, educational, or research institution, library or archives, acting within the scope of his or her employment.

"(f) ACTIONS AGAINST UNITED STATES GOVERNMENT.—Subsections (b) and (c) shall not apply to any action against the United States Government.

"(g) RELIEF AGAINST STATE ENTITIES.—The relief provided under this section shall be available against a State governmental entity to the extent permitted by applicable law.

"(h) SOLE SOURCE DATABASES.—If the court determines that a defendant who has violated Section 1 could not have independently collected the information taken from the plaintiff's database in a commercially practicable manner, the relief available to the plaintiff shall be limited to the plaintiff's actual damages, measured by a reasonable royalty.

"SEC. 1409. LIMITATIONS ON ACTIONS.

"(a) No civil action shall be maintained under the provisions of this chapter unless it is commenced within three years after the claim accrued.

"(b) No civil action shall be maintained under the provisions of this chapter for the duplication of a database collected and organized prior to the effective date of this Act.

SEC. 4. CONFORMING AMENDMENT.

The table of chapters for title 17, United States Code, is amended by adding at the end the following:

CHAPTER 14—PROTECTION OF DATABASES

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act, and shall apply to acts committed on or after that date.

"(b) PRIOR ACTS NOT AFFECTED.—No person shall be liable under chapter 14 of title 17, United States Code, as added by section 2 of this Act, for the acts done prior to the effective date of this Act, by that person or by that person's predecessor in interest.

SEC. 6. REPORT TO CONGRESS.

Not later than 24 months after the date of enactment of this Act, the Copyright Office, after consultation with appropriate agencies, which may include the Department of Justice, the Patent and Trademark Office, and the Federal Trade Commission, shall report to the Congress on the effect this Act has had on the United States database industry and related parties, including—

(a) the extent of competition between database producers, including the concentration of market power within the database industry;

(b) the investment in the development and maintenance of databases, including changes in the number and size of databases;

(c) the availability of information to industries and researchers which rely upon such availability; and

(d) whether in the period after enactment of this legislation database producers have faced unfair competition, particularly from publishers in the European Union.

The report shall include legislative recommendations, if any.

Mr. HATCH. I include this proposal in the RECORD hoping that it will also help our deliberations be more fully informed and spur discussion of the merits of each approach. The existence of, and my dissemination of, these various approaches, however, should not be used to delay prompt action on this important issue.

In short, Mr. President, as we rapidly approach the new millennium, it is time for Congress to act to ensure adequate federal protection for American investment in information. I intend this to be a high priority in the Judiciary Committee this year and intend to move forward with hearings and timely consideration of appropriate legislation. I look forward to working with the interested parties in an effort to build consensus in this area, and I encourage my colleagues to join with me in support of this process.

EXHIBIT 1

S. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Database Antipiracy Act of 1999."

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States workforce is increasingly engaged in the creation, processing, distribution, and maintenance of information in interstate and foreign commerce;

(2) comprehensive, trustworthy collections of information are increasingly a fundamental component of scientific, educational, and social progress;

(3) the United States public benefits from having ready access to reliable, up-to-date collections of information concerning virtually all the endeavors of mankind;

(4) the production of accurate, trustworthy collections of information requires the investment of substantial amounts of human, technical, and financial resources to compile, sort, organize, maintain, verify, and distribute;

(5) the wholesale, unauthorized copying, and dissemination of another person's information product constitutes market-destructive free riding on the investment of the information compiler;

(6) advances in digital technology render informational products increasingly vulnerable to database piracy as unauthorized copies may be made and transmitted around the world in a few seconds;

(7) current Federal and State laws, including laws governing copyright, contract, and misappropriation, do not adequately protect investments against this free riding;

(8) as a result of the decision of the United States Supreme Court in Feist Publications, Inc. v. Rural Telephone Services Co., 499 United States 340 (1991), and certain decisions of the inferior courts of the United States, the copyright law affords members of the United States business community, both individuals and entities who create and distribute compilations of data less certain protection against piracy;

(9) legislation is needed to ensure that legitimate access to discrete data is not impaired while also encouraging persons to

identify, collect, verify, and add value to such information and make it available for study, enjoyment, and use;

(10) the piecemeal, inconsistent protection for databases provided by State misappropriation and contract laws inadequately protects the investment of database compilers from destructive acts of free riding;

(11) the continuing development of digital technology has enabled even the smallest information provider to transact business on a national scale, rendering uniformity essential to the continued growth of interstate commerce;

(12) technology safeguards do not adequately deter database piracy, because such safeguards are not foolproof, add to the cost and difficulty of accessing and delivering information, and provide no recourse once the safeguards have been circumvented;

(13) the United States should set the world standard for effective and balanced database protection, and make a determined effort to ensure similar international protection of these valuable information products;

(14) database piracy, if left unchecked by Congress, will so reduce the incentive to produce these products that the quality or existence will be significantly threatened or eliminated; and

(15) new legislation is needed to protect the substantial investments involved in the production and dissemination of collections of information in interstate commerce.

SEC. 3. MISAPPROPRIATION OF DATABASES.

Title 17, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 13—MISAPPROPRIATION OF DATABASES

"Sec.
"1301. Definitions.
"1302. Prohibition against misappropriation.
"1303. Permitted acts.
"1304. Permitted use for certain purposes.
"1305. Exclusions.
"1306. Relationship to other laws.
"1307. Certain instructional activities and library uses.
"1308. Civil remedies.
"1309. Criminal offenses and penalties.
"1310. Limitations on actions.
"1311. Deposit of databases.

"§ 1301. Definitions

"As used in this chapter:

"(1) DATABASE.—The term 'database' means a collection of discrete items of information that have been collected and organized in a single place, or in such a way as to be accessible through a single source, for the purpose of providing access to those discrete items of information by users of the database.

"(2) INFORMATION.—The term 'information' means facts, data, works of authorship, or any other intangibles capable of being collected and organized in a systematic way.

"(3) NEIGHBORING MARKET.—The term 'neighboring market' means any market that is commonly exploited by persons offering similar products or services incorporating databases.

"(4) COMMERCE.—The term 'commerce' means all commerce which may be lawfully regulated by the Congress.

"(5) PRODUCT OR SERVICE.—A product or service incorporating a database does not include a product or service incorporating a database that has been gathered, organized, or maintained to perform the function of addressing, routing, forwarding, transmitting or storing digital online communications or the function of providing or receiving connections for digital online communications.

"(6) GOVERNMENT DATABASE.—The term 'government database' means a database that has been created or maintained by or for a government entity, whether Federal, State, or local—

"(A) that is created or maintained by an employee or agent of such government entity, or any person exclusively licensed by such entity, acting within the scope of his or her employment, agency, or license;

"(B) the creation or maintenance of which is substantially funded by such government entity; or

"(C) that is required by statute or regulation to be created or maintained, to the extent so required, except that such term does not include a database that is required by a statute or regulation to be created or maintained where such database or a prior version, was first created or maintained prior to the enactment of such statute or regulation.

"(7) GOVERNMENT INFORMATION.—The term 'government information' means information produced or otherwise generated by or for a government entity, whether Federal, State, or local—

"(A) that is produced or otherwise generated by an employee or agent of such government entity or any person exclusively licensed by such entity, acting within the scope of his or her employment, agency, or exclusive license; or

"(B) the production or generation of which is substantially funded by such government entity.

"§ 1302. Prohibition against misappropriation

"Any person who extracts, or uses in commerce, all or a substantial part, measured either quantitatively or qualitatively, of a database gathered, organized, or maintained by another person through the investment of substantial monetary or other resources, so as to cause substantial harm to the actual or neighboring market of that other person, or a successor in interest of that other person, for a product or service that incorporates that database and is offered or intended to be offered for sale or otherwise in commerce by that other person, or a successor in interest of that person, shall be liable to that person or successor in interest for the remedies set forth in section 1308.

"§ 1303. Permitted acts

"(a) INDIVIDUAL ITEMS OF INFORMATION AND OTHER INSUBSTANTIAL PARTS.—Nothing in this chapter shall prevent the extraction or use of an individual item of information, or other insubstantial part of a database, in itself. An individual item of information, including a work of authorship, shall not itself be considered a substantial part of a database under section 1302. Nothing in this subsection shall permit the repeated or systematic extraction or use of individual items or insubstantial parts of a database so as to circumvent the prohibition contained in section 1302.

"(b) GATHERING OR USE OF INFORMATION OBTAINED THROUGH OTHER MEANS.—Nothing in this chapter shall restrict any person from independently gathering information or using information obtained by means other than extracting it from a database gathered, organized, or maintained by another person through the investment of substantial monetary or other resources.

"(c) NONPROFIT EDUCATIONAL, SCIENTIFIC, OR RESEARCH USES.—Notwithstanding section 1302, no person shall be restricted from extracting or using information for nonprofit educational, scientific, or research purposes in a manner that does not harm directly the actual market for the product or service referred to in section 1302.

"(d) GENEALOGICAL INFORMATION.—

"(1) IN GENERAL.—Notwithstanding section 1302, no person shall be restricted from extracting or using genealogical information for nonprofit, religious purposes, or from extracting or using, for private, noncommercial purposes, genealogical information that has been gathered, organized, or maintained for nonprofit, religious purposes.

"(2) DEFINITION.—For purposes of this subsection, 'genealogical information' includes, but is not limited to, data indicating the date, time and/or place of an individual's birth, christening, marriage, death, or burial, the identity of an individual's parents, spouse, children or siblings, an other information useful in determining the identity of ancestors.

"(e) NEWS REPORTING.—Nothing in this chapter shall restrict any person from extracting or using information for the sole purpose of news reporting, including news gathering and dissemination, or comment, unless the information so extracted or used is time sensitive and has been gathered by a news reporting entity, and the extraction or use is part of a consistent pattern engaged in for the purpose of direct competition.

"(f) TRANSFER OF COPY.—Nothing in this chapter shall restrict the owner of a particular lawfully made copy of all or part of a database from selling or otherwise disposing of the possession of that copy.

"(g) LAW ENFORCEMENT AND INTELLIGENCE ACTIVITIES.—Nothing in this chapter shall prohibit an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or a person acting under contract of one of the enumerated officers, agents, or employees from extracting and using information as part of lawfully authorized confidential investigative, protective, or intelligence activities.

"§ 1304. Permitted use for certain purposes

"(a) IN GENERAL.—Nothing in this Chapter shall prohibit or otherwise restrict the extraction or use of a database protected under this chapter for the following purposes—

"(1) for illustration, explanation or example, comment or criticism, internal verification, or scientific or statistical analysis of the portion used or extracted; and

"(2) in the case of nonprofit scientific, educational or research activities by nonprofit organizations, for similar customary or transformative purposes.

"(b) CERTAIN USE NOT PERMITTED.—In no case may a use or extraction for a purpose described in subsection (a) be permitted if the substantial harm referred to in section 1302—

"(1) arises because the amount of the portion used or extracted is more than is reasonable and customary for the purpose;

"(2) consists of the use or extraction being intended to, or being likely to, serve as a substitute for or to supplant all or a substantial part of the database from which the extraction or use is made or an adaptation thereof that is protected under this chapter;

"(3) arises because the extraction or use is intended to avoid payment of reasonable fees for use of a database incorporated into a product or service specifically marketed for educational, scientific or research purposes; or

"(4) arises because the use or extraction is part of a pattern, system, or repeated practice by the same party, related parties, or parties acting in concert with respect to the same database or a series of related databases.

“§ 1305. Exclusions

‘‘(a) Government Databases.—

‘‘(1) Exclusion.—Protection under this chapter shall not extend to government databases.

‘‘(2) The adoption or incorporation of, or reference to, a non-government database otherwise protected under section 1302 into or in a government publication, regulation, or statute does not preclude protection for such non-government database under this chapter.

‘‘(3) The incorporation of all or part of a government database into a non-government database otherwise protected under section 1302 does not preclude protection for such non-government database under this chapter.

‘‘(b) Availability of Government Databases and Government Information Incorporated Into Databases.—

‘‘(1) Any person, or a successor in interest, who has incorporated all or part of a government database into a database subject to protection under section 1302 of this chapter, or who has incorporated government information into a database subject to protection under section 1302 of this chapter, shall provide the ability to extract or use the information so incorporated to any person so requesting, where such person is acting within the scope of his or her employment by a nonprofit library, archives, educational, scientific, or research institution, provided that—

‘‘(A) the request for such extraction or use is accompanied by a written statement—

‘‘(i) clearly identifying the information to be extracted or used, in whole or in part; and

‘‘(ii) providing evidence of reasonable, good faith efforts made to obtain such information from other sources;

‘‘(B) the person requesting the ability to extract or use such information can show that such extraction or use is necessary to further a legitimate nonprofit educational, scientific, or research activity;

‘‘(C) the person who has incorporated such information as part of his or her database, or a successor in interest, can reasonably identify, extract, and provide the requested information as first obtained from the government entity, employee, agent, or exclusive licensee, in the original format, separate and apart from other portions of the database; and

‘‘(D) the person requesting such extraction or use reimburses the person who has gathered, organized or maintained such information for the costs of identification, extraction and delivery.

‘‘(2) In cases where a dispute arises as to whether a request made for the ability to extract or use government information or information incorporated into a protected database from a government database, or a response thereto, satisfies the requirements of subsection (b)(1), the court shall determine whether such request was reasonably made or denied and may, upon finding that the request was denied in bad faith, order the person to whom the request was made to provide the ability extract or use the requested information without reimbursement, to pay all costs and attorney's fees incurred by the person making such request, or both

‘‘(c) Exception.—The exclusions under subsections (a)(1) and (b) do not apply to any information required to be collected and disseminated—

‘‘(1) under the Securities Exchange Act of 1934 by a national securities exchange, a registered securities association, or a registered securities information processor, subject to section 1306(g) of this title; or

‘‘(2) under the Commodity Exchange Act by a contract market, subject to section 1306(g) of this title.

‘‘(d) Computer Programs.—

‘‘(1) Protection not extended.—Subject to paragraph (2), protection under this chapter shall not extend to computer programs, including, but not limited to, any computer program used in the manufacture, production, operation, or maintenance of a database, or any element of a computer program necessary to its operation.

‘‘(2) Incorporated databases.—A database that is otherwise subject to protection under this chapter is not disqualified from such protection solely because it resides in a computer program, so long as the database does not, in whole or in part, function as an element necessary to the operation of the computer program.

“§ 1306. Relationship to other laws

‘‘(a) Other Rights Not Affected.—Subject to subsection (b), nothing in this chapter shall affect rights, limitations, or remedies concerning copyright, or any other rights or obligations relating to information, including laws with respect to patent, trademark, design rights, antitrust, trade secrets, privacy, access to public documents, fraud and other inequitable conduct (including, where applicable, misuse), and the law of contract.

‘‘(b) Preemption of State Law.—On or after the effective date of this chapter, all rights that are equivalent to the rights specified in section 1302 with respect to the subject matter of this chapter shall be governed exclusively by Federal law, and no person is entitled to any equivalent right in such subject matter under the common law or statutes of any State. State laws with respect to trademark, design rights, antitrust, trade secrets, privacy, access to public documents, and the law of contract shall not be deemed to provide equivalent rights for purposes of this subsection.

‘‘(c) Relationship to Copyright.—Protection under this chapter is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection or limitation, including, but not limited to, fair use, in any work of authorship that is contained in or consists in whole or part of a database. This chapter does not provide any greater protection to a work of authorship contained in a database, other than a work that is itself a database, than is available to that work under any other chapter of this title.

‘‘(d) Antitrust.—Nothing in this chapter shall limit in any way the constraints on the manner in which products and services may be provided to the public that are imposed by Federal and State antitrust laws, including those regarding single suppliers of products and services.

‘‘(e) Licensing.—Nothing in this chapter shall restrict the rights of parties freely to enter into licenses or any other contracts with respect to the use of databases.

‘‘(f) Communications Act of 1934.—Nothing in this chapter shall affect the operation of the provisions of the Communications Act of 1934 (47 U.S.C. 151 et seq.). Nor shall this chapter restrict any person from extracting or using subscriber list information, as such term is defined in section 222(f)(3) of the Communications Act of 1934 (47 U.S.C. 222(f)(3)).

‘‘(g) Securities and Commodities Market Information.—

‘‘(1) Federal agencies and acts.—Nothing in this Act shall affect:

‘‘(A) the operation of the provisions of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the Commodity Exchange Act (7 U.S.C. 1 et seq.);

‘‘(B) the jurisdiction or authority of the Securities and Exchange Commission and the Commodity Futures Trading Commission; or

‘‘(C) the functions and operations of self-regulatory organizations and securities information processors under the provisions of the Securities Exchange Act of 1934 and the rules and regulations thereunder, including making market information available pursuant to the provisions of that Act and the rules and regulations promulgated thereunder.

‘‘(2) Rules of construction.—Nothing in subsection (e) of section 1303 shall be construed to permit any person to extract or use real-time market information in a manner that constitutes a market substitute for a real-time market information service (including the real-time systematic updating of or display of a substantial part of market information) provided on a real-time basis.

‘‘(3) Definition.—As used in this subsection, the term ‘market information’ means information relating to quotations and transactions that is collected, processed, distributed, or published pursuant to the provisions of the Securities Exchange Act of 1934 or by a contract market that is designated by the Commodity Futures Trading Commission pursuant to the Commodity Exchange Act and the rules and regulations thereunder.

“§ 1307. Certain instructional activities and library uses

‘‘(a) It shall not be a violation of § 1302 to display visually the content of a lawfully obtained database if—

‘‘(1) such display occurs in the course of formal, face-to-face teaching activities in a classroom or similar instructional location of a nonprofit educational institution; or

‘‘(2) such display occurs in the course of, and as a directly relevant and integral part, of a transmission, where such transmission is a regular part of a systematic instructional activity of a nonprofit educational institutional or governmental body, and is made primarily for reception—

‘‘(A) in classrooms or similar places of information;

‘‘(B) by persons whose disabilities prevent attendance at such classroom or place of instruction; or

‘‘(C) by government offices or employees as part of their official duties or employment.

‘‘(b) It shall not be a violation of § 1302 for a nonprofit library accessible to the public to make no more than—

‘‘(1) one copy, in either analog or digital form, of all or a portion of—

‘‘(A) an undisseminated database in the library's current collection if such copy is made solely for the purpose of preservation and security in connection with that library's collection; and

‘‘(B) a disseminated and commercially available database for the sole purpose of replacing in that library's collection, material that is damaged or deteriorating, or has been lost or stolen if the library has reasonably determined that a replacement cannot be commercially purchased, licensed or otherwise obtained,

provided that any copy made in digital format is neither further reproduced or distributed in that format nor made available to the public outside of the physical premises of that library;

‘‘(2) one analog copy of all or a portion of an undisseminated database in the library's current collection for the sole purpose of research use in another nonprofit publicly accessible library; or

“(3) one analog copy of a small portion of a database in connection with standard and customary library transactions, including inter-library arrangements, for the benefit of a specific user who takes permanent possession of that copy, if the library—

“(A) has no notice that the copy would be used for purposes other than private study;

“(B) is not aware that it is involved in related or concerted multiple or cumulative copying; and

“(C) is not engaged in systematic activity other than through its mere participation in the interlibrary arrangement.

“(c) Nothing in this section affects any contractual obligation assumed by the library, educational institution or governmental body as part of a donor, subscription, license, or other arrangement.

“§ 1308. Civil remedies

“(a) Civil Actions.—Any person who is injured by a violation of section 1302 may bring a civil action for such a violation in an appropriate United States district court without regard to the amount in controversy, except that any action against a State governmental entity may be brought in any court that has jurisdiction over claims against such entity.

“(b) Temporary and Permanent Injunctions.—Any court having jurisdiction of a civil action under this section shall have the power to grant temporary and permanent injunctions, according to the principles of equity and upon such terms as the court may deem reasonable, to prevent a violation of section 1302. Any such injunction may be served anywhere in the United States on the person enjoined, and may be enforced by proceedings in contempt or otherwise by any United States district court having jurisdiction over that person.

“(c) Impoundment.—At any time while an action under this section is pending, the court may order the impounding, on such terms as it deems reasonable, of all copies of contents of a database extracted or used in violation of section 1302, and of all masters, tapes, disks, diskettes, or other articles by means of which such copies may be reproduced. the court may, as part of a final judgment or decree finding a violation of section 1302, order the remedial modification or destruction of all copies of contents of a database extracted or used in violation of section 1302, and of all masters, tapes, disks, diskettes, or other articles by means of which such copies may be reproduced.

“(d) Monetary Relief.—When a violation of section 1302 has been established in any civil action arising under this section, the plaintiff shall be entitled to recover any damages sustained by the plaintiff and defendant's profits not taken into account in computing the damages sustained by the plaintiff. the court shall assess such profits or damages or cause the same to be assessed under its direction. In assessing profits the plaintiff shall be required to prove defendant's gross revenue only and the defendant shall be required to prove all elements of cost or deduction claims. In assessing damages the court may enter judgment, according to the circumstances of the case, for any sum above the amount found as actual damages, not exceeding three times such amount, provided that the database that is the subject of the judgment has been properly deposited pursuant to section 1311. the court in its discretion may award reasonable costs and attorney's fees to the prevailing party and shall award such costs and fees where it determines that an action was brought under this chapter in bad faith against a nonprofit educational, scientific, or research institution, library, or archives, or an employee or agent of such an entity, acting within the scope of his or her employment.

“(e) Reduction or Remission of Monetary Relief for Nonprofit Educational, Scientific, or Research Institutions.—The court shall reduce or remit entirely monetary relief under subsection (d) in any case in which a defendant believed and had reasonable grounds for believing that his or her conduct was permissible under this chapter, if the defendant was an employee or agent of a nonprofit educational, scientific, or research institution, library, or archives acting within the scope of his or her employment.

“(f) Actions Against United States Government.—Subsections (b) and (c) shall not apply to any action against the United States Government.

“(g) Relief Against State Entities.—The relief provided under this section shall be available against a State governmental entity to the extent permitted by applicable law.

“§ 1309. Criminal offenses and penalties

“(a) Violation.—

“(1) In general.—Any person who violates section 1302 willfully shall be punished as provided in subsection (b), provided such violation—

“(A) is committed for direct or indirect commercial advantage or financial gain; or

“(B) causes loss or damage aggregating $10,000 or more in any 1-year period to the person who gathered, organized, or maintained the information concerned.

“(2) Inapplicability.—This section shall not apply to an employee or agent of a nonprofit education, scientific, or research institution, library, or archives acting within the scope of his or her employment.

“(b) Penalties.—(1) Any person who commits an offense under subsection (a) shall be punishable by a fine of not more than $100,000 or imprisonment for not more than 1 year;

“(2) Any person who commits an offense under subsection (a) and causes loss or damage aggregating $20,000 or more in any 1-year period to the person who gathered, organized, or maintained the information concerned, shall be punishable by a fine of not more than $250,000 or imprisonment for not more than 5 years;

“(3) Any person who commits a second or subsequent offense under subsection (a) shall be punishable by a fine of not more than $500,000 or imprisonment for not more than 10 years.

“§ 1310. Limitations on actions

“(a) Criminal Proceedings.—No criminal proceeding shall be maintained under this chapter unless it is commenced within three years after the cause of action arises.

“(b) Cvil Actions.—No civil action shall be maintained under this chapter unless it is commenced within three years after the cause of action arises or claim accrues.

“(c) Additional Limitation.—No criminal or civil action shall be maintained under this chapter for the extraction or use of all or a substantial part of a database that occurs more than 15 years after the end of the calendar year in which the portion of the database that is extracted or used was first offered for sale or otherwise in commerce, by the person claiming protection under this chapter or that person's predecessor in interest, after the investment of resources was made that qualified that portion of the database for protection under this chapter. In no case shall the renewal of protection for any part of parts of an existing database owing to the substantial investment of resources in updating or maintaining that database prevent any use or extraction of information contained in the preexisting database at the expiration of the term prescribed above, and no liability under this Chapter shall thereafter attach to such acts or use or extraction.

“(d) Additional Defense for Database Not Deposited With the Copyright Office.—In the case of a database that has not been deposited with the Copyright Office before the extraction or use takes place and within one year of its first offering for sale or otherwise in commerce, no civil or criminal action shall be maintained under this title if the person extracting or using the information believed and had reasonable grounds to believe that fifteen years had elapsed from the end of the calendar year in which the database was first offered for sale or otherwise in commerce after the investment of resources was made that qualified the portion of the database extracted or used for protection under this chapter.

“(e) Service Provider Liability.

“(1) Limitation on liability.—Subject to the limitations of paragraph (2), a provider of online services or network access, or the operator of facilities therefor, shall not be liable for a violation of section 1302 by reason of—

“(A) transmitting, routing, or providing connections for, material through a system or network controlled or operated by or for the service provider;

“(B) providing storage of that material on a system or network controlled by or operated for the service provider; or

“(C) referring or linking users to an online location at which a database is used in a manner prohibited by section 1302.

“(2) Conditions.—The limitation on liability set forth in paragraph (1) (B) and (C) shall apply, provided that—

“(A) the service provider did not initially place the material on the system;

“(B) the service provider does not have actual knowledge that the use violates section 1302 or, in the absence of such actual knowledge, is not aware of facts or circumstances from which such violation is apparent; or

“(C) upon obtaining such knowledge or awareness, the service provider acts expeditiously to remove the material, or to disable the use, to the extent such removal or disablement is technically feasible, effective and economically reasonable.

“(3) Notification of claimed violation.—A service provider will be presumed to have actual knowledge if it receives adequate notification of a claimed violation in compliance with the requirements as set forth in section 512(c)(4) of this title from a person who is injured by a violation of section 1302 or his designated agents.

“(4) Reenabling of use.—If a person claiming to be injured by a violation of section 1302 does not obtain a court order enjoining the alleged violation within 10 days of the service provider disabling the use, the alleged violator may request the service provider to reenable the use, and upon receiving such request in compliance with the requirements as set forth in section 512(f)(3) of this title, the service provider may reenable the use without becoming liable for a violation of section 1302.

“(5) Limitation on other liability.—A service provider shall not be liable for any claim based on the service provider's good faith removal, or disabling of a use, or a database claimed to violate section 1302 or based on facts or circumstances from which such violation is apparent, regardless of whether a violation of section 1302 is ultimately determined to have occurred.

"(6) Misrepresentations.—Any person who knowingly misrepresents that material or activities violate section 1302 shall be liable for any damages, including costs and attorneys' fees, incurred by the alleged violator or by the service provider who is injured by such misrepresentation.

"§1311. Deposit of databases

"(a) In General.—Within one year from the date on which a database is first offered for sale or otherwise in commerce after the investment that qualified that database for protection under this chapter, a person claiming protection under section 1302 for a database may deposit the database by delivering to the Copyright Office a deposit copy, Statement of Deposit, and fee, as specified by this section.

"(b) Copyright Office Regulations.—The Register of Copyrights shall establish by regulation procedures for the deposit of databases, including permissible formats for deposit copies.

"(c) Deposit for Databases.—The deposit for a database shall consist of one complete copy of the databse and a Statement of Deposit.

"(1) Statement of Deposit.—The Statement of Deposit shall be made on a form prescribed by the Register of Copyrights and shall include—

"(A) the name and address of the person claiming protection under section 1302;

"(B) a title or other information identifying the database;

"(C) a general statement of the nature of the investment qualifying the database for protection;

"(D) the year in which the database was first offered for sale or otherwise in commerce;

"(E) in the case of a new version or update of a database, an identification of any preexisting database that it is based on or incorporates, and a general statement of any additional investment covered by the new deposit; and

"(G) any other information regarded by the Register of Copyrights as bearing on the identification of the database or the application of section 1310(c).

"(2) Supplementary Statement of Deposit.—A depositor or its successor in interest may file a supplementary Statement of Deposit, to correct errors or omissions in a prior Statement of Deposit for the same database, or to reflect changed circumstances.

"(d) Fees.—The Register of Copyrights is authorized to set and adjust fees to cover the reasonable costs of the deposit system for databases established by this section.

"(e) Effect of Material False Statements.—Any material false statement knowingly made in a Statement of Deposit shall void the deposit of the database.

"(f) Issuance of Certificate and Date of Deposit.—

"(1) The Register of Copyrights shall, upon receipt of the deposit copy, Statment of Deposit, and fee specified by this section, issue to the person claiming protection under section 1302 a certificate of deposit.

"(2) The effective date of deposit for a database is the day on which the deposit copy, Statement of Deposit, and fee have all been received in the Copyright Office.

"(g) Inspection and Copying of Records.—

"(1) Statements of deposit.—A record of all Statements of Deposit for database deposited with the Copyright Office shall be maintained in the Copyright Office and shall be available to the public for inspection and copying.

"(2) Deposit copies.—

"(A) During the fifteen years following the end of the calendar year of the date specified in the deposit statement as the date of the first offering in commerce after the qualifying investment, the Copyright Office shall permit access to the deposit copy of the database only upon authorization of the depositor or its successor in interest, or the purposes of litigation under this chapter in accordance with regulations issued by the Register.

"(B) Fifteen years from the end of the calendar year of the date specified in the deposit statement as the date of the first offering in commerce after the qualifying investment, the Copyright Office shall make the deposit copy of the database available to the public for inspection and copying subject to the conditions established by the Register under subsection. (C).

"(C) The Register shall by regulation specify conditions for access under subsections (A) and (B) to the copies of databases deposited with the Copyright Office, including measures to safeguard any copyrights, trade secrets, or other legal rights of the depositor or its successor in interest.

"(3) Exclusion.—Deposit copies deposited with the Copyright Office pursuant to this section are not subject to the provisions of the Freedom of Information Act, 5 U.S.C. §552.

"(h) Effective Date.—This section and section 1310(d) shall take effect one year from the date of the enactment of this Act."

SEC. 4. STUDY REGARDING THE EFFECT OF THE ACT.

(A) In General.—Not later than 5 years after the effective date of this Act, and every 10 years thereafter, the General Accounting Office, in consultation with the Register of Copyrights and the Department of Justice, shall submit to the Committees on the Judiciary of the Senate and the House of Representatives, a report evaluating the effect of this Act.

(b) Elements for Consideration.—The study conducted under subsection (a) shall consider—

(1) The extent to which the ability of persons to engage in the permitted acts under this Act has been frustrated by contractual arrangements or technological measures,

(2) the extent to which information contained in databases that are the sole source of the information contained therein is made available through licensing or sale on reasonable terms and conditions;

(3) the extent to which the license or sale of information contained in databases protected under this Act has been conditioned on the acquisition or license of any other product or service, or on the performance of any action, not directly related to the license or sale;

(4) the extent to which the judicially-developed doctrines of misuse in other areas of the law have been extended to cases involving protection of databases under this Act;

(5) the extent, if any, to which the provisions of this Act constitute a barrier to entry, or have encouraged entry into, a relevant database market;

(6) the extent to which claims have been made that this Act prevented access to valuable information for research, competition or innovation purposes and an evaluation of these claims;

(7) the extent to which enactment of this Act resulted in the creation of databases that otherwise would not exist; and

(8) such other matters necessary to accomplish the purpose of the report.

SEC. 5. CONFORMING AMENDMENT.

The table of chapters for title 17, United States Code, is amended by adding at the end the following:

"13 Misappropriation of Databases .... 1301".

SEC. 6. CONFORMING AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) District Court Jurisdiction.—Section 1338 of title 28; United States Code, is amended—

(1) in the section heading by inserting "misappropriations of databases," after "trade-marks,"; and

(2) by adding at the end the following:

"(d) The district courts shall have original jurisdiction of any civil action arising under chapter 13 of title 17, relating to misappropriation of databases. Such jurisdiction shall be exclusive of the courts of the States, except that any action against a State governmental entity may be brought in any court that has jurisdiction over claims against such entity."

(b) Conforming Amendment.—The item relating to section 1338 in the table of sections for chapter 85 of title 28, United States Code, is amended by inserting "misappropriations of database," after "trade-marks,".

(c) Court of Federal Claims Jurisdiction.—Section 1498(e) of title 28, United States Code, is amended by inserting "and to protections afforded databases under chapter 13 of title 17" after "chapter 9 of title 17".

SEC. 7. EFFECTIVE DATE.

(a) In General.—This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act, and shall apply to acts committed on or after that date.

(b) Prior Acts Not Affected.—No person shall be liable under chapter 13 of title 17, United States Code, as added by section 2 of this Act, for the extraction or use of all or a substantial part of a collection of information for which the investment of resources which qualified the collection of information for protection under this chapter occurred prior to the effective date of this Act.

REAUTHORIZATION OF THE DEPARTMENT OF JUSTICE

Mr. HATCH. Mr. President, I rise to discuss for the benefit of my colleagues a matter of great importance—consideration this Congress of legislation to reauthorize the Department of Justice.

It has been nearly two decades since Congress has passed a general authorization bill for the Department of Justice. It is in my view a matter of significant concern when any major cabinet department goes for such a long period of time without congressional reauthorization. Such lack of reauthorization encourages administrative drift, and permits important policy decisions to be made ad hoc through the adoption appropriations bills or special purpose legislation.

However, these concerns are amplified when the department in question is of such central importance to our national life as is the Department of Justice. The Department is entrusted critical duty of primary responsibility for the enforcement of our Nation's laws. Through its divisions and agencies including the FBI and DEA, it investigates and prosecutes violations of federal criminal laws protects the civil rights of our citizens, enforces the antitrust laws, and represents every department and agency of the United States Government in litigation. Increasingly, its mission is international as well, protecting the interests of the United States and its people from growing threats of trans-national crime and international terrorism. And, among the Department's key duties is providing assistance and advice to state and local law enforcement.

The growing importance of the Department's role is demonstrated by the growth of its budget in the last two decades. In fiscal year 1979, the Department of Justice's budget was just $2.538 billion, and represented one half of one percent of the federal government's $559 billion budget. In fiscal year 1999, the Department of Justice's budget is more than seven times greater—an estimated $18.2 billion, representing about 1 percent of the $1.75 trillion federal budget.

As Chairman of the Judiciary Committee, I would like to advise my colleagues that a major priority of the committee this year will be the reauthorization of the Department of Justice. Last Congress, the Judiciary Committee reported a bipartisan, 3-year Justice Department reauthorization bill which was sponsored by myself and the distinguished ranking member, Senator LEAHY. Unfortunately, this legislation, which was similar to a bill passed by the House of Representatives, never received consideration by the full Senate.

In the next several weeks, I will reintroduce legislation to reauthorize the Department of Justice. The Judiciary Committee will redouble its efforts to address this important issue.

I look forward to continuing reports to my colleagues on the important issue of Department of Justice reauthorization, and to working with each of my colleagues on this matter.

WASHINGTON AND LEE UNIVERSITY—250TH ANNIVERSARY

Mr. WARNER. Mr. President I rise today to commemorate the 250th anniversary of Washington and Lee, an institution revered in Virginia and rooted in American history.

My first association with Washington and Lee came at the knee of my father, a 1903 alumnus. His deep sense of honor and integrity was indelibly linked to his days at Washington and Lee. Indeed, still today, Washington and Lee's strong honor system is the foundation of the moral standard that is the guiding principle at the university for its alumni.

As a student at Washington and Lee and even after my graduation in 1949, I have had a keen interest and fascination with the history of the university. In 1749, Scottish-Irish pioneers founded Augusta Academy in the vicinity of what is now known as Lexington, Virginia. Fueled by a budding Revolution and a sense of patriotism, trustees of the academy changed its name to Liberty Hall in 1776.

In 1796, George Washington saved the struggling institution from possible demise with a gift of stock shares in the James River Company. At the time, this gift, which was valued at $20,000, was the largest gift ever made to a private educational institution in America. Moreover, as part of the University's endowment, George Washington's gift has generated over $500,000 of income and, to this day, helps pay part of the cost of every student's education.

In appreciation of Washington's gift, the trustees changed the school's name to Washington Academy in 1798. Washington responded: "To promote the Literature in this rising Empire, and to encourage the Arts, have ever been amongst the warmest wishes of my heart."

Following the Civil War, the Board of Trustees unanimously elected Confederate General Robert E. Lee as president in 1865. Initially, Lee was very hesitant about accepting the position. He feared his name would be forever linked to the Confederate cause, bringing embarrassment and hostility toward the school. However, after repeated urging by the trustees, Lee accepted and on September 18, he rode Traveler into Lexington to assume the presidency of Washington college.

During his tenure, Lee affiliated Lexington Law School with the college and institutionalized the school's unique honor system. He greatly emphasized the sciences and created courses in business and journalism that were among the first by any school in the United States. In appreciation for Lee's lasting contribution to the growth of the college, the trustees changed the school's name from Washington College to Washington and Lee University in 1870.

Mr. President, I ask that my colleagues join with me today, on Washington and Lee University Founder's Day, in tribute to the ninth oldest institution of higher learning in America.

BUDGET PROCESS REFORM

Mr. McCAIN. Mr. President, today, I am pleased to sponsor three bills designed to improve the way Congress spends Americans' hard-earned dollars.

First, Senator DOMENICI and I and others are co-sponsoring legislation requiring Congress to adopt a biennial budget process. Second, Senator KYL and I are introducing a resolution to establish a 60-vote point of order against any item in any appropriations measure that provides more than $1 million for any program, project, or activity which is not specifically authorized in a law other than an appropriations act. Third, Senator KYL and I are introducing a resolution to establish a privileged, non-debatable motion to proceed to any appropriations measure after June 30 of any year.

As anyone who has followed Congress over the years knows, budget process reform is not new. It is often the subject of heated political debate. It has spawned numerous vigorous floor debates and been the subject of much controversy. Unfortunately, little in the way of substantive reform has ever been accomplished. Surely, after our experience with the fiscal year 1999 budget process, most in Congress would agree that budget process reform is an idea whose time has finally come. The time for rhetoric has passed, and the time for overall substantive reforms is here.

The power of the purse is vested in the Congress. However, the obligation to control the purse does not mean Congress do so with impunity or with disregard for the greater good of the Nation.

Since I came to Congress, I have spent a great deal of my time considering matters related to the budget. As critical as I have been of the Congressional budget process over the past 16 years, the monstrosity of a spending bill we passed last year took my outrage to new heights. This bill clearly illustrates that our budget process is flawed. If we had adequate controls on the budget process, the fiscal year 1999 omnibus appropriations bill would never have occurred.

The second session of the 105th Congress convened on January 27 and adjourned on October 21, 1998—a total of 266 calendar days in which Congress completed work on only 4 of the 13 regular appropriations bills that keep the federal government open and functioning. Yet it took us just 24 hours to debate and pass a 4,000-page, 40-pound, non-amendable, budget-busting omnibus appropriations bill that provided more than half-a trillion dollars to fund 10 Cabinet-level federal departments for the fiscal year that started 21 days prior.

The bill exceeded the budget ceiling by $20 billion for what is euphemistically called emergency spending, much of which is really everyday, garden-variety, special interest, pork-barrel spending projects. Sadly, these projects are paid for by robbing billions from the budget surplus. This bill made a mockery of the Congress' role in fiscal matters. It was and still is a betrayal of our responsibility to spend the taxpayers' dollars wisely and enact laws and policies that reflect the best interests of all Americans, rather than the special interests of a few.

I voted against the omnibus appropriations bill, as did many of our colleagues. But the bill passed, and is now law. This bill became law because Congress was forced to either adopt this bill, or face another government shutdown. In a sense, Congress was once again held hostage by the prospect of experiencing another government shutdown.

Sadly, for most years, the Federal budget is passed in one fell swoop through one monster bill. Appropriations committees, charged with passing separate legislation to pay for each portion of the Government, disregard their deadlines and lump all Government spending in one mammoth bill. Failure to pass such a behemoth would result in a complete shutdown of all Government agencies and chaos among recipients of Government benefits. We have been held hostage in this manner, in the past, and will be again in the future if meaningful comprehensive budget process reforms are not adopted promptly.

We cannot mortgage away our future generations' prosperity by spending wastefully today. Budget process is key to maintaining fiscal responsibility. Our more than ever increasing $5 trillion national debt and the fiscal nightmare of the fiscal year 1999 omnibus appropriations bill indicate that Congress must change the way it conducts the budget process.

We can ill afford to permit an inadequate budget process to squander away our first budget surplus in decades. According to the U.S. Department of the Treasury, our national debt is now $5.52 trillion. The Congressional Budget Office estimates that in fiscal year 1998, the federal government paid more than $244 billion in net interest, or some $668 million every day. These numbers are facts. The facts are scary—$668 million every day to pay for the interest on our national debt. The more we spend on interest, the less we have to spend for other vital goods and services.

This must stop. The only way to stop wasting almost a quarter of a trillion dollars a year is to pay down our national debt and ensure we do not squander this opportunity by instituting budget process reforms.

Our founding fathers saw the importance of avoiding debt and wasteful spending. The framers assumed that each generation would pay its own bills, and Thomas Jefferson stated:

> I place economy among the first and most important of republican virtues, and public debt as the greatest of dangers to be feared.

Yet we are content to burden every child born in this century with a $5.5 trillion debt.

The Congressional Budget Office estimates that we will have an $80 billion surplus for fiscal year 1999. But we are not protecting the budget surplus to save social security. We are not protecting the budget surplus to pay down our debt. Nor are we spending tax dollars cautiously to insure that funds are available to allow Congress to pass broad-based middle-class tax relief. Why? Because our current budget process is flawed. It is easily manipulated to appropriate funds for locality-specific parochial interests, as opposed to the national interests. Paying down the debt, saving social security, and broad-based middle-class tax relief would benefit all Americans. Yet we continue to ignore these priority needs when we approve monstrosities like the fiscal year 1999 omnibus appropriations bill.

The problem is the current budget process. It allows the politics of the moment to take precedence over larger long-term issues which impact the Nation as a whole. The legislation I am co-sponsoring, and the reforms I am introducing will address the ills in the current budget process.

First, the biennial budgeting legislation drafted by Senator DOMENICI will radically change the way Congress passes a Federal budget. This legislation will require the President to submit and the Congress to enact two-year authorization and appropriations bills. Biennial budgeting would allow us to focus attention on fiscal matters during the first full year of a Congress, then turn to other pressing matters of national policy the second year. Two-year budgets would also provide needed predictability and stability for government agencies and programs.

Biennial budgeting will not solve all our budget process woes, and it will not automatically solve the serious problems posed by the increased demand on entitlement programs as the next generation begins to retire. However, what a biennial budget can do is to give us time for the important tasks that often get short shrift these days, such as conducting oversight and long-range planning. The legislation that we are introducing today will ensure that time for oversight and long-range planning is set aside.

I am also sponsoring 3 procedural changes governing the Senate's budget process. I am introducing a resolution in the Senate to amend our procedures to establish a 60-vote point of order against any item in an appropriations measure that provides more than $1 million for any program, project, or activity which is not already specifically authorized in a law other than an appropriations act. This is the system of checks and balances that is envisioned in the law, and I believe the Senate should adhere to this necessary fiscal restraint. To do anything less makes a mockery of the authorization process. If we do not do this, and we continue to use appropriations bills to do all our authorizing business, why even have authorizing committees?

I am also introducing a resolution in the Senate to make a motion to proceed to any appropriations measure after June 30 a privileged motion. The Budget Act establishes June 30 as the date by which the House is expected to complete action on all the appropriations measures. By eliminating the need to debate, file cloture, and vote on a motion to proceed to appropriations measures after that date, the Senate could save a full week's time, and could instead spend that time working on the bill itself.

Also, I am sponsor of Senate Resolution 4, introduced on January 6, 1999, which restores the point of order preventing Senators from attaching legislative "riders" to appropriations measures.

This measure will go a long way toward preventing gridlock over policy matters in spending bills.

These procedural changes would, in my view, go a long way toward restoring openness, fairness, and public input in the process of spending the taxpayers' dollars. We would be able to pass budgets in the normal process, rather than budget by brinkmanship.

These budget reform proposals are not a political exercise. These reforms are long-overdue and real. It is my intention to work with the leadership to move this legislation quickly. It is very important we act before the appropriations season begins in earnest.

To do nothing to reform our budget process is far more dangerous than to try and not succeed. Budget process reform must be adopted to insure that we do not waste the opportunity to start shaving away at our massive national debt. The system is set up to have checks and balances. Lately, we have drifted from this process. Congress must adopt meaningful budget process reform this year, or risk further fiscal monstrosities like the fiscal year 1999 omnibus appropriations bill.

Clearly, the process by which we spend Americans' hard-earned dollars is flawed and needs to be changed. I hope my colleagues will acknowledge the obvious, and push for comprehensive budget process reform at the earliest opportunity.

THE "ED-FLEX" PROGRAM

Mr. ABRAHAM. Mr. President, I rise today to urge my colleagues' support for important legislation introduced by Senators FRIST and WYDEN, the Education Flexibility Act. This legislation would expand the popular "Ed-Flex" program to all 50 states. Currently, 12 states, including Michigan, participate in the program.

Through the "Ed-Flex" program, the Department of Education delegates to the states its power to grant individual school districts temporary waivers from certain federal requirements if those requirements interfere with state and local efforts to improve education. To be eligible, a State must be able to waive its own regulations on schools. The State must hold schools accountable for results by setting academic standards and measuring student performance, requiring schools to publish school report cards, and intervening in low performance schools. This program does a great deal to reduce the regulatory burden for states trying to improve the education it provides to its citizens.

This program has been a tremendous success in Michigan. The first benefit came to Michigan in simply applying for the program. It was during this process that the Governor's office realized it did not meet the two criteria necessary to apply for the waiver because the state could not waive its own regulations. As a result, the Governor's office worked with the State legislature and State Board of Education to prepare and obtain this authority. Another benefit of the "Ed-Flex" program came when the state put in place the Waiver Referent Group. This group is made up of representatives from the Department, local and intermediate school districts, private schools, parent organizations, advisory and professional groups, and business/community members. Through this collaboration, the State will receive input on potential regulations that may help reduce barriers to reform from the people most closely associated with the regulations that are hindering their ability to achieve real and lasting reform.

I am proud to be an original cosponsor of this important legislation. I am confident that the "Ed-Flex" program will be as valuable of a tool to education reform for other states as it has been to Michigan's education reform efforts.

THE TRADE FAIRNESS ACT OF 1999

Mr. ROCKEFELLER. Mr. President, I rise today to introduce legislation which will help the President deal with the flood of dirt-cheap steel imports from our trading partners. I introduce this legislation with the full knowledge that there are many actions required to respond to the steel import crisis that is corroding the United States' steel industry's ability to compete. This crisis is hurting our steelworkers and our companies. It must be dealt with as a top priority in the 106th Congress.

The bill I am introducing today deals with two important aspects of this crisis: monitoring imports and remedying injury to domestic industries under our trade laws. The bill has two main parts. The first section reforms Section 201 of the Trade Act of 1974 to conform its standard of injury to that of our world trading partners. This reform will affect all products which are covered by Section 201 by revising the U.S. standard for injury to the standard used in the World Trade Organization's Safeguards Code. The second section of the bill will help us better track steel imports by requiring an import permit for steel and establishing a monitoring program. This will allow us to track steel imports, as many of our trading partners currently have the ability to do. It will provide import data in a more timely fashion and help us better anticipate future import problems. I am proposing the "Trade Fairness Act of 1999" along with my colleague and Senate Steel Caucus co-chair, Senator SPECTER, in order to strengthen the President's ability to help domestic industries receive the relief they need and deserve when imports are a cause of serious injury, and so we know what when significant amounts of foreign steel are entering our country.

Import relief is what the U.S. steel industry desperately needs right now. This bill contains provisions that will help us more effectively deal with future import problems, but it will not provide the immediate assistance that our steel industry needs to survive this crisis. Within a matter of days, we will have the steel import data from the end of last quarter. I fully expect it will show that the United States is still enduring an unprecedented level of steel imports. I also strongly believe that most of those imports continue to be sold at historically low prices; prices which are below the cost of actual production in many instances. American steel manufacturers cannot fight this unfair trade practice without help. West Virginia and other major steel makers deserve help now, before it is too late. This measure addresses some of the structural reforms needed to deal with import surges in the future, but, again, I have to admit it won't do what's needed to stop the flood of steel imports. I firmly believe that a 201 action is what is required, now, to stop the imports. I have strenuously made that case to the Administration, and will continue to make that case to the President and his advisors, as well as my colleagues on the Finance Committee, and in the Congress. I am also likely to submit other legislative remedies to deal with the emergency which faces the United States' steel industry and its workers.

This legislation I am introducing today includes reforms we need to improve the way U.S. trade laws function in a crisis. The import licensing will help the steel industry specifically, but the Section 201 reforms will ultimately benefit all products where foreign competitors have dumped their product on the American market. I intend to push these provisions during the Finance Committee's consideration of trade legislation in the 106th Congress. The 201 reforms will improve our ability to remedy harm against domestic industries and at the same time remain consistent with rules we expect our world trading partners to live by. We can be tough and fair on trade at the same time and the bill I am introducing today proves it.

In my state of West Virginia, our two largest steel manufacturers, Weirton Steel and Wheeling-Pittsburgh Steel, have been hit hard by the steel import crisis. Weirton alone has laid off over 900 workers and there is the possibility that their fourth quarter earnings and order book could force these two companies to consider additional lay offs in the near future. Wheeling-Pittsburgh is also worried about the effect of the crisis on their bottom-line. Laying off workers is never easy, but this crisis is forcing hard decisions. West Virginia steel makers are producing world-class products as efficiently as any foreign competitor, but when foreign competitors are blatantly dumping their product at prices which are sometimes actually below the cost of production, it cuts the legs out from under American companies. Such unfair practices are absolutely unacceptable. U.S. industry—the U.S. steel industry and other industries—deserve just remedies when competitors unfairly dump their product on the U.S. market. We want to give the President the policy tools he needs to deal with unfair import competition.

Import data tells the story of a worsening steel crisis—the first two quarters of 1998 have shown a 27% increase in imports of hot-rolled steel. Japanese imports increased by an astounding 114% in that same time frame. Steel imports from South Korea increased 90%. There is no end in sight. Russia and Brazil are other prime offenders. A trade case is pending against the imports of hot-rolled steel from Russia, Brazil and Japan. The Commerce Department made a determination of critical circumstances in regard to that case. More cases are expected.

The real tragedy of this crisis is that the U.S. steel industry has spent over a decade reinventing itself, adjusting and modernizing, in order to become a top-notch competitor as we approach the 21st century. This industry is a true success story—productivity has shot up and we can beat any producer in the world on price and quality when provided with a level playing field. For decades, I have worked with leaders in the steel industry at Weirton Steel, Wheeling-Pittsburgh, Wheeling-Nisshin, and others. I have watched and encourage these steelmakers and unions working together to make the tough, necessary decision to modernize.

Unfortunately, just as United States steel manufacturers are realizing the gains of such investments, they are facing a flood of imported steel being sold at rock bottom prices—again, below the cost of production in some instances. We cannot compete against that kind of unfair competition. The legislation Senator SPECTER and I are ing today will both allow us to ficiently track steel imports e the President an improved nsure that when there is seri- ry as a result of imports, the respond.

cally, the legislation I intro- ay with Senator SPECTER will ection 201 of our trade law and import licensing for steel classified under Chapters 72 or Harmonized Tariff Schedule of ed States.

e lay each of the bill's two ovisions in a little more de-

Section 201, which this legisla- strengthen, permits the Presi- grant domestic industries im- ef in circumstances where im- the substantial cause of seri- y.

current law, domestic indus- t show that increased imports "substantial cause" of serious which means a cause that is t and not less than any other his imposes an unfair, higher f proof on domestic industries equired to prove injury under rade Organization standards. eguards Code of the World ganization was established to e that fair trade did not mean had to put up with unfair The WTO standard requires t there be a causal link be- reased imports and serious in- lieve that U.S. law should not tougher standard for Amer- panies of harm than the WTO the international community. the WTO standard is respon- reasonable. In this bill, we o establish the same standard J.S. as is used by the WTO. e must mean fair trade.

tion, in this bill we also in- onform U.S. law to the stand- e WTO Safeguards Code when ng the overall test for judging re has been serious harm to a industry. We clarify that the onal Trade Commission (ITC) view the overall condition of stic industry in determining e of that injury by making it it is the effect of the imports verall state of the industry nts, not solely the effect on of the particular criteria used luation.

our trade partners, like Can- lexico, have more modern sys- track imports than we do in d States. This legislation ad- hat problem and provides us er and more timely data on Explicitly, this legislation re- t within 30 days of the enact- his legislation, that the Sec- Commerce, in consultation Secretary of the Treasury, blish an import permit and g program which applies to any one importing a product under chapter 72 or 73 of the Harmonized Tariff Schedule of the United States that is initially entered into a bonded warehouse or foreign trade zone. Steel import permits will be required before the merchandise is entered into the customs territory of the United States. These permits will be valid for 30 days. The data collected from this permit program will be compiled in aggregate form and be made publicly available on a weekly basis and posted on an Internet site. The Administration already proposed releasing import data earlier and publicly as part of its January, 1999, report to Congress on steel. This legislation will complement that proposal. The Secretary of Commerce will be able to impose reasonable fees to defray the costs of this program.

It is our sincere hope that Congress will enact this legislation as part of trade legislation that moves in the 106th Congress. Passage of this legislation will send the message that the United States will fight for the right of its industries to compete on a level playing field in world trade. If imports flood our markets, we will act to protect American industries against the consequences.

I am someone who adamantly believes the promotion of free trade is essential to our country's continued economic growth. If we are to continue to expand the trade base of our economy we need U.S. industry to know that we will keep it fair. American industry and American workers can deal with fair trade, but they shouldn't be asked to sit still for unfair trade practices that hurt workers and their families, while robbing the profit-margins of U.S. companies.

I intend to work in the 106th Congress, with my colleagues on the Finance Committee and those in the Administration responsible for trade policy, to give the President better, more effective tools to ensure that our country can insist trade be free and fair. Our steel industry, indeed all U.S. industries, deserves no less. But this legislation alone will not remedy the steel crisis our country faces. Rest assured, I will continue to carefully review my legislative options and take other appropriate actions in the near future to help fight this important crisis.

COUNTRY OF ORIGINAL LABELING BILL

Mr. BURNS. Mr. President, I rise today to sponsor a bill being introduced by myself, Mr. CRAIG and Mr. THOMAS on an issue of great importance to my state and the agricultural industry. The issue is that of labeling meat coming into America from other countries.

This language offered today will require all meat products that are imported from a foreign country to be labeled with the country of origin of that meat. This bill will protect the consumer as well as the agricultural industry, which has had to face severe competition from foreign countries in recent years.

American agricultural producers are currently faced with a huge influx of imports from both Canada and Mexico. Country of origin labeling would do two very important things. First, it would present the consumer with the knowledge to make the choice which meat they want to buy. 78% of consumers polled by Wirthlin Worldwide endorse country of origin labeling. 70%! This says to me that consumers want to be making informed decisions. The vast majority of other types of products that come into the U.S. are labeled with the country they originated in. To name a few, we are aware of where our textiles, manufactured parts, automobiles and watches come from. Why should food be any different? Consumers go to the store with the assumption they are buying U.S. made product. In fact, this is usually not the case. Consumers are completely aware of the country of origin of each article of clothing they put on the outside of their body. Yet they have no idea where any of the food they put inside their body comes from. Many consumers prefer to buy "Made in the U.S.A." and they especially have a right to know.

Secondly, this bill will protect both the American producer and the American consumer. Currently, foreign meat that comes into the U.S. is rolled with the USDA grade stamp. This is grossly unfair to the producer and consumer alike. The USDA stamp on foreign product is a detriment to the producer because foreign countries get the benefit of the grade stamp, without having to pay for it. America's producers need the protection of country of origin labeling to assure that the USDA label really means just that—produced in the U.S. It is a detriment to the consumer because they deserve to know that they are buying American and that they are buying absolutely the safest food supply in the world, which is grown by American farmers and ranchers.

Furthermore, other countries already require labeling of meat and meat products. Argentina, Australia, Brazil, Canada and Mexico currently require country of origin labeling. The European Union plans to do the same by the year 2000. If we are to compete in an international market, the U.S. must step up and level the playing field.

Again, American agriculture provides the American consumer with the safest, most reliable source of food and fiber in the world. Consumers have proven they want to know where their food comes from. With this in mind we then should be informing the American consumer that they really are purchasing American product.

I am proud and very pleased to serve as sponsor of this bill and I look forward to moving it through the legislative process so we may give our consumers the information and the choice to buy "Made in the U.S.A."

PREPAID TUITION

Mr. ABRAHAM. Mr. President, I rise to urge my colleagues' support for the Collegiate Learning and Student Savings, or "CLASS," Act. This legislation will help Americans as they seek to secure, for themselves and for their children, the increased opportunity and earnings potential available only to college graduates in this country.

Mr. President, America is the land of opportunity. But that opportunity comes at a price. More and more that price comes in the form of an increasing cost of a college education. College graduates on average earn 40 percent more than do those who have not graduated from college. But the increased opportunity college provides keeps getting more and more expensive.

College costs have risen dramatically—5 to 6 percent every year over the past decade. According to the College Board, the average annual cost for tuition, room and board at a public university is now $7,472. At a private college the cost is a whopping $19,213 per year.

If costs continue rising as they have been, a four-year college education will cost $75,000 at a public university and $250,000 at a private college by the time the average newborn begins attending in 2016.

Costs like these can send families deeply into debt. American families have already accrued more college debt in the 1990's than during the 1960's, 1970's, and 1980's combined. Yet, according to a 1997 poll conducted for the Student Loan Marketing Association, only about 18 percent of families start saving for college before their child begins high school.

Why aren't more families saving for their children's college education? Clearly one important reason is the fact that Washington subsidizes student debt while penalizing savings. Student loans are offered at low, federally subsidized rates in order to help more kids afford college. But families that try to save in advance for college face a situation in which their income is taxed before it goes into a savings account, and the interest they earn on their education savings are then taxed again every year. It is time for Washington to stop punishing working families for planning ahead for their children's future. It is time to help middle class kids and their parents afford a college education.

Mr. President, this is why The Collegiate Learning and Student Savings, or "CLASS," Act is so important. This legislation will help more than 2.5 million students afford a college education. It would extend tax-free treatment to prepaid tuition plans sponsored by States and private institutions.

Currently, 39 States, including my own State of Michigan, have prepaid tuition plans that allow parents to save for their children's college education. Now, a nationwide consortium of more than 100 private schools, in 32 different States, have launched a similar plan.

These plans overwhelmingly benefit working, middle-income families. For example, families with an annual income of less than $35,000 purchased 62 percent of the prepaid tuition contracts sold by Pennsylvania in 1996. In Kentucky, the average monthly contribution to a family's college savings account was $43 in 1995.

By making all of these plans tax-free, we can help families afford the ever-increasing cost of a college education. I urge my colleagues to support this important legislation.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT TO CONGRESS ON THE STATE OF THE UNION—MESSAGE FROM THE PRESIDENT—PM 1

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was ordered to lie on the table.

Mr. Speaker, Mr. Vice President, Members of Congress, honored guests, my fellow Americans:

Tonight, I have the honor of reporting on the State of the Union.

Let me begin by saluting the new Speaker of the House, and thanking him for extending invitations to two special guests who are sitting in the gallery with Mrs. Hastert. Lyn Gibson and Wei Ling Chestnut are the widows of the two brave Capitol Police Officers who gave their lives to defend freedom's house.

Speaker HASTERT, at your swearing in, you asked us to work in a spirit of civility and bipartisanship. Mr. Speaker, let's do exactly that.

I stand before you to report that America has created the longest peacetime economic expansion in our history—with nearly 18 million new jobs, wages rising at more than twice the rate of inflation, the highest homeownership in history, the smallest welfare rolls in 30 years—and the lowest peacetime unemployment since 1957.

For the first time in three decades, the budget is balanced. From a deficit of $290 billion in 1992, we had a surplus of $70 billion last year. We are on course for budget surpluses for the next 25 years.

Violent crime is the lowest in a quarter century. Our environment is the cleanest in a quarter century.

America is a strong force for peace from Northern Ireland, to Bosnia, to the Middle East.

Thanks to the pioneering leadership of Vice President GORE, we have a government for the Information Age. Once again, our government is a progressive instrument of the common good, rooted in our oldest values: opportunity, responsibility, community. A modern government, devoted to fiscal responsibility and determined to give our people the tools they need to make the most of their own lives. A 21st century government for 21st century America.

My fellow Americans, I stand before you to report that the state of our union is strong.

America is working again. The promise of our future is limitless. But we cannot realize that promise if we allow the hum of our prosperity to lull us into complacency. How we are as a nation far into the 21st century depends upon what we do as a nation today.

So with our budget surplus growing, our economy expanding, our confidence rising, now is the moment for this generation to meet our historic responsibility to the 21st century. Let's get to work.

THE AGING OF 21ST CENTURY AMERICA

Our fiscal discipline gives us an unsurpassed opportunity to address a remarkable new challenge: the aging of America.

With the number of elderly Americans set to double by 2030, the Baby Boom will become a Senior Boom.

So first and above all, we must save Social Security for the 21st century.

Early in this century, being old meant being poor. When President Roosevelt created Social Security, thousands wrote to thank him for eliminating what one woman called the "stark terror of penniless, helpless old age." Even today, without Social Security, half our nation's elderly would be forced into poverty.

Today, Social Security is strong. But by 2013, payroll taxes will no longer be sufficient to cover monthly payments. And by 2032, the Trust Fund will be exhausted, and Social Security will be unable to pay out the full benefits older Americans have been promised.

he best way to keep Social Security
ock-solid guarantee is not to make
stic cuts in benefits; not to raise
roll tax rates; and not to drain re-
rces from Social Security in the
ne of saving it.

nstead, I propose that we make the
oric decision to invest the surplus
ave Social Security.

pecifically, I propose that we com-
sixty percent of the budget surplus
the next 15 years to Social Secu-
, investing a small portion in the
ate sector just as any private or
e government pension would do.
s will earn a higher return and keep
ial Security sound for 55 years.

ut we must aim higher. We should
Social Security on a sound footing
the next 75 years. And we should re-
e poverty among elderly women,
are nearly twice as likely to be
r as other seniors—and we should
inate the limits on what seniors on
ial Security can earn.

hese changes will require difficult
fully achievable choices. They
t be made on a bipartisan basis.
y should be made this year. I reach
my hand to those of you of both
ies and both houses and ask you to
me in saying; We will Save Social
urity now. Last year, we wisely re-
ed all of the surplus until we knew
t it would take to save Social Secu-
. Again, I say, we should not spend
of it until Social Security is truly
d. First things first.

cond, once we have saved Social
urity, we must fulfill our obligation
ave and improve Medicare. Already,
ave extended the life of Medicare
0 years—but we should extend it for
ast another decade. Tonight I pro-
that we use one out of every six
ars in the surplus over the next 15
s to guarantee the soundness of
icare until the year 2020.

t again, we should aim higher. We
t be willing to work in a bipartisan
and look at new ideas, including
upcoming report of the bipartisan
icare commission. If we work to-
er, we can secure Medicare for the
two decades and cover seniors'
test need—affordable prescription
s.

ird, we must help all Americans,
their first day on the job, to save,
nvest, to create wealth. From its
nning, Americans have supple-
ted Social Security with private
ions and savings. Yet today, mil-
of people retire with little to live
ther than Social Security. Ameri-
living longer than ever must save
than ever.

erefore, in addition to saving So-
Security and Medicare, I propose a
pension initiative for retirement
rity in the 21st century. I propose
we use 11% of the surplus to estab-
Universal Savings Accounts—USA
unts—to give all Americans the
ns to save. With these new ac-
counts, Americans can invest as they choose, and receive funds to match a portion of their savings, with extra help for those least able to save.

USA Accounts will help all Americans to share in our nation's wealth, and enjoy a more secure retirement.

Fourth, we must invest in long-term care. I propose a tax credit of $1,000 for the aged, ailing and disabled and the families who care for them. Long term care will become a bigger and bigger challenge with the aging in America—and we must help our families deal with it.

I was born in 1946, the first year of the Baby Boom. And I can tell you that our generation is determined not to let our growing old place an intolerable burden on our children and their ability to raise our grandchildren. Our economic success and fiscal discipline now give us an opportunity to lift that burden.

Saving Social Security, Medicare and creating USA accounts is the right way to use the surplus. If we do so, we will still have resources to meet our critical needs in education and defense. And this plan is fiscally sound. Listen to this: By saving the money we need to save Social Security and Medicare, over the next fifteen years we will achieve the lowest level of publicly held debt since 1917.

With these four measures—saving Social Security, strengthening Medicare, establishing USA Accounts, and supporting long-term care—we can begin to meet our generation's historic responsibility to establish true security for 21st century seniors.

21ST CENTURY SCHOOLS

There are more children, from more diverse backgrounds, in our public schools than at any time in our history. Their education must provide the knowledge and nurture the creativity that will allow our nation to thrive in the new economy.

Today we can say something we could not say six years ago: with tax credits and more affordable student loans, more Pell grants and work-study jobs, education IRAs, and the new HOPE Scholarship tax cut that more than 5 million Americans will receive this year, we have opened the doors of college to all.

With our help, nearly every state has set higher academic standards for public schools, and a voluntary national test is being developed to measure the progress of our students. With over one billion dollars in discounts available this year, we are on our way to our goal of connecting every classroom and library to the Internet.

Last fall, you passed our proposal to start hiring 100,000 new teachers to reduce class size in the early grades. Now I ask you to finish the job.

Our children are doing better. SAT scores are up. Math scores have risen in nearly all grades. But there is a problem: While our fourth graders outperform their peers in other countries in math and science, our eighth graders are around average, and our twelfth graders rank near the bottom.

We must do better. Each year the national government invests more than $15 billion in our public schools. I believe we must change the way we invest that money, to support what works and to stop supporting what doesn't.

Later this year, I will send Congress a plan that for the first time holds states and school districts accountable for progress and rewards them for results. My Education Accountability Act will require every school district receiving federal help to take the following five steps.

First, all schools must end social promotion.

No child should graduate from high school with a diploma he or she can't read. We do our children no favors when we allow them to pass from grade to grade without mastering the material.

But we can't just hold students back when the system fails them. So my balanced budget triples the funding for summer school and after school programs. We can keep one million students learning beyond regular school hours, when parents work and juvenile crime soars.

If you doubt this will work, look at Chicago, which ended social promotion and made summer school mandatory for those who don't master the basics. Math and reading scores are up three years running—with some of the biggest gains in some of the poorest neighborhoods.

Second, all states and school districts must turn around their worst performing schools—or shut them down. That is the policy established by Gov. Jim Hunt in North Carolina, where test scores made the biggest gains in the nation last year. My budget includes $200 million to help states turn around their failing schools.

Third, all states and school districts must be held responsible for the quality of their teachers. The great majority of teachers do a fine job. But in too many schools, teachers don't have college majors—or even minors—in the subjects they teach.

New teachers should be required to pass performance exams. All teachers should know the subjects they are teaching. My balanced budget contains new resources to help them reach higher standards.

To attract talented young teachers to the toughest assignments, I recommended a six-fold increase in college scholarships for students who commit to teach in the inner cities, isolated rural areas and Indian communities. Let's bring excellence into every part of America.

Fourth, we must empower parents, with more information and more choices. In too many communities, it is easier to get information on the quality of the local restaurants than on the quality of the local schools. Every school district should issue report cards on every school.

And parents should have more choice in selecting their public schools. When I became President, there was just one independent, public charter school in all of America. With our support, there are 1100 today. My budget assures that early in the next century, there will be 3000.

Fifth, to ensure that our classrooms are truly places of learning, all states and school districts must adopt and implement discipline policies.

Now, let's do one more thing for our children. Today, too many of our schools are so old they're falling apart, or so overcrowded students must learn in trailers. Last fall, Congress missed the opportunity to change that. This year, with 53 million children in our schools, Congress must not miss that opportunity again. I ask you to help our communities build or modernize 5000 schools.

If we do these things—end social promotion, turn around failing schools, build modern ones, support qualified teachers, promote innovation, competition and discipline—we will begin to meet our generation's historic responsibility to create 21st century schools.

21ST CENTURY SUPPORT FOR AMERICAN FAMILIES

We must do more to help the millions of parents who give their all every day at home and at work.

The most basic tool of all is a decent income. Let's raise the minimum wage by a dollar an hour over the next two years.

And let's make sure women and men get equal pay for equal work by strengthening enforcement of equal pay laws.

Working parents also need quality child care. Again, this year, I ask Congress to support our plan for tax credits and subsidies for working families, improved safety and quality, and expanded after-school programs. Our plan also includes a new tax credit for stay-at-home parents. They need support too.

The Family Medical Leave Act—the first bill I signed into law—has now helped millions of Americans care for a new baby or an ailing relative without risking their jobs. We should extend Family Leave to 10 million more Americans working in smaller companies.

Parents should never face discrimination in the workplace. I will ask Congress to prohibit companies from refusing to hire or promote workers simply because they have children.

America's families deserve the world's best medical care.

Thanks to bipartisan federal support for medical research, we are on the verge of new treatments to prevent or delay diseases from Parkinsons to Alzheimers to arthritis to cancer.

As we continue our advances in medical science, we cannot let our health care system lag behind.

Managed care has transformed medicine in America—driving down costs, but threatening to drive down quality as well. I say to every American: You should have the right to know all your medical options—not just the cheapest. You should have the right to see a specialist. You should have the right to emergency care. You should have the right to continuity of care—to keep your doctor during pregnancy or chemotherapy or other treatment.

I have ordered these rights to be extended to the 85 million Americans served by Medicare, Medicaid, and other federal health programs. But only Congress can pass the Patients' Bill of Rights for all Americans. Last year, Congress missed that opportunity. This year, for the sake of our families, Congress must not miss that opportunity again. Pass a strong, enforceable Patients' Bill of Rights.

As more of our medical records are stored electronically, the threats to our privacy increase. Because Congress has given me the authority to act if it does not do so by August, one way or another, we will protect the privacy of medical records this year.

Two years ago, we acted to extend health coverage to up to 5 million children. Now, we should make it easier for small businesses to offer health insurance, and to give people between the ages of 55 and 65 who lose their health insurance the chance to buy into Medicare. And we should continue to ensure access to family planning.

No one should have to choose between keeping health care and taking a job. We should pass the landmark bipartisan legislation, proposed by Senators JEFFORDS, KENNEDY, ROTH and MOYNIHAN, to allow people with disabilities to keep health insurance when they go to work.

We need to enable public hospitals, and community and university health centers, to provide basic, affordable care for working families who have no insurance. My balanced budget makes a down payment toward that goal.

And we must step up our efforts to treat and prevent mental illness. No American should ever be afraid to address this disease. This year, we will host a White House Conference on Mental Health. With sensitivity and commitment, Tipper Gore is leading our efforts here—and I thank her.

As everyone knows, our children are targets of a massive media campaign to hook them on cigarettes. I ask this Congress to resist the tobacco lobby—to reaffirm the FDA's authority to protect children from tobacco, and hold the tobacco companies accountable while protecting tobacco farmers.

Smoking has cost taxpayers hundreds of billions of dollars under Medicare and other programs. The states are right: taxpayers shouldn't pay for the costs of lung cancer, emphysema and other smoking-related illnesses—the tobacco companies should. Tonight, I announce that the Justice Department is preparing a litigation plan to take the tobacco companies to court. And with funds we recover, we should strengthen Medicare.

If we act in these areas—minimum wage, family leave, child care, health care and the safety of our children—we will begin to meet our generation's historic responsibility to strengthen our families for the 21st century.

A 21ST CENTURY ECONOMY

Today, America is the most dynamic, competitive, job creating economy in history.

But we can do even better—in building a 21st century economy for all Americans.

Today's income gap is largely a skills gap. Last year, Congress passed a law enabling workers to get a skills grant to choose the training they need. This year, I recommend a five year commitment to this new system so that we can provide that training for all Americans who lose their jobs, and expand rapid response teams to help towns where businesses have closed. And I ask for a dramatic increase in federal support for adult literacy, so we can mount a national campaign aimed at the millions of working people who read at less than a fifth grade level.

In the past six years, we have cut the welfare rolls nearly in half. Two years ago, from this podium, I asked five companies to lead a national effort to hire people off welfare.

Tonight, our Welfare to Work Partnership includes 10,000 companies who have hired hundreds of thousands of people—and our balanced budget will help another 200,000 people move to the dignity and pride of work.

We must bring the spark of private enterprise to every corner of America—building a bridge from Wall Street to Appalachia, to the Mississippi Delta, to our Native American communities—with more support for community development banks, empowerment zones and 100,000 vouchers for affordable housing.

And I ask Congress to support our bold plan to help businesses raise up to $15 billion of private sector capital to bring jobs and opportunity to our inner cities and rural areas—with tax credits and loan guarantees, including new American Private Investment Companies modeled on our Overseas Private Investment Corporation. Our greatest untapped markets are not overseas—they are right here at home.

We must bring prosperity back to the family farm. Dropping prices and the loss of foreign markets have devastated too many family farmers. I am ready to work with lawmakers of both parties to create a farm safety net including crop insurance reform and farm income assistance.

We must strengthen our lead in technology.

Government investment led to the creation of the Internet. I propose a 28% increase in long-term computing research.

We must be ready for the 21st century from its very first moment, by solving the "Y2K" computer problem. Already, we have made sure that Social Security checks will come on time. If we work hard with state and local governments and businesses large and small, the "Y2K problem" can be remembered as the last headache of the 20th Century, not the first crisis of the 21st.

For our own prosperity, we must support economic growth abroad.

Until recently, one third of our economic growth came from exports. But over the past year and a half, financial turmoil overseas has put that growth at risk. Today, much of the world is in recession, with Asia hit especially hard.

This is the most serious financial crisis in a half century. To meet it, the United States and other nations have reduced interest rates and strengthened the International Monetary Fund. While the turmoil is not over, we are working with other nations to contain it.

At the same time, we will continue to work to build a global financial system for the 21st century that promotes prosperity and tames the cycles of boom and bust. This June I will meet with other world leaders to advance this historic purpose.

We must also create a freer and fairer trading system for the 21st century. Trade has divided Americans for too long. We must find the common ground on which business, workers, environmentalists, farmers and government can stand together.

We must tear down barriers, open markets, and expand trade. At the same time, we must ensure that ordinary citizens in all countries actually benefit from trade—trade that promotes the dignity of work, the rights of workers, the protection of the environment. And we must insist that international trade organizations be open to public scrutiny. In short, we must put a human face on the global economy.

We must enforce our trade laws when imports unlawfully flood our nation. I have already informed the government of Japan that if that nation's sudden surge of steel imports into our country is not reversed, America will respond.

We must help all American manufacturers hit hard at the present crisis—with loan guarantees and other incentives to increase U.S. exports by nearly $2 billion.

We can achieve a new consensus on trade, based on these principles. I ask Congress to join me in this common approach and to give the President the trade authority long used to advance our prosperity.

And tonight, I also issue a call to the nations of the world to join the United States in a new round of global negotiations to expand exports of services, of manufactures, and farm products.

We will work with the International Labor Organization on a new initiative to raise labor standards around the world. And this year, we will lead the international community to conclude a treaty to ban abusive child labor everywhere in the world.

If we do these things—invest in our people, our communities, and our technology, and lead in the global economy—then we will begin to meet the historic responsibility of our generation to build a 21st century prosperity for America.

A STRONG AMERICA IN A NEW WORLD

No nation in history has had the opportunity and the responsibility we now have to shape a world more peaceful, secure and free.

All Americans can be proud that our leadership helped to bring peace in Northern Ireland.

All Americans can be proud that our leadership has put Bosnia on the path to peace. And with our NATO allies, we are pressing the Serbian government to stop its brutal repression in Kosovo, to bring those responsible to justice, and give the people of Kosovo the self-government they deserve.

All Americans can be proud that our leadership renewed hope for lasting peace in the Middle East. Some of you were with me in December as we watched the Palestinian National Council completely renounce its call for the destruction of Israel. I ask Congress to provide resources to implement the Wye Agreement . . . to protect Israel's security, stimulate the Palestinian economy, and support our friends in Jordan. We must not, we dare not, let them down.

As we work for peace, we must also meet threats to our nation's security—including increased dangers from outlaw nations and terrorism. We will defend our security wherever we are threatened—as we did this summer when we struck at Osama bin Laden's network of terror. The bombing of our embassies in Kenya and Tanzania reminds us of the risks faced every day by those who represent America to the world. Let's give them our support, the safest possible workplaces, and the resources they need so America can continue to lead.

We must work to keep terrorisms from disrupting computer networks, to prepare local communities for biological and chemical emergencies, to support research into vaccines and treatments.

We must increase our efforts to restrain the spread of nuclear weapons and missiles, from North Korea to India and Pakistan.

We must expand our work with Russia, Ukraine, and the other former Soviet nations to safeguard nuclear materials and technology so they never fall into the wrong hands. My balanced budget will increase funding for these critical efforts by almost two thirds over the next 5 years.

With Russia, we must continue to reduce our nuclear arsenals. The START II treaty, and the framework we have already agreed to for START III, could cut them by 80% from their Cold War height.

It has been two years since I signed the Comprehensive Test Ban Treaty. If we don't do the right thing, other nations won't either. I ask the Senate to take this vital step: Approve the Treaty now, so we can make it harder for other nations to develop nuclear arms—and we can end nuclear testing forever.

For nearly a decade, Iraq has defied its obligations to destroy its weapons of terror and the missiles to deliver them. America will continue to contain Saddam—and we will work for the day when Iraq has a government worthy of its people.

Last month, in our action over Iraq, our troops were superb. Their mission was so flawlessly executed that we risk taking for granted the bravery and skill it required. Captain Jeff Taliaferro [tolliver], a 10-year veteran of the Air Force, flew a B-1B bomber over Iraq as we attacked Saddam's war machine. He is here with us tonight. Let us honor him and all the 33,000 men and women of Desert Fox.

It is time to reverse the decline in defense spending that began in 1985. Since April, together we have added nearly $6 billion to maintain our readiness. My balanced budget calls for a sustained increase over the next six years for readiness and modernization, and pay and benefits for our troops.

We are the heirs of a legacy of bravery represented by millions of veterans. America's defenders today stand ready at a moment's notice to go where comforts are new and dangers are many, doing what needs to be done as no one else can. They always come through for America. We must come through for them.

The new century demands new partnerships for peace and security.

The United Nations plays a crucial role, with allies sharing burdens America might otherwise bear alone. America needs a strong and effective UN. I want to work with this new Congress to pay our dues and our debts.

We must support security in Europe and Asia—expanding NATO and defining its new missions, maintaining our alliance with Japan, Korea, and our other Asian allies, and engaging China.

In China last year, I said to the leaders and people what I say again tonight: Stability can no longer be bought at the expense of liberty.

And I say again to the American people: It is important not to isolate China. The more we bring China into the world, the more the world will bring change and freedom to China.

Last spring, with some of you, I traveled to Africa, where I saw democracy and reform rising, but still held back by violence and disease. We must fortify African democracy and peace, by launching Radio Democracy for Africa, supporting the transition to democracy now beginning to take hold in Nigeria, and passing the African Trade and Development Act.

We are strengthening our ties to the Americas and the Caribbean—to educate children, fight drugs, deepen democracy, and increase trade.

In this hemisphere, every government but one is freely chosen by its people. We are determined that Cuba, too, will know the blessings of liberty.

The American people have opened their arms and their hearts to our Central American and Caribbean neighbors devastated by recent hurricanes. Working with Congress, we will help them to rebuild. When the First Lady and Tipper Gore visited the region, they saw thousands of American troops and volunteers. In the Dominican Republic, Hillary helped to rededicate a hospital that had been rebuilt by Dominicans and Americans, working side by side.

With her was someone who has been very important to the relief efforts.

Sports records are made, and sooner or later, they are broken. But making other people's lives better—and showing our children the true meaning of brotherhood—that lasts forever. So for far more than baseball, Sammy Sosa, you are a hero to two countries.

If we do all these things—pursue peace, fight terrorism, increase our strength, and renew our alliances—then we will begin to meet our generation's historic responsibility to build a stronger 21st century America in a freer, more peaceful world.

21ST CENTURY COMMUNITIES

As the world has changed, so have our own communities. We must make them safer, more livable, more united.

This year, we will reach our goal of 100,000 community police officers—ahead of schedule and under budget. The Brady Bill has stopped a quarter million felons, fugitives, and stalkers from buying handguns. Now, the murder rate is the lowest in 30 years, and the crime rate has dropped for six straight years.

Tonight, I propose a 21st century Crime Bill to deploy the latest technologies and tactics to make our communities even safer.

My balanced budget will help put up to 50,000 more police on the beat in the areas hardest hit by crime, and to equip them with new tools, from crime-mapping computers to digital mug shots.

We must break the deadly cycle of drugs and crime. My budget expands support for drug testing and treatment. It says to prisoners: If you stay on drugs, you stay behind bars. It says to those on parole: To keep your freedom, keep free of drugs.

Congress should restore the 5-day waiting period for buying a handgun—and extend the Brady Bill to prevent juveniles who commit violent crimes from buying a gun.

We must keep our schools the safest places in our communities.

Last year, we were horrified and heartbroken by the tragic killings in Jonesboro, Paducah, Pearl, Edinboro, Springfield. We were deeply moved by the courageous parents now working to keep guns out of the hands of children—so that other parents don't have to live through their loss.

After she lost her daughter, Suzann Wilson of Jonesboro, Arkansas came to the White House with a powerful plea: "Please, please for the sake of your children, lock up your guns. . . . Don't let what happened in Jonesboro happen in your town." Suzann is here tonight with the First Lady, and we thank her for her courage and commitment. In memory of all the children who lost their lives to school violence, let's strengthen the Safe and Drug-Free School Act . . . let's pass legislation to require child trigger locks . . . let's keep our children safe.

A century ago, President Theodore Roosevelt defined our "great, central task" as "leaving this land even a better land for our descendants than it is for us." Today, we are restoring the Florida Everglades, saving Yellowstone, preserving the red-rock canyons of Utah, protecting California's redwoods and our precious coasts.

But our most fateful new challenge is the threat of global warming. 1998 was the warmest year ever recorded. Last year's heat waves, floods, and storms are but a hint of what future generations may endure if we don't act now.

So tonight, I propose a new clean air fund to help communities reduce pollution, and tax incentives and investments to spur clean energy technologies. I will work with Congress to reward companies that take early, voluntary action to reduce greenhouse gases.

All communities face a preservation challenge, as they grow, and green space shrinks. 7,000 acres of farmland and open space are lost every day.

In response, I propose two major initiatives: first, a one billion dollar Livability Agenda to help communities save open space, ease traffic congestion, and grow in ways that enhance every citizen's quality of life; second, a one billion dollar Lands Legacy Initiative to preserve places of natural beauty all across America—from the most remote wilderness to the nearest city park. I thank Vice President GORE for his visionary leadership in helping to develop these landmark proposals.

To get the most out of your community, you have to give something back. That's why we created AmeriCorps—our national service program that gives today's generation a chance to serve their communities and earn money for college.

So far, in just four years, 100,000 young people have built low-income homes with Habitat for Humanity . . . helped tutor children . . . worked with FEMA to ease the burden of natural disasters . . . and performed countless other acts of service that have made America better.

I ask Congress to give more young Americans the chance to follow their lead.

We must work to renew our national community for the 21st century.

Last year, the House passed the bipartisan campaign finance reform legislation sponsored by Representatives SHAYS and MEEHAN and Senators MCCAIN and FEINGOLD. But a partisan minority in the Senate blocked reform. To the House I say: Pass it again, quickly. And to the Senate: Say yes to a strong democracy in the Year 2000.

Since 1997, our Initiative on Race has sought to bridge the divides between our people. In its report last fall, the Initiative's Advisory Board found that Americans want to bring our people together across racial lines. We are on a journey that in a very real sense began forty years ago, when a woman sat down on a bus in Alabama. She is sitting here with the First Lady tonight—Rosa Parks.

We must do more to close the opportunity gaps that remain. The economic, health care, and education initiatives I have discussed tonight will do a lot to close those gaps.

But we have more to do.

Discrimination or violence because of race or religion, ancestry or gender, disability or sexual orientation, is wrong. It should be illegal. Therefore I call upon Congress to make the Employment Non-Discrimination Act and the Hate Crimes Prevention Act the law of the land.

Since every person in America counts, every American must be counted. Let's have a census that uses the most modern scientific methods.

Our newest immigrants must be part of One America. They are revitalizing our cities, energizing our culture, building our new economy. We have a responsibility to make immigrants welcome here, and they have a responsibility to enter the mainstream of American life. That means learning English, and learning about our democratic system of government. There are now long waiting lines of immigrants seeking to do just that. Therefore, my budget expands significantly our efforts to help them meet their responsibility.

Whether our ancestors came here on the Mayflower or on slave ships, whether they landed on Ellis Island or at Los Angeles Airport, whether they arrived yesterday or walked this land a thousand years ago—we can be, and we must be One America. We can only meet our generation's historic responsibility to the 21st century if we go forward as that One America.

THE MILLENNIUM

Barely more than 300 days from now, we will cross that bridge into the new millennium. This is a moment, as the First Lady has said, to honor the past and imagine the future.

I honor her—for leading our Millennium Project—for all she has done for our children—and for her historic role in serving our nation and advancing our ideals at home and abroad.

Last year, I called on Congress and every citizen to mark the millennium by saving America's treasures. Hillary has traveled across the country to inspire recognition and support for saving places like Thomas Edison's Invention Factory and Harriet Tubman's Home.

We must preserve our treasures in every community. I invite every American town, city, and county to become a nationally recognized "Millennium Community" by launching projects that save our history, promote our arts and humanities, and prepare our children for the future.

Already, the response has been remarkable, and I thank Congress and our private sector partners for their support. Because of you, the Star Spangled Banner will be preserved for the ages.

In ways large and small, we are keeping alive what George Washington called "the sacred fire of liberty."

Six years ago, I came to office in a time of doubt for America, with our economy troubled, our deficit high, our people divided. Some even wondered whether our best days were behind us. But across this nation, in a thousand neighborhoods, I had seen, even amid the pain and uncertainty of recession, the heart and character of America.

I knew then that we Americans could renew our country.

Tonight, as I deliver the last State of the Union message of the 20th Century, no one can doubt the enduring resolve and boundless capacity of Americans to work toward that "more perfect union" of our founders' dreams.

We near the end of a century when generation after generation of Americans answered the call to greatness, overcoming Depression, lifting up the dispossessed, bringing down barriers of racial prejudice, building the largest middle class in history, winning two world wars and the "long twilight struggle" of the Cold War.

We are profoundly grateful for the magnificent achievement of our forbears.

Yet perhaps in the daily press of events, in the clash of controversy, we do not see our own time for what it truly is—a new dawn for America.

A hundred years from tonight, an American President will stand in this place to report on the State of the Union. He—or she—will look back on a 21st century shaped in so many ways by the decisions we make here and now.

Let it be said of us then that we were thinking not only of our time, but of their time; that we reached as high as our ideals; that we put aside our divisions and found a new hour of healing and hopefulness; that we joined together to serve and strengthen the land we love.

My fellow Americans, this is our moment. Let us lift our eyes as one nation, and from the mountaintop of this American century, look ahead to the next one—asking God's blessing on our endeavors and our beloved country.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–707. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Fitness Procedures" (RIN2125–AC71) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–708. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "National Corridor Planning and Development Program and Coordinated Border Infrastructure Program—Implementation of the Transportation Equity Act for the 21st century" (Docket FHWA–98–4622) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–709. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 767 Series Airplanes" (Docket 97–NM–39–AD) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–710. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter France Model SA 330F, G, and J Helicopters" (Docket 97–SW–43–AD) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–711. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Anaktuvuk Pass, AK" (Docket 98–AAL–16) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–712. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Atka, AK" (Docket 98–AAL–18) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–713. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Nome, AK" (Docket 98–AAL–12) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–714. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Yakutat, AK" (Docket 98–AAL–17) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–715. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Unalakleet, AK" (Docket 98–AAL–10) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–716. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; King Salmon, AK" (Docket 98–AAL–11) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–717. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter France Model AS 332C, L, and L1 Helicopters" (Docket 97–SW–36–AD) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–718. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29380) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–719. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29379) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–720. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29381) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–721. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of the Legal Description of the Memphis Class B Airspace Area; TN" (Docket 98–AWA–1) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–722. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; General Electric Aircraft Engines

CJ610 Turbojet and CF700 Series Turbofan Engines" (Docket 98–ANE–60–AD) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–723. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Reno, NV" (Docket 98–AWP–23) received on November 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–724. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment" (Docket NHTSA 98–4723) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–725. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Concordia, KS" (Docket 98–ACE–46) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–726. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Goodland, KS" (Docket 98–ACE–35) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–727. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Muscatine, IA" (Docket 98–ACE–25) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–728. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Fairbury, NE" (Docket 98–ACE–28) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–729. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Burkhart GROB Luft–und Raumfahrt GmbH Model G 109B Gliders" (Docket 98–CE–72–AD) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–730. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model DC–9–31 Series Airplanes" (Docket 97–NM–99–AD) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–731. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; de Haviland Model DHC–7 Series Airplanes" (Docket 98–NM–143–AD) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–732. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; British Aerospace Model Viscount 744, 745, 745D, and 810 Series Airplanes" (Docket 98–NM–217–AD) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–733. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes" (Docket 98–NM–304–AD) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–734. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bell Helicopter Textron, Inc. Model 214B, 214B–1, and 214ST Helicopters" (Docket 98–SW–12–AD) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–735. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; International Aero Engines (IAE) V2500–A1 Series Turbofan Engines" (Docket 98–ANE–67–AD) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–736. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Dornier Model 328–100 Series Airplanes" (Docket 98–NM–88–AD) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–737. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Raytheon Model Hawker 800XP Series Airplanes" (Docket 98–NM–195–AD) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–738. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Pratt and Whitney JT9D Series Turbofan Engines" (Docket 98–ANE–21–AD) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–739. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Pratt and Whitney PW4000 Series Turbofan Engines" (Docket 97–ANE–53–AD) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–740. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 757–200 Series Airplanes Equipped With Rolls Royce Model RB211–535E4/E4B Engines" (Docket 98–NM–294–AD) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–741. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Raytheon Model BAe.125, DH.125, BH.125, and HS.125 Series Airplanes" (Docket 97–NM–305–AD) received on November 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–742. A communication from the Secretary of the Panama Canal Commission, transmitting, pursuant to law, the report of two rules entitled "Vessels Carrying Dangerous Packaged Goods Board of Local Inspectors; Composition Functions" (RIN3207–AA26) and "Tolls for Use of Canal" (RIN3207–AA46) received on December 16, 1998; to the Committee on Armed Services.

EC–743. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "1997 Annual Report on Low-Level Radioactive Waste Management Progress"; to the Committee on Energy and Natural Resources.

EC–744. A communication from the Secretary of Energy, transmitting, pursuant to law, the Department's Viability Assessment of the Yucca Mountain Repository; to the Committee on Energy and Natural Resources.

EC–745. A communication from the Executive Director of the Japan-United States Friendship Commission, transmitting, pursuant to law, the Commission's annual report for fiscal year 1998; to the Committee on Foreign Relations.

EC–746. A communication from the Assistant Legal Advisor for Treaty Affairs, transmitting, pursuant to law, a report of international agreements other than treaties entered into by the United States (98–180 to 98–185); to the Committee on Foreign Relations.

EC–747. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Petitioning Requirements for the H–1B Nonimmigrant Classification Under Public Law 105–277" received on December 14, 1998; to the Committee on the Judiciary.

EC–748. A communication from the Assistant Attorney General, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Final Guidelines for the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, as Amended" (RIN1105–AA56) received on December 17, 1998; to the Committee on the Judiciary.

EC–749. A communication from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting, pursuant to law, a report entitled "A Plan for the Use of the Little Traverse Bay Band of Odawa Indians; Judgement Fund Distribution"; to the Committee on Indian Affairs.

EC–750. A communication from the Chief of the Natural Resources Conservation Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Conservation Farm Option" (RIN0578–AA20) received on December 16, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–751. A communication from the Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Environmental Policies and Procedures" (RIN0572–AB33) received on December 15, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–752. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Solid Wood Packing Material From China" (RIN0579–AB01) received on December 16, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–753. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Prescription Drug Product Labeling; Medication Guide Requirements" (RIN0910–AA37) received on December 16, 1998; to the Committee on Labor and Human Resources.

EC–754. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on Model Projects for Youth Education and Domestic Violence; to the Committee on Labor and Human Resources.

EC–755. A communication from the Director of the National Institute on Disability and Rehabilitation Research, Department of Education, transmitting, pursuant to law, the annual report of the Interagency Committee on Disability Research for calendar year 1998; to the Committee on Labor and Human Resources.

EC–756. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers (Clarifying Agent)" (Docket 98F–0291) received on December 16, 1998; to the Committee on Labor and Human Resources.

EC–757. A communication from the Chairman of the Postal Rate Commission, transmitting, pursuant to law, the Commission's report under the Inspector General Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–758. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the Office's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–759. A communication from the United States Office of Government Ethics, transmitting, pursuant to law, the report of a rule entitled "Technical Amendments to Financial Disclosure Rule for Executive Branch Employees" (RIN3209–AA00) received on December 14, 1998; to the Committee on Governmental Affairs.

EC–760. A communication from the United States Office of Government Ethics, transmitting, pursuant to law, the report of a rule entitled "Standards of Ethical Conduct for Employees of the Executive Branch" (RIN3209–AA04) received on December 15, 1998; to the Committee on Governmental Affairs.

EC–761. A communication from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, a list of additions to and deletions from the Committee's Procurement List dated December 9, 1998; to the Committee on Governmental Affairs.

EC–762. A communication from the Secretary of Education, transmitting, pursuant to law, the Department's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–763. A communication from the Chairman of the Board of Directors of the Panama Canal Commission, transmitting, pursuant to law, the Commission's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–764. A communication from the Inspector General of the United States Railroad Retirement Board, transmitting, pursuant to law, the Board's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–765. A communication from the Inspector General of the U.S. General Services Administration, transmitting, pursuant to law, the Administration's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–766. A communication from the Secretary of Labor, transmitting, pursuant to law, the Department's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–767. A communication from the Benefits Communications Manager, Farm Credit Bank of Wichita, transmitting, pursuant to law, the Bank's annual report for calendar year 1998; to the Committee on Governmental Affairs.

EC–768. A communication from the Interim District of Columbia Auditor, transmitting, pursuant to law, notice of a report entitled "Statutory Audit of Advisory Neighborhood Commission 2C for the Period October 1, 1995 through December 31, 1997"; to the Committee on Governmental Affairs.

EC–769. A communication from the Interim District of Columbia Auditor, transmitting, pursuant to law, notice of a report entitled "Audit of Advisory Neighborhood Commission 8E for the Period 09/01/96 through 07/31/98"; to the Committee on Governmental Affairs.

EC–770. A communication from the Chairman of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, the Commission's report under the Federal Manager's Financial Integrity Act; to the Committee on Governmental Affairs.

EC–771. A communication from the Director of the Federal Bureau of Investigation, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Drawback; Correction" (RIN1515–AB95) received on November 30, 1998; to the Committee on Governmental Affairs.

EC–772. A communication from the Deputy Associate Administrator for Acquisition, U.S. General Services Administration, transmitting, pursuant to law, the report of final and interim revisions to the Federal Acquisition Regulation received on December 17, 1998; to the Committee on Governmental Affairs.

EC–773. A communication from the Director of the Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Inmate Work and Performance Pay Program: Work Evaluation" (RIN1120–AA74) received on December 14, 1998; to the Committee on the Judiciary.

EC–774. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Simplification of Grant Appeals Process" (RIN0930–ZA00) received on December 16, 1998; to the Committee on Labor and Human Resources.

EC–775. A communication from the Chairman of the United States Consumer Product Safety Commission, transmitting, pursuant to law, the Commission's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–776. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans"; Maryland; Control of Volatile Organic Compound From Sources That Store and Handle JP–4 Jet Fuel" (FRL6202–6) received on December 17, 1998; to the Committee on Environment and Public Works.

EC–777. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans"; Revised Format of Materials Being Incorporated by Reference for Alabama" (FRL6204–8) received on December 17, 1998; to the Committee on Environment and Public Works.

EC–778. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes" (FRL6206–1) received on December 17, 1998; to the Committee on Environment and Public Works.

EC–779. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting pursuant to law, the report of a rule entitled "Approval and Promulgation of Revisions to the Tennessee State Implementation Plan" (FRL6205–1) received on December 17, 1998; to the Committee on Environment and Public Works.

EC–780. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision; Kern County Air Pollution Control District" (FRL6189–9) received on December 17, 1998; to the Committee on Environment and Public Works.

EC–781. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to the States of Iowa; Kansas; Missouri; Nebraska; Lincoln–Lancaster County, Nebraska; and City of Omaha, Nebraska" (FRL6200–5) received on December 17, 1998; to the Committee on Environment and Public Works.

EC–782. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans"; State of Maine; Interim Final Determination that Maine has Avoided the Deficiencies of its I/M SIP revision (FRL6203–4) received on December 15, 1998; to the Committee on Environment and Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JEFFORDS (for himself, Mr. GREGG, Mr. LOTT, Mr. MCCAIN, Mr. MACK, and Mr. COVERDELL):

S. 2. A bill to extend programs and activities under the Elementary and Secondary

Education Act of 1965; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRAMS (for himself, Mr. Roth, Mr. Abraham, Mr. Ashcroft, Mr. Lott, Mr. McCain, Mr. Coverdell, and Mrs. Hutchison):

S. 3. A bill to amend the Internal Revenue Code of 1986 to reduce individual income tax rates by 10 percent; to the Committee on Finance.

By Mr. WARNER (for himself, Mr. Thurmond, Mr. McCain, Mr. Smith of New Hampshire, Mr. Inhofe, Ms. Snowe, Mr. Roberts, Mr. Allard, Mr. Hutchinson, Mr. Sessions, Mr. Lott, Mr. Mack, Mr. Coverdell, Mrs. Hutchison, Mr. Santorum, Mr. Hagel, and Mr. Abraham):

S. 4. A bill to improve pay and retirement equity for members of the Armed Forces; and for other purposes; to the Committee on Armed Services.

By Mr. DeWINE (for himself, Mr. Abraham, Mr. Ashcroft, Mr. Grassley, Mr. Hatch, Mr. Lott, Mr. McCain, and Mr. Coverdell):

S. 5. A bill to reduce the transportation and distribution of illegal drugs and to strengthen domestic demand reduction, and for other purposes; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. Kennedy, Mrs. Boxer, Mr. Dodd, Mr. Dorgan, Mr. Edwards, Mr. Cleland, Mr. Reid, Mr. Durbin, Mrs. Murray, Mr. Akaka, Mr. Wyden, Mr. Harkin, Ms. Mikulski, Mr. Leahy, Mr. Reed, Mr. Sarbanes, Mr. Wellstone, Mrs. Feinstein, Mr. Byrd, Mr. Rockefeller, Mr. Kerry, Mr. Torricelli, Mr. Bingaman, Mr. Bryan, Mr. Johnson, Mr. Lautenberg, Mr. Schumer, Mr. Inouye, Mr. Hollings, and Mr. Levin):

S. 6. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE (for himself, Mr. Kennedy, Mrs. Murray, Mr. Sarbanes, Mr. Robb, Mrs. Feinstein, Mr. Bryan, Mr. Torricelli, Mr. Levin, Mr. Dodd, Mr. Harkin, Mr. Rockefeller, Mr. Cleland, Mr. Wellstone, Mr. Schumer, Mr. Edwards, Mr. Reid, Mrs. Boxer, Mr. Durbin, Mr. Breaux, Ms. Mikulski, Mr. Kerry, Mr. Johnson, Mr. Baucus, and Mr. Lautenberg):

S. 7. A bill to modernize public schools for the 21st century; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE (for himself, Mr. Rockefeller, Mr. Breaux, Mrs. Feinstein, Mrs. Murray, Mrs. Boxer, Mr. Durbin, Mr. Wellstone, Mr. Kerry, Mr. Moynihan, and Mr. Lautenberg):

S. 8. A bill to increase the Federal minimum wage, to repeal the marriage tax penalty, to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, to provide for pension reform, and to prohibit any changes to the pay-as-you-go rule in the Senate until Congress saves Social Security first; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. Leahy, Mr. Biden, Mr. Kennedy, Mr. Torricelli, Mr. Schumer, Mr. Dorgan, Mr. Kerry, Mr. Lautenberg, Ms. Mikulski, Mr. Breaux, Mr. Durbin, Mr. Bingaman, Mr. Bryan, and Mr. Moynihan):

S. 9. A bill to combat violent and gang-related crime in schools and on the streets, to reform the juvenile justice sytem, target international crime, promote effective drug and other crime prevention programs, assist crime victims, and for other purposes; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Ms. Mikulski, Mr. Cleland, Mr. Harkin, Mr. Sarbanes, Mr. Kennedy, Mrs. Boxer, Mr. Durbin, Mr. Rockefeller, Mr. Dodd, Mr. Bryan, Mr. Johnson, Mr. Kohl, Mr. Kerry, and Mr. Lautenberg):

S. 10. A bill to provide health protection and needed assistance for older Americans, including access to health insurance for 55 to 65 year olds, assistance for individuals with long-term care needs, and social services for older Americans; to the Committee on Finance.

By Mr. ABRAHAM:

S. 11. A bill for the relief of Wei Jingsheng; to the Committee on the Judiciary.

By Mrs. HUTCHISON (for herself, Mr. Lott, Mr. Brownback, Mr. Nickles, Mr. Abraham, Mr. Burns, Mr. Coverdell, Mr. Cochran, Mr. Crapo, Mr. Frist, Mr. Helms, Mr. Hagel, Mr. Kyl, Mr. Mack, Mr. McConnell, Mr. Sessions, and Mr. Allard):

S. 12. A bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty by providing that income tax rate bracket amounts, and the amount of the standard deduction, for joint returns shall be twice the amounts appllicable to unmarried individuals; to the Committee on Finance.

By Mr. SESSIONS (for himself, Mr. Graham, Mr. Mack, Mr. Abraham, Mr. Cochran, and Mr. Coverdell):

S. 13. A bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives for education; to the Committee on Finance.

By Mr. COVERDELL (for himself and Mr. Torricelli):

S. 14. A bill to amend the Internal Revenue Code of 1986 to expand the use of education individual retirement accounts, and for other purposes; to the Committee on Finance.

By Mrs. HUTCHISON (for herself, Mr. Ashcroft, Mr. Brownback, Mr. Burns, Mr. Cochran, Mr. Coverdell, Mr. Crapo, Mr. Gramm, Mr. Hagel, Mr. Kyl, Ms. Snowe, and Mr. Allard):

S. 15. A bill to amend the Internal Revenue Code of 1986 to provide that married couples may file a combined return under which each spouse is taxed using the rates applicable to unmarried individuals; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. Sarbanes, Mr. Bryan, Mr. Kerry, Mr. Rockefeller, Mr. Durbin, Mr. Wellstone, Mr. Moynihan, and Mr. Lautenberg):

S. 16. A bill to reform the Federal election campaign laws applicable to Congress; to the Committee on Rules and Administration.

By Mr. DODD (for himself, Mr. Daschle, Mr. Kennedy, Mr. Harkin, Mr. Akaka, Mrs. Murray, Mr. Kohl, Mr. Kerry, Mr. Kerrey, Mr. Bingaman, Mr. Bryan, Mr. Sarbanes, Mr. Biden, Mrs. Boxer, Mr. Breaux, Mr. Durbin, Mr. Johnson, Ms. Landrieu, Ms. Mikulski, Mr. Rockefeller, Mr. Reed, Mr. Schumer, Mr. Torricelli, Mr. Wellstone, Mr. Lautenberg, and Mrs. Feinstein):

S. 17. A bill to increase the availability, affordability, and quality of child care; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HARKIN (for himself, Mr. Daschle, Mr. Johnson, Ms. Mikulski, Mr. Kennedy, Mr. Torricelli, Mr. Durbin, Mr. Leahy, Mrs. Boxer, Mr. Dorgan, Mr. Wellstone, Mr. Bryan, Mr. Moynihan, and Mr. Kerry):

S. 18. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through enhanced enforcement; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DASCHLE (for himself, Mr. Harkin, Mr. Dorgan, Mr. Johnson, Mr. Kerrey, Mr. Baucus, Mr. Durbin, Mr. Kennedy, Mr. Edwards, Mr. Wellstone, Mr. Conrad, and Mr. Bingaman):

S. 19. A bill to restore an economic safety net for agricultural producers, to increase market transparency in agricultural markets domestically and abroad, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LAUTENBERG (for himself, Mr. Daschle, Mr. Baucus, Mr. Levin, Mr. Reid, Mr. Rockefeller, Mr. Torricelli, Ms. Mikulski, Mr. Breaux, Mrs. Murray, Mr. Schumer, Mrs. Boxer, Mr. Sarbanes, Mr. Durbin, Mr. Leahy, Mr. Wyden, Mr. Bryan, Mr. Moynihan, Mr. Kerry, Mr. Lieberman, and Mr. Kennedy):

S. 20. A bill to assist the States and local governments in assessing and remediating brownfield sites and encouraging environmental cleanup programs, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN (for himself and Mr. Kerrey):

S. 21. A bill to reduce social security payroll taxes, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. Helms, Mr. Lott, Mr. Daschle, Mr. Thompson, Ms. Collins, and Mr. Schumer):

S. 22. A bill to provide for a system to classify information in the interests of national security and a system to declassify information, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SPECTER (for himself and Mr. Durbin):

S. 23. A bill to promote a new urban agenda, and for other purposes; to the Committee on Finance.

By Mr. SPECTER:

S. 24. A bill to provide improved access to health care, enhance informed individual choice regarding health care services, lower health care costs through the use of appropriate providers, improve the quality of health care, improve access to long term care, and for other purposes; to the Committee on Finance.

By Ms. LANDRIEU (for herself, Mr. Murkowski, Mr. Breaux, Mr. Sessions, Mr. Johnson, Mr. Lott, Mr. Cleland, Mr. Gregg, Ms. Mikulski, and Mr. Cochran):

S. 25. A bill to provide Coastal Impact Assistance to State and local governments, to amend the Outer Continental Shelf Lands Act Amendments of 1978, the Land and Water Conservation Fund Act of 1965, the Urban

Park and Recreation Recovery Act, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. McCAIN (for himself, Mr. Feingold, Mr. Thompson, Mr. Levin, Ms. Collins, Mr. Lieberman, Ms. Snowe, Mr. Wellstone, Mr. Jeffords, Mr. Durbin, Mr. Schumer, Mr. Reid, Mr. Bryan, Mr. Sarbanes, Mr. Robb, Mr. Dorgan, Mr. Moynihan, Mr. Kerry, Mr. Kerrey, Mr. Cleland, Mr. Leahy, Mr. Bayh, Mrs. Feinstein, Mrs. Boxer, Mr. Hollings, Mr. Graham, Mr. Johnson, and Mr. Chafee):

S. 26. A bill entitled the "Bipartisan Campaign Reform Act of 1999"; to the Committee on Rules and Administration.

By Mr. FEINGOLD (for himself and Mr. Hollings):

S. 27. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to extend and clarify the pay-as-you-go requirements regarding the Social Security trust funds; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instuctions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. HATCH (for himself, Mr. Bingaman, and Mr. Bennett):

S. 28. A bill to authorize an interpretive center and related visitor facilities within the Four Corners Monument Tribal Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. INOUYE:

S. 29. A bill to amend section 1086 of title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payments under medicare, and for other purposes; to the Committee on Armed Services.

By Mr. DASCHLE (for himself, Mr. Harkin, Mr. Johnson, Mr. Wellstone, Mr. Kerrey, Mr. Bingaman, and Mr. Baucus):

S. 30. A bill to provide countercylical income loss protection to offset extreme losses resulting from severe economic and weather-related events, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THURMOND:

S. 31. A bill to amend title 1, United States Code, to clarify the effect and application of legislation; to the Committee on the Judiciary.

By Mr. THURMOND:

S. 32. A bill to eliminate a requirement for a unanimous verdict in criminal trials in Federal courts; to the Committee on the Judiciary.

By Mr. THURMOND (for himself and Mr. Helms):

S. 33. A bill to amend title II of the Americans with Disabilities Act of 1990 and section 504 of the Rehabilitation Act of 1973 to exclude prisoners from the requirements of that title and section; to the Committee on Health, Education, Labor, and Pensions.

By Mr. THURMOND:

S. 34. A bill to amend title 28, United States Code, to clarify the remedial jurisdiction of inferior Federal courts; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. Graham, and Mr. Breaux):

S. 35. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for the long-term care insurance costs of all individuals who are not eligible to participate in employer-subsidized long-term care health plans; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. Graham):

S. 36. A bill to amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance may be obtained by Federal employees and annuitants; to the Committee on Governmental Affairs.

By Mr. GRASSLEY:

S. 37. A bill to amend title XVIII of the Social Security Act to repeal the restriction on payment for certain hospital discharges to post-acute care imposed by section 4407 of the Balanced Budget Act of 1997; to the Committee on Finance.

By Mr. CAMPBELL (for himself, Mr. Mack, and Mrs. Hutchison):

S. 38. A bill to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period; to the Committee on Finance.

By Mr. STEVENS:

S. 39. A bill to provide a national medal for public safety officers who act with extraordinary valor above the call of duty, and for other purposes; to the Committee on the Judiciary.

By Mr. HELMS:

S. 40. A bill to protect the lives of unborn human beings; read the first time.

By Mr. HELMS:

S. 41. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with the knowledge that the abortion is being performed solely because of the gender of the fetus; read the first time.

By Mr. HELMS:

S. 42. A bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services; read the first time.

By Mr. HELMS:

S. 43. A bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools; read the first time.

By Mr. HELMS:

S. 44. A bill to amend the Gun-Free Schools Act of 1994 to require a local educational agency that receives funds under the Elementary and Secondary Education Act of 1965 to expel a student determined to be in possession of an illegal drug, or illegal drug paraphernalia, on school property, in addition to expelling a student determined to be in possession of a gun, and for other purposes; read the first time.

By Mr. HELMS:

S. 45. A bill to prohibit the executive branch of the Federal Government from establishing an additional class of individuals that is protected against discrimination in Federal employment, and for other purposes; read the first time.

By Mr. HELMS:

S. 46. A bill to amend the Civil Rights Act of 1954 to make preferential treatment an unlawful employment practice, and for other purposes; read the first time.

By Mr. KYL:

S. 47. A bill to establish a commission to study the impact on voter turnout of making the deadline for filing federal income tax returns conform to the date of federal elections; to the Committee on Rules and Administration.

By Mr. HARKIN (for himself, Mr. Daschle, Mr. Johnson, Ms. Mikulski, Mr. Kennedy, Mr. Torricelli, Mr. Durbin, Mr. Leahy, and Mrs. Boxer):

S. 48. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through enhanced enforcement; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. STEVENS:

S. 49. A bill to amend the wetlands program under the Federal Water Pollution Control Act to provide credit for the low wetlands loss rate in Alaska and recognize the significant extent of wetlands conservation in Alaska property owners, and to ease the burden on overly regulated Alaskan cities, boroughs, municipalities, and villages; to the Committee on Environment and Public Works.

By Mrs. HUTCHISON (for herself and Mr. DeWine):

S. 50. A bill to improve options for excellence in education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BIDEN (for himself, Mr. Specter, Mrs. Boxer, Mrs. Murray, Ms. Mikulski, Ms. Landrieu, Mrs. Feinstein, Mrs. Lincoln, Ms. Snowe, Mr. Lautenberg, Mr. Reid, Mr. Reed, Mr. Dodd, Mr. Inouye, Mr. Kerry, Mr. Robb, Mr. Schumer, Mr. Wellstone, and Mr. Kennedy):

S. 51. A bill to reauthorize the Federal programs to prevent violence against women, and for other purposes; to the Committee on the Judiciary.

By Mr. BOND (for himself, Mr. Ashcroft, Mr. Santorum, Mr. Burns, Mr. Shelby, Mr. Brownback, and Mr. Inhofe):

S. 52. A bill to provide a direct check for education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KYL (for himself and Mr. Coverdell):

S. 53. A bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gain rates for all taxpayers and a partial dividend income exclusion for individuals, and for other purposes; to the Committee on Finance.

By Mr. KYL:

S. 54. A bill to amend the Internal Revenue Code of 1986 to repeal the corporate alternative minimum tax; to the Committee on Finance.

By Mr. KYL (for himself and Mr. Coverdell):

S. 55. A bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes; to the Committee on Finance.

By Mr. KYL (for himself, Mr. Allard, Mr. Ashcroft, Mr. Burns, Mr. Cochran, Mr. Coverdell, Mr. Crapo, Mr. Enzi, Mr. Gramm, Mr. Grams, Mr. Hagel, Mr. Helms, Mrs. Hutchison, Mr. Inhofe, Mr. Mack, Mr. Murkowski, Mr. Roberts, Mr. Smith of New Hampshire, Mr. Thomas, and Mr. Sessions):

S. 56. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

By Ms. MIKULSKI (for herself, Mr. Sarbanes, Mr. Robb, and Mr. Warner):

S. 57. A bill to amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees and annuitants, and for other purposes; to the Committee on Foreign Relations.

By Ms. COLLINS (for herself, Mr. DURBIN, and Mr. JEFFORDS):

S. 58. A bill to amend the Communications Act of 1934 to improve protections against telephone service "slamming" and provide protections against telephone billing "cramming", to provide the Federal Trade Commission jurisdiction over unfair and deceptive trade practices of telecommunications carriers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. THOMPSON (for himself, Mr. BREAUX, and Mr. LOTT):

S. 59. A bill to provide Government wide accounting of regulatory costs and benefits, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GRASSLEY:

S. 60. A bill to amend the Internal Revenue Code of 1986 to provide equitable treatment for contributions by employees to pension plans; to the Committee on Finance.

By Mr. DEWINE (for himself, Mr. HOLLINGS, Mr. ABRAHAM, Mr. SANTORUM, Mr. SPECTER, Mr. BYRD, Mr. HUTCHINSON, and Mr. VOINOVICH):

S. 61. A bill to amend the Tariff Act of 1930 to eliminate disincentives to fair trade conditions; to the Committee on Finance.

By Mr. KOHL:

S. 62. A bill to amend the Internal Revenue Code of 1986 to provide for the rollover of gain from the sale of farm assets into an individual retirement account; to the Committee on Finance.

By Mr. KOHL:

S. 63. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide child care assistance for dependents of their employees, and for other purposes; to the Committee on Finance.

By Mr. KERRY:

S. 64. A bill to amend section 313 of the Tariff Act of 1930 to allow duty drawback for grape juice concentrates, regardless of color or variety; to the Committee on Finance.

By Mr. KERRY:

S. 65. A bill to apply the rates of duty effective after December 31, 1994, to certain water resistant wool trousers that were entered, or withdrawn from warehouse for consumption, after December 31, 1988, and before January 1, 1995; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. SCHUMER):

S. 66. A bill to establish the Kate Mullany National Historic Site in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN (for himself, Mr. KERRY, Mr. DURBIN, Mr. ROBB, Mr. SCHUMER, and Mr. KENNEDY):

S. 67. A bill to designate the headquarters building of the Department of Housing and Urban Development in Washington, District of Columbia, as the "Robert C. Weaver Federal Building"; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN:

S. 68. A bill for the relief of Dr. Yuri F. Orlov of Ithaca, New York; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN:

S. 69. A bill to make available funds under the Foreign Assistance Act of 1961 to provide scholarships for nationals of any of the independent states of the former Soviet Union to undertake doctoral graduate study in the social sciences; to the Committee on Foreign Relations.

By Ms. SNOWE:

S. 70. A bill to require the establishment of a Federal task force on Regional Threats to International Security; to the Committee on Foreign Relations.

By Ms. SNOWE:

S. 71. A bill to amend title 38, United States Code, to establish a presumption of service-connection for certain veterans with Hepatitis C, and for other purposes; to the Committee on Veterans Affairs.

By Ms. SNOWE:

S. 72. A bill to amend title 38, United States Code, to restore the eligibility of veterans for benefits resulting from injury or disease attributable to the use of tobacco products during a period of military service, and for other purposes; to the Committee on Veterans Affairs.

By Mr. MOYNIHAN:

S. 73. A bill to make available funds under the Mutual Educational and Cultural Exchange Act of 1961 to provide Fulbright scholarships for Cuban nationals to undertake graduate study in the social sciences; to the Committee on Foreign Relations.

By Mr. DASCHLE (for himself, Mr. KERRY, Mr. LEAHY, Ms. MIKULSKI, Mrs. MURRAY, Mr. REID, Mr. WYDEN, Mrs. BOXER, Mr. LAUTENBERG, Mr. KENNEDY, Mr. KERREY, Mr. DURBIN, Ms. LANDRIEU, Mr. REED, Mr. ROBB, Mr. TORRICELLI, Mr. BREAUX, Mr. WELLSTONE, and Mrs. FEINSTEIN):

S. 74. A bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LUGAR (for himself, Mr. HAGEL, Mr. ROBERTS, and Mr. HELMS):

S. 75. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

By Mr. LUGAR (for himself, Mr. HAGEL, Mr. ROBERTS, and Mr. HELMS):

S. 76. A bill to phase-out and repeal the Federal estate and gift taxes and the tax on generational-skipping transfers; to the Committee on Finance.

By Mr. LUGAR (for himself, Mr. HAGEL, Mr. ROBERTS, and Mr. HELMS):

S. 77. A bill to increase the unified estate and gift tax credit to exempt small businesses and farmers from estate taxes; to the Committee on Finance.

By Mr. LUGAR (for himself, Mr. HAGEL, Mr. ROBERTS, and Mr. HELMS):

S. 78. A bill to amend the Internal Revenue Code of 1986 to increase the gift tax exclusion to $25,000; to the Committee on Finance.

By Ms. SNOWE (for herself and Mr. JEFFORDS):

S. 79. A bill to amend the Federal Election Campaign Act of 1971 to require disclosure of certain disbursements made for electioneering communications, and for other purposes; to the Committee on Rules and Administration.

By Ms. SNOWE:

S. 80. A bill to establish the position of Assistant United States Trade Representative for Small Business, and for other purposes; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mr. FRIST, Mr. ALLARD, and Mr. AKAKA):

S. 81. A bill to authorize the Federal Aviation Administration to establish rules governing park overflights; to the Committee on Commerce, Science, and Transportation.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, Mr. LOTT, Mr. ROCKEFELLER, Mr. FRIST, Mr. BRYAN, Mr. WYDEN, Mr. AKAKA, Mr. GORTON, and Mr. DORGAN):

S. 82. A bill to authorize appropriations for Federal Aviation Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA:

S. 83. A bill to consolidate and revise the authority of the Secretary of Agriculture relating to plant protection and quarantine, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BUNNING:

S. 84. A bill to amend the Internal Revenue Code of 1986 to provide exemptions from taxation with respect to public safety officers killed in the line of duty; to the Committee on Finance.

By Mr. BUNNING:

S. 85. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on vaccines to 25 cents per dose; to the Committee on Finance.

By Mr. BUNNING:

S. 86. A bill to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to work, to extend Medicare coverage for such beneficiaries, and to make additional miscellaneous amendments relating to Social Security; to the Committee on Finance.

By Mr. BUNNING:

S. 87. A bill to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualifying placement agencies, and for other purposes; to the Committee on Finance.

By Mr. BUNNING:

S. 88. A bill to amend title XIX of the Social Security Act to exempt disabled individuals from being required to enroll with a managed care entity under the medicaid program; to the Committee on Finance.

By Mr. HUTCHINSON:

S. 89. A bill to state the policy of the United States with respect to certain activities of the People's Republic of China, to impose certain restrictions and limitations on activities of and with respect to the People's Republic of China, and for other purposes; to the Committee on Foreign Relations.

By Ms. SNOWE:

S. 90. A bill to establish reform criteria to permit payment of United States arrearages in assessed contributions to the United Nations; to the Committee on Foreign Relations.

By Ms. SNOWE:

S. 91. A bill to restrict intelligence sharing with the United Nations; to the Committee on Foreign Relations.

By Mr. DOMENICI (for himself, Mr. THOMPSON, Mr. LIEBERMAN, Mr. THOMAS, Ms. SNOWE, Mr. ROTH, Mr. GRASSLEY, Mr. GRAMM, Mr. NICKLES, Mr. ABRAHAM, Mr. FRIST, Mr. GRAMS, Mr. SMITH of Oregon, Mr. MCCAIN, Mr. KYL, Mr. LUGAR, and Ms. COLLINS):

S. 92. A bill to provide for biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government; to the Committee on the Budget and the Committee on overnmental Affairs, jointly, pursuant to e order of August 4, 1977, with instructions at if one Committee reports, the other mmittee have thirty days to report or be scharged.

By Mr. DOMENICI (for himself, Mr. GRASSLEY, Mr. GORTON, Mr. ABRAHAM, Mr. FRIST, Mr. GRAMS, Mr. SMITH of Oregon, Mr. THOMAS, Mr. KYL, Mr. MACK, and Mr. VOINOVICH):

S. 93. A bill to improve and strengthen the dget process; to the Committee on the dget and the Committee on Governmental fairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one mmittee reports, the other Committee ve thirty days to report of be discharged.

By Mr. MCCAIN:

S. 94. A bill to repeal the telephone excise x; to the Committee on Finance.

By Mr. MCCAIN:

S. 95. A bill to amend the Communications t of 1934 to ensure that public availability information concerning stocks traded on established stock exchange continues to freely and readily available to the public rough all media of mass communication; the Committee on Commerce, Science, d Transportation.

By Mr. MCCAIN:

S. 96. A bill to regulate commerce between d among the several States by providing the orderly resolution of disputes arising t of computer-based problems related to ocessing data that includes a 2- digit expession of that year's date; to the Comttee on Commerce, Science, and Transportion.

By Mr. MCCAIN (for himself and Mr. HOLLINGS):

. 97. A bill to require the installation and by schools and libraries of a technology filtering or blocking material on the ernet on computers with Internet access be eligible to receive or retain universal vice assistance; to the Committee on mmerce, Science, and Transportation.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, and Mr. LOTT):

. 98. A bill to authorize appropriations for Surface Transportation Board for fiscal rs 1999, 2000, 2001, and 2002, and for other rposes; to the Committee on Commerce, ence, and Transportation.

By Mr. MCCAIN (for himself, Mrs. HUTCHISON, Mr. STEVENS, Mr. CRAIG, Mr. WARNER, and Mr. ASHCROFT):

. 99. A bill to provide for continuing in absence of regular appropriations for fisyear 2000; to the Committee on Approations.

By Mr. MCCAIN:

. 100. A bill to grant the power to the esident to reduce budget authority; to the mmittee on the Budget and the Comttee on Governmental Affairs, jointly, rsuant to the order of August 4, 1977, with tructions that if one Committee reports, other Committee have thirty days to ret or be discharged.

By Mr. LUGAR (for himself, Mr. ROBERTS, Mr. CRAIG, Mr. FITZGERALD, and Mr. COCHRAN):

. 101. A bill to promote trade in United tes agricultural commodities, livestock, value-added products, and to prepare for ure bilateral and multilateral trade negotions; to the Committee on Finance.

By Mr. ABRAHAM:

. 102. A bill to provide that the Secretary the Senate and the Clerk of the House of presentatives shall include an estimate of leral retirement benefits for each Member Congress in their semiannual reports, and for other purposes; to the Committee on Governmental Affairs.

By Mr. ALLARD (for himself and Mr. ENZI):

S. 103. A bill to amend the Internal Revenue Code of 1986 to eliminate the temporary increase in unemployment tax; to the Committee on Finance.

By Mr. GRAMS:

S. 104. A bill to provide for continuing appropriations in the absence of regular appropriations; to the Committee on Appropriations.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 105. A bill to deauthorize certain portions of the project for navigation, Bass Harbor, Maine; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 106. A bill to amend the Water Resources Development Act of 1996 to deauthorize the remainder of the project at East Boothbay Harbor, Maine; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 107. A bill to deauthorize the project for navigation, Boothbay Harbor, Maine; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 108. A bill to modify, and to deauthorize certain portions of, the project for navigation at Wells Harbor, Maine; to the Committee on Environment and Public Works.

By Mr. COVERDELL (for himself and Mr. CLELAND):

S. 109. A bill to improve protection and management of the Chattahoochee River National Recreation Area in the State of Georgia; to the Committee on Energy and Natural Resources.

By Mr. SMITH of Oregon:

S. 110. A bill to amend title XIX of the Social Security Act to provide medical assistance for breast and cervical cancer-related treatment services to certain women screened and found to have breast or cervical cancer under a federally-funded screening program; to the Committee on Finance.

By Mr. GRAMM:

S. 111. A bill to authorize negotiation for the accession of Chile to the North American Free Trade Agreement, and for other purposes; to the Committee on Finance.

By Mr. GRAMM:

S. 112. A bill to authorize negotiation of free trade agreements with the countries of the Americas, and for other purposes; to the Committee on Finance.

By Mr. SMITH of Oregon (for himself, Mr. THURMOND, Mr. LEAHY, and Mr. JEFFORDS):

S. 113. A bill to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 114. A bill to amend title VII of the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself and Mrs. FEINSTEIN):

S. 115. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE:

S. 116. A bill to establish a training voucher system, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE:

S. 117. A bill to permit individuals to continue health plan coverage of services while participating in approved clinical studies; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE:

S. 118. A bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decisionmaking at the National Cancer Institute; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE:

S. 119. A bill to establish a Northern Border States-Canada Trade Council, and for other purposes; to the Committee on Finance.

By Ms. SNOWE:

S. 120. A bill to amend title II of the Trade Act of 1974 to clarify the definition of domestic industry and to include certain agricultural products for purposes of providing relief from injury caused by import competition, and for other purposes; to the Committee on Finance.

By Mr. FEINGOLD:

S. 121. A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, age, or disability, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FEINGOLD:

S. 122. A bill to amend title 37, United States Code, to ensure equitable treatment of members of the National Guard and the other reserve components of the United States with regard to eligibility to receive special duty assignment pay, and for other purposes; to the Committee on Armed Services.

By Mr. FEINGOLD:

S. 123. A bill to phase out Federal funding of the Tennessee Valley Authority; to the Committee on Environment and Public Works.

By Mr. FEINGOLD:

S. 124. A bill to amend the Agricultural Adjustment Act to prohibit the Secretary of Agriculture from basing minimum prices for Class I milk on the distance or transportation costs from any location that is not within a marketing area, except under certain circumstances, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FEINGOLD (for himself and Mr. MCCAIN):

S. 125. A bill to reduce the number of executive branch political appointees; to the Committee on Governmental Affairs.

By Mr. FEINGOLD:

S. 126. A bill to terminate the Uniformed Services University of the Health Sciences; to the Committee on Armed Services.

By Mr. FEINGOLD:

S. 127. A bill to amend the Agricultural Market Transition Act to prohibit the Secretary of Agriculture from including any storage charges in the calculation of loan deficiency payments or loans made to producers for loan commodities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FEINGOLD (for himself, Mr. KOHL, Mr. WYDEN, and Mr. JOHNSON):

S. 128. A bill to terminate operation of the Extremely Low Frequency Communication System of the Navy; to the Committee on Armed Services.

By Mr. FEINGOLD (for himself, Mr. LAUTENBERG, Mr. WYDEN, and Mr. JOHNSON):

S. 129. A bill to terminate the F/A–18E/F aircraft program; to the Committee on Armed Services.

By Ms. SNOWE:

S. 130. A bill to amend the Internal Revenue Code of 1986 to make the dependent care credit refundable, and for other purposes; to the Committee on Finance.

By Ms. SNOWE:

S. 131. A bill to amend the Internal Revenue Code of 1986 to allow a deduction from gross income for home care and adult day and respite care expenses of individual taxpayers with respect to a dependent of the taxpayer who suffers from Alzheimer's disease or related organic brain disorders; to the Committee on Finance.

By Ms. SNOWE:

S. 132. A bill to amend the Internal Revenue Code of 1986 to provide comprehensive pension protection for women; to the Committee on Finance.

By Mr. CRAIG:

S. 133. A bill for the relief of Benjamin M. Banfro; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 134. A bill to direct the Secretary of the Interior to study whether the Apostle Islands National Lakeshore should be protected as a wilderness area; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself, Ms. COLLINS, Mr. SPECTER, Mr. BAUCUS, Mr. KERREY, Ms. LANDRIEU, Mrs. BOXER, and Mr. JEFFORDS):

S. 135. A bill to amend the Internal Revenue Code of 1986 to increase the deduction for the health insurance costs of self-employed individuals, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. DASCHLE, Mrs. MURRAY, Mr. LEVIN, Mr. WELLSTONE, Mrs. BOXER, Mr. KERRY, Ms. MIKULSKI, and Mr. BAUCUS):

S. 136. A bill to provide for teacher excellence and classroom help; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KYL:

S. 137. A bill to amend the Internal Revenue Code of 1986 to repeal the increase in tax on social security benefits; to the Committee on Finance.

By Mr. KYL:

S. 138. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for expenses of attending elementary and secondary schools and for contributions to charitable organizations which provide scholarships for children to attend such schools; to the Committee on Finance.

By Mr. ROBB (for himself and Mr. HOLLINGS):

S. 139. A bill to grant the power to the President to reduce budget authority; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. MOYNIHAN (for himself and Mr. SCHUMER):

S. 140. A bill to establish the Thomas Cole National Historic Site in the State of New York as an affiliated area of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN:

S. 141. A bill to amend section 845 of title 18, United States Code, relating to explosive materials; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 142. A bill to amend section 842 of title 18, United States Code, relating to recordkeeping requirements for explosive materials transfers; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 143. A bill to amend the Professional Boxing Safety Act of 1996 to standardize the physical examinations that each boxer must take prior to each professional boxing match and to require a brain CAT scan every 2 years as a requirement for the licensing of a boxer; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 144. A bill to require the Secretary of the Interior to review the suitability for inclusion in the National Wilderness Preservation System of the Everglades expansion area; to the Committee on Energy and Natural Resources.

By Mr. ABRAHAM:

S. 145. A bill to control crime by requiring mandatory victim restitution; to the Committee on the Judiciary.

By Mr. ABRAHAM (for himself, Mr. ALLARD, Mrs. FEINSTEIN, Mr. HATCH, Mr. THURMOND, Mr. HELMS, Mr. KYL, Mr. HUTCHINSON, Mr. GRAMS, Mr. ENZI, Mr. HAGEL, and Mr. COVERDELL):

S. 146. A bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes; to the Committee on the Judiciary.

By Mr. ABRAHAM (for himself, Mr. LEVIN, Mr. ASHCROFT, and Mr. DEWINE):

S. 147. A bill to provide for a reduction in regulatory costs by maintaining Federal average fuel economy standards applicable to automobiles in effect at current levels until changed by law, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ABRAHAM (for himself, Mr. DASCHLE, Mr. CHAFEE, Mr. HATCH, and Mr. DURBIN):

S. 148. A bill to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds; to the Committee on Environment and Public Works.

By Mr. KOHL:

S. 149. A bill to amend chapter 44 of title 18, United States Code, to require the provision of a child safety lock in connection with the transfer of a handgun; to the Committee on the Judiciary.

By Mr. WYDEN:

S. 150. A bill to the relief of Marina Khalina and her son, Albert Mifakhov; to the Committee on the Judiciary.

By Mr. SARBANES:

S. 151. A bill to amend the International Maritime Satellite Telecommunications Act to ensure the continuing provision of certain global satellite safety services after the privatization of the business operations of the International Mobile Satellite Organization, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MOYNIHAN:

S. 152. A bill to amend the Internal Revenue Code of 1986 to increase the tax on handgun ammunition, to impose the special occupational tax and registration requirements on importers and manufactures of handgun ammunition, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 153. A bill to prohibit the use of certain ammunition, and for other purposes; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 154. A bill to amend title 18, United States Code, with respect to the licensing of ammunition manufacturers, and for other purposes; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 155. A bill to provide for the collection and dissemination of information on injuries, death, and family dissolution due to bullet-related violence, to require the keeping of records with respect to dispositions of ammunition, and to increase taxes on certain bullets; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 156. A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber and 9 millimeter ammunition; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 157. A bill to amend the Internal Revenue Code of 1986 to tax 9 millimeter, .25 caliber, and .32 caliber bullets; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 158. A bill to amend title 18, United States Code, to regulate the manufacture, importation, and sale of ammunition capable of piercing police body armor; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 159. A bill to amend chapter 121 of title 28, United States Code, to increase fees paid to Federal jurors, and for other purposes; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 160. A bill to authorize the Architect of the Capitol to develop and implement a plan to improve the Capitol grounds through the elimination and modification of space alloted for parking; to the Committee on Rules and Administration.

By Mr. MOYNIHAN:

S. 161. A bill to provide for a transition to market-based rates for power sold by the Federal Power Marketing Administrations and the Tennessee Valley Authority, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BREAUX (for himself, Ms. LANDRIEU, Mr. HELMS, and Mr. NICKLES):

S. 162. A bill to amend the Internal Revenue Code of 1986 to change the determination of the 50,000-barrel refinery limitation on oil depletion deduction from a daily basis to an annual average daily basis; to the Committee on Finance.

By Mr. BREAUX:

S. 163. A bill to amend the Internal Revenue Code of 1986 to allow certain coins to be acquired by individual retirement accounts and other individually directed pension plan accounts; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 164. A bill to improve mathematics and science instruction; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MOYNIHAN (for himself, Mr. JEFFORDS, and Mr. LIEBERMAN):

S. 165. A bill to require the Secretary of Education to correct poverty data to account for cost of living differences; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MOYNIHAN:

S. 166. A bill to require the Secretary of Commerce to determine any surpluses or shortfalls in certain grant amounts made available to States by reason of an undercount in the most recent decennial census conducted by the Bureau of the Census; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN (for himself and Mr. SCHUMER):

S. 167. A bill to extend the authorization for the Upper Delaware Citizens Advisory Council and to authorize construction and operation of a visitor center for the Upper Delaware Scenic and Recreational River, New York and Pennsylvania; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN:

S. 168. A bill for the relief of Thomas J. Sansone, Jr; to the Committee on the Judiciary.

By Mr. CLELAND (for himself, Mr. ROBB, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. BYRD, Mr. LIEBERMAN, Ms. LANDRIEU, Mr. REED, and Mr. DASCHLE):

S. 169. A bill to improve pay, retirement, and educational assistance benefits for members of the Armed Forces; and for other purposes; to the Committee on Armed Services.

By Mr. SMITH of New Hampshire (for himself, Mr. MOYNIHAN, and Mr. MACK):

S. 170. A bill to permit revocation by members of the clergy of their exemption from Social Security coverage; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. LEVIN, Mr. LEAHY, Mr. SCHUMER, Mrs. BOXER, and Mr. CLELAND):

S. 171. A bill to amend the Clean Air Act to limit the concentration of sulfur in gasoline used in motor vehicles; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN (for himself, Mr. SCHUMER, and Mr. LIEBERMAN):

S. 172. A bill to reduce acid deposition under the Clean Air Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN:

S. 173. A bill to amend the Immigration and Nationality Act to revise amendments made by the Illegal Immigration Reform and Immigrant Resposibility Act; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself, Mr. BENNETT, and Mr. DODD):

S. 174. A bill to provide funding for States to correct Y2K problems in computers that are used to administer State and local government programs; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 175. A bill to repeal the habeas corpus requirement that a Federal court defer to State court judgments and uphold a conviction regardless of whether the Federal court believes that the State court erroneously interpreted constitutional law, except in cases where the Federal court believes that the State court acted in an unreasonable manner; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 176. A bill to direct the Secretary of the Interior to conduct a study of alternatives for commemorating and interpreting the history of the Harlem Renaissance, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. INOUYE:

S. 177. A bill for the relief of Donald C. Pence; to the Committee on Veterans Affairs.

By Mr. INOUYE:

S. 178. A bill to amend the Public Health Service Act to provide for the establishment of a National Center for Social Work Research; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. 179. A bill to amend the Public Health Service Act to provide health care practitioners in rural areas with training in preventive health care, including both physical and mental care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. 180. A bill to amend title XIX of the Social Security Act to provide for coverage of services provided by nursing school clinics under State Medicare programs; to the Committee on Finance.

By Mr. INOUYE:

S. 181. A bill to amend title XVIII of the Social Security Act to remove the restriction that a professional psychologist or clinical social worker provide services in a comprehensive outpatient rehabilitation facility to a patient only under the care of a physician, and for other purposes; to the Committee on Finance.

By Mr. INOUYE:

S. 182. A bill to amend title 5, United States Code, to require the issuance of a prisoner-of-war medal to civilian employees of the Federal Government who are forcibly detained or interned by an enemy government or a hostile force under wartime conditions; to the Committee on Governmental Affairs.

By Mr. INOUYE:

S. 183. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary and exchange stores; to the Committee on Armed Services.

By Mr. INOUYE:

S. 184. A bill to convert a temporary Federal judgeship in the district of Hawaii to a permanent judgeship, to authorize an additional permanent judgeship in the district of Hawaii, extend statutory authority for magistrate positions in Guam and the Northern Mariana Islands, and for other purposes; to the Committee on the Judiciary.

By Mr. ASHCROFT (for himself, Mr. DASCHLE, Mr. BAUCUS, Mr. BURNS, Mr. BROWNBACK, Mr. GRASSLEY, and Mr. INHOFE):

S. 185. A bill to establish a Chief Agricultural Negotiator in the Office of the United States Trade Representative; to the Committee on Finance.

By Mr. MURKOWSKI (for himself and Mr. GORTON):

S. 186. A bill to provide for the reorganization of the Ninth Circuit Court of Appeals, and for other purposes; to the Committee on the Judiciary.

By Mr. SARBANES (for himself, Mr. DODD, Mr. BRYAN, Mr. LEAHY, Mr. EDWARDS, and Mr. HOLLINGS):

S. 187. A bill to give customers notice and choice about how their financial institutions share or sell their personally identifiable sensitive financial information, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WYDEN (for himself and Mr. BURNS):

S. 188. A bill to amend the Federal Water Pollution Control Act to authorize the use of State revolving loan funds for construction of water conservation and quality improvements; to the Committee on Environment and Public Works.

By Mr. INOUYE:

S. 189. A bill to restore the traditional day of observance of Memorial Day; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 190. A bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

By Mr. INOUYE:

S. 191. A bill to require the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II; to the Committee on Armed Services.

By Mr. KENNEDY (for himself, Mr. DASCHLE, Mr. LEAHY, Mr. SARBANES, Mr. MOYNIHAN, Mr. LEVIN, Mr. DODD, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. KERRY, Mr. HARKIN, Ms. MIKULSKI, Mr. AKAKA, Mr. WELLSTONE, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. MURRAY, Mr. FEINGOLD, Mr. WYDEN, Mr. DURBIN, Mr. TORRICELLI, Mr. REED, and Mr. SCHUMER):

S. 192. A bill to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER:

S. 193. A bill to apply the same quality and safety standards to domestically manufactured handguns that are currently applied to imported handguns; to the Committee on the Judiciary.

By Mrs. BOXER:

S. 194. A bill to amend the Internal Revenue Code of 1986 to allow the first $2,000 of health insurance premiums to be fully deductible; to the Committee on Finance.

By Mrs. BOXER:

S. 195. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit; to the Committee on Finance.

By Mrs. BOXER:

S. 196. A bill to amend the Internal Revenue Code of 1986 to waive in the case of multiemployer plans the section 415 limit on benefits to the participant's average compensation for his high 3 years; to the Committee on Finance.

By Mrs. BOXER:

S. 197. A bill to amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to cease mineral leasing activity on the outer Continental Shelf seaward of a coastal State that has declared a moratorium on mineral exploration, development, or production activity in State water; to the Committee on Energy and Natural Resources.

By Mrs. BOXER:

S. 198. A bill to amend the Public Health Service Act to provide for the training of health professions students with respect to the identification and referral of victims of domestic violence; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LAUTENBERG (for himself and Mr. TORRICELLI):

S. 199. A bill for the relief of Alexandre Malofienko, Olga Matsko, and their son, Vladimir Malofienko; to the Committee on the Judiciary.

By Mr. HARKIN (for himself and Mr. JOHNSON):

S. 200. A bill to amend the Internal Revenue Code of 1986 to increase the years for carryback of net operating losses for certain farm losses; to the Committee on Finance.

By Mr. DODD (for himself, Mr. Daschle, Mr. Kennedy, Mrs. Murray, Ms. Mikulski, Mr. Harkin, Mr. Kerry, Mr. Akaka, Mrs. Boxer, and Mr. Wellstone):

S. 201. A bill to amend the Family and Medical Leave Act of 1993 to apply the Act to a greater percentage of the United States workforce, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MOYNIHAN (for himself, Mr. Kennedy, and Mr. Daschle):

S. 202. A bill to amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and medicare benefits for individuals ages 55 to 65, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 203. A bill to amend title XIX of the Social Security Act to provide for an equitable determination of the Federal medical assistance percentage; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. Jeffords, and Mr. Lieberman):

S. 204. A bill to amend chapter 5 of title 13, United States Code, to require that any data relating to the incidence of poverty produced or published by the Secretary of Commerce for subnational areas is corrected for differences in the cost of living in those areas; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN (for himself and Mr. Kerrey):

S. 205. A bill to establish a Federal Commission on Statistical Policy to study the reorganization of the Federal statistical system, to provide uniform safeguards for the confidentiality of information acquired from exclusively statistical purposes, and to improve the effeciency of Federal statistical programs and the quality of Federal statistics by permiting limited sharing of records among designated agencies for statistical purposes under strong safeguards; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN (for himself and Mr. Chafee):

S. 206. A bill to amend title XXI of the Social Security Act to provide for improved data collection and evaluations of State Children's Health Insurance Programs, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 207. A bill to amend title V of the Social Security Act to increase the authorization of appropriations for the maternal and child health services block grant and to promote integrated physical and specialized mental health services for children and adolescents; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 208. A bill to enhance family life; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 209. A bill to prohibit States from imposing a family cap under the program of temporary assistance to needy families; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 210. A bill to establish a medical education trust fund, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. Roth, Mr. Baucus, Mrs. Boxer, Mr. Bryan, Mr. Conrad, Mr. Graham, Mr. Grassley, Mr. Hatch, Mr. Jeffords, Mr. Kyl, Mr. Lieberman, Ms. Mikulski, Mr. Murkowski, Mr. Robb, and Mr. Schumer):

S. 211. A bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. Schumer):

S. 212. A bill to amend the Internal Revenue Code of 1986 to extend the economic activity credit for Purto Rico, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. Schumer):

S. 213. A bill to amend the Internal Revenue Code of 1986 to repeal the limitation of the cover over of tax on distilled spirits, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. Schumer):

S. 214. A bill to amend the Internal Revenue Code of 1986 to extend the research and development tax credit to research in the Commonwealth of Puerto Rico and the possessions of the United States; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. Schumer):

S. 215. A bill to amend title XXI of the Social Security Act to increase the allotments for territories under the State Children's Health Insurance Program; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. Jeffords):

S. 216. A bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the use of foreign tax credits under the alternative minimum tax; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. Inouye, and Mr. Wellstone):

S. 217. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of charitable transfers of collections of personal papers with a separate right to control access; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. Schumer, and Mr. Durbin):

S. 218. A bill to amend the Harmonized Tariff Schedule of the United States to provide for equitable duty treatment for certain wool used in making suits; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 219. A bill to authorize appropriations for the United States Customs Service; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 220. A bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance and NAFTA transitional adjustment assistance programs under that Act, and for other purposes; to the Committee on Finance.

By Mr. AKAKA (for himself and Mr. Inouye):

S. 221. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to combat fraud and price-gouging committed in connection with the provision of consumer goods and services for the cleanup, repair, and recovery from the effects of a major disaster declared by the President, and for other purposes; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself and Mr. DeWine):

S. 222. A bill to amend title 23, United States Code, to provide for a national standard to prohibit the operation of motor vehicles by intoxicated individuals; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG (for himself, Mr. Robb, Mr. Kennedy, Mr. Daschle, Mr. Conrad, Mr. Bingaman, Mr. Edwards, Mr. Torricelli, Mr. Kerry, Mr. Breaux, Mr. Inouye, Mrs. Boxer, and Mr. Johnson):

S. 223. A bill to help communities modernize public school facilities, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 224. A bill to amend the Internal Revenue Code of 1986 to correct the treatment of tax-exempt financing of professional sports facilities; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. Akaka):

S. 225. A bill to provide housing assistance to Native Hawaiians; to the Committee on Indian Affairs.

By Mr. FEINGOLD:

S. 226. A bill to promote democracy and good governance in Nigeria, and for other purposes; to the Committee on Foreign Relations.

By Mr. COVERDELL (for himself and Mr. Brownback):

S. 227. A bill to prohibit the expenditure of Federal funds to provide or support programs to provide individuals with hypodermic needles or syringes for the use of illegal drugs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. 228. A bill for the relief of Susan Rebola Cardenas; to the Committee on the Judiciary.

By Mr. INOUYE (for himself and Mr. Akaka):

S. 229. A bill for the relief of the State of Hawaii; to the Committee on Finance.

By Mr. INOUYE:

S. 230. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses; to the Committee on Governmental Affairs.

By Mr. INOUYE:

S. 231. A bill to provide for a special application of section 1034 of the Internal Revenue Code of 1986; to the Committee on Finance.

By Mr. INOUYE:

S. 232. A bill to amend title XVIII of the Social Security Act to provide improved reimbursement for clinical social worker services under the medicare program, and for other purposes; to the Committee on Finance.

By Mr. INOUYE:

S. 233. A bill to amend title VII of the Public Health Service Act to ensure that social work students of social work schools are eligible for support under the certain programs to assist individuals in pursuing health careers and programs of grants for training projects in geriatrics, and to establish a social work training program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. 234. A bill to recognize the organization known as the National Academies of Practice; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 235. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in professional psychology eligible to participate in various health professions loan programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. 236. A bill to amend title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. 237. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating to offenders with mental disease or defect, to be conducted by a clinical social worker; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 238. A bill to amend title 10, United States Code, to increase the grade provided for the heads of the nurse corps of the Armed Forces; to the Committee on Armed Services.

By Mr. INOUYE:

S. 239. A bill to amend title 38, United States Code, to revise certain provisions relating to the appointment of professional psychologists in the Veterans Health Administration, and for other purposes; to the Committee on Veterans Affairs.

By Mr. DASCHLE (for himself and Mr. Kennedy):

S. 240. A bill to amend the Public Health Service Act and the Employee Retirement Income Security Act to protect consumers in managed care plans and other health coverage; to the Committee on Health, Education, Labor, and Pensions.

By Mr. JOHNSON (for himself and Mr. Enzi):

S. 241. A bill to amend the Federal Meat Inspection Act to provide that a quality grade label issued by the Secretary of Agriculture for beef and lamb may not be used for imported beef or imported lamb; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JOHNSON (for himself and Mr. Enzi):

S. 242. A bill to amend the Federal Meat Inspection Act to require the labeling of imported meat and meat food products; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JOHNSON (for himself and Mr. Daschle):

S. 243. A bill to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JOHNSON (for himself, Mr. Daschle, Mr. Grams, Mr. Wellstone, Mr. Grassley, and Mr. Harkin):

S. 244. A bill to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATCH:

S. 245. A bill to reauthorize the Federal programs to prevent violence against women, and for other purposes; to the Committee on the Judiciary.

By Mr. HAGEL:

S. 246. A bill to protect private property rights guaranteed by the fifth amendment to the Constitution by requiring Federal agencies to prepare private property taking impact analyses and by allowing expanded access to Federal courts; to the Committee on Governmental Affairs.

By Mr. HATCH (for himself, Mr. Leahy, Mr. McCain, Mr. DeWine, Mr. Kohl, and Mr. Lott):

S. 247. A bill to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. Ashcroft, Mr. Thurmond, Mr. Sessions, and Mr. Abraham):

S. 248. A bill to modify the procedures of the Federal courts in certain matters, to reform prisoner litigation, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH (for himself and Mr. DeWine):

S. 249. A bill to provide funding for the National Center for Missing and Exploited Children, to reauthorize the Runaway and Homeless Youth Act, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. DeWine, and Mr. Nickles):

S. 250. A bill to establish ethical standards for Federal prosecutors, and for other purposes; to the Committee on the Judiciary.

By Mr. BURNS (for himself, Mr. Craig, Mr. Thomas, and Mr. Enzi):

S. 251. A bill to amend the Federal Meat Inspection Act to require that imported beef or lamb bear a label identifying the country of origin; to the Committee on Agriculture, Nutrition and Forestry.

By Mr. VOINOVICH:

S. 252. A bill to prohibit the recoupment of medicaid-related funds recovered from one or more tobacco companies; to the Committee on Finance.

By Mr. MURKOWSKI (for himself and Mr. Gorton):

S. 253. A bill to provide for the reorganization of the Ninth Circuit Court of Appeals, and for other purposes; to the Committee on the Judiciary.

By Mr. THURMOND:

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

By Mr. KYL (for himself, Mr. Abraham, Mr. Allard, Mr. Ashcroft, Mr. Brownback, Mr. Coverdell, Mr. Crapo, Mr. Frist, Mr. Gramm, Mr. Grams, Mr. Hagel, Mr. Helms, Mrs. Hutchison, Mr. Inhofe, Mr. Mack, Mr. McConnell, Mr. Sessions, Mr. Shelby, Mr. Smith of New Hampshire, and Mr. Thompson):

S.J. Res. 2. A joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for increasing taxes; to the Committee on the Judiciary.

By Mr. KYL (for himself, Mrs. Feinstein, Mr. Biden, Mr. Grassley, Mr. Inouye, Mr. DeWine, Ms. Landrieu, Ms. Snowe, Mr. Lieberman, Mr. Mack, Mr. Cleland, Mr. Coverdell, Mr. Smith of New Hampshire, Mr. Shelby, Mr. Hutchinson, Mr. Helms, Mr. Frist, Mr. Gramm, Mr. Lott, and Mrs. Hutchison):

S.J. Res. 3. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims; to the Committee on the Judiciary.

By Mr. KYL:

S.J. Res. 4. A joint resolution proposing an amendment to the Constitution of the United States to provide that expenditures for a fiscal year shall exceed neither revenues for such fiscal year nor 19 per centum of the Nation's gross domestic product for the calendar year ending before the beginning of such fiscal year; to the Committee on the Judiciary.

By Mr. GRAMM (for himself and Mr. Gorton):

S.J. Res. 5. A joint resolution to provide for a Balanced Budget Constitutional Amendment that prohibits the use of Social Security surpluses to achieve compliance; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mr. Specter, Mr. McCain, and Mr. Bryan):

S.J. Res. 6. A joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. Thurmond, Mr. Craig, and Mr. Ashcroft):

S.J. Res. 7. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER (for himself and Mr. Harkin):

S. Res. 19. A resolution to express the sense of the Senate that the Federal investment in biomedical research should be increased by $2,000,000 in fiscal year 2000; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977 with instructions, that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. JEFFORDS (for himself and Mr. Kennedy):

S. Res. 20. A resolution to rename the Committee on Labor and Human Resources the Committee on Health, Education, Labor, and Pensions; considered and agreed to.

By Mr. FRIST (for himself and Mr. Thompson):

S. Res. 21. A resolution congratulating the University of Tennessee Volunteers football team on winning the 1998 National Collegiate Athletic Association Division I-A football championship; considered and agreed to.

By Mr. CAMPBELL (for himself, Mr. Abraham, Mr. Akaka, Mr. Allard, Mr. Biden, Mr. Bingaman, Mr. Brownback, Mr. Bryan, Mr. Burns, Mr. Cleland, Mr. Coverdell, Mr. Craig, Mr. Crapo, Mr. Daschle, Mr. DeWine, Mr. Dodd, Mr. Domenici, Mr. Dorgan, Mr. Durbin, Mr. Enzi, Mrs. Feinstein, Mr. Fitzgerald, Mr. Frist, Mr. Gorton, Mr. Gramm, Mr. Grams, Mr. Hagel, Mr. Hatch, Mr. Helms, Mr. Hollings, Mrs. Hutchison, Mr. Inhofe, Mr. Inouye, Mr. Jeffords, Mr. Kennedy, Mr. Kerrey, Mr. Leahy, Mr. Lieberman, Mr. Lott, Mr. Lugar, Mr. Mack, Mr. McCain, Ms. Mikulski, Mr. Moynihan, Mr. Murkowski, Mrs. Murray, Mr. Reid, Mr. Robb, Mr. Rockefeller, Mr. Roth, Mr. Sarbanes, Mr. Schumer, Mr. Sessions, Mr. Shelby, Mr. Smith of New Hampshire, Mr. Specter, Mr. Stevens, Mr. Thurmond, Mr. Torricelli, Mr. Warner, and Mr. Wellstone):

S. Res. 22. A resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives serving as law enforcement officers; to the Committee on the Judiciary.

By Mr. DURBIN (for himself and Mr. FITZGERALD):

S. Res. 23. A resolution congratulating Michael Jordan on the announcement of his retirement from the Chicago Bulls and the National Basketball Association.

By Mr. LUGAR:

S. Res. 24. Senate resolution expressing the sense of the Senate that the income tax should be eliminated and replaced with a national sales tax; to the Committee on Finance.

By Mr. MCCAIN (for himself and Mr. KYL):

S. Res. 25. A bill to reform the budget processs by making the process fairer, more efficient, and more open; to the Committee on Rules and Administration.

By Mr. MOYNIHAN:

S. Con. Res. 1. A concurrent resolution expressing congressional support for the International Labor Organization's Declaration on Fundamental Principles and Rights at Work; to the Committee on Health, Education, Labor, and Pensions.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEFFORDS (for himself, Mr. GREGG, Mr. LOTT, Mr. MCCAIN, Mr. MACK, and Mr. COVERDELL):

S. 2. A bill to extend programs and activities under the Elementary and Secondary Education Act of 1965; to the Committee on Health, Education, Labor, and Pensions.

EDUCATIONAL OPPORTUNITIES ACT

Mr. JEFFORDS. Mr. President, I am pleased to join the distinguished Majority Leader in introducing the "Educational Opportunities Act." This legislation extends programs authorized under the Elementary and Secondary Education Act (ESEA) and will serve as the foundation for our efforts this Congress to expand and strengthen those programs.

The 106th Congress will see the close of the 20th century and the birth of the new millennium. At such a time, one quite naturally begins to imagine the advances and challenges—the promises and perils—which lie ahead. As a nation, we have viewed the future with optimism. We know the march of civilization may at times be uphill, but we see it as nevertheless moving upward. We know as well that the success of our efforts will not rely upon luck, but upon hard work and thoughtful planning.

It comes as little surprise, therefore, that at this time in history our thoughts turn to education. From the kitchen table to the board room to the halls of Congress, education heads the agenda. That is as it should be, as we rediscover the truth in Aristotle's observation that "all who have meditated on the art of governing mankind have been convinced that the fate of empires depends on the education of youth."

Reauthorization of federal elementary and secondary education programs offers this Congress an opportunity to make a lasting mark on the programs and policies which will define the role of the United States in the coming century. Our international competitors have long observed and admired our system of education. Unfortunately, in all too many cases, the pupils have surpassed the teacher. We lag behind many of our competitors. We must pick up the pace, and we must do so without delay.

The renewed emphasis on education has stimulated thinking and has produced a wealth of ideas regarding the paths we should follow. As chairman of the Senate committee charged with pulling these ideas into a sound and coherent package, I am looking forward to a Congress which is both challenging and productive.

It is my hope that the Educational Opportunities Act will build upon the education successes of the 105th Congress. We enacted nearly a dozen important initiatives which touched the lives of students of all ages—from youngsters in Head Start and Even Start, to special education students, to high school vocational students, to college undergraduates and graduate students, to adults in need of remedial education.

These successes were possible because of a willingness to work together towards common objectives. In the United States Congress, we begin with 535 individual road maps marking a course to our destination. Arriving there will require the good faith give-and-take which has characterized our finest moments as a democracy.

The legislation which Senator LOTT and I are introducing today does not fill in all the blanks regarding federal elementary and secondary education policy. What it does do is set the cornerstone for a final product in which I believe each and every member of Congress will take pride.

The findings and purposes contained in this legislation are intended to underscore the basic building blocks of success; parental involvement, qualified teachers, a safe learning environment, and a focus on high achievement by all students.

Everyone has a role to play in assuring our students acquire the knowledge and skills they need to make the United States number one in the world.

Parents are the first and most consistent educators in a child's life. Reading to young children and emphasizing the importance of education instils a love of learning which lasts a lifetime.

The teacher in the classroom is at the core of educational improvement. Without a strong, competent, well prepared teaching force, other investments in education will be of little value. It has been 15 years since the national crisis in education was raised by the "A Nation At Risk" report. The admonition was given in these terse words: If a foreign government has imposed on us our educational system we would have declared it an act of war.

Yet little has changed. There is some improvement in science but little in math. Children are coming to school slightly more prepared to learn, but this is primarily in the area of health.

It is obvious that nothing is going to change unless it changes in the classroom. And nothing will change in the classroom until the teachers change. And the teachers can't be expected to change until they have help in knowing what is expected of them.

The Higher Education Amendments enacted into law last October took significant steps towards demanding excellence from our teacher preparation program. With the Educational Opportunities Act, we now have the opportunity to focus on those already in the teaching force.

State and local officials are also important players. Not only do they provide the bulk of financial support for elementary and secondary education in the country, they are also undertaking significant initiatives to determine what children should know and to assess whether they have mastered that material.

The federal government, since the Elementary and Secondary Education Act was initiated in 1965, has offered support for these efforts—as well as providing critical additional resources to offer extra help to educationally disadvantaged students. In addition, the federal government makes a significant investment in research. A key challenge for us will be determining how the federal investments can be most effectively targeted. The research we support must not only be sound but must also be useful and readily available to states and localities.

Ultimately, the focus of all of our efforts must be on the student in the classroom. The training of teachers, the establishment of expectations, and the development of assessments are all pieces of the puzzle which take shape in the classroom itself. If we keep that objective foremost in mind, we will build the educational system we need and that our children deserve.

By Mr. GRAMS (for himself, Mr. ROTH, Mr. ABRAHAM, Mr. ASHCROFT, Mr. LOTT, Mr. MCCAIN, Mr. COVERDELL, and Mrs. HUTCHISON):

S. 3. A bill to amend the Internal Revenue Code of 1986 to reduce individual income tax rates by 10 percent; to the Committee on Finance.

TAX CUTS FOR ALL AMERICANS ACT

Mr. GRAMS. Mr. President, I rise today to introduce S. 3, the Tax Cuts for All Americans Act, along with Senator ROTH, Chairman of the Senate Finance Committee.

First, I'd like to commend the Senate Majority Leader for including this important legislation as one of the Republicans' top 5 agenda items and Finance Committee Chairman ROTH for making this a committee priority. This emphasizes the importance and commitment by Republicans to provide meaningful tax relief for working Americans.

Mr. President, American families are taxed at the highest levels in our history, even higher than during World War II, with nearly 40 percent of a typical family's budget going to pay taxes on the federal, state and local levels.

Today, the Clinton Administration consumes over 20.5 percent of America's entire gross domestic product. That's the highest level since 1945 when taxes were raised to pay for the war.

The average American family today spends more on taxes than it does on food, clothing, and housing combined. If the "hidden taxes" that result from the high cost of government regulations are factored in, a family today gives up more than 50 percent of its annual income to the government.

At a time when the combination of federal income and payroll taxes, state and local taxes, and hidden taxes consumes over half of a working family's budget, the taxpayers are in desperate need of relief.

Americans today are working harder but taking home less. Over $1.8 trillion of their income will be siphoned off to the federal government this year. It is more critical than ever to provide meaningful tax relief for working Americans.

Freedom for families means giving families the freedom to spend more of their own dollars as they choose. This tax relief would give Americans more freedom and create more economic opportunities for them and their children.

That's why I am introducing this legislation today. Tax relief should benefit all Americans, not just those who have been targeted in the past. My bill, S. 3, will do just that.

My bill will cut the personal tax rate for each American by 10 percent. It will increase incentives to work, save and invest. It will improve the standards of living for all Americans and permit the growth in our economy we expect to continue and it will encourage Americans to work harder and produce more.

By enacting the 10 percent across-the-board tax cut, we can begin turning back the decades of abuse taxpayers have suffered at the hands of their own government, a government too often eager to spend the taxpayers' money to expand its reach over more of our economy and personal lives.

It was John F. Kennedy who observed that "an economy hampered with high tax rates will never produce enough revenue to balance the budget just as it will never produce enough output and enough jobs."

Twenty-seven years ago, President Reagan enacted a 25 percent across-the-board tax cut and in 1986, President Reagan signed a landmark piece of legislation to reduce the marginal tax rate to a simple two-rate income tax system: 15 percent and 28 percent.

What resulted was nothing short of an economic miracle. Our nation experienced the longest peacetime economic expansion in American history, the benefits of which we are still enjoying today. Ronald Reagan fought for tax cuts, not to bribe special interest groups to buy their votes—but because individuals have a right to spend their own money.

President Reagan was right. When we enact the 10 percent across-the-board tax cut, we will make our economy more dynamic, and our families more prosperous as we approach the 21st century.

While I prefer a total overhaul of the tax system and will shortly introduce a bill to repeal the current system with a consumption tax, this is a much-needed first step we should all agree is our first priority for this Congress.

Mr. ABRAHAM. Mr. President, I rise to join my colleagues Senators GRAMS and ROTH in introducing S. 3, the Tax Cut for All Americans Act. This legislation will provide every American taxpayer with substantial tax relief by cutting all income tax rates 10 percent across the board, effective January first of this year.

American working families need this tax cut, Mr. President. They are now taxed at a higher rate than at any time since World War II. Not even at the height of the Vietnam War have the American people seen such a large part of their pay taken away from them in the form of taxes.

Since the current Administration came into office in 1993, federal taxes have gone up by over 35 percent, or over $600 billion. The nonpartisan Tax Foundation recently told us what these sky-high taxes mean to the typical American family. First, they mean that the typical family now pays more in total taxes than it spends on food, clothing and shelter combined—spending more than 38 percent on taxes and only 28 percent on food, clothing and housing.

Second, the typical American now works nearly three hours out of an eight hour day just to pay taxes. That American works from January 1 to May 10, the latest day ever, before he or she stops working for the government and starts working for him or herself.

Washington currently takes 21 percent of the national income in taxes. That's $6,810 for every man, woman and child in this country.

Mr. President, that is simply too much. Our high taxes place an undue burden on working families. They stifle entrepreneurial activity. They promise to put an end to our current era of sustained economic growth.

But hard times born of high taxes are not inevitable. We can lighten the tax burden on our working families. We can encourage entrepreneurial activity and economic growth. We can cut taxes and thereby ensure prosperity well into the next century.

Mr. President, when President Clinton passed the largest tax hike in American history, he did so on the grounds that budget deficits demanded increased federal revenue. There was indeed increased federal revenue after that tax hike. But it was fueled by a surprisingly strong economy, born of technological innovation and low inflation, factors strong enough to offset the dampening effects of higher taxes. Moreover, the excuse of budget deficits is no longer tenable.

We have entered an era of budget surplus. And it is our moral duty as well as our fiscal responsibility to lower taxes on those hard working Americans who pulled us out of the era of budget deficits.

What is more, by taking a small portion of our projected surplus and giving it back to the American people, we will ensure prosperity, economic growth, and healthy receipts for years to come.

Mr. President, this across the board tax cut will leave the current tax structure's progressivity intact. It also leaves current deductions and credits intact. It is not intended as a final solution to all of the problems in our tax system. This tax cut is intended as a well-deserved down payment on the money Washington owes to the American people—the money earned by the American people that should stay with the American people, to save, invest and spend as they see fit.

America's working families deserve a break. They also need it if they are to save and invest for their future and for the future of the American economy. It is time to give them that hard-earned tax break by cutting rates across the board by 10 percent. I urge my colleagues to support this important legislation in the name of fairness and economic responsibility.

By Mr. WARNER (for himself, Mr. THURMOND, Mr. MCCAIN, Mr. SMITH of New Hampshire, Mr. INHOFE, Ms. SNOWE, Mr. ROBERTS, Mr. ALLARD, Mr. HUTCHINSON, Mr. SESSIONS, Mr. LOTT, Mr. MACK, Mr. COVERDELL, Mrs. HUTCHISON, Mr. SANTORUM, Mr. HAGEL, and Mr. ABRAHAM):

S. 4. A bill to improve pay and retirement equity for members of the Armed Forces; and for other purposes; to the Committee on Armed Services.

THE SOLDIERS', SAILORS', AIRMEN'S, AND MARINES' BILL OF RIGHTS ACT OF 1999

Mr. WARNER. Mr. President, today Senator LOTT, the Majority Leader, introduced S-4, The Soldiers', Sailors', Airmen's and Marines' Bill of Rights Act of 1999. This bill is an integral part of the National Security element of the Republican agenda that the Leader announced this morning.

Last fall, Senator LOTT, in an excellent exchange of letters with the President and Republican Chairmen, identified key problems with military pay levels and the military pay system. Following this exchange of letters, the Armed Services Committee held hearings on September 29, 1998 and again on January 5, 1999 in which General Shelton and the Service Chiefs described the many problems the military services were experiencing because of many years of shortfalls in funding. Particular emphasis was put on readiness, the retention of highly trained people and the inability to achieve recruiting goals.

The testimony of the Joint Chiefs was courageous. They spoke very candidly of the problems borne by the men and women in the military and how increased defense funding was needed in order to begin to alleviate these problems.

General Shelton and the Service Chiefs urged the President and the Congress to support a military pay raise that would begin to address inequities between military pay and civilian wages, and to resolve the inequity of the "Redux" retirement system.

Senators LOTT, MCCAIN, and ROBERTS took an initiative and showed leadership in developing this legislation. These Senators worked within the Armed Services Committee to craft a bill that would address the problems identified by the Joint Chiefs in a comprehensive and responsible manner.

The bill will provide military personnel a four-point-eight percent pay raise on January 1, 2000 and will require that future military pay raises be based on the annual Employment Cost Index plus one-half a percent. The bill restructures the military pay tables to recognize the value of promotions and to weight the pay raise toward mid-career NCOs and officers where retention is most critical. The Joint Chiefs testified that there is a pay gap between military and private sector wages of 14 percent. This bill moves aggressively to close this gap and ensure military personnel are compensated in an equitable manner.

The bill provides military personnel who entered the service after July 31, 1986 the option to revert to the previous military retirement system that provided a 50 percent multiplier to their base pay averaged over their highest three years and includes full cost-of-living adjustments; or, to accept a $30,000 bonus and remain under the "Redux" retirement system. The Joint Chiefs testified that the "Redux" retirement system is responsible for an increasing number of mid-career military personnel deciding to leave the service. S-4 will offer these highly trained personnel an attractive option to incentivize them to continue to serve a full career.

We will establish a Thrift Savings Plan that will allow service members to save up to five percent of their base pay, before taxes, and will permit them to directly deposit their enlistment and re-enlistment bonuses into their Thrift Savings Plan. In a separate section, the bill authorizes Service Secretaries to offer to match the Thrift Savings Plan contributions of those service members serving in critical specialities for a period of six years in return for a six year service commitment. This is a powerful tool to assist the services in retaining key personnel in the most critical specialities.

Senator MCCAIN was the key proponent of an initiative in the bill that would authorize a Special Subsistence Allowance to assist the most needy junior military personnel who are eligible for food stamps. The allowance would provide these families an additional $180 per month and will reduce the number of military families on the food stamp rolls.

As I and other Members of the Senate, have visited military bases here in the United States, in Bosnia and in other deployment areas, we have found that our young service men and women are doing a tremendous job, in many cases, under adverse conditions. In order to demonstrate to these highly trained and dedicated military personnel that we appreciate their sacrifices and contributions, we must move quickly to pass this legislation. Such action will permit military personnel and their families to make the decision to continue to serve and will assist the military services in recruiting the high quality force we have worked so hard to achieve.

I am proud to be a co-sponsor of this important legislation and will do my upmost to ensure its quick passage.

Mr. MCCAIN. Mr. President, I rise today with my Republican colleagues to introduce legislation, S. 4, to provide increased pay and retirement benefits to members of the U.S. Armed Forces and their families. As one who has long warned that declining defense budgets and increasing commitments were propelling our military towards the infamous "hollow force" of the 1970s, I decided last October 7th to join with my friend, Senator PAT ROBERTS, to craft legislation, S. 2563, that would restore military retirement benefits to a full 50 percent of base pay for 20-year retirees in order to encourage highly trained, experienced military personnel to remain in the service. Unfortunately, because of time constraints, Congress did not act on the bill last year.

Since then I have worked closely with Senator ROBERTS and the Republican Leader, Senator LOTT, to draft legislation that address the readiness concerns of the Joint Chiefs of Staff and the Secretary of Defense. This bill is a significant step toward addressing the pressing readiness problems afflicting our Armed Forces. The Joint Chiefs of Staff have repeatedly stated the current retirement and pay gap is their highest priority for solving the retention problem undermining the preparedness of our men and women in uniform.

Specifically, this legislation which is sponsored by Majority Leader LOTT, Senator ROBERTS, myself, the distinguished Chairman of the Armed Services Committee and the other committee Republicans, includes a 4.8% pay raise, effective January 1, 2000, pay table reform, restored military retirement benefits to the pre-1986 level of 50 percent, Thrift Savings Plan proposals, and a Special Subsistence Allowance to help the neediest families in the Armed Forces, many of whom now require federal food stamp assistance.

Mr. President, the Republican Leader has agreed to make this legislation a priority for the 106th Congress and we fully expect to pass this legislative proposal by Memorial Day. If Congress approves this bill by the end of May, then 3,000 military families will be paid enough to get them off food stamps at the beginning of next year. It is unconscionable that the men and women who are willing to sacrifice their lives for their country have to rely on food stamps to make ends meet. The Pentagon estimates that approximately 11,900 military households currently receive food stamps. This bill will help nearly 10,000 of these military families get off of food stamps over the next 5 years by ensuring their income is sufficient to provide for their spouses and children.

Mr. President, it is critical that we address the concerns of the senior military leadership who have cited better military pay and retirement benefits as their highest priority. We failed to do so last year. We must move this bill through Congress quickly this year to slow the exodus of our pilots, military policemen, Naval special operations personnel, surface warfare officers and other critical military specialties that have caused the deterioration in our Armed Forces readiness that we have heard detailed in testimony over the last four months.

By Mr. DEWINE (for himself, Mr. ABRAHAM, Mr. ASHCROFT, Mr. GRASSLEY, Mr. HATCH, Mr. LOTT, Mr. COVERDELL, and Mr. MCCAIN):

S. 5. A bill to reduce the transportation and distribution of illegal drugs and to strengthen domestic demand reduction, and for other purposes; to the Committee on the Judiciary.

DRUG FREE CENTURY ACT

Ir. DEWINE. Mr. President, it is an ior for me, today, to be introducing Drug Free Century Act. This bill is ponsored by Senator ABRAHAM, Sen- r ASHCROFT, Senator COVERDELL, ator CRAIG, the chairman of the Ju- ary Committee, Senator HATCH, the chairman of the Caucus on ernational Narcotics Control, Sen- r GRASSLEY. This legislation is y a team effort. There are over a en Members of the Senate who have ked very extensively on this bill I appreciate very much their work. s is really a team effort. This bill is omprehensive approach to our anti- g effort, and it really is a continu- on of the great work that was begun Congress last year.

his legislation represents the con- ıation of those efforts that we an last year, a continuation of the rts to reverse the dangerous trend ising drug use in our country, par- ılarly among our young people. Ac- ding to data prepared as part of the itoring the Future Program funded the National Institute on Drug se, from 1992 to 1997 we saw an 80- cent increase in cocaine use among school seniors, and a 100-percent ease in heroin use among high ool seniors.

ther very serious trends related to g use highlight the problems that e increased over the course of the decade. Drug abuse related arrests minors doubled between 1992 and . Emergency room admissions re- d to heroin jumped 58 percent be- en 1992 and 1995. And, in the first of 1995, methamphetamine related rgency room admissions were 321 ent higher compared to the first of 1991.

his increase in drug use and crimi- activity virtually wiped out the s made in the previous decade. in the 4 years prior to 1992, the Of- of National Drug Control Policy— drug czar's office—reported a 25- ent reduction in overall drug use dolescent Americans, and a 35-per- reduction in overall drug use.

st year, Congressman BILL MCCOL- and I and other Members of the ate and House took a close look at our increasing investment in anti- programs was not resulting in a ine in drug use among young peo- One immediate problem that we d was a clear decline in resources manpower devoted to reducing ille- drug imports by our Customs Serv- the Coast Guard, and the Defense artment. In other words, our drug rdiction effort had been falling far- and farther behind. It had become and less a percentage, a smaller entage of our budget year after .

we all know, reducing drug use is am effort at all levels of govern- t: the Federal Government, the State government, the local government. However, international drug reduction, seizing or disrupting the flow of drugs before these drugs reach our country, is solely our responsibility. It is solely the Federal Government's responsibility. Over a 5-year period beginning in 1993, the Federal Government solely abdicated this responsibility. Fewer and fewer resources and man-hours were devoted to stopping drugs at the source or stopping them in transit. As a result, the volume of drugs coming into our country has never been higher, making illegal drugs too easy to find and too easy to buy.

To reverse this trend and to correct the imbalance, Congressman MCCOLLUM and I last year led a bipartisan, bicameral effort to pass the Western Hemisphere Drug Elimination Act. We passed it and the President signed it. We were joined in this initiative by Congressman and now Speaker DENNY HASTERT, by Senator COVERDELL, Senator GRAHAM of Florida, and many, many others. This new law provides a 3-year, $2.6 billion investment in our drug-fighting capabilities abroad. Through crop eradication and drug interdiction we will reduce the amount of drugs entering our country and, in turn, increase the price of drugs on the streets of America.

An even larger goal of this new law is to restore a balanced antidrug strategy, one that makes a clear commitment to all the elements of our strategy—treatment, education, domestic law enforcement, and drug interdiction. A balanced drug control strategy worked before, and we are ready to make it work again.

The Western Hemisphere Drug Elimination Act that we passed last year was one of several key initiatives passed by the Republican Congress. There is no doubt we are determined to turn the corner on drug use. Congressman ROB PORTMAN of Cincinnati, Senator CHUCK GRASSLEY, myself, and others worked to pass the Drug Free Communities Act, which directs Federal funds to community coalitions that educate children about the dangers of drugs. The 105th Congress also passed the Drug Demand Reduction Act, which will streamline existing Federal education and treatment programs and make these programs more accountable. We also passed the Drug Free Workplace Act, which provides grants to assist nonprofit organizations in promoting drug-free workplaces, and encourages States to adopt cost-effective financial incentives, such as a reduction in worker's compensation premiums for drug-free workplaces.

Today, with the Drug Free Century Act that we are introducing, we will continue to make oversight and reform of our antidrug policies a top priority of this Congress. This bill is the beginning of a critical and comprehensive examination of our entire antidrug strategy. While we devoted most of last year to correcting the resource imbalances that we found in this strategy, we intend to devote the next 2 years to looking at the effectiveness of the very programs themselves. We also need to change current laws to crack down on the elements within the illegal drug industry.

The Drug Free Century Act is the first phase of this effort. It addresses all elements of our antidrug strategy, and it is a comprehensive strategy that we are presenting today—education, treatment, law enforcement, and drug interdiction.

It is my hope that as we examine our drug strategy through meetings and hearings, we will build on the foundation of the legislation that we are introducing this morning.

First, the Drug Free Century Act contains much-needed reforms in our international criminal laws. It would improve extradition procedures for those who flee justice for drug crimes by prohibiting fugitives from benefiting from fugitive status. It would crack down on illegal money-transmitting businesses. It would punish money launderers who conduct their business through foreign banks. And it would enable greater global cooperation in the fight against international crime.

Mr. President, these provisions, advocated by the chairman of our caucus on international narcotics control, Senator GRASSLEY, are designed to disrupt and dismantle the drug lords' criminal infrastructure. And like the Western Hemisphere Drug Elimination Act we passed in the last Congress, these provisions would make the drug business far more costly and far more dangerous.

Our legislation also authorizes additional funding for our eradication and interdiction operations and calls on the administration to meet the funding goals we set last year in the Western Hemisphere Drug Elimination Act. The new interdiction initiatives outlined in this bill are designed to supplement last year's legislation and came about as a direct result of my visits and the visits of other Members of the Senate and the House to the transit zones in the Caribbean, as well as the source countries—Peru and Colombia. These visits reconfirmed, in my mind, what statistics had already told us: Seizing or destroying a ton of cocaine outside our borders is more cost effective than seizing the same quantity at the point of sale. It just makes good common sense.

Our legislation also addresses domestic reduction efforts. It would increase penalties for certain drug offenses committed in the presence of a child. It would call on the Drug Enforcement Administration to develop a plan for the safe and speedy cleanup of methamphetamine laboratories in the

United States. I know this latter issue is of great concern to my colleague from Missouri, Senator ASHCROFT, who was successful last year in increasing penalties for those involved in meth labs here in the United States.

Mr. President, the bill also includes Senator ABRAHAM's legislation to increase mandatory minimum sentencing requirements for powder cocaine offenses.

Our bill sets a foundation for what I hope will be a comprehensive initiative to reduce the demand for drugs, especially among our young people. The bill includes Senator COVERDELL's initiative to protect children and teachers from drug-related school violence and Senator GRASSLEY's legislation to strengthen the parent and family movement to teach children and society about the dangers of drugs.

This bill, frankly, is a first step. I expect we will see other important antidrug bills that we would want to roll into this larger comprehensive bill, and we will do that as the time comes. For example, I am working on legislation to clarify that juvenile facilities should be eligible for jail-based and aftercare drug treatment programs and provide coordinated services for early mental health and substance abuse screening for juveniles. The latter initiative is based on an effort underway in Hamilton County, OH, an initiative and effort I have personally looked at on a number of occasions. In Hamilton County, OH, the courts are working with all the relevant county agencies to offer a coordinated service delivery system for at-risk youth. By bringing these resources together, Mr. President, we can ensure that young people in need of help will get the right kind of assistance.

I believe in a balanced counterdrug strategy. I made it clear in the past Congress that I strongly support our continued commitment in demand reduction and law enforcement programs. We need to invest in all these elements to have success, and that is why we are today introducing this bill—to demonstrate that we intend to find ways to improve all elements of our comprehensive antidrug strategy.

Combined with the efforts begun last year, the Drug Free Century Act represents a turning point in a decade of increased youth delinquency and drug use. With this legislation, we are sending a clear signal that we intend to change course and begin the next decade and, yes, the next century, on the road to eliminating the scourge of illegal drugs in this country.

Mr. President, I ask unanimous consent that the text of the Drug Free Century Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 5

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Drug-Free Century Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTERNATIONAL SUPPLY REDUCTION

Subtitle A—International Crime

CHAPTER 1—INTERNATIONAL CRIME CONTROL

Sec. 1001. Short title.
Sec. 1002. Felony punishment for violence committed along the United States border.

CHAPTER 2—STRENGTHENING MARITIME LAW ENFORCEMENT ALONG UNITED STATES BORDERS

Sec. 1003. Sanctions for failure to heave to, obstructing a lawful boarding, and providing false information.
Sec. 1004. Civil penalties to support maritime law enforcement.
Sec. 1005. Customs orders.

CHAPTER 3—SMUGGLING OF CONTRABAND AND OTHER ILLEGAL PRODUCTS

Sec. 1006. Smuggling contraband and other goods from the United States.
Sec. 1007. Customs duties.
Sec. 1008. False certifications relating to exports.

CHAPTER 4—DENYING SAFE HAVENS TO INTERNATIONAL CRIMINALS

Sec. 1009. Extradition for offenses not covered by a list treaty.
Sec. 1010. Extradition absent a treaty.
Sec. 1011. Technical and conforming amendments.
Sec. 1012. Temporary transfer of persons in custody for prosecution.
Sec. 1013. Prohibiting fugitives from benefiting from fugitive status.
Sec. 1014. Transfer of foreign prisoners to serve sentences in country of origin.
Sec. 1015. Transit of fugitives for prosecution in foreign countries.

CHAPTER 5—SEIZING AND FORFEITING ASSETS OF INTERNATIONAL CRIMINALS

Sec. 1016. Criminal penalties for violations of anti-money laundering orders.
Sec. 1017. Cracking down on illegal money transmitting businesses.
Sec. 1018. Expanding civil money laundering laws to reach foreign persons.
Sec. 1019. Punishment of money laundering through foreign banks.
Sec. 1020. Authority to order convicted criminals to return property located abroad.
Sec. 1021. Administrative summons authority under the Bank Secrecy Act.
Sec. 1022. Exempting financial enforcement data from unnecessary disclosure.
Sec. 1023. Criminal and civil penalties under the International Emergency Economic Powers Act.
Sec. 1024. Attempted violations of the Trading With the Enemy Act.
Sec. 1025. Jurisdiction over certain financial crimes committed abroad.

CHAPTER 6—PROMOTING GLOBAL COOPERATION IN THE FIGHT AGAINST INTERNATIONAL CRIME

Sec. 1026. Streamlined procedures for execution of MLAT requests.
Sec. 1027. Temporary transfer of incarcerated witnesses.
Sec. 1028. Training of foreign law enforcement agencies.
Sec. 1029. Discretionary authority to use forfeiture proceeds.

Subtitle B—International Drug Control

Sec. 1201. Annual country plans for drug-transit and drug producing countries.
Sec. 1202. Prohibition on use of funds for counternarcotics activities and assistance.
Sec. 1203. Sense of Congress regarding Colombia.
Sec. 1204. Sense of Congress regarding Mexico.
Sec. 1205. Sense of Congress regarding Iran.
Sec. 1206. Sense of Congress regarding Syria.
Sec. 1207. Brazil.
Sec. 1208. Jamaica.
Sec. 1209. Sense of Congress regarding North Korea.

Subtitle C—Foreign Military Counter-Drug Support

Sec. 1301. Report.

Subtitle D—Money Laundering Deterrence

Sec. 1401. Short title.
Sec. 1402. Findings and purposes.
Sec. 1403. Reporting of suspicious activities.
Sec. 1404. Expansion of scope of summons power.
Sec. 1405. Penalties for violations of geographic targeting orders and certain recordkeeping requirements.
Sec. 1406. Repeal of certain reporting requirements.
Sec. 1407. Limited exemption from Paperwork Reduction Act.
Sec. 1408. Sense of Congress.

Subtitle E—Additional Funding For Source and Interdiction Zone Countries

Sec. 1501. Source zone countries.
Sec. 1502. Central America.

TITLE II—DOMESTIC LAW ENFORCEMENT

Subtitle A—Criminal Offenders

Sec. 2001. Apprehension and procedural treatment of armed violent criminals.
Sec. 2002. Criminal attempt.
Sec. 2003. Drug offenses committed in the presence of children.
Sec. 2004. Sense of Congress on border defense.
Sec. 2005. Clone pagers.

Subtitle B—Methamphetamine Laboratory Cleanup

Sec. 2101. Sense of Congress regarding methamphetamine laboratory cleanup.

Subtitle C—Powder Cocaine Mandatory Minimum Sentencing

Sec. 2201. Sentencing for violations involving cocaine powder.

Subtitle D—Drug-Free Borders

Sec. 2301. Increased penalty for false statement offense.
Sec. 2302. Increased number of border patrol agents.
Sec. 2303. Enhanced border patrol pursuit policy.

TITLE III—DOMESTIC DEMAND REDUCTION

Subtitle A—Education, Prevention, and Treatment

Sec. 3001. Sense of Congress on reauthorization of Safe and Drug-Free Schools and Communities Act of 1994.

Sec. 3002. Sense of Congress regarding reauthorization of prevention and treatment programs.
Sec. 3003. Report on drug-testing technologies.
Sec. 3004. Use of National Institutes of Health substance abuse research.
Sec. 3005. Needle exchange.
Sec. 3006. Drug-free teen drivers incentive.
Sec. 3007. Drug-free schools.
Sec. 3008. Victim and witness assistance programs for teachers and students.
Sec. 3009. Innovative programs to protect teachers and students.

Subtitle B—Drug-Free Families

Sec. 3101. Short title.
Sec. 3102. Findings.
Sec. 3103. Purposes.
Sec. 3104. Definitions.
Sec. 3105. Establishment of drug-free families support program.
Sec. 3106. Authorization of appropriations.

TITLE IV—FUNDING FOR UNITED STATES COUNTER-DRUG ENFORCEMENT AGENCIES

Sec. 4001. Authorization of appropriations.
Sec. 4002. Cargo inspection and narcotics detection equipment.
Sec. 4003. Peak hours and investigative resource enhancement.
Sec. 4004. Air and marine operation and maintenance funding.
Sec. 4005. Compliance with performance plan requirements.
Sec. 4006. Commissioner of Customs salary.
Sec. 4007. Passenger preclearance services.

Subtitle B—United States Coast Guard

Sec. 4101. Additional funding for operation and maintenance.

Subtitle C—Drug Enforcement Administration

Sec. 4201. Additional funding for counternarcotics and information support operations.

Subtitle D—Department of the Treasury

Sec. 4301. Additional funding for counterdrug information support.

Subtitle E—Department of Defense

Sec. 4401. Additional funding for expansion of counternarcotics activities.
Sec. 4402. Forward military base for counternarcotics matters.
Sec. 4403. Expansion of radar coverage and operation in source and transit countries.
Sec. 4404. Sense of Congress regarding funding under Western Hemisphere Drug Elimination Act.
Sec. 4405. Sense of Congress regarding the priority of the drug interdiction and counterdrug activities of the Department of Defense.

TITLE I—INTERNATIONAL SUPPLY REDUCTION

Subtitle A—International Crime

CHAPTER 1—INTERNATIONAL CRIME CONTROL

SEC. 1001. SHORT TITLE.

This chapter may be cited as the "International Crime Control Act of 1999".

SEC. 1002. FELONY PUNISHMENT FOR VIOLENCE COMMITTED ALONG THE UNITED STATES BORDER.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§554. Violence while eluding inspection or during violation of arrival, reporting, entry, or clearance requirements

"(a) IN GENERAL.—Whoever attempts to commit or commits a crime of violence or recklessly operates any conveyance during and in relation to—

"(1)(A) attempting to elude or eluding immigration, customs, or agriculture inspection; or

"(B) failing to stop at the command of an officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States along any border of the United States; or

"(2) an intentional violation of arrival, reporting, entry, or clearance requirements, as set forth in section 107 of the Federal Plant Pest Act (7 U.S.C. 150ff), section 10 of the Act of August 20, 1912 (commonly known as the 'Plant Quarantine Act' (7 U.S.C. 164a)), section 7 of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2807), section 431, 433, 434, or 459 of the Tariff Act of 1930 (19 U.S.C. 1431, 1433, 1434, and 1459), section 10 of the Act of August 30, 1890 (26 Stat. 417; chapter 839 (21 U.S.C. 105), section 2 of the Act of February 2, 1903 (32 Stat. 792; chapter 349; 21 U.S.C. 111), section 4197 of the Revised Statutes (46 U.S.C. App. 91), or sections 231, 232, and 234 through 238 of the Immigration and Nationality Act (8 U.S.C. 1221, 1222, and 1224 through 1228) shall be—

"(A) fined under this title, imprisoned not more than 5 years, or both;

"(B) if bodily injury (as defined in section 1365(g)) results, fined under this title, imprisoned not more than 10 years, or both; or

"(C) if death results, fined under this title, imprisoned for any term of years or for life, or both, and may be sentenced to death.

"(b) CONSPIRACY.—If 2 or more persons conspire to commit an offense under subsection (a), and 1 or more of those persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that a sentence of death may not be imposed.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"554. Violence while eluding inspection or during violation of arrival, reporting, entry, or clearance requirements.".

(c) RECKLESS ENDANGERMENT.—Section 111 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b) RECKLESS ENDANGERMENT.—Whoever—

"(1) knowingly disregards or disobeys the lawful authority or command of any officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States along any border of the United States while engaged in, or on account of, the performance of official duties of that officer or employee; and

"(2) as a result of disregarding or disobeying an authority or command referred to in paragraph (1), endangers the safety of any person or property,

shall be fined under this title, imprisoned not more than 6 months, or both.".

CHAPTER 2—STRENGTHENING MARITIME LAW ENFORCEMENT ALONG UNITED STATES BORDERS

SEC. 1003. SANCTIONS FOR FAILURE TO HEAVE TO, OBSTRUCTING A LAWFUL BOARDING, AND PROVIDING FALSE INFORMATION.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"§2237. Sanctions for failure to heave to; sanctions for obstruction of boarding or providing false information

"(a) DEFINITIONS.—In this section:

"(1) FEDERAL LAW ENFORCEMENT OFFICER.—The term 'Federal law enforcement officer' has the meaning given that term in section 115(c).

"(2) HEAVE TO.—The term 'heave to' means, with respect to a vessel, to cause that vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and the sea state.

"(3) VESSEL OF THE UNITED STATES; VESSEL SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—The terms 'vessel of the United States' and 'vessel subject to the jurisdiction of the United States' have the meanings given those terms in section 3 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903).

"(b) FAILURE TO OBEY AN ORDER TO HEAVE TO.—

"(1) IN GENERAL.—It shall be unlawful for the master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States, to fail to obey an order to heave to that vessel on being ordered to do so by an authorized Federal law enforcement officer.

"(2) IMPEDING BOARDING; PROVIDING FALSE INFORMATION IN CONNECTION WITH A BOARDING.—It shall be unlawful for any person on board a vessel of the United States or a vessel subject to the jurisdiction of the United States knowingly or willfully to—

"(A) fail to comply with an order of an authorized Federal law enforcement officer in connection with the boarding of the vessel;

"(B) impede or obstruct a boarding or arrest, or other law enforcement action authorized by any Federal law; or

"(C) provide false information to a Federal law enforcement officer during a boarding of a vessel regarding the destination, origin, ownership, registration, nationality, cargo, or crew of the vessel.

"(c) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to limit the authority granted before the date of enactment of the International Crime Control Act of 1999 to—

"(1) a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) or any other provision of law enforced or administered by the United States Customs Service; or

"(2) any Federal law enforcement officer under any Federal law to order a vessel to heave to.

"(d) CONSENT OR WAIVER OF OBJECTION BY A FOREIGN COUNTRY.—

"(1) IN GENERAL.—A foreign country may consent to or waive objection to the enforcement of United States law by the United States under this section by international agreement or, on a case-by-case basis, by radio, telephone, or similar oral or electronic means.

"(2) PROOF OF CONSENT OR WAIVER.—The Secretary of State or a designee of the Secretary of State may prove a consent or waiver described in paragraph (1) by certification.

"(e) PENALTIES.—Any person who intentionally violates any provision of this section shall be fined under this title, imprisoned not more than 5 years, or both.

"(f) SEIZURE OF VESSELS.—

"(1) IN GENERAL.—A vessel that is used in violation of this section may be seized and forfeited.

"(2) APPLICABILITY OF LAWS.—

"(A) IN GENERAL.—Subject to subparagraph (C), the laws described in subparagraph (B) shall apply to seizures and forfeitures undertaken, or alleged to have been undertaken, under any provision of this section.

"(B) LAWS DESCRIBED.—The laws described in this subparagraph are the laws relating to the seizure, summary, judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of the property or the proceeds from the sale thereof, the remission or mitigation of the forfeitures, and the compromise of claims.

"(C) EXECUTION OF DUTIES BY OFFICERS AND AGENTS.—Any duty that is imposed upon a customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to a seizure or forfeiture of property under this section by the officer, agent, or other person that is authorized or designated for that purpose.

"(3) IN REM LIABILITY.—A vessel that is used in violation of this section shall, in addition to any other liability prescribed under this subsection, be liable in rem for any fine or civil penalty imposed under this section.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"2237. Sanctions for failure to heave to; sanctions for obstruction of boarding or providing false information.".

SEC. 1004. CIVIL PENALTIES TO SUPPORT MARITIME LAW ENFORCEMENT.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"§675. Civil penalty for failure to comply with a lawful boarding, obstruction of boarding, or providing false information

"(a) IN GENERAL.—Any person who violates section 2237(b) of title 18 shall be liable for a civil penalty of not more than $25,000.

"(b) IN REM LIABILITY.—In addition to being subject to the liability under subsection (a), a vessel used to violate an order relating to the boarding of a vessel issued under the authority of section 2237 of title 18 shall be liable in rem and may be seized, forfeited, and sold in accordance with section 594 of the Tariff Act of 1930 (19 U.S.C. 1594).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"675. Civil penalty for failure to comply with a lawful boarding, obstruction of boarding, or providing false information.".

SEC. 1005. CUSTOMS ORDERS.

Section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) is amended by adding at the end the following:

"(i) AUTHORIZED PLACE DEFINED.—In this section, the term 'authorized place' includes, with respect to a vessel or vehicle, a location in a foreign country at which United States customs officers are permitted to conduct inspections, examinations, or searches.".

CHAPTER 3—SMUGGLING OF CONTRABAND AND OTHER ILLEGAL PRODUCTS

SEC. 1006. SMUGGLING CONTRABAND AND OTHER GOODS FROM THE UNITED STATES.

(a) IN GENERAL.—

(1) SMUGGLING GOODS FROM THE UNITED STATES.—Chapter 27 of title 18, United States Code, as amended by section 1002(a) of this title, is amended by adding at the end the following:

"§555. Smuggling goods from the United States

"(a) UNITED STATES DEFINED.—In this section, the term 'United States' has the meaning given that term in section 545.

"(b) PENALTIES.—Whoever—

"(1) fraudulently or knowingly exports or sends from the United States, or attempts to export or send from the United States, any merchandise, article, or object contrary to any law of the United States (including any regulation of the United States); or

"(2) receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of that merchandise, article, or object, prior to exportation, knowing that merchandise, article, or object to be intended for exportation contrary to any law of the United States,

shall be fined under this title, imprisoned not more than 5 years, or both.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"555. Smuggling goods from the United States.".

(b) LAUNDERING OF MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting "section 555 (relating to smuggling goods from the United States)," before "section 641 (relating to public money, property, or records),".

(c) MERCHANDISE EXPORTED FROM UNITED STATES.—Section 596 of the Tariff Act of 1930 (19 U.S.C. 1595a) is amended by adding at the end the following:

"(d) MERCHANDISE EXPORTED FROM THE UNITED STATES.—Merchandise exported or sent from the United States or attempted to be exported or sent from the United States contrary to law, or the value thereof, and property used to facilitate the receipt, purchase, transportation, concealment, or sale of that merchandise prior to exportation shall be forfeited to the United States.".

SEC. 1007. CUSTOMS DUTIES.

(a) IN GENERAL.—Section 542 of title 18, United States Code, is amended—

(1) in the section heading, by adding "**theft, embezzlement, or misapplication of duties**" at the end;

(2) by redesignating the fourth and fifth undesignated paragraphs as subsections (b) and (c), respectively;

(3) in the third undesignated paragraph—

(A) by striking "Shall be fined" and inserting the following:

"shall be fined"; and

(B) by striking "two years" and inserting "5 years";

(4) in the second undesignated paragraph—

(A) by striking "Whoever is guilty" and inserting the following:

"(2) is guilty"; and

(B) by striking "act or omission—" and inserting "act or omission; or";

(5) in the first undesignated paragraph, by striking "Whoever knowingly effects" and inserting the following:

"(a) Whoever—

"(1) knowingly effects"; and

(6) in subsection (a) (as so designated by paragraph (5) of this subsection) by inserting after paragraph (2) (as so designated by paragraph (4) of this subsection) the following:

"(3) embezzles, steals, abstracts, purloins, willfully misapplies, willfully permits to be misapplied, or wrongfully converts to his own use, or to the use of another, moneys, funds, credits, assets, securities or other property entrusted to his or her custody or care, or to the custody or care of another for the purpose of paying any lawful duties;".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 27 of title 18, United States Code, is amended by striking the item relating to section 542 and inserting the following:

"542. Entry of goods by means of false statements, theft, embezzlement, or misapplication of duties.".

SEC. 1008. FALSE CERTIFICATIONS RELATING TO EXPORTS.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, as amended by section 1006(a) of this title, is amended by adding at the end the following:

"§556. False certifications relating to exports

"Whoever knowingly transmits in interstate or foreign commerce any false or fraudulent certificate of origin, invoice, declaration, affidavit, letter, paper, or statement (whether written or otherwise), that represents explicitly or implicitly that goods, wares, or merchandise to be exported qualify for purposes of any international trade agreement to which the United States is a signatory shall be fined under this title, imprisoned not more than 5 years, or both.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"556. False certifications relating to exports.".

CHAPTER 4—DENYING SAFE HAVENS TO INTERNATIONAL CRIMINALS

SEC. 1009. EXTRADITION FOR OFFENSES NOT COVERED BY A LIST TREATY.

Chapter 209 of title 18, United States Code, is amended by adding at the end the following:

"§3197. Extradition for offenses not covered by a list treaty

"(a) SERIOUS OFFENSE DEFINED.—In this section, the term 'serious offense' means conduct that would be—

"(1) an offense described in any multilateral treaty to which the United States is a party that obligates parties—

"(A) to extradite alleged offenders found in the territory of the parties; or

"(B) submit the case to the competent authorities of the parties for prosecution; or

"(2) conduct that, if that conduct occurred in the United States, would constitute—

"(A) a crime of violence (as defined in section 16);

"(B) the distribution, manufacture, importation or exportation of a controlled substance (as defined in section 201 of the Controlled Substances Act (21 U.S.C. 802));

"(C) bribery of a public official; misappropriation, embezzlement or theft of public funds by or for the benefit of a public official;

"(D) obstruction of justice, including payment of bribes to jurors or witnesses;

"(E) the laundering of monetary instruments, as described in section 1956, if the value of the monetary instruments involved exceeds $100,000;

"(F) fraud, theft, embezzlement, or commercial bribery if the aggregate value of property that is the object of all of the offenses related to the conduct exceeds $100,000;

"(G) counterfeiting, if the obligations, securities or other items counterfeited, have an apparent value that exceeds $100,000;

"(H) a conspiracy or attempt to commit any of the offenses described in any of subparagraphs (A) through (G), or aiding and abetting a person who commits any such offense; or

"(I) a crime against children under chapter 109A or section 2251, 2251A, 2252, or 2252A.

"(b) Authorization of Filing.—

"(1) In general.—If a foreign government makes a request for the extradition of a person who is charged with or has been convicted of an offense within the jurisdiction of that foreign government, and an extradition treaty between the United States and the foreign government is in force, but the treaty does not provide for extradition for the offense with which the person has been charged or for which the person has been convicted, the Attorney General may authorize the filing of a complaint for extradition pursuant to subsections (c) and (d).

"(2) Filing of complaints.—

"(A) In general.—A complaint authorized under paragraph (1) shall be filed pursuant to section 3184.

"(B) Procedures.—With respect to a complaint filed under paragraph (1), the procedures contained in sections 3184 and 3186 and the terms of the relevant extradition treaty shall apply as if the offense were a crime provided for by the treaty, in a manner consistent with section 3184.

"(c) Criteria for Authorization of Complaints.—

"(1) In general.—The Attorney General may authorize the filing of a complaint under subsection (b) only upon a certification—

"(A) by the Attorney General, that in the judgment of the Attorney General—

"(i) the offense for which extradition is sought is a serious offense; and

"(ii) submission of the extradition request would be important to the law enforcement interests of the United States or otherwise in the interests of justice; and

"(B) by the Secretary of State, that in the judgment of the Secretary of State, submission of the request would be consistent with the foreign policy interests of the United States.

"(2) Factors for consideration.—In making any certification under paragraph (1)(B), the Secretary of State may consider whether the facts and circumstances of the request then known appear likely to present any significant impediment to the ultimate surrender of the person who is the subject of the request for extradition, if that person is found to be extraditable.

"(d) Cases of Urgency.—

"(1) In general.—In any case of urgency, the Attorney General may, with the concurrence of the Secretary of State and before any formal certification under subsection (c), authorize the filing of a complaint seeking the provisional arrest and detention of the person sought for extradition before the receipt of documents or other proof in support of the request for extradition.

"(2) Applicability of relevant treaty.—With respect to a case described in paragraph (1), a provision regarding provisional arrest in the relevant treaty shall apply.

"(3) Filing and effect of filing of complaints.—

"(A) In general.—A complaint authorized under this subsection shall be filed in the same manner as provided in section 3184.

"(B) Issuance of orders.—Upon the filing of a complaint under this subsection, the appropriate judicial officer may issue an order for the provisional arrest and detention of the person as provided in section 3184.

"(e) Conditions of Surrender; Assurances.—

"(1) In general.—Before issuing a warrant of surrender under section 3184 or 3186, the Secretary of State may—

"(A) impose conditions upon the surrender of the person that is the subject of the warrant; and

"(B) require those assurances of compliance with those conditions, as are determined by the Secretary to be appropriate.

"(2) Additional assurances.—

"(A) In general.—In addition to imposing conditions and requiring assurances under paragraph (1), the Secretary of State shall demand, as a condition of the extradition of the person in every case, an assurance described in subparagraph (B) that the Secretary determines to be satisfactory.

"(B) Description of assurances.—An assurance described in this subparagraph is an assurance that the person that is sought for extradition shall not be tried or punished for an offense other than that for which the person has been extradited, absent the consent of the United States.".

SEC. 1010. EXTRADITION ABSENT A TREATY.

Chapter 209 of title 18, United States Code, as amended by section 1009 of this title, is amended by adding at the end the following:

"§ 3198. Extradition absent a treaty

"(a) Serious Offense Defined.—In this section, the term 'serious offense' has the meaning given that term in section 3197(a).

"(b) Authorization of Filing.—

"(1) In general.—If a foreign government makes a request for the extradition of a person who is charged with or has been convicted of an offense within the jurisdiction of that foreign government, and no extradition treaty is in force between the United States and the foreign government, the Attorney General may authorize the filing of a complaint for extradition pursuant to subsections (c) and (d).

"(2) Filing and treatment of complaints.—

"(A) In general.—A complaint authorized under paragraph (1) shall be filed pursuant to section 3184.

"(B) Procedures.—With respect to a complaint filed under paragraph (1), procedures of sections 3184 and 3186 shall be followed as if the offense were a 'crime provided for by such treaty' as described in section 3184.

"(c) Criteria for Authorization of Complaints.—The Attorney General may authorize the filing of a complaint described in subsection (b) only upon a certification—

"(1) by the Attorney General, that in the judgment of the Attorney General—

"(A) the offense for which extradition is sought is a serious offense; and

"(B) submission of the extradition request would be important to the law enforcement interests of the United States or otherwise in the interests of justice; and

"(2) by the Secretary of State, that in the judgment of the certifying official, based on information then known—

"(A) submission of the request would be consistent with the foreign policy interests of the United States;

"(B) the facts and circumstances of the request, including humanitarian considerations, do not appear likely to present a significant impediment to the ultimate surrender of the person if found extraditable; and

"(C) the foreign government submitting the request is not submitting the request in order to try or punish the person sought for extradition primarily on the basis of the race, religion, nationality, or political opinions of that person.

"(d) Limitations on Delegation.—

"(1) Delegation by Attorney General.—The authorities and responsibilities of the Attorney General under subsection (c) may be delegated only to the Deputy Attorney General.

"(2) Delegation.—The authorities and responsibilities of the Secretary of State set forth in this subsection may be delegated only to the Deputy Secretary of State.

"(e) Cases of Urgency.—

"(1) In general.—In any case of urgency, the Attorney General may, with the concurrence of the Secretary of State and before any formal certification under subsection (c), authorize the filing of a complaint seeking the provisional arrest and detention of the person sought for extradition before the receipt of documents or other proof in support of the request for extradition.

"(2) Filing of complaints; order by judicial officer.—

"(A) Filing.—A complaint filed under this subsection shall be filed in the same manner as provided in section 3184.

"(B) Orders.—Upon the filing of a complaint under subparagraph (A), the appropriate judicial officer may issue an order for the provisional arrest and detention of the person.

"(C) Releases.—If, not later than 45 days after the arrest, the formal request for extradition and documents in support of that are not received by the Department of State, the appropriate judicial officer may order that a person detained pursuant to this subsection be released from custody.

"(f) Hearings.—

"(1) In general.—Subject to subsection (h), upon the filing of a complaint for extradition and receipt of documents or other proof in support of the request of a foreign government for extradition, the appropriate judicial officer shall hold a hearing to determine whether the person sought for extradition is extraditable.

"(2) Criteria for extradition.—Subject to subsection (g) in a hearing conducted under paragraph (1), the judicial officer shall find a person extraditable if the officer finds—

"(A) probable cause to believe that the person before the judicial officer is the person sought in the foreign country of the requesting foreign government;

"(B) probable cause to believe that the person before the judicial officer committed the offense for which that person is sought, or was duly convicted of that offense in the foreign country of the requesting foreign government;

"(C) that the conduct upon which the request for extradition is based, if that conduct occurred within the United States, would be a serious offense punishable by imprisonment for more than 10 years under the laws of—

"(i) the United States;

"(ii) the majority of the States in the United States; or

"(iii) of the State in which the fugitive is found; and

"(D) no defense to extradition under subsection (f) has been established.

"(g) Limitation of Extradition.—

"(1) In general.—A judicial officer shall not find a person extraditable under this section if the person has established that the offense for which extradition is sought is—

"(A) an offense for which the person is being proceeded against, or has been tried or punished, in the United States; or

"(B) a political offense.

"(2) Political offenses.—For purposes of this section, a political offense does not include—

"(A) a murder or other violent crime against the person of a head of state of a foreign state, or of a member of the family of the head of state;

"(B) an offense for which both the United States and the requesting foreign government have the obligation pursuant to a multilateral international agreement to—

"(i) extradite the person sought; or

"(ii) submit the case to the competent authorities for decision as to prosecution; or

"(C) a conspiracy or attempt to commit any of the offenses referred to in subparagraph (A) or (B), or aiding or abetting a person who commits or attempts to commit any such offenses.

"(h) LIMITATIONS ON FACTORS FOR CONSIDERATION AT HEARINGS.—

"(1) IN GENERAL.—At a hearing conducted under subsection (a), the judicial officer conducting the hearing shall not consider issues regarding—

"(A) humanitarian concerns;

"(B) the nature of the judicial system of the requesting foreign government; and

"(C) whether the foreign government is seeking extradition of a person for the purpose of prosecuting or punishing the person because of the race, religion, nationality or political opinions of that person.

"(2) CONSIDERATION BY SECRETARY OF STATE.—The issues referred to in paragraph (1) shall be reserved for consideration exclusively by the Secretary of State as described in subsection (c)(2).

"(3) ADDITIONAL CONSIDERATION.—Notwithstanding the certification requirements described in subsection (c)(2), the Secretary of State may, within the sole discretion of the Secretary—

"(A) in addition to considering the issues referred to in paragraph (1) for purposes of certifying the filing of a complaint under this section, consider those issues again in exercising authority to surrender the person sought for extradition in carrying out the procedures under section 3184 and 3186; and

"(B) impose conditions on surrender including those provided in subsection (i).

"(i) CONDITIONS OF SURRENDER; ASSURANCES.—

"(1) IN GENERAL.—The Secretary of State may—

"(A) impose conditions upon the surrender of a person sought for extradition under this section; and

"(B) require such assurances of compliance with those conditions, as the Secretary determines to be appropriate.

"(2) ADDITIONAL ASSURANCES.—In addition to imposing conditions and requiring assurances under paragraph (1), the Secretary shall demand, as a condition of the extradition of the person that is sought for extradition—

"(A) in every case, an assurance the Secretary determines to be satisfactory that the person shall not be tried or punished for an offense other than the offense for which the person has been extradited, absent the consent of the United States; and

"(B) in a case in which the offense for which extradition is sought is punishable by death in the foreign country of the requesting foreign government and is not so punishable under the applicable laws in the United States, an assurance the Secretary determines to be satisfactory that the death penalty—

"(i) shall not be imposed; or

"(ii) if imposed, shall not be carried out.".

SEC. 1011. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Chapter 309 of title 18, United States Code, is amended—

(1) in section 3181, by inserting ", other than sections 3197 and 3198," after "The provisions of this chapter" each place that term appears; and

(2) in section 3186, by striking "or 3185" and inserting ", 3185, 3197 or 3198".

(b) CHAPTER ANALYSIS.—The analysis for chapter 209 of title 18, United States Code, is amended by adding at the end the following:

"3197. Extradition for offenses not covered by a list treaty.

"3198. Extradition absent a treaty.".

SEC. 1012. TEMPORARY TRANSFER OF PERSONS IN CUSTODY FOR PROSECUTION.

(a) IN GENERAL.—Chapter 306 of title 18, United States Code, is amended by adding at the end the following:

"§ 4116. Temporary transfer for prosecution

"(a) STATE DEFINED.—In this section, the term 'State' includes a State of the United States, the District of Columbia, and a commonwealth, territory, or possession of the United States.

"(b) AUTHORITY OF ATTORNEY GENERAL WITH RESPECT TO TEMPORARY TRANSFERS.—

"(1) IN GENERAL.—Subject to subsection (d), if a person is in pretrial detention or is otherwise being held in custody in a foreign country based upon a violation of the law in that foreign country, and that person is found extraditable to the United States by the competent authorities of that foreign country while still in the pretrial detention or custody, the Attorney General shall have the authority—

"(A) to request the temporary transfer of that person to the United States in order to face prosecution in a Federal or State criminal proceeding;

"(B) to maintain the custody of that person while the person is in the United States; and

"(C) to return that person to the foreign country at the conclusion of the criminal prosecution, including any imposition of sentence.

"(2) REQUIREMENTS FOR REQUESTS BY ATTORNEY GENERAL.—The Attorney General shall make a request under paragraph (1) only if the Attorney General determines, after consultation with the Secretary of State, that the return of that person to the foreign country in question would be consistent with international obligations of the United States.

"(c) AUTHORITY OF ATTORNEY GENERAL WITH RESPECT TO PRETRIAL DETENTIONS.—

"(1) IN GENERAL.—

"(A) AUTHORITY OF ATTORNEY GENERAL.—Subject to paragraph (2) and subsection (d), the Attorney General shall have the authority to carry out the actions described in subparagraph (B), if—

"(i) a person is in pretrial detention or is otherwise being held in custody in the United States based upon a violation of Federal or State law, and that person is found extraditable to a foreign country while still in the pretrial detention or custody pursuant to section 3184, 3197, or 3198; and

"(ii) a determination is made by the Secretary of State and the Attorney General that the person will be surrendered.

"(B) ACTIONS.—If the conditions described in subparagraph (A) are met, the Attorney General shall have the authority to—

"(i) temporarily transfer the person described in subparagraph (A) to the foreign country of the foreign government requesting the extradition of that person in order to face prosecution;

"(ii) transport that person from the United States in custody; and

"(iii) return that person in custody to the United States from the foreign country.

"(2) CONSENT BY STATE AUTHORITIES.—If the person is being held in custody for a violation of State law, the Attorney General may exercise the authority described in paragraph (1) if the appropriate State authorities give their consent to the Attorney General.

"(3) CRITERION FOR REQUEST.—The Attorney General shall make a request under paragraph (1) only if the Attorney General determines, after consultation with the Secretary of State, that the return of the person sought for extradition to the foreign country of the foreign government requesting the extradition would be consistent with United States international obligations.

"(4) EFFECT OF TEMPORARY TRANSFER.—With regard to any person in pretrial detention—

"(A) a temporary transfer under this subsection shall result in an interruption in the pretrial detention status of that person; and

"(B) the right to challenge the conditions of confinement pursuant to section 3142(f) does not extend to the right to challenge the conditions of confinement in a foreign country while in that foreign country temporarily under this subsection.

"(d) CONSENT BY PARTIES TO WAIVE PRIOR FINDING OF WHETHER A PERSON IS EXTRADITABLE.—The Attorney General may exercise the authority described in subsections (b) and (c) absent a prior finding that the person in custody is extraditable, if the person, any appropriate State authorities in a case under subsection (c), and the requesting foreign government give their consent to waive that requirement.

"(e) RETURN OF PERSONS.—

"(1) IN GENERAL.—If the temporary transfer to or from the United States of a person in custody for the purpose of prosecution is provided for by this section, that person shall be returned to the United States or to the foreign country from which the person is transferred on completion of the proceedings upon which the transfer was based.

"(2) STATUTORY INTERPRETATION WITH RESPECT TO IMMIGRATION LAWS.—In no event shall the return of a person under paragraph (1) require extradition proceedings or proceedings under the immigration laws.

"(3) CERTAIN RIGHTS AND REMEDIES BARRED.—Notwithstanding any other provision of law, a person temporarily transferred to the United States pursuant to this section shall not be entitled to apply for or obtain any right or remedy under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including the right to apply for or be granted asylum or withholding of deportation.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 306 of title 18, United States Code, is amended by adding at the end the following:

"4116. Temporary transfer for prosecution.".

SEC. 1013. PROHIBITING FUGITIVES FROM BENEFITING FROM FUGITIVE STATUS.

(a) IN GENERAL.—Chapter 163 of title 28, United States Code, is amended by adding at the end the following:

"§ 2466. Fugitive disentitlement

"A person may not use the resources of the courts of the United States in furtherance of a claim in any related civil forfeiture action or a claim in third party proceedings in any related criminal forfeiture action if that person—

"(1) purposely leaves the jurisdiction of the United States;

"(2) declines to enter or reenter the United States to submit to its jurisdiction; or

"(3) otherwise evades the jurisdiction of the court in which a criminal case is pending against the person.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 163 of title 28, United States Code, is amended by adding at the end the following:

"2466. Fugitive disentitlement.".

SEC. 1014. TRANSFER OF FOREIGN PRISONERS TO SERVE SENTENCES IN COUNTRY OF ORIGIN.

Section 4100(b) of title 18, United States Code, is amended in the third sentence by inserting ", unless otherwise provided by treaty," before "an offender".

SEC. 1015. TRANSIT OF FUGITIVES FOR PROSECUTION IN FOREIGN COUNTRIES.

(a) IN GENERAL.—Chapter 305 of title 18, United States Code, is amended by adding at the end the following:

"§ 4087. Transit through the United States of persons wanted in a foreign country

"(a) IN GENERAL.—The Attorney General may, in consultation with the Secretary of State, permit the temporary transit through the United States of a person wanted for prosecution or imposition of sentence in a foreign country.

"(b) LIMITATION ON JUDICIAL REVIEW.—A determination by the Attorney General to permit or not to permit a temporary transit described in subsection (a) shall not be subject to judicial review.

"(c) CUSTODY.—If the Attorney General permits a temporary transit under subsection (a), Federal law enforcement personnel may hold the person subject to that transit in custody during the transit of the person through the United States.

"(d) CONDITIONS APPLICABLE TO PERSONS SUBJECT TO TEMPORARY TRANSIT.—Notwithstanding any other provision of law, a person who is subject to a temporary transit through the United States under this section shall—

"(1) be required to have only such documents as the Attorney General shall require;

"(2) not be considered to be admitted or paroled into the United States; and

"(3) not be entitled to apply for or obtain any right or remedy under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including the right to apply for or be granted asylum or withholding of deportation.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 305 of title 18, United States Code, is amended by adding at the end the following:

"4087. Transit through the United States of persons wanted in a foreign country.".

CHAPTER 5—SEIZING AND FORFEITING ASSETS OF INTERNATIONAL CRIMINALS

SEC. 1016. CRIMINAL PENALTIES FOR VIOLATIONS OF ANTI-MONEY LAUNDERING ORDERS.

(a) REPORTING VIOLATIONS.—Section 5324(a) of title 31, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting ", or the reporting requirements imposed by an order issued pursuant to section 5326" after "any such section"; and

(2) in each of paragraphs (1) and (2), by inserting ", or a report required under any order issued pursuant to section 5326" before the semicolon.

(b) PENALTIES.—Sections 5321(a)(1), 5322(a), and 5322(b) of title 31, United States Code, are each amended by inserting "or order issued" after "or a regulation prescribed" each place that term appears.

SEC. 1017. CRACKING DOWN ON ILLEGAL MONEY TRANSMITTING BUSINESSES.

Section 1960 of title 18, United States Code, is amended by adding at the end the following:

"(c) SCIENTER REQUIREMENT.—For the purposes of proving a violation of this section involving an illegal money transmitting business (as defined in subsection (b)(1)(A))—

"(1) it shall be sufficient for the government to prove that the defendant knew that the money transmitting business lacked a license required by State law; and

"(2) it shall not be necessary to show that the defendant knew that the operation of such a business without the required license was an offense punishable as a felony or misdemeanor under State law.".

SEC. 1018. EXPANDING CIVIL MONEY LAUNDERING LAWS TO REACH FOREIGN PERSONS.

Section 1956(b) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after "(b)"; and

(3) by adding at the end the following:

"(2) For purposes of adjudicating an action filed or enforcing a penalty ordered under this section, the district courts shall have jurisdiction over any foreign person, including any financial institution registered in a foreign country, that commits an offense under subsection (a) involving a financial transaction that occurs in whole or in part in the United States, if service of process upon the foreign person is made in accordance with the Federal Rules of Civil Procedure or the law of the foreign country in which the foreign person is found.

"(3) The court may issue a pretrial restraining order or take any other action necessary to ensure that any bank account or other property held by the defendant in the United States is available to satisfy a judgment under this section.".

SEC. 1019. PUNISHMENT OF MONEY LAUNDERING THROUGH FOREIGN BANKS.

Section 1956(c)(6) of title 18, United States Code, is amended to read as follows:

"(6) the term 'financial institution' includes any financial institution described in section 5312(a)(2) of title 31, United States Code, or the regulations promulgated thereunder, as well as any foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7));".

SEC. 1020. AUTHORITY TO ORDER CONVICTED CRIMINALS TO RETURN PROPERTY LOCATED ABROAD.

(a) ORDER OF FORFEITURE.—Section 413(p) of the Controlled Substances Act (21 U.S.C. 853(p)) is amended by adding at the end the following: "In the case of property described in paragraph (3), the court may, in addition, order the defendant to return the property to the jurisdiction of the court so that the property may be seized and forfeited.".

(b) PRETRIAL RESTRAINING ORDER.—Section 413(e) of the Controlled Substances Act (21 U.S.C. 853(e)) is amended by inserting after paragraph (3) the following:

"(4)(A) Pursuant to its authority to enter a pretrial restraining order under this section, including its authority to restrain any property forfeitable as substitute assets, the court may also order the defendant to repatriate any property subject to forfeiture pending trial, and to deposit that property in the registry of the court, or with the United States Marshals Service or the Secretary of the Treasury, in an interest-bearing account.

"(B) Failure to comply with an order under this subsection, or an order to repatriate property under subsection (p), shall be punishable as a civil or criminal contempt of court, and may also result in an enhancement of the sentence for the offense giving rise to the forfeiture under the obstruction of justice provision of section 3C1.1 of the Federal Sentencing Guidelines.".

SEC. 1021. ADMINISTRATIVE SUMMONS AUTHORITY UNDER THE BANK SECRECY ACT.

Section 5318(b) of title 31, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) SCOPE OF POWER.—The Secretary of the Treasury may take any action described in paragraph (3) or (4) of subsection (a) for the purpose of—

"(A) determining compliance with the rules of this subchapter or any regulation issued under this subchapter; or

"(B) civil enforcement of violations of this subchapter, section 21 of the Federal Deposit Insurance Act, section 411 of the National Housing Act, or chapter 2 of Public Law 91–508 (12 U.S.C. 1951 et seq.), or any regulation issued under any such provision.".

SEC. 1022. EXEMPTING FINANCIAL ENFORCEMENT DATA FROM UNNECESSARY DISCLOSURE.

(a) IEEPA.—Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702(a)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) EXEMPTIONS FROM DISCLOSURE.—Information obtained under this title before or after the enactment of this section may be withheld only to the extent permitted by statute, except that information submitted, obtained, or considered in connection with any transaction prohibited under this title, including license applications, licenses or other authorizations, information or evidence obtained in the course of any investigation, and information obtained or furnished under this title in connection with international agreements, treaties, or obligations shall be withheld from public disclosure, and shall not be subject to disclosure under section 552 of title 5, United States Code, unless the release of the information is determined by the President to be in the national interest.".

(b) TRADING WITH THE ENEMY ACT.—Section 5(b) of the Trading with the Enemy Act of 1917 (50 U.S.C. App. 5(b)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) EXEMPTIONS FROM DISCLOSURE.—Information obtained under this title before or after the enactment of this section may be withheld only to the extent permitted by statute, except that information submitted, obtained, or considered in connection with any transaction prohibited under this title, including license applications, licenses or other authorizations, information or evidence obtained in the course of any investigation, and information obtained or furnished under this title in connection with international agreements, treaties, or obligations shall be withheld from public disclosure, and shall not be subject to disclosure under section 552 of title 5, United States Code, unless the release of the information is determined by the President to be in the national interest.".

SEC. 1023. CRIMINAL AND CIVIL PENALTIES UNDER THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.

(a) INCREASED CIVIL PENALTY.—Section 206(a) of the International Emergency Economic Powers Act (50 U.S.C. 1705(a)), is amended by striking "$10,000" and inserting "$50,000".

(b) INCREASED CRIMINAL FINE.—Section 206(b) of the International Emergency Economic Powers Act (50 U.S.C. 1705(b)), is amended to read as follows:

"(b) Whoever willfully violates any license, order, or regulation issued under this chapter shall be fined not more that $1,000,000 if an organization (as defined in section 18 of title 18, United States Code), and not more than $250,000, imprisoned not more that 10 years, or both, if an individual.".

SEC. 1024. ATTEMPTED VIOLATIONS OF THE TRADING WITH THE ENEMY ACT.

Section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16) is amended—

(1) in subsection (a), by inserting "or attempt to violate" after "violate" each time it appears; and

(2) in subsection (b)(1), by inserting "or attempts to violate" after "violates".

SEC. 1025. JURISDICTION OVER CERTAIN FINANCIAL CRIMES COMMITTED ABROAD.

Section 1029 of title 18, United States Code, is amended by adding at the end the following:

"(h) JURISDICTION OVER CERTAIN FINANCIAL CRIMES COMMITTED ABROAD.—Any person who, outside the jurisdiction of the United States, engages in any act that, if committed within the jurisdiction of the United States, would constitute an offense under subsection (a) or (b), shall be subject to the same penalties as if that offense had been committed in the United States, if the act—

"(1) involves an access device issued, owned, managed, or controlled by a financial institution, account issuer, credit card system member, or other entity within the jurisdiction of the United States; and

"(2) causes, or if completed would have caused, a transfer of funds from or a loss to an entity listed in paragraph (1).".

CHAPTER 6—PROMOTING GLOBAL COOPERATION IN THE FIGHT AGAINST INTERNATIONAL CRIME

SEC. 1026. STREAMLINED PROCEDURES FOR EXECUTION OF MLAT REQUESTS.

(a) IN GENERAL.—Chapter 117 of title 28, United States Code, is amended by adding at the end the following:

"§ 1790. Assistance to foreign authorities

"(a) IN GENERAL.—

"(1) PRESENTATION OF REQUESTS.—The Attorney General may present a request made by a foreign government for assistance with respect to a foreign investigation, prosecution, or proceeding regarding a criminal matter pursuant to a treaty, convention, or executive agreement for mutual legal assistance between the United States and that government or in accordance with section 1782, the execution of which requires or appears to require the use of compulsory measures in more than 1 judicial district, to a judge or judge magistrate of—

"(A) any 1 of the districts in which persons who may be required to appear to testify or produce evidence or information reside or are found, or in which evidence or information to be produced is located; or

"(B) the United States District Court for the District of Columbia.

"(2) AUTHORITY OF COURT.—A judge or judge magistrate to whom a request for assistance is presented under paragraph (1) shall have the authority to issue those orders necessary to execute the request including orders appointing a person to direct the taking of testimony or statements and the production of evidence or information, of whatever nature and in whatever form, in execution of the request.

"(b) AUTHORITY OF APPOINTED PERSONS.—A person appointed under subsection (a)(2) shall have the authority to—

"(1) issue orders for the taking of testimony or statements and the production of evidence or information, which orders may be served at any place within the United States;

"(2) administer any necessary oath; and

"(3) take testimony or statements and receive evidence and information.

"(c) PERSONS ORDERED TO APPEAR.—A person ordered pursuant to subsection (b)(1) to appear outside the district in which that person resides or is found may, not later than 10 days after receipt of the order—

"(1) file with the judge or judge magistrate who authorized execution of the request a motion to appear in the district in which that person resides or is found or in which the evidence or information is located; or

"(2) provide written notice, requesting appearance in the district in which the person resides or is found or in which the evidence or information is located, to the person issuing the order to appear, who shall advise the judge or judge magistrate authorizing execution.

"(d) TRANSFER OF REQUESTS.—

"(1) IN GENERAL.—The judge or judge magistrate may transfer a request under subsection (c), or that portion requiring the appearance of that person, to the other district if—

"(A) the inconvenience to the person is substantial; and

"(B) the transfer is unlikely to adversely affect the effective or timely execution of the request or a portion thereof.

"(2) EXECUTION.—Upon transfer, the judge or judge magistrate to whom the request or a portion thereof is transferred shall complete its execution in accordance with subsections (a) and (b).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 117 of title 28, United States Code, is amended by adding at the end the following:

"1790. Assistance to foreign authorities.".

SEC. 1027. TEMPORARY TRANSFER OF INCARCERATED WITNESSES.

(a) IN GENERAL.—Section 3508 of title 18, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 3508. Temporary transfer of witnesses in custody";

(2) by striking subsections (b) and (c) and inserting the following:

"(b) TRANSFER AUTHORITY.—

"(1) IN GENERAL.—If the testimony of a person who is serving a sentence, in pretrial detention, or otherwise being held in custody in the United States, is needed in a foreign criminal proceeding, the Attorney General shall have the authority to—

"(A) temporarily transfer that person to the foreign country for the purpose of giving the testimony;

"(B) transport that person from the United States in custody;

"(C) make appropriate arrangements for custody for that person while outside the United States; and

"(D) return that person in custody to the United States from the foreign country.

"(2) PERSONS HELD FOR STATE LAW VIOLATIONS.—If the person is being held in custody for a violation of State law, the Attorney General may exercise the authority described in this subsection if the appropriate State authorities give their consent.

"(c) RETURN OF PERSONS TRANSFERRED.—

"(1) IN GENERAL.—If the transfer to or from the United States of a person in custody for the purpose of giving testimony is provided for by treaty or convention, by this section, or both, that person shall be returned to the United States, or to the foreign country from which the person is transferred.

"(2) LIMITATION.—In no event shall the return of a person under this subsection require any request for extradition or extradition proceedings, or require that person to be subject to deportation or exclusion proceedings under the laws of the United States, or the foreign country from which the person is transferred.

"(d) APPLICABILITY OF INTERNATIONAL AGREEMENTS.—If there is an international agreement between the United States and the foreign country in which a witness is being held in custody or to which the witness will be transferred from the United States, that provides for the transfer, custody, and return of those witnesses, the terms and conditions of that international agreement shall apply. If there is no such international agreement, the Attorney General may exercise the authority described in subsections (a) and (b) if both the foreign country and the witness give their consent.

"(e) RIGHTS OF PERSONS TRANSFERRED.—

"(1) Notwithstanding any other provision of law, a person held in custody in a foreign country who is transferred to the United States pursuant to this section for the purpose of giving testimony—

"(A) shall not by reason of that transfer, during the period that person is present in the United States pursuant to that transfer, be entitled to apply for or obtain any right or remedy under the Immigration and Nationality Act, including the right to apply for or be granted asylum or withholding of deportation or any right to remain in the United States under any other law; and

"(B) may be summarily removed from the United States upon order of the Attorney General.

"(2) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to create any substantive or procedural right or benefit to remain in the United States that is legally enforceable in a court of law of the United States or of a State by any party against the United States or its agencies or officers.

"(f) CONSISTENCY WITH INTERNATIONAL OBLIGATIONS.—The Attorney General shall not take any action under this section to transfer or return a person to a foreign country unless the Attorney General determines, after consultation with the Secretary of State, that transfer or return would be consistent with the international obligations of the United States. A determination by the Attorney General under this subsection shall not be subject to judicial review by any court.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 223 of title 18, United States Code, is amended by striking the item relating to section 3508 and inserting the following:

"3508. Temporary transfer of witnesses in custody.".

SEC. 1028. TRAINING OF FOREIGN LAW ENFORCEMENT AGENCIES.

Section 660(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2420(b)) is amended—

(1) in paragraph (4), by striking "or" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(7) with respect to assistance, including training, provided for antiterrorism purposes.".

SEC. 1029. DISCRETIONARY AUTHORITY TO USE FORFEITURE PROCEEDS.

Section 524(c)(1) of title 28, United States Code, is amended by—

(1) redesignating subparagraph (I) beginning with "after all" as subparagraph (J);

(2) in subparagraph (J) as redesignated, striking the period and inserting ", and"; and

(3) adding at the end the following:

"(J) at the discretion of the Attorney General, payments to return forfeited property repatriated to the United States by a foreign government or others acting at the direction of a foreign government, and interest earned on the property, if—

"(i) a final foreign judgment entered against a foreign government or those acting at its direction, which foreign judgment was based on the measures, such as seizure and repatriation of property, that resulted in deposit of the funds into the Fund;

"(ii) the foreign judgment was entered and presented to the Attorney General not later than 5 years after the date on which the property was repatriated to the United States;

"(iii) the foreign government or those acting at its direction vigorously defended its actions under its own laws; and

"(iv) the amount of the disbursement does not exceed the amount of funds deposited to the Fund, plus interest earned on those funds pursuant to section 524(c)(5), less any awards and equitable shares paid by the Fund to the foreign government or those acting at its direction in connection with a particular case.".

Subtitle B—International Drug Control

SEC. 1201. ANNUAL COUNTRY PLANS FOR DRUG-TRANSIT AND DRUG PRODUCING COUNTRIES.

Section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j) is amended by adding at the end the following:

"(i) COUNTRY PLANS FOR MAJOR DRUG-TRANSIT AND MAJOR ILLICIT DRUG PRODUCING COUNTRIES.—

"(1) ANNUAL REQUIREMENT.—Not later than November 1 of each year, the President shall submit to Congress a separate plan for the activities to be undertaken by the United States in order to address drug-trafficking and other drug-related matters in each country described in paragraph (2).

"(2) COVERED COUNTRIES.—A country referred to in paragraph (1) is any country—

"(A) that is determined by the President to be a major drug-transit county or a major illicit drug producing country; and

"(B) with which the United States is maintaining diplomatic relations.

"(3) FORM.—Each plan under paragraph (1) shall be submitted in unclassified form, but may contain a classified annex.".

SEC. 1202. PROHIBITION ON USE OF FUNDS FOR COUNTERNARCOTICS ACTIVITIES AND ASSISTANCE.

(a) PROHIBITION.—Notwithstanding any other provision of law, no funds appropriated for any fiscal year after fiscal year 1999 for the counterdrug or counternarcotics activities of the United States (including funds appropriated for assistance to other countries for such activities) may be obligated or expended for such activities during the period beginning on November 1 of such fiscal year and ending on the later of—

(1) the date of the notification required in such fiscal year under subsection (h) of section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j); or

(2) the date of the submittal of the plans required by subsection (i) of that section, as amended by section 1201 of this title.

(b) LIMITATION ON OVERRIDE.—No provision of law enacted after the date of enactment of this Act may be construed to override the prohibition set forth in subsection (a) unless such provision specifically refers to such prohibition in effecting the override.

SEC. 1203. SENSE OF CONGRESS REGARDING COLOMBIA.

It is the sense of Congress—

(1) that the provision of counternarcotics assistance to Colombia will not meet the purpose of the provision of such assistance without meaningful guarantees that no production, manufacturing, or transportation of narcotics takes place in any area in Colombia designated as a so-called "buffer zone";

(2) to be concerned regarding continuing reports of human rights violations by units of the Colombia military; and

(3) to reaffirm the policy that no aid, supplies, or other assistance should be provided to any military or law enforcement unit of a foreign county if such unit has engaged in any violation of human rights.

SEC. 1204. SENSE OF CONGRESS REGARDING MEXICO.

It is the sense of Congress that—

(1) the United States and the Government of Mexico should conclude a maritime agreement for purposes of improving cooperation between the United States and Mexico in the interdiction of seaborne drug smuggling;

(2) the maritime agreement should be similar to agreements between the United States and governments of other countries in the Caribbean and Latin America which have proven beneficial to the counterdrug activities of the countries concerned;

(3) the Government of Mexico should carry through on its promises to the United States Government regarding cooperation between such governments in counternarcotics activities, including cooperation in matters relating to extradition, prosecutions for money laundering, and other matters;

(4) the Government of Mexico is to be commended for its cooperation with and support of the United States Government in many law enforcement matters; and

(5) the continuing investigation by the Government of Mexico of United States law enforcement personnel who participated in the money laundering sting operation known as CASABLANCA is an attempt by that government to embarrass and harass such personnel even though such personnel were acting within the scope of United States law and Mexican law in pursuing drug traffickers and money launderers operating both in the United States and in Mexico.

SEC. 1205. SENSE OF CONGRESS REGARDING IRAN.

It is the sense of Congress to express concern that Iran was not included on the most recent list of countries determined to be major drug-transit countries or major illicit drug producing countries despite recent evidence that Iran is a production and transfer point for narcotics.

SEC. 1206. SENSE OF CONGRESS REGARDING SYRIA.

It is the sense of Congress to express concern that Syria was not included on the most recent list of countries determined to be major drug-transit countries or major illicit drug producing countries despite recent evidence that Syria is a trans-shipment point for narcotics from Turkey and from Afghanistan.

SEC. 1207. BRAZIL.

(a) KING AIR AIRCRAFT FOR DEA ACTIVITIES IN BRAZIL.—Notwithstanding any other provision of law, the Administrator of the Drug Enforcement Administration may—

(1) purchase a King Air aircraft for purposes of Administration activities in Brazil; and

(2) station the aircraft in Brazil for purposes of such activities.

(b) SENSE OF CONGRESS REGARDING ASSISTANCE TO BRAZIL.—It is the sense of Congress—

(1) to encourage the President to review the nature of the cooperation between the United States and Brazil in counternarcotics activities;

(2) to recognize the extraordinary threat that narcotics trafficking poses to the national security of Brazil and to the national security of the United States;

(3) to applaud the efforts of the Brazil Government to control drug trafficking in and through the Amazon River basin;

(4) to applaud the enactment of legislation by the Brazil Congress that—

(A) authorizes appropriate personnel to damage, render inoperative, or destroy aircraft within Brazil territory that are reasonably suspected to be engaged primarily in trafficking in illicit narcotics; and

(B) contains measures to protect against the loss of innocent life during activities referred to in subparagraph (A), including a effective measure to identify and warn aircraft before the use of force; and

(5) to urge the President to issue a statement outlining the matters referred to in paragraphs (1) through (4) in order to prevent any interruption in the current provision by the United States of operational, logistical, technical, administrative, and intelligence assistance to Brazil.

SEC. 1208. JAMAICA.

(a) REQUIREMENT FOR AERIAL SURVEY.—The President shall take appropriate actions in order to provide for a comprehensive aerial survey of Jamaica for purposes of determining the quantity and location of any marijuana and other illegal drugs being grown in Jamaica.

(b) SENSE OF CONGRESS.—It is the sense of Congress to express disappointment regarding the lack of progress and cooperation between the United States and Jamaica in counternarcotics activities.

SEC. 1209. SENSE OF CONGRESS REGARDING NORTH KOREA.

It is the sense of Congress—

(1) to be concerned regarding an increase in the number of reports of drug trafficking in and through North Korea;

(2) to encourage the President to submit to Congress the reports, if any, required by law regarding the production and trafficking of narcotics in or through North Korea; and

(3) to express concern that the Department of State has evaded its obligations with respect to North Korea under section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j), and thereby diminished the significance to the United States of narcotics production and transit in and through North Korea, in order to enhance cultural exchanges between the United States and North Korea.

Subtitle C—Foreign Military Counter-Drug Support

SEC. 1301. REPORT.

(a) MONTHLY REPORT.—The Department of State and the Department of Defense shall report monthly to the Committee on International Relations and the Committee on National Security of the House of Representatives and the Committee on Foreign Relations and the Committee on Armed Services of the Senate on the current status of any formal letter of request for any foreign military sales of counter narcotics-related assistance from the head of any police, military, or other appropriate security agency official in an Andean Country. This report shall include—

(1) the date the initial request was made;

(2) the current status of the request;

(3) the remaining approvals needed to process the request;

(4) the date that the request has been approved by all relevant departments and agencies; and

(5) the expected delivery time for the requested material.

(b) ANALYSIS.—The Department of State shall review and forward to Congress an analysis of the current foreign military sales program within 180 days (from time of enactment). This review shall focus on—

(1) what, if any, are the current delays in the foreign military sales program;

(2) the manner in which the program can be streamlined;

(3) the manner in which the efficiency of processing requested equipment can be increased; and

(4) what, if any, legislative changes are necessary to improve the program so that the time from request to delivery is minimized.

Subtitle D—Money Laundering Deterrence

SEC. 1401. SHORT TITLE.

This subtitle may be cited as the "Money Laundering Deterrence Act of 1999".

SEC. 1402. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the dollar amount involved in international money laundering likely exceeds $500,000,000,000 annually;

(2) organized crime groups are continually devising new methods to launder the proceeds of illegal activities in an effort to subvert the transaction reporting requirements of subchapter II of chapter 53 of title 31, United States Code, and chapter 2 of Public Law 91–508;

(3) a number of methods to launder the proceeds of criminal activity were identified and described in congressional hearings, including the use of financial service providers that are not depository institutions, such as money transmitters and check cashing services, the purchase and resale of durable goods, and the exchange of foreign currency in the so-called "black market";

(4) recent successes in combating domestic money laundering have involved the application of the heretofore seldom-used authority granted to the Secretary of the Treasury and the cooperative efforts of Federal, State, and local law enforcement agencies; and

(5) such successes have been exemplified by the implementation of the geographic targeting order in New York City and through the work of the El Dorado task force, a group comprised of agents of Department of the Treasury law enforcement agencies, New York State troopers, and New York City police officers.

(b) PURPOSES.—The purposes of this title are—

(1) to amend subchapter II of chapter 53 of title 31, United States Code, to provide the law enforcement community with the necessary legal authority to combat money laundering;

(2) to broaden the law enforcement community's access to transactional information already being collected that relates to coins and currency received in a nonfinancial trade or business; and

(3) to express the sense of Congress that the Secretary of the Treasury should expedite the development and implementation of controls designed to deter money laundering activities at certain types of financial institutions.

SEC. 1403. REPORTING OF SUSPICIOUS ACTIVITIES.

(a) AMENDMENT RELATING TO CIVIL LIABILITY IMMUNITY FOR DISCLOSURES.—Section 5318(g)(3) of title 31, United States Code, is amended to read as follows:

"(3) LIABILITY FOR DISCLOSURES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, an exempted entity, as defined in subparagraph (B), shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision thereof, or under any contract or other legally enforceable agreement (including any arbitration agreement), for a disclosure described in subparagraph (B)(i), or for any failure to notify the person who is the subject of the disclosure or any other person identified in the disclosure.

"(B) EXEMPTED ENTITIES.—For purposes of this paragraph, the term 'exempted entity' means—

"(i) any financial institution that—

"(I) makes a disclosure of any possible violation of law or regulation to an appropriate government agency; or

"(II) makes a disclosure pursuant to this subsection or any other authority;

"(ii) any director, officer, employee, or agent of an institution referred to in clause (i) who makes, or requires another to make a disclosure referred to in clause (i); and

"(iii) any independent public accountant who audits any such financial institution and makes a disclosure described in clause (i).".

(b) PROHIBITION ON NOTIFICATION OF DISCLOSURES.—Section 5318(g)(2) of title 31, United States Code, is amended to read as follows:

"(2) NOTIFICATION PROHIBITED.—

"(A) IN GENERAL.—If a financial institution, any director, officer, employee, or agent of any financial institution, or any independent public accountant who audits any such financial institution, voluntarily or pursuant to this section or any other authority, reports a suspicious transaction to an appropriate government agency—

"(i) the financial institution, director, officer, employee, agent, or accountant may not notify any person involved in the transaction that the transaction has been reported and may not disclose any information included in the report to any such person; and

"(ii) no other person, including any officer or employee of any government, who has any knowledge that such report was made, may disclose to any other person or government agency the fact that such report was made.

"(B) EXCEPTION FOR USE BY GOVERNMENT OFFICERS IN OFFICIAL CAPACITY.—Paragraph (1) does not apply to the use or disclosure by an officer or employee of an appropriate government agency of any report under this subsection, or information included in the report, to the extent that the use is made solely in conjunction with the performance of the official duties of the officer or employee to conduct or assist in the conduct of a law enforcement or regulatory inquiry, investigation, or proceeding.

"(C) COORDINATION WITH PARAGRAPH (5).—Subparagraph (A) shall not be construed to prohibit any financial institution, or any director, officer, employee, or agent of a financial institution, from including, in a written employment reference that is provided in accordance with paragraph (5) in response to a request from another financial institution, information that was included in a report to which subparagraph (A) applies, but such written employment reference may not disclose that the information was also included in any such report or that a report was made.".

(c) AUTHORIZATION TO INCLUDE SUSPICIONS OF ILLEGAL ACTIVITY IN EMPLOYMENT REFERENCES.—Section 5318(g) of title 31, United States Code, is amended by adding at the end the following:

"(5) EMPLOYMENT REFERENCES MAY INCLUDE SUSPICIONS OF INVOLVEMENT IN ILLEGAL ACTIVITY.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, and subject to subparagraph (B) of this paragraph and paragraph (2)(C), any financial institution, and any director, officer, employee, or agent of a financial institution, may disclose, in any written employment reference relating to a current or former institution-affiliated party of the institution that is provided to another financial institution in response to a request from the other institution, information concerning the possible involvement of the institution-affiliated party in any suspicious transaction relevant to a possible violation of law or regulation.

"(B) LIMIT ON LIABILITY FOR DISCLOSURES.—A financial institution, and any director, officer, employee, or agent of the institution, shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision thereof, or under any contract or other legally enforceable agreement (including any arbitration agreement), for any disclosure under subparagraph (A), to the extent that—

"(i) the disclosure does not contain information that the institution, director, officer, employee, agent, or accountant knows to be false; and

"(ii) the institution, director, officer, employee, agent, or accountant has not acted with malice or with reckless disregard for the truth in making the disclosure.

"(C) INSTITUTION-AFFILIATED PARTY DEFINED.—For purposes of this paragraph, the term 'institution-affiliated party' has the same meaning as in section 3(u) of the Federal Deposit Insurance Act, except that section 3(u) shall be applied by substituting the term 'financial institution' for the term 'insured depository institution'.".

(d) AMENDMENTS RELATING TO AVAILABILITY OF SUSPICIOUS ACTIVITY REPORTS FOR OTHER AGENCIES.—Section 5319 of title 31, United States Code, is amended—

(1) in the first sentence, by striking "5314, or 5316" and inserting "5313A, 5314, 5316, or 5318(g)";

(2) in the last sentence, by inserting "under section 5313, 5313A, 5314, 5316, or 5318(g)" after "records of reports"; and

(3) by adding at the end the following: "The Secretary of the Treasury may permit the dissemination of information in any such report to any self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act of 1934), if the Securities and Exchange Commission determines that the dissemination is necessary or appropriate to permit the self-regulatory organization to perform its functions under the Securities Exchange Act of 1934 and regulations prescribed under that Act.".

SEC. 1404. EXPANSION OF SCOPE OF SUMMONS POWER.

Section 5318(b)(1) of title 31, United States Code, is amended by inserting "examinations to determine compliance with the requirements of this subchapter, section 21 of the

Federal Deposit Insurance Act, and chapter 2 of Public Law 91–508 and regulations prescribed pursuant to those provisions, investigations relating to reports filed by financial institutions or other persons pursuant to any such provision or regulation, and" after "in connection with".

SEC. 1405. PENALTIES FOR VIOLATIONS OF GEOGRAPHIC TARGETING ORDERS AND CERTAIN RECORDKEEPING REQUIREMENTS.

(a) Civil Penalty for Violation of Targeting Order.—Section 5321(a)(1) of title 31, United States Code, is amended by inserting "or order issued" after "regulation prescribed".

(b) Criminal Penalties for Violation of Targeting Order.—Subsections (a) and (b) of section 5322 of title 31, United States Code, are amended by inserting "or order issued" after "regulation prescribed" each place that term appears.

(c) Structuring Transactions To Evade Targeting Order or Certain Recordkeeping Requirements.—Section 5324(a) of title 31, United States Code, is amended—

(1) by inserting a comma after "shall";

(2) by striking "section—" and inserting "section, the reporting requirements imposed by any order issued under section 5326, or the recordkeeping requirements imposed by any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508—"; and

(3) in paragraphs (1) and (2), by inserting ", to file a report required by any order issued under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508" after "regulation prescribed under any such section" each place that term appears.

(d) Increase in Civil Penalties for Violation of Certain Recordkeeping Requirements.—

(1) Federal deposit insurance act.—Section 21(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(j)(1)) is amended by striking "$10,000" and inserting "the greater of—

"(A) the amount (not to exceed $100,000) involved in the transaction (if any) with respect to which the violation occurred; or

"(B) $25,000".

(2) Public law 91–508.—Section 125(a) of Public Law 91–508 (12 U.S.C. 1955(a)) is amended by striking "$10,000" and inserting "the greater of—

"(1) the amount (not to exceed $100,000) involved in the transaction (if any) with respect to which the violation occurred; or

"(2) $25,000".

(e) Criminal Penalties for Violation of Certain Recordkeeping Requirements.—

(1) Section 126.—Section 126 of Public Law 91–508 (12 U.S.C. 1956) is amended to read as follows:

"SEC. 126. CRIMINAL PENALTY.

"A person that willfully violates this chapter, section 21 of the Federal Deposit Insurance Act, or a regulation prescribed under this chapter or that section 21, shall be fined not more than $250,000, or imprisoned for not more than 5 years, or both.".

(2) Section 127.—Section 127 of Public Law 91–508 (12 U.S.C. 1957) is amended to read as follows:

"SEC. 127. ADDITIONAL CRIMINAL PENALTY IN CERTAIN CASES.

"A person that willfully violates this chapter, section 21 of the Federal Deposit Insurance Act, or a regulation prescribed under this chapter or that section 21, while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period, shall be fined not more than $500,000, imprisoned for not more than 10 years, or both.".

SEC. 1406. REPEAL OF CERTAIN REPORTING REQUIREMENTS.

Section 407(d) of the Money Laundering Suppression Act of 1994 (31 U.S.C. 5311 note) is amended by striking "subsection (c)" and inserting "subsection (c)(2)".

SEC. 1407. LIMITED EXEMPTION FROM PAPERWORK REDUCTION ACT.

Section 3518(c)(1) of title 44, United States Code, is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following:

"(C) pursuant to regulations prescribed or orders issued by the Secretary of the Treasury under section 5318(h) or 5326 of title 31;".

SEC. 1408. SENSE OF CONGRESS.

It is the sense of Congress that the Secretary of the Treasury should, in conjunction with the Board of Governors of the Federal Reserve System, expedite the promulgation of "know your customer" regulations for financial institutions.

Subtitle E—Additional Funding For Source and Interdiction Zone Countries

SEC. 1501. SOURCE ZONE COUNTRIES.

In addition to other amounts appropriated for Colombia and Peru for counternarcotics operations for a fiscal year, there is authorized to be appropriated—

(1) $20,000,000 for Peru for each of fiscal years 2000 and 2001 for supporting additional surveillance, pursuit of drug aircraft, and general support for counternarcotics operations;

(2) $75,000,000 for Colombia for each of fiscal years 2000 and 2001, for supporting additional surveillance, pursuit of drug aircraft, and general support for counternarcotics operations, including the acquisition of a minimum of 3 Blackhawk helicopters and 2 aerostats; and

(3) $52,000,000 for Bolivian counternarcotics programs for fiscal year 2000, including high technology detection equipment for the Chapare region, institution building, and law enforcement support.

SEC. 1502. CENTRAL AMERICA.

In addition to the other amounts appropriated, under this Act or any other provision of law, for counternarcotics matters for countries in Central America, there is authorized to be appropriated $25,000,000 for fiscal year 2000 for enhanced efforts in counternarcotics matters by the United States Coast Guard, the United States Customs Service, and other law enforcement agencies.

TITLE II—DOMESTIC LAW ENFORCEMENT

Subtitle A—Criminal Offenders

SEC. 2001. APPREHENSION AND PROCEDURAL TREATMENT OF ARMED VIOLENT CRIMINALS.

(a) Congressional Oversight.—

(1) Report to attorney general.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall require each United States Attorney to—

(A) establish an armed violent criminal apprehension task force comprised of appropriate law enforcement representatives, which shall be responsible for developing strategies for removing armed violent criminals from the streets; and

(B) not less frequently than monthly, report to the Attorney General on the number of defendants charged with, or convicted of, violating section 922(g) or 924 of title 18, United States Code, in the district for which the United States Attorney is appointed.

(2) Report to congress.—The Attorney General shall prepare and submit a report to the Congress once every 6 months detailing the contents of the reports submitted pursuant to paragraph (1)(B).

(b) Pretrial Detention For Possession of Firearms or Explosives By Convicted Felons.—Section 3156(a)(4) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking "and" at the end of subparagraph (C) and inserting "; or"; and

(3) by adding at the end the following:

"(D) an offense that is a violation of section 842(i) or 922(g) (relating to possession of explosives or firearms by convicted felons); and".

(c) Conforming Scienter Change For Transferring a Firearm to Commit a Crime of Violence.—Section 924(h) of title 18, United States Code, is amended by inserting "or having reasonable cause to believe" after "knowing".

(d) Firearms Possession By Violent Felons and Serious Drug Offenders.—Section 924(a)(2) of title 18, United States Code, is amended—

(1) by striking "(2) Whoever" and inserting "(2)(A) Except as provided in subparagraph (B), any person who"; and

(2) by adding at the end the following:

"(B) Notwithstanding any other provision of law, the court shall not grant a probationary sentence to a person who has more than 1 previous conviction for a violent felony or a serious drug offense, committed under different circumstances.".

SEC. 2002. CRIMINAL ATTEMPT.

(a) Establishment of General Attempt Offense.—

(1) In general.—Chapter 19 of title 18, United States Code, is amended—

(A) in the chapter heading, by striking "Conspiracy" and inserting "Inchoate offenses"; and

(B) by adding at the end the following:

"§ 374. Attempt to commit offense

"(a) In General.—Whoever, acting with the state of mind otherwise required for the commission of an offense described in this title, intentionally engages in conduct that, in fact, constitutes a substantial step toward the commission of the offense, is guilty of an attempt and is subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt, except that the penalty of death shall not be imposed.

"(b) Inability To Commit Offense; Completion of Offense.—It is not a defense to a prosecution under this section—

"(1) that it was factually impossible for the actor to commit the offense, if the offense could have been committed had the circumstances been as the actor believed them to be; or

"(2) that the offense attempted was completed.

"(c) Exceptions.—This section does not apply—

"(1) to an offense consisting of conspiracy, attempt, endeavor, or solicitation;

"(2) to an offense consisting of an omission, refusal, failure of refraining to act;

"(3) to an offense involving negligent conduct; or

"(4) to an offense described in section 1118, 1120, 1121, or 1153 of this title.

"(d) Affirmative Defense.—

"(1) In general.—It is an affirmative defense to a prosecution under this section, on which the defendant bears the burden of persuasion by a preponderance of the evidence, that, under circumstances manifesting a voluntary and complete renunciation of criminal intent, the defendant prevented the commission of the offense.

"(2) Definition.—For purposes of this subsection, a renunciation is not 'voluntary and complete' if it is motivated in whole or in part by circumstances that increase the probability of detection or apprehension or that make it more difficult to accomplish the offense, or by a decision to postpone the offense until a more advantageous time or to transfer the criminal effort to a similar objective or victim.".

(2) Technical and conforming amendment.—The analysis for chapter 19 of title 18, United States Code, is amended by adding at the end the following:

"374. Attempt to commit offense.".

(b) Rationalization of Conspiracy Penalty and Creation of Renunciation Defense.—Section 371 of title 18, United States Code, is amended—

(1) by striking the second undesignated paragraph; and

(2) in the first undesignated paragraph—

(A) by striking "If two or more" and inserting the following:

"(a) In General.—If 2 or more"; and

(B) by striking "either to commit any offense against the United States, or"; and

(3) by adding at the end the following:

"(b) Conspiracy.—If 2 or more persons conspire to commit any offense against the United States, and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be subject to the same penalties as those prescribed for the most serious offense, the commission of which was the object of the conspiracy, except that the penalty of death shall not be imposed.".

SEC. 2003. DRUG OFFENSES COMMITTED IN THE PRESENCE OF CHILDREN.

(a) In General.—For the purposes of this Act, an offense is committed in the presence of a child if—

(1) it takes place in the line of sight of an individual who has not attained the age of 18 years; or

(2) an individual who has not attained the age of 18 years habitually resides in the place where the violation occurs.

(b) Guidelines.—Not later than 120 days after the date of enactment of this Act, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide, with respect to an offense under part D of the Controlled Substances Act is committed in the presence of a child—

(1) a sentencing enhancement of not less than 2 offense levels above the base offense level for the underlying offense or 1 additional year, whichever is greater; and

(2) in the case of a second or subsequent such offense, a sentencing enhancement of not less than 4 offense levels above the base offense level for the underlying offense, or 2 additional years, whichever is greater.

SEC. 2004. SENSE OF CONGRESS ON BORDER DEFENSE.

(a) Findings.—Congress finds that—

(1) the Southwest Border of the United States is a major crossing point for more than 60 percent of the cocaine entering the United States from Latin America;

(2) drug traffickers are increasingly using violence to threaten local residents, to endanger lives, and destroy property;

(3) drug traffickers are creating a law enforcement no-man's land to facilitate drug trafficking on the Mexican side of the common border and using extortionate methods, illegal riches, and intimidation to acquire property on the United States side of the border; and

(4) United States law enforcement efforts have been insufficient to protect lives and property or to prevent the use of illegally obtained riches to acquire property.

(b) Sense of Congress.—It is the sense of Congress that—

(1) the President, in cooperation with the Government of Mexico, should take immediate and effective action at and near the United States border with Mexico to control violence and other illegal acts directed at the respective residents of both countries; and

(2) the Attorney General should submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on—

(A) what steps are being taken to ensure the safety of United States citizens at and near the United States border with Mexico;

(B) what steps are being taken to prevent the illegal acquisition of sites and facilities at or near the border by drug traffickers; and

(C) what further steps need to be taken to ensure the safety and well being of the people of the United States along the United States border with Mexico.

SEC. 2005. CLONE PAGERS.

(a) In General.—Section 2511(2)(h) of title 18, United States Code, is amended by striking clause (i) and inserting the following:

"(i) to use a pen register, a trap and trace device, or a clone pager, as those terms are defined in chapter 206 (relating to pen registers, trap and trace devices, and clone pagers) of this title; or";

(b) Exception.—Section 3121 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) In General.—Except as provided in this section, no person may install or use a pen register, trap and trace device, or clone pager without first obtaining a court order under section 3123 or section 3129 of this title, or under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).";

(2) in subsection (b), by striking "a pen register or a trap and trace device" and inserting "a pen register, trap and trace device, or clone pager"; and

(3) by striking the section heading and inserting the following:

"§ 3121. General prohibition on pen register, trap and trace device, and clone pager use; exception".

(c) Assistance.—Section 3124 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively;

(2) by inserting after subsection (b) the following:

"(c) Clone Pager.—Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to use a clone pager under this chapter, a provider of electronic communication service shall furnish to such investigative or law enforcement officer all information, facilities, and technical assistance necessary to accomplish the use of the clone pager unobtrusively and with a minimum of interference with the services that the person so ordered by the court provides to the subscriber, if such assistance is directed by a court order, as provided in section 3129(b)(2) of this title."; and

(3) by striking the section heading and inserting the following:

"§ 3124. Assistance in installation and use of a pen register, trap and trace device, or clone pager".

(d) Emergency Installations.—Section 3125 of title 18, United States Code, is amended—

(1) by striking "pen register or a trap and trace device" and "pen register or trap and trace device" each place those terms appear, and inserting "pen register, trap and trace device, or clone pager";

(2) in subsection (a), by striking "an order approving the installation or use is issued in accordance with section 3123 of this title" and inserting "an application is made for an order approving the installation or use in accordance with section 3122 or section 3128 of this title";

(3) in subsection (b), by adding at the end the following: "In the event that such application for the use of a clone pager is denied, or in any other case in which the use of the clone pager is terminated without an order having been issued, an inventory shall be served as provided for in section 3129(e)."; and

(4) by striking the section heading and inserting the following:

"§ 3125. Emergency pen register, trap and trace device, and clone pager installation and use".

(e) Reports.—Section 3126 of title 18, United States Code, is amended—

(1) by striking "pen register orders and orders for trap and trace devices" and inserting "orders for pen registers, trap and trace devices, and clone pagers"; and

(2) by striking the section heading and inserting the following:

"§ 3126. Reports concerning pen registers, trap and trace devices, and clone pagers".

(f) Definitions.—Section 3127 of title 18, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking "or" at the end; and

(B) by striking subparagraph (B) and inserting the following:

"(B) with respect to an application for the use of a pen register or trap and trace device, a court of general criminal jurisdiction of a State authorized by the law of that State to enter orders authorizing the use of a pen register or a trap and trace device; or

"(C) with respect to an application for the use of a clone pager, a court of general criminal jurisdiction of a State authorized by the law of that State to issue orders authorizing the use of a clone pager;";

(2) in paragraph (5), by striking "and" at the end;

(3) in paragraph (6), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(7) the term 'clone pager' means a numeric display device that receives communications intended for another numeric display paging device.".

(g) Applications.—Chapter 206 of title 18, United States Code, is amended by adding at the end the following:

"§ 3128. Application for an order for use of a clone pager

"(a) Application.—

"(1) Federal representatives.—Any attorney for the Government may apply to a court of competent jurisdiction for an order or an extension of an order under section 3129 of this title authorizing the use of a clone pager.

"(2) State representatives.—A State investigative or law enforcement officer may, if authorized by a State statute, apply to a court of competent jurisdiction of such State for an order or an extension of an order under section 3129 of this title authorizing the use of a clone pager.

"(b) CONTENTS OF APPLICATION.—An application under subsection (a) of this section shall include—

"(1) the identity of the attorney for the Government or the State law enforcement or investigative officer making the application and the identity of the law enforcement agency conducting the investigation;

"(2) the identity, if known, of the individual or individuals using the numeric display paging device to be cloned;

"(3) a description of the numeric display paging device to be cloned;

"(4) a description of the offense to which the information likely to be obtained by the clone pager relates;

"(5) the identity, if known, of the person who is subject of the criminal investigation; and

"(6) an affidavit or affidavits, sworn to before the court of competent jurisdiction, establishing probable cause to believe that information relevant to an ongoing criminal investigation being conducted by that agency will be obtained through use of the clone pager.

"§3129. Issuance of an order for use of a clone pager

"(a) IN GENERAL.—Upon an application made under section 3128 of this title, the court shall enter an ex parte order authorizing the use of a clone pager within the jurisdiction of the court if the court finds that the application has established probable cause to believe that information relevant to an ongoing criminal investigation being conducted by that agency will be obtained through use of the clone pager.

"(b) CONTENTS OF AN ORDER.—An order issued under this section—

"(1) shall specify—

"(A) the identity, if known, of the individual or individuals using the numeric display paging device to be cloned;

"(B) the numeric display paging device to be cloned;

"(C) the identity, if known, of the subscriber to the pager service; and

"(D) the offense to which the information likely to be obtained by the clone pager relates; and

"(2) shall direct, upon the request of the applicant, the furnishing of information, facilities, and technical assistance necessary to use the clone pager under section 3124 of this title.

"(c) TIME PERIOD AND EXTENSIONS.—

"(1) IN GENERAL.—An order issued under this section shall authorize the use of a clone pager for a period not to exceed 30 days. Such 30-day period shall begin on the earlier of the day on which the investigative or law enforcement officer first begins use of the clone pager under the order or the tenth day after the order is entered.

"(2) EXTENSIONS.—Extensions of an order issued under this section may be granted, but only upon an application for an order under section 3128 of this title and upon the judicial finding required by subsection (a). An extension under this paragraph shall be for a period not to exceed 30 days.

"(3) REPORT.—Within a reasonable time after the termination of the period of a clone pager order or any extensions thereof under this subsection, the applicant shall report to the issuing court the number of numeric pager messages acquired through the use of the clone pager during such period.

"(d) NONDISCLOSURE OF EXISTENCE OF CLONE PAGER.—An order authorizing the use of a clone pager shall direct that—

"(1) the order shall be sealed until otherwise ordered by the court; and

"(2) the person who has been ordered by the court to provide assistance to the applicant may not disclose the existence of the clone pager or the existence of the investigation to the listed subscriber, or to any other person, until otherwise ordered by the court.

"(e) NOTIFICATION.—Within a reasonable time, not later than 90 days after the date of termination of the period of a clone pager order or any extensions thereof, the issuing judge shall cause to be served, on the individual or individuals using the numeric display paging device that was cloned, an inventory including notice of—

"(1) the fact of the entry of the order or the application;

"(2) the date of the entry and the period of clone pager use authorized, or the denial of the application; and

"(3) whether or not information was obtained through the use of the clone pager. Upon an ex-parte showing of good cause, a court of competent jurisdiction may in its discretion postpone the serving of the notice required by this section.".

(h) CLERICAL AMENDMENTS.—The table of sections for chapter 206 of title 18, United States Code, is amended—

(1) by striking the item relating to section 3121 and inserting the following:

"3121. General prohibition on pen register, trap and trace device, and clone pager use; exception.";

(2) by striking the items relating to sections 3124, 3125, and 3126 and inserting the following:

"3124. Assistance in installation and use of a pen register, trap and trace device, or clone pager.
"3125. Emergency pen register, trap and trace device, and clone pager installation and use.
"3126. Reports concerning pen registers, trap and trace devices, and clone pagers."; and

(3) by adding at the end the following:

"3128. Application for an order for use of a clone pager.
"3129. Issuance of an order for use of a clone pager".

(i) CONFORMING AMENDMENT.—Section 605(a) of title 47, United States Code, is amended by striking "chapter 119" and inserting "chapters 119 and 206".

Subtitle B—Methamphetamine Laboratory Cleanup

SEC. 2101. SENSE OF CONGRESS REGARDING METHAMPHETAMINE LABORATORY CLEANUP.

(a) FINDINGS.—Congress finds that—

(1) methamphetamine use is increasing;

(2) the production of methamphetamine is increasingly taking place in laboratories located in rural and urban areas;

(3) this production involves dangerous and explosive chemicals that are dumped in an unsafe manner; and

(4) the cost of cleaning up these productionsites involves major financial burdens on State and local law enforcement agencies.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Administrator of the Drug Enforcement Administration should develop a comprehensive plan for addressing the need for the speedy and safe clean up of methamphetamine laboratory sites; and

(2) the Federal Government should allocate sufficient funding to pay for a comprehensive effort to clean up methamphetamine laboratory sites.

Subtitle C—Powder Cocaine Mandatory Minimum Sentencing

SEC. 2201. SENTENCING FOR VIOLATIONS INVOLVING COCAINE POWDER.

(a) AMENDMENT OF CONTROLLED SUBSTANCES ACT.—

(1) LARGE QUANTITIES.—Section 401(b)(1)(A)(ii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)) is amended by striking "5 kilograms" and inserting "500 grams".

(2) SMALL QUANTITIES.—Section 401(b)(1)(B)(ii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)(ii)) is amended by striking "500 grams" and inserting "50 grams".

(b) AMENDMENT OF CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—

(1) LARGE QUANTITIES.—Section 1010(b)(1)(B) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(B)) is amended by striking "5 kilograms" and inserting "500 grams".

(2) SMALL QUANTITIES.—Section 1010(b)(2)(B) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)(B)) is amended by striking "500 grams" and inserting "50 grams".

(c) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to reflect the amendments made by this section.

Subtitle D—Drug-Free Borders

SEC. 2301. INCREASED PENALTY FOR FALSE STATEMENT OFFENSE.

Section 542 of title 18, United States Code, is amended by striking "two years" and inserting "5 years".

SEC. 2302. INCREASED NUMBER OF BORDER PATROL AGENTS.

Section 101(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–553) is amended to read as follows:

"(a) INCREASED NUMBER OF BORDER PATROL AGENTS.—The Attorney General in each of fiscal years 2000, 2001, 2002, 2003, and 2004 shall increase by not less than 1,500 the number of positions for full-time, active-duty border patrol agents within the Immigration and Naturalization Service above the number of such positions for which funds were allotted for the preceding fiscal year, to achieve a level of 15,000 positions by fiscal year 2004.".

SEC. 2303. ENHANCED BORDER PATROL PURSUIT POLICY.

A border patrol agent of the United States Border Patrol may not cease pursuit of an alien who the agent suspects has unlawfully entered the United States, or an individual who the agent suspects has unlawfully imported a narcotic into the United States, until State or local law enforcement authorities are in pursuit of the alien or individual and have the alien or individual in their visual range.

TITLE III—DEMAND REDUCTION

Subtitle A—Education, Prevention, and Treatment

SEC. 3001. SENSE OF CONGRESS ON REAUTHORIZATION OF SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1994.

(a) FINDINGS.—Congress finds that—

(1) drug and alcohol use continue to plague the Nation's youth;

(2) approximately 5.6 percent of high school seniors currently smoke marijuana daily;

(3) the American public has identified drugs as the most serious problem facing its children today;

(4) delinquent behavior is clearly linked to the frequency of marijuana use; and

(5) 89 percent of students in grades 6 through 12 say their teachers have taught them about the dangers of drugs and alcohol.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Congress and the President should make the reauthorization of the Safe and Drug-Free Schools and Communities Act of 1994 a high priority for the 106th Congress, and that such reauthorization should maintain substance abuse prevention as a major focus of the program.

SEC. 3002. SENSE OF CONGRESS REGARDING REAUTHORIZATION OF PREVENTION AND TREATMENT PROGRAMS.

(a) FINDINGS.—Congress finds that—

(1) 34.8 percent of Americans 12 years of age and older have used an illegal drug in their lifetime and 90 percent of these individuals have used marijuana or hashish and approximately 30 percent have tried cocaine;

(2) the number of teenagers using drugs has increased significantly over the past 5 years;

(3) drug abuse is a health issue being faced in every community, town, State and region of this country;

(4) no one is immune from drug abuse, and such abuse threatens Americans of every socioeconomic background, every educational level, and every race and ethnic origin;

(5) in 1990 the United States spent $67,000,000,000 on drug-related disorders including health costs, the costs of crime, the costs of accidents and other damages to individuals and property, and the costs of the loss of productivity and premature death;

(6) comprehensive prevention activities can help youth in saying no to drugs;

(7) there are over 6,000 community coalitions throughout the Nation helping the youth of America chose a healthy life style;

(8) individuals with addictive disorders should be held accountable for their actions and should be offered treatment to help change destructive behavior;

(9) a balanced approach to dealing with drug abuse is needed in the United States between reducing the demand for drugs and the supply of those drugs and a comprehensive plan for addressing drug abuse will involve prevention, education and treatment as well as law enforcement and interdiction; and

(10) the Substance Abuse and Mental Health Services Administration is the lead Federal agency for substance abuse prevention and treatment initiatives.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Congress and the President should—

(1) make the reauthorization of Federal substance abuse prevention and treatment programs a high priority for the 106th Congress; and

(2) provide more flexibility to States in the use of Federal funds for provision of drug abuse prevention and treatment services while holding States accountable for their performance.

SEC. 3003. REPORT ON DRUG-TESTING TECHNOLOGIES.

(a) REQUIREMENT.—The National Institute on Standards and Technology shall conduct a study of drug-testing technologies in order to identify and assess the efficacy, accuracy, and usefulness for purposes of the National effort to detect the use of illicit drugs of any drug-testing technologies (including the testing of hair) that may be used as alternatives or complements to urinalysis as a means of detecting the use of such drugs.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Institute shall submit to Congress a report on the results of the study conducted under subsection (a).

SEC. 3004. USE OF NATIONAL INSTITUTES OF HEALTH SUBSTANCE ABUSE RESEARCH.

(a) NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM.—Section 464H of the Public Health Service Act (42 U.S.C. 285n) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) REQUIREMENT TO ENSURE THAT RESEARCH AIDS PRACTITIONERS.—The Director, in conjunction with the Director of the National Institute on Drug Abuse and the Director of the Center for Substance Abuse Treatment, shall—

"(1) ensure that the results of all current alcohol research that is set aside for services (and other appropriate research with practical consequences) is widely disseminated to treatment practitioners in an easily understandable format;

"(2) ensure that such research results are disseminated in a manner that provides easily understandable steps for the implementation of best practices based on the research; and

"(3) make technical assistance available to the Center for Substance Abuse Treatment to assist alcohol and drug treatment practitioners to make permanent changes in treatment activities through the use of successful treatment models.".

(b) NATIONAL INSTITUTE ON DRUG ABUSE.—Section 464L of the Public Health Service Act (42 U.S.C. 285o) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) REQUIREMENT TO ENSURE THAT RESEARCH AIDS PRACTITIONERS.—The Director, in conjunction with the Director of the National Institute on Alcohol Abuse and Alcoholism and the Director of the Center for Substance Abuse Treatment, shall—

"(1) ensure that the results of all current drug abuse research that is set aside for services (and other appropriate research with practical consequences) is widely disseminated to treatment practitioners in an easily understandable format;

"(2) ensure that such research results are disseminated in a manner that provides easily understandable steps for the implementation of best practices based on the research; and

"(3) make technical assistance available to the Center for Substance Abuse Treatment to assist alcohol and drug treatment practitioners to make permanent changes in treatment activities through the use of successful treatment models.".

SEC. 3005. NEEDLE EXCHANGE.

(a) PROHIBITION REGARDING ILLEGAL DRUGS AND DISTRIBUTION OF HYPODERMIC NEEDLES.—Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following section:

"PROHIBITION REGARDING ILLEGAL DRUGS AND DISTRIBUTION OF HYPODERMIC NEEDLES

"SEC. 247. Notwithstanding any other provision of law, none of the amounts made available under any Federal law for any fiscal year may be expended, directly or indirectly, to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.".

(b) CONFORMING AMENDMENT.—Section 506 of Public Law 105–78 is repealed.

SEC. 3006. DRUG-FREE TEEN DRIVERS INCENTIVE.

(a) IN GENERAL.—The Secretary of Transportation shall establish an incentive grant program for States to assist the States in improving their laws relating to controlled substances and driving.

(b) GRANT REQUIREMENTS.—To qualify for a grant under subsection (a), a State shall carry out the following:

(1) Enact, actively enforce, and publicize a law that makes it illegal to drive in the State with any measurable amount of an illegal controlled substance in the driver's body. An illegal controlled substance is a controlled substance for which an individual does not have a legal written prescription. An individual who is convicted of such illegal driving shall be referred to appropriate services, including intervention, counselling, and treatment.

(2) Enact, actively enforce, and publicize a law that makes it illegal to drive in the State when driving is impaired by the presence of any drug. The State shall provide that in the enforcement of such law, a driver shall be tested for the presence of a drug when there is evidence of impaired driving and a driver will have the driver's license suspended. An individual who is convicted of such illegal driving shall be referred to appropriate services, including intervention, counselling, and treatment.

(3) Enact, actively enforce, and publicize a law that authorizes the suspension of a driver's license if the driver is convicted of any criminal offense relating to drugs.

(4) Enact a law that provides that beginning driver applicants and other individuals applying for or renewing a driver's license will be provided information about the laws referred to in paragraphs (1), (2), and (3) and will be required to answer drug-related questions on their applications.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 for each of fiscal years 2000 through 2004 to carry out this section.

SEC. 3007. DRUG-FREE SCHOOLS.

Congress finds that—

(1) the continued presence in schools of violent students who are a threat to both teachers and other students is incompatible with a safe learning environment;

(2) unsafe school environments place students who are already at risk of school failure for other reasons in further jeopardy;

(3) recently, over one-fourth of high school students surveyed reported being threatened at school;

(4) 2,000,000 more children are using drugs in 1997 than were doing so a few short years prior to 1997;

(5) more of our children are becoming involved with hard drugs at earlier ages, as use of heroin and cocaine by 8th graders has more than doubled since 1991; and

(6) greater cooperation between schools, parents, law enforcement, the courts, and the community is essential to making our schools safe from drugs and violence.

SEC. 3008. VICTIM AND WITNESS ASSISTANCE PROGRAMS FOR TEACHERS AND STUDENTS.

(a) VICTIM COMPENSATION.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following:

"(f) VICTIMS OF SCHOOL VIOLENCE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, an eligible crime victim compensation program may expend funds appropriated under paragraph (2) to offer compensation to elementary and secondary school students or teachers who are victims of elementary and secondary school violence (as school violence is defined under applicable State law).

"(2) FUNDING.—There is authorized to be appropriated such sums as may be necessary to carry out paragraph (1).".

(b) VICTIM AND WITNESS ASSISTANCE.—Section 1404(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)) is amended by adding at the end the following:

"(5) ASSISTANCE FOR VICTIMS OF AND WITNESSES TO SCHOOL VIOLENCE.—Notwithstanding any other provision of law, the Director may make a grant under this section for a demonstration project or for training and technical assistance services to a program that—

"(A) assists State educational agencies and local educational agencies (as the terms are defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) in developing, establishing, and operating programs that are designed to protect victims of and witnesses to incidents of elementary and secondary school violence (as school violence is defined under applicable State law), including programs designed to protect witnesses testifying in school disciplinary proceedings; or

"(B) supports a student safety toll-free hotline that provides students and teachers in elementary and secondary schools with confidential assistance relating to the issues of school crime, violence, drug dealing, and threats to personal safety.".

SEC. 3009. INNOVATIVE PROGRAMS TO PROTECT TEACHERS AND STUDENTS.

(a) DEFINITIONS.—In this section:

(1) ELEMENTARY SCHOOL, LOCAL EDUCATIONAL AGENCY, SECONDARY SCHOOL, AND STATE EDUCATIONAL AGENCY.—The terms "elementary school", "local educational agency", "secondary school", and "State educational agency" have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) SECRETARY.—The term "Secretary" means the Secretary of Education.

(b) AUTHORIZATION FOR REPORT CARDS ON SCHOOLS.—

(1) IN GENERAL.—The Secretary is authorized to award grants to States, State educational agencies, and local educational agencies to develop, establish, or conduct innovative programs to improve unsafe elementary schools or secondary schools.

(2) PRIORITY.—The Secretary shall give priority to awarding grants under paragraph (1) to—

(A) programs that provide parent and teacher notification about incidents of physical violence, weapon possession, or drug activity on school grounds as soon after the incident as practicable;

(B) programs that provide to parents and teachers an annual report regarding—

(i) the total number of incidents of physical violence, weapon possession, and drug activity on school grounds;

(ii) the percentage of students missing 10 or fewer days of school; and

(iii) a comparison, if available, to previous annual reports under this paragraph, which comparison shall not involve a comparison of more than 5 such previous annual reports; and

(C) programs to enhance school security measures that may include—

(i) equipping schools with fences, closed circuit cameras, and other physical security measures;

(ii) providing increased police patrols in and around elementary schools and secondary schools, including canine patrols; and

(iii) mailings to parents at the beginning of the school year stating that the possession of a gun or other weapon, or the sale of drugs in school, will not be tolerated by school authorities.

(c) APPLICATION.—

(1) IN GENERAL.—Each State, State educational agency, or local educational agency desiring a grant under this subchapter shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall contain an assurance that the State or agency has implemented or will implement policies that—

(A) provide protections for victims and witnesses to school crime, including protections for attendance at school disciplinary proceedings;

(B) expel students who, on school grounds, sell drugs, or who commit a violent offense that causes serious bodily injury of another student or teacher; and

(C) require referral to law enforcement authorities or juvenile authorities of any student who on school grounds—

(i) commits a violent offense resulting in serious bodily injury; or

(ii) sells drugs.

(3) SPECIAL RULE.—For purposes of subparagraphs (B) and (C) of paragraph (2), State law shall determine what constitutes a violent offense or serious bodily injury.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

(e) INNOVATIVE VOLUNTARY RANDOM DRUG TESTING PROGRAMS.—Section 4116(b) of the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7116(b)) is amended—

(1) in paragraph (9), by striking "and" after the semicolon;

(2) by redesignating paragraph (10) as paragraph (11); and

(3) by inserting after paragraph (9) the following:

"(10) innovative voluntary random drug testing programs; and".

Subtitle B—Drug-Free Families

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the "Drug-Free Families Act of 1999".

SEC. 3102. FINDINGS.

Congress makes the following findings:

(1) The National Institute on Drug Abuse estimates that in 1962, less than one percent of the Nation's adolescents had ever tried an illicit drug. By 1979, drug use among young people had escalated to the highest levels in history: 34 percent of adolescents (ages 12-17), 65 percent of high school seniors (age 18), and 70 percent of young adults (ages 18-25) had used an illicit drug in their lifetime.

(2) Drug use among young people was not confined to initial trials. By 1979, 16 percent of adolescents, 39 percent of high school seniors, and 38 percent of young adults had used an illicit drug in the past month. Moreover, one in nine high school seniors used marijuana daily.

(3) In 1979, the year the largest number of seniors used marijuana, their belief that marijuana could hurt them was at its lowest (35 percent) since surveys have tracked these measures.

(4) Three forces appeared to be driving this escalation in drug use among children and young adults. Between 1972 and 1978, a nationwide political campaign conducted by drug legalization advocates persuaded eleven state legislatures to "decriminalize" marijuana. (Many of those states have subsequently "recriminalized" the drug.) Such legislative action reinforced advocates' assertion that marijuana was "relatively harmless."

(5) The decriminalization effort gave rise to the emergence of "head shops" (shops for "heads," or drug users—"coke heads," "pot heads," "acid heads," etc.) which sold drug paraphernalia—an array of toys, implements, and instructional pamphlets and booklets to enhance the use of illicit drugs. Some 30,000 such shops were estimated to be doing business throughout the Nation by 1978.

(6) In the absence of Federal funding for drug education then, most of the drug education materials that were available proclaimed that few illicit drugs were addictive and most were "less harmful" than alcohol and tobacco and therefore taught young people how to use marijuana, cocaine, and other illicit drugs "responsibly".

(7) Between 1977 and 1980, three national parent drug-prevention organizations—National Families in Action, PRIDE, and the National Federation of Parents for Drug-Free Youth (now called the National Family Partnership)—emerged to help concerned parents form some 4,000 local parent prevention groups across the Nation to reverse all of these trends in order to prevent children from using drugs. Their work created what has come to be known as the parents drug-prevention movement, or more simply, the parent movement. This movement set three goals: to prevent the use of any illegal drug, to persuade those who had started using drugs to stop, and to obtain treatment for those who had become addicted so that they could return to drug-free lives.

(8) The parent movement pursued a number of objectives to achieve these goals. First, it helped parents educate themselves about the harmful effects of drugs, teach that information to their children, communicate that they expected their children not to use drugs, and establish consequences if children failed to meet that expectation. Second, it helped parents form groups with other parents to set common age-appropriate social and behavioral guidelines to protect their children from exposure to drugs. Third, it encouraged parents to insist that their communities reinforce parents' commitment to protect children from drug use.

(9) The parent movement stopped further efforts to decriminalize marijuana, both in the states and at the Federal level.

(10) The parent movement worked for laws to ban the sale of drug paraphernalia. If drugs were illegal, it made no sense to condone the sale of toys and implements to enhance the use of illegal drugs, particularly when those products targeted children. As towns, cities, counties, and states passed anti-paraphernalia laws, drug legalization organizations challenged their Constitutionality in Federal courts until the early 1980's, when the United States Supreme Court upheld Nebraska's law and established the right of communities to ban the sale of drug paraphernalia.

(11) The parent movement insisted that drug-education materials convey a strong no-use message in compliance with both the

law and with medical and scientific information that demonstrates that drugs are harmful, particularly to young people.

(12) The parent movement encouraged others in society to join the drug prevention effort and many did, from First Lady Nancy Reagan to the entertainment industry, the business community, the media, the medical community, the educational community, the criminal justice community, the faith community, and local, State, and national political leaders.

(13) The parent movement helped to cause drug use among young people to peak in 1979. As its efforts continued throughout the next decade, and as others joined parents to expand the drug-prevention movement, between 1979 and 1992 these collaborative prevention efforts contributed to reducing monthly illicit drug use by two-thirds among adolescents and young adults and reduced daily marijuana use among high-school seniors from 10.7 percent to 1.9 percent. Concurrently, both the parent movement and the larger prevention movement that evolved throughout the 1980's, working together, increased high school seniors' belief that marijuana could hurt them, from 35 percent in 1979 to 79 percent in 1991.

(14) Unfortunately, as drug use declined, most of the 4,000 volunteer parents groups that contributed to the reduction in drug use disbanded, having accomplished the job they set out to do. But the absence of active parent groups left a vacuum that was soon filled by a revitalized drug-legalization movement. Proponents began advocating for the legalization of marijuana for medicine, the legalization of all Schedule I drugs for medicine, the legalization of hemp for medicinal, industrial and recreational use, and a variety of other proposals, all designed to ultimately attack, weaken, and eventually repeal the Nation's drug laws.

(15) Furthermore, legalization proponents are also beginning to advocate for treatment that maintains addicts on the drugs to which they are addicted (heroin maintenance for heroin addicts, controlled drinking for alcoholics, etc.), for teaching school children to use drugs "responsibly," and for other measures similar to those that produced the drug epidemic among young people in the 1970's.

(16) During the 1990's, the message embodied in all of this activity has once again driven down young people's belief that drugs can hurt them. As a result, the reductions in drug use that occurred over 13 years reversed in 1992, and adolescent drug use has more than doubled.

(17) Today's parents are almost universally in the workplace and do not have time to volunteer. Many families are headed by single parents. In some families no parents are available, and grandparents, aunts, uncles, or foster parents are raising the family's children.

(18) Recognizing that these challenges make it much more difficult to reach parents today, several national parent and family drug-prevention organizations have formed the Parent Collaboration to address these issues in order to build a new parent and family movement to prevent drug use among children.

(19) Motivating parents and parent groups to coordinate with local community anti-drug coalitions is a key goal of the Parent Collaboration, as well as coordinating parent and family drug-prevention efforts with Federal, State, and local governmental and private agencies and political, business, medical and scientific, educational, criminal justice, religious, and media and entertainment industry leaders.

SEC. 3103. PURPOSES.

The purposes of this subtitle are to—

(1) build a movement to help parents and families prevent drug use among their children and adolescents;

(2) help parents and families reduce drug abuse and drug addiction among adolescents who are already using drugs, and return them to drug-free lives;

(3) increase young people's perception that drugs are harmful to their health, well-being, and ability to function successfully in life;

(4) help parents and families educate society that the best way to protect children from drug use and all of its related problems is to convey a clear, consistent, no-use message;

(5) strengthen coordination, cooperation, and collaboration between parents and families and all others who are interested in protecting children from drug use and all of its related problems;

(6) help parents strengthen their families, neighborhoods, and school communities to reduce risk factors and increase protective factors to ensure the healthy growth of children; and

(7) provide resources in the fiscal year 2000 Federal drug control budget for a grant to the Parent Collaboration to conduct a national campaign to mobilize today's parents and families through the provision of information, training, technical assistance, and other services to help parents and families prevent drug use among their children and to build a new parent and family drug-prevention movement.

SEC. 3104. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATIVE COSTS.—The term "administrative costs" means to those costs that the assigned Federal agency will incur to administer the grant to the Parent Collaboration.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Drug Enforcement Administration.

(3) NO-USE MESSAGE.—The term "no-use message" means no use of any illegal drug and no illegal use of any legal drug or substance that is sometimes used illegally, such as prescription drugs, inhalants, and alcohol and tobacco for children and adolescents under the legal purchase age.

(4) PARENT COLLABORATION.—The term "Parent Collaboration" means the legal entity, which is exempt from income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, established by National Families in Action, National Asian Pacific American Families Against Substance Abuse, African American Parents for Drug Prevention, National Association for Native American Children of Alcoholics, and the National Hispano/Latino Community Prevention Network and other groups, that—

(A) have a primary mission of helping parents prevent drug use, drug abuse, and drug addiction among their children, their families, and their communities;

(B) have carried out this mission for a minimum of 5 consecutive years; and

(C) base their drug-prevention missions on the foundation of a strong, no-use message in compliance with international, Federal, State, and local treaties and laws that prohibit the possession, production, cultivation, distribution, sale, and trafficking in illicit drugs;

in order to build a new parent and family movement to prevent drug use among children and adolescents

SEC. 3105. ESTABLISHMENT OF DRUG-FREE FAMILIES SUPPORT PROGRAM.

(a) IN GENERAL.—The Administrator shall make a grant to the Parent Collaboration to conduct a national campaign to build a new parent and family movement to help parents and families prevent drug abuse among their children.

(b) TERMINATION.—The period of this grant under this section shall be 5 years.

SEC. 3106. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to to carry out this subtitle $5,000,000 for each of fiscal years 2000 through 2004 for a grant to the Parent Collaboration to conduct the national campaign to mobilize parents and families.

(b) ADMINISTRATIVE COSTS.—Not more than 5 percent of the total amount made available under subsection (a) in each fiscal year may be used to pay administrative costs of the Parent Collaboration.

TITLE IV—FUNDING FOR UNITED STATES COUNTER-DRUG ENFORCEMENT AGENCIES

SEC. 4001. AUTHORIZATION OF APPROPRIATIONS.

(a) DRUG ENFORCEMENT AND OTHER NON-COMMERCIAL OPERATIONS.—Subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and (B)) are amended to read as follows:

"(A) $997,300,584 for fiscal year 2000.

"(B) $1,100,818,328 for fiscal year 2001.".

(b) COMMERCIAL OPERATIONS.—Clauses (i) and (ii) of section 301(b)(2)(A) of such Act (19 U.S.C. 2075(b)(2)(A)(i) and (ii)) are amended to read as follows:

"(i) $990,030,000 for fiscal year 2000.

"(ii) $1,009,312,000 for fiscal year 2001.".

(c) AIR AND MARINE INTERDICTION.—Subparagraphs (A) and (B) of section 301(b)(3) of such Act (19 U.S.C. 2075(b)(3)(A) and (B)) are amended to read as follows:

"(A) $229,001,000 for fiscal year 2000.

"(B) $176,967,000 for fiscal year 2001.".

(d) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 301(a) of such Act (19 U.S.C. 2075(a)) is amended by adding at the end the following:

"(3) Not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the operations of the Customs Service as provided for in subsection (b).".

SEC. 4002. CARGO INSPECTION AND NARCOTICS DETECTION EQUIPMENT.

(a) FISCAL YEAR 2000.—Of the amounts made available for fiscal year 2000 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 4001(a) of this title, $100,036,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf Coast seaports, as follows:

(1) UNITED STATES-MEXICO BORDER.—For the United States-Mexico border, the following:

(A) $6,000,000 for 8 Vehicle and Container Inspection Systems (VACIS).

(B) $11,000,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $12,000,000 for the upgrade of 8 fixed-site truck x-rays from the present energy level of 450,000 electron volts to 1,000,000 electron volts (1–MeV).

(D) $7,200,000 for 8 1–MeV pallet x-rays.

(E) $1,000,000 for 200 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(F) $600,000 for 50 contraband detection kits to be distributed among all southwest border ports based on traffic volume.

(G) $500,000 for 25 ultrasonic container inspection units to be distributed among all ports receiving liquid-filled cargo and to ports with a hazardous material inspection facility.

(H) $2,450,000 for 7 automated targeting systems.

(I) $360,000 for 30 rapid tire deflator systems to be distributed to those ports where port runners are a threat.

(J) $480,000 for 20 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(K) $1,000,000 for 20 remote watch surveillance camera systems at ports where there are suspicious activities at loading docks, vehicle queues, secondary inspection lanes, or areas where visual surveillance or observation is obscured.

(L) $1,254,000 for 57 weigh-in-motion sensors to be distributed among the ports with the greatest volume of outbound traffic.

(M) $180,000 for 36 AM traffic information radio stations, with 1 station to be located at each border crossing.

(N) $1,040,000 for 260 inbound vehicle counters to be installed at every inbound vehicle lane.

(O) $950,000 for 38 spotter camera systems to counter the surveillance of customs inspection activities by persons outside the boundaries of ports where such surveillance activities are occurring.

(P) $390,000 for 60 inbound commercial truck transponders to be distributed to all ports of entry.

(Q) $1,600,000 for 40 narcotics vapor and particle detectors to be distributed to each border crossing.

(R) $400,000 for license plate reader automatic targeting software to be installed at each port to target inbound vehicles.

(S) $1,000,000 for a demonstration site for a high-energy relocatable rail car inspection system with an x-ray source switchable from 2,000,000 electron volts (2–MeV) to 6,000,000 electron volts (6–MeV) at a shared Department of Defense testing facility for a two-month testing period.

(2) UNITED STATES-CANADA BORDER.—For the United States-Canada border, the following:

(A) $3,000,000 for 4 Vehicle and Container Inspection Systems (VACIS).

(B) $8,800,000 for 4 mobile truck x-rays with transmission and backscatter imaging.

(C) $3,600,000 for 4 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(F) $240,000 for 10 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(G) $400,000 for 10 narcotics vapor and particle detectors to be distributed to each border crossing based on traffic volume.

(H) $600,000 for 30 fiber optic scopes.

(I) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(J) $3,000,000 for 10 x-ray vans with particle detectors.

(K) $40,000 for 8 AM loop radio systems.

(L) $400,000 for 100 vehicle counters.

(M) $1,200,000 for 12 examination tool trucks.

(N) $2,400,000 for 3 dedicated commuter lanes.

(O) $1,050,000 for 3 automated targeting systems.

(P) $572,000 for 26 weigh-in-motion sensors.

(Q) $480,000 for 20 portable Treasury Enforcement Communication Systems (TECS).

(3) FLORIDA AND GULF COAST SEAPORTS.—For Florida and the Gulf Coast seaports, the following:

(A) $4,500,000 for 6 Vehicle and Container Inspection Systems (VACIS).

(B) $11,800,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $7,200,000 for 8 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(b) FISCAL YEAR 2001.—Of the amounts made available for fiscal year 2001 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 4001(a) of this title, $9,923,500 shall be for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (a).

(c) ACQUISITION OF TECHNOLOGICALLY SUPERIOR EQUIPMENT; TRANSFER OF FUNDS.—

(1) IN GENERAL.—The Commissioner of Customs may use amounts made available for fiscal year 2000 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 4001(a) of this title, for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment—

(A)(i) is technologically superior to the equipment described in subsection (a); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment described in subsection (a); or

(B) can be obtained at a lower cost than the equipment described in subsection (a).

(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Commissioner of Customs may reallocate an amount not to exceed 10 percent of—

(A) the amount specified in any of subparagraphs (A) through (R) of subsection (a)(1) for equipment specified in any other of such subparagraphs (A) through (R);

(B) the amount specified in any of subparagraphs (A) through (Q) of subsection (a)(2) for equipment specified in any other of such subparagraphs (A) through (Q); and

(C) the amount specified in any of subparagraphs (A) through (E) of subsection (a)(3) for equipment specified in any other of such subparagraphs (A) through (E).

SEC. 4003. PEAK HOURS AND INVESTIGATIVE RESOURCE ENHANCEMENT.

Of the amounts made available for fiscal years 2000 and 2001 under subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and (B)), as amended by section 4001(a) of this title, $159,557,000, including $5,673,600, until expended, for investigative equipment, for fiscal year 2000 and $220,351,000 for fiscal year 2001 shall be available for the following:

(1) A net increase of 535 inspectors, 120 special agents, and 10 intelligence analysts for the United States-Mexico border and 375 inspectors for the United States-Canada border, in order to open all primary lanes on such borders during peak hours and enhance investigative resources.

(2) A net increase of 285 inspectors and canine enforcement officers to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the United States-Mexico border and a net increase of 125 inspectors to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the United States-Canada border.

(3) A net increase of 40 inspectors at sea ports in southeast Florida to process and screen cargo.

(4) A net increase of 70 special agent positions, 23 intelligence analyst positions, 9 support staff, and the necessary equipment to enhance investigation efforts targeted at internal conspiracies at the Nation's seaports.

(5) A net increase of 360 special agents, 30 intelligence analysts, and additional resources to be distributed among offices that have jurisdiction over major metropolitan drug or narcotics distribution and transportation centers for intensification of efforts against drug smuggling and money laundering organizations.

(6) A net increase of 2 special agent positions to re-establish a Customs Attache office in Nassau.

(7) A net increase of 62 special agent positions and 8 intelligence analyst positions for maritime smuggling investigations and interdiction operations.

(8) A net increase of 50 positions and additional resources to the Office of Internal Affairs to enhance investigative resources for anticorruption efforts.

(9) The costs incurred as a result of the increase in personnel hired pursuant to this section.

SEC. 4004. AIR AND MARINE OPERATION AND MAINTENANCE FUNDING.

(a) FISCAL YEAR 2000.—Of the amounts made available for fiscal year 2000 under subparagraphs (A) and (B) of section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3) (A) and (B)) as amended by section 4001(c) of this title, $130,513,000 shall be available until expended for the following:

(1) $96,500,000 for Customs aircraft restoration and replacement initiative.

(2) $15,000,000 for increased air interdiction and investigative support activities.

(3) $19,013,000 for marine vessel replacement and related equipment.

(b) FISCAL YEAR 2001.—Of the amounts made available for fiscal year 2001 under subparagraphs (A) and (B) of section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3) (A) and (B)) as amended by section 4001(c) of this title, $75,524,000 shall be available until expended for the following:

(1) $36,500,000 for Customs Service aircraft restoration and replacement.

(2) $15,000,000 for increased air interdiction and investigative support activities.

(3) $24,024,000 for marine vessel replacement and related equipment.

SEC. 4005. COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.

As part of the annual performance plan for each of the fiscal years 2000 and 2001 covering each program activity set forth in the budget of the United States Customs Service, as required under section 1115 of title 31, United States Code, the Commissioner of Customs shall establish performance goals and performance indicators, and comply with all other requirements contained in paragraphs (1) through (6) of subsection (a) of such section with respect to each of the activities to be carried out pursuant to sections 1002 and 1003 of this title.

SEC. 4006. COMMISSIONER OF CUSTOMS SALARY.

(a) IN GENERAL.—

(1) Section 5315 of title 5, United States Code, is amended by striking the following item:

"Commissioner of Customs, Department of Treasury.".

(2) Section 5314 of title 5, United States Code, is amended by inserting the following item:

"Commissioner of Customs, Department of Treasury.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal year 2000 and thereafter.

SEC. 4007. PASSENGER PRECLEARANCE SERVICES.

(a) CONTINUATION OF PRECLEARANCE SERVICES.—Notwithstanding section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) or any other provision of law, the Customs Service shall, without regard to whether a passenger processing fee is collected from a person departing for the United States from Canada and without regard to whether funds are appropriated pursuant to subsection (b), provide the same level of enhanced preclearance customs services for passengers arriving in the United States aboard commercial aircraft originating in Canada as the Customs Service provided for such passengers during fiscal year 1997.

(b) AUTHORIZATION OF APPROPRIATIONS FOR PRECLEARANCE SERVICES.—Notwithstanding section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) or any other provision of law, there are authorized to be appropriated, from the date of enactment of this Act through September 30, 2001, such sums as may be necessary for the Customs Service to ensure that it will continue to provide the same, and where necessary increased, levels of enhanced preclearance customs services as the Customs Service provided during fiscal year 1997, in connection with the arrival in the United States of passengers aboard commercial aircraft whose flights originated in Canada.

Subtitle B—United States Coast Guard

SEC. 4101. ADDITIONAL FUNDING FOR OPERATION AND MAINTENANCE.

In addition to amounts to be appropriated for the United States Coast Guard for fiscal year 2000, there is authorized to be appropriated $100,000,000 for each of fiscal years 2000 and 2001 for operation and maintenance.

Subtitle C—Drug Enforcement Administration

SEC. 4201. ADDITIONAL FUNDING FOR COUNTERNARCOTICS AND INFORMATION SUPPORT OPERATIONS.

In addition to amounts to be appropriated for the Drug Enforcement Administration for fiscal year 2000, there is authorized to be appropriated $120,000,000 for fiscal year 2000 for counternarcotics and information support operations.

Subtitle D—Department of the Treasury

SEC. 4301. ADDITIONAL FUNDING FOR COUNTERDRUG INFORMATION SUPPORT.

In addition to the other amounts to be appropriated for the Department of the Treasury for fiscal year 2000, there is authorized to be appropriated $50,000,000 for each of the fiscal years 2000 and 2001 for counternarcotics, information support, and money laundering efforts.

Subtitle E—Department of Defense

SEC. 4401. ADDITIONAL FUNDING FOR EXPANSION OF COUNTERNARCOTICS ACTIVITIES.

In addition to other amounts to be appropriated for the Department of Defense for fiscal year 2000, there is authorized to be appropriated $200,000,000 for each of fiscal years 2000 and 2001 to be used to expand activities to stop the flow of illegal drugs into the United States.

SEC. 4402. FORWARD MILITARY BASE FOR COUNTERNARCOTICS MATTERS.

(a) The Secretary of the Air Force may acquire real property and carry out military construction projects in the amount of $300,000,000 to establish an air base, or air bases for use for support of counternarcotics operations in the areas of the southern Caribbean Sea, northern South America, and the eastern Pacific Ocean, to be located in Latin America or the area of the Caribbean Sea, or both.

(b) There is authorized to be appropriated such sums as may be necessary for fiscal year 2000, and any succeeding fiscal year, for military construction and land acquisition for an airbase referred to subsection (a).

SEC. 4403. EXPANSION OF RADAR COVERAGE AND OPERATION IN SOURCE AND TRANSIT COUNTRIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Department of Defense for fiscal year 2000, $100,000,000 for purposes of the procurement of a Relocatable Over the Horizon Radar (ROTHR) to be located in South America.

(b) AUTHORIZATION TO LOCATE.—The Relocatable Over the Horizon Radar procured pursuant to the authorization of appropriations in subsection (a) may be located at a location in South America that is suitable for purposes of providing enhanced radar coverage of narcotics source zone countries in South America.

SEC. 4404. SENSE OF CONGRESS REGARDING FUNDING UNDER WESTERN HEMISPHERE DRUG ELIMINATION ACT.

(a) FINDINGS.—Congress makes the following findings:

(1) Teenage drug use in the United States has doubled since 1993.

(2) The drug crisis facing the United States poses a paramount threat to the national security interests of the United States.

(3) The trans-shipment of illicit drugs through United States borders cannot be halted without an effective drug interdiction strategy.

(4) The Clinton Administration has placed a low priority on efforts to reduce the supply of illicit drugs, and the seizure of such drugs by the Coast Guard and other Federal agencies has decreased, as is evidenced by a 68 percent decrease in the pounds of cocaine seized by such agencies between 1991 and 1996.

(5) The Western Hemisphere Drug Elimination Act was enacted into law on October 19, 1998.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should allocate funds appropriated for fiscal year 1999 pursuant to the authorizations of appropriations for that fiscal year in the Western Hemisphere Drug Elimination Act in order to carry out fully the purposes of that Act during that fiscal year; and

(2) the President should include with the budgets for fiscal years 2000 and 2001 that are submitted to Congress under section 1105 of title 31, United States Code, a request for funds for such fiscal years in accordance with the authorizations of appropriations for such fiscal years in that Act.

SEC. 4405. SENSE OF CONGRESS REGARDING THE PRIORITY OF THE DRUG INTERDICTION AND COUNTERDRUG ACTIVITIES OF THE DEPARTMENT OF DEFENSE.

It is the sense of Congress that the Secretary of Defense should revise the Global Military Force Policy of the Department of Defense in order—

(1) to treat the international drug interdiction and counterdrug activities of the Department as a military operation other than war, thereby elevating the priority given such activities under the Policy to the next priority below the priority given to war under the Policy and to the same priority given to peacekeeping operations under the Policy; and

(2) to allocate the assets of the Department to such activities in accordance with the priority given such activities under the revised Policy.

Mr. GRASSLEY. Mr. President, the most recent High School survey of teen drug use tells us something. After years of dramatic increases in drug use among 12–18 years old, we may have a leveling off. The numbers are down, but only barely. At this rate of decline, we will reach the modest goals for drug reduction set by the present Administration in the year 2050. The Administration seems to find this good news. At least, they find the present leveling off something to crow about. Frankly, I think these numbers are the occasion for a little more modesty and whole lot more work.

That's what the Congress has been doing. The 105th Congress passed major legislation to fight drugs. It put more money and more muscle into efforts that the Administration has ignored or downgraded. We did this because we saw the consequences—more teen drug use. Today, we continue that effort. Our goal is not to claim bragging rights about statistically minor changes but to make real changes through serious efforts. Today, we introduced the "Drug Free Century Act." This is a comprehensive bill that will be one of the main agenda items for the 106th Congress. It gives us the means to build on what we did last Congress. It gives us the beef that the Administration has left out to put in the sandwich.

More important, this bill provides resources to sustain a comprehensive effort and a coherent policy. In this bill, we provide the means to support our national and international law enforcement efforts. We provide the resources to help families and communities get and remain drug free. We support treatment and education. In short, we build on success and extend our ability to do yet more.

This bill represents the kind of comprehensive approach that I have pushed for. It gives us the tools to do the job. More important, it provides the focus and sustained attention that we need to do the job. We have a lot of work ahead of us. It is not going to be easy. But we will be better equipped and more able to do the job.

By Mr. DASCHLE (for himself, Mr. Kennedy, Mrs. Boxer, Mr. Dodd, Mr. Dorgan, Mr. Edwards, Mr. Cleland, Mr. Reid, Mr. Durbin, Mrs. Murray, Mr. Akaka, Mr. Wyden, Mr. Harkin, Ms. Mikulski, Mr. Leahy, Mr. Reed, Mr. Sarbanes, Mr. Wellstone, Mrs. Feinstein, Mr. Byrd, Mr. Rockefeller, Mr. Kerry, Mr. Torricelli, Mr. Bingaman, Mr. Bryan, Mr. Johnson, Mr. Lautenberg, Mr. Schumer, Mr. Inouye, Mr. Hollings, and Mr. Levin):

S. 6. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Health, Education, Labor, and Pensions.

THE PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, today, we renew the battle in Congress to enact a strong Patients' Bill of Rights to protect American families from abuses by HMOs and managed care health plans that too often put profits over patients' needs.

Our Patients' Bill of Rights will protect families against the arbitrary and self-serving decisions that can rob average citizens of their savings and their peace of mind, and often their health and their very lives. Doctors and patients should be making medical decisions, not insurance company accountants. Too often, managed care is mismanaged care. For the millions of Americans who rely on health insurance to protect them and their loved ones when serious illness strikes, the Patients Bill of Rights is truly a matter of life and death.

The dishonor roll of those victimized by insurance company abuses is long and growing.

A baby loses his hands and feet because his parents believe they have to take him to a distant hospital emergency room covered by their HMO, rather than to the hospital closest to their home.

A Senate aide suffers a devastating stroke, which might have been far milder if her HMO had not refused to send her to an emergency room. The HMO now even refuses to pay for her wheelchair.

A woman is forced to undergo a masectomy as an outpatient, instead of with a hospital stay as her doctor recommends. She is sent home in pain, with tubes still dangling from her body.

A doctor is punished by being denied future referrals under a managed care health plan, because he told a patient about an expensive treatment that could save her life.

The parents of a child suffering from a rare cancer are told that life-saving surgery should be performed by an unqualified doctor who happens to be on the plan's list, rather than by a specialist at the nearby cancer center equipped to perform the operation.

A patient with a fatal cancer is denied participation in a clinical trial that could save her life.

Our Patients' Bill of Rights addresses all of these problems. It takes insurance company accountants out of the practice of medicine and returns decision-making to patients and doctors, where it belongs.

The bottom line is that our program guarantees people the rights that every honorable insurance company already grants—and provides an effective, timely means to enforce these rights. These protections are common-sense components of good health care that every family believes they were promised when they purchased health insurance and paid their premiums.

Virtually all of the patients' protections in this legislation are already available under Medicare. They have been recommended by the National Association of Insurance Commissioners and the President's Advisory Commission. They have even been proposed as voluntary standards by the managed care industry itself through its trade association.

Our Patients' Bill of Rights is a responsible and effective answer to the widespread problems that patients and their families face every day. It is supported by a broad and diverse coalition of doctors, nurses, patients, and advocates for children, women, and working families, including the American Medical Association, the Consortium of Citizens with Disabilities, the American Cancer Society, the American Heart Association, the National Alliance for the Mentally Ill, the National Partnership for Women and Families, the National Association of Children's Hospitals, and the AFL–CIO, to name just a few of the more than 180 groups endorsing our bill.

It is rare for such a broad and diverse coalition to come together in support of legislation. But they have done so to end these flagrant abuses that hurt so many families.

Every family in this country knows that it will some day have to confront the challenge of serious illness for a parent, or a grandparent, or a child. When that day comes, all of us want the best possible medical care for our loved ones. Members of the Senate deserve good medical care for their loved ones—and we generally get it. Every other family is equally deserving of high quality care—but too often they do not get it because their insurance plan is more interested in profits than patients.

The Patients' Bill of Rights provides simple justice and basic protection for each of the 160 million Americans with private insurance who will benefit from this legislation. We will continue to fight for meaningful patient protections until they are signed into law. We will not give up this struggle until every family can be confident that a child or parent or grandparent who is ill will receive the best care that American medicine can provide.

By Mr. DASCHLE (for himself, Mr. Leahy, Mr. Biden, Mr. Kennedy, Mr. Torricelli, Mr. Schumer, Mr. Dorgan, Mr. Kerry, Mr. Lautenberg, Ms. Mikulski, Mr. Breaux, Mr. Durbin, and Mr. Bingaman):

S. 9. A bill to combat violent and gang-related crime in schools and on the streets, to reform the juvenile justice system, target international crime, promote effective drug and other crime prevention programs, assist crime victims, and for other purposes; to the Committee on the Judiciary.

THE SAFE SCHOOLS, SAFE STREETS, AND SECURE BORDERS ACT OF 1999

Mr. LEAHY. Mr. President, in September 1998, I introduced, with the support of Senator Daschle and several other Democratic Senators, a comprehensive crime bill, S. 2484, and am pleased today to join in introducing an updated version of that bill, the Safe Schools, Safe Streets, and Secure Borders Act of 1999. A number of provisions from S. 2484 were enacted last year and it is my hope that this new bill, S. 9, will have similar success.

The Safe Schools, Safe Streets, and Secure Borders Act of 1999, S. 9, is designed to keep our Nation's crime rates moving in the right direction—downward. This bill builds on prior Democratic crime initiatives, including the landmark Violent Crime Control and Law Enforcement Act of 1994, that have reduced violent crime rates by 21 percent over the past five years. Property crime rates have also fallen by more than 20 percent since 1993. The Nation's serious crime rates are now at their lowest level since 1973, the first year the national crime victimization survey was conducted. We are proud of the significant reduction in crime rates, but we must not become complacent. Too many Americans still encounter violence in their neighborhoods, workplaces, and unfortunately, even in their homes. This bill would ensure that the crime rates continue their downward trend next year, the year after, and beyond.

The Safe Schools, Safe Streets, and Secure Borders Act builds on the successful programs we implemented in the 1994 Crime Law while also addressing emerging crime problems. The bill is comprehensive and realistic. The new program initiatives are also funded without downsizing other Federal programs or touching any projected Federal budget surplus, but instead by extending the Violent Crime Reduction Trust Fund for two more years.

I am optimistic that we can enact this bill, without partisan or ideological controversy. In fact, the bill contains a number of initiatives that enjoy bipartisan support. We have tried to avoid the easy rhetoric about crime that some have to offer in this crucial area of public policy. Instead, we have crafted a bill that could actually make a difference.

The Safe Schools, Safe Streets, and Secure Borders Act targets violent crime in our schools, reforms the juvenile justice system, combats gang violence, cracks down on the sale and use of illegal drugs, enhances the rights of crime victims, and provides meaningful assistance to law enforcement officers in the battle against street crime, international crime and terrorism. It also authorizes funding to deploy 25,000 additional police officers on the streets in the coming years. The Act represents an important next step in the continuing effort by Senate Democrats to enact tough yet balanced reforms to our criminal justice system.

The bill has nine comprehensive titles to address crime in our schools, crime on our streets, and crime on our borders and abroad. I should note that the bill contains no new death penalties and no new or increased mandatory minimum sentences. We can be tough without imposing the death penalty, and we can ensure swift and certain punishment without removing all discretion from the judge at sentencing.

Title I of the bill deals with proposals for combating violence in the schools and punishing juvenile crime. This title provides technical assistance to schools, reforms the Federal juvenile system, assists States in prosecuting and punishing juvenile offenders and reduces juvenile crime, while also protecting children from violence, including violence from the misuse of guns.

Assistance to Schools. Americans were dismayed and grief-stricken at the school shootings across the country last year. While homicides at American schools have remained relatively constant in recent years, the number of students who have experienced a violent crime in school increased 23 percent in 1995 compared to 1989. We need to make sure our children attend school in a safe environment that fosters learning, not fear.

In response to these concerns, this bill contains an inventive proposal developed by Senator BINGAMAN to establish a School Security Technology Center using expertise from the Sandia National Labs, and provides grants from the Safe and Drug Free Schools Program to enable schools to access technical assistance for school security.

Federal Prosecution of Serious and Violent Juvenile Offenders. The bill would also make important reforms to the Federal juvenile system, without federalizing run-of-the-mill juvenile offenses or ignoring the traditional prerogative of the States to handle the bulk of juvenile crime. One of the significant flaws in the Republican juvenile crime bills last year was that they would have—in the words of Chief Justice Rehnquist—"eviscerate[d] this traditional deference to State prosecutions, thereby increasing substantially the potential workload of the federal judiciary." The Chief Justice has repeatedly raised concerns about "federalizing" more crimes and in his 1998 Year-End Report of the Federal Judiciary noted that "Federal courts were not created to adjudicate local crimes, no matter how sensational or heinous the crimes may be. State courts do, can, and should handle such problems." The Democratic proposals for reform of the Federal juvenile justice system heed this sound advice and respect our Federal system.

Among other reforms, the Safe Schools, Safe Streets, and Secure Borders Act would allow Federal prosecution of juveniles only when the Attorney General certifies that the State cannot or will not exercise jurisdiction, or when the juvenile is alleged to have committed a violent, drug or firearm offense.

Prosecutors would be given sole, nonreviewable authority to prosecute as adults 16- and 17-year-olds who are alleged to have committed the most serious violent and drug offenses. Limited judicial review is provided for prosecutors' decisions to try as adults 13-, 14-, and 15-year-old juveniles, and those 16- and 17-year-olds who are charged with less serious Federal offenses.

Assistance to States for Prosecuting and Punishing Juvenile Offenders, and Reducing Juvenile Crime. The bill authorizes grants to the States for incarcerating violent and chronic juvenile offenders (with each qualifying State getting at least one percent of available funds), and provides graduated sanctions, reimburses States for the cost of incarcerating juvenile alien offenders, and establishes a pilot program to replicate successful juvenile crime reduction strategies.

Protecting Children from Violence. The bill contains important initiatives to protect children from violence, including violence resulting from the misuse of guns. Americans want concrete proposals to reduce the risk of such incidents recurring. At the same time, we must preserve adults' rights to use guns for legitimate purposes, such as home protection, hunting and for sport.

The bill imposes a prospective gun ban for juveniles convicted or adjudicated delinquent for violent crimes. It also requires revocation of a firearms dealer's license for failing to have secure gun storage or safety devices available for sale with firearms. The bill enhances the penalty for possessing a firearm during the commission of a crime of violence or drug offense and for violation of certain firearm laws involving juveniles. In addition, the bill authorizes competitive grant programs for the establishment of juvenile gun courts and youth violence courts.

Title II of the bill addresses the problem of gang violence which has spread from our cities into rural areas of this country. According to the Department of Justice, more than 846,000 gang members belong to 31,000 youth gangs in the United States, and the numbers are growing.

This part of the bill cracks down on gangs by making the interstate "franchising" of street gangs a crime. It will also increase penalties for crimes during which the convicted felon wears protective body armor or uses "laser-sighting" devices to commit the crime. The bill doubles the criminal penalties for using or threatening physical violence against witnesses and contains other provisions designed to facilitate the use and protection of witnesses to help prosecute gangs and other violent criminals. The Act also provides funding for law enforcement agencies in communities designated by the Attorney General as areas with a high level of interstate gang activity.

Title III of the bill sets forth a number of initiatives in nine subtitles to combat violence in the streets. The Safe Schools, Safe Streets, and Secure Borders Act continues successful initiatives in the 1994 Crime Act by putting more police officers on our streets, providing for the construction of more prisons, preventing juvenile felons from buying handguns, and assisting law enforcement and community groups in better protecting women and children from domestic violence. Specifically, the bill would extend COPS funding into 2001 and 2002 (which should lead to at least 25,000 more officers on the streets); establish a state minimum of .75 percent for Truth-in-Sentencing grants and extend this program and the Violent Offender Incarceration prison grant program into 2001 and 2002; and extend authorization for the Violence Against Women Act (VAWA) funding and local law enforcement grant programs.

A significant problem that arose last year was the loss of confidentiality that had previously attached to the important work of the U.S. Secret Service. The Departments of Justice and Treasury and even a former Republican President advise that the safety of future Presidents may be jeopardized by forcing U.S. Secret Service agents to breach the confidentiality they need to do their job by testifying before a grand jury. I trust the Secret Service on this issue; they are the experts with the mission of protecting the lives of the President and other high-level elected official and visiting dignitaries. I also have confidence in the judgment of former President Bush, who has written, "I feel very strongly that [Secret Service] agents should not be made to appear in court to discuss that which they might or might not have seen or heard."

The Safe Schools, Safe Streets, and Secure Borders Act provides a reasonable and limited protective function privilege so future Secret Service agents are able to maintain the confidentiality they say they need to protect the lives of the President, Vice President and visiting heads of state.

This title of the bill also includes a number of provisions to address the following matters:

Domestic violence: In addition to extending authorized funding for the Violence Against Women Act, the bill would punish attempts to commit interstate domestic violence, expand the interstate domestic violence offense to cover intimidation, and punish interstate travel with the intent to kill a spouse.

Protecting Law Enforcement and the Judiciary: The Act recognizes that law enforcement officers put their lives on the line every day. According to the FBI, over 1,000 officers have been killed in the line of duty since 1980. The Safe Schools, Safe Streets, and Secure Borders Act contains provisions to protect the lives of our law enforcement officers by extending the Bulletproof Vest Partnership grant program through 2004. It also establishes new crimes and increases penalties for killing federal officers and persons working with federal officers, including in their work with federal prisoners, and for retaliation against federal officials by threatening or injuring their family members. The Act enhances the penalty for assaults and threats against Federal judges and other federal officials engaged in their official duties.

Cargo/Property Theft: The bill also contains an important initiative proposed by Senator LAUTENBERG to deter cargo thefts.

Sentencing Improvements: This subtitle doubles the maximum penalty for manslaughter from 10 to 20 years, consistent with the Sentencing Commission's recommendation, applies the sentencing guidelines to all pertinent federal statutes (such as criminal prohibitions in statutes outside titles 18 and 21 of the United States Code), and other improvements.

Civil Liberties: The bill includes the "Hate Crimes Prevention Act," which was originally introduced by Senator KENNEDY and has the strong bipartisan support of over twenty Members, and other initiatives designed to bolster support for enforcement of civil rights.

National Drunk Driving Standard: The bill includes a provision sponsored by Senator LAUTENBERG which requires States to establish a .08 alcohol standard for driving while intoxicated by 2002 or risk losing a portion of their federal highway funds.

Title IV of the bill outlines a number of prevention programs that are critical to further reducing juvenile crime. These programs include grants to youth organizations and "Say No to Drugs" Community Centers, as well as reauthorization of the Runaway and Homeless Youth Act, Anti-Drug Abuse Programs and Local Delinquency Prevention Programs. Additional sections include a program suggested by Senator BINGAMAN to establish a competitive grant program to reduce truancy, with priority given to efforts to replicate successful programs.

The bill would also reauthorize the Juvenile Justice and Delinquency Prevention Act (JJDPA) in a similar fashion to H.R. 1818, a bill passed by the House with strong bipartisan support in the last Congress. This section creates a new juvenile justice block grant program and retains the four core protections for youth in the juvenile justice system, while adopting greater flexibility for rural areas.

Last year, the Senate Republicans tried to gut these core protections in their juvenile crime bill, S. 10. This Democratic crime bill puts ideology aside, and follows the advice of numerous child advocacy experts—including the Children's Defense Fund, National Collaboration for Youth, Youth Law Center and National Network for Youth—who believe these key protections must be preserved in order to protect juveniles who have been arrested or detained. These core protections ensure that juveniles are not housed with adults, do not have verbal or physical contact with adult inmates, and any disproportionate confinement of minority youth is addressed by the States. If these protections are abolished, many more youth may end up committing suicide or being released with serious physical or emotional scars.

Title V of the bill contains five subtitles on combating illegal drug use. Illegal drugs are too often at the heart of crime. This Act would protect our children by increasing penalties for selling drugs to kids and drug trafficking in or near schools, and cracking down on "club drugs." It goes a step further and encourages pharmacotherapy research to develop medications for the treatment of drug addiction, a proposal Senator BIDEN has urged. It also funds drug courts, which subject eligible drug offenders to programs of intensive supervision.

Title VI of the bill is intended to increase the rights of victims within the criminal justice system. The criminal is only half of the equation. This bill guarantees the rights of crime victims. All States recognize victims' rights in some form, but they often lack the training and resources to make those rights a reality. This bill provides a model Bill of Rights for crime victims in the federal system, and makes available to the States grants to fund the hiring of State and Federal victim-witness advocates, training, and the technology necessary for model notification systems. This bill would help make victims' rights a reality.

Specifically, this title reforms Federal law and evidence to enhance victims' participation in all stages of criminal proceedings by giving victims' a right to notice of detention hearings, plea agreements, sentencing, probation revocations, escapes or releases from prison, and to allocution at hearings, as well as grants for obtaining state-of-the-art systems for providing notice. In addition, this title would provide grant programs to study the effectiveness of the restorative justice approach for victims.

Title VII of the bill of details provisions for combating money laundering. Crime increasingly has an international face, from drug kingpins to millionaire terrorists, like Usama bin Laden. The money laundering provisions of this bill hit these international criminals where it hurts most—in the pocketbook.

These provisions would provide important tools not just to combat international terrorism but drug trafficking as well. We must have interdiction, we must have treatment programs; we must tell kids to say "No" to drugs. But we have to do more, and taking the profit away from international drug lords is an effective weapon. This Democratic crime bill would strengthen these laws.

FBI Director Freeh testified last year before the Senate Judiciary Committee that enhanced money laundering provisions would be an important tool against the likes of international terrorists, such as bin Laden. Director Freeh praised the following provisions set forth in this title of the bill.

Fugitive Disentitlement to stop drug kingpins, terrorists and other international fugitives from using our courts to fight to keep the proceeds of the very crimes for which they are wanted. Criminals should not be able to use our courts to their benefit at the same time they are evading our laws.

Immediate seizure of U.S. assets of foreign criminals, so terrorists and drug lords will not be able to keep their money one step ahead of the law enforcement.

Limits on Foreign Bank Secrecy to stop criminals from hiding behind foreign bank secrecy laws while they use U.S. courts.

These and other money laundering provisions in the bill should find bipartisan support for quick passage before the end of this Congress.

Title VIII sets forth important proposals for combating international crime. In particular, the bill would punish violent crimes or murder against American citizens abroad, deny safe havens to international criminals by strengthening extradition, promote cooperation with foreign governments on sharing witnesses and evidence, and streamline the prosecution of international crimes in U.S. courts. Provisions include:

Giving the FBI authority to investigate and prosecute the murder or extortion of U.S. citizens and state and local officials involved in federally-sponsored programs abroad;

Providing for extradition under certain circumstances for offenses not covered in a treaty or absent a treaty;

Giving the Attorney General authority to transfer and share witnesses with foreign governments, and obtain and use foreign evidence in criminals cases;

Prohibiting fugitives from benefitting from time served abroad fighting extradition;

Adding serious computer crimes as predicate offenses for which wiretaps may be authorized; and

Providing court order procedures for law enforcement access to stored information on computer networks.

Finally, Title IX contains provisions to strengthen the air, land and sea borders of this country. The bill would punish violence at the borders, increase authority of maritime law enforcement officers at the borders, increase penalties for smuggling contraband and other products, strengthen immigration laws to exclude fleeing felons, and persons involved in racketeering and arms trafficking. Specific sections include:

Punishing "port-running," which is driving or crashing through Customs entry ports;

Sanctions for not cooperating with maritime law enforcement officers by obstructing lawful boarding requests and commands to "heave to"; and

Denying admission into the U.S. of persons whom consular officials have reason to believe are involved in RICO acts, arms trafficking, or alien smuggling for profit, or are fleeing foreign prosecution.

The Safe Schools, Safe Streets, and Secure Borders Act is a comprehensive and realistic set of proposals for keeping our schools safe, our streets safe, our citizens safe when they go abroad, and our borders secure. I look forward to working on a bipartisan basis for passage of as much of this bill as possible during the 106th Congress.

By Mr. DASCHLE (for himself, Ms. MIKULSKI, Mr. CLELAND, Mr. HARKIN, Mr. SARBANES, Mr. KENNEDY, Mrs. BOXER, Mr. DURBIN, Mr. ROCKEFELLER, Mr. DODD, and Mr. BRYAN):

S. 10. A bill to provide health protection and needed assistance for older Americans, including access to health insurance for 55- to 65-year-olds, assistance for individuals with long-term care needs, and social services for older Americans; to the Committee on Finance.

THE DEMOCRATIC AGENDA FOR SENIOR CITIZENS

Mr. KENNEDY. Mr. President, I commend Senator DASCHLE for his leadership in making these vital health programs that mean so much to older Americans a central part of the Democratic agenda. Our proposal for Early Access to Medicare is a key part of these initiatives. It provides a lifeline for millions of Americans who are within a few years of the age of eligibility for Medicare and who have lost their health insurance coverage or fear that they will lose it. Our proposal also includes President Clinton's program to assist disabled senior citizens and their families—assistance that can mean the difference between institutionalization in a nursing home and the ability to remain in their own home. In addition, our proposal extends and strengthens the Older Americans Act, which provides valuable services for senior citizens, from "Meals on Wheels" to employment opportunities.

Providing early access to Medicare will offer help and hope to more than three million Americans aged 55 to 64 who have no health insurance today. They are too young for Medicare, and unable to obtain private coverage they can afford. Often, they are victims of corporate downsizing, or of a company's decision to cancel their health insurance.

In the past year, the number of the uninsured in this age group increased at a faster rate than other age groups. These Americans have been left out and left behind through no fault of their own—often after decades of hard work and reliable insurance coverage. It is time for Congress to provide a helping hand.

Many of these citizens have serious health problems that threaten to destroy the savings of a lifetime and that prevent them from finding or keeping a job. Even those without current health problems know that a single serious illness could wipe out their savings.

These uninsured Americans tend to be in poorer health than other members of their age group. Their health continues to deteriorate, the longer they remain uninsured. This unnecessary burden of illness is a preventable human tragedy. It adds to Medicare's long-term costs, because when these individuals turn 65, they join Medicare with greater and more costly needs for health care.

Even those with good coverage today can't be certain that it will be there tomorrow. No one nearing retirement can be confident that the health insurance they have today will protect them until they qualify for Medicare at 65.

Our proposal offers several types of assistance. Any uninsured American who is 62 or older can buy into Medicare. Over time, the participants will pay the full cost of the coverage, but to help keep premiums affordable, they can defer payment of part of the premiums until they turn 65 and Medicare starts to pay most of their health care costs. Once they turn 65, this deferred portion of the premium will be paid back at a modest monthly rate estimated at about $10 per month for each year of participation in the buy-in program.

In addition, individuals age 55–61 who lose their health insurance because they are laid off or because their company closes will also be able to buy into Medicare, but they will not qualify for the deferred premium. Also, people who have retired before age 65 with the expectation of employer-paid health insurance would be allowed to buy into the company's program for active workers if the company drops its retirement coverage before they are eligible for Medicare.

Our proposal is a lifeline for all these Americans. It is also a constructive step toward the day when every American will be guaranteed the fundamental right to health care.

In the past, opponents have waged a campaign of disinformation that this sensible plan is somehow a threat to Medicare. They are wrong—and the American people understand that they are wrong. Under our proposal, the participants themselves will ultimately pay the full cost of this new coverage. The modest short-term budget impact can be financed through savings obtained by reducing fraud and abuse in Medicare.

Every American should have the security and peace of mind of knowing that their final years in the workforce will not be haunted by the fear of devastating medical costs or the inability to meet basic medical needs. Uninsured Americans who are too young for Medicare but too old to purchase affordable private insurance coverage deserve our help—and we intend to see that they get it.

Additional assistance for the disabled is also very important. Few issues are more important to senior citizens and their families than how to care for a severely disable order person at home. No senior citizens who want to remain in their own homes should be forced to enter a nursing home. Children who want to take disabled parents into their own homes deserve support. The issue of caring for the severely disabled at home is not just a concern for senior citizens. No parent should be forced to place a disabled child in institutional care. No disabled citizen who wants to live independently and can do so should be denied that opportunity.

President Clinton's proposal is not a comprehensive solution to the problem of financing needed long-term care. It will not end the enormous burdens that caregivers often assume. But it is an important and constructive step that will provide needed help to millions of families.

Under the proposal, disabled persons or their caregivers will be entitled to a tax credit of $1,000—far less than the total cost of caring for a disabled person, but still significant relief that can help buy a critical piece of equipment, pay for a period of respite care, or meet other unmet needs.

The proposal also creates a National Family Caregiver Support Program to develop community resources for counseling, respite care and other services, training in assisting persons with disabilities, and providing information about resources available to meet the needs of the disabled and their caregivers.

One of the most difficult aspects of caring for a disabled parent or child is not knowing where to turn for help, or finding that help is not available. This program will help to meet these needs.

Finally, the legislation extends and strengthens the Older Americans Act, a step that is long overdue. The Act provides essential services that assist senior citizens in every community. It supports 57 state agencies on aging, 660 area agencies, and 27,000 service providers who work with the elderly.

The Act is an essential source of nutrition for many low income and frail elderly. In FY 1996, more than 3 million older persons were served 238 million meals with funding from the Act. The Act supported transportation, assistance, home care, recreation and other important services provided by 6,400 senior centers. It funded more than 40 million rides and 15 million home care services to older persons. The Act also pays for training and research in the field of aging. It helps unemployed low-income older persons to find employment opportunities. And it provides protection and advocacy services for vulnerable senior citizens.

Elderly Americans and those nearing retirement have worked all their lives to build America. When they face basic needs for health care and long-term care, they deserve the best help that America can provide. These proposals are important and timely. They will make a very important difference in the lives of millions of our fellow citizens, and they deserve prompt enactment by the Congress.

By Mr. ABRAHAM:

S. 11. A bill for the relief of Wei Jingsheng; to the Committee on the Judiciary.

WEI JINGSHENG FREEDOM OF CONSCIENCE ACT

Mr. ABRAHAM. Mr. President, I rise today to seek my colleagues' support for the Wei Jingsheng Freedom of Conscience Act. This bill will grant lawful permanent residence to writer and philosopher Wei Jingsheng, one of the most heroic individuals the international human rights community has known. This bill passed the Senate by unanimous consent in 1998 but was not acted upon in the House before the end of last session.

Mr. President, when I first introduced this legislation I noted that, for years, Wei has stood up to an oppressive Chinese government, calling for freedom and democracy through speeches, writings, and as a prominent participant in the Democracy Wall movement. I also noted that his dedication to the principles we hold dear, and on which our nation was founded, brought him 15 years of torture and imprisonment at the hands of the Chinese communist regime. Seriously ill, Wei was released only after great international public outcry. Now essentially exiled, he lives in the United States on a temporary visa and cannot return to China without facing further imprisonment.

Now more than ever, Mr. President, I believe that granting Wei permanent residence will show that America stands by those who are willing to stand up for the principles we cherish. It also will help Wei in his continuing fight for freedom and democracy in China.

I would like to thank Senators FEINGOLD, ALLARD, and WELLSTONE for cosponsoring this bill. I should note also that this legislation has been endorsed by important human rights groups such as the Laogai Research Foundation and Human Rights in China, two organizations devoted, at great risk to their members and their members' families, to combating oppression in communist China.

I urge my colleagues to send a strong signal about America's commitment to human rights, human freedom, and the dignity of the individual by passing this bill to grant Wei Jingsheng lawful permanent residence in the United States.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 11

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENCE.

(a) SHORT TITLE.—This Act may be cited as the "Wei Jingsheng Freedom of Conscience Act".

(b) Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Wei Jingsheng shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee.

SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Wei Jingsheng as provided in this Act, the Secretary of State shall instruct the proper officer to reduce by one during the current fiscal year the total number of immigrant visas available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

By Mr. SESSIONS (for himself, Mr. GRAHAM, Mr. MACK, Mr. ABRAHAM, Mr. COCHRAN, and Mr. COVERDELL):

S. 13. A bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives for education; to the Committee on Finance.

COLLEGIATE LEARNING AND STUDENT SAVINGS (CLASS) ACT

Mr. SESSIONS. Mr. President, I rise today to discuss the concept of prepaid tuition plans and why they are critically important to America's families.

As a parent who has put two children through college and who has another currently enrolled in college, I know first-hand that America's families are struggling to meet the rising costs of higher education. In fact, American families have already accrued more college debt in the 1990's than during the previous three decades combined.

The reason is twofold: the federal government subsidizes student debt with interest rate breaks and penalizes educational savings by taxing the interest earned on those savings.

In recent years, however, many families have tackled rising tuition costs by taking advantage of pre-paid college tuition and savings plans. These plans allow families to purchase tuition credits years in advance.

Mr. President, 39 states, like my home state of Alabama, along with a nationwide consortium of more than 100 private schools, have established these tuition savings and prepaid tuition plans. These plans are extremely popular with parents, students, and alumni. They make it easier for families to save for college, while at the same time taking the uncertainty out of the future cost of college.

Congress has supported participating families by expanding the scope of the pre-paid tuition plans and by deferring the taxes on the interest earned until the student goes off to college.

Mr. President, today, I along with Senators BOB GRAHAM, CONNIE MACK, PAUL COVERDELL, SPENCER ABRAHAM, and THAD COCHRAN are introducing "The Collegiate Learning and Student Savings (CLASS) Act", a common sense piece of legislation which could help more than 30 million students afford a college education.

The CLASS Act will make the interest earned on all education pre-paid plans completely tax-free.

Currently, the interest earned by families saving for college is taxed twice. Families are taxed on the income when they earn it, and then again on the interest that accrues from the savings.

On the other hand, the federal government subsidizes student loans by deferring interest payments until after graduation. It is no wonder that families are going heavily into debt and at the same time are struggling to save for college. We strongly believe that this trend must no longer continue.

In order to provide families a new alternative, The CLASS Act will provide tax-free treatment to all pre-paid savings plans.

This bipartisan piece of legislation is sound education and tax policy that provides incentives for savings rather than bureaucratic solutions. For a small cost, the CLASS Act will provide billions in potential savings to help families afford a college education.

Mr. President, many individuals have questioned whether these plans will benefit all types of students. Let me say this, it is wrong to assume that tuition savings and prepaid plans benefit mainly the wealthy. In fact, the track record of existing state pre-paid plans indicates that working, middle-income families, not the rich, benefit the most from pre-paid plans.

For example, families with an annual income of less than $35,000 purchased 62 percent of the prepaid tuition contracts sold by the State of Pennsylvania in 1996. And the average monthly contribution to a family's college savings account during 1995 in Kentucky was $43.

Tax free treatment for prepaid tuition plans must become law. The federal government can no longer subsidize student debt with interest rate breaks and penalize educational savings by taxing the interest earned by families who are desperately trying to save for college. If these goals are achieved, the federal government would no longer be penalizing families for saving but rather be providing families with help they need to meet the cost of college through savings rather than through debt.

Mr. President, this legislation has received a tremendous amount of support from the colleges and universities, higher education associations, as well as several public policy think tanks. These include: The Career College Association, the National Association of Independent Colleges and Universities, the American Council on Education, the State of Virginia's Prepaid Education Program, The Heritage Foundation and Citizens for a Sound Economy.

The idea of tax-free treatment for prepaid tuition plans has also been endorsed by the Washington Post, Time Magazine, and the Birmingham News.

Mr. President, in particular, I would like to call my colleagues attention to a September 25, 1998 Heritage Foundation report, authored by Rea Hederman, a Research Analyst in the Domestic Policy Department at Heritage. This shows that over 30 million children stand to benefit from expanded education savings accounts and tuition prepayment plans. I'd encourage my colleagues to review the Heritage report, which breaks down these numbers by both State and Congressional district.

Mr. President, I would also like to ask that a copy of this report be printed in the RECORD at the conclusion of my remarks.

I would also like to acknowledge the efforts of my good friend Congressman JOE SCARBOROUGH, who has introduced the House companion to the CLASS Act, H.R. 254.

Mr. President, the time to act is now. I encourage my colleagues to push for this common sense piece of legislation. This Congress should call on the leadership of both Houses, to make this legislation, which cold help more than 30 million students afford a college education, a part of any tax bill we consider this year.

Mr. President, I ask unanimous consent that a report and letters of support be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF
INDEPENDENT COLLEGES
AND UNIVERSITIES,
August 25, 1998.

Hon. JEFF SESSIONS,
U.S. Senate, Washington, DC.

DEAR SENATOR SESSIONS: On behalf of the over 900 independent colleges and universities that make up the National Association of Independent Colleges and Universities, I want to express our support for your continued efforts to allow private colleges and universities to establish prepaid tuition plans that would enjoy the same tax treatment and preferences as state sponsored plans. We agree that legislation is desperately needed to allow students and families who want to utilize prepaid tuition plans to dedicate the funds to the institution of their choice. Your legislation allowing private colleges and universities to compete on a level playing field in the tax arena is absolutely necessary and fair.

We look forward to continuing to work with you and your colleagues in both the House and Senate to push for the inclusion of tax relief for private pre-paid tuition programs in tax legislation expected before the 105th Congress adjourns. This issue is a top tax priority for independent higher education and we certainly support your efforts.

Again, thank you. Please do not hesitate to contact me if and when I can be of further assistance on this or any issue of importance to independent higher education.

Sincerely,

DAVID L. WARREN,
President.

COMMONWEALTH OF VIRGINIA, HIGHER EDUCATION TUITION TRUST FUND, RICHMOND, VA,
September 16, 1998.

Hon. JEFF SESSIONS,
The U.S. Senate, Washington, DC.

Re: Virginia prepaid education program—support of S. 2425.

DEAR SENATOR SESSIONS: Thank you for your continuing support of legislation to encourage college savings through qualified tuition programs like the Virginia Prepaid Education Program ("VPEP"). VPEP now represents over a third of a billion dollars pledged to the futures of more than 21,000 children, and we are about to begin our third enrollment period on October 1.

In our continuing efforts to make a college education more accessible and affordable for families, we very much appreciate your sponsorship of S. 2425, the Collegiate Learning and Student Saving Act, which would provide an exclusion from gross income of interest earnings on qualified tuition programs like VPEP.

VPEP strongly supports an exclusion from gross income for earnings on qualified tuition program accounts. This tax treatment would be less burdensome to administer than current tax provisions, and would result in better compliance and less cost to the programs and their participants. More importantly, an exclusion from gross income would provide a powerful additional incentive for families to save early for college expenses.

Please do not hesitate to contact me or my staff should you need any additional information or have any questions. Thank you for your continued interest in and support of qualified tuition programs and the hundreds of thousands of children for whom college is now an affordable reality.

Sincerely,

DIANA F. CANTOR,
Executive Director.

ENTERPRISE STATE JUNIOR COLLEGE,
ENTERPRISE AL,
October 1, 1998.

Hon. JEFF SESSIONS,
U.S. Senate, Washington, DC.

DEAR SENATOR SESSIONS. I have reviewed S. 2425 with a great deal of enthusiasm. I believe that it is a much needed piece of legislation. It will certainly help many Alabamians who are struggling to secure a college education for their children.

Several members of the Enterprise State Junior College family are participants in the Alabama Prepaid College Tuition Program. I know that they will be pleased to learn that those hard earned funds may soon be exempted from the Internal Revenue Code of 1986. Likewise, I am sure that citizens in Florida, Georgia and Kentucky will be appreciative for the protection that the bill will afford them.

Senator Sessions, this type legislation clearly demonstrates both your leadership and sensitivity to the needs of Alabama citizens. As the state legislative contact person for the American Association of Community Colleges, I will encourage my colleagues to support and petition our friends nationwide to encourage passage of the language.

Sincerely,

STAFFORD L. THOMPSON,
President.

SAMFORD UNIVERSITY,
BIRMINGHAM, AL,
August 14, 1998.

Hon. JEFF B. SESSIONS,
U.S. Senator, Washington, DC.

DEAR JEFF: I was delighted to learn of your sponsorship of legislation which would clarify Section 529 so that appropriate securities statutes apply to prepaid tuition plans for private institutions in S. 2425, The Collegiate Learning and Student Savings (CLASS) Act of 1998.

As you may know, Samford University has joined with nearly sixty independent institutions of higher education to form a consortium which is working hard to establish the first nationwide prepaid tuition program geared to American families who want to enroll their children at independent institutions. We are convinced this plan will offer millions of future students and their families a convenient and affordable method to save for college. Moreover, our institutions will be able to offer future tuition at current or discounted-current rates.

In addition, I believe it is important to secure tax treatment for prepaid tuition plans for private institutions, similar to that currently offered to state-sponsored tuition plans. Such tax treatment is essential to the success of our efforts by making these programs more economically attractive.

I continue to appreciate all that you are doing for our state and thank you for your leadership on this proposal and your commitment to American higher education. If I can be of further assistance as you move forward, please do not hesitate to contact me.

Very sincerely yours,

THOMAS E. CORTS,
President.

BIRMINGHAM-SOUTHERN COLLEGE,
BIRMINGHAM, AL,
August 5, 1998.

Hon. JEFF SESSIONS,
Russell Senate Office Building, Washington, DC

DEAR JEFF: I am writing to personally thank you for your continued efforts to bring about legislation to allow private college prepaid tuition plans. The introduction of your and Senators Coverdale, Graham and McConnell's "Colleagiate Learning and Student Savings Act" is a valuable step in the right direction to allow parents and students to save for *all* of their educational needs, both public and private. I applaud your efforts to include the tax-exempt status of earnings on prepaid tuition plans that is in the bill. Obviously, this will help students and families be better able to afford college.

We certainly need a national prepaid tuition plan. As you know, Birmingham-Southern College is one of more than sixty private institutions willing to take the responsibility for establishing a plan if it could be permitted by your legislation. Most importantly, the private college prepaid college tuition plan should be good for the nation, and only the national plan lowers costs without lowering the quality of the best system of higher education in the world.

We at Birmingham-Southern, stand ready to assist you in getting S. 2425 passed. Please let us know what we can do to assist. Again, thank you for your commitment to higher education.

Sincerely,

NEAL R. BERTE,
President.

[From Time, Dec. 7, 1998]

NEW WAY TO SAVE—STATE COLLEGE-SAVING PLANS OFFER TAX ADVANTAGES TO ALL AND CAN BE USED AT ANY SCHOOL IN THE U.S.

(By Daniel Kadlec)

The best college-savings program you never heard about keeps getting better. As you think about year-end tax moves, consider dropping some cash into a state-sponsored plan where money for college grows tax-deferred and may garner a fat state income tax exemption as well. This plan is relative new and often gets confused with more common prepaid-tuition plans, in which you pay today and attend later—removing worries about higher tuition in the future. Savings plans are vastly different and in most cases superior because they are more flexible.

Prepaid plans offer tax advantages, and some are portable, but many still apply only to public colleges within the taxpayer's state. What if Junior gets accepted to Harvard? You can get your contributions back. But some states refund only principal, beating you out of years' worth of investment gains. And state prepaid plans make it tougher to get student aid because the moneys is held in the student's name. With savings plans the money is in a parent's name, where it counts less heavily in student-aid formulas—and you can set aside as much as $100,000 for expenses at any U.S. college.

Both the prepaid and the college-savings plans vary from state to state. Check out the website collegesavings.org for details. It's a fast-moving area. In the next few months, eight states will join the 15 that already have state college-savings programs. Those are mostly in addition to the 19 that have prepaid-tuition plans. Only Massachusetts will probably offer both.

Most of the newer savings plans make contributions deductible against state taxes. New York, for example, launched its plan two months ago. It permits couples to set aside up to $10,000 a year per student and lets New York residents deduct the full amount from their income on their state return. Missouri will approve a tax-deductible savings plan in December. Minnesota is expected to adopt a plan in which the state matches 5% of your contributions. These college-savings plans are open to everyone, regardless of income—in contrast to the Roth IRA and other federal savings plans in which eligibility begins to phase out for couples earning more than $100,000.

If your state doesn't offer a college-savings plan, you can still participate through an out-of-state plan. You won't get the state tax deduction, but you will get tax-deferred investment growth; and when the money is tapped, it will be taxed at the student's rate (usually 15%). Fidelity Investments (800–544–1722; www.state.nh.us), which runs the New Hampshire savings plan, and TIAA–CREF (877–697–2837; www.nysaves.org), which runs the New York plan, make it easy. If your state later offers a savings plan with a tax deduction, you can transfer your account penalty free.

Both plans invest mostly in stocks in the early years and slowly shift into bonds and money markets as your student nears college age. You get no say in this allocation. The impact of tax deferral is big. TIAA–CREF estimates that someone in the 28% tax bracket savings $5,000 a year and mimicking its investments in a taxable account could expect to accumulate $167,000 in 18 years. Deferring taxes and then paying them at 15% brings the total to $190,000. The state deduction, for those who qualify, pushes the nest egg to $202,000.

[From the Birmingham News, Aug. 2, 1998.]

BORROWING AN IDEA—PREPAID TUITION PLANS GOOD FOR PRIVATE COLLEGES AS WELL

State-run, prepaid college tuition plans, such as the one offered in Alabama, are marvelous ideas that are becoming more popular each year.

They help make sending children to public colleges within the reach of more families.

It's great that some private colleges are now borrowing the concept, helping families better afford college educations at their schools, which often can be several times as expensive as state-supported schools.

Recently, some 56 private colleges—including Birmingham-Southern College and Samford University—became members of Tuition Plan Inc., a new prepaid program designed to work like the state-run tuition plans:

Parents invest in the plan when their children are young—through one lump sum or through monthly payments—as a shelter against inflation, and the fund invests the money to cover future tuition obligations.

With the private TPI, parents get another bonus; Colleges agree upfront to discount their tuition a guaranteed amount, as much as 50 percent at some schools. And, as with the public school tuition pacts, if a child decides not to go to a school for which his or her parents already have paid, the student gets a refund plus some of the interest and minus a penalty (neither of the amounts has been decided).

Organizers hope to eventually sign up 400 to 500 member schools.

Some of the important details of TPI haven't yet been worked out, such as how the money will be invested to maximize return and security, but the concept is grand.

Not only will it make private school more affordable for more families, it could lessen the need for financial aid, since four-fifths of all current students at private colleges and universities receive some form of it.

And because schools will be discounting their tuition to plan participants, it also might stem rising tuition costs.

This time, it's the private sector that's learning from government.

[From the Washington Post, Aug. 7, 1998]

IF IT'S FOR COLLEGE, TAXES ARE DEFERRED—NEW STATE PLANS OFFER BETTER RETURNS ON LONG-TERM SAVINGS FOR HIGHER EDUCATION

(By Albert B. Crenshaw)

A growing number of states, taking advantage of recent tax law changes, are rushing to create savings plans that enable families to set aside tens of thousands of dollars a year in tax-deferred accounts to pay college costs.

The new programs allow families to make upfront investments of as much as $50,000—building accounts that could dwarf the $500-a-year Education IRA enacted with much fanfare last year. The initial contribution is not deductible from federal taxes, but the account's earnings are free of tax until the child goes to college, when they are taxed at the child's rate.

The programs, resulting from several seemingly modest changes in tax law in the past two years, have the potential to allow families to save hundreds of thousands of dollars for college while paying sharply reduced taxes on the earnings.

"We think of it as the best-kept secret of the Taxpayer Relief Act" of 1997, said Stephen Mitchell of Fidelity Investments, the big mutual fund operator.

States can tailor the programs as they see fit, but typically they are not restricted to residents of the sponsoring state or to colleges within their borders.

The states are crafting the programs in response to constituent complaints about the soaring cost of higher education. The savings accounts are expected to appeal in particular to middle-class families that earn too much to qualify for financial aid but often too little to cover college costs without heavy borrowing. Affluent families would benefit greatly as well, experts say, because they can afford to put large sums into the plans.

There is no limit on the incomes of contributors.

Although sponsored by the states, the programs are typically operated by a large money-management fund, which invests the cash and handles the administration of the accounts. Already, Fidelity is operating these plans, variously known as savings trusts or 529 plans (after the tax code section permitting them), for Delaware and New Hampshire.

New York and the Teachers Investment and Annuity Association are launching one next month. At least five other states offer some type of savings trust, and at least a dozen jurisdictions, including Virginia and the District, are studying the possibility.

New Hampshire established its trust with Fidelity as manager July 1. According to State Treasurer Georgie Thomas and a Fidelity spokesman, it works like this:

When a parent or other donor opens an account, the donor's payments go into the trust where they are pooled with others and invested in one of seven portfolios of Fidelity mutual funds.

No taxes are paid on the earnings until the money is withdrawn, and proceeds can be used for room and board as well as for tuition. Then, the income is taxable to the student, who presumably would have little other income and would be in a lower tax bracket than the parents.

The total allowable contribution for a single beneficiary is currently $100,311.

If a parent were able to put $50,000 into one of these accounts for a newborn, and the account earned 10 percent for 18 years, it would total about $278,000 when the child went off to college. At 8 percent, it would amount to just under $200,000.

"I think it's a great plan for upper-income and wealthy people to use," said Raymond Loewe of College Money, a Marlton, N.J., firm specializing in planning for college.

Thomas, though, said she sees it as "a middle-class program." Low-income people qualify for government grants and scholarships, and the wealthy can afford to pay out of pocket, she said, while the middle class is forced to borrow.

While it's possible to make a large contribution, accounts can be opened with much smaller amounts. With automatic payments, the plan will allow people to put in as little as $50 a month, according to Fidelity.

If the child doesn't go to college for whatever reason, the account can be transferred to a sibling or other beneficiary.

Also, parents can get at the money if they need it. Amounts can be withdrawn for any reason, though earnings would be subject to income tax plus a 15 percent penalty.

Politicians at the national and state levels have sought through a variety of ways to ease the burden of college costs for middle-class voters. State officials fear that if they do nothing, they risk losing residents or their money to other states with attractive programs.

Prepaid tuition plans have been successful in big states with attractive public college systems. But smaller jurisdictions, such as New Hampshire, Delaware and the District, may find it difficult to attract enough families to a prepaid program to make it viable.

Savings trusts have existed in more limited form since 1990, but they have become much more attractive over the last two years because of changes in the tax law made by Congress, at the request of several states.

In 1996, Congress added Section 529 to the federal tax code, clarifying that investments in such trusts would be tax-deferred and the distributions taxable at the student's rate. Before that, their tax status was uncertain. Then last year's tax law included provisions that allow a family to contribute up to $50,000 in a lump sum to the trusts without incurring a gift tax, and which allow the money to be used for college expenses beyond tuition.

Because of the enormous growth potential—prepaid plans already have attracted hundreds of millions of dollars—big money managers are actively vying for a piece of the action. "The big funds are out there in force," said Diana F. Cantor, executive director of the Virginia Higher Education Tuition Trust Fund.

Fidelity's Mitchell said the programs fill a gap in government efforts to assist families in saving for college. The Education IRA, though its proceeds are tax-free, is too restricted, and alternatives such as giving money to a child have a variety of tax and other pitfalls, he said.

"We think for most people who are able to save at all, $500 a year just isn't enough to let people get to their goals," Mitchell said.

The new savings trusts differ from prepaid tuition plans that many states, including Virginia and Maryland, have offered in recent years.

While prepaid tuition plans promise to pay the tuition no matter what the inflation rate, savings trusts do not. The beneficiary gets whatever the investment amounts to when it's time to go to college—and that amount may be more or less than needed. With prepaid tuition, the state would cover a shortfall; with a savings trust, that would be up to the student.

Also, most prepaid tuition plans are restricted to state residents and state institutions—conditions that limit their appeal to many families.

This was a factor in New Hampshire's decision to go with a savings trust, said Thomas, the state treasurer. "We are a small state. We have a lot of out-of-state students coming into our schools, and conversely we have a lot of New Hampshire students going to out-of-state schools," she said.

[A Report of the Heritage Center for Data Analysis, Sept. 25, 1998]

WHO WOULD BENEFIT FROM PREPAID COLLEGE TUITION PLANS?

(By Rea S. Hederman)

In 1997, Congress enacted legislation to provide taxpaying Americans with new ways to save for their children's college education. Specifically, Congress created tax-advantaged "education IRAs" in the Taxpayer's Relief Act of 1997, increasing the attractiveness of state-sponsored tuition savings and prepayment plans. Many Members of Congress now want to expand these opportunities.

Advocates of expansion claim that these plans will make it easier for families to save for college and will take the uncertainty out of planning for future costs of college education. They argue that it is time for Congress and President Bill Clinton to eliminate the double taxation of interest earned through these programs and end the tax disparity that currently exists between public and private colleges.

Indeed, the House Ways and Means Committee recently adopted, as part of its $80 billion tax-cut package, a modest expansion of tuition savings and prepayment plans. H.R. 4579 would extend the same tax treatment that state-sponsored plans enjoy under the current law to plans at private colleges and universities.

Under this legislation, federal income tax on all interest earned through the plans—whether public or private—would be deferred until the student enrolls in college. The committee's proposal, however, does not go far enough for some Members who want to make all earnings through all of the tuition savings and prepayment plans tax-free, thus vastly expanding their benefits to participating families and children.[1]

How many children would benefit from the universal availability of tax-advantaged tuition savings and prepayment plans? A Center for Data Analysis study shows that about 30 million children could benefit, as demonstrated in the attached table by state and congressional district.

It should be noted that this study does not calculate the financial benefits that might flow to families from expanding tuition savings and prepayment plans, though the numbers doubtless are significant. American families accumulated more college debt during the first five years of the 1990s than in the previous three decades combined.[2] Recognizing that this trend cannot continue, several states have established tuition savings and prepaid tuition plans.[3]

A common criticism of educational savings accounts is that they are a tax break solely for the rich and upper class, so not many children will benefit from them. However, the experience of the existing state plans indicates that working, middle-income families represent a significant portion of participants.[4] For example, families with annual incomes of less than $35,000 purchased 62 percent of the prepaid tuition contracts sold by Pennsylvania in 1996. The average monthly contribution to a family's college savings account during 1995 in Kentucky was 443.

The attached table shows the number of children who stand to benefit from expanded educational savings accounts and tuition prepayment plans.

METHODOLOGY

The data in the attached table came from the 1997 March Current Population Survey produced by the Bureau of the Census, and other data tabulated by the Census Bureau for The Heritage Foundation.[5]

Children were considered eligible if they were members of family that had an annual monetary income of at least 125 percent of the poverty threshold.[6] The analysis was conducted at the state level, which gave the aggregate number of children eligible. The children were distributed based on each district's percentage of children above the 125 percent of poverty level.

Finally, the number of children in each district was multiplied by the percentage of eligible high school graduates in 1994 who went on to attend college in that state.[7]

FOOTNOTES

[1] John S. Barry, "Why Congress Must Fix the Tax Bill's Educational Savings Plans," Heritage Foundation Executive Memorandum No. 491, September 3, 1997. Legislation has been introduced by Representative Bill Archer (R-TX), Kay Granger (R-TX), Philip English (R-PA), and Gerald Weller (R-IL), and Senators Jeff Sessions (R-AL), William Roth (R-DE), Bob Graham (D-FL), Mitch McConnell (R-KY), Paul Coverdell (R-GA), Thad Cochran (R-MS), Rod Grams (R-MN), and Spencer Abraham (R-MI).

[2] "College Debt and the American Family," Report from the Education Resources Institutes and the Institute for Higher Education Policy, September 1995, p. 6.

[3] For an overview of the state-based plans, see College Savings Plans Network, National Association of State Treasurers, "Special Report on State College Plans" (Lexington, Ky.: Council of State Governments, 1996).

[4] Nina H. Shokraii and John S. Barry, "Education: Empowering Parents, Teachers, and Principals," in Stuart M. Butler and Kim R. Holmes, eds., "Issues '98: The Candidate's Briefing Book" (Washington, D.C.: The Heritage Foundation, 1998), p. 280.

Footnotes at end of article.

[5] Data available upon request from the author.

[6] At 125 percent of the poverty level, there is a notable increase in the number of tax filers who could realize tax savings from these plans.

[7] "Quality Counts," Education Week, Vol. XII, No. 17 (January 8, 1998), p. 79.

NUMBER OF CHILDREN WHO COULD BENEFIT FROM PREPAID TUITION PLANS (1997)

State and congressional district	U.S. Representative (party)	Number of eligible children in families with income over 125% of poverty level	
		Total	Number who are likely to attend college[1]
Alabama:			
1	S. Callahan (R)	109,958	70,373
2	T. Everett (R)	115,268	73,771
3	B. Riley (R)	108,420	69,389
4	R. Aderholt (R)	109,574	70,127
5	B. Cramer (D)	115,499	73,919
6	S. Bachus (R)	116,191	74,362
7	E. Hilliard (D)	93,876	60,081
Alaska:			
Single district	D. Young (R)	192,307	71,154
Arkansas:			
1	M. Berry (D)	118,855	57,050
2	V. Snyder (D)	133,368	64,017
3	A. Hutchinson (R)	130,365	62,575
4	J. Dickey (R)	117,854	56,570
Arizona:			
1	M. Salmon (R)	141,109	70,555
2	E. Pastor (D)	132,973	66,486
3	B. Stump (R)	136,859	68,295
4	J. Shadegg (R)	139,219	69,609
5	J. Kolbe (R)	128,124	64,062
6	J.D. Hayworth (R)	143,739	71,870
California:			
1	F. Riggs (R)	118,120	72,053
2	W. Herger (R)	108,623	66,260
3	V. Fazio (D)	118,120	72,053
4	J. Doolittle (R)	119,307	72,777
5	R. Matsui (D)	106,249	64,812
6	L. Woolsey (D)	109,217	66,622
7	G. Miller (D)	121,682	74,226
8	N. Pelosi (D)	67,073	40,915
9	B. Lee (D)	89,629	54,674
10	E. Tauscher (D)	124,649	76,036
11	R. Pombo (R)	120,494	73,502
12	T. Lantos (D)	101,500	61,915
13	P. Stark (D)	125,243	76,398
14	A. Eshoo (D)	99,126	60,467
15	T. Cambell (R)	112,184	68,433
16	Z. Lofgren (R)	127,261	77,629
17	S. Farr (D)	118,536	72,307
18	G. Condit (D)	128,211	78,209
19	G. Radanovich (R)	118,702	72,408
20	C. Dooley (D)	115,087	70,203
21	W. Thomas (R)	125,718	76,688
22	L. Capps (D)	103,477	63,121
23	E. Gallegly (R)	131,713	80,345
24	B. Sheman (D)	105,655	64,450
25	B. McKeon (R)	133,434	81,395
26	H. Berman (D)	116,102	70,822
27	J. Rogan (R)	98,817	60,279
28	D. Dreier (R)	126,430	77,122
29	H. Waxman (D)	59,772	36,461
30	X. Becerra (D)	98,889	60,322
31	M. Martinez (D)	118,714	72,415
32	J. Dixon (D)	91,410	55,760
33	L. Roybal-Allard (D)	115,075	70,196
34	E. Torres (D)	134,740	82,191
35	M. Waters (D)	111,223	67,846
36	H. Harman (D)	94,555	57,679
37	J. Millender-McDon (D)	125,421	76,507
38	S. Horn (R)	102,865	62,748
39	E. Royce (R)	122,097	74,479
40	J. Lewis (R)	127,855	77,991
41	J. Kim (R)	140,379	85,631
42	G. Brown (D)	143,584	87,586
43	K. Calvert (R)	139,489	85,088
44	M. Bono (R)	116,636	71,148
45	D. Rohrabacher (R)	100,313	61,191
46	L. Sanchez (D)	121,147	73,900
47	C. Cox (R)	113,965	69,519
48	R. Packard (R)	123,450	75,305
49	B. Bilbray (R)	74,523	45,459
50	B. Filner (D)	119,901	73,140
51	R. Cunningham (R)	120,732	73,646
52	D. Hunter (R)	124,056	75,674
Colorado:			
1	D. DeGette (D)	97,017	50,449
2	D. Skaggs (D)	137,236	71,363
3	S. McInnis (R)	123,228	64,079
4	B. Schaffer (R)	137,667	71,587
5	J. Hefley (R)	147,008	76,444
6	D. Schaefer (R)	142,118	73,901
Connecticut:			
1	B. Kennelly (D)	105,416	62,195
2	S. Gejdenson (D)	116,249	68,587
3	R. DeLauro (D)	107,728	63,560
4	C. Shays (R)	107,593	63,480
5	J. Maloney (D)	121,727	71,819
6	N. Johnson (R)	117,467	69,305
Delaware:			
Single district	M. Castle (R)	148,092	96,260
District of Columbia:			
Delegate	E. Holmes-Norton (D)	55,515	34,364
Florida:			
1	J. Scarborough (R)	105,015	51,457
2	A. Boyd (D)	102,603	50,276
3	C. Brown (D)	97,342	47,697
4	T. Fowler (R)	107,207	52,532
5	K. Thurman (D)	77,566	38,008
6	C. Stearns (R)	108,084	52,961
7	J. Mica (R)	108,150	52,994
8	B. McCollum (R)	104,862	51,382
9	M. Bilirakis (R)	96,634	47,350
10	B. Young (R)	77,829	38,136
11	J. Davis (D)	95,193	46,645
12	C. Canady (R)	106,550	52,209
13	D. Miller (R)	77,939	38,190
14	P. Goss (R)	84,034	41,177
15	D. Weldon (R)	99,600	48,804
16	M. Foley (R)	94,711	46,408
17	C. Meek (D)	102,516	50,233
18	I. Ros-Lehtinen (R)	82,718	40,532
19	R. Wexler (D)	88,791	43,508
20	P. Deutsch (D)	105,673	51,780
21	L. Diaz-Balart (R)	111,395	54,583
22	C. Shaw (R)	58,339	28,586
23	A. Hastings (D)	99,819	48,911
Georgia:			
1	J. Kingston (R)	122,289	72,151
2	S. Bishop (D)	104,436	61,617
3	M. Collins (R)	139,461	82,282
4	C. McKinney (D)	129,267	76,268
5	J. Lewis (D)	94,173	55,562
6	N. Gingrich (R)	140,511	82,901
7	B. Barr (R)	130,930	77,249
8	S. Chambliss (R)	125,811	74,228
9	N. Deal (D)	126,757	74,786
10	C. Norwood (R)	125,162	73,845
11	J. Linder (R)	123,877	73,087
Hawaii:			
1	N. Abercrombie (D)	85,883	53,247
2	P. Mink (D)	105,297	65,284
Idaho:			
1	H. Chenoweth (R)	111,901	53,713
2	M. Crapo (R)	134,379	64,502
Illinois:			
1	B. Rush (D)	96,817	61,963
2	J. Jackson (D)	122,876	78,641
3	W. Lipinski (D)	120,353	77,026
4	L. Gutierrez (D)	128,044	81,948
5	R. Blagojevich (D)	92,506	59,204
6	H. Hyde (R)	130,909	83,782
7	D. Davis (D)	90,865	58,154
8	P. Crane (R)	146,021	93,453
9	S. Yates (D)	86,834	55,574
10	J. Porter (R)	138,134	88,406
11	J. Weller (R)	136,665	87,466
12	J. Costello (D)	113,207	72,452
13	H. Fawell (R)	155,443	99,483
14	D. Hastert (R)	150,405	96,259
15	T. Ewing (R)	116,361	74,471
16	D. Manzullo (R)	140,412	89,864
17	L. Evans (D)	118,541	75,866
18	R. LaHood (R)	127,725	81,744
19	G. Poshard (D)	113,300	72,512
20	J. Shimkus (R)	123,317	78,923
Indiana:			
1	P. Visclosky (D)	111,638	61,401
2	D. McIntosh (R)	103,673	57,020
3	T. Roemer (D)	115,806	63,693
4	M. Souder (R)	127,521	70,137
5	S. Buyer (R)	118,667	65,267
6	D. Burton (R)	125,156	68,836
7	E. Pease (R)	108,033	59,418
8	J. Hostettler (R)	101,105	55,608
9	L. Hamilton (D)	116,673	64,170
10	J. Carson (D)	98,097	53,953
Iowa:			
1	J. Leach (R)	134,186	85,879
2	J. Nussle (R)	136,633	87,445
3	L. Boswell (D)	127,263	81,449
4	G. Ganske (R)	135,757	86,884
5	T. Latham (R)	140,138	89,688
Kansas:			
1	J. Moran (R)	144,997	82,649
2	J. Ryun (R)	137,921	78,615
3	V. Snowbarger (R)	148,361	84,566
4	T. Tiahrt (R)	148,709	84,764
Kentucky:			
1	E. Whitfield (R)	108,223	53,029
2	R. Lewis (R)	122,191	59,874
3	A. Northup (R)	106,786	52,325
4	J. Bunning (R)	106,793	52,329
5	H. Rogers (R)	122,476	60,013
6	S. Baesler (D)	95,828	46,956
Louisiana:			
1	B. Livingston (R)	108,873	57,703
2	W. Jefferson (D)	83,892	44,463
3	B. Tauzin (R)	114,456	60,662
4	J. McCrery (R)	81,386	43,135
5	J. Cooksey (R)	103,361	54,782
6	R. Baker (R)	111,951	59,334
7	C. John (D)	111,808	59,258
Maine:			
1	T. Allen (D)	98,056	49,028
2	J. Baldacci (D)	87,165	43,582
Maryland:			
1	W. Gilchrest (R)	122,453	67,349
2	R. Ehrlich (R)	126,439	69,541
3	B. Cardin (D)	116,874	64,281
4	A. Wynn (D)	132,915	73,103
5	S. Hoyer (D)	135,008	74,254
6	R. Bartlett (R)	132,118	72,665
7	E. Cummings (D)	98,541	54,197
8	C. Morella (R)	132,018	72,610
Massachusetts:			
1	J. Olver (D)	120,136	78,088
2	R. Neal (D)	126,714	82,364
3	J. McGovern (D)	124,290	80,789
4	B. Frank (D)	123,852	80,504
5	M. Meehan (D)	131,445	85,439
6	J. Tierney (D)	119,674	77,788
7	E. Markey (D)	104,556	67,961
8	J. Kennedy (D)	76,744	49,883
9	J. Moakley (D)	109,865	71,412
10	W. Delahunt (D)	121,290	78,838
Michigan:			
1	B. Stupak (D)	119,337	71,602
2	P. Hoekstra (R)	134,397	80,638
3	V. Ehlers (R)	136,876	82,125
4	D. Camp (R)	119,719	71,831
5	J. Barcia (D)	121,053	72,632
6	F. Upton (R)	118,194	70,916
7	N. Smith (R)	124,675	74,805
8	D. Stabenow (D)	124,294	74,576
9	D. Kildee (D)	119,337	71,602
10	D. Bonior (D)	127,725	76,635
11	J. Knollenberg (R)	125,438	75,263
12	S. Levin (D)	120,862	72,517
13	L. Rivers (D)	116,668	70,001
14	J. Conyers (D)	101,418	60,851
15	C. Kilpatrick (D)	74,348	44,609
16	J. Dingell (D)	122,006	73,204
Minnesota:			
1	G. Gutknecht (R)	140,016	74,208
2	D. Minge (D)	146,786	77,796
3	J. Ramstad (R)	149,042	78,992
4	B. Vento (D)	120,351	63,786
5	M. Sabo (D)	90,263	47,840
6	B. Luther (D)	162,582	86,168
7	C. Peterson (D)	134,321	71,190
8	J. Oberstar (D)	131,204	69,538
Mississippi:			
1	R. Wicker (R)	103,157	71,178
2	B. Thompson (D)	83,724	57,770
3	C. Pickering (R)	100,691	69,477
4	M. Parker (R)	93,730	64,674
5	G. Taylor (D)	102,093	70,444
Missouri			
1	B. Clay (D)	132,587	67,619
2	J. Talent (R)	178,713	91,144
3	R. Gephardt (D)	157,259	80,202
4	I. Skelton (D)	155,542	79,327
5	K. McCarthy (D)	140,310	71,558
6	P. Danner (D)	160,906	82,062
7	R. Blunt (R)	143,957	73,418
8	J. Emerson (R)	135,161	68,932
9	K. Hulshof (R)	163,266	83,266
Montana: Single district.	R. Hill (R)	167,712	90,564
Nebraska:			
1	D. Bereuter (R)	114,111	68,466
2	J. Christensen (R)	121,139	72,684
3	B. Barrett (R)	116,184	69,710
Nevada:			
1	J. Ensign (R)	151,025	57,389
2	J. Gibbons (R)	168,267	63,941
New Hampshire:			
1	J. Sununu (R)	115,308	64,572
2	C. Bass (R)	116,934	65,483
New Jersey:			
1	R. Andrews (D)	117,947	75,486
2	F. LoBiondo (R)	108,200	69,248
3	J. Saxton (R)	119,218	76,300
4	C. Smith (R)	113,568	72,684
5	M. Roukema (R)	121,478	77,746
6	F. Pallone (D)	104,669	66,988
7	B. Franks (R)	108,200	69,248
8	W. Pascrell (D)	102,127	65,361
9	S. Rothman (D)	92,521	59,214
10	D. Payne (D)	96,900	62,016
11	R. Frelinghuysen (R)	117,665	75,305
12	M. Pappas (R)	119,360	76,390
13	R. Menendez (D)	90,685	58,038
New Mexico:			
1	H. Wilson (R)	111,873	60,411

NUMBER OF CHILDREN WHO COULD BENEFIT FROM PREPAID TUITION PLANS (1997)—Continued

State and congressional district	U.S. Representative (party)	Number of eligible children in families with income over 125% of poverty level	
		Total	Number who are likely to attend college[1]
2	J. Skeen (R)	110,860	59,864
3	B. Redmond (R)	114,946	62,071
New York:.			
1	M. Forbes (R)	126,450	88,515
2	R. Lazio (R)	121,392	84,975
3	P. King (R)	111,909	78,336
4	C. McCarthy (D)	112,225	78,557
5	G. Ackerman (D)	103,373	72,361
6	G. Meeks (D)	113,173	79,221
7	T. Manton (D)	81,561	57,092
8	J. Nadler (D)	62,593	43,815
9	C. Schumer (D)	90,096	63,067
10	E. Towns (D)	88,199	61,739
11	M. Owens (D)	107,167	75,017
12	N. Velazquez (D)	84,406	59,084
13	V. Fossella (R)	104,322	73,025
14	C. Maloney (D)	51,529	36,070
15	C. Rangel (D)	68,283	47,798
16	J. Serrano (D)	80,612	56,428
17	E. Engel (D)	92,309	64,616
18	N. Lowey (D)	96,102	67,272
19	S. Kelly (R)	117,915	82,540
20	B. Gilman (R)	124,238	86,966
21	M. McNulty (D)	102,425	71,697
22	G. Solomon (R)	121,709	85,196
23	S. Boehlert (R)	110,960	77,672
24	J. McHugh (R)	117,283	82,098
25	J. Walsh (R)	115,070	80,549
26	M. Hinchey (D)	104,322	73,025
27	B. Paxon (R)	123,289	86,302
28	L. Slaughter (D)	105,586	73,910
29	J. LaFalce (D)	107,167	75,017
30	J. Quinn (R)	102,425	71,697
31	A. Houghton (R)	113,489	79,442
North Carolina			
1	E. Clayton (D)	95,341	48,624
2	B. Etheridge (D)	108,085	55,123
3	W. Jones (R)	110,897	56,557
4	D. Price (D)	108,506	55,338
5	R. Burr (R)	103,406	52,737
6	H. Coble (R)	110,594	56,403
7	M. McIntyre (D)	107,856	55,006
8	B. Hefner (D)	120,546	61,479
9	S. Myrick (R)	118,039	60,200
10	C. Ballenger (R)	114,700	58,497
11	C. Taylor (R)	97,202	49,573
12	M. Watt (D)	102,001	52,021
North Dakota: Single district.	E. Pomeroy (D)	131,864	89,667
Ohio:			
1	S. Chabot (R)	108,478	55,324
2	R. Portman (R)	134,306	68,496
3	T. Hall (D)	111,622	56,927
4	M. Oxley (R)	127,343	64,945
5	P. Gillmore (R)	138,573	70,672
6	T. Strickland (D)	107,579	54,865
7	D. Hobson (R)	123,525	62,998
8	J. Boehner (R)	132,958	67,809
9	M. Kaptur (D)	118,135	60,249
10	D. Kucinich (D)	110,948	56,583
11	L. Stokes (D)	94,777	48,337
12	J. Kasich (R)	119,932	61,165
13	S. Brown (D)	135,204	68,954
14	T. Sawyer (D)	109,600	55,896
15	D. Pryce (R)	109,600	55,896
16	R. Regula (R)	121,279	61,852
17	J. Traficant (D)	109,151	55,667
18	B. Ney (R)	113,868	58,073
19	S. LaTourette (R)	119,258	60,822
Oklahoma:			
1	S. Largent (R)	103,052	50,495
2	T. Coburn (R)	97,609	47,828
3	W. Watkins (R)	89,236	43,726
4	J. C. Watts (R)	106,521	52,195
5	E. Istook (R)	104,069	50,994
6	F. Lucas (R)	97,669	47,858
Oregon:			
1	E. Furse (D)	117,445	66,944
2	R. Smith (R)	109,222	62,256
3	E. Blumenauer (D)	105,138	59,929
4	P. DeFazio (D)	105,910	60,369
5	D. Hooley (D)	114,189	65,088
Pennsylvania:			
1	R. Brady (D)	86,253	49,164
2	C. Fattah (D)	83,100	47,367
3	R. Borski (D)	103,594	59,049
4	R. Klink (D)	108,323	61,744
5	J. Peterson (R)	105,396	60,076
6	T. Holden (D)	108,999	62,129
7	C. Weldon (R)	112,377	64,055
8	J. Greenwood (R)	131,745	75,094
9	B. Shuster (R)	111,927	63,798
10	J. McDade (R)	111,251	63,413
11	P. Kanjorski (D)	102,018	58,150
12	J. Murtha (D)	102,693	58,535
13	J. Fox (R)	116,656	66,494
14	W. Coyne (D)	84,452	48,137
15	P. McHale (D)	112,602	64,183
16	J. Pitts (R)	127,466	72,655
17	G. Gekas (R)	117,782	67,136
18	M. Doyle (D)	97,514	55,583
19	W. Goodling (R)	117,332	66,879
20	F. Mascara (D)	100,892	57,508
21	P. English (R)	109,675	62,515
Rhode Island:			
1	P. Kennedy (D)	79,820	51,883
2	R. Weygand (D)	83,345	54,174
South Carolina:			
1	M. Sanford (R)	115,317	66,884
2	F. Spence (R)	112,748	65,394
3	L. Graham (R)	109,390	63,446
4	B. Inglis (R)	110,114	63,866
5	J. Spratt (D)	112,814	65,432
6	J. Clyburn (D)	98,194	56,952
South Dakota Single district.	J. Thune (R)	140,376	70,188
Tennessee:			
1	W. Jenkins (R)	96,498	52,109
2	J. Duncan (R)	101,581	54,854
3	Z. Wamp (R)	104,267	56,304
4	V. Hilleary (R)	104,555	56,460
5	B. Clement (D)	100,143	54,077
6	B. Gordon (D)	125,082	67,544
7	E. Bryant (R)	124,123	67,026
8	J. Tanner (D)	108,871	58,791
9	H. Ford (D)	94,004	50,762
Texas:			
1	M. Sandlin (D)	109,450	54,725
2	J. Turner (D)	111,250	55,625
3	S. Johnson (R)	137,172	68,586
4	R. Hall (D)	124,931	62,466
5	P. Sessions (R)	109,090	54,545
6	J. Barton (R)	143,653	71,826
7	B. Archer (R)	140,772	70,386
8	K. Brady (R)	140,412	70,206
9	N. Lampson (D)	119,891	59,945
10	L. Doggett (D)	107,650	53,825
11	C. Edwards (D)	114,850	57,425
12	K. Granger (R)	121,331	60,665
13	W. Thornberry (R)	110,890	55,445
14	R. Paul (R)	117,730	58,865
15	R. Hinojosa (D)	101,169	50,584
16	S. Reyes (D)	114,490	57,245
17	C. Stenholm (D)	114,130	57,065
18	S. Lee (D)	96,128	48,064
19	L. Combest (D)	130,332	65,166
20	H. Gonzalez (D)	107,650	53,825
21	L. Smith (R)	125,651	62,826
22	T. DeLay (R)	142,573	71,286
23	H. Bonilla (R)	118,090	59,045
24	M. Frost (D)	132,852	66,426
25	K. Bentsen (D)	128,891	64,446
26	R. Armey (R)	132,132	66,066
27	S. Ortiz (D)	109,810	54,905
28	C. Rodriguez (D)	113,770	56,885
29	G. Green (D)	118,090	59,045
30	E. Johnson (D)	106,209	53,105
Utah:			
1	J. Hansen (R)	180,375	101,010
2	M. Cook (R)	166,456	93,215
3	C. Cannon (R)	174,484	97,711
Vermont: Single district.	B. Sanders (I)	114,170	58,227
Virginia:			
1	H. Bateman (R)	105,583	55,959
2	O. Pickett (D)	103,453	54,830
3	R. Scott (D)	80,333	42,576
4	N. Sisisky (D)	101,961	54,039
5	V. Goode (D)	87,791	46,529
6	B. Goodlatte (R)	87,045	46,134
7	T. Bliley (R)	106,223	56,298
8	J. Moran (D)	83,103	44,045
9	R. Boucher (D)	81,718	43,311
10	F. Wolf (R)	116,770	61,888
11	T. Davis (R)	111,017	58,839
Washington:			
1	R. White (R)	135,518	77,245
2	J. Metcalf (R)	131,200	74,784
3	L. Smith (R)	128,543	73,269
4	D. Hastings (R)	125,111	71,313
5	G. Nethercutt (R)	118,578	67,590
6	N. Dicks (D)	121,236	69,104
7	J. McDermott (D)	79,606	45,375
8	J. Dunn (R)	145,372	82,862
9	A. Smith (D)	126,993	72,386
West Virginia:			
1	A. Mollohan (D)	75,146	37,573
2	B. Wise (D)	78,123	39,062
3	N. Rahall (D)	70,579	35,290
Wisconsin:			
1	M. Neumann (R)	123,637	74,182
2	S. Klug (R)	117,215	70,329
3	R. Kind (D)	122,113	73,268
4	G. Kleczka (D)	119,686	71,812
5	T. Barrett (D)	93,816	56,290
6	T. Petri (R)	126,575	75,945
7	D. Obey (D)	124,616	74,770
8	J. Johnson (D)	126,466	75,880
9	J. Sensenbrenner (R)	138,982	83,389
Wyoming: Single district.	B. Cubin (R)	105,143	55,726
United States		48,464,580	30,048,040

[1] This figure was obtained by multiplying the number of children considered eligible to use the prepaid tuitions by the state percentage of high school graduates who attend college. This study does not attempt to predict the increase in number of children who would attend college as a result of the prepaid tuition plans.

[2] All data were taken from the 1997 March Current Population Survey and other Bureau of the Census tabulations.

Sources: U.S. Census Bureau and tabulations by The Heritage Foundation.

State	Number of eligible children in families with income over 125% of poverty level	
	Total	Number who are likely to attend college
Alabama	769,479	492,466
Alaska	192,307	71,154
Arizona	821,835	410,918
Arkansas	500,442	240,212
California	5,935,685	3,620,768
Colorado	784,294	407,833
Connecticut	676,262	398,994
Delaware	148,092	96,260
District of Columbia	55,515	34,419
Florida	2,192,380	1,074,266
Georgia	1,362,858	804,086
Hawaii	188,381	116,796
Idaho	244,326	117,277
Illinois	2,449,191	1,567,482
Indiana	1,126,515	619,583
Iowa	674,064	431,401
Kansas	579,989	330,594
Kentucky	664,549	325,629
Louisiana	715,800	379,374
Maine	185,220	92,610
Maryland	996,365	548,001
Massachusetts	1,154,041	750,127
Michigan	1,906,347	1,143,808
Minnesota	1,074,564	569,519
Mississippi	483,396	333,543
Missouri	1,072,706	547,080
Montana	167,712	90,564
Nebraska	351,434	210,860
Nevada	319,292	121,331
New Hampshire	232,242	130,055
New Jersey	1,412,539	904,025
New Mexico	337,678	182,346
New York	3,161,260	2,212,882
North Carolina	1,297,173	661,558
North Dakota	131,864	89,667
Ohio	2,245,912	1,145,415
Oklahoma	598,095	293,067
Oregon	551,904	314,586
Pennsylvania	2,252,045	1,283,666
Rhode Island	163,165	106,057
South Carolina	658,577	381,975
South Dakota	140,376	70,188
Tennessee	959,220	517,979
Texas	3,600,318	1,800,159
Utah	521,315	291,936
Vermont	114,170	58,227
Virginia	1,065,424	564,675
Washington	1,107,174	631,089
West Virginia	223,849	111,924
Wisconsin	1,088,351	653,011
Wyoming	105,143	55,726

Mr. GRAHAM. Mr. President, I am proud to join Senator SESSIONS and other colleagues in launching an initiative to increase Americans' access to college education. Today, we are introducing the Collegiate Learning and Student Savings Act. This bill would extend tax-free treatment to all state sponsored prepaid tuition plans and state savings plans in the year 2000.

This legislation would also give prepaid tuition plans established by private colleges and universities tax-deferred treatment in 2000, and tax-exempt status by 2004.

Prepaid college tuition and savings programs have flourished at the state level in the face of spiraling college costs. According to the College Board, between 1980 and 1997, tuition at public colleges increased by 107 percent, while the median income increased just 12 percent. The cause of this dramatic increase in tuition is the subject of significant debate. But whether these increases are attributable to increased costs to the universities, reductions in state funding for public universities, or the increased value of a college degree, the fact remains that financing a college education has become increasingly difficult.

Although the federal government has increased its aid to college students over the years, it is the states who have engineered innovative ways to help its families afford college. Michigan implemented the first prepaid tuition plan in 1986. Florida followed in 1988. today 43 states have either implemented or are in the process of implementing prepaid tuition plans or state savings plans.

Mr. President, prepaid college tuition plans allow parents to pay prospectively for their children's higher education at participating universities. States pool these funds and invest them in a manner that will match or exceed the pace of educational inflation. This "locks in" current tuition and guarantees financial access to a future college education. Congress has already acted to ensure that tax on distributions from state sponsored programs are tax-deferred.

Senator SESSIONS and I believe the 106th Congress must move to make state programs 100 percent tax free. Students should be able to enroll in college without fear of then having to pay taxes on the money accrued. The legislation would extend the same treatment to private college prepaid programs in 2004.

We believe that these programs should be tax free for numerous reasons. First, for most families, they have in essence purchased a service to be provided in the future. The accounts are not liquid. The funds are transferred from the state directly to the college or university. Under current policy, the student is required to find other means of generating the funds to pay the tax. Second, Congress should make these programs tax free in order to encourage savings and college attendance.

Perhaps most importantly, prepaid tuition and savings programs help middle income families afford a college education. Florida's experience shows that it is not higher income families who take most advantage of these plans. It is middle income families who want the discipline of monthly payments. They know that they would have a difficult time coming up with funds necessary to pay for college if they waited until their child enrolled. In Florida, more than 70 percent of participants in the state tuition program have family incomes of less than $50,000.

I am pleased to have this opportunity to join my colleagues in support of good tax policies which enhance our higher education goals. Prepaid tuition plans deserve our support through enactment of legislation that would make them tax-free for American families and students.

By Mr. COVERDELL (for himself and Mr. TORRICELLI):

S. 14. A bill to amend the Internal Revenue Code of 1986 to expand the use of education individual retirement accounts, and for other purposes; to the Committee on Finance.

EDUCATION SAVINGS ACCOUNT ACT OF 1999

Mr. COVERDELL. Mr. President, I rise today to introduce the Education Savings Account Act of 1999.

Under this bill, parents will have more control over their children's education through IRA-style savings accounts that allow parents to save money tax-free for elementary and secondary education expenses. This legislation allows parents, grandparents, or scholarship sponsors to contribute up to $2,000 (post-tax dollars) a year per child for educational expenses while at public, private, religious or home schools—from kindergarten through high school. The accumulated interest in the savings accounts is tax-free if used for the child's education.

Just consider the benefits of these innovative education savings accounts: if a parent placed $2,000 each year in an education savings account beginning in the year of a child's birth, then assuming a 7.5% interest rate, $14,488 would be available by the first grade, $36,847 by the time the child starts junior high school, and $46,732 when the child starts high school.

For a child attending public school, this money could be used for after-school tutoring, car pooling or other transportation costs, school uniforms, or for a home computer. The Joint Committee on Taxation estimates that 75% of all families using these accounts—10.8 million families—will use them to support children in public schools.

These savings accounts give parents the power to obtain the necessary tools to overcome current obstacles to obtaining a quality education for their children.

This legislation is modeled on the Education Savings Accounts that were established for college as part of the bipartisan Taxpayer Relief Act of 1997. Last year, a similar version of this bill passed both the House and the Senate but was vetoed by President Clinton.

I am confident that because this is an idea that benefits millions of working American families, President Clinton will put aside his differences and join us in our effort this Congress.

By Mr. DODD (for himself, Mr. DASCHLE, Mr. KENNEDY, Mr. HARKIN, Mr. AKAKA, Mrs. MURRAY, Mr. KOHL, Mr. KERRY, Mr. KERREY, Mr. BINGAMAN, Mr. BRYAN, Mr. SARBANES, Mr. BIDEN, Mrs. BOXER, Mr. BREAUX, Mr. DURBIN, Mr. JOHNSON, Ms. LANDRIEU, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. REED, Mr. SCHUMER, Mr. TORRICELLI, Mr. WELLSTONE, Mr. LAUTENBERG, and Mrs. FEINSTEIN).

S. 17. A bill to increase the availability, affordability, and quality of child care; to the Committee on Health, Education, Labor, and Pensions.

CHILD CARE A.C.C.E.S.S. ACT (AFFORDABLE CHILD CARE FOR EARLY SUCCESS AND SECURITY)

Mr. DODD. Mr. President, I rise today to introduce the Child Care A.C.C.E.S.S. (Affordable Child Care for Early Success and Security) Act, legislation designed to improve the quality, affordability and accessibility of child care in America.

Any member who spent time in his or her state over the past two months enters the 106th Congress knowing with certainty that no issue weighs more heavily on the minds of parents in this country than how their children are cared for.

Parents worry that they can't afford to take time away from work to be with their children. When they must work, they worry that the child care they need will be unavailable, unaffordable or unsafe. It's a constant, daily struggle.

The challenge before us is straightforward: to do a better job of supporting families in the choices they make about the care of their children.

Providing support for families' choices does not require inventing a slew of new programs. We have programs already in existence that work and that enjoy bipartisan support. Our goal should be to build on the foundation we've already laid with programs like the Child Care and Development Block Grant, 21st Century Community Learning Centers, and with targeted tax credits that help working families defray the costs of raising children.

But, providing real support does require making sure that adequate resources are there when families need them. And that's where we're falling short.

Mr. President, this is the reality in communities across the country:

Because of a lack of funding, the Child Care and Development Block

Grant serve only 1 out of 10 eligible children. In two-thirds of our states, families earning $25,000 make too much to be eligible for any assistance through the block grant. Ironically, these same families earn too little and have too little tax liability to take full advantage of the non-refundable Dependent Care Tax Credit. What kind of choices do those families have when full-day child care costs $4,000 to $10,000 per year—equal to the cost of college tuition plus room and board at many public universities?

Many parents are dismayed to learn that some kinds of care are unavailable at any cost. For example, care for infants is virtually non-existent in many communities. And the problem is only getting worse. The GAO estimates that by the time the 50 percent welfare to work participation goal is reached in 2002, 88 percent of parents with infants needing child care will not be able to find it. This corresponds to 24,000 young children, in the city of Chicago alone, without child care. What choices will those parents have?

We know conclusively that the experiences in the first months and years of children's lives play a significant role in shaping their future. Many parents would prefer to be able to stay home with their children during that critical time, but are unable to shoulder the financial burden of losing an income. What choices are we offering those families?

Options are also limited for parents of school-age children. Five million children go unsupervised each day between the hours of 3 and 6 pm. Not coincidentally, these are the hours when juvenile crime peaks and when children are at an increased risk of being victims of crimes themselves. We also know that eighth-graders left home alone after school report greater use of cigarettes, alcohol, and marijuana than those who are in adult-supervised settings. What kind of choices do parents have when more than half of schools offer no afterschool programs?

Even when families can find affordable care, they still must worry about whether that care will be safe. Studies have found that only one in seven child care centers provides care that promotes healthy development. Child care at one in eight centers actually threatens children's health and safety. And infants and toddlers—our youngest and most vulnerable children—fare the worst. Almost half of infant and toddler care endangers health and safety. What kind of choices are we offering parents who must work but want their children to be in safe and loving environments?

I know that some will argue that child care is a private problem and one that families should be left to solve on their own. If so, then we would be treating child care very differently than we do other essential children's needs, like education and health care.

For example, we don't expect families to bear the financial costs of educating their children alone. In addition to providing public elementary and secondary schools, we pick up three-quarters of the costs of educating a student at a public university.

And we don't expect families to shoulder the burden of providing health care for their children alone. Two-thirds of families have that expense subsidized through their employers or through public programs such as Medicaid and the Children's Health Insurance Program.

We as a nation have an interest in well-educated and healthy children. And so, we accept that the federal government, states and employers play a role in getting us to these laudable goals—of public education and health.

I believe that there is just as compelling a national interest in making sure our children are safe and well-cared for. That is why I rise today to offer a plan that will broadly improve the ability of families to make better choices when it comes to our children's care.

There are seven main parts to our initiative:

First, our bill would provide an additional $7.5 billion over 5 years through the Child Care and Development Block Grant to increase the amount of child care subsidies available to working families. This investment will double the number of children served by the block grant to 2 million by 2004.

Second, this legislation will provide $2 billion over 5 years to encourage states to invest in activities known to produce significant improvements in the quality of child care. For example, we will help states to: bring provider-child ratios to nationally recommended levels; improve the enforcement of quality standards by conducting unannounced inspections; conduct background checks on child care providers; improve the compensation, education and training of child care providers; educate parents how to find good quality child care; and ensure that high quality child care is available to children with disabilities.

In addition, this bill would involve communities in improving the quality of early childhood development by providing $2.5 billion over 5 years in grants to local collaboratives to strengthen services for young children. The bill would also encourage dedicated child care providers to stay in the profession by helping with the repayment of educational loans.

This initiative would provide $2 billion over 5 years to increase the supply and quality of school-age care through the Child Care and Development Block Grant. In addition, we would encourage more schools to keep their doors open beyond the regular school day by expanding the 21st Century Community Learning Centers program to $600 million in FY 2000.

This bill would also expand the existing Dependent Care Tax Credit for families earning under $60,000 and index the credit for inflation to help it keep pace with rising child care costs. We would also make the credit refundable so that families with little or no tax liability (those making under $30,000) can receive assistance with child care expenses.

This legislation would also provide new assistance for families who make the difficult choice to forgo a second income or career and to stay at home with their children. Stay-at-home parents with children under the age of 1 could claim up to $540 through an expansion of the existing Dependent Care Tax Credit. This new credit would also be made refundable—to allow stay-at-home parents earning under $30,000 to benefit.

This bill would create a new discretionary program of competitive "challenge grants" in which communities who generate funds from the private sector would be eligible for matched federal grants to improve the availability and quality of child care on a community-wide basis. This program would be authorized at $400 million over 5 years. We would provide a new tax incentive to open high quality, on-site child care centers or to assist their employees in finding and paying for child care off-site.

Finally, we would also ensure that the federal government leads by example in providing its workers only the highest quality child care. Many people would be surprised to hear that federal child care facilities are currently exempted from state quality regulations. In this bill we require that all federal child care centers meet all state licensing standards.

Mr. President, this is a comprehensive package—it is a bold agenda—but it is not pie in the sky. We can and must do this for America's families.

I was disappointed, but not disheartened, about the lack of progress made on this front last year, when I introduced similar legislation. But I know that all good things take time. I fought for more than 3 years to see the enactment of the original Child Care and Development Block Grant and 8 years to see the signing of the Family and Medical Leave Act.

But, I'm not looking to set any new endurance records with this legislation. I am hopeful that this year, we can work together again to give families the resources they need to better care for their children.

Mr. President, I would ask unanimous consent that a summary of this bill be printed in the RECORD. I would also ask unanimous consent that letters of support from the Children's Defense Fund and the National Women's Law Center be included in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 17

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Child Care ACCESS (Affordable Child Care for Early Success and Security) Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—IMPROVING THE AFFORDABILITY OF CHILD CARE

Sec. 101. Increased appropriations for child care grants.

TITLE II—ENHANCING THE QUALITY OF CHILD CARE AND EARLY CHILDHOOD DEVELOPMENT

Subtitle A—Child Care

Sec. 201. Grants to improve the quality of child care.

Subtitle B—Young Child Assistance Activities

Sec. 211. Definitions.
Sec. 212. Allotments to States.
Sec. 213. Grants to local collaboratives.
Sec. 214. Supplement not supplant.
Sec. 215. Authorization of appropriations.

Subtitle C—Loan Cancellation for Child Care Providers

Sec. 221. Loan cancellation.

TITLE III—EXPANDING THE AVAILABILITY AND QUALITY OF SCHOOL-AGE CHILD CARE

Sec. 301. Appropriations for after-school care.
Sec. 302. Amendments to the 21st Century Community Learning Centers Act.

TITLE IV—SUPPORTING FAMILY CHOICES IN CHILD CARE

Sec. 401. Expanding the dependent care tax credit.
Sec. 402. Minimum credit allowed for stay-at-home parents.
Sec. 403. Credit made refundable.

TITLE V—ENCOURAGING PRIVATE SECTOR INVOLVEMENT

Sec. 501. Allowance of credit for employer expenses for child care assistance.
Sec. 502. Grants to support public-private partnerships.

TITLE VI—CHILD CARE IN FEDERAL FACILITIES

Sec. 601. Short title.
Sec. 602. Providing quality child care in Federal facilities.
Sec. 603. Child care services for Federal employees.
Sec. 604. Miscellaneous provisions relating to child care provided by Federal agencies.
Sec. 605. Requirement to provide lactation support in new Federal child care facilities.
Sec. 606. Federal child care evaluation.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Each day an estimated 13,000,000 children spend some part of their day in child care.

(2) Fifty-four percent of mothers with children between the ages of 0–3 are in the work force. Labor force participation rises to 63 percent for mothers with children under the age of 6 and to 78 percent for mothers with children ages 6–17.

(3) The availability of child care that is reliable, convenient, and affordable helps parents to reach and maintain self-sufficiency and is essential to making the transition from welfare to work.

(4) Only an estimated 1 out of 10 eligible families receive assistance in paying for child care through the Child Care and Development Block Grant Act of 1990.

(5) Full-day child care can cost $4,000 to $9,000 a year.

(6) In many instances, high quality child care services cost little more than mediocre services. An investment of only an additional 10 percent has been found to have a significant impact on quality.

(7) Only 1 in 7 child care centers provides care that promotes healthy development. Child care at 1 in 8 centers actually threatens children's health and safety.

(8) The education, training, and salary of a child care provider make the difference between poor and good quality child care.

(A) The average salary of a child care provider in a center is only $12,058 a year, which is approximately equal to the poverty level for a family of 3.

(B) Home-based providers earn $9,000 a year on average.

(9) Poor compensation and limited opportunities for professional training and education contribute to high turnover among child care providers, which disrupts the creation of strong provider-child relationships that are critical to children's healthy development.

(10) Children placed in poor quality child care settings have been found to have delayed language and reading skills, as well as increased aggressive behavior toward other children and adults.

(11) Nearly 5,000,000 children are home alone after school each week.

(12) Although it is thought that juvenile crime occurs mostly on evenings and weekends, juvenile crime actually peaks between 3 and 6 p.m.

(13) Eighth-graders left home alone after school report greater use of cigarettes, alcohol, and marijuana than those in adult-supervised settings.

TITLE I—IMPROVING THE AFFORDABILITY OF CHILD CARE

SEC. 101. INCREASED APPROPRIATIONS FOR CHILD CARE GRANTS.

Section 418(a)(3) of the Social Security Act (42 U.S.C. 618(a)(3)) is amended by striking subparagraphs (C) through (F) and inserting the following:

"(C) $3,167,000,000 for fiscal year 2000;
"(D) $3,367,000,000 for fiscal year 2001;
"(E) $4,067,000,000 for fiscal year 2002;
"(F) $4,717,000,000 for fiscal year 2003; and
"(G) $4,717,000,000 for fiscal year 2004.".

TITLE II—ENHANCING THE QUALITY OF CHILD CARE AND EARLY CHILDHOOD DEVELOPMENT

Subtitle A—Child Care

SEC. 201. GRANTS TO IMPROVE THE QUALITY OF CHILD CARE.

Section 418 of the Social Security Act (42 U.S.C. 618) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) GRANTS TO IMPROVE THE QUALITY OF CHILD CARE AND EARLY CHILDHOOD DEVELOPMENT.—

"(1) SECRETARIAL AUTHORITY.—The Secretary shall use the amounts appropriated under paragraph (2) to make grants to States in accordance with this subsection.

"(2) APPROPRIATION.—For grants under this section, there are appropriated—

"(A) $150,000,000 for fiscal year 2000;
"(B) $200,000,000 for fiscal year 2001;
"(C) $300,000,000 for fiscal year 2002;
"(D) $350,000,000 for fiscal year 2003; and
"(E) $1,000,000,000 for fiscal year 2004.

"(3) ALLOTMENTS TO STATES.—The amounts appropriated under paragraph (2) for payments to States under this paragraph shall be allotted among the States in the same manner as amounts (including the redistribution of unused amounts) are allotted or redistributed, as the case may be, under subsection (a)(2), except that the matching requirement of subsection (a)(2)(C) shall not apply to a grant made under this subsection.

"(4) USE OF FUNDS.—Funds received by a State through a grant made under this subsection may be used for any of the following:

"(A) Bringing provider-child ratios up to standards recommended by nationally recognized child care accrediting bodies.

"(B) Improving the enforcement of licensing standards, including the use of unannounced inspections of child care providers.

"(C) Conducting background checks on child care providers.

"(D) Providing increased payment rates for child care services for infants and for children with special health care needs.

"(E) Providing increased payment rates for child care services offered by licensed or accredited providers.

"(F) Improving the compensation of child care providers.

"(G) Assisting child care providers in becoming licensed or accredited.

"(H) Expanding activities to educate parents on the availability and quality of child care, including the development and operation of resource and referral systems.

"(I) Creating support networks and mentoring and apprenticeship programs for family child care providers.

"(J) Establishing linkages between child care services and health care services.

"(K) Offering training and education to child care providers, including offering scholarships and tax credits to assist with the expenses of obtaining such training and education.

"(L) Providing family support and parent education.

"(M) Ensuring the availability and quality of child care for children with special health care needs.".

Subtitle B—Young Child Assistance Activities

SEC. 211. DEFINITIONS.

In this subtitle:

(1) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) POVERTY LINE.—The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(4) STATE BOARD.—The term "State board" means a State Early Learning Coordinating Board established under section 212(c).

(5) YOUNG CHILD.—The term "young child" means an individual from birth through age 5.

(6) YOUNG CHILD ASSISTANCE ACTIVITIES.—The term "young child assistance activities"

means the activities described in paragraphs (1) and (2)(A) of section 213(b).

SEC. 212. ALLOTMENTS TO STATES.

(a) In General.—The Secretary shall make allotments under subsection (b) to eligible States to pay for the Federal share of the cost of enabling the States to make grants to local collaboratives under section 213 for young child assistance activities.

(b) Allotment.—

(1) In general.—From the funds appropriated under section 215 for each fiscal year and not reserved under subsection (i), the Secretary shall allot to each eligible State an amount that bears the same relationship to such funds as the total number of young children in poverty in the State bears to the total number of young children in poverty in all eligible States.

(2) Young child in poverty.—In this subsection, the term "young child in poverty" means an individual who—

(A) is a young child; and

(B) is a member of a family with an income below the poverty line.

(c) State Boards.—

(1) In general.—In order for a State to be eligible to obtain an allotment under this subtitle, the Governor of the State shall establish, or designate an entity to serve as, a State Early Learning Coordinating Board, which shall receive the allotment and make the grants described in section 213.

(2) Established board.—A State board established under paragraph (1) shall consist of the Governor and members appointed by the Governor, including—

(A) representatives of all State agencies primarily providing services to young children in the State;

(B) representatives of business in the State;

(C) chief executive officers of political subdivisions in the State;

(D) parents of young children in the State;

(E) officers of community organizations serving low-income individuals, as defined by the Secretary, in the State;

(F) representatives of State nonprofit organizations that represent the interests of young children in poverty, as defined in subsection (b)(2), in the State;

(G) representatives of organizations providing services to young children and the parents of young children, such as organizations providing child care, carrying out Head Start programs under the Head Start Act (42 U.S.C. 9831 et seq.), providing services through a family resource center, providing home visits, or providing health care services, in the State; and

(H) representatives of local educational agencies.

(3) Designated board.—The Governor may designate an entity to serve as the State board under paragraph (1) if the entity includes the Governor and the members described in subparagraphs (A) through (G) of paragraph (2).

(4) Designated state agency.—The Governor shall designate a State agency that has a representative on the State board to provide administrative oversight concerning the use of funds made available under this subtitle and ensure accountability for the funds.

(d) Application.—To be eligible to receive an allotment under this subtitle, a State board shall annually submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. At a minimum, the application shall contain—

(1) sufficient information about the entity established or designated under subsection (c) to serve as the State board to enable the Secretary to determine whether the entity complies with the requirements of such subsection;

(2) a comprehensive State plan for carrying out young child assistance activities;

(3) an assurance that the State board will provide such information as the Secretary shall by regulation require on the amount of State and local public funds expended in the State to provide services for young children; and

(4) an assurance that the State board shall annually compile and submit to the Secretary information from the reports referred to in section 213(e)(2)(F)(iii) that describes the results referred to in section 213(e)(2)(F)(i).

(e) Federal Share.—

(1) In general.—The Federal share of the cost described in subsection (a) shall be—

(A) 85 percent, in the case of a State for which the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b))) is not less than 50 percent, but is less than 60 percent;

(B) 87.5 percent, in the case of a State for which such percentage is not less than 60 percent, but is less than 70 percent; and

(C) 90 percent, in the case of any State not described in subparagraph (A) or (B).

(2) State share.—

(A) In general.—The State shall contribute the remaining share (referred to in this paragraph as the "State share") of the cost described in subsection (a).

(B) Form.—The State share of the cost shall be in cash.

(C) Sources.—The State may provide for the State share of the cost from State or local sources, or through donations from private entities.

(f) State Administrative Costs.—

(1) In general.—A State may use not more than 5 percent of the funds made available through an allotment made under this subtitle to pay for a portion, not to exceed 50 percent, of State administrative costs related to carrying out this subtitle.

(2) Waiver.—A State may apply to the Secretary for a waiver of paragraph (1). The Secretary may grant the waiver if the Secretary finds that unusual circumstances prevent the State from complying with paragraph (1). A State that receives such a waiver may use not more than 7.5 percent of the funds made available through the allotment to pay for the State administrative costs.

(g) Monitoring.—The Secretary shall monitor the activities of States that receive allotments under this subtitle to ensure compliance with the requirements of this subtitle, including compliance with the State plans.

(h) Enforcement.—If the Secretary determines that a State that has received an allotment under this subtitle is not complying with a requirement of this subtitle, the Secretary may—

(1) provide technical assistance to the State to improve the ability of the State to comply with the requirement;

(2) reduce, by not less than 5 percent, an allotment made to the State under this section, for the second determination of noncompliance;

(3) reduce, by not less than 25 percent, an allotment made to the State under this section, for the third determination of noncompliance; or

(4) revoke the eligibility of the State to receive allotments under this section, for the fourth or subsequent determination of noncompliance.

(i) Technical Assistance.—From the funds appropriated under section 215 for each fiscal year, the Secretary shall reserve not more than 1 percent of the funds to pay for the costs of providing technical assistance. The Secretary shall use the reserved funds to enter into contracts with eligible entities to provide technical assistance, to local collaboratives that receive grants under section 213, relating to the functions of the local collaboratives under this subtitle.

SEC. 213. GRANTS TO LOCAL COLLABORATIVES.

(a) In General.—A State board that receives an allotment under section 212 shall use the funds made available through the allotment, and the State contribution made under section 212(e)(2), to pay for the Federal and State shares of the cost of making grants, on a competitive basis, to local collaboratives to carry out young child assistance activities.

(b) Use of Funds.—A local collaborative that receives a grant made under subsection (a)—

(1) shall use funds made available through the grant to provide, in a community, activities that consist of education and supportive services, such as—

(A) home visits for parents of young children;

(B) services provided through community-based family resource centers for such parents; and

(C) collaborative pre-school efforts that link parenting education for such parents to early childhood learning services for young children; and

(2) may use funds made available through the grant—

(A) to provide, in the community, activities that consist of—

(i) activities designed to strengthen the quality of child care for young children and expand the supply of high quality child care services for young children;

(ii) health care services for young children, including increasing the level of immunization for young children in the community, providing preventive health care screening and education, and expanding health care services in schools, child care facilities, clinics in public housing (as defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b))), and mobile dental and vision clinics;

(iii) services for children with disabilities who are young children; and

(iv) activities designed to assist schools in providing educational and other support services to young children, and parents of young children, in the community, to be carried out during extended hours when appropriate; and

(B) to pay for the salary and expenses of the administrator described in subsection (e)(4), in accordance with such regulations as the Secretary shall prescribe.

(c) Multi-Year Funding.—In making grants under this section, a State board may make grants for grant periods of more than 1 year to local collaboratives with demonstrated success in carrying out young child assistance activities.

(d) Local Collaboratives.—To be eligible to receive a grant under this section for a community, a local collaborative shall demonstrate that the collaborative—

(1) is able to provide, through a coordinated effort, young child assistance activities to young children, and parents of young children, in the community; and

(2) includes—

(A) all public agencies primarily providing services to young children in the community;

(B) businesses in the community;

(C) representatives of the local government for the county or other political subdivision in which the community is located;

(D) parents of young children in the community;

(E) officers of community organizations serving low-income individuals, as defined by the Secretary, in the community;

(F) community-based organizations providing services to young children and the parents of young children, such as organizations providing child care, carrying out Head Start programs, or providing pre-kindergarten education, mental health, or family support services; and

(G) nonprofit organizations that serve the community and that are described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

(e) APPLICATION.—To be eligible to receive a grant under this section, a local collaborative shall submit an application to the State board at such time, in such manner, and containing such information as the State board may require. At a minimum, the application shall contain—

(1) sufficient information about the entity described in subsection (d)(2) to enable the State board to determine whether the entity complies with the requirements of such subsection; and

(2) a comprehensive plan for carrying out young child assistance activities in the community, including information indicating—

(A) the young child assistance activities available in the community, as of the date of submission of the plan, including information on efforts to coordinate the activities;

(B) the unmet needs of young children, and parents of young children, in the community for young child assistance activities;

(C) the manner in which funds made available through the grant will be used—

(i) to meet the needs, including expanding and strengthening the activities described in subparagraph (A) and establishing additional young child assistance activities; and

(ii) to improve results for young children in the community;

(D) how the local cooperative will use at least 60 percent of the funds made available through the grant to provide young child assistance activities to young children and parents described in subsection (f);

(E) the comprehensive methods that the collaborative will use to ensure that—

(i) each entity carrying out young child assistance activities through the collaborative will coordinate the activities with such activities carried out by other entities through the collaborative; and

(ii) the local collaborative will coordinate the activities of the local collaborative with—

(I) other services provided to young children, and the parents of young children, in the community; and

(II) the activities of other local collaboratives serving young children and families in the community, if any; and

(F) the manner in which the collaborative will, at such intervals as the State board may require, submit information to the State board to enable the State board to carry out monitoring under section 212(g), including the manner in which the collaborative will—

(i) evaluate the results achieved by the collaborative for young children and parents of young children through activities carried out through the grant;

(ii) evaluate how services can be more effectively delivered to young children and the parents of young children; and

(iii) prepare and submit to the State board annual reports describing the results;

(3) an assurance that the local collaborative will comply with the requirements of subparagraphs (D), (E), and (F) of paragraph (2), and subsection (g); and

(4) an assurance that the local collaborative will hire an administrator to oversee the provision of the activities described in paragraphs (1) and (2)(A) of subsection (b).

(f) DISTRIBUTION.—In making grants under this section, the State board shall ensure that at least 60 percent of the funds made available through each grant are used to provide the young child assistance activities to young children (and parents of young children) who reside in school districts in which half or more of the students receive free or reduced price lunches under the National School Lunch Act (42 U.S.C. 1751 et seq.).

(g) LOCAL SHARE.—

(1) IN GENERAL.—The local collaborative shall contribute a percentage (referred to in this subsection as the "local share") of the cost of carrying out the young child assistance activities.

(2) PERCENTAGE.—The Secretary shall by regulation specify the percentage referred to in paragraph (1).

(3) FORM.—The local share of the cost shall be in cash.

(4) SOURCE.—The local collaborative shall provide for the local share of the cost through donations from private entities.

(5) WAIVER.—The State board shall waive the requirement of paragraph (1) for poor rural and urban areas, as defined by the Secretary.

(h) MONITORING.—The State board shall monitor the activities of local collaboratives that receive grants under this subtitle to ensure compliance with the requirements of this subtitle.

SEC. 214. SUPPLEMENT NOT SUPPLANT.

Funds appropriated under this subtitle shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services for young children.

SEC. 215. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $250,000,000 for fiscal year 2000, $250,000,000 for fiscal year 2001, $500,000,000 for fiscal year 2002, $500,000,000 for fiscal year 2003, $1,000,000,000 for fiscal year 2004, and such sums as may be necessary for fiscal year 2005 and each subsequent fiscal year.

Subtitle C—Loan Cancellation for Child Care Providers

SEC. 221. LOAN CANCELLATION.

Section 465(a) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)) is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (G), (H), and (I) as subparagraphs (H), (I), and (J), respectively; and

(B) by inserting after subparagraph (F), the following:

"(G) as a full-time child care provider or educator—

"(i) in a child care facility operated by an entity that meets the applicable State or local government licensing, certification, approval, or registration requirements, if any; and

"(ii) who has a degree in early childhood education;"; and

(2) in paragraph (3)(A)—

(A) in clause (i), by striking "(G), (H), or (I)" and inserting "(H), (I), or (J)"; and

(B) in clause (ii), by inserting "or (G)" after "subparagraph (B)".

TITLE III—EXPANDING THE AVAILABILITY AND QUALITY OF SCHOOL-AGE CHILD CARE

SEC. 301. APPROPRIATIONS FOR AFTER-SCHOOL CARE.

(a) GRANTS.—Section 418 of the Social Security Act (42 U.S.C. 618), as amended by section 201, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) GRANTS TO INCREASE THE AVAILABILITY AND QUALITY OF SCHOOL-AGE CHILD CARE.—

"(1) SECRETARIAL AUTHORITY.—The Secretary shall use the amounts appropriated under paragraph (2) to make grants to States in accordance with this subsection.

"(2) APPROPRIATION.—For grants under this section, there are appropriated—

"(A) $150,000,000 for fiscal year 2000;

"(B) $200,000,000 for fiscal year 2001;

"(C) $300,000,000 for fiscal year 2002;

"(D) $350,000,000 for fiscal year 2003; and

"(E) $1,000,000,000 for fiscal year 2004.

"(3) ALLOTMENTS TO STATES.—The amounts appropriated under paragraph (2) for payments to States under this paragraph shall be allotted among the States in the same manner as amounts (including the redistribution of unused amounts) are allotted or redistributed, as the case may be, under subsection (a)(2), except that the matching requirement of subsection (a)(2)(C) shall not apply to a grant made under this subsection.

"(4) USE OF FUNDS.—Funds received by a State through a grant made under this subsection shall be used for the provision of child care services before and after regular school hours and during months in which schools are not in session.".

(b) DEFINITION OF ELIGIBLE CHILD.—Section 658P(4)(A) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n(4)(A)) is amended by striking "13" and inserting "16".

SEC. 302. AMENDMENTS TO THE 21ST CENTURY COMMUNITY LEARNING CENTERS ACT.

(a) PROGRAM AUTHORIZATION.—Section 10903 of the 21st Century Community Learning Centers Act (20 U.S.C. 8243) is amended—

(1) in subsection (a)—

(A) by striking "rural and inner-city"; and

(B) by striking "a rural or inner-city community" and inserting "communities";

(2) in subsection (b), by striking ", among urban and rural areas of the United States, and among urban and rural areas of a State";

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(4) by inserting after subsection (b) the following:

"(c) PRIORITY OF DISTRIBUTION.—In awarding grants under this part, the Secretary shall give priority to rural, urban, and low-income communities.".

(b) APPLICATION REQUIREMENTS.—Section 10904 of the 21st Century Community Learning Centers Act (20 U.S.C. 8244) is amended—

(1) in subsection (a)(3)(B), by inserting ", including the programs under the Child Care and Development Block Grant Act of 1990, " after "coordinated"; and

(2) in subsection (b), by striking "a broad selection" and all that follows and inserting "child care services before or after regular school hours that include mentoring programs, academic assistance, recreational activities, or technology training, and that may include drug, alcohol, and gang prevention, job skills preparation, or health and nutrition counseling.".

(c) Uses of Funds.—Section 10905 of the 21st Century Community Learning Centers Act (20 U.S.C. 8245) is amended—

(1) in the matter preceding paragraph (1), by striking "not less than four" and inserting "any"; and

(2) by striking paragraph (3) and inserting the following:

"(3) Child care services.".

(d) Authorization of Appropriations.—Section 10907 of the 21st Century Community Learning Centers Act (20 U.S.C. 8247) is amended by striking "$20,000,000 for fiscal year 1995" and inserting "$600,000,000 for fiscal year 1999".

TITLE IV—SUPPORTING FAMILY CHOICES IN CHILD CARE

SEC. 401. EXPANDING THE DEPENDENT CARE TAX CREDIT.

(a) Percentage of Employment-Related Expenses Determined by Taxpayer Status.—Section 21(a)(2) of the Internal Revenue Code of 1986 (defining applicable percentage) is amended to read as follows:

"(2) Applicable percentage defined.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) except as provided in subparagraph (B), 50 percent reduced (but not below 20 percent) by 1 percentage point for each $1,000, or fraction thereof, by which the taxpayers's adjusted gross income for the taxable year exceeds $30,000, and

"(B) in the case of employment-related expenses described in subsection (e)(11), 50 percent reduced (but not below zero) by 1 percentage point for each $800, or fraction thereof, by which the taxpayers's adjusted gross income for the taxable year exceeds $30,000.".

(b) Inflation Adjustment for Allowable Expenses.—Section 21(c) of the Internal Revenue Code of 1986 (relating to dollar limit on amount creditable) is amended by striking "The amount determined" and inserting "In the case of any taxable year beginning after 1999, each dollar amount referred to in paragraphs (1) and (2) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1998' for 'calendar year 1992' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10. The amount determined".

(c) Effective Date.—The amendments made by this section apply to taxable years beginning after December 31, 1999.

SEC. 402. MINIMUM CREDIT ALLOWED FOR STAY-AT-HOME PARENTS.

(a) In General.—Section 21(e) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end the following:

"(11) Minimum credit allowed for stay-at-home parents.—Notwithstanding subsection (d), in the case of any taxpayer with one or more qualifying individuals described in subsection (b)(1)(A) under the age of 1 at any time during the taxable year, such taxpayer shall be deemed to have employment-related expenses with respect to such qualifying individuals in an amount equal to the sum of—

"(A) $90 for each month in such taxable year during which at least one of such qualifying individuals is under the age of 1, and

"(B) the amount of employment-related expenses otherwise incurred for such qualifying individuals for the taxable year (determined under this section without regard to this paragraph).".

(b) Effective Date.—The amendments made by this section apply to taxable years beginning after December 31, 1999.

SEC. 403. CREDIT MADE REFUNDABLE.

(a) In General.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against tax) is amended—

(1) by redesignating section 35 as section 36, and

(2) by redesignating section 21 as section 35.

(b) Advance Payment of Credit.—Chapter 25 of such Code (relating to general provisions relating to employment taxes) is amended by inserting after section 3507 the following:

"SEC. 3507A. ADVANCE PAYMENT OF DEPENDENT CARE CREDIT.

"(a) General Rule.—Except as otherwise provided in this section, every employer making payment of wages with respect to whom a dependent care eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment equal to such employee's dependent care advance amount.

"(b) Dependent Care Eligibility Certificate.—For purposes of this title, a dependent care eligibility certificate is a statement furnished by an employee to the employer which—

"(1) certifies that the employee will be eligible to receive the credit provided by section 35 for the taxable year,

"(2) certifies that the employee reasonably expects to be an applicable taxpayer for the taxable year,

"(3) certifies that the employee does not have a dependent care eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer,

"(4) states whether or not the employee's spouse has a dependent care eligibility certificate in effect,

"(5) states the number of qualifying individuals in the household maintained by the employee, and

"(6) estimates the amount of employment-related expenses for the calendar year.

"(c) Dependent Care Advance Amount.—

"(1) In general.—For purposes of this title, the term 'dependent care advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period,

"(B) on the basis of the employee's estimated employment-related expenses included in the dependent care eligibility certificate, and

"(C) in accordance with tables provided by the Secretary.

"(2) Advance amount tables.—The tables referred to in paragraph (1)(C) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under section 3507(c).

"(d) Other Rules.—For purposes of this section, rules similar to the rules of subsections (d) and (e) of section 3507 shall apply.

"(e) Definitions.—For purposes of this section, terms used in this section which are defined in section 35 shall have the respective meanings given such terms by section 35.".

(c) Conforming Amendments.—

(1) Section 35(a)(1) of such Code, as redesignated by paragraph (1), is amended by striking "chapter" and inserting "subtitle".

(2) Section 35(e) of such Code, as so redesignated and amended by subsection (c), is amended by adding at the end the following:

"(12) Coordination with advance payments and minimum tax.—Rules similar to the rules of subsections (g) and (h) of section 32 shall apply for purposes of this section.".

(3) Sections 23(f)(1) and 129(a)(2)(C) of such Code are each amended by striking "section 21(e)" and inserting "section 35(e)".

(4) Section 129(b)(2) of such Code is amended by striking "section 21(d)(2)" and inserting "section 35(d)(2)".

(5) Section 129(e)(1) of such Code is amended by striking "section 21(b)(2)" and inserting "section 35(b)(2)".

(6) Section 213(e) of such Code is amended by striking "section 21" and inserting "section 35".

(7) Section 995(f)(2)(C) of such Code is amended by striking "and 34" and inserting "34, and 35".

(8) Section 6211(b)(4)(A) of such Code is amended by striking "and 34" and inserting ", 34, and 35".

(9) Section 6213(g)(2)(H) of such Code is amended by striking "section 21" and inserting "section 35".

(10) Section 6213(g)(2)(L) of such Code is amended by striking "section 21, 24, or 32" and inserting "section 24, 32, or 35".

(11) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting the following:

"Sec. 35. Dependent care services.
"Sec. 36. Overpayments of tax.".

(12) The table of sections for subpart A of such part IV is amended by striking the item relating to section 21.

(13) The table of sections for chapter 25 of such Code is amended by adding after the item relating to section 3507 the following:

"Sec. 3507A. Advance payment of dependent care credit.".

(14) Section 1324(b)(2) of title 31, United States Code, is amended by inserting before the period ", or enacted by the Child Care ACCESS (Affordable Child Care for Early Success and Security) Act".

(d) Effective Date.—The amendments made by this section apply to taxable years beginning after December 31, 1999.

TITLE V—ENCOURAGING PRIVATE SECTOR INVOLVEMENT

SEC. 501. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

"SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.

"(a) Allowance of Credit.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to 25 percent of the qualified child care expenditures of the taxpayer for such taxable year.

"(b) Dollar Limitation.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

"(c) Definitions.—For purposes of this section—

"(1) Qualified child care expenditure.—

"(A) In general.—The term 'qualified child care expenditure' means any amount paid or incurred—

"(i) to acquire, construct, rehabilitate, or expand property—

"(I) which is to be used as part of a qualified child care facility of the taxpayer, "(II) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

"(III) which does not constitute part of the principal residence (within the meaning of section 121) of the taxpayer or any employee of the taxpayer,

"(ii) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees of the child care facility, to scholarship programs, to the providing of differential compensation to employees based on level of child care training, and to expenses associated with achieving accreditation,

"(iii) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

"(iv) under a contract to provide child care resource and referral services to employees of the taxpayer.

"(B) EXCLUSION FOR AMOUNTS FUNDED BY GRANTS, ETC.—The term 'qualified child care expenditure' shall not include any amount to the extent such amount is funded by any grant, contract, or otherwise by another person (or any governmental entity).

"(C) LIMITATION ON ALLOWABLE OPERATING COSTS.—The term 'qualified child care expenditure' shall not include any amount described in subparagraph (A)(ii) if such amount is paid or incurred after the third taxable year in which a credit under this section is taken by the taxpayer, unless the qualified child care facility of the taxpayer has received accreditation from a nationally recognized accrediting body before the end of such third taxable year.

"(2) QUALIFIED CHILD CARE FACILITY.—

"(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

"(i) the principal use of which is to provide child care assistance, and

"(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 121) of the operator of the facility.

"(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

"(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

"(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

"(iii) the costs to employees of child care services at such facility are determined on a sliding fee scale.

"(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

"(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

"(2) APPLICABLE RECAPTURE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	**The applicable recapture percentage is:**
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

"(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

"(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

"(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

"(B) CHANGE IN OWNERSHIP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

"(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(f) NO DOUBLE BENEFIT.—

"(1) REDUCTION IN BASIS.—For purposes of this subtitle—

"(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

"(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

"(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.".

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking out "plus" at the end of paragraph (11),

(B) by striking out the period at the end of paragraph (12), and inserting a comma and "plus", and

(C) by adding at the end the following new paragraph:

"(13) the employer-provided child care credit determined under section 45D.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 45D. Employer-provided child care credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 502. GRANTS TO SUPPORT PUBLIC-PRIVATE PARTNERSHIPS.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish a program to award grants to local communities for the purpose of expanding the availability of, and improving the quality of, child care on a community-wide basis.

(b) APPLICATION.—To be eligible to receive a grant under this section, a local community shall prepare and submit to the Secretary an application at such time and in such manner as the Secretary may require, and that includes—

(1) an assurance that the matching funds required under subsection (c) will be provided;

(2) evidence of collaboration with parents, schools, employers, State and local government agencies, and child care agencies, including resource and referral agencies, in the preparation of the application;

(3) an assessment of child care resources and needs within the community; and

(4) any additional information that the Secretary may require.

(c) MATCHING REQUIREMENT.—To be eligible to receive a grant under this section a local community shall provide assurances to the Secretary that the community will provide matching funds in the amount of $1 for every $2 provided under the grant. Such funds shall be generated from private sources, including employers and philanthropic organizations.

(d) USE OF FUNDS.—A local community shall use the funds provided under a grant awarded under this section only for the purposes described in subsection (a).

(e) ADMINISTRATION.—A local community awarded a grant under this section may authorize a public or nonprofit entity within the community to act as the fiscal agent for the administration of the program funded under the grant.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2000 through 2004.

TITLE VI—ENSURING THE QUALITY OF FEDERAL CHILD CARE CENTERS

SEC. 601. QUALITY CHILD CARE FOR FEDERAL EMPLOYEES.

(a) DEFINITIONS.—In this section:

(1) ACCREDITED CHILD CARE CENTER.—The term "accredited child care center" means—

(A) a center that is accredited, by a child care credentialing or accreditation entity recognized by a State, to provide child care to children in the State (except children who a tribal organization elects to serve through a center described in subparagraph (B));

(B) a center that is accredited, by a child care credentialing or accreditation entity recognized by a tribal organization, to provide child care for children served by the tribal organization;

(C) a center that is used as a Head Start center under the Head Start Act (42 U.S.C. 9831 et seq.) and is in compliance with any applicable performance standards established by regulation under such Act for Head Start programs; or

(D) a military child development center (as defined in section 1798(1) of title 10, United States Code).

(2) CHILD CARE CREDENTIALING OR ACCREDITATION ENTITY.—The term "child care credentialing or accreditation entity" means a nonprofit private organization or public agency that—

(A) is recognized by a State agency or tribal organization; and

(B) accredits a center or credentials an individual to provide child care on the basis of—

(i) an accreditation or credentialing instrument based on peer-validated research;

(ii) compliance with applicable State and local licensing requirements, or standards described in section 658E(c)(2)(E)(ii) of the Child Care and Development Block Grant Act (42 U.S.C. 9858c(c)(2)(E)(ii)), as appropriate, for the center or individual;

(iii) outside monitoring of the center or individual; and

(iv) criteria that provide assurances of—

(I) compliance with age-appropriate health and safety standards at the center or by the individual;

(II) use of age-appropriate developmental and educational activities, as an integral part of the child care program carried out at the center or by the individual; and

(III) use of ongoing staff development or training activities for the staff of the center or the individual, including related skills-based testing.

(3) CREDENTIALED CHILD CARE PROFESSIONAL.—The term "credentialed child care professional" means—

(A) an individual who is credentialed, by a child care credentialing or accreditation entity recognized by a State, to provide child care to children in the State (except children who a tribal organization elects to serve through an individual described in subparagraph (B)); or

(B) an individual who is credentialed, by a child care credentialing or accreditation entity recognized by a tribal organization, to provide child care for children served by the tribal organization.

(4) STATE.—The term "State" has the meaning given the term in section 658P of the Child Care and Development Block Grant Act (42 U.S.C. 9858n).

(b) PROVIDING QUALITY CHILD CARE IN FEDERAL FACILITIES.—

(1) DEFINITIONS.—In this subsection:

(A) ADMINISTRATOR.—The term "Administrator" means the Administrator of General Services.

(B) ENTITY SPONSORING A CHILD CARE CENTER.—The term "entity sponsoring a child care center" means a Federal agency that operates, or an entity that enters into a contract or licensing agreement with a Federal agency to operate, a child care center.

(C) EXECUTIVE AGENCY.—The term "Executive agency" has the meaning given the term in section 105 of title 5, United States Code, except that the term—

(i) does not include the Department of Defense; and

(ii) includes the General Services Administration, with respect to the administration of a facility described in subparagraph (D)(ii).

(D) EXECUTIVE FACILITY.—The term "executive facility"—

(i) means a facility that is owned or leased by an Executive agency; and

(ii) includes a facility that is owned or leased by the General Services Administration on behalf of a judicial office.

(E) FEDERAL AGENCY.—The term "Federal agency" means an Executive agency, a judicial office, or a legislative office.

(F) JUDICIAL FACILITY.—The term "judicial facility" means a facility that is owned or leased by a judicial office (other than a facility that is also a facility described in subparagraph (D)(ii)).

(G) JUDICIAL OFFICE.—The term "judicial office" means an entity of the judicial branch of the Federal Government.

(H) LEGISLATIVE FACILITY.—The term "legislative facility" means a facility that is owned or leased by a legislative office.

(I) LEGISLATIVE OFFICE.—The term "legislative office" means an entity of the legislative branch of the Federal Government.

(2) EXECUTIVE BRANCH STANDARDS AND COMPLIANCE.—

(A) STATE AND LOCAL LICENSING REQUIREMENTS.—

(i) IN GENERAL.—Any entity sponsoring a child care center in an executive facility shall—

(I) obtain the appropriate State and local licenses for the center; and

(II) in a location where the State or locality does not license executive facilities, comply with the appropriate State and local licensing requirements related to the provision of child care.

(ii) COMPLIANCE.—Not later than 6 months after the date of enactment of this Act—

(I) the entity shall comply, or make substantial progress (as determined by the Administrator) toward complying, with clause (i); and

(II) any contract or licensing agreement used by an Executive agency for the operation of such a child care center shall include a condition that the child care be provided by an entity that complies with the appropriate State and local licensing requirements related to the provision of child care.

(B) HEALTH, SAFETY, AND FACILITY STANDARDS.—The Administrator shall by regulation establish standards relating to health, safety, facilities, facility design, and other aspects of child care that the Administrator determines to be appropriate for child care centers in executive facilities, and require child care centers, and entities sponsoring child care centers, in executive facilities to comply with the standards.

(C) ACCREDITATION STANDARDS.—

(i) IN GENERAL.—The Administrator shall issue regulations requiring, to the maximum extent possible, any entity sponsoring an eligible child care center (as defined by the Administrator) in an executive facility to comply with child care center accreditation standards issued by a nationally recognized accreditation organization approved by the Administrator.

(ii) COMPLIANCE.—The regulations shall require that, not later than 5 years after the date of enactment of this Act—

(I) the entity shall comply, or make substantial progress (as determined by the Administrator) toward complying, with the standards; and

(II) any contract or licensing agreement used by an Executive agency for the operation of such a child care center shall include a condition that the child care be provided by an entity that complies with the standards.

(iii) CONTENTS.—The standards shall base accreditation on—

(I) an accreditation instrument described in subsection (a)(2)(B);

(II) outside monitoring described in subsection (a)(2)(B), by—

(aa) the Administrator; or

(bb) a child care credentialing or accreditation entity, or other entity, with which the Administrator enters into a contract to provide such monitoring; and

(III) the criteria described in subsection (a)(2)(B).

(D) EVALUATION AND COMPLIANCE.—

(i) IN GENERAL.—The Administrator shall evaluate the compliance, with the requirements of subparagraph (A) and the regulations issued pursuant to subparagraphs (B) and (C), of child care centers, and entities sponsoring child care centers, in executive facilities. The Administrator may conduct the evaluation of such a child care center or entity directly, or through an agreement with another Federal agency or private entity, other than the Federal agency for which the child care center is providing services. If the Administrator determines, on the basis of such an evaluation, that the child care center or entity is not in compliance with the requirements, the Administrator shall notify the Executive agency.

(ii) EFFECT OF NONCOMPLIANCE.—On receipt of the notification of noncompliance issued by the Administrator, the head of the Executive agency shall—

(I) if the entity operating the child care center is the agency—

(aa) within 2 business days after the date of receipt of the notification, correct any deficiencies that are determined by the Administrator to be life threatening or to present a risk of serious bodily harm;

(bb) develop and provide to the Administrator a plan to correct any other deficiencies in the operation of the center and bring the center and entity into compliance with the requirements not later than 4 months after the date of receipt of the notification;

(cc) provide the parents of the children receiving child care services at the center with a notification detailing the deficiencies described in items (aa) and (bb) and actions that will be taken to correct the deficiencies;

(dd) bring the center and entity into compliance with the requirements and certify to the Administrator that the center and entity are in compliance, based on an onsite evaluation of the center conducted by an independent entity with expertise in child care health and safety; and

(ee) in the event that deficiencies determined by the Administrator to be life threatening or to present a risk of serious bodily harm cannot be corrected within 2 business days after the date of receipt of the notification, close the center or portion of the center where the deficiency was identified until such deficiencies are corrected and notify the Administrator of such closure; and

(II) if the entity operating the child care center is a contractor or licensee of the Executive agency—

(aa) require the contractor or licensee within 2 business days after the date of receipt of the notification, to correct any deficiencies that are determined by the Administrator to be life threatening or to present a risk of serious bodily harm;

(bb) require the contractor or licensee to develop and provide to the head of the agency a plan to correct any other deficiencies in the operation of the center and bring the center and entity into compliance with the requirements not later than 4 months after the date of receipt of the notification;

(cc) require the contractor or licensee to provide the parents of the children receiving child care services at the center with a notification detailing the deficiencies described in items (aa) and (bb) and actions that will be taken to correct the deficiencies;

(dd) require the contractor or licensee to bring the center and entity into compliance with the requirements and certify to the head of the agency that the center and entity are in compliance, based on an onsite evaluation of the center conducted by an independent entity with expertise in child care health and safety; and

(ee) in the event that deficiencies determined by the Administrator to be life threatening or to present a risk of serious bodily harm cannot be corrected within 2 business days after the date of receipt of the notification, close the center or portion of the center where the deficiency was identified until such deficiencies are corrected and notify the Administrator of such closure, which closure shall be grounds for the immediate termination or suspension of the contract or license of the contractor or licensee.

(iii) COST REIMBURSEMENT.—The Executive agency shall reimburse the Administrator for the costs of carrying out clause (i) for child care centers located in an executive facility other than an executive facility of the General Services Administration. If an entity is sponsoring a child care center for 2 or more Executive agencies, the Administrator shall allocate the costs of providing such reimbursement with respect to the entity among the agencies in a fair and equitable manner, based on the extent to which each agency is eligible to place children in the center.

(3) LEGISLATIVE BRANCH STANDARDS AND COMPLIANCE.—

(A) STATE AND LOCAL LICENSING REQUIREMENTS, HEALTH, SAFETY, AND FACILITY STANDARDS, AND ACCREDITATION STANDARDS.—The Architect of the Capitol shall issue regulations approved by the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives for child care centers, and entities sponsoring child care centers, in legislative facilities, which shall be no less stringent in content and effect than the requirements of paragraph (2)(A) and the regulations issued by the Administrator under subparagraphs (B) and (C) of paragraph (2), except to the extent that the Architect with the consent and approval of the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, may determine, for good cause shown and stated together with the regulations, that a modification of such regulations would be more effective for the implementation of the requirements and standards described in subparagraphs (A), (B), and (C) of paragraph (2) for child care centers, and entities sponsoring child care centers, in legislative facilities.

(B) EVALUATION AND COMPLIANCE.—

(i) ARCHITECT OF THE CAPITOL.—The Architect of the Capitol shall have the same authorities and duties with respect to the evaluation of, compliance of, and cost reimbursement for child care centers, and entities sponsoring child care centers, in legislative facilities as the Administrator has under paragraph (2)(D) with respect to the evaluation of, compliance of, and cost reimbursement for such centers and entities sponsoring such centers, in executive facilities.

(ii) HEAD OF A LEGISLATIVE OFFICE.—The head of a legislative office shall have the same authorities and duties with respect to the compliance of and cost reimbursement for child care centers, and entities sponsoring child care centers, in legislative facilities as the head of an Executive agency has under paragraph (2)(D) with respect to the compliance of and cost reimbursement for such centers and entities sponsoring such centers, in executive facilities.

(4) JUDICIAL BRANCH STANDARDS AND COMPLIANCE.—

(A) STATE AND LOCAL LICENSING REQUIREMENTS, HEALTH, SAFETY, AND FACILITY STANDARDS, AND ACCREDITATION STANDARDS.—The Director of the Administrative Office of the United States Courts shall issue regulations for child care centers, and entities sponsoring child care centers, in judicial facilities, which shall be no less stringent in content and effect than the requirements of paragraph (2)(A) and the regulations issued by the Administrator under subparagraphs (B) and (C) of paragraph (2), except to the extent that the Director may determine, for good cause shown and stated together with the regulations, that a modification of such regulations would be more effective for the implementation of the requirements and standards described in subparagraphs (A), (B), and (C) of paragraph (2) for child care centers, and entities sponsoring child care centers, in judicial facilities.

(B) EVALUATION AND COMPLIANCE.—

(i) DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts shall have the same authorities and duties with respect to the evaluation of, compliance of, and cost reimbursement for child care centers, and entities sponsoring child care centers, in judicial facilities as the Administrator has under paragraph (2)(D) with respect to the evaluation of, compliance of, and cost reimbursement for such centers and entities sponsoring such centers, in executive facilities.

(ii) HEAD OF A JUDICIAL OFFICE.—The head of a judicial office shall have the same authorities and duties with respect to the compliance of and cost reimbursement for child care centers, and entities sponsoring child care centers, in judicial facilities as the head of an Executive agency has under paragraph (2)(D) with respect to the compliance of and cost reimbursement for such centers and entities sponsoring such centers, in executive facilities.

(5) APPLICATION.—Notwithstanding any other provision of this section, if 8 or more child care centers are sponsored in facilities owned or leased by an Executive agency, the Administrator shall delegate to the head of the agency the evaluation and compliance responsibilities assigned to the Administrator under paragraph (2)(D)(i).

(6) TECHNICAL ASSISTANCE, STUDIES, AND REVIEWS.—The Administrator may provide technical assistance, and conduct and provide the results of studies and reviews, for Executive agencies, and entities sponsoring child care centers in executive facilities, on a reimbursable basis, in order to assist the entities in complying with this section. The Architect of the Capitol and the Director of the Administrative Office of the United States Courts may provide technical assistance, and conduct and provide the results of studies and reviews, or request that the Administrator provide technical assistance, and conduct and provide the results of studies and reviews, for legislative offices and judicial offices, respectively, and entities operating child care centers in legislative facilities and judicial facilities, respectively, on a reimbursable basis, in order to assist the entities in complying with this section.

(7) COUNCIL.—The Administrator shall establish an interagency council, comprised of all Executive agencies described in paragraph (5), a representative of the Office of Architect of the Capitol, and a representative of the Administrative Office of the United States Courts, to facilitate cooperation and sharing of best practices, and to develop and coordinate policy, regarding the provision of child care in the Federal Government.

(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $900,000 for fiscal year 1999 and such sums as may be necessary for each subsequent fiscal year.

TITLE VI—CHILD CARE IN FEDERAL FACILITIES

SEC. 601. SHORT TITLE.

This title may be cited as the "Quality Child Care for Federal Employees Act".

SEC. 602. PROVIDING QUALITY CHILD CARE IN FEDERAL FACILITIES.

(a) DEFINITION.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of General Services.

(2) CHILD CARE ACCREDITATION ENTITY.—The term "child care accreditation entity" means a nonprofit private organization or public agency that—

(A) is recognized by a State agency or by a national organization that serves as a peer review panel on the standards and procedures of public and private child care or school accrediting bodies; and

(B) accredits a facility to provide child care on the basis of—

(i) an accreditation or credentialing instrument based on peer-validated research;

(ii) compliance with applicable State or local licensing requirements, as appropriate, for the facility;

(iii) outside monitoring of the facility; and

(iv) criteria that provide assurances of—

(I) use of developmentally appropriate health and safety standards at the facility;

(II) use of developmentally appropriate educational activities, as an integral part of the child care program carried out at the facility; and

(III) use of ongoing staff development or training activities for the staff of the facility, including related skills-based testing.

(3) ENTITY SPONSORING A CHILD CARE FACILITY.—The term "entity sponsoring a child care facility" means a Federal agency that operates, or an entity that enters into a contract or licensing agreement with a Federal agency to operate, a child care facility primarily for the use of Federal employees.

(4) EXECUTIVE AGENCY.—The term "Executive agency" has the meaning given the term in section 105 of title 5, United States Code, except that the term—

(A) does not include the Department of Defense and the Coast Guard; and

(B) includes the General Services Administration, with respect to the administration of a facility described in paragraph (5)(B).

(5) EXECUTIVE FACILITY.—The term "executive facility"—

(A) means a facility that is owned or leased by an Executive agency; and

(B) includes a facility that is owned or leased by the General Services Administration on behalf of a judicial office.

(6) FEDERAL AGENCY.—The term "Federal agency" means an Executive agency, a legislative office, or a judicial office.

(7) JUDICIAL FACILITY.—The term "judicial facility" means a facility that is owned or leased by a judicial office (other than a facility that is also a facility described in paragraph (4)(B)).

(8) JUDICIAL OFFICE.—The term "judicial office" means an entity of the judicial branch of the Federal Government.

(9) LEGISLATIVE FACILITY.—The term "legislative facility" means a facility that is owned or leased by a legislative office.

(10) LEGISLATIVE OFFICE.—The term "legislative office" means an entity of the legislative branch of the Federal Government.

(11) STATE.—The term "State" has the meaning given the term in section 658P of the Child Care and Development Block Grant Act (42 U.S.C. 9858n).

(b) EXECUTIVE BRANCH STANDARDS AND COMPLIANCE.—

(1) STATE AND LOCAL LICENSING REQUIREMENTS.—

(A) IN GENERAL.—Any entity sponsoring a child care facility in an executive facility shall—

(i) comply with child care standards described in paragraph (2) that, at a minimum, include all applicable State or local licensing requirements, as appropriate, related to the provision of child care in the State or locality involved; and

(ii) obtain the applicable State or local licenses, as appropriate, for the facility.

(B) COMPLIANCE.—Not later than 6 months after the date of enactment of this Act—

(i) the entity shall comply, or make substantial progress (as determined by the Administrator) toward complying, with subparagraph (A); and

(ii) any contract or licensing agreement used by an Executive agency for the provision of child care services in such child care facility shall include a condition that the child care be provided by an entity that complies with the standards described in subparagraph (A)(i) and obtains the licenses described in subparagraph (A)(ii).

(2) HEALTH, SAFETY, AND FACILITY STANDARDS.—The Administrator shall by regulation establish standards relating to health, safety, facilities, facility design, and other aspects of child care that the Administrator determines to be appropriate for child care in executive facilities, and require child care facilities, and entities sponsoring child care facilities, in executive facilities to comply with the standards. Such standards shall include requirements that child care facilities be inspected for, and be free of, lead hazards.

(3) ACCREDITATION STANDARDS.—

(A) IN GENERAL.—The Administrator shall issue regulations requiring, to the maximum extent possible, any entity sponsoring an eligible child care facility (as defined by the Administrator) in an executive facility to comply with standards of a child care accreditation entity.

(B) COMPLIANCE.—The regulations shall require that, not later than 2 years after the date of enactment of this Act—

(i) the entity shall comply, or make substantial progress (as determined by the Administrator) toward complying, with the standards; and

(ii) any contract or licensing agreement used by an Executive agency for the provision of child care services in such child care facility shall include a condition that the child care be provided by an entity that complies with the standards.

(4) EVALUATION AND COMPLIANCE.—

(A) IN GENERAL.—The Administrator shall evaluate the compliance, with the requirements of paragraph (1) and the regulations issued pursuant to paragraphs (2) and (3), as appropriate, of child care facilities, and entities sponsoring child care facilities, in executive facilities. The Administrator may conduct the evaluation of such a child care facility or entity directly, or through an agreement with another Federal agency or private entity, other than the Federal agency for which the child care facility is providing services. If the Administrator determines, on the basis of such an evaluation, that the child care facility or entity is not in compliance with the requirements, the Administrator shall notify the Executive agency.

(B) EFFECT OF NONCOMPLIANCE.—On receipt of the notification of noncompliance issued by the Administrator, the head of the Executive agency shall—

(i) if the entity operating the child care facility is the agency—

(I) not later than 2 business days after the date of receipt of the notification, correct any deficiencies that are determined by the Administrator to be life threatening or to present a risk of serious bodily harm;

(II) develop and provide to the Administrator a plan to correct any other deficiencies in the operation of the child care facility and bring the facility and entity into compliance with the requirements not later than 4 months after the date of receipt of the notification;

(III) provide the parents of the children receiving child care services at the child care facility and employees of the facility with a notification detailing the deficiencies described in subclauses (I) and (II) and actions that will be taken to correct the deficiencies, and post a copy of the notification in a conspicuous place in the facility for 5 working days or until the deficiencies are corrected, whichever is later;

(IV) bring the child care facility and entity into compliance with the requirements and certify to the Administrator that the facility and entity are in compliance, based on an onsite evaluation of the facility conducted by an independent entity with expertise in child care health and safety; and

(V) in the event that deficiencies determined by the Administrator to be life threatening or to present a risk of serious bodily harm cannot be corrected within 2 business days after the date of receipt of the notification, close the child care facility, or the affected portion of the facility, until such deficiencies are corrected and notify the Administrator of such closure; and

(ii) if the entity operating the child care facility is a contractor or licensee of the Executive agency—

(I) require the contractor or licensee, not later than 2 business days after the date of receipt of the notification, to correct any deficiencies that are determined by the Administrator to be life threatening or to present a risk of serious bodily harm;

(II) require the contractor or licensee to develop and provide to the head of the agency a plan to correct any other deficiencies in the operation of the child care facility and bring the facility and entity into compliance with the requirements not later than 4 months after the date of receipt of the notification;

(III) require the contractor or licensee to provide the parents of the children receiving child care services at the child care facility and employees of the facility with a notification detailing the deficiencies described in subclauses (I) and (II) and actions that will be taken to correct the deficiencies, and to post a copy of the notification in a conspicuous place in the facility for 5 working days or until the deficiencies are corrected, whichever is later;

(IV) require the contractor or licensee to bring the child care facility and entity into compliance with the requirements and certify to the head of the agency that the facility and entity are in compliance, based on an onsite evaluation of the facility conducted by an independent entity with expertise in child care health and safety; and

(V) in the event that deficiencies determined by the Administrator to be life threatening or to present a risk of serious bodily harm cannot be corrected within 2 business days after the date of receipt of the notification, close the child care facility, or the affected portion of the facility, until such deficiencies are corrected and notify the Administrator of such closure, which closure may be grounds for the immediate termination or suspension of the contract or license of the contractor or licensee.

(C) COST REIMBURSEMENT.—The Executive agency shall reimburse the Administrator for the costs of carrying out subparagraph (A) for child care facilities located in an executive facility other than an executive facility of the General Services Administration. If an entity is sponsoring a child care facility for 2 or more Executive agencies, the Administrator shall allocate the costs of providing such reimbursement with respect to the entity among the agencies in a fair and equitable manner, based on the extent to which each agency is eligible to place children in the facility.

(5) DISCLOSURE OF PRIOR VIOLATIONS TO PARENTS AND FACILITY EMPLOYEES.—The Administrator shall issue regulations that require that each entity sponsoring a child care facility in an executive facility, upon receipt by the child care facility or the entity (as applicable) of a request by any individual who is a parent of any child enrolled at the facility, a parent of a child for whom an application has been submitted to enroll at the facility, or an employee of the facility, shall provide to the individual—

(A) copies of all notifications of deficiencies that have been provided in the past with respect to the facility under clause (i)(III) or (ii)(III), as applicable, of paragraph (4)(B); and

(B) a description of the actions that were taken to correct the deficiencies.

(c) LEGISLATIVE BRANCH STANDARDS AND COMPLIANCE.—

(1) STATE AND LOCAL LICENSING REQUIREMENTS, HEALTH, SAFETY, AND FACILITY STANDARDS, AND ACCREDITATION STANDARDS.—

(A) IN GENERAL.—The Chief Administrative Officer of the House of Representatives shall issue regulations, approved by the Committee on House Oversight of the House of Representatives, governing the operation of the House of Representatives Child Care Center. The Librarian of Congress shall issue regulations, approved by the appropriate House and Senate committees with jurisdiction over the Library of Congress, governing the operation of the child care center located at the Library of Congress. Subject to paragraph (3), the head of a designated entity in the Senate shall issue regulations, approved by the Committee on Rules and Administration of the Senate, governing the operation of the Senate Employees' Child Care Center.

(B) STRINGENCY.—The regulations described in subparagraph (A) shall be no less stringent in content and effect than the requirements of subsection (b)(1) and the regulations issued by the Administrator under paragraphs (2) and (3) of subsection (b), except to the extent that appropriate administrative officers, with the approval of the appropriate House or Senate committees with oversight responsibility for the centers, may jointly or independently determine, for good cause shown and stated together with the regulations, that a modification of such regulations would be more effective for the implementation of the requirements and standards described in paragraphs (1), (2), and (3) of subsection (b) for child care facilities, and entities sponsoring child care facilities, in the corresponding legislative facilities.

(2) EVALUATION AND COMPLIANCE.—

(A) ADMINISTRATION.—Subject to paragraph (3), the Chief Administrative Officer of the House of Representatives, the head of the designated Senate entity, and the Librarian of Congress, shall have the same authorities and duties—

(i) with respect to the evaluation of, compliance of, and cost reimbursement for child care facilities, and entities sponsoring child care facilities, in the corresponding legislative facilities as the Administrator has under subsection (b)(4) with respect to the evaluation of, compliance of, and cost reimbursement for such facilities and entities sponsoring such facilities, in executive facilities; and

(ii) with respect to issuing regulations requiring the entities sponsoring child care facilities in the corresponding legislative facilities to provide notifications of deficiencies and descriptions of corrective actions as the Administrator has under subsection (b)(5) with respect to issuing regulations requiring the entities sponsoring child care facilities in executive facilities to provide notifications of deficiencies and descriptions of corrective actions.

(B) ENFORCEMENT.—Subject to paragraph (3), the Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate, as appropriate, shall have the same authorities and duties with respect to the compliance of and cost reimbursement for child care facilities, and entities sponsoring child care facilities, in the corresponding legislative facilities as the head of an Executive agency has under subsection (b)(4) with respect to the compliance of and cost reimbursement for such facilities and entities sponsoring such facilities, in executive facilities.

(3) INTERIM STATUS.—Until such time as the Committee on Rules and Administration of the Senate establishes, or the head of the designated Senate entity establishes, standards described in paragraphs (1), (2), and (3) of subsection (b) governing the operation of the Senate Employees' Child Care Center, such facility shall maintain current accreditation status.

(d) JUDICIAL BRANCH STANDARDS AND COMPLIANCE.—

(1) STATE AND LOCAL LICENSING REQUIREMENTS, HEALTH, SAFETY, AND FACILITY STANDARDS, AND ACCREDITATION STANDARDS.—The Director of the Administrative Office of the United States Courts shall issue regulations for child care facilities, and entities sponsoring child care facilities, in judicial facilities, which shall be no less stringent in content and effect than the requirements of subsection (b)(1) and the regulations issued by the Administrator under paragraphs (2) and (3) of subsection (b), except to the extent that the Director may determine, for good cause shown and stated together with the regulations, that a modification of such regulations would be more effective for the implementation of the requirements and standards described in paragraphs (1), (2), and (3) of subsection (b) for child care facilities, and entities sponsoring child care facilities, in judicial facilities.

(2) EVALUATION AND COMPLIANCE.—

(A) DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts shall have the same authorities and duties—

(i) with respect to the evaluation of, compliance of, and cost reimbursement for child care facilities, and entities sponsoring child care facilities, in judicial facilities as the Administrator has under subsection (b)(4) with respect to the evaluation of, compliance of, and cost reimbursement for such facilities and entities sponsoring such facilities, in executive facilities; and

(ii) with respect to issuing regulations requiring the entities sponsoring child care facilities in the judicial facilities to provide notifications of deficiencies and descriptions of corrective actions as the Administrator has under subsection (b)(5) with respect to issuing regulations requiring the entities sponsoring child care facilities in executive facilities to provide notifications of deficiencies and descriptions of corrective actions.

(B) HEAD OF A JUDICIAL OFFICE.—The head of a judicial office shall have the same authorities and duties with respect to the compliance of and cost reimbursement for child care facilities, and entities sponsoring child care facilities, in judicial facilities as the head of an Executive agency has under subsection (b)(4) with respect to the compliance of and cost reimbursement for such facilities and entities sponsoring such facilities, in executive facilities.

(e) APPLICATION.—Notwithstanding any other provision of this section, if 8 or more child care facilities are sponsored in facilities owned or leased by an Executive agency, the Administrator shall delegate to the head of the agency the evaluation and compliance responsibilities assigned to the Administrator under subsection (b)(4)(A).

(f) TECHNICAL ASSISTANCE, STUDIES, AND REVIEWS.—The Administrator may provide technical assistance, and conduct and provide the results of studies and reviews, for Executive agencies, and entities sponsoring child care facilities in executive facilities, on a reimbursable basis, in order to assist the entities in complying with this section. The Chief Administrative Officer of the House of Representatives, the Librarian of Congress, the head of the designated Senate entity described in subsection (c), and the Director of the Administrative Office of the United States Courts may provide technical assistance, and conduct and provide the results of studies and reviews, or request that the Administrator provide technical assistance, and conduct and provide the results of studies and reviews, for the corresponding legislative offices and judicial offices, and entities operating child care facilities in the corresponding legislative facilities and judicial facilities, on a reimbursable basis, in order to assist the entities in complying with this section.

(g) COUNCIL.—The Administrator shall establish an interagency council, comprised of representatives of all Executive agencies that are entities sponsoring child care facilities, a representative of the Chief Administrative Officer of the House of Representatives, a representative of the designated Senate entity described in subsection (c), a representative of the Librarian of Congress, and a representative of the Administrative Office of the United States Courts, to facilitate cooperation and sharing of best practices, and to develop and coordinate policy, regarding the provision of child care, including the provision of areas for nursing mothers and other lactation support facilities and services, in the Federal Government.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $900,000 for fiscal year 2000 and such sums as may be necessary for each subsequent fiscal year.

SEC. 603. CHILD CARE SERVICES FOR FEDERAL EMPLOYEES.

(a) IN GENERAL.—In addition to services authorized to be provided by an agency of the United States pursuant to section 616 of Public Law 100–202 (40 U.S.C. 490b), an Executive agency that provides or proposes to provide child care services for Federal employees may use agency funds to provide the child care services, in a facility that is owned or leased by an Executive agency, or through a contractor, for civilian employees of such agency.

(b) AFFORDABILITY.—Funds so used with respect to any such facility or contractor shall be applied to improve the affordability of child care for lower income Federal employees using or seeking to use the child care services offered by such facility or contractor.

(c) REGULATIONS.—The Director of the Office of Personnel Management, and the Administrator of the General Services Administration, shall, within 180 days after the date of enactment of this Act, jointly issue regulations necessary to carry out this section.

(d) DEFINITION.—For purposes of this section, the term "Executive agency" has the meaning given the term in section 105 of title 5, United States Code, but does not include the General Accounting Office.

SEC. 604. MISCELLANEOUS PROVISIONS RELATING TO CHILD CARE PROVIDED BY FEDERAL AGENCIES.

(a) AVAILABILITY OF FEDERAL CHILD CARE CENTERS FOR ONSITE CONTRACTORS; PERCENTAGE GOAL.—Section 616(a) of Public Law 100–202 (40 U.S.C. 490b(a)) is amended—

(1) in subsection (a), by striking paragraphs (2) and (3) and inserting the following:

"(2) such officer or agency determines that such space will be used to provide child care and related services to—

"(A) children of Federal employees or onsite Federal contractors; or

"(B) dependent children who live with Federal employees or onsite Federal contractors; and

"(3) such officer or agency determines that such individual or entity will give priority for available child care and related services in such space to Federal employees and onsite Federal contractors."; and

(2) by adding at the end the following:

"(e)(1)(A) The Administrator of General Services shall confirm that at least 50 percent of aggregate enrollment in Federal child care centers governmentwide are children of Federal employees or onsite Federal contractors, or dependent children who live with Federal employees or onsite Federal contractors.

"(B) Each provider of child care services at an individual Federal child care center shall maintain 50 percent of the enrollment at the center of children described under subparagraph (A) as a goal for enrollment at the center.

"(C) If enrollment at a center does not meet the percentage goal under subparagraph (B), the provider shall develop and implement a business plan with the sponsoring Federal agency to achieve the goal within a reasonable timeframe. Such plan shall be approved by the Administrator of General Services based on—

"(i) compliance of the plan with standards established by the Administrator; and

"(ii) the effect of the plan on achieving the aggregate Federal enrollment percentage goal.

"(2) The Administrator of General Services Administration may enter into public-private partnerships or contracts with nongovernmental entities to increase the capacity, quality, affordability, or range of child care and related services and may, on a demonstration basis, waive subsection (a)(3) and paragraph (1) of this subsection.".

(b) Payment of Costs of Training Programs.—Section 616(b)(3) of such Public Law (40 U.S.C. 490b(b)(3)) is amended to read as follows:

"(3) If an agency has a child care facility in its space, or is a sponsoring agency for a child care facility in other Federal or leased space, the agency or the General Services Administration may pay accreditation fees, including renewal fees, for that center to be accredited. Any agency, department, or instrumentality of the United States that provides or proposes to provide child care services for children referred to in subsection (a)(2), may reimburse any Federal employee or any person employed to provide such services for the costs of training programs, conferences, and meetings and related travel, transportation, and subsistence expenses incurred in connection with those activities. Any per diem allowance made under this section shall not exceed the rate specified in regulations prescribed under section 5707 of title 5, United States Code.".

(c) Provision of Child Care by Private Entities.—Section 616(d) of such Public Law (40 U.S.C. 490b(d)) is amended to read as follows:

"(d)(1) If a Federal agency has a child care facility in its space, or is a sponsoring agency for a child care facility in other Federal or leased space, the agency, the child care center board of directors, or the General Services Administration may enter into an agreement with 1 or more private entities under which such private entities would assist in defraying the general operating expenses of the child care providers including salaries and tuition assistance programs at the facility.

"(2)(A) Notwithstanding any other provision of law, if a Federal agency does not have a child care program, or if the Administrator of General Services has identified a need for child care for Federal employees at an agency providing child care services that do not meet the requirements of subsection (a), the agency or the Administrator may enter into an agreement with a non-Federal, licensed, and accredited child care facility, or a planned child care facility that will become licensed and accredited, for the provision of child care services for children of Federal employees.

"(B) Before entering into an agreement, the head of the Federal agency shall determine that child care services to be provided through the agreement are more cost effectively provided through such arrangement than through establishment of a Federal child care facility.

"(C) The agency may provide any of the services described in subsection (b)(3) if, in exchange for such services, the facility reserves child care spaces for children referred to in subsection (a)(2), as agreed to by the parties. The cost of any such services provided by an agency to a child care facility on behalf of another agency shall be reimbursed by the receiving agency.

"(3) This subsection does not apply to residential child care programs.".

(d) Pilot Projects.—Section 616 of such Public Law (40 U.S.C. 490b) is further amended by adding at the end the following:

"(f)(1) Upon approval of the agency head, an agency may conduct a pilot project not otherwise authorized by law for no more than 2 years to test innovative approaches to providing alternative forms of quality child care assistance for Federal employees. An agency head may extend a pilot project for an additional 2-year period. Before any pilot project may be implemented, a determination shall be made by the agency head that initiating the pilot project would be more cost-effective than establishing a new child care facility. Costs of any pilot project shall be borne solely by the agency conducting the pilot project.

"(2) The Administrator of General Services shall serve as an information clearinghouse for pilot projects initiated by other agencies to disseminate information concerning the pilot projects to the other agencies.

"(3) Within 6 months after completion of the initial 2-year pilot project period, an agency conducting a pilot project under this subsection shall provide for an evaluation of the impact of the project on the delivery of child care services to Federal employees, and shall submit the results of the evaluation to the Administrator of General Services. The Administrator shall share the results with other Federal agencies.".

(e) Background Check.—Section 616 of such Public Law (40 U.S.C. 490b) is further amended by adding at the end the following:

"(g) Each child care center located in a federally owned or leased facility shall ensure that each employee of such center (including any employee whose employment began before the date of enactment of this subsection) shall undergo a criminal history background check consistent with section 231 of the Crime Control Act of 1990 (42 U.S.C. 13041).".

SEC. 605. REQUIREMENT TO PROVIDE LACTATION SUPPORT IN NEW FEDERAL CHILD CARE FACILITIES.

(a) Definitions.—In this section, the terms "Federal agency", "executive facility", "judicial facility", and "legislative facility" have the meanings given the terms in section 602.

(b) Lactation Support.—The head of each Federal agency shall require that each child care facility in an executive facility or a legislative facility that is first operated after the 1-year period beginning on the date of enactment of this Act by the Federal agency, or under a contract or licensing agreement with the Federal agency, shall provide reasonable accommodations for the needs of breast-fed infants and their mothers, including providing a lactation area or a room for nursing mothers in part of the operating plan for the facility.

SEC. 606. FEDERAL CHILD CARE EVALUATION.

(a) Definitions.—In this section, the terms "executive facility", "judicial facility", and "legislative facility" have the meanings given the terms in section 602.

(b) Evaluation.—Not later than 1 year after the date of enactment of this Act, the Administrator of the General Services Administration and the Director of the Office of Personnel Management, shall jointly prepare and submit to Congress a report that contains an evaluation, including—

(1) information on the number of children utilizing child care in an executive facility, legislative facility, or judicial facility, including such children who are age 6 through 12, analyzed by age;

(2) information on the number of families not utilizing child care described in paragraph (1) because of cost; and

(3) recommendations for improving the quality and cost effectiveness of child care described in paragraph (1), including options for creating an optimal organizational structure and best practices for the delivery of such child care.

STATEMENT BY THE PRESIDENT

Tonight, in my State of the Union address, I will outline my agenda to help parents struggling to meet their responsibilities at work and at home. This agenda includes an ambitious initiative to make child care safer, better, and more affordable for America's working families. Today, Senator Christopher J. Dodd (D–CT) and many of his Democratic colleagues in the Senate have taken an important step toward reaching that goal by introducing the Affordable Child Care for Early Success and Security Act (A.C.C.E.S.S.).

This proposal, like mine, significantly increases child care subsidies for poor children, provides greater tax relief to help low- and middle-income families pay for child care and to support parents who chose to stay at home to care for their young children. This plan dramatically increases after-school opportunities, encourages businesses to provide child care for their employees, promotes early learning and school readiness, and improves child care quality.

The Child Care A.C.C.E.S.S. Act builds on the longstanding commitment of Senator Dodd and the co-sponsors of this legislation to improving child care for our Nation's children. I look forward to working with Members of Congress in both parties to enact child care legislation this year that will help Americans fulfill their responsibilities as workers, and, even more importantly, as parents.

Dear Senator Dodd: The Children's Defense Fund welcomes the introduction of the ACCESS Act. If enacted, it would not only provide significant help to families with young and school-age children, but would also provide communities with important new resources to improve the quality of child care. It would represent a major step by the Congress to recognize the importance of child care in helping to ensure that children begin school ready to succeed and that parents can work and be independent.

Thank you for your continued leadership on behalf of children. We look forward to working with you towards the passage of this landmark bill.

Sincerely yours,

MARIAN WRIGHT EDELMAN.

DEAR SENATOR DODD: We are writing to express our enthusiastic support for your comprehensive child care legislation, the Affordable Child Care for Early Success and Security ("ACCESS") Act. As an organization that has been working for over 25 years to improve economic security for women, we know the profound interest that women and their families have in the enactment of effective child care policies. At a time when seven out of ten American women with children work in the paid labor force, it is more critical than ever that families have access to affordable, high-quality child care that will help their children learn and grow.

The child care package you are proposing represents a much-needed new investment in affordable, high-quality child care for America's families. The new funding your bill would add to the Child Care and Development Block Grant will help expand the supply of quality care, especially for infants and toddlers, as well as increase the range of options for the care of school-age children. Your bill's expansion of the Child and Dependent Care Tax Credit, particularly by making the credit refundable, would be of significant assistance in making child care more affordable for millions of families.

We believe that this Congress presents an extraordinary opportunity to move forward on child care, and we hope that members of both parties in both Houses of Congress will come together to make it happen. Your legislation is a major step toward that goal, and we look forward to working with you in the days to come.

Sincerely,

NANCY DUFF CAMPBELL,
Co-President.
JUDITH C. APPELBAUM,
Vice President and Director of Employment Opportunity.
CRISTINA FIRVIDA,
Counsel.

By Mr. HARKIN (for himself, Mr. DASCHLE, Mr. JOHNSON, Ms. MIKULSKI, Mr. KENNEDY, Mr. TORRICELLI, Mr. DURBIN, Mr. LEAHY, Mrs. BOXER, Mr. DORGAN, Mr. WELLSTONE, Mr. BRYAN, Mr. MOYNIHAN, and Mr. KERRY):

S. 18. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through enhanced enforcement; to the Committee on Agriculture, Nutrition, and Forestry.

SAFER MEAT AND POULTRY ACT

Mr. HARKIN. Mr. President, I am pleased to introduce S. 18 as part of the Democratic package, the SAFER Meat and Poultry Act, a bill that will make meat and poultry products safer for our families and our children. The bill provisions are simple, obvious authorities the USDA needs to assure that meat and poultry products are as safe as possible.

In 1998, we had a record 13 recalls for deadly E. coli 0157:H7, involving more than 2 million pounds of meat products. Tragically, just over the recent holidays, a nationwide outbreak of Listeria was recognized, leading to the massive recall of hotdogs and cold cuts. At least a dozen people lost their lives during that outbreak just over the recent holiday season.

Just last Friday, another recall for Listeria was announced. So despite the progress we have made in controlling some foodborne pathogens through improved meat inspection laws, problems with other pathogens may be getting worse.

Mr. President, the bill really is targeted at kids, because it is our kids who are the most vulnerable. And this chart shows that. These are the numbers of cases just for the State of Iowa. And as you see by age, here is the number of cases. Here are the ages: 0 to 5, 6 to 10, up to 80 years of age. You can see, the bulk of the illnesses from foodborne pathogens happens when you are less than 6 years of age—our kids who have not built up the immunity that they need that get the sickest from these foodborne pathogens. This is for Salmonella, E. coli, and Campylobacter. It is really necessary to protect our children from these pathogens.

S. 18 strengthens our laws in a number of ways. One is to give the Secretary of Agriculture the authority to mandate a recall. Most people assume that the Secretary has this authority, but he does not. Some argue that a packer or distributor will recall the tainted meat voluntarily, but recalls don't always go smoothly.

In June of last year, a company challenged the USDA on a Federal test for E. coli. The Federal test showed E. coli was there. The company said no, it was not. They contested it. And, therefore, valuable time was lost in recalling that meat product.

Consumers were shocked in 1997 by the largest recall in history, when a Hudson plant recalled 25 million pounds of ground beef linked to illnesses.

When the Secretary of Agriculture is given recall authority, he can mandate what tasks must be done and whose responsibility these tasks will be. Communication is the most essential element of a timely recall.

Another provision of the bill gives the Secretary the authority to levy civil fines for violations of meat and poultry laws. Right now, all the Secretary can do is close a plant down. That may not be the wisest course of action. You have people working there. It would put people out of work. The problem may not be their fault at all.

Last year, the USDA referred dozens of cases for criminal prosecution for violation of meat and poultry laws. So clearly the current authorities are not an adequate incentive to protect consumer safety.

I have here a chart, Mr. President, that shows what civil penalty authority the Secretary has. For example, if there is an introduction of an animal disease anywhere in the United States, the Secretary of Agriculture can levy a fine. If you mistreat an animal, you can be fined by the Secretary of Agriculture. If you have a deceptive practice, if you violate the Pecan Promotion Act, you can be fined by the Secretary of Agriculture. But if you violate the food safety laws, you cannot be fined.

Civil fines are consistent with the new HACCP regulation for meat and poultry processing, and provide a "just right" option for the Secretary to assure compliance with food safety laws.

What the Secretary has is an atom bomb. He can drop the atom bomb and close the plant down, which may not be the best course of action, but he cannot levy a civil fine, which may be the best action for certain violations.

Finally, the bill requires, Mr. President, that someone who knows about a contaminated food product, other than a consumer, must notify the Secretary of Agriculture. These are commonsense authorities.

Last year we saw a 50% increase in outbreaks, and a record number of recalls for the deadly E. coli O157–H7 in ground beef. More and more testing is done by grocery stores, and by purchasers for school lunch programs and restaurant chains. This bill would require that these parties notify the Secretary of Agriculture when there is a positive test. This law would allow public health authorities to oversee a recall that is timely and complete, and truly protects people from devastating illness.

These are common sense authorities that most consumers assume the Secretary already has. I hope my colleagues will join me in supporting this important piece of food safety legislation.

I also wish to indicate my strong support for legislation introduced today that will help restore and enhance farm income protection. Our farm sector, including livestock and crop production, is experiencing one of the worst downturns in over a decade. Pork producers have just experienced the worst real hog prices in history. There's a critical need for Congress to respond to this financial crisis that is threatening the livelihoods and life savings of America's farm families, and eroding the economies of rural communities.

I hope my colleagues will join me in supporting this good, important piece of food safety legislation.

Mr. KENNEDY. Mr. President, I am pleased to be a sponsor of this important bill, and I commend Senator HARKIN for his leadership on this issue. With the high incidence of foodborne illnesses, it is essential for regulatory agencies to have the authority necessary to prevent or minimize outbreaks of these illnesses, and combat food contamination.

Microbial contamination of food is an increasing problem. The emergence of highly virulent strains of common bacteria, such as E. coli 0157, is a significant cause of foodborne illnesses. Common infections that were once easily treatable are now a major public health threat, as the microorganisms acquire the ability to resist destruction by antibiotics.

The current enforcement authority of the Department of Agriculture is not sufficient. Our bill gives the Secretary of Agriculture the additional authority he needs in order to recall adulterated or misbranded meat or poultry products, and to assess civil penalties against processors who repeatedly violate meat and poultry safety standards. Most processors comply responsibly with USDA requests for voluntary recalls of unsafe products. This additional authority will ensure more timely and comprehensive removal of potentially dangerous foods from supermarket shelves.

Such new enforcement tools are necessary to improve food safety in general and to reduce the risk of future outbreaks of foodborne illnesses. Families across the country deserve to have confidence that the meat and poultry they eat are safe, and I look forward to early action by Congress on this important legislation.

Assurance of safe meat and poultry is just one part of the challenge of guaranteeing safe food. The safety of produce and of processed food, including imported food, is the responsibility of the Food and Drug Administration and a major part of President Clinton's Food Safety Initiative. I plan to develop legislation, in cooperation with other Senators, to ensure that no matter where our food is grown, processed, or packaged, it meets uniform high standards of safety.

By Mr. LAUTENBERG (for himself, Mr. DASCHLE, Mr. BAUCUS, Mr. LEVIN, Mr. REID, Mr. ROCKEFELLER, Mr. TORRICELLI, Ms. MIKULSKI, Mr. BREAUX, Mrs. MURRAY, Mr. SCHUMER, Mrs. BOXER, Mr. SARBANES, Mr. DURBIN, Mr. LEAHY, Mr. WYDEN, Mr. BRYAN, and Mr. MOYNIHAN):

S. 20. A bill to assist the States and local governments in assessing and remediating brownfield sites and encouraging environmental cleanup programs, and for other purposes; to the Committee on Environment and Public Works.

THE BROWNFIELDS AND ENVIRONMENTAL CLEANUP ACT OF 1999

Mr. LAUTENBERG. Mr. President, today, along with Senators DASCHLE, BAUCUS, REID, BOXER, WYDEN, BREAUX, BRYAN, LEVIN, MURRAY, SCHUMER, TORRICELLI, MIKULSKI, DURBIN, LEAHY, ROCKEFELLER, SARBANES, KENNEDY, and LIEBERMAN, I am introducing the Brownfields and Environmental Cleanup Act of 1999. This legislation is designed to foster the cleanup of potentially thousands of toxic waste sites across the country. Just as importantly, this bill is about jobs, revenue and economic opportunity, because it will help turn abandoned industrial sites into engines of economic development.

Mr. President, I have been interested for a long time now in the issue of these abandoned, underutilized and contaminated industrial sites, commonly known as brownfields. Our Nation's great industrial tradition was the lifeblood of our Nation's economy. But this industrial tradition also entailed tremendous environmental costs. Sites were contaminated, and then when the manufacturers, the companies left, the legacy remained behind. Today, decaying industrial plants define the skyline and contaminate the land in many of our urban areas. Their rusting frames, like aging skyscrapers, are a silent reminder of those manufacturers that left, taking inner-city jobs and often inner-city hope with them.

However, "brownfields" as we have come to know them, can be found anywhere—in the inner cities, the suburbs and in rural areas. Any time that an industry leaves an area or a business goes out of business we face the specter of the unknown—they contaminate not only the aesthetics of the area but also the opportunity for jobs and for business investment. This bill provides the means to help investigate and facilitate funding for the cleanup of these areas, wherever they are found.

I continue to feel as I did when I introduced similar legislation in 1993, 1996, and again in 1997, that a brownfields cleanup program can spur significant economic development and create jobs. The nation's mayors have estimated that they lose between $200 and $500 million a year in tax revenues from brownfields sitting idle, and that returning these sites to productive use could create some 236,000 new jobs. Each day that Congress fails to act on brownfields liability, it deprives our cities of unique redevelopment opportunities. This type of cleanup initiative makes good environmental sense and good business sense.

A pilot project in Cleveland resulted in $3.2 million in private investment, a $1 million increase on the local tax base, and more than 170 new jobs. In Elizabeth, NJ, a former municipal landfill is being turned into a major mall with 5,000 employees.

Mr. President, the potential for job creation across the country is enormous, and every revitalized brownfields may represent for someone a field of dreams, especially to an unemployed urban worker.

But this bill is not about jobs alone. Brownfield cleanup also means that dangerous contaminants are removed from our environment, and future generations are not left with unknown problems and unused properties.

On the other hand, the risks posed by many of these sites may be relatively low and others even nonexistent, because brownfields are often abandoned or underutilized industrial or commercial sites where expansion or redevelopment is complicated by just the perception of environmental contamination. But their full economic use is being stymied because there is no ready mechanism for getting them evaluated or, if necessary, cleaned up, even when the owner of the property is ready, willing and eager to do so.

In addition, prospective purchasers and developers are reluctant to get involved in transactions with these properties because of their concern, however minimal, they might potentially create environmental liability.

The challenge is to turn these abandoned properties into thriving businesses that can generate needed jobs and act as a catalyst for economic development.

My legislation would provide financial assistance in the form of grants to local and State governments to inventory and evaluate brownfields sites. This would enable interested parties to know what would be required to clean the site and what reuse would best suit the property.

My bill would also provide grants to State and local governments to establish and capitalize low-interest loan programs. These funds would be loaned to prospective purchasers, municipalities and others to facilitate voluntary cleanup actions where traditional lending mechanisms may not be available. The minimum seed money involved in the program would leverage substantial economic payoffs, as well as turning lands which may be of negative worth into assets for the future.

The bill also would limit the potential liability of innocent buyers of these properties, and it would set a standard to gauge when parties couldn't have reasonably known that the property was contaminated. It would also provide Superfund liability relief to persons who own property next door to a brownfields property, so long as the person did not cause the release and exercises appropriate care.

Mr. President, for several Congresses there has been bipartisan interest in addressing brownfields, both in the Senate and in the other body on the other side of the Capitol. I am hopeful we can move this legislation forward in a cooperative way with support of Members on both sides of the aisle.

I urge my colleagues to co-sponsor this legislation.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

BROWNFIELDS AND ENVIRONMENTAL CLEANUP ACT OF 1999—SUMMARY

Provides funds to local governments and others for brownfield site assessment and cleanup; and provides liability relief for prospective purchasers, innocent landowners and contiguous property owners.

TITLE I: BROWNFIELDS CLEANUP

Authorizes $35 million per year from the Superfund for 5 years for grants to local governments, States and Indian tribes to inventory and assess the contamination at brownfields sites; and authorizes $50 million per year from the Superfund for 5 years for local governments, States and Indian tribes to capitalize revolving loan funds for cleanup of brownfield sites.

TITLE II: PROSPECTIVE PURCHASERS

Provides Superfund liability relief for prospective purchasers of sites who are not responsible for contamination and do not impede the performance of a cleanup or restoration at a site they acquire after enactment of this bill, *provided* that prior to acquisition they made all appropriate inquiry into prior uses and ownership of the facility, exercise appropriate care with respect to hazardous substances, and provide cooperation and access to persons authorized to clean up the site.

TITLE III: INNOCENT LANDOWNERS

Clarifies relief from Superfund liability for landowners who had no reason to know of contamination at the time or purchase, despite having made all appropriate inquiry into prior ownership and use of the facility. Provides that the "appropriate inquiry" requirement is satisfied by conducting an environmental site assessment that meets specified standards within 180 days prior to acquisition of the property.

TITLE IV: CONTIGUOUS PROPERTY OWNERS

Provides Superfund liability relief for persons who own or operate property that is contaminated solely due to a release from contiguous property, so long as the person did not cause or contribute to the release, and exercised appropriate care with respect to hazardous substances.

By Mr. MOYNIHAN (for himself and Mr. KERREY):

S. 21. A bill to reduce social security payroll taxes, and for other purposes; to the Committee on Finance.

SOCIAL SECURITY SOLVENCY ACT OF 1999

Mr. MOYNIHAN. Mr. President, I join my distinguished colleague, Senator BOB KERREY of Nebraska, in reintroducing legislation that would preserve Social Security and make it solvent permanently, while providing a payroll tax cut of about $800 billion over the next ten years.

Last March, Senator KERREY and I introduced a nearly identical bill—S. 1792, The Social Security Solvency Act of 1998. And in July of 1998 Senators GREGG and BREAUX introduced S. 2313, The 21st Century Retirement Security Plan, with a companion bill introduced in the House by Congressmen KOBLE and STENHOLM. All of these bills attempt to steer a mid-course between those who seek to maintain the current system (albeit with some traditional modifications of payroll tax rates and benefits) and those who seek to replace Social Security with private accounts. The Moynihan/Kerrey and Gregg/Breaux/Koble/Stenholm bills are quite similar. In September of last year I, along with Senators GREGG, BREAUX, KERREY, COATS, ROBB, THOMAS, and THOMPSON formed a Bipartisan Social Security Coalition. In a "Dear Colleague" we argued that a number of principles have guided us in our efforts to build a consensus on the future of Social Security including:

A payroll tax cut for all working Americans, with an opportunity for all workers to invest in personal savings account; payroll tax rates set so that annual revenues closely match annual outlays throughout the actuarial valuation period; a progressive benefit formula; accurate cost-of-living adjustments; repeal of the earnings test so that beneficiaries are free to work while collecting benefits; and permanent solvency for the Social Security program with a reduction in the Federal Government's unfunded liabilities.

For those who care, as we do, about preserving this vital program, I would simply suggest that without these changes, Social Security as we know it will not survive. For some 20 years now, opinion polls have shown that a majority of non-retired adults do not believe they will get their Social Security when they retire. Ask anyone on the street; ask anyone in their thirties or forties. They are convinced that Social Security will not be there for them. In one sense, they have good reason to think so: the Social Security Trustees so state in their most recent annual report released in April, 1998, which pointedly notes that:

> * * * in 2034, tax income of OASI (Social Security) is estimated to be sufficient to pay about ¾ of program costs; that ratio is projected to decline to about ⅔ by the end of the projection period.

Lack of confidence is partially the result of neglect by a Social Security Administration that has made little effort to stay in touch with Americans before retirement. But there is also a more powerful influence at work: a serious ideological movement opposed to government social insurance as a threat to individual initiative and, indeed, liberty. There is now abroad a powerful set of distinguished political leaders and academics who would turn the 60-year-old system of Social Security retirement, disability, and survivors benefits over to a system that depends solely on personal savings invested in the market.

This is a legitimate idea, with respectable intellectual support. (One thinks of the energetic work of Martin Feldstein, who 20 years ago argued that "Social Security significantly depresses private wealth accumulation.") It is an idea that has gained world-wide recognition. Since 1988, workers in the United Kingdom had been permitted to opt out of a part of the Social Security system, if they sign up for some personal retirement savings plans similar to our IRAs or 401(k) arrangements. In Sweden, the model welfare state, a pension reform plan that includes a mandatory private pension component equal to 2.5 percent of earnings went into effect this year, after being enacted by a coalition government composed of Social Democrats and other left of center parties.

As the 1990s arrived, and with it the long stock market boom, the call for privatization of Social Security has all but drowned out the more traditional views. For the first time, something akin to abolishing Social Security becamer a possibility.

Don't think it couldn't happen. In 1996, we enacted legislation which abolished Title IV-A of the Social Security Act, Aid to Families with Dependent Children. The mothers' pension of the progressive era, incorporated in the 1935 legislation, vanished with scarcely a word of protest.

Will the Old Age pensions and survivors benefits disappear as well? What might once have seemed inconceivable is now somewhere between possible and probable. I, for one, hope that this will not happen. A minimum retirement guarantee, along with disability and survivors benefits, is surely something we ought to keep, even as we augment the basic guarantee—as both the U.K and Sweden have done—with some form of private accounts.

Here is what Senator BOB KERREY and I proposed, in the legislation that we are reintroducing today.

Our bill makes changes that will preserve Social Security and make it solvent indefinitely. Under our plan, private accounts would complement Social Security, not replace it. Markets go up, but they also, as we made painfully clear last summer, frequently go down. But even with fluctuations in markets there are ways to safeguard private accounts. Working with the Securities and Exchange Commission and those in the securities industry we believe that it is possible to provide private savings instruments that meet the needs of workers planning for their retirement, and that are reasonably secure, with diminimus administrative costs.

We believe that the best approach to retirement savings in the 21st century is a three-tier system founded on the basic Social Security annuity. To which is added one's private pension—which about half of Americans now enjoy—and one's private savings.

Our plan would return Social Security to a pay-as-you-go system. This makes possible an immediate payroll tax cut of approximately $800 billion over the next 10 years, as payroll tax rates would be cut from 12.4 to 10.4 percent.

The bill would permit voluntary personal savings accounts, which workers could finance with the proceeds of the two percentage point cut in the payroll tax. Under this provision in our legislation—together with a total of $3,500 deposited in an individual's account at birth and at ages 1–5 under the Kidsave provision of the bill—all workers will be able to accumulate an estate which they can pass on to their children and grandchildren.

Our plan includes a one percentage point correction in cost of living adjustments for all indexed programs except Supplemental Security Income. Benefits are also adjusted to reflect projected increases in life expectancy, similar to what has just been adopted in Sweden.

It is worth digressing here to note that under current law the so-called normal retirement age (NRA) is scheduled to gradually increase from 65 to 67. In practice, the NRA, is important as a benchmark for determining the monthly benefit amount, but it does not reflect the actual age at which workers receive retirement benefits. More than 70 percent of workers begin collecting Social Security retirement benefits before they reach age 65, and more than 50 percent do so at age 62. Under the bill, workers can continue to receive benefits at age 62 and the provision in the 1983 Social Security amendments that increased the NRA to age 67 is repealed. Instead, under this legislation, if life expectancy increases the level of benefits payable at age 65 (or at the age at which the worker actually retires) decreases. (Sweden has adopted a similar provision allowing workers to continue to retire at age 61, even as monthly benefits are reduced to mirror the projected gradual increase in life expectancy.)

We also propose to eliminate the so-called earnings test, which reduces Social Security benefits for retirees who have wages significantly above $10,000 per year, and is a burden and annoyance to persons who wish to work after age 62.

Finally, Social Security benefits would be taxed to the same extent private pensions are taxed, with the provision phased-in over the 5 year period 2000–2004. And Social Security coverage would be extended to newly hired employees in currently excluded State and local positions.

This package of changes ensures the long-run solvency of Social Security while reducing payroll taxes by almost $800 billion over the next decade, and with little or no change in the Federal budget surplus. Beginning in the year 2030, payroll tax rates would increase gradually to cover growing outlays, and would rise only slightly above the current level in the year 2035.

Can this be done? From an actuarial perspective, it's easy. We know—or at least the actuaries can tell us—within a couple of million persons how many workers will be supporting how many retirees in 2050. Contrast this with Medicare, where you do not know where gene therapy will lead in three years, let alone 30 years. The 17 members of the National Bipartisan Commission on the Future of Medicare, ably chaired by Senator Breaux, can, I am sure, attest to the analytic complexity of the issues they are discussing as part of that important Commission's work.

Politically, however, it won't be easy to fix Social Security. In a manner that the late economist Mancur Olson would recognize, over time Social Security has acquired a goodly number of veto groups which prevent changes, howsoever necessary. In so doing they also undermine confidence in Social Security by supporting a promised level of benefits which the Trustees, as noted above, readily admit cannot be delivered.

The veto groups assert that the Moynihan-Kerrey bill will reduce benefits by 30 percent. Not true when compared to what actually can be delivered. With pay-as-you-go, and adjustments in benefits related to an accurate cost of living index and the increase in life expectancy, the Moynihan-Kerrey bill delivers higher benefits than Social Security can actually provide with projected tax revenues under current law. For example, in 2040 the Social Security actuaries estimate that the current program can only deliver 73 percent of promised benefits. We do slightly better than that. Add in the annuity—financed with voluntary contributions of 2 percent of earnings—and benefits are 20 percent or more higher than the current program can deliver—even assuming real rates of interest no higher than a modest 3 percent. For 2070, the actuaries estimate that current financing will only support benefits equal to 68 percent of what is promised—a reduction of more than 30 percent. Again we do slightly better even without the private accounts—and more than 25 percent better with the private accounts.

As I say, this won't be easy. Which is why this is a time for courage as well as policy analysis. Social Security, one of the great achievements of our government in this century, is ours to maintain. Our bill does just that.

I ask unanimous consent the summary of the bill and the full text of the bill be included in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 21

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Social Security Solvency Act of 1999".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Modification of FICA rates to provide pay-as-you-go financing of social security.
Sec. 3. Voluntary investment of payroll tax cut by employees.
Sec. 4. Increase of social security wage base.
Sec. 5. Cost-of-living adjustments.
Sec. 6. Tax treatment of social security payments.
Sec. 7. Coverage of newly hired State and local employees.
Sec. 8. Increase in length of computation period from 35 to 38 years.
Sec. 9. Modification of PIA factors to reflect changes in life expectancy.
Sec. 10. Elimination of earnings test for individuals who have attained early retirement age.
Sec. 11. Social security kidsave accounts.

SEC. 2. MODIFICATION OF FICA RATES TO PROVIDE PAY-AS-YOU-GO FINANCING OF SOCIAL SECURITY.

(a) IN GENERAL.—

(1) TAX ON EMPLOYEES.—Section 3101(a) of the Internal Revenue Code of 1986 (relating to tax on employees) is amended to read as follows:

"(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—

"(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to the applicable percentage of the wages (as defined in section 3121(a)) received by him with respect to employment (as defined in section 3121(b)).

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be the percentage set forth in the following table:

"In the case wages received during:	The applicable percentage shall be:
2000 through 2029	5.2
2030 through 2034	6.2
2035 through 2049	6.45
2050 through 2059	6.65
2060 or thereafter	6.85 ."

(2) TAX ON EMPLOYERS.—Section 3111(a) of such Code (relating to tax on employers) is amended to read as follows:

"(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—

"(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the applicable percentage of the wages (as defined in section 3121(a)) paid by him with respect to employment (as defined in section 3121(b)).

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be the percentage set forth in the following table:

"In the case wages paid during:	The applicable percentage shall be:
2000 and 2001	6.2
2002 through 2029	5.2
2030 through 2034	6.2
2035 through 2049	6.45

"In the case wages paid during:	The applicable percentage shall be:
2050 through 2059	6.65
2060 or thereafter	6.85 ."

(3) Self-employment tax.—Section 1401(a) of such Code (relating to tax on self-employment income) is amended to read as follows:

"(a) Old-Age, Survivors, and Disability Insurance.—

"(1) In general.—In addition to other taxes, there is hereby imposed for each taxable year, on the self-employment income of every individual, a tax equal to the applicable percentage of the amount of the self-employment income for such taxable year.

"(2) Applicable percentage.—For purposes of paragraph (1), the applicable percentage shall be the percentage set forth in the following table:

"In the case of a taxable year		The applicable percentage is:
Beginning after:	And before:	
December 31, 1999 ..	January 1, 2002	11.4
December 31, 2001 ..	January 1, 2030	10.4
December 31, 2029 ..	January 1, 2035	12.4
December 31, 2034 ..	January 1, 2050	12.9
December 31, 2049 ..	January 1, 2060	13.3
December 31, 2059 ..	....	13.7 ."

(4) Effective dates.—

(A) Employees and employers.—The amendments made by paragraphs (1) and (2) apply to remuneration paid after December 31, 1999.

(B) Self-employed individuals.—The amendment made by paragraph (3) applies to taxable years beginning after December 31, 1999.

(b) Reallocation of Employment Taxes.—

(1) Reallocation of tax on employees and employers.—Section 201(b)(1) of the Social Security Act (42 U.S.C. 401(b)(1)) is amended by striking "(Q) 1.70 per centum of the wages (as so defined) paid after December 31, 1996, and before January 1, 2000, and so reported, and (R) 1.80 per centum of the wages (as so defined) paid after December 31, 1999, and so reported" and inserting "(Q) 1.70 per centum of the wages (as so defined) paid after December 31, 1996, and before January 1, 2000, and so reported, (R) 1.80 per centum of the wages (as so defined) paid after December 31, 1999, and before January 1, 2030, and so reported, (S) 2.15 per centum of the wages (as so defined) paid after December 31, 2029, and before January 1, 2035, and so reported, (T) 2.23 per centum of the wages (as so defined) paid after December 31, 2034, and before January 1, 2050, and so reported, (U) 2.30 per centum of the wages (as so defined) paid after December 31, 2049, and before January 1, 2060, and so reported, and (V) 2.39 per centum of the wages (as so defined) paid after December 31, 2059, and so reported".

(2) Reallocation of tax on self-employment income.—Section 201(b)(2) of such Act (42 U.S.C. 401(b)(2)) is amended by striking "(Q) 1.70 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1996, and before January 1, 2000, and (R) 1.80 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999" and inserting "(Q) 1.70 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1996, and before January 1, 2000, (R) 1.80 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999, and before January 1, 2030, (S) 2.15 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2029, and before January 1, 2035, (T) 2.23 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2034, and before January 1, 2050, (U) 2.30 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2049, and before January 1, 2060, and (V) 2.39 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2059".

(c) Future Rates and Allocation Between Trust Funds Proposed by Board of Trustees for Legislative Action.—

(1) In general.—Section 201(c) of the Social Security Act (42 U.S.C. 401(c)) is amended in the matter following paragraph (5) by striking "(as defined by the Board of Trustees)." and inserting "(as defined by the Board of Trustees. If such finding shows that the combined Trust Funds are not in close actuarial balance (as so defined), then such report (beginning in April 2001) shall include a legislative recommendation by the Board of Trustees specifying new rates of tax under sections 3101(a), 3111(a), and 1401(a) of the Internal Revenue Code of 1986, and the allocation of those rates between the Trust Funds necessary in order to restore the combined Trust Funds and each Trust Fund to actuarial balance. If such finding shows that the combined Trust Funds are in close actuarial balance (as so defined), but that 1 of the Trust Funds is not in close actuarial balance, then such report (beginning in April 2001) shall include a legislative recommendation by the Board of Trustees specifying a new allocation of such rates of tax between the Trust Funds, so that each Trust Fund is in close actuarial balance. Such recommendation shall be considered by Congress under procedures described in subsection (n)).".

(2) Fast-track consideration of legislative recommendations.—Section 201 of such Act (42 U.S.C. 401) is amended by adding at the end the following new subsection:

"(n)(1) Any legislative recommendation included in the report provided for in subsection (c) shall—

"(A) not later than 3 days after the Board of Trustees submits such report, be introduced (by request) in the House of Representatives by the Majority Leader of the House and be introduced (by request) in the Senate by the Majority Leader of the Senate; and

"(B) be given expedited consideration under the same provisions and in the same way, subject to paragraph (2), as a joint resolution under section 2908 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2678 note).

"(2) For purposes of applying paragraph (1) with respect to such provisions, the following rules shall apply:

"(A) Section 2908(a) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2678 note) shall not apply.

"(B) Any reference to the resolution described in subsection (a) shall be deemed to be a reference to the legislative recommendation submitted under subsection (c) of this Act.

"(C) Any reference to the Committee on National Security of the House of Representatives shall be deemed to be a reference to the Committee on Ways and Means of the House of Representatives and any reference to the Committee on Armed Services of the Senate shall be deemed to be a reference to the Committee on Finance of the Senate.

"(D) Any reference to the date on which the President transmits a report shall be deemed to be a reference to the date on which the recommendation is submitted under subsection (c).".

(d) Conforming Amendments to FERS To Protect Payroll Tax Cut.—The table contained in section 8422(a)(3) of title 5, United States Code, is amended—

(1) by striking "7" the second place it appears and inserting "6";

(2) by striking "7.4" and inserting "6.4";

(3) by striking "7.5" the first, third, fifth, and seventh places it appears and inserting "6.5";

(4) by striking "7.9" each place it appears and inserting "6.9"; and

(5) by striking "8" each place it appears and inserting "7".

SEC. 3. VOLUNTARY INVESTMENT OF PAYROLL TAX CUT BY EMPLOYEES.

(a) Voluntary Investment of Payroll Tax Cut.—

(1) In general.—Title II of the Social Security Act (42 U.S.C. 401 et seq.) is amended—

(A) by inserting before section 201 the following:

"Part A—Insurance Benefits";

and

(B) by adding at the end the following:

"Part B—Voluntary Investment Accounts

"employee election and designation of voluntary investment account under payroll deduction plan

"Sec. 251. (a) In General.—An individual who is an employee of a covered employer may elect to participate in the employer's voluntary investment account payroll deduction plan either—

"(1) not later than 10 business days after the individual becomes an employee of the employer, or

"(2) during any open enrollment period.

The Commissioner shall by regulation provide for at least 1 open enrollment period annually.

"(b) Period of Election.—

"(1) Time election takes effect.—An election under subsection (a) shall take effect with respect to the first pay period beginning more than 14 days after the date of the election.

"(2) Termination.—An election under subsection (a) shall terminate—

"(A) upon the termination of employment of the employee of the covered employer, or

"(B) with respect to pay periods beginning more than 14 days after the employee terminates such election.

"(c) Designation of Voluntary Investment Account.—

"(1) Initial election.—An employee shall, at the time an election is made under subsection (a), designate the voluntary investment account to which voluntary investment account contributions on behalf of the employee are to be deposited.

"(2) Changes.—The Commissioner shall by regulation provide the time and manner by which an employee or a person described in section 254(d) on behalf of such employee may—

"(A) designate another voluntary investment account to which contributions are to be deposited, and

"(B) transfer amounts from one such account to another.

"(d) Form of Elections.—Elections under this section shall be made—

"(1) on W–4 forms (or any successor forms), or

"(2) in such other manner as the Commissioner may prescribe in order to ensure ease of administration and reductions in burdens on employers.

"VOLUNTARY INVESTMENT ACCOUNT PAYROLL DEDUCTION PLANS

"SEC. 252. (a) IN GENERAL.—Each person who is a covered employer for a calendar year shall have in effect a voluntary investment account payroll deduction plan for such calendar year for such person's electing employees.

"(b) VOLUNTARY INVESTMENT ACCOUNT PAYROLL DEDUCTION PLANS.—For purposes of this part, the term 'voluntary investment account payroll deduction plan' means a written plan of an employer—

"(1) which applies only with respect to wages of any employee who elects to become an electing employee in accordance with section 251,

"(2) under which the voluntary investment account contributions under section 3101(a) of the Internal Revenue Code of 1986 will be deducted from an electing employee's wages and, together with such contributions under section 3111(a) of such Code on behalf of such employee, will be paid to the Social Security Administration for deposit in 1 or more voluntary investment accounts designated by such employee in accordance with section 251,

"(3) under which the employer is required to pay the amount so contributed with respect to the specified voluntary investment account of the electing employee within the same time period as other taxes under sections 3101 and 3111 with respect to the wages of such employee,

"(4) under which the employer receives no compensation for the cost of administering such plan, and

"(5) under which the employer does not make any endorsement with respect to any voluntary investment account.

"(c) PENALTIES FOR FAILURE TO ESTABLISH VOLUNTARY INVESTMENT ACCOUNT PAYROLL DEDUCTION PLAN.—

"(1) IN GENERAL.—Any covered employer who fails to meet the requirements of this section for any calendar year shall be subject to a civil penalty of not to exceed the greater of—

"(A) $2,500, or

"(B) $100 for each electing employee of such employer as of the beginning of such calendar year.

"(2) RULES FOR APPLICATION OF SUBSECTION.—

"(A) PENALTIES ASSESSED BY COMMISSIONER.—Any civil penalty assessed by this subsection shall be imposed by the Commissioner of Social Security and collected in a civil action.

"(B) COMPROMISES.—The Commissioner may compromise the amount of any civil penalty imposed by this subsection.

"(C) AUTHORITY TO WAIVE PENALTY IN CERTAIN CASES.—The Commissioner may waive the application of this subsection with respect to any failure if the Commissioner determines that such failure is due to reasonable cause and not to intentional disregard of rules and regulations.

"PARTICIPATION BY SELF-EMPLOYED INDIVIDUALS

"SEC. 253. An individual shall make an election to become an electing self-employed individual, designate a voluntary investment account, and have in effect a voluntary investment account payroll deduction plan under rules similar to the rules under sections 251 and 252.

"DEFINITIONS AND SPECIAL RULES

"SEC. 254. (a) VOLUNTARY INVESTMENT ACCOUNT.—For purposes of this part—

"(1) a voluntary investment account described in this paragraph is a voluntary investment account in the Voluntary Investment Fund (established under section 255),

"(2) a voluntary investment account described in this paragraph is an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986), other than a Roth IRA (as defined in section 408A(b) of such Code), which is designated by the electing employee as a voluntary investment account (in such manner as the Secretary of the Treasury may prescribe) and which is administered or issued by a bank or other person referred to in section 408(a)(2) of such Code, and

"(3) a voluntary investment account described in this paragraph is a KidSave Account (as described in paragraph (1) or (2) of section 262(a)) of the electing employee, which is designated by the electing employee as a voluntary investment account (in such manner as the Secretary of the Treasury may prescribe).

"(b) TREATMENT OF ACCOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2)—

"(A) any voluntary investment account described in paragraph (1) of subsection (a) shall be treated in the same manner as an account in the Thrift Savings Fund under subchapter III of chapter 84 of title 5, United States Code,

"(B) any voluntary investment account described in paragraph (2) of subsection (a) shall be treated in the same manner as an individual retirement plan (as so defined), and

"(C) any voluntary investment account described in paragraph (3) of subsection (a) shall be treated in the same manner as the designated KidSave Account would have been treated under section 262(b).

"(2) EXCEPTIONS.—

"(A) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all voluntary investment accounts of an electing employee shall not exceed the aggregate amount of contributions made pursuant to sections 3101(a)(3), 3111(a)(3), and 1401(a)(3) of the Internal Revenue Code of 1986 and paid pursuant to section 252 or 253 on behalf of such employee.

"(B) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 of the Internal Revenue Code of 1986 for a contribution to a voluntary investment account.

"(C) ROLLOVER CONTRIBUTIONS.—No rollover contribution may be made to a voluntary investment account unless it is from another voluntary investment account or a KidSave Account (as described in paragraph (1) or (2) of section 262(a)). A rollover described in the preceding sentence shall not be taken into account for purposes of subparagraph (A).

"(D) DISTRIBUTIONS ALLOWED TO SOCIAL SECURITY BENEFICIARIES.—Notwithstanding any other provision of law, distributions may only be made from a voluntary investment account of an electing employee on or after the earlier of—

"(i) the date on which the employee begins receiving benefits under this title, or

"(ii) the date of the employee's death.

"(c) OTHER DEFINITIONS.—For purposes of this part—

"(1) COVERED EMPLOYER.—The term 'covered employer' means, for any calendar year, any person on whom an excise tax is imposed under section 3111 of the Internal Revenue Code of 1986 with respect to having an individual in the person's employ to whom wages are paid by such person during such calendar year.

"(2) ELECTING EMPLOYEE.—The term 'electing employee' means an individual with respect to whom an election under section 251 is in effect.

"(3) ELECTING SELF-EMPLOYED INDIVIDUAL.—The term 'electing self-employed individual' means an individual with respect to whom an election under section 253 is in effect.

"(d) TREATMENT OF INCOMPETENT INDIVIDUALS.—Any designation under section 251(c)(2) to be made by an individual mentally incompetent or under other legal disability may be made by the person who is constituted guardian or other fiduciary by the law of the State of residence of the individual or is otherwise legally vested with the care of the individual or his estate. Payment under this part due an individual mentally incompetent or under other legal disability may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or his estate. In any case in which a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the individual, if any other person, in the judgment of the Commissioner, is responsible for the care of such individual, any designation under section 251(c)(2) which may otherwise be made by such individual may be made by such person, any payment under this part which is otherwise payable to such individual may be made to such person, and the payment of an annuity payment under this part to such person bars recovery by any other person.

"VOLUNTARY INVESTMENT FUND

"SEC. 255. (a) ESTABLISHMENT.—There is established and maintained in the Treasury of the United States a Voluntary Investment Fund in the same manner as the Thrift Savings Fund under sections 8437, 8438, and 8439 of title 5, United States Code.

"(b) VOLUNTARY INVESTMENT FUND BOARD.—

"(1) IN GENERAL.—There is established and operated in the Social Security Administration a Voluntary Investment Fund Board in the same manner as the Federal Retirement Thrift Investment Board under subchapter VII of chapter 84 of title 5, United States Code.

"(2) SPECIFIC INVESTMENT DUTIES.—The Voluntary Investment Fund shall be managed by the Voluntary Investment Fund Board in the same manner as the Thrift Savings Fund is managed under subchapter VIII of chapter 84 of title 5, United States Code.".

(2) EXEMPTION FROM ERISA REQUIREMENTS.—Section 4(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1003(b)) is amended—

(A) in paragraph (4), by striking "or";

(B) in paragraph (5), by striking the period and inserting "; or"; and

(C) by inserting after paragraph (5) the following:

"(6) such plan is a voluntary investment account payroll deduction plan established under part B of title II of the Social Security Act.".

(3) EFFECTIVE DATE AND NOTICE REQUIREMENTS.—

(A) EFFECTIVE DATE.—The amendments made by this subsection (and any voluntary investment account payroll deduction plan required thereunder) apply with respect to wages paid after December 31, 2001, for pay periods beginning after such date and self-employment income for taxable years beginning after such date.

(B) NOTICE REQUIREMENTS.—

(i) IN GENERAL.—Not later than October 1, 2001, the Commissioner of Social Security shall—

(I) send to the last known address of each eligible individual a description of the program established by the amendments made by this subsection, which shall be written in the form of a pamphlet in language which may be readily understood by the average worker,

(II) provide for toll-free access by telephone from all localities in the United States and access by the Internet to the Social Security Administration through which individuals may obtain information and answers to questions regarding such program, and

(III) provide information to the media in all localities of the United States about such program and such toll-free access by telephone and access by Internet.

(ii) ELIGIBLE INDIVIDUAL.—For purposes of this subparagraph, the term "eligible individual" means an individual who, as of the date of the pamphlet sent pursuant to clause (i), is indicated within the records of the Social Security Administration as being credited with 1 or more quarters of coverage under section 213 of the Social Security Act (42 U.S.C. 413).

(iii) MATTERS TO BE INCLUDED.—The Commissioner shall include with the pamphlet sent to each eligible individual pursuant to clause (i)—

(I) a statement of the number of quarters of coverage indicated in the records of the Social Security Administration as of the date of the description as credited to such individual under section 213 of such Act and the date as of which such records may be considered accurate, and

(II) the number for toll-free access by telephone established by the Commissioner pursuant to clause (i).

(b) CONFORMING AMENDMENTS TO PAYROLL TAX PROVISIONS.—

(1) EMPLOYEES VOLUNTARY INVESTMENT CONTRIBUTIONS.—Section 3101(a) of the Internal Revenue Code of 1986 (relating to tax on employees), as amended by section 2(a)(1), is amended by adding at the end the following:

"(3) VOLUNTARY INVESTMENT ACCOUNT CONTRIBUTION.—In the case of an electing employee (as defined in section 254(c)(2) of the Social Security Act), in addition to other taxes, there is hereby imposed on the income of such employee a voluntary investment account contribution equal to 1 percent of the wages (as so defined) received by him with respect to employment (as so defined).".

(2) EMPLOYERS MATCHING CONTRIBUTIONS.—Section 3111(a) of such Code (relating to tax on employers), as amended by section 2(a)(2), is amended by adding at the end the following:

"(3) MATCHING CONTRIBUTION TO EMPLOYEE VOLUNTARY INVESTMENT ACCOUNT CONTRIBUTION.—In the case of an employer having in his employ an electing employee (as defined in section 254(c)(2) of the Social Security Act), in addition to other taxes, there is hereby imposed on such employer a voluntary investment account contribution equal to 1 percent of the wages (as so defined) paid by him with respect to employment (as so defined) of such employee.".

(3) SELF-EMPLOYMENT VOLUNTARY INVESTMENT ACCOUNT CONTRIBUTIONS.—Section 1401(a) of such Code (relating to tax on self-employment income), as amended by section 2(a)(3), is amended by adding at the end the following:

"(3) VOLUNTARY INVESTMENT ACCOUNT CONTRIBUTION.—In the case of an electing self-employed individual (as defined in section 254(c)(3) of the Social Security Act), in addition to other taxes, there is hereby imposed for each taxable year, on the self-employment income of such individual, a voluntary investment account contribution equal to 2 percent of the amount of the self-employment income for such taxable year.".

(4) EFFECTIVE DATES.—

(A) EMPLOYEES AND EMPLOYERS.—The amendments made by paragraphs (1) and (2) apply to remuneration paid after December 31, 2001.

(B) SELF-EMPLOYED INDIVIDUALS.—The amendment made by paragraph (3) applies to taxable years beginning after December 31, 2001.

SEC. 4. INCREASE OF SOCIAL SECURITY WAGE BASE.

(a) IN GENERAL.—Section 230 of the Social Security Act (42 U.S.C. 430) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "$60,600" and inserting "$99,900"; and

(B) in paragraph (2), by striking "1992" and inserting "2002"; and

(2) in subsection (c)—

(A) by striking "(1)" and all that follows through "$29,700." and inserting "the 'contribution and benefit base' with respect to remuneration paid (and taxable years beginning)—

"(1) in 2002 shall be $87,000,

"(2) in 2003 shall be $94,000, and

"(3) in 2004 shall be $99,900."; and

(B) by striking "specified in clause (2) of the preceding sentence" and inserting "specified in the preceding sentence".

(b) EFFECTIVE DATE.—The amendments made by this section take effect on January 1, 2002.

SEC. 5. COST-OF-LIVING ADJUSTMENTS.

(a) COST-OF-LIVING BOARD.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following:

"PART D—COST-OF-LIVING ADJUSTMENTS

"DETERMINATION OF INFLATION ADJUSTMENT

"SEC. 1180. (a) MODIFICATION OF COST-OF-LIVING ADJUSTMENT.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any cost-of-living adjustment described in subsection (e) shall be reduced by the applicable percentage point.

"(2) APPLICABLE PERCENTAGE POINT.—In this section, the term 'applicable percentage point' means—

"(A) except as provided in subparagraph (B), 1 percentage point; or

"(B) the applicable percentage point adopted by the Cost-of-Living Board under subsection (b) for the calendar year.

"(b) COST-OF-LIVING BOARD DETERMINATION.—

"(1) IN GENERAL.—The Cost-of-Living Board established under section 1181 shall for each calendar year after 1999 determine if a new applicable percentage point is necessary to replace the applicable percentage point described in subsection (a)(2)(A) to ensure an accurate cost-of-living adjustment which shall apply to any cost-of-living adjustment taking effect during such year.

"(2) ADOPTION OR REJECTION OF NEW APPLICABLE PERCENTAGE POINT.—

"(A) ADOPTION.—

"(i) IN GENERAL.—If the Cost-of-Living Board adopts by majority vote a new applicable percentage point under paragraph (1), then, for purposes of subsection (a)(1), the new applicable percentage point shall remain in effect during the following calendar year.

"(ii) APPROPRIATE ADJUSTMENTS.—The Cost-of-Living Board shall make appropriate adjustments to the applicable percentage point applied to any cost-of-living adjustment if—

"(I) the period during which the change in the cost-of-living is measured for such adjustment is different than the period used by the Cost-of-Living Board; or

"(II) the adjustment is based on a component of an index rather than the entire index.

"(B) REJECTION.—If the Cost-of-Living Board fails by majority vote to adopt a new applicable percentage point under paragraph (1) for any calendar year, then the applicable percentage point for such calendar year shall be the applicable percentage point described in subsection (a)(2)(A).

"(c) REPORT.—Not later than November 1 of each calendar year, the Cost-of-Living Board shall submit a report to the President and Congress containing a detailed statement with respect to the new applicable percentage point (if any) agreed to by the Board under subsection (b).

"(d) JUDICIAL REVIEW.—Any determination by the Cost-of Living Board under subsection (b) shall not be subject to judicial review.

"(e) COST-OF-LIVING ADJUSTMENT DESCRIBED.—A cost-of-living adjustment described in this subsection is any cost-of-living adjustment for a calendar year after 1999 determined by reference to a percentage change in a consumer price index or any component thereof (as published by the Bureau of Labor Statistics of the Department of Labor and determined without regard to this section) and used in any of the following:

"(1) The Internal Revenue Code of 1986.

"(2) Titles II, XVIII, and XIX of this Act.

"(3) Any other Federal program (not including programs under title XVI of this Act).

"COST-OF-LIVING BOARD

"SEC. 1181. (a) ESTABLISHMENT OF BOARD.—

"(1) ESTABLISHMENT.—There is established a board to be known as the Cost-of-Living Board (in this section referred to as the 'Board').

"(2) MEMBERSHIP.—

"(A) COMPOSITION.—The Board shall be composed of 5 members of whom—

"(i) 1 shall be the Chairman of the Board of Governors of the Federal Reserve System;

"(ii) 1 shall be the Chairman of the President's Council of Economic Advisers; and

"(iii) 3 shall be appointed by the President, by and with the advice and consent of the Senate.

The President shall consult with the leadership of the House of Representatives and the Senate in the appointment of the Board members under clause (iii).

"(B) EXPERTISE.—The members of the Board appointed under subparagraph (A)(iii) shall be experts in the field of economics and should be familiar with the issues related to the calculation of changes in the cost of living. In appointing members under subparagraph (A)(iii), the President shall consider appointing—

"(i) former members of the President's Council of Economic Advisers;

"(ii) former Treasury department officials;

"(iii) former members of the Board of Governors of the Federal Reserve System;

"(iv) other individuals with relevant prior government experience in positions requiring appointment by the President and Senate confirmation; and

"(v) academic experts in the field of price statistics.

"(C) DATE.—

"(i) Nominations.—Not later than 30 days after the date of enactment of the Social Security Solvency Act of 1999, the President shall submit the nominations of the members of the Board described in subparagraph (A)(iii) to the Senate.

"(ii) Senate action.—Not later than 60 days after the Senate receives the nominations under clause (i), the Senate shall vote on confirmation of the nominations.

"(3) Terms and vacancies.—

"(A) Terms.—A member of the Board appointed under paragraph (2)(A)(iii) shall be appointed for a term of 5 years, except that of the members first appointed under that paragraph—

"(i) 1 member shall be appointed for a term of 1 year;

"(ii) 1 member shall be appointed for a term of 3 years; and

"(iii) 1 member shall be appointed for a term of 5 years.

"(B) Vacancies.—

"(i) In general.—A vacancy on the Board shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

"(ii) Filling unexpired term.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

"(C) Expiration of terms.—The term of any member appointed under paragraph (2)(A)(iii) shall not expire before the date on which the member's successor takes office.

"(4) Initial meeting.—Not later than 30 days after the date on which all members of the Board have been appointed, the Board shall hold its first meeting. Subsequent meetings shall be determined by the Board by majority vote.

"(5) Open meetings.—Notwithstanding section 552b of title 5, United States Code, or section 10 of the Federal Advisory Committee Act (5 U.S.C. App.), the Board may, by majority vote, close any meeting of the Board to the public otherwise required to be open under that section. The Board shall make the records of any such closed meeting available to the public not later than 30 days of that meeting.

"(6) Quorum.—A majority of the members of the Board shall constitute a quorum, but a lesser number of members may hold hearings.

"(7) Chairperson and vice chairperson.—The Board shall select a Chairperson and Vice Chairperson from among the members appointed under paragraph (2)(A)(iii).

"(b) Powers of the Board.—

"(1) Hearings.—The Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out the purposes of this part.

"(2) Information from federal agencies.—The Board may secure directly from any Federal department or agency such information as the Board considers necessary to carry out the provisions of this part, including the published and unpublished data and analytical products of the Bureau of Labor Statistics. Upon request of the Chairperson of the Board, the head of such department or agency shall furnish such information to the Board.

"(3) Postal services.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(4) Gifts.—The Board may accept, use, and dispose of gifts or donations of services or property.

"(c) Board Personnel Matters.—

"(1) Compensation of members.—Each member of the Board who is not otherwise an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level III of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. All members of the Board who otherwise are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

"(2) Travel expenses.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

"(3) Staff.—

"(A) In general.—The Chairperson of the Board may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Board to perform its duties. The employment of an executive director shall be subject to confirmation by the Board.

"(B) Compensation.—The Chairperson of the Board may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level IV of the Executive Schedule under section 5316 of such title.

"(4) Detail of government employees.—Any Federal Government employee may be detailed to the Board without additional reimbursement (other than the employee's regular compensation), and such detail shall be without interruption or loss of civil service status or privilege.

"(5) Procurement of temporary and intermittent services.—The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

"(d) Termination.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

"(e) Authorization of Appropriations.—There are authorized to be appropriated to the Board such sums as are necessary to carry out the purposes of this part.".

(c) Termination of Wage Index Adjustment.—Section 215(i)(1)(C) of the Social Security Act (42 U.S.C. 415(i)(1)(C)) is amended—

(1) in clause (i)—

(A) by inserting "and before 2000" after "after 1988"; and

(B) by inserting ", or in any calendar year after 1999, the CPI increase percentage"; and

(2) in clause (ii), by inserting "and before 2000" after "after 1988".

SEC. 6. TAX TREATMENT OF SOCIAL SECURITY PAYMENTS.

(a) In General.—Section 86(a) of the Internal Revenue Code of 1986 (relating to social security and tier 1 railroad retirement benefits) is amended to read as follows:

"(a) Income Inclusion.—

"(1) General rule.—Notwithstanding section 207 of the Social Security Act, social security benefits shall be included in the gross income of a taxpayer for any taxable year in the manner provided under section 72.

"(2) Transition rules.—

"(A) In general.—Notwithstanding paragraph (1), with respect to any taxable year beginning in 2000, 2001, 2002, or 2003, gross income of the taxpayer shall include social security benefits in an amount equal to the greater of—

"(i) the applicable percentage of the amount which would have been included under paragraph (1) for such year, or

"(ii) the amount which would have been included under this section for such year if the amendments made by section 6 of the Social Security Solvency Act of 1999 had not been enacted.

"(B) Applicable percentage.—For purposes of subparagraph (A)(i), the applicable percentage for any taxable year shall be determined in accordance with the following table:

"In the case of any taxable year beginning in—	The applicable percentage is:
2000	20
2001	40
2002	60
2003	80.".

(b) Conforming Amendments.—Section 86 of the Internal Revenue Code of 1986 is amended by striking subsections (b), (c), and (e) and by redesignating subsections (d) and (f) as subsections (b) and (c), respectively.

(c) Transfers to Trust Funds.—Paragraph (1)(A) of section 121(e) of the Social Security Amendments of 1983, as amended by section 13215(c)(1) of the Omnibus Budget Reconciliation Act of 1993, is amended by striking "1993." and inserting "1993, plus (iii) the amounts equivalent to the aggregate increase in tax liabilities under chapter 1 of the Internal Revenue Code of 1986 which is attributable to the amendments to section 86 of such Code made by section 6 of the Social Security Solvency Act of 1999.".

(d) Effective Date.—The amendments made by this section apply to taxable years ending after December 31, 1999.

SEC. 7. COVERAGE OF NEWLY HIRED STATE AND LOCAL EMPLOYEES.

(a) Amendments to the Social Security Act.—

(1) In general.—Paragraph (7) of section 210(a) of the Social Security Act (42 U.S.C. 410(a)(7)) is amended to read as follows:

"(7) Excluded State or local government employment (as defined in subsection (s));".

(2) Excluded state or local government employment.—

(A) In general.—Section 210 of such Act (42 U.S.C. 410) is amended by adding at the end the following new subsection:

"Excluded State or Local Government Employment

"(s)(1) In General.—The term 'excluded State or local government employment' means any service performed in the employ of a State, of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, if—

"(A)(i) such service would be excluded from the term 'employment' for purposes of this title if the preceding provisions of this section as in effect on December 31, 2001, had remained in effect, and (ii) the requirements of paragraph (2) are met with respect to such service, or

"(B) the requirements of paragraph (3) are met with respect to such service.

"(2) Exception for Current Employment Which Continues.—

"(A) In general.—The requirements of this paragraph are met with respect to service for any employer if—

"(i) such service is performed by an individual—

"(I) who was performing substantial and regular service for remuneration for that employer before January 1, 2002,

"(II) who is a bona fide employee of that employer on December 31, 2001, and

"(III) whose employment relationship with that employer was not entered into for purposes of meeting the requirements of this subparagraph, and

"(ii) the employment relationship with that employer has not been terminated after December 31, 2001.

"(B) Treatment of multiple agencies and instrumentalities.—For purposes of subparagraph (A), under regulations (consistent with regulations established under section 3121(t)(2)(B) of the Internal Revenue Code of 1986)—

"(i) all agencies and instrumentalities of a State (as defined in section 218(b)) or of the District of Columbia shall be treated as a single employer, and

"(ii) all agencies and instrumentalities of a political subdivision of a State (as so defined) shall be treated as a single employer and shall not be treated as described in clause (i).

"(3) Exception for Certain Services.—

"(A) In general.—The requirements of this paragraph are met with respect to service if such service is performed—

"(i) by an individual who is employed by a State or political subdivision thereof to relieve such individual from unemployment,

"(ii) in a hospital, home, or other institution by a patient or inmate thereof as an employee of a State or political subdivision thereof or of the District of Columbia,

"(iii) by an individual, as an employee of a State or political subdivision thereof or of the District of Columbia, serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency,

"(iv) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the District of Columbia Government), other than as a medical or dental intern or a medical or dental resident in training,

"(v) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $1,000 with respect to service performed during 2002, and the adjusted amount determined under subparagraph (C) for any subsequent year with respect to service performed during such subsequent year, except to the extent that service by such election official or election worker is included in employment under an agreement under section 218, or

"(vi) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 211(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment.

"(B) Definitions.—As used in this paragraph, the terms 'State' and 'political subdivision' have the meanings given those terms in section 218(b).

"(C) Adjustments to dollar amount for election officials and election workers.—For each year after 2002, the Secretary shall adjust the amount referred to in subparagraph (A)(v) at the same time and in the same manner as is provided under section 215(a)(1)(B)(ii) with respect to the amounts referred to in section 215(a)(1)(B)(i), except that—

"(i) for purposes of this subparagraph, 1999 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(ii)(II), and

"(ii) such amount as so adjusted, if not a multiple of $50, shall be rounded to the nearest multiple of $50.

The Commissioner of Social Security shall determine and publish in the Federal Register each adjusted amount determined under this subparagraph not later than November 1 preceding the year for which the adjustment is made.".

(B) Conforming amendments.—

(i) Subsection (k) of section 210 of such Act (42 U.S.C. 410(k)) (relating to covered transportation service) is repealed.

(ii) Section 210(p) of such Act (42 U.S.C. 410(p)) is amended—

(I) in paragraph (2), by striking "service is performed" and all that follows and inserting "service is service described in subsection (s)(3)(A)."; and

(II) in paragraph (3)(A), by inserting "under subsection (a)(7) as in effect on December 31, 2001" after "section".

(iii) Section 218(c)(6) of such Act (42 U.S.C. 418(c)(6)) is amended—

(I) by striking subparagraph (C);

(II) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(III) by striking subparagraph (F) and inserting the following:

"(E) service which is included as employment under section 210(a)."

(b) Amendments to the Internal Revenue Code of 1986.—

(1) In general.—Paragraph (7) of section 3121(b) of the Internal Revenue Code of 1986 (relating to employment) is amended to read as follows:

"(7) excluded State or local government employment (as defined in subsection (t));".

(2) Excluded state or local government employment.—Section 3121 of such Code is amended by inserting after subsection (s) the following new subsection:

"(t) Excluded State or Local Government Employment.—

"(1) In general.—For purposes of this chapter, the term 'excluded State or local government employment' means any service performed in the employ of a State, of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, if—

"(A)(i) such service would be excluded from the term 'employment' for purposes of this chapter if the provisions of subsection (b)(7) as in effect on December 31, 2001, had remained in effect, and (ii) the requirements of paragraph (2) are met with respect to such service, or

"(B) the requirements of paragraph (3) are met with respect to such service.

"(2) Exception for current employment which continues.—

"(A) In general.—The requirements of this paragraph are met with respect to service for any employer if—

"(i) such service is performed by an individual—

"(I) who was performing substantial and regular service for remuneration for that employer before January 1, 2002,

"(II) who is a bona fide employee of that employer on December 31, 2001, and

"(III) whose employment relationship with that employer was not entered into for purposes of meeting the requirements of this subparagraph, and

"(ii) the employment relationship with that employer has not been terminated after December 31, 2001.

"(B) Treatment of multiple agencies and instrumentalities.—For purposes of subparagraph (A), under regulations—

"(i) all agencies and instrumentalities of a State (as defined in section 218(b) of the Social Security Act) or of the District of Columbia shall be treated as a single employer, and

"(ii) all agencies and instrumentalities of a political subdivision of a State (as so defined) shall be treated as a single employer and shall not be treated as described in clause (i).

"(3) Exception for certain services.—

"(A) In general.—The requirements of this paragraph are met with respect to service if such service is performed—

"(i) by an individual who is employed by a State or political subdivision thereof to relieve such individual from unemployment,

"(ii) in a hospital, home, or other institution by a patient or inmate thereof as an employee of a State or political subdivision thereof or of the District of Columbia,

"(iii) by an individual, as an employee of a State or political subdivision thereof or of the District of Columbia, serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency,

"(iv) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the District of Columbia Government), other than as a medical or dental intern or a medical or dental resident in training,

"(v) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $1,000 with respect to service performed during 2002, and the adjusted amount determined under section 210(s)(3)(C) of the Social Security Act for any subsequent year with respect to service performed during such subsequent year, except to the extent that service by such election official or election worker is included in employment under an agreement under section 218 of the Social Security Act, or

"(vi) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 1402(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment.

"(B) Definitions.—As used in this paragraph, the terms 'State' and 'political subdivision' have the meanings given those terms in section 218(b) of the Social Security Act.".

(3) Conforming amendments.—

(A) Subsection (j) of section 3121 of such Code (relating to covered transportation service) is repealed.

(B) Paragraph (2) of section 3121(u) of such Code (relating to application of hospital insurance tax to Federal, State, and local employment) is amended—

(i) in subparagraph (B), by striking "service is performed" in clause (ii) and all that follows through the end of such subparagraph and inserting "service is service described in subsection (t)(3)(A)."; and

(ii) in subparagraph (C)(i), by inserting "under subsection (b)(7) as in effect on December 31, 2001" after "chapter".

(c) Effective Date.—Except as otherwise provided in this section, the amendments made by this section shall apply with respect to service performed after December 31, 2001.

SEC. 8. INCREASE IN LENGTH OF COMPUTATION PERIOD FROM 35 TO 38 YEARS.

Section 215(b)(2)(B) of the Social Security Act (42 U.S.C. 415(b)(2)) is amended—

(1) in clause (ii), by striking "and" at the end;

(2) in clause (iii)—

(A) by striking "age 62" and inserting "the applicable age"; and

(B) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(iv) the term 'applicable age' means with respect to individuals who attain age 62—

"(I) before 2002, age 62;

"(II) in 2002, age 63;

"(III) in 2003, age 64; and

"(IV) after 2003, age 65.".

SEC. 9. MODIFICATION OF PIA FACTORS TO REFLECT CHANGES IN LIFE EXPECTANCY.

(a) Modification of PIA Factors.—Section 215(a)(1) of the Social Security Act (42 U.S.C. 415(a)(1)(B)) is amended by redesignating subparagraph (D) as subparagraph (F) and by inserting after subparagraph (C) the following:

"(D) For individuals who initially become eligible for old-age insurance benefits in any calendar year after 1999, each of the percentages under clauses (i), (ii), and (iii) of subparagraph (A) shall be multiplied the applicable number of times by .988 (.997, for any calendar year after 2017). For purposes of the preceding sentence, the term 'applicable number of times' means a number equal to the lesser of 66 or the number of years beginning with 2000 and ending with the year of initial eligibility.

"(E) For any individual who initially becomes eligible for disability insurance benefits in any calendar year after 1999, the primary insurance amount for such individual shall be equal to the greater of—

"(i) such amount as determined under this paragraph, or

"(ii) such amount as determined under this paragraph without regard to subparagraph (D) thereof.".

(b) Restoration of Normal Retirement Age at 65.—

(1) In general.—Section 216(l)(1) of the Social Security Act (42 U.S.C. 416(l) is amended to read as follows:

"(l)(1) The term 'retirement age' means 65 years of age.".

(2) Conforming Amendments.—

(A) Section 216(l) of the Social Security Act (42 U.S.C. 416(l)) is amended by striking paragraph (3).

(B) Section 202(q) of such Act (42 U.S.C. 402(q)) is amended—

(i) in paragraph (1), by striking "Subject to paragraph (9), if' and inserting "If'; and

(ii) by striking paragraph (9).

(c) Study of the Effect of Increases in Life Expectancy.—

(1) Study plan.—Not later than February 15, 2001, the Commissioner of Social Security shall submit to Congress a detailed study plan for evaluating the effects of increases in life expectancy on the expected level of retirement income from social security, pensions, and other sources. The study plan shall include a description of the methodology, data, and funding that will be required in order to provide to Congress not later than February 15, 2006—

(A) an evaluation of trends in mortality and their relationship to trends in health status, among individuals approaching eligibility for social security retirement benefits;

(B) an evaluation of trends in labor force participation among individuals approaching eligibility for social security retirement benefits and among individuals receiving retirement benefits, and of the factors that influence the choice between retirement and participation in the labor force;

(C) an evaluation of changes, if any, in the social security disability program that would reduce the impact of changes in the retirement income of workers in poor health or physically demanding occupations;

(D) an evaluation of the methodology used to develop projections for trends in mortality, health status, and labor force participation among individuals approaching eligibility for social security retirement benefits and among individuals receiving retirement benefits; and

(E) an evaluation of such other matters as the Commissioner deems appropriate for evaluating the effects of increases in life expectancy.

(2) Report on results of study.—Not later than February 15, 2006, the Commissioner of Social Security shall provide to Congress an evaluation of the implications of the trends studied under paragraph (1), along with recommendations, if any, of the extent to which the conclusions of such evaluations indicate that projected increases in life expectancy require modification in the social security disability program and other income support programs.

SEC. 10. ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED EARLY RETIREMENT AGE.

(a) In General.—Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(1) in subsection (c)(1), by striking "the age of seventy" and inserting "early retirement age (as defined in section 216(l))";

(2) in paragraphs (1)(A) and (2) of subsection (d), by striking "the age of seventy" each place it appears and inserting "early retirement age (as defined in section 216(l))";

(3) in subsection (f)(1)(B), by striking "was age seventy or over" and inserting "was at or above early retirement age (as defined in section 216(l))";

(4) in subsection (f)(3)—

(A) by striking "33⅓ percent" and all that follows through "any other individual," and inserting "50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8),"; and

(B) by striking "age 70" and inserting "early retirement age (as defined in section 216(l))";

(5) in subsection (h)(1)(A), by striking "age 70" each place it appears and inserting "early retirement age (as defined in section 216(l))"; and

(6) in subsection (j)—

(A) in the heading, by striking "Age Seventy" and inserting "Early Retirement Age"; and

(B) by striking "seventy years of age" and inserting "having attained early retirement age (as defined in section 216(l))".

(b) Conforming Amendments Eliminating the Special Exempt Amount For Individuals Who Have Attained Age 62.—

(1) Uniform exempt amount.—Section 203(f)(8)(A) of the Social Security Act (42 U.S.C. 403(f)(8)(A)) is amended by striking "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting "a new exempt amount which shall be applicable".

(2) Conforming amendments.—Section 203(f)(8)(B) of the Social Security Act (42 U.S.C. 403(f)(8)(B)) is amended—

(A) in the matter preceding clause (i), by striking "Except" and all that follows through "whichever" and inserting "The exempt amount which is applicable for each month of a particular taxable year shall be whichever";

(B) in clauses (i) and (ii), by striking "corresponding" each place it appears; and

(C) in the last sentence, by striking "an exempt amount" and inserting "the exempt amount".

(3) Repeal of basis for computation of special exempt amount.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. (f)(8)(D)) is repealed.

(c) Additional Conforming Amendments.—

(1) Elimination of redundant references to retirement age.—Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(A) in subsection (c), in the last sentence, by striking "nor shall any deduction" and all that follows and inserting "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60."; and

(B) in subsection (f)(1), by striking clause (D) and inserting the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60,".

(2) Conforming amendment to provisions for determining amount of increase on account of delayed retirement.—Section 202(w)(2)(B)(ii) of the Social Security Act (42 U.S.C. 402(w)(2)(B)(ii)) is amended—

(A) by striking "either"; and

(B) by striking "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit".

(3) Provisions relating to earnings taken into account in determining substantial gainful activity of blind individuals.—The second sentence of section 223(d)(4) of such Act (42 U.S.C. 423(d)(4)) is amended by striking "if section 102 of the Senior Citizens' Right to Work Act of 1996 had not been enacted" and inserting the following: "if the amendments to section 203 made by section 102 of the Senior Citizens' Right to Work Act of 1996 and by the Social Security Solvency Act of 1999 had not been enacted".

(d) Study of the Effect of Taking Earnings Into Account in Determining Substantial Gainful Activity of Disabled Individuals.—

(1) In general.—Not later than February 15, 2001, the Commissioner of Social Security shall conduct a study on the effect that taking earnings into account in determining substantial gainful activity of individuals receiving disability insurance benefits has on the incentive for such individuals to work and submit to Congress a report on the study.

(2) Contents of study.—The study conducted under paragraph (1) shall include the evaluation of—

(A) the effect of the current limit on earnings on the incentive for individuals receiving disability insurance benefits to work;

(B) the effect of increasing the earnings limit or changing the manner in which disability insurance benefits are reduced or terminated as a result of substantial gainful activity (including reducing the benefits gradually when the earnings limit is exceeded) on—

(i) the incentive to work; and

(ii) the financial status of the Federal Disability Insurance Trust Fund;

(C) the effect of extending eligibility for the Medicare program to individuals during the period in which disability insurance benefits of the individual are gradually reduced as a result of substantial gainful activity and extending such eligibility for a fixed period of time after the benefits are terminated on—

(i) the incentive to work; and

(ii) the financial status of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund; and

(D) the relationship between the effect of substantial gainful activity limits on blind individuals receiving disability insurance benefits and other individuals receiving disability insurance benefits.

(3) CONSULTATION.—The analysis under paragraph (2)(C) shall be done in consultation with the Administrator of the Health Care Financing Administration.

(e) EFFECTIVE DATE.—The amendments and repeals made by subsections (a), (b), and (c) shall apply with respect to taxable years ending after December 31, 2002.

SEC. 11. SOCIAL SECURITY KIDSAVE ACCOUNTS.

Title II of the Social Security Act (42 U.S.C. 401 et seq.), as amended by section 3(a), is amended by adding at the end the following:

"PART C—KIDSAVE ACCOUNTS

"KIDSAVE ACCOUNTS

"SEC. 261. (a) ESTABLISHMENT.—The Commissioner of Social Security shall establish in the name of each individual born on or after January 1, 1995, a KidSave Account described in paragraph (1) of section 262(a), upon the later of—

"(1) the date of enactment of this part, or

"(2) the date of the issuance of a Social Security account number under section 205(c)(2) to such individual.

The KidSave Account shall be identified to the account holder by means of the account holder's Social Security account number.

"(b) CONTRIBUTIONS.—

"(1) IN GENERAL.—There are appropriated such sums as are necessary in order for the Secretary of the Treasury to transfer from the general fund of the Treasury for crediting by the Commissioner to each account holder's KidSave Account under subsection (a), an amount equal to the sum of—

"(A) in the case of any individual born on or after January 1, 2000, $1000.00, on the date of the establishment of such individual's KidSave Account, and

"(B) in the case of any individual born on or after January 1, 1995, $500.00, on the 1st, 2nd, 3rd, 4th, and 5th birthdays of such individual occurring on or after January 1, 2000.

"(2) ADJUSTMENT FOR INFLATION.—For any calendar year after 2009, each of the dollar amounts under paragraph (1) shall be increased by the cost-of-living adjustment determined under section 215(i) for the calendar year.

"(c) DESIGNATIONS REGARDING KIDSAVE ACCOUNTS.—

"(1) INITIAL DESIGNATIONS OF INVESTMENT VEHICLE.—A person described in subsection (d) shall, on behalf of the individual described in subsection (a), designate the investment vehicle for the KidSave Account to which contributions on behalf of such individual are to be deposited. Such designation shall be made on the application for such individual's Social Security account number.

"(2) CHANGES IN INVESTMENT VEHICLES OR TYPES OF KIDSAVE ACCOUNTS.—The Commissioner shall by regulation provide the time and manner by which—

"(A) an individual or a person described in subsection (d) on behalf of such individual may change 1 or more investment vehicles for a KidSave Account described in paragraph (1) of section 262(a), and

"(B) an individual or a person described in subsection (d) on behalf of such individual may designate a KidSave Account described in paragraph (2) of section 262(a) or a voluntary investment account described in paragraph (1) or (2) of section 254(a) of the individual to which all or a portion of the amounts in an existing KidSave Account described in paragraph (1) of section 262(a) are to be transferred.

"(d) TREATMENT OF MINORS AND INCOMPETENT INDIVIDUALS.—Any designation under subsection (c) to be made by a minor, or an individual mentally incompetent or under other legal disability, may be made by the person who is constituted guardian or other fiduciary by the law of the State of residence of the individual or is otherwise legally vested with the care of the individual or his estate. Payment under this part due a minor, or an individual mentally incompetent or under other legal disability, may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or his estate. In any case in which a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the individual, if any other person, in the judgment of the Commissioner, is responsible for the care of such individual, any designation under subsection (c) which may otherwise be made by such individual may be made by such person, any payment under this part which is otherwise payable to such individual may be made to such person, and the payment of an annuity payment under this part to such person bars recovery by any other person.

"DEFINITIONS AND SPECIAL RULES

"SEC. 262. (a) KIDSAVE ACCOUNTS.—For purposes of this part—

"(1) a KidSave Account described in this paragraph is a KidSave Account in the Voluntary Investment Fund (established under section 255(a)), and

"(2) a Kidsave Account described in this paragraph is any individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986), other than a Roth IRA (as defined in section 408A(b) of such Code), which is designated by an individual as a KidSave Account (in such manner as the Secretary of the Treasury may prescribe) and which is administered or issued by a bank or other person referred to in section 408(a)(2) of such Code.

"(b) TREATMENT OF ACCOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2)—

"(A) any KidSave Account described in subsection (a)(1) shall be treated in the same manner as an account in the Thrift Savings Fund under subchapter III of chapter 84 of title 5, United States Code, and

"(B) any KidSave Account described in subsection (a)(2) shall be treated in the same manner as an individual retirement plan (as so defined).

"(2) EXCEPTIONS.—

"(A) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all KidSave Accounts of an individual shall not exceed the contribution made pursuant to section 261(b) for such year on behalf of such individual.

"(B) ROLLOVER CONTRIBUTIONS.—No rollover contribution may be made to a KidSave Account unless it is from another KidSave Account. A rollover described in the preceding sentence shall not be taken into account for purposes of subparagraph (A).

"(C) DISTRIBUTIONS.—Notwithstanding any other provision of law, distributions may only be made from a KidSave Account of an individual on or after the earlier of—

"(i) the date on which the individual begins receiving benefits under this title, or

"(ii) the date of the individual's death.".

SOCIAL SECURITY SOLVENCY ACT OF 1999 INTRODUCED ON JANUARY 19, 1999, BY SENATORS MOYNIHAN AND KERREY—BRIEF DESCRIPTION OF PROVISIONS

I. REDUCE PAYROLL TAXES AND RETURN TO PAY-AS-YOU-GO SYSTEM WITH VOLUNTARY PERSONAL SAVINGS ACCOUNTS

A. Reduce payroll taxes and return to pay-as-you-go

The bill would return Social Security to a pay-as-you-go system. That is, payroll tax rates would be adjusted so that annual revenues from taxes closely match annual outlays. This makes possible an immediate payroll tax cut of approximately $800 billion over the next 10 years, with reduced rates remaining in place for the next 30 years. Payroll tax rates would be cut from 12.4 to 10.4 percent for the period 2002 to 2029, and the rate would not increase above 12.4 percent until 2035. Even in the out-years, the pay-as-you-go rates under the plan will increase only slightly above the current rate of 12.4 percent. Based on estimates prepared last year the proposed rate schedule is:

Years:	*Percent*
2002–2029	10.4
2030–2034	12.4
2035–2049	12.9
2050–2059	13.3
2060 and thereafter	13.7

To ensure continued solvency, the Board of Trustees of the Social Security Trust Funds would make recommendations for a new pay-as-you-go tax rate schedule if the Trust Funds fall out of close actuarial balance. The new tax rate schedule would be considered by Congress under fast track procedures.

B. Personal savings accounts

Beginning in 2002, the bill would permit voluntary personal savings accounts which workers could finance with the proceeds of the two percentage point cut in the payroll tax. Alternatively, a worker could simply take the employee share of the tax cut (one percent of wages) as an increase in take-home pay. In addition, KidSave accounts, of up to $3,500, would be opened for all children born in 1995 or later.

C. Increase in amount of wages subject to tax

Under current law, the Social Security payroll tax applies only to the first $72,600 of wages in 1999. At that level, about 85 percent of wages in covered employment are taxed. That percentage has been falling because wages of persons above the taxable maximum have been growing faster than wages of persons below it.

Historically, about 90 percent of wages have been subject to tax. Under the bill, the taxable maximum would be increased to $99,900 (thereby imposing the tax on about 87 percent of wages) by 2004. Thereafter, automatic changes in the base, tied to increases in average wages, would be resumed. (Under current law, the taxable maximum is projected to increase to $84,900 in 2004, with automatic changes also continuing thereafter.)

II. INDEXATION PROVISIONS

A. Correct cost of living adjustments by one percentage point

The bill includes a one percentage point correction in cost of living adjustments. The correction would apply to all indexed programs (outlays and revenues) except Supplemental Security Income. The Bureau of Labor Statistics has made some improvements in the Consumer Price Index, but most of these were already taken into account when the Boskin Commission appointed by the Senate Finance Committee reported in 1996 that the overstatement of the cost of living by the CPI was 1.1 percentage points.[1] Members of the Commission believe that the overstatement will average about one percentage point for the next several years. The proposed legislation would also establish a Cost of Living Board to determine on an annual basis if further refinements are necessary.

B. Adjustments in monthly benefits related to changes in life expectancy

Under current law, the so-called normal retirement age (NRA) is scheduled to gradually increase from age 65 to 67. In practice, the NRA is important as a benchmark for determining the monthly benefit amount, but it does not reflect the actual age at which workers receive retirement benefits. More than 70 percent of workers begin collecting Social Security retirement benefits before they reach age 65, and more than 50 percent do so at age 62. Under the bill, workers can continue to receive benefits at age 62 and the provision in the 1983 Social Security amendments that increased the NRA to 67 is repealed. Instead, under this legislation, if life expectancy increases the level of monthly benefits payable at age 65 (or at the age at which the worker actually retires) decreases.

These changes in monthly benefits are a form of indexation that mirrors the projected gradual increase in life expectancy over a period of more than 100 years. For example, persons who retired in 1960 at age 65 had a life expectancy, at age 65, of 15 years and spent about 25 percent of their adult life in retirement. Persons retiring in 2060, at age 70, are projected to have a life expectancy at age 70 of more than 16 years, and thus would also spend about 25 percent of their adult life in retirement.

III. PROGRAM SIMPLIFICATION—REPEAL OF EARNINGS TEST

The so-called earnings test would be eliminated for all beneficiaries age 62 and over, beginning in 2003. (Under current law, the test increases to $30,000 in 2002.) Under the earnings test benefits are withheld (reduced) for one million beneficiaries because wages are in excess of the earnings limit. This is an unnecessary administrative burden because beneficiaries eventually receive all of the benefits that are withheld. Indeed, Social Security Administration actuaries estimate that the long-run cost of repealing the earnings test is zero.

IV. OTHER CHANGES

All three factions of the 1994-96 Social Security Advisory Council supported some variation of the following common sense changes in the program.

A. Normal Taxation of Benefits

Social Security benefits would be taxed to the same extent private pensions are taxed. That is, Social Security benefits would be taxed to the extent that the worker's benefits exceed his or her contributions to the system (currently about 95 percent of benefits would be taxed). This provision would be phased-in over the 5 year period 2000-2004.

B. Coverage of Newly Hired State and Local Employees

Effective in 2002, Social Security coverage would be extended to newly hired employees in currently excluded State and local positions. Inclusion of State and local workers is sound public policy because most of the five million State and local employees (about a quarter of all State and local employees) not covered by Social Security in their government employment do receive Social Security benefits as a result of working at other jobs—part-time or otherwise—that are covered by Social Security. Relative to their contributions these workers receive generous benefits.

C. Increase in Length of Computation Period

The legislation would increase the length of the computation period from 35 to 38 years. Consistent with the increase in life expectancy and the increase in the retirement age we would expect workers to have more years with earnings. Computation of their benefits should be based on these additional years of earnings.

SUMMARY OF BUDGET EFFECTS

The legislation provides for long-run solvency of Social Security, with little or no effect on the budget surplus. In the Economic and Budget Outlook: Update, released in August, 1998, the Congressional Budget Office (CBO) projected that for the five-year period FY 1999-2003, the cumulative surplus would be $520 billion, and $1.548 trillion for the ten-year period FY 1999-2008. Preliminary estimates, based on these budget projections, indicate that this legislation, while preserving Social Security, and while reducing payroll taxes by almost $800 billion, will reduce the ten-year cumulative surplus by less than $200 billion. In no year is there a budget deficit. (CBO will provide updated budget estimates after its new baseline is released later this month.)—Prepared by the Senate Finance Committee Minority Staff, January, 1999.

PAY-AS-YOU-GO PAYROLL TAX RATES REQUIRED TO FUND SOCIAL SECURITY

Year	Assuming no program changes	Social Security Solvency Act of 1999
2002	10.40	10.40
2005	10.40	10.40
2010	10.40	10.40
2015	12.40	10.40
2020	15.20	10.40
2025	16.50	10.40
2030	17.00	12.40
2035	17.00	12.90
2040	17.00	12.90
2045	17.00	12.90
2050	17.00	13.30
2055	17.80	13.30
2060	17.80	13.70
2065	17.80	13.70
2070	18.30	13.70

Note: The Social Security payroll tax rate is fixed by statute at 12.4 percent. Assuming no program changes the current law program is not sustainable. In 2013, outgo for the OASDI program will exceed tax revenues. In 2032, all OASDI assets (reserves) will be expended, after which tax revenues will only be sufficient to pay 75 percent or less or promised benefits.

CBO BUDGET ESTIMATES—FISCAL YEARS 1999–2008

(In billions of dollars)

Year	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	Cumulative surplus	
											5 years 1999–2003	10 years 1999–2008
Estimated surplus under current policies: CBO summer 1998 budget projection	80	79	86	139	136	154	170	217	236	251	520	1.548
Estimated surplus under the Social Security Solvency Act of 1999	80	48	50	92	89	121	153	211	240	268	359	1.352

Prepared by the Senate Finance Committee Minority Staff based on the Congressional Budget Office Summer 1998 Budget projection and preliminary estimate of the Social Security Solvency Act of 1999. January 1999.

By Mr. MOYNIHAN (for himself, Mr. HELMS, Mr. LOTT, Mr. DASCHLE, Mr. THOMPSON, Ms. COLLINS, and Mr. SCHUMER):

S. 22. A bill to provide for a system to classify information in the interests of national security and a system to declassify information, and for other purposes; to the Committee on Governmental Affairs.

THE GOVERNMENT SECRECY REFORM ACT

Mr. MOYNIHAN. Mr. President, I rise to introduce the Government Secrecy Reform Act. I would like to begin by thanking my cosponsors, Senators HELMS, LOTT, DASCHLE, THOMPSON, COLLINS, and SCHUMER. The legislation that we introduce today is intended to implement the core recommendation of the Commission on Protecting and Reducing Government Secrecy: a statute establishing the principles to govern the classification and declassification of information.

The Federal government has a legitimate interest in maintaining secrets in order to fulfill its Constitutional charge to "provide for the common defense." At the same time, this interest must be balanced by the public's right to be informed of government activities.

---

[1] A number of improvements announced by the BLS after this legislation was first introduced in 1998 would lower the reported change in prices. The authors are considering what modifications, if any, should be made to the bill as a result of the BLS announcements. They are also discussing, with the Social Security actuaries, the effects of this change on the long-run projections made by the actuaries.

The Commission on Protecting and Reducing Government Secrecy, which I chaired, found a secrecy system out of balance: one which has lost the confidence of many inside and outside the Government. Consequently, information needing protection does not always receive it, while innocuous information is classified and remains classified. The Commission found in its 1997 report that "[t]he best way to ensure that secrecy is respected, and that the most important secrets remain secret, is for secrecy to be returned to its limited but necessary role. Secrets can be protected more effectively if secrecy is reduced overall."

Begin with the concept that secrecy should be understood as a form of government regulation. This was an insight of the Commission, building on the work of the great German sociologist Max Weber. The instinct of the bureaucracy, Weber wrote, was to "increase the superiority of the professionally informed by keeping their knowledge and intentions secret." The concept of the "official secret" "is the specific invention of bureaucracy, and nothing is so fanatically defended by the bureaucracy as this attitude."

We traditionally think of regulation as a means to govern how citizens are to behave. Whereas public regulation involves what citizens may do, secrecy concerns what citizens may know. And the citizen does not know what may not be known. As our Commission stated: "Americans are familiar with the tendency to overregulate in other areas. What is different with secrecy is that the public cannot know the extent or the content of the regulation."

Thus, secrecy is the ultimate mode of regulation; the citizen does not even know that he or she is being regulated! It is a parallel regulatory regime with a far greater potential for damage if it malfunctions. In our democracy, where the free exchange of ideas is so essential, it can be suffocating.

To reform this system, the Commission recommended legislation be adopted. Senator JESSE HELMS and I, and Representatives LARRY COMBEST and Lee Hamilton (all Commissioners), introduced the Government Secrecy Act on May 7, 1997. Our core objective is to ensure that secrecy proceed according to law. Since the Truman Administration, classification and declassification have been governed by a series of executive orders but not one has created a stable and reliable system to ensure we protect what truly needs protecting and nothing more. The system lacks the discipline of a legal framework to define and enforce the proper uses of secrecy. The proposed statute can help ensure that the present regulatory regime will not simply continue to flourish without any restraint and without meaningful oversight and accountability.

The Senate Governmental Affairs Committee, Chaired by Senator THOMPSON of Tennessee, considered the bill in the 105th Congress and reported it unanimously. In its report to accompany the bill, the Committee had this important insight:

> Our liberties depend on the balanced structure created by James Madison and the other framers of the Constitution. The national security information system has not had a clear legislative foundation, but . . . has been developed through a series of executive orders. It is time to bring this executive monopoly over the issue to an end, and to begin to engage in the same sort of dialogue between Congress and the executive that characterizes the development of government policy in all other means.

As the Cold War gathered, this "executive monopoly" as the Governmental Affairs Committee has termed it, was spawned. The United States had to organize itself to deal with aggression from the Soviet Union. American society in peacetime began to experience wartime regulation. The awful dilemma was that in order to preserve an open society, the U.S. government took measures that in significant ways closed it down. The culture of secrecy that evolved was intended as a defense against two antagonists: the enemy abroad and the enemy within.

Edward Shils chronicled the perils of this growing secrecy system in his 1956 work, The Torment of Secrecy. He said of this era:

> The American visage began to cloud over. Secrets were to become our chief reliance just when it was becoming more and more evident that the Soviet Union had long maintained an active apparatus for espionage in the United States. For a country which had never previously thought of itself as an object of systematic espionage by foreign powers, it was unsettling.

The larger society, Shils continued, was "facing an unprecedented threat to its continuance." In such circumstances, "the phantasies of apocalyptic visionaries now claimed the respectability of being a reasonable interpretation of the real situation."

Shils was writing, as he explained in his Foreword, "after nearly a decade of degrading agitation and numerous unnecessary and unworthy actions . . ." Today, by contrast, the public and its representatives have few of the concerns of ideological "infiltration" that dominated our attention and our domestic politics during the decade preceding Shils' book.

Indeed, if there is such a thing as a "typical" case of espionage, it involves an employee well into mid-career who sells national security secrets out of greed, not because of any ideologically-based motivation.

Moreover, today it is the United States government that increasingly finds itself the object of what Shils four decades ago termed the "phantasies of apocalyptic visionaries."

Conspiracy theories have been with us since the birth of the Republic. The best-known and most notorious is, of course, the unwillingness on the part of the vast majority of the American public to accept that President Kennedy was assassinated in 1963 by Lee Harvey Oswald acting alone. A poll taken in 1966, two years after release of the Warren Commission report concluding that Oswald had acted alone, found that 36 percent of respondents accepted this finding, while 50 percent believed others had been involved in a conspiracy to kill the President. By 1978 only 18 percent responded that they believed the assassination had been the act of one man; fully 75 percent believed there had been a broader plot. The numbers have remained relatively steady since; a 1993 poll also found that three-quarters of those surveyed believed (consistent with the film "JFK," released that year) that there had been a conspiracy.

It so happens that I was in the White House at the hour of the President's death (I was an Assistant Labor Secretary at the time). I feared what would become of Oswald if he were not protected and I pleaded that we must get custody of him. But no one seemed to be able to hear. Presently Oswald was killed, significantly complicating matters.

I did not think there had been a conspiracy to kill the President, but I was convinced that the American people would sooner or later come to believe that there had been one unless we investigated the event with exactly that presumption in mind. The Warren Commission report and the other subsequent investigations, with their nearly universal reliance on secrecy, did not dispel any such fantasies.

The Assassination Records Review Board has now completed its congressionally mandated review and release of documents related to President Kennedy's assassination. It has assembled at the National Archives a thorough collection of documents and evidence that was previously secret and scattered about the government. The Review Board found that while the public has continued to search for answers over the past thirty-five years:

> [T]he official record on the assassination of President Kennedy remained shrouded in secrecy and mystery.
>
> The suspicions created by government secrecy eroded confidence in the truthfulness of federal agencies in general and damaged their credibility.

Credibility eroded needlessly, as most of the documents which the Board reviewed were declassified. In conducting this document-by-document review of classified information, the Board reports that "the federal government needlessly and wastefully classified and then withheld from public access countless important records that did not require such treatment."

With the Government Secrecy Reform Act, we are not proposing putting an end to government secrecy. Far from it. It is at times terribly necessary and used for the most legitimate reasons—ranging from military operations to diplomatic endeavors. Indeed, much of our Commission's report is devoted to explaining the varied circumstances in which secrecy is most essential. Yet, the bureaucratic attachment to secrecy has become so warped that, in the words of Kermit Hall, a member of the Assassination Records Review Board, it has transformed into "a deeply ingrained commitment to secrecy as a form of patriotism." From this perspective, it is easy to see how secrecy became the norm.

Secrecy need not remain the only norm—particularly when one considers that the current badly overextended system frequently fails to protect its most important secrets adequately. We must develop what might be termed a competing "culture of openness"—fully consistent with our interests in protecting national security. A culture in which power and authority are no longer derived primarily from one's ability to withhold information from others in government and the public at large.

This is our purpose in introducing the Government Secrecy Reform Act. I thank those who have agreed to cosponsor the bill and ask my colleagues to lend it the attention it deserves.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 22

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Secrecy Reform Act of 1999".

SEC. 2. CLASSIFICATION AND DECLASSIFICATION OF INFORMATION.

(a) IN GENERAL.—The President may, in accordance with the provisions of this Act, protect from unauthorized disclosure any information owned by, produced by or for, or under the control of the executive branch when there is a demonstrable need to do so in order to protect the national security of the United States.

(b) ESTABLISHMENT OF STANDARDS AND PROCEDURES FOR CLASSIFICATION AND DECLASSIFICATION.—

(1) GOVERNMENTWIDE PROCEDURES.—

(A) CLASSIFICATION.—The President shall, to the extent necessary, establish categories of information that may be classified and procedures for classifying information under subsection (a).

(B) DECLASSIFICATION.—At the same time the President establishes categories and procedures under subparagraph (A), the President shall establish procedures for declassifying information that was previously classified.

(2) NOTICE AND COMMENT.—

(A) NOTICE.—The President shall publish in the Federal Register notice regarding the categories and procedures proposed to be established under paragraph (1).

(B) COMMENT.—The President shall provide an opportunity for interested persons to submit comments on the categories and procedures covered by subparagraph (A).

(C) DEADLINE.—The President shall complete the establishment of categories and procedures under paragraph (1) not later than 60 days after publishing notice in the Federal Register under subparagraph (A). Upon completion of the establishment of such categories and procedures, the President shall publish in the Federal Register notice regarding such categories and procedures.

(3) MODIFICATION.—In the event the President determines to modify any categories or procedures established under paragraph (1), subparagraphs (A) and (B) of paragraph (2) shall apply to such modification.

(4) AGENCY STANDARDS AND PROCEDURES.—

(A) IN GENERAL.—The head of each agency shall establish standards and procedures to permit such agency to classify and declassify information created by such agency in accordance with the categories and procedures established by the President under this section and otherwise to carry out the provisions of this Act. Such standards and procedures shall include mechanisms to minimize the risk of inadvertent or inappropriate declassification of previously classified information (including information classified by other agencies).

(B) GUIDANCE.—

(i) IN GENERAL.—The President shall require the head of each agency with original classification authority to produce written guidance on the classification and declassification of information in order to improve the classification and declassification of information by such agency and the derivative classification of information and declassification of derivatively classified information by such agency and other agencies. Such guidance may be treated as classified information under this Act.

(ii) DECLASSIFICATION PERIOD FOR CERTAIN INFORMATION.—

(I) IN GENERAL.—In producing written guidance under clause (i), the head of an agency may specify types and categories of information that may remain classified for up to 25 years after the date of original classification.

(II) APPROVAL REQUIRED.—The specification of a type or category of information under subclause (I) shall be effective only with the approval of the Director of the Office of National Classification and Declassification Oversight.

(C) DEADLINE.—Each agency head shall establish standards and procedures under subparagraph (A) and produce written guidance under subparagraph (B) not later than 60 days after the date on which the President publishes notice under paragraph (2)(C) of the categories and standards established by the President under paragraph (1).

(D) PUBLICATION.—Each agency head shall publish in the Federal Register the standards and procedures established by such agency head under subparagraph (A).

(c) STANDARD FOR CLASSIFICATION AND DECLASSIFICATION DECISIONS.—

(1) IN GENERAL.—Subject to paragraph (2), information may be classified under this Act, and classified information under review for declassification under this Act may remain classified, only if the harm to national security that might reasonably be expected from disclosure of such information outweighs the public interest in disclosure of such information.

(2) DEFAULT RULE.—In the event of significant doubt whether the harm to national security that might reasonably be expected from the disclosure of information would outweigh the public interest in the disclosure of such information, such information shall not be classified or, in the case of classified information under review for declassification, declassified.

(3) FACTORS IN DECISIONS.—

(A) IN GENERAL.—The President shall prescribe the factors to be utilized in deciding for purposes of paragraph (1) whether the disclosure of information might reasonably be expected to harm national security or might serve the public interest.

(B) GUIDANCE.—In prescribing factors under subparagraph (A), the President shall also prescribe guidance to be utilized in applying such factors. The guidance shall specify with reasonable detail the weight to be assigned each factor and the manner of balancing among opposing factors of similar or different weight.

(C) PROCESS.—The President shall prescribe factors and guidance under this paragraph at the same time the President establishes categories and procedures under subsection (b)(1) and subject to the notice and comment procedures set forth under subsection (b)(2).

(d) WRITTEN JUSTIFICATION FOR CLASSIFICATION.—

(1) ORIGINAL CLASSIFICATION.—Each agency official who makes a decision to classify information not previously classified shall, at the time of such decision—

(A) identify himself or herself;

(B) provide in writing a detailed justification of that decision; and

(C) indicate the basis for the classification of the information with reference to the written guidance produced under subsection (b)(4)(B).

(2) DERIVATIVE CLASSIFICATION.—In any case in which an agency official or contractor employee classifies a document on the basis of information previously classified that is included or referenced in the document, the official or employee, as the case may be, shall—

(A) identify himself or herself in that document; and

(B) provide a concise explanation of that decision.

(e) DECLASSIFICATION OF INFORMATION CLASSIFIED UNDER ACT.—

(1) IN GENERAL.—Except as provided in paragraphs (2), (3), and (4), information classified under this Act may not remain classified under this Act after the date that is 10 years after the date of the original classification of the information.

(2) EARLIER DECLASSIFICATION.—When classifying information under this Act, an agency official may provide for the declassification of the information as of a date or event that is earlier than the date otherwise provided for under paragraph (1).

(3) LATER DECLASSIFICATION.—

(A) IN GENERAL.—When classifying information under this Act, an agency official with original classification authority over the information may provide for the declassification of the information on a date that is up to 25 years after the date of original classification in accordance with the guidance approved under subsection (b)(4)(B)(ii).

(B) POSTPONEMENT.—The actual date of the declassification of information referred to in subparagraph (A) may be postponed under paragraph (4)(D).

(4) POSTPONEMENT OF DECLASSIFICATION.—

(A) IN GENERAL.—The declassification of any information or category of information that would otherwise be declassified under paragraph (1) or (2) may be postponed if an official of the agency with original classification authority over the information or category of information, as the case may be, determines, before the time of declassification for such information otherwise provided for under paragraph (1) or (2), as the case may be, that the information or category of information, as the case may be, should remain classified.

(B) Procedure.—An official may not implement a determination under subparagraph (A) until the official obtains the concurrence of the Director of the Office of National Classification and Declassification Oversight in the determination.

(C) General duration of postponement.—Except as provided in subparagraph (D), information the declassification of which is postponed under this paragraph may remain classified not longer than 15 years after the date of the postponement.

(D) Extended duration of postponement.—

(i) In general.—Subject to clauses (ii) and (iii), the declassification of any information that would otherwise be declassified under subparagraph (C) or paragraph (3) may be postponed if an official of the agency with original classification authority over the information determines that extraordinary circumstances require that the information remain classified.

(ii) Procedures.—An official may not implement a determination under clause (i) until the official—

(I) obtains the concurrence of the Director of the Office of National Classification and Declassification Oversight in the determination; and

(II) submits to the President a certification of the determination.

(iii) Review.—The President shall establish a schedule for the review of the need for continued classification of any information the declassification of which is postponed under this subparagraph. Such information shall be declassified at the earliest possible time after the termination of the circumstances with respect to such information referred to in clause (i).

(E) Concurrences.—A concurrence at the direction of the Classification and Declassification Review Board on appeal under section 4(c)(2) and a concurrence at the direction of the President on appeal under section 5(a) shall be treated as a concurrence of the Director of the Office of National Classification and Declassification Oversight for purposes of subparagraphs (B) and (D)(ii)(I).

(5) Approval required for declassification of information.—Except as provided in this Act, no information classified under this Act may be declassified or released without the approval of the agency that originally classified the information.

(6) Specification of declassification date or event.—Each agency official making a decision to classify information under this subsection shall specify upon such information the date or event of its declassification.

(f) Declassification of Current Classified Information.—

(1) Procedures.—The President shall establish procedures for declassifying information that was classified before the effective date of this Act. Such procedures shall, to the maximum extent practicable, be consistent with the provisions of this section.

(2) Automatic Declassification.—The procedures established under paragraph (1) shall include procedures for the automatic declassification of information referred to in that paragraph that has remained classified for more than 25 years as of the effective date referred to in that paragraph.

(3) Notice and comment.—

(A) Notice.—The President shall publish notice in the Federal Register of the procedures proposed to be established under this subsection.

(B) Comment.—The President shall provide an opportunity for interested persons to submit comments on the procedures covered by subparagraph (A).

(C) Deadline.—The President shall complete the establishment of procedures under this subsection not later than 60 days after publishing notice in the Federal Register under subparagraph (A). Upon completion of the establishment of such procedures, the President shall publish in the Federal Register notice regarding such procedures.

(g) Conforming Amendment to FOIA.—Section 552(b)(1) of title 5, United States Code, is amended to read as follows:

"(1) (A) specifically authorized to be classified under the Government Secrecy Reform Act of 1999 or specifically authorized under criteria established by an Executive order to be kept secret in the interest of national security and (B) are in fact properly classified pursuant to that Act or Executive order;".

SEC. 3. OFFICE OF NATIONAL CLASSIFICATION AND DECLASSIFICATION OVERSIGHT.

(a) Establishment.—

(1) In general.—There is established within the National Archives and Records Administration an office to be known as the Office of National Classification and Declassification Oversight (in this section referred to as the "Oversight Office").

(2) Purpose.—The purpose of the Oversight Office is to standardize the policies and procedures used by agencies to assess information for initial classification and to review information for declassification.

(3) Policy guidance.—On behalf of the President, the Assistant to the President for National Security Affairs shall provide policy guidance to the Oversight Office.

(4) Budget.—

(A) Consultation in preparation.—The Archivist of the United States shall consult with the Assistant to the President for National Security Affairs and the Director of the Office of Management and Budget in preparing the annual budget request for the Oversight Office.

(B) Presentation.—The annual budget request for the Oversight Office shall appear as a distinct item in the annual budget request of the National Archives and Records Administration.

(b) Director.—

(1) In general.—There shall be a Director of the Office of National Classification and Declassification Oversight who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be the head of the Oversight Office.

(2) Qualifications.—To the maximum extent practicable, the President shall nominate for appointment as Director individuals who have experience in policy relating to classification and declassification of information, records management, and information technology.

(3) Supervision.—The Director shall report directly to the Archivist of the United States.

(4) Executive schedule.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director, Office of National Classification and Declassification Oversight.".

(c) Personnel and Resources.—

(1) Transfer.—All personnel, funds, and other resources of the Information Security Oversight Office are hereby transferred to the Oversight Office and shall constitute the personnel, funds, and other resources of the Oversight Office.

(2) Interim director.—The Director of the Information Security Oversight Office shall serve as acting Director of the Oversight Office until a Director of the Oversight Office is appointed under subsection (b)(1).

(d) Duties.—The Oversight Office shall—

(1) coordinate and oversee the classification and declassification policies and practices of agencies in order to ensure the compliance of such policies and procedures with the provisions of this Act;

(2) develop and issue directives, instructions, and educational aids and forms to assist in the implementation of the provisions of this Act;

(3) develop a program of research and development of technologies to improve the efficiency of classification and declassification processes under this Act;

(4) determine whether or not information is classified in violation of this Act and order that information determined to be classified in violation of this Act be declassified by the agency that originated the classification;

(5) determine whether an agency determination to postpone the declassification of information under section 2(e)(4) is consistent with the provisions of this Act;

(6) review the proposed budgets of agencies for classification and declassification programs and make recommendations to the Office of Management and Budget as to means of ensuring that such budgets provide sufficient funds to permit agencies to comply with the requirements of this Act;

(7) oversee special access programs consistent with its other duties under this section;

(8) conduct audits and on-site reviews of agency classification and declassification programs; and

(9) establish and maintain a Government-wide database on the declassification activities of the Government, including an unclassified version of the database available to the public.

(e) Agency Cooperation.—

(1) In general.—Subject to the control and supervision of the President, each agency shall provide the Oversight Office such information and other cooperation as the Director of the Oversight Office considers appropriate to permit the Oversight Office to carry out its duties.

(2) Special access programs.—The head of an agency with jurisdiction over special access programs may—

(A) limit access to such programs to not more than the Director and one other employee of the Oversight Office; and

(B) upon the concurrence of the President, deny access by the Oversight Office to any such program if the head of such agency determines that such access would pose an exceptional risk to national security.

(f) Appeals from Certain Decisions.—

(1) In general.—An agency may appeal to the Classification and Declassification Review Board any declassification order or determination under paragraph (4) or (5) of subsection (d).

(2) Deadline.—An agency may appeal an order or determination under paragraph (1) only if the agency submits the appeal to the Board not later than 60 days after the date of the order or determination, as the case may be.

(g) Protection of Information.—The Director of the Oversight Office shall take appropriate actions to prevent disclosure to the public of classified information that is provided to the Oversight Office. Such actions shall include a requirement that the staff of the Oversight Office possess security clearances appropriate for the information considered and reviewed by the Oversight Office.

(h) ANNUAL REPORT.—

(1) REQUIREMENT.—Not later than March 31 each year, the Director of the Oversight Office shall submit to Congress and to the President a report on the compliance of agencies with the requirements of this Act.

(2) ELEMENTS.—Each report under paragraph (1) shall—

(A) include a summary of the extent of the compliance of agencies Government-wide with the requirements of this Act as of the date of such report; and

(B) set forth an assessment of the compliance of each agency with such requirements as of that date.

(3) FORM.—Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(4) AVAILABILITY.—The Oversight Office shall make available to the public the unclassified form of each report under paragraph (1) on an Internet Web site maintained by the Oversight Office.

SEC. 4. CLASSIFICATION AND DECLASSIFICATION REVIEW BOARD.

(a) ESTABLISHMENT.—There is established within the Executive Office of the President a board to be known as the Classification and Declassification Review Board (in this section referred to as the "Board").

(b) MEMBERSHIP AND PROCEDURAL MATTERS.—

(1) IN GENERAL.—The Board shall consist of five members appointed by the President, by and with the advice and consent of the Senate, of whom—

(A) four shall be private citizens;

(B) two shall be officers or employees of the Federal Government; and

(2) QUALIFICATIONS.—

(A) PRIVATE CITIZENS.—The members of the Board who are private citizens shall be appointed from among individuals who are distinguished historians, political scientists, archivists, and other social scientists or who otherwise have demonstrated expertise in matters relating to the national security of the United States, records management, or government information policy.

(B) GOVERNMENT EMPLOYEES.—The members of the Board who are officers or employees of the Federal Government shall be appointed from among such officers and employees who have demonstrated expertise in matters referred to in subparagraph (A).

(C) CHANGE IN EMPLOYMENT.—Notwithstanding any provision of paragraph (1), the commencement or termination of service as an officer or employee of the Federal Government of an individual appointed as a member of the Board under that paragraph before such commencement or termination shall not affect the continuation of such individual as a member of the Board.

(3) NOMINATIONS.—

(A) CONSULTATION.—In nominating individuals for appointment to the Board, the President shall consult with the Secretary of Defense, Secretary of State, Attorney General, Assistant to the President for National Security Affairs, Director of Central Intelligence, Archivist of the United States, and Director of the Office of Management and Budget.

(B) LIMITATION.—The President may not nominate for appointment to the Board any individual who has previously served as a member of the Board.

(C) INITIAL NOMINATIONS.—The President shall make the first nominations of individuals for appointment to the Board not later than 120 days after the effective date of this Act.

(D) BIPARTISAN REPRESENTATION.—Of the members of the Board appointed under paragraph (1)(A), not more than two shall be of the same political party.

(4) PRESIDING OFFICER.—The President shall designate a member of the Board appointed under paragraph (1)(A) to serve as the Presiding Officer of the Board.

(5) TERM.—Members of the Board shall be appointed for a term of 4 years, except that of the members first nominated for appointment to the Board under paragraph (3)(C)—

(A) two shall be nominated for a 4-year term (including the member who shall be the Presiding Officer of the Board);

(B) two shall be nominated for a 3-year term; and

(C) two shall be nominated for a 2-year term.

(6) VACANCIES.—An individual appointed to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(7) PROCEDURAL MATTERS.—

(A) QUORUM.—A majority of the members of the Board shall constitute a quorum, but a lesser number of members may hold hearings.

(B) RULES AND PROCEDURES.—

(i) REQUIREMENT.—The Board shall establish, and may from time to time modify, such rules and procedures as the Board considers appropriate to carry out its duties. Such rules and procedures shall provide that a decision of the Board requires a vote of a majority of the members of the Board.

(ii) PUBLICATION.—The Board shall publish its rules and procedures in the Federal Register.

(iii) INITIAL RULES AND PROCEDURES.—The Board shall establish its initial rules and procedures not later than 90 days after the date of initial meeting of the Board.

(c) POWERS AND DUTIES.—The Board shall—

(1) decide on appeals by agencies which challenge a declassification order of the Office of National Classification and Declassification Oversight under section 3(d)(4);

(2) decide on appeals by agencies which challenge a determination of that Office not to concur in the postponement of the declassification of information under section 3(d)(5); and

(3) decide on appeals by persons or entities who have filed requests for mandatory declassification review.

(d) PROTECTION OF INFORMATION.—The Board shall take appropriate actions to prevent the disclosure to the public of classified information that is provided to the Board. Such actions shall include a requirement that the members and staff of the Board possess security clearances appropriate for the information considered and reviewed by the Board.

(e) PERSONNEL MATTERS.—

(1) COMPENSATION.—

(A) COMPENSATION.—Each member of the Board who is a private citizen shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board.

(B) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(2) STAFF.—The Presiding Officer of the Board may, with the concurrence of the Board, appoint such staff, including an executive secretary, as the Board requires to carry out its duties.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

SEC. 5. APPEAL OF DETERMINATIONS OF CLASSIFICATION AND DECLASSIFICATION REVIEW BOARD.

(a) APPEAL.—Subject to subsection (c), any agency may appeal to the President a decision or other action of the Classification and Declassification Review Board under section 4(c).

(b) DEADLINE.—An agency may appeal a decision or other action under subsection (a) only if the agency submits the appeal to the President not later than 60 days after the date of the decision or other action concerned.

(c) FINALITY.—A decision of the President on an appeal under subsection (a) shall be final.

SEC. 6. PROHIBITIONS.

(a) WITHHOLDING INFORMATION FROM CONGRESS.—Nothing in this Act shall be construed to authorize the withholding of information from Congress.

(b) JUDICIAL REVIEW.—Except in the case of the amendment to section 552 of title 5, United States Code, made by section 2(g), no person may seek or obtain judicial review of any provision of this Act or any action taken under a provision of this Act.

SEC. 7. DEFINITIONS.

In this Act:

(1) The term "agency" means any executive agency as defined in section 105 of title 5, United States Code, any military department as defined in section 102 of such title, and any other entity in the Executive Branch of the Government that comes into the possession of classified information.

(2) The terms "classify", "classified", and "classification" refer to the process by which information is determined to require protection from unauthorized disclosure pursuant to this Act in order to protect the national security of the United States.

(3) The terms "declassify", "declassified", and "declassification" refer to the process by which information that has been classified is determined to no longer require protection from unauthorized disclosure pursuant to this Act.

SEC. 8. EFFECTIVE DATE.

This Act and the amendment made by section 2(g) shall take effect 180 days after the date of the enactment of this Act.

Mr. HELMS. Mr. President, I am pleased to join Senator MOYNIHAN today in introducing a bill that would for the first time place in statute the government system for the classification of information. To date this has been accomplished solely through executive order.

The statute is based on the recommendations contained in the report of the Commission to Protect and Reduce Government Secrecy chaired by my colleague PAT MOYNIHAN, the senior senator from New York. The Secrecy Commission achieved a unified report of recommendations—a feat that should not be underrated, especially in Washington. The bill also makes changes based on recommendations by the Government Affairs Committee during its consideration of our legislation during the 105th Congress.

The bill recognizes that over-classification can actually weaken the protections of those secrets that truly are in our national interest. All the same I am obliged to begin with a reiteration of the obvious—that the protection of true national security information remains vital to the well-being and security of the United States. The end of the Cold War notwithstanding, the United States continues to face serious and long-term threats from a variety of fronts. While communist and anti-American regimes, such as North Korea, Cuba, Iran and Iraq, continue to wage a war against the United States, new threats have arisen as well. Indeed, there is even a growing trend of espionage conducted not by our enemies but by American allies. Such espionage is on the rise especially against U.S. economic secrets.

At first blush, a push to reduce government secrecy may seem at odds with these increasing threats. I am convinced it is not. The sheer volume of government "secrets"—and their costs to the taxpayers and U.S. business—is staggering. In 1996 the taxpayers spent more than $5.2 billion to protect classified information. We know all too well from our own experiences that when everything is secret nothing is secret.

Secrecy all too often then becomes a political tool used by Executive Branch agencies to shield information which may be politically sensitive or policies which may be unpopular with the American people. Worse yet, information may be classified to hide from public view illegal or unethical activity. On numerous occasions, I, and other Members of Congress, have found the Executive Branch to be reluctant to share certain information, the nature of which is not truly a "national secret," but which would potentially be politically embarrassing to officials in the Executive Branch or which would make known an illegal or indefensible policy.

I have also found that one of the largest impediments to openness is the perverse incentives of the government bureaucracy itself in favor of classification, and the lack of accountability for those who do the actual classification. I strongly endorse the Commission's recommendation of adding individual accountability to the process by requiring a detailed justification of the decision to classify.

On the other hand, declassification decisions can be politicized. Limited resources for declassification are used to declassify information for political purposes. Only recently, in the case of documents relating to U.S. activities in Central and South America the Administration has made decisions to declassify documents at the request of certain interest groups. As a result the resources for routine declassification are being redirected to serve political ends. This bill would serve to eliminate politicized declassification decisions by requiring routine declassification and oversight by an independent board.

I would add a note of caution regarding declassification, however. In the course of the two years of its work, the Commission became very interested in the declassification of existing documents and materials. In a perfect world, if information remains relevant to true U.S. national interests it should remain classified indefinitely. Information that does not compromise U.S. interests and sources should be made public. We all realize, however, that this is a tremendously costly venture. In fact, the Commission was unable to come up with solid data on the true cost of declassification.

In this era when Congress has finally begun to grasp the essential need to reduce government spending and balance the budget, the issue of balancing costs and benefits is an essential one. The financial costs to the American taxpayers must be balanced against the necessity of the declassification. The real lesson to take from the work of this Commission is the need to redress for the future the problems of over classification and a systematic process for declassification, so that the costs and timeliness of declassification does not pose the same economic and regulatory burdens on future generations. At the same time, it may be too costly to declassify all of the countless classified documents now in existence.

I hope the 106th Congress will complete the work of the 105th Congress and bring government wide rationalization to the classification process. It is an area where tough Congressional oversight is long overdue.

By Mr. SPECTER (for himself and Mr. DURBIN):

S. 23. A bill to promote a new urban agenda, and for other purposes; to the Committee on Finance.

THE NEW URBAN AGENDA ACT OF 1999

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation that will deal with the plight of our nation's cities and Washington's increasing neglect of them. With 80% of the U.S. population living in metropolitan areas, there is an urgent need to improve our urban economies and the quality of life for the millions of Americans who live and work in cities. By simply making our cities an appealing place to live, work, recreate, and visit, urban areas can rebound to the vibrant economic centers they once were.

There is a common perception that urban areas are abandoned and stripped of their resources, burdened with poverty and crime. However, cities have a wealth of resources available to not only the urban dweller but to the world—cultural centers, business hubs, and some of the finest educational and medical institutions. The real problem is that we do not draw upon these riches or strive to better coordinate them to serve people, most especially those in need.

My proposal, the "New Urban Agenda Act of 1999" is based on legislation which I have endeavored to make law since the 103rd Congress. I am pleased to be introducing it today, in this first Congress of the new millennium, with my distinguished colleague from Illinois, Senator DURBIN, who also recognizes the potential of both small cities and large metropolitan areas.

The bill constitutes an effort to give our cities some much-needed attention, but reflects the federal budgetary constraints which govern all that we in Congress do these days. This bill, based in significant part on suggestions by Philadelphia Mayor Edward G. Rendell and the League of Cities, offers aid to the cities while containing federal expenditures and by re-instituting important cost-effective tax breaks which have been discontinued.

If we are to really address many of the very serious social issues that we face—unemployment, teenage pregnancy, welfare dependency, and other pressing issues—we cannot give up on our cities. There must be new strategies for dealing with the problems of urban America. The days of creating "Great Society" federal aid programs are clearly past, but that is no excuse for the national government to turn a blind eye to the problems of the cities.

Urban areas remain integral to America's greatness as centers of commerce, industry, education, health care, and culture. Yet urban areas, particularly the inner cities which tend to have a disproportionate share of our nation's poor, also have special needs which must be recognized. We must develop ways of aiding our cities that do not require either new taxes or more government bureaucracy.

As a Philadelphia resident, I have first-hand knowledge of the growing problems that plague our cities. The most recent U.S. Census data collected showed that Philadelphia has over 300,000 individuals in poverty and when federal welfare reform took effect in October 1996, 113,000 adults were receiving some form of cash assistance. Reflecting on my experience as a Philadelphian, I have long supported a variety of programs to assist our cities, such as increased funding for Community Development Block Grants and legislation to establish enterprise and empowerment zones. To encourage similar efforts, in April, 1994, I hosted my Senate Republican colleagues on a visit to explore urban problems in my hometown. We talked with people who wanted to obtain work, but had found few opportunities. We saw a crumbling infrastructure and its impact on residents and businesses. We were reminded of the devastating effect that the loss of inner city businesses and jobs has had on our neighborhoods in America's cities. What my Republican colleagues saw then in Philadelphia is the urban rule across our country and not the exception.

There are many who do not know of city life, who are far removed from the cities and would not be expected to have any key interest in what goes on in the big cities of America. I cite my own boyhood experience illustratively: Born in Wichita, Kansas, raised in Russell, a small town of 5,000 people on the plains of Kansas, where there is not much detailed knowledge of what goes on in Philadelphia, Pennsylvania, or other big cities like Los Angeles, San Francisco, New York, Miami, Pittsburgh, Dallas, Detroit or Chicago.

Those big cities are alien to people in much of America. But there is a growing understanding that the problems of big cities contribute significantly to the general problems affecting our nation and have an economic impact, at the very least, on our small towns. For rural America to prosper, we need to make sure that urban America prospers and vice-versa. For example, if cities had more economic growth, taxes could be reduced on all Americans at the federal and state level because revenues would increase and social welfare spending would be reduced.

There is indeed a domino effect from our cities to rural communities of the country. Lately, we have been witnessing this in the violent behavior of adolescents. School violence and juvenile crime are no longer endemic to urban living. Take the Bloods and the Crips gangs from Los Angeles, California, and similar gangs; that are all over America. They are in Lancaster, Pennsylvania; Des Moines, Iowa; Portland, Oregon; Jackson, Mississippi; Racine, Wisconsin; and Martinsburg, West Virginia. They are literally everywhere, big city and small city alike.

In the U.S. Department of Housing and Urban Development's 1998 report on the "State of the Cities," findings show that large urban schools still deal with a higher concentration of violence, and the data only represents crimes which were serious enough to report to the police. The School District of Philadelphia's most recent report on school violence shows that in the 1994–1995 academic year, students, teachers and administrators were the victims of 2,147 reported criminal incidents, up by almost 100% from the previous year. These included assault, robbery, rape, and students being stabbed or even shot. The school district also reported troubling news about abysmal attendance rates. On any given day, more than one in every four students are absent.

Understandably so, city residents are afraid to continue leading an urban lifestyle. Each day, small business owners question whether they should remain in the city because they fear for the safety of their children, their employees, and ultimately, their businesses. I have personally met and spoken with shop owners in the University City section of Philadelphia who tell me that they look desperately for reasons to stay, but it gets harder and harder.

Joblessness and a less skilled work force are additional problems. To facilitate economic development and job creation in the United States, I supported the Balanced Budget Act of 1995, which contained such provisions as the Job Training Partnership Act and the Targeted Job Tax Credit. As Congress put the final touches on that legislation, I circulated a joint letter from several Senators to then-Majority Leader Dole and Speaker Gingrich recommending spurring job creation and economic growth in our cities through several urban initiatives such as: a targeted capital gains exclusion, commercial revitalization tax credit, historic rehabilitation tax credit, and child care credit. Last year, I introduced the "Job Preparation and Retention Training Act of 1998," which was included in the recently enacted Workforce Development Act of 1998. My legislation authorized funding for States to enroll long-term welfare dependents into a training program which would provide the necessary skills to locate and maintain gainful and unsubsidized employment.

The last census taken in 1990, reported that New York City led the way, with 1.3 million individuals in poverty. My home of Philadelphia had 313,374 individuals in poverty at that time. And in HUD's 1998 "State of the Cities" report, by 1996, one in every five urban families lived in poverty, compared with fewer than one in ten suburban families. These facts emphasize the need for more efforts to be focused on strengthening our inner city businesses which, in turn, will boost local economies and serve to provide more jobs, reduce poverty and, hopefully, reduce crime.

I have long supported efforts to encourage the growth of small business. During the 105th Congress, I once again introduced legislation to provide targeted tax incentives for investing in small minority- or women-owned businesses. Small businesses provide the bulk of the jobs in this country. Many minority entrepreneurs, for instance, have told me that they are dedicated to staying in the cities to employ people there, but continue to confront capital access issues. My legislation, the "Minority and Women Capital Formation Act" would help to remove the capital access barriers, thereby enabling these entrepreneurs to grow their businesses and payrolls.

Municipal leaders are stressing many of the same concerns that business people are voicing. In a July, 1994 National League of Cities report dealing with poverty and economic development, municipal leaders ranked inadequate skills and education of workers as one of the top three reasons, in addition to shortage of jobs and below-poverty wages, for poverty and joblessness in their cities. They said, according to the survey, that more jobs must be created through local economic development initiatives.

This "skills deficit" is highlighted in an urban revitalization plan prepared in 1991 by the National Urban League called "Playing to Win: A Marshall Plan for America's Cities." The report cites a statistic by the Commission on Achieving Necessary Skills which showed that 60 percent of all 21–25 year-olds lack the basic reading and writing skills needed for the modern workplace, and only 10 percent of those in that age group have enough mathematical competence for today's jobs. The economic problems our cities are facing are not easy to deal with or answer. In a report by the National League of Cities entitled "City Fiscal Conditions in 1996," municipal officials from 381 cities answered questions on the economic state of their cities. In response to state budgetary problems, 21.7 percent of responding cities reduced municipal employment and 18.5 percent had frozen municipal employment. Nearly six out of ten cities raised or imposed new taxes or user fees during the past twelve months.

These numbers are of concern to me and I believe they highlight the need for federal legislation to enhance the ability of cities to achieve competitive economic status. An added concern is that city managers are forced to balance cuts in services or enact higher taxes. Neither choice is easy and it often counteracts municipal efforts to retain residents or businesses.

One issue, in particular, that is hurting many cities is the erosion of their tax bases, evidenced particularly by middle-class flight to the suburbs. Mr. Ronald Walters, professor of Political Science at Howard University, in testimony before the Senate Banking Committee in April 1993, stated that in 1950, 23 percent of the American population lived outside central cities; by 1988, that number was up to 46 percent. The District of Columbia's population loss is among the worst in the nation, with a quarter of its population relocating since the 1970s. This trend of shrinking urban populations gives no sign of ceasing. Middle-class families continue to leave for the suburbs where there are typically better public services.

These losses are devastating, not only to the financial stability of the city, but to the social fabric as well. On the financial side, statistics show that those people fleeing cities were earning an average of $30,000 to $75,000 a year. On the social side, roughly half of these are African-American Middle-class families. By losing this critical demographic group, the city loses much of what makes it strong. As America's cities struggle with the exodus of residents, businesses and industry, city residents who remain are faced with problems ranging from increased tax burdens and lesser services to dwindling economic opportunities, leading to welfare dependence and unemployment assistance. In the face of all this, what do we do?

The federal government has attempted to revitalize our ailing urban infrastructure by providing federal funding for transit and sewer systems, roads and bridges. I have supported this. For example, as a member of the Transportation Appropriations Subcommittee and as co-chair of an informal Senate Transit Coalition, I have been a strong supporter of public transit which provides critically needed transportation services in urban areas. Transit helps cities meet clean air standards, reduce traffic congestion, and allows disadvantaged persons access to jobs. Federal assistance for urban areas, however, has become increasingly scarce as we grapple with the nation's deficit and debt. Therefore, we must find alternatives to reinvigorate our nation's cities so they can once again be economically productive areas providing promising opportunities for residents and neighboring areas. To address the need for reliable transportation systems in our nation's cities and to provide access to jobs for city residents, I introduced reverse commute and jobs access legislation, which was successfully included in last year's highway and transit reauthorization bill. The bill authorizes $400 million over the next five years in access-to-jobs transit grants targeted at low-income individuals. Up to $10 million per year can be used for reverse commute projects to move individuals from cities to suburban job centers.

In addition to support for infrastructure, I believe there are ways Congress can assist the cities. In 1994, Mayor Rendell came up with a legislative package which contains many good ideas. I have taken many of these suggestions and have since added and revised provisions to take into account new developments at the federal, state and local levels to create the "New Urban Agenda Act of 1999."

First, recognizing that the federal government is the nation's largest purchaser of goods and services, this legislation would require that no less than 15 percent of federal government purchases are made from businesses and industries within designated urban Empowerment Zones and Enterprise Communities. Similarly, my bill would require that not less than 15 percent of foreign aid funds be redeemed through purchases of products manufactured in urban Empowerment Zones and Enterprise Communities. The General Services Administration will be required to submit to Congress its assessment of the extent to which federal agencies are committed to this policy and in general, economic revitalization in distressed urban areas.

The second major provision of this bill would commit the federal government to play an active role in restoring the economic health of our cities by encouraging the location, or relocation, of federal facilities in urban areas. To accomplish this, all federal agencies would be required to prepare and submit to the President an Urban Impact Statement detailing the impact that relocation or downsizing decisions would have on the affected city. Presidential approval would be required to place a federal facility outside an urban area, or to downsize a city-based agency.

The third critical component of this bill would revive and expand federal tax incentives that were eliminated or restricted in the Tax Reform Act of 1986. Until there is passage of legislation on the flat tax, which would provide benefits superior to all targeted tax breaks, I believe America's cities should have the advantages of such tax benefits. These provisions offer meaningful incentives to business to invest in our cities. I am calling for the restoration of the Historic Rehabilitation Tax Credit which supports inner city revitalization projects. According to information provided by Mayor Rendell, there were 8,640 construction jobs involved in 356 projects in Philadelphia from 1978 to 1985 stimulated by the Historic Rehabilitation Tax Credit. In Chicago, 302 projects prior to 1985 generated $524 million in investment and created 20,695 jobs. In St. Louis, 849 projects generated $653 million in investment and created 27,735 jobs.

Nationally, according to National Park Service estimates for the 16 years before the 1986 Act, the Historic Rehabilitation Tax Credit stimulated $16 billion in private investment for the rehabilitation of 24,656 buildings and the creation of 125,306 homes which included 23,377 low and moderate income housing units. The 1986 Tax Act dramatically reduced the pool of private investment capital available for rehabilitation projects. In Philadelphia, projects dropped from 356 to 11 by 1988 from 1985 levels. During the same period, investments dropped 46 percent in Illinois and 92 percent in St. Louis.

Another tool is to expand the authorization of commercial industrial development bonds. Under the Tax Reform Act of 1986, authorization for commercial industrial bonds was permitted to expire. Consequently, private investment in cities declined. For instance, according to Mayor Rendell, from 1986—the last year commercial development bonds were permitted—to 1987, the total number of city—supported projects in Philadelphia was reduced by more than half.

Industrial development or private activity bonds encourage private investment by allowing, under certain circumstances, tax-exempt status for projects where more than 10 percent of the bond proceeds are used for private business purposes. The availability of tax-exempt commercial industrial development bonds will encourage private investment in cities, particularly the construction of sports, convention and trade show facilities; free standing parking facilities owned and operated by the private sector; air and water pollution facilities owned and operated by the private sector; and, industrial parks.

The bill I am introducing would allow this. It would also increase the small issue exemption, which means a way to help finance private activity in the building of manufacturing facilities from $10 million to $50 million to allow increased private investment in our cities.

A minor change in the federal tax code related to arbitrage rebates on municipal bond interest earnings could also free additional capital for infrastructure and economic development by cities. Currently, municipalities are required to rebate to the federal government any arbitrage—a financial term meaning interest earned in excess of interest paid on the debt—earned from the issuance of tax-free municipal bonds. I am informed that compliance, or the cost for consultants to perform the complicated rebate calculations, is actually costing municipalities more than the actual rebate owed to the government. This bill would allow cities to keep the arbitrage earned so that they can use it to fund city projects and for other necessary purposes.

My legislation also provides important incentives for businesses to invest and locate in our nation's cities. Specifically, the bill includes a provision which I have advocated to provide a 50 percent exclusion for capital gains tax purposes for any gain resulting from targeted investments in small businesses located in urban empowerment zones, enterprise communities, or enterprise zones. I also want to note that the exclusion would extend to any venture funds that invest in those small businesses, which is critical because venture funds are often the lifeblood of a small business. This is one of the incentives I recommended to Senator Dole in December 1995 for inclusion in the Balanced Budget Act of 1995 which was later vetoed by President Clinton. A targeted capital gains exclusion will serve as a catalyst for job creation and economic growth in our cities by encouraging additional private investment in our urban areas.

A fourth provision of this legislation provides needed reforms to regulations and the financial challenges to obtaining affordable housing. This legislation provides language to study streamlining federal housing program assistance to urban areas into a block grant form so that municipal agencies can better serve local residents. Safe, clean, and affordable housing is not widely available to most low income families. According to the National Housing Law Project, in 1996, only one in four families was eligible to receive HUD assistance, with waits of up to five years. In HUD's most recent annual report, just as many families are still struggling with the lack of affordable housing as they were when a record 5.3 million low-income renters were paying more than 50 percent of their income for rent between 1993 and 1995. This provision of the bill steers the Secretary of Housing and Urban Development to take a hard look at these conditions and determine what works and what does not work in federally-subsidized housing and to consider alternatives that will provide suitable homes for America's families.

I believe that we as a nation should work toward providing individuals and their families with more opportunities for homeownership which stabilizes a community and would especially restore our cities. Urban homeownership including middle-income homeownership lags behind the suburbs. According to the Harvard University Joint Center for Housing Studies, city residents of all income levels are less likely to own a home than suburban residents with similar incomes. I hear time and time again from families starting out that they move out to the suburbs for better schools, because central cities lack the property tax base to provide for quality schools. Homeownership is key to saving our cities, both socially and economically. A 1998 Fannie Mae national housing survey indicated that even though homeownership rates continue to increase in the late 1990s, six in every ten renters said that buying a home is a very important priority, if not their number-one priority in life. Yet for so many families financial barriers make that dream unattainable. That is why my bill includes a tax credit to restore the American dream of homeownership. A tax credit could be used by income-eligible individuals and families to purchase homes in distressed areas. In the 1997 Taxpayer Relief Act, Congress approved such a tax credit for homebuyers in the District of Columbia. While single family home sales can be attributed to a multitude of factors, such as historically low interest rates and a strong economy, let me just share with you some amazing statistics related to homeownership since enactment of the tax credit in the District of Columbia. The Home Purchase Assistance Program through the District of Columbia's Office of Housing and Community Development helped 410 families purchase homes. Further, a group called the "Washington Partners for Homeownership," a collaboration of realtors, banks, community and faith-based organizations, set a goal last year to create 1,000 new homeowners in the District of Columbia for each of the next three years. Remarkably, the Washington Partners have already reached that goal before the end of the first year. I believe that this country will reap extraordinary benefits if we expand such a credit on a national basis, as I propose in the "New Urban Agenda Act of 1999."

I believe that the revitalization of cities will require social and economic facets, but it is also imperative that our cities are safe and clean. This last component of my bill helps urban areas to address their unique environmental challenges and reforms Superfund law. First, the legislation authorizes a federal brownfields program to help clean up idle or underused industrial and commercial facilities and waives federal liability for persons who fully comply with a state cleanup plan to clean sites in urban areas pursuant to state law, provided that the site is not listed or proposed to be listed on the National Priorities List. The Environmental Protection Agency currently operates this pilot program under general authority provided by the Superfund law.

My legislation would make this a permanent program and substantially increase the funding levels to a $50 million authorized level for Fiscal Year 2000. The EPA could expend funds to identify and examine potential idle or underused Brownfield sites and to provide grants to States and local governments of up to $200,000 per site to put them back to productive use. One such grant has been used to great success by Pittsburgh Mayor Tom Murphy, and I hope this provision will generate additional success stories of redeveloping urban brownfields.

The Brownfields Program allows sites with minor levels of toxic waste to be cleaned up by State and local governments with federal and other funding sources. Companies and individuals who are interested in developing land into industrial, commercial, recreational, or residential use are often reluctant to purchase property with any level of toxic waste because of a fear of being saddled with cleanup liability under the Superfund law. Through expanded Brownfields grants, cleanup at such sites will be expedited and will encourage redevelopment of otherwise unusable urban property.

My bill would also waive federal liability for persons who fully comply with a state cleanup plan to clean sites in urban areas pursuant to state law, providing that the site is not listed or proposed to be listed on the National Priorities List. Many states, including Pennsylvania, have developed their own toxic waste cleanup programs and have done good work to clean up many of these sites. Pennsylvania Governor Tom Ridge has developed an extensive plan, where contaminated sites are made safe based on sound science by returning the site to productive use through the development of uniform cleanup standards, by creating a set of standardized review procedures, by releasing owners and developers from liability who fully comply with the state cleanup standards and procedures, and by providing financial assistance. However, the efforts of states like Pennsylvania are often stifled because the federal government has not been willing to work with the States to release owners and developers from liability, even when they fully comply with the state plans.

This section of my bill only applies to sites that are not on the National Priorities List. These are sites that the state has identified for which the state has created a comprehensive cleanup plan. If the federal government has concerns with the cleanup procedure or the safety of the site, then the government has full authority to place that site on the National Priority List. The plans, like that developed by Governor Ridge, deal with sites not controlled by the Superfund law. By not allowing the individual states to take the initiative to clean up these sites, and by not providing a waiver for federal liability to those who fully comply with the procedures and standards of the state cleanup, the federal government impedes the efforts of the states to work to clean up their own sites. This provision takes a significant step toward encouraging states to take the responsibility for their toxic waste sites and to encourage the effective cleanup of these sites in our nation's urban areas.

The final environmental provision calls for the reauthorization of an existing federal program, which has served cities across the nation very well, but has not been authorized since 1995 and has also been unable to meet the demand for an "urban greening effort." The Urban and Community Forestry Assistance Program through the U.S. Department of Agriculture provides financial and technical assistance to urban areas to help establish and maintain community parkland and forests in our nation's 45,000 towns and cities. The number of requests for federal assistance and grants exceeds the capacity of the existing Urban and Community Forestry program by eight times. The number of communities assisted through the Urban and Community Forestry Assistance Program has grown from 7,548 in Fiscal Year 1992 to 11,675 in Fiscal Year 1997, a 56% increase in five years. An enhanced Urban and Community Forestry Program will enable cities to put vacant areas and abandoned structures back into use. There are more than 15,000 vacant lots in Pennsylvania, which as we know, pose serious health and safety risks, detract commercial investments, reduce property values, and cost municipalities hundreds of millions of dollars in maintenance and lost revenue. The Urban and Community Forestry Program has been very successful due to its flexible design and emphasis on local creativity. In fact, the program has allowed for benefits that go beyond revenue and other economic gains. Many of the formerly broken down concrete lots are now green and welcoming to the community have provided children and their parents with a safe haven for recreation outside the home. Some city public schools have even begun to use these areas as their "science parks" for after-school and weekend educational activities.

Mr. President, I realize that this is an initial step to reinvesting in our cities. Nevertheless, it is time to take a comprehensive approach to reversing urban decay, which is what I believe my bill can accomplish. It may well be that America has given up on its cities. That is a stark statement, but it is one which I believe may be true—that America has given up on its cities. But this Senator has not done so. And I believe there are others in this body on both sides of the aisle who have not done so and I invite the input and assistance of my colleagues in order to fashion a strong plan of action to help cities to face their pressing problems.

As one of a handful of United States Senators who lives in a big city, I understand both the problems and the promise of urban America. This legislation for our cities is good public policy. The plight of our cities must be of extreme concern to America. We can ill-afford for them to wither and die. I am committed to a new urban agenda that relies on market forces, and not a welfare state, for urban revitalization.

I ask unanimous consent that a summary of the bill be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

New Urban Agenda Act of 1999—Summary

TITLE I—PROMOTE URBAN ECONOMIC DEVELOPMENT

Requires a portion of federal and foreign aid purchases (not less than 15 percent) to be from businesses operating in urban zones, and commits the government to purchase recycled products from businesses operating in urban zones.

Requires an urban impact statement, with Presidential approval, that details the impact on cities of agency downsizing or relocation. Under the bill, a "distressed urban area" follows HUD's definition, namely any city having a population of more than 100,000.

TITLE II—TAX INCENTIVES TO STIMULATE URBAN ECONOMIC DEVELOPMENT

Expands the Historic Rehabilitation Tax Credit which was reduced in 1986. It would restore the issuance of tax-free industrial development bonds and would allow cities to keep the arbitrage earned from the issuance of tax-free municipal bonds. Currently, local governments are required to rebate to the federal government arbitrage earned from the issuance of tax-free municipal bonds, and often spend more on compliance than on the actual rebate.

To encourage businesses to invest and locate in our nation's cities, provides a 50 percent exclusion for capital gains tax purposes for any gain resulting from targeted investments in small businesses located in urban empowerment zones, enterprise communities, or enterprise zones. The exclusion also extends to any venture that invest in those small businesses.

TITLE III—COMMUNITY-BASED HOUSING DEVELOPMENT

Lifts Federal restrictions on community-based housing development.

To boost the efficiency of regional housing authorities, a study would be done to streamline current and future housing programs into "block grants."

Provides a tax credit to encourage the purchase and ownership of homes in distressed urban areas.

TITLE IV—RESPONSE TO URBAN ENVIRONMENTAL CHALLENGES

Reforms Superfund law to encourage industrial cleanup. Authorizes an expanded federal brownfields grant program to help clean up idle or underused industrial and commercial facilities. Also provides regulatory relief by waiving federal liability for businesses and individuals that fully comply with a state cleanup plan to clean sites in urban areas pursuant to state law, provided that the site is not listed or proposed to be listed on the National Priorities List.

Reauthorizes the Urban and Community Forestry Assistance Program to provide cities with the financial and technical assistance necessary to revitalize abandoned, heavily littered and demolished lands.

By Mr. SPECTER:

S. 24. A bill to provide improved access to health care, enhance informed individual choice regarding health care services, lower health care costs through the use of appropriate providers, improve the quality of health care, improve access to long term care, and for other purposes; to the Committee on Finance.

THE HEALTH CARE ASSURANCE ACT OF 1999

Mr. SPECTER. Mr. President, as the 106th Congress commences, those of us in the Senate and the House have a new opportunity to make a real difference in the lives of the American people. It is a chance for us to learn from the past, determine how best to respond to the challenges that are before us, and forge important alliances which will enable us to pass legislation that is important to this nation. I believe it is clear that one of our first priorities must be additional incremental reforms of our health care system.

Mr. President, there is no time to waste. Many of our nation's health care problems are getting worse, not better. In its December 1998 report, the Employee Benefit Research Institute (EBRI) analyzed the March 1998 Current Population Survey, a document generated yearly by the U.S. Census Bureau. EBRI's analysis tells us that in 1997, about 193 million working-age Americans derived their health insurance coverage as follows: approximately 64.2 percent from employer plans; 13.0 percent from Medicare and Medicaid within a total of 14.8 percent from public sources of coverage; and 6.7 percent from other private insurance. This survey also details another troubling statistic: 43.1 million Americans, or 18.3 percent of Americans aged 18–64, were uninsured. This reflects an increase of 7 percent, or 2.8 million uninsured working-age people, since 1995. Among the elderly, the outlook is a bit brighter, with only 1 percent uninsured, and 96.4 percent deriving coverage from public sources.

As I have said many times, we can fix the problems felt by this growing number of uninsured Americans without resorting to big government and without completely overhauling our current system, one that works well for most Americans—serving 81.7 percent of our non-elderly citizens. We must enact reforms that improve upon our current market-based health care system, as it is clearly the best health care system in the world.

Accordingly, today I am introducing the Health Care Assurance Act of 1999, which, if enacted, will take us further down the path of the incremental reforms started by the Health Insurance Portability and Accountability Act of 1996 (Kassebaum-Kennedy) and various health care provisions enacted during the 105th Congress. I would note that the final version of Kassebaum-Kennedy contained many elements which were in S. 18, the incremental health care reform bill I introduced when the 104th Congress began on January 4, 1995.

I would note that the bill I am introducing today is distinct from my recent efforts regarding managed care reform. During the 105th Congress, I joined a bipartisan group of Senators to introduce the Promoting Responsible Managed Care Act of 1998, a balanced proposal which would ensure that patients receive the benefits and services to which they are entitled, without compromising the savings and coordination of care that can be achieved through managed care. I look forward to working again with my colleagues to enact responsible managed care legislation.

The Health Care Assurance Act of 1999 is intended to initiate and stimulate new discussion, so we may move the health care reform debate forward. I welcome any suggestions my colleagues may have concerning how this bill can be improved, as long as such suggestions are consistent with the incremental approach to reform that has proven to be the only way to achieve successful health care reform.

Given the importance of enacting this type of legislation, it is worth reviewing recent history which has taught us that bipartisanship is crucial in accomplishing these goals for the American people. In particular, the debate over President Clinton's Health Security Act during the 103rd Congress is replete with lessons concerning the pitfalls and obstacles that inevitably lead to legislative failure. Several times during the 103rd Congress, I spoke on the Senate floor to address what seemed to be the wisest course—to pass incremental health care reforms with which we could all agree. Unfortunately, what seemed obvious to me, based on comments and suggestions by a majority of Senators who favored a moderate approach, was not obvious at the time to the Senate's Democratic leadership.

This failure to understand the merits of an incremental approach was demonstrated during April 1993 during my attempts to offer a health care reform amendment based on the text of S. 631, an incremental reform bill I had introduced earlier in the session. This bill incorporated moderate, consensus principles in a reasonable reform package. First, I attempted to offer the bill as an amendment to legislation dealing with debt ceilings. Subsequently, I was informed that the consideration of this bill would be structured in a way that precluded my offering an amendment. Therefore, I prepared to offer my health care bill as an amendment to the fiscal year 1993 Emergency Supplemental Appropriations bill. To my dismay, Senator Mitchell, then Majority Leader, and Senator BYRD, then Chairman of the Appropriations Committee, worked together to ensure that I could not offer my amendment by keeping the Senate in a quorum call, a parliamentary tactic used to delay and obstruct. I was unable to obtain unanimous consent to end the quorum call, and thus could not proceed with my amendment.

Three years later, well after the behemoth Clinton health care reform bill was derailed, the Senate once again endured a lengthy political battle concerning the Kassebaum-Kennedy bill, which I was pleased to cosponsor. We achieved a breakthrough in August 1996, when enough Senators sensed the growing frustration of the American people to finally pass Kassebaum-Kennedy and its vital health insurance market reforms, such as increased portability of health insurance coverage. There is no question that Kassebaum-Kennedy made significant steps forward in addressing troubling issues in health care, although I recognize that there is much more to be done. The bill's incremental approach to health care reform is what allowed it to generate bipartisan, consensus support in the Senate. We knew that it did not address every single problem in the health care delivery system, but it would make life better for millions of American men, women, and children.

In retrospect, I urge my colleagues to note a most important fact—the Kassebaum-Kennedy bill was enacted only after Democrats abandoned their hopes for passing a nationalized, big government health care scheme, and Republicans abandoned their position that access to health care is not really a major problem in the United States which demands Federal action.

Perhaps the greatest recent example of the power of bipartisanship took place during the 105th Congress, with the passage of the Balanced Budget Act of 1997. This historic bipartisan agreement between Congress and the White House to balance the budget by 2002 extended the life of the vital Medicare hospital trust fund by ten years, while expanding needed benefits for seniors. The new law created a National Bipartisan Commission on the Future of Medicare to address the implications of the retirement of the Baby Boom generation, and marked the first balanced Federal budget in thirty years. This landmark accomplishment clearly would not have occurred without all members of Congress and the Administration crossing party lines, compromising, and doing what was right for the American people regardless of political affiliations.

We must realize that if we are to continue to be successful in meeting the nation's health care needs, the solutions to the system's problems must come from the political center, not from the extremes.

I have advocated health care reform in one form or another throughout my 18 years in the Senate. My strong interest in health care dates back to my first term, when I sponsored S. 811, the Health Care for Displaced Workers Act of 1983, and S. 2051, the Health Care Cost Containment Act of 1983, which would have granted a limited antitrust exemption to health insurers, permitting them to engage in certain joint activities such as acquiring or processing information, and collecting and distributing insurance claims for health care services aimed at curtailing then escalating health care costs. In 1985, I introduced the Community Based Disease Prevention and Health Promotion Projects Act of 1985, S. 1873, directed at reducing the human tragedy of low birth weight babies and infant mortality. Since 1983, I have introduced and cosponsored numerous other bills concerning health care in our country. A complete list of the 26 health care bills that I have sponsored since 1983 is included for the RECORD.

During the 102nd Congress, I pressed the Senate to take action on this issue. On July 29, 1992, I offered a health care amendment to legislation then pending on the Senate floor. This amendment included provisions from legislation introduced by Senator CHAFEE, which I cosponsored and which was previously proposed by Senators Bentsen and Durenberger. The amendment included a change from 25 percent to 100 percent deductibility for health insurance purchased by self-employed persons, and small business insurance market reforms to make health coverage more affordable for small businesses. When then-Majority Leader George Mitchell argued that the health care amendment I was proposing did not belong on that bill, I offered to withdraw the amendment if he would set a date certain to take up health care, just as product liability legislation had been placed on the calendar for September 8, 1992. The Majority Leader rejected that suggestion and the Senate did not consider comprehensive health care legislation during the balance of the 102nd Congress. My July 29, 1992 amendment was defeated on a procedural motion by a vote of 35 to 60, along party lines.

The substance of that amendment, however, was adopted later by the Senate on September 23, 1992 when it was included in an amendment to broader tax legislation (H.R. 11), offered by Senators Bentsen and Durenberger and which I cosponsored. This amendment, which included essentially the same self-employed tax deductibility and small group reforms that I had proposed on July 29th of that year, passed the Senate by voice vote. Unfortunately, these provisions were later dropped from H.R. 11 in the House-Senate conference.

On August 12, 1992, I introduced legislation entitled the Health Care Affordability and Quality Improvement Act of 1992, S. 3176, that would have enhanced informed individual choice regarding health care services by providing certain information to health care recipients, would have lowered the cost of health care through use of the most appropriate provider, and would have improved the quality of health care.

On January 21, 1993, the first day of the 103rd Congress, I introduced the Comprehensive Health Care Act of 1993, S. 18. This legislation was comprised of reforms that our health care system could have adopted immediately. These initiatives would have both improved access and affordability of insurance coverage and would have implemented systemic changes to lower the escalating cost of care in this country. S. 18 is the principal basis of the legislation I introduced in the 104th (S. 18) and 105th Congresses (S. 24), and the Health Care Assurance Act of 1999, which I am introducing today.

On March 23, 1993, I introduced the Comprehensive Access and Affordability Health Care Act of 1993, S. 631, which was a composite of health care legislation introduced by Senators Cohen, Kassebaum, Bond, and McCain, and included pieces of my bill, S. 18. I introduced this legislation in an attempt to move ahead on the consideration of health care legislation and provide a starting point for debate. As I noted earlier, I was precluded by Majority Leader Mitchell from obtaining Senate consideration of my legislation as a floor amendment on several occasions. Finally, on April 28, 1993, I offered the text of S. 631 as an amendment to the pending Department of Environment Act (S. 171) in an attempt to urge the Senate to act on health care reform. My amendment was defeated 65 to 33 on a procedural motion, but the Senate had finally been forced to contemplate action on health care reform.

On the first day of the 104th Congress, January 4, 1995, I introduced a slightly modified version of S. 18, the Health Care Assurance Act of 1995 (also S. 18), which contained provisions similar to those ultimately enacted in the Kassebaum-Kennedy legislation, including insurance market reforms, an extension of the tax deductibility of health insurance for the self employed, and deductibility of long term care insurance for employers.

I continued these efforts in the 105th Congress, with the introduction of Health Care Assurance Act of 1997 (S. 24), which included market reforms similar to my previous proposals with the addition of a new Title I, an innovative program to provide vouchers to States to cover children who lack health insurance coverage. I also introduced Title I of this legislation as a stand-alone bill, the Healthy Children's Pilot Program of 1997 (S. 435) on March 13, 1997. This proposal targeted the approximately 4.2 million children of the working poor who lacked health insurance. These are children whose parents earn too much to be eligible for Medicaid, but do not earn enough to afford private health care coverage for their families. This legislation would have established a $10 billion/5 year discretionary pilot program to cover these uninsured children by providing grants to States. Modeled after Pennsylvania's extraordinarily successful Caring and BlueCHIP programs, this legislation was the first Republican-sponsored child health insurance bill during the 105th Congress.

I was encouraged that the Balanced Budget Act of 1997, signed into law on August 5, 1997, included a combination of the best provisions from many of child health insurance proposals throughout this Congress. The new legislation allocated $24 billion for the next five years to establish State Child Health Insurance Programs, funded in part by a slight increase in the cigarette tax. The bill I am introducing today, the Health Care Assurance Act of 1999, would further augment this new State Child Health Insurance Program and would enable States to cover even more children, and includes new provisions to assist individuals with disabilities to maintain quality health care coverage.

My commitment to the issue of health care reform across all populations has been consistently evident during my tenure in the Senate, as I have taken to this floor and offered health care reform bills and amendments on countless occasions. I will continue to urge the Senate to address this vital issue and to stress the importance of the Federal government's investment in and attention to the system's future.

As my colleagues are aware, I can personally report on the miracles of modern medicine. Five years ago, an MRI detected a benign tumor (meningioma) at the outer edge of my brain. It was removed by conventional surgery, with five days of hospitalization and five more weeks of recuperation.

When a small regrowth was detected by a follow-up MRI in June 1996, it was treated with high powered radiation from the "Gamma Knife." I entered the hospital in the morning of October 11, 1996, and left the same afternoon, ready to resume my regular schedule. Like the MRI, the Gamma Knife is a recent invention, coming into widespread use in the past decade.

In July 1998, I was pleased to return to the Senate after a relatively brief period of convalescence following heart bypass surgery. This experience again led me to marvel at our health care system and made me more determined than ever to support Federal funding for biomedical research and to support legislation which will incrementally make health care available to all Americans.

My concern about health care has long pre-dated my own personal benefits from the MRI and other diagnostic and curative procedures. As I have previously discussed, my concern about health care began many years ago and been intensified by my service on the Appropriations Subcommittee on Labor, Health and Human Services, and Education, which I now have the honor to chair.

My own experience as a patient has given me deeper insights into the American health care system beyond my perspective from the U.S. Senate. I have learned: (1) our health care system, the best in the world, is worth every cent we pay for it; (2) patients sometimes have to press their own cases beyond the doctors' standard advice; (3) greater flexibility must be provided on testing and treatment; (4) our system has the resources to treat the 43.1 million Americans currently uninsured, but we must find the way to pay for it; and (5) all Americans deserve the access to health care from which I and others with coverage have benefitted.

I have long been convinced that our Federal budget of $1,700,000,000,000, could provide sufficient funding for America's needs if we establish our real priorities. The real question has been whether we have enough doctors, hospitals, medical personnel, etc. to take care of Americans in need of medical attention. I am convinced that we do. The part which has yet to be accomplished is to work out the financing for the delivery of such health care. As specified in the legislation which I have introduced, I am convinced that sufficient savings are possible within the current system to provide health care for all Americans within the current expenditures.

I share the American people's frustration with government and their desire to have their problems addressed. Over the past six years, I believe we have learned a great deal about our health care system and what the American people are willing to accept from the Federal government. The message we heard loudest was that Americans did not want a massive overhaul of the health care system. Instead, our constituents want Congress to proceed more slowly and to target what isn't working in the health care system while leaving in place what is working.

As I have said both publicly and privately, I am willing to cooperate with the Administration in solving the health care problems facing our country. However, in the past I have found many important areas where I differed with President Clinton's approach to solutions and I did so because I believed that the proposals would have been deleterious to my fellow Pennsylvanians, to the American people, and to our health care system. Most important, I did not support creating a large new government bureaucracy because I believe that savings should go to health care services and not bureaucracies.

On this latter issue, I first became concerned about the potential growth in bureaucracy in September 1993 after reading the President's 239-page preliminary health care reform proposal. I was surprised by the number of new boards, agencies, and commissions, so I asked my legislative assistant, Sharon Helfant, to make me a list of all of them. Instead, she decided to make a chart. The initial chart depicted 77 new entities and 54 existing entities with new or additional responsibilities.

When the President's 1,342-page Health Security Act was transmitted to Congress on October 27, 1993, my staff reviewed it and found an increase to 105 new agencies, boards, and commissions and 47 existing departments, programs and agencies with new or expanded jobs. This chart received national attention after being used by Senator Bob Dole in his response to the President's State of the Union address on January 24, 1994.

The response to the chart was tremendous, with more than 12,000 people from across the country contacting my office for a copy; I still receive requests for the chart. Groups and associations, such as United We Stand America, the American Small Business Association, the National Federation of Republican Women, and the Christian Coalition, reprinted the chart in their publications—amounting to hundreds of thousands more in distribution. Bob Woodward of the Washington Post later stated that he thought the chart was the single biggest factor contributing to the demise of the Clinton health care plan. And, as recently as the November 1996 election, my chart was used by Senator Dole in his presidential campaign to illustrate the need for incremental health care reform as opposed to a big government solution.

With the history of the health care reform debate in mind, I have drafted an incremental bill which would provide quality health care without adversely affecting the many positive aspects of our health care system, which works for 81.7 percent of working-age Americans. It is more prudent to implement targeted reforms and then act later to improve upon what we have done. I call this trial and modification. We must be careful not to damage the positive aspects of our health care system upon which more than 193 million Americans justifiably rely.

The legislation I am introducing today has three objectives: (1) to provide affordable health insurance for the 43.1 million working-age Americans now not covered; (2) to reduce health care costs for all Americans; and (3) to improve coverage for underinsured individuals, families, and children. This legislation is comprised of initiatives that our health care system can readily adopt in order to meet these objectives, and it does not create an enormous new bureaucracy to meet them.

This bill includes provisions to encourage the formation of small group purchasing arrangements, to expand access to health insurance for children, to improve health coverage for individuals with disabilities, to strengthen preventive health benefits under the Medicare program, to increase access to prenatal care and outreach for the prevention of low birth weight babies, to facilitate the implementation of patients' rights regarding medical care at the end of life, to improve health education, to place greater emphasis on and to expand access to primary and preventive health services, to utilize non-physician providers, to reform the COBRA law to extend the time period for employees who leave their jobs to maintain their health benefits until alternative coverage becomes available, to increase the availability and use of consumer information and outcomes research, and to establish a national fund for health research within the Department of Treasury.

Taken together, I believe the reforms proposed in the Health Care Assurance Act of 1999 will both improve the quality of health care delivery and will bring down the escalating costs of health care in this country. These initiatives represent a blueprint which can be modified, improved and expanded. In total, I believe this bill can significantly reduce the number of uninsured Americans, improve the affordability of care, ensure the portability and security of coverage between jobs, and yield cost savings of billions of dollars to the Federal Government, which can be used to cover the remaining uninsured and underinsured Americans.

TITLE I

As I mentioned previously, Title I of the bill builds on the State Child Health Insurance Program (S-CHIP), the new program established in the Balanced Budget Act of 1997, which allocated $24 billion/five years to increase health insurance coverage for children. The S-CHIP program gives States the option to use federally funded grants to provide vouchers to eligible families to purchase health insurance for their children, or to expand Medicaid coverage for those uninsured children, or a combination of both. This title would increase the income eligibility to families with incomes at or below 235 percent of the Federal poverty level ($38,658 annually for a family of four), and would strengthen the States' ability to conduct Medicaid outreach to eligible children. The S-CHIP program anticipates enrolling 2.3 million uninsured children by the end of 2000. This provision would allow eligibility for approximately another 876,000 uninsured children, representing a 38 percent increase over current law.

TITLE II

Title II assists another of our Nation's most vulnerable populations, persons with disabilities. This title would expand health services for disabled individuals in two ways. Currently, disabled individuals, or recipients of Social Security Disability Income (SSDI), may receive health insurance coverage under the Medicare program for a short time after returning to work. One provision of my bill would extend to 24 months the period during which the individual may continue to receive Medicare benefits after returning to work, and allow the individual to purchase Medicare coverage at a reduced rate, subject to yearly review.

In an effort to improve the delivery of care and the comfort of those with long-term disabilities, the second provision would allow for reimbursement for community-based attendant care services, instead of institutionalization, for eligible individuals who require such services based on functional need, without regard to the individual's age or the nature of the disability. The most recent data available tell us that 5.9 million individuals receive care for disabilities under the Medicaid program. The number of disabled who are not currently enrolled in the program who would apply for this improved benefit is not easily counted, but would likely be substantial given the preference of home and community-based care over institutional care.

TITLE III

The next title contains provisions to make it easier for small businesses to buy health insurance for their workers by establishing voluntary purchasing groups. It also obligates employers to offer, but not pay for, at least two health insurance plans that protect individual freedom of choice and that meet a standard minimum benefits package. It extends COBRA benefits and coverage options to provide portability and security of affordable coverage between jobs.

Specifically, Title III extends the COBRA benefit option from 18 months to 24 months. COBRA refers to a measure which was enacted in 1985 as part of the Consolidated Omnibus Budget Reconciliation Act (COBRA '85) to allow employees who leave their job, either through a lay-off or by choice, to continue receiving their health care benefits by paying the full cost of such coverage. By extending this option, such unemployed persons will have enhanced coverage options.

In addition, options under COBRA are expanded to include plans with lower premiums and higher deductibles of either $1,000 or $3,000. This provision is incorporated from legislation introduced in the 103rd Congress by Senator PHIL GRAMM and will provide an extra cushion of coverage options for people in transition. According to Senator GRAMM, with these options, the typical monthly premium paid for a family of four would drop by as much as 20 percent when switching to a $1,000 deductible and as much as 52 percent when switching to a $3,000 deductible.

This year I have also included a provision which would extend to 36 months the time period for COBRA coverage for a child who is no longer a dependent under a parent's health insurance policy. Again, EBRI statistics indicate that young adults between the ages of 18 and 24 are more likely than any other age to be uninsured; 30.1% were without coverage in 1997. This provision would allow those who are no longer dependents on their parents' plan to have a more secure safety net.

With respect to the uninsured and underinsured, my bill would permit individuals and families to purchase guaranteed, comprehensive health coverage through purchasing groups. Health insurance plans offered through the purchasing groups would be required to meet basic, comprehensive standards with respect to benefits. Such benefits must include a variation of benefits permitted among actuarially equivalent plans to be developed by the National Association of Insurance Commissioners. The standard plan would consist of the following services when medically necessary or appropriate: (1) medical and surgical devices; (2) medical equipment; (3) preventive services; and (4) emergency transportation in frontier areas.

My bill would also create individual health insurance purchasing groups for individuals wishing to purchase health insurance on their own. In today's market, such individuals often face a market where coverage options are not affordable. Purchasing groups will allow small businesses and individuals to buy coverage by pooling together within purchasing groups, and choose from among insurance plans that provide comprehensive benefits, with guaranteed enrollment and renewability, and equal pricing through community rating adjusted by age and family size. Community rating will assure that no one small business or individual will be singularly priced out of being able to buy comprehensive health coverage because of health status. With community rating, a small group of individuals and businesses can join together, spread the risk, and have the same purchasing power that larger companies have today.

For example, Pennsylvania has the ninth lowest rate of uninsured in the nation, with 90 percent of all Pennsylvanians enrolled in some form of health coverage. Lewin and Associates found that one of the factors enabling Pennsylvania to achieve this low rate of uninsured persons is that Pennsylvania's Blue Cross/Blue Shield plans provide guaranteed enrollment and renewability, an open enrollment period, community rating, and coverage for persons with pre-existing conditions. My legislation seeks to enact reforms to provide for more of these types of practices. The purchasing groups, as developed and administered on a local level, will provide small businesses and all individuals with affordable health coverage options.

Title III of my bill also includes an important provision to give the self employed 100 percent deductibility of their health insurance premiums. The Kassebaum-Kennedy bill extended the deductibility of health insurance for the self employed to 80 percent by 2006. The Balanced Budget Act of 1997 and the Omnibus Appropriations Act for Fiscal Year 1999 both contained new phase-in scales for health insurance deductibility for the self-employed. Currently, self-employed persons may deduct 60 percent of their health insurance costs through 2002, to be fully deductible in 2003. My bill would speed up the phase-in to allow self-employed individuals and their families to deduct 100 percent of their health insurance costs beginning in 2001, thereby giving the currently 2.9 million self-employed Americans who are uninsured a better incentive to purchase coverage.

The provisions contained in this portion of my bill are vital, as EBRI statistics tell us that 48 percent of all uninsured workers in 1997 were either self-employed or were working in private-sector firms with fewer than 25 employees. The disparity is further demonstrated by this telling statistic: 35 percent of workers in private-sector firms with fewer than 10 employees were uninsured, compared with only 12.3 percent of workers in private-sector firms with 1000 or more employees.

It is anticipated that the increased costs to employers electing to cover their employees as provided under Title III in my bill would be offset by the administrative savings generated by development of the small employer purchasing groups. Such savings have been estimated at levels as high as $9 billion annually. In addition, by addressing some of the areas within the health care system that have exacerbated costs, significant savings can be achieved and then redirected toward direct health care services.

TITLE IV

Although our existing health care system suffers from very serious structural problems, common sense steps can be taken to head off the remaining problems before they reach crisis proportions. Title IV of my bill includes initiatives which will enhance primary and preventive care services aimed at preventing disease and ill-health.

Each year about 7 percent of babies born in the United States are born with a low birth weight, multiplying their risk of death and disability. Most of the deaths which do occur are preventable. Although the infant mortality rate in the United States fell to an all-time low in 1989, an increasing percentage of babies continue to be born of low birth weight. The Executive Director of the National Commission To Prevent Infant Mortality put it this way: "More babies are being born at risk and all we are doing is saving them with expensive technology."

It is a human tragedy for a child to be born weighing 16 ounces with attendant problems which last a lifetime. I first saw one pound babies in 1984 when I was astounded to learn that Pittsburgh, PA had the highest infant mortality rate of African-American babies of any city in the United States. I wondered how that could be true of Pittsburgh, which has such enormous medical resources. It was an amazing thing for me to see a one pound baby, about as big as my hand. However, I am pleased to report that as a result of successful prevention initiatives, Pittsburgh's infant mortality has decreased 20% (currently 14.9 deaths per 1000 births, according to the 1997 statistics).

My legislation also focuses attention on women at-risk for delivering low birth weight babies. The Department of Health and Human Services has estimated that between $1.1 billion and $2.5 billion per year could be saved if the number of low birth weight children were reduced by 82,000 births. We know that in most instances, prenatal care is effective in preventing low birth weight babies. Numerous studies have demonstrated that low birth weight that does not have a genetic link is most often associated with inadequate prenatal care or the lack of prenatal care. The short and long-term costs of saving and caring for infants of low birth weight is staggering. In the most recent available study on the costs of low birth weight babies, the Office of Technology Assessment in 1988 concluded that $8 billion was expended in 1987 for the care of 262,000 low birth weight infants in excess of that which would have been spent on an equivalent number of babies born of normal birth weight, averted by earlier or more frequent prenatal care. If adequate prenatal care had been provided, especially to women at-risk for delivering low birth weight babies, the U.S. health care system could have saved between $14,000 and $30,000 per child in the first year in addition to the projected savings over the lifetime of each child.

To improve pregnancy outcomes for women at risk of delivering babies of low birth weight, my legislation would strengthen the Healthy Start program to reduce infant mortality and the incidence of low birth weight births, as well as to improve the health and well-being of mothers and their families, pregnant women and infants. Funds are awarded under this program with the goal of developing and coordinating effective health care and social support services for women and their babies.

I initiated action that led to the creation of the Healthy Start program in 1991, working with the Bush Administration and Senator HARKIN. As Chairman of the Appropriations Subcommittee with jurisdiction over the Department of Health and Human Services, I have worked with my colleagues to ensure the continued growth of this important program. In 1991, we allocated $25 million for the development of 15 demonstration projects. This number grew to 22 in 1994, to 75 projects in 1998, and the Health Resources and Services Administration expects this number to continue to increase. For fiscal year 1999, we secured $105 million for this vital program.

Title IV also provides increased support to local educational agencies to develop and strengthen comprehensive health education programs, and to Head Start resource centers to support health education training programs for teachers and other day care workers. Many studies indicate that poor health and social habits are carried into adulthood and often passed on to the next generation. To interrupt this tragic cycle, our nation must invest in proven preventive health education programs.

Title IV further expands the authorization of a variety of public health programs, such as breast and cervical cancer prevention, childhood immunizations, family planning, and community health centers. These existing programs are designed to improve the public health and prevent disease through primary and secondary prevention initiatives. It is essential that we invest more resources in these programs now if we are to make any substantial progress in reducing the costs of acute care in this country.

As Chairman of the Appropriations Subcommittee with jurisdiction over the Department of Health and Human Services, I have greatly encouraged the development of prevention programs which are essential to keeping people healthy and lowering the cost of health care in this country. In my view, no aspect of health care policy is more important. Accordingly, my prevention efforts have been widespread. Specifically, I joined my colleagues in efforts to ensure that funding for the Centers for Disease Control and Prevention (CDC) increased $1.6 billion or 160 percent since 1989; fiscal year 1999 funding for the CDC totals $2.6 billion. We have also worked to elevate funding for CDC's breast and cervical cancer early detection program to $159 million in fiscal year 1999, a 123 percent increase since 1993. In addition, I have supported providing funding to CDC to improve the detection and treatment of re-emerging infectious diseases.

I have also supported programs at CDC which help children. CDC's childhood immunization program seeks to eliminate preventable diseases through immunization and to ensure that at least 90 percent of 2 year olds are vaccinated. The CDC also continues to educate parents and caregivers on the importance of immunization for children under two years. Along with my colleagues on the Appropriations Committee, I have helped to ensure that funding for this important program totaled $421.5 million for fiscal year 1999. The CDC's lead poisoning prevention program annually identifies about 50,000 children with elevated blood levels and places those children under medical management. The program prevents the amount of lead in children's blood from reaching dangerous levels and is currently funded at about $38 million.

In recent years, we have also strengthened funding for Community Health Centers, which provide immunizations, health advice, and health professions training. These Centers, administered by the Health Resources and Services Administration, provide a critical primary care safety net to rural and medically underserved communities, as well as uninsured individuals, migrant workers, the homeless, residents of public housing, and Medicaid recipients. In 1996, 940 Health Centers provided comprehensive health care to 10 million children and adults across the United States. For fiscal year 1999, these Centers received $925 million, a $100 million increase over fiscal year 1998.

As Chairman of the Select Committee on Intelligence and Chairman of the Appropriations Subcommittee with jurisdiction over the Department of Health and Human Services, I have worked to transfer CIA imaging technology to the fight against breast cancer. Through the Office of Women's Health within the Department of Health and Human Services, I secured a $2 million contract in fiscal year 1996 for the University of Pennsylvania and a consortium to perform the first clinical trials testing the use of intelligence community technology for breast cancer detection. My Appropriations Subcommittee has continued to provide funds to continue the clinical trials.

I have also been a strong supporter of funding for AIDS research, education, and prevention programs. Funding for Ryan White AIDS programs has increased from $757.4 million in 1996 to $1.41 billion for fiscal year 1999. Within the fiscal year 1999 funding, $46 million was included for pediatric AIDS programs and $461 million for the AIDS Drug Assistance Program (ADAP). AIDS research at the NIH totaled $742.4 million in 1989, and has increased to $1.85 billion in fiscal year 1999. AIDS funding across the Department of Health and Human Services has steadily increased to over $3.9 billion for fiscal year 1999.

The health care community continues to recognize the importance of prevention in improving health status and reducing health care costs. In this bill, I have also included provisions which refine and strengthen preventive benefits within the Medicare program, including coverage of yearly pap smears, pelvic exams, and mammography screening for women, with no copayment or Part B deductible; and coverage of insulin pumps for certain Type I Diabetics.

The proposed expansions in preventive health services included in Title IV of my bill are conservatively projected to save approximately $2.5 billion per year or $12.5 billion over five years. However, I believe the savings will be higher. It is clearly difficult to quantify today the savings that will surely be achieved tomorrow from future generations of children that are truly educated in a range of health-related subjects including hygiene, nutrition, physical and emotional health, drug and alcohol abuse, and accident prevention and safety.

TITLE V

Title V of my bill would establish a federal standard and create uniform national forms concerning a patient's right to decline medical treatment. Nothing in my bill mandates the use of uniform forms. Rather, the purpose of this provision is to make it easier for individuals to make their own choices and determination regarding their treatment during this vulnerable and highly personal time. Studies have also indicated that advance directives do not increase health care costs. Data indicate that end-of-life costs account for 10 percent of total health expenditures and 28 percent of total Medicare expenditures. Loose projections indicate that a 10 percent savings made in the final days of life would result in approximately $10 billion of savings in medical costs per year, and about $4.7 billion in savings for Medicare alone.

However, economic considerations are not and should not be the primary reasons for using advance directives. They provide a means for patients to exercise their autonomy over end-of-life decisions. A study done at the Thomas Jefferson University Medical College in Philadelphia cited research which found that about 90 percent of the American population has expressed interest in discussing advance directives. However, even more recent studies indicate that living wills would be used by many more Americans if they were better understood. My bill would provide information on an individual's rights regarding living wills and advanced directives, and would make it easier for people to have their wishes known and honored. In my view, no one has the right to decide for anyone else what constitutes appropriate medical treatment to prolong a person's life. Encouraging the use of advance directives will ensure that patients are not needlessly and unlawfully treated against their will. No health care provider would be permitted to treat an adult contrary to the adult's wishes as outlined in an advance directive. However, in no way would the use of advance directives condone assisted suicide or any affirmative act to end human life.

TITLE VI

The next title addresses the unique barriers to coverage which exist in both rural and urban medically underserved areas. Within my State of Pennsylvania, such barriers result from a lack of health care providers in rural areas, and other problems associated with the lack of coverage for indigent populations living in inner cities. Title VI of my bill improves access to health care services for these populations by: (1) expanding Public Health Service programs and training more primary care providers to serve in such areas; (2) increasing the utilization of non-physician providers, including nurse practitioners, clinical nurse specialists and physician assistants, through direct reimbursements under the Medicare and Medicaid programs; and (3) increasing support for education and outreach.

I believe these provisions will also yield substantial savings. A study of the Canadian health system utilizing nurse practitioners projected savings of 10 to 15 percent of all medical costs. While our system is dramatically different from that of Canada, it may not be unreasonable to project annual savings of five percent, or $55 billion, from an increased number of primary care providers in our system. Again, experience will raise or lower this projection. Assuming these savings, based on an average expenditure for health care of $3,821 per person in 1995, it seems reasonable that we could cover over 10 million uninsured persons with these savings.

TITLE VII

Outcomes research, included in title VII of my bill, is another area where we can achieve considerable long term health care savings while also improving the quality of care. According to most outcomes management experts, it is estimated that about 25 to 30 percent of medical care is inappropriate or unnecessary. Dr. Marcia Angell, former editor-in-chief of the New England Journal of Medicine, also stated that 20 to 30 percent of health care procedures are either inappropriate, ineffective or unnecessary. In 1997, health care expenditures totaled $1.1 trillion annually.

A well-funded program for outcomes research is therefore essential, and is supported by Dr. C. Everett Koop, former Surgeon General of the United States. Title VII of my bill would establish such a program by imposing a one-tenth of one cent surcharge on all health insurance premiums. Based on the Health Care Financing Administration's 1995 health spending review, private health insurance premiums totaled $325.4 billion. As provided in my bill, a surcharge would generate $325.4 million for an outcomes research fund.

Title VII also authorizes the Secretary of Health and Human Services to award grants to States to establish or improve a health care data information system. Currently, 38 States have a mandate to establish such a system, and 22 States are in various stages of implementation. In my own State, the Pennsylvania Health Care Cost Containment Council has received national recognition for the work it has done to help control health care costs through the promotion of competition in the collection, analysis and distribution of uniform cost and quality data for all hospitals and physicians in the Commonwealth. Consumers, businesses, labor, insurance companies, health maintenance organizations, and hospitals have utilized this important information. Specifically, hospitals have used this information to become more competitive in the marketplace; businesses and labor have used this data to lower their health care expenditures; health plans have used this information when contracting with providers; and consumers have used this information to compare costs and outcomes of health care providers and procedures.

TITLE VIII

Nursing home care is another significant issue which must be addressed. The cost of this care is exorbitant, averaging in excess of $40,000 annually. Public expenditures on nursing home care, largely through the Medicaid program, were over $33 billion in 1995. Despite these large public expenditures, the elderly face significant uncovered liability for long term care. Title VIII of my bill therefore would provide a tax credit for premiums paid to purchase private long-term care insurance. It also proposes home and community-based care benefits as less costly alternatives to institutional care. Other tax incentives and reforms provided in my bill to make long term care insurance more affordable include: (1) allowing employees to select long-term care insurance as part of a cafeteria plan and allowing employers to deduct this expense; (2) excluding from income tax the life insurance savings used to pay for long term care; and (3) setting standards for long term care insurance that reduce the bias that currently favors institutional care over community and home-based alternatives.

TITLE IX

The final title of my bill would create a national fund for health research within the Department of the Treasury, to supplement the monies appropriated for the National Institutes of Health. To capitalize this fund, health insurance companies would be required to contribute 1 percent of all health insurance premiums received. This creative proposal was first developed by my distinguished colleagues, Senators Mark Hatfield and TOM HARKIN. Their idea is a sound one and ought to be adopted. To this end, Senator HARKIN and I introduced the National Fund for Health Research Act of 1997 (S. 441) on March 13, 1997. I look forward to continuing to work together with Senator HARKIN to enact a biomedical research fund this Congress.

While precision is again impossible, it is reasonable to project that my proposal could achieve a net annual savings of between $90 and $100 billion. I arrive at this sum by totaling the projected savings of $90 to $100 billion annually—$9 billion in small employer market reforms coupled with employer purchasing groups; $2.5 billion for preventive health services; $22 to $33 billion for reducing inappropriate care through outcomes research; $10 billion from advanced directives; $55 billion from increasing primary care providers; and $2.9 billion by reducing administrative costs and netting this against the $2.8 billion for long term care. Although these estimates are not exact, I propose this bill as a starting point to address the remaining problems with our health care system. Experience will require modification of these projections, and I am prepared to work with my colleagues to develop implementing legislation and to press for further action in the important area of health care reform.

The provisions which I have outlined today contain the framework for providing affordable health care for all Americans. I am opposed to rationing health care. I do not want rationing for myself, for my family, or for America. In my judgment, we should not scrap, but rather we should build on our current health delivery system. We do not need the overwhelming bureaucracy that President Clinton and other Democratic leaders proposed in 1993 to accomplish this. I believe we can provide care for the 43.1 million Americans who are now not covered and reduce health care costs for those who are covered within the currently growing $1.1 trillion in health care spending.

This bill is a significant next step forward in obtaining the objective of reforming our health care system, although that reform will not be achieved immediately or easily. Mr. President, the time has come for concerted action in this arena.

I urge the Congressional leadership, including the appropriate committee chairmen, to move this legislation and other health care bills forward promptly.

I ask unanimous consent that a summary of the bill and a list of the 26 health care bills I have sponsored since 1983 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

26 HEALTH CARE BILLS INTRODUCED BY SENATOR ARLEN SPECTER

98th Congress 1/3/83 until 1/2/85:

(1) S. 811: The Health Care for Displaced Workers Act of 1983 (3/15/83)

(2) S. 2051: The Health Care Cost Containment Act of 1983 (11/4/83)

99th Congress 1/3/85 until 1/2/87:

(3) S. 379: The Health Care Cost Containment Act of 1985 (2/5/85)

(4) S. 1873: The Community Based Disease Prevention and Health Promotion Projects Act of 1985 (11/21/85)

100th Congress 1/3/87 until 1/2/89:

(5) S. 281: The Aid to Families and Employment Transition Act (1/6/87)

(6) S. 1871: The Pediatric Acquired Immunodeficiency Syndrome (AIDS) Resource Centers Act (11/17/87)

(7) S. 1872: The Minority Acquired Immunodeficiency Syndrome (AIDS) Awareness and Prevention Projects Act (11/17/87):

101st Congress 1/3/89 until 1/2/91

(8) S. 896: The Pediatric AIDS Resource Centers Act (5/2/89)

(9) S. 1607: Authorization of the Office of Minority Health (9/12/89):

102nd Congress 1/3/91 until 1/5/93:

(10) S. 1122: The Long-Term Care Incentives Act of 1991 (5/22/91)

(11) S. 1214: The Change in Designation of Lancaster County, PA, for Purposes of Medicare Services (6/4/91)

(12) S. 1864: The Children's Hospital of Philadelphia Medical Research Facility Act (10/23/91)

(13) S. 1995: The Health Care Access and Affordabililty Act of 1991 (11/20/91)

(14) S. 2028: The Women Veteran's Health Equity Act of 1991 (11/22/91)

(15) S. 2029: Self-Funding of Veteran's Administrative Health Care Act (11/22/91)

(16) S. 2188: Rural Veterans Health Care Facilities Act (2/5/92)

(17) S. 3176: The Health Care Affordabililty and Quality Improvement Act of 1992 (8/12/92)

(18) S. 3353: The Deferred Acquisition Cost Act (10/6/92)

103rd Congress 1/5/93 until 12/11/94:

(19) S. 18: The Comprehensive Health Care Act of 1993 (1/21/93)

(20) S. 631: The Comprehensive Access and Affordabililty Health Care (3/23/93):

104th Congress 1/4/95 until 10/3/96:

(21) S. 18: The Health Care Assurance Act of 1995 (1/4/95)

(22) S. 1716: The Adolescent Family Life and Abstinence Education Act of 1996 (4/29/96)

105th Congress 1/7/97 to 10/21/98:

(23) S. 24: The Health Care Assurance Act of 1997 (1/21/97)

(24) S. 435: The Healthy Children's Pilot Program Act of 1997 (3/13/97)

(25) S. 934: The Adolescent Family Life and Abstinence Education Act of 1997 (6/18/97)

(26) S. 999: Authorizing the Department of Veteran's Affairs to Specify the Frequency of Screening Mammograms (7/9/97)

HEALTH CARE ASSURANCE ACT OF 1999—SUMMARY

TITLE I: Expanded State Child Health Insurance Program—This title will expand upon the State Child Health Insurance Program (S-CHIP), the new program established in the Balanced Budget Act of 1997 which allocates $24 billion/five years to increase health insurance coverage for children. The S-CHIP program gives States the option to use federally funded grants to provide vouchers to eligible families to purchase health insurance for their children, or to expand Medicaid coverage for those uninsured children, or a combination of both. These grants are distributed to participating States based on the number of uninsured children residing there. This title would increase the income eligibility to families with incomes at or below 235 percent of the Federal poverty level ($38,658 annually for a family of four), and would strengthen the States' ability to conduct Medicaid outreach to eligible children.

TITLE II: Expanded Health Services for Disabled Individuals:—Extension of Medicare Eligibility for Disabled Individuals Who Return to Work: Currently, disabled individuals, or recipients of Social Security Disability Income (SSDI), may receive health insurance coverage under the Medicare program for a short time after returning to work. This provision would extend to 24 months the period during which the individual may continue to receive Medicare benefits after returning to work, and allow the individual to "buy-into" Medicare at a reduced rate, subject to yearly review.

Expansion of Community-Based Attendant Care Services—Medicaid currently covers the costs associated with institutional care for disabled individuals. In an effort to improve the delivery of care and the comfort of those with long-term disabilities, this section would allow for reimbursement for community-based attendant care services, instead of institutionalization, for eligible individuals who require such services based on functional need, without regard to the individual's age or the nature of the disability.

TITLE III: General Health Insurance Coverage Provisions—Tax Equity for the Self-Employed: Under current law, self-employed persons may deduct 60 percent of their health insurance costs through 2002, and those costs would be fully deductible in 2003. However, all other employees may already deduct 100 percent of such costs. Title III corrects this inequity for the self-employed, 2.9 million of whom are currently uninsured, by speeding up the phase-in to allow self-employed individuals and their families to deduct 100 percent of their health insurance costs beginning in 2001.

Small Employer and Individual Purchasing Groups: Establishes voluntary small employer and individual purchasing groups designed to provide affordable, comprehensive health coverage options for such employers, their employees, and other uninsured and underinsured individuals and families. Health plans offering coverage through such groups will: (1) provide a standard, actuarially equivalent health benefits package; (2) adjust community rated premiums by age and family size in order to spread risk and provide price equity to all; and (3) meet certain other guidelines involving marketing practices.

Standard Benefits Package: The standard package of benefits would include a variation of benefits permitted among actuarially equivalent plans developed through the National Association of Insurance Commissioners (NAIC). The standard plan will consist of the following services when medically necessary or appropriate: (1) medical and surgical services; (2) medical equipment; (3) preventive services; and (4) emergency transportation in frontier areas.

COBRA Portability Reform: For those persons who are uninsured between jobs and for insured persons who fear losing coverage should they lose their jobs, Title III reforms the existing COBRA law by: (1) extending to 24 months the minimum time period in which COBRA may cover individuals through their former employers' plan, and extending to 36 months the time period in which a child who is no longer a dependent under a parent's health insurance policy may receive COBRA coverage; (2) expanding coverage options to include plans with a lower premium and a $1,000 deductible—saving a typical family of four 20 percent in monthly premiums—and plans with a lower premium and a $3,000 deductible—saving a family of four 52 percent in monthly premiums.

TITLE IV: Primary and Preventive Care Services:

New Medicare Preventive Care Services: The health care community continues to recognize the importance of prevention in improving health status and reducing health care costs. This provision institutes new preventive benefits within the Medicare program, and refines and strengthens existing ones. Under this provision, Medicare would cover yearly pap smears, pelvic exams, and mammography screening for women, with no copayment or Part B deductible; and cover insulin pumps for certain Type I Diabetics.

Primary Health and Education Assistance Programs: The Department of Health and Human Service administers many programs designed to increase access to primary and preventive care. This provision provides increased authorization for several existing preventive health programs such as breast and cervical cancer prevention, Healthy Start project grants aimed at reducing infant mortality and low weight births and to improve the health and well-being of mothers and their families, pregnant women and infants, and childhood immunizations. This section also authorizes a new grant program for local education agencies and pre-school programs to provide comprehensive health education, and reauthorizes the Adolescent Family Life (AFL) program (Title XX) for the first time since 1984. The AFL program provides funding for initiatives focusing directly on abstinence education.

TITLE V: Patient's Right to Decline Medical Treatment: Improves the effectiveness and portability of advance directives by strengthening the federal law regarding patient self-determination and establishing uniform federal forms with regard to self-determination.

TITLE VI: Primary and Preventive Care Providers: Encourages use of non-physician providers such as nurse practitioners, physician assistants, and clinical nurse specialists by increasing direct reimbursement under Medicare and Medicaid without regard to the setting where services are provided. Title VI also seeks to encourage students early on in their medical training to pursue a career in primary care and it provides assistance to medical training programs to recruit such students.

TITLE VII: Cost Containment:

Outcomes Research: Expands funding for outcomes research necessary for the development of medical practice guidelines and increasing consumers' access to information in order to reduce the delivery of unnecessary and overpriced care.

New Drug Clinical Trials Program: Authorizes a program at the National Institutes of Health to expand support for clinical trials on promising new drugs and disease treatments with priority given to the most costly diseases impacting the greatest number of people.

Health Care Cost Containment and Quality Information Project: Authorizes the Secretary of Health and Human Services to award grants to States to establish a health care cost and quality information system or to improve an existing system. Currently, 38 States have State mandates to establish an information system, approximately 22 States of which have information systems in various stages of operation. Information such as hospital charge data and patient procedure outcomes data, which the State agency or council collects is used by businesses, labor, health maintenance organizations, hospitals, researchers, consumers, States, etc. Such data has enabled hospitals to become more competitive, businesses to save health care dollars, and consumers to make informed choices regarding their care.

TITLE VIII: Tax Incentives for Purchase of Qualified Long-Term Care Insurance: Increases access to long-term care by: (1) establishing a tax credit for amounts paid toward long-term care services of family members; (2) excluding life insurance savings used to pay for long-term care from income tax; (3) allowing employees to select long-term care insurance as part of a cafeteria plan and allowing employers to deduct this expense; (4) setting standards that require long-term care to eliminate the current bias that favors institutional care over community and home-based alternatives.

TITLE IX: National Fund for Health Research: Authorizes the establishment of a National Fund for Health Research to supplement biomedical research through the contributions of 1% of premiums collected by health insurers. Funds will be distributed to the National Institutes of Health's member institutes and centers in the same proportion as the amount of appropriations they receive for the fiscal year.

By Ms. LANDRIEU (for herself, Mr. MURKOWSKI, Mr. BREAUX, Mr. SESSIONS, Mr. JOHNSON, Mr. LOTT, Mr. CLELAND, Mr. GREGG, Ms. MIKULSKI, and Mr. COCHRAN):

S. 25. A bill to provide Coastal Impact Assistance to State and local governments, to amend the Outer Continental Shelf Lands Act Amendments of 1978, the Land and Water Conservation Fund Act of 1965, the Urban Park and Recreation Recovery Act, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people, and for other purposes; to the Committee on Energy and Natural Resources.

CONSERVATION AND REINVESTMENT ACT OF 1999

Ms. LANDRIEU. Mr. President, I rise today with great enthusiasm and pride to introduce a very important piece of legislation. I worked with my colleagues on the Senate Energy and Natural Resources Committee, as well as with other members for over a year before introducing this legislation during the 105th Congress. Now, on this first date of introductions in the 106th Congress, I am reintroducing that legislation with a broad array of cosponsors. We have worked hard to arrive at this long awaited and anticipated point to introduce a bipartisan piece of legislation that may well be the most significant environmental effort of the century. I am pleased to be joined by my colleagues, Senators MURKOWSKI, LOTT, BREAUX, SESSIONS, CLELAND, JOHNSON, GREGG, COCHRAN and MIKULSKI.

The Conservation and Reinvestment Act of 1999 will go farther than any legislation to date to make good on promises that were made to the people of this country decades ago. In addition, it will begin to right a wrong endured by oil and gas producing states for over 50 years, particularly for the states along the Gulf of Mexico, and my state of Louisiana.

The Conservation and Reinvestment Act first provides a guaranteed source of funding equal to twenty-seven percent of all Outer Continental Shelf revenues for Coastal Impact Assistance to states to offset the impacts of offshore oil and gas activity, as well as to non-producing states for environmental purposes. This funding goes directly to States and local governments for improvements in air and water quality, fish and wildlife habitat, wetlands, or other coastal resources, including shoreline protection and coastal restoration. These revenues to coastal states will help offset a range of costs unique to maintaining a coastal zone for specific enumerated uses. The formula is based on population, coastline and proximity to production.

Second, the bill provides a permanent stream of revenue for the State and Federal sides of the Land and Water Conservation Fund, as well as for the Urban Parks and Recreation Recovery Program. Under the bill, funding to the LWCF becomes automatic at sixteen percent of annual revenues. Receiving just under half this amount, the state side of LWCF will provide funds to state and local governments for land acquisition, urban conservation and recreation projects, all under the discretion of state and local authorities. Since its enactment in 1965, the LWCF state grant program has funded more than 37,000 park and recreation projects throughout the nation, including in Louisiana the Joe Brown Park Development in New Orleans, the Baton Rouge Animal Exhibit, the Veterans Memorial Park in Point Barre and the Northwestern State University Recreation Complex in Natchitoches. The Urban Parks program would enable cities and towns to focus on the needs of its populations within our more densely inhabited areas with fewer greenspaces, playgrounds and soccer fields for our youth. Stable funding, not subject to appropriations, will provide greater revenue certainty to state and local planning authorities.

A stable baseline will be established for Federal land acquisition through the LWCF at a level higher than the historical average over the past decade. Federal LWCF will receive just under half of the amount in this title of the bill. And, nothing in this bill will preclude additional Federal LWCF funds to be sought through the annual appropriations process. Some very worthy national projects that have received funding in the past include the Atchafalaya National Wildlife Refuge in Louisiana, the Mississippi Sandhill Crane Wildlife Refuge, the Cape Cod National Seashore, Voyageurs National Park in Minnesota and the Sterling Forest in New Jersey. Federal LWCF dollars will be used for land acquisition in areas which have been and will be authorized by Congress. Property will be acquired on a willing seller basis. The bill will restore Congressional intent with respect to the LWCF, the goal of which is to share a significant portion of revenues from offshore development with the states to provide for protection and public use of the natural environment.

Finally, the wildlife conservation and restoration provision include guaranteed funding of seven percent of annual OCS revenues for wildlife habitat protection, conservation education and delisting of endangered species. Moreover, this funding may be used by states for habitat preservation and land acquisition of wintering habitat for important species, therefore preventing listings under the Endangered Species Act.

There is an incredible groundswell of support for this legislation that is growing. Just a few days ago, in recognition of the efforts undertaken here in Congress in both the House and the Senate, our Nation's President unveiled the Lands Legacy Initiative, which mirrors a number of provisions in the bills introduced here in Congress. I want to acknowledge this praiseworthy effort by the President. Such a development goes even further to emphasize the importance of this bipartisan, bicameral inititative—it is the will of the people. During last November's elections, many states enacted bond initiatives totaling almost $700 million that overwhelmingly demonstrate the value that the public places on green space and recreational opportunities. It is our duty to support those efforts for the benefit of future generations by reinvesting in our renewable resources. It is the right thing to do.

While I am proud of the accomplishments represented by the introduction of this bill, I feel compelled to mention other interests that are not included in the legislation, but for which I maintain a strong level of support and commitment. The National Historic Preservation fund is an important authorized use for Outer Continental Shelf revenues. In fact, I introduced legislation last Congress to reauthorize the fund for its continued viability and vitality. In addition, I would like to work with proponents of historic preservation over the course of the 106th Congress to see their needs addressed in the future. This would include similar consideration for Historic Battlefield Preservation.

I see the Conservation and Reinvestment Act as a starting point for debate and consideration of additional issues. My cosponsors and I have made some changes to the legislation to reflect the concerns and desires of interested groups. As we move forward on this measure, in the hearing and committee consideration process, I also wish to work with other Members and groups. Indeed, this is a measure that should enjoy broad support, and I want to continue to work toward that end.

All three portions of the Conservation and Reinvestment Act of 1999 will effectively free up State resources which in turn may then be used for other pressing local needs. The Conservation and Reinvestment Act is a perfect opportunity to reinvest in our nation's renewable resources for our children's future and our grandchildren's future. It is an idea whose time has come. I urge my colleagues to carefully consider this proposal.

Mr. President, I ask unanimous consent that the text of the bill appear in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 25

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled

SECTION 1. SHORT TITLE.

This Act may be cited as the "Conservation and Reinvestment Act of 1999".

TITLE I—COASTAL IMPACT ASSISTANCE

SECTION 101. SHORT TITLE.

This title may be cited as the “Coastal Conservation and Impact Assistance Act of 1998”.

SEC. 102. AMENDMENT TO OUTER CONTINENTAL SHELF LANDS ACT.

The Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629), as amended, is amended to add at the end thereof a new Title VII as follows:

“SEC. 701. FINDINGS.

“The Congress finds and declares that—

“(1) The Nation owns valuable mineral resources that are located both onshore and in the Federal Outer Continental Shelf, and the Federal Government develops these resources for the benefit of the Nation, under certain restrictions designed to prevent environmental damage and other adverse impacts.

“(2) Nonetheless, the development of these mineral resources for the Nation is accompanied by unavoidable environmental impacts and public service impacts in the States that host this development, whether the development occurs onshore or on the Federal Outer Continental Shelf.

“(3) The Federal Government has a responsibility to the States affected by development of Federal mineral resources to mitigate adverse environmental and public service impacts incurred due to that development.

“(4) The Federal Government discharges its responsibility to States where onshore Federal mineral development occurs by sharing 50 percent of the revenue derived from the Federal mineral development in that State pursuant to section 35 of the Mineral Leasing Act.

“(5) Federal mineral development is occurring as far as 200 miles offshore and occurs off the coasts of only 6 States, yet section 8(g) of the Outer Continental Shelf Lands Act does not adequately compensate these States for onshore impacts of the offshore Federal mineral development.

“(6) Federal Outer Continental Shelf mineral development is an important and secure source of our Nation's supply of oil and natural gas.

“(7) Further technological advancements in oil and natural gas exploration and production need to be pursued and encouraged.

“(8) These technological achievements have and will continue to result in new Outer Continental Shelf production having an unparalleled record of excellence on environmental safety issues.

“(9) Additional technological advances with appropriate incentives will further improve new resource recovery and therefore increase revenues to the Treasury for the benefit of all Americans who enjoy programs funded by Outer Continental Shelf moneys.

“(10) The Outer Continental Shelf Advisory Committee of the Department of the Interior, consisting of representatives of coastal States, recommended in October 1997 that Federal mineral revenue derived from the entire Outer Continental Shelf be shared with all coastal States and territories to mitigate onshore impacts from Federal offshore mineral development and for other environmental mitigation; and

“(11) The Nation's Federal mineral resources are a nonrenewable, capital asset of the Nation, with the production and sale of this resource producing revenue for the Nation, a portion of the revenue derived from the production and sale of Federal mineral resources should be reinvested in the Nation through environmental mitigation and public service improvements;

“(12) Nothing in this Title shall be interpreted to repeal or modify any existing moratorium on leasing Federal OCS leases for drilling nor shall anything in this Title be interpreted as an incentive to encourage the development of Federal OCS resources where such resources currently are not being developed.

“SEC. 702. DEFINITIONS.

“For purposes of this Act:

“(1) The term ‘allocable share’ means, for a coastal State, that portion of revenue that is available to be distributed to that coastal State under this title. For an eligible political subdivision of a coastal State, such term means that portion of revenue that is available to be distributed to that political subdivision under this title.

“(2) The term ‘coastal population’ means the population of political subdivisions, as determined by the most recent official data of the Census Bureau, contained in whole or in part within the designated coastal boundary of a State as defined in a State's coastal zone management program under the Coast Zone Management Act (16 U.S.C. §1455).

“(3) The term ‘coastline’ has the same meaning that it has in the Submerged Lands Act (43 U.S.C. §1301 et seq.).

“(4) The term ‘eligible political subdivision’ means a coastal political subdivision of a coastal State which political subdivision has a seaward boundary that lies within a distance of 200 miles from the geographic center of any leased tract. The Secretary shall annually provide a list of all eligible political subdivisions of each coastal State to the Governor of such State.

“(5) The term ‘political subdivision’ means the local political jurisdiction immediately below the level of State government, including counties, parishes, and boroughs. If State law recognizes an entity of general government that functions in lieu of, and is not within, a county, parish, or borough, the Secretary may recognize an area under the jurisdiction of such other entities of general government as a political subdivision for purposes of this Act.

“(6) The term ‘coastal State’ means any State of the United States bordering on the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Bering Sea, the Gulf of Mexico, or any of the Great Lakes, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

“(7) The term ‘distance’ means minimum great circle distance, measured in statute miles.

“(8) The term ‘fiscal year’ means the Federal Government's accounting period which begins on October 1st and ends on September 30th, and is designated by the calendar year in which it ends.

“(9) The term ‘Governor’ means the highest elected official of a coastal State.

“(10) The term ‘leased tract’ means a tract, leased under section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. §1337) for the purpose of drilling for, developing and producing oil and natural gas resources, which is a unit consisting of either a block, a portion of a block, a combination of blocks and/or portions of blocks, as specified in the lease, and as depicted on an Outer Continental Shelf Official Protraction Diagram.

“(11) The term ‘revenues’ means all moneys received by the United States as bonus bids, rents, royalties (including payments for royalty taken in kind and sold), net profit share payments, and related late-payment interest from natural gas and oil leases issued pursuant to the Outer Continental Shelf Lands Act.

“(12) The term ‘Outer Continental Shelf’ means all submerged lands lying seaward and outside of the area of ‘lands beneath navigable waters’ as defined in section 2(a) of the Submerged Lands Act (43 U.S.C. §1301(a)), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

“(13) The term ‘Secretary’ means the Secretary of the Interior or the Secretary's designee.

“SEC. 703. IMPACT ASSISTANCE FORMULA AND PAYMENTS.

“(a) ESTABLISHMENT OF FUND.—(1) There is established in the Treasury of the United States a fund which shall be known as the ‘Outer Continent Shelf Impact Assistance Fund’ (referred to in this Act as ‘the Fund’). The Secretary shall deposit in the Fund 27 percent of the revenues from each leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. §1337(g)), or lying within such zone but to which section 8(g) does not apply, the geographic center of which lies within a distance of 200 miles from any part of the coastline or any coastal State.

“(2) The Secretary of the Treasury shall invest moneys in the Fund that are excess to expenditures at the written request of the Secretary, in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

“(b) PAYMENT OF STATES.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. §1338), the Secretary shall, without further appropriation, make payments in each fiscal year to coastal States and to eligible political subdivisions equal to the amount deposited in the Fund for the prior fiscal year, together with the portion of interest earned from investment of the funds which corresponds to that amount (reduced by any refunds paid under section 705(c)). Such payments shall be allocated among the coastal States and eligible political subdivisions as provided in this section.

“(c) DETERMINATION OF STATES' ALLOCABLE SHARES.—

“(1) ALLOCABLE SHARE FOR EACH STATE.—For each coastal State, the Secretary shall determine the State's allocable share of the total amount of the revenues deposited in the Fund for each fiscal year using the following weighted formula:

“(A) 25 percent to the States's allocable share shall be based on the ratio of such State's shoreline miles to the shoreline miles of all coastal States.

“(B) 25 percent to the States's allocable share shall be based on the ratio of such State's coastal population to the coastal population of all coastal States.

“(C) 50 percent of the State's allocable share shall be computed based upon Outer Continental Shelf production. If any portion of a coastal State lies within a distance of 200 miles from the geographic center of any leased tract, such State shall receive 50 percent of its allocable share based on the Outer Continental Shelf oil and gas production offshore of such State. Such part of its allocable share shall be inversely proportional to the distance between the nearest point on the coastline of such State and the geographic center of each leased tract or portion of the leased tract (to the nearest whole mile), as determined by the Secretary.

"(2) MINIMUM STATE SHARE.—

"(A) IN GENERAL.—The allocable share of revenues determined by the Secretary under this subsection for each coastal State with an approved coastal management program (as defined by the Coastal Zone Management Act (16 U.S.C. §1451)) or which is making satisfactory progress toward one shall not be less than 0.50 percent of the total amount of the revenues deposited in the Fund for each fiscal year. For any other coastal State the allocable share of such revenues shall not be less than 0.25 percent of such revenues.

"(B) RECOMPUTATION.—Where one or more coastal States' allocable shares, as computed under paragraph (1), are increased by any amount under this paragraph, the allocable share for all other coastal States shall be recomputed and reduced by the same amount so that not more than 100 percent of the amount deposited in the fund is allocated to all coastal States. The reduction shall be divided pro rata among such other coastal States.

"(3) ADJUSTMENT FOR PRODUCING STATES.—

"(A) DEFINITIONS.—In this paragraph:

"(i) NONPRODUCING STATE.—The term 'nonproducing State' means a State other than a producing State.

"(ii) PRODUCING STATE.—The term 'producing State' means a State off the coast of which any leased tract or tract in State water produced oil, condensate, or natural gas during fiscal year 1998 that, during that fiscal year, was transported by pipeline to a processing facility in the State.

"(iii) TRACT IN STATE WATER.—The term 'tract in State water' means a tract on land beneath navigable water described in section 2(a)(2) of the Submerged Lands Act (43 U.S.C. 1301(a)(2)).

"(B) ADJUSTMENT.—For any fiscal year, if the application of paragraphs (1) and (2) would result in an allocable share for any nonproducing State that is greater than the allocable share for any producing State—

"(i) the amount of the allocable share for each such producing State shall be increased to the amount of the highest allocable share for any such nonproducing State; and

"(ii) the amount of the allocable shares for States and other than States receiving increases under paragraph (2) shall be reduced in the amount of the increase under clause (i) in the proportion that the allocable share for each such other State after application of paragraphs (1) and (2) bears to the total amount allocated to all States under paragraphs (1) and (2).

"(d) PAYMENTS TO STATES AND POLITICAL SUBDIVISIONS.—Each coastal State's allocable share shall be divided between the State and political subdivisions in that State as follows:

"(1) 40 percent of each State's allocable share, as determined under subsection (c), shall be paid to the State;

"(2) 40 percent of each State's allocable share, as determined under subsection (c), shall be paid to the eligible political subdivisions in such State, with the funds to be allocated among the eligible political subdivisions using the following weighted formula:

"(A) 50 percent of an eligible political subdivision's allocable share shall be based on the ratio of that eligible political subdivision's acreage within the State's coastal zone, as defined in an approved State coastal management program (as defined by the Coastal Zone Management Act (16 U.S.C. §1451)), to the entire acreage within the coastal zone in such State; *Provided*, however, That if the State in which the eligible political subdivision is located does not have an approved coastal management program, then the allocable share shall be based on the ratio of that eligible political subdivision's shoreline miles to the total shoreline miles in that coastal State.

"(B) 25 percent of an eligible political subdivision's allocable share shall be based on the ratio of such eligible political subdivision's coastal population to the coastal population of all eligible political subdivisions in that State.

"(C) 25 percent of an eligible political subdivision's allocable share shall be based on ratios that are inversely proportional to the distance between the nearest point on the seaward boundary of each such eligible political subdivision and the geographic center of each leased tract or portion of the leased tract (to the nearest whole mile), as determined by the Secretary.

"(3) 20 percent of each State's allocable share, as determined under subsection (c), shall be allocated to political subdivisions in the coastal State that do not qualify as eligible political subdivisions but which are determined by the Governor or the Secretary to have impacts from Outer Continental Shelf related activities and which have an approved plan under this subsection.

"(4) PROJECT SUBMISSION.—Prior to the receipt of funds pursuant to this subsection for any fiscal year, a political subdivision must submit to the Governor of the State in which it is located a plan setting forth the projects and activities for which the political subdivision proposes to expend such funds. Such plan shall state the amounts proposed to be expended for each project or activity during the upcoming fiscal year.

"(5) PROJECT APPROVAL.—(A) Prior to the payment of funds pursuant to this subsection to any political subdivision for any fiscal year, the Governor must approve the plan submitted by the political subdivision pursuant to this subsection and notify the Secretary of such approval. State approval of any such plan shall be consistent with all applicable State and Federal law. In the event the Governor disapproves any such plan, the funds that would otherwise be paid to the political subdivision shall be placed in escrow by the Secretary pending modification and approval of such plan, at which time such funds together with interest thereon shall be paid to the political subdivision.

"(B) A political subdivision that fails to receive approval from the Governor for a plan may appeal to the Secretary and the Secretary may approve or disapprove such plan based on the criteria set forth in section 704; *Provided*, however, That the Secretary shall have no authority to consider an appeal of a political subdivision if the Governor of the State has certified in writing to the Secretary that the State has adopted a State program that by its express terms addresses the allocation of revenues to political subdivisions.

"(e) TIME OF PAYMENT.—(1) Payments to coastal States and political subdivisions under this section shall be made not later than December 31 of each year from revenues received and interest earned thereon during the immediately preceding fiscal year. Payment shall not commence before the date 12 months following the date of enactment of this Act.

"(2) Any amount in the Fund not paid to coastal States and political subdivisions under this section in any fiscal year shall be disposed of according to the law otherwise applicable to revenues from leases on the Outer Continental Shelf.

"SEC. 704. USES OF FUNDS.

"(a) AUTHORIZED USES OF FUNDS.—Funds received pursuant to this Act may be used by the coastal States and political subdivisions for

"(1) air quality, water quality, fish and wildlife, wetlands, outdoor recreation programs, or other coastal resources, including shoreline protection and coastal restoration;

"(2) other activities of such State or political subdivision, contemplated by the Coastal Zone Management Act of 1972 (16 U.S.C. §1451 et seq.), the provisions of subtitle B of title IV of the Oil Pollution Act of 1990 (104 Stat. 523), or the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.);

"(3) planning assistance and administrative costs of complying with the provisions of this subtitle;

"(4) uses related to the Outer Continental Shelf Lands Act;

"(5) mitigating impacts of Outer Continental Shelf activities, including onshore infrastructure and public service needs; and

"(6) deposit in a state or political subdivision administered trust fund dedicated to uses consistent with this section.

"(b) COMPLIANCE WITH APPLICABLE LAWS.—All projects and activities paid for by the moneys received from the Fund shall comply with the state Coastal Zone Management Plan and all applicable Federal, state and local environmental laws and regulations."

"SEC. 705. STATE PLANS: CERTIFICATION; ANNUAL REPORT; REFUNDS.

"(a) STATE PLANS.—Within one year after the date of enactment of this Act, the Governor of every state eligible to receive moneys from the Fund shall develop a state plan for the use of such moneys and shall certify the plan to the Secretary. The plan shall be developed with public participation and shall include the plan for the use of such funds by every political subdivision of the state eligible to receive moneys from the Fund. The Governor shall certify to the Secretary that the plan was developed with public participation and in accordance with all applicable state laws. The Governor shall amend the plan, as necessary, with public participation, but not less then every five years.

"(b) CERTIFICATION.—Not later than 60 days after the end of the fiscal year, any political subdivision receiving moneys from the Fund must certify to the Governor—

"(1) the amount of such funds expended by the political subdivision during the previous fiscal year;

"(2) the amounts expended on each project or activity;

"(3) a general description of how the funds were expended; and

"(4) the status of each project or activity, including a certification that the project or activity is consistent with the state plan development under paragraph (a).

"(c) REPORT.—On June 15 of each year, the Governor of each State receiving moneys from the Fund shall account for all moneys so received for the previous fiscal year in a written report to the Secretary and the Congress. This report shall include a description of all projects and activities receiving funds under this Act, including all information required under subsection (a).

"(d) REFUNDS.—In those instances where through judicial decision, administrative review, arbitration, or other means there are royalty refunds owed to entities generating revenues under this Act, 27 percent of such refunds shall be paid from amounts available in the Fund."

TITLE II—LAND AND WATER CONSERVATION FUND PROGRAM

SECTION. 201. SHORT TITLE.

This title may be cited as the "Land and Water Conservation Fund Reform Act of 1998".

SEC. 202. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds the following:

"(1) The Land and Water Conservation Fund Act of 1965 embodied a visionary concept—that a portion of the proceeds from Outer Continental Shelf mineral leading revenues and the depletion of a nonrenewable natural resource should result in a legacy of public places accessible for public recreation and benefit from resources belonging to all people, of all generations, and the enhancement of the most precious and most renewable natural resource of any nation, healthy and active citizens.

(2) The States and local governments were to occupy a pivotal role in accomplishing the purposes of the Land Water Conservation Fund Act of 1965 and the Act originally provided an equitable portion of funds to the States, and through them, to local governments.

(3) However, because of competition for limited Federal moneys and the need for an annual appropriation, this original intention has been abandoned and, in recent years, the States have not received an equitable proportion of funds.

(4) Nonetheless, with population growth and urban sprawl, the demand for recreation and conservation areas, at the State and local level, including urban localities, remains a high priority for our citizens.

(5) In addition to the demand at the State and local level, there has been an increasing unmet need for Federal moneys to be made available for Federal purposes, with lands identified as important for Federal acquisition not being acquired for several years due to insufficient funds.

(6) A new vision is called for—a vision that encompasses a multilevel; national network of parks, recreation and conservation areas that reaches across the country to touch all communities. National parks are not enough; the federal government alone cannot accomplish this. A national vision, backed by realistic national funding support, to stimulate State, local and private sector, as well as Federal efforts, is the only way to effectively address our ongoing outdoor recreation and conservation needs.

(b) PURPOSE.—The purpose of this title is to provide a secure source of funds available for Federal purposes authorized by the Land and Water Conservation Fund Act of 1965 and to revitalize and complement State, local and private commitments envisioned in the Land and Water Conservation Fund Act of 1965 and the Urban Park and Recreation Recovery Act of 1978 by providing grants for State, local and urban recreation and conservation needs.

SEC. 203. LAND AND WATER CONSERVATION FUND AMENDMENTS.

(a) REVENUES.—Section 2(c)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §4601–5(c)(1)) is amended as follows:

(1) By inserting "(A)" after "(c)(1)".

(2) By striking "there are authorized" and all that follows and inserting "from 16 percent of the revenues, as that term is defined in the Conservation and Reinvestment Act of 1999, shall be deposited in the Land and Water Conservation Fund in the Treasury and shall be available, without further appropriation, to carry out this Act for each fiscal year thereafter through September 30, 2015."

(3) By adding at the end the following new subparagraph:

"(B) In those instances where through judicial decision, administrative review, arbitration, or other means there are royalty refunds owed to entities generating revenues available for purposes of this Act, 16 percent of such refunds shall be paid from amounts available under this subsection.".

(b) AUTHORIZATION.—Section 2(c)(2) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §4601–5(c)(2)) is amended by striking "equivalent amounts provided in clause (1)" and inserting "$900,000,000".

(c) APPROPRIATION.—Section 3 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §4601–6) is amended by striking "Moneys" and inserting "Except as provided under section 4601–5(c)(1), moneys".

(d) ALLOCATION OF FUNDS.—Section 5 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §4601–7) is amended as follows:

(1) by inserting "(a)" at the beginning:

(2) by striking "Those appropriations from the fund" and all that follows; and

(3) by adding at the end the following new subsection:

"(b) Moneys credited to the fund under section 2(c)(1) of this Act (16 U.S.C. §4601–5(c)(1)) for obligation or expenditure may be obligated or expended only as follows—

"(1) 45 percent shall be available for Federal purposes. Notwithstanding section 7 of this Act (16 U.S.C. §4601–9), 25 percent of such moneys shall be made available to the Secretary of Agriculture for the acquisition of lands, waters, or interests in land or water within the exterior boundaries of areas of the National Forest System or any other land management unit established by an Act of Congress and managed by the Secretary of Agriculture and 75 percent of such moneys shall be available to the Secretary of the Interior for the acquisition of lands, waters, or interests in land or water within the exterior boundaries of areas of the National Park System, National Wildlife Refuge System, or other land management unit established by an Act of Congress; *Provided*, that at least two-thirds of the moneys available under this paragraph for Federal purposes shall be spent east of the 100th meridian; *Provided further*, no moneys available under this paragraph for Federal purposes shall be used for condemnation of any interest of property.

"(2) 45 percent shall be available for financial assistance to the States under section 6 of this Act (16 U.S.C. §4601–8) distributed according to the following allocation formula;

"(A) 60 percent shall be apportioned equally among the several States;

"(B) 20 percent shall be apportioned on the basis of the ratio which the population of each State bears to the total population of the United States;

"(C) 20 percent shall be apportioned on the basis of the urban population in each State (as defined by Metropolitan Statistical Areas).

"(3) 10 percent shall be available to local governments through the Urban Parks and Recreation Recovery Program (16 U.S.C. §§2501–2514) of the Department of the Interior.".

"An amount, not to exceed 2 percent, of the total of such moneys covered to the fund under section 2(c)(1) of this Act (16 U.S.C. §4601–5(c)(1)) in each fiscal year as the Secretary of the Interior may estimate to be necessary for expenses in the administration and execution of this subsection shall be deducted for that purpose, and such amount is authorized to be made available therefor until the expiration of the next succeeding fiscal year. Within 60 days after the close of such fiscal year, the Secretary shall apportion any portion thereof as remains unexpended, if any, on the same basis and in the same manner as is provided under paragraphs (1), (2) and (3).

(e) REHABILITATION.—Subsection 6(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §4601–8(a)) is amended by deleting "(3) development." and inserting in lieu thereof "(3) development, including the facility rehabilitation."

(f) Tribes and Alaska Native Village Corporations.—Subsection 6(b)(5) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §4601–8(b)(5)) is amended as follows:

(1) By inserting "(A)" after "(5)".

(2) By adding at the end the following new subparagraph:

"(B) For the purposes of paragraph (1), all federally recognized Indian tribes and Alaska Native Village Corporations (as defined in section 3(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(j)) shall be treated collectively as 1 State, and shall receive shares of the apportionment under paragraph (1) in accordance with a competitive grant program established by the Secretary by rule. Such rule shall ensure that in each fiscal year no single tribe or Village Corporation receives more than 10 percent of the total amount made available to all tribes and Village Corporations pursuant to the apportionment under paragraph (1). Funds received by an Indian tribe or Village Corporation under this subparagraph may be expended only for the purposes specified in paragraphs (1) and (3) of subsection (b)."

"(g) LOCAL ALLOCATION.—Subsection 6(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(b)(5)) is amended by adding at the end the following new paragraph:

"(6) Absent some compelling and annually documented reason to the contrary acceptable to the Secretary, each State (other than an area treated as a State under paragraph (5)) shall make available as grants to local governments at least 50 percent of the annual State apportionment, or an equivalent amount made available from other sources."

"(h) MATCH.—Subsection 6(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(c)) is amended to read as follows:

"(c) MATCHING REQUIREMENTS.—Payments to any State shall cover not more than 50 percent of the cost of outdoor recreation and conservation planning, acquisition or development projects that are undertaken by the State."

"(i) STATE ACTION AGENDA.—Subsection 6(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(d)) is amended to read as follows:

"(d) STATE ACTION AGENDA REQUIRED.—Each State may define its own priorities and criteria for selection of outdoor recreation and conservation acquisition and development projects eligible for grants under this Act so long as it provides for public involvement in this process and publishes an accurate and current State Action Agenda for Community Recreation and Conservation indicating the needs it has identified and the priorities and criteria it has established. In order to assess its needs and establish its overall priorities, each State, in partnership with its local governments and Federal agencies, and in consultation with its citizens, shall develop a State Action Agenda for Community Recreation and Conservation, within five years of enactment, that meets the following requirements:

"(1) The agenda must be strategic, originating in broad-based and long-term needs, but focused on actions that can be funded over the next 4 years.

"(2) The agenda must be updated at least once every 4 years and certified by the Governor that the State Action Agenda for Community Recreation and Conservation conclusions and proposed actions have been considered in an active public involvement process.

"State Action Agenda for Community Recreation and Conservation shall take into account all providers of recreation and conservation lands within each State, including Federal, regional and local government resources and shall be correlated whenever possible with other State, regional, and local plans for parks, recreation, open space and wetlands conservation.

"Each State Action Agenda for Community Recreation and Conservation shall specifically address wetlands within that State as important outdoor recreation and conservation resources. Each State Action Agenda for Community Recreation and Conservation shall incorporate a wetlands priority plan developed in consultation with the State agency with responsibility for fish and wildlife resources which is consistent with that national wetlands priority conservation plan developed under section 301 of the Emergency Wetlands Resources Act.

"Recovery action programs developed by urban localities under section 1007 of the Urban Park and Recreation Recovery Act of 1978 shall be used by a State as one guide to the conclusions, priorities and action schedules contained in the State Action Agenda for Community Recreation and Conservation. Each State shall assure that any requirements for local outdoor recreation and conservation planning that are promulgated as conditions for grants minimize redundancy of local efforts by allowing, wherever possible, use of the findings, priorities, and implementation schedules of recovery action programs to meet such requirements."

"(j) Comprehensive State Plans developed by any State under section 6(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(d)) before the enactment of this Act shall remain in effect in that State until or State Action Agenda for Community Recreation and Conservation has been adopted pursuant to the amendment made by this subsection, but no later than 5 years after the enactment of this Act.

"(k) State Plans.—Subsection 6(e) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(e)) is amended—

(1) by striking "State comprehensive plan" at the end of the first paragraph and inserting "State Action Agenda for Community Recreation and Conservation";

(2) by striking "State comprehensive plan" in paragraph (1) and inserting "State Action Agenda for Community Recreation and Conservation"; and

(3) by striking "but not including incidental costs related to acquisition" at the end of paragraph (1).

(l) Conversion.—Paragraph 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(f)(3)) is amended by striking the second sentence and inserting: "With the exception of those properties that are no longer viable as an outdoor recreation and conservation facility due to changes in demographics or must be abandoned because of environmental contamination which endanger public health and safety, the Secretary shall approve such conversion only if the State demonstrates no prudent or feasible alternative exists. Any conversion must satisfy any conditions the Secretary deemed necessary to assure the substitution of other recreation and conservation properties of at least equal fair market value, or reasonably equivalent usefulness and location and which are in accord with the existing State Action Agenda for Community Recreation and Conservation: *Provided*, That wetland areas and interests therein as identified in the wetlands provisions of the action agenda and proposed to be acquired as suitable replacement property within that same State that is otherwise acceptable to the Secretary shall be considered to be of reasonably equivalent usefulness with the property proposed for conversion."

(m) Cost Limitations.—Section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–9) is amended by adding the following at the end thereof:

"(D) Maximum Federal Cost Per Project.—No expenditure shall be made to acquire any Federal land the cost of which exceeds $5,000,000 unless the funds for such acquisition have been specifically allocated to the acquisition in the report accompanying the legislation appropriating funds for the Federal agency concerned and such allocation has been approved by resolution adopted by the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate."

SEC. 204. URBAN PARK AND RECREATION RECOVERY ACT OF 1978 AMENDMENTS.

(a) Grants.—Section 1004 of the Urban Park and Recreation Recovery Act (16 U.S.C. §2503) is amended by redesignating subsections (d), (e), and (f) as subsections (f), (g), and (h) respectively, and by inserting the following after subsection (c):

"(d) 'development grants' means matching capital grants to local units of government to cover costs of development and construction on existing or new neighborhood recreation sites, including indoor and outdoor recreation facilities, support facilities, and landscaping, but excluding routine maintenance and upkeep activities;";

"(e) 'acquisition grants' means matching capital grants to local units of government to cover the direct and incidental costs of purchasing new parkland to be permanently dedicated and made accessible for public recreation use;".

(b) Eligibility.—Subsection 1005(a) of the Urban Park and Recreation Recovery Act (16 U.S.C. §2504) is amended to read as follows:

"(a) Eligibility of general purpose local governments to compete for assistance under this title shall be based upon need as determined by the Secretary. Generally, the list of eligible government shall include the following:

"(1) All central cities of Metropolitan, Primary or Consolidated Statistical Areas as currently defined by the census.

"(2) All political subdivisions included in Metropolitan, Primary or Consolidated Statistical Areas as currently defined by the census.

"(3) Any other city or town within a Metropolitan Area with a total population of 50,000 or more in the census of 1970, 1980 or 1990.

"(4) Any other county, parish or township with a total population of 250,000 or more in the census of 1970, 1980 or 1990."

(c) Matching Grants.—Subsection 1006(a) of the Urban Park and Recreation Recovery Act (16 U.S.C. §2505(a)) is amended by striking all through paragraph (3) and inserting the following:

"Sec. 1006. (a) The Secretary is authorized to provide 70 percent matching grants for rehabilitation, innovation, development or acquisition purposes to eligible general purpose local governments upon his approval of applications therefor by the chief executives of such governments.

"(1) At the discretion of such applicants, and if consistent with an approved application, rehabilitation, innovation, development or acquisition grants may be transferred in whole or in part to independent special purpose local governments, private nonprofit agencies or county or regional park authorities; except that, such grantees shall provide assurance to the Secretary that they will maintain public recreation opportunities at assisted areas and facilities owned or managed by them in accordance with section 1010 of this Act.

"(2) Payments may be made only for those rehabilitation, innovation, development, or acquisition projects which have been approved by the Secretary. Such payments may be made from time to time in keeping with the rate of progress toward completion of a project, on a reimbursable basis.".

(d) Coordination.—Section 1008 of the Urban Park and Recreation Recovery Act (16 U.S.C. §2507) is amended by striking the last sentence and inserting the following: "The Secretary and general purpose local governments are encouraged to coordinate preparation of recovery action programs required by this title with State Action Agendas for Community Recreation and Conservation required by section 6 of the Land and Water Conservation Fund Act of 1965, including the allowance of flexibility in local preparation of recovery action programs so that they may be used to meet State or local qualifications for local receipt of Land and Water Conservation Fund grants or State grants for similar purposes or for other recreation or conservation purposes. The Secretary shall also encourage States to consider the findings, priorities, strategies and schedules included in the recovery action programs of their urban localities in preparation and updating of the State Action Agendas for Community Recreation and Conservation, in accordance with the public coordination and citizen consultation requirements of subsection 6(d) of the Land and Water Conservation Fund Act of 1965."

(e) Conversion.—Section 1010 of the Urban Park and Recreation Recovery Act (16 U.S.C. §2509) is amended by striking the first sentence and inserting the following: "No property acquired or improved or developed under this title shall, without the approval of the Secretary, be converted to other than public recreation uses. The Secretary shall approve such conversion only if the grantee demonstrates no prudent or feasible alternative exists (with the exception of those properties that are no longer a viable recreation facility due to changes in demographics or must be abandoned because of environmental contamination which endanger public health and safety). Any conversion must satisfy any conditions the Secretary deems necessary to assure the substitution of other recreation properties of at least equal fair market value, or reasonably equivalent usefulness and location and which are in accord with the current recreation recovery action program."

(f) Repeal.—Section 1014 of the Urban Park and Recreation Recovery Act (16 U.S.C. 2513) is repealed.

TITLE III—WILDLIFE CONSERVATION AND RESTORATION

SEC. 301. SHORT TITLE.

This title may be cited as the "Wildlife Conservation and Restoration Act of 1998".

SEC. 302. FINDINGS.

The Congress finds and declares that—

(1) a diverse array of species of fish and wildlife is of significant value to the Nation

for many reasons: aesthetic, ecological, educational, cultural, recreational, economic, and scientific;

(2) it should be the objective of the United States to retain for present and future generations the opportunity to observe, understand, and appreciate a wide variety of wildlife;

(3) millions of citizens participate in outdoor recreation through hunting, fishing, and wildlife observation, all of which have significant value to the citizens who engage in these activities;

(4) providing sufficient and properly maintained wildlife associated recreational opportunities is important to enhancing public appreciation of a diversity of wildlife and the habitats upon which they depend;

(5) lands and waters which contain species classified neither as game nor identified as endangered or threatened also can provide opportunities for wildlife associated recreation and education such as hunting and fishing permitted by applicable State or Federal law;

(6) hunters and anglers have for more than 60 years willingly paid user fees in the form of Federal excise taxes on hunting and fishing equipment to support wildlife diversity and abundance, through enactment of the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) and the Federal Aid in Sport Fish Restoration (commonly referred to as the Dingell-Johnson/Wallop-Breaux Act);

(7) State programs, adequately funded to conserve a broader array of wildlife in an individual State and conducted in coordination with Federal State, tribal, and private landowners and interested organizations, would continue to serve as a vital link in a nationwide effort to restore game and nongame wildlife, and the essential elements of such programs should include conservation measures which manage for a diverse variety of populations of wildlife; and

(8) it is proper for Congress to bolster and extend this highly successful program to aid game and nongame wildlife in supporting the health and diversity of habitat, as well as providing funds for conservation education.

SEC. 303. PURPOSES.

The purposes of this title are—

(1) to extend financial and technical assistance to the States under the Federal Aid to Wildlife Restoration Act for the benefit of a diverse array of wildlife and associated habitats, including species that are not hunted or fished, to fulfill unmet needs of wildlife within the States while recognizing the mandate of the States to conserve all wildlife;

(2) to assure sound conservation policies through the development, revision and implementation of wildlife associated recreation and wildlife associated education and wildlife conservation law enforcement;

(3) to encourage State fish and wildlife agencies to create partnerships between the Federal Government, other State agencies, wildlife conservation organizations, and outdoor recreation and conservation interests through cooperative planning and implementation of this title; and

(4) to encourage State fish and wildlife agencies to provide for public involvement in the process of development and implementation of a wildlife conservation and restoration program.

SEC. 304. DEFINITIONS.

(a) REFERENCE TO LAW.—In this title, the term "Federal Aid in Wildlife Restoration Act" means the Act of September 2, 1937 (16 U.S.C. 669 et seq.), commonly referred to as the Federal Aid in Wildlife Restoration Act or the Pittman-Robertson Act.

(b) WILDLIFE CONSERVATION AND RESTORATION PROGRAM.—Section 2 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669a) is amended by inserting after "shall be construed" in the first place it appears the following: "to include the wildlife conservation and restoration program and".

(c) STATE AGENCIES.—Section 2 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669a) is amended by inserting "or State fish and wildlife department" after "State fish and game department".

(d) CONSERVATION.—Section 2 is amended by striking the period at the end thereof, substituting a semicolon, and adding the following: "the term 'conservation' shall be construed to mean the use of methods and procedures necessary or desirable to sustain healthy populations of wildlife including all activities associated with scientific resources management such as research, census, monitoring of populations, acquisition, improvement and management of habitat, live trapping and transplantation, wildlife damage management, and periodic or total protection of a species or population as well as the taking of individuals within wildlife stock or population if permitted by applicable State and Federal law; the term 'wildlife conservation and restoration program' shall be construed to mean a program developed by a State fish and wildlife department that the Secretary determines meets the criteria in section 6(d), the projects that constitute such a program, which may be implemented in whole or part through grants and contracts by a State to other State, Federal, or local agencies wildlife conservation organizations and outdoor recreation and conservation education entities from funds apportioned under this title, and maintenance of such projects; the term 'wildlife' shall be construed to mean any species of wild, free-ranging fauna including fish, and also fauna in captive breeding programs the object of which is to reintroduce individuals of a depleted indigenous species into previously occupied range; the term 'wildlife-associated recreation' shall be construed to mean projects intended to meet the demand for outdoor activities associated with wildlife including, but not limited to, hunting and fishing, such projects as construction or restoration of wildlife viewing areas, observation towers, blinds, platforms, land and water trails, water access, trailheads, and access for such projects; and the term 'wildlife conservation education' shall be construed to mean projects, including public outreach, intended to foster responsible natural resource stewardship.".

(e) 7 PERCENT.—Subsection 3(a) of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669b(a)) is amended in the first sentence by—

(1) inserting "(1)" after "(beginning with the fiscal year 1975)"; and

(2) inserting after "Internal Revenue Code of 1954" the following: ", and (2) from 7 percent of the revenues, as that term is defined in the Conservation and Reinvestment Act of 1999,".

SEC. 305. SUBACCOUNTS AND REFUNDS.

Section 3 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669b) is amended by adding at the end the following new subsections:

"(c) A subaccount shall be established in the Federal aid to wildlife restoration fund in the Treasury to be known as the 'wildlife conservation and restoration account' and the credits to such account shall be equal to the 7 percent of revenues referred to in subsection (a)(2). Amounts in such account shall be invested by the Secretary of the Treasury as set forth in subsection (b) and shall be made available without further appropriation, together with interest, for apportionment at the beginning of fiscal year 2000 and each fiscal year thereafter to carry out State wildlife conservation and restoration programs.

"(d) Funds covered into the wildlife conservation and restoration account shall supplement, but not replace, existing funds available to the States from the sport fish restoration and wildlife restoration accounts and shall be used for the development, revision, and implementation of wildlife conservation and restoration programs and should be used to address the unmet needs for a diverse array of wildlife and associated habitats, including species that are not hunted or fished, for wildlife conservation, wildlife conservation education, and wildlife-associated recreation projects: *Provided*, That such funds may be used for new programs and projects as well as to enhance existing programs and projects.

"(e) Notwithstanding subsections (a) and (b) of this Act, with respect to the wildlife conservation and restoration account so much of the appropriation apportioned to any State for any fiscal year as remains unexpended at the close thereof is authorized to be made available for expenditure in that State until the close of the fourth succeeding fiscal year. Any amount apportioned to any State under this subsection that is unexpended or unobligated at the end of the period during which it is available for expenditure on any project is authorized to be reapportioned to all States during the succeeding fiscal year.

"(f) In those instances where through judicial decision, administrative review, arbitration, or other means there are royalty refunds owed to entities generating revenues available for purposes of this Act, 7 percent of such refunds shall be paid from amounts available under subsection (a)(2).".

SEC. 306. ALLOCATION OF SUBACCOUNT RECEIPTS.

Section 4 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669c) is amended by adding the following new subsection:

"(c)(1) Notwithstanding subsection (a), an amount, not to exceed 2 percent, of the revenues covered into the wildlife conservation and restoration account in each fiscal year as the Secretary of the Interior may estimate to be necessary for expenses in the administration and execution of programs carried out under the wildlife conservation and restoration account shall be deducted for that purpose, and such amount is authorized to be made available therefor until the expiration of the next succeeding fiscal year. Within 60 days after the close of such fiscal year, the Secretary of the Interior shall apportion any portion thereof as remains unexpended, if any, on the same basis and in the same manner as is provided under paragraphs (2) and (3).

"(2) The Secretary of the Interior, after making the deduction under paragraph (1), shall make the following apportionment from the amount remaining in the wildlife conservation and restoration account:

"(A) to the District of Columbia and to the Commonwealth of Puerto Rico, each a sum equal to not more than ½ of 1 percent thereof; and

"(B) to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each a sum equal to not more than ⅙ of 1 percent thereof.

"(3) The Secretary of the Interior, after making the deduction under paragraph (1) and the apportionment under paragraph (2), shall apportion the remaining amount in the wildlife conservation and restoration account for each year among the States in the following manner:

“(A) ⅓ of which is based on the ratio to which the land area of such State bears to the total land area of all such States; and

“(B) ⅔ of which is based on the ratio to which the population of such State bears to the total population of all such States.

“The amounts apportioned under this paragraph shall be adjusted equitably so that no such State shall be apportioned a sum which is less than ½ of 1 percent of the amount available for apportionment under this paragraph for any fiscal year or more than 5 percent of such amount.”.

“(d) WILDLIFE CONSERVATION AND RESTORATION PROGRAMS.—Any State, through its fish and wildlife department, may apply to the Secretary for approval of a wildlife conservation and restoration program or for funds to develop a program, which shall—

“(1) contain provision for vesting in the fish and wildlife department of overall responsibility and accountability for development and implementation of the program; and

“(2) contain provision for development and implementation of—

“(A) wildlife conservation projects which expand and support existing wildlife programs to meet the needs of a diverse array of wildlife species,

“(B) wildlife associated recreation programs, and

“(C) wildlife conservation education projects.

If the Secretary of the Interior finds that an application for such program contains the elements specified in paragraphs (1) and (2), the Secretary shall approve such application and set aside from the apportionment to the State made pursuant to section 4(c) an amount that shall not exceed 90 percent of the estimated cost of developing and implementing segments of the program for the first 5 fiscal years following enactment of this subsection and not to exceed 75 percent thereafter. Not more than 10 percent of the amounts apportioned to each State from the subaccount for the State's wildlife conservation and restoration program may be used for law enforcement. Following approval, the Secretary may make payments on a project that is a segment of the State's wildlife conservation and restoration program as the project progresses but such payments, including previous payments on the project, if any, shall not be more than the United States pro rata share of such project. The Secretary, under such regulations as he may prescribe, may advance funds representing the United States pro rata share of a project that is a segment of a wildlife conservation and restoration program, including funds to develop such program. For purposes of this subsection, the term ‘State’ shall include the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.”.

(b) FACA.—Coordination with State fish and wildlife department personnel or with personnel of other State agencies pursuant to the Federal Aid in Wildlife Restoration Act or the Federal Aid in Sport Fish Restoration Act shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.). Except for the preceding sentence, the provisions of this title relate solely to wildlife conservation and restoration programs as defined in this title and shall not be construed to affect the provisions of the Federal Aid in Wildlife Restoration Act relating to wildlife restoration projects or the provisions of the Federal Aid in Sport Fish Restoration Act relating to fish restoration and management projects.

SEC. 307. LAW ENFORCEMENT AND PUBLIC RELATIONS.

The third sentence of subsection (a) of section 8 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669g) is amended by inserting before the period at the end thereof: “, except that funds available from this subaccount for a State wildlife conservation and restoration program may be used for law enforcement and public relations”.

SEC. 308. PROHIBITION AGAINST DIVERSION.

No designated State agency shall be eligible to receive matching funds under this Act if sources of revenue available to it on January 1, 1998, for conservation of wildlife are diverted for any purpose other than the administration of the designated State agency, it being the intention of Congress that funds available to States under this Act be added to revenues from existing State sources and not serve as a substitute for revenues from such sources. Such revenues shall include interest, dividends, or other income earned on the foregoing.

Mr. MURKOWKSI. Mr. President, I rise today, along with a bipartisan group of Senators, to introduce the Conservation and Reinvestment Act of 1999.

This important piece of legislation remedies a tremendous inequity in the distribution of revenues generated by offshore oil and gas production by directing that a portion of those moneys be allocated to coastal States and communities who shoulder the responsibility for energy development activity off their coastlines. It also provides a secure funding source for state recreation and wildlife conservation programs.

By reinvesting revenues from offshore oil and gas production into a variety of important conservation, recreation and environmental programs, this bill will rededicate the Federal government to a partnership with state and local governments to meet the demands of all Americans for outdoor experiences. In addition, it reaffirms the original premise of the Land and Water Conservation Fund that a portion of the revenues obtained by the Federal government from the development of our natural resources should be reinvested into the outdoor recreation and natural resource estate of the Nation.

This bill is the start of a process. It is a bipartisan bill. And, like any bipartisan bill reflects choices and compromises. It contains provisions which need to be examined in detail as the legislative process moves forward. I also anticipate a series of amendments from both sides of the aisle to the bill. I know there are amendments I intend to offer to make this bill a better bill for my constituents. That is what the legislative process is all about. As Chairman of the Senate Committee on Energy and Natural Resources, I promise to devote the time necessary to flesh these issues out and to give all parties which have interest in this bill an opportunity to be heard. This bill warrants nothing less.

Title 1 of the bill, which provides for coastal impact assistance, is similar to legislation I have introduced in prior Congresses and is an issue I have worked on for my entire Senate career.

Title 1 is based on a Minerals Management Service advisory committee report. It directs that 27 percent of the revenues generated from oil and natural gas production on the Outer Continental Shelf—or OCS—be returned to coastal States and communities that share the burdens of exploration and production off their coastlines. Offshore oil and gas production generates $3 to $4 billion in revenues annually for the U.S. Treasury. Yet, unlike mineral receipts from onshore Federal lands, OCS oil and gas revenues are not directly returned to the States in which production occurs.

This legislation remedies this disparity. States and communities that bear the responsibilities for offshore oil and gas production will finally share in its benefits. This legislation would, for the first time, share revenues generated by OCS oil and gas activities with counties, parishes and boroughs—the local governmental entities most directly affected—and State governments.

The bill also acknowledges that all coastal States, including those States bordering the Great Lakes, have unique needs and directs that a portion of OCS revenues be shared with these States, even if no OCS production occurs off their coasts. Coastal States and communities can use OCS Impact Assistance funds on everything from environmental programs, to coastal and marine conservation efforts, to new infrastructure requirements.

In Alaska, Boroughs could use OCS funds to participate in the environmental planning process required by Federal laws before OCS development occurs. Other rural coastal communities in Alaska could use the money for sanitation improvements. While still others, like Unalakleet, may use the money to construct sea walls and breakwaters or beach rehabilitation—efforts which will combat the impacts of coastal erosion. Further, as the Federal OCS program expands in Alaska, this legislation will mean even more revenues to the State, boroughs and local communities.

This is a true investment in the future. This is money that will be used, day-in and day-out, to improve the quality of life of coastal State residents—money which come from oil and gas production.

As Chairman of the Energy and Natural Resources Committee, I know all too well that offshore oil and gas production is a lightning rod of environmental groups who will go to great lengths to disparage an activity that is vital to the long-term energy and economic security of this country. These groups will likely say that this bill creates incentives for offshore oil and gas production because a factor in the distribution formula is a State's proximity to OCS production.

Let us remember, this is an impact assistance bill—revenue sharing, if you will. States only will have impacts if they have production. The States with production, obviously, have greater needs and are most deserving of a large share of OCS revenues.

Mr. President, let me also remind everyone, that OCS production only occurs off the coasts of 6 States—yet the bill shares OCS revenues with 34 States. There are 28 coastal States that will get a share of OCS revenues which have no OCS production. In fact, in all areas except the Gulf of Mexico and Alaska there is a moratorium prohibiting *any* new OCS production.

It is the long-term best interest of this country to support responsible and sustainable development of nonrenewable resources. We now import more than 50 percent of our domestic petroleum requirements and the Department of Energy's Information Administration predicts, in ten years, America will be at least 64 percent dependent on foreign oil. OCS development will play an important role in offsetting even greater dependence on foreign energy.

The OCS accounts for 24 percent of this Nation's natural gas production and 14 percent of its oil production. We need to ensure that the OCS continues to meet our future domestic energy needs.

I firmly believe that the Federal government needs to do all it can to pursue and encourage further technological advances in OCS exploration and production. These technological achievements have and will continue to result in new OCS production having an unparalleled record of excellence on environmental and safety issues. Additional technological advances with appropriate incentives will further improve new resource recovery and therefore increase revenues to the Treasury for the benefit of all Americans who enjoy programs funded by OCS money.

I will do all I can to ensure a healthy OCS program, including new OCS development in the Arctic. A number of challenges face new developments in this area—I am confident that we can work through them all. History has shown us that in the Arctic, and in other OCS areas, development and the environmental protection are compatible.

This bill also takes a portion of the revenues received by the Federal government from OCS development and invests it in conservation and wildlife programs. Thus, Titles 2 and 3 of the bill share OCS revenues with ALL States for these purposes.

Title 2 of this bill provides a secure source of funding for the Land and Water Conservation Fund. The LWCF was established over three decades ago to provide Federal money for State and Federal land acquisition and help meet Americans recreation needs.

Over thirty years ago, Congress had the foresight to recognize the ever growing need of the American public for parks and recreation facilities with the passage of the Land and Water Conservation Fund Act. That landmark piece of legislation was premised on the belief that revenues earned from the depletion of a nonrenewable resource need to be reinvested in a renewable resource for the benefit of future generations. This rationale is as valid today as it was in the mid-1960s.

To accomplish this goal, the Land and Water Conservation Fund Act directs that revenues earned from offshore oil and gas production should be spent on the acquisition of Federal recreation lands by the land management agencies. The Act also creates a state-side matching grant program.

The state-side matching grant program provides 50–50 matching grants to States and local communities for the acquisition and construction of park and recreation facilities. The state-side program has a truly unique legacy in the history of American conservation by providing the States with a leadership role in the provision of recreation opportunities. Through the 1995 Fiscal Year, over 3.2 billion in Federal dollars have been leveraged to fund over 37 thousand state and local park and recreation projects.

Yet, despite these successes, the President had not requested any money for the state-side program for the last four years. This is a program supported by this Nation's mayors, Governors, and the recreation community. The state-side matching grant should not have to justify annually its existence with Congressional appropriators.

The same can be said of the Urban Park and Recreation Recovery program established by Congress in 1978. UPAR provides Federal funds to distressed urban areas to rehabilitate and construct recreation facilities.

Together, these programs strived to create a national system of parks that would, day-in and day-out, meet the recreation and open-space demands of the American public. Title 2 recognizes the value of the state-side LWCF matching grant program and the UPAR program by providing them with the stable source of funding they have been lacking.

I also want to mention the money this bill provides for Federal land acquisition. To many westerners, including myself, the Federal government already owns too much land. In my state of Alaska, the four Federal land management agencies alone manage more than 60 percent of all the acreage in the State.

Nonetheless, the demand for Federal land acquisition dollars is significant. The four Federal land management agencies have identified more than 45 million acres of privately owned lands lying within the boundaries of Federal land management units, including national parks, national forests, and national wildlife refuges. Many of these inholders, who want to sell, have been waiting for decades to receive compensation from the Federal government for their property. In many instances these landowners must suffer with restrictions on access to and use of their lands while they wait endlessly for the funds to compensate them for their land.

In recognition of these competing propositions regarding Federal ownership, the bill tries to reach a balance. It provides money for Federal land acquisition. However, limitations are placed on its expenditure. First, Federal land acquisition money available under this bill only could be used to purchase lands within the boundaries of conservation areas established by an Act of Congress. Second, such lands only could be purchased from willing sellers. That is, the Federal land acquisition money available under this bill could not be used to condemn any property. The use of eminent domain is explicitly foreclosed. Third, three-quarters of the money must be spent on land acquisition east of the 100th meridian (east of Texas). These provisions are more restrictive than the current law regarding the use of LWCF moneys for Federal land acquisitions.

I know that there are many who are not happy with this compromise. I cannot say I am happy totally with it. I do not think it provides adequate protections for the roles and responsibilities of the authorizing and appropriations committees. I can pledge that this will be an issue subject to discussions on the Energy and Natural Resources Committee. Under our Constitutional system of government, Congress has the plenary authority over Federal lands and appropriations. I believe that the historic role of Congress is setting the priorities for land acquisition should be preserved. Certainly, the President should set forth his preferences, as he does now, but in the final analysis the Congress should approved any expenditure.

Title 3 of this bill provides funding for State fish and wildlife conservation programs. In Alaska, with its unparalleled natural beauty, fishing and hunting are two of the most popular forms of outdoor recreation. The bill directs that a portion of OCS revenues should go to the State for wildlife purposes.

The money would be distributed through the Pittman-Robertson program administered by the United States Fish and Wildlife Service. This money could be used for both game and non-game wildlife. With the inclusion of OCS revenues, the amount of money available for state fish and game programs would nearly double.

This is a no-tax alternative to the "Teaming with Wildlife" proposal. States will be able to use these moneys to increase fish and wildlife populations and improve fish and wildlife habitat. States also could use the money for wildlife education programs.

The bill creates a new subaccount, under Pittman-Robertson, called the Wildlife Conservation and Restoration account. The money in this account, from OCS revenues, will provide the funding needed to move the conservation community beyond the debate over game versus non-game funding. States will have the flexibility on deciding how to spend these funds to meet the conservation demands of all their residents.

I am proud of this proposal which will be a win-win for the oil and gas industry, the States, environmental and conservation groups, and all Americans.

I know it will be a win-win for Alaskans. Alaska is projected to receive more than $130 million annually from this proposal. In Fiscal Year 2000, Alaska would receive approximately $110 million in OCS Impact Assistance. Of this total, the State would receive $44 million as would coastal communities within 200 miles of an OCS lease including the North Slope Borough, Barrow, and Kaktovik. Other coastal communities, not near an OCS lease, like Valdez and Homer, would receive $22 million. These funds could be used for infrastructure, including sanitation improvements and safe roads, coastal erosion projects, and environmental protection programs. Title 2 and 3 of the bill provide an additional $21 million for state and local park, recreation, and wildlife conservation programs.

These funds are sorely needed to meet the needs of the communities in Alaska and the skyrocketing public demand for wildlife and outdoor recreation programs and facilities within the State. Given this demand, I have received letters of support from throughout Alaska, including the cities of Barrow, Cordova, Soldotna, Haines, Sitka, Kotzebue and the Kodiak Island Burrough.

This bill is far from perfect but it is a step to ensuring not only that Coastal States have money to address the effects of OCS-activities but that all States have funds necessary to provide outdoor recreation and conservation resources for all of us to enjoy.

As we begin the 106th Congress, I can pledge, as Chairman of the Energy and Natural Resources Committee, that the enactment of this bill will be one of my highest priorities this year. I intend to hold a series of hearings on the bill to examine, in detail, its provisions. In closing, I encourage not only the members of the Senate but also all Americans to support this important and exciting piece of conservation legislation.

Mr. SESSIONS. Mr. President, today I join my colleagues, Senators, MURKOWSKI and LANDRIEU in introducing the bipartisan "Conservation and Re-Investment Act of 1999". The Conservation and Re-Investment Act will serve to provide dedicated funding for the Land and Water Conservation Fund, wildlife enhancement programs and urban parks development by redirecting a portions of the royalty revenues derived from Outer Continental Shelf oil and gas production. In addition, this bill will redirect a portion of Outer Continental Shelf royalties directly back to coastal states which have been impacted by Outer Continental Shelf oil and gas production in order to assist those states in restoring and preserving air quality, water quality, wetlands, estuaries and other coastal resources and environments impacted by Outer Continental Shelf oil and gas production.

This bill will allow coastal states to create trust funds, the revenues of which can be used in perpetuity for such purposes as environmental protection, conservation, water quality and public land purchases. Recognizing the boom and bust nature of oil and gas production, Alabama long ago created a protected trust fund from the oil and gas royalties it receives from development off its' coast. The revenues derived from the investment this fund have been used by the state to fund popular wildlife conservation programs and the state's "Forever Wild" program. These programs have permitted the state to make land purchases to create and expand Alabama's park system and to help create additional outdoor recreation opportunities for its citizens. It is my hope that this bill will create the conduit for other states and the federal government to follow the example set by my home state of Alabama. While the revenues derived from this fund will be limited to the goals of the Conservation and Re-Investment Act, a prudent coastal state must consider this option to guard against the boom and bust nature of the oil and gas business.

Mr. President, this bill will go a long way towards protecting the environment and increasing conservation in coastal states and the entire nation by creating a dedicated funding mechanism to fulfill these goals. We, along with future generations, will benefit greatly from this legislation. I look forward to working with my colleagues to craft a bill which can continue to enjoy bi-partisan support and be passed into law.

Mr. LOTT. Mr. President, it is with great pleasure that I join my colleagues, Senators LANDRIEU, MURKOWSKI and SESSIONS, in introducing the Reinvestment and Environmental Restoration Act.

Mr. President, since the inception of the oil and gas program on the Outer Continental Shelf (OCS), States and coastal communities have sought a greater share of the benefits from development. And why shouldn't they? These communities provide the infrastructure, public services, manpower and support industries necessary to sustain this development.

Currently, the majority of OCS revenues are funneled into the Federal Treasury where they are used to pay for various Federal programs and to reduce the deficit. While funding programs and reducing the deficit is certainly important, I believe that some percentage of the revenues should be reinvested in the affected region.

Our bill does just that. The Reinvestment and Environmental Restoration Act diverts one-half of the OCS revenues from the Federal Treasury to coastal States and communities for a multitude of programs: air and water quality monitoring, wetlands protection, coastal restoration and shoreline protection, land acquisition, infrastructure, public service needs, State park and recreation programs and wildlife conservation.

This bill allows States and communities to use these funds. These States will effectively use the funds for local needs. In Pascagoula, for example, authorities might choose to restore and secure the shoreline where years of sea traffic have taken their toll. Further north in Vancleave, they may choose instead to refurbish the roads and bridges that carry the heavy machinery coming and going from the coast. This bill provides a framework within which these localities can make the right decisions for their citizens and their environment.

Mr. President, I have been working on this issue for many, many years. As a "coast dweller myself," I know the impact that the oil and gas industry can have on communities and the importance of reinvestment in these areas. This is not to say that the industry mistreats the States; on the contrary, they work very hard to comply with stringent environmental regulations and to take care of the community as best they can. The OCS Policy Committee said in 1993 that, despite the oil industry's best efforts, "OCS development still can affect community infrastructure, social services and the environment in ways that cause concerns among residents of the coastal States and communities."

I know that there is no way to totally eliminate this impact on coastal communities. I also know that, while the benefits of a healthy OCS program are felt nationally, the infrastructure, environmental and social costs are felt locally. Our bill would put money back into the communities that need it most.

It would also put money back into the environmental resources of the area. Exploration for non-renewable resources and stewardship of coastal resources are not mutually exclusive, but must be carefully balanced for both to be sustained. It is important that wetlands, fisheries and water resources are taken into consideration. Affordable adequate protection is possible.

In addition to supporting up the States and coastal communities, our bill also provides funding for the Land and Water Conservation Fund (LWCF). More than 30 years ago, Congress set up this fund to address the American public's desire for more parks and recreational facilities. This bill makes the program self-sufficient, providing a secure funding source from the OCS revenues. This is an investment in our future—our land, our natural resources and our recreational enjoyment.

Mr. President, our bill makes yet another investment with these OCS revenues—an investment in fish and wildlife programs. With the inclusion of OCS revenues, the amount of money available for State programs would nearly double. This is money that can be used to increase fish and wildlife populations and habitats. It could even be used for wildlife education programs.

Mr. President, this bill was carefully crafted to strike a balance between the needs and interests of the oil and gas industry, the States, and the environmental and conservation groups. It's a good package that will benefit all Americans, not just those who live and work in coastal areas. It will benefit hunters and anglers. It will benefit bird watchers and campers. It will benefit all Americans who take solace in the fact that the oil industry is taking care of the communities that support it.

I appreciate the hard work of my colleagues and look forward to advancing this important legislation in the 106th Congress.

By Mr. McCAIN (for himself, Mr. FEINGOLD, Mr. THOMPSON, Mr. LEVIN, Ms. COLLINS, Mr. LIEBERMAN, Ms. SNOWE, Mr. WELLSTONE, Mr. JEFFORDS, Mr. DURBIN, Mr. SCHUMER, Mr. REID, Mr. BRYAN, Mr. SARBANES, Mr. ROBB, Mr. DORGAN, Mr. MOYNIHAN, Mr. KERRY, Mr. KERREY, Mr. CLELAND, Mr. LEAHY, Mr. BAYH, Mrs. FEINSTEIN, Mrs. BOXER, Mr. HOLLINGS, Mr. GRAHAM, Mr. JOHNSON, and Mr. CHAFEE):

S. 26. A bill entitled the "Bipartisan Campaign Reform Act of 1999"; to the Committee on Rules and Administration.

BIPARTISAN CAMPAIGN REFORM ACT OF 1999

Mr. FEINGOLD. Mr. President, the American campaign finance system is manifestly corrupt. So we are back. And here we will return until America's citizens regain dominion over their government. It is my great pleasure to join Sen. JOHN McCAIN to once again introduce a bipartisan campaign finance reform bill in the United States Senate. This is the third Congress in which we have taken up this fight together. I want to thank my friend and colleague Senator McCAIN for his tireless devotion to this issue and his continued willingness to defy the leadership of his party to press it. It will take great effort to achieve consensus and pass this legislation. But I truly do believe that we can make a breakthrough this year, and the reintroduction of the McCain-Feingold bill is the first step toward making that happen.

Mr. President, our democracy is sick. The corrupting influence of big money is taking a daily toll on our work here in the Congress and on the confidence of the American people in our ability to do that work fairly and in their interests. The future of our country is truly at stake in this fight for reform, and that is why, despite the setbacks we have suffered in the last two Congress, despite our inability in the last two Congresses to overcome filibusters by a minority of this body, we are back on the floor today. On the first day that bills can be introduced in the United States Senate, I am here to serve notice that reform is at the top of the list of things that we must do in this Congress. And I commit to the American people, and to my constituents in Wisconsin who reelected me to do precisely this job, that I will fight for reform throughout this year and the next year, if need be, until we win.

Let me take a moment, Mr. President, to review what the McCain-Feingold bill tries to accomplish. First and foremost, we ban soft money—the unlimited contributions that corporate, labor, and very wealthy individual donors can now give to the political parties. We must bring back some sanity to the campaign finance system by making the parties and donors live once again within the rules that the Congress passed back in the 1970's after the Watergate era. Perhaps some of those rules need to be updated, but throwing the rules out is not an option. The potential for corruption of our legislative process is too great. I will return to the issue of prohibiting soft money in a moment, because it is central to the goals of our bill.

Mr. President, this bill also includes the amendment dealing with abuses of "issue advocacy" proposed by Senator SNOWE of Maine and Senator JEFFORDS of Vermont and adopted by the Senate last year during debate on our bill. The Snowe-Jeffords amendment is a balanced approach to the "phony issue ad" problem that prohibits corporations and unions from purchasing television and radio advertisements within the last 2 months of a campaign if those ads refer to a clearly identified candidate. It is designed to prevent corporate and union treasury money, which has been banned from federal elections since early in this century, from making its way back into the elections in the form of advertisements that pretend to be about issues, but instead are about elections.

Advocacy groups, on the other hand, are permitted to purchase what the bill calls "electioneering communications," as long as they disclose their expenditures and the major donors to the effort and take steps to prevent the use of corporate and union treasury money for the ads. Mr. President, we worked long and hard to perfect this amendment last year, to make sure that it is constitutional, and that it will be effective in combating what has become a very serious subterfuge engaged in by entities that plainly want to influence elections but don't want to abide by the election laws. It is a crucial piece of the campaign finance reform puzzle, and we are proud to have the support of Senators SNOWE and JEFFORDS for our effort and to include their proposal in our bill.

The McCain-Feingold bill also takes a further step in addressing the spending of unions in elections by codifying the so-called Beck decision. Under our bill, non-union members who are required to pay agency fees to unions under their state laws will be able to demand an accounting of the use of their fees, and to prevent those fees from being spent for electoral purposes. This provision does not go as far as some of our colleagues might like, but it is a fair and balanced provision that recognizes the need to tread lightly on this issue to maintain bipartisan support for the bill.

The bill also contains important provisions designed to improve enforcement and disclosure under our campaign finance laws. It requires electronic filing and posting of campaign finance information on the Internet to make sure that the public can quickly and easily determine who the major contributors are to candidates and parties. It doubles the penalties for "knowing and willful" violations of Federal election laws. It provides for more timely disclosure of independent expenditures. It requires campaigns to collect all required contributor information before depositing checks. And it permits the FEC to conduct random audits at the end of a campaign to ensure compliance with the Federal election laws.

Our bill also requires political advertisements to carry a disclaimer identifying who is responsible for the content of the campaign ad; and it bars Members of Congress from sending out taxpayer-financed franked mass mailings during the calendar year of their election.

It also addresses two important areas where we have learned in the past few years that the law is simply not clear enough or strong enough. Our bill makes it clear that it is unlawful to raise or solicit campaign contributions on Federal property, including the White House and the congressional office buildings. And it makes it clear that contributions from foreign governments and foreign nationals are prohibited in Federal, State and local elections, including donations of soft money.

Mr. President, this fight is a fight for the soul and the survival of our American democracy. This democracy cannot survive without the confidence of the people in the integrity of the legislative and the electoral process. The prevalence—no—the dominance—of money in our system of elections and our legislature will in the end cause them to crumble. If we don't take steps to clean up this system it ultimately will consume us along with our finest American ideals.

We are now engaged in an historic impeachment trial, in which we are asked to determine as jurors whether the President has committed "high crimes and misdemeanors" and should be removed from office. The American people are divided on this question.

But the American people do think it's a crime that the tobacco companies can use money to block a bill to curtail teen smoking. They do think it's a crime that insurance companies can use money to block desperately needed health care reform. They do think it's a crime that telecommunication companies use money to force a bill through Congress that's supposed to increase competition and decrease prices, but leads to cable rates that keep on rising and rising. And they do think it's a crime that corporations and unions are able to give unlimited soft money contributions to the political parties to advance their narrow special interests.

They think it's a crime. But here in Washington it is business as usual—until we manage to pass meaningful campaign finance reform.

Let me be clear Mr. President, I'm not suggesting that any individual Member of Congress is corrupt. I don't know that any Member of this body has ever traded a vote for a contribution. But while Members are not corrupt, the system is riddled with corruption. It is only human to want to help those who have helped you get elected or reelected, to agree to the meeting, to take the phone call, to allow the opportunity to be persuaded by those who have given money. It is true of the parties, and it is true of the Members, even those who seek always to cast their votes on the merits. The result is that people who don't have money don't get heard. And in the end, those who get heard get their way.

Mr. President, as you know, I won a very hard fought campaign last year in which soft money and issue ads and campaign spending were much discussed issues. I learned a lot from that campaign, and my experience has made me even more certain that the system we now live under must be changed and can be changed.

As we once again take up this charge, I can tell you how enjoyable and rewarding it can be to run a campaign where endless fundraising is not part of your daily routine. And how it is possible to run a decent campaign without getting down in this soft money swamp.

Mr. President, we don't need to point fingers at one another, we just have to rise above politics and do the right thing by the American people. We must clean up our own house, Mr. President. We cannot continue to ignore the corruption in our midst, the cancer that is eating the heart out of the great American compact of trust and faith between the people and their elected representatives.

We know that unlimited soft money contributions make a mockery of our election laws and threaten the fairness of the legislative process. We know that phony issue ads paid for with unlimited corporate and union funds undermine the ability of citizens to understand who is bankrolling the candidates and why. We can find bipartisan solutions to these problems that respect all legitimate First Amendment rights if we are willing to put partisan political advantage aside and sit down and work it out.

Senator McCain and I are ready—we have been ready ever since we introduced our bill—to make changes to our bill that will bring new supporters on board and get us past the 60 vote threshold that the Senate rules have placed in our way, so long as we stay true to the goal of a cleaner, fairer, system in which money will no longer dominate.

We will all be proud of the results if we can do that Mr. President. And the American people will be proud of us. So I look forward to working with Senator McCain and with all my colleagues who want to give the American people a campaign finance system that will protect and nurture our democracy as we enter the 21st century.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 26

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Bipartisan Campaign Reform Act of 1999".

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Sec. 101. Soft money of political parties.
Sec. 102. Increased contribution limits for State committees of political parties and aggregate contribution limit for individuals.
Sec. 103. Reporting requirements.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

Subtitle A—Electioneering Communications

Sec. 201. Disclosure of electioneering communications.
Sec. 202. Coordinated communications as contributions.
Sec. 203. Prohibition of corporate and labor disbursements for electioneering communications.

Subtitle B—Independent and Coordinated Expenditures

Sec. 211. Definition of independent expenditure.
Sec. 212. Civil penalty.
Sec. 213. Reporting requirements for certain independent expenditures.
Sec. 214. Independent versus coordinated expenditures by party.
Sec. 215. Coordination with candidates.

TITLE III—DISCLOSURE

Sec. 301. Filing of reports using computers and facsimile machines; filing by Senate candidates with Commission.
Sec. 302. Prohibition of deposit of contributions with incomplete contributor information.
Sec. 303. Audits.
Sec. 304. Reporting requirements for contributions of $50 or more.
Sec. 305. Use of candidates' names.
Sec. 306. Prohibition of false representation to solicit contributions.
Sec. 307. Soft money of persons other than political parties.
Sec. 308. Campaign advertising.

TITLE IV—PERSONAL WEALTH OPTION

Sec. 401. Voluntary personal funds expenditure limit.
Sec. 402. Political party committee coordinated expenditures.

TITLE V—MISCELLANEOUS

Sec. 501. Codification of Beck decision.
Sec. 502. Use of contributed amounts for certain purposes.
Sec. 503. Limit on congressional use of the franking privilege.
Sec. 504. Prohibition of fundraising on Federal property.
Sec. 505. Penalties for knowing and willful violations.
Sec. 506. Strengthening foreign money ban.
Sec. 507. Prohibition of contributions by minors.
Sec. 508. Expedited procedures.
Sec. 509. Initiation of enforcement proceeding.

TITLE VI—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

Sec. 601. Severability.
Sec. 602. Review of constitutional issues.
Sec. 603. Effective date.
Sec. 604. Regulations.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

SEC. 101. SOFT MONEY OF POLITICAL PARTIES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 323. SOFT MONEY OF POLITICAL PARTIES.

"(a) National Committees.—

"(1) In general.—A national committee of a political party (including a national congressional campaign committee of a political party) and any officers or agents of such party committees, shall not solicit, receive, or direct to another person a contribution, donation, or transfer of funds, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) APPLICABILITY.—This subsection shall apply to an entity that is directly or indirectly established, financed, maintained, or controlled by a national committee of a political party (including a national congressional campaign committee of a political party), or an entity acting on behalf of a national committee, and an officer or agent acting on behalf of any such committee or entity.

"(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

"(1) IN GENERAL.—An amount that is expended or disbursed by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity) for Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) FEDERAL ELECTION ACTIVITY.—

"(A) IN GENERAL.—The term 'Federal election activity' means—

"(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

"(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot); and

"(iii) a communication that refers to a clearly identified candidate (regardless of whether a candidate for State or local office is also mentioned or identified) and is made for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).

"(B) EXCLUDED ACTIVITY.—The term 'Federal election activity' does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

"(i) campaign activity conducted solely on behalf of a clearly identified candidate for State or local office, if the campaign activity is not a Federal election activity described in subparagraph (A);

"(ii) a contribution to a candidate for State or local office, if the contribution is not designated or used to pay for a Federal election activity described in subparagraph (A);

"(iii) the costs of a State, district, or local political convention;

"(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office;

"(v) the non-Federal share of a State, district, or local party committee's administrative and overhead expenses (but not including the compensation in any month of an individual who spends more than 20 percent of the individual's time on Federal election activity) as determined by a regulation promulgated by the Commission to determine the non-Federal share of a State, district, or local party committee's administrative and overhead expenses; and

"(vi) the cost of constructing or purchasing an office facility or equipment for a State, district or local committee.

"(c) FUNDRAISING COSTS.—An amount spent by a national, State, district, or local committee of a political party, by an entity that is established, financed, maintained, or controlled by a national, State, district, or local committee of a political party, or by an agent or officer of any such committee or entity, to raise funds that are used, in whole or in part, to pay the costs of a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) TAX-EXEMPT ORGANIZATIONS.—A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party), an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, and an officer or agent acting on behalf of any such party committee or entity shall not solicit any funds for, or make or direct any donations to, an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application to the Secretary of the Treasury for determination of tax-exemption under such section).

"(e) CANDIDATES.—

"(1) IN GENERAL.—A candidate, individual holding Federal office, or agent of a candidate or individual holding Federal office shall not solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including funds for any Federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) EXCEPTIONS.—

"(A) STATE LAW.—Paragraph (1) does not apply to the solicitation or receipt of funds by an individual who is a candidate for a State or local office in connection with such election for State or local office if the solicitation or receipt of funds is permitted under State law for any activity other than a Federal election activity.

"(B) FUNDRAISING EVENTS.—Paragraph (1) does not apply in the case of a candidate who attends, speaks, or is a featured guest at a fundraising event sponsored by a State, district, or local committee of a political party.".

SEC. 102. INCREASED CONTRIBUTION LIMITS FOR STATE COMMITTEES OF POLITICAL PARTIES AND AGGREGATE CONTRIBUTION LIMIT FOR INDIVIDUALS.

(a) CONTRIBUTION LIMIT FOR STATE COMMITTEES OF POLITICAL PARTIES.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C)—

(A) by inserting "(other than a committee described in subparagraph (D))" after "committee"; and

(B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(D) to a political committee established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed $10,000".

(b) AGGREGATE CONTRIBUTION LIMIT FOR INDIVIDUAL.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended by striking "$25,000" and inserting "$30,000".

SEC. 103. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 213) is amended by adding at the end the following:

"(f) POLITICAL COMMITTEES.—

"(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

"(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 323 APPLIES.—A political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in subparagraphs (A) and (B)(v) of section 323(b)(2).

"(3) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

"(4) REPORTING PERIODS.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) REPEAL OF BUILDING FUND EXCEPTION TO THE DEFINITION OF CONTRIBUTION.—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(1) by striking clause (viii); and

(2) by redesignating clauses (ix) through (xiv) as clauses (viii) through (xiii), respectively.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

Subtitle A—Electioneering Communications

SEC. 201. DISCLOSURE OF ELECTIONEERING COMMUNICATIONS.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following new subsection:

"(d) ADDITIONAL STATEMENTS ON ELECTIONEERING COMMUNICATIONS.—

"(1) STATEMENT REQUIRED.—Every person who makes a disbursement for electioneering communications in an aggregate amount in excess of $10,000 during any calendar year shall, within 24 hours of each disclosure date, file with the Commission a statement containing the information described in paragraph (2).

"(2) CONTENTS OF STATEMENT.—Each statement required to be filed under this subsection shall be made under penalty of perjury and shall contain the following information:

"(A) The identification of the person making the disbursement, of any entity sharing or exercising direction or control over the activities of such person, and of the custodian of the books and accounts of the person making the disbursement.

"(B) The State of incorporation and the principal place of business of the person making the disbursement.

"(C) The amount of each disbursement during the period covered by the statement and the identification of the person to whom the disbursement was made.

"(D) The elections to which the electioneering communications pertain and the names (if known) of the candidates identified or to be identified.

"(E) If the disbursements were paid out of a segregated account to which only individuals could contribute, the names and addresses of all contributors who contributed an aggregate amount of $500 or more to that account during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

"(F) If the disbursements were paid out of funds not described in subparagraph (E), the names and addresses of all contributors who contributed an aggregate amount of $500 or more to the organization or any related entity during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

"(G) Whether or not any electioneering communication is made in coordination, cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee, any political party or committee, or any agent of the candidate, political party, or committee and if so, the identification of any candidate, party, committee, or agent involved.

"(3) ELECTIONEERING COMMUNICATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'electioneering communication' means any broadcast from a television or radio broadcast station which—

"(i) refers to a clearly identified candidate for Federal office;

"(ii) is made (or scheduled to be made) within—

"(I) 60 days before a general, special, or runoff election for such Federal office; or

"(II) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for such Federal office; and

"(iii) is broadcast from a television or radio broadcast station whose audience includes the electorate for such election, convention, or caucus.

"(B) EXCEPTIONS.—Such term shall not include—

"(i) communications appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate; or

"(ii) communications which constitute expenditures or independent expenditures under this Act.

"(4) DISCLOSURE DATE.—For purposes of this subsection, the term 'disclosure date' means—

"(A) the first date during any calendar year by which a person has made disbursements for electioneering communications aggregating in excess of $10,000; and

"(B) any other date during such calendar year by which a person has made disbursements for electioneering communications aggregating in excess of $10,000 since the most recent disclosure date for such calendar year.

"(5) CONTRACTS TO DISBURSE.—For purposes of this subsection, a person shall be treated as having made a disbursement if the person has contracted to make the disbursement.

"(6) COORDINATION WITH OTHER REQUIREMENTS.—Any requirement to report under this subsection shall be in addition to any other reporting requirement under this Act."

SEC. 202. COORDINATED COMMUNICATIONS AS CONTRIBUTIONS.

Section 315(a)(7)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)(B)) is amended by inserting after clause (ii) the following:

"(iii) if—

"(I) any person makes, or contracts to make, any payment for any electioneering communication (within the meaning of section 304(d)(3)); and

"(II) such payment is coordinated with a candidate or an authorized committee of such candidate, a Federal, State, or local political party or committee thereof, or an agent or official of any such candidate, party, or committee;

such payment or contracting shall be treated as a contribution to such candidate and as an expenditure by such candidate; and".

SEC. 203. PROHIBITION OF CORPORATE AND LABOR DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS.

(a) IN GENERAL.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by inserting "or for any applicable electioneering communication" before ", but shall not include".

(b) APPLICABLE ELECTIONEERING COMMUNICATION.—Section 316 of such Act is amended by adding at the end the following:

"(c) RULES RELATING TO ELECTIONEERING COMMUNICATIONS.—

"(1) APPLICABLE ELECTIONEERING COMMUNICATION.—For purposes of this section, the term 'applicable electioneering communication' means an electioneering communication (within the meaning of section 304(d)(3)) which is made by—

"(A) any entity to which subsection (a) applies other than a section 501(c)(4) organization; or

"(B) a section 501(c)(4) organization from amounts derived from the conduct of a trade or business or from an entity described in subparagraph (A).

"(2) SPECIAL OPERATING RULES.—For purposes of paragraph (1), the following rules shall apply:

"(A) An electioneering communication shall be treated as made by an entity described in paragraph (1)(A) if—

"(i) the entity described in paragraph (1)(A) directly or indirectly disburses any amount for any of the costs of the communication; or

"(ii) any amount is disbursed for the communication by a corporation or organization or a State or local political party or committee thereof that receives anything of value from the entity described in paragraph (1)(A), except that this clause shall not apply to any communication the costs of which are defrayed entirely out of a segregated account to which only individuals can contribute.

"(B) A section 501(c)(4) organization that derives amounts from business activities or from any entity described in paragraph (1)(A) shall be considered to have paid for any communication out of such amounts unless such organization paid for the communication out of a segregated account to which only individuals can contribute.

"(3) DEFINITIONS AND RULES.—For purposes of this subsection—

"(A) the term 'section 501(c)(4) organization' means—

"(i) an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

"(ii) an organization which has submitted an application to the Internal Revenue Service for determination of its status as an organization described in clause (i); and

"(B) a person shall be treated as having made a disbursement if the person has contracted to make the disbursement.

"(4) COORDINATION WITH INTERNAL REVENUE CODE.—Nothing in this subsection shall be construed to authorize an organization exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 from carrying out any activity which is prohibited under such Code."

Subtitle B—Independent and Coordinated Expenditures

SEC. 211. DEFINITION OF INDEPENDENT EXPENDITURE.

Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) INDEPENDENT EXPENDITURE.—The term 'independent expenditure' means an expenditure by a person—

"(A) expressly advocating the election or defeat of a clearly identified candidate; and

"(B) that is not provided in coordination with a candidate or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent."

SEC. 212. CIVIL PENALTY.

Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

(1) in subsection (a)—

(A) in paragraph (4)(A)—

(i) in clause (i), by striking "clause (ii)" and inserting "clauses (ii) and (iii)"; and

(ii) by adding at the end the following:

"(iii) If the Commission determines by an affirmative vote of 4 of its members that there is probable cause to believe that a person has made a knowing and willful violation of section 304(c), the Commission shall not enter into a conciliation agreement under this paragraph and may institute a civil action for relief under paragraph (6)(A)."; and

(B) in paragraph (6)(B), by inserting "(except an action instituted in connection with a knowing and willful violation of section 304(c))" after "subparagraph (A)"; and

(2) in subsection (d)(1)—

(A) in subparagraph (A), by striking "Any person" and inserting "Except as provided in subparagraph (D), any person"; and

(B) by adding at the end the following:

"(D) In the case of a knowing and willful violation of section 304(c) that involves the reporting of an independent expenditure, the violation shall not be subject to this subsection.".

SEC. 213. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 201) is amended—

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C); and

(2) by adding at the end the following:

"(e) TIME FOR REPORTING CERTAIN EXPENDITURES.—

"(1) EXPENDITURES AGGREGATING $1,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

"(2) EXPENDITURES AGGREGATING $10,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours after that amount of independent expenditures has been made.

“(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

“(3) PLACE OF FILING; CONTENTS.—A report under this subsection—

“(A) shall be filed with the Commission; and

“(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.”.

SEC. 214. INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.

Section 315(d) of the Federal Election Campaign Act (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1), by striking “and (3)” and inserting “, (3), and (4)”; and

(2) by adding at the end the following:

“(4) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.—

“(A) IN GENERAL.—On or after the date on which a political party nominates a candidate, a committee of the political party shall not make both expenditures under this subsection and independent expenditures (as defined in section 301(17)) with respect to the candidate during the election cycle.

“(B) CERTIFICATION.—Before making a coordinated expenditure under this subsection with respect to a candidate, a committee of a political party shall file with the Commission a certification, signed by the treasurer of the committee, that the committee, on or after the date described in subparagraph (A), has not and shall not make any independent expenditure with respect to the candidate during the same election cycle.

“(C) APPLICATION.—For purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

“(D) TRANSFERS.—A committee of a political party that submits a certification under subparagraph (B) with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate.”.

SEC. 215. COORDINATION WITH CANDIDATES.

(a) DEFINITION OF COORDINATION WITH CANDIDATES.—

(1) SECTION 301(8).—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(A) in subparagraph (A)—

(i) by striking “or” at the end of clause (i);

(ii) by striking the period at the end of clause (ii) and inserting “; or”; and

(iii) by adding at the end the following:

“(iii) coordinated activity (as defined in subparagraph (C)).”; and

(B) by adding at the end the following:

“(C) ‘Coordinated activity’ means anything of value provided by a person in coordination with a candidate, an agent of the candidate, or the political party of the candidate or its agent for the purpose of influencing a Federal election (regardless of whether the value being provided is a communication that is express advocacy) in which such candidate seeks nomination or election to Federal office, and includes any of the following:

“(i) A payment made by a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with a candidate, the candidate's authorized committee, the political party of the candidate, or an agent acting on behalf of a candidate, authorized committee, or the political party of the candidate.

“(ii) A payment made by a person for the production, dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate's authorized committee, or an agent of a candidate or authorized committee (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat).

“(iii) A payment made by a person based on information about a candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with the intent that the payment be made.

“(iv) A payment made by a person if, in the same election cycle in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate's authorized committee in an executive or policymaking position.

“(v) A payment made by a person if the person making the payment has served in any formal policy making or advisory position with the candidate's campaign or has participated in formal strategic or formal policymaking discussions (other than any discussion treated as a lobbying contact under the Lobbying Disclosure Act of 1995 in the case of a candidate holding Federal office or as a similar lobbying activity in the case of a candidate holding State or other elective office) with the candidate's campaign relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle as the election cycle in which the payment is made.

“(vi) A payment made by a person if, in the same election cycle, the person making the payment retains the professional services of any person that has provided or is providing campaign-related services in the same election cycle to a candidate (including services provided through a political committee of the candidate's political party) in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including services relating to the candidate's decision to seek Federal office, and the person retained is retained to work on activities relating to that candidate's campaign.

“(vii) A payment made by a person who has directly participated in fundraising activities with the candidate or in the solicitation or receipt of contributions on behalf of the candidate.

“(viii) A payment made by a person who has communicated with the candidate or an agent of the candidate (including a communication through a political committee of the candidate's political party) after the declaration of candidacy (including a pollster, media consultant, vendor, advisor, or staff member acting on behalf of the candidate), about advertising message, allocation of resources, fundraising, or other campaign matters related to the candidate's campaign, including campaign operations, staffing, tactics, or strategy.

“(ix) The provision of in-kind professional services or polling data (including services or data provided through a political committee of the candidate's political party) to the candidate or candidate's agent.

“(x) A payment made by a person who has engaged in a coordinated activity with a candidate described in clauses (i) through (ix) for a communication that clearly refers to the candidate or the candidate's opponent and is for the purpose of influencing that candidates's election (regardless of whether the communication is express advocacy).

“(D) For purposes of subparagraph (C), the term ‘professional services’ means polling, media advice, fundraising, campaign research or direct mail (except for mailhouse services solely for the distribution of voter guides as defined in section 431(20)(B)) services in support of a candidate's pursuit of nomination for election, or election, to Federal office.

“(E) For purposes of subparagraph (C), all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.”.

(2) SECTION 315(A)(7).—Section 315(a)(7) (2 U.S.C. 441a(a)(7)) is amended by striking subparagraph (B) and inserting the following:

“(B) a coordinated activity, as described in section 301(8)(C), shall be considered to be a contribution to the candidate, and in the case of a limitation on expenditures, shall be treated as an expenditure by the candidate.

(b) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended by striking “shall include” and inserting “includes a contribution or expenditure, as those terms are defined in section 301, and also includes.”.

TITLE III—DISCLOSURE

SEC. 301. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES; FILING BY SENATE CANDIDATES WITH COMMISSION.

(a) USE OF COMPUTER AND FACSIMILE MACHINE.—Section 302(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by striking paragraph (11) and inserting the following:

“(11)(A) The Commission shall promulgate a regulation under which a person required to file a designation, statement, or report under this Act—

“(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

“(ii) may maintain and file a designation, statement, or report in electronic form or an alternative form, including the use of a facsimile machine, if not required to do so under the regulation promulgated under clause (i).

“(B) The Commission shall make a designation, statement, report, or notification that is filed electronically with the Commission accessible to the public on the Internet not later than 24 hours after the designation, statement, report, or notification is received by the Commission.

“(C) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.".

(b) Senate Candidates File With Commission.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended—

(1) in section 302, by striking subsection (g) and inserting the following:

"(g) Filing With the Commission.—All designations, statements, and reports required to be filed under this Act shall be filed with the Commission."; and

(2) in section 304—

(A) in subsection (a)(6)(A), by striking "the Secretary or"; and

(B) in the matter following subsection (c)(2), by striking "the Secretary or".

SEC. 302. PROHIBITION OF DEPOSIT OF CONTRIBUTIONS WITH INCOMPLETE CONTRIBUTOR INFORMATION.

Section 302 of Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended by adding at the end the following:

"(j) Deposit of Contributions.—The treasurer of a candidate's authorized committee shall not deposit, except in an escrow account, or otherwise negotiate a contribution from a person who makes an aggregate amount of contributions in excess of $200 during a calendar year unless the treasurer verifies that the information required by this section with respect to the contributor is complete.".

SEC. 303. AUDITS.

(a) Random Audits.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1) In general.—" before "The Commission"; and

(2) by adding at the end the following:

"(2) Random audits.—

"(A) In general.—Notwithstanding paragraph (1), the Commission may conduct random audits and investigations to ensure voluntary compliance with this Act. The selection of any candidate for a random audit or investigation shall be based on criteria adopted by a vote of at least 4 members of the Commission.

"(B) Limitation.—The Commission shall not conduct an audit or investigation of a candidate's authorized committee under subparagraph (A) until the candidate is no longer a candidate for the office sought by the candidate in an election cycle.

"(C) Applicability.—This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986.".

(b) Extension of Period During Which Campaign Audits May Be Begun.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended by striking "6 months" and inserting "12 months".

SEC. 304. REPORTING REQUIREMENTS FOR CONTRIBUTIONS OF $50 OR MORE.

Section 304(b)(3)(A) of the Federal Election Campaign Act at 1971 (2 U.S.C. 434(b)(3)(A) is amended—

(1) by striking "$200" and inserting "$50"; and

(2) by striking the semicolon and inserting ", except that in the case of a person who makes contributions aggregating at least $50 but not more than $200 during the calendar year, the identification need include only the name and address of the person;".

SEC. 305. USE OF CANDIDATES' NAMES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by striking paragraph (4) and inserting the following:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not—

"(i) include the name of any candidate in its name; or

"(ii) except in the case of a national, State, or local party committee, use the name of any candidate in any activity on behalf of the committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.".

SEC. 306. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting after "Sec. 322." the following: "(a) In General.—"; and

(2) by adding at the end the following:

"(b) Solicitation of Contributions.—No person shall solicit contributions by falsely representing himself or herself as a candidate or as a representative of a candidate, a political committee, or a political party.".

SEC. 307. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.

(a) In General.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 103(a)) is amended by adding at the end the following:

"(g) Disbursements of Persons Other Than Political Parties.—

"(1) In general.—A person, other than a political committee of a political party or a person described in section 501(d) of the Internal Revenue Code of 1986, that makes an aggregate amount of disbursements in excess of $50,000 during a calendar year for activities described in paragraph (2) shall file a statement with the Commission—

"(A) on a monthly basis as described in subsection (a)(4)(B); or

"(B) in the case of disbursements that are made within 20 days of an election, within 24 hours after the disbursements are made.

"(2) Activity.—An activity is described in this paragraph if it is—

"(A) Federal election activity;

"(B) an activity described in section 316(b)(2)(A) that expresses support for or opposition to a candidate for Federal office or a political party; or

"(C) an activity described in subparagraph (B) or (C) of section 316(b)(2).

"(3) Applicability.—This subsection does not apply to—

"(A) a candidate or a candidate's authorized committees; or

"(B) an independent expenditure.

"(4) Contents.—A statement under this section shall contain such information about the disbursements made during the reporting period as the Commission shall prescribe, including—

"(A) the aggregate amount of disbursements made;

"(B) the name and address of the person or entity to whom a disbursement is made in an aggregate amount in excess of $200;

"(C) the date made, amount, and purpose of the disbursement; and

"(D) if applicable, whether the disbursement was in support of, or in opposition to, a candidate or a political party, and the name of the candidate or the political party.".

(b) Definition of Generic Campaign Activity.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"(20) Generic campaign activity.—The term 'generic campaign activity' means an activity that promotes a political party and does not promote a candidate or non-Federal candidate.".

SEC. 308. CAMPAIGN ADVERTISING.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "Whenever" and inserting "Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever";

(ii) by striking "an expenditure" and inserting "a disbursement"; and

(iii) by striking "direct"; and

(B) in paragraph (3), by inserting "and permanent street address" after "name"; and

(2) by adding at the end the following:

"(c) Any printed communication described in subsection (a) shall—

"(1) be of sufficient type size to be clearly readable by the recipient of the communication;

"(2) be contained in a printed box set apart from the other contents of the communication; and

"(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

"(d)(1) Any broadcast or cablecast communication described in paragraphs (1) or (2) of subsection (a) shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

"(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the communication shall include, in addition to the audio statement under paragraph (1), a written statement that—

"(A) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

"(B) is accompanied by a clearly identifiable photographic or similar image of the candidate.

"(e) Any broadcast or cablecast communication described in paragraph (3) of subsection (a) shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following statement: '________ is responsible for the content of this advertisement.' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If broadcast or cablecast by means of television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

TITLE IV—PERSONAL WEALTH OPTION

SEC. 401. VOLUNTARY PERSONAL FUNDS EXPENDITURE LIMIT.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 101) is amended by adding at the end the following:

"SEC. 324. VOLUNTARY PERSONAL FUNDS EXPENDITURE LIMIT.

"(a) Eligible Senate Candidate.—

"(1) PRIMARY ELECTION.—

"(A) DECLARATION.—A candidate for the office of Senator is an eligible Senate candidate with respect to a primary election if the candidate files with the Commission a declaration that the candidate and the candidate's authorized committees will not exceed the personal funds expenditure limit.

"(B) TIME TO FILE.—The declaration under subparagraph (A) shall be filed not later than the date on which the candidate files with the appropriate State officer as a candidate for the primary election.

"(2) GENERAL ELECTION.—

"(A) DECLARATION.—A candidate for the office of Senator is an eligible Senate candidate with respect to a general election if the candidate files with the Commission—

"(i) a declaration under penalty of perjury, with supporting documentation as required by the Commission, that the candidate and the candidate's authorized committees did not exceed the personal funds expenditure limit in connection with the primary election; and

"(ii) a declaration that the candidate and the candidate's authorized committees will not exceed the personal funds expenditure limit in connection with the general election.

"(B) TIME TO FILE.—The declaration under subparagraph (A) shall be filed not later than 7 days after the earlier of—

"(i) the date on which the candidate qualifies for the general election ballot under State law; or

"(ii) if under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date on which the candidate wins the primary or runoff election.

"(b) PERSONAL FUNDS EXPENDITURE LIMIT.—

"(1) IN GENERAL.—The aggregate amount of expenditures that may be made in connection with an election by an eligible Senate candidate or the candidate's authorized committees from the sources described in paragraph (2) shall not exceed $50,000.

"(2) SOURCES.—A source is described in this paragraph if the source is—

"(A) personal funds of the candidate and members of the candidate's immediate family; or

"(B) proceeds of indebtedness incurred by the candidate or a member of the candidate's immediate family.

"(c) CERTIFICATION BY THE COMMISSION.—

"(1) IN GENERAL.—The Commission shall determine whether a candidate has met the requirements of this section and, based on the determination, issue a certification stating whether the candidate is an eligible Senate candidate.

"(2) TIME FOR CERTIFICATION.—Not later than 7 business days after a candidate files a declaration under paragraph (1) or (2) of subsection (a), the Commission shall certify whether the candidate is an eligible Senate candidate.

"(3) REVOCATION.—The Commission shall revoke a certification under paragraph (1), based on information submitted in such form and manner as the Commission may require or on information that comes to the Commission by other means, if the Commission determines that a candidate violates the personal funds expenditure limit.

"(4) DETERMINATIONS BY COMMISSION.—A determination made by the Commission under this subsection shall be final, except to the extent that the determination is subject to examination and audit by the Commission and to judicial review.

"(d) PENALTY.—If the Commission revokes the certification of an eligible Senate candidate—

"(1) the Commission shall notify the candidate of the revocation; and

"(2) the candidate and a candidate's authorized committees shall pay to the Commission an amount equal to the amount of expenditures made by a national committee of a political party or a State committee of a political party in connection with the general election campaign of the candidate under section 315(d).".

SEC. 402. POLITICAL PARTY COMMITTEE COORDINATED EXPENDITURES.

Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) (as amended by section 214) is amended by adding at the end the following:

"(5) This subsection does not apply to expenditures made in connection with the general election campaign of a candidate for the Senate who is not an eligible Senate candidate (as described in section 324(a)).".

TITLE V—MISCELLANEOUS

SEC. 501. CODIFICATION OF BECK DECISION.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end the following new subsection:

"(h) NONUNION MEMBER PAYMENTS TO LABOR ORGANIZATION.—

"(1) IN GENERAL.—It shall be an unfair labor practice for any labor organization which receives a payment from an employee pursuant to an agreement that requires employees who are not members of the organization to make payments to such organization in lieu of organization dues or fees not to establish and implement the objection procedure described in paragraph (2).

"(2) OBJECTION PROCEDURE.—The objection procedure required under paragraph (1) shall meet the following requirements:

"(A) The labor organization shall annually provide to employees who are covered by such agreement but are not members of the organization—

"(i) reasonable personal notice of the objection procedure, the employees eligible to invoke the procedure, and the time, place, and manner for filing an objection; and

"(ii) reasonable opportunity to file an objection to paying for organization expenditures supporting political activities unrelated to collective bargaining, including but not limited to the opportunity to file such objection by mail.

"(B) If an employee who is not a member of the labor organization files an objection under the procedure in subparagraph (A), such organization shall—

"(i) reduce the payments in lieu of organization dues or fees by such employee by an amount which reasonably reflects the ratio that the organization's expenditures supporting political activities unrelated to collective bargaining bears to such organization's total expenditures; and

"(ii) provide such employee with a reasonable explanation of the organization's calculation of such reduction, including calculating the amount of organization expenditures supporting political activities unrelated to collective bargaining.

"(3) DEFINITION.—In this subsection, the term 'expenditures supporting political activities unrelated to collective bargaining' means expenditures in connection with a Federal, State, or local election or in connection with efforts to influence legislation unrelated to collective bargaining.".

SEC. 502. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking section 313 and inserting the following:

"SEC. 313. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

"(a) PERMITTED USES.—A contribution accepted by a candidate, and any other amount received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual—

"(1) for expenditures in connection with the campaign for Federal office of the candidate or individual;

"(2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;

"(3) for contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986; or

"(4) for transfers to a national, State, or local committee of a political party.

"(b) PROHIBITED USE.—

"(1) IN GENERAL.—A contribution or amount described in subsection (a) shall not be converted by any person to personal use.

"(2) CONVERSION.—For the purposes of paragraph (1), a contribution or amount shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal officeholder, including—

"(A) a home mortgage, rent, or utility payment;

"(B) a clothing purchase;

"(C) a noncampaign-related automobile expense;

"(D) a country club membership;

"(E) a vacation or other noncampaign-related trip;

"(F) a household food item;

"(G) a tuition payment;

"(H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and

"(I) dues, fees, and other payments to a health club or recreational facility.".

SEC. 503. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6) of title 39, United States Code, is amended by striking subparagraph (A) and inserting the following:

"(A) A Member of Congress shall not mail any mass mailing as franked mail during a year in which there will be an election for the seat held by the Member during the period between January 1 of that year and the date of the general election for that Office, unless the Member has made a public announcement that the Member will not be a candidate for reelection to that year or for election to any other Federal office.".

SEC. 504. PROHIBITION OF FUNDRAISING ON FEDERAL PROPERTY.

Section 607 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) PROHIBITION.—

"(1) IN GENERAL.—It shall be unlawful for any person to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. An individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, shall not solicit a donation of money or other thing of value in connection with a Federal, State, or local election, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

"(2) PENALTY.—A person who violates this section shall be fined not more than $5,000, imprisoned more than 3 years, or both."; and

(2) in subsection (b), by inserting "or Executive Office of the President" after "Congress".

SEC. 505. PENALTIES FOR KNOWING AND WILLFUL VIOLATIONS.

(a) INCREASED PENALTIES.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) in paragraphs (5)(A), (6)(A), and (6)(B), by striking "$5,000" and inserting "$10,000"; and

(2) in paragraphs (5)(B) and (6)(C), by striking "$10,000 or an amount equal to 200 percent" and inserting "$20,000 or an amount equal to 300 percent".

(b) EQUITABLE REMEDIES.—Section 309(a)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking the period at the end and inserting ", and may include equitable remedies or penalties, including disgorgement of funds to the Treasury or community service requirements (including requirements to participate in public education programs).".

(c) AUTOMATIC PENALTY FOR LATE FILING.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following:

"(13) PENALTY FOR LATE FILING.—

"(A) IN GENERAL.—

"(i) MANDATORY MONETARY PENALTIES.—The Commission shall establish a schedule of mandatory monetary penalties that shall be imposed by the Commission for failure to meet a time requirement for filing under section 304.

"(ii) REQUIRED FILING.—In addition to imposing a penalty, the Commission may require a report that has not been filed within the time requirements of section 304 to be filed by a specific date.

"(iii) PROCEDURE.—A penalty or filing requirement imposed under this paragraph shall not be subject to paragraph (1), (2), (3), (4), (5), or (12).

"(B) FILING AN EXCEPTION.—

"(i) TIME TO FILE.—A political committee shall have 30 days after the imposition of a penalty or filing requirement by the Commission under this paragraph in which to file an exception with the Commission.

"(ii) TIME FOR COMMISSION TO RULE.—Within 30 days after receiving an exception, the Commission shall make a determination that is a final agency action subject to exclusive review by the United States Court of Appeals for the District of Columbia Circuit under section 706 of title 5, United States Code, upon petition filed in that court by the political committee or treasurer that is the subject of the agency action, if the petition is filed within 30 days after the date of the Commission action for which review is sought.";

(2) in paragraph (5)(D)—

(A) by inserting after the first sentence the following: "In any case in which a penalty or filing requirement imposed on a political committee or treasurer under paragraph (13) has not been satisfied, the Commission may institute a civil action for enforcement under paragraph (6)(A)."; and

(B) by inserting before the period at the end of the last sentence the following: "or has failed to pay a penalty or meet a filing requirement imposed under paragraph (13)"; and

(3) in paragraph (6)(A), by striking "paragraph (4)(A)" and inserting "paragraph (4)(A) or (13)".

SEC. 506. STRENGTHENING FOREIGN MONEY BAN.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) by striking the heading and inserting the following: "CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS"; and

(2) by striking subsection (a) and inserting the following:

"(a) PROHIBITION.—It shall be unlawful for—

"(1) a foreign national, directly or indirectly, to make—

"(A) a donation of money or other thing of value, or to promise expressly or impliedly to make a donation, in connection with a Federal, State, or local election; or

"(B) a contribution or donation to a committee of a political party; or

"(2) for a person to solicit, accept, or receive such contribution or donation from a foreign national.".

SEC. 507. PROHIBITION OF CONTRIBUTIONS BY MINORS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 401) is amended by adding at the end the following:

"SEC. 326. PROHIBITION OF CONTRIBUTIONS BY MINORS.

An individual who is 17 years old or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party.".

SEC. 508. EXPEDITED PROCEDURES.

(a) IN GENERAL.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) (as amended by section 505(c)) is amended by adding at the end the following:

"(14)(A) If the complaint in a proceeding was filed within 60 days preceding the date of a general election, the Commission may take action described in this subparagraph.

"(B) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, is occurring, or is about to occur, the Commission may order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties.

"(C) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that the complaint is clearly without merit, the Commission may—

"(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

"(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.".

(b) REFERRAL TO ATTORNEY GENERAL.—Section 309(a)(5) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking subparagraph (C) and inserting the following:

"(C) The Commission may at any time, by an affirmative vote of at least 4 of its members, refer a possible violation of this Act or chapter 95 or 96 of title 26, United States Code, to the Attorney General of the United States, without regard to any limitation set forth in this section.".

SEC. 509. INITIATION OF ENFORCEMENT PROCEEDING.

Section 309(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(2)) is amended by striking "reason to believe that" and inserting "reason to investigate whether".

TITLE VI—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

SEC. 601. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 602. REVIEW OF CONSTITUTIONAL ISSUES.

An appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

SEC. 603. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect on the date that is 60 days after the date of enactment of this Act or January 1, 2000, whichever occurs first.

SEC. 604. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act and the amendments made by this Act not later than 270 days after the effective date of this Act.

By Mr. FEINGOLD (for himself and Mr. HOLLINGS):

S. 27. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to extend and clarify the pay-as-you-go requirements regarding the Social Security trust funds; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

THE SOCIAL SECURITY TRUST FUND PROTECTION ACT OF 1999

Mr. FEINGOLD. Mr. President, I am pleased to join my good friend, the Senator from South Carolina (Mr. HOLLINGS), in offering the Social Security Trust Fund Protection Act of 1999, legislation extending our current PAYGO budget rules, and clarifying that Congress may not use so-called budget surpluses to pay for tax cuts or new spending when those surpluses are really Social Security Trust Fund balances.

Mr. President, as I noted last year when I first offered this measure, it gives me particular pleasure to join with Senator HOLLINGS in introducing this bill.

Both in this body and in the Budget Committee, he has been a leading voice for fiscal prudence.

While popular in theory, fiscal prudence is often less attractive in practice, but Senator HOLLINGS has taken tough positions, even when those positions may not have been politically attractive.

That is the true measure of commitment to honest and prudent budgeting, and I am proud to join him in this effort today.

Mr. President, the bill we are introducing today ensures that the PAYGO rule will continue to require that any new entitlement spending or tax cuts be fully paid for.

Our bill clarifies current PAYGO procedures to remove any doubt that tax cuts or increased spending must continue to be offset.

It extends the PAYGO rule, which currently covers legislation enacted through 2002, until we are no longer using Social Security to mask the deficit.

Under our bill, Congress could not use a so-called surplus until it is real, namely when the budget runs a surplus without using Social Security Trust Funds.

Mr. President, we have entered an era of transition with regard to the Federal budget.

For decades, Congress and the White House ran up huge deficits, producing a mounting national debt.

Over the past few years, we have worked to bring down those deficits.

Those efforts have been successful, in large part, and we are now witnessing something Congress has not seen in 30 years—actually achieving balance in the so-called unified budget.

But, Mr. President, while achieving a balanced unified budget is a significant and encouraging accomplishment, it is not a final victory.

We still have a way to go.

Unfortunately, Mr. President, some do want to declare a final victory, and use any projected unified budget surpluses for increased spending or tax cuts.

But as many have noted on this floor, projected surpluses based on a so-called unified budget are not real.

In fact, far from surpluses, what we really have are continuing on-budget deficits, masked by Social Security revenues.

The distinction is absolutely fundamental.

As I have noted before, the very word "surplus" connotes some extra amount or bonus in addition to the funds we need to meet our expenses and obligations.

One dictionary defines "surplus" as: "something more than or in excess of what is needed or required."

Mr. President, the projected unified budget surplus is not "more than or in excess of what is needed or required."

Those funds are needed.

They were raised by the Social Security system, specifically in anticipation of commitments to future Social Security beneficiaries.

Mr. President, let me just note that the problem of using Social Security trust fund balances to mask the real budget deficit is not a partisan issue.

Both political parties have used this accounting gimmick—here in Congress and in the White House.

But it must stop, and this legislation can help us stop it.

Mr. President, budget rules cannot by themselves reduce the deficit, but they can protect what has been achieved and guard against further abuse.

The PAYGO rule governing entitlements and taxes, along with the discretionary spending caps, have kept Congress disciplined and on track.

Mr. President, earlier I said we are in an era of budget transition.

With some hard work this year, we can leave the years of unified budget deficits behind us.

And with some more work, we can move toward real budget balances without using Social Security revenues.

Mr. President, that must be our highest priority.

If Congress does not begin to rid itself of its addiction to Social Security trust fund balances, we will put the benefits of future retirees at serious risk.

Fortunately, Mr. President, we are within reach of the goal of balancing the budget without using the Social Security trust funds.

If we stay the course, and continue the tough, sometimes unpopular work of reducing the deficit, we can give this Nation an honest budget, one that is truly balanced.

And the time to act is now.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 27

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Trust Fund Protection Act of 1999".

SEC. 2. EXTENSION AND MODIFICATION OF PAY-AS-YOU-GO REQUIREMENT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 252(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "enacted before October 1, 2002," both places it appears.

(2) POINTS OF ORDER.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the last sentence.

(b) MODIFICATION.—

(1) DEFINITION.—Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new paragraph:

"(20) The term 'budget increase' means, for purposes of section 252, an increase in direct spending outlays or a decrease in receipts relative to the baseline, and the term 'budget decrease' means, for purposes of section 252, a decrease in direct spending outlays or an increase in receipts relative to the baseline.".

(2) PURPOSE.—Section 252(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) by striking "increases the deficit" and inserting "results in a net budget increase"; and

(B) by inserting before the period the following: "except to the extent that the total budget surplus exceeds the social security surplus".

(3) TIMING.—Section 252(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in its side heading by inserting "AND AMOUNT" after "TIMING"; and

(B) by striking "net deficit increase" and inserting "net budget increase" and by adding at the end the following new sentence: "The requirement of the preceding sentence shall apply for any fiscal year only to the extent that the surplus, if any, before the sequestration required by this section in the total budget (which, notwithstanding section 710 of the Social Security Act, includes both on-budget and off-budget Government accounts) is less than the combined surplus for that year in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.".

(4) CALCULATING.—Section 252(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in its side heading by striking "DEFICIT INCREASE" and inserting "NET BUDGET INCREASE";

(B) by striking "deficit increase or decrease" the first place it appears and inserting "any net budget increase"; and

(C) by striking "any net deficit increase or decrease in the current year resulting from".

(5) ELIMINATING.—The side heading of section 252(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "DEFICIT INCREASE" and inserting "NET BUDGET INCREASE".

By Mr. HATCH (for himself, Mr. BINGAMAN, and Mr. BENNETT):

S. 28. A bill to authorize an interpretive center and related visitor facilities within the Four Corners Monument Tribal Park, and for other purposes; to the Committee on Energy and Natural Resources.

FOUR CORNERS MONUMENT INTERPRETIVE CENTER ACT

Mr. HATCH. Mr. President, I rise today to the introduce the Four Corners Monument Interpretive Center Act. The Four Corners is the only location in our nation where the boundaries of four states meet at one point.

Each year more than a quarter of a million visitors from around the world brave heat and discomfort to visit the Four Corners. This legislation will provide basic amenities to these travelers and provide an important economic opportunity for the Indian Nations who share the Four Corners area.

The Four Corners area is unique for reasons other than the makeup of its political boundaries. This location was home to some of the earliest Americans, the Anasazi people. Little known about this ancient people, but the Four Corners area contains many of the clues left behind to help us learn about their society. This heritage has created an area of rich historical, archeological, and cultural significance as well as natural beauty.

In more recent history, in 1949, the Governors of Arizona, Colorado, New Mexico, and Utah met at the Four Corners Monument for a historic meeting. Each Governor sat in his state's corner and ate a picnic lunch together. The governors pledged to meet every so often to reaffirm their commitment to working together for the good of the four states and for the Four Corners region. This year marks the 50th anniversary of that historic meeting. I think we should reaffirm their commitment to cooperation by establishing this center that will promote opportunity in this region.

This legislation is important for the Navajo Nation and the Mountain Utes who share control of the existing Four Corners Monument. And, we must be clear what we mean by "monument." In contrast to the 1.7 million acre Grand Staircase Escalante National Monument recently declared by President Clinton, the "monument" that marks the spot at Four Corners is a simple concrete disk containing the four states' seals.

Native Americans have set up small open air stalls around the monument to exhibit and sell their native crafts. But, there is no electricity, no running water, no permanent restroom facilities, and no phone service in the area.

The interpretive center provided by this legislation would not only assist these Native Americans economically, but it would provide a valuable resource to visitors who would like to learn more about the culture, history, and environment of the Four Corners region.

Mr. President, I wish to emphasize that this bill reflects the initiative of the local tribes and elected officials. This is not a federal imposition, but federal support of sustainable economic development in an area that is in desperate need of it. The Four Corners Heritage Council, which is comprised of tribal leaders, local government and private sectors leaders, has been instrumental in developing this bill.

Not only will the interpretive center benefit the local tribes, but it will help to create more interest among tourists of other attractions and sites in the entire Four Corners region. Within a 100 mile radius of the monument there are multiple sites and parks for the enjoyment of tourists, such as Zion National Park, Arches National Park, the Grand Canyon, Rainbow Bridge, Hovenweep, Mesa Verde, and much, much, more. Because of its central location, the center would act as a staging ground for the entire Colorado Plateau.

That this proposal reflects the needs of so many in the area, is reflected by the strong support among all the region's tribal and local governments, and the San Juan Forum, which represents federal state and local interests in the four states. The Albuquerque Tribune editorialized last year that "the project merits New Mexico's strong support." The state of Arizona has already set aside $250,000 for their share of the project. In addition, the Arizona Department of Transportation has produced draft plans for the new center and for the road changes that would be required. The other states have also shown interest as well, which is important as they will be required to match the $2 million authorized by this bill for the project.

Mr. President, this bill represents cooperation of federal, state, local, and tribal governments in an effort to reaffirm our ties to our past while building for our future. I urge my colleagues to give this proposal their full support.

Mr. BINGAMAN. Mr. President, I am pleased to speak in support of this important legislation being introduced today by my friend from Utah, Senator HATCH. The bill authorizes the construction of a much needed interpretive visitor center at the Four Corners Monument. An identical bill passed the Senate unanimously last September.

As I am sure all Senators know, the Four Corners is the only place in America where the boundaries of four states meet in one spot. The monument is located on the Navajo and Ute Mountain Ute Reservations and currently operated as a Tribal Park.

Nearly a quarter of a million people visit this unique site every year. However, currently there are no facilities for tourists at the park and nothing that explains the very special features of the Four Corners region. This bill authorizes the Department of the Interior to contribute $2 million toward the construction of an interpretive center and basic facilities for visitors.

Mr. President, the Four Corners Monument is more than a geographic curiosity. It also serves as a focal point for some of the most beautiful landscape and significant cultural attractions in our country. An interpretive center will help visitors appreciate the many special features of the region. For example, within a short distance of the monument are the cliff dwellings of Mesa Verde, Colorado; the Red Rock and Natural Bridges areas of Utah; and in Arizona, Monument Valley and Canyon de Chelly. The beautiful San Juan River, one of the top trout streams in the Southwest, flows through Colorado, New Mexico, and Utah.

In my state of New Mexico, both the legendary mountain known as Shiprock and the Chaco Canyon Culture National Historical Park are a short distance from the Four Corners.

Mr. President, Shiprock is one of the best known and most beautiful landmarks in New Mexico. The giant volcanic monolith rises nearly 2000 feet straight up from the surrounding plain. Ancient legend tells us the mountain was created when a giant bird settled to earth and turned to stone. In the Navajo language, the mountain is named Tse' bi t' ai or the Winged Rock. Early Anglo settlers saw the mountain's soaring spires and thought they resembled the sails of a huge ship, so they named it Shiprock.

The Four Corners is also the site of Chaco Canyon. Chaco was an important Anasazi cultural center from about 900 through 1130 A.D. Pre-Columbian civilization in the Southwest reached its greatest development there. The massive stone ruins, containing hundreds of rooms, attest to Chaco's cultural importance. As many as 7,000 people may have lived at Chaco at one time. Some of the structures are thought to house ancient astronomical observatories to mark the passage of the seasons. The discovery of jewelry from Mexico and California and a vast network of roads is evidence of the advanced trading carried on at Chaco. Perhaps, the most spectacular accomplishment at Chaco was in architecture. Pueblo Bonito, the largest structure, contains more than 800 rooms and 32 kivas. Some parts are more than five stories high. The masonry work is truly exquisite. Stones were so finely worked and fitted together that no mortar was needed. Remarkably, all this was accomplished without metal tools or the wheel.

Mr. President, 1999 marks the centennial year of the first monument at the Four Corners. An interpretive center is urgently needed today to showcase the history, culture, and scenery of this very special place. New facilities at the monument will attract visitors and help stimulate economic development throughout the region.

The legislation the Senate passed last year had wide-spread support from state, tribal, and local interests.

Mr. President, I hope the Senate will again take prompt action on this bill. I also urge the House to move forward this year to pass this important legislation. I am pleased to co-sponsor this bill with Senator HATCH, and I thank him for his efforts.

Mr. President, I ask unanimous consent that a May 7, 1998, editorial from the Albuquerque Tribune be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Albuquerque Tribune, May 7, 1998]

FOUR CORNERS VISITORS CENTER—AND BEYOND

When scheming to promote tourism, four heads are better than one.

New Mexico, Utah, Arizona and Colorado have an opportunity to create the proposed $4 million Four Corners visitors center. The project merits New Mexico's strong support.

The Tribune has liked the idea of forging a four-state regional alliance for tourism ever since former Interior Secretary Stewart Udall proposed his "America's Scenic Circle" plan on these pages June 18. He argued that New Mexico, Utah, Arizona, Colorado and the Indian tribes in those states should reach out to the international tourism market by joining forces. The cultural and natural attractions in these states, taken individually, have great appeal, he said—but nothing like they would if touted together in respectful and tastefully designed packages.

The Trib revisited the idea of regional tourism alliances again in the Insight & Opinion section April 30. There, state and Albuquerque tourism officials explained how such alliances could boost the effect of New Mexico's tourism-marketing dollars.

The Four Corners visitors center would become a strong footing for a four-state alliance.

It would be built at the Four Corners Monument Tribal Park, where the four states meet. The exact site and design are undetermined, and the Navajo and Ute tribes would have a say in the development. We hope the design physically binds the four states together. There is no visitors center at Four Corners now.

The center was proposed by Utah Sen. Orrin Hatch last week in a bill co-sponsored by Sen. Jeff Bingaman. Half of the $4 million cost would be paid with federal tax dollars. The remainder would be split among the four states—giving each a deep stake in the project.

The purpose of the center is to clearly interpret, showcase and promote the special features of the region, from Shiprock and Chaco Canyon in New Mexico to Mesa Verde in Colorado to Red Rock in Utah to Monument Valley in Arizona. Every state and tribe involved would benefit.

The bill does not say so, but the center also could become the focus for continuing, broader relationships along the lines that Udall proposed. It commits the four states to working with one another at least in the Four Corners area; it's not a quantum leap from that to "America's Scenic Circle."

Let's use our four heads and support this move.

By Mr. INOUYE:

S. 29. A bill to amend section 1086 of title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payments under medicare, and for other purposes; to the Committee on Armed Services.

THE CAMPUS AMENDMENT ACT OF 1999

Mr. INOUYE. Mr. President, I feel that it is imperative that our nation continue its firm commitment to those individuals and their families who have served in the Armed Forces and made us the great nation we are today. As this population ages, there is a need for a wider range of health services, some of which are simply not available under Medicare. These individuals made a commitment to their nation, trusting that when they needed help the nation would honor that commitment. The bill I am introducing today would ensure the highest possible quality of care for these dedicated citizens and their families by authorizing payment under CHAMPUS of certain health care expenses to the extent such expenses are not payable under Medicare.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 29

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANSION OF MEDICARE EXCEPTION TO THE PROHIBITION OF CHAMPUS COVERAGE FOR CARE COVERED BY ANOTHER HEALTH CARE PLAN.

(a) AMENDMENT AND REORGANIZATION OF EXCEPTIONS.—Subsection (d) of section 1086 of title 10, United States Code, is amended to read as follows:

"(d)(1) Section 1079(j) of this title shall apply to a plan contracted for under this section except as follows:

"(A) Subject to paragraph (2), a benefit may be paid under such plan in the case of a person referred to in subsection (c) for items and services for which payment is made under title XVIII of the Social Security Act.

"(B) No person eligible for health benefits under this section may be denied benefits under this section with respect to care or treatment for any service-connected disability which is compensable under chapter 11 of title 38 solely on the basis that such person is entitled to care or treatment for such disability in facilities of the Department of Veterans Affairs.

"(2) If a person described in paragraph (1)(A) receives medical or dental care for which payment may be made under both title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and a plan contracted for under subsection (a), the amount payable for that care under the plan may not exceed the difference between—

"(A) the sum of any deductibles, coinsurance, and balance billing charges that would be imposed on the person if payment for that care were made solely under that title; and

"(B) the sum of any deductibles, coinsurance, and balance billing charges that would be imposed on the person if payment for that care were made solely under the plan.

"(3) A plan contracted for under this section shall not be considered a group health plan or large group health plan for the purposes of paragraph (2) or (3) of section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)).

"(4) A person who, by reason of the application of paragraph (1), receives a benefit for items or services under a plan contracted for under this section shall provide the Secretary of Defense with any information relating to amounts charged and paid for the items and services that, after consulting with the other administering Secretaries, the Secretary requires. A certification of such person regarding such amounts may be accepted for the purposes of determining the benefit payable under this section.".

(b) REPEAL OF SUPERSEDED PROVISION.—Such section is further amended—

(1) by striking out subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

SEC. 2. CONFORMING AMENDMENT.

Section 1713(d) of title 38, United States Code, is amended by striking out "section 1086(d)(1) of title 10 or".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to health care items or services provided on and after the date of enactment of this Act.

By Mr. THURMOND:

S. 31. A bill to amend title 1, United States Code, to clarify the effect an application of legislation; to the Committee on the Judiciary.

TO CLARIFY THE APPLICATION AND EFFECT OF LEGISLATION

Mr. THURMOND. Mr. President, I rise today to introduce a bill to clarify the application and effect of legislation which the Congress enacts.

My act is simple and straightforward. It provides that unless future legislation expressly states otherwise, new enactments shall be applied prospectively and shall not create private rights of action. This will significantly reduce unnecessary litigation and court costs, and will benefit both the public and our judicial system.

The purpose of this legislation is to tackle a persistent problem that is easy to prevent. When Congress enacts a bill, the legislation often does not indicate whether it is to be applied retroactively or whether it creates private rights of action. The failure of the Congress to address these issues in each piece of legislation results in unnecessary confusion and uncertainty. This uncertainty leads to lawsuits, thereby contributing to the high cost of litigation and the congestion of our courts.

In the absence of clear action by the Congress on its intent regarding these critical threshold questions, the outcome is left up to the courts. Whether a law applies to conduct that occurred before the effective date of the Act and whether a private person has been granted the right to sue on their own behalf in civil court under an Act can be critical or even dispositive of a case. Even if the issue is only one aspect of a case and it is raised early in a lawsuit, a decision that the lawsuit can proceed generally cannot be appealed until the end of the case. If the appellate court eventually rules that one of these issues should have prevented the trial, the litigants have been put to substantial burden and unnecessary expenses which could have been avoided.

Currently, courts attempt to determine the intent of the Congress in deciding the effect and application of legislation in this regard. Thus, courts look first and foremost to the statutory language. If a statute expressly provides that it is retroactive or creates a private cause of action, that dictate is followed. Further, courts apply a presumption that legislation is not retroactive. This is an entirely appropriate, longstanding rule because, absent mistake or an emergency, fundamental fairness generally dictates that conduct should be assessed under the rules that existed at the time the conduct took place. There is a similar presumption that the Congress did not intend to create rights beyond those that it expressly includes in its legislation.

If the intent of Congress is not clear from the statute, courts generally look to legislative history, statutory structure, and possible other sources of Congressional intent. This is where the unnecessary complexity and confusion is created. Sources other than statutory language are to varying degrees less reliable in predicting Congressional intent. They are much more difficult to interpret and may even be contradictory. The more sources for the courts to analyze and the more vague the standard for review, the more likely courts will reach different results. Under current practice, trial courts around the country reach conflicting and inconsistent results on these issues, as do appellate courts when the issues are appealed.

The problem of whether legislation is retroactive was dramatically illustrated after the passage of the Civil Rights Act of 1991. District courts and courts of appeal all over the country were required to resolve whether the 1991 Act should be applied retroactively, and the issue ultimately was considered by the Supreme Court. However, by the time the Court resolved the issue in 1994, well over 100 lower courts had ruled on this question and, although most had not found retroactivity, their decisions were inconsistent. Countless litigants across the country expended substantial resources debating this threshold procedural issue.

All this litigation arose from a statute that contained no language providing that it be retroactive. To conclude that the provision of the statute in issue in the case was not to be applied retroactively, the majority opinion of the Court took 39 pages in the United States Reporter to explain why. It undertook a detailed analysis that demonstrates the unnecessary complexity of the current standard. It is no wonder that some Supreme Court justices argued in this case that a court should look only to whether the language of the statute expressly provides for retroactivity. That is what I propose. If my law has been in effect, the litigation would have been averted, while the outcome would have been exactly the same as the Supreme Court decided.

Under my bill, newly enacted laws are not to be applied retroactively and do not create a private right of action, unless the legislation expressly provides otherwise. It is important to note that my bill does not in any way restrict the Congress on these important issues. The Congress may override this presumption or create new private rights of action.

One United States District Judge in my State informs me that he spends at least 10 percent of his time on these issues. It is clear that this legislation would save litigants and our judicial system millions of dollars by avoiding a great deal of uncertainty and litigation.

Mr. President, if we are truly concerned about relieving the backlog of cases in our courts and reducing the costs of litigation, we should help our judicial system to focus its limited time and resources on resolving the merits of disputes, rather than deciding these preliminary matters. We hear numerous complaints about overworked judges and crowded dockets. This is a simple and straightforward way to do something about it. The Congress can help reduce the Federal caseload and help simplify the law. We should act on this important reform promptly.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 31

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RULE OF CONSTRUCTION RELATING TO RETROACTIVE APPLICATION OF STATUTES AND THE CREATION OF PRIVATE CLAIMS AND CAUSES OF ACTION.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

"§ 8. Rules for determining the retroactive effect of legislation and the creation of private claims and causes of action

"(a) Unless a provision included in the Act expressly specifies otherwise, any Act of Congress enacted after the effective date of this section shall—

"(1) be prospective in application only; and

"(2) not create a private claim or cause of action.

"(b) In applying subsection (a)(1), a court shall determine the relevant retroactivity event in an Act of Congress (if such event is not specified in such Act) for purposes of determining if the Act—

"(1) is prospective in application only; or

"(2) affects conduct that occurred before the effective date of the Act.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 1, United States Code, is amended by adding after the item relating to section 7 the following:

"8. Rules for determining the retroactive effect of legislation and the creation of private claims and causes of action.".

By Mr. THURMOND:

S. 32. A bill to eliminate a requirement for a unanimous verdict in criminal trials in Federal courts; to the Committee on the Judiciary.

LEGISLATION TO ALLOW FEDERAL CRIMINAL CONVICTION ON A 10–2 JURY VOTE

Mr. THURMOND. Mr. President, I rise today to introduce legislation to allow juries to convict criminals on a 10–2 jury vote rather than a unanimous vote.

It is my belief that this change to the Federal Rules of Criminal Procedure will bring about increased efficiency and finality in our Nation's Federal court system while maintaining the integrity of the pursuit of justice.

This legislation is consistent with the Supreme Court ruling concerning unanimity injury verdicts, specifically in *Apodaca* v. *Oregon* [406 U.S. 404 (1972)]. In that case, the Supreme Court ruled that the Sixth Amendment guarantee of a jury trial does not require that the jury's vote be unanimous. The Supreme Court affirmed an Oregon law that permitted what I am proposing—a 10–2 conviction in criminal prosecutions.

Mr. President, clearly there is no constitutional mandate for the current requirement under the Federal Rules of a jury verdict by a unanimous vote. The origins of the unanimity rule are not easy to trace, although it may date back to the latter half of the 14th century. One theory proffered is that defendants had few other rules to ensure a fair trial and a unanimous jury vote for conviction compensated for other inadequacies at trial. Of course, today the entire trial process is heavily tilted towards the accused with many, many safeguards in place to ensure that the defendant receives a fair trial.

Its interesting that a unanimity requirement was considered by our Founding Fathers as part of the Sixth Amendment to the Constitution, but it was rejected. The proposed language for the Sixth Amendment, as introduced by James Madison in the House of Representatives, provided for trial by jury as well as a "requisite of unanimity for conviction." The language eventually adopted by the Congress and the States in the Sixth Amendment provides "the right to a speedy and public trial, by an impartial jury," but does not specify any requirement on conviction. This was a wise decision.

It is clear that "trial by jury in criminal cases is fundamental to the American scheme of justice," as the Supreme Court has stated. Juries are representative of the community and their solemn duty is to hear the evidence, deliberate, and decide the case after careful review of the facts and the law. As the Supreme Court has noted, a jury can responsibly perform this function if allowed to decide the case by a margin that is less than unanimous.

This change for jury verdicts in the Federal courts will reduce the likelihood of a single juror corrupting an otherwise thoughtful and reasonable deliberation of the evidence. It is not easy to adequately screen a juror for potential bias before they are selected to serve on a jury. This cannot be done with absolute certainty. We should work to prevent one such juror from having the power to prevent justice from being served.

One juror should not have the power to allow a criminal to go free in the face of considerable opposition from his peers on the jury. Even if a defendant is tried again after one or two jurors hold out against conviction, a new trial is very costly and time-consuming. Most importantly, a new trial substantially delays justice for the victims and society.

It is important to note that this new rule could also work to the advantage of someone on trial. Currently, if there is a hung jury, a prosecutor has the power to retry a defendant. This is true even if only one juror believed the defendant was guilty. Under this new rule, if at least ten jurors concluded that the defendant was not guilty, he would be acquitted and could not be forced to endure a new trial. This rule has the potential to benefit either side as it brings finality to a criminal case.

In other words, there are cases where a requirement of unanimity produced a hung jury where, had there been a non-unanimous allowance, the jury would have voted to convict or acquit. Yet, in either instance, the defendant is accorded his constitutional right of a judgment by his peers. It is my firm belief that this legislation will not undermine the pillars of justice or result in the conviction of innocent persons.

Moreover, I believe the American people will strongly support this reform to allow a 10–2 decision. This is one way the Congress can help fight crime and promote criminal justice.

Mr. President, I hope the Congress will support this important proposal. I ask unanimous consent that the bill be printed in its entirety in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 32

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF RULE 31 OF THE FEDERAL RULES OF CRIMINAL PROCEDURES.

(a) IN GENERAL.—Rule 31(a) of the Federal Rules of Criminal Procedure is amended by striking "unanimous" and inserting "by five-sixths of the jury".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to cases pending or commenced on or after the date of enactment of this Act.

By Mr. THURMOND (for himself and Mr. HELMS)

S. 33. A bill to amend title II of the Americans with Disabilities Act of 1990 and section 504 of the Rehabilitation Act of 1973 to exclude prisoners from the requirements of that title and section; to the Committee on Health, Education, Labor, and Pensions.

THE STATE AND LOCAL PRISON RELIEF ACT

Mr. THURMOND. Mr. President, I rise today to introduce legislation to address an undue burden that has arisen out of the Americans with Disabilities Act.

The purpose of the ADA was to give disabled Americans the opportunity to fully participate in society and contribute to it. This was a worthy goal. But even legislation with the best of intentions often has unintended consequences. I submit that one of those is the application of the ADA to state and local prisoners throughout America.

Last year, the Supreme Court ruled in *Pennsylvania Department of Corrections* v. *Yeskey* [118 S.Ct. 1952 (1998)] that the ADA applied to every state prison and local jail in this country. To no avail, the Attorneys General of most states, as well as numerous state and local organizations, had joined with Pennsylvania in court filings to oppose the ADA applying to prisoners.

Prior to the Supreme Court ruling, the circuit courts were split on the issue. The Fourth Circuit Court of Appeals, my home circuit, had forcefully concluded that the ADA, as well as its predecessor and companion law, the Rehabilitation Act, did not apply to state prisoners. The decision focused on federalism concerns and the fact that the Congress did not make clear that it intended to involve itself to this degree in an activity traditionally reserved to the States.

However, the Supreme Court did not agree, holding that the language of the Act is broad enough to clearly cover state prisons. It is not an issue on the Federal level because the Federal Bureau of Prisons voluntarily complies with the Act. The Supreme Court did not say whether applying the ADA to state prisons exceeded the Congress' powers under the Commerce Clause or the Fourteenth Amendment, but we should not wait on the outcome of this argument to act. Although it was rational for the Supreme Court to read the broad language of the ADA the way it did, it is far from clear that we in the Congress considered the application of this sweeping new social legislation in the prison environment.

The Seventh Circuit has recognized that the "failure to exclude prisoners may well have been an oversight." The findings and purpose of the law seem to support this. The introductory language of the ADA states, "The Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency" to allow "people with disabilities . . . to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous." Of course, a prison is not a free society, as the findings and purpose of the Act envisioned. Indeed, it is quite the opposite. In short, as the Ninth Circuit explained, "The Act was not designed to deal specifically with the prison environment; it was intended for general societal application."

In any event, now that the Supreme Court has spoken, it is time for the Congress to confront this issue. The Congress should act now to exempt state and local prisons from the ADA. That is why I am introducing the State and Local Prison Relief Act, as I did soon after the Supreme Court decided the *Yeskey* case last year.

The State and Local Prison Relief Act would exempt prisons from the requirements of the ADA and the Rehabilitation Act for prisoners. More specifically, it exempts any services, accommodations, programs, activities or treatment of any kind regarding prisoners that may otherwise be required by the Acts. Through this language, which I have slightly revised since introducing the bill last year, I wish to make entirely clear that the bill is not intended to exempt prisons from having to accommodate disabled legal counsel, visitors, or others who are not inmates. Also, the fact that the bill applies to Title II of the ADA should make clear that it is not intended to exempt prison hiring practices for non-inmate employees. The bill is intended only to apply to prisoners.

I firmly believe that if we do not act, the ADA will have broad adverse implications for the management of penal institutions. Prisoners will file an endless number of lawsuits demanding special privileges, which will involve Federal judges in the intricate details of running our state and local prisons.

Mr. President, we should continuously remind ourselves that the Constitution created a Federal government of limited, enumerated powers. Those powers not delegated to the Federal government were reserved to the states or the people. As James Madison wrote in Federalist No. 45, "the powers delegated to the Federal government are few and definite. . . . [The powers] which are to remain in the State governments are numerous and indefinite." The Federal government should avoid intrusion into matters traditionally reserved for the states. We must respect this delicate balance of power. Unfortunately, federalism is more often spoken about than respected.

Although the entire ADA raises federalism concerns, the problem is especially acute in the prison context. There are few powers more traditionally reserved for the states than crime. The criminal laws have always been the province of the states, and the vast majority of prisoners have always been housed in state prisons. The First Congress enacted a law asking the states to house Federal prisoners in their jails for fifty cents per month. The first Federal prison was not built until over 100 years later, and only three existed before 1925.

Even today, as the size and scope of the Federal government has grown immensely, only about 6% of prisoners are housed in Federal institutions. Managing that other 94% is a core state function. As the Supreme Court has stated, "Maintenance of penal institutions is an essential part of one of government's primary functions—the preservation of societal order through enforcement of the criminal law. It is difficult to imagine an activity in which a State has a stronger interest, or one that is more intricately bound up with state laws, regulations, and procedures."

The primary function of prisons is to house criminals. Safety and security are the overriding concerns of prison administration. The rules and regulations, the daily schedules, the living and working arrangements—these all revolve around protecting prison employees, inmates, and the public. But the goal of the ADA is to take away any barrier to anyone with any disability. Accommodating inmates in the manner required by the ADA will interfere with the ability of prison administrators to keep safety and security their overriding concern.

For example, a federal court in Pennsylvania ruled that a prisoner who disobeyed a direct order could not be punished because of the ADA. The judge said it was okay for a prisoner to return to his cell after he was told not to by a guard, saying the prisoner was justified in refusing to comply because he was doing so to relieve stress built up due to his Tourette's Syndrome.

The practical effect of the ADA will be that prison officials will have to grant special privileges to certain inmates and to excuse others from complying with generally-applicable prison rules. For example, a federal judge ordered an Iowa prison to install cable TV in a disabled inmate's cell because the man had difficulty going to the common areas to watch TV. After much public protest, the ruling was eventually reversed.

The ADA presents a perfect opportunity for prisoners to try to beat the system, and use the courts to do it. There are over 1.7 million inmates in state prisons and local jails, and the numbers are rising every year. Indeed, the total prison population has grown about 6.5% per year since 1990. Prisons have a substantially greater percentage of persons with disabilities that are covered by the ADA than the general population, including AIDS, mental retardation, psychological disorders, learning disabilities, drug addiction, and alcoholism. Further, administrators control every aspect of prisoners' lives, such as assigning educational opportunities, recreation, and jobs in prison industries. Combine these facts, and the possibilities for lawsuits are endless.

For example, in most state prison systems, inmates are classified and assigned based in part on their disabilities. This helps administrators meet the disabled inmates' needs in a cost-effective manner. However, under the ADA, prisoners probably will be able to claim that they must be assigned to a prison without regard to their disability. Were it not for their disability, they may have been assigned to the prison closest to their home, and in that case, every prison would have to be able to accommodate every disability. That could mean every prison having, for example, mental health treatment centers, services for hearing-impaired inmates, and dialysis treatment. The cost is potentially enormous.

A related expense is attorney's fees. The ADA has incentives to encourage private litigants to vindicate their rights in court. Any plaintiff, including an inmate, who is only partially successful can get generous attorney's fees and monetary damages, possibly including even punitive damages. In an ongoing ADA class action lawsuit in California, the state has paid the prisoners' attorneys over $2 million, with hourly fees as high as $300.

Applying the ADA to prisons is the latest unfunded Federal mandate that we are imposing on the states.

Adequate funding is hard for prisons to achieve, especially in state and local communities where all government funds are scarce. The public is angry about how much money must be spent to house prisoners. Even with prison populations rising, the people do not want more of their money spent on prisoners. Often, there is simply not enough money to make the changes in challenged programs to accommodate the disabled. If prison administrators do not have the money to change a program, they will probably have to eliminate it. Thus, accommodation could mean the elimination of worthwhile educational, recreational, and rehabilitative programs, making all inmates worse off.

Apart from money, accommodation may mean modifying the program in such a way as to take away its beneficial purpose. A good example is the Supreme Court's *Yeskey* case itself. Yeskey was declared medically ineligible to participate in a boot camp program because he had high blood pressure. So, he sued under the ADA. The boot camp required rigorous physical activity, such as work projects. If the program has to be changed to accommodate his physical abilities, it may not meet its basic goals, and the authorities may eliminate it. Thus, the result could be that everyone loses the benefit of an otherwise effective correctional tool.

Another impact of the ADA may be to make an already volatile prison environment even more difficult to control. Many inmates are very sensitive to the privileges and benefits that others get in a world where privileges are relatively few. Some have irrational suspicions and phobias. An inmate who is not disabled may be angry if he believes a disabled prisoner is getting special treatment, without rationally accepting that the law require it, and could take out his anger on others around him, including the disabled prisoner.

We must keep in mind that it is judges who will be making these policy decisions. To apply the Act and determine what phrases like "qualified individual with a disability" mean, judges must involve themselves in intricate, fact-intensive issues. Essentially, the ADA requires judges to micromanage prisons. Judges are not qualified to second-guess prison administrators and make these complex, difficult decisions. Prisons cannot be run by judicial decree.

In applying Constitutional rights to prisoners, the Supreme Court has tried to get away from micromanagement and has viewed prisoner claims deferentially in favor of the expertise of prison officials. It has stated that we will not "substitute our judgment on difficult and sensitive matters of institutional administration for the determinations of those charged with the formidable task of running a prison. This approach ensures the ability of corrections officials to anticipate security problems and to adopt innovative solutions to the intractable problems of prison administration, and avoids unnecessary intrusion of the judiciary into problems particularly ill suited to resolution by decree."

Take for example a case from the Fourth Circuit, my home circuit, from 1995. The Court explained that a morbidly obese inmate presented corrections officials "with a lengthy and ever-increasing list of modifications which he insisted were necessary to accommodate his obese condition. Thus, he demanded a larger cell, a cell closer to support facilities, handrails to assist him in using the toilet, wider entrances to his cell and the showers, non-skid matting in the lobby area, and alternative outdoor recreational activities to accommodate his inability to stand or walk for long periods." It is not workable for judges to resolve all of these questions.

It is noteworthy that a primary purpose of the Prison Litigation Reform Act was to stop judges from micromanaging prisons and to reduce the burdens of prison litigation. As the Chief Justice of the Supreme Court recognized last year, the PLRA is having some success. However, this most recent Supreme Court decision will hamper that progress.

Moreover, the ADA delegated to Federal agencies the authority to create regulations to implement the law. In response, the Federal bureaucracy has created extremely specific and detailed mandates. Regarding facilities, they dictate everything from the number of water fountains to the flash rates of visual alarms. State and local correctional authorities must fall in line behind these regulations. In yet another way, we have the Justice Department exercising regulatory oversight over our state and local communities.

Prisons are fundamentally different from other places in society. Prisoners are not entitled to all of the rights and privileges of law-abiding citizens, but they often get them. They have cable television. They have access to better gyms and libraries than most Americans. The list goes on.

The public is tired of special privileges for prisoners. Applying the ADA to prisons is a giant step in the wrong direction. Prisoners will abuse the ADA to get privilege they were previously denied, and the reason will be the overreaching hand of the Federal government. We should not let this happen.

Mr. President, the National Government has gone full circle. We have gone from asking the states to house Federal prisoners to dictating to the states how they must house their own prisoners. There must be some end to the powers of the Federal government, and to the privileges it grants the inmates of this Nation. I propose that we start by passing this important legislation.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 33

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION OF PRISONERS.

(a) AMERICANS WITH DISABILITIES ACT OF 1990.—Section 201(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131(2)) is amended by adding at the end the following: "The term shall not include a prisoner in a prison, as such terms are defined in section 3626(g) of title 18, United States Code, with respect to services, programs, activities, and treatment (including accommodations) relating to the prison.".

(b) REHABILITATION ACT OF 1973.—Paragraph (20) of section 7 of the Rehabilitation Act of 1973 (as redesignated in section 402(a)(1) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999) is amended—

(1) by redesignating subparagraph (G) as subparagraph (H); and

(2) by inserting after subparagraph (F) the following:

"(G) PRISON PROGRAMS AND ACTIVITIES; EXCLUSION OF PRISONERS.—For purposes of section 504, the term 'individual with a disability' shall not include a prisoner in a prison, as such terms are defined in section 3626(g) of title 18, United States Code, with respect to programs and activities (including accommodations) relating to the prison.".

By Mr. THURMOND:

S. 34. A bill to amend title 28, United States Code, to clarify the remedial jurisdiction of inferior Federal courts; to the Committee on the Judiciary.

THE JUDICIAL TAXATION PROHIBITION ACT

Mr. THURMOND. Mr. President, I rise today to introduce legislation to prohibit Federal judges from imposing a tax increase as a judicial remedy.

It has always been my firm belief that Federal judges exceed the boundaries of their limited jurisdiction under the Constitution when they order new taxes or order increases in existing tax rates.

The Founding Fathers clearly understood that taxation was a role for the legislative branch and not the judicial branch. Article I of the Constitution lists the legislative powers, one of which is that "the Congress shall have the power to lay and collect taxes." Article III establishes the judicial powers, and the power to tax is nowhere contained in Article III.

The Federalist Papers are also clear in this regard. In Federalist No. 48, James Madison explained that "the legislative branch alone has access to the pockets of the people." In Federalist No. 78, Alexander Hamilton stated, "The judiciary . . . has no influence over . . . the purse, no direction either of the strength or of the wealth of the society, and can take no active resolution whatever."

In 1990, in the case of *Missouri* v. *Jenkins*, five members of the Supreme Court stated in *dicta* that although a Federal judge could not directly raise taxes, he could order the local government to raise taxes. There is no difference between a judge raising taxes and a judge ordering a legislative official to raise taxes. I am hopeful that, if the issue were directly before the Court today, a majority of the current membership of the Court would reject that *dicta* and hold that Federal judges do not have the power to order that taxes be raised. However, in the event the Court does not correct this error, I am introducing the Judicial Taxation Prohibition Act, which would prohibit judges from raising taxes. I have introduced it in every Congress since the Supreme Court's misguided decision was issued, and I intend to do so until it is corrected. This legislation is essential to affirm the separation of powers.

There is a simple reason why this distinction between the branches of government is so important and must remain clear. The legislative branch is responsible to the people through the democratic process. However, the judicial branch is composed of individuals who are not elected and have life tenure. By design, the members of the judicial branch do not depend on the popular will for their offices. They are not accountable to the people. They simply have no business setting the rate of taxes the people must pay. For a judge to order that taxes be increased amounts to taxation without representation. It is entirely contrary to the understanding of the Founding Fathers.

The phrase "taxation without representation" recalls an important time in America history that is worth repeating in some detail. The Constitution can best be understood by referencing the era in which it was adopted.

Not since Great Britain's ministry of George Grenville in 1765 have the American people faced the assault of taxation without representation as now authorized in the *Jenkins* decision. As part of his imperial reforms to tighten British control in the colonies, Grenville pushed the Stamp Act through the Parliament in 1765. This Act required excise duties to be paid by the colonists in the form of revenue stamps affixed to a variety of legal documents. This action came at a time when the colonies were in an uproar over the Sugar Act of 1764 which levied duties on certain imports such as sugar, indigo, coffee, linens.

The ensuing firestorm of debate in America centered on the power of Britain to tax the colonies. James Otis, a young Boston attorney, echoed the opinion of most colonists stating that the Parliament did not have power to tax the colonies because Americans had no representation in that body. Mr. Otis had been attributed in 1761 with the statement that "taxation without representation is tyranny."

In October 1765, delegates from nine states were sent to New York as part of the Stamp Act Congress to protest the new law. It was during this time that John Adams wrote in opposition to the Stamp Act, "We have always understood it to be a grand and fundamental principle . . . that no freeman shall be subject to any tax to which he has not given his own consent, in person or by proxy." A number of resolutions were adopted by the Stamp Act Congress protesting the acts of Parliament. One resolution stated, "It is inseparably essential to the freedom of a people . . . that no taxes be imposed on them, but with their own consent, given personally or by their representatives." The resolutions concluded that the Stamp Act had a "manifest tendency to subvert the rights and liberties of the colonists."

Opposition to the Stamp Act was vehement throughout the colonies. While Grenville's successor was determined to repeal the law, the social, economic and political climate in the colonies brought on the American Revolution. The principles expressed during the earlier crisis against taxation without representation became firmly imbedded in our Federal Constitution of 1787.

I recognize that some say this legislation is unconstitutional. They argue that the Congress does not have the authority under Article III to limit and regulate the jurisdiction of the inferior Federal courts. This argument has no basis in the Constitution or common sense.

Article III, Section 1, of the Constitution provides jurisdiction to the lower

Federal courts as the "Congress may from time to time ordain and establish." There is no mandate in the Constitution to confer equity jurisdiction to the inferior Federal courts. Congress has the flexibility under Article III to "ordain and establish" the lower Federal courts as it deems appropriate. This basic premise has been upheld by the Supreme Court in a number of cases including Lawcourt v. Phillips, Lauf v. E.G. Skinner and Co., Kline v. Burke Construction Co., and Sheldon v. Sill.

In other words, the Congress was expressly granted the authority to establish lower Federal courts, which it did. What the Congress has been given the power to do, it can certainly decide to stop doing. By passing this bill, the Congress would simply be limiting the jurisdiction of the lower Federal courts in a small area.

It is also important to note that this legislation would not restrict the power of the Federal courts to remedy Constitutional wrongs. Clearly, the Court has the power to order a remedy for a Constitutional violation that may include expenditures of money by Federal, State, or local governments. This bill simply requires that if the Court orders that money be spent, it is for the legislative body to decide how to comply with that order. The legislative body may choose to raise taxes, but it also may choose to cut spending or sell assets. That choice of how to come up with the money should always be for the legislature to decide. I believe it is clear under Article III that the Congress has the authority to restrict the remedial jurisdiction of the Federal Courts in this fashion.

Mr. President, the dispositive issue presented by the *Jenkins* decision is whether the American people want, as a matter of national policy, to be exposed to taxation without their consent by an independent and insulated judiciary. I most assuredly believe they do not.

Mr. President, how long will it be before a Federal judge orders tax increases to build new highways or prisons? I do not believe the Founding Fathers had this type of activism in mind when they established the judicial branch of government.

Judicial activism is a matter of great concern to me and has been for many years. I have always felt that Federal judges must strictly adhere to the principle that it is their role to interpret the law and not make the law. This simple principle is fundamental to our system of government.

The American people deserve a response to the *Jenkins* decision. We must provide protection against the imposition of taxes by an unelected, unaccountable judiciary. We must not permit this blatant violation of the separation of powers. We have a duty to right this wrong.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 34

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Judicial Taxation Prohibition Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) a variety of effective and appropriate judicial remedies are available for the full redress of legal and constitutional violations under existing law, and that the imposition or increase of taxes by courts is neither necessary nor appropriate for the full and effective exercise of Federal court jurisdiction;

(2) the imposition or increase of taxes by judicial order constitutes an unauthorized and inappropriate exercise of the judicial power under the Constitution of the United States and is incompatible with traditional principles of law and government of the United States and the basic principle of the United States that taxation without representation is tyranny;

(3) Federal courts exceed the proper boundaries of their limited jurisdiction and authority under the Constitution of the United States, and impermissibly intrude on the legislative function in a democratic system of government, when they issue orders requiring the imposition of new taxes or the increase of existing taxes; and

(4) Congress retains the authority under article III, sections 1 and 2 of the Constitution of the United States to limit and regulate the jurisdiction of the inferior Federal courts that Congress has seen fit to establish, and such authority includes the power to limit the remedial authority of inferior Federal courts.

SEC. 3. AMENDMENT TO TITLE 28.

(a) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by inserting after section 1341 the following:

"§ 1341A. Prohibition of judicial imposition or increase of taxes

"(a) Notwithstanding any other provision of law, no inferior court established by Congress shall have jurisdiction to issue any remedy, order, injunction, writ, judgment, or other judicial decree requiring the Federal Government or any State or local government to impose any new tax or to increase any existing tax or tax rate.

"(b) Nothing in this section shall prohibit inferior Federal courts from ordering duly authorized remedies, otherwise within the jurisdiction of those courts, that may require expenditures by a Federal, State, or local government in any case in which those expenditures are necessary to effectuate those remedies.

"(c) For purposes of this section, the term 'tax' includes—

"(1) personal income taxes;

"(2) real and personal property taxes;

"(3) sales and transfer taxes;

"(4) estate and gift taxes;

"(5) excise taxes;

"(6) user taxes;

"(7) corporate and business income taxes; and

"(8) licensing fees or taxes.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 85 of title 28, United States Code, is amended by inserting after the item relating to section 1341 the following:

"1341A. Prohibition of judicial imposition or increase of taxes.".

SEC. 4. APPLICABILITY.

This Act and the amendments made by this Act shall apply to cases pending or commenced in a Federal court on or after the date of enactment of this Act.

By Mr. GRASSLEY (for himself and Mr. GRAHAM):

S. 35. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for the long-term care insurance costs of all individuals who are not eligible to participate in employer-subsidized long-term care health plans; to the Committee on Finance.

LONG-TERM CARE AFFORDABILITY AND AVAILABILITY ACT OF 1999

By Mr. GRASSLEY (for himself and Mr. GRAHAM):

S. 36. A bill to amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance may be obtained by Federal employees and annuitants; to the Committee on Governmental Affairs.

THE AMERICAN WORKER LONG-TERM CARE AFFORDABILITY ACT OF 1999

Mr. GRASSLEY. Mr. President, I rise today to introduce two bills that are an important first step in helping Americans prepare for their long-term care needs. The Long Term Care Affordability and Availability Act and the American Worker Long Term Care Affordability Act. I am pleased to have my colleague Senator GRAHAM of Florida join me as a cosponsor of these two bills.

Longer and healthier lives are a blessing and a testament to the progress and advances made by our society. However, all Americans must be alert and prepare for long-term care needs. The role of private long-term care insurance is critical in meeting this challenge.

The financial challenges of health care in retirement are not new. Indeed, too many family caregivers can tell stories about financial devastation that was brought about by the serious long-term care needs of a family member. Because increasing numbers of Americans are likely to need long term care services, it is especially important to encourage planning today.

Most families are not financially prepared when a loved one needs long-term care. When faced with nursing home costs that can run more than $40,000 a year, families often turn to Medicaid for help. In fact, Medicaid pays for nearly 2 of every 3 nursing home residents at a cost of more than $30 billion each year for nursing home costs. With the impending retirement of the Baby Boomers, it is imperative that Congress takes steps now to encourage all Americans to plan ahead for potential long-term care needs.

The Long Term Care and Affordability and Availability Act will allow Americans who do not currently have access to employer subsidized long-term care plans to deduct the amount of such a plan from their taxable income. This bill will encourage planning and personal responsibility while helping to make long-term care insurance more affordable for middle class taxpayers.

The American Worker Long-Term Care Affordability Act will establish a program under which long-term care insurance may be obtained by current and former employees of the federal government. This legislation will make long-term care insurance affordable to the Federal community by using the purchasing power of the federal government to assure quality, competition and choice.

These measures will encourage Americans to be pro-active and prepare for their own long term care needs by making insurance more widely available and affordable. I urge my colleagues to support these bills.

Mr. President, I ask unanimous consent that the texts of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 35

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Long-Term Care Affordability and Availability Act of 1999".

SEC. 2. DEDUCTION FOR LONG-TERM CARE HEALTH INSURANCE COSTS FOR INDIVIDUALS NOT ELIGIBLE TO PARTICIPATE IN EMPLOYER-SUBSIDIZED LONG-TERM CARE HEALTH PLANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. QUALIFIED LONG-TERM CARE INSURANCE COSTS.

"(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the amount of the eligible long-term care premiums (as defined in section 213(d)(10)) paid during the taxable year for coverage of the taxpayer and the spouse and dependents of the taxpayer.

"(b) LIMITATION BASED ON OTHER COVERAGE.—Subsection (a) shall not apply to any taxpayer for any calendar month for which the taxpayer is eligible to participate in any subsidized long-term care plan maintained by any employer of the taxpayer or of the spouse of the taxpayer. For purposes of the preceding sentence, the term 'subsidized long-term care plan' means a subsidized health plan which includes primarily coverage for qualified long-term care services (as defined in section 7702B(c)) or is a qualified long-term care insurance contract (as defined in section 7702B(b)).

"(c) SPECIAL RULES.—

"(1) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which subsection (a) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).

"(2) DEDUCTION NOT ALLOWED FOR SELF-EMPLOYMENT TAX PURPOSES.—The deduction allowable by reason of this section shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 162(l)(2) of such Code is amended to read as follows:

"(C) LONG-TERM CARE PREMIUMS.—No deduction shall be allowed under this subsection for premiums on any qualified long-term care insurance contract (as defined in section 7702B(b))."

(2) Subsection (a) of section 62 of such Code is amended by inserting after paragraph (17) the following new paragraph:

"(18) LONG-TERM CARE INSURANCE COSTS OF CERTAIN INDIVIDUALS.—The deduction allowed by section 222."

(3) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

"Sec. 222. Qualified long-term care insurance costs.

"Sec. 223. Cross reference."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

S. 36

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "The American Worker Long-Term Care Affordability Act of 1999".

SEC. 2. LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Subpart G of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 90—LONG-TERM CARE INSURANCE

"Sec.
"9001. Definitions.
"9002. Availability of insurance.
"9003. Participating carriers.
"9004. Administrative functions.
"9005. Coordination with State laws.
"9006. Commercial items.

"§ 9001. Definitions

"In this chapter:

"(1) The term 'employee' has the meaning given such term by section 8901, but does not include an individual employed by the government of the District of Columbia.

"(2) The term 'annuitant'—

"(A) means—

"(i) a former employee who, based on the service of that individual, receives an annuity under subchapter III of chapter 83, chapter 84, or another retirement system for employees of the Government (disregarding title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and any retirement system established for employees described in section 2105(c)); and

"(ii) any individual who receives an annuity under any retirement system referred to in clause (i) (disregarding those described parenthetically) as the surviving spouse of an employee (including an amount under section 8442(b)(1)(A), whether or not an annuity under section 8442(b)(1)(B) is also payable) or of a former employee under clause (i); and

"(B) does not include a former employee of a Government corporation excluded by regulation of the Office of Personnel Management or the spouse of such a former employee.

"(3) The term 'eligible relative', as used with respect to an employee or annuitant, means each of the following:

"(A) The spouse of the employee or annuitant.

"(B) The father or mother of the employee or annuitant, or an ancestor of either.

"(C) A stepfather or stepmother of the employee or annuitant.

"(D) The father-in-law or mother-in-law of the employee or annuitant.

"(E) A son or daughter of the employee or annuitant who is at least 18 years of age.

"(F) A stepson or stepdaughter of the employee or annuitant who is at least 18 years of age.

"(4) The term 'Government' means the Government of the United States, including an agency or instrumentality thereof.

"(5) The term 'group long-term care insurance' means group long-term care insurance purchased by the Office of Personnel Management under this chapter.

"(6) The term 'individual long-term care insurance' means any long-term care insurance offered under this chapter which is not group long-term care insurance.

"(7) A carrier shall be considered to be a 'qualified carrier', with respect to a State, if it is licensed to issue group or individual long-term care insurance (as the case may be) under the laws of such State.

"(8) The term 'qualified long-term care insurance contract' has the meaning given such term by section 7702B of the Internal Revenue Code of 1986.

"(9) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

"§ 9002. Availability of insurance

"(a) The Office of Personnel Management shall establish and administer a program through which employees and annuitants may obtain group or individual long-term care insurance for themselves, a spouse, or, to the extent permitted under the terms of the contract of insurance involved, any other eligible relative.

"(b) Long-term care insurance may not be offered under this chapter unless—

"(1) the only insurance protection provided is coverage under qualified long-term care insurance contracts; and

"(2) the insurance contract under which such coverage is provided is issued by a qualified carrier.

"(c) In addition to the requirements otherwise applicable under section 9001(8), in order to be considered a qualified long-term care insurance contract for purposes of this chapter, a contract shall be fully insured, whether through reinsurance with other companies or otherwise.

"(d) Nothing in this chapter shall be considered to require that long-term care insurance coverage be made available in the case of any individual who would be immediately benefit eligible.

"§ 9003. Participating carriers

"(a) Before the beginning of each year, the Office of Personnel Management shall—

"(1) identify each carrier through whom any long-term care insurance may be obtained under this chapter during such year; and

"(2) prepare a list of the carriers identified under paragraph (1), and a summary description of the insurance obtainable under this chapter from each.

"(b) In order to carry out its responsibilities under subsection (a), the Office shall annually specify the timetable (including any application deadlines) and other procedures that shall be followed by carriers seeking to be allowed to offer long-term care insurance under this chapter during the following year.

"(c) Before the beginning of each year, the Office shall in a timely manner—

"(1) publish in the Federal Register the list (and summary description) prepared under subsection (a) for such year; and

"(2) make available to each individual eligible to obtain long-term care insurance under this chapter such information, in a form acceptable to the Office after consultation with the carrier, as may be necessary to enable the individual to exercise an informed choice among the various options available under this chapter.

"(d)(1) The Office shall arrange to have the appropriate individual or individuals receive—

"(A) a copy of any policy of insurance obtained under this chapter; or

"(B) in the case of group long-term care insurance, a certificate setting forth the benefits to which an individual is entitled, to whom the benefits are payable, and the procedures for obtaining benefits, and summarizing the provisions of the policy principally affecting the individual or individuals involved.

"(2) Any certificate issued under paragraph (1)(B) shall be issued instead of the certificate which the insurance company would otherwise be required to issue.

"§ 9004. Administrative functions

"(a) Except as provided in section 9003, the sole functions of the Office of Personnel Management under this chapter shall be as follows:

"(1) To provide reasonable opportunity (consisting of not less than one continuous 30-day period each year) for eligible employees and annuitants to obtain long-term care insurance coverage under this chapter.

"(2) To provide for a means by which the cost of any long-term care insurance coverage obtained under this chapter may be paid for through withholdings from the pay or annuity of the employee or annuitant involved.

"(3) To contract for a qualified long-term care insurance contract (in the case of group long-term care insurance) with each qualified carrier that offers such insurance, if such carrier submits a timely application under section 9003(b) and complies with such other procedural rules as the Office may prescribe.

"(b) Nothing in this chapter shall be considered to permit or require the Office to—

"(1) prevent from being offered under this chapter any individual long-term care insurance under a qualified contract; or

"(2) prescribe or negotiate over the benefits to be offered, or any of the terms or conditions under which any such benefits shall be offered, under this chapter.

"§ 9005. Coordination with State laws

"(a) The provisions of any contract under this chapter for group long-term care insurance may include provisions to supersede and preempt any provisions of State or local law described in subsection (b), or any regulation issued thereunder.

"(b) This subsection applies to any provision of law which in effect carries out the same policy as section 5 of the long-term care insurance model Act, promulgated by the National Association of Insurance Commissioners (as adopted as of September 1997).

"§ 9006. Commercial items

"For purposes of the Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.), a long-term care insurance contract under this chapter shall be considered a commercial item, as defined in section 4(12) of such Act.".

(b) CONFORMING AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of subpart G the following:

"90. Long-Term Care Insurance ... 9001".

SEC. 3. EFFECTIVE DATE.

The Office of Personnel Management shall take all necessary actions to ensure that long-term care insurance coverage under chapter 90 of title 5, United States Code, (as added by this Act) may be obtained in time to take effect beginning on the first day of the first applicable pay period beginning on or after January 1, 2000.

Mr. GRAHAM. Mr. President, I am pleased to join Senator GRASSLEY in introducing legislation that will allow the Federal Government to be a role model in helping Americans prepare for retirement security.

The issue is long term care insurance.

Several key facts highlights the importance of long term care insurance.

It is estimated that the majority of women and one-third of men who reach the age of 60 will need nursing home care before the end of life. Many of the baby boom generation first face this issue when they deal with their aging parents' needs.

Long term care is one of the most important retirement security issues facing us today. According to a 1997 survey sponsored by the National Council on the Aging, more Americans (69 percent) were worried about how to pay for long term care than were worried about how they would pay for their retirement (56 percent). This level of concern was true for all age groups and income levels among those surveyed.

Their concerns are well-founded. In 1995 the average cost of nursing home care in the United States was $37,000 per year. In some urban areas of the country, that cost can reach $70,000 per year.

Medicare provides short-term care coverage, but the average nursing home stay is two and one-half years. In fact, Medicare pays for only five percent of national nursing home costs.

Not all long term care occurs in nursing homes—85 percent of nursing home care is nonskilled care. Again, Medicare does not cover non-skilled care, so all of these costs must be covered by the patient and his or her family members.

Medicaid will provide nursing home and some nonskilled care coverage, but an individual must be extremely low income, or become low income, to qualify for Medicaid. This program currently pays for over half of nursing home expenses in the United States. But who wants to see their lifetime savings, and their children's inheritance, wiped out to pay for the cost of a catastrophic long term illness?

The end of life is not a pleasant subject for any family to discuss. But the emotional decisions involved are made easier by planning ahead and investing in long term care insurance. That kind of forethought provides needed options at a very vulnerable time.

Although many companies are considering offering this insurance to their employees, as of 1996 only 13.2 percent of long-term care plans were employer-sponsored.

Today, Senator GRASSLEY and I are moving the Federal Government into a leadership role by creating a model long term care insurance program for Federal employees. We hope that our legislation will inspire private companies to increase the long term care options available to their employees.

Under our plan, private companies will have the opportunity to compete to provide long term care insurance to Federal employees. This does not mean a high cost to taxpayers; premiums will be fully paid by federal employees. However, by pooling the numbers of workers in the Federal Government, our plan will encourage reduced group rates.

Only plans qualified under the Health Insurance Portability and Accountability Act of 1996 may offer this insurance to Federal workers through our legislation. Beyond that, we will let the marketplace determine the cost and services of plans available for purchase.

Flexibility is important in this relatively young industry as insurance companies are still in the process of determining how to most effectively provide this product. Competition among the various carriers, group discounts and volume of sales will keep these premiums affordable.

Eleven million Americans, including Federal employees and retirees, their spouses, parents, and in-laws would be eligible for long term care insurance under our proposal. This bill is just a first step, but an important one.

I ask for your support as we continue to improve retirement security for all Americans.

By Mr. GRASSLEY:

S. 37. A bill to amend title XVIII of the Social Security Act to repeal the restriction on payment for certain hospital discharges to post-acute care imposed by section 4407 of the Balanced Budget Act of 1997; to the Committee on Finance.

HOSPITAL TRANSFER PENALTY REPEAL ACT OF 1999

Mr. GRASSLEY. Mr. President, today I have introduced the Hospital Transfer Penalty Repeal Act of 1999. This legislation would repeal the Balanced Budget Act of 1997 (BBA)'s hospital transfer penalty. This law punishes hospitals that make use of the full continuum of care and discourages them from moving patients to the most appropriate levels of post-acute care. I ask my colleagues to spend a few minutes learning about this issue, because I believe that if they do, they will come to see the need for repeal.

The current hospital prospective payment system is based on the average length of stay for a given diagnosis. In some cases, patients stay in the hospital longer than the average and in other cases their stay is shorter. Historically, a hospital has been reimbursed based upon an average length of stay regardless of whether the patient remained in the hospital a day less than the average or a day more than the average.

Under the Balanced Budget Act transfer provision, however, this is no longer the case. If a patient in one of ten specified diagnosis-related groups (DRGs) is released earlier than the national average length of stay for that DRG, the hospital does not receive its full prospective payment. Instead, it receives only a smaller per-diem payment.

This policy penalizes facilities that transfer patients from the hospital to a more appropriate level of care earlier than the average length of stay. It encourages hospitals to ignore the clinical needs of patients and keep them in the most expensive care setting for a longer period of time. In short, it offers an incentive for hospitals to provide an unnecessary level of care, for an unnecessary length of time.

The transfer policy is particularly hard on hospitals in low-cost states like Iowa. Because Iowa's hospitals practice efficient medicine, they have average lengths of stay well below the national average. These hospitals will be hit especially hard. This kind of perverse incentive is part of the problem with Medicare, not part of the solution.

In addition to the irrational incentives this policy creates, administering it is simply maddening for providers. As a knowledgeable Iowa constituent, Joe LeValley of North Iowa Mercy Health System, has pointed out, the law creates conflicting incentives that make clinical management of patients a baffling experience. Medicare now expects physicians to move patients to the most cost-effective level of care as quickly as possible—unless those patients have a condition in one of these ten DRG's, in which case Medicare wants the physician to keep them in the hospital. Is it any wonder that physicians and hospital administrators are frustrated with Medicare?

In fact, isn't it physicians, not hospital administrators, who should be making decisions about patient care settings? If we think that doctors should be determining the appropriate location for a patient, it seems absurd to force the hospital into that role. But the transfer penalty does exactly that.

In addition, the law holds hospitals accountable for the actions of patients that are no longer under their care. In some cases, patients are not admitted to post-acute care directly from the hospital, and the hospital may not know that the patient is receiving such care, let alone steer the patient to it. The law thus sets hospitals up for accusations of fraud due to events that are beyond their control.

I understand that there are valid grounds for concern about hospitals moving patients to lower levels of care sooner than is clinically appropriate, simply in order to game the reimbursement system. That is unacceptable conduct, and we do need to attack it. I am open to discussions on possible alternatives to outright repeal of the transfer penalty, if these bad apples are the ones targeted. But we need to make sure we don't punish all hospitals—especially the most efficient—for the sins of a few.

This transfer penalty is a serious roadblock to the provision of appropriate and efficient care. Its repeal will help ensure that logical coordinated care remains a primary goal of the Medicare program.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 37

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF RESTRICTION ON MEDICARE PAYMENT FOR CERTAIN HOSPITAL DISCHARGES TO POST-ACUTE CARE.

(a) IN GENERAL.—Section 1886(d)(5) of the Social Security Act (42 U.S.C. 1395ww(d)(5)), as amended by section 4407 of the Balanced Budget Act of 1997, is amended—

(1) in subparagraph (I)(ii), by striking "not taking in account the effect of subparagraph (J),", and

(2) by striking subparagraph (J).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of enactment of this Act.

By Mr. CAMPBELL (for himself, Mr. MACK, and Mrs. HUTCHISON:)

S. 38. A bill to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period; to the Committee on Finance.

ESTATE AND GIFT TAX RATE REDUCTION ACT OF 1999

Mr. CAMPBELL. Mr. President, today I introduce a bill that I feel is of vital importance to farmers and family business owners, the Estate and Gift Tax Rate Reduction Act of 1999. I am pleased to be joined by my colleagues Senators MACK and HUTCHISON.

This bill is based on legislation I introduced last year, S. 2318. Unfortunately, the 105th Congress adjourned before we could debate and pass this bill. Since then, I have heard from numerous Coloradans and national organizations and am fully aware that the problems the bill would correct still exist.

Estate and gift taxes remain a burden of American families, particularly those who pursue the American dream of owning their own business. This is because family-owned businesses and farms are hit with the highest tax rate when they are handed down to descendants—often immediately following the death of a loved one. These taxes, and the financial burdens and difficulties they create come at the worst possible time. Making a terrible situation worse is the fact that the rate of this estate tax is crushing, reaching as high as 55 percent for the highest bracket. That's higher than even the highest income tax rate bracket of 39 percent. Furthermore, the tax is due as soon as the business is turned over to the heir, allowing no time for financial planning or the setting aside of money to pay the tax bills. Estate and gift taxes right now are one of the leading reasons why the number of family-owned farms and businesses are declining; the burden of this tax is just too much.

This tax sends the troubling message that families should either sell the business while they are still alive, in order to spare their descendants this huge tax after their passing, or rundown the value of the business, so that it won't make it into their higher tax brackets. Whichever the case may be, it hardly seems to encourage private investment and initiative, which have always been such a strong part of our American heritage.

That is why I again introduce this bill. It will gradually eliminate this tax by phasing it out—reducing the amount of the tax 5% each year, beginning with the highest rate bracket 55%, until the tax rate reaches zero. Several states have already adopted similar plans, and I believe we ought to follow their example. We need to change the message we are sending to farmers and family business owners. Leading organizations agree, and have endorsed this legislation. In fact, over 100 organizations, like the National Federation of Independent Business and the Farm Bureau, have joined together to form the Family Business Estate Tax Coalition, which strongly endorses the bill.

Mr. President, this tax should be eliminated across the board, and I ask my colleagues' help in working to achieve that goal.

Mr. President, I ask unanimous consent that the text of the bill and letters from the American Farm Bureau

Federation and Family Business Estate Tax Coalition be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 38

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Estate and Gift Tax Rate Reduction Act of 1999".

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) estate and gift tax rates, which reach as high as 55 percent of a decedent's taxable estate, are in most cases substantially in excess of the tax rates imposed on the same amount of regular income and capital gains income; and

(2) a reduction in estate and gift tax rates to a level more comparable with the rates of tax imposed on regular income and capital gains income will make the estate and gift tax less confiscatory and mitigate its negative impacts on American families and businesses.

SEC. 3. PHASEOUT OF ESTATE AND GIFT TAXES.

(a) REPEAL OF ESTATE AND GIFT TAXES.—Subtitle B of the Internal Revenue Code of 1986 (relating to estate and gift taxes) is repealed effective with respect to estates of decedents dying, and gifts made, after December 31, 2009.

(b) PHASEOUT OF TAX.—Subsection (c) of section 2001 of such Code (relating to imposition and rate of tax) is amended by adding at the end the following new paragraph:

"(3) PHASEOUT OF TAX.—In the case of estates of decedents dying, and gifts made, during any calendar year after 1999 and before 2010—

"(A) IN GENERAL.—The tentative tax under this subsection shall be determined by using a table prescribed by the Secretary (in lieu of using the table contained in paragraph (1)) which is the same as such table; except that—

"(i) each of the rates of tax shall be reduced (but not below zero) by the number of percentage points determined under subparagraph (B), and

"(ii) the amounts setting forth the tax shall be adjusted to the extent necessary to reflect the adjustments under clause (i).

"(B) PERCENTAGE POINTS OF REDUCTION.—

"For calendar year:	The number of percentage points is:
2000	5
2001	10
2002	15
2003	20
2004	25
2005	30
2006	35
2007	40
2008	45
2009	50.

"(C) COORDINATION WITH PARAGRAPH (2).—Paragraph (2) shall be applied by reducing the 55 percent percentage contained therein by the number of percentage points determined for such calendar year under subparagraph (B).

"(D) COORDINATION WITH CREDIT FOR STATE DEATH TAXES.—Rules similar to the rules of subparagraph (A) shall apply to the table contained in section 2011(b) except that the number of percentage points referred to in subparagraph (A)(i) shall be determined under the following table:

"For calendar year:	The number of percentage points is:
2000	1½
2001	3
2002	4½
2003	6
2004	7½
2005	9
2006	10½
2007	12
2008	13½
2009	15."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 1999.

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, July 23, 1998.

Hon. BEN NIGHTHORSE CAMPBELL,
U.S. Senate, Washington, DC.

DEAR SENATOR CAMPBELL: Family farm businesses are the mainstay of a food and fiber industry that provides more than 21 million people with jobs and allows Americans to spend less than 10 percent of their incomes on food.

Estate taxes threaten family farms and ranches and the contributions they make to rural communities because farm heirs often have to sell business assets to borrow money to pay death taxes that reach as high as 55 percent. This can destroy the financial health of the enterprise and put farmers and ranchers out of business.

Changes in estate tax laws are needed to foster the transfer of farms and ranches from one generation to the next. Farm Bureau believes that estate taxes should be repealed and supports your legislation. S. 2318, that reduces estate tax rates by 5 percent a year until the tax is eliminated.

Thank you for introducing S. 2318.

Sincerely,

RICHARD W. NEWPHER,
Executive Director, Washington Office.

FAMILY BUSINESS ESTATE
TAX COALITION,
May 14, 1998.

Hon. BILL ARCHER,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE ARCHER: On behalf of the more than 6 million members represented by the 100-plus organizations of the Family Business Estate Tax Coalition, we are writing to urge you to support the estate tax rate reduction and ten year phaseout legislation introduced by Representatives Jennifer Dunn and John Tanner.

Death tax relief, which is pro-business, pro-jobs, pro-family, and pro-economy, is of the utmost importance. What has become clear to economists and policy makers is that the social and economic costs of the estate tax far exceed the revenue it produces for the government.

We applaud Representatives Dunn and Tanner for their straightforward, fair, and financially responsible approach to eliminating an incredibly onerous tax. Join them in recognizing that death should not be a taxable event.

Sincerely,

THE FAMILY BUSINESS
ESTATE TAX COALITION.

THE FAMILY BUSINESS ESTATE TAX COALITION

Air Conditioning Contractors of America.
Alliance for Affordable Healthcare.
American Alliance of Family Business.
American Bakers Association.
American Consult Engineers Council.
American Dental Association.
American Family Business Institute.
American Farm Bureau Federation.
American Forest & Paper Association.
American Horse Council.
American Hotel & Motel Association.
American Institute of CPA's.
American International Automobile Dealers Association.
American Sheep Industry Association.
American Small Businesses Association.
American Soybean Association.
American Supply Association.
American Trucking Associations.
American Vintners Association.
American Warehouse Association.
American Wholesale Marketers Association.
Amway Corporation.
Associated Builders and Contractors.
Associated Equipment Distributor.
Associated General Contractors of America.
Associated Specialty Contractors.
Association for Manufacturing Technology.
Committee to Preserve the American Family Business.
Communicating for Agriculture.
Families Against Confiscatory Estate and Inheritance Taxes.
Farm Credit Council.
Florists' Transworld Delivery Association.
Food Distributors International.
Food Marketing Institute.
Forest Industries Council on Taxation.
Guest & Associates.
Hallmark Cards, Inc.
Independent Bakers Association.
Independent Bankers Association of America.
Independent Forest Products Association.
Independent Insurance Agents of America.
Independent Petroleum Association of America.
Institute of Certified Financial Planners.
International Council of Shopping Centers.
Lake States Lumber Association.
Land Trust Alliance.
Manufacturing Jewelers and Silversmiths Association.
Marine Retailers Association of America.
National Association of Beverage Retailers.
National Association of Convenience Stores.
National Association of Home Builders.
National Association of Manufacturers.
National Association of Music Merchants.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Realtors.
National Association of State Departments of Agriculture.
National Association of Temporary and Staffing Services.
National Association of the Remodeling Industry.
National Association of Wheat Growers.
National Association of Wholesaler-Distributors.
National Automatic Merchandising Association.
National Automobile Dealers Association.
National Beer Wholesalers Association.
National Cattlemen's Beef Association.
National Corn Growers Association.
National Cotton Council of America.
National Council of Farmer Cooperatives.
National Electrical Contractors Association.
National Electrical Manufacturers Association.
National Farmers Union.
National Federation of Independent Business.

National Funeral Directors Association.
National Grange.
National Grocers Association.
National Hardwood Lumber Association.
National Home Furnishings Association.
National Licensed Beverage Association.
National Marine Manufacturers Association.
National Milk Producers Federation.
National Newspaper Association.
National Pork Producers Council.
National Pre-Cast Concrete Association.
National Restaurant Association.
National Retail Federation.
National Roofing Contractors Association.
National Rural Electric Cooperatives Association.
National Small Business United.
National Telephone Cooperative Association.
National Tire Dealers & Retreaders Association.
National Tooling & Machining Association.
Newsletter Publishers Association.
Newspaper Association of America.
North American Equipment Dealers Association.
Northwest Woodland Owners Council.
Petroleum Marketers Association of America.
Printing Industries of America, Inc.
Promotional Products Association International.
Safeguard America's Family Enterprises.
Sheet Metal and Air Conditioning Contractors' National Association.
Small Business Legislative Council.
Society of American Florists.
Southeastern Lumber Manufacturers Association.
Tax Foundation.
Texas and Southwestern Cattle Raisers Association.
Tire Association of North America.
United Fresh Fruit and Vegetable Association.
U.S. Apple Association.
U.S. Business & Industrial Council.
U.S. Chamber of Commerce.
U.S. Telephone Association.
Washington Council, P.C.
Wine and Spirits Wholesalers.
Wine Institute.
Wood Machinery Manufacturers Association.

COLORADO FARM BUREAU,
Denver, CO, January 18, 1999.

Hon. BEN NIGHTHORSE CAMPBELL,
U.S. Senate, Washington, DC.

MR. CAMPBELL: The Colorado Farm Bureau, the state's largest farming and ranching organization, appreciates your sponsorship of the Estate and Gift Tax Rate Reduction Act. It is our understanding that the bill would amend the Internal Revenue Service Code of 1986 to phase out the estate and gift tax completely over a ten year period.

Farm Bureau policy supports the repeal of the federal estate tax and expanding eligibility for the family business estate tax exemption by reducing and simplifying requirements and restrictions. In 1997, the American Farm Bureau Federation delivered over 20,000 letters to Congress asking for the abolishment of the estate tax.

We believe that estate taxes are a major reason for keeping young farmers and ranchers from continuing on the farm or ranch. Many times a son or daughter cannot pay the exorbitantly high estate tax and are forced to sell all or part of the land to developers. First and foremost this is a threat to our inexpensive food supply. Secondly, this would threaten wildlife habitat and open space. This bill will allow agricultural operations to continue from one generation to the next—like it has for hundreds of years. No person should have to visit the mortuary and IRS agent in the same week.

Thank you for your continued support of agriculture.

Sincerely,

ROGER BILL MITCHELL,
President.

By Mr. STEVENS:

S. 39. A bill to provide a national medal for public safety officers who act with extraordinary valor above the call of duty, and for other purposes; to the Committee on the Judiciary.

THE PUBLIC SAFETY MEDAL OF VALOR ACT

Mr. STEVENS. Mr. President, we have all been pleased with the recent decline in crime in many areas of the country, and today I am introducing a bill to acknowledge the great commitment and sacrifice public safety officers at every level have made to that decline. From responding to traffic accidents, apprehending violent criminals, fighting fires, combating domestic terrorism, assisting people during natural disasters—not to mention performing the functions many of us take for granted—public safety officers are essential to the well-being and stability of the United States.

While public safety accomplishments often go unrecognized, the selfless service of those who work each day to preserve the peace and improve safety in our communities continues. This past year were reminded of the tremendous sacrifices of this American mainstay when Officers Jacob Chestnut and John Gibson gave their lives defending the peace and protecting lives in our nation's Capitol. In fact, since 1988 over 700 law enforcement officers have been killed in the line of duty, another 629 have been killed in duty-related accidents, and over 600,000 have been assaulted. We owe a tremendous debt to these heroes and to their families who have made such a tremendous sacrifice for the rest of us.

In the past ten years we've had earthquakes, flooding, hurricanes, vast fires, record cold spells, and numerous other natural disasters. Throughout those natural disasters, Americans from around the country counted on firemen, emergency medical technicians, emergency services personnel, and other public safety personnel from all levels of government. The many peaceful moments and days that we enjoy between these disasters and tragedies are the product of the vigilance, dedication, and hard work of those dedicated to the protection of the public.

In recognition and honor of these great public servants, I am introducing the Public Safety Medal of Valor Act. This Act establishes the highest national recognition of valor for public safety personnel for acts above and beyond the call of duty.

Under this legislation, an 11-member Medal Review Board selected by the Congress and by the President will consider nominations of public safety officers and select recipients of the medal. No more than 10 Public Safety Medal of Valor recipients will be selected in one year. I call on all of the members of the Senate and House to join me in support of this important measure to at last provide national recognition to the heroes in the field of public safety.

By Mr. KYL:

S. 47. A bill to establish a commission to study the impact on voter turnout of making the deadline for filing federal income tax returns conform to the date of federal elections; to the Committee on Rules and Administration.

VOTER TURNOUT ENHANCEMENT STUDY COMMISSION ACT

Mr. KYL. Mr. President, I rise today to introduce the Voter Turnout Enhancement Study (VoTES) Commission Act, a bill designed to promote fiscal responsibility while helping to motivate more Americans to get to the polls on Election Day.

Mr. President, when we balanced the unified budget last year, we did so by taxing and spending at a level of about $1.72 trillion. That is a level of spending that is 25 percent higher than when President Clinton took office just six years ago. Our government now spends the equivalent of $6,700 for every man, woman, and child in the country every year. That is the equivalent of nearly $27,000 for the average family of four. But all of that spending comes at a tremendous cost to hard-working taxpayers.

The Tax Foundation estimates that the medium income family in America saw its combined federal, state, and local tax bill climb to 37.6 percent of income in 1997—up from 37.3 percent the year before. That is more than the average family spends on food, clothing, shelter, and transportation combined. Put another way, in too many families, one parent is working to put food on the table, while the other is working almost full time just to pay the bill for the government bureaucracy.

In fact, the tax burden imposed on the American people hit a peacetime high of 19.8 percent of Gross Domestic Product (GDP) in 1997 and, according to the Congressional Budget Office, is continuing to rise—to 20.5 percent in 1998 and 20.6 percent in 1999. That will be higher than any year since 1945, and it would be only the third and fourth years in our nation's entire history that revenues have exceeded 20 percent of national income. Notably, the first two times revenues broke the 20 percent mark the economy tipped into recession.

Already, economists are beginning to project slower economic growth in coming years. Barring any further shocks from abroad, growth for 1999 to

2003 is estimated at about two percent. The heavy tax burden may not be the only reasons for slow growth, but it is a significant factor. Consider that economic growth avenged 3.9 percent annually during the period after the Reagan tax cuts and before the 1990 tax increase.

I am convinced that the tax burden is growing, in part, because so much of it is obscured from the view of the taxpayers. Withholding, for example, reduces the visibility and minimizes the pain of making large tax payments. FICA taxes paid by an employer on behalf of an employee never show up on a worker's pay stub at all, even though they reduce wages dollar for dollar. By the time Election Day could hardly be farther away from April 15.

If the visibility of the tax burden were increased, people might be more inclined to get to the polls. Move the deadline for filing income-tax returns from April to November and we could give people a reason to vote by focusing their attention on the role of government—and how much it actually costs them—on the single most important day of the year. Moving Tax Day to Election Day would probably result in more change in Washington than anything else we could do. Moreover, maximizing voter turnout is the best way to ensure that government officials heed the will of the people and make sound public policy.

The bill I am introducing today would provide for a thoughtful and thorough analysis of a change in the tax-filing deadline from April to November, its potential effect on voter turnout, as well as any economic impact it might have. The bill explicitly requires that an independent commission conduct a cost-benefit analysis—a requirement that Congress would be wise to impose routinely on legislative initiatives to separate the good ideas from the bad, and save taxpayers a lot of money in the process. A number of other cost limiting provisions have been included to protect taxpayers' interests.

While just about every day of the year is celebrated by special interest groups around the country for the government largesee they receive, the taxpayers—the silent majority—have only one day of the year to focus on what that largesse means to them—how much it costs them—and that is Tax Day. I believe that it ought to coincide with Election Day so people can clearly choose between candidates who support higher taxes and more government control, and candidates who favor lower taxes and the right of people to decide for themselves how to spend their own money.

I invite my colleagues to join me in cosponsoring this initiative, and I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 47

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Voter Turnout Enhancement Study Commission Act".

SEC. 2. FINDINGS.

(a) Findings.—The Congress finds that:

(1) The right of citizens of the United States to vote is a fundamental right.

(2) It is the duty of federal, state, and local governments to promote the exercise of that right to vote to the greatest extent possible.

(3) The power to tax is a power that citizens of the United States only guardedly vest in their elected representatives to the federal, state, and local governments.

(4) The only regular contacts most Americans have with their government are the filing of their personal income tax returns and their participation in federal, state, and local elections.

(5) About 115 million individual income tax returns were filed in 1998, but only about 70 million Americans cast votes in that year's congressional elections.

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) Establishment.—There is established a commission to be known as the Voter Turnout Enhancement Study Commission (hereafter in this Act referred to as the 'Commission').

(b) Membership.—

(1) Composition.—The Commission shall be composed of nine members of whom—

(A) 3 shall be appointed by the President;

(B) 3 shall be appointed by the Majority Leader of the Senate; and

(C) 3 shall be appointed by the Speaker of the House of Representatives.

(c) Period of Appointment; Vacancies.—Members shall be appointed no later than 30 days after the date of the enactment of this Act, and serve for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) Compensation.—

(1) Rates of pay.—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) Travel expenses.—Each member of the Commission shall receive travel expenses, include per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) Initial Meeting.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(f) Meetings.—After the initial meeting, the Commission shall meet at the call of the Chairman.

(g) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(h) Chairman and Vice Chairman.—The Commission shall select a Chairman and Vice Chairman from among its members.

SEC. 4. DUTIES OF THE COMMISSION.

(a) Study.—

(1) In general.—The Commission shall conduct a thorough study of all matters relating to the propriety of conforming the annual filing date for federal income tax returns with the date for holding biennial federal elections.

(2) Matters studied.—The matters studied by the Commission shall include—

(A) whether establishment of a single date on which individuals can fulfill their obligations of citizenship as both electors and taxpayers would increase participation in federal, state, and local elections; and

(B) a cost benefit analysis of any change in tax filing deadlines.

(b) Report.—No later than 12 months after the date of the enactment of this Act, the Commission shall submit a report to the President and the Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

SEC. 5. POWERS OF THE COMMISSION.

(a) Hearings.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such information as the Commission considers advisable to carry out the purposes of this Act.

(b) Information To Be Gathered.—The Commission shall obtain information from sources as it deems appropriate, including, but not limited to, taxpayers and their representatives, Governors, state and federal election officials, and the Commissioner of the Internal Revenue Service.

SEC. 6. TERMINATION OF THE COMMISSION.

The Commission shall terminate upon the submission of the report under section 4.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. STEVENS:

S. 49. A bill to amend the wetlands program under the Federal Water Pollution Control Act to provide credit for the low wetlands loss rate in Alaska and recognize the significant extent of wetlands conservation in Alaska property owners, and to ease the burden on overly regulated Alaskan cities, boroughs, owners, and to ease the burden on overly regulated Alaskan cities, boroughs, municipalities, and villages; to the Committee on Environment and Public Works.

Mr. STEVENS. Mr. President, according to the United States Fish and Wildlife Service more than 221,000,000 acres of wetlands existed at the time of Colonial America in the area that is now the contiguous United States. Since then 117,000,000 of those areas, roughly 53 percent, have been filled, drained, or otherwise removed from wetland status.

In the 1972 Federal Water Pollution Control Act, more commonly known as the Clean Water Act, Congress broadly expanded Federal jurisdiction over wetlands by modifying the definition of "navigable waters" as used in the 1899 Rivers and Harbors Act. The 1899 Act established the basis for regulating disposition of dredge spoils in navigable waters. The 1972 Act expanded that basis to encompass all "water of the United States".

In 1975, a United States district court ordered the Army Corps of Engineers to publish revised regulations concerning their program to implement section 404 of the Clean Water Act.

Since then, the Courts have further expanded upon the Corps's authority to include isolated wetlands and have issued decisions that effectively constrain agency decision makers to act only to promote conservation, often at the expense of sound economic development. This expansion of Congressional intent has also formed the basis for burdensome intrusions on the property rights of many Alaskans, Alaskan Native Corporations, and the State of Alaska.

The erosion of agency discretion clearly undermines the Corps of Engineers' ability to implement sound public policy in my State. Over the 100 years since the Rivers and Harbors Act, their "Section 404" regulatory program has become unnecessarily inflexible and unresponsive to common sense. In recognizing the value of preserving and restoring wetlands where appropriate, Congress intended to leave appropriate discretion to agency managers to balance competing public values. That intent has lost flexibility with age. Today the lack of regulatory flexibility threatens to destroy the economic health of many Alaskans. We are being over-regulated to the point of economic strangulation.

According to the United States Fish and Wildlife Service, approximately 170,200,000 acres of wetlands existed in Alaska in the 1780's and approximately 170,000,000 acres of wetlands exist now. That represents a loss of less than one-tenth of 1 percent through the combined effects of either human or natural processes.

Alaska contains more wetlands than all of the other States combined. Fully 75 percent of the non-mountainous areas of Alaska are wetlands. Yet we are regulating these vast wetlands in Alaska to the same strict levels as all the other states, without regard to either special economic hardships or the unnecessary federal expense this causes.

Ninety-eight percent of all Alaskan communities, including 200 of the 226 remote villages in Alaska, which incidently are dispersed over 1/5th of the land mass of the United States, are located in or adjacent to wetlands. To promote the economic self sufficiency of these remote communities, about 43,000,000 acres of land were granted to Alaska Natives through regional and village corporations.

These Native allotments were intended to be available for use. However between 45 percent and 100 percent of each Native corporation's land is categorized as wetlands. Therefore development of these Native lands and basic community infrastructure is delayed or even prevented by an ever tightening regulatory regime designed to protect an excessively abundant resource in Alaska because it is scarce elsewhere in the Union.

Naturally Alaska villages, municipalities, boroughs, city governments, and Native organizations are increasingly frustrated with the constraints of the wetlands regulatory program because it interferes with the location of community centers, airports, sanitation systems, roads, schools, industrial areas, and other critical community infrastructure.

The same is true of State-owned lands. 104,000,000 acres of land were granted to the State of Alaska at statehood for purposes of economic development. Nowhere is flexibility more appropriate than on these lands. What minimal identifiable environmental benefits expected from the ever tightened regulation of wetlands are certainly not justified in Alaska.

The Federal Government already has vast wetlands holdings in Alaska under the protection of a variety of Federal land management programs. In Alaska we have 62 percent of all federally designated wilderness lands, 70 percent of all Federal park lands, and 90 percent of all Federal refuge lands, thus providing protection against use or degradation for approximately 60,000,000 acres of wetlands. National policies intended to achieve 'no net loss' of wetlands reflect a response to the 53 percent loss of the wetlands base in the 48 contiguous States, but do not take into account the large percentage of conserved wetlands in Alaska.

Only 12 percent of Alaska's wetlands are privately owned, compared to 74 percent of the wetlands in the 48 contiguous States. Wetlands regulation designed to protect a large majority of a dwindling resource are clearly too strict where they would only apply to a small percentage of a vase resource. Unfortunately, Federal agencies no longer enjoy the discretion to modify their program to address these special circumstances. As a result, individual landowners in Alaska have lost up to 97 percent of their property value and Alaskan communities have lost a significant portion of their tax base due to wetlands regulations.

Expansion of the wetlands regulatory program in this manager is beyond what the Congress intended when it passed the Clean Water Act. In Alaska, it has placed unnecessary economic and administrative burdens on private property owners, small businesses, city governments, State government, farmers, ranchers, and others, while providing negligible environmental benefits.

It is time to stop using the wrong regulatory tools. For a State, such as Alaska, with substantial conserved wetlands, my bill provides much needed relief from the excessive burdens of the current cumbersome federal wetlands regulatory program. It relaxes the most stringent aspects of wetlands regulation, without dismantling agency discretion to regulate where necessary. This bill restores common sense and cost effectiveness without loss of high value wetlands.

By Mr. BIDEN (for himself, Mr. SPECTER, Mrs. BOXER, Mrs. MURRAY, Ms. MIKULSKI, Ms. LANDRIEU, Mrs. FEINSTEIN, Mrs LINCOLN, Ms. SNOWE, Mr. LAUTENBERG, Mr. REID, Mr. REED, Mr. DODD, Mr. INOUYE, Mr. KERRY, Mr. ROBB, Mr. SCHUMER, Mr. WELLSTONE, and Mr. KENNEDY):

S. 51. A bill to reauthorize the Federal programs to prevent violence against women, and for other purposes; to the Committee on the Judiciary.

VIOLENCE AGAINST WOMEN ACT II

Mr. BIDEN. Mr. President, I rise to introduce the Violence Against Women Act II. I am pleased to be joined by several of my colleagues on both sides of the aisle who are co-sponsoring this legislation. My colleagues joining me today include Senators SPECTER, BOXER, MURRAY, MIKULSKI, LANDRIEU, FEINSTEIN, LINCOLN, SNOWE, LAUTENBERG, REID, REED, DODD, INOUYE, KERRY, ROBB, KENNEDY, WELLSTONE, and SCHUMER.

Nearly 9 years ago when I first introduced the Violence Against Women Act, it was by no means a given that this body would consider it, let alone pass it. Although it may seem hard to believe now, at that time—less than a decade ago—few thought it either appropriate or necessary for national legislation to be enacted to confront the very serious problem of domestic violence and sexual assault.

The road to enactment was a long one. As Chairman of the Judiciary Committee in the early 1990's, I convened several hearings on the bill and released many reports on the problem of violence against women. Three times I convinced the Judiciary Committee to favorably report the bill to the full Senate. Twice, I had to re-introduce the bill.

Nearly 4 years passed from the original Violence Against Women Act's first introduction before the Senate fully considered it. But at last—in September of 1994—the Violence Against Women Act became the law of our land. And, it did so with substantial support from my colleagues on both sides of the aisle, clearing demonstrating what I have always known to be the case—that the fight to combat domestic violence and sexual assault is not a partisan issue, but a serious problem that affects our constituents in every one of our States and in every one of our home towns across this country.

But even this bipartisan support to pass the act into law did not resolve the dispute as to whether the problem of violence against women merited a national response. As many of my colleagues will recall, throughout the summer of 1995, the Congress debated whether or not we should actually fund the Violence Against Women Act.

Fortunately, by the fall of that year, the Congress finally reached a consensus that the Federal Government both can and should provide significant resources and leadership in a national effort to end the violence women suffer at the hands of men, many of who they live with or have children with. That consensus continues to this day.

Let me provide just a few statistics and examples to show how successful the initiative to fight violence against women has been, but how far we still have to go:

On the one hand, the number of women killed by someone with whom they are in an intimate relationship—such as a current or former spouse, a cohabiting partner, or a current or former boyfriend—had decreased markedly—by 60 percent—in 1996 as compared with where it was 20 years earlier.

And, the total number of women victims of domestic violence is decreasing as well. In 1993, the year before the Violence Against Women Act became law, 1.1 million women reported being the victim of domestic violence or sexual assault. By 1996, the last year for which we have complete statistics, the number had fallen by 25 percent to about 840,000. This is still far, far too many, of course—even one victim is too many—but it represents an encouraging trend nonetheless that I believe we can attribute in part to the successes of this national effort.

However, the news is not all good. One-fourth—25 percent—of women responding to a nationwide survey in late 1995 and early 1996 said that they had been raped or physically assaulted by a current or former spouse, cohabiting partner, or date in their lifetimes. And demonstrating that violence against women is primarily domestic partner violence, 76 percent of women who have been raped or physically assaulted since age 18 were attacked by a current or former husband, cohabiting partner, or date. These are troubling statistics. But the successes of the Violence Against Women Act are combating these trends in a variety of ways, such as:

Putting thousands of trained police officers on the streets to arrest abusers before they can victimize again; supporting police officers as they work to help victims; adding trained prosecutors who put these abusers where they belong—in jail—or enforce protective orders to keep them away from those they have abused; tens of thousands of women and their children have access to shelters that provide a safe haven; victims of domestic violence and sexual assault have access to a wide array of support services from counseling to legal assistance; and a national domestic violence hotline handles hundreds of thousands of calls for help.

Our consensus in the Congress reflects a fundamental agreement across our Nation: The time when a woman had to suffer—in silence and alone—because the criminal who is victimizing her happens to be her husband or boyfriend is on its way to becoming ancient history.

Today, we must build on this consensus and deliver on its promise—because for all the strides we have made, there remain far too many women and their children who are still vulnerable. The statistics I reported just now reflect that reality. Just because we have had some success does not mean we can become complacent and abandon the fight against domestic violence now. And so, the legislation I am introducing today—the Violence Against Women Act II—has one simple goal: make more women and their children more safe.

This legislation builds on the tremendous successes of the original Violence Against Women Act in three key ways—it continues what is working; it seeks to improve what could work better; and it expands the national fight into new areas where the need is clear.

There are many other ideas and proposals in addition to those contained in this bill that deserve serious consideration before the full Senate debates this legislation. And, I am sure there are ways to refine and improve this bill. I look forward to working with my colleagues on both sides of the aisle to make this bill the best it can be. There are many Senators who are deeply committed to combating violence against women, and many of them have joined me today, for which I am grateful. I encourage all of my colleagues to review this legislation, offer their insights and lend their names as co-sponsors and leaders in the fight against domestic violence. I believe they will find that it offers comprehensive, sensible, workable, and cost-effective responses to combating violence against women.

Before I describe some highlights of this legislation, let me first emphasize what I believe to be the key, core element of the violence against women II. That central factor is a simple one—the money. We need to ensure that there continues to be dollars for cops, courts, prosecutors, judges, shelters, and all the elements which are working. Keeping the money flowing to where it works requires one simple yet crucial step—extending the violent crime reduction trust fund to 2002. The trust fund is due to expire in 2000. This is perhaps the most significant provision in the act I introduce today, and without it we will fail in the future to replicate our past successes in combating violence against women.

Beyond this fundamental step—and I cannot overemphasize the importance of the trust fund—there are four key policy areas addressed by the Violence Against Women Act II: strengthening law enforcement's tools; improving services for the victims of violence; reducing violence against children; and enhancing and supporting training and education efforts to enlist many more professionals in our shared fight.

On the law enforcement front, the bill introduced today starts with needed improvements to promote interstate and inter-jurisdictional enforcement of "stay-away," or protection, orders. This is also known as giving "full faith and credit" to valid protection orders from any jurisdiction where they were issued. It often happens that the cops in one State may not know that there is a valid protection order issued by another jurisdiction. It is not their fault—it is often a matter of training to recognize valid orders or the means of communicating and sharing information across state lines. This is a mobile society, and victims of domestic violence often find they must flee the place they live and where they previously obtained a protection order so that they can keep themselves and their children safe. For these situations, we propose today a few simple fixes: Permitting state and local cops to use their "pro-arrest" grants for this kind of information sharing; encouraging states to enter into the cooperative agreements necessary to help interstate enforcement; and calling on the Justice Department to help develop new protocols and disseminate the "best practices" of State and local cops.

These are all simple and common sense solutions, but very necessary nevertheless. This bill will help these fixes become reality.

Other initiatives in this bill are to: Enhance and expand the resources available for courts to handle domestic violence and sexual assault cases; target the "date-rape" drug with the maximum federal penalties; continue funding for police, prosecutors, law enforcement efforts in rural communities, and for anti-stalking initiatives; and extend the support of local police "pro-arrest" efforts.

Of course, a comprehensive effort to reduce violence against women and lessen the harm it causes must do more than just arrest, convict and imprison abusers—we must also help the victims of violence. This legislation proposes to assist these crime victims in three fundamental ways: Providing a means for immediate protections from their abusers, such as through access to shelters; easier access to the courts and to the legal assistance necessary to keep their abusers away from them; and removing the "catch-22s" that sometimes literally compel women to stay with their abusers—such as discriminatory insurance policies that could force a mother to choose between turning in the man who is beating her or keeping health insurance for her children. Another "catch-22" affects immigrant women who are sometimes faced with a similar insidious "choice." In 1994, we worked out provisions so battered immigrant women—whose ability to stay in the country was dependent on their husbands—would not have to choose between staying in this country and continuing to be beaten, or leaving their abusers, but in doing so have to also leave our country (perhaps even without their children). This bill fixes aspects of this problem that leave an abused woman with such a horrible, unfair and immoral choice.

Those are this bill's three general policy goals. Let me outline more specifically just how our legislation proposes to boost the protections for the victims of violence.

First and foremost, we must build on our successful effort to provide more shelter space for battered women and their children. There have been significant efforts already to fund shelters for women who are victims of domestic violence and their children. However, the unmet need for shelter remains significant. For example, data from six states, which together have about 16 percent of the nation's population had to turn away more than 45,000 battered women who were seeking shelter because they simply did not have the space. Extrapolating these figures to the entire nation suggests that about 300,000 battered women and their children are turned away from shelters every year.

Current appropriations for shelter space stands at about $89 million. This legislation boosts this amount to $500 million over the the next three years. The additional money will help close the "shelter-gap" and bring us closer to the day when all battered women will have a safe, secure haven when they need it most.

We must also provide women with the Assistance necessary so that they can get access to help from our justice system. This bill does so in some clear and common sense ways, such as: Reauthorizing the expiring program to provide about $1 million per year for victim and witness counselors in court; continuing and expanding the highly successful national domestic violence hotline at a cost of about $4 million a year; and developing a coordinated approach to connecting victims of domestic abuse with trained, volunteer attorneys who can provide critical legal assistant.

To them at this very vulnerable time in their lives. I urge my colleagues to support—and even build upon—our efforts to put an end these real problems.

A third area where this legislation seeks action is on reducing violence against children. As my colleagues know, households where a woman is beaten are much more likely to also be home to child abuse and neglect. Moreover, we know that children who witness violence are much more likely to repeat the cycle when they are adults.

Here, our legislation proposes to continue two longstanding programs by providing: Resources to serve runaway and homeless youth who are victims of sexual abuse; and resources for court-appointed special advocates and special child abuse training for court personnel through the victims of child abuse act (originally cosponsored by Senator THURMOND and myself in 1990.)

The remaining area targeted by the Violence Against Women Act—two includes several efforts to help train and educate those already on the front-lines of the battle against violence against women.

Over the past few years, I have worked with several corporations who have begun their own workplace initiatives—everything from 24-hour assistance hotlines for their employees, training to help managers better recognize domestic violence, and even comprehensive employee assistant efforts.

Helping other companies start or improve—on their own initiative—such anti-violence efforts is why this legislation includes a national workplace clearinghouse on violence against women. The clearinghouse will provide technical assistance and help circulate best practices to companies interested in combating violence against women.

Another problem in the field involves the complex nature of criminal investigations into sexual assault cases. To assist the cops in the field who conduct these investigations, this legislation calls on the Attorney General to evaluate and recommend standards of training and practice of forensic examinations following sexual assaults.

Finally, this legislation continues the authorization for rape prevention and education programs. These programs provide public awareness and education efforts to teach young women how to protect themselves from rape and attack.

I have just offered the most general outline of the contents of the Violence Against Women Act II. I introduced this legislation in the last session of Congress. My colleagues and I worked diligently and productively on it last year and made substantial progress. This year, I am determined that we will complete the work we started last year and pass the Violence Against Women Act II.

I urge my colleagues to review this legislation carefully. This is not just a bipartisan effort—it is a non-partisan effort in which I hope every one of my colleagues will join me. I am confident they will find this bill a comprehensive and practical response that will help us meet a goal I believe is shared by every member of this Senate—making more women and more children more safe now and in the future.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 51

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Violence Against Women Act II".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—STRENGTHENING LAW ENFORCEMENT TO REDUCE VIOLENCE AGAINST WOMEN

Sec. 101. Full faith and credit enforcement of protection orders.
Sec. 102. Role of courts.
Sec. 103. Reauthorization of STOP grants.
Sec. 104. Control of date-rape drug.
Sec. 105. Reauthorization of grants to encourage arrest policies.
Sec. 106. Violence against women in the military system.
Sec. 107. Hate crimes prevention.
Sec. 108. Reauthorization of rural domestic violence and child abuse enforcement grants.
Sec. 109. National stalker and domestic violence reduction.
Sec. 110. Amendments to domestic violence and stalking offenses.

TITLE II—STRENGTHENING SERVICES TO VICTIMS OF VIOLENCE

Sec. 201. Civil legal assistance.
Sec. 202. Shelters for battered women and children.
Sec. 203. Victims of abuse insurance protection.
Sec. 204. National domestic violence hotline.
Sec. 205. Federal victims' counselors.
Sec. 206. Battered women's employment protection.
Sec. 207. Ensuring unemployment compensation.
Sec. 208. Battered immigrant women.
Sec. 209. Older women's protection from violence.

TITLE III—LIMITING THE EFFECTS OF VIOLENCE ON CHILDREN

Sec. 301. Safe havens for children.
Sec. 302. Study of child custody laws in domestic violence cases.
Sec. 303. Reauthorization of runaway and homeless youth grants.
Sec. 304. Reauthorization of victims of child abuse programs.

TITLE IV—STRENGTHENING EDUCATION AND TRAINING TO COMBAT VIOLENCE AGAINST WOMEN

Sec. 401. Education and training of health professionals.
Sec. 402. Education and training in appropriate responses to violence against women.
Sec. 403. Rape prevention and education.
Sec. 404. Violence against women prevention education among youth.
Sec. 405. Education and training to end violence against and abuse of women with disabilities.
Sec. 406. Community initiatives.
Sec. 407. National commission on standards of practice and training for sexual assault examinations.
Sec. 408. National workplace clearinghouse on violence against women.
Sec. 409. Strengthening research to combat violence against women.

TITLE V—EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND

Sec. 501. Extension.

SEC. 2. DEFINITIONS.

In this Act—

(1) the term "domestic violence" has the meaning given the term in section 2003 of

title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2); and

(2) the term "sexual assault" has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C.3796gg-2).

TITLE I—STRENGTHENING LAW ENFORCEMENT TO REDUCE VIOLENCE AGAINST WOMEN

SEC. 101. FULL FAITH AND CREDIT ENFORCEMENT OF PROTECTION ORDERS.

(a) In General.—Part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh et seq.) is amended—

(1) in the part heading, by adding "**AND ENFORCEMENT OF PROTECTION ORDERS**" at the end;

(2) in section 2101(b), by adding at the end the following:

"(7) To provide technical assistance and computer and other equipment to police departments, prosecutors, courts, and tribal jurisdictions to facilitate the widespread enforcement of protection orders, including interstate enforcement, enforcement between States and tribal jurisdictions, and enforcement between tribal jurisdictions."; and

(3) in section 2102—

(A) in subsection (b)—

(i) in paragraph (1), by striking "and" at the end;

(ii) in paragraph (2), by striking the period at the end and inserting ", including the enforcement of protection orders from other States and jurisdictions (including tribal jurisdictions);"; and

(iii) by adding at the end the following:

"(3) have established cooperative agreements with neighboring jurisdictions to facilitate the enforcement of protection orders from other States and jurisdictions (including tribal jurisdictions); and

"(4) will give priority to using the grant to develop and install data collection and communication systems, including computerized systems, linking police, prosecutors, courts, and tribal jurisdictions for the purpose of identifying and tracking protection orders and violations of protection orders."; and

(B) by adding at the end the following:

"(c) Dissemination of Information.—The Attorney General shall annually compile and broadly disseminate (including through electronic publication) information about successful data collection and communication systems that meet the purposes described in subsection (b)(3). Such dissemination shall target States, State and local courts, Indian tribal governments, and units of local government.".

(b) Custody and Protection Orders.—Section 2265 of title 18, United States Code, is amended by adding at the end the following:

"(d) Registration.—

"(1) In general.—A State or Indian tribe shall not notify the party against whom a protection order has been made that the protection order has been registered or filed in the State or tribal jurisdiction unless requested to do so by the party protected under that order.

"(2) No prior registration or filing required.—Nothing in this subsection may be construed to require the prior filing or registration of a protection order in an enforcing State in order to secure enforcement pursuant to subsection (a).

"(e) Notice.—A protection order that is otherwise consistent with this section shall be accorded full faith and credit and enforced notwithstanding the failure to provide notice to the party against whom the order is made of its registration or filing in the enforcing State or Indian tribe.".

(c) Technical Amendment.—The table of contents for title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended in the item relating to part U, by adding "And Enforcement of Protection Orders" at the end.

SEC. 102. ROLE OF COURTS.

(a) Courts as Eligible STOP Grantees.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended—

(1) in section 2001—

(A) in subsection (a)—

(i) by inserting "State and local courts," after "States,"; and

(ii) by inserting "tribal courts," after "Indian tribal governments,"; and

(B) in subsection (b)—

(i) in each of paragraphs (1) and (2), by inserting ", judges and other court personnel," after "law enforcement officers"; and

(ii) in paragraph (3), by inserting ", court," after "police"; and

(2) in section 2002—

(A) in subsection (a), by inserting "State and local courts," after "States," the second place it appears;

(B) in subsection (c), by striking paragraph (3) and inserting the following:

"(3) of the amount granted—

"(A) not less than 25 percent shall be allocated to police and prosecutors;

"(B) not less than 30 percent shall be allocated to victim services; and

"(C) not less than 10 percent shall be allocated for State and local courts; and"; and

(C) in subsection (d)(1), by inserting "court," after "law enforcement,".

(b) Reauthorization of State Justice Institute Grants.—Chapter 1 of subtitle D of the Violence Against Women Act of 1994 (42 U.S.C. 13991 et seq.) is amended—

(1) in section 40412—

(A) in paragraph (6), by inserting "stereotyping of individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)) who are victims of rape, sexual assault, abuse, or violence," before "racial stereotyping";

(B) in paragraph (13), by inserting "or among individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102))," after "socioeconomic groups,";

(C) in paragraph (18), by striking "and" at the end;

(D) in paragraph (19), by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

"(20) domestic violence and child abuse in custody determinations and stereotypes regarding the fitness of individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)) to retain custody of children in domestic violence cases;

"(21) promising practices in the vertical management of domestic violence offender cases; and

"(22) issues relating to violence against and abuse of individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)), including the nature of physical, mental, and communications disabilities, the special vulnerability to violence of individuals with disabilities, and the types of violence and abuse experienced by individuals with disabilities."; and

(2) in section 40414, by striking subsection (a) and inserting the following:

"(a) In General.—There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this chapter $600,000 for each of fiscal years 2000 through 2002.".

(c) Federal Judicial Personnel.—In carrying out section 620(b)(3) of title 28, United States Code, the Federal Judicial Center, shall include in its educational and training programs, including the training programs for newly appointed judges, information on the topics listed in section 40412 of the Equal Justice for Women in the Courts Act (42 U.S.C. 13992) that pertain to issues within the jurisdiction of the Federal courts, and shall prepare materials necessary to implement this section and the amendments made by this section.

(d) Grants To Encourage Arrest Policies.—

(1) Eligible grantees; use of grants for education.—Section 2101 of part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended—

(A) in subsection (a), by inserting "State and local courts, tribal courts," after "Indian tribal governments,";

(B) in each of subsections (b) and (c), by inserting "State and local courts," after "Indian tribal governments"; and

(C) in subsection (b)—

(i) in paragraph (2), by striking "policies and" and inserting "policies, educational programs, and"; and

(ii) in each of paragraphs (3) and (4), by inserting "parole and probation officers," after "prosecutors," each place that term appears.

(2) Allotment for Indian tribes.—Section 2101 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended by adding at the end the following:

"(d) Allotment for Indian Tribes.—

"(1) In general.—Not less than 5 percent of the total amount made available for grants under this section for each fiscal year shall be available for grants to Indian tribal governments.

"(2) Reallotment of funds.—If, beginning 12 months after the first day of any fiscal year for which amounts are made available under this subsection, any amount made available under this subsection remains unobligated, the unobligated amount may be allocated without regard to paragraph (1) of this subsection.".

SEC. 103. REAUTHORIZATION OF STOP GRANTS.

(a) Reauthorization.—Section 1001(a)(18) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(18)) is amended to read as follows:

"(18) There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out part T $184,000,000 for fiscal year 2000, $185,000,000 for fiscal year 2001, and $186,000,000 for fiscal year 2002.".

(b) State Coalition Grants.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended—

(1) in section 2001—

(A) in subsection (b)(5), by inserting ", and the forms of violence and abuse suffered by women who are individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102))"; and

(B) by adding at the end the following:

"(c) State Coalition Grants.—

"(1) PURPOSE.—The Attorney General shall make grants to each State domestic violence coalition and sexual assault coalition for the purposes of coordinating State victim services activities, and collaborating and coordinating with Federal, State, and local entities engaged in violence against women activities.

"(2) GRANTS TO STATE COALITIONS.—The Attorney General shall make grants to—

"(A) each State domestic violence coalition, as determined by the Secretary of Health and Human Services through the Family Violence Prevention and Services Act (42 U.S.C. 10410 et seq.); and

"(B) each State sexual assault coalition, as determined by the Secretary of Health and Human Services under the Public Health Service Act.

"(3) ELIGIBILITY FOR OTHER GRANTS.—Receipt of an award under this subsection by each State domestic violence and sexual assault coalition shall not preclude the coalition from receiving additional grants under this part to carry out the purposes described in subsection (b).";

(2) in section 2002(b)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following:

"(2) 2 percent shall be available for grants for State coalitions under section 2001(c), with the coalition for each State, the coalition for the District of Columbia, the coalition for the Commonwealth of Puerto Rico, and the coalition for the combined Territories of the United States each receiving an amount equal to 1/53 of the total amount made available under this paragraph for each fiscal year;"; and

(3) in section 2003—

(A) in paragraph (1), by inserting "by a person with whom the victim has engaged in a social relationship of a romantic or intimate nature" after "child in common,";

(B) in paragraph (8)—

(i) by striking "assisting domestic violence or sexual assault victims through the legal process" and inserting "providing assistance for victims seeking legal, social, or health care services"; and

(ii) by inserting before the period at the end the following: ", except that the term does not include any program or activity that is targeted primarily for offenders"; and

(C) in paragraph (7), by striking "physical".

(d) REALLOTMENT OF FUNDS.—Section 2002(e) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-1(e)) is amended by adding at the end the following:

"(3) REALLOTMENT OF FUNDS.—

"(A) IN GENERAL.—If, beginning 1 year after the last day of any fiscal year for which amounts are made available under section 1001(a)(18), any amount made available remains unobligated, the unobligated amount may be allocated by a State to fulfill the purposes described in section 2001(b), without regard to subsection (c)(3) of this section.

"(B) GUIDELINES.—The Attorney General shall promulgate guidelines to implement this paragraph.".

SEC. 104. CONTROL OF DATE-RAPE DRUG.

Notwithstanding section 201 or subsection (a) or (b) of section 202 of the Controlled Substances Act (21 U.S.C. 811, 812(a), 812(b)) respecting the scheduling of controlled substances, the Attorney General shall by order transfer flunitrazepam from schedule IV of such Act to schedule I of such Act.

SEC. 105. REAUTHORIZATION OF GRANTS TO ENCOURAGE ARREST POLICIES.

Section 1001(a)(19) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(19)) is amended to read as follows:

"(19) There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out part U $64,000,000 for fiscal year 2000, $65,000,000 for fiscal year 2001, and $66,000,000 for fiscal year 2002.".

SEC. 106. VIOLENCE AGAINST WOMEN IN THE MILITARY SYSTEM.

(a) CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES BY PERSONS ACCOMPANYING THE ARMED FORCES.—

(1) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 211 the following:

"CHAPTER 212—DOMESTIC VIOLENCE AND SEXUAL ASSAULT OFFENSES COMMITTED OUTSIDE THE UNITED STATES

"Sec.
"3261. Definitions.
"3262. Domestic violence and sexual assault offenses committed by persons employed by or accompanying, the Armed Forces outside the United States.
"3263. Delivery to authorities of foreign countries.
"3264. Regulations.

"§ 3261. Definitions

"In this chapter—

"(1) the term 'armed forces' has the same meaning as in section 101(a)(4) of title 10;

"(2) a person is 'employed by the Armed Forces outside of the United States' if the person—

"(A) is an employee of the Department of Defense;

"(B) is present or residing outside of the United States in connection with such employment; and

"(C) is a national of the United States, as defined in 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(3) a person is 'accompanying the Armed Forces outside of the United States' if the person—

"(A) is a dependent of a member of the armed forces, as determined under regulations prescribed pursuant to section 3264;

"(B) is a dependent of an employee of the Department of Defense, as determined under regulations prescribed pursuant to section 3264;

"(C) is residing with the member or employee outside of the United States; and

"(D) is a national of the United States, as defined in 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"§ 3262. Domestic violence and sexual assault offenses committed by persons employed by or accompanying the Armed Forces outside the United States

"(a) IN GENERAL.—Whoever, while employed by or accompanying the Armed Forces outside of the United States, engages in conduct that would constitute a domestic violence or sexual assault offense, if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, shall be subject to prosecution in a district court of the United States.

"(b) CONCURRENT JURISDICTION.—Nothing contained in this chapter deprives courts-martial, military commissions, provost courts, or other military tribunals of concurrent jurisdiction with respect to offenders or offenses that by statute or by the law of war may be tried by courts-martial, military commissions, provost courts, or other military tribunals.

"(c) PRIORITY OF EXERCISE OF JURISDICTION.—

"(1) ACTION BY MILITARY TRIBUNAL.—No prosecution may be commenced in the United States district court under this section until an official of the Department of Defense designated pursuant to regulations jointly prescribed by the Attorney General, the Secretary of Defense, and the Secretary of Transportation (with respect to the Coast Guard when it is not operating as a service in the Navy) waives the exercise of jurisdiction referred to in subsection (b) in accordance with procedures set forth in the regulations.

"(2) ACTION BY FOREIGN GOVERNMENT.—No prosecution may be commenced in a district court under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting such offense, except upon the approval of the Attorney General of the United States or the Deputy Attorney General of the United States (or a person acting in either such capacity), which function of approval shall not be delegated.

"(d) ARRESTS.—

"(1) LAW ENFORCEMENT PERSONNEL.—The Secretary of Defense may designate and authorize any person serving in a law enforcement position in the Department of Defense to arrest outside of the United States any person described in subsection (a) if there is probable cause to believe that such person engaged in conduct which constitutes a criminal offense under subsection (a).

"(2) RELEASE TO CIVILIAN LAW ENFORCEMENT.—A person arrested under paragraph (1) shall be released to the custody of civilian law enforcement authorities of the United States for removal to the United States for judicial proceedings in the United States district court of the named jurisdiction of origin of the person arrested in relation to conduct referred to in such paragraph if—

"(A) military jurisdiction has been waived under subsection (c)(1) in the case of that person; and

"(B) that person has not been, and is not to be, delivered to authorities of a foreign country under section 3263; or

"§ 3263. Delivery to authorities of foreign countries

"(a) IN GENERAL.—Any person designated and authorized under section 3262(d) may deliver a person described in section 3262(a) to the appropriate authorities of a foreign country in which the person is alleged to have engaged in conduct described in subsection (a) if—

"(1) the appropriate authorities of that country request the delivery of the person to such country for trial for such conduct as an offense under the laws of that country; and

"(2) the delivery of such person to that country is authorized by a treaty or other international agreement to which the United States is a party.

"(b) DETERMINATION BY THE SECRETARY.—The Secretary of Defense shall determine which officials of a foreign country constitute appropriate authorities for purposes of this section.

"§ 3264. Regulations

"The Secretary of Defense shall issue regulations governing the apprehension, detention, and removal of persons under this chapter. Such regulations shall be uniform throughout the Department of Defense.".

(2) CLERICAL AMENDMENT.—The table of chapters at the beginning of part II of title 18, United States Code, is amended by inserting after the item relating to chapter 211 the following:

"212. Domestic Violence and Sexual Assault Offenses Committed Outside the United States .... 3261".

(b) RECORDS OF MILITARY JUSTICE ACTIONS.—

(1) IN GENERAL.—Subchapter XI of chapter 47 of title 10, United States Code, is amended by adding at the end the following:

"§ 940a. Art. 140a Military justice information: transmission to Director of the Federal Bureau of Investigation

"Whenever a member of the armed forces is discharged or dismissed from the armed forces or is released from active duty, the Secretary of the military department concerned shall transmit to the Director of the Federal Bureau of Investigation a copy of records of any penal action taken against the member during that period under this chapter, including any nonjudicial punishment imposed under section 815 of this title (article 15).".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter IX of chapter 47 of title 10, United States Code, is amended by adding at the end the following:

"940a. 140a. Military justice information: transmission to the Director of the Federal Bureau of Investigation.".

(c) TRANSITIONAL COMPENSATION.—Section 1059(g)(2) of title 10, United States Code, is amended by striking "the Secretary may not resume such payments" and inserting "the Secretary may, under circumstances determined extraordinary by the Secretary, resume such payments".

SEC. 107. HATE CRIMES PREVENTION.

(a) DEFINITION.—In this section, the term "hate crime" has the same meaning as in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note).

(b) PROHIBITION OF CERTAIN ACTS OF VIOLENCE.—Section 245 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c)(1) Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person—

"(A) shall be imprisoned not more than 10 years, or fined in accordance with this title, or both; and

"(B) shall be imprisoned for any term of years or for life, or fined in accordance with this title, or both if—

"(i) death results from the acts committed in violation of this paragraph; or

"(ii) the acts committed in violation of this paragraph include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

"(2)(A) Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B), willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive device, attempts to cause bodily injury to any person, because of the actual or perceived religion, gender, sexual orientation, or disability of any person—

"(i) shall be imprisoned not more than 10 years, or fined in accordance with this title, or both; and

"(ii) shall be imprisoned for any term of years or for life, or fined in accordance with this title, or both, if—

"(I) death results from the acts committed in violation of this paragraph; or

"(II) the acts committed in violation of this paragraph include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

"(B) For purposes of subparagraph (A), the circumstances described in this subparagraph are that—

"(i) in connection with the offense, the defendant or the victim travels in interstate or foreign commerce, uses a facility or instrumentality of interstate or foreign commerce, or engages in any activity affecting interstate or foreign commerce; or

"(ii) the offense is in or affects interstate or foreign commerce.".

(c) DUTIES OF FEDERAL SENTENCING COMMISSION.—

(1) AMENDMENT OF FEDERAL SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall study the issue of adult recruitment of juveniles to commit hate crimes and shall, if appropriate amend the Federal sentencing guidelines to provide sentencing enhancements (in addition to the sentencing enhancement provided for the use of a minor during the commission of an offense) for adult defendants who recruit juveniles to assist in the commission of hate crimes.

(2) CONSISTENCY WITH OTHER GUIDELINES.—In carrying out this subsection, the United States Sentencing Commission shall—

(A) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(B) avoid duplicative punishments for substantially the same offense.

(d) GRANT PROGRAM.—

(1) AUTHORITY TO MAKE GRANTS.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice shall make grants, in accordance with such regulations as the Attorney General may prescribe, to State and local programs designed to combat hate crimes committed by juveniles.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(e) AUTHORIZATION FOR ADDITIONAL PERSONNEL TO ASSIST STATE AND LOCAL LAW ENFORCEMENT.—There are authorized to be appropriated to the Department of the Treasury and the Department of Justice, including the Community Relations Service, for fiscal years 2000, 2001, and 2002 such sums as are necessary to increase the number of personnel to prevent and respond to alleged violations of section 245 of title 18, United States Code (as amended by this section).

(f) SEVERABILITY.—If any provision of this section, an amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this section, the amendments made by this section, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 108. REAUTHORIZATION OF RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT GRANTS.

(a) REAUTHORIZATION.—Section 40295(c)(1) of the Violence Against Women Act of 1994 (42 U.S.C. 13971(c)(1)) is amended to read as follows:

"(1) IN GENERAL.—There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section—

"(A) $34,000,000 for fiscal year 2000;

"(B) $35,000,000 for fiscal year 2001; and

"(C) $36,000,000 for fiscal year 2002.".

(b) INDIAN TRIBES.—Section 40295(c) of the Violence Against Women Act of 1994 (42 U.S.C. 13971(c)) is amended by adding at the end the following:

"(3) ALLOTMENT FOR INDIAN TRIBES.—

"(A) IN GENERAL.—Not less than 5 percent of the total amount made available to carry out this section for each fiscal year shall be available for grants to Indian tribal governments.

"(B) REALLOTMENT OF FUNDS.—If, beginning 12 months after the last day of any fiscal year for which amounts are made available to carry out this paragraph, any amount made available under this paragraph remains unobligated, the unobligated amount may be allocated without regard to subparagraph (A).".

SEC. 109. NATIONAL STALKER AND DOMESTIC VIOLENCE REDUCTION.

(a) REAUTHORIZATION.—Section 40603 of the Violence Against Women Act of 1994 (42 U.S.C. 14032) is amended to read as follows:

"SEC. 40603. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this subtitle—

"(1) $2,000,000 for fiscal year 2000;

"(2) $3,000,000 for fiscal year 2001; and

"(3) $4,000,000 for fiscal year 2002.".

(b) TECHNICAL AMENDMENT.—Section 40602(a) of the Violence Against Women Act of 1994 (42 U.S.C. 14031 note) is amended by inserting "and implement" after "improve".

SEC. 110. AMENDMENTS TO DOMESTIC VIOLENCE AND STALKING OFFENSES.

(a) INTERSTATE DOMESTIC VIOLENCE.—Section 2261(a) of title 18, United States Code, is amended to read as follows:

"(a) OFFENSES.—

"(1) TRAVEL OR CONDUCT OF OFFENDER.—A person who travels in interstate or foreign commerce or to or from Indian country with the intent to injure, harass, or intimidate a spouse or intimate partner, and who, in the course of or as a result of such travel, commits or attempts to commit a crime of violence against that spouse or intimate partner, shall be punished as provided in subsection (b).

"(2) CAUSING TRAVEL OF VICTIM.—A person who causes a spouse or intimate partner to travel in interstate or foreign commerce or to or from Indian country by force, coercion, duress, or fraud, and who, in the course of or as a result of such conduct or travel, commits or attempts to commit a crime of violence against that spouse or intimate partner, shall be punished as provided in subsection (b).".

(b) INTERSTATE STALKING.—Section 2261A of title 18, United States Code, is amended to read as follows:

"§ 2261A. Interstate stalking

"Whoever—

"(1) with the intent to injure, harass, or intimidate another person, engages in the special maritime and territorial jurisdiction of the United States in conduct that places that person in reasonable fear of the death of, or serious bodily injury to, that person or a member of the immediate family (as defined in section 115) of that person; or

"(2) with the intent to injure, harass, or intimidate another person, travels in interstate or foreign commerce, or enters or leaves Indian country, and, in the course of or as a result of such travel, engages in conduct that places that person in reasonable fear of the death of, or serious bodily injury to, that person or a member of that person's immediate family (as defined in section 115), shall be punished as provided in section 2261.".

(c) Interstate Violation of Protection Order.—Section 2262(a) of title 18, United States Code, is amended to read as follows:

"(a) Offenses.—

"(1) Travel or conduct of offender.—A person who travels in interstate or foreign commerce, or enters of leaves Indian country, with the intent to engage in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, and subsequently engages in such conduct, shall be punished as provided in subsection (b).

"(2) Causing travel of victim.—A person who causes another person to travel in interstate or foreign commerce or to or from Indian country by force, coercion, duress, or fraud, and in the course of or as a result of such conduct or travel engages in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, shall be punished as provided in subsection (b).".

(d) Full Faith and Credit.—Section 2265 of title 18, United States Code, is amended by adding at the end the following:

"(d) Tribal Court Jurisdiction.—For purposes of this section, a tribal court shall be deemed to have jurisdiction over any activity occurring in Indian country.".

(e) Definitions.—Section 2266 of title 18, United States Code, is amended to read as follows:

"§ 2266. Definitions

"In this chapter:

"(1) Bodily injury.—The term 'bodily injury' means any act, except one done in self-defense, that results in physical injury or sexual abuse.

"(2) Enters or leaves Indian country.—The term 'enters or leaves Indian country' includes leaving the jurisdiction of 1 tribal government and entering the jurisdiction of another tribal government.

"(3) Indian country.—The term 'Indian country' has the meaning stated in section 1151.

"(4) Protection order.—The term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders issued pursuant to State divorce and child custody laws) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion filed by or on behalf of a person seeking protection. Custody and visitation provisions in protection orders are subject to this chapter.

"(5) Serious bodily injury.—The term 'serious bodily injury' has the meaning stated in section 2119(2).

"(6) Spouse or intimate partner.—The term 'spouse or intimate partner' includes—

"(A) a spouse, a former spouse, a person who shares a child in common with the abuser, a person who cohabits or has cohabited with the abuser as a spouse, and a person with whom the abuser has engaged in a social relationship of a romantic or intimate nature; and

"(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State or tribal jurisdiction in which the injury occurred or where the victim resides.

"(7) State.—The term 'State' includes a State of the United States, the District of Columbia, a commonwealth, territory, or possession of the United States.

"(8) Travel in interstate or foreign commerce.—The term 'travel in interstate or foreign commerce' does not include travel from 1 State to another by an individual who is a member of an Indian tribe and who remains at all times in the territory of the Indian tribe of which the individual is a member.".

TITLE II—STRENGTHENING SERVICES TO VICTIMS OF VIOLENCE

SEC. 201. CIVIL LEGAL ASSISTANCE.

(a) In General.—The purpose of this section is to enable the Attorney General to make grants to further the health, safety, and economic well-being of victims of domestic violence, stalking, and sexual assault by providing civil legal assistance to such victims.

(b) Civil Legal Assistance Grants.—The Attorney General may make grants under this subsection to private nonprofit entities, publicly funded organizations not acting in a governmental capacity, and Indian tribal governments and affiliated organizations, which shall be used—

(1) to implement, expand, and establish cooperative efforts and projects between domestic violence and sexual assault victim advocacy organizations and civil legal assistance providers to strengthen a broad range of civil legal assistance for victims of domestic violence, stalking, and sexual assault;

(2) to implement, expand, and establish efforts and projects to strengthen a broad range of civil legal assistance for victims of domestic violence, stalking, and sexual assault by organizations with a demonstrated history of providing direct legal or advocacy services on behalf of these victims; and

(3) to provide training, technical assistance, and data collection to improve the capacity of grantees and other entities to offer civil legal assistance to victims of domestic violence, stalking, and sexual assault.

(c) Grant to Create Database of Programs That Provide Civil Legal Assistance to Victims of Domestic Violence, Stalking, and Sexual Assault.—

(1) In general.—The Attorney General may make a grant to establish, operate, and maintain a national computer database of programs that provide civil legal assistance to victims of domestic violence, stalking, and sexual assault.

(2) Database requirements.—A database established with a grant under this subsection shall be—

(A) designed to facilitate the referral of persons to programs that provide civil legal assistance to victims of domestic violence, stalking, and sexual assault; and

(B) operated in coordination with the national domestic violence hotline established under section 316 of the Family Violence Prevention and Services Act.

(d) Evaluation.—The Attorney General may evaluate the grants funded under this section through contracts or other arrangements with entities expert on domestic violence, stalking, and sexual assault, and on evaluation research.

(e) Authorization of Appropriations.—

(1) In general.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section—

(A) $34,000,000 for fiscal year 2000;

(B) $35,000,000 for fiscal year 2001; and

(C) $36,000,000 for fiscal year 2002.

(2) Allocation of funds.—Of the amount made available under this subsection in each fiscal year, not less than 5 percent shall be used for grants for programs that assist victims of domestic violence, stalking, and sexual assault on lands within the jurisdiction of an Indian tribe.

(3) Nonsupplantation.—Amounts made available under this section shall be used to supplement and not supplant other Federal, State, and local funds expended to further the purpose of this section.

SEC. 202. SHELTERS FOR BATTERED WOMEN AND CHILDREN.

(a) State Shelter Grants; Direct Emergency Assistance.—Section 303 of the Family Violence Prevention and Services Act (42 U.S.C. 10402) is amended—

(1) in subsection (a)(2)—

(A) by redesignating subparagraph (G) as subparagraph (H); and

(B) by inserting after subparagraph (F) the following:

"(G) provide documentation, including memoranda of understanding, of the specific involvement of the State domestic violence coalition and other knowledgeable individuals and interested organizations, in the development of the application; and"; and

(2) in subsection (c)—

(A) by striking "No funds provided" and inserting "(1) Except as provided in paragraph (2), no funds provided"; and

(B) by inserting after the period the following:

"(2) Not more than 1 percent of the funds appropriated to carry out this section and distributed under subsection (a) or (b) may be used to provide emergency assistance, such as transportation and housing assistance, directly to victims of family violence, or to the dependents of such victims, who are in the process of fleeing an abusive situation. Any entity that provides such assistance shall annually prepare and submit to the Secretary a report specifying, and describing the distribution of, funds provided pursuant to this paragraph. The report shall not contain information identifying an individual recipient of such assistance.".

(b) State Minimum; Reallotment.—Section 304 of the Family Violence Prevention and Services Act (42 U.S.C. 10403) is amended—

(1) in subsection (a), by striking "for grants to States for any fiscal year" and all that follows and inserting the following:

"and available for grants to States under this subsection for any fiscal year—

"(1) Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the combined Freely Associated States shall each be allotted not less than ⅛ of 1 percent of the amounts available for grants under section 303(a) for the fiscal year for which the allotment is made; and

"(2) each State shall be allotted for payment in a grant authorized under section 303(a) $500,000, with the remaining funds to be allotted to each State in an amount that bears the same ratio to such remaining funds as the population of such State bears to the population of all States.";

(2) in subsection (c), in the first sentence, by inserting "and available" before "for grants";

(3) in subsection (d)—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by inserting after paragraph (1) the following:

"(2) If, at the end of the sixth month of a fiscal year for which sums are appropriated under section 310—

"(A) the entire portion of such sums that is made available for grants under section 303(b) has not been distributed to Indian tribes and organizations described in section 303(b) in grants because of the failure of 1 or more of the tribes or organizations to meet the requirements for such a grant, the Secretary shall—

"(i) use the remainder of the portion to make grants under section 303(b) to Indian tribes and organizations who meet the requirements; and

"(ii) make the grants in proportion to the original grants made to the tribes and organizations under section 303(b) for such year."; and

(C) in paragraph (3) (as redesignated in subparagraph (A)) by inserting "or distribution under section 303(b)" after "303(a)"; and

(4) by adding at the end the following:

"(e) In subsection (a)(2), the term 'State' does not include any jurisdiction specified in subsection (a)(1).".

(c) SECRETARIAL RESPONSIBILITIES.—Section 305(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10404(a)) is amended—

(1) by striking "an employee" and inserting "1 or more employees";

(2) by striking "of this title." and inserting "of this title, including carrying out evaluation and monitoring under this title."; and

(3) by striking "individual" and inserting "individuals".

(d) RESOURCE CENTERS.—Section 308 of the Family Violence Prevention and Services Act (42 U.S.C. 10407) is amended—

(1) in subsection (a)(2)—

(A) by striking the following:

"(2) GRANTS.—From the amounts" and inserting the following:

"(2) GRANTS.—

"(A) CENTERS.—From the amounts";

(B) by inserting "on providing information, training, and technical assistance" after "focusing"; and

(C) by inserting after the period the following:

"(B) INITIATIVES.—From such amounts, the Secretary may award grants to private nonprofit organizations for information, training, and technical assistance initiatives in the subject areas identified in subsection (c), if—

"(i) such initiatives do not duplicate the activities of the entities operating the special issue resource centers provided for in subsection (c); and

"(ii) the total amounts awarded for all such initiatives do not exceed the lesser of $500,000 or 7 percent of the funds appropriated for making grants under this section."; and

(2) in subsection (c), by adding at the end the following:

"(8) Providing technical assistance and training to local entities carrying out domestic violence programs that provide shelter or related assistance.

"(9) Improving access to services, information, and training, concerning family violence, within Indian tribes and Indian tribal agencies.

"(10) Responding to emerging issues in the field of family violence that the Secretary may identify in consultation with advocates for local entities carrying out domestic violence programs that provide shelter or related assistance, State domestic violence coalitions, and national domestic violence organizations.".

(e) REAUTHORIZATION.—Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title—

"(A) $150,000,000 for fiscal year 2000;

"(B) $175,000,000 for fiscal year 2001; and

"(C) $175,000,000 for fiscal year 2002.

"(2) SOURCE OF FUNDS.—Amounts made available under paragraph (1) may be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211).".

(f) LIMITATION ON FUNDS.—Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409), as amended by subsection (e), is amended—

(1) in subsection (b), by striking "under subsection 303(a)" and inserting "under section 303(a)";

(2) in subsection (c), by inserting "not more than the lesser of $7,500,000 or" before "5";

(3) in subsection (d)—

(A) by striking the following:

"(d) GRANTS FOR STATE COALITIONS.—Of the amounts" and inserting the following:

"(d) GRANTS FOR STATE COALITIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), of the amounts"; and

(B) by inserting after the period the following:

"(2) APPROPRIATIONS EXCEEDING $110,000,000.—If the total amount appropriated under subsection (a) for a fiscal year exceeds $110,000,000, the Secretary shall use, for making grants under section 311, not less than—

"(A) $11,000,000; plus

"(B) 8 percent of the amount appropriated under such subsection for such fiscal year in excess of $110,000,000.";

(4) by redesignating subsection (e) as subsection (f); and

(5) by inserting after subsection (d) the following:

"(e) EVALUATION, MONITORING, AND ADMINISTRATION.—Of the amounts appropriated under subsection (a) for each fiscal year, not more than $1,200,000 shall be used by the Secretary for evaluation, monitoring, and administrative costs under this title.".

(g) NEEDS ASSESSMENT.—Title III of the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following:

"SEC. 319. NEEDS ASSESSMENT.

"In carrying out this title, the Secretary shall provide for the conduct of a nationwide needs assessment relating to the programs carried out under this title.".

(h) MODEL LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION IN UNDERSERVED COMMUNITIES.—

(1) IN GENERAL.—Title III of the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by subsection (g), is amended by adding at the end the following:

"SEC. 320. MODEL LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION IN UNDERSERVED COMMUNITIES.

"(a) GRANTS.—

"(1) IN GENERAL.—The Secretary may award grants to develop and implement model community intervention strategies to address family violence in underserved populations (as such term is defined in section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2)).

"(2) LIMITATIONS.—In awarding grants under paragraph (1), the Secretary shall award grants to not more than 10 State domestic violence coalitions and to not more than 10 local entities that carry out domestic violence programs providing shelter or related assistance.

"(3) PURPOSES.—Grants awarded under paragraph (1) shall be used for—

"(A) assessing the needs of underserved populations in the State involved;

"(B) building collaborative relationships between the grant recipients and community-based organizations serving underserved populations; and

"(C) developing and implementing model community intervention strategies to decrease the incidence of family violence in underserved populations.

"(4) PERIODS.—The Secretary shall award grants under paragraph (1) for periods of not more than 3 years.

"(b) ELIGIBILITY.—

"(1) INITIAL ELIGIBILITY.—To be eligible for an initial year of funding through a grant awarded under subsection (a)(1), an applicant shall—

"(A) submit to the Secretary an application containing an acceptable plan for assessing the needs of underserved populations for the model community intervention strategies described in subsection (a)(3)(C), and identifying a specific population for development of such an intervention strategy, in the first year of the grant; and

"(B) demonstrate to the Secretary inclusion of representatives from community-based organizations in underserved communities in planning and designing the needs assessment under subparagraph (A).

"(2) CONTINUED ELIGIBILITY.—To be eligible for continued funding for not more than 2 additional years through a grant awarded under subsection (a)(1), a recipient of funding for the initial year shall submit to the Secretary an application containing—

"(A) a plan for implementing the intervention strategy, and specifying the collaborative relationships with community-based organizations serving the identified underserved populations to be supported under the grant; and

"(B) a plan for disseminating the intervention strategy throughout the State and, at the option of the recipient, to other States.

"(c) PRIORITY FOR COLLABORATIVE FUNDING.—

"(1) IN GENERAL.—In awarding grants under subsection (a)(1), the Secretary shall give priority to State domestic violence coalitions, and local entities that carry out domestic violence programs, that submit applications in collaboration with community-based organizations serving underserved populations.

"(2) AMOUNTS.—The Secretary shall award grants under subsection (a)(1) to coalitions and entities described in paragraph (1) in amounts of not less than $100,000 per fiscal year.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409), as amended by subsection (f), is further amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following:

"(f) REDISTRIBUTION OF FUNDS AVAILABLE DUE TO CERTAIN LIMITATIONS.—

"(1) APPROPRIATIONS EXCEEDING $110,000,000.—Except as provided in paragraph (2), if the total amount appropriated under subsection (a) for a fiscal year exceeds $110,000,000, the Secretary shall use not less than 2 percent of the amount appropriated under such subsection for such fiscal year in excess of $110,000,000 for making grants under section 303 or 320.

"(2) APPROPRIATIONS EXCEEDING $150,000,000.—If the total amount appropriated under subsection (a) for a fiscal year exceeds $150,000,000, the Secretary shall use not less than 7 percent of the amount appropriated under such subsection for such fiscal year in excess of $150,000,000 for making grants under section 303 or 320.".

(i) CONFORMING AMENDMENTS.—

(1) Section 303(b)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(2)) is amended, in the second sentence, by striking "(D), (E) and (F)" and inserting "(D), (E), (F), and (G)".

(2) Section 306 of the Family Violence Prevention and Services Act (42 U.S.C. 10405) is amended, in the second sentence, by striking "section 303(a)(2)(B) through 303(a)(2)(F)" and inserting "subparagraphs (B) through (G) of section 303(a)(2)".

(3) Section 309(6) of the Family Violence Prevention and Services Act (42 U.S.C. 10408(6)) is amended by striking "the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" and inserting "the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the combined Freely Associated States".

(4) Section 311(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10410(c)) is amended by striking "the U.S. Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" and inserting "the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States".

SEC. 203. VICTIMS OF ABUSE INSURANCE PROTECTION.

(a) DEFINITIONS.—In this section—

(1) ABUSE.—The term "abuse" means the occurrence of 1 or more of the following acts by a current or former household or family member, intimate partner, or caretaker:

(A) Attempting to cause or causing another person bodily injury, physical harm, substantial emotional distress, psychological trauma, rape, sexual assault, or involuntary sexual intercourse.

(B) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority and under circumstances that place the person in reasonable fear of bodily injury or physical harm.

(C) Subjecting another person to false imprisonment or kidnaping.

(D) Attempting to cause or causing damage to property so as to intimidate or attempt to control the behavior of another person.

(2) ADVERSE ACTION.—The term "adverse action" means—

(A) denying, refusing to issue, renew, or reissue, or canceling or otherwise terminating an insurance policy or health benefit plan;

(B) restricting, excluding, or limiting insurance or health benefit plan coverage or denying or limiting payment of a claim incurred by an insured, except as otherwise permitted or required by State laws relating to life insurance beneficiaries; or

(C) adding a premium differential to any insurance policy or health benefit plan.

(3) HEALTH BENEFIT PLAN.—The term "health benefit plan" means any public or private entity or program that provides for payments for health care, including—

(A) a group health plan (as defined in section 607 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167)) or a multiple employer welfare arrangement (as defined in section 3(40) of such Act (29 U.S.C. 1102(40)) that provides health benefits;

(B) any arrangement consisting of a hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, or health maintenance organization subscriber contract;

(C) workers' compensation or similar insurance to the extent that it relates to workers' compensation medical benefits (as defined by the Federal Trade Commission); and

(D) automobile medical insurance to the extent that it relates to medical benefits (as defined by the Federal Trade Commission).

(4) HEALTH CARRIER.—The term "health carrier" means a person that contracts or offers to contract on a risk-assuming basis to provide, deliver, arrange for, pay for, or reimburse any of the cost of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation or any other entity providing a plan of health insurance, health benefits, or health services.

(5) INNOCENT INSURED.—The term "innocent insured" means a subject of abuse who—

(A) is insured under the same policy as the abuser; and

(B) is not, taking into account all the facts and circumstances, the cause of any claim incurred or any claim that may incur.

(6) INSURED.—The term "insured" means a party named on a policy, certificate, or health benefit plan, including an individual, corporation, partnership, association, unincorporated organization, or any similar entity, as the person with legal rights to the benefits provided by the policy, certificate, or health benefit plan, including (for purposes of group insurance) a person who is a beneficiary covered by a group policy, certificate, or health benefit plan, and including (for purposes of life insurance) the person whose life is covered under an insurance policy.

(7) INSURER.—The term "insurer" means any person, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, or other legal entity engaged in the business of insurance, including agents, brokers, adjusters, and third party administrators, and includes health benefit plans, health carriers, and life, disability, and property and casualty insurers.

(8) PERSONAL IDENTIFYING INFORMATION.—The term "personal identifying information" means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address, telephone number, place of employment, and medical, disability, or abuse status.

(9) POLICY.—The term "policy" means a contract of insurance, certificate, indemnity, suretyship, or annuity issued, proposed for issuance, or intended for issuance by an insurer, including endorsements or riders to an insurance policy or contract.

(10) SUBJECT OF ABUSE.—The term "subject of abuse" means a person—

(A) against whom an act of abuse has been directed;

(B) who has prior or current injuries, illnesses, or disorders that resulted from abuse;

(C) who seeks, may have sought, or had reason to seek medical or psychological treatment for abuse or protection or shelter from abuse; or

(D) who has incurred or may incur a claim as a result of abuse.

(b) ACTS AGAINST SUBJECTS OF ABUSE.—

(1) DISCRIMINATORY ACTS PROHIBITED.—

(A) IN GENERAL.—No insurer may, directly or indirectly, take any adverse action against an applicant or insured on the basis that the applicant or insured, or any person employed by the applicant or insured or with whom the applicant or insured is known to have a relationship or association is, has been, or may be the subject of abuse.

(B) INNOCENT INSURED.—No insurer may, directly or indirectly, take any adverse action against an innocent insured.

(2) REASONS FOR ADVERSE ACTIONS.—An insurer that takes an adverse action against a known subject of abuse shall advise the applicant or insured of the specific reasons for the action in writing. Reference to general underwriting practices or guidelines shall not constitute a specific reason.

(3) USE OF INFORMATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an insurer, and any officer, employee, or contractor thereof, shall not knowingly disclose or otherwise make available to any person or entity personal identifying information about a subject of abuse.

(B) EXCEPTION.—Personal identifying information referred to in subparagraph (A) may be disclosed—

(i) with the informed, written consent of the subject of abuse at the time the disclosure is sought;

(ii) if such information is necessary for the provision of or the payment for services provided by the insurer or is incident to the ordinary course of business of the insurer; or

(iii) to a law enforcement agency pursuant to a warrant issued under the Federal Rules of Criminal Procedure, an equivalent State warrant, a grand jury subpoena, or a court order.

(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (B) shall be construed to permit an insurer to disclose personal identifying information about a subject of abuse to a current or former household or family member, intimate partner, or caretaker of the subject of abuse.

(c) ENFORCEMENT.—

(1) FEDERAL TRADE COMMISSION.—

(A) IN GENERAL.—The Federal Trade Commission shall have the power to examine and investigate any insurer to determine whether such insurer has been, or is, in violation of subsection (b) if the violation involved is not prohibited under other Federal or State law or is prohibited under State law but in the opinion of the Commission is not being enforced by the State.

(B) REMEDIES.—If the Federal Trade Commission determines that an insurer has been, or is, in violation of subsection (b)—

(i) in the case of a violation of Federal or State law, the Commission shall transmit such information to the appropriate enforcement authority; and

(ii) in the case of a violation that is not prohibited under other Federal or State law, or is prohibited under State law but in the opinion of the Commission is not being enforced by the State, the Commission may take action against such insurer as if the insurer was in violation of section 5 of the Federal Trade Commission Act by issuing a cease and desist order, which may include any individual relief warranted under the circumstances, including temporary, preliminary, and permanent injunctive and compensatory relief.

(2) PRIVATE CAUSE OF ACTION.—

(A) IN GENERAL.—An applicant or insured who believes that the applicant or insured has been affected by a violation under subsection (b) may bring an action against the insurer in a Federal or State court of original jurisdiction.

(B) REMEDIES.—In an action under subparagraph (A), upon proof of conduct of a violation of subsection (b) by a preponderance of the evidence, the court may award appropriate relief, including—

(i) temporary, preliminary, and permanent injunctive relief;

(ii) actual damages, in an amount that is not less than liquidated damages in the amount of $5,000 per violation;

(iii) punitive damages;

(iv) reasonable attorneys' fees and other litigation costs reasonably incurred, including the costs of expert witnesses; and

(v) such other preliminary and equitable relief as the court determines to be appropriate.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a life insurer from declining to issue a life insurance policy if the applicant or prospective owner of the policy is or would be designated as a beneficiary of the policy and if—

(1) the applicant or prospective owner of the policy lacks an insurable interest in the insured; or

(2) the applicant or prospective owner of the policy is known, on the basis of police or court records, to have committed an act of abuse against the proposed insured.

(e) EFFECTIVE DATE.—This section shall apply with respect to any action taken after December 31, 1998.

SEC. 204. NATIONAL DOMESTIC VIOLENCE HOTLINE.

(a) REAUTHORIZATION.—Section 316(f)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10416(f)(1)) is amended to read as follows:

"(1) IN GENERAL.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section—

"(A) $3,600,000 for fiscal year 2000;

"(B) $3,800,000 for fiscal year 2001; and

"(C) $4,000,000 for fiscal year 2002.".

(b) REPORT BY GRANT RECIPIENTS.—Section 316 of the Family Violence Prevention and Services Act (42 U.S.C. 10416) is amended by adding at the end the following:

"(g) REPORT BY GRANT RECIPIENTS.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, each recipient of a grant under this section shall prepare and submit to the Secretary a report that contains—

"(A) an evaluation of the effectiveness of the activities carried out by the recipient with amounts received under this section; and

"(B) such other information as the Secretary may prescribe.

"(2) NOTICE AND PUBLIC COMMENT.—Before renewing any grant under this section for a recipient, the Secretary shall publish in the Federal Register a copy of the report submitted by the recipient under this subsection and allow not less than 90 days for notice of and opportunity for public comment on the published report.".

SEC. 205. FEDERAL VICTIMS' COUNSELORS.

Section 40114 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1910)) is amended by striking "Columbia)—" and all that follows before the period and inserting "Columbia) $1,000,000 for each of fiscal years 2000 through 2002".

SEC. 206. BATTERED WOMEN'S EMPLOYMENT PROTECTION.

(a) ENTITLEMENT TO LEAVE FOR NON-FEDERAL EMPLOYEES.—

(1) DEFINITIONS.—Section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611) is amended by adding at the end the following:

"(14) ADDRESSING DOMESTIC VIOLENCE AND ITS EFFECTS.—The term 'addressing domestic violence and its effects' means—

"(A) seeking medical attention for or recovering from injuries caused by domestic violence;

"(B) seeking legal assistance or remedies, including communicating with the police or an attorney, or participating in any legal proceeding, related to domestic violence;

"(C) obtaining psychological or other counseling related to experiences of domestic violence;

"(D) participating in safety planning and other actions to increase safety from future domestic violence, including temporary or permanent relocation;

"(E) being unable to attend or perform work due to an incident of domestic violence, including an act or threat of violence, stalking, coercion, or harassment, occurring within the previous 72 hours; and

"(F) participating in any other activity necessitated by domestic violence that must be undertaken during the hours of employment involved.

"(15) DOMESTIC VIOLENCE.—The term 'domestic violence' has the meaning given such term in section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2).".

(2) LEAVE REQUIREMENT.—Section 102 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612) is amended—

(A) in subsection (a)(1), by adding at the end the following:

"(E) In order to care for the son, daughter, or parent of the employee, if such son, daughter, or parent is addressing domestic violence and its effects.

"(F) Because the employee is addressing domestic violence and its effects, which make the employee unable to perform the functions of the position of such employee.";

(B) in subsection (b), by adding at the end the following:

"(3) DOMESTIC VIOLENCE.—Leave under subparagraph (E) or (F) of subsection (a)(1) may be taken by an eligible employee intermittently or on a reduced leave schedule. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.";

(C) in subsection (d)(2)(B), by striking "(C) or (D)" and inserting "(C), (D), (E), or (F)"; and

(D) in subsection (e)(2), by striking "or (D)" and inserting ", (D), (E), or (F)".

(3) CERTIFICATION.—Section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) is amended—

(A) in the heading of the section, by inserting before the period the following: "**; CONFIDENTIALITY**"; and

(B) by adding at the end the following:

"(f) DOMESTIC VIOLENCE.—In determining if an employee meets the requirements of subparagraph (E) or (F) of section 102(a)(1), the employer of an employee may require the employee to provide—

"(1) documentation of the domestic violence involved, such as a police or court record, or documentation of the domestic violence from a shelter worker, attorney, member of the clergy, or medical or other professional from whom the employee has sought assistance in addressing domestic violence and its effects; or

"(2) other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances that provide the basis for the claim of domestic violence, or physical evidence of domestic violence, such as a photograph or torn or bloody clothing.

"(g) CONFIDENTIALITY.—All evidence provided to the employer under subsection (f) of domestic violence experienced by an employee or the son, daughter, or parent of an employee, including a statement of an employee, any corroborating evidence, and the fact that an employee has requested leave for the purpose of addressing, or caring for a son, daughter, or parent who is addressing, domestic violence and its effects, shall be retained in the strictest confidence by the employer, except to the extent that disclosure is consented to by the employee in a case in which disclosure is necessary to protect the safety of the employee or a co-worker of the employee, or requested by the employee to document domestic violence to a court or agency.".

(b) ENTITLEMENT TO LEAVE FOR FEDERAL EMPLOYEES.—

(1) DEFINITIONS.—Section 6381 of title 5, United States Code, is amended—

(A) at the end of paragraph (5), by striking "and";

(B) in paragraph (6), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(7) the term 'addressing domestic violence and its effects' means—

"(A) seeking medical attention for or recovering from injuries caused by domestic violence;

"(B) seeking legal assistance or remedies, including communicating with the police or an attorney, or participating in any legal proceeding, related to domestic violence;

"(C) obtaining psychological or other counseling related to experiences of domestic violence;

"(D) participating in safety planning and other actions to increase safety from future domestic violence, including temporary or permanent relocation;

"(E) being unable to attend or perform work due to an incident of domestic violence, including an act or threat of violence, stalking, coercion, or harassment, occurring within the previous 72 hours; and

"(F) participating in any other activity necessitated by domestic violence that must be undertaken during the hours of employment involved; and

“(8) the term ‘domestic violence’ has the meaning given the term in section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2).”.

(2) LEAVE REQUIREMENT.—Section 6382 of title 5, United States Code, is amended—

(A) in subsection (a)(1), by adding at the end the following:

“(E) In order to care for the son, daughter, or parent of the employee, if such son, daughter, or parent is addressing domestic violence and its effects.

“(F) Because the employee is addressing domestic violence and its effects, which make the employee unable to perform the functions of the position of such employee.”;

(B) in subsection (b), by adding at the end the following:

“(3) Leave under subparagraph (E) or (F) of subsection (a)(1) may be taken by an employee intermittently or on a reduced leave schedule. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.”;

(C) in subsection (d), by striking “(C), or (D)” and inserting “(C), (D), (E), or (F)”; and

(D) in subsection (e)(2), by striking “or (D)” and inserting “, (D), (E), or (F)”.

(3) CERTIFICATION.—Section 6383 of title 5, United States Code, is amended—

(A) in the heading of the section, by adding at the end the following: “; **confidentiality**”; and

(B) by adding at the end the following:

“(f) In determining if an employee meets the requirements of subparagraph (E) or (F) of section 6382(a)(1), the employing agency of an employee may require the employee to provide—

“(1) documentation of the domestic violence involved, such as a police or court record, or documentation of the domestic violence from a shelter worker, attorney, member of the clergy, or medical or other professional from whom the employee has sought assistance in addressing domestic violence and its effects; or

“(2) other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances that provide the basis for the claim of domestic violence, or physical evidence of domestic violence, such as a photograph or torn or bloody clothing.

“(g) All evidence provided to the employing agency under subsection (f) of domestic violence experienced by an employee or the son, daughter, or parent of an employee, including a statement of an employee, any corroborating evidence, and the fact that an employee has requested leave for the purpose of addressing, or caring for a son, daughter, or parent who is addressing, domestic violence and its effects, shall be retained in the strictest confidence by the employing agency, except to the extent that disclosure is consented to by the employee in a case in which disclosure is necessary to protect the safety of the employee or a co-worker of the employee, or requested by the employee to document domestic violence to a court or agency.”.

(c) EFFECT ON OTHER LAWS AND EMPLOYMENT BENEFITS.—

(1) MORE PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—Nothing in this section or the amendments made by this section shall be construed to supersede any provision of any Federal, State, or local law, collective bargaining agreement, or other employment benefit program or plan that provides greater leave benefits for employed victims of domestic violence than the rights established under this section or such amendments.

(2) LESS PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—The rights established for employees under this section or the amendments made by this section shall not be diminished by any State or local law, collective bargaining agreement, or employment benefit program or plan.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that is 180 days after the date of enactment of this Act.

SEC. 207. ENSURING UNEMPLOYMENT COMPENSATION.

(a) UNEMPLOYMENT COMPENSATION.—Section 3304 of the Internal Revenue Code of 1986 is amended—

(1) in subsection (a)—

(A) by striking “and” at the end of paragraph (18);

(B) by redesignating paragraph (19) as paragraph (20); and

(C) by inserting after paragraph (18) the following:

“(19) compensation is to be provided where an individual is separated from employment due to circumstances directly resulting from the individual's experience of domestic violence; and”; and

(2) by adding at the end the following:

“(g) CONSTRUCTION.—

“(1) IN GENERAL.—For purposes of subsection (a)(19), an employee's separation from employment shall be treated as due to circumstances directly resulting from the individual's experience of domestic violence if the separation resulted from—

“(A) the employee's reasonable fear of future domestic violence at or en route to or from the employee's place of employment;

“(B) the employee's wish to relocate to another geographic area in order to avoid future domestic violence against the employee or the employee's family;

“(C) the employee's need to recover from traumatic stress resulting from the employee's experience of domestic violence;

“(D) the employer's denial of the employee's request for the temporary leave from employment to address domestic violence and its effects authorized by subparagraphs (E) and (F) of section 102(a)(1) of the Family and Medical Leave Act of 1993; or

“(E) any other circumstance in which domestic violence causes the employee to reasonably believe that termination of employment is necessary for the future safety of the employee or the employee's family.

“(2) REASONABLE EFFORTS TO RETAIN EMPLOYMENT.—For purposes of subsection (a)(19), if State law requires the employee to have made reasonable efforts to retain employment as a condition for receiving unemployment compensation, such requirement shall be met if the employee—

“(A) sought protection from, or assistance in responding to, domestic violence, including calling the police or seeking legal, social work, medical, clergy, or other assistance;

“(B) sought safety, including refuge in a shelter or temporary or permanent relocation, whether or not the employee actually obtained such refuge or accomplished such relocation; or

“(C) reasonably believed that options such as taking a leave of absence, transferring jobs, or receiving an alternative work schedule would not be sufficient to guarantee the employee or the employee's family's safety.

“(3) ACTIVE SEARCH FOR EMPLOYMENT.—For purposes of subsection (a)(19), if State law requires the employee to actively search for employment after separation from employment as a condition for receiving unemployment compensation, such requirement shall be treated as met where the employee is temporarily unable to actively search for employment because the employee is engaged in seeking safety or relief for the employee or the employee's family from domestic violence, including—

“(A) going into hiding or relocating or attempting to do so, including activities associated with such hiding or relocation, such as seeking to obtain sufficient shelter, food, schooling for children, or other necessities of life for the employee or the employee's family;

“(B) actively pursuing legal protection or remedies, including meeting with the police, going to court to make inquiries or file papers, meeting with attorneys, or attending court proceedings; or

“(C) participating in psychological, social, or religious counseling or support activities to assist the employee in ending domestic violence.

“(4) PROVISION OF INFORMATION TO MEET CERTAIN REQUIREMENTS.—In determining if an employee meets the requirements of paragraphs (1), (2), and (3), the unemployment agency of the State in which an employee is requesting unemployment compensation by reason of subsection (a)(19) may require the employee to provide—

“(A) documentation of the domestic violence, such as police or court records, or documentation of the domestic violence from a shelter worker or an employee of a domestic violence program, an attorney, a clergy member, or a medical or other professional from whom the employee has sought assistance in addressing domestic violence and its effects; or

“(B) other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances which provide the basis for the claim, or physical evidence of domestic violence, such as photographs, torn or bloody clothes.

All evidence of domestic violence experienced by an employee, including an employee's statement, any corroborating evidence, and the fact that an employee has applied for or inquired about unemployment compensation available by reason of subsection (a)(19) shall be retained in the strictest confidence by such State unemployment agency, except to the extent consented to by the employee where disclosure is necessary to protect the employee's safety.

“(5) EFFECT OF CLAIMS.—Claims filed for unemployment compensation solely by reason of subsection (a)(19) shall be disregarded in determining an employer's State unemployment taxes based on unemployment experience.”.

(b) SOCIAL SECURITY PERSONNEL TRAINING.—Section 303(a) of the Social Security Act (42 U.S.C. 503(a)) is amended by redesignating paragraphs (4) through (10) as paragraphs (5) through (11), respectively, and by inserting after paragraph (3) the following:

“(4) Such methods of administration as will ensure that claims reviewers and hearing personnel are adequately trained in the nature and dynamics of claims for unemployment compensation based on domestic violence under section 3304(a)(20) of the Internal Revenue Code of 1986 and in methods of ascertaining and keeping confidential information about possible experiences of domestic violence to ensure that requests for unemployment compensation based on domestic violence are reliably screened, identified, and adjudicated, and to ensure that complete confidentiality is provided for the employee's claim and submitted evidence.".

(c) DEFINITIONS.—Section 3306 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"(u) DOMESTIC VIOLENCE.—In this chapter, the term 'domestic violence' has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply in the case of compensation paid for weeks beginning 180 days after the date of enactment of this Act.

(2) MEETING OF STATE LEGISLATURE.—If the Secretary of Labor identifies a State as requiring a change to its statutes or regulations in order to comply with the amendments made by this section, the amendments made by this Act shall apply in the case of compensation paid for weeks beginning after the earlier of—

(A) the date the State changes its statutes or regulations in order to comply with the amendments made by this section; or

(B) the end of the first session of the State legislature which begins after the date of enactment of this Act or which began prior to such date and remained in session for not less than 25 calendar days after such date; except that in no case shall the amendments made by this Act apply before the date which is 180 days after the date of enactment of this Act. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

SEC. 208. BATTERED IMMIGRANT WOMEN.

(a) FINDINGS.—Congress finds that—

(1) the goal of the immigration protections for battered immigrants included in the Violence Against Women Act of 1994 was to remove immigration laws as a barrier that kept battered immigrant women and children locked in abusive relationships;

(2) providing battered immigrant women and children who were experiencing domestic violence at home with protection against deportation allows them to obtain protection orders against their abusers and frees them to cooperate with law enforcement and prosecutors in criminal cases brought against their abusers and the abusers of their children; and

(3) there are several groups of battered immigrant women and children who do not have access to the immigration protections of the Violence Against Women Act of 1994, which means that their abusers are virtually immune from prosecution because their victims can be deported and the Immigration and Naturalization Service cannot offer them protection no matter how compelling their case under existing law.

(b) PURPOSES.—The purposes of this section are—

(1) to promote criminal prosecutions of all persons who commit acts of battery or extreme cruelty against immigrant women and children;

(2) to offer protection against domestic violence occurring in family and intimate relationships that are covered in State protection order, domestic violence, and family law statutes; and

(3) to correct erosions of Violence Against Women Act immigration protections that occurred as a result of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

(c) EFFECT OF CHANGES IN ABUSERS' CITIZENSHIP STATUS.—(1) Section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)) is amended by adding at the end the following new clause:

"(v) For the purposes of any petition filed under clause (iii) or (iv), denaturalization, loss or renunciation, or changes to the abuser's citizenship status after filing of the petition shall not preclude the classification of the eligible self-petitioning spouse or child as an immediate relative.".

(2) Section 204(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)) is amended by adding at the end the following new clause:

"(iv)(I) For the purposes of petitions filed or approved under clauses (ii) and (iii), loss of lawful permanent residence status by a spouse or parent after the filing of a petition under that clause shall not preclude approval of the petition, and, for an approved petition, shall not affect the alien's ability to adjust status under section 245(a) and (c) or obtain status as a lawful permanent resident based on the approved self-petition under clauses (ii) and (iii).

"(II) Upon the lawful permanent resident spouse or parent becoming a United States citizen through naturalization, acquisition of citizenship, or other means, any petition filed with the Immigration and Naturalization Service and pending or approved under section 204(a)(1)(B) on behalf of an alien who has been battered or subjected to extreme cruelty may be deemed to be a petition filed under section 204(a)(1)(A) of this Act even if the acquisition of citizenship occurs after divorce.".

(d) DETERMINATIONS OF GOOD MORAL CHARACTER.—

(1) CANCELLATIONS OF REMOVAL; SUSPENSIONS OF DEPORTATION.—Section 240A(b) of the Immigration and Nationality Act (8 U.S.C. 1229b) is amended by adding at the end the following:

"(4) GOOD MORAL CHARACTER DETERMINATIONS.—For the purposes of making 'good moral character' determinations under paragraph (2), the Attorney General is not limited by the criminal court record and may make a finding of good moral character, notwithstanding the existence of disqualifying criminal act or criminal conviction, in the case of an alien who has been battered or subjected to extreme cruelty but who—

"(i) has been convicted of, or who pled guilty to, violating a court order issued to protect the alien;

"(ii) was convicted of, or pled guilty to, prostitution, if the alien was forced into prostitution by an abuser;

"(iii) was convicted of or pled guilty to committing a crime if the alien committed the crime under duress from the person who battered or subjected the alien to extreme cruelty; or

"(iv) was convicted of or pled guilty to a domestic violence-related crime if the Attorney General determines that the alien acted in self-defense.

"(5) INCLUSION OF OTHER ALIENS IN PETITION.—An alien applying for relief under section 244(a)(3) (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) or this subsection may include—

"(A) the alien's children in the alien's application if such children are physically present in the United States at the time of application, and, if the alien is found eligible for suspension, the Attorney General may adjust the status of the alien's children; or

"(B) the alien's parent in the alien's application in the case of an application filed by an alien who was abused by a citizen or lawful permanent resident parent and, if the alien is found eligible for suspension, the Attorney General may adjust the status of both the alien applicant and the alien's parent.

"(6) DETERMINATIONS UNDER SUSPENSION OF DEPORTATION.—For the purposes of making good moral character determinations under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), the Attorney General is not limited by the criminal court record and may make a finding of good moral character, notwithstanding the existence of a disqualifying criminal act or criminal conviction, in the case of an alien who has been battered or subjected to extreme cruelty but who—

"(i) has been convicted of, or who pled guilty to, violating a court order issued to protect the alien;

"(ii) has been convicted of, or who pled guilty to, prostitution if the alien was forced into prostitution by an abuser;

"(iii) has been convicted of, or pled guilty to committing, a crime under duress from the person who battered or subjected the alien to extreme cruelty; or

"(iv) was convicted of, or pled guilty to, a domestic violence-related crime if the Attorney General determines that the alien acted in self-defense.

(2) IMMEDIATE RELATIVE STATUS.—Section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)) is amended by adding at the end the following new clause:

"(vi)(I) For the purposes of making good moral character determinations under this subparagraph, the Attorney General is not limited by the criminal court record and may make a finding of good moral character, notwithstanding the existence of a disqualifying criminal act or criminal conviction, in the case of an alien who otherwise qualifies for relief under section 204(a)(1)(A) (iii) or (iv), but who—

"(aa) has been convicted of, or who pled guilty to, violating a court order issued to protect the alien;

"(bb) was convicted of, or pled guilty to, prostitution if the alien was forced into prostitution by an abuser;

"(cc) was convicted of, or pled guilty to, committing a crime under duress from the person who battered or subjected the alien to extreme cruelty; or

"(dd) was convicted of, or pled guilty to, a domestic violence-related crime, if the Attorney General determines that the alien acted in self-defense.

"(II) After finding that an alien has been battered or subjected to extreme cruelty and is otherwise eligible for relief under section 204(a)(1)(A) (iii) or (iv), the Attorney General may make a finding of 'good moral character' with respect to the alien, notwithstanding the existence of a disqualifying criminal act or criminal conviction.".

(3) SECOND PREFERENCE IMMIGRATION STATUS—Section 204(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)) is amended by adding at the end the following new clause:

"(v)(I) For the purposes of making good moral character determinations under this subparagraph, the Attorney General is not limited by the criminal court record and may make a finding of good moral character, notwithstanding the existence of a disqualifying criminal act or criminal conviction, in the case of an alien who otherwise qualifies for relief under section 204(a)(1)(B) (ii) and (iii), but who—

"(aa) has been convicted of, or who pled guilty to, violating a court order issued to protect the alien;

"(bb) was convicted of, or pled guilty to, prostitution where the alien was forced into prostitution by an abuser;

"(cc) was convicted of, or pled guilty to, committing a crime under duress from the person who battered or subjected the alien to extreme cruelty; or

"(dd) was convicted of, or pled guilty to, a domestic violence-related crime, if the Attorney General determines that the alien acted in self-defense.

"(II) After finding that an alien has been battered or subjected to extreme cruelty and is otherwise eligible for relief under section 204(a)(1)(B) (ii) or (iii), the Attorney General may in the Attorney General's sole discretion make a finding of good moral character with respect to the alien, notwithstanding the existence of a disqualifying criminal act or criminal conviction.".

(e) Waivers of Inadmissibility.—(1) Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by adding at the end the following new subsection:

"(p) The Attorney General, in the Attorney General's discretion, may waive any provision of section 212 (other than subsection (a)(3), (10)(A), (10)(D), and (10)(E)) for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest for any alien who qualifies for—

"(1) status under clause (iii) or (iv) of section 204(a)(1)(A) or classification under clause (ii) or (iii) of section 204(a)(1)(B); or

"(2) relief under section 240A(b)(2) or 244(a)(3) (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).".

(2) Section 212(h)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(h)(1)) is amended—

(A) at the end of subparagraph (A), by striking "or";

(B) at the end of subparagraph (B), by striking "and" and inserting "or"; and

(C) by adding at the end the following new subparagraph:

"(C) in the case of an alien who qualifies for status under clause (iii) or (iv) of section 204(a)(1)(A) or classification under clause (ii) or (iii) of section 204(a)(1)(B) or who qualifies for relief under section 240A(b)(2), or section 244(a)(3) (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), if it is established to the satisfaction of the the Attorney General that the alien's admission would further humanitarian purposes, ensure family unity, or otherwise be in the public interest; and".

(3) Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following new subparagraph:

"(G) Exceptions.—The provisions of this paragraph shall not apply to deny admissibility to an alien if the Attorney General has approved the alien's self-petition or application pursuant to section 204(a)(1)(A) (iii) or (iv), 204(a)(1)(B) (ii) or (iii), 240A(b)(2), or 244(a)(3) (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note).

(f) Waiver of Certain Removal Grounds.—Section 237(a)(2)(E) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(E)) is amended by inserting at the end the following new clause:

"(iii) Waiver.—The Attorney General may waive the application of clauses (i) and (ii)—

"(I) upon determination that—

"(aa) the alien was acting in self-defense,

"(bb) the alien was not the primary perpetrator of violence in the relationship,

"(cc) the alien was found to have violated a protection order intended to protect the alien, or

"(dd) the alien was convicted of committing a crime under duress from the person who subjected the alien to battering or extreme cruelty, or

"(II) for humanitarian purposes.".

(g) Procedure for Granting Immigrant Status.—

(1) Definition.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(50) The term 'intended spouse' means any alien who meets the criteria set forth in section 204(j)(1)(B) or 204(k)(1)(B).".

(2) Immediate relative status.—

(A) Self-petitioning spouses.—Section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(iii)) is amended to read as follows:

"(iii) An alien who is described in subsection (j) may file a petition with the Attorney General under this clause for classification of the alien (and any child of the alien if such a child has not been classified under clause (iv)) under section 201(b)(2)(A)(i) if the alien demonstrates to the Attorney General that—

"(I) the alien is residing in the United States (unless the alien's spouse, intended spouse, or parent is an employee of the Department of State or a member of the United States Armed Forces stationed abroad);

"(II) the marriage or the intent to marry the United States citizen was entered into in good faith by the alien; and

"(III) during the marriage or relationship intended by the alien to be legally a marriage, the alien or a child of the alien has been battered or has been the subject of extreme cruelty perpetrated by the alien's spouse or intended spouse.".

(B) Definition.—Section 204 of the Immigration and Nationality Act is amended (8 U.S.C. 1154) by adding at the end the following:

"(j) Definition.—An alien described in subsection (a)(1)(A)(iii) is an alien—

"(1)(A) who is the spouse of a citizen of the United States; or

"(B)(i) who believed in good faith that he or she had married a citizen of the United States;

"(ii) whose marriage to such citizen would otherwise meet the definition of qualifying marriage under section 216(d)(1)(A)(i); and

"(iii) who otherwise meets any applicable requirements under this Act to establish the existence of and bona fides of a marriage;

but whose marriage is not legitimate solely because of the bigamy of such citizen of the United States;

"(2) who is a person of good moral character;

"(3) who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) or who would have been so classified but for the bigamy of the citizen of the United States that the alien intended to marry; and

"(4) who has resided in the United States with the alien's spouse or intended spouse, or has resided within or outside the territory of the United States with the citizen spouse at the assigned foreign duty station if the alien's spouse or intended spouse is an employee of the Department of State or a member of the United States Armed Forces stationed abroad.".

(C) Self-petitioning children.—Section 204(a)(1)(A)(iv) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(iv)) is amended to read as follows:

"(iv) An alien who is the child of a citizen of the United States, who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who has resided in the United States with the citizen parent (or has resided within or outside the territory of the United States with the citizen parent at the assigned foreign duty station if the alien's parent is an employee of the Department of State or a member of the United States Armed Forces stationed abroad) may file a petition with the Attorney General under this subparagraph for classification of the alien under such section if the alien demonstrates to the Attorney General that the alien is residing in the United States (unless the alien's parent is an employee of the Department of State or a member of the United States Armed Forces stationed abroad) and during the period of residence with the citizen parent in the United States or at the assigned foreign duty station the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's citizen parent.".

(D) Filing of petitions.—Section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154 (a)(1)(A)) is amended by adding at the end the following new clause:

(vii) "An alien who is the spouse, intended spouse, or child filing under clause (iii) or (iv) of this subparagraph of an employee of the Department of State or a member of the United States Armed Forces stationed abroad eligible to file a petition under this subsection shall file such petition with the Attorney General.".

(3) Second preference immigration status.—

(A) Self-petitioning spouses.—Section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)(ii)) is amended to read as follows:

"(ii) An alien who is described in subsection (k) may file a petition with the Attorney General under this clause for classification of the alien (and any child of the alien if such a child has not been classified under clause (iii)) under section 203(a)(2)(A) if the alien demonstrates to the Attorney General that—

"(I) the alien is residing in the United States (unless the alien's spouse, intended spouse, or child is an employee of the Department of State or a member of the United States Armed Forces stationed abroad);

"(II) the marriage or the intent to marry the lawful permanent resident was entered into in good faith by the alien; and

"(III) during the marriage or relationship intended by the alien to be legally a marriage, the alien or a child of the alien has been battered or has been the subject of extreme cruelty perpetrated by the alien's spouse or intended spouse.".

(B) Definition.—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following:

"(k) Definition.—An alien described in subsection (a)(1)(B)(ii) is an alien—

"(1)(A) who is the spouse of a lawful permanent resident of the United States; or

"(B)(i) who believed in good faith that he or she had married a lawful permanent resident of the United States;

"(ii) whose marriage to such lawful permanent resident would otherwise meet the definition of qualifying marriage under section 216(d)(1)(A)(i); and

"(iii) who otherwise meets any applicable requirements under this Act to establish the existence of and bona fides of a marriage;
but whose marriage is not legitimate solely because of the bigamy of such lawful permanent resident of the United States;

"(2) who is a person of good moral character;

"(3) who is eligible to be classified as a spouse of an alien lawfully admitted for permanent residence under section 203(a)(2)(A) or who would have been so classified but for the bigamy of the lawful permanent resident of the United States that the alien intended to marry; and

"(4) who has resided in the United States with the alien's spouse or intended spouse, or has resided within or outside the territory of the United States with the lawful permanent resident spouse or intended spouse at the assigned foreign duty station if the alien's spouse or intended spouse is an employee of the Department of State or a member of the United States Armed Forces stationed abroad.".

(C) Self-petitioning children.—Section 204(a)(1)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)(iii)) is amended to read as follows:

"(iii) An alien who is the child of an alien lawfully admitted for permanent residence, who is a person of good moral character, who is eligible for classification under section 203(a)(2)(A), and who has resided in the United States with the alien's permanent resident alien parent (or has resided within or outside the territory of the United States with the lawful permanent resident parent at the assigned foreign duty station if the alien's parent is an employee of the Department of State or a member of the United States Armed Forces stationed abroad) may file a petition with the Attorney General under this subparagraph for classification of the alien under such section if the alien demonstrates to the Attorney General that the alien is residing in the United States (unless the alien's parent is an employee of the Department of State or a member of the United States Armed Forces stationed abroad) and during the period of residence with the permanent resident parent in the United States or at the assigned foreign duty station the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's permanent resident parent.".

(D) Filing of petitions.—Section 204(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1154 (a)(1)(B)) is amended by adding at the end the following new clause:

"(vi) An alien who is the spouse, intended spouse, or child filing under clauses (ii) and (iii) of this subparagraph of an employee of the Department of State or a member of the United States Armed Forces stationed abroad eligible to file a petition under this subsection shall file such petition with the Attorney General.".

(h) Adjustment of Status.—(1) Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended—

(A) in subsection (a), by inserting ", or the status of any other alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (A)(v), (B)(ii), or (B)(iii) of section 204(a)(1)," after "into the United States";

(B) in subsections (c)(2) and (c)(4) by inserting "or an alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (A)(v), (B)(ii), or (B)(iii) of section 204(a)(1)," after "other than an immediate relative as defined in section 201(b)" each place it appears;

(C) in subsection (c)(5), by inserting "(other than an alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (A)(v), (B)(ii), or (B)(iii) of section 204(a)(1))," after "an alien"; and

(D) in subsection (c)(8), by inserting "(other than an alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (A)(v), (B)(ii), or (B)(iii) of section 204(a)(1))," after "any alien".

(2) The amendments made by paragraph (1) shall apply to applications for adjustment of status pending on or made on or after the date of enactment of this Act.

(3) Section 245(d) of the Immigration and Nationality Act (8 U.S.C. 1255(d)) is amended by adding at the end the following new sentence: "This paragraph shall not apply to aliens who seek adjustment of status on the basis of an approved self-petition under clause (iii) or (iv) of section 204(a)(1)(A) or classification under clause (ii) or (iii) of section 204(a)(1)(B).".

(i) Eliminating Time Limitations on Motions To Reopen Removal and Deportation Proceedings for Victims of Domestic Violence.—

(1) Removal proceedings.—

(A) In general.—Section 240(c)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(6)(C)) is amended by adding at the end the following:

"(iv) Special rule for battered spouses and children.—There is no time limit on the filing of a motion to reopen, and the deadline specified in subsection (b)(5)(C) does not apply, if the basis of the motion is to apply for adjustment of status based on a petition filed under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), or section 240A(b)(2) and if the motion to reopen is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.".

(B) Effective date.—The amendments made by subparagraph (A) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

(2) Deportation proceedings.—

(A) In general.—Notwithstanding any limitation imposed by law on motions to reopen deportation proceedings under the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)), there is no time limit on the filing of a motion to reopen such proceedings, and the deadline specified in section 242B(c)(3) of the Immigration and Nationality Act (as so in effect) does not apply, if the basis of the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as so in effect) and if the motion to reopen is accompanied by a suspension of deportation application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.

(B) Applicability.—Subparagraph (A) shall apply to motions filed by aliens who—

(i) are, or were, in deportation proceedings under the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)); and

(ii) have become eligible to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)) as a result of the amendments made by—

(I) subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1953 et seq.); or

(II) section XX03 of this title.

(j) Cancellation of Removal; Adjustment of Status.—(1)(A) Paragraph (1) of section 240A(d) of the Immigration and Nationality Act (8 U.S.C. 1229b(d)(1)) is amended to read as follows:

"(1) Termination of continuous period.—

"(A) In general.—Except as provided in subparagraph (B), for purposes of this section, any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served a notice to appear under section 239(a) or when the alien has committed an offense referred to in section 212(a)(2) that renders the alien inadmissible to the United States under section 212(a)(2) or removable from the United States under section 237(a)(2) or 237(a)(4), whichever is earliest.

"(B) Special rule for battered spouse or child.—For purposes of subsection (b)(2), the service of a notice to appear referred to in subparagraph (A) shall not be deemed to end any period of continuous physical presence in the United States.".

(B) Section 240A(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1229b(d)(1)) is amended by adding at the end the following new subsection:

"(C) Aliens in removal proceedings who applied for cancellation of removal under section 240A(b)(2).".

(C) The amendments made by subparagraphs (A) and (B) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 587).

(2)(A) Section 309(c)(5)(C) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) is amended—

(i) by amending the subparagraph heading to read as follows:

"(C) Special rule for certain aliens granted temporary protection from deportation and for battered spouses and children.—"; and

(ii) in clause (i)—

(I) by striking "or" at the end of subclause (IV);

(II) by striking the period at the end of subclause (V) and inserting "; or"; and

(III) by adding at the end the following:

"(VI) is an alien who was issued an order to show cause or was in deportation proceedings prior to April 1, 1997, and who applied for suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the date of the enactment of this Act).".

(B) The amendments made by subparagraph (A) shall take effect as if included in the enactment of section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note).

(3) Section 240A(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1229b(d)(2)) is amended to read as follows:

"(2) An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsections (b)(1) and (b)(2) if the alien has departed from the United States for any period in excess of 90 days or for periods in the aggregate exceeding 180 days. In the case of an alien applying for cancellation of removal under subsection (b)(2), the Attorney General may waive the provisions of this subsection for humanitarian purposes, if the alien demonstrates a substantial connection between the absences and the battery or extreme cruelty forming the basis of the application for cancellation of removal.".

(4) Section 244(a)(3) of the Immigration and Nationality Act (as in effect before the title III–A effective date of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; division C; 110 Stat. 3009–625)) is amended by adding at the end the following: "The Attorney General may waive the physical presence requirement for humanitarian purposes if the alien demonstrates a substantial connection between the absences and the battery or extreme cruelty forming the basis of the application for suspension of deportation.".

(k) EXCEPTION TO PUBLIC CHARGE GROUNDS OF INADMISSIBILITY.—Section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION.—Subparagraph (A) shall not apply to—

"(i) an alien who qualifies for status as a spouse or child of a United States citizen or lawful permanent resident pursuant to clause (iii) or (iv) of section 204(a)(1)(A) or clause (ii) or (iii) of section 204(a)(1)(B);

"(ii) an alien who qualifies for status as the spouse or child of a United States citizen or lawful permanent resident under section 204(a)(1)(A) (i) or (ii) or section 204(a)(1)(B)(i) and who has been battered or subjected to extreme cruelty; or

"(iii) derivatives and immediate relative children of aliens under clause (i) or (ii) of this subparagraph.".

(*l*) GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.—

(1) IN GENERAL.—Section 2001 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended—

(A) in subsection (a), by inserting ", the Immigration and Naturalization Service and the Executive Office of Immigration Review," after "Indian tribal governments"; and

(B) in subsection (b)—

(i) in paragraph (1), by inserting ", immigration and asylum officers, immigration judges," after "law enforcement officers";

(ii) in paragraph (6), by striking "and" at the end;

(iii) in paragraph (7), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(8) training justice system personnel on the immigration provisions of the Violence Against Women Act of 1994 and the ramifications of those provisions for victims of domestic violence who appear in civil and criminal court proceedings and potential immigration consequences for the perpetrators of domestic violence.".

(2) GRANTS TO ENCOURAGE ARREST POLICIES.—Section 2101(c) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh(c)) is amended—

(A) in paragraph (3), by striking "and" at the end;

(B) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(5) certify that their laws, policies, and practices do not discourage or prohibit prosecutors and law enforcement officers from granting access to information about the immigration status of a domestic violence perpetrator to the victim, the child, or their advocate".

(3) EFFECT ON OTHER GOALS.—Section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) is amended by adding at the end the following:

"(11) Notwithstanding any other provision of this section, identifying and reporting the alien status of a crime victim or of a victim of a domestic violence crime shall not supersede the goal of obtaining the cooperation of the victim in the reporting and prosecution of such crime or the goal of protecting the victim of such crime with a protection order or other legal relief available to assist crime victims or domestic violence victims under Federal or State laws.".

(m) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and House of Representatives a report on—

(1) the number of and processing times of petitions under section 204(a)(1)(A) (iii) and (iv) and 204(a)(1)(B) (ii) and (iii) of the Immigration and Nationality Act at district offices of the Immigration and Naturalization Service and at the regional office of the Service in St. Albans, Vermont;

(2) the policy and procedures of the Immigration and Naturalization Service by which an alien who has been battered or subjected to extreme cruelty who is eligible for suspension of deportation or cancellation of removal under can place him or herself in deportation or removal proceedings so that he or she may apply for suspension of deportation or cancellation of removal, the number of requests filed at each district office under this policy and the number of these requests granted broken out by District; and

(3) the average length of time at each Immigration and Naturalization office between the date that an alien who has been subject to battering or extreme cruelty eligible for suspension of deportation or cancellation of removal requests to be placed in deportation or removal proceedings, and the date that immigrant appears before an immigration judge to file an application for suspension of deportation or cancellation of removal.

SEC. 209. OLDER WOMEN'S PROTECTION FROM VIOLENCE.

(a) VIOLENCE AGAINST WOMEN ACT OF 1994 AMENDMENTS.—The Violence Against Women Act of 1994 (108 Stat. 1902) is amended by adding at the end the following:

"Subtitle H—Elder Abuse, Neglect, and Exploitation, Including Domestic Violence and Sexual Assault Against Older Individuals

"SEC. 40801. DEFINITIONS.

"In this subtitle:

"(1) IN GENERAL.—The terms 'elder abuse, neglect, and exploitation', 'domestic violence', and 'older individual' have the meanings given the terms in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002).

"(2) SEXUAL ASSAULT.—The term 'sexual assault' has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2).

"SEC. 40802. LAW SCHOOL CLINICAL PROGRAMS ON ELDER ABUSE, NEGLECT, AND EXPLOITATION.

"The Attorney General shall make grants to law school clinical programs for the purposes of funding the inclusion of cases addressing issues of elder abuse, neglect, and exploitation, including domestic violence, and sexual assault, against older individuals.

"SEC. 40803. TRAINING PROGRAMS FOR LAW ENFORCEMENT OFFICERS.

"The Attorney General shall develop curricula and offer, or provide for the offering of, training programs to assist law enforcement officers and prosecutors in recognizing, addressing, investigating, and prosecuting instances of elder abuse, neglect, and exploitation, including domestic violence, and sexual assault, against older individuals.

"SEC. 40804. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.".

(b) FAMILY VIOLENCE PREVENTION AND SERVICES ACT AMENDMENTS.—

(1) DEFINITIONS.—Section 309 of the Family Violence Prevention and Services Act (42 U.S.C. 10408) is amended by adding at the end the following:

"(7) The term 'older individual' has the meaning given the term in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002).".

(2) DOMESTIC VIOLENCE SERVICES FOR OLDER INDIVIDUALS.—Section 311(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10410(a)) is amended—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(6) work with domestic violence programs to encourage the development of programs, including outreach, support groups, and counseling, targeted to older individuals.".

(3) DEMONSTRATION GRANTS FOR COMMUNITY INITIATIVES.—Section 318(b)(2)(F) of the Family Violence Prevention and Services Act (42 U.S.C. 10418(b)(2)(F)) is amended by inserting "and adult protective services entities" before the semicolon.

(c) OLDER AMERICANS ACT OF 1965 AMENDMENTS.—

(1) DEFINITIONS.—Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended by adding at the end the following:

"(45) The term 'domestic violence' has the meaning given the term in section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2).

"(46) The term 'sexual assault' has the meaning given the term in section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2).".

(2) RESEARCH ABOUT THE SEXUAL ASSAULT OF WOMEN WHO ARE OLDER INDIVIDUALS.—Section 202(d)(3)(C) of the Older Americans Act of 1965 (42 U.S.C. 3012(d)(3)(C)) is amended—

(A) by striking "and" at the end of clause (i);

(B) by striking the period at the end of clause (ii) and inserting "; and"; and

(C) by adding at the end the following:

"(iii) in establishing research priorities under clause (i), consider the importance of research about the sexual assault of women who are older individuals.".

(3) STATE LONG-TERM CARE OMBUDSMAN PROGRAM.—Section 303(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3023(a)(1)) is amended by inserting before the period the following: ", except that for grants to carry out section 321(a)(10), there are authorized to be appropriated such sums as may be necessary without fiscal year limitation".

(4) TRAINING FOR HEALTH PROFESSIONALS ON SCREENING FOR ELDER ABUSE, NEGLECT, AND

EXPLOITATION.—Section 411 of the Older Americans Act of 1965 (42 U.S.C. 3031) is amended by adding at the end the following:

"(f) TRAINING FOR HEALTH PROFESSIONALS ON SCREENING FOR ELDER ABUSE, NEGLECT, AND EXPLOITATION.—

"(1) IN GENERAL.—The Secretary shall, in consultation with the Assistant Secretary, develop curricula and implement continuing education training programs for protective service workers, health care providers, social workers, clergy, and other community-based social service providers in settings, including senior centers, adult day care settings, and senior housing, to improve the ability of the persons using the curriculum and training programs to recognize and address instances of elder abuse, neglect, and exploitation, including domestic violence, and sexual assault, against older individuals.

"(2) TRAINING AND CURRICULA.—In carrying out paragraph (1), the Secretary shall develop and implement separate curricula and training programs for adult protective services workers, medical students, physicians, physician assistants, nurse practitioners, nurses, and clergy.".

(5) DOMESTIC VIOLENCE SHELTERS AND PROGRAMS FOR OLDER INDIVIDUALS.—Section 422(b) of the Older Americans Act of 1965 (42 U.S.C. 3035a(b)) is amended—

(A) by striking "and" at the end of paragraph (11);

(B) by striking the period at the end of paragraph (12) and inserting a semicolon; and

(C) by adding at the end the following:

"(13) expand access to domestic violence shelters and programs for older individuals and encourage the use of senior housing, nursing homes, or other suitable facilities or services when appropriate as emergency short-term shelters or measures for older individuals who are the victims of elder abuse, including domestic violence, and sexual assault, against older individuals; and

"(14) promote research on legal, organizational, or training impediments to providing services to older individuals through shelters, such as impediments to provision of the services in coordination with delivery of health care or senior services.".

(6) AUTHORIZATION OF APPROPRIATIONS.—

(A) OMBUDSMAN PROGRAM.—Section 702(a) of the Older Americans Act of 1965 (42 U.S.C. 3058a(a)) is amended to read as follows:

"(a) OMBUDSMAN PROGRAM.—There are authorized to be appropriated to carry out chapter 2 such sums as may be necessary without fiscal year limitation.".

(B) ELDER ABUSE PREVENTION PROGRAM.—Section 702(b) of the Older Americans Act of 1965 (42 U.S.C. 3058a(b)) is amended to read as follows:

"(b) PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.—There are authorized to be appropriated to carry out chapter 3 such sums as may be necessary without fiscal year limitation.".

(7) COMMUNITY INITIATIVES AND OUTREACH.—Title VII of the Older Americans Act of 1965 (42 U.S.C. 3058 et seq.) is amended—

(A) by redesignating subtitle C as subtitle D;

(B) by redesignating sections 761 through 764 as sections 771 through 774, respectively; and

(C) by inserting after subtitle B the following:

"Subtitle C—Community Initiatives and Outreach

"SEC. 761. COMMUNITY INITIATIVES TO COMBAT ELDER ABUSE, NEGLECT, AND EXPLOITATION.

"The Secretary shall make grants to nonprofit private organizations to support projects in local communities, involving diverse sectors of each community, to coordinate activities concerning intervention in and prevention of elder abuse, neglect, and exploitation, including domestic violence, and sexual assault, against older individuals.

"SEC. 762. OUTREACH TO OLDER INDIVIDUALS.

"The Secretary shall make grants to develop and implement outreach programs directed toward assisting older individuals who are victims of elder abuse, neglect, and exploitation (including domestic violence, and sexual assault, against older individuals), including programs directed toward assisting the individuals in senior housing complexes and senior centers.

"SEC. 763. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle such sums as may be necessary without fiscal year limitation.".

(d) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(1) TITLE VII PROGRAMS; PREFERENCES IN FINANCIAL AWARDS.—Section 791 of the Public Health Service Act (42 U.S.C. 295j), as amended by section 107(a) of the Health Professions Education Partnerships Act of 1998 (Public Law 105–392; 112 Stat. 3560) is amended by adding at the end the following:

"(d) PREFERENCES REGARDING TRAINING IN IDENTIFICATION AND REFERRAL OF VICTIMS OF ELDER ABUSE AND NEGLECT.—

"(1) IN GENERAL.—In the case of a health professions entity specified in paragraph (2), the Secretary shall, in making awards of grants or contracts under this title, give preference to any such entity (if otherwise a qualified applicant for the award involved) that has in effect the requirement that, as a condition of receiving a degree or certificate (as applicable) from the entity, each student have had significant training (such as training conducted in accordance with curricula or programs authorized under section 411(f) of the Older Americans Act of 1965 (42 U.S.C. 3031(f))), in carrying out the following functions as a provider of health care:

"(A) Identifying victims of elder abuse and neglect, including domestic violence, and sexual assault, against older individuals, and maintaining complete medical records that include documentation of the examination, treatment given, and referrals made, and recording the location and nature of the victim's injuries.

"(B) Examining and treating such victims, within the scope of the health professional's discipline, training, and practice, including, at a minimum, providing medical advice regarding the dynamics and nature of elder abuse and neglect.

"(C) Referring the victims to public and nonprofit private entities that provide services for such victims.

"(2) RELEVANT HEALTH PROFESSIONS ENTITIES.—For purposes of paragraph (1), a health professions entity specified in this paragraph is any entity that is a school of medicine, a school of osteopathic medicine, a graduate program in mental health practice, a school of nursing (as defined in section 801), a program for the training of physician assistants, or a program for the training of allied health professionals.

"(3) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of the Violence Against Women Act II, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report specifying—

"(A) the health professions entities that are receiving preference under paragraph (1);

"(B) the number of hours of training required by the entities for purposes of such paragraph;

"(C) the extent of clinical experience so required; and

"(D) the types of courses through which the training is being provided.

"(4) DEFINITIONS.—In this subsection:

"(A) IN GENERAL.—The terms 'abuse', 'neglect', 'domestic violence', and 'older individual' have the meanings given the terms in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002).

"(B) ELDER ABUSE AND NEGLECT.—The term 'elder abuse and neglect' means abuse and neglect of an older individual.

"(C) SEXUAL ASSAULT.—The term 'sexual assault' has the meaning given the term in section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2).".

(2) TITLE VIII PROGRAMS; PREFERENCES IN FINANCIAL AWARDS.—Section 806 of the Public Health Service Act (as added by section 123 of the Health Professions Education Partnerships Act of 1998 (Public Law 105–392)) is amended by adding at the end the following:

"(i) PREFERENCES REGARDING TRAINING IN IDENTIFICATION AND REFERRAL OF VICTIMS OF ELDER ABUSE AND NEGLECT.—

"(1) IN GENERAL.—In the case of a health professions entity specified in paragraph (2), the Secretary shall, in making awards of grants or contracts under this title, give preference to any such entity (if otherwise a qualified applicant for the award involved) that has in effect the requirement that, as a condition of receiving a degree or certificate (as applicable) from the entity, each student have had significant training (such as training conducted in accordance with curricula or programs authorized under section 411(f) of the Older Americans Act of 1965 (42 U.S.C. 3031(f))), in carrying out the following functions as a provider of health care:

"(A) Identifying victims of elder abuse and neglect, including domestic violence, and sexual assault, against older individuals, and maintaining complete medical records that include documentation of the examination, treatment given, and referrals made, and recording the location and nature of the victim's injuries.

"(B) Examining and treating such victims, within the scope of the health professional's discipline, training, and practice, including, at a minimum, providing medical advice regarding the dynamics and nature of elder abuse and neglect.

"(C) Referring the victims to public and nonprofit private entities that provide services for such victims.

"(2) RELEVANT HEALTH PROFESSIONS ENTITIES.—For purposes of paragraph (1), a health professions entity specified in this paragraph is any entity that is a school of nursing or other public or nonprofit private entity that is eligible to receive an award described in such paragraph.

"(3) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of the Violence Against Women Act II, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report specifying—

"(A) the health professions entities that are receiving preference under paragraph (1);

"(B) the number of hours of training required by the entities for purposes of such paragraph;

"(C) the extent of clinical experience so required; and

"(D) the types of courses through which the training is being provided.

"(4) DEFINITIONS.—In this subsection:

"(A) IN GENERAL.—The terms 'abuse', 'neglect', 'domestic violence', and 'older individual' have the meanings given the terms in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002).

"(B) ELDER ABUSE AND NEGLECT.—The term 'elder abuse and neglect' means abuse and neglect of an older individual.

"(C) SEXUAL ASSAULT.—The term 'sexual assault' has the meaning given the term in section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).".

(3) CONFORMING AMENDMENT.—Section 411(f) of the Older Americans Act of 1965 (as added by subsection (c)(4)) is amended by adding at the end the following:

"(3) In carrying out paragraph (1), the Secretary shall provide information about the curricula and training programs to entities described in section 791(d)(2) of the Public Health Service Act (42 U.S.C. 295j(d)(2)) and section 806(i)(2) of the Public Health Service Act (as added by section 123 of the Health Professions Education Partnerships Act of 1998 and amended by section 209(d)(2) of the Violence Against Women Act II) that seek grants or contracts under title VII or VIII of such Act.".

TITLE III—LIMITING THE EFFECTS OF VIOLENCE ON CHILDREN

SEC. 301. SAFE HAVENS FOR CHILDREN.

(a) IN GENERAL.—The Attorney General may make grants to States and Indian tribal governments to enable States and Indian tribal governments to enter into contracts and cooperative agreements with public or private nonprofit entities to assist those entities in establishing and operating supervised visitation centers for purposes of facilitating supervised visitation and visitation exchange of children by and between parents.

(b) CONSIDERATIONS.—In awarding grants under subsection (a), the Attorney General shall take into account—

(1) the number of families to be served by the proposed visitation center;

(2) the extent to which the proposed supervised visitation center serves underserved populations (as defined in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2));

(3) with respect to an applicant for a contract or cooperative agreement, the extent to which the applicant demonstrates cooperation and collaboration with nonprofit, nongovernmental entities in the local community served, including the State domestic violence coalition, State sexual assault coalition, local shelters, and programs for domestic violence and sexual assault victims;

(4) the extent to which the applicant demonstrates coordination and collaboration with State and local court systems, including mechanisms for communication and referral; and

(5) the extent to which the applicant demonstrates implementation of domestic violence and sexual assault training for all employees.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Amounts provided under a grant, contract, or cooperative agreement awarded under this section shall be used to establish and operate supervised visitation centers.

(2) APPLICANT REQUIREMENTS.—The Attorney General shall award grants for contracts and cooperative agreements under this section in accordance with such regulations as the Attorney General may promulgate. The regulations shall establish a multi-year grant process. The Attorney General shall give priority in awarding grants for contracts and cooperative agreements under this section to States that consider domestic violence in making a custody decision and require findings on the record. An applicant awarded a contract or cooperative agreement by a State that receives a grant under this section shall—

(A) demonstrate recognized expertise in the area of family violence and a record of high quality service to victims of domestic violence and/or sexual assault;

(B) demonstrate collaboration with and support of the State domestic violence coalition, sexual assault coalition or local domestic violence and sexual assault shelter or program in the locality in which the supervised visitation center will be operated;

(C) provide supervised visitation and visitation exchange services over the duration of a court order to promote continuity and stability;

(D) ensure that any fees charged to individuals for use of services are based on an individual's income;

(E) demonstrate that adequate security measures, including adequate facilities, procedures, and personnel capable of preventing violence, are in place for the operation of supervised visitation; and

(F) described standards by which the supervised visitation center will operate.

(d) REPORTING.—Not later than 120 days after the end of each fiscal year, the Attorney General shall submit to Congress a report that includes information concerning—

(1) the number of individuals served and the number of individuals turned away from services (categorized by State), the number of individuals from underserved populations served and turned away from services, and the type of problems that underlie the need for supervised visitation or visitation exchange, such as domestic violence, child abuse, sexual assault, emotional or other physical abuse, or a combination of such factors;

(2) the numbers of supervised visitations or visitation exchanges ordered during custody determinations under a separation or divorce decree or protection order, through child protection services or other social services agencies, or by any other order of a civil, criminal, juvenile, or family court;

(3) the process by which children or abused partners are protected during visitations, temporary custody transfers, and other activities for which the supervised visitation centers are established under this section;

(4) safety and security problems occurring during the reporting period during supervised visitations or at visitation centers including the number of parental abduction cases;

(5) the number of parental abduction cases in a judicial district using supervised visitation services, both as identified in criminal prosecution and custody violations; and

(6) program standards across the country that are in place for operating a supervised visitation center.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section—

(A) $20,000,000 for fiscal year 2000;

(B) $30,000,000 for fiscal year 2001; and

(C) $30,000,000 for fiscal year 2002.

(2) DISTRIBUTION.—Of amounts made available to carry out this section for each fiscal year, not less than 95 percent shall be used to award grants, contracts, or cooperative agreements.

(3) ALLOTMENT FOR INDIAN TRIBES.—

(A) IN GENERAL.—Not less than 5 percent of the total amount made available to carry out this section for each fiscal year shall be available for grants to Indian tribal governments.

(B) REALLOTMENT OF FUNDS.—If, beginning 9 months after the first day of any fiscal year for which amounts are made available under this paragraph, any amount made available under this paragraph remains unobligated, the unobligated amount may be allocated without regard to subparagraph (A).

SEC. 302. STUDY OF CHILD CUSTODY LAWS IN DOMESTIC VIOLENCE CASES.

(a) IN GENERAL.—The Attorney General shall—

(1) conduct a study of Federal and State laws relating to child custody, including the Parental Kidnaping Prevention Act of 1980, and the amendments made by that Act, and the effect of those laws on child custody cases in which domestic violence is a factor; and

(2) submit to Congress a report describing the results of that study, including the effects of implementing or applying new model State laws, and the recommendations of the Attorney General regarding legislative changes to reduce the incidence or pattern of violence against women or of sexual assault of the child.

(b) SUFFICIENCY OF DEFENSES.—In carrying out subsection (a) with respect to the Parental Kidnaping Prevention Act of 1980, and the amendments made by that Act, the Attorney General shall examine the sufficiency of defenses to parental abduction charges available in cases involving domestic violence, and the burdens and risks encountered by victims of domestic violence arising from compliance with the full faith and credit (and judicial jurisdiction) requirements of that Act and the amendments made by that Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriate to carry out this section $200,000 for each of fiscal years 2000 and 2001.

(d) CONDITION FOR CUSTODY DETERMINATION.—Section 1738A(c)(2)(C)(ii) of title 28, United States Code, is amended—

(1) by striking "he" and inserting "the child, or a sibling or parent of the child,"; and

(2) by inserting ", including any act of domestic violence by the other parent" before the semicolon.

SEC. 303. REAUTHORIZATION OF RUNAWAY AND HOMELESS YOUTH GRANTS.

(a) IN GENERAL.—Section 316(c) of the Runaway and Homeless Youth Act (42 U.S.C. 5712d(c)) is amended to read as follows:

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section—

"(1) $21,000,000 for fiscal year 2000;

"(2) $22,000,000 for fiscal year 2001; and

"(3) $23,000,000 for fiscal year 2002.".

(b) DISSEMINATION OF INFORMATION.—Section 316 of part A of the Runaway and Homeless Youth Act (42 U.S.C. 5712d) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) DISSEMINATION OF INFORMATION.—The Secretary shall annually compile and broadly disseminate (including through electronic publication) information about the use of amounts expended and the projects funded under this subtitle, including any evaluations of the projects and information to enable replication and adoption of the strategies identified in the projects. Such dissemination shall target community-based programs, including domestic violence and sexual assault programs.".

SEC. 304. REAUTHORIZATION OF VICTIMS OF CHILD ABUSE PROGRAMS.

(a) COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.—Section 218(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13014(a)) is amended to read as follows:

"(a) AUTHORIZATION.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this subtitle—

"(1) $10,000,000 for fiscal year 2000; and

"(2) $12,000,000 for each of fiscal years 2001 and 2002.".

(b) CHILD ABUSE TRAINING PROGRAMS FOR JUDICIAL PERSONNEL AND PRACTITIONERS.—Section 224(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13024(a) is amended to read as follows:

"(a) AUTHORIZATION.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this subtitle $2,300,000 for each of fiscal years 2000 through 2002.".

(c) GRANTS FOR TELEVISED TESTIMONY.—Section 1001(a)(7) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(7)) is amended to read as follows:

"(7) There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out part N $1,000,000 for each of fiscal years 2000 through 2002.".

(d) DISSEMINATION OF INFORMATION.—The Attorney General shall annually compile and broadly disseminate (including through electronic publication) information about the use of amounts expended and the projects funded under section 218(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13014(a)), section 224(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13024(a)), and section 1007(a)(7) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(7)), including any evaluations of the projects and information to enable replication and adoption of the strategies identified in the projects. Such dissemination shall target community-based programs, including domestic violence and sexual assault programs.

TITLE IV—STRENGTHENING EDUCATION AND TRAINING TO COMBAT VIOLENCE AGAINST WOMEN

SEC. 401. EDUCATION AND TRAINING OF HEALTH PROFESSIONALS.

(a) TITLE VII PROGRAMS; PREFERENCES IN FINANCIAL AWARDS.—Section 791 of the Public Health Service Act (42 U.S.C. 295j), as amended by section 209 of this Act, is amended by adding at the end the following:

"(d) PREFERENCES REGARDING TRAINING IN IDENTIFICATION AND REFERRAL OF VICTIMS OF DOMESTIC VIOLENCE.—

"(1) IN GENERAL.—In the case of a health professions entity specified in paragraph (2), the Secretary shall, in making awards of grants or contracts under this title, give preference to any such entity (if otherwise a qualified applicant for the award involved) that has in effect the requirement that, as a condition of receiving a degree or certificate (as applicable) from the entity, each student have had significant training in carrying out the following functions as a provider of health care:

"(A) Identifying victims of domestic violence, and maintaining complete medical records that include documentation of the examination, treatment given, and referrals made, and recording the location and nature of the victim's injuries.

"(B) Examining and treating such victims, within the scope of the health professional's discipline, training, and practice, including, at a minimum, providing medical advice regarding the dynamics and nature of domestic violence.

"(C) Referring the victims to public and nonprofit private entities that provide services for such victims.

"(2) RELEVANT HEALTH PROFESSIONS ENTITIES.—For purposes of paragraph (1), a health professions entity specified in this paragraph is any entity that is a school of medicine, a school of osteopathic medicine, a graduate program in mental health practice, a school of nursing (as defined in section 853), a program for the training of physician assistants, or a program for the training of allied health professionals.

"(3) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report specifying—

"(A) the health professions entities that are receiving preference under paragraph (1);

"(B) the number of hours of training required by the entities for purposes of such paragraph;

"(C) the extent of clinical experience so required; and

"(D) the types of courses through which the training is being provided.

"(4) DEFINITION OF DOMESTIC VIOLENCE.—In this subsection, the term 'domestic violence' includes behavior commonly referred to as domestic violence, sexual assault, spousal abuse, woman battering, partner abuse, child abuse, elder abuse, and acquaintance rape.".

(b) TITLE VIII PROGRAMS; PREFERENCES IN FINANCIAL AWARDS.—Section 860 of the Public Health Service Act (42 U.S.C. 298b–7), as amended by section 209 of this Act, is amended by adding at the end the following:

"(g) PREFERENCES REGARDING TRAINING IN IDENTIFICATION AND REFERRAL OF VICTIMS OF DOMESTIC VIOLENCE.—

"(1) IN GENERAL.—In the case of a health professions entity specified in paragraph (2), the Secretary shall, in making awards of grants or contracts under this title, give preference to any such entity (if otherwise a qualified applicant for the award involved) that has in effect the requirement that, as a condition of receiving a degree or certificate (as applicable) from the entity, each student have had significant training in carrying out the following functions as a provider of health care:

"(A) Identifying victims of domestic violence, and maintaining complete medical records that include documentation of the examination, treatment given, and referrals made, and recording the location and nature of the victim's injuries.

"(B) Examining and treating such victims, within the scope of the health professional's discipline, training, and practice, including, at a minimum, providing medical advice regarding the dynamics and nature of domestic violence.

"(C) Referring the victims to public and nonprofit private entities that provide services for such victims.

"(2) RELEVANT HEALTH PROFESSIONS ENTITIES.—For purposes of paragraph (1), a health professions entity specified in this paragraph is any entity that is a school of nursing or other public or nonprofit private entity that is eligible to receive an award described in such paragraph.

"(3) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of the Domestic Violence Identification and Referral Act of 1997, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report specifying—

"(A) the health professions entities that are receiving preference under paragraph (1);

"(B) the number of hours of training required by the entities for purposes of such paragraph;

"(C) the extent of clinical experience so required; and

"(D) the types of courses through which the training is being provided.

"(4) DEFINITION OF DOMESTIC VIOLENCE.—In this subsection, the term 'domestic violence' includes behavior commonly referred to as domestic violence, sexual assault, spousal abuse, woman battering, partner abuse, child abuse, elder abuse, and acquaintance rape.".

SEC. 402. EDUCATION AND TRAINING IN APPROPRIATE RESPONSES TO VIOLENCE AGAINST WOMEN.

(a) AUTHORITY.—The Attorney General may make grants in accordance with this section to public and private nonprofit entities that, in the determination of the Attorney General, have—

(1) nationally recognized expertise in the areas of domestic violence and sexual assault; and

(2) a record of commitment and quality responses to reduce domestic violence and sexual assault.

(b) PURPOSE.—Grants under this section may be used for the purposes of developing, testing, presenting, and disseminating model programs to provide education and training in appropriate and effective responses to victims of domestic violence and victims of sexual assault (including, as appropriate, the effects of domestic violence on children) to individuals (other than law enforcement officers and prosecutors) who are likely to come into contact with such victims during the course of their employment, including—

(1) campus personnel, such as administrators, housing officers, resident advisers, counselors, and others;

(2) caseworkers, supervisors, administrators, administrative law judges, and other individuals administering Federal and State benefits programs, such as child welfare and child protective services, Temporary Assistance to Needy Families, social security disability, child support, medicaid, unemployment, workers' compensation, and similar programs;

(3) justice system professionals, such as court personnel, guardians ad litem and other individuals appointed to represent or evaluate children, probation and parole officers, bail commissioners, judges, and attorneys;

(4) medical and health care professionals, including mental and behavioral health professionals such as psychologists, psychiatrists, social workers, therapists, counselors, and others; and

(5) religious professionals, such as clergy persons and lay employees.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section $5,000,000 for each of fiscal years 2000 through 2002.

SEC. 403. RAPE PREVENTION AND EDUCATION.

(a) IN GENERAL.—Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.) is amended by inserting after section 393A the following:

“SEC. 393B. USE OF ALLOTMENTS FOR RAPE PREVENTION EDUCATION.

“(a) PERMITTED USE.—Notwithstanding section 1904(a)(1), amounts transferred by the State for use under this part shall be used for rape prevention and education programs conducted by rape crisis centers, State sexual assault coalitions, and other public and private nonprofit entities for—

“(1) educational seminars;

“(2) the operation of hotlines;

“(3) training programs for professionals;

“(4) the preparation of informational material;

“(5) education and training programs for students and campus personnel designed to reduce the incidence of sexual assault at colleges and universities; and

“(6) other efforts to increase awareness of the facts about, or to help prevent, sexual assault, including efforts to increase awareness in underserved communities and awareness among individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

“(b) NATIONAL RESOURCE CENTER.—The Secretary of Health and Human Services shall, through the National Center for Injury Prevention and Control at the Centers for Disease Control and Prevention, establish a National Resource Center on Sexual Assault to provide resource information, policy, training, and technical assistance to Federal, State, and Indian tribal agencies, as well as to State sexual assault coalitions and local sexual assault programs and to other professionals and interested parties on issues relating to sexual assault. The Resource Center shall maintain a central resource library in order to collect, prepare, analyze, and disseminate information and statistics and analyses thereof relating to the incidence and prevention of sexual assault.

“(c) TARGETING OF EDUCATION PROGRAMS.—States providing grant moneys must ensure that not less than 25 percent of the funds are used for educational programs targeted for middle school, junior high, and high school students. The programs targeted under this subsection shall be provided by or in consultation with rape crisis centers, State sexual assault coalitions, or other entities recognized for their expertise in preventing sexual assault or in providing services to victims of sexual assault.

“(d) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section—

“(A) $55,000,000 for fiscal year 2000;

“(B) $60,000,000 for fiscal year 2001; and

“(C) $60,000,000 for fiscal year 2002.

“(2) SEXUAL ASSAULT COALITIONS.—Not less than 10 percent of the total amount made available under this subsection in each fiscal year shall be used to make grants to State sexual assault coalitions to address public health issues associated with sexual assault through training, resource development, or similar research.

“(3) NATIONAL RESOURCE CENTER ALLOTMENT.—Not less than 1 percent of the total amount made available under this subsection in each fiscal year shall be available for allotment under subsection (b).

“(e) LIMITATIONS.—

“(1) SUPPLEMENT NOT SUPPLANT.—Amounts transferred by States for use under this section shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services of the type described in subsection (a).

“(2) STUDIES.—A State may not use more than 2 percent of the amount received by the State under this section for each fiscal year for surveillance studies or prevalence studies.

“(3) ADMINISTRATION.—A State may not use more than 5 percent of the amount received by the State under this section for each fiscal year for administrative expenses.

“(f) ELIGIBLE ORGANIZATIONS.—The Secretary shall award a grant under subsection (b) of this section to a private nonprofit entity which can—

“(1) demonstrate that it has recognized expertise in the area of sexual assault, a record of high-quality services to victims of sexual assault, including a demonstration of support from advocacy groups, such as State sexual assault coalitions or recognized national sexual assault groups; and

“(2) demonstrate a commitment to the provision of services to underserved populations.

“(g) DEFINITIONS.—In this section—

“(1) the term ‘rape prevention and education’ includes education and prevention efforts directed at sexual offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim;

“(2) the term ‘rape crisis center’ means a private nonprofit organization that is organized, or has as one of its primary purposes, to provide services for victims of sexual assault and has a record of commitment and demonstrated experience in providing services to victims of sexual assault;

“(3) the term ‘sexual assault’ has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2); and

“(4) the term ‘State sexual assault coalition’ means a statewide nonprofit, non-governmental membership organization administering a majority of sexual assault programs within the State that, among other activities, provides training and technical assistance to sexual assault programs within the State.

“(h) TERMS.—

“(1) BASIS OF ALLOTMENTS.—The Secretary shall make allotments to each State on the basis of the population of the State.

“(2) LIMITATION.—No State may use amounts made available by reason of subsection (a) in any fiscal year for administration of any prevention program other than the rape prevention and education program for which allotments are made under this section.

“(3) AVAILABILITY OF FUNDS.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.”.

(b) TECHNICAL AMENDMENTS.—

(1) PUBLIC HEALTH SERVICE.—Section 1910A of the Public Health Service Act (42 U.S.C. 300w–10) is repealed.

(2) VIOLENCE AGAINST WOMEN ACT OF 1994.—Section 40151 of the Violence Against Women Act of 1994 (108 Stat. 1920) is repealed.

SEC. 404. VIOLENCE AGAINST WOMEN PREVENTION EDUCATION AMONG YOUTH.

(a) GRANTS AUTHORIZED.—The Secretary of Health and Human Services, in consultation with the Secretary of Education, shall provide grants to individuals or organizations to carry out educational programs for elementary schools, middle schools, secondary schools, or institutions of higher education with respect to information regarding, and prevention of, domestic violence and violence among intimate partners.

(b) ELIGIBILITY.—To be eligible for a grant under this section, an individual or organization shall work in domestic violence prevention, health or social work, law or law enforcement, schools, or institutions of higher education.

(c) APPLICATIONS.—An individual or organization that desires to receive a grant under this section shall submit to the Secretary of Health and Human Services an application, in such form and manner as the Secretary of Health and Human Services shall prescribe, that—

(1) demonstrates that the educational program is comprehensive, engaging, and appropriate to the target ages, addresses cultural diversity, has the potential to change attitudes and behaviors, is developed based on research and experience in the areas of youth education and domestic violence, collects some form of data on changes in participants' attitudes or behavior, and includes an evaluation component;

(2) in the case of a program for a collegiate audience, demonstrates input from members of the campus community, campus or local law enforcement, education professionals, legal and psychological experts on battering, and victim advocate organizations; and

(3) contains such other information, agreements, and assurances as the Secretary of Health and Human Services may require.

(d) USES OF FUNDS.—

(1) IN GENERAL.—An individual or organization that receives a grant under this section may use the grant funds—

(A) to carry out educational programs for elementary schools, middle schools, secondary schools, or institutions of higher education with respect to information regarding, and prevention of, domestic violence and violence among intimate partners;

(B) to modify the program materials of the model programs implemented under section 317 of the Family Violence Prevention and Services Act (42 U.S.C. 10417), if appropriate, in order to make the materials applicable to a particular age group;

(C) to purchase the materials described in subparagraph (B); or

(D) to establish pilot educational programs described in paragraph (1) for institutions of higher education for the purpose of identifying model programs for such institutions.

(2) LIMITATION.—An individual or organization that receives a grant under this section for a fiscal year shall use not more than 7 percent of the grant funds for administrative expenses.

(e) PUBLICATION.—The Secretary of Health and Human Services shall publish the availability of grants under this section through announcements in professional publications for the individuals or organizations described in subsection (d)(2), and through notice in the Federal Register.

(f) TERM.—A grant under this section may be awarded for a period of not more than 3 fiscal years.

(g) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary of Health and Human Services shall ensure an equitable geographic distribution to individuals and organizations throughout the United States.

(h) REQUIREMENTS.—In carrying out an educational program under this section, an individual or organization shall—

(1) develop the program, or acquire model program materials if available;

(2) carry out the program with a school's or institution of higher education's involvement; and

(3) report the results of the program to the Secretary of Health and Human Services in a format provided by the Secretary.

(i) EVALUATION AND REPORT.—

(1) COLLEGE LEVEL PROGRAMS.—Not later than December 31, 2000, the Secretary shall evaluate the pilot educational programs for college audiences assisted under subsection (e)(1)(D) with the goal of identifying and describing model programs.

(2) EVALUATION AND REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary of Health and Human Services shall—

(A) transmit to Congress the design and an evaluation of the model collegiate programs;

(B) report to Congress regarding results of the elementary school, middle school, secondary school, and institution of higher education programs funded under this section; and

(C) suggest changes or improvements to be made in the programs.

(j) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register proposed regulations implementing this section. Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register final regulations implementing this section.

(k) DEFINITIONS.—

(1) ELEMENTARY SCHOOL; SECONDARY SCHOOL.—The terms "elementary school" and "secondary school" have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141).

(l) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section (other than subsection (d)(1)(D) and subparagraphs (A) and (B) of subsection (i)(2))—

(A) $2,700,000 for fiscal year 2000; and

(B) $2,700,000 for fiscal year 2001.

(2) COLLEGIATE PROGRAMS; REPORT.—There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out subsection (d)(1)(D) and subparagraphs (A) and (B) of subsection (i)(2) $400,000 for fiscal year 2001.

(3) AVAILABILITY.—Amounts appropriated under this subsection shall remain available until the earlier of—

(A) the date on which those amounts are expended; or

(B) December 31, 2001.

SEC. 405. EDUCATION AND TRAINING TO END VIOLENCE AGAINST AND ABUSE OF WOMEN WITH DISABILITIES.

(a) IN GENERAL.—The Attorney General shall make grants to States and nongovernmental private entities to provide education and technical assistance for the purpose of providing training, consultation, and information on violence, abuse, and sexual assault against women who are individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

(b) PRIORITIES.—In making grants under this section, the Attorney General shall give priority to applications designed to provide education and technical assistance on—

(1) the nature, definition, and characteristics of violence, abuse, and sexual assault experienced by women who are individuals with disabilities;

(2) outreach activities to ensure that women who are individuals with disabilities who are victims of violence, abuse, and sexual assault receive appropriate assistance;

(3) the requirements of shelters and victim services organizations under Federal antidiscrimination laws, including the Americans with Disabilities Act of 1990 and section 504 of the Rehabilitation Act of 1973; and

(4) cost-effective ways that shelters and victim services may accommodate the needs of individuals with disabilities in accordance with the Americans with Disabilities Act of 1990.

(c) USES OF GRANTS.—Each recipient of a grant under this section shall provide information and training to organizations and programs that provide services to individuals with disabilities, including independent living centers, disability-related service organizations, and domestic violence programs providing shelter or related assistance.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section—

(1) $4,000,000 for fiscal year 2000;

(2) $5,000,000 for fiscal year 2001; and

(3) $6,000,000 for fiscal year 2002.

SEC. 406. COMMUNITY INITIATIVES.

Section 318 of the Family Violence Prevention and Services Act (42 U.S.C. 10418) is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (G), by striking "and" at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

"(H) groups that provide services to or advocacy on behalf of individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)); and"; and

(2) by striking subsection (h) and inserting the following:

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section—

"(1) $5,000,000 for fiscal year 2000;

"(2) $6,000,000 for fiscal year 2001; and

"(3) $7,000,000 for fiscal year 2002.".

SEC. 407. NATIONAL COMMISSION ON STANDARDS OF PRACTICE AND TRAINING FOR SEXUAL ASSAULT EXAMINATIONS.

(a) IN GENERAL.—The Attorney General shall establish a multidisciplinary, multiagency national commission, which shall—

(1) evaluate standards of training and practice for licensed health care professionals performing sexual assault forensic examinations and develop a national recommended standard for training;

(2) recommend minimum sexual assault forensic examination training for all health care students to improve the recognition of injuries suggestive of rape and sexual assault and baseline knowledge of appropriate referrals in victim treatment and evidence collection;

(3) review national, State, and local protocols on sexual assault for forensic examinations, and based on the review, develop a recommended national protocol, and establish a mechanism for nationwide dissemination; and

(4) study and evaluate State procedures for payment of forensic examinations for victims of sexual assault and establish a recommended Federal protocol for the payment of forensic examinations.

(b) MEMBERSHIP.—The members of the national commission established under this section shall be appointed by the Attorney General from among individuals who are experts in the prevention and treatment of rape and sexual assault, including—

(1) individuals employed in the fields of victim services, criminal justice, forensic nursing, forensic science, emergency room medicine, law, and social services; and

(2) individuals who are experts in the prevention and treatment of sex crimes in ethnic, social, and language minority communities, as well as rural, disabled, and other underserved communities.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit a report to Congress on the findings of the commission established under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section $200,000 for fiscal year 2000.

SEC. 408. NATIONAL WORKPLACE CLEARINGHOUSE ON VIOLENCE AGAINST WOMEN.

(a) AUTHORITY.—The Attorney General may make a grant in accordance with this section to a private, nonprofit entity that meets the requirements of subsection (b) to establish and operate a national clearinghouse and resource center to provide information and assistance to employers and labor organizations on appropriate workplace responses to domestic violence and sexual assault.

(b) GRANTEES.—Each applicant for a grant under this section shall submit to the Attorney General an application, which shall—

(1) demonstrate that the applicant—

(A) has a nationally recognized expertise in the area of domestic violence and sexual assault and a record of commitment and quality responses to reduce domestic violence and sexual assault; and

(B) will provide matching funds from non-Federal sources in an amount equal to not less than 10 percent of the total amount of the grant under this section; and

(2) include a plan to conduct outreach to encourage employers (including small and

large businesses, as well as public entities such as universities, and State and local governments) to develop and implement appropriate responses to assist employees who are victims of domestic violence or sexual assault.

(c) Use of Grant Amount.—A grant under this section may be used for salaries, travel expenses, equipment, printing, and other reasonable expenses necessary to assemble, maintain, and disseminate to employers and labor organizations information on appropriate responses to domestic violence and sexual assault, including costs associated with such activities as—

(1) developing and disseminating model protocols and workplace policies;

(2) developing and disseminating models for employer and union sponsored victims' services;

(3) developing and disseminating training videos and model curricula to promote better understandings of workplace issues surrounding domestic violence; and

(4) planning and conducting conferences and other educational opportunities.

(d) Authorization of Appropriations.—There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section $1,000,000 for each of fiscal years 2000 through 2002.

SEC. 409. STRENGTHENING RESEARCH TO COMBAT VIOLENCE AGAINST WOMEN.

Chapter 9 of subtitle B of the Violence Against Women Act of 1994 (42 U.S.C. 13961 et seq.) is amended by adding at the end the following:

"SEC. 40294. RESEARCH TO COMBAT VIOLENCE AGAINST WOMEN.

"(a) Education, Prevention, and Intervention Research Grants.—

"(1) Purposes.—The Secretary of Health and Human Services and the Attorney General shall make grants to entities, including domestic violence and sexual assault organizations, research organizations, and academic institutions, to support research and evaluation of education, prevention, and intervention programs on violent behavior against women.

"(2) Use of funds.—The research conducted under this section shall include—

"(A) longitudinal research to study the developmental trajectory of violent behavior against women and the manner in which that violence differs from other violent behaviors;

"(B) the examination of risk factors for sexual and intimate partner violence for victims and perpetrators, such as poverty, childhood victimization and other traumas;

"(C) the examination of short- and long-term efforts of programs designed to prevent sexual and intimate partner violence;

"(D) outcome evaluations of interventions and school curriculum targeted at children and teenagers;

"(E) the examination and documentation of the processes and informal strategies women experience in attempting to manage and stop the violence in their lives; and

"(F) the development, testing, and evaluation of the economic and health benefits of effective methods of domestic violence screening and prevention programs at all points of entry into the health care system, including mental health, emergency medicine, obstetrics, gynecology, and primary care, and an assessment of the costs of domestic violence to the health care system.

"(b) Addressing Gaps in Research.—

"(1) Purposes.—The Secretary of Health and Human Services and the Attorney General shall make grants to domestic violence and sexual assault organizations, research organizations, and academic institutions in order to address gaps in research and knowledge about violence against women, including violence against women in underserved communities.

"(2) Uses of funds.—The research conducted with grants made under this subsection shall include—

"(A) the development of national- and community-level survey studies to measure the incidence and prevalence of violence against women in underserved populations and the terms women use to describe their experiences of violence;

"(B) qualitative and quantitative research to understand the manner in which factors that shape the context and experience of violence in women's lives, as well as the education, prevention, and intervention strategies available to women (including minors);

"(C) a study of violence against women as a risk factor for diseases from a multivariate perspective;

"(D) an examination of the prevalence and dynamics of emotional and psychological abuse, the effects on women of such abuse, and the education, prevention, and intervention strategies that are available to address this type of abuse;

"(E) an examination of the need for and availability of legal assistance and services for victims of sexual assault; and

"(F) the use of nonjudicial alternative dispute resolution (such as mediation, negotiation, conciliation, and restorative justice models) in cases in which domestic violence is a factor, comparing nonjudicial alternative dispute resolution and traditional judicial methods based upon the quality of representation of the victim, the training of mediators or other facilitators, the satisfaction of the parties, the outcome of the proceedings, and such other factors as may be identified; and

"(G) an examination of effective models to address domestic violence in child protective services and child welfare agencies, including—

"(i) documenting the scope of the problem;

"(ii) identifying the risk of harm perpetrators of domestic violence pose to children and to parents who are victims of domestic violence; and

"(iii) examining effective models to address domestic violence in the context of child welfare and child protection that protect children while protecting parents who are victims of domestic violence.

"(c) Sentencing Commission Study.—Not later than 1 year after the date of enactment of this section, the United States Sentencing Commission shall submit to Congress a report on—

"(1) sentences given to offenders incarcerated in Federal and State prisons for homicides or assaults in which the victim was a spouse, former spouse, or intimate partner of the offender;

"(2) the effect of illicit drugs and alcohol on domestic violence and the sentences imposed for offenses involving illicit drugs and alcohol in which domestic violence occurred;

"(3) the extent to which acts of domestic violence committed against the offender, including coercion, may have contributed to the commission of an offense;

"(4) an analysis delineated by race, gender, type of offense, and any other categories that would be useful for understanding the problem of domestic violence; and

"(5) recommendations with respect to the offenses described in this subsection, including any basis for a downward adjustment in any applicable Federal sentencing guidelines determination.

"(d) Research on Pregnancy and Sexual Assault.—

"(1) Purposes.—The Secretary of Health and Human Services and the Attorney General shall make grants to nonprofit entities, including sexual assault organizations, research organizations, and academic institutions, in order to gather qualitative and quantitative data on the experiences of minors and adults who become pregnant as a result of sexual assault within State health care, judicial, and social services systems.

"(2) Use of amounts.—The research conducted with grants made under this subsection shall include—

"(A) the incidence and prevalence of pregnancy resulting from sexual assault, including the ages of the victim and perpetrator, and any relationship between the perpetrator and the victim (such as family, acquaintance, intimate partner, spouse, household member, etc.);

"(B) the degree to which State adoption, child custody, visitation, child support, parental termination, and child welfare criminal justice laws and policies serve the needs of women (including minors) who become pregnant as a result of sexual assault;

"(C) the impact of State social services rules, policies, and procedures on women (including minors) who become pregnant as a result of sexual assault and on those children born as a result of the sexual assault;

"(D) the availability of public and private legal, medical, and mental health counseling, financial, and other forms of assistance to women (including minors) who become pregnant as a result of sexual assault, and to the children born as a result of the sexual assault, including the extent to which barriers exist in accessing that assistance; and

"(E) recommendations for improvements in State health care, judicial, and social services systems to address the needs of women (including minors) who become pregnant as a result of sexual assault and of the children born as a result of the sexual assault.

"(e) Status Report on Laws Regarding Rape and Sexual Assault Offenses.—

"(1) Study.—The Attorney General, in consultation with national, State, and local domestic violence and sexual assault coalitions and programs, including, nationally recognized experts on sexual assault, such as from the judiciary, the legal profession, psychological associations, and sex offender treatment providers, shall conduct a national study to examine the status of the law with respect to rape and sexual assault offenses and the effectiveness of the implementation of laws in addressing such crimes and protecting their victims. In carrying out this subsection, the Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime, or any other appropriate component of the Department of Justice.

"(2) Report.—Not later than 1 year after the date of enactment of this section, the Attorney General shall submit to Congress a report on the findings of the study under paragraph (1), which shall include—

"(A) an analysis of the degree of uniformity among the States with respect to rape and sexual assault laws (including sex offenses committed against children), including the degree of uniformity among States with respect to—

"(i) definitions of rape and sexual assault, including any marital rape exception and any other exception or downgrading of offense;

"(ii) the element of consent and coercive conduct, including deceit;

"(iii) the element of physical resistance and affirmative nonconsent as a precondition for conviction;

"(iv) the element of force, including penetration requirement as aggravating factor and use of coercion;

"(v) evidentiary matters—

"(I) inferences—timeliness of complaint under the Model Penal Code;

"(II) post traumatic stress disorder (including rape trauma syndrome) relevancy of scope and admissibility;

"(III) rape shield laws—in camera evidentiary determinations;

"(IV) prior bad acts; and

"(V) corroboration requirement and cautionary jury instructions;

"(vi) the existence of special rules for rape and sexual assault offenses;

"(vii) the use of experts;

"(viii) sentencing—

"(I) plea bargains;

"(II) presentence reports;

"(III) recidivism and remorse;

"(IV) adolescents;

"(V) psychological injuries;

"(VI) gravity of crime and trauma to victim; and

"(VII) race; and

"(ix) any personal or professional relationship between the perpetrator and the victim; and

"(B) any recommendations of the Attorney General for reforms to foster uniformity among the States in addressing rape and sexual assault offenses in order to protect victims more effectively while safeguarding the due process rights of the accused.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211)—

"(1) to carry out subsection (a), $3,000,000 for each of fiscal years 2000 and 2001;

"(2) to carry out subsection (b), $2,100,000 for each of fiscal years 2000 and 2001;

"(3) to carry out subsection (c), $200,000 for fiscal year 2000;

"(4) to carry out subsection (d), $500,000 for fiscal year 2000; and

"(5) to carry out subsection (e), $200,000 for fiscal year 2000.".

TITLE V—EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND

SEC. 501. EXTENSION.

(a) IN GENERAL.—Section 310001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211(b)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(7) for fiscal year 2001, $4,400,000,000; and

"(8) for fiscal year 2002, $4,500,000,000.".

(b) CONFORMING DISCRETIONARY SPENDING CAP REDUCTION.—Upon enactment of this Act, the discretionary spending limits for fiscal years 2001 and 2002 set forth in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(c)) are reduced as follows:

(1) For fiscal year 2001, $4,400,000,000 in new budget authority and $5,981,000,000 in outlays.

(2) For fiscal year 2002, $4,500,000,000 in new budget authority and $4,530,000,000 in outlays.

By Mr. BOND (for himself, Mr. ASHCROFT, Mr. SANTORUM, Mr. BURNS, Mr. SHELBY, Mr. INHOFE, and Mr. BROWNBACK):

S. 52. A bill to provide a direct check for education; to the Committee on Health, Education, Labor, and Pensions.

DIRECT CHECK FOR EDUCATION ACT

Mr. BOND. Mr. President, as we start this 106th Congress, I think it is clear that education is going to be one of the top priorities we will address in this session of Congress. We are going to be working on the reauthorization of the Elementary and Secondary Education Act, and I believe all of us, on both sides, are saying that this is a national priority.

As my colleague from Massachusetts, Senator JOHN KERRY, said in a speech that he made at Northeastern University, "Ever since there has been a United States of America, there have been public schools. And there has been a constant debate about how to make them work." I know that since I was elected to the United States Senate 12 years ago I have listened and participated in the many debates on public education that have occurred in this institution. I have even had some ideas of my own on how to improve education—some of which have been passed by this body and signed into law.

My intentions, like those of my Senate colleagues—have been good intentions. We all share the same goal of providing our children with a great education. We have been trying to do the right thing.

Today, however, our good intentions have mushroomed into burdensome regulations, unfunded mandates, and unwanted meddling. Parents, teachers, and local school officials have less and less control over what happens in the classroom. Instead of empowering parents, teachers, and local school officials we have empowered the federal government and bureaucrats. We have slowly eroded the opportunity for creativity and innovation on the local level and have once again established a system where supposedly the Olympians on the hill know what is best for the peasants in the valley.

Mr. President, let me give you some examples of what our good intentions have gotten us.

We have 760 education programs scattered throughout 39 different federal agencies. Vice President GORE's National Performance Review said that the Department of Education's discretionary grant process lasts 26 weeks and takes 487 steps from start to finish. The General Accounting Office has estimated that there are nearly 13,400 full-time jobs in the 50 states funded by the Department of Education with an additional 4,600 direct Department of Education employees.

We have teachers being taken off the task of teaching, preparing lesson plans, taking on after school student activities, etc. and instead are researching for grant opportunities, reading regulations, preparing applications, filling out paperwork requirements, complying with cumbersome rules, and reporting on how they spend the federal money received. Or we have teachers and administrators deciding that the extra federal money is not worth the time and effort that it will take to get and comply with that they do not even bother to go through the process.

Most of us are now aware of the Third International Mathematics and Science Study, released last year by the National Center for Education Statistics, that ranked American senior high school students 19th out of 21 industrialized nations in math, and 16th out of the same 21 countries in science. In addition, 40 percent of our Nation's fourth graders do not read at even a basic level. Colleges across this country are spending over $1 billion a year in remedial education.

Is this acceptable? Are we satisfied with the status quo? The answer should be—must be—an unequivocal NO.

In our business we pay a lot of attention to polls. For several years, the polls across the country have been telling us that we have a problem with public education. This is not new news and the question remains the same: How do we fix public education?

Mr. President, before I provide my answer to that question I want to take this opportunity to read from an editorial from a home-state newspaper, the Southeast Missourian.

> Nearly a decade ago, then-President Bush and the nation's governors set a series of goals for America's schoolchildren in reading, math, graduation rates and other measures. But the national education goals panel says the nation's public schools will fall short of the goals for 2000.
>
> We can only hope these continued failures to improve education will result in a overthrow of the so-called experts. These are the people, usually far removed from the classroom, who embrace quick fixes and fads in the face of each hand-wringing report.
>
> Unfortunately, the fixes make the problems worse. What's needed is to return America's schools back to the basics and back to local teachers, administrators, school boards, and parents. Without a foundation in the basics, the rest of education just won't take.
>
> We must take so-called remedies out of the hands of the federal government. National mandates are meaningless for America's schools. The problem must be addressed one district and one school at a time. Why not let classroom teachers—instead of bureaucrats and politicians—fashion a plan to improve learning in the classroom? Give more control to the local districts in building reading retention, math skills and graduation rates?

Mr. President, the editorial goes on, but it ends with the following:

The answer to fixing America's educational woes rests with individual school boards and passionate educators. The bureaucrats must reduce the red tape and mandates that are strangling our schools. Give those who know best the time, talent and incentives to finally fix public education.

I agree with the Southeast Missourian. The answer to improving public education does not lie within the halls of Congress or in the granite buildings of the downtown Washington education establishment. As the editorial stated, we are "far removed from the classroom."

In my opinion, the real solutions—the laboratories—are local schools when they are given the opportunity to excel and not play the "Mother, May I?" game with Washington.

Here in Congress we must not be afraid to propose change. But in proposing change we must go directly to those who can provide some answers—the teachers, principals, school administrators, school board members, and parents.

For the past couple of years, I have done just that and have developed in conjunction with them the "Direct Check for Education Act."

Quite simply, the purpose of this bill is to consolidate six, primarily competitive grant programs of the Department of Education's programs. The programs are Goals 2000, School-to-Work, Education Technology, Innovative Education Program Strategies, Fund for the Improvement of Education, and the President's 100,000 teachers program. The bill then proposes to return the federal funding by issuing a "Direct Check" to the local school district based on the number of students in each district. The result would be a resource of flexible funding that would allow individual schools and parents to determine how best to use the funds, including the hiring of new teachers, additional classrooms, new textbooks, expanded technology initiatives, drug and alcohol prevention programs, etc. The list goes on and on.

My "Direct Check" proposal is not the "save-all" answer. But the "Direct Check" will reduce the costly and time-consuming paperwork process that local school districts endure in obtaining federal grants and funding. It will treat children and schools the same by awarding funding to schools based upon the students served instead of rewarding some and penalizing others. My "Direct Check for Education" is a first step in simplifying and going "back to the basics" of education.

Mr. President, there will be those in the Washington education establishment who will oppose this bill. Instead of finding ways to empower those at the local level the opposition will argue that we need even more federal programs, more bureaucracy, more micro management of the classroom.

I believe the bottom line is this: Education, while a national priority, is a local responsibility. We must empower parents, teachers, school administrators, school boards, etc. because education decisions can best be made by people at the local schools who know the names and the challenges facing the students in those schools.

Let's keep things simple. Let's take off the Federal stranglehold and let local school districts do their jobs. Let's educate our children for a lifetime of achievement.

We have burdened it with excessive regulations and red tape. We have once again established a system where supposedly the "olympians" on the Hill know what is best for the "peasants" in the valley.

I agree with my colleagues on both sides of the aisle: Education is and must be a national priority. But the good intentions that we have had in this body have led to the creation of more than 760 Federal education programs. Has that made education better? I don't think so. We added three more last year. And now we gather that the President is going to come up with a grand new Federal scheme. How many people really believe that the 764th Federal education program is going to assure that our kids can read? Is it going to assure that we get our high school students out of the 19th place out of 21 in terms of mathematics? I don't believe so.

Our system is not working. If you want to know how well it is working, go back home. Ask the teachers in your local school district. Ask the principals in your local school district. Ask the parents at home. Ask the school board members. If you do that, I believe you will hear what I have heard, time and time again: They are tired of playing "Mother, May I?" with the Federal Government. They are tired of spending the time to fill out the forms for the grants, to comply and jump through the hoops that the Federal Government sets out for them, to write the reports and fill out the evaluation forms that are needed, only to have a competitive grant program run out at the end of 3 years. They are tired of playing "Mother, May I?" with the Federal Government.

We have an opportunity to do something that I think is very significant. Instead of going down the road that is going to be proposed of another new Federal program, we ought to take the remedies out of the hands of the Federal Government. National mandates are meaningless for American schools. The problems must be addressed one school district, one school, at a time. Why not let classroom teachers, the parents, the administrators—instead of bureaucrats and politicians—make the decisions on how to improve the education in their school districts? Give more control back to local districts and let them build reading retention, math skills, and improve graduation rates.

Mr. President, I am today introducing a bill we call the direct check for education bill. It takes six of the major Federal competitive grant programs—Goals 2000, School-to-Work, Education Technology, Innovative Education Program Strategies, the Fund for the Improvement of Education, and the President's 100,000 teachers program—and puts them into a pool. That pool is to be divided on the basis of the students—K through 12—on average daily attendance. And it is to be returned to those local school districts on the basis of the number of students they have. Very simple. Cut the Federal red tape. Let them use those education dollars.

It starts off with a $3.5-million authorization, because we want to allow schools that already have competitive grants of multiyear tenure to complete those grants. At the end it will rise to $5 billion. It should come out to about $100 per student in every school—and turn the job back to the local schools, the parents, the teachers, the school board members, the administrators.

There are those who oppose this approach. They argue that we need even more Federal control. But as I said at the beginning, while it is a national priority, education must be returned to the local school districts as a local responsibility, to empower the people who know the names of the kids, their problems, their challenges, and their opportunities, to make the decision.

Let's keep things simple. Let's take off the Federal stranglehold. Let's let local schools do their jobs. Let's educate our children for a lifetime of achievement. Ask your teachers, your principals, your superintendents, your school board members; and then I ask my colleagues to join me in cosponsoring this legislation that Senator ASHCROFT and I are introducing today.

Mr. President, I ask unanimous consent that the text of the bill and common questions about the direct check for education bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 52

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Direct Check for Education Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) education should be a national priority but must remain a local responsibility;

(2) the Federal Government's regulations and involvement often creates barriers and obstacles to local creativity and reform;

(3) parents, teachers, and local school districts must be allowed and empowered to set local education priorities; and

(4) schools and education professionals must be accountable to the people and children served.

SEC. 3. DEFINITIONS.

In this Act:

(1) Local educational agency.—The term "local educational agency" has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) Secretary.—The term "Secretary" means the Secretary of Education.

(3) State.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

SEC. 4. DIRECT AWARDS TO LOCAL EDUCATIONAL AGENCIES.

(a) Direct Awards.—From amounts appropriated under subsection (b) and not used to carry out subsection (c), the Secretary shall make direct awards to local educational agencies in amounts determined under subsection (e) to enable the local educational agencies to support programs or activities, for kindergarten through grade 12 students, that the local educational agencies deem appropriate.

(b) Authorization of Appropriations.—There are authorized to be appropriated to carry out this Act $3,500,000,000 for each of the fiscal years 2000 and 2001, $4,000,000,000 for each of the fiscal years 2002 and 2003, and $5,000,000,000 for fiscal year 2004.

(c) Multiyear Awards.—The Secretary shall use funds appropriated under subsection (b) for each fiscal year to continue to make payments to eligible recipients pursuant to any multiyear award made prior to the date of enactment of this Act under the provisions of law repealed under subsection (d). The payments shall be made for the duration of the multiyear award.

(d) Repeals.—The following provisions of law are repealed:

(1) The Goals 2000: Educate America Act (20 U.S.C. 5801 et seq.).

(2) Section 307 of the Department of Education Appropriations Act, 1999.

(3) Title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6801 et seq.).

(4) Part B of title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7331 et seq.).

(5) Part A of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8001 et seq.).

(6) The School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

(e) Determination of Amount.—

(1) Per child amount.—The Secretary, using the information provided under subsection (f), shall determine a per child amount for a year by dividing the total amount appropriated under subsection (b) for the year, by the average daily attendance of kindergarten through grade 12 students in all States for the preceding year.

(2) Local educational agency award.—The Secretary, using the information provided under subsection (f), shall determine the amount provided to each local educational agency under this section for a year by multiplying—

(A) the per child amount determined under paragraph (1) for the year; by

(B) the average daily attendance of kindergarten through grade 12 students that are served by the local educational agency for the preceding year.

(f) Census Determination.—

(1) In general.—Each local educational agency shall conduct a census to determine the average daily attendance of kindergarten through grade 12 students served by the local educational agency not later than December 1 of each year.

(2) Submission.—Each local educational agency shall submit the number described in paragraph (1) to the Secretary not later than March 1 of each year.

(g) Penalty.—If the Secretary determines that a local educational agency has knowingly submitted false information under subsection (f) for the purpose of gaining additional funds under this section, then the local educational agency shall be fined an amount equal to twice the difference between the amount the local educational agency received under this section, and the correct amount the local educational agency would have received under this section if the agency had submitted accurate information under subsection (f).

(h) Disbursal.—The Secretary shall disburse the amount awarded to a local educational agency under this Act for a fiscal year not later than July 1 of each year.

SEC. 5. AUDIT.

(a) In General.—The Secretary may conduct audits of the expenditures of local educational agencies under this Act to ensure that the funds made available under this Act are used in accordance with this Act.

(b) Sanctions and Penalties.—If the Secretary determines that the funds made available under section 4 were not used in accordance with section 4(a), the Secretary may use the enforcement provisions available to the Secretary under part D of the General Education Provisions Act (20 U.S.C. 1234 *et seq.*).

Common Questions About the Direct Check for Education

What programs make up the new Direct Check for Education?

Goals 2000; School-to-Work; Education Technology (Title III); Innovative Education Program Strategies (Part B, Title VI); Fund for the Improvement of Education (Part A, Title X); 100,000 Teachers.

What is the level of funding for the Direct Check for Education?

Based on fiscal year 1999 appropriations first year funding could be more than $3.5 billion. Over 5 years the "Direct Check" total could provide over $20 billion in direct checks to local schools.

How can the Direct Check funds by spent?

The local school district, with parents, teachers, administrators, etc., would have the flexibility to spend the funds on what they determine to be the priorities—new teachers, new classrooms, textbooks, computers, drug prevention programs, etc.

Does the Direct Check for Education impact Title I funding for disadvantaged students?

The bill does not make any changes to Title I.

How are private schools affected by the Direct Check for Education?

The bill makes no changes affecting private schools.

How will States and the federal government be sure the funds are properly spent?

The Department of Education will have post-audit review authority and would retain the same sanctions and penalties currently in place.

What will determine the Direct Check amount for a local school?

The total amount for funds provided divided by the number of students nationally will give you a per student average. That average multiplied by the number of students in a local school will give that school the amount of its "Direct Check".

Mr. ASHCROFT. Mr. President, I rise today to commend the Senior Senator from Missouri for his introduction of the "Direct Check for Education" bill. It is with great pleasure that I add my name as a cosponsor of this important legislation, which will improve the educational opportunities for our nation's school children by sending federal resources directly to local school districts to use in the way they know will benefit students most effectively.

Mr. President, when we talk about education, we should start by asking: "What do our parents want for their children? We know that parents want their children to get a first-class education that boosts student achievement and elevates them to excellence. Parents want schools that are safe, classes that are small, and principals and teachers to have authority to make the right decisions in all areas of learning, school discipline and after-school activities. Parents want teachers who care for students and know the subjects they teach. Parents do not want Washington in control of classrooms.

The next question we should ask is: How can we attain what parents want? How can our children achieve academic excellence? The House Committee on Education and the Workforce Subcommittee on Oversight and Investigations answered this question in a report released in July 1998, called "Education at a Crossroads: What Works and What's Wasted in Education Today." The Subcommittee found that successful schools and school systems were not the product of federal funding and directives, but instead were characterized by: parental involvement in the education of their children, local control, emphasis on basic academics, and dollars spent in the classroom, not on distant bureaucracy and ineffective programs. These are the ingredients we must have to elevate educational performance.

Knowing the ingredients of educational success for our children, we must next ask whether our current federal education programs contain these ingredients.

First, we should observe that in a sense, the federal government has played conflicting roles in education, providing resources with one hand, while creating obstacles with the other. We have spent over $12 billion on major education programs in the last two years, and this year, we are slated to spend nearly $15 billion. Yet, if current trends continue, only about 65% of federal education dollars will be spent this year on educating our children, due to the excessive bureaucracy in our federal programs.

And we should remember that federal funding accounts for only about 7% of the total amount spent on education, while the lion's share comes from state and local taxes. However, that 7% of the funding pie consumes a disproportionate share of the time states and local school districts need to administer education programs. Unfortunately, most federal education programs often do not contain the basic ingredients for educational success, but rather contain components that can actually stifle the ingredients for success.

In the last 35 years, the federal government has continued to take away parental involvement, local control, flexibility, and teacher and community input by spinning a complex web of federal elementary and secondary education programs, each of which contain their own set of rules that consume the time and resources of states and school districts.

A 1990 study found that 52% of the paperwork required of an Ohio school district was related to participation in federal programs, while federal dollars provided less than 5% of total education funding in Ohio. In Florida, 374 employees administer $8 billion in state funds. However, 297 state employees are needed to oversee only $1 billion in federal funds—six times as many per dollar. The Federal Department of Education requires over 48.6 million hours worth of paperwork to receive federal dollars. This bureaucratic maze takes up to 35% of every federal education dollar.

Many federal programs have taken away precious dollars and teacher time. Rather than being able to spend time on classroom preparation, teachers instead have to spend hours filling out federal forms to comply with federal rules.

Another problem with a number of our federal education programs is that many of our children and school districts never get to see the federal tax dollars that their parents pay for education. This is because a great deal of federal educational funding is awarded on a competitive basis. In essence, local schools must come to Washington and beg for the money taxpayers sent to the federal treasury. As a result, smaller and poorer schools, who don't have the time and money to wade through thick grant applications or hire a grant writer, cannot share in the money their parents sent to the federal government.

To make matters worse, once a school district is successful in obtaining a competitive grant after a harrowing application process, it must spend countless hours and resources complying with the leviathan of regulations and rules attached to the grant.

Competitive funding, along with the vast number of federal education programs, has led to a cottage industry in selling information on education program descriptions, filing instructions, and application deadlines for each of these programs. The "Education at a Crossroads" report I mentioned earlier describes this cottage industry:

> "The Education Funding Research Council identifies potential sources of funds for local school districts, and sells for nearly $400 the Guide to Federal Funding for Education. The company promises to steer its subscribers to "a wide range of Federal programs," and offers these subscribers timely updates on "500 education programs." More recently, the Aid for Education Report published by CD Publications advertised that "huge sums are available. . .in the federal government alone, there are nearly 800 different education programs that receive authorization totaling almost a hundred billion dollars."

It's a shame that a school district has to pay $400 for a catalog to learn how to get back the money that its community has sent to Washington to educate its children. But sadly, this is often the case.

A third problem we can identify with many current federal education programs is that federal dollars are often earmarked for one particular use, and cannot be used for any other purpose. This inflexible funding hurts schools that have other needs than the ones prescribed by the federal government. A recent example of this is the $1.2 billion earmarked last year for classroom size reduction. While more teachers and class size reduction are noble endeavors, some schools don't need more teachers, but instead need more computers. However, the only use of this $1.2 billion can be for hiring more teachers. Such a policy flies in the face of one ingredient for educational success, local control.

So, we know we have created a lot of federal education programs and we have dedicated a great deal of resources for these programs. What results are we getting? The National Center for Education Statistics' NAEP 1994 Reading Report Card for the Nation and the States reveals that 40 percent of fourth graders do not read at a basic level. The same report also indicates that half of the students from urban school districts fail to graduate on time, if at all. And the NAEP Report Card also shows that United States 12th graders only outperformed two out of 21 nations in mathematics. The Brookings Institution released a study in April of 1998 indicating that public institutions of higher education have to spend $1 billion each year on remedial education for students.

Knowing these disastrous results, we cannot afford to keep spending our federal education dollars in the same way we have been doing for years if it's not stimulating academic success. Parents, teachers, school boards, and members of our community won't stand for this kind of failure. They want and need opportunities to be more involved in deciding how to spend the federal education dollar, because they know what works. We must spend our federal resources for elementary and secondary education in ways that embrace the ingredients of success.

Rather than fund the patchwork of federal elementary and secondary education programs that Washington wants, Congress should send that money directly to local school districts. Parents and teachers need the financing, flexibility and freedom to fund programs they know will improve their children's education.

Senator BOND's "Direct Check for Education" proposal does just this. He takes some of the Department of Education's largest competitive grant programs and returns the money in the form of a "direct check" to the local school districts based on the number of students in each district. Schools may use the funds in ways they believe will be most effective in elevating student achievement.

Under the "Direct Check" proposal, no longer would school districts have to come to Washington and beg for the money they sent to Washington to educate their children. No longer would teachers and administrators have to spend countless and wasted hours filling out federal grant application and compliance forms. No longer would schools be forced to earmark federal dollars for programs that have no relevance to their students' needs. Rather, school districts with the input of teachers, school boards, administrators, and of course, parents, would have the authority and flexibility to use federal dollars for what they best see fit.

For example, local schools could deploy resources to hire new teachers, raise teacher salaries, buy new textbooks or new computers—whatever the schools deem most important to the educational success of their students. The Direct Check to Education proposals gives schools more time, flexibility, and money to spend on what's most important: providing classroom instruction to our nation's children.

With the flexible, equitable distribution of federal funding under Senator BOND's proposal comes accountability. Local school districts will be penalized for knowingly submitting false information regarding the number of students in their districts. Moreover, the Secretary of Education may audit local educational agency expenditures to ensure that funds are used in accordance with the Direct Check in Education Act. And most importantly, parents, school boards, and members of the community will be able to give direct input into funding decisions, since those decisions will be made right in the community, rather than hundreds, and sometimes thousands, of miles away in Washington, D.C. Local decision making allows for local accountability.

Mr. President, we have learned from experience that our many of our current federal education programs and dollars are not producing what we expect for our students. We know that successful education programs occur when crucial decisions are made by local communities, teachers, school boards, and parents. This is why I support Senator BOND's "Direct Check for Education" proposal. His plan embraces the ingredients of educational success, as it gives parents, teachers and school boards the authority and flexibility to direct funds to programs they know work for their children.

As I said earlier, Senator BOND's proposal consolidates a number of the Department of Education's federal programs for elementary and secondary education. I believe we should explore whether other federal education programs—both within and outside the Department of Education—should also be taken and put into a "direct check" to our local school districts. We must continue to look for ways to direct our federal resources in ways that reflect the ingredients of success and educational excellence for our children.

By Mr. KYL (for himself and Mr. COVERDELL):

S. 53. A bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gain rates for all taxpayers and a partial dividend income exclusion for individuals, and for other purposes; to the Committee on Finance.

CAPITOL GAINS AND DIVIDEND INCOME REFORM ACT

By Mr. KYL:

S. 54. A bill to amend the Internal Revenue Code of 1986 to repeal the corporate alternative minimum tax; to the Committee on Finance.

CORPORATE TAX EQUITY ACT

By Mr. KYL (for himself and Mr. COVERDELL):

S. 55. A bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes; to the Committee on Finance.

SMALL BUSINESS INVESTMENT AND GROWTH ACT

By Mr. KYL (for himself, Mr. ALLARD, Mr. ASHCROFT, Mr. BURNS, Mr. COCHRAN, Mr. COVERDELL, Mr. CRAPO, Mr. ENZI, Mr. GRAMM, Mr. GRAMS, Mr. HAGEL, Mr. HELMS, Mrs. HUTCHISON, Mr. INHOFE, Mr. MACK, Mr. MURKOWSKI, Mr. ROBERTS, Mr. SMITH of New Hampshire, Mr. THOMAS, and Mr. SESSIONS):

FAMILY HERITAGE PRESERVATION ACT

S. 56. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

Mr. KYL. Mr. President, today I introduce a series of bills designed to help sustain the economic expansion and enhance the rate of economic growth in this country. The four measures, which together make up what I refer to as the Agenda for Economic Growth and Opportunity, will help encourage investment in small businesses, enhance the wages of American workers, and make our country more competitive in the global economy.

Mr. President, it was just over 36 years ago that President John F. Kennedy made the following observation in his State of the Union message—an observation that someone could just as easily make about today's economy. He said, "America has enjoyed 22 months of uninterrupted economic recovery." The current expansion, albeit weaker than most during this century, has gone on somewhat longer. "But," President Kennedy went on to say, "recovery is not enough. If we are to prevail in the long run, we must expand the long-run strength of our economy. We must move along the path to a higher rate of economic growth."

Economic growth. The concept is studied endlessly by economists and statisticians, but what does it mean for the average American family, and why should policy-makers be so concerned about it?

For most of the 20th century, our nation enjoyed very strong rates of economic growth and the dividends that came with it. The 1920s saw annual economic growth above five percent. In the 1950s, it was above six percent. Economic growth during the Kennedy and Johnson years averaged 4.8 percent annually. During the years after the Reagan tax cuts and before the 1990 tax increase, the economy grew at an average rate of 3.9 percent a year, according to data supplied by the Joint Economic Committee.

The Clinton years, by contrast, have actually seen the economy grow at a much slower rate—an average rate of only about 2.3 percent a year. And recent estimates by the Congressional Budget Office project that the growth of real Gross Domestic Product is likely to slow to just over two percent for the last part of 1998 and the early part of 1999. What that means is that, while we may not exactly be hurting as a nation, we are not becoming much better off, either. We are certainly not leaving much of a legacy for our children and grandchildren to meet the needs of tomorrow.

Slower growth means fewer job opportunities in the days ahead for young Americans just entering the workforce and for those people seeking to free themselves from the welfare rolls. It means stagnant wages and salaries, and fewer opportunities for career advancement for those who do have jobs. It means less investment in new plants and equipment, and new technology—things needed to enhance productivity and ensure that American businesses can remain competitive in the global marketplace.

So what do we do to spur economic growth—to ensure that jobs will continue to be available for those who want them, that families can earn better wages, and that American business maintains a dominant role in the global economy? Those are, after all, the goals of the agenda I am laying out today—an agenda for economic growth and opportunity for all Americans, for those struggling to make ends meet today, and for our children when they enter the workforce tomorrow.

Let me begin my answer with another quotation from John Kennedy:

> "[I]t is increasingly clear—to those in Government, business, and labor who are responsible for our economy's success—that our obsolete tax system exerts too heavy a drag on private purchasing power, profits, and employment. Designed to check inflation in earlier years, it now checks growth instead. It discourages extra effort and risk. It distorts use of resources. It invites recurrent recessions, depresses our Federal revenues, and causes chronic budget deficits."

Mr. President, although we managed to balance the unified budget last year, there is still much in what President Kennedy said that is relevant to our situation today. Consider, for example, that we balanced the budget by taxing and spending at a level of about $1.72 trillion—a level of spending that is 25 percent higher than when President Clinton took office just six years ago. Our government now spends the equivalent of $6,700 for every man, woman, and child in the country every year. That is the equivalent of nearly $27,000 for the average family of four. But all of that spending comes at a tremendous cost to hard-working taxpayers. As President Kennedy put it, it is a drag on private purchasing power, profits, and employment.

The Tax Foundation estimates that the median income family in America saw its combined federal, state, and local tax bill climb to 37.6 percent of income in 1997—up from 37.3 percent the year before. That is more than the average family spends on food, clothing, shelter, and transportation combined. Put another way, in too many families, one parent is working to put food on the table, while the other is working almost full time just to pay the bill for the government bureaucracy.

Perhaps a different measure of how heavy a tax burden the federal government is imposing—how big is the drag on the economy—would be helpful here. Consider that federal revenues hit a peacetime high of 19.8 percent of Gross Domestic Product (GDP) in 1997 and, according to the Congressional Budget Office, will continue to climb—to 20.5 percent in 1998 and 20.6 percent in 1999. That will be higher than any year since 1945, and it would be only the third and fourth years in our nation's entire history that revenues have exceeded 20 percent of national income. Notably, the first two times revenues broke the 20 percent mark, the economy tipped into recession.

Mr. President, the agenda I am proposing attacks some of the most significant deficiencies in our nation's Tax Code that are inhibiting savings and investment, and job creation—deficiencies that keep us from reaching our potential as a nation. I do not make these proposals as a substitute for fundamental tax reform or an across-the-board reduction in income-tax rates, which I believe are the ultimate solutions to the problem. But fundamental tax reform is going to take some time to accomplish, maybe several years. And I am not convinced that President Clinton will ever agree to an across-the-board reduction in tax rates. Therefore, what we need now are interim steps—things we can do quickly—to make sure our movement into the 21st century is based on the bedrock of a strong and growing economy.

These Tax Code changes will help strengthen the economy and, in turn, produce more revenue for the federal government to help keep the budget balanced. Recent experience proves that it is a strong and growing economy—not high tax rates—that generates substantial amounts of new revenue for the Treasury. It was the growing economy that helped eliminate last year's unified budget deficit.

Mr. President, the first of the four tax-related bills I am introducing is based primarily upon President John Kennedy's own growth package from three decades ago. Like the Kennedy plan, the legislation would reduce the percentage of long-term capital gains included in individual income subject to tax to 30 percent. It would reduce the alternative tax on the capital gains of corporations to 22 percent.

I would note that Democratic President John Kennedy's plan called for a deeper capital gains tax cut than the Republican-controlled Congress passed in 1997.

There was a reason that John Kennedy called for a significant cut in the capital gains tax. "The present tax treatment of capital gains and losses is both inequitable and a barrier to economic growth," the President said. "The tax on capital gains directly affects investment decisions, the mobility and flow of risk capital from static to more dynamic situations, the ease or difficulty experienced by new ventures in obtaining capital, and thereby the strength and potential for growth of the economy."

So if we are concerned whether new jobs are being created, whether new technology is developed, whether workers have the tools they need to do a better, more efficient job, we should support measures that reduce the cost of capital to facilitate the achievement of all these things. Remember, for every employee, there is an employer who took risks, made investments, and created jobs. But that employer needed capital to start. Economist Allen Sinai estimates that a capital-gains tax reduction would help businesses create as many as 500,000 new jobs.

A capital-gains tax reduction would provide critical help to the country's entrepreneurs, especially those striving to open their own small businesses or grow their businesses. Small business is, after all, that engine that drives the nation's economy. In Arizona, about half of those businesses are run by women. An estimated 130,000 women-owned businesses in the state employ more than 330,000 people. These are precisely the kind of firms that have difficulty securing the capital they need to expand. High capital-gains taxes are one reason why.

Mr. President, it may come as a surprise to some people, but experience shows that lower capital-gains tax rates help not only small businesses and the economy, but federal revenues as well. The most impressive evidence, as noted in a recent report by the American Council for Capital Formation, can be found in the period from 1978 to 1985. During those years, the top marginal federal tax rate on capital gains was cut significantly—from 35 percent to 20 percent—but total individual capital gains tax receipts nearly tripled—from $9.1 billion to $26.5 billion annually.

Data from the National Bureau of Economic Research indicates that the maximizing capital gains tax rate—that is, the rate that would bring in the most Treasury revenue—is somewhere between nine and 21 percent. The Joint Economic Committee estimates that the optimal rate is probably 15 percent or less. The bill I am introducing today would set an effective top rate on capital gains earned by individuals, by virtue of the 70 percent exclusion, at 11.88 percent.

Mr. President, when capital gains tax rates are too high, people need only hold onto their assets to avoid the tax indefinitely. No sale, no tax. But that means less investment, fewer new businesses and new jobs, and—as historical surveys show—far less revenue to the Treasury than if capital gains taxes were set at a lower level. Just as the local department store does not lose money on weekend sales—because volume more than makes up for lower prices—lower capital gains tax rates can encourage more economic activity and, in turn, produce more revenue for the government.

Capital gains reform will help the Treasury. A capital gains tax reduction would help unlock a sizable share of the estimated $7 trillion of capital that is left virtually unused because of high tax rates. More importantly, it will help the family that has a small plot of land it would like to sell, or a small business that would like to expand, buy new equipment, and create new jobs.

Moreover, evidence shows that most of the tax savings will go to Americans of modest means. According to Internal Revenue Service data, almost 53 percent of taxpayers reporting capital gains had adjusted gross incomes of less than $50,000. Another 28 percent have AGIs between $50,000 and $100,000.

Nearly two years ago, this Congress reduced capital gains taxes, but it did so in a way that added substantially to the complexity of the Tax Code. And, in my view, it did not cut the tax rate enough. John Kennedy's idea—that is, simply providing a 70 percent exclusion—was a superior approach, and that is what I am proposing today.

Mr. President, the second part of this bill proposes a similar exclusion for dividend income. The rationale is twofold: first, to further encourage saving and investment; and second, to eliminate any bias in the Tax Code that might favor investments whose returns are paid primarily in capital gains over those that pay dividends. With recent reductions in the capital-gains tax, there may now be more incentive to invest in instruments that produce earnings taxed at the low capital-gains rate, as opposed to investing for dividends which are taxed at the regular, higher income-tax rate. My bill proposes to put dividend income on par with capital gains for purposes of levying an income tax.

The exclusion for dividend income would also go a long way toward eliminating the double taxation of such income, which is currently taxed once at the corporate level and then again when it is provided to investors in the form of dividends. A report by the American Council for Capital Formation notes that dividend income is taxed more heavily in the United States than in most other industrialized countries. The Council indicates that dividend income is subject to a U.S. tax rate of 60.4 percent, compared to an average of 51.1 percent abroad. This high rate is due to the double taxation of dividend income.

Mr. President, the second in this series of bills is the Corporate Tax Equity Act, a bill designed to help U.S. businesses make larger capital expenditures and thereby enhance productivity and job creation by repealing the corporate Alternative Minimum Tax (AMT).

Mr. President, the original intent of the AMT was to make it harder for large, profitable corporations to avoid paying any federal income tax. But the way to have accomplished that objective was not, in my view, to impose an AMT, but to identify and correct the provisions of law that allowed large companies to inappropriately lower their federal tax liabilities to begin with. Ironically, the primary shelters corporations were using to minimize their tax liability—that is, the accelerated depreciation and safe harbor leasing of the old Tax Code—were being corrected at the time the AMT was enacted.

I would point out that the AMT is not a tax, per se. As indicated in an April 3, 1996 report by the Congressional Research Service, the AMT is merely intended to serve as a prepayment of the regular corporate income tax, not a permanent increase in overall corporate tax liability. What that means in practical terms is that businesses are forced to make interest-free loans to the federal government under the guise of the AMT. Corporations pay a tax for which they are not liable, but which they are able to apply toward their future regular tax liability.

I would also point out that most of the corporations paying the AMT are relatively small. The General Accounting Office, in a 1995 report on the issue, found that, in most years between 1987 and 1992, more than 70 percent of corporations paying the AMT had less than $10 million in assets.

The AMT requires corporations to calculate their tax liability under two separate but parallel income-tax systems. Firms must calculate their AMT liability even if they end up paying the regular tax. At a minimum, that means that firms must maintain two sets of records for tax purposes.

The compliance costs are substantial. In 1992, for example, while only about 28,000 corporations paid the AMT, more than 400,000 corporations filed the AMT form, and an even greater—but unknown—number of firms performed the calculations needed to determine their AMT liability. A 1993 analysis by the Joint Committee on Taxation found that the AMT added 16.9 percent to a corporation's total cost of complying with federal income tax laws.

Mr. President, repealing the corporate AMT would help free up badly needed capital to assist in business expansion and job creation. According to a study by DRI/McGraw-Hill, AMT repeal would have increased fixed investment by a total of 7.9 percent, raised Gross Domestic Product by 1.6 percent, and increased labor productivity by 1.6 percent between 1996 and 2005. The study also projected that repeal would produce an additional 100,000 jobs a year during the years 1998 to 2002.

Mr. President, the third bill in this package is the Small Business Investment and Growth Act, which would ensure that small businesses do not pay a higher income-tax rate than large corporations. Congressman PHIL CRANE of Illinois has been promoting similar legislation in the House of Representatives.

Mr. President, the 1990 and 1993 increases in marginal income-tax rates put a tremendous strain on the nearly two million small businesses around the country that are organized as S corporations. Since these small businesses pay taxes at the individual income-tax rate, they can be subject to rates as high as 39.6 percent—higher than any other corporate entity. By contrast, the top rate imposed on large corporations is only 34 percent.

What sense is there in imposing tax rates on small businesses that are higher than those levied on better financed corporations? Estimates indicate that successful American businesses have been able to create three to four new jobs for every additional $100,000 they retain in the business. So higher taxes are counterproductive. They deny small businesses the funds they need to invest in new jobs, new equipment, and new facilities. That hurts small companies. And it hurts the economy.

The bill I am introducing today would establish a top rate of 34 percent when a small business reinvests its earnings in its operation, or when the earnings are distributed to the shareholders for the purposes of making tax payments. This lower tax rate would be applicable only to the first $5 million in taxable income of the small business.

The bill is a similar, but expanded, version of legislation that I introduced during the 105th Congress. Although the latest version would provide relief to more S corporations, I want to make it clear that I would prefer to provide tax relief to all businesses. And since taxes paid by businesses are merely passed along in the form of higher prices, we are really talking about providing relief to all consumers.

The Small Business Investment and Growth Act represents an important first step toward reducing excessive taxes on small business and encouraging S corporation owners and managers to reinvest income into their businesses, thereby creating more jobs and fueling economic growth. I hope my colleagues will join me in supporting this measure and reducing the tax burden imposed on America's small businesses.

Mr. President, the fourth in the series of economic growth incentives is a bill to repeal the federal estate, or death, tax.

Mr. President, it was Ben Franklin who said some 200 years ago that nothing in this world is certain except death and taxes. Leave it to the federal government to find a way to put those two inevitabilities together to create a death tax that is not only confiscatory, but offensive to Americans' sense of fairness, harmful to the environment, and injurious to small business and the economy.

Although most Americans will probably never pay a death tax, most people still sense that there is something terribly wrong with a system that allows Washington to seize more than half of whatever is left after someone dies—a system that prevents hard-working Americans from passing the bulk of their nest eggs to their children or grandchildren. The respected liberal Professor of Law at the University of Southern California, Edward J. McCaffrey, put it this way: "Polls and practices show that we like sin taxes, such as on alcohol and cigarettes." "The estate tax," he went on to say, "is an anti-sin, or a virtue tax. It is a tax on work and savings without consumption, on thrift, on long term savings. There is no reason even a liberal populace need support it."

Democrat economists Henry Aaron and Alicia Munnell reached similar conclusions, writing in a 1992 study that death taxes "have failed to achieve their intended purposes. They raise little revenue. They impose large excess burdens. They are unfair."

In fact, 77 percent of the people responding to a survey by the Polling Company last year indicated that they favor repeal of the death tax. When Californians had the chance to weigh in with a ballot proposition, they voted two-to-one to repeal their state's death tax. The legislatures of five other states have enacted legislation since 1997 that will either eliminate or significantly reduce the burden of their states' death taxes.

Talk to the men and women who run small businesses around the country and you will find that death taxes are a major concern to them. The 1995 White House Conference on Small Business identified the death tax as one of small business's top concerns, and delegates to the conference voted overwhelming to endorse its repeal.

Remember, this is a tax that is imposed on a family business at the moment when it is least able to afford the payment—upon the death of the person with the greatest practical and institutional knowledge of that business's operations. It should come as no surprise, then, that a 1993 study by Prince and Associates—a Stratford, Connecticut research and consulting firm—found that nine out of 10 family businesses that failed within three years of the principal owner's death attributed their companies' demise to trouble paying the death tax. Six out of 10 family-owned businesses fail to make it to the second generation. The death tax is a major reason why.

Think of what that means to women and minority-owned businesses in particular. Instead of passing a hard-earned and successful business on to the next generation, many families have to sell the company in order to pay the death tax. The upward mobility of such families is stopped in its tracks. The proponents of this tax always speak of the need to hinder "concentrations of wealth." What the tax really hinders is new American success stories.

Even if a family does not have to sell its business to pay the death tax, there are still significant costs that are imposed either directly or indirectly. Some people simply take preemptive action—they slow the growth of their businesses to limit their death-tax burden. Of course, that means less investment in our communities and fewer jobs created. Others divert money they would have spent on new equipment or new hires to insurance policies designed to cover death-tax costs. Still others spend millions on lawyers, accountants, and other advisors for death-tax planning purposes. But that leaves fewer resources to invest in the company, start up new businesses, hire additional people, or pay better wages.

What that suggests to me is that, although the death tax raises only about one percent of the federal government's annual revenue, it exerts a disproportionately large and negative impact on the economy. Alicia Munnell, who belonged to President Clinton's Council of Economic Advisors, estimates that the costs of complying with death-tax laws are of roughly the same magnitude as the revenue raised, or about $23 billion in 1998. In other words, for every dollar of tax revenue raised by the death tax, another dollar is squandered in the economy simply to comply with or avoid the tax.

Over time, the adverse consequences are compounded. A report issued by the Joint Economic Committee just last month concluded that the existence of the death tax this century has reduced the stock of capital in the economy by nearly half a trillion dollars.

By repealing it and putting those resources to better use, the Joint Committee estimates that as many as 240,000 jobs could be created over seven years and Americans would have an additional $24.4 billion in disposable personal income.

Is it not better to encourage the creation of new jobs for tax-paying Americans than to impose a tax that puts people out of work or lowers their income? I think so, and that is why I favor repeal of the death tax.

Mr. President, I suggested a moment ago that the death tax had a harmful effect, not only on the economy, but on the environment, as well. That is something that we need to consider here. An increasing number of families that own environmentally sensitive lands are having to sell the property for development in order to pay the death tax. Natural habitats are being destroyed as a result. With that in mind, Michael Bean of The Nature Conservancy observed that the death tax is "highly regressive in the sense that it encourages the destruction of ecologically important land." It represents a real and present threat to endangered and threatened species and their habitats.

Mr. President, let me conclude by citing the report issued a few years ago by the National Commission on Economic Growth and Tax Reform, because it goes back to the point about fairness in a very poignant way. The Commission concluded that "[i]t makes little sense and is patently unfair to impose extra taxes on people who choose to pass their assets on to their children and grandchildren instead of spending them lavishly on themselves." I agree. The Commission went on to endorse repeal of the death tax.

Mr. President, the Agenda for Economic Growth and Opportunity will help keep the economy on track—it will help forestall the recession that some economists predict is on the way. It will help improve the standard of living for all Americans. I invite my colleagues' support for this very important initiative.

By Ms. MIKULSKI (for herself, Mr. SARBANES, Mr. ROBB, and Mr. WARNER):

S. 57. A bill to amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees and annuitants, and for other purposes; to the Committee on Foreign Relations.

FEDERAL EMPLOYEES GROUP LONG-TERM CARE INSURANCE ACT OF 1999

Ms. MIKULSKI. Mr. President, I rise today to introduce the "Federal Employees Group Long-Term Care Insurance Act of 1999". This important legislation will provide long-term care insurance to federal employees and retirees. It will also create a model for other employers to use in providing long-term care insurance for their workers. I am proud that this legislation is part of the Democratic agenda for long term care—which includes the $1,000 tax credit for families who are paying the costs of long-term care.

Since my first days in Congress, I have been fighting to help people afford the burdens of long-term care. Ten years ago, I introduced legislation to change the cruel rules that forced elderly couples to go bankrupt before they could get any help in paying for nursing home care. Because of my legislation, AARP tells me that we've kept over six hundred thousand people out of poverty and stopped liens on family farms.

I also fought for higher quality standards for nursing homes. Through the Older American Act funded senior centers, I've made it easier for seniors to get the information and referrals they need to make good choices about long-term care. Those same centers offer case managers to help families navigate the dizzying array of choices when faced with choosing long term care for a family member.

These are important steps. But unfortunately, we haven't made much progress in the last few years. We've been stymied by bipartisan bickering, shutdowns and inaction.

Meanwhile, the costs of long-term care have exploded. Nursing home costs are projected to increase from $40,000 today to $97,000 by 2030. This will only get worse since the number of senior citizens will double over the next thirty years. Families are being forced to chose between sending a child to college or paying for a nursing home for a parent.

Families desperately need help to help themselves and meet their family responsibilities.

This bill is a down payment on making long term care available for all Americans. Let me tell you what my legislation will do:

It will enable federal workers and retirees to purchase long-term care insurance.

It will provide help to those who practice self-help by offering employees the option to better prepare for their retirement and the potential need for long-term care.

It will enable federal employees to pay at group discounted rates. The purchasing power of the federal workforce will empower them to get the best deal.

Federal employees would pay the entire premium for their long-term care insurance, but that premium will be 15% to 20% less than they would pay individually on the open market. This is a good deal for federal workers—and for taxpayers.

I'm starting with federal employees for two reasons. First, as our nation's largest employer, the federal government can be a model for employers around the country. By offering long-term care insurance to its employees, the federal government can set the example for other employers whose workforce will be facing the same long-term care needs. We can use the lessons learned to help other employers to offer this option to their workers.

I have a second reason for starting with our federal employees. I am a strong supporter of our federal employees. I am proud that so many of them live, work, and retire in Maryland. They work hard in the service of our country. And I work hard for them. Whether it's fighting for fair COLAs, against disruptive and harmful shutdowns of the federal government, or to prevent unwise schemes to privatize important services our federal workforce provide, they can count on me.

Promise made should be promises kept. Federal retirees made a commitment to devote their careers to public service. In return, our government made certain promises to them.

One important promise made was the promise of health insurance. We promised our federal workers and their families that they would have health insurance while they were working and during their retirement. The lack of long-term care for federal workers has been a big gap in this important promise to our federal workers. My legislation will close that gap and provide our federal workers and retirees with comprehensive health insurance.

I am proud that Senator SARBANES and Senator ROBB join me in introducing this bill, and that our colleague Congressman CUMMINGS has introduced this legislation in the House. I hope that we will soon be joined by a bipartisan group of Senators who care about helping American families to cope with the costs of long term care.

Mr. President, long term care requires long term solutions. My legislation is part of the solution. It is an important step forward in helping all Americans to prepare for the challenges of aging.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 57

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Group Long-Term Care Insurance Act of 1999".

SEC. 2. LONG-TERM CARE INSURANCE.

Subpart G of part III of title 5, United States Code, is amended by adding at the end the following new chapter:

"Chapter 90—Long-Term Care Insurance

"Sec.
"9001. Definitions
"9002. Contracting authority.
"9003. Minimum standards for contractors.
"9004. Long-term care benefits.
"9005. Financing.
"9006. Preemption.
"9007. Studies, reports, and audits.
"9008. Claims for benefits.
"9009. Jurisdiction of courts.
"9010. Regulations.
"9011. Authorization of appropriations.

"§ 9001. Definitions

"For the purpose of this chapter, the term—

"(1) 'annuitant' means an individual referred to in section 8901(3);

"(2) 'employee' means an individual referred to in subparagraphs (A) through (D), and (F) through (I) of section 8901(1); but does not include an employee excluded by regulation of the Office under section 9011;

"(3) 'Office' means the Office of Personnel Management;

"(4) 'other eligible individual' means the spouse, former spouse, parent or parent-in-law of an employee or annuitant, or other individual specified by the Office;

"(5) 'qualified carrier' means an insurer licensed to do business in each of the States and meeting the requirements of a qualified insurer in each of the States;

"(6) 'qualified contract' means a contract meeting the conditions prescribed in section 9002; and

"(7) 'State' means a State or territory or possession of the United States, and includes the District of Columbia.

"§ 9002. Contracting authority

"(a) The Office may, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) or any other statute requiring competitive bidding, purchase from 1 or more qualified carriers a policy or policies of group long-term care insurance to provide benefits as specified by this chapter. The Office shall ensure that each resulting contract is awarded on the basis of contractor qualifications, price, and reasonable competition to the maximum extent practicable.

"(b) The Office may design a benefits package or packages and negotiate final offerings with qualified carriers.

"(c) Each contract shall be for a uniform term of 5 years, unless terminated earlier by the Office.

"(d) Premium rates charged under a contract entered into under this section shall reasonably reflect the cost of the benefits provided under that contract as determined by the Office.

"(e) The coverage and benefits made available to individuals under a contract entered into under this section are guaranteed to be renewable and may not be canceled by the carrier except for nonpayment of premium.

"(f) The Office may withdraw an offering under this section based on open season participation rates, the composition of the risk pool, or both.

"§ 9003. Minimum standards for contractors

"At the minimum, to be a qualified carrier under this chapter, a company shall—

"(1) be licensed as an insurance company and approved to issue group long-term care insurance in all States and to do business in each of the States; and

"(2) be in compliance with the requirements imposed on issuers of qualified long-term care contracts by section 4980C of the Internal Revenue Code of 1986.

"§ 9004. Long-term care benefits

"The benefits provided under this chapter shall be long-term care benefits which, at a minimum, shall be compliant with the most recent standards recommended by the National Association of Insurance Commissioners.

"§ 9005. Financing

"(a) The amount necessary to pay the premium for enrollment of an enrolled employee shall be withheld from the pay of each enrolled employee.

"(b) Except as provided under subsection (d), the amount necessary to pay the premium for enrollment of an enrolled annuitant shall be withheld from the annuity of each enrolled annuitant.

"(c) The amount necessary to pay the premium for enrollment of a spouse may be withheld from pay or annuity, as appropriate.

"(d) An employee, annuitant, or other eligible individual, whose pay or annuity is insufficient to cover the withholding required for enrollment, shall, at the discretion of the Office, pay the premium for enrollment directly to the carrier.

"(e) Each carrier participating in the program established under chapter shall maintain the funds related to this program separate and apart from funds related to other contracts and other lines of business.

"(f) The costs of the Office in adjudicating a claims dispute under section 9008, including costs related to an inquiry not culminating in a dispute, shall be reimbursed by the carrier involved in the dispute or inquiry. Such funds shall be available to the Office for the administration of this chapter.

"§ 9006. Preemption

"This chapter shall supersede and preempt any State or local law which is determined by the Office to be inconsistent with—

"(1) the provisions of this chapter; or

"(2) after consultation with the National Association of Insurance Commissioners, the efficient provision of a nationwide long-term care insurance program for Federal employees.

"§ 9007. Studies, reports, and audits

"(a) Each qualified carrier entering into a contract under this chapter shall—

"(1) furnish such reasonable reports as the Office determines to be necessary to enable the carrier to carry out the functions under this chapter; and

"(2) permit the Office and representatives of the General Accounting Office to examine such records of the carrier as may be necessary to carry out the purposes of this chapter.

"(b) Each Federal agency shall keep such records, make such certifications, and furnish the Office, the carrier, or both, with such information and reports as the Office may require.

"§ 9008. Claims for benefits

"(a) A claim for benefits under this chapter shall be filed within 4 years after the date on which the reimbursable cost was incurred or the service was provided.

"(b) The Office shall adjudicate a claims dispute arising under this chapter and shall require the contractor to pay for any benefit or provide any service the Office determines appropriate under the applicable contract.

"(c)(1) Except as provided under paragraph (2), benefits payable under this chapter for any reimbursable cost incurred or service provided are secondary to any other benefit payable for such cost or service. No payment may be made where there is no legal obligation for such payment.

"(2)(A) Benefits payable under the programs described under subparagraph (B) shall be secondary to benefits payable under this chapter.

"(B) The programs referred to under subparagraph (A) are—

"(i) the program of medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396); and

"(ii) any other Federal or State programs that the Office may specify in regulations that provide health benefit coverage designed to be secondary to other insurance coverage.

"§ 9009. Jurisdiction of courts

"A claimant under this chapter may file suit against the carrier of the long-term care insurance policy covering such claimant in the district courts of the United States, after exhausting all available administrative remedies.

"§ 9010. Regulations

"(a) The Office shall prescribe regulations necessary to carry out this chapter.

"(b) The regulations of the Office may prescribe the time at which and the conditions under which an eligible individual may enroll in the program established under this chapter.

"(c) The Office may not exclude—

"(1) an employee or group of employees solely on the basis of the hazardous nature of employment; or

"(2) an employee who is occupying a position on a part-time career employment basis, as defined in section 3401(2).

"(d) The regulations of the Office shall provide for the beginning and ending dates of coverage of employees, annuitants, former spouses, and other eligible individuals under this chapter, and any requirements for continuation or conversion of coverage.

"§ 9011. Authorization of appropriations

"There are authorized to be appropriated such sums as may be necessary for the purposes of carrying out sections 9002 and 9010.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of enactment of this Act, except that no coverage may be effective until the first day of the first applicable pay period in October, which occurs more than 1 year after the date of enactment of this Act.

By Ms. COLLINS (for herself, Mr. DURBIN, and Mr. JEFFORDS):

S. 58. A bill to amend the Communications Act of 1934 to improve protections against telephone service "slamming" and provide protections against telephone billing "cramming", to provide the Federal Trade Commission jurisdiction over unfair and deceptive trade practices of telecommunications carriers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TELEPHONE SERVICE FRAUD PREVENTION AND ENFORCEMENT ACT OF 1999

Ms. COLLINS. Mr. President, I rise today to introduce the "Telephone Services Fraud Prevention and Enforcement Act of 1999." I am pleased to have Senators DICK DURBIN and JIM JEFFORDS as cosponsors of this legislation. This bill is designed to curtail two telephone-related fraudulent practices: slamming—the unauthorized change of a consumer's long distance telephone service provider—and cramming—the billing of unauthorized charges on a consumer's telephone bill. This comprehensive bill is needed to ensure that consumers are adequately protected against these unfair practices.

Mr. President, telephone slamming and cramming are widespread problems, affecting consumers across the country. Nationwide, slamming is the number one telephone-related complaint to the Federal Communications Commission, and the number of such complaints has grown steadily over the past few years. In 1998, in fact, the FCC received more than 20,000 slamming complaints, a 900 percent increase over the number of complaints received in 1993. For fiscal year 1998 (from October 1, 1997 through September 1, 1998), telephone slamming was the number one complaint made by Maine consumers to the FCC's National Call Center. Since there is still no central repository for slamming complaints, the actual incidents of slamming are undoubtedly far more numerous. Estimates from phone companies indicated that perhaps as many as one million Americans were slammed last year alone.

Cramming complaints also remain at unacceptably high levels. In 1998, the FCC's National Call Center received over 15,000 cramming complaints from consumers, making it the 12th most common complaint received by the FCC. In addition, the Federal Trade Commission received over 6,000 cramming complaints from consumers in 1998, making it the FTC's 5th most common complaint. As with slamming, there is no central repository for cramming complaints, so the actual number of such complaints is probably much higher than those documented by the federal government.

In late 1997, the Senate Permanent Subcommittee on Investigations, which I chair, began an extensive investigation into telephone-related fraud against consumers. The story of telephone services fraud, I soon discovered, is a great deal more than just an aggregate number of complaints. On February 18, 1998, I chaired a field hearing on slamming in Portland, Maine, where I heard first-hand from consumers about the problems they experienced when their long distance service was changed without their permission. Their sense of violation was evident. Witnesses used words such as "stealing," "criminal," and "break-in" to describe the practices used by unscrupulous telephone companies to boost profits by bouncing unsuspecting customers from carrier to carrier without their permission or even their knowledge.

One witness, for example, Pamela Corrigan from West Farmington, Maine, testified that she was sent an unsolicited mailing, which looked like any other letter in the stacks of junk mail that we all receive every day. This "junk mail," however, was not what it appeared to be. This so-called "welcome package" automatically signed her up for a new long distance service unless she returned a card rejecting the change. She was amazed and appalled that it was possible for a company to take over her long distance service simply because she did not respond that she did not want their service.

Building on this record, my Subcommittee held a second slamming hearing on April 23, 1998, in Washington, DC. This hearing exposed how certain fraudulent long distance switchless resellers (companies with no telephone equipment of their own that buy access to larger telephone companies' long distance lines and then "resell" that access to consumers) are responsible for a large proportion of the intentional slamming incidents. These electronic bandits use deceptive marketing practices and often outright fraud to switch consumers' long distance service. The Subcommittee also learned how under current industry practices, many companies reap huge profits by taking advantage of consumers in such a fashion.

At my Subcommittee's April 1998 hearing, we examined a case study of telephone services fraud. A man named Daniel Fletcher fraudulently operated as a long distance reseller, using at least eight different company names. In these various guises, Fletcher slammed thousands of consumers, billing them for a total of at least $20 million in long distance charges. The impunity with which Mr. Fletcher deliberately slammed consumers for so long demonstrates the need to establish strong consumer protections to deter intentional slamming.

On July 23, 1998, I convened a hearing in Washington to explore the emerging problem of telephone cramming. At that hearing, we learned how cramming is a growing consumer fraud and how companies are using telephone bills to rip-off consumers by slipping unauthorized charges onto their statements without their consent and without proper notice. The National Consumers League testified that cramming has skyrocketed to first place among the more than 50 categories of telemarketing scams reported to its hotline. The FCC testified that it is relying on the telephone industry to voluntarily implement procedures to stop cramming. However, it was evident from the testimony that unless we establish a clear statutory and regulatory scheme and insist upon rigorous enforcement of these rules, cramming will continue to be a problem for consumers.

In May 1998, the Senate passed a strong anti-slamming bill by a unanimous vote. This bill contained strong consumer protection provisions and mandated aggressive enforcement by the FCC and other federal agencies. Unfortunately, the House retreated significantly from this strong anti-slamming legislation and sent us, at the very end of the legislative session, a bill significantly weaker than the one which passed the Senate—indeed, a bill so weak that it would provide consumers with less protection than they enjoy today, by preempting the important role states play in enforcing consumer anti-fraud protections. Last fall, in the final days of the session, the Congress was unable to agree to an acceptable compromise bill in the limited amount of time available to it.

I was pleased to see, however, that the FCC finally took action in December of last year to curb slamming. Among other measures, the FCC eliminated the "welcome package" as a verification method. This method was abused by many long distance carriers, facilitating widespread slamming. I urged the FCC last year to prohibit this practice, and I am glad to see that the Commission promulgated regulations banning the welcome package.

The FCC also made positive changes to the consumer liability rules, absolving consumers in certain circumstances from paying companies that slammed them. This provision is designed to take the profit out of slamming, to prevent this scam in the first place. I am pleased to see that the Commission adopted this principle which was a major finding of the Subcommittee's investigation of telephone slamming.

The FCC anti-slamming regulations are a step in the right direction, but we need to do more to protect consumers from these fraudulent activities. Today, to increase consumers protections, I am introducing a comprehensive telephone-related anti-fraud bill that will address both the slamming and cramming problems. I want to take this opportunity to explain several provisions in my bill, which is designed to increase consumer protections and to strengthen the enforcement tools available to federal and state regulators.

First, the bill enhances the states' ability to enact regulations and take enforcement actions against slamming and cramming. As the Subcommittee's investigation has revealed, the states have been admirably aggressive in taking enforcement action against companies that engage in telephone-related fraud. For example, in February 1998, the Florida Public Service Commission proposed a $500,000 fine against a company called Minimum Rate Pricing for slamming subscribers. The FCC, in contrast, fined the same company only $80,000. In the Fletcher case mentioned previously, the State of Florida fined one Fletcher company $860,000, while the FCC originally fined one of them only $80,000. I am glad to say that since my subcommittee's investigation, the FCC has significantly increased its enforcement efforts, particularly against Mr. Fletcher.

For the most part, however, the states have been, and remain, the first line of defense against companies that repeatedly slam or cram consumers. This bill protects the states' ability to continue to fight those illegal practices. Specifically, this bill allows the states to impose tough requirements to protect consumers from those companies who continue to slam or cram American consumers. Moreover, states will be able to continue to obtain refunds for consumers who have been harmed by such fraudulent practices.

Second, this bill makes it clear that telephone companies that continue to slam or cram consumers will be subject to tough civil penalties. The bill will create new civil penalties for cramming, and authorize the imposition of stiff penalties by the FCC on those companies who violate FCC regulations against slamming or cramming. The FCC is currently authorized to assess forfeiture penalties of no more than $110,000 for each violation, for a total forfeiture not to exceed $1.1 million for a continuing violation. This bill sends a clear message to the FCC, however, that forfeiture penalties against companies that engage in telephone-related fraud should be large enough to deter such practices. These and other penalties the FCC will be authorized to impose ought to ensure that telephone companies follow proper procedures and refrain from slamming and cramming. If they break the rules by trying to cheat consumers, they will pay a steep price.

But prevention is better than punishment, and any effective enforcement program designed to reduce or eliminate telephone-related fraud must take the financial incentive for fraud away from companies who engage in these practices. The new FCC regulations go a long way to protecting consumers by absolving them from paying any charges for 30 days after they are slammed and by allowing consumers to pay their previously authorized carrier for telephone calls made in the period during which the slamming company fraudulently seized their long distance telephone service. Unfortunately, this FCC regulation does not apply to consumers who did not notice that they were slammed and consequently paid this long distance bill to the unauthorized carrier. The Commission apparently does not have the authority to mandate this requirement. My bill would change the law to allow all consumers to get refunds from unauthorized carriers. Under this plan, all consumers will be treated equally. The bill will also require telephone billing agents to make it clear to consumers that their telephone service will not be terminated when consumers dispute unauthorized charges that are crammed onto their telephone bills.

Finally, the bill will protect a consumer's right to a "freeze option." This provision makes it clear that consumers have the right to stop slammers from changing their long distance service without their authorization. By invoking the freeze option, consumers can retain control over their telephone service by prohibiting any change in a consumers choice of telephone service provider, unless that change is expressly authorized by the consumer. This provision, I should also note, does not in any way prevent the FCC from regulating the marketing practices of telephone companies that use the freeze option in an unfair or deceptive manner. The Commission will be fully empowered to guarantee that consumers' right to protect their choice of local or long distance telephone service is not abridged or diminished. In sum, this language should increase consumers' right to prevent unauthorized changes in their telephone service.

This bill will go a long way to provide strong consumer protection against telephone-related fraud. It preserves the important role states play in protecting consumers and enforcing tough sanctions against unscrupulous carriers; it authorizes tough federal civil penalties against those companies that continue to slam and cram consumers; and it protects consumers' right to a freeze option so that they—and not the telephone companies—have control over their long distance services.

Mr. President, this bill will provide the federal government and the states with the statutory tools to fight the practices of slamming and cramming and to end the systematic defrauding of countless thousands of consumers every year. I urge my colleagues to join me in the fight against telephone-related fraud by supporting this bill.

By Mr. THOMPSON (for himself, Mr. BREAUX, and Mr. LOTT):

S. 59. A bill to provide Government wide accounting of regulatory costs and benefits, and for other purposes; to the Committee on Governmental Affairs.

REGULATORY RIGHT TO KNOW ACT OF 1999

Mr. THOMPSON. Mr. President, today I am introducing the "Regulatory Right-to-Know Act of 1999." I am pleased that Senator BREAUX and Majority Leader LOTT have joined me in this effort. Our goals are to promote the public's right to know about the benefits and costs of regulatory programs; to increase the accountability of government to the people it serves; and ultimately, to improve the quality of our regulatory programs. This legislation will help us assess what benefits our regulatory programs are delivering, at what cost, and help us understand what we need to do to improve them.

By any measure, the burdens of Federal regulation are enormous. By some estimates, Federal regulation costs about $700 billion per year, or $7,000 for the average American household. I hear concerns about unnecessary regulatory burdens and red tape from people all across the country and from all walks of life—small business owners, governors and local officials, farmers, corporate leaders, government reformers, school board members and parents.

There is strong public support for sensible regulations that can help ensure cleaner water, quality products, safer workplaces, reliable economic markets, and the like. But there is substantial evidence that the current regulatory system is missing important opportunities to deliver greater benefits at less cost. The depth of this problem is not appreciated fully because the costs of regulation are not as apparent as other costs of government, such as taxes, and the benefits of regulation often are diffuse. The bottom line is that the American people deserve better results from the vast resources and time spent on regulation. We've got to be smarter.

We often spend a lot of time debating on-budget programs, but we are just breaking ground on creating a system to scrutinize Federal regulation. This legislation does not change any regulatory standards; it simply will provide better information to help us answer some important questions: How much do regulatory programs cost each year? Are we spending the right amount, particularly compared to on-budget spending and private initiatives? Are we setting sensible priorities among different regulatory programs? As the Office of Management and Budget stated in its first "Report to Congress on the Costs and Benefits of Federal Regulations":

> [R]egulations (like other instruments of government policy) have enormous potential for both good and harm. . . . The only way we know how to distinguish between the regulations that do good and those that cause harm is through careful assessment and evaluation of their benefits and costs. Such analysis can also often be used to redesign harmful regulations so they produce more good than harm and redesign good regulations so they produce even more net benefits.

There is broad support for making our government more open, efficient, and accountable. This legislation continues the efforts of my precedessors. Regulatory accounting was a part of a regulatory reform bill that unanimously passed out of the Governmental Affairs Committee in 1995 when BILL ROTH was our chairman. In 1996, when TED STEVENS became our chairman, he passed a one-time regulatory accounting amendment on the Omnibus Appropriations Act. I supported Senator STEVENS' effort when it passed again in 1997, and I sponsored a similar measure last year, with the support of Senators LOTT, BREAUX, ROBB and SHELBY. There also is a broad bipartisan coalition in the House that supports regulatory accounting.

This legislation will continue the requirement that OMB report to Congress on the costs and benefits of regulatory programs, which began with the Stevens amendment. This legislation also adds to previous initiatives in several respects. First, it will finally make regulatory accounting a permanent statutory requirement. Regulatory accounting will become a regular exercise to help ensure that regulatory programs are cost-effective, sensible, and fair. Second, this legislation will require OMB to provide a more complete picture of the regulatory system, including the incremental costs and benefits of particular programs and regulations, as well as an analysis of regulatory impacts on small business, governments, the private sector, wages and economic growth. OMB also will look back at the annual regulatory costs and benefits for the preceding 4 fiscal years, building on information generated under the Stevens amendment. Finally, this legislation will help ensure that OMB provides better information as time goes on. Requirements for OMB guidelines and independent peer review should improve future regulatory accounting reports.

Government has an obligation to think carefully and be accountable for requirements that impose costs on people and limit their freedom. We should pull together to contribute to the success of responsible government programs the public values, while enhancing the economic security and well-being of our families and communities.

Mr. President, I ask unanimous consent that a copy of the Regulatory Right-to-Know Act of 1999 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 59

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Regulatory Right-to-Know Act of 1999".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) promote the public right-to-know about the costs and benefits of Federal regulatory programs and rules;

(2) increase Government accountability; and

(3) improve the quality of Federal regulatory programs and rules.

SEC. 3. DEFINITIONS.

In this Act:

(1) IN GENERAL.—Except as otherwise provided in this section, the definitions under section 551 of title 5, United States Code, shall apply to this Act.

(2) BENEFIT.—The term "benefit" means the reasonably identifiable significant favorable effects, quantifiable and nonquantifiable, including social, health, safety, environmental, economic, and distributional effects, that are expected to result from implementation of, or compliance with, a rule.

(3) COST.—The term "cost" means the reasonably identifiable significant adverse effects, quantifiable and nonquantifiable, including social, health, safety, environmental, economic, and distributional effects, that are expected to result from implementation of, or compliance with, a rule.

(4) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget, acting through the Administrator of the Office of Information and Regulatory Affairs.

(5) MAJOR RULE.—The term "major rule" means any rule as that term is defined under section 804(2) of title 5, United States Code.

(6) PROGRAM ELEMENT.—The term "program element" means a rule or related set of rules.

SEC. 4. ACCOUNTING STATEMENT.

(a) IN GENERAL.—Not later than February 5, 2001, and each year thereafter, the President, acting through the Director of the Office of Management and Budget, shall prepare and submit to Congress, with the budget of the United States Government submitted under section 1105 of title 31, United States Code, an accounting statement and associated report containing—

(1) an estimate of the total annual costs and benefits of Federal regulatory programs, including rules and paperwork—

(A) in the aggregate;

(B) by agency, agency program, and program element; and

(C) by major rule;

(2) an analysis of direct and indirect impacts of Federal rules on Federal, State, local, and tribal government, the private sector, small business, wages, and economic growth; and

(3) recommendations to reform inefficient or ineffective regulatory programs or program elements.

(b) BENEFITS AND COSTS.—To the extent feasible, the Director shall quantify the net benefits or net costs under subsection (a)(1).

(c) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement submitted under this Act shall cover, at a minimum, the costs and corresponding benefits for each of the 4 fiscal years preceding the year in which the report is submitted. The statement may cover any year preceding such years for the purpose of revising previous estimates.

SEC. 5. NOTICE AND COMMENT.

(a) IN GENERAL.—Before submitting a statement and report to Congress under section 4, the Director of the Office of Management and Budget shall—

(1) provide public notice and an opportunity to comment on the statement and report; and

(2) consult with the Comptroller General of the United States on the statement and report.

(b) APPENDIX.—After consideration of the comments, the Director shall incorporate an appendix to the report addressing the public comments and peer review comments under section 7.

SEC. 6. GUIDANCE FROM THE OFFICE OF MANAGEMENT AND BUDGET.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Council of Economic Advisors, shall issue guidelines to agencies to standardize—

(1) most plausible measures of costs and benefits; and

(2) the format of information provided for accounting statements.

(b) REVIEW.—The Director shall review submissions from the agencies to ensure consistency with the guidelines under this section.

SEC. 7. PEER REVIEW.

(a) IN GENERAL.—The Director of the Office of Management and Budget shall arrange for a nationally recognized public policy research organization with expertise in regulatory analysis and regulatory accounting to provide independent and external peer review of the guidelines and each accounting statement and associated report under this Act before such guidelines, statements, and reports are made final.

(b) WRITTEN COMMENTS.—The peer review under this section shall provide written comments to the Director in a timely manner. The Director shall use the peer review comments in preparing the final guidelines, statements, and associated reports.

(c) FACA.—Peer review under this section shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

Mr. BREAUX. Mr. President, I am pleased to introduce the Regulatory Right to Know Act of 1999 with my colleague, Senator THOMPSON. This important piece of legislation will make the regulatory system more understandable and accountable to the American people.

The Regulatory Right to Know Act of 1999 is similar to an amendment that was attached to the Fiscal Year 1999 Treasury, Postal Appropriations bill and which the Senate unanimously passed on July 29, 1998. It is also similar to the two Stevens' Amendments passed with a large majority of support in the Senate in 1996 and 1997. All of these amendments required the Office of Management and Budget to prepare an accounting statement and report on the annual costs and benefits of federal regulatory programs. Obviously, Congress is on record in support of having more information about the federal regulatory system.

The Regulatory Right to Know Act of 1999 simply makes this requirement permanent and requires OMB to submit a yearly report to Congress on the total costs and benefits of federal regulations. Costs and benefits include those that are both quantifiable and non-quantifiable. OMB must present both an analysis of the impacts of regulations on Federal, State, local and tribal governments, the private sector, small businesses, wages and economic growth, as well as recommendations for reforming wasteful or outdated regulations. Lastly, our bill provides the public with an opportunity to comment on the draft report before it is submitted to Congress.

Our bill does not do a number of things. It does not require that any regulations or programs be eliminated because the benefits do not outweigh the costs. It does not impose an unworkable burden on the OMB because much of the needed information is already available. And, our bill doesn't undermine the need for regulations protecting public health, worker safety, food quality or environmental preservation.

Some studies have estimated the total cost of federal regulations to be almost $700 billion annually. On average, regulations cost every household in America approximately $7,000 per year. As the people who bear the cost of federal regulatory programs, America's citizens have a right to know what they are getting for their $7,000. Taxpayers are able to track how the government spends its tax dollars through the budget process. The same openness should apply to the federal regulatory system. Congress also needs the accounting statements provided by our bill in order to make better, more informed, and more efficient decisions. For these reasons. I urge all of my colleagues to support the Regulatory Right to Know Act of 1999.

By Mr. GRASSLEY:

S. 60. A bill to amend the Internal Revenue Code of 1986 to provide equitable treatment for contributions by employees to pension plans; to the Committee on Finance.

ENHANCED SAVINGS OPPORTUNITIES ACT

Mr. GRASSLEY. Mr. President, I rise today to introduce legislation that lifts the unfair limits on how much people can save in their employer's pension plan. I have been an advocate of increasing the amount of public education we provide to people on the importance of saving for retirement. However, we also must take more tangible action that will help workers achieve a more secure retirement.

The legislation I am introducing today amends two provisions in the Internal Revenue Code which discourage workers and employers from putting money into pension plans. One of the most burdensome provisions in the Internal Revenue Code is the 25 percent limitation contained within section 415(c). Under 415(c), total contributions by employer and employee into a defined contribution (DC) plan are limited to 25 percent of compensation or $30,000 for each participant, whichever is less. That limitation applies to all employees. If the total additions into a DC plan exceed the lesser of 25 percent or $30,000, the excess money will be subject to income taxes and a penalty in some cases.

The second tax code provision affected by this legislation is section 404(a)(3). This section regulates the amount of retirement plan contributions an employer can deduct for tax purposes. We need this change because those deduction limits are impacted by how much the employee puts into the retirement plan. If we are successful in changing 415(c), we run the risk of more employers bumping into the 15% deduction limit—we don't want that to happen.

To illustrate the need for elimination of the 25 percent limit let me use an example. Bill works for a medium size company in my home state of Iowa. His employer sponsors a 401(k) plan and a profit sharing plan to help employees save for retirement. Bill makes $25,000 a year and elects to put in 10 percent of his compensation into the 401(k) plan, which amounts to $2,500 per year. His employer will match the first 5 percent of his compensation, which comes out to be $1,250, into the 401(k) plan. Therefore, the total 401(k) contribution into Bill's account in this year is $3,750. In this same year Bill' s employer determines to set aside a sufficient amount of his profits to the profit sharing plan which results in an allocation to Bill's account in the profit sharing plan the sum of $3,205. This brings the total contribution into Bill's retirement plan this year up to $6,955.

Unfortunately, because of the 25 percent of compensation limitation only $6,250 can be put into Bill's account for the year. The amount intended for Bill's account exceeds that limitation by $705. Hence, the profit sharing plan administrator must reduce the amount intended for allocation to Bill's account by $705 in order to avoid a penalty. Bill is unlikely to be able to save $705, a significant amount that would otherwise be yielding a tax deferred income which would increase the benefit Bill will receive at retirement. Bill's retirement saving is shortchanged by $705 plus the tax-deferred earnings it would have generated.

Now let's look at Irene. Irene works for the same company, but she makes $45,000 a year. She also puts in 10 percent of her compensation into the 401(k) plan, and her employer matches five percent of her salary into the account. That brings the combined contribution of Irene and her employer up to $6,750. She would also receive a contribution of $3,205 from the profit sharing plan. This brings the total contribution into Irene's pension plan for that year to $9,955. She is also subject to the 25 percent limit, but for Irene, her limit would not be reached until $11,200. She is able to put in her 10 percent, receive the five percent match and receive the full amount from the profit share because her amount doesn't exceed the limit.

Despite the fact that Bill and Irene have the same discipline to add to their pension plans and save for their retirements, Bill is penalized by the 25 percent limitation. By lifting the 25 percent limit, we can provide a higher threshold of savings for those who need it most.

Permitting additional contributions to DC plans will help those working now, particularly women, to "catch up" on their retirement savings goals. Women are more likely to live out the last years of their retirement in poverty for a number of reasons. Women have longer lifespans, they are more likely to leave the workforce to raise children or care for elderly parents, are more likely to have to use assets to pay for long-term care for an ill spouse, and traditionally make less money than their male counterparts. Anyone who has delayed saving for retirement will get a much needed boost to their retirement savings strategy if the 25 percent limit is eliminated for employees.

Not only does this proposal help individual employees save for retirement but it also helps the many businesses, both small and large which are affected by 415(c). First, the 25 percent limitation causes equity concerns within businesses. Low and mid-salary workers do not feel as if the Code treats them equitably, when their higher-paid supervisor is permitted to save more in dollar terms in a tax-qualified pension plan.

Second, one of the primary reasons businesses offer pension plans is to reduce turnover and retain employees. Employers often supplement their 401(k) plans with generous matches or a profit-sharing plan to keep people on the job. The 415(c) limitation inhibits their ability to do that, particularly for the lower-paid workers who are unfairly affected.

Third, this legislation will ease the administrative burdens connected with the 25 percent limitation. Dollar limits are easier to track than percentage limits.

Finally, I want to placate any concerns that repealing the 25 percent limit will serve as a windfall for high-paid employees. The Code contains other limitations which provide protection against abuse. First, the Code limits the amount an employee can defer to a 401(k) plan. Under section 402(g) of the Code, workers can only defer up to $10,000 of compensation into a 401(k) plan in 1998. In addition, plans still must meet strict non-discrimination rules that ensure that benefits provided to highly-compensated employees are not overly generous.

The value to society of this proposal, if enacted, is undeniable. Increased savings in qualified retirement plans can prevent leakage, meaning the money is less likely to be spent, or cashed out as might happen in a savings account or even an IRA.

There will be those out there who recognize that this bill does not address the impact of the 415 limit for all of the plans that are subject to it. I have included language that would provide relief to 401(k) plans and 403(b) plans, for example. Plans authorized by section 457 of the Code—used by state and local governments and non-profit organizations have not been specifically addressed. I want to assure organizations who sponsor 457 plans that I support ultimate conformity for all plans affected by the 415(c) percentage limitation. Over the next couple of weeks, I hope to work with these organizations to identify the changes that are necessary to achieve equity and simplicity for their employees. In the mean time, this is a positive step toward enhancing the retirement savings opportunities of working Americans.

We have begun to educate all Americans about the importance of saving for retirement, but if we educate and then do not give them the tools to allow people to practically apply that knowledge, we have failed in our ultimate goal to increase national savings. Let's help Americans succeed in saving for retirement. In helping them achieve their retirement goals, they help us to achieve our goal as policymakers of improving the quality of life for Americans.

I want to thank an Iowa company, IPSCO, in Camanche, Iowa, and its many employees for bringing this issue to the forefront. I would also ask unanimous consent that a letter supporting this legislation from the Profit Sharing Council of America be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PROFIT SHARING/401(k)
COUNCIL OF AMERICA,
Chicago, IL, January 19, 1999.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR CHAIRMAN GRASSLEY: On behalf of the 1,200 Profit Sharing/401(k) Council of America members who sponsor employer-provided retirement plans, I am pleased to announce our strong support of The Enhanced Savings Opportunity Act, introduced today, that would repeal the IRC section 415(c) 25 percent of compensation limit currently imposed on employees participating in defined contribution plans. That limitation caps the combined employee and employer contribution into a 401(k) account to 25 percent of an employee's earnings. The 25 percent limitation has significantly reduced the ability of lower-paid employees, specifically intermittent workers, from taking full advantage of defined contribution retirement programs. Most companies limit the percentage of pay that an employee can contribute to their 401(k) plan to even less than 25 percent in order to insure compliance with 415(c).

The legislation will promote a conducive environment for expanding the savings opportunities in employer-provided retirement programs by removing one of the impediments that prevents employees, especially lower-paid employees, from taking full advantage of profit sharing, 401(k), and other defined contribution programs.

The Enhanced Savings Opportunity Act will permit employees who leave and reenter the workforce, many of whom are women, to make larger contributions when they are working, in effect allowing them to "catch up" their contributions. All low-paid employees will now be allowed to defer up to $10,000 of their wages into a 401(k) plan. Also, companies will be permitted to make more generous matching and profit sharing contributions to their employees, especially their lower-paid employees.

We continue to benefit from your strong leadership in support of employer-provided retirement plans and again commend you for this new proposed legislation.

Sincerely,

DAVID L. WRAY,
President.

By Mr. DEWINE (for himself, Mr. HOLLINGS, Mr. ABRAHAM, Mr. SANTORUM, Mr. SPECTER, Mr. BYRD, Mr. HUTCHINSON, and Mr. VOINOVICH):

S. 61. A bill to amend the Tariff Act of 1930 to eliminate disincentives to fair trade conditions; to the Committee on Finance.

THE CONTINUED DUMPING OR SUBSIDIZATION OFFSET ACT

Mr. DEWINE. Mr. President, today I join with Senators ABRAHAM, SANTORUM, SPECTER, HOLLINGS, BYRD, HUTCHINSON and others to introduce the Continued Dumping or Subsidy Offset Act. This legislation is designed to ensure that our domestic producers can compete freely and fairly in global markets. This bill is a top priority for me and my fellow cosponsors—not only because we believe it is good policy, but also because it is needed to respond to the current import dumping crisis in our steel industry.

As my colleagues know, the Tariff Act of 1930 gives the President the authority to impose duties and fines on imports that are being dumped in U.S. markets, or subsidized by foreign governments. Our bill would take the 1930 Act one step further. Currently, revenues raised through import duties and fines go to the U.S. Treasury. Under our bill, duties and fines would be transferred to injured U.S. companies as compensation for damages caused by dumping or subsidization.

We believe this extra step is necessary. Current law simply has not been strong enough to deter unfair trading practices. In some cases, foreign producers are willing to risk the threat of paying U.S. antidumping and countervailing duties out of the profits of dumping.

Current law also does not contain a mechanism to help injured U.S. industries recover from the harmful effects of foreign dumping and subsidization. These foreign practices have reduced the ability of our injured domestic industries to reinvest in plant, equipment, people, R&D, technology or to maintain or restore health care and pension benefits. The end result is this: continued dumping or subsidization jeopardizes renewed investment and prevents additional reinvestment from being made.

The current steel dumping crisis is the latest sobering example of why our legislation, among others, is needed to better enforce fair trade. Because of massive dumping, steel imports are at an all-time high. According to the American Iron and Steel Institute, 4.1 net tons of steel were imported in the month of October—that's the second highest monthly total ever, and is 56% higher than the previous year.

This surge in imports is having a direct impact on our own steel industry. In November, U.S. steel mills shipped nearly 7.4 million net tons of steel in November of last year—more than one million tons below what was shipped one year earlier. We have seen U.S. steel's industrial utilization rate fall from 93.1% in March of 1998 to 73.9% in January of 1999. And most troubling of all, approximately 10,000 jobs have been lost in our steel industry since last year. More layoffs are certain. Whether these jobs will ever be restored is uncertain. This is a genuine crisis for the communities in the Ohio River Valley and in other communities across the country.

This is not a case of being on the wrong side of a highly competitive market. Today's U.S. steel industry is a lean, efficient industry—a world leader thanks to restructuring and millions of dollars in modernization. U.S. steelworkers are the best and most productive in the world. In fact, America's workers devote the fewest manpower hours per ton of steel.

Simply being the best is not enough against foreign governments that either erect barriers to keep U.S. steel out, or subsidize their exports to distort prices. That's why we have trade laws designed to promote fair trade. However, it's clear that our current trade policies aren't working. Current law did not deter foreign steel producers from dumping their products in our country. These foreign producers have done the math. They have made a calculated decision that the risk of duties is a price they are willing to pay in return for the higher global market share they have gained by chipping away at the size and strength of our nation's steel industry.

It's time we impose a heavier price on dumping and subsidization. The Continued Dumping or Subsidization Offset Act would accomplish this goal. It would transfer the duties and fines imposed on foreign producers directly to their U.S. competitors. Under our bill, foreign steel producers would get a double hit from dumping: they would have to pay a duty, and in turn, see that duty go directly to aid U.S. steel producers.

In order to counter the adverse effects of foreign dumping and subsidization on U.S. industries, Congress should pass this bipartisan bill.

The steel crisis also has amplified the need for additional improvements in our trade laws, as well as tougher enforcement of existing laws. Last October, many of us in Congress came together to offer an early New Year's resolution for 1999: to stand up for steel.

Any crisis requires leadership. That's why Congress asked the President to make a New Year's Resolution of his own—one that would honor a pledge he made in 1992 to strongly enforce U.S. antidumping laws. Specifically, Congress asked the President for an action plan no later than January 5th—a plan that would end the distortion and disruption in global steel markets, as well as the disappearance of jobs and opportunity in U.S. steel plants. It was a call for presidential leadership.

On January 8th, the President released a plan that fell far short of what we hoped. It was a plan that showed a reluctance to fully utilize our laws to ensure free and fair trade. It did not recommend any trade legislation to better protect U.S. industry from dumping. As a result, it sends a dangerous signal to foreign governments that dumping will not meet with a swift response from the United States.

I am concerned the President has not fully grasped the magnitude of this problem. In the past few months, I have visited with Ohio Valley steel producers and workers, including a number of the hundreds laid off because of foreign dumping. Their message was the same: the surge in steel imports represents a crisis of historic proportions.

The root of the current import crisis is the financial distress that plagues Asia and Russia, which has created a worldwide oversupply of steel. While foreign consumption of steel has nearly dried up, America's strong economy and open markets have made the United States a prime target for exporters. We are dedicated to assisting these economies—so we can avoid a global downturn. But turning a blind eye toward our steel workers is the wrong way to do it. We simply cannot afford to sacrifice the US steel industry and thousands of American jobs in a desperate attempt to prop up faulty foreign economies. This approach simply will not work.

Although the Commerce Department has initiated an investigation that could result in duties imposed against foreign steel, the President could pursue a number of options to reduce steel imports: He could begin serious and aggressive bilateral negotiations with countries that dump steel; initiate a "201" petition with the International Trade Commission if he believes steel imports pose a substantial threat to domestic industry; or take unilateral trade action, including quotas and tariffs, under the International Economic Emergency Powers Act.

The President's plan does not take any of these options. Instead, it treats the symptoms of dumping—declining profits and unemployment—rather than attack the disease itself. The damage from this disease has already been done. Absent tough action to address this dumping directly makes it more difficult for U.S. producers to regain their declining market share, and most important, to restore the jobs that have been lost.

Congress can insist on tough action by the President by passing legislation that will further discourage unfair trade practices. Passing the Continued Dumping or Subsidization Offset Act would be a good start. In addition, I will be joining with Senator ARLEN SPECTER of Pennsylvania to introduce legislation that would lower the statutory threshold for the International Trade Commission (ITC) to find injury caused by imports and establish a steel import permit and licensing program, allowing domestic industry access to critical import data more quickly.

Ultimately, we cannot achieve free and fair markets on a global scale unless our laws work to encourage all competitors to play by the rules. And ultimately, congressional action alone is no substitute for presidential leadership. That's why Congress and the American steel community need to keep the pressure on. In fact, thousands of steel workers from the Ohio Valley are arriving in our nation's capitol in a massive call for presidential leadership. It's time our President took a stand for fair trade. It's time for our President to stand up for steel.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 61

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Continued Dumping and Subsidy Offset Act of 1999".

SEC. 2. FINDINGS OF CONGRESS.

Congress makes the following findings:

(1) Consistent with the rights of the United States under the World Trade Organization, injurious dumping is to be condemned and actionable subsidies which cause injury to domestic industries must be effectively neutralized.

(2) United States unfair trade laws have as their purpose the restoration of conditions of fair trade so that jobs and investment that should be in the United States are not lost through the false market signals.

(3) The continued dumping or subsidization of imported products after the issuance of antidumping orders or findings or countervailing duty orders can frustrate the remedial purpose of the laws by preventing market prices from returning to fair levels.

(4) Where dumping or subsidization continues, domestic producers will be reluctant to reinvest or rehire and may be unable to maintain pension and health care benefits that conditions of fair trade would permit. Similarly, small businesses and American farmers and ranchers may be unable to pay down accumulated debt, to obtain working capital, or to otherwise remain viable.

(5) United States trade laws should be strengthened to see that the remedial purpose of those laws is achieved.

SEC. 3. AMENDMENTS TO THE TARIFF ACT OF 1930.

(a) IN GENERAL.—Title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) is amended by inserting after section 753 following new section:

"SEC. 754. CONTINUED DUMPING AND SUBSIDY OFFSET.

"(a) IN GENERAL.—Duties assessed pursuant to a countervailing duty order, an antidumping duty order, or a finding under the Antidumping Act of 1921 shall be distributed on an annual basis under this section to the affected domestic producers for qualifying expenditures. Such distribution shall be known as the 'continued dumping and subsidy offset'.

"(d) DEFINITIONS.—As used in this section:

"(1) AFFECTED DOMESTIC PRODUCER.—The term 'affected domestic producer' means any manufacturer, producer, farmer, rancher, or worker representative (including associations of such persons) that—

"(A) was a petitioner or interested party in support of the petition with respect to which an antidumping duty order, a finding under the Antidumping Act of 1921, or a countervailing duty order has been entered, and

"(B) remains in operation.

Companies, businesses, or persons that have ceased the production of the product covered by the order or finding or who have been acquired by a company or business that is related to a company that opposed the investigation shall not be an affected domestic producer.

"(2) COMMISSIONER.—The term 'Commissioner' means the Commissioner of Customs.

"(3) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

"(4) QUALIFYING EXPENDITURE.—The term 'qualifying expenditure' means an expenditure incurred after the issuance of the antidumping duty finding or order or countervailing duty order in any of the following categories:

"(A) Plant.

"(B) Equipment.

"(C) Research and development.

"(D) Personnel training.

"(E) Acquisition of technology.

"(F) Health care benefits to employees paid for by the employer.

"(G) Pension benefits to employees paid for by the employer.

"(H) Environmental equipment, training, or technology.

"(I) Acquisition of raw materials and other inputs.

"(J) Borrowed working capital or other funds needed to maintain production.

"(5) RELATED TO.—A company, business, or person shall be considered to be 'related to' another company, business, or person if—

"(A) the company, business, or person directly or indirectly controls or is controlled by the other company, business, or person,

"(B) a third party directly or indirectly controls both companies, businesses, or persons,

"(C) both companies, businesses, or persons directly or indirectly control a third party and there is reason to believe that the relationship causes the first company, business, or persons to act differently than a nonrelated party.

For purposes of this paragraph, a party shall be considered to directly or indirectly control another party if the party is legally or operationally in a position to exercise restraint or direction over the other party.

"(c) DISTRIBUTION PROCEDURES.—The Commissioner shall prescribe procedures for distribution of the continued dumping or subsidies offset required by this section. Such distribution shall be made not later than 60 days after the first day of a fiscal year from duties assessed during the preceding fiscal year.

"(d) PARTIES ELIGIBLE FOR DISTRIBUTION OF ANTIDUMPING AND COUNTERVAILING DUTIES ASSESSED.—

"(1) LIST OF AFFECTED DOMESTIC PRODUCERS.—The Commission shall forward to the Commissioner within 60 days after the effective date of this section in the case of orders or findings in effect on such effective date, or in any other case, within 60 days after the date an antidumping or countervailing duty order or finding is issued, a list of petitioners and persons with respect to each order and finding and a list of persons that indicate support of the petition by letter or through questionnaire response. In those cases in which a determination of injury was not required or the Commission's records do not permit an identification of those in support of a petition, the Commission shall consult with the administering authority to determine the identity of the petitioner and those domestic parties who have entered appearances during administrative reviews conducted by the administering authority under section 751.

"(2) PUBLICATION OF LIST; CERTIFICATION.—The Commissioner shall publish in the Federal Register at least 30 days before the distribution of a continued dumping and subsidy offset, a notice of intention to distribute the offset and the list of affected domestic producers potentially eligible for the distribution based on the list obtained from the Commission under paragraph (1). The Commissioner shall request a certification from each potentially eligible affected domestic producer—

"(A) that the producer desires to receive a distribution;

"(B) that the producer is eligible to receive the distribution as an affected domestic producer; and

"(C) the qualifying expenditures incurred by the producer since the issuance of the order or finding for which distribution under this section has not previously been made.

"(3) DISTRIBUTION OF FUNDS.—The Commissioner shall distribute all funds (including all interest earned on the funds) from assessed duties received in the preceding fiscal year to affected domestic producers based on the certifications described in paragraph (2). The distributions shall be made on a pro rata basis based on new and remaining qualifying expenditures.

"(e) SPECIAL ACCOUNTS.—

"(1) ESTABLISHMENTS.—Within 14 days after the effective date of this section, with respect to antidumping duty orders and findings and countervailing duty orders in effect on the effective date of this section, and within 14 days after the date an antidumping duty order or finding or countervailing duty order issued after the effective date takes effect, the Commissioner shall establish in the Treasury of the United States a special account with respect to each such order or finding.

"(2) DEPOSITS INTO ACCOUNTS.—The Commissioner shall deposit into the special accounts, all antidumping or countervailing duties (including interest earned on such duties) that are assessed after the effective date of this section under the antidumping order or finding or the countervailing duty order with respect to which the account was established.

"(3) TIME AND MANNER OF DISTRIBUTIONS.—Consistent with the requirements of subsections (c) and (d), the Commissioner shall by regulation prescribe the time and manner in which distribution of the funds in a special account shall be made.

"(4) TERMINATION.—A special account shall terminate after—

"(A) the order or finding with respect to which the account was established has terminated;

"(B) all entries relating to the order or finding are liquidated and duties assessed collected;

"(C) the Commissioner has provided notice and a final opportunity to obtain distribution pursuant to subsection (c); and

"(D) 90 days has elapsed from the date of the notice described in subparagraph (C).

Amounts not claimed within 90 days of the date of the notice described in subparagraph (C), shall be deposited into the general fund of the Treasury.".

(b) CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting the following new item after the item relating to section 753:

"Sec. 754. Continued dumping and subsidy offset.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to all antidumping and countervailing duty assessments made on or after October 1, 1996.

By Mr. KOHL:

S. 62. A bill to amend the Internal Revenue Code of 1986 to provide for the rollover of gain from the sale of farm assets into an individual retirement account; to the Committee on Finance.

THE FAMILY FARM RETIREMENT EQUITY ACT OF 1999

By Mr. KOHL:

S. 63. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide child care assistance for dependents of their employees, and for other purposes; to the Committee on Finance.

THE CHILD CARE INFRASTRUCTURE ACT

Mr. KOHL. Mr. President, I rise today to introduce the Family Farm Retirement Equity Act, a bill to help improve the retirement security of our nation's farmers.

As we begin the 106th Congress, we can anticipate legislative action to strengthen retirement security and to boost individual savings on behalf of all Americans. With good reason, these issues have risen to the top of the nation's agenda. Americans are living longer and changing jobs more often. Medical costs are rising and demographic trends are undermining the long-term viability of our Social Security System. Comprehensive planning for the many years Americans are often able to enjoy in retirement is now more important than ever.

We took some steps to address retirement security in the 105th Congress, but the job is far from accomplished. We must be vigilant in acting to reform Social Security on behalf of all Americans and in addressing the unique retirement needs of individual groups of Americans. The legislation I introduce today attempts to act on behalf of one such group, a group at the heart of our American traditions, the family farmer.

As many of my colleagues know, farming is a highly capital-intensive business. To the extent that the average farmer reaps any profits from his or her farming operation, much of that income is directly reinvested into the farm. Rarely are there opportunities for farmers to put money aside in individual retirement accounts. In addition, as self-employed business people, farmers do not have access to the pension or retirement funds that many Americans enjoy. When the time comes, farmers tend to rely on the sale of their accumulated capital assets, such as real estate, livestock, and machinery, in order to provide the income to sustain them during retirement. However, all too often, farmers are finding that the lump-sum payments of capital gains taxes levied on those assets leave little for retirement.

To alleviate this predicament, my legislation would provide retiring farmers the opportunity to rollover the proceeds from the sale of their farms into a tax-deferred retirement account. Instead of paying a large lump-sum capital gains tax at the point of sale, the income from the sale of a farm would be taxed only as it is withdrawn from the retirement account. Such a change in method of taxation would help prevent the financial distress that many farmers now face upon retirement.

Second, my legislation would address the diminishing interest of our younger rural citizens in continuing in farming. Because this legislation will facilitate the transition of our older farmers into a successful retirement, the Family Farm Retirement Equity Act will also pave the way for a more graceful transition of our younger farmers toward farm ownership. While low prices and low profits in farming will continue to take their toll on our younger farmers, I believe that my proposal will be one tool we can use to make farming more viable for the next generation.

In past Congresses, this proposal has enjoyed the support of farmers and farm organizations throughout the country and the endorsement of the American Farm Bureau Federation, the American Sheep Industry Association, the American Sugar Beet Association, the National Association of Wheat Growers, the National Cattleman's Beef Association, the National Corn Growers Association, National Pork Producers Council, and the Southwestern Peanut Growers Association. In addition, a modified version of this legislation was included in the Targeted Investment Incentive and Economic Growth Act of 1997, as introduced by Minority Leader DASCHLE and other Senators. I look forward to working with these groups and my colleagues again this Congress to act on this important legislation as swiftly as possible.

In addition, I am introducing the Child Care Infrastructure Act, a bill to provide a tax credit for businesses that create child care opportunities for their employees. While I will have much more to say about this important legislation at a later date, I did want to put it in the hopper today. Providing quality child care is and should be at the center of our agenda for the 106th Congress. My proposal is a low-cost approach to address this issue by involving the private sector and has received praise from businesses, parents, and day care workers alike.

I ask unanimous consent that the full text of these bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 62

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE TO INTERNAL REVENUE CODE.

(a) SHORT TITLE.—This Act may be cited as the "Family Farm Retirement Equity Act of 1999".

(b) REFERENCE TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

"SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

"(a) NONRECOGNITION OF GAIN.—Subject to the limits of subsection (c), if for any taxable year a taxpayer has qualified net farm gain from the sale of qualified farm assets, then, at the election of the taxpayer, such gain shall be recognized only to the extent it exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

"(b) ASSET ROLLOVER ACCOUNT.—

"(1) GENERAL RULE.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(2) ASSET ROLLOVER ACCOUNT.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) CONTRIBUTION RULES.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

"(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual shall not exceed—

"(A) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by

"(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

"(3) ANNUAL CONTRIBUTION LIMITATIONS.—

"(A) GENERAL RULE.—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed the lesser of—

"(i) the qualified net farm gain for the taxable year, or

"(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

"(B) SPOUSE.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

"(4) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) QUALIFIED NET FARM GAIN; ETC.—For purposes of this section—

"(1) QUALIFIED NET FARM GAIN.—The term 'qualified net farm gain' means the lesser of—

"(A) the net capital gain of the taxpayer for the taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with dispositions of qualified farm assets.

"(2) QUALIFIED FARM ASSET.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

"(3) QUALIFIED FARMER.—

"(A) IN GENERAL.—The term 'qualified farmer' means a taxpayer who—

"(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

"(ii) owned (or who with the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period.

"(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

"(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

"(e) DISTRIBUTION RULES.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

"(f) INDIVIDUAL REQUIRED TO REPORT QUALIFIED CONTRIBUTIONS.—

"(1) IN GENERAL.—Any individual who—

"(A) makes a contribution to any asset rollover account for any taxable year, or

"(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

"(2) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

"(3) PENALTIES.—For penalties relating to reports under this paragraph, see section 6693(b).".

(b) CONTRIBUTIONS NOT DEDUCTIBLE.—Section 219(d) (relating to other limitations and restrictions) is amended by adding at the end the following new paragraph:

"(5) CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNTS.—No deduction shall be allowed under this section with respect to a contribution under section 1034A.".

(c) EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

"(e) ASSET ROLLOVER ACCOUNTS.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4973(a)(1) is amended by striking "or" and inserting "an asset rollover account (within the meaning of section 1034A), or".

(B) The heading for section 4973 is amended by inserting "**ASSET ROLLOVER ACCOUNTS,**" after "**CONTRACTS**".

(C) The table of sections for chapter 43 is amended by inserting "asset rollover accounts," after "contracts" in the item relating to section 4973.

(d) TECHNICAL AMENDMENTS.—

(1) Section 408(a)(1) (defining individual retirement account) is amended by inserting "or a qualified contribution under section 1034A," before "no contribution".

(2) Section 408(d)(5)(A) is amended by inserting "or qualified contributions under section 1034A" after "rollover contributions".

(3)(A) Section 6693(b)(1)(A) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(B) Section 6693(b)(2) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(4) The table of sections for part III of subchapter O of chapter 1 is amended by inserting after the item relating to section 1034 the following new item:

"Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.

S. 63

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Care Infrastructure Act of 1999".

SEC. 2. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

"SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to 25 percent of the qualified child care expenditures of the taxpayer for such taxable year.

"(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CHILD CARE EXPENDITURE.—The term 'qualified child care expenditure' means any amount paid or incurred—

"(A) to acquire, construct, rehabilitate, or expand property—

"(i) which is to be used as part of a qualified child care facility of the taxpayer,

"(ii) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

"(iii) which does not constitute part of the principal residence (within the meaning of section 121) of the taxpayer or any employee of the taxpayer,

"(B) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

"(C) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

"(D) under a contract to provide child care resource and referral services to employees of the taxpayer.

"(2) QUALIFIED CHILD CARE FACILITY.—

"(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

"(i) the principal use of which is to provide child care assistance, and

"(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 121) of the operator of the facility.

"(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

"(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

"(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

"(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

"(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

"(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

"(2) APPLICABLE RECAPTURE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	**The applicable recapture percentage is:**
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

"(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

"(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

"(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

"(B) CHANGE IN OWNERSHIP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

"(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(f) NO DOUBLE BENEFIT.—

"(1) REDUCTION IN BASIS.—For purposes of this subtitle—

"(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

"(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

"(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section."

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking "plus" at the end of paragraph (11),

(B) by striking the period at the end of paragraph (12), and inserting a comma and "plus", and

(C) by adding at the end the following:

"(13) the employer-provided child care credit determined under section 45D."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following:

"Sec. 45D. Employer-provided child care credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

By Mr. MOYNIHAN (for himself and Mr. SCHUMER):

S. 66. A bill to establish the Kate Mullany National Historic Site in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

THE KATE MULLANY NATIONAL HISTORIC SITE DESIGNATION ACT OF 1999

Mr. MOYNIHAN. Mr. President, it is with great pride that I rise today with my distinguished colleague Senator SCHUMER to introduce the "Kate Mullany National Historic Site Designation Act," a bill to designate the Troy, New York, home of pioneer labor organizer Kate Mullany as a National Historic Site. A similar measure introduced in the House of Representatives last year by Congressman MICHAEL R. MCNULTY engendered a great deal of support and was cosponsored by over 100 members.

Like many Irish immigrants settling in Troy, Kate Mullany found her opportunities limited to the most difficult and low-paying of jobs, the collar laundry industry. Troy was then known as "The Collar City"—the birthplace of the detachable shirt collar. At the age of 19, Kate stood up against the often dangerous conditions and meager pay that characterized the industry and lead a movement of 200 female laundresses demanding just compensation and safe working conditions. These protests marked the beginning of the Collar Laundry Union, which some have called "the only bona fide female labor union in the country."

Kate Mullany's courage and organizing skills did not go unnoticed. She later traveled down the Hudson River to lead women workers in the sweatshops of New York City and was ultimately appointed Assistant Secretary of the then National Labor Union, becoming the first women ever appointed to a national labor office.

On April 1, 1998, Kate Mullany's home was designated as a National Historic Landmark by Secretary of the Interior Bruce Babbitt and on July 15 First Lady Hillary Rodham Clinton presented citizens of Troy with the National Historic Landmark plaque in a celebration. By conferring National Historic Site status on this important landmark, we can ensure that Kate Mullany's contributions to the labor movement and the cause of women's equality in the workplace are not soon forgotten.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 66

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Kate Mullany National Historic Site Designation Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Kate Mullany House in Troy, New York, is listed on the National Register of Historic Places and has been designated as a National Historic Landmark;

(2) the National Historic Landmark Theme Study on American Labor History concluded that the Kate Mullany House appears to meet the criteria of national significance, suitability, and feasibility for inclusion in the National Park System;

(3) the city of Troy, New York—

(A) played an important role in the development of the collar and cuff industry and the iron industry in the 19th century and in the development of early men's and women's worker and cooperative organizations; and

(B) was the home of the first women's labor union, led by Irish immigrant Kate Mullany;

(4) the city of Troy, New York, has entered into a cooperative arrangement with 6 neighboring cities, towns, and villages to create the Hudson-Mohawk Urban Cultural Park Commission to manage the valuable historic resources in the area, and the area within those municipalities has been designated by the State of New York as a heritage area to represent industrial development and labor themes in the development of the State;

(5) the area, known as the "Hudson-Mohawk Urban Cultural Park" or "RiverSpark", has been a pioneer in the development of partnership parks in which intergovernmental and public and private partnerships bring about the conservation of the area's heritage and the attainment of goals for preservation, education, recreation, and economic development; and

(6) establishment of the Kate Mullany National Historic Site and cooperative efforts between the National Park Service and the Hudson-Mohawk Urban Cultural Park Commission will—

(A) provide opportunities for the illustration and interpretation of important themes of the heritage of the United States; and

(B) provide unique opportunities for education, public use, and enjoyment.

(b) PURPOSES.—The purposes of this Act are—

(1) to preserve and interpret the nationally significant home of Kate Mullany for the benefit, inspiration, and education of the people of the United States; and

(2) to interpret the connection between immigration and the industrialization of the United States, including the history of Irish immigration, women's history, and worker history.

SEC. 3. DEFINITIONS.

In this Act:

(1) HISTORIC SITE.—The term "historic site" means the Kate Mullany National Historic Site established by section 4.

(2) PLAN.—The term "plan" means the general management plan developed under section 6(d).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. ESTABLISHMENT OF KATE MULLANY NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—There is established as a unit of the National Park System the Kate Mullany National Historic Site in the State of New York.

(b) DESCRIPTION.—The historic site shall consist of the home of Kate Mullany, comprising approximately .05739 acre, located at 350 Eighth Street in Troy, New York, as generally depicted on the map entitled ______ and dated ______.

SEC. 5. ACQUISITION OF PROPERTY.

(a) REAL PROPERTY.—The Secretary may acquire land and interests in land within the boundaries of the historic site and ancillary real property for parking or interpretation, as necessary and appropriate for management of the historic site.

(b) PERSONAL PROPERTY.—The Secretary may acquire personal property associated with, and appropriate for, the interpretation of the historic site.

(c) MEANS.—An acquisition of real property or personal property may be made by donation, purchase from a willing seller with donated or appropriated funds, or exchange.

SEC. 6. ADMINISTRATION OF HISTORIC SITE.

(a) IN GENERAL.—The Secretary shall administer the historic site in accordance with this Act and the law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.).

(b) COOPERATIVE AGREEMENTS.—In carrying out this Act, the Secretary may consult with and enter into cooperative agreements with the State of New York, the Hudson-Mohawk Urban Cultural Park Commission, and other public and private entities to facilitate public understanding and enjoyment of the life and work of Kate Mullany through the development, presentation, and funding of exhibits and other appropriate activities related to the preservation, interpretation, and use of the historic site and related historic resources.

(c) EXHIBITS.—The Secretary may display, and accept for the purposes of display, items associated with Kate Mullany, as may be necessary for the interpretation of the historic site.

(d) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 2 full fiscal years after the date of enactment of this Act, the Secretary shall—

(A) develop a general management plan for the historic site; and

(B) submit the plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(2) CONTENTS.—The plan shall include recommendations for regional wayside exhibits to be carried out through cooperative agreements with the State of New York and other public and private entities.

(3) REQUIREMENTS.—The plan shall be prepared in accordance with section 12(b) of the

Act entitled "An Act to improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes", approved August 18, 1970 (16 U.S.C 1a et seq.).

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. MOYNIHAN (for himself, Mr. KERRY, Mr. DURBIN, Mr. ROBB, Mr. SCHUMER, and Mr. KENNEDY):

S. 67. A bill to designate the headquarters building of the Department of Housing and Urban Development in Washington, District of Columbia, as the "Robert C. Weaver Federal Building"; to the Committee on Environment and Public Works.

THE ROBERT C. WEAVER FEDERAL BUILDING DESIGNATION ACT OF 1999

Mr. MOYNIHAN. Mr. President, I rise with my colleagues, Senators SCHUMER, KENNEDY, KERRY, DURBIN, and ROBB, to introduce legislation to name the Department of Housing and Urban Development (HUD) headquarters here in Washington after Dr. Robert C. Weaver, adviser to three Presidents, director of the NAACP, and the first African-American Cabinet Secretary. With Senator KERRY, Senator MOSELEY-BRAUN, and Senator KENNEDY I introduced an identical bill last year. It was passed by the Senate by unanimous consent on July 31, 1998 but languished in the House.

Bob Weaver was my friend, dating back more than 40 years to our service together in the administration of New York Governor Averell Harriman. In July of 1997, he died at his home in New York City after spending his entire life broadening opportunities for minorities in America. I think it is a fitting tribute to name the HUD building after this great man.

Dr. Weaver began his career in government service as part of President Franklin D. Roosevelt's "Black Cabinet," an informal advisory group promoting educational and job opportunities for blacks. The Washington Post called this work his greatest legacy, the dismantling of a deeply entrenched system of racial segregation in America. Indeed it was.

Dr. Weaver was appointed Deputy Commissioner of Housing for New York State in 1955, and later became State Rent Administrator with Cabinet rank. It was during these years, working for Governor Harriman, that I first met Bob; I was Assistant to the Secretary to the Governor and later, Acting Secretary.

Our friendship and collaboration continued under the Kennedy and Johnson administrations. In 1960, he became the president of the NAACP, and shortly thereafter would become a key adviser to President Kennedy on civil rights. In 1961, Kennedy appointed Dr. Weaver to head the Housing and Home Finance Agency, the precursor to the Department of Housing and Urban Development. In 1966, when President Johnson elevated the agency to Cabinet rank, he chose Dr. Weaver to head the department. Bob Weaver was, in Johnson's phrase, "the man for the job." He thus became its first Secretary, and the first African-American to head a Cabinet agency. Later, he and I served together on the Pennsylvania Avenue Commission.

Following his government service, Dr. Weaver was, among various other academic pursuits, a professor at Hunter College, a member of the School of Urban and Public Affairs at Carnegie-Mellon, a visiting professor at Columbia Teacher's College and New York University's School of Education, and the president of Baruch College in Manhattan. When I became director of the Joint Center for Urban Studies at MIT and Harvard, he generously agreed to be a member of the Board of Directors.

Dr. Weaver earned his undergraduate, master's, and doctoral degrees in economics from Harvard; he wrote four books on urban affairs; and served as one of the original directors of the Municipal Assistance Corporation, which designed the plan to rescue New York City during its tumultuous financial crisis in the 1970s.

When Dr. Weaver died, America—and Washington, in particular (for he was a native Washingtonian)—lost one of its innovators, one of its creators, one of its true leaders. Dr. Robert C. Weaver led not only with his words but with his deeds and I was privileged to know him as a friend. He will be missed but properly memorialized, I think, if we can pass this legislation.

Mr. President, I ask unanimous consent that my bill, a July 21, 1997 editorial in the Washington Post, and a July 19, 1997 obituary from the New York Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 67

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF ROBERT C. WEAVER FEDERAL BUILDING.

In honor of the first Secretary of Housing and Urban Development, the headquarters building of the Department of Housing and Urban Development located at 451 Seventh Street, SW., in Washington, District of Columbia, shall be known and designated as the "Robert C. Weaver Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Robert C. Weaver Federal Building".

[From the New York Times, July 19, 1997]

ROBERT C. WEAVER, 89, FIRST BLACK CABINET MEMBER, DIES

(By James Barron)

Dr. Robert C. Weaver, the first Secretary of Housing and Urban Development and the first black person appointed to the Cabinet, died on Thursday at his home in Manhattan. He was 89.

Dr. Weaver was also one of the original directors of the Municipal Assistance Corporation, which was formed to rescue New York City from financial crisis in the 1970's.

"He was a catalyst with the Kennedys and then with Johnson, forging new initiatives in housing and education," said Walter E. Washington, the first elected Mayor of the nation's capital.

A portly, pedagogical man who wrote four books on urban affairs, Dr. Weaver had made a name for himself in the 1930's and 40's as an expert behind-the-scenes strategist in the civil rights movement. "Fight hard and legally," he said, "and don't blow your top."

As a part of the "Black Cabinet" in the administration of President Franklin D. Roosevelt, Dr. Weaver was one of a group of blacks who specialized in housing, education and employment. After being hired as race relations advisers in various Federal agencies, they pressured and persuaded the White House to provide more jobs, better educational opportunities and equal rights.

Dr. Weaver began in 1933 as an aide to Interior Harold L. Ickes. He later served as a special assistant in the housing division of the Works Progress Administration, the National Defense Advisory Commission, the War Production Board and the War Manpower Commission.

Shortly before the 1940 election, he devised a strategy that defused anger among blacks about Stephen T. Early, President Roosevelt's press secretary. Arriving at Pennsylvania Station in New York, Early lost his temper when a line of police officers blocked his way. Early knocked one of the officers, who happened to be black, to the ground. As word of the incident spread, a White House adviser put through a telephone call to Dr. Weaver in Washington.

The aide, worried that the incident would cost Roosevelt the black vote, told Dr. Weaver to find the other black advisers and prepare a speech that would appeal to blacks for the President to deliver the speech.

Dr. Weaver said he doubted that he could find anyone in the middle of the night, even though most of the others in the "Black Cabinet" had been playing poker in his basement when the phone rang. "And anyway," he said, "I don't think a mere speech will do it. What we need right now is something so dramatic that it will make the Negro voters forget all about Steve Early and the Negro cop too."

Within 48 hours, Benjamin O. Davis Sr. was the first black general in the Army; William H. Hastie was the first black civilian aide to the Secretary of War, and Campbell C. Johnson was the first high-ranking black aide to the head of the Selective Service.

Robert Clifton Weaver was born on Dec. 29, 1907, in Washington. His father was a postal worker and his mother—who he said influenced his intellectual development—was the daughter of the first black person to graduate from Harvard with a degree in dentistry. When Dr. Weaver joined the Kennedy Administration, whose Harvard connections extended to the occupant of the Oval Office, he held more Harvard degrees—three, including a doctorate in economics—than anyone else in the administration's upper ranks.

In 1960, after serving as the New York State Rent Commissioner, Dr. Weaver became the national chairman of the National Association for the Advancement of Colored People, and President Kennedy sought Dr. Weaver's advice on civil rights. The following year, the President appointed him administrator of the Housing and Home Finance Agency, a loose combination of agencies that included the bureaucratic components of what would eventually become H.U.D., including the Federal Housing Administration to spur construction, the Urban Renewal Administration to oversee slum clearance and the Federal National Mortgage Association to line up money for new housing.

President Kennedy tried to have the agency raised to Cabinet rank, but Congress balked. Southerners led an attack against the appointment of a black to the Cabinet, and there were charges that Dr. Weaver was an extremist. Kennedy abandoned the idea of creating an urban affairs department.

Five years later, when President Johnson revived the idea and pushed it through Congress, Senators who had voted against Dr. Weaver the first time around vote for him.

Past Federal housing programs had largely dealt with bricks-and-mortar policies. Dr. Weaver said Washington needed to take a more philosophical approach. "Creative federalism stresses local initiative, local solutions to local problems," he said.

But, he added, "where the obvious needs for action to meet an urban problem are not being fulfilled, the Federal Government has a responsibility at least to generate a thorough awareness of the problem."

Dr. Weaver, who said that "you cannot have physical renewal without human renewal," pushed for better-looking public housing by offering awards for design. He also increased the amount of money for small businesses displaced by urban renewal and revived the long-dormant idea of Federal rent subsides for the elderly.

Later in his life, he was a professor of urban affairs at Hunter College, was a member of the Visiting Committee at the School of Urban and Public Affairs at Carnegie-Mellon University and held visiting professorships at Columbia Teachers' College and the New York University School of Education. He also served as a consultant to the Ford Foundation and was the president of Baruch College in Manhattan in 1969.

His wife, Ella, died in 1991. Their son, Robert Jr., died in 1962.

[From the Washington Post, July 20, 1997]

ROBERT C. WEAVER DIES; FIRST BLACK CABINET MEMBER

(By Martin Weil)

Robert C. Weaver, 89, who as the nation's first secretary of Housing and Urban Development was the first black person to head a Cabinet agency, as well as one of the architects of the Great Society, died July 17 at his home in Manhattan.

He died in his sleep, according to a family friend. The cause of death was not immediately known.

Dr. Weaver, who was born and raised in Washington, was regarded as an intellectual, both pragmatic and visionary, who worked to improve the lives of blacks and other Americans both by expanding their opportunities and by bettering their communities.

"He put the bricks and mortar on President Johnson's blueprint for a Great Society," HUD Secretary Andrew M. Cuomo said in a statement.

"Robert Weaver got real urban legislation on the books and nurtured our country's first commitment to improve the quality of life in our nation's cities," Cuomo said.

On Jan. 13, 1966, when President Lyndon B. Johnson appointed the Harvard PhD and longtime federal and state housing official to be the first HUD secretary, many recognized that it was a moment both historic and symbolic.

Johnson said he had considered more than 300 candidates and had concluded that Dr. Weaver was "the man for the job."

In an interview after Dr. Weaver's death, Walter E. Washington, the District's first mayor elected under home rule, who had worked with Dr. Weaver, called him "a giant" and "a man of great vision . . . integrity, passion and commitment." Washington said, "There was never a job that was too large or one that was too small if he saw in it the possibility of helping his fellow man."

Dr. Weaver was born Dec. 29, 1907, into the segregated world that was then Washington. He once recalled 45-minute streetcar rides that took him past schools for whites before he reached his for blacks.

He was descended from a former slave who had bought his freedom in 1830. His father was a postal worker, and his mother was the daughter of Robert Tanner Freeman, who was a Harvard graduate and the first black person in the United States to receive a doctorate in dentistry.

A multitalented man, Dr. Weaver worked as an electrician while attending Dunbar High School in Washington. After graduation, he went to Harvard, where he majored in economics, won the Boylston speaking prize and received his bachelor's degree in 1929. He received a master's degree two years later and a doctorate in economics in 1934.

In 1933, after the watershed election of Franklin D. Roosevelt, Dr. Weaver was one of the bright young intellectuals who came to the capital to create and run the New Deal. He spent 10 years in housing and labor recruitment and training, detailed for part of that time as an adviser to Interior Secretary Harold Ickes.

He also worked in the National Defense Advisory Commission and, during World War II, was director of the Negro Manpower Service in the War Manpower Commission. During those years, he also was prominent in what was known as Roosevelt's informal Black Cabinet, working behind the scenes to improve conditions and opportunities for blacks.

In the closing years of the war, he was executive secretary of the Chicago Mayor's Committee on Race Relations. During the 1940s and early '50s, he taught at universities, worked for philanthropic foundations and held a series of government housing posts in New York.

At the start of his administration, President John F. Kennedy named him chief of what was then the principal federal agency responsible for housing, the Housing and Home Finance Agency. He was credited with drawing together and unifying the efforts of what was regarded as a loose confederation of offices, bureaus and departments.

It was not until the Johnson administration that efforts to raise the department to Cabinet level bore fruit.

But throughout his tenure as the chief federal housing official, it was Dr. Weaver who "broadened the prespective" of government policy, said Yvonne Scruggs-Leftwich, executive director of Black Leadership Forum Inc. and a former New York state housing commissioner. She said Dr. Weaver moved policy from a narrow focus on the living unit itself to include community development, a more expansive view that encompassed both "housing and the environment around the housing."

As Dr. Weaver had expressed it, "You cannot have physical renewal without human renewal."

At the same time, he was known for his work for racial justice and equality. By the 1960s, he had been active in the struggle for decades. At the time of his appointment by Kennedy, he was chairman of the NAACP.

Once, in the early days of the struggle, he advised that the best way to achieve equality was "to fight hard—and legally—and don't blow your top."

After leaving his Cabinet post at the end of the Johnson administration, Dr. Weaver returned to New York, where he was a teacher and a consultant. He headed Baruch College in 1969 and was one of the directors of the Municipal Assistance Corp., which was set up to save the city from fiscal collapse in the 1970s.

He wrote, or contributed to, several books and held at least 30 honorary degrees.

His wife, Ella died in 1991, and their son, Robert Jr., died in 1962.

By Mr. MOYNIHAN:

S. 68. A bill for the relief of Dr. Yuri F. Orlov of Ithaca, New York; to the Committee on Governmental Affairs.

PRIVATE RELIEF BILL

Mr. MOYNIHAN. Mr. President, today I rise to introduce a bill to recognize the immeasurable debt which we owe to a leading Soviet dissident. Dr. Yuri F. Orlov, a founding member of the Soviet chapter of Amnesty International and founder of the Moscow Helsinki Watch Group (the first nationwide organization in Soviet history to question government actions), who now lives in Ithaca, New York, is threatened by poverty. Yuri Orlov could not be stopped by the sinister forces of the Soviet Union and, no doubt, he will not be stopped by poverty. But I rise today in hopes that it will not come to that.

Dr. Orlov's career as a dissident began while he was working at the famous Institute for Theoretical and Experimental Physics in Moscow. At the Institute in 1956 he made a pro-democracy speech which cost him his position and forced him to leave Moscow. He was able to return in 1972, whereupon he began his most outspoken criticism of the Soviet regime.

On September 13, 1973, in response to a government orchestrated-public smear campaign against Andrei Sakharov, Orlov sent "Thirteen Questions to Brezhnev," a letter which advocated freedom of the press and reform of the Soviet economy. One month later, he became a founding member of the Soviet chapter of Amnesty International. His criticism of the Soviet Union left him unemployed and under constant KGB surveillance, but he would not be silenced.

In May, 1976 Dr. Orlov founded the Moscow Helsinki Watch Group to pressure the Soviet Union to honor the human rights obligations it had accepted under the Helsinki Accords signed in 1975. His leadership of the Helsinki

Watch Group led to his arrest and, eventually, to a show trial in 1978. He was condemned to seven years in a labor camp and five years in exile.

After having served his prison sentence, and while still in exile, Dr. Orlov was able to immigrate to the United States in 1986 in an exchange arranged by the Reagan Administration. A captured Soviet spy was returned in exchange for the release of Dr. Orlov and a writer for U.S. News & World Report who had been arrested in Moscow, Nicholas Daniloff.

Since then, Dr. Orlov has served as a senior scientist at Cornell University in the Newman Laboratory of Nuclear Studies. Now that he is 74 years old, he is turning his thoughts to retirement. Unfortunately, since he has only been in the United States for 12 years, his retirement income from the Cornell pension plus Social Security will be insufficient: only a fraction of what Cornell faculty of comparable distinction now get at retirement.

His scientific colleagues, Nobel physicist Dr. Hans A. Bethe, Kurt Gottfried of Cornell, and Sidney Drell of Stanford, have made concerted efforts to raise support for Dr. Orlov's retirement, but they are in further need.

To this end, I have agreed to assist these notable scientists in their endeavor to secure a more appropriate recompense for this heroic dissident. That is the purpose that brings me here to the Senate floor today, on the first day of the 106th Congress, to introduce a bill on Dr. Orlov's behalf.

To understand Dr. Orlov's contributions to ending the Cold War, I would draw my colleagues attention to his autobiography, Dangerous Thoughts: Memoirs of a Russian Life. It captures the fear extant in Soviet society and the courage of men like Orlov, Sakharov, Sharansky, Solzhenitsyn, and others who defied the Soviet regime. Dr. Orlov, who spent 7 years in a labor camp and two years in Siberian exile, never ceased protesting against oppression. Despite deteriorating health and the harsh conditions of the camp, Dr. Orlov smuggled out messages in support of basic rights and nuclear arms control. His bravery and that of his dissident colleagues played no small role in the dissolution of the Soviet Union. I am sure many would agree that we owe them a tremendous debt. This then is a call to all those who agree with that proposition. Dr. Orlov is now in need; please join our endeavor.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 68

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELIEF OF DR. YURI F. ORLOV OF ITHACA, NEW YORK.

(a) IN GENERAL.—Notwithstanding any other provision of law, Dr. Yuri F. Orlov of Ithaca, New York, shall be deemed an annuitant as defined under section 8331(9) of title 5, United States Code, and shall be eligible to receive an annuity.

(b) COMPUTATION.—For purposes of computing the annuity described under subsection (a), Dr. Yuri F. Orlov shall be deemed to—

(1) have performed 40 years of creditable service as a Federal employee; and

(2) received pay at the maximum rate payable for a position above GS–15 of the General Schedule (as in effect on the date of enactment of this Act) for 3 consecutive years of such creditable service.

(c) CONTRIBUTIONS.—No person shall be required to make any contribution with respect to the annuity described under subsection (a).

(d) ADMINISTRATIVE PROVISIONS.—The Director of the Office of Personnel Management shall—

(1) apply the provisions of chapter 83 of title 5, United States Code (including provisions relating to cost-of-living-adjustments and survivor annuity benefits) to the annuity described under subsection (a) to the greatest extent practicable; and

(2) make the first payment of such annuity no later than 60 days after the date of the enactment of this Act.

By Mr. MOYNIHAN:

S. 69. A bill to make available funds under the Foreign Assistance Act of 1961 to provide scholarships for nationals of any of the independent states of the former Soviet Union to undertake doctoral graduate study in the social sciences; to the Committee on Foreign Relations.

THE NIS EDUCATION ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce the NIS Education Act. For 75 years academic freedom was squelched in the Soviet Union and the tools to build a democratic society were lost to its successor states. Thankfully, that is now passed. The Russians have the right to claim that they freed their own country from the horrors of a decayed Marxist-Leninist dictatorship. The Russian people and their leaders have something about which to be proud.

I rise in that spirit to offer a bill that is simple in both premise and purpose: build democratic leaders of the NIS for the future through education. The NIS Education Act will partially fund graduate education in the social sciences for 500 students from the NIS during the next five years. The benefits of education and exposure to the United States will be long lasting.

We want to give these students from the NIS a chance to see American democracy and learn the tools to improve their own society. Indeed, for many it will be their first chance to visit the world's oldest democracy; to see the promise that democracy offers; and to judge its fruits for themselves. As one of our most famous visitors, Alexis de Tocqueville, wrote:

> Let us look to America, not in order to make a servile copy of the institutions that she has established, but to gain a clearer view of the polity that will be the best for us; let us look there less to find examples than instruction; let us borrow from her the principles, rather than the details, of her laws . . . the principles on which the American constitutions rest, those principles of order, of the balance of powers, of true liberty, of deep and sincere respect for right, are indispensable to all republics. . . .

In 1948 the United States instituted the now famous Marshall Plan which included among its many provisions a fund for technical assistance. Part of this fund included the "productivity campaign" which was designed to bring European businessmen and labor representatives here to learn American methods of production. During the Plan's three years, over 6,000 Europeans came to the United States to study U.S. production. Though the funding for this part of the plan was less than one-half of one percent of all the Marshall Plan aid, its impact was far greater. The impact of the NIS Education Act may also be great.

We must note here the current state of Russia's affairs: it is deplorable. Despite this situation, last spring the United States Senate voted to expand the North Atlantic Treaty Organization. Throughout the elements of the Russian political system NATO expansion was viewed as a hostile act they will have to defend against; and they have said if they have to defend their territory, they will do so with nuclear weapons; that is all they have left.

The distrust born from NATO expansion will not fade quickly. Let us hope that the NIS Education Act will provide individuals from Russia and the other NIS the opportunity to see that we Americans do not hope for Russia's demise and isolation. Perhaps we can dispel the betrayal they may feel as a result of NATO enlargement, and give them the tools to further develop their own democracies.

Beyond that, the importance of training the next generation of social scientists in the NIS is immeasurable. It is this generation that will revitalize the universities, teaching the next generation economics, sociology and other disciplines. It is this generation of social scientists who will be prepared to enter their Governments armed with new ideas and new ways of thinking different from the status quo; they will bring their new knowledge and standards, their linkages to the United States back to their own countries, and they will have the best opportunity to influence change there.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 69

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SCHOLARSHIPS FOR NATIONALS OF THE INDEPENDENT STATE OF THE FORMER SOVIET UNION.

(a) Authority.—

(1) In general.—Subject to subsection (b), the President is authorized to provide scholarships under chapter 11 of part I of the Foreign Assistance Act of 1961 (relating to assistance to the independent states of the former Soviet Union; 22 U.S.C. 2295 et seq.) for 100 nationals of the independent states of the former Soviet Union (as defined in section 3 of the FREEDOM Support Act (22 U.S.C. 5801)) who seek to commence graduate study in a six-year program in any field of social science.

(2) Superseding existing law.—The authority of paragraph (1) shall be exercised without regard to any other provision of law.

(b) Requirements.—

(1) Non-federal share.—The President shall require that not less than 20 percent of the costs of each student's doctoral study be provided from non-Federal sources.

(2) Requirement of home country services.—Notwithstanding any other provision of law, any student supported under this section who does not perform after graduation at least one year of service in the student's home country for each year of study supported under this section shall not be eligible to be issued a visa to be admitted to the United States.

(c) Allocation of Funds.—Of the amounts authorized to be appropriated to carry out chapter 11 of part I of the Foreign Assistance Act of 1961 (relating to assistance to the independent states of the former Soviet Union; 22 U.S.C. 2295 et seq.) for fiscal years 2000 through 2009, the following amounts are authorized to be available to carry out subsection (a):

(1) For fiscal year 2000, $3,500,000 for not to exceed 100 scholarships.

(2) For fiscal year 2001, $7,500,000 for not to exceed 200 scholarships.

(3) For fiscal year 2002, $10,500,000 for not to exceed 300 scholarships.

(4) For fiscal year 2003, $14,000,000 for not to exceed 400 scholarships.

(5) For fiscal year 2004, $17,500,000 for not to exceed 500 scholarships.

(6) For fiscal year 2005, $17,500,000 for not to exceed 500 scholarships.

(7) For fiscal year 2006, $14,000,000 for not to exceed 400 scholarships.

(8) For fiscal year 2007, $10,500,000 for not to exceed 300 scholarships.

(9) For fiscal year 2008, $7,500,000 for not to exceed 200 scholarships.

(10) For fiscal year 2009, $3,500,000 for not to exceed 100 scholarships.

By Ms. SNOWE:

S. 70. A bill to require the establishment of a Federal task force on Regional Threats to International Security; to the Committee on Foreign Relations.

THE PREVENTION AND DETERRENCE OF INTERNATIONAL CONFLICT (PREDICT) ACT OF 1999

Ms. SNOWE. Mr. President, I rise to introduce legislation to give the administration an incentive for developing a more coherent foreign policy by pooling the defense, diplomatic, intelligence, and economic resources of the federal government.

I have labeled this bill the Prevention and Deterrence of International Conflict Act—"PREDICT"—because the Clinton Administration failed or willfully suspended its ability to anticipate a string of foreign calamities last year.

The 1998 calendar of global surprises for the United States revealed the continuing challenge to this administration of analyzing evidence adequately for the President to act against the aggressive military actions of India, Pakistan, North Korea, Yugoslavia, and Iraq.

Although we had satellite images and early warning signs, the second series of nuclear explosions by India in May eluded the detection of the intelligence authorities.

Although we had the campaign pledges of India's Prime Minister to expand the country's nuclear program, no one took them as an omen of action.

Although we had differing agency assessments of whether the export of commercial satellite technologies posed the risk of improving China's military communications capabilities, the president never saw them.

Although Pentagon officials told the Senate Armed Services Committee on August 24, 1998 that the intelligence community could detect in advance any launching of a multiple-stage rocket by North Korea, they professed surprise as a Taepo Dong missile soared over Japan seven days later.

And although we had indicators that the simmering conflict in Kosovo could unravel into a major Balkan security crisis, we did not know who led or supplied the provincial insurgency movement.

Furthermore, before finally approving military action against Iraq last month, the White House had lurched towards two previous strikes only to call off the missiles after Saddam Hussein opened his seven-year old script to repeat the hollow lines that he would cooperate with the U.N. on his own terms in his own time.

These examples highlight a pattern of fragmentation in the decision-making apparatus of the Executive Branch. Information that could tilt the course of a crisis too often remains hidden or undiscovered in the flow of advice to the White House.

Beyond this disjointed process of making policy, the other critical issue tying together these episodes of tension centers on the threat of weapons proliferation fueled by unresolved civil conflicts or the ambitions of regional tyrants.

The uncertain political status of the territory of Kashmir, for example, served as a convenient excuse for Indian officials to justify their nuclear testing last Spring. At the same time, the Pakistanis cited national prestige and the need to stabilize the governing coalition, rather than any threat of attack, in explaining their nuclear response to India's provocation.

In both of these cases, political judgments overshadowed sober considerations of whether the two nations posed immediate military risks to one another.

Yet China's hunger for technology, Mr. President, derives less from an ongoing civil conflict than it does from a military establishment eager to develop the precision capabilities used by the United States during the Persian Gulf War.

These capabilities, in turn, will gradually advance Beijing's quest to displace the United States and Japan as the dominant Asia-Pacific power.

The PREDICT bill, therefore, brings together the broad range of foreign policy experts throughout the government into one Federal Task Force on Regional Threats to International Security. The Federal Task Force would include representatives of the Departments of State, Defense, and Commerce, as well as military and foreign intelligence organizations, to advise the president in three categories:

How the United States can foster diplomatic resolutions of regional disputes that increase the risk of weapons proliferation;

Trade and investment programs to promote the market-based development of countries that pursue or possess weapons of mass destruction;

And the implementation of intelligence analysis procedures to ensure that the president has all of the data necessary before he makes any decision regarding this category of arms.

The President must establish the Task Force no later than 60 days after the effective date of the law, and the panel's authority would expire on October 1, 2001 unless an executive order or an act of Congress renews the operating charter.

PREDICT, therefore, outlines a clear and comprehensive process for foreign policy development without prejudging what steps the President should take. He must create the Task Force. He must consider the information that it presents, and he must determine whether to accept it. After two years, both the administration and Congress can judge the record of the Task Force to decide whether it should continue to function.

What this legislation proposes that does not exist is an integrated advisory body to analyze the military, diplomatic, and economic options available to the president for controlling regional conflicts and the spread of weapons of mass destruction.

Furthermore, the Task Force deliberately includes intelligence representatives so that policy options reflect the most updated information on the intentions of foreign leaders and the capabilities of their armed forces.

A comprehensive perspective remains central to the execution of prudent foreign policies. The administration needs to harness the talent and expertise of the federal government to ensure that the regional civil, military, and political disputes fostering weapons proliferation do not present a sustained threat to international security. For this compelling reason, I urge Congress to renew America's national security organizations by passing the PREDICT Act.

By Ms. SNOWE:

S. 71. A bill to amend title 38, United States Code, to establish a presumption of service-connection for certain veterans with Hepatitis C, and for other purposes; to the Committee on Veterans' Affairs.

HEPATITIS C VETERANS' LEGISLATION

Ms. SNOWE. Mr. President, I rise today to introduce legislation I introduced late in the 105th Congress to address a serious health concern for veterans—specifically the health threat posed by the Hepatitis C virus.

The legislation I am introducing today would make Hepatitis C a service-connected condition so that veterans suffering from this virus can be treated by the VA. The bill will establish a presumption of service connection for veterans with Hepatitis C, meaning that the Department of Veterans Affairs will assume that this condition was incurred or aggravated in military service, provided that certain conditions are met.

Under this legislation, veterans who received a transfusion of blood during a period of service before December 31, 1992; veterans who were exposed to blood during a period of service; veterans who underwent hemodyalisis during a period of service; veterans diagnosed with unexplained liver disease during a period of service; veterans with an unexplained liver dysfunction value or test; or veterans working in a health care occupation during service, will be eligible for treatment for this condition at VA facilities.

I have reviewed medical research that suggests many veterans were exposed to Hepatitis C in service and are now suffering from liver and other diseases caused by exposure to the virus. I am troubled that many "Hepatitis C veterans" are not being treated by the VA because they can't prove the virus was service connected, despite the fact that Hepatitis C was little known and could not be tested for until recently.

Mr. President, we are learning that those who served in Vietnam and other conflicts, tend to have higher than average rates of Hepatitis C. In fact, VA data shows that 20 percent of its inpatient population is infected with the Hepatitis C virus, and some studies have found that 10 percent of otherwise healthy Vietnam Veterans are Hepatitis C positive.

Hepatitis C was not isolated until 1989, and the test for the virus has only been available since 1990. Hepatitis C is a hidden infection with few symptoms. However, most of those infected with the virus will develop serious liver disease 10 to 30 years after contracting it. For many of those infected, Hepatitis C can lead to liver failure, transplants, liver cancer, and death.

And yet, most people who have Hepatitis C don't even know it—and often do not get treatment until it's too late. Only five percent of the estimated four million Americans with Hepatitis C know they have it, yet with new treatments, some estimates indicate that 50 percent may have the virus eradicated.

Vietnam Veterans in particular are just now starting to learn that they have liver disease caused by Hepatitis C. Early detection and treatment may help head off serious liver disease for many of them. However, many veterans with Hepatitis C will not be treated by the VA because they must meet a standard that is virtually impossible to meet in order to establish a service connection for their condition—this in spite of the fact that we now know that many Vietnam-era and other veterans got this disease serving their country.

Many of my colleagues may be interested to know how veterans were exposed to this virus. Many veterans received blood transfusions while in Vietnam. This is one of the most common ways Hepatitis C is transmitted. Medical transmission of the virus through needles and other medical equipment is also possible in combat. Medical care providers in the services were likely at increased risk as well, and may have, in turn, posed a risk to the service members they treated.

Researchers have discovered that Hepatitis C was widespread in Southeast Asia during the Vietnam war, and that some blood sent from the U.S. was also infected with the virus. Researchers and veterans organizations, including the Vietnam Veterans of America, with whom I worked closely to prepare this legislation, believe that many veterans were infected after being injured in combat and getting a transfusion or from working as a medic around combat injuries.

The Hepatitis C infected veteran is essentially in a catch 22 situation: the VA will not introduce any flexibility into their established service connection requirements—and many veterans cannot prove that they contracted Hepatitis C in combat because the science to detect it did not until recently. Without legislative authority to treat these veterans, thousands of veterans infected with Hepatitis C in service will not get the VA health care testing or treatment they need.

Mr. President, I believe the government will actually save money in the long run by testing and treating this infection early on. The alternative is much more costly treatment of end-stage liver disease and the associated complications, or other disorders.s

Some will argue that further epidemiologic data is needed to resolve or prove the issue of service connection. I agree that we have our work cut out for us, and further study is required. However, there is already a substantial body of research on the relationship between Hepatitis C and military service. While further research is being conducted, we should not ask those who have already sacrificed so much for this country to wait—perhaps for years—for the treatment they deserve.

Former Surgeon General C. Everett Koop, well respected both within and outside of the medical profession, has said, "In some studies of veterans entering the Department of Veterans Affairs health facilities, half of the veterans have tested positive for HCV. Some of these veterans may have left the military with HCV infection, while others may have developed it after their military service. In any event, we need to detect and treat HCV infection if we are to head off very high rates of liver disease and liver transplant in VA facilities over the next decade. I believe this effort should include HCV testing as part of the discharge physical in the military, and entrance screening for veterans entering the VA health system."

Veterans have already fought their share of battles—these men and women who sacrificed in war so that others could live in peace shouldn't have to fight again for the benefits and respect they have earned.

We still have a long way to go before we know how best to confront this deadly virus. A comprehensive policy to confront such a monumental challenge cannot be written overnight. It will require the long-term commitment of Congress and the Administration to a serious effort to address this health concern.

I hope this legislation will be a constructive step in this effort, and I look forward to working with the Veterans Affairs Committee, the VA-HUD appropriators, Vietnam Veterans of America, and others to meet this emerging challenge.

By Ms. SNOWE:

S. 72. A bill to amend title 38, United States Code, to restore the eligibility of veterans for benefits resulting from injury or disease attributable to the use of tobacco products during a period of military service, and for other purposes; to the Committee on Veterans' Affairs.

VA TOBACCO BENEFITS

Ms. SNOWE. Mr. President, today I am introducing legislation that will restore an important benefit for our nation's veterans—disability compensation benefits for those with tobacco-related illnesses or disabilities.

The President's budget proposal for FY99 restricted disability compensation benefits for tobacco-related illnesses, such as lung cancer. I might ask, once we start restricting service-related disabilities treated through the VA, where does it end? I am very concerned that the VA will become a target for further erosions of veterans benefits. The VA is already having difficulty making good on its promise to provide essential benefits to veterans. What benefit will be repealed next?

Some may argue that military personnel made the decision to smoke. Nobody forced them. But this ignores that fact that these choices were facilitated, and perhaps even encouraged, by the inclusion of free cigarettes in individual supply kits and discounts on tobacco products. Many military personnel may have smoked for the first time while on active duty.

That is why I have fought to restore veterans disability compensation for tobacco-related illnesses and disability—because I believe that Congress circumvented the process and undermined fairness when it repealed this benefit to fund the ISTEA legislation.

Mr. President, there should have been a full airing of this issue before we voted to rescind the benefit. There was little debate on the Senate floor on this matter. This is not how those brave Americans who sacrificed for freedom should be treated by the government they fought to preserve.

During the Senate's consideration of the FY99 Budget Resolution, I opposed efforts to repeal the benefit and voted for an amendment to sustain it. In addition, I supported an amendment submitted by Senator MCCAIN to the tobacco bill providing $600 million over five years to veterans for smoking-related diseases and health care. Finally, during the Senate's consideration of the FY99 VA–HUD Appropriations Act, I supported an amendment to restore the benefit. Unfortunately, this amendment was rejected 54-40. I continue to believe we should debate the matter fully, we should have a vote, and we should pass legislation that will right this wrong.

We must not ignore the fact that the military has been one of the largest distributors of tobacco products for decades. The military glamorized the use of tobacco and distributed free cigarettes during World War II, the Korean War, and the Vietnam War. We cannot turn a blind eye to this lethal legacy. We must not turn our backs on those who continue to suffer the consequences of their service. That is why I hope that my colleagues will join me in supporting this effort, and restore this important benefit.

By Mr. MOYNIHAN:

S. 73. A bill to make available funds under the Mutual Educational and Cultural Exchange Act of 1961 to provide Fulbright scholarships for Cuban nationals to undertake graduate study in the social sciences; to the Committee on Foreign Relations.

FULBRIGHT SCHOLARSHIPS FOR CUBAN NATIONALS

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill to authorize funding for Cuban nationals for the Fulbright Educational Exchange Program so that they may come to the United States for graduate study.

The world is a changed place. The Soviet Union dissolved almost a decade ago, and since then democracy has replaced totalitarianism in Eastern Europe. Since the demise of its sponsor, the Soviet Union, and the disappearance of Soviet subsidies, Cuba has had to change to survive. In time, the winds of democracy sweeping the globe will reach the shores of Cuba.

We learned from the cold war that one of the most subversive acts in that ideological conflict was exposing communists to the West. In his lucid chronicle of the demise of the Soviet Union, Michael Dobbs writes in Down with Big Brother: The Fall of the Soviet Empire,

> A turning point in [Boris] Yeltsin's intellectual development occurred during his first visit to the United States in September 1989, more specifically his first visit to an American supermarket, in Houston, Texas. The sight of aisle after aisle of shelves neatly stacked with every conceivable type of foodstuff and household item, each in a dozen varieties, both amazed and depressed him. For Yeltsin, like many other first-time Russian visitors to America, this was infinitely more impressive than tourist attractions like the Statue of Liberty and the Lincoln Memorial. It was impressive precisely because of its ordinariness. A cornucopia of consumer goods beyond the imagination of most Soviets was within the reach of ordinary citizens without standing in line for hours. And it was all so attractively displayed. For someone brought up in the drab conditions of communism, even a member of the relatively privileged elite, a visit to a Western supermarket involved a full-scale assault on the senses.
>
> What we saw in that supermarket was no less amazing than America itself," recalled Lev Sukhanov, who accompanied Yeltsin on his trip to the United States and shared his sense of shock and dismay at the gap in living standards between the two superpowers. "I think it is quite likely that the last prop of Yeltsin's Bolshevik consciousness finally collapsed after Houston. His decision to leave the party and join the struggle for supreme power in Russia may have ripened irrevocably at that moment of mental confusion.

The young people of Cuba are that country's future. As such what they learn now will help shape a post-Castro Cuba. Since its inception in 1947, at the suggestion of Senator J. William Fulbright, the Fulbright Educational Exchange Program has sent nearly 82,000 Americans abroad and provided 138,000 foreign students and professors with the opportunity to come to the United States for study—to live here, to understand our great country, and return to their own nations so enriched. Nearly 50 years ago they sent me off to the London School of Economics. I left the United States untouched by war to live in Europe as it climbed out of its ruins. In London, I learned from experience Seymour Martin Lipset's dictum, "He who knows only one country knows no country." Use the simple analogy of eyesight: it takes two eyes to provide perspective. It was a seminal time for the world and for me. This bill will offer that opportunity to Cubans to study in the United States, as I studied in London.

Fidel Castro will not live forever—it is time to get ready for an end game. Now is the time to start showing the people of Cuba, especially the young people, how the United States works and how their country might change. So let us bring them here and not act like it's the middle of the Cold War. Let us bring them to the United States and offer them education and a chance to see the world's oldest democracy in action. We need to begin now to expose future leaders of Cuba to the United States. For, as Senator Fulbright observed,

> The vital mortar to seal the bricks of world order is education across international boundaries, not with the expectation that knowledge would make us love each other, but in the hope that it would encourage empathy between nations, and foster the emergence of leaders whose sense of other nations and cultures would enable them to shape specific policies based on tolerance and rational restraint.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 73

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FULBRIGHT SCHOLARSHIPS FOR CUBAN NATIONALS.

(a) AUTHORITY.—

(1) IN GENERAL.—The President is authorized to provide scholarships under the Fulbright Academic Exchange Program in section 102 of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452) for nationals of Cuba who seek to undertake graduate study in public health, public policy, economics, law, or other field of social science.

(2) PROHIBITION.—No official of the Cuban government, or any member of the immediate family of the official, shall be eligible to receive a scholarship under paragraph (1).

(3) SUPERSEDING EXISTING LAW.—The authority of paragraph (1) shall be exercised without regard to any other provision of law.

(b) ALLOCATION OF FUNDS.—Of the amounts authorized to be appropriated to carry out the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.) for fiscal years 2000 through 2004, the following amounts are authorized to be available to carry out subsection (a):

(1) For fiscal year 2000, $1,400,000 for not to exceed 20 scholarships.

(2) For fiscal year 2001, $1,750,000 for not to exceed 25 scholarships.

(3) For fiscal year 2002, $2,450,000 for not to exceed 35 scholarships.

(4) For fiscal year 2003, $2,450,000 for not to exceed 35 scholarships.

(5) For fiscal year 2004, $2,450,000 for not to exceed 35 scholarships.

By Mr. DASCHLE (for himself, Mr. KERRY, Mr. LEAHY, Ms. MIKULSKI, Mrs. MURRAY, Mr. REID, Mr. WYDEN, Mrs. BOXER, Mr. LAUTENBERG, Mr. KENNEDY, Mr. KERREY, Mr. DURBIN, Ms. LANDRIEU, Mr. ROBB, Mr. TORRICELLI, Mr. BREAUX, Mr. WELLSTONE, and Mrs. FEINSTEIN):

S. 74. A bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PAYCHECK FAIRNESS ACT

Mr. LEAHY. Mr. President, I am privileged to join with my colleague Senator TOM DASCHLE to introduce the Paycheck Fairness Act.

Early in the next century, women—for the first time ever—will outnumber men in the United States workplace. In 1965, women held 35 percent of all jobs. That has grown to more than 46 percent today. And in a few years, women will make up a majority of the workforce.

Fortunately, there are more business and career opportunities for women today than there were thirty years ago. Unlike 1965, federal, state, and private sector programs now offer women many opportunities to choose their own futures. Working women also have opportunities to gain the knowledge and skills to achieve their own economic security.

But despite these gains, working women still face a unique challenge—achieving pay equity. The average woman earns 74 cents for every dollar that the average man earns. This amounts to a woman earning $8,434 less than a man over the course of one year and earning more than a quarter of a million dollars less over the course of a career.

We must correct this gross inequality, and we must correct it now.

How is this possible with our federal laws prohibiting discrimination? It is possible because we in Congress have failed to protect one of the most fundamental human rights—the right to be paid fairly for an honest day's work.

Unfortunately, our laws ignore wage discrimination against women, which continues to fester like a cancer in work places across the country. The Paycheck Fairness Act of 1999 would close this legal loophole by addressing the problem of pay inequality by redressing past discrimination and increasing enforcement against future abuses.

I do not pretend that this Act will solve all the problems women face in the work place. But it is an essential piece of the puzzle. Equal pay for equal work is often a subtle problem that is difficult to combat. And, it does not stand alone as an issue that woman face in the workplace. It is deeply intertwined with the problem of unequal opportunity. Closing this loophole is not enough if we fail to provide the opportunity for women to reach high paying positions.

The government, by itself, cannot change the attitudes and perceptions of individuals and private businesses in hiring and advancing women, but it can set an example. Certainly President Clinton has shown great leadership by appointing an unprecedented number of women to his administration. In my home state of Vermont, Major General Martha Rainville has been appointed Adjutant General of the Vermont National Guard—the first woman in the country to hold this prestigious position.

Vermont is also a leader in providing pay equity. According to the Institute for Women's Policy Research, Vermont ranks second in providing equal pay. Even with this ranking, the average woman in Vermont still is making less than 82 cents for every dollar that the average man makes in Vermont. We must work in the Senate and in the workplace to close this gap.

We are all familiar with the glass ceiling which prevents women from advancing in the workplace. However, woman are also facing a glass wall—they are unable to achieve equal pay for equal work. Women cannot break the glass ceiling until the wall comes down.

The Paycheck Fairness Act is one step to remedy this problem and bring down the glass wall. This Act will strengthen enforcement of the Equal Pay Act, increase penalties for violations, and permit employees to openly discuss their wages with coworkers without fear of retaliation by their employers.

I understand that this bill will not solve all of the problems of pay inequity, but it will close legal loopholes that allow employers to routinely underpay women. By closing these loopholes, we will help women achieve better economic security and provide them with more opportunities.

By Mr. LUGAR:

S. 75. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

ESTATE AND GIFT TAX REPEAL ACT OF 1999

By Mr. LUGAR:

S. 76. A bill to phase-out and repeal the Federal estate and gift taxes and the tax on generational-skipping transfers; to the Committee on Finance.

ESTATE AND GIFT TAX PHASE-OUT ACT OF 1999

By Mr. LUGAR:

S. 77. A bill to increase the unified estate and gift tax credit to exempt small businesses and farmers from estate taxes; to the Committee on Finance.

FARMER AND ENTREPRENEUR ESTATE TAX RELIEF ACT OF 1999

Mr. LUGAR (for himself, Mr. HAGEL, Mr. ROBERTS, and Mr. HELMS):

S. 78. A bill to amend the Internal Revenue Act of 1986 to increase the gift tax exclusion to $25,000; to the Committee on Finance.

GIFT TAX EXCLUSION

Mr. LUGAR. Mr. President, I am pleased to introduce on behalf of myself and Senators HAGEL, HELMS and ROBERTS a package of legislation intended to minimize or eliminate the burden that estate and gift taxes place on our economy. The estate tax hinders entrepreneurial activity and job creation in many sectors of our economy. Despite the fact that my bills would help all Americans who face this onerous tax, I come to the estate tax debate because of my interest in American agriculture.

As Chairman of the Senate Agriculture Committee, I have held hearings on the impact of the estate tax on farmers and ranchers. The effects of inheritance taxes are fare reaching in the agricultural community. Citing personal experiences, witnesses described how the estate tax discourages savings, capital investment and job formation.

One such story came from a Hoosier, Mr. Woody Barton. He is a fifth generation tree farmer living in the house his great grandparents built in 1885. I visited his 300 acres of forested property last October and can attest to its beauty. Typical of many farmers, Mr. Barton is over 65 years old and wants to leave this legacy to his four children. But he fears that the estate tax may cause his children to strip the timber and then sell the land in order to pay the estate tax bill. His grandmother logged a portion of the land in 1939 to pay the debts that came from the death of her husband. In essence, each generation must buy back the hard work and dedication of their ancestors from the federal government. Mr. Barton believes, and I agree, that the actions of Congress have more impact on the outcome of his family's land than his own planning and investment. This should not be the case.

The estate and gift tax falls disproportionately hard on our agricultural producers. Ninety-five percent of farms and ranch operations are sole proprietorships or family partnerships, subjecting a vast majority of these businesses to the threat of inheritance taxes. According to USDA figures, farmers are six times more likely to face inheritance taxes than other Americans. And commercial farm estates—those core farms that produce 85 percent of our nation's agricultural products—are fifteen times more likely to pay inheritance taxes than other individuals.

This hardship will only get worse as the agricultural community gets older, with the average farmer about to have a 60th birthday. Many farmers will shortly confront estate and gift taxes when they pass their farm onto the next generation. Recently, the USDA estimated that between 1992 and 2002, more than 500,000 farmers will retire. Only half of those positions will be replaced by young farmers. Demographic studies indicate that a quarter of all farmers could confront the inheritance tax during the next 20 years.

To combat this problem, today I offer several legislative alternatives to provide relief to those impacted by this tax. My first bill would repeal the estate and gift taxes outright. My second bill would phase out the estate tax over five years by gradually raising the unified credit each year until the tax is repealed after the fifth year. My third bill would immediately raise the effective unified credit to $5 million in an effort to address the disproportionate burden that the estate tax places on farmers and small businesses. My last bill would raise the gift tax exemption from $10,000 to $25,000.

I believe the best option is a simple repeal of the estate tax. I am hopeful that during this Congress, as members become more aware of the effects of this tax, we can eliminate it from the tax code. However, even if the estate tax is not repealed, the unified credit must be raised significantly. Despite our most recent success in raising the exemption level, inflation has caused a growing percentage of estates to be subjected to the estate tax. My second bill is intended to highlight this point and provide a gradual path to repeal.

My third bill focuses on relieving the estate tax burden that falls disproportionately on farmers and small business owners. By raising the exemption amount to $5 million, 96 percent of estates with farm assets and 90 percent of estates with non-corporate business assets would not have to pay estate taxes, according to the IRS.

The final bill in this package would raise the gift tax exemption from $10,000 to $25,000. This level has not been adjusted since 1982. Over the years, the inflation has eroded this exemption amount, and I believe this level must be raised to provide Americans with an additional tool for passing productive assets to the next generation.

Despite its modest beginnings in 1916, the estate tax has mushroomed into an exorbitant tax on death that discourages savings, economic growth and job formation by blocking the accumulation of entrepreneurial capital and by breaking up family businesses and farms. With the highest marginal rate at 55 percent, more than half of an estate can go directly to the government. By the time the inheritance tax is levied on families, their assets have already been taxed at least once. This form of double taxation violates perceptions of fairness in our tax system.

If we are sincere about boosting economic growth, we must consider what effect the estate tax has on a business owner deciding whether to invest in new capital goods or hire a new employee. The Heritage Foundation estimates that repealing the estate tax would annually boost our economic output by $11 billion, create 145,000 new jobs and raise personal income by $8 billion. These figures underscore the current weight of this tax on our economy.

One might expect that for all the economic disincentives caused by the estate tax, it must at least provide a sizable contribution to the U.S. Treasury. But in reality, the estate tax only accounts for about 1 percent of federal taxes. It cannot be justified as an indispensable revenue raiser. Given the blow delivered to job formation and economic growth, the estate tax may even cost the Treasury money. Our nation's ability to create new jobs, new opportunities and wealth is damaged as a result of our insistence on collecting a tax that earns less than 1 percent of our revenue.

But this tax affects more than just the national economy. It affects how we as a nation think about community, family and work. Small businesses and farms represent much more than assets. They represent years of toil and entrepreneurial risk taking. They also represent the hopes that families have for their children. Part of the American Dream has always been to build up a business, farm or ranch so that economic opportunities and a way of life can be passed on to one's children and grandchildren.

I know first-hand about the dangers of this tax to agriculture. My father died when I was 24, leaving his 604-acre farm in Marion County, Indiana, to his family. I helped manage the farm, which had built up considerable debts during my father's illness. Fortunately, after a number of years, we were successful in working out the financial problems and repaying the money. We were lucky. That farm remains in our family because I have been practicing active estate planning and execution of the plan along with profitable farming for each of the last 40 years. But many of today's farmers and small business owners are not so fortunate. Only about 30 percent of businesses are transferred from parent to child, and only about 12 percent of businesses make it to a grandchild.

Mr. President, these bills I have introduced will provide policymakers with a range of options as they seek to mitigate the burdens of the estate tax. Doing so will lead to expanded investment incentives and job creation and will reinvigorate an important part of the American Dream. I am hopeful that Senators will join me in the effort to free small businesses, family farms and our economy from this counterproductive tax. I ask unanimous consent that my four bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 75

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Estate and Gift Tax Repeal Act of 1999".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The economy of the United States cannot achieve strong, sustained growth without adequate levels of savings to fuel productive activity. Inadequate savings have been shown to lead to lower productivity, stagnating wages, and reduced standards of living.

(2) Savings levels in the United States have steadily declined over the past 25 years, and have lagged behind the industrialized trading partners of the United States.

(3) These anemic savings levels have contributed to the country's long-term downward trend in real economic growth, which averaged close to 3.5 percent over the last 100 years but has slowed to 2.4 percent over the past quarter century.

(4) Congress should work toward reforming the entire Federal tax code to end its bias against savings and eliminate double taxation.

(5) Repealing the estate and gift tax would contribute to the goals of expanding savings and investment, boosting entrepreneurial activity, and expanding economic growth. The estate tax is harmful to the economy because of its high marginal rates and its multiple taxation of income.

(6) Abolishing the estate tax would restore a measure of fairness to the Federal tax system. Families should be able to pass on the fruits of labor to the next generation without realizing a taxable event.

(7) Abolishing the estate tax would benefit the preservation of family farms. Nearly 95 percent of farms and ranches are owned by sole proprietors or family partnerships, subjecting most of this property to estate taxes upon the death of the owner. Due to the capital intensive nature of farming and its low return on investment, farmers are 15 times more likely to be subject to estate taxes than other Americans.

SEC. 3. REPEAL OF FEDERAL TRANSFER TAXES.

(a) IN GENERAL.—Subtitle B of the Internal Revenue Code of 1986 is hereby repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to the estates of decedents dying, and gifts and generation-skipping transfers made, after the date of enactment of this Act.

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but in any event not later than 90 days after the date of enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a draft of any technical and conforming changes in the Internal Revenue Code of 1986 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

S. 76

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Estate and Gift Tax Phase-Out Act of 1999".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The economy of the United States cannot achieve strong, sustained growth without adequate levels of savings to fuel productive activity. Inadequate savings have been shown to lead to lower productivity, stagnating wages, and reduced standards of living.

(2) Savings levels in the United States have steadily declined over the past 25 years, and have lagged behind the industrialized trading partners of the United States.

(3) These anemic savings levels have contributed to the country's long-term downward trend in real economic growth, which averaged close to 3.5 percent over the last 100 years but has slowed to 2.4 percent over the past quarter century.

(4) Repealing the estate and gift tax would contribute to the goals of expanding savings and investment, boosting entrepreneurial activity, and expanding economic growth.

(5) Abolishing the estate tax would restore a measure of fairness to the Federal tax system. Families should be able to pass on the fruits of labor to the next generation without realizing a taxable event.

(6) Abolishing the estate tax would benefit the preservation of family farms. Nearly 95 percent of farms and ranches are owned by sole proprietors or family partnerships, subjecting most of this property to estate taxes upon the death of the owner. Due to the capital intensive nature of farming and its low return on investment, farmers are 15 times more likely to be subject to estate taxes than other Americans.

SEC. 3. PHASE-OUT OF ESTATE AND GIFT TAXES THROUGH INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.

(a) IN GENERAL.—The table in section 2010(c) of the Internal Revenue Code (relating to applicable credit amount) is amended to read as follows:

"In the case of estates of decedents dying, and gifts made, during:	The applicable exclusion amount is:
2000	$1,000,000
2001	$1,500,000
2002	$2,000,000
2003	$2,500,000
2004	$5,000,000.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 1997.

SEC. 4. REPEAL OF FEDERAL TRANSFER TAXES.

(a) IN GENERAL.—Subtitle B of the Internal Revenue Code of 1986 is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to the estates of decedents dying, and gifts and generation-skipping transfers made, after December 31, 2004.

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or the Secretary's delegate shall not later than 90 days after the effective date of this section, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a draft of any technical and conforming changes in the Internal Revenue Code of 1986 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

S. 77

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farmer and Entrepreneur Estate Tax Relief Act of 1999".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The economy of the United States cannot achieve strong, sustained growth without adequate levels of savings to fuel productive activity. Inadequate savings have been shown to lead to lower productivity, stagnating wages and reduced standards of living.

(2) Savings levels in the United States have steadily declined over the past 25 years, and have lagged behind the industrialized trading partners of the United States.

(3) These anemic savings levels have contributed to the country's long-term downward trend in real economic growth, which averaged close to 3.5 percent over the last 100 years but has slowed to 2.4 percent over the past quarter century.

(4) Congress should work toward reforming the entire Federal tax code to end its bias against savings.

(5) Repealing the estate and gift tax would contribute to the goals of expanding savings and investment, boosting entrepreneurial activity, and expanding economic growth. The estate tax is harmful to the economy because of its high marginal rates and its multiple taxation of income.

(6) The repeal of the estate tax would increase the growth of the small business sector, which creates a majority of new jobs in our Nation. Estimates indicate that as many as 70 percent of small businesses do not make it to a second generation and nearly 90 percent do not make it to a third.

(7) Eliminating the estate tax would lift the compliance burden from farmers and family businesses. On average, family-owned businesses spent over $33,000 on accountants, lawyers, and financial experts in complying with the estate tax laws over a 6.5-year period.

(8) Abolishing the estate tax would benefit the preservation of family farms. Nearly 95 percent of farms and ranches are owned by sole proprietors or family partnerships, subjecting most of this property to estate taxes upon the death of the owner. Due to the capital intensive nature of farming and its low return on investment, farmers are 15 times more likely to be subject to estate taxes than other Americans.

(9) As the average age of farmers approaches 60 years, it is estimated that a quarter of all farmers could confront the estate tax over the next 20 years. The auctioning of these productive assets to finance tax liabilities destroys jobs and harms the economy.

(10) Abolishing the estate taxes would restore a measure of fairness to our Federal tax system. Families should be able to pass on the fruits of the labor to the next generation without realizing a taxable event.

(11) Despite this heavy burden on entrepreneurs, farmers, and our entire economy, estate and gift taxes collect only about 1 percent of our Federal tax revenues. In fact, the estate tax may not raise any revenue at all, because more income tax is lost from individuals attempting to avoid estate taxes than is ultimately collected at death.

(12) Repealing estate and gift taxes is supported by the White House Conference on Small Business, the Kemp Commission on Tax Reform, and 60 small business advocacy organizations.

SEC. 3. INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.

(a) IN GENERAL.—The table in section 2010(c) of the Internal Revenue Code (relating to applicable credit amount) is amended—

(1) by striking "2000 and 2001" and inserting "2000 or thereafter",

(2) by striking "$675,000" and inserting "$5,000,000", and

(3) by striking all matter beginning with the item relating to 2002 and 2003 through the end of the table.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 1999.

S. 78

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN GIFT TAX EXCLUSION.

(a) IN GENERAL.—Section 2503(b) of the Internal Revenue Code of 1986 (relating to exclusions from gifts) is amended—

(1) by striking "$10 000" each place it appears and inserting "$25,000",

(2) by striking "1998" in paragraph (2) and inserting "2000", and

(3) by striking "1997" in paragraph (2)(B) and inserting "1999".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to gifts made after December 31, 1999.

By Ms. SNOWE (for herself and Mr. JEFFORDS):

S. 79. A bill to amend the Federal Election Campaign Act of 1971 to require disclosure of certain disbursements made for electioneering communications, and for other purposes; to the Committee on Rules and Administration.

ADVANCING TRUTH AND ACCOUNTABILITY IN CAMPAIGN COMMUNICATIONS ACT OF 1999

Ms. SNOWE. Mr. President, I rise today to introduce on behalf of myself and Mr. JEFFORDS the Advancing Truth and Accountability in Campaign Communications Act of 1999, or ATACC, which represents an effort to attack the problem of stealth advocacy advertising in federal elections and shine the spotlight of disclosure on those who would attempt to fly under the radar screen of our campaign finance laws.

Before I begin, I want to thank and commend Senator JEFFORDS for all his valuable input and hard work in helping to craft this legislation, which was originally introduced as an amendment last year to the McCain-Feingold Campaign Finance Reform Bill. And I want to thank Senators MCCAIN and FEINGOLD themselves, who encouraged our efforts.

In the past several elections, we've seen a proliferation of advertisements over the airwaves which cloak themselves in the innocuous guise of "issue advocacy", or voter education. The sponsors of these ads would have us believe that they are performing a public service by running these ads, and do not intend for them to affect the outcome of federal elections. They claim that because they do not use words like "vote for", or "vote against", they are exempt from federal campaign finance laws. They even argue that no one has the right simply to know who is sponsoring the ads.

And yet, these ads say things like: "Mr. X promised he'd be different. But he's just another Washington politician. Why during the last year alone, he has taken over $260,000 from corporate special interest groups. . . . But is he listening to us anymore?"

I defy anyone to argue, with a straight face, that that message is anything other than a blatant attempt to influence a federal election. And yet, under current law, any person, labor union, or corporation, has a right to run such ads without even disclosing the most basic information, such as who they are, or how much they are spending. And that is just plain wrong.

During the 1996 elections, the Annenberg Public Policy Center estimates that anywhere between $135 million and $150 million was spent by third party groups not associated with candidates' campaigns on such radio and television ads. I say "estimates" because we really don't know for sure. There is no official record kept, nor is anyone required to submit the kind of information needed to keep such records.

And lest there be any doubt of the real intent of these ads, the Annenburg Report found that nearly 87 percent of them mentioned a candidate for office by name, and over 41 percent were seen by the public as "pure attack" ads—that's the highest percentage recorded among a group that also included Presidential ads, debates, free-time segments accorded candidates, and news programs.

If anything, not surprisingly, the problem got worse in the 1997–1998 election cycle. The Annenberg Center has completed their study of this time period, and has determined that issue ad spending in the last cycle doubled the amount spent in 1995 through 1996—to total between $275 and $340 million. Of those ads, over 53 percent mentioned candidates by name during the cycle—a number which rose to over 80 percent in the final two months. Further, 51.5 percent of issue ads aired after September 1, 1998, were pure attack ads in terms of their content. At least 77 groups ran broadcast issue ads in 1997 and 1998.

As Norm Ornstein of the American Enterprise Institute has stated, "(These are) conservative number(s), since there is no disclosure of (these) media buys or other spending." To put this in perspective, 1998 was the first billion dollar election—meaning that about a quarter of the money spent was on what I call "stealth advocacy" advertising. One quarter of all the money spent—which the Annenberg Center estimates is roughly equivalent to what candidates themselves spent on their own campaigns—was unaccounted for, unreportable and unregulated in any fashion. And, as Norm Ornstein has pointed out, 1998 was an "off-year", and "without campaign reform, we can probably look forward to the $2 billion or $3 billion election in 2000, with a half-billion of it disguised as issue advocacy."

Let me explain how this bill will get to the core of this problem; how it works; and why it is much more likely to pass court muster than previous attempts to get at this issue.

The premise of this bill was developed in consultation with noted constitutional scholars and reformers such as Norm Ornstein; Josh Rosenkrantz, Director of the Brennan Center for Justice at NYU; and others. The approach is a straightforward, two tiered one that only applies to advertisements that constitute the most blatant form of electioneering.

It only applies to ads run on radio or television, 30 days before a primary and 60 days before a general election, that identify a federal candidate. And only if over $10,000 is spent on such ads in a year. What is required is disclosure of the ads' sponsor and major donors, and a prohibition on the direct or indirect use of corporation or union money to fund the ads.

We called this new category "electioneering ads". They are the only communications addressed, and we define them very narrowly and carefully.

If the ad is not run on television or radio; if the ad is not aired within 30 days of a primary or 60 days of a general election, if the ad doesn't mention a candidate's name or otherwise identify him clearly, if it isn't targeted at the candidate's electorate, or if a group hasn't spent more than $10,000 in that year on these ads, then it is not an electioneering ad.

If it is an item appearing in a news story, commentary, or editorial distributed through a broadcast station, it is also not an electioneering ad. Plain and simple.

If one does run an electioneering ad, two things happen. First, the sponsor must disclose the amount spent and the identity of contributors who donated more than $500 to the group since January 1 of the previous year. Right now, candidates have to disclose campaign contributions over $200. Second, the ad cannot be paid for by funds from a business corporation or labor union—only voluntary contributions.

The clear, narrow wording of the bill is important because it passes two critical First Amendment doctrines that were at the heart of the Supreme Court's landmark Buckley versus Valeo decision: vagueness and overbreadth. The rules of this provision are clear. And the requirements are strictly limited to ads run near an election that identify a candidate—ads plainly intended to convince voters to vote for or against a particular candidate.

Nothing in this bill restricts the right of any group to engage in issue advocacy. For example, the following ad—which was actually run in 1996—would be completely unaffected by this bill. The text of the ad—which is a pure issue ad in the true sense of the term—says, "This election year, America's children need your vote. Our public schools are our children's ticket to the future. But education has become just another target for attack by politicians who want huge cuts in education programs. They're making the wrong choices. Our children deserve leaders who will strengthen public education, not attack it. They deserve the best education we can give them. So this year, vote as if your children's future depends on it. It does."

That is not an electioneering ad, and that conclusion is not simply based on perception. It is based on the fact that it does not meet the clearly delineated criteria put forth in our bill, and therefore, exists completely outside the realm of this legislation.

For that matter, nothing prohibits groups from running electioneering ads, either. Let me be clear on this: if this bill becomes law, any group running issues ads today can still run issue ads in the future, with no restrictions on content. And any group running electioneering ads can still run those ads in the future, again with absolutely zero restrictions on content.

The argument that will no doubt be leveled by opponents to this approach—those advocates of secrecy who do not want the public to know who is financing these ads, and for how much—is that it is inconsistent with the First Amendment of the Constitution. This is simply not so, and that's not just my opinion. Constitutional scholars from Stanford Law to Georgia Law to Loyola Law to Vanderbilt Law have endorsed the approach of this bill.

The fact is, the only restrictions in the bill—namely, the use of union and corporation treasury money to pay for electioneering ads—are rooted in well-established case law that has long allowed for the regulation of the use of such money for electioneering purposes. Further, the threshold for disclosure is more than double what it is for candidates who receive contributions, and absolutely no disclosure is required whatsoever from any person or entity which spends less than $10,000. And it bears repeating that nothing in this bill affects any printed communications in any way, shape, or form—so voter guides are completely outside the universe of communications that are covered by this measure.

Mr. President, ATACC is a sensible, reasonable approach to attacking a burgeoning segment of electioneering that is making a mockery of our campaign finance system. I would ask my colleagues, how can anyone not be for disclosure? How can anyone say that less information for the public leads to better elections? Don't the American people have the right to know who is paying for these stealth advocacy ads, and how much?

Apparently, the majority of the Senate thought so. Last year, when this measure was approved as an amendment and incorporated into the McCain-Feingold legislation, the bill garnered 52 votes—bringing the majority of the Senate on board. Unfortunately, the will of the majority did not ultimately prevail, as we were unable to break the sixty votes necessary to end a threatened filibuster and institute real, fair and meaningful reform in the way in which American elections are financed.

But we have heard before that it can't be done, only to see the House of Representatives do it. Today, we have new members of this body—members who have seen first hand the effects these electioneering ads are having on campaigns and elections in this country, and I invite them to join with Senators JEFFORDS and I in supporting this bill. I would say to them that we, as candidates and Senators, are accountable to the people. We're required to file disclosure reports as candidates. PACs are required to disclose. But hundreds of millions of dollars are spent on these ads without one dime being reported. Not one dime.

Mr. President, I come to this debate as a veteran supporter of campaign finance reform. As someone who has served on Capitol Hill for twenty years, I understand the realities, and I know that there are concerns on both sides of the aisle that whatever measure we may ultimately pass, it must be fair, equitable, and constitutional.

This bill passes all three of these tests. And it represents one, significant step we might take to ensure that the first elections of the next century—the next millennium—are more open, more fair, and more representative of the will of the individual. That's what this bill is really all about, Mr. President. It's about putting elections back into the hands of individuals by letting them have the facts they need to make informed decisions, and by ensuring that electioneering ads are paid for by voluntary, individual contributions.

That's all, Mr. President. No plot to subvert the First Amendment. No scheme to silence any group or person. No plan to control what anyone says or when they say it. Just an honest, constitutionally sound attempt to bring some honesty and accountability back into electioneering advertising, and return some sense of confidence to the American people that their elections belong to them. I ask my colleagues to join me in supporting this sensible, incremental approach, and join in the fight to attack secrecy and promote honesty in campaign advertising.

Mr. JEFFORDS. Mr. President, on this first legislative day of the 106th Congress I rise in the Senate Chamber to express my strong support for the bill Senator SNOWE and I are introducing and urge my Senate colleagues to join as cosponsors of this important legislation.

Throughout the last Congress the Senate spent many legislative hours debating campaign finance reform. In fact, since my election to the House in the wake of the Watergate scandal, I have spent many long hours working with my colleagues to craft campaign finance reform legislation that could endure the legislative process and survive a constitutional challenge. We came close in 1994 and last year, and I believe circumstances still remain right for enactment of meaningful campaign finance reform during this Congress.

I believe that the irregularities associated with our recent campaigns, and especially in the 1996 elections, point out the fact that current election laws are not being strongly enforced or working to achieve the goals that we all have for campaign finance reform. The proof obtained from the hearings in both the House and the Senate on campaign finance abuses should alone be enough to motivate my colleagues to complete work on this issue in the Senate. Without action, these abuses will become more pronounced and widespread as we go from election to election.

The Snowe-Jeffords bill, the Advancing Truth and Accountability of Campaign Communications Act (ATACC), will boost disclosure requirements and tighten the rule on expenditures of corporate and union treasury funds in the weeks preceding a primary and general election.

I would like to begin with a story that may help my colleagues understand the need for this legislation, and that many of my colleagues may understand from their own campaigns. Two individuals are running for the Senate and have spent the last few months holding debates, talking to the voters and traveling around the state. Both candidates feel that they have informed the voters of their thoughts, views and opinions on the issues, and that the voters can use this information to decide on which candidate they will support.

Two weeks before the day of the election a group called the People for the Truth and the American Way, let's say, begins to run television advertisements which include the picture of one of the candidates and that candidate's name. However, these advertisements do not use the express terms of "vote for" or "vote against." These advertisements discuss issues such as the candidate's drinking, supposed off-shore bank accounts and the failure of the candidate's business.

The voters do not know who this group is, who are its financial backers and why they have an interest in this specific election, and under our current election law the voters will not find out. Thus, even though the candidates have attempted to provide the voters with all the information concerning the candidate's views on the issues, they will be casting their vote lacking critical information concerning these advertisements.

Some people may say that voters do not need this information. But as James Madison said, "A popular government without popular information is but a prologue to a tragedy or a farce or perhaps both. Knowledge will forever govern ignorance and a people who mean to be their own governors must arm themselves with the power which knowledge gives."

Mr. President, the ATACC Act will arm the people with the knowledge they need in order to sustain our popular government. And the need to arm the people with this knowledge is becoming greater every year. As my colleague Senator SNOWE has stated, the amount of money spent on issue advocacy advertising is increasing over time at an alarming rate. In the 1995–1996 election cycle an estimated $135–150 million was spent on issue advocacy, while in the recently completed cycle an estimated $275–340 million was expended on these types of advertisements. This is a doubling of the amount of money spent on issue advocacy ads in one election cycle, and I fear entering an election cycle that includes a Presidential election that we may see at least another doubling of these type of expenditures.

I have long believed in Justice Brandeis' statement that, "Sunlight is said to be the best of disinfectants." The disclosure requirements in the ATACC Act are narrow and tailored to provide the electorate with the important pertinent information they will need to make an informed decision. Information included on the disclosure statement includes the sponsor of the advertisement, amount spent, and the identity of the contributors who donated more than $500. Getting the public this information will greatly help the electorate evaluate those who are seeking federal office.

Additionally, this disclosure, or disinfectant as Justice Brandeis puts it, will also help deter actual corruption and avoid the appearance of corruption that many already feel pervades our campaign finance system. This, too, is an important outcome of the disclosure requirements of this bill. Getting this information into the public purview would enable the press, the FEC and interest groups to help ensure that our federal campaign finance laws are obeyed. If the public doesn't feel that the laws Congress passes in this area are being followed, this will lead to a greater level of disillusionment in their elected representatives. Exposure to the light of day of any corruption by this required disclosure will help reassure our public that the laws will be followed and enforced.

While our bill focuses on disclosure, it will also prohibit corporations and unions from using general treasury monies to fund these types of electioneering communications in a defined period close to an election. Since 1907, federal law has banned corporations from engaging in electioneering. In 1947, that ban was extended to prohibit unions from electioneering as well. The Supreme Court has upheld these restrictions in order to avoid the deleterious influences on federal elections resulting from the use of money by those who exercise control over large aggregations of capital. By treating both corporations and unions similarly we extend current regulation cautiously and fairly. I feel that this prohibition, coupled with the disclosure requirements, will address many of the concerns my colleagues from both sides of the aisle have raised with regards to our current campaign finance laws.

Mr. President, I think it is important to clarify at this time some of the things that this bill will not do. It will not prevent grass-roots lobbying communications, it does not cover printed material, nor require the text or a copy of the advertisement to be disclosed. Finally, it does not restrict how much money can be spent on ads, nor restrict how much money a group raises. These points must be expressed early on to ensure that my colleagues can clearly understand what we are and are not attempting to do with our legislation.

We have taken great care with our bill to avoid violating the important principles in the First Amendment of our Constitution. This has required us to review the seminal cases in this area, including *Buckley* v. *Valeo*. Limiting corporate and union spending and disclosure rules has been an area that the Supreme Court has been most tolerant of regulation. We also strove to make the requirements sufficiently clear and narrow to overcome unconstitutional claims of vagueness and overbreadth.

Mr. President, I wish I could guarantee to my colleagues that these provisions would be held constitutional, but as we found out with the Religious Freedom Restoration Act, even with near unanimous support, it is difficult to gauge what the Supreme Court will decide on constitutional issues. However, I feel that the provisions we have created follow closely the constitutional roadmap established by the Supreme Court by the decisions in this area, and that it would be upheld.

I know that campaign finance reform is an area of diverse viewpoints and beliefs. However, I feel that the ATACC act offers a constructive and constitutional solution that addresses some of the problems that have been expressed concerning our current campaign finance system. The American people are watching and hoping that we will have a fair, informative and productive debate on campaign finance reform. I know that the proposal that Senator SNOWE and I have put forward will do just that.

The electorate has grown more and more disappointed with the tenor of campaigns over the last few years, and this disappointment is reflected in the low number of people that actually participate in what makes this country and democracy great, voting. I feel that giving the voters the additional information required by our legislation will help dispel some of the disillusionment the electorate feel with our campaign system and reinvigorate people to participate again in our democratic system.

In conclusion, the very basis of our democracy requires that an informed electorate participate by going to the polls and voting. The ATACC act will through its disclosure requirements inform our electorate and lead people to again participate in our democratic system.

By Ms. SNOWE:

S. 80. A bill to establish the position of Assistant United States Trade Representative for Small Business, and for other purposes; to the Committee on Finance.

SMALL BUSINESS ENHANCEMENT ACT

Ms. SNOWE. Mr. President, I rise today to introduce legislation designed to help America's small businesses. This legislation will assist small businesses by requiring an estimate of the cost of a bill on small businesses before Congress enacts the legislation, and by creating an Assistant U.S. Trade Representative for Small Business.

Small business is the driving force behind our economy, and in order to create jobs—both in my home State of Maine and across the Nation—we must encourage small business expansion.

Nationwide, an estimated 13 to 16 million small businesses represent over 99 percent of all employers. They also employ 52 percent of the workers, and 38 percent of workers in high-tech occupations. Small businesses account for virtually all of the net new jobs, and 51 percent of private sector output.

In my home State of Maine, of the 36,660 businesses with employees in 1997, 97.6 percent of the businesses were small businesses. Maine also boasts an estimated 71,000 self-employed persons. In terms of job growth, small businesses are credited with all of the net new jobs in a survey of job growth from 1992 to 1996.

Small businesses are the most successful tool we have for job creation. They provide a substantial majority of the initial job opportunities in this country, and are the original—and finest—job training program. Unfortunately, as much as small businesses help our own economy—and the Federal Government—by creating jobs and building economic growth, government often gets in the way. Instead of assisting small business, Government too often frustrates small business efforts.

Federal regulations create more than 1 billion hours of paperwork for small businesses each year, according to the Small Business Administration. Moreover, because of the size of some of the largest American corporations, U.S. commerce officials too often devote a disproportionate amount of time to the needs and jobs in corporate America rather than in small businesses.

My legislation will address two problems facing our Nation's small businesses, and I hope it will both encourage small business expansion and fuel job creation.

One, this legislation will require a cost analysis legislative proposal before new requirements are passed on to small businesses. Too often, Congress approves well-intended legislation that shifts the costs of programs to small businesses. This proposal will help ensure that these unintended consequences are not passed along to small businesses.

According to the U.S. Small Business Administration, small business owners spend at least 1 billion hours a year filling out government paperwork, at an annual cost that exceeds $100 billion. Before we place yet another obstacle in the path of small business job creation, we should understand the costs our proposals will impose on small businesses.

This bill will require the Director of the Congressional Budget Office to prepare for each committee an analysis of the costs to small businesses that would be incurred in carrying out provisions contained in new legislation. This cost analysis will include an estimate of costs incurred in carrying out the bill or resolution for a 4-year period, as well as an estimate of the portion of these costs that would be borne by small businesses. This provision will allow us to fully consider the impact of our actions on small businesses—and through careful planning, we may succeed in avoiding unintended costs.

Two, this legislation will direct the U.S. Trade Representative to establish a position of Assistant U.S. Trade Representative for Small Business. The Office of the U.S. Trade Representative is overburdened, and too often overlooks the needs of small business. The new Assistant U.S. Trade Representative will promote exports by small businesses and work to remove foreign impediments to these exports.

Mr. President, I am convinced that this legislation will truly assist small businesses, resulting not only in additional entrepreneurial opportunities but also in new jobs. I urge my colleagues to join me in supporting this legislation.

By Mr. McCAIN (for himself, Mr. FRIST, Mr. ALLARD, and Mr. AKAKA):

S. 81. A bill to authorize the Federal Aviation Administration to establish rules governing park overflights; to the Committee on Commerce, Science, and Transportation.

NATIONAL PARKS OVERFLIGHTS ACT

Mr. McCAIN. Mr. President, I rise today to introduce the National Parks Overflights Act. This legislation intends to promote air safety and protect natural quiet in our national parks by providing a process for developing air tour management plans (ATMP) at those parks. An ATMP at a national park would manage commercial air tour flights over and around that park, and over any Native American lands within or adjacent to the park.

I would like to remind my colleagues that this is the same legislation that was approved overwhelmingly by the Senate last September, as part of the Wendell H. Ford National Air Transportation System Improvement Act, or the Federal Aviation Administration (FAA) reauthorization bill. Today I reintroduced the FAA reauthorization bill that was approved by the Senate last year. Title VI of the bill deals with national parks overflights.

Mr. President, the National Parks Overflights Act was developed at the recommendation of the National Parks Overflights Working Group. The working group was established to develop a plan for instituting flight restrictions over national parks because of the noise and environmental consequences associated with commercial air tours of the parks. Environmentalists, as well as general aviation and air tour industry representatives, constituted the membership of the working group. The group recommended a consensus proposal on overflights, which is embodied in the National Parks Overflights Act.

Visitors to our national parks, whether by air or through the entrance gate, deserve a safe and quality visitor experience. The number of air tour flights across the country is on the rise. As additional aircraft operate in concentrated airspace, the risk of an accident increases. We have a responsibility to manage park airspace to provide for the safe and orderly flow of traffic.

"Natural quiet," or the ambient sounds of the environment without the intrusion of manmade noise, is a highly valued resource for visitors to our national parks. As commercial air tour flights increase, their noise also increases, which can impair the opportunity for park visitors on the ground to enjoy the natural quiet that they seek and deserve.

The National Parks Overflights Act seeks to promote both safety and natural quiet by providing a fair and balanced process for the development of Air Tour Management Plans at individual parks. The FAA Administrator and the Director of the National Park Service are to work cooperatively to develop an ATMP through a public process.

The development of an ATMP will include the environmental requirements of the National Environmental Policy Act. The bill would also require that commercial air tour operators increase their safety standards, specifically by meeting FAA Part 135 or Part 121 safety criteria.

Certain parks have been dealt with individually in the bill because of their unique circumstances. Since Grand Canyon overflights are governed by legislation that has already been enacted into law, the Grand Canyon National Park has been exempted from the legislation. Alaska is also exempt from the legislation given the vast expanse of park land and the unique nature of aviation in the state. The legislation would prohibit commercial air tours of the Rocky Mountain National Park.

Let me conclude by saying that commercial air tours provide a legitimate means of experiencing national parks. They are particularly important for providing access to the elderly and the disabled. I believe that this legislation appropriately balances the rights of all park visitors. I hope and expect that we can work together toward its swift enactment.

By Mr. McCAIN (for himself, Mr. HOLLINGS, Mr. LOTT, Mr. ROCKEFELLER, Mr. FRIST, Mr. BRYAN, Mr. WYDEN and Mr. AKAKA):

S. 82. A bill to authorize appropriations for Federal Aviation Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE AIR TRANSPORTATION IMPROVEMENT ACT

Mr. McCAIN. Mr. President, I rise today to introduce the Air Transportation Improvement Act, which would reauthorize the programs of the Federal Aviation Administration (FAA), including the Airport Improvement Program (AIP). This legislation includes numerous provisions that will help sustain and enhance safety, security, efficiency, and competition in the national aviation system. The bill also would establish a widely-endorsed system for managing the environmental consequences of commercial air tour flights over national parks.

As most of my colleagues know, the Commerce Committee worked hard last year to develop a multi-year FAA reauthorization bill. Following a bipartisan, inclusive, and constructive process, we developed a package that among other things would have authorized important airport construction grants. The legislation also would have instituted a host of safety and security enhancements.

One of the key elements of last year's Senate-passed FAA bill was the aviation competition and service title. It would have modestly enhanced the capacity at the four slot-controlled airports in the country—LaGuardia and JFK in New York, Chicago O'Hare, and Reagan National. New entrant, low fare carriers have been effectively shut out of these key markets, which are critical to sustaining a healthy network and giving consumers new low cost choices.

Senator FRIST and Majority Leader LOTT were instrumental in developing these proposals. Senator FRIST in particular has been out in front in the effort to bolster the role that regional jets play in the overall aviation system. As everyone who cares about the quality of air service knows, regional jets will be integral to expanding and improving service to small and medium-sized communities in the years to come.

Unfortunately, special interests worked to thwart our efforts and killed these provisions to encourage airline competition. Instead of delivering pro-consumer aviation legislation to the traveling public, Congress failed to act after some of the major airlines applied pressure against these proposals that threatened their lock on the market.

On the same day that the Senate approved the bill by a vote of 92 to one, we also appointed conferees. Although the House approved its own FAA reauthorization bill in August of last year, the leadership failed to appoint conferees. As a result, the two chambers were never given an opportunity to reconcile the two bills. Congress was then forced to include a short-term reauthorization of the AIP in the Omnibus Appropriations Act for fiscal year 1999. This was a clear failure on the part of the 105th Congress.

The text of the bill I am introducing today is nearly identical to the FAA reauthorization bill that the Senate approved overwhelmingly last year. The only changes that have been made involve a few purely technical corrections and removal of provisions that have already been enacted into law.

In last year's Omnibus Appropriations Act, we reauthorized the AIP for six months so that this Congress would have to act immediately to complete the work of the last Congress. The AIP is set to expire on March 31, 1999. With the introduction of this bill, I am fulfilling my commitment to continue the reauthorization process where the last Congress left off in a time frame that ensures the continuation of the federal airport grant program.

I plan to hold a hearing on this bill and to mark it up as soon as possible. The heavy lifting has already been done. The bill may undergo some revisions, especially considering our good fortune to have Senator ROCKEFELLER appointed as the new ranking member on the Aviation Subcommittee. Even so, it will not be necessary for us to start from scratch. As the Commerce Committee begins this effort, I look forward to working again with Senators GORTON, HOLLINGS, and ROCKEFELLER, as well as the rest of my colleagues, on a reauthorization package that all Senators can support.

Mr. President, we must work over the next few months to finish the job we started last year. It is vital that we push forward with the important pro-consumer provisions that are included in this bill. Last year, consumers lost out to special interests. This year, I will use all means at my disposal to ensure that does not happen again.

Mr. ROCKEFELLER. Mr. President, today, I join with Senator MCCAIN, Senator HOLLINGS and others in introducing legislation to authorize spending for the Federal Aviation Administration (FAA) through fiscal year 2000. As we embark on this new session of a new Congress, it is critical that we begin immediately the process of putting together a comprehensive aviation bill—to ensure that the FAA is fully authorized, to facilitate continued critical airport development, and to address a number of broad aviation policy matters.

I want to make clear at the outset that I join as a cosponsor of this bill as a starting point. Senator MCCAIN plans to pursue vigorously a comprehensive bill, and that will be our first order of business, but haste may not allow us to do all that we want and have a responsibility to do, particularly if the House continues to pursue its own clean, 6-month reauthorization bill, and then a long-term bill. I am hopeful that we will accomplish our objectives expeditiously, but I see any number of hurdles in our path and believe that in the Senate, too, we may need to pursue a short-term extension and then give this legislation the consideration it is due.

As my colleagues know, I have the honor in this Congress of following in the great foot steps of Wendell Ford, who served this body for 24 years, and served as Chairman and Ranking Member of the Aviation Subcommittee for as long as any of us can remember. In fact, the bill being introduced today, essentially the same bill that passed the Senate last year, honored the Senator by naming it the Wendell H. Ford Air Transportation Safety Improvement Act, at the unanimously-endorsed suggestion of Senator TED STEVENS.

In stepping into Senator Ford's shoes, I aim to ensure not only that the aviation needs of West Virginia and other rural states and communities are secured, but also that the needs of the nation and of my colleagues' constituents are addressed. Certainly there will be competing interests and sometimes conflicts, but we all must and share in the fundamental responsibility to maintain safety in the skies, to support fully the needs of the aviation system and modernization effort, to ensure that the industry provides the service our constituents demand and deserve, to facilitate stable funding sources for our airports, and to be vigilant in opening up markets for our air carriers worldwide. These are all daunting tasks but we are up to the challenge, and I look forward to working with the Chairman, and members of the Committee in crafting an aviation bill that we can all take pride in.

The bill before you is a place to begin our discussion.

Last year, the Congress was able to pass only a six-month extension of the Airport Improvement Program (AIP), effectively freezing half of the $1.95 billion allocated to the program. Absent a reauthorization, our airports and our constituents may lose the ability to upgrade a runway or start an expansion project that facilitates new business opportunities for our communities—all because we're having trouble figuring out a way out of the box we are in. Senator MCCAIN's resolve notwithstanding, our House counterparts have already favorably reported a clean, 6-month extension of the program. Even if we can reach agreement about our immediate needs, I do not want the Senate to pass a bill only to see the program lapse because our House colleagues refuse to consider anything other than a clean, short-term extension, before the March deadline, saving the major issues and a long-term bill for later in the year. The blame-game that would ensue would only harm the citizens who sent us here. We can get more slots, we can work to improve service to small communities, we can make sure the FAA has the ability to move forward with its modernization plans, but it will not happen overnight.

Let me give you but one example. Senator GORTON last year offered an amendment in the Commerce Committee that would have raised the passenger facility charge (PFC) from $3 per enplanement to $4. I supported Senator GORTON. I expect that he will again try to raise the PFC, and the Administration has indicated that they will propose an increase as well. This is a tough issue, pitting the carriers against the airports, and letting some claim that it is a new tax. However, another dollar could get us a lot more capacity at our nation's airports.

In front of us are the daunting future needs of the aviation system. All of the projections show that we will have 300 million more passengers by the year 2009. As much as I would like them all to flow through West Virginia, I know that all of our airports will face constraints—money is tight, and a PFC increase will help. How the PFC is structured, the types of controls possible, and what they are used for, are all difficult choices, and I want to work with the airports and the carriers to try to resolve this issue in a balanced way.

The air traffic control system also needs to be revamped. It is a complex system and each new system requires changes in the cockpit, new procedures and new avionics—change, therefore, that cannot happen overnight. GAO recently reported that the FAA is making progress, changing the way it does business and working with the industry to figure out what is needed. GAO also reports that the FAA will need $17 billion to complete the modernization effort. Without that degree of funding, we may not be able to get all we want—new computers, new ways to move aircraft, and more capacity to make the system safer. According to the National Civil Aviation Review Commission, unless we address this problem, we are facing gridlock in the skies.

So, funding of the FAA is a critical, critical matter. I know Congressman SHUSTER wants to take the Airport and Airways Trust Fund off budget, but what I found last year is that the offset for taking trust funds can be devastating to totally unrelated programs. Right now, I know that the FAA is supported not only by the Trust Fund revenues, but also a large contribution from the general fund, which should be continued in recognition of the important public benefits provided by aviation.

Finally, I know that the administration will be submitting its legislative proposal to us within the next few weeks. We need to take a careful look at those recommendations, and sit down with Secretary Slater and Administrator Garvey to develop a blueprint for the future. We have an opportunity this year to make some real changes. I do not want it to pass us by.

Mr. HOLLINGS. Mr. President: As the 106th Congress begins, we have to address unfinished business first. As many Senators know, the vitally important legislation to reauthorize the Federal Aviation Administration (FAA) and the Airport Improvement Program (AIP) passed in September by a vote of 92–1. For a variety of reasons negotiations between the House and Senate unfortunately resulted in only a 6-month extension, expiring at the end of March of this year.

The bill being introduced today is an effort to reauthorize the programs of the Federal Aviation Administration for two years. In today's global economy, adequate airport facilities are a critical component of any economic development program. The FAA's Airport Improvement Program plays a central role in ensuring that communities have adequate airport facilities. For FY 1998, the FAA received $1.9 billion. For FY 1999, the FAA would have received $1.95 billion. Instead, the agency will receive only half of that amount, unless we pass either a short term bill or a long term extension of the program. One course we know can work quickly. The other course is more challenging.

While it is critically important that we work together to pass this vital legislation, I do want to raise an issue of fundamental importance. That is truth in budgeting. I have supported taking trust funds out of the unified Federal budget for many years. This year, there may be an opportunity to actually make it happen. What is good for highways is good for aviation. At the end of FY 1998, the Airport and Airway Trust Fund uncommitted surplus was $4.339 billion, according to the Congressional Budget Office. It is projected to rise to $13.419 billion by the end of FY 2000 and to $79.325 billion by FY 2008. We are collecting the taxes, but are not giving people what they expect, what they paid for, or what they deserve.

We know that the FAA needs money to buy new computers and to use satellite technology. We can take it from the existing revenues, while continuing the general fund contribution, or we can limp along, giving the FAA a portion of what we all know it needs. If we do that there are consequences, and the fault is ours, not the agency's. It is that simple.

There are difficult problems facing the 106th Congress. Our constituents are demanding reasonable fares. Competition can work well to give us reasonable fares, but it has also created unfortunate anomalies. Look around the country—in the 1980's, the Department of Transportation approved every single merger that was proposed. Now we have a consolidated industry, with the big 3 air carriers accounting for nearly 55–60% of the market, and the Northwest-Continental alliance accounting for another 16–17%.

Over the years, I have asked the General Accounting Office to look at fares at small and medium hubs, places like Charleston, S.C. They reported that fares were in fact higher, on average at Charleston, at Greenville, and many other small communities. Last week, the Department of Transportation reported that Charleston had the 5th highest air fares in the country. I did not realize we were 5th, a dubious honor, but I knew they were high. We have a deregulated air transportation system, dependent upon mega-carriers for service, and beholden to them on fares. Without a hub system aggregating traffic, small communities would not receive the service they do today. Yet, the same ability allows the carriers to place the small towns at their mercy. Our economy and ability to grow, to attract new businesses, are now highly dependent upon those same carriers. A low cost carrier may come into a market, cause a ripple in lowering the fares, and then be driven out. We had that with Air South. Getting service to one of the four slot-controlled airports, while important for that route, will not result in lower air fares for the rest of the markets. The average may drop overall, but the statistics do not then tell the real story. Determining how we address this problem will be difficult, but it must be done.

There also are a number of issues important to aviation employees and others that must be addressed as we move through the legislative process. For example, issues involving foreign repair stations must be examined, and the bill includes a task force to address this issue. FAA employees must once again be granted access to the Merit System Protection Board and a Universal Access System must be authorized. Whistle-blower protection is another important issue. I look forward to working with Chairman McCAIN, Chairman GORTON, and Ranking Member ROCKEFELLER toward meeting these objectives and ensuring that our final product is a bill that enjoys the broad support of the aviation community.

The comprehensive bill I am co-sponsoring today may not be completed for many months, and we may have to pass a short term extension to make sure that the money for airports does not get tied up. Nevertheless, I know that the Chairman is anxious to get us all moving, so let the debate begin and let us move forward expeditiously in order to fund these critically important programs.

Mr. BRYAN. Mr. President, I am pleased to join Chairman McCAIN today as a cosponsor of the Air Transportation Improvement Act. As Senator McCAIN has indicated, this legislation is exactly the same as legislation approved by the Senate last year by a vote of 99–1.

Passing legislation to extend the Airport Improvement Program needs to be among our highest priorities for early action in this Congress. While I do not support every provision of this legislation, it was a reasonable compromise, which enjoyed nearly unanimous support in the Senate last year. As pressure continues to increase on our national aviation system, and with the looming Y2K problem, we need to act quickly to ensure continued improvements in air safety and efficiency.

One provision of this legislation of particular interest to me, and many others, is the provision related to the Reagan Washington National Airport "perimeter rule."

Codified in 1986, the National "perimeter rule" limits non-stop flights serving National to destinations within 1250 miles of the airport. Originally enacted to promote the development of Dulles Airport as the region's long-haul carrier, the "perimeter rule" has long outlived its original justification, and remains today a significant barrier to competition in a very competitive aviation industry.

While the justification for the "perimeter rule" has long since faded, it continues to unfairly limit service to communities outside of the 1250 mile perimeter. Communities like Las Vegas, a community that desperately needs additional air service, are denied access to a very significant airport. In addition, air carriers which happen to operate hubs located outside of the perimeter face a very serious competitive disadvantage. On numerous occasions, the General Accounting Office has identified the "perimeter rule" as a barrier to entry in the Washington, DC air service market.

Simply put, the "perimeter rule" should be repealed. Nevadans, and other Westerners, deserve the same access to our nation's capital city as those in the East. Continuing this discriminatory, artificial barrier to competition creates major inequities in our national transportation system.

The legislation we are introducing today, unfortunately, does not repeal the "perimeter rule." Instead, like the legislation passed last year by the Senate, the legislation grants limited exemptions from the perimeter rule for up to 12 additional slots a day at Washington National. Last year, in the interest of compromise, I supported this approach. I continue to be concerned, however, that the 12 new, outside the perimeter slots, if enacted, will be insufficient to truly address the competitive problems created by the "perimeter rule." While I support Chairman McCAIN's attempt to reach consensus on this issue, I am hopeful that last year's approach can be further refined to create additional opportunities for Washington National service from beyond the 1250 mile perimeter, while at the same time recognizing the interests of those communities within the current perimeter, as well as Northern Virginia.

I look forward to working with the Chairman, and other members of the Commerce Committee, on this important legislation.

By Ms. SNOWE:

S. 90. A bill to establish reform criteria to permit payment of United States arrearages in assessed contributions to the United Nations; to the Committee on Foreign Relations.

By Ms. SNOWE:

S. 91. A bill to restrict intelligence sharing with the United Nations; to the Committee on Foreign Relations.

UNITED NATIONS REFORM LEGISLATION

Ms. SNOWE. Mr. President, today I am submitting two pieces of legislation to address some of the most critical issues affecting our relations with the United Nations—the U.S. arrearage in financial contributions to the United Nations, and sharing of intelligence information with the U.N.

The first bill, the United Nations Reform Act is a bill that I have been working on for several years beginning in my former capacity as chair of the Foreign Relations Subcommittee on International Operations. With the United Nations now entering its second half-century, the question being raised is not whether the United Nations can continue its growth for another 50 years, but whether it can survive as an important international institution in the short term.

I believe we must genuinely restore a bipartisan consensus on the United Nations within Congress and among the American people. That is the intent of this legislation, which sets reasonable and achievable reform criteria for the United Nations, linked to a 5-year repayment plan for the arrearages that have built up on the U.N. system.

The plan would set up a five-step/five-year process under which the President would each year have to certify that specific reform guideposts have been met at the United Nations, permitting payment each year of one-fifth of outstanding U.S. arrearages.

In the first year, the President would have to certify that a hard freeze zero nominal growth budget at the United Nations had been maintained and that budgetary transparency at the world body had been enhanced through opening up the United Nations to member State auditing and fully funding the new U.N. inspector general office.

In the second year, the President would have to certify that U.S. representation had been restored to a key U.N. budgetary oversight body the Advisory Committee on Administrative and Budgetary Questions [ACABQ].

In the third year, the President would have to certify that a long-standing U.N. peacekeeping reform goal had been achieved. This reform would ensure that the United States receives full credit or reimbursement for the very substantial logistical and in-kind support our military provides to assessed U.N. peacekeeping missions.

In the fourth year, the President would have to certify that a significant reform in the United Nations' budget process had been achieved. This reform would be to divide the U.N. regular budget into an assessed core budget and a voluntary program budget. The source of much of the United Nations' problems stems from the fact that the United Nations' assessed budget is increasingly used for development programs and other activities that should not be included in our mandatory dues for membership. This reform can be achieved without a revision in the U.N. Charter.

Finally, in the fifth year the President would have to certify that a major U.N. consolidation plan has been approved and implemented. This plan must entail a significant reduction in staff and an elimination of the rampant duplication, overlap, and lack of coordination that exists throughout the U.N. system.

Clearly, there is an urgent need to turn around the United Nations' dangerous slide into constant crisis, which could ultimately threaten the organization's usefulness as an important tool for addressing world problems. I am convinced that this can only be achieved through the kind of bold reform agenda that is set forth in this legislation.

Mr. President, I believe it is useful for us to look back on the original purpose of the United Nations, as it was envisioned 51 years ago. The United Nations was created from the ashes of World War II, with the hope of avoiding future world-wide conflagrations through international cooperation. The main focus for this mission was the Security Council, the only entity empowered under the U.N. Charter to act on the great questions of world peace. The General Assembly was intended to be a forum for debate on any issue that any nation wanted to bring before the assembled nations of the world. The U.N. Secretariat was to be a small professional staff needed to support the activities of the Security Council and General Assembly.

The U.N. system was also to conduct specific activities in technical cooperation, such as those undertaken by the International Civil Aviation Organization and the International Telecommunications Union. Finally, the United Nations was to have an important role in responding to international humanitarian crises. Most critical is the work of the U.N. High Commissioner for Refugees, who today protects millions of the world's most vulnerable men, women, and children—particularly women and children, who comprise 80 percent of the world's refugees.

Regrettably, the United Nations system that exists today falls short of the intentions of its founders. There are two interrelated, fundamental problems with the U.N. system. One is that there are those who attempted to use the world organization to advance agendas that frankly do not reflect world realities. The more the United Nations is used to transcend what some see as the harsh realities of the world and its Nation-State system, the less relevant the United Nations becomes to the real world in which we all live.

Closely related has been the massive and uncoordinated growth of the United Nations and its specialized agencies. The U.N. General Assembly and its related bodies in the specialized agencies have used the tool of the budget to grow the U.N. bureaucracy far beyond what is needed to respond to real world problems. The small professional staff of the U.N. Secretariat now approaches 18,000—counting the proliferation of consultants and contract employees—and the staff of the U.N. system worldwide now exceeds 53,000.

Too many nations simply do not find a compelling need for efficiency and budgetary restraint in the U.N. system. Of the U.N.'s 185 member nations, a near-majority are assessed at the minimum .01 percent rate, paying essentially nothing toward U.N. budget. The top ten assessed countries—United States, Japan, Germany, France, Russia, Britain, Italy, Canada, Spain and Brazil—are billed for almost 80 percent of the U.N. budget, with the United States paying more than any other country. In just 10 years of supposed zero-growth budgets, the U.N.'s budget doubled. Over the last two decades, the U.N.'s budget has tripled.

There are those who argue that all of the U.N.'s problems come from the United States. But the United Nation's difficulties with the United States arise from these deeply rooted problems within the U.N. structure itself. Even many supporters of the United Nations have characterized today's U.N. system as bloated, inefficient, duplicative, and disorganized. For instance, Canadian businessman and six-time U.N. Under-Secretary-General Maurice Strong has stated that the United Nations could work better than it does today with less than half as many people.

The surprising thing is that among serious analysts of the United Nations there is remarkable agreement on what needs to be done. The U.N. system needs to be significantly reduced in size and needs true consolidation among its far-flung, duplicative elements. The budget process needs similarly dramatic reform. The United Nations needs to concentrate on a few key achievable missions—security, humanitarian relief, purely technical cooperation—and refrain from its proliferating exercises in internal nation-building and grandiose missions of global norm-setting. All of these basic reform needs have been addressed in the U.N. reform legislation I am introducing today.

This legislation, I believe, will go a long way toward setting a new course in our relations with the United Nations. If we in Congress fail to rise to the challenge; if the U.N. attempts to defend an unsustainable status quo; if the Administration's new foreign policy team does not reach out to Congress to achieve a genuine bipartisan consensus on the need for U.N. reform; if the U.N.'s dangerous slide to expensive irrelevance continues, then we will have lost a unique opportunity for reform. If this should happen, it is not at all clear to me whether such an opportunity will soon return.

As a complement to my U.N. reform bill, I am also introducing this U.N.-related bill which I sponsored in the last two Congresses to protect U.S. intelligence information which is shared with the United Nations or any of its affiliated organizations by requiring that procedures for protecting intelligence sources and methods are in place at the United Nations that are at least as stringent as those maintained by countries with which the United States regularly shares similar types of information. This requirement may be waived by the President for national security purposes but only on a case by case basis and only when all possible measures for protecting the information have been taken.

This legislation grew out of my concern about reports of breaches of U.S. classified material by the United Nations in 1993, 1994, and in 1995 when the United Nations pulled out of Somalia. I am pleased to note that some attention has been paid by this body to the problems that can result when U.S. intelligence information is shared with international bodies. Condition 5 of the resolution of ratification for the Chemical Weapons Convention, which protects U.S. intelligence shared with the Organization for the Protection of Chemical Weapons, was based on my intelligence-sharing legislation.

This legislation, I believe, will go a long way toward addressing the problems we have witnessed in the past concerning intelligence information sharing with the U.N.

Mr. President, I urge my colleagues to consider the legislation I am introducing today as the best course for restoring the bipartisan consensus in this country on the United Nations. I urge my colleagues to join me in supporting this legislation.

By Mr. DOMENICI (for himself, Mr. THOMPSON, Mr. LIEBERMAN, Mr. THOMAS, Ms. SNOWE, Mr. ROTH, Mr. GRASSLEY, Mr. GRAMM, Mr. NICKLES, Mr. ABRAHAM, Mr. FRIST, Mr. GRAMS, Mr. SMITH or Oregon, Mr. MCCAIN, Mr. KYL, Mr. LUGAR, and Ms. COLLINS):

S. 92. A bill to provide for biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

BIENNIAL BUDGETING AND APPROPRIATIONS ACT

Mr. DOMENICI. Mr. President, on behalf of Senator THOMPSON, the distinguished Chairman of the Governmental Affairs Committee, Senator LIEBERMAN, the distinguished Ranking Member of the Governmental Affairs Committee and 13 other Senators, I rise to introduce the "Biennial Budget and Appropriations Act," a bill to convert the budget and appropriations process to a two-year cycle and to enhance oversight of federal programs.

Mr. President, our most recent experience with the Omnibus Consolidated and Emergency Supplemental Appropriations Act shows the need for a biennial appropriations and budget process. That one bill clearly demonstrated Congress is incapable of completing the budget, authorizing, and appropriations process on an annual basis. That 4,000 paged bill contained 8 of the regular appropriations bills, $9 billion in revenue provisions, $21.4 billion in "emergency" spending, and 40 miscellaneous funding and authorization provisions.

Congress should now act to streamline the system by moving to a two-year, or biennial, budget process. This is the most important reform we can enact to streamline the budget process, to make the Senate a more deliberative and effective institution, and to make us more accountable to the American people.

Mr. President, moving to a biennial budget and appropriations process enjoys very broad support. President Clinton supports this bill. Presidents Reagan and Bush also proposed a biennial appropriations and budget cycle. Leon Panetta, who served as White House Chief of Staff, OMB Director, and House Budget Committee Chairman, has advocated a biennial budget since the late 1970s. Former OMB and CBO Director Alice Rivlin has called for a biennial budget the past two decades. Both of the Senate Leaders support this legislation. And, at the end of last year, 37 Senators wrote our two Senate Leaders calling for quick action to pass legislation to convert the budget and appropriations process to a two-year cycle.

The most recent comprehensive studies of the federal government and the Congress have recommended this reform. The Vice President's National Performance Review and the 1993 Joint Committee on the Reorganization of Congress both recommended a biennial appropriations and budget cycle.

A biennial budget will dramatically improve the current budget process. The current annual budget process is redundant, inefficient, and destined for failure each year. Look at what we struggle to complete each year under the current annual process. The annual budget process consumes three years: one year for the Administration to prepare the President's budget, another year for the Congress to put the budget into law, and the final year to actually execute the budget.

Today, I want to focus just on the Congressional budget process, the process of annually passing a budget resolution, authorization legislation, and 13 appropriation bills. The record clearly shows that last year's experience was nothing new. Under the annual process, we consistently fail to complete action on the 13 appropriations bills, to authorize programs, and to meet our deadlines.

Since 1950 Congress has only twice met the fiscal year deadline for completion of all thirteen individual appropriations bills to fully fund the government.

The Congressional Budget Office's recent report on unauthorized appropriations shows that for fiscal year 1999, 118 laws authorizing appropriations have expired. These laws cover over one-third or $102.1 billion of appropriations for non-defense programs. Another 10 laws authorizing non-defense appropriations will expire at the end of fiscal year 1997, representing $10.4 billion more in unauthorized non-defense programs.

We have met the statutory deadline to complete a budget resolution only three times since 1974. In 1995, we broke the Senate record for the most roll call votes cast in a day on a budget reconciliation bill. The Senate conducted 39 consecutive roll call votes that day, beginning at 9:29 in the morning and finishing up at 11:59 that night.

While we have made a number of improvements in the budget process, the current annual process is redundant and inefficient. The Senate has the same debate, amendments and votes on the same issue three or four times a year—once on the budget resolution, again on the authorization bill, and finally on the appropriations bill.

I recently asked the Congressional Research Service (CRS) to update and expand upon an analysis of the amount of time we spend on the budget. CRS looked at all votes on appropriations, revenue, reconciliation, and debt limit measures as well as budget resolutions. CRS then examined any other vote dealing with budgetary levels, Budget Act waivers, or votes pertaining to the budget process. Beginning with 1980, budget related votes started dominating the work of the Senate. In 1996, 73 percent of the votes the Senate took were related to the budget.

If we cannot adequately focus on our duties because we are constantly debating the budget in the authorization, budget, and appropriations process, just imagine how confused the American public is about what we are doing. The result is that the public does not understand what we are doing and it breeds cynicism about our government.

Under the legislation I am introducing today, the President would submit a two-year budget and Congress would consider a two-year budget resolution and 13 two-year appropriation bills during the first session of a Congress. The second session of the Congress would be devoted to consideration of authorization bills and for oversight of government agencies.

Most of the arguments against a biennial budget process will come from those who claim we cannot predict or plan on a two year basis. For most of the budget, we do not actually budget on an annual basis. Our entitlement and revenue laws are under permanent law and Congress does not change these law on an annual basis. The only component of the budget that is set in law annually are the appropriated, or discretionary, accounts.

Mr. President, the most predictable category of the budget are these appropriated, or discretionary, accounts of the federal government. I recently asked CBO to update an analysis of discretionary spending to determine those programs that had unpredictable or volatile funding needs. CBO found that only 4 percent of total discretionary funding fell into this category. Most of this spending is associated with international activities or emergencies. Because most of this funding cannot be predicted on an annual basis, a biennial budget is no less deficient than the current annual process. My bill does not preclude supplemental appropriations necessary to meet these emergency or unanticipated requirements.

Mr. President, in 1993 I had the honor to serve as co-Chairman on a Joint Committee that studied the operations of the Congress. Senator Byrd testified before that Committee that the increasing demands put on us as Senators has led to our "fractured attention." We simply are too busy to adequately focus on the people's business. This legislation is designed to free up time and focus our attention, particularly with respect to the oversight of federal programs and activities.

Frankly, the limited oversight we are now doing is not as good as it should be. We have a total of 34 House and Senate standing authorizing committees and these committees are increasingly crowded out of the legislative process. Under a biennial budget, the second year of the biennium will be exclusively devoted to examining federal programs and developing authorization legislation. The calendar will be free of the budget and appropriations process, giving these committees the time and opportunity to provide oversight, review and legislate changes to federal programs. Oversight and the authorization should be an ongoing process, but a biennial appropriations process will provide greater opportunity for legislators to concentrate on programs and policies in the second year.

We also build on the oversight process by incorporating the new requirements of the Government Performance and Results Act of 1993 into the biennial budget process. The primary objective of this law is to force the federal government to produce budgets focused on outcomes, not just dollars spent.

Mr. President, a biennial budget cannot make the difficult decisions that must be made in budgeting, but it can provide the tools necessary to make much better decisions. But, under the current annual budget process we are constantly spending the taxpayers' money instead of focusing on how best and most efficiently we should spend the taxpayers' money. By moving to a biennial budget cycle, we can plan, budget, and appropriate more effectively, strengthen oversight and watchdog functions, and improve the efficiency of government agencies.

Mr. President, I ask unanimous consent that a description of the Biennial Budgeting and Appropriations Act be made a part of the Record along with a copy of the bill.

There being no objection, the materials were ordered to be printed in the Record, as follows:

S. 92

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Biennial Budgeting and Appropriations Act".

SEC. 2. REVISION OF TIMETABLE.

Section 300 of the Congressional Budget Act of 1974 (2 U.S.C. 631) is amended to read as follows:

"TIMETABLE

"Sec. 300. (a) In General.—Except as provided by subsection (b), the timetable with respect to the congressional budget process for any Congress (beginning with the One Hundred Seventh Congress) is as follows:

"First Session

"On or before:	Action to be completed:
First Monday in February	President submits budget recommendations.
February 15	Congressional Budget Office submits report to Budget Committees.
Not later than 6 weeks after budget submission.	Committees submit views and estimates to Budget Committees.
April 1	Budget Committees report concurrent resolution on the biennial budget.
May 15	Congress completes action on concurrent resolution on the biennial budget.
May 15	Biennial appropriation bills may be considered in the House.
June 10	House Appropriations Committee reports last biennial appropriation bill.
June 30	House completes action on biennial appropriation bills.
August 1	Congress completes action on reconciliation legislation.
October 1	Biennium begins.

"Second Session

"On or before:	Action to be completed:
February 15	President submits budget review.
Not later than 6 weeks after President submits budget review.	Congressional Budget Office submits report to Budget Committees.
The last day of the session	Congress completes action on bills and resolutions authorizing new budget authority for the succeeding biennium.

"(b) Special Rule.—In the case of any first session of Congress that begins in any year immediately following a leap year and during which the term of a President (except a President who succeeds himself) begins, the following dates shall supersede those set forth in subsection (a):

"First Session

"On or before:	Action to be completed:
First Monday in April	President submits budget recommendations.
April 20	Committees submit views and estimates to Budget Committees.
May 15	Budget Committees report concurrent resolution on the biennial budget.
June 1	Congress completes action on concurrent resolution on the biennial budget.
July 1	Biennial appropriation bills may be considered in the House.
July 20	House completes action on biennial appropriation bills.
August 1	Congress completes action on reconciliation legislation.
October 1	Biennium begins.".

SEC. 3. AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

(a) Declaration of Purpose.—Section 2(2) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621(2)) is amended by striking "each year" and inserting "biennially".

(b) Definitions.—

(1) Budget resolution.—Section 3(4) of such Act (2 U.S.C. 622(4)) is amended by striking "fiscal year" each place it appears and inserting "biennium".

(2) Biennium.—Section 3 of such Act (2 U.S.C. 622) is further amended by adding at the end the following new paragraph:

"(11) The term 'biennium' means the period of 2 consecutive fiscal years beginning on October 1 of any odd-numbered year.".

(c) Biennial Concurrent Resolution on the Budget.—

(1) Contents of resolution.—Section 301(a) of such Act (2 U.S.C. 632(a)) is amended—

(A) in the matter preceding paragraph (1) by—

(i) striking "April 15 of each year" and inserting "May 15 of each odd-numbered year";

(ii) striking "the fiscal year beginning on October 1 of such year" the first place it appears and inserting "the biennium beginning on October 1 of such year"; and

(iii) striking "the fiscal year beginning on October 1 of such year" the second place it appears and inserting "each fiscal year in such period";

(B) in paragraph (6), by striking "for the fiscal year" and inserting "for each fiscal year in the biennium"; and

(C) in paragraph (7), by striking "for the first fiscal year" and inserting "for each fiscal year in the biennium".

(2) Additional matters.—Section 301(b)(3) of such Act (2 U.S.C. 632(b)) is amended by striking "for such fiscal year" and inserting "for either fiscal year in such biennium".

(3) Views of other committees.—Section 301(d) of such Act (2 U.S.C. 632(d)) is amended by inserting "(or, if applicable, as provided by section 300(b))" after "United States Code".

(4) Hearings.—Section 301(e)(1) of such Act (2 U.S.C. 632(e)) is amended by—

(A) striking "fiscal year" and inserting "biennium"; and

(B) inserting after the second sentence the following: "On or before April 1 of each odd-numbered year (or, if applicable, as provided by section 300(b)), the Committee on the Budget of each House shall report to its House the concurrent resolution on the budget referred to in subsection (a) for the biennium beginning on October 1 of that year.".

(5) Goals for reducing unemployment.—Section 301(f) of such Act (2 U.S.C. 632(f)) is amended by striking "fiscal year" each place it appears and inserting "biennium".

(6) Economic assumptions.—Section 301(g)(1) of such Act (2 U.S.C. 632(g)(1)) is amended by striking "for a fiscal year" and inserting "for a biennium".

(7) Section heading.—The section heading of section 301 of such Act is amended by striking "**ANNUAL**" and inserting "**BIENNIAL**".

(8) Table of contents.—The item relating to section 301 in the table of contents set forth in section 1(b) of such Act is amended by striking "Annual" and inserting "Biennial".

(d) Committee Allocations.—Section 302 is amended—

(1) in subsection (a)(1) by striking "for the first fiscal year of the resolution," and inserting "for each fiscal year in the biennium, for at least each of 4 ensuing fiscal years,";

(2) in subsection (f)(1), by striking "for a fiscal year" and inserting "for a biennium";

(3) in subsection (f)(1), by striking "first fiscal year" and inserting "each fiscal year of the biennum";

(4) in subsection (f)(2)(A), by striking "first fiscal year" and inserting "each fiscal year of the biennium"; and

(5) in subsection (g)(1)(A), by striking "April" and inserting "May".

(e) Section 303 Point of Order.—

(1) In general.—Section 303(a) of such Act (2 U.S.C. 634(a)) is amended by striking "first fiscal year" and inserting "each fiscal year of the biennium".

(2) Exceptions in the house.—Section 303(b)(1) of such Act (2 U.S.C. 634(b)) is amended—

(A) in subparagraph (A), by striking "the budget year" and inserting "the biennium"; and

(B) in subparagraph (B), by striking "the fiscal year" and inserting "the biennium".

(3) Application to the senate.—Section 303(c)(1) of such Act (2 U.S.C. 634(c)) is amended by—

(A) striking "fiscal year" and inserting "biennium"; and

(B) striking "that year" and inserting "each fiscal year of that biennium".

(f) Permissible Revisions of Concurrent Resolutions on the Budget.—Section 304(a) of such Act (2 U.S.C. 635) is amended—

(1) by striking "fiscal year" the first two places it appears and inserting "biennium";

(2) by striking "for such fiscal year"; and

(3) by inserting before the period "for such biennium".

(g) Procedures for Consideration of Budget Resolutions.—Section 305(a)(3) of such Act (2 U.S.C. 636(b)(3)) is amended by striking "fiscal year" and inserting "biennium".

(h) Completion of House Action on Appropriation Bills.—Section 307 of such Act (2 U.S.C. 638) is amended—

(1) by striking "each year" and inserting "each odd-numbered year";

(2) by striking "annual" and inserting "biennial";

(3) by striking "fiscal year" and inserting "biennium"; and

(4) by striking "that year" and inserting "each odd-numbered year".

(i) Completion of Action on Regular Appropriation Bills.—Section 309 of such Act (2 U.S.C. 640) is amended—

(1) by inserting "of any odd-numbered calendar year" after "July";

(2) by striking "annual" and inserting "biennial"; and

(3) by striking "fiscal year" and inserting "biennium".

(j) Reconciliation Process.—Section 310(a) of such Act (2 U.S.C. 641(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "any fiscal year" and inserting "any biennium"; and

(2) in paragraph (1) by striking "such fiscal year" each place it appears and inserting "any fiscal year covered by such resolution".

(k) Section 311 Point of Order.—

(1) In the house.—Section 311(a)(1) of such Act (2 U.S.C. 642(a)) is amended—

(A) by striking "for a fiscal year" and inserting "for a biennium";

(B) by striking "the first fiscal year" each place it appears and inserting "either fiscal year of the biennium"; and

(C) by striking "that first fiscal year" and inserting "each fiscal year in the biennium".

(2) In the senate.—Section 311(a)(2) of such Act is amended—

(A) by striking "for the first fiscal year" and inserting "for either fiscal year of the biennium"; and

(B) by striking "that first fiscal year" each place it appears and inserting "each fiscal year in the biennium".

(3) Social security levels.—Section 311(a)(3) of such Act is amended by—

(A) striking "for the first fiscal year" and inserting "each fiscal year in the biennium"; and

(B) striking "that fiscal year" and inserting "each fiscal year in the biennium".

(l) MDA Point of Order.—Section 312(c) of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended—

(1) by striking "for a fiscal year" and inserting "for a biennium";

(2) in paragraph (1), by striking "first fiscal year" and inserting "either fiscal year in the biennium";

(3) in paragraph (2), by striking "that fiscal year" and inserting "either fiscal year in the biennium"; and

(4) in the matter following paragraph (2), by striking "that fiscal year" and inserting "the applicable fiscal year".

SEC. 4. PAY-AS-YOU-GO IN THE SENATE.

Subparagraphs (A), (B), and (C) of section 202(b)(2) of House Concurrent Resolution 67 (104th Congress) are amended to read as follows:

"(A) The period of the biennium covered by the most recently adopted concurrent resolution on the budget.

"(B) The period of the first six fiscal years covered by the most recently adopted concurrent resolution on the budget.

"(C) The period of the four fiscal years following the first six fiscal years covered by the most recently adopted concurrent resolution on the budget.".

SEC. 5. AMENDMENTS TO TITLE 31, UNITED STATES CODE.

(a) Definition.—Section 1101 of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) 'biennium' has the meaning given to such term in paragraph (11) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(11)).".

(b) Budget Contents and Submission to the Congress.—

(1) Schedule.—The matter preceding paragraph (1) in section 1105(a) of title 31, United States Code, is amended to read as follows:

"(a) On or before the first Monday in February of each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974), beginning with the One Hundred Seventh Congress, the President shall transmit to the Congress, the budget for the biennium beginning on October 1 of such calendar year. The budget transmitted under this subsection shall include a budget message and summary and supporting information. The President shall include in each budget the following:".

(2) Expenditures.—Section 1105(a)(5) of title 31, United States Code, is amended by striking "the fiscal year for which the budget is submitted and the 4 fiscal years after that year" and inserting "each fiscal year in the biennium for which the budget is submitted and in the succeeding 4 years".

(3) Receipts.—Section 1105(a)(6) of title 31, United States Code, is amended by striking "the fiscal year for which the budget is submitted and the 4 fiscal years after that year" and inserting "each fiscal year in the biennium for which the budget is submitted and in the succeeding 4 years".

(4) Balance statements.—Section 1105(a)(9)(C) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(5) Functions and activities.—Section 1105(a)(12) of title 31, United States Code, is amended—

(A) in subparagraph (A), by striking "the fiscal year" and inserting "each fiscal year in the biennium"; and

(6) Allowances.—Section 1105(a)(13) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(7) Allowances for uncontrolled expenditures.—Section 1105(a)(14) of title 31, United States Code, is amended by striking "that year" and inserting "each fiscal year in the biennium for which the budget is submitted".

(8) Tax expenditures.—Section 1105(a)(16) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(9) Future years.—Section 1105(a)(17) of title 31, United States Code, is amended—

(A) by striking "the fiscal year following the fiscal year" and inserting "each fiscal year in the biennium following the biennium";

(B) by striking "that following fiscal year" and inserting "each such fiscal year"; and

(C) by striking "fiscal year before the fiscal year" and inserting "biennium before the biennium".

(10) Prior year outlays.—Section 1105(a)(18) of title 31, United States Code, is amended—

(A) by striking "the prior fiscal year" and inserting "each of the 2 most recently completed fiscal years,";

(B) by striking "for that year" and inserting "with respect to those fiscal years"; and

(C) by striking "in that year" and inserting "in those fiscal years".

(11) Prior year receipts.—Section 1105(a)(19) of title 31, United States Code, is amended—

(A) by striking "the prior fiscal year" and inserting "each of the 2 most recently completed fiscal years";

(B) by striking "for that year" and inserting "with respect to those fiscal years"; and

(C) by striking "in that year" each place it appears and inserting "in those fiscal years".

(c) Estimated Expenditures of Legislative and Judicial Branches.—Section 1105(b) of title 31, United States Code, is amended by striking "each year" and inserting "each even-numbered year".

(d) Recommendations To Meet Estimated Deficiencies.—Section 1105(c) of title 31, United States Code, is amended—

(1) by striking "the fiscal year for" the first place it appears and inserting "each fiscal year in the biennium for";

(2) by striking "the fiscal year for" the second place it appears and inserting "each

fiscal year of the biennium, as the case may be,"; and

(3) by striking "that year" and inserting "for each year of the biennium".

(e) Capital Investment Analysis.—Section 1105(e)(1) of title 31, United States Code, is amended by striking "ensuing fiscal year" and inserting "biennium to which such budget relates".

(f) Supplemental Budget Estimates and Changes.—

(1) In general.—Section 1106(a) of title 31, United States Code, is amended—

(A) in the matter preceding paragraph (1), by—

(i) striking "Before July 16 of each year," and inserting "Before February 15 of each even numbered year,"; and

(ii) striking "fiscal year" and inserting "biennium";

(B) in paragraph (1), by striking "that fiscal year" and inserting "each fiscal year in such biennium";

(C) in paragraph (2), by striking "4 fiscal years following the fiscal year" and inserting "4 fiscal years following the biennium"; and

(D) in paragraph (3), by striking "fiscal year" and inserting "biennium".

(2) Changes.—Section 1106(b) of title 31, United States Code, is amended by—

(A) striking "the fiscal year" and inserting "each fiscal year in the biennium";

(B) striking "April 11 and July 16 of each year" and inserting "February 15 of each even-numbered year"; and

(C) striking "July 16" and inserting "February 15 of each even-numbered year.".

(g) Current Programs and Activities Estimates.—

(1) In general.—Section 1109(a) of title 31, United States Code, is amended—

(A) by striking "On or before the first Monday after January 3 of each year (on or before February 5 in 1986)" and inserting "At the same time the budget required by section 1105 is submitted for a biennium"; and

(B) by striking "the following fiscal year" and inserting "each fiscal year of such period".

(2) Joint economic committee.—Section 1109(b) of title 31, United States Code, is amended by striking "March 1 of each year" and inserting "within 6 weeks of the President's budget submission for each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974)".

(h) Year-Ahead Requests for Authorizing Legislation.—Section 1110 of title 31, United States Code, is amended by—

(1) striking "May 16" and inserting "March 31"; and

(2) striking "year before the year in which the fiscal year begins" and inserting "calendar year preceding the calendar year in which the biennium begins".

SEC. 6. TWO-YEAR APPROPRIATIONS; TITLE AND STYLE OF APPROPRIATIONS ACTS.

Section 105 of title 1, United States Code, is amended to read as follows:

"§ 105. Title and style of appropriations Acts

"(a) The style and title of all Acts making appropriations for the support of the Government shall be as follows: 'An Act making appropriations (here insert the object) for each fiscal year in the biennium of fiscal years (here insert the fiscal years of the biennium).'.

"(b) All Acts making regular appropriations for the support of the Government shall be enacted for a biennium and shall specify the amount of appropriations provided for each fiscal year in such period.

"(c) For purposes of this section, the term 'biennium' has the same meaning as in section 3(11) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(11)).".

SEC. 7. MULTIYEAR AUTHORIZATIONS.

(a) In General.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"AUTHORIZATIONS OF APPROPRIATIONS

"Sec. 316. (a) Point of Order.—It shall not be in order in the House of Representatives or the Senate to consider—

"(1) any bill, joint resolution, amendment, motion, or conference report that authorizes appropriations for a period of less than 2 fiscal years, unless the program, project, or activity for which the appropriations are authorized will require no further appropriations and will be completed or terminated after the appropriations have been expended; and

"(2) in any odd-numbered year, any authorization or revenue bill or joint resolution until Congress completes action on the biennial budget resolution, all regular biennial appropriations bills, and all reconciliation bills.

"(b) Applicability.—In the Senate, subsection (a) shall not apply to—

"(1) any measure that is privileged for consideration pursuant to a rule or statute;

"(2) any matter considered in Executive Session; or

"(3) an appropriations measure or reconciliation bill.".

(b) Amendment to Table of Contents.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 313 the following new item:

"Sec. 316. Authorizations of appropriations.".

SEC. 8. GOVERNMENT PLANS ON A BIENNIAL BASIS.

(a) Strategic Plans.—Section 306 of title 5, United States Code, is amended—

(1) in subsection (a), by striking "September 30, 1997" and inserting "September 30, 2000";

(2) in subsection (b)—

(A) by striking "at least every three years" and inserting "at least every 4 years"; and

(B) by striking "five years forward" and inserting "six years forward"; and

(3) in subsection (c), by inserting a comma after "section" the second place it appears and adding "including a strategic plan submitted by September 30, 1997 meeting the requirements of subsection (a)".

(b) Budget Contents and Submission to Congress.—Paragraph (28) of section 1105(a) of title 31, United States Code, is amended by striking "beginning with fiscal year 1999, a" and inserting "beginning with fiscal year 2002, a biennial".

(c) Performance Plans.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter before paragraph (1)—

(i) by striking "section 1105(a)(29)" and inserting "section 1105(a)(28)"; and

(ii) by striking "an annual" and inserting "a biennial";

(B) in paragraph (1) by inserting after "program activity" the following: "for both years 1 and 2 of the biennial plan";

(C) in paragraph (5) by striking "and" after the semicolon,

(D) in paragraph (6) by striking the period and inserting a semicolon; and inserting "and" after the inserted semicolon; and

(E) by adding after paragraph (6) the following:

"(7) cover a 2-year period beginning with the first fiscal year of the next biennial budget cycle.";

(2) in subsection (d) by striking "annual" and inserting "biennial"; and

(3) in paragraph (6) of subsection (f) by striking "annual" and inserting "biennial".

(d) Managerial Accountability and Flexibility.—Section 9703 of title 31, United States Code, relating to managerial accountability, is amended—

(1) in subsection (a)—

(A) in the first sentence by striking "annual"; and

(B) by striking "section 1105(a)(29)" and inserting "section 1105(a)(28)";

(2) in subsection (e)—

(A) in the first sentence by striking "one or" before "years";

(B) in the second sentence by striking "a subsequent year" and inserting "for a subsequent 2-year period"; and

(C) in the third sentence by striking "three" and inserting "four".

(e) Pilot Projects for Performance Budgeting.—Section 1119 of title 31, United States Code, is amended—

(1) in paragraph (1) of subsection (d), by striking "annual" and inserting "biennial"; and

(2) in subsection (e), by striking "annual" and inserting "biennial".

(f) Strategic Plans.—Section 2802 of title 39, United States Code, is amended—

(1) in subsection (a), by striking "September 30, 1997" and inserting "September 30, 2000";

(2) in subsection (b), by striking "at least every three years" and inserting "at least every 4 years";

(3) by striking "five years forward" and inserting "six years forward"; and

(4) in subsection (c), by inserting a comma after "section" the second place it appears and inserting "including a strategic plan submitted by September 30, 1997 meeting the requirements of subsection (a)".

(g) Performance Plans.—Section 2803(a) of title 39, United States Code, is amended—

(1) in the matter before paragraph (1), by striking "an annual" and inserting "a biennial";

(2) in paragraph (1), by inserting after "program activity" the following: "for both years 1 and 2 of the biennial plan";

(3) in paragraph (5), by striking "and" after the semicolon;

(4) in paragraph (6), by striking the period and inserting "; and"; and

(5) by adding after paragraph (6) the following:

"(7) cover a 2-year period beginning with the first fiscal year of the next biennial budget cycle.".

(h) Committee Views of Plans and Reports.—Section 301(d) of the Congressional Budget Act (2 U.S.C. 632(d)) is amended by adding at the end "Each committee of the Senate or the House of Representatives shall review the strategic plans, performance plans, and performance reports, required under section 306 of title 5, United States Code, and sections 1115 and 1116 of title 31, United States Code, of all agencies under the jurisdiction of the committee. Each committee may provide its views on such plans or reports to the Committee on the Budget of the applicable House.".

(i) Effective Date.—

(1) In general.—The amendments made by this section shall take effect on March 1, 2000.

(2) AGENCY ACTIONS.—Effective on and after the date of enactment of this Act, each agency shall take such actions as necessary to prepare and submit any plan or report in accordance with the amendments made by this Act.

SEC. 9. BIENNIAL APPROPRIATIONS BILLS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 (2 U.S.C. 631 et seq.) is amended by adding at the end the following:

"CONSIDERATION OF BIENNIAL APPROPRIATIONS BILLS

"SEC. 317. It shall not be in order in the House of Representatives or the Senate in any odd-numbered year to consider any regular bill providing new budget authority or a limitation on obligations under the jurisdiction of any of the subcommittees of the Committees on Appropriations for only the first fiscal year of a biennium, unless the program, project, or activity for which the new budget authority or obligation limitation is provided will require no additional authority beyond 1 year and will be completed or terminated after the amount provided has been expended.".

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 313 the following new item:

"Sec. 317. Consideration of biennial appropriations bills.".

SEC. 10. REPORT ON TWO-YEAR FISCAL PERIOD.

Not later than 180 days after the date of enactment of this Act, the Director of OMB shall—

(1) determine the impact and feasibility of changing the definition of a fiscal year and the budget process based on that definition to a 2-year fiscal period with a biennial budget process based on the 2-year period; and

(2) report the findings of the study to the Committees on the Budget of the House of Representatives and the Senate.

SEC. 11. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in sections 8 and 10 and subsection (b), this Act and the amendments made by this Act shall take effect on January 1, 2001, and shall apply to budget resolutions and appropriations for the biennium beginning with fiscal year 2002.

(b) AUTHORIZATIONS FOR THE BIENNIUM.—For purposes of authorizations for the biennium beginning with fiscal year 2002, the provisions of this Act and the amendments made by this Act relating to 2-year authorizations shall take effect January 1, 2000.

DESCRIPTION OF THE BIENNIAL BUDGETING AND APPROPRIATIONS ACT

The Domenici bill would convert the annual budget, appropriations, and authorization process to a biennial, or two-year, cycle.

FIRST YEAR: BUDGET AND APPROPRIATIONS

Requires the President to submit a two-year budget at the beginning of the first session of a Congress. The President's budget would cover each year in the biennium and planning levels for the four out-years. Converts the "Mid-session Review" into a "Mid-biennium review". The President would submit his "mid-biennium review" at the beginning of the second year.

Requires Congress to adopt a two-year budget resolution and a reconciliation bill (if necessary). Instead of enforcing the first fiscal year and the sum of the five years set out in the budget resolution, the bill provides that the budget resolution establish binding levels for each year in the biennium and the sum of the six-year period. The bill modifies the time frames in the Senate ten-year pay-as-you-go point of order to provide that legislation could not increase the deficit for the biennium, the sum of the first six years, and the sum of the last 4 years.

Requires Congress to enact a two-year appropriations bills during the first session of Congress. Requires Congress to enact 13 appropriations bills covering a two-year period and provides a new majority point of order against appropriations bills that fail to cover two years.

Makes budgeting and appropriating the priority for the first session of a Congress. The bill provides a majority point of order against consideration of authorization and revenue legislation until the completion of the biennial budget resolution, reconciliation legislation (if necessary) and the thirteen biennial appropriations bills. An exception is made for certain "must-do" measures.

SECOND YEAR: AUTHORIZATION LEGISLATION AND ENHANCED OVERSIGHT

Devotes the second session of a Congress to consideration of biennial authorization bills and oversight of federal programs. The bill provides a majority point of order against authorization and revenue legislation that cover less than two years except those measures limited to temporary programs or activities lasting less than two years.

Modifies the Government Performance and Results Act of 1993 to incorporate the government performance planning and reporting process into the two-year budget cycle to enhance oversight of federal programs.

The Government Performance and Results Act of 1993 (the Results Act) requires federal agencies to develop strategic plans, performance plans, and performance reports. The law requires agencies to establish performance goals and to report on their actual performance in meeting these goals. The Results Act requires federal agencies to consult with congressional committees as they develop their plans. Beginning in 1997, the law will require all federal agencies to submit their strategic plans to the Office of Management and Budget, along with their budget submissions, by September 30 of each year. Finally, the Results Act requires the President to include a performance plan for the entire government as part of the budget submission, beginning with the FY 1999 budget.

The Domenici bill modifies the Results Act to place it on a two-year cycle along with the budget process. The bill also requires the authorizing committees to review the strategic plans, performance plans, and performance reports of federal agencies and to submit their views, if any, on these plans and reports as part of their views and estimates submissions to the budget committees.

Mr. THOMAS. Mr. President, I think it is great for us to get started with our work on the floor. We have been working, of course, in organizing our committees, drafting our bills, getting prepared—as a matter of fact, probably earlier than usual, despite the trial that is going on here. So it is good to get started.

I am pleased that our party has also an agenda. We will be talking about Social Security, of course. I think a great many changes need to be made there to ensure that this program continues, not only for those now drawing benefits but for those who will in the future.

We will be talking about education, seeking to get Federal help directly to the classrooms.

We will be talking about strengthening the military, which I think is very important and must be done.

I think tax reduction and tax reform is very high on our list of priorities. Certainly, we will be working on that.

Health care, of course, will be part of what we talk about.

And each of us, in addition to those, will have other issues.

So I rise to talk a moment this morning about biannual budgeting. It is a real pleasure for me to join the chairman of the Budget Committee, Senator DOMENICI, and chairman of the Governmental Affairs Committee, Senator THOMPSON, to introduce a bill that will create a 2-year budgeting appropriations process. We worked long and hard on that issue. I have been working on it for some time, largely because it is my belief that the current budgeting process is broken.

After last year's massive omnibus appropriations bill, which was a debacle, of course, I argue that the budget process needs to be changed. We spend entirely too much time, both in the Congress and in the executive branch, on budget issues.

Since the most recent budget process reform in 1974, Congress has consistently failed to complete action on the budget by the time of the start of the fiscal year and, as a result, have increasingly relied on omnibus measures that come in at the end.

Last year's experience ought to ensure that we do, in fact, need a change. In fact, only 4 of the 13 regular appropriations bills were passed for funding for 10 cabinet-level departments, and the rest was crammed into a 24-hour budget session, which does not work well. Not a new idea. As a matter of fact, since 1950, Congress has failed on the 13 individual appropriations bills to be funded in every year except 2—only 2 years did we succeed in doing that. We routinely fund unauthorized expenditures and appropriations. The idea is to have an Authorization Committee and an Appropriations Committee. The authorization is made and then it is funded. That has not been the case. We need to change that.

In response to that, I introduced, in the 104th Congress, legislation that would create a biannual budget, and I am very pleased to join in with Senators DOMENICI and THOMPSON in offering this bill this year. This legislation does not eliminate the budgeting process. Each step serves an important role and will continue to do that. However, basically, we would simply be doing it for 2 years rather than 1, having the off year for oversight.

I happen to think that one of the principal obligations of the Congress is oversight of the kinds of programs that have been funded by this Congress. We have not had the opportunity to do that. We have extended debate on appropriations throughout almost the entire year in each year of the 2-year periods. Almost all of us come from States where a 2-year cycle program is used and is successful. It is not a brand new idea and it can be done. I am sure there will be resistance, largely from the appropriators, who rather enjoy the power plays that go on each year through the appropriations process. But I believe in the old saying that we have often heard that "if you expect different results, you have to change the process."

The results we have had are not the kinds of results that most people would like to have. I think that it is high time for us to change the process, and I look forward very much to that.

Mr. THOMAS. Mr. President, it is an honor to once again join the Chairman of the Budget Committee, Senator DOMENICI, and the Chairman of the Government Affairs Committee, Senator THOMPSON in introducing legislation to create a two year budget and appropriations process. We've all worked long and hard on this issue and I am hopeful that we can finally enact this common sense reform this year.

I've been saying for awhile that the current budget process is breaking down. After last year's debacle with the massive omnibus appropriations bill, I'd argue that the budget process is broken. Congress and the executive branch spend entirely too much time on budget issues. Since the most recent budget process reform in 1974, Congress has consistently failed to complete action on the Federal budget before the start of the fiscal year and, as a result, has increasingly relied on omnibus spending measures to fund the Federal Government. Last year's experience should dispel any lingering doubts about whether the current process is broken. In fact, only four of the 13 regular appropriations bills were passed before funding for 10 Cabinet-level departments was crammed into one bill debated over just a 24 hour period.

The budget resolution, reconciliation bill and appropriations bill continue to become more time-consuming. In the process, authorizing committees are being squeezed out of the schedule. There are too many votes on the same issues and too much duplication. In the end, this time could be better spent conducting vigorous oversight of Federal programs which currently go unchecked.

In response to these problems, in the 104th Congress I introduced legislation that would create a biennial budget process. I am pleased to continue this effort by joining Senator DOMENICI and Senator THOMPSON in offering this bill. It will rectify many of the problems regarding the current process by promoting timely action on budget legislation. In addition, it will eliminate much of the redundancy in the current budget process. This legislation does not eliminate any of the current budget processes—each step serves an important role in congressional deliberations. However, by making decisions once every 2 years instead of annually, the burden should be significantly reduced.

Perhaps most importantly, biennial budgeting will provide more time for effective congressional oversight, which will help reduce the size and scope of the Federal Government. Congress simply needs more time to review existing Federal programs in order to determine priorities in our drive to balance the budget.

Another benefit of a 2 year budget cycle is its effect on long term planning. A biennial budget will allow the executive branch and State and local governments, all of which depend on congressional appropriations, to do a better job making plans for long term projects.

Two year budgets are not a novel idea. Nor will biennial budgeting cure all of the Federal Government's ills. However, separating the budget session from the oversight session works well across the country in our state legislatures.

This legislation is a solid first step toward reforming the congressional budget process. This concept enjoys strong bipartisan support. It is supported by the Clinton administration, Majority Leader LOTT and Minority Leader DASCHLE. In addition, 36 other Senators joined Senators DOMENICI, THOMPSON and I in sending a letter last year to Senate leaders calling for quick action on this bipartisan reform early this year. I am hopeful that effort and this bill will be a catalyst for swift action on this common sense, good government reform.

By Mr. DOMENICI (for himself, Mr. GRASSLEY, Mr. GORTON, Mr. ABRAHAM, Mr. FRIST, Mr. GRAMS, Mr. SMITH of Oregon, Mr. THOMAS, and Mr. KYL):

S. 93. A bill to improve and strengthen the budget process; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

BUDGET ENFORCEMENT ACT OF 1999

Mr. DOMENICI. Mr. President, I rise to introduce the Budget Enforcement Act of 1999. The time has come to conform our budget laws and procedures to a new fiscal environment. The Congressional Budget and Impoundment Control Act was enacted 25 years ago. Amendments to the Act, including the Gramm-Rudman-Hollings legislation in 1985, established new enforcement procedures that were further expanded and modified in the 1990 budget agreement. Those laws and procedures have served us well. In combination with a strong economy and robust revenue growth, not only have we balanced the Federal budget, we will shortly produce a surplus even excluding the current balances generated by Social Security program.

Laws and procedures developed over the last 25 years for a fiscal environment of deficits, cannot be appropriate for a fiscal environment of surpluses.

As an example, while the President a year ago in his State of the Union Address pledged to reserve "every penny" of the Social Security surpluses for the reform of that program, he and the Congress did not live up to that pledge last year. In one piece of legislation last fall, we spent $21.4 billion of these surpluses for so-called "emergencies". Moreover, in order to get appropriations bills signed into law, we relied on innovative financing mechanisms, a charitable characterization, to meet the spending limits. The fact that we will have difficulty meeting these limits in the coming year is not the fault of the limits that we agreed to on a bipartisan basis in 1997, it will be largely due to the reluctance to face the hard choices in appropriations last year.

This is not to say we have not accomplished a great deal in recent years. Since 1994, we curbed the rate of growth in spending through the enactment of legislation such as Freedom to Farm, welfare reform, and the Balanced Budget Act of 1997. While I am very proud that we have stemmed the growth rate in federal spending, we did not balance the budget by actually cutting spending. We did stop the explosive and unsustainable rate of growth in spending that begun in the 1960's with the help of the budget laws and amendments of the past 25 years. But even so, it should be clear that the current balanced budget is largely due to an unexpected growth in federal revenues due to our robust economy.

Beginning in 1990, we enjoyed the peace dividend with the end of the Cold War. The taxpayer did not see a dollar of that dividend. In 1998, we saw the balanced budget dividend, and we should produce a balanced budget dividend excluding the transactions of the Social Security trust fund in the very near future. It is time for the American taxpayer to collect a dividend.

In my view, the current budget process allows us to spend the taxpayer's money more easily than it is to let the American taxpayer keep what he has earned. We will collect more in taxes this year as a percentage of the economy than we have in any year since World War II.

We need to find a way to change our budget process in such a manner to stop the erosion on the spending side, while finding a way to return at least something to the American taxpayer.

Some will argue that we should abandon all of our budget laws and find a way to cut taxes at any cost. Others will demagogue Social Security and hope it can stop any tax relief and fight any changes to tighten controls on spending. We need to find a way to steer the middle course. We should reduce taxes, but in a way that ensures we set aside the entire Social Security surplus for legislation that restores the long-term solvency of this program.

With these objectives in mind, I am introducing today the Budget Enforcement Act of 1999. This bill would:

(1) streamline the budget process and enhance the oversight of Federal programs;

(2) curb the abuse of emergency spending;

(3) set aside and protect the Social Security surplus until we can ensure that Social Security will be there for every generation;

(4) make way for tax relief that does not tap Social Security surpluses;

(5) provide that we never again incur a government shutdown because of our failure to enact appropriations.

Title I contains the text of the Biennial Budgeting and Appropriations Act, which I am also introducing as separate legislation today. My remarks on that bill go into some detail on the need for this reform. In my view a biennial appropriations and budget process will streamline the budget process, enhance oversight, and allow Congress to review the budget and federal programs in a more deliberative and efficient manner.

Title II would reform the manner in which we treat emergency spending. In 1990, we devised the current system of caps on appropriated spending and the "pay-as-you-go" requirement for all other legislation. When we were developing these procedures, the distinguished senior Senator from West Virginia, Senator BYRD, had the foresight to recognize that we needed an exception for emergency legislation.

Since President Clinton made his pledge last January that every penny of the surplus should be reserved for Social Security reform, $27 billion in "emergency" spending has come out of the surplus. We could not find $1 out of the budget surplus to return to the American taxpayer, but we found $27 billion of "emergency" spending in one year to take out of the surplus for a host of programs, many of which are difficult to classify as an emergency.

Senator BYRD was correct in 1990. We need an exception for emergency spending and the bill I introduced today retains that exception. However, this bill says if something is truly an emergency, it should have the support of 60 Senators. Remember, the President said that every penny of the surplus—without exception—should be reserved for Social Security. I feel there should be a means to use a portion of the surplus for emergency spending, but only in extraordinary circumstances. Sixty votes in the Senate is not too much to ask.

Title III modifies the "pay-as-you-go" requirements to make clear that on-budget surpluses can be used to offset the cost of legislation. Current law is vague with respect to the application of the pay-as-you-go procedures when there is an on-budget surplus. Title III modifies the law and the Senate rule to make clear that the surpluses generated by Social Security are not available for tax or direct spending legislation. However, the on-budget surplus, the surplus excluding Social Security, would be available for such legislation.

Title IV contains Senator MCCAIN's legislation, the Government Shutdown Prevention Act, frequently referred to as an automatic continuing resolution (CR). This title provides that agencies will be automatically funded at the lower of the previous year's level or the level proposed by the President.

Title V is designated to end what has been characterized as the "vote-athon" on budget resolutions and reconciliation bills. This title is very similar to an amendment that Senator BYRD offered to the Balanced Budget Act of 1997, which was later dropped during conference.

The manner in which the Senate currently considers budget resolutions and reconciliation bills is demeaning because of two loopholes in the current law regarding the consideration of budget resolutions and reconciliation bills. The first loophole is that the time limitation on budget resolutions and reconciliation bills is for debate only. Senators can continue to offer amendments after the time has expired. This loophole has been exploited in recent years where there is this mad rush in the Senate at the end of the process to vote on amendments—a demeaning process for what is supposed to be the "world's greatest deliberative body." On October 27, 1995, the Senate broke a record by holding 39 consecutive roll call votes on a reconciliation bill, with the first vote beginning at 9:29 in the morning and the last vote ending at 11:59 that night.

The second loophole pertains to sense of the Senate amendments on budget resolutions. In the Senate, amendments to budget resolution must be germane. However, sense of the Senate amendments that are in the Budget Committee's jurisdiction are considered germane. By adding the words, "the funding levels in this resolution assume that", a Senator can make any sense of the Senate amendment germane. Instead of debating spending, revenue, and debt levels, the Senate now spends most of its time debating non-binding language on budget resolutions. For example, last year's Senate-passed budget resolution contained 65 separate sense of the Senate provisions. Ninety-nine of the 139 pages in that budget resolution were devoted to sense of the Senate provisions, ranging from agricultural trade policy to the Ten Commandments.

Title V makes two basic changes to Senate's procedures for consideration of budget resolutions and reconciliation bills. First, it provides a procedure similar to post-cloture for the consideration of budget resolutions and reconciliation bills. Second, it prohibits the inclusion of sense of the Senate language in budget resolutions and makes any sense of the Senate amendment not germane and subject to a 60 vote point of order under the Budget Act.

Mr. President, I have a more detailed description of this legislation and I ask unanimous consent that it be printed, with the text of the bill, in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 93

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Budget Enforcement Act of 1999".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—BIENNIAL BUDGETING AND APPROPRIATIONS

Sec. 101. Short title.
Sec. 102. Revision of timetable.
Sec. 103. Amendments to the Congressional Budget and Impoundment Control Act of 1974.
Sec. 104. Pay-as-you-go in the Senate.
Sec. 105. Amendments to title 31, United States Code.
Sec. 106. Two-year appropriations; title and style of appropriations Acts.
Sec. 107. Multiyear authorizations.
Sec. 108. Government plans on a biennial basis.
Sec. 109. Biennial appropriations bills.
Sec. 110. Report on two-year fiscal period.
Sec. 111. Effective date.

TITLE II—EMERGENCY SPENDING REFORMS

Sec. 201. Emergency designation guidance.

TITLE III—CLARIFYING CHANGES TO PAY-AS-YOU-GO

Sec. 301. Clarification on the application of section 202 of H. Con. Res. 67.
Sec. 302. Clarification of pay-as-you-go.
Sec. 303. Clarifications regarding extraneous matter.

TITLE IV—REFORM OF THE SENATE'S CONSIDERATION OF APPROPRIATIONS BILLS, BUDGET RESOLUTIONS, AND RECONCILIATION BILLS

Sec. 401. Short title.
Sec. 402. Amendment to title 31.
Sec. 403. Effective date and sunset.

TITLE V—BUDGET ACT AMENDMENTS REGARDING THE SENATE'S CONSIDERATION OF BUDGET RESOLUTION AND RECONCILIATION BILLS

Sec. 501. Consideration of budget measures in the Senate.

Sec. 502. Definition.
Sec. 503. Conforming the compensation of the director and deputy director of the Congressional Budget Office with other legislative branch support agencies.

TITLE I—BIENNIAL BUDGETING AND APPROPRIATIONS

SEC. 101. SHORT TITLE.

This title may be cited as the "Biennial Budgeting and Appropriations Act".

SEC. 102. REVISION OF TIMETABLE.

Section 300 of the Congressional Budget Act of 1974 (2 U.S.C. 631) is amended to read as follows:

"TIMETABLE

"SEC. 300. (a) IN GENERAL.—Except as provided by subsection (b), the timetable with respect to the congressional budget process for any Congress (beginning with the One Hundred Seventh Congress) is as follows:

"First Session

"On or before:	Action to be completed:
First Monday in February	President submits budget recommendations.
February 15	Congressional Budget Office submits report to Budget Committees.
Not later than 6 weeks after budget submission.	Committees submit views and estimates to Budget Committees.
April 1	Budget Committees report concurrent resolution on the biennial budget.
May 15	Congress completes action on concurrent resolution on the biennial budget.
May 15	Biennial appropriation bills may be considered in the House.
June 10	House Appropriations Committee reports last biennial appropriation bill.
June 30	House completes action on biennial appropriation bills.
August 1	Congress completes action on reconciliation legislation.
October 1	Biennium begins.

"Second Session

"On or before:	Action to be completed:
February 15	President submits budget review.
Not later than 6 weeks after President submits budget review.	Congressional Budget Office submits report to Budget Committees.
The last day of the session	Congress completes action on bills and resolutions authorizing new budget authority for the succeeding biennium.

"(b) SPECIAL RULE.—In the case of any first session of Congress that begins in any year immediately following a leap year and during which the term of a President (except a President who succeeds himself) begins, the following dates shall supersede those set forth in subsection (a):

"First Session

"On or before:	Action to be completed:
First Monday in April	President submits budget recommendations.
April 20	Committees submit views and estimates to Budget Committees.
May 15	Budget Committees report concurrent resolution on the biennial budget.
June 1	Congress completes action on concurrent resolution on the biennial budget.
July 1	Biennial appropriation bills may be considered in the House.
July 20	House completes action on biennial appropriation bills.
August 1	Congress completes action on reconciliation legislation.
October 1	Biennium begins.".

SEC. 103. AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

(a) DECLARATION OF PURPOSE.—Section 2(2) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621(2)) is amended by striking "each year" and inserting "biennially".

(b) DEFINITIONS.—

(1) BUDGET RESOLUTION.—Section 3(4) of such Act (2 U.S.C. 622(4)) is amended by striking "fiscal year" each place it appears and inserting "biennium".

(2) BIENNIUM.—Section 3 of such Act (2 U.S.C. 622) is further amended by adding at the end the following new paragraph:

"(11) The term 'biennium' means the period of 2 consecutive fiscal years beginning on October 1 of any odd-numbered year.".

(c) BIENNIAL CONCURRENT RESOLUTION ON THE BUDGET.—

(1) CONTENTS OF RESOLUTION.—Section 301(a) of such Act (2 U.S.C. 632(a)) is amended—

(A) in the matter preceding paragraph (1) by—

(i) striking "April 15 of each year" and inserting "May 15 of each odd-numbered year";

(ii) striking "the fiscal year beginning on October 1 of such year" the first place it appears and inserting "the biennium beginning on October 1 of such year"; and

(iii) striking "the fiscal year beginning on October 1 of such year" the second place it appears and inserting "each fiscal year in such period";

(B) in paragraph (6), by striking "for the fiscal year" and inserting "for each fiscal year in the biennium"; and

(C) in paragraph (7), by striking "for the first fiscal year" and inserting "for each fiscal year in the biennium".

(2) ADDITIONAL MATTERS.—Section 301(b)(3) of such Act (2 U.S.C. 632(b)) is amended by striking "for such fiscal year" and inserting "for either fiscal year in such biennium".

(3) VIEWS OF OTHER COMMITTEES.—Section 301(d) of such Act (2 U.S.C. 632(d)) is amended by inserting "(or, if applicable, as provided by section 300(b))" after "United States Code".

(4) HEARINGS.—Section 301(e)(1) of such Act (2 U.S.C. 632(e)) is amended by—

(A) striking "fiscal year" and inserting "biennium"; and

(B) inserting after the second sentence the following: "On or before April 1 of each odd-numbered year (or, if applicable, as provided by section 300(b)), the Committee on the Budget of each House shall report to its House the concurrent resolution on the budget referred to in subsection (a) for the biennium beginning on October 1 of that year.".

(5) GOALS FOR REDUCING UNEMPLOYMENT.—Section 301(f) of such Act (2 U.S.C. 632(f)) is amended by striking "fiscal year" each place it appears and inserting "biennium".

(6) ECONOMIC ASSUMPTIONS.—Section 301(g)(1) of such Act (2 U.S.C. 632(g)(1)) is amended by striking "for a fiscal year" and inserting "for a biennium".

(7) SECTION HEADING.—The section heading of section 301 of such Act is amended by striking "**ANNUAL**" and inserting "**BIENNIAL**".

(8) TABLE OF CONTENTS.—The item relating to section 301 in the table of contents set forth in section 1(b) of such Act is amended by striking "Annual" and inserting "Biennial".

(d) COMMITTEE ALLOCATIONS.—Section 302 is amended—

(1) in subsection (a)(1) by striking "for the first fiscal year of the resolution," and inserting "for each fiscal year in the biennium, for at least each of 4 ensuing fiscal years,";

(2) in subsection (f)(1), by striking "for a fiscal year" and inserting "for a biennium";

(3) in subsection (f)(1), by striking "first fiscal year" and inserting "each fiscal year of the biennum";

(4) in subsection (f)(2)(A), by striking "first fiscal year" and inserting "each fiscal year of the biennium"; and

(5) in subsection (g)(1)(A), by striking "April" and inserting "May".

(e) SECTION 303 POINT OF ORDER.—

(1) IN GENERAL.—Section 303(a) of such Act (2 U.S.C. 634(a)) is amended by striking "first fiscal year" and inserting "each fiscal year of the biennium".

(2) EXCEPTIONS IN THE HOUSE.—Section 303(b)(1) of such Act (2 U.S.C. 634(b)) is amended—

(A) in subparagraph (A), by striking "the budget year" and inserting "the biennium"; and

(B) in subparagraph (B), by striking "the fiscal year" and inserting "the biennium".

(3) APPLICATION TO THE SENATE.—Section 303(c)(1) of such Act (2 U.S.C. 634(c)) is amended by—

(A) striking "fiscal year" and inserting "biennium"; and

(B) striking "that year" and inserting "each fiscal year of that biennium".

(f) PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET.—Section 304(a) of such Act (2 U.S.C. 635) is amended—

(1) by striking "fiscal year" the first two places it appears and inserting "biennium";

(2) by striking "for such fiscal year"; and

(3) by inserting before the period "for such biennium".

(g) PROCEDURES FOR CONSIDERATION OF BUDGET RESOLUTIONS.—Section 305(a)(3) of such Act (2 U.S.C. 636(b)(3)) is amended by striking "fiscal year" and inserting "biennium".

(h) COMPLETION OF HOUSE ACTION ON APPROPRIATION BILLS.—Section 307 of such Act (2 U.S.C. 638) is amended—

(1) by striking "each year" and inserting "each odd-numbered year";

(2) by striking "annual" and inserting "biennial";

(3) by striking "fiscal year" and inserting "biennium"; and

(4) by striking "that year" and inserting "each odd-numbered year".

(i) COMPLETION OF ACTION ON REGULAR APPROPRIATION BILLS.—Section 309 of such Act (2 U.S.C. 640) is amended—

(1) by inserting "of any odd-numbered calendar year" after "July";

(2) by striking "annual" and inserting "biennial"; and

(3) by striking "fiscal year" and inserting "biennium".

(j) RECONCILIATION PROCESS.—Section 310(a) of such Act (2 U.S.C. 641(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "any fiscal year" and inserting "any biennium"; and

(2) in paragraph (1) by striking "such fiscal year" each place it appears and inserting "any fiscal year covered by such resolution".

(k) SECTION 311 POINT OF ORDER.—

(1) IN THE HOUSE.—Section 311(a)(1) of such Act (2 U.S.C. 642(a)) is amended—

(A) by striking "for a fiscal year" and inserting "for a biennium";

(B) by striking "the first fiscal year" each place it appears and inserting "either fiscal year of the biennium"; and

(C) by striking "that first fiscal year" and inserting "each fiscal year in the biennium".

(2) IN THE SENATE.—Section 311(a)(2) of such Act is amended—

(A) by striking "for the first fiscal year" and inserting "for either fiscal year of the biennium"; and

(B) by striking "that first fiscal year" each place it appears and inserting "each fiscal year in the biennium".

(3) SOCIAL SECURITY LEVELS.—Section 311(a)(3) of such Act is amended by—

(A) striking "for the first fiscal year" and inserting "each fiscal year in the biennium"; and

(B) striking "that fiscal year" and inserting "each fiscal year in the biennium".

(l) MDA POINT OF ORDER.—Section 312(c) of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended—

(1) by striking "for a fiscal year" and inserting "for a biennium";

(2) in paragraph (1), by striking "first fiscal year" and inserting "either fiscal year in the biennium";

(3) in paragraph (2), by striking "that fiscal year" and inserting "either fiscal year in the biennium"; and

(4) in the matter following paragraph (2), by striking "that fiscal year" and inserting "the applicable fiscal year".

SEC. 104. PAY-AS-YOU-GO IN THE SENATE.

Subparagraphs (A), (B), and (C) of section 202(b)(2) of House Concurrent Resolution 67 (104th Congress) are amended to read as follows:

"(A) The period of the biennium covered by the most recently adopted concurrent resolution on the budget.

"(B) The period of the first six fiscal years covered by the most recently adopted concurrent resolution on the budget.

"(C) The period of the four fiscal years following the first six fiscal years covered by the most recently adopted concurrent resolution on the budget.".

SEC. 105. AMENDMENTS TO TITLE 31, UNITED STATES CODE.

(a) DEFINITION.—Section 1101 of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) 'biennium' has the meaning given to such term in paragraph (11) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(11)).".

(b) BUDGET CONTENTS AND SUBMISSION TO THE CONGRESS.—

(1) SCHEDULE.—The matter preceding paragraph (1) in section 1105(a) of title 31, United States Code, is amended to read as follows:

"(a) On or before the first Monday in February of each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974), beginning with the One Hundred Seventh Congress, the President shall transmit to the Congress, the budget for the biennium beginning on October 1 of such calendar year. The budget transmitted under this subsection shall include a budget message and summary and supporting information. The President shall include in each budget the following:".

(2) EXPENDITURES.—Section 1105(a)(5) of title 31, United States Code, is amended by striking "the fiscal year for which the budget is submitted and the 4 fiscal years after that year" and inserting "each fiscal year in the biennium for which the budget is submitted and in the succeeding 4 years".

(3) RECEIPTS.—Section 1105(a)(6) of title 31, United States Code, is amended by striking "the fiscal year for which the budget is submitted and the 4 fiscal years after that year" and inserting "each fiscal year in the biennium for which the budget is submitted and in the succeeding 4 years".

(4) BALANCE STATEMENTS.—Section 1105(a)(9)(C) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(5) FUNCTIONS AND ACTIVITIES.—Section 1105(a)(12) of title 31, United States Code, is amended—

(A) in subparagraph (A), by striking "the fiscal year" and inserting "each fiscal year in the biennium"; and

(6) ALLOWANCES.—Section 1105(a)(13) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(7) ALLOWANCES FOR UNCONTROLLED EXPENDITURES.—Section 1105(a)(14) of title 31, United States Code, is amended by striking "that year" and inserting "each fiscal year in the biennium for which the budget is submitted".

(8) TAX EXPENDITURES.—Section 1105(a)(16) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(9) FUTURE YEARS.—Section 1105(a)(17) of title 31, United States Code, is amended—

(A) by striking "the fiscal year following the fiscal year" and inserting "each fiscal year in the biennium following the biennium";

(B) by striking "that following fiscal year" and inserting "each such fiscal year"; and

(C) by striking "fiscal year before the fiscal year" and inserting "biennium before the biennium".

(10) PRIOR YEAR OUTLAYS.—Section 1105(a)(18) of title 31, United States Code, is amended—

(A) by striking "the prior fiscal year" and inserting "each of the 2 most recently completed fiscal years,";

(B) by striking "for that year" and inserting "with respect to those fiscal years"; and

(C) by striking "in that year" and inserting "in those fiscal years".

(11) PRIOR YEAR RECEIPTS.—Section 1105(a)(19) of title 31, United States Code, is amended—

(A) by striking "the prior fiscal year" and inserting "each of the 2 most recently completed fiscal years";

(B) by striking "for that year" and inserting "with respect to those fiscal years"; and

(C) by striking "in that year" each place it appears and inserting "in those fiscal years".

(c) ESTIMATED EXPENDITURES OF LEGISLATIVE AND JUDICIAL BRANCHES.—Section 1105(b) of title 31, United States Code, is amended by striking "each year" and inserting "each even-numbered year".

(d) RECOMMENDATIONS TO MEET ESTIMATED DEFICIENCIES.—Section 1105(c) of title 31, United States Code, is amended—

(1) by striking "the fiscal year for" the first place it appears and inserting "each fiscal year in the biennium for";

(2) by striking "the fiscal year for" the second place it appears and inserting "each fiscal year of the biennium, as the case may be,"; and

(3) by striking "that year" and inserting "for each year of the biennium".

(e) CAPITAL INVESTMENT ANALYSIS.—Section 1105(e)(1) of title 31, United States Code, is amended by striking "ensuing fiscal year" and inserting "biennium to which such budget relates".

(f) SUPPLEMENTAL BUDGET ESTIMATES AND CHANGES.—

(1) IN GENERAL.—Section 1106(a) of title 31, United States Code, is amended—

(A) in the matter preceding paragraph (1), by—

(i) striking "Before July 16 of each year," and inserting "Before February 15 of each even numbered year,"; and

(ii) striking "fiscal year" and inserting "biennium";

(B) in paragraph (1), by striking "that fiscal year" and inserting "each fiscal year in such biennium";

(C) in paragraph (2), by striking "4 fiscal years following the fiscal year" and inserting "4 fiscal years following the biennium"; and

(D) in paragraph (3), by striking "fiscal year" and inserting "biennium".

(2) CHANGES.—Section 1106(b) of title 31, United States Code, is amended by—

(A) striking "the fiscal year" and inserting "each fiscal year in the biennium";

(B) striking "April 11 and July 16 of each year" and inserting "February 15 of each even-numbered year"; and

(C) striking "July 16" and inserting "February 15 of each even-numbered year.".

(g) CURRENT PROGRAMS AND ACTIVITIES ESTIMATES.—

(1) IN GENERAL.—Section 1109(a) of title 31, United States Code, is amended—

(A) by striking "On or before the first Monday after January 3 of each year (on or before February 5 in 1986)" and inserting "At the same time the budget required by section 1105 is submitted for a biennium"; and

(B) by striking "the following fiscal year" and inserting "each fiscal year of such period".

(2) JOINT ECONOMIC COMMITTEE.—Section 1109(b) of title 31, United States Code, is amended by striking "March 1 of each year" and inserting "within 6 weeks of the President's budget submission for each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974)".

(h) YEAR-AHEAD REQUESTS FOR AUTHORIZING LEGISLATION.—Section 1110 of title 31, United States Code, is amended by—

(1) striking "May 16" and inserting "March 31"; and

(2) striking "year before the year in which the fiscal year begins" and inserting "calendar year preceding the calendar year in which the biennium begins".

SEC. 106. TWO-YEAR APPROPRIATIONS; TITLE AND STYLE OF APPROPRIATIONS ACTS.

Section 105 of title 1, United States Code, is amended to read as follows:

"§ 105. Title and style of appropriations Acts

"(a) The style and title of all Acts making appropriations for the support of the Government shall be as follows: 'An Act making appropriations (here insert the object) for each fiscal year in the biennium of fiscal years (here insert the fiscal years of the biennium).'.

"(b) All Acts making regular appropriations for the support of the Government shall be enacted for a biennium and shall specify the amount of appropriations provided for each fiscal year in such period.

"(c) For purposes of this section, the term 'biennium' has the same meaning as in section 3(11) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(11)).".

SEC. 107. MULTIYEAR AUTHORIZATIONS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 316. (a) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider—

"(1) any bill, joint resolution, amendment, motion, or conference report that authorizes appropriations for a period of less than 2 fiscal years, unless the program, project, or activity for which the appropriations are authorized will require no further appropriations and will be completed or terminated after the appropriations have been expended; and

“(2) in any odd-numbered year, any authorization or revenue bill or joint resolution until Congress completes action on the biennial budget resolution, all regular biennial appropriations bills, and all reconciliation bills.

“(b) APPLICABILITY.—In the Senate, subsection (a) shall not apply to—

“(1) any measure that is privileged for consideration pursuant to a rule or statute;

“(2) any matter considered in Executive Session; or

“(3) an appropriations measure or reconciliation bill.”.

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 313 the following new item:

“Sec. 316. Authorizations of appropriations.”.

SEC. 108. GOVERNMENT PLANS ON A BIENNIAL BASIS.

(a) STRATEGIC PLANS.—Section 306 of title 5, United States Code, is amended—

(1) in subsection (a), by striking “September 30, 1997” and inserting “September 30, 2000”;

(2) in subsection (b)—

(A) by striking “at least every three years” and inserting “at least every 4 years”; and

(B) by striking “five years forward” and inserting “six years forward”; and

(3) in subsection (c), by inserting a comma after “section” the second place it appears and adding “including a strategic plan submitted by September 30, 1997 meeting the requirements of subsection (a)”.

(b) BUDGET CONTENTS AND SUBMISSION TO CONGRESS.—Paragraph (28) of section 1105(a) of title 31, United States Code, is amended by striking “beginning with fiscal year 1999, a” and inserting “beginning with fiscal year 2002, a biennial”.

(c) PERFORMANCE PLANS.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter before paragraph (1)—

(i) by striking “section 1105(a)(29)” and inserting “section 1105(a)(28)”; and

(ii) by striking “an annual” and inserting “a biennial”;

(B) in paragraph (1) by inserting after “program activity” the following: “for both years 1 and 2 of the biennial plan”;

(C) in paragraph (5) by striking “and” after the semicolon,

(D) in paragraph (6) by striking the period and inserting a semicolon; and inserting “and” after the inserted semicolon; and

(E) by adding after paragraph (6) the following:

“(7) cover a 2-year period beginning with the first fiscal year of the next biennial budget cycle.”;

(2) in subsection (d) by striking “annual” and inserting “biennial”; and

(3) in paragraph (6) of subsection (f) by striking “annual” and inserting “biennial”.

(d) MANAGERIAL ACCOUNTABILITY AND FLEXIBILITY.—Section 9703 of title 31, United States Code, relating to managerial accountability, is amended—

(1) in subsection (a)—

(A) in the first sentence by striking “annual”; and

(B) by striking “section 1105(a)(29)” and inserting “section 1105(a)(28)”;

(2) in subsection (e)—

(A) in the first sentence by striking “one or” before “years”;

(B) in the second sentence by striking “a subsequent year” and inserting “for a subsequent 2-year period”; and

(C) in the third sentence by striking “three” and inserting “four”.

(e) PILOT PROJECTS FOR PERFORMANCE BUDGETING.—Section 1119 of title 31, United States Code, is amended—

(1) in paragraph (1) of subsection (d), by striking “annual” and inserting “biennial”; and

(2) in subsection (e), by striking “annual” and inserting “biennial”.

(f) STRATEGIC PLANS.—Section 2802 of title 39, United States Code, is amended—

(1) in subsection (a), by striking “September 30, 1997” and inserting “September 30, 2000”;

(2) in subsection (b), by striking “at least every three years” and inserting “at least every 4 years”;

(3) by striking “five years forward” and inserting “six years forward”; and

(4) in subsection (c), by inserting a comma after “section” the second place it appears and inserting “including a strategic plan submitted by September 30, 1997 meeting the requirements of subsection (a)”.

(g) PERFORMANCE PLANS.—Section 2803(a) of title 39, United States Code, is amended—

(1) in the matter before paragraph (1), by striking “an annual” and inserting “a biennial”;

(2) in paragraph (1), by inserting after “program activity” the following: “for both years 1 and 2 of the biennial plan”;

(3) in paragraph (5), by striking “and” after the semicolon;

(4) in paragraph (6), by striking the period and inserting “; and”; and

(5) by adding after paragraph (6) the following:

“(7) cover a 2-year period beginning with the first fiscal year of the next biennial budget cycle.”.

(h) COMMITTEE VIEWS OF PLANS AND REPORTS.—Section 301(d) of the Congressional Budget Act of 1974 (2 U.S.C. 632(d)) is amended by adding at the end “Each committee of the Senate or the House of Representatives shall review the strategic plans, performance plans, and performance reports, required under section 306 of title 5, United States Code, and sections 1115 and 1116 of title 31, United States Code, of all agencies under the jurisdiction of the committee. Each committee may provide its views on such plans or reports to the Committee on the Budget of the applicable House.”.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on March 1, 2000.

(2) AGENCY ACTIONS.—Effective on and after the date of enactment of this title, each agency shall take such actions as necessary to prepare and submit any plan or report in accordance with the amendments made by this title.

SEC. 109. BIENNIAL APPROPRIATIONS BILLS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 (2 U.S.C. 631 et seq.) is amended by adding at the end the following:

“CONSIDERATION OF BIENNIAL APPROPRIATIONS BILLS

“SEC. 317. It shall not be in order in the House of Representatives or the Senate in any odd-numbered year to consider any regular bill providing new budget authority or a limitation on obligations under the jurisdiction of any of the subcommittees of the Committees on Appropriations for only the first fiscal year of a biennium, unless the program, project, or activity for which the new budget authority or obligation limitation is provided will require no additional authority beyond 1 year and will be completed or terminated after the amount provided has been expended.”.

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 313 the following new item:

“Sec. 317. Consideration of biennial appropriations bills.”.

SEC. 110. REPORT ON TWO-YEAR FISCAL PERIOD.

Not later than 180 days after the date of enactment of this title, the Director of OMB shall—

(1) determine the impact and feasibility of changing the definition of a fiscal year and the budget process based on that definition to a 2-year fiscal period with a biennial budget process based on the 2-year period; and

(2) report the findings of the study to the Committees on the Budget of the House of Representatives and the Senate.

SEC. 111. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in sections 108 and 110 and subsection (b), this title and the amendments made by this title shall take effect on January 1, 2001, and shall apply to budget resolutions and appropriations for the biennium beginning with fiscal year 2002.

(b) AUTHORIZATIONS FOR THE BIENNIUM.—For purposes of authorizations for the biennium beginning with fiscal year 2002, the provisions of this title and the amendments made by this title relating to 2-year authorizations shall take effect January 1, 2000.

TITLE II—EMERGENCY SPENDING REFORMS

SEC. 201. EMERGENCY DESIGNATION GUIDANCE.

The Congressional Budget Act of 1974 is amended—

(1) by adding the following new section at the end of title III:

“SEC. 318. EMERGENCY LEGISLATION.

“(a) DESIGNATIONS.—

“(1) GUIDANCE.—In making a designation of a provision of legislation as an emergency requirement under section 251(b)(2)(A) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985—

“(A) the President shall submit a message to the Congress analyzing whether a proposed emergency requirement meets all the criteria in paragraph (2); and

“(B) the committee report, if any, accompanying that legislation shall analyze whether a proposed emergency requirement meets all the criteria in paragraph (2).

“(2) CRITERIA.—

“(A) IN GENERAL.—A proposed expenditure or tax change is an emergency requirement if it is—

“(i) necessary, essential, or vital (not merely useful or beneficial);

“(ii) sudden, quickly coming into being, and not building up over time;

“(iii) an urgent, pressing, and compelling need requiring immediate action;

“(iv) subject to subparagraph (B), unforeseen, unpredictable, and unanticipated; and

“(v) not permanent, temporary in nature.

“(B) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

“(3) JUSTIFICATION FOR FAILURE TO MEET CRITERIA.—If the proposed emergency requirement does not meet all the criteria set forth in paragraph (2), the President or the committee report, as the case may be, shall provide a written justification of why the requirement is an emergency.

"(b) POINT OF ORDER.—

"(1) IN GENERAL.—When the Senate is considering a bill, resolution, amendment, motion, or conference report, upon a point of order being made by a Senator against any provision in that measure designated as an emergency requirement pursuant to section 251(b)(2)(A) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 and the Presiding Officer sustains that point of order, that provision along with the language making the designation shall be stricken from the measure and may not be offered as an amendment from the floor.

"(2) EMERGENCY LEGISLATION.—When the Senate is considering an emergency supplemental appropriations bill, an amendment thereto, a motion thereto, or a conference report therefrom, upon a point of order being made by a Senator against any provision in that measure that is not designated as an emergency requirement pursuant to section 251(b)(2)(A) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 and the Presiding Officer sustains that point of order, that provision shall be stricken from the measure and may not be offered as an amendment from the floor.

"(3) CONFERENCE REPORTS.—A point of order sustained under this subsection against a conference report shall be disposed of as provided in section 313(d).

"(c) DEFINITION.—For the purposes of this section, an emergency supplemental appropriations bill is a bill or joint resolution that—

"(1) includes a provision designated as an emergency requirement pursuant to section 251(b)(2)(A) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(2) includes in the long title or short title of that bill or joint resolution any of the following words: emergency, urgent, or disaster; and

"(3) appropriates funds in addition to those enacted in the regular appropriations Act for that year as defined in section 1311 of title 31, United States Code.";

(2) in subsections (c)(2) and (d)(2) of section 904, by striking "and 312(c)" and inserting "312(c), and 316"; and

(3) in the table of contents in section 1(a), by adding after the item for section 317 the following:

"318. Emergency legislation.".

TITLE III—CLARIFYING CHANGES TO PAY-AS-YOU-GO

SEC. 301. CLARIFICATION ON THE APPLICATION OF SECTION 202 OF H. CON. RES. 67.

Section 202(b) of H. Con. Res. 67 (104th Congress) is amended—

(1) in paragraph (1), by striking "the deficit" and inserting "the on-budget deficit or cause an on-budget deficit"; and

(2) in paragraph (6), by—

(A) striking "increases the deficit" and inserting "increases the on-budget deficit or causes an on-budget deficit"; and

(B) striking "increase the deficit" and inserting "increase the on-budget deficit or cause an on-budget deficit".

SEC. 302. CLARIFICATION OF PAY-AS-YOU-GO.

(a) IN GENERAL.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (a), by striking "the deficit" and inserting "the on-budget deficit or causes an on-budget deficit";

(2) in subsection (b)(2)—

(A) in subparagraph (B), by striking "; and" and inserting a semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(D) the estimate of the on-budget surplus for the budget year determined under section 254(c)(3)(D).".

(b) BASELINE.—Section 254(c)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subparagraph:

"(D) The estimated excess of on-budget receipts over on-budget outlays for the budget year assuming compliance with the discretionary spending limits and that the full adjustments are made under subparagraphs (C), (E), and (F) of section 251(b)(2).".

SEC. 303. CLARIFICATIONS REGARDING EXTRANEOUS MATTER.

Section 313(b)(1)(E) of the Congressional Budget Act of 1974 is amended by striking "such year;" and inserting "such year or such increases or decreases, when taken with other provisions in such bill, would cause an on-budget deficit in such year;".

TITLE IV—REFORM OF THE SENATE'S CONSIDERATION OF APPROPRIATIONS BILLS, BUDGET RESOLUTIONS, AND RECONCILIATION BILLS

SEC. 401. SHORT TITLE.

This title may be cited as the "Government Shutdown Prevention Act".

SEC. 402. AMENDMENT TO TITLE 31.

(a) IN GENERAL.—Chapter 13 of title 31, United States Code, is amended by inserting after section 1310 the following new section:

"§ 1311. Continuing appropriations

"(a)(1) If any regular appropriation bill for a fiscal year does not become law prior to the beginning of such fiscal year or a joint resolution making continuing appropriations is not in effect, there is appropriated, out of any moneys in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, such sums as may be necessary to continue any project or activity for which funds were provided in the preceding fiscal year—

"(A) in the corresponding regular appropriation Act for such preceding fiscal year; or

"(B) if the corresponding regular appropriation bill for such preceding fiscal year did not become law, then in a joint resolution making continuing appropriations for such preceding fiscal year.

"(2) Appropriations and funds made available, and authority granted, for a project or activity for any fiscal year pursuant to this section shall be at a rate of operations not in excess of the lower of—

"(A) the rate of operations provided for in the regular appropriation Act providing for such project or activity for the preceding fiscal year;

"(B) in the absence of such an Act, the rate of operations provided for such project or activity pursuant to a joint resolution making continuing appropriations for such preceding fiscal year;

"(C) the rate provided in the budget submission of the President under section 1105(a) of title 31, United States Code, for the fiscal year in question; or

"(D) the annualized rate of operations provided for in the most recently enacted joint resolution making continuing appropriations for part of that fiscal year or any funding levels established under the provisions of this Act.

"(3) Appropriations and funds made available, and authority granted, for any fiscal year pursuant to this section for a project or activity shall be available for the period beginning with the first day of a lapse in appropriations and ending with the earlier of—

"(A) the date on which the applicable regular appropriation bill for such fiscal year becomes law (whether or not such law provides for such project or activity) or a continuing resolution making appropriations becomes law, as the case may be; or

"(B) the last day of such fiscal year.

"(b) An appropriation or funds made available, or authority granted, for a project or activity for any fiscal year pursuant to this section shall be subject to the terms and conditions imposed with respect to the appropriation made or funds made available for the preceding fiscal year, or authority granted for such project or activity under current law.

"(c) Appropriations and funds made available, and authority granted, for any project or activity for any fiscal year pursuant to this section shall cover all obligations or expenditures incurred for such project or activity during the portion of such fiscal year for which this section applies to such project or activity.

"(d) Expenditures made for a project or activity for any fiscal year pursuant to this section shall be charged to the applicable appropriation, fund, or authorization whenever a regular appropriation bill or a joint resolution making continuing appropriations until the end of a fiscal year providing for such project or activity for such period becomes law.

"(e) This section shall not apply to a project or activity during a fiscal year if any other provision of law (other than an authorization of appropriations)—

"(1) makes an appropriation, makes funds available, or grants authority for such project or activity to continue for such period; or

"(2) specifically provides that no appropriation shall be made, no funds shall be made available, or no authority shall be granted for such project or activity to continue for such period.

"(f) In this section, the term 'regular appropriation bill' means any annual appropriation bill making appropriations, otherwise making funds available, or granting authority, for any of the following categories of projects and activities:

"(1) Agriculture, rural development, and related agencies programs.

"(2) The Departments of Commerce, Justice, and State, the judiciary, and related agencies.

"(3) The Department of Defense.

"(4) The government of the District of Columbia and other activities chargeable in whole or in part against the revenues of the District.

"(5) The Departments of Labor, Health and Human Services, and Education, and related agencies.

"(6) The Department of Housing and Urban Development, and sundry independent agencies, boards, commissions, corporations, and offices.

"(7) Energy and water development.

"(8) Foreign assistance and related programs.

"(9) The Department of the Interior and related agencies.

"(10) Military construction.

"(11) The Department of Transportation and related agencies.

"(12) The Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.

"(13) The legislative branch.".

(b) TECHNICAL AMENDMENT.—The analysis of chapter 13 of title 31, United States Code, is amended by inserting after the item relating to section 1310 the following new item:

"1311. Continuing appropriations.".

(c) Protection of Other Obligations.—Nothing in the amendments made by this section shall be construed to effect Government obligations mandated by other law, including obligations with respect to Social Security, Medicare, and Medicaid.

SEC. 403. EFFECTIVE DATE AND SUNSET.

(a) Effective Date.—The amendments made by this title shall apply with respect to fiscal years beginning with fiscal year 2000.

(b) Sunset.—The amendments made by this title shall sunset and have no force or effect after fiscal year 2001.

TITLE V—BUDGET ACT AMENDMENTS REGARDING THE SENATE'S CONSIDERATION OF BUDGET RESOLUTION AND RECONCILIATION BILLS

SEC. 501. CONSIDERATION OF BUDGET MEASURES IN THE SENATE.

(a) Prohibition Against Inclusion of Precatory Language in a Budget Resolution.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall not include precatory language.".

(b) Procedure.—Section 305(b) of the Congressional Budget Act of 1974 is amended to read as follows:

"(b) Procedure in Senate for the Consideration of a Concurrent Resolution on the Budget.—

"(1) Legislation available.—It shall not be in order to proceed to the consideration of a concurrent resolution on the budget unless the text of that resolution has been available to Members for at least 1 calendar day (excluding Sundays and legal holidays unless the Senate is in session) prior to the consideration of the measure.

"(2) Time for debate.—

"(A) In general.—Debate in the Senate on any concurrent resolution on the budget, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 30 hours, except that with respect to any concurrent resolution referred to in section 304(a) all such debate shall be limited to not more than 10 hours. Of this 30 hours, 10 hours shall be reserved for general debate on the resolution (including debate on economic goals and policies) and 20 hours shall be reserved for debate of amendments, motions, and appeals. The time for general debate shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader or their designees.

"(B) Disposition of amendments and other matters.—After no more than 30 hours of debate on the concurrent resolution on the budget, the Senate shall, except as provided in subparagraph (C), proceed, without any further action or debate on any question, to vote on the final disposition thereof.

"(C) Action permitted after 30 hours.—After no more than 30 hours of debate on the concurrent resolution on the budget, the only further action in order shall be disposition of—

"(i) all amendments then pending before the Senate;

"(ii) all points of order arising under this Act which have been previously raised; and

"(iii) motions to reconsider and 1 quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins. Disposition shall include raising points of order against pending amendments, motions to table, and motions to waive.

"(3) Amendments.—

"(A) Debate.—Debate in the Senate on any amendment to a concurrent resolution on the budget shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, except that in the event the manager of the concurrent resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the Minority Leader or his designee. No amendment that is not germane to the provisions of that concurrent resolution shall be received. An amendment that includes precatory language shall not be considered germane. Such leaders, or either of them, may, from the time for general debate under their control on the adoption of the concurrent resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

"(B) Filing of amendments.—Except by unanimous consent, no amendment shall be proposed after 15 hours of debate of a concurrent resolution on the budget have elapsed, unless it has been submitted in writing to the Journal Clerk by the 15th hour if an amendment in the first degree (or if a complete substitute for the underlying measure), and unless it has been so submitted by the 20th hour if an amendment to an amendment (or an amendment to the language proposed to be stricken).

"(C) Recognition.—For the purpose of providing an opportunity for the offering amendments in the first degree (or amendments which are a complete substitute for the underlying measure), the Presiding Officer of the Senate shall alternate recognition between members of the majority party and the minority party. No Senator shall call up more than a total of 2 amendments until every other Senator shall have had the opportunity to do likewise.

"(D) Limitation on number of second degree amendments.—No more than a total of 2 consecutive amendments to any amendment may be offered by either the majority or minority party.

"(4) Debate.—General debate time may only be yielded back by unanimous consent and a motion to further limit the time for general debate shall be debatable for 30 minutes. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution.

"(5) Mathematical consistency.—

"(A) In general.—Notwithstanding any other rule, and except as provided in subparagraph (B), an amendment or series of amendments to a concurrent resolution on the budget proposed in the Senate shall always be in order if such amendment or series of amendments proposes to change any figure or figures then contained in such concurrent resolution so as to make such concurrent resolution mathematically consistent or so as to maintain such consistency.

"(B) Effect of adoption of substitute amendments.—Once an amendment to an amendment (which is a complete substitute for the underlying amendment) has been agreed to, no further amendments to the underlying amendment shall be in order.".

(c) Conference Reports in the Senate.—Section 305(c) is amended to read as follows:

"(c) Action on Conference Reports in the Senate.—

"(1) Motion to proceed.—A motion to proceed to the consideration of the conference report on any concurrent resolution on the budget (or a reconciliation bill or resolution) may be made even though a previous motion to the same effect has been disagreed to.

"(2) Consideration.—

"(A) In general.—During the consideration in the Senate of the conference report (or a message between Houses) on any concurrent resolution on the budget, and all amendments in disagreement, and all amendments thereto, and debatable motions and appeals in connection therewith, debate shall be limited to 10 hours, to be equally divided between, and controlled by, the Majority Leader and Minority Leader or their designees. Debate on any debatable motion or appeal related to the conference report (or a message between Houses) shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report (or a message between Houses).

"(B) Disposition.—After no more than 10 hours of debate on the conference report (or message between Houses) accompanying a concurrent resolution on the budget, and all amendments in disagreement, and all amendments thereto, the Senate shall, except as provided in subparagraph (C), proceed, without any further action or debate on any question, to vote on the final disposition thereof.

"(C) Action permitted after 10 hours.—After no more than 10 hours of debate on the conference report (or message between the Houses) accompanying a concurrent resolution on the budget, and all amendments in disagreement, and all amendments thereto, the only further action in order shall be disposition of: all amendments then pending before the Senate; all points of order arising under this Act which have been previously raised; and motions to reconsider and 1 quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins. Disposition shall include raising points of order against pending amendments, motions to table, and motions to waive.

"(3) Conference report defeated.—Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the Minority Leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on that motion shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

"(4) AMENDMENTS IN DISAGREEMENT.—In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the Minority Leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.".

(c) RECONCILIATION.—Section 310(e) is amended to read as follows:

"(e) PROCEDURE IN THE SENATE.—The provisions of section 305 for the consideration in the Senate of concurrent resolutions on the budget and conference reports thereon, except for the provisions of subsection (b)(5) of that section, shall also apply to the consideration in the Senate of reconciliation bills considered under subsection (b) and conference reports thereon.".

SEC. 502. DEFINITION.

Section 3 of the Congressional Budget Act of 1974 is amended by adding the following new paragraph:

"(13) The term 'major functional category' means the allocation of budget authority and outlays separated into the following subtotals:

"(A) Defense discretionary.

"(B) Nondefense discretionary.

"(C) Direct spending.

"(D) If deemed necessary, other subsets of discretionary and direct spending.".

SEC. 503. CONFORMING THE COMPENSATION OF THE DIRECTOR AND DEPUTY DIRECTOR OF THE CONGRESSIONAL BUDGET OFFICE WITH OTHER LEGISLATIVE BRANCH SUPPORT AGENCIES.

Section 201(a)(5) of the Congressional Budget Act of 1974 is amended—

(1) in the first sentence, by striking "(III)" and inserting "(II)"; and

(2) in the second sentence, by striking "(IV)" and inserting "(III)".

DESCRIPTION OF THE BUDGET ENFORCEMENT ACT OF 1999

TITLE I: BIENNIAL BUDGETING AND APPROPRIATIONS

Requires the President to submit a two-year budget at the beginning of the first session of a Congress.

Requires Congress to adopt a two-year budget resolution and a reconciliation bill (if necessary) during the first session of a Congress.

Requires Congress to enact 13 appropriations bills covering a two-year period during the first session of a Congress and provides a new majority point of order against appropriations bills that fail to cover two years.

Makes budgeting and appropriating the priority for the first session of a Congress by providing a new majority point of order against consideration of authorization and revenue legislation until the completion of the biennial budget resolution, reconciliation legislation (if necessary) and the thirteen biennial appropriations bills.

Devotes the second session of a Congress to consideration of biennial authorization bills and oversight of federal programs and provides a majority point of order against authorization and revenue legislation that cover less than two years except those measures limited to temporary programs or activities lasting less than two years.

Modifies the Government Performance and Results Act of 1993 (the Results Act) to incorporate the government performance planning and reporting process into the two-year budget cycle to enhance oversight of federal programs.

TITLE II: EMERGENCY SPENDING REFORMS

Makes any emergency spending in any bill subject to a 60 vote point of order in the Senate. If this point of order is sustained against any emergency provision, the emergency spending would be extracted from the bill under a Byrd rule procedure.

Provides a reporting requirement for the President and Congress to justify proposed emergencies spending and to document whether proposed emergencies meet five criteria: necessary, sudden, urgent, unforseen, and not permanent.

Makes any non-emergency provision in an emergency supplemental appropriations bill subject to a 60 vote point of order in the Senate. If this point of order was sustained, the non-emergency provision would be extracted from the bill under a Byrd rule procedure.

TITLE III: CLARIFYING CHANGES TO PAY-AS-YOU-GO

Amends the Senate's 10-year pay-as-you-go rule to make clear that an on-budget surplus can be used to offset the cost of tax reductions or direct spending increases.

Amends the statutory pay-go system (enforced by OMB) to make clear that an on-budget surplus can be used to offset the cost of tax reductions or direct spending increases.

Amends the Byrd rule to allow revenue losing provisions in reconciliation bills to be made permanent as long as they do not cause an on-budget deficit in the future.

TITLE IV: GOVERNMENT SHUTDOWN PREVENTION ACT

Provide for an automatic continuing resolution (CR) at the lower of the President's requested level or the previous year's appropriated level.

TITLE V: STREAMLINING THE BUDGET PROCESS

Eliminates the "vote-athon" at the end of the process by adopting procedures similar to a post-cloture process for budget resolutions and reconciliation bills:

Reduce time on a budget resolution from 50 to 30 hours (10 hours of which would be reserved for amendments);

Reduce time on amendments from 2 hours to 1 hour;

Establish filing deadlines (1st degree amendments must be filed by 15th hour; 2nd degree amendments must be filed by 20th hour);

After all time expires, require vote on any pending amendments and then final passage;

Make sense of the Senate amendments on budget resolutions and reconciliation bills nongermane; and,

Adopt same procedures for reconciliation bills.

Modifies the scope of the budget resolution to be major categories of spending instead of 20 individual functions.

By Mr. MCCAIN:

S. 94. A bill to repeal the telephone excise tax; to the Committee on Finance.

REPEAL OF THREE PERCENT FEDERAL EXCISE TAX

Mr. MCCAIN. Mr. President, I rise to introduce a bill to repeal the three percent federal excise tax that all Americans pay every time they use a telephone.

Under current law, the federal government taxes you three percent of your monthly phone bill for the so-called "privilege" of using your phone lines. This tax was first imposed one hundred years ago. To help finance the Spanish-American War, the federal government taxed telephone service, which in 1898 was a luxury service enjoyed by relatively few. The tax reappeared as a means of raising revenue for World War I, and continued as a revenue-raiser during the Great Depression, World War II, the Korean and Vietnam Wars, and the chronic federal budget deficits of the last twenty years.

Fortunately for telephone subscribers, we are enjoying some long-overdue good news: thanks to the Balanced Budget Act enacted by the Congress in 1997, we are now expecting budget surpluses for the next decade, perhaps as much as $700 billion. Mr. President, just as it did in the 105th Congress, that announcement should mean the end of the federal phone excise tax.

Here's why. First of all, the telephone is a modern-day necessity, not like alcohol, or furs, or jewelry, or other items of the sort that the government taxes this way. The Congress specifically recognized the need for all Americans to have affordable telephone service when it enacted the 1996 Telecommunications Act. The universal service provisions of the Act are intended to assure that all Americans, regardless of where they live or how much money they make, have access to affordable telephone service. The telephone excise tax, which bears no relationship to any government service received by the consumer, is flatly inconsistent with the goal of universal telephone service.

It's also a highly regressive and unfair tax that hurts low-income and rural Americans even more than other Americans. Low-income families spend a higher percentage of their income than medium- or high-income families on telephone service, and that means the telephone tax hits low-income families much harder. For that reason the Congressional Budget Office has concluded that increases in the telephone tax would have a greater impact on low-income families than tax increases on alcohol or tobacco products. And a study by the American Agriculture Movement concluded that excise taxes like the telephone tax impose a disproportionately large tax burden on rural customers, too, who rely on telephone service in isolated areas.

But, in addition to being unfair and unnecessary, there is another reason why we should eliminate the telephone excise tax. Implementation of the Telecom Act of 1996 requires all telecommunications carriers—local, long-distance, and wireless—to incur new costs in order to produce a new, more competitive market for telecommunications services of all kinds.

Unfortunately, the cost increases are arriving far more quickly than the new, more competitive market. The Telecom Act created a new subsidy program for wiring schools and libraries to the Internet, and the cost of funding that subsidy has increased bills for business and residential users of long-distance telephone service and for consumers of wireless services.

Mr. President, the fact that the Telecom Act has imposed new charges on consumers' bills makes it absolutely incumbent upon us to strip away any unnecessary old charges. And that means the telephone excise tax.

Mr. President, the telephone excise tax isn't a harmless artifact from bygone days. It collects money for wars that are already over, and for budget deficits that no longer exist, from people who can least afford to spend it now and from people who are footing higher bills as a result of the 1996 Telecom Act implementation. That's unfair, that's wrong, and that must be stopped.

San Juan Hill and Pork Chop Hill have now gone down in history, and so should this tax.

Mr. President. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 94

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. REPEAL OF TELEPHONE EXCISE TAX.

(a) IN GENERAL.—Effective with respect to amounts paid pursuant to bills first rendered on or after January 1, 1999, subchapter B of chapter 33 of the Internal Revenue Code of 1986 (26 U.S.C. 4251 et seq.) is repealed. For purposes of the preceding sentence, in the case of communications services rendered before December 1, 1998, for which a bill has not been rendered before January 1, 1999, a bill shall be treated as having been first rendered on December 31, 1998.

(b) CONFORMING AMENDMENT.—Effective January 1, 1999, the table of subchapters for such chapter is amended by striking out the item relating to subchapter B.

By Mr. MCCAIN:

S. 95. A bill to amend the Communications Act of 1934 to ensure that public availability of information concerning stocks traded on an established stock exchange continues to be freely and readily available to the public through all media of mass communication; to the Committee on Commerce, Science, and Transportation.

THE TRADING INFORMATION ACT

Mr. MCCAIN. Mr. President, I rise to introduce the Trading Information Act. In 1998, Americans continued to discover the Internet for the increased access to information and entertainment it provides, and as a more convenient means of purchasing goods. Americans also continued to discover the Internet as a more direct means of making and managing investments.

Online stock trading is growing at a phenomenal pace. According to Forrester Research, there are more than 3 million online accounts, and that number is expected to exceed 14 million by 2002. In fact, the number of online traders in 1998 doubled from 1997, as it did from 1996.

Trading over the Internet is providing more Americans with the opportunity to increase their personal wealth, and to participate in the current growth in the market. New discount brokerages, high-speed Internet access, and "real time" market updates are all contributing to the growth of online trading. The Trading Information Act will help to preserve this growing trend.

The Trading Information Act will ensure that online traders will continue to have access to information relating to financial markets which they rely on to properly manage their assets. Whether watching a stock ticker on television, receiving up-to-date information over a cell phone or pager, or logging on with an online brokerage firm, Americans must continue to have unfettered access to this vital information, and this bill will ensure they continue to have it.

By Mr. MCCAIN:

S. 96. A bill to regulate commerce between and among the several States by providing for the orderly resolution of disputes arising out of computer-based problems related to processing data that includes a 2-digit expression of that year's date; to the Committee on Commerce, Science, and Transportation.

Y2K ACT

Mr. MCCAIN. Mr. President, I am pleased to introduce a bill today to limit and prevent needless and costly litigation which is arising as a result of the computer programming problem commonly known as Y2K. Even before December 31 arrives lawsuits are beginning to be filed. This is an unfortunate reflection on our overly litigious society, and a situation which needs to be remedied. The Y2K Act takes a step toward encouraging technology producers to work with technology users and consumers to ensure a seamless transition for the 1990's to the year 2000.

The purpose of this legislation is to ensure that we look to solving the technology glitch known as Y2K rather than clog our courts with years of costly litigation. The legislation is designed to compensate actual losses, but to assure that the courts do not punish defendants who have made good faith efforts to remedy the technology failure. My goal is to provide incentives for fixing the potential Y2K failures before they happen, rather than create windfalls for those who litigate.

The bill would also encourage efficient resolution of failures by requiring plaintiffs to afford their potential defendants an opportunity to remedy the failure and make things right before facing a lawsuit. We should encourage people to talk to each other, to try to address and remedy problems in a timely and professional manner.

Physical injuries are not covered by the limitations on litigation and damages in this bill. In those instances where a computer date failure is responsible for personal physical injury, it is best to leave the remedy to existing state laws. Further, it would be imprudent policy to offer any "safe harbor" in such situations because to do so might have the undesired result of discouraging proactive remediation.

This bill is a starting point. It provides an opportunity to begin discussion. It is my intention to hold a hearing in the near future, and to bring this bill to mark-up as quickly as full discussion will permit. I know many of my colleagues are interested in addressing this issue as well, and I look forward to working with them, and with affected industries and consumers to arrive at an acceptable piece of legislation which will benefit industry and consumers alike.

By Mr. MCCAIN (for himself and Mr. HOLLINGS):

S. 97. A bill to require the installation and use by schools and libraries of a technology for filtering or blocking material on the Internet on computers with Internet access to be eligible to receive or retain universal service assistance; to the Committee on Commerce, Science, and Transportation.

CHILDREN'S INTERNET PROTECTION ACT

Mr. MCCAIN. Mr. President, I rise today to introduce The Children's Internet Protection Act, which is designed to protect children from exposure to sexually explicit and other harmful material when they access the Internet in school and in the library. This legislation is substantially similar to the Internet School Filtering Act, which I introduced in the last session of Congress.

This legislation, like its predecessor, comes to grips with one of the more unfortunate aspects of modern life: that the problems of modern life don't stop at the schoolhouse door. Societal problems like violence and drugs have become part of the curriculum of life at many schools.

Now, however, we are adding another problem to the list. And this particular wolf of a problem will walk into our schools disguised in the worthiest of sheeps' clothing: the Internet.

Today, pornography is widely available on the Internet. According to "Wired" magazine, today there are approximately 28,000 adult Web sites promoting hard and soft-core pornography. Together, these sites register many millions of "hits" by websurfers per day.

Mr. President, there is no question that some of the websurfers who are accessing these sites are children. Some, unfortunately, are actively searching for these sites. But many others literally and unintentionally stumble across them.

Anyone who uses seemingly innocuous terms while searching the World Wide Web for educational or harmless recreational purposes can inadvertently run into adult sites. For example, when the term "H20" was typed recently into a search engine, one of the first of over 36,000 sites retrieved led to another site titled "www.hardcoresex.com." This site provided the typical warning to those under 18 not to enter—and then proceeded to offer a free, uncensored preview of the pornographic material on the site. And when the searcher attempted to escape from the site, new porn-oriented sites immediately opened.

Parents wishing to protect their children from exposure to this kind of material can monitor their children's Internet use at home. This is a parent's proper role, and no amount of governmental assistance or industry self-regulation will ever be as effective in protecting children as parental supervision. But parents can't supervise how their children use the Internet outside the home, in schools and libraries.

Mr. President, the billions of dollars per year the federal government will be giving schools and libraries to enable them to bring advanced Internet learning technology to the classroom will bring in the Internet's explicit online content as well. These billions of dollars will ultimately be paid for by the American people. So it is only right that if schools and libraries accept these federally-provided subsidies for Internet access, they have an absolute responsibility to their communities to assure that children are protected from online content that can harm them.

And this harm can be prevented. The prevention lies, not in censoring what goes onto the Internet, but rather in filtering what comes out of it onto the computers our children use outside the home.

Mr. President, Internet filtering systems work, and they need not be blunt instruments that unduly constrain the availability of legitimately instructional material. Today they are adaptable, capable of being fine-tuned to accommodate changes in websites as well as the evolving needs of individual schools and even individual lesson-plans. Best of all, their use will channel explicit material away from children while they are not under parental supervision, while not in any way inhibiting the rights of adults who may wish to post indecent material on the Web or have access to it outside school environs.

Mr. President, it boils down to this: The same Internet that can benefit our children is also capable of inflicting terrible damage on them. For this reason, school and library administators who accept universal service support to provide students with its intended benefits must also safeguard them against its unintended harm. I commend the efforts of those who have recognized this responsibility by providing filtering systems in the many educational facilities that already have Internet capability. This legislation assures that this responsibility is extended to all other institutions as they implement advanced technologies funded by federally-mandated universal service funds.

Mr. President, this bill takes a sensible approach. It requires schools receiving universal service discounts to use a filtering system on their computers so that objectionable online materials will not be accessible to students. Libraries with more than one computer are required to use a filtering system on at least one computer used by minors. Filtering technology is itself eligible to be subsidized by the E-rate discount. Schools and libraries must install and use filtering or blocking technology to be eligible to receive universal service fund subsidies for Internet access. If schools and libraries do not do so, they will not be eligible to receive universal service fund-subsidized discounts and will have to refund any E-rate subsidy funds already paid out.

Some have argued that the use of filtering technology in public schools and libraries would amount to censorship under the First Amendment. The Supreme Court has found, however, that obscenity is not protected by the First Amendment. And insofar as other sexually-explicit material is concerned, the bill will not affect an adult's ability to access this information on the Internet, and it will in no way impose any filtering requirement on Internet use in the home.

Perhaps most important, the bill prohibits the federal government from prescribing any particular filtering system, or from imposing a different filtering system than the one selected by the certifying educational authority. It thus places the prerogative for determining which filtering system best reflects the community's standards precisely where it should be: on the community itself.

Mr. President, more and more people are using the Internet each day. Currently, there may be as many as 50 million Americans online, and that number is expected to at least double by the millennium. As Internet use in our schools and libraries continues to grow, children's potential exposure to harmful online content will only increase. This bill simply assures that universal service subsidies will be used to defend them from the very dangers that these same subsidies are otherwise going to increase. This is a rational response to what could otherwise be a terrible and unintended problem.

Mr. President, I ask unanimous consent that the text of the bill appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 97

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Childrens' Internet Protection Act".

SEC. 2. NO UNIVERSAL SERVICE FOR SCHOOLS OR LIBRARIES THAT FAIL TO IMPLEMENT A FILTERING OR BLOCKING TECHNOLOGY FOR COMPUTERS WITH INTERNET ACCESS.

(a) IN GENERAL.—Section 254 of the Communications Act of 1934 (47 U.S.C. 254) is amended by adding at the end thereof the following:

"(l) IMPLEMENTATION OF AN INTERNET FILTERING OR BLOCKING TECHNOLOGY.—

"(1) IN GENERAL.—An elementary school, secondary school, or library that fails to provide the certification required by paragraph (2) or (3), respectively, is not eligible to receive or retain universal service assistance provided under subsection (h)(1)(B).

"(2) CERTIFICATION FOR SCHOOLS.—To be eligible to receive universal service assistance under subsection (h)(1)(B), an elementary or secondary school (or the school board or other authority with responsibility for administration of that school) shall certify to the Commission that it has—

"(A) selected a technology for computers with Internet access to filter or block material deemed to be harmful to minors; and

"(B) installed, or will install, and uses or will use, as soon as it obtains computers with Internet access, a technology to filter or block such material.

"(3) CERTIFICATION FOR LIBRARIES.—

"(A) LIBRARIES WITH MORE THAN 1 INTERNET-ACCESSING COMPUTER.—To be eligible to receive universal service assistance under subsection (h)(1)(B), a library that has more than 1 computer with Internet access intended for use by the public (including minors) shall certify to the Commission that it has installed and uses a technology to filter or block material deemed to be harmful to minors on one or more of its computers with Internet access.

"(B) LIBRARIES WITH ONLY 1 INTERNET-ACCESSING COMPUTER.—A library that has only 1 computer with Internet access intended for use by the public (including minors) is eligible to receive universal service assistance under subsection (h)(1)(B) even if it does not use a technology to filter or block material deemed to be harmful to minors on that computer if it certifies to the Commission that it employs a reasonably effective alternative means to keep minors from accessing material on the Internet that is deemed to be harmful to minors.

"(4) TIME FOR CERTIFICATION.—The certification required by paragraph (2) or (3) shall be made within 30 days of the date of enactment of the Childrens' Internet Protection Act, or, if later, within 10 days of the date on which any computer with access to the Internet is first made available in the school or library for its intended use.

"(5) NOTIFICATION OF CESSATION; ADDITIONAL INTERNET-ACCESSING COMPUTER.—

"(A) CESSATION.—A library that has filed the certification required by paragraph (3)(A) shall notify the Commission within 10 days after the date on which it ceases to use the filtering or blocking technology to which the certification related.

"(B) ADDITIONAL INTERNET-ACCESSING COMPUTER.—A library that has filed the certification required by paragraph (3)(B) that adds another computer with Internet access intended for use by the public (including minors) shall make the certification required by paragraph (3)(A) within 10 days after that computer is made available for use by the public.

"(6) PENALTY FOR FAILURE TO COMPLY.—A school or library that fails to meet the requirements of this subsection is liable to repay immediately the full amount of all universal service assistance it received under subsection (h)(1)(B).

"(7) LOCAL DETERMINATION OF MATERIAL TO BE FILTERED.—For purposes of paragraphs (2) and (3), the determination of what material is to be deemed harmful to minors shall be made by the school, school board, library or other authority responsible for making the required certification. No agency or instrumentality of the United States Government may—

"(A) establish criteria for making that determination;

"(B) review the determination made by the certifying school, school board, library, or other authority; or

"(C) consider the criteria employed by the certifying school, school board, library, or other authority in the administration of subsection (h)(1)(B).".

(b) CONFORMING CHANGE.—Section 254(h)(1)(B) of the Communications Act of 1934 (47 U.S.C. 254(h)(1)(B)) is amended by striking "All telecommunications" and inserting "Except as provided by subsection (l), all telecommunications".

SEC. 3. FCC TO ADOPT RULES WITHIN 4 MONTHS.

The Federal Communications Commission shall adopt rules implementing section 254(l) of the Communications Act of 1934 within 120 days after the date of enactment of this Act.

By Mr. McCAIN (for himself, Mr. HOLLINGS, and Mr. LOTT):

S. 98. A bill to authorize appropriations for the Surface Transportation Board for fiscal years 1999, 2000, 2001, and 2002, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SURFACE TRANSPORTATION BOARD REAUTHORIZATION ACT OF 1999

Mr. McCAIN. Mr. President, today I am introducing the Surface Transportation Board (STB) Reauthorization Act of 1999. I am pleased Senator HOLLINGS, the Ranking member of Senate Committee on Commerce, Science, and Transportation and Majority Leader LOTT, also a distinguished member of our Committee, have joined me in sponsoring this important legislation.

The introduction of this bill on this, the first day in the 106th Congress for introducing legislation, is intended to demonstrate the firm commitment of the bill's sponsors to enact multi-year legislation extending the Board's authorization. Many of us worked toward enacting a reauthorization measure last year, but those efforts were unsuccessful due to matters generally unrelated to the Board itself. While those rail-related issues remain for some, I do not believe we should hold the STB's reauthorization hostage and believe we could consider dual-track measures—this reauthorization on the one hand and proposals for statutory changes on another. Although the dual-track did not succeed last Congress, I am hopeful that it can in the 106th Congress.

The Surface Transportation Board Reauthorization Act of 1999 is straight forward. First, it proposes to reauthorize the STB for the current fiscal year through 2002 and provide sufficient resources to ensure the Board is able to continue to carry out its very serious responsibilities and duties. Second, it proposes that the Board's Chairmanship be subject to Senate confirmation like a host of other Boards and Commissions throughout the Federal governmental, including the National Transportation Safety Board, the Commodity Futures Trading Commission, the Export-Import Bank, and the Consumer Product Safety Commission to name a few.

Mr. President, I want to inform my colleagues that the Senate Commerce Committee intends to fully explore the resource needs of the Board and also consider limited proposals for statutory changes advocated by some members. I know the Chairman of the Surface Transportation and Merchant Marine Subcommittee, Senator HUTCHISON, plans to hold hearings on the STB and continue the examination of STB actions affecting rail service and rail shipper problems which were initiated during the 105th Congress.

As I have stated on numerous occasions, rail service and rail shipper issues warrant serious consideration. These matters have received extensive and comprehensive examination under Subcommittee Chairman HUTCHISON's able leadership and will continue as important oversight issues under the Committee's jurisdiction. I strongly believe, however, specific rail service and rail shipper problems and cases are best resolved by the Board. That is why Congress must provide the Board with the resources and legal authority necessary for it to continue to carry out its statutory duties fully and fairly, and on a timely basis.

The STB is one of our smallest Federal entities and it has very limited resources. It is imperative that we reauthorize the Board so that it can continue to produce the vast workload it has achieved since its inception in 1996. We must do our part to assist the Board in fulfilling its statutory duties responsibly and independently. The Administration and Congress must also take necessary action to ensure a fully constituted Board.

I look forward to working on this important transportation legislation and hope my colleagues will agree to join with me and the other sponsors in expeditiously moving this necessary reauthorization through the legislative process.

Mr. HOLLINGS. Mr. President, I rise today to support the reauthorization of the Surface Transportation Board (Board). As I have said many times before, the Board performs a vital role regulating the interests of our railroad and other surface transportation industries. Under the able and forward-looking leadership of Linda Morgan, the Board's Chairman, who was with us on the Commerce Committee for many years, the Board with its small staff has put out more work, and higher quality work, than much larger agencies. Most significantly, unlike many other agencies, the Board is not afraid to tackle the hard issues, and to put out decisions that are fair, well-reasoned, and independent of political expediency. For example, the Board's unprecedented and focused actions in handling the recent rail service crisis in the West provided the appropriate mix of government intervention and private-sector initiative.

More recently, at the end of 1998, at the request of Chairman McCAIN and Senator HUTCHISON, the Board reviewed rail competition and issued several decisions in controversial cases, and made several recommendations to Congress, that reflect a balanced and comprehensive view of the transportation industry and the fundamental issues that confront it. The Board recently released its findings. In rendering these decisions, the Board, which is accountable to Congress, has acted responsibly and has provided a valuable service in resolving issues within its jurisdiction such as the determination of market dominance, and in raising others, such as open access, more appropriately addressed by Congress.

As anyone who has read the comprehensive letter from Chairman MORGAN to Senators McCAIN and HUTCHISON reporting on the Board's rail access and competition proceeding knows, the Board has acted creatively, aggressively, and decisively in tackling hard issues within its jurisdiction, and in making suggestions to Congress as to how to address remaining issues of contention between railroads and their shippers, and between railroads and their employees. One of its decisions finalized rules that for the first time provide various specific avenues for relief in cases of localized poor rail service, and another decision took steps to facilitate the review of rail rate reasonableness cases by eliminating certain evidentiary thresholds.

Linda Morgan as Board Chairman pressed the railroad industry to be more directly accountable to the needs of their customers, and has requested them to reach out directly to their shippers and employees. This has allowed the railroads to reach more settlements with their customers and employees than they have in many years. I commend the Board for initiating government action that results in private sector settlements. Ultimately this sort of settlement has greater chance of realistic dispute resolution. Congress should feel fortunate to have an agency with the competence and credibility to move issues forward in such a positive direction.

Because we need the Board, and because the Board has done a fine job, I am here today supporting the introduction of a reauthorization bill. I know that some tough legislative issues regarding transportation regulation may come our way this session, and I look forward to working with the Board and my colleagues on those matters. Whatever the resolution of those matters, we need the stability and continuity in addressing these issues that reauthorization legislation for the Board will provide.

The Board, working with the law we gave it, has done its job. I want to thank the Board in general, and Chairman Morgan in particular, who has my unqualified support, for a job well done. The Board has been confronted with some of the most difficult and fundamental issues to challenge rail transportation in many years. The agency has met these issues head on with forthrightness and resolve, taking into account the interests of all parties. However, I am concerned for the Board's future; the Board has not had the opportunity to bring in new personnel to replace personnel that will be of retirement age. It is incumbent on us that we provide this agency the necessary resources to adequately train new personnel, and prepare them to address the rail and other surface issues of the future.

I think that much credit is due the Board for facilitating more private-sector dialogue, initiative, and resolution than has ever been undertaken before, and for raising and tackling issues in ways that have never been undertaken before. Once again, I commend the Board on a job well done. The Nation needs agencies like the Board, and I enthusiastically support the reauthorization bill.

By Mr. McCAIN (for himself, Mrs. HUTCHISON, Mr. STEVENS, Mr. CRAIG, Mr. WARNER, and Mr. ASHCROFT):

S. 99. A bill to provide for continuing in the absence of regular appropriations for fiscal year 2000; to the Committee on Appropriations.

GOVERNMENT SHUTDOWN ACT OF 1999

Mr. McCAIN. Mr. President, today I and Senator HUTCHISON, Senator STEVENS, Senator CRAIG, Senator WARNER, and Senator ASHCROFT are introducing the Government Shutdown Prevention Act of 1999. This bill creates a statutory continuing resolution as sort of a safety net funding mechanism, which would be triggered only if the Fiscal Year 2000 appropriation acts do not become law or if there is no governing continuing resolution in place after the start of Fiscal Year 2000.

Mr. President, this legislation is important. It must be done soon, and I intend to seek early action on this bill. I believe the lesson of the last 4 years is that we cannot allow the Government to be shut down again, nor can we allow the threat of a Government shutdown to be so imminent that we fiscal conservatives are forced to acquiesce to the appropriation of billions of dollars for projects that do not serve our nation's best interests.

What this legislation does is ensure that the Government will not shut down and that Government shutdowns cannot be used for political gain. This safety net continuing resolution basically would set spending for fiscal year 2000 at 98 percent of 1999 funding levels. The resolution would take effect only if the Congress and the President have not completed their work on time.

Mr. President, let me make it clear that this bill only applies to the Fiscal Year 2000 appropriations. I believe that it should be expanded to make the statutory continuing resolution a permanent safety net to prevent disruptive government shutdowns.

We all saw the effects of gridlock in the past. No one wins when the Government shuts down. Shutdowns only confirm the American people's suspicions that we are more interested in political gain than doing the nation's business. The American people are tired of gridlock. They want the Government to work for them, not against them.

Our Founding Fathers would have been ashamed of our inability to execute the power of the purse in a responsible fashion. I am sure they would have been quite shocked by the 27 days in late 1995 that the Government was shut down, the 13 continuing resolutions that had to be passed to provide temporary spending authority, and the almost $6 billion in blackmail money that was given to the Administration to ensure that the Government did not shut down a third time in Fiscal Year 1996.

Although Republicans shouldered the blame for the 1995 Government shutdown, President Clinton and his colleagues were equally at fault for using it for their political gain. Republicans were outmaneuvered by President Clinton because we did not realize that he was willing to use the budget process for his own political purposes.

We also cannot let the threat of another Government shutdown force us to adopt another fiscal debacle like the FY 1999 Omnibus Appropriations Bill. The political finagling that led to the extra $20 billion in pork-barrel spending in that bill made mockery of the budget process and insulted the intention of the framers to give Congress the power of the purse. The only reason the Congress passed such a monstrosity was the ever-present specter of another government shutdown and Washington gridlock in an election year.

The Government Shutdown Act of 1999 does not erode the power of the appropriators. It gives them ample opportunity to do their job. It is only if the appropriations process is not completed by the beginning of the fiscal year, that the safety net continuing resolution will go into effect. In addition, I emphasize that entitlements are fully protected in this legislation. The bill specifically states that entitlements such as Social Security—as obligated by law—will be paid regardless of what appropriations bills are passed or not passed.

We saw in 1995 how politically motivated government shutdowns hit all Americans hard. In my State of Arizona, during the Government shutdown the Grand Canyon was closed for the first time in 76 years. I heard from people who worked close to the Grand Canyon. These were not Government employees. These were independent small business men and women. They told me that the shutdown cost them thousands of dollars because people could not go to the park. According to a CRS report, local communities near national parks alone lost an estimated $14.2 million per day in tourism revenues as a direct result of the Government shutdown, for a total of nearly $100 million over the course of the shutdown.

The cost of the last Government shutdown cannot be measured in just dollars and cents. During the 1995 shutdown, millions of Americans could not get crucial social services. For example, 10,000 new Medicare applications, 212,000 Social Security card requests, 360,000 individual office visits and 800,000 toll-free calls for information and assistance were turned away each day. There were even more delays in services for some of the most vulnerable in our society, including 13 million recipients of AFDC, 273,000 foster care children, over 100,000 children receiving adoption assistance services and over 100,000 Head Start children—not to mention the new patients that were not accepted into clinical research centers, the 7 million visitors who could not attend national parks, or the 2 million visitors turned away at museums and monuments. And the list goes on and on.

In addition, our Federal employees were left in fear wondering whether they would be paid, would they have to go to work, would they be able to pay their bills on time. In my State of Arizona, for example, of the 40,383 Federal employees, over 15,000 of them were furloughed in the 1995 Government shutdown.

As bad as the 1995 government shutdown was, the fiscal nightmare known as the FY 1999 Omnibus Appropriations Bill, was equally repulsive. This 4,000-page, 40-pound, nonamendable, budget-busting bill provided over a half-trillion dollars to fund 10 Cabinet-level federal departments. To make matters worse, this bill exceeded the budget ceiling by $20 billion for what is euphemistically called emergency spending. Much of this so-called "emergency spending" is really everyday, garden-variety, special interest, pork-barrel spending paid for by robbing billions from the budget surplus.

This monstrous bill passed because Congress was forced to either pass it, or face another government shutdown. The Government Shutdown Prevention Act of 1999 would make it more difficult for opportunistic politicians to put the American public at risk by threatening to shutdown essential government functions if Congress cannot agree on spending priorities and policies.

A 1991 GAO report confirmed that permanent funding lapse legislation is a necessity. In their report they stated, "Shutting down the Government during temporary funding gaps is an inappropriate way to encourage compromise on the budget."

Let us show the American people that we have learned our lessons from the 1995 Government shutdown and the 1998 fiscal debacle. Passing this preventive measure will go a long way to restore America's faith that politics or stalled negotiations will not stop Government operations. It will show our constituents that we will never again allow a Government shutdown or threat of a Government shutdown to be used for political gain.

We anticipate strong support from the Leadership, and urge them to move this legislation forward as soon as possible. This is must-pass legislation. Neither party can afford another breach of faith with the American people. Our constituents are tired of constantly being disappointed by the actions of Congress and the President. That is why this legislation is so important. Never again, should the American public's hard-earned dollars be used as ransom to prevent a politically motivated government shutdown.

By Mr. McCAIN:

S. 100. A bill to grant the power to the President to reduce budget authority; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

THE SEPARATE ENROLLMENT ACT OF 1999

Mr. McCAIN. Mr. President, today, I will reintroduce the Separate Enrollment Act of 1999. This bil requires each targeted tax benefit or spending item in legislation to be enrolled as a separate bill before it is sent to the President. If the President chooses to veto one of these items, each of these vetoes would be returned to Congress separately for an override vote.

Last year, the Supreme Court struck down the line item vote on Constitutional grounds in a 6–3 decision. I was very saddened by this decision. Polls from previous years indicate that 83 percent of the American people support giving the President the line-item veto authority. We need the line-item veto to restore balance to the federal budget process.

The Supreme Court struck down the 1996 Line-Item Veto Act on the basis that the Constitution requires every bill to be presented to the President for his approval or disapproval. In other words, the decision was not based on the concept that transferring power to the President of the United States lacked constitutionally, but the fact that bills are to be sent to the President for approval in their entirety.

Separate enrollment as a line-item veto tool is not a new concept. This concept is not controversial. The Senate adopted S. 4, a separate enrollment bill in the 104th Congress, by a vote of 69 to 29.

Legal scholars contend that the separate enrollment concept is constitutional. Congress has the right to present a bill to the President of the United States. Separate enrollment merely addresses the question of what constitutes a bill. It does not erode or interfere with the presentment of the bill to the President. Under the rulemaking clause, Congress alone can determine the procedures for defining and enrolling a bill. Separate enrollment is constitutional and will clearly work.

Separate enrollment, as a line-item veto tool, will be a vital force in eliminating wasteful, unnecessary pork-barrel spending. Unfortunately, as we saw last year, pork-barrel spending is alive and well.

On October 21, 1998, Congress passed the FY 1999 Omnibus Appropriations Bill—the worst example of pork-barrel spending in my memory. This was a 4,000 page, 40-pound, non-amendable, budget-busting bill which provided over a half-trillion dollars to fund 10 Cabinet-level federal departments. The bill exceeded the budget ceiling by $20 billion for what is euphemistically called emergency spending, much of which is really everyday, garden-variety, special-interest, pork-barrel spending, paid for by robbing billions from the budget surplus.

The omnibus spending bill made a mockery of the Congress' role in fiscal matters. It was a betrayal of our responsibility to spend the taxpayers' dollars wisely and enact laws and policies that reflect the best interests of all Americans, rather than the special interests of a few.

We cannot afford this magnitude of park-barrel spending when we have accumulated a multi-trillion dollar national debt. Right now, today, we use a huge portion of our federal budget to make the interest payments on the national debt. In fact, the annual interest payment almost equals the entire budget for national defense. We should be paying down the national debt, saving Social Security, and providing tax cuts for hard-working middle class Americans, not indulging in wasteful, unnecessary spending.

The objective of the Separate Enrollment bill, and the Line-Item Veto before it, is to curb wasteful pork-barrel spending by giving the President the authority to eliminate individual spending items. The Separate Enrollment Act of 1999 will be our new tool to restore fiscal responsibility to the way we spend Americans' hard-earned dollars.

This is not a partisan issue. The issue is fiscal responsibility. We have a President, we have 100 Senators, and we have 435 Representatives. It is hard to place responsibility upon any one person for profligate spending. Thus, no one is accountable for our runaway budget process.

Past Presidents have sought the line-time veto. Congress finally agreed in 1996, when we passed the Line-Item Veto Act, to give the President the ability to surgically remove wasteful spending for appropriations and authorization bills. It would also establish greater accountability in the Executive branch for fiscal decisions and provide much-needed checks and balances on Congressional spending sprees.

Unfortunately when given the Line-Item Veto authority in 1997, the President failed to exercise the authority in a meaningful fashion. Of over $8 billion in wasteful spending, he excised $491 million from the annual appropriations bills. And then the Supreme Court struck the Line-Item Veto Act down.

Restoring this power this year in the form of the Separate Enrollment Act would if exercised responsibly by the President, reduce the excesses of the congressional budget process that focus on locality-specific earmarking and cater to special interests, not the national interest.

Mr. President, I simply ask my colleagues to be fair and reasonable when addressing the issue of fiscal responsibility. The line-item veto, in the form of separate enrollment, is vital to curbing wasteful pork-barrel spending and restoring the American people's respect for their elected representatives.

By Mr. LUGAR (for himself, Mr. ROBERTS, Mr. CRAIG, Mr. FITZGERALD, and Mr. COCHRAN):

S. 101. A bill to promote trade in United States agricultural commodities, livestock, and value-added products, and to prepare for future bilateral and multilateral trade negotiations; to the Committee on Finance.

UNITED STATES AGRICULTURAL TRADE ACT OF 1999

Mr. LUGAR. Mr. President, I rise today to introduce legislation to open foreign markets for U.S. agricultural exports and raise the profile of agriculture in our nation's trade agenda.

By enacting the 1996 FAIR Act, commonly known as Freedom to Farm, we gave farmers the right to make planting decisions themselves, free from government controls. But the FAIR Act is a compact. Freedom to Farm means freedom to sell. In exchange for phasing out subsidies, Congress promised its efforts to secure free, fair, and open markets for U.S. agricultural products. The importance of exports to U.S. agriculture has never been greater. This legislation will improve opportunities, allowing us to take advantage of our dominant position in world food trade.

Each year, agricultural products make a positive contribution to our international balance of payments. No sector of the U.S. economy is more critically tied to international trade than agriculture. Approximately three out of ten acres of our agricultural production is exported. Farmers are reliant on the ability to export. We can only secure our farmers' and ranchers' future opportunities by removing trade barriers—those we impose on ourselves and those imposed by others.

Mr. President, this bill addresses several items, none of which is more important than sanctions reform. Unilateral economic sanctions often keep our farmers out of major markets. Such sanctions do not preclude the targeted country from buying agricultural commodities elsewhere. Rather, sanctions often have a more profound effect on our own country. U.S. competitors are often quick to offset the effect of our sanctions, in the process harming U.S. commercial interests. Contracts are lost and our status as a reliable business partner suffers. A cardinal test of foreign policy is to determine that, when we use sanctions internationally, our actions do less harm to ourselves than to others. Unilateral food sanctions fail that test.

Bans on food exports strike at the most basic human need, the availability of food. Authoritarian regimes can survive food sanctions. It is the people of these nations that suffer. The use of food as a weapon should, in most cases, be abandoned. This legislation exempts from unilateral economic sanctions humanitarian and commercial farm exports and gives the President the authority to waive the food exemption.

Mr. President, sanctions reform is only one aspect of improving market access. Significant tariff and non-tariff barriers still inhibit the free flow of agricultural goods. The World Trade Organization will hold an important meeting later this year in our own country. The talks which will commence at this meeting offer an important opportunity to expand overseas markets for our agricultural exports. One goal of this legislation is to achieve more fair and open conditions of trade, and the bill I introduce today provides important guidelines for these upcoming negotiations. It aims to open foreign markets and eliminate unfair and negative trade policy. Furthermore, a "special 301" provision for agriculture is included in this bill. This language is similar to S.219 which was introduced by Senator DASCHLE and Senator GRASSLEY in the 105th Congress and generated bi-partisan support within agriculture. It provides for an investigative process specifically tailored to agricultural trade. The U.S. Trade Representative will use this process to identify those countries which employ unfair trade practices against U.S. agricultural commodities and value-added products. Once in place, remedies which level the playing field are provided. This authority is important as we strive to break down trade barriers and eliminate practices which foreign countries use to bar U.S. agricultural exports.

The most important thing we can give to farmers is the ability to export their products abroad. We can give to our farmers the enhanced ability to sell their products in existing and untapped markets. Mr. President, U.S. agriculture is the most productive in the world. This legislation will allow us to take advantage of that position. I ask unanimous consent that the legislation and a summary be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Agricultural Trade Act of 1999".

SEC. 2. OBJECTIVES FOR AGRICULTURAL NEGOTIATIONS.

It is the sense of Congress that the principal agricultural trade negotiating objectives of the United States for future multilateral and bilateral trade negotiations, including the World Trade Organization, shall be to achieve, on an expedited basis, and to the maximum extent feasible, more open and fair conditions for trade in agricultural commodities by—

(1) developing, strengthening, and clarifying rules for agricultural trade, including disciplines on restrictive or trade-distorting import and export practices, including—

(A) enhancing the operation and effectiveness of the relevant Uruguay Round Agreements designed to define, deter, and discourage the persistent use of unfair trade practices; and

(B) enforcing and strengthening rules of the World Trade Organization regarding—

(i) trade-distorting practices of state trading enterprises; and

(ii) the acts, practices, or policies of a foreign government which unreasonably—

(I) require that substantial direct investment in the foreign country be made as a condition for carrying on business in the foreign country;

(II) require that intellectual property be licensed to the foreign country or to any firm of the foreign country; or

(III) delay or preclude implementation of a report of a dispute panel of the World Trade Organization;

(2) increasing United States agricultural exports by eliminating barriers to trade (including transparent and nontransparent barriers);

(3) eliminating other specific constraints to fair trade and more open market access in foreign markets, such as export subsidies, quotas, and other nontariff import barriers;

(4) developing, strengthening, and clarifying rules that address practices that unfairly limit United States market access opportunities or distort agricultural markets to the detriment of the United States, including—

(A) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms that result in inadequate price transparency;

(B) unjustified restrictions or commercial requirements affecting new technologies, including biotechnology;

(C) unjustified sanitary or phytosanitary restrictions; and

(D) restrictive rules in the establishment and administration of tariff-rate quotas;

(5) ensuring that there are reliable suppliers of agricultural commodities in international commerce by encouraging countries to treat foreign buyers no less favorably than domestic buyers of the commodity or product involved; and

(6) eliminating barriers for meeting the food needs of an increasing world population through the use of biotechnology by ensuring market access to United States commodities derived from biotechnology that is scientifically defensible, opposing the establishment of protectionist trade measures disguised as health standards, and protesting continual delays by other countries in their approval processes—which constitute nontariff trade barriers.

SEC. 3. DEFINITIONS.

As used in this Act, the terms "agricultural commodity" and "United States agricultural commodity" have the meanings provided in section 102 (1) and (7) of the Agricultural Trade Act of 1978, respectively.

SEC. 4. AGRICULTURAL COMMODITIES, LIVESTOCK, AND PRODUCTS EXEMPT FROM SANCTIONS.

(a) DEFINITION—UNILATERAL ECONOMIC SANCTION.—The term "unilateral economic sanction" means any prohibition, restriction, or condition on economic activity, including economic assistance, with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to a multilateral regime and the other members of that regime have agreed to impose substantially equivalent measures.

(b) EXEMPTION.—

(1) IN GENERAL.—Subject to paragraph (2), and notwithstanding any other provision of law, in the case of a unilateral economic sanction imposed by the United States on another country, the following shall be exempt from the unilateral economic sanction—

(A) programs administered through Public Law 480 (7 U.S.C. 1701 et. seq.);

(B) programs administered through section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(C) the program administered through section 1113 of the Food Security Act of 1985 (7 U.S.C. 1736–1); and

(D) commercial sales and humanitarian assistance involving agricultural commodities.

(2) DETERMINATION BY PRESIDENT.—If the President determines that the exemption under paragraph (1) should not apply to the unilateral economic sanction for reasons of foreign policy or national security, the President may include the activities described in paragraph (1) in the unilateral economic sanction.

(c) CURRENT SANCTIONS.—

(1) IN GENERAL.—Subject to paragraph (2), the exemption under subsection (b) shall apply to unilateral economic sanctions that are in effect as of the date of enactment of this Act.

(2) PRESIDENTIAL REVIEW.—The President shall, within 90 days of the date of enactment of this Act, review all unilateral economic sanctions under this subsection to determine whether the exemption under subsection (b) should apply to the sanction.

(3) EFFECTIVE DATE.—The exemption under subsection (b) shall become effective for unilateral economic sanctions that are in effect on the date of enactment of this Act 180 days after the date of enactment of this Act unless the President has determined that the exemption should not apply to the sanction.

(d) REPORT.—

(1) IN GENERAL.—If the President determines that the exemption under subsection (b) should not apply to a unilateral economic sanction, the President shall provide a report to the Committee on Agriculture in the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry in the Senate—

(A) in the case of a unilateral economic sanction reviewed under subsection (c), within 15 days from the date of the determination in paragraph (2) of that subsection; and

(B) in the case of a unilateral economic sanction that is imposed after the date of enactment of this Act, at the time of the imposition of the sanction.

(2) CONTENTS OF REPORT.—The report shall contain—

(A) an explanation why, because of reasons of foreign policy or national security, the exemption should not apply to the unilateral economic sanction; and

(B) an assessment by the Secretary of Agriculture—

(i) regarding export sales—

(I) in the case of a sanction in effect as of the date of enactment of this Act, whether markets in the sanctioned country or countries present a substantial trade opportunity for export sales of a United States agricultural commodity; or

(II) in the case of any other sanction, the extent to which any country or countries to be sanctioned or likely to be sanctioned are markets that accounted for, in the preceding calendar year, more than 3 percent of all export sales from the United States of an agricultural commodity;

(ii) regarding the effect on United States agricultural commodities—

(I) in the case of a sanction in effect as of the date of enactment of this Act, the potential for exports of United States commodities in the sanctioned country or countries; and

(II) in the case of any other sanction, the likelihood that exports of agricultural commodities from the United States will be affected by the unilateral economic sanction or by retaliation by any country to be sanctioned or likely to be sanctioned, and specific commodities which are most likely to be affected;

(iii) regarding producer income—

(I) in the case of a sanction in effect as of the date of enactment of this Act, the potential for increasing the income of producers of the commodities involved; and

(II) in the case of any other sanction, the likely effect on incomes of producers of the commodities involved;

(iv) regarding displacement of United States suppliers—

(I) in the case of a sanction in effect as of the date of enactment of this Act, the potential for increased competition for United States suppliers of the agricultural commodity in countries that are not subject to a sanction; and

(II) in the case of any other sanction, the extent to which the unilateral economic sanction would permit foreign suppliers to replace United States suppliers; and

(v) regarding the reputation of United States farmers as reliable suppliers—

(I) in the case of a sanction in effect as of the date of enactment of this Act, whether removing the sanction would increase the reputation of United States farmers as reliable suppliers of agricultural commodities in general, and of specific commodities identified by the Secretary; and

(II) in the case of any other sanction, the likely effect of the proposed sanction on the reputation of United States farmers as reliable suppliers of agricultural commodities in general, and of specific commodities identified by the Secretary.

(e) EFFECTIVE DATE.—Except as provided in subsection (c)(3), this section shall become effective upon the date of enactment of this Act.

SEC. 5. CONGRESSIONAL OVERSIGHT AND CONSULTATION FOR AGRICULTURAL NEGOTIATIONS.

Section 161 of the Trade Act of 1974 (19 USC 2211) is amended by adding at the end a new subsection (d) that reads as follows—

"(d) CONGRESSIONAL OVERSIGHT GROUP FOR AGRICULTURAL NEGOTIATIONS.—

"(1) There is established a Congressional Oversight Group for Agricultural Negotiations (Oversight Group) that shall provide oversight and guidance with respect to agricultural trade policy and negotiation of agricultural trade issues.

"(A) Subject to clauses (i) and (ii), the Oversight Group shall consist of 3 members of the Committee on Agriculture, Nutrition, and Forestry of the Senate and 3 members of the Committee on Agriculture of the House of Representatives.

"(i) The President pro tempore of the Senate, upon the recommendation of the Chairman of the Committee on Agriculture, Nutrition, and Forestry, shall select two members from the majority party, and one member from the minority party, of the Senate.

"(ii) The Speaker of the House of Representatives, upon the recommendation of the Chairman of the Committee on Agriculture, shall select 2 members from the majority party, and one member from the minority party, of the House of Representatives.

"(B) Members of the House and Senate who are selected as members of the Oversight Group shall be accredited by the United States Trade Representative as official advisers to the United States delegations to international conferences, meetings, and negotiating sessions relating to agricultural trade policy and negotiation of agricultural trade issues.

"(2) All negotiating proposals by the United States and negotiations that affect agricultural trade shall be reviewed by the Oversight Group prior to an agreement being initialed by the President.

"(3) All information about negotiating proposals by the United States and foreign countries affecting agricultural trade negotiations shall be made available to the Oversight Group by the United States Trade Representative.

"(4) Within 60 days of enactment of this Act, the United States Trade Representative shall establish guidelines for ensuring the useful and timely supply of information to the Oversight Group and the communication of the oversight and guidance by the Oversight Group to the United States Trade Representative.

"(A) The guidelines shall establish procedures for the United States Trade Representative to provide to the Oversight Group—

"(i) information regarding the principal multilateral and bilateral negotiating objectives affecting agricultural trade, and the progress being made toward their achievement;

"(ii) information regarding the implementation, administration, and effectiveness of recently concluded multilateral and bilateral agricultural trade agreements and the resolution of agricultural trade disputes;

"(iii) a schedule for an initial meeting, prior to the commencement of negotiations involving agricultural trade, between the Oversight Group and the United States Trade Representative, about the objectives of the negotiations;

"(iv) written or oral briefings about the status of ongoing negotiations involving agricultural trade;

"(v) prior to the President initialing the trade agreement, written or oral briefings about the results of negotiations involving agricultural trade;

"(vi) information about changes in United States laws that are necessary as a result of the negotiations; and

"(vii) a schedule and procedure for the Oversight Group to provide advice and guidance to the United States Trade Representative regarding—

"(I) the negotiations involving agricultural trade; and

"(II) changes in United States laws that are necessary as a result of the negotiations.

"(B) The United States Trade Representative shall meet with the Oversight Group at a minimum on a quarterly basis, and as needed during a negotiation involving agricultural trade.

"(C) If determined necessary by either party, consultations between the Oversight Group and the United States Trade Representative may be conducted in executive session.

SEC. 6. SALE OR BARTER OF FOOD ASSISTANCE.

It is the sense of Congress that the amendment to section 203 of the Agricultural Trade Development and Assistance Act of 1954 (Pub. L. 480) made in section 208 of the Federal Agriculture Improvement And Reform Act of 1996 (Public Law 101–127) was intended to allow the sale or barter of United States agricultural commodities included in United States food assistance only within the recipient country or countries adjacent to the recipient country, unless such sale or barter within the recipient country or adjacent countries—

(1) is not practicable; and

(2) will not disrupt commercial markets for the agricultural commodity involved.

SEC. 7. TREATMENT OF UNITED STATES AGRICULTURAL COMMODITIES, LIVESTOCK, AND AGRICULTURAL PRODUCTS.

(a) IDENTIFICATION REQUIRED.—Chapter 8 of title I of the Trade Act of 1974 is amended by adding at the end the following:

"SEC. 183. IDENTIFICATION OF COUNTRIES THAT ENGAGE IN UNFAIR TRADE PRACTICES AFFECTING UNITED STATES AGRICULTURAL COMMODITIES.

"(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the annual report is required to be submitted to Congressional committees under section 181(b), the United States Trade Representative (hereafter in this section referred to as the 'Trade Representative') shall identify—

"(1) those foreign countries that—

"(A) deny fair and equitable market access to United States agricultural commodities through discriminatory nontariff trade barriers;

"(B) employ unfair export subsidies that adversely affect market share of United States exports of agricultural commodities; or

"(C) unreasonably delay or preclude implementation of a report of a dispute panel of the World Trade Organization; or

"(2) those foreign countries identified under paragraph (1) that are determined by the Trade Representative to be priority foreign countries.

"(b) SPECIAL RULES FOR IDENTIFICATION.—

"(1) CRITERIA.—In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall only identify those foreign countries that—

"(A) engage in or have the most onerous or egregious acts, policies, or practices that deny fair and equitable market access to United States agricultural commodities;

"(B) engage in discriminatory nontariff trade barriers for the importation of United States agricultural commodities that are not based on public health concerns or cannot be substantiated by reliable analytical methods;

"(C) use unfair export subsidies;

"(D) unreasonably delay or preclude implementation of a report of a dispute panel of the World Trade Organization;

"(E) whose acts, policies, or practices described in subparagraphs (A)-(D) have the greatest adverse impact (actual or potential) on the relevant United States agricultural commodities; or

"(F) that are not negotiating in good faith about adopting fair and equitable trade practices, or making significant progress in bilateral or multilateral negotiations, in regards to United States agricultural commodities.

"(2) CONSULTATION AND CONSIDERATION REQUIREMENTS.—In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall—

"(A) consult with the Secretary of Agriculture and other appropriate officers of the Federal Government; and

"(B) take into account information from such sources as may be available to the Trade Representative and such information as may be submitted to the Trade Representative by interested persons, including information contained in reports submitted under section 181(b) and petitions submitted under section 302.

"(3) FACTUAL BASIS REQUIREMENT.—The Trade Representative may identify a foreign country under subsection (a)(1) only if the Trade Representative finds that there is a factual basis for identifying the foreign country as engaging in a trade practice under subsection (a)(1).

"(4) CONSIDERATION OF HISTORICAL FACTORS.—In identifying foreign countries under paragraphs (1) and (2) of subsection (a), the Trade Representative shall take into account—

"(A) the history of agricultural trade relations with the foreign country, including any previous identification under subsection (a)(2); and

"(B) the history of efforts of the United States, and the response of the foreign country, to achieve fair trade practices affecting trade in United States agricultural commodities.

"(c) REVOCATIONS AND ADDITIONAL IDENTIFICATIONS.—

"(1) AUTHORITY TO ACT AT ANY TIME.—If information available to the Trade Representative indicates that such action is appropriate, the Trade Representative may at any time—

"(A) revoke the identification of any foreign country as a priority foreign country under this section; or

"(B) identify any foreign country as a priority foreign country under this section.

"(2) REVOCATION REPORTS.—The Trade Representative shall include in the semiannual report submitted to the Congress under section 309(3) a detailed explanation of the reasons for the revocation under paragraph (1) of the identification of any foreign country as a priority foreign country under this section.

"(d) DEFINITIONS.—For purposes of this section, the terms "agricultural commodity" and "United States agricultural commodity" have the meanings provided in section 102 (1) and (7) of the Agricultural Trade Act of 1978, respectively.

"(e) PUBLICATION.—The Trade Representative shall publish in the Federal Register a list of foreign countries identified under subsection (a) and shall make such revisions to the list as may be required by reason of the action under subsection (c).

"(f) ANNUAL REPORT.—The Trade Representative shall, not later than the date by which countries are identified under subsection (a), transmit to the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the actions taken under this section during the 12 months preceding such report, and the reasons for such actions, including a description of progress made in achieving fair and equitable market access for United States agricultural commodities.

(b) REMEDIAL ACTIONS TO UNFAIR TRADE PRACTICES INVOLVING UNITED STATES AGRICULTURAL COMMODITIES, LIVESTOCK, AND AGRICULTURAL PRODUCTS.—

(1) Section 301 of the Trade Act of 1974 (19 U.S.C. 2411) is amended—

(A) in subsection (a)(1) by inserting "section 183(a) or" after "determines under";

(B) in subsection (b) by inserting "section 183(a) or" after "determines under";

(C) in subsection (c)(1)—

(i) in subparagraph (C) by striking "section; or" and inserting "section;"

(ii) in subparagraph (D) by striking "paragraph (4)." and inserting "paragraph (4); or"; and

(iii) by adding a new subparagraph (E) that reads as follows:

"(E) with respect to an investigation of a country identified under section 183(a)—

"(I) take any action authorized under this subsection; and

"(II) to request that the Secretary of Agriculture target the use of existing United States export programs that are administered within the Department of Agriculture to the commodity that is subject to the unfair trade practice by the priority foreign country.

(c) CLERICAL AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 182 the following:

"Sec. 183. Identification of Countries That Engage in Unfair Trade Practices Affecting United States Agricultural Commodities."

(d) INVESTIGATION REQUIRED.—Subparagraph (A) of section 302(b)(2) of the Trade Act of 1974 (19 U.S.C. 2412(b)(2)(A)) is amended by inserting "or 183(a)(2)" after "section 182(a)(2)" in the matter preceding clause (i).

(e) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 302(b)(2) of such Act is amended by inserting "concerning intellectual property rights that is" after "any investigation".

(2) Subparagraph (B) of section 304(a)(3) of such Act is amended—

(A) by striking "or" at the end of clause (ii);

(B) by inserting "or" at the end of clause (iii); and

(C) by inserting immediately after clause (iii) the following new clause:

"(iv) the foreign country involved in the investigation is making substantial progress in drafting or implementing legislative or administrative measures that ensure the country engages in fair and equitable trade practices affecting United States agricultural commodities.".

SEC.8. REALLOCATION OF UNOBLIGATED FUNDS.

(a) IN GENERAL.—The Secretary of Agriculture shall, on or about April 1 and July 1 of each fiscal year determine whether unobligated funds exist out of funds made available for the fiscal year for the Export Enhancement Program.

(b) Transfer to Food Assistance.

The Secretary may, on or about April 1 and July 1 of each fiscal year, with respect to any unobligated funds identified under subsection (a), apply the funds to—

(1) one or more of the programs administered through Public Law 480 (7 U.S.C. 1701 et. seq.);

(2) the purchase of agricultural commodities for donation through one of the programs administered through section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); and

(3) programs administered through Title II of the Trade Act of 1978 (7 U.S.C. 5621-5641).

(c) Use Within Same Fiscal Year. All funds identified under subsection (a) shall be obligated within the same fiscal year. Such funds may not be transferred under subsection (b) in a fiscal year subsequent to the fiscal year of the determination in subsection (a).

SUMMARY OF THE UNITED STATES AGRICULTURAL TRADE ACT OF 1999

1. Goals for Trade Negotiations—United States objectives for future multilateral and bilateral trade negotiations affecting agriculture, including the World Trade Organization (WTO), are to—increase market access for United States agricultural commodities, livestock, and value-added products, particularly for new products derived from biotechnology; eliminate nontariff import barriers such as quotas, discriminatory tariff-rate quotas, and unjustified sanitary and phytosanitary restrictions; eliminate export subsidies; eliminate trade-distorting practices of state trading enterprises; enforce current WTO rules and develop new rules that allow increased market access; and strengthen rules for implementing WTO dispute panel decisions.

2. Sanctions Reform—International trade in United States agricultural commodities, livestock, value-added products, and food assistance, are exempted from unilateral economic sanctions imposed by the United

States, if the transaction entails commercial sales or humanitarian assistance involving agricultural products.

If the President determines that this exemption should not apply to a current or future sanction because of foreign policy or national security considerations, the President can override the exemption. The President and the Secretary of Agriculture must provide a report to Congress for each sanction for which the President determines the exemption should not apply.

3. Congressional Agricultural Oversight Group—A Congressional Oversight Group, made up of House and Senate Agriculture Committee members, is established as a consulting and advisory group with the United States Trade Representative for future WTO and other multilateral and bilateral trade negotiations.

4. Food Assistance Resolution—A Sense of Congress resolution regarding the monetization of agricultural commodities in United States food assistance is included. The 1996 Farm Bill allowed such monetization. The resolution states that monetization should occur only in the recipient country or in adjacent countries, unless this is not practicable.

5. Super 301 for Agriculture—A procedure is established within the Office of the United States Trade Representative to identify countries that engage in unfair trade practices against U.S. agricultural commodities, livestock, and value-added products. Unfair trade practices in this context are discriminatory nontariff trade barriers, unfair export subsidies, and refusal by a country to implement a decision of a WTO dispute panel. This procedure parallels an investigative procedure that exists in current U.S. trade law for all U.S. products. If the Trade Representative makes such a determination, the Trade Representative is authorized to adopt remedies already provided in United States trade law, and the Secretary of Agriculture has the discretion to target the use of existing export programs within USDA to the commodity that is subject to the unfair trade practice.

6. Commodity Program Reallocation—The Secretary of Agriculture, for each fiscal year, is given the discretion to reallocate unobligated funds of the Export Enhancement Program to one of the Public Law 480 food assistance programs, the Food for Progress program, or one of the section 416 commodity donation programs. All affected funds must be obligated within the same fiscal year.

By Mr. ABRAHAM:

S. 102. A bill to provide that the Secretary of the Senate and the Clerk of the House of Representatives shall include an estimate of Federal retirement benefits for each Member of Congress in their semiannual reports, and for other purposes; to the Committee on Governmental Affairs.

THE CONGRESSIONAL PENSION DISCLOSURE ACT OF 1999

Mr. ABRAHAM. Mr. President, I rise today to introduce the Congressional Pension Disclosure Act of 1999 which would require the Secretary of the Senate and the Clerk of the House of Representatives to disclose information relating to the pensions of Members of Congress. This legislation would require these officers to include in their semiannual reports to Congress detailed information relating to the Members pensions. The semiannual reports would then be available to the public for inspection.

The reports would include the individual pension contributions of Members; an estimate of annuities which they would receive based on the earliest possible date they would be eligible to receive annuity payments by reason of retirement; and any other information necessary to enable the public to accurately compute the Federal retirement benefits of each Member based on various assumptions of years of service and age of separation from service by reason of retirement.

The purpose of this legislation is to afford citizens their rightful opportunity to learn how public funds are being utilized. The taxpayers are not only entitled to know the various forms of compensation their elected officials are being paid, they are also entitled to make decisions about the reasonableness of such compensation.

My bill would make this information conveniently available to the public. I believe that this bill would eliminate the present shroud of secrecy which has surrounded the congressional pension system and give the public better access to information regarding their representatives in Congress.

I ask unanimous consent that the bill and section by section analysis be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISCLOSURE OF ESTIMATES OF FEDERAL RETIREMENT BENEFITS OF MEMBERS OF CONGRESS.

(a) IN GENERAL.—Section 105(a) of the Legislative Branch Appropriations Act, 1965 (2 U.S.C. 104a; Public Law 88–454; 78 Stat. 550) is amended by adding at the end the following new paragraph:

"(4) The Secretary of the Senate and the Clerk of the House of Representatives shall include in each semiannual report submitted under paragraph (1), with respect to Members of Congress, as applicable—

"(A) the total amount of individual contributions made by each Member to the Civil Service Retirement and Disability Fund and the Thrift Savings Fund under chapters 83 and 84 of title 5, United States Code, for all Federal service performed by the Member as a Member of Congress and as a Federal employee;

"(B) an estimate of the annuity each Member would be entitled to receive under chapters 83 and 84 of such title based on the earliest possible date to receive annuity payments by reason of retirement (other than disability retirement) which begins after the date of expiration of the term of office such Member is serving; and

"(C) any other information necessary to enable the public to accurately compute the Federal retirement benefits of each Member based on various assumptions of years of service and age of separation from service by reason of retirement.".

(b) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act.

SECTION-BY-SECTION ANALYSIS OF THE CONGRESSIONAL PENSION DISCLOSURE ACT OF 1999

A BILL TO PUBLICLY DISCLOSE FEDERAL RETIREMENT BENEFITS OF MEMBERS OF CONGRESS

Section 1 (a). Amending legislation.

This section provides that Section 105(a) of the Legislative Branch Appropriations Act of 1965 is amended to add the following new paragraph:

"The Secretary of the Senate and the Clerk of the House of Representatives shall include in each semiannual report submitted under paragraph (1), with respect to Members of Congress, as applicable:"

Section 1 (A). Contributions to retirement funds.

The semiannual report would state the total amount of contributions many by each Member to the Federal retirement plans (FERS or CSRS) while they performed Federal service as a Member of Congress and/or a Federal employee.

Section 1 (B). Estimate of annuity.

The semiannual report would include an estimate of the annuity each member would be entitled to receive—based upon the earliest possible date of retirement (other than disability retirement). This would be calculated based upon the expiration of the term of office the Member is serving.

Section 1 (C). Additional information.

Included in the semiannual report would be any additional information that would help the public accurately compute the Federal retirement benefits of members based on years of service and age of separation from service by reason of retirement.

Section 1(b). Effective date.

The bill would take effect 1 year after the date of enactment.

By Mr. ALLARD (for himself and Mr. ENZI):

S. 103. A bill to amend the Internal Revenue Code of 1986 to eliminate the temporary increase in unemployment tax; to the Committee on Finance.

LEGISLATION TO REPEAL THE TEMPORARY UNEMPLOYMENT SURTAX

Mr. ALLARD. Mr. President, today I introduce legislation to repeal the "temporary" 0.2 percent Federal Unemployment Tax (FUTA) surtax.

The "temporary" surtax was enacted in 1976 by Congress to repay the general fund of the Treasury for funds borrowed by the unemployment trust fund. Although the borrowings were repaid in 1987, Congress has continued to extend the surtax in tax bill after tax bill.

Since 1987, Congress has used extension of the surtax to help raise revenue to pay for tax packages. In fact, the surtax was most recently extended to help pay for the 1997 tax bill. The tax takes money out of the private economy for no valid reason.

By repealing the surtax, Congress will honor a promise that it made when the surtax was first enacted. Small businesses were told repeatedly that the tax was temporary and would be repealed when it was no longer needed to finance the unemployment tax system. Clearly a tax is not temporary when it has already been in place for over twenty years. I would suggest at a minimum that if we are going to keep extending this tax, that we be honest with the American worker and small business owner and stop calling this tax "temporary."

Based on the original purpose, the surtax is no longer needed. The economy is experiencing the highest level of employment in decades, and all state unemployment funds have surpluses. It is inappropriate for the government to continue to raise excess unemployment taxes and then use the surplus for purposes completely unrelated to unemployment.

Repeal of the temporary unemployment surtax will also be beneficial to small businesses. The surtax is especially hard on the small businesses because they are often labor intensive. Any payroll tax is added directly to the employer's payroll costs. In fact, according to the National Federation of Independent Business, payroll taxes are the fastest growing federal tax burden on small business. It is also important to note that the payroll taxes must be paid whether the business experiences a profit or a loss.

As a former small businessman myself, I am particularly aware of this fact. I suspect that my view is similar to the view of many small business owners. It is one thing to have a surtax when unemployment is high and the surtax is necessary. However, it is totally unjustified when unemployment is at the lowest level in three decades.

Repeal of the 0.2 percent surtax will reduce the tax burden on employers and workers by $6 billion over the next five years.

Lower payroll taxes mean higher wages for workers. Although the employer appears to fully pay for the unemployment surtax and other payroll taxes, the economic evidence is strong that the cost is actually passed to workers in the form of lower wages.

Consistent tax relief will help to ensure that our economy remains the strongest and most vibrant in the world. Low taxes reduce unemployment and help ensure that future surtaxes are unnecessary.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, an editorial from the Wall Street Journal, and several charts that demonstrate the surpluses in each state fund be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1 REPEAL OF TEMPORARY UNEMPLOYMENT TAX.

Section 3301 of the Internal Revenue Code of 1986 (relating to rate of unemployment tax) is amended—

(1) by striking "2007" in paragraph (1) and inserting "1999"; and

(2) by striking "2008" in paragraph (2) and inserting "2000".

[From the Wall Street Journal, Dec. 28, 1998]

FUTile

The nation's secondary schools are gearing up to spend several hundred million in federal grants on "school to work" programs that purport to reduce youth unemployment. Indeed, under the 1993 School to Work Act, federal and state bureaucrats are running around the country like so many job fairies "creating" employment with a wave of the bureaucratic wand. If job growth is really what the government is after though, we know a simpler way to achieve it: kill off FUTA.

Employers know FUTA as the 0.8% payroll tax they must pay to Washington on the first $7,000 of every employee's wages. But this ridiculous-sounding levy—the letters stand for Federal Unemployment Tax Act—is more than just another troubling mandate. It is an object lesson in how a federal employment program can run amok.

When lawmakers originally imposed the tax to build a network of unemployment services in 1939, they were responding to an extraordinary problem: joblessness ranged close to 18%. Yet long after the Depression faded, FUTA remained on the books.

Like most other New Deal acronyms, FUTA achieved tax immortality, surviving decades of prosperity. The mid-1970's' spike in unemployment created an excuse to "temporarily" increase FUTA rates. Needless to say, that increase was never reversed. Indeed, the third largest tax hike in the Taxpayer Relief Act of 1997 was an extension of a FUTA surtax to 2007. Today, joblessness is at a historic low. Yet FUTA tax rates are higher than they were in 1975, when unemployment was 8.5%.

Then there's the question of what FUTA revenues actually pay for. FUTA isn't supposed to do anything as useful as pay unemployment benefits to workers who have been laid off. Employers are the ones who have to do that. No, FUTA money is earmarked toward salaries for bureaucrats in state unemployment offices. This is a dubious project in any era, and an absurd one in a time of worker shortage like this one.

And here's the kicker: Much of the FUTA money doesn't even make it to these superfluous employment offices. Mark Wilson of the Heritage Foundation found that little more than half of the $6.1 billion in FUTA revenues collected in 1997 ended up being spent on FUTA's official mandate. The rest of the money went straight to the federal government's "general revenues," traded against Treasury IOUs. In other words, right into the government's maw.

Washington robs FUTA in the same way it steals money from Social Security's trust fund till. As the years pass, of course, the burgeoning economy is making FUTA an even better cash machine. Today the FUTA trust fund contains $23.1 billion, about double what it held just three years ago. No wonder lawmakers get all sanctimonious about FDR when the topic of limiting FUTA comes up.

This is a shame, since FUTA does indeed kill more jobs than it finds. The FUTA tax, like Social Security, the minimum wage, or other mandates, hits businesses on the margin, where additional work is created. In times of downsizing, as we saw in the early 1990s, these bugaboos drive layoffs.

The National Federation of Independent Business, a small business lobby, lists FUTA as one of the big employment burdens. FUTA also punishes workers who do have jobs, since employers pass along the costs to them in the form of lower wages. Sen. Wayne Allard (R., Colo.) has put forward legislation to pare FUTA. It is a reform long past due.

STATE UNEMPLOYMENT COMPENSATION SYSTEM RESERVES AND RATIO OF RESERVES TO TOTAL WAGES BY STATE AND YEAR, 1991–1995

State	Net reserves as of Dec. 31 of each year (thousands)					Ratio of year-end reserves to total wages (percent)				
	1995	1994	1993	1992	1991	1995	1994	1993	1992	1991
Alabama	$534,470	$551,842	$570,118	$550,280	$585,725	1.61	1.77	1.94	1.96	2.24
Alaska	201,017	210,563	232,911	232,320	243,155	3.56	3.81	4.32	4.57	4.98
Arizona	534,640	432,449	368,782	372,423	437,667	1.48	1.33	1.26	1.36	1.71
Arkansas	200,866	169,795	134,432	81,340	103,629	1.12	1.02	0.87	0.55	0.76
California	2,104,220	2,092,695	2,450,402	2,786,713	4,190,197	0.68	0.72	0.87	0.99	1.52
Colorado	480,582	434,482	390,435	339,246	312,036	1.22	1.21	1.15	1.10	1.09
Connecticut	116,692	3,311	1,062	(653,215)	(353,767)	0.27	0.01	0.00	0.00	0.00
Delaware	271,807	244,013	225,943	218,719	223,685	3.24	3.14	3.05	3.04	3.20
District of Columbia	68,636	41,141	5,937	(19,286)	12,465	0.57	0.35	0.05	0.00	0.12
Florida	1,806,432	1,621,614	1,505,570	1,443,603	1,691,814	1.53	1.47	1.45	1.47	1.84
Georgia	1,453,118	1,281,507	1,094,999	965,870	962,324	2.03	1.95	1.79	1.68	1.81
Hawaii	213,496	232,859	310,155	362,123	420,991	2.07	2.26	3.01	3.57	4.39
Idaho	243,090	245,096	247,823	240,141	243,573	2.88	3.14	3.49	3.67	4.09
Illinois	1,629,210	1,247,066	851,918	847,622	1,172,283	1.22	0.99	0.71	0.74	1.08
Indiana	1,228,070	1,132,343	1,024,658	941,632	899,139	2.16	2.11	2.05	1.99	2.02
Iowa	725,149	708,450	655,066	615,474	594,626	3.10	3.23	3.20	3.16	3.27
Kansas	704,008	735,717	658,053	605,827	571,904	2.77	3.20	3.03	2.89	2.91
Kentucky	470,826	425,682	402,311	364,287	357,940	1.61	1.55	1.57	1.49	1.58
Louisiana	1,003,378	868,819	689,382	600,917	559,975	3.15	2.92	2.47	2.22	2.15
Maine	95,289	74,621	51,403	35,108	77,553	1.06	0.87	0.62	0.44	1.01
Maryland	605,415	408,994	219,071	145,839	224,970	1.36	0.96	0.54	0.37	0.59
Massachusetts	527,273	184,933	(115,987)	(379,918)	(234,742)	0.70	0.26	0.00	0.00	0.00
Michigan	1,497,688	866,906	364,530	(72,492)	(166,509)	1.45	0.90	0.42	0.00	0.00
Minnesota	459,621	369,776	257,584	224,091	309,473	0.94	0.80	0.59	0.54	0.80

STATE UNEMPLOYMENT COMPENSATION SYSTEM RESERVES AND RATIO OF RESERVES TO TOTAL WAGES BY STATE AND YEAR, 1991–1995—Continued

State	Net reserves as of Dec. 31 of each year (thousands)					Ratio of year-end reserves to total wages (percent)				
	1995	1994	1993	1992	1991	1995	1994	1993	1992	1991
Mississippi	551,318	490,392	410,259	345,352	348,593	3.19	2.98	2.74	2.48	2.69
Missouri	196,933	118,466	(7,749)	3,101	199,473	0.40	0.26	0.00	0.001	0.30
Montana	122,242	110,910	104,415	96,370	91,119	2.08	1.95	1.91	1.87	1.91
Nebraska	194,283	188,365	171,938	160,713	146,184	1.45	1.51	1.49	1.46	1.42
Nevada	297,866	289,804	238,398	233,667	295,919	1.69	1.70	1.68	1.79	2.46
New Hampshire	250,884	211,580	164,455	129,582	127,995	2.25	2.06	1.71	1.38	1.46
New Jersey	1,987,790	1,947,033	1,965,236	2,439,970	2,564,278	2.06	2.12	2.23	2.86	3.16
New Mexico	354,874	317,264	271,194	238,999	220,932	3.25	3.13	2.91	2.77	2.73
New York	248,978	190,467	129,409	213,914	1,191,450	0.12	0.10	0.07	0.12	0.69
North Carolina	1,531,117	1,555,329	1,514,674	1,387,170	1,373,719	2.27	2.49	2.60	2.52	2.70
North Dakota	57,415	58,641	56,267	50,306	50,914	1.41	1.55	1.59	1.51	1.64
Ohio	1,600,533	1,166,837	845,054	602,464	647,410	1.46	1.13	0.88	0.65	0.74
Oklahoma	521,683	474,866	437,800	418,907	426,398	2.32	2.21	2.13	2.10	2.24
Oregon	905,985	994,533	1,096,695	1,054,524	1,043,810	3.21	3.86	4.63	4.71	4.98
Pennsylvania	1,914,777	1,518,999	1,105,425	807,828	1,155,988	1.78	1.48	1.12	0.84	1.26
Puerto Rico	634,291	674,663	730,873	749,255	750,020	6.71	7.54	8.39	9.05	9.64
Rhode Island	110,086	119,262	119,294	104,498	143,617	1.33	1.51	1.56	1.41	2.03
South Carolina	556,650	502,237	467,494	433,442	455,097	1.84	1.79	1.77	1.73	1.92
South Dakota	51,622	51,208	49,773	50,416	49,701	1.09	1.16	1.23	1.34	1.45
Tennessee	822,821	747,477	672,261	603,130	612,653	1.66	1.62	1.58	1.50	1.67
Texas	584,866	480,322	445,633	586,472	942,734	0.34	0.30	0.30	0.41	0.69
Utah	468,030	411,411	366,524	342,146	327,893	2.93	2.86	2.82	2.83	2.96
Vermont	206,720	195,418	183,025	180,730	192,675	4.51	4.51	4.37	4.49	5.05
Virginia	788,787	658,588	553,441	506,641	591,166	1.27	1.13	1.01	0.97	1.19
Virgin Islands	40,064	40,843	51,575	47,416	43,241	6.86	6.67	6.60	7.32	7.31
Washington	1,417,701	1,565,417	1,743,146	1,766,006	1,707,604	2.93	3.45	4.05	4.18	4.40
West Virginia	164,036	161,671	154,512	140,517	157,124	1.44	1.47	1.49	1.38	1.62
Wisconsin	1,503,641	1,400,119	1,241,918	1,194,553	1,171,822	3.06	3.03	2.87	2.90	3.07
Wyoming	142,310	136,755	127,332	109,826	98,952	4.22	4.15	4.08	3.71	3.48
Total	35,403,296	31,343,551	28,187,816	27,111,772	31,494,605	1.40	1.32	1.25	1.25	1.49

Difference between detail and totals due to rounding 1995 data subject to revision. Ratio of reserves to wages not calculated for States with negative balances.
Source: U.S. Department of Labor. Prepared by the National Foundation for U.C. & W.C., June 1997.

FINANCIAL INFORMATION BY STATE FOR CY96.4, 1996

State	Revenue (12 mos) (in thousands)	TF Balance (in thousands)	Mos. in TF	Total loans (in thousands)	Loans/cov. employee
Alabama	134,029	483,472	27.3	0	0.00
Alaska	109,089	194,188	19.8	0	0.00
Arizona	223,143	627,059	46.3	0	0.00
Arkansas	169,670	202,784	13.0	0	0.00
California	3,590,823	2,877,452	11.7	0	0.00
Colorado	187,897	510,956	32.5	0	0.00
Connecticut	592,538	277,861	7.4	0	0.00
Delaware	68,409	258,468	31.9	0	0.00
Dist. of Colum	133,380	99,368	12.2	0	0.00
Florida	677,796	1,947,557	35.2	0	0.00
Georgia	382,294	1,634,073	67.0	0	0.00
Hawaii	179,540	211,267	13.3	0	0.00
Idaho	105,900	266,228	32.1	0	0.00
Illinois	1,199,050	1,638,560	15.2	0	0.00
Indiana	238,343	1,273,086	58.0	0	0.00
Iowa	133,905	718,845	45.9	0	0.00
Kansas	42,487	651,074	52.6	0	0.00
Kentucky	234,997	501,304	25.7	0	0.00
Louisiana	204,469	1,131,052	94.7	0	0.00
Maine	122,601	112,122	12.5	0	0.00
Maryland	421,722	690,786	22.9	0	0.00
Massachusetts	1,130,136	914,631	14.0	0	0.00
Michigan	1,233,803	1,830,928	21.8	0	0.00
Minnesota	386,523	513,033	16.4	0	0.00
Mississippi	99,520	553,222	50.0	0	0.00
Missouri	381,576	307,507	12.8	0	0.00
Montana	58,841	125,900	24.9	0	0.00
Nebraska	41,748	195,210	44.8	0	0.00
Nevada	177,064	348,278	28.6	0	0.00
New Hampshire	41,781	268,011	91.7	0	0.00
New Jersey	1,448,896	2,028,818	13.1	0	0.00
New Mexico	85,729	385,531	59.6	0	0.00
New York	2,211,440	470,400	2.8	0	0.00
North Carolina	113,075	1,355,565	39.6	0	0.00
North Dakota	24,364	50,072	19.1	0	0.00
Ohio	781,640	1,750,968	28.8	0	0.00
Oklahoma	128,728	563,895	64.3	0	0.00
Oregon	384,046	941,419	28.9	0	0.00
Pennsylvania	1,612,406	2,031,947	14.9	0	0.00
Puerto Rico	149,262	595,703	31.8	0	0.00
Rhode Island	184,004	116,240	7.4	0	0.00
South Carolina	208,829	603,410	36.2	0	0.00
South Dakota	12,291	49,542	39.9	0	0.00
Tennessee	284,220	826,526	30.8	0	0.00
Texas	1,014,460	642,233	7.7	0	0.00
Utah	96,262	523,880	89.2	0	0.00
Vermont	48,595	218,259	49.5	0	0.00
Virginia	260,890	897,198	55.4	0	0.00
Virgin Islands	9,345	42,069	51.5	0	0.00
Washington	644,606	1,332,508	19.7	0	0.00
West Virginia	130,182	157,345	12.8	0	0.00
Wisconsin	445,248	1,556,922	37.2	0	0.00
Wyoming	28,401	147,087	54.0	0	0.00

FINANCIAL INFORMATION BY STATE FOR CYQ, 1997

State	Revenues, last 12 months (in thousands)	TF balance (in thousands)	TF as percent of total wages[1]
Alabama	$140,978	$451,425	1.21
Alaska	131,645	202,416	3.46
Arizona	224,651	741,050	1.70
Arkansas	183,101	204,319	1.03
California	3,367,845	3,737,815	1.05
Colorado	198,748	574,413	1.22
Connecticut	637,125	532,692	1.06
Delaware	75,692	279,173	2.86
District of Col	132,481	135,627	0.94
Florida	685,668	2,090,222	1.55
Georgia	350,964	1,797,102	2.13
Hawaii	186,510	216,658	2.04
Idaho	99,412	280,382	3.00
Illinois	1,226,328	1,742,968	1.16
Indiana	268,016	1,362,463	2.15
Iowa	144,156	727,327	2.79
Kansas	46,633	606,735	2.16
Kentucky	269,075	571,366	1.71
Louisiana	213,963	1,275,668	3.55
Maine	118,089	136,019	1.35
Maryland	349,967	720,552	1.42
Massachusetts	1,222,144	1,446,164	1.64
Michigan	1,184,719	2,222,714	1.93
Minnesota	398,707	564,628	0.98
Mississippi	166,992	563,901	2.95
Missouri	381,802	417,706	0.75
Montana	65,306	135,604	2.11
Nebraska	57,932	205,727	1.33
Nevada	224,837	387,888	1.79
New Hampshire	26,426	278,296	2.16
New Jersey	1,459,837	2,384,916	2.21
New Mexico	99,244	431,159	3.61
New York	2,402,806	990,176	0.43
North Carolina	253,942	1,301,184	1.67
North Dakota	26,246	38,057	0.83
Ohio	719,622	1,874,943	1.53
Oklahoma	107,585	608,942	2.36
Oregon	462,961	1,068,843	3.13
Pennsylvania	1,587,542	2,253,703	1.87
Puerto Rico	203,816	586,659	5.30
Rhode Island	248,423	160,044	1.78
South Carolina	219,733	687,060	2.02
South Dakota	14,186	48,939	0.91
Tennessee	296,749	847,842	1.52
Texas	1,014,596	706,577	0.35
Utah	97,876	572,849	2.97
Vermont	50,047	233,537	4.59
Virgin Islands	7,693	45,434	6.82
Virginia	222,448	979,376	1.35
Washington	810,440	1,447,195	2.42
West Virginia	139,030	165,917	1.37
Wisconsin	475,595	1,632,214	2.95
Wyoming	31,217	158,573	4.26
United States	23,731,544	43,833,157	1.51

[1] Based on estimated wages for the most recent 12 months.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 105. A bill to deauthorize certain portions of the project for navigation, Bass Harbor, Maine, to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 106. A bill to amend the Water Resources Development Act of 1996 to deauthorize the remainder of the project at East Boothbay Harbor, Maine; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 107. A bill to deauthorize the project for navigation, Boothbay Harbor, Maine; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 108. A bill to modify, and to deauthorize certain portions of, the project for navigation at Wells Harbor, Maine; to the Committee on Environment and Public Works.

LEGISLATION TO DEAUTHORIZE CERTAIN PORTIONS OF THE PROJECT FOR NAVIGATION IN THE STATE OF MAINE

Ms. SNOWE. Mr. President, I rise today to thank my colleagues for their support in the last Congress for my legislation on behalf of the towns of Tremont and East Boothbay, Maine, which passed the Senate in the 105th Congress. S. 1531 sought to deauthorize certain portions of the navigational project for Bass Harbor, and S. 1532 sought to deauthorize the final portions of East Boothbay Harbor.

I also want to thank my colleagues for their support and Senate passage of the reauthorization of the Water Resources Development Act of 1998, or WRDA, which not only included these two stand alone bills, but also contained legislation that deauthorized the Federal Navigation Project area within the limits of Boothbay Harbor's inner harbor. The town's representatives had voted unanimously to request this deauthorization of the FNP area.

Also, WRDA was amended on the floor to add language that would allow for the dredging of Wells Harbor. After many contentious years, this important federal project is set to go forward because a historic Memorandum of Agreement was reached amongst the town of Wells, the Save our Shores Wells coalition, the Wells Chamber of Commerce and the Maine Audubon Society.

Bass Harbor has the greatest concentration of fishing boats on Mt. Desert Island and all mooring spaces are currently full, with a long waiting list to obtain future moorings. When the townspeople approached the U.S. Army Corps of Engineers to obtain a permit for expansion, they were told that no improvements could be made until the federal project area boundary was moved to the proper location by legislative action. I am happy to do this on their behalf. The Selectmen, Town Manager, and Harbor Committee will not be working with the Corps and the State in anticipation of having the harbor dredged, which last occurred in 1966, so that they may make space available for more and larger boats.

The bill for East Boothbay Harbor deauthorize the remainder of the federal navigational project at Boothbay Harbor. The current marina owners purchased the former shipbuilding yard in East Boothbay in 1993 and have since turned it into a full service marina. In the process of getting all the permits together for further economic development, the marina discovered that parts of the harbor, while no longer used as such, were still deemed a federal navigation project created back in 1913, when mine sweepers and other ships were being built there for World War I. Because part of the federal navigation project is still considered active, the Corps told the town that nothing could be done in the water until the entire area was deauthorized. My bill takes care of this final deauthorization, the rest of which was accomplished in the last reauthorization of the Water Resources Development Act, but the coordinates were ultimately found to be inaccurate. This legislation, with the assistance of the Corps, addresses that small section still requiring deauthorization.

The Town of Boothbay Harbor, Maine has requested legislation be enacted that will deauthorize the Federal Navigation Project area within the limits of Boothbay Harbor's inner harbor. To this end, I am introducing a bill, drafted with the assistance of the U.S. Army Corps of Engineers, and approved unanimously by the town's representatives.

I am also introducing legislation to address the dredging of Wells Harbor, which will deepen and maintain the harbor and, at the same time, protect an important federal wildlife refuge. The language, which was also included in the Senate passed WRDA of 1998, gives the Army Corps of Engineers (Corps) the authority to proceed with the project. The dredging of this federal project, contentious since 1988 because of concerns from environmental groups, is now set to go forward because of a historic Memorandum of Agreement that has been reached amongst the community and town officials, and the Maine Audubon Society. Interestingly, approximately 185,000 cubic yards of the sand to be dredged will be used to nourish adjacent eroding beaches in the town of Wells, so the project is a win-win situation for all concerned.

My stand alone bill, which will also once again be incorporated into WRDA, will allow the Corps to conduct maintenance dredging in Wells Harbor based on a design capacity for the harbor of 150 vessels, of which approximately 10 percent are commercial fishing boats. A small craft fleet of 150 is the original congressionally authorized design capacity for the harbor, and was a crucial part of the Agreement.

In addition, all parties to the settlement have agreed to a modification of the federal project, requiring Congressional action, that would realign and redesignate the existing federal channel, anchorage, and realign with the harbor settling basin, so as to maximize the use of the natural channels in the harbor for navigation and anchorage purposes. This will eliminate the impact of dredging on the intertidal sand bar, which is considered to be the geologically stabilizing force for the estuary. The language, drafted with Corps assistance, will create a new settling basin in the outer harbor, relocate the inner harbor channel to the east side of the harbor, and redesignate portions of the current channel and settling basin as anchorage.

The State of Maine issued water quality certification and coastal zone management consistency in November of 1998, conditioned on the project modifications in my legislation and that were passed by the Senate in the WRDA of 1998.

Another critical component of the Agreement for all the parties is the U.S. Fish and Wildlife Service's request, also supported by the Maine Audubon Society, that the Corps expand the area covered by the bathymetric survey work that it will already be conducting as part of the monitoring program for the harbor. The State and the parties have agreed that the additional survey will provide important and useful information about the erosional impacts of dredging in the harbor. I have asked the Corps to make a good faith effort to honor this request.

Again, I congratulate the parties in the state for what I realize is a fragile Agreement and wish to help bring this long standing matter to the best conclusion possible both for the economy of the town of Wells and the environment of the harbor, the Rachael Carson Wildlife Refuge nearby and the Wells National Estuarine Research Reserve, in which the harbor lies.

I want to thank Senator CHAFEE and his Environment and Public Works Committee for their work for successful Senate passage for these bills in the last Congress. When passed again by the Senate and by the House—and signed into law—the legislation will allow the Maine towns involved to get on with much needed harbor economic development and dredging.

I once again thank my colleagues and ask for their continued support for passage of these bills, and I especially want to urge the House to also move forward on WRDA reauthorization. One project in one district in one state should not hold up the passage of this important legislation as was the situation last year. This legislation will help the economy of small towns in Maine—and many other locations around the country—who desperately need harbor reauthorization or dredging.

By Mr. COVERDELL (for himself and Mr. CLELAND):

S. 109. A bill to improve protection and management of the Chattahoochee River National Recreation Area in the State of Georgia; to the Committee on Energy and Natural Resources.

CHATTAHOOCHEE NATIONAL RECREATION AREA BOUNDARIES LEGISLATION

Mr. COVERDELL. Mr. President, today I introduce legislation which would modify the boundaries of the Chattahoochee River National Recreation Area to protect and preserve the endangered Chattahoochee River and provide additional recreation opportunities for the citizens of Georgia and our nation. This legislation authorizes the creation of a greenway buffer between the river and private development to prevent further pollution, provide flood and erosion control, and maintain water quality for safe drinking water and for the fish and wildlife dependent on the river system. In addition, this legislation promotes private-public partnerships by authorizing $25 million in federal funds for land acquisition for the recreation area. The $25 million will be matched by private funds. The State of Georgia, private foundations, corporate entities, private individuals, and others have already given or pledged tens of millions of dollars to protect and preserve the Chattahoochee River for future generations of Georgians to enjoy.

I would like to thank Senator CLELAND for co-sponsoring this important legislation and supporting my efforts to protect one of Georgia's most vital natural resources. I believe it is crucial for Congress to act quickly on this legislation in order to protect the Chattahoochee River from any further development and environmental damage. I look forward to working with Senator CLELAND and my other colleagues in the Senate on this important proposal and urge its speedy consideration.

By Mr. SMITH of Oregon:

S. 110. A bill to amend title XIX of the Social Security Act to provide medical assistance for breast and cervical cancer-related treatment services to certain women screened and found to have breast or cervical cancer under a federally-funded screening program; to the Committee on Finance.

THE BREAST AND CERVICAL CANCER TREATMENT ACT OF 1999

Mr. SMITH of Oregon. Mr. President, this evening, the President of the United States will speak to the 106th Congress and the country in his annual State of the Union address. As distracted as we appropriately are by the Senate trial of the President, it is nevertheless my hope that the Senate, by the conclusion of the 106th Congress, will have enacted a strong bipartisan agenda reflecting several core principles. First, we must ensure that our public education system provides a high-quality, safe learning environment for all children; second, we must help working families save for the future; and third, we must support policies that increase access to health care services and improve the quality of health care in this nation.

With respect to the third principle, I rise today to introduce the "Breast and Cervical Cancer Treatment Act of 1999", legislation that my former colleague, Senator D'Amato from New York, proposed in the 105th Congress. Last year, this legislation received bipartisan support in the Senate with 35 cosponsors, and 113 cosponsors in the House of Representatives, demonstrating our commitment to improving the health and lives of low-income women in the United States.

Mr. President, whether we stand here as fathers, husbands, brothers or sons, mothers, daughters, sisters or grandchildren, we all know someone, a family member or a friend, who has experienced the devastating emotional and physical effects of breast or cervical cancer. In my state of Oregon, more than 28,000 women are living with breast cancer. In 1999, 500 women will die of breast cancer, and 200 women will die of cervical cancer. In an age of advancing technology and improved mammography, this is unacceptable, and unbelievable. We can and must do a better job for the women most at risk in this country.

The legislation I am introducing today, gives us an opportunity to expand upon an existing program that was enacted by Congress in 1990. The Breast and Cervical Cancer Mortality Prevention Act created a breast and cervical cancer screening program for low-income and uninsured women, and women of racial and ethnic minority populations throughout the United States. In its eighth year at the Centers for Disease Control (CDC) more than 1.3 million screening tests for breast and cervical cancer were provided. The CDC estimates that if such services were available to all women at risk, 15–20 percent of all deaths from breast cancer among women over 40 could have been prevented.

Recognizing the success of this screening program, the only question that remains is the availability of treatment. For a low-income or uninsured woman, a diagnosis of breast or cervical cancer means that the fight has just begun. Without adequate coverage for treatment, women in this program are left to find their own coverage or rely upon public hospitals or charity organizations. At Oregon Health Sciences University (OHSU), physicians are working overtime to treat patients and are facing limited budgets with which to provide services.

Mr. President, when a woman is diagnosed with cancer, there should be no question of whether she will be treated; rather, the answer should be "Absolutely, as soon as possible," not "How do you intend to pay for the treatment?"

The Breast and Cervical Cancer Treatment Act of 1999 seeks to expand upon the CDC screening program—with an emphasis on continuity of care—by giving states the option of providing Medicaid coverage for breast and cervical cancer treatment services to women who have been diagnosed through the CDC Breast and Cervical Cancer Screening program. With this legislation, a woman who is diagnosed through the CDC screening program would no longer have to worry about where to find treatment; the treatment would be available to her upon diagnosis, by familiar physicians, in familiar surroundings.

Mr. President, this is not an issue of costs; it's an issue of compassion. It is an opportunity to say "yes, we're here to help" to the women in our lives who need our help the most. I believe that this bill creates a new beginning not only for families of the women who are and who will be fighting cancer in their lives, but for us as legislators as we face a new millennium. I urge my colleagues to say yes by joining me in this opportunity to set a new standard in the way we meet the health care needs of women in this country.

By Mr. SMITH of Oregon (for himself, Mr. THURMOND, Mr. LEAHY, and Mr. JEFFORDS):

S. 113. A bill to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes; to the Committee on the Judiciary.

THE FEDERAL JUDICIARY PROTECTION ACT OF 1999

Mr. SMITH of Oregon. Mr. President, I rise today with my colleagues, Senators THURMOND, LEAHY, and JEFFORDS, to introduce the Federal Judiciary Protection Act of 1999, a bill to provide greater protection to Federal law enforcement officials and their families. Last year, this legislation received strong bipartisan support and passed the Senate by Unanimous Consent on November 9, 1997. I intend to work with my colleagues and the members of the Judiciary Committee to ensure that this bill becomes public law this year.

Former Secretary of State, John Foster Dulles once stated that "Of all the tasks of government, the most basic is to protect its citizens against violence." I believe that the Federal Judiciary Protection Act of 1999 gives us that very opportunity to strengthen those laws that deter violence and provide protection to those whose careers are dedicated to protecting our communities and our families.

Under current law, a person who assaults, attempts to assault, or who threatens to kidnap or murder a member of the immediate family of a United States official, a United States judge or a Federal law enforcement official, is subject to a punishment of a fine or imprisonment of up to five years, or both. This legislation seeks to expand these penalties in instances of assault with a weapon and a prior criminal history. In such cases, an individual could face up to 20 years in prison.

Importantly, this legislation would also strengthen the penalties for individuals who communicate threats through the mail. Currently, individuals who knowingly use the United States Postal Service to deliver any communication containing any threat are subject to a fine of up to $1,000 or imprisonment of up to five years. Under this legislation, anyone who communicates a threat could face imprisonment of up to ten years.

Emphasizing the need for this legislation, are the experiences of Oregon's own Chief Judge Michael Hogan and his family. They were subjected to frightening, threatening phone calls, letters and messages from an individual who had been convicted of previous crimes in Judge Hogan's courtroom. For months, he and his family lived with the fear that these threats to the lives of his wife and children could become reality, and, equally disturbing, that the individual could be back out on the street again in a matter of a few months, or a few years.

Judge Hogan and his family are not alone. In April, 1997, the wife of a Circuit Court judge in Florida was stalked by an individual who had been convicted of similar offense in 1994 and 1995. In this instance, the judge's wife was leaving a shopping mall one afternoon, and as she left the parking lot, realized that she was being followed. In an attempt to lose her pursuer, she took alternative routes, speeding through residential streets. In a desperate attempt, she cut in front of a semitrailer truck, risking a serious accident and possible loss of life, to escape. Even after his third offense, stalking the wife of a Circuit Court judge, her pursuer has been sentence to only six months of probation and $150 in fines and the court costs.

Mr. President, these are two examples of vicious acts focused at our Federal law enforcement officials and their families. As a member of the legislative branch, I believe that it is our responsibility to provide adequate protection to all Americans who serve to protect the life and liberty of every citizen in this nation. I encourage my colleagues to join us in sponsoring this important legislation.

Mr. LEAHY. Mr. President, I am proud to join Senator GORDON SMITH in introducing the Federal Judiciary Protection Act of 1999. In the last Congress, I was pleased to cosponsor nearly identical legislation introduced by Senator SMITH, which unanimously passed the Senate Judiciary Committee and the Senate but was not acted upon by the House of Representatives. I commend the Senator from Oregon for his continued leadership in protecting our Federal judiciary.

Our bipartisan legislation would provide greater protection to Federal judges, law enforcement officers and their families. Specifically, our legislation would: increase the maximum prison term for forcible assaults, resistance, opposition, intimidation or interference with a Federal judge or law enforcement officer from 3 years imprisonment to 8 years; increase the maximum prison term for use of a deadly weapon or infliction of bodily injury against a Federal judge or law enforcement officer from 10 years imprisonment to 20 years; and increase the maximum prison term for threatening murder or kidnaping of a member of the immediate family of a Federal judge or law enforcement officer from 5 years imprisonment to 10 years. It has the support of the Department of Justice, the United States Judicial Conference, the United States Sentencing Commission and the United States Marshal Service.

It is most troubling that the greatest democracy in the world needs this legislation to protect the hard working men and women who serve in our Federal judiciary and other law enforcement agencies. But, unfortunately, we are seeing more violence and threats of violence against officials of our Federal government.

Recently, for example, a courtroom in Urbana, Illinois was firebombed, apparently by a disgruntled litigant. This follows the horrible tragedy of the bombing of the federal office building in Oklahoma City in 1995. In my home state during the summer of 1997, a Vermont border patrol officer, John Pfeiffer, was seriously wounded by Carl Drega, during a shootout with Vermont and New Hampshire law enforcement officers in which Drega lost his life. Earlier that day; Drega shot and killed two state troopers and a local judge in New Hampshire. Apparently, Drega was bent on settling a grudge against the judge who had ruled against him in a land dispute.

I had a chance to visit John Pfeiffer in the hospital and met his wife and young daughter. Thankfully, Agent Pfeiffer has returned to work along the Vermont border. As a federal law enforcement officer, Agent Pfeiffer and his family will receive greater protection under our bill.

There is, of course, no excuse or justification for someone taking the law into their own hands and attacking or threatening a judge or law enforcement officer. Still, the U.S. Marshal Service is concerned with more and more threats of harm to our judges and law enforcement officers.

The extreme rhetoric that some have used in the past to attack the judiciary only feeds into this hysteria. For example, one of the Republican leaders in the House of Representatives has been quoted as saying: "The judges need to be intimidated," and if they do not behave, "we're going to go after them in a big way." I know that this official did not intend to encourage violence against any Federal official, but this extreme rhetoric only serves to degrade Federal judges in the eyes of the public.

Let none of us in the Congress contribute to the atmosphere of hate and violence. Let us treat the judicial branch and those who serve within it

th the respect that is essential to
eserving its public standing.

We have the greatest judicial system
the world, the envy of people around
e globe who are struggling for free-
m. It is the independence of our
ird, co-equal branch of government
at gives it the ability to act fairly
d impartially. It is our judiciary
at has for so long protected our fun-
mental rights and freedoms and
rved as a necessary check on over-
aching by the other two branches,
ose more susceptible to the gusts of
e political winds of the moment.

We are fortunate to have dedicated
omen and men throughout the Fed-
al Judiciary and law enforcement in
is country who do a tremendous job
der difficult circumstances. They are
amples of the hard-working public
rvants that make up the federal gov-
nment, who are too often maligned
d unfairly disparaged. It is unfortu-
te that it takes acts or threats of vi-
ence to put a human face on the Fed-
al Judiciary and other law enforce-
ent officials, to remind everyone that
ese are people with children and par-
ts and cousins and friends. They de-
rve our respect and our protection.

urge my colleagues to support the
deral Judiciary Protection Act of
99 and look forward to its swift en-
tment into law.

By Mr. INOUYE:

S. 114. A bill to amend title VII of the
blic Health Service Act to revise and
tend certain programs relating to
e education of individuals as health
ofessionals, and for other purposes;
the Committee on Health, Edu-
tion, Labor, and Pensions.

PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EDUCATION ACT OF 1999

Mr. INOUYE. Mr. President, today I
e to introduce the Physical and Oc-
pational Therapy Education Act of
99. This legislation will increase edu-
tional opportunities for physical
erapy and occupational therapy prac-
ioners in order to meet the growing
mand for the valuable services they
ovide in our communities.

n its most recent report, the Depart-
ent of Labor's Bureau of Labor Sta-
tics (BLS) projected that the de-
and for services provided by physical
erapists will increase dramatically
er the next decade. According to the
S statistics, the increase in demand
these services will create a need for
000 additional therapists, an 80% in-
ease over 1994 figures.

The BLS also predicts an increased
mand for occupational therapists.
cording to the BLS, by the year 2005,
e increase in demand will create a
ed for 39,000 additional occupational
erapists, a 72% increase over 1994 fig-
es.

Several factors contribute to the
esent need for federal support in this
ea. The rapid aging of our nations' population, the demands of the AIDs crisis, increasing emphasis on health promotion and disease prevention, and the growth of home health care have exceeded our ability to educate an adequate number of physical therapy and occupational therapy practitioners. In addition, technological advances are allowing injured and disabled individuals to survive conditions that, in past years, would have proven fatal.

America's inability to educate an adequate number of physical therapists has led to an increased reliance on foreign-educated, non-immigrant temporary workers (H-1B visa holders). The U.S. Commission on Immigration Reform has identified physical therapy and occupational therapy as having the highest number of H-1B visa holders in the U.S., second only to computer specialists. While the INS does not categorize occupational therapy as a separate profession when tracking H-1B visa entrants, the National Board of Certification in Occupational Therapy documents that the percentage of newly certified occupational therapists who are foreign graduates has risen from 3% in 1985 to more than 20% in 1995.

The legislation I introduce today would provide necessary assistance to physical and occupational therapy programs throughout the country. In awarding grants, preference would be given to applicants seeking to educate and train practitioners at clinical sites in medically underserved communities.

In addition to the shortage of practitioners, the current shortage of physical therapy and occupational therapy faculty impedes the expansion of established programs. The critical shortage of doctoral-prepared occupational therapists and physical therapists has resulted in an almost nonexistent pool of potential faculty. Presently, there are 117 faculty vacancies among 131 accredited physical therapy programs in the U.S. Similiarily, during the 1995–1996 academic year there were 51 faculty vacancies among 85 accredited professional level occupational therapy programs. The legislation I introduce today would assist in the development of a pool of qualified faculty by giving preference to applicants seeking to develop and expand post professional programs for the advanced training of physical and occupational therapists.

The investment we make through passage of the Physical Therapy and Occupational Therapy Education Act of 1999 will help reduce America's dependence on foreign labor and create highly-skilled, high-wage employment opportunities for American citizens. I look forward to working with my colleagues in Congress to enact this important legislation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Physical Therapy and Occupational Therapy Education Act of 1999".

SEC. 2. PHYSICAL THERAPY AND OCCUPATIONAL THERAPY.

Subpart 2 of part E of title VII of the Public Health Service Act, as amended by the Health Professions Education Partnerships Act of 1998, is amended by inserting after section 769, the following:

"SEC. 769A. PHYSICAL THERAPY AND OCCUPATIONAL THERAPY.

"(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, programs of physical therapy and occupational therapy for the purpose of planning and implementing projects to recruit and retain faculty and students, develop curriculum, support the distribution of physical therapy and occupational therapy practitioners in underserved areas, or support the continuing development of these professions.

"(b) PREFERENCE IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to qualified applicants that seek to educate physical therapists or occupational therapists in rural or urban medically underserved communities, or to expand post-professional programs for the advanced education of physical therapy or occupational therapy practitioners.

"(c) PEER REVIEW.—Each peer review group under section 798(a) that is reviewing proposals for grants or contracts under subsection (a) shall include not fewer than 2 physical therapists or occupational therapists.

"(d) REPORT TO CONGRESS.—

"(1) IN GENERAL.—The Secretary shall prepare a report that—

"(A) summarizes the applications submitted to the Secretary for grants or contracts under subsection (a);

"(B) specifies the identity of entities receiving the grants or contracts; and

"(C) evaluates the effectiveness of the program based upon the objectives established by the entities receiving the grants or contracts.

"(2) DATE CERTAIN FOR SUBMISSION.—Not later than February 1, 2001, the Secretary shall submit the report prepared under paragraph (1) to the Committee on Commerce and the Committee on Appropriations of the House of Representatives, the Committee on Labor and Human Resources and the Committee on Appropriations of the Senate.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $3,000,000 for each of the fiscal years 2000 through 2003.".

By Ms. SNOWE (for herself and Mrs. FEINSTEIN):

S. 115. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations; to the Committee on Health, Education, Labor, and Pensions.

WOMEN'S HEALTH AND CANCER RIGHTS ACT OF 1999

Ms. SNOWE. Mr. President, on behalf of myself and the Senator from California, Mrs. FEINSTEIN, I rise today to introduce the Women's Health and Cancer Rights Act of 1999. We supported this bill in the 105th Congress when it was championed by my friend, the Senator from New York, Mr. D'AMATO, and we are reaffirming our support for this important issue by reintroducing this bill today. Last year we did make some progress on this bill as one piece—requiring insurance companies to cover reconstructive surgery was included in the final Omnibus spending bill enacted into law last October.

This bill is about doing what's best for women facing the crisis of a cancer diagnosis and a potential mastectomy. Because right now some women are being denied the best health care available. That is simply not acceptable in a country of such vast medical resources.

This year, millions of Americans will face the possibility of a cancer diagnosis, and 180,000 women will be diagnosed with breast cancer. Our bill provides women with breast cancer and all Americans facing a cancer diagnosis with some basic protections.

First, it ensures that doctors are not pressured by health plans to release mastectomy patients before it is medically appropriate. Currently, some insurers have guidelines recommending that mastectomies be performed on an outpatient basis. A mastectomy is a very complicated surgical procedure and complications can arise as a result. Sending a woman home immediately after the surgery is not always the right thing to do. They may not have the information they need nor, more importantly, the care. We want to make sure—and this bill will—that the decisions are made in the context of the medical well being of the patient as opposed to being made by an insurance company bureaucrat.

This decision must be returned to physicians and their patients. The physical scars left by a mastectomy can be complicated and difficult to care for, and often require supervision. Women prematurely released may not have the information they need, and some dangerous complications can arise hours after the operation. And all of this is happening in context of the intense emotional trauma that comes with losing part or all of a breast.

Finally, all Americans who face the possibility of a cancer diagnosis must be able to make informed decisions about appropriate medical care. To do that, they need access to all the information available. Our bill requires insurance companies to pay full coverage for secondary consultations with a specialist whenever any cancer has been diagnosed or a treatment recommended. This will reduce senseless deaths resulting from false diagnoses and empower individuals to seek the most appropriate available treatment.

Women with breast cancer and all Americans facing a cancer diagnosis cannot wait any longer. I would urge my colleagues to join me in supporting this bill in order to provide the protections granted under this bill now.

By Ms. SNOWE:

S. 116. A bill to establish a training voucher system, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

WORKING AMERICAN TRAINING VOUCHER ACT

Ms. SNOWE. Mr. President, I rise today to introduce legislation that will address a serious need of America's workers: the need to receive training that will prepare individuals for the workplace of the 21st Century. My legislation, entitled the "Working American Training Voucher Act," would provide $1,000 training vouchers to 1 million working men and women who typically have little or no access to employer-provided training.

Mr. President, many Federal programs focus on the needs of those whose challenges and difficulties are most easily recognized and tangible. When we see a hungry child, an unemployed adult, or an impoverished senior citizen, we justifiably want to reach out and do what we can to help. Indeed, I am proud to be an active voice for those whose challenges and pains we can sometimes only imagine. However, it is oftentimes difficult to recognize the needs of those whose challenges are less tangible, whose concerns are less evident, or whose sense of insecurity about the future is known only by the individual and their family.

It is this difficulty that confronts many American workers today. In the face of increasing global competition, many workers wonder if the job they have today will be there for them tomorrow. They are concerned that the advent of new technologies is making their skills and talents less useful for their current employers which, in turn, makes them feel more vulnerable and expendable. And they wonder if the skills they possess today are even marketable if they are "down-sized" or otherwise put out of work.

Unfortunately, these types of concerns and anxieties oftentimes do not show on the surface, so it can be difficult for others to recognize or address them. It is too easy for many to assume that because a man or woman is already holding down a job, all is well and his or her future is secure. After all, how bad can it be if you're punching a time clock and getting a paycheck? Unfortunately, such a view is not only shortsighted, it is also misguided and could prove disastrous.

We should not wait until a worker has been laid-off from their job, or a company shuts its doors and shutters its windows, to take steps to help the American worker. Rather, we should take steps to ensure that our nation's workforce is confident of their future and feels prepared to address the changes that tomorrow will bring. Not only does this help the individual, but I think we would all agree that the best way to reduce the impact and cost of unemployment is to take steps to keep those who are already employed on-the-job!

Admittedly, many policies and decisions play an integral role in creating a vibrant job market. The tax burden we place on businesses, the trade agreements we sign with foreign governments, and the regulatory load we place on employers all have a significant impact on our economy's ability to produce and sustain good jobs. However, for the individual, many of these policies seem too "macro" to have an impact on their own employment prospects. In fact, an individual may not even recognize the direct impact these broader policies have on their job from day to day.

There is, however, one issue that truly strikes at the heart of how an individual feels about the future: the degree to which he or she knows that their skills match the needs of their current employer or other prospective employers in the marketplace. Without this knowledge, it does not matter to an individual if the unemployment rate is as low as economists consider the "natural rate of unemployment" or if the newspapers tell him or her that the economy couldn't be better. The simple fact is that unless an individual personally feels that their skills are up-to-date and marketable, there will never be a complete sense of security on the job from one day to the next.

And that's what the legislation I am introducing today is all about. The "Working American Training Voucher Act" addresses the needs of the average American worker—the individual who has a job today, but doesn't know if he or she has the skills needed for the jobs of tomorrow. The person who's collecting a paycheck now, but is concerned that the rapidly changing work environment may put an end to that soon.

Mr. President, we all know new technologies and new products are entering the workplace at an unprecedented rate and the changes these technologies bring are substantial. Few professions and few jobs have gone untouched by these changes—and even fewer will be immune from change in the future. Indeed, just as computers have changed the face of manufacturing, they have also changed the world of art and design. Even labor intensive tasks at assembly shops have taken on a high-tech flair thanks to new technologies.

For an individual who understands these technologies or receives training in their use, these changes present exciting new opportunities that improve performance and ultimately give one a sense of assurance that their skills are in demand. But for those who do not understand these technologies or do not receive training in their use, these technologies are nothing more than a threat and a cause for anxiety.

Regrettably, even as the demand for training at all levels in the workplace continues to grow because of these changing technologies, the United States has historically lagged far behind our global competitors in training workers. In fact, a study by the Congressional Office of Technology Assessment concluded: "When measured by international standards, most American workers are not well trained."

While some U.S. companies devote a substantial amount of money to training, many of our global competitors spend considerably more. A study by the American Society for Training and Development highlighted this point when it found that U.S. companies spend—in the aggregate—approximately 1.4 percent of their payroll on training, while a number of our competitor nations actually require companies to spend 2 to 4 percent! While I would not espouse a mandatory training budget for any business, I believe we can and should seek to improve the availability of training for our nation's workers—and especially for those who need it most but are least likely to receive it. And that's precisely who the "Working American Training Voucher" is designed to reach.

Mr. President, the "Working American Training Voucher" would provide access to critically needed training for workers at businesses with 200 or fewer employees. Why is it targeted to workers in small businesses? Quite simply, because these are the individuals who are the least likely to receive—or be offered—employer-provided training. The same report by the Congressional Office of Technology Assessment summarized the plight of employees at small businesses quite succinctly: "Many (employees) in smaller firms receive no formal training."

A 1997 report—completed by Professor Craig Olson at the University of Wisconsin-Madison and presented to the Senate Manufacturing Task Force during the 105th Congress—looked at the difference between the likelihood an individual would receive training and the level of educational achievement he or she attained, or the field he or she chose to enter. Dr. Olson's study found that individuals with a bachelor's or master's degree had a 50 percent chance of receiving training in the past year, while individuals with a high school diploma had only a 17 percent chance. Those who dropped out of high school fared even worse: their odds of receiving training were only 5 percent.

When viewed by occupation, individuals who worked in production- or service-related jobs had only a 16 percent and 18 percent chance of receiving training respectively, while those in management had a 50 percent chance. When considering that only one in four American workers received training in the past 12 months, these odds don't bode well for many employees at small businesses whose educational attainment and occupations fall in the categories that are the least likely to receive training.

One might understandably ask: Why is it that small businesses often provide so little training? The answer: cost. Small businesses are quite often unable to afford the cost of sending an employee to a training program. When your business is just trying to make ends meet, it's impossible to send an employee to a training class that costs the business both money and time away from work.

Mr. President, the "Working American Training Voucher" is designed to address this problem in a straightforward and efficient way. These vouchers—valued at up to $1,000 each—would be made available to employees at small businesses through the existing job training system that is already in place as a result of the Job Training Partnership Act (JTPA). As my colleagues in the Senate know, state and local governments—joined by the private sector—have primary responsibility for the development, management, and administration of job training programs in the JTPA, so no new distribution network would be necessary to conduct this voucher program.

The only major requirement for receiving a voucher would be that the employee and employer must agree on the specific training that will be purchased with the voucher. This will ensure that the training will be targeted specifically to the needs of the individual and the business—money would not be spent on generic training programs that teach skills that are of little, if any, use in a particular field or job. Furthermore, such an agreement will ensure that workers are actively engaged in pursuing training that will help their careers, even as employers will be urging employees to undertake training that will help the business.

Last year, JTPA programs were recrafted and consolidated as part of the Workforce Investment Act (WIA) of 1998—a law that greatly improved the delivery of federal job training monies. Specifically, up until the passage of the WIA, there was virtually no federal money for workers that are already employed. But with WIA's enactment, we are beginning to place some much needed attention on the needs of incumbent workers, and the "Working American Training Voucher Act" will vastly expand access to training for those who need it most.

Mr. President, I believe that as we prepare our workforce for the next century, we should be encouraging workers to develop new skills that will improve their longevity in their current jobs even as they gain confidence that their skills will be needed in the future. Not only will these new skills increase the confidence and performance of the individual worker, but they will also improve the productivity of the business who employs them. And we all know that if we improve a business' productivity and output, that business is more likely to survive and thrive—which means that this voucher may ultimately assist in preserving businesses and jobs in the long run.

Furthermore, better skills and training will ensure that individuals are able to rapidly transition to new jobs in the unfortunate event their current job is lost for reasons beyond their control. Regardless of how favorable the tax code is made or how many burdensome regulations we remove, we will never be able to guarantee an individual that his or her job will be around forever. But we can provide a worker with access to training that will keep his or her skills up-to-date and marketable no matter what the future holds.

Mr. President, the "Working American Training Voucher" would be a tangible, concrete, and definable program that would address a core issue facing American workers. It will ensure that those who typically have the least access to training will be able to acquire the skills needed for their current jobs, while improving their jobs in the future. It is targeted to those who are most in need of assistance, and will ensure that we no longer wait until an individual is out of work to provide help.

The Federal government often promises the American people many things, but we can never offer peace of mind to a worker who doesn't know if his or her skills are adequate to keep them employed. Let's take a step in the right direction and at least ensure that those who have a job will not lose it due to a lack of access to training and new skills. Let's pass the "Working American Training Voucher Act."

Mrs. FEINSTEIN. Mr. President, today, I am introducing the Women's Health and Cancer Rights Act of 1999 with Senator OLYMPIA SNOWE.

This bill has four provisions:

For breast cancer—

1. It requires insurance plans to cover hospital stays as determined by the attending physician, in consultation with the patient, to be medically appropriate. Our bill does not prescribe a fixed number of days or set a minimum. It leaves the length of hospital stay up to the treating physician.

2. It requires insurance plans to provide notice to plan subscribers of these requirements.

For all cancers—

3. It prohibits insurance plans from linking financial or other incentives to a physician's provisions of care.

4. It requires plans to cover second opinions by specialists to confirm or refute a diagnosis. If the attending physician certifies that there is no appropriate specialist practicing under the insurance plan, the plan must ensure that coverage is provided outside the plan for a second opinion by a qualified specialist selected by the attending physician at no additional cost to the patient beyond that which the patient would have paid if the specialist were participating in the plan.

NEED FOR LEGISLATION

The movement from inpatient to outpatient mastectomies and reduced hospital stays for mastectomies in recent years has been documented. A June 3, 1998 study in the Journal of the National Cancer Institute found that from 1986 to 1995 "the proportion of mastectomies performed on an outpatient basis increased from virtually 0% to 10.8%," said these researchers. This report also says that the data "clearly suggested a shorter average length of stay and a higher likelihood of a short stay for women covered by HMOs" and that "while short stays appear to be more prevalent among HMO enrollees, they are not limited exclusively to women with HMO coverage."

Another study, by the medical research firm HCIA of Baltimore, Maryland, found that in 1995, 7.6 percent of the 110,000 breast removals in the country were done on an outpatient basis, up from 1.6 percent in 1991.

Another study found that the average length of stay for women who have had a mastectomy is 4.34 days nationally, but in California, it is 2.98 days, the shortest in the country. (New York has the longest mastectomy length of stay at 5.78 days.) This study, published in the winter 1997–1998 issue of Inquiry, says:

> California had the highest proportion of mastectomy patients discharged after only one day or within two days . . . Nearly 12% of mastectomy patients in California were discharged with a length of stay equal to one day; the next highest proportion was 4.8% in Massachusetts; the percentages in the other three states ranged from 1.1% to 2.2%.

A July 7, 1997 study by the Connecticut Office of Health Care Access found the average hospital length of stay for breast cancer patients undergoing mastectomies decreased from three days in 1991 and 1993 to two days in 1994 and 1995. This study said, "The percentage of mastectomy patients discharged after one-day stays grew about 700 percent from 1991 to 1996."

The Wall Street Journal on November 6, 1996, reported that "some health maintenance organizations are creating an uproar by ordering that mastectomies be performed on an outpatient basis. At a growing number of HMOs, surgeons must document 'medical necessity' to justify even a one-night hospital admission."

And so the studies confirm that (1) hospital lengths of stay for mastectomies are decreasing and (2) more mastectomies are being done on an outpatient basis.

INCIDENCE OF BREAST CANCER

In 1998, over 180,000 people (one in every 8 American women) were diagnosed with invasive breast cancer and 44,000 women died from breast cancer. Only lung cancer causes more cancer deaths in American women. There are 2.6 million American women living with breast cancer today.

In my state, in 1998, approximately 17,600 women were diagnosed with breast cancer and 4,300 died, according to the American Cancer Society. Officials at the Northern California Cancer Center say that breast cancer incidence rates in Los Angeles and San Francisco are significantly higher than national rates.

THE STRESS OF MASTECTOMY; THE NEED FOR CARE

After a mastectomy, patients must cope with pain from the surgery, with drainage tubes and with psychological loss—the trauma of an amputation. These patients need medical care from trained professionals, medical care that they cannot provide themselves at home. A woman fighting for her life and her dignity should not also be saddled with a battle with her health insurance plan.

Dr. Christine Miaskowski at the University of California, San Francisco, estimates that about 20 percent of women who have breast cancer surgery have chronic pain of long duration. A University of California, San Diego, study suggests that the rate may be double that, reports the May 20, 1998 Journal of the National Cancer Institute.

Patients who have mastectomies in outpatient settings have higher rates of rehospitalization than women with a one-day hospital stay, according to the study reported in the Journal of the National Cancer Institute.

As the National Breast Cancer Coalition wrote me on March 12, 1998: "The NBCC applauds this effort and believes this compromise will put an end to the dangerous health insurance practices that allow cost and not medical evidence to determine when a woman leaves a hospital after cancer surgery."

SOME ACCOMPLISHMENTS LAST YEAR

In the last Congress, Senators D'Amato, SNOWE and I introduced a similar bill, S. 249, which also included a requirement that plans cover breast reconstruction following a mastectomy. Fortunately, Congress passed and the President signed that part of our bill, into law, the omnibus appropriations bill for FY 1999, now P.L. 105–277.

The mastectomy hospital length-of-stay and the other provisions did not become law, despite many efforts:

At our request, the Senate Finance Committee held a hearing on S. 249 on November 5, 1997.

We attempted to get this considered by the Senate, three times in 1998:

On March 16, we filed it as an amendment to H.R. 2646, the Parent and Student Savings Account PLUS Act.

On May 6, we filed it as an amendment to H.R. 2676, the IRS restructuring bill.

On May 12, we tried to bring the bill to a vote in the Senate, but were blocked.

In addition, Senator D'Amato offered it as an amendment in the Finance Committee twice.

TWO CALIFORNIA CASES

Two California women have shared their real-life experiences with me:

Nancy Couchot, age 60, of Newark, California, wrote me that she had a modified radical mastectomy on November 4, 1996, at 11:30 a.m. and was released by 4:30 p.m. She could not walk and the hospital staff did not help her "even walk to the bathroom." She says, "Any woman, under these circumstances, should be able to opt for an overnight stay to receive professional help and strong pain relief."

Victoria Berck, of Los Angeles, wrote that she had a mastectomy and lymph node removal at 7:30 a.m. on November 13, 1996, and was released from the hospital 7 hours later, at 2:30 p.m. Ms. Berck was given instructions on how to empty two drains attached to her body and sent home. She concludes, "No civilized country in the world has mastectomy as an outpatient procedure."

These are but two examples of what I believe is happening around the county—insurance plans interfering with professional medical judgment and arbitrarily reducing care without a medical basis.

Premature discharges for mastectomy, with insurance plans strong-arming physicians to send women home, are one glaring example of the rising tide of abuses faced by patients and physicians who have to "battle" with their HMOs to get coverage of the care that physicians believe is medically necessary.

NO FINANCIAL INCENTIVES

For all cancers, our bill also prohibits insurance plans from including financial or other incentives to influence the care a doctor provides, similar to a law passed by the California legislature last year. Many physicians have complained that insurance plans include financial bonuses or other incentives for cutting patient visits or for not referring patients to specialists. Our bill bans financial incentives linked to how a doctor provides care. Our intent is to restore medical decision-making to health care.

For example, a California physician wrote me, "Financial incentives under managed care plans often remove access to pediatric specialty care." A June 1995 report in the Journal of the National Cancer Institute cited the suit filed by the husband of a 34-year-old California woman who died from colon cancer, claiming that HMO incentives encouraged her physicians not to order additional tests that could have saved her life.

SECOND OPINIONS

Finally, our bill requires plans to cover second opinions by specialists for all cancers when a patient requests them. And if the attending physician certifies that there is no appropriate specialist practicing under the plan, the plan must cover a second opinion outside the plan by a qualified specialist selected by the attending physician, at no additional cost to the patient beyond that which the patient would have paid if the specialists were participating in the plan.

The alarm of learning one has cancer is profound. It affects the individual and the whole family deeply. People need the best medical judgment they can get, to make some of the most important decisions of their lives. I believe plans should cover a second opinion, so that patients can get the best care possible and can try to find some peace of mind that they are getting competent, complete medical advice.

CONCLUSION

This bill would restore professional medical decision making to medical doctors, those whom we trust to take care of us. It should not take an act of Congress to guarantee good health care, but unfortunately that is where we are today. As the National Breast Cancer Coalition wrote, ". . . until guaranteed access to quality health care coverage and service is available for all women and their families, there are some very serious patient concerns that must be met. Without meaningful health care reform, market forces propel the changes in the health care system and women are at risk of being forced to pay the price by having inappropriate limits placed on their access to quality health care."

This is an important protection for millions of Americans who face the fear, the reality and the costs of cancer every day. Seven states have a law allowing a physician to determine the length of stay following a mastectomy. Seven states have a required 48-hour minimum stay requirement.

It is long past time for this Congress to send a strong message to insurance companies. Medical decisions must be made by medical professionals, not anonymous insurance clerks.

By Ms. SNOWE:

S. 117. A bill to permit individuals to continue health plan coverage of services while participating in approved clinical studies; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE:

S. 118. A bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decision making at the National Cancer Institute; to the Committee on Health, Education, Labor, and Pensions.

BREAST CANCER LEGISLATION

Ms. SNOWE. Mr. President, today I am introducing two bills which build on progress made in the 105th Congress in the difficult and challenging fight against breast cancer.

Our challenge was summed up by one breast cancer advocate when she stated, simply and eloquently, "We must make our voices heard, because it is our lives." Indeed, breast cancer continues to claim the lives of our mothers, sisters, daughters, and wives. With about 1 in 8 women at risk for developing breast cancer, there is scarcely a family in America unaffected by the disease.

By the end of this year alone, over 178,000 women will have been diagnosed with breast cancer. Over 43,500 will have died. And with each life stolen, our nation is weakened immeasurably.

We took an important step forward in the last Congress to combat this deadly foe. In the Food and Drug Administration Reauthorization Act, Congress included language based on a bill I introduced with the Senator from California, Senator FEINSTEIN, to create a "one-stop shopping information service" for individuals with life-threatening diseases looking to obtain information about privately and publicly funded clinical trials. This service provides information describing the purpose of the trial, eligibility criteria and the location. It gives individuals, their families and physicians an 800 number to call to obtain the latest information about these trials—trials that could save a loved ones life and trials that could help put us a step closer to our ultimate goal—finding a cure.

Much remains to be done before we conquer breast cancer, so today I am reintroducing a bill, the Improved Patient Access to Clinical Studies Act of 1999, to prohibit insurance companies from denying coverage for services provided to individuals participating in clinical trials, if those services would otherwise be covered by the plan. This bill would also prevent health plans from discriminating against enrollees who choose to participate in clinical trials.

This bill has a two-fold purpose. First, it will ensure that many patients who could benefit from these potentially life-saving investigational treatments but currently do not have access to them because their insurance will not cover the associated costs. Second, without reimbursement for these services, our researchers' ability to conduct important research is impeded as it reduces the number of patients who seek to participate in clinical trials.

The second bill will give breast cancer advocates a voice in the National Institutes of Health's (NIH's) research decision-making. The Consumer Involvement in Breast Cancer Research Act urges NIH to follow the Department of Defense's lead and include lay breast cancer advocates in breast cancer research decision-making.

The involvement of these breast cancer advocates at DOD has helped foster new and innovative breast cancer research funding designs and research projects. While maintaining the highest level of quality assurance through peer review, breast cancer advocates have helped to ensure that all breast cancer research reflects the experiences and wisdom of the individuals who have lived with the disease, as well as the scientific community.

I hope that my colleagues will join me in supporting these two bills which will help those suffering from breast cancer and their families as well as our researchers who are seeking the cure for this devastating disease.

By Ms. SNOWE:

S. 119. A bill to establish a Northern Border States-Canada Trade Council, and for other purposes, to the Committee on Finance.

THE NORTHERN BORDER STATES COUNCIL ACT

Ms. SNOWE. Mr. President, today I am introducing legislation that would establish a Northern Border States Council on United States-Canada trade.

The purpose of this Council is to oversee cross-border trade with our Nation's largest trading partner—an action that I believe is long overdue. The Council will serve as an early warning system to alert State and Federal trade officials to problems in cross-border traffic and trade. The Council will enable the United States to more effectively administer trade policy with Canada by applying the wealth of insight, knowledge and expertise of people who reside not only in my State of Maine, but also in the other eleven northern border States as well, on this critical policy issue.

Within the U.S. Government we already have the Department of Commerce and a U.S. Trade Representative, both Federal entities, responsible for our larger, national U.S. trade interests. But the facts is that too often such entities fail to give full consideration to the interests of the 12 northern States that share a border with Canada, the longest demilitarized border between two nations anywhere in the world. The Northern Border States Council will provide State trade officials with a mechanism to share information about cross-border traffic and trade. The Council will then advise the Congress, the President, the U.S. Trade Representative, the Secretary of Commerce, and other Federal and State trade officials on United States-Canada trade policies, and problems.

Canada is our largest and most important trading partner. Canada is by far the top purchaser of U.S. export goods and services, as it is the largest source of U.S. imports. In 1997, for instance, Canada imported over $151.7 million worth of U.S. goods. With an economy one-tenth the size of our own, Canada's economic health depends on maintaining close trade ties with the United States. While Canada accounts for about one-fifth of U.S. exports and imports, the United States is the source of two-thirds of Canada's imports and provides the market with fully three-quarters of all of Canada's exports.

The United States and Canada have the largest bilateral trade relationship in the world, a relationship that is remarkable not only for its strength and general health, but also for the intensity of the trade and border problems that do frequently develop—as we have seen this past year with actual farmer border blockades in some border states because of the unfairness of agricultural trade policies. Over the last decade, Canada and the United States have signed two major trade agreements—the United States-Canada Free Trade Agreement in 1989, and the North American Free Trade Agreement, or NAFTA, in 1993. Notwithstanding these trade accords, numerous disagreements have caused trade negotiators to shuttle back and forth between Washington and Ottawa, most recently for solutions to problems for grain trade, wheat imports, animal trade, and joint cooperation on Biotechnology. I might add at recent negotiations, there was still no movement towards solutions for the potato industry, but I have been promised by the USDA that it is now the top priority for discussion.

Most of the more well-known trade disputes with Canada have involved agricultural commodities such as Durum wheat, peanut butter, dairy products, and poultry products, and these disputes, of course, have impacted more than just the 12 northern border States.

Each and every day, however, an enormous quantity of trade and traffic crosses the United States-Canada border. These are literally thousands of businesses, large and small, that rely on this cross-border traffic and trade for their livelihood.

My own State of Maine has had a long-running dispute with Canada over that nation's unfair policies in support of its potato industry, and I know that the upper mid-west and the western states have problems as well. Specifically, Canada protects its domestic potato growers from United States competition through a system of nontariff trade barriers, such as setting container size limitations and a prohibition on bulk shipments from the United States.

This bulk import prohibition effectively blocks United States potato imports into Canada and was one topic of discussion during an International Trade Commission investigations hearing on April 30, 1997, where I testified on behalf of the Maine potato growers. The ITC followed up with a report stating that Canadian regulations do restrict imports to bulk shipments of fresh potatoes for processing or repacking, and that the U.S. maintains no such restrictions. These bulk shipment restrictions continue, and, at the same time, Canada also artificially enhances the competitiveness of its product through domestic subsidies for its potato growers.

Another trade dispute with Canada, specifically with the province of New Brunswick, originally served as the inspiration for this legislation. In July 1993, Canadian federal customs officials began stopping Canadians returning from Maine and collecting from them the 11-percent New Brunswick Provincial Sales Tax [PST] on goods purchased in Maine. Canadian Customs Officers had already been collecting the Canadian federal sales tax all across the United States-Canada border. The collection of the New Brunswick PST was specifically targeted against goods purchased in Maine—not on goods purchased in any of the other provinces bordering New Brunswick.

After months of imploring the U.S. Trade Representative to do something about the imposition of the unfairly administered tax, then Ambassador Kantor agreed that the New Brunswick PST was a violation of NAFTA, and that the United States would include the PST issue in the NAFTA dispute settlement process. But despite this explicit assurance, the issue was not, in fact, brought before NAFTA's dispute settlement process, prompting Congress in 1996, to include an amendment I offered to immigration reform legislation calling for the U.S. Trade Representative to take this action without further delay. But, it took three years for a resolution, and even then, the resolution was not crafted by the USTR.

Throughout the early months of the PST dispute, we in the state of Maine had enormous difficulty convincing our Federal trade officials that the PST was in fact an international trade dispute that warranted their attention and action. We had no way of knowing, whether problems similar to the PST dispute existed elsewhere along the United States-Canada border, or whether it was a more localized problem. If a body like the Northern Border States Council had existed when the collection of the PST began, it could have immediately started investigating the issue to determine its impact and would have made recommendations as to how to deal with it.

The long-standing pattern of unsuccessful negotiations is alarming, with no solution on the horizon from the federal entities in charge, as the industry in Maine and other states in the U.S. continues to strive to stay competitive despite the trade barriers thrown up against their potatoes.

In short, the Northern Border States Council will serve as the eyes and ears of our States that share a border with Canada, and who are most vulnerable to fluctuations in cross-border trade and traffic. The Council will be a tool for Federal and State trade officials to use in monitoring their cross-border trade. It will help insure that national trade policy regarding America's largest trading partner will be developed and implemented with an eye towards the unique opportunities and burdens present to the northern border states.

The Northern Border States Council will be an advisory body, not a regulatory one. Its fundamental purpose will be to determine the nature and cause of cross-border trade issues or disputes, and to recommend how to resolve them.

The duties and responsibilities of the Council will include, but not be limited to, providing advice and policy recommendations on such matters as taxation and the regulation of cross-border wholesale and retail trade in goods and services; taxation, regulation and subsidization of food, agricultural, energy, and forest-products commodities; and the potential for Federal and State/provincial laws and regulations, including customs and immigration regulations, to act as nontariff barriers to trade.

As an advisory body, the Council will review and comment on all Federal and/or State reports, studies, and practices concerning United States-Canada trade, with particular emphasis on all reports from the dispute settlement panels established under NAFTA. These Council reviews will be conducted upon the request of the United States Trade Representative, the Secretary of Commerce, a Member of Congress from any Council State, or the Governor of a Council State.

If the Council determines that the origin of a cross-border trade dispute resides with Canada, the Council would determine, to the best of its ability, if the source of the dispute in the Canadian Federal Government or a Canadian Provencal government.

The goal of this legislation is not to create another Federal trade bureaucracy. The Council will be made up of individuals nominated by the Governors and approved by the Secretary of Commerce. Each northern border State will have two members on the Council. The Council members will be unpaid, and serve as 2-year term.

The Northern Border States Council on United States-Canada Trade will not solve all of our trade problems with Canada. But it will ensure that the voices and views of our northern border States are heard in Washington by our

Federal trade officials. For too long their voices have been ignored, and the northern border States have had to suffer severe economic consequences at various times because of it. This legislation will bring our States into their rightful position as full partners for issues that affect cross-border trade and traffic with our country's largest trading partner. I urge my colleagues to join me in supporting this important legislation.

By Ms. SNOWE:

S. 120. A bill to amend title II of the Trade Act of 1974 to clarify the definition of domestic industry and to include certain agricultural products for purposes of providing relief from injury caused by import competition, and for other purposes; to the Committee on Finance.

THE AGRICULTURAL TRADE REFORM ACT OF 1999

Ms. SNOWE. Mr. President, I am introducing legislation today to give agricultural producers, including potato producers, some important and badly needed new tools for combating injurious increases in imports from foreign countries.

The Trade Act of 1974 contains provisions that permit U.S. industries to seek relief from serious injury caused by increased quantities of imports. In practice, however, it has been very difficult for many U.S. industries to actually secure action under the Act to remedy this kind of injury.

The ineffectiveness of the Act results from some of the specific language in the statute. Specifically, the law requires the International Trade Commission, when evaluating a petition for relief from injury, to consider whether the injury affects the entire U.S. industry, or a segment of an industry located in a "major geographic area" of the U.S. whose production constitutes a "substantial portion" of the total domestic injury. This language has been interpreted by the ITC to mean that all or nearly all of the U.S. industry must be seriously injured by the imports before it can qualify for any relief.

Thus, if an important segment of an industry is being severely injured by imports that compete directly with that segment, the businesses who comprise this portion of the industry do not have much recourse—even though the industry segment in question may employ thousands of Americans and generate billions of dollars annually for the U.S. economy. In other words, our current trade laws leave large segments of an industry that serve particular regions and markets, or have other distinguishing features, practically helpless in the face of sharp and damaging import surges.

In addition, even if large industry subdivisions could qualify for assistance, the time frames under the Trade Act for expedited, or provisional, relief for agricultural products are too long to respond in time to prevent or adequately remedy injury caused by increasing imports. At a minimum, three months must elapse before any relief can be provided, irrespective of the damage that American businesses may suffer during that time. And three months is an absolute minimum. In reality, it could take substantially longer to provide expedited relief.

Mr. President, when it comes to agricultural products, the problems in U.S. trade law that I have described remain acute. Due to their perishable nature, many agricultural products cannot be inventoried until imports subside or the ITC grants relief—if the industry is so fortunate—many months or even years later. And most agricultural producers, who are heavily dependent on credit each year to produce and sell a crop, cannot wait that long. They need assistance in the short-term, while the injury is occurring, if they are going to survive an import surge.

Also, because crops are grown during particular seasons and serve specific markets related to production in those growing seasons, the agricultural industry is more prone to segmentation. Finally, many of the agricultural industry entities that would have to file a petition for relief under the Trade Act are really grower groups that do not necessarily have the financial wherewithal to spend millions of dollars researching, filing, and pursuing a petition before the ITC.

The bill that I have introduced today is designed to empower America's agricultural producers to seek and obtain effective remedies for damaging import surges. It will make the Trade Act more user friendly for American businesses. Unlike the current law, which sets criteria for ITC consideration that are impossible to meet and that do not reflect the realities of today's industry, my bill establishes more useful criteria. It permits the ITC to consider the impacts of import surges on an important segment of an agricultural industry when determining whether a domestic industry has been injured by imports. This segment is defined as a portion of the domestic industry located in a specific geographic area whose collective production constitutes a significant portion of the entire domestic industry. The ITC would also be required to consider whether this segment primarily serves the domestic market in the specific geographic area, and whether substantial imports are entering the area.

Rather than rely solely on an industry petition to initiate an ITC review of whether provisional, or expedited, relief deserves to be granted, my bill would permit the United States Trade Representative or the Congress, via a resolution, to request such review.

Because the time frames in the present law for considering and providing provisional relief are so long that the damage from imports can already be done well before a decision by the ITC is ever issued, this bill would shorten the time frame for provisional relief determinations by the ITC by allowing the commission to waive, in certain circumstances, the act's requirement that imports be monitored by the USTR for at least 90 days.

And, finally, the bill expands the list of agricultural products eligible for provisional relief to include any potato product, including processed potato products. Under current law, only perishable agricultural products and citrus products are eligible to apply for expedited relief determinations. But this narrow eligibility list unreasonably excludes important U.S. agribusinesses, such as our frozen french fry producers, from the expedited remedies available in the Trade Act.

For too long, American agriculture has been trying to combat sophisticated foreign competition with the equivalent of sticks and stones. My bill strengthens the position of American agricultural producers in the competitive arena, and will help provide effective remedies for agricultural producers, and provide effective deterrents to the depredations of their competitors from other countries. I hope other senators with a interest in fair play for our domestic agricultural producers will join me I cosponsoring this important legislation.

By Mr. FEINGOLD:

S. 121. A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, age, or disability, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

CIVIL RIGHTS PROCEDURES PROTECTION ACT

Mr. FEINGOLD. Mr. President, I rise today to introduce the Civil Rights Procedures Protection Act of 1999. The 106th Congress will mark the fourth successive Congress in which I have introduced this legislation. Very simply Mr. President, this legislation addresses the rapidly growing and very troubling practice of employers conditioning employment or professional advancement upon their employees' willingness to submit claims of discrimination or harassment to arbitration, rather than pursuing them in the courts. In other words, employees raising claims of harassment or discrimination by their employers must submit the adjudication of those claims to arbitration, denying themselves any other remedies may exist under the laws of this Nation.

The right to seek redress in a court of law—the right to a jury trial—is one of the most basic rights accorded to employees in this nation. In the Civil Rights Act of 1991, Congress expressly created this right to a jury trial for employees when it voted overwhelmingly to amend Title VII of the Civil Rights Act of 1964.

The intent of the Civil Rights Act of 1991 and other civil rights and labor laws, such as the Age Discrimination in Employment Act of 1967, is being circumvented by companies that require all employees to submit to mandatory, binding arbitration. In other words, the company is compelling an agreement to arbitration without regard to basic civil rights of American workers or their right to secure final resolution of such disputes in a court of law under the rules of fairness and due process.

How then does the practice of mandatory, binding arbitration comport with the purpose and spirit of our nation's civil rights and sexual harassment laws? The answer is simply that it does not.

To address the growing incidents of compulsory arbitration, the Civil Rights Procedures Protection Act of 1999 amends seven civil rights statutes to guarantee that a federal civil rights or sexual harassment plaintiff can still seek the protection of the U.S. courts rather than be forced into mandatory, binding arbitration. Specifically, this legislation affects claims raised under Title VII of the Civil Rights Act of 1965, Section 505 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, Section 1977 of the Revised Statutes, the Equal Pay Act, the Family and Medical Leave Act and the Federal Arbitration Act (FAA). In the context of the Federal Arbitration Act, the protections of this legislation are extended to claims of unlawful discrimination arising under State or local law and other Federal laws that prohibit job discrimination.

Mr. President, this bill is not anti-arbitration, anti-mediation, or anti-alternative dispute resolution. I have long been and will remain a strong supporter of "voluntary forms" of alternative methods of dispute resolution that allow the parties to choose not to proceed to litigation. Rather, this bill targets only mandatory binding arbitration clauses in employment contracts. Increasingly, working men and women are faced with the choice of accepting a mandatory arbitration clause in their employment agreement or no employment at all. Despite the appearance of a freely negotiated contract, the reality often amounts to a non-negotiable requirement that prospective employees relinquish their rights to redress in a court of law. Mandatory arbitration allows employers to tell all current and prospective employees in effect, "If you want to work for us, you will have to check your rights at the door." These requirements have been referred to as "front door" contracts; that is, they require an employee to surrender certain rights in order to "get in the front door." As a nation which values work and deplores discrimination, we should not allow this practice to continue.

As I noted Mr. President, the 106th Congress marks the fourth successive Congress in which I have introduced this important legislation. In the past year, we have made some advances addressing the unfair use of mandatory binding arbitration clauses. Due to the attention focused on this issue through this legislation, a hearing in the Banking Committee last session, and a series of articles and editorials in prominent periodicals, the National Association of Securities Dealers (NASD) agreed to remove the mandatory binding arbitration clause from its Form U-4, which all prospective securities dealers sign as a condition of employment. The NASD's decision to remove the binding arbitration clause, however, does not prohibit its constituent organizations from including a mandatory, binding arbitration clause in their own employment agreements, even if it is not mandated by the industry as a whole.

These changes in the securities industry are a positive development, but the trend toward the use of mandatory, binding arbitration clauses in many industries continues. This bill restores the ability of working men and women to pursue their rights in a venue that they choose and therefore restores and reinvigorates the spirit of our nation's civil rights and sexual harassment laws in the context of these employment contracts. I ask my colleagues to join me in supporting this important legislation.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 121

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Procedures Protection Act of 1999".

SEC. 2. AMENDMENT TO TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) is amended by adding at the end the following new section:

"SEC. 719. EXCLUSIVITY OF POWERS AND PROCEDURES.

"Notwithstanding any Federal law (other than a Federal law that expressly refers to this title) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this title, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

SEC. 3. AMENDMENT TO THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.

The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) is amended—

(1) by redesignating sections 16 and 17 as sections 17 and 18, respectively; and

(2) by inserting after section 15 the following new section 16:

"SEC. 16. EXCLUSIVITY OF POWERS AND PROCEDURES.

"Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

SEC. 4. AMENDMENT TO THE REHABILITATION ACT OF 1973.

Section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal law (other than a Federal law that expressly refers to this title) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under section 501, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

SEC. 5. AMENDMENT TO THE AMERICANS WITH DISABILITIES ACT OF 1990.

Section 107 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim based on a violation described in subsection (a), such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

SEC. 6. AMENDMENT TO SECTION 1977 OF THE REVISED STATUTES.

Section 1977 of the Revised Statutes (42 U.S.C. 1981) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any Federal law (other than a Federal law that expressly refers to this section) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim concerning making and enforcing a contract of employment under this section, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

SEC. 7. AMENDMENT TO THE EQUAL PAY REQUIREMENT UNDER THE FAIR LABOR STANDARDS ACT OF 1938.

Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this subsection, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

SEC. 8. AMENDMENT TO THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

Title IV of the Family and Medical Leave Act of 1993 (29 U.S.C. 2651 et seq.) is amended—

(1) by redesignating section 405 as section 406; and

(2) by inserting after section 404 the following new section:

"SEC. 405. EXCLUSIVITY OF REMEDIES.

"Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act or a provision of subchapter V of chapter 63 of title 5, United States Code) that would modify any of the powers and procedures expressly applicable to a right or claim arising under this Act or under such subchapter such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

SEC. 9. AMENDMENT TO TITLE 9, UNITED STATES CODE.

Section 14 of title 9, United States Code, is amended—

(1) by inserting "(a)" before "This"; and

(2) by adding at the end the following new subsection:

"(b) This chapter shall not apply with respect to a claim of unlawful discrimination in employment if such claim arises from discrimination based on race, color, religion, sex, national origin, age, or disability.".

SEC. 10. APPLICATION OF AMENDMENTS.

The amendments made by this Act shall apply with respect to claims arising not later than the date of enactment of this Act.

By Mr. FEINGOLD:

S. 122. A bill to amend title 37, United States Code, to ensure equitable treatment of members of the National Guard and the other reserve components of the United States with regard to eligibility to receive special duty assignment pay, and for other purposes; to the Committee on Armed Services.

NATIONAL GUARD AND RESERVE SPECIAL DUTY ASSIGNMENT PAY EQUITY ACT OF 1999

Mr. FEINGOLD. Mr. President, I rise today to introduce legislation that restores a measure of pay equity for our nation's Guardsmen and Reservists. The men and women who serve in the Guard and Reserves are the cornerstones of our national defense and domestic infrastructure and deserve more than a pat on the back.

Mr. President, as I'm certain my colleagues are well aware, the Guard and Reserve are integral parts of overseas missions, including recent and ongoing missions to Iraq and Bosnia. According to statements by DOD officials, guardsmen and reservists will continue to play an increasingly important role in national defense strategy. The National Guard and Reserves deserve the full support they need to carry out their duties.

National Guard and Reserve members are becoming increasingly relied upon to shoulder more of the burden of military operations. We need to compensate our citizen-soldiers for this increasing reliance on the Reserve forces. Mr. President, this boils down to an issue of fairness.

Mr. President, my bill would correct special duty assignment pay inequities between the Reserve components and the active duty. These inequities should be corrected to take into account the National Guard and Reserves' increased role in our national security, especially on the front lines. Given the increased use of the Reserve components and DOD's increased reliance on them, Reservists deserve fair pay. My bill states that a Reservist who is entitled to basic pay and is performing special duty be paid special duty assignment pay.

Mr. President, right now, Reservists are getting shortchanged despite the vital role they play in our national defense. The special duty assignment pay program ensures readiness by compensating specific soldiers who are assigned to duty positions that demand special training and extraordinary effort to maintain a level of satisfactory performance. The program, as it stands now, effectively reduces the ability of the National Guard and Reserve to retain highly dedicated and specialized soldiers.

The special duty assignment pay program provides an additional monthly financial incentive paid to enlisted soldiers and airmen who are required to perform extremely demanding duties that require an unusual degree of responsibility. These special duty assignments include certain command sergeants major, guidance counselors, retention non-commissioned officers (NCO's), drill sergeants, and members of the Special Forces. These soldiers, however, do not receive special duty assignment pay while in an IDT status (drill weekends).

Between fiscal years 1998 and 1999, spending for the program was cut by $1.6 million, which has placed a fiscal restraint on the number of personnel the Army National Guard is able to provide for under this program. These soldiers deserve better.

Mr. President, this bill is paid for by terminating the ineffective, unnecessary, outdated Cold War relic known as Project ELF, or the Extremely Low Frequency Communication System, which costs approximately $12 million per year.

Mr. President, the differences in pay and benefits are particularly disturbing since National Guard and Reserve members give up their civilian salaries during the time they are called up or volunteer for active duty.

As I'm sure all my colleagues have heard, the President will propose an enormous boost in defense spending over the next six years; an increase of $12 billion for fiscal year 2000 and about $110 billion over the next six years. I have tremendous reservations about spending hikes of this magnitude, but have no such reservations in supporting this nation's citizen-soldiers. The National Guard and Reserve deserve pay and benefit equity and that means paying them what they're worth.

Mr. President, according to the National Guard, shortfalls in the operations and maintenance account compromise the Guard's readiness levels, capabilities, force structure, and end strength. Failing to fully support these vital areas will have both direct and indirect effects. The shortfall puts the Guard's personnel, schools, training, full-time support, and retention and recruitment at risk. Perhaps more importantly, however, it erodes the morale of our citizen-soldiers.

Over these past years, the Administration has increasingly called on the Guard and Reserves to handle wider-ranging tasks, while simultaneously offering defense budgets with shortfalls of hundreds of millions of dollars. These shortfalls have increasingly greater effect given the Guard and Reserves' increased operations burdens. This is a result of new missions, increased deployments, and training requirements.

Earlier this month, Charles Cragin, the assistant secretary of defense for reserve affairs, presented DOD's position with regard to the department's working relationship with the National Guard and Reserve. He stated that all branches of the military reserves will be called upon more frequently as the nation pares back the number of soldiers on active duty. This has clearly been DOD's policy for the past few years, but Mr. Cragin went a little further by stating that the reserve units can no longer be considered "weekend warriors" but primary components of national defense.

Mr. President, in the past, DOD viewed the Armed Forces as a two-pronged system, with active-duty troops being the primary prong, reinforced by the Reserve component. That strategy has changed with the downsizing of active forces. Defense officials now see reserves as part of the "total force" of the military.

The National Guard and Reserves will be called more frequently to active duty for domestic support roles and abroad in various peace-keeping efforts. They will also be vital players on special teams trained to deal with weapons of mass destruction deployed within our own borders. According to many military experts, this represents a more salient threat to the United States than the threat of a ballistic missile attack that many of my colleagues have spent so much time addressing.

As I'm sure my colleagues know by now, the Army National Guard represents a full 34 percent of total army forces, including 55 percent of combat divisions and brigades, 46 percent of combat support, and 25 percent of combat service support, yet receives just 9.5 percent of Army funds.

Mr. President, it should come as no surprise that we have failed to invest fully in the National Guard. It's no surprise because it's the best bargain in the Defense Department. DOD has never been known as a frugal department. From $436 hammers to $640 toilet seats to $2 billion bombers that don't work and the department doesn't seem to want to use, the Department of Defense has a storied history of wasting our tax dollars. Here is an opportunity to spend defense dollars on something that works, that is worthwhile, and enjoys broad support on both sides of the aisle.

The National Guard fits the bill. According to a National Guard study, the average cost to train and equip an active duty soldier is $73,000 per year, while it costs $17,000 per year to train and equip a National Guard soldier. The cost of maintaining Army National Guard units is just 23 percent of the cost of maintaining Active Army units. It is time for the Pentagon to quit complaining about lack of funding and begin using their money more wisely and efficiently.

Mr. President, I have had the opportunity to see some of these soldiers off as they embarked on these missions and have welcomed them home upon their return, and I have been struck by the courage and professionalism they display. Guardsmen and Reservists have been vital on overseas missions, and here at home. In Wisconsin, the State Guard provides vital support during state emergencies, including floods, ice storms, and train derailments.

Mr. President, we have a duty to honor the service of our National Guardsmen and Reservists. One way to do that is to adequately compensate them for their service. I hope my colleagues agree that our citizen-soldiers serve an invaluable role in our national defense, and their paychecks should reflect their contribution.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Guard and Reserve Special Duty Assignment Pay Equity Act of 1999".

SEC. 2. ENTITLEMENT OF RESERVES NOT ON ACTIVE DUTY TO RECEIVE SPECIAL DUTY ASSIGNMENT PAY.

(a) Authority.—Section 307(a) of title 37, United States Code, is amended by inserting after "is entitled to basic pay" in the first sentence the following: ", or is entitled to compensation under section 206 of this title in the case of a member of a reserve component not on active duty,".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the first day of the first month that begins on or after the date of the enactment of this Act.

SEC. 3. OFFSET OF COST BY TERMINATION OF THE OPERATION OF THE EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM OF THE NAVY.

(a) Termination Required.—The Secretary of the Navy shall terminate the operation of the Extremely Low Frequency Communication System of the Navy.

(b) Maintenance of Infrastructure.—The Secretary shall maintain the infrastructure necessary for resuming operation of the Extremely Low Frequency Communication System.

(c) Excess Savings To Be Credited to Deficit Reduction.—To the extent, if any, that the amount of expenditures forgone for a fiscal year for the operation of the Extremely Low Frequency Communication System by reason of this section exceeds the increased cost of paying special duty assignment pay in that fiscal year as a result of the amendment made by section 2, the excess amount shall be credited to budget deficit reduction for that fiscal year.

By Mr. FEINGOLD:

S. 123. A bill to phase out Federal funding of the Tennessee Valley Authority; to the Committee on Environment and Public Works.

TENNESSEE VALLEY AUTHORITY

Mr. FEINGOLD. Mr. President, today I am introducing legislation, similar to bills I offered in the two previous Congresses, to terminate funding for the non-power programs of the Tennessee Valley Authority (TVA). In FY 99, after terminating funding for these programs in the FY 99 Energy and Water Appropriations bill, the Congress revived funding for these programs in the Omnibus Appropriations measure.

The TVA was created in 1933 as a government-owned corporation for the unified development of a river basin comprised of parts of seven states. Those activities included the construction of an extensive power system, for which the region is now famous, and regional development or "non-power" programs. TVA's responsibilities in the non-power programs include maintaining its system of dams, reservoirs and navigation facilities, and managing TVA-held lands. In addition, TVA provides recreational programs, makes economic development grants to communities, promotes public use of its land and water resources, and operates an Environmental Research Center. Only the TVA power programs are intended to be self-supporting, by relying on TVA utility customers to foot the bill. The cost of these "non-power" programs, on the other hand, is covered by appropriated taxpayer funds.

This legislation terminates funding for all appropriated programs of the TVA after FY 2000. While I understand the role that TVA has played in our history, I also know that we face tremendous federal budget pressure to reduce spending in many areas. I believe that TVA's discretionary funds should be on the table, and that Congress should act, in accordance with this legislation, to put the TVA appropriated programs on a glide path toward dependence on sources of funds other than appropriated funds. This legislation is a reasonable phased-in approach to achieve this objective, and explicitly codifies both prior recommendations made by the Administration and the TVA Chairman.

We should terminate TVA's appropriated programs because there are lingering concerns, brought to light in a 1993 Congressional Budget Office (CBO) report, that non-power program funds subsidize activities that should be paid for by non-federal interests. When I ran for the Senate in 1992, I developed an 82+ point plan to eliminate the federal deficit and have continued to work on the implementation of that plan since that time. That plan includes a number of elements in the natural resource area, including the termination of TVA's appropriations-funded programs.

In its 1993 report, CBO focused on two programs: the TVA Stewardship Program and the Environmental Research Center, which no longer receives federal funds. Stewardship activities receive the largest share of TVA's appropriated funds. The funds are used for dam repair and maintenance activities. According to 1995 testimony provided by TVA before the House Subcommittee on Energy and Water Appropriations, when TVA repairs a dam it pays 70%, on average, of repair costs with appropriated dollars and covers the remaining 30% with funds collected from electricity ratepayers.

This practice of charging a portion of dam repair costs to the taxpayer, CBO highlighted, amounts to a significant subsidy. If TVA were a private utility, and it made modifications to a dam or performed routine dredging, the ratepayers would pay for all of the costs associated with that activity.

Despite CBO's charges that a portion of the Stewardship funds may be subsidizing the power program, I have heard from a number of my constituents who are concerned that some of the TVA's non-power activities are critical federal functions. In order to be certain that Congress would be acting properly to terminate certain functions while preserving others under TVA or transferring them to other federal agencies, this bill directs OMB to study TVA's non-power programs. That study, which must be completed by June 1, 1999, requires OMB to evaluate TVA's non-power programs, describe which of those are necessary federal functions, and recommend whether those which are federal functions should be performed by TVA or by another agency. That way, Mr. President, Congress will be fully informed before making a final decision to terminate these funds.

Again, while I understand the important role that TVA played in the development of the Tennessee Valley, many other areas of the country have become more creative in federal and state financing arrangements to address regional concerns. Specifically, in those areas where there may be excesses within TVA, I believe we can do better to curb subsidies and eliminate the burden on taxpayers without completely eliminating the TVA, as some in the other body have suggested.

I ask unanimous consent that the full text of this measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TENNESSEE VALLEY AUTHORITY.

(a) DISCONTINUANCE OF APPROPRIATIONS.—Section 27 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831z), is amended by inserting "for fiscal years through fiscal year 2000" before the period.

(b) PLAN.—Not later than June 1, 1999, the Director of the Office of Management and Budget shall develop and submit a plan to Congress that—

(1) reviews the non-power activities conducted by the Tennessee Valley Authority using appropriated funds; and

(2) determines whether the non-power activities performed by the Tennessee Valley Authority can be adequately performed by other federal agencies, and if so, describes the resources needed by other agencies to perform such activities, and

(3) describes on-going federal interest in the continuation of the non-power activities currently performed by the Tennessee Valley Authority; and

(4) recommends any legislation that may be appropriate to carry out the objectives of this Act.

By Mr. FEINGOLD:

S. 124. A bill to amend the Agricultural Adjustment Act to prohibit the Secretary of Agriculture from basing minimum prices for Class I milk on the distance or transportation costs from any location that is not within a marketing area, except under certain circumstances, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

ABOLISHING THE ANTI-EAU CLAIRE RULE

Mr. FEINGOLD. Mr. President, I rise today to offer a measure which will serve as a first step towards eliminating the inequities borne by the dairy farmers of Wisconsin and the upper Midwest under the Federal Milk Marketing Order system. The Federal Milk Marketing Order system, created nearly 60 years ago, establishes minimum prices for milk paid to producers throughout various marketing areas in the U.S. For sixty years, this system has discriminated against producers in the Upper Midwest by awarding a high price to dairy farmers in proportion to the distance of their farms from Eau Claire, Wisconsin.

This legislation is very simple. It identifies the single most harmful and unjust feature of the current system, and corrects it.

Under the current archaic law, the price for fluid milk increases at a rate of 21 cents per hundred miles from Eau Claire, Wisconsin, even though most milk marketing orders do not receive any milk from Wisconsin. Fluid milk prices, as a result, are $2.98 higher in Florida than in Wisconsin and over $1.00 higher in Texas. This method of pricing fluid milk is not only arbitrary, but also out of date and out of sync with the market conditions of 1999. It is time for this method of pricing—known as single-basing-point pricing—to come to an end.

The bill I introduce today will prohibit the Secretary of Agriculture from using distance or transportation costs from any location as the basis for pricing milk, unless significant quantities of milk are actually transported from that location into the recipient market. The Secretary will have to comply with the statutory requirement that supply and demand factors be considered as specified in the Agricultural Marketing Agreement Act when setting milk prices in marketing orders. The fact remains that single-basing-point pricing simply cannot be justified based on supply and demand for milk both in local and national markets.

This bill also requires the Secretary to report to Congress on specifically which criteria are used to set milk prices. Finally, the Secretary will have to certify to Congress that the criteria used by the Department do not in any way attempt to circumvent the prohibition on using distance or transportation cost as basis for pricing milk.

This one change is so crucial to Upper Midwest producers, because the current system has penalized them for many years. By providing disparate profits for producers in other parts of the country and creating artificial economic incentives for milk production, Wisconsin producers have seen national surpluses rise, and milk prices fall. Rather than providing adequate supplies of fluid milk in some parts of the country, the prices have led to excess production.

The prices have provided production incentives beyond those needed to ensure a local supply of fluid milk in some regions, leading to an increase in manufactured products in those marketing orders. Those manufactured products directly compete with Wisconsin's processed products, eroding our markets and driving national prices down.

The perverse nature of this system is further illustrated by the fact that since 1995 some regions of the U.S., notably the Central states and the Southwest, are producing so much milk that they are actually shipping fluid milk north to the Upper Midwest. The high fluid milk prices have generated so much excess production, that these markets distant from Eau Claire are now encroaching upon not only our manufactured markets, but also our markets for fluid milk, further eroding prices in Wisconsin.

The market distorting effects of the fluid price differentials in federal orders are manifest in the Congressional Budget Office estimate that eliminating the orders would save $669 million over five years. Government outlays would fall, CBO concludes, because production would fall in response to lower milk prices and there would be fewer government purchases of surplus milk. The regions which would gain and lose in this scenario illustrate the discrimination inherent to the current system. Economic analyses show that farm revenues in a market undisturbed by Federal Orders would actually increase in the Upper Midwest and fall in most other milk-producing regions.

The data clearly show that Upper Midwest producers are hurt by distortions built into a single-basing-point system that prevent them from competing effectively in a national market.

While this system has been around since 1937, the practice of basing fluid milk price differentials on the distance from Eau Claire was formalized in the 1960's, when the Upper Midwest arguably was the primary reserve for additional supplies of milk. The idea was to encourage local supplies of fluid milk in areas of the country that did not traditionally produce enough fluid milk to meet their own needs.

Mr. President, that is no longer the case. The Upper Midwest is neither the lowest cost production area nor a primary source of reserve supplies of milk. In many of the markets with higher fluid milk differentials, milk is produced efficiently, and in some cases, at lower cost than the Upper Midwest. Unfortunately, the prices didn't adjust with changing economic conditions, most notably the shift of the dairy industry away from the Upper Midwest and towards the Southwest, specifically California, which now leads the nation in milk production.

Fluid milk prices should have been lowered to reflect that trend. Instead, in 1985, the prices were increased for markets distant from Eau Claire.

USDA has refused to use the administrative authority provided by Congress to make the appropriate adjustments to reflect economic realities. They continue to stand behind single-basing-point pricing.

The result has been a decline in the Upper Midwest dairy industry, not because they can't produce a product that can compete in the market place, but because the system discriminates against them. Since 1980, Wisconsin has lost over 15,000 dairy farmers. Today, Wisconsin loses dairy farmers at a rate of 5 per day. The Upper Midwest, with the lowest fluid milk prices, is shrinking as a dairy region despite the dairy-friendly climate of the region. Other regions with higher fluid milk prices are growing rapidly.

In an unregulated market with a level playing field, these shifts in production might be fair. But in a market where the government is setting the prices and providing that artificial advantage to regions outside the Upper Midwest, the current system is unconscionable.

This bill is a first step in reforming federal orders by prohibiting a grossly unfair practice that should have been dropped long ago. Although I understand that, because of mandates in the 1996 Farm Bill, the USDA is currently deliberating possible changes to the current system, one of the options being considered maintains this debilitating single-basing-point pricing system. This bill is the beginning of reform. It identifies the one change that is absolutely necessary in any outcome—the elimination of single-basing-point pricing.

I urge the Secretary of Agriculture to do the right thing and bring reform to this out-dated system. No proposal is reform without this important policy change.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LOCATION ADJUSTMENTS FOR MINIMUM PRICES FOR CLASS I MILK.

Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (A)—

(A) in clause (3) of the second sentence, by inserting after "the locations" the following: "within a marketing area subject to the order"; and

(B) by striking the last 2 sentences and inserting the following: "Notwithstanding subsection (18) or any other provision of law, when fixing minimum prices for milk of the highest use classification in a marketing area subject to an order under this subsection, the Secretary may not, directly or indirectly, base the prices on the distance from, or all or part of the costs incurred to transport milk to or from, any location that is not within the marketing area subject to the order, unless milk from the location constitutes at least 50 percent of the total supply of milk of the highest use classification in the marketing area. The Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the criteria that are used as the basis for the minimum prices referred to in the preceding sentence, including a certification that the minimum prices are made in accordance with the preceding sentence."; and

(2) in paragraph (B)(c), by inserting after "the locations" the following: "within a marketing area subject to the order".

By Mr. FEINGOLD (for himself and Mr. MCCAIN):

S. 125. A bill to reduce the number of executive branch political appointees; to the Committee on Governmental Affairs.

REDUCING THE NUMBER OF EXECUTIVE BRANCH POLITICAL APPOINTMENTS

Mr. FEINGOLD. Mr. President, I am pleased to be joined by my good friend the senior Senator from Arizona (Mr. MCCAIN) in introducing legislation to reduce the number of presidential political appointees. Specifically, the bill caps the number of political appointees at 2,000. The Congressional Budget Office (CBO) estimates this measure would save $333 million over the next five years.

The bill is based on the recommendations of a number of distinguished panels, including most recently, the Twentieth Century Fund Task Force on the Presidential Appointment Process. The task force findings, released last fall, are only the latest in a long line of recommendations that we reduce the number of political appointees in the Executive Branch. For many years, the proposal has been included in CBO's annual publication Reducing the Deficit: Spending and Revenue Options, and it was one of the central recommendations of the National Commission on the Public Service, chaired by former Federal Reserve Board Chairman Paul Volcker.

Mr. President, this proposal is also consistent with the recommendations of the Vice President's National Performance Review, which called for reductions in the number of federal managers and supervisors, arguing that "over-control and micro management" not only "stifle the creativity of line managers and workers, they consume billions per year in salary, benefits, and administrative costs."

Those sentiments were also expressed in the 1989 report of the Volcker Commission, when it argued the growing number of presidential appointees may "actually undermine effective presidential control of the executive branch." The Volcker Commission recommended limiting the number of political appointees to 2,000, as this legislation does.

Mr. President, it is essential that any Administration be able to implement the policies that brought it into office in the first place. Government must be responsive to the priorities of the electorate. But as the Volcker Commission noted, the great increase in the number of political appointees in recent years has not made government more effective or more responsive to political leadership.

Between 1980 and 1992, the ranks of political appointees grew 17 percent, over three times as fast as the total number of Executive Branch employees and looking back to 1960 their growth is even more dramatic. In his recently published book "Thickening Government: Federal Government and the Diffusion of Accountability," author Paul Light reports a startling 430% increase in the number of political appointees and senior executives in Federal government between 1960 and 1992.

In recommending a cap on political appointees, the Volcker Commission report noted that the large number of presidential appointees simply cannot be managed effectively by any President or White House. The Commission argued that this lack of control and political focus "may actually dilute the President's ability to develop and enforce a coherent, coordinated program and to hold cabinet secretaries accountable."

Adding organizational layers of political appointees can also restrict access to important resources, while doing nothing to reduce bureaucratic impediments.

In commenting on this problem, author Paul Light noted, "As this sediment has thickened over the decades, presidents have grown increasingly distant from the lines of government, and the front lines from them." Light added that "Presidential leadership, therefore, may reside in stripping government of the barriers to doing its job effectively. . ."

The Volcker Commission also asserted that this thickening barrier of temporary appointees between the President and career officials can undermine development of a proficient civil service by discouraging talented individuals from remaining in government service or even pursuing a career in government in the first place.

Mr. President, former Attorney General Elliot Richardson put it well when he noted:

> But a White House personnel assistant sees the position of deputy assistant secretary as a fourth-echelon slot. In his eyes that makes it an ideal reward for a fourth-echelon political type—a campaign advance man, or a regional political organizer. For a senior civil servant, it's irksome to see a position one has spent 20 or 30 years preparing for preempted by an outsider who doesn't know the difference between an audit exception and an authorizing bill.

Mr. President, the report of the Twentieth Century Fund Task Force on the Presidential Appointment Process identified another problem aggravated by the mushrooming number of political appointees, namely the increasingly lengthy process of filling these thousands of positions. As the Task Force reported, both President Bush and President Clinton were into their presidencies for many months before their leadership teams were fully in place. The Task Force noted that "on average, appointees in both administrations were confirmed more than eight months after the inauguration—one-sixth of an entire presidential term." By contrast, the report noted that in the presidential transition of 1960, "Kennedy appointees were confirmed, on average, two and a half months after the inauguration."

In addition to leaving vacancies among key leadership positions in government, the appointment process delays can have a detrimental effect on potential appointees. The Twentieth Century Fund Task Force reported that appointees can "wait for months on end in a limbo of uncertainty and awkward transition from the private to the public sector."

Mr. President, there have been some modest reductions in the number of political appointees in recent years, but further reductions are needed.

The sacrifices that deficit reduction efforts require must be spread among all of us. This measure requires us to bite the bullet and impose limitations upon political appointments that both parties may well wish to retain. The test of commitment to deficit reduction, however, is not simply to propose measure that impact someone else.

As reduce the number of government employees, streamline agencies, and make government more responsive, we should also right size the number of political appointees, ensuring a sufficient number to implement the policies of any Administration without burdening the Federal budget with unnecessary, possibly counterproductive political jobs.

Mr. President, when I ran for the U.S. Senate in 1992, I developed an 82 point plan to reduce the Federal deficit and achieve a balanced budget. Since that time, I have continued to work toward enactment of many of the provisions of that plan and have added new provisions on a regular basis.

The legislation I am introducing today reflects one of the points included on the original 82 point plan calling for streamlining various federal agencies and reducing agency overhead costs. I am pleased to have this opportunity to continue to work toward implementation of the elements of the deficit reduction plan.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDUCTION IN NUMBER OF POLITICAL APPOINTEES.

(a) DEFINITION.—In this section, the term "political appointee" means any individual who—

(1) is employed in a position on the executive schedule under sections 5312 through 5316 of title 5, United States Code;

(2) is a limited term appointee, limited emergency appointee, or noncareer appointee in the senior executive service as defined under section 3132(a) (5), (6), and (7) of title 5, United States Code, respectively; or

(3) is employed in a position in the executive branch of the Government of a confidential or policy-determining character under Schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

(b) LIMITATION.—The President, acting through the Office of Management and Budget and the Office of Personnel Management, shall take such actions as necessary (including reduction in force actions under procedures established under section 3595 of title 5, United States Code) to ensure that the total number of political appointees shall not exceed 2,000.

(c) EFFECTIVE DATE.—This section shall take effect on October 1, 1999.

By Mr. FEINGOLD:

S. 126. A bill to terminate the Uniformed Services University of the Health Sciences; to the Committee on Armed Services.

TERMINATING THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Mr. FEINGOLD. Mr. President, I am today introducing legislation terminating the Uniformed Services University of the Health Sciences (USUHS), a medical school run by the Department of Defense. The measure is one I proposed when I ran for the U.S. Senate, and was part of a larger, 82 point plan to reduce the Federal budget deficit. The most recent estimates of the Congressional Budget Office (CBO) project that terminating the school would save $273 million over the next five years, and when completely phased-out, would generate $450 million in savings over five years.

USUHS was created in 1972 to meet an expected shortage of military medical personnel. Today, however, USUHS accounts for only a small fraction of the military's new physicians, less than 12 percent in 1994 according to CBO. This contrasts dramatically with the military's scholarship program which provided over 80 percent of the military's new physicians in that year.

Mr. President, what is even more troubling is that USUHS is also the single most costly source of new physicians for the military. CBO reports that based on figures from 1995, each USUHS trained physician costs the military $615,000. By comparison, the scholarship program cost about $125,000 per doctor, with other sources providing new physicians at a cost of $60,000. As CBO noted in their Spending and Revenue Options publication, even adjusting for the lengthier service commitment required of USUHS trained physicians, the cost of training them is still higher than that of training physicians from other sources, an assessment shared by the Pentagon itself. Indeed, CBO's estimate of the savings generated by this measure also includes the cost of obtaining physicians from other sources.

The House of Representatives has voted to terminate this program on several occasions, and the Vice President's National Performance Review joined others, ranging from the Grace Commission to the CBO, in raising the question of whether this medical school, which graduated its first class in 1980, should be closed because it is so much more costly than alternative sources of physicians for the military.

Mr. President, the real issue we must address is whether USUHS is essential to the needs of today's military structure, or if we can do without this costly program. The proponents of USUHS frequently cite the higher retention rates of USUHS graduates over physicians obtained from other sources as a justification for continuation of this program, but while a greater percentage of USUHS trained physicians may remain in the military longer than those from other sources, the Pentagon indicates that the alternative sources already provide an appropriate mix of retention rates. Testimony by the Department of Defense before the Subcommittee on Force Requirements and Personnel noted that the military's scholarship program meets the retention needs of the services.

And while USUHS only provides a small fraction of the military's new physicians, it is important to note that relying primarily on these other sources has not compromised the ability of military physicians to meet the needs of the Pentagon. According to the Office of Management and Budget, of the approximately 2,000 physicians serving in Desert Storm, only 103, about 5%, were USUHS trained.

Mr. President, let me conclude by recognizing that USUHS has some dedicated supporters in the U.S. Senate, and I realize that there are legitimate arguments that those supporters have made in defense of this institution. The problem, however, is that the federal government can no longer afford to continue every program that provides some useful function.

This is especially true in the area of defense spending. Many in this body argue that the Defense budget is too tight, that a significant increase in spending is needed to address concerns about shortfalls in recruitment and retention, maintenance backlogs, and other indicators of a lower level of readiness.

Mr. President, the debate over our level of readiness is certainly important, and it may well be that more Defense funding should be channeled to these specific areas of concern.

But before advocates of an increased Defense budget ask taxpayers to foot the bill for hundreds of billions more in spending, they owe it to those taxpayers to trim Defense programs that are not justified.

In the face of our staggering national debt and annual deficits, we must prioritize and eliminate programs that can no longer be sustained with limited federal dollars, or where a more cost-effective means of fulfilling those functions can be substituted. The future of USUHS continues to be debated precisely because in these times of budget restraint it does not appear to pass the higher threshold tests which must be applied to all federal spending programs.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 126

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Uniformed Services University of the Health Sciences Termination and Deficit Reduction Act of 1999".

SEC. 2. TERMINATION OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) TERMINATION.—

(1) IN GENERAL.—The Uniformed Services University of the Health Sciences is terminated.

(2) CONFORMING AMENDMENTS.—

(A) Chapter 104 of title 10, United States Code, is repealed.

(B) The table of chapters at the beginning of subtitle A of such title, and at the beginning of part III of such subtitle, are each amended by striking out the item relating to chapter 104.

(b) EFFECTIVE DATES.—

(1) TERMINATION.—The termination of the Uniformed Services University of the Health Sciences under subsection (a)(1) shall take effect on the day after the date of the graduation from the university of the last class of students that enrolled in such university on or before the date of the enactment of this Act.

(2) AMENDMENTS.—The amendments made by subsection (a)(2) shall take effect on the date of the enactment of this Act, except that the provisions of chapter 104 of title 10, United States Code, as in effect on the day before such date, shall continue to apply with respect to the Uniformed Services University of the Health Sciences until the termination of the university under this section.

By Mr. FEINGOLD;

S. 127. A bill to amend the Agricultural Market Transition Act to prohibit the Secretary of Agriculture from including any storage charges in the calculation of loan deficiency payments or loans made to producers for loan commodities; to the Committee on Agriculture, Nutrition, and Forestry.

COTTON STORAGE SUBSIDY

Mr. FEINGOLD. Mr. President, today I rise to introduce legislation, originally introduced in the 105th Congress. This measure will give relief to the taxpayers of this country, who now pay millions every year to provide cotton producers with an expensive and unnecessary perk no other farmer enjoys.

Each year, the Federal Government's Agriculture Department pays millions of dollars in storage costs for cotton farmers. Last year, this program provided more than $23 million to store the cotton crop of participating farmers. My measure puts all commodities on a more equal footing by eliminating the storage subsidy for cotton, the only commodity whose producers still enjoy this privilege.

Mr. President, prior to the passage of the 1996 Freedom to Farm bill, farmers producing wheat and feed grains relied heavily on the Farmer Owned Reserve Program to assist them in repaying their overdue loans when times were tough. They would roll their non-recourse loans into the Farmer Owned Reserve Program which would allow them the opportunity to pay back their loan, without interest, and also get assistance in paying storage costs. Although cotton producers were not eligible to participate in that particular program, they were offered a similar subsidy and other perks through the cotton program. Those were the days of heavy agriculture subsidization, when the government dictated prices, provided price supports, and more often than not, had over-surpluses of wheat, corn and other feed grains—driving down domestic prices. The 1996 Farm Bill, sought to bring farm policy in line with a realistic agricultural and economic view, that the agriculture industry must be more market oriented—must not rely so much on government price interference.

Mr. President, although the Farm Bill was successful in ridding agriculture policy of much of the weight of government intrusion that burdened it for years, there are still hidden subsidies costing taxpayers billions. This legislation would prevent USDA from factoring cotton industry storage costs into Marketing Loan Program calculations. This costly and unnecessary benefit is bestowed on the producers of no other commodity.

Farmers, except those who produce cotton, are required to pay storage cost through the maturity date of their support loans. Producers must prepay or arrange to pay storage costs through the loan maturity date or USDA reduces the amount of the loan by deducting the amount necessary for prepaid storage. Cotton producers are not required to prepay storage costs. When they redeem a loan under marketing loan provisions or forfeit collateral, USDA pays the cost of the accrued storage.

It is interesting to note, Mr. President, that in a 1994 audit of the cotton program, USDA's Office of Inspector General found no reason for USDA to pay the accrued storage costs of cotton producers. The Inspector General recommended that USDA "revise procedures to eliminate the automatic payment of cotton storage charges by CCC and make provisions consistent with the treatment of storage charges on other program crops".

Although those in the cotton industry will argue that the automatic payments were eliminated in the Farm Bill, in reality, those payments are now simply hidden. It's true that certain provisions have been removed from the statute which mandates that USDA pay these charges. Now, USDA freely chooses to waste the taxpayers money by paying these costs, allowing cotton producers to subtract their storage costs from the market value of their cotton, providing a larger difference with the loan rate, and therefore receiving a higher return.

Marketing Loan Programs are designed to encourage producers to redeem their loans and market their crops, but USDA payment of cotton storage costs discourage loan redemption. As long as the adjusted world price is at or below the loan rate, producers can delay loan redemption in the secure expectation that domestic prices will rise or the adjusted world price will decline regardless of accruing storage costs.

Mr. President, its time to stop kidding ourselves. Let's eliminate this subsidy before it costs hardworking Americans any more. Let's bring equity to the commodities program. Lets finish what the Farm Bill started—a more market oriented agriculture program. One that benefits us all.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 127

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STORAGE CHARGES FOR LOAN COMMODITIES.

Subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.) is amended by adding at the end the following:

"SEC. 138. STORAGE CHARGES FOR LOAN COMMODITIES.

"In calculating the amount of a loan deficiency payment or loan made to a producer for a loan commodity under this subtitle, the Secretary may not include any storage charges incurred by the producer in connection with the loan commodity.".

By Mr. FEINGOLD (for himself, Mr. KOHL, Mr. WYDEN, and Mr. JOHNSON):

S. 128. A bill to terminate operation of the Extremely Low Frequency Communication System of the Navy; to the Committee on Armed Services.

TO TERMINATE OPERATION OF THE EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM OF THE NAVY

Mr. FEINGOLD. Mr. President, I once again come to the floor to offer a bill to terminate the Navy's Extremely Low Frequency Communication System. I am again pleased to be joined in introducing this bill with the senior Senator from Wisconsin (Mr. KOHL) and the Senator from Oregon (Mr. WYDEN).

Mr. President, this bill would terminate the operation of the Navy's Extremely Low Frequency Communication System, or Project ELF, as it's more familiarly known, while maintaining the infrastructure in Wisconsin and Michigan for resuming should a resumption in operation become necessary. As my colleagues are well aware, I have long opposed this needless project.

Project ELF is an ineffective, unnecessary, outdated Cold War relic that is not wanted by most residents in my state. The members of the Wisconsin delegation have fought hard for years to close down Project ELF; I have introduced legislation during each Congress since taking office to terminate it; and I have even recommended it for closure to the Defense Base Closure and Realignment Commission.

This project has been opposed by residents of Wisconsin since its inception, but for years we were told that the national security considerations of the Cold War outweighed our concerns about this installation in our state. As we continue our efforts to truly balance the federal budget and as the Department of Defense continues to struggle to address readiness concerns, it is clear that Project ELF should be closed down. If enacted, my legislation would save approximately $12 million a year.

Project ELF is a one-way, primitive messenger system designed to signal to—not communicate with—deeply submerged Trident nuclear submarines. It is a "bell ringer", a pricey beeper system, used to tell the submarine when to rise to the surface to get a detailed message through a less primitive communications systems.

It was designed at a time when the threat and consequences of detection to our submarines was real. But ELF was never developed to an effective capability, and the demise of the Soviet threat has certainly rendered it unnecessary.

In fact, Mr. President, the submarine capabilities of our potential adversaries have noticeably deteriorated or remain far behind those of our Navy. The primary mission of our attack submarines was to fight the heart of the Soviet navy, its attack submarine force. This mission included hunting down Soviet submarines. Due to Russia's continued economic hardships, they continue to cede ground to us in technology and training. Reports even contend that Russia is having trouble keeping just one or two of its strategic nuclear submarines operational. According to General Eugene E. Habiger, USAF (Ret.) and former commander of the U.S. Strategic Command, Moscow's "sub fleet is belly-up."

Further, of our known potential adversaries, only Russia and China possess ballistic missile-capable submarines. And China's one ballistic missile capable submarine is used solely as a test platform. Russia's submarine fleet has shrunk from more than 300 vessels to about 100. Even Russia's most modern submarines can't be used to full capability because Russia can't adequately train its sailors. The threat for which Project ELF was designed no longer exists.

Even the Pentagon and members of this body are beginning to see the need for reevaluating our strategic forces, including our Trident ballistic missile submarines. Earlier this month, Chief of Naval Operations Admiral Jay Johnson told the Senate Armed Services Committee that he wants to reduce the fleet from 18 to 14. And Chairman WARNER agreed with the need to reevaluate priorities on strategic weapons.

With the end of the Cold War, Project ELF becomes harder and harder to justify. Trident submarines no longer need to take that extra precaution against Soviet nuclear forces. They can now surface on a regular basis with less danger of detection or attack. They can also receive more complicated messages through very low frequency (VLF) radiowaves or lengthier messages through satellite systems, if it can be done more cheaply.

During the 103rd Congress, I worked with Senator Nunn to include an amendment in the National Defense Authorization Act for fiscal year 1994 requiring a report by the Secretary of Defense on the benefits and costs of continued operation of Project ELF. The report issued by DoD was particularly disappointing because it basically argued that because Project ELF may have had a purpose during the Cold War, it should continue to operate after the Cold War as part of the complete complement of command and control links configured for the Cold War.

Did Project ELF play a role in helping to minimize the Soviet threat? Perhaps. Did it do so at risk to the community? Perhaps. Does it continue to play a vital security role to the Nation? No.

In the fiscal year 1996 DoD authorization bill, the Senate cut funding for the program, but again it was resurrected in conference.

I'd like to note here that Members in both Wisconsin and Michigan, the states in which Project ELF is located, support terminating the project. Also, former Commanders-in-Chief of Strategic Command, General George Lee Butler and General Eugene E. Habiger, called for an end to cold war nuclear weapons practices, of which Project ELF is a harrowing reminder. Additionally, the Center for Defense Information called for ending the program, noting that "U.S. submarines operating under present and foreseeable worldwide military conditions can receive all necessary orders and instructions in timely fashion without need for Project ELF."

As I mentioned, this bill would terminate operation of Project ELF, but would call for the Defense Department to maintain its infrastructure. Should Project ELF become necessary for future military action, DoD could quickly bring it back on-line. In essence, this bill would save DoD some much-needed operations and maintenance funds without degrading its capabilities.

Mr. President, I'd also like to briefly touch on the public health and environmental concerns associated with Project ELF. For almost two decades, we have received inconclusive data on this project's effects on Wisconsin and Michigan residents. In 1984, a U.S. District Court ordered that the project be shut down because the Navy paid inadequate attention to the system's possible health effects and violated the National Environmental Policy Act. Interestingly, that decision was overturned because U.S. national security, at the time, prevailed over public health and environmental concerns.

More than 40 medical studies point to a link between electromagnetic pollution and cancer and abnormalities in both animal and plant species. Metal fences near the two transmitters must be grounded to avoid serious shock from the presence of high voltages.

Mr. President, last year, an international committee, convened by the National Institute of Environmental Health Sciences urged the study of electric and magnetic fields as a possible cause of cancer. Project ELF produces the same kind of electric and magnetic fields cited by this distinguished committee. The committee's announcement seems to confirm the fears of many of my constituents.

And recently, I have heard from a number of dairy farmers who are convinced that the stray voltage associated with ELF transmitters has demonstrably reduced milk production.

In recent years, a coalition of fiscal conservatives and environmentalists have targeted Project ELF because it both fiscally and environmentally harmful. The coalition, which includes groups like the Concord Coalition, Taxpayers for Common Sense, the National

Wildlife Federation, and Friends of the Earth, took aim at about 70 wasteful and dangerous programs. I hope we take their heed and end this program.

Mr. President, this bill achieves two vital goals of many of my colleagues here. It terminates a wasteful and unnecessary Cold War era program, while allowing the Pentagon to address its readiness shortfalls. This is a win-win situation and I hope my colleagues will support this legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TERMINATION OF OPERATION OF THE EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM.

(a) TERMINATION REQUIRED.—The Secretary of the Navy shall terminate the operation of the Extremely Low Frequency Communication System of the Navy.

(b) MAINTENANCE OF INFRASTRUCTURE.—The Secretary shall maintain the infrastructure necessary for resuming operation of the Extremely Low Frequency Communication System.

By Mr. FEINGOLD (for himself, Mr. LAUTENBERG, Mr. WYDEN, and Mr. JOHNSON):

S. 129. A bill to terminate the F/A–18E/F aircraft program; to the Committee on Armed Services.

TERMINATION OF THE F/A–18E/F AIRCRAFT PROGRAM

Mr. FEINGOLD. Mr. President, I rise today to again introduce legislation terminating the U.S. Navy's F/A–18E/F Super Hornet Program. I am pleased to be joined again by Senator LAUTENBERG and Senator WYDEN on this important legislation.

Mr. President, given the Pentagon's self-reported readiness crisis, I have serious doubts as to whether we can continue funding this costly program while it fails to live up to expectations and continues to experience highly visible problems.

In just the past year, we've been told that the program-threatening wing drop problem is solved, but maybe not completely. We've also learned that program officials may not have been exactly forthright in letting Pentagon superiors in on the seriousness of that problem. We've learned that the Super Hornet doesn't meet all of the performance standards expected of it. And most recently, we've learned that cracks in the aircraft's engines have forced the Navy to approach another contractor.

This, Mr. President, should not be the track record of the plane that the Navy called the "future of naval aviation." In fact, this history more closely resembles the previously-canceled A–12 attack plane. And I know that neither the Pentagon nor the Congress wants another debacle like the A–12.

Mr. President, I began this debate over the Super Hornet in 1997 on the basis of the 1996 General Accounting Office report "Navy Aviation: F/A–18E/F Will Provide Marginal Operational Improvement at High Cost." In this report, GAO studied the rationale and need for the F/A–18E/F in order to determine whether continued development of the aircraft is the most cost-effective approach to modernizing the Navy's tactical aircraft fleet. GAO concluded that the marginal improvements of the F/A–18E/F are far outweighed by the high cost of the program.

Since that time, I have offered numerous pieces of legislation that run the gamut from outright termination of the program to continued oversight of it. I asked GAO for a follow-up review. I have even asked DoD's Inspector General to investigate various aspects of the program, including testing evaluation. The one constant, however, has been the program's continuing disappointments.

Mr. President, as we have all heard by now, wing drop causes the aircraft to rock back and forth when it is flying at altitudes and speeds at which air-to-air combat maneuvers are expected to occur.

What really disturbs me about wing drop is that almost a year and a half went by after the discovery of the problem before the Office of the Secretary of Defense acknowledged the problem. The Pentagon's ignorance is caused either by shamefully poor communication or the withholding of program information by the Navy. For that reason, I have asked the DoD Inspector General to take a look at the wing drop fiasco.

Mr. President, the Navy's Super Hornet test team discovered the wing drop problem in March, 1996. In October of that year, the Navy rated it a priority problem. On February 5, 1997, wing drop was placed on an official deficiency report. In that report, the Navy classified wing drop as a **1 deficiency. In other words, one that will cause aircraft control loss, equipment destruction, or injury. This is the most serious category that the Navy assigns to program deficiencies. In the same report, the Super Hornet's test director stated that wing drop, "will prevent or severely restrict the performance of air-to-air tracking tasks during air-to-air combat maneuvering. Therefore, the operational effectiveness will be compromised." On March 12, 1997, the test team characterized the problem as being "an unacceptable deficiency".

Two weeks later, the Navy's Defense Acquisition Board met with the test team, which failed to mention the wing drop problem at all. Following that meeting, Secretary Cohen approved the group's recommendation to spend 1.9 billion dollars for the first dozen Super Hornets.

In November, 1997, the assistant secretary of Defense reportedly first informed the Navy Secretary of the wing drop problem. In December, the problem was moved to the program's high-risk category. It should also be noted that wing drop was considered by the Navy and the contractor, Boeing, to be the most challenging technical risk to the program at that time. This past February 4, Secretary Cohen stated unequivocally that the program would "not go forward until wing drop is corrected." A month later, a Navy blue ribbon panel reported that the Navy does "not have a good understanding" of wing drop and that the current porous wing fold fix is "not a solution". In May, Secretary Cohen released funds for the second round of production aircraft. Through it all, the Pentagon apparently didn't think wing drop was significant enough to warrant full disclosure.

Following the release of the 1998 GAO report and reports of the wing drop fiasco, I asked the Secretary to document the wing drop problem. Specifically, I asked Secretary Cohen questions on who knew of the problem and when they knew it.

In April, I received the Secretary's disappointing response. The essence of his answers to my questions is that wing drop was not a significant enough issue to warrant disclosure to the Defense Acquisition Board before its decision to recommend production of the first lot of aircraft.

Mr. President, given the Navy's classification of wing drop, the test director's assessment of the mission impact, and the significant efforts that were underway to resolve the problem, the Navy's failure to discuss the wing drop problem with DoD officials responsible for making the decision on whether to proceed into production of the initial Super Hornets reflects, in my view, questionable judgement at best and underscores the need for continued DoD and congressional oversight of the Super Hornet's development and production program.

One final point, Mr. President. It should be made clear that DoD and the Navy did not begin openly discussing wing drop until after the assistant secretary John Douglass' November 20, 1997, memo on the issue to Navy Secretary John Dalton appeared in the press. In fact, during a February, 1998, hearing before the House National Security Committee's Research and Development Subcommittee, Chairman Curt Weldon voiced his displeasure with having to learn about the Super Hornet's wing drop problem through the media rather than from the Navy. If the chairman of the subcommittee responsible for the development of the Super Hornet has to rely on the media to learn about one of the Defense Department's costliest programs, then I think it's fairly reliable that all the information was not made available.

Mr. President, the Navy has based the need for development and procurement of the F/A–18E/F on existing or projected operational deficiencies of the F/A–18C/D Hornet in the following key areas: strike range, carrier recovery payload and survivability. In addition, the Navy notes limitations of current Hornets with respect to avionics growth space and payload capacity.

The Navy and Boeing call these points the "five pillars" of the Super Hornet program. The most recent GAO report and my review of the program show that the five pillars are weak and crumbling.

GAO identifies problems with the Super Hornet in each of these five areas. Meanwhile, the Navy's responses to the criticisms are at odds with their own arguments in favor of the program. In the 1998 report, GAO identified problems that may diminish the effectiveness of the plane's survivability improvements, problems that could degrade engine performance and service life, and dangerous weapons separation problems that require additional testing.

In July, 1997, the Navy's Program Risk Advisory Board stated that "operational testing may determine that the aircraft is not operationally effective or suitable." That December, the board reversed its position and said the E/F is potentially operationally effective and suitable, but also reiterated its concerns with certain systems that are supposed to make the Super Hornet superior to the Hornet.

These are not glowing reviews for any program, but are downright awful for an aircraft program slated to cost upwards of $100 billion. We should not gamble with our pilots' lives and more than 100 billion taxpayer dollars. These stakes are too high.

Also in the report, GAO asserted the Super Hornet doesn't accelerate or maneuver as well as the Hornet. DoD readily agrees, but maintains that this is an acceptable trade-off for other capabilities. I wonder if a pilot under fire would agree.

It gets better, Mr. President. The publication, Inside the Pentagon, reported last February that the Navy will not hold the Super Hornet to strict performance specifications in three areas. It published a copy of a memo written by Rear Admiral Dennis McGinn, the Navy's officer in charge of air warfare programs, that ordered the E/F would not be strictly held to performance specifications in turning, climbing and maneuvering.

Everyone can agree that these are important performance criteria for a state-of-the-art fighter and attack plane. It turns out that this memo was sent to the E/F test team after the team concluded that the Super Hornet was, in some cases, not as proficient in turning or accelerating as the Hornet. The test team concluded that the single-seat E, when outfitted with a relatively light load of air-to-air missiles, is "slightly less" capable than the single-seat C in terms of instantaneous turn performance, sustained turn performance, and in some cases, of unloaded acceleration. Interestingly enough, the C models used in the comparisons were not even the most advanced C's available. These deficiencies haven't improved since then.

GAO also said that the Navy board's program officials came to "the realization that the F/A–18E/F may not be as capable in a number of operational performance areas as the most recently procured 'C' model aircraft that are equipped with an enhanced performance engine."

Mr. President, the Navy's own test team has stated that the new plane does not perform as well as the reliable version currently in use in key performance areas. But this isn't enough. The Navy now says these performance criteria are not important. Mr. President, this is shameful.

In its 1996 report, GAO reached a number of conclusions. It found that the Super Hornet offers only marginal improvements over the Hornet, and that these are far outweighed by the high cost. It found that the Hornet can be modified to meet every capacity the Super Hornet is intended to fulfill. And GAO found that the Defense Department could save $17 billion by purchasing additional improved Hornets instead of Super Hornets. The Congressional Budget Office updated that cost savings last year to $15 billion, still a princely sum, especially given DoD's hopes of increasing defense spending by roughly that amount each year for the next six years.

The report also addressed other purported improvements of the Super Hornet over the Hornet. GAO concluded that the reported operational deficiencies of the C/D that the Navy cited to justify the E/F either have not materialized as projected or that such deficiencies can be corrected with nonstructural changes to the current C/D and additional upgrades made which would further improve its capabilities.

GAO even rebutted all of the claims of the Hornet's disadvantages. The report concluded that the Navy's F/A–18 strike range requirements can be met by either the E/F or the C/D, and that the E/F's increased range is achieved at the expense of its aerial combat performance. It notes that even with increased range, both aircraft will still require aerial refueling for low-altitude missions.

Additionally, as I mentioned earlier, the E/F's increased strike range is achieved at the expense of the aircraft's aerial combat performance. This is shown by its sustained turn rate, maneuvering, and acceleration—critical components of its ability to maneuver in either offensive or defensive modes.

GAO also disputes the Navy's contention that the C/D cannot carry 480 gallon external fuel tanks. Next, the deficiency in carrier recovery payload which the Navy anticipated for the F/A–18C simply has not materialized. GAO notes that while it is not necessary, upgrading F/A–18C's with stronger landing gear could allow them to recover carrier payloads of more than 10,000 pounds, greater than the 9,000 pounds sought for the F/A–18E/F.

Additional improvements have been made or are planned for the Hornet to enhance its survivability including improvements to reduce its radar detectability, while survivability improvements of the Super Hornet are questionable. For example, because the Super Hornet will be carrying weapons and fuel externally, the radar signature reduction improvements derived from the structural design of the aircraft will be diminished and will only help the aircraft penetrate slightly deeper than the Hornet into an integrated defensive system before being detected.

Mr. President, as we discuss survivability, we should recall the outstanding performance of the Hornet in the Gulf War a few years ago. By the Navy's own account, the C/D performed extraordinarily well, and, in the Navy's own words, experienced "unprecedented survivability."

The Navy predicted that by the mid-1990's the Hornet would not have growth space to accommodate additional new weapons and systems under development. Specifically, the Navy predicted that by fiscal year 1996, C/D's would only have 0.2 cubic feet of space available for future avionics growth; however, 5.3 cubic feet of available space have been identified for future system growth. Furthermore, technological advancements such as miniaturization, modularity and consolidation may result in additional growth space for future avionics.

Also, while the Super Hornet will provide some increase in air-to-air capability by carrying two extra missiles, it will not increase its ability to carry the heavier, precision-guided, air-to-ground weapons that are capable of hitting fixed and mobile hard targets nor to deliver heavier standoff weapons that will be used to increase aircraft survivability.

So we have a plane that doesn't really do the things the Navy said it would do, and in some cases does not perform as well as the older version, but we're supposed to pay probably three times more for the Super Hornet.

Mr. President, it's time we ended this fiasco once and for all. The program already costs tens of billions of dollars more than initial Navy estimates and costs continues to rise. Additionally, we must compare the estimated $73 million cost per plane for the Super Hornet to the $28 million per plane for the Hornet. And, as I have mentioned, some projections put the total program cost of the F/A-18E/F at close to $100 billion.

Mr. President, let me briefly highlight the ballooning cost of the Super Hornet. Just a few years ago, the Navy, using overstated assumptions about the total number of planes procured and an estimated annual production rate of 72 aircraft per year, calculated a unit recurring flyaway cost of $44 million. However, using GAO's more realistic assumptions of the procurement of 660 aircraft by the Navy, at a production rate of 36 aircraft per year, the unit recurring flyaway cost of the Super Hornet ballooned to $53 million. Last year, the Navy used more realistic procurement figures of 548 aircraft with annual production at 36 aircraft per year, which brought the unit cost to $73 million. And I am fairly safe in assuming this figure will only rise. This is compared to the $28 million unit recurring flyaway cost for the Hornet. CBO estimates that this cost difference in unit recurring flyaway would result in a savings of almost $15 billion if the Navy were to procure the Hornets rather than the Super Hornets.

Mr. President, given the enormous cost and marginal improvement in operational capabilities the Super Hornet would provide, it seems that the justification for it just isn't there. Proceeding with the Super Hornet program may not be the most cost-effective approach to modernizing the Navy's tactical aircraft fleet. In the short term, the Navy can continue to procure the Hornet aircraft, while upgrading it to improve further its operational capabilities. For the long term, the Navy can look toward the next generation strike fighter, the JSF, which will provide more operational capability at far less cost than the Super Hornet.

Mr. President, by all accounts the F/A-18C/D is a top-quality aircraft that has served the Navy well over the last decade, and could be modified to meet every capacity the E/F is intended to fulfill over the course of the next decade at a substantially lower cost.

Therefore, considering the Department of Defense has clearly overextended itself in terms of supporting three major multirole fighter programs, it is clear that we must discontinue the Super Hornet program before the American taxpayer is asked to fund yet another unnecessary, flawed multi-billion dollar program.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TERMINATION OF THE F/A-18E/F AIRCRAFT PROGRAM.

(a) TERMINATION OF PROGRAM.—The Secretary of Defense shall terminate the F/A-18E/F aircraft program.

(b) PAYMENT OF TERMINATION COSTS.—Funds available for procurement and for research, development, test, and evaluation that are available on or after the date of the enactment of this Act for obligation for the F/A-18E/F aircraft program may be obligated for that program only for payment of the costs associated with the termination of the program.

By Ms. SNOWE:

S. 130. A bill to amend the Internal Revenue Code of 1986 to make the dependent care credit refundable, and for other purposes; to the Committee on Finance.

By Ms. SNOWE:

S. 131. A bill to amend the Internal Revenue Code of 1986 to allow a deduction from gross income for home care and adult day and respite care expenses of individual taxpayers with respect to a dependent of the taxpayer who suffers from Alzheimer's disease or related organic brain disorders; to the Committee on Finance.

LONG TERM CARE ASSISTANCE

Ms. SNOWE. Mr. President, long term care is an issue that continues to tug at Congress and this country. In 1995 the federal and state governments spent $23 billion on long term care and another $21 billion for home care. And it is estimated that those in need of long-term care will grow from 7.3 million today to 10–14 million by 2020—potentially a doubling of those in need.

The appropriate care for an individual should be an issue that is made by that individual and their loved ones. But we all know the truth is that in many cases it comes down to the financial realities of the family. For many people, remaining at home is their choice. It allows them to remain with their loved ones in familiar surroundings. We need to do more to assist these people and their families if this is their choice.

Toward that end I am reintroducing a bill that provides a tax credit for families caring for a relative who suffers from Alzheimer's disease. When I first came to Congress 20 years ago, not a single piece of legislation devoted to Alzheimer's disease had even been introduced. We have come along way since then, as today 'Alzheimer's' is a household word. It is also the most expensive uninsured illness in America. Alzheimer's will consume more of our national wealth-approximately $1.75 trillion—than all other illnesses except cancer and heart disease. And the number of those affected by this disease is rising and will continue to rise dramatically, from 4 million today to over 14 million by the middle of the 21st century.

As staggering as these numbers are, they pale in comparison to the emotional costs this disease places on the family. We can help lessen that cost by providing some relief to Alzheimer's patients and their families. My bill would allow families to deduct the cost of home care and adult day and respite care provided to a dependent suffering from Alzheimer's disease.

My second bill will strengthen the dependent care tax credit and restore Congress' original intent to provide the greatest benefit of the tax credit to low-income taxpayers. This bill expands the dependent care tax credit, makes it applicable for respite care expenses and makes it refundable.

As more and more women enter the workforce combined with the aging of our population, we are continuing to see an increased need for both child and elder care. Expenses incurred for this care can place a large burden on a family's finances. The cost of full time child care can range from $4,000 to $10,000. The cost of nursing home care is in excess of $40,000 a year. Managing these costs is difficult for many families, but is exceptionally burdensome for those in lower income brackets.

In 1976, the dependent care tax credit was created to help low- and moderate-income families alleviate the burden of employment-related dependent care. We haven't changed the DCTC since it was created 23 years ago and in fact, in the 1986 Tax Reform Act we indexed all the basic provisions of the tax code that determine tax liability except for DCTC. We need to make the credit relevant by updating it to reflect today's world. My legislation will do that by indexing the credit to inflation and making it refundable so that those who do not reach the tax thresholds will still receive assistance. It also raises the DCTC sliding scale from 30 to 50 percent of work-related dependent care expenditures for families earning $15,000 or less. The scale would then be reduced by 1 percentage point for each additional $1,000 of income, down to a credit of 20 percent for persons earning $45,000 or more.

In order to assist those who care for loved ones at home, the bill also expands the definition of dependent care to include respite care, thereby offering relief from this additional expense. A respite care credit would be allowed for up to $1,200 for one qualifying dependent care and $2,400 for two qualifying dependents.

I hope my colleagues will join me in supporting these two bills that will provide assistance to families that wish to provide long term care to their loved ones at home.

By Ms. SNOWE:

S. 132. A bill to amend the Internal Revenue Code of 1986 to provide comprehensive pension protection for women; to the Committee on Finance.

WOMEN'S PENSION PROTECTION ACT OF 1999

Ms. SNOWE. Mr. President, I rise to introduce legislation to improve the retirement security of women. Even with the increasing number of women entering the workforce, only 39 percent of part-time and full-time working women are covered by a pension plan.

While women have come a long way, even now a woman makes only 75 cents for every dollar a man makes—and older women are payed even less: 66 cents for every dollar earned by a 55-year-old man. In addition, as we all know, women have spent more time outside the workforce because they have spent more time inside the household raising families. These two factors help explain why older women are twice as likely as older men to be poor or near poor; with nearly 40 percent of older women who live alone live in or near poverty.

This bill makes a number of changes in current pension law including: helping to ensure that pension benefits earned during a marriage are considered and divided fairly in the event of divorce; closing loopholes in the civil service and railroad retirement laws that have resulted in the loss of pension benefits for widows and ex-spouses of beneficiaries in such plans and increases the amount of information available by establishing a pension "hotline" at the Department of Labor.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 134. A bill to direct the Secretary of the Interior to study whether the Apostle Islands National Lakeshore should be protected as a wilderness area; to the Committee on Energy and Natural Resources.

GAYLORD NELSON APOSTLE ISLANDS STEWARDSHIP ACT OF 1999

Mr. FEINGOLD. Mr. President, I rise today to introduce "The Gaylord Nelson Apostle Islands Stewardship Act of 1999." I am pleased to have the senior Senator from Wisconsin (Mr. KOHL) join me as an original cosponsor of this legislation.

Many outside Wisconsin may not know that, in addition to founding Earth Day, Senator Nelson was also the primary sponsor of the Apostle Islands National Lakeshore Act. That act, which passed in 1970, protects one of Northern Wisconsin's most beautiful areas, at which I spend my vacation with my family every year.

Though Senator Nelson has received many awards, I know that among his proudest accomplishments are those bills he crafted which have produced real and lasting change in preserving America's lands, such as the Apostle Islands.

The Apostle Islands National Lakshore includes 21 forested islands and 12 miles of pristine shoreline which are among the Great Lakes' most spectacular scenery. Centuries of wave action, freezing, and thawing have sculpted the shorelines, and nature has carved intricate caves into the sandstone which forms the islands. Delicate arches, vaulted chambers, and hidden passageways honeycomb cliffs on the north shore of Devils Island, Swallow Point on Sand Island, and northeast of Cornucopia on the mainland. The Apostle Islands National Lakeshore includes more lighthouses than any other coastline of similar size in the United States, and is home to diverse wildlife including: black bear, bald eagles and deer. It is an important recreational area as well. Its campgrounds and acres of forest, make the Apostles a favorite destination for hikers, sailors, kayakers, and bikers. The Lakeshore also includes the underwater lakebed as well, and scuba divers register with the National Park Service to view the area's underwater resources.

Unfortunately, the Apostle Islands National Lakeshore finds itself, nearly 29 years later, with significant financial and legal resource needs, as do many of the lands managed by the National Park Service. If we are to be true stewards of America's public lands, we need to be willing to make necessary financial investments and management improvements when they are warranted. I introduce this legislation in an attempt to resolve the unfinished business that remains at the Lakeshore, as well as to renew our Nation's commitment to this beautiful place.

Mr. President, the legislation has three major sections. First, it authorizes the Park Service to conduct a wilderness suitability study of the Lakeshore as required by the Wilderness Act.

This study is needed to ensure that we have the appropriate level of management at the Apostle Islands National Lakeshore. The Wilderness Act and the National Park Service policies require the Park Service to conduct an evaluation of the lands it manages for possible inclusion in the National Wilderness system. The study would result in a recommendation to Congress about whether any of the federally-owned lands currently within the Lakeshore still retain the characteristics that would make them suitable to be legally designated as wilderness. If Congress found the study indicated that some of the federal lands within the Lakeshore were in need of legal wilderness status, Congress would have to subsequently pass legislation to confer such status.

We need this study, Mr. President, because 28 years have passed and it is time to determine the proper level of management for the Lakeshore. During the General Management Planning Process for the Lakeshore, which was completed nearly a decade ago in 1989, the need for a formal wilderness study was identified. Although a wilderness study has been identified as a high priority by the Lakeshore, it has never been funded.

Since 1989, most of the Lakeshore, roughly 80 percent of the acreage, is being managed by the Park Service as if it were federally designated wilderness. As a protective measure, all lands which might be suitable for wilderness designation were zoned to protect any wilderness characteristics they may have pending completion of the study. However, we may be managing lands as wilderness in the Lakeshore that might, due to use patterns, no longer be suitable for wilderness designation. Correspondingly, some land area may have become more ecologically sensitive and may need additional legal protection.

Second, this legislation also directs the Park Service to protect the historic Raspberry Island and Outer Island lighthouses. The bill authorizes $3.9 million for bluff stabilization and other necessary actions. There are six lighthouses in the Apostle Island National Lakeshore—Sand Island, Devil's Island, Raspberry Island, Outer Island, Long Island and Michigan Island. Engineering studies completed for the National Park Service have determined that several of these lighthouses are in danger of structural damage due to the continued erosion of the red clay banks upon which they were built. The situations at Outer Island and Raspberry Island, the two which this legislation addresses, were determined to be in the most jeopardy.

Last year, as part of the 1999 Interior Appropriations Bill, $215,000 was provided to the Apostle Island National Seashore for the rehabilitation of the historic lighthouses. While the funding was a commendable first step, it will allow only for preliminary engineering assessments of how to best protect these landmarks. We must go further to ensure that these precious and fragile beacons do not simply crumble into Lake Superior.

The Raspberry Island situation is most critical. The Raspberry Island lighthouse was completed in 1863 to make the west channel through the Apostle Islands. The original light was a rectangular frame structure topped by a square tower that held a lens 40 feet above the ground.

A fog signal building was added to Raspberry Island in 1902. The red brick structure housed a ten-inch steam whistle and a hoisting engine for a tramway. The need for additional personnel at the station led to a redesign of the lighthouse building in 1906–07. The structure was converted to a duplex, housing the keeper and his family in the east half, with the two assistant keepers sharing the west half. A 23-kilowatt, diesel-driven electric generator was installed at the station in 1928. The light was automated in 1947 and then moved to a metal tower in front of the fog signal building in 1952.

Raspberry Island light is now the most frequently visited of Apostle Islands National Lakeshore's lighthouses. Recent erosion is threatening the access tram and the fog signal building.

The Outer Island light station was built in 1874 on a red clay bluff 40 feet above Lake Superior. The lighthouse tower stands 90 feet high and the watchroom is encircled by an outside walkway and topped by the lantern. As its name implies, the light is stationed on the outermost island of the Apostle archipelago, fully exposed to Lake Superior's gale-force storms.

Historic architects have indicated to the Park Service that Outer Island lighthouse may already be suffering some structural damage due to its location on the bluff and the situation would be much worse if Lake Superior were exceedingly high.

Engineers believe that preservation of these structures requires protection of the bluff beneath the lighthouses, stabilization of the banks, and dewatering of the area immediately shoreward of the bluffs. Although the projects have in the past been included within the Park Service-wide construction priorities, they have never been funded. The specific authorization and funding contained in this legislation is essential if the projects are ever to receive the attention they so urgently deserve.

In keeping with my belief that progress toward a balanced budget should be maintained, I am proposing that the $4.1 million in authorized spending for the Apostle Islands contained in this legislation be offset by rescinding $10 million in unspent funds from $40 million in funds carried over for the Department of Energy's Clean Coal Technology Program in FY 99 Omnibus Appropriations Bill. The Secretary of the Interior would be required to transfer $5.9 million above the money that it needs to take actions at the Apostle Islands back to the Treasury.

Mr. President, I am concerned that we have set aside such a large amount of money for the Clean Coal Technology Program, which the program has been unable to spend, when we have acute appropriations needs at places like the Apostle Islands National Lakeshore.

Finally, this legislation adds language to the act which created the Lakeshore allowing the Park Service to enter into cooperative agreements with state, tribal, local governments, universities or other non-profit entities to enlist their assistance in managing the Lakeshore. Some parks have specific language in the act which created the park allowing them to enter into such agreements. Parks have used them for activities such as research, historic preservation, and emergency services. Apostle Islands currently does not have this authority, which this legislation adds.

Other National Park lands and lands which are managed by the Park Service, such as the Lakeshore, have such authority. Adding that authority to the Lakeshore will be a way to make Lakeshore management resources go farther. The Park Service has the opportunity to carry out joint projects with other partners which could contribute to the management of the Lakeshore including: state, local, and tribal governments, universities, and non-profit groups. Such endeavors would have both scientific management and fiscal benefits. In the past, the Lakeshore has had to forego these opportunities because the specific authority is absent under current law.

In his 1969 book on the environment, entitled America's Last Chance, Senator Nelson issued a political challenge:

> I have come to the conclusion that the number one domestic problem facing this country is the threatened destruction of our natural resources and the disaster which would confront mankind should such destruction occur. There is a real question as to whether the nation, which has spent some two hundred years developing an intricate system of local, State and Federal Government to deal with the public's problems, will be bold, imaginative and flexible enough to meet this supreme test.

Though the Apostle Islands are not, because of former Senator Nelson's efforts, "threatened with destruction," they are a fitting place for us to rise to this challenge. I believe that Senator Nelson meant two things by his challenge. Not only did he mean that government must act immediately and decisively to protect resources in crisis, but he also meant that government must be responsible and flexible enough to remain committed to the protection of the areas we wisely seek to preserve under our laws.

Thus, Mr. President, I am proud to introduce this legislation as a renewal of the federal government's commitment to the Apostle Islands National Lakeshore. I look forward to working with my colleagues on this legislation, and I ask unanimous consent that a copy of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gaylord Nelson Apostle Islands Stewardship Act of 1999".

SEC. 2. GAYLORD NELSON APOSTLE ISLANDS.

(a) DECLARATIONS.—Congress declares that—

(1) the Apostle Islands National Lakeshore is a national and a Wisconsin treasure;

(2) the State of Wisconsin is particularly indebted to former Senator Gaylord Nelson for his leadership in the creation of the Lakeshore;

(3) after more than 28 years of enjoyment, some issues critical to maintaining the overall ecological, recreational, and cultural vision of the Lakeshore need additional attention;

(4) the general management planning process for the Lakeshore has identified a need for a formal wilderness study;

(5) all land within the Lakeshore that might be suitable for designation as wilderness are zoned and managed to protect wilderness characteristics pending completion of such a study;

(6) several historic lighthouses within the Lakeshore are in danger of structural damage due to severe erosion;

(7) the Secretary of the Interior has been unable to take full advantage of cooperative agreements with Federal, State, local, and tribal governmental agencies, institutions of higher education, and other nonprofit organizations that could assist the National Park Service by contributing to the management of the Lakeshore;

(8) because of competing needs in other units of the National Park System, the standard authorizing and budgetary process has not resulted in updated legislative authority and necessary funding for improvements to the Lakeshore; and

(9) the need for improvements to the Lakeshore and completion of a wilderness study should be accorded a high priority among National Park Service activities.

(b) DEFINITIONS.—In this section:

(1) LAKESHORE.—The term "Lakeshore" means the Apostle Islands National Lakeshore.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the National Park Service.

(c) WILDERNESS STUDY.—In fulfillment of the responsibilities of the Secretary under the Wilderness Act (16 U.S.C. 1131 et seq.) and of applicable agency policy, the Secretary shall evaluate areas of land within the Lakeshore for inclusion in the National Wilderness System.

(d) APOSTLE ISLANDS LIGHTHOUSES.—The Secretary shall undertake appropriate action (including protection of the bluff toe beneath the lighthouses, stabilization of the bank face, and dewatering of the area immediately shoreward of the bluffs) to protect the lighthouse structures at Raspberry Lighthouse and Outer Island Lighthouse on the Lakeshore.

(e) COOPERATIVE AGREEMENTS.—Section 6 of Public Law 91–424 (16 U.S.C. 460w–5) is amended—

(1) by striking "SEC. 6. The lakeshore" and inserting the following:

"SEC. 6. MANAGEMENT.

"(a) IN GENERAL.—The lakeshore"; and

(2) by adding at the end the following:

"(b) COOPERATIVE AGREEMENTS.—The Secretary may enter into a cooperative agreement with a Federal, State, tribal, or local government agency or a nonprofit private entity if the Secretary determines that a cooperative agreement would be beneficial in carrying out section 7.".

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $200,000 to carry out subsection (c); and

(2) $3,900,000 to carry out subsection (d).

(g) FUNDING.—

(1) IN GENERAL.—Of the funds made available under the heading "CLEAN COAL TECHNOLOGY" under the heading "DEPARTMENT OF ENERGY" for obligation in prior years, in addition to the funds deferred under the heading "CLEAN COAL TECHNOLOGY" under the

heading "DEPARTMENT OF ENERGY" under section 101(e) of division A of Public Law 105–277—

(A) $5,000,000 shall not be available until October 1, 2000; and

(B) $5,000,000 shall not be available until October 1, 2001.

(2) ONGOING PROJECTS.—Funds made available in previous appropriations Acts shall be available for any ongoing project regardless of the separate request for proposal under which the project was selected.

(3) TRANSFER OF FUNDS.—In addition to any amounts made available under subsection (f), amounts made available under paragraph (1) shall be transferred to the Secretary for use in carrying out subsections (c) and (d).

(4) UNEXPENDED BALANCE.—Any balance of funds transferred under paragraph (3) that remain unexpended at the end of fiscal year 1999 shall be returned to the Treasury.

By Mr. KENNEDY (for himself, Mr. DASCHLE, Mrs. MURRAY, Mr. LEVIN, Mr. WELLSTONE, Mrs. BOXER, Mr. KERRY, Ms. MIKULSKI, and Mr. BAUCUS):

S. 136, A bill to provide for teacher excellence and classroom help; to the Committee on Health, Education, Labor, and Pensions.

TEACHER EXCELLENCE ACT OF 1999

Mr. KENNEDY. Mr. President, states and local communities are making significant progress toward improving their public schools. Almost every state has developed challenging academic standards for all students to meet—and they are holding schools accountable for results.

But just setting standards isn't enough. Schools and communities have to do more to ensure improved student achievement. Schools must have small classes, particularly in the early grades. They must have strong parent involvement. They must have safe, modern facilities with up-to-date technology. They must have high-quality after-school opportunities for children who need extra help. They must have well-trained teachers in the classroom who keep up with current developments in their field and the best teaching practices.

Last year, with broad bipartisan support, Congress made substantial investments in the nation's public schools to reduce class size, expand after-school programs, and improve the initial training of teachers. However, more needs to be done.

Education must continue to be a top priority in the new Congress. We must do more to meet the needs of public schools, families, and children, so that all children have an opportunity to attend good schools. We need to do more to help communities modernize their schools, reduce class sizes, especially in grades 1–3, improve the quality of the nation's teachers, and expand after-school programs.

These steps are urgently needed to help communities address the serious problems of rising student enrollments, overcrowded classrooms, dilapidated schools, teacher shortages, underqualified teachers, high turnover rates of teachers, and lack of after-school programs. These are real problems that deserve real solutions.

The needs of families across the nation should not be ignored. They want the federal government to offer a helping hand in improving public schools.

This year, the nation has set a new record for elementary and secondary student enrollment. The figure has reached an all-time high of 53 million students—500,000 more students than last year.

Serious teacher shortages are being caused by rising student enrollments, and also by the growing number of teacher retirements. The nation's public schools will need to hire 2.2 million teachers over the next ten years, just to hold their own. If we don't act now, the need for more teachers will put even greater pressure on school districts to lower their standards and hire unqualified teachers.

Also, too many teachers leave within the first three years of teaching—including 30–50% of teachers in urban areas—because they don't get the support and mentoring they need to succeed. Veteran teachers and principals need more and better opportunities for professional development to enhance their knowledge and skills, to integrate technology into the curriculum, and to help children meet high standards.

We must fulfill last year's commitment to help communities hire 100,000 new teachers, in order to reduce class size. But it is equally important that we help communities recruit promising teacher candidates, provide new teachers with trained mentors who will help them succeed in the classroom, and give current teachers the on-going training they need to stay abreast of modern technologies and new research.

Many communities are working hard to attract, keep, and support good teachers—and often they're succeeding.

The North Carolina Teaching Fellows Program has recruited 3,600 high-ability high school graduates to go into teaching. The students agree to teach for four years in the state's public schools in exchange for a four-year college scholarship. North Carolina principals report that the performance of the Fellows far exceeds other new teachers.

In Chicago, a program called the Golden Apple Scholars of Illinois recruits promising young men and women into the profession by selecting them during their junior year of high school, then mentoring them through the rest of high school, college, and five years of actual teaching. 60 Golden Apple scholars enter the teaching field each year, and 90 percent of them stay in the classroom.

Colorado State University's Project Promise recruits prospective teachers from fields such as law, geology, chemistry, stock trading and medicine. Current teachers mentor graduates in their first two years of teaching. More than 90 percent of the recruits enter the field, and 80 percent stay for at least five years.

New York City's Mentor Teacher Internship Program has increased the retention of new teachers. In Montana, only 4 percent of new teachers in mentoring programs left after their first year of teaching, compared with 28 percent of teachers without mentoring programs.

New York City's District 2 has made professional development the central component for improving schools. They believe that student learning will increase as the knowledge of educators grows—and it's working. In 1996, student math scores were second in the city.

Massachusetts has invested $60 million in the Teacher Quality Endowment Fund to launch the 12-to-62 Plan for Strengthening Massachusetts Future Teaching Force. The plan being developed is a comprehensive effort to improve recruitment, retention, and professional development of teachers throughout their careers.

Congress should build on and support these successful efforts across the country to ensure that the nation's teaching force is strong and successful in the years ahead.

The Teacher Excellence Act we are introducing will invest $1.2 billion in fiscal year 2000 to improve the recruitment, retention, and on-going professional development of the nation's teachers. The proposal will provide states and local school districts with the support they need to recruit excellent teacher candidates, to retain and support promising beginning teachers, and to provide veteran teachers and principals with the on-going professional development they need to help all children meet high standards of achievement.

States will receive grants through the current Title I or Title II formula, whichever is greater. They will use 20 percent of the funding to provide scholarships to prospective teachers—whether they are high school graduates, professionals who want to make a career change, or paraprofessionals who want to become fully certified as teachers. Scholarship recipients must agree to teach for at least 3 years after completion of the teaching degree and teach in a high-need school district or in a high-need subject.

At least 70 percent of the funds must go to local school districts on a competitive basis to implement, improve or expand high-quality programs for beginning teachers, including mentoring and internship programs, and provide high-quality professional development for principals and veteran teachers. Our goal is to ensure that every child has the opportunity to meet high state standards. States must also set additional eligibility criteria, including the poverty rate of the school district; the need for support based on low student achievement and low teacher retention rates; and the need for upgrading the knowledge and skills of veteran teachers in high-priority content areas. Other criteria include the need to help students with disabilities and limited English proficiency. States must target grants to school districts with the highest needs and ensure a fair distribution of grants among school districts serving urban and rural areas.

In addition to providing states and communities with the support they need to ensure that there is a qualified, well-trained teacher in every classroom, we must also hold states and communities accountable for results—and for making the changes that will achieve those results.

Currently, teachers are often assigned subjects in which they have no training or experience. Nearly one-fourth of all secondary school teachers do not have even a college minor in their main teaching field, let alone a college major. This fact is true for more than 50 percent of math teachers. 56 percent of high school students taking a physical science course are taught by out-of-field teachers, as are 27 percent of those taking mathematics, and 21 percent of those taking English. The proportions are much higher in high-poverty schools. In schools with the highest minority enrollments, students have less than a 50 percent chance of having science or math teachers who hold a license and a degree in the field they teach.

Because of teacher shortages caused by rising enrollments and teacher retirements, communities must often lower their standards and hire unqualified teachers. Currently, communities across the country have hired 50,000 unqualified teachers in order to address such shortages. More than 12 percent of newly hired teachers have no training and 15 percent of new teachers enter teaching without meeting state standards.

Under the Teacher Excellence Act, states and communities will be held accountable for reducing the number of emergency certified teachers and out-of-field placements of teachers. As they work to improve recruitment, retention, and professional development of teachers, states and communities should also reduce these practices that undermine efforts to help all students meet high standards. States will be able to use up to 10 percent of the funds in order to meet these accountability requirements.

In addition, the bill supports the full $300 million for funding of Title II of the Higher Education Act to improve the initial preparation of teachers. Also, current support for technology programs must include a requirement for training teachers in how to use technologies effectively to improve student learning.

We must do all we can to improve teacher quality across the country. What teachers know and are able to teach are among the most important influences on student achievement. Improving teacher quality is an effective way to link high state standards to the classroom. We should do all we can to ensure that every child has the opportunity to learn from a qualified, well-trained teacher and to attend a school with a well-trained principal.

By Mr. KYL:

S. 137. A bill to amend the Internal Revenue Code of 1986 to repeal the increase in tax on social security benefits; to the Committee on Finance.

THE SENIOR CITIZENS INCOME TAX RELIEF ACT OF 1999

Mr. KYL. Mr. President, I rise to introduce the Senior Citizens Income Tax Relief Act. This legislation would give seniors relief from the Clinton Social Security tax increase of 1993. I introduced this bill on August 5, 1993, the day this tax was first imposed on America's senior citizens.

Senator PETE DOMENICI, Chairman of the Senate Budget Committee, recently predicted that the federal government would generate a budget surplus of up to $700 billion over the next 10 years. He proposed that roughly $600 billion of this surplus be used to fund a tax cut. I could not agree more. I will be working with Senator DOMENICI and members of the Senate on both sides of the aisle to ensure that there will be sufficient room in this surplus for Social Security tax relief for senior citizens.

Millions of America's senior citizens depend on Social Security as a critical part of their retirement income. Having paid into the program throughout their working lives, retirees count on the government to meet its obligations under the Social Security contract. For many, the security provided by this supplemental pension plan is the difference between a happy and healthy retirement and one marked by uncertainty and apprehension, particularly for the vast majority of seniors on fixed incomes.

As part of his massive 1993 tax hike, President Clinton imposed a tax increase on senior citizens, subjecting to taxation up to 85 percent of the Social Security received by seniors with annual incomes of over $34,000 and couples with over $44,000 in annual income.

This represents a 70 percent increase in the marginal tax rate for these seniors. Factor in the government's "Social Security Earnings Limitation," and a senior's marginal tax rate can reach 88 percent—twice the rate paid by millionaires.

An analysis of government-provided figures on the 1993 Social Security tax increase finds that, at the end of 1998, America's seniors have paid an extra $25 billion because of this tax hike, including $380 million from senior citizens in Arizona alone.

Mr. President, I want to make an additional important point. Despite all the partisan demagoguery, the only attack on Social Security in recent years has come from the administration and the other party in the Omnibus Budget Reconciliation Act of 1993. Not one Republican supported this tax increase on Social Security benefits.

If the administration opposes any meaningful tax cut, the relief we will be able to provide will be limited. It will be difficult, then, to repeal the Social Security tax increase. This is why, in the 105th Congress, I offered an amendment to ensure that we are able to expand tax relief in the future, and why the first tax relief proposal I am introducing in the 106th Congress will repeal President Clinton's 1993 Social Security tax increase.

By Mr. KYL:

S. 138. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for expenses of attending elementary and secondary schools and for contributions to charitable organizations which provide scholarships for children to attend such schools; to the Committee on Finance.

J–12 COMMUNITY PARTICIPATION ACT OF 1999

Mr. KYL. Mr. President, I rise to introduce an education proposal that will increase parental and student choice, educational quality, and school safety.

A colleague from the Arizona delegation, representative MATT SALMON, is today introducing this proposal in the House of Representatives.

The "K through 12 Community Participation Act" would offer tax credits to families and businesses of up to $250 annually for qualified K through 12 education expenses or activities.

Over the last 30 years, Americans have steadily increased their monetary commitment to education. Unfortunately, we have not seen a corresponding improvement in the quality of the education our children receive. Given our financial commitment, and the great importance of education, these results are unacceptable.

Mr. President, I believe the problem is not how much money is spent, but how it is spent, and by whom.

The K through 12 Community Participation Education Act addresses the problem of falling education standards by giving families and businesses a tax incentive to provide children with a higher quality education through choice and competition.

The problem of declining education standards is illustrated by a 1998 report released by the Education and Workforce Committee of the House of Representatives, Education at the Crossroads. This is the most comprehensive review of federal education programs ever undertaken by the United States Congress. It shows that the federal government's response to the decline in American schools has been to build bigger bureaucracies, not a better education system.

According to the report, there are more than 760 federal education programs overseen by at least 39 federal agencies at a cost of $100 billion a year to taxpayers. These programs are overlapping and duplicative.

For example, there are 63 separate (but similar) math and science programs, 14 literacy programs, and 11 drug-education programs. Even after accounting for recent streamlining efforts, the U.S. Department of Education still requires over 48.6 million hours worth of paperwork per year—this is the equivalent of 25,000 employees working full time.

States get at most seven percent of their total education funds from the federal government, but most states report that roughly half of their paperwork is imposed by federal education authorities.

The federal government spends tax dollars on closed captioning of "educational" programs such as "Baywatch" and Jerry Springer's squalid daytime talk show.

With such a large number of programs funded by the federal government, it's no wonder local school authorities feel the heavy hand of Washington upon them.

And what are the nation's taxpayers getting for their money? According to the report,

Around 40 percent of fourth graders cannot read; and 57 percent of urban students score below their grade level.

Half of all students from urban school districts fail to graduate on time, if at all.

U.S. 12th graders ranked third from the bottom out of 21 nations in mathematics.

According to U.S. manufacturers, 40 percent of all 17-year-olds do not have the math skills to hold down a production job at a manufacturing company.

The conclusion of the Education at the Crossroads report is that the federally designed "one-size-fits-all" approach to education is simply not working.

Mr. President, I believe we need a federal education policy that will:

Give parents more control.

Give local schools and school boards more control.

Spend dollars in the classrooms, not on a Washington bureaucracy.

Reaffirm our commitment to basic academics.

My state of Arizona has led the way with education tax credit legislation passed in 1997. This state law provides tax credits that can be used by parents and businesses to cover certain types of expenses attendant to primary and secondary education.

Mr. President, today, Representative SALMON and I are reintroducing a form of the Arizona education tax-credit law.

The K through 12 Community Participating Education Act would be phased in over four years and would encourage parents, businesses, and other members of the community to invest in our children's education.

Specifically, it offers every family or business a tax credit of up to $250 annually for any K through 12 education expense or activity. This tax credit could be applied to home schooling, public schools (including charter schools), or parochial schools. Allowable expenses would include tuition, books, supplies, and tutors.

Further, the tax credit could be given to a "school-tuition organization" for distribution. To qualify as a school-tuition organization, the organization would have to devote at least 90 percent of its income per year to offering available grants and scholarships for parents to use to send their children to the school of their choice.

How would this work? A group of businesses in any community could join forces to send sums for which they received tax credits to charitable "school-tuition organizations" which would make scholarships and grants available to low income parents of children currently struggling to learn in unsafe, non-functional schools.

Providing all parents—including low income parents—increased freedom to choose will foster competition and increase parental involvement in education.

Insuring this choice will make the federal education tax code more like Arizona's. It is a limited but important step the Congress and the President can—and I believe, must—take.

Mr. President, it's clear that top-down, one-size-fits-all, big government education policy has failed our children and our country.

This tax-credit legislation will refocus our efforts on doing what is in the best interests of the child as determined by parents, and will give parents and businesses the opportunity to take an important step to rescue American education so that we can have the educated citizenry that Thomas Jefferson said was essential to our health as a nation.

By Mr. ROBB (for himself and Mr. HOLLINGS):

S. 139. A bill to grant the power to the President to reduce budget authority; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

SEPARATE ENROLLMENT AND LINE ITEM VETO ACT OF 1999

Mr. ROBB. Mr. President, I rise to introduce the Separate Enrollment and Line Item Veto Act of 1999. I'm pleased to be joined by my long-time colleague and tireless fighter for budget sanity, Senator HOLLINGS of South Carolina.

As former governors, we both understand the importance of line-item veto authority in prioritizing spending. The legislation we introduce today is similar to that passed by the Senate in 1995, which is patterned on the separate enrollment process that we both supported with former Senator Bill Bradley of New Jersey.

I have been a long-time supporter of various line-item veto measures because I believe that only the President has the singular ability to reconcile spending priorities in the best interest of the nation. Recognizing that Congress has been unable or unwilling to seriously address our problems with special interest tax provisions and spending for members' pet projects, as last year's appropriations process attests, some form of additional veto authority should be given to the President. Otherwise, the President continues to have to approve items in bills which he doesn't support to approve those that he does.

As my colleagues know, the Separate Enrollment Line Item Veto legislation we passed in 1995 in the Senate was ultimately changed in conference negotiations with the House of Representatives. The end product of those negotiations was an enhanced rescission line item veto process, giving the President the ability to strike items from bills after signing them into law. Because that approach was struck down by the Supreme Court, I believe the line item veto is an important enough fiscal tool that we ought to put forward other alternatives.

The separate enrollment process contained in this bill presents few constitutional concerns. This process doesn't give the President the ability to strike items from bills he otherwise approves. This approach breaks down bills into their individual parts that are then passed again as separate bills, making sure each provision can then stand on its own merits.

In closing, let me acknowledge that this line item veto legislation, like the previous experiment, won't solve all the nation's fiscal problems, but that it is a needed step if we are interested in pursuing good public and budget policy.

Mr. HOLLINGS. Mr. President, I rise today along with Senator ROBB to introduce the Separate Enrollment and Line Item Veto Act of 1999. This Congress, I hope the Senate will finally dispense with political gamesmanship and enact a true line item veto. It is past time to restore responsibility to federal spending by granting the President the power to strike wasteful and unnecessary items from our budget.

The bill we are introducing today is a "separate enrollment" line item veto. It provides that each spending or tax provision be enrolled as a separate bill, allowing the President to either sign or veto each of these smaller bills in accordance with the veto power expressly granted under Article I, Section 7 of the Constitution. This legislation is designed to allow the President to strike spending or tax items from the budget without violating the delicate separation of powers which exists under our Constitution. In contrast, the so-called "enhanced rescission" line item veto—enacted in 1996 and struck down by the Supreme Court on June 25, 1998—represented a shift in the separation of powers. Under that approach, the President had the authority to sign a bill into law, then strike individual provisions and require a Congressional supermajority to override these rescissions. In doing so, the President was clearly performing a legislative function granted exclusively to Congress by the Constitution.

When the Supreme Court announced its decision striking down the 1996 line item veto, the White House and many in Congress clamored in the media about how disappointed they were. The truth is that no one was really surprised. In fact, many Senators—including myself—made statements in 1996 and voted against the bill because it was unconstitutional. The events surrounding the enactment of the 1996 law clearly show that politics was placed before policy. In 1995 our separate enrollment approach had received bipartisan support in the Senate, with 69 Senators voting for the measure. The "enhanced rescission" approach, on the other hand, received only 45 votes when considered in 1993, with several Senators raising constitutional objections during the debate. However, in an apparent attempt to put off meaningful reform in favor of Presidential politics, the "enhanced rescission" bill was resurrected in 1996 in an effort to score political points. Now, we have come full circle after the Court's decision. It is time to get serious and enact the same bill which received 69 votes in 1995.

Mr. President, I am no stranger to this issue. As Governor of South Carolina, I saw first hand how effective the line item veto can be. I used it to cut millions of dollars in wasteful spending from the state budget, and in the process helped earn South Carolina the first AAA credit rating in the state's history. The Governors of 43 states now possess line item veto authority. I have been trying for years to bring this same approach to Washington. I have introduced or co-sponsored a separate enrollment line-item veto in every Congress since 1985. In that year, I cosponsored Senator Mack Mattingly's separate enrollment bill, which received 58 votes in the Senate. In 1990, I offered a similar bill in the Senate Budget Committee, which passed the line item veto for the first time in history by a bipartisan vote of 13–6. In 1993, after Senator Bradley came on board, we were again able to get a majority of 53 votes. Then, in 1995, support for the bill reached an all-time high when the bill finally passed the Senate with 69 votes.

One needs to look no further than last year's end of the session debacle to see the need for the line item veto. Nearly an entire year's worth of legislation—including eight of the thirteen normal appropriations bills, an emergency spending bill, and a tax "extenders" bill—was wrapped into a monstrosity entitled the Omnibus Consolidated and Emergency Supplemental Appropriations Bill for Fiscal Year 1999. The time period between the drafting of the bill and its enactment was so short that Senators made statements on the floor that they did not even know the contents of the bill. Unfortunately, this type of omnibus appropriations has become common in recent years, and it prevents an obvious opportunity for abuse. Wasteful spending and tax items are included in these huge, hastily drafted bills, and the President is faced with a "take it or leave it" proposition. With the session winding down, he often is forced to "take it," including items which are totally without merit. The line item veto would prevent this type of waste and irresponsibility by allowing each item to be considered separately.

I urge my colleagues to support this line item veto bill with the same bipartisan support it received in 1995 so that we may finally restore responsibility to our federal budget process.

By Mr. MOYNIHAN (for himself and Mr. SCHUMER):

S. 140. A bill to establish the Thomas Cole National Historic Site in the State of New York as an affiliated area of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

THOMAS COLE NATIONAL HISTORIC SITE DESIGNATION ACT

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill which would place the home and studio of Thomas Cole under the care of the Greene County Historical Society as a National Historic Site. I am pleased Senator SCHUMER has agreed to cosponsor this bill. Thomas Cole founded the American artistic tradition known as the Hudson River School. He painted landscapes of the American wilderness as it never had been depicted, untamed and majestic, the way Americans saw it in the 1830s and 1840s as they moved west. His students and followers included Frederick Church, Alfred Bierstadt, Thomas Moran, and John Frederick Kennesett.

No description of Cole's works would do them justice, but let me say that their moody, dramatic style and subject matter were in sharp contrast to the pastoral European landscapes that Americans previously had admired. The new country was just settled enough that some people had time and resources to devote to collecting art. Cole's new style coincided with this growing interest, to the benefit of both.

Cole had begun his painting career in Manhattan, but one day took a steamboat up the Hudson for inspiration. It worked. The landscapes he saw set him on the artistic course that became his life's work. He eventually moved to a house up the river in Catskill. First he boarded; then he bought the house. He married and raised his family there. That house, known as Cedar Grove, remained in the Cole family until 1979, when it was put up for sale.

The Cole house would be only the second site under the umbrella of the Park Service dedicated to interpreting the life and work of an American painter.

Olana, Church's home, sits immediately across the Hudson, so we have the opportunity to provide visitors with two nearby destinations that show the inspiration for two of America's foremost nineteenth century painters. Visitors could walk, hike, or drive to the actual spots where masterpieces were painted and see the landscape much as it was then.

I regret that none of Thomas Cole's work hang in the Capitol, although two works by Bierstadt can be found in the stairwell outside the Speaker's Lobby. Perhaps Cole's greatest work is the four-part Voyage of Life, an allegorical series that depicts man in the four stages of life. It can be found in the National Gallery, along with two other Cole paintings. Another work of Cole's that we would be advised to remember is The Course of Empire, which depicts the rise of a great civilization from the wilderness, and its return.

Several years ago the first major Cole exhibition in decades was held at the National Museum of American Art. The exhibition was all the evidence needed of Cole's importance and the merit of adding his home to the list of National Historic Sites. I should add that this must happen soon. The house needs work, and will not endure many more winters in its present state.

This legislation would authorize cooperative agreements under which the management of the Cole House would go to the Greene County Historical Society, which is entirely qualified for the job. The Society could enter into cooperative agreements with the National Park Service for the preservation and interpretation of the site.

I ask unanimous consent that my colleagues support this legislation, and that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 140

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Thomas Cole National Historic Site Designation Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Hudson River school of landscape painting was inspired by Thomas Cole and was characterized by a group of 19th century landscape artists who recorded and celebrated the landscape and wilderness of the United States, particularly in the Hudson River Valley region in the State of New York;

(2) Thomas Cole is recognized as the United States's most prominent landscape and allegorical painter of the mid-19th century;

(3) located in Greene County, New York, the Thomas Cole House, also known as Thomas Cole's Cedar Grove, is listed on the National Register of Historic Places and has been designated as a National Historic Landmark;

(4) within a 15-mile radius of the Thomas Cole House, an area that forms a key part of the rich cultural and natural heritage of the Hudson River Valley region, significant landscapes and scenes painted by Thomas Cole and other Hudson River artists, such as Frederic Church, survive intact;

(5) the State of New York has established the Hudson River Valley Greenway to promote the preservation, public use, and enjoyment of the natural and cultural resources of the Hudson River Valley region; and

(6) establishment of the Thomas Cole National Historic Site will provide—

(A) opportunities for the illustration and interpretation of cultural themes of the heritage of the United States; and

(B) unique opportunities for education, public use, and enjoyment.

(b) PURPOSES.—The purposes of this Act are—

(1) to preserve and interpret the Thomas Cole House and studio for the benefit, inspiration, and education of the people of the United States;

(2) to help maintain the integrity of the setting in the Hudson River Valley region that inspired artistic expression;

(3) to coordinate the interpretive, preservation, and recreational efforts of Federal, State, and other entities in the Hudson Valley region in order to enhance opportunities for education, public use, and enjoyment; and

(4) to broaden understanding of the Hudson River Valley region and its role in the history and culture of the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) HISTORIC SITE.—The term "historic site" means the Thomas Cole National Historic Site established by section 4.

(2) HUDSON RIVER ARTIST.—The term "Hudson River artist" means an artist associated with the Hudson River school of landscape painting.

(3) PLAN.—The term "plan" means the general management plan developed under section 6(d).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) SOCIETY.—The term "Society" means the Greene County Historical Society of Greene County, New York, that owns the Thomas Cole House, studio, and other property comprising the historic site.

SEC. 4. ESTABLISHMENT OF THOMAS COLE NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—There is established, as an affiliated area of the National Park System, the Thomas Cole National Historic Site in the State of New York.

(b) DESCRIPTION.—The historic site shall consist of the Thomas Cole House and studio, comprising approximately 3.4 acres, located at 218 Spring Street in the village of Catskill, New York, as generally depicted on the boundary map numbered TCH/80002, and dated March 1992.

SEC. 5. RETENTION OF OWNERSHIP AND MANAGEMENT OF HISTORIC SITE BY GREENE COUNTY HISTORICAL SOCIETY.

Under a cooperative agreement entered into under section 6(b)(1), the Greene County Historical Society of Greene County, New York, shall own, manage, and operate the historic site.

SEC. 6. ADMINISTRATION OF HISTORIC SITE.

(a) APPLICABILITY OF NATIONAL PARK SYSTEM LAWS.—Under a cooperative agreement entered into under subsection (b)(1), the historic site shall be administered by the Society in a manner consistent with this Act and all laws generally applicable to units of the National Park System, including—

(1) the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.); and

(2) the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.).

(b) COOPERATIVE AGREEMENTS.—

(1) ASSISTANCE TO SOCIETY.—The Secretary may enter into cooperative agreements with the Society—

(A) to preserve the Thomas Cole House and other structures in the historic site; and

(B) to assist with education programs and research and interpretation of the Thomas Cole House and associated landscapes in the historic site.

(2) OTHER ASSISTANCE.—The Secretary may enter into cooperative agreements with the State of New York, the Society, the Thomas Cole Foundation, and other public and private entities to—

(A) further the purposes of this Act; and

(B) develop, present, and fund art exhibits, resident artist programs, and other appropriate activities related to the preservation, interpretation, and use of the historic site.

(c) ARTIFACTS AND PROPERTY.—

(1) PERSONAL PROPERTY GENERALLY.—The Secretary may acquire personal property associated with, and appropriate for, the interpretation of the historic site.

(2) WORKS OF ART.—The Secretary may acquire works of art associated with Thomas Cole and other Hudson River artists for the purpose of display at the historic site.

(d) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than September 30, 2000, under a cooperative agreement entered into under section 6(b)(1), the Society, with the assistance of the Secretary, shall develop a general management plan for the historic site.

(2) CONTENTS OF PLAN.—The plan shall include recommendations for regional wayside exhibits, to be carried out through cooperative agreements with the State of New York and other public and private entities.

(3) AUTHORITY.—The plan shall be prepared in accordance with section 12(b) of Public Law 91-383 (16 U.S.C. 1a-7(b)).

(4) SUBMISSION OF PLAN.—On the completion of the plan, the Secretary shall provide a copy of the plan to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Resources of the House of Representatives.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. MOYNIHAN:

S. 141. A bill to amend section 845 of title 18, United States Code, relating to explosive materials; to the Committee on the Judiciary.

LEGISLATION RELATING TO EXPLOSIVE MATERIAL

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill which restricts those who can have access to black powder, the primary ingredient in pipe bombs. At present, there are no restrictions on those who wish to buy commercially manufactured black powder in quantities not to exceed 50 pounds solely for sporting or recreational purposes. Anyone, including a convicted felon, a fugitive from justice, and a person adjudicated to be mentally defective, can buy commercially manufactured black powder in the above amounts with no questions asked. This is both wrong and dangerous. The same restrictions that apply to who can buy explosives should also apply to those who can lawfully buy commercially manufactured black powder.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPLOSIVE MATERIALS.

Section 845(a) of title 18, United States Code, is amended—

(1) in paragraph (4), by adding "and" at the end; and

(2) by striking paragraph (5) and redesignating paragraph (6) as paragraph (5).

By Mr. MOYNIHAN:

S. 142. A bill to amend section 842 of title 18, United States Code, relating to explosive materials transfers; to the Committee on the Judiciary.

LEGISLATION TO REQUIRE THAT THE FEDERAL GOVERNMENT BE NOTIFIED WHEN EXPLOSIVES ARE PURCHASED

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill that would require vendors of explosives to notify the Federal Bureau of Alcohol, Tobacco, and Firearms (B.A.T.F.) when they sell such items. Now, there is no requirement that a seller notify the B.A.T.F. when a customer buys explosives. All that is required is that the buyer complete a federally generated form—5400.4—and that the seller keep it. There is nothing that requires the seller to send a copy of this form to the B.A.T.F.

In all likelihood, any terrorist attach aimed at this country's infrastructure will use explosives to achieve its purpose. One key way to prevent an attack such as this is to have information about the individuals who are buying these items.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RECORDKEEPING REQUIREMENTS FOR EXPLOSIVE MATERIALS TRANSFERS.

Section 842(f) of title 18, United States Code, is amended, in the first sentence—

(1) by striking "require," and inserting "require ("; and

(2) by inserting before the period at the end the following: ") and transmitting a copy of each such record to the Secretary".

By Mr. MOYNIHAN:

S. 143. A bill to amend the Professional Boxing Safety Act of 1996 to standardize the physical examinations that each boxer must take prior to each professional boxing match and to require a brain CAT scan every 2 years as a requirement for the licensing of a boxer; to the Committee on Commerce, Science, and Transportation.

THE PROFESSIONAL BOXING SAFETY ACT AMENDMENTS OF 1996

Mr. MOYNIHAN. Mr. President, On January 3, 1999, Jerry Quarry, a perennial heavyweight boxing champion contender in the 1960's and 1970's, died of pneumonia brought on by an advanced state of dementia pugilistica. He was 53. The list goes on: Sugar Ray Robinson, Archie Moore and Muhammad Ali are but a few examples. The Professional Boxing Safety Act of 1996 was an excellent step toward making professional boxing safer for its participants. Nevertheless, it contains several gaps.

The two amendments I propose here today are aimed at protecting professional fighters by requiring more rigorous prefight physical examinations and by requiring a brain catscan before a boxer can renew his or her professional license.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Professional Boxing Safety Act Amendments of 1999".

SEC. 2. AMENDMENTS TO THE PROFESSIONAL BOXING SAFETY ACT OF 1996.

(a) STANDARDIZED PHYSICAL EXAMINATIONS.—Section 5(1) of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6304(1)) is amended by inserting after "examination" the following: ", based on guidelines endorsed by the American Medical Association, including a circulo-respiratory check and a neurological examination,".

(b) CAT SCANS.—Section 6(b)(2) of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6305(b)(2)) is amended by inserting before the period the following: "and, with respect to such renewal, present proof from a physician that such boxer has taken a computerized axial tomography (CAT) scan within the 30-day period preceding that date on which the renewal application is submitted and that no brain damage from boxing has been detected".

By Mr. GRAHAM (for himself and Mr. MACK):

S. 144. A bill to require the Secretary of the Interior to review the suitability for inclusion in the National Wilderness Preservation System of the Everglades expansion area; to the Committee on Energy and Natural Resources.

REVIEW OF EVERGLADES EXPANSION AREA FOR POTENTIAL AS WILDERNESS

Mr. GRAHAM. Mr. President, since my days as Governor of the State of Florida, I have been a strong advocate of the protection and restoration of the Florida Everglades, the largest wetland and subtropical wilderness in the United States. This legislation will require the Secretary of the Interior to review the suitability for inclusion in the National Wilderness Preservation System of the Everglades expansion area, a designation that will protect and preserve this area for the use of present and future generations. This action will be an important step towards maintaining the natural habitat of such endangered species as the Florida panther, the snail kite, and the cape sable seaside sparrow, as well as sustaining uninterupted water flow to the Everglades' aquifers, the main water source for the majority of the rapidly growing state of Florida. Over the last 100 years, this ecosystem has been altered by man to provide for development, to manage water for irrigation, and to provide flood control in times of hurricanes. The review of this land for potential as wilderness may lead to greater future protection of the Everglades ecosystem.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVIEW OF EVERGLADES EXPANSION AREA FOR POTENTIAL AS WILDERNESS.

(a) DEFINITION OF ADDITION.—In this section, the term "addition" has the meaning given the term in section 101(c) of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r–5(c)).

(b) REVIEW AND REPORT.—Subject to subsection (c), in accordance with section 3 of the Wilderness Act (16 U.S.C. 1132), the Secretary of the Interior shall review and report on the suitability for inclusion in the National Wilderness Preservation System of any part of the addition.

(c) EFFECTIVE DATE.—Subsection (b) shall take effect—

(1) on the date of submission to Congress of the proposed comprehensive plan to restore, preserve, and protect the South Florida ecosystem required by section 528(b) of the Water Resources Development Act of 1996 (110 Stat. 3767); but

(2) only if the plan does not specify that construction and water storage are required in the addition (as determined by the Secretary of the Interior).

By Mr. ABRAHAM:

S. 145. A bill to control crime by requiring mandatory victim restitution; to the Committee on the Judiciary.

VICTIM RESTITUTION ENFORCEMENT ACT

Mr. ABRAHAM. Mr. President, I rise today to introduce the Victim Restitution Enforcement Act of 1999. I have long supported restitution for crime victims, and have long been convinced that justice requires us to devise effective mechanisms through which victims can enforce restitution orders and make criminals pay for their crimes.

I was very pleased when we enacted mandatory victim restitution legislation in the 104th Congress as part of the Antiterrorism and Effective Death Penalty Act of 1996. I supported that legislation and very much appreciated the efforts of my colleagues, particularly Senators HATCH, BIDEN, NICKLES, GRASSLEY, and MCCAIN, to ensure that victim restitution provisions were included in the antiterrorism legislation.

Those victim restitution provisions—brought together as the Mandatory Victims Restitution Act of 1996—will significantly advance the cause of justice for victims in federal criminal cases. The Act requires federal courts, when sentencing criminal defendants, to order these defendants to pay restitution to the victims of their crimes. It also establishes a single set of procedures for the issuance of restitution orders in federal criminal cases to provide uniformity in the federal system. Inclusion of mandatory victim restitution provisions in the federal criminal code was long overdue, and I am pleased that the 104th Congress was able to accomplish that.

However, much more remains to be done to ensure that victims can actually collect those restitution payments and to provide victims with effective means to pursue whatever restitution payments are owed to them. Even if a defendant may not have the resources to pay off a restitution order fully, victims should still be entitled to go after whatever resources a defendant does have and to collect whatever they can. We should not effectively tell victims that it is not worth going after whatever payments they might get. That is what could happen under the current system, in which victims have to rely on government attorneys—who may be busy with many other matters—to pursue restitution payments. Instead, we should give victims themselves the tools they need so that they can get what is rightfully theirs.

The victim restitution provisions enacted in the 104th Congress consolidated the procedures for the collection of unpaid restitution with existing procedures for the collection of unpaid fines. Unless more steps are taken to make enforcement of restitution orders more effective for victims, we risk allowing mandatory restitution to be mandatory in name only, with criminals able to evade ever paying their restitution and victims left without the ability to take action to enforce restitution orders.

In the 104th Congress, I introduced the Victim Restitution Enforcement Act of 1995. Many components of my legislation were also included in the victim restitution legislation enacted as part of the Antiterrorism and Effective Death Penalty Act. The legislation I introduce today is similar to the legislation I introduced in the 104th Congress as Senate Bill S. 1504 and again in the 105th Congress as S. 812, and is designed to build on what are now current provisions of law. All in all, I hope to ensure that restitution payments from criminals to victims become a reality, and that victims have a greater degree of control in going after criminals to obtain restitution payments.

Under my legislation, restitution orders would be enforceable as a civil debt, payable immediately. Most restitution is now collected entirely through the criminal justice system. It is frequently paid as directed by the probation officer, which means restitution payments cannot begin until the prisoner is released. This bill makes restitution orders payable immediately, as a civil debt, speeding recovery and impeding attempts by criminals to avoid repayment. This provision will not impose criminal penalties on those unable to pay, but will simply allow civil collection against those who have assets.

This will provide victims with new means of collecting restitution payments. If the debt is payable immediately, all normal civil collection procedures, including the Federal Debt Collection Act, can be used to collect the debt. The bill explicitly gives victims access to other civil procedures already in place for the collection of debts. This lightens the burden of collecting debt on our Federal courts and prosecutors.

My bill further provides that Federal courts will continue to have jurisdiction over criminal restitution judgments for five years, not including time that the defendant is incarcerated. The court is presently permitted to resentence or take several other actions against a criminal who willfully refuses to make restitution payments; the court may do so until the termination of the term of parole. Courts should have the ability to do more over a longer period of time, and to select those means that are more likely to prove successful. Under my bill, during the extended period, Federal courts will be permitted, where the defendant knowingly fails to make restitution payments, to modify the terms or conditions of a defendant's parole, extend the defendant's probation or supervised release, hold the defendant in contempt, increase the defendant's original sentence, or revoke probation or supervised release.

My legislation will also give the courts power to impose pre-sentence restraints on defendants' uses of their assets in appropriate cases. This will prevent well-heeled defendants from dissipating assets prior to sentencing. Without such provisions, mandatory victim restitution provisions may well be useless in many cases. Even in those rare cases in which a defendant has the means to pay full restitution at once, if the court has no capacity to prevent the defendant from spending ill-gotten gains or other assets prior to the sentencing phase, there may be nothing left for the victim by the time the restitution order is entered.

The provisions permitting pre-sentence restraints are similar to other provisions that already exist in the law for private civil actions and asset forfeiture cases, and they provide adequate protections for defendants. They require a court hearing, for example, and place the burden on the government to show by a preponderance of the evidence that pre-sentence restraints are warranted.

In short, I want to make criminals pay and to give victims the tools with which to make them pay. In enacting mandatory victim restitution legislation in the 104th Congress, we demonstrated our willingness to make some crimes subject to this process. I believe we must take additional steps to make those mandatorily issued orders easily enforceable.

This legislation is supported by the National Victim Center and by the Michigan Coalition Against Domestic and Sexual Violence. I ask unanimous consent to have placed in the RECORD letters of support from those victims' rights organizations.

I urge my colleagues to support my legislation, which will empower victims to collect on the debts that they are owed by criminals and which will improve the enforceability of restitution orders.

I also ask unanimous consent that a summary of the bill be placed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Section 1. Short title.

This section provides that the act may be cited as the "Victim Restitution Enforcement Act of 1999."

Section 2. Procedures for Issuance and Enforcement of Restitution Order.

This section amends the Federal criminal code to revise procedures for the issuance and enforcement of restitution orders. The legislation directs the court to: (1) order the probation service of the court to obtain and include in its presentence report, or in a separate report, information sufficient for the court to exercise its discretion in fashioning a restitution order (which shall include a complete accounting of the losses to each victim, any restitution owed pursuant to a plea agreement, and information relating to the economic circumstances of each defendant); and (2) disclose to the defendant and the attorney for the Government all portions of the report pertaining to such matters.

This section also makes specified provisions of the Federal criminal code and Rule 32(c) of the Federal Rules of Criminal Procedure the only rules applicable to proceedings for the issuance and enforcement of restitution orders. It authorizes the court, upon application of the United States, to enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property or assets necessary to satisfy a criminal restitution order, if specified circumstances apply.

This legislation also sets forth provisions regarding: (1) notice requirements; (2) evidence and information that the court may consider at a hearing; (3) the use of temporary restraining orders; (4) disclosure of financial information regarding the defendant; (5) the use of consumer credit reports; (6) timetables for the attorney for the United States to provide the probation service of the court with information available to the attorney, including matters occurring before the grand jury relating to the identity of the victims, the amount of loss, and financial matters relating to the defendant.

Further, this section directs the attorney for the Government to provide notice to all victims. It authorizes: (1) the court to limit the information to be provided or sought by the probation service under specified circumstances; (2) a victim who objects to any information provided to the probation service by the attorney for the United States to file a separate affidavit with the court; and (3) the court to require additional documentation or hear testimony after reviewing the report of the probation service. Provides for the privacy of records filed and testimony heard and permits records to be filed or testimony to be heard in camera.

This legislation also establishes procedures regarding the court's ascertaining of the victims' losses. It permits the court to refer any issue arising in connection with a proposed restitution order to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court. Sets forth provisions regarding: (1) consideration of compensation for losses from insurance or other sources; and (2) the burden of proof.

The bill directs the court to order restitution to each victim in the full amount of each victim's losses as determined by the court without consideration of the defendant's economic circumstances. It sets forth provisions regarding situations where the amount of the loss is not reasonably ascertainable, and where there is more than one defendant. The bill also specifies that no victim shall be required to participate in any phase of a restitution order.

This legislation requires the defendant to notify the court and the Attorney General of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution. Authorizes the court to adjust the payment schedule.

It also sets forth provisions regarding: (1) court retention of jurisdiction over criminal restitution judgments; and (2) enforcement of restitution orders. Further, this section specifies that: (1) a conviction of a defendant for an offense giving rise to restitution shall estop the defendant from denying the essential allegations of that offense in any subsequent Federal civil proceeding or State civil proceeding, regardless of any State law precluding estoppel for a lack of mutuality; and (2) the victim, in such subsequent proceeding, shall not be precluded from establishing a loss that is greater than that determined by the court in the earlier criminal proceeding.

Section 3. Civil Remedies

This section adds restitution to a provision governing the post-sentence administration of fines. Provides that an order of restitution shall operate as a lien in favor of the United States for its benefit or for the benefit of any non-federal victims against all property belonging to the defendant. Authorizes the court, in enforcing a restitution order, to order jointly owned property divided and sold, subject to specified requirements.

Section 4. Fines

Species that a defendant shall not incur any criminal penalty for failure to make a payment on a fine, special assessment, restitution, or cost because of the defendant's indigency.

Section 5. Resentencing

This section authorizes the court, where a defendant knowingly fails to pay a delinquent fine, to increase the defendant's sentence to any sentence that might originally have been imposed under the applicable statute.

By Mr. ABRAHAM (for himself, Mr. ALLARD, Mrs. FEINSTEIN, Mr. HATCH, Mr. THURMOND, Mr. HELMS, Mr. KYL, Mr. HUTCHINSON, Mr. GRAMS, Mr. ENZI, Mr. HAGEL, and Mr. COVERDELL):

S. 146. A bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes; to the Committee on the Judiciary.

THE POWDER COCAINE SENTENCING ACT

Mr. ABRAHAM. Mr. President, I rise to introduce "The Powder Cocaine Sentencing Act of 1999." This legislation would toughen federal policy toward powder cocaine dealers by reducing from 500 to 50 grams the amount of powder cocaine a person must be convicted of distributing in order to receive a mandatory 5 year minimum sentence.

I am convinced, Mr. President, that we need tougher sentences for powder cocaine dealers so that we may protect our kids from drugs and our neighborhoods from the violence and social breakdown that accompany drug trafficking.

We have seen a disturbing trend in recent years, a reversal, really, of the decade long progress we enjoyed in the war on drugs. For example, over the last six years the percentage of high school seniors admitting that they had used an illicit drug has risen by more than half. This spells trouble for our children. Increased drug use means increased danger of every social pathology of which we know. It must stop.

Ironically, at the same time that we are learning the disturbing news about overall drug use among teens, we also are finding heartening news in our war on violent crime. The F.B.I. now reports that, since 1991, the number of homicides committed in the United States has dropped by 31 percent. Also since 1991, the number of robberies has fallen 32 percent. According to the Bureau of Justice Statistics, robberies fell a stunning 17 percent in 1997 alone.

This is good news, Mr. President. And there is widespread agreement among experts in the field that the principal cause of this decline in violent crime is our success in curbing the crack cocaine epidemic and the violent gang activities that accompany that epidemic. The New York Times recently reported on a conference of criminologists held in New Orleans. Experts at the conference agreed that the rise and fall in violent crime during the 1980s and 1990s closely paralleled the rise and fall of the crack epidemic.

At the same time, there is a warning signal here. The most recent "Monitoring the Future" Study done by the University of Michigan, which tracks drug use and attitudes by teenagers, showed an increase in the use of both crack and powder cocaine this year. This is in contrast to its finding that the use of other drugs by kids may finally be leveling off, albeit at unacceptably high levels.

Yet surprisingly, despite these developments, in last year's Ten Year Plan for a National Drug Control Strategy, the Administration proposed making crack sentences 5 times more lenient than they are today. Why? The Administration say we need to reduce crack dealer sentences because they are too tough when compared to sentences for powder cocaine dealers. And it is true that it does not make sense for people higher on the drug chain to get lighter sentences than those at the bottom. But going easier on crack peddlers—the dealers who infest our school yards and playgrounds—is not the solution. Crack is cheap and highly addictive. Tough crack sentences have encouraged many dealers to turn in their superiors in exchange for leniency. Softening these sentences will remove that incentive and undermine our prosecutors, making them less effective at protecting our children and our neighborhoods.

The Powder Cocaine Sentencing Act rests on the conviction that there is a better way to bring crack and powder cocaine sentences more in line. First, it rejects any proposal to lower sentences for crack dealers. Second, it makes sentences for powder cocaine dealers a good deal tougher than they are today.

Mr. President, this legislation will reduce the differential between the amount of powder and crack cocaine required to trigger a mandatory minimum sentence from 100 to 1 to 10 to 1—the same ratio proposed by the Administration. But this legislation will accomplish that goal, not by making crack dealer sentences more lenient, but rather by toughening sentences for powder cocaine dealers.

At this crucial time we may be making real progress in winning the war on violent crime in part because we have sent the message that crack gang membership is no way to live and that society will come down very hard on those spreading this pernicious drug. At the same time our kids remain all too exposed to dangerous drugs, far more exposed than any of us can probably really imagine. In light of these two trends, it would be a catastrophic mistake to let any drug dealer think that the cost of doing business is going down. As important, Mr. President, it will be nearly impossible to succeed in discouraging our children from using drugs if they hear we are lowering sentences for any category of drug dealers.

I ask my colleagues to send a strong message to drug dealers and to our kids, the message that drugs are dangerous and illegal, and those who sell them will not be tolerated. This legislation will send this message, and I urge my colleagues to give it their full support.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Powder Cocaine Sentencing Act of 1999".

SEC. 2. SENTENCING FOR VIOLATIONS INVOLVING COCAINE POWDER.

(a) AMENDMENT OF CONTROLLED SUBSTANCES ACT.—

(1) LARGE QUANTITIES.—Section 401(b)(1)(A)(ii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)) is amended by striking "5 kilograms" and inserting "500 grams".

(2) SMALL QUANTITIES.—Section 401(b)(1)(B)(ii) of the Controlled Substances

Act (21 U.S.C. 841(b)(1)(B)(ii)) is amended by striking "500 grams" and inserting "50 grams".

(b) AMENDMENT OF CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—

(1) LARGE QUANTITIES.—Section 1010(b)(1)(B) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(B)) is amended by striking "5 kilograms" and inserting "500 grams".

(2) SMALL QUANTITIES.—Section 1010(b)(2)(B) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)(B)) is amended by striking "500 grams" and inserting "50 grams".

(c) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to reflect the amendments made by this section.

Mr. GRAMS. Mr. President, I rise in support of the "Powder Cocaine Sentencing Act of 1999" sponsored by Senator SPENCE ABRAHAM of Michigan. I am proud to be an original cosponsor of this important legislation that will toughen federal policy toward powder cocaine dealers.

As we begin the legislative business of the Senate this year, we must strengthen our efforts to stop illegal drug use and drug-related crime and violence. We must fulfill our moral obligation to communicate the dangers and consequences of illegal drug use. Continuing our fight against the threat of drug abuse is one of the most important contributions the 106th Congress can make toward providing a promising future for the young people of America.

Under current law, a dealer must distribute 500 grams of powder cocaine to qualify for a 5-year mandatory minimum prison sentence, and distribute 5 grams of crack cocaine for that offense. These sentencing guidelines result in a 100-to-1 quantity ratio between powder and more severe crack cocaine distribution sentences. This disparity has caused a great deal of concern among members of Congress and the administration. Unfortunately, the Clinton administration fails to see the dangers in changing the federal crack cocaine distribution law.

During the 104th Congress, the U.S. Sentencing Commission recommended a lower threshold under which a convicted person may receive a 5-year mandatory sentence in cases involving the distribution of crack cocaine. Through the leadership of Senator ABRAHAM, Congress overwhelmingly passed legislation which rejected the Sentencing Commission's proposal. At the signing ceremony for this legislation, President Clinton expressed the strong message its enactment would send to our Nation and those who choose to deal drugs throughout our communities.

President Clinton remarked,

> We have to send a constant message to our children that drugs are illegal, drugs are dangerous, drugs may cost you your life—and the penalties for dealing drugs are severe. I am not going to let anyone who peddles drugs get the idea that the cost of doing business is going down.

Regrettably, the Clinton administration continues to promote a federal sentencing policy for crack cocaine offenses that fails to recognize the dangerous and addictive nature of this illegal substance and its impact upon violent crime throughout our communities. In an April 1997 report to Congress, the Sentencing Commission unanimously recommended an increase in the mandatory minimum trigger for the distribution of crack cocaine.

I share the views expressed by the administration and community groups in my home state of Minnesota that the current penalty disparity in cocaine sentencing should be addressed. However, I disagree with the ill-advised manner in which the administration seeks to achieve this goal by making the mandatory minimum prison sentences for crack cocaine dealers at least five times more lenient than they are today.

Mr. President, the legislation offered today by Senator ABRAHAM represents a fair and effective approach toward federal cocaine sentencing policy. Rather than make federal crack cocaine sentences more lenient, the Abraham bill would reduce from 500 to 50 grams the amount of powder cocaine a person must be convicted of distributing before receiving a mandatory 5-year sentence. This legislation would adjust the current 100-to-1 quantity ratio to 10-to-1 by toughening powder cocaine sentences without reducing crack cocaine sentences.

By February 1, Congress will receive a National Drug Control Strategy from the Office of National Drug Control Policy which will contain goals for reducing drug abuse in the United States. As part of this plan, I am hopeful that National Drug Control Policy Director Barry McCaffrey will speak out forcefully against any proposal to make sentences for a person who is convicted of dealing crack cocaine more lenient. Punishing drug dealers who prey upon the innocence of our children should be a critical component of our nation's drug strategy.

Mr. President, I urge my colleagues to support the "Powder Cocaine Sentencing Act of 1999" and reject lower federal crack sentences. We should exercise greater oversight of federal sentencing policy for cocaine offenses. Passage of this legislation will help give greater protection to Americans from drugs by keeping offenders off the streets for longer periods of time.

By Mr. ABRAHAM (for himself, Mr. LEVIN, Mr. ASHCROFT, and Mr. DEWINE):

S. 147. A bill to provide for a reduction in regulatory costs by maintaining Federal average fuel economy standards applicable to automobiles in effect at current levels until changed by law, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CORPORATE AVERAGE FUEL ECONOMY STANDARDS

Mr. ABRAHAM. Mr. President, I rise today to introduce legislation with Senators LEVIN, ASHCROFT, and DEWINE that would freeze the Corporate Average Fuel Economy standards—known as CAFE—at current levels unless changed by Congress.

This issue is attracting an increased amount of attention as automobile manufacturers continue to increase car and light truck efficiency and as Americans begin to understand the consequences of increased fuel economy standards: less consumer choice, more dangerous vehicles and reduced competitiveness for domestic automobile manufacturers. Perhaps, Mr. President, some of these repercussions could be easier to accept if the supposed benefits of increased CAFE standards were ever realized, but this has not occurred. In the two decades since CAFE standards were first mandated, this Nation's oil imports have grown to account for nearly half our annual consumption and the average number of miles driven by Americans has increased.

Mr. President, last session 15 Senators from both sides of the aisle joined me in sponsoring this legislation. Given the importance of the automobile industry to the continued economic health of the country, the preference for increased capacity that American consumers have demonstrated and the producers' continuing trend toward more efficient engines, it is time for the setting of CAFE standards to once again reside with elected officials.

I urge my colleagues to cosponsor this legislation and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 147

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AVERAGE FUEL ECONOMY STANDARDS.

Beginning on the date of enactment of this Act, the average fuel economy standards established (whether directly or indirectly) under regulations promulgated by the Secretary of Transportation under chapter 329 of title 49, United States Code, prior to the date of enactment of this Act for automobiles (as that term is defined in section 32901 of title 49, United States Code) that are in effect on the day before the date of enactment of this Act, shall apply without amendment, change, or other modification of any kind (whether direct or indirect) for—

(1) the model years specified in the regulations;

(2) the applicable automobiles specified in the regulations last promulgated for such automobiles; and

(3) each model year thereafter;

until chapter 329 of title 49, United States Code, is specifically amended to authorize an amendment, change, or other modification to such standards or is otherwise modified or superseded by law.

By Mr. ABRAHAM (for himself, Mr DASCHLE, Mr. CHAFEE, Mr. HATCH, and Mr. DURBIN):

S. 148. A bill to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds; to the Committee on Environment and Public Works.

MIGRATORY BIRD PROTECTION

Mr. ABRAHAM. Mr. President, I rise today to introduce the "Neotropical Migratory Bird Conservation Act of 1999." This legislation, which I am introducing today with my distinguished colleagues, Senator DASCHLE and Senator CHAFEE, is designed to protect over 90 endangered species of bird spending certain seasons in the United States and other seasons in other nations of the Western Hemisphere. This is actually the second time Senator DASCHLE and I have introduced this bill. Last year, after receiving considerable support from the environmental community, this legislation passed the Senate by unanimous consent. Unfortunately, time ran out for equal consideration in the House. Nevertheless, we are back again with renewed determination and I believe the effort in the 106th Congress will prove successful.

Every year, Mr. President, approximately 25 million Americans travel to observe birds, and 60 million American adults watch and feed birds at home. Bird-watching is a source of real pleasure to many Americans, as well as a source of important revenue to states, like my own state of Michigan, which attract tourists to their scenes of natural beauty. Bird watching and feeding generates fully $20 billion every year in revenue across America.

Birdwatching is a popular activity in Michigan, and its increased popularity is reflected by an increase in tourist dollars being spent in small, rural communities. Healthy bird populations also prevent hundreds of millions of dollars in economic losses each year to farming and timber interests. They help control insect populations, thereby preventing crop failures and infestations.

Despite the enormous benefits we derive from our bird populations, many of them are struggling to survive. Ninety species are listed as endangered or threatened in the United States. Another 124 species are of high conservation concern. In my own state we are working to bring the Kirtland's Warbler back from the brink of extinction. In recent years, the population of this distinctive bird has been estimated at approximately 200 nesting pairs. That number has recently increased to an estimated 800 nesting pairs, but this entire species spends half of the year in the Bahamas. Therefore, the significant efforts made by Michigan's Department of Natural Resources and concerned residents will not be enough to save this bird if its winter habitat is degraded or destroyed. Not surprisingly, the primary reason for most declines is the loss of bird habitat.

This situation is not unique, among bird watchers' favorites, many neotropical birds are endangered or of high conservation concern. And several of the most popular neotropical species, including bluebirds, robins, goldfinches and orioles, migrate to and from the Caribbean and Latin America.

Because neotropical migratory birds range across a number of international borders every year, we must work to establish safeguards at both ends of their migration routes, as well as at critical stopover areas along their way. Only in this way can conservation efforts prove successful.

That is why Senator DASCHLE, Senator CHAFEE and I have introduced the "Neotropical Migratory Bird Conservation Act." This legislation will protect bird habitats across international boundaries by establishing partnerships between the business community, nongovernmental organizations and foreign nations. By teaming businesses with international organizations concerned to protect the environment we can combine capital with know-how. By partnering these entities with local organizations in countries where bird habitat is endangered we can see to it that local people receive the training they need to preserve this habitat and maintain this critical natural resource.

This act establishes a three year demonstration project providing $8 million each year to help establish programs in the United States, Latin America and the Caribbean. The greater portion of these funds will be focused outside the U.S. Approved programs will manage and conserve neotropical migratory bird populations. Those eligible to participate will include national and international nongovernmental organizations and business interest, as well as U.S. government entities.

The key to this act is cooperation among nongovernmental organizations. The federal share of each project's cost is never to exceed 33 percent. For grants awarded outside the U.S., the nonfederal match can be made with in-kind contributions. This will encourage volunteerism and local interest in communities that lack the financial resource to contribute currency. Since domestic organizations and communities are more financially secure, the matching portion of grants awarded within the U.S. will be required in cash.

The approach taken by this legislation differs from that of current programs in that it is proactive and, by avoiding a crisis management approach, will prove significantly more cost effective. In addition, this legislation does not call for complicated and expensive bureaucratic structures such as councils, commissions or multi-tiered oversight structures. Further, this legislation will bring needed attention and expertise to areas now receiving relatively little attention in the area of environmental degradation.

This legislation has the support of the National Audubon Society, the American Bird Conservancy and the Ornithological Council. These organizations agree with Senator DASCHLE, SENATOR CHAFEE and I that, by establishing partnerships between business, government and nongovernmental organizations both here and abroad we can greatly enhance the protection of migratory bird habitat.

I urge my colleagues to support this bill and ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Neotropical Migratory Bird Conservation Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) of the nearly 800 bird species known to occur in the United States, approximately 500 migrate among countries, and the large majority of those species, the neotropical migrants, winter in Latin America and the Caribbean;

(2) neotropical migratory bird species provide invaluable environmental, economic, recreational, and aesthetic benefits to the United States, as well as to the Western Hemisphere;

(3)(A) many neotropical migratory bird populations, once considered common, are in decline, and some have declined to the point that their long-term survival in the wild is in jeopardy; and

(B) the primary reason for the decline in the populations of those species is habitat loss and degradation (including pollution and contamination) across the species' range; and

(4)(A) because neotropical migratory birds range across numerous international borders each year, their conservation requires the commitment and effort of all countries along their migration routes; and

(B) although numerous initiatives exist to conserve migratory birds and their habitat, those initiatives can be significantly strengthened and enhanced by increased coordination.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to perpetuate healthy populations of neotropical migratory birds;

(2) to assist in the conservation of neotropical migratory birds by supporting conservation initiatives in the United States, Latin America, and the Caribbean; and

(3) to provide financial resources and to foster international cooperation for those initiatives.

SEC. 4. DEFINITIONS.

In this Act:

(1) ACCOUNT.—The term "Account" means the Neotropical Migratory Bird Conservation Account established by section 9(a).

(2) CONSERVATION.—The term "conservation" means the use of methods and procedures necessary to bring a species of neotropical migratory bird to the point at which there are sufficient populations in the wild to ensure the long-term viability of the species, including—

(A) protection and management of neotropical migratory bird populations;

(B) maintenance, management, protection, and restoration of neotropical migratory bird habitat;

(C) research and monitoring;

(D) law enforcement; and

(E) community outreach and education.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 5. FINANCIAL ASSISTANCE.

(a) IN GENERAL.—The Secretary shall establish a program to provide financial assistance for projects to promote the conservation of neotropical migratory birds.

(b) PROJECT APPLICANTS.—A project proposal may be submitted by—

(1) an individual, corporation, partnership, trust, association, or other private entity;

(2) an officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government;

(3) a State, municipality, or political subdivision of a State;

(4) any other entity subject to the jurisdiction of the United States or of any foreign country; and

(5) an international organization (as defined in section 1 of the International Organizations Immunities Act (22 U.S.C. 288)).

(c) PROJECT PROPOSALS.—To be considered for financial assistance for a project under this Act, an applicant shall submit a project proposal that—

(1) includes—

(A) the name of the individual responsible for the project;

(B) a succinct statement of the purposes of the project;

(C) a description of the qualifications of individuals conducting the project; and

(D) an estimate of the funds and time necessary to complete the project, including sources and amounts of matching funds;

(2) demonstrates that the project will enhance the conservation of neotropical migratory bird species in Latin America, the Caribbean, or the United States;

(3) includes mechanisms to ensure adequate local public participation in project development and implementation;

(4) contains assurances that the project will be implemented in consultation with relevant wildlife management authorities and other appropriate government officials with jurisdiction over the resources addressed by the project;

(5) demonstrates sensitivity to local historic and cultural resources and complies with applicable laws;

(6) describes how the project will promote sustainable, effective, long-term programs to conserve neotropical migratory birds; and

(7) provides any other information that the Secretary considers to be necessary for evaluating the proposal.

(d) PROJECT REPORTING.—Each recipient of assistance for a project under this Act shall submit to the Secretary such periodic reports as the Secretary considers to be necessary. Each report shall include all information required by the Secretary for evaluating the progress and outcome of the project.

(e) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of each project shall be not greater than 33 percent.

(2) NON-FEDERAL SHARE.—

(A) SOURCE.—The non-Federal share required to be paid for a project shall not be derived from any Federal grant program.

(B) FORM OF PAYMENT.—

(i) PROJECTS IN THE UNITED STATES.—The non-Federal share required to be paid for a project carried out in the United States shall be paid in cash.

(ii) PROJECTS IN FOREIGN COUNTRIES.—The non-Federal share required to be paid for a project carried out in a foreign country may be paid in cash or in kind.

SEC. 6. DUTIES OF THE SECRETARY.

In carrying out this Act, the Secretary shall—

(1) develop guidelines for the solicitation of proposals for projects eligible for financial assistance under section 5;

(2) encourage submission of proposals for projects eligible for financial assistance under section 5, particularly proposals from relevant wildlife management authorities;

(3) select proposals for financial assistance that satisfy the requirements of section 5, giving preference to proposals that address conservation needs not adequately addressed by existing efforts and that are supported by relevant wildlife management authorities; and

(4) generally implement this Act in accordance with its purposes.

SEC. 7. COOPERATION.

(a) IN GENERAL.—In carrying out this Act, the Secretary shall—

(1) support and coordinate existing efforts to conserve neotropical migratory bird species, through—

(A) facilitating meetings among persons involved in such efforts;

(B) promoting the exchange of information among such persons;

(C) developing and entering into agreements with other Federal agencies, foreign, State, and local governmental agencies, and nongovernmental organizations; and

(D) conducting such other activities as the Secretary considers to be appropriate; and

(2) coordinate activities and projects under this Act with existing efforts in order to enhance conservation of neotropical migratory bird species.

(b) ADVISORY GROUP.—

(1) IN GENERAL.—To assist in carrying out this Act, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of neotropical migratory birds.

(2) PUBLIC PARTICIPATION.—

(A) MEETINGS.—The advisory group shall—

(i) ensure that each meeting of the advisory group is open to the public; and

(ii) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(B) NOTICE.—The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(C) MINUTES.—Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(3) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

SEC. 8. REPORT TO CONGRESS.

Not later than October 1, 2002, the Secretary shall submit to Congress a report on the results and effectiveness of the program carried out under this Act, including recommendations concerning how the Act might be improved and whether the program should be continued.

SEC. 9. NEOTROPICAL MIGRATORY BIRD CONSERVATION ACCOUNT.

(a) ESTABLISHMENT.—There is established in the Multinational Species Conservation Fund of the Treasury a separate account to be known as the "Neotropical Migratory Bird Conservation Account", which shall consist of amounts deposited into the Account by the Secretary of the Treasury under subsection (b).

(b) DEPOSITS INTO THE ACCOUNT.—The Secretary of the Treasury shall deposit into the Account—

(1) all amounts received by the Secretary in the form of donations under subsection (d); and

(2) other amounts appropriated to the Account.

(c) USE.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may use amounts in the Account, without further Act of appropriation, to carry out this Act.

(2) ADMINISTRATIVE EXPENSES.—Of amounts in the Account available for each fiscal year, the Secretary may expend not more than 6 percent to pay the administrative expenses necessary to carry out this Act.

(d) ACCEPTANCE AND USE OF DONATIONS.—The Secretary may accept and use donations to carry out this Act. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the Account.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Account to carry out this Act $8,000,000 for each of fiscal years 2000 through 2003, to remain available until expended, of which not less than 50 percent of the amounts made available for each fiscal year shall be expended for projects carried out outside the United States.

Mr. DASCHLE. Mr. President, it is my pleasure today to join with my colleagues to introduce the Neotropical Migratory Bird Conservation Act.

First, let me commend my colleague, Senator ABRAHAM, for all of his work to develop this legislation. This bill addresses some of the critical threats to wildlife habitat and species diversity and demonstrates his commitment, which I strongly share, to solving the many challenges we face in this regard.

The Neotropical Migratory Bird Conservation Act will help to ensure that some of our most valuable and beautiful species of birds—those that most of us take for granted, including bluebirds, goldfinches, robins and orioles—may overcome the challenges posed by habitat destruction and thrive for generations to come. It is not widely recognized that many North American bird species once considered common are in decline. In fact, a total of 90 species of migratory birds are listed as endangered or threatened in the United States, and another 124 species are considered to be of high conservation concern.

The main cause of this decline is the loss of critical habitat throughout our hemisphere. Because these birds range across international borders, it is essential that we work with nations in Latin America and the Caribbean to establish protected stopover areas during their emigrations. This bill achieves that goal by fostering partnerships between businesses, nongovernmental organizations and other nations to bring together the capital and expertise needed to preserve habitat throughout our hemisphere.

As we begin the 106th Congress, I urge my colleagues to support this legislation. It has been endorsed by the National Audubon Society, the American Bird Conservancy and the Ornithological Council. I believe that it will substantially improve upon our ability to maintain critical habitat in our hemisphere and help to halt the decline of these important species.

Mr. CHAFEE. Mr. President, I am pleased to cosponsor the Neotropical Migratory Bird Conservation Act of 1999, introduced by Senator ABRAHAM. The bill would establish a program to provide financial assistance for projects to promote the conservation of neotropical migratory birds in the United States, Latin America, and the Caribbean. An identical bill, which I also cosponsored, was approved by the Senate during the last Congress, but failed in the House for reasons unrelated to the bill.

Each autumn, some 5 billion birds from 500 species migrate between their breeding grounds in North America and tropical habitats in the Caribbean, Central and South America. These neotropical migrants—or New World tropical migrants—are birds that migrate between the biogeographic region stretching across Mexico, Central America, much of the Caribbean, and the northern part of South America.

The natural challenges facing these migratory birds are profound. These challenges have been exacerbated by human-induced impacts, particularly the continuing loss of habitat in the Caribbean and Latin America. As a result, populations of migratory birds have declined generally in recent years.

While there are numerous efforts underway to protect these species and their habitat, they generally focus on specific groups of migratory birds or specific regions in the Americas. There is a need for a more comprehensive program to address the varied and significant threats facing the numerous species of migratory birds across their range.

Frequently there is little, if any, coordination among the existing programs, nor is there any one program that serves as a link among them. A broader, more holistic approach would bolster existing conservation efforts and programs, fill the gaps between these programs, and promote new initiatives.

The bill we are introducing today encompasses this new approach. It mandates a program to promote voluntary, collaborative partnerships among Federal, State, and private organizations. The Federal share can be no more than 33 percent. The non-Federal share for projects in the U.S. must be paid in cash, while in projects outside the U.S., the non-Federal share may be entirely in-kind contributions. The Secretary of the Interior may establish an advisory group to assist in implementing the legislation. The success of this initiative will depend on close coordination with public and private organizations involved in the conservation of migratory birds. The bill authorizes up to $8 million annually for appropriations, of which no less than 50 percent can be spent for projects outside the U.S.

I believe that this bill is a much needed initiative that will fill a great void in conservation of our nation's wildlife. I urge my colleagues to cosponsor it.

By Mr. KOHL:

S 149. A bill to amend chapter 44 of title 18, United States Code, to require the provision of a child safety lock in connection with the transfer of a handgun; to the Committee on the Judiciary.

CHILD SAFETY LOCK ACT OF 1999

Mr. KOHL. Mr. President, today I introduce the Child Safety Lock Act of 1999, along with Senators CHAFEE, FEINSTEIN, BOXER and DURBIN. Our bipartisan measure will save children's lives by reducing the senseless tragedies that result when improperly stored and unlocked handguns come within the reach of children.

Each year, nearly 500 children and teenagers are killed in firearms accidents, and every year 1,500 more children use firearms to commit suicide. Additionally, about 7,000 violent juvenile crimes are committed annually with guns which children take from their own homes. Safety locks can be effective in preventing at least some of these incidents.

The sad truth is that we are inviting disaster because guns too often are not being properly stored away from children. Nearly 100 million privately-owned firearms are stored unlocked, with 22 million of these guns left unlocked and loaded; twenty-four percent of children between the ages of 10 and 17 say that they can gain access to a gun in their home; and the Centers for Disease Control estimate that almost 1.2 million elementary school-aged children return from school to a home where there is no adult supervision, but at least one firearm.

That is not only wrong, it is unacceptable.

Our legislation will help address this problem. It is simple, effective and straightforward. It requires that a child safety device—or trigger lock—be sold with every handgun. These devices vary in form, but the most common resemble a padlock that wraps around the gun trigger and immobilizes it. Trigger locks are already used by tens of thousands of responsible gun owners to protect their firearms from unauthorized use, and they can be purchased in virtually any gun store for less than 10 dollars.

This measure gained momentum last Congress, falling short by just one vote in the Judiciary Committee. Moreover, in part as a result of our proposal, a majority of the largest handgun manufacturers in the United States agreed to voluntarily include safety locks with each handgun they manufacture. Despite this unprecedented voluntary step, though, our legislation is still needed. Here's why: because some manufacturers appear to be dragging their feet—an October 1998 study indicated that eighty percent of the handgun makers who signed onto the voluntary agreement were not yet providing safety locks. And even if they do comply, many handguns would likely still not be covered because too many other manufacturers have refused to sign onto our agreement.

Mr. President, this legislation is necessary to ensure that safety locks are provided with all handguns, and to keep the pressure on handgun manufacturers to put safety first. We already protect children by requiring that seat belts be installed in all automobiles and that childproof safety caps be provided on medicine bottles. We should be no less vigilant when it comes to gun safety.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Safety Lock Act of 1999".

SEC. 2. CHILD SAFETY LOCKS.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(35) The term 'locking device' means a device or locking mechanism—

"(A) that—

"(i) if installed on a firearm and secured by means of a key or a mechanically, electronically, or electromechanically operated combination lock, is designed to prevent the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically, or electromechanically operated combination lock;

"(ii) if incorporated into the design of a firearm, is designed to prevent discharge of the firearm by any person who does not have access to the key or other device designed to unlock the mechanism and thereby allow discharge of the firearm; or

"(iii) is a safe, gun safe, gun case, lock box, or other device that is designed to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means; and

"(B) that is approved by a licensed firearms manufacturer for use on the handgun with which the device or locking mechanism is sold, delivered, or transferred.".

(b) UNLAWFUL ACTS.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

"(z) LOCKING DEVICES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than a licensed manufacturer, licensed importer, or licensed dealer, unless the transferee is provided with a locking device for that handgun.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to—

"(A) the—

"(i) manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a firearm; or

"(ii) transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a firearm for law enforcement purposes (whether on or off duty); or

"(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a firearm for purposes of law enforcement (whether on or off duty).".

(2) EFFECTIVE DATE.—Section 922(y) of title 18, United States Code, as added by this subsection, shall take effect 180 days after the date of enactment of this Act.

(c) LIABILITY; EVIDENCE.—

(1) LIABILITY.—Nothing in this section shall be construed to—

(A) create a cause of action against any firearms dealer or any other person for any civil liability; or

(B) establish any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this section.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(y) of that title.

(d) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking "or (f)" and inserting "(f), or (p)"; and

(2) by adding at the end the following:

"(p) PENALTIES RELATING TO LOCKING DEVICES.—

"(1) IN GENERAL.—

"(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(y)(1) by a licensee, the Secretary may, after notice and opportunity for hearing—

"(i) suspend or revoke any license issued to the licensee under this chapter; or

"(ii) subject the licensee to a civil penalty in an amount equal to not more than $10,000.

"(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided in section 923(f).

"(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Secretary.".

By Mr. WYDEN:

S. 150. A bill to the relief of Marina Khalina and her son, Albert Miftakhov; to the Committee on the Judiciary.

PRIVATE RELIEF BILL

Mr. WYDEN. Mr. President, today I introduce a measure to bring critically needed relief to Marina Khalina and her son, Albert Miftakhov, who suffers from cerebral palsy. Marina and Albert are Russian immigrants who have made a new home for themselves in the state of Oregon. They love their new life in America, but they face deportation unless Congress steps in and helps them become citizens of this country.

Marina and Albert have been valuable members of their community in Oregon and would make model citizens. They are both people of exceptional moral character. Neither has been arrested or convicted of any crime. Although Albert often has had to miss school for medical operations, therapy, and other treatments, he consistently has been a good student. Marina has worked tirelessly in the United States to support her family and to cover her son's staggering medical costs, which will include additional surgery in the future. Through hard work, determination, and courage, Marina has made sure that Albert receives the medical care he requires.

Forcibly removing them and sending them back to Russia would result in extreme hardship for both of them and would make it virtually impossible for Albert to receive proper medical attention. Albert would be unable to lead a normal life due to the current inability of Russian society to understand and accommodate disabled persons. Even the most basic medical treatment, surgical intervention and physical therapy would be either unavailable or extremely difficult to obtain in Russia.

Although life has not been easy for Marina and Albert, they have both shown bravery in the face of adversity. This bill will allow Marina and Albert to stay in the United States so that Albert can receive the care he needs to lead a normal life. I urge you to support this legislation.

By Mr. SARBANES:

S. 151. A bill to amend the International Maritime Satellite Telecommunications Act to ensure the continuing provision of certain global satellite safety services after the privatization of the business operations of the International Mobile Satellite Organization, and for other purposes; to the Committee on Commerce, Science, and Transportation.

INTERNATIONAL MARITIME SATELLITE TELECOMMUNICATIONS ACT AMENDMENTS

Mr. SARBANES. Mr. President, today I am introducing legislation to authorize continued U.S. participation in the International Mobile Satellite Organization, currently known as "Inmarsat", during and after its restructuring, scheduled to take place April 1. The United States is currently a member of this organization, but its structure and functions are slated for significant reform. Rather than actually owning and operating mobile satellite telecommunications facilities, the intergovernmental institution will retain the much more limited role of overseeing the provision of global maritime distress and safety services, ensuring that this important function is carried out properly and effectively under contract. U.S. participation in the organization—which will keep the same name but change its acronym to "IMSO"—will not require a U.S. financial contribution and will not impose any new legal obligations upon the U.S. government. Privatization of Inmarsat's commercial satellite business is an objective broadly shared by the legislative and executive branches, American businesses, COMSAT, which is the U.S. signatory entity, and the international community.

To give some brief background, Inmarsat was established in 1979 to serve the global maritime industry by developing satellite communications for ship management and distress and safety applications. Over the past 20 years, Inmarsat has expanded both in terms of membership and mission. The intergovernmental organization now counts 85 member countries and has expanded into land-mobile and aeronautical communications.

Inmarsat's governing bodies, the Assembly of Parties and the Inmarsat Council, have reached an agreement to restructure the organization, a move that has been strongly supported and encouraged by the United States. This restructuring will shift Inmarsat's commercial activities out of the intergovernmental organization and into a broadly-owned public corporation by next spring. The new corporation will acquire all of Inmarsat's operational assets, including its satellites, and will assume all of Inmarsat's operational functions. All that will remain of the intergovernmental institution is a scaled-down secretariat with a small staff to ensure that the new corporation continues to meet certain public service obligations, such as the Global Maritime Distress and Safety System (GMDSS). It is important to U.S. interests that we participate in the oversight of this function, as well as be fully represented in the organization throughout the process of privatization.

The legislation I am introducing will enable a smooth transition to the new structure. It contains two major provisions. First, it authorizes the President to maintain U.S. membership in IMSO after restructuring to ensure the continued provision of global maritime distress and safety satellite communications services. Second, it repeals those provisions of the International Maritime Satellite Telecommunications Act that will be rendered obsolete by the restructuring of Inmarsat, including all those relating to COMSAT's role as the United States' signatory. The bill's provisions will take effect on the date that Inmarsat transfers its commercial operations to the new corporation.

Mr. President, I urge my colleagues to join me in support of this measure and ask unanimous consent that a copy of this legislation be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTINUING PROVISION OF GLOBAL SATELLITE SAFETY SERVICES AFTER PRIVATIZATION OF BUSINESS OPERATIONS OF INTERNATIONAL MOBILE SATELLITE ORGANIZATION.

(a) AUTHORITY.—The International Maritime Satellite Telecommunications Act (47 U.S.C. 751 et seq.) is amended by adding at the end the following:

"GLOBAL SATELLITE SAFETY SERVICES AFTER PRIVATIZATION OF BUSINESS OPERATIONS OF INMARSAT

"SEC. 506. In order to ensure the continued provision of global maritime distress and safety satellite telecommunications services after the privatization of the business operations of INMARSAT, the President may maintain on behalf of the United States membership in the International Mobile Satellite Organization.".

(b) REPEAL OF SUPERSEDED AUTHORITY.—

(1) REPEAL.—That Act is further amended by striking sections 502, 503, 504, and 505 (47 U.S.C. 751, 752, 753, and 757).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date on which the International Mobile Satellite Organization ceases to operate directly a global mobile satellite system.

By Mr. MOYNIHAN:

S. 152. A bill to amend the Internal Revenue Code of 1986 to increase the tax on handgun ammunition, to impose the special occupational tax and registration requirements on importers and manufacturers of handgun ammunition, and for other purposes; to the Committee on Finance.

REAL COST OF DESTRUCTION AMMUNITION ACT

By Mr. MOYNIHAN:

S. 153. A bill to prohibit the use of certain ammunition, and for other purposes; to the Committee on the Judiciary.

DESTRUCTIVE AMMUNITION PROHIBITION ACT OF 1999

By Mr. MOYNIHAN:

S. 154. A bill to amend title 18, United States Code, with respect to the licensing of ammunition manufacturers, and for other purposes; to the Committee on the Judiciary.

HANDGUN AMMUNITION CONTROL ACT OF 1999

By Mr. MOYNIHAN:

S. 155. A bill to provide for the collection and dissemination of information on injuries, death, and family dissolution due to bullet-related violence, to require the keeping of records with respect to dispositions of ammunition, and to increase taxes on certain bullets; to the Committee on Finance.

VIOLENT CRIME CONTROL ACT OF 1999

By Mr. MOYNIHAN:

S. 156. A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber and 9 millimeter ammunition; to the Committee on the Judiciary.

VIOLENT CRIME REDUCTION ACT OF 1999

By Mr. MOYNIHAN:

S. 157. A bill to amend the Internal Revenue Code of 1986 to tax 9 millimeter, .25 caliber, and .32 caliber bullets; to the Committee on Finance.

REAL COST OF HANDGUN AMMUNITION ACT OF 1999

By Mr. MOYNIHAN:

S. 158. A bill to amend title 18, United States Code, to regulate the manufacture, importation, and sale of ammunition capable of piercing police body armor; to the Committee on the Judiciary.

LAW ENFORCEMENT OFFICERS PROTECTION AMENDMENT ACT OF 1999

Mr. MOYNIHAN. Mr. President, I rise today to introduce a series of bills aimed at curtailing gun related violence, one of the leading causes of death in this country. These bills launch a two-prong assault. The first seeks to outlaw certain types of ammunition that have no purpose other than killing people. The second imposes heavy taxes on these same deadly categories by making them prohibitively expensive. Similarly, I am proposing that we commission an epidemiological study on bullet-related violence in this country and that we enhance the safety of this nation's police officers by promulgating performance standards for armor piercing ammunition.

My first two bills are called the Destructive Ammunition Prohibition Act of 1999 and the Real Cost of Destructive Ammunition Act of 1999.

Some of my colleagues may remember the Black Talon. It is a hollow-tipped bullet, singular among handgun ammunition in its capacity for destruction. Upon impact with human tissue, the bullet produces razor-sharp radial petals that produce a devastating wound. It is the very same bullet that a crazed gunman fired at unsuspecting passengers on a Long Island Railroad train in December 1993, killing the husband of now Congresswoman CAROLYN MCCARTHY and injuring her son. That same month, it was also used in the shooting of Officer Jason E. White of the District of Columbia Metropolitan Police Department, just 15 blocks from the Capitol.

I first learned of the Black Talon in a letter I received from Dr. E.J. Gallagher, director of Emergency Medicine at Albert Einstein College of Medicine at the Municipal Hospital Trauma Center in the Bronx. Dr. Gallagher wrote that he has never seen a more lethal projectile. On November 3, 1993, I introduced a bill to tax the Black Talon at 10,000 percent. Nineteen days later, Olin Corp., the manufacturer of the Black Talon, announced that it would withdraw sale of the bullet to the general public. Unfortunately, the 103rd Congress came to a close without the bill's having won passage.

As a result, there is nothing in law to prevent the reintroduction of this pernicious bullet, nor is there any existing impediment to the sale of similar rounds that might be produced by another manufacturer. So today I reintroduce the bill to tax the Black Talon as well as a bill to prohibit the sale of the Black Talon to the public. Both bills would apply to any bullet with the same physical characteristics as the Black Talon.

It has been estimated that the cost of hospital services for treating bullet-related injuries is $1 billion per year, with the total cost to the economy of such injuries approximately $14 billion. We can ill afford further increases in this number, but this would surely be the result if bullets with the destructive capacity of the Black Talon are allowed onto the streets.

Mr. President, despite the fact that the national crime rate has decreased in recent months, the number of deaths and injuries caused by bullet wounds is still at an unconscionable level. It is time we take meaningful steps to put an end to the massacres that occur daily as a result of gun violence. How better a beginning than to go after the most insidious culprits of this violence? I urge my colleagues to support these measures and to prevent these bullets from appearing on the market.

My third measure, the Handgun Ammunition Control Act of 1999, introduces a measure to improve our information about the regulation and criminal use of ammunition and to prevent the irresponsible production of ammunition. This bill has three components. First, it would require importers and manufacturers of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco and Firearms [BATF] on the disposition of ammunition, including the amount, caliber and type of ammunition imported or manufactured. Second, it would require the Secretary of the Treasury, in consultation with the National Academy of Sciences, to conduct a study of ammunition use and make recommendations on the efficacy of reducing crime by restricting access to ammunition. Finally, it would amend title 18 of the United States Code to raise the application fee for a license to manufacture certain calibers of ammunition.

While there are enough handguns in circulation to last well into the 22nd century, there is perhaps only a 4-year supply of ammunition. But how much of what kind of ammunition? Where does it come from? Where does it go? There are currently no reporting requirements for manufacturers or importers of ammunition; earlier reporting requirements were repealed in 1986. The Federal Bureau of Investigation's annual Uniform Crime Reports, based on information provided by local law enforcement agencies, does not record the caliber, type, or quantity of ammunition used in crime. In short, our data base is woefully inadequate.

I supported the Brady law, which requires a waiting period before the purchase of a handgun, and the recent ban on semi-automatic weapons. But while the debate over gun control continues, I offer another alternative: Ammunition control. After all, as I have said before, guns do not kill people; bullets do.

Ammunition control is not a new idea. In 1982 Phil Caruso of the New York City Patrolmen's Benevolent Association asked me to do something about armor-piercing bullets. Jacketed in tungsten or other materials, these rounds could penetrate four police flak jackets and five Los Angeles County telephone books. They have no sporting value. I introduced legislation, the Law Enforcement Officers Protection Act, to ban the cop-killer bullets in the 97th, 98th and 99th Congresses. It enjoyed the overwhelming support of law enforcement groups and, ultimately, tacit support from the National Rifle Association. It was finally signed into law by President Reagan on August 28, 1986.

The crime bill enacted in 1994 contained my amendment to broaden the 1986 ban to cover new thick steel-jacketed armor-piercing rounds.

Our cities are becoming more aware of the benefits to be gained from ammunition control. The District of Columbia and some other cities prohibit a person from possessing ammunition without a valid license for a firearm of the same caliber or gauge as the ammunition. Beginning in 1990, the city of Los Angeles banned the sale of all ammunition 1 week prior to Independence Day and New Year's Day in an effort to reduce injuries and deaths caused by the firing of guns into the air. And in September 1994, the city of Chicago became the first in America to ban the sale of all handgun ammunition.

Such efforts are laudable. But they are isolated attempts to cure what is in truth a national disease. We need to do more, but to do so, we need information to guide policy making. This bill would fulfill that need by requiring annual reports to BATF by manufactures and importers and by directing a study by the National Academy of Sciences. We also need to encourage manufacturers of ammunition to be more responsible. By substantially increasing application fees for licenses to manufacture .25 caliber, .32 caliber, and 9-mm ammunition, this bill would discourage the reckless production of unsafe ammunition or ammunition which causes excessive damage.

My fourth measure provides a comprehensive way of addressing the epidemic proportions of violence in America.

By including two different crime-related provisions, my bill attacks the crime epidemic on more than just one front. If we are truly serious about confronting our Nation's crime problem, we must learn more about the nature of the epidemic of bullet-related violence and ways to control it. To do this, we must require records to be kept on the disposition of ammunition.

In October 1992, the Senate Finance Committee received testimony that public health and safety experts have, independently, concluded that there is an epidemic of bullet-related violence. The figures are staggering.

In 1995, bullets were used in the murders of 23,673 people in the United States. By focusing on bullets, and not guns, we recognize that much like nuclear waste, guns remain active for centuries. With minimum care, they do not deteriorate. However, bullets are consumed. Estimates suggest we have only a 4-year's supply of them.

Not only am I proposing that we tax bullets used disproportionately in crimes—9 millimeter, .25 and .32 caliber bullets—I also believe we must set up a Bullet Death and Injury Control Program within the Centers for Disease Control's National Center for Injury Prevention and Control. This Center will enhance our knowledge of the distribution and status of bullet-related death and injury and subsequently make recommendations about the extent and nature of bullet-related violence.

So that the Center would have substantive information to study and analyze, this bill also requires importers and manufacturers of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco, and Firearms [BATF] on the disposition of ammunition. Currently, importers and manufacturers of ammunition are not required to do so.

My next two bills, the Violent Crime Reduction Act of 1999 and the Real Cost of Handgun Ammunition Act of 1999, ban or heavily tax .25 caliber, .32 caliber, and 9 mm ammunition. These calibers of bullets are used disproportionately in crime. They are not sporting or hunting rounds, but instead are the bullets of choice for drug dealers and violent felons. Every year they contribute overwhelmingly to the pervasive loss of life caused by bullet wounds.

Today marks the fifth time in as many Congresses that I have introduced legislation to ban or tax these pernicious bullets. As the terrible gunshot death toll in the United States continues unabated, so too does the need for these bills, which, by keeping these bullets out of the hands of criminals, would save a significant number of lives.

The number of Americans killed or wounded each year by bullets demonstrates their true cost to American society. Just look at the data.

The lifetime risk of death from homicide in U.S. males is 1 in 164, about the same as the risk of death in battle faced by U.S. servicemen in the Vietnam war. For black males, the lifetime risk of death from homicide is 1 in 28, twice the risk of death in battle faced by Marines in Vietnam.

As noted by Susan Baker and her colleagues in the book *Epidemiology and Health Policy*, edited by Sol Levine and Abraham Lilienfeld, there is a correlation between rates of private ownership of guns and gun-related death rates; guns cause two-thirds of family homicides, and small, easily concealed weapons comprise the majority of guns used for homicides, suicides and unintentional death.

Baker states that:

> * * * these facts of the epidemiology of firearm-related deaths and injuries have important implications. Combined with their lethality, the widespread availability of easily concealed handguns for impetuous use by people who are angry, drunk, or frightened appears to be a major determinant of the high firearm death rate in the United States. Each contributing factor has implications for prevention. Unfortunately, issues related to gun control have evoked such strong sentiments that epidemiologic data are rarely employed to good advantage.

Strongly held views on both sides of the gun control issue have made the subject difficult for epidemiologists. I would suggest that a good deal of energy is wasted in this never-ending debate, for gun control as we know it misses the point. We ought to focus on the bullets, not the guns.

I would remind the Senate of our experience in controlling epidemics. Although the science of epidemiology traces its roots to antiquity—Hippocrates stressed the importance of considering environmental influences on human diseases—the first modern epidemiological study was conducted by James Lind in 1747. His efforts led to the eventual control of scurvy. It wasn't until 1795 that the British Navy accepted his analysis and required limes in shipboard diets. Most solutions are not perfect. Disease is rarely eliminated. But might epidemiology be applied in the case of bullets to reduce suffering? I believe so.

In 1854 John Snow and William Farr collected data that clearly showed cholera was caused by contaminated drinking water. Snow removed the handle of the Broad Street pump in London to prevent people from drawing water from this contaminated water source and the disease stopped in that population. His observations led to a legislative mandate that all London water companies filter their water by 1857. Cholera epidemics subsided. Now treatment of sewage prevents cholera from entering our rivers and lakes, and the disinfection of drinking water makes water distribution systems uninhabitable for cholera vibrio, identified by Robert Koch as the causative agent 26 years after Snow's study.

In 1900, Walter Reed identified mosquitos as the carriers of yellow fever. Subsequent mosquito control efforts by another U.S. Army doctor, William Gorgas, enabled the United States to complete the Panama Canal. The French failed because their workers were too sick from yellow fever to work. Now that it is known that yellow fever is caused by a virus, vaccines are used to eliminate the spread of the disease.

These pioneering epidemiology success stories showed the world that epidemics require an interaction between three things: the host—(the person who becomes sick or, in the case of bullets, the shooting victim); the agent—(the cause of sickness, or the bullet); and the environment—(the setting in which the sickness occurs or, in the case of bullets, violent behavior). Interrupt this epidemiological triad and you reduce or eliminate disease and injury.

How might this approach apply to the control of bullet-related injury and death? Again, we are contemplating something different from gun control. There is a precedent here. In the middle of this century it was recognized that epidemiology could be applied to automobile death and injury. From a governmental perspective, this hypothesis was first adopted in 1959, late in the administration of Gov. Averell Harriman of New York State. In the 1960 Presidential campaign, I drafted a statement on the subject which was released by Senator John F. Kennedy as part of a general response to inquiries from the American Automobile Association. Then Senator Kennedy stated:

> Traffic accidents constitute one of the greatest, perhaps the greatest of the nation's public health problems. They waste as much as 2 percent of our gross national product every year and bring endless suffering. The new highways will do much to control the rise of the traffic toll, but by themselves they will not reduce it. A great deal more investigation and research is needed. Some of this has already begun in connection with the highway program. It should be extended until highway safety research takes its place as an equal of the many similar programs of health research which the federal government supports.

Experience in the 1950's and early 1960's prior to passage of the Motor Vehicle Safety Act, showed that traffic safety enforcement campaigns designed to change human behavior did not improve traffic safety. In fact, the death and injury toll mounted. I was Assistant Secretary of Labor in the mid-1960's when Congress was developing the Motor Vehicle Safety Act, and I was called to testify.

It was clear to me and others that motor vehicle injuries and deaths could not be limited by regulating driver behavior. Nonetheless, we had an epidemic on our hands and we needed to do something about it. My friend William Haddon, the first Administrator of the National Highway Traffic Safety Administration, recognized that automobile fatalities were caused not by the initial collision, when the automobile strikes some object, but by a second collision, in which energy from the first collision is transferred to the interior of the car, causing the driver and occupants to strike the steering wheel, dashboard, or other structures in the passenger compartment. The second collision is the agent of injury to the hosts—the car's occupants.

Efforts to make automobiles crashworthy follow examples used to control infectious disease epidemics. Reduce or eliminate the agent of injury. Seatbelts, padded dashboards, and airbags are all specifically designed to reduce, if not eliminate, injury caused by the agent of automobile injuries, energy transfer to the human body during the second collision. In fact, we've done nothing revolutionary. All of the technology used to date to make cars crashworthy, including airbags, was developed prior to 1970.

Experience shows the approach worked. Of course, it could have worked better, but it worked. Had we been able to totally eliminate the agent—the second collision—the cure would have been complete. Nonetheless, merely by focusing on simple, achievable remedies, we reduced the traffic death and injury epidemic by 30 percent. Motor vehicle deaths declined in absolute terms by 13 percent from 1980 to 1990, despite significant increases in the number of drivers, vehicles, and miles driven. Driver behavior is changing, too. National seatbelt usage is up dramatically, 60 percent now compared to 14 percent in 1984. These efforts have resulted in some 15,000 lives saved and 100,000 injuries avoided each year.

We can apply that experience to the epidemic of murder and injury from bullets. The environment in which these deaths and injuries occur is complex. Many factors likely contribute to the rise in bullet-related injury. Here is an important similarity with the situation we faced 25 years ago regarding automobile safety. We found we could not easily alter the behavior of millions of drivers, but we could—easily—change the behavior of three or four automobile manufacturers. Likewise, we simply cannot do much to change the environment—violent behavior—in which gun-related injury occurs, nor do we know how. We can, however, do something about the agent causing the injury: bullets. Ban them. At least the rounds used disproportionately to cause death and injury; that is, the .25 caliber, .32 caliber, and 9 millimeter bullets. These three rounds account for the ammunition used in about 13 percent of licensed guns in New York City, yet they are involved in one-third of all homicides. They are not, as I have said, useful for sport or hunting. They are used for violence. If we fail to confront the fact that these rounds are used disproportionately in crimes, innocent people will continue to die.

I have called on Congress during the past several sessions to ban or heavily tax these bullets. This would not be the first time that Congress has banned a particular round of ammunition. In 1986, it passed legislation written by the Senator from New York banning the so-called "cop-killer" bullet. This round, jacketed with tungsten alloys, steel, brass, or any number of other metals, had been demonstrated to penetrate no fewer than four police flak jackets and an additional five Los Angeles County phone books at one time. In 1982, the New York Police Benevolent Association came to me and asked me to do something about the ready availability of these bullets. The result was the Law Enforcement Officers Protection Act, which we introduced in 1982, 1983, and for the last time during the 99th Congress. In the end, with the tacit support of the National Rifle Association, the measure passed the Congress and was signed by the President as Public Law 99-408 on August 28, 1986. In the 1994 crime bill, we enacted my amendment to broaden the ban to include new thick steel-jacketed armor-piercing rounds.

There are some 220 million firearms in circulation in the United States today. They are, in essence, simple machines, and with minimal care, remain working for centuries. However, estimates suggest that we have only a 4-year supply of bullets. Some 2 billion cartridges are used each year. At any given time there are some 7.5 billion rounds in factory, commercial, or household inventory.

In all cases, with the exception of pistol whipping, gun-related injuries are caused not by the gun, but by the agents involved in the second collision: the bullets. Eliminating the most dangerous rounds would not end the problem of handgun killings. But it would reduce it. A 30-percent reduction in bullet-related deaths, for instance, would save over 10,000 lives each year and prevent up to 50,000 wounds.

The bills I introduce today would begin the process. They would begin to control the problem by banning or taxing those rounds used disproportionately in crime—the .25-caliber, .32-caliber, and 9-millimeter rounds. The bills recognize the epidemic nature of the problem, building on findings contained in the June 10, 1992 issue of the Journal of the American Medical Association which was devoted entirely to the subject of violence, principally violence associated with firearms.

My seventh bill introduces legislation today to amend Title 18 of the United States Code to strengthen the existing prohibition on handgun ammunition capable of penetrating police body armor, commonly referred to as bullet-proof vests. This provision would require the Secretary of the Treasury and the Attorney General to develop a uniform ballistics test to determine with precision whether ammunition is capable of penetrating police body armor. The bill also prohibits the manufacture and sale of any handgun ammunition determined by the Secretary of the Treasury and the Attorney General to have armor-piercing capability.

Mr. President, it has been seventeen years since I first introduced legislation in the Senate to outlaw armor-piercing, or "cop-killer," bullets. In 1982, Phil Caruso of the Patrolman's Benevolent Association of New York City alerted me to the existence of a Teflon-coated bullet capable of penetrating the soft body armor police officers were then beginning to wear. Shortly thereafter, I introduced the Law Enforcement Officers Protection Act of 1982 to prohibit the manufacture, importation, and sale of such ammunition.

At that time, armor-piercing bullets—most notably the infamous "Green Hornet"—were manufactured with a solid steel core. Unlike the softer lead composition of most other ammunition, this hard steel core prevented these rounds from deforming at the point of impact—thus permitting the rounds to penetrate the 18 layers of Kevlar in a standard-issue police vest or "flak-jacket." These bullets could go through a bullet-proof vest like a hot knife through butter. My legislation simply banned any handgun ammunition made with a core of steel or other hard metals.

Despite the strong support of the law enforcement community, it took four years before this seemingly non-controversial legislation was enacted into law. The National Rifle Association initially opposed it—that is, until the NRA realized that a large number of its members were themselves police officers who strongly supported banning these insidious bullets. Only then did the NRA lend its grudging support. The bill passed the Senate on March 6, 1986 by a vote of 97–1, and was signed by President Reagan on August 8, 1986 (Public Law 99–408).

That 1986 Act served us in good stead for 7 years. To the best of my knowledge, not a single law enforcement officer was shot with an armor-piercing bullet. Unfortunately, the ammunition manufacturers eventually found a way around the 1986 law. By 1993, a new Swedish-made armor-piercing round, the M39B, had appeared. This pernicious bullet evaded the 1986 statute's prohibition because of its unique composition. Like most common ammunition, it had a soft lead core, thus exempting it from the 1986 law. But this core was surrounded by a heavy steel jacket, solid enough to allow the bullet to penetrate body armor. Once again, our nation's law enforcement officers were at risk. Immediately upon learning of the existence of the new Swedish round, I introduced a bill to ban it.

Another protracted series of negotiations ensued before we were able to update the 1986 statute to cover the M39B. We did it with the support of law enforcement organizations, and with technical assistance from the Bureau of Alcohol, Tobacco and Firearms. In particular, James O. Pasco, Jr., then the Assistant Director of Congressional Affairs at BATF, worked closely with me and my staff to get it done. The bill passed the Senate by unanimous consent on November 19, 1993 as an amendment to the 1994 Crime Bill.

Despite these legislative successes, it was becoming evident that continuing "innovations" in bullet design would result in new armor-piercing rounds capable of evading the ban. It was at this time that some of us began to explore in earnest the idea of developing a new approach to banning these bullets based on their performance, rather than their physical characteristics. Mind, this concept was not entirely new; the idea had been discussed during our efforts in 1986, but the NRA had been immovable on the subject. The NRA's leaders, and their constituent ammunition manufactures, felt that any such broad-based ban based on a bullets "performance standard" would inevitably lead to the outlawing of additional classes of ammunition. They viewed it as a slippery slope, much as they have regarded the assault weapons ban as a slipper slope. The NRA had agreed to the 1986 and 1993 laws only because they were narrowly drawn to cover individual types of bullets.

And so in 1993 I asked the ATF for the technical assistance necessary tow write into law an armor-piercing bullet "performance standard." At the time, however, the experts at the ATF informed us that this could not be done. They argued that it was simply too difficult to control for the many variables that contribute to a bullet's capability to penetrate police body armor. We were told that it might be possible in the future to develop a performance-based test for armor-piercing capability, but at the time we had to be content with the existing content-based approach.

Well. Two years passed and the Office of Law Enforcement Standards of the National Institute of Standard and Technology wrote a report describing the methodology for just such a armor-piercing bullet performance test. The report concluded that a test to determine armor-piercing capability could be developed within six months.

So we know it can be done, if only the agencies responsible for enforcing the relevant laws have the will. The legislation I am introducing requires the Secretary of the Treasury, in consultation with the Attorney General, to establish performance standards for the uniform testing of handgun ammunition. Such an objective standard will ensure that no rounds capable of penetrating police body armor, regardless of their composition, will ever be available to those who would use them against our law enforcement officers.

I wish to assure the Senate that this measure would in no way infringe upon the rights of legitimate hunters and sportsmen. It would not affect legitimate sporting ammunition used in rifles. It would only restrict the availability of armor-piercing rounds, for which no one can seriously claim there is a genuine sporting use. These cop-killer rounds have no legitimate uses, and they have no business being in the arsenals of criminals. They are designed for one purpose; to kill police officers.

The 1986 and 1993 cop-killer bullet laws I sponsored kept us one step ahead of the designers of new armor-piercing rounds. When the legislation I have introduced today is enacted—and I hope it will be early in the 106th Congress—it will put them out of the cop-killer bullet business permanently.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Real Cost of Destructive Ammunition Act".

SEC. 2. INCREASE IN TAX ON HANDGUN AMMUNITION.

(a) INCREASE IN MANUFACTURERS TAX.—

(1) IN GENERAL.—Section 4181 of the Internal Revenue Code of 1986 (relating to imposition of tax on firearms) is amended—

(A) by striking "Shells, and cartridges." and inserting "Shells and cartridges not taxable at 10,000 percent.", and

(B) by adding at the end the following:

"ARTICLES TAXABLE AT 10,000 PERCENT.—

"Any jacketed, hollow point projectile which may be used in a handgun and the jacket of which is designed to produce, upon impact, evenly-spaced sharp or barb-like projections that extend beyond the diameter of the unfired projectile."

(2) ADDITIONAL TAXES ADDED TO THE GENERAL FUND.—Section 3(a) of the Act of September 2, 1937 (16 U.S.C. 669b(a)), commonly referred to as the "Pittman-Robertson Wildlife Restoration Act", is amended by adding at the end the following new sentence: "There shall not be covered into the fund the portion of the tax imposed by such section 4181 that is attributable to any increase in amounts received in the Treasury under such section by reason of the amendments made by section 2(a)(1) of the Real Cost of Destructive Ammunition Act, as estimated by the Secretary of the Treasury."

SEC. 3. SPECIAL TAX FOR IMPORTERS, MANUFACTURERS, AND DEALERS OF HANDGUN AMMUNITION.

(a) IN GENERAL.—

(1) IMPOSITION OF TAX.—Section 5801 of the Internal Revenue Code of 1986 (relating to special occupational tax on importers, manufacturers, and dealers of machine guns, destructive devices, and certain other firearms) is amended by adding at the end the following:

"(c) SPECIAL RULE FOR HANDGUN AMMUNITION.—

"(1) IN GENERAL.—On 1st engaging in business and thereafter on or before July 1 of each year, every importer and manufacturer of handgun ammunition shall pay a special (occupational) tax for each place of business at the rate of $10,000 a year or fraction thereof.

"(2) HANDGUN AMMUNITION DEFINED.—For purposes of this part, the term 'handgun ammunition' shall mean any centerfire cartridge which has a cartridge case of less than 1.3 inches in length and any cartridge case which is less than 1.3 inches in length."

(2) REGISTRATION OF IMPORTERS AND MANUFACTURERS OF HANDGUN AMMUNITION.—Section 5802 of the Internal Revenue Code of 1986 (relating to registration of importers, manufacturers, and dealers) is amended—

(A) in the first sentence, by inserting ", and each importer and manufacturer of handgun ammunition," after "dealer in firearms", and

(B) in the third sentence, by inserting ", and handgun ammunition operations of an importer or manufacturer," after "dealer".

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER HEADING.—Chapter 53 of the Internal Revenue Code of 1986 (relating to machine guns, destructive devices, and certain other firearms) is amended in the chapter heading by inserting "**HANDGUN AMMUNITION,**" after "**CHAPTER 53—**".

(2) TABLE OF CHAPTERS.—The heading for chapter 53 in the table of chapters for subtitle E of such Code is amended to read as follows:

"Chapter 53—Handgun ammunition, machine guns, destructive devices, and certain other firearms."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on July 1, 1999.

(2) ALL TAXPAYERS TREATED AS COMMENCING IN BUSINESS ON JULY 1, 1997.—Any person engaged on July 1, 1999, in any trade or business which is subject to an occupational tax by reason of the amendment made by subsection (a)(1) shall be treated for purposes of such tax as having 1st engaged in a trade of business on such date.

S. 153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Destructive Ammunition Prohibition Act of 1999".

SEC. 2. DEFINITION.

Section 921(a)(17) of title 18, United States Code, is amended by adding at the end the following:

"(D) The term 'destructive ammunition' means any jacketed, hollow point projectile that may be used in a handgun and the jacket of which is designed to produce, upon impact, sharp-tipped, barb-like projections that extend beyond the diameter of the unfired projectile.".

SEC. 3. PROHIBITION.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7), by inserting "or destructive" after "armor piercing"; and

(2) in paragraph (8), by inserting "or destructive" after "armor piercing".

S. 154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Handgun Ammunition Control Act of 1999".

SEC. 2. RECORDS OF DISPOSITION OF AMMUNITION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 923(g) of title 18, United States Code, is amended—

(1) in paragraph (1)(A), by inserting after the second sentence the following: "Each licensed importer and manufacturer of ammunition shall maintain such records of importation, production, shipment, sale, or other disposition of ammunition at the place of business of such importer or manufacturer for such period and in such form as the Secretary may by regulations prescribe. Such records shall include the amount, caliber, and type of ammunition."; and

(2) by adding at the end the following:

"(8) Each licensed importer or manufacturer of ammunition shall annually prepare a summary report of imports, production, shipments, sales, and other dispositions during the preceding year. The report shall be prepared on a form specified by the Secretary, shall include the amounts, calibers, and types of ammunition that were disposed of, and shall be forwarded to the office specified thereon not later than the close of business on the date specified by the Secretary.".

(b) STUDY OF CRIMINAL USE AND REGULATION OF AMMUNITION.—The Secretary of the Treasury shall request the National Academy of Sciences to—

(1) prepare, in consultation with the Secretary, a study of the criminal use and regulation of ammunition; and

(2) submit to Congress, not later than July 31, 1998, a report with recommendations on the potential for preventing crime by regulating or restricting the availability of ammunition.

SEC. 3. INCREASE IN LICENSING FEES FOR MANUFACTURERS OF AMMUNITION.

Section 923(a)(1) of title 18, United States Code, is amended—

(1) by redesignating subparagraphs (A) through (D) as subparagraphs (B) through (E), respectively; and

(2) by inserting before subparagraph (B), as redesignated, the following:

"(A) of .25 caliber, .32 caliber, or 9 mm ammunition, a fee of $10,000 per year;".

S. 155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Control Act of 1999".

SEC. 2. FINDINGS.

Congress finds that—

(1) there is no reliable information on the amount of ammunition available;

(2) importers and manufacturers of ammunition are not required to keep records to report to the Federal Government on ammunition imported, produced, or shipped;

(3) the rate of bullet-related deaths in the United States is unacceptably high and growing;

(4) three calibers of bullets are used disproportionately in crime: 9 millimeter, .25 caliber, and .32 caliber bullets;

(5) injury and death are greatest in young males, and particularly young black males;

(6) epidemiology can be used to study bullet-related death and injury to evaluate control options;

(7) bullet-related death and injury has placed increased stress on the American family resulting in increased welfare expenditures under title IV of the Social Security Act;

(8) bullet-related death and injury have contributed to the increase in medicaid expenditures under title XIX of the Social Security Act;

(9) bullet-related death and injury have contributed to increased supplemental security income benefits under title XVI of the Social Security Act;

(10) a tax on the sale of bullets will help control bullet-related death and injury;

(11) there is no central responsible agency for trauma, there is relatively little funding available for the study of bullet-related death and injury, and there are large gaps in research programs to reduce injury;

(12) current laws and programs relevant to the loss of life and productivity from bullet-related trauma are inadequate to protect the citizens of the United States; and

(13) increased research in bullet-related violence is needed to better understand the causes of such violence, to develop options for controlling such violence, and to identify and overcome barriers to implementing effective controls.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to increase the tax on the sale of 9 millimeter, .25 caliber, and .32 caliber bullets (except with respect to any sale to law enforcement agencies) as a means of reducing the epidemic of bullet-related death and injury;

(2) to undertake a nationally coordinated effort to survey, collect, inventory, synthesize, and disseminate adequate data and information for—

(A) understanding the full range of bullet-related death and injury, including impacts on the family structure and increased demands for benefit payments under provisions of the Social Security Act;

(B) assessing the rate and magnitude of change in bullet-related death and injury over time;

(C) educating the public about the extent of bullet-related death and injury; and

(D) expanding the epidemiologic approach to evaluate efforts to control bullet-related death and injury and other forms of violence;

(3) to develop options for controlling bullet-related death and injury;

(4) to build the capacity and encourage responsibility at the Federal, State, community, group, and individual levels for control and elimination of bullet-related death and injury; and

(5) to promote a better understanding of the utility of the epidemiologic approach for evaluating options to control or reduce death and injury from nonbullet-related violence.

TITLE I—BULLET DEATH AND INJURY CONTROL PROGRAM

SEC. 101. BULLET DEATH AND INJURY CONTROL PROGRAM.

(a) ESTABLISHMENT.—There is established within the Centers for Disease Control's National Center for Injury Prevention and Control (referred to as the "Center") a Bullet Death and Injury Control Program (referred to as the "Program").

(b) PURPOSE.—The Center shall conduct research into and provide leadership and coordination for—

(1) the understanding and promotion of knowledge about the epidemiologic basis for bullet-related death and injury within the United States;

(2) developing technically sound approaches for controlling, and eliminating, bullet-related deaths and injuries;

(3) building the capacity for implementing the options, and expanding the approaches to controlling death and disease from bullet-related trauma; and

(4) educating the public about the nature and extent of bullet-related violence.

(c) FUNCTIONS.—The functions of the Program shall be—

(1) to summarize and to enhance the knowledge of the distribution, status, and characteristics of bullet-related death and injury;

(2) to conduct research and to prepare, with the assistance of State public health departments—

(A) statistics on bullet-related death and injury;

(B) studies of the epidemic nature of bullet-related death and injury; and

(C) data on the status of the factors, including legal, socioeconomic, and other factors, that bear on the control of bullets and the eradication of the bullet-related epidemic;

(3) to publish information about bullet-related death and injury and guides for the practical use of epidemiological information, including publications that synthesize information relevant to national goals of understanding the bullet-related epidemic and methods for its control;

(4) to identify socioeconomic groups, communities, and geographic areas in need of study, develop a strategic plan for research necessary to comprehend the extent and nature of bullet-related death and injury, and determine what options exist to reduce or eradicate such death and injury;

(5) to provide for the conduct of epidemiologic research on bullet-related death and injury through grants, contracts, cooperative agreements, and other means, by Federal, State, and private agencies, institutions, organizations, and individuals;

(6) to make recommendations to Congress, the Bureau of Alcohol, Tobacco, and Firearms, and other Federal, State, and local agencies on the technical management of data collection, storage, and retrieval necessary to collect, evaluate, analyze, and disseminate information about the extent and nature of the bullet-related epidemic of death and injury as well as options for its control;

(7) to make recommendations to Congress, the Bureau of Alcohol, Tobacco, and Firearms, and other Federal, State, and local agencies, organizations, and individuals about options for actions to eradicate or reduce the epidemic of bullet-related death and injury;

(8) to provide training and technical assistance to the Bureau of Alcohol, Tobacco, and Firearms and other Federal, State, and local agencies regarding the collection and interpretation of bullet-related data; and

(9) to research and explore bullet-related death and injury and options for its control.

(d) ADVISORY BOARD.—

(1) IN GENERAL.—The Center shall have an independent advisory board to assist in setting the policies for and directing the Program.

(2) MEMBERSHIP.—The advisory board shall consist of 13 members, including—

(A) 1 representative from the Centers for Disease Control;

(B) 1 representative from the Bureau of Alcohol, Tobacco, and Firearms;

(C) 1 representative from the Department of Justice;

(D) 1 member from the Drug Enforcement Agency;

(E) 3 epidemiologists from universities or nonprofit organizations;

(F) 1 criminologist from a university or nonprofit organization;

(G) 1 behavioral scientist from a university or nonprofit organization;

(H) 1 physician from a university or nonprofit organization;

(I) 1 statistician from a university or nonprofit organization;

(J) 1 engineer from a university or nonprofit organization; and

(K) 1 public communications expert from a university or nonprofit organization.

(3) TERMS.—Members of the advisory board shall serve for terms of 5 years, and may serve more than 1 term.

(4) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(5) TRAVEL EXPENSES.—A member of the advisory board that is not otherwise in the Federal Government service shall, to the extent provided for in advance in appropriations Acts, be paid actual travel expenses and per diem in lieu of subsistence expenses in accordance with section 5703 of title 5, United States Code, when the member is away from the member's usual place of residence.

(6) CHAIR.—The members of the advisory board shall select 1 member to serve as chair.

(e) CONSULTATION.—The Center shall conduct the Program required under this section in consultation with the Bureau of Alcohol, Tobacco, and Firearms and the Department of Justice.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 2000, $2,500,000 for fiscal year 2001, and $5,000,000 for each of fiscal years 2002, 2003, and 2004 for the purpose of carrying out this section.

(g) REPORT.—The Center shall prepare an annual report to Congress on the Program's findings, the status of coordination with other agencies, its progress, and problems encountered with options and recommendations for their solution. The report for December 31, 2000, shall contain options and recommendations for the Program's mission and funding levels for the fiscal years 2000 through 2004, and beyond.

TITLE II—INCREASE IN EXCISE TAX ON CERTAIN BULLETS

SEC. 201. INCREASE IN TAX ON CERTAIN BULLETS.

(a) IN GENERAL.—Section 4181 of the Internal Revenue Code of 1986 (relating to the imposition of tax on firearms, etc.) is amended by adding at the end the following:

"In the case of 9 millimeter, .25 caliber, or .32 caliber ammunition, the rate of tax under this section shall be 1,000 percent.".

(b) EXEMPTION FOR LAW ENFORCEMENT PURPOSES.—Section 4182 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following:

"(d) LAW ENFORCEMENT.—The last sentence of section 4181 shall not apply to any sale (not otherwise exempted) to, or for the use of, the United States (or any department, agency, or instrumentality thereof) or a State or political subdivision thereof (or any department, agency, or instrumentality thereof).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 1999.

TITLE III—USE OF AMMUNITION

SEC. 301. RECORDS OF DISPOSITION OF AMMUNITION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 923(g) of title 18, United States Code, is amended—

(1) in paragraph (1)(A), by inserting after the second sentence the following: "Each licensed importer and manufacturer of ammunition shall maintain such records of importation, production, shipment, sale, or other disposition of ammunition at the licensee's place of business for such period and in such form as the Secretary, in consultation with the Director of the National Center for Injury Prevention and Control of the Centers for Disease Control (for the purpose of ensuring that the information that is collected is useful for the Bullet Death and Injury Control Program), may by regulation prescribe. Such records shall include the amount, caliber, and type of ammunition."; and

(2) by adding at the end the following:

"(8) Each licensed importer or manufacturer of ammunition shall annually prepare a summary report of imports, production, shipments, sales, and other dispositions during the preceding year. The report shall be prepared on a form specified by the Secretary, in consultation with the Director of the National Center for Injury Prevention and Control of the Centers for Disease Control (for the purpose of ensuring that the information that is collected is useful for the Bullet Death and Injury Control Program), shall include the amounts, calibers, and types of ammunition that were disposed of, and shall be forwarded to the office specified thereon not later than the close of business on the date specified by the Secretary.".

(b) STUDY OF CRIMINAL USE AND REGULATION OF AMMUNITION.—The Secretary of the Treasury shall request the Centers for Disease Control to—

(1) prepare, in consultation with the Secretary, a study of the criminal use and regulation of ammunition; and

(2) submit to Congress, not later than July 31, 1998, a report with recommendations on the potential for preventing crime by regulating or restricting the availability of ammunition.

S. 156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Reduction Act of 1999".

SEC. 2. UNLAWFUL ACTS.

Section 922(a) of title 18, United States Code, is amended—

(1) by in paragraph (7), by striking "and" at the end;

(2) by in paragraph (8), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(9) for any person to manufacture, transfer, or import .25 or .32 caliber or 9 millimeter ammunition, except that this paragraph shall not apply to—

"(A) the manufacture or importation of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

"(B) any manufacture or importation for testing or for experimenting authorized by the Secretary; and

"(10) for any manufacturer or importer to sell or deliver .25 or .32 caliber or 9 millimeter ammunition, except that this paragraph shall not apply to—

"(A) the sale or delivery by a manufacturer or importer of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

"(B) the sale or delivery by a manufacturer or importer of such ammunition for testing or for experimenting authorized by the Secretary.".

SEC. 3. LICENSING OF DESTRUCTIVE DEVICES.

Section 923(a)(1)(A) of title 18, United States Code, is amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices, armor piercing ammunition, or .25 or .32 caliber or 9 millimeter ammunition, a fee of $1,000 per year;".

SEC. 4. LICENSING OF NONDESTRUCTIVE DEVICES.

Section 923(a)(1)(C) of title 18, United States Code, is amended to read as follows:

"(C) of ammunition for firearms other than destructive devices, or armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $10 per year.".

SEC. 5. IMPORTERS.

Section 923(a)(2) of title 18, United States Code, is amended to read as follows:

"(2) If the applicant is an importer—

"(A) of destructive devices, ammunition for destructive devices, or armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $1,000 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $50 per year.".

SEC. 6. MARKING AMMUNITION AND PACKAGES.

Section 923 of title 18, United States Code, is amended by adding at the end the following:

"(m) Licensed importers and licensed manufacturers shall mark all .25 and .32 caliber and 9 millimeter ammunition and packages containing such ammunition for distribution, in the manner prescribed by the Secretary by regulation.".

SEC. 7. USE OF RESTRICTED AMMUNITION.

Section 929(a)(1) of title 18, United States Code, is amended by—

(1) inserting ", or with .25 or .32 caliber or 9 millimeter ammunition," after "possession of armor piercing ammunition"; and

(2) inserting ", or .25 or .32 caliber or 9 millimeter ammunition," after "armor-piercing handgun ammunition".

SEC. 8. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the first day of the first calendar month that begins more than 90 days after the date of enactment of this Act.

S. 157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Real Cost of Handgun Ammunition Act of 1999".

SEC. 2. INCREASE IN TAX ON CERTAIN BULLETS.

(a) IN GENERAL.—Section 4181 of the Internal Revenue Code of 1986 (relating to the imposition of tax on firearms, etc.) is amended by adding at the end the following new flush sentence:

"In the case of 9 millimeter, .25 caliber, or .32 caliber ammunition, the rate of tax under this section shall be 1,000 percent."

(b) EXEMPTION FOR LAW ENFORCEMENT PURPOSES.—Section 4182 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new subsection:

"(d) LAW ENFORCEMENT.—The last sentence of section 4181 shall not apply to any sale (not otherwise exempted) to, or for the use of, the United States (or any department, agency, or instrumentality thereof) or a State or political subdivision thereof (or any department, agency, or instrumentality thereof)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 1999.

S. 158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Law Enforcement Officers Protection Amendment Act of 1999".

SEC. 2. EXPANSION OF THE DEFINITION OF ARMOR PIERCING AMMUNITION.

Section 921(a)(17)(B) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; or"; and

(3) by adding at the end the following:

"(iii) a projectile that may be used in a handgun and that the Secretary of the Treasury, in consultation with the Attorney General determines, pursuant to section 926(d), to be capable of penetrating body armor.".

SEC. 3. DETERMINATION OF ARMOR PIERCING CAPABILITY OF PROJECTILES.

Section 926 of title 18, United States Code, is amended by adding at the end the following:

"(d) Not later than 1 year after the date of enactment of this subsection, the Secretary shall promulgate regulations based on standards to be developed by the Secretary of the Treasury, in consultation with the Attorney General, for the uniform testing of projectiles to determine whether such projectiles are capable of penetrating National Institute of Justice Level II–A body armor.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for the Secretary of the Treasury and the Attorney General to—

(1) develop and implement performance standards for armor piercing ammunition; and

(2) promulgate regulations for performance standards for armor piercing ammunition.

By Mr. MOYNIHAN:

S. 159. A bill to amend chapter 121 of title 28, United States Code, to increase fees paid to Federal jurors, and for other purposes; to the Committee on the Judiciary.

INCREASE THE FEES PAID TO FEDERAL JURORS

Mr. MOYNIHAN. Mr. President, today I rise to introduce a bill aimed at raising the fee Federal jurors are paid to that of $45.00 per day. According to the current statute, Federal jurors are paid $40.00 per day for the first thirty days of a trial and $50.00 for each day thereafter. They also receive $3.00 a day for transportation costs. The $40.00 per day a juror receives for his or her all day service is below the prevailing minimum wage, and the daily $3.00 transportation fee falls far below that required for parking or riding a bus or the subway.

These inadequate sums place an undue hardship on those jurors who most need compensation: the self-employed, the commissioned, the temporary workers, and those who work for small employers often making it difficult for litigants to have representative jury panels. While undue hardship is often grounds for deferral or excusal from jury duty, it is important that we limit the financial hardship for those of our citizens engaged in this most important civic duty.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JUROR FEES.

Section 1871(b)(1) of title 28, United States Code, is amended by striking "of $40 per day" and inserting "$45 per day."

By Mr. MOYNIHAN:

S. 160. A bill to authorize the Architect of the Capitol to develop and implement a plan to improve the Capitol grounds through the elimination and modification of space alloted for parking; to the Committee on Rules and Administration.

ARC OF PARK CAPITOL GROUNDS IMPROVEMENT ACT OF 1999

Mr. MOYNIHAN. Mr. President, just over 98 years ago, in March 1901, the

Senate Committee on the District of Columbia was directed by Senate Resolution to "report to the Senate plans for the development and improvement of the entire park system of the District of Columbia * * * (F)or the purpose of preparing such plans the committee * * * may secure the services of such experts as may be necessary for a proper consideration of the subject."

And secure "such experts" the committee assuredly did. The Committee formed what came to be known as the McMillan Commission, named for committee chairman, Senator James McMillan of Michigan. The Commission's membership was a "who's who" of late 19th and early 20th century architecture, landscape design, and art: Daniel Burnham, Frederick Law Olmsted, Jr., Charles F. McKim, and Augustus St. Gaudens. The Commission traveled that summer to Rome, Venice, Vienna, Budapest, Paris, and London, studying the landscapes, architecture, and public spaces of the grandest cities in the world. The McMillan Commission returned and fashioned the city of Washington as we now know it.

We are particularly indebted today for the Commission's preservation of the Mall. When the members left for Europe, the Congress had just given the Pennsylvania Railroad a 400-foot wide swath of the Mall for a new station and trackage. It is hard to imagine our city without the uninterrupted stretch of greenery from the Capitol to the Washington Monument, but such would have been the result. Fortunately, when in London, Daniel Burnham was able to convince Pennsylvania Railroad president Cassatt that a site on Massachusetts Avenue would provide a much grander entrance to the city. President Cassatt assented and Daniel Burnham gave us Union Station.

But the focus of the Commission's work was the District's park system. The Commission noted in its report:

> Aside from the pleasure and the positive benefits to health that the people derive from public parks, in a capital city like Washington there is a distinct use of public spaces as the indispensable means of giving dignity to Government buildings and of making suitable connections between the great departments . . . (V)istas and axes; sites for monuments and museums; parks and pleasure gardens; fountains and canals; in a word all that goes to make a city a magnificent and consistent work of art were regarded as essential in the plans made by L'Enfant under the direction of the first President and his Secretary of State.

Washington and Jefferson might be disappointed at the affliction now imposed on much of the Capitol Grounds by the automobile.

Despite the ready and convenient availability of the city's Metrorail system, an extraordinary number of Capitol Hill employees drive to work. No doubt many must. But must we provide free parking? If there is one lesson learned from the Intermodal Surface Transportation Efficiency Act of 1991, it is that free goods are always wasted. Free parking is a most powerful incentive to drive to work when the alternative is to pay for public transportation. Furthermore, much as expenses rise to meet income, newly provided parking spaces are instantly filled. At the foot of Pennsylvania Avenue is a scar of angle-parked cars, in parking spaces made available temporarily during construction of the Thurgood Marshall Federal Judiciary Building. Once completed, spaces in the building's garage would be made available to Senate employees and Pennsylvania Avenue would be restored. Not so. The demand for spaces has simply risen to meet the available supply, and the unit block of the Nation's main street remains a disaster.

Today, I am introducing legislation to improve the Capitol Grounds through the near-complete elimination of surface parking. As the Architect of the Capitol eliminates these unsightly lots, they will be reconstructed as public parks, landscaped in the fashion of the Capitol Grounds. I envision what I call an arc of park sweeping around the Capitol from Second Street, Northeast, around to the Capitol Reflecting Pool, and thence back to First Street, Southeast. Delaware Avenue between Columbus Circle and Constitution Avenue would be closed to traffic and rebuilt as a pedestrian walkway, a grand pathway to the Capitol from Union Station.

Finally, there is still the matter of parking. This legislation authorizes the Architect of the Capitol to construct underground parking facilities, as needed. These facilities, which will undoubtedly be expensive, will be financed simply by charging for the parking, a legitimate user fee.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arc of Park Capitol Grounds Improvement Act of 1999".

SEC. 2. CAPITOL GROUNDS IMPROVEMENT PLAN.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Architect of the Capitol shall develop and begin implementation of a comprehensive plan (referred to as the "comprehensive plan") for the improvement of the grounds of the United States Capitol as described in section 193a of title 40, United States Code.

(b) ARC OF PARK.—The comprehensive plan shall—

(1) be consistent with the 1981 Report on the "Master Plan for the Future Development of the Capitol Grounds and Related Areas" prepared in accordance with Public Law 94–59 (July 25, 1975); and

(2) result in an "arc of park" sweeping from Second Street, Northeast to the Capitol Reflecting Pool to First Street, Southeast, with the Capitol Building as its approximate center.

(c) DETAILS.—The comprehensive plan shall provide for, at a minimum—

(1) elimination of all current surface parking areas, excepting those areas which provide on-street parallel parking spaces;

(2) replacement of off-street surface parking areas with public parks landscaped in a fashion appropriate to the United States Capitol grounds;

(3) reconstruction of Delaware Avenue, Northeast, between Columbus Circle and Constitution Avenue as a thoroughfare available principally to pedestrians as contemplated by the Master Plan;

(4) elimination of all but parallel parking on Pennsylvania Avenue, between First and Third Streets, Northwest;

(5) to the greatest extent practical, continuation of the Pennsylvania Avenue tree line onto United States Capitol Grounds and implementation of other appropriate landscaping measures necessary to conform Pennsylvania Avenue between First and Third Streets, Northwest, to the aesthetic guidelines adopted by the Pennsylvania Avenue Development Corporation;

(6) closure of Maryland Avenue to through traffic between First and Third Streets, Southwest, consistent with appropriate access to and visitor parking for the United States Botanic Garden; and

(7) construction of additional underground parking facilities, as needed, with—

(A) the cost of construction and operation of such parking facilities defrayed to the greatest extent practical by charging appropriate usage fees, including time-of-day fees; and

(B) the parking facilities being made available to the general public, with priority given to employees of the Congress.

SEC. 3. APPLICABLE LOCAL LAW.

(a) IN GENERAL.—Subject to subsection (b), the construction and operation of any improvements under this Act shall not be subject to—

(1) any law of the District of Columbia or any State or locality relating to taxes on sales, real estate, personal property, special assessments, uses, or any other interest or transaction (including Federal law); or

(2) any law of the District of Columbia relating to use, occupancy, or construction, including building costs, permits, or inspection requirements (including Federal law).

(b) LIMITATION.—The Architect of the Capitol shall comply with appropriate recognized national life safety and building codes in undertaking such construction and operation.

SEC. 4. RESPONSIBILITIES OF THE ARCHITECT OF THE CAPITOL.

The Architect of the Capitol—

(1) shall be responsible for the structural, mechanical, and custodial care and maintenance of the facilities constructed under this Act and may discharge such responsibilities directly or by contract; and

(2) may permit the extension of steam and chilled water from the Capitol Power Plant on a reimbursable basis to any facilities or improvements constructed under this Act as a cost of such improvements.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. MOYNIHAN:

S. 161. A bill to provide for a transition to market-based rates for power sold by the Federal Power Marketing Administrations and the Tennessee Valley Authority, and for other purposes; to the Committee on Energy and Natural Resources.

POWER MARKETING ADMINISTRATION REFORM ACT OF 1999

Mr. MOYNIHAN. Mr. President, I rise to introduce the Power Marketing Administration Reform Act of 1999, a bill to require that the Federal Power Marketing Administrations (PMAs) and the Tennessee Valley Authority (TVA) sell electricity at market rates and recover all costs.

Mr. President, in 1935 only 15 percent of rural Americans had access to electricity. President Roosevelt's administration established the PMAs to sell power to rural Americans below market rates because so many rural areas could not afford to install the transmission and generation equipment required to provide electricity. Commencement of the massive public works projects such as TVA filled a desperate need for jobs during the Depression years and brought electricity to the many areas of our country which lacked access to this most basic amenity of modern life.

The PMAs served an essential function in lifting our nation out of the Depression, Mr. President, but that time has passed. Sixty years after its inception, public power is less expensive and more accessible than ever before. The discounted rates provided by public power are a benefit which goes to a relatively few recipients at a tremendous expense to the American taxpayer. Nearly 60 percent of Federal sales go to just four states: Tennessee, Alabama, Washington, and Oregon. PMAs have failed to recover their operating costs for too long, and it is taxpayers who bear the cost of the discrepancy between cost of generation and consumer rates. This discrepancy has brought about a fiscal shortfall and significant environmental damage.

Reports over past years from the General Accounting Office (GAO), the Congressional Budget Office (CBO), and the Inspector General of the U.S. Department of Energy confirm this view. In 1997, for instance, the GAO reported that the Bonneville Power Administration, the Rural Utilities Service, and three other PMAs cost American taxpayers $2.5 billion in fiscal year 1996. In March 1998 the GAO showed that the Federal government incurred a net cost of $1.5 billion from electricity-related activities in the Southeastern, Southwestern, and Western PMAs between 1992 and 1996. Up to $1.4 billion of the approximately $7 billion of Federal investment in assets derived from electricity-related activities in these PMAs is at risk of nonrecovery.

The GAO has also reported on fairness in lending to the PMAs. The Federal Treasury incurs approximately 9 percent in debt when lending to the PMAs, but recovers only 3.5 percent from the PMAs on their outstanding debt. This is a loss to the U.S. Treasury of 5.5 percent on interest payments alone. It is taxpayers who are required to account for this interest shortfall.

Mr. President, my bill would provide for full cost recovery rates for power sold by the PMAs and the TVA. Under the bill, PMA and TVA rates would be recalculated to conform to market rates and be resubmitted to the Federal Energy Regulatory Commission (FERC) for approval. The bill would also require that PMA and TVA transmission facilities are subject to open-access regulation by the FERC, and that FERC would be authorized to revise such rates when necessary to maintain a competitive environment. Cooperatives and public power entities will be given the right of first refusal of PMA and TVA power at market prices. Revenue accrued from the revisal of these rates will go first to the U.S. Treasury to recover all costs. The residual amount will then be disbursed by formula to the Treasury to mitigate damage to the environment attributed to the operation of PMAs and the TVA, and to support renewable electricity generating resources.

Mr. President, the time has come for public power to be held accountable for the use of public dollars. I urge my colleagues to join me in supporting this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Power Marketing Administration Reform Act of 1999".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the use of fixed allocations of joint multipurpose project costs and the failure to provide for the recovery of actual interest costs and depreciation have resulted in—

(A) substantial failures to recover costs properly recoverable through power rates by the Federal Power Marketing Administrations and the Tennessee Valley Authority; and

(B) the imposition of unreasonable burdens on the taxpaying public;

(2) existing underallocations and underrecovery of costs have led to inefficiencies in the marketing of Federally generated electric power and to environmental damage; and

(3) with the emergence of open access to power transmission and competitive bulk power markets, market prices will provide the lowest reasonable rates consistent with—

(A) sound business principles;

(B) maximum recovery of costs properly allocated to power production; and

(C) encouraging the most widespread use of power marketed by the Federal Power Marketing Administrations and the Tennessee Valley Authority.

(b) PURPOSES.—The purposes of this Act are to provide for—

(1) full cost recovery rates for power sold by the Federal Power Marketing Administrations and the Tennessee Valley Authority; and

(2) a transition to market-based rates for the power.

SEC. 3. SALE OR DISPOSITION OF FEDERAL POWER BY FEDERAL POWER MARKETING ADMINISTRATIONS AND THE TENNESSEE VALLEY AUTHORITY.

(a) ACCOUNTING.—Notwithstanding any other provision of law, as soon as practicable after the date of enactment of this Act, the Secretary of Energy, in consultation with the Federal Energy Regulatory Commission, shall develop and implement procedures to ensure that the Federal Power Marketing Administrations and the Tennessee Valley Authority use the same accounting principles and requirements (including the accounting principles and requirements with respect to the accrual of actual interest costs during construction and pending repayment for any project and recognition of depreciation expenses) as are applied by the Commission to the electric operations of public utilities.

(b) DEVELOPMENT AND SUBMISSION OF RATES TO THE COMMISSION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, not later than 1 year after the date of enactment of this Act and periodically thereafter but not less frequently than once every 5 years, each Federal Power Marketing Administration and the Tennessee Valley Authority shall submit to the Federal Energy Regulatory Commission a description of proposed rates for the sale or disposition of Federal power that will ensure the recovery of all costs incurred by the Federal Power Marketing Administration or the Tennessee Valley Authority, respectively, for the generation and marketing of the Federal power.

(2) COSTS TO BE RECOVERED.—The costs to be recovered under paragraph (1)—

(A) shall include all fish and wildlife expenditures required under treaty and legal obligations associated with the construction and operation of the facilities from which the Federal power is generated and sold; and

(B) shall not include any cost of transmitting the Federal power.

(c) COMMISSION REVIEW, APPROVAL, OR MODIFICATION.—

(1) IN GENERAL.—The Federal Energy Regulatory Commission shall review and either approve or modify rates for the sale or disposition of Federal power submitted to the Commission by each Federal Power Marketing Administration and the Tennessee Valley Authority under this section, in a manner that ensures that the rates will recover all costs described in subsection (b)(2).

(2) BASIS FOR REVIEW.—The review by the Commission under paragraph (1) shall be based on the record of proceedings before the Federal Power Marketing Administration or the Tennessee Valley Authority, except that the Commission shall afford all affected persons an opportunity for an additional hearing in accordance with the procedures established for ratemaking by the Commission under the Federal Power Act (16 U.S.C. 791a et seq.).

(d) APPLICATION OF RATES.—

(1) IN GENERAL.—Beginning on the date of approval or modification by the Commission of rates under this section, each Federal Power Marketing Administration and the Tennessee Valley Authority shall apply the rates, as approved or modified by the Commission, to each existing contract for the

sale or disposition of Federal power by the Federal Power Marketing Administration or the Tennessee Valley Authority to the maximum extent permitted by the contract.

(2) Applicability.—This section shall cease to apply to a Federal Power Marketing Administration or the Tennessee Valley Authority as of the date of termination of all commitments under any contract for the sale or disposition of Federal power that were in existence as of the date of enactment of this Act.

(e) Accounting Principles and Requirements.—In developing or reviewing the rates required by this section, the Federal Power Marketing Administrations, the Tennessee Valley Authority, and the Commission shall rely on the accounting principles and requirements developed under subsection (a).

(f) Interim Rates.—Until market pricing for the sale or disposition of Federal power by a Federal Power Marketing Administration or the Tennessee Valley Authority is fully implemented, the full cost recovery rates required by this section shall apply to—

(1) a new contract entered into after the date of enactment of this Act for the sale of power by a Federal Power Marketing Administrator or the Tennessee Valley Authority; and

(2) a renewal after the date of enactment of this Act of an existing contract for the sale of power by a Federal Power Marketing Administration or the Tennessee Valley Authority.

(g) Transition to Market-Based Rates.—

(1) In general.—If the transition to full cost recovery rates would result in rates that exceed market rates, the Secretary of Energy may approve rates for power sold by Federal Power Marketing Administrations at market rates, and the Tennessee Valley Authority may approve rates for power sold by the Tennessee Valley Authority at market rates, if—

(A) operation and maintenance costs are recovered, including all fish and wildlife costs required under existing treaty and legal obligations;

(B) the contribution toward recovery of investment pertaining to power production is maximized; and

(C) purchasers of power under existing contracts consent to the remarketing by the Federal Power Marketing Administration or the Tennessee Valley Authority of the power through competitive bidding not later than 3 years after the approval of the rates.

(2) Competitive bidding.—Competitive bidding shall be used to remarket power that is subject to, but not sold in accordance with, paragraph (1).

(h) Market-Based Pricing.—

(1) In general.—Not later than 2 years after the date of enactment of this Act, the Secretary of Energy shall develop and implement procedures to ensure that all power sold by Federal Power Marketing Administrations and the Tennessee Valley Authority is sold at prices that reflect demand and supply conditions within the relevant bulk power supply market.

(2) Bid and auction procedures.—The Secretary of Energy shall establish by regulation bid and auction procedures to implement market-based pricing for power sold under any power sales contract entered into by a Federal Power Marketing Administration or the Tennessee Valley Authority after the date that is 2 years after the date of enactment of this Act, including power that is under contract but that is declined by the party entitled to purchase the power and remarketed after that date.

(i) Use of Revenue Collected Through Market-Based Pricing.—

(1) In general.—Revenue collected through market-based pricing shall be disposed of as follows:

(A) Revenue for operations, fish and wildlife, and project costs.—Revenue shall be remitted to the Secretary of the Treasury to cover—

(i) all power-related operations and maintenance expenses;

(ii) all fish and wildlife costs required under existing treaty and legal obligations; and

(iii) the project investment cost pertaining to power production.

(B) Remaining revenue.—Revenue that remains after remission to the Secretary of the Treasury under subparagraph (A) shall be disposed of as follows:

(i) Federal budget deficit.—50 percent of the revenue shall be remitted to the Secretary of the Treasury for the purpose of reducing the Federal budget deficit.

(ii) Fund for environmental mitigation and restoration.—35 percent of the revenue shall be deposited in the fund established under paragraph (2)(A).

(iii) Fund for renewable resources.—15 percent of the revenue shall be deposited in the fund established under paragraph (3)(A).

(2) Fund for environmental mitigation and restoration.—

(A) Establishment.—

(i) In general.—There is established in the Treasury of the United States a fund to be known as the "Fund for Environmental Mitigation and Restoration" (referred to in this paragraph as the "Fund"), consisting of funds allocated under paragraph (1)(B)(ii).

(ii) Administration.—The Fund shall be administered by a Board of Directors consisting of the Secretary of the Interior, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, or their designees.

(B) Use.—Amounts in the Fund shall be available for making expenditures—

(i) to carry out project-specific plans to mitigate damage to, and restore the health of, fish, wildlife, and other environmental resources that is attributable to the construction and operation of the facilities from which power is generated and sold; and

(ii) to cover all costs incurred in establishing and administering the Fund.

(C) Project-specific plans.—

(i) In general.—The Board of Directors of the Fund shall develop a project-specific plan described in subparagraph (B)(i) for each project that is used to generate power marketed by the Federal Power Marketing Administration or the Tennessee Valley Authority.

(ii) Use of existing data, information, and plans.—In developing plans under clause (i), the Board, to the maximum extent practicable, shall rely on existing data, information, and mitigation and restoration plans developed by—

(I) the Commissioner of the Bureau of Reclamation;

(II) the Director of the United States Fish and Wildlife Service;

(III) the Administrator of the Environmental Protection Agency; and

(IV) the heads of other Federal, State, and tribal agencies.

(D) Maximum amount.—

(i) In general.—The Fund shall maintain a balance of not more than $200,000,000 in excess of the amount that the Board of Directors of the Fund determines is necessary to cover the costs of project-specific plans required under this paragraph.

(ii) Surplus revenue for deficit reduction.—Revenue that would be deposited in the Fund but for the absence of such project-specific plans shall be used by the Secretary of the Treasury for purposes of reducing the Federal budget deficit.

(3) Fund for renewable resources.—

(A) Establishment.—

(i) In general.—There is established in the Treasury of the United States a fund to be known as the "Fund for Renewable Resources" (referred to in this paragraph as the "Fund"), consisting of funds allocated under paragraph (1)(B)(iii).

(ii) Administration.—The Fund shall be administered by the Secretary of Energy.

(B) Use.—Amounts in the Fund shall be available for making expenditures—

(i) to pay the incremental cost (above the expected market cost of power) of nonhydroelectric renewable resources in the region in which power is marketed by a Federal Power Marketing Administration; and

(ii) to cover all costs incurred in establishing and administering the Fund.

(C) Administration.—Amounts in the Fund shall be expended only—

(i) in accordance with a plan developed by the Secretary of Energy that is designed to foster the development of nonhydroelectric renewable resources that show substantial long-term promise but that are currently too expensive to attract private capital sufficient to develop or ascertain their potential; and

(ii) on recipients chosen through competitive bidding.

(D) Maximum amount.—

(i) In general.—The Fund shall maintain a balance of not more than $50,000,000 in excess of the amount that the Secretary of Energy determines is necessary to carry out the plan developed under subparagraph (C)(i).

(ii) Surplus revenue for deficit reduction.—Revenue that would be deposited in the Fund but for the absence of the plan shall be used by the Secretary of the Treasury for purposes of reducing the Federal budget deficit.

(j) Preference.—

(1) In general.—In making allocations or reallocations of power under this section, a Federal Power Marketing Administration and the Tennessee Valley Authority shall provide a preference for public bodies and cooperatives by providing a right of first refusal to purchase the power at market prices.

(2) Use.—

(A) In general.—Power purchased under paragraph (1)—

(i) shall be consumed by the preference customer or resold for consumption by the constituent end-users of the preference customer; and

(ii) may not be resold to other persons or entities.

(B) Transmission access.—In accordance with regulations of the Federal Energy Regulatory Commission, a preference customer shall have transmission access to power purchased under paragraph (1).

(3) Competitive bidding.—If a public body or cooperative does not purchase power under paragraph (1), the power shall be allocated to the next highest bidder.

(k) Reforms.—The Secretary of Energy shall require each Federal Power Marketing Administration to implement—

(1) program management reforms that require the Federal Power Marketing Administration to assign personnel and incur expenses only for authorized power marketing, reclamation, and flood control activities and

not for ancillary activities (including consulting or operating services for other entities); and

(2) annual reporting requirements that clearly disclose to the public, the activities of the Federal Power Marketing Administration (including the full cost of the power projects and power marketing programs).

(l) CONTRACT RENEWAL.—Effective beginning on the date of enactment of this Act, a Federal Power Marketing Administration shall not enter into or renew any power marketing contract for a term that exceeds 5 years.

(m) RESTRICTIONS.—Except for the Bonneville Power Administration, each Federal Power Marketing Administration shall be subject to the restrictions on the construction of transmission and additional facilities that are established under section 5 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (commonly known as the "Flood Control Act of 1944") (58 Stat. 890)).

SEC. 4. TRANSMISSION SERVICE PROVIDED BY FEDERAL POWER MARKETING ADMINISTRATIONS AND TENNESSEE VALLEY AUTHORITY.

(a) IN GENERAL.—Subject to subsection (b), a Federal Power Marketing Administration and the Tennessee Valley Authority shall provide transmission service on an open access basis, and at just and reasonable rates approved or established by the Federal Energy Regulatory Commission under part II of the Federal Power Act (16 U.S.C. 824 et seq.), in the same manner as the service is provided under Commission rules by any public utility subject to the jurisdiction of the Commission under that part.

(b) EXPANSION OF CAPABILITIES OR TRANSMISSIONS.—Subsection (a) does not require a Federal Power Marketing Administration or the Tennessee Valley Authority to expand a transmission or interconnection capability or transmission.

SEC. 5. INTERIM REGULATION OF POWER RATE SCHEDULES OF FEDERAL POWER MARKETING ADMINISTRATIONS.

(a) IN GENERAL.—During the date beginning on the date of enactment of this Act and ending on the date on which market-based pricing is implemented under section 3 (as determined by the Federal Energy Regulatory Commission), the Commission may review and approve, reject, or revise power rate schedules recommended for approval by the Secretary of Energy, and existing rate schedules, for power sales by a Federal Power Marketing Administration.

(b) BASIS FOR APPROVAL.—In evaluating rates under subsection (a), the Federal Energy Regulatory Commission, in accordance with section 3, shall—

(1) base any approval of the rates on the protection of the public interest; and

(2) undertake to protect the interest of the taxpaying public and consumers.

(c) COMMISSION ACTIONS.—As the Federal Energy Regulatory Commission determines is necessary to protect the public interest in accordance with section 3 until a full transition is made to market-based rates for power sold by Federal Power Marketing Administrations, the Federal Energy Regulatory Commission may—

(1) review the factual basis for determinations made by the Secretary of Energy;

(2) revise or modify those findings as appropriate;

(3) revise proposed or effective rate schedules; or

(4) remand the rate schedules to the Secretary of Energy.

(d) REVIEW.—An affected party (including a taxpayer, bidder, preference customer, or affected competitor) may seek a rehearing and judicial review of a final decision of the Federal Energy Regulatory Commission under this section in accordance with section 313 of the Federal Power Act (16 U.S.C. 825*l*).

(e) PROCEDURES.—The Federal Energy Regulatory Commission shall by regulation establish procedures to carry out this section.

SEC. 6. CONFORMING AMENDMENTS.

(a) TRANSFERS FROM THE DEPARTMENT OF THE INTERIOR.—Section 302(a)(3) of the Department of Energy Organization Act (42 U.S.C. 7152(a)(3)) is amended by striking the last sentence.

(b) USE OF FUNDS TO STUDY NONCOST-BASED METHODS OF PRICING HYDROELECTRIC POWER.—Section 505 of the Energy and Water Development Appropriations Act, 1993 (42 U.S.C. 7152 note; 106 Stat. 1343) is repealed.

SEC. 7. APPLICABILITY.

Except as provided in section 3(l), this Act shall apply to a power sales contract entered into by a Federal Power Marketing Administration or the Tennessee Valley Authority after July 23, 1997.

By Mr. BREAUX:

S. 163. A bill to amend the Internal Revenue Code of 1986 to allow certain coins to be acquired by individual retirement accounts and other individually directed pension plan accounts; to the Committee on Finance.

CERTIFIED U.S. LEGAL TENDER COINS ALLOWED IN IRAS

Mr. BREAUX. Mr. President, I rise today to introduce legislation allowing certain U.S. legal tender coins to be qualified investments for an individual retirement account (IRA).

Congress excluded "collectibles", such as antiques, gold and silver bullion, and legal tender coinage, as appropriate for contribution to IRAs in 1981. The primary reason was the concerns that individuals would get a tax break when they bought collectibles for their personal use. For example, a taxpayer might deduct the purchase of an antique rug for his/her living room as an IRA investment. Congress was also concerned about how the many different types of collectibles are valued.

Over the years, however, certain coins and precious metals have been excluded from the definition of a collectible because they are independently valued investments that offer investors portfolio diversity and liquidity. For example, Congress excluded gold and silver U.S. American Eagles from the definition of collectibles in 1986, and the Taxpayer Relief Act of 1997 took the further step of excluding certain precious metals bullion.

My legislation would exclude form the definition of collectibles only those U.S. legal tender coins which meet the following three standards; certification by a nationally-recognized grading service, traded on a nationally-recognized network and held by a qualified trustee as described in the Internal Revenue Code. In other words, only investment quality coins that are independently valued and not held for personal use may be included in IRAs.

There are several nationally-recognized, independent certification or grading services. Full-time professional graders (numismatists) examine each coin for authenticity and grade them according to established standards. Upon certification, the coin is sonically-sealed (preserved) to ensure that it remains in the same condition as when it was graded.

Legal tender coins are then traded via two independent electronic networks—the Certified Coin Exchange and Certified CoinNet. These networks are independent of each other and have no financial interest in legal tender coinage and precious metals markets. The networks function in precisely the same manner as the NASDAQ with a series of published "bid" and "ask" prices and last trades. The buys and sells are enforceable prices that must be honored as posted until updated.

Mr. President, the liquidity provided through a bona fide national trading network, combined with published prices, make legal tender coinage a practical investment that offers investors diversification and liquidity. Investment in these tangible assets has become a safe and prudent course of action for both the small and large investor and should be given the same treatment under the law as other financial investments. I urge the Senate to enact this important legislation as soon as possible.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN COINS NOT TREATED AS COLLECTIBLES.

(a) IN GENERAL.—Subparagraph (A) of section 408(m)(3) of the Internal Revenue Code of 1986 (relating to exception for certain coins and bullion) is amended to read as follows:

"(A) any coin certified by a recognized grading service and traded on a nationally recognized electronic network, or listed by a recognized wholesale reporting service, and—

"(i) which is or was at any time legal tender in the United States, or

"(ii) issued under the laws of any State, or".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

By Mr. MOYNIHAN:

S. 164. A bill to improve mathematics and science instruction; to the Committee on Health, Education, Labor, and Pensions.

LEGISLATION TO IMPROVE AMERICAN MATH AND SCIENCE ACHIEVEMENT

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation intended to help students in those States that do not fare well in academic comparisons with students from other nations. It authorizes grants to States whose students continue to be outperformed by students in a majority of the nations which took the Third International Mathematics and Science Study, or TIMSS.

TIMSS showed us that indisputably our students do not fare well in international competition. The most striking finding was that American students do worse, comparative speaking, the longer they are in our schools. Our fourth graders performed in the middle range of scores in math and were second to Japan in science. Our seniors are bringing up the rear.

American high school seniors performed among the lowest of the 21 countries in the study. In mathematics our students were outperformed by those of 14 countries, were statistically similar to 4 countries, and outperformed only 2 countries. In science our students were outperformed by those of 11 countries, were similar to 7 countries, and again outperformed only 2 countries. Asian countries such as Korea, Japan, and Singapore did not participate in the twelfth grade study. Just as well, for morale purposes. Their students embarrassed our students at the fourth and eighth grade levels.

The two questions that come to mind are what did we expect and what are we to do?

Our expectations were high at the beginning of the decade. In September 1989, President Bush met with the Nation's governors in Charlottesville to set out goals for education. Four months later he devoted a sizable portion of his State of the Union Address to setting forth the agreed-upon goals. Some were lofty, harmless, and unmeasurable: "By the year 2000 every child must start school ready to learn." Most children are. "Every adult must be a skilled, literate worker and citizen." We know what it means to be a skilled mechanic, but a skilled citizen? Others were lofty, measurable, and the product of a leakage of reality that was stupefying then as now. First and foremost that "By the year 2000, U.S. students would be first in the world in math and science achievement."

President Bush was speaking to Congress in a vocabulary created in the 1960's by James S. Coleman, then professor of sociology at Johns Hopkins University. The "Coleman Report" introduced the language of educational outputs. Previously we spoke of inputs: student-teacher ration, money per student, and such. Coleman introduced the idea of outputs, and measuring our standing in the world is one such.

With Coleman we had a new vocabulary for education, but sadly not a new understanding. The first finding of his remarkable report was "that the schools are remarkably similar in the effect they have on the achievement of their pupils when the socioeconomic background of the students is taken into account." This was seismic. Family background is more important than schools. But 24 years later, in 1990, it had not been learned, or could still be ignored.

Stating that our goal was to become the leader in math and science was folly. I wrote in the Winter 1991 Public Interest that "on no account could the President's goals—the quantified, specific goals—reasonably be deemed capable of achievement." I cited the general decline in high school graduation rates that began in 1970 and the lack of success we had in meeting very similar goals President Reagan set out in 1984. Most basically, we were ignoring Coleman's findings that we would have to start with the American family before we could expect improvements in American students.

I concluded the Public Interest piece by saying, "If, as forecast here, the year 2000 arrives and the United States is nowhere near meeting the educational goals set out in 1990, the potential will nonetheless exist for serious debate as to why what was basically a political plan went wrong. We might even consider how it might have turned out better."

Our children will not meet the goals set for math and science leadership. How can we help them do better? The TIMSS report says that it is too early to draw specific conclusions about how to improve performance in twelfth grade, that it will take some time to analyze all the data therein. I should thing the higher education community would be at the forefront of this effort, for the colleges are the most immediately affected by undereducated high school graduates. One student in five takes remedial courses in at least one subject.

Without giving short shrift to helping our elementary school students, we must focus on finding ways to keep them at the level they have achieved by fourth grade as they continue through school. This bill would make a small contribution to that effort by providing grants of $500,000 to $1,000,000 to states whose students collectively fall below the median score among the nations whose eighth graders retake the TIMSS tests this year or next. The money would be used to improve mathematics or science education. The grants would be awarded competitively; states whose students' scores qualify them must propose constructive ways of using the grants, such as for equipment, teacher training, or other purposes.

The Department of Education last year released Linking the National Assessment of Educational Progress and the Third International Mathematics and Science Study: Eighth grade results. This study showed how the states' NAEP scores and other nations' TIMSS scores could be compared. The Department of Education would use the same process to determine where states rank in comparision with the upcoming results of the TIMSS exams by a new group of eighth graders around the world. Those states whose students score below the median in either math or science would be eligible to apply for these grants.

Mr. President, money is not the answer to our dismal showing among the nations of the world. Better families is the place to start. These grants, however, would help those states that need help the most. I ask my colleagues for their support and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANTS TO IMPROVE MATHEMATICS AND SCIENCE INSTRUCTION.

(a) GRANTS AUTHORIZED.—The Secretary of Education is authorized to award a grant to the Governor or State educational agency of a State if the Secretary determines that the average score of 8th grade students in the State on the 1999 retake of the Third International Mathematics and Science Study (TIMSS) is or would be lower than the median of the scores of the countries participating in the 1999 retake of the Third International Mathematics and Science Study.

(b) AMOUNT.—The Secretary of Education shall award a grant under this section in an amount not less than $500,000 and not more than $1,000,000.

(c) COMPARISON.—The Secretary of Education shall use the results of the most recent National Assessment of Educational Progress for comparisons between States and countries with respect to the 1999 retake of the Third International Mathematics and Science Study.

(d) COMPETITIVE BASIS.—The Secretary shall award grants under this section on a competitive basis.

(e) USES.—Each Governor or State educational agency receiving a grant under this section shall use the grant funds to improve mathematics and science instruction in the State.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section for each of the fiscal years 2000 through 2003.

SEC. 2. SHORT TITLE.

This Act may be cited as the "Math and Science Learning Improvement Act of 1999".

By Mr. MOYNIHAN (for himself, Mr. JEFFORDS, and Mr. LIEBERMAN):

S. 165. A bill to require the Secretary of Education to correct poverty data to account for cost of living differences; to the Committee on Health, Education, Labor, and Pensions.

LEGISLATION TO REQUIRE POVERTY STATISTICS BE ADJUSTED FOR LOCAL COSTS OF LIVING

Mr. MOYNIHAN. Mr. President, I rise to introduce legislation with a simple purpose: to require that the formulas for distributing grants under the Elementary and Secondary Education Act use poverty statistics adjusted for the costs of living in subnational areas. While residents of some states such as New York earn more as a whole than residents of many other states, they must also spend more. In some areas of New York, they spend twice as much for the same necessities as families in urban areas elsewhere in the nation. Children whose families live just above the poverty threshold in New York and other wealthier states are demonstrably worse off than children from families just below the poverty threshold in states where the cost of living is lower.

As we begin the process of reauthorizing the Elementary and Secondary Education Act this year, I hope this disparity will be considered in the distribution of funds targeted to schools in areas with high incidences of poverty (primarily the Title One grants as now authorized).

In 1995, a National Academy of Sciences (NAS) panel of experts released a study on redefining poverty. Our poverty index dates back to the work of Social Security Administration economist Mollie Orshansky who, in the early 1960s, hit upon the idea of a nutritional standard, not unlike the "pennyloaf" of bread of the 18th century British poor laws. Our poverty standard would be three times the cost of the Department of Agriculture-defined minimally adequate "food basket."

During consideration of the Family Support Act of 1988, I included a provision mandating the National Academy of Sciences to determine if our poverty measure is outdated and how it might be improved. The study, edited by Constance F. Citro and Robert T. Michael, is entitled "Measuring Poverty: A New Approach." A Congressional Research Service review of the report states: The NAS panel makes several recommendations which, if fully adopted, could dramatically alter the way poverty in the U.S. is measured, how federal funds are allotted to the States, and how eligibility for many Federal programs is determined. The recommended poverty measure would be based on more items in the family budget, would take major noncash benefits and taxes into account, and would be adjusted for regional differences in living costs.

Mr. President, our current poverty data are inaccurate. And these substandard data are used in allocation formulas used to distribute millions of Federal dollars each year. As a result, States with high costs of living—states like New York, Massachusetts, Connecticut, New Hampshire, New Jersey and California, just to name a few—are not getting their fair share of Federal dollars because differences in the cost of living are not factored into the allocation formula. And the poor of these high cost states are penalized because they happen to live there. It is time to correct this inequity. The ESEA reauthorization will be one of the most significant measures we take up this year. For the children most in need of good schools and a good education, we should use adjusted poverty rates in the ESEA formulas. A national poverty rate leads to inequities. Poverty rates adjusted for subnational areas would be a significant step towards correcting them. This bill would do so.

Mr. President, I ask my colleagues for their support and ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. POVERTY DATA.

Title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801 et seq.) is amended by adding at the end the following:

"PART I—POVERTY DATA ADJUSTMENTS

"SEC. 14901. POVERTY DATA ADJUSTMENTS.

"Whenever the Secretary uses any data that relates to the incidence of poverty and is produced or published by or for the Secretary of Commerce for subnational, State or substate areas, the Secretary shall adjust the data to account for differences in the cost of living in the areas.".

SEC. 2. SHORT TITLE.

This Act may be cited as "The Education Grant Formula Adjustment Act of 1999".

By Mr. MOYNIHAN:

S. 166. A bill to require the Secretary of Commerce to determine any surpluses or shortfalls in certain grant amounts made available to States by reason of an undercount in the most recent decennial census conducted by the Bureau of the Census; to the Committee on Governmental Affairs.

LEGISLATION TO PROVIDE THE FISCAL CONSEQUENCES OF THE UNDERCOUNT

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill that is intended to shed a little more light on the consequences of a census that is not adjusted for the undercount. The bill requires the Secretary of Commerce to notify each governor how much more or less Federal funding in his or her state would receive each fiscal year following a decennial census if the census were adjusted for the undercount and the adjusted figures were used in grant allocation formulas.

This bill is not directly related to the controversy over sampling. The sampling proposal made by the Bureau of the Census is one way to eliminate the undercount, but there are other less controversial methods. Not uncontroversial, but less so.

Mr. President, the taking of a census goes back centuries. I quote from the King James version of the Bible, chapter two of Luke: "And it came to pass in those days that there went out a decree from Caesar Augustus that all the world should be taxed (or enrolled, according to the footnote) . . . And all went to be taxed, everyone into his own city." The early censuses were taken to enable the ruler or ruling government to tax or raise an army.

The first census for more sociological reasons was taken in Nuremberg in 1449. So it was not a new idea to the Founding Fathers when they wrote it into the Constitution to facilitate fair taxation and accurate apportionment of the House of Representatives, the latter of which was the foundation of the Great Compromise.

The Constitution says in Article I, Section 2:

> Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years of the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall direct by law.

Opponents of adjustment often say that the Constitution calls for an "actual enumeration", and this requires an actual headcount rather than any statistical inference about those we know we miss every time. That seems to take the phrase out of context. I note that we have not taken an "actual enumeration" the way the Founding Fathers envisioned since 1960, after which enumerators going to every door were replaced with mail-in responses. The Constitution provides for a postal system, but did not direct that the census be taken by mail. Yet we do it that way.

Statistical work in the 1940s demonstrated that we can estimate the undercount, the number of people the census misses. The estimate for 1940 was 5.4 percent of the population. After decreasing steadily to 1.2 percent in 1980, the 1990 undercount increased to 1.8 percent, or more than four million people.

More significantly, the undercount is not distributed evenly. The differential undercount, as it is known, of minorities was 4.4 percent for Blacks, 5.0 percent for Hispanics, 2.3 percent for Asian-Pacific islanders, and 4.5 percent for Native Americans, compared with 1.2 percent for non-Hispanic whites. The difference between the black and non-black undercount was the largest since 1940. By disproportionately missing minorities, we deprive them of equal representation in Congress and of proportionate funding from Federal programs based on population. The Census Bureau estimates that the total undercount will reach 1.9 percent in

2000 if the 1990 methods are used instead of sampling.

Mr. President, I have some history with the undercount issue. In 1966 when I became Director of the Joint Center for Urban Studies at MIT and Harvard, I asked Professor David Heer to work with me in planning a conference to publicize the non-white undercount in the 1960 census and to foster concern about the problems of obtaining a full enumeration, especially of the urban poor. I ask that my forward to the report from that conference be printed following my remarks, for it is, save for some small numerical changes, disturbingly still relevant.

My hope is that if governors and other interested parties learn the financial consequences of the undercount, support may grow for correcting it. It is regrettable that we don't do it, simply because we should. But if a yearly reminder of how the undercount affects formula grant programs helps change some minds, it is worth the effort.

I ask my colleagues for their support and I ask unanimous consent that the bill and additional material, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

In this Act:

(1) COVERED FEDERAL FORMULA GRANT.—The term "covered Federal formula grant" means a grant awarded by the Federal Government on the basis of a formula that provides for the distribution of funds to States.

(2) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(3) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 2. CALCULATIONS OF SHORTFALLS AND SURPLUS AMOUNTS.

(a) IN GENERAL.—

(1) DETERMINATION OF FUNDING AMOUNTS.—As soon as practicable after receiving the information concerning the fiscal year immediately preceding the date of enactment of this Act, and annually thereafter, the Secretary, in consultation with the Comptroller General of the United States and the heads of appropriate Federal agencies, shall determine, for the immediately preceding fiscal year—

(A) the amount of funds made available for that fiscal year for each covered Federal formula grant program; and

(B) for each covered Federal formula grant program, the amount distributed to each grant recipient.

(2) INFORMATION.—Not later than 120 days after the date of enactment of this Act, and not later than 120 days after the end of each fiscal year thereafter, the head of each Federal agency that administers a covered Federal formula grant program shall submit to the Secretary—

(A) the amount of funds made available for that program for that fiscal year; and

(B) for each State recipient of a covered Federal formula grant, the amount distributed as a grant award under that grant to that recipient.

(b) DETERMINATIONS FOR FORMULA GRANT PROGRAMS THAT RECEIVED THE GREATEST AMOUNT OF FUNDING.—Upon making the determinations under subsection (a), the Secretary shall determine—

(1) the 100 covered Federal formula grant programs that received the greatest amounts of funding during the preceding fiscal year; and

(2) whether, on the basis of undercounting for the most recent decennial census (as determined by the Secretary, acting through the Bureau of the Census), any State recipient of a grant award under paragraph (1) received an amount less than or greater than the amount that the recipient would otherwise have received if an adjustment to the grant award had been made for that undercounting.

(c) REPORTS.—

(1) IN GENERAL.—Upon making the determinations under subsection (b), the Secretary shall prepare, for each State, an annual report that includes—

(A) a listing of any grant award under subsection (b)(1) provided to that State that was an amount less than or greater than amount that the State would otherwise have received if an adjustment for undercounting referred to in that subsection had been made; and

(B) for each grant award listed under subparagraph (A), the amount of the shortfall or surplus determined under subsection (b)(2).

(2) DISTRIBUTION.—The Secretary shall provide to the Governor of each State (or the equivalent official) a copy of the report prepared under paragraph (1) for that State.

SOCIAL STATISTICS AND THE CITY

(By David M. Heer)

FOREWORD

At one point in the course of the 1950's John Kenneth Galbraith observed that it is the statisticians, as much as any single group, who shape public policy, for the simple reason that societies never really become effectively concerned with social problems until they learn to measure them. An unassuming truth, perhaps, but a mighty one, and one that did more than he may know to sustain morale in a number of Washington bureaucracies (hateful word!) during a period when the relevant cabinet officers had on their own reached very much the same conclusion—and distrusted their charges all the more in consequence. For it is one of the ironies of American government that individuals and groups that have been most resistant to liberal social change have quite accurately perceived that social statistics are all too readily transformed into political dynamite, whilst in a curious way the reform temperament has tended to view the whole statistical process as plodding, overcautious, and somehow a brake on progress. (Why must every statistic be accompanied by detailed notes about the size of the "standard error"?)

The answer, of course, is that this is what must be done if the fact is to be accurately stated, and ultimately accepted. But, given this atmosphere of suspicion on the one hand and impatience on the other, it is something of a wonder that the statistical officers of the federal government have with such fortitude and fairness remained faithful to a high intellectual calling, and an even more demanding public trust.

There is no agency of which this is more true than the Bureau of the Census, the first, and still the most important, information-gathering agency of the federal government. For getting on, now, for two centuries, the Census has collected and compiled the essential facts of the American experience. Of late the ten-year cycle has begun to modulate somewhat, and as more and more current reports have been forthcoming, the Census has been quietly transforming itself into a continuously flowing source of information about the American people. In turn, American society has become more and more dependent on it. It would be difficult to find an aspect of public or private life not touched and somehow shaped by Census information. And yet for all this, it is somehow ignored. To declare that the Census is without friends would be absurd. But partisans? When Census appropriations are cut, who bleeds on Capitol Hill or in the Executive Office of the President? The answer is almost everyone in general, and therefore no one in particular. But the result, too often, is the neglect, even the abuse, of an indispensable public institution, which often of late has served better than it has been served.

The papers in this collection, as Professor Heer's introduction explains, were presented at a conference held in June 1967 with the avowed purpose of arousing a measure of public concern about the difficulties encountered by the Census in obtaining a full count of the urban poor, especially perhaps the Negro poor. It became apparent, for example, that in 1960 one fifth of nonwhite males aged 25–29 had in effect disappeared and had been left out of the Census count altogether. Invisible men. Altogether, one tenth of the non-white population had been "missed." The ramifications of this fact were considerable, and its implications will suggest themselves immediately. It was hoped that a public airing of the issue might lead to greater public support to ensure that the Census would have the resources in 1970 to do what is, after all, its fundamental job, that of counting all the American people. As the reader will see, the scholarly case for providing this support was made with considerable energy and candor. But perhaps the most compelling argument arose from a chance remark by a conference participant to the effect that if the decennial census were not required by the Constitution, the Bureau would doubtless never have survived the economy drives of the nineteenth century. The thought flashed: the full enumeration of the American population is not simply an optional public service provided by government for the use of sales managers, sociologists, and regional planners. It is, rather, the constitutionally mandated process whereby political representation in the Congress is distributed as between different areas of the Nation. It is a matter not of convenience but of the highest seriousness, affecting the very foundations of sovereignty. That being the case, there is no lawful course but to provide the Bureau with whatever resources are necessary to obtain a full enumeration. Inasmuch as Negroes and other "minorities" are concentrated in specific urban locations, to undercount significantly the population in those areas is to deny residents their rights under Article I, Section 3 of the Constitution, as well, no doubt, as under Section 1 of the Fourteenth Amendment. Given the further, more recent practice of distributing Federal, State, and local categorical aid on the basis not only of the number but also social and economic characteristics of local populations, the constitutional case for full enumeration would seem to be further strengthened.

A sound legal case? Others will judge; and possibly one day the courts will decide. But of one thing the conference had no doubt: the common-sense case is irrefutable. America needs to count all its people. (And reciprocally, all its people need to make themselves available to be counted.) But if the legal case adds any strength to the common-sense argument, it remains only to add that should either of the arguments bring some improvement in the future, it will be but another instance of the generosity of the Carnegie Corporation, which provided funds for the conference and for this publication.

By Mr. MOYNIHAN (for himself and Mr. SCHUMER):

S. 167. A bill to extend the authorization for the Upper Delaware Citizens Advisory Council and to authorize construction and operation of a visitor center for the Upper Delaware Scenic and Recreational River, New York and Pennsylvania; to the Committee on Energy and Natural Resources.

UPPER DELAWARE SCENIC AND RECREATIONAL RIVER LEGISLATION

Mr. MOYNIHAN. Mr. President, I rise today to introduce, along with my friend and colleague Senator SCHUMER, a bill to extend the authorization for the Upper Delaware River Citizens Advisory Committee and authorize the construction of a visitors center. The Upper Delaware is a 73-mile stretch of free flowing water between Hancock and Sparrowbush, New York along the Pennsylvania border. The area is home to the Zane Gray Museum and to Roebling's Delaware Aqueduct, which is believed to be the oldest existing wire cable suspension bridge. The Upper Delaware is an ideal location for canoeing, kayaking, rafting, tubing, sightseeing, and fishing.

In 1987 the Secretary of the Interior approved a management plan for the Upper Delaware Scenic and Recreational River which called for the development of a visitors center at the south end of the river corridor. It would be owned and constructed by the National Park Service. In 1993 New York State authorized a lease with the Park Service for the construction of a visitor center on State-owned land in the town of Deerpark in the vicinity of Mongaup. This bill allows the Secretary to enter into such a lease and to construct and operate the visitor center.

Mr. President, the many thousands of visitors to this wonderful river would benefit greatly from a place to go to find out about the recreational opportunities, the history, and the flora and fauna of the river. This bill would move that process along to its conclusion. It would also reauthorize the Citizens Advisory Council which ensures that the views and concerns of local residents are kept in mind when management decisions are made. My colleague from New York and I ask for the support of other Senators, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORIZATION FOR UPPER DELAWARE CITIZENS ADVISORY COUNCIL.

Section 704(f)(1) of the National Parks and Recreation Act of 1978 (16 U.S.C. 1274 note; Public Law 95-625) is amended in the last sentence by striking "20" and inserting "30".

SEC. 2. VISITOR CENTER FOR UPPER DELAWARE SCENIC AND RECREATIONAL RIVER.

(a) FINDINGS.—Congress finds that—

(1) on September 29, 1987, the Secretary of the Interior approved a management plan for the Upper Delaware Scenic and Recreational River, as required by section 704(c) of the National Parks and Recreation Act of 1978 (16 U.S.C. 1274 note; Public Law 95-625);

(2) the management plan called for the development of a primary visitor contact facility located at the southern end of the river corridor;

(3) the management plan determined that the visitor center would be built and operated by the National Park Service;

(4) section 704 of that Act limits the authority of the Secretary of the Interior to acquire land within the boundary of the river corridor; and

(5) on June 21, 1993, the State of New York authorized a 99-year lease between the New York State Department of Environmental Conservation and the National Park Service for construction and operation of a visitor center by the Federal Government on State-owned land in the town of Deerpark, Orange County, New York, in the vicinity of Mongaup, which is the preferred site for the visitor center.

(b) AUTHORIZATION OF VISITOR CENTER.—Section 704(d) of the National Parks and Recreation Act of 1978 (16 U.S.C. 1274 note; Public Law 95-625) is amended—

(1) by striking "(d) Notwithstanding" and inserting the following:

"(d) ACQUISITION OF LAND.—

"(1) IN GENERAL.—Notwithstanding"; and

(2) by adding at the end the following:

"(2) VISITOR CENTER.—For the purpose of constructing and operating a visitor center for the segment of the Upper Delaware River designated as a scenic and recreational river by section 3(a)(19) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(19)), subject to the availability of appropriations, the Secretary of the Interior may—

"(A) enter into a lease with the State of New York, for a term of 99 years, for State-owned land within the boundaries of the Upper Delaware River located at an area known as 'Mongaup' near the confluence of the Mongaup and Upper Delaware Rivers in the State of New York; and

"(B) construct and operate the visitor center on the land leased under subparagraph (A).".

By Mr. MOYNIHAN:

S. 168. A bill for the relief of Thomas J. Sansone, Jr.; to the Committee on the Judiciary.

PRIVATE RELIEF BILL

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill that will provide compensation under the National Vaccine Injury Compensation Program (VICP) to Tommy Sansone, Jr. Tommy was injured by a DPT vaccine in June 1994 and continues to suffer seizures and brain damage to this day. Tommy is the untended and helpless victim of a drug designed to help him. He needs our help because while the Vaccine Injury Program is meant to make reparations for these injuries, it is hampered by regulations that challenge the worthiest of claims.

Back in 1986, Congress passed the Vaccine Injury Act to take care of vaccine injuries because the shots that we required our children to get were not as safe as they could have been. Since the program was established, more than 1100 children have been compensated. Over the first ten years, a great percentage of those with seizures or brain damage or other symptoms were recognized to be DPT-injured, and, they were summarily compensated. But, by 1995, the Institutes of Medicine (IOM) and others concluded that because the symptoms had no unique clinical profile, they were not necessarily DPT injuries. So, HHS changed the definitions of encephalopathy (inflammation of the brain), and of vaccine injury. Those new definitions had unintended consequences. Now, the program that we set up to be expeditious and fair, uses criteria that are so strict that the fund from which these claims are paid pays fewer claims than before and the fund has ballooned to over $1.2 billion. As a result, families of children like Tommy find it nearly impossible to win a claim against the Vaccine Injury Compensation Program. The program is failing its mission.

To be clear, VICP is not a medical insurance policy. The program is not designed to take care of those who cannot get or receive care. VICP is a compensation program, where the government makes amends for a failure in the system that it established. Claims are paid from a trust fund established from surcharges that are paid on each shot a child receives. The fund serves as an insurance policy against vaccine injuries. But, following the regulatory changes made in 1995, the government is not recognizing even the most legitimate of claims. We are failing the very children we are trying to protect.

Over the years after his DPT shot (the combined shot for diphtheria, pertussis and tetanus), Tommy suffers severe seizures and from brain damage that has hampered his mental development. When he wakes in the morning or from a nap, either his mother or father is at his side waiting for the inevitable. Tommy's eyes tear and his face cringes in agony as his entire body is wracked with a muscle-clenching seizure. His parents hold him helplessly until the seizure subsides, sometimes for as long as five minutes. Tommy will then look into his mother's loving eyes, and say, "No more, mommy. Make them stop."

At the very least, Tommy's parents know that the strain of vaccine used on Tommy is now being phased out because of the rash of adverse reactions it caused. But this does nothing for Tommy or his parents, who have been in and out of countless hospitals, and consulted with doctors and experts at the Centers for Disease Control and the Health Resources and Services Administration. Their claim for compensation was dismissed in the Federal Court of Claims, but they and Tommy's doctor feel (and I agree with them) that they should have known more about the potential dangers of the DPT vaccine that Tommy received on June 1, 1994. No one told them that there was a chance that the DPT vaccine could cause such trauma. No one told them about "hot lots," an unofficial term for a batch of shots that has had an abundance of adverse reactions. The lot that Tommy received is known to have had 44 such reactions from March–November 1994, including 2 deaths. These are reactions beyond the short-lived fever and rashes that accompany many vaccines. Their doctor didn't know about the availability of the "new" acellular strain of pertussis vaccine that is replacing the whole cell version that had been used since the 1930s. Sure, it costs a couple of dollars more, but who wouldn't choose that for their child—given the choice?

Tommy's claim would have been covered before the 1995 changes, but that is not the case any longer. He's the victim of a bad DPT vaccine, yet his case continues to be denied because the first seizure didn't occur within 72 hours of the shot. It occurred 18 days later, and he suffers to this day. Tommy also has brain damage (encephalopathy) because of the DPT shot, but it doesn't fit that new definition either. He cried and moaned at a shrill pitch from the moment of the shot until his first seizure, but that doesn't matter either. For the first six months of his life, Tommy was in all ways normal, but for 4 and a half years since the DPT vaccine he and his family have suffered. As a parent and grandparent, I would do anything to protect my family from such pain and suffering. Tom Sansone, Sr. has done everything he knows how to help his son. Now he has turned to me because he knows I am in a position to help and I will not relent in my pursuit of relief for the Sansone family. The Vaccine Injury Compensation Program should take care of Tommy, but it doesn't. This bill will enable us to ensure that it does.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMPENSATION FOR VACCINE-RELATED INJURY.

(a) CAUSE OF INJURY.—In consideration of the petition filed under subtitle 2 of title XXI of the Public Health Service Act (42 U.S.C. 300aa–10 et seq.) (relating to the National Vaccine Injury Compensation Program) by the legal representatives of Thomas J. Sansone, Jr., including the claims contained in that petition that the injury described in that petition was cause by a vaccine covered in the Vaccine Injury Table specified in section 2114 of such Act (42 U.S.C. 300aa–14) and given on June 1, 1994, such injury is deemed to have been caused by such vaccine for the purposes of subtitle 2 of title XXI of such Act.

(b) PAYMENT.—The Secretary of Health and Human Services shall pay compensation to Thomas J. Sansone, Jr. for the injury referred to in subsection (a) in accordance with section 2115 of the Public Health Service Act (42 U.S.C. 300aa–15).

By Mr. CLELAND (for himself, Mr. ROBB, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. BYRD, Mr. LIEBERMAN, Ms. LANDRIEU, Mr. REED, and Mr. DASCHLE):

S. 169. A bill to improve pay, retirement, and educational assistance benefits for members of the Armed Forces; and for other purposes; to the Committee on Armed Services.

THE MILITARY RECRUITING AND RETENTION IMPROVEMENT ACT OF 1999

Mr. CLELAND. Mr. President, I am extremely pleased to introduce with my colleagues, Senators ROBB, LEVIN, KENNEDY, BYRD, BINGAMAN, LIEBERMAN, LANDRIEU, REED, and DASCHLE—The Military Recruiting and Retention Improvement Act of 1999. I strongly believe that this bill represents an excellent step toward providing the men and women of the military a clear signal that we the people of the United States and we the members of the Congress of the United States value their contributions, understand their needs and concerns, and understand our obligations to provide for those who have answered the calling to defend our Nation.

The signal that we send to the people in the military and to the people of the United States should be one of hope and opportunity, and one that understands the critical needs of military members and their families. Twenty-five years ago Americans opted to end the draft and to establish an all-volunteer military force to provide for our national security. That policy carried with it a requirement that we invest the needed resources to bring into existence a competent and professional military. Currently, all services are having difficulty in attracting and retaining qualified individuals. Seasoned, well-qualified personnel are leaving in alarming numbers. Specifically, the Navy is not making its recruiting goals. The Army cites pay and retirement, and overall quality of life as three of the top four reasons soldiers are leaving. The Air Force is currently 850 pilots short. The Marine Corps is hampered by inadequate funding of the pay and retirement and quality of life accounts in meeting its readiness and modernizing needs. All services, including the Guard and Reserve Components, are experiencing similar recruiting and retention problems. These shortfalls must be addressed if our Nation is to continue to have a highly capable, cutting edge military force.

In light of our recent successful operations around the world, in the Persian Gulf and elsewhere, we must redouble our efforts to ensure that we continue to recruit, train and retain the best of America to serve in our armed forces, which is the goal of the legislation I am introducing today. Equally important, this bill, for the first time in a long time, addresses the immediate family members of our brave Soldiers, Sailors, Airmen, and Marines. The Military Recruiting and Retention Improvement Act of 1999 addresses the concerns of Secretary of Defense Cohen, the Joint Chiefs of Staff and Congress regarding recruiting a strong, viable military force for the 21st Century. It also significantly assists in retaining the right military personnel for the 21st Century. If we fail today to address these key issues, now when we have the combination of a strong economy, a relatively positive budget outlook, and a world which is largely at peace, we may well have missed a key window of opportunity. The bill we are introducing today goes a long way toward eliminating the deficiencies that we all have recently heard so much about from the Chiefs and a myriad of experts who are greatly concerned about the readiness of our military force, especially as we look a few years ahead.

Military experts, defense journalists, former Secretaries of Defense, former Service Chiefs, former theater Commanders in Chief, research and development specialists and even civilian industry leaders agree: the number one factor undergirding our superpower military status is the people of our Armed Forces. This critical ingredient means something different today than it did on the beaches of Normandy, in the jungles of Vietnam, or in fact even on the deserts of Kuwait. Today, the people of our military are as dedicated, as committed, as patriotic as any force we have ever fielded. They are, in fact, smarter, better trained, and more technically adept than any who we have ever counted upon to defend our Nation. Operation Desert Fox proved this fact. This flawless, but dangerous and stressful, operation involved 40,000 troops from bases virtually around the world. Over 40 shops performed around the clock strikes and support. Six hundred aircraft sorties were flown in four days, and over 300 of these were night strike operations. And this massive effort was carried out without a single loss of American or British life!

In contrast to this and other post-Vietnam successes, consider the problems which face the people in uniform. New global security threats and our strong economy each exert enormous pressures on the people in the military and their families. By some measures the pay for our military personnel lags 13 percent behind the civilian pay raises over the last 20 years. Yet, we ask our military to train on highly technical equipment, to commit themselves in harm's way, to leave their families, and to execute flawless operations. Sometimes these operations are new and different from any past military operations, but they can be just as dangerous. Meanwhile, some of our servicemen and women qualify for food stamps, do not have the same educational opportunities as their civilian counterparts, must deal with confusing and changing health benefits and/or can not find affordable housing. Something is badly wrong with this picture, and the Congress and the Administration must work together to set things right.

Specifically, we need to recruit good people, continue to train them, and retain them in the military. This is difficult at best with the changes in our society, the rapidly changing threats to our security, and a prosperous economy. As I heard a service member say during a hearing I held at Ft. Gordon, Georgia last year, we recruit an individual, but we retain a family.

Some of the recruiting and retention problems of today's United States military are well documented. Others need to be more thoroughly explored. They all need to be addressed. The Military Recruiting and Retention Improvement Act of 1999 is but the first step. It is the beginning. I caution my colleagues that today's servicemen and women, and their families, are intelligent and are quick to recognize duplicity in the words and actions of our civilian and military leadership. Our military's most important assets—its people—are leaving the military, and many of America's best are not even considering joining the military. We must proceed expeditiously, with firm purpose and unified non-partisanship if we are to reverse these dangerous trends.

This bill responds to current data which provide some insight into how we can more effectively respond to today's youth and their service in the military. This 106th Congress has a tremendous opportunity to respond to today's military personnel problems. We must keep our focus on current and future personnel issues, including recognizing and responding to the need to retain a family. Our legislation does so.

Mr. President, the bill my colleagues and I are introducing today includes all three parts of the Department of Defense's proposed pay and retirement package. It incorporates some of the recommendations made by the Congressionally mandated Principi Commission, and it provides some additional innovative ideas for addressing these key personnel issues, now and into the future.

First, our bill provides a 4.8% pay raise across-the-board for all military members, effective January 1, 2000, and carries out the stated objective of Secretary Cohen and the Joint Chiefs of Staff of bringing military pay more in line with private sector wages. This increase raises military pay in FY2000 by one-half a percentage point above the annual increase in the Employment Cost Index (ECI), and represents the largest increase in military pay since 1982. Furthermore, and also in keeping with DoD's current plans, we would provide an annual increase in military pay of one-half percent above the annual increase in the ECI in each year from FY2001 to FY2006.

Another of the Joint Chiefs' recommendations included in our legislation is the targeted pay raise for mid-grade officers and enlisted personnel, and also for key promotion points. These raises, amounting to between 4.8 percent and 10.3 percent, which includes the January 1, 2000, pay raise and would be effective July 1, 2000.

The third part of our legislation taken from the DOD plan is a revision in the Military Retirement Reform Act of 1986, which would restore the 50 percent basic pay benefit for military members who retire at 20 years of service.

I am proud to say that in addition to the pay and retirement benefits package proposed by Secretary Cohen and the Joint Chiefs, our legislation includes several key recommendations from the recent report of the Congressional Commission on Servicemembers and Veterans Transition Assistance, also known as the Principi Commission. These provisions are specifically designed to assist the military services in their recruiting and retention efforts.

Information and data that we are seeing indicate that education benefits are an essential component in attracting young people to enter the armed services. This may be the single most important step this Congress can take in assisting recruitment. Improvements in the Montgomery GI Bill are needed, and our bill represents a vital move in that direction.

In keeping with the Principi Commission, our legislation would increase the basic GI Bill benefit from $528 to $600 per month and eliminate the current requirement for entering service members to contribute $1,200 of their own money in order to participate in the program. These changes should dramatically increase the attractiveness of the GI Bill to potential recruits, and give our Service Secretaries a powerful recruiting incentive.

Our legislation also adopts the Principi Commission recommendations to allow service members to transfer their earned GI Bill benefits to one or more immediate family members. Mr. President, this idea is innovative, it is powerful and it sends the right message to both those young people we are trying to attract into the military and those we are trying to retain.

The Military Recruiting and Retention Improvement Act of 1999 includes a provision that would allow military members to participate in the current Thrift Savings Plan available to Federal civil servants. Under this proposal, which adopts another recommendation of the Congressional Commission on Servicemembers and Veterans Transition Assistance, military members would be permitted to contribute up to 5 percent of their basic pay, and all or any part of any enlistment or reenlistment bonus, to the Thrift Savings Plan.

Another section of our legislation extends for three years—through December 31, 2002—the authority for the military services to pay a number of bonuses and special incentive pays that are fundamental to recruiting and retaining highly skilled military members. The authority to pay these bonuses and special pay expires at the end of this year. By renewing this authority now through the end of 2002, we will provide military managers with these crucial retention tools. By acting now and for three years, the military members themselves will have greater confidence that these pay incentives will be available.

Mr. President, based on our initial estimates, it is my understanding that the provisions contained in this legislation will not require us to increase the funding for national defense above the levels in the President's FY2000-2006 Future Years Defense Plan. However, more precise costing will have to be done by the Congressional Budget Office over the next several weeks.

I know that all Members of the United States Senate are committed to the well-being of our servicemen and women and their families. They are doing their duty with honor and dignity. They are serving our country around the globe. They, along with their families, deserve our commitment. The bill we are introducing today is fair and will ensure that we continue to attract and retain high quality people to serve in our armed forces. It represents the beginning of a process to provide hope and opportunity to those who wear the uniform of our Services. The President has announced a very good plan, as has the distinguished Majority Leader. We must move forward, together, in addressing these important personnel and readiness issues.

In closing, I want to recognize the leadership of Senator LEVIN, and the other members of the Armed Services Committee who are co-sponsoring this legislation. We are all absolutely committed to the welfare of our servicemen and women and their families. They provide for us, and it is time for us to provide our obligation to them. I look forward to working with Senator LEVIN, Chairman WARNER, and all of our colleagues on the Armed Services Committee in the months ahead to honor that obligation. I know I speak for myself and all of my co-sponsors in pledging to do our utmost to achieve that goal.

Mr. President, I now ask an unanimous consent that a summary and the text of the Military Recruitment and Retention Improvement Act of 1999 be printed into the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Recruiting and Retention Improvement Act of 1999".

TITLE I—PAY AND ALLOWANCES

SEC. 101. FISCAL YEAR 2000 INCREASE AND RESTRUCTURING OF BASIC PAY.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services by section 203(a) of such title to become effective during fiscal year 2000 shall not be made.

(b) JANUARY 1, 2000, INCREASE IN BASIC PAY.—Effective on January 1, 2000, the rates of monthly basic pay for members of the uniformed services shall be increased by 4.8 percent.

(c) BASIC PAY REFORM.—Effective on July 1, 2000, the rates of monthly basic pay for members of the uniformed services are as follows:

COMMISSIONED OFFICERS[1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
0-10[2]	$0.00	$0.00	$0.00	$0.00	$0.00
0-9	0.00	0.00	0.00	0.00	0.00
0-8	6,594.30	6,810.30	6,953.10	6,993.30	7,171.80
0-7	5,479.50	5,851.80	5,851.50	5,894.40	6,114.60
0-6	4,061.10	4,461.60	4,754.40	4,754.40	4,772.40
0-5	3,248.40	3,813.90	4,077.90	4,127.70	4,291.80
0-4	2,737.80	3,333.90	3,556.20	3,606.04	3,812.40
0-3[3]	2,544.00	2,884.20	3,112.80	3,364.80	3,525.90
0-2[3]	2,218.80	2,527.20	2,910.90	3,000.00	3,071.10
0-1[3]	1,926.30	2,004.90	2,423.10	2,423.10	2,423.10
	Over 8	Over 10	Over 12	Over 14	Over 16
0-10[2]	$0.00	$0.00	$0.00	$0.00	$0.00
0-9	0.00	0.00	0.00	0.00	0.00
0-8	7,471.50	7,540.80	7,824.60	7,906.20	8,150.10
0-7	6,282.00	6,475.80	6,669.00	6,863.10	7,471.50
0-6	4,976.70	5,004.00	5,004.00	5,169.30	5,791.20
0-5	4,291.80	4,420.80	4,659.30	4,971.90	5,286.00
0-4	3,980.40	4,251.50	4,464.00	4,611.00	4,758.90
0-3[3]	3,702.60	3,850.20	4,040.40	4,139.10	4,139.10
0-2[3]	3,071.10	3,071.10	3,071.10	3,071.10	3,071.10
0-1[3]	2,423.10	2,423.10	2,423.10	2,423.10	2,423.10
	Over 18	Over 20	Over 22	Over 24	Over 26
0-10[2]	$0.00	$10,655.10	$10,707.60	$10,930.20	$11,318.40
0-9	0.00	9,319.50	9,453.60	9,647.70	9,986.40
0-8	8,503.80	8,830.20	9,048.00	9,048.00	9,048.00
0-7	7,985.40	7,985.40	7,985.40	7,985.40	8,025.60
0-6	6,086.10	6,381.30	6,549.00	6,719.10	7,049.10
0-5	5,436.00	5,583.60	5,751.90	5,751.90	5,751.90
0-4	4,808.70	4,808.70	4,808.70	4,808.70	4,808.70
0-3[3]	4,139.10	4,139.10	4,139.10	4,139.10	4,139.10
0-2[3]	3,071.10	3,071.10	3,071.10	3,071.10	3,071.10
0-1[3]	2,423.10	2,423.10	2,423.10	2,423.10	2,423.10

[1] Basic pay for these officers is limited to the rate of basic pay for level V of the Executive Schedule.

[2] While serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, basic pay for this grade is calculated to be $12,441.00, regardless of cumulative years of service computed under section 205 of title 37, United States Code. Nevertheless, basic pay for these officers is limited to the rate of basic pay for level V of the Executive Schedule.

[3] Does not apply to commissioned officers who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.

COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
0-3E	$0.00	$0.00	$0.00	$3,364.80	$3,525.90
0-2E	0.00	0.00	0.00	3,009.00	3,071.10
0-1E	0.00	0.00	0.00	2,423.10	2,588.40
	Over 8	Over 10	Over 12	Over 14	Over 16
0-3E	$3,702.60	$3,850.20	$4,040.40	$4,200.30	$4,291.80
0-2E	3,168.60	3,333.90	3,461.40	3,556.20	3,556.20
0-1E	2,683.80	2,781.30	2,877.60	3,009.00	3,009.00
	Over 18	Over 20	Over 22	Over 24	Over 26
0-3E	$4,416.90	$4,416.90	$4,416.90	$4,416.90	$4,416.90
0-2E	3,556.20	3,556.20	3,556.20	3,556.20	3,556.20
0-1E	3,009.00	3,009.00	3,009.00	3,009.00	3,009.00

WARRANT OFFICERS

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W-5	$0.00	$0.00	$0.00	$0.00	$0.00
W-4	2,592.00	2,788.50	2,868.60	2,947.50	3,083.40
W-3	2,355.90	2,555.40	2,555.40	2,588.40	2,694.30
W-2	2,063.40	2,232.60	2,232.60	2,305.80	2,423.10
W-1	1,719.00	1,971.00	1,971.00	2,135.70	2,232.60
	Over 8	Over 10	Over 12	Over 14	Over 16
W-5	$0.00	$0.00	$0.00	$0.00	$0.00
W-4	3,217.20	3,352.80	3,485.10	3,622.20	3,753.60

WARRANT OFFICERS

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W-3	2,814.90	2,974.20	3,071.10	3,177.00	3,298.20
W-2	2,555.40	2,852.60	2,749.80	2,844.30	2,949.00
W-1	2,332.80	2,433.30	2,533.20	2,634.00	2,734.80

Pay Grade	Over 18	Over 20	Over 22	Over 24	Over 26
W-5	$0.00	$4,475.10	$4,628.70	$4,782.90	$4,937.40
W-4	3,888.00	4,019.00	4,155.60	4,289.70	4,427.10
W-3	3,418.50	3,539.10	3,659.40	3,780.00	3,900.90
W-2	3,058.40	3,163.80	3,270.90	3,378.30	3,378.30
W-1	2,835.00	2,910.90	2,910.90	2,910.90	2,910.90

ENLISTED MEMBERS

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E-9[4]	$0.00	$0.00	$0.00	$0.00	$0.00
E-8	0.00	0.00	0.00	0.00	0.00
E-7	1,765.80	1,927.80	2,001.00	2,073.00	2,147.70
E-6	1,518.90	1,678.20	1,752.60	1,824.30	1,899.30
E-5	1,332.60	1,494.00	1,566.00	1,640.40	1,714.50
E-4	1,242.90	1,373.10	1,447.20	1,520.10	1,593.90
E-3	1,171.50	1,260.60	1,334.10	1,335.90	1,335.90
E-2	1,127.40	1,127.40	1,127.40	1,127.40	1,127.40
E-1	[5] 1,005.60	1,005.60	1,005.60	1,005.60	1,005.60

Pay Grade	Over 8	Over 10	Over 12	Over 14	Over 16
E-9[4]	$0.00	$3,015.30	$3,083.40	$3,169.80	$3,271.50
E-8	2,528.40	2,601.60	2,669.70	2,751.60	2,840.10
E-7	2,220.90	2,294.10	2,367.30	2,439.30	2,514.00
E-6	1,973.10	2,047.20	2,118.60	2,191.50	2,244.60
E-5	1,789.50	1,861.50	1,936.20	1,936.20	1,936.20
E-4	1,593.90	1,593.90	1,593.90	1,593.90	1,593.90
E-3	1,335.90	1,335.90	1,335.90	1,335.90	1,335.90
E-2	1,127.40	1,127.40	1,127.40	1,127.40	1,127.40
E-1	1,005.60	1,005.60	1,005.60	1,005.60	1,005.60

Pay Grade	Over 18	Over 20	Over 22	Over 24	Over 26
E-9[4]	$3,373.20	$3,473.40	$3,609.30	$3,744.00	$3,915.80
E-8	2,932.50	3,026.10	3,161.10	3,295.50	3,483.60
E-7	2,588.10	2,660.40	2,787.60	2,926.20	3,134.40
E-6	2,283.30	2,283.30	2,285.70	2,285.70	2,285.70
E-5	1,936.20	1,936.20	1,936.20	1,936.20	1,936.20
E-4	1,593.90	1,593.90	1,593.90	1,593.90	1,593.90
E-3	1,335.90	1,335.90	1,335.90	1,335.90	1,335.90
E-2	1,127.40	1,127.40	1,127.40	1,123.20	1,127.40
E-1	1,005.60	1,005.60	1,005.60	1,005.60	1,005.60

[4] While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, basic pay for this grade is $4,701.00, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

[5] In the case of members in the grade E-1 who have served less than 4 months on active duty, basic pay is $930.30.

SEC. 102. PAY INCREASES FOR FISCAL YEARS 2001 THROUGH 2006 AT ECI PLUS ONE-HALF PERCENT.

Notwithstanding subsection (c) of section 1009 of title 37, United States Code, the percentage of the increase in the rates of monthly basic pay that takes effect under that section during each of fiscal years 2001 through 2006 shall be the percentage equal to the sum of one percent plus the percentage increase calculated as provided under subsection (a) of section 5303 of title 5, United States Code, for such fiscal year (without regard to whether rates of pay under the statutory pay systems are actually increased by the percentage calculated under such section 5303(a) during such fiscal year).

SEC. 103. THREE-YEAR EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF CERTAIN BONUSES AND SPECIAL PAYS.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking "December 31, 1999," and inserting "December 31, 2002,".

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(c) ENLISTMENT BONUSES FOR MEMBERS WITH CRITICAL SKILLS.—Sections 308a(c) and 308f(c) of title 37, United States Code, are each amended by striking "December 31, 1999" and inserting "December 31, 2002".

(d) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(e) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(f) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of title 37, United States Code, is amended by striking "any fiscal year beginning before October 1, 1998, and the 15-month period beginning on that date and ending on December 31, 1999" and inserting "the 15-month period beginning on October 1, 1998, and ending on December 31, 1999, and any year beginning after December 31, 1999, and ending before January 1, 2003".

SEC. 104. THREE-YEAR EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) SPECIAL PAY FOR HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(f) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(b) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(c) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(d) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(e) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(f) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(g) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(f) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(h) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of title 10, United States Code, is amended by striking "January 1, 2000" and inserting in lieu thereof "January 1, 2003".

SEC. 105. THREE-YEAR EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(b) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(c) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting in lieu thereof "December 31, 2002".

TITLE II—RETIRED PAY

SEC. 201. REPEAL OF REDUCTION IN RETIRED PAY MULTIPLIER FOR POST-JULY 31, 1986 MEMBERS RETIRING WITH LESS THAN 30 YEARS OF SERVICE.

Section 1409(b) of title 10, United States Code, is amended by striking paragraph (2).

SEC. 202. MODIFIED "CPI-1" COST-OF-LIVING ADJUSTMENT.

Paragraph (3) of section 1401a(b) of title 10, United States Code, is amended to read as follows:

"(3) POST-AUGUST 1, 1986 MEMBERS.—The Secretary shall increase the retired pay of each member and former member who first became a member of a uniformed service on or after August 1, 1986, by the percent equal to the difference between the percent determined under paragraph (2) and 1 percent, except that, if the percent determined under paragraph (2) is less than 3 percent, the Secretary shall increase the retired pay by the lesser of the percent so determined or 2 percent.".

SEC. 203. CONFORMING AMENDMENTS.

(a) COMPUTATION OF RETIRED PAY.—(1) Chapter 71 of title 10, United States Code, is further amended—

(A) in section 1409(b)—

(i) in paragraph (1), by striking "paragraphs (2) and (3)" and inserting thereof "paragraph (2)"; and

(iii) by redesignating paragraph (3) as paragraph (2); and

(B) in section 1410, by striking "if—" and all that follows and inserting the following: "if increases in the retired pay of the member or former member under section 1401a(b) of this title had been computed as provided in paragraph (2) of that section (rather than under paragraph (3) of that section)."

(2)(A) The heading for section 1410 of such title is amended to read as follows:

"§ 1410. Members entering on or after August 1, 1986: restoration of COLA increases to full-COLA amounts at age 62".

(B) The item relating to such section in the table of sections at the beginning of chapter 71 of such title is amended to read as follows:

"1410. Members entering on or after August 1, 1986: restoration of COLA increases to full-COLA amounts at age 62.".

(b) SURVIVOR BENEFIT PLAN.—Chapter 73 of such title is amended—

(1) in section 1447(6)(A), by striking "(determined without regard to any reduction under section 1409(b)(2) of this title)";

(2) in section 1451(h), by striking paragraph (3); and

(3) in section 1452(c), by striking paragraph (4).

SEC. 204. EFFECTIVE DATE.

The amendments made by this title shall take effect on October 1, 1999.

TITLE III—THRIFT SAVINGS PLAN

SEC. 301. PARTICIPATION IN THRIFT SAVINGS PLAN.

(a) AUTHORITY.—Subchapter III of chapter 84 of title 5, United States Code, is amended by adding at the end the following:

"§ 8440e. Members of the uniformed services in active service

"(a) PARTICIPATION AUTHORIZED.—(1) A member of the armed forces in active service may participate in the Thrift Savings Plan in accordance with this section.

"(2) An election to contribute to the Thrift Savings Fund under paragraph (1) may be made only during a period provided under section 8432(b) for individuals subject to this chapter.

"(b) APPLICABILITY OF THRIFT SAVINGS PLAN PROVISIONS.—Except as otherwise provided in this section, the provisions of this subchapter and subchapter VII of this chapter shall apply with respect to members of the uniformed services making contributions to the Thrift Savings Fund as if such members were employees within the meaning of section 8401(11).

"(c) MAXIMUM CONTRIBUTION FROM BASIC PAY.—The amount contributed by a member of the uniformed services for any pay period out of basic pay may not exceed—

"(1) for any pay period 5 percent of such member's basic pay for such pay period, plus

"(2) an amount equal to the amount of any enlistment or reenlistment bonus paid to the member under section 308, 308a, or 308f of title 37 in connection with an enlistment for active service.

"(d) AGENCY CONTRIBUTIONS PROHIBITED.—No contribution under section 8432(c) of this title may be made for the benefit of a member of the uniformed services making contributions to the Thrift Savings Fund under subsection (a).

"(e) CERTAIN TRANSFERS NOT CONSIDERED SEPARATIONS.—A transfer of a member from one armed force to another armed force without a break in active service of more than 30 days shall not be considered to be a separation from service for the purposes of establishing an entitlement of the member to a withdrawal from the member's account under the Thrift Savings Plan.

"(f) REGULATIONS.—The Executive Director, after consultation with the Secretary of Defense, may prescribe regulations to carry out this section.

"(g) DEFINITIONS.—For purposes of this section—

"(1) the term 'armed forces' has the meaning given the term in subsection (a)(4) of section 101 of title 10;

"(2) the term 'active service' has the meaning given the term in subsection (d)(3) of such section; and

"(3) the term 'basic pay' means basic pay that is payable under section 204 of title 37.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 84 of title 5, United States Code, is amended by adding after the item relating to section 8440d the following:

"8440e. Members of the uniformed services in active service.".

SEC. 302. NONDUPLICATION OF CONTRIBUTIONS.

Section 8432b(b) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking "Each employee" and inserting "Except as provided in paragraph (4), each employee";

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph (4)

"(4) No contribution may be made under this section for a period for which an employee made a contribution under section 8440e.".

TITLE IV—MONTGOMERY GI BILL BENEFITS

SEC. 401. INCREASE IN RATES OF EDUCATIONAL ASSISTANCE FOR FULL-TIME EDUCATION.

(a) INCREASE.—Section 3015 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking "$528" and inserting "$600"; and

(2) in subsection (b)(1), by striking "$429" and inserting "$488".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999, and shall apply with respect to educational assistance allowances paid for months after September 1999. However, no adjustment in rates of educational assistance shall be made under subsection (g) of section 3015 of title 38, United States Code, for fiscal year 2000.

SEC. 402. TERMINATION OF REDUCTIONS OF BASIC PAY.

(a) REPEALS.—(1) Section 3011 of title 38, United States Code, is amended by striking subsection (b).

(2) Section 3012 of such title is amended by striking subsection (c).

(3) The amendments made by paragraphs (1) and (2) shall take effect on the date of the enactment of this Act and shall apply to individuals whose initial obligated period of active duty under section 3011 or 3012 of title 38, United States Code, as the case may be, begins on or after such date.

(b) TERMINATION OF REDUCTIONS IN PROGRESS.—Any reduction in the basic pay of an individual referred to in section 3011(b) of title 38, United States Code, by reason of such section 3011(b), or of any individual referred to in section 3012(c) of such title by reason of such section 3012(c), as of the date of the enactment of this Act shall cease commencing with the first month beginning after such date, and any obligation of such individual under such section 3011(b) or 3012(c), as the case may be, as of the day before such date shall be deemed to be fully satisfied as of such date.

(c) CONFORMING AMENDMENT.—Section 3034(e)(1) of title 38, United States Code, is amended in the second sentence by striking "as soon as practicable" and all that follows through "such additional times" and inserting "at such times".

SEC. 403. ACCELERATED PAYMENTS OF EDUCATIONAL ASSISTANCE.

Section 3014 of title 38, United States Code, is amended—

(1) by inserting "(a)" before "The Secretary shall pay"; and

(2) by adding at the end the following new subsection (b):

"(b)(1) When the Secretary determines that it is appropriate to accelerate payments under the regulations prescribed pursuant to paragraph (6), the Secretary may make payments of basic educational assistance allowance under this subchapter on an accelerated basis.

"(2) The Secretary may pay a basic educational assistance allowance on an accelerated basis only to an individual entitled to payment of the allowance under this subchapter who has made a request for payment of the allowance on an accelerated basis.

"(3) In the event an adjustment under section 3015(g) of this title in the monthly rate of basic educational assistance will occur during a period for which a payment of an allowance is made on an accelerated basis under this subsection, the Secretary shall—

"(A) pay on an accelerated basis the amount the allowance otherwise payable under this subchapter for the period without regard to the adjustment under that section; and

"(B) pay on the date of the adjustment any additional amount of the allowance that is payable for the period as a result of the adjustment.

"(4) The entitlement to a basic educational assistance allowance under this subchapter of an individual who is paid an allowance on an accelerated basis under this subsection shall be charged at a rate equal to one month for each month of the period covered by the accelerated payment of the allowance.

"(5) A basic educational assistance allowance shall be paid on an accelerated basis under this subsection as follows:

"(A) In the case of an allowance for a course leading to a standard college degree, at the beginning of the quarter, semester, or term of the course in a lump-sum amount equivalent to the aggregate amount of monthly allowance otherwise payable under this subchapter for the quarter, semester, or term, as the case may be, of the course.

"(B) In the case of an allowance for a course other than a course referred to in subparagraph (A)—

"(i) at the later of (I) the beginning of the course, or (II) a reasonable time after the request for payment by the individual concerned; and

"(ii) in any amount requested by the individual concerned up to the aggregate amount of monthly allowance otherwise payable under this subchapter for the period of the course.

"(6) The Secretary shall prescribe regulations for purposes of making payments of basic educational allowance on an accelerated basis under this subsection. Such regulations shall specify the circumstances under which accelerated payments should be made and include requirements relating to the request for, making and delivery of, and receipt and use of such payments.".

SEC. 404. TRANSFER OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE.

(a) AUTHORITY TO TRANSFER TO FAMILY MEMBER.—Subchapter II of chapter 30 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3020. Transfer of entitlement to basic educational assistance

"(a) The Secretary may, for the purpose of enhancing recruiting and retention, and at the Secretary's sole discretion, permit an individual entitled to educational assistance under this subchapter to elect to transfer such individual's entitlement to such assistance, in whole or in part, to the individuals specified in subsection (b).

"(b) An individual's entitlement to educational assistance may be transferred when authorized under subsection (a) as follows:

"(1) To the individual's spouse.

"(2) To one or more of the individual's children.

"(3) To a combination of the individuals referred to in paragraphs (1) and (2).

"(c)(1) An individual electing to transfer an entitlement to educational assistance under this section shall—

"(A) designate the individual or individuals to whom such entitlement is being transferred and the percentage of such entitlement to be transferred to each such individual; and

"(B) specify the period for which the transfer shall be effective for each individual designated under subparagraph (A).

"(2) The aggregate amount of the entitlement transferable by an individual under this section may not exceed the aggregate amount of the entitlement of such individual to educational assistance under this subchapter.

"(3) An individual electing to transfer an entitlement under this section may elect to modify or revoke the transfer at any time before the use of the transferred entitlement. An individual shall make the election by submitting written notice of such election to the Secretary.

"(d)(1) The use of any entitlement transferred under this section shall be charged against the entitlement of the individual making the transfer at the rate of one month for each month of transferred entitlement that is used.

"(2) Except as provided in paragraph (3), an individual using entitlement transferred under this section shall be subject to the provisions of this chapter in such use as if such individual were entitled to the educational assistance covered by the transferred entitlement in the individual's own right.

"(3) Notwithstanding section 3031 of this title, a child shall complete the use of any entitlement transferred to the child under this section before the child attains the age of 26 years.

"(e) In the event of an overpayment of educational assistance with respect to an individual to whom entitlement is transferred under this section, such individual and the individual making the transfer under this section shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685 of this title.

"(f) The Secretary shall prescribe regulations for purposes of this section. Such regulations shall specify the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (c)(3).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3019 the following new item:

"3020. Transfer of entitlement to basic educational assistance.".

TITLE V—REPORT

SEC. 501. ANNUAL REPORT ON EFFECTS OF INITIATIVES ON RECRUITMENT AND RETENTION.

(a) REQUIREMENT FOR REPORT.—On December 1 of each year, the Secretary of Defense shall submit to Congress a report that sets forth the Secretary's assessment of the effects that the provisions of this Act and the amendments made by the Act are having on recruitment and retention of personnel for the Armed Forces.

(b) FIRST REPORT.—The first report under this section shall be submitted not later than December 1, 2000.

THE MILITARY RECRUITING AND RETENTION IMPROVEMENT ACT OF 1999—SUMMARY

MILITARY PAY RAISE

4.8% effective January 1, 2000.

Pay raises for FY 2001-2006 ECI + 0.5%.

PAY TABLE REFORM

Targeted raise—weighted to mid-career NCO/Officers.

Minimum 4.8%.

Maximum 10.3%.

Effective July 1, 2000.

MILITARY RETIREMENT

Restore 50% basic pay retirement benefit at 20 years of service as proposed by Secretary Cohen and the Joint Chiefs.

MONTGOMERY GI BILL ENHANCEMENTS

Eliminate $1200 contribution required of members who elect to participate in the GI Bill.

Provide Services with discretionary authority to permit members to transfer benefits to immediate family members.

Increase monthly GI Bill benefit from $528 to $600 for members who serve at least 3 years, and from $429 to $488 for members who serve less than 3 years.

Permit accelerated lump sum benefits for entire term, semester or quarter, or for entire courses not leading to college degree.

THRIFT SAVINGS PLAN

Allow members to contribute up to 5% of basic pay, and all or any part of any enlistment or reenlistment bonus, to the Federal civilian employees Thrift Savings Plan.

EXTENSION OF CRITICAL BONUS AND SPECIAL PAY AUTHORITIES

Extend for three years (through December 31, 2002) authority to pay bonuses and special pays critical to recruiting and retention of military members. Authority to pay these bonuses and special pays expires December 31, 1999 under current law.

ANNUAL REPORTING REQUIREMENT

Require DOD to report annually on the impact of these programs on recruiting and retention.

Critical Bonus and Special Pay Authorities Extended Through December 31, 1999:

Enlistment Bonuses for Members With Critical Skills.

Selected Reserve Enlistment Bonus.

Prior Service Enlistment Bonus.

Ready Reserve Enlistment and Reenlistment Bonus.

Reenlistment Bonus for Active Members.

Selected Reserve Reenlistment Bonus.

Selected Reserve Affiliation Bonus.

Aviation Officer Retention Bonus.

Special Pay for Nuclear-Qualified Officers Extending Period of Active Service.

Nuclear Career Accession Bonus.

Nuclear Career Annual Incentive Bonus.

Special Pay for Health Professionals in Critically Short Wartime Specialties.

Special Pay for Enlisted Members Assigned to Certain High Priority Units.

Repayment of Education Loans for Certain Health Professionals Who Serve in the Selected Reserve.

Nurse Officer Candidate Accession Program.

Accession Bonus for Registered Nurses.

Incentive Special Pay for Nurse Anesthetists.

Mr. ROBB. Mr. President, I am pleased to lend my support to the Military Recruiting and Retention Improvement Act of 1999. For the first time since the late 1970's, military readiness is suffering significantly. We are now paying the price for asking our people to do much more with less and less. As the Service Chiefs have testified, the feedback from our soldiers, sailors, airmen and marines is clear and unambiguous. Low pay, the 40 percent retirement system, military health and education benefits that could stand a shot in the arm—we now have plenty of evidence these things are keeping us from retaining our best and brightest. Equally troubling, our recruiting picture across the services is dismal. These downward trends cannot continue. The Chairman of the Joint Chiefs of Staff warns that "there is no more shock absorbency left in the system," and further that if the trends continue, we will "find ourselves in a nosedive that might cause irreparable damage to this great force." The Army and Air Force Chiefs of Staff, the Chief of Naval Operations, and the Commandant of the Marine Corps all agree that we are only five years away from a hollow force. Put simply, we are placing at risk the future readiness of the finest fighting force in the world.

Mr. President, this bill provides the resources to begin to reverse the steady downward spirals we've seen in military recruiting and retention. It is also a strong signal to our most important asset—our men and women in uniform and their families—that we are serious about taking care of them. In my view, it is nothing more than adequately compensating our people for the job they are already performing. And it is exactly the kind of "fix" we in the Congress can, and should, support.

I would like to make one additional point. While we have many pressing longer-term concerns, such as modernizing and recapitalizing our forces for the next century and doing something about the billions of dollars of excess infrastructure the services continue to carry, we simply can't afford to take a "wait and see" approach when it comes to taking care of our people. To do otherwise places at risk our future readiness and everything we've worked for, like the ability to mount an operation like "Desert Fox" and execute it brilliantly. We can't let that happen.

Mr. LEVIN. Mr. President, I am pleased to join Senator CLELAND, Senator ROBB, and a number of my colleagues today in introducing The Military Recruiting and Retention Improvement Act of 1999. Secretary Cohen, General Shelton, and the Joint Chiefs have told us that the single greatest challenge they face right now is recruiting and retaining the people we need to man our military services. This legislation will go a long way to ensuring that we continue to attract and retain the high quality people that make up our military services today.

Just last month, the men and women of our Armed Forces demonstrated once again that they are by far the best trained, best equipped, best disciplined and most highly skilled and motivated military force in the world. Operation Desert Fox was a large-scale military operation that was carried out flawlessly. It involved 40,000 troops from bases virtually around the world. Over 40 ships performed strike and support roles. Over 600 aircraft sorties were flown in 4 days, and 300 of these were night strike operations.

General Zinni, the commander in charge of Operation Desert Fox, pointed out that even in peacetime an exercise of this scale is very dangerous and stressful. To have achieved all of the objectives of Operation Desert Fox without a single United States or British casualty and without any degradation of our ongoing efforts in Bosnia, Korea, and other critical areas around the world was truly remarkable.

Mr. President, the key to the success of Operation Desert Fox—and the key to the strength and capability of our Armed Forces—is the men and women who serve in uniform. We must do everything we can to ensure that we continue to recruit, train and retain the best of America to serve in our Armed Forces.

Over the past year, there have been growing indications that the military services were beginning to have problems in both recruiting and retention, particularly retaining highly skilled mid-grade officers and enlisted whose skills are in demand in the private sector. To address these problems, last month Secretary Cohen and General Shelton announced a package of improvements in military pay and retirement benefits that will be part of President Clinton's fiscal year 2000 budget. In testimony before the Armed Services Committee on January 5 of this year, General Shelton and all of thee Joint Chiefs said that enactment of this package of pay and benefits was their highest priority.

Mr. President, the bill my colleagues and I are introducing today includes all three parts of the Defense Department's pay and retirement package, as well as some of the key recommendations from the recent report of the Congressional Commission on Servicemembers and Veterans Transition Assistance.

First, it includes an across-the-board pay raise for all military members of 4.8 percent, effective January 1, 2000. This is slightly higher than the 4.4 percent recommended by Secretary Cohen and the Joint Chiefs, but it carries out their stated objective of increasing military pay in FY2000 by one-half a percentage point above the annual increase in the Employment Cost Index (ECI). This 4.8 percent increase will be the largest increase in military pay since 1982.

In addition, our legislation calls for annual increases in military pay of one-half percent above the annual increase in the ECI in each year of the Future Years Defense Plan. Again, this reflects DOD's current plan, and is designed to bring military pay more in line with private sector wages as measured by the ECI.

The second part of DOD's plan included in our legislation is a targeted pay raise that would be effective July 1, 2000. Taken in conjunction with the January 1 4.8-percent across-the-board pay increase, this targeted pay raise increases the pay of mid-grade officers and enlisted personnel, and also for key promotions points, between 4.8 and 10.3 percent.

The third part of the DOD plan included in this legislation is a revision to the Military Retirement Reform Act of 1986. This portion of the legislation would restore the 50-percent basic pay benefit for military members who retire at 20 years of service.

In addition to the package of pay and retirement benefits proposed by Secretary Cohen and the Joint Chiefs, the legislation we are introducing today includes several key recommendations from the recent report of the Congressional Commission on Servicemembers and Veterans Transition Assistance specifically designed to help the military services recruiting and retention efforts.

The most important of these recommendations is a series of improvements to the Montgomery GI Bill. Education benefits are a very important attraction for young people entering the armed forces. Our legislation would increase the basic GI Bill benefit from $528 to $600 per month and eliminate the current requirement for entering service members to contribute $1,200 of their own money to participate in the program. Both of these changes were recommended by the Congressional Commission of Servicemembers and Veterans Transition Assistance to increase the attractiveness of the GI Bill to potential new recruits.

The Commission also recommended, and our legislation includes, a provision to allow service members to transfer their earned GI bill benefits to one or more immediate family members. It is my view, Mr. President, that this will prove to be a very powerful recruiting and retention incentive.

This legislation also includes a provision that would allow military members to participate in the current Thrift Savings Plan available to Federal civil servants. Under our proposal, which follows the recommendation of the Congressional Commission on Servicemembers and Veterans Transition Assistance, military members would be permitted to contribute up to 5 percent of their basic pay, and all or any part of any enlistment or reenlistment bonus, to the Thrift Savings Plan.

Finally, this legislation includes a very important provision that extends for 3 years—through December 31, 2002—the authority for the military services to pay a number of bonuses and special and incentive pays that are critical to recruiting and retaining highly skilled military members. Under current law, the authority to pay these bonuses and special pays runs out at the end of this year. Renewing this authority now through the end of 2002 will reassure military personnel managers—and military members themselves—that these crucial authorities will continue to be available to them.

Mr. President, detailed costing of this legislation will have to be done by the Congressional Budget Office over the next several weeks. In my view, however, the provisions contained in this legislation will not require us to increase the funding for national defense above the levels I understand will be proposed in President Clinton's FY2000–2006 Future Years Defense Plan. We should be able to accommodate any increase in funding necessary for these initiatives from lower priority programs.

I believe this package of pay and benefits is fair and will ensure that we continue to attract and retain high quality people to serve in our armed forces. All of us are committed to the well-being of our military members and their families. There may be some aspects of this legislation that require improvement or modification, and that can be done as the Armed Services Committee begins to review this bill and any other bills that are introduced to address the concerns we all have in this area.

In closing, I want to recognize the leadership of the author of this legislation, Senator MAX CLELAND. Fortunately for the Senate and for the men and women of our armed forces, he will continue to serve as the Ranking Democratic member of the Personnel Subcommittee of the Armed Services Committee during the 106th Congress. Senator ROBB of our Committee has also played an important role in drafting this legislation. Both Senator CLELAND and Senator ROBB have a tremendous commitment to the welfare of the men and women of the Armed Forces and their families.

Mr. President, I look forward to working with Senator CLELAND, Senator ROBB, and all of the cosponsors of this legislation and with all of our colleagues on the Armed Services Committee in the months ahead to secure enactment of this important legislation.

Mr. KENNEDY. Mr. President, all of us commend our troops for their superb performance. Their extraordinary efforts last year in Operation Desert Fox, Hurricane Mitch, Operation Provide Comfort, and in Kenya, and Tanzania highlighted only a few of their significant contributions to the Nation in 1998.

America continues to rely heavily on its Armed Forces, and we want our service members and families to know how proud we in Congress are of their contributions to our country and to our national defense. We are deeply indebted to them for their service, and we have the highest respect for their dedication, their patriotism, and their courage.

This past year once again demonstrated the importance of guaranteeing that our military forces are well prepared to meet any challenge. However, I am very concered about the future readiness of our Armed Forces. I am troubled by reports of declining readiness, poor retention, and recruiting shortfalls.

Two years ago the Army reduced its recuiting standards, and now the Navy has followed suit. Secretary of the Navy Danzig has announced that the Navy is lowering its educational standards for new recruits. This and other reductions in personnel standards by the Navy are taking place because the Navy fell short of its recruiting goals last year for the first time since the draft ended in 1973. Secretary Danzig also recently announced that retention of Naval Officers is so low that the Navy will have 50 percent fewer officers than required to man its ships in the coming years. These are serious concerns that must be addressed, and this legislation does so.

Congress must do all it can to provide for our men and women in the Army, Navy, Air Force, and Marine Corps. They have worked hard for us. Now we must provide the support they need to do their jobs and care for their families.

The Military Recruiting and Retention Improvement Act is a substantial step toward meeting these urgent needs of our service members, and will encourage more of these highly skilled and well-trained men and women to remain in the military ranks. I also hope that the provisions in this act will encourage more of the Nation's young men and women to join the military and serve their country in that way.

Our proposal increases base pay for our troops.

It contains pay table reforms and guaranteed pay raises above inflation.

It restores equity to the military retirement system by providing active duty service members 50 percent retirement after 20 years of service.

It allows service members to transfer hard-earned educational benefits to others in their family.

It provides stability by extending authorities for bonus pay and special pay.

I'm reminded of the words of President Kennedy during an address at the U.S. Naval Academy in August of 1963. That is what he said about a career in the Navy:

> I can imagine a no more rewarding career. And any man who may be asked in this century what he did to make his life worth while, I think can respond with a good deal of pride and satisfaction: "I served in the United States Navy."

My brother was a Navy man, but I'm sure that veterans of all the other services in those years felt the same way.

I want to do all I can to see that our service men and women feel the same way today and on into the next century. These personnel issues are important, and Congress has to deal with them effectively and responsibly. The Military Recruiting and Retirement Improvement Act moves our Nation in the right direction, and I look forward to early and favorable action on it by the Senate.

Mr. LIEBERMAN. Mr. President, I want to thank Senator CLELAND and Senator LEVIN for their leadership in developing and offering this bill, and I am pleased to join the other Democratic members of the Senate Armed Services Committee in cosponsoring this initiative aimed at addressing the problem of attracting and retaining the right men and women in the right numbers for our military. The effectiveness of our military, and its readiness to act immediately to protect our national interests, must always be a priority concern of Congress, as the continuing challenges around the world today demonstrate. There are few things that we will do this year that are more important, because the security of our country rests squarely on the shoulders of the men and women that provide our defenses and protect our interests. The outstanding performance of our forces in Desert Fox shows that the American military remains more than equal to the task, and that we have what is unequivocally the number one force in the world. In fact, it may well be the best we have ever fielded. Even at the height of the cold war, with the largest military budgets ever, it is difficult to see those units being able to routinely execute the range of complex operations with the expertise that our units today are doing.

Nonetheless, our military faces readiness problems, many of them serious. They include falling recruiting and retention of critical skills, aging equipment that costs more to keep operating at acceptable levels of reliability, a need for more support services for a force with a high percentage of married personnel, and frequent deployments. Some of these problems will get much more serious unless we act to fix them soon. The military Chiefs of Staff deserve credit for persevering in keeping these challenges to our readiness before us. President Clinton also deserves credit for his decision to increase the defense budget to address these important problems.

But if this increase only fixes the worst of the short term readiness problems and diverts us from seriously addressing the hard long-term questions of readiness and modernization that face us, it could do us as much harm as good. And if it generates a partisan debate over who can increase the defense budget the most, we will be rightly criticized for trying to solve our increasingly complex security problems by throwing money at them, which makes no more sense as a response to our military problems than it did for our social problems.

I think what we are spending money on is just as important as how much we are spending. First, we must demand 100 percent cost effectiveness, the elimination of waste and redundancy, and that includes closing down military facilities (bases and depots) that don't make military-economic sense anymore. Second, as we evaluate our readiness we must persistently ask, ready for what? What are the threats we face today and what are the emerging threats we will face tomorrow. If we do not develop and field the right organizations, weapons, and concepts to meet future challenges, and as a result fail to successfully meet one of those future challenges to our security, it will not matter much to remind ourselves how ready we were in 1999 when the threats are probably less than they will be then.

As Under Secretary of Defense Gansler has pointed out, the money projected to be added to the defense budget, or any increase we can reasonably foresee, won't be enough to completely pay for both increasing current readiness and meeting the modernization requirements of all the Services. So it is extremely important that we take extraordinary measures to be sure that we are spending our money wisely.

There is no doubt that spending our money to adequately and fairly compensate our military men and women is the wisest use of our defense dollars. Therefore I am very proud that we have recognized this fact by offering this bill outside the normal defense authorization process. Doing so signals the importance we place on our military personnel. I think it is a good bill. I support spending what is necessary. And I think we have gotten it mostly right.

However, I consider this a good point of departure, not a final product. I believe we have not yet done all of the critical analysis necessary to know where the priority should go within the broad category of pay and allowances to most effectively attract and retain the right people. I hope the Senate Armed Services Committee will make this task our highest priority when it is referred to our committee for action. I am sure we will act in a completely bipartisan way to arrive at the best result possible. It is a proud bipartisan tradition of the Senate Armed Services Committee that attracting, retaining, and providing adequately for our men and women in uniform is among our most important responsibilities.

Mr. REED. Mr. President, today I join my colleagues as an original cosponsor of Senator Cleland's Military Recruiting and Retention Improvement Act of 1999.

I am glad we are introducing this bill today because it demonstrates our interest and support for one of the greatest needs of our fighting men and women—improved pay and benefits. As my colleagues know, this is one of the most serious issues likely to come before the Armed Services Committee this year.

Last week, I attended my first hearing as a new member of the committee. I carefully listened to the Joint Chiefs of Staff as they outlined their priorities for the fiscal year 2000 budget. Without exception, each named recruitment and retaining skilled personnel as their top priority. The Joint Chiefs asked us unequivocally to address this issue, and I believe the bill we introduce today places us on the proper path.

This bill will make a difference to men and women when they are deciding to begin or continue a military career. The 4.8 percent pay increase will make their daily lives easier and more enjoyable. Reforming the pay table to provide increases in salaries for midcareer NCOs and officers will not only reward these dedicated men and women for the years they have served our country, but provide an incentive for them to continue their valued work. Renewing the various bonuses for three more years will let our men and women in uniform know that we realize and appreciate the sacrifices they make performing dangerous missions for months at a time far from home.

Perhaps the most unique provisions of the Military Recruiting and Retention Improvement Act are the educational benefits. Military personnel would no longer have to contribute $1,200 to take advantage of the Montgomery GI bill and they would receive increased monthly benefits. In addition, the Service Secretaries would be given the discretion to allow military personnel who qualify to transfer their education benefit to a spouse or child. Education is vital in today's society, yet financing needed training is an enormous burden to shoulder. I believe that many of our men and women in uniform choose to leave the service because they must find a job which will allow them to pay for their children's education. With the provisions in this bill, military personnel can continue their careers and more readily afford the cost of educating their children.

Mr. President, taking care of America's military personnel is one of the most serious responsibilities Congress has. Every day our men and women in uniform risk their lives to defend our country and the principles we champion. It is our obligation to let them know that we appreciate the sacrifices they make on our behalf. If we do not, the entire country will suffer.

Finding the best ways to improve our troop's quality of life is a difficult and complex task. The Military Recruiting and Retention Improvement Act is a sound proposal, but it is only the beginning to a comprehensive solution. We will not find a solution if Democrats and Republicans do not work together. Indeed, care of America's troops has always been an issue in which we have been united and it is my sincere hope that this tradition can continue in the 106th Congress.

Mr. BINGAMAN. Mr. President, I rise to make a few remarks concerning the Military Recruiting and Retention Improvement Act introduced today by my esteemed colleague, Senator CLELAND. During the last session, the Joint Chiefs testified to the need for improving pay and retirement for military personnel as a means to improvement recruitment and retention of service members. This bill proposes some important steps to implement those needs, including the extension of critical bonus and special pay authorities, and deserves careful consideration by the members of the Senate. It is generally acknowledged, however, that the way to improve recruitment and retention goes beyond a bigger paycheck. Senator CLELAND's bill includes an important provision directed toward other motivations to choose military service. I'm speaking of enhancements to the Montgomery GI bill for education benefits.

Mr. President, this bill will provide major new educational benefits to service members and their families that will serve as an incentive to attract high quality recruits to the military. By improving the educational attainment of service personnel and their families, the nation stands to benefit in the long term with a better educated workforce. Surely, we are now able to observe the benefits of full GI bill assistance for veterans of World War II, the Korean War and the Vietnam war who were able to receive sufficient resource to complete college and postgraduate degree programs in compensation for military service. The nation as a whole has prospered by the talented and trained workforce who benefitted from the GI bill.

Senator CLELAND's bill goes beyond even those benefits which, I believe were only extended to service members themselves. According to the legislation proposed, the military services can choose to permit service members to transfer those educational benefits to immediate family members should they choose not to use them for themselves. Again, I believe the nation's labor force will benefit greatly from such flexibility, not to mention the families of our men and women in uniform.

Educational benefits provided by the Military Recruiting and Retention Improvement Act would be increased to reflect the rising cost of education. Monthly benefits would increase from $528 to $600 per month for member who serve at least three years, and from $429 to $498 per month for those who serve less than three years. Lump sum tuition assistance could also be provided under certain circumstances.

Mr. President, these matters are really matters requiring bipartisan cooperation in the Congress that will benefit our service personnel and the Nation. I understand that Senator WARNER, Chairman of the Armed Services Committee, has introduced similar legislation to that offered by Senator CLELAND, myself, and others. I am hopeful that we will review these bills in detail in the Armed Services Committee to determine the best way to proceed to improve recruitment and retention that lies at the heart of both bills. As I indicated, recruitment and retention are affected by a wide variety of causes, only some of which may be financial. Senator CLELAND's bill calls for an annual report on the impact of the provisions of the bill on recruitment and retention. I believe such an assessment is required. I believe as well, that before the Senate approves legislation, however, it needs to have a more informed view of factors affecting recruitment and retention and of the potential impact of increasing assistance to military personnel on pay and benefits provided to defense and government civilian employees. A report is due soon from the Department of Defense addressing some of those issues. I urge my colleague to pay close attention to its findings and seek answers to the additional questions I have posed in determining how to proceed with legislation that meets national security and budgetary requirements.

By Mr. SMITH of New Hampshire (for himself, Mr. MOYNIHAN, and Mr. MACK):

S. 170. A bill to permit revocation by members of the clergy of their exemption from Social Security coverage; to the Committee on Finance.

OPEN SEASON FOR CLERGY TO ENROLL IN SOCIAL SECURITY

Mr. SMITH of New Hampshire. Mr. President, today I am introducing a bill to allow qualified members of the clergy of all faiths to participate in the Social Security program.

This bill would provide a two-year "open season" during which certain ministers who previously had filed for an exemption from Social Security coverage could revoke their exemption. These members of the clergy would become subject to self-employment taxes, and their earnings would be credited for Social Security and Medicare purposes.

Before 1968, a minister was exempt from Social Security coverage unless he or she chose to elect coverage. Since 1968, ministers have been covered by Social Security unless they file an irrevocable exemption with the Internal Revenue Service, usually within two years of beginning their ministry.

On two other occasions, in 1977 and again in 1986, ministers were given a similar opportunity to revoke their exemption from Social Security coverage. Despite the existence of these brief "open season" periods, many exempt ministers did not take advantage of or have not had the opportunity to revoke their exemption from Social Security coverage. Because the exemption from Social Security is irrevocable, there is no way for them to gain access to the program under current law.

Only an "individual who is a duly ordained, commissioned, or licensed minister of a church, or a member of a religious order who has not taken a vow of poverty," would be able to revoke his or her exemption from Social Security, under my bill. Of course, this measure would not permit ministers who already have reached retirement age to gain access to the Social Security program.

This bill primarily would benefit modestly paid clergy, who are among the most likely to need Social Security benefits upon retirement. Many chose not to participate in the Social Security program early in their careers, before they fully understood the ramifications of filing for an exemption.

If enacted, this measure would raise about $45 million over the next five years, according to the Congressional Budget Office. CBO has scored the bill as a revenue raiser and, as a result, it will require no budget offset. Over the long-term, the legislation would cost money, but I do not expect its costs to be that significant because CBO has estimated that only about 3,500 members of the clergy would exercise the option that this bill provides.

The need for this legislation was brought to my attention by the distinguished bishop in Manchester, New Hampshire, Reverend Bishop O'Neil. He made me aware of the hardships facing individual ministers who may or may not have any retirement income. The bill also has the endorsement of the U.S. Catholic Conference.

I want to thank my principal cosponsors, Senators MOYNIHAN and MACK, for their support of this much-needed legislation. Let me also point out that this measure is identical to Title 8 of H.R. 3433, the Ticket-to-Work Act, which passed the House of Representatives by a vote of 410 to 1 last June.

In closing, this bill gives members of the clergy a limited opportunity to enroll in the Social Security system, similar to those provided by Congress in 1977 and 1986. Mr. President, I hope that all of my colleagues will support this legislation, which is so important to a number of clergy in the United States.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVOCATION BY MEMBERS OF THE CLERGY OF EXEMPTION FROM SOCIAL SECURITY COVERAGE.

(a) IN GENERAL.—Notwithstanding section 1402(e)(4) of the Internal Revenue Code of 1986, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church, a member of a religious order, or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted, may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed in regulations made under chapter 2 of such Code), if such application is filed no later than the due date of the Federal income tax return (including any extension thereof) for the applicant's second taxable year beginning after December 31, 1999. Any such revocation shall be effective (for purposes of chapter 2 of such Code and title II of the Social Security Act), as specified in the application, either with respect to the applicant's first taxable year beginning after December 31, 1999, or with respect to the applicant's second taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402(e)(1). If the application is filed after the due date of the applicant's Federal income tax return for a taxable year and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of such Code with respect to all of the applicant's income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of such Code (notwithstanding paragraph (4) or (5) of section 1402(c) of such Code) but for the exemption under section 1402(e)(1) of such Code.

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to service performed (to the extent specified in such subsection) in taxable years beginning after December 31, 1999, and with respect to monthly insurance benefits payable under title II of the Social Security Act on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual's application for revocation (as described in such subsection) is effective (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year).

Mr. MOYNIHAN. Mr. President, today I join my colleague, Senator BOB SMITH of New Hampshire, in introducing a bill to allow certain members of the clergy who are currently exempt from Social Security an open season to "opt in."

Under section 1402 of the Internal Revenue Code, a member of the clergy who is conscientiously, or because of religious principles, opposed to participation in a public insurance program generally, may elect to be exempt from Social Security coverage and payroll taxes by filing an application of exemption with the Internal Revenue Service within two years of beginning the ministry. To be eligible for the exemption, the member of the clergy must be an "individual who is a fully ordained, commissioned, or licensed minister of a church, or a member of a religious order who has not taken a vow of poverty." Once elected this exemption is irrevocable.

This legislation would allow members of the clergy who are not eligible for Social Security a two-year open season in which they could revoke their exemption. At the time of exemption, many clergy did not fully understand the ramifications of their actions, and it is not until later in life, when they are blocked from coverage, that they realize their need for Social

Security and Medicare. This decision to "opt in" would be irrevocable and all post-election earnings would be subject to the payroll tax and credited for the purposes of Social Security and Medicare.

The Congressional Budget Office estimates that this legislation would affect approximately 3,500 members of the clergy and would increase revenues by about $45 million over the next five years. Similar legislation was passed both in the 1977 Social Security Amendments (Section 316) and in the Tax Reform Act of 1986 (Section 1704).

This bill has been endorsed by the United States Catholic Conference and the National Conference of Catholic Bishops. It is a simple but much-needed measure, and I urge every member of the Senate to support it.

By Mr. MOYNIHAN (for himself, Mr. LEVIN, Mr. LEAHY, Mr. SCHUMER, Mrs. BOXER, and Mr. CLELAND).

S. 171. A bill to amend the Clean Air Act to limit the concentration of sulfur in gasoline used in motor vehicles; to the Committee on Environment and Public Works.

THE ACID DEPOSITION AND OZONE CONTROL ACT OF 1999

By Mr. MOYNIHAN (for himself, Mr. SCHUMER, and Mr. LIEBERMAN):

S. 172. A bill to reduce acid deposition under the Clean Air Act, and for other purposes; to the Committee on Environment and Public Works.

THE CLEAN GASOLINE ACT OF 1999

Mr. MOYNIHAN. Mr. President, I rise today to introduce two bills which will make significant reductions in the pollutants which most degrade our national air quality. The Acid Deposition and Ozone Control Act of 1999 and the Clean Gasoline Act of 1999 would reduce sulfur dioxide and nitrogen oxide emissions through national "cap and trade" programs, and reduce the sulfur content in gasoline, respectively.

We have come a long way since the Clean Air Act Amendments of 1990. Since that last reauthorization effort, we have successfully reduced emissions of the pollutants we set out to regulate and tremendously expanded our understanding of the causes and effects of major environmental problems such as acid deposition, ozone pollution, decreased visibility, and eutrophication of coastal waters. We can be proud of these accomplishments, but we have a long way to go yet. Since 1990 we have learned, for instance, that the sulfur dioxide (SO_2) emissions reductions required under the Clean Air Act Amendments of 1990 are insufficient to prevent continued damage to human health and sensitive ecosystems. We have also learned that nitrogen oxides (NO_X), which we largely ignored nine years ago, are significant contributors to our nation's many air quality deficiencies. And finally, we have demonstrated that legislation containing regulatory flexibility and market incentives is preferable to the traditional "command and control" approach. My bills seek to build upon this new body of knowledge by combining the best and most current scientific evaluation of our environmental needs with the most effective and efficient regulatory framework.

The scientific data indicate that the 1990 Amendments did not go far enough to prevent continued human health and ecosystem damage from SO_2 and NO_X. We now know that ozone pollution, caused in large part by NO_X emissions, can have a terrible effect on human respiratory functions. The Harvard University School of Public Health's 1996 study of ozone pollution established a strong link between ground level ozone pollution and 30,000–50,000 emergency room visits during the 1993 and 1994 ozone seasons. Ecosystems continue to suffer, too. The 1998 report of the National Acid Precipitation Assessment Program (NAPAP) indicates that sulfate concentrations of surface waters in the Southern Appalachian Mountains have been increasing steadily for more than a decade, making for an increasingly inhospitable environment for trout and other fish species. There are other types of problems, too. Visitors to our nation's national parks and wilderness areas find that it is more difficult than ever before to enjoy these scenic vistas. It is becoming increasingly difficult to see through the haze which clogs the air in our national parks.

Scientists have produced volumes of scientific literature on ozone, acid deposition, regional haze, and other air quality problems over the past decade. We now know much more about the causes of these problems than we did in 1990. We know that NO_X emissions, which we underestimated as a cause of air pollution, in fact play an important role in the formation of ground level ozone, acide deposition, and nitrogen deposition. We know that sulfur dioxide not only contributes significantly to acid deposition, but also to reduced visibility in our great scenic vistas.

The most recent NAPAP report reflects this changing body of knowledge. The NAPAP report notes that NO_X make a highly significant contribution to the occurrence of acid deposition and nitrogen saturation on both land and water. According to NAPAP, a majority of Adirondack lakes have not shown recovery from high acidity levels first detected decades ago. Forests, streams, and rivers outside of New York, in the Front Range of Colorado, the Great Smoky Mountains of Tennessee, and the San Gabriel and San Bernardino Mountains of California are also now showing the effects of acidification and nitrogen saturation.

And mountains are not the only ecosystems affected. The Ecological Society of America, the nation's leading professional society of ecologists, issued a report in late 1997 which notes that airborne deposition of nitrogen accounts for a significant percentage of the nitrogen content of coastal water bodies stretching from the Gulf Coast up and around the entire length of the eastern seaboard. The Chesapeake Bay is believed to receive 27 percent of its nitrogen load directly from the atmosphere. For Tampa Bay, the figure is 28 percent. For the coastal waters of the Newport River in North Carolina, more than 35 percent.

Clearly, any serious effort to address these problems must address NO_X emissions and further reduce SO_2 emissions. My bills address the major sources of NO_X and SO_2. The Acid Deposition and Ozone Control Act of 1998 would affect "stationary sources" of NO_X and SO_2, mainly electric utilities, and the Clean Gasoline Act of 1999 would affect "mobile sources", mainly cars and trucks, of NOx and other tailpipe emissions.

ACID DEPOSITION AND OZONE CONTROL ACT: CONTROLLING STATIONARY SOURCES

When we designed the SO_2 Allowance Program in 1990, our task was simplified by the fact that over 85 percent of SO_2 emissions originated in fossil fuel-fired electric utilities. Utility emissions account for just under 30 percent of total NO_X emissions, a smaller share, but large enough to merit attention. My bill establishes a year-round cap-and-trade program for NO_X emissions from the utility sector and mandates a further 50 percent cut in emissions of SO_2 through the existing cap and trade program. Because of the human health risks of urban ozone pollution during the summer months, the Acid Deposition and Ozone Control Act requires utilities to surrender two allowances for each ton of NO_X emitted between May and September. During the remainder of the year, only one allowance is required to produce one ton of NO_X emissions. In this way, utilities are encouraged to make the greatest reductions during the summer, when the collective risk to human health from these emissions is higher.

In light of the impressive success and cost effectiveness of the cap and trade program which regulates SO_2, the Acid Deposition and Ozone Control Act is designed to build onto it as seamlessly as possible by establishing a "Phase III" under the existing program. Under the proposed Phase III, total utility emissions of SO_2 would be reduced to just under 4.5 million tons per year, significantly reducing acid deposition and improving visibility in our Nation's scenic vistas.

THE CLEAN GASOLINE ACT OF 1999: ADDRESSING MOBILE SOURCES

This bill establishes a national, year-round cap on the sulfur content of gasoline sold in the United States. The bill would extend the so-called California gasoline sulfur standard nationwide. The benefits of reducing gasoline sulfur would be dramatic and virtually immediate.

The presence of sulfur in gasoline increases vehicle emissions because sulfur poisons the catalytic converter used in the vehicle's emissions control system. Sulfur is a pollutant only: its presence (or absence) does not effect engine performance. In the 1970's, we fought to remove lead from gasoline to make possible the introduction of catalytic converters. Until recently, we did not appreciate that sulfur is a catalyst poison, too. All vehicles in the national fleet with catalytic converters—virtually all vehicles—produce higher levels of NO_X because of the high levels of sulfur in the gasoline they burn.

The cost of gasoline would rise under this bill—by a nickel a gallon at the retail level, at most. For a car driven 15,000 miles per year that achieves 15 miles per gallon, the cost of the Clean Gasoline Act would be $50 annually. Keep in mind, however, that gasoline prices, adjusted for inflation, are cheaper now than they have been at any time since 1950, the beginning point of our analysis. And the benefits to human health and the environment of reducing gasoline sulfur far outweigh this modest cost.

A recent study by the State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials (STAPPA-ALAPCO) found that reducing gasoline sulfur levels to 40 parts per million, the California standard, would bring an air quality benefit equivalent to removing nearly 54 million vehicles from our national fleet. New York City alone would have a benefit equal to removing 3 million vehicles from its streets. We must not pass up the opportunity to make such large gains in emissions reductions for such a minor cost.

As I mentioned earlier, I am proud of what we accomplished in enacting the Clean Air Act Amendments of 1990. The SO_2 Allowance Program established by that legislation has achieved extraordinary benefits at program compliance costs less than half of initial projections. The efficacy of the approach is proven. The current science indicates, however, that we did not go far enough in 1990 in setting our emissions reduction targets. The bills I have introduced endeavor to build upon our accomplishments thus far, and to begin the work which remains to be done. I encourage my colleagues to join myself and Mr. Schumer in sponsoring the Acid Deposition and Ozone Control Act of 1999, and to join myself and Mr. LEVIN, Mr. LEAHY, Mr. SCHUMER, Mrs. BOXER, Mr. CLELAND, and Mr. JEFFORDS in sponsoring the Clean Gasoline Act of 1999.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clean Gasoline Act of 1999".

SEC. 2. FINDINGS.

Congress finds that—

(1) according to the National Air Quality and Emissions Trends Report of the Environmental Protection Agency, dated 1996, motor vehicles account for a major portion of the emissions that degrade the air quality of the United States: 49 percent of nitrogen oxides emissions, 26 percent of emissions of particulate matter with an aerodynamic diameter smaller than or equal to 10 micrometers (PM-10), and 78 percent of carbon monoxide emissions;

(2)(A) failure to control gasoline sulfur concentration adversely affects catalytic converter function for all vehicles in the national vehicle fleet; and

(B) research performed collaboratively by the auto and oil industries demonstrates that when sulfur concentration in motor vehicle gasoline is reduced from 450 parts per million (referred to in this section as "ppm") to 50 ppm—

(i) hydrocarbon emissions are reduced by 18 percent;

(ii) carbon monoxide emissions are reduced by 19 percent; and

(iii) nitrogen oxide emissions are reduced by 8 percent;

(3)(A) recent studies conducted by the Association of International Automobile Manufacturers, and the Coordinating Research Council confirm that sulfur in vehicle fuel impairs to an even greater degree the emission controls of Low-Emission Vehicles (referred to in this section as "LEVs") and Ultra-Low-Emission Vehicles (referred to in this section as "ULEVs");

(B) because sulfur-induced impairment of advanced technology emission control systems is not fully reversible under normal in-use driving conditions, a nationwide, year-round sulfur standard is necessary to prevent impairment of vehicles' emission control systems as the vehicles travel across State lines;

(C) industry research on LEVs and ULEVs demonstrates that when gasoline sulfur concentration is lowered from 330 ppm to 40 ppm—

(i) hydrocarbon emissions are reduced by 34 percent;

(ii) carbon monoxide emissions are reduced by 43 percent; and

(iii) nitrogen oxide emissions are reduced by 51 percent;

(D) failure to control sulfur in gasoline will inhibit the introduction of more fuel-efficient technologies, such as direct injection engines and "NO_X trap" after-treatment technology, which require fuel with a very low concentration of sulfur;

(E) the technology for removing sulfur from fuel during the refining process is readily available and currently in use; and

(F) the reduction of sulfur concentrations in fuel to the level required by this Act is a cost-effective means of improving air quality;

(4)(A) gasoline sulfur levels in the United States—

(i) average between 300 and 350 ppm and range as high as 1000 ppm; and

(ii) are far higher than the levels allowed in many other industrialized nations, and higher than the levels allowed by some developing nations;

(B) the European Union recently approved a standard of 150 ppm to take effect in 2000, to be phased down to 30 through 50 ppm by 2005;

(C) Japan has a standard of 50 ppm; and

(D) gasoline and diesel fuel in Australia, New Zealand, Taiwan, Hong Kong, Thailand, and Finland have significantly lower sulfur concentrations than comparable gasoline and diesel fuel in the United States;

(5)(A) California is the only State that regulates sulfur concentration in all gasoline sold; and

(B) in June 1996, California imposed a 2-part limitation on sulfur concentration in gasoline: a 40 ppm per gallon maximum, or a 30 ppm per gallon annual average with an 80 ppm per gallon maximum;

(6)(A) a 1998 regulatory impact analysis by the California Air Resources Board reports that air quality improved significantly in the year following the introduction of low sulfur gasoline; and

(B) the California Air Resources Board credits low sulfur gasoline with reducing ozone levels by 10 percent on the South Coast, 12 percent in Sacramento, and 2 percent in the Bay Area; and

(7)(A) reducing sulfur concentration in gasoline to the level required by this Act is a cost-effective pollution prevention measure that will provide significant and immediate benefits; and

(B) unlike vehicle hardware requirements that affect only new model years, sulfur control produces the benefits of reduced emissions of air pollutants across the vehicle fleet immediately upon implementation.

SEC. 3. SULFUR CONCENTRATION REQUIREMENTS FOR GASOLINE.

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (p); and

(2) by inserting after subsection (n) the following:

"(o) SULFUR CONCENTRATION REQUIREMENTS FOR GASOLINE.—

"(1) IN GENERAL.—

"(A) REQUIREMENT.—Subject to subparagraph (B), effective beginning 4 years after the date of enactment of this paragraph, a person shall not manufacture, sell, supply, offer for sale or supply, dispense, transport, or introduce into commerce motor vehicle gasoline that contains a concentration of sulfur that is greater than 40 parts per million per gallon of gasoline.

"(B) ALTERNATIVE METHOD OF MEASURING COMPLIANCE.—A person shall not be considered to be in violation of paragraph (1) if the person manufactures, sells, supplies, offers for sale or supply, dispenses, transports, or introduces into commerce, during any 1-year period, motor vehicle gasoline that contains a concentration of sulfur that is greater than 40 but less than or equal to 80 parts per million per gallon of gasoline, if the average concentration of sulfur in the motor vehicle gasoline manufactured, sold, supplied, offered for sale or supply, dispensed, transported, or introduced into commerce by the person during the period is less than 30 parts per million per gallon of gasoline.

"(C) REGULATIONS.—The Administrator shall promulgate such regulations as are necessary to carry out this paragraph.

"(2) LOWER SULFUR CONCENTRATION.—

"(A) REPORT.—

"(i) INITIAL REPORT.—Not later than 6 years after the date of enactment of this subsection, the Administrator shall submit to Congress a report that documents the effects of use of low sulfur motor vehicle gasoline on urban and regional air quality.

"(ii) FOLLOWUP REPORT.—Not later than 2 years after the date of the initial report under clause (i), the Administrator shall submit a report updating the information contained in the initial report.

"(B) REGULATION.—After the date of the initial report under subparagraph (A)(i), the Administrator may promulgate a regulation to establish maximum and average allowable sulfur concentrations in motor vehicle gasoline that are lower than the concentrations specified in paragraph (1) if the Administrator determines that—

"(i) research conducted after the date of enactment of this subsection indicates that significant air quality benefits would result from a reduction in allowable sulfur concentration in motor vehicle gasoline; or

"(ii) advanced vehicle technologies have been developed that can significantly reduce emissions of air pollutants from motor vehicles but that require motor vehicle gasoline with a lower concentration of sulfur than that specified in paragraph (1).".

(b) PENALTIES AND INJUNCTIONS.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1), by striking "or (n)" each place it appears and inserting "(n), or (o)"; and

(2) in paragraph (2), by striking "and (n)" each place it appears and inserting "(n), and (o)".

S. 172

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Acid Deposition and Ozone Control Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) reductions of atmospheric nitrogen oxide and sulfur dioxide from utility plants, in addition to the reductions required under the Clean Air Act (42 U.S.C. 7401 et seq.), are needed to reduce acid deposition and its serious adverse effects on public health, natural resources, building structures, sensitive ecosystems, and visibility;

(2) nitrogen oxide and sulfur dioxide contribute to the development of fine particulates, suspected of causing human mortality and morbidity to a significant extent;

(3) regional nitrogen oxide reductions of 50 percent in the Eastern United States, in addition to the reductions required under the Clean Air Act, may be necessary to protect sensitive watersheds from the effects of nitrogen deposition;

(4) without reductions in nitrogen oxide and sulfur dioxide, the number of acidic lakes in the Adirondacks in the State of New York is expected to increase by up to 40 percent by 2040; and

(5) nitrogen oxide is highly mobile and can lead to ozone formation hundreds of miles from the emitting source.

(b) PURPOSES.—The purposes of this Act are—

(1) to recognize the current scientific understanding that emissions of nitrogen oxide and sulfur dioxide, and the acid deposition resulting from emissions of nitrogen oxide and sulfur dioxide, present a substantial human health and environmental risk;

(2) to require reductions in nitrogen oxide and sulfur dioxide emissions;

(3) to support the efforts of the Ozone Transport Assessment Group to reduce ozone pollution;

(4) to reduce utility emissions of nitrogen oxide by 70 percent from 1990 levels; and

(5) to reduce utility emissions of sulfur dioxide by 50 percent after the implementation of phase II sulfur dioxide requirements under section 405 of the Clean Air Act (42 U.S.C. 7651d).

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) AFFECTED FACILITY.—The term "affected facility" means a facility with 1 or more combustion units that serve at least 1 electricity generator with a capacity equal to or greater than 25 megawatts.

(3) NO_X ALLOWANCE.—The term "NO_X allowance" means a limited authorization under section 4(3) to emit, in accordance with this Act, quantities of nitrogen oxide.

(4) MMBTU.—The term "mmBtu" means 1,000,000 British thermal units.

(5) PROGRAM.—The term "Program" means the Nitrogen Oxide Allowance Program established under section 4.

(6) STATE.—The term "State" means the 48 contiguous States and the District of Columbia.

SEC. 4. NITROGEN OXIDE ALLOWANCE PROGRAM.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall establish a program to be known as the "Nitrogen Oxide Allowance Program".

(2) SCOPE.—The Program shall be conducted in the 48 contiguous States and the District of Columbia.

(3) NO_X ALLOWANCES.—

(A) ALLOCATION.—The Administrator shall allocate under paragraph (4)—

(i) for each of calendar years 2002 through 2004, 5,400,000 NO_X allowances; and

(ii) for calendar year 2005 and each calendar year thereafter, 3,000,000 NO_X allowances.

(B) USE.—Each NO_X allowance shall authorize an affected facility to emit—

(i) 1 ton of nitrogen oxide during each of the months of October, November, December, January, February, March, and April of any year; or

(ii) ½ ton of nitrogen oxide during each of the months of May, June, July, August, and September of any year.

(4) ALLOCATION.—

(A) DEFINITION OF TOTAL ELECTRIC POWER.—In this paragraph, the term "total electric power" means all electric power generated by utility and nonutility generators for distribution, including electricity generated from solar, wind, hydro power, nuclear power, cogeneration facilities, and the combustion of fossil fuel.

(B) ALLOCATION OF ALLOWANCES.—The Administrator shall allocate annual NO_X allowances to each of the States in proportion to the State's share of the total electric power generated in all of the States.

(C) PUBLICATION.—The Administrator shall publish in the Federal Register a list of each State's NO_X allowance allocation—

(i) by December 1, 2000, for calendar years 2002 through 2004;

(ii) by December 1, 2002, for calendar years 2005 through 2007; and

(iii) by December 1 of each calendar year after 2002, for the calendar year that begins 61 months thereafter.

(5) INTRASTATE DISTRIBUTION.—

(A) IN GENERAL.—A State may submit to the Administrator a report detailing the distribution of NO_X allowances of the State to affected facilities in the State—

(i) not later than September 30, 2001, for calendar years 2002 through 2004;

(ii) not later than September 30, 2003, for calendar years 2005 through 2012; and

(iii) not later than September 30 of each calendar year after 2013, for the calendar year that begins 61 months thereafter.

(B) ACTION BY THE ADMINISTRATOR.—If a State submits a report under subparagraph (A) not later than September 30 of the calendar year specified in subparagraph (A), the Administrator shall distribute the NO_X allowances to affected facilities in the State as detailed in the report.

(C) LATE SUBMISSION OF REPORT.—A report submitted by a State after September 30 of a specified year shall be of no effect.

(D) DISTRIBUTION IN ABSENCE OF A REPORT.—

(i) IN GENERAL.—Subject to subsection (e), if a State does not submit a report under subparagraph (A) not later than September 30 of the calendar year specified in subparagraph (A), the Administrator shall, not later than November 30 of that calendar year, distribute the NO_X allowances for the calendar years specified in subparagraph (A) to each affected facility in the State in proportion to the affected facility's share of the total electric power generated in the State.

(ii) DETERMINATION OF FACILITY'S SHARE.—In determining an affected facility's share of total electric power generated in a State, the Administrator shall consider the net electric power generated by the facility and the State to be—

(I) for calendar years 2002 through 2004, the average annual amount of electric power generated, by the facility and the State, respectively, in calendar years 1997 through 1999;

(II) for calendar years 2005 through 2012, the average annual amount of electric power generated, by the facility and the State, respectively, in calendar years 1999 through 2001; and

(III) for calendar year 2013 and each calendar year thereafter, the amount of electric power generated, by the facility and the State, respectively, in the calendar year 5 years previous to the year for which the determination is made.

(E) JUDICIAL REVIEW.—A distribution of NO_X allowances by the Administrator under subparagraph (D) shall not be subject to judicial review.

(b) NO_X ALLOWANCE TRANSFER SYSTEM.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Administrator shall promulgate a NO_X allowance system regulation under which a NO_X allowance allocated under this Act may be transferred among affected facilities and any other person.

(2) ESTABLISHMENT.—The regulation shall establish the NO_X allowance system under this section, including requirements for the allocation, transfer, and use of NO_X allowances under this Act.

(3) USE OF NO_X ALLOWANCES.—The regulation shall—

(A) prohibit the use (but not the transfer in accordance with paragraph (5)) of any NO_X allowance before the calendar year for which the NO_X allowance is allocated; and

(B) provide that the unused NO_X allowances shall be carried forward and added to

NO_X allowances allocated for subsequent years.

(4) Certification of transfer.—A transfer of a NO_X allowance shall not be effective until a written certification of the transfer, signed by a responsible official of the person making the transfer, is received and recorded by the Administrator.

(c) NO_X Allowance Tracking System.—Not later than 18 months after the date of enactment of this Act, the Administrator shall promulgate regulations for issuing, recording, and tracking the use and transfer of NO_X allowances that shall specify all necessary procedures and requirements for an orderly and competitive functioning of the NO_X allowance system.

(d) Permit Requirements.—A NO_X allowance allocation or transfer shall, on recordation by the Administrator, be considered to be a part of each affected facility's operating permit requirements, without a requirement for any further permit review or revision.

(e) New Source Reserve.—

(1) In general.—For a State for which the Administrator distributes NO_X allowances under subsection (a)(5)(D), the Administrator shall place 10 percent of the total annual NO_X allowances of the State in a new source reserve to be distributed by the Administrator—

(A) for calendar years 2002 through 2005, to sources that commence operation after 1998;

(B) for calendar years 2006 through 2011, to sources that commence operation after 2000; and

(C) for calendar year 2012 and each calendar year thereafter, to sources that commence operation after the calendar year that is 5 years previous to the year for which the distribution is made.

(2) Share.—For a State for which the Administrator distributes NO_X allowances under subsection (a)(5)(D), the Administrator shall distribute to each new source a number of NO_X allowances sufficient to allow emissions by the source at a rate equal to the lesser of the new source performance standard or the permitted level for the full nameplate capacity of the source, adjusted pro rata for the number of months of the year during which the source operates.

(3) Unused NO_X allowances.—

(A) In general.—During the period of calendar years 2000 through 2005, the Administrator shall conduct auctions at which a NO_X allowance remaining in the new source reserve that has not been distributed under paragraph (2) shall be offered for sale.

(B) Open auctions.—An auction under subparagraph (A) shall be open to any person.

(C) Conduct of auction.—

(i) Method of bidding.—A person wishing to bid for a NO_X allowance at an auction under subparagraph (A) shall submit (by a date set by the Administrator) to the Administrator (on a sealed bid schedule provided by the Administrator) an offer to purchase a specified number of NO_X allowances at a specified price.

(ii) Sale based on bid price.—A NO_X allowance auctioned under subparagraph (A) shall be sold on the basis of bid price, starting with the highest priced bid and continuing until all NO_X allowances for sale at the auction have been sold.

(iii) No minimum price.—A minimum price shall not be set for the purchase of a NO_X allowance auctioned under subparagraph (A).

(iv) Regulations.—The Administrator, in consultation with the Secretary of the Treasury, shall promulgate a regulation to carry out this paragraph.

(D) Use of NO_X allowances.—A NO_X allowance purchased at an auction under subparagraph (A) may be used for any purpose and at any time after the auction that is permitted for use of a NO_X allowance under this Act.

(E) Proceeds of auction.—The proceeds from an auction under this paragraph shall be distributed to the owner of an affected source in proportion to the number of allowances that the owner would have received but for this subsection.

(f) Nature of NO_X Allowances.—

(1) Not a property right.—A NO_X allowance shall not be considered to be a property right.

(2) Limitation of NO_X allowances.—Notwithstanding any other provision of law, the Administrator may terminate or limit a NO_X allowance.

(g) Prohibitions.—

(1) In general.—After January 1, 2000, it shall be unlawful—

(A) for the owner or operator of an affected facility to operate the affected facility in such a manner that the affected facility emits nitrogen oxides in excess of the amount permitted by the quantity of NO_X allowances held by the designated representative of the affected facility; or

(B) for any person to hold, use, or transfer a NO_X allowance allocated under this Act, except as provided under this Act.

(2) Other emission limitations.—Section 407 of the Clean Air Act (42 U.S.C. 7651f) is repealed.

(3) Time of use.—A NO_X allowance may not be used before the calendar year for which the NO_X allowance is allocated.

(4) Permitting, monitoring, and enforcement.—Nothing in this section affects—

(A) the permitting, monitoring, and enforcement obligations of the Administrator under the Clean Air Act (42 U.S.C. 7401 et seq.); or

(B) the requirements and liabilities of an affected facility under that Act.

(h) Savings Provisions.—Nothing in this section—

(1) affects the application of, or compliance with, the Clean Air Act (42 U.S.C. 7401 et seq.) for an affected facility, including the provisions related to applicable national ambient air quality standards and State implementation plans;

(2) requires a change in, affects, or limits any State law regulating electric utility rates or charges, including prudency review under State law;

(3) affects the application of the Federal Power Act (16 U.S.C. 791a et seq.) or the authority of the Federal Energy Regulatory Commission under that Act; or

(4) interferes with or impairs any program for competitive bidding for power supply in a State in which the Program is established.

SEC. 5. INDUSTRIAL SOURCE MONITORING.

Section 412(a) of the Clean Air Act (42 U.S.C. 7651k(a)) is amended in the first sentence by inserting ", or of any industrial facility with a capacity of 100 or more mmBtu's per hour," after "The owner and operator of any source subject to this title".

SEC. 6. EXCESS EMISSIONS PENALTY.

(a) In General.—

(1) Liability.—The owner or operator of an affected facility that emits nitrogen oxides in any calendar year in excess of the NO_X allowances the owner or operator holds for use for the facility for that year shall be liable for the payment of an excess emissions penalty.

(2) Calculation.—The excess emissions penalty shall be calculated by multiplying $6,000 by the quantity that is equal to—

(A) the quantity of NO_X allowances that would authorize the nitrogen oxides emitted by the facility for the calendar year; minus

(B) the quantity of NO_X allowances that the owner or operator holds for use for the facility for that year.

(3) Overlapping penalties.—A penalty under this section shall not diminish the liability of the owner or operator of an affected facility for any fine, penalty, or assessment against the owner or operator for the same violation under any other provision of law.

(b) Excess Emissions Offset.—

(1) In general.—The owner or operator of an affected facility that emits nitrogen oxide during a calendar year in excess of the NO_X allowances held for the facility for the calendar year shall offset in the following calendar year a quantity of NO_X allowances equal to the number of NO_X allowances that would authorize the excess nitrogen oxides emitted.

(2) Proposed plan.—Not later than 60 days after the end of the year in which excess emissions occur, the owner or operator of an affected facility shall submit to the Administrator and the State in which the affected facility is located a proposed plan to achieve the offset required under paragraph (1).

(3) Condition of permit.—On approval of the proposed plan by the Administrator, as submitted, or as modified or conditioned by the Administrator, the plan shall be considered a condition of the operating permit for the affected facility without further review or revision of the permit.

(c) Penalty Adjustment.—The Administrator shall annually adjust the amount of the penalty specified in subsection (a) to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics.

SEC. 7. SULFUR DIOXIDE ALLOWANCE PROGRAM REVISIONS.

Section 402 of the Clean Air Act (42 U.S.C. 7651a) is amended by striking paragraph (3) and inserting the following:

"(3) Allowance.—The term 'allowance' means an authorization, allocated to an affected unit by the Administrator under this title, to emit, during or after a specified calendar year—

"(A) in the case of allowances allocated for calendar years 1997 through 2004, 1 ton of sulfur dioxide; and

"(B) in the case of allowances allocated for calendar year 2005 and each calendar year thereafter, ½ ton of sulfur dioxide.".

SEC. 8. REGIONAL ECOSYSTEMS.

(a) Report.—

(1) In general.—Not later than December 31, 2002, the Administrator shall submit to Congress a report identifying objectives for scientifically credible environmental indicators, as determined by the Administrator, that are sufficient to protect sensitive ecosystems of the Adirondack Mountains, mid-Appalachian Mountains, Rocky Mountains, and Southern Blue Ridge Mountains and water bodies of the Great Lakes, Lake Champlain, Long Island Sound, and the Chesapeake Bay.

(2) Acid neutralizing capacity.—The report under paragraph (1) shall—

(A) include acid neutralizing capacity as an indicator; and

(B) identify as an objective under paragraph (1) the objective of increasing the proportion of water bodies in sensitive receptor areas with an acid neutralizing capacity greater than zero from the proportion identified in surveys begun in 1984.

(3) UPDATED REPORT.—Not later than December 31, 2008, the Administrator shall submit to Congress a report updating the report under paragraph (1) and assessing the status and trends of various environmental indicators for the regional ecosystems referred to in paragraph (1).

(4) REPORTS UNDER THE NATIONAL ACID PRECIPITATION ASSESSMENT PROGRAM.—The reports under this subsection shall be subject to the requirements applicable to a report under section 103(j)(3)(E) of the Clean Air Act (42 U.S.C. 7403(j)(3)(E)).

(b) REGULATIONS.—

(1) DETERMINATION.—Not later than December 31, 2008, the Administrator shall determine whether emissions reductions under section 4 are sufficient to ensure achievement of the objectives stated in subsection (a)(1).

(2) PROMULGATION.—If the Administrator determines under paragraph (1) that emissions reductions under section 4 are not sufficient to ensure achievement of the objectives identified in subsection (a)(1), the Administrator shall promulgate, not later than 2 years after making the finding, such regulations, including modification of nitrogen oxide and sulfur dioxide allowance allocations or any such measure, as the Administrator determines are necessary to protect the sensitive ecosystems described in subsection (a)(1).

SEC. 9. GENERAL COMPLIANCE WITH OTHER PROVISIONS.

Except as expressly provided in this Act, compliance with this Act shall not exempt or exclude the owner or operator of an affected facility from compliance with any other law.

SEC. 10. MERCURY EMISSION STUDY AND CONTROL.

(a) STUDY AND REPORT.—The Administrator shall—

(1) study the practicality of monitoring mercury emissions from all combustion units that have a capacity equal to or greater than 250 mmBtu's per hour; and

(2) not later than 2 years after the date of enactment of this Act, submit to Congress a report on the results of the study.

(b) REGULATIONS CONCERNING MONITORING.—Not later than 1 year after the date of submission of the report under subsection (a), the Administrator shall promulgate a regulation requiring the reporting of mercury emissions from units that have a capacity equal to or greater than 250 mmBtu's per hour.

(c) EMISSION CONTROLS.—

(1) IN GENERAL.—Not later than 1 year after the commencement of monitoring activities under subsection (b), the Administrator shall promulgate a regulation controlling electric utility and industrial source emissions of mercury.

(2) FACTORS.—The regulation shall take into account technological feasibility, cost, and the projected reduction in levels of mercury emissions that will result from implementation of this Act.

SEC. 11. DEPOSITION RESEARCH BY THE ENVIRONMENTAL PROTECTION AGENCY.

(a) IN GENERAL.—The Administrator shall establish a competitive grant program to fund research related to the effects of nitrogen deposition on sensitive watersheds and coastal estuaries in the Eastern United States.

(b) CHEMISTRY OF LAKES AND STREAMS.—

(1) INITIAL REPORT.—Not later than September 30, 2001, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report on the health and chemistry of lakes and streams of the Adirondacks that were subjects of the report transmitted under section 404 of Public Law 101–549 (commonly known as the "Clean Air Act Amendments of 1990") (104 Stat. 2632).

(2) FOLLOWING REPORT.—Not later than 2 years after the date of the report under paragraph (1), the Administrator shall submit a report updating the information contained in the initial report.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) to carry out subsection (a), $1,000,000 for each of fiscal years 2000 through 2005; and

(2) to carry out subsection (b), $1,000,000 for each of fiscal years 2000, 2001, 2007, and 2008.

By Mr. MOYNIHAN:

S. 173. A bill to amend the Immigration and Nationality Act to revise amendments made by the Illegal Immigration Reform and Immigrant Responsibility Act; to the Committee on the Judiciary.

AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT

Mr. MOYNIHAN. Mr. President, today I rise to introduce a bill that will amend several parts of our existing immigration laws, specifically those that fall under the umbrella of the Immigration and Nationality Act. These changes are aimed at making our immigration laws not only fairer but more efficient.

The first change will amend Section 240(a) of the Immigration and Nationality Act. In 1996, the laws applying to criminal aliens were made overly restrictive. For example, all persons guilty of aggravated felonies—the number of crimes that fall into this category was greatly expanded and made retroactive in 1996—are now ineligible for virtually any form of leniency. This means that many people, who have led exemplary lives for many years, now find themselves deportable for offenses committed decades ago. They are also subject to mandatory detention and have no chance for an immigration judge to evaluate their individual circumstances. This is unfair.

My second change amends Section 240A.(1)(a) of the same act. At present, the Attorney General has the authority to stop the deportation of a lawful resident who has been in this country for seven years. The 1996 changes to the Immigration and Nationality Act now bar this relief for anyone convicted of an aggravated felony. This provision has led to many injustices because of the sheer number of offenses that are now aggravated felonies. I propose that we deny relief only to those who have been convicted of aggravated felonies that carry a penalty of five years or more in prison.

In conjunction with this, I propose that we amend Section 240A(d)(1). This provision says that the time for determining the above seven years residency period stops when an aggravated crime is or was committed. This has barred relief for people with ancient convictions but many good years of citizenship since then. This should be changed so that the countable residence period stops only when formal immigration charges are filed because of the crime and not when the crime is or was committed.

Another of my amendments made the transitional rules permanent governing Section 236(c) of the Immigration and Nationality Act. This section now requires that all criminal aliens be detained from the time of their release on criminal charges until their deportation hearing. This requirement was so harsh and expensive that Congress provided a two-year transition period, ending on October 1998, that allowed immigration judges to use their discretion in evaluating whether or not an individual was a risk of flight or a danger to the community. This discretion should be continued because it is fair and because it will empty our jails of those who will return for their hearings and who pose no threat to our communities.

I also propose that we restore judicial review in deportation cases. The 1996 reforms ostensibly banned criminal aliens from seeking a judicial review of their cases. The courts have reached many different outcomes over this ban and the situation, frankly, is a mess. I believe that criminal aliens should have the right to have their convictions reviewed by a United States circuit court of appeals.

Similiarly, I believe that aliens should have the right to legal counsel when they are faced with removal. The law now provides that an alien is entitled to counsel if he can afford to retain one. In reality, this has created great expense and delay for the Federal government because cases are often continued for lengthy periods while aliens try to find pro bono counsel or counsel they can afford. My bill creates a pilot program in selected Immigration and Nationalization districts where free, expert counsel would be provided to aliens. A study of the impact on overall Department of Justice costs would be required to decide if this program should be extended nationwide.

My last amendments are concerned with who should be admitted to this country. The most objectionable element of our current admission system is the delay—estimated to be five years—for a vitally important family reunion category, part A of the second family-based preference (FS–2A). This category, for admission of spouses and minor children of lawful, permanent residents, is now limited to 114,000 per year. Nuclear families should live together. To obtain more spaces for the FS–2A preference, the diversity lottery visas should be eliminated, freeing 55,000 spaces annually.

Lastly, I believe that the EB–5 preference for investors should be repealed.

The rich should not be able to buy their way into this country. This category was added in 1990 to encourage investment. Instead, this provision has led to the creation of some highly questionable investment schemes that have cost the Immigration and Naturalization Service untold hours and resources in attempting to reign them in. Moreover, the evidence of new jobs being created is very thin and not worth the administrative costs.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.

(a) CANCELLATION OF REMOVAL.—

(1) IN GENERAL.—Section 240A(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1229b(a)(3)) is amended to read as follows:

"(3) has not been convicted of any aggravated felony punishable by imprisonment for a period of not less than five years.".

(2) TERMINATION OF CONTINUOUS PERIOD.—Section 240A(d)(1) of that Act (8 U.S.C. 1229b(d)(1)) is amended by striking "or when" and all that follows through "earliest".

(b) CUSTODY RULES.—

(1) IN GENERAL.—Section 236(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(2)) is amended to read as follows:

"(2) RELEASE.—The Attorney General may release an alien described in paragraph (1) only if the alien is an alien described in subparagraph (A)(ii) or (iii) and—

"(A) the alien was lawfully admitted to the United States and satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding; or

"(B) the alien was not lawfully admitted to the United States, cannot be removed because the designated country of removal will not accept the alien, and satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding.".

(2) REPEAL.—Section 303(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is repealed.

(c) JUDICIAL REVIEW.—Section 242(a)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(2)(C)) is amended by striking "no court shall have jurisdiction to review any" and inserting "a court of appeals for the judicial circuit in which a final order of removal was issued shall have jurisdiction to review the".

(d) RIGHT TO COUNSEL.—Section 292 of the Immigration and Nationality Act (8 U.S.C. 1362) is amended—

(1) by striking "In" and inserting "Except as provided in paragraph (2), in"; and

(2) by adding at the end the following:

"(2) In any removal proceedings before an immigration judge and in any appeal proceedings before the Attorney General from any such removal proceedings (in three designated districts), the person concerned shall have the privilege of being represented by court-appointed counsel who shall be paid by the United States and who are authorized to practice in such proceedings, as he shall choose.".

(e) REPEALS.—The following provisions of the Immigration and Nationality Act are repealed:

(1) Section 203(b)(5) (8 U.S.C. 1153(b)(5)).

(2) Section 203(c) (8 U.S.C. 1153(c)).

(3) Section 201(a)(3) and 201(e) (8 U.S.C. 1151(a)(3), 1151(e)).

(4) Section 204(a)(1)(F) and (G) (8 U.S.C. 1154(a)(1)(F) and (G)).

(5) Section 216A (8 U.S.C. 1186b).

By Mr. MOYNIHAN (for himself, Mr. BENNETT, and Mr. DODD):

S. 174. A bill to provide funding for States to correct Y2K problems in computers that are used to administer State and local government programs; to the Committee on Finance.

Y2K STATE AND LOCAL GAP (GOVERNMENT ASSISTANCE PROGRAMS) ACT OF 1999

Mr. MOYNIHAN. Mr. President, I rise today to introduce the "Y2K State and Local Government Assistance Programs (GAP) Act of 1999." I am pleased to have Senators ROBERT F. BENNETT (R–UT) and CHRISTOPHER J. DODD (D–CT), the Chairman and Vice Chairman, respectively, of the Special Committee on the Year 2000 Technology Problem, as original cosponsors of this legislation. This bill provides a matching grant for states to work on the millennium computer problem. While the Federal government and large corporations are expected to have their computers intact on January 1, 2000, state governments lag behind in fixing the problem. Failure of state computers could have a devastating effect on those individuals who rely on essential state-administered poverty programs, such as Medicaid, food stamps, and child welfare and support. These individuals cannot go a day, a week, or a month without these programs working properly. I am hopeful that the bill Senators BENNETT, DODD, and I are introducing today will help states fix their computers, particularly those computers used to administer Federal welfare programs.

It has been almost three years since I asked the Congressional Research Service (CRS) to study and produce a report on the implications of the Y2K problem. CRS issued the report to me with the following comments: "The Year 2000 problem is indeed serious, and fixing it will be costly and time-consuming. The problem deserves the careful and coordinated attention of the Federal government, as well as the private sector, in order to avert major disruptions on January 1, 2000." I wrote the President on July 31, 1996 to relay the findings of CRS and make him aware of this grave problem. In the letter, I warned the president of the "extreme negative economic consequences of the Y2K Time Bomb," and suggested that "a presidential aide be appointed to take responsibility for assuring that all Federal agencies, including the military, be Y2K compliant by January 1, 1999 [leaving a year for 'testing'] and that all commercial and industrial firms doing business with the Federal government must also be compliant by that date."

Since that time, the government has taken some of the necessary steps to combat the millennium bug. The President created the Year 2000 Conversion Council and appointed John Koskinen to head it. The Senate, under the leadership of Chairman BENNETT and Vice Chairman DODD, established the Special Committee on the Y2K problem. And Representative STEPHEN HORN (R–CA) continues to due an excellent job in keeping the government focused on the issue. Thanks in part to the work of these individuals, we have made tremendous progress on the millennium bug. Y2K experts have become optimistic enough to dismiss doomsday predictions of widespread power outages, telephone failures, and grounded jetliners in the U.S. Businesses and Federal agencies that were lagging in their repair work last year have redoubled their efforts in recent months; telephone and electric networks, which are crucial to the operation of almost all large computer systems, are in better-than-expected shape; and technicians have found remarkably few date-related problems with the electronic circuitry in a host of other "day-to-day" devices, from subway cars to elevators.

Mr. Koskinen predicts that the bug's impact will be similar to a powerful winter storm—minor inconveniences for many people and severe, but short-term, disruptions for some communities. I agree with Mr. Koskinen and other Y2K experts. I do not expect the four horsemen, armed with flood and catastrophe, to be riding in on January 1, 2000. But experts agree that state governments are not making sufficient progress in fixing the problem. It is for this reason that Senators BENNETT, DODD, and I are introducing this bill today.

The "Y2K State and Local GAP Act of 1999" provides funding for states to address the Y2K problem. The bill stipulates that certain Federal poverty programs—Medicaid, Temporary Assistance for Needy Families (TANF), Women, Infants, and Children (WIC), food stamps, child support enforcement, child care, and child welfare programs—be listed as priority programs. The people dependent on these programs will be the most adversely affected by the problem if state computers crash. To be eligible for Federal support money, states must submit a plan describing their Y2K development and implementation program. A state that is awarded a grant under this legislation is required to expend $1 for every $2 provided by the Federal government. The matching requirement will give states and local governments incentive to work on their computers. And the numbers indicate that states need a great amount of incentive and help on this issue.

According to a National Association of State Information Resource Executives survey, some states have not yet completed work on any of their critical systems, and those systems responsible for administering poverty programs are a real concern. A November 1998 General Accounting Office (GAO) report found that most of the systems used to administer poverty programs are not ready for the new millennium—84 percent of Medicaid systems, 76 percent of food stamps, and 75 percent of TANF systems were not compliant. Since these programs are administered at the state and local level, it is these computers which ensure that benefit payments are on time and accurate. Given the lack of means of those assisted by the programs, the possible disruption of benefit payments should be a cause for concern—a billion dollars in benefits payments might not be delivered because of the millennial malady.

Historically the fin de siècle has caused quite a stir. Prophets, prelates, monks, mathematicians, and soothsayers warn Anno Domini 2000 will draw the world to its catastrophic conclusion. I am confident that the Y2K problem will not play a part in this. But we must continue to work on this problem with purpose and dedication. Disraeli wrote: "Man is not the creature of circumstances. Circumstances are the creatures of men." We created the Y2K problem and we must fix it.

Mr. President, I ask unanimous consent that the Y2K State and Local Government Assistance Programs Act of 1999 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Y2K State and Local GAP (Government Assistance Programs) Act of 1999".

SEC. 2. DEFINITIONS.

In this Act:

(1) WELFARE PROGRAMS.—The welfare programs are as follows:

(A) TANF.—The State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(B) MEDICAID.—The program of medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(C) FOOD STAMPS.—The food stamp program, as defined in section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)).

(D) WIC.—The program of assistance under the special supplemental nutrition program for women, infants and children (WIC) under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(E) CHILD SUPPORT ENFORCEMENT.—The child support and paternity establishment program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

(F) CHILD WELFARE.—A child welfare program or a program designed to promote safe and stable families established under subpart 1 or 2 of part B of title IV of the Social Security Act (42 U.S.C. 620 et seq.).

(G) CHILD CARE.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) (including funding provided under section 418 of the Social Security Act (42 U.S.C. 618)).

(2) Y2K.—The term "Y2K compliant" means, with respect to information technology, that the information technology accurately processes (including calculating, comparing, and sequencing) date and time data from, into, and between the 20th and 21st centuries and the years 1999 and 2000, and leap year calculations, to the extent that other information technology properly exchanges date and time data with it.

SEC. 3. GRANTS TO STATES TO MAKE STATE AND LOCAL GOVERNMENT PROGRAMS Y2K COMPLIANT.

(a) AUTHORITY TO AWARD GRANTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Commerce shall award grants in accordance with this section to States for purposes of making grants to assist the States and local governments in making programs administered by the States and local governments Y2K compliant. The Secretary of Commerce shall give priority to grant requests that relate to making Federal welfare programs Y2K compliant.

(2) LIMITATIONS.—

(A) NUMBER OF GRANTS.—No more than 75 grants may be awarded under this section.

(B) PER STATE LIMITATION.—Not more than 2 grants authorized under this section may be awarded per State.

(C) APPLICATION DEADLINE.—45 days after enactment.

(b) APPLICATION.—

(1) IN GENERAL.—A State, through the State Governor's Office, may submit an application for a grant authorized under this section at such time within the constraints of paragraph Sec. 3(a)(2)(C) and in such manner as the Secretary of Commerce may determine.

(2) INFORMATION REQUIRED.—An application for a grant authorized under this section shall contain the following:

(A) A description of a proposed plan for the development and implementation of a Y2K compliance program for the State's programs or for a local government program, including a proposed budget for the plan and a request for a specific funding amount.

(B) A description or identification of a proposed funding source for completion of the plan (if applicable) and maintenance of the system after the conclusion of the period for which the grant is to be awarded.

(c) CONDITIONS FOR APPROVAL OF APPLICATIONS.—

(1) MATCHING REQUIREMENT.—

(A) IN GENERAL.—A State awarded a grant under this section shall expend $1 for every $2 awarded under the grant to carry out the development and implementation of a Y2K compliance program for the State's programs under the proposed plan.

(B) WAIVER FOR HARDSHIP.—The Secretary of Commerce may waive or modify the matching requirement described in subparagraph (A) in the case of any State that the Secretary of Commerce determines would suffer undue hardship as a result of being subject to the requirement.

(C) NON-FEDERAL EXPENDITURES.—

(i) CASH OR IN KIND.—State expenditures required under subparagraph (A) may be in cash or in kind, fairly evaluated, including equipment, or services.

(ii) NO CREDIT FOR PRE-AWARD EXPENDITURES.—Only State expenditures made after a grant has been awarded under this section may be counted for purposes of determining whether the State has satisfied the matching expenditure requirement under subparagraph (A).

(2) CONSIDERATIONS.—In evaluating an application for a grant under this section the Secretary of Commerce shall consider the extent to which the proposed system is feasible and likely to achieve the purposes described in subsection (a)(1).

(d) LENGTH OF AWARDS.—No grant may be awarded under this section for a period of more than 2 years.

(e) AVAILABILITY OF FUNDS.—Funds provided to a State under a grant awarded under this section shall remain available until expended without fiscal year limitation.

(f) REPORTS.—

(1) ANNUAL REPORT FROM GRANTEES.—Each State that is awarded a grant under this section shall submit an annual report to the Secretary of Commerce that contains a description of the ongoing results of the independent evaluation of the plan for, and implementation of, the compliance program funded under the grant.

(2) FINAL REPORT.—Not later than 90 days after the termination of all grants awarded under this section, the Secretary of Commerce shall submit to Congress a final report evaluating the programs funded under such grants.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $40,000,000 for fiscal years 1999 to 2001 funded from the Y2K Emergency Supplemental Funds appropriated in the FY99 Omnibus Act, Public Law 105–277.

By Mr. MOYNIHAN:

S. 175. A bill to repeal the habeas corpus requirement that a Federal court defer to State court judgments and uphold a conviction regardless of whether the Federal court believes that the State court erroneously interpreted constitutional law, except in cases where the Federal court believes that the State court acted in an unreasonable manner; to the Committee on the Judiciary.

HABEAS CORPUS LEGISLATION

Mr. MOYNIHAN. Mr. President, I introduce this bill to repeal an unprecedented provision—unprecedented until the 104th Congress—to tamper with the constitutional protection of habeas corpus.

The provision reads:

> (d) An application for writ of habeas corpus on behalf of a person in custody pursuant to the judgment of State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—
>
> (1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or
>
> (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

In 1996 we enacted a statute which holds that constitutional protections do not exist unless they have been unreasonably violated, an idea that would have confounded the framers. Thus, we introduced a virus that will surely spread throughout our system of laws.

Article I, section 9, clause 2 of the Constitution stipulates, "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."

We are mightily and properly concerned about the public safety, which is why we enacted the counter-terrorism bill. But we have not been invaded, Mr. President, and the only rebellion at hand appears to be against the Constitution itself. We are dealing here, sir, with a fundamental provision of law, one of those essential civil liberties which precede and are the basis of political liberties.

The writ of habeas corpus is often referred to as the "Great Writ of Liberty." William Blackstone (1723–80) called it "the most celebrated writ in English law, and the great and efficacious writ in all manner of illegal imprisonment."

I repeat what I have said previously here on the Senate floor: If I had to choose between living in a country with habeas corpus but without free elections, or a country with free elections but without habeas corpus, I would choose habeas corpus every time. To say again, this is one of the fundamental civil liberties on which every democratic society of the world has built political liberties that have come subsequently.

I make the point that the abuse of habeas corpus—appeals of capital sentences—is hugely overstated. A 1995 study by the Department of Justice's Bureau of Justice Statistics determined that habeas corpus appeals by death row inmates constitute 1 percent of all Federal habeas filings. Total habeas filings make up 4 percent of the caseload of Federal district courts. And most Federal habeas petitions are disposed of in less than 1 year. The serious delays occur in State courts, which take an average of 5 years to dispose of habeas petitions. If there is delay, the delay is with the State courts.

It is troubling that Congress has undertaken to tamper with the Great Writ in a bill designed to respond to the tragic circumstances of the Oklahoma City bombing 1995. Habeas corpus has little to do with terrorism. The Oklahoma City bombing was a Federal crime and has been tried in Federal courts.

Nothing in our present circumstance requires the suspension of habeas corpus, which was the practical effect of the provision in that bill. To require a Federal court to defer to a State court's judgment unless the State court's decision is "unreasonably wrong" effectively precludes Federal review. I find this disorienting.

Anthony Lewis has written of the habeas provision in that bill: "It is a new and remarkable concept in law: that mere wrongness in a constitutional decision is not to be noticed." We have agreed to this; to what will we be agreeing next? I restate Mr. Lewis' observation, a person of great experience, long a student of the courts, "It is a new and remarkable concept in law: that mere wrongness in a constitutional decision is not to be noticed." Backward reels the mind.

On December 8, 1995, four former U.S. Attorneys General, two Republicans and two Democrats, all persons with whom I have the honor to be acquainted, Benjamin R. Civiletti, Jr., Edward H. Levi, Nicholas Katzenbach, and Elliot Richardson—I served in administrations with Mr. Levi, Mr. Katzenbach, Mr. Richardson; I have the deepest regard for them—wrote President Clinton. I ask unanimous consent that the full text be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DECEMBER 8, 1995.

Hon. WILLIAM J. CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The habeas corpus provisions in the Senate terrorism bill, which the House will soon take up, are unconstitutional. Though intended in large part to expedite the death penalty review process, the litigation and constitutional rulings will in fact delay and frustrate the imposition of the death penalty. We strongly urge you to communicate to the Congress your resolve and your duty under the constitution, to prevent the enactment of such unconstitutional legislation and the consequent disruption of so critical of part of our criminal punishment system.

The constitutional infirmities reside in three provisions of the legislation: one requiring federal courts to defer to erroneous state court rulings on federal constitutional matters, one imposing time limits which could operate to completely bar any federal habeas corpus review at all, and one to prevent the federal courts from hearing the evidence necessary to decide a federal constitutional question. They violate the Habeas Corpus Suspension Clause, the judicial powers of Article III, and due process. None of these provisions appeared in the bill that you and Senator Biden worked out in the last Congress together with representatives of prosecutors' organizations.

The deference requirement would bar any federal court from granting habeas corpus relief where a state court has misapplied the United States Constitution, unless the constitutional error rose to a level of "unreasonableness." The time-limits provisions set a single period of the filing of both state and federal post-conviction petitions (six months in a capital case and one year in other cases), commencing with the date a state conviction becomes final on direct review. Under these provisions, the entire period could be consumed in the state process, through no fault of the prisoner or counsel, thus creating an absolute bar to the filing of federal habeas corpus petition. Indeed, the period could be consumed before counsel had even been appointed in the state process, so that the inmate would have no notice of the time limit or the fatal consequences of consuming all of it before filing a state petition.

Both of these provisions, by flatly barring federal habeas corpus review under certain circumstances, violate the Constitution's Suspension Clause, which provides: "The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in the case of rebellion or invasion the public safety may require it" (Art. I, Sec. 9, cl. 1). Any doubt as to whether this guarantee applies to persons held in state as well as federal custody was removed by the passage of the Fourteenth Amendment and by the amendment's framers' frequent mention of habeas corpus as one of the privileges and immunities so protected.

The preclusion of access to habeas corpus also violates Due Process. A measure is subject to proscription under the due process clause if it "offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental," as viewed by "historical practice." Medina v. California, 112 S. Ct. 2572, 2577 (1992). Independent federal court review of the constitutionality of state criminal judgments has existed since the founding of the Nation, first by writ of error, and since 1867 by writ of habeas corpus. Nothing else is more deeply rooted in America's legal traditions and conscience. There is no case in which "a state court's incorrect legal determination has ever been allowed to stand because it was reasonable," Justice O'Connor found in Wright v. West, 112 S. Ct. 2482, 2497; "We have always held that federal courts, even on habeas, have an independent obligation to say what the law is." Indeed, Alexander Hamilton argued, in The Federalist No. 84, that the existence of just two protections—habeas corpus and the prohibition against ex post facto laws—obviated the need to add a Bill of Rights to the Constitution.

The deference requirement may also violate the powers granted to the judiciary under Article III. By stripping the federal courts of authority to exercise independent judgment and forcing them to defer to previous judgments made by state courts, the provision runs afoul of the oldest constitutional mission of the federal courts: "the duty . . . to say what the law is." Marbury v. Madison, 5 U.S. (1 Cranch) 137, 177 (1803). Although Congress is free to alter the federal courts' jurisdiction, it cannot order them how to interpret the Constitution, or dictate any outcome in the merits. United States v. Klein, 80 U.S. (13 Wall.) 128 (1871). In 1996, the Supreme Court reiterated that Congress has no power to assign "rubber stamp work" to an Article III court, "Congress may be free to establish a . . . scheme that operates without court participation," the Court said, "but that is a matter quite different from instructing a court automatically to enter a judgment pursuant to a decision the court has not authority to evaluate." Gutierrez de Martinez v. Lamagno, 115 S. Ct 2227, 2234.

Finally, in prohibiting evidentiary hearings where the constitutional issue raised does not go to guilt or innocence, the legislation again violates Due Process. A violation of constitutional rights cannot be judged in a vacuum. The determination of the facts assumes "and importance fully as great as the validity of the substantive rule of law to be applied." Wingo v. Wedding, 418 U.S. 461, 474 (1974).

Prior to 1996, the last time habeas corpus legislation was debated at length in constitutional terms was in 1968. A bill substantially eliminating federal habeas corpus review for state prisoners was defeated because, as Republican Senator Hugh Scott put it at the end of debate, "if Congress tampers with the great writ, its action would have about as much chance of being held constitutional as the celebrated celluloid dog chasing the asbestos cat through hell."

In more recent years, the habeas reform debate has been viewed as a mere adjunct of the debate over the death penalty. But when the Senate took up the terrorism bill this year, Senator Moynihan sought to reconnect with the large framework of constitutional liberties: "If I had to live in a country which had habeas corpus but not free elections," he said, "I would take habeas corpus every time," Senator Chafee noted that his uncle, a Harvard law scholar, has called habeas corpus "the most important human rights provision in the Constitution," With the debate back on constitutional grounds, Senator Biden's amendment to delete the deference requirement nearly passed, with 46 votes.

We respectfully ask that you insist, first and foremost, on the preservation of independent federal review, i.e., on the rejection of any requirement that federal courts defer to state court judgments on federal constitutional questions. We also urge that separate time limits be set for filing federal and state habeas corpus petitions—a modest change which need not interfere with the setting of strict time limits—and that they begin to run only upon the appointment of competent counsel. And we urge that evidentiary hearings be permitted wherever the factual record is deficient on an important constitutional issue. Congress can either fix the constitutional flaws now, or wait through several years of litigation and confusion before being sent back to the drawing board. Ultimately, it is the public's interest in the prompt and fair disposition of criminal cases which will suffer. The passage of an unconstitutional bill helps no one.

We respectfully urge you, as both President and a former professor of constitutional law, to call upon Congress to remedy these flaws before sending the terrorism bill to your desk. We request an opportunity to meet with you personally to discuss this matter so vital to the future of the Republic and the liberties we all hold dear.

Sincerely,

BENJAMIN R. CIVILETTI, Jr.,
Baltimore, MD.
EDWARD H. LEVI,
Chicago, IL.
NICHOLAS DEB. KATZENBACK,
Princeton, NJ.
ELLIOT L. RICHARDSON,
Washington, DC.

Mr. MOYNIHAN. Let me read excerpts from the letter:

> The habeas corpus provisions in the Senate bill * * * are unconstitutional. Though intended in large part to expedite the death penalty review process, the litigation and constitutional rulings will in fact delay and frustrate the imposition of the death penalty * * *
>
> The constitutional infirmities * * * violate the Habeas Corpus Suspension Clause, the judicial powers of Article III, and due process * * *.
>
> * * * A measure is subject to proscription under the due process clause if it "offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental," as viewed by "historical practice."

That language is Medina versus California, a 1992 decision. To continue,

> Independent federal court review of the constitutionality of state criminal judgments has existed since the founding of the Nation, first by writ of error, and since 1867 by writ of habeas corpus.
>
> Nothing else is more deeply rooted in America's legal traditions and conscience. There is no clause in which "a state court's incorrect legal determination has ever been allowed to stand because it was reasonable."

That is Justice O'Connor, in Wright versus West. She goes on, as the attorneys general quote: "We have always held that federal courts, even on habeas, have an independent obligation to say what the law is."

If I may interpolate, she is repeating the famous injunction of Justice Marshall in Marbury versus Madison. The attorneys general go on to say,

> Indeed Alexander Hamilton argued, in The Federalist No. 84, that the existence of just two protections—habeas corpus and the prohibition against ex post facto laws—obviated the need to add a Bill of Rights to the Constitution.

The letter from the Attorneys General continues, but that is the gist of it. I might point out that there was, originally, an objection to ratification of the Constitution, with those objecting arguing that there had to be a Bill of Rights added. Madison wisely added one during the first session of the first Congress. But he and Hamilton and Jay, as authors of The "Federalist Papers," argued that with habeas corpus and the prohibition against ex post facto laws in the Constitution, there would be no need even for a Bill of Rights. We are glad that, in the end, we do have one. But their case was surely strong, and it was so felt by the framers.

To cite Justice O'Connor again: "A state court's incorrect legal determination has never been allowed to stand because it was reasonable."

Justice O'Connor went on: "We have always held that Federal courts, even on habeas, have an independent obligation to say what the law is."

Mr. President, we can fix this now. Or, as the Attorneys General state, we can "wait through several years of litigation and confusion before being sent back to the drawing board." I fear that we will not fix it now.

We Americans think of ourselves as a new nation. We are not. Of the countries that existed in 1914, there are only eight which have not had their form of government changed by violence since then, Only the United Kingdom goes back to 1787 when the delegates who drafted our Constitution established this Nation, which continues to exist. In those other nations, sir, a compelling struggle took place, from the middle of the 18th century until the middle of the 19th century, and beyond into the 20th, and even to the end of the 20th in some countries, to establish those basic civil liberties which are the foundation of political liberties and, or those, none is so precious as habeas corpus, the "Great Writ."

Here we are trivializing this treasure, putting in jeopardy a tradition of protection of individual rights by Federal courts that goes back to our earliest foundation. And the virus will spread. Why are we in such a rush to amend our Constitution? Why do we tamper with provisions as profound to our traditions and liberty as habeas corpus? The Federal courts do not complain. It may be that because we have enacted this, there will be some prisoners who are executed sooner than they otherwise would have been. You may take satisfaction in that or not, as you choose, but we have begun to weaken a tenet of justice at the very base of our liberties. The virus will spread.

This is new. It is profoundly disturbing. It is terribly dangerous. If I may have the presumption to join in the judgment of four Attorneys General, Mr. Civiletti, Mr. Levi, Mr. Katzenbach, and Mr. Richardson—and I repeat that I have served in administrations with three of them—this matter is unconstitutional and should be repealed from law.

Seventeen years ago, June 6, 1982, to be precise, I gave the commencement address at St. John University Law School in Brooklyn. I spoke of the proliferation of court-curbing bills at that time. I remarked:

> * * * some people—indeed, a great many people—have decided that they do not agree with the Supreme Court and that they are not satisfied to Debate, Legislate, Litigate.
>
> They have embarked upon an altogether new and I believe quite dangerous course of action. A new triumvirate hierarchy has emerged. Convene (meaning the calling of a constitutional convention), Overrule (the passage of legislation designed to overrule a particular Court ruling, when the Court's ruling was based on an interpretation of the Constitution), and Restrict (to restrict the jurisdiction of certain courts to decide particular kinds of cases).
>
> Perhaps the most pernicious of these is the attempt to restrict courts' jurisdictions, for it is * * * profoundly at odds with our Nation's customs and political philosophy.
>
> It is a commonplace that our democracy is characterized by majority rule and minority rights. Our Constitution vests majority rule in the Congress and the President while the courts protect the rights of the minority.
>
> While the legislature makes the laws, and the executive enforces them, it is the courts that tell us what the laws say and whether they conform to the Constitution.
>
> This notion of judicial review has been part of our heritage for nearly two hundred years. There is not a more famous case in American jurisprudence than Marbury v. Madison and few more famous dicta than Chief Justice Marshall's that "It is emphatically the province and the duty of the judicial department to say what the law is."
>
> But in order for the court to interpret the law, it must decide cases. If it cannot hear certain cases, then it cannot protect certain rights.

We need to deal resolutely with terrorism. And we have. But under the guise of combating terrorism, we have diminished the fundamental civil liberties that Americans have enjoyed for two centuries; therefore the terrorists will have won.

My bill will repeal this dreadful, unconstitutional provision now in public law. I ask unanimous consent that the article entitled "First in Damage to Constitutional Liberties," by Nat Hentoff from the Washington Post of November 16, 1996; and the article entitled "Clinton's Sorriest Record" from the New York Times of October 14, 1996; be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, November 16, 1996]

FIRST IN DAMAGE TO CONSTITUTIONAL LIBERTIES

(By Nat Hentoff)

There have been American presidents to whom the Constitution has been a nuisance to be overruled by any means necessary. In 1798, only seven years after the Bill of Rights was ratified, John Adams triumphantly led Congress in the passage of the Alien and Sedition Acts, which imprisoned a number of journalists and others for bringing the president or Congress into "contempt or disrepute." So much for the First Amendment.

During the Civil War, Abraham Lincoln actually suspended the writ of habeas corpus. Alleged constitutional guarantees of peaceful dissent were swept away during the First World War—with the approval of Woodrow Wilson. For example, there were more than 1,900 prosecutions for anti-war books, newspaper articles, pamphlets and speeches. And Richard Nixon seemed to regard the Bill of Rights as primarily a devilish source of aid to his enemy.

No American president, however, has done so much damage to constitutional liberties as Bill Clinton—often with the consent of Republicans in Congress. But it has been Clinton who had the power and the will to seriously weaken our binding document in ways that were almost entirely ignored by the electorate and the press during the campaign.

Unlike Lincoln, for example, Clinton did a lot more than temporarily suspend habeas corpus. One of his bills that has been enacted into law guts the rights that Thomas Jefferson insisted be included in the Constitution. A state prisoner on death row now has only a year to petition a federal court to review the constitutionality of his trial or sentence. In many previous cases of prisoners eventually freed after years of waiting to be executed, proof of their innocence has been discovered long after the present one year limit.

Moreover, the Clinton administration is—as the ACLU's Laura Murphy recently told the National Law Journal—"the most wiretap-friendly administration in history."

And Clinton ordered the Justice Department to appeal a unanimous 3rd Circuit Court of Appeals decision declaring unconstitutional the Communications Decency Act censoring the Internet, which he signed into law.

There is a chilling insouciance in Clinton's elbowing the Constitution out of the way. He blithely, for instance, has stripped the courts of their power to hear certain kinds of cases. As Anthony Lewis points out in the New York Times, Clinton has denied many people their day in court.

For one example, says Lewis. "The new immigration law * * * takes away the rights of thousands of aliens who may be entitled to legalize their situation under a 1986 statute giving amnesty to illegal aliens." Cases involving as many as 300,000 people who may still qualify for amnesty have been waiting to be decided. All have now been thrown out of court by the new immigration law.

There have been other Clinton revisions of the Constitution, but in sum—as David Boaz of the Cato Institute has accurately put it—Clinton has shown "a breathtaking view of the power of the Federal government, a view directly opposite the meaning of 'civil libertarian.'"

During the campaign there was no mention at all of this breathtaking exercise of federal power over constitutional liberties. None by former senator Bob Dole who has largely been in agreement with this big government approach to constitutional "guarantees." Nor did the press ask the candidates about the Constitution.

Laura Murphy concludes that "both Clinton and Dole are indicative of how far the American people have slipped away from the notions embodied in the Bill of Rights." She omitted the role of the press, which seems focused primarily on that part of the First Amendment that protects the press.

Particularly revealing were the endorsements of Clinton by the New York Times, The Washington Post and the New Republic, among others. In none of them was the president's civil liberties record probed. (The Post did mention the FBI files at the White House.) Other ethical problems were cited, but nothing was mentioned about habeas corpus, court-stripping, lowering the content of the Internet to material suitable for children and the Clinton administration's decided lack of concern for privacy protections of the individual against increasingly advanced government technology.

A revealing footnote to the electorate's ignorance of this subverting of the Constitution is a statement by N. Don Wycliff, editorial page editor of the Chicago Tribune. He tells Newsweek that "people are not engaged in the [political] process because there are no compelling issues driving them to participate. It would be different if we didn't have peace and prosperity."

What more could we possibly want?

[From the New York Times, Oct. 14, 1996]

ABROAD AT HOME; CLINTON'S SORRIEST RECORD

(By Anthony Lewis)

Bill Clinton has not been called to account in this campaign for the worst aspect of his Presidency. That is his appalling record on constitutional rights.

The Clinton years have seen, among other things, a series of measures stripping the courts of their power to protect individuals from official abuse—the power that has been the key to American freedom. There has been nothing like it since the Radical Republicans, after the Civil War, acted to keep the courts from holding the occupation of the South to constitutional standards.

The Republican Congress of the last two years initiated some of the attacks on the courts. But President Clinton did not resist them as other Presidents have. And he proposed some of the measures trampling on constitutional protections.

Much of the worst has happened this year. President Clinton sponsored a counterterrorism bill that became law with a number of repressive features in it. One had nothing to do with terrorism: a provision gutting the power of Federal courts to examine state criminal convictions, on writs of habeas corpus, to make sure there was no violation of constitutional rights.

The Senate might well have moderated the habeas corpus provision if the President had put up a fight. But he broke a promise and gave way.

The counterterrorism law also allows the Government to deport a legally admitted alien, on the ground that he is suspected of a connection to terrorism, without letting him see or challenge the evidence. And it goes back to the McCarthy period by letting the Government designate organizations as "terrorist"—a designation that could have included Nelson Mandela's African National Congress before apartheid gave way to democracy in South Africa.

The immigration bill just passed by Congress has many sections prohibiting review by the courts of decisions by the Immigration and Naturalization Service or the Attorney General. Some of those provisions have drastic retroactive consequences.

For example, Congress in 1986 passed an amnesty bill that allowed many undocumented aliens to legalize their presence in this country. They had to file by a certain date, but a large number said they failed to do so because improper I.N.S. regulations discouraged them.

The Supreme Court held that those who could show they were entitled to amnesty but were put off by the I.N.S. rules could file late. Lawsuits involving thousands of people are pending. But the new immigration law throws all those cases—and individuals—out of court.

Another case, in the courts for years, stems from an attempt to deport a group of Palestinians. Their lawyer sued to block the deportation action; a Federal district judge, Stephen V. Wilson, a Reagan appointee, found that it was an unlawful selective proceeding against people for exercising their constitutional right of free speech. The new immigration law says the courts may not hear such cases.

The immigration law protects the I.N.S. from judicial scrutiny in a broader way. Over the years the courts have barred the service from deliberately discriminatory policies, for example the practice of disallowing virtually all asylum claims by people fleeing persecution in certain countries. The law bars all lawsuits of that kind.

Those are just a few examples of recent incursions on due process of law and other constitutional guarantees. A compelling piece by John Heilemann in this month's issue of Wired, the magazine on the social consequences of the computer revolution, concludes that Mr. Clinton's record on individual rights is "breathtaking in its awfulness." He may be, Mr. Heilemann says, "the worst civil liberties President since Richard Nixon." And even President Nixon did not leave a legacy of court-stripping statutes.

It is by no means clear that Bob Dole would do better. He supported some of the worst legislation in the Senate, as the Gingrich Republicans did in the House

Why? The Soviet threat, which used to be the excuse for shoving the Constitution aside, is gone. Even in the worst days of the Red Scare we did not strip the courts of their protective power. Why are we legislating in panic now? Why, especially, is a lawyer President indifferent to constitutional rights and their protection by the courts?

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF THE REQUIREMENT THAT A FEDERAL COURT DEFER TO A STATE COURT UNLESS THE STATE COURT ACTED IN AN UNREASONABLE MANNER IN HABEAS CORPUS CASES.

(a) REPEAL.—Subsection (d) of section 2254 of title 28, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—Section 2264(b) of title 28, United States Code, is amended by striking ", (d),".

By Mr. MOYNIHAN:

S. 176. A bill to direct the Secretary of the Interior to conduct a study of alternatives for commemorating and interpreting the history of the Harlem Reniassance, and for other purposes; to the Committee on Energy and Natural Resources.

HARLEM RENAISSANCE CULTURAL ZONE ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill to establish a cultural zone commemorating the Harlem Renaissance, one of this country's greatest cultural, literary, and musical movements. Pioneered by W.E.B. Dubois, Alain Locke, and James Weldon Johnson, the Harlem Renaissance was at the forefront of this country's intellectual, literary, and artistic development in the 1920s. Langston Hughes, Zora Neale Hurston, Claude McKay, Countee Cullen, Jean Toomer, and Wallace Thurman were among this movement's most gifted writers. The Harlem Renaissance also included the music of Duke Ellington, the theatrical productions of Eubie Blake and Noble Sissle, and the rich nightlife of the Cotton Club, the Savoy, and Connie's Inn.

This bill empowers the Secretary of the Interior, acting through the National Park Service, to conduct a study to determine how best to memorialize this great movement and to preserve and maintain its rich history. Working and cooperating with the appropriate state and local authorities, I am confident that we can properly recognize and preserve one of this country's foremost cultural, literary, and historical periods.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Harlem Renaissance Cultural Zone Act of 1999".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Harlem Renaissance was the dominant intellectual, literary, and artistic expression of the New Negro Movement of the 1920's;

(2) W.E.B. DuBois, James Weldon Johnson, and Alain Locke planted the seeds of the New Negro Movement, while Langston Hughes, Zora Neal Hurston, Claude McKay, Countee Cullen, Jean Toomer, and Wallace Thurman were among the Movement's most gifted writers; and

(3) the Harlem Renaissance also included the music of Duke Ellington, the theatrical productions of Eubie Blake, and the nightlife of the Cotton Club and the Alhamba theaters.

SEC. 3. STUDY OF ALTERNATIVES FOR CULTURAL ZONE TO COMMEMORATE AND INTERPRET HISTORY OF THE HARLEM RENAISSANCE.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the National Park Service, shall conduct a study of alternatives for commemorating and interpreting the history of the Harlem Renaissance.

(b) MATTERS TO BE CONSIDERED.—The study under subsection (a) shall include—

(1) consideration of the establishment of a new unit of the National Park System;

(2) consideration of the establishment of various appropriate designations for sites relating to the history of the Harlem Renaissance; and

(3) recommendations for cooperative arrangements with State and local governments, historical organizations, and other entities.

(c) STUDY PROCESS.—The Secretary shall—

(1) conduct the study with public involvement and in consultation with State and local officials, scholarly and other interested organizations, and individuals;

(2) complete the study as expeditiously as practicable after the date on which funds are made available; and

(3) on completion of the study, submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings and recommendations of the study.

By Mr. INOUYE:

S. 177. A bill for the relief of Donald C. Pence; to the Committee on Veterans' Affairs.

PRIVATE RELIEF LEGISLATION

Mr. INOUYE. Mr. President, today I am introducing a private relief bill on behalf of Donald C. Pence of Sanford, North Carolina, for compensation for the failure of the Department of Veterans' Affairs to pay dependency and indemnity compensation to Kathryn E. Box, the now deceased mother of Donald C. Pence. It is rare that a federal agency admits a mistake. In this case, the Department of Veterans' Affairs has admitted that a mistake was made and explored ways to permit payment under the law, including equitable relief, but has found no provision to release the remaining benefits that were unpaid to Mrs. Box at the time of her death. My bill would correct this injustice and I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 177

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELIEF OF DONALD C. PENCE.

(a) RELIEF.—The Secretary of the Treasury shall pay, out of any moneys in the Treasury not otherwise appropriated, to Donald C. Pence, of Sanford, North Carolina, the sum of $31,128 in compensation for the failure of the Department of Veterans' Affairs to pay dependency and indemnity compensation to Kathryn E. Box, the now-deceased mother of Donald C. Pence, for the period beginning on July 1, 1990, and ending on March 31, 1993.

(b) LIMITATION ON FEES.—Not more than a total of 10 percent of the payment authorized by subsection (a) shall be paid to or received by agents or attorneys for services rendered in connection with obtaining such payment, any contract to the contrary notwithstanding. Any person who violates this subsection shall be fined not more than $1,000.

By Mr. INOUYE:

S. 178. A bill to amend the Public Health Service Act to provide for the establishment of a National Center for Social Work Research; to the Committee on Health, Education, Labor, and Pensions.

NATIONAL CENTER FOR SOCIAL WORK RESEARCH ACT

Mr. INOUYE. Mr. President, I rise today to introduce legislation to amend the Public Health Service Act for the establishment of a National Center for Social Work Research.

Social workers provide a multitude of health care delivery services throughout America to our children, families, the elderly, and persons suffering from various forms of abuse and neglect.

The purpose of this center is to support and disseminate information with respect to basic and clinical social work research, training, and other programs in patient care, with emphasis on service to underserved and rural populations.

Social work research has grown in size and scope since the 1980's. In 1998, the National Institutes of Mental Health led the way with $17 million in funding for 61 social work research grants. Dr. Pat Ewalt, Dean of the Department of Social Work at the University of Hawaii, is one of the foremost leaders in the field of social work research and has worked diligently to gain recognition of the many important contributions of social work to mental and behavioral health care delivery.

While the Federal Government provides funding for various social work research activities through the National Institutes of Health and other Federal agencies, there presently is no coordination or direction of these critical activities and no overall assessment of needs and opportunities for empirical knowledge development. The establishment of a Center for Social Work Research would result in improved behavioral and mental health care outcomes for our nation's children, families, and elderly, and others.

In order to meet the increasing challenges of bringing cost-effective, research-based, quality health care to all Americans, we must recognize the important contributions of social work researchers to health care delivery and the central role that the Center for Social Work can provide in facilitating this process.

Mr. President, I ask unanimous consent that the text of this bill be printed on the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Center for Social Work Research Act".

SEC. 2 ESTABLISHMENT OF NATIONAL CENTER FOR SOCIAL WORK RESEARCH.

(a) IN GENERAL.—Section 401(b)(2) of the Public Health Service Act (42 U.S.C. 281(b)(2)) is amended by adding at the end the following:

"(F) The National Center for Social Work Research.".

(b) ESTABLISHMENT.—Part E of title IV of the Public Health Service Act (42 U.S.C. 287 et seq.) is amended by adding at the end the following:

"Subpart 5—National Center for Social Work Research

"SEC. 485G. PURPOSE OF CENTER.

"The general purpose of the National Center for Social Work Research (referred to in this subpart as the 'Center') is the conduct and support of, and dissemination of information with respect to basic, clinical, and services social work research, training, and other programs in patient care, including child and family care.

"SEC. 485H. SPECIFIC AUTHORITIES.

"(a) IN GENERAL.—To carry out the purpose described in section 485G, the Director of the Center may provide research training and instruction and establish, in the Center and in other nonprofit institutions, research traineeships and fellowships in the study and investigation of the prevention of disease, health promotion, and the social work care of persons with and families of individuals with acute and chronic illnesses, including child abuse and neglect and child and family care.

"(b) STIPENDS AND ALLOWANCES.—The Director of the Center may provide individuals receiving training and instruction or traineeships or fellowships under subsection (a) with such stipends and allowances (including amounts for travel and subsistence and dependency allowances) as the Director determines necessary.

"(c) GRANTS.—The Director of the Center may make grants to nonprofit institutions to provide training and instruction and traineeships and fellowships under subsection (a).

"SEC. 485I. ADVISORY COUNCIL.

"(a) DUTIES.—

"(1) IN GENERAL.—The Secretary shall establish an advisory council for the Center that shall advise, assist, consult with, and make recommendations to the Secretary and the Director of the Center on matters related to the activities carried out by and through the Center and the policies with respect to such activities.

"(2) GIFTS.—The advisory council for the Center may recommend to the Secretary the acceptance, in accordance with section 231, of conditional gifts for study, investigations, and research and for the acquisition of grounds or construction, equipment, or maintenance of facilities for the Center.

"(3) OTHER DUTIES AND FUNCTIONS.—The advisory council for the Center—

"(A)(i) may make recommendations to the Director of the Center with respect to research to be conducted by the Center;

"(ii) may review applications for grants and cooperative agreements for research or training and recommend for approval applications for projects that demonstrate the probability of making valuable contributions to human knowledge; and

"(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the Center;

"(B) may collect, by correspondence or by personal investigation, information relating to studies that are being carried out in the United States or any other country as to the diseases, disorders, or other aspects of human health with respect to which the Center is concerned and, with the approval of the Director of the Center, make such information available through appropriate publications for the benefit of public and private health entities and health professions personnel and scientists and for the information of the general public; and

"(C) may appoint subcommittees and convene workshops and conferences.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The advisory council shall be composed of the ex officio members described in paragraph (2) and not more than 18 individuals to be appointed by the Secretary under paragraph (3).

"(2) EX OFFICIO MEMBERS.—The ex officio members of the advisory council shall include—

"(A) the Secretary, the Director of NIH, the Director of the Center, the Chief Social Work Officer of the Veterans' Administration, the Assistant Secretary of Defense for Health Affairs, the Associate Director of Prevention Research at the National Institute of Mental Health, and the Director of the Division of Epidemiology and Services Research (or the designees of such officers); and

"(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

"(3) APPOINTED MEMBERS.—The Secretary shall appoint not to exceed 18 individuals to the advisory council, of which—

"(A) not more than two-thirds of such individual shall be appointed from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the Center, and at least 7 such individuals shall be professional social workers who are recognized experts in the area of clinical practice, education, or research; and

"(B) not more than one-third of such individuals shall be appointed from the general public and shall include leaders in fields of public policy, law, health policy, economics, and management.

The Secretary shall make appointments to the advisory council in such a manner as to ensure that the terms of the members do not all expire in the same year.

"(4) COMPENSATION.—Members of the advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The remaining members shall receive, for each day (including travel time) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for an individual at grade GS–18 of the General Schedule.

"(c) TERMS.—

"(1) IN GENERAL.—The term of office of an individual appointed to the advisory council under subsection (b)(3) shall be 4 years, except that any individual appointed to fill a vacancy on the advisory council shall serve for the remainder of the unexpired term. A member may serve after the expiration of the member's term until a successor has been appointed.

"(2) REAPPOINTMENTS.—A member of the advisory council who has been appointed under subsection (b)(3) for a term of 4 years may not be reappointed to the advisory council prior to the expiration of the 2-year period beginning on the date on which the prior term expired.

"(3) VACANCY.—If a vacancy occurs on the advisory council among the members under subsection (b)(3), the Secretary shall make an appointment to fill that vacancy not later than 90 days after the date on which the vacancy occurs.

"(d) CHAIRPERSON.—The chairperson of the advisory council shall be selected by the Secretary from among the members appointed under subsection (b)(3), except that the Secretary may select the Director of the Center to be the chairperson of the advisory council. The term of office of the chairperson shall be 2 years.

"(e) MEETINGS.—The advisory council shall meet at the call of the chairperson or upon the request of the Director of the Center, but not less than 3 times each fiscal year. The location of the meetings of the advisory council shall be subject to the approval of the Director of the Center.

"(f) ADMINISTRATIVE PROVISIONS.—The Director of the Center shall designate a member of the staff of the Center to serve as the executive secretary of the advisory council. The Director of the Center shall make available to the advisory council such staff, information, and other assistance as the council may require to carry out its functions. The Director of the Center shall provide orientation and training for new members of the advisory council to provide such members with such information and training as may be appropriate for their effective participation in the functions of the advisory council.

"(g) COMMENTS AND RECOMMENDATIONS.—The advisory council may prepare, for inclusion in the biennial report under section 485J—

"(1) comments with respect to the activities of the advisory council in the fiscal years for which the report is prepared;

"(2) comments on the progress of the Center in meeting its objectives; and

"(3) recommendations with respect to the future direction and program and policy emphasis of the center.

The advisory council may prepare such additional reports as it may determine appropriate.

"SEC. 485J. BIENNIAL REPORT.

"The Director of the Center, after consultation with the advisory council for the Center, shall prepare for inclusion in the biennial report under section 403, a biennial report that shall consist of a description of the activities of the Center and program policies of the Director of the Center in the fiscal years for which the report is prepared. The Director of the Center may prepare such additional reports as the Director determines appropriate. The Director of the Center shall provide the advisory council of the Center an opportunity for the submission of the written comments described in section 485I(g).".

By Mr. INOUYE:

S. 179. A bill to amend the Public Health Service Act to provide health care practitioners in rural areas with training in preventive health care, including both physical and mental care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

HEALTH CARE TRAINING ACT OF 1999

Mr. INOUYE. Mr. President, I rise today to introduce the Rural Preventive Health Care Training Act of 1999, a bill that responds to the dire need of our rural communities for quality health care and disease prevention programs.

Almost one fourth of Americans live in rural areas and frequently lack access to adequate physical and mental health care. As many as 21 million of the 34 million people living in underserved rural areas are without access to a primary care provider. In areas where providers exist, there are numerous limits to access, such as geography, distance, lack of transportation, and lack of knowledge about available resources. Due to the divesity of rural populations, language and cultural obstacles are often a factor in the access to medical care.

Compound these problems with limited financial resources and many Americans living in rural communities go without vital health care, especially preventive care. Children fail to receive immunizations and routine checkups. Preventable illnesses and injuries occur needlessly and lead to expensive hospitalizations. Early symptoms of emotional problems and substance abuse go undetected and often develop into full blown disorders.

An Institute of Medicine (IOM) report entitled, "Reducing Risks for Mental Disorders: Frontiers for Preventive Intervention Research" highlights the benefits of preventive care for all health problems. Training of health care providers in prevention is crucial in order to meet the demand for care in underserved areas. Currently, rural health care providers face a lack of preventive care training opportunities.

Interdisciplinary preventive training of rural health care providers must be encouraged. Through interdisciplinary training rural health care providers can build a strong foundation from the behavioral, biological and psychological sciences to form the most effective preventive care possible. Interdisciplinary team prevention training will also facilitate both health and mental health clinics sharing single service sites and routine consultation between groups. Emphasizing the mental health disciplines and their servcies as part of the health care team will contribute to the overall health of rural communities.

The Rural Preventive Health Care Training Act of 1999 would implement the risk-reduction model described in the IOM study. This model is based on the identification of risk factors and targets specific interventions for those risk factors.

The human suffering caused by poor health is immeasurable, and places a huge financial burden on communities, families and individuals. By implementing preventive measures to reduce this suffering, the potential psychological and financial savings are enormous.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Preventive Health Care Training Act of 1999".

SEC. 2. PREVENTIVE HEALTH CARE TRAINING.

Part D of title VII of the Public Health Service Act, as amended by the Health Professions Education Partnership Act of 1998, is amended by inserting after section 754 the following:

"SEC. 754A. PREVENTIVE HEALTH CARE TRAINING.

"(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, eligible applicants to enable such applicants to provide preventive health care training, in accordance with subsection (c), to health care practitioners practicing in rural areas. Such training shall, to the extent practicable, include training in health care to prevent both physical and mental disorders before the initial occurrence of such disorders. In carrying out this subsection, the Secretary shall encourage, but may not require, the use of interdisciplinary training project applications.

"(b) LIMITATION.—To be eligible to receive training using assistance provided under subsection (a), a health care practitioner shall be determined by the eligible applicant involved to be practicing, or desiring to practice, in a rural area.

"(c) USE OF ASSISTANCE.—Amounts received under a grant made or contract entered into under this section shall be used—

"(1) to provide student stipends to individuals attending rural community colleges or other institutions that service predominantly rural communities, for the purpose of enabling the individuals to receive preventive health care training;

"(2) to increase staff support at rural community colleges or other institutions that service predominantly rural communities to facilitate the provision of preventive health care training;

"(3) to provide training in appropriate research and program evaluation skills in rural communities;

"(4) to create and implement innovative programs and curricula with a specific prevention component; and

"(5) for other purposes as the Secretary determines to be appropriate.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of fiscal years 2000 through 2002.".

By Mr. INOUYE:

S. 180. A bill to amend title XIX of the Social Security Act to provide for coverage of services provided by nursing school clinics under State Medicare programs; to the Committee on Finance.

NURSING SCHOOL CLINICS ACT OF 1999

Mr. INOUYE. Mr. President, I rise today to introduce the Nursing School Clinics Act of 1999. This measure builds on our concerted efforts to provide access to quality health care for all Americans by offering grants and incentives for nursing schools to establish primary care clinics in underserved areas where additional medical services are most needed. In addition, this measure provides the opportunity for nursing schools to enhance the scope of student training and education by providing firsthand clinical experience in primary care facilities.

Nursing school administered primary care clinics are university or nonprofit entity primary care centers developed primarily in collaboration with university schools of nursing and the communities they serve. These centers are staffed by faculty and staff who are nurse practitioners and public health nurses. Students supplement patient care while receiving preceptorships provided by college of nursing faculty and primary care physicians, often associated with academic institutions, who serve as collaborators with nurse practitioners.

To date, the comprehensive models of care provided by nursing clinics have yielded excellent results including significantly fewer emergency room visits, fewer hospital inpatient days, and less use of specialists, as compared to conventional primary health care. The LaSalle Neighborhood Nursing Center, for example, reported that in 1997, fewer than 0.02 percent of the primary care clients reported hospitalization for asthma; fewer than 4 percent of expectant mothers who enrolled delivered low birth rate infants; and 90 percent of infants and young children were immunized on time. In addition, there was a 50 percent reduction in emergency room visits and a 97 percent overall patient satisfaction rate.

The 1997 Balanced Budget Act (P.L. 105-33) included a provision that, for the first time ever, authorized direct Medicare reimbursement of all nurse practitioners and clinical nurse specialists, regardless of the setting in which services are performed. This provision built upon previous legislation that allowed direct reimbursement to individual nurse practitioners for individual services provided in rural health clinics throughout America. Medicaid is gradually being reformed to incorporate their services more effectively.

This bill reinforces the principle of combining health care delivery in underserved areas with the education of advanced practice nurses. To accomplish these objectives, Title XIX of the Social Security Act would be amended to designate that the services provided in these nursing school clinics are reimbursable under Medicaid. The combination of grants and the provision of Medicaid reimbursement furnishes the incentives and operational resources to establish the clinics.

In order to meet the increasing challenges of bringing cost-effective and quality health care to all Americans, we must consider and debate various proposals, both large and small. Most importantly, we must approach the issue of health care with creativity and determination, ensuring that all reasonable avenues are pursued. Nurses have always been an integral part of health care delivery. The Nursing School Clinics Act of 1999 recognizes the central role they can perform as care givers to the medically underserved.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEDICAID COVERAGE OF SERVICES PROVIDED BY NURSING SCHOOL CLINICS.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) in paragraph (26), by striking "and" at the end;

(2) by redesignating paragraph (27) as paragraph (28); and

(3) by inserting after paragraph (26), the following:

"(27) nursing school clinic services (as defined in subsection (v)) furnished by or under the supervision of a nurse practitioner or a clinical nurse specialist (as defined in section 1861(aa)(5)), whether or not the nurse practitioner or clinical nurse specialist is under the supervision of, or associated with, a physician or other health care provider; and".

(b) NURSING SCHOOL CLINIC SERVICES DEFINED.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following:

"(v) The term 'nursing school clinic services' means services provided by a health care facility operated by an accredited school of nursing which provides primary care, long-term care, mental health counseling, home health counseling, home health care, or other health care services which are within the scope of practice of a registered nurse.".

(c) CONFORMING AMENDMENT.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended in subsection (a)(10)(C)(iv), by inserting "and (27)" after "(24)".

(d) EFFECTIVE DATE.—The amendments made by this Act shall be effective with respect to payments made under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for calendar quarters commencing with the first calendar quarter beginning after the date of enactment of this Act.

By Mr. INOUYE:

S. 181. A bill to amend title XVIII of the Social Security Act to remove the restriction that a professional psychologist or clinical social worker provide services in a comprehensive outpatient rehabilitation facility to a patient only under the care of a physician, and for other purposes; to the Committee on Finance.

AUTONOMOUS FUNCTIONING OF CLINICAL PSYCHOLOGISTS AND SOCIAL WORKERS UNDER MEDICARE COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY PROGRAM

Mr. INOUYE. Mr. President, today I rise to introduce legislation to authorize the autonomous functioning of clinical psychologists and clinical social workers within the Medicare comprehensive outpatient rehabilitation facility program.

In my judgment, it is truly unfortunate that Medicare requires clinical supervision of the services provided by certain health professionals and does not allow these health professionals to function to the full extent of their state practice licenses. It is especially appropriate that those who need the services of outpatient rehabilitation facilities have access to a wide range of social and behavioral science expertise. Clinical psychologists and clinical social workers are recognized as independent providers of mental health care services through the Federal Employee Health Benefits Program, the Civilian Health and Medical Program of the Uniformed Services, the Medicare (Part B) Program, and numerous private insurance plans.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 181

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL OF RESTRICTION THAT A PROFESSIONAL PSYCHOLOGIST OR CLINICAL SOCIAL WORKER PROVIDE SERVICES IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY TO A PATIENT ONLY UNDER THE CARE OF A PHYSICIAN.

(a) IN GENERAL.—Section 1861(cc)(2)(E) of the Social Security Act (42 U.S.C. 1395x(cc)(2)(E)) is amended by inserting before the semicolon "(except with respect to services provided by a professional psychologist or a clinical social worker)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services provided on or after January 1, 2000.

By Mr. INOUYE:

S. 182. A bill to amend title 5, United States Code, to require the issuance of a prisoner-of-war medal to civilian employees of the Federal Government who are forcibly detained or interned by an enemy government or a hostile force under wartime conditions; to the Committee on Governmental Affairs.

ESTABLISHMENT OF A PRISONER OF WAR MEDAL FOR CIVILIAN FEDERAL EMPLOYEES

Mr. INOUYE. Mr. President, all too often we find that our Nation's civilians who have been captured by a hostile government do not receive the recognition they deserve. The bill I introduce today would correct this inequity and establish a prisoner of war medal for civilian employees of the Federal Government.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRISONER-OF-WAR MEDAL FOR CIVILIAN EMPLOYEES OF THE FEDERAL GOVERNMENT.

(a) AUTHORITY TO ISSUE PRISONER-OF-WAR MEDAL.—(1) Subpart A of part III of title 5, United States Code, is amended by inserting after chapter 23 the following new chapter:

"CHAPTER 25—MISCELLANEOUS AWARDS

"Sec.

"2501. Prisoner-of-war medal: issue.

§2501. Prisoner-of-war medal: issue

"(a) The President shall issue a prisoner-of-war medal to any person who, while serving in any capacity as an officer or employee of the Federal Government, was forcibly detained or interned, not as a result of such person's own willful misconduct—

"(1) by an enemy government or its agents, or a hostile force, during a period of war; or

"(2) by a foreign government or its agents, or a hostile force, during a period other than a period of war in which such person was held under circumstances which the President finds to have been comparable to the circumstances under which members of the armed forces have generally been forcibly detained or interned by enemy governments during periods of war.

"(b) The prisoner-of-war medal shall be of appropriate design, with ribbons and appurtenances.

"(c) Not more than one prisoner-of-war medal may be issued to a person under this section or section 1128 of title 10. However, for each succeeding service that would otherwise justify the issuance of such a medal, the President (in the case of service referred to in subsection (a) of this section) or the Secretary concerned (in the case of service referred to in section 1128(a) of title 10) may issue a suitable device to be worn as determined by the President or the Secretary, as the case may be.

"(d) For a person to be eligible for issuance of a prisoner-of-war medal, the person's conduct must have been honorable for the period of captivity which serves as the basis for the issuance.

"(e) If a person dies before the issuance of a prisoner-of-war medal to which he is entitled, the medal may be issued to the person's representative, as designated by the President.

"(f) Under regulations to be prescribed by the President, a prisoner-of-war medal that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was issued may be replaced without charge.

"(g) In this section, the term 'period of war' has the meaning given such term in section 101(11) of title 38.".

(2) The table of chapters at the beginning of part III of such title is amended by inserting after the item relating to chapter 23 the following new item:

"25. Miscellaneous Awards .... 2501".

(b) APPLICABILITY.—Section 2501 of title 5, United States Code, as added by subsection (a), applies with respect to any person who, after April 5, 1917, is forcibly detained or interned as described in subsection (a) of such section.

By Mr. INOUYE:

S. 183. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary and exchange stores; to the Committee on Armed Services.

USE OF DEPARTMENT OF DEFENSE COMMISSARY AND EXCHANGE STORES

Mr. INOUYE. Mr. President, I rise today to introduce legislation to enable former prisoners of war who have been separated honorably from their respective services and who have been rated to have at least a 30 percent service-connected disability to have the use of both military commissary and post exchange privileges. While I realize it is impossible to adequately compensate one who has endured long periods of incarceration at the hands of our Nation's enemies, I do feel that this gesture is both meaningful and important to those concerned. It also serves as a reminder that our Nation has not forgotten their sacrifices.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 183

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF COMMISSARY AND EXCHANGE STORES BY CERTAIN DISABLED FORMER PRISONERS OF WAR.

(a) IN GENERAL.—Chapter 54 of title 10, United States Code, is amended by inserting after section 1064 the following new section:

"§ 1064a. Use of commissary stores by certain disabled former prisoners of war

"(a) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, former prisoners of war described in subsection (b) may use commissary and exchange stores.

"(b) COVERED INDIVIDUALS.—Subsection (a) applies to any former prisoner of war who—

"(1) is separated from active duty in the armed forces under honorable conditions; and

"(2) has a service-connected disability rated by the Secretary of Veterans' Affairs at 30 percent or more.

"(c) DEFINITIONS.—In this section:

"(1) The term 'former prisoner of war' has the meaning given the term in section 101(32) of title 38.

"(2) The term 'service-connected' has the meaning given the term in section 101(16) of title 38.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1064 the following new item:

"1064a. Use of commissary stores by certain disabled former prisoners of war.".

By Mr. ASHCROFT (for himself, Mr. DASCHLE, Mr. BAUCUS, Mr. BURNS, Mr. BROWNBACK, Mr. GRASSLEY, and Mr. INHOFE):

S. 185. A bill to establish a Chief Agricultural Negotiator in the Office of the United States Trade Representative; to the Committee on Finance.

CHIEF AGRICULTURAL NEGOTIATOR

Mr. ASHCROFT. Mr. President, I rise today to introduce a bill with the Democratic Minority Leader, Senator DASCHLE, that would ensure that our nation's farmers and ranchers have a permanent trade ambassador. Our farmers need a representative in the Office of the U.S. Trade Representative that will focus solely on opening foreign markets and ensuring a level playing field for U.S. agricultural products and services.

In September 1998, American farmers and ranchers faced the first-ever monthly trade deficit for U.S. farm and food products since the United States began tracking trade data in 1941. This sounds the alarm for a state like Missouri that receives over one-fourth of its farm income from agricultural exports.

When I'm thinking about what is good for the nation's agricultural policy, I ask, "What is good for Missouri?" That's because Missouri is a leader in farming. Missouri is the No. 2 State in the number of farms we have—second only to Texas. We have just about every crop imaginable, and Missourians are the nation's top producers in many of these crops. Missouri is the second leading state for beef cows. Missouri is second in hay production. Missouri is one of the top five pork producing states. And Missouri is among the top ten states for production of rice, cotton, corn, winter wheat, milk, and watermelon.

With 26 percent of their income coming from exports, Missouri farmers need to know that their ability to export will expand over time, rather than become subject to foreign protectionist policies that choke them out of their market share. During the 1966 farm bill debate, in exchange for decreased government payments, our farmers were promised more export opportunities. It is time for us to deliver on this promise.

America's farmers and ranchers need a permanent Ambassador who will represent their interests worldwide, especially as we face more negotiations in the World Trade Organization and regional negotiations with Central and South America. There are a lot of opportunities that could be opened up to our farmers and ranchers in the coming years.

Currently, Mr. Peter Scher serves as a Special Negotiator for Agriculture, and he has already been very helpful in taking strong stands for our farmers and ranchers. I want to thank him for his work most recently on getting pork added to the United States' retaliation list against the European Union. Senator KERREY and I, and 40 other senators, initiated a broad, bipartisan effort to make the needs of our pork farmers a priority, and we appreciated the fact that we could work closely with someone whose mission is to serve the interests of our nation's farmers. However, while Ambassador Scher may serve our Nation's farmers and ranchers until the end of the current administration, his position has not been made a permanent position through legislation. Therefore, we are introducing this legislation today because we want to ensure that the Agriculture Ambassador position will transcend administrations.

The Agricultural Ambassador (the Chief Agricultural Negotiator) will be responsible for conducting trade negotiations and enforcing trade agreements relating to U.S. agricultural products and services. Also, under the bill the Chief's Agricultural Negotiator would be a vigorous advocate on behalf of U.S. agricultural interests. It is imperative that U.S. interests always have a strong, clear voice at international negotiations.

Foreign countries will always have agriculture trade barriers—so farmers must always have an ambassador representing their interests. We need to send the message to foreign governments that we are serious about breaking down barriers in their markets—now and in the future.

Our farmers and ranchers need to know that their interests will always have a sure seat at the table for trade negotiations. Canada and Mexico have already concluded free trade arrangements with Chile. Farmers in Canada can send their agricultural products to Chile and, in most instances, face a zero percent tariff level, while U.S. farmers are confronted with an average tariff rate of 11 percent in the same market.

The EU is negotiating a trade deal with Mexico, Chile, Argentina, Brazil, Paraguay, and Uruguay. Thus, these countries will give European farmers lower tariffs and more access to their markets at U.S. farmers' and ranchers' expense. America must lead, not follow—in our back yard and around the world.

The Agriculture Ambassador bill we are introducing today is supported by more than 80 agricultural trade associations. Additionally, State branches of these national associations, such as the Missouri Farm Bureau Federation and the Missouri Pork Producers Council, are weighing in their strong support.

We need to utilize every opportunity we have to help our farmers and ranchers. Making permanent the position of a U.S. Trade Representative for Agriculture will guarantee that the interests of American farmers and ranchers will always have a prominent seat at the negotiating table and will ensure that our agreements are more aggressively enforced.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHIEF AGRICULTURAL NEGOTIATOR.

(a) ESTABLISHMENT OF A POSITION.—There is established the position of Chief Agricultural Negotiator in the Office of the United States Trade Representative. The Chief Agricultural Negotiator shall be appointed by the President, with the rank of Ambassador, by and with the advice and consent of the Senate.

(b) FUNCTIONS.—The primary function of the Chief Agricultural Negotiator shall be to conduct trade negotiations and to enforce trade agreements relating to U.S. agricultural products and services. The Chief Agricultural Negotiator shall be a vigorous advocate on behalf of U.S. agricultural interests. The Chief Agricultural Negotiator shall perform such other functions as the United States Trade Representative may direct.

(c) COMPENSATION.—The Chief Agricultural Negotiator shall be paid at the highest rate of basic pay payable to a member of the Senior Executive Service.

Mr. BURNS. Mr. President, I rise today in support of a bill that will establish a Chief Agricultural Negotiator in the Office of the United States Trade Representative.

As valuable as this position is to our Nation's farmers, I am concerned that it is not statutorily part of the Federal Government that plays a large role in agriculture trade policy. In December, Peter Scher, the current agriculture negotiator was an instrumental player in a United States-Canada trade agreement that addressed many of the inequities as a result of past trade agreements.

Montana's farmers, and many other farmers nationwide, are dependent on this office to provide oversight and redress for NAFTA and other b- and multi-lateral agreements that may have not had U.S. agriculture in mind. I say that with a critical tone as past agreements negotiated by the current administration were focused on high-tech industries, all but ignoring the plight of the American farmer.

The Canadian trade problem in Montana is monumental, however, it is just a small taste of the beginning of our agriculture trade problems with the European Union which has been less than compromising on many issues.

The European Union (EU) unfairly restricts imports of U.S. agricultural products. Breaking down these barriers to trade must be a top priority of the U.S.T.R. American farmers can compete for any market, anywhere in the world, but they must have access to a level playing field.

We currently have an extraordinary number of unresolved trade disputes with the EU, yet the U.S.T.R. continues to seek U.S./EU trade pacts on issues unrelated to agriculture. It is critical that the U.S.T.R.'s agricultural trade negotiator be included in these discussions. Otherwise, we will be forced to react to poor planning and negotiating as we were last month in Canada. In 1996, U.S. agricultural exports reached a record level of $60 billion, compared to a total U.S. merchandise trade deficit of $170 billion the same year. By establishing this position within the U.S.T.R., it is my hope the administration will recognize what America's farmers mean to our Nation's economy.

By Mr. MURKOWSKI (for himself and Mr. GORTON):

S. 186. A bill to provide for the reorganization of the Ninth Circuit Court of Appeals, and for other purposes; to the Committee on the Judiciary.

NINTH CIRCUIT DIVISION

Mr. MURKOWSKI. Mr. President, I am pleased to be joined by my distinguished colleague from Washington. Senator SLADE GORTON, in introducing legislation that will go far in improving the consistency, predictability and coherency of case law in the Ninth Circuit U.S. Court of Appeals.

Our bill, The Federal Ninth Circuit Reorganization Act of 1999, adopts the recommendations of a congressionally-mandated Commission that studied the alignment of the U.S. Court of Appeals. Retired Supreme Court Justice Byron R. White, chaired the scholarly Commission.

The Commission's Report, released last December, calls for a division of the Ninth Circuit into three regionally based adjudicative divisions—the Northern, Middle, and Southern. Each of these regional divisions would maintain a majority of its judges within its region. Each division would have exclusive jurisdiction over appeals from the judicial districts within its region. Further, each division would function as a semi-autonomous decisional unit. To resolve conflicts that may develop between regions, a Circuit Division for Conflict Correction would replace the current limited and ineffective en banc system. Lastly, the Circuit would remain intact as an administrative unit, functioning as it now does.

It is important to note that the Commission adopted the arguments that I and several other Senators have put forth to justify a complete division of he Ninth Circuit—Circuit population, record caseloads, and inconsistency in judicial decisions. However, the Commission rejected an administrative division because it believed it would "deprive the courts now in the Ninth Circuit of the administrative advantages afforded by the present circuit configuration and deprive the West and the Pacific seaboard of a means for maintaining uniform federal law in that area."

While I don't necessarily reach the same conclusion as the Commission (that an administrative division of the Ninth Circuit is not warranted), I strongly agree with the Committee's conclusion that the restructuring of the Ninth Circuit as proposed in the Commission's Report will "increase the consistency and coherence of the law, maximize the likelihood of genuine collegiality, establish an effective procedure for maintaining uniform decisional law within the circuit, and relate the appellate forum more closely to the region it serves."

Mr. President, swift congressional action is needed. One need only look at the contours of the Ninth Circuit to see the need for this reorganization. Stretching from the Arctic Circle to the Mexican border, past the tropics of Hawaii and across the International Dateline to Guam and the Mariana Islands, by any means of measurement, the Ninth Circuit is the largest of all U.S. Circuit Courts of Appeal.

The Ninth Circuit serves a population of more than 49 million people, well over a third more than the next largest circuit. By 2010, the Census Bureau estimates that the Ninth Circuit's population will be more than 63 million—a 40-percent increase in just 13 years, which inevitably will create an even more daunting caseload.

Because of its massive size, there often results a decrease in the ability of judges to keep abreast of legal developments within the Ninth Circuit. This unwieldy caseload creates an inconsistency in Constitutional interpretation. In fact, Ninth Circuit cases have an extraordinarily high reversal rate by the Supreme Court. (During the Supreme Court's 1996–97 session, the Supreme Court overturned 95 percent of the Ninth Circuit cases heard by the Court.) This lack of Constitutional consistency discourages settlements and leads to unnecessary litigation.

Ninth Circuit Judge, Diramuid O'Scannlain described the problem as follows:

> An appellate court must function as a unified body, and it must speak with a unified voice. It must maintain and shape a coherent body of law. . . . As the number of opinions increase, we judges risk losing the ability to keep track of precedents and the ability to know what our circuit's law is. In short, bigger is not better.

The legislation that Senator GORTON and I introduce today is a sensible reorganization of the Ninth Circuit. The Northern Division of the Ninth Circuit would join Alaska, Washington, Oregon, Montana, and Idaho. This proposal reflects legislation I introduced in the last Congress which created a new Twelfth Circuit consisting of the States of the Northwest. Like my previous legislation, the Commission's report will go far in creating regional commonality and greater consistency and dependency in legal decisions.

However, it is my strong suggestion that when the Senate Judiciary Committee conducts hearings on their legislation, certain modifications be closely examined:

1. Elimination of the requirement that judges within a region are required to rotate to other regions of the Circuit;
2. Adjustment of the regional alignments to include Hawaii, the Mariana Islands and the Territory of Guam in the Northern Region; and
3. Shortening the period in which the Federal Judicial Center conducts a study of the effectiveness and efficiency of the Ninth Circuit divisions from 8 years to 3 years.

Mr. President, Congress has waited long enough to correct the problems of the Ninth Circuit. The 49 million residents of the Ninth Circuit are the persons that suffer. Many wait years before cases are heard and decided, prompting many to forego the entire appellate process. The Ninth Circuit has become a circuit where justice is not swift and not always served.

Mr. President, we have known the problem of the Ninth Circuit for a long time. It's time to solve the problem. The Commission's recommendations, as reflected in our legislation, is a good first start. I hope we can resolve this issue this year.

By Mr. SARBANES (for himself, Mr. DODD, Mr. BRYAN, Mr. LEAHY, Mr. EDWARDS, and Mr. HOLLINGS):

S. 187. A bill to give customers notice and choice about how their financial institutions share or sell their personally identifiable sensitive financial information, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

FINANCIAL INFORMATION PRIVACY ACT OF 1999

Mr. SARBANES. Mr. President, I rise today to address a very important issue: the protection of every American's personal, sensitive, financial information that is held by their bank, securities broker-dealer, or insurance company. I am introducing a bill to provide basic financial privacy protections for our citizens. I am pleased that Senators DODD, BRYAN, LEAHY, EDWARDS, and HOLLINGS are joining me in the introduction of the Financial Information Privacy Act of 1999.

This bill seeks to protect a fundamental right of privacy for every American who entrusts his or her highly sensitive and confidential financial information to a financial institution. Every American should know whether the financial institution with which he or she does business undertakes to sell or share that personal sensitive information with anyone else. Every American should know who would be obtaining that information, and why. Every American should have the opportunity to say "no" if he or she does not want that confidential information disclosed. Every American should be allowed to make certain that the information is correct. And these rights should be enforceable.

This bill, Mr. President, would accomplish these objectives.

Few Americans understand that, under current Federal law, a bank, broker, or insurance company may take any information it obtains about a customer through his or her transactions, and sell or transfer that information to a third party. For example, they may sell that information to a direct marketer or another financial institution, or post it on an Internet website without obtaining the customer's consent or even notifying the customer.

The amount of information that can be disclosed is enormous. It includes:

Savings and checking account balances;

certificate of deposit maturity dates and balances;

any check an individual writes;

any check that is deposited into a customer's account;

stock and mutual fund purchases and sales;

life insurance payouts; and

health insurance claims.

Today's technology makes it easier, faster, and less costly than ever for institutions to have immediate access to large amounts of customer information; to analyze that data; and to send that data to others. Banks, securities firms, and insurance companies are increasingly affiliating and "cross-marketing," or selling the products of affiliates to existing customers. This can entail the warehousing of large amounts of highly sensitive customer information and selling it to or sharing it with other companies, for purposes unknown to the customer. While cross-marketing can bring new and beneficial products to receptive consumers, it can also result in unwanted invasions of personal privacy without customers' knowledge.

A June 8, 1998 Business Week commentary entitled "Big Banker May Be Watching You" underscored the potential abuses:

> Suppose that when you retired, your bank started deluging you with mailings for senior services—each tailored to your exact income, health needs, and spending habits. Or your lender slashed your credit-card limit from $20,000 to $500 after you were diagnosed with a serious disease.
>
> Those two Orwellian scenarios may sound far-fetched, but they might not be for long. In the wake of the . . . mad rush by large insurers to acquire thrift charters, consumer advocates are raising valid questions about whether the insurance arms of these new conglomerates will share sensitive medical records with their lending and marketing divisions.

The New York Times in an October 11, 1998 article entitled "Privacy Matters: When Bigger Banks Aren't Better" observed that:

> A growing number of bankers, lawmakers, banking regulators and consumer advocates [are] worried about the potential dark side of the mergers sweeping the financial industry. As banks, brokerage firms and insurance companies combine into huge new conglomerates, and with legislation before Congress to make such mergers even easier, there is increasing concern about the amount of personal financial and medical data that can be collected under one roof.

Surveys show that the public is widely concerned about its privacy. A November 1998 Louis Harris & Associates survey found that 88 percent of consumers are concerned about threats to their personal privacy—more than half, 55 percent, are "very concerned." 82 percent of consumers say they have lost all control over how personal information is used by companies and 61 percent do not believe that their rights to privacy as a consumer are adequately protected by law or business practices.

Major corporations have bumped up against privacy concerns when expanding their marketing services. For example, in the last 2 years, some major consumer companies announced that they would share or sell their customers' private data to marketers. When customers learned through newspapers stories what was happening, they complained strongly and the companies abandoned the planned sales of the data.

Citizen groups have recently expressed serious concerns about the privacy implications of banks' amassing large databases to meet proposed regulatory requirements to "know your customers."

The Washington Post in an October 31, 1998 editorial entitled "Privacy Here and Abroad" observed widepsread public concern over privacy, stating:

> Concern over the privacy of personal data is sharpening as the problem appears in more and sometimes unexpected contexts—everything from employer testing of people's genetic predisposition to resale of their online reading habits or their bank records. When the data are medical or financial, everyone but the sellers and resellers seems ready to agree that people should have some measure of control over how and by whom their data will be used.

Congress has protected citizens' privacy on prior occasions. In response to public concerns, Congress passed privacy laws restricting private companies' disclosure of customer information without customer consent, such as in the Cable Communications Policy Act and the Video Privacy Protection Act. Yet while video rentals and cable television selections are prohibited by law from being disclosed, millions of Americans' financial transactions each day have no Federal privacy protection.

Abuses have arisen from the sharing of financial information without a customer's knowledge or permission. For example, the Securities and Exchange Commission (SEC) last year took enforcement action against a large bank that had been giving sensitive customer financial information, including lists of customers with maturing certificates of deposit, to an affiliated stock broker. The SEC found the bank and the broker's employees "blurred the distinction between the bank and the broker dealer" and the broker's sales representatives "used materially false and misleading sales practices" which "culminated in unsuitable purchases by investors." The SEC found many of the targeted bank customers were elderly.

Many groups have voiced support for legislative consumer financial privacy protections. The American Association of Retired Persons (AARP) submitted testimony to the Senate Banking Committee expressing concern about the vulnerability of citizens, particularly the elderly, and saying that:

> AARP supports the principle that consumers should have a voice in the use of their personal financial information. Currently, banks freely share information about their customers' insured deposit accounts with their uninsured, non-banking affiliates. Brokerage affiliates routinely solicit bank customers based upon this information. This not only blurs the line between banking and non-banking functions, but furthers confuses consumers about which products are insures by the bank, and which are merely sold by the bank's securities affiliate without guarantees. Customers should be given the choice as to whether banks can share information about their accounts with any other entity.

Subsequently, in a letter dated August 25, 1998 with views on H.R. 10, AARP expressed its special concern about older Americans' vulnerability:

> [E]lderly Americans are among those most vulnerable to the complex and fundamental changes already occurring in this period of financial transformation—and they will be put at further risk by the financial mergers permitted by this proposed legislation if the issue of information privacy is not addressed.

In a written statement before the Banking Committee on June 24, 1998, Consumers Union testified,

> As financial services firms diversity and "cross market" an array of financial products, their interest in obtaining information about consumers is on a collision course with consumers' interest in protecting their privacy. . . . We believe legislation should prohibit depository institutions and their affiliates from sharing or disclosing information among affiliates or to third parties without first obtaining the customer's written consent.

A group of seven privacy and consumer groups, representing conservative and liberal orientations, including The Free Congress Research and Education Foundation, Consumers Federation of America, Consumers Union, Electronic Privacy Information Center, Privacy International, Privacy Times, and U.S. Public Interest Research Group, wrote on August 26 1998 to all Senate Banking Committee Members to "sound an urgent alarm about the lack of protections for consumers' financial privacy."

On September 9, 1998, The Washington Post published an editorial, ". . . And a Matter of Privacy," arguing,

> Along with medical records, financial and credit records probably rank among the kinds of personal data Americans most expect will be kept from prying eyes. As with medical data, though, the privacy of even highly sensitive financial data has been increasingly compromised by mergers, electronic data-swapping and the move to an economy in which the selling of other people's personal information is highly profitable—and legal.

The Post editorial concluded that the privacy amendment to last year's proposed financial modernization legislation which I introduced with Senators DODD and BRYAN was "a protection well worth considering, especially in the banking context. As the pace of the much-touted 'information economy' quickens, safeguards against these previous unimagined forms of commerce become ever more important."

The United States now faces pressure from the European Union nations as a result of our lack of privacy protections, in comparison with the ones implemented by the European Union. The European Union Data Protection Directive, which went into effect on October 25, 1998, goes much further than any privacy protections in place in the U.S. The Directive requires that member states protect privacy rights in the collection of data by both the public and private sectors. It prohibits the transfer of data without first obtaining the individual's unambiguous consent regarding the transfer and use of his or her personal financial data.

The EU Directives provides "that the transfer to a third country of personal data . . . may take place only if . . . the third country in question ensures an adequate level of protection." Since the European Union views current U.S. privacy policy as inadequate, U.S. companies that do not provide adequate privacy safeguards may have difficulty conducting business in the EU. The Department of Commerce proposed a safe harbor so that companies which meet certain guidelines would be allowed to conduct business in the EU and send data from the EU to the United States. The EU has not accepted the proposed safe harbor as adequate, and negotiations continue. Meanwhile, U.S. businesses must negotiate private privacy agreements with EU countries or face uncertainties in doing business. Congress by enacting privacy protection legislation could meet the EU standard and thereby solve this problem for American companies.

Unfortunately, industry self-regulation to protect the privacy of information has been tried and, generally, has not worked. Many, if not most, consumers are not informed of plans to sell or share their financial transaction and experience data, are not notified of a right to object, have no access to verify the accuracy of data, and have no independent body to enforce privacy protection. Recent studies by the FTC and the FDIC of on-line Internet privacy protection found self-regulation to be ineffective. Privacy protections for "off-line" transactions are far weaker.

I believe that the protection of the privacy of customers' personal financial information is much too important to ignore any longer. Therefore, I am, along with Senators DODD, BRYAN, LEAHY, EDWARDS, and HOLLINGS, introducing the Financial Information Privacy Act of 1999. This bill would require the Federal banking regulators—the Federal Deposit Insurance Company, Federal Reserve, Office of the Comptroller of the Currency and the Office of Thrift Supervision—and the Securities and Exchange Commission to enact rules to protect the privacy of financial information relating to the customers of the institutions they regulate.

The regulators would define "confidential customer information" in a way that includes balances, maturity dates, transactions, and payouts in savings accounts, certificates of deposit, securities holding and insurance policies. The regulators would require an institution to:

(1) tell its customers what information it will sell or share, and when, to whom and for what purposes it will be sold or shared;

(2) give customers the right to "opt out," which means they can say "no" to the sharing or selling information to affiliates—unless the customer objects, institutions could sell or share customer financial data; and

(3) obtain a customer's informed consent before selling or sharing confidential customer information with an unaffiliated third party.

Under the Act, regulated financial institutions would be required to allow the customer to review the information to be disclosed for accuracy and to correct errors. Also, these institutions could not use confidential customer information obtained from another entity, such as an insurance underwriter, unless that entity had given its customers the same type of privacy protections as the regulated entities had given their customers.

Disclosure of data under several circumstances would be exempted from coverage, including disclosure of information that is not personally identifiable, disclosure necessary to execute the customer's transaction, and other limited purposes. The Federal bank and securities regulators would enforce the regulations.

The bill recognizes the complexity of the subject matter involved. Rather than have Congress micromanage a solution, we would leave it to the regulators with a direction as to the scope and purposes that should be followed. This approach would afford an opportunity for public notice and comment, so all of those affected could present their arguments. The banking and securities regulators would develop the rules to implement these broad principles in the way most appropriate for the industry, balancing the consumer's privacy choice with business' desire to sell or share their customer's sensitive financial information with others.

As we proceed in an age of technological advances and cross-industry marketing of financial services, we need to be mindful of the privacy concerns of the American public. Consumers who wish to keep their sensitive financial information private should be given a right to do so. Congress can and should provide that privacy protection by giving consumers enforceable rights of notice, consent, and access through passage of the Financial Information Privacy Act.

Mr. President, I ask unanimous consent that the full text of the Financial Information Privacy Act of 1999, together with a brief summary of the bill and some newspaper articles be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Financial Information Privacy Act of 1999".

SEC. 2. DEFINITIONS.

In this Act—

(1) the term "covered person" means a person that is subject to the jurisdiction of any of the Federal financial regulatory authorities; and

(2) the term "Federal financial regulatory authorities" means—

(A) each of the Federal banking agencies, as that term is defined in section 3(z) of the Federal Deposit Insurance Act; and

(B) the Securities and Exchange Commission.

SEC. 3. PRIVACY OF CONFIDENTIAL CUSTOMER INFORMATION.

(a) RULEMAKING.—The Federal financial regulatory authorities shall jointly issue final rules to protect the privacy of confidential customer information relating to the customers of covered persons, not later than 270 days after the date of enactment of this Act (and shall issue a notice of proposed rulemaking not later than 150 days after the date of enactment of this Act), which rules shall—

(1) define the term "confidential customer information" to be personally identifiable data that includes transactions, balances, maturity dates, payouts, and payout dates, of—

(A) deposit and trust accounts;

(B) certificates of deposit;

(C) securities holdings; and

(D) insurance policies;

(2) require that a covered person may not disclose or share any confidential customer information to or with any affiliate or agent of that covered person if the customer to whom the information relates has provided written notice, as described in paragraphs (4) and (5), to the covered person prohibiting such disclosure or sharing—

(A) with respect to an individual that became a customer on or after the effective date of such rules, at the time at which the business relationship between the customer and the covered person is initiated and at least annually thereafter; and

(B) with respect to an individual that was a customer before the effective date of such rules, at such time thereafter that provides a reasonable and informed opportunity to the customer to prohibit such disclosure or sharing and at least annually thereafter;

(3) require that a covered person may not disclose or share any confidential customer information to or with any person that is not an affiliate or agent of that covered person unless the covered person has first—

(A) given written notice to the customer to whom the information relates, as described in paragraphs (4) and (5); and

(B) obtained the informed written or electronic consent of that customer for such disclosures or sharing;

(4) require that the covered person provide notices and consent acknowledgments to customers, as required by this section, in separate and easily identifiable and distinguishable form;

(5) require that the covered person provide notice as required by this section to the customer to whom the information relates that describes what specific types of information would be disclosed or shared, and under what general circumstances, to what specific types of businesses or persons, and for what specific types of purposes such information could be disclosed or shared;

(6) require that the customer to whom the information relates be provided with access to the confidential customer information that could be disclosed or shared so that the information may be reviewed for accuracy and corrected or supplemented;

(7) require that, before a covered person may use any confidential customer information provided by a third party that engages, directly or indirectly, in activities that are financial in nature, as determined by the Federal financial regulatory authorities, the covered person shall take reasonable steps to assure that procedures that are substantially similar to those described in paragraphs (2) through (6) have been followed by the provider of the information (or an affiliate or agent of that provider); and

(8) establish a means of examination for compliance and enforcement of such rules and resolving consumer complaints.

(b) LIMITATION.—The rules prescribed pursuant to subsection (a) may not prohibit the release of confidential customer information—

(1) that is essential to processing a specific financial transaction that the customer to whom the information relates has authorized;

(2) to a governmental, regulatory, or self-regulatory authority having jurisdiction over the covered financial entity for examination, compliance, or other authorized purposes;

(3) to a court of competent jurisdiction;

(4) to a consumer reporting agency, as defined in section 603 of the Fair Credit Reporting Act for inclusion in a consumer report that may be released to a third party only for a purpose permissible under section 604 of that Act; or

(5) that is not personally identifiable.

(c) CONSTRUCTION.—Nothing in this section or the rules prescribed under this section shall be construed to amend or alter any provision of the Fair Credit Reporting Act.

[From the Washington Post, September 9, 1998]

. . . AND A MATTER OF PRIVACY

Along with medical records, financial and credit records probably rank among the kinds of personal data Americans most expect will be kept from prying eyes. As with medical data, though, the privacy of even highly sensitive financial data has been increasingly compromised by mergers, electronic data-swapping and the move to an economy in which the selling of other people's personal information is highly profitable—and legal.

Just how much of it is legal in the financial arena, though, is a complicated question. The Senate, struggling with a banking bill, is weighing a proposed amendment that would draw clearer lines. A judge at the Federal Trade Commission, after years of trying to police the sale of credit information to telemarketers, two weeks ago ordered one of the country's largest credit reporting bureaus to stop selling customers' sensitive data to such marketers in violation, the agency said, of the Fair Credit Reporting Act.

The Senate's attention to financial privacy comes in the form of a proposed amendment to a banking deregulation bill, already passed by the House, that would allow banks to merge more freely with the providers of other financial services, such as insurers. Once such institutions can merge, though, under current law they are under no restrictions from sharing even otherwise protected customer information from division to division. (The Fair Credit Reporting Act, which offers some tough not comprehensive protection for credit information, doesn't impose the same restrictions on affiliated institutions.)

For instance, watchdog groups say, if Citibank merges with Travelers Inc. insurance as expected, information about your bank balance or a bounced check could be used to deny you insurance coverage. Conversely, data from a medical exam for insurance coverage could be shared with your bank and used to deny you a loan. Milder possibilities include the use of knowledge about your financial assets being shared with or sold to marketers who wish to target customers of a given income bracket.

An amendment proposed by Sens. Paul Sarbanes and Christopher Dodd is likely to be weighed by the committee marking up the Senate bill this week or next. It would block such possibilities by prohibiting sharing or pooling of data not covered by the Fair Credit Reporting Act—known generally as "experience and transaction data," and including account balances and activity—for any purpose beyond the reason it was collected, unless the customer gives specific permission.

This goes well beyond existing privacy protections, which mostly require that the customer actively "opt out" of such uses—a difficult proposition when the customer probably has not the slightest idea that such swapping and spreading of information is legal to begin with. For that very reason, it's a protection well worth considering, especially in the banking context. As the pace of the much-touted "information economy" quickens, safeguards against these previously unimagined forms of commerce become ever more important.

[From the New York Times, October 11, 1998]

Privacy Matters: When Bigger Banks Aren't Better

(By Leslie Wayne)

Imagine you are being treated for breast cancer, a fact known to your Travelers' insurance agent from your medical tests and insurance forms. Imagine also that you are applying for a mortgage from, say, Citibank, where you've banked for years and which has just merged with Travelers Group. Despite your excellent credit rating, your mortgage is denied by Citibank for reasons that are unclear.

Or suppose you've just inherited lots of money from a relative's life insurance policy and you put the money into your Fleet Bank account. Pretty soon you get a call from a representative of Quick & Reilly, a brokerage firm you have never heard of but which is owned by Fleet. The broker is equipped with surprisingly detailed knowledge of your financial situation—along with a few ideas about how to invest your windfall.

Both situations may be hypothetical but they aren't so far-fetched, according to a growing number of bankers, lawmakers, banking regulators and consumer advocates worried about the potential dark side of the mergers sweeping the financial industry. As banks, brokerage firms and insurance companies combine into huge new conglomerates, and with legislation before Congress to make such mergers even easier, there is increasing concern about the amount of personal financial and medical data that can be collected under one roof.

FEAR OF DISCLOSURE

So far, this privacy debate has centered mainly on the use of patients' medical records, especially by health maintenance organizations. But a new twist has been added as banks have expanded into businesses like securities and insurance sales, both of which involve the collection of a wide range of personal information.

Just last week, Citicorp and Travelers Group completed their $50 billion merger, creating the world's largest financial services conglomerate, with 70 million customers. The new company, Citigroup, has access to a wealth of customer information, including mutual fund accounts, health claims on insurance policies, and credit card, mortgage and car loan balances. Many consumer advocates are worried that such sensitive data can easily be transferred from one part of the company to another and possibly be disclosed to outside parties.

"It is very important for banks to realize the challenge they face in the privacy area is something new, different and more difficult than what they've dealt with before," said Julie Williams, Acting Comptroller of the Currency. "It's in their self-interest to recognize privacy as a customer concern and deal with it successfully or they may be subject to more restrictive controls on the ability to use this information."

Nationsbank, which is acquiring the BankAmerica Corporation, has already run into trouble with customer privacy. The company recently paid nearly $40 million to settle a class-action suit and end a Government investigation after more than 18,000 customers many of them elderly, were sold complex derivative securities that were far too risky for them. Nationbank's brokerage arm had used the bank's customer list to target people to approach, many of whom mistakenly believed that the derivatives were safe and insured. As a result, Nationsbank has imposed new limits on the use of private data.

"Talking to a banker used to be like going to confession or seeing a psychiatrist—we thought the information was protected," said Edmund Mierzwinski, executive director of the U.S. Public Interest Group.

Financial services companies argue that the ability to swap data between one arm and another is a driving force behind many mergers. Banks want to broaden their ability to "cross-market" credit cards to checking deposit customers or sell stocks and bonds to holders of car loans. But bankers say they must be careful to balance this desire to sell new products against the need to maintain the trust of their customers.

"We are very concerned," said Edward Yingling, executive director for government relations at the American Bankers Association. "The key question is, what is the proper balance between appropriate and valuable cross-marketing and invasions of privacy? No one believes medical records should be used for cross-marketing in ways that would be invasive. It's more difficult when financial information can be used to show our customers that other products might be very good for them. That's what everyone has to wrestle with."

PROMISES

Current law allows bank customers to sign "opt out" forms, preventing one part of a bank from giving personal information to another. The Comptroller's office has found, however, that few banks highlight this option. "Most bank customers can't ever recall seeing anything like this," Ms. Williams said.

As part of its merger application to the Federal Reserve Board, Citigroup made a "Global Privacy Promise," which would "provide customers the right to prevent Citigroup from sharing customer information with others, including affiliates, for cross-marketing purposes." Customers will also be given opt-out provisions and Travelers has pledged that it will not share the medical or health information of its insurance customers "for marketing purposes." Consumer advocates like Mr. Mierzwinski say such protections should be a matter of law, and not established case by case.

Senator Christopher J. Dodd, Democrat of Connecticut, has been leading a push in Congress for greater financial privacy restrictions.

"There are hardly any safeguards out there," Mr. Dodd told the Senate Banking Committee last month. "As each year goes by, the vulnerability of the people we represent becomes more exposed. The longer we delay, we are exposing millions to unfair access by people who should not have access."

[From the Washington Post, October 31, 1998]

Privacy Here and Abroad

Concern over the privacy of personal data is sharpening as the problem appears in more and sometimes unexpected contexts—everything from employer testing of people's genetic predispositions to resale of their online reading habits or their bank records. When the data are medical or financial, everyone but the sellers and resellers seems ready to agree that people should have some measure of control over how and by whom their data will be used. But how, other than piece-meal, can such control be established, and what would a more general right to data privacy look like?

One approach very different from that of the United States, as it happens, is about to be thrust upon the consciousness of many American businesses as a European law called the European Union Data Privacy Directive goes into effect. The European directive has drawn attention not only because the European approach to and history on data privacy are sharply different from our own but also because the new directive comes with prohibitions on export that would crimp the options of any company that does business both here and in Europe.

The directive imposes sweeping prohibitions on the use of any personal data without the explicit consent of the person involved, for that purpose only (repeated uses or resale require repeated permission) and also bars companies from exporting any such data to any country not ruled by the EU to have "adequate" privacy protection measures already in place. The Europeans have not ruled the United States "adequate" in this regard—no surprise there—though individual industries may pass muster or fall under special exemptions.

That means, for instance, that multinational companies cannot allow U.S. offices access to personnel data on European employees, and airlines can't swap reservations data without restrictions. More to the point, they can't share or sell the kinds of data on customers that in this country are now routinely treated as another possible income stream. Would such restraints be a boon to customers on these shores too? Or will Americans, as the data companies frequently argue, find instead that they want the convenience and "one-on-one marketing" that this constant dossier-compiling makes possible?

In one early case, a U.S. airline is being sued in Sweden to prevent its compiling and selling a database of, for instance, passengers who requested kosher meals or wheelchair assistance on arrival from transatlantic flights. Do customers want the "convenience" of this kind of tracking, and if not, how might they—we—avoid having it offered? The contrast between systems is a chance to consider which of the many business-as-usual uses of data in this country rise to the level of a privacy violation from which citizens should be shielded by law.

[From Business Week, June 8, 1998]

Big Banker May Be Watching You

(By Dean Foust)

Suppose that when you retired, your bank started deluging you with mailings for senior services—each tailored to your exact income, health needs, and spending habits. Or your lender slashed your credit-card limit from $20,000 to $500 after you were diagnosed with a serious disease.

Those two Orwellian scenarios may sound far-fetched, but they might not be for long. In the wake of the proposed megamerger between Citicorp and Travelers Group Inc. and the mad rush by large insurers to acquire thrift charters, consumer advocates are raising valid questions about whether the insurance arms of these new conglomerates will share sensitive medical records with their lending and marketing divisions.

Critics fear that as the new Citigroup and other planned banking behemoths strain to justify their hefty sticker prices, they'll face increasing pressure to exploit customer data for profit. But if they overstep their bounds, the financial industry "risks a customer backlash that could . . . lead to restrictions on your ability to use previous information resources," warns Acting Comptroller of the Currency Julie L. Williams.

Banking representatives downplay the risks, arguing that lenders would be loath to use health records in the credit process for fear of violating the Americans with Disabilities Act. And at Citicorp, spokesman Jack Morris says that "I don't think we have even thought about" using Travelers' insurance records.

But the biggest justification for creating conglomerates like Citigroup—and the combined Bank of America-NationsBank Corp.—is exactly the synergy from cross-marketing new products. In 1996, bankers lobbied Congress vigorously for changes in the Fair Credit Reporting Act of 1970 that let them share more credit information with affiliates dealing in life insurance, mortgages, and credit cards—much to the chagrin of activists. "We think it's inappropriate for banks to use information in ways that consumers didn't expect," says Susan Grant of the National Consumers League.

BOILERPLATE

Unfortunately, banks sharing data with affiliates are exempt from some of the regulations governing independent credit bureaus. These bureaus are where lenders up till now have turned to determine a borrower's creditworthiness. But while Congress prohibited the credit bureaus from dealing in medical records without a customer's consent, the new financial hybrids are under no such restrictions. And while banks are required to allow customers to opt out of having their data used for other purposes, banks generally do little to alert customers to their rights—often burying it in legal boilerplate.

If financial firms don't want Congress to intervene, they should erect Chinese walls to prevent confidential health records from being used in the marketing or lending process. Otherwise, the extra dollars generated from "synergy" will be diminished by the cost of incurring the public's wrath.

SUMMARY OF FINANCIAL INFORMATION PRIVACY ACT OF 1999

Sec. 1. Short title

The bill will be called the "Financial Information Privacy Act of 1999."

Sec. 2. Definitions

The Act defines "federal financial regulatory authorities" to include the Fed, FDIC, OTS, OCC and SEC, and the term "covered person" to mean persons subject to the regulatory authorities' jurisdictions.

Sec. 3. Privacy of confidential customer information

(A) *Rulemaking.*—The Act requires the Federal Reserve, Federal Deposit Insurance Corporation, Office of Thrift Supervision, Office of the Comptroller of the Currency and Securities and Exchange Commission to promulgate rules within 270 days of the Act's enactment to protect the privacy of financial information relating to the customers of the institutions they regulate.

(1) The regulators will define "confidential customer information," which will include transactions, balances, maturity dates, payouts and payout dates of deposit and trust account, certificates of deposit, securities holdings and insurance policies.

(2) The customers will have the right to prohibit disclosure or sharing confidential customer information with affiliates of the institution (opt-out).

(3) The institutions could not disclose or share confidential customer information with unaffiliated third parties unless the customer has consented to disclosure (opt-in) after receiving notification.

(4) The notices and consent acknowledgments provided to customers must be "in separate and easily identifiable and distinguishable form."

(5) The notices would describe the types of information to be disclosed or shared and under what circumstances, to what types of businesses or persons and for what purposes the information could be disclosed or shared.

(6) Customers must be provided with access to the confidential customer information that could be shared to review for accuracy.

(7) Covered persons cannot use confidential customer information from other sources unless the covered persons have taken reasonable steps to assure that procedures substantially similar to those provided for in the Act have been followed.

(8) The regulators shall establish a means of examination for compliance and enforcement and resolving consumer complaints.

(B) *Limitation.*—The Act contains several exceptions, circumstances under which the privacy protections do not apply. The Act would not prohibit the release of confidential customer information:

(1) that is essential to processing a specific financial transaction that the customer has authorized;

(2) to a government, regulatory or self-regulatory authority with jurisdiction over the financial institution for examination, compliance or other authorized purposes;

(3) to a court of competent jurisdiction;

(4) to a consumer reporting agency for inclusion in a consumer report to be released to a third party for a permissible purpose; or

(5) that is not personally identifiable.

(C) *Construction.*—"Nothing in this section or the rules prescribed under this section shall be construed to amend or alter any provision of the Fair Credit Reporting Act."

Mr. DODD. Mr. President, I rise today with Senator SARBANES to introduce the Financial Information Privacy Act. This important legislation would give customers notice and choice about whether and how their financial institutions share or sell their confidential financial information.

The right to privacy is among the most cherished of our constitutional rights. But this right has been under assault in a number of areas, including with regard to citizens' financial records, medical records, and prescription drug and retail purchases. This bill is an important first step in protecting consumers' most personal, sensitive financial information: their bank account balances, transactions involving their stocks and mutual funds, and payouts on their insurance policies.

This information has become a commodity and is being distributed and sold among businesses all over the world but without the knowledge or consent of the consumers whose very own information is being conveyed.

The sharing of their most sensitive, private financial information has become increasingly prevalent given two key factors: (1) technological advances which facilitate the collection and retrieval of information; and (2) the formation of new, diversified business affiliations, under which companies can more easily access personal data on each other's customers.

In this environment, there are dangers of misuse and abuse of confidential financial information. For instance, we know of instances where, without customer permission, some banks have provided in-house, affiliate brokers with lists of older customers who have maturing CDs. The brokers then solicited these consumers for risky investments, which they mislead the customer to believe were FDIC-insured.

The Financial Information Privacy Act of 1999 would require banks and securities firms to protect the privacy of their customers' financial records. Customers would be given the opportunity to prevent banks and securities firms from disclosing or selling this information to affiliates. Before banks or securities firms could disclose or sell the information to third parties, they would be required to give notice to the customer and obtain the express written permission of the consumer before making any such disclosure.

Last September, Senator SARBANES and I proposed legislation similar to the Financial Information Privacy Act as an amendment to HR 10, the Financial Services Modernization Act. Unfortunately, the amendment was defeated in the Senate Banking Committee by a vote of 8–10 along party lines. I was disappointed by this outcome, but am heartened by comments from my colleagues on both sides of the aisle who acknowledge financial privacy as an important issue. I look forward to working with both Democrats and Republicans on the Senate Banking Committee and other interested members on this critical issue. I urge my colleagues to support this proposal. I thank the Chair.

Mr. LEAHY. Mr. President, I am pleased to join Senator SARBANES in introducing the Financial Information Privacy Act of 1999. Senator SARBANES, along with Senators DODD and BRYAN, have been leaders on the Senate Banking Committee in protecting the privacy of personal financial information.

Mr. President, the right to privacy is a personal and fundamental right protected by the Constitution of the United States. But the American people are growing more and more concerned over encroachments on their personal privacy.

It seems that everywhere we turn, new technologies, new communications media, and new business services created with the best of intentions and highest of expectations also pose a threat to our ability to keep our lives to ourselves, to live, work and think without having giant corporations looking over our shoulders.

This incremental encroachment on our privacy has happened through the lack of safeguards on personal, financial and medical information about each of us that can be stolen, sold or mishandled and find its way into the wrong hands with the push of a button.

Our right of privacy has become one of the most vulnerable rights in the information age. The digitalization of information and the explosion in the growth of computing and electronic networking offer tremendous potential benefits to the way Americans live, work, conduct commerce, and interact with their government. But the new technology also presents new threats to our individual privacy and security, in particular, our ability to control the terms under which our personal information is acquired, disclosed, and used.

In the financial services industry, for example, conglomerates are offering a wide variety of services, each of which requires a customer to provide financial, medical or other personal information. And nothing in the law prevents subsidiaries within the conglomerate from sharing this information for uses other than the use the customer thought he or she was providing it for. In fact, under current Federal law, a financial institution can sell, share, or publish savings account balances, certificates of deposit maturity dates and balances, stock and mutual fund purchases and sales, life insurance payouts and health insurance claims.

Our legislation would protect the privacy of this financial information by directing the Federal Reserve Board, Office of Thrift Supervision, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and the Securities and Exchange Commission to jointly promulgate rules requiring financial institutions they regulate to: (1) inform their customers what information is to be disclosed, and when, to whom and for what purposes the information is to be disclosed; (2) allow customers to review the information for accuracy; and (3) for new customers, obtain the customers' consent to disclosure, and for existing customers, give the customers a reasonable opportunity to object to disclosure. These financial institutions could use confidential customer information from other entities only if the entities had given their customers similar privacy protections.

I hope the Financial Information Privacy Act is just the beginning of this new Congress' efforts to address the privacy issues raised by ultra competitive marketplaces in the information age.

For the past three Congresses, I have introduced comprehensive medical privacy legislation. I plan to soon introduce the Medical Information Privacy and Security Act to establish the first comprehensive federal medical privacy law. It would close the existing gaps in federal privacy laws to ensure the protection of personally identifiable health information. Medical records contain the most intimate, sensitive information about a person and must be safeguarded.

This Congress will also need to consider how our privacy safeguards for personal, financial and medical information measure up to the tough privacy standards established by the European Union Data Protection Directive, which took effect on October 25, 1998. That could be a big problem for American businesses, since the new rules require EU member countries to prohibit the transmission of personal data to or through any non-EU country that fails to provide adequate data protection as defined under European law.

European officials have said repeatedly over the past year that the patchwork of privacy laws in the United States may not meet their standards. Our law is less protective than EU standards in a variety of respects on a range of issues, including requirements to obtain data fairly and lawfully; limitations on the collection of sensitive data; limitations on the purpose of data collection; bans on the collection and storage of unnecessary personal information; requirements regarding data accuracy; limitations regarding duration of storage; and centralized supervision of privacy protections and practices.

The problem is not that Europe protects privacy too much. The problem is our own failure to keep U.S. privacy laws up to date. The EU Directive is an example of the kind of privacy protection that American consumers need and do not have. It has encouraged European companies to develop good privacy techniques. It has produced policies, including policies on cryptography, that are consistent with the interests of both consumers and businesses.

The Financial Information Privacy Act updates U.S. privacy laws in the evolving financial services industry. It calls for fundamental protections of the personal, confidential financial information of all American citizens. I urge my colleagues to support it.

By Mr. WYDEN (for himself and Mr. BURNS):

S. 188. A bill to amend the Federal Water Pollution Control Act to authorize the use of State revolving loan funds for construction of water conservation and quality improvements; to the Committee on Environment and Public Works.

WATER CONSERVATION AND QUALITY INCENTIVES ACT

Mr. WYDEN. Mr. President, twenty-five years after enactment of the Clean Water Act, we still have not achieved the law's original goal that all our nation's lakes, rivers and streams would be safe for fishing and swimming.

After 25 years, it's time for the next generation of strategies to solve our remaining water quality problems. We need to give States new tools to overcome the new water quality challenges they are now facing.

The money that has been invested in controlling water pollution from factories and upgrading sewage treatment plants has gone a long way to controlling these urban pollution sources. In most cases, the remaining water quality problems are no longer caused by pollution spewing out of factory pipes. Instead, they are caused by runoff from a myriad of sources ranging from farm fields to city streets and parking lots.

In my home State of Oregon, more than half of our streams don't fully meet water quality standards. And the largest problems are contamination form runoff and meeting the standards for water temperatures.

In many cases, conventional approaches will not solve these problems. But we can achieve water temperature standards and obtain other water quality benefits by enhancing stream flows and improving runoff controls.

A major problem for many streams in Oregon and in many other areas of the Western United States is that water supplies are fully appropriated or over-appropriated. There is currently no extra water to spare for increased stream flows.

We can't create new water to fill the gap. But we can make more water available for this use through increased water conservation and more efficient use of existing water supplies.

The key to achieving this would be to create incentives to reduce wasteful water use.

In the Western United States, irrigated agriculture is the single largest user of water. Studies indicate that substantial quantities of water diverted for irrigation do not make it to the fields, with a significant portion lost to evaporation or leakage from irrigation canals.

In Oregon and other States that recognize rights to conserved water for those who conserve it, irrigators and other water users could gain rights to use conserved water while also increasing the amount of water available for other uses by implementing conservation and efficiency measures to reduce water loss.

The Federal government can play a role in helping meet our nation's changing water needs. In many Western States, supply problems can be addressed by providing financial incentives to help water users implement cost effective water conservation and efficiency measures consistent with State water law.

And, we can improve water quality throughout the nation by giving greater flexibility to States to use Clean

Water Act funds to control polluted runoff, if that's where the money is needed most.

Today, I am pleased to be joined by my colleague, Senator BURNS, in introducing legislation to authorize the Clean Water State Revolving Fund program to provide loans to water users to fund conservation measures or runoff controls. States would be authorized, but not required, to use their SRF funds for these purposes. Participation by water users, farmers, ranchers and other eligible loan recipients would also be entirely voluntary.

The conservation program would be structured to allow participating users to receive a share of the water saved through conservation or more efficient use, which they could use in accordance with State law. This type of approach would create a win/win situation with more water available for both the conservers and for instream flows. And, by using the SRF program, the Federal seed money would be repaid over time and gradually become available to fund conservation or other measures to solve water quality problems in other areas.

My proposal has the support of the Farm Bureau, Oregon water users, the Environmental Defense Fund and the Oregon Water Trust.

I urge my colleagues to support giving States greater flexibility to use their Clean Water funds for water conservation or runoff control when the State decides that is the best way to solve water quality problems and the water users voluntarily agree to participate.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Water Conservation and Quality Incentives Act”.

SEC. 2. FINDINGS.

Congress finds that—

(1) in many parts of the United States, water supplies are insufficient to meet current or expected future demand during certain times of the year;

(2) a number of factors (including growing populations, increased demands for food and fiber production, and new environmental demands for water) are placing increased demands on existing water supply sources;

(3) increased water conservation, water quality enhancement, and more efficient use of water supplies could help meet increased demands on water sources;

(4) in States that recognize rights to conserved water for persons who conserve it, irrigation suppliers, farmers, ranchers, and other users could gain rights to use conserved water while also increasing the quantity of water available for other beneficial uses by implementing measures to reduce water loss during transport to, or application on, the fields;

(5) reducing the quantity of water lost during transport to the fields and improving water quality can help areas better meet changing population and economic needs; and

(6) the role of the Federal Government in helping meet those changing water needs should be to provide financial assistance to help irrigators, farmers, and ranchers implement practical, cost-effective water quality and conservation measures.

SEC. 3. USE OF STATE REVOLVING LOAN FUNDS FOR WATER CONSERVATION IMPROVEMENTS.

Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended—

(1) in the first sentence of subsection (c)—

(A) by striking “and (3)” and inserting “(3)”; and

(B) by inserting before the period at the end the following: “, (4) for construction of water conservation improvements by eligible recipients under subsection (i)”; and

(2) by adding at the end the following:

“(i) WATER CONSERVATION IMPROVEMENTS.—

“(1) DEFINITION OF ELIGIBLE RECIPIENT.—In this subsection, the term ‘eligible recipient’ means a municipality, quasi-municipality, municipal corporation, special district, conservancy district, irrigation district, water users' association, tribal authority, intermunicipal, interstate, or State agency, nonprofit private organization, a member of such an association, authority, agency, or organization, or a lending institution, located in a State that has enacted laws that—

“(A) provide a water user who invests in a water conservation improvement with a right to use water conserved by the improvement, as allowed by State law;

“(B) provide authority to reserve minimum flows of streams in the State; and

“(C) prohibit transactions that adversely affect existing water rights.

“(2) FINANCIAL ASSISTANCE.—A State may provide financial assistance from its water pollution control revolving fund to an eligible recipient to construct a water conservation improvement, including—

“(A) piping or lining of an irrigation canal;

“(B) wastewater and tailwater recovery or recycling;

“(C) irrigation scheduling;

“(D) water use measurement or metering;

“(E) on-field irrigation efficiency improvements; and

“(F) any other improvement that the State determines will provide water conservation benefits.

“(3) VOLUNTARY PARTICIPATION.—The participation of an eligible recipient in the water conservation improvement shall be voluntary.

“(4) USE OF CONSERVED WATER.—The quantity of water conserved through the water conservation improvement shall be allocated in accordance with applicable State law, including any applicable State law requiring a portion of the conserved water to be used for instream flow enhancement or other conservation purposes.

“(5) LIMITATION ON USE FOR IRRIGATED AGRICULTURE.—Conserved water made available under paragraph (4) shall not be used to irrigate land that has not previously been irrigated unless the use is authorized by State law and will not diminish water quality.”.

SEC. 4. USE OF STATE REVOLVING LOAN FUNDS FOR WATER QUALITY IMPROVEMENTS.

Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) (as amended by section 3) is amended—

(1) in the first sentence of subsection (c), by inserting before the period at the end the following: “, and (5) for construction of water quality improvements or practices by eligible recipients under subsection (j)”; and

(2) by adding at the end the following:

“(j) WATER QUALITY IMPROVEMENTS.—

“(1) DEFINITION OF ELIGIBLE RECIPIENT.—In this subsection, the term ‘eligible recipient’ means a municipality, quasi-municipality, municipal corporation, special district, conservancy district, irrigation district, water users' association or member of such an association, tribal authority, intermunicipal, interstate, or State agency, nonprofit private organization, or lending institution.

“(2) FINANCIAL ASSISTANCE.—A State may provide financial assistance from its water pollution control revolving fund to an eligible recipient to construct or establish water quality improvements or practices that the State determines will provide water quality benefits.

“(3) VOLUNTARY PARTICIPATION.—The participation of an eligible recipient in the water quality improvements or practices shall be voluntary.”.

SEC. 5. CONFORMING AMENDMENTS.

Section 601(a) of the Federal Water Pollution Control Act (33 U.S.C. 1381(a)) is amended—

(1) by striking “and (3)” and inserting “(3)”; and

(2) by inserting before the period at the end the following: “, and (4) for construction of water conservation and quality improvements by eligible recipients under subsections (i) and (j) of section 603”.

By Mr. INOUYE:

S. 189. A bill to restore the traditional day of observance of Memorial Day; to the Committee on the Judiciary.

MEMORIAL DAY

Mr. INOUYE. Mr. President, in our effort to accommodate many Americans by making the last Monday in May, Memorial Day, we have lost sight of the significance of this day to our nation. Instead of using Memorial Day as a time to honor and reflect on the sacrifices made by Americans in combat, many Americans use the day as a celebration of the beginning of summer. My bill would restore Memorial Day to May 30 and authorize our flag to fly at half mast on that day. In addition, this legislation would authorize the President to issue a proclamation designating Memorial Day and Veterans Day as days for prayer and ceremonies honoring American veterans. This legislation would help restore the recognition our veterans deserve for the sacrifices they have made on behalf of our nation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESTORATION OF TRADITIONAL DAY OF OBSERVANCE OF MEMORIAL DAY.

(a) IN GENERAL.—Section 6103(a) of title 5, United States Code, is amended in the item relating to Memorial Day by striking out "the last Monday in May." and inserting in lieu thereof "May 30.".

(b) DISPLAY OF FLAG.—Section 2(d) of the joint resolution entitled "An Act to codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America", approved June 22, 1942 (36 U.S.C. 174(d)), is amended by striking out "the last Monday in May;" and inserting in lieu thereof "May 30;".

(c) PROCLAMATION.—The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe Memorial Day as a day for prayer and ceremonies showing respect for American veterans of wars and other military conflicts.

By Mr. INOUYE:

S. 190. A bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

ON TRAVEL ON MILITARY AIRCRAFT BY VETERANS WITH SERVICE-CONNECTED DISABILITIES

Mr. INOUYE. Mr. President, today I rise to introduce a bill which is of great importance to a group of patriotic Americans. This legislation is designed to extend space-available travel privileges on military aircraft to those who have been completely disabled in the service of our country.

Currently, retired members of the Armed Forces are permitted to travel on a space-available basis on nonscheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command. My bill would provide the same benefits for 100 percent service-connected disabled veterans.

Surely, we owe these heroic men and women, who have given so much to our country, a debt of gratitude. Of course, we can never repay them for the sacrifice they have made on behalf of our nation, but we can surely try to make their lives more pleasant and fulfilling. One way in which we can help is to extend military travel privileges to these distinguished American veterans. I have received numerous letters from all over the country attesting to the importance attesting to this issue by veterans. Therefore, I ask that my colleagues show their concern and join me in saying "thank you" by supporting this legislation.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRAVEL ON MILITARY AIRCRAFT OF CERTAIN DISABLED FORMER MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by adding after section 1060a the following new section:

"§ 1060b. Travel on military aircraft: certain disabled former members of the armed forces

"The Secretary of Defense shall permit any former member of the armed forces who is entitled to compensation under the laws administered by the Secretary of Veterans' Affairs for a service-connected disability rated as total to travel, in the same manner and to the same extent as retired members of the armed forces, on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command. The Secretary of Defense shall permit such travel on a space-available basis.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1060a the following new item:

"1060b. Travel on military aircraft: certain disabled former members of the armed forces.".

By Mr. INOUYE:

S. 191. A bill to require the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II; to the Committee on Armed Services.

FILIPINO VETERANS

Mr. INOUYE. Mr. President, I rise today to introduce legislation that would direct the Secretary of the Army to determine whether certain nationals of the Philippine Islands performed military service on behalf of the United States during World War II.

Mr. President, our Filipino veterans fought side by side and sacrificed their lives on behalf of the United States. This legislation would confirm the validity of their claims and further allow qualified individuals the opportunity to apply for military and veterans benefits to which, I believe, they are entitled. As this population becomes older, it is important for our nation to extend its firm commitment to the Filipino veterans and their families who participated in making us the great nation we are today.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DETERMINATIONS BY THE SECRETARY OF THE ARMY.

(a) IN GENERAL.—Upon the written application of any person who is a national of the Philippine Islands, the Secretary of the Army shall determine whether such person performed any military service in the Philippine Islands in aid of the Armed Forces of the United States during World War II which qualifies such person to receive any military, veterans', or other benefits under the laws of the United States.

(b) INFORMATION TO BE CONSIDERED.—In making a determination for the purpose of subsection (a), the Secretary shall consider all information and evidence (relating to service referred to in subsection (a)) available to the Secretary, including information and evidence submitted by the applicant, if any.

SEC. 2. CERTIFICATE OF SERVICE.

(a) ISSUANCE OF CERTIFICATE OF SERVICE.—The Secretary shall issue a certificate of service to each person determined by the Secretary to have performed military service described in section 1(a).

(b) EFFECT OF CERTIFICATE OF SERVICE.—A certificate of service issued to any person under subsection (a) shall, for the purpose of any law of the United States, conclusively establish the period, nature, and character of the military service described in the certificate.

SEC. 3. APPLICATIONS BY SURVIVORS.

An application submitted by a surviving spouse, child, or parent of a deceased person described in section 1(a) shall be treated as an application submitted by such person.

SEC. 4. LIMITATION PERIOD.

The Secretary may not consider for the purpose of this Act any application received by the Secretary more than two years after the date of enactment of this Act.

SEC. 5. PROSPECTIVE APPLICATION OF DETERMINATIONS BY THE SECRETARY OF THE ARMY.

No benefits shall accrue to any person for any period prior to the date of enactment of this Act as a result of the enactment of this Act.

SEC. 6. REGULATIONS.

The Secretary shall issue regulations to carry out sections 1, 3, and 4.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY OF VETERANS' AFFAIRS.

Any entitlement of a person to receive veterans benefits by reason of this Act shall be administered by the Department of Veterans' Affairs pursuant to regulations issued by the Secretary of Veterans' Affairs.

SEC. 8. DEFINITIONS.

In this Act:

(1) The term "Secretary" means the Secretary of the Army.

(2) The term "World War II" means the period beginning on December 7, 1941, and ending on December 31, 1946.

By Mr. KENNEDY (for himself, Mr. DASCHLE, Mr. LEAHY, Mr. SARBANES, Mr. MOYNIHAN, Mr. LEVIN, Mr. DODD, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. KERRY, Mr. HARKIN, Ms. MIKULSKI, Mr. AKAKA, Mr. WELLSTONE, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. MURRAY, Mr. FEINGOLD, Mr. WYDEN, Mr. DURBIN, Mr. TORRICELLI, Mr. REED, and Mr. SCHUMER):

S. 192. A bill to amend the Fair Labor Standards Act of 1938 to increase the

Federal minimum wage; to the Committee on Health, Education, Labor, and Pensions.

THE FAIR MINIMUM WAGE ACT OF 1999

Mr. KENNEDY. Mr. President, it is an honor to join with Senator DASCHLE and other Democratic Senators to introduce the Fair Minimum Wage Act of 1999. This proposal is strongly supported by President Clinton, and is also being introduced today in the House of Representatives by Congressman DAVID BONIOR, Democratic Leader RICHARD GEPHARDT, and many of their colleagues.

The federal minimum wage is now $5.15 an hour. Our bill will raise it by $1.00 over the next two years—a 50 cent increase on September 1, 1999, and another 50 cent increase on September 1, 2000, so that the minimum wage will reach the level of $6.15 by the turn of the century.

These modest increases will help 20 million workers and their families. Twelve million Americans earning less than $6.15 an hour today will see a direct increase in their pay, and another 8 million Americans earning between $6.15 and $7.15 an hour are also likely to benefit from the increase.

To have the purchasing power it had in 1968, the minimum wage should be at least $7.45 an hour today, instead of the current level of $5.15. The gap shows how far we have fallen short in giving low income workers their fair share of our extraordinary economic prosperity. Since 1968, the stock market, adjusted for inflation, has gone up by over 150 percent—while the purchasing power of the minimum wage has gone down by 30 percent.

The nation's economy is the best it has been in decades. Under the leadership of President Clinton, the country as a whole is enjoying a remarkable period of growth and prosperity. Enterprise and entrepreneurship are flourishing—generating an unprecedented expansion, with impressive efficiencies and significant job creation. The stock market has soared. Inflation is low, unemployment is low, and interest rates are low.

But the benefits of this prosperity have not flowed fairly to minimum wage earners. These workers can barely make ends meet. Working 40 hours a week, 52 weeks a year, they earn $10,712 a year—$2,900 below the poverty line for a family of three. A full day's work should mean a fair day's pay. But for millions of Americans who earn the minimum wage, it doesn't.

According to the Department of Labor, 60% of minimum wage earners are women. Nearly three-fourths are adults. Minimum wage workers are teacher's aides and child care providers, home health care aides and clothing store workers. They care for vast numbers of elderly Americans in nursing homes. They stock shelves in the corner store. They mop the floors and empty the trash in thousands of office buildings in communities across the country.

Three-fifths of these workers are the sole breadwinners in their families. More than half work full time. These families need help. They work hard and they should be treated with dignity. They deserve this increase in the minimum wage.

Opponents typically claim that, if the minimum wage goes up, the sky will fall—small businesses will collapse and jobs will be lost. This hasn't happened in the past, and it won't happen in the future. In fact, in the time that has passed since the most recent increases in the federal minimum wage—a 50-cent increase on October 1, 1996 and a 40-cent increase on September 1, 1997—employment has increased in all sectors of the population.

The American people understand that you can't raise a family on $5.15 an hour. This issue is of vital importance to working families across the country. In the past election, for example, by a margin of 2 to 1, voters in the State of Washington approved a ballot initiative to increase the state minimum wage to $6.50 an hour. In many other states, raising the minimum wage was a potent issue in the election.

The minimum wage is a women's issue. It is a children's issue. It is a civil rights issue. It is a labor issue. It is a family issue. Above all, it is a fairness issue and a dignity issue. I intend to do all I can to see that the minimum wage is increased this year. No one who works for a living should have to live in poverty.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Minimum Wage Act of 1999".

SEC. 2. MINIMUM WAGE INCREASE.

(a) WAGE.—Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than—

"(A) $5.65 an hour during the year beginning on September 1, 1999; and

"(B) $6.15 an hour beginning on September 1, 2000;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on September 1, 1999.

SEC. 3. APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

The provisions of section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

Mr. DODD. Mr. President, today I join a number of my colleagues in introducing legislation to increase the minimum wage. There is no better way to reward work than by ensuring each and every worker be paid a living wage.

During the past three decades, the purchasing power of the minimum wage has declined by 30 percent. Even after the modest minimum wage increase in 1996, a person working full-time for the minimum wage earns only $10,712 a year, nearly $3,000 below the poverty level for a family of three. That paycheck must pay for food, housing, health care, child care, and transportation. It is time to reward working families with living wages.

The legislation we are proposing would provide a modest 50-cent per hour increase this year, with an additional 50-cent increase in 2000, bringing the wage level to $6.15 per hour.

More than 10 million people would be helped by a raise in the minimum wage—an increase of more than $2,000 per year for a full-time worker. To put things in context, nearly three quarters of minimum wage earners are adults and 40 percent are the sole breadwinners for their families. Sixty percent of minimum wage workers are women, and 82 percent of all minimum wage earners work more than 20 hours per week.

Since the last minimum wage increase, our nation's economy has continued to grow steadily. In my home State of Connecticut, members of the State legislature saw the wisdom of increasing the minimum wage, and last year enacted a two-step minimum wage increase. The current level is now $5.65, and effective January 1, 2000, the wage will again increase to $6.15 an hour. Connecticut's unemployment rate is 3.8 percent and almost 60,000 new jobs were created in the last two years. The State is close to recovering nearly all of the 156,000 jobs lost during the recession that hit in the early 1990's.

I hope that Congress will follow Connecticut's lead and pass a similar law before the year is through. Congress should take a stand for millions of working Americans and raise the minimum wage.

By Mrs. BOXER:

S. 193. A bill to apply the same quality and safety standards to domestically manufactured handguns that are currently applied to imported handguns; to the Committee on the Judiciary.

AMERICAN HANDGUN STANDARDS ACT OF 1999

By Mrs. BOXER:

S. 194. A bill to amend the Internal Revenue Code of 1986 to allow the first $2,000 of health insurance premiums to be fully deductible; to the Committee on Finance.

HEALTH INSURANCE TAX RELIEF ACT

By Mrs. BOXER:

S. 195. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit; to the Committee on Finance.

RESEARCH AND EXPERIMENTATION TAX CREDIT

By Mrs. BOXER:

S. 196. A bill to amend the Internal Revenue Code of 1986 to waive in the case of multiemployer plans the section 415 limit on benefits to the participant's average compensation for his high 3 years; to the Committee on Finance.

PENSION IMPROVEMENT LEGISLATION

By Mrs. BOXER:

S. 197. A bill to amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to cease mineral leasing activity on the outer Continental Shelf seaward of a coastal State that has declared a moratorium on mineral exploration, development, or production activity in State water; to the Committee on Energy and Natural Resources.

COASTAL STATES PROTECTION ACT

By Mrs. BOXER:

S. 198. A bill to amend the Public Health Service Act to provide for the training of health professions students with respect to the identification and referral of victims of domestic violence; to the Committee on Health, Education, Labor, and Pensions.

DOMESTIC VIOLENCE IDENTIFICATION AND REFERRAL ACT OF 1999

Mrs. BOXER. Mr. President, I rise today to introduce several important bills that I hope the Senate will consider early in the 106th Congress.

The first bill is the American Handgun Standards Act. This legislation would require that handguns made in the United States meet the same standards currently required of imported handguns. This legislation would halt the sale and manufacture of new "junk guns," which have been found by criminologists to be disproportionately used in crimes.

The next bill is the Health Insurance Tax Deduction. This important legislation would make the costs of health insurance tax deductible for individuals who purchase their own health coverage—up to a maximum of $2,000 per year. Currently health care costs are only deductible for corporations and the self-employed. Current law clearly discriminates against individuals and should be changed.

Also included is legislation to make the Research and Experimentation Tax Credit permanent. Virtually all economists agree that the R&E Tax Credit is a valuable incentive that encourages high-tech companies to develop innovative products. In the past, however, the credit has been enacted intermittently and only for very limited periods of time. The on-again, off-again nature of the R&E Tax Credit makes it very difficult for companies to plan long-term research projects. It should be made permanent.

The next bill would improve our pension system by exempting multi-employer plans from the annual income limits of Section 415 of the Internal Revenue Code. Current law sets pension compensation based on three consecutive years of pay. However, for workers whose income fluctuates from year-to-year, this requirement may lower annual benefits. To ensure fairness for these workers, multi-employer plans should be exempted from Section 415.

Next is the Coastal States Protection Act, which will provide necessary protection for the nation's Outer Continental Shelf (OCS) from the adverse effects of offshore oil and gas development by making management of the federal OCS consistent with state-mandated protection of state waters. Simply put, my bill says that when a state establishes a drilling moratorium on part or all of its coastal waters, that protection would be extended to adjacent federal waters.

The final bill is the Domestic Violence Identification and Referral Act, which would help ensure that medical professionals have the training they need to recognize and treat domestic violence, including spouse abuse, child abuse, and elder abuse. The bill will amend the Public Health Service Act to require the Secretary of Health and Human Services to give preference in awarding grants to institutions that train health professionals in identifying, treating, and referring patients who are victims of domestic violence to appropriate services.

I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Handgun Standards Act of 1999".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Gun Control Act of 1968 prohibited the importation of handguns that failed to meet minimum quality and safety standards;

(2) the Gun Control Act of 1968 did not impose any quality and safety standards on domestically produced handguns;

(3) domestically produced handguns are specifically exempted from oversight by the Consumer Product Safety Commission and are not required to meet any quality and safety standards;

(4) each year—

(A) gunshots kill more than 35,000 Americans and wound approximately 250,000;

(B) approximately 75,000 Americans are hospitalized for the treatment of gunshot wounds;

(C) Americans spend more than $20 billion for the medical treatment of gunshot wounds; and

(D) gun violence costs the United States economy a total of $135 billion;

(5) the disparate treatment of imported handguns and domestically produced handguns has led to the creation of a high-volume market for junk guns, defined as those handguns that fail to meet the quality and safety standards required of imported handguns;

(6) traffic in junk guns constitutes a serious threat to public welfare and to law enforcement officers;

(7) junk guns are used disproportionately in the commission of crimes; and

(8) the domestic manufacture, transfer, and possession of junk guns should be restricted.

SEC. 3. DEFINITION OF JUNK GUN.

Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(35) The term 'junk gun' means any handgun that does not meet the standard imposed on imported handguns as described in section 925(d)(3), and any regulations issued under such section.".

SEC. 4. RESTRICTION ON MANUFACTURE, TRANSFER, AND POSSESSION OF CERTAIN HANDGUNS.

Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

"(z)(1) Subject to paragraph (2), it shall be unlawful for a person to manufacture, transfer, or possess a junk gun that has been shipped or transported in interstate or foreign commerce.

"(2) Paragraph (1) does not apply to—

"(A) the possession or transfer of a junk gun otherwise lawfully possessed under Federal law on the date of the enactment of the American Handgun Standards Act of 1999;

"(B) a firearm or replica of a firearm that has been rendered permanently inoperative;

"(C)(i) the manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State of a department, agency, or political subdivision of a State, of a junk gun; or

"(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a junk gun for law enforcement purposes (whether on or off-duty);

"(D) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a junk gun for the purposes of law enforcement (whether on or off-duty); or

"(E) the manufacture, transfer, or possession of a junk gun by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.".

S. 194

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Insurance Tax Relief Act".

SEC. 2. FIRST $2,000 OF HEALTH INSURANCE PREMIUMS FULLY DEDUCTIBLE.

(a) IN GENERAL.—Subsection (a) of section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended to read as follows:

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction the following amounts not compensated for by insurance or otherwise—

"(1) the amount by which the amount of expenses paid during the taxable year (reduced by the amount deductible under paragraph (2)) for medical care of the taxpayer, the taxpayer's spouse, and the taxpayer's dependents (as defined in section 152) exceeds 7.5 percent of adjusted gross income, plus

"(2) so much of the expenses paid during the taxable year for insurance which constitutes medical care under subsection (d)(1)(D) (other than for a qualified long-term care insurance contract) for such taxpayer, spouse, and dependents as does not exceed $2,000."

(b) Deduction Allowed Whether or Not Taxpayer Itemizes Deduction.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by inserting after paragraph (17) the following new paragraph:

"(18) Health insurance premiums.—The deduction allowed by section 213(a)(2)."

(c) Conforming Amendment.—Section 162(l)(1)(A) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

"(A) In general.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the sum of—

"(i) so much of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents as does not exceed $2,000, plus

"(ii) the applicable percentage of the amount so paid in excess of $2,000."

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

S. 195

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) In General.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) Conforming Amendment.—Paragraph (1) of section 45C(b) of such Code is amended by striking subparagraph (D).

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1999.

S. 196

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415 LIMIT ON BENEFITS.

(a) In General.—Paragraph (11) of section 415(b) of the Internal Revenue Code of 1986 (relating to special limitation rule for governmental plans) is amended—

(1) in the heading, by inserting "AND MULTIEMPLOYER PLANS" after "GOVERNMENTAL PLANS"; and

(2) by inserting "or a multiemployer plan (as defined in section 414(f))" after "governmental plan (as defined in section 414(d))".

(b) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 1999.

S. 197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coastal States Protection Act".

SEC. 2. STATE MORATORIA ON OFFSHORE MINERAL LEASING.

Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

"(p) State Moratoria.—When there is in effect with respect to land beneath navigable water (as defined in section 2 of the Submerged Lands Act (16 U.S.C. 1301)) of a coastal State a moratorium on oil, gas, or other mineral exploration, development, or production activity established by statute or by order of the Governor, the Secretary shall not issue a lease for the exploration, development, or production of minerals on the outer Continental Shelf that is seaward of or adjacent to that land.".

S. 198

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Domestic Violence Identification and Referral Act of 1999".

SEC. 2. ESTABLISHMENT, FOR CERTAIN HEALTH PROFESSIONS PROGRAMS, OF PROVISIONS REGARDING DOMESTIC VIOLENCE.

(a) Title VII Programs; Preferences in Financial Awards.—Section 791 of the Public Health Service Act (42 U.S.C. 295j) is amended by adding at the end the following:

"(c) Preferences Regarding Training in Identification and Referral of Victims of Domestic Violence.—

"(1) In general.—In the case of a health professions entity specified in paragraph (2), the Secretary shall, in making awards of grants or contracts under this title, give preference to any such entity (if otherwise a qualified applicant for the award involved) that has in effect the requirement that, as a condition of receiving a degree or certificate (as applicable) from the entity, each student have had significant training in carrying out the following functions as a provider of health care:

"(A) Identifying victims of domestic violence, and maintaining complete medical records that include documentation of the examination, treatment given, and referrals made, and recording the location and nature of the victim's injuries.

"(B) Examining and treating such victims, within the scope of the health professional's discipline, training, and practice, including, at a minimum, providing medical advice regarding the dynamics and nature of domestic violence.

"(C) Referring the victims to public and nonprofit private entities that provide services for such victims.

"(2) Relevant health professions entities.—For purposes of paragraph (1), a health professions entity specified in this paragraph is any entity that is a school of medicine, a school of osteopathic medicine, a graduate program in mental health practice, a school of nursing (as defined in section 853), a program for the training of physician assistants, or a program for the training of allied health professionals.

"(3) Report to congress.—Not later than 2 years after the date of the enactment of the Domestic Violence Identification and Referral Act of 1999, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report specifying the health professions entities that are receiving preference under paragraph (1); the number of hours of training required by the entities for purposes of such paragraph; the extent of clinical experience so required; and the types of courses through which the training is being provided.

"(4) Definitions.—For purposes of this subsection, the term 'domestic violence' includes behavior commonly referred to as domestic violence, sexual assault, spousal abuse, woman battering, partner abuse, child abuse, elder abuse, and acquaintance rape.".

(b) Title VIII Programs; Preferences in Financial Awards.—Section 806 of the Public Health Service Act is amended by adding at the end the following:

"(i) Preferences Regarding Training in Identification and Referral of Victims of Domestic Violence.—

"(1) In general.—In the case of a health professions entity specified in paragraph (2), the Secretary shall, in making awards of grants or contracts under this title, give preference to any such entity (if otherwise a qualified applicant for the award involved) that has in effect the requirement that, as a condition of receiving a degree or certificate (as applicable) from the entity, each student have had significant training in carrying out the following functions as a provider of health care:

"(A) Identifying victims of domestic violence, and maintaining complete medical records that include documentation of the examination, treatment given, and referrals made, and recording the location and nature of the victim's injuries.

"(B) Examining and treating such victims, within the scope of the health professional's discipline, training, and practice, including, at a minimum, providing medical advice regarding the dynamics and nature of domestic violence.

"(C) Referring the victims to public and nonprofit private entities that provide services for such victims.

"(2) Relevant health professions entities.—For purposes of paragraph (1), a health professions entity specified in this paragraph is any entity that is a school of nursing or other public or nonprofit private entity that is eligible to receive an award described in such paragraph.

"(3) Report to congress.—Not later than 2 years after the date of the enactment of the Domestic Violence Identification and Referral Act of 1999, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report specifying the health professions entities that are receiving preference under paragraph (1); the number of hours of training required by the entities for purposes of such paragraph; the extent of clinical experience so required; and the types of courses through which the training is being provided.

"(4) Definitions.—For purposes of this subsection, the term 'domestic violence' includes behavior commonly referred to as domestic violence, sexual assault, spousal abuse, woman battering, partner abuse, child abuse, elder abuse, and acquaintance rape.".

By Mr. LAUTENBERG (for himself and Mr. TORRICELLI):

S. 199. A bill for the relief of Alexandre Malofienko, Olga Matsko, and their son, Vladimir Malofienko; to the Committee on the Judiciary.

PRIVATE RELIEF BILL

Mr. LAUTENBERG. Mr. President, I rise today to introduce legislation that will help my constituent Vova Malofienko, and his parents, to live a healthy and productive life in the United States.

Tragically, Vova was a victim of the Chernobyl reactor explosion. He has battled Leukemia his whole life. Since his arrival in the United States for cancer treatment in 1992, he and his parents have sought to remain here because the air, food, and water in the Ukraine are still contaminated with radiation and are perilous to those like Vova who have a weakened immune system. Additionally, cancer treatment available in the Ukraine is not as sophisticated as medical care available in the United States.

Although Vova's cancer has gone into remission because of the excellent health care he has received, the seven other children who came to the United States with Vova were not as fortunate. They returned to the Ukraine and they died, one by one, because of inadequate cancer treatment. Not one child survived.

Because of his perilous medical condition, Vova and his family have done everything possible to remain in the United States. Since 1992, they have obtained a number of visa extensions, and I have helped them with their efforts. In March of 1997, the last time the Malofienkos' visas were expiring, I appealed to the INS and the family was given what I was told would be final one-year extension.

Across the country, people have rallied in support of Vova's cause. The Children of Chernobyl Relief Fund, national Ukrainian and religious organizations, and Vova's classmates at Millburn Middle School have all worked to help the Malofienkos.

During the last session of Congress, I introduced legislation to help Vova and his family. With the help of Senators ABRAHAM, HATCH, and DASCHLE, the Senate passed the bill unanimously. However, the House failed to pass it before the end of the last session.

I hope that my Senate colleagues will help move this legislation forward expeditiously. We must give Vova and his family a chance to live their lives in peace.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 199

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENCE.

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Alexandre Malofienko, Olga Matsko, and their son, Vladimir Malofienko, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees.

SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Alexandre Malofienko, Olga Matsko, and their son, Vladimir Malofienko, as provided in section 1, the Secretary of State shall instruct the proper officer to reduce by the appropriate number during the current fiscal year the total number of immigrant visas available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

By Mr. HARKIN (for himself and Mr. JOHNSON):

S. 200. A bill to amend the Internal Revenue Code of 1986 to increase the years for carryback of net operating losses for certain farm losses; to the Committee on Finance.

NET OPERATING LOSSES FOR FARMERS

Mr. HARKIN. Mr. President, today, I am introducing legislation for myself and Senator JOHNSON providing farmers with the option of receiving a refund from taxes paid in the past 10 years for their current operating losses.

I was pleased to see a net operating loss provision included in the Omnibus Appropriations measure allowing farmers to carry back their losses for 5 years. But, a five year period is insufficient given the economic reality in Agriculture.

Farmers are suffering huge losses through no fault of their own. No other business has less control of the price they can receive for what they produce. Farmers cannot control the world's weather or the World economy. But, those factors determine the price of corn, soybeans and wheat. The Freedom to Farm bill passed in 1997 sharply reduced the farmer's safety net. Farm prices have crashed to levels not seen in decades. Many farmers are going to have a very difficult time being able to acquire the funds needed to plant their crops in the coming year or maintain their annual operations. Grain farmers received some assistance in the Omnibus Appropriations measure. But, it was not sufficient. Livestock producers received very limited help in that measure. And, in the last few months we have seen hog prices drop to levels that were, adjusted for inflation, far lower than anything seen at the worst point of the Great Depression. Many farmers could lose the farms that have been in their families for generations. Those low prices and the resulting sharp reduction in hog producers' financial resources is changing the whole structure of hog production. Cattle prices also have been significantly below the cost of production for over a year. And, the economic difficulty is far broader. It is already having a terrible ripple effect on the economies of rural areas. Layoffs have been occurring at agricultural equipment manufacturers and in stores of all kinds in small towns across the country. We are just at the beginning stages of what could become a very severe downturn in rural America.

A number of Senators and I are proposing a series of modifications in agricultural programs to help alleviate these programs. But, I believe the Congress needs to also pass a provision broadening existing law allowing farmers to recover taxes paid in the past to cover their net operating losses for 10 years.

I propose that the option to carry losses back for 10 years only apply to family farmers. That would include those with gross sales of less than $7 million and the losses covered would be up to $200,000 per year in operating losses. The benefit would only go to farmers whose families are actively engaged in farming and whose business activity is mostly farming. The amount of the rebate would be dependent on the amount of the loss and the tax rate paid by the farmer for the paid taxes that are being restored.

The 10 year provision would only cover losses occurring in 1998 to 1999. For losses occuring in 1998, farmers would be able to calculate their loss now and seek an immediate rebate from the IRS for the taxes paid in earlier years.

Current law already allows a few taxpayers in certain circumstances to go back and recover taxes that they paid for 10 years. I believe that it should be broadened to cover farmers in this difficult time. In fact, there is a precedent in the 1997 Taxpayer Relief Act in which Amtrak was allowed to use net operating losses of their predecessor railroads from over 25 years in the past.

I urge that when the Congress considers a tax bill, this provision be considered and passed.

By Mr. DODD (for himself, Mr. DASCHLE, Mr. KENNEDY, Mrs. MURRAY, Ms. MIKULSKI, Mr. HARKIN, Mr. KERRY, Mr. AKAKA, Mrs. BOXER, and Mr. WELLSTONE):

S. 201. A bill to amend the Family and Medical Leave Act of 1993 to apply the Act to a greater percentage of the United States workforce, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

THE FAMILY AND MEDICAL LEAVE FAIRNESS ACT OF 1999

Mr. DODD. Mr. President, six years ago, I came to the floor of the U.S. Senate to introduce the Family and Medical Leave Act. That introduction and the signing of the bill into law a few weeks later by President Clinton was the culmination of an eight-year struggle to make job-protected leave accessible for working Americans, in times of family or medical emergency.

Today, at a time when many Americans are deeply cynical toward the work we do here in Washington, the Family and Medical Leave Act stands in sharp contrast.

It responded to a deep and genuine need among American Families. Over the last six years, I have heard from many working Americans about what this law has meant to them. But no story captures the impact of our work better than the one expectant mother I heard from who kept a copy of the Family and Medical Leave Act in her bedside table. She had a difficult pregnancy and was often on doctor-ordered bed rest; she said she kept the FMLA nearby and read it as reassurance that she wouldn't lose her job or her health insurance.

The Family and Medical Leave Act has been a lifeline for tens of millions of families as they have responded at those key moments that define a family—when there is a new child or when serious illness strikes. With the FMLA, working Americans can take 12 weeks off to cope with these basic family needs without worry that they will lose their jobs or their health insurance.

Yet, even with the success of the FMLA there is still more work to be done.

Millions of Americans are not covered by the Family and Medical Leave Act and continue to face painful choices involving their competing responsibilities to family and work.

In fact, over one-quarter of working Americans needed to take family and medical leave in 1998 but were unable to do so. Forty-four percent of these Americans did not take the leave they needed because they would have lost their jobs or their employers do not allow it.

Today, forty-three percent of private sector employees remain unprotected by the FMLA because their employer does not meet the current 50 or more employee threshold.

The legislation I introduce today—the Family and Medical Leave Fairness Act of 1999—will extend the Family and Medical Leave Act to millions of Americans who remain uncovered. I am pleased to be joined in this effort by Senators DASCHLE, KENNEDY, MURRAY, MIKULSKI, HARKIN, KERRY, AKAKA, and BOXER.

This bill would lower the threshold to include coverage for companies with 25 or more workers.

This small step would provide 13 million additional workers with protection of the Family and Medical Leave Act—raising the total percentage of the private sector workforce covered by the FMLA to 71 percent.

In my view, these workers deserve the same job security in times of family and medical emergency that workers in larger companies receive from the Family and Medical Leave Act.

With this legislation they will receive it.

Now, for those of my colleagues who still harbor doubts about the success of the Family and Medical Leave Act, I strongly urge them to examine the bipartisan Commission of Leave report and other studies that documents the positive impact of this legislation.

When the bill was passed in 1993, provisions in the legislation established a commission to examine the impact of the act on workers and businesses.

The Family and Medical Leave Commission's analysis spanned two and a half years. It included independent research and field hearings across the country to learn first hand about the act's impact from individuals and the business community.

The report's conclusions are clear—the Family and Medical Leave Act is helping to expand opportunities for working Americans while at the same time not placing any undue burden on employers.

According to the Commission's final report, the Family and Medical Leave Act represents "A significant step in helping a larger cross-section of working Americans meet their medical and family care giving needs while still maintaining their jobs and economic security."

Due to this legislation, Americans now possess greater opportunities to keep their health benefits, maintain job security, and take longer leaves for a greater number of reasons.

In fact, according to the bipartisan Commission—12 million workers took job-protected leave for reasons covered by the Family and Medical Leave Act during the 18 months of its study.

Not only are American workers reaping the benefits. The law is working for American business as well.

The conclusions of the bipartisan report are a far cry from the concerns that were voiced when this law was being considered in Congress.

The vast majority of businesses—over 94%—report little to no additional costs associated with the Family and Medical Leave Act. More than 92% reported no noticeable effect on profitability. And nearly 96% reported no noticeable effect on business growth. Additionally, 83% of employers reported no noticeable impact on employee productivity. In fact, 12.6% actually reported a positive effect on employee productivity from the Family and Medical Leave Act, twice as many as reported a negative effect.

And not only did employers report that compliance with the FMLA was relatively easy and of minimal cost, but work sites with a small number of employees generally reported greater ease of administration and even smaller costs than large work sites.

Today, I introduce this legislation with the hope and expectation that we can put aside our political differences and build on the success of the Family and Medical Leave Act.

Last November, the American people gave us mandate—a mandate for good governance. The Family and Medical Leave Act represents the fulfillment of this goal and I urge all my colleagues to join with me in supporting this critically important legislation for America's working families.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 201

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may cited as the "Family and Medical Leave Fairness Act of 1999".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) has provided employees with a significant new tool in balancing the needs of their families with the demands of work;

(2) the Family and Medical Leave Act of 1993 has had a minimal impact on business, and over 90 percent of private employers covered by the Act experienced little or no cost and a minimal, or positive, impact on productivity as a result of the Act;

(3) although both employers at workplaces with large numbers of employees and employers at workplaces with small numbers of employees reported that compliance with the Family and Medical Leave Act of 1993 involved very easy administration and low costs, the smaller employers found it easier and less expensive to comply with the Act than the larger employers;

(4) over three-quarters of worksites with under 50 employees covered by the Family and Medical Leave Act of 1993 report no cost increases or small cost increases associated with compliance with the Act;

(5) in 1998, 27 percent of Americans needed to take family or medical leave but were unable to do so, and 44 percent of these employees did not take such leave because they would have lost their jobs or their employers did not allow it;

(6) only 57 percent of the private workforce is currently protected by the Family and Medical Leave Act of 1993; and

(7) 13,000,000 more private employees, or an additional 14 percent of the private workforce, would be protected by the Family and Medical Leave Act of 1993 if the Act was expanded to cover private employers with 25 or more employees.

SEC. 3. COVERAGE OF EMPLOYEES.

Paragraphs (2)(B)(ii) and (4)(A)(i) of section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611(2)(B)(ii) and (4)(A)(i)) are amended by striking "50" each place it appears and inserting "25".

By Mr. MOYNIHAN (for himself, Mr. KENNEDY, and Mr. DASCHLE):

S. 202. A bill to amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and Medicare benefits for individuals ages 55 to 65, and for other purposes; to the Committee on Finance.

THE MEDICARE EARLY ACCESS ACT OF 1999

Mr. MOYNIHAN. Mr. President, today, I introduce a bill to provide access to health insurance for individuals between the ages of 55–65. These individuals are too young for Medicare, not poor enough to qualify for Medicaid, and in many cases, are forced into early retirement or pushed out of their jobs in corporate downsizing.

The "Medicare Early Access Act" is based on the President's three-part initiative announced last January. The bill is a targeted proposal to give older Americans under 65 new options to obtain health insurance coverage. Many of these Americans have worked hard all their lives, but, through no fault of their own, find themselves uninsured just as they are entering the years when the risk of serious illness is increasing. This legislation attempts to bridge the gap in coverage between years when persons are in the labor force and the age (65) when they become eligible for Medicare.

The bill has three parts: (1) It enables persons between ages 62 and 64 to buy into Medicare by paying a full premium; (2) It provides displaced workers over age 55 access to Medicare by offering a similar Medicare buy-in option; and (3) It extends COBRA coverage to persons 55 and over whose employers withdraw retiree health benefits.

The program is largely self-financing and is substantially paid for by premiums from the beneficiaries themselves. There is a modest cost to the buy-in proposal for 62–65-year-olds because participants would pay the premium in two parts: most of the cost would be paid by the individual up front and a smaller amount would be paid after they turn 65 years-old. Medicare would in effect "loan" participants the second part of the premium until they reach 65, when they would make small monthly payments in addition to their regular Medicare Part B premium. The financing of the program is carefully walled off from the Medicare Part A and Part B Trust Funds, to ensure that it will not adversely impact the existing program.

In 1998, the Congressional Budget Office (CBO) analysis of this bill found no impact on the Medicare Part A or Part B Trust Funds. CBO also predicted that about 410,000 individuals would participate (or 33 percent more than first estimated by the Administration). Finally, CBO estimated that the post-65 premium that people ages 62-65 would pay would be only $10 per month per year—$6 per month, or $72 less per year, than the Administration estimated.

Mr. President, the problem of health insurance for the near elderly is getting worse. Congress should act now to provide valuable coverage for these individuals.

I ask unanimous consent that the summary and the full text of the bill be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 202

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare Early Access Act of 1999".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE

Sec. 101. Access to medicare benefits for individuals 62-to-65 years of age.

"PART D—PURCHASE OF MEDICARE BENEFITS BY CERTAIN INDIVIDUALS AGE 62-TO-65 YEARS OF AGE

"Sec. 1859. Program benefits; eligibility.
"Sec. 1859A. Enrollment process; coverage.
"Sec. 1859B. Premiums.
"Sec. 1859C. Payment of premiums.
"Sec. 1859D. Medicare Early Access Trust Fund.
"Sec. 1859E. Oversight and accountability.
"Sec. 1859F. Administration and miscellaneous.".

TITLE II—ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE

Sec. 201. Access to medicare benefits for displaced workers 55-to-62 years of age.

TITLE III—COBRA PROTECTION FOR EARLY RETIREES

Subtitle A—Amendments to the Employee Retirement Income Security Act of 1974

Sec. 301. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

Subtitle B—Amendments to the Public Health Service Act

Sec. 311. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

Subtitle C—Amendments to the Internal Revenue Code of 1986

Sec. 321. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

TITLE I—ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE

SEC. 101. ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended—

(1) by redesignating section 1859 and part D as section 1858 and part E, respectively; and

(2) by inserting after such section the following new part:

"PART D—PURCHASE OF MEDICARE BENEFITS BY CERTAIN INDIVIDUALS AGE 62-TO-65 YEARS OF AGE

"SEC. 1859. PROGRAM BENEFITS; ELIGIBILITY.

"(a) ENTITLEMENT TO MEDICARE BENEFITS FOR ENROLLED INDIVIDUALS.—

"(1) IN GENERAL.—An individual enrolled under this part is entitled to the same benefits under this title as an individual entitled to benefits under part A and enrolled under part B.

"(2) DEFINITIONS.—For purposes of this part:

"(A) FEDERAL OR STATE COBRA CONTINUATION PROVISION.—The term 'Federal or State COBRA continuation provision' has the meaning given the term 'COBRA continuation provision' in section 2791(d)(4) of the Public Health Service Act and includes a comparable State program, as determined by the Secretary.

"(B) FEDERAL HEALTH INSURANCE PROGRAM DEFINED.—The term 'Federal health insurance program' means any of the following:

"(i) MEDICARE.—Part A or part B of this title (other than by reason of this part).

"(ii) MEDICAID.—A State plan under title XIX.

"(iii) FEHBP.—The Federal employees health benefit program under chapter 89 of title 5, United States Code.

"(iv) TRICARE.—The TRICARE program (as defined in section 1072(7) of title 10, United States Code).

"(v) ACTIVE DUTY MILITARY.—Health benefits under title 10, United States Code, to an individual as a member of the uniformed services of the United States.

"(C) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term in section 2791(a)(1) of the Public Health Service Act.

"(b) ELIGIBILITY OF INDIVIDUALS AGE 62-TO-65 YEARS OF AGE.—

"(1) IN GENERAL.—Subject to paragraph (2), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

"(A) AGE.—As of the last day of the month, the individual has attained 62 years of age, but has not attained 65 years of age.

"(B) MEDICARE ELIGIBILITY (BUT FOR AGE).—The individual would be eligible for benefits under part A or part B for the month if the individual were 65 years of age.

"(C) NOT ELIGIBLE FOR COVERAGE UNDER GROUP HEALTH PLANS OR FEDERAL HEALTH INSURANCE PROGRAMS.—The individual is not eligible for benefits or coverage under a Federal health insurance program (as defined in subsection (a)(2)(B)) or under a group health plan (other than such eligibility merely through a Federal or State COBRA continuation provision) as of the last day of the month involved.

"(2) LIMITATION ON ELIGIBILITY IF TERMINATED ENROLLMENT.—If an individual described in paragraph (1) enrolls under this part and coverage of the individual is terminated under section 1859A(d) (other than because of age), the individual is not again eligible to enroll under this subsection unless the following requirements are met:

"(A) NEW COVERAGE UNDER GROUP HEALTH PLAN OR FEDERAL HEALTH INSURANCE PROGRAM.—After the date of termination of coverage under such section, the individual obtains coverage under a group health plan or under a Federal health insurance program.

"(B) SUBSEQUENT LOSS OF NEW COVERAGE.—The individual subsequently loses eligibility for the coverage described in subparagraph (A) and exhausts any eligibility the individual may subsequently have for coverage under a Federal or State COBRA continuation provision.

"(3) CHANGE IN HEALTH PLAN ELIGIBILITY DOES NOT AFFECT COVERAGE.—In the case of an individual who is eligible for and enrolls under this part under this subsection, the individual's continued entitlement to benefits under this part shall not be affected by the individual's subsequent eligibility for benefits or coverage described in paragraph (1)(C), or entitlement to such benefits or coverage.

"SEC. 1859A. ENROLLMENT PROCESS; COVERAGE.

"(a) IN GENERAL.—An individual may enroll in the program established under this part only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed by the Secretary consistent with the provisions of this section. Such regulations shall provide a process under which—

"(1) individuals eligible to enroll as of a month are permitted to pre-enroll during a prior month within an enrollment period described in subsection (b); and

"(2) each individual seeking to enroll under section 1859(b) is notified, before enrolling, of the deferred monthly premium amount the individual will be liable for under section 1859C(b) upon attaining 65 years of age as determined under section 1859B(c)(3).

"(b) Enrollment Periods.—

"(1) Individuals 62-to-65 years of age.—In the case of individuals eligible to enroll under this part under section 1859(b)—

"(A) Initial enrollment period.—If the individual is eligible to enroll under such section for July 2000, the enrollment period shall begin on May 1, 2000, and shall end on August 31, 2000. Any such enrollment before July 1, 2000, is conditioned upon compliance with the conditions of eligibility for July 2000.

"(B) Subsequent periods.—If the individual is eligible to enroll under such section for a month after July 2000, the enrollment period shall begin on the first day of the second month before the month in which the individual first is eligible to so enroll and shall end 4 months later. Any such enrollment before the first day of the third month of such enrollment period is conditioned upon compliance with the conditions of eligibility for such third month.

"(2) Authority to correct for government errors.—The provisions of section 1837(h) apply with respect to enrollment under this part in the same manner as they apply to enrollment under part B.

"(c) Date Coverage Begins.—

"(1) In general.—The period during which an individual is entitled to benefits under this part shall begin as follows, but in no case earlier than July 1, 2000:

"(A) In the case of an individual who enrolls (including pre-enrolls) before the month in which the individual satisfies eligibility for enrollment under section 1859, the first day of such month of eligibility.

"(B) In the case of an individual who enrolls during or after the month in which the individual first satisfies eligibility for enrollment under such section, the first day of the following month.

"(2) Authority to provide for partial months of coverage.—Under regulations, the Secretary may, in the Secretary's discretion, provide for coverage periods that include portions of a month in order to avoid lapses of coverage.

"(3) Limitation on payments.—No payments may be made under this title with respect to the expenses of an individual enrolled under this part unless such expenses were incurred by such individual during a period which, with respect to the individual, is a coverage period under this section.

"(d) Termination of Coverage.—

"(1) In general.—An individual's coverage period under this part shall continue until the individual's enrollment has been terminated at the earliest of the following:

"(A) General provisions.—

"(i) Notice.—The individual files notice (in a form and manner prescribed by the Secretary) that the individual no longer wishes to participate in the insurance program under this part.

"(ii) Nonpayment of premiums.—The individual fails to make payment of premiums required for enrollment under this part.

"(iii) Medicare eligibility.—The individual becomes entitled to benefits under part A or enrolled under part B (other than by reason of this part).

"(B) Termination based on age.—The individual attains 65 years of age.

"(2) Effective date of termination.—

"(A) Notice.—The termination of a coverage period under paragraph (1)(A)(i) shall take effect at the close of the month following for which the notice is filed.

"(B) Nonpayment of premium.—The termination of a coverage period under paragraph (1)(A)(ii) shall take effect on a date determined under regulations, which may be determined so as to provide a grace period in which overdue premiums may be paid and coverage continued. The grace period determined under the preceding sentence shall not exceed 60 days; except that it may be extended for an additional 30 days in any case where the Secretary determines that there was good cause for failure to pay the overdue premiums within such 60-day period.

"(C) Age or medicare eligibility.—The termination of a coverage period under paragraph (1)(A)(iii) or (1)(B) shall take effect as of the first day of the month in which the individual attains 65 years of age or becomes entitled to benefits under part A or enrolled for benefits under part B (other than by reason of this part).

"SEC. 1859B. PREMIUMS.

"(a) Amount of Monthly Premiums.—

"(1) Base monthly premiums.—The Secretary shall, during September of each year (beginning with 1999), determine the following premium rates which shall apply with respect to coverage provided under this title for any month in the succeeding year:

"(A) Base monthly premium for individuals 62 years of age or older.—A base monthly premium for individuals 62 years of age or older is equal to $1/12$ of the base annual premium rate computed under subsection (b) for each premium area.

"(B) Deferred monthly premiums for individuals 62 years of age or older.—The Secretary shall, during September of each year (beginning with 1999), determine under subsection (c) the amount of deferred monthly premiums that shall apply with respect to individuals who first obtain coverage under this part under section 1859(b) in the succeeding year.

"(3) Establishment of premium areas.—For purposes of this part, the term 'premium area' means such an area as the Secretary shall specify to carry out this part. The Secretary from time to time may change the boundaries of such premium areas. The Secretary shall seek to minimize the number of such areas specified under this paragraph.

"(b) Base Annual Premium for Individuals 62 Years of Age or Older.—

"(1) National, per capita average.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 1859(b)(1)(A) as if all such individuals were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

"(2) Geographic adjustment.—The Secretary shall reduce, as determined appropriate, the amount determined under paragraph (1) for a premium area (specified under subsection (a)(3)) that has costs below the national average, in order to assure participation in all areas throughout the United States.

"(3) Base annual premium.—The base annual premium under this subsection for months in a year for individuals 62 years of age or older residing in a premium area is equal to the average, annual per capita amount estimated under paragraph (1) for the year, adjusted for such area under paragraph (2).

"(c) Deferred Premium Rate for Individuals 62 Years of Age or Older.—The deferred premium rate for individuals with a group of individuals who obtain coverage under section 1859(b) in a year shall be computed by the Secretary as follows:

"(1) Estimation of national, per capita annual average expenditures for enrollment group.—The Secretary shall estimate the average, per capita annual amount that will be paid under this part for individuals in such group during the period of enrollment under section 1859(b). In making such estimate for coverage beginning in a year before 2004, the Secretary may base such estimate on the average, per capita amount that would be payable if the program had been in operation over a previous period of at least 4 years.

"(2) Difference between estimated expenditures and estimated premiums.—Based on the characteristics of individuals in such group, the Secretary shall estimate during the period of coverage of the group under this part under section 1859(b) the amount by which—

"(A) the amount estimated under paragraph (1); exceeds

"(B) the average, annual per capita amount of premiums that will be payable for months during the year under section 1859C(a) for individuals in such group (including premiums that would be payable if there were no terminations in enrollment under clause (i) or (ii) of section 1859A(d)(1)(A)).

"(3) Actuarial computation of deferred monthly premium rates.—The Secretary shall determine deferred monthly premium rates for individuals in such group in a manner so that—

"(A) the estimated actuarial value of such premiums payable under section 1859C(b), is equal to

"(B) the estimated actuarial present value of the differences described in paragraph (2).

Such rate shall be computed for each individual in the group in a manner so that the rate is based on the number of months between the first month of coverage based on enrollment under section 1859(b) and the month in which the individual attains 65 years of age.

"(4) Determinants of actuarial present values.—The actuarial present values described in paragraph (3) shall reflect—

"(A) the estimated probabilities of survival at ages 62 through 84 for individuals enrolled during the year; and

"(B) the estimated effective average interest rates that would be earned on investments held in the trust funds under this title during the period in question.

"SEC. 1859C. PAYMENT OF PREMIUMS.

"(a) Payment of Base Monthly Premium.—

"(1) In general.—The Secretary shall provide for payment and collection of the base monthly premium, determined under section 1859B(a)(1) for the age (and age cohort, if applicable) of the individual involved and the premium area in which the individual principally resides, in the same manner as for payment of monthly premiums under section

1840, except that, for purposes of applying this section, any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed a reference to the Trust Fund established under section 1859D.

“(2) PERIOD OF PAYMENT.—In the case of an individual who participates in the program established by this title, the base monthly premium shall be payable for the period commencing with the first month of the individual's coverage period and ending with the month in which the individual's coverage under this title terminates.

“(b) PAYMENT OF DEFERRED PREMIUM FOR INDIVIDUALS COVERED AFTER ATTAINING AGE 62.—

“(1) RATE OF PAYMENT.—

“(A) IN GENERAL.—In the case of an individual who is covered under this part for a month pursuant to an enrollment under section 1859(b), subject to subparagraph (B), the individual is liable for payment of a deferred premium in each month during the period described in paragraph (2) in an amount equal to the full deferred monthly premium rate determined for the individual under section 1859B(c).

“(B) SPECIAL RULES FOR THOSE WHO DISENROLL EARLY.—

“(i) IN GENERAL.—If such an individual's enrollment under such section is terminated under clause (i) or (ii) of section 1859A(d)(1)(A), subject to clause (ii), the amount of the deferred premium otherwise established under this paragraph shall be pro-rated to reflect the number of months of coverage under this part under such enrollment compared to the maximum number of months of coverage that the individual would have had if the enrollment were not so terminated.

“(ii) ROUNDING TO 12-MONTH MINIMUM COVERAGE PERIODS.—In applying clause (i), the number of months of coverage (if not a multiple of 12) shall be rounded to the next highest multiple of 12 months, except that in no case shall this clause result in a number of months of coverage exceeding the maximum number of months of coverage that the individual would have had if the enrollment were not so terminated.

“(2) PERIOD OF PAYMENT.—The period described in this paragraph for an individual is the period beginning with the first month in which the individual has attained 65 years of age and ending with the month before the month in which the individual attains 85 years of age.

“(3) COLLECTION.—In the case of an individual who is liable for a premium under this subsection, the amount of the premium shall be collected in the same manner as the premium for enrollment under such part is collected under section 1840, except that any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed to be a reference to the Medicare Early Access Trust Fund established under section 1859D.

“(c) APPLICATION OF CERTAIN PROVISIONS.—The provisions of section 1840 (other than subsection (h)) shall apply to premiums collected under this section in the same manner as they apply to premiums collected under part B, except that any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed a reference to the Trust Fund established under section 1859D.

“SEC. 1859D. MEDICARE EARLY ACCESS TRUST FUND.

“(a) ESTABLISHMENT OF TRUST FUND.—

“(1) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the ‘Medicare Early Access Trust Fund’ (in this section referred to as the ‘Trust Fund’). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and such amounts as may be deposited in, or appropriated to, such fund as provided in this title.

“(2) PREMIUMS.—Premiums collected under section 1859B shall be transferred to the Trust Fund.

“(b) INCORPORATION OF PROVISIONS.—

“(1) IN GENERAL.—Subject to paragraph (2), subsections (b) through (i) of section 1841 shall apply with respect to the Trust Fund and this title in the same manner as they apply with respect to the Federal Supplementary Medical Insurance Trust Fund and part B, respectively.

“(2) MISCELLANEOUS REFERENCES.—In applying provisions of section 1841 under paragraph (1)—

“(A) any reference in such section to ‘this part’ is construed to refer to this part D;

“(B) any reference in section 1841(h) to section 1840(d) and in section 1841(i) to sections 1840(b)(1) and 1842(g) are deemed references to comparable authority exercised under this part; and

“(C) payments may be made under section 1841(g) to the trust funds under sections 1817 and 1841 as reimbursement to such funds for payments they made for benefits provided under this part.

“SEC. 1859E. OVERSIGHT AND ACCOUNTABILITY.

“(a) THROUGH ANNUAL REPORTS OF TRUSTEES.—The Board of Trustees of the Medicare Early Access Trust Fund under section 1859D(b)(1) shall report on an annual basis to Congress concerning the status of the Trust Fund and the need for adjustments in the program under this part to maintain financial solvency of the program under this part.

“(b) PERIODIC GAO REPORTS.—The Comptroller General of the United States shall periodically submit to Congress reports on the adequacy of the financing of coverage provided under this part. The Comptroller General shall include in such report such recommendations for adjustments in such financing and coverage as the Comptroller General deems appropriate in order to maintain financial solvency of the program under this part.

“SEC. 1859F. ADMINISTRATION AND MISCELLANEOUS.

“(a) TREATMENT FOR PURPOSES OF THIS TITLE.—Except as otherwise provided in this part—

“(1) an individual enrolled under this part shall be treated for purposes of this title as though the individual was entitled to benefits under part A and enrolled under part B; and

“(2) benefits described in section 1859 shall be payable under this title to such an individual in the same manner as if such individual was so entitled and enrolled.

“(b) NOT TREATED AS MEDICARE PROGRAM FOR PURPOSES OF MEDICAID PROGRAM.—For purposes of applying title XIX (including the provision of medicare cost-sharing assistance under such title), an individual who is enrolled under this part shall not be treated as being entitled to benefits under this title.

“(c) NOT TREATED AS MEDICARE PROGRAM FOR PURPOSES OF COBRA CONTINUATION PROVISIONS.—In applying a COBRA continuation provision (as defined in section 2791(d)(4) of the Public Health Service Act), any reference to an entitlement to benefits under this title shall not be construed to include entitlement to benefits under this title pursuant to the operation of this part.”.

(b) CONFORMING AMENDMENTS TO SOCIAL SECURITY ACT PROVISIONS.—

(1) Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking “or the Federal Supplementary Medical Insurance Trust Fund” and inserting “the Federal Supplementary Medical Insurance Trust Fund, and the Medicare Early Access Trust Fund”.

(2) Section 201(g)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended by striking “and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII” and inserting “, the Federal Supplementary Medical Insurance Trust Fund, and the Medicare Early Access Trust Fund established by title XVIII”.

(3) Section 1820(i) of such Act (42 U.S.C. 1395i–4(i)) is amended by striking “part D” and inserting “part E”.

(4) Part C of title XVIII of such Act is amended—

(A) in section 1851(a)(2)(B) (42 U.S.C. 1395w–21(a)(2)(B)), by striking “1859(b)(3)” and inserting “1858(b)(3);

(B) in section 1851(a)(2)(C) (42 U.S.C. 1395w–21(a)(2)(C)), by striking “1859(b)(2)” and inserting “1858(b)(2)”;

(C) in section 1852(a)(1) (42 U.S.C. 1395w–22(a)(1)), by striking “1859(b)(3)” and inserting “1858(b)(3);

(D) in section 1852(a)(3)(B)(ii) (42 U.S.C. 1395w–22(a)(3)(B)(ii)), by striking “1859(b)(2)(B)” and inserting “1858(b)(2)(B)”;

(E) in section 1853(a)(1)(A) (42 U.S.C. 1395w–23(a)(1)(A)), by striking “1859(e)(4)” and inserting “1858(e)(4)”; and

(F) in section 1853(a)(3)(D) (42 U.S.C. 1395w–23(a)(3)(D)), by striking “1859(e)(4)” and inserting “1858(e)(4)”.

(5) Section 1853(c) of such Act (42 U.S.C. 1395w–23(c)) is amended—

(A) in paragraph (1), by striking “or (7)” and inserting “, (7), or (8)”, and

(B) by adding at the end the following:

“(8) ADJUSTMENT FOR EARLY ACCESS.—In applying this subsection with respect to individuals entitled to benefits under part D, the Secretary shall provide for an appropriate adjustment in the Medicare+Choice capitation rate as may be appropriate to reflect differences between the population served under such part and the population under parts A and B.”.

(c) OTHER CONFORMING AMENDMENTS.—

(1) Section 138(b)(4) of the Internal Revenue Code of 1986 is amended by striking “1859(b)(3)” and inserting “1858(b)(3)”.

(2)(A) Section 602(2)(D)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended by inserting “(not including an individual who is so entitled pursuant to enrollment under section 1859A)” after “Social Security Act”.

(B) Section 2202(2)(D)(ii) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(D)(ii)) is amended by inserting “(not including an individual who is so entitled pursuant to enrollment under section 1859A)” after “Social Security Act”.

(C) Section 4980B(f)(2)(B)(i)(V) of the Internal Revenue Code of 1986 is amended by inserting “(not including an individual who is so entitled pursuant to enrollment under section 1859A)” after “Social Security Act”.

TITLE II—ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE

SEC. 201. ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE.

(a) ELIGIBILITY.—Section 1859 of the Social Security Act, as inserted by section 101(a)(2), is amended by adding at the end the following new subsection:

"(c) DISPLACED WORKERS AND SPOUSES.—

"(1) DISPLACED WORKERS.—Subject to paragraph (3), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

"(A) AGE.—As of the last day of the month, the individual has attained 55 years of age, but has not attained 62 years of age.

"(B) MEDICARE ELIGIBILITY (BUT FOR AGE).—The individual would be eligible for benefits under part A or B for the month if the individual were 65 years of age.

"(C) LOSS OF EMPLOYMENT-BASED COVERAGE.—

"(i) ELIGIBLE FOR UNEMPLOYMENT COMPENSATION.—The individual meets the requirements relating to period of covered employment and conditions of separation from employment to be eligible for unemployment compensation (as defined in section 85(b) of the Internal Revenue Code of 1986), based on a separation from employment occurring on or after January 1, 1999. The previous sentence shall not be construed as requiring the individual to be receiving such unemployment compensation.

"(ii) LOSS OF EMPLOYMENT-BASED COVERAGE.—Immediately before the time of such separation of employment, the individual was covered under a group health plan on the basis of such employment, and, because of such loss, is no longer eligible for coverage under such plan (including such eligibility based on the application of a Federal or State COBRA continuation provision) as of the last day of the month involved.

"(iii) PREVIOUS CREDITABLE COVERAGE FOR AT LEAST 1 YEAR.—As of the date on which the individual loses coverage described in clause (ii), the aggregate of the periods of creditable coverage (as determined under section 2701(c) of the Public Health Service Act) is 12 months or longer.

"(D) EXHAUSTION OF AVAILABLE COBRA CONTINUATION BENEFITS.—

"(i) IN GENERAL.—In the case of an individual described in clause (ii) for a month described in clause (iii)—

"(I) the individual (or spouse) elected coverage described in clause (ii); and

"(II) the individual (or spouse) has continued such coverage for all months described in clause (iii) in which the individual (or spouse) is eligible for such coverage.

"(ii) INDIVIDUALS TO WHOM COBRA CONTINUATION COVERAGE MADE AVAILABLE.—An individual described in this clause is an individual—

"(I) who was offered coverage under a Federal or State COBRA continuation provision at the time of loss of coverage eligibility described in subparagraph (C)(ii); or

"(II) whose spouse was offered such coverage in a manner that permitted coverage of the individual at such time.

"(iii) MONTHS OF POSSIBLE COBRA CONTINUATION COVERAGE.—A month described in this clause is a month for which an individual described in clause (ii) could have had coverage described in such clause as of the last day of the month if the individual (or the spouse of the individual, as the case may be) had elected such coverage on a timely basis.

"(E) NOT ELIGIBLE FOR COVERAGE UNDER FEDERAL HEALTH INSURANCE PROGRAM OR GROUP HEALTH PLANS.—The individual is not eligible for benefits or coverage under a Federal health insurance program or under a group health plan (whether on the basis of the individual's employment or employment of the individual's spouse) as of the last day of the month involved.

"(2) SPOUSE OF DISPLACED WORKER.—Subject to paragraph (3), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

"(A) AGE.—As of the last day of the month, the individual has not attained 62 years of age.

"(B) MARRIED TO DISPLACED WORKER.—The individual is the spouse of an individual at the time the individual enrolls under this part under paragraph (1) and loses coverage described in paragraph (1)(C)(ii) because the individual's spouse lost such coverage.

"(C) MEDICARE ELIGIBILITY (BUT FOR AGE); EXHAUSTION OF ANY COBRA CONTINUATION COVERAGE; AND NOT ELIGIBLE FOR COVERAGE UNDER FEDERAL HEALTH INSURANCE PROGRAM OR GROUP HEALTH PLAN.—The individual meets the requirements of subparagraphs (B), (D), and (E) of paragraph (1).

"(3) CHANGE IN HEALTH PLAN ELIGIBILITY AFFECTS CONTINUED ELIGIBILITY.—For provision that terminates enrollment under this section in the case of an individual who becomes eligible for coverage under a group health plan or under a Federal health insurance program, see section 1859A(d)(1)(C).

"(4) REENROLLMENT PERMITTED.—Nothing in this subsection shall be construed as preventing an individual who, after enrolling under this subsection, terminates such enrollment from subsequently reenrolling under this subsection if the individual is eligible to enroll under this subsection at that time.".

(b) ENROLLMENT.—Section 1859A of such Act, as so inserted, is amended—

(1) in subsection (a), by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting "; and", and by adding at the end the following new paragraph:

"(3) individuals whose coverage under this part would terminate because of subsection (d)(1)(B)(ii) are provided notice and an opportunity to continue enrollment in accordance with section 1859E(c)(1).";

(2) in subsection (b), by inserting after Notwithstanding any other provision of law, (1) the following:

"(2) DISPLACED WORKERS AND SPOUSES.—In the case of individuals eligible to enroll under this part under section 1859(c), the following rules apply:

"(A) INITIAL ENROLLMENT PERIOD.—If the individual is first eligible to enroll under such section for July 2000, the enrollment period shall begin on May 1, 2000, and shall end on August 31, 2000. Any such enrollment before July 1, 2000, is conditioned upon compliance with the conditions of eligibility for July 2000.

"(B) SUBSEQUENT PERIODS.—If the individual is eligible to enroll under such section for a month after July 2000, the enrollment period based on such eligibility shall begin on the first day of the second month before the month in which the individual first is eligible to so enroll (or reenroll) and shall end 4 months later.";

(3) in subsection (d)(1), by amending subparagraph (B) to read as follows:

"(B) TERMINATION BASED ON AGE.—

"(i) AT AGE 65.—Subject to clause (ii), the individual attains 65 years of age.

"(ii) AT AGE 62 FOR DISPLACED WORKERS AND SPOUSES.—In the case of an individual enrolled under this part pursuant to section 1859(c), subject to subsection (a)(1), the individual attains 62 years of age.";

(4) in subsection (d)(1), by adding at the end the following new subparagraph:

"(C) OBTAINING ACCESS TO EMPLOYMENT-BASED COVERAGE OR FEDERAL HEALTH INSURANCE PROGRAM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—In the case of an individual who has not attained 62 years of age, the individual is covered (or eligible for coverage) as a participant or beneficiary under a group health plan or under a Federal health insurance program.";

(5) in subsection (d)(2), by amending subparagraph (C) to read as follows:

"(C) AGE OR MEDICARE ELIGIBILITY.—

"(i) IN GENERAL.—The termination of a coverage period under paragraph (1)(A)(iii) or (1)(B)(i) shall take effect as of the first day of the month in which the individual attains 65 years of age or becomes entitled to benefits under part A or enrolled for benefits under part B.

"(ii) DISPLACED WORKERS.—The termination of a coverage period under paragraph (1)(B)(ii) shall take effect as of the first day of the month in which the individual attains 62 years of age, unless the individual has enrolled under this part pursuant to section 1859(b) and section 1859E(c)(1)."; and

(6) in subsection (d)(2), by adding at the end the following new subparagraph:

"(D) ACCESS TO COVERAGE.—The termination of a coverage period under paragraph (1)(C) shall take effect on the date on which the individual is eligible to begin a period of creditable coverage (as defined in section 2701(c) of the Public Health Service Act) under a group health plan or under a Federal health insurance program.".

(c) PREMIUMS.—Section 1859B of such Act, as so inserted, is amended—

(1) in subsection (a)(1), by adding at the end the following:

"(B) BASE MONTHLY PREMIUM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—A base monthly premium for individuals under 62 years of age, equal to $\frac{1}{12}$ of the base annual premium rate computed under subsection (d)(3) for each premium area and age cohort."; and

(2) by adding at the end the following new subsection:

"(d) BASE MONTHLY PREMIUM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—

"(1) NATIONAL, PER CAPITA AVERAGE FOR AGE GROUPS.—

"(A) ESTIMATE OF AMOUNT.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 1859(c)(1)(A) within each of the age cohorts established under subparagraph (B) as if all such individuals within such cohort were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

"(B) AGE COHORTS.—For purposes of subparagraph (A), the Secretary shall establish separate age cohorts in 5-year age increments for individuals who have not attained 60 years of age and a separate cohort for individuals who have attained 60 years of age.

"(2) GEOGRAPHIC ADJUSTMENT.—The Secretary shall adjust the amount determined under paragraph (1)(A) for each premium area (specified under subsection (a)(3)) in the same manner and to the same extent as the Secretary provides for adjustments under subsection (b)(2).

"(3) BASE ANNUAL PREMIUM.—The base annual premium under this subsection for months in a year for individuals in an age cohort under paragraph (1)(B) in a premium area is equal to 165 percent of the average, annual per capita amount estimated under paragraph (1) for the age cohort and year, adjusted for such area under paragraph (2).

"(4) PRO-RATION OF PREMIUMS TO REFLECT COVERAGE DURING A PART OF A MONTH.—If the Secretary provides for coverage of portions of a month under section 1859A(c)(2), the Secretary shall pro-rate the premiums attributable to such coverage under this section to reflect the portion of the month so covered.''.

(d) ADMINISTRATIVE PROVISIONS.—Section 1859F of such Act, as so inserted, is amended by adding at the end the following:

''(d) ADDITIONAL ADMINISTRATIVE PROVISIONS.—

''(1) PROCESS FOR CONTINUED ENROLLMENT OF DISPLACED WORKERS WHO ATTAIN 62 YEARS OF AGE.—The Secretary shall provide a process for the continuation of enrollment of individuals whose enrollment under section 1859(c) would be terminated upon attaining 62 years of age. Under such process such individuals shall be provided appropriate and timely notice before the date of such termination and of the requirement to enroll under this part pursuant to section 1859(b) in order to continue entitlement to benefits under this title after attaining 62 years of age.

''(2) ARRANGEMENTS WITH STATES FOR DETERMINATIONS RELATING TO UNEMPLOYMENT COMPENSATION ELIGIBILITY.—The Secretary may provide for appropriate arrangements with States for the determination of whether individuals in the State meet or would meet the requirements of section 1859(c)(1)(C)(i).''.

(e) CONFORMING AMENDMENT TO HEADING TO PART.—The heading of part D of title XVIII of the Social Security Act, as so inserted, is amended by striking ''62'' and inserting ''55''.

TITLE III—COBRA PROTECTION FOR EARLY RETIREES

Subtitle A—Amendments to the Employee Retirement Income Security Act of 1974

SEC. 301. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 603 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163) is amended by inserting after paragraph (6) the following new paragraph:

''(7) The termination or substantial reduction in benefits (as defined in section 607(7)) of group health plan coverage as a result of plan changes or termination in the case of a covered employee who is a qualified retiree.''.

(2) QUALIFIED RETIREE; QUALIFIED BENEFICIARY; AND SUBSTANTIAL REDUCTION DEFINED.—Section 607 of such Act (29 U.S.C. 1167) is amended—

(A) in paragraph (3)—

(i) in subparagraph (A), by inserting ''except as otherwise provided in this paragraph,'' after ''means,''; and

(ii) by adding at the end the following new subparagraph:

''(D) SPECIAL RULE FOR QUALIFYING RETIREES AND DEPENDENTS.—In the case of a qualifying event described in section 603(7), the term 'qualified beneficiary' means a qualified retiree and any other individual who, on the day before such qualifying event, is a beneficiary under the plan on the basis of the individual's relationship to such qualified retiree.''; and

(B) by adding at the end the following new paragraphs:

''(6) QUALIFIED RETIREE.—The term 'qualified retiree' means, with respect to a qualifying event described in section 603(7), a covered employee who, at the time of the event—

''(A) has attained 55 years of age; and

''(B) was receiving group health coverage under the plan by reason of the retirement of the covered employee.

''(7) SUBSTANTIAL REDUCTION.—The term 'substantial reduction'—

''(A) means, as determined under regulations of the Secretary and with respect to a qualified beneficiary, a reduction in the average actuarial value of benefits under the plan (through reduction or elimination of benefits, an increase in premiums, deductibles, copayments, and coinsurance, or any combination thereof), since the date of commencement of coverage of the beneficiary by reason of the retirement of the covered employee (or, if later, January 6, 1999), in an amount equal to at least 50 percent of the total average actuarial value of the benefits under the plan as of such date (taking into account an appropriate adjustment to permit comparison of values over time); and

''(B) includes an increase in premiums required to an amount that exceeds the premium level described in the fourth sentence of section 602(3).

(b) DURATION OF COVERAGE THROUGH AGE 65.—Section 602(2)(A) of such Act (29 U.S.C. 1162(2)(A)) is amended—

(1) in clause (ii), by inserting ''or 603(7)'' after ''603(6)'';

(2) in clause (iv), by striking ''or 603(6)'' and inserting '', 603(6), or 603(7)'';

(3) by redesignating clause (iv) as clause (vi);

(4) by redesignating clause (v) as clause (iv) and by moving such clause to immediately follow clause (iii); and

(5) by inserting after such clause (iv) the following new clause:

''(v) SPECIAL RULE FOR CERTAIN DEPENDENTS IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—In the case of a qualifying event described in section 603(7), in the case of a qualified beneficiary described in section 607(3)(D) who is not the qualified retiree or spouse of such retiree, the later of—

''(I) the date that is 36 months after the earlier of the date the qualified retiree becomes entitled to benefits under title XVIII of the Social Security Act, or the date of the death of the qualified retiree; or

''(II) the date that is 36 months after the date of the qualifying event.''.

(c) TYPE OF COVERAGE IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—Section 602(1) of such Act (29 U.S.C. 1162(1)) is amended—

(1) by striking ''The coverage'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the coverage''; and

(2) by adding at the end the following:

''(B) CERTAIN RETIREES.—In the case of a qualifying event described in section 603(7), in applying the first sentence of subparagraph (A) and the fourth sentence of paragraph (3), the coverage offered that is the most prevalent coverage option (as determined under regulations of the Secretary) continued under the group health plan (or, if none, under the most prevalent other plan offered by the same plan sponsor) shall be treated as the coverage described in such sentence, or (at the option of the plan and qualified beneficiary) such other coverage option as may be offered and elected by the qualified beneficiary involved.''.

(d) INCREASED LEVEL OF PREMIUMS PERMITTED.—Section 602(3) of such Act (29 U.S.C. 1162(3)) is amended by adding at the end the following new sentence: ''In the case of an individual provided continuation coverage by reason of a qualifying event described in section 603(7), any reference in subparagraph (A) of this paragraph to '102 percent of the applicable premium' is deemed a reference to '125 percent of the applicable premium for employed individuals (and their dependents, if applicable) for the coverage option referred to in paragraph (1)(B)'.''.

(e) NOTICE.—Section 606(a) of such Act (29 U.S.C. 1166) is amended—

(1) in paragraph (4)(A), by striking ''or (6)'' and inserting ''(6), or (7)''; and

(2) by adding at the end the following:

''The notice under paragraph (4) in the case of a qualifying event described in section 603(7) shall be provided at least 90 days before the date of the qualifying event.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 6, 1999. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except that in no case shall notice be required under such amendment before such date.

Subtitle B—Amendments to the Public Health Service Act

SEC. 311. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 2203 of the Public Health Service Act (42 U.S.C. 300bb–3) is amended by inserting after paragraph (5) the following new paragraph:

''(6) The termination or substantial reduction in benefits (as defined in section 2208(6)) of group health plan coverage as a result of plan changes or termination in the case of a covered employee who is a qualified retiree.''.

(2) QUALIFIED RETIREE; QUALIFIED BENEFICIARY; AND SUBSTANTIAL REDUCTION DEFINED.—Section 2208 of such Act (42 U.S.C. 300bb–8) is amended—

(A) in paragraph (3)—

(i) in subparagraph (A), by inserting ''except as otherwise provided in this paragraph,'' after ''means,''; and

(ii) by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR QUALIFYING RETIREES AND DEPENDENTS.—In the case of a qualifying event described in section 2203(6), the term 'qualified beneficiary' means a qualified retiree and any other individual who, on the day before such qualifying event, is a beneficiary under the plan on the basis of the individual's relationship to such qualified retiree.''; and

(B) by adding at the end the following new paragraphs:

''(5) QUALIFIED RETIREE.—The term 'qualified retiree' means, with respect to a qualifying event described in section 2203(6), a covered employee who, at the time of the event—

''(A) has attained 55 years of age; and

''(B) was receiving group health coverage under the plan by reason of the retirement of the covered employee.

''(6) SUBSTANTIAL REDUCTION.—The term 'substantial reduction'—

''(A) means, as determined under regulations of the Secretary of Labor and with respect to a qualified beneficiary, a reduction in the average actuarial value of benefits under the plan (through reduction or elimination of benefits, an increase in premiums, deductibles, copayments, and coinsurance, or any combination thereof), since the date of commencement of coverage of the beneficiary by reason of the retirement of the covered employee (or, if later, January 6, 1999), in an amount equal to at least 50 percent of the total average actuarial value of the benefits under the plan as of such date (taking into account an appropriate adjustment to permit comparison of values over time); and

"(B) includes an increase in premiums required to an amount that exceeds the premium level described in the fourth sentence of section 2202(3).

(b) DURATION OF COVERAGE THROUGH AGE 65.—Section 2202(2)(A) of such Act (42 U.S.C. 300bb-2(2)(A)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following new clause:

"(iii) SPECIAL RULE FOR CERTAIN DEPENDENTS IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—In the case of a qualifying event described in section 2203(6), in the case of a qualified beneficiary described in section 2208(3)(C) who is not the qualified retiree or spouse of such retiree, the later of—

"(I) the date that is 36 months after the earlier of the date the qualified retiree becomes entitled to benefits under title XVIII of the Social Security Act, or the date of the death of the qualified retiree; or

"(II) the date that is 36 months after the date of the qualifying event.".

(c) TYPE OF COVERAGE IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—Section 2202(1) of such Act (42 U.S.C. 300bb-2(1)) is amended—

(1) by striking "The coverage" and inserting the following:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the coverage"; and

(2) by adding at the end the following:

"(B) CERTAIN RETIREES.—In the case of a qualifying event described in section 2203(6), in applying the first sentence of subparagraph (A) and the fourth sentence of paragraph (3), the coverage offered that is the most prevalent coverage option (as determined under regulations of the Secretary of Labor) continued under the group health plan (or, if none, under the most prevalent other plan offered by the same plan sponsor) shall be treated as the coverage described in such sentence, or (at the option of the plan and qualified beneficiary) such other coverage option as may be offered and elected by the qualified beneficiary involved.".

(d) INCREASED LEVEL OF PREMIUMS PERMITTED.—Section 2202(3) of such Act (42 U.S.C. 300bb-2(3)) is amended by adding at the end the following new sentence: "In the case of an individual provided continuation coverage by reason of a qualifying event described in section 2203(6), any reference in subparagraph (A) of this paragraph to '102 percent of the applicable premium' is deemed a reference to '125 percent of the applicable premium for employed individuals (and their dependents, if applicable) for the coverage option referred to in paragraph (1)(B)'.".

(e) NOTICE.—Section 2206(a) of such Act (42 U.S.C. 300bb-6(a)) is amended—

(1) in paragraph (4)(A), by striking "or (4)" and inserting "(4), or (6)"; and

(2) by adding at the end the following:

"The notice under paragraph (4) in the case of a qualifying event described in section 2203(6) shall be provided at least 90 days before the date of the qualifying event.".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 6, 1999. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except that in no case shall notice be required under such amendment before such date.

Subtitle C—Amendments to the Internal Revenue Code of 1986

SEC. 321. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 4980B(f)(3) of the Internal Revenue Code of 1986 is amended by inserting after subparagraph (F) the following new subparagraph:

"(G) The termination or substantial reduction in benefits (as defined in subsection (g)(6)) of group health plan coverage as a result of plan changes or termination in the case of a covered employee who is a qualified retiree.".

(2) QUALIFIED RETIREE; QUALIFIED BENEFICIARY; AND SUBSTANTIAL REDUCTION DEFINED.—Section 4980B(g) of such Code is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting "except as otherwise provided in this paragraph," after "means,"; and

(ii) by adding at the end the following new subparagraph:

"(E) SPECIAL RULE FOR QUALIFYING RETIREES AND DEPENDENTS.—In the case of a qualifying event described in subsection (f)(3)(G), the term 'qualified beneficiary' means a qualified retiree and any other individual who, on the day before such qualifying event, is a beneficiary under the plan on the basis of the individual's relationship to such qualified retiree."; and

(B) by adding at the end the following new paragraphs:

"(5) QUALIFIED RETIREE.—The term 'qualified retiree' means, with respect to a qualifying event described in subsection (f)(3)(G), a covered employee who, at the time of the event—

"(A) has attained 55 years of age; and

"(B) was receiving group health coverage under the plan by reason of the retirement of the covered employee.

"(6) SUBSTANTIAL REDUCTION.—The term 'substantial reduction'—

"(A) means, as determined under regulations of the Secretary of Labor and with respect to a qualified beneficiary, a reduction in the average actuarial value of benefits under the plan (through reduction or elimination of benefits, an increase in premiums, deductibles, copayments, and coinsurance, or any combination thereof), since the date of commencement of coverage of the beneficiary by reason of the retirement of the covered employee (or, if later, January 6, 1999), in an amount equal to at least 50 percent of the total average actuarial value of the benefits under the plan as of such date (taking into account an appropriate adjustment to permit comparison of values over time); and

"(B) includes an increase in premiums required to an amount that exceeds the premium level described in the fourth sentence of subsection (f)(2)(C).".

(b) DURATION OF COVERAGE THROUGH AGE 65.—Section 4980B(f)(2)(B)(i) of such Code is amended—

(1) in subclause (II), by inserting "or (3)(G)" after "(3)(F)";

(2) in subclause (IV), by striking "or (3)(F)" and inserting ", (3)(F), or (3)(G)";

(3) by redesignating subclause (IV) as subclause (VI);

(4) by redesignating subclause (V) as subclause (IV) and by moving such clause to immediately follow subclause (III); and

(5) by inserting after such subclause (IV) the following new subclause:

"(V) SPECIAL RULE FOR CERTAIN DEPENDENTS IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—In the case of a qualifying event described in paragraph (3)(G), in the case of a qualified beneficiary described in subsection (g)(1)(E) who is not the qualified retiree or spouse of such retiree, the later of—

"(a) the date that is 36 months after the earlier of the date the qualified retiree becomes entitled to benefits under title XVIII of the Social Security Act, or the date of the death of the qualified retiree; or

"(b) the date that is 36 months after the date of the qualifying event.".

(c) TYPE OF COVERAGE IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—Section 4980B(f)(2)(A) of such Code is amended—

(1) by striking "The coverage" and inserting the following:

"(i) IN GENERAL.—Except as provided in clause (ii), the coverage"; and

(2) by adding at the end the following:

"(ii) CERTAIN RETIREES.—In the case of a qualifying event described in paragraph (3)(G), in applying the first sentence of clause (i) and the fourth sentence of subparagraph (C), the coverage offered that is the most prevalent coverage option (as determined under regulations of the Secretary of Labor) continued under the group health plan (or, if none, under the most prevalent other plan offered by the same plan sponsor) shall be treated as the coverage described in such sentence, or (at the option of the plan and qualified beneficiary) such other coverage option as may be offered and elected by the qualified beneficiary involved.".

(d) INCREASED LEVEL OF PREMIUMS PERMITTED.—Section 4980B(f)(2)(C) of such Code is amended by adding at the end the following new sentence: "In the case of an individual provided continuation coverage by reason of a qualifying event described in paragraph (3)(G), any reference in clause (i) of this subparagraph to '102 percent of the applicable premium' is deemed a reference to '125 percent of the applicable premium for employed individuals (and their dependents, if applicable) for the coverage option referred to in subparagraph (A)(ii)'.".

(e) NOTICE.—Section 4980B(f)(6) of such Code is amended—

(1) in subparagraph (D)(i), by striking "or (F)" and inserting "(F), or (G)"; and

(2) by adding at the end the following:

"The notice under subparagraph (D)(i) in the case of a qualifying event described in paragraph (3)(G) shall be provided at least 90 days before the date of the qualifying event.".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 6, 1999. In the case of a

qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except that in no case shall notice be required under such amendment before such date.

SUMMARY OF BILL

TITLE I. ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE

The centerpiece of this initiative is the Medicare buy-in for people ages 62 to 65.

Eligibility: Persons ages 62 to 65 who do not have access to employer sponsored or federal health insurance may participate.

Premium Payments: Participants would pay two separate premiums—one before age 65 and one between age 65 and 85.

Base premium: The base premium would be paid monthly between enrollment and when the participant turns age 65. It is the part of the full premium that represents what Medicare would pay on average for all people in this age group. The Congressional Budget Office (CBO) estimates that this would be about $300 per month. It would be adjusted for geographic variation, but the maximum premium would be limited to ensure participation in all areas of the country.

Deferred premium: The deferred premium would be paid monthly beginning at age 65 until the beneficiary turns age 85. It is the part of the premium that covers the extra costs for participants who are sicker than average. Participants will be told before they enroll what their deferred premium will be. CBO estimates that this would be about $10 per month per year of participation.

This two-part payment plan acts like a mortgage: it makes the up-front premium affordable but requires participants to pay back the Medicare "loan" with interest. It also ensures that in the long-run, this buy-in is self-financing.

Enrollment: Eligible persons can enroll within two months of either turning 62 or losing access to employer-based or federal insurance.

Applicability of Medicare Rules: Services covered and cost sharing would be, for paying participants, the same as those of Medicare beneficiaries. Participants would have the choice of fee-for-service or managed care. No Medicaid assistance would be offered to participants for premiums or cost sharing. Medigap policy protections would apply, but the open enrollment provision remains at age 65.

Disenrollment: Persons could stop buying into Medicare at any time. People who disenroll would pay the deferred premium as though they had been enrolled for a full year (e.g., a person who buys in for 3 months in 2000 would pay the deferred premium as though they participated for 12 months). This is intended to act as a disincentive for temporary enrollment.

TITLE II. ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE

In addition to people ages 62 to 65, a targeted group of 55 to 61 year olds could buy into Medicare. The Medicare buy-in would be the same as above, with the following exceptions.

Eligibility: Persons would be eligible if they are between ages 55 and 61 and: (1) lost their job because their firm closed, downsized, or moved, or their position was eliminated (defined as being eligible for unemployment insurance) after January 1, 2000; (2) had health insurance through their previous job for at least one year (certified through the process created under HIPAA to guarantee continuation coverage); and (3) do not have access to employer sponsored, COBRA, or federal health insurance. Spouses of these eligible people may also buy into Medicare.

Premium Payments: Participants would pay one, geographically adjusted premium, with no Medicare "loan". This premium represents what Medicare would pay on average for all people in this age group plus an add-on (65 percent of the age average) to compensate for some of the extra costs of participants who may be sicker than average. These premiums would be about $400 per month.

Disenrollment: Like persons ages 62 to 65, eligible displaced workers and their spouses must enroll in the buy-in within 63 days of becoming eligible. Participants continue to pay premiums until they voluntarily disenroll, gain access to federal or employer-based insurance or turn 62 and become eligible for the more general Medicare buy-in. Once they disenroll, they may only re-enroll if they meet all the eligibility rules again.

TITLE III. RETIREE HEALTH BENEFITS PROTECTION ACT

The bill would also help retirees and their dependents whose former employer unexpectedly drops their retiree health insurance, leaving them uncovered and with few options.

Eligibility: Persons ages 55 to 65 and their dependents who were receiving retiree health coverage but whose coverage was terminated or substantially reduced (benefits' value reduced by half or premiums increased to a level above 125 percent of the applicable premium) would qualify for "COBRA" continuation coverage.

Premium Payments: Participants would pay 125 percent of the applicable premium. This premium is higher than what most other COBRA participants pay (102 percent) because it is expected that those who enroll will be sicker (have higher costs) than other members of their age cohort.

Enrollment: Participants would enroll through their former employer, following the same rules as other COBRA eligibles.

Disenrollment: Retirees would be eligible until they turn 65 years-old and could disenroll at any time.

Mr. KENNEDY. Mr. President, I commend Senator MOYNIHAN for his strong leadership on this issue. More than three million Americans aged 55 to 64 have no health insurance today. They are too young for Medicare, and unable to obtain private coverage they can afford. Often, they are victims of corporate downsizing, or of a company's decision to cancel their health insurance.

In the past year, the number of the uninsured in this age group increased at a faster rate than other age groups. These Americans have been left out and left behind through no fault of their own—often after decades of hard work and reliable insurance coverage—and it is time for Congress to provide a helping hand.

Many of these fellow citizens have serious health problems that threaten to destroy the savings of a lifetime and that prevent them from finding or keeping a job. Even those without current health problems know that a single serious illness could wipe out their savings.

These uninsured Americans tend to be in poorer health than other members of their age group. Their health continues to deteriorate, the longer they remain uninsured. This unnecessary burden of illness is a preventable human tragedy—and it adds to Medicare's long-term costs, because when these individuals turn 65, they enter the program with more costly health problems and greater unmet needs for health care services.

Even those with good coverage today can't be certain that it will be there tomorrow. No one nearing retirement can be confident that the health insurance they have now will protect them until they qualify for Medicare at 65.

Our legislation provides three kinds of assistance. First, any uninsured American who is 62 years old or older and not yet eligible for Medicare can buy into the program. Participants will pay the full cost of their coverage, but to help keep premiums affordable, they can defer payment of part of the premiums until they turn 65 and Medicare starts to pay most of their health care costs. Once they turn 65, this defrayed premium will be paid back over time at a modest monthly charge, currently estimated at about $10 per month for each year of participation in the buy-in program. Individuals age 55–61 who lose their health insurance because they are laid off or because their company closes will also be able to buy into Medicare. Finally, people who have retired before 65 with the expectation of employer-paid health insurance coverage would be allowed to buy into the company's program for active workers if the company dropped retirement coverage.

Today's proposal is a lifeline for all of these Americans. It is also a constructive step toward the day when every American will be guaranteed the fundamental right to health care.

In the past, opponents have waged a campaign of disinformation that this sensible plan is somehow a threat to Medicare. They are wrong—and the American people understand that they are wrong. Under our proposal, the participants themselves will ultimately pay the full cost of this new coverage. The modest short-term budget impact can be financed through savings obtained by reducing fraud or abuse in Medicare.

Every American should have the security and peace of mind of knowing that their critical years in the workforce will not be haunted by the fear of devastating medical costs or the inability to meet basic medical needs. Uninsured Americans who are too young for Medicare but too old to purchase affordable private insurance coverage deserve our help—and we intend to see that they get it.

By Mr. MOYNIHAN:

S. 203. A bill to amend title XIX of the Social Security Act to provide for an equitable determination of the Federal medical assistance percentage; to the Committee on Finance.

EQUITABLE FEDERAL MEDICAID ASSISTANCE PERCENTAGE ACT OF 1999

Mr. MOYNIHAN. Mr. President, I introduce today a bill to revise the formula for determining the Federal Medical Assistance Percentage. Medicaid services and associated administrative costs are financed jointly by the Federal government and the States. The formula for the Federal share of a State's payments for services, known as the Federal Medical Assistance Percentage (FMAP), was established when Medicaid was created as part of the Social Security Amendments of 1965.

The FMAP is a somewhat exotic creature, derived from the Hill-Burton Hospital Survey and Construction Act of 1946, specifically designed to provide a higher Federal matching rate for states with lower state funds, as measured by per capital income. A Senate colleague once described it to me as the South's revenge for the Civil War.

The Federal government's share depends upon the square of the ratio of state per capita income to national per capita income. Per capita income is a proxy but not the only proxy for measuring the States' relative fiscal capacity and its population's need for assistance. In March 1982, the Advisory Commission on Intergovernmental Relations stated that,

> * * * the use of a single index, resident per capita income, to measure fiscal capacity, seriously misrepresents the actual ability of many governments to raise revenue. Because states tax a wide range of economic activities other than the income of their residents, the per capita income measure fails to account for sources of revenue to which income is only related in part. This misrepresentation results in the systematic over and understatement of the ability of many states to raise revenue. In addition, the recent evidence suggests that per capital income has deteriorated as a measure of capacity * * *

Squaring the ration of state per capita income to national per capita income exaggerates the differences between States with regard to this inadequate proxy for both state wealth and of population in need of assistance. At a commencement address in 1977 at Kingsborough Community College in Brooklyn, New York, I proposed a change to the Hill-Burton formula by suggesting that the "square" in the formula be changed to the "square root." The idea has not caught on.

However, I remain hopeful. The Balanced Budget Act of 1997 included a provision that increased the FMAP rate for Alaska. My colleagues in the Committee on Finance included this provision as an amendment in Committee Mark-up. The provision increased Alaska's FMAP rate from 50 percent to 59.8 percent to reflect the higher cost of living relative to the national average. For states with a higher cost of living, the per capita income proxy systematically underestimates the state's population in need and overstates its relative capacity to raise revenues. As conferees, we posited:

> The current methodology for calculating match rates, per capita income, is a poor and inadequate measure of the states' needs and abilities to participate in the Medicaid program. The conferees note that the poverty guidelines for Alaska and Hawaii, for example, are different than those for the rest of the nation but there is no variation from the national calculation in the FMAP. The increase in Alaska's FMAP demonstrates there is a recognition that a more accurate measurement is needed in the program.

The General Accounting Office (GAO) has studied the formula inequity for the past several years. In testimony before the Committee on Finance in 1995, GAO concluded:

> The current formula has not moderated disparities across states with respect to the populations and benefits Medicaid covers and the relative financial burden states bear in funding their programs. Our work over the years shows that the use of per capita income to reflect a state's wealth sometimes overstates or understates the size of a state's poverty population and its financial resources.

The legislation that I introduce today—The Equitable Federal Medical Assistance Percentage Act of 1999—would provide a more accurate and equitable formula by using more precise measures of a state's relative capacity to raise revenue—or its wealth—and its share of the population in need. The original concept is preserved: The goal of the matching formula is to offset the imbalance between state resources and the number of people in need in the state. I call this the state fiscal imbalance. A state with a larger share of resources compared to its share of need is in a stronger fiscal position than a state with higher needs and fewer resources. The formula would measure the imbalance relative to its share of the national average: the state's fiscal imbalance is its share of the nation's resources compared to its share of the nation's population in need.

State Share of Financing Resources. Per capita income only reflects a portion of a state's potential revenue. Perhaps in the 1950's and 1960's, per capita income was the best available indicator of state's wealth. Currently, the Treasury Department estimates each state's total taxable resources or TTR. In 1994, TTR replaced per capita income in the formula for distributing funds under the Alcohol, Drug Abuse and Mental Health Services block grant. This proposed formula compares the state's TTR to sum of all states' TTRs. Funding capacity would be adjusted to account for the difference in regional health care costs. This provides a more accurate reflection of a state's ability to purchase comparable services with similar tax efforts. The health care price index is based on the Medicare hospital payment adjuster that accounts for geographic wage differences and on a proxy for office space costs.

The Population-in-Need. The number of persons in need of public assistance would be measured by the state's population living below the poverty level. Per capita income—or the average mean income—is a particularly poor measure of poverty. An average income measure skews a state's situation if a state has extreme differences in income levels among its residents, such as a state with a high portion of residents with high-incomes and a high portion of residents with low-incomes. Despite similar per capita incomes, New York has a poverty rate that is nearly 50 percent greater than in Massachusetts, according to GAO.

The EFMAP would also use adjusted poverty levels to reflect regional variation in cost of living. Without a cost of living adjustment, the national poverty level underestimates what constitutes poverty in New York, with a cost of living 13 percent above the national average. In addition, the state's adjusted poverty count would be weighted to account for higher cost populations. For example, health care costs for the elderly can be about two and a half to three and a half times that for adults and six to eight times the cost for children.

Currently, New York's FMAP is 50 percent. This proposed formula with more accurate and equitable measures of wealth and need would provide New York with a 70 percent matching rate. In State Fiscal Year 1998–1999, this would yield $6.5 billion in additional federal Medicaid funds for New York. In fact, several other states and the District of Columbia would receive a greater matching rate under this bill.

In a response to a request from both then-Senator D'Amato and me in 1997, GAO determined that had New York had a similar equitable formula, the state would have received between $3.4 billion and $6.5 billion in additional federal assistance during the period of 1989 through 1996. These additional federal funds would by no means eliminate the existing $18 billion deficit in the balance of payments that New York annually has each year. However, it would be a start, and an important first step toward correcting a long-standing inequity in the Federal government's balance of payments with the states.

I ask unanimous consent that the summary of the bill and the full text of the bill be included in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Equitable Federal Medical Assistance Percentage Act of 1999".

SEC. 2. EQUITABLE DETERMINATION OF FEDERAL MEDICAL ASSISTANCE PERCENTAGE.

(a) In General.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following:

"(v) Determination of Equitable Federal Medical Assistance Percentage.—

"(1) In general.—Except as provided in paragraph (4), the equitable Federal medical assistance percentage determined under this subsection is, for any State for a fiscal year, 100 percent reduced by the product of 0.45 and the ratio of—

"(A) the State's share of cost-adjusted total taxable resources determined under paragraph (2); to

"(B) the State's share of program need determined under paragraph (3).

"(2) Determination of state's share of cost-adjusted total taxable resources.—

"(A) In general.—For purposes of paragraph (1)(A), with respect to a State, the State's share of cost-adjusted total taxable resources is the ratio of—

"(i)(I) an amount equal to the most recent 3-year average of the total taxable resources (TTR) of the State, as determined by the Secretary of the Treasury; divided by

"(II) the most recent 3-year average of the State's geographic health care cost index (as determined under subparagraph (B)); to

"(ii) an amount equal to the sum of the amounts determined under clause (i) for all States.

"(B) State's geographic health care cost index.—

"(i) In general.—For purposes of subparagraph (A)(i)(II), the geographic health care cost index for a State for a fiscal year is the sum of—

"(I) 0.10;

"(II) 0.75 multiplied by the ratio of—

"(aa) the most recent 3-year average annual wages for hospital employees in the State or the District of Columbia (as determined under clause (ii)); to

"(bb) the most recent 3-year average annual wages for hospital employees in the 50 States and the District of Columbia (as determined under that clause); and

"(III) 0.15 multiplied by the State's fair market rent index (as determined under clause (iii)).

"(ii) Determination of average annual wages of hospital employees.—The Secretary shall provide for the determination of the most recent 3-year average annual wages for hospital employees in a State or the District of Columbia and, collectively, in the 50 States and the District of Columbia, based on the area wage data applicable to hospitals under section 1886(d)(3)(E) (or, if such data no longer exists, comparable data of hospital wages) for discharges occurring during the fiscal years involved.

"(iii) Determination of fair market rent index.—For purposes of clause (i)(III), a State's fair market rent index is the ratio of—

"(I) the average annual fair market rent for 2-bedroom housing units in the State or the District of Columbia, to be determined by the Secretary of Housing and Urban Development for the most recent 3 fiscal years for which data are available; to

"(II) the average annual fair market rent for such housing units for all States for such 3 fiscal years, as so determined.

"(3) Determination of state's share of program need.—

"(A) In general.—For purposes of paragraph (1)(B), with respect to a State, the State's share of program need is the ratio of—

"(i) the State's program need determined under subparagraph (B); to

"(ii) the sum of the amounts determined under clause (i) for all States.

"(B) Determination of state program need.—

"(i) In general.—For purposes of subparagraph (A)(i), a State's program need is equal to the average (determined for the most recent 5 fiscal years for which data are available) of the sum of the products determined under clause (iv) for each such fiscal year (based on the number of State residents whose income is below the State's cost-of-living adjusted poverty income level (as determined under clauses (ii) and (iii)).

"(ii) Determination of number of state residents with incomes belowthe state's cost-of-living adjusted poverty level.—

"(I) In general.—For purposes of clause (iv), with respect to each State and the District of Columbia, the number of residents whose income for a fiscal year is below the State's cost-of-living adjusted poverty income level applicable to a family of the size involved (as determined under clause (iii)) shall be determined.

"(II) Census data.—The determination of the number of residents under subclause (I) shall be based on data made generally available by the Bureau of the Census from the Current Population Survey.

"(iii) Determination of state's cost-of-living adjusted poverty income level.—

"(I) In general.—For purposes of clause (ii)(I), a State's cost-of-living adjusted poverty income level is the product of—

"(aa) the United States poverty income threshold for the fiscal year involved (as defined by the Office of Management and Budget for general statistical purposes); and

"(bb) the State's cost-of-living index (as determined under subclause (II)).

"(II) Determination of state's cost-of-living index.—Subject to subclause (III), a State's cost-of-living index is the sum of—

"(aa) 0.56; and

"(bb) the product of 0.44 and the State's fair market rent index determined under paragraph (2)(B)(iii).

"(III) Alternate methodology.—The Commissioner of Labor Statistics may use an alternate methodology to the formula set forth under subclause (II) to determine a State's cost-of-living index for purposes of subclause (I)(bb) if the Commissioner determines that the alternate methodology results in a more accurate determination of that index.

"(iv) Weighting of age categories of residents in poverty to account for higher cost populations.—For purposes of clause (i), the products determined under this clause for a fiscal year are the following:

"(I) Weighting of elderly residents in poverty.—The number of residents determined under clause (ii) of the State or the District of Columbia for the fiscal year who have attained age 65 multiplied by 3.65.

"(II) Weighting of adult residents in poverty.—The number of residents determined under clause (ii) of the State or the District of Columbia for the fiscal year who have attained age 21 but have not attained age 65 multiplied by 1.0.

"(III) Weighting of children in poverty.—The number of residents determined under clause (ii) of the State or the District of Columbia for the fiscal year who have not attained age 21 multiplied by 0.5.

"(4) Special rules.—For purposes of this subsection and subsection (b), the equitable Federal medical assistance percentage is—

"(A) in the case of the District of Columbia, the percentage determined under this subsection for the District of Columbia (without regard to this paragraph) multiplied by 1.4.; and

"(B) in the case of Alaska, 59.8 percent.".

(b) Conforming Amendments.—Section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(1) in the matter preceding paragraph (1), by striking "100 per centum" and all that follows through "Hawaii" and inserting "the equitable Federal medical assistance percentage determined under subsection (v)";

(2) in paragraph (1), by striking "50 per centum or more than 83 per centum,," and inserting "50 percent or more than 83 percent, and"; and

(3) in paragraph (2), by striking "50 per centum" and all that follows through the period at the end of paragraph (3) and inserting "50 percent.".

(c) Effective Date.—The amendments made by this Act take effect on October 1, 1999.

Summary of Equitable Federal Medical Assistance Percentage

Purpose: This legislation would replace an outdated formula for determining the federal match rate for Medicaid expenditures. The Federal Medical Assistance Percentage (FMAP) formula was intended to account for each state's financial burdens by measuring its relative wealth—or ability to pay costs—and its population in need for assistance—or its extent of poverty. However, the current formula uses a rather crude proxy for these measurements—the per capita income in the state.

Current Formula: The Federal match rate (FMAP) for each state is determined as follows:

FMA=1 − 0.45 (state's per capita income/national per capita income)^2

Per capita income measures both the state's financing capacity and population in need.

Proposed Legislation: The new formula is based on several years of analysis by the GAO:

$$\text{EFMAP}=1-0.45\ \frac{\text{State Share of Resources}}{\text{State Share of Program Need}}$$

A State's Share of resources would be measured by the state's Total Taxable Revenue (TTR)—the total amount of revenue raised in the state—compared to the sum of all states' TTR. This state TTR amount is adjusted for geographic differences in health care prices, or a state health care index. The health care index adjustment accounts for the state's ability to purchase comparable services with similar tax efforts.

State Program Need would be measured by the number of residents with incomes below the poverty level compared to the sum of all poor in the nation. To determine the number of residents living below poverty, the Federal Poverty Level would be adjusted for each state to account for geographic cost of living differences. The adjusted poverty count would also be weighted to account for higher cost populations, such as the elderly.

The proposal would apply the current 50 percent floor and 83 percent ceiling to EFMAP rates for states. The EFMAP would be the federal matching rate for all program's that currently use the FMAP, such as the Children's Health Insurance Program (CHIP) and foster care, as well as Medicaid.

Alaska would keep its current FMAP of 59.8 percent. The District of Columbia would have an adjusted EFMAP rate of reflect its locality status, as under current law.

By Mr. MOYNIHAN (for himself, Mr. JEFFORDS, and Mr. LIEBERMAN:)

S. 204. A bill to amend chapter 5 of title 13, United States Code, to require that any data relating to the incidence of poverty produced or published by the Secretary of Commerce for subnational areas is corrected for differences in the cost of living in those areas; to the Committee on Governmental Affairs.

POVERTY DATA CORRECTION ACT OF 1999

Mr. MOYNIHAN. Mr. Presidents, I rise today to introduce the Poverty Data Correction Act of 1999, a bill to require that any data relating to the incidence of poverty in subnational areas be corrected for the differences in the cost of living in those areas. This legislation would correct a longstanding inequity and would provide us with more accurate information on the number of Americans living in poverty.

Residents of states such as New York and Connecticut earn more, on average, than do residents of Mississippi or Alabama. But they also must spend more. One need only try to rent an apartment in New York City to understand this. Yet, we have a national poverty threshold adjusted only by family size and composition, not by where the family lives. A family of four just above the poverty threshold in New York City or Anchorage is demonstrably worse off than a family of four just below the threshold in, say, rural Arkansas. And yet that family in New York might be ineligible for federal aid and will not count in the tallies of the poverty population used to allocate funds among the states, while the Arkansas family will be eligible and will be counted.

Professor Herman B. "Dutch" Leonard and Senior Research Associate Monica Friar of the Taubman Center for State and local government at Harvard have devised an index of poverty statistics that reflects the differences in the cost of living between States. If we look at the "Friar-Leonard State Cost-of-Living index," as it has come to be known, we find that, in Fiscal Year 1997, New York had a poverty rate of 20.5% third highest in the nation. yet the official poverty level for 1997 is 16.6%. These adjusted statistics still reflect poverty accurately: the poor states of Mississippi and New Mexico remain ranked higher than New York in this ranking of misfortune.

Mr. President, our current poverty data are inaccurate. And these substandard data are used in allocation formulas used to distribute millions of Federal dollars each year. As a result, states with high costs of living—New York, Connecticut, Vermont, Hawaii, California, just to name a few—are not getting their fair share of Federal dollars because differences in the cost of living are ignored. And the poor of these high cost states are penalized because they happen to live there. It is time to correct this inequity.

I ask unanimous consent that a summary of the legislation and its full text be included in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Poverty Data Correction Act of 1999".

SEC. 2. REQUIREMENT.

(a) IN GENERAL.—Chapter 5 of title 13, United States Code, is amended by adding after subchapter V the following:

"SUBCHAPTER VI—POVERTY DATA

"§ 197. Correction of subnational data relating to poverty

"(a) Any data relating to the incidence of poverty produced or published by or for the Secretary for subnational areas shall be corrected for differences in the cost of living, and data produced for State and sub-State areas shall be corrected for differences in the cost of living for at least all States of the United States.

"(b) Data under this section shall be published in 1999 and at least every second year thereafter.

"§ 198. Development of State cost-of-living index and State poverty thresholds

"(a) To correct any data relating to the incidence of poverty for differences in the cost of living, the Secretary shall—

"(1) develop or cause to be developed a State cost-of-living index which ranks and assigns an index value to each State using data on wage, housing, and other costs relevant to the cost of living; and

"(2) multiply the Federal Government's statistical poverty thresholds by the index value for each State's cost of living to produce State poverty thresholds for each State.

"(b) The State cost-of-living index and resulting State poverty thresholds shall be published before September 30, 2000, for calendar year 1999 and shall be updated annually for each subsequent calendar year.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 13, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—POVERTY DATA

"197. Correction of subnational data relating to poverty.

"198. Development of State cost-of-living index and State poverty thresholds.".

POVERTY DATA CORRECTION ACT OF 1999—BRIEF DESCRIPTION OF PROVISIONS

I. REQUIRES ADJUSTMENT OF POVERTY DATA FOR DIFFERENCES IN COST OF LIVING

The bill would require that any data relating to poverty on a subnational basis (including state-by-state data) be corrected for the differences in the cost of living by state or sub-state areas. The costs of basic needs, such as housing, vary substantially from state-to-state and assessments of poverty in the United States should take this into account.

II. REQUIRES DEVELOPMENT OF STATE COST-OF-LIVING INDEX AND POVERTY THRESHOLDS

To enable the adjustments required above, the bill requires the development of a state-specific cost-of-living index based upon wage, housing, and other cost information relevant to the cost of living. The bill also requires that the Federal government's poverty thresholds be multiplied by this index to produce state-specific poverty thresholds. These thresholds, which vary by family size, are the "poverty line" used to determine the number of individuals and families in poverty.

By Mr. MOYNIHAN (for himself and Mr. KERREY):

S. 205. A bill to establish a Federal Commission on Statistical Policy to study the reorganization of the Federal statistical system, to provide uniform safeguards for the confidentiality of information acquired from exclusively statistical purposes, and to improve the efficiency of Federal statistical programs and the quality of Federal statistics by permitting limited sharing of records among designated agencies for statistical purposes under strong safeguards; to the Committee on Governmental Affairs.

FEDERAL COMMISSION ON STATISTICAL POLICY ACT OF 1999

Mr. MOYNIHAN. Mr. President, I join my distinguished colleague, Senator BOB KERREY of Nebraska, in introducing legislation to establish a Federal Commission on Statistical Policy. Congressman STEPHEN HORN of California and Congresswoman CAROLYN MALONEY of New York plan to introduce similar legislation in the House of Representatives.

This legislation is similar to S. 1404, The Federal Statistical System Act of 1997, a bill which was favorably reported out of the Senate Committee on Governmental Affairs October 6 of last year by a 9 to 0 vote.

This Senator first introduced legislation to study the Federal statistical system on September 25, 1996, for the 104th Congress, and again on January 21, 1997, for the 105th Congress. Over the past few years, I have testified before the Senate Subcommittee on Oversight of Government Management and the House Subcommittee on Government Management, Information and Technology to explain this legislation. This bill represents more than 2 years of work and much bipartisan cooperation.

The Federal Commission on Statistical Policy would consist of 16 Presidential and congressional appointees with expertise in fields such as actuarial science, finance, and economics. Its members would conduct a thorough review of the U.S. statistical system, and issue a report that would include recommendations on whether statistical agencies should be consolidated into a centralized Federal Statistical Service.

Of course, we have an example of a consolidated statistical agency just across our northern border. Statistics Canada, the most centralized statistical agency among OECD countries, was established in November 1918 as a reaction to a familiar problem. At that time, the Canadian Minister of Industry was trying to obtain an estimate of the manpower resources that Canada could commit to the war effort. And he got widely different estimates from statistical agencies scattered throughout the government. Consolidation seemed the way to solve this problem, and so it happened—as it can in a parliamentary government—rather quickly, just as World War I ended.

In April of 1997, a member of my staff met in Ottawa with the Assistant Chief Statistician of Statistics Canada. He reported that Statistics Canada is doing quite well. Decisions about the allocation of resources among statistical functions are made at the highest levels of government because the Chief Statistician of Statistics Canada holds a position equivalent to Deputy Cabinet Minister. He communicates directly with Deputy Ministers in other Cabinet Departments. In contrast, in the United States, statistical agencies are buried several levels below the Cabinet Secretaries, so it is difficult for the heads of these statistical agencies to bring issues to the attention of high-ranking administration officials and Congress.

Statistics are part of our constitutional arrangement, which provides for a decennial census that, among other purposes, is the basis for apportionment of membership in the House of Representatives. I quote from article I, section I:

> . . . enumeration shall be made within three Years after the first meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall be Law direct.

But, while the Constitution directed that, there be a census, there was, initially, no Census Bureau. The earliest censuses were conducted by U.S. marshals. Later on, statistical bureaus in state governments collected the data, with a Superintendent of the Census overseeing from Washington. It was not until 1902 that a permanent Bureau of the Census was created by the Congress, housed initially in the Interior Department. In 1903 the Bureau was transferred to the newly established Department of Commerce and Labor.

The Statistics of Income Division of the Internal Revenue Service, which was originally an independent body, began collecting data in 1866. It too was transferred to the new Department of Commerce and Labor in 1903, but then was put in the Treasury Department in 1913 following ratification of the 16th amendment, which gave Congress the power to impose an income tax.

A Bureau of Labor, created in 1884, was also initially in the Interior Department. The first Commissioner, appointed in 1885, was Colonel Carroll D. Wright, a distinguished Civil War veteran of the New Hampshire Volunteers. A self-trained social scientist, Colonel Wright pioneered techniques for collecting and analyzing survey data on income, prices and wages. He had previously served as Chief of the Massachusetts Bureau of Statistics, a post he held for 15 years, and in that capacity had supervised the 1880 Federal census in Massachusetts.

In 1888, the Bureau of Labor became an independent agency. In 1903, it was once again made a Bureau, joining other statistical agencies in the Department of Commerce and Labor. When a new Department of Labor was formed in 1913, given labor an independent voice—as labor was "removed" from the Department of Commerce and Labor—what we now know as the Bureau of Labor Statistics was transferred to the newly created Department of Labor.

And so it went. Statistical agencies sprung up as needed. And they moved back and forth as new executive departments were formed. Today, some 89 different organizations in the Federal government comprise parts of our national statistical infrastructure. Eleven of these organizations have as their primary function the generation of data. These 11 organizations are:

Agency	Department	Date established
National Agricultural Statistical Service	Agriculture	1863
Statistics of Income Division, IRS	Treasury	1866
Economic Research Service	Agriculture	1867
National Center for Education Statistics	Education	1867
Bureau of Labor Statistics	Labor	1884
Bureau of the Census	Commerce	1902
Bureau of Economic Analysis	Commerce	1912
National Center for Health Statistics	Health and Human Services.	1912
Bureau of Justice Statistics	Justice	1968
Energy Information Administration	Energy	1974
Bureau of Transportation Statistics	Transportation	1991

NEED FOR LEGISLATION

President Kennedy once said:

> Democracy is a difficult kind of government. It requires the highest qualities of self-discipline, restraints, a willingness to make commitments and sacrifices for the general interest, and also it requires knowledge.

That knowledge often comes from accurate statistics. You cannot begin to solve a problem until you can measure it.

This legislation would require the Commission to conduct a comprehensive examination of the current statistical system and focus particularly on whether to create a centralized Federal Statistical Service.

In September 1996, prior to introduction of my first bill to establish a Commission to study the U.S. statistical system, I received a letter from nine former Chairmen of the Council of Economic Advisers (CEA) endorsing this legislation. Excluding two recent chairs, who at that time were still serving in the Clinton Administration, the signatories include virtually every living former chair of the CEA. While acknowledging that the United States "possesses a first-class statistical system," these former Chairmen remind us that "problems periodically arise under the current system of widely scattered responsibilities." They conclude as follows:

> Without at all prejudging the appropriate measures to deal with these difficult problems, we believe that a thoroughgoing review by a highly qualified and bipartisan Commission as provided in your Bill has great promise of showing the way to major improvements.

The letter is signed by: Michael J. Boskin, Martin Feldstein, Alan Greenspan, Paul W. McCracken, Raymond J. Saulnier, Charles L. Schultze, Beryl W. Sprinkel, Herbert Stein, and Murray Weidenbaum.

It happens that this Senator's association with the statistical system in the Executive Branch began over three decades ago. I was Assistant Secretary of Labor for Policy and Planning in the administration of President John F. Kennedy. This was a new position in which I was nominally responsible for the Bureau of Labor Statistics. I say nominally out of respect for the independence of that venerable institution, which as I noted earlier long predated the Department of Labor itself. The then-Commissioner of the BLS, Ewan Clague, could not have been more friendly and supportive. And so were the statisticians, who undertook to teach me to the extent I was teachable. They even shared professional confidences. And so it was that I came to have some familiarity with the field.

For example, we had just received a report on price indexes from a committee led by a Nobel laureate, George Stigler. The Committee stressed the importance of accurate and timely statistics noting that:

> The periodic revision of price indexes, and the almost continuous alterations in details of their calculation, are essential if the indexes are to serve their primary function of measuring the average movements of prices.

While the Final Report of the Advisory Commission: To Study The Consumer Price Index. (The Boskin Commission) focused primarily on the extent to which changes in the CPI overstate inflation, the Commission also addressed issues related to the effectiveness of Federal statistical programs and recommended that:

> Congress should enact the legislation necessary for the Departments of Commerce and Labor to share information in the interest of improving accuracy and timeliness of economic statistics and to reduce the resources consumed in their development and production.

There is, of course, a long history of attempts to reform our nation's statistical infrastructure. In her invaluable book Organizing to Count, Janet L. Norwood, former Commissioner of the BLS, has described efforts to bring some order to the national statistical system, going back to a Commission appointed by the Secretary of the Treasury in 1903 and following through to a 1990 Working Group of the Cabinet Council for Economic Policy, chaired by Michael Boskin. One such effort occurred in July of 1933 when, by Executive Order, President Roosevelt set up a Central Statistical Board—organized by the Secretary of Labor, Frances Perkins, and the sometime Commissioner of the Bureau of Labor Statistics, Isador Lubin. I say sometime because although Lubin headed the Bureau from 1933–1946, much of his time was spent "on leave" serving in various White House statistical assignments, including as a special statistical assistant to the President. In their fine history of the agency, The First Hundred Years of the Bureau of Labor Statistics, Joseph P. Goldberg and William T. Moye write that the Board was then established by Congress "in 1935 for a 5-year period to ensure consistency, avoid duplication, and promote economy in the work of government statistics."

But in most cases little or no action has been taken on their recommendations. The result of this inaction has been an ever expanding statistical system. It continues to grow in order to meet new data needs, but with little or no regard for the overall objectives of the system. As Norwood notes in her book:

> The U.S. system has neither the advantages that come from centralization nor the efficiency that comes from strong coordination in decentralization. As presently organized, therefore, the country's statistical system will be hard pressed to meet the demands of a technologically advanced, increasingly internationalized world in which the demand for objective data of high quality is steadily rising.

In this era of government downsizing and budget cutting, it is unlikely that Congress will appropriate more funds for statistical agencies. It is clear that to preserve and improve the statistical system we must consider reforming it, yet we must not attempt to reform the system until we have heard from experts in the field.

The legislation establishes a Federal Commission on Statistical Policy for a three-year term. The Commission would consist of 16 members: eight of whom to be chosen by the President; four of whom by the Speaker of the House of Representatives in consultation with the Majority and Majority Leader; and four of whom by the President pro tempore of the Senate in consultation with the Majority and Minority Leader.

In an initial 18-month period, the Commission would determine whether to consolidate the Federal statistical system, and would also make recommendations with respect to ways to achieve greater efficiency in carrying out Federal statistical programs. If the Commission recommends creation of a newly established independent Federal statistical agency, designated as the Federal Statistical Service, the Commission's report would contain draft legislation incorporating such recommendations.

Over the full term of the Commission, it would also conduct comprehensive studies and submit reports to Congress that:

Evaluate the mission of various statistical agencies and the relevance of such missions to current and future needs;

Evaluate key statistics and measures and make recommendations on ways to improve such statistics better serve the intended major purposes;

Review information technology and make recommendations of appropriate methods for disseminating statistical data; and

Compare our statistical system with the systems of other nations.

This legislation is only a first step, but an essential one. The Commission will provide Congress with the blueprint for reform. It will be up to us to finally take action after nearly a century of inattention to this very important issue.

I ask unanimous consent the full text of the letter from nine former Chairmen of the Council of Economic Adviser, a summary of the bill, and the full text of the bill be included in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 205

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Commission on Statistical Policy Act of 1999".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Sense of the Congress.

TITLE I—FEDERAL COMMISSION ON STATISTICAL POLICY

Sec. 101. Establishment.
Sec. 102. Duties of Commission.
Sec. 103. Powers.
Sec. 104. Commission procedures.
Sec. 105. Personnel matters.
Sec. 106. Other administrative provisions.
Sec. 107. Termination.
Sec. 108. Fast-track procedures for statistical reorganization bill.

TITLE II—EFFICIENCY AND CONFIDENTIALITY OF FEDERAL STATISTICAL SYSTEMS

Sec. 201. Short title.
Sec. 202. Findings and purposes.
Sec. 203. Definitions.
Sec. 204. Statistical Data Centers.
Sec. 205. Statistical Data Center responsibilities.
Sec. 206. Confidentiality of information.
Sec. 207. Coordination and oversight.
Sec. 208. Implementing regulations.
Sec. 209. Conforming amendments and proposed changes in law.
Sec. 210. Effect on other laws.

SEC. 2. FINDINGS.

The Congress, recognizing the importance of statistical information in the development of national priorities and policies and in the administration of public programs, finds the following:

(1) While the demand for statistical information has grown substantially during the last 30 years, the difficulty of coordinating planning within the decentralized Federal statistical system has limited the usefulness of statistics in defining problems and determining national policies to deal with complex social and economic issues.

(2) Coordination and planning among the statistical programs of the Government are necessary to strengthen and improve the quality and utility of Federal statistics and to reduce duplication and waste in information collected for statistical purposes.

(3) High-quality Federal statistical products and programs are essential for sound business and public policy decisions.

(4) The challenge of providing high-quality statistics has increased because our economy and society are more complex, new technologies are available, and decisionmakers need more complete and accurate data.

(5) Maintaining quality of Federal statistical products requires full cooperation between Federal statistical agencies and those persons and organizations that respond to their requests for information.

(6) Federal statistical products and programs can be improved, without reducing respondent cooperation, by permitting carefully controlled sharing of data with statistical agencies in a manner that is consistent with confidentiality commitments made to respondents.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) a more centralized statistical system is integral to efficiency;

(2) with increased efficiency comes better integration of research methodology, survey design, and economies of scale;

(3) the Chief Statistician must have the authority, personnel, and other resources necessary to carry out the duties of that office effectively, including duties relating to statistical forms clearance; and

(4) statistical forms clearance at the Office of Management and Budget should be better distinguished from regulatory forms clearance.

TITLE I—FEDERAL COMMISSION ON STATISTICAL POLICY

SEC. 101. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is established a commission to be known as the "Federal Commission on Statistical Policy" (in this title referred to as the "Commission").

(b) COMPOSITION.—The Commission shall be composed of 16 members as follows:

(1) APPOINTMENTS BY PRESIDENT.—Eight members appointed by the President from among individuals who—

(A) are not officers or employees of the United States; and

(B)(i) are qualified to serve on the Commission by virtue of experience relating to statistical agencies of the Federal Government; or

(ii) have expertise relating to organizational reorganization, State sources and uses of statistical information, statistical analysis, or management of complex organizations.

(2) Appointments From the House of Representatives.—Four members appointed by the Speaker of the House of Representatives, in consultation with the majority leader and minority leader of the House of Representatives, from among individuals who—

(A) are not officers or employees of the United States; and

(B)(i) are qualified to serve on the Commission by virtue of experience relating to statistical agencies of the Federal Government; or

(ii) are also qualified to serve on the Commission by virtue of expertise relating to organizational reorganization, State sources and uses of statistical information, statistical analysis, or management of complex organizations.

(3) Appointments From the Senate.—Four members appointed by the President pro tempore of the Senate, in consultation with the majority leader and minority leader of the Senate, from among individuals who—

(A) are not officers or employees of the United States; and

(B)(i) are qualified to serve on the Commission by virtue of experience relating to statistical agencies of the Federal Government; or

(ii) are also qualified to serve on the Commission by virtue of expertise relating to organizational reorganization, State sources and uses of statistical information, statistical analysis, or management of complex organizations.

(c) Deadline for Appointment.—Members shall be appointed to the Commission not later than 4 months after the date of the enactment of this Act.

(d) Political Affiliation.—

(1) Appointments by President.—Of the members of the Commission appointed under subsection (b)(1), not more than 4 may be of the same political party.

(2) Appointments by Speaker of the House of Representatives.—Of the members of the Commission appointed under subsection (b)(2), not more than 2 may be of the same political party.

(3) Appointments by President pro Tempore.—Of the members of the Commission appointed under subsection (b)(3), not more than 2 may be of the same political party.

(e) Chairman.—The Commission shall select a Chairman from among the members of the Commission by a majority vote of all members.

(f) Consultation Before Appointments.—In making appointments under subsection (b), the President, the Speaker of the House of Representatives, the minority leader of the House of Representatives, the President pro tempore of the Senate, and the minority leader of the Senate shall consult with appropriate professional organizations, including State and local governments.

(g) Period of Appointment; Vacancies.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

SEC. 102. DUTIES OF COMMISSION.

(a) Study and Report.—Not later than 18 months after the date of enactment of this Act, the Commission shall study and submit to Congress and the President a written report and draft legislation as necessary and appropriate on the Federal statistical system including—

(1) recommendations on whether the Federal statistical system could be reorganized by consolidating the statistical functions of agencies that carry out statistical programs;

(2) recommendations on how the consolidation described in paragraph (1) may be achieved without disruption in the release of statistical products;

(3) any other recommendations regarding how the Federal statistical system could be reorganized to achieve greater efficiency, improve quality, timeliness, and adaptability to change in carrying out Federal statistical programs;

(4) recommendations on possible improvements to procedures for the release of major economic and social indicators by the United States; and

(5) recommendations to ensure requirements that State data and information shall be maintained in a confidential, consistent, and comparable manner.

(b) Presidential Review.—

(1) In General.—

(A) Time Period for Review.—Not later than 15 days after the receipt of the report (including any draft legislation) under subsection (a), the President shall approve or disapprove of the report.

(B) Approval or Inaction.—If the President approves the report, the Commission shall submit the report to Congress on the day following such approval. If the President does not disapprove the report, the Commission shall submit the report to Congress on the day following the 15-day period described under subparagraph (A).

(C) Disapproval.—If the President disapproves the report, the President shall note his specific objections and any suggested changes to the Commission.

(D) Final Report After Disapproval.—The Commission shall consider any objections and suggested changes submitted by the President and may modify the report based on those objections and suggested changes. Not later than 10 days after receipt of the President's disapproval under subparagraph (C), the Commission shall submit the final report (as modified if modified) to Congress.

(c) Statistical Reorganization Bill.—

(1) In General.—If the written report submitted to Congress under subsection (a) contains recommendations on the consolidation of the Federal statistical functions of the United States into a Federal Statistical Service, the report shall contain draft legislation incorporating such recommendations under subsection (a)(1).

(2) Draft Legislation.—Draft legislation submitted to Congress under this subsection shall be strictly limited to implementation of recommendations for the consolidation or reorganization of the statistical functions of Federal agencies.

(3) Provisions in Draft Legislation.—Draft legislation submitted to Congress under this subsection that would establish a Federal Statistical Service shall—

(A) provide for an Administrator and Deputy Administrator of the Federal Statistical Service, and the creation of other officers as appropriate; and

(B) contain a provision designating the Administrator as a member of the Interagency Council on Statistical Policy established under section 3504(e)(8) of title 44, United States Code.

(d) Other Duties of the Commission.—

(1) In General.—The Commission shall also conduct comprehensive studies and submit reports to Congress on all matters relating to the Federal statistical infrastructure, including longitudinal surveys conducted by private agencies and partially funded by the Federal Government for the purpose of identifying opportunities to improve the quality of statistics in the United States.

(2) Inclusions.—Studies under this subsection shall include—

(A) a review and evaluation of the mission of various statistical agencies and the relevance of such missions to current and future needs;

(B) an evaluation of key statistics and measures and recommendations on ways to improve such statistics so that the statistics better serve the intended major purposes;

(C) a review of interagency coordination of statistical data and recommendations of methods to standardize collection procedures and surveys, as appropriate, and presentation of data throughout the Federal system;

(D) a review of information technology and recommendations of appropriate methods for disseminating statistical data, with special emphasis on resources such as the Internet that allow the public to obtain information in a timely and cost-effective manner;

(E) an identification and examination of issues regarding individual privacy in the context of statistical data;

(F) a comparison of the United States statistical system to statistical systems of other nations for the purposes of identifying best practices;

(G) a consideration of the coordination of statistical data with other nations and international agencies, such as the Organization for Economic Cooperation and Development; and

(H) recommendations regarding the presentation to the public of statistical data collected by Federal agencies, and standards of accuracy for statistical data used by Federal agencies, including statistical data relating to—

(i) the national poverty level and county poverty levels in the United States;

(ii) the Consumer Price Index;

(iii) the gross domestic product; and

(iv) other indicators of economic and social activity, including marriage and divorce in the United States.

(e) Definition of Federal Statistical Service.—As used in this section, the term "Federal Statistical Service" means an entity established after the date of the enactment of this Act as an independent agency in the executive branch, the purpose of which is to carry out Federal statistical programs and to which the statistical functions of Federal statistical agencies are transferred.

SEC. 103. POWERS.

(a) Hearings and Sessions.—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(b) Obtaining Information.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairman of the Commission, the head of that department or agency shall furnish that information to the Commission.

(c) Contract Authority.—The Commission may contract with and compensate government and private agencies or persons without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

SEC. 104. COMMISSION PROCEDURES.

(a) Meetings.—The Commission shall meet at the call of the Chairman or a majority of its members.

(b) Quorum.—Eight members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(c) Delegation of Authority.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this Act.

(d) Voting.—The Commission shall adopt any recommendation by a vote of a majority of its members.

SEC. 105. PERSONNEL MATTERS.

(a) Pay of Members.—Members of the Commission appointed under paragraphs (2)(B), (3), or (4) of section 101(b) shall be entitled to receive the daily equivalent of the rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(b) Travel Expenses.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) Staff.—The Commission may appoint and fix the pay of personnel as it considers appropriate, including an Executive Director.

(d) Applicability of Certain Civil Service Laws.—Staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the highest basic rate of pay established for the Senior Executive Service under section 5382 of such title.

SEC. 106. OTHER ADMINISTRATIVE PROVISIONS.

(a) Postal and Printing Services.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the United States.

(b) Administrative Support Services.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

(c) Experts and Consultants.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

SEC. 107. TERMINATION.

The Commission shall terminate 3 years after the date of enactment of this Act.

SEC. 108. EXPEDITED PROCEDURES FOR STATISTICAL REORGANIZATION BILL.

(a) Rules of House of Representatives and Senate.—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such it shall be considered as part of the rules of each House, respectively, or of that House to which it specifically applies, and shall supersede other rules only to the extent that they are inconsistent with this section; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to such House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(b) Definition.—As used in this section, the term "statistical reorganization bill" means only a bill of either House of Congress—

(1) that is identical to the draft legislation submitted to Congress by the Commission under section 102(b); and

(2) that is introduced as provided in subsection (c).

(c) Introduction and Referral.—Within 15 legislative days after the Commission submits to Congress legislation under section 102(b), such legislation shall be introduced (by request) in the House by the Majority Leader of the House of Representatives and shall be introduced (by request) in the Senate by the Majority Leader of the Senate. Such bills shall be referred to the appropriate committee in each House.

(d) Period for Committee and Floor Consideration.—

(1) Discharge.—If the committee of either House to which a statistical reorganization bill has been referred has not reported it at the close of the sixtieth day after its introduction, such committee may be discharged from further consideration of the bill upon a petition supported in writing in the Senate by 10 Members of the Senate and in the House of Representatives by 40 Members of the House of Representatives and it shall be placed on the appropriate calendar.

(2) Days.—For purposes of this subsection, in computing a number of days in either House, there shall be excluded the days on which that House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die.

(e) Floor Consideration in the House.—A motion in the House of Representatives to proceed to the consideration of a statistical reorganization bill shall be highly privileged except that a motion to proceed to consider may only be made on the second legislative day after the calendar day on which the Member making the motion announces to the House his intention to do so. The motion to proceed to consider is not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(f) Floor Consideration in the Senate.—

(1) Motion to proceed.—On or after the fifth day after the date on which a statistical reorganization bill or conference report is placed on the Senate calendar, it shall be in order for any Senator to make a motion to proceed to consideration of the bill or conference report. The motion shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Final passage.—Immediately following the conclusion of the debate on a statistical reorganization bill or conference report, the vote on final passage shall occur.

(g) Conference.—In the Senate, a motion to elect or to authorize the appointment of conferees shall not be debatable.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Commission such sums as may be necessary to carry out the functions of the Commission.

TITLE II—EFFICIENCY AND CONFIDENTIALITY OF FEDERAL STATISTICAL SYSTEMS

SEC. 201. SHORT TITLE.

This title may be cited as the "Statistical Confidentiality Act".

SEC. 202. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds the following:

(1) High quality Federal statistical products and programs are essential for sound business and public policy decisions.

(2) The challenge of providing high quality statistics has increased because the Nation's economy and society are more complex, new technologies are available, and decision makers need more complete and accurate data.

(3) Maintaining quality requires full cooperation between Federal statistical agencies and those persons and organizations that respond to requests for information.

(4) Federal statistical products and programs can be improved, without reducing respondent cooperation, by permitting carefully controlled sharing of data with statistical agencies in a manner that is consistent with confidentiality commitments made to respondents.

(b) Purposes.—The purposes of this title are the following:

(1) To provide that individually identifiable information furnished either directly or indirectly to designated statistical agencies for exclusively statistical purposes shall not be disclosed in individually identifiable form by such agencies for any other purpose without the informed consent of the respondent.

(2) To prohibit the use by such agencies, in individually identifiable form, of any information collected, compiled, or maintained solely for statistical purposes under Federal authority, to make any decision or take any action directly affecting the rights, benefits, and privileges of the person to whom the information pertains, except with the person's consent.

(3) To reduce the reporting burden, duplication, and expense imposed on the public by permitting interagency exchange, solely for statistical purposes, of individually identifiable information needed for statistical programs, and to establish secure conditions for such exchanges.

(4) To reduce the cost and improve the accuracy of statistical programs by facilitating cooperative projects between statistical agencies, and to create a secure environment where expertise and data resources that reside in different agencies can be brought together to address the information needs of the public.

(5) To reduce the risk of unauthorized disclosure of information maintained solely for statistical purposes by designating specific statistical agencies that are authorized to receive otherwise privileged information for such purposes from other agencies, and to prescribe specific conditions and procedures that must be complied with in any such exchange.

(6) To establish a consistent basis under the requirements of section 552 of title 5, United States Code (popularly known as the "Freedom of Information Act") for exempting a defined class of statistical information from compulsory disclosure.

(7) To ensure that existing avenues for public access to administrative data or information under section 552a of title 5, United States Code (popularly known as the "Privacy Act") or section 552 of such title (popularly known as the "Freedom of Information Act") are retained without change.

(8) To establish consistent procedural safeguards for records disclosed exclusively for statistical purposes, including both public input and an oversight process to ensure fair information practices.

SEC. 203. DEFINITIONS.

In this title:

(1) The term "agency" means—

(A) any "executive agency" as defined under section 102 of title 31, United States Code; or

(B) any "agency" as defined under section 3502 of title 44, United States Code.

(2) The term "agent" means a person designated by a Statistical Data Center to perform, either in the capacity of a Federal employee or otherwise, exclusively statistical activities authorized by law under the supervision or control of an officer or employee of that Statistical Data Center, and who has agreed in writing to comply with all provisions of law that affect information acquired by that Statistical Data Center.

(3) The term "identifiable form" means any representation of information that permits information concerning individual subjects to be reasonably inferred by either direct or indirect means.

(4) The term "nonstatistical purpose" means any purpose that is not a statistical purpose, and includes any administrative, regulatory, adjudicatory, or other purpose that affects the rights, privileges, or benefits of a particular identifiable respondent.

(5) The term "respondent" means a person who or organization that—

(A) is requested or required to supply information to an agency;

(B) is the subject of information requested or required to be supplied to an agency; or

(C) provides that information to an agency.

(6) The term "statistical activities"—

(A) means the collection, compilation, processing, or analysis of data for the purpose of describing or making estimates concerning the whole or relevant groups or components within, the economy, society, or the natural environment; and

(B) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or sampling frames.

(7) The term "statistical purpose"—

(A) means the description, estimation, or analysis of the characteristics of groups without regard to the identities of individuals or organizations that comprise such groups; and

(B) includes the development, implementation, or maintenance of methods, technical or administrative procedures, or information resources that support such purposes.

SEC. 204. STATISTICAL DATA CENTERS.

(a) IN GENERAL.—Each of the following is designated as a Statistical Data Center:

(1) The Bureau of Economic Analysis in the Department of Commerce.

(2) The Bureau of the Census in the Department of Commerce.

(3) The Bureau of Labor Statistics in the Department of Labor.

(4) The National Agricultural Statistics Service in the Department of Agriculture.

(5) The National Center for Education Statistics in the Department of Education.

(6) The National Center for Health Statistics in the Department of Health and Human Services.

(7) The Energy End Use and Integrated Statistics Division of the Energy Information Administration in the Department of Energy.

(8) The Division of Science Resources Studies in the National Science Foundation.

(b) DESIGNATION.—In the case of a reorganization that eliminates, or substantially alters the mission or functions of, an agency or agency component listed under subsection (a), the Director of the Office of Management and Budget, after consultation with the head of the agency proposing the reorganization, may designate an agency or agency component that shall serve as a successor Statistical Data Center under the terms of this title, if the Director determines that—

(1) the primary activities of the proposed Statistical Data Center are statistical activities specifically authorized by law;

(2) the successor agency or component would participate in data sharing activities that significantly improve Federal statistical programs or products;

(3) the successor agency or component has demonstrated its capability to protect the individual confidentiality of any shared data; and

(4) the statutes that apply to the proposed Statistical Data Center are not inconsistent with this title.

(c) NOTICE AND COMMENT.—The head of an agency seeking designation as a successor under this section shall, after consultation with the Director of the Office of Management and Budget, provide public notice and an opportunity to comment on the consequences of such designation and on those determinations upon which the designation is proposed to be based.

(d) PROHIBITION AGAINST INCREASE IN NUMBER OF CENTERS.—No action taken under this section shall increase the number of Statistical Data Centers authorized by this title.

SEC. 205. STATISTICAL DATA CENTER RESPONSIBILITIES.

The Statistical Data Centers shall—

(1) identify opportunities to eliminate duplication and otherwise reduce reporting burden and cost imposed on the public by sharing information for exclusively statistical purposes;

(2) enter into joint statistical projects to improve the quality and reduce the cost of statistical programs;

(3) safeguard the confidentiality of individually identifiable information acquired for statistical purposes by assuring its physical security and by controlling access to, and uses made of, such information; and

(4) respect the rights and privileges of the public by observing and promoting fair information practices.

SEC. 206. CONFIDENTIALITY OF INFORMATION.

(a) IN GENERAL.—Data or information acquired by a Statistical Data Center for exclusively statistical purposes shall be used only for statistical purposes. Such data or information shall not be disclosed in identifiable form for any other purpose without the informed consent of the respondent.

(b) RULE DISTINGUISHING DATA OR INFORMATION.—If a Statistical Data Center is authorized by any other statute to collect data or information for nonstatistical purposes, the head of the Statistical Data Center shall clearly distinguish such data or information by rule. Such rule shall provide for fully informing the respondents requested or required to supply such data or information of such nonstatistical uses before collecting such data or information.

(c) DISCLOSURE.—Data or information may be disclosed by an agency to 1 or more Statistical Data Centers, if—

(1) the disclosure and use are not inconsistent with any provision of law or Executive order that explicitly limit the statistical purposes for which such data or information may be used;

(2) the disclosure is not prohibited by law or Executive order in the interest of national security;

(3) the data or information are to be used exclusively for statistical purposes by the Statistical Data Center or Centers; and

(4) the disclosure is made under the terms of a written agreement between a Statistical Data Center or Centers and the agency supplying information as authorized by this subsection, specifying—

(A) the data or information to be disclosed;

(B) the purposes for which the data or information are to be used; and

(C) appropriate security procedures to safeguard the confidentiality of the data or information.

(d) AGREEMENTS.—Data or information supplied to a Statistical Data Center under an agreement authorized under subsection (b)(4) shall not be disclosed in identifiable form by that Center for any purpose, except that data or information collected directly by any party to such agreement may be disclosed to any other party to that agreement for exclusively statistical purposes specified in that agreement.

(e) NOTICE.—Whenever a written agreement authorized under subsection (c)(4) concerns data that respondents were required by law to report and the agreement contains terms that could not reasonably have been anticipated by respondents who provided the data that will be disclosed, or upon the initiative of any party to such an agreement, or whenever ordered by the Director of the Office of Management and Budget, the terms of such agreement shall be described in a public notice issued by the agency that intends to disclose the data. Such notice shall allow a minimum of 60 days for public comment before such agreement shall take effect. The Director shall be fully apprised of any issues raised by the public and may suspend the effect of such an agreement to permit modifications responsive to public comments.

(f) FOIA AND PRIVACY ACT.—The disclosure of data or information by an agency under subsection (c) shall in no way alter the responsibility of that agency under other statutes, including sections 552 and 552a of title 5, United States Code, for the disclosure or withholding of the same or similar information retained by that agency.

(g) DISCLOSURE PROVISIONS OF OTHER LAWS.—If information obtained by an agency is released to another agency under this section, all provisions of law (including penalties) that relate to the unlawful disclosure of information apply to the officers, employees, or agents of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information. The officers, employees, and agents of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information that would apply to officers and employees of that agency if the information had been collected directly by that agency.

SEC. 207. COORDINATION AND OVERSIGHT.

(a) IN GENERAL.—The Director of the Office of Management and Budget shall coordinate and oversee the confidentiality and disclosure policies established by this title.

(b) REPORT OF DISCLOSURE AGREEMENTS.—

(1) REPORT TO THE OFFICE OF MANAGEMENT AND BUDGET.—The head of a Statistical Data Center shall report to the Office of Management and Budget—

(A) each disclosure agreement entered into under this title;

(B) the results of any review of information security undertaken at the request of the Office of Management and Budget; and

(C) the results of any similar review undertaken on the initiative of the Statistical Data Center or an agency supplying data or information to a Statistical Data Center.

(2) REPORT TO CONGRESS.—The Director of the Office of Management and Budget shall include a summary of all reports submitted to the Director under this subsection and any actions taken by the Director to advance the purposes of this title in the Office's annual report to the Congress on statistical programs.

(c) REVIEW AND APPROVAL OF RULES.—The Director of the Office of Management and Budget shall review and approve any rules proposed pursuant to this title for consistency with this title and chapter 35 of title 44, United States Code.

SEC. 208. IMPLEMENTING REGULATIONS.

(a) IN GENERAL.—Subject to subsections (b) and (c), the Director of the Office of Management and Budget, or the head of a Statistical Data Center or of an agency providing information to a Center, may promulgate such rules as may be necessary to implement this title.

(b) CONSISTENCY.—The Director of the Office of Management and Budget shall promulgate rules or provide such other guidance as may be needed to ensure consistent interpretation of this title by the affected agencies.

(c) AGENCY RULES.—Rules governing disclosures of information authorized by this title shall be promulgated by the agency that originally collected the information, subject to the review and approval required under this title.

SEC. 209. CONFORMING AMENDMENTS AND PROPOSED CHANGES IN LAW.

(a) DEPARTMENT OF COMMERCE.—

(1) The first section of the Act of January 27, 1938 (15 U.S.C. 176a; 52 Stat. 8) is amended in the second sentence by striking "The" and inserting "Except as provided in the Statistical Confidentiality Act, the".

(2)(A) Chapter 10 of title 13, United States Code, is amended by adding after section 401 the following:

"§ 402. Exchange of census information with Statistical Data Centers

"The Bureau of the Census is authorized to provide data collected under this title to Statistical Data Centers (Centers) named in the Statistical Confidentiality Act, or their successors designated under the terms of that Act.".

(B) The table of sections for chapter 10 of title 13, United States Code, is amended by adding after the item relating to section 401 the following:

"402. Exchange of census information with Statistical Data Centers.".

(b) DEPARTMENT OF ENERGY.—

(1) Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding after subsection (l) the following new subsection:

"(m)(1)(A) The Administrator shall designate an organizational unit to conduct statistical activities pertaining to energy end use consumption information. Using procedures authorized by the Statistical Confidentiality Act, the Administrator shall ensure the security, integrity, and confidentiality of the information that has been submitted in identifiable form and supplied exclusively for statistical purposes either directly to the Administrator or by other Government agencies.

"(B) To carry out this section, the Administrator shall establish procedures for the disclosure of these data to Statistical Data Centers for statistical purposes only consistent with the Paperwork Reduction Act and the Statistical Confidentiality Act.

"(2)(A) A person may not publish, cause to be published, or otherwise communicate, statistical information designated in paragraph (1) in a manner that identifies any respondent.

"(B) A person may not use statistical information designated in paragraph (1) for a nonstatistical purpose.

"(C) The identity of a respondent who supplies, or is the subject of, information collected for statistical purposes—

"(i) may not be disclosed through any process, including disclosure through legal process, unless the respondent consents in writing;

"(ii) may not be disclosed to the public, unless information has been transformed into a statistical or aggregate form that does not allow the identification of the respondent who supplied the information or who is the subject of that information; and

"(iii) may not, without the written consent of the respondent, be admitted as evidence or used for any purpose in an action, suit, or other judicial or administrative proceeding.

"(D) Any person who violates subparagraphs (2)(A), (B), or (C), upon conviction, shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

"(E) For purposes of this subsection:

"(i) The term 'person' has the meaning given the term in section 1 of title 1, United States Code, but also includes a local, State, or Federal entity or officer or employee of a local State or Federal entity.

"(ii) The terms 'statistical activities', 'identifiable form', 'statistical purpose', 'nonstatistical purpose', and 'respondent' have the meaning given those terms in section 203 of the Statistical Confidentiality Act.

"(3) Statistical information designated in paragraph (1) is exempt from disclosure under sections 205(f) and 407 of the Department of Energy Organization Act and paragraphs 12, 20, and 59 of the Federal Energy Administration Act of 1974, or any other law which requires disclosure of that information.".

(2) Section 205(f) of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by inserting ", excluding information designated solely for statistical purposes under subsection (m)(1)," after "analysis".

(3) Section 407 of the Department of Energy Organization Act (42 U.S.C. 7177a) is amended by inserting ", excluding information designated solely for statistical purposes under subsection (m)(1)," after "information".

(4) The Federal Energy Administration Act of 1974 is amended—

(A) in section 12 (15 U.S.C. 771), by adding after subsection (f) the following new subsection:

"(g) This section does not apply to information designated solely for statistical purposes under section 205(m)(1) of the Department of Energy Organization Act.";

(B) in section 20(a)(3) (15 U.S.C. 779), by inserting ", excluding information designated solely for statistical purposes under subsection (m)(1) of the Department of Energy Organization Act (42 U.S.C. 7135)" after "information"; and

(C) in section 59 (15 U.S.C. 790h), by inserting ", excluding information designated solely for statistical purposes under subsection (m)(1) of the Department of Energy Organization Act (42 U.S.C 7135)" after "information".

(c) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended by adding at the end the following new subsection:

"(o) SHARING OF IDENTIFYING INFORMATION FOR STATISTICAL PURPOSES.—

"(1) IN GENERAL.—The Director may, subject to the provisions of paragraph (2), designate as an agent of the Center (within the meaning of section 203(2) of the Statistical Confidentiality Act) an individual—

"(A) who is not otherwise an employee, official, or agent of the Center; and

"(B) who enters into a written agreement with the Director specifying terms and conditions for sharing of statistical information.

"(2) EFFECT OF DESIGNATION.—An individual designated as an agent of the Center pursuant to paragraph (1) shall be subject to all restrictions on the use and disclosure of statistical information obtained by the individual under the agreement specified in paragraph (1)(B), and to all civil and criminal penalties applicable to violations of such restrictions, including penalties under section 1905 of title 18, United States Code, that would apply to the individual if an employee of the Center.".

(d) DEPARTMENT OF LABOR.—The Commissioner of Labor Statistics shall be authorized to designate agents, as defined under section 203(2) of this title.

(e) NATIONAL SCIENCE FOUNDATION.—Section 14 of the National Science Foundation Act of 1950 (42 U.S.C. 1873) is amended—

(1) by striking the paragraph following the heading of subsection (i) and inserting the following:

"Information supplied to the Foundation or its contractor in survey forms, questionnaires, or similar instruments for purposes of section 3(a) (5) or (6) by an individual, by an industrial or commercial organization, or by an educational or academic institution that has received a pledge of confidentiality from the Foundation, may not be disclosed to the public unless the information has been transformed into statistical or abstract formats that do not allow the identification of the supplier. Such information shall be used in identifiable form only for statistical purposes as defined in the Statistical Confidentiality Act. The names of individuals and organizations supplying such information may not be disclosed to the public."; and

(2) by redesignating subsection (j) as subsection (k) and inserting the following new subsection after subsection (i):

"(j) OBLIGATIONS OF RESEARCHERS.—In support of functions authorized by section 3(a) (5) or (6), the Foundation may designate, at its discretion, authorized persons, including employees of Federal, State, or local agencies (including local educational agencies) and employees of private organizations who may have access, for exclusively statistical purposes as defined in the Statistical Confidentiality Act, to identifiable information collected pursuant to subsection (a) (5) or (6) of this title. No such person may—

"(1) publish information collected under section 3(a) (5) or (6) in such a manner that either an individual, an industrial or commercial organization, or an educational or academic institution that has received a pledge of confidentiality from the Foundation can be specifically identified;

"(2) permit anyone other than individuals authorized by the Foundation to examine in identifiable form data relating to an individual, to an industrial or commercial organization, or to an educational or academic institution that has received a pledge of confidentiality from the Foundation; or

"(3) knowingly and willfully request or obtain any confidential information described in subsection (i) from the Foundation under false pretenses.

Any person who violates these restrictions shall be guilty of a misdemeanor and fined not more than $10,000.".

(f) DISCLOSURE PENALTIES.—Section 1905 of title 18, United States Code, is amended—

(1) by inserting ", or agent of a Statistical Data Center as defined in the Statistical Confidentiality Act," after "thereof"; and

(2) by striking "shall be fined not more than $1,000" and inserting "shall be fined under this title".

SEC. 210. EFFECT ON OTHER LAWS.

(a) TITLE 44, U.S.C.—This title, including the amendments made by this title, does not diminish the authority under section 3510 of title 44, United States Code, of the Director of the Office of Management and Budget to direct, and of an agency to make, disclosures that are not inconsistent with any applicable law.

(b) STATE LAW.—Nothing in this Act shall be construed to abrogate applicable State law regarding the confidentiality of data collected by the States.

(c) FOIA.—Data or information acquired for exclusively statistical purposes as provided in section 206 is exempt from mandatory disclosure under section 552 of title 5, United States Code, pursuant to section 552(b)(3) of such title.

SUMMARY OF THE FEDERAL COMMISSION ON STATISTICAL POLICY ACT OF 1999[1]

OVERVIEW

The Bill establishes a Federal Commission on Statistical Policy to study the reorganization of the Federal statistical system, and provides uniform safeguards for the confidentiality of information acquired exclusively for statistical purposes.

FINDINGS

The Congress, recognizing the importance of statistical information in the development of national priorities and policies and in the administration of public programs finds that: the decentralized Federal statistical system has limited the usefulness of statistics in defining problems and determining national policies to deal with complex social and economic issues; coordination is necessary to strengthen and improve the quality of statistics, and to reduce duplication and waste; high-quality Federal statistics are essential for sound business and public policy decisions; the challenge of providing high-quality statistics has increased because of the complexity of our economy and society and because of the need for more accurate information; maintaining the quality of Federal statistics requires cooperation between the Federal statistical agencies and respondents to Federal statistical surveys; and Federal statistics may be improved by data sharing among the statistical agencies in a controlled manner that protects the confidentiality promised to respondents.

SENSE OF THE CONGRESS

The bill expresses the Sense of Congress that: A more centralized statistical system is integral to efficiency; Increased efficiency would result in better integration of research methodology, survey design and economics of scale; and The Chief Statistician of the Office of Management and Budget (OMB) must have the authority, personnel and other resources necessary to carry out the duties.

TITLE I—FEDERAL COMMISSION ON STATISTICAL POLICY ESTABLISHMENT

A commission is established which is to be known as the "Federal Commission on Statistical Policy."

The Commission shall be composed of 16 members: eight to be appointed by the President; four to be appointed by the Speaker of the House of Representatives in consultation with the Majority and Minority Leader; and four to be appointed by the President pro tempore of the Senate in consultation with the Majority and Minority Leader.

The Commission would have a term of 36 months from the date of enactment.

DUTIES OF THE COMMISSION

Within 18 months of its appointment, the Commission shall study and submit to Congress a written report on Federal statistics that makes recommendations on: whether the Federal statistical system could be reorganized by consolidating the statistical functions of agencies that carry out statistical programs; how such consolidation could be done without disruption in the release of statistical products; whether functions of other Federal agencies that carry out statistical programs could be transferred to the Federal Statistical Service; any other issues relating to the reorganization of Federal statistical programs; and possible improvements in procedures for the release of major economic and social indicators.

If the written report of the Commission contains recommendations on the consolidation of the Federal statistical functions of the United States into a newly established independent Federal agency, designated as the Federal Statistical Service, the report shall contain draft legislation incorporating those recommendations. The Commission should also make recommendations for nominations for the appointment of an Administrator and Deputy Administrator of the Federal Statistical Service.

During the 36 month term of the Commission, it would also be responsible for conducting comprehensive studies, and submitting reports to Congress on all matters relating to the Federal statistical infrastructure including: an evaluation of the mission of various statistical agencies and the relevance of such missions to current and future needs; a review of information technology and recommendations of appropriate methods for disseminating statistical data; and a comparison of our statistical system with the systems of other nations.

TITLE II—EFFICIENCY AND CONFIDENTIALITY OF FEDERAL STATISTICAL SYSTEMS

The title reaffirms policies that have been applied to confidential data by statistical agencies for many decades and extends these policies to protect confidentiality in an environment which permits carefully controlled sharing of information exclusively for statistical purposes. It recognizes that the credible protection of confidentiality is crucial to ensuring the level of cooperation which produces accurate and timely responses to statistical inquiries.

DESIGNATION OF STATISTICAL DATA CENTERS

The bill designates the BLS, BEA and Bureau of Census National Agricultural Statistics Service, The National Center for Education Statistics, The National Center for Health Statistics, The Energy End Use and Integrated Statistics Division of the Energy Information Administration, and The Division of Science Resources Studies as Statistical Data Centers; and assigns general responsibilities to the agencies designated as Statistical Data Centers.

DISCLOSURE OF DATA OR INFORMATION BY FEDERAL AGENCIES TO STATISTICAL DATA CENTERS

The bill establishes a uniform confidentiality policy for data acquired for exclusively statistical purposes, by prohibiting disclosures of such data for non-statistical purposes and limiting disclosures for statistical purposes.

COORDINATION AND OVERSIGHT BY OFFICE OF MANAGEMENT AND BUDGET

The bill assigns OMB the responsibility for oversight, reporting, coordination, and review and approval of any implementing regulations.

SEPTEMBER 23, 1996.

Hon. DANIEL P. MOYNIHAN,
Hon. J. ROBERT KERRY,
U.S. Senate, Washington, DC.

DEAR SENATORS MOYNIHAN AND KERRY: All of us are former Chairmen of the Council of Economic Advisers. We write to support the basic objectives and approach of your Bill to establish the Commission to Study the Federal Statistical System.

The United States possesses a first-class statistical system. All of us have in the past relied heavily upon the availability of reasonably accurate and timely federal statistics on the national economy. Similarly, our professional training leads us to recognize how important a good system of statistical information is for the efficient operations of our complex private economy. But we are also painfully aware that important problems of bureaucratic organization and methodology need to be examined and dealt with if the federal statistical system is to continue to meet essential public and private needs.

All of us have particular reason to remember the problems which periodically arise under the current system of widely scattered responsibilities. Instead of reflecting a balance among the relative priorities of one statistical collection effort against others, statistical priorities are set in a system within which individual Cabinet Secretaries recommend budgetary tradeoffs between their own substantive programs and the statistical operations which their departments, sometimes by historical accident, are responsible for collecting. Moreover, long range planning of improvements in the federal statistical system to meet the changing nature and needs of the economy is hard to organize in the present framework. The Office of Management and Budget and the Council of Economic Advisers put a lot of effort into trying to coordinate the system, often with success, but often swimming upstream against the system.

We are also aware, as of course are you, of a number of longstanding substantive and methodological difficulties with which the current system is grappling. These include the increasing importance in the national economy of the service sector, whose output and productivity are especially hard to measure, and the pervasive effect both on measures of national output and income and on the federal budget of the accuracy (or inaccuracy) with which our measures of prices capture changes in the quality of the goods and services we buy.

Without at all prejudging the appropriate measures to deal with these difficult problems, we believe that a thoroughgoing review by a highly qualified and bipartisan Commission as provided in your Bill has great promise of showing the way to major improvements.

---

[1] Prepared by the staff of Senator Daniel Patrick Moynihan, 1/19/99.

Sincerely,

Professor Michael J. Boskin, Stanford University; Dr. Martin Feldstein, National Bureau of Economic Research; Alan Greenspan; Professor Paul W. McCracken, University of Michigan; Raymond J. Saulnier; Charles L. Schultze, The Brookings Institution; Beryl W. Sprinkel; Herbert Stein, American Enterprise Institute; Professor Murray Weidenbaum, Center for the Study of American Business.

By Mr. MOYNIHAN (for himself and Mr. CHAFEE):

S. 206. A bill to amend title XXI of the Social Security Act to provide for improved data collection and evaluations of State Children's Health Insurance Programs, and for other purposes; to the Committee on Finance.

THE CHIP DATA AND EVALUATION IMPROVEMENT ACT OF 1999

Mr. MOYNIHAN. Mr. President, today I am introducing with my colleague Senator CHAFEE the CHIP Data and Evaluation Improvement Act of 1999. This legislation would ensure comparable data and an adequate evaluation of children's health coverage under the new Children's Health Insurance Program (CHIP) and Medicaid.

In 1997, CHIP was established to provide health coverage for low-income uninsured children. The Balanced Budget Act of 1997 provided $48 billion over ten years, mostly in the form of a block grant, for states to develop children's health insurance programs.

New York and other states pioneered expanded children's health programs well before the enactment of CHIP. With new federal CHIP funding, more states are beginning to develop their own programs. To date, 48 states have CHIP plans that have been approved by the Health Care Financing Administration, with most just beginning to implement their programs. We await reports on the effectiveness of their efforts to cover the nation's uninsured children.

THE NEED FOR DATA

Implementing their programs is the first challenge before the states. For the Federal government, the first challenge clearly will be to track the experience of children and of the CHIP programs. We will need data to answer some basic questions: Is the number of uninsured children being reduced over time, and how effective are the state CHIP programs at serving them? What are the best practices and initiatives for finding and enrolling the nation's uninsured children?

We cannot begin to solve a problem until we can measure it. Appropriate program data and evaluation contributes to sound policy and program design. In 1994, the Welfare Indicators Act of that year—a bill that I introduced—became law. The bill directed the Secretary of Health and Human Services to study the most useful statistics for tracking and predicting trends in three means-tested cash and nutritional assistance programs. The first of these, of course, was ADFC, but the first full Report came two months after AFDC was repealed.

Without data to track its benefits, a program becomes vulnerable to reductions in funding. The most recent example is the Social Services Block Grant under Title XX of the Social Security Act, which funds a wide array of social services ranging from child care to home-delivered meals to the elderly. Little summary data on this program has been released and not all data is reported in a uniform manner. The welfare repeal bill enacted in 1996 reduced the block grant from $2.8 billion to $2.38 billion. Appropriations for Fiscal Year 1998 limited funding for that year to $2.29 billion. The highway and mass transit bill enacted in 1998 further reduced grants to $1.7 billion by 2001. Most recently, the Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999 accelerated that funding limitation to $1.9 billion in FY 1999.

THE CHIP DATA AND EVALUATION IMPROVEMENT ACT OF 1999

The CHIP Data and Evaluation Improvement Act of 1999 calls for a detailed Federal CHIP evaluation by the Secretary of Health and Human Services. Current law requires a CHIP report from the Secretary to Congress; however, no funds were authorized. This bill would provide the necessary funds to conduct an evaluation. The evaluation would focus, in part, on outreach and enrollment and on the coordinated the existing Medicaid program and the new CHIP program.

In this era of devolution of social programs, the Federal government has an increasingly critical responsibility to ensure adequate and comparable national data. This bill would ensure that standardized CHIP data is provided. At the very least, the Federal government should provide, on a national level, estimates of the number of children below the poverty level who are covered by CHIP and by Medicaid.

The CHIP Data and Evaluation Improvement Act would provide funding so that existing national surveys would provide reliable and comparable state-by-state data. The most fundamental question we, as policy makers, will be asking is whether the number of uninsured children is going down. With an increasing percent of uninsured, a stable rate might be considered a success! This bill would provide additional funding to the Census Bureau for its Current Population Survey—a national data source of the uninsured—to improve upon the reliability of its state-by-state estimates of uninsured children.

In addition, the proposal would provide funding for another national survey to provide reliable state-by-state data on health care access and utilization for low-income children. Although this survey may also provide data on the number of uninsured, the CPS would be the primary source for such figures.

Also, to develop more efficient and centralized statistics, this bill would coordinate a Federal clearinghouse for all data bases and reports on children's health. Centralized and complete information is the key to sound policy and programs.

I ask unanimous consent that the summary and the full text of the bill be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 206

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "CHIP Data and Evaluation Improvement Act of 1999.".

SEC. 2. FUNDING FOR RELIABLE ANNUAL STATE-BY-STATE ESTIMATES ON THE NUMBER OF CHILDREN WHO DO NOT HAVE HEALTH INSURANCE COVERAGE.

Section 2108 of the Social Security Act (42 U.S.C.1397hh) is amended by adding at the end the following:

"(c) ADJUSTMENT TO CURRENT POPULATION SURVEY TO INCLUDE STATE-BY-STATE DATA RELATING TO CHILDREN WITHOUT HEALTH INSURANCE COVERAGE.—

"(1) IN GENERAL.—The Secretary of Commerce shall make appropriate adjustments to the annual Current Population Survey conducted by the Bureau of the Census in order to produce statistically reliable annual State data on the number of low-income children who do not have health insurance coverage, so that real changes in the uninsurance rates of children can reasonably be detected. The Current Population Survey should produce data under this subsection that categorizes such children by family income, age, and race or ethnicity. The adjustments made to produce such data shall include, where appropriate, expanding the sample size used in the State sampling units, expanding the number of sampling units in a State, and an appropriate verification element.

"(2) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $10,000,000 for fiscal year 2000 and each fiscal year thereafter for the purpose of carrying out this subsection.".

SEC. 3. FUNDING FOR CHILDREN'S HEALTH CARE ACCESS AND UTILIZATION STATE-BY-STATE DATA.

Section 2108 of the Social Security Act (42 U.S.C.1397hh), as amended by section 2, is amended by adding at the end the following:

"(d) COLLECTION OF CHILDREN'S HEALTH CARE ACCESS AND UTILIZATION STATE-LEVEL DATA.—

"(1) IN GENERAL.—The Secretary, acting through the National Center for Health Statistics (in this subsection referred to as the 'Center'), shall collect data on children's health insurance through the State and Local Area Integrated Telephone Survey (SLAITS) for the 50 States and the District of Columbia. Sufficient data shall be collected so as to provide reliable, annual, State-by-State information on the health care access and utilization of children in low-income households, and to allow for comparisons between demographic subgroups categorized with respect to family income, age, and race or ethnicity.

"(2) SURVEY DESIGN AND CONTENT.—

"(A) IN GENERAL.—In carrying out paragraph (1), the Secretary, acting through the Center—

"(i) shall obtain input from appropriate sources, including States, in designing the survey and making content decisions; and

"(ii) at the request of a State, may collect additional data to assist with a State's evaluation of the program established under this title.

"(B) REIMBURSEMENT OF COSTS OF ADDITIONAL DATA.—A State shall reimburse the Center for services provided under subparagraph (A)(ii).

"(3) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $9,000,000 for fiscal year 2000 and each fiscal year thereafter for the purpose of carrying out this subsection.".

SEC. 4. FEDERAL EVALUATION OF STATE CHILDREN'S HEALTH INSURANCE PROGRAMS.

Section 2108 of the Social Security Act (42 U.S.C.1397hh), as amended by sections 2 and 3, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) FEDERAL EVALUATION.—

"(1) IN GENERAL.—The Secretary, directly or through contracts or interagency agreements, shall conduct an independent evaluation of 10 States with approved child health plans.

"(2) SELECTION OF STATES.—In selecting States for the evaluation conducted under this subsection, the Secretary shall chose 10 States that utilize diverse approaches to providing child health assistance, represent various geographic areas (including a mix of rural and urban areas), and contain a significant portion of uncovered children.

"(3) MATTERS INCLUDED.—In addition to the elements described in subsection (b)(1), the evaluation conducted under this subsection shall include, but is not limited to, the following:

"(A) Surveys of the target population (enrollees, disenrollees, and individuals eligible for but not enrolled in the program under this title).

"(B) Evaluation of effective and ineffective outreach and enrollment practices with respect to children (for both the program under this title and the medicaid program under title XIX), and identification of enrollment barriers and key elements of effective outreach and enrollment practices, including practices that have successfully enrolled hard-to-reach populations such as children who are eligible for medical assistance under title XIX but have not been enrolled previously in the medicaid program under that title.

"(C) Evaluation of the extent to which State medicaid eligibility practices and procedures under the medicaid program under title XIX are a barrier to the enrollment of children under that program, and the extent to which coordination (or lack of coordination) between that program and the program under this title affects the enrollment of children under both programs.

"(D) An assessment of the effect of cost-sharing on utilization, enrollment, and coverage retention.

"(E) Evaluation of disenrollment or other retention issues, such as switching to private coverage, failure to pay premiums, or barriers in the recertification process.

"(4) SUBMISSION TO CONGRESS.—Not later than December 31, 2001, the Secretary shall submit to Congress the results of the evaluation conducted under this subsection.

"(5) FUNDING.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $10,000,000 for fiscal year 2000 for the purpose of conducting the evaluation authorized under this subsection. Amounts appropriated under this paragraph shall remain available without fiscal year limitation.".

SEC. 5. STANDARDIZED REPORTING REQUIREMENTS FOR ANNUAL REPORTS.

Section 2108(a) of the Social Security Act (42 U.S.C. 1397hh(a)) is amended by—

(1) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively and indenting appropriately;

(2) by striking "The State shall—" and inserting the following

"(1) IN GENERAL.—The State shall—"; and

(3) by adding at the end the following:

"(2) STANDARDIZED REPORTING REQUIREMENTS.—Each annual report submitted under this subsection shall, in addition to expenditure and other reporting requirements specified by the Secretary, include the following:

"(A) Enrollee counts categorized by income (that at least identifies enrollees with income below the poverty line), age, and race or ethnicity, and, if income levels used in State reporting differ from that prescribed by the Secretary, a detailed description of the eligibility methodologies used by the State, including all relevant income disregards, exempted income, and eligibility family units.

"(B) The annual percentages of those individuals who sought coverage (as determined by the Secretary) through the screening and enrollment process established under the State program under this title who were—

"(i) enrolled in the program under this title;

"(ii) enrolled in the medicaid program under title XIX; or

"(iii) determined eligible for, but not enrolled in, the program under this title or the medicaid program under title XIX.".

SEC. 6. INSPECTOR GENERAL AUDIT AND GAO REPORT ON ENROLLEES ELIGIBLE FOR MEDICAID.

Section 2108 of the Social Security Act (42 U.S.C.1397hh), as amended by section 4, is amended by adding at the end the following:

"(f) INSPECTOR GENERAL AUDIT AND GAO REPORT.—

"(1) AUDIT.—Beginning with fiscal year 2000, and every third fiscal year thereafter, the Secretary, through the Inspector General of the Department of Health and Human Services, shall audit a sample from among the States described in paragraph (2) in order to—

"(A) determine the number, if any, of enrollees under the plan under this title who are eligible for medical assistance under title XIX (other than as an optional targeted low-income children under section 1902(a)(10)(A)(ii)(XIV)); and

"(B) assess the progress made in reducing the number of targeted uncovered low-income children relative to the goals established in the State child health plan, as reported to the Secretary in accordance with subsection (a)(2).

"(2) STATE DESCRIBED.—A State described in this paragraph is a State with an approved State child health plan under this title that does not, as part of such plan, provide health benefits coverage under the State's medicaid program under title XIX.

"(3) MONITORING AND REPORT FROM GAO.—The Comptroller General of the United States shall monitor the audits conducted under this subsection and, not later than March 1 of each fiscal year after a fiscal year in which an audit is conducted under this subsection, shall submit a report to Congress on the results of the audit conducted during the prior fiscal year.".

SEC. 7. COORDINATION OF DATA COLLECTION WITH DATA REQUIREMENTS UNDER THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT.

Subparagraphs (C)(ii) and (D)(ii) of section 506(a)(2) of the Social Security Act (42 U.S.C. 706(a)(2)) are each amended by inserting "or the State plan under title XXI" after "title XIX".

SEC. 8. COORDINATION OF DATA SURVEYS AND REPORTS.

The Secretary of Health and Human Services, through the Assistant Secretary for Planning and Evaluation, shall establish a clearinghouse for the consolidation and coordination of all Federal data bases and reports regarding children's health.

SUMMARY OF THE CHIP DATA AND EVALUATION IMPROVEMENT ACT OF 1999

PURPOSE

In 1997, 10.7 million children were uninsured. The new State Children's Health Insurance Program (CHIP) and existing state Medicaid programs are intended to provide coverage for low-income children. The crucial question is whether the number of uninsured children has been reduced. Improved state-specific data is needed to provide that information. In addition, the Federal government should evaluate the effectiveness of these programs in finding and enrolling children in health insurance.

PROPOSAL

State-by-state Uninsured Counts and Children's Health Care Access and Utilization. (1) Provide funds ($10 million annually) to the Census Bureau to make appropriate adjustments to the Current Population Survey (CPS) so that the CPS can provide reliable state-by-state data on uninsured children. (2) Provide funds ($9 million annually) to the National Center for Health Statistics to conduct the Children's Health portion of the State and Local Area Integrated Telephone Survey (SLAITS) in order to produce reliable state-by-state date on the health care access and utilization for low-income children covered by various insurance programs such as Medicaid and CHIP.

Federal Evaluation. With funding ($10 million), the Secretary of Health and Human Services would submit to Congress a Federal evaluation report that would include 10 states representing varying geographic, rural/urban, with various program designs. The evaluation would include more specific and comparable evaluation elements than are already included under Title XXI, such as including surveys of the target population (enrollees and other eligibles). The study would evaluate outreach and enrollment practices (for both CHIP and Medicaid), identify barriers to enrollment, assess states' Medicaid and CHIP program coordination, assess the effect of cost sharing on enrollment and coverage retention, and identify the reasons for disenrollment/retention.

Standardized Reporting. States would submit standardized data to the Secretary, including enrollee counts disaggregated by income (below 100%), race/ethnicity, and age. If income could not be submitted in a standard form, the state would submit a detailed description of eligibility methodologies that outline relevant income disregards. States would also submit percentages of individuals screened that are enrolled in CHIP and in Medicaid, and the percent screened eligible for Medicaid but not enrolled.

Administrative Spending Reports for Title XXI. States would submit standardized spending reports for the following administrative costs: data systems, outreach efforts and program operation (eligibility/enrollment, etc.)

Coordinate CHIP Data with Title V Data Requirements. Existing reporting requirements for the Maternal and Child Health Block Grant provide data based on children's health insurance, including Medicaid. This bill would include the CHIP program in its reporting.

IG Audit and GAO Report. The Inspector General for the Department of Health and Human Services would audit CHIP enrollee data to identify children who are actually eligible for Medicaid. The General Accounting Office will report the results to Congress.

Coordination of all Children Data and Reports. The Assistant Secretary of Planning and Evaluation in the Department of Health and Human Services would consolidate all federal data base information and reports on children's health in a clearinghouse.

By Mr. MOYNIHAN:

S. 207. A bill to amend title V of the Social Security Act to increase the authorization of appropriations for the maternal and child health services block grant and to promote integrated physical and specialized mental health services for children and adolescents; to the Committee on Finance.

THE MATERNAL CHILD HEALTH BLOCK GRANT AUTHORIZATION

Mr. MOYNIHAN. Mr. President, in November 1998, Essence Magazine reported that between 1980 and 1995 the suicide rate among Black males ages 10 to 19 more than doubled. According to a Centers for Disease Control and Prevention (CDC) study, suicide is now the third leading cause of death among all youth aged 15–19, and the fourth leading cause of death among children aged 10–14 nationally. In many states the problem is even worse. For example, suicide is the number one killer of adolescents 15–19 years old in Alaska and of children 10 to 14 years old in Oregon. The majority of children and adolescents at risk for suicidal behavior are not seen by mental health specialists; therefore, primary health care providers and others in regular contact with young people must be available to respond to these troubled youngsters.

The legislation introduced today proposes to focus on seriously emotionally disabled children and adolescents and their families. Adolescents with special health needs, those experiencing chronic physical, developmental, behavioral, or serious emotional problems and requiring additional health and related services such as assistance in moving from pediatric to adult health care, to post-secondary education and employment will be helped by this bill. The Maternal and Child Health Bureau (MCHB) located within the Department of Health and Human Services is best situated to implement this program.

The Maternal and Child Health Bureau (MCHB) has roots that go back more than 80 years—to the creation of the Children's Bureau in 1912. This was the first government agency to act as an advocate for mothers, children, and adolescents. The Maternal and Child Health Services Block Grant, the bureau's principle statutory responsibility, was originally enacted in 1935 as Title V of the Social Security Act. The MCHB is charged with providing leadership, partnership, and resources to advance the health of all mothers, infants, children, and adolescents—including families with low income, those with diverse racial and ethnic heritages, those with special health care needs, and those living in rural or isolated areas without access to care.

Title V encompasses a program of grants to the states and two federal discretionary grant programs: Special Projects of Regional and National Significance (SPRANS) and Community Integrated Service Systems (CISS). Funds are used to support research, training, newborn screening, maternal and child health improvements. CISS is only funded when the Title V annual appropriation exceeds $600 million) which occurred for the first time in 1992. The CISS program provides direct support to public and private groups committed to building integrated health delivery systems that provide comprehensive services in local communities. Most importantly, the State Title V programs are required to coordinate with other related Federal health, education, and social service programs. For example, MCH programs have provided the technical expertise and the service delivery systems to ensure that expanded Medicaid eligibility and benefits result in improved access to services and improved health status of pregnant women and children.

The federal Title V mandate places a unique responsibility on state MCH agencies to assure that children with special health care needs are identified and receive the care they need. State programs are required to develop family-centered, community-based, coordinated care systems for children with special health care needs. Services for these children are most often provided through specialty clinics and through purchase of private office or hospital-based outpatient and inpatient diagnostic, treatment, and follow up services. Three-fourths of the State MCH programs have supported local "one-stop shopping" models integrating access to Title V, Medicaid, the WIC food program, and other health or social services at one site. In New York, MCH helps to fund or operate regional pediatric resource centers for children with special needs.

These centers offer multidisciplinary team care, family support and service coordination and they are beginning to integrate this approach into private practice settings where children are now receiving their specialty medical care. Yet, even though these programs have had encouraging results, most states' health care systems are unable to address all the needs of these vulnerable children—and adolescent youth with special health needs are particularly at risk. And that is why this legislation is so important. Under current law, Title V is permanently authorized at $705 million. It was last extended in FY 1993 to conform to funding levels that went beyond the prior authorization level. This legislation would increase the current MCH Block Grant authorization level from $705 million to $840 million in FY 2000.

Health care information and education for families with special health care needs is critical to the success of any integrated physical and mental health service program. The MCHB has begun family support efforts for families of children with special health care needs, and has a promising pilot program to build a national network of statewide family-run support services in FY 1999. The additional funding in this bill is intended to expand upon these family support efforts. With increased funding for the MCH Block Grant, SPRANS and CISS programs, the MCH Bureau will be well-positioned to collaborate successfully with other Federal and State partners to address this new project focus.

I ask unanimous consent that the full text of the bill be inserted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 207

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—Section 501(a) of the Social Security Act (42 U.S.C. 701(a)) is amended in the matter preceding paragraph (1) by striking "$705,000,000 for fiscal year 1994" and inserting "$840,000,000 for fiscal year 2000".

(b) PROMOTION OF INTEGRATED PHYSICAL AND SPECIALIZED MENTAL HEALTH SERVICES.—Section 501(a) of the Social Security Act (42 U.S.C. 701(a)) is amended—

(1) in paragraph (2)—

(A) by striking "and for" and inserting "for"; and

(B) by inserting ", and for the promotion of integrated physical and specialized mental health services for children and adolescents" before the semicolon; and

(2) in paragraph (3)—

(A) in subparagraph (E), by striking "and" at the end;

(B) in subparagraph (F), by striking the period and inserting ", and"; and

(C) by adding at the end the following:

"(G) integrated physical and specialized mental health services for children and adolescents.".

By Mr. MOYNIHAN:

S. 208. A bill to enhance family life; to the Committee on Finance.

THE ENHANCING FAMILY LIFE ACT OF 1999

Mr. MOYNIHAN. Mr. President, I rise today to introduce the Enhancing Family Life Act of 1999, a bill inspired by an extraordinary set of proposals by one of our nation's most eminent social scientists, Professor James Q. Wilson. On December 4, 1997, I had the honor of hearing Professor Wilson—who is an old and dear friend—deliver the Francis Boyer Lecture at the American Enterprise Institute (AEI). The Boyer Lecture is delivered at AEI's annual dinner by a thinker who has "made notable intellectual or practical contributions to improved public policy and social welfare." Previous Boyer lecturers have included Irving Kristol, Alan Greenspan, and Henry Kissinger. In his lecture, Professor Wilson argued that "two nations" now exist within the United States. He said:

> In one nation, a child, raised by two parents, acquires an education, a job, a spouse, and a home kept separate from crime and disorder by distance, fences, or guards. In the other nation, a child is raised by an unwed girl, lives in a neighborhood filled with many sexual men but few committed fathers, and finds gang life to be necessary for self-protection and valuable for self-advancement.

Sadly, this is an all-too-accurate portrait of the American underclass, the problems of which have been the focus of decades of unsuccessful welfare reform and crime control efforts. We have tried a great many "solutions," as Professor Wilson notes:

> Congress has devised community action, built public housing, created a Job Corps, distributed Food Stamps, given federal funds to low-income schools, supported job training, and provided cash grants to working families.

Yet still we are faced with two nations. Professor Wilson explains why: "[t]he family problem lies at the heart of the emergence of two nations." He notes that as our families become weaker—as more and more American children are born outside of marriage and raised by one, not two, parents—the foundation of our society becomes weaker. This deterioration helps to explain why, as reported by the Census Bureau today, the poverty rate for American children is almost twice that for adults aged 18 to 64 (19.9 percent for children versus 10.9 percent for adults). And it grows increasingly difficult for government to address the problems of that "second nation." Professor Wilson even quotes the Senator from New York to this effect: "If you expect a government program to change families, you know more about government than I do."

Even so, Jim Wilson, quite characteristically, has fresh ideas about what might help. On the basis of recent scholarly research, and common sense, he urged in the Boyer Lecture that we refocus our attention on the vital period of early childhood. I was so impressed with his Lecture that afterward I set about writing a bill to put his recommendations into effect.

The Enhancing Family Life Act of 1999 contains four key elements, all of which are related to families. First, it supports "second change" maternity homes for unwed teenage mothers. These are group homes where young women would live with their children under strict adult supervision and have the support necessary to become productive members of society. The bill provides $45 million a year to create such homes or expand existing ones.

Second, it promotes adoption. The bill expands the number of children in foster care eligible for federal adoption incentives. Too many children drift in foster care; we should do more to find them permanent homes. The bill also encourages states to experiment with "per capita" approaches to finding these permanent homes for foster children, a strategy Kansas has used with success.

Third, it funds collaborative early childhood development programs. Recent research has reminded us of the critical importance of the first few years of a child's life. States would have great flexibility in the use of these funds; for example, the money could be used for pre-school programs for poor children or home visits of parents of young children. It provides $3.75 billion over five years for this purpose.

Finally, the legislation creates a new education assistance program to enable more parents to remain home with young children. A parent who temporarily leaves the workforce to raise a child would be eligible for an educational grant, similar to the Pell Grant, to help parent enter, or reenter, the labor market with skills and credentials necessary for success in today's economy once the child is older.

Mr. President, this bill is a starting point. It is what Professor James Q. Wilson and I believe just might make a difference. We would certainly welcome the comments of others. I first introduced this legislation last September and have received several helpful suggestions. I look forward to further such conversations and comments.

And I would commend to the attention of Senators and other interested persons the full text of Professor Wilson's lecture "Two Nations," which is available from my office or from the American Enterprise Institute. I ask unanimous consent that a summary of the legislation and the full text of the bill be included in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 208

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Enhancing Family Life Act of 1999".

(b) TABLE OF CONTENTS.—The table of Contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—ASSISTANCE FOR CHILDREN

Sec. 101. Second chance homes.
Sec. 102. Adoption promotion.
Sec. 103. Early childhood development.

TITLE II—PARENT GRANTS

Sec. 201. Parent grants.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The family is the foundation of public life.

(2) The proportion of illegitimate births to teenagers has increased astronomically from 13 percent of such births in 1950 to 76 percent of such births in 1996.

(3) Children in one-parent families are more at risk for many types of anti-social behavior.

(4) The future of children is crucially determined during the first few years of life.

TITLE I—ASSISTANCE FOR CHILDREN

SEC. 101. SECOND CHANCE HOMES.

(a) IN GENERAL.—Title XX of the Social Security Act (42 U.S.C. 1397–1397f) is amended by adding at the end the following:

"SEC. 2008. SECOND CHANCE HOMES.

"(a) ENTITLEMENT.—

"(1) IN GENERAL.—In addition to any payment under sections 2002 and 2007, beginning with fiscal year 2000, each State shall be entitled to funds under this section for each fiscal year for the establishment, operation, and support of second chance homes for custodial parents under the age of 19 and their children.

"(2) PAYMENT TO STATES.—

"(A) IN GENERAL.—Each State shall be entitled to payment under this section for each fiscal year in an amount equal to its allotment (determined in accordance with subsection (b)) for such fiscal year, to be used by such State for the purposes set forth in paragraph (1).

"(B) TRANSFERS OF FUNDS.—The Secretary shall make payments in accordance with section 6503 of title 31, United States Code, to each State from its allotment for use under this section.

"(C) USE.—Payments to a State from its allotment for any fiscal year must be expended by the State in such fiscal year or in the succeeding fiscal year.

"(D) TECHNICAL ASSISTANCE.—A State may use a portion of the amounts described in subparagraph (A) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, or administering the program funded under this section.

"(3) SECOND CHANCE HOMES.—For purposes of this section, the term 'second chance homes' means an entity that provides custodial parents under the age of 19 and their children with a supportive and supervised living arrangement in which such parents would be required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children. A second chance home may also serve as a network center for other supportive services that might be available in the community.

"(b) ALLOTMENT.—

"(1) CERTAIN JURISDICTIONS.—The allotment for any fiscal year to Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Northern Mariana Islands shall be an amount that bears the same ratio to the amount specified under paragraph (3) as the allotment that the jurisdiction receives under section 2003(a) for the fiscal year bears to the total amount specified for such fiscal year under section 2003(c).

"(2) OTHER STATES.—The allotment for any fiscal year for each State other than Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Northern Mariana Islands shall be an amount which bears the same ratio to—

"(A) the amount specified under paragraph (3); reduced by

"(B) the total amount allotted for that fiscal year under paragraph (1),

as the allotment that the State receives under section 2003(b) for the fiscal year bears to the total amount specified for such fiscal year under section 2003(c).

"(3) AMOUNT SPECIFIED.—The amount specified for purposes of paragraphs (1) and (2) shall be $40,000,000 for fiscal year 2000 and each succeeding fiscal year thereafter.

"(c) LOCAL INVOLVEMENT.—Each State shall seek local involvement from the community in any area in which a second chance home receiving funds pursuant to this section is to be established. In determining criteria for targeting funds received under this section, each State shall evaluate the community's commitment to the establishment and planning of the home.

"(d) LIMITATIONS ON THE USE OF FUNDS.—

"(1) CONSTRUCTION.—Except as provided in paragraph (2), funds made available under this section may not be used by the State, or any other person with which the State makes arrangements to carry out the purposes of this section, for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility.

"(2) WAIVER.—The Secretary may waive the limitation contained in paragraph (1) upon the State's request for such a waiver if the Secretary finds that the request describes extraordinary circumstances to justify the waiver and that permitting the waiver will contribute to the State's ability to carry out the purposes of this section.

"(e) TREATMENT OF INDIAN TRIBES.—

"(1) IN GENERAL.—An Indian tribe may apply to the Secretary to establish, operate, and support adult-supervised group homes for custodial parents under the age of 19 and their children in accordance with an application procedure to be determined by the Secretary. Except as otherwise provided in this subsection, the provisions of this section shall apply to Indian tribes receiving funds under this subsection in the same manner and to the same extent as the other provisions of this section apply to States.

"(2) ALLOTMENT.—If the Secretary approves an Indian tribe's application, the Secretary shall allot to such tribe for a fiscal year an amount which the Secretary determines is the Indian tribe's fair and equitable share of the amount specified under paragraph (3) for all Indian tribes with applications approved under this subsection (based on allotment factors to be determined by the Secretary). The Secretary shall determine a minimum allotment amount for all Indian tribes with applications approved under this subsection. Each Indian tribe with an application approved under this subsection shall be entitled to such minimum allotment.

"(3) AMOUNT SPECIFIED.—The amount specified under this paragraph for all Indian tribes with applications approved under this subsection is $5,000,000 for fiscal year 2000 and each succeeding fiscal year thereafter.

"(4) INDIAN TRIBE DEFINED.—In this section, the term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native entity which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians.

"(f) RESEARCH AND EVALUATION.—

"(1) IN GENERAL.—The amount appropriated to carry out this section for each fiscal year shall be increased by 2 percent and the Secretary shall reserve an amount equal to that increase to pay for the costs of conducting, through grant, contract, or interagency agreement, research and evaluation projects regarding the second chance homes funded under this section. In conducting such projects, the Secretary shall give priority to projects that are undertaken by independent and impartial organizations.

"(2) REPORT.—Not later than 4 years after the date of enactment of this section, the Secretary shall submit a report to Congress on the research and evaluation projects conducted in accordance with this subsection.".

(b) RECOMMENDATIONS ON USE OF GOVERNMENT SURPLUS PROPERTY.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services, after consultation with the Secretary of Defense, the Secretary of Housing and Urban Development, and the Administrator of the General Services Administration, shall submit recommendations to Congress on the extent to which surplus properties of the United States Government may be used for the establishment of second chance homes receiving funds under section 2008 of the Social Security Act, as added by subsection (a).

SEC. 102. ADOPTION PROMOTION.

(a) ADOPTION OF CHILDREN WITH SPECIAL NEEDS.—

(1) IN GENERAL.—Section 473(a) of the Social Security Act (42 U.S.C. 673(a)) is amended by striking paragraph (2) and inserting the following:

"(2)(A) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if such child—

"(i) prior to termination of parental rights and the initiation of adoption proceedings was in the care of a public or licensed private child care agency or Indian tribal organization either pursuant to a voluntary placement agreement (provided the child was in care for not more than 180 days) or as a result of a judicial determination to the effect that continuation in the home would be contrary to the safety and welfare of such child, or was residing in a foster family home or child care institution with the child's minor parent (either pursuant to such a voluntary placement agreement or as a result of such a judicial determination); and

"(ii) has been determined by the State pursuant to subsection (c) to be a child with special needs, which needs shall be considered by the State, together with the circumstances of the adopting parents, in determining the amount of any payments to be made to the adopting parents.

"(B) Notwithstanding any other provision of law, and except as provided in paragraph (7), a child who is not a citizen or resident of the United States and who meets the requirements of subparagraph (A) shall be treated as meeting the requirements of this paragraph for purposes of paragraph (1)(B)(ii).

"(C) A child who meets the requirements of subparagraph (A), who was determined eligible for adoption assistance payments under this part with respect to a prior adoption (or who would have been determined eligible for such payments had the Adoption and Safe Families Act of 1997 been in effect at the time that such determination would have been made), and who is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died, shall be treated as meeting the requirements of this paragraph for purposes of paragraph (1)(B)(ii).".

(2) EXCEPTION.—Section 473(a) of the Social Security Act (42 U.S.C. 673(a)) is amended by adding at the end the following:

"(7)(A) Notwithstanding any other provision of this subsection, no payment may be made to parents with respect to any child that—

"(i) would be considered a child with special needs under subsection (c);

"(ii) is not a citizen or resident of the United States; and

"(iii) was adopted outside of the United States or was brought into the United States for the purpose of being adopted.

"(B) Subparagraph (A) shall not be construed as prohibiting payments under this part for a child described in subparagraph (A) that is placed in foster care subsequent to the failure, as determined by the State, of the initial adoption of such child by the parents described in such subparagraph.".

(3) REQUIREMENT FOR USE OF STATE SAVINGS.—Section 473(a) of the Social Security Act (42 U.S.C. 673(a)), as amended by subsection (b), is amended by adding at the end the following:

"(8) A State shall spend an amount equal to the amount of savings (if any) in State expenditures under this part resulting from the application of paragraph (2) on and after the effective date of the amendment to such paragraph made by section 4(a) of the Enhancing Family Life Act of 1999 to provide to children or families any service (including post-adoption services) that may be provided under this part or part B.".

(b) PER CAPITA CHILD WELFARE DEMONSTRATION PROJECTS.—Section 1130(a)(2) of the Social Security Act (42 U.S.C. 1320a-9(a)(2)) is amended—

(1) by striking "The Secretary" and inserting the following:

"(A) IN GENERAL.—The Secretary"; and

(2) by adding at the end the following:

"(B) RESERVATION.—Of the 10 demonstration projects authorized under this subsection for each of fiscal years 2000 through 2002, the Secretary, upon receipt of an appropriate application, shall approve at least 3 demonstration projects in each of such fiscal years that are designed to test a per capita approach for the successful resolution of a foster care placement under which a private entity contracts for a fixed amount to either restore a child in foster care to the child's parent or parents or locate an adoptive placement for the child.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1999.

SEC. 103. EARLY CHILDHOOD DEVELOPMENT.

Title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by adding at the end the following:

"PART F—ASSISTANCE FOR YOUNG CHILDREN

"SEC. 480. DEFINITIONS.

"In this part:

"(1) Local educational agency.—The term 'local educational agency' has the meaning given that term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(2) Poverty line.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

"(3) State board.—The term 'State board' means a State Early Learning Coordinating Board established under section 481(c).

"(4) Young child.—The term 'young child' means an individual from birth through age 5.

"(5) Young child assistance activities.—The term 'young child assistance activities' means the activities described in paragraphs (1) and (2)(A) of section 482(b).

"SEC. 481. ALLOTMENTS TO STATES.

"(a) In General.—The Secretary shall make allotments under subsection (b) to eligible States to pay for the Federal share of the cost of enabling the States to make grants to local collaboratives under section 482 for young child assistance activities.

"(b) Allotment.—

"(1) In general.—From the funds appropriated under section 484 for each fiscal year and not reserved under subsection (i), the Secretary shall allot to each eligible State an amount that bears the same relationship to such funds as the total number of young children in poverty in the State bears to the total number of young children in poverty in all eligible States.

"(2) Young child in poverty.—In this subsection, the term 'young child in poverty' means an individual who—

"(A) is a young child; and

"(B) is a member of a family with an income below the poverty line.

"(c) State Boards.—

"(1) In general.—In order for a State to be eligible to obtain an allotment under this part, the chief executive officer of the State shall establish, or designate an entity to serve as, a State Early Learning Coordinating Board, which shall receive the allotment and make the grants described in section 482.

"(2) Established board.—A State board established under paragraph (1) shall consist of the chief executive officer of the State and members appointed by such chief executive officer, including—

"(A) representatives of all State agencies primarily providing services to young children in the State;

"(B) representatives of business in the State;

"(C) chief executive officers of political subdivisions in the State;

"(D) parents of young children in the State;

"(E) officers of community organizations serving low-income individuals, as defined by the Secretary, in the State;

"(F) representatives of State nonprofit organizations that represent the interests of young children in poverty, as defined in subsection (b), in the State;

"(G) representatives of organizations providing services to young children and the parents of young children, such as organizations providing child care, carrying out Head Start programs under the Head Start Act (42 U.S.C. 9831 et seq.), providing services through a family resource center, providing home visits, or providing health care services, in the State; and

"(H) representatives of local educational agencies.

"(3) Designated board.—The chief executive officer of the State may designate an entity to serve as the State board under paragraph (1) if the entity includes the chief executive officer of the State and the members described in subparagraphs (A) through (G) of paragraph (2).

"(4) Designated state agency.—The chief executive officer of the State shall designate a State agency that has a representative on the State board to provide administrative oversight concerning the use of funds made available under this part and ensure accountability for the funds.

"(d) Application.—To be eligible to receive an allotment under this part, a State board shall annually submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. At a minimum, the application shall contain—

"(1) sufficient information about the entity established or designated under subsection (c) to serve as the State board to enable the Secretary to determine whether the entity complies with the requirements of such subsection;

"(2) a comprehensive State plan for carrying out young child assistance activities;

"(3) an assurance that the State board will provide such information as the Secretary shall by regulation require on the amount of State and local public funds expended in the State to provide services for young children; and

"(4) an assurance that the State board shall annually compile and submit to the Secretary information from the reports referred to in section 482(d)(2)(F)(iii) that describes the results referred to in section 482(d)(2)(F)(i).

"(e) Federal Share.—

"(1) In general.—The Federal share of the cost described in subsection (a) shall be—

"(A) 85 percent, in the case of a State for which the Federal medical assistance percentage (as defined in section 1905(b)) is not less than 50 percent but is less than 60 percent;

"(B) 87.5 percent, in the case of a State for which such percentage is not less than 60 percent but is less than 70 percent; and

"(C) 90 percent, in the case of any State not described in subparagraph (A) or (B).

"(2) State share.—

"(A) In general.—The State shall contribute the remaining share (referred to in this paragraph as the 'State share') of the cost described in subsection (a).

"(B) Form.—The State share of the cost shall be in cash.

"(C) Sources.—The State may provide for the State share of the cost from State or local sources, or through donations from private entities.

"(f) State Administrative Costs.—

"(1) In general.—A State may use not more than 5 percent of the funds made available through an allotment made under this part to pay for a portion, not to exceed 50 percent, of State administrative costs related to carrying out this part.

"(2) Waiver.—A State may apply to the Secretary for a waiver of paragraph (1). The Secretary may grant the waiver if the Secretary finds that unusual circumstances prevent the State from complying with paragraph (1). A State that receives such a waiver may use not more than 7.5 percent of the funds made available through the allotment to pay for the State administrative costs.

"(g) Monitoring.—The Secretary shall monitor the activities of States that receive allotments under this part to ensure compliance with the requirements of this part, including compliance with the State plans.

"(h) Enforcement.—If the Secretary determines that a State that has received an allotment under this part is not complying with a requirement of this part, the Secretary may—

"(1) provide technical assistance to the State to improve the ability of the State to comply with the requirement;

"(2) reduce, by not less than 5 percent, an allotment made to the State under this section, for the second determination of noncompliance;

"(3) reduce, by not less than 25 percent, an allotment made to the State under this section, for the third determination of noncompliance; or

"(4) revoke the eligibility of the State to receive allotments under this section, for the fourth or subsequent determination of noncompliance.

"(i) Reservation of Funds.—

"(1) Technical assistance.—From the funds appropriated under section 484 for each fiscal year, the Secretary shall reserve not more than 1 percent of the funds to pay for the costs of providing technical assistance. The Secretary shall use the reserved funds to enter into contracts with eligible entities to provide technical assistance to local collaboratives that receive grants under section 482 relating to the functions of the local collaboratives under this part.

"(2) Research and evaluation.—

"(A) In general.—From the funds appropriated under section 484 for each fiscal year, the Secretary shall reserve 2 percent of the funds to pay for the costs of conducting, through grant, contract, or interagency agreement, research and evaluation projects regarding the young child assistance activities funded with amounts made available in accordance with the requirements of this part. In conducting such projects, the Secretary shall give priority to projects that are undertaken by independent and impartial organizations.

"(B) Report.—Not later than 4 years after the date of enactment of this part, the Secretary shall submit a report to Congress on the research and evaluation projects conducted in accordance with this paragraph.

"SEC. 482. GRANTS TO LOCAL COLLABORATIVES.

"(a) In General.—A State board that receives an allotment under section 481 shall use the funds made available through the allotment, and the State contribution made under section 481(e)(2), to pay for the Federal and State shares of the cost of making grants, on a competitive basis, to local collaboratives to carry out young child assistance activities.

"(b) Use of Funds.—A local collaborative that receives a grant made under subsection (a)—

"(1) shall use funds made available through the grant to provide, in a community, activities that consist of education and supportive services, such as—

"(A) home visits for parents of young children;

"(B) services provided through community-based family resource centers for such parents; and

"(C) collaborative pre-school efforts that link parenting education for such parents to early childhood learning services for young children; and

"(2) may use funds made available through the grant—

"(A) to provide, in the community, activities that consist of—

"(i) activities designed to strengthen the quality of child care for young children and expand the supply of high quality child care services for young children;

"(ii) health care services for young children, including increasing the level of immunization for young children in the community, providing preventive health care screening and education, and expanding health care services in schools, child care facilities, clinics in public housing projects (as defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b))), and mobile dental and vision clinics;

"(iii) services for children with disabilities who are young children; and

"(iv) activities designed to assist schools in providing educational and other support services to young children, and parents of young children, in the community, to be carried out during extended hours when appropriate; and

"(B) to pay for the salary and expenses of the administrator described in subsection (e)(4), in accordance with such regulations as the Secretary shall prescribe.

"(c) MULTI-YEAR FUNDING.—In making grants under this section, a State board may make grants for grant periods of more than 1 year to local collaboratives with demonstrated success in carrying out young child assistance activities.

"(d) LOCAL COLLABORATIVES.—To be eligible to receive a grant under this section for a community, a local collaborative shall demonstrate that the collaborative—

"(1) is able to provide, through a coordinated effort, young child assistance activities to young children, and parents of young children, in the community; and

"(2) includes—

"(A) all public agencies primarily providing services to young children in the community;

"(B) businesses in the community;

"(C) representatives of the local government for the county or other political subdivision in which the community is located;

"(D) parents of young children in the community;

"(E) officers of community organizations serving low-income individuals, as defined by the Secretary, in the community;

"(F) community-based organizations providing services to young children and the parents of young children, such as organizations providing child care, carrying out Head Start programs, or providing pre-kindergarten education, mental health, or family support services; and

"(G) nonprofit organizations that serve the community and that are described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

"(e) APPLICATION.—To be eligible to receive a grant under this section, a local collaborative shall submit an application to the State board at such time, in such manner, and containing such information as the State board may require. At a minimum, the application shall contain—

"(1) sufficient information about the entity described in subsection (d)(2) to enable the State board to determine whether the entity complies with the requirements of such subsection; and

"(2) a comprehensive plan for carrying out young child assistance activities in the community, including information indicating—

"(A) the young child assistance activities available in the community, as of the date of submission of the plan, including information on efforts to coordinate the activities;

"(B) the unmet needs of young children, and parents of young children, in the community for young child assistance activities;

"(C) the manner in which funds made available through the grant will be used—

"(i) to meet the needs, including expanding and strengthening the activities described in subparagraph (A) and establishing additional young child assistance activities; and

"(ii) to improve results for young children in the community;

"(D) how the local cooperative will use at least 60 percent of the funds made available through the grant to provide young child assistance activities to young children and parents described in subsection (f);

"(E) the comprehensive methods that the collaborative will use to ensure that—

"(i) each entity carrying out young child assistance activities through the collaborative will coordinate the activities with such activities carried out by other entities through the collaborative; and

"(ii) the local collaborative will coordinate the activities of the local collaborative with—

"(I) other services provided to young children, and the parents of young children, in the community; and

"(II) the activities of other local collaboratives serving young children and families in the community, if any; and

"(F) the manner in which the collaborative will, at such intervals as the State board may require, submit information to the State board to enable the State board to carry out monitoring under section 481(g), including the manner in which the collaborative will—

"(i) evaluate the results achieved by the collaborative for young children and parents of young children through activities carried out through the grant;

"(ii) evaluate how services can be more effectively delivered to young children and the parents of young children; and

"(iii) prepare and submit to the State board annual reports describing the results;

"(3) an assurance that the local collaborative will comply with the requirements of subparagraphs (D), (E), and (F) of paragraph (2), and subsection (g); and

"(4) an assurance that the local collaborative will hire an administrator to oversee the provision of the activities described in paragraphs (1) and (2)(A) of subsection (b).

"(f) DISTRIBUTION.—In making grants under this section, the State board shall ensure that at least 60 percent of the funds made available through each grant are used to provide the young child assistance activities to young children (and parents of young children) who reside in school districts in which half or more of the students receive free or reduced price lunches under the National School Lunch Act (42 U.S.C. 1751 et seq.).

"(g) LOCAL SHARE.—

"(1) IN GENERAL.—The local collaborative shall contribute a percentage (referred to in this subsection as the 'local share') of the cost of carrying out the young child assistance activities.

"(2) PERCENTAGE.—The Secretary shall by regulation specify the percentage referred to in paragraph (1).

"(3) FORM.—The local share of the cost shall be in cash.

"(4) SOURCE.—The local collaborative shall provide for the local share of the cost through donations from private entities.

"(5) WAIVER.—The State board shall waive the requirement of paragraph (1) for poor rural and urban areas, as defined by the Secretary.

"(h) MONITORING.—The State board shall monitor the activities of local collaboratives that receive grants under this part to ensure compliance with the requirements of this part.

"SEC. 483. SUPPLEMENT NOT SUPPLANT.

"Funds appropriated under this part shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services for young children.

"SEC. 484. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part—

"(1) $250,000,000 for fiscal year 2000;

"(2) $500,000,000 for fiscal year 2001;

"(3) $1,000,000,000 for each of fiscal years 2002 through 2004; and

"(4) such sums as may be necessary for fiscal year 2005 and each subsequent fiscal year.".

TITLE II—PARENT GRANTS

SEC. 201. PARENT GRANTS.

(a) PURPOSE.—It is the purpose of this section to provide parents with grants for career development and retraining after a period of child rearing.

(b) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

(1) IN GENERAL.—From amounts appropriated under subsection (f), the Secretary of Education (in this section referred to as the "Secretary") may pay to each eligible institution such sums as may be necessary to pay to each qualifying parent for each academic year that the qualifying parent is in attendance at an institution of higher education, a parent grant, in an amount determined in accordance with subsection (c), for each child for which the qualifying parent remains outside the labor force.

(2) QUALIFYING PARENT.—In this section, the term "qualifying parent" means an individual who—

(A) is the custodial parent of a child under the age of 6;

(B) has no earned income as defined in section 32(c)(2) of the Internal Revenue Code of 1986; and

(C) is not receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.).

(3) DISTRIBUTION.—Funds under this section shall be disbursed and made available to qualifying parents in the same manner as Federal Pell Grants are disbursed and made available to institutions of higher education and students under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.), except that in the case of a parent grant awarded to a qualifying parent for expenses incurred in obtaining a secondary school diploma or its recognized equivalent, the Secretary shall make the grant funds available to the qualifying parent.

(c) AMOUNT.—

(1) IN GENERAL.—Subject to paragraph (2), the amount of a parent grant for which a qualifying parent is eligible under this section for an academic year is equal to—

(A) in the case of a qualifying parent with an annual income of $50,000 or less, the maximum amount of the Federal Pell Grant awarded under subpart 1 of part A of title IV of the Higher Education Act of 1965 for such year; and

(B) in the case of a qualifying parent with an annual income of more than $50,000 but not more than $75,000, ½ of the maximum amount of the Federal Pell Grant so awarded for such year.

(2) SPECIAL RULES.—

(A) CALENDAR YEAR AWARDS.—A qualifying parent is eligible for a parent grant under this section for each complete calendar year the parent is outside the labor force, except that the Secretary shall prorate the amount for which the qualifying parent is eligible for the first year in which a child is born if the qualifying parent is outside the labor force for at least 4 months of the calendar year in which the child is born.

(B) SIMULTANEOUS AWARDS.—A qualifying parent is eligible for a parent grant simultaneously for each child for which the parent remains outside the labor force.

(C) LIMITATION.—The Secretary shall not award a qualifying parent a parent grant for any period the parent remains outside the labor force to pursue education with a parent grant awarded under this section.

(d) USES.—

(1) IN GENERAL.—A parent grant awarded under this section—

(A) shall be used not later than 15 years after the year for which the grant is awarded; and

(B) shall be used to pay—

(i) the cost of attendance (as determined in accordance with section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll)) at an institution of higher education (as defined in section 481 of such Act (20 U.S.C. 1088)); or

(ii) for expenses incurred in obtaining a secondary school diploma or its recognized equivalent.

(2) AGGREGATION OF AWARDS.—A qualifying parent may aggregate parent grants awarded for more than 1 year or more than 1 child for use in a single academic year.

(3) ROLLOVER.—A qualifying parent may use any grant funds awarded for an academic year that are not used in the academic year, for use in a subsequent academic year, subject to paragraph (1)(A).

(e) RESEARCH AND EVALUATION.—

(1) IN GENERAL.—From the amounts appropriated to carry out this section for each fiscal year, the Secretary shall reserve 2 percent of such amounts to pay for the costs of conducting, through grant, contract, or interagency agreement, research and evaluation projects regarding the parent grants awarded in accordance with the requirements of this section. In conducting such projects, the Secretary shall give priority to projects that are undertaken by independent and impartial organizations.

(2) REPORT.—Not later than 4 years after the date of enactment of this section, the Secretary shall submit a report to Congress on the research and evaluation projects conducted in accordance with this subsection.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2000 and each succeeding fiscal year.

THE ENHANCING FAMILY LIFE ACT OF 1999—BRIEF DESCRIPTION OF PROVISIONS

(Based on the 1997 Francis Boyer Lecture by Professor James Q. Wilson)

SECTION 1. SHORT TITLE

This Act may be cited as the "Enhancing Family Life Act of 1999."

SECTION 2. FINDINGS

The Congressional findings support the importance of families in society and social policy.

TITLE I—ASSISTANCE FOR CHILDREN

SECTION 101. "SECOND CHANCE HOMES"

The bill would provide $45 million annually to establish or expand "second chance" maternity homes for unwed teenage mothers. These are group homes where mothers live with their children under adult supervision and strict rules while learning good parenting skills.

SECTION 102. ADOPTION PROMOTION

The bill would expand the number of "special needs" children in foster care for which federal adoption subsidies are available. It "de-links" eligibility for these subsidies from the income level of the foster child's biological parents. (Under current law, a foster child determined to have special needs only qualifies for a federal adoption subsidy if the child's birth parents are welfare-eligible.) The subsidies would help adoptive parents meet the particular emotional and physical challenges of troubled children and so they can provide the children permanent homes.

In addition, last year's "Adoption and Safe Families Act" authorizes the Department of Health and Human Services to grant child welfare demonstration waivers to ten states each year. The bill would reserve three of each ten waivers to states wishing to test "per capita" approaches to finding permanent homes for children in foster care, as Kansas has done. Under a per capita approach, states or localities contract on a fixed sum basis with agencies to reunite foster children with their biological families or place them with adoptive parents. Because the agency, typically a non-profit social service agency, receives a fixed sum per child (rather than unlimited reimbursement of costs) the agency may settle the child in a permanent home more quickly.

SECTION 103. EARLY CHILDHOOD DEVELOPMENT

The bill provides $3.75 billion over five years for collaborative early childhood development programs. Recent research has demonstrated the importance of the earliest years in a child's life in the child's intellectual and emotional development. States could use the funds for home visiting programs, parenting education, high-quality child care, and preventive health services. States would have great flexibility in deciding which services to provide.

SECTION II—"PARENT GRANTS"

The bill would create a new education assistance program to provide grants to parents who choose to remain with young children. The grants would allow parents to obtain the training, or re-training, needed to prosper and advance careers after a period of time outside the labor force. A custodial parent with children under the age of six and no earned income, welfare, or SSI receipt would be eligible to receive a benefit equivalent to the largest Pell Grant available for that year (about $2,700 in FY 1998). The benefit—to be called a "Parent Grant"—could only be used for expenses associated with post-secondary education or completion of high school. Parents could accumulate grants (one for each year outside of the labor market) but would be required to use the grant within 15 years of the year for which the grant was earned. Eligibility would be subjected to income limits ($75,000/year maximum, subject to revision on the basis of cost estimates). The program would be administered by the Education Department, in parallel with Pell Grants and other financial aid programs.

By Mr. MOYNIHAN:

S. 209. A bill to prohibit States from imposing a family cap under the program of temporary assistance to needy families; to the Committee on Finance.

LEGISLATION TO PROHIBIT THE FAMILY CAP

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation to prohibit States from imposing the so-called "family cap" as part of their Temporary Assistance to Needy Families (TANF) programs. The "family cap" is a policy under which a child born to a poor family on assistance is simply ignored when calculating the family's benefit—as if the child, this new infant, did not exist and had no needs. More than 20 states have imposed some version of this cap as part of their TANF programs.

As I have said in previous debate on this subject, these children have not asked to be conceived, and they have not asked to come into the world. We have an elemental responsibility to them. And so states ought not deny benefits to these children because of the actions of their parents.

We recently received the results of an evaluation of welfare reform in New Jersey, the first state to impose such a "family cap." As it is only one study, one should be cautious about generalizing from the results. Still, it was striking to note according to the study, that over the four-year observation period "[m]embers of the experimental group [i.e. those under a family cap] also experienced an abortion rate that was 14 percent higher than the control group [i.e. those not under a cap]." Is that really the outcome that authors of the 1996 welfare law intended? Further, the evaluation notes of the New Jersey welfare reform effort, of which the cap as a component, that "[w]e found no evidence that [the program] had any systemic positive impact on employment, employment stability, or earnings among AFDC recipients." That is, it did little to move welfare recipients to work, the ostensible objective of the 1996 welfare law.

And so, with this bit of evidence to reinforce my original position, I propose today to end the family cap, and I ask unanimous consent that a summary of the legislation and its full text be included in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON IMPOSITION OF A FAMILY CAP UNDER THE TANF PROGRAM.

(a) PROHIBITION.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following:

"(12) BAN ON FAMILY CAP.—A State to which a grant is made under section 403 may not, under the State program funded under this part, deny assistance to a family in respect of an individual because the individual was born after the family became eligible for or began receiving assistance under the program.".

(b) PENALTY.—Section 409(a) of the Social Security Act (42 U.S.C. 609(a)) is amended by adding at the end the following:

"(15) NO TANF FUNDS FOR PROGRAM WITH FAMILY CAP.—Notwithstanding any other provision of this part, a State that violates section 408(a)(12) during a fiscal year shall remit to the Secretary all funds paid to the State under this part for the fiscal year, and no payment shall be made under this part to a State that has in effect a program that would be funded under this part but for a law, regulation, or policy that is inconsistent with such section.".

FAMILY CAP PROHIBITION ACT OF 1999—BRIEF DESCRIPTION OF PROVISIONS

I. Prohibition on Imposition of a Family Cap

The bill prohibits a state from imposing a "family cap" as part of its Temporary Assistance for Needy Families (TANF) program. Under the 1996 welfare law states are permitted to deny additional assistance to families on TANF when another child is born to that family and 23 states have done so in some way. This policy, known as the "family cap," would be prohibited.

II. Penalty

A state found in violation of this policy would lose TANF funding.

By Mr. MOYNIHAN:

S. 210. A bill to establish a medical education trust fund, and for other purposes; to the Committee on Finance.

MEDICAL EDUCATION TRUST FUND ACT OF 1999

Mr. MOYNIHAN. Mr. President, today I introduce legislation that would establish a Medical Education Trust Fund to support America's 144 accredited medical schools and 1,250 graduate medical education teaching institutions. These institutions are national treasures; they are the very best in the world. Yet today they find themselves in a precarious financial situation as market forces reshape the health care delivery system in the United States. Explicit and dedicated funding for these institutions, which this legislation will provide, will ensure that the United States continues to lead the world in the quality of its health care system.

This legislation requires that the public sector, through the Medicare and Medicaid programs, and the private sector, through an assessment on health insurance premiums, contribute broad-based and fair financial support.

My particular interest in this subject began in 1994, when the Finance Committee took up the President's Health Security Act. I was Chairman of the Committee at the time. In January of that year, I asked Dr. Paul Marks, M.D., President of Memorial Sloan-Kettering Cancer Center in New York City, if he would arrange a "seminar" for me on health care issues. He agreed, and gathered a number of medical school deans together one morning in New York.

Early on in the meeting, one of the seminarians remarked that the University of Minnesota might have to close its medical school. In an instant I realized I had heard something new. Minnesota is a place where they open medical schools, not close them. How, then, could this be? The answer was that Minnesota, being Minnesota, was a leading state in the growth of competitive health care markets, in which managed care organizations try to deliver services at lower costs. In this environment, HMOs and the like do not send patients to teaching hospitals, absent which you cannot have a medical school.

We are in the midst of a great era of discovery in medical science. It is certainly not a time to close medical schools. This great era of medical discovery is occurring right here in the United States, not in Europe like past ages of scientific discovery. And it is centered in New York City. This heroic age of medical science started in the late 1930s. Before then, the average patient was probably as well off, perhaps better, out of a hospital as in one. Progress from that point sixty years ago has been remarkable. The last few decades have brought us images of the inside of the human body based on the magnetic resonance of bodily tissues; laser surgery; micro surgery for reattaching limbs; and organ transplantation, among other wonders. Physicians are now working on a gene therapy that might eventually replace bypass surgery. I can hardly imagine what might be next.

After months of hearings and debate on the President's Health Security Act, I became convinced that special provisions would have to be made for medical schools, teaching hospitals, and medical research if we were not to see this great moment in medical science suddenly constrained. To that end, when the Committee on Finance voted 12 to 8 on July 2, 1994 to report the Health Security Act, it included a Graduate Medical Education and Academic Health Centers Trust Fund. The Trust Fund provided an 80 percent increase in federal funding for academic medicine; as importantly, it represented stable, long-term funding. While nothing came of the effort to enact universal health care coverage, the medical education trust fund enjoyed widespread support. An amendment by Senator Malcolm Wallop to kill the trust fund by striking the source of its revenue—a 1.75 percent assessment on health insurance premiums—failed on a 7–13 vote in the Finance Committee.

I continued to press the issue in the first session of the 104th Congress. On September 29, 1995, during Finance Committee consideration of budget reconciliation legislation, I offered an amendment to establish a similar trust fund. My amendment failed on a tie vote, 10 to 10. Notably, however, the House version of the reconciliation bill did include a graduate medical education trust fund. That provision ultimately passed both houses as part of the conference agreement, which was subsequently vetoed by President Clinton. The budget resolution for fiscal year 1997 as passed by Congress also appeared to assume that a similar trust fund was to be included in the Medicare reconciliation bill—a bill which never materialized.

The Chairman of the House Ways and Means Committee, Representative BILL ARCHER, was largely responsible for the inclusion of trust fund provisions in the Balanced Budget Act of 1995 and the budget resolution for fiscal year 1997. He and I share a strong commitment to ensuring the continued success of our system of medical education. Indeed, Chairman ARCHER and I were both honored in 1996 to receive the American Association of Medical Colleges' Public Service Excellence Award.

That is the history of this effort, briefly stated.

Medical education is one of America's most precious public resources. Within our increasingly competitive health care system, it is rapidly becoming a public good—that is, a good from which everyone benefits, but for which no one is willing to pay. Therefore, it should be explicitly financed with contributions from all sectors of the health care system, not just the Medicare program as is the case today. The fiscal pressures of a competitive health market are increasingly closing off traditional implicit revenue sources (such as additional payments from private payers) that have supported medical schools, graduate medical education, and research until now. In its June, 1995 Report to Congress, the Prospective Payment Assessment Commission (ProPAC), created to advise Congress on Medicare Hospital Insurance (Part A) payment, summarized the situation of teaching hospitals as follows:

> As competition in the health care system intensifies, the additional costs borne by teaching hospitals will place them at a disadvantage relative to other facilities. The role, scale, function, and number of these institutions increasingly will be challenged. . . . Accelerating price competition in the private sector . . . is reducing the ability of teaching hospitals to obtain the higher patient care rates from other payers that traditionally have contributed to financing the costs associated with graduate medical education.

ProPAC's June, 1996 Report to Congress confirmed that "major teaching hospitals have the dual problems of higher overall losses from uncompensated care and less above-cost revenue from private insurers."

The State of New York provides a good example of what is happening as health care markets become more competitive. Effective at the end of the 1996 calendar year, New York repealed a state law that set hospital rates. Hospitals must now negotiate their fees with each and every health plan in the state. Where teaching hospitals were once guaranteed a payment that recognized, to some degree, its higher costs of providing services, the private sector is free to squeeze down payments to hospitals with no such recognition. While the State of New York operates funding pools that provide partial support for graduate medical education and uncompensated care, it is largely up to the teaching hospitals to try to win higher rates than other hospitals when negotiating contracts with health plans. Some may succeed in doing so, but most will probably not. New York's state law was unique, but the same process of negotiation between hospitals and private health plant takes place across the country. Who, in this context, will pay for the higher costs of operating teaching hospitals?

It is worth mentioning that the NY state funding pools for GME were established as a temporary, yet important source of support for GME until Federal law—like the bill I am introducing today—can be passed by Congress. While New York has historically recognized the value of supporting GME through the state funding pools, this source of funding is currently in jeopardy of not being reauthorized by the state legislature.

It is obvious that teaching hospitals can no longer rely on higher payments from private payers to do so. Nor should they. The establishment of this trust fund, which explicitly reimburses teaching hospitals for the costs of graduate medical education, will ensure that teaching hospitals can pursue their vitally important patient care, training, and research missions in the face of an increasingly competitive health system.

Medical schools also face an uncertain future. There are many policy issues that need to be examined regarding the role of medical schools in our health system, but two threats faced by medical schools require immediate attention. This legislation addresses both. First, many medical schools are immediately threatened by the dire financial condition of their affiliated teaching hospitals. Medical schools rely on teaching hospitals to provide a place for their faculty to practice and perform research, a place to send third and fourth-year medical school students for training, and for some direct revenues. By improving the financial condition of teaching hospitals, this legislation significantly improves the outlook for medical schools.

The second immediate threat faced by medical schools stems from their reliance on a portion of the clinical practice revenue generated by their faculties to support their operations. As competition within the health system intensifies and managed care proliferates, these revenues are shrinking. This legislation provides payments to medical schools from the Trust Fund that are designed to partially offset this loss of revenue.

As we begin the 106th Congress, the Bipartisan Commission on the Future of Medicare as established in the Balanced Budget Act of 1997 is debating its recommendations to assure the long-term solvency and viability of the Medicare program. One of the most important policy discussions the Commission has undertaken centers on Medicare's role in the funding of Graduate Medical Education. In order to remain the world leader in graduate medical education, we must continue to maintain Medicare's commitment to GME and to the nation's teaching hospitals. I urge the Commission to maintain GME support through the Medicare program in order to assure a stable, federal source of funding. Several Commission members have raised the alarming idea of subjecting GME to an annual appropriations process. I urge my colleagues to reject this dangerous notion. It would be a tragedy for our medical schools and teaching institutions. Pitting GME against other important federal priorities would likely result in a substantial reduction in the federal commitment to GME.

None of the foregoing is meant to suggest that the new competitive forces reshaping health care have brought only negative results. To the contrary, the onset of competition has had many beneficial effects, the restraint of growth on average in health insurance premiums being the most obvious. But as Monsignor Charles J. Fahey of Fordham warned in testimony before the Finance Committee in 1994, we must be wary of the "commodification of health care," by which he meant that health care is not just another commodity. We can rely on competition to hold down costs in much of the health system, but we must not allow it to bring a premature end to this great age of medical discovery, an age made possible by this country's exceptionally well-trained health professionals and superior medical schools and teaching hospitals. This legislation complements a competitive health market by providing tax-supported funding for the public services provided by teaching hospitals and medical schools.

Accordingly, the Medical Education Trust Fund established in the legislation I have just reintroduced would receive funding from three sources broadly representing the entire health care system: a 1.5 percent tax on health insurance premiums (the private sector's contribution), Medicare and Medicaid (the latter two sources comprising the public sector's contribution). The relative contribution from each of these sources will be in rough proportion to the medical education costs attributable to their respective covered populations.

Over the five years following enactment, the Medical Education Trust Fund provides average annual payments of about $17 billion. The tax on health insurance premiums (including self-insured health plans) raises approximately $5 billion per year for the Trust Fund. Federal health programs contribute about $12 billion per year to the Trust Fund: $8 billion of current Medicare graduate medical education payments and $4 billion in federal Medicaid spending.

This legislation is only a first step. It establishes the principle that, as a public good, medical education should be supported by dedicated, long-term Federal funding. To ensure that the United States continues to lead the world in the quality of its medical education and its health system as a whole, the legislation would also create a Medical Education Advisory Commission to conduct a thorough study and make recommendations, including the potential use of demonstration projects, regarding the following:

Alternative and additional sources of medical education financing;

Alternative methodologies for financing medical education;

Policies designed to maintain superior research and educational capacities in an increasingly competitive health system;

The appropriate role of medical schools in graduate medical education; and

Policies designed to expand eligibility for graduate medical education payments to institutions other than teaching hospitals, including children's hospitals.

Mr. President, the services provided by this Nation's teaching hospitals and medical schools—groundbreaking research, highly skilled medical care, and the training of tomorrow's physicians—are vitally important and must be protected in this time of intense economic competition in the health system.

I ask unanimous consent that a summary of the bill and the text of the bill be included in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medical Education Trust Fund Act of 1999".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Medical Education Trust Fund.
Sec. 3. Amendments to medicare program.
Sec. 4. Amendments to medicaid program.
Sec. 5. Assessments on insured and self-insured health plans.
Sec. 6. Medical Education Advisory Commission.
Sec. 7. Demonstration projects.

SEC. 2. MEDICAL EDUCATION TRUST FUND.

The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding after title XXI the following new title:

"TITLE XXII—MEDICAL EDUCATION TRUST FUND

"TABLE OF CONTENTS OF TITLE

"Sec. 2201. Establishment of Trust Fund.
"Sec. 2202. Payments to medical schools.
"Sec. 2203. Payments to teaching hospitals.

"SEC. 2201. ESTABLISHMENT OF TRUST FUND.

"(a) In General.—There is established in the Treasury of the United States a fund to be known as the Medical Education Trust Fund (in this title referred to as the 'Trust Fund'), consisting of the following accounts:

"(1) The Medical School Account.

"(2) The Medicare Teaching Hospital Indirect Account.

"(3) The Medicare Teaching Hospital Direct Account.

"(4) The Non-Medicare Teaching Hospital Indirect Account.

"(5) The Non-Medicare Teaching Hospital Direct Account.

Each such account shall consist of such amounts as are allocated and transferred to such account under this section, sections 1886(l) and 1936, and section 4503 of the Internal Revenue Code of 1986. Amounts in the accounts of the Trust Fund shall remain available until expended.

"(b) Expenditures From Trust Fund.—Amounts in the accounts of the Trust Fund are available to the Secretary for making payments under sections 2202 and 2203.

"(c) Investment.—

"(1) In general.—The Secretary of the Treasury shall invest amounts in the accounts of the Trust Fund which the Secretary determines are not required to meet current withdrawals from the Trust Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) Sale of obligations.—The Secretary of the Treasury may sell at market price any obligation acquired under paragraph (1).

"(3) Availability of income.—Any interest derived from obligations held in each such account, and proceeds from any sale or redemption of such obligations, are hereby appropriated to such account.

"(d) Monetary Gifts to Trust Fund.—There are appropriated to the Trust Fund such amounts as may be unconditionally donated to the Federal Government as gifts to the Trust Fund. Such amounts shall be allocated and transferred to the accounts described in subsection (a) in the same proportion as the amounts in each of the accounts bears to the total amount in all the accounts of the Trust Fund.

"SEC. 2202. PAYMENTS TO MEDICAL SCHOOLS.

"(a) Federal Payments to Medical Schools for Certain Costs.—

"(1) In general.—In the case of a medical school that in accordance with paragraph (2) submits to the Secretary an application for fiscal year 2000 or any subsequent fiscal year, the Secretary shall make payments for such year to the medical school for the purpose specified in paragraph (3). The Secretary shall make such payments from the Medical School Account in an amount determined in accordance with subsection (b), and may administer the payments as a contract, grant, or cooperative agreement.

"(2) Application for payments.—For purposes of paragraph (1), an application for payments under such paragraph for a fiscal year is in accordance with this paragraph if—

"(A) the medical school involved submits the application not later than the date specified by the Secretary; and

"(B) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(3) Purpose of payments.—The purpose of payments under paragraph (1) is to assist medical schools in maintaining and developing quality educational programs in an increasingly competitive health care system.

"(b) Availability of Trust Fund for Payments; Annual Amount of Payments.—

"(1) Availability of trust fund for payments.—The following amounts shall be available for a fiscal year for making payments under subsection (a) from the amount allocated and transferred to the Medical School Account under sections 1886(l), 1936, 2201(c)(3), and 2201(d), and section 4503 of the Internal Revenue Code of 1986:

"(A) In the case of fiscal year 2000, $200,000,000.

"(B) In the case of fiscal year 2001, $300,000,000.

"(C) In the case of fiscal year 2002, $400,000,000.

"(D) In the case of fiscal year 2003, $500,000,000.

"(E) In the case of fiscal year 2004, $600,000,000.

"(F) In the case of each subsequent fiscal year, the amount determined under this paragraph for the previous fiscal year updated through the midpoint of such previous fiscal year by the estimated percentage change in the general health care inflation factor (as defined in subsection (d)) during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this subparagraph in the projected health care inflation factor.

"(2) Amount of payments for medical schools.—

"(A) In general.—Subject to the annual amount available under paragraph (1) for a fiscal year, the amount of payments required under subsection (a) to be made to a medical school that submits to the Secretary an application for such year in accordance with subsection (a)(2) is an amount equal to an amount determined by the Secretary in accordance with subparagraph (B).

"(B) Development of formula.—The Secretary shall develop a formula for allocation of funds to medical schools under this section consistent with the purpose described in subsection (a)(3).

"(c) Medical School Defined.—For purposes of this section, the term 'medical school' means a school of medicine (as defined in section 799 of the Public Health Service Act) or a school of osteopathic medicine (as defined in such section).

"(d) General Health Care Inflation Factor.—The term 'general health care inflation factor' means the Consumer Price Index for Medical Services as determined by the Bureau of Labor Statistics.

"SEC. 2203. PAYMENTS TO TEACHING HOSPITALS.

"(a) Formula Payments to Eligible Entities.—

"(1) In general.—In the case of any fiscal year beginning after September 30, 1999, the Secretary shall make payments to each eligible entity that, in accordance with paragraph (2), submits to the Secretary an application for such fiscal year. Such payments shall be made from the Trust Fund, and the total of the payments to the eligible entity for the fiscal year shall equal the sum of the amounts determined under subsections (b), (c), (d), and (e) with respect to such entity.

"(2) Application.—For purposes of paragraph (1), an application shall contain such information as may be necessary for the Secretary to make payments under such paragraph to an eligible entity during a fiscal year. An application shall be treated as submitted in accordance with this paragraph if it is submitted not later than the date specified by the Secretary, and is made in such form and manner as the Secretary may require.

"(3) Periodic payments.—Payments under paragraph (1) to an eligible entity for a fiscal year shall be made periodically, at such intervals and in such amounts as the Secretary determines to be appropriate (subject to applicable Federal law regarding Federal payments).

"(4) Administrator of programs.—The Secretary shall carry out responsibility under this title by acting through the Administrator of the Health Care Financing Administration.

"(5) Eligible entity.—For purposes of this title, the term 'eligible entity', with respect to any fiscal year, means—

"(A) for payment under subsections (b) and (c), an entity which would be eligible to receive payments for such fiscal year under—

"(i) section 1886(d)(5)(B), if such payments had not been terminated for discharges occurring after September 30, 1999;

"(ii) section 1886(h), if such payments had not been terminated for cost reporting periods beginning after September 30, 1999; or

"(iii) both sections; or

"(B) for payment under subsections (d) and (e)—

"(i) an entity which meets the requirement of subparagraph (A); or

"(ii) an entity which the Secretary determines should be considered an eligible entity.

"(b) Determination of Amount From Medicare Teaching Hospital Indirect Account.—

"(1) In general.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Medicare Teaching Hospital Indirect Account under section 1886(l)(1), and subsections (c)(3) and (d) of section 2201 for such fiscal year.

"(2) Applicable percentage.—For purposes of paragraph (1), the applicable percentage for any fiscal year is equal to the percentage of the total payments which would have been made to the eligible entity in such fiscal year under section 1886(d)(5)(B) if such payments had not been terminated for discharges occurring after September 30, 1999.

"(c) Determination of Amount From Medicare Teaching Hospital Direct Account.—

"(1) In general.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Medicare Teaching Hospital Direct Account under section 1886(l)(2), and subsections (c)(3) and (d) of section 2201 for such fiscal year.

"(2) Applicable percentage.—For purposes of paragraph (1), the applicable percentage for any fiscal year is equal to the percentage of the total payments which would have been made to the eligible entity in such fiscal year under section 1886(h) if such payments had not been terminated for cost reporting periods beginning after September 30, 1999.

"(d) Determination of Amount From Non-Medicare Teaching Hospital Indirect Account.—

"(1) In general.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Non-Medicare Teaching Hospital Indirect Account for such fiscal year under section 1936, subsections (c)(3) and (d) of section 2201, and section 4503 of the Internal Revenue Code of 1986.

"(2) Applicable percentage.—For purposes of paragraph (1), the applicable percentage for any fiscal year for an eligible entity is equal to the percentage of the total payments which, as determined by the Secretary, would have been made in such fiscal year under section 1886(d)(5)(B) if—

"(A) such payments had not been terminated for discharges occurring after September 30, 1999; and

"(B) non-medicare patients were taken into account in lieu of medicare patients.

"(e) Determination of Amount From Non-Medicare Teaching Hospital Direct Account.—

"(1) In general.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Non-Medicare Teaching Hospital Direct Account for such fiscal year under section 1936, subsections (c)(3) and (d) of section 2201, and section 4503 of the Internal Revenue Code of 1986.

"(2) Applicable percentage.—For purposes of paragraph (1), the applicable percentage for any fiscal year for an eligible entity is equal to the percentage of the total payments which, as determined by the Secretary, would have been made in such fiscal year under section 1886(h) if—

"(A) such payments had not been terminated for cost reporting periods beginning after September 30, 1999; and

"(B) non-medicare patients were taken into account in lieu of medicare patients.".

SEC. 3. AMENDMENTS TO MEDICARE PROGRAM.

Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended—

(1) in subsection (d)(5)(B), in the matter preceding clause (i), by striking "The Secretary shall provide" and inserting the following: "For discharges occurring before October 1, 1999, the Secretary shall provide";

(2) in subsection (d)(11)(C), by inserting after "paragraph (5)(B)" "(notwithstanding that payments under paragraph (5)(B) are terminated for discharges occurring after September 30, 1999)";

(3) in subsection (h)—

(A) in paragraph (1), in the first sentence, by striking "the Secretary shall provide" and inserting "the Secretary shall, subject to paragraph (7), provide"; and

(B) by adding at the end the following:

"(7) Limitation.—

"(A) In general.—The authority to make payments under this subsection (other than payments made under paragraphs (3)(D) and (6)) shall not apply with respect to—

"(i) cost reporting periods beginning after September 30, 1999; and

"(ii) any portion of a cost reporting period beginning on or before such date which occurs after such date.

"(B) Rule of construction.—This paragraph may not be construed as authorizing any payment under section 1861(v) with respect to graduate medical education."; and

(4) by adding at the end the following:

"(l) Transfers to Medical Education Trust Fund.—

"(1) Indirect costs of medical education.—

"(A) Transfer.—

"(i) In general.—From the Federal Hospital Insurance Trust Fund, the Secretary shall, for fiscal year 2000 and each subsequent fiscal year, transfer to the Medical Education Trust Fund an amount equal to the amount estimated by the Secretary under subparagraph (B).

"(ii) Allocation.—Of the amount transferred under clause (i)—

"(I) there shall be allocated and transferred to the Medical School Account of such Trust Fund an amount which bears the same ratio to the total amount available under section 2202(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred under clause (i) bears to the total amounts transferred to such Trust Fund under title XXII (excluding amounts transferred under subsections (c)(3) and (d) of section 2201) for such fiscal year; and

"(II) the remainder shall be allocated and transferred to the Medicare Teaching Hospital Indirect Account of such Trust Fund.

"(B) Determination of amounts.—The Secretary shall make an estimate for each fiscal year involved of the nationwide total of the amounts that would have been paid under subsection (d)(5)(B) to hospitals during the fiscal year if such payments had not been terminated for discharges occurring after September 30, 1999.

"(2) Direct costs of medical education.—

"(A) Transfer.—

"(i) In general.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 2000 and each subsequent fiscal year, transfer to the Medical Education Trust Fund an amount equal to the amount estimated by the Secretary under subparagraph (B).

"(ii) Allocation.—Of the amount transferred under clause (i)—

"(I) there shall be allocated and transferred to the Medical School Account of such Trust Fund an amount which bears the same ratio to the total amount available under section 2202(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred under clause (i) bears to the total amounts transferred to such Trust Fund under title XXII (excluding amounts transferred under subsections (c)(3) and (d) of section 2201) for such fiscal year; and

"(II) the remainder shall be allocated and transferred to the Medicare Teaching Hospital Direct Account of such Trust Fund.

"(B) Determination of amounts.—For each hospital, the Secretary shall make an estimate for the fiscal year involved of the amount that would have been paid under subsection (h) to the hospital during the fiscal year if such payments had not been terminated for cost reporting periods beginning after September 30, 1999.

"(C) Allocation between funds.—In providing for a transfer under subparagraph (A) for a fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B (and the trust funds established under the respective parts) as reasonably reflects the proportion of direct graduate medical education costs of hospitals associated with the provision of services under each respective part.".

SEC. 4. AMENDMENTS TO MEDICAID PROGRAM.

(a) In General.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by adding at the end the following:

"TRANSFER OF FUNDS TO ACCOUNTS

"Sec. 1936. (a) Transfer of Funds.—

"(1) In general.—For fiscal year 2000 and each subsequent fiscal year, the Secretary shall transfer to the Medical Education Trust Fund established under title XXII an amount equal to the amount determined under subsection (b).

"(2) Allocation.—Of the amount transferred under paragraph (1)—

"(A) there shall be allocated and transferred to the Medical School Account of such Trust Fund an amount which bears the same ratio to the total amount available under section 2202(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred under paragraph (1) bears to the total amounts transferred to such Trust Fund (excluding amounts transferred under subsections (c)(3) and (d) of section 2201) for such fiscal year; and

"(B) the remainder shall be allocated and transferred to the Non-Medicare Teaching Hospital Indirect Account and the Non-Medicare Teaching Hospital Direct Account of such Trust Fund, in the same proportion as the amounts transferred to each account under section 1886(l) relate to the total amounts transferred under such section for such fiscal year.

"(b) Amount Determined.—

"(1) Outlays for acute medical services during preceding fiscal year.—Beginning with fiscal year 2000, the Secretary shall determine 5 percent of the total amount of Federal outlays made under this title for acute medical services, as defined in paragraph (2), for the preceding fiscal year.

"(2) Acute medical services defined.—The term 'acute medical services' means items and services described in section 1905(a) other than the following:

"(A) Nursing facility services (as defined in section 1905(f)).

"(B) Intermediate care facility for the mentally retarded services (as defined in section 1905(d)).

"(C) Personal care services (as described in section 1905(a)(24)).

"(D) Private duty nursing services (as referred to in section 1905(a)(8)).

"(E) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915.

"(F) Home and community care furnished to functionally disabled elderly individuals under section 1929.

"(G) Community supported living arrangements services under section 1930.

"(H) Case-management services (as described in section 1915(g)(2)).

"(I) Home health care services (as referred to in section 1905(a)(7)), clinic services, and rehabilitation services that are furnished to an individual who has a condition or disability that qualifies the individual to receive any of the services described in a previous subparagraph.

"(J) Services furnished in an institution for mental diseases (as defined in section 1905(i)).

"(c) Entitlement.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to the Non-Medicare Teaching Hospital Indirect Account, the Non-Medicare Teaching Hospital Direct Account, and the Medical School Account of amounts determined in accordance with subsections (a) and (b).".

(b) Effective Date.—The amendment made by subsection (a) shall be effective on and after October 1, 1999.

SEC. 5. ASSESSMENTS ON INSURED AND SELF-INSURED HEALTH PLANS.

(a) GENERAL RULE.—Subtitle D of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by adding after chapter 36 the following new chapter:

"CHAPTER 37—HEALTH RELATED ASSESSMENTS

"SUBCHAPTER A. Insured and self-insured health plans.

"Subchapter A—Insured and Self-Insured Health Plans

"Sec. 4501. Health insurance and health-related administrative services.

"Sec. 4502. Self-insured health plans.

"Sec. 4503. Transfer to accounts.

"Sec. 4504. Definitions and special rules.

"SEC. 4501. HEALTH INSURANCE AND HEALTH-RELATED ADMINISTRATIVE SERVICES.

"(a) IMPOSITION OF TAX.—There is hereby imposed—

"(1) on each taxable health insurance policy, a tax equal to 1.5 percent of the premiums received under such policy, and

"(2) on each amount received for health-related administrative services, a tax equal to 1.5 percent of the amount so received.

"(b) LIABILITY FOR TAX.—

"(1) HEALTH INSURANCE.—The tax imposed by subsection (a)(1) shall be paid by the issuer of the policy.

"(2) HEALTH-RELATED ADMINISTRATIVE SERVICES.—The tax imposed by subsection (a)(2) shall be paid by the person providing the health-related administrative services.

"(c) TAXABLE HEALTH INSURANCE POLICY.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'taxable health insurance policy' means any insurance policy providing accident or health insurance with respect to individuals residing in the United States.

"(2) EXEMPTION OF CERTAIN POLICIES.—The term 'taxable health insurance policy' does not include any insurance policy if substantially all of the coverage provided under such policy relates to—

"(A) liabilities incurred under workers' compensation laws,

"(B) tort liabilities,

"(C) liabilities relating to ownership or use of property,

"(D) credit insurance, or

"(E) such other similar liabilities as the Secretary may specify by regulations.

"(3) SPECIAL RULE WHERE POLICY PROVIDES OTHER COVERAGE.—In the case of any taxable health insurance policy under which amounts are payable other than for accident or health coverage, in determining the amount of the tax imposed by subsection (a)(1) on any premium paid under such policy, there shall be excluded the amount of the charge for the nonaccident or nonhealth coverage if—

"(A) the charge for such nonaccident or nonhealth coverage is either separately stated in the policy, or furnished to the policyholder in a separate statement, and

"(B) such charge is reasonable in relation to the total charges under the policy.

In any other case, the entire amount of the premium paid under such policy shall be subject to tax under subsection (a)(1).

"(4) TREATMENT OF PREPAID HEALTH COVERAGE ARRANGEMENTS.—

"(A) IN GENERAL.—In the case of any arrangement described in subparagraph (B)—

"(i) such arrangement shall be treated as a taxable health insurance policy,

"(ii) the payments or premiums referred to in subparagraph (B)(i) shall be treated as premiums received for a taxable health insurance policy, and

"(iii) the person referred to in subparagraph (B)(i) shall be treated as the issuer.

"(B) DESCRIPTION OF ARRANGEMENTS.—An arrangement is described in this subparagraph if under such arrangement—

"(i) fixed payments or premiums are received as consideration for any person's agreement to provide or arrange for the provision of accident or health coverage to residents of the United States, regardless of how such coverage is provided or arranged to be provided, and

"(ii) substantially all of the risks of the rates of utilization of services is assumed by such person or the provider of such services.

"(d) HEALTH-RELATED ADMINISTRATIVE SERVICES.—For purposes of this section, the term 'health-related administrative services' means—

"(1) the processing of claims or performance of other administrative services in connection with accident or health coverage under a taxable health insurance policy if the charge for such services is not included in the premiums under such policy, and

"(2) processing claims, arranging for provision of accident or health coverage, or performing other administrative services in connection with an applicable self-insured health plan (as defined in section 4502(c)) established or maintained by a person other than the person performing the services.

For purposes of paragraph (1), rules similar to the rules of subsection (c)(3) shall apply.

"SEC. 4502. SELF-INSURED HEALTH PLANS.

"(a) IMPOSITION OF TAX.—In the case of any applicable self-insured health plan, there is hereby imposed a tax for each month equal to 1.5 percent of the sum of—

"(1) the accident or health coverage expenditures for such month under such plan, and

"(2) the administrative expenditures for such month under such plan to the extent such expenditures are not subject to tax under section 4501.

In determining the amount of expenditures under paragraph (2), rules similar to the rules of subsection (d)(3) apply.

"(b) LIABILITY FOR TAX.—

"(1) IN GENERAL.—The tax imposed by subsection (a) shall be paid by the plan sponsor.

"(2) PLAN SPONSOR.—For purposes of paragraph (1), the term 'plan sponsor' means—

"(A) the employer in the case of a plan established or maintained by a single employer,

"(B) the employee organization in the case of a plan established or maintained by an employee organization, or

"(C) in the case of—

"(i) a plan established or maintained by 2 or more employers or jointly by 1 or more employers and 1 or more employee organizations,

"(ii) a voluntary employees' beneficiary association under section 501(c)(9), or

"(iii) any other association plan,

the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

"(c) APPLICABLE SELF-INSURED HEALTH PLAN.—For purposes of this section, the term 'applicable self-insured health plan' means any plan for providing accident or health coverage if any portion of such coverage is provided other than through an insurance policy.

"(d) ACCIDENT OR HEALTH COVERAGE EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The accident or health coverage expenditures of any applicable self-insured health plan for any month are the aggregate expenditures paid in such month for accident or health coverage provided under such plan to the extent such expenditures are not subject to tax under section 4501.

"(2) TREATMENT OF REIMBURSEMENTS.—In determining accident or health coverage expenditures during any month of any applicable self-insured health plan, reimbursements (by insurance or otherwise) received during such month shall be taken into account as a reduction in accident or health coverage expenditures.

"(3) CERTAIN EXPENDITURES DISREGARDED.—Paragraph (1) shall not apply to any expenditure for the acquisition or improvement of land or for the acquisition or improvement of any property to be used in connection with the provision of accident or health coverage which is subject to the allowance under section 167, except that, for purposes of paragraph (1), allowances under section 167 shall be considered as expenditures.

"SEC. 4503. TRANSFER TO ACCOUNTS.

"For fiscal year 2000 and each subsequent fiscal year, there are hereby appropriated and transferred to the Medical Education Trust Fund under title XXII of the Social Security Act amounts equivalent to taxes received in the Treasury under sections 4501 and 4502, of which—

"(1) there shall be allocated and transferred to the Medical School Account of such Trust Fund an amount which bears the same ratio to the total amount available under section 2202(b)(1) of such Act for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred to such Trust Fund under this section bears to the total amounts transferred to such Trust Fund (excluding amounts transferred under subsections (c)(3) and (d) of section 2201 of such Act) for such fiscal year; and

"(2) the remainder shall be allocated and transferred to the Non-Medicare Teaching Hospital Indirect Account and the Non-Medicare Teaching Hospital Direct Account of such Trust Fund, in the same proportion as the amounts transferred to such account under section 1886(l) of such Act relate to the total amounts transferred under such section for such fiscal year.

Such amounts shall be transferred in the same manner as under section 9601.

"SEC. 4504. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) ACCIDENT OR HEALTH COVERAGE.—The term 'accident or health coverage' means any coverage which, if provided by an insurance policy, would cause such policy to be a taxable health insurance policy (as defined in section 4501(c)).

"(2) INSURANCE POLICY.—The term 'insurance policy' means any policy or other instrument whereby a contract of insurance is issued, renewed, or extended.

"(3) PREMIUM.—The term 'premium' means the gross amount of premiums and other consideration (including advance premiums, deposits, fees, and assessments) arising from policies issued by a person acting as the primary insurer, adjusted for any return or additional premiums paid as a result of endorsements, cancellations, audits, or retrospective rating. Amounts returned where the amount is not fixed in the contract but depends on the experience of the insurer or the discretion of management shall not be included in return premiums.

"(4) UNITED STATES.—The term 'United States' includes any possession of the United States.

"(b) TREATMENT OF GOVERNMENTAL ENTITIES.—

"(1) IN GENERAL.—For purposes of this subchapter—

"(A) the term 'person' includes any governmental entity, and

"(B) notwithstanding any other law or rule of law, governmental entities shall not be exempt from the taxes imposed by this subchapter except as provided in paragraph (2).

"(2) EXEMPT GOVERNMENTAL PROGRAMS.—

"(A) IN GENERAL.—In the case of an exempt governmental program—

"(i) no tax shall be imposed under section 4501 on any premium received pursuant to such program or on any amount received for health-related administrative services pursuant to such program, and

"(ii) no tax shall be imposed under section 4502 on any expenditures pursuant to such program.

"(B) EXEMPT GOVERNMENTAL PROGRAM.—For purposes of this paragraph, the term 'exempt governmental program' means—

"(A) the insurance programs established by parts A and B of title XVIII of the Social Security Act,

"(B) the medical assistance program established by title XIX of the Social Security Act,

"(C) any program established by Federal law for providing medical care (other than through insurance policies) to individuals (or the spouses and dependents thereof) by reason of such individuals being—

"(i) members of the Armed Forces of the United States, or

"(ii) veterans, and

"(D) any program established by Federal law for providing medical care (other than through insurance policies) to members of Indian tribes (as defined in section 4(d) of the Indian Health Care Improvement Act).

"(c) NO COVER OVER TO POSSESSIONS.—Notwithstanding any other provision of law, no amount collected under this subchapter shall be covered over to any possession of the United States.".

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle D of the Internal Revenue Code of 1986 is amended by inserting after the item relating to chapter 36 the following new item:

"CHAPTER 37. Health related assessments."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to premiums received, and expenses incurred, with respect to coverage for periods after September 30, 1999.

SEC. 6. MEDICAL EDUCATION ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established an advisory commission to be known as the Medical Education Advisory Commission (in this section referred to as the "Advisory Commission").

(b) DUTIES.—

(1) IN GENERAL.—The Advisory Commission shall—

(A) conduct a thorough study of all matters relating to—

(i) the operation of the Medical Education Trust Fund established under section 2201 of the Social Security Act (as added by section 2);

(ii) alternative and additional sources of graduate medical education funding;

(iii) alternative methodologies for compensating teaching hospitals for graduate medical education;

(iv) policies designed to maintain superior research and educational capacities in an increasing competitive health system;

(v) the role of medical schools in graduate medical education;

(vi) policies designed to expand eligibility for graduate medical education payments to children's hospitals that operate graduate medical education programs; and

(vii) policies designed to expand eligibility for graduate medical education payments to institutions other than teaching hospitals;

(B) develop recommendations, including the use of demonstration projects, on the matters studied under subparagraph (A) in consultation with the Secretary of Health and Human Services and the entities described in paragraph (2);

(C) not later than January 2001, submit an interim report to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Secretary of Health and Human Services; and

(D) not later than January 2003, submit a final report to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Secretary of Health and Human Services.

(2) ENTITIES DESCRIBED.—The entities described in this paragraph are—

(A) other advisory groups, including the Council on Graduate Medical Education and the Medicare Payment Advisory Commission;

(B) interested parties, including the Association of American Medical Colleges, the Association of Academic Health Centers, and the American Medical Association;

(C) health care insurers, including managed care entities; and

(D) other entities as determined by the Secretary of Health and Human Services.

(c) NUMBER AND APPOINTMENT.—The membership of the Advisory Commission shall include 9 individuals who are appointed to the Advisory Commission from among individuals who are not officers or employees of the United States. Such individuals shall be appointed by the Secretary of Health and Human Services, and shall include individuals from each of the following categories:

(1) Physicians who are faculty members of medical schools.

(2) Officers or employees of teaching hospitals.

(3) Officers or employees of health plans.

(4) Deans of medical schools.

(5) Such other individuals as the Secretary determines to be appropriate.

(d) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Advisory Commission shall serve for the lesser of the life of the Advisory Commission, or 4 years.

(2) SERVICE BEYOND TERM.—A member of the Advisory Commission may continue to serve after the expiration of the term of the member until a successor is appointed.

(e) VACANCIES.—If a member of the Advisory Commission does not serve the full term applicable under subsection (d), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(f) CHAIR.—The Secretary of Health and Human Services shall designate an individual to serve as the Chair of the Advisory Commission.

(g) MEETINGS.—The Advisory Commission shall meet not less than once during each 4-month period and shall otherwise meet at the call of the Secretary of Health and Human Services or the Chair.

(h) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Advisory Commission shall receive compensation for each day (including travel time) engaged in carrying out the duties of the Advisory Commission. Such compensation may not be in an amount in excess of the maximum rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(i) STAFF.—

(1) STAFF DIRECTOR.—The Advisory Commission shall, without regard to the provisions of title 5, United States Code, relating to competitive service, appoint a Staff Director who shall be paid at a rate equivalent to a rate established for the Senior Executive Service under 5382 of title 5, United States Code.

(2) ADDITIONAL STAFF.—The Secretary of Health and Human Services shall provide to the Advisory Commission such additional staff, information, and other assistance as may be necessary to carry out the duties of the Advisory Commission.

(j) TERMINATION OF THE ADVISORY COMMISSION.—The Advisory Commission shall terminate 90 days after the date on which the Advisory Commission submits its final report under subsection (b)(1)(D).

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 7. DEMONSTRATION PROJECTS.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish, by regulation, guidelines for the establishment and operation of demonstration projects which the Medical Education Advisory Commission recommends under section 6(b)(1)(B).

(b) FUNDING.—

(1) IN GENERAL.—For any fiscal year after 1999, amounts in the Medical Education Trust Fund under title XXII of the Social Security Act shall be available for use by the Secretary in the establishment and operation of demonstration projects described in subsection (a).

(2) FUNDS AVAILABLE.—

(A) LIMITATION.—Not more than 1/10 of 1 percent of the funds in such Trust Fund shall be available for the purposes of paragraph (1).

(B) ALLOCATION.—Amounts under paragraph (1) shall be paid from the accounts established under paragraphs (2) through (5) of section 2201(a) of the Social Security Act, in the same proportion as the amounts transferred to such accounts bears to the total of amounts transferred to all 4 such accounts for such fiscal year.

(c) LIMITATION.—Nothing in this section shall be construed to authorize any change in the payment methodology for teaching hospitals and medical schools established by the amendments made by this Act.

SUMMARY OF THE MEDICAL EDUCATION TRUST FUND ACT OF 1999

OVERVIEW

The legislation establishes a Medical Education Trust Fund to support America's 144 medical schools and 1,250 graduate medical education teaching institutions. These institutions are in a precarious financial situation as market forces reshape the health care delivery system. Explicit and dedicated funding for these institutions will guarantee that the United States continues to lead the world in the quality of its health care system.

The Medical Education Trust Fund Act of 1999 recognizes the need to begin moving away from existing medical education payment policies. Funding would be provided for demonstration projects and alternative payment methods, but permanent policy changes would await a report from a new Medical Education Advisory Commission established by the bill. The primary and immediate purpose of the legislation is to establish as Federal policy that medical education is a public good which should be supported by all sectors of the health care system.

To ensure that the burden of financing medical education is shared equitably by all sectors, the Medical Education Trust Fund will receive funding from three sources: a 1.5 percent assessment on health insurance premiums (the private sector's contribution), Medicare, and Medicaid (the public sector's contribution). The relative contribution from each of these sources is in rough proportion to the medical education costs attributable to their respective covered populations.

Over the five years following enactment, the Medical Education Trust Fund will provide average annual payments of about $17 billion, roughly doubling federal funding for medical education. The assessment on health insurance premiums (including self-insured health plans) contributes approximately $5 billion per year to the Trust Fund. Federal health programs contribute about $12 billion per year to the Trust Fund: $8 billion in Medicare graduate medical education payments and $4 billion in federal Medicaid spending.

ESTIMATED AVERAGE ANNUAL TRUST FUND REVENUE BY SOURCE, FIRST FIVE YEARS

[In billions of dollars]

1.5% assessment	Medicare	Medicaid	Total
5	8	4	17

INTERIM PAYMENT METHODOLOGIES

Payments to medical schools

Medical schools rely on a portion of the clinical practice revenue generated by their faculties to support their operations. As competition within the health system intensifies and managed care proliferates, these revenues are being constrained. Payments to medical schools from the Trust Fund are designed to partially offset this loss of revenue. Initially, these payments will be based upon an interim methodology developed by the Secretary of Health and Human Services.

Payments to teaching hospitals

To cover the costs of education, teaching hospitals have traditionally charged higher rates than other hospitals. As private payers become increasingly unwilling to pay these higher rates, the future of these important institutions, and the patient care, training, and research they provide, is placed at risk. Payments from the Trust Fund reimburse teaching hospitals for both the direct[1] and indirect[2] costs of graduate medical education.

Payments for direct costs are based on the actual costs of employing medical residents. Payments for indirect costs are based on the number of patients cared for in each hospital and the severity of their illnesses as well as a measure of the teaching load in that hospital.[3] For the purposes of payments to teaching hospitals, the allocation of Medicare funds is based on the number of Medicare patients in each hospital; the allocation of the tax revenue and Medicaid funds is based on the number of non-Medicare patients in each hospital.

MEDICAL EDUCATION ADVISORY COMMISSION

The legislation also establishes a Medical Education Advisory Commission to conduct a study and make recommendations, including the potential use of demonstration projects, regarding the following: operations of the Medical Education Trust Fund; alternative and additional sources of medical education financing; alternative methodologies for distributing medical education payments; policies designed to maintain superior research and education capacities in an increasingly competitive health system; the role of medical schools in graduate medical education; and policies designed to expand, eligibility for graduate medical education payments to institutions other than teaching hospitals, including children's hospitals.

The Commission, comprised of nine individuals appointed by the Secretary of Health and Human Services, will be required to issue an interim report no later than January 1, 2001, and a final report no later than January 1, 2003.

FOOTNOTES

[1] Medical residents' salaries are the primary direct cost.

[2] These indirect costs include the cost of treating more seriously ill patients and the costs of additional tests that may be ordered by medical residents.

[3] The legislation will use Medicare's measure of teaching load as an interim measure.

By Mr. MOYNIHAN (for himself, Mr. ROTH, Mr. BAUCUS, Mrs. BOXER, Mr. BRYAN, Mr. CONRAD, Mr. GRAHAM, Mr. GRASSLEY, Mr. HATCH, Mr. JEFFORDS, Mr. KYL, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. ROBB, and Mr. SCHUMER):

S. 211. A bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes; to the Committee on Finance.

EMPLOYEE EDUCATIONAL ASSISTANCE ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation to permanently extend the tax exclusion for employer-provided educational assistance under section 127 of the Internal Revenue Code. This bill, cosponsored by Senator ROTH, the distinguished chairman of the Senate Finance Committee, ensures that employees may receive up to $5,250 annually in tuition reimbursements or similar educational benefits for both undergraduate and graduate education from their employers on a tax-free basis.

The provision enjoys virtually unanimous support in the Senate. In the 105th Congress, every member of the Committee on Finance sponsored legislation to make this provision permanent, and the full Senate twice voted to support it—in 1997 and again in 1998.

The provision enjoys equally broad support in the business, labor, and education communities. I have received letters of support from groups such as the National Association of Manufacturers, from labor and employee groups such as the College and University Personnel Association, and from professional groups such as the National Society of Professional Engineers.

Why, then, is it not a permanent feature of the Tax Code today? Because, for reasons this Senator cannot understand, the provision has been opposed in the House.

Section 127 should be permanent because it is one of the most successful education initiatives that the Federal Government has ever undertaken. Approximately one million persons benefits from this provision every year. And they benefit in the most auspicious of circumstances. An employer recognizes that the worker is capable of doing work at higher levels and skills and says, "Will you go to school and get a degree so we can put you in a higher position than you have now—and with better compensation?" Unlike so many of our job training programs that have depended on the hope that in the aftermath of the training there will be a job, here you have a situation where the worker already has a job and the employer agrees that the worker should improve his or her situation in a manner that is beneficial to all concerned.

And the program works efficiently. It administers itself. It has no bureaucracy—there is no bureau in the Department of Education for employer-provided educational assistance, no titles, no confirmations, no assistant secretaries. There is nothing except the individual plan of an employer for the benefit of its employees.

Since its inception in 1979, section 127 has enabled millions of workers to advance their education and improve their job skills without incurring additional taxes and a reduction in take-home pay. As one example of the reach of this provisions, IBM, a key New York employer, provides education assistance benefits worth millions of dollars to more than 4,000 participants a year.

Without section 127, workers will find that the additional taxes or reduction in take-home pay impose a significant, even prohibitive, financial obstacle to further education. For example, an unmarried clerical worker pursuing a college diploma who has income of $21,000 in 1999 ($10.50 per hour) and who received tuition reimbursement for two semesters of night courses—perhaps worth $4,000—wil owe additional Federal income and payroll taxes of $906 on this educational assistance.

And the provision makes an important contribution to simplicity in the tax law. Absent section 127, a worker receiving educational benefits from an employer is taxed on the value of the education received, unless the education is directly related to the worker's current job and not remedial. Thus, the worker would be subject to tax if the education either qualifies him or her for a new job, or is necessary to meet the minimum educational requirements for the current job. Workers and employers—as well as the IRS for matters in audit—must carefully review the facts of each situation and judge whether the education is taxable under these rules, and employers are subject to penalties if they fail to properly adjust wage withholding for employees who receive taxable education. More work for tax advisors. Permanent reinstatement of section 127 will allow workers who receive, and employers who provide, education assistance to do so without such complexity.

---

[1] Footnotes at end of summary.

Section 127 has also helped to improve the quality of America's public education system at a fraction of the cost of direct-aid programs. A survey by the National Education Association a few years ago found that almost half of all American public schools systems provide tuition assistance to teachers seeking advanced training and degrees. This has enabled thousands of public schools teachers to obtain advanced degrees, enhancing the quality of instruction in our schools.

A well-trained and educated work force is a key to our Nation's competitiveness in the global economy of the 21st century. Pressures from international competition and technological change require constant education and retraining to maintain and strengthen American industry's competitive position. Alan Greenspan, the esteemed Chairman of the Federal Reserve System's Board of Governors, remarked at Syracuse University in New York in December, 1997 that:

> Our business and workers are confronting a dynamic set of forces that will influence our nations' ability to compete worldwide in the years ahead. Our success in preparing workers and managers to harness those forces will be an important element in the outcome.
>
> . . . America's prospects for economic growth will depend greatly on our capacity to develop and to apply new technology.
>
> [A]n increasing number of workers are facing the likelihood that they will need retooling during their careers. The notion that formal degree programs at any level can be crafted to fully support the requirements of one's lifework is being challenged. As a result, education is increasingly becoming a lifelong activity; businesses are now looking for employees who are prepared to continue learning. . . .

Section 127 has an important, perhaps vital, role to play in this regard. It permits employees to adapt and retrain without incurring additional tax liabilities and a reduction in take-home pay. By removing the tax burden from workers seeking education and retraining, section 127 helps to maintain American workers as the most productive in the industrialized and developing world.

Indeed, recent evidence released by the Census Bureau demonstrates that the earnings gap between individuals with a college degree and those with only a high school education continues to grow. Those who hold bachelor's degrees on average made $40,478 last year, compared with $22,895 earned by the average high school graduate. In other terms, college graduates now earn 76 percent more than their counterparts with less education, up significantly from 57 percent in 1975.

Despite efforts by the Senate, the most recent extension of section 127 excluded graduate level education. This was a mistake. Historically, one quarter of the individuals who have used section 127 went to graduate schools. Ask major employees about their employee training and they will say nothing is more helpful than being able to send a promising young person, or middle management person, to a graduate school to learn a new field that has developed since that person acquired his or her education. As Dr. Greenspan stated,

> . . . education, especially to enhance advanced skills, is so vital to the future growth of our economy.

By eliminating graduate level education from section 127, we impose a tax increase on many citizens who work and go to graduate school at the same time. But not all of them. Only the ones whose education does not directly relate to their current jobs. For these unlucky persons, we have erected a barrier to their upward mobility. Who are these people? Perhaps an engineer seeking a master's degree in geology to enter the field of environmental science, or a bank teller seeking an MPA in accounting, or a production line worker seeking an MBA in management.

Simple equity among taxpayers demands that section 127 be made permanent. Contrast each of the above examples with the following: The environmental geologist seeking a master's in geology, the bank accountant seeking an MPA, and the management trainee seeking an MBA; each of these persons could qualify for tax-free education, whereas their colleagues would not. There is no justification for this difference in tax treatment.

Thus, section 127 removes a tax bias against lesser-skilled workers. The tax bias arises because lesser-skilled workers have narrower job descriptions, and a correspondingly greater difficulty proving that educational expenses directly relate to their current jobs. Less-skilled workers are in greater need of remedial and basic education. And they are the ones least able to afford the imposition of tax on their educational benefits. As noted by Senator Packwood in a 1978 Finance Committee hearing on this provision, employer-provided education is not taxable:

> . . . so long as it is related to the job, but the trouble is, once you get higher in a corporation, more things seem to be related to the job. If you are a vice president in charge of marketing for Mobil Oil or General Motors, you could have a wide expanse of educational experiences that would be job related. . . . but for the poor devil in private enterprise who dropped out of school at 16 and is working on a production job and would like to move out of that, all you can train him for is to do the production job better. . . . [T]he lower skilled, the minorities, the less educated, are also the ones circumscribed by law.

This has been confirmed in practice. A study published by the National Association of Independent Colleges and Universities in December, 1995 found that the average section 127 recipient earned less than $33,000, and a Coopers & Lybrand study found that participation rates decline as salary levels increase.

I hope that Congress will recognize the importance of this provision, and enact it permanently. Our on-again, off-again approach to section 127 has created great practical difficulties for the intended beneficiaries. Workers cannot plan sensibly for their educational goals, not knowing the extent to which accepting educational assistance may reduce their take-home pay. As for employers, the fits and starts of the legislative history of section 127 have been a serious administrative nuisance: there have been nine extensions of this provision since 1978, of which eight were retroactive. If section 127 is in force, then there is no need to withhold taxes on educational benefits provided; if not, the job-relatedness of the educational assistance must be ascertained, a value assigned, and withholding adjusted accordingly. Uncertainty about the program's continuance has magnified this burden, and discouraged employers from providing educational benefits.

For example, section 127 expired for a time after 1994. During 1995, employers did not know whether to withhold taxes or curtail their educational assistance programs. Workers did not know whether they would face large tax bills, and possible penalties and interest, and thus faced considerable risk in planning for their education. Constituents who called my office reported that they were taking fewer courses—or no courses—due to this uncertainty. And when we failed to extend the provision by the end of 1995, employers had to guess as to how to report their worker's incomes on the W–2 tax statements, and employees had to guess whether to pay tax on the benefits they received. In the Small Business Job Protection Act of 1996, we finally extended the provision retroactively to the beginning of 1995. As a result, we had to instruct the IRS to issue guidance expeditiously to employers and workers on how to obtain refunds.

The current provision expires with respect to courses beginning after May 31, 2000. Will we subject our constituents, once again, to similar confusion? The legislation I introduce today would restore certainty to section 127 by maintaining it on a permanent basis for all education.

Encouraging workers to further their education and to improve their job skills is an important national priority. It is crucial for preserving our competitive position in the global economy. Permitting employees to receive educational assistance on a tax-free basis, without incurring significant cuts in take-home pay, is a demonstrated, cost-effective means for achieving these objectives. This is a wonderful piece of unobtrusive social policy. And it simplifies our tax system for one million workers and their employers.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, along with two letters, representative of many, I have received in support of the bill.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employee Educational Assistance Act".

SEC. 2. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) PERMANENT EXTENSION.—Section 127 of the Internal Revenue Code of 1986 (relating to exclusion for educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) REPEAL OF LIMITATION ON GRADUATE EDUCATION.—The last sentence of section 127(c)(1) of such Code is amended by striking ", and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree".

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply with respect to expenses relating to courses beginning after the date of enactment of this Act.

(2) GRADUATE EDUCATION.—The amendment made by subsection (b) shall apply with respect to expenses relating to courses beginning after December 31, 1998.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
Washington, DC, January 19, 1999.

Hon. DANIEL P. MOYNIHAN,
Ranking Member, Senate Committee on Finance, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MOYNIHAN: On behalf of the National Association of Manufacturers (NAM), representing 18 million working men and women in 14,000 small, medium and large businesses across America, I want to commend you for your willingness to introduce and sponsor S. 127 in the 106th Congress. As you know, Section 127 of the Internal Revenue Code enables employers to provide tax-free tuition assistance for undergraduate education through 2000. The NAM supports your efforts to provide not only a permanent extension of Section 127, but the restoration of graduate-level assistance as well.

The NAM strongly believes that education and lifelong learning are the key to continued economic growth and worker prosperity. Last week, NAM President Jerry Jasinowski participated in Vice President Gore's Summit on Skills for 21st Century and urged that government, labor, academic and business leaders all take greater responsibility in encouraging a stronger focus on lifelong learning. Manufacturers have discovered the importance of education and lifelong learning first hand. For instance, raising the education level of workers by just one year raises manufacturing productivity by 8.5 percent and each additional year of post-high school education is worth 5–15 percent in increased earnings to the worker. Despite the fact that roughly 95 percent of manufacturers provide some form of worker training and nearly half spend at least 2 percent of payroll, 9 in 10 report a serious skills shortage. In short, our economy will only continue to grow if our workers are armed with the skills they need to thrive in tomorrow's workplace. Permanent extension of Section 127 for both undergraduate and graduate-level assistance will help do just that.

Again, thank you for your support for this important issue. The NAM looks forward to working with you and Chairman Roth in developing bipartisan support for S. 127. Please feel free to contact me at (202) 637-3133 if the NAM can be of further assistance.

Sincerely,

SANDRA BOYD,
Assistant Vice President.

NATIONAL ASSOCIATION OF INDEPENDENT COLLEGES AND UNIVERSITIES,
Washington, DC, January 13, 1999.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MOYNIHAN: I am writing to offer my sincere appreciation for your sponsorship of legislation that will permanently extend IRC Sec. 127 for both undergraduate and graduate courses. On behalf of over 900 independent colleges and universities across the country that make up the National Association of Independent Colleges and Universities (NAICU), I thank you for your continued commitment to encouraging a well-educated and properly-trained workforce through the permanent extension of this tax credit.

As you know, this important provision of the tax code allows employees to exclude from their income the first $5,250 of educational benefits paid by their employers. While the Taxpayer Relief Act of 1997 temporarily extended the benefit for undergraduate courses, graduate courses are currently not included in the Sec. 127 extension that is set to expire on May 31, 2000. Legislation that will permanently extend the credit for both graduate and undergraduate courses is absolutely critical.

Employees benefit from Sec. 127 by keeping current in rapidly advancing fields, improving basic skills, or, in extreme cases, learning new skills. Sec. 127 also serves as an effective means for entry level employees to move from low wage jobs to higher wage jobs while remaining in the workforce.

Sec. 127 has always received strong support in both the House and Senate, and as a time-tested initiative, it ought to be included in any tax vehicle that comes before the 106th Congress. NAICU looks forward to working with you and the other supporters of this legislation to move the bill forward.

Again thank you for your continued efforts on this important matter.

Sincerely,

DAVID L. WARREN, *President.*

By Mr. MOYNIHAN (for himself and Mr. SCHUMER):

S. 212. A bill to amend the Internal Revenue Code of 1986 to extend the economic activity credit for Puerto Rico, and for other purposes; to the Committee on Finance.

S. 213. A bill to amend the Internal Revenue Code of 1986 to repeal the limitation of the cover over of tax on distilled spirits, and for other purposes; to the Committee on Finance.

S. 214. A bill to amend the Internal Revenue Code of 1986 to extend the research and development tax credit to research in the Commonwealth of Puerto Rico and the possessions of the United States; to the Committee on Finance.

S. 215. A bill to amend title XXI of the Social Security Act to increase the allotments for territories under the State Children's Health Insurance Program; to the Committee on Finance.

PUERTO RICO LEGISLATIVE PACKAGE

Mr. MOYNIHAN. Mr. President, I rise today on behalf of myself and my distinguished colleague from New York, Mr. SCHUMER, to introduce three tax measures designed to strengthen our commitment to enhancing the prospects for long-term economic growth in the Commonwealth of Puerto Rico, and a fourth piece of legislation to ensure fair funding for its Children's Health Insurance Program.

Twice this decade, Congress has imposed significant tax increases on companies doing business in Puerto Rico. Those tax increases in 1993 and 1996, agreed to in the context of broader deficit reduction and minimum wage legislation, substantially altered the economic relationship between the United States and the possessions. The legislation I introduce today will address several of the economic concerns caused by those tax increases and restore incentives for employment, investment, and business opportunities.

Federal tax incentives for economic activity in Puerto Rico are nearly as old as the income tax itself. Under the Revenue Act of 1921, U.S. corporations that met two gross income tests were deemed "possessions corporations" exempt from tax on all income derived from sources outside the United States. The possessions corporation exemption remained unchanged until 1976. Section 936 of the Internal Revenue Code, added by the Tax Reform Act of 1976, maintained the exemption for income derived by U.S. corporations from operations in a possession. It also exempted from tax the dividends remitted by a possessions corporation to its U.S. parent. However, to prevent the avoidance of tax on investments in foreign countries by possessions corporations, the

1976 Tax Reform Act eliminated the exemption for income derived outside the possessions.

In 1993, Congress imposed significant limitations on Section 936. The Omnibus Budget Reconciliation Act of 1993 subjected Section 936 to two alternative limitations (the taxpayer may choose which limitation applies). One limitation is based on factors that reflect the corporation's economic activity in the possessions. The other limitation is based on a percentage of the credit that would be allowable under prior-law rules. The staff of the Joint Tax Committee estimated that the 1993 Act changes would raise $3.75 billion over five years.

While Congress substantially limited tax incentives for companies doing business in Puerto Rico in 1993, the Small Business Job Protection Act of 1996 effectively repealed remaining federal tax incentives, subject to a 10-year transition rule for taxpayers with existing investments in Puerto Rico. The Joint Tax Committee staff estimated the 1996 changes would raise $10.5 billion over ten years.

In committee report language accompanying the 1976 Act, Congress recognized that the Federal government imposes upon the possessions various requirements, such as minimum wage requirements and requirements to use U.S. flag ships in transporting goods between the United States and various possessions, that substantially increase the labor, transportation and other costs of establishing business operations in Puerto Rico. In the 1990s, in light of trade agreements such as NAFTA and increased economic competition from low-wage Caribbean countries, these concerns are particularly acute.

Traditionally, Puerto Rico has been excluded from or underfinanced in many federal programs because, it has been argued, the island does not pay income taxes to the Federal government. For example, Puerto Rico has only minimal Federal participation in the Medicaid program. In 1998, Puerto Rico's Medicaid program received approximately $170 million in federal funds, whereas it could have received approximately $500 million if it were treated as a state. Clearly, Congress should not adopt a double standard of taxing Puerto Rico's economic activity while denying funding for federal programs.

Mr. President, the first of the bills I introduce today, while not designed to reinstate prior law, seeks to build on the temporary wage credit that is currently provided in the Internal Revenue Code. The bill removes provisions that limit, in taxable years beginning after 2001, the aggregate taxable income taken into account in determining the amount of the credit. Employers would generally be eligible for a tax credit equal to 60 percent of wages and fringe benefit expenses for employees located in Puerto Rico. New as well as existing employers would be rewarded for providing local jobs. Instead of expiring at the end of 2005, the credit would terminate three years later for tax years starting after 2008. Thus, businesses would have a 10 year period in which to take advantage of these incentives.

A second proposal addresses the inequitable treatment of Puerto Rico under the tax credit for increasing research activities (the R&D tax credit). The R&D credit has never applied to qualified research conducted in Puerto Rico and the other U.S. possessions. Until recently, U.S. companies paid no taxes on Puerto Rico source income. As a result, there were no tax consequences to Puerto Rico's exclusion from the R&D credit. With the phasing out of section 936, applying the R&D credit to research expenditures in Puerto Rico has become a matter of fairness, and this legislation would ensure eligibility for companies operating in the possessions. The Government of Puerto Rico has made research and development a centerpiece of its new economic model, and Puerto Rico's 1998 Tax Incentives Act created a deduction for research and development expenses incurred for new or improved products or industrial processes. While the immediate cost of extending the R&D credit to Puerto Rico is minimal (in 1998, the Joint Tax Committee estimated the total five year revenue loss at $4 million), the long term benefits for Puerto Rico's diversifying economy could be significant.

The third bill addresses a provision of the tax law a portion of which expired on September 30, 1998. The Puerto Rican Federal Relations Act and the Revised Organic Act of the Virgin Islands mandate that all federal collections on insular products be transferred ("covered-over") to those unincorporated jurisdictions of our Nation. Further, the Caribbean Basin Economic Recovery Act provides that collections on all imported rum be transferred to the treasuries of Puerto Rico and the Virgin Islands. In 1984, because of a dispute concerning the use of the tax cover-over mechanism in Puerto Rico, the cover-over was limited to an amount of $10.50 per gallon tax on rum, rather than the full $13.50 per gallon tax. The disputed practice was discontinued many years ago. In 1993, Congress enacted a temporary increase in the rum cover-over, to $11.30, effective for five years. That provision expired on September 30, 1998, and the rum cover-over dropped back to $10.50. The legislation would restore the cover-over to the full amount of the excise tax collected on rum ($13.50 per proof gallon), as mandated in the basic laws regarding those jurisdictions and in the Caribbean Basin Initiative. Last September, the Congressional Budget Office estimated such a proposal would cost $350 million over 5 years and $700 million over 10 years.

Additionally, the proposal provides that, for a five-year period, 50 cents per gallon of the cover-over to Puerto Rico would be further transferred to the Puerto Rico Conservation Trust. The Conservation Trust, created for the protection of the natural resources and environmental beauty of Puerto Rico, was established by the Department of the Interior and the Commonwealth of Puerto Rico in 1968. The Trust was initially funded through an oil import fee. More recently, it was primarily financed through Section 936 of the Internal Revenue Code. The Trust lost more than 80 percent of its funding as a consequence of the decision to phase-out section 936 and eliminate the Qualified Possession Source Investment Income provision in the tax code. The proposal to transfer a portion of the restored cover-over for five years to capitalize the Trust is projected to result in a permanent endowment.

Lastly, I introduce a bill to provide sufficient funding for Puerto Rico and the Territories' Children's Health Insurance Programs (CHIP).

The Balanced Budget Act of 1997 established CHIP as a grant to states to cover uninsured low-income children. We provided approximately $20 billion in the first five years. The original allocation formula would have provided only 0.25 percent of the funding to Puerto Rico and the Territories.

Recognizing that this allocation provided insufficient funding for CHIP programs in Puerto Rico and the Territories, Congress increased their allotments by $32 million in the Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY 1999. However, this increase was provided for Fiscal Year 1999 only.

This bill would increase the allotments for Puerto Rico and the Territories for future years such that funding would equal about one percent of the total grant funding. Puerto Rico and the Territories account for about 1.52 percent of the nation's population. This would increase funding in Fiscal Year 2000 to $34.2 million. I urge my colleagues' support for this modest but significant legislation.

In an era of open borders, expanding trade, and increasingly interlinked economic ties, the United States should not punish Puerto Rico by selectively applying some laws while denying the benefits of others. Economic conditions in Puerto Rico warrant special consideration. While the United States is enjoying the benefits of an historically unprecedented period of economic expansion, unemployment among Puerto Rico's 3.5 million inhabitants remains high at 12.5 percent. The needs of Puerto Rico, and the importance of this provision, were magnified by the devastation recently caused by Hurricane Georges. Mr. President, now is the time to reinforce our close economic relationship with Puerto Rico. I hope my colleagues in the Senate will join me in working toward swift passage of these measures.

Finally, Mr. President I ask unanimous consent that the text of the four measures be printed in full in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) Short Title.—This Act may be cited as the "Puerto Rico Economic Activity Credit Improvement Act of 1999".

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. MODIFICATIONS OF PUERTO RICO ECONOMIC ACTIVITY CREDIT.

(a) Corporations Eligible To Claim Credit.—Section 30A(a)(2) (defining qualified domestic corporation) is amended to read as follows:

"(2) Qualified domestic corporation.—For purposes of paragraph (1)—

"(A) In general.—A domestic corporation shall be treated as a qualified domestic corporation for a taxable year if it is actively conducting within Puerto Rico during the taxable year—

"(i) a line of business with respect to which the domestic corporation is an existing credit claimant under section 936(j)(9), or

"(ii) an eligible line of business not described in clause (i).

"(B) Limitation to lines of business.—A domestic corporation shall be treated as a qualified domestic corporation under subparagraph (A) only with respect to the lines of business described in subparagraph (A) which it is actively conducting in Puerto Rico during the taxable year.

"(C) Exception for corporations electing reduced credit.—A domestic corporation shall not be treated as a qualified domestic corporation if such corporation (or any predecessor) had an election in effect under section 936(a)(4)(B)(iii) for any taxable year beginning after December 31, 1996."

(b) Application on Separate Line of Business Basis; Eligible Line of Business.—Section 30A is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Application on Line of Business Basis; Eligible Lines of Business.—For purposes of this section—

"(1) Application to separate line of business.—

"(A) In general.—In determining the amount of the credit under subsection (a), this section shall be applied separately with respect to each substantial line of business of the qualified domestic corporation.

"(B) Exceptions for existing credit claimant.—This paragraph shall not apply to a substantial line of business with respect to which the qualified domestic corporation is an existing credit claimant under section 936(j)(9).

"(C) Allocation.—The Secretary shall prescribe rules necessary to carry out the purposes of this paragraph, including rules—

"(i) for the allocation of items of income, gain, deduction, and loss for purposes of determining taxable income under subsection (a), and

"(ii) for the allocation of wages, fringe benefit expenses, and depreciation allowances for purposes of applying the limitations under subsection (d).

"(2) Eligible line of business.—The term 'eligible line of business' means a substantial line of business in any of the following trades or businesses:

"(A) Manufacturing.

"(B) Agriculture.

"(C) Forestry.

"(D) Fishing.

"(3) Substantial line of business.—For purposes of this subsection, the determination of whether a line of business is a substantial line of business shall be determined by reference to 2-digit codes under the North American Industry Classification System (62 Fed. Reg. 17288 et seq., formerly known as 'SIC codes')."

(c) Repeal of Base Period Cap.—

(1) In general.—Section 30A(a)(1) (relating to allowance of credit) is amended by striking the last sentence.

(2) Conforming amendment.—Section 30A(e)(1) is amended by inserting "but not including subsection (j)(3)(A)(ii) thereof" after "thereunder".

(d) Application of Credit.—Section 30A(h) (relating to applicability of section), as redesignated by subsection (b), is amended by striking "January 1, 2006" and inserting "January 1, 2009".

(e) Conforming Amendments.—

(1) Section 30A(b) is amended by striking "within a possession" each place it appears and inserting "within Puerto Rico".

(2) Section 30A(d) is amended by striking "possession" each place it appears.

(3) Section 30A(f) is amended to read as follows:

"(f) Definitions.—For purposes of this section—

"(1) Qualified income taxes.—The qualified income taxes for any taxable year allocable to nonsheltered income shall be determined in the same manner as under section 936(i)(3).

"(2) Qualified wages.—The qualified wages for any taxable year shall be determined in the same manner as under section 936(i)(1).

"(3) Other terms.—Any term used in this section which is also used in section 936 shall have the same meaning given such term by section 936."

(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 3. COMPARABLE TREATMENT FOR OTHER ECONOMIC ACTIVITY CREDIT.

(a) Corporations Eligible To Claim Credit.—Section 936(j)(2)(A) (relating to economic activity credit) is amended to read as follows:

"(A) Economic activity credit.—

"(i) In general.—In the case of a domestic corporation which, during the taxable year, is actively conducting within a possession other than Puerto Rico—

"(I) a line of business with respect to which the domestic corporation is an existing credit claimant under paragraph (9), or

"(II) an eligible line of business not described in subclause (I),

the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 2002.

"(ii) Limitation to lines of business.—Clause (i) shall only apply with respect to the lines of business described in clause (i) which the domestic corporation is actively conducting in a possession other than Puerto Rico during the taxable year.

"(iii) Exception for corporations electing reduced credit.—Clause (i) shall not apply to a domestic corporation if such corporation (or any predecessor) had an election in effect under subsection (a)(4)(B)(iii) for any taxable year beginning after December 31, 1996."

(b) Application on Separate Line of Business Basis; Eligible Line of Business.—

(1) In general.—Section 936(j) is amended by adding at the end the following new paragraph:

"(11) Application on line of business basis; eligible lines of business.—For purposes of this section—

"(A) Application to separate line of business.—

"(i) In general.—In determining the amount of the credit under subsection (a)(1)(A) for a corporation to which paragraph (2)(A) applies, this section shall be applied separately with respect to each substantial line of business of the corporation.

"(ii) Exceptions for existing credit claimant.—This paragraph shall not apply to a line of business with respect to which the qualified domestic corporation is an existing credit claimant under paragraph (9).

"(iii) Allocation.—The Secretary shall prescribe rules necessary to carry out the purposes of this subparagraph, including rules—

"(I) for the allocation of items of income, gain, deduction, and loss for purposes of determining taxable income under subsection (a)(1)(A), and

"(II) for the allocation of wages, fringe benefit expenses, and depreciation allowances for purposes of applying the limitations under subsection (a)(4)(A).

"(B) Eligible line of business.—For purposes of this subsection, the term 'eligible line of business' means a substantial line of business in any of the following trades or businesses:

"(i) Manufacturing.

"(ii) Agriculture.

"(iii) Forestry.

"(iv) Fishing."

(2) New lines of business.—Section 936(j)(9)(B) is amended to read as follows:

"(B) New lines of business.—A corporation shall not be treated as an existing credit claimant with respect to any substantial new line of business which is added after October 13, 1995, unless such addition is pursuant to an acquisition described in subparagraph (A)(ii)."

(3) Separate lines of business.—Section 936(j), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

"(12) Substantial line of business.—For purposes of this subsection (other than paragraph (9)(B) thereof), the determination of whether a line of business is a substantial line of business shall be determined by reference to 2-digit codes under the North American Industry Classification System (62 Fed. Reg. 17288 et seq., formerly known as 'SIC codes')."

(c) Repeal of Base Period Cap for Economic Activity Credit.—

(1) In general.—Section 936(j)(3) is amended to read as follows:

"(3) ADDITIONAL RESTRICTED REDUCED CREDIT.—

"(A) IN GENERAL.—In the case of an existing credit claimant to which paragraph (2)(B) applies, the credit determined under subsection (a)(1)(A) shall be allowed for any taxable year beginning after December 31, 1998, and before January 1, 2006, except that the aggregate amount of taxable income taken into account under subsection (a)(1)(A) for such taxable year shall not exceed the adjusted base period income of such claimant.

"(B) COORDINATION WITH SUBSECTION (a)(4)(B).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(4)(B) shall be such income as reduced under this paragraph."

(2) CONFORMING AMENDMENTS.—

(A) Section 936(j)(2)(A), as amended by subsection (a), is amended by striking "2002" and inserting "2006".

(B) Section 30A(e)(1), as amended by section 2(c)(2), is amended by striking "subsection (j)(3)(A)(ii)" and inserting "the exception under subsection (j)(3)(A)".

(d) APPLICATION OF CREDIT.—

(1) IN GENERAL.—Section 936(j)(2)(A), as amended by this section, is amended by striking "January 1, 2006" and inserting "January 1, 2009".

(2) SPECIAL RULES FOR APPLICABLE POSSESSIONS.—Section 936(j)(8)(A) is amended to read as follows:

"(A) IN GENERAL.—In the case of an applicable possession—

"(i) this section (other than the preceding paragraphs of this subsection) shall not apply for taxable years beginning after December 31, 1995, and before January 1, 2006, with respect to any substantial line of business actively conducted in such possession by a domestic corporation which is an existing credit claimant with respect to such line of business, and

"(ii) this section (including this subsection) shall apply—

"(I) with respect to any substantial line of business not described in clause (i) for taxable years beginning after December 31, 1998, and before January 1, 2009, and

"(II) with respect to any substantial line of business described in clause (i) for taxable years beginning after December 31, 2006, and before January 1, 2009."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

(2) NEW LINES OF BUSINESS.—The amendment made by subsection (b)(2) shall apply to taxable years beginning after December 31, 1995.

S. 213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF LIMITATION OF COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Section 7652 (relating to limitation on cover over of tax on distilled spirits) is amended by striking subsection (f) and by redesignating subsection (g) as subsection (f).

(b) CONFORMING AMENDMENTS.—Section 7652(f) of such Code (as so redesignated) is amended by striking "subsection (f) of this section" in paragraph (1)(B) and inserting "section 5001(a)(1)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles containing distilled spirits that are tax-determined after September 30, 1999.

(2) SPECIAL RULE.—

(A) IN GENERAL.—For the 5-year period beginning after September 30, 1999, the treasury of Puerto Rico shall make a Conservation Trust Fund transfer within 30 days from the date of each cover over payment made during such period to such treasury under section 7652(e) of the Internal Revenue Code of 1986.

(B) CONSERVATION TRUST FUND TRANSFER.—

(i) IN GENERAL.—For purposes of this paragraph, the term "Conservation Trust Fund transfer" means a transfer to the Puerto Rico Conservation Trust Fund of an amount equal to 50 cents per proof gallon of the taxes imposed under section 5001 or section 7652 of such Code on distilled spirits that are covered over to the treasury of Puerto Rico under section 7652(e) of such Code.

(ii) TREATMENT OF TRANSFER.—Each Conservation Trust Fund transfer shall be treated as principal for an endowment, the income from which to be available for use by the Puerto Rico Conservation Trust Fund for the purposes for which the Trust Fund was established.

(ii) RESULT OF NONTRANSFER.—

(I) IN GENERAL.—Upon notification by the Secretary of the Interior that a Conservation Trust Fund transfer has not been made by the treasury of Puerto Rico during the period described in subparagraph (A), the Secretary of the Treasury shall, except as provided in subclause (II), deduct and withhold from the next cover over payment to be made to the treasury of Puerto Rico under section 7652(e) of such Code an amount equal to the appropriate Conservation Trust Fund transfer and interest thereon at the underpayment rate established under section 6621 of such Code as of the due date of such transfer. The Secretary of the Treasury shall transfer such amount deducted and withheld, and the interest thereon, directly to the Puerto Rico Conservation Trust Fund.

(II) GOOD CAUSE EXCEPTION.—If the Secretary of the Interior finds, after consultation with the Governor of Puerto Rico, that the failure by the treasury of Puerto Rico to make a required transfer was for good cause, and notifies the Secretary of the Treasury of the finding of such good cause before the due date of the next cover over payment following the notification of nontransfer, then the Secretary of the Treasury shall not deduct the amount of such nontransfer from any cover over payment.

(C) PUERTO RICO CONSERVATION TRUST FUND.—For purposes of this paragraph, the term "Puerto Rico Conservation Trust Fund" means the fund established pursuant to a Memorandum of Understanding between the United States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.

S. 214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF RESEARCH CREDIT TO RESEARCH IN PUERTO RICO AND THE POSSESSIONS OF THE UNITED STATES.

(a) IN GENERAL.—Section 41(d)(4)(F) of the Internal Revenue Code of 1986 (relating to foreign research) is amended by inserting ", the Commonwealth of Puerto Rico, or any possession of the United States" after "United States".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

S. 215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASED ALLOTMENTS FOR TERRITORIES UNDER THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM.

Section 2104(c)(4)(B) of the Social Security Act (42 U.S.C. 1397dd(c)(4)(B)), as added by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by inserting ", $34,200,000 for each of fiscal years 2000 and 2001, $25,200,000 for each of fiscal years 2002 through 2004, $32,400,000 for each of fiscal years 2005 and 2006, and $40,000,000 for fiscal year 2007" before the period.

By Mr. MOYNIHAN (for himself and Mr. JEFFORDS):

S. 216. A bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the use of foreign tax credits under the alternative minimum tax; to the Committee on Finance.

LEGISLATION TO REPEAL THE LIMITATION ON FOREIGN TAX CREDITS UNDER THE CORPORATE ALTERNATIVE MINIMUM TAX

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation on behalf of myself and my Finance Committee colleague, Senator JEFFORDS, to repeal a limitation in the Tax Code that results in the double taxation of certain foreign source income. The issue involves the effect of the corporate alternative minimum tax on income earned abroad by United States companies. Correction of this policy flaw is of significant importance to the affected companies, their current and future employees, and their shareholders.

The U.S. taxes the worldwide income of its corporations, citizens and residents. Under the U.S. Tax Code, U.S. bilateral treaties, and international norms, it is generally accepted that income with a nexus to two countries should not be taxed by both jurisdictions, and that the jurisdiction in which active business income is earned typically should have the primary right to tax that income. To effectuate these principles and to avoid double taxation, the U.S. tax laws—since the Revenue Act of 1918—allow U.S. taxpayers to claim a foreign tax credit with respect to foreign income taxes paid on foreign source income, and thereby reduce U.S. income taxes on such income.

It should be emphasized that the foreign tax credit is not a tax "loophole" or "preference." Rather, as noted by the U.S. Supreme Court in the 1932 case of Burnet versus Chicago, "the primary design" of the foreign tax credit system is to "mitigate the evil of double taxation."

However, in enacting the Tax Reform Act of 1986, Congress concluded that this salutary purpose was outweighed by another. At that time, Congress was concerned with a serious problem: repeated instances of large corporations with substantial economic profits (reported to shareholders in their annual reports) paying little or no Federal income taxes. In response, Congress rewrote the corporate alternative minimum tax.

Congress had specific purposes in mind in rewriting the minimum tax. First, as noted by the Joint Tax Committee in its General Explanation of the Tax Reform Act of 1986:

> . . . Congress decided that it was inherently unfair for high-income taxpayers to pay little or no tax due to their ability to utilize tax preferences.

An obvious and incontrovertible sentiment. Yet, as noted above, foreign tax credits are not tax preferences or loopholes.

Congress was also concerned with appearances. The Joint Tax Committee Explanation continued:

> . . . Congress concluded that there must be a reasonable certainty that, whenever a company publicly reports significant earnings, that company will pay some tax for the year.

No argument here. And Congress ensured that companies reporting profits would in fact pay tax by, among other changes, requiring corporations to increase their "alternative minimum taxable income" by a percentage of the income reported on financial statements, and requiring the use of a slower depreciation schedule rather than accelerated depreciation for purposes of cost recovery.

But what about foreign tax credits? The Joint Tax Committee Explanation stated:

> . . . While Congress viewed allowance of the foreign tax credit . . . as generally appropriate for minimum tax purposes, it was considered fair to mandate at least a nominal tax contribution from all U.S. taxpayers with substantial economic income.

To state it less elegantly, Congress believed that limited double taxation of a corporation's foreign source income was a lesser evil than allowing a corporation to fully use its foreign tax credits. The 1986 tax act provided that foreign tax credits could be used to offset up to 90 percent of a corporation's minimum tax liability. Thus, affected taxpayers pay at least 10 percent of their alternative minimum tax, no matter that the tax relates to foreign source income earned in a high-tax foreign jurisdiction and that the taxpayer has paid tax on that income.

Although Congress believed the 90 percent restriction to have been fair policy in 1986, the restriction can no longer be justified.

First, we now have a decade of experience over which to judge the effect of the restriction. I am aware of at least one key employer in New York that alone has paid significant amounts of minimum tax due to this provision, some of which was incurred in years during which the company reported losses on a worldwide basis.

Second, since the 1986 Act, there have been a number of significant modifications to the minimum tax. For example, the Taxpayer Relief Act of 1997 allows large corporate taxpayers to use accelerated depreciation under the minimum tax, and it repealed the minimum tax in its entirety for corporations with gross receipts of $5 million or less. In addition, the Energy Policy Act of 1992 allowed taxpayers to claim tax benefits under the minimum tax relating to oil & gas intangible drilling costs. Considering the post-1986 relaxations of the minimum tax, little purpose remains in the 90 percent limitation.

Finally, since 1986, many of our largest businesses have seen tremendous expansion in their exports and foreign sales, thus substantially increasing the amount of foreign source income. At the same time, these companies must compete with foreign companies that do not have to bear double taxation. As my friend Senator Alfonse D'Amato noted when introducing similar legislation last year:

> The result is double (and even triple) taxation of income that is used to support U.S. jobs, R&D and other activities.

The restriction can no longer be justified.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF LIMITATION ON FOREIGN TAX CREDIT UNDER ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 59(a) of the Internal Revenue Code of 1986 (relating to alternative minimum tax foreign tax credit) is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CONFORMING AMENDMENTS.—Section 53(d)(1)(B)(i)(II) of such Code is amended by striking "and if section 59(a)(2) did not apply".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

Mr. JEFFORDS. Mr. President, today, I am joining with my colleague from New York, Senator MOYNIHAN, to introduce a bill that will eliminate an aspect of our internal revenue laws that is fundamentally unfair to taxpayers with income from foreign sources.

Under our system of taxation, U.S. citizens and domestic corporations earning income from sources outside the United States are subject to U.S. tax on that foreign-source income. In all likelihood, that income will also be subject to tax by the country where it was earned. Thus, the same income could be taxed twice, by two different countries. To guard against the double taxation of this income, the tax code allows taxpayers to offset their U.S. tax on foreign-source income with the foreign taxes paid on that income. This is accomplished by means of a foreign tax credit; that is, the foreign tax paid on foreign source income is credited against the U.S. tax that would otherwise be payable on that income. The details of the foreign tax credit rules are extraordinarily complex. (Indeed, virtually all of the Internal Revenue Code's provisions governing international taxation are complex.) The basic principle underlying the foreign tax credit rules, however, is simple: to provide relief from multiple taxation of the same income.

Many U.S. taxpayers have to perform two tax computations. First, they compute their "regular tax." Then, they compute their "alternative minimum tax" (AMT). As a rule, taxpayers pay the larger of these two computations, the "regular tax" or the AMT. The AMT was enacted to ensure that taxpayers qualifying for various tax "preferences" allowed by the Internal Revenue Code must pay a minimum amount of tax. While foreign tax credits guard against double taxation in the "regular tax" computation, the principle of providing relief from double taxation falls by the wayside in the AMT computation. Under AMT rules, the allowable foreign tax credit is unlimited to 90 percent of a taxpayer's alternative minimum tax liability. Because of this limitation, income subject to foreign tax is also subject to U.S. tax. This rule operates to ensure double taxation, and the result is double (and even triple) taxation of income.

There is no sound policy reason for denying relief from double taxation to taxpayers subject to the AMT. The foreign tax credit is not a "preference" that serves as an incentive for a particular activity or behavior, rather, it simply reflects the fundamental principle that income should not be subject to multiple taxation. The 90 percent limitation was enacted as part of the 1986 tax bill solely as a method of raising revenue. The bill that Senator MOYNIHAN and I are introducing today will eliminate the AMT's 90 percent limitation on foreign tax credits. Eliminating this limitation will mean that taxpayers subject to the AMT will get the same relief from double taxation allowed to taxpayers subject to the regular tax.

By Mr. MOYNIHAN (for himself, Mr. INOUYE, and Mr. WELLSTONE):

S. 217. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of charitable transfers of collections of personal papers with a separate right to control access; to the Committee on Finance.

LEGISLATION TO ENCOURAGE DONATIONS OF PERSONAL PAPERS TO HISTORICAL AND EDUCATIONAL ORGANIZATIONS

Mr. MOYNIHAN. Mr. President, today I am introducing legislation on behalf of myself and Senators INOUYE and WELLSTONE to correct a little-known estate and gift tax provision that may inadvertently penalize persons who donate their personal papers and related items to a charitable organization for the historical record.

The issue arises in connection with the donation of personal papers and related items to a university, library, historical society, or other charitable organizations. In general, such a transfer has no estate or gift tax consequences. While the value of any such transfer may be subject to taxation as a theoretical matter, as a practical matter the gift will not be taxed because a corresponding charitable deduction would be available. This is as it should be: the donor receives neither a tax benefit nor a tax burden, and the tax law is not a factor in the decision to make such a donation.

Recently, however, estate planning lawyers have become concerned about situations in which such a gift might give rise to adverse tax consequences. The situation occurs where the donor retains (or transfers to his or her surviving spouse or children) various rights in the papers donated, such as a right to limit or control access. The restrictions might be in place for many understandable reasons, such as to protect the privacy of colleagues, correspondents, staffs, family and friends. Depending on how the retained rights are described in a deed of gift or will, and how such rights are treated under state law, the retention of various rights may cause the gift to fail to qualify for a charitable deduction under the estate and gift tax.

The problem arises under a series of rules enacted in the Tax Reform Act of 1969 that were designed to prevent abuses in the transfer tax system. These rules were written, in part, to address situations involving taxpayers who claimed a charitable contribution deduction significantly in excess of the value of property that the charity was expected to receive. This result was accomplished by making a charitable gift in the form of an income or remainder interest in a trust, claiming an inflated charitable deduction through favorable valuation methods, and adopting an investment policy for the trust that significantly favored the noncharitable interest to the detriment of the charitable interest. In response, Congress established certain requirements to ensure that the charity would actually receive the portion of the property for which a deduction was allowed, and to deny a charitable deduction in cases where a "split-interest" gift was made that did not meet the specified requirements.

These rules were not intended to apply to the donation of historically important papers. Unlike the abusive situations of the past where charities were unlikely to receive the benefit of the purported gifts, in this situation the charity takes physical possession of the collection of papers. This is not a tax scheme designed to exploit weak rules.

I stated that there "may" be a problem with the estate and gift tax law because it is not clear whether the split-interest rule would disallow a charitable deduction in situations where donors have retained various rights to control and limit access to their papers. When do such limited rights reach the point of being recognized as a type of ownership interest under state law? I suspect that many prominent people have donated their papers in the past thirty years with similar restrictions, in reliance on documents prepared by knowledgeable legal advisors and curators, and never imagined that there could be adverse tax consequences.

One way to get around this problem would be to avoid restrictions on the use of the papers. But that may not be practical, advisable, or desirable.

We can look to those who served across the street, in the Supreme Court of the United States, for examples of the types of restrictions that have been imposed on donations of important papers of public figures. Chief Justice Earl Warren, who donated his papers to the Library of Congress, restricted access to those papers for 10 years after his death. Justice Hugo Black, who also donated his papers to the Library of Congress, restricted access during the lifetime of his heirs, and required that permission be obtained from the executors of his estate to use the collection, to publish any writings in the collection, or to publish any writings about them. Justice Potter Stewart donated his papers to the Library of Congress with the restriction that all Court materials be closed pending retirement of all justices who served on the Supreme Court with him.

In contrast, Justice Thurgood Marshall donated his papers to "be made available to the public at the discretion of the library," with the only restriction being that the use of the donated materials "be limited to private study on the premises of the library by researchers or scholars engaged in serious research." This was interpreted to allow journalists to access the papers. The publication of certain information contained in the materials shortly after Justice Marshall's death was criticized. Indeed, Chief Justice William Rehnquist warned that Supreme Court Justices might no longer donate their papers to the Library of Congress.

Certainly, retained rights can have value, and could be subjected to commercial exploitation. One can imagine a publishing house would want access to the papers of prominent Members, Congressmen, or others, for use in biographies or on books related to the events that they helped shape.

However, any opportunity to retain and bequeath commercially exploitable rights in historical papers free of estate taxes is of little importance relative to the need to preserve the documents for scholarly research. Consider decision memoranda from key aides, correspondence, notes of strategy sessions, recordings of telephone conversations such as those made by President Lyndon Johnson and only now being aired—will these documents be destroyed if the choice were to open the items upon death or to pay an estate tax on them? Consider Chief Justice Rehnquist's chilling warning.

Yet, in most if not all cases, any retained rights can be expected to have little realizable value, and opportunities for commercial exploitation would appear to be quite limited in scope.

To this Senator, the right thing to do is clear. I am introducing legislation to clarify the tax law. In brief, this legislation provides that a person may retain and bequeath limited qualified rights to a collection of papers and related items. I.e., a collection substantially all the items of which are in the form of letters, memoranda, notes, and similar materials. Qualified rights would include the right of access to the materials, and the right to designate, limit, and control access to the materials, for a period of time not to exceed 25 years after the death of the person who created (or collected) the materials.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD, along with a letter from our Senate Legal Counsel.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 217

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX TREATMENT OF CHARITABLE TRANSFERS OF COLLECTIONS OF PERSONAL PAPERS WITH SEPARATE RIGHT TO CONTROL ACCESS.

(a) IN GENERAL.—Chapter 14 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"SEC. 2705. TREATMENT OF CHARITABLE TRANSFERS OF COLLECTIONS OF PERSONAL PAPERS WITH SEPARATE RIGHT TO CONTROL ACCESS.

"(a) GENERAL RULE.—For purposes of this subtitle, if—

"(1) an individual transfers an interest in qualified property to a person, or for a use described in section 2055(a) or section 2522 (a) or (b), and

"(2) the individual retains or transfers to another person the right to control access to such property for a period not to exceed 25 years after the death of the individual,

sections 2036, 2038, 2055(e)(2), and 2522(c)(2) shall not apply solely by reason of the individual retaining or transferring such right.

"(b) SPECIAL RULES RELATING TO TRANSFER OF RIGHT TO CONTROL ACCESS.—If any individual transfers the right to control access described in subsection (a) to another person for less than an adequate and full consideration in money or money's worth—

"(1) no tax shall be imposed under this subtitle by reason of the transfer, and

"(2) if the transfer involves the right being acquired, or passed, from a decedent, section 1014 shall not apply and the basis of the right in the hands of the transferee shall be determined under rules similar to the rules under section 1015.

"(c) QUALIFIED PROPERTY.—For purposes of this section, the term 'qualified property' means a collection substantially all of the items of which are in the form of letters, memoranda, or similar property described in section 1221(3)."

(b) CONFORMING AMENDMENTS.—

(1) The heading for chapter 14 of such Code is amended to read as follows:

"CHAPTER 14—SPECIAL VALUATION RULES; RULES AFFECTING SUBTITLE".

(2) The item relating to chapter 14 in the table of chapters of subtitle B of such Code is amended by striking "rules." and inserting "rules; rules affecting subtitle."

(3) The table of sections of chapter 14 of such Code is amended by adding at the end the following new item:

"Sec. 2705. Treatment of charitable transfers of collections of personal papers with separate right to control access."

(c) EFFECTIVE DATE.—The amendments made by this section apply to any transfer made before, on, or after the date of enactment of this Act.

U.S. SENATE,
OFFICE OF SENATE LEGAL COUNSEL,
Washington, DC, June 25, 1997.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN:

I am writing to bring to your attention a recent interpretation of federal gift and estate tax law that threatens to interrupt the flow of historically significant papers of our Nation's academic and historical research institutions from public officials and public figures, including Members of Congress. Over the past decades, public officials have regularly donated their personal papers to educational institutions or historical societies, often upon their retirement, or bequeathed the papers at time of death. Senators and other public officials typically restrict access to portions of their papers for a period of years after donation or bequest, in order to protect the privacy interests of their correspondents, constituents, staffs, and others. These donations provide the donors with no income tax benefit, as government papers do not generate a personal income tax deduction under the Internal Revenue Code.

The shared understanding up until now has been that such donations also have no gift or estate tax consequence to the donor, as long as the donation is made to a recognized charitable organization. However, under a recent interpretation of provisions of the gift and estate tax law that render gifts of partial property interests ineligible for the charitable deduction, the retained right to control access to papers after they are donated or bequeathed could disqualify these charitable gifts from the charitable gift and estate tax deductions. This interpretation would render charitable gifts of personal papers with a retained right to control access subject to substantial and undeserved gift and estate taxation.

The possibility that these gift and estate tax provisions could be interpreted to apply to gifts and bequests of historical papers where rights of public access remain discretionary for a period of time has deterred a number of Senators in recent months from completing their plans to donate their Senate papers to charitable institutions. Our office has been in contact with a number of Senators whose plans to donate their Senate papers have been interrupted by this problem. It is unlikely that public officials will be willing to make charitable donations of their papers until this issue can be resolved so as to accommodate the important interests in both scholarly preservation and privacy.

Consideration of a legislative amendment to the charitable gift and estate tax deduction provisions to clarify that charitable gifts and bequests of public figures' papers are intended to be free from taxation would serve the public interest in ensuring that the personal records of Senators and other officials and public figures are preserved in the public domain so that they may one day become available to scholars and researchers who document our Nation's history.

Sincerely,

MORGAN J. FRANKEL.

By Mr. MOYNIHAN (for himself, Mr. SCHUMER, and Mr. DURBIN):

S. 218. A bill to amend the Harmonized Tariff Schedule of the United States to provide for equitable duty treatment for certain wool used in making suits; to the Committee on Finance.

TEMPORARILY REDUCING THE TARIFFS ON CERTAIN WOOL FABRIC

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill to correct an anomaly in our tariff schedule that harms American companies like Hickey-Freeman and other producers of fine wool suits. I refer of course to the tariff on fine wool fabric. Hickey-Freeman has produced fine tailored suits in Rochester, New York since 1899. However, the U.S. tariff schedule currently makes it difficult for Hickey-Freeman to continue producing such suits in the United States.

Companies like Hickey-Freeman that must import the very high quality wool fabric used to make men's and boys' suits pay a tariff of 30.6 percent. They compete with companies that import finished wool suits from a number of countries. If these imported suits are from Canada or Mexico, the importers pay no tariff whatever. From other countries, the importers pay a compound duty of 19.2 percent plus 26.4 cents per kilogram, or about 19.8 percent ad valorem. Clearly, domestic manufacturers of wool suits are placed at a significant price disadvantage. Indeed, the tariff structure provides an incentive to import finished suits from abroad, rather than manufacture them in the United States.

The bill Senators SCHUMER, DURBIN and I are introducing today would correct this problem, at least temporarily. It suspends through December 31, 2004 the duty on the finest wool fabrics (known in the trade as Super 90s or higher grade)—fabrics that are produced in only very limited quantities in the United States. And it would reduce the duty for slightly lower grade but still very fine wool fabric (known as Super 70s and Super 80s) to 19.8 percent—equivalent to the duty that applies to most finished wool suits. The bill also provides that, in the event the President proclaims a duty reduction on wool suits, corresponding changes would be made to the tariffs applicable to "Super 70s" and "Super 80s" grade wool fabric.

I introduced a similar measure last year. I do so again because of the obvious inequity of this tariff inversion, which so clearly puts U.S. producers and workers at a competitive disadvantage. This bill represents a small step toward modifying a tariff schedule that favors foreign producers of wools suits at the expense of U.S. suit makers. We should do so permanently, and perhaps, in time, will do so. In the meantime, we ought to make this modest start.

I ask unanimous consent that the text of the bill be inserted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 218

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DUTY TREATMENT OF CERTAIN FABRICS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(1) by adding at the end of the U.S. notes the following new note:

"13. For purposes of headings 9902.51.11 and 9902.51.12, the term 'suit' has the same meaning such term has for purposes of headings 6203 and 6204."; and

(2) by inserting in numerical sequence the following new headings:

"	9902.51.11	Fabrics, of carded or combed wool, all the foregoing certified by the importer as 'Super 70's' or 'Super 80's' intended for use in making suits, suit-type jackets or trousers (provided for in subheadings 5111.11.70, 5111.19.60, 5112.11.20, or 5112.19.90)	19.8%	No change	No change	On or before 12/31/ 2004

9902.51.12	Fabrics, of carded or combed wool, all the foregoing certified by the importer as 'Super 90's' or higher grade intended for use in making suits, suit-type jackets or trousers (provided for in subheadings 5111.11.70, 5111.19.60, 5112.11.20, or 5112.19.90)	Free	Free (CA, IL, MX)	No change	On or before 12/31/2004	".

(b) STAGED RATE REDUCTION.—Any staged reduction of a rate of duty set forth in heading 6203.31.00 of the Harmonized Tariff Schedule of the United States that is proclaimed by the President on or after the date of enactment of this Act shall also apply to the corresponding rate of duty set forth in heading 9902.51.11 of such Schedule (as added by subsection (a)).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

By Mr. MOYNIHAN:

S. 219. A bill to authorize appropriations for the United States Customs Service; to the Committee on Finance.

THE NORTHERN BORDER TRADE FACILITATION ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce the Northern Border Trade Facilitation Act, a bill that addresses the urgent need for increased Customs inspectors and technology along the U.S.-Canadian border.

The U.S.-Canadian border is the longest undefended border in the world. Canada is also our largest trading partner, with two-way trade surpassing $1 billion a day. Yet, the resources that we have provided to the Customs Service to process traffic and trade across this border are woefully deficient. In a hearing before the Senate Finance Committee in September 1998, we learned that the current number of authorized Customs inspectors working on the northern border remains essentially the same as it was in 1980, despite the fact that the number of commercial entries they must process has increased sixfold since then, from 1 million to 6 million per year. The increased workload reflects of course the tremendous growth in U.S.-Canada trade: two-way trade in 1988, the year before the U.S.-Canada Free Trade Agreement entered into force, was $194 billion. By 1997, the volume had doubled—to $387 billion. There has also been an enormous expansion in both commercial and passenger traffic across this border.

The resources available to the Customs Service over the last decade have not kept pace with this enormous growth in workload. As a result, increased congestion and delays are evident at crossings all along the U.S.-Canadian border.

This bill aims to correct these problems by authorizing the additional manpower and technology necessary to handle the increase in trade and traffic between the United States and Canada. In particular, this bill authorizes 375 additional "primary lane" inspectors and 125 new cargo inspectors for the northern border, as well as 40 special agents and 10 intelligence agents. The bill also authorizes $29.240 million for equipment and technology for the northern border.

The bill will also accord Customs the statutory authorization to continue providing so-called "preclearance services," whereby Customs inspects passengers and baggage prior to their departure from a foreign country rather than upon arrival in the United States. This program began in 1952 and has helped facilitate travel and decrease congestion at JFK international Airport and other ports of entry. Customs has indicated that without this new statutory authority, it will be unable to continue providing these services.

Finally, this legislation gives Customs the authority to use $50 million of the total amounts collected from the merchandise processing fee to modernize its automated commercial systems used to track and process imports and exports. Customs' efforts to modernize these systems are several years behind schedule and underfunded. The funds authorized by this bill constitute an essential step in providing Customs with the necessary resources to continue its modernization efforts.

I ask unanimous consent that the text of the bill be inserted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 219

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Northern Border Trade Facilitation Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and Canada share the longest undefended border in the world.

(2) The United States and Canada enjoy the world's largest bilateral trading relationship, and that relationship is continuing to expand. Two-way trade between the United States and Canada has more than doubled since the United States-Canada Free Trade Agreement was implemented, increasing from $153,000,000,000 in 1988 to $320,000,000,000 in 1997.

(3) On February 24, 1995, the United States and Canada agreed to the Canada/United States of America Accord on Our Shared Border (in this Act referred to as the "Shared Border Accord") to promote common objectives along the border, including—

(A) facilitating the movement of commercial goods and people between both countries;

(B) reducing the costs of border management; and

(C) enhancing protections against drugs, smuggling, and the illegal and irregular movement of people.

(4) The Shared Border Accord has already resulted in increased harmonization, shared training, and joint facilities between United States and Canadian customs agencies.

(5) Increased trade has resulted in a significant increase in merchandise entries and cross-border traffic between the United States and Canada. For example—

(A) formal entries of merchandise on the Northern border have increased sixfold from 1,000,000 in 1980 to 6,000,000 in 1997;

(B) the number of individuals crossing the Northern border has more than doubled from 54,000,000 in 1989 to 112,000,000 in 1997; and

(C) approximately 40,000,000 privately-owned vehicles cross the Northern land border annually.

(6) The staffing and technology acquisitions of the Customs Service have not kept pace with the increased trade and traffic along the Northern border. For example—

(A) the current number of authorized United States Customs inspectors along the United States-Canadian border is essentially the same as the number employed in 1980;

(B) United States Customs understaffing is the primary cause of congestion at border crossings;

(C) Customs Service acquisitions of new technology for border management have been principally deployed on the Southern border despite the enormous growth in trade and traffic across the United States-Canadian border; and

(D) outmoded technologies and inadequate equipment have increased congestion along the Northern border.

(7) Since 1952, the Customs Service has performed preclearance activities in Canada, inspecting passengers and baggage prior to their departure from Canada rather than upon arrival in the United States. Such preclearance activities have facilitated the movement of people and merchandise across the United States-Canadian border.

(8) The Customs Service has stated that it is eliminating the preclearance positions because it believes that it no longer has the statutory authority to fund the positions.

(9) Loss of these positions would increase congestion and delays at United States ports as the Customs Service would require inspections to be performed in the United States, rather than abroad.

(b) PURPOSE.—The purpose of this Act is to facilitate commerce and the movement of people and traffic across the United States-Canadian border, while maintaining enforcement, by—

(1) authorizing the funds necessary to open all of the Customs Service's primary inspection lanes along the United States-Canadian border during peak hours;

(2) authorizing the funds necessary to supply the Customs Service with the appropriate advanced technology to conduct inspections along the United States-Canadian border and to participate fully in the Shared Border Accord;

(3) authorizing the Customs Service to pay for preclearance positions in Canada out of the funds already being collected from passenger processing fees; and

(4) authorizing the Customs Service to use a portion of the funds collected from the merchandise processing fee to develop automated commercial systems to facilitate the processing of merchandise.

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES CUSTOMS SERVICE FOR ENHANCED INSPECTION AND TRADE FACILITATION ALONG THE UNITED STATES-CANADIAN BORDER

SEC. 101. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

In order to reduce commercial delays and congestion, open all primary lanes during peak hours at ports on the northern border, and enhance the investigative resources of the Customs Service, there are authorized to be appropriated for salaries, expenses, and equipment for the United States Customs Service for purposes of carrying out this title—

(1) $75,896,800 for fiscal year 2000; and

(2) $43,931,790 for fiscal year 2001.

SEC. 102. PEAK HOURS AND INVESTIGATIVE RESOURCE ENHANCEMENT FOR THE UNITED STATES-CANADA BORDER.

Of the amounts authorized to be appropriated under section 101, $49,314,800 in fiscal year 2000 and $41,273,590 in fiscal year 2001 shall be for—

(1) a net increase of 375 inspectors for the United States-Canadian border, in order to open all primary lanes during peak hours and enhance investigative resources;

(2) a net increase of 125 inspectors to be distributed at large cargo facilities on the United States-Canadian border as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times; and

(3) a net increase of 40 special agents, and 10 intelligence analysts to facilitate the activities of the additional inspectors authorized by paragraphs (1) and (2).

SEC. 103. CARGO INSPECTION EQUIPMENT FOR THE UNITED STATES-CANADA BORDER.

(a) FISCAL YEAR 2000.—Of the amounts authorized to be appropriated in fiscal year 2000 under section 101, $26,582,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of cargo inspection equipment along the United States-Canadian border as follows:

(1) $3,000,000 for 4 Vehicle and Container Inspection Systems (VACIS).

(2) $8,800,000 for 4 mobile truck x-rays with transmission and backscatter imaging.

(3) $3,600,000 for 4 1-MeV pallet x-rays.

(4) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(5) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(6) $240,000 for 10 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(7) $400,000 for 10 narcotics vapor and particle detectors to be distributed to each border crossing based on traffic volume.

(8) $600,000 for 30 fiber optic scopes.

(9) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate;

(10) $3,000,000 for 10 x-ray vans with particle detectors.

(11) $40,000 for 8 AM loop radio systems.

(12) $400,000 for 100 vehicle counters.

(13) $1,200,000 for 12 examination tool trucks.

(14) $2,400,000 for 3 dedicated commuter lanes.

(15) $1,050,000 for 3 automated targeting systems.

(16) $572,000 for 26 weigh-in-motion sensors.

(17) $480,000 for 20 portable Treasury Enforcement Communication Systems (TECS).

(b) FISCAL YEAR 2001.—Of the amounts made available for fiscal year 2001 under section 101, $2,658,200 shall be for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (a).

(c) ACQUISITION OF TECHNOLOGICALLY SUPERIOR EQUIPMENT; TRANSFER OF FUNDS.—

(1) IN GENERAL.—The Commissioner of Customs may use amounts made available for fiscal year 2000 under section 101 for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment—

(A)(i) is technologically superior to the equipment described in subsection (a); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment described in subsection (a); or

(B) can be obtained at a lower cost than the equipment described in subsection (a).

(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Commissioner of Customs may reallocate an amount not to exceed 10 percent of the amount specified in any of paragraphs (1) through (17) of subsection (a) for equipment specified in any other of such paragraphs (1) through (17).

TITLE II—ADDITIONAL PRECLEARANCE ACTIVITIES

SEC. 201. CUSTOMS USER FEES.

(a) ADDITIONAL PRECLEARANCE ACTIVITIES.—Section 13031(f)(3)(A)(iii) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)(A)(iii)) is amended to read as follows:

"(iii) to the extent funds remain available after making reimbursements under clause (ii), in providing salaries for up to 50 full-time equivalent inspectional positions to provide preclearance services.".

(b) COLLECTION OF FEES FOR PASSENGERS ABOARD COMMERCIAL VESSELS.—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended—

(1) in subsection (a), by amending paragraph (5) to read as follows:

"(5)(A) Subject to subparagraph (B), for the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the United States (other than a place referred to in subsection (b)(1)(A)(i)), $5.

"(B) For the arrival of each passenger aboard a commercial vessel from a place referred to in subsection (b)(1)(A)(i), $1.75"; and

(2) in subsection (b)(1)(A), by striking "(A) No fee" and inserting "(A) Except as provided in subsection (a)(5)(B), no fee".

(c) USE OF MERCHANDISE PROCESSING FEES FOR AUTOMATED COMMERCIAL SYSTEMS.—Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended by adding at the end the following:

"(6) Of the amounts collected under paragraphs (9) and (10) of subsection (a), $50,000,000 shall be available to the Customs Service, subject to appropriations Acts, for automated commercial systems. Amounts made available under this paragraph shall remain available until expended.".

(d) EFFECTIVE DATE.—The amendments made by this section take effect 30 days after the date of enactment of this Act.

By Mr. MOYNIHAN:

S. 220. A bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance and NAFTA transitional adjustment assistance programs under that Act, and for other purposes; to the Committee on Finance.

TRADE ADJUSTMENT ASSISTANCE IMPROVEMENTS ACT OF 1999

Mr. MOYNIHAN. Mr. President, I am introducing today legislation that will preserve a decades-old commitment by the United States Government to the American worker. The Trade Adjustment Assistance Improvements Act of 1999 will ensure that the trade adjustment assistance programs for workers and for firms, first established in 1962 and now set to expire on June 30, 1999, will continue uninterrupted through September 30, 2001. The legislation also proposes a number of reforms to these programs to help make them into more effective tools for assisting workers who lose their jobs as a result of competition from imports or shifts in production to overseas sites.

By way of background, the Trade Adjustment Assistance program provides eligible workers with income support, training and other forms of assistance. It also grants technical help to eligible companies to improve their manufacturing, marketing and other capabilities in the face of import competition.

First outlined in 1954 by United Steel Workers President David MacDonald, the basic Trade Adjustment Assistance program was enacted in the Trade Expansion Act of 1962 as part of President Kennedy's vision of American trade policy. It was based on a modest and fair request from American labor: if some workers are to lose their jobs as a result of freer trade that benefits the country as a whole, a program should be established to help those workers find new employment. The Trade Adjustment Assistance program was the response. As Luther Hodges, President Kennedy's Secretary of Commerce, told the Finance Committee during consideration of the Trade Expansion Act:

> Both workers and firms may encounter special difficulties when they feel the adverse effects of import competition. This is import competition caused directly by the Federal Government when it lowers tariffs as part of a trade agreement undertaken for the long-term economic good of the country as a whole.
>
> The Federal Government has a special responsibility in this case. When the Government has contributed to economic injuries, it should also contribute to the economic adjustments required to repair them.

The 1962 Act established the basic TAA programs for workers and for firms. Then in 1993, Congress included in the implementing legislation for the North American Free Trade Agreement a new adjustment assistance program for workers—the NAFTA Transitional Adjustment Assistance program. Unlike the basic TAA program for workers, which provides training and income support only for workers who lose their jobs as a result of competition from imports, the NAFTA-TAA program also provides assistance when workers lose their jobs because their factories have shifted production to Mexico or Canada. Moreover, the training requirements under the two programs differ somewhat. The bill I am introducing today incorporates a number of modifications to the worker TAA programs that the Administration, in consultation with concerned worker groups, has proposed. And I must also acknowledge the considerable efforts of Congressmen MATSUI and BONIOR on this matter during the last Congress, which yielded a reform bill similar to the one I am introducing today.

The most significant of the reforms would merge the two separate programs for workers, in an effort to make the program more effective and responsible to workers, while at the same time reducing administrative costs. Key features of the merged programs include the following:

(1) Eligible workers may receive benefits because production has shifted to any country, and not just to either Mexico or Canada as the law currently provides;

(2) The Secretary of Labor will expedite her consideration of petitions for assistance. Instead of the current 60-day review of TAA cases, this bill would require that determinations be made within 40 days;

(3) Certified workers will be required to enroll in training within 16 weeks of layoff or eight weeks after being certified as eligible for TAA benefits, whichever is later, in order to qualify for extended income support while in training. This provision is intended to promote the earliest possible adjustment; and

(4) The bill provides for a net increase of $40 million in training funds to ensure that adequate resources will be available to provide workers with the training they need to make the transition to a new job.

Mr. President, it is essential that the United States Congress live up to its longstanding commitment to the American worker. The Trade Adjustment Assistance programs must not be allowed to lapse. We have an obligation, as well, to ensure that these programs operate in an effective and efficient manner. The reforms proposed by the Administration deserve the Senate's consideration. Time is of the essence, however, and I urge that the Senate act promptly to reauthorize the TAA programs.

I ask unanimous consent that the text of the bill be inserted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 220

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trade Adjustment Assistance Improvements Act of 1999".

SEC. 2. AUTHORIZATION OF CONSOLIDATED TRADE ADJUSTMENT ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended to read as follows:

"**SEC. 245. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to the Department of Labor for each of the fiscal years 1999 through 2001 such sums as may be necessary to carry out the purposes of this chapter.".

(2) TEMPORARY EXTENSION OF NAFTA ASSISTANCE.—Section 250(d)(2) of such Act (19 U.S.C. 2331(d)(2)) is amended by striking "June 30, 1999, shall not exceed $15,000,000" and inserting "September 30, 1999, shall not exceed $30,000,000".

(b) REPEAL OF NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE PROGRAM.—

(1) IN GENERAL.—Subchapter D of chapter 2 of title II of such Act (19 U.S.C. 2331) is hereby repealed.

(2) CONFORMING AMENDMENTS.—(A) Section 249A of such Act (19 U.S.C. 2322) is hereby repealed.

(B) The table of contents of such Act is amended—

(i) by striking the item relating to section 249A; and

(ii) by striking the items relating to subchapter D of chapter 2 of title II.

(c) TERMINATION.—Section 285 of such Act (19 U.S.C. 2271 note) is amended—

(1) by amending subsection (c)(1) to read as follows:

"(c)(1) Except as provided in paragraph (2), no assistance, vouchers, allowances, or other payments may be provided under chapter 2, and no technical assistance may be provided under chapter 3, after September 30, 2001."; and

(2) in subsection (c)(2), by striking "June 30, 1999," and inserting "September 30, 1999,".

(d) EFFECTIVE DATE.—

(1) SUBSECTIONS (a) AND (c).—The amendments made by subsections (a) and (c) take effect on—

(A) July 1, 1999; or

(B) the date of enactment of this Act,

whichever is earlier.

(2) SUBSECTION (b).—The amendments made by subsection (b) take effect on—

(A) October 1, 1999; or

(B) 90 days after the date of enactment of this Act,

whichever is later.

SEC. 3. FILING OF PETITIONS AND PROVISION OF RAPID RESPONSE ASSISTANCE; EXPEDITED REVIEW OF PETITIONS BY SECRETARY OF LABOR.

(a) FILING OF PETITIONS AND PROVISION OF RAPID RESPONSE ASSISTANCE.—Section 221(a) of the Trade Act of 1974 (19 U.S.C. 2271(a)) is amended to read as follows:

"(a)(1) A petition for certification of eligibility to apply for adjustment assistance for a group of workers under this chapter may be filed with the Governor of the State in which such workers' firm or subdivision is located by any of the following:

"(A) The group of workers (including workers in an agricultural firm or subdivision of any agricultural firm).

"(B) The certified or recognized union or other duly authorized representative of such workers.

"(C) Employers of such workers, one-stop operators or one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)), or State employment agencies, on behalf of such workers.

"(2) Upon receipt of a petition filed under paragraph (1), the Governor shall—

"(A) immediately transmit the petition to the Secretary of Labor (hereinafter in this chapter referred to as the 'Secretary');

"(B) ensure that rapid response assistance and basic readjustment services authorized under other Federal laws are made available to the workers covered by the petition to the extent authorized under such laws; and

"(C) assist the Secretary in the review of the petition by verifying such information and providing such other assistance as the Secretary may request.

"(3) Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that the Secretary has received the petition and initiated an investigation.".

(b) EXPEDITED REVIEW OF PETITIONS BY SECRETARY OF LABOR.—Section 223(a) of such Act (19 U.S.C. 2273(a)) is amended in the first sentence by striking "60 days" and inserting "40 days".

SEC. 4. ADDITION OF SHIFT IN PRODUCTION AS BASIS FOR ELIGIBILITY FOR TRADE ADJUSTMENT ASSISTANCE.

Section 222(a) of the Trade Act of 1974 (19 U.S.C. 2272(a)) is amended to read as follows:

"(a) A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as eligible to apply for adjustment assistance under this chapter pursuant to a petition filed under section 221 if the Secretary determines that—

"(1) a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated; and

"(2)(A)(i) the sales or production, or both, of such firm or subdivision have decreased absolutely;

"(ii) imports of articles like or directly competitive with articles produced by such firm or subdivision have increased; and

"(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm or subdivision; or

"(B) there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision.".

SEC. 5. INFORMATION ON CERTAIN CERTIFICATIONS.

Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) is amended by adding at the end the following subsection:

"(e) The Secretary shall collect and maintain information—

"(1) identifying the countries to which firms have shifted production resulting in certifications under section 222(a)(2)(B), including the number of such certifications relating to each country; and

"(2) to the extent feasible, identifying the countries from which imports of articles have resulted in certifications under section

222(a)(2)(A), including the number of such certifications relating to each country.".

SEC. 6. ENROLLMENT IN TRAINING REQUIREMENT.

Section 231(a)(5)(A) of the Trade Act of 1974 (19 U.S.C. 2291(a)(5)(A)) is amended—

(1) by inserting "(i)" after "(A)";

(2) by adding "and" after the comma at the end; and

(3) by adding at the end the following:

"(ii) the enrollment required under clause (i) occurs no later than the latest of—

"(I) the last day of the 16th week after the worker's most recent total separation from adversely affected employment which meets the requirements of paragraphs (1) and (2);

"(II) the last day of the 8th week after the week in which the Secretary issues a certification covering the worker; or

"(III) 45 days after the later of the dates specified in subclause (I) or (II), if the Secretary determines there are extenuating circumstances that justify an extension in the enrollment period;".

SEC. 7. WAIVERS OF TRAINING REQUIREMENTS.

(a) In General.—Section 231(c) of the Trade Act of 1974 (19 U.S.C. 2291(c)) is amended to read as follows:

"(c)(1) The Secretary may issue a written statement to a worker waiving the enrollment in the training requirement described in subsection (a)(5)(A) if the Secretary determines that such training requirement is not feasible or appropriate for the worker, as indicated by 1 or more of the following:

"(A) The worker has been notified that the worker will be recalled by the firm from which the qualifying separation occurred.

"(B) The worker has marketable skills as determined pursuant to an assessment of the worker, which may include the profiling system under section 303(j) of the Social Security Act (42 U.S.C. 503(j)), carried out in accordance with guidelines issued by the Secretary.

"(C) The worker is within 2 years of meeting all requirements for entitlement to old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) (except for application therefor).

"(D) The worker is unable to participate in training due to the health of the worker, except that a waiver under this subparagraph shall not be construed to exempt a worker from requirements relating to the availability for work, active search for work, or refusal to accept work under Federal or State unemployment compensation laws.

"(E) The first available enrollment date for the approved training of the worker is within 45 days after the date of the determination made under this paragraph, or, if later, there are extenuating circumstances for the delay in enrollment, as determined pursuant to guidelines issued by the Secretary.

"(F) There are insufficient funds available for training under this chapter, taking into account the limitation under section 236(a)(2)(A).

"(G) The duration of training appropriate for the individual to obtain suitable employment exceeds the individual's maximum entitlement to basic and additional trade readjustment allowances and, in addition, financial support available through other Federal or State programs, including title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.) or chapter 5 of subtitle B of title I of the Workforce Investment Act of 1998, that would enable the individual to complete a suitable training program cannot be assured.

"(2) The Secretary shall specify the duration of the waiver under paragraph (1) and shall periodically review the waiver to determine whether the basis for issuing the waiver remains applicable. If at any time the Secretary determines such basis is no longer applicable to the worker, the Secretary shall revoke the waiver.

"(3) Pursuant to the agreement under section 239, the Secretary may authorize the State or State agency to carry out activities described in paragraph (1) (except for the determination under subparagraphs (F) and (G) of paragraph (1)). Such agreement shall include a requirement that the State or State agency submit to the Secretary the written statements provided pursuant to paragraph (1) and a statement of the reasons for the waiver.

"(4) The Secretary shall submit an annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives identifying the number of workers who received waivers and the average duration of such waivers issued under this subsection during the preceding year.".

(b) Conforming Amendment.—Section 231(a)(5)(C) of such Act (19 U.S.C. 2291(a)(5)(C)) is amended by striking "certified".

SEC. 8. PROVISION OF TRADE READJUSTMENT ALLOWANCES DURING BREAKS IN TRAINING.

Section 233(f) of the Trade Act of 1974 (19 U.S.C. 2293(f)) is amended in the matter preceding paragraph (1) by striking "14 days" and inserting "30 days".

SEC. 9. INCREASE IN ANNUAL TOTAL AMOUNT OF PAYMENTS FOR TRAINING.

Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by striking "$80,000,000" and all that follows through $70,000,000 and inserting "$150,000,000".

SEC. 10. ELIMINATION OF QUARTERLY REPORT.

(a) In General.—Section 236(d) of the Trade Act of 1974 (19 U.S.C. 2296(d)) is amended by striking the last sentence.

(b) Effective Date.—The amendment made by this section takes effect on October 1, 1999.

SEC. 11. COORDINATION WITH ONE-STOP DELIVERY SYSTEMS, THE JOB TRAINING PARTNERSHIP ACT, AND THE WORKFORCE INVESTMENT ACT OF 1998.

(a) Coordination With One-Stop Delivery Systems.—Section 235 of the Trade Act of 1974 (19 U.S.C. 2295) is amended by inserting ", including the services provided through one-stop delivery systems described in section 134(c) of the Workforce Investment Act of 1998 (19 U.S.C. 2864(c))" before the period at the end of the first sentence.

(b) Coordination With Job Training Partnership Act and Workforce Investment Act of 1998.—Section 239(e) such Act (19 U.S.C. 2311(e)) is amended—

(1) in the first sentence, by striking "or title I of the Workforce Investment Act of 1998" and inserting "or under the provisions relating to dislocated worker employment and training activities set forth in chapter 5 of subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2861 et seq.), as the case may be,"; and

(2) by inserting after the first sentence the following: "Such coordination shall include use of common reporting systems and elements, including common elements relating to participant data and performance outcomes (including employment, retention of employment, and wages).".

SEC. 12. SUPPORTIVE SERVICES.

(a) In General.—Part II of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2295 et seq.) is amended by adding at the end the following:

"SEC. 238A. SUPPORTIVE SERVICES.

"(a) Application.—Any adversely affected worker covered by a certification under subchapter A of this chapter may file an application with the Secretary for the provision of supportive services, including transportation, child and dependent care, and other similar services.

"(b) Conditions.—The Secretary may approve an application filed under subsection (a) and provide supportive services to an adversely affected worker only if the Secretary determines that—

"(1) the provision of such services is necessary to enable the worker to participate in or complete training; and

"(2) the provision of such services is consistent with the provision of supportive services to participants under the program of employment and training assistance for dislocated workers carried out under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.), as in effect on the date of enactment of the Trade Adjustment Assistance Reform Act of 1999, or under the provisions relating to dislocated worker employment and training activities set forth in chapter 5 of subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2861 et seq.), as the case may be.".

(b) Conforming Amendment.—The table of contents of such Act is amended by inserting after the item relating to section 238 the following:

"Sec. 238A. Supportive services.".

SEC. 13. ADDITIONAL CONFORMING AMENDMENTS.

(a) Section 225.—Section 225(b) of the Trade Act of 1974 (19 U.S.C. 2275(b)) is amended in each of paragraphs (1) and (2) by striking "or subchapter D".

(b) Section 240.—Section 240(a) of such Act (19 U.S.C. 2312(a)) is amended by striking "subchapter B of".

SEC. 14. AVAILABILITY OF CONTINGENCY FUNDS.

(a) In General.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317), as amended by section 2, is amended—

(1) by striking "There are authorized" and inserting "(a) In General.—There are authorized"; and

(2) by adding at the end the following:

"(b) Contingency Funds.—Subject to the limitation contained in section 236(a)(2), if in any fiscal year the funds available to carry out the programs under this chapter are exhausted, there shall be made available from funds in the Treasury not otherwise appropriated amounts sufficient to carry out such programs for the remainder of the fiscal year.".

(b) Effective Date.—The amendments made by this section take effect on—

(1) July 1, 1999; or

(2) the date of enactment of this Act,

whichever is earlier.

SEC. 15. REAUTHORIZATION OF ADJUSTMENT ASSISTANCE FOR FIRMS.

(a) In General.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking "for the period beginning October 1, 1998, and ending June 30, 1999" and inserting "for each of fiscal years 1999 through 2001".

(b) Effective Date.—The amendment made by this section takes effect on—

(1) July 1, 1999; or

(2) the date of enactment of this Act,

whichever is earlier.

SEC. 16. EFFECTIVE DATE; TRANSITION PROVISION.

(a) Effective Date.—Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect on—

(1) October 1, 1999; or

(2) 90 days after the date of enactment of this Act,

whichever is later.

(b) TRANSITION.—The Secretary of Labor may promulgate such rules as the Secretary determines to be necessary to provide for the implementation of the amendments made by this Act.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 221. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to combat fraud and price-gouging committed in connection with the provision of consumer goods and services for the cleanup, repair, and recovery from the effects of a major disaster declared by the President, and for other purposes; to the Committee on the Judiciary.

THE DISASTER VICTIMS CRIME PREVENTION ACT OF 1999

Mr. AKAKA. Mr. President, today I am introducing the Disaster Victims Crime Prevention Act of 1999, which would stop fraud against victims of federal disasters. As with legislation I offered in the past, my measure would make it a federal crime to defraud persons through the sale of materials or services for cleanup, repair, and recovery following a federally declared disaster. The senior Senator from Hawaii [Mr. INOUYE] joins me in sponsoring this bill.

Everyone knows the tremendous costs incurred during a natural disaster. During the winter of 1997 through the spring of 1998, there were tornadoes and flooding in the southeastern states that caused $1 billion in damage and resulted in at least 132 deaths. From December 1996 to January 1997, severe flooding over portions of California, Washington, Oregon, Idaho, Nevada and Montana resulted in $3 billion in damages, while in September 1996, Hurricane Fran struck North Carolina and Virginia at a cost of $5 billion. During the past decade, there have been a number of deadly natural disasters throughout the United States and its territories including hurricanes, floods, earthquakes, tornadoes, ice storms, wildfires, mudslides, and blizzards.

Through round-the-clock media coverage, Americans have front row seats to the destruction caused by these catastrophic events. We sympathetically watch television as families sift through the debris of their lives and as men and women assess the loss of their businesses. We witness the concern of others, such as Red Cross volunteers passing out blankets and food and citizens traveling hundreds of miles to help rebuild strangers' homes.

Despite the outpouring of public support that follows these disasters, there are unscrupulous individuals who prey on the trusting and unsuspecting victims whose immediate concerns are applying for disaster assistance, seeking temporary shelter, and rebuilding their lives.

My interest in this was heightened by Hurricane Iniki, which on September 11, 1992, leveled the island of Kauai in Hawaii and caused $1.6 billion in damage. As the people of Kauai began the recovery and rebuilding process, a contractor promising quick home repair took disaster benefits from numerous homeowners and fled the area without completing promised construction. Most of these fraud victims never found relief.

Every disaster has examples of individuals who are victimized twice—first by the disaster and later by unconscionable price hikes and fraudulent contractors. In the wake of the 1993 Midwest flooding, Iowa officials found that some vendors raised the price of portable toilets from $60 a month to $60 a day! In other flood-hit areas, carpet cleaners hiked their prices to $350 per hour, while telemarketers set up telephone banks to solicit funds for phony flood-related charities. Nor will television viewers forget the scenes of beleaguered South Floridians buying generators, plastic sheeting, and bottled water at outrageous prices in the aftermath of Hurricane Andrew.

The Disaster Victims Crime Prevention Act of 1999 would criminalize some of the activities undertaken by unprincipled people whose sole intent is to defraud hard-working men and women. This legislation will make it a federal crime to defraud persons through the sale of materials or services for cleanup, repair, and recovery following a federally declared disaster.

While the Stafford Natural Disaster Act currently provides for civil and criminal penalties for the misuse of disaster funds, it fails to address contractor fraud. To fill this gap, our legislation would make it a federal crime to take money fraudulently from a disaster victim and fail to provide the agreed upon material or service for the cleanup, repair, and recovery.

The Stafford Act also fails to address price gouging. Although it is the responsibility of the states to impose restrictions on price increases prior to a federal disaster declaration, federal penalties for price gouging should be imposed once a federal disaster has been declared. I am pleased to incorporate a provision in this bill initiated by our former colleague and cosponsor of this legislation in the 105th Congress, Senator John Glenn, who, following Hurricane Andrew, sought to combat price gouging and excessive pricing of goods and services legislatively.

I am pleased to note that there is extensive cooperation among the various state and local offices that deal with fraud and consumer protection issues, and it is quite common for these fine men and women to lend their expertise to their colleagues from out-of-state during a natural disaster. This exchange of experiences and practical solutions has created a strong support network.

My bill would ensure that the Federal Emergency Management Agency develop public information in order to ensure that residents within a federally declared disaster area do not fall victim to fraud. The development of public information materials to advise disaster victims about ways to detect and avoid fraud would come under the jurisdiction of the Director of the Federal Emergency Management Agency.

At the present time, FEMA, under the guidance of its director, James Lee Witt, has done an outstanding job in meeting natural disasters. I believe there is only admiration and praise for the cooperation that now exists between FEMA and state agencies dealing with natural disasters. Therefore, I have no doubt that government at all levels would benefit from the dissemination of federal anti-fraud related material following the declaration of a disaster by the President.

I look forward to working with my colleagues to pass legislation that sends a strong message to anyone thinking of defrauding a disaster victim or raising prices unnecessarily on everyday commodities during a natural disaster.

By Mr. LAUTENBERG (for himself and Mr. DEWINE):

S. 22. A bill to amend title 23, United States Code, to provide for national standard to prohibit the operation of motor vehicles by intoxicated individuals; to the Committee on Environment and Public Works.

SAFE AND SOBER STREETS ACT OF 1999

Mr. LAUTENBERG. Mr. President, today I am introducing the Safe and Sober Streets Act of 1999 with Senator DEWINE—a bill that will, if enacted into law, save 500–700 lives a year. The Safe and Sober Streets Act establishes a legal limit for drunken driving at .08 Blood Alcohol Content (BAC) in all 50 states.

Mr. President, Senator DEWINE and I offered this very bill last March as an amendment to the ISTEA reauthorization bill, now known as TEA–21, on behalf of the millions victims of drunk driving crashes. We were joined by 22 other cosponsors. I am proud to say that the Senate—this body—voted 62 to 32 to adopt this amendment. It was supported by one half of each caucus.

The Senate cast this strong vote because it knew that establishing .08 as the legal definition of drunken driving is responsible and will save lives. The Senate knew that this bill would encourage states to adopt .08 BAC laws. Without it, states will get bogged down in legislative gridlock and will not be able to pass their own .08 BAC laws. As a result, lives that could have been saved will have instead been lost.

Mr. President, the Senate spoke loud and clear when it voted to adopt .08. We voted to save lives. We voted to protect our families from the grief associated with losing a loved one to drunk driving. We resisted the pressure of a powerful special interest and voted against drunk driving. The President called on Congress to pass the bill and he would have signed it into law.

The problem came after the Senate's resounding vote. The special interests stepped up their pressure tactics to stop our .08 amendment. Despite commitments granted, the House Rules Committee denied a vote. Democracy was squelched in back-room politics.

Last May, Mr. President, the TEA–21 conference leaders—seven people—ignored the will of the Senate and the American people. The final TEA–21 bill dropped the .08 BAC provision and replaced it with a $500 million, six-year incentive grant program specifically for .08 BAC. The incentive grant program, as constructed in TEA–21, will not produce national .08 standard.

Mr. President, when it comes to an issue like the minimum drinking age, which I authored here in the Senate in 1984, or the Zero Tolerance for underage drinking and driving, authored by Senator BYRD in 1995 or .08 in 1998, there are only two things the federal government can do. We can encourage the states to act by giving them money or withholding it until they have acted. The former has never worked, but the latter already has.

Withholding federal resources, which has been tested and proven constitutionally sound, has worked. All 50 states have a minimum drinking age of 21. The National Highway Traffic Safety Administration tell us that the 21 law has saved the lives of over 10,000 precious young Americans. South Carolina just became the 50th state to pass a Zero Tolerance statute. No state has ever lost federal highway dollars because of the federal government's efforts to insure that our nation's young people do not drink and drive.

The only consequence has been that lives have been saved.

Mr. President, under the bill that I am introducing today, all states would have three years in which to adopt .08 BAC as the DWI definition. After those three years, states would, as with the 21 drinking age and Zero Tolerance, face a withholding of five percent of their highway construction funds. Those who voted against the Safe and Sober Streets Act or prevented a vote in the other body said this was a choice between sanctions and incentives. It is not. This was, and is, a choice between what works and what does not.

Worse, the incentive grant program contained in TEA–21 is a classic case of how not to construct an incentive grant program. For example, most of the money goes to states that have already adopted .08 laws. Why provide incentive grants to states which have already acted? What incentive does a state need to pass .08 if it has already passed .08? Yet, that's what the $500 million incentive grant program does.

Mr. President, we have provided a fig leaf to cover our shame for failing to do what 70 percent of the American people expected us to do—to override the narrow special interest and act to protect public health and safety.

Mr. President, we know that .08 BAC is the right level for DWI. Adopting this level will simply bring the United States into the ranks of most other industrialized nations in setting reasonable drunk driving limits. Canada, Great Britain, Ireland, Italy, Austria and Switzerland have .08 BAC limits. France, Belgium, Finland and the Netherlands' limit is .05 BAC. Sweden's is .02 BAC.

Last year, supporters of our amendment included President Clinton. The National Safety Council. The Center for Disease Control. The American Automobile Manufacturers Association. Kemper, State Farm and Nationwide insurance companies. Mothers Against Drunk Driving. American College of Emergency Physicians. Consumer Federation of America. National Fire Protection Association. Advocates for Highway and Auto Safety. Newspaper editorial boards, such as The New York Times, The Washington Post, and The Baltimore Sun.

But more important than the support of scores of businesses, health and science organizations, governmental agencies, public opinion leaders, is the support from the families and friends of victims of drunk driving—like the Fraziers of Westminister, Maryland, and Louise and Ronald Hammell, of Tuckerton, New Jersey. Brenda and Randy lost their nine year old daughter, Ashley, to drunk driving. Louise and Ronald lost their 17 year old son, Matthew, to drunk driving.

Mr. President, organizations who support this bill have one thing in mind: the public's interest. The health and safety of our communities and of our roads is in the public's interest.

Every thirty minutes, someone in America—a mother, husband, child, grandchild, brother, sister—dies in an alcohol related crash. In the United States, 39 percent of all fatal crashes are alcohol related. Alcohol is the single greatest factor in motor vehicle deaths and injuries.

.08 is a reasonable and responsible level at which to draw the line in fighting drunk driving. It is at .08 that a person is drunk and should not be driving.

Adopting .08 BAC is just common sense. Think of it this way: you are in your car at night, driving on a two lane road. Your child is sitting next to you. You see a car's headlights approaching. The driver is a 170 pound man who just came from a bar, and drank five bottles of beer in one hour on an empty stomach. If he were driving in Maryland, he would not be considered drunk. But if he were driving in Virginia, he would be. Does this make sense? We should not have a patchwork quilt of laws when we are dealing with drunk driving.

This bill—.08—simply reflects what sound science and research proves, and interjects some reality into our definition of drunk driving and applies it to all 50 states.

No objective, credible person or organization can deny that adopting .08 BAC laws is the right thing to do. This bill does not eliminate the incentive grant program. In deference to those who authorized the incentive grant program, but who also supported my .08 bill, this bill specifically keeps the grant program. States will have the benefit of incentives for the first five years. After that, the money will be withheld. But, given past experience, I expect no state to lose funds.

The Senate has strongly supported this once. It should do so again. I urge my colleagues to cosponsor this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 222

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Safe and Sober Streets Act of 1999".

SEC. 2. NATIONAL STANDARD TO PROHIBIT OPERATION OF MOTOR VEHICLES BY INTOXICATED INDIVIDUALS.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 165. National standard to prohibit operation of motor vehicles by intoxicated individuals

"(a) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

"(1) FISCAL YEAR 2003.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2002, if the State does not meet the requirements of paragraph (3) on that date.

"(2) SUBSEQUENT FISCAL YEARS.—The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2003, and on October 1 of each fiscal year thereafter, if the State does not meet the requirements of paragraph (3) on that date.

"(3) REQUIREMENTS.—A State meets the requirements of this paragraph if the State has enacted and is enforcing a law providing that an individual who has an alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State is guilty of the offense of driving while intoxicated (or an equivalent offense that carries the greatest penalty under the law of the State for operating a motor vehicle after having consumed alcohol).

"(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

"(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

"(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 2004.—Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 2004, shall remain available until the end of the third fiscal year following the fiscal year for which the funds are authorized to be appropriated.

"(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 2004.—No funds withheld under this section from apportionment to any State after September 30, 2004, shall be available for apportionment to the State.

"(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1)(A), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements, apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

"(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—

"(A) IN GENERAL.—Any funds apportioned under paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned.

"(B) TREATMENT OF CERTAIN FUNDS.—Sums not obligated at the end of the period referred to in subparagraph (A) shall lapse.

"(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1)(A), the State does not meet the requirements of subsection (a)(3), the funds shall lapse.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"165. National standard to prohibit operation of motor vehicles by intoxicated individuals.".

By Mr. LAUTENBERG (for himself, Mr. ROBB, Mr. KENNEDY, Mr. DASCHLE, Mr. CONRAD, Mr. BINGAMAN, Mr. EDWARDS, Mr. TORRICELLI, Mr. KERRY, Mr. BREAUX, Mr. INOUYE, Mrs. BOXER, and Mr. JOHNSON):

S. 223. A bill to help communities modernize public school facilities, and for other purposes; to the Committee on Finance.

THE PUBLIC SCHOOL MODERNIZATION ACT

Mr. LAUTENBERG. Mr. President I rise today to introduce the Public School Modernization Act of 1999. I am pleased to be joined in this effort by my cosponsors, Senators ROBB, KENNEDY, DASCHLE, CONRAD, BINGAMAN, EDWARDS, TORRICELLI, KERRY, BREAUX, INOUYE, BOXER, and JOHNSON.

Mr. President, the legislation I am introducing today is about opportunity. If there is one essential job of a responsive government, it is to provide opportunity—especially for young Americans. A solid education allows young people to open the door to a world of opportunity.

However, too many American children open the door each morning to enter a schoolhouse with inadequate facilities for a modern learning environment. To help remedy this situation, my Public School Modernization Act will fuel a nationwide effort to renovate older schools and build new, state-of-the-art educational facilities.

Mr. President, that is why this legislation must be at the top of the agenda for the 106th Congress. As we face the new millennium, we must invest in our young people—our future. Congress must look ahead to the challenges of the next century and prepare a new generation of Americans to continue our world leadership in innovation, industry, arts and science.

Mr. President, this legislation will improve the very base, the very foundation of American education. Our children's educational experience begins with the buildings they learn in every day.

We know the condition of these buildings has a direct impact on learning. A Georgetown University study revealed that the achievement levels of students taught in substandard educational facilities were 11 percent lower than students in modern facilities. Similarly, a 1996 Virginia study also found an 11 percentile point difference between students in substandard buildings and those in modern facilities. Both of these studies were controlled for other variables, such as a student's socioeconomic status.

Mr. President, this data, and numerous other studies like it, allows us to formulate a simple equation: Modern Schools Equal Better Learning.

Unfortunately, too many of our nation's school buildings fall into the inadequate category. A 1995 General Accounting Office report revealed that one-third of all schools, serving 14 million students, need extensive repair or replacement. In addition, 7 million students attend school every day with life-threatening safety code violations. How can we expect our children to effectively focus on their lessons in such an environment?

In my home state of New Jersey we have a range of school modernization needs. The condition of low income, urban school facilities were at issue in a decades-long lawsuit that was recently settled. However, the problem is not just an urban problem. In my State, and across the U.S., it is a suburban and rural problem as well.

For example, suburban Montgomery Township has seen its enrollment grow by 99.6 percent over last 6 years. Another suburban district, South Brunswick, has seen enrollment grow by 60 percent in the past five years. One South Brunswick's student, sixth grader Amy Wolf, told me that the overcrowding of facilities has prevented teachers from working on a "one to one" basis with students.

This overcrowding often costs students their normal recreation area. Former playgrounds and sports fields on many suburban school campuses are becoming classroom trailer parks because of escalating enrollment.

In addition to overcrowding, suburban schools are crumbling. Many of these facilities, built quickly in the 1960s, are not holding up well and need extensive repair.

And in older, urban schools the condition and age of buildings is making it harder to move more computers into the classrooms or wire schools to the Internet. According to the GAO report, nearly half of all schools don't have an electrical system ready for the full-scale use of computers. In addition, 60 percent lack the conduits necessary to connect classrooms to a computer network.

Mr. President, to remedy this situation, my Public School Modernization Act presents school districts all over the country with a unique opportunity to renovate existing buildings and build new schoolhouses from the ground up. The bill will provide special bond authority to school districts that will allow these districts to raise the necessary funds for school modernization by offering Federal tax credits to bondholders in lieu of traditional interest payments by States or school districts.

The low cost feature for school districts is a simple concept. The districts will not be obligated to pay interest to the bondholders. Rather the bondholders would receive a Federal tax credit equivalent to interest payments.

Mr. President, these savings will free up local school district funds for teaching and learning. The savings could also result in significant property tax relief for the community.

In addition, this federal legislation will not interfere in local control of education. The Public School Modernization Act offers opportunity—not continuous Federal oversight or Federal agency sign-off for every project. The act simply requires States and school districts to conduct a survey of their school facility needs and make sure that the bonding authority is distributed in a way that ensures that schools with the greatest needs and least resources do indeed benefit from the program.

This new bond authority will be split between two programs. Most of the authority will result from a new program, called Qualified School Construction Bonds. The majority of this bond authority, 65 percent, will be allocated to States in proportion to each State's share of funds under the Title I Basic Grant formula. The remaining 35 percent of the authority to issue these special, 15 year bonds, would be allocated to the 100 school districts with the largest number of low income children and in addition, to as many as 25 districts that demonstrate a particular need, such as very high enrollment growth or a low level of resources.

The rest of the bond authority will come from an existing program, Qualified Zone Academy Bonds, created by the Taxpayer Relief Act of 1997. It also provides a tax credit in lieu of interest, but for a variety of school expenses, including school modernization. This bond program will be significantly expanded and improved by this legislation.

Mr. President, the time for this legislation is now, and it must be enacted during this Congress. The vast majority of Americans support a major federal investment in modernizing public schools. It should be a bipartisan goal, and I hope that a number of Republicans will cosponsor on this bill before it becomes law.

The Public School Modernization Act is long overdue, especially when you consider that President Eisenhower first called for Federal school construction legislation in his 1955 State of the Union address. I hope we can make this proposal a reality before the 45th anniversary of President Eisenhower's call to action.

I urge my colleagues to cosponsor this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 223

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public School Modernization Act of 1999".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) According to the General Accounting Office, one-third of all elementary and secondary schools in the United States, serving 14,000,000 students, need extensive repair or renovation.

(2) School infrastructure problems exist across the country, in urban, suburban, and rural school districts.

(3) Many States and school districts will need to build new schools in order to accommodate increasing student enrollments; the Department of Education has predicted that the Nation will need an additional 6,000 schools by 2006.

(4) Many schools do not have the physical infrastructure to take advantage of computers and other technology needed to meet the challenges of the next century.

(5) The Federal Government, by providing tax credits to bondholders to substitute for interest paid by school districts, can lower the costs of State and local school infrastructure investment, creating an incentive for States and localities to increase their own infrastructure improvement efforts and help ensure that all students are able to attend schools that are equipped for the 21st century.

(b) PURPOSE.—The purpose of this Act is to provide Federal tax credits to bondholders, in lieu of interest owed by school districts, to help States and localities to modernize public school facilities and build the additional public schools needed to educate the increasing number of students who will enroll in the next decade.

SEC. 3. EXPANSION OF INCENTIVES FOR PUBLIC SCHOOLS.

(a) IN GENERAL.—Part IV of subchapter U of chapter 1 of the Internal Revenue Code of 1986 (relating to incentives for education zones) is amended to read as follows:

"PART IV—INCENTIVES FOR QUALIFIED PUBLIC SCHOOL MODERNIZATION BONDS

"Sec. 1397E. Credit to holders of qualified public school modernization bonds.

"Sec. 1397F. Qualified zone academy bonds.

"Sec. 1397G. Qualified school construction bonds.

"SEC. 1397E. CREDIT TO HOLDERS OF QUALIFIED PUBLIC SCHOOL MODERNIZATION BONDS.

"(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified public school modernization bond on the credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year the amount determined under subsection (b).

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any qualified public school modernization bond is the amount equal to the product of—

"(A) the credit rate determined by the Secretary under paragraph (2) for the month in which such bond was issued, multiplied by

"(B) the face amount of the bond held by the taxpayer on the credit allowance date.

"(2) DETERMINATION.—During each calendar month, the Secretary shall determine a credit rate which shall apply to bonds issued during the following calendar month. The credit rate for any month is the percentage which the Secretary estimates will on average permit the issuance of qualified public school modernization bonds without discount and without interest cost to the issuer.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

"(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(d) QUALIFIED PUBLIC SCHOOL MODERNIZATION BOND; CREDIT ALLOWANCE DATE.—For purposes of this section—

"(1) QUALIFIED PUBLIC SCHOOL MODERNIZATION BOND.—The term 'qualified public school modernization bond' means—

"(A) a qualified zone academy bond, and

"(B) a qualified school construction bond.

"(2) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means, with respect to any issue, the last day of the 1-year period beginning on the date of issuance of such issue and the last day of each successive 1-year period thereafter.

"(e) OTHER DEFINITIONS.—For purposes of this part—

"(1) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given to such term by section 14101 of the Elementary and Secondary Education Act of 1965. Such term includes the local educational agency that serves the District of Columbia but does not include any other State agency.

"(2) BOND.—The term 'bond' includes any obligation.

"(3) STATE.—The term 'State' includes the District of Columbia and any possession of the United States.

"(4) PUBLIC SCHOOL FACILITY.—The term 'public school facility' shall not include any stadium or other facility primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

"(f) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section and the amount so included shall be treated as interest income.

"(g) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified public school modernization bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"SEC. 1397F. QUALIFIED ZONE ACADEMY BONDS.

"(a) QUALIFIED ZONE ACADEMY BOND.—For purposes of this part—

"(1) IN GENERAL.—The term 'qualified zone academy bond' means any bond issued as part of an issue if—

"(A) 95 percent or more of the proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by a local educational agency,

"(B) the bond is issued by a State or local government within the jurisdiction of which such academy is located,

"(C) the issuer—

"(i) designates such bond for purposes of this section,

"(ii) certifies that it has written assurances that the private business contribution requirement of paragraph (2) will be met with respect to such academy, and

"(iii) certifies that it has the written approval of the local educational agency for such bond issuance, and

"(D) the term of each bond which is part of such issue does not exceed 15 years.

"(2) PRIVATE BUSINESS CONTRIBUTION REQUIREMENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the private business contribution requirement of this paragraph is met with respect to any issue if the local educational agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.

"(B) QUALIFIED CONTRIBUTIONS.—For purposes of subparagraph (A), the term 'qualified contribution' means any contribution (of a type and quality acceptable to the local educational agency) of—

"(i) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment), "(ii) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

"(iii) services of employees as volunteer mentors,

"(iv) internships, field trips, or other educational opportunities outside the academy for students, or

"(v) any other property or service specified by the local educational agency.

"(3) QUALIFIED ZONE ACADEMY.—The term 'qualified zone academy' means any public school (or academic program within a public school) which is established by and operated under the supervision of a local educational agency to provide education or training below the postsecondary level if—

"(A) such public school or program (as the case may be) is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce,

"(B) students in such public school or program (as the case may be) will be subject to the same academic standards and assessments as other students educated by the local educational agency,

"(C) the comprehensive education plan of such public school or program is approved by the local educational agency, and

"(D)(i) such public school is located in an empowerment zone or enterprise community (including any such zone or community designated after the date of enactment of this section), or

"(ii) there is a reasonable expectation (as of the date of issuance of the bonds) that at least 35 percent of the students attending such school or participating in such program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

"(4) QUALIFIED PURPOSE.—The term 'qualified purpose' means, with respect to any qualified zone academy—

"(A) constructing, rehabilitating, or repairing the public school facility in which the academy is established,

"(B) providing equipment for use at such academy,

"(C) developing course materials for education to be provided at such academy, and

"(D) training teachers and other school personnel in such academy.

"(5) TEMPORARY PERIOD EXCEPTION.—A bond shall not be treated as failing to meet the requirement of paragraph (1)(A) solely by reason of the fact that the proceeds of the issue of which such bond is a part are invested for a reasonable temporary period (but not more than 36 months) until such proceeds are needed for the purpose for which such issue was issued. Any earnings on such proceeds during such period shall be treated as proceeds of the issue for purposes of applying paragraph (1)(A).

"(b) LIMITATIONS ON AMOUNT OF BONDS DESIGNATED.—

"(1) IN GENERAL.—There is a national zone academy bond limitation for each calendar year. Such limitation is—

"(A) $400,000,000 for 1999,

"(B) $1,400,000,000 for 2000,

"(C) $1,400,000,000 for 2001, and

"(D) except as provided in paragraph (3), zero after 2001.

"(2) ALLOCATION OF LIMITATION.—

"(A) ALLOCATION AMONG STATES.—

"(i) 1999 LIMITATION.—The national zone academy bond limitation for calendar year 1999 shall be allocated by the Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget).

"(ii) LIMITATION AFTER 1999.—The national zone academy bond limitation for any calendar year after 1999 shall be allocated by the Secretary among the States in the manner prescribed by section 1397G(d); except that, in making the allocation under this clause, the Secretary shall take into account Basic Grants attributable to large local educational agencies (as defined in section 1397G(e)).

"(B) ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.—The limitation amount allocated to a State under subparagraph (A) shall be allocated by the State education agency to qualified zone academies within such State.

"(C) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under subparagraph (B) for such calendar year.

"(3) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

"(A) the limitation amount under this subsection for any State, exceeds

"(B) the amount of bonds issued during such year which are designated under subsection (a) with respect to qualified zone academies within such State,

the limitation amount under this subsection for such State for the following calendar year shall be increased by the amount of such excess. The preceding sentence shall not apply if such following calendar year is after 2003.

"SEC. 1397G. QUALIFIED SCHOOL CONSTRUCTION BONDS.

"(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—For purposes of this part, the term 'qualified school construction bond' means any bond issued as part of an issue if—

"(1) 95 percent or more of the proceeds of such issue are to be used for the construction, rehabilitation, or repair of a public school facility,

"(2) the bond is issued by a State or local government within the jurisdiction of which such school is located,

"(3) the issuer designates such bond for purposes of this section, and

"(4) the term of each bond which is part of such issue does not exceed 15 years.

Rules similar to the rules of section 1397F(a)(5) shall apply for purposes of paragraph (1).

"(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) by any issuer shall not exceed the sum of—

"(1) the limitation amount allocated under subsection (d) for such calendar year to such issuer, and

"(2) if such issuer is a large local educational agency (as defined in subsection (e)) or is issuing on behalf of such an agency, the limitation amount allocated under subsection (e) for such calendar year to such agency.

"(c) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

"(1) IN GENERAL.—There is a national qualified school construction bond limitation for each calendar year equal to the dollar amount specified in paragraph (2) for such year, reduced, in the case of calendar years 2000 and 2001, by 1.5 percent of such amount.

"(2) DOLLAR AMOUNT SPECIFIED.—The dollar amount specified in this paragraph is—

"(A) $9,700,000,000 for 2000,

"(B) $9,700,000,000 for 2001, and

"(C) except as provided in subsection (f), zero after 2001.

"(d) 65-PERCENT OF LIMITATION ALLOCATED AMONG STATES.—

"(1) IN GENERAL.—Sixty-five percent of the limitation applicable under subsection (c) for any calendar year shall be allocated among the States under paragraph (2) by the Secretary. The limitation amount allocated to a State under the preceding sentence shall be allocated by the State education agency to issuers within such State and such allocations may be made only if there is an approved State application.

"(2) ALLOCATION FORMULA.—The amount to be allocated under paragraph (1) for any calendar year shall be allocated among the States in proportion to the respective amounts each such State received for Basic Grants under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year. For purposes of the preceding sentence, Basic Grants attributable to large local educational agencies (as defined in subsection (e)) shall be disregarded.

"(3) MINIMUM ALLOCATIONS TO STATES.—

"(A) IN GENERAL.—The Secretary shall adjust the allocations under this subsection for any calendar year for each State to the extent necessary to ensure that the sum of—

"(i) the amount allocated to such State under this subsection for such year, and

"(ii) the aggregate amounts allocated under subsection (e) to large local educational agencies in such State for such year,

is not less than an amount equal to such State's minimum percentage of 65 percent of the national qualified school construction bond limitation under subsection (c) for the calendar year.

"(B) MINIMUM PERCENTAGE.—A State's minimum percentage for any calendar year is the minimum percentage described in section 1124(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6334(d)) for such State for the most recent fiscal year ending before such calendar year.

"(4) ALLOCATIONS TO CERTAIN POSSESSIONS.—The amount to be allocated under paragraph (1) to any possession of the United States other than Puerto Rico shall be the amount which would have been allocated if all allocations under paragraph (1) were made on the basis of respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). In making other allocations, the amount to be allocated under paragraph (1) shall be reduced by the aggregate amount allocated under this paragraph to possessions of the United States.

"(5) APPROVED STATE APPLICATION.—For purposes of paragraph (1), the term 'approved State application' means an application which is approved by the Secretary of Education and which includes—

"(A) the results of a recent publicly-available survey (undertaken by the State with the involvement of local education officials, members of the public, and experts in school construction and management) of such State's needs for public school facilities, including descriptions of—

"(i) health and safety problems at such facilities, "(ii) the capacity of public schools in the State to house projected enrollments, and

"(iii) the extent to which the public schools in the State offer the physical infrastructure needed to provide a high-quality education to all students, and

"(B) a description of how the State will allocate to local educational agencies, or otherwise use, its allocation under this subsection to address the needs identified under subparagraph (A), including a description of how it will—

"(i) give highest priority to localities with the greatest needs, as demonstrated by inadequate or overcrowded school facilities coupled with a low level of resources to meet those needs,

"(ii) use its allocation under this subsection to assist localities that lack the fiscal capacity to issue bonds on their own, including the issuance of bonds by the State on behalf of such localities, and

"(iii) ensure that its allocation under this subsection is used only to supplement, and not supplant, the amount of school construction, rehabilitation, and repair in the State that would have occurred in the absence of such allocation.

Any allocation under paragraph (1) by a State education agency shall be binding if such agency reasonably determined that the allocation was in accordance with the plan approved under this paragraph.

"(e) 35-PERCENT OF LIMITATION ALLOCATED AMONG LARGEST SCHOOL DISTRICTS.—

"(1) IN GENERAL.—Thirty-five percent of the limitation applicable under subsection (c) for any calendar year shall be allocated under paragraph (2) by the Secretary among local educational agencies which are large local educational agencies for such year. No qualified school construction bond may be issued by reason of an allocation to a large local educational agency under the preceding sentence unless such agency has an approved local application.

"(2) ALLOCATION FORMULA.—The amount to be allocated under paragraph (1) for any calendar year shall be allocated among large local educational agencies in proportion to the respective amounts each such agency received for Basic Grants under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year.

"(3) LARGE LOCAL EDUCATIONAL AGENCY.—For purposes of this section, the term 'large local educational agency' means, with respect to a calendar year, any local educational agency if such agency is—

"(A) among the 100 local educational agencies with the largest numbers of children aged 5 through 17 from families living below the poverty level, as determined by the Secretary using the most recent data available from the Department of Commerce that are satisfactory to the Secretary, or

"(B) 1 of not more than 25 local educational agencies (other than those described in clause (i)) that the Secretary of Education determines (based on the most recent data available satisfactory to the Secretary) are in particular need of assistance, based on a low level of resources for school construction, a high level of enrollment growth, or such other factors as the Secretary deems appropriate.

"(4) APPROVED LOCAL APPLICATION.—For purposes of paragraph (1), the term 'approved local application' means an application which is approved by the Secretary of Education and which includes—

"(A) the results of a recent publicly-available survey (undertaken by the local educational agency with the involvement of school officials, members of the public, and experts in school construction and management) of such agency's needs for public school facilities, including descriptions of—

"(i) the overall condition of the local educational agency's school facilities, including health and safety problems,

"(ii) the capacity of the agency's schools to house projected enrollments, and

"(iii) the extent to which the agency's schools offer the physical infrastructure needed to provide a high-quality education to all students,

"(B) a description of how the local educational agency will use its allocation under this subsection to address the needs identified under subparagraph (A), and

"(C) a description of how the local educational agency will ensure that its allocation under this subsection is used only to supplement, and not supplant, the amount of school construction, rehabilitation, or repair in the locality that would have occurred in the absence of such allocation.

A rule similar to the rule of the last sentence of subsection (d)(5) shall apply for purposes of this paragraph.

"(f) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

"(1) the amount allocated under subsection (d) to any State, exceeds

"(2) the amount of bonds issued during such year which are designated under subsection (a) pursuant to such allocation,

the limitation amount under such subsection for such State for the following calendar year shall be increased by the amount of such excess. A similar rule shall apply to the amounts allocated under subsection (e). The subsection shall not apply if such following calendar year is after 2003.

"(g) SET-ASIDE ALLOCATED AMONG INDIAN TRIBES.—

"(1) IN GENERAL.—The 1.5 percent set-aside applicable under subsection (c)(1) for any calendar year shall be allocated under paragraph (2) among Indian tribes for the construction, rehabilitation, or repair of tribal schools. No allocation may be made under the preceding sentence unless the Indian tribe has an approved application.

"(2) ALLOCATION FORMULA.—The amount to be allocated under paragraph (1) for any calendar year shall be allocated among Indian tribes on a competitive basis by the Secretary of Interior, in consultation with the Secretary of the Education—

"(A) through a negotiated rulemaking procedure with the tribes in the same manner as the procedure described in section 106(b)(2) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4116(b)(2)), and

"(B) based on criteria described in paragraphs (1), (3), (4), (5), and (6) of section 12005(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8505(a)).

"(3) APPROVED APPLICATION.—For purposes of paragraph (1), the term 'approved application' means an application submitted by an Indian tribe which is approved by the Secretary of Education and which includes—

"(A) the basis upon which the applicable tribal school meets the criteria described in paragraph (2)(B), and

"(B) an assurance by the Indian tribe that such tribal school will not receive funds pursuant to allocations described in subsection (d) or (e).

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given such term by section 45A(c)(6).

"(B) TRIBAL SCHOOL.—The term 'tribal school' means a school that is operated by an Indian tribe for the education of Indian children with financial assistance under grant under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) or a contract with the Bureau of Indian Affairs under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f et seq.)."

(b) REPORTING.—Subsection (d) of section 6049 of the Internal Revenue Code of 1986 (relating to returns regarding payments of interest) is amended by adding at the end the following:

"(8) REPORTING OF CREDIT ON QUALIFIED PUBLIC SCHOOL MODERNIZATION BONDS.—

"(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 1397E(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 1397E(d)(2)).

"(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

"(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting."

(c) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter U of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to part IV and inserting the following:

"Part IV. Incentives for qualified public school modernization bonds."

(2) Part V of subchapter U of chapter 1 of such Code is amended by redesignating both section 1397F and the item relating thereto in the table of sections for such part as section 1397H.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to obligations issued after December 31, 1998.

(2) REPEAL OF RESTRICTION ON ZONE ACADEMY BOND HOLDERS.—The repeal of the limitation of section 1397E of the Internal Revenue Code of 1986 (as in effect on the day before the date of enactment of this Act) to eligible taxpayers (as defined in subsection (d)(6) of such section) shall apply to obligations issued after December 31, 1997.

SEC. 4. SENSE OF THE SENATE REGARDING FUNDING FOR BIA SCHOOL FACILITIES.

(a) FINDINGS.—The Senate finds that—

(1) the Bureau of Indian Affairs operates 1 of only 2 federally-run school systems; and

(2) there is a clear Federal responsibility to ensure that the more than 50,000 students attending these schools have decent, safe schools.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) sufficient funds should be provided in fiscal year 2000 to begin construction of 3 new Bureau of Indian Affairs school facilities and to increase funds available for the improvement and repair of existing facilities; and

(2) in addition, Congress should consider enacting legislation to establish other funding mechanisms that would leverage Federal investments on behalf of Bureau of Indian Affairs schools in order to address the serious construction backlog which exists at tribal schools.

By Mr. LAUTENBERG (for himself, Mr. ROBB, Mr. KENNEDY, Mr. DASCHLE, Mr. CONRAD, Mr. BINGAMAN, Mr. EDWARDS, Mr. TORRICELLI, Mr. KERRY, Mr. BREAUX, Mr. INOUYE, Mrs. BOXER, and Mr. JOHNSON):

S. 223. A bill to help communities moderize public school facilities, and for other purposes; to the Committee on Finance.

PUBLIC SCHOOL MODERNIZAATION ACT OF 1999

Mr. ROBB. Mr. President, I rise to join with Senator LAUTENBERG to introduce the Public School Modernization Act of 1999.

I was gratified that so many Members of this body recognized last year that the need for school construction and modernization is vital. The legislation that Senator LAUTENBERG and I are introducing is designed to help States build new schools and repair and modernize outdated ones, so that our children will have a better, more modern and safe environment in which to learn.

A few weeks ago, the Thomas Jefferson Center for Educational Design at the University of Virginia issued a devastating report detailing the alarming condition of many of Virginia's schools. Over 3,000 trailers are being used to hold classes. Two out of 3 school districts have held classes in auditoriums, cafeterias, storage areas, and book closets, and 53 percent of Virginia school districts had to increase the size of their classes in order to accommodate their divisions' growing student populations.

We know that smaller class sizes do, in fact, have a dramatic impact on student learning, especially in the first 3 years. So in order to give our children the learning environment they deserve, we have to fix the leaky roofs, build the additional classrooms, and build more schools to accommodate our growing student population, and to reduce class size.

This is a constructive role for the Federal Government to play. In fact, it was a Republican President, Dwight D. Eisenhower, who proposed a massive $1.1 billion school construction initiative in 1955.

Our States need our help, Mr. President. This legislation does not usurp local control of education or hinder States and localities from developing their own solutions to the problem of improving the academic performance of our children. Rather, this bill is intended to complement the efforts of the many State legislatures that are now wrestling with the questions of how to repair and equip old schools and how to build new schools.

Mr. President, no child should be forced to go to a school without heat, or have to wade regularly through standing water to get to class, or be expected to learn in a trailer with poor ventilation. Our children and their parents need our help.

I thank my colleague, Senator LAUTENBERG, for his work on this issue, and I look forward to working with him on this effort to bring it to a successful conclusion. I also thank Senators DASCHLE, KENNEDY, KERRY, TORRICELLI, EDWARDS, and BINGAMAN for joining us today.

I urge all of our colleagues in the State to recognize the urgent school construction needs of all of our States and to work with us in passing this particular legislation.

By Mr. MOYNIHAN:

S. 224. A bill to amend the Internal Revenue Code of 1986 to correct the treatment of tax-exempt financing of professional sports facilities; to the Committee on Finance.

THE STOP TAX-EXEMPT ARENA DEBT ISSUANCE ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce a tax bill that would correct a serious misallocation of our limited resources under present law: a tax subsidy that inures largely to the benefit of wealthy sports franchise owners and their players. This legislation—the Stop Tax-exempt Arena Debt Issuance Act, or STADIA for short—was introduced by the Senator from New York for the first time in 1996. Since that time, the bill has attracted the close scrutiny of bond counsel and their clients, and has received much attention in the press, almost all of which has been favorable.

Mr. Keith Olbermann, at the time an anchor of ESPN's Sportscenter program, even declared that the introduction of the bill was "paramount among all other sports stories" when introduced. Passage of the bill, Mr. Olbermann said, would be "the vaccine that . . . could conceivably at least lead towards the cure, if not cure immediately, almost all the ills of sports."

Mr. Olbermann may just be right about the importance of this bill, both to sports fans and to taxpayers. The bill closes a big loophole, a loophole that ultimately injures state and local governments and other issuers of tax-exempt bonds, that provides an unintended federal subsidy that contravenes Congressional intent, that underwrites bidding wars among cities battling for professional sports franchises, and that enriches persons who need no federal assistance whatsoever.

A decade ago, I was much involved in the drafting of the Tax Reform Act of 1986. A major objective of that legislation was to simplify the Tax Code by eliminating a large number of loopholes that had come to be viewed as unfair because they primarily benefited small groups of taxpayers. One of the loopholes we sought to close in 1986 was one that permitted builders of professional sports facilities to use tax-exempt bonds. Mind, we had nothing against new stadium construction, but we made the judgment that scarce Federal resources could surely be used in ways that would better serve the public good. The increasing proliferation of tax-exempt bonds had driven up interest costs for financing roads, schools, libraries, and other governmental purposes, led to mounting revenue losses to the U.S. Treasury, caused an inefficient allocation of capital, and allowed wealthy taxpayers to shield a growing amount of their investment income from income tax by purchasing tax-exempt bonds. Thus, we expressly forbade use of "private activity" bonds for sports facilities, intending to eliminate tax-exempt financing of these facilities altogether.

Yet team owners, with help from clever tax counsel, soon recognized that the change could work to their advantage. As columnist Neal R. Pierce wrote, team owners "were not checkmated for long. They were soon exhibiting the gall to ask mayors to finance their stadiums with [governmental] purpose bonds." Congress did not anticipate this. After all, by law, governmental bonds used to build stadiums would be tax-exempt only if no more than 10 percent of the debt service is derived from stadium revenue sources. In other words, non-stadium governmental revenues (i.e., tax revenues, lottery proceeds, and the like) must be used to repay the bulk of the debt, freeing team owners to pocket stadium revenues. Who would have thought that local officials, in order to attract or retain a team, would capitulate to team owners—granting concessionary stadium leases and committing limited government revenues to repay stadium debt, thereby hindering their own ability to provide schools, roads and other public investments?

The result has been a stadium construction boom unlike anything we have ever seen, and there is no end in sight.

What is driving the demand for new stadiums? Mainly, team owners' bottom lines and rising player salaries. Although our existing stadiums are generally quite serviceable, team owners can generate greater income, increase their franchise values dramatically, and compete for high-priced free agents with new tax-subsidized, single-purpose stadiums equipped with luxury skyboxes, club seats and the like. Thus, using their monopoly power, owners threaten to move, forcing bidding wars among cities. End result: new, tax-subsidized stadiums with fancy amenities and sweetheart lease deals.

To cite a case in point, Mr. Art Modell recently moved the Cleveland

Browns professional football team from Cleveland to Baltimore to become the Ravens. Prior to relocating, Mr. Modell had said, "I am not about to rape the City [of Cleveland] as others in my league have done. You will never hear me say 'if I don't get this I'm moving.' You can go to press on that one. I couldn't live with myself if I did that." Obviously, Mr. Modell changed his mind. And why? An extraordinary stadium deal with the State of Maryland.

The State of Maryland (and the local sports authority) provided the land on which the stadium is located, issued $87 million in tax-exempt bonds (yielding interest savings of approximately $60 million over a 30-year period as compared to taxable bonds), and contributed $30 million in cash and $64 million in state lottery revenues towards construction of the stadium. Mr. Modell agreed to contribute $24 million toward the project and, in return, receives rent-free use of the stadium (the franchise pays only for the operating and maintenance costs), $65 million in sales of rights to purchase season tickets (so-called "personal seat licenses"), all revenues from selling the right to name the stadium, luxury suites, premium seats, in-part advertising, and concessions, and 50 percent of all revenues from stadium events other than Ravens' games (with the right to control the booking of those events).

Financial World reported that the value of the Baltimore Ravens' franchise increased from $165 million in 1992 (i.e., before the move from Cleveland) to an estimated $250 million after its first season in the new stadium. It's little wonder that Mr. Modell stated: "The pride and presence of a professional football team is far more important than 30 libraries, and I say that with all due respect to the learning process."

Meanwhile, the city of Cleveland has been building a new, $225 million stadium to house an expansion football team. When Mr. Modell decided to move his team to Baltimore, the NFL agreed to grant Cleveland a new football team with the same name: the Cleveland Browns. Most cities are not as fortunate when a team leaves.

We are even reaching a point at which stadiums are being abandoned before they have been used for 10 to 15 years. An article in Barron's reported that a perception of "economic obsolescence" on the part of some owners has doomed even recently-built venues:

> The eight-year-old Miami Arena is facing a future without its two major tenants, the Florida Panthers hockey team and the Miami Heat basketball franchise, because of inadequate seating capacity and a paucity of luxury suites. The Panthers have already cut a deal to move to a new facility that nearby Broward County is building for them at a cost of around $200 million. Plans call for Dade County to build a new $210 million arena before the end of the decade, despite the fact that the move will leave local taxpayers stuck with servicing the debt on two Miami arenas rather than just one.

How do taxpayers benefit from all this? They don't. Ticket prices go way up—and stay up—after a new stadium opens. So while fans are asked to foot the bills through tax subsidies, many no longer can afford the price of admission. A study by Newsday found that ticket prices rose by 32 percent in five new baseball stadiums, as compared to a major league average of 8 percent. Not to mention the refreshments and other concessions, which also cost more in the new venues.

According to Barron's, the projects:

> . . . cater largely to well-heeled fans, meaning the folks who can afford to pay for seats in glassed-in luxury boxes. While the suit-and-cell-phone crowd get all the best seats, the average taxpayer is cosigned to "cheap seats" in nosebleed land or, more often, to following his favorite team on television.

Nor do these new stadiums provide much, if any, economic benefit to their local communities. Professors Roger G. Noll and Andrew Zimbalist recently published Sports, Jobs & Taxes with the Brookings Institution Press, in which they presented studies of the economic impact of professional sports facilities. The conclusion:

> [I]n every case, the authors find that the local economic impact of sports teams and facilities is far smaller than proponents allege; in some cases it is negative. These findings are valid regardless of whether the benefits are measured for the local neighborhood, for the city, or for the entire metropolitan area in which a facility is located.

Or, as concluded by Ronald D. Utt in his Heritage Foundation "Backgrounder" Cities in Denial: The False Promise of Subsidized Tourist and Entertainment Complexes:

> As the record from around the country indicates, the economic boost from public investment in entertainment complexes is exceptionally modest at best, and counterproductive at worst. It diverts scarce resources and public attention from the less glamorous activities that make more meaningful contributions to the public's well-being.

And what of the economic consequences to the communities abandoned by teams that relocate?

Any job growth that does result is extremely expensive. The Congressional Research Service (CRS) reported that the new $177 million football stadium for the Baltimore Ravens is expected to cost $127,000 per job created. By contrast, the cost per job generated by Maryland's economic development program is just $6,250.

Finally, Federal taxpayers receive absolutely no economic benefit for providing this subsidy. As CRS pointed out, "Almost all stadium spending is spending that would have been made on other activities within the United States, which means that benefits to the nation as a whole are near zero." After all, these teams will invariably locate somewhere in the United States, it is just a matter of where. And should the federal taxpayers in the team's current home town be forced to pay for the team's new stadium in a new city? The answer is unmistakably no.

Nevertheless, it seems that every day another professional sports team is demanding a new stadium, threatening a relocation if the demand is not met. This is a growing phenomenon. Professors Noll and Zimbalist wrote that:

> Between 1989 and 1997, thirty-one new stadiums and arenas were built. At least thirty-nine additional teams are seeking new facilities, are in the process of finalizing the deal to build one, or are waiting to move into one.

When I first introduced legislation to address this issue in 1996, stadium bond issuance had already exceeded $1 billion per year. Issuance reached $1.8 billion in 1997, a 30 percent increase from 1996. The bonds issued during 1997 alone represent a federal taxpayer subsidy of approximately $300 million over 10 years. It seems safe to predict that stadium bond issuance continued to increase in 1998.

In closing, one note about implementation of this legislation, should it be enacted. It might be considered unfair that some teams have new taxpayer-subsidized sports facilities, while other teams do not, all due to the arbitrary effective date of a change in the tax law. After all, why should some team owners be rewarded with a stadium subsidy while those owners who were reluctant to threaten relocation or to exploit unwarranted tax benefits do without? Congress could certainly provide appropriate transition rules—as it did in the 1986 Act when it first shut down tax-exempt stadium financing—to allow these latter teams stadium subsidies.

What is clear is that we have got to do something about the explosion in tax-subsidized stadium construction, if not through this legislation, then through some other similar means. Perhaps Congress should consider some form of excise tax, or some limitation on use of bonds to situations that do not involve a relocating team. We could also consider requiring that stadium bonds be repaid by stadium revenues—or at the very least we could reexamine current law, which effectively prohibits such a use of stadium revenues. Or, we could consider tightening the prohibition on the use of tax-exempt bonds to finance luxury skyboxes so that it cannot be so easily circumvented.

The STADIA bill would save about $50 million a year now spent to subsidize professional sports stadiums. The question for Congress is should we subsidize the commercial pursuits of wealthy team owners, encourage escalating player salaries, and underwrite bidding wars among cities seeking or fighting to keep professional sports teams, or would our scarce resources be put to better use? To my mind, this is not a difficult choice.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stop Tax-Exempt Arena Debt Issuance Act".

SEC. 2. TREATMENT OF TAX-EXEMPT FINANCING OF PROFESSIONAL SPORTS FACILITIES.

(a) In General.—Section 141 of the Internal Revenue Code of 1986 (defining private activity bond and qualified bond) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Certain Issues Used for Professional Sports Facilities Treated as Private Activity Bonds.—

"(1) In general.—For purposes of this title, the term 'private activity bond' includes any bond issued as part of an issue if the amount of the proceeds of the issue which are to be used (directly or indirectly) to provide professional sports facilities exceeds the lesser of—

"(A) 5 percent of such proceeds, or

"(B) $5,000,000.

"(2) Bond not treated as a qualified bond.—For purposes of this title, any bond described in paragraph (1) shall not be a qualified bond.

"(3) Professional sports facilities.—For purposes of this subsection—

"(A) In general.—The term 'professional sports facilities' means real property or related improvements used for professional sports exhibitions, games, or training, regardless if the admission of the public or press is allowed or paid.

"(B) Use for professional sports.—Any use of facilities which generates a direct or indirect monetary benefit (other than reimbursement for out-of pocket expenses) for a person who uses such facilities for professional sports exhibitions, games, or training shall be treated as a use described in subparagraph (A).

"(4) Anti-abuse regulations.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subsection, including such regulations as may be appropriate to prevent avoidance of such purposes through related persons, use of related facilities or multiuse complexes, or otherwise."

(b) Effective Date.—

(1) In general.—Except as provided in paragraphs (2), (3), and (5), the amendments made by this section shall apply to bonds issued on or after the date of enactment of this Act.

(2) Exception for construction, binding agreements, or approved projects.—The amendments made by this section shall not apply to bonds—

(A) the proceeds of which are used for—

(i) the construction or rehabilitation of a facility—

(I) if such construction or rehabilitation began before June 14, 1996, and was completed on or after such date, or

(II) if a State or political subdivision thereof has entered into a binding contract before June 14, 1996, that requires the incurrence of significant expenditures for such construction or rehabilitation, and some of such expenditures are incurred on or after such date; or

(ii) the acquisition of a facility pursuant to a binding contract entered into by a State or political subdivision thereof before June 14, 1996, and

(B) which are the subject of an official action taken by relevant government officials before June 14, 1996—

(i) approving the issuance of such bonds, or

(ii) approving the submission of the approval of such issuance to a voter referendum.

(3) Exception for final bond resolutions.—The amendments made by this section shall not apply to bonds the proceeds of which are used for the construction or rehabilitation of a facility if a State or political subdivision thereof has completed all necessary governmental approvals for the issuance of such bonds before June 14, 1996.

(4) Significant expenditures.—For purposes of paragraph (2)(A)(i)(II), the term "significant expenditures" means expenditures equal to or exceeding 10 percent of the reasonably anticipated cost of the construction or rehabilitation of the facility involved.

(5) Exception for certain current refundings.—

(A) In general.—The amendments made by this section shall not apply to any bond the proceeds of which are used exclusively to refund a qualified bond (or a bond which is a part of a series of refundings of a qualified bond) if—

(i) the amount of the refunding bond does not exceed the outstanding principal amount of the refunded bond,

(ii) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue, and

(iii) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of clause (ii), average maturity shall be determined in accordance with section 147(b)(2)(A) of the Internal Revenue Code of 1986.

(B) Qualified bond.—For purposes of subparagraph (A), the term "qualified bond" means any tax-exempt bond to finance a professional sports facility (as defined in section 141(e)(3) of such Code, as added by subsection (a)) issued before the date of enactment of this Act.

By Mr. INOUYE (for himself and Mr. Akaka):

S. 225. A bill to provide housing assistance to Native Hawaiians; to the Committee on Indian Affairs.

THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT AMENDMENTS

Mr. INOUYE. Mr. President, I rise today to introduce a measure which passed in the Senate toward the close of the 105th session of the Congress to amend the Native American Housing Assistance and Self-Determination Act to provide Federal housing assistance to address the serious unmet housing needs of Native Hawaiians.

Mr. President, the primary objective of this measure is to enable Native Hawaiians who are eligible to reside on the Hawaiian Home Lands to have access to federal housing assistance that is currently provided to other eligible low-income American families based upon documented need.

In 1920, with the enactment of Hawaiian Homes Commission Act, the United States set aside approximately 200,000 acres of public land that had been ceded to the United States in what was then the Territory of Hawaii to establish a permanent homeland for the native people of Hawaii, based upon findings of the Congress that Native Hawaiians were a landless people and a "dying" people. The Secretary of the Interior, Franklin Lane, likened the relationship between the United States and Native Hawaiians to the guardian-ward relationship that then existed between the United States and American Indians.

As a condition of its admission into the Union of States in 1959, the United States transferred title to the 200,000 acres of land to the State of Hawaii with the requirement that the lands be held "in public trust" for "the betterment of the conditions of Native Hawaiians, as defined in the Hawaiian Homes Commission Act of 1920". The Hawaii Admissions Act also required that the Hawaii State Constitution provide for the assumption by the new State of a trust responsibility for the lands. The lands are now administered by a State agency, the Department of Hawaiian Home Lands.

However, similar to the responsibility with which the Secretary of the Interior is charged in the administration of Indian lands, the United States retained and continues to retain the exclusive authority to enforce the trust and to institute legal action against the State of Hawaii for any breach of the trust, as well as the exclusive right to consent to any actions affecting the lands which comprise the corpus of the trust and any amendments to the Hawaiian Homes Commission Act enacted by the legislature of the State of Hawaii affecting the rights of the beneficiaries under the Act.

Within the last several years, three recent studies have documented the housing conditions that confront Native Hawaiians who either reside on the Hawaiian home lands or who are eligible to reside on the home lands.

In 1992, the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing issued its final report to the Congress, "Building the Future: A Blueprint for Change". The Commission's Study compared housing data for Native Hawaiians with housing information for other citizens in the State of Hawaii. The Commission found that Native Hawaiians, like American Indians and Alaska Natives, lacked access to conventional financing because of the trust status of the Hawaiian home lands, and that Native Hawaiians had the worst housing conditions in the State of Hawaii and the highest percentage of homelessness, representing over 30 percent of the State's homeless population.

The Commission concluded that the unique circumstances of Native Hawaiians require the enactment of new legislation to alleviate and address the severe housing needs of Native Hawaiians, and recommended that the Congress extend to Native Hawaiians the same federal housing assistance programs that are provided to American Indians and Alaska Natives under the Low-Income Rental, Mutual Help, Loan Guarantee Program and Community Development Block Grant programs. Subsequently, the Community Development Block Grant program authority was amended to address the housing needs of Native Hawaiians.

In 1995, the U.S. Department of Housing and Urban Development (HUD) issued a report entitled, "Housing Problems and Needs of Native Hawaiians". The HUD report was particularly helpful because it compared the data on Native Hawaiian housing conditions with housing conditions nationally and with the housing conditions of American Indians and Alaska Natives.

The most alarming finding of the HUD report was that Native Hawaiians experience the highest percentage of housing problems in the nation—49 percent—higher than even that of American Indians and Alaska Natives residing on reservations (44 percent) and substantially higher than that of all U.S. households (27 percent). Additionally, the HUD study found that the percentage of overcrowding in the Native Hawaiian population is 36 percent as compared to 3 percent for all other households in the United States.

Applying the HUD guidelines, 70.8 percent of Native Hawaiians who either reside or who are eligible to reside on the Hawaiian home lands have incomes which fall below the median family income in the United States, and 50 percent of those Native Hawaiians have incomes below 30 percent of the median family income in the United States.

Also in 1995, the Hawaii State Department of Hawaiian Home Lands published a Beneficiary Needs Study as a result of research conducted by an independent research group. This study found that among the Native Hawaiian population, the needs of Native Hawaiians eligible to reside on the Hawaiian home lands are the most severe—with 95 percent of home lands applicants (16,000) in need of housing, and with one-half of those applicant households facing overcrowding and one-third paying more than 30 percent of their income for shelter.

Eligibility for an assignment of Hawaiian home lands for purposes of housing, agricultural development or pasture land is a function of federal law—the Hawaiian Homes Commission Act of 1920. There are approximately 60,000 Native Hawaiians who would be eligible to reside on the home lands, but applying for an assignment of a parcel of home lands is voluntary. Because of the lack of resources to develop infrastructure (roads, access to water and sewer and electricity) on the home lands as required by State and county laws before housing can be constructed, hundreds of Native Hawaiians on the waiting list have died before receiving an assignment of home lands.

Once an eligible Native Hawaiian reaches the top of the waiting list, he or she must be able to qualify for a private home loan mortgage, because the limited Federal and State funds available to the Department of Hawaiian Home Lands have been used to develop infrastructure rather than the construction of housing. An assignment of home lands property is in the form of a 99-year lease. Unless the heirs of the eligible Native Hawaiian qualify in their own right for an assignment of home lands under the provisions of the Hawaiian Homes Commission Act, upon the death of the eligible Native Hawaiian, the heirs must move off the land.

Currently, Native Hawaiians who are eligible to reside on the home lands but who do not qualify for private mortgage loans do not have access to federal housing assistance programs that provide assistance to low-income families. This is due to the fact that for many years, the federal government took the legal position that because the government that represented the Native Hawaiian people had been overthrown in 1893 and thus there was no government-to-government relationship with the United States, extending federal housing program assistance to lands set aside exclusively for Native Hawaiians would be discriminating on the basis of race or ethnicity.

The Hawaiian Homes Commission Act not only provides authority for the assignment of home lands property to Native Hawaiians. The Act also authorizes general leases to non-Hawaiians. At the time the Act was passed by the Congress, it was anticipated that revenues derived from general leases would be sufficient to develop the necessary infrastructure and housing on the home lands. However, general lease revenue has not proven sufficient to address infrastructure and housing needs.

In recent years, as a result of litigation involving third-party leases of Hawaiian home lands, the United States revisited its legal position and found that the authority contained in the Hawaiian Homes Commission Act for general leases to non-Hawaiians meant that the land was not set aside exclusively for Native Hawaiians. The non-exclusive nature of the land set aside was thus found not to violate Constitutional prohibitions on racial discrimination.

The change in the United States' legal position may be further informed by the ruling of the Ninth Circuit Court of Appeals in *Rice* v. *Cayetano*, No. 97-16095, 146 F.3d 1075 (9th Cir. 1998) in which the Appeals Court compared the special treatment of Native Hawaiians to the special treatment of Indians that the Supreme Court approved in *Morton* v. *Mancari*, 417 U.S. 535 (1974) and cited its reference to *Mancari* in *Alaska Chapter, Associated Gen. Contractors* v. *Pierce*, 694 F.2d 1162 (9th Cir. 1981), in which the Circuit Court expressed its finding that preferential treatment that is grounded in the government's unique obligation toward Indians is a political rather than a racial classification, even though racial criteria may be used in defining eligibility.

However, the result of the United States' earlier legal position was that Native Hawaiians who were eligible to reside on the Hawaiian Home Lands and would have otherwise been eligible by virtue of their low-income status to apply for Federal housing assistance were foreclosed from participating in Federal housing assistance programs that were available to all other eligible families in the United States.

Mr. President, if enacted into law, the measure which I introduce today will finally provide some relief and support to those who are in the greatest need for a simple roof over their heads and a place to raise their families.

Mr. President, I ask unanimous consent that the text of this measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Housing Assistance and Self-Determination Amendments of 1999".

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States has undertaken a responsibility to promote the general welfare of the United States by—

(A) employing its resources to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income; and

(B) developing effective partnerships with governmental and private entities to accomplish the objectives referred to in subparagraph (A);

(2) pursuant to the provisions of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), the United States set aside 200,000 acres of land in the Federal territory that later became the State of Hawaii in order to establish a homeland for the native people of Hawaii—Native Hawaiians;

(3) despite the intent of Congress in 1920 to address the housing needs of Native Hawaiians through the enactment of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et

seq.), some agencies of the Federal Government have taken the legal position that subsequently enacted Federal housing laws designed to address the housing needs of all eligible families in the United States could not be extended to address the needs for housing and infrastructure development on Hawaiian home lands (as that term is defined in section 801 of the Native American Housing Assistance and Self-Determination Act of 1996, as added by section 3 of this Act) with the result that otherwise eligible Native Hawaiians residing on the Hawaiian home lands have been foreclosed from participating in Federal housing assistance programs available to all other eligible families in the United States;

(4) although Federal housing assistance programs have been administered on a racially neutral basis in the State of Hawaii, Native Hawaiians continue to have the greatest unmet need for housing and the highest rates of overcrowding in the United States;

(5) among the Native American population of the United States, Native Hawaiians experience the highest percentage of housing problems in the United States, as the percentage—

(A) of housing problems in the Native Hawaiian population is 49 percent, as compared to—

(i) 44 percent for American Indian and Alaska Native households in Indian country; and

(ii) 27 percent for all other households in the United States; and

(B) overcrowding in the Native Hawaiian population is 36 percent as compared to 3 percent for all other households in the United States;

(6) among the Native Hawaiian population, the needs of Native Hawaiians, as that term is defined in section 801 of the Native American Housing Assistance and Self-Determination Act of 1996, as added by section 3 of this Act, eligible to reside on the Hawaiian Home Lands are the most severe, as—

(A) the percentage of overcrowding in Native Hawaiian households on the Hawaiian Home Lands is 36 percent; and

(B) approximately 13,000 Native Hawaiians, which constitute 95 percent of the Native Hawaiians who are eligible to reside on the Hawaiian Home Lands, are in need of housing;

(7) applying the Department of Housing and Urban Development guidelines—

(A) 70.8 percent of Native Hawaiians who either reside or who are eligible to reside on the Hawaiian Home Lands have incomes that fall below the median family income; and

(B) 50 percent of Native Hawaiians who either reside or who are eligible to reside on the Hawaiian Home Lands have incomes below 30 percent of the median family income; and

(8) ⅓ of those Native Hawaiians who are eligible to reside on the Hawaiian Home Lands pay more than 30 percent of their income for shelter, and ½ of those Native Hawaiians face overcrowding;

(9) the extraordinarily severe housing needs of Native Hawaiians demonstrate that Native Hawaiians who either reside on, or are eligible to reside on, Hawaiian Home Lands have been denied equal access to Federal low-income housing assistance programs available to other qualified residents of the United States, and that a more effective means of addressing their housing needs must be authorized;

(10) consistent with the recommendations of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing, and in order to address the continuing prevalence of extraordinarily severe housing needs among Native Hawaiians who either reside or are eligible to reside on the Hawaiian Home Lands, Congress finds it necessary to extend the Federal low-income housing assistance available to American Indians and Alaska Natives under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) to those Native Hawaiians;

(11) under the treatymaking power of the United States, Congress had the authority to confirm a treaty between the United States and the government that represented the Hawaiian people under clause 3 of section 8 of article I of the Constitution, the authority of Congress to address matters affecting the indigenous peoples of the United States includes the authority to address matters affecting Native Hawaiians;

(12) through treaties, Federal statutes, and rulings of the Federal courts, the United States has recognized and reaffirmed that—

(A) the political status of Native Hawaiians is comparable to that of American Indians and Alaska Natives; and

(B) the aboriginal, indigenous people of the United States have—

(i) a continuing right to autonomy in their internal affairs; and

(ii) an ongoing right of self-determination and self-governance that has never been extinguished;

(13) the political relationship between the United States and the Native Hawaiian people has been recognized and reaffirmed by the United States as evidenced by the inclusion of Native Hawaiians in—

(A) the Native American Programs Act of 1974 (42 U.S.C. 2291 et seq.);

(B) the American Indian Religious Freedom Act (42 U.S.C. 1996 et seq.);

(C) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.);

(D) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(E) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(F) the Native American Languages Act of 1992 (106 Stat. 3434);

(G) the American Indian, Alaska Native and Native Hawaiian Culture and Arts Development Act (20 U.S.C. 4401 et seq.);

(H) the Job Training Partnership Act (29 U.S.C. 1501 et seq.); and

(I) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.); and

(14) in the area of housing, the United States has recognized and reaffirmed the political relationship with the Native Hawaiian people through—

(A) the enactment of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), which set aside approximately 200,000 acres of public lands that became known as Hawaiian Home Lands in the Territory of Hawaii that had been ceded to the United States for homesteading by Native Hawaiians in order to rehabilitate a landless and dying people;

(B) the enactment of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4)—

(i) by ceding to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held in public trust, for the betterment of the conditions of Native Hawaiians, as that term is defined in section 801(15) of the Native American Housing Assistance and Self-Determination Act of 1996, as added by section 3 of this Act; and

(ii) by transferring what the United States considered to be a trust responsibility for the administration of Hawaiian Home Lands to the State of Hawaii, but retaining the authority to enforce the trust, including the exclusive right of the United States to consent to any actions affecting the lands which comprise the corpus of the trust and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), enacted by the legislature of the State of Hawaii affecting the rights of beneficiaries under the Act;

(C) the authorization of mortgage loans insured by the Federal Housing Administration for the purchase, construction, or refinancing of homes on Hawaiian Home Lands under the Act of June 27, 1934 (commonly referred to as the "National Housing Act" (42 Stat. 1246 et seq., chapter 847; 12 U.S.C. 1701 et seq.));

(D) authorizing Native Hawaiian representation on the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing under Public Law 101–235;

(E) the inclusion of Native Hawaiians in the definition under section 3764 of title 38, United States Code, applicable to subchapter V of chapter 37- of title 38, United States Code (relating to a housing loan program for Native American veterans); and

(F) the enactment of the Hawaiian Home Lands Recovery Act (109 Stat. 357; 48 U.S.C. 491, note prec.) which establishes a process for the conveyance of Federal lands to the Department of Hawaiian Homes Lands that are equivalent in value to lands acquired by the United States from the Hawaiian Home Lands inventory.

SEC. 3. HOUSING ASSISTANCE.

The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) is amended by adding at the end the following:

"TITLE VIII—HOUSING ASSISTANCE FOR NATIVE HAWAIIANS

"SEC. 801. DEFINITIONS.

"In this title:

"(1) DEPARTMENT OF HAWAIIAN HOME LANDS; DEPARTMENT.—The term 'Department of Hawaiian Home Lands' or 'Department' means the agency or department of the government of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

"(2) DIRECTOR.—The term 'Director' means the Director of the Department of Hawaiian Home Lands.

"(3) ELDERLY FAMILIES; NEAR-ELDERLY FAMILIES.—

"(A) IN GENERAL.—The term 'elderly family' or 'near-elderly family' means a family whose head (or his or her spouse), or whose sole member, is—

"(i) for an elderly family, an elderly person; or

"(ii) for a near-elderly family, a near-elderly person.

"(B) CERTAIN FAMILIES INCLUDED.—The term 'elderly family' or 'near-elderly family' includes—

"(i) 2 or more elderly persons or near-elderly persons, as the case may be, living together; and

"(ii) 1 or more persons described in clause (i) living with 1 or more persons determined under the housing plan to be essential to their care or well-being.

"(4) HAWAIIAN HOME LANDS.—The term 'Hawaiian Home Lands' means lands that—

"(A) have the status as Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act (42 Stat. 110); or

"(B) are acquired pursuant to that Act.

"(5) HOUSING AREA.—The term 'housing area' means an area of Hawaiian Home

Lands with respect to which the Department of Hawaiian Home Lands is authorized to provide assistance for affordable housing under this Act.

"(6) HOUSING ENTITY.—The term 'housing entity' means the Department of Hawaiian Home Lands.

"(7) HOUSING PLAN.—The term 'housing plan' means a plan developed by the Department of Hawaiian Home Lands.

"(8) MEDIAN INCOME.—The term 'median income' means, with respect to an area that is a Hawaiian housing area, the greater of—

"(A) the median income for the Hawaiian housing area, which shall be determined by the Secretary; or

"(B) the median income for the State of Hawaii.

"(9) NATIVE HAWAIIAN.—The term 'Native Hawaiian' has the meaning given the term 'Native Hawaiian' in section 201 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

"SEC. 802. BLOCK GRANTS FOR AFFORDABLE HOUSING ACTIVITIES.

"(a) GRANT AUTHORITY.—For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this title) make a grant under this title to the Department of Hawaiian Home Lands to carry out affordable housing activities for Native Hawaiian families on or near Hawaiian Home Lands.

"(b) PLAN REQUIREMENT.—

"(1) IN GENERAL.—The Secretary may make a grant under this title to the Department of Hawaiian Home Lands for a fiscal year only if—

"(A) the Director has submitted to the Secretary a housing plan for that fiscal year; and

"(B) the Secretary has determined under section 804 that the housing plan complies with the requirements of section 803.

"(2) WAIVER.—The Secretary may waive the applicability of the requirements under paragraph (1), in part, if the Secretary finds that the Department of Hawaiian Home Lands has not complied or cannot comply with those requirements due to circumstances beyond the control of the Department of Hawaiian Home Lands.

"(c) USE OF AFFORDABLE HOUSING ACTIVITIES UNDER PLAN.—Except as provided in subsection (e), amounts provided under a grant under this section may be used only for affordable housing activities under this title that are consistent with a housing plan approved under section 804.

"(d) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—The Secretary shall, by regulation, authorize the Department of Hawaiian Home Lands to use a percentage of any grant amounts received under this title for any reasonable administrative and planning expenses of the Department relating to carrying out this title and activities assisted with those amounts.

"(2) ADMINISTRATIVE AND PLANNING EXPENSES.—The administrative and planning expenses referred to in paragraph (1) include—

"(A) costs for salaries of individuals engaged in administering and managing affordable housing activities assisted with grant amounts provided under this title; and

"(B) expenses incurred in preparing a housing plan under section 803.

"(e) PUBLIC-PRIVATE PARTNERSHIPS.—The Director shall make all reasonable efforts, consistent with the purposes of this title, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in implementing a housing plan that has been approved by the Secretary under section 803.

"(f) APPLICABILITY OF OTHER PROVISIONS.—

"(1) IN GENERAL.—The Secretary shall be guided by the relevant program requirements of titles I, II, and IV in the implementation of housing assistance programs for Native Hawaiians under this title.

"(2) EXCEPTION.—The Secretary may make exceptions to, or modifications of, program requirements for Native American housing assistance set forth in titles I, II, and IV as necessary and appropriate to meet the unique situation and housing needs of Native Hawaiians.

"SEC. 803. HOUSING PLAN.

"(a) PLAN SUBMISSION.—The Secretary shall—

"(1) require the Director to submit a housing plan under this section for each fiscal year; and

"(2) provide for the review of each plan submitted under paragraph (1).

"(b) 5-YEAR PLAN.—Each housing plan under this section shall—

"(1) be in a form prescribed by the Secretary; and

"(2) contain, with respect to the 5-year period beginning with the fiscal year for which the plan is submitted, the following information:

"(A) MISSION STATEMENT.—A general statement of the mission of the Department of Hawaiian Home Lands to serve the needs of the low-income families to be served by the Department.

"(B) GOAL AND OBJECTIVES.—A statement of the goals and objectives of the Department of Hawaiian Home Lands to enable the Department to serve the needs identified in subparagraph (A) during the period.

"(C) ACTIVITIES PLANS.—An overview of the activities planned during the period including an analysis of the manner in which the activities will enable the Department to meet its mission, goals, and objectives.

"(c) 1-YEAR PLAN.—A housing plan under this section shall—

"(1) be in a form prescribed by the Secretary; and

"(2) contain the following information relating to the fiscal year for which the assistance under this title is to be made available:

"(A) GOALS AND OBJECTIVES.—A statement of the goals and objectives to be accomplished during the period covered by the plan.

"(B) STATEMENT OF NEEDS.—A statement of the housing needs of the low-income families served by the Department and the means by which those needs will be addressed during the period covered by the plan, including—

"(i) a description of the estimated housing needs and the need for assistance for the low-income families to be served by the Department, including a description of the manner in which the geographical distribution of assistance is consistent with—

"(I) the geographical needs of those families; and

"(II) needs for various categories of housing assistance; and

"(ii) a description of the estimated housing needs for all families to be served by the Department.

"(C) FINANCIAL RESOURCES.—An operating budget for the Department of Hawaiian Home Lands, in a form prescribed by the Secretary, that includes—

"(i) an identification and a description of the financial resources reasonably available to the Department to carry out the purposes of this title, including an explanation of the manner in which amounts made available will be used to leverage additional resources; and

"(ii) the uses to which the resources described in clause (i) will be committed, including—

"(I) eligible and required affordable housing activities; and

"(II) administrative expenses.

"(D) AFFORDABLE HOUSING RESOURCES.—A statement of the affordable housing resources currently available at the time of the submittal of the plan and to be made available during the period covered by the plan, including—

"(i) a description of the significant characteristics of the housing market in the State of Hawaii, including the availability of housing from other public sources, private market housing; and

"(ii) the manner in which the characteristics referred to in clause (i) influence the decision of the Department of Hawaiian Home Lands to use grant amounts to be provided under this title for—

"(I) rental assistance;

"(II) the production of new units;

"(III) the acquisition of existing units; or

"(IV) the rehabilitation of units;

"(iii) a description of the structure, coordination, and means of cooperation between the Department of Hawaiian Home Lands and any other governmental entities in the development, submission, or implementation of housing plans, including a description of—

"(I) the involvement of private, public, and nonprofit organizations and institutions;

"(II) the use of loan guarantees under section 184A of the Housing and Community Development Act of 1992; and

"(III) other housing assistance provided by the United States, including loans, grants, and mortgage insurance;

"(iv) a description of the manner in which the plan will address the needs identified pursuant to subparagraph (C);

"(v) a description of—

"(I) any existing or anticipated homeownership programs and rental programs to be carried out during the period covered by the plan; and

"(II) the requirements and assistance available under the programs referred to in subclause (I);

"(vi) a description of—

"(I) any existing or anticipated housing rehabilitation programs necessary to ensure the long-term viability of the housing to be carried out during the period covered by the plan; and

"(II) the requirements and assistance available under the programs referred to in subclause (I);

"(vii) a description of—

"(I) all other existing or anticipated housing assistance provided by the Department of Hawaiian Home Lands during the period covered by the plan, including—

"(aa) transitional housing;

"(bb) homeless housing;

"(cc) college housing; and

"(dd) supportive services housing; and

"(II) the requirements and assistance available under such programs;

"(viii)(I) a description of any housing to be demolished or disposed of;

"(II) a timetable for that demolition or disposition; and

"(III) any other information required by the Secretary with respect to that demolition or disposition;

"(ix) a description of the manner in which the Department of Hawaiian Home Lands will coordinate with welfare agencies in the State of Hawaii to ensure that residents of the affordable housing will be provided with access to resources to assist in obtaining employment and achieving self-sufficiency;

"(x) a description of the requirements established by the Department of Hawaiian Home Lands to—

"(I) promote the safety of residents of the affordable housing;

"(II) facilitate the undertaking of crime prevention measures;

"(III) allow resident input and involvement, including the establishment of resident organizations; and

"(IV) allow for the coordination of crime prevention activities between the Department and local law enforcement officials; and

"(xi) a description of the entities that will carry out the activities under the plan, including the organizational capacity and key personnel of the entities.

"(E) CERTIFICATION OF COMPLIANCE.—Evidence of compliance that shall include, as appropriate—

"(i) a certification that the Department of Hawaiian Home Lands will comply with—

"(I) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or with title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) in carrying out this title, to the extent that such title is applicable; and

"(II) other applicable Federal statutes;

"(ii) a certification that the Department will require adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this title, in compliance with such requirements as may be established by the Secretary;

"(iii) a certification that policies are in effect and are available for review by the Secretary and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title;

"(iv) a certification that policies are in effect and are available for review by the Secretary and the public governing rents charged, including the methods by which such rents or homebuyer payments are determined, for housing assisted with grant amounts provided under this title; and

"(v) a certification that policies are in effect and are available for review by the Secretary and the public governing the management and maintenance of housing assisted with grant amounts provided under this title.

"(d) APPLICABILITY OF CIVIL RIGHTS STATUTES.—

"(1) IN GENERAL.—To the extent that the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) apply to assistance provided under this title, nothing in the requirements concerning discrimination on the basis of race shall be construed to prevent the provision of assistance under this title—

"(A) to the Department of Hawaiian Home Lands on the basis that the Department served Native Hawaiians; or

"(B) to an eligible family on the basis that the family is a Native Hawaiian family.

"(2) CIVIL RIGHTS.—Program eligibility under this title may be restricted to Native Hawaiians. Subject to the preceding sentence, no person may be discriminated against on the basis of race, color, national origin, religion, sex, familial status, or disability.

"(e) USE OF NONPROFIT ORGANIZATIONS.—As a condition of receiving grant amounts under this title, the Department of Hawaiian Home Lands shall, to the extent practicable, provide for private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians to carry out affordable housing activities with those grant amounts.

"SEC. 804. REVIEW OF PLANS.

"(a) REVIEW AND NOTICE.—

"(1) REVIEW.—

"(A) IN GENERAL.—The Secretary shall conduct a review of a housing plan submitted to the Secretary under section 803 to ensure that the plan complies with the requirements of that section.

"(B) LIMITATION.—The Secretary shall have the discretion to review a plan referred to in subparagraph (A) only to the extent that the Secretary considers that the review is necessary.

"(2) NOTICE.—

"(A) IN GENERAL.—Not later than 60 days after receiving a plan under section 803, the Secretary shall notify the Director of the Department of Hawaiian Home Lands whether the plan complies with the requirements under that section.

"(B) EFFECT OF FAILURE OF SECRETARY TO TAKE ACTION.—For purposes of this title, if the Secretary does not notify the Director, as required under this subsection and subsection (b), upon the expiration of the 60-day period described in subparagraph (A)—

"(i) the plan shall be considered to have been determined to comply with the requirements under section 803; and

"(ii) the Director shall be considered to have been notified of compliance.

"(b) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan submitted under section 803 does not comply with the requirements of that section, the Secretary shall specify in the notice under subsection (a)—

"(1) the reasons for noncompliance; and

"(2) any modifications necessary for the plan to meet the requirements of section 803.

"(c) REVIEW.—

"(1) IN GENERAL.—After the Director of the Department of Hawaiian Home Lands submits a housing plan under section 803, or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make a determination under this subsection, the Secretary shall review the plan (including any amendments or modifications thereto) to determine whether the contents of the plan—

"(A) set forth the information required by section 803 to be contained in the housing plan;

"(B) are consistent with information and data available to the Secretary; and

"(C) are not prohibited by or inconsistent with any provision of this Act or any other applicable law.

"(2) INCOMPLETE PLANS.—If the Secretary determines under this subsection that any of the appropriate certifications required under section 803(c)(2)(E) are not included in a plan, the plan shall be considered to be incomplete.

"(d) UPDATES TO PLAN.—

"(1) IN GENERAL.—Subject to paragraph (2), after a plan under section 803 has been submitted for a fiscal year, the head of the Department of Hawaiian Home Lands may comply with the provisions of that section for any succeeding fiscal year (with respect to information included for the 5-year period under section 803(b) or for the 1-year period under section 803(c)) by submitting only such information regarding such changes as may be necessary to update the plan previously submitted.

"(2) COMPLETE PLANS.—The Director shall submit a complete plan under section 803 not later than 4 years after submitting an initial plan under that section, and not less frequently than every 4 years thereafter.

"(e) EFFECTIVE DATE.—This section and section 803 shall take effect on the date provided by the Secretary pursuant to section 807(a) to provide for timely submission and review of the housing plan as necessary for the provision of assistance under this title for fiscal year 2000.

"SEC. 805. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.

"(a) PROGRAM INCOME.—

"(1) AUTHORITY TO RETAIN.—The Department of Hawaiian Home Lands may retain any program income that is realized from any grant amounts received by the Department under this title if—

"(A) that income was realized after the initial disbursement of the grant amounts received by the Department; and

"(B) the Director agrees to use the program income for affordable housing activities in accordance with the provisions of this title.

"(2) PROHIBITION OF REDUCTION OF GRANT.—The Secretary may not reduce the grant amount for the Department of Hawaiian Home Lands based solely on—

"(A) whether the Department retains program income under paragraph (1); or

"(B) the amount of any such program income retained.

"(3) EXCLUSION OF AMOUNTS.—The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the requirements of this subsection would create an unreasonable administrative burden on the Department.

"(b) LABOR STANDARDS.—

"(1) IN GENERAL.—Any contract or agreement for assistance, sale, or lease pursuant to this title shall contain—

"(A) a provision requiring that an amount not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, technicians employed in the development and all maintenance, and laborers and mechanics employed in the operation, of the affordable housing project involved; and

"(B) a provision that an amount not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Act commonly known as the 'Davis-Bacon Act' (46 Stat. 1494, chapter 411; 40 U.S.C. 276a et seq.) shall be paid to all laborers and mechanics employed in the development of the affordable housing involved.

"(2) EXCEPTIONS.—Paragraph (1) and provisions relating to wages required under paragraph (1) in any contract or agreement for assistance, sale, or lease under this title, shall not apply to any individual who performs the services for which the individual volunteered and who is not otherwise employed at any time in the construction work and received no compensation or is paid expenses, reasonable benefits, or a nominal fee for those services.

"SEC. 806. ENVIRONMENTAL REVIEW.

"(a) IN GENERAL.—

"(1) RELEASE OF FUNDS.—

"(A) IN GENERAL.—The Secretary may carry out the alternative environmental protection procedures described in subparagraph (B) in order to ensure—

"(i) that the policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of law that further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of grant amounts provided under this title; and

"(ii) to the public undiminished protection of the environment.

"(B) ALTERNATIVE ENVIRONMENTAL PROTECTION PROCEDURE.—In lieu of applying environmental protection procedures otherwise applicable, the Secretary may by regulation provide for the release of funds for specific projects to the Department of Hawaiian Home Lands if the Director of the Department assumes all of the responsibilities for environmental review, decisionmaking, and action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were the Secretary to undertake those projects as Federal projects.

"(2) REGULATIONS.—

"(A) IN GENERAL.—The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.

"(B) CONTENTS.—The regulations issued under this paragraph shall—

"(i) provide for the monitoring of the environmental reviews performed under this section;

"(ii) in the discretion of the Secretary, facilitate training for the performance of such reviews; and

"(iii) provide for the suspension or termination of the assumption of responsibilities under this section.

"(3) EFFECT ON ASSUMED RESPONSIBILITY.—The duty of the Secretary under paragraph (2)(B) shall not be construed to limit or reduce any responsibility assumed by the Department of Hawaiian Home Lands for grant amounts with respect to any specific release of funds.

"(b) PROCEDURE.—

"(1) IN GENERAL.—The Secretary shall authorize the release of funds subject to the procedures under this section only if, not less than 15 days before that approval and before any commitment of funds to such projects, the Director of the Department of Hawaiian Home Lands submits to the Secretary a request for such release accompanied by a certification that meets the requirements of subsection (c).

"(2) EFFECT OF APPROVAL.—The approval of the Secretary of a certification described in paragraph (1) shall be deemed to satisfy the responsibilities of the Secretary under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and such other provisions of law as the regulations of the Secretary specify to the extent that those responsibilities relate to the releases of funds for projects that are covered by that certification.

"(c) CERTIFICATION.—A certification under the procedures under this section shall—

"(1) be in a form acceptable to the Secretary;

"(2) be executed by the Director of the Department of Hawaiian Home Lands;

"(3) specify that the Department of Hawaiian Home Lands has fully carried out its responsibilities as described under subsection (a); and

"(4) specify that the Director—

"(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and each provision of law specified in regulations issued by the Secretary to the extent that those laws apply by reason of subsection (a); and

"(B) is authorized and consents on behalf of the Department of Hawaiian Home Lands and the Director to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities of the Director of the Department of Hawaiian Home Lands as such an official.

"SEC. 807. REGULATIONS.

"The Secretary shall issue final regulations necessary to carry out this title not later than October 1, 1999.

"SEC. 808. EFFECTIVE DATE.

"Except as otherwise expressly provided in this title, this title shall take effect on October 1, 1999.

"SEC. 809. AFFORDABLE HOUSING ACTIVITIES.

"(a) NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES.—

"(1) PRIMARY OBJECTIVE.—The national objectives of this title are—

"(A) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments for occupancy by low-income Native Hawaiian families;

"(B) to ensure better access to private mortgage markets and to promote self-sufficiency of low-income Native Hawaiian families;

"(C) to coordinate activities to provide housing for low-income Native Hawaiian families with Federal, State and local activities to further economic and community development;

"(D) to plan for and integrate infrastructure resources on the Hawaiian Home Lands with housing development; and

"(E) to—

"(i) promote the development of private capital markets; and

"(ii) allow the markets referred to in clause (i) to operate and grow, thereby benefiting Native Hawaiian communities.

"(2) ELIGIBLE FAMILIES.—

"(A) IN GENERAL.—Except as provided under subparagraph (B), assistance for eligible housing activities under this title shall be limited to low-income Native Hawaiian families.

"(B) EXCEPTION TO LOW-INCOME REQUIREMENT.—

"(i) IN GENERAL.—The Director may provide assistance for homeownership activities under—

"(I) section 810(b);

"(II) model activities under section 810(f); or

"(III) loan guarantee activities under section 184A of the Housing and Community Development Act of 1992 to Native Hawaiian families who are not low-income families, to the extent that the Secretary approves the activities under that section to address a need for housing for those families that cannot be reasonably met without that assistance.

"(ii) LIMITATIONS.—The Secretary shall establish limitations on the amount of assistance that may be provided under this title for activities for families that are not low-income families.

"(C) OTHER FAMILIES.—Notwithstanding paragraph (1), the Director may provide housing or housing assistance provided through affordable housing activities assisted with grant amounts under this title to a family that is not composed of Native Hawaiians if—

"(i) the Department determines that the presence of the family in the housing involved is essential to the well-being of Native Hawaiian families; and

"(ii) the need for housing for the family cannot be reasonably met without the assistance.

"(D) PREFERENCE.—

"(i) IN GENERAL.—A housing plan submitted under section 803 may authorize a preference, for housing or housing assistance provided through affordable housing activities assisted with grant amounts provided under this title to be provided, to the extent practicable, to families that are eligible to reside on the Hawaiian Home Lands.

"(ii) APPLICATION.—In any case in which a housing plan provides for preference described in clause (i), the Director shall ensure that housing activities that are assisted with grant amounts under this title are subject to that preference.

"(E) USE OF NONPROFIT ORGANIZATIONS.—As a condition of receiving grant amounts under this title, the Department of Hawaiian Home Lands, shall to the extent practicable, provide for private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians to carry out affordable housing activities with those grant amounts.

"SEC. 810. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.

"(a) IN GENERAL.—Affordable housing activities under this section are activities conducted in accordance with the requirements of section 811 to—

"(1) develop or to support affordable housing for rental or homeownership; or

"(2) provide housing services with respect to affordable housing, through the activities described in subsection (b).

"(b) ACTIVITIES.—The activities described in this subsection are the following:

"(1) DEVELOPMENT.—The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include—

"(A) real property acquisition;

"(B) site improvement;

"(C) the development of utilities and utility services;

"(D) conversion;

"(E) demolition;

"(F) financing;

"(G) administration and planning; and

"(H) other related activities.

"(2) HOUSING SERVICES.—The provision of housing-related services for affordable housing, including—

"(A) housing counseling in connection with rental or homeownership assistance;

"(B) the establishment and support of resident organizations and resident management corporations;

"(C) energy auditing;

"(D) activities related to the provisions of self-sufficiency and other services; and

"(E) other services related to assisting owners, tenants, contractors, and other entities participating or seeking to participate in other housing activities assisted pursuant to this section.

"(3) HOUSING MANAGEMENT SERVICES.—The provision of management services for affordable housing, including—

"(A) the preparation of work specifications;

"(B) loan processing;

"(C) inspections;

"(D) tenant selection;

"(E) management of tenant-based rental assistance; and

"(F) management of affordable housing projects.

"(4) CRIME PREVENTION AND SAFETY ACTIVITIES.—The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime.

"(5) MODEL ACTIVITIES.—Housing activities under model programs that are—

"(A) designed to carry out the purposes of this title; and

"(B) specifically approved by the Secretary as appropriate for the purpose referred to in subparagraph (A).

"SEC. 811. PROGRAM REQUIREMENTS.

"(a) RENTS.—

"(1) ESTABLISHMENT.—Subject to paragraph (2), as a condition to receiving grant amounts under this title, the Director shall develop written policies governing rents and homebuyer payments charged for dwelling units assisted under this title, including methods by which such rents and homebuyer payments are determined.

"(2) MAXIMUM RENT.—In the case of any low-income family residing in a dwelling unit assisted with grant amounts under this title, the monthly rent or homebuyer payment (as applicable) for that dwelling unit may not exceed 30 percent of the monthly adjusted income of that family.

"(b) MAINTENANCE AND EFFICIENT OPERATION.—

"(1) IN GENERAL.—The Director shall, using amounts of any grants received under this title, reserve and use for operating under section 810 such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing.

"(2) DISPOSAL OF CERTAIN HOUSING.—This subsection may not be construed to prevent the Director, or any entity funded by the Department, from demolishing or disposing of housing, pursuant to regulations established by the Secretary.

"(c) INSURANCE COVERAGE.—As a condition to receiving grant amounts under this title, the Director shall require adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this title.

"(d) ELIGIBILITY FOR ADMISSION.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

"(e) MANAGEMENT AND MAINTENANCE.—As a condition to receiving grant amounts under this title, the Director shall develop policies governing the management and maintenance of housing assisted with grant amounts under this title.

"SEC. 812. TYPES OF INVESTMENTS.

"(a) IN GENERAL.—Subject to section 811 and an applicable housing plan approved under section 803, the Director shall have—

"(1) the discretion to use grant amounts for affordable housing activities through the use of—

"(A) equity investments;

"(B) interest-bearing loans or advances;

"(C) noninterest-bearing loans or advances;

"(D) interest subsidies;

"(E) the leveraging of private investments; or

"(F) any other form of assistance that the Secretary determines to be consistent with the purposes of this title; and

"(2) the right to establish the terms of assistance provided with funds referred to in paragraph (1).

"(b) INVESTMENTS.—The Director may invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations, as approved by the Secretary.

"SEC. 813. LOW-INCOME REQUIREMENT AND INCOME TARGETING.

"(a) IN GENERAL.—Housing shall qualify for affordable housing for purposes of this title only if—

"(1) each dwelling unit in the housing—

"(A) in the case of rental housing, is made available for occupancy only by a family that is a low-income family at the time of the initial occupancy of that family of that unit; and

"(B) in the case of housing for homeownership, is made available for purchase only by a family that is a low-income family at the time of purchase; and

"(2) each dwelling unit in the housing will remain affordable, according to binding commitments satisfactory to the Secretary, for—

"(A) the remaining useful life of the property (as determined by the Secretary) without regard to the term of the mortgage or to transfer of ownership; or

"(B) such other period as the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this title, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if that action—

"(i) recognizes any contractual or legal rights of any public agency, nonprofit sponsor, or other person or entity to take an action that would—

"(I) avoid termination of low-income affordability, in the case of foreclosure; or

"(II) transfer ownership in lieu of foreclosure; and

"(ii) is not for the purpose of avoiding low-income affordability restrictions, as determined by the Secretary.

"(b) EXCEPTION.—Notwithstanding subsection (a), housing assisted pursuant to section 809(a)(2)(B) shall be considered affordable housing for purposes of this title.

"SEC. 814. LEASE REQUIREMENTS AND TENANT SELECTION.

"(a) LEASES.—Except to the extent otherwise provided by or inconsistent with the laws of the State of Hawaii, in renting dwelling units in affordable housing assisted with grant amounts provided under this title, the Director, owner, or manager shall use leases that—

"(1) do not contain unreasonable terms and conditions;

"(2) require the Director, owner, or manager to maintain the housing in compliance with applicable housing codes and quality standards;

"(3) require the Director, owner, or manager to give adequate written notice of termination of the lease, which shall be the period of time required under applicable State or local law;

"(4) specify that, with respect to any notice of eviction or termination, notwithstanding any State or local law, a resident shall be informed of the opportunity, before any hearing or trial, to examine any relevant documents, record, or regulations directly related to the eviction or termination;

"(5) require that the Director, owner, or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms and conditions of the lease, violation of applicable Federal, State, or local law, or for other good cause; and

"(6) provide that the Director, owner, and manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident, that—

"(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the Department, owner, or manager;

"(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or

"(C) is criminal activity (including drug-related criminal activity) on or off the premises.

"(b) TENANT OR HOMEBUYER SELECTION.—As a condition to receiving grant amounts under this title, the Director shall adopt and use written tenant and homebuyer selection policies and criteria that—

"(1) are consistent with the purpose of providing housing for low-income families;

"(2) are reasonably related to program eligibility and the ability of the applicant to perform the obligations of the lease; and

"(3) provide for—

"(A) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forth in an applicable housing plan approved under section 803; and

"(B) the prompt notification in writing of any rejected applicant of the grounds for that rejection.

"SEC. 815. REPAYMENT.

"If the Department of Hawaiian Home Lands uses grant amounts to provide affordable housing under activities under this title and, at any time during the useful life of the housing, the housing does not comply with the requirement under section 813(a)(2), the Secretary shall—

"(1) reduce future grant payments on behalf of the Department by an amount equal to the grant amounts used for that housing (under the authority of section 819(a)(2)); or

"(2) require repayment to the Secretary of any amount equal to those grant amounts.

"SEC. 816. ANNUAL ALLOCATION.

"For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this title for the fiscal year, in accordance with the formula established pursuant to section 817 to the Department of Hawaiian Home Lands if the Department complies with the requirements under this title for a grant under this title.

"SEC. 817. ALLOCATION FORMULA.

"(a) ESTABLISHMENT.—The Secretary shall, by regulation issued not later than the expiration of the 6-month period beginning on the date of enactment of the Native American Housing Assistance and Self-Determination Amendments of 1999, in the manner provided under section 807, establish a formula to provide for the allocation of amounts available for a fiscal year for block grants under this title in accordance with the requirements of this section.

"(b) FACTORS FOR DETERMINATION OF NEED.—The formula under subsection (a) shall be based on factors that reflect the needs for assistance for affordable housing activities, including—

"(1) the number of low-income dwelling units owned or operated at the time pursuant to a contract between the Director and the Secretary;

"(2) the extent of poverty and economic distress and the number of Native Hawaiian families eligible to reside on the Hawaiian Home Lands; and

"(3) any other objectively measurable conditions that the Secretary and the Director may specify.

"(c) OTHER FACTORS FOR CONSIDERATION.—In establishing the formula under subsection (a), the Secretary shall consider the relative administrative capacities of the Department of Hawaiian Home Lands and other challenges faced by the Department, including—

"(1) geographic distribution within Hawaiian Home Lands; and

"(2) technical capacity.

"(d) Effective Date.—This section shall take effect on the date of enactment of the Native American Housing Assistance and Self-Determination Amendments of 1999.

"SEC. 818. REMEDIES FOR NONCOMPLIANCE.

"(a) Actions by Secretary Affecting Grant Amounts.—

"(1) In general.—Except as provided in subsection (b), if the Secretary finds after reasonable notice and opportunity for a hearing that the Department of Hawaiian Home Lands has failed to comply substantially with any provision of this title, the Secretary shall—

"(A) terminate payments under this title to the Department;

"(B) reduce payments under this title to the Department by an amount equal to the amount of such payments that were not expended in accordance with this title; or

"(C) limit the availability of payments under this title to programs, projects, or activities not affected by such failure to comply.

"(2) Actions.—If the Secretary takes an action under subparagraph (A), (B), or (C) of paragraph (1), the Secretary shall continue that action until the Secretary determines that the failure by the Department to comply with the provision has been remedied by the Department and the Department is in compliance with that provision.

"(b) Noncompliance Because of a Technical Incapacity.—The Secretary may provide technical assistance for the Department, either directly or indirectly, that is designed to increase the capability and capacity of the Director of the Department to administer assistance provided under this title in compliance with the requirements under this title if the Secretary makes a finding under subsection (a), but determines that the failure of the Department to comply substantially with the provisions of this title—

"(1) is not a pattern or practice of activities constituting willful noncompliance; and

"(2) is a result of the limited capability or capacity of the Department of Hawaiian Home Lands.

"(c) Referral for Civil Action.—

"(1) Authority.—In lieu of, or in addition to, any action that the Secretary may take under subsection (a), if the Secretary has reason to believe that the Department of Hawaiian Home Lands has failed to comply substantially with any provision of this title, the Secretary may refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.

"(2) Civil action.—Upon receiving a referral under paragraph (1), the Attorney General may bring a civil action in any United States district court of appropriate jurisdiction for such relief as may be appropriate, including an action—

"(A) to recover the amount of the assistance furnished under this title that was not expended in accordance with this title; or

"(B) for mandatory or injunctive relief.

"(d) Review.—

"(1) In general.—If the Director receives notice under subsection (a) of the termination, reduction, or limitation of payments under this Act, the Director—

"(A) may, not later than 60 days after receiving such notice, file with the United States Court of Appeals for the Ninth Circuit, or in the United States Court of Appeals for the District of Columbia, a petition for review of the action of the Secretary; and

"(B) upon the filing of any petition under subparagraph (A), shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

"(2) Procedure.—

"(A) In general.—The Secretary shall file in the court a record of the proceeding on which the Secretary based the action, as provided in section 2112 of title 28, United States Code.

"(B) Objections.—No objection to the action of the Secretary shall be considered by the court unless the Department has registered the objection before the Secretary.

"(3) Disposition.—

"(A) Court proceedings.—

"(i) Jurisdiction of court.—The court shall have jurisdiction to affirm or modify the action of the Secretary or to set the action aside in whole or in part.

"(ii) Findings of fact.—If supported by substantial evidence on the record considered as a whole, the findings of fact by the Secretary shall be conclusive.

"(iii) Addition.—The court may order evidence, in addition to the evidence submitted for review under this subsection, to be taken by the Secretary, and to be made part of the record.

"(B) Secretary.—

"(i) In general.—The Secretary, by reason of the additional evidence referred to in subparagraph (A) and filed with the court—

"(I) may—

"(aa) modify the findings of fact of the Secretary; or

"(bb) make new findings; and

"(II) shall file—

"(aa) such modified or new findings; and

"(bb) the recommendation of the Secretary, if any, for the modification or setting aside of the original action of the Secretary.

"(ii) Findings.—The findings referred to in clause (i)(II)(bb) shall, with respect to a question of fact, be considered to be conclusive if those findings are—

"(I) supported by substantial evidence on the record; and

"(II) considered as a whole.

"(4) Finality.—

"(A) In general.—Except as provided in subparagraph (B), upon the filing of the record under this subsection with the court—

"(i) the jurisdiction of the court shall be exclusive; and

"(ii) the judgment of the court shall be final.

"(B) Review by supreme court.—A judgment under subparagraph (A) shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification, as provided in section 1254 of title 28, United States Code.

"SEC. 819. MONITORING OF COMPLIANCE.

"(a) Enforceable Agreements.—

"(1) In general.—The Director, through binding contractual agreements with owners or other authorized entities, shall ensure long-term compliance with the provisions of this title.

"(2) Measures.—The measures referred to in paragraph (1) shall provide for—

"(A) to the extent allowable by Federal and State law, the enforcement of the provisions of this title by the Department and the Secretary; and

"(B) remedies for breach of the provisions referred to in paragraph (1).

"(b) Periodic Monitoring.—

"(1) In general.—Not less frequently than annually, the Director shall review the activities conducted and housing assisted under this title to assess compliance with the requirements of this title.

"(2) Review.—Each review under paragraph (1) shall include onsite inspection of housing to determine compliance with applicable requirements.

"(3) Results.—The results of each review under paragraph (1) shall be—

"(A) included in a performance report of the Director submitted to the Secretary under section 820; and

"(B) made available to the public.

"(c) Performance Measures.—The Secretary shall establish such performance measures as may be necessary to assess compliance with the requirements of this title.

"SEC. 820. PERFORMANCE REPORTS.

"(a) Requirement.—For each fiscal year, the Director shall—

"(1) review the progress the Department has made during that fiscal year in carrying out the housing plan submitted by the Department under section 803; and

"(2) submit a report to the Secretary (in a form acceptable to the Secretary) describing the conclusions of the review.

"(b) Content.—Each report submitted under this section for a fiscal year shall—

"(1) describe the use of grant amounts provided to the Department of Hawaiian Home Lands for that fiscal year;

"(2) assess the relationship of the use referred to in paragraph (1) to the goals identified in the housing plan;

"(3) indicate the programmatic accomplishments of the Department; and

"(4) describe the manner in which the Department would change its housing plan submitted under section 803 as a result of its experiences.

"(c) Submissions.—The Secretary shall—

"(1) establish a date for submission of each report under this section;

"(2) review each such report; and

"(3) with respect to each such report, make recommendations as the Secretary considers appropriate to carry out the purposes of this title.

"(d) Public Availability.—

"(1) Comments by beneficiaries.—In preparing a report under this section, the Director shall make the report publicly available to the beneficiaries of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.) and give a sufficient amount of time to permit those beneficiaries to comment on that report before it is submitted to the Secretary (in such manner and at such time as the Director may determine).

"(2) Summary of comments.—The report shall include a summary of any comments received by the Director from beneficiaries under paragraph (1) regarding the program to carry out the housing plan.

"SEC. 821. REVIEW AND AUDIT BY SECRETARY.

"(a) Annual Review.—

"(1) In general.—The Secretary shall, not less frequently than on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether—

"(A) the Director has—

"(i) carried out eligible activities under this title in a timely manner;

"(ii) carried out and made certifications in accordance with the requirements and the primary objectives of this title and with other applicable laws; and

"(iii) a continuing capacity to carry out the eligible activities in a timely manner;

“(B) the Director has complied with the housing plan submitted by the Director under section 803; and

“(C) the performance reports of the Department under section 821 are accurate.

“(2) Onsite visits.—Each review conducted under this section shall, to the extent practicable, include onsite visits by employees of the Department of Housing and Urban Development.

“(b) Report by Secretary.—The Secretary shall give the Department of Hawaiian Home Lands not less than 30 days to review and comment on a report under this subsection. After taking into consideration the comments of the Department, the Secretary may revise the report and shall make the comments of the Department and the report with any revisions, readily available to the public not later than 30 days after receipt of the comments of the Department.

“(c) Effect of Reviews.—The Secretary may make appropriate adjustments in the amount of annual grants under this title in accordance with the findings of the Secretary pursuant to reviews and audits under this section. The Secretary may adjust, reduce, or withdraw grant amounts, or take other action as appropriate in accordance with the reviews and audits of the Secretary under this section, except that grant amounts already expended on affordable housing activities may not be recaptured or deducted from future assistance provided to the Department of Hawaiian Home Lands.

“SEC. 822. GENERAL ACCOUNTING OFFICE AUDITS.

“To the extent that the financial transactions of the Department of Hawaiian Home Lands involving grant amounts under this title relate to amounts provided under this title, those transactions may be audited by the Comptroller General of the United States under such regulations as may be prescribed by the Comptroller General. The Comptroller General of the United States shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the Department of Hawaiian Home Lands pertaining to such financial transactions and necessary to facilitate the audit.

“SEC. 823. REPORTS TO CONGRESS.

“(a) In General.—Not later than 90 days after the conclusion of each fiscal year in which assistance under this title is made available, the Secretary shall submit to the Congress a report that contains—

“(1) a description of the progress made in accomplishing the objectives of this title;

“(2) a summary of the use of funds available under this title during the preceding fiscal year; and

“(3) a description of the aggregate outstanding loan guarantees under section 184A of the Housing and Community Development Act of 1992.

“(b) Related Reports.—The Secretary may require the Director to submit to the Secretary such reports and other information as may be necessary in order for the Secretary to prepare the report required under subsection (a).

“SEC. 824. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to the Department of Housing and Urban Development for grants under this title such sums as may be necessary for each of fiscal years 2000, 2001, 2002, 2003, and 2004.”.

SEC. 4. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.

Subtitle E of title I of the Housing and Community Development Act of 1992 is amended by inserting after section 184 (12 U.S.C. 1715z–13a) the following:

“SEC. 184A. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.

“(a) Definitions.—In this section:

“(1) Department of Hawaiian Home Lands.—The term ‘Department of Hawaiian Home Lands’ means the agency or department of the government of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 set seq.).

“(2) Eligible entity.—The term ‘eligible entity’ means a Native Hawaiian family, the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, private nonprofit or for profit organizations experienced in the planning and development of affordable housing for Native Hawaiians.

“(3) Family.—The term ‘family’ means 1 or more persons maintaining a household, as the Secretary shall by regulation provide.

“(4) Guarantee fund.—The term ‘Guarantee Fund’ means the Native Hawaiian Housing Loan Guarantee Fund established under subsection (i).

“(5) Hawaiian home lands.—The term ‘Hawaiian Home Lands’ means lands that—

“(A) have the status of Hawaiian Home Lands under section 204 of the Hawaiian Homes Commission Act (42 Stat. 110); or

“(B) are acquired pursuant to that Act.

“(6) Native hawaiian.—The term ‘Native Hawaiian’ has the meaning given the term ‘native Hawaiian’ in section 201 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

“(7) Office of hawaiian affairs.—The term ‘Office of Hawaiian Affairs’ means the entity of that name established under the constitution of the State of Hawaii.

“(b) Authority.—To provide access to sources of private financing to Native Hawaiian families who otherwise could not acquire housing financing because of the unique legal status of the Hawaiian home lands or as a result of a lack of access to private financial markets, the Secretary may guarantee an amount not to exceed 100 percent of the unpaid principal and interest that is due on an eligible loan under subsection (b).

“(c) Eligible Loans.—Under this section, a loan is an eligible loan if that loan meets the following requirements:

“(1) Eligible borrowers.—The loans is made only to a borrower who—

“(A) is a Native Hawaiian family;

“(B) the Department of Hawaiian Home Lands;

“(C) the Office of Hawaiian Affairs; or

“(D) a private nonprofit organization experienced in the planning and development of affordable housing for Native Hawaiians.

“(2) Eligible housing.—

“(A) In general.—The loan will be used to construct, acquire, or rehabilitate not more than 4-family dwellings that are standard housing and are located on Hawaiian Home Lands for which a housing plan described in subparagraph (B) applies.

“(B) Housing plan.—A housing plan described in this subparagraph is a housing plan that—

“(i) has been submitted and approved by the Secretary under section 803 of the Native American Housing Assistance and Self-Determination Amendments of 1999; and

“(ii) provides for the use of loan guarantees under this section to provide affordable homeownership housing on Hawaiian Home Lands.

“(3) Security.—The loan may be secured by any collateral authorized under applicable Federal law or State law.

“(4) Lenders.—

“(A) In general.—The loan shall be made only by a lender approved by, and meeting qualifications established by, the Secretary, including any lender described in subparagraph (B), except that a loan otherwise insured or guaranteed by an agency of the Federal Government or made by the Department of Hawaiian Home Lands from amounts borrowed from the United Sates shall not be eligible for a guarantee under this section.

“(B) Approval.—The following lenders shall be considered to be lenders that have been approved by the Secretary:

“(i) Any mortgagee approved by the Secretary for participation in the single family mortgage insurance program under title II of the National Housing Act (12 U.S.C.A. 1707 et seq.).

“(ii) Any lender that makes housing loans under chapter 37 of title 38, United States Code, that are automatically guaranteed under section 3702(d) of title 38, United States Code.

“(iii) Any lender approved by the Secretary of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949 (42 U.S.C.A. 1441 et seq.).

“(iv) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government.

“(5) Terms.—The loan shall—

“(A) be made for a term not exceeding 30 years;

“(B) bear interest (exclusive of the guarantee fee under subsection (d) and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, but not to exceed the rate generally charged in the area (as determined by the Secretary) for home mortgage loans not guaranteed or insured by any agency or instrumentality of the Federal Government;

“(C) involve a principal obligation not exceeding—

“(i) 97.75 percent of the appraised value of the property as of the date the loan is accepted for guarantee (or 98.75 percent if the value of the property is $50,000 or less); or

“(ii) the amount approved by the Secretary under this section; and

“(D) involve a payment on account of the property—

“(i) in cash or its equivalent; or

“(ii) through the value of any improvements to the property made through the skilled or unskilled labor of the borrower, as the Secretary shall provide.

“(d) Certificate of Guarantee.—

“(1) Approval process.—

“(A) In general.—Before the Secretary approves any loan for guarantee under this section, the lender shall submit the application for the loan to the Secretary for examination.

“(B) Approval.—If the Secretary approves the application submitted under subparagraph (A), the Secretary shall issue a certificate under this subsection as evidence of the loan guarantee approved.

“(2) Standard for approval.—The Secretary may approve a loan for guarantee under this section and issue a certificate under this subsection only if the Secretary determines that there is a reasonable prospect of repayment of the loan.

“(3) Effect.—

“(A) In general.—A certificate of guarantee issued under this subsection by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under this section and the amount of that guarantee.

“(B) Evidence.—The evidence referred to in subparagraph (A) shall be incontestable in the hands of the bearer.

"(C) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for the obligations made by the Secretary under this section.

"(4) FRAUD AND MISREPRESENTATION.—This subsection may not be construed—

"(A) to preclude the Secretary from establishing defenses against the original lender based on fraud or material misrepresentation; or

"(B) to bar the Secretary from establishing by regulations that are on the date of issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

"(e) GUARANTEE FEE.—

"(1) IN GENERAL.—The Secretary shall fix and collect a guarantee fee for the guarantee of a loan under this section, which may not exceed the amount equal to 1 percent of the principal obligation of the loan.

"(2) PAYMENT.—The fee under this subsection shall—

"(A) be paid by the lender at time of issuance of the guarantee; and

"(B) be adequate, in the determination of the Secretary, to cover expenses and probable losses.

"(3) DEPOSIT.—The Secretary shall deposit any fees collected under this subsection in the Native Hawaiian Housing Loan Guarantee Fund established under subsection (j).

"(f) LIABILITY UNDER GUARANTEE.—The liability under a guarantee provided under this section shall decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement involved.

"(g) TRANSFER AND ASSUMPTION.—Notwithstanding any other provision of law, any loan guaranteed under this section, including the security given for the loan, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

"(h) DISQUALIFICATION OF LENDERS AND CIVIL MONEY PENALTIES.—

"(1) IN GENERAL.—

"(A) GROUNDS FOR ACTION.—The Secretary may take action under subparagraph (B) if the Secretary determines that any lender or holder of a guarantee certificate under subsection (c)—

"(i) has failed—

"(I) to maintain adequate accounting records;

"(II) to service adequately loans guaranteed under this section; or

"(III) to exercise proper credit or underwriting judgment; or

"(ii) has engaged in practices otherwise detrimental to the interest of a borrower or the United States.

"(B) ACTIONS.—Upon a determination by the Secretary that a holder of a guarantee certificate under subsection (c) has failed to carry out an activity described in subparagraph (A)(i) or has engaged in practices described in subparagraph (A)(ii), the Secretary may—

"(i) refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;

"(ii) bar such lender or holder from acquiring additional loans guaranteed under this section; and

"(iii) require that such lender or holder assume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under this section.

"(2) CIVIL MONEY PENALTIES FOR INTENTIONAL VIOLATIONS.—

"(A) IN GENERAL.—The Secretary may impose a civil monetary penalty on a lender or holder of a guarantee certificate under subsection (d) if the Secretary determines that the holder or lender has intentionally failed—

"(i) to maintain adequate accounting records;

"(ii) to adequately service loans guaranteed under this section; or

"(iii) to exercise proper credit or underwriting judgment.

"(B) PENALTIES.—A civil monetary penalty imposed under this paragraph shall be imposed in the manner and be in an amount provided under section 536 of the National Housing Act (12 U.S.C.A. 1735f–1) with respect to mortgagees and lenders under that Act.

"(3) PAYMENT ON LOANS MADE IN GOOD FAITH.—Notwithstanding paragraphs (1) and (2), if a loan was made in good faith, the Secretary may not refuse to pay a lender or holder of a valid guarantee on that loan, without regard to whether the lender or holder is barred under this subsection.

"(i) PAYMENT UNDER GUARANTEE.—

"(1) LENDER OPTIONS.—

"(A) IN GENERAL.—

"(i) NOTIFICATION.—If borrower on a loan guaranteed under this section defaults on the loan, the holder of the guarantee certificate shall provide written notice of the default to the Secretary.

"(ii) PAYMENT.—Upon providing the notice required under clause (i), the holder of the guarantee certificate shall be entitled to payment under the guarantee (subject to the provisions of this section) and may proceed to obtain payment in 1 of the following manners:

"(I) FORECLOSURE.—

"(aa) IN GENERAL.—The holder of the certificate may initiate foreclosure proceedings (after providing written notice of that action to the Secretary).

"(bb) PAYMENT.—Upon a final order by the court authorizing foreclosure and submission to the Secretary of a claim for payment under the guarantee, the Secretary shall pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined pursuant to subsection (f)) plus reasonable fees and expenses as approved by the Secretary.

"(cc) SUBROGATION.—The rights of the Secretary shall be subrogated to the rights of the holder of the guarantee. The holder shall assign the obligation and security to the Secretary.

"(II) NO FORECLOSURE.—

"(aa) IN GENERAL.—Without seeking foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a request to assign the obligation and security interest to the Secretary in return for payment of the claim under the guarantee. The Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interest of the United States.

"(bb) PAYMENT.—Upon assignment, the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (f)).

"(cc) SUBROGATION.—The rights of the Secretary shall be subrogated to the rights of the holder of the guarantee. The holder shall assign the obligation and security to the Secretary.

"(B) REQUIREMENTS.—Before any payment under a guarantee is made under subparagraph (A), the holder of the guarantee shall exhaust all reasonable possibilities of collection. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States. The Secretary shall then take such action to collect as the Secretary determines to be appropriate.

"(2) LIMITATIONS ON LIQUIDATION.—

"(A) IN GENERAL.—If a borrower defaults on a loan guaranteed under this section that involves a security interest in restricted Hawaiian Home Land property, the mortgagee or the Secretary shall only pursue liquidation after offering to transfer the account to another eligible Hawaiian family or the Department of Hawaiian Home Lands.

"(B) LIMITATION.—If, after action is taken under subparagraph (A), the mortgagee or the Secretary subsequently proceeds to liquidate the account, the mortgagee or the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property described in subparagraph (A) except to another eligible Hawaiian family or to the Department of Hawaiian Home Lands.

"(j) HAWAIIAN HOUSING LOAN GUARANTEE FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Hawaiian Housing Loan Guarantee Fund for the purpose of providing loan guarantees under this section.

"(2) CREDITS.—The Guarantee Fund shall be credited with—

"(A) any amount, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;

"(B) any amounts appropriated pursuant to paragraph (7);

"(C) any guarantee fees collected under subsection (d); and

"(D) any interest or earnings on amounts invested under paragraph (4).

"(3) USE.—Amounts in the Guarantee Fund shall be available, to the extent provided in appropriations Acts, for—

"(A) fulfilling any obligations of the Secretary with respect to loans guaranteed under this section, including the costs (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of such loans;

"(B) paying taxes, insurance, prior liens, expenses necessary to make fiscal adjustment in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed under this section or held by the Secretary;

"(C) acquiring such security property at foreclosure sales or otherwise;

"(D) paying administrative expenses in connection with this section; and

"(E) reasonable and necessary costs of rehabilitation and repair to properties that the Secretary holds or owns pursuant to this section.

"(4) INVESTMENT.—Any amounts in the Guarantee Fund determined by the Secretary to be in excess of amounts currently required at the time of the determination to carry out this section may be invested in obligations of the United States.

"(5) LIMITATION ON COMMITMENTS TO GUARANTEE LOANS AND MORTGAGES.—

"(A) REQUIREMENT OF APPROPRIATIONS.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year to the extent, or in such amounts as, are or have been provided in appropriations Acts, without regard to the fiscal year for which such amounts were appropriated.

"(B) LIMITATIONS ON COSTS OF GUARANTEES.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent that amounts in the Guarantee Fund are or have been made available in appropriations Acts to cover the costs (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of such loan guarantees for such fiscal year. Any amounts appropriated pursuant to this subparagraph shall remain available until expended.

"(C) LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT.—Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section for each of fiscal years 2000, 2001, 2002, 2003, and 2004 with an aggregate outstanding principal amount not exceeding $100,000,000 for each such fiscal year.

"(6) LIABILITIES.—All liabilities and obligations of the assets credited to the Guarantee Fund under paragraph (2)(A) shall be liabilities and obligations of the Guarantee Fund.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for each of fiscal years 2000, 2001, 2002, 2003, and 2004.

"(k) REQUIREMENTS FOR STANDARD HOUSING.—

"(1) IN GENERAL.—The Secretary shall, by regulation, establish housing safety and quality standards to be applied for use under this section.

"(2) STANDARDS.—The standards referred to in paragraph (1) shall—

"(A) provide sufficient flexibility to permit the use of various designs and materials in housing acquired with loans guaranteed under this section; and

"(B) require each dwelling unit in any housing acquired in the manner described in subparagraph (A) to—

"(i) be decent, safe, sanitary, and modest in size and design;

"(ii) conform with applicable general construction standards for the region in which the housing is located;

"(iii) contain a plumbing system that—

"(I) uses a properly installed system of piping;

"(II) includes a kitchen sink and a partitional bathroom with lavatory, toilet, and bath or shower; and

"(III) uses water supply, plumbing, and sewage disposal systems that conform to any minimum standards established by the applicable county or State;

"(iv) contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any appropriate county, State, or national code;

"(v) be not less than the size provided under the applicable locally adopted standards for size of dwelling units, except that the Secretary, upon request of the Department of Hawaiian Home Lands may waive the size requirements under this paragraph; and

"(vi) conform with the energy performance requirements for new construction established by the Secretary under section 526(a) of the National Housing Act (12 U.S.C.A. 1735f-4), unless the Secretary determines that the requirements are not applicable.

"(*l*) APPLICABILITY OF CIVIL RIGHTS STATUTES.—To the extent that the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) apply to a guarantee provided under this subsection, nothing in the requirements concerning discrimination on the basis of race shall be construed to prevent the provision of the guarantee to an eligible entity on the basis that the entity serves Native Hawaiian families or is a Native Hawaiian family.".

By Mr. FEINGOLD:

S. 226. A bill to promote democracy and good governance in Nigeria, and for other purposes; to the Committee on Foreign Relations.

THE NIGERIA DEMOCRACY AND CIVIL SOCIETY EMPOWERMENT ACT OF 1999

Mr. FEINGOLD. Mr. President, I rise to introduce legislation regarding Nigeria, a country that stands today astride the border between a repressive history and a potentially productive future.

As the Ranking Democrat of the Senate Subcommittee on Africa, I have long been concerned about the collapsing economic and political situation in Nigeria. Nigeria, with its rich history, abundant natural resources and wonderful cultural diversity, has the potential to be an important regional leader in West Africa, and the entire African continent. But, sadly, too many of Nigeria's leaders have squandered that potential and the good will of the world with repressive policies, human rights abuses and corruption.

The Nigeria Democracy and Civil Society Empowerment Act of 1999 that I offer today provides a clear framework for U.S. policy toward that troubled West African nation. The Nigeria Democracy and Civil Society Empowerment Act declares that the United States should encourage the political, economic and legal reforms necessary to ensure the rule of law and respect for human rights in Nigeria and should aggressively support a timely and effective transition to democratic, civilian government for the people of Nigeria.

This bill draws heavily from legislation introduced during the last two Congresses with the leadership of several other distinguished members of Congress. In the 104th Congress, I joined the former chair of the Senate Subcommittee on Africa, Senator Kassebaum, and 20 other Senators in introducing sanctions legislation. In the 105th Congress, I introduced an updated version of that bill, a companion measure of which was introduced in the House by the distinguished chair of the House International Relations Committee, Mr. GILMAN of New York, and a distinguished member of that Committee and of the Congressional Black Caucus, Mr. PAYNE of New Jersey. I commend the help and assistance of all of my colleagues on this important issue and I appreciate the opportunity to work with them toward the broader goal of a freer Nigeria.

Mr. President, the Nigeria Democracy and Civil Society Empowerment Act provides by law for many of the sanctions that the United States has had in place against Nigeria for a number of years. It includes a ban on most foreign direct assistance and a ban on the sale of military goods and military assistance to Nigeria, and suggests the reimposition of restriction on visas for top Nigerian officials. But none of these sanctions will be imposed if the President can certify to the Congress that specific conditions, which I will call "benchmarks," regarding the transition to democracy have taken place in Nigeria. These benchmarks include free and fair democratic elections, the release of political prisoners, freedom of the press, continued access for international human rights monitors and the repeal of the many repressive decrees pressed upon the Nigerian people by successive military regimes.

This legislation also provides for $37 million in development assistance over three years to support democracy and governance programs and the activities of the U.S. Information Agency, and mandates a larger presence for the U.S. Agency for International Development. I want to emphasize that this bill authorizes no new money. All of these funds would come out of existing USAID and USIA appropriations.

Finally, the bill requires the Secretary of State to submit a report on corruption in Nigeria including the evidence of corruption by government officials in Nigeria and the impact of corruption on the delivery of government services in Nigeria, on U.S. business interests in Nigeria, and on Nigeria's foreign policy. It would also require that the Secretary's report include information on the impact on U.S. citizens of advance fee fraud and other fraudulent business schemes originating in Nigeria.

The intent of this legislation is twofold. First, it will continue to send an unequivocal message to whomever is ruling Nigeria that disregard for democracy, human rights and the institutions of civil society in Nigeria is simply unacceptable. Second, the bill provides some direction to the Clinton Administration which had considerable difficulty articulating a coherent policy on Nigeria throughout the Abacha regime, and which, I fear, has too quickly embraced the Abubakar regime despite several important outstanding problems.

Nigeria has suffered under military rule for most of its nearly 40 years as an independent nation. By virtue of its size, geographic location, and resource base, it is economically and strategically important both in regional and international terms. Nigeria is critical to American interests. But Nigeria's future was nearly destroyed by the military government of General Sani Abacha. Abacha presided over a Nigeria stunted by rampant corruption, economic mismanagement and the brutal subjugation of its people.

Gen. Abacha was by any definition an authoritarian leader of the worst sort. He routinely imprisoned individuals for expressing their political opinions and skimmed Nigeria's precious resources for his own gains and that of his supporters and cronies. He pretended to set a timetable for a democratic transition, but each of the five officially sanctioned parties under his plan ended up endorsing Gen. Abacha as their candidate in what would have been nothing more than a circus referendum on Abacha himself.

During the dark days of the Abacha regime, any criticism of the so-called transition process was punishable by five years in a Nigerian prison. Nigerian human rights activists and government critics were commonly whisked away to secret trials before military courts and imprisoned; independent media outlets were silenced; workers' rights to organize were restricted; and the infamous State Security [Detention of Persons] Decree No. 2, giving the military sweeping powers of arrest and detention, remained in force.

Perhaps the most horrific example of repression by the Abacha government was the execution of human rights and environmental activist Ken Saro-Wiwa and eight others in November 1995 on trumped-up charges. Between the time of that barbaric spectacle and his death, Abacha appeared to be working even harder to tighten its grip on the country, wasting no opportunity to subjugate the people of Nigeria.

But with the replacement of Abacha by the current military ruler, Gen. Abdulsalami Abubakar, there has been reason to be optimistic about Nigeria's future. Although he has not yet moved to repeal the repressive decrees that place severe restrictions on the basic freedoms of Nigerians, including aforementioned Decree No. 2, Gen. Abubakar has made significant progress in enacting political reforms, including the establishment of a realistic time line for the transition to civilian rule and guidelines for political participation. According to his transition plan, power will be handed over to a civilian government of May 29, 1999, after a series of elections scheduled for December 5, 1998 (local government), January 9, 1999 (state assembly and governors), February 20 1999 (national assembly) and February 27, 1999 (presidential). Abubakar also agreed to release political prisoners, and some have indeed been released including several prominent individuals.

Most Nigerians appear to have embraced this transition program, and many in the international community have welcomed Gen. Abubakar's bold statements. Nevertheless, observers remain apprehensive about the role of the security forces and of the military, perceived weaknesses in the electoral system, the lack of a clear constitutional order, and the possibility of violence during the electoral period. Nigerians also remain concerned about the important questions of federalism and decentralization—including the control and distribution of national wealth—which have yet to be satisfactorily worked out. These concerns, which remain a backdrop to the current transition, tend to dampen what is otherwise a largely optimistic and enthusiastic attitude throughout the country.

Thus, as pleased as I am to see the progress being made, I remain cautious about embracing the new dispensation until we can actually see it in place. Adding to my concerns is the disturbing behavior of the military over New Year's weekend in Bayelsa state. According to unconfirmed reports, as many as 100 people may have been killed in the area around Yenagoa, and the military reinforcements have brought in a force of 10,000 to 15,000 troops to the area. The military government also declared as state of emergency for several days. While the circumstances surrounding the crackdown are unclear, it is troubling that—even during this sensitive time of political transition—the Abubakar regime would rely so heavily on hold habits. Minor disturbance? Send in thousands of troops to take care of it! I fear these troops do not know how to "maintain public order"; rather, they know only how to implement repression. How seriously can we take Abubakar's encouraging statements about political reform, when he continues to use the instruments of repression learned under the Abacha regime?

Nigeria's political transition is taking place in the context of economic and political collapse. Nigeria has the potential to be the economic powerhouse on the African continent, a key regional political leader, and an important American trading partner, but it is none of these things. Despite its wealth, economic activity in Nigeria continues to stagnate, Even oil revenues are not what they might be, but they remain the only reliable source of economic growth, with the United States purchasing an estimated 41 percent of the output.

Corruption and criminal activity in this military-controlled economic and political system have become common, including reports of drug trafficking and consumer fraud schemes that have originated in Nigeria and reached into the United States, including my home state of Wisconsin.

The last time Nigeria appeared posied finally to make a democratic transition, during the 1993 presidential election, the military quickly annulled the results, and promptly put into prision the presumed winner of that eclection Chief Moshood Abiola.

Despite numerous domestic and international pleas for his release, he remained in prison until his tragic death in July. Years of neglect and months of solitary confinement took its toll on Chief Abiola, and barely one month after the death of General Abacha, Abiola died of an apparent heart attack during a meeting with senior American officials.

It is unfortunate, but Nigeria suffers greatly from the weight of its tortured history. I truly hope the transition currently underway will have better results than previous ones, but we must not let hope and expectation cloud our standards for what is best for Nigeria. I am afraid that the international community, and particularly the Clinton administration, are so quick to reward counties for good behavior, that they then trend to ignore continuing bad behavior. I have noticed this problem in U.S. relations with Indonesia, China, and elsewhere, and it certainly is a concern with Nigeria now.

It is in that light that I have decided to reintroduce my bill. This may sound odd, but I actually hope I don't need to pursue this legislation in its current form. I sincerely hope that the transition in Nigeria goes according to all our best wishes, and that there will be no need to impose these sanctions. But if it does not, the spoilers should be aware the U.S. Congress is watching, and will act. This bill provides the means for that action. We cannot let Nigeria spiral down into the quagmire that has overtaken so much of the continent.

I have long urged the Administration to take the toughest stance possible in support of democracy in Nigeria. The regime in Nigeria must know that anything less than a transparent transition to civilian rule will be met with severe consequences, including new sanctions as mandated in this bill.

Mr. President, the legislation I introduce today represents and effort to encourage the best that Nigeria has to offer, to support those Nigerians who have worked tirelessly and fearlessly for democracy and civilian rule and to move our own government toward a Nigeria policy that vigorously reflects the best American values.

The provisions of my bill include benchmarks defining what would constitute an open political process in Nigeria. Despite all the tumultuous events that have taken place in these few months. I still believe these benchmarks are important, and I continue to call on Gen. Abubaker to implement as soon as possible these important changes, such as the repeal of the repressive decrees enacted under Abacha's rule, so that genuine reform may flourish in Nigeria.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 226

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nigerian Democracy and Civil Society Empowerment Act of 1999".

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) The rule by successive military regimes in Nigeria has harmed the lives of the people of Nigeria, undermined confidence in the Nigerian economy, damaged relations between Nigeria and the United States, and threatened the political and economic stability of West Africa.

(2) The current military regime, under the leadership of Gen. Abdusalami Abubakar, has made significant progress in liberalizing the political environment in Nigeria, including the release of many political prisoners, increased respect for freedom of assembly, expression and association, and the establishment of a timeframe for a transition to civilian rule.

(3) Previous military regimes allowed Nigeria to become a haven for international drug trafficking rings and other criminal organizations, although the current government has taken some steps to cooperate with the United States Government in halting such trafficking.

(4) Since 1993, the United States and other members of the international community have imposed limited sanctions against Nigeria in response to human rights violations and political repression, although some of these sanctions have been lifted in response to recent political liberalization.

(5) Despite the progress made in protecting certain freedoms, numerous decrees are still in force that suspend the constitutional protection of fundamental human rights, allow indefinite detention without charge, and revoke the jurisdiction of civilian courts over executive actions.

(6) As a party to the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights, and a signatory to the Harare Commonwealth Declaration, Nigeria is obligated to fairly conduct elections that guarantee the free expression of the will of the electors.

(7) As the leading military force within the Economic Community of West African States (ECOWAS) peacekeeping force, Nigeria has played a major role in attempting to secure peace in Liberia and Sierra Leone.

(8) Despite the optimism expressed by many observers about the progress that has been made in Nigeria, the country's recent history raises serious questions about the potential success of the transition process. In particular, events in the Niger Delta over the New Year underscore the critical need for ongoing monitoring of the situation and indicate that a return by the military to repressive methods is still a possibility.

(b) DECLARATION OF POLICY.—Congress declares that the United States should encourage political, economic, and legal reforms necessary to ensure rule of law and respect for human rights in Nigeria and support a timely, effective, and sustainable transition to democratic, civilian government in Nigeria.

SEC. 3. SENSE OF CONGRESS.

(a) INTERNATIONAL COOPERATION.—It is the sense of Congress that the President should actively seek to coordinate with other countries to further—

(1) the United States policy of promoting the rule of law and respect for human rights; and

(2) the transition to democratic civilian government.

(b) UNITED NATIONS HUMAN RIGHTS COMMISSION.—It is the sense of Congress that, in light of the importance of Nigeria to the region and the severity of successive military regimes, the President should instruct the United States Representative to the United Nations Commission on Human Rights (UNCHR) to use the voice and vote of the United States at the annual meeting of the Commission—

(1) to condemn human rights abuses in Nigeria, as appropriate, while recognizing the progress that has been made; and

(2) to press for the continued renewal of the mandate of, and continued access to Nigeria for, the special rapporteur on Nigeria.

SEC. 4. ASSISTANCE TO PROMOTE DEMOCRACY AND CIVIL SOCIETY IN NIGERIA.

(a) DEVELOPMENT ASSISTANCE.—

(1) IN GENERAL.—Of the amounts made available for fiscal years 2000, 2001, and 2002 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), not less than $10,000,000 for fiscal year 2000, not less than $12,000,000 for fiscal year 2001, and not less than $15,000,000 for fiscal year 2002 should be available for assistance described in paragraph (2) for Nigeria.

(2) ASSISTANCE DESCRIBED.—

(A) IN GENERAL.—The assistance described in this paragraph is assistance provided to nongovernmental organizations for the purpose of promoting democracy, good governance, and the rule of law in Nigeria.

(B) ADDITIONAL REQUIREMENT.—In providing assistance under this subsection, the Administrator of the United States Agency for International Development shall ensure that nongovernmental organizations receiving such assistance represent a broad cross-section of society in Nigeria and seek to promote democracy, human rights, and accountable government.

(3) GRANTS FOR PROMOTION OF HUMAN RIGHTS.—Of the amounts made available for fiscal years 2000, 2001, and 2002 under paragraph (1), not less than $500,000 for each such fiscal year should be available to the United States Agency for International Development for the purpose of providing grants of not more than $25,000 each to support individuals or nongovernmental organizations that seek to promote, directly or indirectly, the advancement of human rights in Nigeria.

(b) USIA INFORMATION ASSISTANCE.—Of the amounts made available for fiscal years 2000, 2001, and 2002 under subsection (a)(1), not less than $1,000,000 for fiscal year 2000, $1,500,000 for fiscal year 2001, and $2,000,000 for fiscal year 2002 should be made available to the United States Information Agency for the purpose of supporting its activities in Nigeria, including the promotion of greater awareness among Nigerians of constitutional democracy, the rule of law, and respect for human rights.

(c) STAFF LEVELS AND ASSIGNMENTS OF UNITED STATES PERSONNEL IN NIGERIA.—

(1) FINDING.—Congress finds that staff levels at the office of the United States Agency for International Development in Lagos, Nigeria, are inadequate.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the Administrator of the United States Agency for International Development should—

(A) increase the number of United States personnel at such Agency's office in Lagos, Nigeria, from within the current, overall staff resources of such Agency in order for such office to be sufficiently staffed to carry out subsection (a); and

(B) consider placement of personnel elsewhere in Nigeria.

SEC. 5. PROHIBITION ON ECONOMIC ASSISTANCE TO THE GOVERNMENT OF NIGERIA; PROHIBITION ON MILITARY ASSISTANCE FOR NIGERIA; REQUIREMENT TO OPPOSE MULTILATERAL ASSISTANCE FOR NIGERIA.

(a) PROHIBITION ON ECONOMIC ASSISTANCE.—

(1) IN GENERAL.—Economic assistance (including funds previously appropriated for economic assistance) shall not be provided to the Government of Nigeria.

(2) ECONOMIC ASSISTANCE DEFINED.—As used in this subsection, the term "economic assistance"—

(A) means—

(i) any assistance under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) and any assistance under chapter 4 of part II of such Act (22 U.S.C. 2346 et seq.) (relating to economic support fund); and

(ii) any financing by the Export-Import Bank of the United States, financing and assistance by the Overseas Private Investment Corporation, and assistance by the Trade and Development Agency; and

(B) does not include disaster relief assistance, refugee assistance, or narcotics control assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.).

(b) PROHIBITION ON MILITARY ASSISTANCE OR ARMS TRANSFERS.—

(1) IN GENERAL.—Military assistance (including funds previously appropriated for military assistance) or arms transfers shall not be provided to Nigeria.

(2) MILITARY ASSISTANCE OR ARMS TRANSFERS.—The term "military assistance or arms transfers" means—

(A) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.) (relating to military assistance), including the transfer of excess defense articles under section 516 of that Act (22 U.S.C. 2321j);

(B) assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.) (relating to international military education and training);

(C) assistance under the "Foreign Military Financing Program" under section 23 of the Arms Export Control Act (22 U.S.C. 2763); or

(D) the transfer of defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).

(c) REQUIREMENT TO OPPOSE MULTILATERAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in paragraph (2) to use the voice and vote of the United States to oppose any assistance to the Government of Nigeria.

(2) INTERNATIONAL FINANCIAL INSTITUTIONS DESCRIBED.—The international financial institutions described in this paragraph are

the African Development Bank, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the International Monetary Fund.

SEC. 6. SENSE OF CONGRESS REGARDING ADMISSION INTO THE UNITED STATES OF CERTAIN NIGERIAN NATIONALS.

It is the sense of Congress that unless the President determines and certifies to the appropriate congressional committees by July 1, 1999, that a democratic transition to civilian rule has taken place in Nigeria, the Secretary of State should deny a visa to any alien who is a senior member of the Nigerian government or a military officer currently in the armed forces of Nigeria.

SEC. 7. WAIVER OF PROHIBITIONS AGAINST NIGERIA IF CERTAIN REQUIREMENTS MET.

(a) IN GENERAL.—The President may waive any of the prohibitions contained in section 5 or 6 for any fiscal year if the President makes a determination under subsection (b) for that fiscal year and transmits a notification to Congress of that determination under subsection (c).

(b) PRESIDENTIAL DETERMINATION REQUIRED.—A determination under this subsection is a determination that—

(1) the Government of Nigeria—

(A) is not harassing or imprisoning human rights and democracy advocates and individuals for expressing their political views;

(B) has implemented the transition program announced in July 1998;

(C) is respecting freedom of speech, assembly, and the media, including cessation of harassment of journalists;

(D) has released the remaining individuals who have been imprisoned without due process or for political reasons;

(E) is continuing to provide access for independent international human rights monitors;

(F) has repealed all decrees and laws that—

(i) grant undue powers to the military;

(ii) suspend the constitutional protection of fundamental human rights;

(iii) allow indefinite detention without charge, including the State of Security (Detention of Persons) Decree No. 2 of 1984; or

(iv) create special tribunals that do not respect international standards of due process; and

(G) has ensured that the policing of the oil producing communities is carried out without excessive use of force or systematic and widespread human rights violations against the civilian population of the area; or

(2) it is in the national interests of the United States to waive the prohibition in section 5 or 6, as the case may be.

(c) CONGRESSIONAL NOTIFICATION.—Notification under this subsection is written notification of the determination of the President under subsection (b) provided to the appropriate congressional committees not less than 15 days in advance of any waiver of any prohibition in section 5 or 6, subject to the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

SEC. 8. REPORT ON CORRUPTION IN NIGERIA.

Not later than 3 months after the date of the enactment of this Act, and annually for the next 5 years thereafter, the Secretary of State shall prepare and submit to the appropriate congressional committees, and make available to the public, a report on corruption in Nigeria. This report shall include—

(1) evidence of corruption by government officials in Nigeria;

(2) the impact of corruption on the delivery of government services in Nigeria;

(3) the impact of corruption on United States business interests in Nigeria;

(4) the impact of advance fee fraud, and other fraudulent business schemes originating in Nigeria, on United States citizens; and

(5) the impact of corruption on Nigeria's foreign policy.

SEC. 9. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

Except as provided in section 6, in this Act, the term "appropriate congressional committees" means—

(1) the Committee on International Relations of the House of Representatives;

(2) the Committee on Foreign Relations of the Senate; and

(3) the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 10. TERMINATION DATE.

The provisions of this Act shall terminate on September 30, 2004.

By Mr. COVERDELL (for himself and Mr. BROWNBACK):

S. 227. A bill to prohibit the expenditure of Federal funds to provide or support programs to provide individuals with hypodermic needles or syringes for the use of illegal drugs; to the Committee on Health, Education, Labor, and Pensions.

LEGISLATION TO PROHIBIT NEEDLE EXCHANGE PROGRAMS

Mr. COVERDELL. Mr. President, I am today introducing, along with Senator BROWNBACK and others, a bill to prohibit the use of federal funds to carry out or support programs for the distribution of sterile hypodermic needles or syringes to illegal drug users.

This bill would effectively continue and make permanent the one year ban imposed through the appropriations process. Rather than revisit this issue each year, this bill would establish a firm federal policy against providing free needles to drug addicts. Health and Human Services Secretary Donna Shalala is on record strongly endorsing needle exchange programs and encouraging local communities to use their own dollars to fund needle exchange programs. This legislation is therefore needed to foreclose any temptation the Administration may feel to federally fund needle exchanges in the future.

General Barry McCaffrey, Director of the Office of National Drug Control Policy, has laid out the strong case against needle exchange programs. Handing out needles to drug users sends a message that the government is condoning drug use. It undermines our anti-drug message and undercuts all of our drug prevention efforts.

A report by General McCaffrey's office reviewed the world's largest needle exchange program in Vancouver, British Columbia, in operation since 1988. It found the program to be a failure. HIV infections were higher among users of free needles than those without access to them. The death rate from drugs jumped from 18 a year in 1988 to 150 in 1992. In addition, higher drug use followed implementation of the program.

Dr. James L. Curtis of New York, who has studied needle exchange programs, was quoted in the Washington Times stating that the programs "should be recognized as reckless experimentation on human beings, the unproven hypothesis being that it prevents AIDS."

According to recent scientific studies, eight persons a day are infected with the HIV virus by using borrowed needles, while 352 people start using heroin each day and 4,000 die every year from heroin-related causes other than HIV. Far more addicts die of drug overdoses and related violence than from AIDS. It is wrong to aid and abet those deaths by handing out free needles to drug addicts. We should not be encouraging higher rates of heroin use.

Therefore, I hope my colleagues will join me in making permanent the prohibition on federal funding and support of needle giveaway programs.

By Mr. INOUYE:

S. 230. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses; to the Committee on Governmental Affairs.

CLINICAL SOCIAL WORKERS' RECOGNITION ACT OF 1999

Mr. INOUYE. Mr. President, today I rise to introduce the Clinical Social Workers' Recognition Act of 1999 to correct an outstanding problem in the Federal Employees Compensation Act. This bill will also provide clinical social workers the recognition they deserve as independent providers of quality mental health care services.

Clinical social workers are authorized to independently diagnose and treat mental illnesses through public and private health insurance plans across the Nation. However, Title V, United States Code, does not permit the use of mental health evaluations conducted by clinical social workers for use as evidence in determining workers' compensation claims brought by Federal employees. The bill I am introducing corrects this problem.

It is a sad irony that Federal employees may select a clinical social worker through their health plans to provide mental health services, but may not go to this professional for workers' compensation evaluations. The failure to recognize the validity of evaluations provided by clinical social workers unnecessarily limits Federal employees' selection of a provider to conduct the workers' compensation mental health evaluation and may well impose an undue burden on Federal employees where clinical social workers are the only available providers of mental health care.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 230

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clinical Social Workers' Recognition Act of 1999".

SEC. 2. EXAMINATIONS BY CLINICAL SOCIAL WORKERS FOR FEDERAL WORKER COMPENSATION CLAIMS.

Section 8101 of title 5, United States Code, is amended—

(1) in paragraph (2) by striking "and osteopathic practitioners" and inserting "osteopathic practitioners, and clinical social workers"; and

(2) in paragraph (3) by striking "and osteopathic practitioners" and inserting "osteopathic practitioners, and clinical social workers".

By Mr. INOUYE:

S. 232. A bill to amend title XVIII of the Social Security Act to provide improved reimbursement for clinical social worker services under the medicare program, and for other purposes; to the Committee on Finance.

THE CLINICAL SOCIAL WORKER ACT OF 1999

Mr. INOUYE. Mr. President, today I am introducing legislation to amend Title XVIII of the Social Security Act to correct discrepancies in the reimbursement of clinical social workers covered through Medicare, Part B. The three proposed changes contained in this legislation clarify the current payment process for clinical social workers and establish a reimbursement methodology for the profession that is similar to other health care professionals reimbursed through the Medicare program.

First, this legislation sets payment for clinical social worker services according to a fee schedule established by the Secretary. Second, it explicitly states that services and supplies furnished by a clinical social worker are a covered Medicare expense, just as these services are covered for other mental health professionals in Medicare. Third, the bill allows clinical social workers to be reimbursed for services provided to a client who is hospitalized.

Clinical social workers are valued members of our health care provider team. They are legally regulated in every state of the Nation and are recognized as independent providers of mental health care throughout the health care system. I believe it is time to correct the disparate reimbursement treatment of this profession under Medicare.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 232

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPROVED REIMBURSEMENT FOR CLINICAL SOCIAL WORKER SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1833(a)(1)(F)(ii) of the Social Security Act (42 U.S.C. 1395l(a)(1)(F)(ii)) is amended to read as follows: "(ii) the amount determined by a fee schedule established by the Secretary,".

(b) DEFINITION OF CLINICAL SOCIAL WORKER SERVICES EXPANDED.—Section 1861(hh)(2) of the Social Security Act (42 U.S.C. 1395x(hh)(2)) is amended by striking "services performed by a clinical social worker (as defined in paragraph (1))" and inserting "such services and such services and supplies furnished as an incident to such services performed by a clinical social worker (as defined in paragraph (1))".

(c) CLINICAL SOCIAL WORKER SERVICES NOT TO BE INCLUDED IN INPATIENT HOSPITAL SERVICES.—Section 1861(b)(4) of the Social Security Act (42 U.S.C. 1395x(b)(4)) is amended by striking "and services" and inserting "clinical social worker services, and services".

(d) TREATMENT OF SERVICES FURNISHED IN INPATIENT SETTING.—Section 1832(a)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)(iii)) is amended by striking "and services" and inserting "clinical social worker services, and services".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made for clinical social worker services furnished on or after January 1, 2000.

By Mr. INOUYE:

S. 233. A bill to amend title VII of the Public Health Service Act to ensure that social work students of social work schools are eligible for support under certain programs to assist individuals in pursuing health careers and programs of grants for training projects in geriatrics, and to establish a social work training program; to the Committee on Health, Education, Labor, and Pensions.

AMENDMENT TO TITLE VII OF THE PUBLIC HEALTH SERVICE ACT

Mr. INOUYE. Mr. President, on behalf of our Nation's clinical social workers, I am introducing legislation to amend the Public Health Service Act. This legislation would (1) establish a new social work training program; (2) ensure that social work students are eligible for support under the Health Careers Opportunity Program; (3) provide social work schools with eligibility for support under the Minority Centers of Excellence programs; (4) permit schools offering degrees in social work to obtain grants for training projects in geriatrics; and (5) ensure that social work is recognized as a profession under the Public Health Maintenance Organization (HMO) Act.

Despite the impressive range of services social workers provide to people of this Nation, particularly our elderly, disadvantaged and minority populations, few federal programs exist to provide opportunities for social work training in health and mental health care. This legislation builds on the health professional legislation enacted by the 102d Congress enabling schools of social work to apply for Acquired Immune Deficiency Syndrome (AIDS) training funding and resources to establish collaborative relationships with rural health care providers and schools of osteopathic medicine. This bill would provide funding for traineeships and fellowships for individuals who plan to specialize in, practice, or teach social work, or for operating approved social work training programs; it would help disadvantaged students earn graduate degrees in social work with a concentration in health or mental health; it would provide new resources and opportunities in social work training for minorities; and it would encourage schools of social work to expand program in geriatrics. Finally, the recognition of social work as a profession merely codifies current social work practice and reflects modifications made by the Medicare HMO legislation.

I believe it is important to ensure that the special expertise and skill social workers possess continue to be available to the citizens of this nation. This legislation, by providing financial assistance to schools of social work and social work students, recognizes the long history and critical importance of the services provided by social work professionals. In addition, since social workers have provided quality mental health services to our citizens for a long time and continue to be at the forefront of establishing innovative programs to service our disadvantaged populations, I believe it is time to provide them with the recognition they clearly earned and deserve.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SOCIAL WORK STUDENTS.

(a) HEALTH PROFESSIONS SCHOOL.—Section 736(g)(1)(A) of the Public Health Service Act, as amended by Public Law 105-392, is amended by striking "graduate program in behavioral or mental health" and inserting "graduate program in behavioral or mental health including a school offering graduate programs in clinical social work, or programs in social work".

(b) SCHOLARSHIPS, GENERALLY.—Section 737(d)(1) of the Public Health Service Act, as amended by Public Lae 105-392, is amended by striking "mental health practice" and inserting "mental health practice including graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work".

(c) FACULTY POSITIONS.—Section 738(a)(3) of the Public Health Service Act, as amended by Public Law 105-392, is amended by striking "offering graduate programs in behavioral and mental health" and inserting "offering graduate programs in behavioral and mental health including graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work".

SEC. 2. GERIATRICS TRAINING PROJECTS.

Section 753(b)(1) of the Public Health Service Act, as amended by Public Law 105-392, is amended by inserting "schools offering degrees in social work," after "teaching hospitals,".

SEC. 3. SOCIAL WORK TRAINING PROGRAM.

Subpart 2 of part E of title VII of the Public Health Service Act, as amended by Public Law 105-392, is amended—

(1) by redesignating section 770 as section 770A;

(2) by inserting after section 769, the following:

"SEC. 770. SOCIAL WORK TRAINING PROGRAM.

"(a) TRAINING GENERALLY.—The Secretary may make grants to, or enter into contracts with, any public or nonprofit private hospital, school offering programs in social work, or to or with a public or private nonprofit entity (which the Secretary has determined is capable of carrying out such grant or contract)—

"(1) to plan, develop, and operate, or participate in, an approved social work training program (including an approved residency or internship program) for students, interns, residents, or practicing physicians;

"(2) to provide financial assistance (in the form of traineeships and fellowships) to students, interns, residents, practicing physicians, or other individuals, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of social work;

"(3) to plan, develop, and operate a program for the training of individuals who plan to teach in social work training programs; and

"(4) to provide financial assistance (in the form of traineeships and fellowships) to individuals who are participants in any such program and who plan to teach in a social work training program.

"(b) ACADEMIC ADMINISTRATIVE UNITS.—

"(1) IN GENERAL.—The Secretary may make grants to or enter into contracts with schools offering programs in social work to meet the costs of projects to establish, maintain, or improve academic administrative units (which may be departments, divisions, or other units) to provide clinical instruction in social work.

"(2) PREFERENCE IN MAKING AWARDS.—In making awards of grants and contracts under paragraph (1), the Secretary shall give preference to any qualified applicant for such an award that agrees to expend the award for the purpose of—

"(A) establishing an academic administrative unit for programs in social work; or

"(B) substantially expanding the programs of such a unit.

"(c) DURATION OF AWARD.—The period during which payments are made to an entity from an award of a grant or contract under subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments.

"(d) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $10,000,000 for each of the fiscal years 2000 through 2002.

"(2) ALLOCATION.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available not less than 20 percent for awards of grants and contracts under subsection (b)."; and

(3) in section 770A (as so redesignated) by inserting "other than section 770," after "carrying out this subpart,".

SEC. 4. CLINICAL SOCIAL WORKER SERVICES.

Section 1302 of the Public Health Service Act (42 U.S.C. 300e–1) is amended—

(1) in paragraphs (1) and (2), by inserting "clinical social worker," after "psychologist," each place it appears;

(2) in paragraph (4)(A), by striking "and psychologists" and inserting "psychologists, and clinical social workers"; and

(3) in paragraph (5), by inserting "clinical social work," after "psychology,".

By Mr. INOUYE:

S. 234. A bill to recognize the organization known as the National Academies of Practice; to the Committee on the Judiciary.

THE NATIONAL ACADEMIES OF PRACTICE RECOGNITION ACT OF 1999

Mr. INOUYE. Mr. President, today I am introducing legislation that would provide a federal charter for the National Academies of Practice. This organization represents outstanding medical professionals who have made significant contributions to the practice of applied psychology, medicine, dentistry, nursing, optometry, podiatry, social work, and veterinary medicine. When fully established, each of the nine academies will possess 100 distinguished practitioners selected by their peers. This umbrella organization will be able to provide the Congress of the United States and the executive branch with considerable health policy expertise, especially from the perspective of those individuals who are in the forefront of actually providing health care.

As we continue to grapple with the many complex issues surrounding the delivery of health care services, it is clearly in our best interest to ensure that the Congress has systematic access to the recommendations of an interdisciplinary body of health care practitioners.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 234

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARTER.

The National Academies of Practice organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a Federal charter.

SEC. 2. CORPORATE POWERS.

The National Academies of Practice (referred to in this Act as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

SEC. 3. PURPOSES OF CORPORATION.

The purposes of the corporation shall be to honor persons who have made significant contributions to the practice of applied psychology, dentistry, medicine, nursing, optometry, osteopathy, podiatry, social work, veterinary medicine, and other health care professions, and to improve the practices in such professions by disseminating information about new techniques and procedures.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

SEC. 6. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

The composition and the responsibilities of the board of directors of the corporation shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 7. OFFICERS OF THE CORPORATION.

The officers of the corporation and the election of such officers shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. RESTRICTIONS.

(a) USE OF INCOME AND ASSETS.—No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) POLITICAL ACTIVITY.—The corporation, any officer, or any director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) CLAIMS OF FEDERAL APPROVAL.—The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

SEC. 9. LIABILITY.

The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SEC. 10. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.

(a) BOOKS AND RECORDS OF ACCOUNT.—The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) NAMES AND ADDRESSES OF MEMBERS.—The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the corporation.

(c) RIGHT TO INSPECT BOOKS AND RECORDS.—All books and records of the corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time.

(d) APPLICATION OF STATE LAW.—Nothing in this section shall be construed to contravene any applicable State law.

SEC. 11. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit for such fiscal year required by section 3 of the Act referred to in section 11 of this Act. The report shall not be printed as a public document.

SEC. 12. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 13. DEFINITION.

In this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 14. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986 or any corresponding similar provision.

SEC. 15. TERMINATION.

If the corporation fails to comply with any of the restrictions or provisions of this Act the charter granted by this Act shall terminate.

By Mr. INOUYE:

S. 235. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in professional psychology eligible to participate in various health professions loan programs; to the Committee on Health, Education, Labor, and Pensions.

THE U.S. PUBLIC HEALTH SERVICE ACT AMENDMENT ACT OF 1999

Mr. INOUYE. Mr. President, I rise to introduce legislation today to modify Title VII of the U.S. Public Health Service Act in order to provide students enrolled in graduate psychology programs with the opportunity to participate in various health professions loan programs

Providing students enrolled in graduate psychology programs with eligibility for financial assistance in the form of loans, loan guarantees, and scholarships will facilitate a much needed infusion of behavioral science expertise into our public health community of providers. There is a growing recognition of the valuable contribution that is being made by our nation's psychologists toward solving some of our nation's most distressing problems.

The participation of students from all backgrounds and clinical disciplines is vital to the success of health care training. The Title VII programs play a significant role in providing financial support for the recruitment of minorities, women and individuals from economically disadvantaged backgrounds. Minority therapists have an advantage in the provision of critical services to minority populations because often they can communicate with clients in their own language and cultural framework. Minority therapists are more likely to work in community settings, where ethnic minority and economically disadvantaged individuals are most likely to seek care. It is critical that continued support be provided for the training of individuals who provide health care services to underserved communities.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PARTICIPATION IN VARIOUS HEALTH PROFESSIONS LOAN PROGRAMS.

(a) LOAN AGREEMENTS.—Section 721 of the Public Health Service Act (42 U.S.C. 292q) is amended—

(1) in subsection (a), by inserting ", or any public or nonprofit school that offers a graduate program in professional psychology" after "veterinary medicine";

(2) in subsection (b)(4), by inserting ", or to a graduate degree in professional psychology" after "or doctor of veterinary medicine or an equivalent degree"; and

(3) in subsection (c)(1), by inserting ", or schools that offer graduate programs in professional psychology" after "veterinary medicine".

(b) LOAN PROVISIONS.—Section 722 of the Public Health Service Act (42 U.S.C. 292r) is amended—

(1) in subsection (b)(1), by inserting ", or to a graduate degree in professional psychology" after "or doctor of veterinary medicine or an equivalent degree";

(2) in subsection (c), in the matter preceding paragraph (1), by inserting ", or at a school that offers a graduate program in professional psychology" after "veterinary medicine"; and

(3) in subsection (k)—

(A) in the matter preceding paragraph (1), by striking "or podiatry" and inserting "podiatry, or professional psychology"; and

(B) in paragraph (4), by striking "or podiatric medicine" and inserting "podiatric medicine, or professional psychology".

SEC. 2. GENERAL PROVISIONS.

(a) HEALTH PROFESSIONS DATA.—Section 792(a) of the Public Health Service Act (42 U.S.C. 295k(a)) is amended by striking "clinical" and inserting "professional".

(b) PROHIBITION AGAINST DISCRIMINATION ON BASIS OF SEX.—Section 794 of the Public Health Service Act (42 U.S.C. 295m) is amended in the matter preceding paragraph (1) by striking "clinical" and inserting "professional".

(c) DEFINITIONS.—Section 799B(1)(B) of the Public Health Service Act (as redesignated by section 106(a)(2)(E) of the Health Professions Education Partnerships Act of 1998) is amended by striking "clinical" each place it appears and inserting "professional".

By Mr. INOUYE:

S. 236. A bill to amend title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

THE PUBLIC HEALTH SERVICE ACT OF 1999

Mr. INOUYE. Mr. President, I am introducing legislation today to amend Title VII of the Public Health Service Act to establish a psychology post-doctoral program.

Psychologists have made a unique contribution in serving the nation's medically underserved populations. Expertise in behavioral science is useful in addressing many of our most distressing concerns such as violence, addiction, mental illness, adolescent and child behavioral disorders, and family disruption. Establishment of a psychology post-doctoral program could be most effective in finding solutions to these pressing societal issues.

Similar programs supporting additional, specialized training in traditionally underserved settings or with underserved populations have been demonstrated to be successful in providing services to those same underserved during the years following the training experience. For example, mental health professional who have participated in these specialized federally funded programs have tended not only to meet their pay back obligations, but have continued to work in the public sector or with the underserved populations with whom they have been trained to work.

While the doctorate in psychology provides broad based knowledge and mastery in a wide variety of clinical skills, the specialized post-doctoral fellowship programs develop particular diagnostic and treatment skills required to effectively respond to these underserved populations. For example, what looks like severe depression in an elderly person might actually be withdrawal related to hearing loss, or what appears to be poor academic motivation in a child recently relocated from Southeast Asia might be reflective of a cultural value of reserve rather than a disinterest in academic learning. Each of these situations requires very different interventions, of course, and specialized assessment skills.

Domestic violence is not just a problem for the criminal justice system, it is a significant public health problem. A single aspect of this issue, domestic violence against women, results in almost 100,000 days of hospitalization, 30,000 emergency room visits and 40,000 visits to physicians each year. Rates of child and spouse abuse in rural areas are particularly high as are the rates of alcohol abuse and depression in adolescents. A post-doctoral fellowship program in psychology of the rural populations could be of special benefit in addressing the problems.

Given the changing demographics of the nation—the increasing life span and numbers of the elderly, the rising percentage of minority populations within the country, as well as an increased recognition of the long-term sequelae of violence and abuse—and given the demonstrated success and effectiveness of these kinds of specialized training programs, it is incumbent upon us to encourage participation in post-doctoral fellowships that respond to the needs of the nation's underserved.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 236

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

Part E of title VII of the Public Health Service Act (42 U.S.C. 294o et seq.) is amended by adding at the end the following:

"SEC. 779. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

"(a) IN GENERAL.—The Secretary shall establish a psychology post-doctoral fellowship program to make grants to and enter into contracts with eligible entities to encourage the provision of psychological training and services in underserved treatment areas.

"(b) ELIGIBLE ENTITIES.—

"(1) INDIVIDUALS.—In order to receive a grant under this section an individual shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such individual—

"(A) has received a doctoral degree through a graduate program in psychology provided by an accredited institution at the time such grant is awarded;

"(B) will provide services in a medically underserved population during the period of such grant;

"(C) will comply with the provisions of subsection (c); and

"(D) will provide any other information or assurances as the Secretary determines appropriate.

"(2) INSTITUTIONS.—In order to receive a grant or contract under this section, an institution shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such institution—

"(A) is an entity, approved by the State, that provides psychological services in medically underserved areas or to medically underserved populations (including entities that care for the mentally retarded, mental health institutions, and prisons);

"(B) will use amounts provided to such institution under this section to provide financial assistance in the form of fellowships to qualified individuals who meet the requirements of subparagraphs (A) through (C) of paragraph (1);

"(C) will not use in excess of 10 percent of amounts provided under this section to pay for the administrative costs of any fellowship programs established with such funds; and

"(D) will provide any other information or assurance as the Secretary determines appropriate.

"(c) CONTINUED PROVISION OF SERVICES.—Any individual who receives a grant or fellowship under this section shall certify to the Secretary that such individual will continue to provide the type of services for which such grant or fellowship is awarded for at least 1 year after the term of the grant or fellowship has expired.

"(d) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that define the terms 'medically underserved areas' or 'medically unserved populations'.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 2000 through 2002.".

By Mr. INOUYE:

S. 237. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating to offenders with mental disease or defect, to be conducted by a clinical social worker; to the Committee on the Judiciary.

THE PSYCHIATRIC AND PSYCHOLOGICAL EXAMINATIONS ACT OF 1999

Mr. INOUYE. Mr. President, today I introduce legislation to amend Title 18 of the United States Code to allow our nation's clinical social workers to provide their mental health expertise to the federal judiciary.

I feel that the time has come to allow our nation's judicial system to have access to a wide range of behavioral science and mental health expertise. I am confident that the enactment of this legislation would be very much in our nation's best interest.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXAMINATIONS BY CLINICAL SOCIAL WORKERS.

Section 4247(b) of title 18, United States Code, is amended, in the first sentence, by striking "psychiatrist or psychologist" and inserting "psychiatrist, psychologist, or clinical social worker".

By Mr. INOUYE:

S. 238. A bill to amend title 10, United States Code, to increase the grade provided for the heads of the nurse corps of the Armed Forces; to the Committee on Armed Services.

U.S. MILITARY CHIEF NURSE CORPS AMENDMENT ACT OF 1999

Mr. INOUYE. Mr. President, today I introduce an amendment that would change the existing law regarding the designated position and grade for the Chief Nurses of the United States Army, the United States Navy, and the United States Air Force. Currently, the Chief Nurses of the three branches of the military are one-star general officer grades; this law would change the current grade to Major General in the Army and Air Force and Rear Admiral (upper half) in the Navy.

Our military Chief Nurses have an awesome responsibility—their scope of duties include peacetime and wartime health care doctrine, standards and policy for all nursing personnel within their respective branches. They are responsible for 80,000 Army, 5,200 Navy, and 20,000 Air Force officer and enlisted nursing personnel in the active, reserve and guard components of the military. This level of responsibility certainly supports the need to change the grade for the Chief Nurses which would ensure that they have an appropriate voice in Defense Health Program executive management.

Organizations are best served when the leadership is composed of a mix of specialties—of equal rank—who bring their unique talents to the policy setting and decision-making process. I believe it is time to ensure that military health care organizations utilize the expertise and unique contributions of the military Chief Nurses.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASED GRADE FOR HEADS OF NURSE CORPS.

(a) ARMY.—Section 3069(b) of title 10, United States Code, is amended by striking out "brigadier general" in the second sentence and inserting in lieu thereof "major general".

(b) NAVY.—The first sentence of section 5150(c) of such title is amended—

(1) by inserting "rear admiral (upper half) in the case of an officer in the Nurse Corps or" after "for promotion to the grade of"; and

(2) by inserting "in the case of an officer in the Medical Service Corps" after "rear admiral (lower half)".

(c) AIR FORCE.—Section 8069(b) of such title is amended by striking out "brigadier general" in the second sentence and inserting in lieu thereof "major general".

By Mr. INOUYE:

S. 239. A bill to amend title 38, United States Code, to revise certain provisions relating to the appointment of professional psychologists in the Veterans' Health Administration, and for other purposes; to the Committee on Veterans' Affairs.

THE PERKINS COUNTY RURAL WATER SYSTEM ACT OF 1999

Mr. JOHNSON. Mr. President, today I am proud to introduce legislation to authorize a critically important rural water system in South Dakota, the "Perkins County Rural Water System Act of 1999." I am pleased to have my good friend and colleague from South Dakota, Senator DASCHLE, as an original cosponsor of this important legislation, which we introduced during the 105th. This legislation is also strongly supported by the State of South Dakota and local project sponsors, who have demonstrated that support by agreeing to substantial financial contributions from the local level.

During the 105th Congress the Perkins County Rural Water System Act was passed by the Senate Energy and Natural Resources Committee, as well as the full Senate. Unfortunately, this legislation was caught up in part of a larger legislative package, but I am hopeful the Senate will again support this important drinking water project and pass this legislation early this year.

Like many parts of South Dakota, Perkins County has insufficient water supplies of reasonable quality available, and the water supplies that are available do not meet the minimum health and safety standards, thereby posing a threat to public health and safety.

In addition to improving the health of residents in the region, I strongly believe that this rural drinking water delivery project will help to stabilize the rural economy as well. Water is a basic commodity and is essential if we are to foster rural development in many parts of rural South Dakota, including the Perkins County area.

The "Perkins County Rural Water System Act of 1999" authorizes the Bureau of Reclamation to construct a Perkins County Rural Water System providing service to approximately 2,500 people, including the communities of Lemmon and Bison, as well as rural residents. The Perkins County Rural Water System is located in northwestern South Dakota along the South Dakota/North Dakota border and it will be an extension of an existing rural water system in North Dakota, the Southwest Pipeline Project. The State of South Dakota has worked closely with the State of North Dakota over the years on the Perkins County connection to the Southwest Pipeline Project. A feasibility study completed in 1994 looked at several alternatives for a dependable water supply, and the connection to the Southwest Pipeline Project is clearly the most feasible for the Perkins County area.

Mr. President, South Dakota is plagued by water of exceeding poor quality, and the Perkins County rural water project is an effort to help provide clean water—a commodity most of us take for granted—to the people of Perkins County, South Dakota. I am a strong believer in the federal government's role in rural water delivery, and I hope to continue to advance that agenda both in South Dakota and around the country. I urge my colleagues to support this important rural water legislation, and I look forward to working with my colleagues on the Senate Energy and Natural Resources Committee to move forward on enactment as quickly as possible.

Mr. President, I ask unanimous consent that the full text of this legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 239

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Perkins County Rural Water System Act of 1999".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

(1) there are insufficient water supplies of reasonable quality available to the members of the Perkins County Rural Water System located in Perkins County, South Dakota, and the water supplies that are available do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) in 1977, the North Dakota State Legislature authorized and directed the State Water Commission to conduct the Southwest Area Water Supply Study, which included water service to a portion of Perkins County, South Dakota;

(3) amendments made by the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 101-294) authorized the Southwest Pipeline project as an eligible project for Federal cost share participation;

(4) the Perkins County Rural Water System has continued to be recognized by the State of North Dakota, the Southwest Water Authority, the North Dakota Water Commission, the Department of the Interior, and Congress as a component of the Southwest Pipeline Project; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Perkins County Rural Water System, Inc., members is the waters of the Missouri River as delivered by the Southwest Pipeline Project in North Dakota.

(b) Purposes.—The purposes of this Act are—

(1) to ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Perkins County Rural Water Supply System, Inc., in Perkins County, South Dakota;

(2) to assist the members of the Perkins County Rural Water Supply System, Inc., in developing safe and adequate municipal, rural, and industrial water supplies; and

(3) to promote the implementation of water conservation programs by the Perkins County Rural Water System, Inc.

SEC. 3. DEFINITIONS.

In this Act:

(1) Feasibility study.—The term "feasibility study" means the study entitled "Feasibility Study for Rural Water System for Perkins County Rural Water System, Inc.", as amended in March 1995.

(2) Project construction budget.—The term "project construction budget" means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the feasibility study.

(3) Pumping and incidental operational requirements.—The term "pumping and incidental operational requirements" means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Perkins County Rural Water System to each entity that distributes water at retail to individual users.

(4) Secretary.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

(5) Water supply system.—The term "water supply system" means the Perkins County Rural Water System, Inc., a nonprofit corporation, established and operated substantially in accordance with the feasibility study.

SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) In General.—The Secretary shall make grants to the water supply system for the Federal share of the costs of—

(1) the planning and construction of the water supply system; and

(2) repairs to existing public water distribution systems to ensure conservation of the resources and to make the systems functional under the new water supply system.

(b) Service Area.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, repairs to existing public water distribution systems, and water conservation in Perkins County, South Dakota.

(c) Amount of Grants.—Grants made available under subsection (a) to the water supply system shall not exceed the Federal share under section 10.

(d) Limitation on Availability of Construction Funds.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply system; and

(2) a final engineering report and a plan for a water conservation program have been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the system.

SEC. 5. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

SEC. 6. USE OF PICK-SLOAN POWER.

(a) In General.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1 and ending October 31 of each year.

(b) Conditions.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Perkins County Rural Water System, Inc.;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATES.

This Act does not limit the authorization for water projects in South Dakota and North Dakota under law in effect on or after the date of enactment of this Act.

SEC. 8. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, dealing with water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. 9. FEDERAL SHARE.

The Federal share under section 4 shall be 75 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 10. NON-FEDERAL SHARE.

The non-Federal share under section 4 shall be 25 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 11. CONSTRUCTION OVERSIGHT.

(a) AUTHORIZATION.—The Secretary may provide construction oversight to the water supply system for areas of the water supply system.

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Perkins County, South Dakota.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $15,000,000 for the planning and construction of the water system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

By Mr. INOUYE:

S. 239. A bill to amend title 38, United States Code, to revise certain provisions relating to the appointment of professional psychologists in the Veterans' Health Administration, and for other purposes; to the Committee on Veterans' Affairs.

THE VETERANS' HEALTH ADMINISTRATION ACT OF 1999

Mr. INOUYE. Mr. President, I introduce legislation today to amend Chapter 74 of Title 38, United States Code, to revise certain provisions relating to the appointment of clinical and professional psychologists in the Veterans' Health Administration (VHA).

The VHA has a long history of maintaining a staff of the very best health care professionals to provide care to those men and women who have served our country in the Armed Forces.

Recently, a quite distressing situation regarding the care of our veterans has come to my attention. In particular, the recruiting and retention of psychologists in the VHA of the Department of Veterans' Affairs has become a significant problem.

The Congress has recognized the important contribution of the behavioral sciences in the treatment of several conditions afflicting a significant portion of our veterans. Programs related to homelessness, substance abuse, and post traumatic stress disorder (PTSD) have received funding from the Congress in recent years.

Certainly, psychologists, as behavioral science experts, are essential to the successful implementation of these programs. However, the high vacancy and turnover rates for psychologists in the VHA (more than 5% and 8% respectively as reported in one recent survey) might seriously jeopardize these programs and will negatively impact overall patient care in the VHA.

Recruitment of psychologists by the VHA is hindered by a number of factors including a pay scale not commensurate with private sector rates and the low number of clinical and professional psychologists appearing on the register of the Office of Personnel Management (OPM). Most new hires have no postdoctoral experience and are hired immediately after a VHA internship. Recruitment, when successful, takes up to six months or more.

Retention of psychologists in the VHA system poses an even more significant problem. I have been informed that almost 40% of VHA psychologists have five years or less of post-doctoral experience. Psychologists leave the VHA system after five years because they have almost reached peak levels for salary and professional advancement. Furthermore, under the present system psychologists cannot be recognized nor appropriately compensated for excellence or for taking on additional responsibilities such as running treatment programs.

In effect, the current system for hiring psychologists in the VHA supports mediocrity, not excellence and mastery. Our veterans with behavioral and mental health disorders are deserving of better psychological care from more experienced professionals than they are currently receiving.

Currently, psychologists are the only doctoral level health care providers in the VHA who are not included in Title 38. This is without question a significant factor in the recruitment and retention difficulties which I have addressed. Title 38 appointment authority for psychologists would help ameliorate the recruitment and retention problems. The length of time to recruit psychologists could be abbreviated by eliminating the requirement for applicants to be rated by the Office of Personnel Management. This would also encourage the recruitment of applicants who are not recent VHA interns by reducing the amount of time between identifying a desirable applicant and being able to offer that applicant a position.

It is expected that problems in retention will be greatly alleviated with the implementation of a Title 38 system that offers financial incentives for psychologists to pursue professional development. Achievements that would merit salary increases include such activities as assuming supervisory responsibilities for clinical programs, implementing innovative clinical treatments that improve the effectiveness and/or efficiency of patient care, making significant contributions to the science of psychology, earning the ABPP diplomate state, and becoming a Fellow of the American Psychological Association.

The conversion of psychologists to Title 38, as proposed by this amendment, would provide relief for the retention and recruitment issues and enhance the quality of care for our Nation's veterans and their families.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 239

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVISION OF AUTHORITY RELATING TO APPOINTMENT OF PROFESSIONAL PSYCHOLOGISTS IN THE VETERANS' HEALTH ADMINISTRATION.

(a) IN GENERAL.—Section 7401(3) of title 38, United States Code, is amended by striking out "who hold diplomas as diplomates in psychology from an accrediting authority approved by the Secretary".

(b) CERTAIN OTHER APPOINTMENTS.—Section 7405(a) of such title is amended—

(1) in paragraph (1)(B), by striking out "Certified or" and inserting in lieu thereof "Professional psychologists, certified or"; and

(2) in paragraph (2)(B), by striking out "Certified or" and inserting in lieu thereof "Professional psychologists, certified or".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act.

(d) APPOINTMENT REQUIREMENT.—Notwithstanding any other provision of law, the Secretary of Veterans' Affairs shall begin to make appointments of professional psychologists in the Veterans' Health Administration under section 7401(3) of title 38, United States Code (as amended by subsection (a)), not later than 1 year after the date of the enactment of this Act.

By Mr. JOHNSON (for himself, Mr. DASCHLE, Mr. GRAMS, Mr. WELLSTONE, Mr. GRASSLEY, and Mr. HARKIN):

S. 244. A bill to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

THE LEWIS AND CLARK RURAL WATER SYSTEM ACT OF 1999

Mr. JOHNSON. Mr. President, today, I am proud to be introducing legislation, along with my colleagues, the Minority Leader Senator DASCHLE of South Dakota, Senator HARKIN and Senator GRASSLEY of Iowa, and Senator WELLSTONE and Senator GRAMS of Minnesota, to authorize the Lewis and Clark Rural Water System. We introduced similar legislation last Congress, and I am pleased with the progress we made in the Senate Committee on Energy and Natural Resources. The Committee held a hearing and passed the legislation during the 105th Congress, and I look forward to again working closely with my colleagues for timely consideration of this important measure.

The Lewis and Clark Rural Water system is made up of 22 rural water systems and communities in southeastern South Dakota, northwestern Iowa and southwestern Minnesota who have joined together in an effort to cooperatively address the dual problems facing the delivery of drinking water in this region—inadequate quantities of water and poor quality water.

The region has seen substantial growth and development in recent years, and studies have shown that future water needs will be significantly greater than the current available supply. Most of the people who are served by ten of the water utilities in the proposed Lewis and Clark project area currently enforce water restrictions on a seasonal basis. Almost half of the membership has water of such poor quality it does not meet present or proposed standards for drinking water. More than two-thirds rely on shallow aquifers as their primary source of drinking water, aquifers which are very vulnerable to contamination by surface activities.

The Lewis and Clark system will be a supplemental supply of drinking water for its 22 members, acting as a treated, bulk delivery system. The distribution to deliver water to individual users will continue through the existing systems used by each member utility. This "regionalization approach" to solving these water supply and quality problems enables the Missouri River to provide a source of clean, safe drinking water to more than 180,000 individuals. A source of water which none of the members of Lewis and Clark could afford on their own.

The proposed system would help to stabilize the regional rural economy by providing water to Sioux Falls, the hub city in the region, as well as numerous small communities and individual farms in South Dakota and portions of Iowa and Minnesota.

The States of South Dakota, Iowa and Minnesota have all authorized the project and local sponsors have demonstrated a financial commitment to this project through state grants, local water development district grants and membership dues. The State of South Dakota has already contributed more than $400,000.

Mr. President, I do not believe our needs get any more basic than good quality, reliable drinking water, and I appreciate the fact that Congress has shown support for efforts to improve drinking water supplies in South Dakota. I look forward to continue working with my colleagues to have that support extended to the Lewis and Clark Rural Water System

Mr. President, I ask unanimous consent that the full text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lewis and Clark Rural Water System Act of 1999".

SEC. 2. DEFINITIONS.

In this Act:

(1) ENVIRONMENTAL ENHANCEMENT.—The term "environmental enhancement" means the wetland and wildlife enhancement activities that are carried out substantially in accordance with the environmental enhancement component of the feasibility study.

(2) ENVIRONMENTAL ENHANCEMENT COMPONENT.—The term "environmental enhancement component" means the component described in the report entitled "Wetlands and Wildlife Enhancement for the Lewis and Clark Rural Water System", dated April 1991, that is included in the feasibility study.

(3) FEASIBILITY STUDY.—The term "feasibility study" means the study entitled "Feasibility Level Evaluation of a Missouri River Regional Water Supply for South Dakota, Iowa and Minnesota", dated September 1993, that includes a water conservation plan, environmental report, and environmental enhancement component.

(4) MEMBER ENTITY.—The term "member entity" means a rural water system or municipality that signed a Letter of Commitment to participate in the water supply system.

(5) PROJECT CONSTRUCTION BUDGET.—The term "project construction budget" means the description of the total amount of funds needed for the construction of the water supply system, as contained in the feasibility study.

(6) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term "pumping and incidental operational requirements" means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, reservoirs, and pipelines up to the point of delivery of water by the water supply system to each member entity that distributes water at retail to individual users.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(8) WATER SUPPLY SYSTEM.—The term "water supply system" means the Lewis and Clark Rural Water System, Inc., a nonprofit corporation established and operated substantially in accordance with the feasibility study.

SEC. 3. FEDERAL ASSISTANCE FOR THE WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary shall make grants to the water supply system for the planning and construction of the water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, environmental enhancement, mitigation of wetland areas, and water conservation in—

(1) Lake County, McCook County, Minnehaha County, Turner County, Lincoln County, Clay County, and Union County, in southeastern South Dakota;

(2) Rock County and Nobles County, in southwestern Minnesota; and

(3) Lyon County, Sioux County, Osceola County, O'Brien County, Dickinson County, and Clay County, in northwestern Iowa.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the water supply system shall not exceed the amount of funds authorized under section 10.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met;

(2) a final engineering report is prepared and submitted to Congress not less than 90 days before the commencement of construction of the water supply system; and

(3) a water conservation program is developed and implemented.

SEC. 4. FEDERAL ASSISTANCE FOR THE ENVIRONMENTAL ENHANCEMENT COMPONENT.

(a) INITIAL DEVELOPMENT.—The Secretary shall make grants and other funds available to the water supply system and other private, State, and Federal entities, for the initial development of the environmental enhancement component.

(b) NONREIMBURSEMENT.—Funds provided under subsection (a) shall be nonreimbursable and nonreturnable.

SEC. 5. WATER CONSERVATION PROGRAM.

(a) IN GENERAL.—The water supply system shall establish a water conservation program that ensures that users of water from the water supply system use the best practicable technology and management techniques to conserve water use.

(b) REQUIREMENTS.—The water conservation programs shall include—

(1) low consumption performance standards for all newly installed plumbing fixtures;

(2) leak detection and repair programs;

(3) rate schedules that do not include declining block rate schedules for municipal households and special water users (as defined in the feasibility study);

(4) public education programs and technical assistance to member entities; and

(5) coordinated operation among each rural water system, and each water supply facility in existence on the date of enactment of this Act, in the service area of the system.

(c) REVIEW AND REVISION.—The programs described in subsection (b) shall contain provisions for periodic review and revision, in cooperation with the Secretary.

SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

SEC. 7. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri Basin program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning on May 1 and ending on October 31 of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase the entire electric service requirements of the system, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It is agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the water supply system;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 8. NO LIMITATION ON WATER PROJECTS IN STATES.

This Act does not limit the authorization for water projects in the States of South Dakota, Iowa, and Minnesota under law in effect on or after the ate of enactment of this Act.

SEC. 9. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, governing water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. 10. COST SHARING.

(a) FEDERAL COST SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall provide funds equal to 80 percent of—

(A) the amount allocated in the total project construction budget for planning and construction of the water supply system under section 3;

(B) such amounts as are necessary to defray increases in the budget for planning and construction of the water supply system under section 3; and

(C) such amounts as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after September 1, 1993.

(2) SIOUX FALLS.—The Secretary shall provide funds for the city of Sioux Falls, South Dakota, in an amount equal to 50 percent of the incremental cost to the city of participation in the project.

(b) NON-FEDERAL COST SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the non-Federal share of the costs allocated to the water supply system shall be 20 percent of the amounts described in subsection (a)(1).

(2) SIOUX FALLS.—The non-Federal cost-share for the city of Sioux Falls, South Dakota, shall be 50 percent of the incremental cost to the city of participation in the project.

SEC. 11. BUREAU OF RECLAMATION.

(a) AUTHORIZATION.—The Secretary may allow the Director of the Bureau of Reclamation to provide project construction oversight to the water supply system and environmental enhancement component for the service area of the water supply system described in section 3(b).

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Director of the Bureau of Reclamation for planning and construction of the water supply system shall not exceed the amount that is equal to 1 percent of the amount provided in the total project construction budget for the entire project construction period.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $226,320,000, of which not less than $8,487,000 shall be used for the initial development of the environmental enhancement component under section 4, to remain available until expended.

Mr. GRAMS. Mr. President, I rise today with my colleagues for the introduction of the Lewis and Clark Rural Water System Act of 1999. I would like to thank Senator JOHNSON and Senator DASCHLE for their hard work and dedication to this project over the past two Congresses.

Mr. President, the Southwestern corner of Minnesota, along with adjoining areas in South Dakota and Iowa, is now served by a wholly inadequate water system which is highly susceptible to drought, leading most of the communities in this region to impose severe water restrictions.

The situation has forced communities throughout the region to explore aggressively alternative water supplies. Communities such as Luverne and Worthington, both in southwestern Minnesota, have spent tens of thousands of dollars yearly in an unsuccessful search for another water source, always with the same disappointing results. Eventually, however, it was determined that by working together with communities throughout the region and in all three states, a workable solution might be found.

That solution is the bill we are introducing today. Under this legislation, local communities will come together with the affected states and the federal government to form a strong, financial partnership, thereby ensuring an adequate, safe water supply while reducing the cost to the American taxpayers.

The Lewis and Clark Rural Water System is a fiscally responsible project that invests in the future economic health of the tri-state region by strengthening its critical utilities infrastructure. With increasing population growth, economic development, new federal drinking water regulations, water demands, and shallow wells and aquifers which are subject to contamination, it is critical that the area encompassed by the Lewis and Clark Rural Water System establish a clean, reliable water source to meet the demand for future water use that cannot be met by present resources.

Mr. President, this legislation has been before the Senate for the last two Congresses. Last year, we were successful in passing the legislation through the Energy and Natural Resources Committee. This year, we must see this bill passed by the Senate and the House and sent to the President for his signature.

Providing safe and available drinking water to our communities is one of the most basic functions of government. It is not a partisan issue, and therefore I am proud to join with a bipartisan group of my colleagues and the governors of Minnesota, South Dakota, and Iowa in supporting this bill.

By Mr. HATCH:

S. 245. A bill to reauthorize the Federal programs to prevent violence against women, and for other purposes; to the Committee on the Judiciary.

VIOLENCE AGAINST WOMEN ACT OF 1999

Mr. HATCH. Mr. President, I rise today to introduce a bill titled "Violence Against Women Act of 1999." I expect that this will be one of several bills introduced this week in both the Senate and the House of Representatives, reflecting an array of ideas and views on the reauthorization of existing programs and the creation of new ones.

Let me say at the outset, that one of my proudest accomplishments in this body was my work with Senator JOE BIDEN earlier this decade culminating in the passage of the Violence Against Women Act in 1994. I have great hopes that Senator BIDEN and I can duplicate that strong bipartisan effort in the 106th Congress.

Five years after the passage of VAWA I, I think it is fair to say that this Act has significantly enhanced the efforts of law enforcement in combating violence against women and improved the services available to victims of domestic violence in my home state of Utah and across the nation.

But five years later, it is time to advance the process in three major respects: (1) it is time to review and evaluate the effectiveness of programs created by the 1994 Act and to reexamine the adequacy of the funding levels for these programs; (2) it is time to review law enforcement's efforts and successes as a result of the 1994 Act; and (3) it is time to survey and consider the need for new programs and further changes in the law.

Thus, while I am today introducing a bill that reauthorizes the majority of current programs, many at increased funding levels, I think that these programs need first to be evaluated as to whether available funds are being used in the most effective way possible. Further, I know that Senator BIDEN has a number of ideas for new programs and changes in the law, and I look forward to working with him on some of those ideas.

Finally, let me just note that my bill also contains some new proposals regarding campus violence, battered immigrant women, and the victims of domestic violence on military bases around the country. Like many Americans, I watched with some horror on Sunday night as "60 Minutes" detailed the degree of domestic violence on and around our military bases and the apparent lack of serious responsiveness by persons in charge. This situation, if accurately portrayed, is not acceptable, and this Administration needs to act swiftly and effectively to change what is reportedly happening. To that end, my bill includes a provision requiring a prompt review and report by the Secretary of Defense on the incidence of and response to domestic violence on our military bases.

In sum, Mr. President, I hope that enacting effective legislation to combat violence against women will be a priority in the 106th Congress. I intend to do my best, working in a bipartisan fashion, to ensure that it is.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. MCCAIN, Mr. DEWINE, Mr. KOHL, and Mr. LOTT):

S. 247. A bill to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes; to the Committee on the Judiciary.

THE SATELLITE HOME VIEWER IMPROVEMENTS ACT OF 1999

Mr. HATCH. Mr. President, I rise today to introduce legislation that will help provide for greater consumer choice and competition in television services, the "Satellite Home Viewer Improvements Act of 1999." Joining me in introducing this bill are the Majority Leader, Senator LOTT, the distinguished Ranking Member of the Judiciary Committee, Senator LEAHY, the distinguished chairman of the Commerce Committee, Senator MCCAIN, and my colleagues on the Judiciary Committee, Senators DEWINE and KOHL.

The options consumers have for viewing television entertainment have vastly increased since that fateful day in September 1927 when television inventor and Utah native Philo T. Farnsworth, together with his wife and colleagues, viewed the first television transmission in the Farnsworth's home workshop: a single black line rotated from vertical to horizontal. Both the forms of entertainment and the technologies for delivering that entertainment have proliferated over the 70 years since that day. In the 1940's and 1950's, televisions began arriving in an increasing number of homes to pick up entertainment being broadcast into a growing number of cities and towns.

In the late 1960's and early 1970's, cable television began offering communities more television choices by initially providing community antenna systems for receiving broadcast television signals, and later by offering new created-for-cable entertainment. The development of cable television made dramatic strides with the enactment of the cable compulsory license in 1976, providing an efficient way of clearing copyright rights for the retransmission of broadcast signals over cable systems.

In the 1980's, television viewers began to be able to receive television entertainment with their own home satellite equipment, and the enactment of the Satellite Home Viewer Act in 1988 helped develop a system of providing options for television service to Americans who lived in areas too remote to receive television signals over the air or via cable.

Much has changed since the original Satellite Home Viewer Act was adopted in 1988. The Satellite Home Viewer Act was originally intended to ensure that households that could not get television in any other way, traditionally provided through broadcast or cable, would be able to get television signals via satellite. The market and satellite industry has changed substantially since 1988. Many of the difficulties and controversies associated with the satellite license have been at least partly a product of the satellite business attempting to move from a predominately need-based rural niche service to a full service video delivery competitor in all markets, urban and rural.

Now, many market advocates both in and out of Congress are looking to satellite carriers to compete directly with cable companies for viewership, because we believe that an increasingly competitive market is better for consumers both in terms of cost and the diversity of programming available. The bill I introduce today will move us toward that kind of robust competition.

In short, this bill is focused on changes that we can make this year to move the satellite television industry to the next level, making it a full competitor in the multi-channel video delivery market. It has been said time and again that a major, and perhaps the biggest, impediment to satellite's ability to be a strong competitor to cable is its current inability to provide local broadcast signals. (See, e.g., Business Week (22 Dec. 1997) p. 84.) This problem has been partly technological and partly legal.

Even as we speak, the technological hurdles to local retransmission of broadcast signals are being lowered substantially. Emerging technology is now enabling the satellite industry to begin to offer television viewers their own local programming of news, weather, sports, and entertainment, with digital quality picture and sound. This will mean that viewers in the remoter areas of my large home state of Utah will be able to watch television programming originating in Salt Lake City, rather than New York or California. Utahns in remote areas will have access to local weather and other locally and regionally relevant information. In fact, one satellite carrier is already providing such a service in Utah.

Today, with this bill, we hope to begin removing the legal impediments to use of this emerging technology to make local retransmission of broadcast signals a reality for all subscribers. The most important result will be that the constituents of all my colleagues will finally have a choice for full service multi-channel video programming. They will be able to choose cable or one of a number of satellite carriers. This should foster an environment of proliferating choice and lowered prices, all to the benefit of consumers, our constituents.

To that end, the "Satellite Home Viewer Improvements Act" makes the following changes in the copyright governing satellite television transmissions:

It creates a new copyright license which allows satellite carriers to retransmit a local television station to households and businesses throughout that station's local market, just like cable does, and sets a zero copyright rate for providing this service.

It extends the satellite compulsory licenses for both local and distant signals, which are now set to expire at the end of the year, until 2004.

It cuts the copyright rates paid for distant signals by 30 or 45 percent, depending on the type of signal.

It allows consumers to switch from cable to satellite service for network signals without waiting a 90-day period now required in the law.

It allows for a national Public Broadcasting Service satellite feed.

Many of my colleagues in this chamber will recognize this legislation as substantively identical to a bill reported unanimously by the Judiciary Committee last year. I am pleased with the degree of cooperation and consensus we were able to forge with respect to this legislation last year, and I hope that we can pick up where we left off to bring this bill before the Senate for swift consideration and approval.

As I indicated late in the last Congress, the bill I am introducing is intended to be a piece of a larger joint work product to be crafted in conjunction with our colleagues on the Commerce Committee. Once again in the 106th Congress, it is our intention that the Judiciary Committee will move forward with consideration of the copyright legislation I am introducing today, which, as I indicated, is cosponsored by the Chairman of the Commerce Committee. The Commerce Committee will proceed simultaneously to consider separate legislation to be introduced by Chairman McCAIN to address related communications amendments regarding such important areas as the must-carry and retransmission consent requirements for satellite carriers upon which the copyright licenses will be conditioned, and the FCC's distant signal eligibility process. It is our joint intention to combine our respective work product as two titles of the same bill in a way that will clearly delineate the work product of each committee, but combine them into the seamless whole necessary to make the licenses work for consumers and the affected industries.

We need to act quickly on this legislation. The Satellite Home Viewer Act sunsets at the end of this year, placing at risk the service of many of the 11 million satellite subscribers nationwide. Many of our constituents are confused about the status of satellite service because of a court order requiring the cessation of distant-signal satellite service in February and April to as many as 2.5 million subscribers nationally who have been adjudged ineligible for distant signal service under current law. The granting of the local license, together with some resolution of the eligibility rules for distant signals and a more consumer-friendly process can help bring clarity to these consumers.

Let me again thank the Majority Leader for his interest in and leadership with respect to these issues, and the Chairman of the Commerce Committee for his collegiality and cooperation in this process. I also want to thank my colleagues on the Judiciary Committee who have worked on this legislation. This bill is a product of a bipartisan effort with Senators LEAHY, DEWINE, and KOHL. I look forward to continued collaboration with them and with our other colleagues to help hasten more vigorous competition in the television delivery market and the ever-widening consumer choice that will follow it.

I ask unanimous consent that an explanatory section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION DESCRIPTION OF S. 247

SECTION 1. SHORT TITLE.

The title of the bill is the "Satellite Home Viewer Improvements Act".

SEC. 2. LIMITATIONS ON EXCLUSIVE RIGHTS; SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS WITHIN LOCAL MARKETS.

Section 2 of the bill creates a new copyright compulsory license, found at section 122 of title 17 of the United States Code, for the retransmission of television broadcast stations by satellite carriers to subscribers located within the local markets of those stations. In order to be eligible for this compulsory license, a satellite carrier must be in full compliance with all applicable rules and regulations of the Federal Communications Commission, including any must-carry obligations imposed upon the satellite carrier by the Commission or by law.

Because the copyrighted programming contained on local broadcast programming is already licensed with the expectation that all viewers in the local market will be able to view the programming, the new section 122 license is a royalty-free license. Satellite carriers must, however, provide local broadcasters with lists of their subscribers receiving local stations so that broadcasters may verify that satellite carriers are making proper use of the license. The subscriber information supplied to broadcasters is for verification purposes only, and may not be used by broadcasters for other reasons.

Satellite carriers are liable for copyright infringement, and subject to the full remedies of the Copyright Act, if they violate one or more of the following requirements of the section 122 license. First, satellite carriers may not in any way willfully alter the programming contained on a local broadcast station.

Second, satellite carriers may not use the section 122 license to retransmit a television station to a subscriber located outside the local market of the station. If a carrier willfully or repeatedly violates this limitation on a nationwide basis, then the carrier may be enjoined from retransmitting that signal. If the broadcast station involved is a network station, then the carrier could lose the right to retransmit any network stations affiliated with that same network. If the willful or repeated violation of the restriction is performed on a local or regional basis, then the right to retransmit the station (or, if a network station, then all other stations affiliated with that network) can be enjoined on a local or regional basis, depending upon the circumstances. In addition to termination of service on a nationwide or local or regional basis, statutory damages are available up to $250,000 for each 6-month period during which the pattern or practice of violations was carried out. Satellite carriers have the burden of proving that they are not improperly making use of the section 122 license to serve subscribers outside the local markets of the television broadcast stations they are providing.

The section 122 license is not limited to private home viewing, as is the section 119 compulsory license, so that satellite carriers may make use of it to serve commercial establishments as well as homes. The local market of a television broadcast station for purposes of the section 122 license will be defined by the Federal Communications Commission as part of its broadcast carriage rules for satellite carriers.

SEC. 3. EXTENSION OF EFFECT OF AMENDMENTS TO SECTION 119 OF TITLE 17, UNITED STATES CODE.

Section 3 of the bill extends the expiration date of the current section 119 satellite compulsory license from December 31, 1999 to December 31, 2004.

SEC. 4. COMPUTATION OF ROYALTY FEES FOR SATELLITE CARRIERS.

Section 4 of the bill reduces the 27 cent royalty fee adopted last year by the Librarian of Congress for the retransmission of network and superstation signals by satellite carriers under the section 119 license. The 27 cent rate for superstations is reduced by 30 percent per subscriber per month, and the 27 cent rate for network stations is reduced by 45 percent per subscriber per month.

In addition, section 119(c) of title 17 is amended to clarify that in royalty distribution proceedings conducted under section 802 of the Copyright Act, the Public Broadcasting Service may act as agent for all public television copyright claimants and all Public Broadcasting Service member stations.

SEC. 5. DEFINITIONS.

Section 5 of the bill adds two new definitions to the current section 119 satellite license. The "unserved household" definition is modified to eliminate the 90 day waiting period for satellite subscribers to wait after termination of their cable service until they are eligible for satellite service of network signals. A new definition of a "local network station" is added to clarify that the section 119 license is limited to the retransmission of distant television stations, and not local stations.

SEC. 6. PUBLIC BROADCASTING SERVICES SATELLITE FEED.

Section 6 of the bill extends the section 119 license to cover the copyrighted programming carried upon the Public Broadcasting's national satellite feed. The national satellite feed is treated as a superstation for compulsory license purposes. Also, the bill requires that PBS must certify to the Copyright Office on an annual basis that the PBS membership continues to support retransmission of the national satellite feed under the section 119 license.

SEC. 7. APPLICATION OF FEDERAL COMMUNICATIONS COMMISSION REGULATIONS.

Section 7 of the bill amends the current section 119 license to make it contingent upon full compliance with all rules and regulations of the FCC. This provision mirrors the requirement imposed upon cable operators under the cable compulsory license.

SEC. 8. EFFECTIVE DATE.

The amendments made by this bill become effective on January 1, 1999, with the exception of section 4 which becomes effective on July 1, 1999.

Mr. LEAHY. Mr. President, on this first legislative day of the new session, I am joining Chairman HATCH of the Judiciary Committee to introduce a bill to help protect satellite TV viewers. I know it also has the support of subcommittee Chairman, Senator DEWINE, and its ranking member, Senator KOHL. I appreciate the fact that Republicans and Democrats are working together on this issue. I also want to thank the Majority Leader, Senator LOTT, for his assistance on this issue as well as the Chairman of the Commerce Committee, Senator MCCAIN and their ranking member, Senator HOLLINGS. I look forward to working with all Senators on this matter.

I have received hundreds of calls from Vermonters last year whose satellite TV service was about to be terminated. I am still hearing from Vermonters from all over the state. They are steaming mad and so am I.

This is an outrageous situation—the law must be changed and the Federal Communications Commission has to do its job.

I have worked to change the law over the last two years to try to avoid the situation we now face. I have also insisted that the FCC change its unrealistic rules that will result in needless terminations of service to Vermont families.

Unfortunately, we are on a collision course because of two Court orders affecting CBS and Fox signals offered to home dish owners, an inability to pass needed legislation last year, and the unwillingness of the FCC to step in and alleviate this situation.

Before I go into the details I want to point out that this bipartisan bill represents very good public policy. It will increase competition among TV providers, give consumers more choices, preserve the local affiliate TV system, act to lower cable and satellite rates, and will eventually offer local news, weather and programming over satellite TV instead of programming from distant stations. Over the next couple years, this initiative can solve the problem of losing satellite service by allowing satellites to offer a full array of local TV stations.

It will lead to lower rates for consumers because the bill creates head-to-head competition between cable and satellite TV providers. The bill will allow households who want to subscribe to this new satellite TV service, called "local-into-local"—to receive all local Vermont TV stations over the satellite.

The goal is to offer Vermonters with more choices, more TV selections, but at lower rates. In areas of the country where there is this full competition with cable providers, rates to customers are considerably lower.

Thus, over time this initiative will permit satellite TV providers to offer a full selection of all local TV channels to viewers throughout most of Vermont, as well as the typical complement of superstations, weather and sports channels, PBS, movies and a variety of other channels. This means that local Vermont TV stations will be available over satellite dishes to many areas of Vermont currently not served by satellite or by cable.

Under current law, it is illegal for satellite TV providers to offer distant TV channels over satellite when you live in an area where you are normally likely to get a clear local TV signal with a regular rooftop antenna.

In addition, under current law many families must get their local TV signals over an antenna which often does not provide a clear picture. This bill will remove that legal limitation and allow satellite carriers to offer local TV signals to viewers no matter where they live in Vermont.

To take advantage of this, satellite carriers over time will have to follow the rules that cable providers have to follow. This will mean that they must carry all local Vermont TV stations and not carry distant network stations that compete with local stations.

Presently Vermonters receive network satellite signals with programming from stations in other states—in other words receive a CBS station from another state but not WCAX, the Burlington CBS affiliate.

By allowing satellite providers to offer a larger variety of programming, including local stations, the satellite industry would be able to compete with cable, and the cable industry will be competing with satellite carriers.

All the members of the Judiciary Committee have worked on this matter and I appreciate their efforts. On November 12, of 1997, Chairman HATCH and I held a full Committee hearing on satellite issues to try to avoid needless cutoffs of satellite TV service while, at the same time, working to protect the network affiliate TV broadcast system.

Soon after, on March 5, 1998, we introduced the Hatch-Leahy satellite bill (S. 1720) to address these concerns. This bill was amended in Committee with a Hatch-Leahy substitute and was reported out of the Judiciary Committee unanimously on October 1, 1998.

In the meantime, in July 1998, a federal district court judge in Florida found that PrimeTime 24 was offering distant CBS and Fox television signals to more than a million households in the U.S. in a manner inconsistent with its compulsory license that permits such satellite service only to households who do not get at least "grade B intensity" service. Under a preliminary injunction, satellite service to thousands of households in Vermont and other states was to be terminated on October 8, 1998, for CBS and Fox distant network signals for households signed up after March 11, 1997, the date the action was filed.

To avoid immediate cutoffs of satellite TV service in Vermont and other states, the parties requested an extension of the October 8, 1998, termination date which was granted until February 28, 1999. This extension was also designed to give the FCC time to address these problems faced by satellite home dish owners.

The FCC solicited comments on whether the current definition of grade B intensity was adequate.

I was very concerned about the FCC proposal in this matter and filed a comment asking the FCC to come up with a realistic and workable system to protect satellite dish owners. I criticized the FCC rule in that it would cut off households from receiving distant signals based on "unwarranted assumptions" in a manner inconsistent with the law and the clear intent of the Congress. I complained about entire towns in Vermont which were to be inappropriately cut off and insisted that FCC issue a final rule that permits "a smooth transition to 'local-into-local' satellite TV service."

I said in my comment to their proposal that: "The Commission's proposal raises a number of complex issues, yet the guiding principle that the FCC should follow is simple: No customer's 'distant' satellite TV signals should be cut off if the customer is unable to receive local TV broadcasts over-the-air."

I also pointed out that: "The clear purpose of the law was, and is, to protect those living in more rural areas so that they can receive TV signals using satellite dishes when they are unable to receive a strong signal using an antenna. Your final rule should reflect that purpose. I have heard from constituents in two Vermont towns where I am told that almost no one can receive a clear TV signal, yet all families with satellite dishes were being targeted for termination of their satellite TV channels."

I also noted in my comment: "A second area that concerns me relates to who should bear the cost of any testing that is done. I have heard from Vermonters who are justifiably furious that they are being asked to pay for these costs. The burden of proof and the burden of any additional expenses should not be assessed upon the families owning the satellite dishes."

"While the hills and mountains of Vermont are a natural wonder, they are barriers to receiving clear TV signals over-the-air with roof top antennas. For example, at my home in Middlesex, Vermont, we can only get one channel clearly and the other channel with lots of ghosts."

In yet another development, the Florida district court filed a final order which will also require that households signed up for satellite service before March 11, 1997, be subject to termination of CBS and Fox distant signals on April 30, 1999, if they live in areas where they are likely to receive a grade B intensity signal, as defined by the Court and FCC rules, and are unable to get the local CBS or Fox affiliate to consent to receipt of the distant signal. My understanding is that each subscriber that is to lose service must receive notice 45 days in advance.

I want to make clear, as I did in my comment to the FCC, that I strongly believe in the local affiliate television system. Local broadcast stations provide the public with local news, local weather, local informational programming, local emergency advisories, candidate forums, local public affairs programming, and high quality programs. Local broadcast stations contribute to our sense of community.

I strongly believe that when the full local-into-local satellite system is in place, this system will enhance the local affiliate television system.

I, thus, urge my colleagues to cosponsor this effort.

By Mr. HATCH (for himself, Mr. ASHCROFT, Mr. THURMOND, Mr. SESSIONS, and Mr. KYL):

S. 248. A bill to modify the procedures of the Federal courts in certain matters, to reform prisoner litigation, and for other purposes; to the Committee on the Judiciary.

THE JUDICIAL IMPROVEMENT ACT OF 1999

Mr. HATCH. Mr. President, I rise today to introduce, along with Senators ASHCROFT, THURMOND, KYL, and SESSIONS, the "Judicial Improvement Act of 1999." This legislation is designed to preserve the democratic process by strengthening the constitutional division of powers between the Federal Government and the States and between Congress and the Courts. I introduced this legislation last session, but, to my regret, the Senate did not have an opportunity to act upon it. I am reintroducing it because the same ills that were plaguing our judicial system continue to exist, and I believe this legislation can remedy these ills. I have every expectation that this legislation will be acted upon and favorably passed this session.

I have always given credit where credit is due. So let me state that on the whole, our federal judges respect their constitutional roles and the Senate is aware of these judges' dedication to administering their oaths of office. Yet, unfortunately, this dedication is not universal and a degree of overreaching by some judges dictates that Congress move to more clearly delineate the proper role of federal judges. In our constitutional system, judges can not conveniently forget or blatantly ignore that the Constitution has exclusively reserved to Congress the power to legislate and limited their power to the interpretation of the law.

This careful, but deliberate, separation of legislative and judicial functions is a cornerstone of our constitutional system. Regardless of the temptation to embrace a certain judge's decision that some may find socially or politically expedient, we must remember that no interest is more compelling than preserving our Constitution.

Now, attempts by certain federal judges to infringe upon Congress's legislative authority deeply concern me. I have taken the floor in this chamber on numerous occasions to recite some of the more troubling examples of judicial overreaching. I will not revisit them today. Suffice it to say that activism, and by that I mean a judge who ignores the written text of the law, whether from the right or the left, threatens our constitutional structure.

As an elected official, my votes for legislation are subject to voter approval. Federal judges, however, are unelected, hence they are, as a practical matter, unaccountable to the public. While tenure during good behavior, which amounts to life tenure, is important in that it frees judges to make unpopular but constitutionally sound decisions, it can become a threat to liberty when placed in the wrong hands. And substituting the will of life-tenured federal judges for the democratically elected representatives is not what our Constitution's framers had in mind.

In an effort to avoid this long-contemplated problem, the proposed reform legislation we are introducing today will assist in ensuring that all three branches of the Federal Government work together in a fashion contemplated by, and consistent with, the Constitution. In addition, this legislation will ensure that federal judges are more respectful of the States and their respective sovereignty.

I want to be clear in stating that this bill does not, as some may claim, challenge the independence of federal judges. However, there are currently some activist federal judges improperly expanding their roles in an effort to substitute their own ideas and interests for the will of the people. Judges, however, are simply not entitled to deviate from their roles as interpreters of the law in order to create new law from the bench. If they believe otherwise, they are derelict in their duties and should leave the federal bench to run for public office—at least then they would be accountable for their actions. It is time that we pass legislation that precludes any federal judge from blurring the lines separating the legislative and judicial functions.

It is important to note that the effort to reign in judicial activism should not be limited simply to opposing potential activist nominees. While the careful scrutiny of judicial nominees is one important step in the confirmation process, a step reserved to the Senate alone, Congress itself has an obligation to the public to ensure that judges fulfill their constitutionally prescribed roles and do not encroach upon those powers delegated to the legislature. Hence, the Congress performs an important role in bringing activist decisions to light and, where appropriate, publicly criticizing those decisions. Some view this as an assault upon judicial independence. That is untrue. It is merely a means of engaging in debate about a decision's merits or the process by which the decision was reached. Such criticism is a healthy part of our democratic system. While life tenure insulates judges from the political process, it should not, and must not, isolate them from the people.

In addition, the Constitution grants Congress the authority, with a few notable limitations, to set federal courts' jurisdiction. This is an important tool that, while seldom used, sets forth the circumstances in which the judicial power may be exercised. A good example of this is the 104th Congress' effort to reform the statutory writ of habeas corpus in an attempt to curb the seemingly endless series of petitions filed by convicted criminals bent on thwarting the demands of justice. Legislation of this nature is an important means of curbing activism.

In an effort to accomplish these goals, I have chosen to re-introduce, along with my colleagues, the Judicial Improvement Act. It is a small, albeit meaningful, step in the right direction. Notably, this legislation will change the way federal courts review constitutional challenges to state and federal laws. The existing process allows a single federal judge to hear and grant applications regarding the constitutionality of state and federal laws as well as state ballot initiatives. In other words, a single federal judge can impede the will of a majority of the voters merely by issuing an order halting the implementation of a state referendum.

This proposed reform will accomplish the twin goals of fighting judicial activism and preserving the democratic process. In essence, this bill modestly proposes to respond to the problem of judicial activism in part by: (1) Requiring a three judge district court panel to hear appeals and grant interlocutory or permanent injunctions based on the constitutionality of a state law or referendum; (2) placing time limitations on remedial authority in any civil action in which prospective relief or a consent judgment binds State or local officials; (3) prohibiting a federal court from having the authority to order state or local governments to increase taxes as part of a judicial remedy; (4) preventing a federal court from prohibiting state or local officials from reprosecuting a defendant; and (5) preventing a federal court from ordering the release of violent offenders under unwarranted circumstances.

As I said last session and still believe to be true, this reform bill is a long overdue effort to minimize the potential for judicial activism in the federal court system. Americans are understandably frustrated when they exercise their right to vote and the will of their elected representatives is frustrated by judges who enjoy life tenure. It is no wonder that millions of Americans do not think their vote matters when they enact a referendum only to have it enjoined by a single district court judge. By improving the way federal courts analyze constitutional challenges to laws and initiatives, Congress will protect the rights of parties to challenge unconstitutional laws while at the same time reduce the ability of activist judges to abuse their power and circumvent the will of the people.

I want to take a few moments to again describe how this legislation will curb the ability of federal judges to engage in judicial activism. The first reform would require a three judge panel to hear and issue interlocutory and permanent injunctions regarding challenged laws at the district court level. The current system allows a single federal judge to restrain the enforcement, operation and execution of challenged federal or state laws, including initiatives. There have been many instances where an activist judge has used this power to overturn a ballot initiative only to have his or her order overturned by a higher court years later.

One need only remember how Proposition 209, a ballot initiative passed by the voters which prohibited affirmative action in California, was held in abeyance after a district court judge issued an injunction barring its enforcement to understand how the three judge panel provision may in fact play a role in ensuring that the will of the people is not wrongfully thwarted. The injunction was subsequently overturned by the Ninth Circuit Court of Appeals which ruled that the law was constitutional. A three judge panel perhaps may have ruled correctly initially, allowing the democratic process to work properly while also saving taxpayer dollars.

Obviously, I have no problem with a court declaring a law unconstitutional when it violates the written text of the Constitution. It is, however, inappropriate when a judge attempts to act like a legislator and imposes his own policy preference on the citizens of a state. Such an action weakens respect for the federal judiciary, creates cynicism in the voting public, and costs governments millions of dollars in legal fees. By requiring a ruling by a three judge panel to overturn the validity of a State law, the proposed law would eliminate the ability of one activist judge to unilaterally bar enforcement of a law or ballot initiative through an interlocutory or permanent injunction.

In addition, new time limits on injunctive relief would be imposed. A temporary restraining order would remain in force no more than 10 days, and an interlocutory injunction no more than 60 days. After the expiration of an interlocutory injunction, federal courts would lack the authority to grant any additional interlocutory relief but would still have the power to issue a permanent injunction. These limitations are designed to prevent the federal judiciary from indefinitely barring implementation of challenged laws by issuing endless injunctions, and facilitate the appeals process by motivating courts to speedily handle constitutional challenges. What this reform essentially does is encourage the federal judiciary to rule on the merits of a case, and not use injunctions to keep a challenged law from going into effect or being heard by an appeals court through the use of delaying tactics.

The bill also proposes to require that a notice of appeal must be filed not more than fourteen days after the date of an order granting an interlocutory injunction and the appeals court would lack jurisdiction over an untimely appeal of such an order. The court of appeals would apply a de novo standard of review before reconsidering the merits of granting relief, but not less than 100 days after the issuance of the original order granting interlocutory relief. If the interlocutory order is upheld on appeal, the order would remain in force no longer than 60 days after the date of the appellate decision or until replaced by a permanent injunction.

The bill also proposes limitations on the remedial authority of federal courts. In any civil action where prospective relief or a consent judgment binds state and local officials, relief would be terminated upon the motion of any party or intervener: (a) Five years after the date the court granted or approved the prospective relief; (b) two years after the date the court has entered an order denying termination of prospective relief; or (c) in the case of an order issued on or before the date of enactment of this act, two years after the date of enactment.

Parties could agree to terminate or modify an injunction before relief is available if it otherwise would be legally permissible. Courts would promptly rule on motions to modify or terminate this relief and in the event that a motion is not ruled on within 60 days, the order or consent judgment binding state and local officials would automatically terminate.

However, prospective relief would not terminate if the federal court makes written findings based on the record that relief remains necessary to correct an ongoing violation of a federal right, extends no further than necessary to correct the violation and is the least intrusive means available to correct the violation of a federal right.

Moreover, this measure would also prohibit a federal court from having the authority to order a unit of state or local government to increase taxes as part of a judicial remedy. When an unelected federal judge has the power to order tax increases, this results in taxation without representation. Americans have fought against unfair taxation since the Revolutionary War, and this bill would prevent unfair judicial taxation and leave the power to tax to elected representatives of the people.

The bill would not limit the authority of a federal court to order a remedy which may lead a unit of local or state government to decide to increase taxes. A federal court would still have the power to issue a money judgment against a State because the court would not be attempting to restructure local government entities or mandating a particular method or structure of State or local financing. This bill also doesn't limit the remedial authority of State courts in any case, including cases raising issues of federal law. All the bill does is prevent federal courts from having the power to order elected representatives to raise taxes. This is moderate reform which prevents judicial activism and unfair taxation while preserving the federal courts power to order remedial measures.

Another important provision of the bill would prevent a federal court from prohibiting State or local officials from re-prosecuting a defendant. This legislation is designed to clarify that federal habeas courts lack the authority to bar retrial as a remedy.

This part of the legislation was cosponsored by Congressman PITTS and Senator SPECTER in response to a highly-publicized murder case in the Congressman's district. Sixteen year old Laurie Show was harrassed, stalked and assaulted for six months by the defendant, who had a vendetta against Show for briefly dating the defendant's boyfriend. After luring Show's mother from their residence, the defendant and an accomplice forcefully entered the Show home, held the victim down, and slit her throat with a butcher knife, killing her. After the defendant was convicted in state court, she filed a habeas petition in which she alleged prosecutorial misconduct and averred her actual innocence. A federal district court judge not only accepted this argument and released the defendant, but he also took the extraordinary step of barring state and local officials from reprosecuting the woman. This judge even went so far as to state that the defendant was the "first and foremost victim of this affair."

Congress has long supported the ability of a federal court to fashion creative remedies to preserve constitutional protections, but the additional step of barring state or local officials from reprosecution is without precedent and an unacceptable intrusion on the rights of States. This bill, if enacted, will prevent this type of judicial activism from ever occurring again.

This bill also contains provisions for the termination of prospective relief when it is no longer warranted to cure a violation of a federal right. Once a violation that was the subject of a consent decree has been corrected, a consent decree must be terminated unless the court finds that an ongoing violation of a federal right exists, the specific relief is necessary to correct the violation of a Federal right, and no other relief will correct the violation of the Federal right. The party opposing the termination of relief has the burden of demonstrating why the relief should not be terminated, and the court is required to grant the motion to terminate if the opposing party fails to meet its burden. These provisions prevent consent decrees from remaining in effect once a proper remedy has been implemented, thereby preventing judges from imposing consent decrees that go beyond the requirements of law.

The proposed reform law also includes provisions designed to dissuade prisoners from filing frivolous and malicious motions by requiring that the complainant prisoner pay for the costs of the filings. These provisions will undoubtedly curb the number of frivolous motions filed by prisoners and thus, relieve the courts of the obligation to hear these vacuous motions designed to mock and frustrate the judicial system.

Finally, the bill proposes to prevent federal judges from entering or carrying out any prisoner release order that would result in the release from or nonadmission to a prison on the basis of prison conditions. This provision effectively will preclude activist judges from circumventing mandatory minimum sentencing laws by stripping federal judges of jurisdiction to enter such orders. This will ensure that the tough sentencing laws approved by voters to keep murderers, rapists, and drug dealers behind bars for lengthy terms will not be ignored by activist judges who improperly use complaints of prison conditions filed by convicts as a vehicle to release violent offenders back on to our streets. It will also prevent any federal judge from ever endangering families and children in our communities by preventing these judges from releasing prisoners based on prison conditions.

Congress repeatedly has tried to ensure that convicted prisoners stay where they belong: in prison for the term to which they were sentenced. This effort has been ongoing for over 10 years. Consider the following examples: (1) In 1987, Congress passed the Sentencing Guidelines which effectively limited the probation of prisoners; (2) the 1994 Crime Bill contained incentives for States to pass Truth in Sentencing Laws which kept convicted prisoners incarcerated for longer periods; and (3) the Prisoner Litigation Reform Act of 1996 allowed for the revocation of good time credit if prisoners filed malicious, repetitive and frivolous law suits while in prison. The reform bill being introduced today will further Congress' ongoing efforts to provide safer streets for all Americans by ensuring that convicted prisoners who pose a danger to our communities are not released prior to the expiration of their mandated sentences.

This timely legislation is a measured effort to improve the way the federal judiciary works. It is not an attempt to infringe upon judicial independence. To the contrary, this reform bill is a sensible, balanced attempt to promote judicial efficiency and to prevent egregious judicial activism. I encourage all of my colleagues to act swiftly on and support this truly needed legislation.

By Mr. HATCH (for himself and Mr. DEWINE):

S. 249. A bill to provide funding for the National Center for Missing and Exploited Children, to reauthorize the Runaway and Homeless Youth Act, and for other purposes; to the Committee on the Judiciary.

THE MISSING, EXPLOITED, AND RUNAWAY CHILDREN PROTECTION ACT

Mr. HATCH, Mr. President, today I am proud to introduce the Missing, Exploited, and Runaway Children Protection Act of 1999. This bill reauthorizes two vital laws that serve a crucial line of defense in support of some of the most vulnerable members of our society—thousands of missing, exploited, homeless, or runaway children. It is a tragedy in our Nation that each year there are as many as over 114,000 attempted child abductions, 4,500 child abductions reported to the police, 450,000 children who run away, and 438,000 children who are lost, injured, or missing. I am told that this is a growing problem even in my State of Utah.

Families who have written to me have shared the pain of a lost or missing child. While missing, lost, on the run, or abducted, each of these children is at high risk of falling into the darkness of drug abuse, sexual abuse and exploitation, pain, hunger, and injury. Each of these children is precious, and deserves our efforts to save them. The bill I am introducing today is a step in that direction.

My bill reauthorizes and improves the Missing Children's Assistance Act and the Runaway and Homeless Youth Act. First,this bill revises the Missing Children's Assistance Act in part by recognizing the outstanding record of achievements of this National Center for Missing and Exploited Children. It will enable NCMEC to provide even greater protection of our Nation's children in the future. Second, this bill reauthorizes and revitalizes the Runaway and Homeless Youth Act.

At the heart of the bill's amendments to the Missing Children's Assistance Act is an enhanced authorization of appropriations for the National Center for Missing and Exploited Children. Under the authority of the Missing children's Assistance Act, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has selected and given grants to the Center for the last fourteen years to operate a national resource center located in Arlington, Virginia and a national 24-hour toll-free telephone line. The Center provides invaluable assistance and training to law enforcement around the country in cases of missing and exploited children. The Center's record is quite impressive, and its efforts have led directly to a significant increase in the percentage of missing children who are recovered safely.

In fiscal year 1999, the Center received an earmark of $8.12 million in the Departments of Commerce, Justice, and State Appropriations conference report. In addition, the Center's Jimmy Ryce Training Center received $1.25 million.

The legislation I am introducing today continues and formalizes NCMEC's long partnership with the Justice Department and OJJDP, by directing OJJDP to make an annual grant to the Center, and authorizing annual appropriations of $10 million for fiscal years 1999 through 2004.

NCMEC's exemplary record of performance and success, as demonstrated by the fact that NCMEC's recovery rate has climbed from 62% to 91%, justifies action by Congress to formally recognize it as the nation's official missing and exploited children's center, and to authorize a line-item appropriation. This bill will enable the Center to focus completely on its missions, without expending the annual effort to obtain authority and grants from OJJDP. It also will allow the Center to expand its longer-term arrangements with domestic and foreign law enforcement entities. By providing an authorization, the bill also will allow for better congressional oversight of the Center.

The record of the Center, described briefly below, demonstrates the appropriateness of this authorization. For fourteen years the Center has served as the national resource center and clearinghouse mandated by the Missing Children's Assistance Act. The Center has worked in partnership with the Department of Justice, the Federal Bureau of Investigation, the Department of Treasury, the State Department, and many other federal and state agencies in the effort to find missing children and prevent child victimization.

The trust the federal government has placed in NCMEC, a private, non-profit corporation, is evidenced by its unique access to the FBI's National Crime Information Center, and the National Law Enforcement Telecommunications System (NLETS).

NCMEC has utilized the latest in technology, such as operating the National Child Pornography Tipline, establishing its new Internet website, www.missingkids.com, which is linked with hundreds of other websites to provide real-time images of breaking cases of missing children, and, beginning this year, establishing a new CyberTipline on child exploitation.

NCMEC has established a national and increasingly worldwide network, linking NCMEC online with each of the missing children clearinghouses operated by the 50 states, the District of Columbia and Puerto Rico. In addition, NCMEC works constantly with international law enforcement authorities such as Scotland Yard in the United Kingdom, the Royal Canadian Mounted Police, INTERPOL headquarters in Lyon, France and others. This network enables NCMEC to transmit images and information regarding missing children to law enforcement across America and around the world instantly. NCMEC also serve as the U.S. State Department's representative at child abduction cases under the Hague Convention.

The record of NCMEC is demonstrated by the 1,203,974 calls received at its 24-hour toll-free hotline, 1(800)THE LOST, the 146,284 law enforcement, criminal/juvenile justice, and healthcare professionals trained, the 15,491,344 free publications distributed, and, most importantly, by its work on 59,481 cases of missing children, which has resulted in the recovery of 40,180 children. Each of these figures represents the activity of NCMEC through spring 1998. NCMEC is a shining example of the type of public-private partnership the Congress should encourage and recognize.

The second part of the bill I am introducing today reforms and streamlines the Runaway and Homeless Youth Act, targeting federal assistance to areas with the greatest need, and making numerous technical changes. According to the National Network for Youth, the Runaway and Homeless Youth Act provides "critical assistance to youth in high-risk situations all over the country." Its three programs, discussed in more detail below, benefit those children truly in need and at high risk of becoming addicted to drugs, sexually exploited or abused, or involved in criminal behavior.

The cornerstone of the Runaway and Homeless Youth Act is the Basic Center Program which provides grants for temporary shelter and counseling for children under age 18. My home state of Utah received over $378,000 in grants in FY 1998 under this program, and I have received requests from Utah organizations such as the Baker Youth Service Home to reauthorize this important program.

Community-based organizations also may request grants under the two related programs, the Transitional Living and the Sexual Abuse Prevention/Street Outreach programs. The Transitional Living grants provide longer term housing to homeless teens aged 16 to 21, and aim to move these teens to self-sufficiency and to avoid long-term dependency on public assistance. The Sexual Abuse Prevention/Street Outreach Program targets homeless teens potentially involved in high risk behaviors.

In addition, the amendment reauthorizes the Runaway and Homeless Youth Act Rural Demonstration Projects which provide assistance to rural juvenile populations, such as in my state of Utah. Finally, the amendment makes several technical corrections to fix prior drafting errors in the Runaway and Homeless Youth Act.

The provisions of this bill will strengthen our commitment to our youth. I urge my colleagues to support this legislation, which will strengthen the Missing Children's Assistance Act, the National Center for Missing and Exploited Children, and the Runaway and Homeless Youth Act, and thus improve the safety of our Nation's children.

By Mr. HATCH (for himself, Mr. DEWINE, and Mr. NICKLES):

S. 250. A bill to establish ethical standards for Federal prosecutors, and for other purposes.

FEDERAL PROSECUTOR ETHICS ACT

Mr. HATCH. Mr. President, I am pleased today to introduce an important piece of corrective legislation—the Federal Prosecutor Ethics Act. This bill will address in a responsible manner the critical issue of ethical standards for federal prosecutors, while ensuring that the public servants are permitted to perform their important function of upholding federal law.

The bill I am introducing today is a careful solution to a troubling problem—the application of state ethics rules in federal court, and particularly to federal prosecutors. In short, my bill will subject federal prosecutors to the bar rules of each state in which they are licensed unless such rules are inconsistent with federal law or the effectuation of federal policy or investigations. It also sets specific standards for federal prosecutorial conduct, to be enforced by the Attorney General. Finally, it establishes a commission of federal judges, appointed by the Chief Justice, to review and report on the interrelationship between the duties of federal prosecutors and regulation of their conduct by state bars and the disciplinary procedures utilized by the Attorney General.

No one condones prosecutorial excesses. There have been instances where law enforcement, and even some federal prosecutors, have gone overboard. Unethical conduct by any attorney is a matter for concern. But when engaged in by a federal prosecutor, unethical conduct cannot be tolerated. For as Justice Sutherland noted in 1935, the prosecutor is not just to win a case, "but that justice shall be done. . . . It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one."

We must, however, ensure that the rules we adopt to ensure proper prosecutorial conduct are measured and well-tailored to that purpose. As my colleagues may recall, last year's omnibus appropriations act included a very controversial provision known to most of my colleagues simply as the "McDade provision," after its House sponsor, former Representative Joe McDade.

This well-intentioned but ill-advised provision was adopted to set ethical standards for federal prosecutors and other attorneys for the government. In my view, it was not the measured and well-tailored law needed to address the legitimate concerns its sponsors sought to redress. Nor was I alone in this view. So great was the concern over its impact, in fact, that its effective date was delayed until six months after enactment. That deadline is approaching. In my view, if allowed to take effect in its present form, the McDade provision would cripple the ability of the Department of Justice to enforce federal law and cede authority to regulate the conduct of federal criminal investigations and prosecutions to more than 50 state bar associations.

As enacted last fall, the McDade provision adds a new section 530B to title 28 of the U.S. Code. In its most relevant part, it states that an "attorney for the government shall be subject to State laws and rules . . . governing attorneys in each state where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that state."

There are important practical considerations which persuasively counsel against allowing 28 U.S.C. 530B to take effect unchanged. I have been a frequent critic of the trend toward the over-federalization of crime. Yet the federal government has a most legitimate role in the investigation and prosecution of complex multistate terrorism, drug, fraud or organized crime conspiracies, in rooting out and punishing fraud against federally funded programs such as Medicare, Medicaid, and Social Security, in vindicating the federal civil rights laws, in investigating and prosecuting complex corporate crime, and in punishing environmental crime.

It is in these very cases that Section 530B will have its most pernicious effect. Federal attorneys investigating and prosecuting these cases, which frequently encompass three, four, or five states, will be subject to the differing state and local rules of each of those states, plus the District of Columbia, if they are based here. Their decisions will be subject to review by the bar and ethics review boards in each of these states at the whim of defense counsel, even if the federal attorney is not licensed in that state.

Practices concerning contact with unrepresented persons or the conduct of matters before a grand jury, perfectly legal and acceptable in federal court, will be subject to state bar rules. For instance, in many states, federal attorneys will not be permitted to speak with represented witnesses, especially witnesses to corporate misconduct, and the use of undercover investigations will at a minimum be hindered. In other states, section 530B might require—contrary to long-established federal grand jury practice—that prosecutors present exculpatory evidence to the grand jury. Moreover, these rules won't have to be in effect in the district where the subject is being investigated, or where the grand jury is sitting to have these effects. No, these rules only have to be in effect somewhere the investigation leads, or the federal attorney works, to handcuff federal law enforcement.

In short, Section 530B will affect every attorney in every department and agency of the federal government. It will affect enforcement of our antitrust laws, our environmental laws prohibiting the dumping of hazardous waste, our labor laws, our civil rights laws, and as I said before, the integrity of every federal funding program.

Section 530B is also an open invitation to clever defense attorneys to stymie federal criminal or civil investigations by raising bogus defenses or bringing frivolous state bar claims. Indeed, this is happening even without Section 530B as the law of the land. The most recent example is the use of a State rule against testimony buying to brand as "unethical" the long accepted, and essential, federal practice of moving for sentence reductions for co-conspirators who cooperate with prosecutors by testifying truthfully for the government. How much worse will it be when this provision declares it open season on federal lawyers?

What will the costs of this provision be? At a minimum, the inevitable result will be that violations of federal laws will not be punished, and justice will not be done. But there will be financial costs to the federal government as well, as a result of defending these frivolous challenges and from higher costs associated with investigating and prosecuting violations of federal law.

All of this, however, is not to say that nothing needs to be done on the issue of attorney ethics in federal court. Indeed, I have considerable sympathy for the objectives values Section 530B seeks to protect. All of us who at one time or another have been the subject of unfounded ethical or legal charges, as I have been as well, know the frustration of clearing one's name. And no one wants more than I to ensure that all federal prosecutors are held to the highest ethical standards. But Section 530B, as it was enacted last year, is not in my view the way to do it.

The bill I am introducing today addresses the narrow matter of federal prosecutorial conduct in a responsible way, and I might add, in a manner that is respectful of both federal and state sovereignty. As all of my colleagues know, each of our states has at least one federal judicial district. But the federal courts that sit in these districts are not courts of the state. They are, of course instrumentalities of federal sovereignty, created by Congress pursuant to its power under Article III of the Constitution, which vests the judicial power of the United States in "one supreme Court and in such inferior Courts as the Congress may from time to time ordain and establish."

As enacted, Section 530B is in my view a serious dereliction of our Constitutional duty to establish inferior federal courts. Should this provision take effect, Congress will have ceded the right to control conduct in the federal courts to more than fifty state bar associations, at a devastating cost to federal sovereignty and the independence of the federal judiciary. Simply put, the federal government, like each of our states, must retain for itself the authority to regulate the practice of law in its own courts and by its own lawyers. Indeed, the principle of federal sovereignty in its own sphere has been well established since Chief Justice Marshall's opinion in *McCulloch* v. *Maryland* [17 U.S. (4 Wheat.) 316, 1819].

However, it may only be a first step. For the problem of rules for the conduct of attorneys in federal court affects more than just prosecutors. It affects all litigants in each of our federal courts, who have a right to know what the rules are in the administration of justice. This is a problem that has been percolating in the federal bar for over a decade—the diversity of ethical rules governing attorney conduct in federal court.

Presently, there is no uniform rule that applies in all federal courts. Rather, applicable ethics rules have been left up to the discretion of local rules in each federal judicial district. Various districts have taken different approaches, including adopting state standards based on either the ABA Model Rules or the ABA Code, adopting one of the ABA models directly, and in some cases, adopting both an ABA model and the state rules.

This variety of rules has led to confusion, especially in multiforum federal practice. As a 1997 report prepared for the Judicial Conference's Committee on Rules of Practice and Procedure put it, "Multiforum federal practice, challenging under ideal conditions, has been made increasingly complex, wasteful, and problematic by the disarray among federal local rules and state ethical standards."

Moreover, the problem may well be made worse if Section 530B takes effect in its present form. First, as enacted, Section 530B contains an internal conflict that will add to the confusion. Section 530B provides that federal attorneys are governed by both the state laws and bar rules and the federal court's local rules. These, of course, are frequently different, setting up the obvious quandary—which take precedence? Finally, Section 530B might further add to the confusion, by raising the possibility of different standards in the same court for opposing litigants—private parties governed by the federal local rules and prosecutors governed by Section 530B.

The U.S. Judicial Conference's Rules Committee has been studying this matter, and is considering whether to issue ethics rules pursuant to its authority under the federal Rules Enabling Act. I believe that this is an appropriate debate to have, and that it may be time for the federal bar to mature. The days are past when federal practice was a small side line of an attorney's practice. Practice in federal court is now ubiquitous to any attorney's practice of law. It is important, then, that there be consistent rules. Indeed, for that very reason, we have federal rules of evidence, criminal procedure, and civil procedure. Perhaps it is time to consider the development of federal rules of ethics, as well.

This is not to suggest, of course, a challenge to the traditional state regulation of the practice of law, or the proper control by state Supreme Courts of the conduct of attorneys in state court. The assertion of federal sovereignty over the conduct of attorneys in federal courts will neither impugn nor diminish the sovereign right of states to continue to do the same in state courts. However, the administration of justice in the federal courts requires the consideration of uniform rules to apply in federal courts and thus, I will be evaluating proposals to set uniform rules governing the conduct of attorneys in federal court.

Mr. President, the legislation I am introducing today is of vital importance to the continued enforcement of federal law. Its importance is compounded by the deadline imposed by the effective date of Section 530B. I urge my colleagues to join me in this effort, and support the Federal Prosecutor Ethics Act.

By Mr. THURMOND:

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

Mr. THURMOND. Mr. President, today I am introducing the voluntary school prayer constitutional amendment. This bill is identical to S.J. Res. 73, which I introduced in the 98th Congress at the request of then President Reagan and have reintroduced every Congress since.

This proposal has received strong support from both sides of the aisle and is of vital importance to our Nation. It would restore the right to pray voluntarily in public schools—a right which was freely exercised under our Constitution until the 1960's, when the Supreme Court ruled to the contrary.

Also, in 1985, the Supreme Court ruled an Alabama statute unconstitutional which authorized teachers in public schools to provide "a period of silence * * * for meditation or voluntary prayer" at the beginning of each school day. As I stated when that opinion was issued and repeat again: the Supreme Court has too broadly interpreted the Establishment Clause of the First Amendment and, in doing so, has incorrectly infringed on the rights of those children—and their parents—who wish to observe a moment of silence for religious or other purposes.

Until the Supreme Court ruled in the Engel and Abington School District decisions, the Establishment Clause of the First Amendment was generally understood to prohibit the Federal Government from officially approving, or holding in special favor, any particular religious faith or denomination. In crafting that clause, our Founding Fathers sought to prevent what had originally caused many colonial Americans to emigrate to this country—an official, State religion. At the same time, they sought, through the Free Exercise Clause, to guarantee to all Americans the freedom to worship God without government interference or restraint. In their wisdom, they recognized that true religious liberty precludes the government from both forcing and preventing worship.

As Supreme Court Justice William Douglas once stated: "We are a religious people whose institutions presuppose a Supreme Being." Nearly every President since George Washington has proclaimed a day of public prayer. Moreover, we, as a Nation, continue to recognize the Deity in our Pledge of Allegiance by affirming that we are a Nation "under God." Our currency is inscribed with the motto, "In God We Trust". In this Body, we open the Senate and begin our workday with the comfort and stimulus of voluntary group prayers. I would note that this practice has been upheld as constitutional by the Supreme Court.

It is unreasonable that the opportunity for the same beneficial experience is denied to the boys and girls who attend public schools. This situation simply does not comport with the intentions of the framers of the Constitution and is, in fact, antithetical to the rights of our youngest citizens to freely exercise their respective religions. It should be changed, without further delay.

The Congress should swiftly pass this resolution and send it to the States for ratification. This amendment to the Constitution would clarify that it does not prohibit vocal, voluntary prayer in the public school and other public institutions. It emphatically states that no person may be required to participate in any prayer. The government would be precluded from drafting school prayers. This well-crafted amendment enjoys the support of an overwhelming number of Americans.

I strongly urge my colleagues to support prompt consideration and approval of this legislation during this Congress.

Mr. President I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress:

"ARTICLE—

"Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any State to participate in prayer. Neither the United States nor any State shall compose the words of any prayer to be said in public schools.".

By Mr. KYL (for himself, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. BROWNBACK, Mr. COVERDELL, Mr. CRAPO, Mr. FRIST, Mr. GRAMM, Mr. GRAMS, Mr. HAGEL, Mr. HELMS, Mrs. HUTCHISON, Mr. INHOFE, Mr. MACK, Mr. MCCONNELL, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, and Mr. THOMPSON):

S.J. Res. 2. A joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for increasing taxes; to the Committee on the Judiciary.

Mr. KYL. Mr. President, I rise today on behalf of myself and Senators ABRAHAM, ALLARD, ASHCROFT, BROWNBACK, COVERDELL, CRAPO, FRIST, GRAMM, GRAMS, HAGEL, HELMS, HUTCHISON, INHOFE, MACK, MCCONNELL, SESSIONS, SHELBY, SMITH of New Hampshire, and THOMPSON, to introduce the Tax Limitation Amendment, a joint resolution that proposes to amend the Constitution to require a two-thirds vote of the House and Senate to raise taxes.

Mr. President, this is an idea that comes to us from the states. Voters from around the country have approved similar restrictions in recent years—doing so in most cases by overwhelming margins. Most recently, a solid majority of Montana voters approved an amendment to their state's constitution that requires voter approval of all new taxes and tax increases. That is a far stronger constraint than what is being proposed here.

By overwhelming majorities, voters in Arkansas, Maryland, and Virginia upheld their states tax-limitation initiatives, rejecting ballot propositions on November 3 last year that were designed to water down existing constraints on tax increases.

Two years ago, also by overwhelming majorities, voters from Florida to California approved initiatives aimed at limiting government's ability to raise taxes. Florida's Question One, which requires a two-thirds vote of the people to enact or raise any state taxes or fees, passed with 69.2 percent of the vote.

Seventy percent of Nevada voters approved the Gibbons amendment, requiring a two-thirds majority vote of the state legislature to pass new taxes or tax hikes. South Dakotans easily approved an amendment requiring either a vote of the people or a two-thirds vote of the legislature for any state tax increase.

And California voters tightened the restrictions in the most famous tax limitation of all, Proposition 13, so that all taxes at the local level now have to be approved by a vote of the people. Of course, voters in my home state of Arizona overwhelmingly approved a state tax limit of their own in 1992.

The Tax Limitation Amendment I am introducing today would impose similar constraints on federal tax-raising authority. It would require a two-thirds majority vote of each house of Congress to pass any bill levying a new tax or increasing the rate or base of any existing tax. In short, any measure that would take more out of the taxpayers' pockets would require a supermajority vote to pass.

I would note that the proposed amendment includes provisions that would allow Congress to waive the supermajority vote requirement in times of war, or when the United States is engaged in military conflict which causes an imminent and serious threat to national security. But to ensure that such waiver authority is truly reserved for such emergencies and is not abused, any new taxes imposed under a waiver could only remain in effect for a maximum of two years.

Mr. President, why is a tax-limitation amendment necessary?

The two largest tax increases in our nation's history were enacted earlier this decade by only the slimmest of margins. In fact, President Clinton's 1993 tax increase did not even win the support of a majority of Senators. Vice President GORE broke a 50 to 50 vote tie to secure its passage.

Despite very modest efforts to cut taxes in the last few years, the effects of the record-setting tax increases of 1990 and 1993 are still being felt today. The tax burden imposed on the American people hit a peacetime high of 19.8 percent of GDP in 1997 and, according to the Congressional Budget Office, is continuing to rise—to 20.5 percent in 1998 and 20.6 in 1999. That will be higher than any year since 1945, and it would be only the third and fourth years in our nation's entire history that revenues have exceeded 20 percent of national income. Notably, the first two times revenues broke the 20 percent mark, the economy tipped into recession.

Already, economists are beginning to project slower economic growth in coming years. Barring any further shocks from abroad, growth for 1999 to 2003 is estimated at about two percent. In fact, growth during the high-tax Clinton years has averaged only about 2.3 percent annually. That compares to the 3.9 percent annual growth rate during the period after the Reagan tax cuts and before the 1990 tax increase. The heavy tax burden may not be the only reason for slow growth, but it is a significant factor.

With that in mind, I believe the President and Congress should consider reducing income-tax rates across the board for all Americans. We will no doubt have that debate about the need for tax relief in coming months. But whether we agree to cut taxes or not, we—the President and Congress—should be able to agree that taxes are high enough and should not be raised further, at least not without the kind of significant, broad-based and bipartisan support that would be required under the Tax Limitation Amendment.

Raising sufficient revenue to pay for government's essential operation is obviously a necessary part of governing, but raising tax rates is not necessarily the best way to raise revenue. As recent experience proves, it is a strong and growing economy—not high tax rates—that generates substantial amounts of new revenue for the Treasury. It was the growing economy that helped eliminate last year's unified budget deficit.

In any event, voters around the country seem to believe that raising taxes should only be done when there is broad support for the proposition. The TLA will ensure that no tax can be raised in the future without such consensus.

Mr. President, I invite my colleagues to cosponsor the initiative, and I ask unanimous consent that the text of the joint resolution be reprinted in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 2

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE—

"SECTION 1. Any bill to levy a new tax or increase the rate or base of any tax may pass only by a two-thirds majority of the whole number of each House of Congress.

"SECTION 2. The Congress may waive section 1 when a declaration of war is in effect. The Congress may also waive section 1 when the United States is engaged in military conflict when it causes an imminent and serious threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law. Any provision of law which would, standing alone, be subject to section 1 but for this section and which becomes law pursuant to such a waiver shall be effective for not longer than 2 years.

"SECTION 3. All votes taken by the House of Representatives or the Senate under this article shall be determined by yeas and nays and the names of persons voting for and against shall be entered on the Journal of each House respectively.".

By Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. BIDEN, Mr. GRASSLEY, Mr. INOUYE, Mr. DEWINE, Ms. LANDRIEU, Ms. SNOWE, Mr. LIEBERMAN, Mr. MACK, Mr. CLELAND, Mr. COVERDELL, Mr. SMITH of New Hampshire, Mr. SHELBY, Mr. HUTCHINSON, Mr. HELMS, Mr. FRIST, Mr. GRAMM, Mr. LOTT, and Mrs. HUTCHISON):

S.J. Res. 3. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims; to the Committee on the Judiciary.

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO PROTECT THE RIGHTS OF CRIME VICTIMS

Mr. KYL. Mr. President, to ensure that crime victims are treated with fairness, dignity, and respect, I rise to introduce, along with Senator FEINSTEIN, a resolution proposing a constitutional amendment to establish and protect the rights of victims of violent crime. I would like to update the members on the latest form of the Crime Victims Rights Amendment and outline our plans for the 106th Congress.

This joint resolution is the product of extended discussions with House Judiciary Committee Chairman HENRY HYDE, Senators HATCH and BIDEN, the Department of Justice, the White House, law enforcement officials, major victims' rights groups, and such diverse scholars as Professors Larry Tribe and Paul Cassell. As a result of these discussions, the core values in the original amendment remain unchanged, but the language has been refined to better protect the interest of all parties.

Before I discuss the amendment in detail, I would like to thank Senator FEINSTEIN for her efforts to advance the cause of crime victims' rights and for her very valuable work on the language of the amendment. She has been a tireless and invaluable advocate for the amendment.

Mr. President, the scales of justice are imbalanced. The U.S. Constitution, mainly through amendments, grants those accused of crime many constitutional rights, such as a speedy trial, a jury trial, counsel, the right against self-incrimination, the right to be free from unreasonable searches and seizures, the right to subpoena witnesses, the right to confront witnesses, and the right to due process under the law.

The Constitution, however, guarantees no rights to crime victims. For example, victims have no right to be present, no right to be informed of hearings, no right to be heard at sentencing or at a parole hearing, no right to insist on reasonable conditions of release to protect the victim, no right to restitution, no right to challenge unending delays in the disposition of their case, and no right to be told if they might be in danger from release or escape of their attacker. This lack of rights for crime victims has caused many victims and their families to suffer twice, once at the hands of the criminal, and again at the hands of a justice system that fails to protect them. The Crime Victim Rights Amendment is a constitutional amendment that would bring balance to the judicial system by giving crime victims the rights to be informed, present, and heard at critical stages throughout their ordeal—the least the system owes to those it failed to protect.

Mr. President, the current version, which is the 62d draft of the amendment, contains the rights that we believe victims should have.

The amendment gives victims the rights:

To be notified of the proceedings;

To attend all public proceedings;

To be heard at certain crucial stages in the process;

To be notified of the offender's release or escape;

To consideration for a trial free from unreasonable delay;

To an order of restitution;

To have the safety of the victim considered in determining a release from custody; and

To be notified of these rights and standing to enforce them.

These rights are the core of the amendment.

Mr. President, if reform is to be meaningful, it must be in the U.S. Constitution. Since 1982, when the need for a constitutional amendment was first recognized by a Presidential Task Force on Victims of Crime, 32 states have passed similar measures—by an average popular vote of about 80 percent. These state measures have materially helped protect crime victims; but they are inadequate for two reasons: First, each amendment is different, and not all states have provided protection to victims; a Federal amendment would establish a basic floor of crime victims' rights for all Americans, just as the Federal Constitution provides for the accused. Second, statutory and State constitutional provisions are always subservient to the Federal Constitution; so, in cases of conflict, the defendants' rights—which are already in the U.S. Constitution—will always prevail. Our amendment will correct this imbalance.

It is important to note that the number one recommendation in a recent 400-page report by the Department of Justice on victims' rights and services that "the U.S. Constitution should be amended to guarantee fundamental rights for victims of crime." The report continued: "A victims' rights constitutional amendment is the only legal measure strong enough to rectify the current inconsistencies in victims' rights laws that vary significantly from jurisdiction to jurisdiction on the State and Federal levels." Further, "Granting victims of crime the ability to participate in the justice system is exactly the type of participatory right the Constitution is designed to protect and has been amended to permanently ensure. Such rights include the right to vote on an equal basis and the right to be heard when the government deprives one of life, liberty, or property."

Until crime victims are protected by the United States Constitution, the rights of victims will be subordinate to the rights of the defendant. Indeed, the National Governors Association—by a vote of 49–1—passed a resolution strongly supporting a constitutional amendment for crime victims. The resolution stated: "Despite * * * widespread State initiatives, the rights of victims do not receive the same consideration or protection as the rights of the accused. These rights exist on different judicial levels. Victims are relegated to a position of secondary importance in the judicial process." The resolution also stated that "The rights of victims have always received secondary consideration within the U.S. judicial process, even though States and the American people by a wide plurality consider victims' rights to be fundamental. Protection of these rights is essential and can only come from a fundamental change in our basic law: the U.S. Constitution."

Some may say, "I'm all for victims' rights but they don't need to be in the U.S. Constitution. The Constitution is too hard to change. All we need to do is pass some good statutes to make sure that victims are treated fairly." But statutes have been inadequate to restore balance and fairness for victims. The history of our country teaches us that constitutional protections are needed to protect the basic rights of the people. Our criminal justice system needs the kind of fundamental reform that can only be accomplished through changes in our fundamental law—the Constitution.

Attorney General Reno has confirmed the point, noting that, "unless the Constitution is amended to ensure basic rights to crime victims, we will never correct the existing imbalance in this country between defendants' constitutional rights and the haphazard patchwork of victims' rights." Attempts to establish rights by federal or state statute, or even state constitutional amendment, have proven inadequate, after more then twenty years of trying.

On behalf of the Department of Justice, Ray Fisher, the Associate Attorney General, recently testified that "the state legislative route to change has proven less than adequate in according victims their rights. Rather than form a minimum baseline of protections, the state provisions have produced a hodgepodge of rights that vary from jurisdiction to jurisdiction. Rights that are guaranteed by the Constitution will receive greater recognition and respect, and will provide a national baseline."

A number of legal commentators have reached similar conclusions. In the 1997 Harvard Law Bulletin, Professor Laurence Tribe has explained that the existing statutes and state amendments "are likely, as experience to date sadly shows, to provide too little real protection whenever they come into conflict with bureaucratic habit, traditional indifference, sheer inertia, or any mention of an accused's rights regardless of whether those rights are genuinely threatened." He has also stated, "there appears to be a considerable body of evidence showing that, even where statutory or regulatory or judge-made rules exist to protect the participatory rights of victims, such rights often tend to be honored in the breach. * * *"

Additionally, in the Baylor Law Review, Texas Court of Appeals Justice Richard Barajas has explained that "[i]t is apparent * * * that state constitutional amendments alone cannot adequately address the needs of crime victims." Federal statutes are also inadequate. Professor Cassell's detailed 1998 testimony about the Oklahoma City Bombing Case shows that, as he concluded, "federal statutes are insufficient to protect the rights of crime victims."

Mr. President, I was pleased that in July 1998 the Senate Judiciary Committee passed the amendment, S.J. Res. 44, by a bipartisan vote of 11 to 6. The amendment has strong bipartisan support. It was cosponsored by 30 Republicans and 12 Democrats, including leadership members such as Senators LOTT, THURMOND, MACK, COVERDELL, CRAIG, BREAUX, REID, TORRICELLI, and Ford (now retired).

In the 106th Congress, Senator FEINSTEIN and I will work hard to ensure the amendment's passage. We plan to hold a hearing early in the Congress, followed by a markup and consideration by the full Senate. We welcome comments and suggestions from Members and other interested parties.

Again, I would like to thank Senator DIANNE FEINSTEIN for her hard work on this amendment and for her tireless efforts on behalf of crime victims. Mr. President, for far to long, the criminal justice system has ignored crime victims who deserve to be treated with fairness, dignity, and respect. Our criminal justice system will never be truly just as long as criminals have rights and victims have none.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 3

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid for all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

ARTICLE—

SECTION 1. A victim of a crime of violence, as these terms may be defined by law, shall have the rights:

to reasonable notice of, and not be excluded from, any public proceedings relating to the crime;

to be heard, if present, and to submit a statement at all such proceedings to determine a conditional release from custody, and an acceptance of a negotiated plea, or a sentence;

to the foregoing rights at a parole proceeding that is not public, to the extent those rights are afforded to the convicted offender;

to reasonable notice of a release or escape from custody relating to the crime;

to consideration of the interest of the victim that any trial be free from unreasonable delay;

to an order of restitution from the convicted offender;

to consideration for the safety of the victim in determining any conditional release from custody relating to the crime; and

to reasonable notice of the rights established by this article.

SECTION 2. Only the victim or the victim's lawful representative shall have standing to assert the rights established by this article. Nothing in this article shall provide grounds to stay or continue any trial, reopen any proceeding or invalidate any ruling, except with respect to conditional release or restitution or to provide rights guaranteed by this article in future proceedings, without staying or continuing a trial. Nothing in this article shall give rise to or authorize the creation of a claim for damages against the United States, a State, or political subdivision, or a public officer or employee.

SECTION 3. The Congress shall have the power to enforce this article by appropriate legislation. Exceptions to the rights established by this article may be created only when necessary to achieve a compelling interest.

SECTION 4. This article shall take effect on the 180th day after the ratification of this article. The right to an order of restitution established by this article shall not apply to crimes committed before the effective date of this article.

SECTION 5. The rights and immunities established by this article shall apply in Federal and State proceedings, including military proceedings to the extent that the Congress may provide by law, juvenile justice proceedings, and proceedings in the District of Columbia and any commonwealth, territory, or possession of the United States.

Mrs. FEINSTEIN. Mr. President, I rise today with my colleague, Senator KYL, to once again introduce a constitutional amendment to provide rights for victims of violent crime.

We have achieved significant progress in our effort to pass the amendment. After working extensively—indeed, exhaustively—with prosecutors, law professors, the Justice Department, the White House Counsel's Office, and leaders of victims groups from around the country to carefully craft and hone the amendment's language, we succeeded in bringing the amendment to markup in the Judiciary Committee.

After numerous committee business meetings, and one of the most high-minded debates in which I have been privileged to participate, the Judiciary Committee passed the amendment by a strong, bipartisan vote. Unfortunately, with the press of final business at the end of the Congress, there was not sufficient time to consider the amendment on the Senate floor and work it through the House.

So here we are now, carrying the fight forward into this new, 106th Congress. We are fighting to ensure that the 8.6 million victims of violent crime in the country receive the fair treatment by the judicial system which they deserve. Too often in America victims of violent crime are victimized a second time, by the government.

Let me give you an example of what I'm talking about. What really focused my attention on the need for greater protection of victims' rights was a particularly horrifying case in 1974, in San Francisco, when a man named Angelo Pavageau broke into the house of the Carlson family in Portero Hill.

Pavageau tied Mr. Carlson to a chair, bludgeoning him to death with a hammer, a chopping block, and a ceramic vase. He then repeatedly raped Carlson's 24-year-old wife, breaking several of her bones. He slit her wrist, tried to strangle her with a telephone cord, and then, before fleeing, set the Carlson's home on fire—cowardly reteating into the night, leaving this family to burn up in flames.

But Mrs. Carlson survived the fire. She courageously lived to testify against her attacker. But she has been forced to change her name and continues to live in fear that her attacker may, one day, be released. When I was Mayor of San Francisco, she called me several times to notify me that Pavageau was up for parole. Amazingly, it was up to Mrs. Carlson to find out when his parole hearings were.

Mr. President, I believe this case represents a travesty of justice—It just shouldn't have to be that way. I believe it should be the responsibility of the state to send a letter through the mail or make a phone call to let the victim know that her attacker is up for parole, and she should have the opportunity to testify at this hearing.

But today, in many states in this great nation, victims still are not made aware of the accused's trial, many times are not allowed in the courtroom during the trial, and are not notified when a convicted offender is released from prison.

I have vowed to do everything in my power to add a bit of balance to our nation's justice system. This is why Senator KYL and I have crafted the Crime Victim's Rights Amendment before us today.

The people of California were the first in the nation to pass a crime victims' amendment to the state constitution in 1982—the imitative Proposition 8—and I supported its passage. This measure gave victims the right to restitution, the right to testify at sentencing, probation and parole hearings, established a right to safe and secure public school campuses, and made various changes in criminal law. California's Proposition 8 represented a good start to ensure victims' rights.

Since the passage of Proposition Eight, 31 more states have passed constitutional amendments guaranteeing the rights of crime victims. Just this past November, Mississippi, Montana and Tennessee added victims' rights amendments to their state constitutions. These amendments were overwhelmingly supported by the voters, winning with 93%, 71% and 89% of the vote, respectively.

But citizens in other states lack these basic rights. The 32 different state constitutional amendments differ from each other, representing a patchwork quilt of rights that vary from state to state. And even in those states which have state amendments, criminals can assert rights grounded in the federal constitution to try to trump those rights.

The United States Constitution guarantees numerous rights to the accused in our society, all of which were established by amendment to the Constitution. I steadfastly believe that this nation must attempt to guarantee, at the very least, some basic rights to the millions victimized by crime each year.

For those accused of crimes in this country, the Constitution specifically protects:

The right to a grand jury indictment for capital or infamous crimes;

The prohibition against double jeopardy;

The right to due process;

The right to a speedy trial and the right to an impartial jury of one's peers;

The right to be informed of the nature and cause of the criminal accusation;

The right to confront witnesses;

The right to counsel;

The right to subpoena witnesses—and so on.

However, nowhere in the text of the U.S. Constitution does there appear any guarantee of rights for crime victims.

To rectify this disparity, Senator KYL and I are putting forth this Crime Victims' Rights Amendment. This provides for certain rights for victims of crime:

The right to be notified of public proceedings in their case;

The right not be excluded from these proceedings;

The right to be heard at proceedings to determine a release from custody, sentencing, or acceptance of a negotiated plea;

The right to notice of the offender's release or escape;

The right to consideration for the interest of the victim in a trial free from unreasonable delay;

The right to an order of restitution from the convicted offender;

The right to consideration for the safety of the victim in determining any release from custody; and

The right to notice of your rights as a victim.

Conditions in our nation today are significantly different from those in 1789, when the founding fathers wrote the Constitution without providing explicitly for the rights of crime victims. In 1789, there weren't 9 million victims of violent crime every year. In fact, there are more victims of violent crime each year in this country now than there were people in the country when the Constitution was written.

Moreover, there is good reason why defendants' rights were embedded in the Constitution in 1789 and victims' rights were not—the way the criminal justice system worked then, victims did not need any guarantee of these rights.

In America in the late 18th century and well into the 19th century, public prosecutors did not exist. Victims could, and did, commence criminal cases themselves, by hiring a sheriff to arrest the defendant, and initiating a private prosecution. The core rights in our amendment—to notice, to attend, and to be heard—were inherently made available to the victim. As Juan Cardenas, writing in the Harvard Journal of Law and Public Policy, observed, "At trial, generally, there were no lawyers for either the prosecution or the defense. Victims of crime simply acted as their own counsel, although wealthier crime victims often hired a prosecutor."

Gradually, public prosecution replaced the system of private prosecution. With the explosive growth of crime in this country in recent years (the rate of violent crime has more than quadrupled over the last 35 years), it became easier and easier for the victim to be left aside in the process.

As other scholars have noted:

> With the establishment of the prosecutor the conditions for the general alienation of the victim from the legal process further increase. The victim is deprived of his ability to determine the course of a case and is deprived of the ability to gain restitution from the proceedings. Under such conditions the incentives to report crime and to cooperate with the prosecution diminish. As the importance of the prosecution increases, the role of the victim is transformed from principal actor to a resource that may be used at the prosecutor's discretion.

Thus, we see why the Constitution must be amended to guarantee these rights:

There was no need to guarantee these rights in the Constitution in 1789;

The criminal justice system has changed dramatically since then; and

The prevalence of crime in America has changed dramatically creating the need and circumstances to respond to these developments and restore balance in the criminal justice system by guaranteeing the rights of violent crime victims in the Constitution.

Among the amendment's supporters are Professor Laurence Tribe of the Harvard Law School.

Let me just briefly quote portions of his testimony from the House hearing on the amendment last Congress:

> The rights in question—rights of crime victims not to be victimized yet again through the process by which government bodies and officials prosecute, punish, and release the accused or convicted offender—are indisputably basic human rights against government, rights that any civilized system of justice would aspire to protect and strive never to violate.
>
> [O]ur Constitution's central concerns involve protecting the rights of individuals to participate in all those government processes that directly and immediately involve those individuals and affect their lives in some focused and particular way . . . The parallel rights of victims to participate in these proceedings are no less basic, even though they find no parallel recognition in the explicit text of the U.S. Constitution.
>
> The fact that the States and Congress, within their respective jurisdictions, already have ample affirmative authority to enact rules protecting these rights is . . . not a reason for opposing an amendment altogether . . . The problem, rather, is that such rules are likely, as experience to date sadly shows, to provide too little real protection whenever they come into conflict with bureaucratic habit, traditional indifference, sheer inertia, or any mention of an accused's rights regardless of whether those rights are genuinely threatened.

Some people argue that state victims' rights amendments are sufficient.

However, crime victims throughout the country, including those in the other 18 states, deserve to have rights, just as we applied civil rights to people throughout our great nation 30 years ago.

Moreover, state amendments lack the force that a federal constitutional amendment would have, and too often are given short shrift:

Maryland has a state amendment. But when Cheryl Rae Enochs Resch was beaten to death with a ceramic beer mug by her husband, her mother was not notified of this killer's early release only two and a half years into his ten year sentence, and was not given the opportunity to be heard about this release, in violation of the state amendment.

Arizona has a state amendment. But an independent audit of victim-witness programs in four Arizona counties, including Maricopa County where Phoenix is located, found that:

Victims were not consistently notified of hearing during which conditions of a defendant's release were discussed . . .

Victims were not consistently . . . conferred with by prosecutors regarding plea bargains . . .; and

Victims were not consistently . . . provided with an opportunity to request post-conviction notification.

Ohio has a state amendment. But when the murderer of Maxine Johnson's husband change his plea, Maxine was not notified of the public hearing, and then was not given the opportunity to testify at his sentencing, as provided for in Ohio law.

A Justice Department-supported study of the implementation of state victims' rights amendments, released last year, made similar findings:

> Even in states with strong legal protections for victims' rights, the Victims' Rights study revealed that many victims are denied their rights. Statutes themselves appear to be insufficient to guarantee the provision of victims' rights.
>
> Nearly two-thirds of crime victims, even in states with strong victims' rights protection, were not notified that the accused offender was out on bond.
>
> Nearly half of all victims, even in the strong protection states, did not receive notice of the sentencing hearing—notice that is essential if they are to exercise their right to make a statement at sentencing.
>
> A substantial number of victims reported that they were not given an opportunity to make a victim impact statement at sentencing or parole.

State amendments simply are not enough—they provide different rights in different states, they do not exist at all in others, and they are too often ignored when they do exist.

We implore members of this body to examine this amendment, and to help to secure passage of this monumental piece of legislation.

The text of the amendment which we are introducing today is the very same text which the Judiciary Committee passed on a strong bipartisan basis last summer. Sen KYL and I urge the leaders of the Senate and of the committee to move this amendment expeditiously, so that the clock does not run out on us yet again. This amendment has been the subject of three Senate hearings, two hearings in the House, and an extensive examination and debate in the Judiciary Committee.

We urge Senators HATCH, the distinguished Chairman of the committee, to schedule a hearing on the amendment in January or February, with a markup to follow shortly thereafter. It is our hope that the committee can complete its action with all deliberate speed, and we call upon our distinguished Leaders, Senators LOTT and DASCHLE, to commit to a floor vote on the amendment during National Victims' Rights Week in late April.

After two hundred years, doesn't this Nation owe something to the millions of victims of violent crime? I believe that is our obligation and should be our biggest priority—not only for the crime victims, but, for all Americans—to ensure passage of a Crime Victims' Rights Constitutional Amendment.

I want to personally thank Senator KYL for his tireless efforts to accomplish this amendment, and to say that I look forward to continuing to work with him in the months to come.

By Mr. KYL:

S.J. Res. 4. A joint resolution proposing an amendment to the Constitution of the United States to provide that expenditures for a fiscal year shall exceed neither revenues for such fiscal year nor 19 per centum of the Nation's gross domestic product for the calendar year ending before the beginning of such fiscal year; to the Committee on the Judiciary.

BALANCED BUDGET/SPENDING LIMITATION AMENDMENT

Mr. KYL. Mr. President, I rise today to introduce the Balanced Budget/Spending Limitation Amendment—a joint resolution proposing to amend the Constitution of the United States to establish both a federal spending limit and a requirement that the federal government maintain a balanced budget.

Mr. President, it seems to me that although we may have succeeded in balancing the unified budget, we still have two very different visions of where we should be headed. Is a balanced budget the paramount goal, even if it comes with substantially higher taxes and more spending? Or is the real goal of a balanced budget to be more responsible with people's hard-earned tax dollars—to limit government's size and give people more choices and more control over their lives? Before we try to answer those questions, let us try to give them some context.

When we balanced the unified budget last year, we did so by taxing and spending at a level of about $1.72 trillion. That is a level of spending that is 25 percent higher than when President Clinton took office just six years ago. Our government now spends the equivalent of $6,700 for every man, woman, and child in the country every year. That is the equivalent of nearly $27,000 for the average family of four. But all of that spending comes at a tremendous cost to hard-working taxpayers.

The Tax Foundation estimates that the median income family in America saw its combined federal, state, and local tax bill climb to 37.6 percent of income in 1997—up from 37.3 percent the year before. That is more than the average family spends on food, clothing, shelter, and transportation combined. Put another way, in too many families, one parent is working to put food on the table, while the other is working almost full time just to pay the bill for the government bureaucracy.

Perhaps a different measure of how heavy a tax burden the federal government imposes would be helpful. Consider that federal revenues hit a peacetime high of 19.8 percent of Gross Domestic Product (GDP) in 1997 and, according to the Congressional Budget Office, will continue to climb—to 20.5 percent in 1998 and 20.6 percent in 1999. That will be higher than any year since 1945, and it would be only the third and fourth years in our nation's entire history that revenues have exceeded 20 percent of national income. Notably, the first two times revenues broke the 20 percent mark, the economy tipped into recession.

For me, it is not enough to balance the budget if it means that hard-working families continue to be overtaxed. It is not enough to balance the budget if government continues to grow, seemingly without limits, taking choice and freedom away from people in the process. And it is not enough to balance the budget by collecting so much in taxes that it leads the economy into recession.

A balanced budget is not the only goal, or even the highest goal. A balanced budget should be the way we find what is the appropriate size and scope of government—the way to make Washington more respectful of hard-working taxpayers' earnings and their desire to do right by themselves and their families. That is where our paramount concern should be—with the taxpayers.

Mr. President, last year was the first time in nearly 30 years that Washington managed to balance its books. In fact, we posted a record unified budget surplus of $70 billion, and we did so even though we have no constitutional requirement for a balanced budget. Some will use that fact to argue there is no need for a balanced budget amendment. I would suggest to them that they look back at what happened last October.

Just three weeks—exactly 21 days—after confirming that the federal government had indeed achieved its first budget surplus in a generation, Congress passed, and the President signed, a bill that used fully a third of the surplus for increased spending on a variety of government programs other than Social Security, tax relief, or repayment of the national debt.

Many people will recall that President Clinton pledged in his State of the Union address a year ago to "save every penny of any surplus" for Social Security, yet he was the first in line with a long list of programs to be funded out of the budget surplus. And fearful that if the President did not get his way he would veto the budget and tar Congress with the blame for another government shutdown, many Members of Congress went along and voted for this raid on the surplus.

That was just the first in what is expected to be a series of efforts by President Clinton to spend down the surplus in coming months. Another $2.5 billion supplemental spending request is already in the works.

Coupled with a peacetime tax burden that is at an all-time high and growing, this portends a dangerous return to the old ways of budget-busting, bigger government—that is, unless we agree to abide by the lasting discipline of a constitutional requirement to balance the budget.

The Balanced Budget/Spending Limitation Amendment would impose discipline on Congress and the President in two ways. First, it would require that we maintain a balanced federal budget. Second, consistent with the vision of limited government, it would limit federal spending to 19 percent of the national income, as measured by the Gross Domestic Product. That is roughly the level of revenue collected by the government over the last 40 years. Interestingly, a December 1998 report by the Joint Economic Committee concludes that the optimal level of spending may actually be lower—17.5 percent of GDP.

In other words, beyond a certain point—the Joint Committee suggests it is 17.5 percent of GDP—government's claim to private resources can actually hurt the economy. Consider, for example, that economic growth during the high-tax Clinton years has averaged only about 2.3 percent annually, whereas we averaged 3.9 percent annual growth during the period after the Reagan tax cuts and before the 1990 tax increase.

Raising sufficient revenue to pay for government's essential operations is obviously a necessary part of governing, but raising tax rates is not necessarily the best way to raise revenue. As recent experience proves, it is a strong and growing economy—not high tax rates—that generates substantial amounts of new revenue for the Treasury. It was the growing economy that helped eliminate last year's unified budget deficit.

The advantage of the Balanced Budget/Spending Limitation Amendment is that it keeps our eye on the ball. It tells Congress to limit spending. And by linking spending to economic growth, it gives Congress a positive incentive to enact pro-growth economic and tax policies. Only a healthy and growing economy—measured by GDP—would increase the dollar amount that Congress is allowed to spend, although always proportionate to the size of the economy. In other words, 19 percent of a larger GDP represents more revenue to the Treasury than 19 percent of a smaller GDP.

I urge my colleagues to consider the need for a balanced budget amendment, and the advantages of the Balanced Budget/Spending Limitation Amendment in particular. I ask unanimous consent that the text of the amendment be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S. J. Res. 4

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE—

"SECTION 1. Except as provided in this article, outlays of the United States Government for any fiscal year may not exceed its receipts for that fiscal year.

"SECTION 2. Except as provided in this article, the outlays of the United States Government for a fiscal year may not exceed 19 per centum of the Nation's gross domestic product for the last calendar year ending before the beginning of such fiscal year.

"SECTION 3. The Congress may, by law, provide for suspension of the effect of sections 1 or 2 of this article for any fiscal year for which three-fifths of the whole number of each House shall provide, by a roll call vote, for a specific excess of outlays over receipts or over 19 per centium of the Nation's gross domestic product for the last calendar year ending before the beginning of such fiscal year.

"SECTION 4. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except those for the repayment of debt principal.

"SECTION 5. This article shall apply to the second fiscal year beginning after its ratification and to subsequent fiscal years.".

By Mr. GRAMM (for himself and Mr. GORTON):

S.J. Res. 5. A joint resolution to provide for a Balanced Budget Constitutional Amendment that prohibits the use of Social Security surpluses to achieve compliance; to the Committee on the Judiciary.

BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. GRAMM. President, I rise today with Senator GORTON to introduce a Balanced Budget Constitutional Amendment which is designed to protect Social Security. Since we last considered a balanced budget amendment in the Senate, we have achieved balance in the unified federal budget for the first time in 30 years, and have made substantial progress toward achieving balance without relying on the surpluses currently accumulating in Social Security. For 1998, the Department of the Treasury reports that the federal government ran a unified budget surplus of $70 billion, and an on-budget deficit of $29 billion when the $99 billion surplus in Social Security is not counted. This on-budget deficit is projected to disappear by 2002 under current budget policies.

The Balanced Budget Constitutional Amendment I am introducing today is identical to S.J. Res. 1 of the 105th Congress, which received 66 votes in the Senate on March 4, 1997, except that surplus revenues in Social Security are not counted in determining compliance.

The President and a majority of Congress have expressed support for balancing the budget without counting Social Security surpluses, and now that goal is within our reach. We should take this opportunity to approve this Constitutional amendment and send it to the States for ratification. This Constitutional amendment would provide the structure and enforcement mechanism to allow us to achieve this bipartisan goal.

By Mr. HOLLINGS (for himself, Mr. SPECTER, Mr. MCCAIN, and Mr. BRYAN):

S.J. Res. 6. A joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections; to the Committee on the Judiciary.

Mr. HOLLINGS. Mr. President, I rise today to address a problem with which we are all too familiar: the ever-increasing cost of political campaigns. Sadly, this cost can be counted not only in millions of dollars but also in lost credibility. Each election year, our political system and we as representatives lose the invaluable and irreplaceable trust of the American people.

The enormous amount of money required to wage a political campaign today has given rise to the pervasive belief that our elections—indeed, even we ourselves—are up for sale to the highest bidder. Though this is not the reality, the fact that it is the perception is almost as damning.

It is time to strike a blow against the anything-goes fundraising and spending encouraged by both political parties. The need to limit campaign expenditures is more urgent than ever: the total cost of Congressional campaigns skyrocketed from $446 million in 1990 to over $620 million in 1996. This represents a 71-percent increase in just six years. Although fundraising slowed in the election cycle just ended, candidates for general election in 1998 still spent over $10 million more than their counterparts in 1996.

Make no mistake: this lull is a temporary one. Experts attribute the slowed spending last year to the unusually large number of uncompetitive elections. I know this is true because in my state, which was the setting for highly competitive elections for my Senate seat as well as the governorship and other state offices, candidates spent record amounts and made 1998 the most expensive election year in South Carolina history. In fact, although the total cost of all Congressional elections increased only slightly this year, candidates for Senate office spent over 15 percent more than their counterparts in 1996.

We can be sure that in 2000, election spending will skyrocket to new, astounding levels. And we can be equally sure that this will add to the public's already overwhelming cynicism about its representatives and to the problem of corruption, or at least its appearance in our political system.

At best, the obsession with money distracts us from the people's business. At worst, it corrupts and degrades the entire political process. Fundraisers used to be arranged so they don't conflict with the Senate schedule; nowadays, the Senate schedule is regularly shifted to accommodate fundraisers.

All this is the result of the rising costs of political campaigns. Ironically, campaign expenditures have risen dramatically, far exceeding inflation, since Congress attempted campaign finance reform in 1974. Even greater than the increases in aggregate campaign costs were those for average winning candidates—the most useful measure of the real costs of running for office. The average cost for a winning House candidate rose from $87,000 in 1976 to over $640,000 in 1998. For a victorious Senate candidate, the cost of victory rose from $609,000 to $4.4 million last year.

I remember Senator Richard Russell used to say, "They give you a six year term in this U.S. Senate: two years to be a statesman, the next two years to be a politician, and the last two years to be a demagogue." Regrettably, we are no longer afforded even 2 years as statesmen. We proceed straight to demagoguery after an election because of the imperatives of raising money.

The public demands the system be cleaned up. But how? For years, Senator SPECTER and I have introduced a constitutional amendment allowing Congress to set reasonable campaign expenditure limits. Today Senator SPECTER and I will reintroduce our amendment to empower Congress and the States to limit campaign spending as they see fit. I believe a constitutional amendment is the only way to fix the system; yet since 1976, Congress has failed to adopt one. It has opted instead for a series of half-hearted, piecemeal solutions, with predictable results.

For nearly a quarter of a century, Congress has tried to tackle runaway campaign spending through statutory means. Again and again, Congress has failed. Let us resolve not to repeat the mistakes of past campaign finance reform efforts, which have bogged down in partisanship as Democrats and Republicans each have tried to gore the other's sacred cows.

The most recent statutory attempt to reform our tangled campaign system was the McCain-Feingold campaign finance reform bill. Although I supported this legislation and will do so again this year, I have grave doubts about its ability to effectively reform our tangled campaign finance system. I fear McCain-Feingold never will be enacted, and that even if it passes, it will not withstand the Supreme Court's scrutiny.

Since 1976, the Supreme Court has made it clear that it will not uphold any law that limits the money political candidates can spend to win office. The most recent example of the Court's position, as well as of the obstacles local and state officials attempting reform face in their courts, came last November, when the Supreme Court refused to entertain an appeal from the City of Cincinnati involving an ordinance that limited the amount city council candidates could spend trying to get elected. That ordinance had been struck down by a lower federal court as unconstitutional. So you see, Mr. President, no statutory legislation—at the federal, state, or local level—is going to succeed at cleaning up our political system because no such legislation will pass constitutional muster.

The framework for today's campaign finance system was erected back in 1974, when Congress responded to public outrage over the Watergate scandals and the disturbing money trails from the 1972 Presidential election by passing, on a bipartisan basis, a comprehensive campaign finance law. I was here in 1974, and I was proud to support the Federal Election Campaign Act. The centerpiece of this reform was a limitation on campaign expenditures. Congress recognized that spending limits were the only rational alternative to a system that essentially awards office to the highest bidder.

Unfortunately, in 1976 the Supreme Court overturned these spending limits in its infamous Buckley versus Valeo decision. The Court mistakenly equated a candidate's right to spend unlimited sums of money with his right to free speech. In the face of spirited dissents, the Court drew a tortuous distinction between campaign contributions and campaign expenditures. The Court concluded that limiting an individual's campaign contributions was a justifiable abridgment of the First Amendment, on the grounds that "the governmental interest in preventing corruption and the appearance of corruption outweighs considerations of free speech."

Yet the Court also concluded, in a dichotomous and confusing decision, that the state's interest in preventing corruption and its appearance did not justify limiting a candidate's total expenditures. This, the Court ruled, constituted an unacceptable infringement on candidates' speech.

I have never been able to fathom why that same test—the governmental interest in preventing corruption and the appearance of corruption—does not justify limits on campaign spending. The Court committed a grave error by striking down spending limits as a threat to free speech. The fact is, imposing spending limits in federal campaigns would help restore the free speech that has been eroded by the Buckley decision.

As Professor Gerald G. Ashdown wrote in the New England Law Review, amending the Constitution to allow Congress to regulate campaign expenditures is "the most theoretically attractive of the approaches to reform since, from a broad free speech perspective, the decision in Buckley is misguided and has worsened the campaign finance atmosphere." Adds Professor Ashdown: "If Congress could constitutionally limit the campaign expenditures of individuals, candidates, and committees, along with contributions, most of the troubles . . . would be eliminated."

Let us be done with the hollow charge that spending limits are somehow an attack on freedom of speech. As Justice Byron White pointed out in his dissent from the majority's Buckley opinion, both contribution limits and spending limits are neutral as to the content of speech and are not motivated by fear of the consequences of political speech in general.

The Buckley decision created a double bind. It upheld restrictions on campaign contributions but struck down restrictions on how much candidates with deep pockets can spend. The Court ignored the practical reality that if my opponent has only $50,000 to spend in a race and I have $1 million, then I can effectively deprive him of speech. By failing to respond to my advertising, my cash-poor opponent will appear unwilling to speak up in his own defense.

Justice Thurgood Marshall zeroed in on this disparity in his dissent to Buckley. By striking down the limit on what a candidate can spend, Justice Marshall said, "It would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant head start."

Indeed, Justice Marshall went further. He argued that by upholding the limitations on contributions but striking down limits on overall spending, the Court put an additional premium on a candidate's personal wealth. Justice Marshall was dead right. The Buckley decision has been a boon to wealthy candidates, who can flood the airwaves and drown out their opponents' voices.

Make no mistake: political speech is not free. A political candidate's ability to disseminate his ideas and speak to the voters depends entirely on his finances. Thus, candidates who are personally wealthy or possess large campaign coffers have a tremendous advantage over poorer candidates—they always will enjoy more speech. The amendment Senator SPECTER and I propose today will help level the playing field between rich and poor candidates and ensure that all enjoy equal speech.

Believe me, Mr. President, I am not enunciating any radical view today. The Court itself equated money with speech in its Buckley decision. Of course, the Court—and critics of this amendment—adheres to the belief that limiting candidate expenditures is a violation of the First Amendment. Yet the Court rules in 1976 that there exist compelling interests—in this case, the need to prevent the appearance and reality of corruption—to justify the state in circumscribing protected speech. All this amendment does is apply the Court's rationale to candidates' speech.

Buckley's nullification of spending limits has helped give rise to American's belief that political offices are up for sale to the highest bidder and has curtailed public discourse. By rendering spending limits impossible it has fueled the escalating costs of campaigns and forced politicians to focus more and more on fundraising and less on important public issues. Our urgent task is to right the injustice of Buckley versus Valeo by empowering Congress to limit campaign spending.

My proposed constitutional amendment would accomplish this. It does not proscribe specific cures for what ails our campaign finance system. Instead, it would provide Congress the authority to reform the system by limiting candidate spending.

To a distressing degree today, elections are determined not in the political marketplace but in the financial marketplace. Our elections are supposed to be contests of ideas, but too often they degenerate into megadollar derbies, paper chases through the board rooms of corporations and special interests.

Mr. President, campaign spending must be brought under control. The constitutional amendment I have proposed would permit Congress to impose fair, responsible, workable limits on Federal campaign expenditures.

Such a reform would have four important effects. It would end the mindless pursuits of enormous campaign war chests. Also, it would free candidates from their current obsession with fundraising and allow them to focus more on issues and ideas; once elected to office, we wouldn't have to spend 20 percent of our time raising money to keep our seats. Third, it would curb the influence of special interests. And finally, it would create a more level playing field for all candidates.

Before concluding, Mr. President, I would like to elaborate on the advantages of a constitutional amendment such as I propose over statutory attempts to reform the campaign system. Recent history amply demonstrates the practicality and viability of this constitutional route. It is not coincidence that the six most-recent amendments to the Constitution have dealt with Federal election issues. These are profound issues which go to the heart of our democracy; it is entirely appropriate that they be addressed through a constitutional amendment.

And let's not be distracted by the argument that amending the constitution will take too long. Take too long? We have been dithering on this campaign finance issue since the early 1970s, and we haven't advanced the ball a single yard. It has been a quarter of a century, and no legislative solution has done the job.

Excluding the unusual case of the Twenty-seventh Amendment, which required over 200 years to be ratified, the last five constitutional amendments took an average of only 17 months to be adopted. There is no reason why we cannot pass this joint resolution, submit it to the States for a vote, and ratify the amendment in time for it to govern the 2000 elections. Indeed, this approach could prove more expeditious than the alternative statutory approach. This joint resolution, once passed by the Congress, will go directly to the States for ratification. Once ratified, it will become the law of the land and will not be subject to veto or Supreme Court challenge.

Furthermore, I anticipate and reject the argument that if we were to pass and ratify this amendment, Democrats and Republicans would be unable to hammer out a mutually acceptable formula of campaign expenditure limits. A Democratic Congress and Republican President did exactly that in 1974, and we can certainly do it again.

Mr. President, this amendment will address the campaign finance mess directly, decisively, and conclusively. The Supreme Court has chosen to ignore the overwhelmingly detrimental effects of money in today's campaigns. In the Buckley decision, it elucidated a vague and inconsistent definition of free speech. In its place, I urge passage of this amendment. Let us ensure equal freedom of expression for all who seek Federal office.

By Mr. HATCH (for himself, Mr. THURMOND, Mr. CRAIG, and Mr. ASHCROFT):

S.J. Res. 7. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget; to the Committee on the Judiciary.

THE CONSTITUTIONAL BALANCED BUDGET ACT OF 1999

Mr. HATCH. Mr. President, I am today, once again, introducing a constitutional amendment to balance the budget. In so doing, I continue the effort that I and many of my colleagues have long pursued to provide a permanent and strong mandate for a fiscally responsible path for our Nation.

It is a political reality, of course, that Congress' success in decreasing our deficit levels and achieving a balanced budget in the 105th Congress to a certain extent mitigated the urgency of passing this Constitutional Amendment.

In my view, however, this is the ideal time to move forward on a constitutional amendment. The fact that we have reached a balanced budget has shown that it can be done. Significantly, it has refuted the arguments and scare tactics of opponents that a balanced budget would mean the end of Social Security and Medicare. Rather, we now have a record to demonstrate the strong benefits of a balanced budget to our economy in general and to each segment of our society in particular.

I am as proud as any Member of this body of our recent success in restraining the deficit. But that success does not mean that this amendment is no longer necessary. Our history, unfortunately, demonstrates that the fiscal discipline of recent years is the exception, not the rule. The political incentives in this town to spend now and pay later remain. Thus, it is as true now as it always been that only a structural change in our basic charter can ensure long term fiscal responsibility and a secure future for our children and grandchildren. This is a matter that remains vital to the economic health of the State of Utah and the Nation.

Mr. President, I ask unanimous consent that the text of this joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. Res. 7

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

"ARTICLE—

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

"SECTION 8. This article shall take effect beginning with fiscal year 2004 or with the second fiscal year beginning after its ratification, whichever is later.".

SENATE CONCURRENT RESOLUTION 1—EXPRESSING CONGRESSIONAL SUPPORT FOR THE INTERNATIONAL LABOR ORGANIZATION'S DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK

Mr. MOYNIHAN submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions.

S. CON. RES. 1

Whereas the International Labor Organization (in this resolution referred to as the "ILO") was created in 1919 by part XIII of the Treaty of Versailles for the purpose of improving labor conditions worldwide;

Whereas for 79 years, the ILO has provided an avenue for nations to improve labor standards in a manner that does not erode their competitive advantage in world commerce;

Whereas the United States has long recognized the linkage between the ILO and world trade, having joined the ILO in 1934, the same year that President Roosevelt and Secretary of State Cordell Hull launched the Reciprocal Trade Agreements program;

Whereas the increasing integration of the global economy has drawn renewed attention to the question of how best to improve labor standards in an economic environment characterized by intensified international competition;

Whereas in 1994, at the conclusion of the first Ministerial Meeting of the World Trade Organization in Singapore, Trade Ministers issued a declaration which reaffirmed the commitment of World Trade Organization members to observe internationally recognized core labor standards and identified the ILO as the "competent body to set and deal with" these standards;

Whereas the 174 members of the ILO have recognized the following 7 conventions as protecting core labor standards: Convention No. 29 on Forced Labor (1930), Convention No. 87 on Freedom of Association and Protection of the Right to Organize (1948), Convention No. 98 on the Right to Organize and Collective Bargaining (1949), Convention No. 100 on Equal Remuneration (1950), Convention No. 105 on the Abolition of Forced Labor (1957), Convention No. 111 on Discrimination in Employment and Occupation (1958), and Convention No. 138 on Minimum Age (1973);

Whereas in June 1998, at the conclusion of the 86th International Labor Conference, the ILO adopted the "Declaration on Fundamental Principles and Rights at Work", which declares the core labor standards embodied in the 7 conventions to be essential to membership in the ILO; and

Whereas an essential element of the 1998 Declaration is its "Follow Up Mechanism", which provides for the monitoring of ILO member countries' compliance with the core labor standards: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the International Labor Organization's Declaration on Fundamental Principles and Rights at Work is an important achievement that may help advance core labor standards in a competitive global economy; and

(2) the President should use all means at the President's disposal to ensure that the Declaration and its Follow Up Mechanism evolve into an effective means of monitoring worldwide compliance with core labor standards.

Mr. MOYNIHAN. Mr. President, I rise to introduce a resolution that notes with approval the International Labor Organization's new Declaration on Fundamental Principles and Rights at Work, which was agreed in June 1998 at the 86th International Labor Conference. This resolution simply urges the prompt and effective implementation of this important Declaration and its monitoring mechanism.

The impact of globalization on working conditions and, indeed, on workers' rights in general, has arisen as an important, and somewhat difficult, issue in the debate over the direction of America's trade policy. In 1997, I suggested to the Administration that they might look to the International Labor Organization for assistance in addressing this matter. After all, the ILO was established in 1919 for the express purpose of providing governments that wanted to do something to improve labor standards with a means of so doing—international conventions—that would not compromise their competitive advantages. I worked with the Administration to incorporate into the President's 1997 fast track proposal language recognizing the important role of the ILO, and in September 1997, the distinguished Chairman of the Finance Committee agreed to include the ILO provisions in his own fast track bill. In July 1998, the Finance Committee updated the bill to reflect its approval of, and hopes for, the new Declaration on Fundamental Principles and Rights at Work and its monitoring mechanism.

In essence, the ILO has bundled together, in a single declaration, four sets of fundamental rights—the core labor standards embodying the broad principles that are essential to membership in the ILO. Having declared that those rights are fundamental, the document then provides for a monitoring system—a "follow-up" mechanism, to use the ILO term—to determine how countries are complying with these elemental worker rights.

The four sets of fundamental rights are: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labor; the effective abolition of child labor; and the elimination of discrimination in respect of employment and occupation.

These rights flow directly from three sources. First, from the ILO Constitution itself, which was drafted by a commission headed by Samuel Gompers of the American Federation of Labor and became, in 1919, part XIII of the Treaty of Versailles. Second, from the immensely important Declaration of Philadelphia, which reaffirmed, at the height of World War II, the fundamental principles of the ILO, including freedom of expression and association and the importance of equal opportunity and economic security. Adopted in 1944, the Declaration of Philadelphia was formally annexed to the ILO Constitution two years later. And, not least, these four groups of core labor standards flow from the seven ILO conventions that are recognized as Core Human Rights Conventions.

These seven conventions are not the highly technical agreements that make up the vast majority of the ILO's 181 conventions. Rather, they directly address the rights of working people. They are Convention No. 29, the Forced Labor Convention of 1930; Convention No. 87, the Freedom of Association and Protection of the Right to Organize Convention of 1948; Convention No. 98, the Right to Organize and Collective Bargaining Convention of 1949; Convention No. 100, the Equal Remuneration Convention of 1951; Convention No. 105, the Abolition of Forced Labor Convention of 1957; Convention No. 111 on Discrimination in Employment and Occupation, which was done in 1958; and Convention No. 138, the Minimum Age Convention of 1973.

They are extraordinary conventions. The Social Summit in Copenhagen in 1995 identified six of these ILO conventions as essential to ensuring human rights in the workplace: Nos. 29, 87, 98, 100, 105, and 111. The United Nations High Commissioner for Human Rights has classified them as "International Human Rights Conventions." The Governing Body of the ILO subsequently added to the list of core conventions Convention No. 138, the minimum age convention, in recognition of the importance of matters relating to child labor. These conventions embody the broad principles that are basic to membership in the ILO.

The Director-General of the World Trade Organization, Renato Ruggiero, was solidly behind the ILO's efforts, as we discussed at length in Geneva during a visit in January 1998. In the end, the tenacity of Secretary of Labor Alexis Herman and her able Deputy Under Secretary for International Labor Affairs Andrew Samet, Abraham Katz, President of the United States Council for International Business, and John Sweeney, President of the AFL-CIO, paid off: the Declaration was approved in June 1998 by an overwhelming margin.

The Declaration can play a useful role in advancing core labor standards if it is carried out with energy and determination. The key will be its follow-up mechanism, and the extent to which that tool evolves into an effective means of monitoring compliance with these fundamental worker rights and securing their enforcement. This may take a period of years, but much good could come of it. The resolution I have introduced today recognizes both the significance of the Declaration and the useful role it could play in addressing workers' concerns about the global economy.

Mr. President, I ask unanimous consent that the full text of the Declaration and its follow-up mechanism be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the International Labour Conference, 86th Session, Geneva, June 1998]

ILO DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK

Whereas the ILO was founded in the conviction that social justice is essential to universal and lasting peace;

Whereas economic growth is essential but not sufficient to ensure equity, social progress and the eradication of poverty, confirming the need for the ILO to promote strong social policies, justice and democratic institutions;

Whereas the ILO should, now more than ever, draw upon all its standard-setting, technical cooperation and research resources in all its areas of competence, in particular employment, vocational training and working conditions, to ensure that, in the context of a global strategy for economic and social development, economic and social policies are mutually reinforcing components in order to create broad-based sustainable development;

Whereas the ILO should give special attention to the problems of persons with special social needs, particularly the unemployed and migrant workers, and mobilize and encourage international, regional and national efforts aimed at resolving their problem, and promote effective policies aimed at job creation;

Whereas, in seeking to maintain the link between social progress and economic growth, the guarantee of fundamental principles and rights at work is of particular significance in that it enables the persons concerned to claim freely and on the basis of equality of opportunity their fair share of the wealth which they have helped to generate, and to achieve fully their human potential;

Whereas the ILO is the constitutionally mandated international organization and the competent body to set and deal with international labour standards, and enjoys universal support and acknowledgement in promoting fundamental rights at work as the expression of its constitutional principles;

Whereas it is urgent, in a situation of growing economic interdependence, to reaffirm the immutable nature of the fundamental principles and rights embodied in the Constitution of the Organization and to promote their universal application;

The International Labour Conference,

1. Recalls: (a) that in freely joining the ILO, all Members have endorsed the principles and rights set out in its Constitution and in the Declaration of Philadelphia, and have undertaken to work towards attaining the overall objectives of the Organization to the best of their resources and fully in line with their specific circumstances;

(b) that these principles and rights have been expressed and developed in the form of specific rights and obligations in Conventions recognized as fundamental both inside and outside the Organization.

2. Declares that all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:

(a) freedom of association and the effective recognition of the right to collective bargaining;

(b) the elimination of all forms of forced or compulsory labour;

(c) the effective abolition of child labour; and

(d) the elimination of discrimination in respect of employment and occupation.

3. Recognizes the obligation on the Organization to assist its Members, in response to their established and expressed needs, in order to attain these objectives by making full use of its constitutional, operational and budgetary resources, including by the mobilization of external resources and support, as well as by encouraging other international organizations with which the ILO has established relations, pursuant to article 12 of its Constitution, to support these efforts:

(a) by offering technical cooperation and advisory services to promote the ratification and implementation of the fundamental Conventions;

(b) by assisting those Members not yet in a position to ratify some or all of these Conventions in their efforts to respect, to promote and to realize the principles concerning fundamental rights which are the subject of those Conventions; and

(c) by helping the Members in their efforts to create a climate for economic and social development.

4. Decides that, to give full effect to this Declaration, a promotional follow-up, which is meaningful and effective, shall be implemented in accordance with the measures specified in the annex hereto, which shall be considered as an integral part of this Declaration.

5. Stresses that labour standards should not be used for protectionist trade purposes, and that nothing in this Declaration and its follow-up shall be invoked or otherwise used for such purposes; in addition, the comparative advantage of any country should in no way be called into question by this Declaration and its follow-up.

ANNEX—FOLLOW-UP TO THE DECLARATION

I. OVERALL PURPOSE

1. The aim of the follow-up described below is to encourage the efforts made by the Members of the Organization to promote the fundamental principles and rights enshrined in the Constitution of the ILO and the Declaration of Philadelphia and reaffirmed in this Declaration.

2. In line with this objective, which is of a strictly promotional nature, this follow-up will allow the identification of areas in which the assistance of the Organization through its technical cooperation activities may prove useful to its Members to help them implement these fundamental principles and rights. It is not a substitute for the established supervisory mechanisms, nor shall it impede their functioning; consequently, specific situations within the purview of those mechanisms shall not be examined or re-examined within the framework of this follow-up.

3. The two aspects of this follow-up, described below, are based on existing procedures: the annual follow-up concerning non-ratified fundamental Conventions will entail merely some adaption of the present modalities of application of article 19, paragraph 5(e) of the Constitution; and the global report will serve to obtain the best results from the procedures carried out pursuant to the Constitution.

II. ANNUAL FOLLOW-UP CONCERNING NON-RATIFIED FUNDAMENTAL CONVENTIONS

A. Purpose and scope

1. The purpose is to provide an opportunity to review each year, by means of simplified procedures to replace the four-year review introduced by the Governing Body in 1995, the efforts made in accordance with the Declaration by Members which have not yet ratified all the fundamental Conventions.

2. The follow-up will cover each year the four areas of fundamental principles and rights specified in the Declaration.

B. Modalities

1. The follow-up will be based on reports requested from Members under article 19, paragraph 5(e) of the Constitution. The report forms will be drawn up so as to obtain information from governments which have not ratified one or more of the fundamental Conventions, on any changes which may have taken place in their law and practice, taking due account of article 23 of the Constitution and established practice.

2. These reports, as compiled by the Office, will be reviewed by the Governing Body.

3. With a view to presenting an introduction to the reports thus compiled, drawing attention to any aspects which might call for a more in-depth discussion, the Office may call upon a group of experts appointed for this purpose by the Governing Body.

4. Adjustments to the Governing Body's existing procedures should be examined to allow Members which are not represented on the Governing Body to provide, in the most appropriate way, clarifications which might prove necessary or useful during Governing Body discussions to supplement the information contained in their reports.

III. GLOBAL REPORT

A. Purpose and scope

1. The purpose of this report is to provide a dynamic global picture relating to each category of fundamental principles and rights noted during the preceding four-year period, and to serve as a basis for assessing the effectiveness of the assistance provided by the Organization, and for determining priorities for the following period, in the form of action plans for technical cooperation designed in particular to mobilize the internal and external resources necessary to carry them out.

2. The report will cover, each year, one of the four categories of fundamental principles and rights in turn.

B. Modalities

1. The report will be drawn up under the responsibility of the Director-General on the basis of official information, or information gathered and assessed in accordance with established procedures. In the case of States which have not ratified the fundamental Conventions, it will be based in particular on the findings of the aforementioned annual follow-up. In the case of Members which have ratified the Conventions concerned, the report will be based in particular on reports as dealt with pursuant to article 22 of the Constitution.

2. This report will be submitted to the Conference for tripartite discussion as a report of the Director-General. The Conference may deal with this report separately from reports under article 12 of its Standing Orders, and may discuss it during a sitting devoted entirely to this report, or in any other appropriate way. It will then be for the Governing Body, at an early session, to draw conclusions from this discussion concerning the priorities and plans of action for technical cooperation to be implemented for the following four-year period.

IV. IT IS UNDERSTOOD THAT

1. Proposals shall be made for amendments to the Standing Orders of the Governing Body and the Conference which are required to implement the preceding provisions.

2. The Conference shall, in due course, review the operation of this follow-up in the light of the experience acquired to assess whether it has adequately fulfilled the overall purpose articulated in Part I.

The foregoing is the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up duly adopted by the General Conference of the International Labour Organization during its Eighty-sixth Session which was held at Geneva and declared closed the 18th of June 1998.

IN FAITH WHEREOF we have appended our signatures this nineteenth day of June 1998.

THE PRESIDENT OF THE CONFERENCE,
THE DIRECTOR-GENERAL OF THE
INTERNATIONAL LABOUR OFFICE.

SENATE RESOLUTION 19—EXPRESSING THE SENSE OF THE SENATE THAT THE FEDERAL INVESTMENT IN BIOMEDICAL RESEARCH SHOULD BE INCREASED BY $2,000,000,000 IN FISCAL YEAR 2000

Mr. SPECTER (for himself and Mr. HARKIN) submitted the following resolution; which was referred jointly to the Committee on the Budget and to the Committee on Governmental Affairs:

S. RES. 19

Whereas past investments in biomedical research have resulted in better health, an improved quality of life for all Americans and a reduction in national health care expenditures;

Whereas the Nation's commitment to biomedical research has expanded the base of scientific knowledge about health and disease and revolutionized the practice of medicine;

Whereas the Federal Government represents the single largest contribution to biomedical research conducted in the United States;

Whereas biomedical research continues to play a vital role in the growth of this Nation's biotechnology, medical device, and pharmaceutical industries;

Whereas the origin of many of the new drugs and medical devices currently in use is based in biomedical research supported by the National Institutes of Health;

Whereas women have traditionally been under represented in medical research protocols, yet are severely affected by diseases including breast cancer, which will kill over 43,900 women this year; ovarian cancer which will claim another 14,500 lives; and osteoporosis and cardiovascular disorders;

Whereas research sponsored by the National Institutes of Health is responsible for the identification of genetic mutations relating to nearly 100 diseases, including Alzheimer's disease, cystic fibrosis, Huntington's disease, osteoporosis, many forms of cancer, and immune deficiency disorders;

Whereas many Americans still face serious and life-threatening health problems, both acute and chronic;

Whereas neurodegenerative diseases of the elderly, such as Alzheimer's and Parkinson's disease threaten to destroy the lives of millions of Americans, overwhelm the Nation's health care system, and bankrupt the Medicare and Medicaid programs;

Whereas 4 million Americans are currently infected with the hepatitis C virus, an insidious liver condition that can lead to inflammation, cirrhosis, and cancer as well as liver failure;

Whereas 250,000 Americans are now suffering from AIDS and hundreds of thousands more with HIV infection;

Whereas cancer remains a comprehensive threat to any tissue or organ of the body at any age, and remains a top cause of morbidity and mortality;

Whereas the extent of psychiatric and neurological diseases poses considerable challenges in understanding the workings of the brain and nervous system;

Whereas recent advances in the treatment of HIV illustrate the promise research holds for even more effective, accessible, and affordable treatments for persons with HIV;

Whereas infants and children are the hope of our future, yet they continue to be the most vulnerable and under served members of our society;

Whereas approximately one out of every six American men will develop prostate cancer and over 49,200 men will die from prostate cancer each year;

Whereas diabetes, both insulin and non-insulin forms, afflict 15.7 million Americans and places them at risk for acute and chronic complications, including blindness, kidney failure, atherosclerosis and nerve degeneration;

Whereas the emerging understanding of the principles of biometrics have been applied to the development of hard tissue such as bone and teeth as well as soft tissue, and this field of study holds great promise for the design of new classes of biomaterials, pharmaceuticals, diagnostic and analytical reagents;

Whereas research sponsored by the National Institutes of Health will map and sequence the entire human gnome by 2005, leading to a new era of molecular medicine that will provide unprecedented opportunities for the prevention, diagnoses, treatment, and cure of diseases that currently plague society;

Whereas the fundamental way science is conducted is changing at a revolutionary pace, demanding a far greater investment in emerging new technologies, research training programs, and in developing new skills among scientific investigators; and

Whereas most Americans show overwhelming support for an increased Federal investment in biomedical research: Now, therefore, be it

Resolved,

SECTION 1. SHORT TITLE.

This resolution may be cited as the "Biomedical Revitalization Resolution of 1998".

SEC. 2. SENSE OF THE SENATE.

It is the sense of the Senate that funding for the National Institutes of Health should be increased by $2,000,000,000 in fiscal year 2000 and that the budget resolution appropriately reflect sufficient funds to achieve this objective.

Mr. SPECTER. Mr. President, I have sought recognition today for the purpose of submitting a resolution calling for the Budget Committee to add $2 billion in the health account for the National Institutes of Health in fiscal year 2000. I am convinced that National Institutes of Health are the crown jewel of the Federal Government and they have made tremendous progress in conducting research into the causes and cures for disease. My vision for America in the 21st Century is to find the cure for cancer, for Alzheimer's, for Parkinson's, for the severe mental illnesses, for diabetes, for osteoporosis, and for heart cardiovascular disease. All of this is within our reach if we make the proper allocation of our resources.

As Chairman of the Appropriations subcommittee for Labor, Health and Human Services, Education and Related Agencies, I am firmly committed to prioritizing our resources in order to provide maximum funding for biomedical research. Funding for the National Institutes of Health has been increased steadily during my tenure in the Senate, regardless of who was chairing the subcommittee. Although the budgets were always tight and frequently had cuts called for by the administration, when the chairman was Senator Weicker, when the chairman was Lawton Chiles, when the chairman was TOM HARKIN, or more recently under my chairmanship, we have increased the funding tremendously. And the National Institutes of Health has responded with extraordinary advances in research. Now the work has to be pushed forward to see exactly what can be accomplished in the next century.

On May 21, 1997, the Senate passed a Sense of the Senate resolution submitted by our distinguished colleague, Senator MACK, which stated that funding for the National Institutes of Health should be doubled over five years. Regrettably, even though that resolution was passed by an overwhelming vote of 98 to nothing, when the budget resolution was returned, the appropriate health account had a reduction of $100 million. That led to the introduction of an amendment to the budget resolution by Senator HARKIN and myself, Senator HARKIN being my distinguished colleague and ranking member of the subcommittee which I chair. We sought to add in $1.1 billion to carry out the expressed sense of the Senate. Our amendment, however, was defeated 63–37. While the Senate had expressed its druthers on a resolution, when it came to the dollars they simply were not there.

During debate on the fiscal year 1999 Budget Resolution, Senator HARKIN and I again introduced an amendment which called for a funding increase for the National Institutes of Health of $2 billion and provided sufficient resources in the budget to accomplish this. While we gained more support on this vote than in the previous year, unfortunately our amendment was again defeated, this time by a vote of 57–41.

In order to provide the necessary resources for biomedical research, Senator HARKIN have worked closely together to find these vital funds. In the past few years, Senator HARKIN and I have consolidated and eliminated 135 programs to enable us to save $1.5 billion. It's pretty hard to eliminate a program in Washington, DC but we have been able to do that. We used the $1.5 billion to provide to the National Institutes of Health, guaranteed student loans, and many other important programs. Last year, Senator HARKIN and I again went to work with our subcommittee and we were able, by making economies and establishing priorities, to add an additional $2 billion to the NIH account, the largest increase in history. We, however, still have a long way to go if we are to meet our goal of doubling the funding over five years.

Our investment has resulted in tremendous advances in medical research. A new generation of AIDS drugs are reducing the presence of the AIDS virus in HIV affected persons to nearly undetectable levels. Death rates from cancer have begun a steady decline. Human genome research has yielded dramatic developments in uncovering genes associated with a host of diseases, such as breast and prostate cancer, Alzheimer's disease, cystic fibrosis, and schizophrenia.

I personally have been the beneficiary of the tremendous advances of the National Institutes of Health. Two decades ago, there was no such thing as an MRI. That device detected a problem for me. And other advances led to good results for me. I know millions of people have benefited from the research and the investment which we have made in the National Institutes of Health. But that takes money, and that is why this resolution is being offered—to call upon the Budget Committee to add in $2 billion so we can carry forward the important work of the National Institutes of Health.

SENATE RESOLUTION 20—TO RENAME THE COMMITTEE ON LABOR AND HUMAN RESOURCES THE COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. JEFFORDS (for himself and Mr. KENNEDY) submitted the following resolution; which was considered and agreed to:

S. RES. 20

Resolved, That the Committee on Labor and Human Resources is hereby redesignated as the Committee on Health, Education, Labor, and Pensions.

SENATE RESOLUTION 21—CONGRATULATING THE UNIVERSITY OF TENNESSEE VOLUNTEERS FOOTBALL TEAM ON WINNING THE 1998 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I-A FOOTBALL CHAMPIONSHIP

Mr. FRIST (for himself and Mr. THOMPSON) submitted the following resolution; which was considered and agreed to:

S. RES. 21

Whereas the University of Tennessee Volunteers football team (referred to in this resolution as the "Tennessee Volunteers") defeated the Florida State University Seminoles on January 4, 1999, at the Fiesta Bowl in Tempe, Arizona, to win the National Collegiate Athletic Association Division I-A football championship;

Whereas the Tennessee Volunteers completed the 1998 football season with a perfect record of 13 wins and 0 losses;

Whereas the Tennessee Volunteers defeated the Mississippi State University Bulldogs to claim the 1998 Southeastern Conference football championship;

Whereas the Tennessee Volunteers' Coach Phillip Fulmer, his staff, and his players displayed outstanding dedication, teamwork, selflessness, and sportsmanship throughout the course of the season to achieve collegiate football's highest honor; and

Whereas the Tennessee Volunteers have brought pride and honor to Tennessee: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Tennessee Volunteers football team on winning the 1998 National Collegiate Athletic Association Division I-A football championship; and

(2) commends the University of Tennessee Volunteers football team for its pursuit of athletic excellence and its outstanding accomplishment in collegiate football in winning the championship.

SENATE RESOLUTION 22—NATIONAL PEACE OFFICERS MEMORIAL DAY RESOLUTION

Mr. CAMPBELL (for himself, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. BIDEN, Mr. BINGAMAN, Mr. BROWNBACK, Mr. BRYAN, Mr. BURNS, Mr. CLELAND, Mr. COVERDELL, Mr. CRAIG, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENZI, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. FRIST, Mr. GORTON, Mr. GRAMM, Mr. GRAMS, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERREY, Mr. LEAHY, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. SPECTER, Mr. STEVENS, Mr. THURMOND, Mr. TORRICELLI, Mr. WARNER, Mr. WELLSTONE, and Mr. CRAPO) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 22

Whereas the well-being of all citizens of this country is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 700,000 men and women, at great risk to their personal safety, presently serve their fellow citizens in their capacity as guardians of peace;

Whereas peace officers are the front line in preserving our childrens' right to receive an education in a crime-free environment that is all too often threatened by the insidious fear caused by violence in schools;

Whereas 158 peace officers lost their lives in the performance of their duty in 1998, and a total of nearly 15,000 men and women have now made that supreme sacrifice;

Whereas every year 1 in 9 officers is assaulted, 1 in 25 officers is injured, and 1 in 4,400 officers is killed in the line of duty; and

Whereas, on May 15, 1999, more than 15,000 peace officers are expected to gather in our Nation's Capital to join with the families of their recently fallen comrades to honor them and all others before them: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes May 15, 1999, Peace Officers Memorial Day, in honor of Federal, State, and local officers killed or disabled in the line of duty; and

(2) calls upon the people of the United States to observe this day with the appropriate ceremonies and respect.

Mr. CAMPBELL. Mr. President, today I am joined with my colleagues in submitting this resolution to keep alive in the memory of all Americans, the sacrifice and commitment of those men and women who lost their lives while serving as law enforcement officers. Specifically, this resolution would designate May 15, 1999, as National Peace Officers Memorial Day.

Currently, more than 700,000 men and women who serve this nation as our guardians of law and order do so at a great risk. Every year, about 1 in 9 officers is assaulted, 1 in 25 officers is injured, and 1 in 4,400 officers is killed in the line of duty. There are few communities in this country that have not been impacted by the senseless death of a police officer.

In 1998, over 158 federal, state and local law enforcement officers have given their lives in the line of duty and nearly 15,000 men and women have made that supreme sacrifice. And, our Capitol community as well as the nation were shocked and saddened last year by the tragic and senseless shooting of Capitol Police Officer Jacob Chestnut and Special Agent John Gibson.

According to National Law Enforcement Officers Memorial Fund Chairman Craig W. Floyd,

> Since crime began its steady downward slide in 1992, more than 1,100 federal, state and local law enforcement officers have lost their lives in the performance of duty. That averages out to 158 police deaths each year, or one officer killed somewhere in America roughly every 54 hours.

As a former deputy sheriff, I know first-hand the risks which law enforcement officers face every day on the front lines protecting our communities. Last year for example, in Cortez, Colorado, police officer Dale Claxton was fatally shot through the windshield of his patrol car after stopping a stolen truck. Officer Claxton was tragically and prematurely taken away from his wife and four children. Today, two of the three suspects are still at large, even after an extensive manhunt.

On May 15, 1999, more than 15,000 peace officers are expected to gather in our Nation's Capital to join with the families of their fallen comrades, past and present, who by their faithful and loyal devotion to their responsibilities have rendered a dedicated service to their communities and, in doing so, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

Mr. President, I urge my colleagues to join us in supporting this important resolution.

I ask unanimous consent that letters of support be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

INTERNATIONAL BROTHERHOOD
OF POLICE OFFICERS,
Alexandria, VA, January 5, 1999.

Hon. BEN NIGHTHORSE CAMPBELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR CAMPBELL: The International Brotherhood of Police Officers (IBPO) is an affiliate of the Service Employees International Union. The IBPO is the largest police union in the AFL–CIO.

On behalf of the over 50,000 members of the IBPO, including IBPO Local 516, Fountain, Colorado I want to thank you for introducing a Joint Resolution to designate May 15, 1999, as National Peace Officers Memorial Day.

Each year, more than 10,000 police officers, survivors and supporters attend the activities revolving around Peace Officers Memorial Day Washington, DC. Officers develop close bonds with their colleagues from across the country. Survivors gain strength from others who have experienced and understand their grief.

The entire membership of the IBPO looks forward to working with you on this important matter.

Once again, thank you for your continued support of law enforcement community.

Sincerely,

KENNETH T. LYONS,
National President.

FEDERAL LAW ENFORCEMENT
OFFICERS ASSOCIATION,
East Northport, NY, January 8, 1999.

Hon. BEN NIGHTHORSE CAMPBELL,
U.S. Senator,
Washington, DC.

DEAR SENATOR CAMPBELL: On behalf of the over 15,000 members of the Federal Law Enforcement Officers Association (FLEOA), I wish to express our strong support for the resolution you intend to introduce to the 106th Congress regarding National Peace Officers Memorial Day. FLEOA is proud to stand with you on this legislation.

FLEOA is a non-partisan professional association representing federal agents from the agencies listed on the left masthead. We have local chapters all across the United States and several overseas. Each year, on May 15, all across America, federal agents stand with their law enforcement officer brethren and remember those from our ranks who gave their lives in the line of duty. FLEOA has been on the Executive Board of the National Law Enforcement Officers Memorial, located in Washington, DC, since its inception. As inscribed on the Memorial Wall, next to the names of the heros and heroines, are these words: "It is not how these officers died that made them heroes; it is how they lived." Your resolution will make sure their sacrifice, once again, will be observed all across our great nation.

FLEOA is calling for all of our elected officials to cosponsor your resolution. We look forward to working on this and other issues with you and your staff. Thank you for all your efforts for law enforcement.

RICHARD J. GALLO.

NATIONAL ASSOCIATION
OF POLICE ORGANIZATIONS, INC.,
Washington, DC, January 13, 1999.

Hon. BEN NIGHTHORSE CAMPBELL,
U.S. Senate, Washington, DC.

DEAR SENATOR CAMPBELL. Let me first take this opportunity to congratulate you on your successful reelection to the United States Senate. Thank you for your hard work and consistent commitment to the law enforcement community.

On behalf of the National Association of Police Organizations (NAPO), representing more than 4,000 unions and associations and over 220,000 sworn law enforcement officers, I want to express our wholehearted support for a Joint Resolution to designate May 15, 1999, as National Peace Officers' Memorial Day.

Every year, for one week during the month of May, the law enforcement community pays tribute and honors the fallen heroes who have paid the ultimate sacrifice at the National Law Enforcement Officers Memorial. Serving on the Board of Directors at the National Law Enforcement Officers Memorial Fund and as a former Detroit police officer for twenty-five years, I truly appreciate a day for all Americans to recognize and commemorate with surviving family members, those who have lost their lives in the line of duty.

Every day law enforcement officers put their lives on the line to serve and protect our communities. Over the past few years, we have experienced a steady decrease in violent crime rates throughout our neighborhoods and cities. However, this does not come at a small price. In 1998, 155 of our Nation's finest lost their lives protecting the citizens of this county. We need to honor and remember these outstanding men and women every year.

Thank you for your dedication in advancing the interests of the law enforcement community. I look forward to working with you in the 106th Congress. Please let me know if I can be of any assistance in the future.

Sincerely,

ROBERT T. SCULLY,
Executive Director.

SENATE RESOLUTION 23—CONGRATULATING MICHAEL JORDAN ON THE ANNOUNCEMENT OF HIS RETIREMENT FROM THE CHICAGO BULLS AND THE NATIONAL BASKETBALL ASSOCIATION

Mr. DURBIN (for himself and Mr. FITZGERALD) submitted the following resolution:

S. RES. 23

Whereas Michael Jeffrey Jordan has announced his retirement from basketball after 13 seasons with the Chicago Bulls;

Whereas Michael Jordan helped make the long, hard winters bearable for millions of Chicagoans by leading the Chicago Bulls to 6 National Basketball Association Championships during the past 8 years, earning 5 NBA Most Valuable Player awards, and winning 10 NBA scoring titles;

Whereas Michael Jordan and his Olympic teammates thrilled basketball fans around the world by winning gold medals at the 1984 and 1992 Olympic Games;

Whereas Michael Jordan has demonstrated an unsurpassed level of professionalism during his athletic career and has served as a role model to millions of American children by demonstrating the qualities that mark a true champion: hard work, grace, determination, and commitment to excellence;

Whereas Michael Jordan taught us to have the courage to follow our dreams by striving to play baseball for the Chicago White Sox;

Whereas Michael Jordan demonstrated the importance of pursuing an education by earning a bachelor of arts degree from the University of North Carolina at Chapel Hill;

Whereas Michael Jordan continues to contribute to our communities through his support for the James R. Jordan Boys & Girls Club and Family Life Center in Chicago, the Jordan Institute for Families at his alma mater, and the Ronald McDonald Houses of Greenville, Chapel Hill, Durham, and Winston-Salem, North Carolina, for families of seriously ill children who are being treated at nearby hospitals; and

Whereas Michael Jordan will take on new challenges in his life with the same passion and determination that made him the greatest basketball player ever to have lived: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Michael Jordan on his retirement from the Chicago Bulls and professional basketball; and

(2) expresses its wishes that Michael Jordan enjoy his life after basketball with his wife, Juanita, and their 3 children, Jeffrey, Marcus, and Jasmine.

SENATE RESOLUTION 24—EXPRESSING THE SENSE OF THE SENATE THAT THE INCOME TAX SHOULD BE ELIMINATED AND REPLACED WITH A NATIONAL SALES TAX

Mr. LUGAR submitted the following resolution; which was referred to the Committee on Finance.

S. RES. 24

Whereas the savings level in the United States has steadily declined over the past 25 years, and lagged behind the industrialized trading partners of the United States;

Whereas the economy of the United States cannot achieve strong, sustained growth without adequate levels of savings to fuel productive activity;

Whereas the income tax, the accompanying capital gains tax, and the estate and gift tax discourage savings and investment;

Whereas the methods necessary to enforce the income tax infringe on the privacy of the citizens of the United States and, according to the Tax Foundation, divert an estimated $225,000,000,000 of taxpayer resources to comply with income tax rules and regulations;

Whereas the Internal Revenue Service estimates that each year it fails to collect 17 per centum, or $127,000,000,000, of the income tax owed to the Federal Government;

Whereas the income tax system employs a withholding mechanism that limits the transparency of Federal taxes;

Whereas the most effective tax system is one that promotes savings, fairness, simplicity, privacy, border adjustability, and transparency;

Whereas it is estimated that the replacement of the income tax system with a national sales tax would cause the savings rate of Americans to substantially increase;

Whereas the national sales tax would achieve fairness by employing a single tax rate, taxing the underground economy, and closing loopholes and deductions;

Whereas the national sales tax would achieve simplicity by eliminating recordkeeping for most taxpayers and greatly reducing the number of collection points;

Whereas the national sales tax would be the least intrusive tax system because most taxpayers would not be required to file returns or face audits from the Internal Revenue Service;

Whereas the national sales tax is border adjustable and would place exporting by Americans on a level playing field with the foreign competitors of the United States;

Whereas a national sales tax is a transparent tax system that would raise Americans' awareness of the cost of the Federal Government; and

Whereas a national sales tax would best achieve the goals of an effective tax system: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the income tax system, both personal and corporate, the estate and gift tax, and the accompanying capital gains tax be replaced with a broad-based, single-rate national sales tax on goods and services;

(2) the national sales tax rate be set at a level that raises an equivalent level of revenue as the income taxes replaced;

(3) the Federal Government work with the States to develop a State-based system to administer the national sales tax and that States be adequately compensated for such administration; and

(4) the Congress and States work together in an effort to repeal the sixteenth amendment of the United States Constitution.

Mr. LUGAR. Mr. President, I am pleased to submit a Senate resolution expressing the sense of the Senate that the income tax system be abolished and replaced with a broad-based consumption tax on goods and services.

I supported IRS reform legislation passed last Congress and will continue to work within the confines of our tax system to improve it. However, the fundamental flaws of the income tax system remain. I strongly believe that Congress should abolish the income tax system in its entirety and begin anew.

The problems of the income tax are well documented. By taxing savings and investment at least twice, the income tax has become the biggest impediment to economic growth in the country. Each year it costs Americans more than 5 billion hours of time to comply with it. The system is unfair and riddled with loopholes. It favors foreign imports and discourages American exports. As witnesses testified before Congress last year, the IRS regularly violates the privacy rights of individuals while enforcing the income tax. And finally, the system doesn't work. By its own admission, the Internal Revenue Service fails to collect from nearly 10 million taxpayers, with an estimated $127 billion in uncollected taxes annually. Anything this broken should be ended decisively.

One can evaluate a tax system using many criteria. It must be: (1) simple, (2) the least intrusive, (3) fair, (4) transparent, (5) border adjustable, and (6) friendly to savings and investment. I have studied tax reform proposals with these six factors in mind. Many are better than the current income tax. But if we are going to overhaul our tax system, we should choose the one that meets these criteria. I have concluded that a national sales tax is the best alternative.

An effective tax system should be simple. Under a national sales tax, the burden of complying with the income tax code would be lifted. There would be no records to keep or audits to fear. According to the Tax Foundation, businesses and individuals spend more than $225 billion to comply with the Tax Code. Under a national sales tax, compliance costs would drop by 90 percent. More than 100 million individuals who currently file taxes would be dropped from the tax rolls. With a national sales tax, the money individuals earned would be their own. Its your decision to save it, invest it, or give it to your children. It is only when you buy something that you are taxed.

The national sales tax is the least intrusive of the tax proposals. The IRS would be substantially dismantled. The IRS would no longer look over the shoulders of every taxpayer. Americans would not waste time and effort worrying about recordkeeping, deductions, or exemptions that are part of the current Tax Code.

The national sales tax is the fairest alternative. Everyone pays the tax including criminals, illegal aliens, and others who currently avoid taxation. Wealthy Americans with lavish spending habits would pay substantial amounts of taxes under the national sales tax. Individuals who save and invest their money will pay less. Gone are the loopholes and deductions that provide advantages to those with the resources to shelter their income.

The national sales tax would also tax the underground economy. When criminals consume the proceeds of their activities, they will pay a tax. Foreign tourists and illegal aliens will pay the tax. Tax systems that rely on income reporting will never collect any of this potential revenue.

Of course, the fairness test must likewise consider those with limited means to pay taxes. Like the income tax system, a national sales tax can and should be constructed to lessen the tax burden on those individuals with the least ability to pay. One strategy for addressing this problem would exempt a threshold level of goods and services consumed by each American from the federal sales tax. Another strategy is to exempt items such as housing, food or medicine. I am committed to designing a tax system that does not fall disproportionately on the less fortunate.

The national sales tax is the most transparent. A federal tax that is evident to everyone would bolster efforts in Congress to achieve prudence in federal spending. There should be no hidden corporate taxes that are passed on to consumers or withholding mechanisms that mask the amount we pay in taxes. Harvard economist Dale Jorgenson estimates that the corporate income tax and its compliance costs increase the cost of goods by 20 to 25 percent. The national sales tax would bring all these hidden costs into the sunshine. Every year the public and Congress should openly debate the tax rate necessary for the federal government to meet its obligations. If average Americans are paying that rate every day, they will make certain that Congress spends public funds wisely.

American exports would also benefit from the enactment of a national sales tax. We must adopt a tax system that encourages exports. Most of our trading partners have tax systems that are border adjustable. They are able to strip out their tax when exporting their goods. In comparison, the income tax is not border adjustable. American goods that are sent overseas are taxed twice—once by the income tax and once when they reach their destination. In comparison, the national sales tax would not be levied on exports. It would place our exports on a level playing field with those of our trading partners.

But the last and most imperative reason for replacing the income tax with a national sales tax is that it would energize our economy by encouraging savings. The bottom line is that as a nation, we do not save enough. Savings are vital because they are the source of all investment and productivity gains—savings supply the capital for buying a new machine, developing a new product or service, or employing an extra worker.

The Japanese save at a rate nine times greater than Americans, and the Germans save five times as much as we do. Today, many believe that Americans inherently consume beyond their means and cannot save enough for the future. Few realize that before World War II, before the income tax system developed into its present form, Americans saved a larger portion of their earnings than the Japanese.

A national sales tax would reverse this trend by directly taxing consumption and leaving savings and investment untaxed. Economists agree that a broad-based consumption tax would increase our savings rate substantially. Economist Laurence Kotlikoff of Boston University estimates that our savings rate would more than triple in the first year. Economist Dale Jorgenson of Harvard University has concluded that the United States would have experienced one trillion dollars in additional economic growth if it had adopted a consumption tax like the national sales tax in 1986 instead of the current system.

As I have outlined here today, I believe the national sales tax is the best tax system to replace the income tax. If we enact a tax system that encourages investment and savings, billions of dollars of investment will flow into our country. This makes sense—America has the most stable political system, the best infrastructure, a highly educated workforce and the largest consumer market in the world. Our economic growth and prosperity would be unsurpassed. I am committed to bringing this message of hope to all Americans, and I look forward to working with my colleagues on advancing this important endeavor.

SENATE RESOLUTION 25—TO REFORM THE BUDGET PROCESS BY MAKING THE PROCESS FAIRER, MORE EFFICIENT, AND MORE CLEAN

Mr. McCAIN (for himself and Mr. KYL) submitted the following resolution; which was referred to the Committee on Rules and Administration.

S. RES. 25

SECTION 1. REQUIREMENT OF AUTHORIZATION FOR PROGRAMS OVER $1,000,000.

(a) IN GENERAL.—Paragraph 1 of rule XVI of the Standing Rules of the Senate is amended by inserting "in excess of $1,000,000," after "new item of appropriation,".

(b) 60 VOTE POINT OF ORDER.—Rule XVI of the Standing Rules of the Senate is amended by adding at the end the following:

"9. Paragraph 1 may be waived or suspended only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under paragraph 1.".

SEC. 2. PROCEEDING TO APPROPRIATIONS BILLS IN THE SENATE.

Rule XVI of the Standing Rules of the Senate is amended by adding at the end the following:

"10. On any day after June 30 of a calendar year, a motion to proceed to the consideration of an appropriations measure shall be decided without debate.".

ADDITIONAL STATEMENTS

OPENNESS ON THE IMPEACHMENT TRIAL

• Mr. FEINGOLD. Mr. President, I rise today in strong support of opening Senate deliberations to the public during the course of the impeachment trial against President Clinton. I will therefore support the motion to be offered by Senators HARKIN and WELLSTONE to suspend the rules in order to open these proceedings to public scrutiny.

In this trial, the United States Senate is charged by the Constitution with deciding whether to remove from office a President twice elected by the American people. Although I am certain that every member of the Senate will undertake this Constitutional responsibility with the utmost gravity and perform "impartial justice" as our oath commands, I am concerned that the American people will be shut out of this process at some of its most crucial moments.

America's great experiment in democracy trusts the people to elect a President in a process that consists of months of public discussion, primaries, caucuses, debates, and finally an election open to everyone who chooses to participate. In stark contrast, the Senate's rules preclude the public from seeing its deliberations on whether an impeachment case will be dismissed, whether witnesses will be called or further evidence introduced, and even the ultimate debate regarding the guilt or innocence of the President. In short, Mr. President, the Constitution trusts the people to elect a President, but our current Senate impeachment rules do not trust them to have even the most passive involvement in our deliberative process, even when the debate might result in overturning the people's judgment in a national election.

Let me take a moment to describe again for my colleagues how our current impeachment rules work. The Senate is not only the trier of fact in this case, but it also acts as the ultimate arbiter of law. It can overturn the Chief Justice's rulings on evidentiary questions and make decisions, which cannot be appealed to any court, on motions. But the Senate's impeachment rules, which were first drafted in connection with the Andrew Johnson impeachment and most recently revisited in 1986, do not permit the Senate to debate any of the decisions that it must make, except in closed session. In fact, the rules provide that decisions on evidentiary rulings are to be made with no debate whatsoever.

Other motions can be debated, but only in private. So, for example, we expect that after the presentations are made on both sides, a motion will be made to dismiss the case against the President. Under our current rules, the House managers and the President's lawyers will argue that motion, but the Senate cannot debate it in open session. In fact, if a majority of the Senate wants to preclude debate entirely, it can do that by simply voting against a motion to take the Senate into private session for deliberations. Thus, before we vote on what could be a dispositive motion in this case, our only options are to discuss it behind closed doors or not discuss it at all.

I think this is wrong. We need a chance to debate this motion as Senators. I want to hear from my colleagues before I vote, not just afterward on television. I intend to carefully and respectfully entertain my colleagues' arguments, and I refuse to rule out the possibility that a well-reasoned argument offering a different perspective will influence my decision. But the American people also deserve to hear what we say to each other as we debate this motion. I see little to be gained from closing these deliberations and much to be lost. We must do everything we can to ensure public confidence in our fairness and impartiality. How can we expect the public to have faith in us if we close the doors at the very moment when we finally will speak on the dispositive questions of this historic trial?

Opponents of openness argue that in the only Presidential impeachment trial in our Nation's history, that of Andrew Johnson, the Senate's deliberations were closed. While it may be tempting to rely on the precedent of the one previous Presidential impeachment trial, which occurred one-hundred and thirty years ago, I believe we should take a fresh look at this issue. In particular, we should consider how drastically the rules of the Senate and the composition of the Senate have changed.

The Senators who presided over President Johnson's impeachment were not elected by the American people directly, but were chosen by the various state legislatures, and thus were not directly responsive to the popular will. Today, we as Senators represent the citizens of our state directly and we are accountable to them at the ballot box. Furthermore, until 1929, the Senate debated nominations and treaties in closed sessions; and until 1975, many committee sessions took place in private. Today, all of our proceedings are open to the public, except in rare cases involving national security. The rules governing membership in the Senate as well as the openness of Senate proceedings have consistently evolved throughout our history toward greater public involvement. The rules governing impeachment trial deliberations must move in that direction as well.

Opening these proceedings as Senators HARKIN and WELLSTONE have proposed will make the American public feel more involved in the process. With the percentage of voters who cast their ballot on election day declining in each succeeding election and polls showing that the public feels increasingly alienated from the political process; and with people openly questioning the relevance of their elected representatives and the Congress as a whole to their daily lives, we must lay open to the American people our deliberations on the most crucial decision short of declaring war that the Constitution ultimately entrusts to us. Democracy can only flourish when the people feel that they have a stake in the process. Conducting our impeachment deliberations in private sends the message that when the really important decisions need to be made, the American public is not welcome to observe. This is precisely the wrong message to send.

Thus far in the impeachment process, there has been little to celebrate. Most Americans have concluded that the House of Representative's inquiry was plagued by partisanship. Many fear that the Senate will do the same. With the eyes of the country upon it, the Senate has an opportunity to restore America's trust in the constitutional process. Open deliberations will enhance the public's understanding and discussion of this case. It may even serve to chip away some of the pervasive cynicism in our country as Americans watch how their elected representatives conduct themselves during consideration of the articles. I trust that my colleagues will reach their decisions on the merits after careful, reasoned and informed consideration of the evidence and the arguments presented. If my trust in my colleagues is justified, our deliberations will be thoughtful, high-minded, vigorous, and non-partisan. And if we have that deliberation in the open, it will be remembered as one of the Senate's finest hours.•

KAYANN ELIZABETH HAYDEN

• Mr. COVERDELL. Mr. President, I rise today to commend Kayann Elizabeth Hayden for her commitment to excellence in academics and as an outstanding young person. Kayann is a senior at Gilmer High School in her hometown of Ellijay, Georgia. Throughout Kayann's schooling, she has maintained an A average and is President of the Beta Club. Her peers have voted her Most Likely To Succeed Senior Superlative for 1998–1999 school year.

In addition to maintaining an outstanding academic record, Kayann has been involved in several sports, organizations, and other extracurricular activities. Currently serving as senior class president, she has been a leader in student government. Kayann is also a member of the Gilmer High 4-H and the Future Homemakers of America where she is Co-President of the local chapter. In sports, she participated on the high school cross country and track teams. Finally, she was named Miss Apple for the 1994–1995 Gilmer County Apple Festival Pageant and Miss Apple Princess for the 1995–1996 Pageant.

Kayann's commitment to excellence also extends to the community. She is a student member of the Gilmer Teen Pregnancy Awareness Board as well as an active member of First Baptist Church in Ellijay, Georgia. She has volunteered for the Gilmer County Chamber of Commerce, American Cancer Association's Relay for Life, and the Gilmer Arts and Heritage Association.

Once again, Mr. President, I would like to thank Kayann Elizabeth Hayden for her commitment to both academic and civic excellence. As we discuss possible education reform, we can use Kayann as a model for the type of student our schools should be producing.●

CLARK CLIFFORD

● Mr. MOYNIHAN. Mr. President, at a time when we risk the ever coarsening of our public affairs, we would do well to remember a man whose service to this country was distinguished as no other for civility and elegance. I ask that this tribute to Clark M. Clifford by Sander Vanocur be printed in the RECORD.

The tribute follows.

TRIBUTE TO CLARK CLIFFORD

(By Sander Vanocur)

The following anonymous poem was sent to Clark Clifford's daughters, Joyce and Randall, by their sister, Faith, who could not be here today:

Think of stepping on shore
  and finding it Heaven,
Of taking hold of a hand
  and finding it God's,
Of breathing new air,
  and finding it celestial air,
Of feeling invigorated
  and finding it immortality,
Of passing from storm and tempest
  to an unbroken calm,
Of waking up,
  and finding it Home.

In the secular sense, Clark Clifford found that home in Washington more than fifty years ago. And having found that home, let it be said that while he was here, he graced this place.

It was a much different place when he and Marny came here, smaller in size but larger in imagination, made larger in imagination by World War II. It may have been, then and for a good time after, as John F. Kennedy once noted, a city of Southern efficiency and Northern charm. But it was also, at least then, a place where dreams could be fashioned into reality. Being an intensely political city, dreams, as always, had to be fashioned by reality. And it was in this art of political compromise where Clark Clifford flourished. He was known as the consummate Washington insider. Quite often the term was used in the pejorative sense. It should not have been. If you believe as he did in what George Orwell meant when he wrote that in the end everything is political, it should be a case for celebration rather than lamentation that he played the role, for if he had not played this role who else of his generation could have played it quite so well, especially when the time came to tell a President of the United States, who was also a very old friend, that the national interests of this nation could no longer be served by our continuing involvement in Vietnam?

We know of his public triumphs. Some of us also know of his personal kindnesses. Many years ago, at a very bleak period in both my personal and professional life—you know in this city it is bleak when your phone calls are not returned by people you have known for years—there were two individuals in this city who faithfully returned my calls. One was Ben Bradlee. The other was Clark Clifford. When Clark first invited me to his office during this bleak period to offer encouragement and guidance, he closed the door, took no phone calls, sat behind his desk, his hands forming the legendary steeple and listened and advised. On that first visit to his office I looked down on his desk where there appeared to be at least fifty messages, topped by what seemed to be inaugural medallions. I thought to myself on that first visit that Clark Clifford had put the word on hold just to listen to me. But the third time I came to his office, it occurred to me that it was just possible those messages had been there for twenty years.

Clark Clifford's final years were not what he would have wished for himself nor what his friends would have wished for him and his family. They seemed to echo the first lines in Chapter Nine of Henry Adams' novel "Democracy," perhaps the best novel ever written about this city. The lines are: "Whenever a man reaches to the top of the political ladder, his enemies unite to pull him down. His friends become critical and exacting." On this occasion, I cannot speak of his enemies, but I can say that his friends will not be critical or exacting. We will think, instead, of Othello's words just before he dies:

Soft you; a word or two before you go.
I have done the state some service, and they
    know it—
No more of that. I pray you, in your letters,
When you shall these unlucky deeds relate.
Speak of me as I am; nothing extenuate,
Nor set down aught in malice.

We who loved Clark Clifford will do that and more. We will say now and henceforth: Clark Clifford did the state some service and we know it.●

TRIBUTE TO DEAN CALDWELL

● Mr. COCHRAN. Mr. President, I am pleased to bring to the attention of Senators the retirement of Dean Caldwell, Civilian Deputy to the President of the Mississippi River Commission.

Mr. Caldwell has accumulated over 37 years of Federal Service, 23 of which have been at the Mississippi Valley Division and the Mississippi River Commission of the Corps of Engineers. The Corps of Engineers has undergone several reorganizations and restructures over the past few years, during which Dean Caldwell's experience and dedication have ensured that the mission of the Corps has not been compromised.

Mr. Caldwell oversaw the integration of two new Corps of Engineers districts into the new Mississippi Valley Division in April, 1997. In addition, he has served as the Congressional Liaison for the Mississippi Valley Division. In this capacity, he has ensured that federal legislation has served the interests of the entire Mississippi Valley.

He has been recognized for his outstanding career, receiving the Army's decoration for meritorious civilian service and the Earnest P. Blankenship Engineer/Scientist Award.

I know that the Senate joins me in thanking Dean for his years of distinguished service and in extending our best wishes to him in retirement.●

SUPERVISOR ANDREA MEAD LAWRENCE

● Mrs. BOXER. Mr. President, today I would like to honor Andrea Mead Lawrence, who is retiring from the Mono County Board of Supervisors after 16 years of distinguished service to her constituents.

Andrea personifies the great American tradition of public service that is the backbone of our governmental system. As a County Supervisor, she was a member of the Great Basin Unified Air Pollution District since 1984, serving as its chairman in 1989, 1993 and 1996. She played a key role in that capacity in the negotiations with the City of Los Angeles that will lead to reversing the worst particulate air pollution problem in the United States, caused by the dry bed of Owens Lake in Southern Inyo County.

She also successfully worked with others for the restoration of Mono Lake and its priceless ecosystem. In that and other efforts, she testified before Congress in support of creation of the Mono Basin National Forest Scenic Area to save Mono Lake. Over the years she also testified before Congress on behalf of the Bodie Protection Act, the San Joaquin Wilderness Act, and the California Desert Protection Act. Andrea was the founder of Friends of Mammoth, a citizen's advocacy group that was formed to fight environmentally damaging development in the Town of Mammoth Lakes, her home. She also founded the Southern Mono Historical Society.

Understanding that regional problems require grassroots and local involvement to bring effective long term solutions, Andrea was a co-founder and Past President of the Sierra Nevada Alliance, a group dedicated to the preservation of the "Range of Light" and its economy.

Her public involvement is seemingly endless and certainly on going. Early in her career she distinguished herself as a member of the United States Olympic Ski Team in 1948, 1952, and

1956. In 1952 she won two Olympic Gold Medals in the Slalom and Giant Slalom in the Olympic Games in Oslo, Norway.

Andrea Mead Lawrence exemplifies so much that is good in America. I wish her and her family all the best as she enters a new and productive part of her life.•

SUZANNE MARIE HAYDEN

• Mr. COVERDELL. Mr. President, I rise today to commend Suzanne Marie Hayden for her commitment to excellence in academics and as an outstanding young person. Suzanne is a junior at Gilmer High School in her hometown of Ellijay, Georgia. Throughout Suzanne's schooling, she has maintained an A average and is Treasurer of the Beta Club. She received the 1996 United States Achievement Academy and was named the 1996–1997 Family and Consumer Science Most Outstanding Student.

In addition to maintaining an outstanding academic record, Suzanne has been involved in several sports, organizations, and other extracurricular activities. Currently serving as the Student Senate Secretary/Treasurer, she has been a leader in student government. She is also a member of the Future Homemakers of America where she is Georgia State President and was named a 1996–1997 Outstanding FHA Member. In sports, she participated on the high school cross country and track teams.

Suzanne's commitment to excellence also extends to the community. She is an active member of First Baptist Church in Ellijay, Georgia. She has also volunteered at the Gilmer Nursing Home.

Once again, Mr. President, I would like to thank Suzanne Marie Hayden for her commitment to both academic and civic excellence. As we discuss possible education reform, we can use Suzanne as a model for the type of student our schools should be producing.•

ANNIVERSARY OF THE DEATH OF HUBERT H. HUMPHREY

• Mr. WELLSTONE. Mr. President, I rise to speak today to honor a great Minnesota Senator and a great American.

U.S. Senator Hubert H. Humphrey died on January 13, 1978. On that day, a piece of Minnesota died—a piece of the nation died.

In many ways, Senator Humphrey embodied the best of our state and our nation. He was a visionary who never lost sight of people in the here and now; he was a prophet who spoke with authority and compassion; he was a leader who never lost sight of the ". . . extraordinary possibilities in ordinary people." Whether as the Mayor of Minneapolis or the Vice President of the United States, Senator Humphrey was a person of dignity, integrity and honesty. Even during our darkest days of segregation and war, he never lost his humor or his commitment to improve the lives of people. And this Happy Warrior did improve the lives of countless people throughout my state and our country. Indeed, he fulfilled his own pledge that "we must dedicate ourselves to making each man, each woman, each child in America a full participant in American life."

My state and our nation owe a debt to Senator Humphrey that can never be paid.

I owe a debt to Senator Humphrey: In the back of my mind, I continually aspire to the standard he set for Minnesota Senators. I attempt to fulfill his goal that our "public and private endeavor ought to be concentrated upon those who are in the dawn of life, our children; those who are in the twilight of life, our elderly; and those who are in the shadows of life, our handicapped."

My thoughts on Senator Humphrey's passing are even more poignant this year because his wife—Senator Muriel Humphrey—died this past fall. As friends and family gathered at her funeral, I was struck by how blessed we were to have these two incredible people pass through our lives.

I close very simply in honor of the memory of this very great public man: We all are better off because of his life.•

TRIBUTE TO POLICE CHIEF STEPHEN R. MONIER ON HIS RETIREMENT

• Mr. SMITH of New Hampshire. Mr. President, I rise today to commend Police Chief Stephen R. Monier on his outstanding career as a law enforcement agent in Goffstown, New Hampshire. I congratulate him on his twenty-eight years of tireless service and his retirement from the police force on December 31, 1998.

Chief Monier's record of achievement is worthy of outstanding honor. As an officer, he served as a Patrol Officer, Director of the Juvenile Division, Administrative Services Officer, Sergeant, Lieutenant and, ultimately, Chief. Chief Monier was a Commissioner with the Commission on the Accreditation of Law Enforcement Agencies, Inc., a past president of the New Hampshire Association of Police (NHACP), a member for nine years on the Council at New Hampshire Police Standard and Training and a member of New England Association of Chiefs of Police and International Associations of Chiefs of Police. He also had the honor of being selected as a member of the 1996 Centennial Summer Olympic's Security Team in Atlanta, Georgia, and was selected as a security team leader for the Athens' Olympics.

Along with this prestigious law enforcement career, Chief Monier was President and a member of the Rotary International's Goffstown Chapter, founding member and Board of Director's member for Crispin's House, Inc., a nonprofit organization designed to assist at-risk youths and families, and assistant coach for the Goffstown Parks and Recreation Youth Basketball League. His philanthropic record is an outstanding achievement.

Police Chief Stephen R. Monier is an asset to his community as well as the State of New Hampshire. His remarkable record of service has made him a well-known and well-respected man. New Hampshire has always been fortunate to have great law enforcement agents, and Mr. Monier exemplifies this ideal. I am proud of his achievements and his long and honorable commitment to law enforcement. I would like to wish Chief Monier, along with his wife Sandra and their two teenage sons, the best of luck as he embarks on this new stage in his life. It is an honor to represent you in the United States Senate.•

A TRIBUTE TO RUSSELL BAKER

• Mr. MOYNIHAN. Mr. President, Thomas Carlyle remarked, "A well-written Life is almost as rare as a well-spent one." Carlyle could have written these words, if construed as a double entendre, about my rare, dear friend, Russell Baker. Baker's last "Observer" column appeared in the New York Times this past Christmas, ending a 36-year run. Over the course of some 3 million words, by his own reckoning, Russell Baker has displayed grace, gentle wit, decency, and profound insight into the human condition.

Nearly fifteen years ago, I stated that Russell Baker has been just about the sanest observer of American life that we've had. He has been gentle with us, forgiving, understanding. He has told us truths in ways we have been willing to hear, which is to say he has been humorous . . . on the rare occasion he turns to us with a terrible visage of near rage and deep disappointment, we do well to listen all the harder.

He leaves a huge hole I doubt any other journalist can fill. As Boston Globe columnist Martin F. Nolan observed last month, "the most bathetic braggarts and most lubricated louts among us never thought we were as good or as fast as Russell Baker."

A life well-spent? He's a patriot, having served as a Navy flyer during World War II. For nearly fifty years, he has been married to his beloved Miriam. They have three grown children. His career has taken him from the Baltimore Sun's London Bureau to the Times' Washington Bureau. He has covered presidential campaigns, and he has accompanied Presidents abroad. He has met popes, kings, queens—and common people, too, for whom he has such enormous and obvious empathy. And now he is the welcoming presence on Mobil Masterpiece Theatre.

A life well-written? The Washington Post's Jonathan Yardley calls Russell Baker "a columnist's columnist," writing, "Baker broke his own mold. He was, simply and utterly, sui generis." I would not use the past tense, because I doubt Russell Baker is done putting pen to paper. But the sentiment is spot on.

A life well-written? Baker has won two Pulitzer Prizes—one in 1979 for Distinguished Commentary and another in 1983 for his 1982 autobiography, "Growing Up." He has written thirteen other books and edited The Norton Book of Light Verse and his own book of American humor. Russell Baker isn't just one of the best newspaper writers around, as Yardley puts it; he is "one of the best writers around. Period."

Mr. President, I ask unanimous consent that Russell Baker's last regular "Observer" column entitled "A Few Words at the End" (New York Times, December 25, 1998) appear in the CONGRESSIONAL RECORD following my remarks. I further ask unanimous consent that Martin F. Nolan's column, "A journalist, a gentleman," (Boston Globe, December 9, 1998) and Jonathan Yardley's column, "Russell Baker: A Columnist's Columnist," (Washington Post, January 4, 1999) also appear in the RECORD following my remarks.

[From the Boston Globe, December 9, 1998]

A JOURNALIST, A GENTLEMAN

(By Martin F. Nolan, Globe Staff)

SAN FRANCISCO.—American journalism has marinated in wretched excess in 1998, and the year closes with the ultimate deprivation and indignity. This month, Russell Baker files his final column for The New York Times.

For readers, this means losing that rare sense of anticipation, glancing at a byline as a guarantee. Baker's byline delivers good writing, good humor, and a ruthless honesty about himself. He does not bluff or pontificate. Readers know: Character counts. Russ Baker's sensibilities have enriched the op-ed page of the Times since 1962, longer than any other columnist on that newspaper.

Ink-stained wretches still in harness will miss him as a role model, which in journalese means an object of fierce and unrelenting envy. The green-eyed monster squats daily over every newsroom word processor, presiding over pointless arguments: "I may not be good, but I'm fast" vs. "I may not be fast, but I'm good." But the most bathetic braggarts and most lubricated louts among us never thought we were as good or as fast as Russell Baker.

He has written 3 million words for the "Observer" column, few of them out of place. His lasting contribution to American letters was "Growing Up," his 1982 memoir, which ignored politicians to focus on his mother, Lucy, who hectored him about "gumption" and often said, "Don't be a quitter, Russell."

He's hardly that. He began reporting for the Baltimore Sun in 1947, as he wrote, "studying the psychology of cops, watching people's homes burn" while trolling the same precincts as H.L. Mencken 50 years earlier. Instead of Mencken's bile, he infused his prose with bemusement. He moved from street reporter to rewrite with no illusions: "I knew that journalism was essentially a task of stringing together seamlessly an endless series of cliches." Gulp. Also ouch.

A profile in The Washingtonian this year quoted Calvin Trillin on Baker as a 1950s guy: "No complaining, no dancing in the end zone." One lesson of "Growing Up" is that war and depression are more character-building than peace and prosperity, so Baker sought no slack and no other short cuts, which were notoriously unavailable at the Washington bureau of The Times, which he joined in 1954.

"In those days plain English was under suspicion at the Times," he once recalled. "Many stories read as if written by a Henry James imitator with a bad hangover. Incomprehensible English was accepted as evidence of the honest, if inarticulate, reporter; plain English bothered people."

But the copy desk yielded. Because Baker knew the difference between "disinterested" and "uninterested," because he could navigate the perilous waters between "flaunt" and "flout," his news stories penetrated the philistine phalanx with lines like: "Senator Everett M. Dirksen, the Illinois Republican and orator, looking Byronically disheveled . . ."

Such a phrase would vanish in the hyena cacophony that passes for political discourse on television today. It is all the more fitting that Baker has become a TV star as host of "Masterpiece Theatre." In 1993, when PBS searched for Alistair Cooke's successor, Christopher Lydon and others lobbied heroically for Baker, one of the best-read reporters ever to meet a deadline.

Baker admired his fellow Virginian, Murray Kempton, the columnist who set out in New York every day to take the luck of the day. Writing in retirement, Baker hopes to "take the luck of the year."

In an ancient newspaper joke, a butler informs his employer that "Some reporters are here to see you, sir, and a gentleman from The Times (or Transcript or Tribune)." He may still identify with the typical Washington correspondent of his day, a dirty-fingernailed hustler "who services a string of small papers in the Gadsden Purchase." But Russell Baker adorns this increasingly rude trade because he is a true gentleman.

[From the Washington Post, Jan. 4, 1999]

RUSSELL BAKER: A COLUMNIST'S COLUMNIST

(By Jonathan Yardly)

Christmas 1998 was bright and beautiful here on the East Coast, but the happy day also brought a great loss. The announcement of it was made that morning on the Op-Ed page of the New York Times, under the chilling headline, 'A Few Words at the End,' and under the byline of Russell Baker.

The headline told the story, and the opening of Baker's column confirmed it. 'Since it is Christmas,' he wrote, 'a day on which nobody reads a newspaper anyhow, and since this is the last of these columns titled 'Observer' which have been appearing in the Times since 1962 . . . ' at which point it was all I could do to keep on reading. But read I did, out loud, right to the end—'Thanks for listening for the past three million words'—when I could only blurt out: 'Well, my world just got a lot smaller.'

That is no exaggeration. I cannot pretend to have read all 3 million of those words, for there were periods when my peregrinations up and down this side of the North American continent put me out of touch with the Times, but I read most of them and treasured every one. Baker's columns were the center of my life as a reader of newspapers, and it is exceedingly difficult to imagine what that life will be without them.

Thirty-six years! Has any American newspaper columnist maintained so high a standard of wit, literacy and intelligence for so long a time? Only two come to mind: H.L. Mencken and Walter Lippmann. But Mencken's columns for the Baltimore Evening Sun were on-and-off affairs, and Lippmann struggled through a long dry period during the 1950s before being brought back to life in the 1960s by the debate over the Vietnam War. Baker, by contrast, was, like that other exemplary Baltimorean Cal Ripkin Jr., as consistent and reliable as he was brilliant. For all those years he was my idea of what a journalist should be, and I strived—with precious little success—to live up to this example.

Not that I tried to imitate him, or not that I was aware of doing so. One of the many remarkable things about Baker is that, unlike Mencken or Lippmann—or Baker's old boss, James Reston, or Dorothy Thompson, or Drew Pearson, or Dave Barry—he really has no imitators. Other journalists may envy what he did, but in a business where imitation is the sincerest form of self-promotion, Baker broke his own mold. He was, simply and utterly, sui generis.

This made him, in the cozy and self-congratulatory world of journalists, odd man out. His colleagues and competitors may have admired and respected him, but few understood him. While they chased around after ephemeral scoops and basked in the reflected glory of the famous and powerful, Baker wrote what he once called 'a casual column without anything urgent to tell humanity,' about aspects of life that journalists commonly regard as beneath what they fancy to be their dignity. Looking back to the column's beginnings, Baker once wrote:

'At the Times in those days the world was pretty much confined to Washington news, national news and foreign news. Being ruled off those turfs seemed to leave nothing very vital to write about, and I started calling myself the Times' nothing columnist. I didn't realize at first that it was a wonderful opportunity to do a star turn. Freed from the duty to dilate on the global predicament of the day, I could build a grateful audience among readers desperate for relief from the Times' famous gravity.'

That is precisely what he did. As he noticed in his valedictory column, Baker's years as a gumshoe reporter immunized him from 'columnists' tendency to spend their time with life's winners and to lead lives of isolation from the less dazzling American realities.' Instead of writing self-important thumb-suckers—'The Coming Global Malaise,' 'Nixon's Southern Strategy,' 'Whither Cyprus?'—he concentrated on ordinary life as lived by ordinary middle-class Americans in the second half of the 20th century. He wrote about shopping at the supermarket, about car breakdowns and mechanics who failed to remedy them, about television and what it told us about ourselves, about children growing up and parents growing older.

Quite surely it is because Baker insisted on writing about all this stuff that failed to meet conventional definitions of 'news' that not until 1979 did his fellow journalists get around to giving him the Pulitzer Prize for commentary. Probably, too, it is because he insisted on being amused by the passing scene and writing about in an amusing way. He was only occasionally laugh-out-loud amusing in the manner of Dave Barry—who is now, with Baker's retirement, the one genuinely funny writer in American newspapers—but he was always witty and wry, and he possessed a quality of which I am in awe: an ability to ingratiate himself with readers while at the same time making the most mordant judgments on their society and culture.

There were times in the late years of his column when mordancy seemed to hover at the edge of bitterness. This struck me as inexplicable, but the inner life of another person is forever a mystery, and in any event there is much in fin de siecle America about which to be bitter. But mostly Baker dealt in his stock in trade: common-sensical wisdom, wry skepticism, transparent decency. He wasn't just the best newspaper writer around, he was one of the best writers around. Period.

[From the New York Times, December 25, 1998]

A FEW WORDS AT THE END

(By Russell Baker)

Since it is Christmas, a day on which nobody reads a newspaper anyhow, and since this is the last of these columns titled 'Observer' which have been appearing in The Times since 1962, I shall take the otherwise inexcusable liberty of talking about me and newspapers. I love them.

I have loved them since childhood when my Uncle Allen regularly brought home Hearst's New York Journal-American with its wonderful comics, Burris Jenkins cartoons and tales of rich playboys, murderous playgirls and their love nests. At that age I hadn't a guess about what a love nest might be, and didn't care, and since something about 'love nest' sounded curiously illegal, I never asked an adult for edification.

On Sunday's Uncle Allen always brought The New York Times and read himself to sleep with it. Such a dismal mass of gray paper was of absolutely no interest to me. It was Katenzjammer Kids and Maggie and Jiggs of the King Features syndicate with whom I wanted to spend Sunday.

At my friend Harry's house I discovered the New York tabloids. Lots of great pictures. Dick Tracy! Plenty of stories about condemned killers being executed, with emphasis what they had eaten for their last meal, before walking—the last mile! The tabloids left me enthralled by the lastness of things.

Inevitably, I was admitted to practice the trade, and I marveled at the places newspapers could take me. They took metro to suburbs on sunny Saturday afternoons to witness the mortal results of family quarrels in households that kept pistols. They took me to hospital emergency rooms to listen to people die and to ogle nurses.

They took me to the places inhabited by the frequently unemployed and there taught me the smell of poverty. In winter there was also the smell of deadly kerosene stoves used for heating, though there tendency to set bedrooms on fire sent the morgue a predictable stream of customers every season.

The memory of those smells has been a valuable piece of equipment during my career as a columnist. Columnists' tendency to spend their time with life's winners and to lead lives of isolation from the less dazzling American realities makes it too easy for us sometimes to solve the nation's problems in 700 words.

Newspapers have taken me into the company of the great as well as the greatly celebrated. On these expeditions I have sat in the Elysee Palace and gazed on the grandeur that was Charles de Gaulle speaking as from Olympus. I have watched Nikita Khrushchev, fresh from terrifying Jack Kennedy inside a Vienna Embassy, emerge to clown with the press.

I have been apologized to by Richard Nixon. I have seen Adlai Stevenson, would-be President of the United States, shake hands with a department-store dummy in Florida.

I have been summoned on a Saturday morning to the Capitol of the United States to meet with Lyndon Johnson, clad in pajamas and urgently needing my advice on how to break a civil-rights filibuster. I have often been played for a fool like this by other interesting men and, on occasion, equally interesting women.

Pope John XXIII included me in an audience he granted the press group en route to Turkey, Iran and points east with President Eisenhower. The Pope's feet barely reached the floor and seemed to dance as he spoke.

Newspapers took me to Westminster Abbey in a rental white tie and topper to see Queen Elizabeth crowned and to Versailles in another rental white-tie-and-tails rig to share a theater evening with the de Gaulles and the John F. Kennedys.

Thanks to newspapers, I have made a four-hour visit to Afghanistan, have seen the Taj Mahal by moonlight, breakfasted at dawn on lamb and couscous while sitting by the marble pool of a Moorish palace in Morocco and one picked up a persistent family of fleas in the Balkans.

In Iran I have ridden in a press bus over several miles of Oriental carpets with which the Shah had ordered the street covered between airport and town to honor the visiting Eisenhower, a man who, during a White House news conference which I attended in shirtsleeves, once identified me as 'that man that's got the shirt on.'

I could go on and on, and probably will somewhere sometime, but the time for this enterprise is up. Thanks for listening for the past three million words.●

ROBERT DAVID SMITH

● Mr. COVERDELL. Mr. President, I rise today to commend Robert David Smith for his commitment to excellence in academics and as a citizen. Robert attended Gilmer High School in his hometown of Ellijay, Georgia. While in High School, Robert was named the Class of 1996 Valedictorian, 1996 USA Today All-Academic Team Scholar, winner of the 1994 National Seiko Youth Challenge, Georgia Scholar, National Merit Finalist, and Senior Class President. He also received the 1995 Governor's Proclamation, the 1995 and 1996 D.A.R. Good Citizen Award and the rank of Eagle Scout.

In college, Robert has continued his commitment to academic excellence. Attending Harvard University, Robert is in his Junior year majoring in Economics. He has made Dean's List and been named a Harvard College Scholar.

Robert's commitment to excellence has also been extended to the community. At home, he has served on the Gilmer County Comprehensive Planning Committee which analyzed its own environmental and financial problems. He also volunteered for the Cox Creek Project which worked to solve local sewage and landfill problems in Gilmer County. Finally, as a student at Harvard, Robert participates in the Park Street Project where he serves as a tutor at a local middle school, helping students excel.

Once again, Mr. President, I would like to thank Robert David Smith for his commitment to academic and civic excellence. As we in Congress discuss possible reforms of our educational system, certainly we can use Robert as a model for the type of student we should be producing in our Nation's schools.●

TRIBUTE TO LES CHITTENDEN

● Ms. MIKULSKI. Mr. President, I rise today to honor the contribution of an outstanding Marylander, Mr. Les Chittenden. I hope my colleagues will find inspiration in this story of devotion and persistence.

Les and his wife Mary lived in an apartment building in Columbia, Maryland where handicapped access and parking were limited. When Mary became ill and required the use of a wheelchair, the Chittendens discovered just how inadequate the handicapped facilities at their building were.

Mr. President, Les Chittenden was not content to simply accept the situation. He fought to change it. His devotion to his wife of 36 years motivated him to take on the powers that be and propose solutions to make disabled residents safer each time they parked their car and entered the building. Even though agreeing on and implementing a solution proved to be difficult, Mr. Chittenden still refused to give up.

Five months after he began his fight to improve access for disabled residents, Les' beloved wife Mary passed away. Mr. President, I want to send my condolences to Mr. Chittenden and his family during this difficult time.

But, Mr. President, I also want to send my congratulations and my admiration. Shortly after his wife's passing, Mr. Chittenden returned home one weekend to find that his hard work paid off at last—a new handicapped ramp and several new handicapped parking spaces were added to the building as a result of his persistent efforts.

I want to share this story with my colleagues today because I think it's important that we honor the meaningful contributions of Americans like Les Chittenden. Mr. Chittenden is a wonderful example of how one person can make a valuable difference in our communities. Mr. Chittenden's story is an inspiration to us all.●

TRIBUTE TO ROY SMITH

● Mr. COCHRAN. Mr. President, I am pleased to bring to the attention of Senators the retirement of Roy Smith, the Deputy District Engineer for Programs and Project Management for the

Vicksburg District of the U.S. Army Corps of Engineers.

Mr. Smith has held several positions in the Vicksburg District, including serving as Chief of the Hydrology Section, Chief of the Hydrology Branch, and Chief of the Engineering Division. He has served as Deputy District Engineer since 1989.

During his tenure, Mr. Smith has been of tremendous assistance to me, my staff, and the people of Mississippi. He has also been recognized within the Corps; receiving the Meritorious Civilian Service award and the Commander's Award for Civilian Service.

In November, the Delta Council of Mississippi passed a resolution honoring Mr. Smith on the occasion of his retirement which summarizes the contributions that Roy has made to our State of Mississippi with these words, "There has been no individual who has offered a greater contribution to the future of flood protection in the Mississippi Delta during the past quarter of a century than Roy Smith."

I know the Senate joins me in thanking Roy for his years of distinguished service and in offering our best wishes for his retirement.●

REGISTRATION OF MASS MAILINGS

The filing date for 1998 fourth quarter mass mailings is January 25, 1999. If your office did no mass mailings during this period, pleased submit a form that states "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, D.C. 20510–7116.

The Public Records office will be open from 8:00 to 6:00 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office at (202) 224–0322.

1998 YEAR END REPORT

The mailing and filing date of the 1998 Year End Report required by the Federal Election Campaign Act, as amended, is Sunday, January 31, 1999. Principal campaign committees supporting Senate candidates file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, D.C. 20510–7116.

The Public Records office will be open from 12:00 noon to 4:00 p.m. on the filing date to accept these filings. For further information, place contact the Public Records office at (202) 224–0322.

RENAMING THE COMMITTEE ON LABOR AND HUMAN RESOURCES THE COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mrs. HUTCHISON. Mr. President, on behalf of the Senate majority leader, I ask unanimous consent that the Senate now proceed to the immediate consideration of Senate Resolution 20, introduced earlier today.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 20) renaming the Committee on Labor and Human Resources the Committee on Health, Education, Labor and Pensions.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 20) was agreed to as follows:

S. RES. 20

Resolved, That the Committee on Labor and Human Resources is hereby redesignated as the Committee on Health, Education, Labor, and Pensions.

CONGRATULATING THE UNIVERSITY OF TENNESSEE VOLUNTEERS FOOTBALL TEAM ON NCAA CHAMPIONSHIP

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 21, submitted earlier today by Senators FRIST and THOMPSON.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 21) congratulating the University of Tennessee Volunteers Football Team on winning the 1998 National Collegiate Athletic Association Division I-A football championship.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, it is with great pride that I rise to acknowledge another NCAA National Championship for the University of Tennessee. Last year, I had the opportunity to congratulate the Tennessee Lady Vols on their third straight national women's basketball title, but just two weeks ago, the University of Tennessee Volunteer football team defeated the Seminoles of Florida State University in the Fiesta Bowl in Tempe, Arizona to become the undisputed champions of college football.

It was a perfect ending to a perfect season; a season of thirteen wins and zero losses; a season in which this national championship team pulled together to overcome tremendous adversity, including the loss of key starters to the National Football League, the loss of a Heisman Trophy candidate to a season-ending injury, and arguably the most challenging schedule in collegiate football, to attain the national title.

Today, along with my fellow Volunteer fan, Senator THOMPSON, I introduce this sense-of-the-Senate resolution recognizing the University of Tennessee Volunteers for their commitment to excellence, for their dedication, for their selflessness, and for their sportsmanship throughout the 1998 football season.

Mr. President, I, along with my fellow Tennesseans, watched with pride as the Volunteers marched their way through the 1998 football season setting numerous school records, Southeastern Conference records, and NCAA records. For players, coaches, and fans, it was indeed a remarkable season full of excitement, anxiety, and joy. From Jeff Hall's last-second field goal in the opening game to defeat Syracuse to Peerless Price's spectacular touchdown receptions against Florida State in the Fiesta Bowl, the Vols proved again and again that they can deliver in the clutch in a manner befitting a champion.

Throughout the year, the Volunteers functioned as a cohesive unit, rather than relying on only a few star players. Tennessee Coach Phillip Fulmer, the winningest active coach in college football, put it best when he said, "It's been an unbelievable effort. * * * It's amazing what you can accomplish when no one cares who gets the credit." Truly a testament to the selflessness and determination of this national championship team.

In closing, I would like to congratulate the team, Coach Fulmer, his assistant coaches, and the outstanding faculty and staff of the Univesity of Tennessee, all of whom contributed to this championship season. Finally, I would like to recognize the most important group, the group in which I am honored to be included, the Tennessee Volunteer fans.

Mr. THOMPSON. Mr. President, I rise today to recognize the outstanding accomplishment of the University of Tennessee Volunteers in capturing the national collegiate football championship. And I ask my colleagues to join me in formally congratulating the Tennessee Vols.

On January 4th, I joined fellow Tennesseans across the country in watching with pride as the University of Tennessee Volunteers defeated Florida State Seminoles (23–16) and were crowned national champions for the first time since 1951. I should also point out that this is the second national championship that has come to the Tennessee Campus during this past year. The Lady Vols won the collegiate women's basketball crown and today stand at the top of the A.P. poll for the 1998–99 season with 40 of 41 first place votes.

Tennessee has the fourth-winningest program in major college football this decade and has won back-to-back Southeastern Conference (SEC) championships. This year's Fiesta Bowl marked their tenth consecutive bowl appearance. The Vols finished 13 and 0 and ranked number one in the nation after winning the Bowl Championship Series title game.

Mr. President, many of my colleagues had their own home-state favorites and I congratulate them on their seasons as well. But Mr. President back home in Tennessee, we are very, very proud of the Vols. We're proud of coach Phillip Fulmer and his staff. We're proud of the scholar-athletes. We're proud of the parents and the friends and the faculty who support them and out-numbered Florida State fans at the Fiesta Bowl by more than three to one.

This is just about as flawless a season of athletic performance as you're ever going to see, and we're fortunate in Tennessee to have this tremendous program and these gifted, talented young people. This is a team which started the year with a new quarterback and then lost its top running back four games into the season. They came together and it seemed that each game produced a different hero and somebody was always there to make a big play at a crucial moment.

Five different Vols earned SEC Player of the Week honors this season. Quarterback Tee Martin was named Offensive Player of the Week after completing an NCAA record 23-of-24 passes for 315 yards against South Carolina and setting a single-game record for completion percentage at 95.8. Receiver Peerless Price snagged Offensive Player of the Week when he caught a pass for a career-high 181 yards and one score in a win over Mississippi State.

And on defense, linebacker Al Wilson broke records by forcing three fumbles against Florida. Defensive end Shaun Ellis returned an interception 90 yards for a touchdown against Auburn, and defensive back Deon Grant stole the spotlight with a key interception in a game against Georgia. All three were named SEC Defensive Player of the Week for their individual achievements.

Mr. President, I would especially like to acknowledge the tremendous coaching job of Phillip Fulmer, who played offensive guard for Tennessee from 1969 to 1971, and who has led the team for seven winning seasons. Coach Fulmer has the highest winning percentage of any Tennessee coach, and is the winningest active coach in the country.

So today, I congratulate them. With that kind of coaching, talent and an ability to work powerfully as a team, it's not hard to see why the Tennessee Vols have come so far this season.

Mr. President, I know many of my colleagues have experienced this kind of excitement and pride with teams from their own states. And I know they appreciate just how proud we are in Tennessee to get bragging rights for this season.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that statements regarding the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 21) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 21

Whereas the University of Tennessee Volunteers football team (referred to in this resolution as the "Tennessee Volunteers") defeated the Florida State University Seminoles on January 4, 1999, at the Fiesta Bowl in Tempe, Arizona, to win the National Collegiate Athletic Association Division I–A football championship;

Whereas the Tennessee Volunteers completed the 1998 football season with a perfect record of 13 wins and 0 losses;

Whereas the Tennessee Volunteers defeated the Mississippi State University Bulldogs to claim the 1998 Southeastern Conference football championship;

Whereas the Tennessee Volunteers' Coach Phillip Fulmer, his staff, and his players displayed outstanding dedication, teamwork, selflessness, and sportsmanship throughout the course of the season to achieve collegiate football's highest honor; and

Whereas the Tennessee Volunteers have brought pride and honor to Tennessee: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Tennessee Volunteers football team on winning the 1998 National Collegiate Athletic Association Division I–A football championship; and

(2) commends the University of Tennessee Volunteers football team for its pursuit of athletic excellence and its outstanding accomplishment in collegiate football in winning the championship.

ORDER FOR RECORD TO REMAIN OPEN

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that today's RECORD remain open until 6 p.m. for the introduction of bills and statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT SESSION OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE UNITED STATES

Mrs. HUTCHISON. I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort the President of the United States into the House Chamber for the joint session to be held at 9 p.m. this evening, Tuesday, January 19, 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICA AT A MORAL CROSSROADS

Mr. HELMS. Mr. President, I have sent to the desk a slate of legislation that addresses a number of our Nation's most pressing social problems. I have introduced a great many of these bills in prior Congressional sessions and Senators who have been around for a while will find these proposals familiar.

Nonetheless, I shall devote a few minutes to explain the importance of these bills and why it is so crucial to address permissive social policies that are creating a moral and spiritual crisis in our country.

I am delighted, Mr. President, that our Nation's economy has grown and prospered for the last two years—helped along, not incidentally, by the responsible fiscal policies insisted upon by the Republican Congress. But the good news on the financial pages is too often overshadowed by utterly horrifying stories elsewhere, stories which detail a moral sickness at the heart of our culture, stories which chronicle the devaluation of human life in our society, symbolized by the tragic 1973 Supreme Court decision, Roe v. Wade.

The most notorious of these appalling stories was the episode involving a young New Jersey woman who in May of 1997 gave birth to an infant in a public bathroom stall during her senior prom. She then strangled her newborn baby boy, placed the body in a trash can, adjusted her makeup, and returned to the dance floor.

Mr. President, this chilling tale cries out that something is badly wrong in the culture that produced it. The American people were justifiably stunned by the furor surrounding this crime—and they are surely even more shocked to learn that this is not an isolated incident.

Consider this: In November of 1997, in Tucson, Arizona, a 15-year-old boy found a newborn in a 3-pound coffee can. After an investigation, police arrested the boy's sister, then 19 years of age. She had given birth to the baby and promptly drowned it in the toilet, covered its little head with a plastic ice cream wrapper, wrapped the body in a flannel shirt and hidden it. She said she had intended to bury it later.

Despite these largely uncontested facts, an Arizona jury—browbeaten into submission by a defense team suggesting that its client was in fact the victim of a strict Catholic upbringing—returned a guilty verdict only on a charge of negligent homicide, the least severe conviction applicable. This woman, who had murdered her own baby, received a sentence of one year, and during her prison term, she will be released during daytime hours on a work furlough program.

This is the tip of the iceberg, Mr. President. National Public Radio recently reported that the bodies of about 250 newborns are callously discarded each year. In some of these cases the babies were stillborn, but in others, the newborns were murdered.

Lest anyone think I am exaggerating, pick up almost any newspaper in America, and a distressing story is likely to be found. For example:

The Pittsburgh Post-Gazette, August 12, 1997: Teenage Mother Admits Slaying: Newborn was Found Dead in Gym Bag in Garage of Home

The Record, Northern New Jersey, December 24, 1997: 12 Years for Mom Who Killed Baby: Newborn Tossed From Window

Associated Press, Atlantic City, New Jersey, July 14, 1997: Baby Born in Toilet Stall, Left in Atlantic City Bus Terminal

St. Petersburg Times, December 20, 1997: Girl Charged who Left Baby in Trash

Dallas Morning News, October 29, 1997: Teen Jailed in Baby's Death Hid Pregnancy, Parents say Newborn Boy Was Found Suffocated in Garbage Bag

Should we really be surprised, Mr. President, that a Nation that not only tolerates, but actively defends the practice of partial birth abortion would produce these gruesome headlines? And the extraordinary level of disrespect for human life to which America has fallen isn't limited to the horrible practice of neonaticide on the part of young mothers. It pervades every part of our society.

In Pennsylvania, two teenagers were stabbed during a showing of a so-called "horror movie" that itself featured two characters being brutally stabbed to death watching a horror film. In Oregon, much of the Nation watched in disbelief as news reports described the case of a young man who, after killing his parents, walked into a crowded school cafeteria and opened fire on his fellow students.

No one Act of Congress or court decision is solely responsible for these tragedies, of course. But can it be denied that the decline in moral values in American culture helped set the stage for these notorious crimes? The American people believe this is true. Last year, CBS and CNN/Time both conducted polls indicating more Americans believe that a lack of moral values was the most important problem facing the United States—more important than crime, more important than taxes, more important than health care, more important than education.

Too often, however, the mainstream media doesn't seek to remedy our decaying culture; they actively celebrate it. Just last fall, the supposedly responsible news magazine "60 Minutes" elected to show the videotaped death of a man via Dr. Jack Kevorkian's so-called "suicide machine". In voice-over, Kevorkian was allowed to comment on the procedure—no, strike that, the murder—that the viewer was watching. All the while he defended his abhorrent belief in assisted suicide. And instead of responding with outrage, a portion of the American public rewarded the program with its highest ratings of the year.

Has America become so hard-hearted and callous, Mr. President? Or is it just responding to so-called cultural elitists who celebrate abortion, euthanasia, and promiscuity, while with unrestrained zeal endeavor to destroy all traces of religion in American public life.

Too many politicians blithely suggest that government and morality are not and should not be related; too many producers in Hollywood claim that the filth that passes for entertainment does not corrupt our culture; and too many educators claim the academy does not have a place in addressing the difference between right and wrong.

Mr. President, they are the ones who are wrong. We fool ourselves and we fool the public if we suggest that there is no connection between the business we do in Congress and the state of public morality in our society. We are the caretakers of our own culture. And we must not shrink from the responsibility of passing laws that promote what is right and prevent what is wrong in our society.

We make judgments between right and wrong every day, Mr. President in every vote we cast and every action we take. And when we judge correctly, the positive results can be wonderfully encouraging. Consider this: On August 1, 1996, the Senate passed the Personal Responsibility and Work Opportunity Reconciliation Act. It was subsequently enacted into law. This landmark legislation, commonly referred to as "welfare reform", injected the time-honored values of hard work and personal responsibility into our social welfare system.

Welfare reform has been successful beyond even its supporters' wildest expectations—and, in my view, has tangible indirect benefits as well.

The numbers are stunning: According to the Department of Health and Human Services, the percentage of Americans receiving welfare benefits has plunged from 5.5% in 1995 to 3.3% in 1998. In three short years—and aided by the polices of a number of creative, innovative Governors and state leaders—welfare reform almost halved the welfare rolls.

The success of welfare reform is not limited to the dramatic decline of the welfare recipients, though the numbers are impressive indeed. Putting people back to work has started to mend other social problems. The January/February 1999 edition of The American Enterprise reports the following good news:

The number of homicides has dropped from 11 Americans per 100,000 in 1990 to only 7 in 1998, with a noticeably steep decline in the curve since 1995.

Poverty among Black Americans has declined sharply, to a 30-year low of 27%. (U.S. Bureau of the Census)

Divorce rates in the last three years are dropping, while marriage rates over the same time period are inching upward. (U.S. National Center for Health Statistics)

I for one do not doubt that welfare reform is partially responsible for these encouraging statistics.

In short, Mr. President, good laws help make good societies. And that is the reason I continue to introduce bills in each and every Congress that limit the modern tragedy of abortion and its insidious effects; that allow for prayer in schools while taking steps to ease the scourge of drug use among our children; that protect the rights of federal employees to speak their minds about moral issues; and that make sure our civil rights laws treat Americans as individuals rather than faceless members of racial groups, religious groups, or of a certain gender.

Mr. President, I ask unanimous consent that the text of each bill be printed in the RECORD at the conclusion of my explanation of it.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNBORN CHILDREN'S CIVIL RIGHTS ACT

Mr. HELMS. Mr. President, the Unborn Children's Civil Rights Act has several goals. First, it puts the Senate on record as declaring that one, every abortion destroys deliberately the life of an unborn child; two, that the U.S. Constitution sanctions no right to abortion; and three, that Roe v. Wade was incorrectly decided.

Second, this legislation will prohibit Federal funding to pay for, or promote, abortion. Further, this legislation proposes to de-fund abortion permanently, thereby relieving Congress of annual legislative battles about abortion restrictions in appropriation bills.

Third, the Unborn Children's Civil Rights Act proposes to end indirect Federal funding for abortions by one, prohibiting discrimination, at all federally funded institutions, against citizens who as a matter of conscience object to abortion and two, curtailing attorney fees in abortion-related cases.

Fourth, this bill proposes that appeals to the Supreme Court be provided as a right if and when any lower Federal court declares restrictions on abortion unconstitutional, thus effectively assuring Supreme Court reconsideration of the abortion issue.

Mr. President, I believe this bill begins to remedy some of the damage done to America by the Supreme Court's decision in Roe v. Wade. I continue to believe that a majority of my colleagues will one day agree, and I will never give up doing everything in my power to protect the most vulnerable Americans of all: the unborn.

S. 40

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unborn Children's Civil Rights Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) scientific evidence demonstrates that abortion takes the life of an unborn child who is a living human being;

(2) a right to abortion is not secured by the Constitution;

(3) in the cases of Roe v. Wade (410 U.S. 113 (1973)) and Doe v. Bolton (410 U.S. 179 (1973)) the Supreme Court erred in not recognizing the humanity of the unborn child and the compelling interest of the States in protecting the life of each person before birth.

SEC. 3. PROHIBITION ON USE OF FUNDS FOR ABORTION.

No funds appropriated by Congress shall be used to take the life of an unborn child, except that such funds may be used only for those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 4. PROHIBITION ON USE OF FUNDS TO ENCOURAGE OR PROMOTE ABORTION.

No funds appropriated by Congress shall be used to promote, encourage, counsel for, refer for, pay for (including travel expenses), or do research on, any procedure to take the life of an unborn child, except that such funds may be used in connection with only those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 5. PROHIBITION ON ENTERING INTO CERTAIN INSURANCE CONTRACTS.

Neither the United States, nor any agency or department thereof shall enter into any contract for insurance that provides for payment or reimbursement for any procedure to take the life of an unborn child, except that the United States, or an agency or department thereof may enter into contracts for payment or reimbursement for only those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 6. LIMITATIONS ON RECIPIENTS OF FEDERAL FUNDS.

No institution, organization, or other entity receiving Federal financial assistance shall—

(1) discriminate against any employee, applicant for employment, student, or applicant for admission as a student on the basis of such person's opposition to procedures to take the life of an unborn child or to counseling for or assisting in such procedures;

(2) require any employee or student to participate, directly or indirectly, in a health insurance program which includes procedures to take the life of an unborn child or which provides counseling or referral for such procedures; or

(3) require any employee or student to participate, directly or indirectly, in procedures to take the life of an unborn child or in counseling, referral, or any other administrative arrangements for such procedures.

SEC. 7. LIMITATION ON CERTAIN ATTORNEY'S FEES.

Notwithstanding any other provision of Federal law, attorneys' fees shall not be allowable in any civil action in Federal court involving, directly or indirectly, a law, ordinance, regulation, or rule prohibiting or restricting procedures to take the life of an unborn child.

SEC. 8. APPEALS OF CERTAIN CASES.

Chapter 81 of title 28, United States Code, is amended by inserting after section 1251, the following:

"§ 1251. Appeals of certain cases.

"Notwithstanding the absence of the United States as a party, if any State or any subdivision of any State enforces or enacts a law, ordinance, regulation, or rule prohibiting procedures to take the life of an unborn child, and such law, ordinance, regulation, or rule is declared unconstitutional in an interlocutory or final judgment, decree, or order of any court of the United States, any party in such a case may appeal such case to the Supreme Court, notwithstanding any other provision of law.".

CIVIL RIGHTS OF INFANTS ACT

Mr. HELMS. In 1989, our distinguished colleague from New Hampshire, Senator Gordon Humphrey, first called attention to the incredibly brutal practice of abortions performed solely because prospective parents prefer a child of a gender different from that of the baby in the mother's womb.

The Civil Rights of Infants Act makes sure nobody could ever act upon this unthinkable decision by specifically amending title 42 of the United States Code governing civil rights. Anyone who administers an abortion for the purpose of choosing the gender of the infant will be subject to the same laws which protects any other citizen who is a victim of discrimination.

Nobody—even the most radical feminists—can ignore the absurdity of denying a child the right to life simply because the parents happened to prefer a child of the opposite gender. I hope the 106th Congress will swiftly act to fulfill the desires of the American people, who rightfully believe it is immoral to destroy unborn babies simply because the parents demand a child of a different gender.

S. 41

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights of Infants Act".

SEC. 2. DEPRIVING PERSONS OF THE EQUAL PROTECTION OF LAWS BEFORE BIRTH.

Section 1979 of the Revised Statutes (42 U.S.C. 1983) is amended—

(1) by inserting "(a)" before "Every person"; and

(2) by adding at the end the following:

"(b) For purposes of subsection (a), it shall be a deprivation of a 'right' secured by the laws of the United States for an individual to perform an abortion with the knowledge that the pregnant woman is seeking the abortion solely because of the gender of the fetus. No pregnant woman who seeks to obtain an abortion solely because of the gender of the fetus shall be liable for such abortion in any manner under this section.".

FEDERAL ADOPTION SERVICES ACT OF 1999

Mr. HELMS. I am also pleased to intoduce the Federal Adoption Services Act of 1999. This bill proposes to amend title X of the Public Health Service Act to permit federally funded planning services to provide adoption services based on two factors: (1) the needs of the community in which the clinic is located, and (2), the ability of an individual clinic to provide such services.

Under this legislation, no woman will be threatened or cajoled into giving up her child for adoption. Family planning clinics will not be required to provide adoption services. Rather, this legislation will make it clear that Federal policy will allow, or even encourage adoption as a means of family planning. Women who use title X services, will be in a better position to make informed, compassionate judgments about the unborn children they are carrying.

With so many loving, caring parents available to care for unwanted children, the federal government should do everything it properly can to make sure that adoption is an alternative for expectant mothers. I hope my colleagues will join me in supporting this reasonable proposal.

S. 42

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Adoption Services Act of 1999".

SEC. 2. ADOPTION SERVICES.

Section 1001(a) of the Public Health Service Act (42 U.S.C. 300(a)) is amended by inserting after the first sentence the following: "Such projects may also offer adoption services. Any adoption services provided under such projects shall be nondiscriminatory as to race, color, religion, or national origin.".

VOLUNTARY SCHOOL PRAYER PROTECTION ACT

Mr. HELMS. Mr. President, the Voluntary School Prayer Protection Act will make sure that student-initiated prayer is treated the same as all other student-initiated free speech—which the U.S. Supreme Court has upheld as constitutionally protected so long as it is done in an appropriate time, place and manner such that it "does not materially disrupt the school day." [*Tinker* v. *Des Moines School District*, 393 U.S. 503.]

Under this bill, school districts could not continue—in constitutional ignorance—enforcing blanket denials of students' rights to voluntary prayer and religious activity in the schools. For the first time, schools would be faced with real consequences for making uninformed and unconstitutional decisions prohibiting all voluntary prayer. The bill creates a complete system of checks and balances to make sure that school districts do not shortchange their students one way or the other.

This proposal, Mr. President, prevents public schools from prohibiting constitutionally protected voluntary student-initiated prayer. It does not mandate school prayer and suggestions to the contrary are simply in error. Nor does it require schools to write any particular prayer, or compel any student to participate in prayer. It does not prevent school districts from establishing appropriate time, place, and manner restrictions on voluntary prayer—the same kind of restrictions that are placed on other forms of speech in the schools.

What this proposal will do is prevent school districts from establishing official policies or procedures with the intent of prohibiting students from exercising their constitutionally protected right to lead, or participate in, voluntary prayer in school.

S. 43

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Voluntary School Prayer Protection Act".

SEC. 2. FUNDING CONTINGENT ON RESPECT FOR CONSTITUTIONAL SCHOOL PRAYER.

(a) IN GENERAL.—Notwithstanding any other provision of law, no funds made available through the Department of Education shall be provided to any State or local educational agency that has a policy of denying, or that effectively prevents participation in, constitutional prayer in public schools by individuals on a voluntary basis.

(b) LIMITATION.—No person shall be required to participate in prayer, or shall influence the form or content of any constitutional prayer, in a public school.

SAFE SCHOOLS ACT OF 1999

Mr. HELMS. Mr. President, government has no higher obligation than the protection of the most vulnerable among us—our children. Outside of their own home, there is no place that a child should feel more secure and protected than while at school.

That is why I joined with several other Senators last Congress in introducing the Safe Schools Act. This legislation directly confronts the issue of illegal drug use and juvenile violence by requiring schools that accept federal education funds to adopt a "zero tolerance" policy when a student is found in possession of illegal drugs at school.

The Safe Schools Act provides a logical and commonsense extension of 1994's Gun-Free Schools Act by conditioning receipt of federal education dollars on state adoption of a policy requiring the expulsion for not less than one year of any student who brings illegal drugs to school.

Anyone who questions the link between school violence and drugs should merely turn their attention to the results of a recent National Parents' Resource Institute for Drug Education survey, or PRIDE survey as it is called, which found that:

Gun-toting students were twenty times more likely to use cocaine than those who didn't bring a gun to school;

Gang members were twelve times more likely to use cocaine than non-gang members;

And students who threatened others were six times more likely to be cocaine users than others.

These frightening statistics combined with students own reports that drugs are the number one problem they face and that illegal drugs are readily available to students of all ages illustrate the need for immediate action. The Center on Addiction and Substance Abuse (CASA) at Columbia University has documented that two-thirds (66%) of students report that they go to schools where students keep, use and sell drugs and that over half (51%) of high school students believe the drug problem is getting worse. In contrast, CASA has found that most principals see drugs "virtually nowhere."

Mr. President, the Center for the Prevention of School Violence in North Carolina tracks the incidence of criminal acts on school property. For the last four years, "possession of a controlled substance" has been either the first or second most reported category of incident. It is past time that we restore an environment that is secure and conducive to the education of the vast majority of students who are eager to learn. Our students and teachers deserve nothing less.

S. 44

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SAFE SCHOOLS.

(a) AMENDMENTS.—Part F of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8921 et seq.) is amended to read as follows:

"PART F—ILLEGAL DRUG AND GUN POSSESSION

"SEC. 14601. DRUG-FREE AND GUN-FREE REQUIREMENTS.

"(a) SHORT TITLE.—This section may be cited as the 'Safe Schools Act of 1999'.

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—Each State receiving Federal funds under this Act shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than 1 year a student who is determined—

"(A) to be in possession of an illegal drug, or illegal drug paraphernalia, on school property under the jurisdiction of, or on a vehicle operated by an employee or agent of, a local educational agency in that State; or

"(B) to have brought a firearm to a school under the jurisdiction of a local educational agency in that State,

except that the State law shall allow the chief administering officer of the local educational agency to modify the expulsion requirement for a student on a case-by-case basis.

"(2) CONSTRUCTION.—Nothing in this title shall be construed to prevent a State from allowing a local educational agency that has expelled a student from the student's regular school setting from providing educational services to the student in an alternative setting.

"(c) SPECIAL RULE.—The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

"(d) APPLICATION.—Each local educational agency requesting assistance from a State educational agency that is to be provided from funds made available to the State under this Act shall provide to the State, in the application requesting assistance—

"(1) an assurance that the local educational agency is in compliance with the State law required by subsection (b); and

"(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including—

"(A) the name of the school concerned;

"(B) the number of students expelled from the school; and

"(C) the type of illegal drugs, illegal drug paraphernalia, or firearms concerned.

"(e) REPORT TO SECRETARY.—Each State shall report the information described in subsection (d) to the Secretary on an annual basis.

"(f) REPORT TO CONGRESS.—Not later than two years after the date of enactment of the Safe Schools Act of 1999, the Secretary shall report to Congress with respect to any State that is not in compliance with the requirements of this part.

"SEC. 14602. POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.

"(a) IN GENERAL.—No funds shall be made available under this Act to any local educational agency unless the agency has a policy requiring referral, to the criminal justice or juvenile delinquency system, of any student who is in possession of an illegal drug, or illegal drug paraphernalia, on school property under the jurisdiction of, or on a vehicle operated by an employee or agent of, the agency, or who brings a firearm to a school under the jurisdiction of the agency.

"(b) DEFINITIONS.—For the purpose of this section, the term 'school' has the meaning given the term in section 921(a) of title 18, United States Code.

"SEC. 14603. DATA AND POLICY DISSEMINATION UNDER IDEA.

"The Secretary shall—

"(1) widely disseminate the policy of the Department, in effect on the date of enactment of the Safe Schools Act of 1999, with respect to disciplining children with disabilities;

"(2) collect data on the incidence of children with disabilities (as the term is defined in section 602 of the Individuals With Disabilities Education Act (20 U.S.C. 1401)) possessing illegal drugs, or illegal drug paraphernalia, on school property under the jurisdiction of, or on a vehicle operated by an employee or agent of, a local educational agency, engaging in life threatening behavior at school, or bringing firearms to schools; and

"(3) not later than 1 year after the date of enactment of the Safe Schools Act of 1999, prepare and submit to Congress a report analyzing the strengths and problems with the approaches regarding disciplining children with disabilities.

"SEC. 14604. DEFINITIONS.

"In this part:

"(1) FIREARM.—The term 'firearm' has the meaning given the term in section 921(a) of title 18, United States Code.

"(2) ILLEGAL DRUG.—

"(A) IN GENERAL.—The term 'illegal drug' means a controlled substance, as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), the possession of which is unlawful under the Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).

"(B) EXCLUSION.—The term 'illegal drug' does not mean a controlled substance used pursuant to a valid prescription or as authorized by law.

"(3) ILLEGAL DRUG PARAPHERNALIA.—The term 'illegal drug paraphernalia' means drug paraphernalia, as defined in section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)), except that the first sentence of section 422(d) of the Act shall be applied by inserting 'or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.)' before the period.".

(b) EFFECTIVE DATE.—This Act and the amendments made by this Act take effect 6 months after the date of enactment of this Act.

FREEDOM OF SPEECH ACT

Mr. HELMS. Mr. President, I am also pleased to introduce the Freedom of Speech Act, which makes sure that federal employees are not forced to check their moral beliefs at the door when they arrive at the federal workplace.

This bill attempts to make sure that President Clinton is not allowed to do by Executive Order what Congress has declined to enact in the past two Congressional sessions—namely, to treat homosexuals as a special class protected under various titles of the Civil Rights Act of 1964. Last year, President Clinton signed such an Executive Order, and in so doing, infringed upon the Constitutional rights of Federal employees who wish to express their moral and spiritual objections to the homosexual lifestyle.

President Clinton has instructed Federal agencies and departments to implement a policy that treats homosexuals as a special class protected under various titles of the Civil Rights Act of 1964. This necessarily prevents federal employees who have strong religious or moral objections to homosexuality from expressing those beliefs without running afoul of what amounts to a workplace speech code. Apparently, when the President's desire to write his belief system into federal workplace regulations conflicted with the First Amendment right to free speech, the Constitution lost.

Congress should jealously protect its Constitutional prerogative to make laws, and prevent the executive branch from creating special protections for homosexuals, particularly in a way that doesn't take into account the Constitutional right of freedom of speech enjoyed by all Federal employees. That is the purpose of the legislation I offer today.

Under this bill, no Federal funds could be used to enforce President Clinton's Executive Order #13807. Further, no Federal department or agency would be able to implement or enforce any policy creating a special class of individuals in Federal employment discrimination law. This bill will also prevent the Federal government from trampling the First Amendment rights of Federal employees to express their moral and spiritual values in the workplace.

Mr. President, for many years the homosexual community has engaged in a well-organized, concerted campaign to force Americans to accept, and even legitimize, an immoral lifestyle. This bill is designed to prevent President Clinton from advancing the homosexual agenda at the expense of both the proper legislative role and the free speech rights of Federal workers.

S. 45

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Freedom of Speech Act".

SEC. 2. PROHIBITION.

(a) IN GENERAL.—No agency, officer, or employee of the executive branch of the Federal Government shall issue, implement, or enforce any policy establishing an additional class of individuals that is protected against discrimination in Federal employment, other than a class of individuals specifically identified in a provision of Federal statutory law that prohibits employment discrimination against the class, including—

(1) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);

(2) the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.); and

(3) title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.) or title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.).

(b) PROHIBITION ON USE OF FEDERAL FUNDS.—No agency, officer, or employee of the executive branch of the Federal Government shall use Federal funds to issue, implement, or enforce a policy described in subsection (a), including implementing and enforcing Executive Order 13087, including any amendment made by such order.

CIVIL RIGHTS RESTORATION ACT OF 1999

Mr. HELMS. Mr. President, the last of these bills is entitled the Civil Rights Restoration Act of 1999. Specifically, this legislation prevents Federal agencies, and the Federal courts, from interpreting Title VII of the Civil Rights Act of 1964 to allow an employer to grant preferential treatment in employment to any group or individual on account of race.

This proposal prohibits the use of racial quotas once and for all. During the past several years, almost every member of the Senate—and the President of the United States—have proclaimed that they are opposed to quotas. This bill will give Senators an opportunity to reinforce their statements by voting in a roll call vote against quotas.

Mr. President, this legislation emphasizes that from here on out, employers must hire on a race neutral basis. They can reach out into the community to the disadvantaged and they can even have businesses with 80 percent or 90 percent minority workforces as long as the motivating factor in employment is not race.

This bill clarifies section 703(j) of Title VII of the Civil Rights Act of 1964 to make it consistent with the intent of its authors, Hubert Humphrey and Everett Dirksen. Let me state it for the RECORD:

> It shall be an unlawful employment practice for any entity that is an employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or group with respect to selection for, discharge from, compensation for, or the terms, conditions, or privileges of, employment or union membership, on the basis of the race, color, religion, sex, or national origin of such individual or group, for any person, except as provided in subsection (e) or paragraph (2).
>
> It shall not be an unlawful employment practice for an entity described in paragraph (1) to recruit individuals of an under-represented race, color, religion, sex, or national origin, to expand the applicant pool of the individuals seeking employment or union membership with the entity.

Specifically, this bill proposes to make part (j) of Section 703 of the 1964 Civil Rights Act consistent with subsections (a) and (d) of that section. It contains the identical language used in those section to make preferential treatment on the basis of race (that is, quotas) an unlawful employment practice.

Mr. President, I want to be clear that this legislation does not make outreach programs an unlawful employment practice. Under language suggested years ago by the distinguished Senator from Kansas, Bob Dole, a company can recruit and hire in the inner city, prefer people who are disadvantaged, create literacy programs, recruit in the schools, establish day care programs, and expand its labor pool in the poorest sections of the community. In other words, expansion of the employee pool is specifically provided for under this act.

Mr. President, this legislation is necessary because in the 33 years since the passage of the Civil Rights Act, the Federal Government and the courts have combined to corrupt the spirit of the Act as enumerated by both Hubert Humphrey and Everett Dirksen, who made clear that they were unalterably opposed to racial quotas. Yet in spite of the clear intent of Congress, businesses large and small must adhere to hiring quotas in order to keep the all-powerful federal government off their backs. This bill puts an end to that sort of nonsense once and for all.

S. 46

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Restoration Act of 1999".

SEC. 2. PREFERENTIAL TREATMENT.

(a) UNLAWFUL EMPLOYMENT PRACTICE.—Section 703(j) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(j)) is amended to read as follows:

“(j)(1) It shall be an unlawful employment practice for any entity that is an employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or group with respect to selection for, discharge from, compensation for, or the terms, conditions, or privileges of, employment or union membership, on the basis of the race, color, religion, sex, or national origin of such individual or group, for any purpose, except as provided in subsection (e) or paragraph (2).

“(2) It shall not be an unlawful employment practice for an entity described in paragraph (1) to recruit individuals of an underrepresented race, color, religion, sex, or national origin, to expand the applicant pool of the individuals seeking employment or union membership with the entity.”.

(b) CONSTRUCTION.—Nothing in the amendment made by subsection (a) shall be construed to limit the authority of courts to remedy, under section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(g)), intentional discrimination under title VII of such Act (42 U.S.C. 2000e et seq.).

Mr. HELMS. Mr. President, I do not pretend that enactment of this legislation will solve all of the pathologies of modern society. But taken as a whole, they seek to turn the tide of the increasing apathy—and in some cases, outright hostility—toward moral and spiritual principles that have marked late twentieth-century social policy.

The Founding Fathers knew what would become of a society that ignores traditional morality. I have often quoted the parting words of advice our first President, George Washington, left his beloved new Nation. He reminded his fellow citizens:

> Of all the dispensations and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute to patriotism who should labor to subvert these great pillars of human happiness.

Mr. President, that distinguished world leader, Margaret Thatcher, highlighted for us the words of Washington's successor, John Adams, who said “our Constitution was designed only for a moral and religious people. It is wholly inadequate for the government of any other.”

Our Founding Fathers understood well the intricate relationship between freedom of responsibility. They knew that the blessings of liberty engendered certain obligations on the part of a free people—namely, that citizens conduct their actions in such a way that society can remain cohesive without excessive government intrusion. The American experiment would never have succeeded without the traditional moral and spiritual values of the American people—values that allow people to govern themselves, rather than be governed.

MEASURE READ FOR THE FIRST TIME—S. 40

Mrs. HUTCHISON. Mr. President, I understand that S. 40 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The bill clerk read as follows:

> A bill (S. 40) to protect the lives of unborn human beings.

Mrs. HUTCHISON. Mr. President, I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

MEASURE READ FOR THE FIRST TIME—S. 41

Mrs. HUTCHISON. Mr. President, I understand that S. 41 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The bill clerk read as follows:

> A bill (S. 41) to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with the knowledge that the abortion is being performed solely because of the fetus.

Mrs. HUTCHISON. Mr. President, I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

MEASURE READ FOR THE FIRST TIME—S. 42

Mrs. HUTCHISON. Mr. President, I understand that S. 42 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The bill clerk read as follows:

> A bill (S. 42) to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services.

Mrs. HUTCHISON. Mr. President, I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

MEASURE READ FOR THE FIRST TIME—S. 43

Mrs. HUTCHISON. Mr. President, I understand that S. 43 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The bill clerk read as follows:

> A bill (S. 43) to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools.

Mrs. HUTCHISON. Mr. President, I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

MEASURE READ FOR THE FIRST TIME—S. 44

Mrs. HUTCHISON. Mr. President, I understand that S. 44 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The bill clerk read as follows:

> A bill (S. 44) to amend the Gun-Free Schools Act of 1994 to require a local educational agency that receives funds under the Elementary and Secondary Education Act of 1965 to expel a student determined to be in possession of an illegal drug, or illegal drug paraphernalia, on school property, in addition to expelling a student determined to be in possession of a gun, and for other purposes.

Mrs. HUTCHISON. Mr. President, I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

MEASURE READ FOR THE FIRST TIME—S. 45

Mrs. HUTCHISON. Mr. President, I understand that S. 45 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The bill clerk read as follows:

> A bill (S. 45) to prohibit the executive branch of the Federal Government from establishing an additional class of individuals that is protected against discrimination in Federal employment, and for other purposes.

Mrs. HUTCHISON. Mr. President, I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

MEASURE READ FOR THE FIRST TIME—S. 46

Mrs. HUTCHISON. Mr. President, I understand that S. 46 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The bill clerk read as follows:

> A bill (S. 46) to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes.

Mrs. HUTCHISON. Mr. President, I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

ORDERS FOR WEDNESDAY, JANUARY 20, 1999

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that when the Senate complete its business today it stand in adjournment until the hour of 11 a.m. on Wednesday, January 20. I further ask that immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved, and there then be a period of morning business until the hour of 1 p.m. I further ask consent that at 1 p.m. the Senate resume consideration of the articles of impeachment. I now ask unanimous consent that the time during morning business be divided as follows: The first hour under the control of Senator DASCHLE or designee; the second hour under the control of Senator COVERDELL or designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, JANUARY 21, AND FRIDAY, JANUARY 22, 1999

Mrs. HUTCHISON. I further ask consent that following the conclusion of the presentation on Wednesday, the Senate adjourn until the hour of 1 o'clock on Thursday to resume consideration of the articles of impeachment. I also ask consent that following the presentation on Thursday, the Senate then adjourn until the hour of 1 p.m. on Friday and again immediately resume consideration of the articles of impeachment.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1 P.M. TODAY

Mrs. HUTCHISON. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in recess under the previous order.

There being no objection, at 11:46 a.m., the Senate, in legislative session, recessed to reconvene sitting as a Court of Impeachment, at 1 p.m.

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

The CHIEF JUSTICE. The Senate will convene as a Court of Impeachment. The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, James W. Ziglar, made proclamation as follows:

> Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the Articles of Impeachment exhibited by the House of Representatives against William Jefferson Clinton, President of the United States.

The CHIEF JUSTICE. The majority leader is recognized.

Mr. LOTT. Mr. Chief Justice, it is my understanding that the White House presentation today will last approximately 2½ hours—maybe a little more, maybe a little less. I therefore suggest that a short recess be taken in approximately an hour, around 2 o'clock, to allow the Chief Justice and all Members to have a brief break.

I remind all Senators to remain standing at their desk each time the Chief Justice enters or departs the Chamber. If there is a need for another break, I will keep an eye on the White House counsel to see if they need a break, and we will act accordingly.

Of course, I remind Senators again, tonight please be in the Chamber at 8:35 so we can proceed to the joint session.

I thank my colleagues and yield the floor. I believe we are ready to begin.

THE JOURNAL

The CHIEF JUSTICE. If there is no objection, the Journal of proceedings of the trial are approved to date.

Pursuant to the provisions of Senate Resolution 16, the counsel for the President have 24 hours to make the presentation of their case. The Senate will now hear you. The Chair recognizes Mr. Counsel Ruff to begin the presentation of the case for the President.

Mr. Counsel RUFF. Mr. Chief Justice, Members of the Senate, distinguished managers, William Jefferson Clinton is not guilty of the charges that have been preferred against him. He did not commit perjury; he did not obstruct justice; he must not be removed from office.

Now, merely to say those words brings into sharp relief that I and my colleagues are here today in this great Chamber defending the President of the United States. For only the second time in our Nation's history, the Senate has convened to try the President of the United States on articles of impeachment.

There is no one who does not feel the weight of this moment. Nonetheless, our role as lawyers is as much as it would be in any other forum. We will not be able to match the eloquence of the 13 managers who spoke to you last week. We will try, however, to respond to the charges leveled against the President as directly and candidly as possible, and to present his defense as clearly and as cogently as we are able. We seek on his behalf no more than we know you will give us—a fair opportunity to be heard, a fair assessment of the facts and the law, and a fair judgment. We will defend the President on the facts and on the law and on the constitutional principles that must guide your deliberations. Some have suggested that we fear to do so. We do not.

I begin with a recitation of some of the events that have brought us here today. Although many of them may be familiar, they merit some discussion because they form the backdrop against which you must assess the evidence.

I will then move to a discussion of the constitutional principles that, we submit, should guide your consideration of these matters and, finally, to an overview of the allegations contained in the articles, with a view toward focusing your attention on what we believe to be the principal legal and factual flaws in the case presented by the managers.

My colleagues will follow tomorrow and the following day with a more detailed analysis of the facts underlying the articles. At the end of our presentation, we will have demonstrated beyond any doubt that there is no basis on which the Senate can or should convict the President of any of the charges brought against him.

Let me begin with a brief recital of the essential events in the Paula Jones litigation which underlie so much of what we have been discussing for the last week.

On May 6, 1994, Paula Jones sued President Clinton in the U.S. District Court for the Eastern District of Arkansas. She claimed that then-Governor Clinton had made, in 1991, some unwelcomed overture to her in an Arkansas hotel room and that she suffered adverse employment consequences and was subsequently defamed.

After the Supreme Court decided in May 1997 that civil litigation against the President could go forward while he was in office, the case was remanded to the district court, and over the fall and winter of 1997, the Jones lawyers deposed numerous witnesses. And inevitably, despite the strict protective order entered by Judge Wright, and continuing exhortation to counsel not to discuss any aspect of the case with the press, information flowed from those depositions into the public forum clearly with only one purpose—to embarrass the President.

The principal focus of the discovery being conducted by the Jones lawyers during this period was not on the merits of their client's case. They devoted most of their time and their energy to attempt to pry into the personal life of the President. Mr. Bennett, the President's counsel, objected to those efforts on the grounds they had no relevance to Ms. Jones' claims and intended to do nothing other than to advance the agenda of those who were supporting the Jones lawsuit. The Jones lawyers, however, pursued their efforts to inquire into the President's relations with other women, and on December 11, 1997, Judge Wright issued an order allowing questioning regarding only "any individuals with whom the President had sexual relations or proposed or sought to have sexual relations and who were during the relevant timeframe a State or Federal employee."

Then on December 5, 1997, the Jones lawyers placed on their witness list the name of Monica Lewinsky. And on December 19, she was served with a subpoena for her deposition to be scheduled in January.

Consistent with rulings issued by Judge Wright in connection with the Jones lawyers' efforts to secure the testimony of a number of other women, some have sought to avoid testifying by submitting affidavits to the effect that they had no knowledge relevant to Ms. Jones' lawsuit, or that they otherwise do not meet the test that Judge Wright had established before permitting this invasive discovery to go forward.

On January 7, 1998, Ms. Lewinsky did execute such an affidavit, and her lawyer provided copies to the lawyers for Ms. Jones and for the President on January 15.

The Jones lawyers deposed the President on January 17, 1998. They began the deposition by proffering to him a multiparagraph definition of the term "sexual relations" that they intended to use in questioning him. There followed an extended debate among counsel and the court concerning the propriety and the clarity of that definition. Mr. Bennett objected to its use, arguing that it was unclear, that it would encompass conduct wholly irrelevant to the case, and that it was unfair to require the President to apply a definition that he had never seen before to each question he was asked. Indeed, Mr. Bennett urged the lawyers for Ms. Jones to ask the President specific questions about the conduct, but they declined to do so.

Judge Wright acknowledged the overbreadth of the definition, but she ultimately determined that the Jones lawyers could use the heavily edited version of the definition that left in place only the two lines of paragraph 1, of which you are already familiar. Immediately after the extended legal skirmishing, the Jones lawyers began asking him about Monica Lewinsky.

Mr. Bennett objected, questioning whether counsel had a legitimate basis for their inquiry in light of Ms. Lewinsky's affidavit denying a relationship with the President. Judge Wright overruled that objection and permitted the Jones lawyers to pursue their inquiry. Four days later, the independent counsel's investigation became a public matter.

On January 29, responding to a request by independent counsel to bar further inquiry related to Ms. Lewinsky, Judge Wright ruled that evidence relating to her relationship with the President would be excluded from the trial. She reaffirmed this ruling on March 9 stating that the evidence was not "essential to the core issues in this case of whether the plaintiff herself was the victim of sexual harassment, hostile work environment, or intentional infliction of emotional distress." On April 1, 1998, Judge Wright—

I apologize for the logistical problem. Why don't I just hold it.

On April 1, 1998, Judge Wright granted summary judgment in favor of President Clinton dismissing the Jones suit in its entirety. She ruled that no evidence that Ms. Jones had offered or that her lawyers had discovered made out any viable claim of sexual harassment or intentional infliction of emotional distress. Importantly, Judge Wright ruled that evidence of any pattern or practice of comparable conduct by the President was not important to the case.

I want to take just a moment to read the relevant portions of Judge Wright's opinion, not to demean in any sense plaintiff's claims of sexual harassment or to suggest that it must be other than vigilant to protect the rights of all citizens, but simply to bring into slightly sharper focus the role that the President's deposition played in the real Jones litigation. Judge Wright wrote:

> Whatever relevance such evidence may have to prove other elements of plaintiff's case, it does not have anything to do with the issue presented by the President's and Ferguson's motions for summary judgment—i.e. whether plaintiff herself was the victim of alleged quid pro quo or a hostile work environment or sexual harassment; whether the President and Ferguson conspired to deprive her of her civil rights or whether she suffered emotional distress so severe in nature that no reasonable person could be expected to endure it. Whether other women may have been subjected to workplace harassment and whether such evidence has allegedly been suppressed does not change the fact that plaintiff has failed to demonstrate that she has a case worthy of submitting to a jury.

Ms. Jones appealed Judge Wright's decision to the Eighth Circuit. She heard arguments on October 20, 1998, and on November 13, 1998, before the decision was rendered, Ms. Jones and the President settled the case.

Briefly then, to what was happening on the front of the independent counsel's office, in mid-January 1998, Linda Tripp had brought to the independent counsel information that she had been gathering surreptitiously for months about Ms. Lewinsky's relationship with the President and her involvement in the Jones case. And thus, began the penultimate chapter.

As you will see, Ms. Tripp's relationship with Ms. Lewinsky and her role in these matters was more than merely a backdrop to the succeeding events. Independent counsel met with Ms. Tripp and formally granted her immunity from Federal prosecution and promised to assist her in securing immunity from State prosecution where she had been illegally taping the telephone calls with Ms. Lewinsky. On January 13, Ms. Tripp agreed to tape a conversation with Ms. Lewinsky under FBI auspices. And on January 15, armed with that tape, the independent counsel's office first contacted the Department of Justice to seek permission from the Attorney General to expand its jurisdiction to cover the investigation that had already begun. On January 16, that permission was granted by the special division of the court of appeals.

Now, the President's deposition was scheduled to take place the very next day—Saturday, January 17. On the 16th, Ms. Tripp invited Ms. Lewinsky to have lunch with her at the Pentagon City Mall. There she was greeted by four FBI agents and independent counsel lawyers and taken to a hotel room where she spent the next several hours. Ms. Tripp was in the room next door for much of that time. When she left that evening, she went home to meet with the Jones lawyers with whom we know she had been in contact for many months in order to brief them about her knowledge of the relationship between Ms. Lewinsky and the President so that they, in turn, could question the President the next morning.

As the independent counsel himself has acknowledged, Ms. Tripp was able to play this oddly multifaceted role. Because it was part of her immunity agreement, the OIC could have prevented her from talking about Ms. Lewinsky. They inexplicably chose not to.

The existence of the OIC investigation was made public on January 21 in an edition of the Washington Post with the all-consuming focus of media coverage for the ensuing 8 months.

On August 17, the President's deposition was taken by the independent counsel for use by the grand jury, and on September 9, there was delivered to the House of Representatives a referral of Independent Counsel Starr containing what purported to be the information concerning acts "that may constitute grounds for impeachment." The referral was accompanied by some 19 boxes of documents, grand jury transcripts, and a videotape of the grand jury testimony.

The referral was made public by the House on September 11. On September 21, additional materials were released, along with the President's grand jury videotape that was then played virtually nonstop on every television station in the country during that day.

The committee held a total of 4 days of hearings, one for preliminary presentations by the majority and minority counsel, one for testimony by Independent Counsel Starr, and two in which the President was permitted to call witnesses and present his defense.

In addition, the constitutional subcommittee held the one hearing on the standards for impeachment, and the committee convened in its oversight capacity to hear witnesses on the meaning of perjury. The committee called no fact witnesses.

Despite numerous efforts to extract from the committee some description of the specific charges against which the President would have to defend himself, it was not until approximately 4:30 on December 9, as I was completing my testimony before the committee, that any such notice was provided, and then it came in the form of four draft articles of impeachment.

Three days later, the committee reported out those articles, and on December 9 the House completed its action, referring to the Senate article I, the charge of perjury in the grand jury; defeated article II, which alleged perjury in the Jones deposition; exhibited article III, which charged obstruction of justice; and defeating article IV, which alleged false statements to the House of Representatives.

And so we are here. But before moving on, let me pause on an important procedural point. Although the Senate has asked that the parties address the issue of witnesses only after these presentations are being completed, the managers spent much of their time last week explaining to you why, if only witnesses could be called, you would be able to resolve all of the supposed conflicts in the evidence. Tell me, then, how is it that the managers can be so certain of the strength of their case? They didn't hear any of these witnesses. The only witness they called, the independent counsel himself, acknowledged that he had not even met any of the witnesses who testified before the grand jury. Yet, they appeared before you to tell you that they are convinced of the President's guilt and that they are prepared to demand his removal from office.

Well, the managers would have you believe that the Judiciary Committee of the House were really nothing more than grand jurors, serving as some routine screening device to sort out impeachment chaff from impeachment wheat. Thus, as they would have it, there was no need for anything more than a review of the cold record prepared by the independent counsel; no need for them to make judgments about credibility or conflicts. Indeed, they offered you a short lesson in grand jury practice, telling you that U.S. attorneys do this thing all the time, that calling real, live witnesses before a grand jury is the exception to the rule. Well, it has been a few years since I served as U.S. attorney for the District of Columbia, so there may have been a change in the way prosecutors go about their business, but I don't think so.

And so what lesson can be learned from the process followed by the House? I suggest that what you have before you is not the product of the Judiciary Committee's well-considered, judicious assessment of their constitutional role. No, what you have before you is the product of nothing more than a rush to judgment.

And so how should you respond to the managers' belated plea that more is needed to do justice? You should reject it. You have before you all that you need to reach this conclusion: There was no basis for the House to impeach, and there is no, and never will be any, basis for the Senate to convict.

Now, the managers have not shown, and could not on this record or any record prove, that the President committed any of the offenses committed in any of the articles. But even if they could, these offenses would not warrant your deciding to remove the President from office.

In this regard, an impeachment trial is unlike any other. You are the judges of the law and the facts and the appropriate sanctions. Before casting a vote of guilty or not guilty, you must decide not only whether the President committed the acts with which he is charged but whether those acts so seriously undermined the integrity of our governmental structure that he must be removed from office.

I want to deal here for just a moment with an argument that was advanced in the press by one of the managers, and that is that the question whether the offenses described in the articles are impeachable is not really before you, that it has already been decided by the House. As the manager put it in a press interview, "Are these impeachable offenses, which I think has already been resolved by the House? I think constitutionally that's our job to do."

Now, I trust, in light of last week's extended discussion, that the managers no longer press that notion, for it was remarkable in at least three respects. First, it is entirely inconsistent with the "don't worry about it; this is just a routine procedural process; leave the difficult decisions to the Senate" argument so frequently heard during the proceedings in the House. Second, it is an argument that rings hollow coming from those who did not even debate the constitutional standards or seek any consensus on what those standards should be. And third, and most importantly, it arrogates to the House the critical constitutional judgment which is yours alone.

Far be it for me, or indeed anyone else, to instruct this body on its constitutional role, but I do think it would help us all to be reminded of the words of Alexander Hamilton in Federalist No. 65, because impeachment necessarily deals with injuries done immediately to society. Alexander Hamilton wrote:

> The prosecution of them for this reason will seldom fail to agitate the passions of the whole community, and to divide it into parties more or less friendly or inimical to the accused. In many cases it will connect itself with the preexisting factions, and will enlist all their animosities, partialities, influence, and interest on one side or on the other; and in such cases there will always be the greatest danger that the decision will be regulated more by the comparative strength of the parties than by the real demonstrations of innocence or guilt.
>
> The delicacy and magnitude of a trust which so deeply concerns the political reputation and existence of every man engaged in the administration of public affairs speak for themselves. The difficulty of placing it rightfully in a government resting entirely on the basis of periodical elections will as readily be perceived, when it is considered that the most conspicuous characters in it will, from that circumstance, be too often the leaders or the tools of the most cunning or the most numerous faction, and on this account can hardly be expected to possess the requisite neutrality towards those whose conduct may be the subject of scrutiny.

And then:

> The convention, it appears, thought the Senate the most fit depositary of this important trust.

Now, the President may be removed from office only upon impeachment for and conviction of treason, bribery or other high crimes and misdemeanors. The offenses charged here, even if supported by the evidence, do not meet that lofty standard, a standard that the framers intentionally set at this extraordinarily high level to ensure that only the most serious offenses and in particular those that subverted our system of government would justify overturning a popular election. Impeachment is not a remedy for private wrongs. It is a method of moving someone whose continued presence in office would cause grave danger to the Nation. Listen to the words of 10 Republican Members of the 1974 Judiciary Committee, one of whom now sits in this body.

After President Nixon's resignation, in an effort to articulate a measured and a careful assessment of the issues they had confronted, they reviewed the historical origins of the impeachment clause and wrote:

> It is our judgment, based upon this constitutional history, that the framers of the United States Constitution intended that the President should be removable by the legislative branch only for serious misconduct, dangerous to the system of government established by the Constitution. Absent the element of danger to the State, we believe the delegates to the Federal convention of 1787, in providing that the President should serve for a fixed elective term rather than during good behavior or popularity, struck the balance in favor of stability in the executive branch.

Where did this lesson in constitutional history come from? It came directly from the words of the framers in

1787. Impeachment was no strange, arcane concept to them. It was familiar to them as part of English constitutional practice and was part of many State constitutions. It is therefore not surprising that whether to make provision for impeachment of the President became the focus of contention, especially in the context of concern whether in our new republican form of government the legislature ought to be entrusted with such a power. On this latter point, perhaps foretelling the notion that impeachment ought to be a matter of constitutional last resort, Benjamin Franklin noted that it at least had the merit of being a peaceful alternative to revolution.

Governor Morris, one of the principal moving forces behind the language that ultimately emerged from the convention, believed that provision for impeachment should be made but that the offenses must be limited and carefully defined. His concern was very clearly for the corrupt President who may be bribed by a greater interest to betray his trust, as he wrote, and "no one ought to say that we ought to expose ourselves to the danger of seeing the first magistrate in foreign pay without being able to guard against it by displacing him."

Drafts as they emerged from the convention moved through one that authorized impeachment for treason or bribery or corruption, and then the more limited treason or bribery, until the critical debate of December 8, 1787, when, pointing to their then-current example of the impeachment of Warren Hastings, George Mason moved to add the word "maladministration" to that definition. It was in the face of objections from James Madison and Morris, however, that this term was too vague and would be the equivalent to tenure during the pleasure of the Senate, that Mason withdraw his proposal and the convention then adopted the language "other high crimes and misdemeanors against the State." As Morris put it, "an election every 4 years will prevent maladministration."

There is no question that the framers viewed this language as responsive to Morris' concerns that the impeachment be limited and well defined. To argue, then, as the managers do, that the phrase "other crimes and misdemeanors" was really meant to encompass a wide range of offenses that one might find in a compendium of English criminal law simply flies in the face of the clear intent of the framers who carefully chose their language, knew exactly what those words meant, and knew exactly what risks they intended to protect against.

Looking back on this drafting history, the 1974 minority report described the purpose of the framers in these words:

> They were concerned with preserving the Government from being overthrown by the treachery or corruption of one man.

Now, the managers have made fun of the notion that hundreds of distinguished scholars and historians expressed their opinion that the offenses with which the President has been charged are not high crimes or misdemeanors. Indeed they suggested—not too subtly—that they must have signed those letters because they were political supporters of the President. To quote them, "You go out and obtain from your political allies and friends in the academic world—to sign a letter saying the offenses alleged in the articles of impeachment do not rise to the level of impeachable offenses."

Well, as I understand the managers' position, it is that Garry Wills sold his intellectual soul because he is a political supporter of the President; Stephen Ambrose sold his political soul—his intellectual soul because he is a political supporter of the President; C. Vann Woodward sold his intellectual soul because he is a political supporter of the President.

Is it possible, instead, that distinguished scholars of all political persuasions thought it important to offer their professional opinion on a matter of the greatest historical and legal import, because they cared about our country? Because they cared that the constitutional process not be debased?

Perhaps, if the majority members of the full Judiciary Committee had paused for even a moment to consider these issues, if they had taken even a few hours to debate the question of what constitutional standards apply, one might now give greater credence to the belated constitutional exposition that they have offered here. Instead, perhaps the majority was convinced by their own rhetoric, by the oft-repeated mantra that impeachment is merely a preliminary step in the process and that the House need not be concerned with its weighty constitutional duty and saw little reason to explore the constitutional underpinning of that duty. Or perhaps they understood that a full and candid explanation would reveal that the proposed articles had no constitutional underpinning at all.

Now, the central premise of the managers' argument appears to be this: Perjury is an impeachable offense no matter the forum or the circumstances in which it is committed. Second, judges have recently been convicted and removed on the basis of articles charging that they committed perjury. The President committed perjury, therefore the President must be removed as well.

That premise is simple but wrong. The first leg on which it rests was removed by the House itself when it voted to defeat article II, alleging perjury in a civil deposition, and the House thus rejected the committee's core argument that perjury in a civil deposition warrants impeachment as much as perjury in any other setting. As to the committee's view that the constitutional standard for impeachment requires that all perjury be treated alike; thus, the House concluded no, and properly so.

And as to the committee's view that it makes no difference whether perjury occurs in one forum or another, in a private or an official proceeding, again the House said no, and properly so.

What, then, of the managers' argument that the Senate's recent conviction of three judges requires a conviction on the articles before you today? Again, they simply have it wrong, both as a matter of Senate precedent and as a matter of constitutional analysis. They argue that because a judge is obliged to faithfully carry out the law just as the President is, each must be removed if he commits perjury or obstructs justice. Judges and Presidents, and one would presume, all other civil officers if you follow their argument to its logical conclusion, including Assistant Secretaries and others, must in their view be removed from office if the Senate finds that they committed either offense—removed without a second thought. But judges are different. Indeed, every civil officer other than the President of the United States is different. They are different because before deciding whether to impose the ultimate sanction of removal the Senate must weigh in the balance dramatically different considerations.

First, the answer to the ultimate impeachment question—that is, whether the conduct charged so undermines the official's capacity to perform his constitutional duties that removal is required despite the institutional trauma it may cause—must be very different for one of 900 or 1,000 judges with lifetime tenure who can only be removed by impeachment than it is for one person elected every 4 years by the people to serve as the head of the executive branch. Surely the managers recognize that the Senate here faces a far different question, a far different constitutional issue than it did, for example, when it asked whether Judge Nixon, convicted and imprisoned for perjury, should be permitted to retain his office; or whether Judge Hastings, who lied about taking a bribe to fix a case before him, should remain on the bench.

Indeed, a telling rejoinder to the House managers' argument comes from President Ford. On many occasions, we have all seen cited his statement in 1970, in connection with the proposal to impeach Associate Justice William O. Douglas, that impeachment is, in essence, whatever the majority of the House of Representatives considers it to be. But no one really notes the more important part of President Ford's statement 29 years ago. I am going to read it to you:

> I think it is fair to come to one conclusion, however, from our history of impeachments.

> A higher standard is expected of Federal judges than of any other civil officers of the United States. The President and the Vice President and all persons holding office at the pleasure can be thrown out of office by the voters at least every 4 years. To remove them in midterm—it has been tried only twice and never done—would, indeed, require crimes of the magnitude of treason and bribery.

The Senate must ask here whether the conduct charged against President Clinton would, in its nature, be inconsistent with a decision to allow him to continue to perform the duties of his office, just as you would ask, if you had a judge before you or another civil officer before you, whether the charges are similarly inconsistent with the notion that he or she should be allowed to continue to perform those duties.

As former House Judiciary Committee Chairman Peter Rodino, who surely understood the difference between impeaching a President and impeaching a judge, explained during the Claiborne proceedings before this body:

> The judges of our Federal courts occupy a unique position of trust and responsibility in our government. They are the only members of any branch that hold their office for life. They are purposely insulated from the immediate pressures and shifting currents of the body politic. But [he said] with the special prerogative of judicial independence comes a most exacting standard of public and private conduct.

A similar theme can be found running through the debate in very recent years over a proposal to establish a process other than impeachment for the removal of judges who fail to live up to the good behavior standard. Both the proponents of the proposal and the legal opinion offered in support of it emphasize that the standard to which judges must adhere is stricter than the impeachment standard, noting that "the terms treason, bribery and other high crimes and misdemeanors are narrower than the malfeasance in office and failure to perform the duties of the office which may be grounds for forfeiture of office held during good behavior."

Thus, whether weighing the constitutional or governmental implications of removal or asking whether the accused can be expected to perform his duties, the Senate has always recognized that the test will be different depending on the office that the accused holds.

This analysis is wholly consistent with the framers' intent in drafting the impeachment clause that removal of a President by the legislature must be an act of last resort when the political process can no longer protect the Nation. Nothing in the cases brought before the Senate in the last 210 years suggests a different result.

The managers also attribute to the President the argument that impeachment can never reach personal conduct. That is not our position. As I told the Judiciary Committee on December 9 when I testified before them, not all serious misconduct flowing from one of the President's official roles is impeachable; neither is all serious misconduct flowing from his personal conduct immune from impeachment. Judgments must be made and they must be based on the core principles that inform the framers' decision.

But the managers would, in effect, ask you to eschew making these judgments. They speak of perjury and obstruction of justice in general terms and they argue that they are offenses inimical to the system of justice.

No one here would dispute that simplistic proposition. But the managers will not walk with you down the difficult path. They will not speak of facts, of differing circumstances and differing societal interests. They will not because they do not appear to recognize that those questions must be asked.

Perhaps the one exception to this was in the very last moment of Chairman Hyde's closing when he suggested, with what might to many seem almost an inverted logic, that a lie to spare embarrassment about misconduct on a private occasion is more deserving of removal than a lie about, as he described it, important matters of state.

Although I submit that that conclusion might have struck the framers as somewhat odd, one can certainly conceive of acts arising out of personal conduct that would warrant conviction and removal, but you cannot ignore the circumstances in which the conduct occurs or abandon the core principle that impeachment should be reserved for those cases in which the President's very capacity to govern is called into question.

Perjury about some official act may indeed be a constitutionally acceptable basis for impeachment. Perjury about a purely private matter should, at the very least, lead this body to question whether, no matter how seriously we take the person's violation, for example, of the witness' oath, the drastic remedy of removal from office is the proper response. Indeed, in a sense, that is the message sent by the House when it defeated article II.

The principle that guides your deliberations, I suggest, must not only be faithful to the intent of the framers, it must be consistent with the governmental structure that they gave us and the delicate relationship between the legislative branch and the executive branch that is the hallmark of that structure. It must, above all, reflect the recognition that removal from office is an act of extraordinary proportions, to be taken only when no other response is adequate to preserve the integrity and viability of our democracy.

On this point—and here I will fend off the wrath or maybe the scorn of the managers by quoting not a scholar or a professor but, rather, a witness called by the majority members of the Judiciary Committee to testify as an expert on the issue of perjury, a witness who had served on the Judiciary Committee in 1974, Judge Charles Wiggins told the members of the committee this:

> When you are called upon, as I think you will be called upon, to vote as a Member of the House of Representatives, your standard should be the public interest. And I confess to you [said Judge Wiggins] that I would recommend that you not vote to impeach the President.

Beyond the impression of what constitutes an impeachable offense, each Senator must also confront the question of what standard the evidence must meet to justify a vote of guilty.

We recognize that the Senate has chosen in the Claiborne proceedings, and elsewhere, not to impose on itself any single standard of proof, but rather to leave that judgment to the conscience of the individual Senator. Many of you were present for debate on that issue and chose a standard for yourselves. Many of you come to the issue afresh. And none of you, thankfully, has had to face the issue in the setting of a Presidential impeachment.

Now, we argued before the Judiciary Committee that it must treat a vote to impeach as a vote to remove and that that judgment ought not be based on anything less than a clear and convincing standard, a standard, indeed, adopted by the Watergate committee 25 years ago. And surely no lesser standard should be applied here. Indeed, we submit to you that given the gravity of the decision you must reach, each of you should go further and ask whether the House has established guilt beyond a reasonable doubt. And this submission is made even more compelling by the managers' own position in which they made clear to you last week that proof of criminal conduct, in their view, was required to justify conviction.

Now, lawyers and laymen too often, I think, treat the standard of proof as meaningless legal jargon, with no real application to the world of difficult decisions. But I suggest to you that it is much more than that. It is the guidepost that shows you the way through the labyrinth of conflicting evidence. It tells you to look within yourself and ask, Would I make the most important decisions of my life based on the level of certainty I have about these facts, and in the unique legal political setting of an impeachment setting that protects against partisan overreaching and it assures the public that a grave decision is being made with due care? It is the disciplining force I think that you will carry with you into your deliberations.

And let me say that even if the clear and convincing standard that you apply for judicial impeachments—it does not follow that it should be applied where the Presidency itself is at stake. With judges, the Senate must weigh and balance its concern for the independence of the judiciary against the recognition that, because a judge is appointed for life, impeachment is the only available method for removing from office those who are corrupt.

On the other hand, when a President is on trial, the balance is very different. Here you are asking, in effect, to overturn the will of the electorate, to overturn the results of an election held 2 years ago in which the American people selected the head of one of the three coordinate branches of Government.

Moreover, you have been asked to take this action in circumstances where, even taking the darkest view of the managers' position, there is no suggestion of corruption or misuse of office or any other conduct that places our system of Government at risk in the 2 remaining years of this President's term, when once again the people will get the chance to decide who should lead them. In this setting, we submit, you should test the evidence by the strictest standard you know.

I want to talk for a few minutes about what we see as the constitutional deficiency of the articles you have before you. When the framers took from English practice the parliamentary weapon of impeachment, they recognized that the form of the Government that they had created, with its finely tuned balance among the branches, was inconsistent with the parliamentary dominance inherent in the English model. They chose, therefore, to build a quasi-judicial impeachment process, one that had, admittedly, political overtones but that carried with it the basic principles of due process embodied in the Constitution they had written.

Among those principles is the sixth amendment's guarantee that the accused shall have the right to be informed of the nature and cause of the accusation against him. That right has been recognized to have special force in perjury cases, where it is the rule uniformly enforced by the courts that an indictment must inform the defendant specifically what false statement he is alleged to have made.

This is not some mere technicality; it is the law. It is the law because our courts have recognized that if a criminal charge is to be based on the words uttered by a fallible human being, he must be allowed to defend the truthfulness of the specific words he used and not be convicted on the basis merely of some prosecutor's summary or interpretation. This is not some legal nicety that the House of Representatives can ignore, as it has many other elements of due process. This is not an argument we raise with this body merely in passing as a lawyer's gambit. This is an important principle of our jurisprudence. And I suggest that it is one that this body must honor. There is not a court anywhere—from highest to lowest—that would hesitate, if they were confronted with an indictment written like these articles, to throw it out.

Indeed, if you want some evidence of how others have perceived this issue, look to the Hastings and Nixon cases, in both of which, the articles charging impeachment specifically stated the false statements that they were accused of having made.

Why, if the House understood the importance of specificity in those cases, did it not understand the, if anything, greater importance of telling the President of the United States what he was charged with? If you compare the closing argument of majority counsel and the majority report filed by the committee and the trial brief filed by the House and the presentation of the managers last week, you will begin to understand what has happened here.

I challenge any Member of the Senate—indeed, any manager —to identify the charges that the House authorized them to bring. Just to take one example, we do not know to a certainty that the House decided—or we do know with certainty that the House decided not to charge perjury in the civil deposition. Yet, to listen to the managers' presentation last week, one would be hard put to conclude that they understood that. They have, in essence, treated these articles as empty vessels, to be filled with some witch's brew of charges considered, charges considered and abandoned, and charges never considered at all.

Both article I and article II are constitutionally deficient for other reasons as well. In particular, each charge's multiple offenses is therefore void, in the criminal justice vernacular, for duplicity because in a criminal case, and here as well, lumping multiple offenses together in one charging document creates a risk that a verdict may be based not on a unanimous finding of guilt as to any particular charge but, instead, may be composed of multiple individual judgments. And that risk is in direct violation of the requirement of the Constitution that this body agree by a two-thirds majority before the President may be removed.

Now, the House responds to the President's concerns in this regard by arguing that, well, the amendment of Senate rule 23, which prohibits division of the articles, somehow addresses this concern and that our argument would undermine the Senate's own rules. But that is not so. Rule 23 was approved to permit the most judicious and effective handling of the questions presented to the Senate. It cannot be that the Senate, in passing that rule—and you know surely better than I—decided to purchase efficiency in impeachment proceedings at the price of violating the Constitution, the mandate to ensure a two-thirds vote for removal.

Now, 3 years after the revision of rule 23, in the trial of Judge Nixon, this very issue was presented. And Senator KOHL captured that problem. Although the first and second articles of impeachment alleged that Judge Nixon had committed specific violations of the perjury statute, the third article was a catchall, alleging that he made "one or more" of 14 different false statements. And I would note for you that that language, "one or more," was identical to the language specifically inserted into article I at the request of Congressman ROGAN during the Judiciary Committee proceedings.

In addressing the propriety of such a charging device, Senator KOHL said, "The managers should not be allowed to use a shotgun or blunderbuss. We should send a message to the House. Please do not bunch up your allegations. Charge each act of wrongdoing in a separate count. Such a change would clarify things and allow for a cleaner vote on guilt or innocence."

Senator Dole, who surely knew something about Senate rules and precedent, certainly didn't think that rule 23 bound the result in that Nixon case. He first voted to dismiss article III and then later voted to acquit Judge Nixon because it was redundant, complex, and confusing. Thirty-three Senators joined Senator Dole in voting to dismiss the article, and a total of 40 voted to acquit when it came to a judgment of guilt or innocence.

Senators KOHL, BIDEN, and MURKOWSKI each spoke about the danger posed by this formulation. And I will look once more to Senator KOHL. This wording presents a variety of problems. First of all, it means that Judge Nixon can be convicted even if two-thirds of the Senate does not agree in which his political statements were false. The House is telling us that it is OK to convict Judge Nixon on article III even if we have different visions of what he did wrong. But that is not fair to Judge Nixon, to the Senate, or to the American people.

Those Senators were not acting in derogation of Senate Rules or precedents. They were acting in the spirit of fairness to the accused and in the very best tradition of American due process.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

RECESS

Mr. LOTT. Mr. Chief Justice, I believe that counsel has indicated he is ready to take a break, so I ask unanimous consent that we take a brief 15-minute recess.

There being no objection, at 2:02 p.m., the Senate recessed until 2:21 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Mr. Chief Justice, I believe we will continue now with a further statement from Counsel Ruff.

The CHIEF JUSTICE. The chair recognizes Mr. Counsel Ruff to continue his presentation.

Mr. Counsel RUFF. Thank you, Mr. Chief Justice.

My first question is: Is it working?

Thank you, very much. I apologize for the mechanical difficulties earlier. I could quickly go back over the first hour. [Laughter.]

I want now to move to an overview of the articles of impeachment themselves. As I said, as I came to the end of the first hour, these articles are constitutionally defective. They are also unsupported by the evidence. As we have noted, both articles are framed in the broadest generalities and pose multiple different defenses. Nothing contained in the Judiciary Committee's majority report, or in the trial brief, or in the presentation of the managers cure the constitutional infirmity that infects these articles. Nonetheless, in framing our defense, they provide the only way through this uncharted landscape.

We have divided our substantive response to the articles into three parts.

Tomorrow, Mr. Craig will address the charges in article I—that the President committed perjury before the grand jury.

Second, Ms. Mills will address those parts of article II that charge the President with obstructing justice by causing concealment of gifts he had given to Ms. Lewinsky, and that he engaged in witness tampering in his conversations with Ms. Currie.

Third, Mr. Kendall will address the remaining allegations of obstruction on Thursday, and then we will close by hearing from Senator Bumpers.

Before I move to an overview of the articles and the response that you will hear over the next couple of days, I want to suggest to you an approach to one of the most difficult questions that you face: How does one sitting in judgment on a case like this test the liability of what he or she hears in the proceedings? Let me offer one test.

Those of you who have practiced on one side or the other in the criminal justice system know that the system places a special responsibility on a prosecutor—a burden to be open, candid, and forthcoming in their arguments, and most importantly, in representing the facts so that when a prosecutor recites the facts he is not expected to ignore the unfavorable ones. He is expected to be open with judge and jury. Of course, he can make an argument as to why a particular fact is really not so important that he can neither conceal it nor misrepresent it. When you hear a prosecutor, or a team of prosecutors, misstate a fact or not tell you the whole story, you should wonder why. You should ask yourself whether the misstatement is an error, or whether it signals some underlying flaw in the prosecution's case, or some problem that they are trying to conceal. And you ought to be particularly skeptical when the fact that is concealed or isn't fully revealed is claimed by the prosecutors themselves to be crucial to their case.

We all sometimes speak with less than complete care, and we are justly criticized when we make mistakes. If I tell you something inadvertently that proves to be wrong, I expect to be held to account for that. And similarly, we must hold the managers accountable for their mistakes.

Last week, for example, you will recall that Mr. Manager SENSENBRENNER told you that during my coming before the Judiciary Committee, in his words,

> Charles Ruff was asked directly: Did the President lie during his sworn grand jury testimony? And Mr. Ruff could have answered that question directly. He did not, and his failure to do so speaks 1,000 words.

Just to be certain that the Record is straight, let me read to you from the transcript of that judiciary hearing.

> Representative SENSENBRENNER: The oath that witnesses take require them to tell the truth, the whole truth, and nothing but the truth. I seem to recall that there were a lot of people, myself included, when asked by the press what advice would we give to the President when he went to the grand jury, was to just tell the truth, the whole truth, and nothing but the truth.
>
> Mr. RUFF: He surely did.
>
> Representative SENSENBRENNER: Did he tell the truth, the whole truth, and nothing but the truth when he was in the grand jury?
>
> Mr. Ruff. He surely did.

I am certain that Mr. SENSENBRENNER would not intentionally mislead the Senate. But his error was one of inadvertence. But, in any event, now the Record is clear.

Of considerably more importance than this momentary lapse are the many substantive flaws that we will point out to you in the coming days—sometimes pure errors of fact, sometimes errors of interpretation, sometimes unfound speculation. My colleagues will deal with many of these flaws at greater length as they discuss the specific charges against the President. But I will give you some examples as I read appropriate points in my overview today, because I want you to have in mind throughout our presentation, and indeed throughout the rest of the proceedings, this one principle. Beware of it. Beware of the prosecutor who feels it necessary to deceive the court.

Let me begin with article I.

Our system of justice recognizes the difficulties inherent in testifying under oath, and it affords important protections for the witness who may be charged with perjury, and thus the Judiciary Committee's dissatisfaction with the President's answers because they thought they were narrow, or even hairsplitting, or in some sense reflect the dissatisfaction with the rules that have been applied for centuries in prosecuting this offense.

Further, it requires proof that a defendant knowingly made a false statement about a material fact. The defendant must have had a subjective intent to lie. The testimony that is provided as a result of confusion, mistake, faulty memory, or carelessness, or misunderstanding is not perjury. The mere fact that the recollection of two witnesses may differ does not mean that one is committing perjury. Common sense and the stringent requirements of the law dictate what law is required. As the Supreme Court has noted,

> Equally honest witnesses may well have different recollections of the same event, and thus, a conviction for perjury ought not to rest entirely upon an oath against an oath.

This is the rationale for the common practice of prosecutors to require significant corroborating evidence before they bring a perjury case. Indeed, the Department of Justice urges that its prosecutors seek independent corroboration, either through witnesses or corroborating evidence of a quality to assure that a guilty verdict is really well founded.

This isn't merely the argument we make as we are acting for the President. The bipartisan and former Federal prosecutors from whom you will hear will testify that neither they nor any reasonable prosecutor could charge perjury based upon the facts in this case.

Tom Sullivan, former U.S. Attorney for the Northern District of Illinois, told the committee that the evidence set out would not be prosecuted as a criminal case by a responsible Federal prosecutor.

Richard Davis, a former colleague of mine on the Watergate special prosecution force, testified that no prosecutor would bring this case of perjury because the President acknowledged to the grand jury the existence of an improper relationship and argued with prosecutors questioning him that his acknowledged conduct was not a sexual relationship as he understood the definition of that term used in the Jones deposition. And that is where you need to begin your focus as you look at the charge that the President perjured himself in the grand jury in August of last year.

Any assessment of that testimony must begin with one immutable fact. He admitted that he had, in his words, inappropriate, intimate contact with Monica Lewinsky. No one who was present for that testimony, has read the transcript, or watched the videotape could come away believing anything other than that the President and Ms. Lewinsky engaged in sexual conduct. Indeed, even the prosecutors, who surely cannot be accused of being reluctant to find Presidential misconduct, contended not that the President had lied about the nature of his relationship but only about the details. Yet, the managers, in their eagerness to find misconduct where none had found it before, have searched every nook and cranny of the grand jury transcript and sent forward to you a shopping list of alleged misstatements, obviously in the hope that among them you will find one with which you disagree. But they hope in vain. The record simply will not support a finding that the President perjured himself before the grand jury.

Now, much of the questioning by the prosecutors and much of the grand jury testimony about which the House now complains so vociferously dealt with the President's efforts to explain why his answers in the Jones deposition, certainly not pretty, were, in his mind, truthful, albeit narrowly and artfully constructed.

We are not here to talk to you today about the President's testimony in the Jones deposition. We do seek to convince you that before the grand jury the President was open, candid, truthful.

Now, the managers begin by asking you to look at the prepared statement that the President offered at the very beginning of his grand jury appearance. Before the President actually began his testimony, his lawyer, Mr. Kendall, spoke to Mr. Starr and told him that at the first moment at which there was an inquiry concerning the detailed nature of the relationship with Ms. Lewinsky, he wished to make a prepared statement, and he was permitted to do so. That statement acknowledged the existence of an intimate relationship, but it did not discuss the specific physical details in what I think we will all understand to have been an effort to preserve the dignity of the office.

Now, the House has charged that this statement was somehow a "premeditated effort to thwart the OIC's investigation." That is errant nonsense. Even independent counsel saw no such dark motive in this statement.

Now, first, the managers advance the baseless charge that the President intentionally placed the beginning of his relationship with Ms. Lewinsky in 1996 rather than 1995 as she testified. Interestingly, they don't even purport to offer any support for this charge other than Ms. Lewinsky's testimony, and they offer not even the somewhat odd explanation originally offered by the independent counsel to explain why the President, having admitted the very worst things a father and husband can conceivably admit, would have shifted the time by 3 months.

Next, the managers assert that the President's admission that he engaged in wrongful conduct "on certain occasions" was false because the President actually engaged in such conduct some 11 times, and they assert as well that when the President admitted he had occasional telephone conversations that included inappropriate discussions, that was false because they had actually had 17 such phone conversations.

Now, the President gave his best recollection of the frequency of those contacts. Ms. Lewinsky gave hers. Assuming that the majority is correct in its assumption that there were 11 or 17, can anyone imagine a trial in this court or in any other court in which the issue of whether "certain occasions" by definition could not mean 17 and "occasionally" could not refer to 11 would be the issue being litigated?

Even the independent counsel, again, who could, of course, have pressed the President for specific numbers had they thought it important, did not take issue with this testimony.

So, thus, the perjury charge in article I again comes down to the same allegations contained in the independent counsel's referral, that the President lied to the grand jury about two things—his subjective, his personal subjective understanding of the definition used in the Jones deposition and, second, he lied when he denied that he engaged in certain details of inappropriate conduct.

Now, to conclude that the President lied to the grand jury about his relationship with Ms. Lewinsky, you must determine—forgive me—that he touched certain parts of her body, but for proof you have only her oath against his oath.

Those among you who have been prosecutors or criminal defense lawyers know that perjury prosecutions, as rare as they are, would never be pursued under evidence available here. And those among you who could not bring that special experience at least bring your common sense and are equally able to assess the weakness of the case that would rest on such a foundation.

Common sense also is enough to tell you that there cannot be any basis for charging a witness with perjury on the ground that you disbelieve his testimony about his own subjective belief in a definition of a term used in a civil deposition. Not only is there no evidence to support such a charge here; it is difficult to contemplate what evidence the managers might hope to rely on to meet that burden.

Now, it is worth noting that Mr. Bennett, at the time of the deposition, pressed the Jones lawyers to ask the President specific questions about his conduct rather than rely on this confusing definition that they proffered. In fact, when the President was asked in the grand jury whether he would have answered those questions, he said, of course, if the judge had ruled them appropriate, he would have answered truthfully. But the Jones lawyers persisted in their somewhat strange cause, strange unless one asked whether, armed with Ms. Tripp's intelligence, they purposely sought in some fashion to present the independent counsel a record that would permit just the sort of dark interpretation both he and the managers have proffered.

I point you to one thing. If you seek evidence that the President took the definition he was given seriously, and he responded carefully to the questions put to him, even if they required the most embarrassing answers, one need only look to the painful admission that he did have relations with another woman and he testified to the grand jury the definition required that he make that admission. Here is what he said to the grand jurors:

> I read this carefully, and I thought about it. And I thought about what "contact" meant, and I thought about [other phrases] and I had to admit under this definition that I had actually had relations with Jennifer Flowers.

Now, undeterred in its search for some ground on which to base the charge that the President lied to the grand jury, article I abandons even the modest level of specificity found in the independent counsel's referral and advances the claim:

> The President gave perjurious, false and misleading testimony regarding prior statements of the same nature he made in his deposition.

There can be no stronger evidence of the constitutional deficiency of this article than this strangely amorphous charge as a deficiency that becomes even more obvious when you finally stumble across the theory on which the managers rely. To the extent one can determine what the Judiciary Committee had in mind when it drafted this clause, it appears that they intended to charge the President with perjury before the grand jury because he testified that he believed—believed—that he had, in his words, "worked through the minefield of the Jones deposition without violating the law." And that they hoped to support that charge by reference to various allegedly false statements in his deposition as charged in article II. Unhappily for the managers, however, the House rejected article II and it is not before you in any form. Moreover, there is not a single suggestion in the committee debate—or, more importantly, in the House debate—that those voting to impeach the President believed that this one line that I have quoted to you from the President's grand jury testimony, somehow absorbed into article I his entire deposition testimony.

If there is to be any regard for constitutional process, the managers cannot be allowed to rely on what the Judiciary Committee thought were false statements encompassed in a rejected article II to flesh out the unconstitutionally nonspecific charges of article I. The House's vote on article II foreclosed that option for all time.

Now, article I next alleges that the President lied to the grand jury about the events surrounding certain statements made by Mr. Bennett during the

Jones deposition. Specifically, the managers charge that the President was silent when Mr. Bennett characterized the Lewinsky affidavit as meaning there was no sex of any kind in any manner, shape, or form with President Clinton, and that the President then gave a false explanation to the grand jury when he testified that he wasn't really paying attention when his lawyer said that.

Now, as we noted earlier, Mr. Bennett argued to Judge Wright that, in light of Ms. Lewinsky's affidavit denying a relationship, the Jones lawyers had no good-faith basis for questioning the President about her. The President was not involved in the lengthy back and forth among the judge, the Jones lawyers, and Mr. Bennett. He said nothing. When he was asked in the grand jury about Mr. Bennett's statement, he said, "I'm not even sure I paid much attention to what Mr. Bennett was saying."

Now, the managers assert that this is false because the videotape shows that the President was in fact paying attention. But a fairer view of the videotape, I suggest to you, shows the President looking, indeed, in Mr. Bennett's direction, and in the direction of the judge, but giving no sign that he was following the discussion. He didn't nod his head. He didn't make facial expressions. There was nothing to reflect an awareness of the substance of what was happening, much less what was said in Mr. Bennett's statement.

Now, I don't know how large a group this would be, but any of you who has ever represented a witness or been a witness in a deposition will readily understand the President's mindset, that the lawyers and the judge debated these issues, and you will understand, too, that to charge him with perjury for having testified falsely about his own state of mind with nothing more to rely on than a picture would strain credulity in any prosecutor's office and flies past the bounds of constitutional reason in this Chamber.

I move, now, to the allegations in article II charging the President with obstruction of justice in the Jones lawsuit and in the grand jury investigation. I want to talk first about what has become known as the concealment of gifts theory. The allegation that the President participated in some scheme to conceal certain gifts he had given to Ms. Lewinsky centers on two events allegedly occurring on December 28, 1997: First, conversation between the President and Ms. Lewinsky in the White House in which the two discussed the gifts, at least briefly, that he had given to Ms. Lewinsky; and, B, Ms. Currie's picking up a box of gifts from Ms. Lewinsky and storing them under her bed.

The managers, as was true of the majority report—and the independent counsel role before that—build their theory in this case not on any pillars of obstruction but on shifting sand castles of speculation. Monica Lewinsky met with the President on December 28, 1997, sometime shortly before 8 a.m. to exchange Christmas presents. According to Ms. Lewinsky, they briefly discussed the subject of gifts she had received from the President in connection with her receipt some days earlier of the subpoena in the Jones case, and this was the first and the only time, she says, in which the subject was ever discussed.

Now, the managers quote one conversation of Ms. Lewinsky's description of that December 28 version as follows:

> At some point I said to him, well, you know, should I —maybe I should put the gifts away outside my house somewhere or give them to someone, maybe Betty. And he sort of said—I think he responded "I don't know," or "let me think about that," and left that topic.

But the Senate should know that in fact Ms. Lewinsky has discussed this very exchange on at least 10 different occasions and that the very most she alleges in any of them is that the President said, "I don't know," or "Let me think about it," when she raised the issue of the gifts. Indeed, in many of her versions she said, among other things, there really was no response, that the President did not respond, that she didn't have a clear image in her mind what to do next. She also testified that Ms. Currie's name did not come up because the President really didn't say anything. And, most importantly, in not a single one of her multiple versions of this event did she say that the President ever initiated any discussion about the gifts, nor did he ever suggest to her that she conceal them.

Now, there being no evidence of obstruction in that conversation, the managers would have you believe that after Ms. Lewinsky left the White House that day, the President must have told Betty Currie to retrieve the gifts from Ms. Lewinsky. But there is absolutely no evidence that that discussion ever occurred. The only two parties who would have knowledge of it, the President and Ms. Currie, both denied it ever took place.

Now, in the absence of any such evidence, the managers have relied on Ms. Lewinsky's testimony that Ms. Currie placed a call to her and told her—depending on Ms. Lewinsky's version—either that the President had said to Betty Ms. Lewinsky had something for her or merely that she, Ms. Currie, understood that Ms. Lewinsky had something for her.

In this regard, it is important to remember that Ms. Lewinsky herself testified that she was the one who first raised with the President the notion that Ms. Currie could hold the gifts. And it is important to recognize that, contrary to the managers' suggestion to you that Ms. Lewinsky's memory of this event has always been consistent and— "unequivocal," I think was their word—she herself acknowledged at her last grand jury appearance that her memory of the crucial conversation is less than crystal clear. To wit:

> A JUROR: Do you remember Betty Currie saying that the President had told her to call?
>
> Ms. LEWINSKY: Right now, I don't remember.

And now we come to the first example I promised you of prosecutorial—what shall we call it?—fudge. Starting from the premise that Betty Currie called Monica Lewinsky and told her that she understood she had something for her and then went to pick up a sealed box containing some of the gifts she had received, Ms. Lewinsky had received from the President, first the independent counsel concluded, and then the majority report concluded, and now the managers have concluded, that the President must have instructed Ms. Currie to go pick up these gifts—to call Ms. Lewinsky and make the arrangements. So that they determined that when Ms. Currie said it was Ms. Lewinsky who called her, Ms. Currie was mistaken or, if you listen carefully, maybe worse. And when the President testified that he didn't tell Ms. Currie to call Ms. Lewinsky, he was—well, just worse. And this surmise is made absolutely certain, in the view of the managers, because a newly discovered, unknown even to independent counsel, cell phone record shows that Ms. Currie called Ms. Lewinsky at 3:32 p.m. on December 28 and that must be the call that Ms. Lewinsky remembered.

Let's look now at how the majority counsel for the committee put it in his closing argument to the Judiciary Committee. I have put his words up on the chart, and you all should have it in front of you as well:

> There is key evidence [said majority counsel] that Ms. Currie's fuzzy recollection is wrong. Monica said that she thought Betty called from her cell phone. Well, look at this record. [Show it to you later.] This is Betty's cell phone record. It corroborates Monica Lewinsky and proves conclusively that Ms. Currie called Monica from her cell phone several hours after she had left the White House. Why did Betty Currie pick up the gifts from Ms. Lewinsky? The facts strongly suggest the President directed her to do so.

There is a slight problem with the majority counsel's epiphany, as it has been passed down to the managers and then to you. For you see—and here is the cell phone record—it reflects that at 3:32 p.m. on December 28, from Arlington, VA, to Washington, DC—that is Ms. Lewinsky's number—there was a call of a minute, it says here. And then we have to ask, Does this timing fit with the rest of the testimony?

Well, the answer is, no, it doesn't, because on three separate occasions, Ms.

Lewinsky testified that Ms. Currie came over to pick up the gifts at 2 o'clock in the afternoon, an hour and a half before the phone call. It is not as though we have been hiding the ball on this, Senators. We discussed this issue at length in our trial brief, and the managers do seem to have recognized at least some of the problem, because they have told you, albeit without the slightest evidentiary support, that maybe Ms. Lewinsky just miscalculated a little bit. Well, maybe she just miscalculated a little bit three times. Look at the record:

FBI interview, July 27: Lewinsky met Currie on 28th Street outside Lewinsky's apartment at about 2 p.m. and gave Currie the box of gifts.

FBI interview, August 1: Lewinsky gave the box to Betty Currie when Currie came by the Watergate about 2 p.m.

Grand jury testimony, 3 weeks later: "I think it was around 2 p.m. or so, around 2:00 in the afternoon."

The managers speculate that if only the independent counsel had had this phone record when they were interviewing Ms. Lewinsky, they could have refreshed her recollection. Having been one, I can tell you, that's prosecutor's speak for "if we'd only known about that darn record, we could have gotten her to change her testimony."

But the managers have one other problem that they didn't address. The phone record—if we can go back to that for a moment—the phone record shows a call lasting 1 minute. All of us who have cell phones know that really means it lasted well short of a minute, because the phone company rounds things up to the nearest minute, just to help us all with our bookkeeping. [Laughter.]

So now it will be necessary not only for Ms. Lewinsky's memory to be refreshed about the hour of the pickup, but to explain how the arrangements for it could have been made between Ms. Lewinsky and Ms. Currie in somewhere between 1 and 60 seconds.

Putting these factual difficulties aside, this charge must fail for another reason. As you all know from presentations earlier, the President gave Ms. Lewinsky several gifts on the very day that they met, December 28. Faced with having to explain why on the day that the President and Monica Lewinsky were conspiring to conceal gifts from the Jones' lawyers the President gave her additional ones, the managers surmised that the real purpose was because it was part of a subtle effort to keep Ms. Lewinsky on the team, but in truth the only reasonable explanation for these events is the one the President gave to the grand jury. He was simply not concerned about gifts. He gave a lot, he got a lot, and he saw no need to engage in any effort to conceal them.

The President did not urge Ms. Lewinsky to conceal the gifts he had given her and, of course, he did not lie to the grand jury about that subject.

The next point I want to discuss with you is the statements the President made to Betty Currie on the day after the Jones deposition, January 18 of last year. There is no disputing the record, no conflict in testimony that the President did meet with his secretary, Betty Currie, on the day after the Jones deposition and they discussed Monica Lewinsky.

The managers cast this conversation, this recitation, this series of statements and questions put by the President to Ms. Currie in the most sinister light possible and allege that the President attempted to influence the testimony of a "witness" by pressuring Ms. Currie to agree with an inaccurate version of the facts surrounding his relationship with Ms. Lewinsky.

President Clinton has adamantly denied that he had any such intention, and that denial is fortified by the undisputable factual record establishing that Betty Currie neither was an actual or a contemplated witness in the Jones litigation, nor did she perceive that she was being pressured in any respect by the President to agree with what he was saying.

First, Ms. Currie's status as a witness, and the only proceeding the President knew about at that moment, the Jones case, Ms. Currie was neither an actual nor a prospective witness. As to the only proceeding in which she ultimately became a witness, no one would suggest, managers, no one else would suggest the President knew that the independent counsel was conducting an investigation into his activities.

In the entire history of the Jones case, Ms. Currie's name had not appeared on any of the witness lists, nor was there any reason to suspect Ms. Currie would play a role in the Jones case. Discovery was down to its final days. The managers speculate that the President's own references to Ms. Currie during his deposition meant she was sure to be called by the Jones lawyers. Yet, in the days, weeks following the deposition, the Jones lawyers never listed her, never contacted her, never added her to any witness list. They never deposed her; they never noticed the deposition.

Indeed, when the independent counsel interviewed the Jones lawyers, they apparently neglected to ask whether they had ever intended to call Betty Currie as a witness. One can be sure that if such an intent existed, they would have asked and it would have been included in the referral.

Moreover, it is a sure bet that the Jones lawyers already knew about Betty Currie and her relationship with Monica Lewinsky. Why? Because we know from her own recorded telephone conversations that Ms. Tripp had been in contact with the Jones lawyers for months, and we know that she spent the evening before the President's deposition telling them everything she knew.

It didn't take a few references to his secretary by the President to trigger a subpoena for Betty Currie if they had ever wanted to do that, and they never did. Nor did the President ever pressure Ms. Currie to alter her recollection. Despite the prosecutor's best efforts to coax Ms. Currie into saying she was pressured to agree with the President, Ms. Currie adamantly denied it.

Let me quote just briefly a few lines of her grand jury testimony:

> Question: Now, back again to the four statements that you testified the President made to you that were presented as statements, did you feel pressured when he told you those statements?
>
> Answer: None whatsoever.
>
> Question: That was your impression, that he wanted you to say—because he would end each of the statements with "Right?", with a question.
>
> Answer: I do not remember that he wanted me to say "Right." He would say "Right" and I could have said, "Wrong."
>
> Question: But he would end each of those questions with a "Right?" and you could either say whether it was true or not true?
>
> Answer: Correct.
>
> Question: Did you feel any pressure to agree with your boss?
>
> Answer: None [whatsoever].

Now, to understand on a human level why the President reached out to Betty Currie on the day after his deposition, you need only to understand that he had just faced unexpected detailed questions about his worst nightmare. As he candidly admitted to the grand jury, he had long feared that his relationship with Ms. Lewinsky would ultimately become public. Now, with questioning about her in the Jones case, publication of the first Internet article, the day of recon had arrived. The President knew that a media storm was about to erupt. And it did.

Now, if you are looking for evidence on which to base an inference about the President's intentions with respect to Ms. Currie's testimony, look what he said to her when he knew that she was going before the grand jury.

> And then I remember when I knew she was going to have to testify to the grand jury, and I, I felt terrible because she had been through this loss of her sister, this horrible accident Christmas that killed her brother, and her mother was in the hospital. I was trying to do—to make her understand that I didn't want her to, to be untruthful to the grand jury. And if her memory was different than mine, it was fine, just go in there and tell them what she thought. So, that's all I remember.

The President of the United States did not tamper with a witness.

Now next, the managers argue that Mr. Clinton corruptly encouraged Ms. Lewinsky to submit a false affidavit to the Jones lawyers and to lie if she were ever deposed. But the uncontroverted evidence refutes that charge. Indeed, Ms. Lewinsky herself has repeatedly and forcefully denied that anyone ever asked her to lie. There is no way to get around that flat denial, even with the independent counsel's addition of the word "explicitly." There was no explicit, implicit, or any other direction to Ms. Lewinsky to lie. Indeed, the only person to whom Ms. Lewinsky said anything inconsistent with her denial was the ubiquitous Ms. Tripp. And, as Ms. Lewinsky later told the grand jury:

> I think I told her that, you know, at various times the President and Mr. Jordan had told me I have to lie. That wasn't true.

Left with this record, the managers resort to arguing that Ms. Lewinsky understood that the President wanted her to lie, that he could not have wanted her to file an affidavit detailing their relationship. But the only factual support for this theory recited by the majority is the testimony of Ms. Lewinsky that, while the President never encouraged her to lie, he remained silent about what she should have to say or do, and by such silence she said, "I knew what he meant."

The very idea that the President of the United States should face removal from office, not because he told Monica Lewinsky to lie or anything of this sort, but because he was silent and Ms. Lewinsky "knew what he meant," is, I suggest, more than troubling.

So to bolster their flawed "I knew what he meant" theory, the managers assert that the President knew the affidavit would have to be false in order for Ms. Lewinsky to avoid testifying. But the evidence here, too, is that the President repeatedly testified that Ms. Lewinsky could and would file a truthful affidavit. And, of course, Ms. Lewinsky herself has made it clear that her definition of the critical term that might be used in such an affidavit was consistent with the President's.

Further testimony from Ms. Lewinsky herself repudiates any suggestion that she was ever encouraged by anyone to lie if she were deposed in the Jones case. In a colloquy with a grand juror, she explicitly and unequivocally rejected the notion that President Clinton encouraged her to deny the relationship after she learned she was a witness. Referring to discussions about the so-called cover stories that the managers allege were to be used in her testimony, a grand juror asked her:

> It is possible that you had these discussions after you learned that you were a witness in the Paula Jones case?
>
> Answer: I don't believe so, no.
>
> Question: Can you exclude that possibility?
>
> Answer: I pretty much can.

The managers would have you conclude the contrary from a brief snippet of the conversation on December 17 in which Ms. Lewinsky said that at some point, "I don't know if it was before or after the subject of the affidavit came up, the President sort of said, 'Well, you know, you can always say you were coming to see Betty or that you were bringing me letters.'"

But Ms. Lewinsky told the FBI when she was interviewed, "To the best"—this is the FBI talking—"To the best of Miss Lewinsky's memory, she does not believe they discussed"—in this December 17 conversation—"the content of any deposition that Miss Lewinsky might be involved in at a later date." And she told the grand jury the same thing. Describing the very same December 17 conversation, she testified that she and the President did not discuss the idea of her denying their relationship.

> Ms. LEWINSKY: I really don't remember it. I mean, it would be very surprising for me to be confronted with something that would show me different, but it was 2:30, and, I mean, the conversation I'm thinking of mainly would have been December 17, which was—
>
> A juror interjects: The telephone call?
>
> Ms. LEWINSKY: Right. And it was, you know, 2, 2:30 in the morning. And I remember the gist of it, and I really don't think so.

And it is on that basis that the managers suggest that the President obstructed justice.

Fourth, article II alleges that the President obstructed justice by denying to his closest aides he had a sexual relationship with Monica Lewinsky, the very same denial he made to his family and his friends and to the American people. These allegedly impeachable denials took place in the immediate aftermath of the public revelation of the Lewinsky matter, at the very time that the President was denying that relationship to the entire country on national television. Having made the announcement to the whole country, it is simply absurd, I suggest to you, to believe that he was somehow attempting corruptly to influence his senior staff when he told them virtually the same thing at the same time.

Now, the managers do not allege—as they could not—that the President attempted to influence the aides' testimony about what they themselves knew concerning his relationship with Ms. Lewinsky—had they seen her in a particular place; had they talked to her; had they talked to the President about it before all of this broke.

Indeed, the only evidence these aides had was the very same denial that the entire American people had. Indeed, every member of the grand jury had probably seen this denial by the President on their own television sets. Under the theory proffered by the managers, in essence, every person who heard the President's denial could have been called to the grand jury and ordered to create still an additional charge of obstruction of justice.

The point here was not that the President believed that his staff would be witnesses and somehow wanted to influence their testimony. As he explained to the grand jury, what he was trying to do was avoid being a witness. But, of course, he had to say something to them. He had to say, in the aftermath of January 21, something to reassure them. And he told them exactly what he told every one of you, everyone in the gallery, and everyone who watched television in those days following January 21.

And let me just make this one point. There is absolutely no conflict in the evidence here, despite the managers' somewhat puzzling suggestion that the Senate's deliberations would somehow be aided if two of the senior staff members could be called as witnesses. Not only is there no conflict in the evidence, there is absolutely no basis for the charge that the President was in any way seeking to influence the testimony of his staff before the grand jury.

Now we come to the last of the obstruction charges. The managers ask you to find that the President of the United States employed his friend, Vernon Jordan, to get Monica Lewinsky a job in New York, to influence her testimony, or perhaps in a somewhat forlorn effort to escape the reach of the Federal Rules of Civil Procedure, to hide from the Jones lawyers and the 8 million people who live in that city.

There is, of course, absolutely no evidence to support this conclusion, and so the managers have constructed out of sealing wax and string and spiders' webs a theory that would lend to a series of otherwise innocuous and, indeed, exculpatory events, a dark and sinister past.

The undisputed record establishes the following: One, that Lewinsky's job search began on her own initiative; two, the search began long before her involvement in the Jones case; three, the search had no connection to the Jones case; four, Vernon Jordan agreed to help her, not at the direction of the President but at the request of Ms. Currie, Mr. Jordan's long-time friend; five, the idea to solicit Mr. Jordan's assistance again came not from the President but from Ms. Tripp.

As I thought about this aspect of it, I have to say I was reminded of Iago and Desdemona's handkerchief. But we will pass on that.

Both Ms. Lewinsky and Mr. Jordan have repeatedly testified that there was never an agreement, a suggestion, an implication, that Ms. Lewinsky would be rewarded with a job for her silence or her false testimony. As Mr. Jordan succinctly put it, "Unequivocally, indubitable, no."

It was only to appease Ms. Tripp that Ms. Lewinsky ultimately told her that she had told Mr. Jordan she wouldn't sign the affidavit until she had a job. But as she told the grand jury, "That was definitely a line based on something that Linda had made me promise on January 9."

Now while the managers dismiss as irrelevant Ms. Lewinsky's job search before December, the fact is, Ms. Lewinsky contemplated looking for a job in New York as early as July 1997, and her interest was strengthened in early October when Ms. Tripp told her it was unlikely she would ever get another job in the White House. It was then Ms. Tripp and Ms. Lewinsky discussed the prospect of having Vernon Jordan help her get a job in New York and Ms. Lewinsky mentioned that idea to the President.

Later in October, as part of this ongoing search, Ambassador Richardson agreed to interview Ms. Lewinsky at the suggestion of then-Deputy Chief of Staff Podesta who had been asked to help by Ms. Currie. And Ambassador Richardson offered her a job and she had that job in hand throughout the supposedly critical December timeframe, didn't actually turn it down until early January. And, further, in late October or early November, she actually went to her boss at the Pentagon and asked for his help to find a job.

Meanwhile, now we come to what, for the managers, is the very heart of the case. On November 5, Ms. Lewinsky had a preliminary meeting with Mr. Jordan and they discussed a list of potential employers. And although the managers then contend that nothing happened from November 5, that first meeting, until December 11, signifying, as they see it, that it must have been Ms. Lewinsky's appearance on the witness list that galvanized Mr. Jordan into action, that is simply false.

Ms. Lewinsky had a followup telephone conversation with Mr. Jordan around Thanksgiving in which he told her he was working on the job search and he asked her to call him in the first week of December. The President learned Ms. Lewinsky was on the Jones witness list sometime on December 6. He met with Mr. Jordan the very next day, December 7. But oddly, if one adopts the managers' view, there was no discussion of Ms. Lewinsky or the Jones case, much less job searches. Then on December 8, Ms. Lewinsky called Mr. Jordan's office and made her appointment to meet with him on December 11.

Now the President absolutely had nothing to do with that call or that appointment and Mr. Jordan denies that there was any intensified effort to find Ms. Lewinsky a job. He said, "Oh, no, I do not recall any heightened sense of urgency in December, but what I do recall is that I dealt with it when I had time to do it."

Now for my second example of prosecutorial fudging. The managers have devoted much attention to the magic date of December 11, arguing vigorously that it was on that day that getting the job for Ms. Lewinsky suddenly became a matter of high priority for the President and hence to Mr. Jordan. Why is that so? Well, again, I will let the majority counsel for the Judiciary Committee tell you in his own words during his closing argument.

Again, you should have this before you if you can't see the chart.

> But why the sudden interest, why the total change in focus and effort? Nobody but Bettie Currie really cared about helping Ms. Lewinsky throughout November, even after the President learned that her name was on the prospective witness list. Did something happen to move the job search from a low to a high priority on that day? Oh, yes, something happened. On the morning of December 11, 1997, Judge Susan Webber Wright ordered that Paula Jones was entitled to information regarding any State or Federal employee with whom the President had sexual relations or proposed or sought to have sexual relations. To keep Monica on the team was now of critical importance. Remember, they already knew that she was on the witness list, although nobody bothered to tell her.

That same theme was picked up last week by Mr. Manager HUTCHINSON, both in his recitation of events of that day and in the exhibits he showed you. If I am lucky, we will place on the easel to my right the exhibit that Manager HUTCHINSON used.

You will see the order that this exhibit places on the critical events of November and December. November 5 meeting, the no-job-search action; the President receives a witness list. And then of special interest, December 11, first event, "Judge Wright order permitting questions about Lewinsky." Too, on December 11, the "President and Jordan talk about job for Monica."

Now, let me ask you to focus on what Mr. HUTCHINSON told you about the events of December 11. Sounding somewhat like majority counsel, he asks:

> And so, what triggered—let's look at the chain of events. The judge—the witness list came in, the judge's order came in, that triggered the President into action and the President triggered Vernon Jordan into action. That chain reaction here is what moved the job search along . . . remember what else happened on that day [December 11] again. That was the same day that Judge Wright ruled that the questions about other relationships could be asked by the Jones attorneys.

Now, it appears to me that the manager was suggesting—again, with not a great deal of subtlety—that Vernon Jordan, one of this country's great lawyers and great citizens, was prepared to perjure himself to save the President.

So let's just imagine the managers' examination of Mr. Jordan in this Chamber that would let you make your own judgment about his truthfulness.

Question: Mr. Jordan, isn't it a fact that you met with Ms. Lewinsky on December 11 to help get her a job?

Answer: Yes.

Question: And isn't it a fact that before and after you met with her, you made calls to potential employers in New York?

Answer: Yes.

Question: Isn't it true that the reason for all of this activity on December 11 was that Judge Wright had on that very day issued an order authorizing the Jones lawyers to depose certain women like Miss Lewinsky?

Answer: No.

Question: What do you mean "no"? Isn't it true that the judge had issued an order before you met with Ms. Lewinsky and before you made the calls?

Answer: I had no knowledge of any such order. The fact that Ms. Lewinsky was a potential witness had nothing to do with my helping. I made an appointment to see her 3 days earlier.

Question: Well, isn't it a fact that Judge Wright filed her order on December 11 before you met with Ms. Lewinsky?

Answer: Well, actually no.

Let me show you the official report of the judge's discussion with the lawyers in the Jones case on that date. You have this before you as well. There's a conference call between the judge and the lawyers, which is memorialized in a formal document prepared by a clerk and on file in the case in Arkansas. It notes that the conference call began at 5:33 p.m. central standard time. If I have my calculations right, that is 6:33 p.m. in Washington.

I want to stop here for a second so that you know where Mr. Jordan was when that happened. Let me see the next chart.

By the way, this is Mr. Jordan testifying:

> I was actually on a plane for Amsterdam by the time the judge issued her order.

So he testified in the grand jury.

> I left on United flight 946 at 5:55 from Dulles Airport and landed in Amsterdam the next morning.

So the conference call begins at 6:33 eastern standard time. The court takes up another variety of matters, and the judge didn't even tell the lawyers that she was going to issue an order on the motion to compel these various depositions until the very end of the call, around 7:45 eastern standard time, and the clerk would actually FAX them a copy at that point.

So we return to Mr. Jordan's mythical testimony. To summarize, let me show you something that tells you what the real sequence of events was on December 11. Vernon Jordan makes a possible job call at 9:45, and another at 12:49, and another at 1:07; he meets with Ms. Lewinsky from 1:15 to 1:45; he gets on his plane at 5:55 in the afternoon, and an hour or so later the lawyers are informed that the judge had issued her order.

In fact—just as a little filler—the President is out of town and returns to Washington at 1:10 a.m. And actually, Judge Wright's order is filed not on the 11th, but on the 12th.

> Question: Oh, I see. Well, never mind.

Now, do any of you think that you need to look Mr. Jordan in the eye and hear his tone of voice to understand that the prosecutors have it wrong and have had, at least since the majority counsels' closing argument?

You will also learn from us—but not from the managers—that Mr. Jordan placed no pressure on any company to give Ms. Lewinsky a job. Indeed, two other companies he called didn't even offer her a job.

Just as the managers dramatically mistake the record relating to Mr. Jordan's efforts to help Ms. Lewinsky find a job, so, too, do they invent a nonexistent link between a call Mr. Jordan made ultimately to Mr. Perelman, the CEO of MacAndrews and Forbes, Revlon's parent, and the offer Ms. Lewinsky finally received from Revlon with her signing of the affidavit in the Jones case. We will demonstrate beyond any question, once again, that conclusions the managers have drawn are simply false.

Again, I'll begin with the fact that both Mr. Jordan and Ms. Lewinsky testified that there was no such link between the job and the affidavit, and the only person to ever suggest such a link was, once again, Ms. Tripp. Now, I presume that it is not the managers' intention to suggest that we bring Ms. Tripp before you to explore her motivation for making that suggestion.

Next, take Ms. Lewinsky's interview with MacAndrews official, which she described as "having gone poorly"—a characterization adopted by the managers for obvious reasons—because it suggests that there was a desire on their part to heighten the supposed relevance of the call Mr. Jordan made to Mr. Perelman. In other words, under their theory, Ms. Lewinsky's job prospects at MacAndrews and Forbes, or Revlon, were caput until Vernon Jordan made the call and resurrected her chances.

Unfortunately, like so much of the obstruction case, the facts do not bear out this convenient theory. In fact, the man who interviewed Ms. Lewinsky at MacAndrews was impressed with her, and because there was nothing available in his area, he sent her resume to Revlon where she was hired by someone who did not know about Mr. Jordan's call to Mr. Perelman.

So much for obstruction by job search.

That, then, is an overview of the charges contained in these articles. You will hear about them in greater detail than I could offer you today when my colleagues speak in the next two days. I want to bring my presentation to a close.

We are not here to defend William Clinton, the man. He, like all of us, will find his judges elsewhere. We are here to defend William Clinton, the President of the United States, for whom you are the only judges. You are free to criticize him, to find his personal conduct distasteful; but ask whether this is the moment when, for the first time in our history, the actions of a President have so put at risk the Government the framers created that there is only one solution. You must find not merely that removal is an acceptable option, that we will be OK the day after you vote; you must find that it's the only solution, that our democracy should not be made to sustain two more years of this President's service. You must put that question because the one thing that our form of Government cannot abide is the notion that impeachment is merely one more weapon a Congress can use in the process between the legislative and executive branches.

Let me be very clear. We do not believe that President Clinton committed any of the offenses charged by the managers. And for the reasons we will set out at length over the next two days, we believe the managers have misstated the record, have constructed their case out of tenuous extrapolations, without foundation, and have at every turn assumed the worst without the evidence to support this speculation.

You put these lawyers in a courtroom and they win 10 times out of 10.

But suppose we are wrong. Suppose that you find that the President committed one or more of the offenses charged. Then there remains only one issue before you. Whatever your feelings may be about William Clinton, the man, or William Clinton, the political ally or opponent, or William Clinton, the father and husband, ask only this: Should William Clinton, the President, be removed from office? Are we at that horrific moment in our history when our Union could be preserved only by taking the step that the framers saw as the last resort? I am never certain how to respond when an advocate on the other side of a case calls up images of patriots over the centuries sacrificing themselves to preserve our democracy. I have no personal experience with war. I have only visited Normandy as a tourist. I do know this: My father was on the beach 55 years ago, and I know how he would feel if he were here. He didn't fight, no one fought, for one side of this case or the other. He fought, as all those did, for our country and our Constitution. As long as each of us—the managers, the President's counsel, the Senators—does his or her constitutional duty, those who fought for the country will be proud.

We, the people of the United States, have formed a more perfect Union. We formed it. We nurtured it. We have seen it grow. We have not been perfect. And it is perhaps the most extraordinary thing about our Constitution—that it thrives despite our human imperfections.

When the American people hear the President talk to Congress tonight, they will know the answer to the question, "How stands the Union?" It stands strong, vibrant, and free.

I close as I opened 2 hours ago, or 2 and a half hours ago. William Jefferson Clinton is not guilty of the charges that have been brought against him of committing perjury. He didn't obstruct justice. He must not be removed from office.

Thank you.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

RECESS

Mr. LOTT. Mr. Chief Justice, in a moment the Senate will recess until 8:35 this evening, at which time the Senate will proceed as a body over to the House of Representatives as a joint session to receive a message from the President. Following the joint session, the Senate will adjourn until 11 o'clock tomorrow morning.

The Senators' lecture series is scheduled for tomorrow evening at 6 o'clock in the old Senate Chamber with former President George Bush as guest speaker.

I now ask that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 3:33 p.m., recessed until 8:35 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CRAPO).

LEGISLATIVE SESSION

JOINT SESSION OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 1).

The PRESIDING OFFICER. The Senate will proceed to the House of Representatives.

(The address delivered by the President of the United States to the joint session of the two Houses of Congress is printed in the proceedings of the House of Representatives in today's RECORD.)

ADJOURNMENT UNTIL 11 A.M. TOMORROW

At the conclusion of the joint session of the two Houses, and in accordance with the order previously entered, at 10:31 p.m. the Senate adjourned until Wednesday, January 20, 1999 at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate January 19, 1999:

DEPARTMENT OF COMMERCE

CHERYL SHAVERS, OF CALIFORNIA, TO BE UNDER SECRETARY OF COMMERCE FOR TECHNOLOGY, VICE MARY LOWE GOOD.

DEPARTMENT OF STATE

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER.

FOR THE PERSONAL RANK OF CAREER AMBASSADOR IN RECOGNITION OF ESPECIALLY DISTINGUISHED SERVICE OVER A SUSTAINED PERIOD:

MARY A. RYAN, OF TEXAS

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

PETER S. WOOD, OF CALIFORNIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

RICHARD LEWIS BALTIMORE, III, OF NEW YORK

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR COMPONENT OF THE PUBLIC HEALTH SERVICE COMMISSIONED CORPS SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT:

To be medical director

ROGER I.M. GLASS
WILLIAM C. VANDERWAGEN

To be surgeon

MARTIN S. CETRON
FRANK J. MAHONEY
ROBERT E. QUICK, III
EVELYN M. RODREGUEZ
STEVEN R. ROSENTHAL
JORDAN W. TAPPERO
JACK A. TAYLOR
THOMAS J. WALSH

To be assistant surgeon

DIANA L. COOK

To be dental surgeon

ROBERT A. CABANAS
DEAN J. COPPOLA
MARY S. RUNNER
LEE S. SHACKELFORD

To be nurse officer

LINDA S. BROPHY
ANN R. KNEBEL
NANETTE H. PEPPER

To be scientist officer

WILLIAM G. LOTZ
MARK L. PARIS

To be sanitarian officer

JOHN W. WALMSLEY

To be veterinary officer

DOUGLAS D. SHARPNACK
LAWRENCE J. VENTURA

To be pharmacist officer

JOSLYN R. SWANN
LISA L. TONREY

To be therapist officer

JOHN T. HURLEY

To be health services officer

RONDA A. BALHAM
EPIFANIO ELIZONDO
JOHN D. FUGATE, JR.
JAMES C. PORTT
ALBERT R. TALLANT
RICHARD C. VAUSE, JR.
RICHARD C. WHITMIRE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR COMPONENT OF THE PUBLIC HEALTH SERVICE COMMISSIONED CORPS SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT:

To be surgeon

GRANT L. CAMPBELL
ROBERT L. DANNER, JR.
PAUL J. HIGGINS
WILLIAM J. KASSLER
BRADLEY A. PERKINS

To be senior assistant surgeon

SUSAN BLANK
DAVID W. CHEN
SCOTT F. DOWELL
HUMBERTO HERNANDEZ-APONTE
ROSEMARIE HIRSH
WILLIAM H. ORMAN
MARC A. SAFRAN

To be Senior assistant dental surgeon

TIMOTHY L. AMBROSE
THOMAS B. BREWER
ANITA L. BRIGHT
RONALD C. COX
GREGORY T. KUNZ
RONALD D. SHEPHERD II
JOHN R. SMITH
RICKEY S. THOMPSON

To be nurse officer

MARY C. AOYAMA

To be senior assistant nurse officer

BONNIE J. ALLARD
DARYL L. ALLIS
DOLORES J. ATKINSON
TRACY A. BROWER
BUCKY M. FROST
DAVID M. GOLDSTEIN
NANCY R. HAWKINS
PATRICK K. HOWE
JACQUELINE P. KERR
SANDRA K. KOZLOWSKI
STEPHEN D. LANE
LANCE L. POIRIER
LYNN N. POWER
PRISCILLA J. POWERS
DEBORAH S. PRICE
DENISE M. RABIDEAUX
JANICE C. ROMAN
SHERRI L. ZUDELL

To be senior assistant engineer officer

STEPHEN R. BOLAN
CHRISTOPHER P. BRADY
PATRICK W. CRANEY
ROBERT J. DRUMMOND
BRADLEY K. HARRIS
SCOTT M. HELGESON
KELLY G. HUDSON
KENNETH R. MEAD
DANIEL D. REITZ
DANIEL H. WILLIAMS
ANTHONY T. ZIMMER

To be senior assistant scientist

WILLIAM J. MURPHY
RICHARD P. TROIANO

To be senior assistant sanitarian

DONALD S. ACKERMAN
JANICE ASHBY
MARGARET L. BOLTE
DEBRA M. FLAGG
JOHN D. HOLLAND
SUSAN L. MUZA
KENNY R. HICKS

To be veterinary officer

LEIGH A. SAWYER

To be senior assistant veterinary officer

KRISTINE M. BISGARD

To be senior assistant pharmacist

JAMES F. BARNETT, JR.
KATHLEEN S. BOOKOUT
DEBORAH A. GUNTER
WALTER L. HOLT, JR.
BECKY L. KAIME
EDWARD J. STEIN
MATTHEW J. TAROSKY
PAULA M. VEACH
CATHERINE L. VIEWEG
JUDY WEISS
BELINDA L. WIMBERLY

To be assistant pharmacist

DAVID A. BATES
ELIZABETH A. DEGIGLIO
STEVEN D. DITTERT
SHARON L. OESTEREICH
ERIC J. POLCZYNSKI

To be senior assistant dietitian

SILVIA BENINCASO

To be senior assistant therapist

LOIS L. MICHAELIS-GOODE
PENELOPE S. ROYALL
JESSIE A. WHITEHURST

To be assistant therapist

GRANT N. MEAD

To be health services officer

PETER J. DELANY
LAWRENCE C. MCMURTRY

To be senior assistant health services officer

HOWARD J. HEISLER
NANCY A. NICHOLS
LARRY E. RICHARDSON
JANUETT P. SMITH-GEORGE
ANN M. WITHERSPOON

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

CAPTAIN EVELYN J. FIELDS, NOAA FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (0-8), WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY AS DIRECTOR, OFFICE OF NOAA CORP OPERATIONS, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, UNDER THE PROVISIONS OF TITLE 33, UNITED STATES CODE, SECTION 853U.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE PATIENTS' BILL OF RIGHTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. STARK. Mr. Speaker, I am pleased to join with my Democratic colleagues from both the House and Senate today to re-introduce the Patients' Bill of Rights. This legislation came within five votes of passage in the last Congress. We are anxious to work with our colleagues to pass this important legislation this year.

Patient protection should not be a partisan issue. This is the health care issue that continues to top this list of my constituents' concerns—and I represent California which has the longest history of managed care in our country.

The Patients' Bill of Rights is a bill whose time has come. It builds on bills that have previously been introduced, on recommendations from the President's Advisory Commission on Quality in the Health Care Industry that met last year, on legislative efforts of various states, and on consensus agreements among consumer groups, many providers, and certain health plans.

As more and more of our population joins managed care plans, the need for federal oversight of plan quality grows greater. Patients deserve to know that their health plans are held accountable to a basic set of consumer protection standards. That is what the Patients' Bill of Rights will do.

Though many states have enacted consumer protection bills, they cannot regulate many of the health plans within their borders due to our convoluted health care system. Federal action is required.

The Patients' Bill of Rights creates a set of federal standards that assures patient access to covered benefits and that holds health plans accountable for their actions.

The most important components of the bill are as follows:

Health Plan Accountability: The Patients' Bill of Rights holds health plan administrators to the same level of accountability for making medical decisions as doctors.

Under current law, if an individual receives health care benefits through his/her employer, and a health plan makes a medical decision to withhold treatment that harms a patient, that health plan's only responsibility is for the provision of benefits that had been denied. The estimates are that some 125 million Americans are in these types of health plans.

So, if a health plan denies a woman a mammography and she later is found to have advanced breast cancer—which would have been detected much earlier with the screening exam—that plan's only liability is the cost of the mammogram that was not provided.

The remedy for this is straightforward: if health care plans are going to be making medical decisions, they must be held accountable to the same standards for legal liability as health care providers.

In the last Congress, I introduced a free-standing bill (HR 1749) to correct this glaring inequity. The Patients' Bill of Rights corrects it as well. Our legislation would allow states to determine whether or not a consumer can bring a state cause of action against health plan administrators whose medical decisions result in harm.

There has been much ado about this provision and its potential impact on business. The fact of the matter is that few employers are making medical decisions regarding their employees' health care. And, the bill goes so far as to explicitly protect employers from any liability as long as they are not involved in any medical decision-making.

There has also been much talk that the courts will soon resolve the issue of ERISA preemption. Unfortunately, we are years away from a point when such resolution will be found. Courts across the country are developing very different interpretations of ERISA preemption and, consequently, there is no clear direction from their decisions. This is too important an issue to wait any longer. A legislative solution is warranted.

External Appeals: Guaranteeing consumers access to a strong, independent external appeals process is also one of the best ways to assure the provision of quality care.

Unless there is an outside, independent decision-making body for which consumers can ultimately take their appeals, we will not obtain real consumer protection. Health plans that hold a financial interest in denying care simply cannot be the final arbitrators about whether care will be provided.

The Patients' Bill of Rights calls for health plans to contract with independent external appeals entities certified by the State or the Department of Labor to provide timely analysis of the plan's actions with the help of neutral health care professionals. There are defined timelines in the legislation to ensure that consumers facing serious, time-sensitive health consequences will be able to have their appeals resolved and the appropriate care provided. For example, in the case of urgently needed care, the external appeal entity could take no more than 72 hours to issue a decision.

Disclosure of Consumer Information: Today, consumers have no way of comparing health plans based on easily understood quality criteria. The collection of standardized data and the provision of standardized comparative information is a key component of the Democratic legislation.

As an example of this lack of ability to compare plans, PacifiCare, the largest Medicare HMO contractor and an insurer in the Federal Employees Health Benefits Program, refused to release its NCQA data last year. NCQA data may not be perfect, but it is the only measure out there today by which consumers can compare health plans. PacifiCare should not have been allowed to get away with holding that data confidential.

One of my principal concerns has always been that managed care plans are quick to sign people up and collect monthly premiums, but slow to see a large number of their patients. I think that every health plan should be required, upon enrollment, to conduct an examination of each new enrollee before the health plan can receive any premium dollars.

The strongest argument in support of managed care is that when it is done well—and is truly coordinating the care of patients—it can produce superior health outcomes. The idea of a care coordinator helping a patient through the typical health care maze is a good one. But, how can a managed care plan fulfill that role if the patient is never seen, let alone evaluated?

The Patients' Bill of Rights does not go so far as to require that a plan examine a patient before premiums can be collected. However, it does require that data by presented to consumers on the plan's preventive health care services. In this way, consumers and employers will be able to compare health plans as to how fare the plan really goes toward managing patient's health. This data is available for prospective as well as current plan enrollees.

These are several of the key consumer protection and quality provisions in The Patients' Bill of Rights. I chose to highlight these points because I think they are fundamental components of meaningful managed care reform. But the bill contains many additional important protections.

The Patients' Bill of Rights is the most consumer-oriented managed care reform bill that has been introduced. Instead of protecting providers, it aims to help consumers. It calls for: direct access to OB–GYNs; direct access to specialists for patients with chronic medical conditions; coverage of routine patient costs for approved clinical trials; participation by plan physicians and pharmacists in the development of drug formularies; access to an out-of-plan specialist if no appropriate in-plan specialist is available—at no extra cost to the patient; and the creation of a consumer ombudsman in each state to help consumers make health care choices that meet their needs.

Again, I am pleased to join with my colleagues today to introduce this vitally important legislation. I look forward to working with members in both bodies and on both sides of the aisle—and with the President—to pass federally-enforced, consumer-oriented managed care legislation this year.

* * *

INTRODUCTION OF THE DISTRICT OF COLUMBIA PRISON SAFETY ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Ms. NORTON. Mr. Speaker, on January 6, 1999, I introduced the District of Columbia Prison Safety Act, a bill to assure the safety and well being of District of Columbia and other Federal Bureau of Prisons (BOP) inmates, who may be placed in private prison

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

facilities, as well as the safety of communities where the prisons are to be located. This provision has become necessary as a result of §11201, the 1997 District of Columbia Revitalization Act (P.L. 105–33), which requires that the BOP house in privately contracted facilities at least 2000 D.C. sentenced felons by December 31, 1999 and at least 50% of D.C. felons by September 30, 2003. Under the Revitalization Act, the Lorton Correctional Complex is to be closed by December 31, 2001, and the BOP is to assume full responsibility for the maintenance of the District's inmate population. My bill would give the Director of the BOP the necessary discretion to decide whether to house D.C. inmates in private prison facilities, and if so, when and how many.

The Revitalization Act privatization mandate marks the first time that the BOP has been required to contract for the housing of significant numbers of inmates in private facilities. The extremely short time frames were placed in the statute without any reference to BOP capabilities or the capabilities of private prison vendors. I am introducing this bill because recent events have driven home the necessity for better informed and expert judgment and calculation before decisions to contract out inmate housing are made.

On December 3, 1998, the Corrections Trustee for the District of Columbia released a report on the investigation of problems arising from the placement of D.C. inmates in the Northeast Ohio Correctional Center (NEOCC). This highly critical report documented numerous violent confrontations between guards and inmates, an escape by six inmates, and the killing of two other inmates. The Trustee's report strongly and unequivocally critized virtually all aspects of the operations of the NEOCC.

It should be noted that the company that runs the NEOCC, Corrections Corporation of America (CCA), is the most experienced in the country. However, the industry is a new one with relatively few vendors and few bidders for substantial work. The NEOCC experience is fair warning of what could happen if BOP proceeds on the basis of an automatic mandate in spite of the evidence that has accumulated in Ohio and around the country. The mounting problems have been so troubling that the BOP was forced to revise the original request for proposals (RFP), fearful that similar problems would occur. The bid now requires two separate facilities. The new process uses two RFP, thereby separating low security male inmates from minimum security males, females and young offenders. Furthermore, the RFP for low security inmates now requires the BOP to consider prior performance of the vendors before awarding the contract. However, the new RFPs put the BOP, perhaps hopelessly, behind schedule for the privatization mandated by the Revitalization Act.

The experience of the private sector argues for a much more careful approach than Congress realized at the time the 1997 Revitalization Act was passed. For example, the 50% quota for privatization far exceeds any comparable number of similar inmates currently housed in a private facility from a single jurisdiction.

My provision does not bar privatization, but it could prevent further privatization disasters. BOP may still decide to house the same, or a different number in private facilities. The purpose of this provision is to keep the BOP from believing that it must go over the side of a cliff, avoiding more sensible alternatives, because Congress said so.

BEST OF LUCK TO REV. W.E. SPEARS, JR.

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, Sunday, November 21, 1998, Dallas bid farewell to one of its most notable religious leaders. The Reverend W.E. Spears, Jr., will preach his final sermon as the pastor of Progressive Baptist Church in Dallas.

Mr. Speaker, his departure is important to note because he founded Progressive Baptist Church with his vision, energy, and hard work 52 years ago. Throughout that time, he has provided spiritual guidance, community service, and compassion to several generations of parishioners.

Mr. Speaker, the growth of his church in both numbers of members and services is a direct testimony to his faith and work ethic. When it first began, the church had about 10 members. Today, Progressive Baptist Church boasts a membership of 500.

Under his leadership, Progressive Baptist Church promotes the teachings of Christianity to many families in the Dallas area. In addition, for several decades, Progressive Baptist Church served area school children who could not attend the George W. Carver School because of School district boundaries.

He joined his late wife in opening Spears Mortuary and an ambulance service that provided services despite the family's ability to pay. This brought much-needed services and relief to families amid times of tremendous personal loss.

Mr. Speaker, Reverend Spears is a great example of leading a church in serving its community beyond the pulpit and directly into the community. However, while I join many of my constituents in thanking him for his leadership and service at Progressive Baptist Church, I am happy to say that he will not be removing himself from the community. He does not plan to leave behind his work. Fortunately for our children, he is committed to helping them be productive citizens. As he mentioned, "I'm still making a point of helping young people make citizens out of themselves, and I have pledged myself to working in the community at least 5 days a week."

Mr. Speaker, I am both grateful to Reverend Spears' 52 years of service at Progressive Baptist and his commitment to continue to serve our community. On behalf of my constituents from the 30th Congressional District, I wish him success in his future endeavors.

HONORING SALLY JAMESON

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. HOYER. Mr. Speaker, I rise today to acknowledge the appointment of my good friend, Mrs. Sally Jameson as executive director of the Charles County Chamber of Commerce.

For the past 6 years, Sally has been affiliated with the Charles County Chamber of Commerce; 5 of those years she served the Legislative Committee.

Prior to her appointment, Sally was the director of the Waldorf Jaycee Community Center since it opened in 1992. Today, it has evolved as a focal point for Charles County and is currently undergoing expansion.

Mr. Speaker, she is working with the Charles County public schools on a student exchange with students in Walldorf, Germany, and with the Charles County commissioners on a twin-city establishment between Waldorf, MD and Walldorf, Germany.

Sally is a life-long resident of Charles County and resides in Bryantown with her husband, Gene and two children, Donnie and Michelle.

Mr. Speaker, I am convinced that Sally will be a tremendous asset to the Chamber of Commerce and southern Maryland. I am proud to be her Representative in Congress and I ask you and the remainder of my colleagues to join with me in acknowledging the appointment of this fine American.

THE 40TH ANNIVERSARY OF THE KNOX MINE DISASTER

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. KANJORSKI. Mr. Speaker, I rise today to bring to the attention of my colleagues the fortieth anniversary of an infamous day in Pennsylvania's Eleventh Congressional District, the Knox Mine Disaster. This Sunday, a state historical marker will be unveiled to commemorate the tragedy. I am pleased to have been asked to participate in this event.

January of 1959 brought unseasonably high temperatures and drenching rains to the Wyoming Valley. The Susquehanna River began to surge wildly and reached near flood stage by the evening of January 21. Most area residents were worried about their homes and businesses and gave little thought to the potential disaster underground. Miners at the Knox Coal Company's River Slope mine in Luzerne County had expressed fears for weeks about the conditions at the mine, but their complaints fell on deaf ears. On the morning of January 22, seventy-five miners headed for work in the May Shaft and six miners headed to the River Slope. The six laborers soon summoned a veteran miner to hear the shrill cracking sounds of the ceiling props. As he stepped into the mine to investigate, the roof of the mine gave way and water poured into the mine. The miners scrambled out of the mine to safety and quickly reported the flooding to mine officials who ordered evacuation of all adjoining shafts.

Thirty-three of the miners quickly escaped the churning waters as the river took over the mine, but forty-five men remained trapped below as the river swirled into the breach. Thirty-three miners eventually made their way up an abandoned air shaft located a few hundred feet upriver from the breach. Twelve men remained missing.

Mr. Speaker, hope for these twelve brave miners endured for several days as family members kept vigil on the river bank. Eventually, methane gas began to flow from the mine and the officials had no choice but to end the rescue attempt. Each of the survivors had his story of escape and told the stories of those who did not.

For sixty-four hours after the disaster, the river poured more than two and a half million gallons of water into the shafts each minute. The cave-in allowed more than ten billion gallons of river water to surge underground. For three days, crews pushed, pulled, and hoisted fifty ton railroad cars into the void. They added four hundred one-ton coal cars and at least twenty-five thousand cubic yards of dirt and rocks. Finally, the giant hole was plugged. Pumping began to save the other shafts and search teams were dispatched to look for bodies.

Mr. Speaker, the Knox Mine Disaster was the beginning of the end of anthracite coal mining in Northeastern Pennsylvania. Officials eventually discovered the company had illegally dug beneath the river bed which extended far beyond legal mining boundaries. No proper surveying had been done and although industry standard was thirty-five feet of rock cover, the miners had followed company orders and quarried up to a mere six feet below the river. Knox Coal Company had ignored orders from federal inspectors to cease operations. Several company officials were indicted. Although deep mining continued in the Northeast into the 1970's, the high cost of resulting new safety regulations coupled with declining demand eventually ended deep mining in the northern coal field.

Mr. Speaker, the Knox Mine Disaster is a turning point in the history of Northeastern Pennsylvania. The image of the grieving families huddled along the banks of the river, exhausted survivors climbing out of the earth and huge train cars being heaved into the whirlpool is still fresh in the minds of most of the area's residents. The disaster is commemorated in the local press every year and the Commonwealth of Pennsylvania will dedicate a historical marker this year. I join with the families of both the victims and the survivors of this horrible disaster in commemorating their bravery and remembering their sacrifice.

REFORM OF THE MINING LAW OF 1872

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. RAHALL. Mr. Speaker, today it is my privilege to introduce, once again, comprehensive legislation to reform the Mining Law of 1872. I am pleased to note that the distinguished gentleman from California, GEORGE MILLER, and PETER DEFAZIO of Oregon are joining me in introducing this measure.

Some may view the introduction of this legislation as a exercise in futility. They are those who benefit from the production of valuable hardrock minerals from certain federal lands without payment of either rent or royalty to the American public. They are those who benefit from the hodgepodge of minimal regulation governing the reclamation of these lands and the lack of suitable environmental safeguards to protect the American public. Yet others, others view the introduction of this measure as a ray of hope. They are those who are concerned that in the last year of the 20th Century the United States still actually allows multinational conglomerates to mine gold, silver and copper from our federal lands for free. They are those, countless citizens, who live in the vicinity of these operations, who must contend with maimed landscapes and polluted streams. And all of us must wonder, is this the type of legacy we wish to leave to future generations?

The Mining Law of 1872 today is an anachronism that will not die. Enacted in an era when the policy of the United States was to populate the West partially by making free land and free minerals available to those who would brave an unsettled and wild region, it has resisted substantial reform despite countless attempts to modernize it and make it responsible to more current policies governing the management of our public domain.

The bill we are introducing today is the very same which passed the House of Representatives by a three-to-one margin during the 103rd Congress. Reintroduced during the 104th and 105th Congresses, it was held hostage by the Resources Committee. Even under A Republican majority, I remain convinced that if allowed to proceed to the House floor, this bill or something similar to it would pass the full House of Representatives.

The issue of insuring a fair return to the public in exchange for the disposition of public resources, and the issue of properly managing our public domain lands, is neither Republican or Democrat. It is simply one that makes sense it we are to be good stewards of the public domain and meet our responsibilities to the American people. This means that the Mining law of 1872 must be reformed.

A TRIBUTE TO JAMES W. HOLLAND

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. VISCLOSKY. Mr. Speaker, it gives me great pleasure to pay tribute to an outstanding citizen of Indiana's First Congressional District, James W. Holland. On Saturday, January 16, 1999, Mr. Holland, along with his friends and family, will celebrate his retirement and honor his five decades of public service. The celebration will take place at Marquette-on-the-Lagoon in Gary, Indiana.

In 1943, James Holland graduated from Rock Island High School in Illinois. After earning a Bachelor of Science degree in Education from Northwestern University in 1950, he continued his education at Valparaiso University, completing a Master's degree in Liberal Studies. From 1951 through 1968, he taught twelfth grade Government and Economics in Gary. In 1968, Mr. Holland became the executive for the City of Gary Model Cities Program. Subsequently, as Principal Associate of Jacobs Company, he authored administrative manuals that became the national standard for the Model Cities Program. Mr. Holland devised and established basic Model Cities structures for 15 cities, which led to lengthy on-site consultancies in major United States cities. In 1980, he was one of twenty Fellows selected annually from hundreds of nominees to attend the Harvard University Fellow Program for Senior Executives. Additionally, he served as Deputy Mayor of the City of Gary from 1976 through 1988. As Deputy Mayor, he supervised 38 department heads and administered an over $40 million annual budget, as well as over $100 million in federal programs.

Mr. Holland has dedicated a substantial portion of his life to the betterment of Northwest Indiana, especially the transportation systems of Gary, Indiana.

After 10 years of dedicated service, Mr. Holland is retiring as President of Gary Intercity Lines and General Manager of the Gary Public Transportation Corporation. Under his management, Gary Public Transportation Corporation has won numerous safety awards and other awards from the Indiana Transit Association and the American Public Transportation Association. Additionally, Mr. Holland has served on numerous transportation committees. Mr. Holland was Chairman of the Northwest Indiana Regional Planning Commission, as well as a past member of the Executive Board of the Northwest Indiana General Assembly Study Commission on State Transportation.

On this special day, I offer my heartfelt congratulations. Mr. Holland's large circle of family and friends can be proud of the contributions this prominent individual has made. His exceptional work in the transportation sector of Northwest Indiana will be greatly missed. Fortunately, the community as a whole will continue to profit from his unselfish involvement to make Northwest Indiana a better place in which to live and work. I sincerely wish him a long, happy, healthy and productive retirement.

HONORING THE FIELDING INSTITUTE

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mrs. CAPPS. Mr. Speaker, I rise to pay tribute to the Fielding Institute.

The Fielding Institute has been a leader in distance learning for mid-career professionals since it was founded in Santa Barbara, California in 1974.

With the development of a revolutionary "Learning Community" concept that provides lifetime learning opportunities for its scholars, the Fielding Institute has maintained its leadership in the field.

The Institute has built an outstanding reputation for its graduate programs, including doctoral programs in Clinical Psychology, Human and Organizational Development and Educational Leadership and Change and a masters program in Organizational Design and Effectiveness.

Their approach offers highly effective, customized, professionally rich and interactive learning processes, along with significant possibilities for learning created by emerging electronic technologies.

In providing a graduate learning experience using technology that is uniquely tailored to the professional and personal needs of adult learners, the Fielding Institute has been at the forefront of the distance learning movement.

And so Mr. Speaker, I would like to commend the Fielding Institute. They have provided 25 years of service and outstanding graduate learning opportunities to the scholars of California, the United States and the world.

TRIBUTE TO THE AMERICAN HONDA MOTOR CORPORATION

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to the American Honda Motor Corporation and Mr. Eric Conn, Senior Vice President, for establishing the "Honda Player of the Year Award."

This is the eighth year that American Honda has recognized the most outstanding professional soccer player in the United States to defend the colors of our country as chosen by 200 members of the press from the United States and abroad.

In addition, American Honda, recognizing the importance of our youth, designated the American Youth Soccer Organization (AYSO), as a beneficiary of their fine program.

Past recipients of this most prestigious award include: Eddie Pope (1997), Eric Wynalda (1996 and 1992), Alexi Lalas (1995), Marcelo Balboa (1994), Thomas Dooley (1993), and Hugo Perez (1991).

The 1998 awards finalists included Kasey Keller, Eddie Pope, and Cobi Jones.

The winner received a New Honda Accord EX and $5,000, the latter donated to AYSO on his behalf.

It is because of the awareness and dedication of responsible corporate entities in our country, exemplified by the American Honda Motor Corporation, that today's true role models can become more well known.

Please join me in saluting the very important contribution to excellence made by American Honda.

ON ENTERING A LETTER TO THE HONORABLE DAVID DREIER ABOUT THE DELEGATE VOTE

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Ms. NORTON. Mr. Speaker, today I rise to correct an erroneous statement by my good friend and colleague from California, concerning the constitutionality of the Delegate vote in the Committee of the Whole. On January 6, 1999, the gentleman from California, Mr. DREIER, made the remark concerning the Delegate vote in response to my statement on withdrawal of my right to vote in the Committee of the Whole, despite the fact that D.C. residents alone among American citizens pay federal income taxes while lacking full representation in the Congress. He said that a federal court had settled the constitutionality of the Delegate vote against the District. As my letter points out, the opposite is in fact the case. Both the District Court and the Court of Appeals for the District of Columbia have ruled that the Delegate vote is constitutional. The text of the letter follows:

January 7, 1999.

Hon. DAVID DREIER
Member, U.S. House of Representatives, Cannon H.O.B., Washington, DC.

DEAR DAVE: I am writing to point out an error in your statement on the House Floor, as recorded in today's CONGRESSIONAL RECORD that "in 1993 a Federal judge found a House rule change to allow Delegate voting in the Committee of the Whole could be unconstitutional, so that clearly was addressed at that time." I did not realize that you were unaware that the opposite is the case. Both the U.S. District Court and the U.S. Court of Appeals for the District of Columbia found that Delegate voting is constitutional. In *Michel* v. *Anderson*, 817 F.Supp. 126 (D.D.C. 1993), and subsequently on appeal in *Michel* v. *Anderson*, 14 F.3d 623 (D.C.Cir. 1994) the courts that heard the case found that the House is the sole arbiter of its own rules and that it could amend its rules to allow Delegate voting. I assure you that I would have never have been so reckless as to take to the floor and argue for something already declared unconstitutional by the courts.

Delegate voting was originally applicable to all Delegates and included jurisdictions whose residents do not pay federal income taxes. After the vote was withdrawn, several Members, including some on your side, indicated they would support the vote in the Committee of the Whole for District residents because of our federal income taxpaying status. Given the fact that there must be a revote if the Delegate vote proves decisive in the Committee of the Whole, it seems needlessly punitive for a Congress that regards taxes as a priority, to deny this vote, harmless to your side, to Americans who are third per capita in federal income taxes. If, as I believe, the constitutional matter has been cleared up, I hope that you will have occasion to reconsider the Committee of the Whole vote for the District residents.

Best personal regards.
Sincerely,
ELEANOR HOLMES NORTON.

CONGRATULATIONS TO MS. RUTH COLLINS

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I stand to congratulate Ms. Ruth Collins Sharp Altshuler, national recipient of the Outstanding Philanthropist Award for 1998. The third Dallasite to win the award, she will receive this honor from the National Society of Fund Raising Executives at its 36th International Conference on Fundraising, April 26 in Miami Beach.

Mr. Speaker, the award is one of meritorious commendation of an individual's commitment and work in philanthropy and fund raising on the behalf of notable causes that help others. Before Mrs. Altshuler, Ross Perot and Cecil H. Green, cofounder of Texas Instruments, were recipients of the award in 1986 and 1994, respectively. Based on her work, she is both deserving of the award and to be noted in such esteemed company.

She is the founder of the local Alexis de Tocqueville Society, whose members nationally give $10,000 or more to the efforts of the United Way each year.

She has contributed countless time and energy to the Salvation Army, particularly the Carr P. Collins Social Service Center, named in honor of her father. At the Carr P. Collins Social Service Center, many homeless families have access to shelter, food, and rehabilitation programs.

Mr. Speaker, Mrs. Altshuler is also known for leading the cause of advocacy and understanding on issues of mental illness and mental illness research. She has been able to make individuals more aware of this issue through her ability and courage in sharing her own family experience. Where many families are naturally apprehensive to talk about the subject, she is discussing this issue in a frank and open manner. As a result, many people look at the issue in a different framework, and are feeling positive about developing solutions to mental illness.

Mr. Speaker, once again, I would like to pay tribute to Ruth Collins Sharp Altshuler and her being named as the national recipient of the Outstanding Philanthropist Award for 1998. I thank her for her efforts and wish her continued success.

IN MEMORY OF MEGHAN ELIZABETH PRICE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. HOYER. Mr. Speaker, I rise today in memory of Meghan Elizabeth Price, who was the President of the Student Government Association at the University of Maryland, College Park. Meghan tragically died in a car accident on December 29, 1998. She was a senior Government & Politics major and was preparing to attend law school in the fall. She is survived by her parents, Karlyn "Susan" Price and John "Sonny" Price, as well as her brother Jonathan.

Meghan was a respected student leader in College Park. She served in many leadership positions on campus. Prior to her election as President in October, she held the positions of Vice-President of Campus Affairs, Legislative Director, and the Cambridge Community Legislator for the Student Government Association. While she was the Vice-President of Campus Affairs she helped to found the Flagship Initiative, which is a student initiated effort to lobby the General Assembly for increased funding for the University of Maryland, College Park. She also worked closely with University of Maryland Officials, including the President and the Athletic Director, to improve the quality of life for all of the members of the University of Maryland community.

Meghan's activism began before she arrived in College Park and extended beyond just the College Park community. She attended Southern Garrett High School where she was a member of the Student Council for four years and was the President her senior year. She was also the Drum Major of the Marching Band, and a four-year member of the softball team. In addition she interned at EMILY's List and volunteered on my re-election campaign.

Meghan was a member of Omicron Delta Kappa Fraternity and a graduate of the College Park Scholars Public Leaders Program. She participated in the Blind Skiers Program at Wisp and the annual University of Maryland Holocaust Memorial Vigil.

It is regrettable the such a young, motivated and inspirational leader is lost so early in life. Meghan touched so many people in her short time with us and set an example that will shine forth for all to see, even in her absence.

I join with the University of Maryland community in expressing my sorrow in the loss of a visionary leader and an admired human being. May God bless those she left behind.

IN HONOR OF MONSIGNOR MASAKOWSKI

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. KANJORSKI. Mr. Speaker, I rise today to bring a momentous occasion to the attention of my colleagues—the Centennial Celebration of the St. John the Baptist Church in Larksville, Pennsylvania. On Sunday, January 24, the community will gather to commemorate this anniversary and I am pleased to have been asked to participate. His Excellency, the Most Reverend James C. Timlin, D.D. of the Archdiocese of Scranton will celebrate a Mass of Thanksgiving to begin the festivities.

The church was founded by a group of Polish immigrants, mostly peasant farmers from Galicia, who settled in the Wyoming Valley to work in the coal mines. Toward the end of 1898, a group who had been attending another local church, decided to construct a Polish Roman Catholic Church in Larksville. They formed a committee to meet with the Bishop and obtained permission to begin construction. A wooden frame church was completed in December 1898 with Reverend R.A. Nowicki as Pastor. The church was officially dedicated in February 1899.

A school and parish meeting hall were constructed soon after and the parish continued to grow. On December 18, 1919 tragedy struck the parish when fire destroyed the church, school, and part of the rectory. The sturdy immigrant parish was not to be discouraged and quickly began the task of rebuilding.

Under the leadership of Reverend Paul A. Kopicki, construction of a new St. John the Baptist Church began in May of 1920. On December 25, 1920, the new church was dedicated at midnight mass.

The new church was reborn spiritually as well, with Father Kopicki starting the parish picnic, minstrel shows, and children's talent shows. A choir was formed under the leadership of Benjamin Jachimowicz. By 1928, the church had a new rectory and by 1935, a new school was opened. The school, which was run by Bernadine nuns, closed in 1959 due to a shortage of teachers and lack of space.

Mr. Speaker, the list of priests who have been spiritual leaders of St. John's is lengthy. On September 7, 1971, my good friend Father John Masakowski became the twelfth pastor of the church. Father John is from my hometown of Nanticoke and brought years of experience and wisdom to St. John's. Father Masakowski reinstated the now-famous parish picnic and renovated the interior of the church. He reorganized the church societies and had a grotto constructed to Our Lady of the Pines in the church park. In 1990, Father John was made Monsignor, much to the pride of his faithful parishioners. This year, they will celebrate his Golden anniversary of ordination.

Mr. Speaker, I have enjoyed the parish picnic at St. John's many times over the years of my tenure in Congress. Its parishioners are decent, hardworking people, many of whom I am proud to call friends. I am pleased to have this opportunity to bring the history of this proud and thriving parish to the attention of my colleagues. The history of the church is a testament to their dedication and perseverance. I congratulate Monsignor Masakowski and the congregation on this momentous milestone.

IT IS TIME TO CHANGE THE STATUS OF PERSIAN GULF EVACUEES

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. RAHALL. Mr. Speaker, two years ago, during the 105th Congress, I considered it a duty to introduce private relief legislation on behalf of 62 families who were air-lifted out of Kuwait during Iraq's invasion of that country. These families were brought out of Kuwait involuntarily, most without the opportunity to bring private belongings or assets with them. nearly all have children who are U.S. citizens. As indicated by their having been cleared by the INS and the FBI, the Persian Gulf Evacuees [PGE's] are shown to be professionals who are gainfully employed, none of whom have become wards of the States in which they live, received welfare assistance, or otherwise broken any U.S. laws while in the United States.

Because of their actions in Kuwait at great risk to themselves, to provide safe harbors of Americans trapped that country during Saddam Hussein's attack, these Persian Gulf evacuees deserve our utmost respect and gratitude.

I urge my colleagues to take note of this private relief bill, because the Persian Gulf evacuee families are scattered all over the United States, and one or more families may live in your Congressional District, and they need your support to help get the bill out of committee and enacted into law.

President George Bush, in air-lifting them out of Kuwait during those perilous days just prior to U.S. Military intervention, did so to protect their lives. He gave the evacuees five years of "safe harbor" in the United States during which time the evacuees made every effort to adjust their status to that of permanent immigrant. After President Bush left office, President Clinton extended their stay here for an additional two years.

At the time of the air-lift, more than 2,000 individuals were involved; during the intervening years, all but 62 individuals and families have "adjusted" their status and have gained permanent immigrant status in the United States where, as I have said, they are self-supporting and have brought no financial burden upon the United States for their care and keeping.

These 62 remaining individuals and families have not had their status adjusted in the intervening years because many of them ran into barriers between themselves and the Immigration and Naturalization Service [INS] that kept appropriate interviews from being conducted with the evacuees and further kept the FBI from starting and completing necessary background checks on the evacuees to assure they had committed no crimes while in the United States.

Today, I have reintroduced a Private Relief Bill naming 62 individuals and families who are known as Persian Gulf evacuees [PGE's] and I urge my colleagues to join with me to serve those evacuees who may live in your Congressional District to ensure appropriate action is taken this year to grant them permanent immigrant status in the United States.

IN HONOR OF JUDGE MARILYN MORGAN

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Ms. LOFGREN. Mr. Speaker, I rise to honor a true humanitarian and an outstanding member of my hometown community of San Jose, California.

Judge Marilyn Morgan has served on the United States Bankruptcy Court with honor and distinction for over ten years. To acknowledge her exemplary service on the bench, as well as her prior service as an attorney and trustee, the consumer bankruptcy community of Division 5 of the Northern District of California is honoring Judge Morgan with the Fresh Start Award. This honor is given to those who have provided outstanding leadership on issues concerning the bankruptcy system and those who strive to improve it. The Fresh Start award also honors those who have worked hard to maintain equity, integrity, fairness and compassion in the system. Judge Morgan is a shining example of the best in our judicial system.

Judge Morgan demonstrated her commitment to fairness and justice even before pursuing her career in the field of law by working in the civil rights movement in Atlanta with (now Congressman) John Lewis and others.

Prior to serving on the bench, Judge Morgan practiced law in San Jose, and was always mindful of the needs of our community. She provided pro-bono legal assistance to underserved members of our community and served as secretary of the Pro-Bono Project. Judge Morgan represented both debtors and creditors in chapter 7 and chapter 13 cases. She also found time to serve as a Chapter 7 trustee, and in that capacity was a founder and officer of the National Association of Bankruptcy Trustees (NABT).

As an expert on bankruptcy law, Judge Morgan has participated as a panelist or moderator at seminars conducted by groups such as the Norton Institute, the American Law Institute-American Bar Association, and the National Association of Consumer Bankruptcy Attorneys. She also served as a panelist before the National Bankruptcy Review Commission as it studied the need for bankruptcy reform.

While practicing law, Marilyn Morgan participated in the activities of several professional associations, serving as President and Treasurer of the Santa Clara County Bar Association and as a trustee of the Santa Clara County Law Related Education Committee, to name a few. She is an active member of the National Conference of Bankruptcy Judges. In addition, she has been an officer or director of many community organizations in San Jose, including the Rotary Club of San Jose, the American Red Cross and the Downtown YMCA.

Judge Morgan has shown leadership on many issues of concern to the bankruptcy community in San Jose. She was instrumental in the creation of the Chapter 13 subcommittee which has provided a valuable forum for communications between the Bench and the Bar, as well as a vehicle to elevate the practice of law.

On January 14, 1999, Judge Morgan received the Fresh Start Award. I ask my colleagues to join me in congratulating Judge Morgan for receiving such a special award. She is to be commended for her efforts to improve the consumer bankruptcy system in her community

SENATE—*Wednesday, January 20, 1999*

The Senate met at 11:01 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, our hearts are filled with praise. You have chosen to be our God and chosen each of us to know You. The most important election of life is Your divine election of each of us to know You and serve You. Thank You that we live in a land in which we have the freedom to enjoy living out this awesome calling. We are grateful for our heritage as "one Nation under God."

We praise You for Your love that embraces us and gives us security, Your joy that uplifts us and gives us resiliency, Your peace that floods our hearts and gives us serenity, Your Spirit that fills us and gives us strength and endurance.

Help us to realize that it is by Your permission that we breathe our next breath and by Your grace that we are privileged to use all the gifts of intellect and judgment that You provide. Give the Senators a perfect blend of humility and hope so that they will know that You have given them all that they have and are and have chosen to bless them this day. May their service be an expression of their gratitude. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. VOINOVICH. Mr. President, this morning the Senate will begin a period of morning business until 1 p.m. Following morning business, the Senate will resume consideration of the articles of impeachment. It is the majority leader's hope that today's presentation by the White House can be concluded by early evening so that Members may attend the lecture series which begins at 6 p.m. That lecture series will be in the Old Senate Chamber. The guest speaker this evening will be former President George Bush. I remind all Senators that upon recessing this evening, the Senate will reconvene on Thursday at 1 p.m. to resume consideration of the articles.

I thank my colleagues for their attention.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until the hour of 1 p.m., with 60 minutes under the control of the Democratic leader and 60 minutes under the control of the Senator from Georgia, Mr. COVERDELL, or his designee.

MEASURES PLACED ON THE CALENDAR—S. 40, S. 41, S. 42, S. 43, S. 44, S. 45, and S. 46.

Mr. VOINOVICH. Mr. President, Senator HELMS has seven bills at the desk that are due for their second reading, and I now ask unanimous consent that they be considered as read a second time and placed on the calendar en bloc.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MEASURE READ FOR THE FIRST TIME—S. 254

Mr. VOINOVICH. I understand that S. 254, introduced by Senator HATCH and others, is at the desk, and I ask that it be read for the first time.

The PRESIDENT pro tempore. The clerk will read.

The assistant legislative clerk read as follows:

> A bill (S. 254) to reduce violent juvenile crime, promote accountability by and rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes.

Mr. VOINOVICH. I would now ask for its second reading.

Mr. NICKLES. I object.

The PRESIDENT pro tempore. Objection is heard.

PROVIDING FOR AN ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. VOINOVICH. I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 11 which was received from the House.

The PRESIDENT pro tempore. The clerk will read.

The assistant legislative clerk read as follows:.

> A concurrent resolution (H. Con. Res. 11) providing for an adjournment of the House.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. VOINOVICH. I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 11) was agreed to.

Mr. WELLSTONE addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I defer to my colleague from Illinois, Senator DURBIN, but I ask unanimous consent that Senator HARKIN and I be allowed to follow Senator DURBIN in speaking order.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Illinois.

RETIREMENT OF MICHAEL JORDAN

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 23 now at the desk.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 23) congratulating Michael Jordan on the announcement of his retirement from the Chicago Bulls and the National Basketball Association.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, it is, indeed, fitting that Senate Resolution 23 in this 106th Congress be dedicated to a man who immortalized the No. 23 as a player for the Chicago Bulls.

I rise today to pay tribute to a man who is a true legend both on and off the hardwood. Michael Jordan may have retired last week from the Chicago Bulls and professional basketball, but he is anything but retired. He may well be remembered as the greatest basketball player of all time, but as long as boys and girls and men and women play this uniquely American game, they can also remember a great legacy beyond sports. We all owe Michael Jordan a special tribute, not only for his excellence at the game and his practiced skills on the basketball court but as a decent human being. Michael Jordan is an outstanding citizen of his community, the city of Chicago, the State of Illinois, his native North Carolina, but also of America and the world.

It is often asked in many polls across the Earth: Who is the most popular man, the most well-known man? And it seems, now that the results are in—and not surprising—it is a basketball player from Chicago, No. 23, Michael Jordan.

Those who have not traveled around the world may find that hard to believe, but my own limited personal experience can tell you it is the case. I can recall in the streets of Shanghai, in China, when my wife and I were walking along and saw a little boy with a Chicago Bulls baseball cap on, and we went up to this little boy, who did not speak English, and I leaned over to him —he was about 9 years old—and I said, "Michael Jordan," he looked back at me and he said, "Scottie 'Peepin'."

A friend of mine was traveling on the Trans-Siberian Railroad across Mongolia. He was seated there for a while, and two native Mongolians came in and sat down, and after they had been on the train several hours, one of them looked at him and said, "Michael Jordan."

When I visited Portugal a few years ago, in the streets of Lisbon the kids were wearing Chicago Bulls gear and talking about Michael Jordan. In Budapest, in Hungary, at the little flea markets on the square you will find these nestling dolls—the wooden dolls that we traditionally associate with Russian culture—are now being made with Michael Jordan on the outside and the entire Chicago Bulls teams on the inside. Isn't it amazing that this one man has now become so well known and so popular around the world.

Well, he is a gifted man, gifted as few individuals have ever been, and more significantly, he has not squandered those gifts. He continues to contribute to our communities through his support for the James R. Jordan Boys and Girls Club, named after his father, the Jordan Institute for Families at the University of North Carolina at Chapel Hill, and the Ronald McDonald Houses of Greenville, Chapel Hill, Durham and Winston-Salem. For the families of seriously ill children who are being treated at nearby hospitals, Michael Jordan's charity makes a real difference.

To have seen him perform on a basketball court is to have witnessed a talent that has been fashioned out of years of dedication, planning, practice, conditioning, mental discipline, will and spirit. As the greatest individual basketball player, he leaves his sport as the supreme team player. Michael Jordan defined the 1990s. He gained eternal fame as the greatest leader and ultimate team player in a team sport: six NBA championships in 8 years. He was so magnificent he continued to top the statistical lists, yet made everyone around him better, as individuals and components of a team.

I can recall that when my son was in college and we went to our first Bulls game, you had the feeling, years ago, that at any moment in that game Michael Jordan would take control; no matter what the score was, he would be in control. The Bulls won their first NBA title in 1991, added two more in a row before Michael Jordan's premature retirement to follow another dream.

He tried baseball but returned 2 years later. I was at his first comeback game. He was still good, but rusty, and a lot of men might have been discouraged by that and decide to walk away. He did not. He rededicated himself to his skills, honed them, developed a new fade-away shot, and led the NBA in statistics as well as MVP, taking the Bulls to the championship again. Defying conventional wisdom, Jordan and the Bulls picked up where they left off in 1993. With a new set of teammates, including the remarkable Scottie Pippen, whom we will miss in Chicago, a rejuvenated Jordan played the best basketball of his life, and the Bulls registered the best league record in history with 72 regular season games and a world championship in 1996. They added another title in 1997, and completed the double three-peat last June, 1998—six titles in 8 years in two clusters of three. The unifying link? Michael Jordan.

Time was running out and the Bulls were trailing the Utah Jazz by a point when Jordan stole the ball from Karl Malone, dribbled up court, and with everyone in the world knowing what he was going to do, answered with a perfect swish—all net—on the last shot of the last game of his career to win the Bulls' sixth NBA title. Jordan was named the most valuable player in the playoffs again. In all six Bulls' championships the most valuable player each time was Michael Jordan. He has done his work well, always with dignity, always with class, and always with dedication.

He takes care of his own family. He has now said that he is going to dedicate his life to carpooling—I have to see that. He has dedicated himself to his teammates and friends and to the communities that he lives in.

Mr. President, on behalf of the citizens of my home State of Illinois and on behalf of my colleague in the U.S. Senate, Senator PETER FITZGERALD—who truly makes this a bipartisan effort—and for fans throughout America and the world, I am proud to offer S. Res. 23, honoring Michael Jordan for his incredible accomplishments both on and off the court.

Mr. FITZGERALD. Mr. President, I rise today to join with Senator DICK DURBIN, my distinguished colleague from Illinois, in introducing S. Res. 23, commending Michael Jordan on his retirement from the Chicago Bulls and the National Basketball Association.

For thirteen years, Michael Jordan has entertained the people of Chicago with his performance on the basketball court. The six championships he brought to Chicago have been a great source of pride and unity for the citizens of Illinois. His accomplishments are many, including ten scoring titles, five Most Valuable Player awards, and twelve All-Star Game appearances. He was also the first player to win the MVP and Defensive Player of the Year awards in the same year, which he did in 1988. In addition, he was named the NBA's Rookie of the Year in the 1984-85 season.

I offer my congratulations to Michael Jordan on all of his accomplishments, and wish him the best of luck in his future endeavors.

I thank the Senate for its swift passage of this resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc and the motion to reconsider be laid upon the table without intervening action.

The PRESIDING OFFICER (Mr. VOINOVICH). Without objection, it is so ordered.

The resolution (S. Res. 23) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 23

Whereas Michael Jeffrey Jordan has announced his retirement from basketball after 13 seasons with the Chicago Bulls;

Whereas Michael Jordan helped make the long, hard winters bearable for millions of Chicagoans by leading the Chicago Bulls to 6 National Basketball Association Championships during the past 8 years, earning 5 NBA Most Valuable Player awards, and winning 10 NBA scoring titles;

Whereas Michael Jordan and his Olympic teammates thrilled basketball fans around the world by winning gold medals at the 1984 and 1992 Olympic Games;

Whereas Michael Jordan has demonstrated an unsurpassed level of professionalism during his athletic career and has served as a role model to millions of American children by demonstrating the qualities that mark a true champion: hard work, grace, determination, and commitment to excellence;

Whereas Michael Jordan taught us to have the courage to follow our dreams by striving to play baseball for the Chicago White Sox;

Whereas Michael Jordan demonstrated the importance of pursuing an education by earning a bachelor of arts degree from the University of North Carolina at Chapel Hill;

Whereas Michael Jordan continues to contribute to our communities through his support for the James R. Jordan Boys & Girls Club and Family Life Center in Chicago, the Jordan Institute for Families at his alma mater, and the Ronald McDonald Houses of Greenville, Chapel Hill, Durham, and Winston-Salem, North Carolina, for families of seriously ill children who are being treated at nearby hospitals; and

Whereas Michael Jordan will take on new challenges in his life with the same passion and determination that made him the greatest basketball player ever to have lived: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Michael Jordan on his retirement from the Chicago Bulls and professional basketball; and

(2) expresses its wishes that Michael Jordan enjoy his life after basketball with his wife, Juanita, and their 3 children, Jeffrey, Marcus, and Jasmine.

THE PRESIDENT'S STATE OF THE UNION ADDRESS

Mr. DURBIN. Mr. President, let me speak briefly, because I see the Senators from Iowa and Minnesota are here. Let me say, about the President's State of the Union Address last night, we are very proud of the fact that the Democratic leadership in the House and the Senate offered a battery of legislation supporting the President's goals. I was heartened by the fact that the President lifted our eyes from the drudgery of our Senate trial and spoke again to the many issues which really have brought us to Congress in an effort to try to improve the lives of Americans and American families.

The President has taken a fiscally responsible approach by suggesting, for example, that as we stabilize Social Security we do not run up greater deficits. He is pledging a percentage of the future surpluses to stabilize and protect Social Security. That is a responsible approach and one which future generations will certainly applaud. He has made a similar commitment to the Medicare system, saying that some 15 or 16 percent of the surplus will be dedicated to make certain that it is solvent through the year 2020.

I was heartened by two other things that the President suggested. At the turn of this century, as we embarked upon the 20th century, America distinguished itself and the world as a nation dedicated to public education. We became a nation of high school students, and during a span of some 20 years on average a new high school was built once every day in America. We democratized education, we created opportunity, and we created the American century.

Will we do it again for the 21st century? President Clinton challenged us last night as a Congress to come together, Republicans and Democrats, dedicated to public education. I think we could and should do that. I am happy that he has shown leadership again in this important field.

And finally, and this is on a personal note, for more than 10 years in Congress I have joined with many of my colleagues, including the Senator from Iowa, Senator HARKIN, and Senator WELLSTONE from Minnesota, Senator LAUTENBERG from New Jersey, and so many others in our battle against the tobacco industry. We believe it is nothing short of disgraceful that we continue to have more and more of our adolescents in America addicted to this deadly product. The Senate dropped the ball last year. We had a chance to pass meaningful legislation to protect our kids, but a partisan minority stopped the debate. The tobacco lobby won.

Now I hope that we can reverse that on the floor of the Senate and the floor of the House of Representatives. But if we cannot, President Clinton said last night we will join, as some 42 other States have, in court, suing the tobacco companies as a Federal Government for the costs that American taxpayers have incurred because of their deadly product.

I salute the President for doing that. I applaud him for his leadership, again, in this field of issues that is fraught with political danger. I believe that his speech last night gave us some hope that we can move forward, even if Congress fails to do the right thing and protect our children.

We stand at an important crossroads. There is no inherent reason why the change in calendar from 1999 to 2000 should matter. Some say it is just another year. But we humans find significance in that event, and the question is whether the 106th Congress, which will bridge the centuries, will be a Congress that will be remembered as a productive Congress that came together on a bipartisan basis to help Americans, not only today, but in generations to come.

We have to continue to ask ourselves why we are here, how we can make America a better place, and the President's State of the Union Address gave us the direction.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa.

OPEN SENATE DELIBERATIONS

Mr. HARKIN. Mr. President, I take the floor today with my colleague and friend from Minnesota, Senator WELLSTONE, to speak about an issue that is going to be coming up here in the next several days that is going to have an importance to all of the American people and, indeed, to future generations. That is the issue of whether or not the Senate, in its deliberations on the impeachment of President Clinton, will do it in secret or will do it in public; will do it behind closed doors, behind a curtain of secrecy, or do it openly so that the American people know what we are doing. I want to take just a few minutes to lay out the case for why I believe it should be open.

Last week, Mr. President, I raised an objection during the trial to the continued use of the word "jurors," as it pertains to Senators sitting in a Court of Impeachment. I did that for a number of reasons, because we are not jurors. We are more than that. We are not just simply triers of fact. We are not just simply finders of law. But sitting as a Court of Impeachment, we have a broad mandate, an expansive role to play. We have to take everything into account, everything from facts—yes, we have to take facts into account—we have to take law into account, but we also have to take into account a broad variety of things: how the case got here; what it is about; how important it is; how important is this piece of evidence weighed against that; what is the public will; how do the people feel about this; what will happen to the public good if one course of action is taken over another. These are all things we have to weigh, and that is why I felt strongly that Senators, in our own minds and in the public minds, should not be put in the box of simply being a juror.

One other aspect of that is if, in fact, we are jurors, the argument went, then juries deliberate in secret and, therefore, if we are a jury, we should deliberate in secret. Now that we know we are not jurors, I believe that argument has gone away. I believe that we are, in fact, mandated by the Constitution to be more than that.

I quote from an article that appeared in the Chicago Tribune by Professor Steven Lubet—he is a professor of law at Northwestern University—in which he pointed out that the Constitution does not allow us the luxury of being simply jurors. We have to decide; we have to judge.

Mr. President, I ask unanimous consent that Mr. Lubet's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Jan. 13, 1999]

STOP CALLING THEM JURORS

(By Steven Lubet)

Some day soon, the actual impeachment trial of William Jefferson Clinton will begin, with 100 United States senators sitting in judgment. The senators, in anticipation of the event, keep referring to themselves as a jury. On a recent edition of "Larry King Live," for example, no fewer than six of them (three Republicans and three Democrats) virtually chanted the mantra that it was their duty to act as "impartial jurors." It is tempting to agree.

After all, they have been sworn to do justice, they are going to consider evidence and the resulting verdict must be either conviction or acquittal.

But in fact, the senators are not jurors, and the repeated use of that term is dangerously misleading.

In an ordinarily trial, the decision-making responsibility is divided between judge and jury. The judge makes rulings of law, while the jury's function is severely limited to determination of facts. In other words, the jury only decides "what happened" while the judge decides almost everything else. That is not the case with impeachment. Article I of the Constitution confers on the Senate the "sole power to try all impeachments." That power is comprehensive—including law, facts and procedure—and it is to be exercised in its entirety by the Senate itself.

(It is true that the chief justice is called upon to "preside" over presidential impeachments, but only because the vice president—who is ordinarily the Senate's presiding officer—is disqualified by an obvious conflict of interest. The chief justice does not sit as a judge in any ordinary sense, but more as a moderator or chair. He holds no binding legal or decisional power.)

And if there were any doubt, Article III of the Constitution actually makes this explicit, providing that "the trial of all crimes, except in cases of impeachment, shall be by jury." So, what are the senators, if not jurors? In fact, they are all judges, or if you prefer, members of the court of impeachment, each one delegated full power to decide every issue involved in the case.

This distinction is crucial. President Clinton's most fervent detractors have argued that the House of Representatives, in exercise of its own constitutional power, has conclusively determined the "impeachability" of the alleged offenses, leaving the senatorial jury the limited task of deciding whether the charges are true. But that is wrong. The Senate's role is not at all confined to the ascertainment of facts. Under the Constitution, the senators need not—they may not—defer to the House of Representatives on the critical question of "impeachability."

Thus, the Senators must decide not only whether Clinton lied to the grand jury, but also whether so-called "perjury about sex" constitutes a high crime or misdemeanor of sufficient gravity to justify removing this president from office.

It is easy to understand why a senator would want to be a juror. The persona is so engaging: modest, contemplative, nearly anonymous—the humble citizen called to civic duty. But the constant references to senators-as-jurors can only serve to diminish their role and distract them from the expansive nature of their duty. It is not their job, as it would be a jury's, simply to decide some facts and then move on. The Constitution does not allow them that luxury.

The senators are not determining just one case; their concern must be far greater than the fate of a single man. Rather, they are setting a legal and political precedent that may well guide our Republic for the next 130 years. Future generations will look back upon this Senate for direction whenever potential impeachments arise. Our descendants will not want to know only what happened, but also what principles govern the removal of the president. And so, the senators cannot merely decide—they have to judge.

Mr. HARKIN. Mr. President, a couple of other things regarding openness. The hallmark of our Republic and of our system of government is openness and transparency. The history of this Senate has been one of opening the doors. The first three sessions of the U.S. Senate were held in secret behind closed doors, the whole sessions. Up until 1929, all nominations and treaties were debated behind closed doors. In 1972, 40 percent of all the committee meetings were done behind closed doors. In fact, up until 1975, many conference committees, and still committee meetings, were held behind closed doors.

We have washed all that away. We have found through the years that the best political disinfectant is sunshine. I believe we are a better Senate, a better Congress and a better country for opening the doors and letting people see what we do and how we reach the decisions we reach.

Mr. President, there has been a spate of editorials recently regarding opening up the trial. I quote from one from the Washington Post dated January 14. It says:

> It seems only right . . . that the Senate should be expected to debate in public any charge for which it is demanding of the president a public accounting.
>
> This is not to prevent senators from caucusing in private or even meeting unofficially, as senators did last week in crafting the procedural compromise that will govern the trial. Confidential contacts of this sort can certainly be constructive. But when the Senate meets as the Senate and considers arguments in its official trial proceedings, it should not do so behind closed doors. Absent the most unusual of circumstances, it should conduct its deliberations openly, thereby ensuring that the final adjudication of Mr. Clinton's case is as transparently accountable as possible.

The New York Times basically said the same thing. The Los Angeles Times, the Des Moines Register and Roll Call. I think Roll Call basically said it best, Mr. President, when they said:

> . . . this is not a court trial . . . It is inherently a political proceeding . . . Their constituents [our constituents], the citizens of America, have a right to see how they perform and to fully understand why they decided to retain or remove their elected President.

Mr. President, I ask unanimous consent that all of these editorials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Washington Post, January 14, 1999]

AN OPEN TRIAL

Sens. Tom Harkin (D-Iowa) and Paul Wellstone (D-Minn.) have announced that they will move to suspend certain portions of the Senate's impeachment rules to permit the full Senate trial of President Clinton to be conducted in the public's view. As the more than 100-year-old rules stand now, testimony can be taken with the cameras on and the doors open unless a majority votes to close the session, but any time the senators debate a motion and, for that matter, when they consider the final articles, they will do so in secret. This is exactly the wrong way to conduct a trial whose purpose is to pass public judgment on the conduct of the president. The Harkin-Wellstone proposal to do the whole trial in public offers a far better approach.

The desire to avoid public argument is understandable, particularly in a case as filled with salacious material as the Clinton trial must necessarily be. But it is not the job of the Senate to protect citizens from the rationale for the Senate's actions, nor are senators entitled to be shielded from the embarrassment of discussing out loud the tawdry evidence at issue in this case.

The often drawn analogy between senators and jurors, whose deliberations are kept secret, also fails to offer a persuasive reason to conduct secret debates. Jurors, after all, did not seek public office and are not permitted, as their trials are progressing, to go on talk shows to discuss their own consideration of the evidence. The senators are, in this proceeding, acting as far more than simple jurors, and it makes little sense for this most solemn obligation of the Senate to face less sunshine than does a routine legislative matter. It seems only right, rather, that the Senate should be expected to debate in public any charge for which it is demanding of the president a public accounting.

This is not to prevent senators from caucusing in private or even from meeting unofficially, as senators did last week in crafting the procedural compromise that will govern the trial. Confidential contacts of this sort can certainly be constructive. But when the Senate meets as the Senate and considers arguments in its official trial proceedings, it should not do so behind closed doors. Absent the most unusual of circumstances, it should conduct its deliberations openly, thereby ensuring that the final adjudication of Mr. Clinton's case is as transparently accountable as possible.

[From the New York Times, January 13, 1999]

OPEN THE SENATE

Since the trial of President Andrew Johnson in 1868, the Senate has conducted its debates on procedures and even the final verdict of impeachments in closed session. The time has come for that tradition to be altered, at least for the trial of President Clinton. Two Democratic Senators, Tom Harkin and Paul Wellstone, have announced that they will seek to change the rule on closed debates after the opening presentations begin tomorrow. Whatever would be gained by allowing senators to deliberate privately, the overriding requirements is for the American public to see and judge firsthand whether justice is being done.

Some senators argue that the closed session last Friday, at which Democrats and Republicans worked out a compromise on trial procedures, showed that privacy can serve a constructive purpose. But the Harkin-Wellstone proposal would not preclude the Senate's adjourning and meeting outside the chamber at caucuses like the one last week. The principle that should prevail is simply that proceedings that could lead to the removal of a President should be conducted in open session, especially since many Americans have questions about the fairness of the House impeachment proceedings. Closing the Senate's deliberations on so grave a matter would undermine public confidence and be an affront to citizens' rights to observe the operations of government.

Senators love their customs and ceremonies, but their institution's commanding trend has been toward openness. At the time of the nation's founding, all Senate sessions were closed. Until 1929, the Senate debated nominations and treaties in closed sessions. Until the reforms of the 1970's, many Congressional hearings and meetings were in closed session. No one would seriously argue that these old practices should have been preserved. As for impeachment trials, it is worth noting that they were open most of the 19th century. Privacy was adopted only for the trial of President Johnson.

Some senators seem to believe that they should be regarded as jurors in a trial, and therefore allowed a measure of confidentiality. But the senators have privileges not available to regular juries. They may ask questions, speak publicly about the process and make motions. It is within their power to change the rules on closing the session, which would take a two-thirds majority to be adopted. If openness drives senators toward partisanship or prolixity, as some fear, let public scrutiny serve as the governor on their excesses.

[From the Los Angeles Times, Jan. 13, 1999]

KEEP TRIAL FULLY OPEN

Unless the Senate changes one of its rules for conducting President Clinton's impeachment trial, the public will not be allowed to witness crucial parts, including a possible climactic debate on whether to convict Clinton on charges of perjury and obstruction of justice. The Senate should change this archaic rule; the trial's inestimable national importance demands that the proceedings be completely open.

For guidance in the trial, which opens Thursday, the Senate is relying on rules adopted in 1868, when Andrew Johnson became the first and until now the only president to be tried for alleged high crimes and misdemeanors. One of those rules compels "the doors to be closed" whenever senators debate among themselves, something they are allowed to do only when deciding procedural issues—such as whether witnesses should be called—or when they reach a verdict. Otherwise, by the rules of 1868, the senators must sit in silence as House prosecutors present the case against Clinton and White House lawyers defend him. Any questions the senators have must be submitted in writing to the chief justice, who may or may not choose to ask them.

The precedents embedded in the Johnson trial rules should not be put aside lightly. Without them the Senate could find itself mired in prolonged and divisive arguments over how to proceed. But no precedent is sacred. Times change and rules must change with them. Congress has many times discarded procedures and traditions that came to be seen as inimical to the need for free discussion in an open society. for example, as Sens. TOM HARKIN (D-Iowa) and PAUL WELLSTONE (D-Minn.) note, in the earliest days of the republic all of Congress' proceedings were secret. Until 1929 nomination hearings were conducted behind closed doors. Until 1975 many committee sessions similarly took place outside public scrutiny.

The Senate of Andrew Johnson's day was a far different place from the Senate of today. Its members were not chosen by the electorate—that did not come until 1913—but rather were appointed by state legislatures and so were not directly answerable to the popular will. And much of the Senate's business was routinely conducted in secret.

Today, except when matters of national security are being discussed, Congress' sessions are open—in the sunshine, as they say in the Capital. If ever there was an occasion when the sun should be allowed fully to shine in, it is in the Clinton impeachment trial.

A two-thirds vote is needed to change Senate rules. HARKIN and WELLSTONE, the major proponents of full openness, know the difficulty of getting 65 colleagues to agree with them. But they are leading a fair and just cause. Put simply, Americans have a right to witness this process in all its facets. The people's representatives in the Senate now have the responsibility to assure that right.

[From the Roll Call, January 14, 1999]

NO SECRET TRIAL

Imagine the spectacle. On, say, March 5, cameras are turned on in the Senate and the roll is called on the articles of impeachment against President Clinton. The votes are taken, the decision is made—and then there is a mad rush for Senators to explain why they voted as they did. But their actual deliberations prior to the voting remain secret.

There is not even an official record kept, so reconstructing one of the most portentous debates in American history depends on the memories and notes of Senators and staffers.

This secrecy scenario is exactly what's in store unless the Senate changes its rules, as proposed by Sens. Tom Harkin (D-Iowa) and Paul Wellstone (D-Minn.), to open the impeachment trial to the media and the public.

In fact, it will take strong action from Senate leaders to open the trial, since changing Senate rules requires a two-thirds vote. We urge Democratic and Republican leaders to exercise their influence to prevent their institution from being accused of conducting a "secret trial."

The allegation could turn out to be true. Senate rules call not only for final deliberations on impeachment to be conducted in secret, but any deliberations. This means that motions to dismiss the case and consideration of whether to call witnesses might be done in secret and with no subsequent printing of the proceedings in the Congressional Record. All but arguments by House managers and the President's lawyers, witness testimony, if any, and the actual vote could take place behind a shroud.

Some Senators say they would not have been able to reach their bipartisan agreement on procedure last Friday if the session had been open. If statesmanship requires secrecy—which we doubt—then arrangements can be made for informal closed discussions. But all substantive discussions should be open. We have some sympathy for the view that some subject matter conceivably could be so sexually explicit that Senators will be ashamed to be seen discussing it in public. But it's not worth closing off almost the entire Clinton trial over this possibility.

Conceivably—if this is what it takes to sway skittish Senators—the rules could be altered to permit some discussion to be held in closed session with a record kept. But the House debate on impeachment could have been rated PG-13, and let's face it: The Clinton case record is already so raunchy that there's little that schoolchildren haven't already heard. So the proceedings ought to be open.

It will be argued: In court trials, jury deliberations are conducted in secret. But this is not a court trial. It is inherently a political proceeding. The "jurors" are not ordinary citizens unused to the glare of publicity. They will be up for reelection and judged partly on the basis of how they handle this case. Their constituents, the citizens of America, have a right to see how they perform and to fully understand why they decided to retain or remove their elected President.

Mr. HARKIN. Mr. President, let me take off a little bit on one aspect of this. Some people say, "Well, there is a benefit to Senators meeting quietly, privately to discuss these." I believe that, and I would not, in any way, want to close, for example, some of the caucuses that we have—the occupant of the Chair remembers we had the closed caucus between the two parties to reach an agreement under which we are operating. I think there is a benefit to that, as the Washington Post article pointed out. That is fine, as we meet unofficially off the floor amongst ourselves to discuss things. But when the Senate meets as the Senate, as soon as that opening prayer is given by the Chaplain, this place should be open, and the trial should be open.

Next, I believe that unless we open this trial up, we are going to sow the seeds of confusion, misinformation, suspicion and unnecessary conflict. Here is why I say that. As some wag once said, there is nothing secret about any secret meeting held here in Washington.

Think, if you will, of a closed session of the Senate. The galleries are cleared, the cameras are shut off, reporters are gone, and we engage in debate on whatever issue we are going to debate. The debate is over. We open the galleries again, and 100 Senators rush out of here and they see all the reporters standing out here.

What happens? "Well, what happened, Senator?"

"Well, don't quote me, not for attribution, but guess what this Senator said; guess what that Senator said?"

And so you get 100 different versions of what happened here on the Senate floor.

I believe that will sow a lot of confusion, misinformation and unnecessary conflict. If the doors are open and if we debate in the open, there is no filter, it is unfiltered, and the public can see how and why we reached the decisions we reached.

The press, quite frankly, obviously, as perhaps is their nature, is quick to pick up on conflict and rumor. I believe if we follow the rules to close the doors of this trial it will turn it more into a circus than anything else. If we open the debate, I don't believe we will have any problems.

I was interested in an op-ed piece that was in the New York Times by former Senator Dale Bumpers. I read it, and there is a part in there I think really hits home. Former Senator Bumpers said:

> In a visit with Harry Truman in his home in Missouri in 1971, he admonished me to always put my trust in the people. "They can handle it," he said.

"They can handle it." I believe the American people can handle it, too. I believe they can handle any debate, any discussion, any deliberation that we have on the Senate floor. Not only can they handle it, I believe they have a right to it.

So Senator WELLSTONE and I will, at the first opportunity, when the first motion is made to dismiss the case, if that motion is made—obviously the debate about that under the rules would be held in secret—we intend at that point to offer a preferential motion that the debate, the discussion in the Senate on the motion to dismiss be held openly, to suspend the rules.

Obviously, that is a hurdle. To suspend the rules requires a two-thirds vote. It means that two-thirds of the Senate would have to vote to suspend the rules. As a further kind of anomaly, Mr. President, the motion to open up the Senate, to open up our debate and deliberation, the debate on that has to be held in private under the rules, strange as it may seem. And so we will at that point ask unanimous consent that the debate and discussion on whether we will open up the debate on the motion to dismiss be held openly. Of course, one Senator can object, and then we would have to go into a secret debate on our motion to open up the deliberation and the debate. And so that will happen sometime soon.

Another issue has been raised, Mr. President—I would just like to cover it and then I am going to yield the floor to Senator WELLSTONE. The point has been raised, well, you know, if Senators start debating this and it gets in the open, then they get in front of the cameras, and, why, then this thing can go on and on and on because Senators—you know, we Senators like to talk, we can talk forever. Under the rules of the Senate, when we go into debate and deliberation on any motion, each Senator can be recognized only for 10 minutes—only for 10 minutes. And I think a lot of people are forgetting about that.

Lastly, Mr. President, I remember in January of 1991 when I sat at the desk on that side over there and Senators had just been sworn in; housekeeping motions were being made. One motion was being made by the majority leader at that time that the Senate recess or adjourn—I forget—adjourn to a date certain—I think it was for the State of the Union—but during that period of time, that we would not have been in session, and the time would have run out on whether or not we would use force to get the Iraqis out of Kuwait, the gulf war.

I stood at that time and raised an objection to the Senate recessing or adjourning over to that point. And I raised an objection that enabled us to have an open and public debate on whether or not we would authorize the President of the United States to conduct military operations in the gulf. We had that debate. And I think it was one of the Senate's finest hours. Even those with whom I disagreed I thought were eloquent and forceful in their arguments. We had the debate, we had the vote, and then we moved on. And I think the American people were better for that debate because it was held in the open.

Mr. President, if we in the Senate can debate whether or not to send our sons and daughters off to distant lands to fight and die in a war—something that touches every single American citizen—if we can debate that in open and in public, then in the name of all that is right about our Republic and our country and our openness and our system of government, why can we not debate and deliberate in the open something else that touches every American citizen? And that is, why or if the President of the United States should or should not be removed from office. If we can debate it openly, the issue of war, then certainly we can debate an issue in the open, the issue of whether or not the President would be removed from office.

Mr. President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, let me, first of all, thank my colleague, Senator HARKIN. We have been working very hard on this. There are other Senators who support this motion—Senator LEAHY, Senator FEINGOLD, Senator BOXER, and Senator LIEBERMAN. And I know Senator HUTCHISON has indicated interest in this question. This will be a very important vote coming up next week.

First, let me just, if I could, Mr. President, say that I feel very honored to be speaking from Dale Bumpers' desk. I don't think there is anybody who could match his oratory, but I am sure lucky to have this desk and this long cord. And Dale Bumpers, wherever you are, I will do my very best to try to carry on in your tradition, or at least give it everything that I have.

Mr. President, next week before the Senate goes into its own deliberations on this question of whether to dismiss charges, we will take this one step at a time. We most definitely will try to move forward with a motion to suspend the rules so that the Senate deliberations will not be in closed session. We also would like to make sure that the very debate as to whether our deliberations are in closed session or secret session be open to the public. And we will, on the floor of the Senate, make every effort possible to keep that debate in the open.

I am going to be very brief and just make the following arguments because there are some very, very good people who do a lot of work when it comes to interpretation of the rules. I will say, since the Parliamentarian is here, that Bob Dove has been eminently fair. He has treated all of us from both political parties with the utmost respect.

My own feeling about this is that this trial has been momentous. I personally wish that it had not come over from the House. I have always made my point that I believe the House overreached on the impeachment charges. But, Mr. President, they are here in the Senate.

I think here are the following questions: If in fact we as a Senate are going to go into deliberations over whether to dismiss the charges against the President, or later on whether we will have witnesses, or later on whether the President shall be removed, I cannot imagine that the U.S. Senate would go into closed session. I cannot imagine that our deliberations and our debate and the arguments we make would not be open to the public.

The public isn't going to believe in this political process if we go into secret or closed session. The public is not going to have trust in what we are doing if they don't get a chance to evaluate our debate and what we are saying and why we reached the conclusions we reached.

Mr. President, I really do believe that if there is to be healing in our country—and I certainly pray that there will be—it would be a terrible mistake for the U.S. Senators, Democrats or Republicans, to cut the public out. The part of the public that is looking at the proceedings right now, that is evaluating the arguments that are being made—and there are people who have made very good arguments on both sides of the question—to then say to them, "Listen, when it comes to now the Senate, the U.S. Senate, going into our own deliberations and making our own decisions, you, the public, you're cut out of it," this goes against the very essence of accountability. It goes against the very essence of what a representative democracy is about.

Mr. President, some of these rules go back to 1868. That was a time when the U.S. Senators were not even directly elected. They were elected by State legislatures. The 17th amendment changed all that in 1913 as part of the Progressive movement and the progressive change in the country. The idea was that the U.S. Senators would be a part of representative democracy, directly elected by the people, accountable to the people.

This is a huge decision we are going to be making in the U.S. Senate. And I think it will be a terrible mistake for the U.S. Senate to go into closed session, to cut the public out, to not let people have the opportunity to hear what we are saying in the debate.

Mr. President, it is really quite amazing, if you think about it. People will know what our votes are—dismissal of charges, witnesses, whether the President should be removed from office—and somewhere there will be a transcript of the proceedings, but I don't think they will even be published. There will not even be a public record of what U.S. Senators—the Senator from Arkansas or the Senator from Minnesota or the Senator from Iowa—had to say in this debate.

I just say to all of my colleagues, I hope that, No. 1, you will agree to a unanimous-consent agreement that in our discussion or our debate whether or not we go into closed session, that it be open to the public. What an irony it would be if, in the very debate about whether or not our deliberations will be open or closed, our deliberations were closed. It seems to me that debate ought to be open to the public.

Second, I certainly hope that we will have the two-thirds vote that it will take to suspend the current rule that says we must be in closed session.

Mr. President, I think it is important for the public right now to be engaged in this process. I hope people will be calling their Senators, because I really do believe that part of our deliberations, part of our modus operandi as Senators, whatever States we represent, should be to stay in touch with people. Of course, we reach our own independent judgment. We reach our own independent judgment about the facts, about the charges.

Then there is another question, the threshold question, about whether or not these charges rise to the level of removing a President from office.

I think part of what we are about as Senators is to try to stay in close touch with the public, with people in our States, whatever decision we make. It can be a matter of individual conscience, but I think it is terribly important that we operate as a representative body, as the U.S. Senate, as a part of representative democracy of the United States of America. We can't on this question, we can't on these questions, if we go into closed session.

THE PRESIDENT'S STATE OF THE UNION ADDRESS

Mr. WELLSTONE. Mr. President, regarding the President's speech last night, I will start out with his style. I thought it was rather amazing that, given all that has happened—like our trial here—that the President came before the Congress and delivered a very good speech. He certainly had confidence and he outlined some important proposals.

I think his proposal dealing with Social Security was extremely important. I think it is a solid proposal. And it does not go in the direction of some of the privatization schemes which I think would have taken the "security" out of Social Security. But it also recognizes we need to make some changes and we need to make sure that we support or save the Social Security system. But we keep it as a social insurance program. It is a contract. It is for all the people in the country.

The emphasis on the COPS Program, community policing, is right on the mark. The law enforcement community in Minnesota has done some great work with this community policing program, including dealing with all of the issues having to do with domestic violence. Every 13 seconds a woman is battered in the United States of America in her home—a home should be a safe place—and many children see this, as well. God knows what the effect is on the children.

Mr. President, I also want to just be very honest about my disappointment in this speech. Here we are, going into the next century, the next millennium. Here we have this great economy, booming along. We hear about it all the time. This is our opportunity now to take bold initiatives, to put forth bold proposals that really respond to children in America.

The President talked about low-income, elderly citizens, many of them women. I think it is terribly important to address that reality. Mr. President, what about the reality of close to 1 out of 4 children under the age of 3 growing up poor in our country? What about the reality of 1 out of every 2 children of color under the age of 3 growing up poor in our country?

We have heard from the experts. We have had the conferences. We have seen the studies. We know about the involvement of the brain. We know we have to get it right for these children by age 3 or many of them will never be able to do well in school and never be able to do well in life.

I see a real disconnect between some of the words uttered by our President and his proposals that don't meet the challenge. The commitment of resources to affordable child care for so many families in our country doesn't even come close to meeting the need. I thought we were going to make a commitment to affordable child care for everyone, not just for welfare mothers and their children. Not that we've done enough for those on welfare. That, in and of itself, is important, and we are not doing nearly as well as we should. But we need to help not just low income, but working income, moderate income, even middle-income families, for whom good child care is a huge expense, so that their children can get the best of nurturing and intellectual stimulation. But this is not in this budget. It is not in this budget. There's money, but the President's solutions are not in the same scope as the problems themselves.

The President has a proposal that focuses on afterschool care. I am all for that. But when I think about the poverty of children in our country, when I think about a set of social arrangements that allow children to be the most poverty-stricken group in our country, when I think about what a national disgrace that is, and when I think about all we should be doing to make sure that every child in our country has the same opportunity to reach his and her full potential, and when I think about what we are going to be asking our children to carry on their shoulders in the next century, I don't see in the President's State of the Union Address a bold agenda that would lead to the dramatic improvement of the lives of so many children in our country. Why the timidity? With this economy booming along, in the words of Rabbi Hillel, "If not now, when?" If we are not going to speak for our children now, when will we? If we are not going to move forward with bold proposals, start with affordable child care, when will we?

Finally, Mr. President, on the health care front, some important proposals:

Give credit where credit should be given. I meet with people in the disabilities community and this is a huge problem. You want to work and then when you get a job you lose your medical assistance and you are worse off. To be able to carry health care coverage for people in the disabilities community so more people can work—yes.

A tax credit proposal that says if you have a problem of catastrophic expenses—I know what this is about; I had two parents with Parkinson's disease—as a family, you can get up to a $1,000 tax credit per year. But this credit is not refundable. Why in the world do we have a tax credit that is not refundable, in which case families with incomes under $30,000 a year get no help whatever? Are we worried about providing assistance to low-income people, poor people, as if they have it made in America?

Second of all, catastrophic expenses go way beyond $1,000 a year.

And here is what I don't understand about the President's downsized agenda. Whatever happened to universal health care coverage? Now we have 44 million people with no health insurance, more than when we started the debate several years ago. Now we have another 44 million people who are underinsured. We have people falling between the cracks. They are not old enough for Medicare, prescription drug costs are not covered, they can't afford catastrophic expenses, they are not poor enough for medical assistance, they are getting dropped for coverage by their employers, and copay and deductibles are going up and are way too high a percentage of family income.

Several years ago, the health insurance industry took universal health care coverage off the table. We ought to put it back on the table. I don't understand the timidity of the President's State of the Union Address when it comes to making sure that we can provide good health care coverage for all of our citizens. Our economy is booming, we are going into the next century, this is the time for bold initiatives. This is not the time for timidity. This is a time to make a connection between the words we speak and the problems we identify and the challenges we say we have as a Nation and the investment.

Where is the investment in the health, skills, intellect and character of our children in America? Where is the investment to make sure that every citizen has health coverage that he and she can afford for themselves and their families? I didn't see it in the President's State of the Union Address. For that reason, I am disappointed. I believe our country can do better. I believe our country can do better. I believe the U.S. Congress can do better, and I hope that we will.

THE PRIVATE PROPERTY FAIRNESS ACT OF 1999

Mr. HAGEL. Mr. President, I have introduced S. 246, the Private Property Fairness Act of 1999. This bill will help ensure that when the Government issues regulations for the benefit of the public as a whole, it does not saddle just a few landowners with the whole cost of compliance. This bill will help enforce the U.S. Constitution's guarantee that the Federal Government cannot take private property without paying just compensation to the owner.

Recent record low prices received by American agricultural producers has prompted great concern about the future of family farmers and ranchers. What we must remember is that government regulations are unfairly burdening this vital sector—hitting family farmers the hardest.

The dramatic growth in Federal regulation in recent decades has focused attention on a very murky area of property law, a regulatory area in which the law of takings is not yet settled to the satisfaction of most Americans.

The bottom line is that the law in this area is unfair. For example, if the Government condemns part of a farm to build a highway, it has to pay the farmer for the value of his land. But if the Government requires that same farmer stop growing crops on that same land in order to protect endangered species or conserve wetlands, the farmer gets no compensation. In both situations the Government has acted to benefit the general public and, in the process, has imposed a cost on the farmer. In both cases, the land is taken out of production and the farmer loses income. But only in the highway example is the farmer compensated for his loss. In the regulatory example, the farmer, or any other landowner, has to absorb all of the cost himself. This is not fair.

The legislation I am introducing today is an important step toward providing relief from these so-called regulatory takings. My bill is a narrowly tailored approach that will make a real difference for property owners across America. It protects private property rights in two ways. First, it puts in place procedures that will stop or minimize takings by the Federal Government before they occur. The Government would have to jump a much higher hurdle before it can restrict the use of someone's privately owned property. For the first time, the Federal Government will have to determine in advance how its actions will impact the property owner, not just the wetland or the endangered species. This bill also would require the Federal Government to look for options other than restricting the use of private property to achieve its goal.

Second, if heavy Government regulations diminish the value of private property, this bill would allow the landowners to plead their case in a Federal district court, instead of forcing them to seek relief. This bill makes the process easier, less costly, and more accessible and accountable so all citizens can fully protect their property rights.

For too long, Federal regulators have made private property owners bear the burdens and the costs of Government land use decisions. The result has been that real people suffer.

Joe Jeffrey is a farmer in Lexington, NE. Like most Americans, he is proud of his land. He believed his property was his to use and control as he saw fit. So, after 12 years of regulatory struggles, Mr. Jeffrey got fed up and decided to lease out his land. The Central Nebraska Public Power and Irrigation District now has use of the property for the next 17 years. The Government's regulatory intrusion left Mr. Jeffrey few other options.

Joe Jeffrey first met the U.S. Fish and Wildlife Service and the Army Corps of Engineers in 1987. Mr. Jeffrey's introduction to the long arm of the Federal bureaucracy was in the form of wetlands regulations. Mr. Jeffrey was notified that he had to destroy two dikes on his land because they were constructed without the proper permits. Nearly 2 years later, the corps partially changed its mind and allowed Mr. Jeffrey to reconstruct one of the dikes because the corps lacked authority to make him destroy it in the first place.

Then floods damaged part of Mr. Jeffrey's irrigated pastureland and changed the normal water channel. Mr. Jeffrey set out to return the channel to its original course by moving sand that the flood had shifted. But the Government said "no." The corps told him he had to give public notice before he could repair his own property.

Then came the Endangered Species Act.

Neither least terns nor piping plovers—both federally protected endangered species—have ever nested on Mr. Jeffrey's property. But that didn't stop the regulators. The U.S. Fish and Wildlife Service wanted to designate Mr. Jeffrey's property as "critical habitat" for these protected species.

The bureaucrats could not even agree among themselves on what they wanted done. The Nebraska Department of Environmental Control wanted the area re-vegetated. But the U.S. Fish and Wildlife Service wanted the area kept free of vegetation. Mr. Jeffrey was caught in the middle.

This is a real regulatory horror story. And there's more.

Today—12 years after his regulatory struggle began—Mr. Jeffrey is faced with eroded pastureland that cannot be irrigated and cannot be repaired without significant personal expense. The value of Mr. Jeffrey's land has been diminished by the Government's regulatory intrusion—but he has not been compensated. In fact, he has had to spend money from his own pocket to comply with the regulations. The Fish and Wildlife Service asked Mr. Jeffrey to modify his center pivot irrigation system to negotiate around the eroded area—at a personal cost of $20,000. And the issue is still not resolved.

Mr. President, we do not need more stories like Joe Jeffrey's in America. Our Constitution guarantees our people's rights. Congress must act to uphold those rights and guarantee them in practice, not just in theory. Government regulation has gone too far. We must make it accountable to the people. Government should be accountable to the people, not the people accountable to the Government.

What this issue comes down to is fairness. It is simply not fair and it is not right for the Federal Government to have the ability to restrict the use of privately owned property without compensating the owner. It violates the principles this country was founded on. This legislation puts some justice back into the system. It reins in regulatory agencies and gives the private property owner a voice in the process. It makes it easier for citizens to appeal any restrictions imposed on their land or property. It is the right thing to do. It is the just and fair thing to do.

THE SAFE SCHOOLS, SAFE STREETS AND SECURE BORDERS ACT OF 1999

Mr. DASCHLE. Mr. President, I am pleased to join Senator LEAHY and several other Democratic Senators in introducing the Safe Schools, Safe Streets and Secure Borders Act of 1999. Thanks in large part to the legacy of success that Senate Democrats have had in the area of anti-crime legislation, the crime rate in this country has been going down for six consecutive years. This is the longest such period of decline in 25 years, and the comprehensive crime bill that we are introducing will build on this success and reduce crime even further.

Despite the decrease in crime throughout the last six years, juvenile crime and drug abuse continue to be problems that weigh heavily on the minds of the American people. In my home state of South Dakota, there has been a particularly alarming increase in juvenile crime, and I have been working extensively with community leaders and concerned parents to focus public attention on this issue. Now is the time when we must target the real needs of American families and communities, and I believe that the Safe Schools, Safe Streets and Secure Borders Act of 1999 will do just that. This bill will reduce crime by targeting violent crime in our schools, reforming the juvenile justice system, combating gang violence, cracking down on the sale and use of illegal drugs, strengthening the rights of crime victims, and giving police and prosecutors more tools and resources to fight crime. In addition, this bill would build on one of the most successful initiatives of the 1994 Crime Act by extending the authorization for the COPS program so that an additional 25,000 police officers can be deployed on our streets in the coming years. We will soon meet the commitment that we made in the 1994 Crime Act to put 100,000 new police officers on the beat across America—

under budget and ahead of schedule—and we should build on that success. Putting more police officers on the streets, however, is not enough.

Unfortunately, in the last few years, our schools have been plagued by tragic shootings far too many times. These senseless tragedies must be stopped, and the Safe Schools, Safe Streets and Secure Borders Act of 1999 targets violent crime in schools by providing technical assistance in schools, reforming the juvenile justice system, assisting states in prosecuting and punishing juvenile offenders and reducing juvenile crime, while also protecting children from violence.

Moreover, we must stop street gangs from spreading fear in our neighborhoods and interfering with our livelihoods. A recent report by the Department of Justice indicates that more than 846,000 gang members belong to 31,000 youth gangs in the United States, and the numbers appear to be growing. The ramifications of this trend could be disastrous. For this reason, an important provision of the Safe Schools, Safe Streets and Secure Borders Act of 1999 would crack down on gangs by making the interstate "franchising" of street gangs a crime. It will also double the criminal penalties for using or threatening physical violence against witnesses and contains other provisions designed to facilitate the use and protection of witnesses to help prosecute gangs and other violent criminals. The Act also provides funding for law enforcement agencies in communities designated by the Attorney General as areas with a high level of interstate gang activity.

We can also do more to keep our children off the street and out of trouble. The Safe Schools, Safe Streets and Secure Borders Act of 1999 will do just that by providing additional funding for proven prevention programs in crime-prone areas and creating after school "safe havens" where children are protected from drugs, gangs and crime with activities including drug prevention education, academic tutoring, mentoring, and abstinence training. In this way, we can provide kids with coaches and mentors now, so that they will not need judges and wardens later. This makes sense for our children, this makes sense for our communities, and this makes sense for our future.

There are many other provisions in the Safe Schools, Safe Streets and Secure Borders Act of 1999 that will make a real difference—a positive difference—in the lives of the people of this country. This comprehensive bill is a vital part of our ongoing effort to secure the safety of our schools, streets and citizens, and I encourage my colleagues on both sides of the aisle to give it their full support.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SERIOUS SITUATION IN KOSOVO

Mr. WARNER. Mr. President, I would like to address the Senate for a few minutes about this very serious situation unfolding in Kosovo.

Last fall I gave a series of remarks regarding the increasing problems relating to Kosovo. On September 3, 1998, having just returned from Kosovo at that time, and subsequently on October 2, October 8 and October 20, I stood at this very desk and said it was my belief that the types of atrocities that the world has witnessed in the past few days would quickly unfold, unless NATO placed in the Pristina region a ground force to serve as a deterrent. That may not be a popular position, but it is a realistic one, and I expressed it to the Supreme Allied Commander of NATO, General Clark, just a few days ago. I reiterated the fact that we simply had to put in place a deterrent force.

Now, there is the complexity that Kosovo is a sovereign part of Yugoslavia—a sovereign nation. However, if we are using the threat of air operations against that sovereign country, it seems to me that short of taking that step, we could make it very clear to Milosevic, who unquestionably is responsible for these atrocities, that it is absolutely essential to have this ground force in place. Currently, over 800 individuals—unarmed verifiers—are in Kosovo, trying to help the people of this tragic region sort out their lives and receive the basics of food and shelter. Now, those people are at risk.

Mr. President, I also say that if that NATO force were to be placed in the Pristina region, as I so recommend, a part of that force would have to be a U.S. component. General Clark, Supreme Allied Commander of NATO, is an American officer. In my judgment, we could not in clear conscience have a NATO force in place without some representation of American servicemen and women. I recognize the risks, but there is a direct parallel, Mr. President, between the disintegration in Kosovo, the threat of atrocities and, indeed, conflict between the KLA and the Serbian forces. Conflict, which in the estimate of those on the scene, is looming just weeks ahead. There is a direct correlation between Kosovo and Bosnia. Although I personally was initially opposed to the deployment of U.S. ground troops in Bosnia, once done, I have been a strong supporter of getting it done correctly. This Nation has contributed a very significant investment, first, of men and women in the Armed Forces serving as an integral part of the NATO forces in Bosnia, and second, with respect to billions of dollars of the taxpayers' money.

In my judgment, there has been very little progress of late in Bosnia because of the political factions still tenaciously holding on to their fractious relationships between Serbs and Croats, Muslims and Croats, and Muslims and Serbs—all of the ethnic, deep-rooted problems which brought about this conflict many years ago. But we could lose that investment; what little gain has been achieved in Bosnia could be lost and, indeed, in all probability, any ability to advance toward an independent nation—one that is militarily and economically able to stand on its own feet so that we can get our forces out, together with other allies involved. That is in jeopardy with this instability in Kosovo because those various factions are going to watch Kosovo and say, "NATO is not going to do anything there, so let's just wait it out in Bosnia. Wait it out, and we will have that opportunity some day to go back and fight amongst ourselves to achieve our respective goals."

So, Mr. President, I so recommend to our President and other leaders in NATO today, other nations, examine very carefully, indeed, the suggestion to place a ground force as a deterrent force in the Pristina region as quickly as possible.

I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, parliamentary inquiry. It is my understanding that from 12 o'clock to 1 o'clock there is 1 hour on our side under the control of myself or a designee.

The PRESIDING OFFICER. The Senator is correct.

THE REPUBLICAN AGENDA FOR THE 106TH CONGRESS

Mr. COVERDELL. Mr. President, day before yesterday, our conference introduced our agenda for the 106th Congress. We all know that the Senate is in a very stressful period. But we have said time and time again that the people's business is going to continue. If anything, the presence of all Members of the Senate has accelerated our attention—the Presiding Officer and I talked about that earlier today—accelerated the work of the people's business. But the outlining of this agenda is extremely important and says volumes about our view of what is good for America and what this Congress, the 106th, will be highly focused upon.

There are five core areas that were defined by Majority Leader LOTT, other members of leadership, and our conference:

No. 1: Saving and strengthening of Social Security to create a more secure retirement system for all generations—not just some.

No. 2: Improving education opportunities for every American child, regardless of circumstances. We all know—and last night the President acknowledged—that we have an enormous problem in kindergarten through high school. In the last Congress, the 105th, our conference put education No. 1. I predicted then that we were going to stay with it. And we are. Nothing could be more important.

No. 3: Providing tax relief and economic opportunity for working families.

When I first came to Washington not all too long ago, a working family in Georgia was only keeping 45 cents on the dollar after taxes—State, local, and Federal—and their cost of regulation. In this Congress, our majority has gotten it to where they now keep 52 cents on the dollar. We are up 7 cents. But until we get two-thirds of their paychecks staying in their checking account—not coming up here—our work isn't anywhere near finished.

Many in our leadership have already outlined dramatic proposals to reduce all taxes anywhere from 4 to 10 percent and 15 percent over 10 years. I might add that if we can achieve that, we will indeed be restoring to American families the right to keep two-thirds of their paycheck. What a wonderful celebration we ought to have when that is achieved.

No. 4: Increasing personal and community security by fighting drugs and crime.

Drugs are the axle of crime in America today, Mr. President. In any prison in America, 80 percent of the prisoners in it—a jail, a Federal prison—are there for direct or indirect drug-related problems. To break the back of crime in America, you have to break the back of the narcotic Mafia.

No. 5: Strengthen our national security.

We just heard from Senator WARNER, the world is a very, very dangerous place. We have undermined our military. We have not given them sufficient resources, and therefore they cannot be as trained and ready as they need to be—No. 1. No. 2, the President alluded to last night—we are behind the curve in understanding that terrorism is a component of strategic warfare today. No. 3: As the Rumsfeld Commission has acknowledged, we cannot defend ourselves against ballistic missiles in the hands of rogues.

Saving Social Security, improving education, tax relief, personal security at home and in school and in the workplace, and strengthening our ability to defend ourselves from world rogues—Mr. President, these are not episodic issues that somebody dragged out of a hole; these issues are an acknowledgment that America is great because her people have been free, and an understanding that the core principles of American freedom are economic opportunity, the right to work and save and pursue your dreams. That is what has made Americans so independent and bold—and an understanding that a free society cannot function if its citizens are not safe, either from a world rogue or a narcotic dealer, or that their property is not secure. To the extent a citizen of America is not fully educated, they cannot enjoy the full benefits of American citizenship, and indeed no uneducated people will remain free.

This agenda is designed to strengthen the components that have kept America great: Our freedom—keep Americans free economically, let them keep their paycheck, keep them secure and safe in their workplace and home and school, and that their property is protected, and keep them educated. Mr. President, they will take it from there no matter who the policymakers are; the American citizens will build that new American century that the President alluded to last night.

Mr. President, I now yield up to 5 minutes to my distinguished colleague, Senator ABRAHAM from Michigan, who will continue addressing the key components of this agenda for freedom.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. Thank you, Mr. President. I thank the Senator from Georgia for organizing today's presentation.

As he has already outlined, yesterday we on the Republican side offered an agenda which we think includes the key cornerstones for strengthening our Nation and moving forward into the 21st century. I am not going to talk about every one of those. I would like to address a couple of them, though, briefly, because I think it is very important for the public to understand exactly why these are at the top of our list.

First, I want to talk about tax relief. As we learned last night from the State of the Union—and the Budget Committee hearing in the Senate has recently indicated—not only did last year mark the first time since 1969 that we ran a budget surplus, but it now appears as if we will run budget surpluses for the next 25 years, and potentially beyond.

That is great news for our country. I think—I hope, at least—that it will address some of the cynicism that has existed in America towards the U.S. Congress because for so many years, no matter what we were claiming in our campaigns, we would come to the Senate and the House and not get the job done. But we have gotten the job done.

Today, Americans are sending sufficient revenues so we have a surplus. That is going to be a very big surplus. In fact, it may be as much as multitrillion dollars of surplus over the next 10, 20, 25 years and beyond. The reason we have the surplus is in large measure—in fact, almost exclusively—because of two things: No. 1, our ability here in Washington to tighten belts with respect to some spending programs in recent years; and, much more importantly, the fact that American taxpayers are sending more money to Washington in tax revenue than we anticipated when we put in place the budget that we are working with today.

Mr. President, obviously part of that is the result of the economy's strength, and it is thriving. But if the American taxpayers are sending more money to Washington than we even expected, than we even asked them for, and that they should be spending, it seems to me obvious that the time is here to let them keep some of those dollars that we didn't even ask for in the first place.

So for that reason, the Republican agenda includes in every one of its key components an across-the-board tax cut for hard-working American families.

We heard people say, "Well, we shouldn't do a tax cut; we have so many other things to get done first." When we had a budget deficit, we were told we couldn't cut taxes now, that we have a deficit. Now we have a budget surplus and it is projected to go for 25 years.

I would suggest that no matter what today's agenda items are that deserve priority over tax cuts, there will always be more. There will always be a new program, there will always be an old program, there will always be some rainy day down the road we are worried about, and the taxpayers consistently are told no, no, no, the time is not ripe yet for a tax cut. Well, I say it is. I think the families who are sending us the largest percentage of the GDP that we have ever seen sent to Washington in history deserve to keep some of those dollars and set their own priorities. And for that reason, we propose an across-the-board tax cut.

We also believe that the families of America deserve protection in another sense. Here in this Chamber we ought to talk about children and the problems and the challenges that confront them and our desire to have policies that will protect the young people of America.

The one thing we have to protect them against, in my judgment, and continue protecting them against, is the scourge of illegal drugs that continues to take an unhealthy and an increasing toll on young people.

Over the last few years, the drug statistics have suggested that there has been a leveling out of the drug use in this country, that we may have at least peaked, and it may be even getting better a little bit. But the one area where we are not seeing improvement is with respect to the use of drugs by kids, kids as young as eighth grade, some even younger than that.

Now, our drug plan, which is the second cornerstone of this agenda, will help us to achieve the goal of protecting our kids from these illegal drugs. It will include a wide array, a wide focus of programs, from interdiction on the one hand to treatment and prevention on the other.

But a centerpiece that I want to briefly discuss before my time expires is that this proposal of ours provides tough sentences for the people who peddle drugs to our kids. The message we have to send to drug dealers and the symbol we have to set for kids in America is that the price of doing business in drugs is going up, not down. Now, this is an area where there is some disagreement between our legislation and the administration.

I ask for an additional minute.

Mr. COVERDELL. Mr. President, the Senator may please feel free. The next presenter has not arrived, so the Senator might as well continue with his remarks until they do.

Mr. ABRAHAM. In the last Congress, the U.S. Sentencing Commission put forth a proposal, embraced by the administration and the Department of Justice and the President, that would address this issue in what I consider to be the wrong fashion. That proposal suggests that because there is a wide difference between the drug sentences that powder cocaine dealers receive and the sentence that crack cocaine dealers receive, we ought to bring them more in line with each other by making the sentences on crack cocaine dealers more lenient.

That is the wrong way to proceed, Mr. President. And our legislation goes at it the right way, by making the sentences meted out to people who sell powder cocaine tougher. That is an important part of this legislation, not only because we need to make those sentences tougher, because we don't want people at the top of the drug chain to be getting lighter sentences than those at the bottom. But it is also important because it is critical that we send a signal that we are not going to make anybody's drug sentences, if they are peddling crack cocaine to our kids, any lighter.

This is important for a variety of reasons that I have spoken about here before, but I think it demonstrates the seriousness of the Republican proposal. And taken as a whole, that proposal, I believe, will have a tremendous impact on reducing the use of illegal drugs in this country and, most specifically, reducing the use of illegal drugs by young people.

So for these reasons, I am very proud to endorse this agenda, and I will be working as a cosponsor on a number of these bills. I believe we can pass them in this Congress. I think we saw yesterday in the introduction of these bills the makings of the kind of solid foundation, as I said, the cornerstone for success, as we move our country to the 21st century.

So I want to thank Senator COVERDELL again for having put together today's special order. I look forward to working with him and under his leadership on a number of these issues, and I thank the Chair for allowing me a chance to proceed here today.

Mr. COVERDELL. Mr. President, I thank my colleague from Michigan. I don't think you can say enough about the fact that the new target of the drug cartels, the drug infrastructure, which is in many ways better than a lot of the soft drink distributors', is focused on children 8 to 14—8 to 14. And the consequences of attacking that vulnerable segment of our society live with us an extended period of time.

Mr. President, I now yield up to 5 minutes to my distinguished colleague, Senator GRAMS of Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. I thank the Chair. I thank the Senator from Georgia for organizing this time and giving us an opportunity to speak on some of the subjects that I think are very important to this Congress.

Mr. President, I join my colleagues today in offering our perspective on the State of the Union—on both last night's speech by the President, and also the direction I believe we are headed as a nation.

Let me begin with the speech.

What we heard from the President last night was vintage Bill Clinton. And that is lots of promises, lots of poll-tested proposals, lots of talk, but that all adds up to more spending and more Washington control. In fact, in about 77 minutes he made about 77 new promises of spending for Washington.

Each of us want good schools for our children, security for our retirement years, a tax system that lets us meet important family obligations, and more opportunities for Americans to sell their products around the world. But empty promises from Washington are not going to help.

The President believes the answer in part lies in targeted tax cuts that try to regulate behavior. It is a way to bribe the taxpayers with their own money by saying, "If you do this for me, I will cut your taxes in return."

That is the wrong approach. It is aimed at a certain political segment, and because of that, 90 percent of the people in this country will not benefit. The tax cuts proposed by the President add up to too few dollars that only a few people would benefit from.

If we are truly going to pursue economic freedom for all, the real answer is to reduce the roadblocks to success. That, I believe, begins with our continuing efforts on cutting taxes for everyone.

Yesterday, I joined Chairman ROTH in introducing S. 3, the Tax Cuts for All Americans Act. Our legislation, one of the top five priorities of Republicans in the 106th Congress, would offer a ten percent across-the-board tax cut for every American, instead of the President's targeted tax scheme that ignores most working families. A ten-percent cut is meaningful tax relief for all, not token tax relief for just a few.

Mr. President, in one word, the state of the union is "overtaxed."

American families are taxed at the highest levels in our history, even higher than during World War II, with nearly 40 percent of a typical family's budget going to pay taxes on the federal, state and local levels. Over $1.8 trillion of their income will be siphoned off to Washington this year.

Certainly, the taxpayers are in desperate need of relief.

Freedom for families means giving families the freedom to spend more of their own dollars as they choose.

Our bill will cut the personal tax rate for each American by 10 percent across the board. It will increase incentives to work. It will increase incentives to save and invest. It will help to improve the standard of living for all Americans.

The 10 percent across-the-board tax cut will not only benefit families, but it will also have a substantial, positive impact on the economy as a whole. It will increase the financial rewards of hard work, entrepreneurship, innovation, and productivity—the very foundations upon which this nation has thrived.

If the state of the union is overtaxed, the President did not help much with the laundry list of new initiatives he proposed last night that would expand the size and scope of the already enormous federal government.

It was about 2 years ago that we heard the era of big government was over. Well, the era of big government is now alive and well. In fact, it is a mammoth new government under the proposals of President Clinton last night. Many of these programs sound good, but what the President did not spell out is exactly who is going to pay for it—and, of course, we all know that its the taxpayers. In other words, I say he led Americans into the candy store last night and said, "you can have anything you want." The only problem is he didn't tell you who is going to have to pay for it. The White House "spinmeisters" suggested the President's proposals would, "knock your socks off." Instead, those proposals will pick your pockets.

Mr. President, let me say this as clearly as I can: I will strongly oppose any proposals that are designed to build the President's popularity at the expense of the American taxpayers.

I am also disappointed by the comments made by the President last night about the ailing Social Security system.

We heard a lot of vague promises that ultimately leave the government in control of your retirement dollars and do nothing to save Social Security from bankruptcy or create a better retirement system for the next generation. The President is worried about saving a failed retirement system that promises small benefits when he should be working to create a system that provides larger benefits and more security for everybody. Let us worry about people, and not expend precious time and resources trying to save a dying government program. If we are truly serious about offering Americans the opportunity to achieve wealth and security in their retirement years, legislation I have introduced that would allow workers to set up personal retirement accounts is a far better approach. Mr. President, the American people now have a choice: empty words and poll-tested promises on one hand, and a real taxpayers' agenda of freedom and opportunity on the other. The state of the union can be improved, as my colleagues and I have so vigorously suggested today. And the people are depending on us to lead the way. I thank the Chair.

I yield the floor.

Mr. COVERDELL. I thank my colleague from Minnesota for his remarks. I am going to yield to the Senator from Mississippi for the purpose of a unanimous consent.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. I thank the Chair.

(The remarks of Mr. COCHRAN and Mr. HAGEL pertaining to the introduction of S. 257 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HAGEL. Mr. President, I rise this afternoon to make a brief observation and reflect on one of the points the President made last night during his State of the Union Message. The President suggested—recommended that America pause for a moment and understand and absorb this dynamic, exciting time that we live in. And, indeed, it is exciting, dynamic, and full of hope and opportunity. But, as I listened to the President last night—and I listened to the 20 specific mentions of more government spending for more and new programs, and as I listened to the 24 specific mentions of more Federal Government regulation—I failed to hear any reference to tax cuts, to turning back authority, turning back regulation, turning back government to the people.

I connected with what he said in his observation about the times we live in. And isn't it amazing, especially when you look at the report that Freedom House issued a month ago about where the world is going today. In that report, Freedom House pointed out that for the first time since Freedom House has been calculating personal liberty in the world, more peoples are free, with more personal liberties, today than at any time in the history of their measurement; in fact, they went so far as to say maybe in the history, proportionally, of mankind. There is a long way to go, but in their calculations they said almost half of the 5.6 billion people on Earth are free today. I find that rather interesting, in that most of the world is moving this way—less government, less regulation, more personal liberty—and here the greatest Republic in the history of mankind, if you listen to the President, is going back the other way: more restrictions, more government, more regulation, and less individual freedom.

On Sunday and Monday of this week I was back in Nebraska and met with teachers, students, parents. One of the things that came out of that meeting from the teachers was this observation, and I say this in light of what the President proposed last night with his advocacy of more Federal Government involvement in education. As a matter of fact, he went beyond that. He said, unless local school districts complied with what Washington said—with our money, the taxpayers' money; even more interesting—then we would cut them off. What the schoolteachers told me, those we have charged to educate our children, those who have maybe the heaviest burden except for the parents, in this debate—they tell me we don't want any more Government. But they also said this, and this is where we are missing the point: We are gliding over this gap of children from 1 to 5 or 6. When the teacher gets that child at 5 or 6, that is a molded product. That is a molded product we can work and develop, but where is the emphasis on the parental responsibility? According to the President, we are going to, in fact, do more for day care, and now summer programs, more education—the Federal Government, essentially, is going to really dictate the dynamics of our foundation.

The foundation of our country is not government. The foundation of this country rests on a value system, and morals and honesty and respect for one another. That is what we build from. That is what we have always built from. Not more government programs; not more money. And, when we glide over that and act like that is not there or that is not important, or even emphasize the responsibility of parents and the responsibility of all society, we are in some trouble.

I find it interesting, in reading Governor George Bush's comments yesterday, what he said: Too much hope in economics, just as we once put too much hope in Government, may be our greater challenge. He is right. We must go beyond Government, beyond economics, and go back and emphasize parental responsibility and truth and values. That is what we build from.

Mr. President, I yield the floor.

Mr. COVERDELL. I thank my good colleague from Nebraska for his remarks and insight, and now turn to yield up to 5 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER (Mr. BURNS). Senator CRAIG is recognized for 5 minutes.

Mr. CRAIG. Mr. President, let me associate myself with the remarks of my colleague from Nebraska and thank my colleague from Georgia for bringing us this special order as we attempt to analyze the President's State of the Union Message of last evening.

America tuned in, and so did we, to hear what our President would say about the State of the Union. And he said what we expected him to say, that the State of the Union itself at this moment in time is very, very good. But, what would a Presidency in crisis try to do at a time that the State of the Union is in excellent shape? My guess is that Presidency would attempt to appeal to his base in a very aggressive way, and to divert attention from the real issue at hand that will transpire once again on the floor of this Senate in less than an hour, and that is an impeachment trial of this President, this Presidency in crisis.

But, for a moment, let me talk about the speech and his effort to divert attention. The polls show he did just that. He got excellent ratings in the polls this morning in that snapshot of American opinion about what this President said. The problem in the snapshot is that there were no comparatives. The Senator from Nebraska offered comparatives, the Senator from Georgia has offered comparatives this morning, as to what this President has said in the past and done in the past versus what he said last night. About a year ago now, this President said the era of big government is over. We all cheered that. Most conservatives like myself for a long time have dedicated their energies to reducing the size of government and its impact on our daily lives as citizens and taxpayers of this country. And we have come a long way in doing that in the last several decades. So the President, once again appealing to his ratings in the polls, said the era of big government is over. That was 12 months ago.

As we all know, in the last 12 months a great deal has transpired as it relates to this President and his Presidency. Last night this President proclaimed a grand new great society. In fact, he probably proposed more new Government initiatives—75 or 80 new initiatives—more so than Lyndon Johnson did with his proposal for a great new society. He literally reached out and attempted to touch every American citizen to make them feel good. He is going to correct the schools and change the character of the schools, as to which the Senator from Nebraska referred. Obviously, he is going to attack us on our second amendment rights to protect our citizens, so he says, and it went on and on and on.

But the one thing he did not mention was what was he going to do to the taxpayer; more importantly, what was he going to do for the taxpayer. He proposed to do nothing for them but do a heck of a lot to them.

Three times or four or five times last night he talked about his balanced budget. I say, "Mr. President, how dare you." I say it with a bit of a smile on my face because this President has no credibility in that area. But he is basking in the popularity of it now, made popular by a conservative Republican Congress that said, "No more deficits, and we'll fight to get a balanced budget." And we did that, even though the President opposed us every step of the way and then takes credit for it.

The reason I bring that up in the context of what did he do to or for the taxpayers is that several news reporters said, "What did you think of the speech?" My reaction was, Well, for 15 years, I fought for a balanced budget. I and others, collectively this Congress, was successful in getting it, and we built this sizable growing surplus. We built that surplus, or at least we hoped we could build a surplus when we created a balanced budget to do a couple of things: to stimulate the economy by returning to the taxpayers excessive taxes which we had taken from them. Surpluses are not free moneys to spend, they are representative of the fact that we are overtaxing our citizenry, and we ought to return some of the money to them.

I won't argue with the President about Social Security reform and the value of that reform and using the surplus for those purposes. But, Mr. President, over $4 trillion worth of surplus in the next 15 years and you don't want to give one dime back to the taxpayer?

I think I was right in my initial analysis, this President slipped back last night, because of the pressure and the crisis he is in, to his old base of trying to give something to everybody. It was a feel-good State of the Union speech that did nothing for the taxpayer, nothing for the economy and a heck of a lot to grow big government and, once again, put shackles on the freedom of our citizens to perform independent of their Government. I yield the floor.

Mr. COVERDELL. Mr. President, I thank my distinguished colleague from Idaho. I heard this morning, just as an aside, that the speech was 77 minutes long and there were 77 new programs.

Mr. CRAIG. That is about right.

Mr. COVERDELL. A program a minute. I now yield to my distinguished colleague from Wyoming for up to 5 minutes.

The PRESIDING OFFICER. The distinguished Senator from Wyoming is recognized for up to 5 minutes.

Mr. THOMAS. Mr. President, I thank the Senator for arranging to have this discussion and talk about where we are going. That is, after all, what it is about.

I listened to my colleagues state their impression, their interpretation of last night's State of the Union Address, and it is right on target. What we really are faced with—all of us—is a vision of where we are going in this country, a broad vision in the long run of where we want to go and what we want to achieve and what it takes to cause that to happen. That is really the challenge that we have; the long-term goal in a broad sense of things like freedom and opportunity and security, job security, business; smaller government rather than more, moving government back to people in communities.

Those are the long-term goals that we ought to have so that as we then put our agenda together, we have to ask how do these things fit.

When you talk about the things the President mentioned last night, 45 or whatever it was, how do they fit in this business of freedom, how do they fit in making Government smaller? So each, then, has a challenge to transfer our goals into the specifics that we talk about.

Collectively, we need an agenda for ourselves narrowed down to those things with which we really need to deal. Of course, we all have other issues, but there ought to be some priorities, and that is what we are doing and that is what the Senator is doing in setting an agenda.

We need to talk about Social Security and make it work. We need to make it work just as much for those who are now getting benefits as for those who are just beginning to pay in. That is one of the things we need to do.

Everyone knows we need to strengthen the military, and we must do that. This administration has not. We can do that.

Of course, we need to strengthen health care, but we don't need a national health care program. We already tried that. We already talked about that. We don't need to do that. We need to take pieces and strengthen the private sector.

Tax reform—I don't think there is a soul in this country who doesn't believe we need tax reform to make it more simple, but we are moving the other way. Every time we want to effect some behavior, as in the President's message last night, we give them a tax break—a tax break here, tax break there. We need to look at the overall reduction for all taxpayers and earners in this country.

Mr. President, it seems to me, rather than comment particularly on the State of the Union last night, I just am saying to myself and to you, let's take a look at our long-term goals of where we want to be over a period of time, measure those things that need to be done then immediately so that we can reach those goals, put some emphasis and priorities on a small number of items so that we can accomplish it and not have the same result the President did a year ago, when he listed almost the same number of events and, according to Broder in the Washington Post, was successful in one.

We have a chance to be successful within an agenda—Social Security, health care, strengthen the military, do something on crime, and simplify and reduce taxes. I hope that is our agenda. It is our agenda. I hope it is the President's agenda as well. That is what we ought to do this year. I yield the floor.

Mr. COVERDELL. I thank the Senator from Wyoming and return to the Senator from Idaho and extend another 2 minutes to him. I know, with a number of Senators coming to the floor, he wasn't able to complete his remarks. So I yield 2 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the Senator from Georgia. I appreciate that. I wanted to add for the RECORD some of the analysis we are now doing about what the President said last night and, more importantly, how he proposes to spend the taxpayers' money.

The surplus that he projects, and that I think we generally agree with, based on the vibrancy of our economy today, is about $4.35 trillion over the next 15 years. That is rough, give or take 1 percent, depending on who is doing the calculation.

In that context, here is what the President proposes to do: He proposes to spend 62 percent of it for Social Security, about $2.7 trillion. Probably we would not want to disagree with that, because about 60 percent of the surplus is generated by Social Security taxes, and it ought to go into Social Security and it ought to go into strengthening it and saving it and, hopefully, reforming it.

The President laid out a plan last night that we are looking at now, but at least he opened the door for reform—and I am glad he has—and will create some flexibility, because we are going to guarantee that the current recipients and immediate future recipients of Social Security are going to have their Social Security. What I am worried about are the young people who are entering the workforce today and beginning to invest in Social Security and finding that the worst investment they have ever made. That is wrong, and we know how to correct it. We have an opportunity to so.

He has done something else that is very interesting. He is saying that about 15 percent ought to go into Medicare. That would be the first time that general fund taxes would ever go to Medicare. That represents about a 20-percent increase in the current payroll tax that is going into Medicare—general fund dollars into Medicare, first time in history that would happen. That is a rather bold new break in his approach.

USA retirement accounts, 11 percent; new spending, about 11 percent, $479 billion. He also includes a substantial tax increase to get there.

That is a little bit of the economic analysis. Here is a President who says we have a balanced budget, and he slides into major new tax increases and creates a huge new approach toward Federal spending. We are going to work with him, but we are not going to spend that kind of money, that is for sure.

Mr. COVERDELL. Mr. President, again, I thank my colleague from Idaho.

I now yield up to 5 minutes to the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. INHOFE. I thank the distinguished Senator from Georgia for the time. I know it is very scarce, but I felt compelled, Mr. President, to make a couple of comments about what was not in the State of the Union Message last night.

One of the most disturbing things was that out of 1 hour and 20 minutes, only about less than 90 seconds were devoted to our Nation's defense. We are facing a crisis, and it is on two fronts. And I, just briefly, would like to submit a couple things for the record and discuss those two things.

First of all, not many Americans realize that we do not have a national missile defense system. And that is to say, Mr. President, that if a missile is fired from anyplace in China at Washington, DC, it takes approximately 35 minutes to get over here. Now, the average person would think, well, if it takes 35 minutes to get over here—and we can remember the Persian Gulf war—we know you can knock down missiles with missiles, therefore, we have a defense. But, in fact, we have zero defense.

We don't have any defense at all. And the reason is that when you have a trajectory, where a missile is fired in one area, it goes up, it is out of the atmosphere, and by the time it comes back in, it is coming at a velocity that is faster than anything we have in our arsenal; and, consequently, we have no defense.

So you might ask the question, well, is there really a threat out there that is facing us that is imminent today? And I have to say that there is. I know that it sounds extreme to say this, but I have often said—and others are now agreeing—that I look back wistfully on the days of the cold war where there are two superpowers, the U.S.S.R. and the United States of America; and we knew what they had, they knew what we had. And we had this great agreement that was put together, not by Democrats but by Republicans, called the ABM agreement of 1972 that said: "I will make you a deal. If you agree not to defend yourself, we'll agree not to defend ourselves, therefore, if you shoot us, we'll shoot you, and everyone dies and everyone's happy." That was something I didn't agree with at that time, but, however, today it makes absolutely no sense at all.

I would like to repeat something that was said recently by Henry Kissinger, who was one of the architects of that ABM Treaty of 1972, when he said it no longer has any application today. Today, when you are looking at the proliferation of weapons of mass destruction, when you see countries like Russia and China that have missiles that will reach any city in the United States of America from anyplace in the world, that is a very, very serious thing. And that means that there is not just one entity out there from which we must defend ourselves.

I can remember—I am old enough to remember—the 1962 Cuban missile crisis when all of a sudden hysteria set out in the United States of America. We discovered that there were 40 medium-range intercontinental ballistic missiles, that were Soviet missiles, on the little island of Cuba, 90 miles off of our shore, and they could reach any city outside of the States of Washington, Alaska and Hawaii. And I would say now the crisis is even worse because they can reach anywhere. And we still have no defense at all.

I want to submit for the record—to evaluate this, we on the Armed Services Committee have the nine most professional people, most knowledgeable people on missiles anywhere in the world—and it was chaired by Don Rumsfeld—and they put together an assessment of what our threat really is.

A lot of times people say the threat is not imminent when they talk about indigenous capabilities. In other words, if Iran were trying to develop a missile to reach us, it would take them 5 or 6 years to do it. On the other hand, we know that Iran is trading, as we speak, with China, trading technology, trading systems. And they have one that could hit us today. So I only read the Executive Summary concluding paragraph:

> Therefore, we unanimously recommend that U.S. analyses, practices and policies that depend on expectations of extended warning of deployment be reviewed and, as appropriate, revised to reflect the reality of an environment in which there may be little or no warning.

I ask unanimous consent to have that material printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY OF THE REPORT OF THE COMMISSION TO ASSESS THE BALLISTIC MISSILE THREAT TO THE UNITED STATES

July 15, 1998

II. EXECUTIVE SUMMARY

A. Conclusions of the Commissioners

The nine Commissioners are unanimous in concluding that:

Concerted efforts by a number of overtly or potentially hostile nations to acquire ballistic missiles with biological or nuclear payloads pose a growing threat to the United States, its deployed forces and its friends and allies. These newer, developing threats in North Korea, Iran and Iraq are in addition to those still posed by the existing ballistic missile arsenals of Russia and China, nations with which we are not now in conflict but which remain in uncertain transitions. The newer ballistic missile-equipped nations' capabilities will not match those of U.S. systems for accuracy or reliability. However, they would be able to inflict major destruction on the U.S. within about five years of a decision to acquire such a capability (10 years in the case of Iraq). During several of those years, the U.S. might not be aware that such a decision had been made.

The threat to the U.S. posed by these emerging capabilities is broader, more mature and evolving more rapidly than has been reported in estimates and reports by the Intelligence Community.

The Intelligence Community's ability to provide timely and accurate estimates of ballistic missile threats to the U.S. is eroding. This erosion has roots both within and beyond the intelligence process itself. The Community's capabilities in this area need to be strengthened in terms of both resources and methodology.

The warning times the U.S. can expect of new, threatening ballistic missile deployments are being reduced. Under some plausible scenarios—including re-basing or transfer of operational missiles, sea- and air-launch options, shortened development programs that might include testing in a third country, or some combination of these—the U.S. might well have little or no warning before operational deployment.

Therefore, we unanimously recommend that U.S. analyses, practices and policies that depend on expectations of extended warning of deployment be reviewed and, as appropriate, revised to reflect the reality of an environment in which there may be little or no warning.

RESUMES OF COMMISSION MEMBERS

The Honorable Donald H. Rumsfeld, chairman of the Board of Directors of Gilead Sciences, Inc., naval aviator (1954–1957), Member of Congress (1963–1969), U.S. Ambassador to NATO (1972–1974), White House Chief of Staff (1974–1975), Secretary of Defense (1975–1977), Presidential envoy to the Middle East (1983–1984), chairman of Rand Corporation (1981–1986; 1995–1996), chairman and CEO of G.D. Searle & Co. (1977–1985), chairman and CEO of General Instruments Corporation (1990–1993); received the Presidential Medal of Freedom in 1977.

Dr. Barry M. Belchman, PhD., International Relations, president and founder of

DFI International (1984), chairman and co-founder of the Henry L. Stimson Center (1989), Assistant Director of the U.S. Arms Control and Disarmament Agency (1977–1980); Affiliated with: a. U.S. Army (1964–1966), b. Center for Naval Analyses (1966–1971), c. Brookings Institute (1971–1977), d. Carnegie Endowment (1980–1982), e. Center for Strategic and International Studies (1982–1984); Author: "Face Without War" and "The Politics of National Security".

General Lee Butler, USAF (Ret.), Commander-in-Chief of the U.S. Strategic Command and Strategic Air Command (1992–1994), Director of Strategic Plans and Policy on the Joint Chiefs of Staff (1989–1991), Director of Operations at USAF Headquarters (1984–1986), Inspector General of the Strategic Air Command (1984–1986), Commander of the 96th and 320th Bomb Wings (1982–1984); Olmstead scholar.

Dr. Richard L. Garwin, PhD., Physics, Senior fellow for Sciences and Technology with the Council on Foreign Relations, IBM fellow emeritus at the Thomas J. Watson Research Center since 1993; fellow (1952–1993), member—President's Science Advisory Committee (1962–1969); 1969–1972), served on Defense Science Board (1966–1969); Awards: a. U.S. foreign intelligence community awarded him the R.V. Jones Award for Scientific Intelligence; b. Department of Energy awarded him the Enrico Fermi award.

Dr. William R. Graham, PhD. in Electrical Engineering, chairman of the board and president of National Security Research (1996–Present), Director of White House Office of Science & Technology Policy (1986–1989), Deputy Administrator of NASA (1985–1986).

Dr. William Schneider, Jr., PhD. in Economics, president of International Planning Services, Inc. (1986–Present), served as Under Secretary of State for Security Assistance (1982–1986), chairman of the President's General Advisory Committee on Arms Control and Disarmament (1987–1993).

General Larry D. Welch, USAF (Ret.), president and CEO of the Institute for Defense Analyses (1990–Present), Chief of Staff of the U.S. Air Force (1986–1990), Commander-in-Chief of the U.S. Strategic Air Command (1985–1986).

Dr. Paul Wolfowitz PhD., Political Science, dean of the Paul H. Nitze School of Advanced International Studies at Johns Hopkins University (1994–Present), Under Secretary of Defense Policy (1989–1993), U.S. Ambassador to Indonesia (1986–1989), Assistant Secretary of State for East Asian and Pacific Affairs (1982–1986), Director of State Department Planning Staff (1981–1982), member of the Commission on the Roles and Capabilities of the United States Intelligence Community (1995).

The Honorable R. James Woolsey, partner in the law firm Shae & Gardner (1995–present; 1991–1993; 1979–1989), Director of Central Intelligence Agency (1993–1995), Ambassador and U.S. Representative to the Negotiations on Conventional Armed Forces in Europe (1989–1991), Under Secretary of the Navy (1977–1979), Delegate-at-Large to the U.S. Soviet START and Nuclear Space Arms Talks (1983–1985), member of Snowcroft Commission (Presidential Commission on Strategic Forces, 1983), member of the Packard Commission (Presidential Blue Ribbon Commission on Defense Management, 1985–1986).

Mr. INHOFE. Recognizing my time is about up, I would only like to say that is only part of the problem. The other problem is—and I say this with some knowledge as chairman of the Readiness Subcommittee in the Senate Armed Services Committee—that we have roughly 60 percent of the capability that we had, in terms of force strength, that we had during the Persian Gulf war in 1991. And when I say that, I can quantify. Talking about 60 percent of the Army division, 60 percent of the tactical air wing, 60 percent of the ships floating around there; and yet we are in a more threatened world today.

So I believe that little pittance that the President is talking about of $110 billion over 6 years, of which only $2 billion of new money would be in the coming fiscal year, does not meet the expectations of the American people. It has not fulfilled the requirements of his own Secretary of Defense, his own Chairman of the Joint Chiefs of Staff, and the four chiefs who said: We are going to have to put a minimum of $25 billion of new money in each year for the next 6 years in order to get to a point where we can defend America on two regional fronts.

With that, I thank the Senator from Georgia for this very scarce time that he has given me.

Mr. COVERDELL. I thank the Senator from Oklahoma and associate myself with his grave concern on this issue. Now I turn to the distinguished Senator from Texas. I yield up to 5 minutes to her.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mrs. HUTCHISON. Thank you, Mr. President.

I want to thank the distinguished Senator from Georgia for talking about our very important congressional agenda. I was very pleased to hear the closing remarks from my colleague from Oklahoma, because I think one of the priorities of Congress has been laid right at our feet by the Senator from Oklahoma. And according to the Constitution it is the one major responsibility that Congress must perform—to provide a national defense for the United States and all of its citizens. That core responsibility has been jeopardized in the last 5 years because we have not kept up the investments needed to ensure that we keep and recruit the best people for our military. Equipment is deteriorating, and the big strategic defenses that are vital to our national security have not been deployed. Again, I am very pleased that the Senator from Oklahoma talked about defense, and I am going to add some things that I believe are necessary to regain and maintain a strong national in defense.

What we have seen with the President's State of the Union, and the congressional statement of priorities, are some places where we will be able to work together. While we can agree on some goals, I also believe there are some profound differences in how we get there.

The Republican plan is very simple while the President's plan is very complicated. It seemed like it was a new idea a minute. It was a shotgun approach to all of the major issues we face. I would like to take each one of those and show how we will be different and hopefully how we can come together.

Let us say, first and foremost, that our No. 1 priority is Social Security reform. I think that is also the President's first priority. How we achieve reform is going to be very different, because the President has opted for a big federalized plan whereas the Republicans in Congress are trying to say: We want people to be able to have their own retirement accounts. We want them to be able to make some of the choices in investing their Social Security taxes. And, most of all, we want people to be able to pass their retirement accounts onto their children.

This is a very important difference from the President's plan, which is to take 60 percent of the surplus and have the Government invest it in the stock market. While it might make Social Security more secure, I think it could have a disastrous impact on the stock market. The federal government could use its investments to micro-manage certain industries and markets. Free enterprise is the hallmark of our economy and having the government enter the stock market could pose a significant risk to the nature of our economy.

Tax relief. I think it is very important that we have simple, straight-forward tax relief for every working American family. Every working American in the Republican plan will get a 10 percent across-the-board tax cut. In order to determine how this plan will benefit you, while you are figuring your taxes in preparation for the April 15th filing deadline, take 10 percent off of your tax liability; and that is what our tax cut will give you. Now, compare our tax cut plan to the President's very complex tax cutting proposals. His plan will add thousands of pages of new rules and regulations to an already burdensome and complex tax code. Only if you spend your money on his priorities will you get any tax relief. With our plan everybody wins. Our plan puts more of the money in the pockets of the people who earn it, rather than giving it to "Big Brother" Government to decide how to spend the money you earn and you worked for.

Education: The primary difference between our education proposal and the President's proposal has to do with who is in control of the resources. Both plans seek to achieve the same goals, but ours would keep control with those who directly educate children—local school officials, principals, teachers, and parents. We have the same goals, but we will reach them in different ways.

The congressional plan is the right one for America. We are going to push ahead and hope that the President will work with us to reform Social Security and make it secure, to give tax cuts to hard-working Americans, and increase educational opportunity so that every child in America can get a good public education and reach his or her full potential.

ORDER FOR RECESS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Senate stand in recess at 12:55.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. I yield to the distinguished Senator from New Mexico, the chairman of the Budget Committee.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Let me start by saying in the past the President has said the era of big government is over, and last night what he meant was that he was proposing an era of really big government and no tax cuts for the American people for 15 years. Frankly, I don't believe that will sell. I think when the American people understand what the President recommended last night, they will ask: What happened to the surplus that is not needed for Social Security, that we paid to the Government in taxes? Why don't we get some of it back?

That is the issue. They should get some of it back. We have underestimated the tax take of this country; thus, we have an excess of taxes in the coffers of the United States. Who paid that money to us? The taxpayers. They should get some or all of it back. I believe the best way to do that is an across-the-board tax cut. I don't write tax laws here, but obviously what we are talking about is equity and fairness; but, in addition, something that is very good for the American economy.

The world is in some kind of strange recessionary mood, with whole pieces of it not working. The United States has been immune from that. Now is the time to have a tax cut, and the best kind is across-the-board to make sure that we are adding to the American economy an ingredient that is apt to keep us going at this formidable rate of sustained growth and jobs and prosperity. That means a tax cut now for the American people and for the future prosperity of our country.

In addition, I suggest that people ought to look at what the President proposed to do with this surplus. I am amazed. This surplus—which is taxpayers' money, that is in excess of Social Security—the President has now decided he knows precisely how to use it. Every bit of it is spent, I say to my friend, Senator THURMOND: New programs, new ideas, new needs, even some money for Medicare. And we have never heretofore put general taxpayers' money in Medicare. So he wants to spend it all and the taxpayers will get none of it back.

It seems to this Senator that that is a good issue to take to the public, to take to the people of this land. What do you want to do with this surplus? Do you want a bigger Government and spend more of it? Or spend all of it? Or do you want to give some of it back to the taxpayers who work hard in this land to make ends meet and truly, truly are the engines of this growth period we have had? Hard-working Americans caused this to happen. There is higher productivity because they are more skilled and their employers are using new equipment and new technology—higher productivity, more jobs.

Surplus means to me that taxpayers should get some benefit. We are going to work very hard to see to it that the people understand it and we have a real opportunity to help them if they will help us.

I yield the floor.

Mr. COVERDELL. Mr. President, I thank the distinguished Senator from New Mexico.

PROVIDING FOR THE INTRODUCTION OF LEGISLATION AND SUBMISSION OF STATEMENTS

Mr. LOTT. Mr. President, I ask unanimous consent that on Thursday and Friday it be in order for Senators to introduce legislation and to submit statements at the desk during the Senate's consideration of the articles of impeachment.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Majority Leader, pursuant to Public Law 104–293, as amended by Public Law 105–277, announces the appointment of the following individuals to serve as members of the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction: M. D. B. Carlisle, of Washington, D.C. and Henry D. Sokolski, of Virginia.

The Chair, on behalf of the Majority Leader, pursuant to Public Law 105–255, announces the appointment of the following individuals to serve as members of the Commission on the Advancement of Women and Minorities in Science, Engineering and Technology Development: Judy L. Johnson, of Mississippi and Elaine M. Mendoza, of Texas.

The Chair, on behalf of the Majority Leader, pursuant to Public Law 105–277, announces the appointment of the following individuals to serve as members of the International Financial Institution Advisory Commission: Charles W. Calomiris, of New York and Edwin J. Feulner, Jr., of Virginia.

The Chair, on behalf of the Majority Leader, pursuant to Public Law 105–277, announces the appointment of the following individuals to serve as members of the National Commission on Terrorism: Wayne A. Downing, of Colorado, Fred Ikle, of Maryland, and John F. Lewis, of New York.

The Chair, on behalf of the Majority Leader, after consultation with the Democratic Leader, pursuant to Public Law 93–415, as amended by Public Law 102–586, announces the appointment of William Keith Oubre, of Mississippi, to serve as a member of the Coordinating Council on Juvenile Justice and Delinquency Prevention, vice Robert H. Maxwell, of Mississippi.

APPOINTMENT BY THE DEMOCRATIC LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Democratic Leader, pursuant to Public Law 105–83, announces the appointment of the Senator from Illinois (Mr. DURBIN) as a member of the National Council on the Arts.

FEDERAL NINTH CIRCUIT REORGANIZATION ACT OF 1999—S. 253

Statements on the bill, S. 2616, introduced on October 9, 1998, did not appear in the RECORD. The material follows:

By Mr. MURKOWSKI (for himself and Mr. GORTON):

S. 253. A bill to provide for the reorganization of the Ninth Circuit Court of Appeals, and for other purposes.

FEDERAL NINTH CIRCUIT REORGANIZATION ACT OF 1999

Mr. MURKOWSKI. Mr. President, I am pleased to be joined by my distinguished colleague from Washington, Senator SLADE GORTON, in introducing legislation that will go far in improving the consistency, predictability and coherency of case law in the Ninth Circuit U.S. Court of Appeals.

Our bill, The Federal Ninth Circuit Reorganization Act of 1999, adopts the recommendations of a Congressionally-mandated Commission that studied the alignment of the U.S. Court of Appeals. Retired Supreme Court Justice Byron R. White, chaired the scholarly Commission.

The Commission's Report, released last December, calls for a division of the Ninth Circuit into three regionally based adjudicative divisions—the Northern, Middle, and Southern. Each of these regional divisions would maintain a majority of its judges within its region. Each division would have exclusive jurisdiction over appeals from the judicial districts within its region. Further, each division would function as a semi-autonomous decisional unit. To resolve conflicts that may develop between regions, a Circuit Division for

Conflict Correction would replace the current limited and ineffective en banc system. Lastly, the Circuit would remain intact as an administrative unit, functioning as it now does.

It is important to note that the Commission adopted the arguments that I and several other Senators have put forth to justify a complete division of the Ninth Circuit—Circuit population, record caseloads, and inconsistency in judicial decisions. However, the Commission rejected an administrative division because it believed it would "deprive the courts now in the Ninth Circuit of the administrative advantages afforded by the present circuit configuration and deprive the West and the Pacific seaboard of a means for maintaining uniform federal law in that area."

While I don't necessarily reach the same conclusion as the Commission (that an administrative division of the Ninth Circuit is not warranted), I strongly agree with the Committee's conclusion that the restructuring of the Ninth Circuit as proposed in the Commission's Report will "increase the consistency and coherence of the law, maximize the likelihood of genuine collegiality, establish an effective procedure for maintaining uniform decisional law within the circuit, and relate the appellate forum more closely to the region it serves."

Mr. President, swift Congressional action is needed. One need only look at the contours of the Ninth Circuit to see the need for this reorganization. Stretching from the Arctic Circle to the Mexican border, past the tropics of Hawaii and across the International Dateline to Guam and the Mariana Islands, by any means of measurement, the Ninth Circuit is the largest of all U.S. Circuit Courts of Appeal.

The Ninth Circuit serves a population of more than 49 million people, well over a third more than the next largest Circuit. By 2010, the Census Bureau estimates that the Ninth Circuit's population will be more than 63 million—a 40 percent increase in just 13 years, which inevitably will create an even more daunting caseload.

Because of its massive size, there often results a decrease in the ability of judges to keep abreast of legal developments within the Ninth Circuit. This unwieldy caseload creates an inconsistency in Constitutional interpretation. In fact, Ninth Circuit cases have an extraordinarily high reversal rate by the Supreme Court. (During the Supreme Court's 1996–97 session, the Supreme Court overturned 95% of the Ninth Circuit cases heard by the Court.) This lack of Constitutional consistency discourages settlements and leads to unnecessary litigation.

Ninth Circuit Judge Diramuid O'Scannlain described the problem as follows:

> An appellate court must function as a unified body, and it must speak with a unified voice. It must maintain and shape a coherent body of law * * *. As the number of opinions increase, we judges risk losing the ability to keep track of precedents and the ability to know what our circuit's law is. In short, bigger is not better.

The legislation that Senator GORTON and I introduce today is a sensible reorganization of the Ninth Circuit. The Northern Division of the Ninth Circuit would join Alaska, Washington, Oregon, Montana, and Idaho. This proposal reflects legislation I introduced in the last Congress which created a new Twelfth Circuit consisting of the States of the Northwest. Like my previous legislation, the Commission's report will go far in creating regional commonality and greater consistency and dependency in legal decisions.

However, it is my strong suggestion that when the Senate Judiciary Committee conducts hearings on this legislation, certain modifications be closely examined:

1. Elimination of the requirement that judges within a region are required to rotate to other regions of the Circuit;
2. Adjustment of the regional alignments to include Hawaii, the Mariana Islands and the Territory of Guam in the Northern Region; and
3. Shortening the period in which the Federal Judicial Center conducts a study of the effectiveness and efficiency of the Ninth Circuit divisions from eight years to three years.

Mr. President, Congress has waited long enough to correct the problems of the Ninth Circuit. The 49 million residents of the Ninth Circuit are the persons that suffer. Many wait years before cases are heard and decided, prompting many to forego the entire appellate process. The Ninth Circuit has become a circuit where justice is not swift and not always served.

Mr. President, we have known the problem of the Ninth Circuit for a long time. It's time to solve the problem. The Commission's recommendations, as reflected in our legislation, is a good first start. I hope we can resolve this issue this year.

I ask unanimous consent that the text of our legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 253

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Ninth Circuit Reorganization Act of 1999".

SEC. 2. DIVISIONAL ORGANIZATION OF THE COURT OF APPEALS FOR THE NINTH CIRCUIT.

(a) REGIONAL DIVISIONS.—Effective 180 days after the date of enactment of this Act, the United States Court of Appeals for the Ninth Circuit shall be organized into 3 regional divisions designated as the Northern Division, the Middle Division, and the Southern Division, and a nonregional division designated as the Circuit Division.

(b) REVIEW OF DECISIONS.—

(1) NONAPPLICATION OF SECTION 1294.—Section 1294 of title 28, United States Code, shall not apply to the Ninth Circuit Court of Appeals. The review of district court decisions shall be governed as provided in this subsection.

(2) REVIEW.—Except as provided in sections 1292(c), 1292(d), and 1295 of title 28, United States Code, once the court is organized into divisions, appeals from reviewable decisions of the district and territorial courts located within the Ninth Circuit shall be taken to the regional divisions of the Ninth Circuit Court of Appeals as follows:

(A) Appeals from the districts of Alaska, Guam, Hawaii, Idaho, Montana, the Northern Mariana Islands, Oregon, Eastern Washington, and Western Washington shall be taken to the Northern Division.

(B) Appeals from the districts of Eastern California, Northern California, and Nevada shall be taken to the Middle Division.

(C) Appeals from the districts of Arizona, Central California, and Southern California shall be taken to the Southern Division.

(D) Appeals from the Tax Court, petitions to enforce the orders of administrative agencies, and other proceedings within the court of appeals' jurisdiction that do not involve review of district court actions shall be filed in the court of appeals and assigned to the division that would have jurisdiction over the matter if the division were a separate court of appeals.

(3) ASSIGNMENT OF JUDGES.—Each regional division shall include from 7 to 11 judges of the court of appeals in active status. A majority of the judges assigned to each division shall reside within the judicial districts that are within the division's jurisdiction as specified in paragraph (2). Judges in senior status may be assigned to regional divisions in accordance with policies adopted by the court of appeals. Any judge assigned to 1 division may be assigned by the chief judge of the circuit for temporary duty in another division as necessary to enable the divisions to function effectively.

(4) PRESIDING JUDGES.—Section 45 of title 28, United States Code, shall govern the designation of the presiding judge of each regional division as though the division were a court of appeals, except that the judge serving as chief judge of the circuit may not at the same time serve as presiding judge of a regional division, and that only judges resident within, and assigned to, the division shall be eligible to serve as presiding judge of that division.

(5) PANELS.—Panels of a division may sit to hear and decide cases at any place within the judicial districts of the division, as specified by a majority of the judges of the division. The divisions shall be governed by the Federal Rules of Appellate Procedure and by local rules and internal operating procedures adopted by the court of appeals. The divisions may not adopt their own local rules or internal operating procedures. The decisions of 1 regional division shall not be regarded as binding precedents in the other regional divisions.

(c) CIRCUIT DIVISION.—

(1) IN GENERAL.—In addition to the 3 regional divisions specified under subsection (a), the Ninth Circuit Court of Appeals shall establish a Circuit Division composed of the chief judge of the circuit and 12 other circuit judges in active status, chosen by lot in equal numbers from each regional division. Except for the chief judge of the circuit, who

shall serve ex officio, judges on the Circuit Division shall serve nonrenewable, staggered terms of 3 years each. One-third of the judges initially selected by lot shall serve terms of 1 year each, one-third shall serve terms of 2 years each, and one-third shall serve terms of 3 years each. Thereafter all judges shall serve terms of 3 years each. If a judge on the Circuit Division is disqualified or otherwise unable to serve in a particular case, the presiding judge of the regional division to which that judge is assigned shall randomly select a judge from the division to serve in the place of the unavailable judge.

(2) Jurisdiction.—The Circuit Division shall have jurisdiction to review, and to affirm, reverse, or modify any final decision rendered in any of the court's divisions that conflicts on an issue of law with a decision in another division of the court. The exercise of such jurisdiction shall be within the discretion of the Circuit Division and may be invoked by application for review by a party to the case, setting forth succinctly the issue of law as to which there is a conflict in the decisions of 2 or more divisions. The Circuit Division may review the decision of a panel within a division only if en banc review of the decision has been sought and denied by the division.

(3) Procedures.—The Circuit Division shall consider and decide cases through procedures adopted by the court of appeals for the expeditious and inexpensive conduct of the division's business. The Circuit Division shall not function through panels. The Circuit Division shall decide issues of law on the basis of the opinions, briefs, and records in the conflicting decisions under review, unless the Circuit Division determines that special circumstances make additional briefing or oral argument necessary.

(4) En banc proceedings.—Section 46 of title 28, United States Code, shall apply to each regional division of the Ninth Circuit Court of Appeals as though the division were the court of appeals. Section 46(c) of title 28, United States Code, authorizing hearings or rehearings en banc, shall be applicable only to the regional divisions of the court and not to the court of appeals as a whole. After a divisional plan is in effect, the court of appeals shall not order any hearing or rehearing en banc, and the authorization for a limited en banc procedure under section 6 of Public Law 95-486 (92 Stat. 1633), shall not apply to the Ninth Circuit. An en banc proceeding ordered before the divisional plan is in effect may be heard and determined in accordance with applicable rules of appellate procedure.

(d) Clerks and Employees.—Section 711 of title 28, United States Code, shall apply to the Ninth Circuit Court of Appeals, except the clerk of the Ninth Circuit Court of Appeals may maintain an office or offices in each regional division of the court to provide services of the clerk's office for that division.

(e) Study of Effectiveness.—The Federal Judicial Center shall conduct a study of the effectiveness and efficiency of the divisions in the Ninth Circuit Court of Appeals. No later than 3 years after the effective date of this Act, the Federal Judicial Center shall submit to the Judicial Conference of the United States a report summarizing the activities of the divisions, including the Circuit Division, and evaluating the effectiveness and efficiency of the divisional structure. The Judicial Conference shall submit recommendations to Congress concerning the divisional structure and whether the structure should be continued with or without modification.

SEC. 2. ASSIGNMENT OF JUDGES; PANELS; EN BANC PROCEEDINGS; DIVISIONS; QUORUM.

(a) In General.—Section 46 of title 28, United States Code, is amended to read as follows:

"§ 46. Assignment of judges; panels; en banc proceedings; divisions; quorum

"(a) Circuit judges shall sit on the court of appeals and its panels in such order and at such times as the court directs.

"(b) Unless otherwise provided by rule of court, a court of appeals or any regional division thereof shall consider and decide cases and controversies through panels of 3 judges, at least 2 of whom shall be judges of the court, unless such judges cannot sit because recused or disqualified, or unless the chief judge of that court certifies that there is an emergency including, but not limited to, the unavailability of a judge of the court because of illness. A court may provide by rule for the disposition of appeals through panels consisting of 2 judges, both of whom shall be judges of the court. Panels of the court shall sit at times and places and hear the cases and controversies assigned as the court directs. The United States Court of Appeals for the Federal Circuit shall determine by rule a procedure for the rotation of judges from panel-to-panel to ensure that all of the judges sit on a representative cross section of the cases heard and, notwithstanding the first sentence of this subsection, may determine by rule the number of judges, not less than 2, who constitute a panel.

"(c) Notwithstanding subsection (b), a majority of the judges of a court of appeals not organized into divisions as provided in subsection (d) who are in regular active service may order a hearing or rehearing before the court en banc. A court en banc shall consist of all circuit judges in regular active service, except that any senior circuit judge of the circuit shall be eligible to participate, at that judge's election and upon designation and assignment pursuant to section 294(c) and the rules of the circuit, as a member of an en banc court reviewing a decision of a panel of which such judge was a member.

"(d)(1) A court of appeals having more than 15 authorized judgeships may organize itself into 2 or more adjudicative divisions, with each judge of the court assigned to a specific division, either for a specified term of years or indefinitely. The court's docket shall be allocated among the divisions in accordance with a plan adopted by the court, and each division shall have exclusive appellate jurisdiction over the appeals assigned to it. The presiding judge of each division shall be determined from among the judges of the division in active status as though the division were the court of appeals, except the chief judge of the circuit shall not serve at the same time as the presiding judge of a division.

"(2) When organizing itself into divisions, a court of appeals shall establish a circuit division, consisting of the chief judge and additional circuit judges in active status, selected in accordance with rules adopted by the court, so as to make an odd number of judges but not more than 13.

"(3) The circuit division shall have jurisdiction to review, and to affirm, reverse, or modify any final decision rendered in any of the court's divisions that conflicts on an issue of law with a decision in another division of the court. The exercise of such jurisdiction shall be within the discretion of the circuit division and may be invoked by application for review by a party to the case, setting forth succinctly the issue of law as to which there is a conflict in the decisions of 2 or more divisions. The circuit division may review the decision of a panel within a division only if en banc review of the decision has been sought and denied by the division.

"(4) The circuit division shall consider and decide cases through procedures adopted by the court of appeals for the expeditious and inexpensive conduct of the circuit division's business. The circuit division shall not function through panels. The circuit division shall decide issues of law on the basis of the opinions, briefs, and records in the conflicting decisions under review, unless the division determines that special circumstances make additional briefing or oral argument necessary.

"(e) This section shall apply to each division of a court that is organized into divisions as though the division were the court of appeals. Subsection (c), authorizing hearings or rehearings en banc, shall be applicable only to the divisions of the court and not to the court of appeals as a whole, and the authorization for a limited en banc procedure under section 6 of Public Law 95-486 (92 Stat. 1633), shall not apply in that court. After a divisional plan is in effect, the court of appeals shall not order any hearing or rehearing en banc, but an en banc proceeding already ordered may be heard and determined in accordance with applicable rules of appellate procedure.

"(f) A majority of the number of judges authorized to constitute a court, a division, or a panel thereof shall constitute a quorum.".

(b) Technical and Conforming Amendment.—The table of sections for chapter 3 of title 28, United States Code, is amended by amending the item relating to section 46 to read as follows:

"46. Assignment of judges; panels; en banc proceedings; divisions; quorum.".

(c) Monitoring Implementation.—The Federal Judicial Center shall monitor the implementation of section 46 of title 28, United States Code (as amended by this section) for 3 years following the date of enactment of this Act and report to the Judicial Conference such information as the Center determines relevant or that the Conference requests to enable the Judicial Conference to assess the effectiveness and efficiency of this section.

SEC. 3. DISTRICT COURT APPELLATE PANELS.

(a) In General.—Chapter 5 of title 28, United States Code, is amended by adding after section 144 the following:

"§ 145. District Court Appellate Panels

"(a) The judicial council of each circuit may establish a district court appellate panel service composed of district judges of the circuit, in either active or senior status, who are assigned by the judicial council to hear and determine appeals in accordance with subsection (b). Judges assigned to the district court appellate panel service may continue to perform other judicial duties.

"(b) An appeal heard under this section shall be heard by a panel composed of 2 district judges assigned to the district court appellate panel service, and 1 circuit judge as designated by the chief judge of the circuit. The circuit judge shall preside. A district judge serving on an appellate panel shall not participate in the review of decisions of the district court to which the judge has been appointed. The clerk of the court of appeals shall serve as the clerk of the district court appellate panels. A district court appellate panel may sit at any place within the circuit, pursuant to rules promulgated by the judicial council, to hear and decide cases, for the convenience of parties and counsel.

"(c) In establishing a district court appellate panel service, the judicial council shall specify the categories or types of cases over which district court appellate panels shall have appellate jurisdiction. In such cases specified by the judicial council as appropriate for assignment to district court appellate panels, and notwithstanding sections 1291 and 1292, the appellate panel shall have exclusive jurisdiction over district court decisions and may exercise all of the authority otherwise vested in the court of appeals under sections 1291, 1292, 1651, and 2106. A district court appellate panel may transfer a case within its jurisdiction to the court of appeals if the panel determines that disposition of the case involves a question of law that should be determined by the court of appeals. The court of appeals shall thereupon assume jurisdiction over the case for all purposes.

"(d) Final decisions of district court appellate panels may be reviewed by the court of appeals, in its discretion. A party seeking review shall file a petition for leave to appeal in the court of appeals, which that court may grant or deny in its discretion. If a court of appeals is organized into adjudicative divisions, review of a district court appellate panel decision shall be in the division to which an appeal would have been taken from the district court had there been no district court appellate panel.

"(e) Procedures governing review in district court appellate panels and the discretionary review of such panels in the court of appeals shall be in accordance with rules promulgated by the court of appeals.

"(f) After a judicial council of a circuit makes an order establishing a district court appellate panel service, the chief judge of the circuit may request the Chief Justice of the United States to assign 1 or more district judges from another circuit to serve on a district court appellate panel, if the chief judge determines there is a need for such judges. The Chief Justice may thereupon designate and assign such judges for this purpose.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 28, United States Code, is amended by adding after the item relating to section 144 the following:

"145. District court appellate panels.".

(c) MONITORING IMPLEMENTATION.—The Federal Judicial Center shall monitor the implementation of section 145 of title 28, United States Code (as added by this section) for 3 years following the date of enactment of this Act and report to the Judicial Conference such information as the Center determines relevant or that the Conference requests to enable the Conference to assess the effectiveness and efficiency of this section.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 6, 1999, the Secretary of the Senate, on January 20, during the adjournment of the Senate, received a message from the House of Representatives announcing that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 11. Concurrent resolution providing for an adjournment of the House.

MESSAGES FROM THE HOUSE

At 11:52 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that pursuant to the provisions of sections 5580 and 5581 of the Revised Statues (20 U.S.C. 42–43), the Speaker appoints the following Members of the House to the Board of Regents of the Smithsonian Institution: Mr. REGULA of Ohio and Mr. SAM JOHNSON of Texas.

The message also announced that pursuant to the provisions of section 161(a) of the Trade Act of 1974 (19 U.S.C. 221), the Speaker appoints the following Members of the House to be accredited by the President as official advisers to the United States delegations to international conferences, meetings, and negotiation sessions relating to trade agreements during the first session of the One Hundred Sixth Congress: Mr. ARCHER of Texas, Mr. CRANE of Illinois, Mr. THOMAS of California, Mr. RANGEL of New York, and Mr. LEVIN of Michigan.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time and placed on the calendar:

S. 40. A bill to protect the lives of unborn human beings.

S. 41. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with the knowledge that the abortion is being performed solely because of the gender of the fetus.

S. 42. A bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services.

S. 43. A bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools.

S. 44. A bill to amend the Gun-Free Schools Act of 1994 to require a local educational agency that receives funds under the Elementary and Secondary Education Act of 1965 to expel a student determined to be in possession of an illegal drug, or illegal drug paraphernalia, on school property, in addition to expelling a student determined to be in possession of a gun, and for other purposes.

S. 45. A bill to prohibit the executive branch of the Federal Government from establishing an additional class of individuals that is protected against discrimination in Federal employment, and for other purposes.

S. 46. A bill to amend the Civil Rights Act of 1954 to make preferential treatment an unlawful employment practice, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–783. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; State of New Hampshire; Interim Final Determination that New Hampshire has Avoided the Deficiencies of its I/M SIP Revision" (FRL 6203–5) received on December 15, 1998; to the Committee on Environment and Public Works.

EC–784. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; South Carolina" (FRL 6204–1) received on December 15, 1998; to the Committee on Environment and Public Works.

EC–785. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Tennessee" (FRL 6204–4) received on December 15, 1998; to the Committee on Environment and Public Works.

EC–786. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Harpin; Temporary/Time-Limited Pesticide Tolerance" (FRL 6040–5) received on December 15, 1998; to the Committee on Environment and Public Works.

EC–787. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tebufenozide; Pesticide Tolerances for Emergency Exemptions" (FRL 6049–4) received on December 15, 1998; to the Committee on Environment and Public Works.

EC–788. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Triazamate; Time-Limited Pesticide Tolerance" (FRL 6024–5) received on December 15, 1998; to the Committee on Environment and Public Works.

EC–789. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the St. Andrew Beach Mouse" (RIN1018–AE41) received on December 15, 1998; to the Committee on Environment and Public Works.

EC–790. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicaid Program; Inpatient Psychiatric Services Benefit for Individuals Under Age 21" (RIN0938–AJ05) received on December 16, 1998; to the Committee on Finance.

EC–791. A communication from the Assistant Commissioner for Examination, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Coordinated Issue; Construction/Real Estate Industry; Retainage Payable" (UIL460.03–10) received on December 17, 1998; to the Committee on Finance.

EC–792. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Part IV—Items of General Interest" (Notice 98-62) received on December 15, 1998; to the Committee on Finance.

EC-793. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Payment by Credit Card and Debit Card" (RIN1545-AW38) received on December 15, 1998; to the Committee on Finance.

EC-794. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Tax Forms and Instructions" (Rev. Proc. 98-61) received on December 16, 1998; to the Committee on Finance.

EC-795. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update" (Notice 98-56) received on December 16, 1998; to the Committee on Finance.

EC-796. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Examination of Returns and Claims for Refund, Credit, or Abatement; Determination of Correct Tax Liability" (Rev. Proc. 98-63) received on December 16, 1998; to the Committee on Finance.

EC-797. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Certain Investment Income Under the Qualifying Income Provisions of Section 7704 and the Application of the Passive Activity Loss Rules to Publicly Traded Partnerships" (RIN1545-AV15) received on December 16, 1998; to the Committee on Finance.

EC-798. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Election to Amortize Start-Up Expenditures for Active Trades or Businesses" (RIN1545-AT71) received on December 16, 1998; to the Committee on Finance.

EC-799. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Abatement of Interest for Individual Taxpayers in Presidentially Declared Disaster Areas" (Notice 99-2) received on December 16, 1998; to the Committee on Finance.

EC-800. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "New Technologies in Retirement Plan Administration" (Notice 99-1) received on December 17, 1998; to the Committee on Finance.

EC-801. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Notice, Consent and Election Requirements of Sections 411(a)(11) and 417 for Qualified Retirement Plans" (RIN1545-AU05) received on December 17, 1998; to the Committee on Finance.

EC-802. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Treatment of Certain Payments Received as Temporary Assistance for Needy Families (TANF)" (Notice 99-3) received on December 17, 1998; to the Committee on Finance.

EC-803. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Filing Procedure for Early Closing of Courier's Desk" (Notice 98-67) received on December 17, 1998; to the Committee on Finance.

EC-804. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Abatement of Interest" (RIN1545-AV32) received on December 17, 1998; to the Committee on Finance.

EC-805. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's annual report on transportation security for calendar year 1996; to the Committee on Commerce, Science, and Transportation.

EC-806. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, notice of the Board's appeal to the Office of Management and Budget regarding the initial determination of their fiscal year 2000 budget request; to the Committee on Commerce, Science, and Transportation.

EC-807. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, the Administrator's report on services provided to foreign aviation services in fiscal year 1998; to the Committee on Commerce, Science, and Transportation.

EC-808. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use" (Docket 94-32) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC-809. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Extension of the Interim Groundfish Observer Program Through 2000" (I.D. 081498C) received on December 14, 1998; to the Committee on Commerce, Science, and Transportation.

EC-810. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Eastern Aleutian District and Bering Sea Subarea of the Bering Sea and Aleutian Islands" (I.D. 111698B) received on December 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC-811. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulation; Lake Pontchartrain, LA" (RIN2115-AE47) received on December 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC-812. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; British Aerospace BAe Model ATP Airplanes" (Docket 98-NM-216-AD) received on December 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC-813. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bombardier Model DHC-7 and DHC-8 Series Airplanes" (Docket 98-NM-237-AD) received on December 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC-814. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A300-600 Series Airplanes" (Docket 97-NM-153-AD) received on December 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC-815. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 737, 747, 757, 767, and 777 Series Airplanes" (Docket 98-NM-263-AD) received on December 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC-816. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Pilot Schools" (RIN2120-ZZ15) received on December 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC-817. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Pilot Schools" (RIN2120-ZZ14) received on December 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC-818. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model MD-11 Series Airplanes" (Docket 98-NM-348-AD) received on December 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC-819. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E2 Airspace; Atlanta Dekalb-Peachtree Airport, GA" (Docket 98-ASO-17) received on December 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC-820. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A321" (Docket 98-NM-302-AD) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC-821. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Swordfish Fishery; Quota Adjustment" (I.D. 111698C) received on December 14, 1998; to the Committee on Commerce, Science, and Transportation.

EC-822. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 757 Series Airplanes" (Docket 98-NM-336-AD) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–823. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Rolls-Royce Limited, Bristol Engines Division and Rolls-Royce (1971) Limited, Bristol Engines Division Viper Series Turbojet Engines" (Docket 98–ANE–06–AD) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–824. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglass Model MD–11 Series Airplanes" (Docket 96–NM–227–AD) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–825. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 757–200 Series Airplanes Powered by Rolls-Royce RB211–535E4/E4B Engines" (Docket 97–NM–311–AD) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–826. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Proposed Establishment of Class E Airspace; Bolivar, MO" (Docket 98–ACE–33) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–827. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; West Plains, MO" (Docket 98–ACE–37) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–828. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations; Eight Coast Guard District Annual Marine Events" (Docket 08–98–018) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–829. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A310 Series Airplanes" (Docket 95–NM–275–AD) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–830. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Sikorsky Aircraft Corporation Model S–61A, D, E, L, N, NM, R, and V Helicopters" (Docket 96–SW–29–AD) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–831. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Valparaiso, IN" (Docket 98–AGL–53) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–832. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of VOR Federal Airway V–485; San Jose, CA" (Docket 95–AWP–6) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–833. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations: Taunton River, MA" (Docket 01–97–098) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–1. A resolution adopted by the Legislature of Suffolk County, New York, relative to veterans' rights; to the Committee on Veterans Affairs.

POM–2. A resolution adopted by the Council of the City of Cincinnati, Ohio, relative to the year 2000 census; to the Committee on Governmental Affairs.

POM–3. A resolution adopted by the Council of Cincinnati, Ohio, relative to the Cincinnati Postal Service Processing and Distribution Center; to the Committee on Governmental Affairs.

POM–4. A resolution adopted by the Senate of the Legislature of Puerto Rico; Ordered to lie on the table.

SENATE RESOLUTION 1840

STATEMENT OF PURPOSE

The People of Puerto Rico suffered enormous material damages during September 21 and 22, 1998, as the result of the landfall of Hurricane "Georges" over all the territory of Puerto Rico. The path of destruction that this atmospheric phenomenon left in the cities and rural areas is unprecedented in our recent history. The damages to the infrastructure, housing and economic development have only begun to be calculated and already surpass billions of dollars. Undoubtedly, it will take months to replace the material damages caused by this traumatic event.

However, on this difficult moment for Puerto Rico, its has been a source of hope and inspiration for everybody that the Federal Government, by orders and the direct and decisive intervention of Honorable William J. Clinton, President of the United States of America, has responded with compassion, quickness, promptitude and praiseworthy efficiency to the petition for aid made by Governor Pedro J. Rosselló on behalf of the People of Puerto Rico. The effects of "Georges" had barely stopped being felt over the territory of Puerto Rico, when President Clinton had already declared the Island a major disaster area. Due to the fact that we Puerto Ricans are U.S. citizens, the Island is eligible to receive millions of dollars in immediate aid from the Federal Government. This aid has been initially channeled through the Federal Emergency Management Agency (FEMA), agency which immediately sent dozens of its employees and officials to promptly begin evaluating the damages and the distribution of aid.

The presidential declaration of disaster area, effective on September 24, 1998, was followed by visible manifestations and messages of concern and support to the residents of Puerto Rico, as well as the immediate envoy to Puerto Rico of Secretary of Housing and Urban Development (HUD), Andrew Cuomo, and of the administrator of the Small Business Administration (SBA), Aida Alvarez, in order to prepare and submit to the President a detailed report of the damages. In addition, he designated a Presidential Commission composed of such federal officials and by the White House aide for Puerto Rico affairs and co-chair of the Interagency Working Group on Puerto Rico, Jeffrey Farrow, led by the First Lady of the United States of America, Hillary Rodham Clinton. This Commission traveled to Puerto Rico and its members were able to personally examine on September 29, the damages caused by the hurricane when they flew over and visited many affected localities including the municipalities of Luquillo and Guayama.

Among the aid authorized by President Clinton for Puerto Rico as the result of the visit of the First Lady, in addition to other aid authorized by law, came: the shipment of two hundred thousand (200,000) gallons of water and one hundred thousand (100,000) pounds of ice daily to Puerto Rico; the allocation of thirty million dollars ($30,000,000.00) to create temporary jobs for displaced workers as a result of the hurricane; the allocation of thirty nine million dollars ($39,000,000.00) for the reconstruction of public housing units; five million dollars ($5,000,000.00) for cleaning up roads and rebuilding bridges that give access to remote areas; and a special program of one hundred percent (100%) financing for owners who lost their homes, sponsored by the Federal Housing Agency.

The personal interest taken by President Clinton regarding the emergency caused by Hurricane "Georges" in Puerto Rico and the rapid, agile and efficient response given by the Federal Government to this situation, evidenced by the mobilization of personnel and resources of the federal agencies, by the presence in the island of important federal officials and members of Congress, and the massive allocation of funds and resources to help the victims of the hurricane, have visibly helped the People of Puerto Rico to recover their courage and hope after their sensible losses suffered.

The Senate of Puerto Rico recognizes and thanks the Honorable William J. Clinton, President of the United States of America, for his work on behalf of the People of Puerto Rico on this difficult moment.

Be it resolved by the Senate of Puerto Rico:

Section 1.—Express to the Honorable William J. Clinton, President of the United States of America, its recognition for the agile, prompt and efficient manner in which he responded to the petition for federal aid made by the Government of Puerto Rico as the result of the emergency caused by Hurricane "Georges", that hit the island on September 21 and 22, 1998 and for the rapid declaration and mobilization of Federal Government resources and officials to attend to the damages caused by the Hurricane in Puerto Rico.

Section 2.—This Resolution shall be sent to the Honorable William J. Clinton, President of the United States of America.

Section 3.—The Office of the Clerk is instructed to remit a copy of this Resolution to the Clerk of the U.S. House of Representatives and to the Secretary of the U.S. Senate for distribution to the members of their respective bodies.

Section 4.—This Resolution shall take effect immediately after its approval.

POM–5. A resolution adopted by the House of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Appropriations.

HOUSE RESOLUTION NO. 513

Whereas, The Delaware River represents one of Pennsylvania's and one of the nation's most important water resources, serving as a water supply for 17 million persons in the states of New York, Pennsylvania, New Jersey and Delaware; and

Whereas, The Delaware River is an interstate stream forming the boundary between states for its entire length of 330 miles; and

Whereas, Two major sections of the Delaware River have been designated under the Wild and Scenic Rivers Act; and

Whereas, The remaining section of the Delaware River has been studied and is now in the process of being designated under the Wild and Scenic Rivers Act; and

Whereas, The Delaware River and the Pennsylvania tributaries serve as a major recreational facility for the large population of the New York/Philadelphia Metropolian Areas; and

Whereas, The Congress of the United States created the Delaware River Basin Compact (Compact) in recognition of the need to coordinate the efforts of the four states and Federal agencies and to establish a management system to oversee the use of water and related natural resources of the Delaware River Basin; and

Whereas, The Compact was enacted by the legislatures of New York, Pennsylvania, New Jersey and Delaware and by Congress and was signed into law on September 27, 1961, to provide a mechanism to guide the conservation, development and administration of water resources of the river basin; and

Whereas, The Compact established the Delaware River Basin Commission (Commission) as the agency to coordinate the water resources efforts of the four states and the Federal Government and provided the Commission with authority for management and protection of flood plains, water supplies, water quality, watersheds, recreation, fish and wildlife and cultural, visual and other amenities; and

Whereas, The Commission has provided for equitable treatment of all parties without regards to political boundary; and

Whereas, The Commission includes both the Delaware River and Delaware Bay, which serve the port of Philadelphia, a port that handles the largest volume of petroleum of all United States ports; and

Whereas, Sections 3.3 and 3.4 of the Compact specifically provide for the Commission, with the consent of the parties in the matter of state of New Jersey v. state of New York et al. 347 U.S. 995 (1954) to apportion the water to and among the states; and

Whereas, The Commission has successfully negotiated all disputes or conflicts between parties without any appeal to the United States Supreme Court; and

Whereas, Section 13.3 of the Compact calls for the adoption and apportionment of the Commission's annual expense budget among the signatory parties to the Compact; and

Whereas, The United States is a duly constituted signatory party to the Compact; and

Whereas, In fiscal years 1996, 1997 and 1998, the Commission duly submitted its approved budgets to the President's Office of Management and Budget (OMB) and Congress; and

Whereas, The Federal Government failed to provide full funding in fiscal year 1996 and failed to provide any funding in fiscal years 1997 and 1998 for the Commission's current expense budget and has, therefore, not met the funding requirement of section 13.3 of the Compact; and

Whereas, The Commission also has adopted and duly submitted to OMB a current expense budget for fiscal year 1999 that includes an apportionment for the Federal Government in the amount of no dollars; and

Whereas, The fair share apportionment of the Commission's annual expense budget for the Federal Government for fiscal year 1999 is $628,000; and

Whereas, The cumulative shortfall of Federal funding for the Commission since fiscal year 1996 is $1.716 million; and

Whereas, The Commission pays the Federal Government approximately $1.3 million per year to purchase storage in the Blue Marsh and Beltzville multipurpose reservoirs; and

Whereas, The Commission is the agent of Congress in the allocation of the waters of the basin among the signatory states; and

Whereas, The Commission, through its regulations and programs, protects interstate waters and the Delaware Bay and provides a forum for the prevention and settlement of interstate disputes that arise over the use of interstate waters; and

Whereas, Through these interstate functions and many other programs and activities, such as the coordination of the basin flood and drought forecasting and warning system, the Commission saves the Federal Government time, resources and money, thus advancing the welfare of the nation; therefore be it

Resolved, That the House of Representatives of Pennsylvania memorialize the President of the United States and Congress to provide the Commission with funding in an amount equal to what is owed for the Federal Government's share of the Commission's operating budgets for fiscal years 1996, 1997, 1998 and 1999; and be it further

Resolved, That the House of Representatives of Pennsylvania memorialize the President of the United States and Congress to fulfill the Federal Government's obligation under the Delaware River Basin Compact to annually contribute the apportioned share of the Commission's future operating budgets; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–6. A resolution adopted by the House of the Legislature of the State of Michigan; to the Committee on Health, Education, Labor and Pensions.

HOUSE RESOLUTION NO. 361

Whereas, In 1996, Congress enacted a provision that requires the United States Department of Health and Human Services to develop a computerized system of keeping track of the health history of every American. This electronic code represents the first national identification system since Social Security was initiated more than sixty years ago; and

Whereas, The national health identifier is designed to increase the information available to medical care professionals, public health officials and the scientific community for research purposes. One of the proposed ideas to implement this is to use Social Security numbers. Proponents of the national health identifier believe that the information will benefit billing systems, streamline treatment, and generally assist in the development of national disease data bases, which could help research efforts. While many of these worthy goals may result from an electronic file on each person, there are grave concerns for abuse resulting from the information; and

Whereas, Most people find little consolation in assurances that information compiled through the national health identifier would remain confidential. New reports of hackers breaking into various computer systems—even top security computers at the Pentagon—provide ample justification for skepticism. Every person's personal health history must remain private. Insurers, employers, and any number of groups could abuse the information in many ways; and

Whereas, It is significant to note that, when this provision was added to omnibus legislation in 1996, few people understood the ramifications of the policy and its potential threat to personal privacy. Many members of Congress acknowledge that they had no awareness that the measure included this mandate; and

Whereas, The Michigan House of Representatives has requested that Congress rescind the requirement for Social Security numbers to be included on applications for various state licenses; and

Whereas, Clearly, the potential for damage to people far outweights the advantages to research or the convenience to insurance companies, now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to rescind its mandate that the United State Department of Health and Human Services develop a national health identifier to track the health history of every American. We also urge Congress to restrict the use of Social Security numbers to the purposes of Social Security and uses permitted by law; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–7. A joint resolution adopted by the Legislature of the State of California; to the Committee on Health, Education, Labor, and Pensions.

ASSEMBLY JOINT RESOLUTION NO. 43

Whereas, According to the American Heart Association, the following facts apply to cardiovascular diseases:

(a) Cardiovascular diseases, including heart attack, stroke, and high blood pressure, are the number one killer of women in the United States.

(b) One in five females has some form of major cardiovascular disease.

(c) Over 479,000 women die from cardiovascular diseases each year compared to 246,000 women who die from all cancer deaths combined; in addition five times as many females die from heart attacks as breast cancer.

(d) African American women in the range of 35 to 74 years of age are more than twice as likely to die from a heart attack as white women.

(e) In 1992, cardiovascular diseases resulted in the death of more than 43,800 women in California; and

Whereas, The American Heart Association is dedicated to reducing disability and death from cardiovascular disease and stroke; and

Whereas, The American Heart Association funds biomedical research and conducts a variety of preventive education programs in communities throughout California; and

Whereas, The American Heart Association applauds the efforts of members of Congress in introducing legislation, the Women's Cardiovascular Diseases Research and Prevention Act and related measures, in order to provide funding to expand and intensify research, education, and outreach programs for heart disease; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress to support the Women's Cardiovascular Diseases Research and Prevention Act before the Congress in order to provide funding to expand and intensify research, education, and outreach programs for heart disease; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–8. A joint resolution adopted by the Legislature of the State of California; to the Committee on Health, Education, Labor, and Pensions.

ASSEMBLY JOINT RESOLUTION NO. 48

Whereas, The federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) authorized eligible individuals to claim a deduction from gross income subject to federal income taxes for amounts deposited during the taxable year to a medical savings account; and

Whereas, The Legislature provided conformity to that law under the Personal Income Tax Law by approving Chapter 954 of the Statutes of 1996; and

Whereas, The federal law contains a "cut-off year" which prohibits the deduction of contributions by otherwise eligible individuals after that cut-off year unless the individual had already established a medical savings account or became covered under a high deductible health plan as an employee of a medical savings account participating employer; and

Whereas, The cut-off year is calendar year 2000, or sooner if the number of participants in medical savings accounts exceeds a certain number determined by a formula under the federal law; and

Whereas, Health insurance, generally, may not be purchased with amounts deposited in a medical savings account; and

Whereas, Health insurance premiums are not otherwise deductible by individuals; now, therefore, be it

Resolved by the Assembly, and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to remove the limitation on the number of persons who may have a medical savings account, to permit funds in a medical savings account to be used to pay premiums on any employee's health care medical plan or provide that those health care plan premiums be otherwise deductible, *and to make the medical saving account provisions permanent*; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the President pro Tempore of the Senate, and each Senator and Representative from California in the Congress of the United States.

POM–9. A resolution adopted by the House of the Legislature of the State of Michigan; to the Committee on Energy and Natural Resources.

HOUSE RESOLUTION NO. 322

Whereas, Much of our country's manufacturing strength can be traced to the activities of the automobile industry in Michigan. Over the past century, the growth of this key industry has constituted a remarkable chapter in our history and our heritage. From the infancy of automobiles in Michigan to the industry's role during war, the process of manufacturing automobiles has meant more to our country than can be measured by economic statistics alone; and

Whereas, In an effort to recognize and preserve the cultural heritage of the automobile industry, interested citizens and organizations are working with members of Congress to establish a program to establish an automobile heritage area. The automobile heritage area would join the heritage areas already established in our country and maintained in conjunction with the National Park Service; and

Whereas, Two bills have been introduced in Congress to provide for the Automobile National Heritage Area. These measures, H.R. 3910 and S. 2104, would extend the program to corridors in the state with unique roles in Michigan's automobile history, including not only the metropolitan Detroit region, but also locations in Flint and Lansing; and

Whereas, There are presently sixteen heritage areas throughout the country. These help to preserve the history of the textile industry in Massachusetts, the role of the canals and other waterways in our nation's development, and several other unique components of America's past. The automobile industry certainly is an appropriate addition to this effort to save our cultural heritage; now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to enact the Automobile National Heritage Area Act; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–10. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on Finance.

SENATE RESOLUTION NO. 182

Whereas, Because of changes in technology, society, and the way our economy functions, the notion of the workplace is far different today than it was only a few years ago. More and more citizens work out of their homes. In addition to the obvious influence of computers, people are choosing to work at home to care for children and aging parents as well; and

Whereas, Under current law, expenses of maintaining a home office can be deducted from income for federal tax purposes only if an office is used exclusively for business. There are also stringent record-keeping requirements. These restrictions can place people working at home at a severe disadvantage in the marketplace. The current status also likely stifles the initiative of some entrepreneurs; and

Whereas, Government policies should encourage citizens to be responsible to their families and should not hinder efforts to increase productivity. Public policy must keep pace with the changes that are taking place in how Americans live and work. The models upon which the tax status of the home office was based do not reflect today's working world; now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to amend the Internal Revenue Code to remove the requirement that a home office must be used exclusively for business in order to be eligible for any tax deduction; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–11. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

ASSEMBLY JOINT RESOLUTION NO. 59

Whereas, Reflex Sympathetic Dystrophy Syndrome (RSDS) is a heinous autonomic neurological disease that causes severe burning pain, extreme sensitivity to touch, swelling, excessive sweating, and deterioration of the skin, tissue, muscles, and bones; and

Whereas, RSDS usually affects the arms and legs, but can affect any part of the body; and

Whereas, There are an estimated 6,000,000 people in the United States with this disease and, thus, it is not a rare disease; and

Whereas, The unremitting pain of RSDS has caused many people much physical and emotional misery; and

Whereas, There is no reason for these people to also suffer financial devastation and additional misery; and

Whereas, Under federal law, each person with RSDS who applies for Social Security disability insurance is considered on an individual basis and by the time benefits are awarded, it may take as long as three years; and

Whereas, In the interim, savings, belongings, and homes are lost and the stress from this financial devastation, along with the terrible pain, often results in the individual becoming severely depressed; and

Whereas, This financial misery could be lessened or averted if victims of RSDS qualified immediately for Social Security disability insurance benefits upon proper diagnosis and progression to a state of disability; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the California Legislature urges the Congress of the United States to enact legislation to qualify automatically persons with Reflex Sympathetic Dystrophy Syndrome (RSDS) for Social Security disability insurance benefits upon proper diagnosis and progression to a state of disability; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–12. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

ASSEMBLY JOINT RESOLUTION NO. 58

Whereas, The federal research and development tax credit expires on June 30, 1998; and

Whereas, The research and development tax credit enjoys broad, bipartisan support and provides a critical, effective, and proven incentive for companies to increase their investment in United States-based research; and

Whereas, Since Congress first enacted the research and development tax credit in 1981, two industries important to California's economy, the pharmaceutical and electronic industries, increased their research spending from $10.5 billion to more than $64.2 billion; and

Whereas, The research conducted by these industries alone has led to the development of many new drugs and medicines and has helped propel us into the Information Age; and

Whereas, While other countries continue to offer tax incentives and subsidies to businesses competing with United States companies, it is important that Congress continue to encourage investment in innovative technologies; and

Whereas, The structure of the research and development tax credit ensures that companies that benefit from the credit will continue to increase their research and development spending from year to year and also continue to add high-paying American jobs; now therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to permanently extend the research and tax credit, as proposed in H.R. 2819; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of representatives, and to each Senator and Representative from California in the Congress of the United States.

POM-13. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

Assembly Joint Resolution No. 76

Whereas, The Republic of Cyprus has been illegally divided and occupied by Turkish forces since 1974 in violation of United Nations resolutions; and

Whereas, The international community and the United States government have repeatedly called for the speedy withdrawal of all foreign troops from the territory of Cyprus; and

Whereas, There are internationally acceptable means to resolve the situation in Cyprus, including the proposal for the demilitarization of Cyprus and the establishment of a multinational force to ensure the security of both the Greek and Turkish communities in Cyprus, which has been endorsed by the international community including the United States government; and

Whereas, It is recognized that the prospect of Cyprus accession to the European Union will serve as a catalyst for resolving the situation in Cyprus; and

Whereas, A peaceful, just, and lasting solution to the Cyprus problem would greatly benefit the security and the political, economic, and social well-being of all Cypriots, as well as contribute to improved relations between Greece and Turkey; and

Whereas, The United Nations has repeatedly stated the parameters for such a solution, most recently in United Nations Security Council Resolution 1092, adopted on December 23, 1996, with United States support; and

Whereas, In spite of unsuccessful high level meetings in 1997 and the United States led mediation efforts in May 1998, the situation has led to a stalemate in the efforts of the international community to reach a Cyprus settlement; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the solution of the situation in Cyprus must be based on the parameters and principles set forth in House Concurrent Resolution No. 81 and Senate Concurrent Resolution No. 41 both of the 105th Congress and the aforementioned United Nations Security Council Resolution 1092, regarding the situation in Cyprus; and be it further

Resolved, That the Assembly and Senate of the State of California, jointly, call the United States to continue their active support in finding a just, viable, and lasting solution to the Cyprus problem within the United Nations framework and according to the said parameters; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself, Mr. Sessions, Mr. Thurmond, Mr. Abraham, Mr. DeWine, and Mr. Ashcroft):

S. 254. A bill to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes; read the first time.

By Mr. GRASSLEY (for himself and Mr. Breaux):

S. 255. A bill to combat waste, fraud, and abuse in payments for home health services provided under the medicare program, and to improve the quality of those home health services; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. Breaux, and Mr. Conrad):

S. 256. A bill to amend title XVIII of the Social Security Act to promote the use of universal product numbers on claims forms submitted for reimbursement under the medicare program; to the Committee on Finance.

By Mr. COCHRAN (for himself, Mr. Inouye, and Mr. Hagel):

S. 257. A bill to state the policy of the United States regarding the deployment of a missile defense capable of defending the territory of the United States against limited ballistic missile attack; to the Committee on Armed Services.

By Mr. McCAIN (for himself, Mr. Levin, and Mr. Robb):

S. 258. A bill to authorize additional rounds of base closures and realignments under the Defense Base Closure and Realignment Act of 1990 in 2001 and 2003, and for other purposes; to the Committee on Armed Services.

By Mr. INOUYE:

S. 259. A bill to increase the role of the Secretary of Transportation in administering section 901 of the Merchant Marine Act, 1936, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GRASSLEY (for himself, Mr. Daschle, Mr. Craig, Mr. Brownback, Mr. Sessions, Mr. Ashcroft, Mr. Kohl, and Mr. Burns):

S. 260. A bill to make chapter 12 of title 11, United States Code, permanent, and for other purposes; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. Rockefeller, Mr. Byrd, Mr. DeWine, Mr. Hollings, Mr. Santorum, Ms. Mikulski, Mr. Sarbanes, Mr. Hutchinson, Mr. Durbin, Mr. Kohl, Mr. Sessions, and Mr. Moynihan):

S. 261. A bill to amend the Trade Act of 1974, and for other purposes; to the Committee on Finance.

By Mr. ROTH (for himself and Mr. Moynihan):

S. 262. A bill to make miscellaneous and technical changes to various trade laws, and for other purposes; to the Committee on Finance.

By Mr. ROTH:

S. 263. A bill to amend the Social Security Act to establish the Personal Retirement Accounts Program; to the Committee on Finance.

By Mr. AKAKA:

S. 264. A bill to increase the Federal medical assistance percentage for Hawaii to 59.8 percent; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself and Ms. Snowe):

S. 265. A bill entitled "Hospital Length of Stay Act of 1999"; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 266. A bill to amend the Clean Air Act to permit the exclusive application of California State regulations regarding reformulated gasoline in certain areas within the State; to the Committee on Environment and Public Works.

S. 267. A bill to amend the Solid Waste Disposal Act to direct the Administrator of the Environmental Protection Agency to give highest priority to petroleum contaminants in drinking water in issuing corrective action orders under the response program for petroleum; to the Committee on Environment and Public Works.

S. 268. A bill to specify the effective date of and require an amendment to the final rule of the Environmental Protection Agency regulating exhaust emissions from new spark-ignition gasoline marine engines; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MURKOWSKI (for himself, Mr. Torricelli, Mr. Helms, Mr. Thomas, Mr. Mack, and Mr. Smith of Oregon):

S. Res. 26. A resolution relating to Taiwan's Participation in the World Health Organization; to the Committee on Foreign Relations.

By Mr. WELLSTONE:

S. Res. 27. A resolution expressing the sense of the Senate regarding the human rights situation in the People's Republic of China; to the Committee on Foreign Relations.

By Mr. DURBIN:

S. Con. Res. 2. A concurrent resolution recommending the integration of Lithuania, Latvia, and Estonia into the North Atlantic Treaty Organization (NATO); to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. Sessions, Mr. Thurmond, Mr. Abraham, Mr. DeWine, Mr. Ashcroft):

S. 254. A bill to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes; read the first time.

VIOLENT AND REPEAT JUVENILE OFFENDER ACCOUNTABILITY AND REHABILITATION ACT OF 1999

Mr. HATCH. Mr. President, I am proud today to introduce the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999. I am pleased to be joined by Senator SESSIONS, the distinguished chairman of the Youth Violence Subcommittee, as well as Senator DEWINE.

There are few issues that will come before the Senate this year that touch the lives of more of our fellow Americans than our national response to juvenile crime. Crime and delinquency among juveniles is a problem that troubles us in our neighborhoods, schools and parks. It is the subject across the dinner table, and in those late night, worried conversations all parents have had at one time or another. The subject is familiar—how can we prevent our children from falling victim—either to crime committed by another juvenile, or to the lure of drugs, crime, and gangs.

Their concerns should be our concerns. The sad reality is that we can no longer sit silently by as children kill children, as teenagers commit truly heinous offenses, as our juvenile drug abuse rate continues to climb. In 1997, juveniles accounted for nearly one fifth—18.7 percent—of all criminal arrests in the United States. Persons under 18 committed 13.5 percent of all murders, over 17 percent of all rapes, nearly 30 percent of all robberies, and 50 percent of all arsons.

In 1997, 183 juveniles under 15 were arrested for murder. Juveniles under 15 were responsible for 6.5 percent of all rapes, 14 percent of all burglaries, and one third of all arsons. And, unbelievably, juveniles under 15—who are not old enough to legally drive in any state—in 1997 were responsible for 10.3 percent of all auto thefts.

To put this in some context, consider this: in 1997, youngsters age 15 to 19, who are only 7 percent of the population, committed 22.2 percent of all crimes, 21.4 percent of violent crimes, and 32 percent of property crimes.

And although there are endless statistics on our growing juvenile crime problem, one particularly sobering fact is that, between 1985 and 1993, the number of murder cases involving 15-year olds increased 207 percent. We have kids involved in murder before they can even drive.

Even my state of Utah has not been immune from these trends. Indeed, a 1997 study by Brigham Young University Professor Richard Johnson found that Utah's juvenile arrest rate is the highest in the nation. Additionally, as an indication of the increasingly serious nature of juvenile offenses in Utah, between 1990 and 1996 the number of juveniles sentenced to youth corrections increased 142 percent, and the number of juveniles requiring detention in a secure facility more than doubled. And in 1995, the average Utah juvenile offender had accumulated an astonishing average of 23 misdemeanors, 8 felony convictions, and 2.4 status offense convictions before being sentenced to a secure youth facility.

In short, our juvenile crime problem has taken a new and sinister direction. But cold statistics alone cannot tell the whole story. Crime has real effects on the lives of real people. Last fall, I read an article in the Richmond Times-Dispatch by my good friend, crime novelist Patricia Cornwell. It is one of the finest pieces I have read on the effects of and solutions to our juvenile crime problem.

Let me share with my colleagues some of what Ms. Cornwell, who has spent the better part of her adult life studying and observing crime and its effects, has to say. She says "when a person is touched by violence, the fabric of civility is forever rent, or ripped, or breached . . ." This is a graphic but accurate description. Countless lives can be ruined by a single violent crime. There is, of course, the victim, who may be dead, or scarred for life. There are the family and friends of the victim, who are traumatized as well, and who must live with the loss of a loved one. Society itself is harmed, when each of us is a little more frightened to walk on our streets at night, to use an ATM, or to jog or bike in our parks. And, yes, there is the offender who has chosen to throw his or her life away. Particularly when the offender is a juvenile, family, friends, and society are made poorer for the waste of potential in every human being. One crime, but permanent effects when "the fabric of civility is rent."

This is the reality that has driven me to work for the last three years to address this issue. In this effort, I have been joined by a bipartisan majority of the Senate Judiciary Committee, which last Congress reported comprehensive legislation on a bipartisan, two to one vote. Indeed, among members of the Youth Violence Subcommittee, the vote was seven to two in favor of the bill.

The Judiciary Committee's legislation last Congress would have fundamentally reformed the role played by the federal government in addressing juvenile crime in our Nation. It was supported by law enforcement organizations such as the Fraternal Order of Police, the National Sheriffs Association, and the National Troopers Coalition, as well as the support of juvenile justice practitioners such as the National Council of Juvenile and Family Court Judges, and victim's groups including the National Victims Center and the National Organization for Victims Assistance.

The bill we introduce today builds on those efforts. Our reform proposal includes the best of what we know works. It combines tough measures to protect the public from the worst juvenile criminals, smart measures to provide intervention and correction at the earliest acts of delinquency, and compassionate measures to rehabilitate juvenile offenders and to supplement and enhance extensive existing prevention programs to keep juveniles out of the cycle of crime, violence, drugs, and gangs.

Mr. President, let me spell out in great detail the provisions of this bill, and how it will help reform the juvenile justice system that is failing the victims of juvenile crime, failing too many of our young people, and ultimately, failing to protect the public.

First, this bill reforms and streamlines the federal juvenile code, to responsibly address the handful of cases each year involving juveniles who commit crimes under federal jurisdiction. Our bill sets a uniform age of 14 for the permissive transfer of juvenile defendants to adult court, permits prosecutors and the Attorney General to make the decision whether to charge a juvenile offender as an adult, and permits in certain circumstances juveniles charged as an adult to petition the court to be returned to juvenile status.

It also provides that when prosecuted as adults, juveniles in Federal criminal cases will be subject to the same procedures and penalties as adults, except for the application of mandatory minimums in most cases. Of course, the death penalty would not be available as punishment for any offense committed before the juvenile was 18.

The bill similarly provides that juveniles tried as adults and sentenced to prison must serve their entire sentences, and may not be released on the basis of attaining their majority, and applies to juveniles convicted as adults the same provisions of victim restitution, including mandatory restitution, that apply to adults.

Finally, in reforming the federal system, I believe that we must lead by example. So our bill provides that the federal criminal records of juveniles tried as adults, and the federal delinquency records of juveniles adjudicated delinquent for certain serious offenses such as murder, rape, armed robbery, and sexual abuse or assault, will be treated for all purposes in the same manner as the records of adults for the same offenses. Other federal felony juvenile criminal or delinquency records would be treated the same as adult records for criminal justice or national security background check purposes.

The bill also permits juvenile federal felony criminal and delinquency records to be provided to schools and colleges under rules issued by the Attorney General, provided that recipients of the records are held to privacy standards and that the records not be used to determine admission.

Let me assure any who may be concerned that it is not our intent in reforming the federal juvenile code to federalize juvenile crime—indeed, no conduct that is not a federal crime now will be if this reform is enacted. I do not intend or expect a substantial increase in the number of juvenile cases adjudicated or prosecuted in federal court. It is our intent, rather, to ensure that when there is a federal crime warranting the federal prosecution of a juvenile, the federal government assumes its responsibility to deal with it, rather than saddling the states with that burden.

Second, at the heart of this bill is an historic reform and reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974, the most comprehensive review of that legislation in 25 years. The States for several years have been far ahead of the Federal Government in implementing innovative reforms of their juvenile justice systems. For example, between 1992 and 1996, of the 50 States and the District of Columbia, 48 made substantive changes to their juvenile justice systems. Among the trends in State law changes are the removal of more serious and violent offenders from the juvenile justice system, in favor of criminal court prosecution; new and innovative disposition/sentencing options for juveniles; and the revision, in favor of openness, of traditional confidentiality provisions relating to juvenile proceedings and records.

While the States have been making fundamental changes in their approaches to juvenile justice, however, the Federal Government has made no significant change to its approach and has done little to encourage State and local reform. Thus, the juvenile justice terrain has shifted beneath the Federal Government, leaving its programs and policies out of step and largely irrelevant to the needs of State and local governments. This bill corrects this imbalance between State and Federal juvenile justice policy, and will help ensure that federal programs support the needs of State and local governments.

First, our bill reforms and strengthens the Office of Juvenile Justice and Delinquency Prevention (OJJDP) of the Department of Justice. The effectiveness of the OJJDP will be enhanced by requiring its Administrator to present to Congress annual plans, with measurable goals, to control and prevent youth crime, coordinate all Federal programs relating to controlling and preventing youth crime, and disseminate to States and local governments data on the prevention, correction and control of juvenile crime and delinquency, and report on successful programs and methods.

And, most important to state and local governments, in the future, OJJDP will serve as a single point of contact for States, localities, and private entities to apply for and coordinate all federal assistance and programs related to juvenile crime control and delinquency prevention. This one-stop-shopping for federal programs and assistance will help state and local governments focus on the problem, instead of on how to navigate the federal bureaucracy.

Second, our reform bill consolidates numerous JJDPA programs, including Part C Special Emphasis grants, State challenge grants, boot camps, and JJDPA Title V incentive grants, under an enhanced $200 million per year prevention challenge block grant to the States. The bill also reauthorizes the JJDPA Title II Part B State formula grants. In doing so, it also reforms the current core mandates on the States relating to the incarceration of juveniles to ensure the protection of juveniles in custody while providing state and local governments with needed flexibility.

This flexibility is particularly important to rural states, where immediate access to a juvenile detention facility might be difficult. Since many communities cannot afford separate juvenile and adult facilities, law enforcement officers must drive hours to transport juvenile offenders to the nearest facility, instead of patrolling the streets. Another unintended consequence of JJDPA is the release of juvenile offenders because no beds are available in juvenile facilities or because law enforcement officials cannot afford to transport youths to juvenile facilities. Juvenile criminals are released even though space is available to detain them in adult facilities. Our reform will provide the states with a degree of flexibility which currently does not exist.

However, this flexibility is not provided at the expense of juvenile inmate safety. The bill strictly prohibits placing juvenile offenders in jail cells with adults. No one supports the placing of children in cells with adult offenders. To be clear—nothing in the bill will expose juveniles to any physical contact by adult offenders. Indeed, the legislation is explicit that, if states are to qualify for federal funds, they may not place juvenile delinquents in detention under conditions in which the juvenile can have physical contact, much less be physically harmed by, an adult inmate.

These provisions are largely based on H.R. 1818 from the 105th Congress, but are improved to ensure that abuse of juvenile delinquent inmates is not permitted by incorporating definitions of what constitutes unacceptable contact between juvenile delinquents and adult inmates.

Third, and finally, our reform of the JJDPA reauthorizes and strengthens those other parts of the JJDPA that have proven effective. For example, the National Center for Missing and Exploited Children and the Runaway and Homeless Youth Act are reauthorized and funded. Gang prevention programs are reauthorized. And important, successful programs to provide mentoring for young people in trouble with the law or at risk of getting into trouble with the law are reauthorized and expanded. Operating through the Cooperative Extension Service program sponsored by the Department of Agriculture, the University of Utah has developed a ground-breaking and highly successful program that mentors to entire families—pairing college age mentors with juveniles in trouble or at risk of getting in trouble with the law, and pairing senior citizen couples with the juvenile's parents and siblings. This program gets great bang for the buck. So our bill provides demonstration funds to expand this program and replicate its success in other states.

Finally, our bill provides an important new program to encourage state programs that provide accountability in their juvenile justice systems. All or nearly all of our states have taken great strides in reforming their systems, and it is time for the federal government's programs to catch up and provide needed assistance.

Despite reforms in recent years, all too often, the juvenile justice system ignores the minor crimes that lead to the increasingly frequent serious and tragic juvenile crimes capturing headlines. Unfortunately, many of these crimes might have been prevented had the warning signs of early acts of delinquency or antisocial behavior been heeded. A delinquent juvenile's critical first brush with the law is a vital aspect of preventing future crimes, because it teaches an important lesson—what behavior will be tolerated. Accountability is not just about punishment—although punishment is frequently needed. It is about teaching consequences and providing rehabilitation to youth offenders.

According to a recent Department of Justice study, juveniles adjudicated for so-called index crimes—such as murder, rape, robbery, assault, burglary, and auto theft—began their criminal careers at an early age. The average age for a juvenile committing an index offense is 14.5 years, and typically, by age 7, the future criminal is already showing minor behavior problems. If we can intervene early enough, however, we might avert future tragedies. Our bill provides a new Juvenile Accountability Block Grant to reform federal policy that has been complicit in the system's failure, and provide states with much needed funding for a system of graduated sanctions, including community service for minor crimes, electronically monitored home detention, boot camps, and traditional detention for more serious offenses.

And let there be no mistake—detention is needed as well. Our first priority should be to keep our communities safe. We simply have to ensure that violent people are removed from our midst, no matter their age. When a juvenile commits an act as heinous as the worst adult crime, he or she is not a kid anymore, and we shouldn't treat them as kids.

State receipt of the incentive grants would be conditioned on the adoption of three core accountability policies: the establishment of graduated sanctions to ensure appropriate correction of juvenile offenders, drug testing juvenile offenders upon arrest in appropriate cases; and recognition of victims rights and needs in the juvenile justice system.

Meaningful reform also requires that a juvenile's criminal record ought to be accessible to police, courts, and prosecution, so that we can know who is a repeat or serious offender. Right now, these records simply are not generally available in NCIC, the national system that tracks adult criminal records. Thus, if a juvenile commits a string of felony offenses, and no record is kept, the police, prosecutors, judges or juries will never know what he did. Maybe for his next offense, he'll get a light sentence or even probation, since it appears he's committed only one felony in his life instead 10 or 15. Such a system makes no sense, and it doesn't protect the public.

So the reform we offer in this bill also provides the first federal incentives for the integration of serious juvenile criminal records into the national criminal history database, together with federal funding for the system.

Finally, we all recognize the value of education in preventing juvenile crime and rehabilitating juvenile offenders. When trouble-causing juveniles remain in regular classrooms, they frequently make it difficult for all other students to learn. Yet, removing such juveniles from the classroom without addressing their educational needs virtually guarantees that they will fall further into the vortex of crime and delinquency. The costs are high—to the juvenile, but also to victims and to society. These juveniles too frequently become crime committing adults, with all the costs that implies—costs to victims, and the cost of incarcerating the offenders to protect the public. So our bill tries to break this cycle, by providing a three-year $45 million demonstration project to provide alternative education to juveniles in trouble with or at risk of getting in trouble with the law.

The bill we introduce today authorizes significant funding for the programs I have described. In all, our bill authorizes $1 billion per year for 5 years, in the following categories: $450 million per year for Juvenile Accountability Block Grants; $435 million per year for prevention programs under the JJDPA, including $200 million for Juvenile Delinquency Prevention Block Grants, $200 million for Part B Formula grant prevention programs, and $35 million for Gangs, Mentoring and Discretionary grant programs; $75 million per year for grants to states to upgrade and enhance juvenile felony criminal record histories and to make such records available within NCIC, the national criminal history database used by law enforcement, the courts, and prosecutors; and $40 million per year for NIJ research and evaluation of the effectiveness of juvenile delinquency prevention programs.

Additionally, the bill authorizes $100 million per year for joint Federal-State-local law enforcement task forces to address gang crime in areas with high concentrations of gang activity. $75 million per year of this funding is authorized for establishment and operation of High Intensity Interstate Gang Activity Areas, and the remaining $25 million per year is authorized for community-based prevention and intervention for gang members and at-risk youth in gang areas.

And, finally, as I have already noted, the bill authorizes $45 million over 3 years for innovative alternative education programs to make our schools safer places of learning while helping ensure that the youth most at risk do not get left behind.

Lastly, Mr. President, let me address a provision in the bill which will prohibit firearms possession by violent juvenile offenders. This section extends the ban in current law on firearm ownership by certain felons to certain juvenile offenders. Juveniles who are adjudicated delinquent for an offense which would be a serious violent felony as defined in 18 U.S.C. 3559(C)(2)(f)(i)—the federal three strikes statute—were the offense committed by an adult will no longer be able to legally own firearms. This is common sense. If tried and convicted as adults, these criminals would automatically forfeit their right to own a gun.

However, we should learn our lesson as well from the so-called domestic violence gun ban enacted several years ago. If the offense records that allow us to know who is covered by the ban are not available, the law is hollow, or worse—it will be enforced only in arbitrary cases. For this reason, the ban we propose is prospective only, applying only to delinquent acts committed after records of such offenses are routinely available within the National Instant Check System instituted pursuant to the Brady Law.

We should also resist seeing this provision as any sort of panacea. Laws banning criminals from owning firearms have not stopped them from doing so, for a simple reason—criminals do not respect or obey the law. So while this provision is an appropriate step, we should be under no illusion that it is the answer to our juvenile crime problem.

Mr. President, I believe that we all agree that it is far better to prevent the fabric of civility from being rent than to deal with the aftermath of juvenile crime. In the face of a confounding problem like juvenile crime, it is tempting to look for easy answers. I do not believe that we should succumb to this temptation. We are faced, I believe, with a problem which cannot be solved solely by the enactment of new criminal prohibitions. It is at its core a moral problem. Somehow, too frequently we have failed as a society to pass along to the next generation the moral compass that differentiates right from wrong. This cannot be legislated. It will not be restored by the enactment of a new law or the implementation of a new program. But it can be achieved by communities working together to teach accountability by example and by early intervention when the signs clearly point to violent and antisocial behavior.

Mr. President, that is what the bill we introduce is all about. It is a comprehensive approach to this national problem. I believe that it now is time for the Senate to act. I urge my colleagues to review this legislation, to support it, and to support its early debate and passage by the Senate.

Mr. President, I ask unanimous consent that a bill summary prepared by the Judiciary Committee staff and an article by Patricia Cornwell be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE VIOLENT AND REPEAT JUVENILE OFFENDER ACCOUNTABILITY AND REHABILITATION ACT OF 1999—SECTION-BY-SECTION ANALYSIS

Attached is a summary of the major provisions of S. , the Hatch-Sessions Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999, as introduced January 19, 1999.

Should you have any questions about the bill not answered by this summary or the Committee Report, please call Mike Kennedy or Rhett DeHart of the Senate Judiciary Committee staff at (202) 224–5225.

GENERAL PROVISIONS

SEC. 1 *Short Title, Table of Contents.* This section entitles the bill as the "Violent and Repeat Juvenile Offender Act of 1999", and provides a table of contents for the bill.

SEC. 2 *Findings and Purpose.* This section provides Congressional findings related to juvenile crime, the juvenile justice system, and the changes needed to reform the juvenile justice system to curb youth violence, ensure accountability by youthful criminals, improve federal juvenile delinquency prevention efforts, and recognize the needs of crime victims.

SEC. 3 *Severability.* This section provides severability for the provisions of the Act.

TITLE I—JUVENILE JUSTICE REFORM

This title reforms the procedures by which juveniles who commit Federal crimes are prosecuted and punished.

SEC. 101 *Repeal of General Provision.* This section repeals the provision establishing the general practice of surrendering to State authorities juveniles arrested for the commission of Federal offenses.

SEC. 102 *Treatment of Federal Juvenile Offenders. General Provisions:* This section gives the U.S. Attorney the discretion to prosecute juveniles age 14 years or older as adults for violations of Federal law which are serious violent felonies or serious drug offenses (as these terms are defined in 18 U.S.C. 3559, the Federal 3-strike statute). Juveniles 14 and older may be prosecuted as adults for any other felony violation of Federal law only with the approval of the Attorney General. If approval is not given, or, for all misdemeanor violations of Federal law, juveniles would be proceeded against as juveniles, or referred to State or tribal authorities. Referral to state or tribal authorities would be presumed in all cases of concurrent state and federal jurisdiction, unless a state refused the case, or an overriding federal interest existed. In the special case of juveniles alleged to have committed a federal offense and who have a prior occasion been tried and convicted as an adult in federal court, waiver to adult status would be automatic.

Reverse Waiver Provision: Juveniles 15 and younger charged as an adult for serious violent felonies or serious drug offenses, and juveniles of any age charged as an adult for other felonies, may appeal their waiver to adult status. The juvenile would have 20 days to seek a judicial order returning the juvenile to juvenile status. The prosecutor would be permitted in interlocutory appeal from an adverse ruling, but a juvenile's appeal would be consolidated at the end of the case.

Application to Indian Tribes: This section also includes a limited tribal opt-in for Native American juveniles 15 and under when federal jurisdiction is based solely on the commission of the offense on tribal land. A tribal opt-in to federal procedures would be required to prosecute these juveniles as adults, although they could still be adjudicated in federal delinquency proceedings, even in the absence of a tribal opt-in.

Procedures: When prosecuted as adults, juveniles in Federal criminal cases would be subject to the same procedures and penalties as adults, including availability of records, open proceedings, and sentencing procedures. Exceptions are provided waiving the application of mandatory minimums to juveniles under age 16 who have no previous serious violent felony or serious drug offense convictions, and barring the availability of the death penalty in any offense committed before the juvenile was 18.

This section also provides that juveniles tried as adults and sentenced to prison must serve their entire sentences, and may not be released on the basis of attaining their majority, and applies to juveniles convicted as adults the same provisions of victim restitution, including mandatory restitution, that apply to adults.

SEC. 103 *Definitions.* This section provides definitions for terms used, including new definitions to ensure that juveniles accused or convicted of Federal offenses are separated from adults and to conform the definition of the term "juvenile" with the procedural changes made by this title.

SEC. 104 *Notification after Arrest.* This section conforms the requirement, in 18 U.S.C. 5033, that certain persons be notified of the arrest of a juvenile for a Federal crime, with the procedural changes in section 102 of this subtitle, which vests discretion to prosecute juveniles as adults with the U.S. Attorney for the district in the appropriate jurisdiction. This section also provides for the notification of the juveniles' parents or guardians, and prohibits the post-arrest housing of juveniles with adults.

SEC. 105 *Release and Detention Prior to Disposition.* This section provides for pretrial detention juveniles tried as adults on the same basis as adults, and prohibits the pretrial or pre-disposition detention of juveniles with adults.

SEC. 106 *Speedy Trial.* This section extends, from 30 to 70 days, the time in which the trial of a juvenile in detention must be commenced, and applies in juvenile cases the same tolling provisions for such time period that apply in adult prosecutions.

SEC. 107 *Dispositional Hearings.* This section provides for the sentencing of that juveniles found to be delinquent, but not tried as adults. It provides for a hearing on the matter within 40 days of an adjudication of delinquency, and provides for victim allocution at the hearing. The section provides a range of sentencing options to the court, including probation, fines, restitution, and/or imprisonment, and provides that terms of imprisonment may be imposed upon them for the same term as adults, except that such imprisonment must be terminated on the juvenile's 26th birthday. Juveniles sentenced to imprisonment may not be released solely on the basis of attaining their majority.

SEC. 108 *Use of Juvenile Records.* This section provides that the federal criminal records of juveniles tried as adults, and the federal delinquency records of juveniles adjudicated delinquent for certain serious offenses such as murder, rape, armed robbery, and sexual abuse or assault, are to be treated for all purposes in the same manner as the records of adults for the same offenses. Other federal felony juvenile criminal or delinquency records would be treated the same as adult records for criminal justice or national security background check purposes.

This section also permits juvenile federal felony juvenile criminal and delinquency records to be provided to schools and colleges under rules issued by the Attorney General, provided that recipients of the records are held to privacy standards and that the records not be used to determine admission.

SEC. 109 *Implementation of a Sentence for Juvenile Offenders.* This section provides for the implementation of a sentence on a delinquent or criminal juvenile and directs the Bureau of Prisons to not confine juveniles in any institution where the juvenile would not be separated from adult inmates.

SEC. 110 *Magistrate Judge Authority Regarding Juvenile Defendants.* This section extends the jurisdiction of Federal magistrate judges to class A misdemeanors involving juveniles; permits magistrate judges to impose terms of imprisonment on juveniles, and conforms the section conferring authority on magistrate judges with the procedural changes made by section 102.

SEC. 111 *Federal Sentencing Guidelines.* This section conforms the Sentencing Reform Act to ensure that the Federal Sentencing Guidelines relating to maximum penalties for violent crimes and serious drug crimes apply to juveniles tried as adults.

This section also amends the Sentencing Reform Act to direct the Sentencing Commission to promulgate sentencing guidelines for sentencing juveniles tried as adults in Federal court, and for dispositional hearings (the equivalent of sentencing) for juveniles adjudicated delinquent in the Federal system.

SEC. 112 *Study and Report on Indian Tribal Jurisdiction.* This section requires the Attorney General to study and report to the Congress on the capabilities of tribal courts and criminal justice systems relating to the prosecution of juvenile criminals under tribal jurisdiction, and requires the Attorney General to evaluate an expansion of tribal court criminal jurisdiction.

TITLE II—JUVENILE GANGS

SEC. 201 *Solicitation or Recruitment of Persons in Criminal Gang Activity.* This section makes the recruitment or solicitation of persons to participate in gang activity subject to a one-year minimum and 10-year maximum penalty, or a fine of up to $250,000. If a minor is recruited or solicited, the minimum penalty is increased to four years. In addition, a person convicted of this crime would have to pay the costs of housing, maintaining, and treating the juvenile until the juvenile reaches the age of 18 years.

SEC. 202 *Increased Penalties for Using Minors to Distribute Drugs.* This section increases the penalties for using minors to distribute controlled substances.

SEC. 203 *Penalties for Use of Minors in Crimes of Violence.* This section increases twofold, and for a second or subsequent offense threefold, the penalties for using minors in the commission of a crime of violence.

SEC. 204 *Amendment of Sentencing Guidelines With Respect to Body Armor.* This section directs the United States Sentencing Commission to provide a minimum two level sentencing enhancement for any defendant committing a Federal crime while wearing body armor.

SEC. 205 *High Intensity Interstate Gang Activity Areas.* This section authorizes the Attorney General to establish joint agency task forces to address gang crime in areas with high concentrations of gang activity. This provision authorizes $100 million per year for this program; $75 million per year is authorized for establishment and operation of High Intensity Interstate Gang Activity Areas, and $25 million per year is authorized for community-based gang prevention and intervention for gang members and at-risk youth in gang areas.

SEC. 206 *Increasing the Penalty for Using Physical Force to Tamper With Witnesses, Victims, or Informants.* This section increases the penalty from a maximum of 10 years' imprisonment to a maximum of 20 years' imprisonment for using or threatening physical force against any person with intent to tamper with a witness, victim, or informant. This section also adds a conspiracy penalty for obstruction of justice offenses involving victims, witnesses, and informants. In addition, this section makes traveling in interstate or foreign commerce to bribe, threaten or intimidate a witness to delay or influence testimony in a State criminal proceeding a violation of the Federal Travel Act, 18 U.S.C. Section 1952.

TITLE III—JUVENILE CRIME CONTROL, ACCOUNTABILITY, AND DELINQUENCY PREVENTION

This title reforms and enhances federal assistance to State and local juvenile crime control and delinquency prevention programs. Subtitle A amends and reauthorizes the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA), to provide assistance to States for effective youth crime control and accountability.

SEC. 301 *Findings; Declaration of Purpose; Definitions.* This section rewrites Title I of the JJDPA. It updates and revises the Congressional findings and declaration of purpose contained in the JJDPA to reflect the reality of violent juvenile crime, promote the primacy of accountability in the juvenile justice system, and recognize the rights and needs of victims of juvenile crime. This section also revises and updates the definitions governing the JJDPA.

SEC. 302 *Juvenile Crime Control and Delinquency Prevention.* This section rewrites Title II of the JJDPA. It reforms and renames the current Office of Juvenile Justice and Delinquency Prevention within the Department of Justice, improves services to State and local governments, and reforms and streamlines existing JJDPA grant programs. Among the specific provisions of the rewritten JJDPA Title II:

Reforms JJDPA Title II Part A—the Office of Juvenile Justice and Delinquency Prevention (OJJDP) of the Department of Justice, is renamed the Office of Juvenile Crime Control and Prevention (OJCCP), with an Administrator appointed by the President and confirmed by the Senate. This section also enhances the effectiveness of the OJCCP by requiring the OJCCP Administrator to: present to Congress annual plans, with measurable goals, to control and prevent youth crime; coordinate all Federal programs relating to controlling and preventing youth crime; disseminate to States and local governments data on the prevention, correction and control of juvenile crime and delinquency, and report on successful programs and methods; and serve as a single point of contact for States, localities, and private entities to apply for and coordinate all federal assistance and programs related to juvenile crime control and delinquency prevention.

Consolidates numerous JJDPA programs, including Part C Special Emphasis grants, State challenge grants, boot camps, and JJDPA Title V incentive grants, under an enhanced prevention challenge block grant to the States.

Reauthorizes the State formula grants under Part B of Title II of the JJDPA:

Reforms the 3 current "core mandates" on the States relating to the incarceration of juveniles (known as sight and sound separation, jail removal, and status offender mandates,) to ensure the protection of juveniles in custody while providing state and local governments with needed flexibility; provisions are based on H.R. 1818 from the 105th Congress, but to ensure that abuse of juvenile delinquent inmates is not permitted, includes modified definitions from the 105th Congress S. 10 regarding what constitutes contact between juveniles and adults—no prohibited physical contact or sustained oral communication would permitted between juveniles delinquents in detention and adult inmates;

Modifies the current "core mandate" requiring states to address efforts to reduce the disproportionate number of minorities in juvenile detention in comparison with their proportion to the population at large, to make the language race-neutral and constitutional;

The four "core mandates" retained in modified form are each enforceable by a 12.5 percent reduction in a State's Part B funding for non-compliance. The Administrator may waive the penalty.

Revises JJDPA Title II Part C, to enhance federal research efforts into successful juvenile crime control and delinquency prevention programs; reauthorizes JJDPA Title II Part D Gang prevention programs, and reforms the program to provide an emphasis on the disruption and prosecution of gangs; includes a discretionary prevention grant program designated as Part E of Title II of the JJDPA; retains the current Part G Mentoring program under Title II of the JJDPA, redesignating it as Part F, and adding a pilot program to encourage and develop mentoring programs that focus on the entire family instead of simply the juvenile and which utilize the existing resources and infrastructure of the Cooperative Extension Services of Land Grant Universities; and designates JJDPA Title II Part G for administrative provisions, including: providing rules against use of federal funds for behavior control experimentation, lobbying, or litigation; subjecting JJDPA and Juvenile Accountability Block Grants (in Title III, Subtitle B of this bill) to a religious and charitable non-discrimination provision cross-referenced from the welfare reform law; providing significant funding directly from the Department of Justice for juvenile delinquency prevention and juvenile accountability programs in Indian country; and providing authorizations of appropriations for the JJDPA and the Juvenile Accountability Block Grants, as follows:

Authorizes $1 billion per year for five years, under the following formula: $450 million (45%) for Juvenile Accountability Block Grants; $435 million (43.5%) for prevention programs under the JJDPA, including $200 million for Juvenile Delinquency Prevention Block Grants, $200 million for Part B Formula grant prevention programs, and $35 million for Gangs, Mentoring and Discretionary grant programs; $75 million (7.5%) for grants to states to upgrade and enhance juvenile felony criminal record histories and to make such records available within NCIC, the national criminal history database used by law enforcement, the courts, and prosecutors; and $40 million (4%) for NIJ research and evaluation of the effectiveness of juvenile delinquency prevention programs.

SEC. 303 *Runaway and Homeless Youth.* This section reforms the Runaway and Homeless Youth program, and reauthorizes it through FY 2004. The reforms streamline the program, provide for targeting federal assistance to areas with the greatest need, and make numerous technical changes.

SEC. 304 *National Center for Missing and Exploited Children.* This section improves and reauthorizes the Missing and Exploited Children program through FY 2004, providing ongoing authorization for grants to the National Center for Missing and Exploited Children.

SEC 305. *Transfer of Functions and Savings Provisions.* This section provides technical and administrative rules to transfer functions, and to govern the transition from the Office of Juvenile Justice and Delinquency Prevention to the Office of Juvenile Crime Control and Prevention.

Subtitle B Accountability for Juvenile Offenders and Public Protection Incentive Grants

SEC. 321 *Block Grant Program. Accountability Block Grant:* This section establishes an incentive block grant program for States, authorized at $450 million for each of the next five fiscal years, as well as a separate $50 million per year grant program for the upgrade and enhancement of juvenile criminal records. The incentive block grants would fund a variety of programs, such as constructing juvenile offender detention facilities, implementing graduated sanctions programs; fingerprinting or conducting DNA tests on juvenile offenders; establishing record-keeping ability; establishing SHOCAP programs; enforcing truancy laws; and various prevention programs including afterschool youth activities, antigang initiatives, literacy programs, and job training programs. Indian tribes receive separate grants under this section.

State receipt of the incentive grants would be conditioned on the adoption of three core accountability policies: the establishment of graduated sanctions to ensure appropriate correction of juvenile offenders, drug testing juvenile offenders upon arrest in appropriate cases; and recognition of victims rights and needs in the juvenile justice system.

Fifty percent of the funds under the grant program are designated for implementing graduated sanctions or increasing juvenile detention space if needed by the State. Federal the remaining fifty percent can be used for any authorized grant purpose. Detention space construction projects must be funded by not less than fifty percent State or local (i.e., nonfederal grant) money.

The block grant includes a pass-through requirement intended to provide a formula for local funding that reflects the needs and responsibilities of state and local levels of government. Seventy percent of the funds received by the State under this block grant must be passed through to the local level, unless the state organizes its juvenile justice system exclusively on the State level.

Juvenile Records Grants: Criminal and juvenile record improvement grants for the States are authorized to encourage states to treat the records of juveniles who commit and are adjudicated delinquent for the felonies of murder, armed robbery, and sexual assault be treated the same as adult criminal records for the same offenses in the state, and to treat records of juveniles who commit any other felony be treated, for criminal justice purposes only, the same as adult criminal records for the same offenses. Such records would be available interstate within the NCIC system.

SEC. 322 *Pilot Program to Promote Replication of Recent Successful Juvenile Crime Reduction Strategies.* This section authorizes the Attorney General to fund pilot programs to replicate the successful juvenile crime reduction program utilized by Boston, Massachusetts. Pilot program grant recipients would adopt a juvenile crime reduction strategy involving close collaboration among Federal, State, and local law enforcement authorities, and including religious affiliated or fraternal organizations, school officials, social service agencies, and parent or local grass roots organizations. Emphasis would be placed on initiating effective crime prevention programs and tracing firearms seized from crime scenes or offenders in an effort to identify illegal gun traffickers who are supplying weapons to gangs and other criminal enterprises

SEC. 323 *Repeal of Unnecessary and Duplicative Programs.* This section repeals duplicative and wasteful programs enacted as a part of the 1994 crime law, including the Ounce of Prevention Council, the Model Intensive Grant program, the Local Partnership Act, the National Community Economic Partnership, the Urban Recreation and At-Risk Youth Program, and the Family Unity Demonstration Project.

SEC. 324 *Extension of Violent Crime Reduction Trust Fund.* This section extends the Violent Crime Reduction Trust Fund, established in the 1994 omnibus crime law, to fund programs authorized by this act.

SEC. 325 *Reimbursement of States for the Costs of Incarcerating Juvenile Aliens.* This section adds juvenile aliens to the State Criminal Alien Assistance Program, which provides reimbursement to the States for the costs of incarcerating criminal aliens.

SEC. 326 *Sense of Congress.* This section provides the sense of Congress that States should enact legislation to provide that if an offense that would be a capital offense if committed by an adult is committed by a juvenile between the ages of 10 and 14, the juvenile could, with judicial approval, be tried and punished as an adult, provided the death penalty would not be available in such cases.

Subtitle C—Alternative Education and Delinquency Prevention

SEC. 331 *Alternative Education*. This section amends the Elementary and Secondary Education Act (ESEA) to provide demonstration grants to state and local education agencies for alternative education in appropriate settings for disruptive or delinquent students, to improve the academic and social performance of these students and to improve the safety and learning environment of regular classrooms. Certain matching amounts required under this program could be made from amounts available to the State or local governments under the JJDPA. Appropriations under the ESEA of $15 million per year for four years are authorized.

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—General Provisions

SEC. 401 *Prohibition on Firearms Possession by Violent Juvenile Offenders*. This section extends the ban on firearm ownership by certain felons to persons who, as juveniles, are adjudicated delinquent for an offense which would be a serious violent felony as defined in 18 U.S.C. 3559(c)(2)(F)(i) (the federal three strikes statute), were the offense committed by an adult. The ban is prospective, applying only to delinquent acts committed after records of such offenses are routinely available within the National Instant Check System instituted pursuant to the Brady Law.

Subtitle B—Jail-Based Substance Abuse

SEC. 421 *Jail-Based Substance Abuse Treatment Program*. This section provides that 10 percent of grants to States for drug treatment in prisons (RSAT grants) should be directed to qualified treatment programs in jails; under current law, these funds are limited to prison treatment. This section also allows RSAT grants to be used to provide post-incarceration substance abuse treatment for former inmates if the Governor certifies to the U.S. Attorney General that the State is providing, and will continue to provide, an adequate level of treatment services to incarcerated inmates.

WHEN THE FABRIC IS RENT

(By Patricia Cornwell)

There was a saying in the morgue during those long six years I worked there. When a person is touched by violence, the fabric of civility is forever rent, or ripped or breached, whatever word is most graphic to you.

Our country is the most violent one in the free world, and as far as I'm concerned, we are becoming increasingly incompetent in preventing and prosecuting cruel crimes that we foolishly think happen only to others. There was another saying in the morgue. The one thing every dead person had in common in that place was he never thought he'd end up there. He never imagined his name would be penned in black ink in the big black book that is ominously omnipresent on a counter top in the autopsy suite.

I have seen hundreds, maybe close to a thousand dead bodies by now, many of them ruined by another person's hands. I return to the morgue at least two or three times a year to painfully remind myself that what I'm writing about is awful and final and real.

I suffer from nightmares and don't remember the last time I had a pleasant dream. I have very strong emotional responses to crimes that have nothing to do with me, such as Versace's murder, and more recently, the random shooting deaths of Capitol Police Agent John Gibson and Officer Jacob Chestnut. I can't read sad, scary or violent books. I watched only half of "Titanic" because I could not bear its sadness. I stormed out of Ann Rice's "Interview With A Vampire," so furious my hands were shaking because the movie is such an outrageous trivialization and celebration of sexual violence. For me the suffering, the blood, the deaths are real.

I'd like to confront Ann Rice with bitemarks and other sadistic wounds that are not special effects. I'd like to sentence Oliver Stone to a month in the morgue, make him sit in the cooler for a while and see what an audience of victims has to say about his films. I'd like O.J. Simpson to have total recall and suffer, go broke, be ostracized, never be allowed on a golf course again. I was in a pub in London when that verdict was read. I'll never forget the amazed faces of a suddenly mute group of beer-drinking Brits, or the shame my friends and I felt because in America it is absolutely true. Justice is blind.

Justice has stumbled off the road of truth and fallen headlong into a thicket of subjective verdicts where evidence doesn't count and plea bargains that are such a bargain they are fire sales. I've begun to fear that the consequences and punishment of violent crime have become some sort of mindless multiple choice, a "Let's Make A Deal," a "Let's microwave the popcorn and watch Court TV."

I have been asked to tell you what my fictional character Dr. Scarpetta would do if she were the crime czar or Virginia, of America. Since she and I share the same opinions and views, I am stepping out from behind my curtain of imagined deeds and characters and telling you what I feel and think.

It startles me to realize that at age 42, I have spent almost half my life studying crime, of living and working in it's pitifully cold, smelly, ugly environment. I am often asked why people cheat, rob, stalk, slander, maim and murder. How can anybody enjoy causing another human being or any living creature destruction and pain? I will tell you in three words: Abuse of power. Everything in life is about the power we appropriate for good or destruction, and the ultimate overpowering of a life is to make it suffer and end.

This includes children who put on camouflage and get into the family guns. We don't want to believe that 12, 13, 16 year old youths are unredeemable. Most of them aren't. But it's time we face that some of them have transgressed beyond forgiveness, certainly beyond trust. Not all victims I have seen pass through the morgue were savaged by adults. The creative cruelty of some young killers is the worst of the worst, images of what they did to their victims ones I wish I could delete.

About a year ago, I began researching juvenile crime for the follow-up of "Hornet's Next" (Southern Cross, January, '99) and my tenth Scarpetta book (unfinished and untitled yet). This was a territory I had yet to explore. I was inspired by the depressing fact that in the last ten years, shootings, hold-ups at ATM's, and premeditated murders committed by juveniles have risen 160 percent. As I ventured into my eleventh and twelfth novels, I wondered what my crusading characters would do with violent children.

So I spent months in Raleigh watching members of the Governor's Commission on Juvenile Crime and Justice debate and rewrite their juvenile crime laws, as Virginia did in 1995 under the leadership of Jim Gilmore. I quizzed Senator Orrin Hatch about his youth violence bill, S. 10, a federal approach to reforming a juvenile justice system that is failing our society. I toured detention homes in Richmond and elsewhere. I sat in on juvenile court cases and talked to inmates who were juveniles when they began their lives of crime.

While it is true that many violent juveniles have abuse, neglect, and the absence of values in their homes, I maintain my belief that all people should be held accountable for their actions. Our first priority should be to keep our communities safe. We must remove violent people from our midst, no matter their age. As Marcia Morey, executive director of North Carolina's juvenile crime commission, constantly preaches, "We must stop the hemorrhage first."

When the trigger is pulled, when the knife is plunged, kids aren't kids anymore. We should not shield and give excuses and probation to violent juveniles who, odds are, will harm or kill again if they are returned to our neighborhoods and schools. We should not treat young violent offenders with sealed lips and exclusive proceedings.

"The secrecy and confidentiality of our system have hurt us," says Richmond Juvenile and Domestic Relations District Court Judge Kimberly O'Donnell. "What people can't see and hear is often difficult for them to understand."

Virginia has opened its courtrooms to the public, and Judge O'Donnell encourages people to sit in hers and see for themselves those juveniles who are remorseless and those who can be saved. Most juveniles who end up in court are not repeat offenders. But for that small number who threaten us most, I advocate hard, non-negotiable judgment. Most of what I would like to see is already being done in Virginia. But we need juvenile justice reform nationally, a system that is sensible and consistent from state to state.

As it is now, if a juvenile commits a felony in Virginia, when he turns 18 his record is not expunged and will follow him for the rest of his days. But were he to commit the same felony in North Carolina, at 16 he'll be released from a correctional facility with no record of any crime he committed in that state. Let's say he's back on the street and returns to Virginia. Now he's a juvenile again, and police, prosecutors, judges or juries will never know what he did in North Carolina.

If he moves to yet another state where the legal age is 21, he can commit felonies for three or four more years and have no record of them, either. Maybe by then he's committed fifteen felonies but is only credited with the one he committed in Virginia. Maybe when he becomes an adult and is violent again, he gets a light sentence or even probation, since it appears he's committed only one felony in his life instead of fifteen. He'll be back among us soon enough. Maybe his next victim will be you.

If national juvenile justice reform were up to me, I'd be strict. I would not be popular with extreme child advocates. If I had my way, it would be routine that when any juvenile commits a violent crime, his name and personal life are publicized. Records of juveniles who commit felonies should not be expunged when the individual becomes an adult. Mug shots, fingerprints and the DNA of violent juveniles should, at the very least, be available to police, prosecutors, and schools, and if they young violent offender has an extensive record and commits another crime, plea bargaining should be limited or at least informed.

Juveniles who rape, murder or commit other heinous acts should be tried as adults, but judges should have the discretionary power to decide when this is merited. I want to see more court-ordered restitution and mediation. Let's turn off the TV's in correctional centers and force assailants, robbers, thieves to work to pay back what they've destroyed and taken, as much as that is possible. Confront them with their victims, face to face. Perhaps a juvenile might realize the awful deed he's done if his victim is suddenly a person with feelings, loved ones, scars, a name.

Prevention is a more popular word than punishment. But the solution to what's happening in our society, particularly to our youths, is simpler and infinitely harder than any federally or privately funded program. All of us live in neighborhoods. Unless you are in solitary confinement or a coma, you are aware of others around you. Quite likely you are exposed to children who are sad, lost, ignored, neglected or abused. Try to help. Do it in person.

I remember my first few years in Richmond when I was living at Union Theological Seminary, where my former husband was a student and I was a struggling, somewhat failed writer. Charlie and I spent five years in a seminary apartment complex where there was a little boy who enjoyed throwing a tennis ball against the building in a staccato that was torture to me.

I was working on novels nobody wanted and every time that ball thunked against brick, I lost my train of thought. I'd popped out of my chair and fly outside to order the kid to stop, but somehow he was always gone without a trace, silence restored for an hour or two. One day I caught him. I was about to reprimand him when I saw the fear and loneliness in his eyes.

"What's your name?" I asked.

"Eddie," he said.

"How old are you?"

"Ten."

"It's not a good idea to throw a ball against the building. It makes it hard for some of us to work."

"I know." He shrugged.

"If you know, then why do you do it?"

"Because I have no one to play catch with me," he replied.

My memory lit up with acts of kindness when I was a lonely child living in the small town of Montreat, North Carolina. Adult neighbors had taken time to play tennis with me. They had invited me, the only girl in town, to play baseball or touch football with the boys.

Billy Graham's wife, Ruth, used to stop her car to see how I was or if I needed a ride somewhere. Years later, she befriended me when I was a very confused teenager who felt rather worthless. Were it not for her kindness and encouragement, I doubt I would be writing this editorial. Maybe I wouldn't have amounted to much. Maybe I would have gotten into serious trouble. Maybe I'd be dead.

Eddie and I started playing catch. I gave him tennis lessons and probably ruined his backhand for life. He told me all about himself and amused me with his stories. We became pals. He never threw a tennis ball against the building again.

We must protect ourselves from all people who have proven to be dangerous. But we should never abandon those who can be helped or are at least are worthy of the effort. If you save or change one life, you have added something priceless to this world. You have left it better than you found it.

By Mr. GRASSLEY (for himself and Mr. BREAUX):

S. 255. A bill to combat waste, fraud, and abuse in payments for home health services provided under the Medicare program, and to improve the quality of those home health services; read twice.

HOME HEALTH INTEGRITY PRESERVATION ACT OF 1999

Mr. GRASSLEY. Mr. President, earlier today, I introduced the Home Health Integrity Preservation Act of 1999. I am pleased that Senator BREAUX cosponsored this bill, as he did when we introduced it in the 105th Congress. This legislation will be an important tool in combating the waste, fraud and abuse that has threatened the integrity of the Medicare home health benefit.

Although the majority of home health agencies are honest, legitimate, businesses, it is clear that there have been unscrupulous providers. In July 1997, the Senate Special Committee on Aging, which I chair, held a hearing on this topic. The hearing exposed serious rip-offs of the Medicare trust fund, and highlighted areas that need more stringent oversight.

In response to the hearing, Senator BREAUX and I followed up with a roundtable discussion on home health fraud. The roundtable brought together key players with a variety of perspectives. Participants included law enforcement, the Administration, and the home health industry.

The roundtable yielded a number of proposals which were shaped into draft legislation and circulated to a wide variety of stakeholders. In response to comments, the draft was changed to address legitimate concerns that were raised. The result is a balanced piece of legislation that includes important safeguards against fraud and abuse of the system, but does not stifle the growth of legitimate providers.

The Home Health Integrity Preservation Act of 1999 would do the following:

It would heighten scrutiny of new home health agencies before they enter the Medicare program, and during their early years of Medicare participation.

It would improve standards and screening for home health agencies, administrators and employees.

It would require audits of home health agencies whose claims exhibit unusual features that may indicate problems, and improve HCFA's ability to identify such features.

It would require agencies to adopt and implement fraud and abuse compliance programs.

It would increase scrutiny of branch offices, business entities related to home health agencies, and changes in operations.

It would make more information on particular home health agencies available to beneficiaries.

It would create an interagency Home Health Integrity Task Force, led by the Office of the Inspector General of Health and Human Services.

It would reform bankruptcy rules to make it harder for all Medicare providers, not just home health agencies, to avoid penalties and repayment obligations by declaring bankruptcy.

This legislation is an important step in ensuring that seniors maintain access to high quality home care services rendered by reputable providers. I urge my colleagues to join me in this effort by cosponsoring this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 255

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Home Health Integrity Preservation Act of 1999".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Additional conditions of participation for home health agencies.
Sec. 3. Surveyor training in reimbursement and coverage policies.
Sec. 4. Surveys and reviews.
Sec. 5. Prior patient load.
Sec. 6. Establishment of standards and procedures to improve quality of services.
Sec. 7. Notification of availability of a home health agency's most recent survey as part of discharge planning process.
Sec. 8. Home health integrity task force.
Sec. 9. Application of certain provisions of the bankruptcy code.
Sec. 10. Study and report to Congress.
Sec. 11. Effective date.

SEC. 2. ADDITIONAL CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES.

(a) QUALIFICATIONS OF MANAGING EMPLOYEES.—Section 1891(a) of the Social Security Act (42 U.S.C. 1395bbb(a)) is amended by adding at the end the following:

"(7) The agency shall have—

"(A) sufficient knowledge, as attested by the managing employees (as defined in section 1126(b)) of the agency (pursuant to subsection (c)(2)(C)(iv)(II)) using standards established by the Secretary, of the requirements for reimbursement under this title, coverage criteria and claims procedures, and the civil and criminal penalties for noncompliance with such requirements; and

"(B) managing employees with sufficient prior education or work experience, according to standards determined by the Secretary, in the delivery of health care.".

(b) COMPLIANCE PROGRAM.—Section 1891(a) of the Social Security Act (42 U.S.C. 1395bbb(a)) (as amended by subsection (a)) is amended by adding at the end the following:

"(8) The agency has developed and implemented a fraud and abuse compliance program.".

(c) AVAILABILITY OF SURVEY.—Section 1891(a) of the Social Security Act (42 U.S.C. 1395bbb(a)) (as amended by subsection (b)) is amended by adding at the end the following:

"(9) The agency, before the agency provides any home health services to a beneficiary, makes available to the beneficiary or the representative of the beneficiary a summary of the pertinent findings (including a list of any deficiencies) of the most recent survey of the agency relating to the compliance of such agency. Such summary shall be provided in a standardized format and may, at the discretion of the Secretary, also include other information regarding the agency's operations that are of potential interest to beneficiaries, such as the number of patients served by the agency.".

(d) Notice of New Home Health Service, New Branch Office, and New Joint Venture.—Section 1891(a)(2) of the Social Security Act (42 U.S.C. 1395bbb(a)(2)) is amended to read as follows:

"(2)(A) The agency notifies the agency's fiscal intermediary and the State entity responsible for the licensing or certification of the agency—

"(i) of a change in the persons with an ownership or control interest (as defined in section 1124(a)(3)) in the agency,

"(ii) of a change in the persons who are officers, directors, agents, or managing employees (as defined in section 1126(b)) of the agency,

"(iii) of a change in the corporation, association, or other company responsible for the management of the agency,

"(iv) that the agency is providing a category of skilled service that it was not providing at the time of the agency's most recent standard survey,

"(v) that the agency is operating a new branch office that was not in operation at the time of the agency's most recent standard survey, and

"(vi) that the agency is involved in a new joint venture with other health care providers or other business entities.

"(B) The notice required under subparagraph (A) shall be provided—

"(i) for a change described in clauses (i), (ii), and (iii) of such subparagraph, within 30 calendar days of the time of the change and shall include the identity of each new person or company described in the previous sentence,

"(ii) for a change described in clause (iv) of such subparagraph, within 30 calendar days of the time the agency begins providing the new service and shall include a description of the service,

"(iii) for a change described in clause (v) of such subparagraph, within 30 calendar days of the time the new branch office begins operations and shall include the location of the office and a description of the services that are being provided at the office, and

"(iv) for a change described in clause (vi) of such subparagraph, within 30 calendar days of the time the agency enters into the joint venture agreement and shall include a description of the joint venture and the participants in the joint venture.".

SEC. 3. SURVEYOR TRAINING IN REIMBURSEMENT AND COVERAGE POLICIES.

Section 1891(d)(3) of the Social Security Act (42 U.S.C. 1395bbb(d)(3)) is amended—

(1) by striking "relating to the performance" and inserting "relating to—

"(A) the performance";

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(B) requirements for reimbursement and coverage of services under this title.".

SEC. 4. SURVEYS AND REVIEWS.

(a) Additional Requirements for Survey.—Section 1891(c)(2)(C) of the Social Security Act (42 U.S.C. 1395bbb(c)(2)(C)) is amended—

(1) in clause (i)(I)—

(A) by striking "purpose of evaluating" and inserting "purpose of—

"(aa) evaluating"; and

(B) by adding at the end the following:

"(bb) evaluating whether the individuals are homebound for purposes of qualifying for receipt of benefits for home health services under this title; and";

(2) in clause (ii), by striking "and" at the end;

(3) in clause (iii), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(iv) shall include—

"(I) an assessment of whether the agency is in compliance with all of the conditions of participation and requirements specified in or pursuant to section 1861(o), this section, and this title;

"(II) an assessment that the managing employees (as defined in section 1126(b)) of the agency have attested in writing to having sufficient knowledge, as determined by the Secretary, of the requirements for reimbursement under this title, coverage criteria and claims procedures, and the civil and criminal penalties for noncompliance with such requirements; and

"(III) a review of the services provided by subcontractors of the agency to ensure that such services are being provided in a manner consistent with the requirements of this title.".

(b) Additional Events Triggering a Survey.—Section 1891(c)(2)(B) of the Social Security Act (42 U.S.C. 1395bbb(c)(2)(B)) is amended—

(1) by striking "and" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting a comma; and

(3) by adding at the end the following:

"(iii) shall be conducted not less than annually for the first 2 years after the initial standard survey of the agency,

"(iv) after the agency's first 2 years of participation under this title, shall be conducted within 90 calendar days of the date that the agency notifies the Secretary that it is providing a category of skilled service that the agency was not providing at the time of the agency's most recent standard survey,

"(v) if the agency is operating a new branch office that was not in operation at the time of the agency's most recent standard survey, shall be conducted within the 12-month period following the date that the new branch office began operations to ensure that such office is providing quality care and that it is appropriately classified as a branch office, and shall include direct scrutiny of the operations of the branch office, and

"(vi) shall be conducted on randomly selected agencies on an occasional basis, with the number of such surveys to be determined by the Secretary.".

(c) Review by Fiscal Intermediary.—Section 1816 of the Social Security Act (42 U.S.C. 1395h) is amended by adding at the end the following:

"(m) An agreement with an agency or organization under this section shall require that the agency or organization conduct a review of the overall business structure of a home health agency submitting a claim for reimbursement for home health services, including any related organizations of the home health agency.".

SEC. 5. PRIOR PATIENT LOAD.

Section 1891 of the Social Security Act (42 U.S.C. 1395bbb) is amended by adding at the end the following:

"(h) Prior Patient Load.—

"(1) In general.—The Secretary shall not enter into an agreement for the first time with a home health agency to provide items and services under this title unless the Secretary determines that, before the date the agreement is entered into, the agency—

"(A) had been in operation for at least 60 calendar days; and

"(B) had at least 10 patients during that period of prior operation.

"(2) Exceptions.—

"(A) Beneficiary access.—If the Secretary determines appropriate, the Secretary may waive the requirements of paragraph (1) in order to establish or maintain beneficiary access to home health services in an area.

"(B) Change of ownership.—The requirements of paragraph (1) shall not apply to a home health agency at the time of a change in ownership of such agency.".

SEC. 6. ESTABLISHMENT OF STANDARDS AND PROCEDURES TO IMPROVE QUALITY OF SERVICES.

(a) In General.—Section 1891 of the Social Security Act (42 U.S.C. 1395bbb) (as amended by section 5) is amended by adding at the end the following:

"(i) Establishment of Standards and Procedures.—

"(1) Screening of employees.—The Secretary shall establish procedures to improve the background screening performed by a home health agency on individuals that the agency is considering hiring as home health aides (as defined in subsection (a)(3)(E)) and licensed health professionals (as defined in subsection (a)(3)(F)).

"(2) Cost reports.—The Secretary shall establish additional procedures regarding the requirement for attestation of cost reports to ensure greater accountability on the part of a home health agency and its managing employees (as defined in section 1126(b)) for the accuracy of the information provided to the Secretary in any such cost reports.

"(3) Monitoring agency after extended survey.—The Secretary shall establish procedures to ensure that a home health agency that is subject to an extended (or partial extended) survey is closely monitored from the period immediately following the extended survey through the agency's subsequent standard survey to ensure that the agency is in compliance with all the conditions of participation and requirements specified in or pursuant to section 1861(o), this section, and this title.

"(4) Additional audits.—

"(A) In general.—

"(i) Standards.—The Secretary shall establish objective standards regarding the determination of—

"(I) whether an agency is a home health agency described in subparagraph (B); and

"(II) the circumstances that trigger an audit for a home health agency described in subparagraph (B), and the content of such an audit.

"(ii) Information.—In establishing standards under clause (i), the Secretary shall ensure that the individuals performing the audits under this section are provided with the necessary information, including information from intermediaries, carriers, and law enforcement sources, in order to determine if a particular home health agency is an agency described in subparagraph (B) and whether the circumstances triggering an audit for such an agency has occurred.

"(B) AGENCY DESCRIBED.—A home health agency is described in this subparagraph if it is an agency that has—

"(i) experienced unusually rapid growth as compared to other home health agencies in the area and in the country;

"(ii) had unusually high utilization patterns as compared to other home health agencies in the area and in the country;

"(iii) unusually high costs per patient as compared to other home health agencies in the area and in the country;

"(iv) unusually high levels of overpayment or coverage denials as compared to other home health agencies in the area and in the country; or

"(v) operations that otherwise raise concerns such that the Secretary determines that an audit is appropriate.

"(5) BRANCH OFFICES.—

"(A) SURVEYS.—The Secretary shall establish standards for periodic surveys of branch offices of a home health agency in order to assess whether the branch offices meet the Secretary's national criteria for branch office designation and for quality of care. Such surveys shall include home visits to beneficiaries served by the branch office (but only with the consent of the beneficiary).

"(B) UNIFORM NATIONAL DEFINITION.—The Secretary shall establish a uniform national definition of a branch office of a home health agency.

"(6) CERTAIN QUALIFICATIONS OF MANAGING EMPLOYEES.—The Secretary shall establish standards regarding the knowledge and prior education or work experience that a managing employee (as defined in section 1126(b)) of an agency must possess in order to comply with the requirements described in subsection (a)(7).

"(7) CLAIMS PROCESSING.—

"(A) IN GENERAL.—The Secretary shall establish standards to improve and strengthen the procedures by which claims for reimbursement by home health agencies are identified as being fraudulent, wasteful, or abusive.

"(B) PROCEDURES.—The standards established by the Secretary pursuant to subparagraph (A) shall include, to the extent practicable, standards for a minimum number of—

"(i) intensive focused medical reviews of the services provided to beneficiaries by an agency;

"(ii) interviews with beneficiaries, employees of the agency, and other individuals providing services on behalf of the agency; and

"(iii) random spot checks of visits to a beneficiary's home by employees of the agency (but only with the consent of the beneficiary).

"(C) REPORT TO CONGRESS.—Not later than 90 days after the date of enactment of the Home Health Integrity Preservation Act of 1999, the Secretary shall submit a report to Congress containing a detailed description of—

"(i) the current levels of activity by the Secretary with regard to the reviews, interviews, and spot checks described in subparagraph (B); and

"(ii) the Secretary's plans to increase those levels pursuant to the procedures described in subparagraphs (A) and (B).

"(8) EXPANSION OF FINANCIAL STATEMENT.—The Secretary shall establish procedures to expand the financial statement audit process to include compliance and integrity reviews.".

(b) EFFECTIVE DATE.—By not later than 180 calendar days after the date of enactment of this Act, the Secretary shall establish the standards and procedures described in paragraphs (1) through (8) of section 1891(i) of the Social Security Act (42 U.S.C. 1395bbb(i)) (as added by subsection (a)) by regulation or other sufficient means.

SEC. 7. NOTIFICATION OF AVAILABILITY OF A HOME HEALTH AGENCY'S MOST RECENT SURVEY AS PART OF DISCHARGE PLANNING PROCESS.

Section 1861(ee)(2)(D) of the Social Security Act (42 U.S.C. 1395x(ee)(2)(D)) (as amended by section 4321(a) of the Balanced Budget Act of 1997) is amended—

(1) by striking "including the availability" and inserting "including—

"(i) the availability"; and

(2) by inserting before the period the following: "; and

"(ii) the availability of (and procedures for obtaining from a home health agency) a summary document described in section 1891(a)(9)".

SEC. 8. HOME HEALTH INTEGRITY TASK FORCE.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish within the Office of the Inspector General of the Department of Health and Human Services a home health integrity task force (in this section referred to as the "Task Force").

(b) DIRECTOR.—The Inspector General of the Department of Health and Human Services shall appoint the Director of the Task Force.

(c) DUTIES.—The Task Force shall target, investigate, and pursue any available civil or criminal actions against individuals who organize, direct, finance, or are otherwise engaged in fraud in the provision of home health services (as defined in section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m))) under the medicare program under such Act.

(d) OUTSIDE AGENCIES AND ENTITIES.—In carrying out the duties described in subsection (c), the Task Force shall work in coordination with other Federal, State, and local agencies, including the Health Care Financing Administration, and with private entities. All Federal, State, and local employees and all private entities are encouraged to provide maximum cooperation to the Task Force.

SEC. 9. APPLICATION OF CERTAIN PROVISIONS OF THE BANKRUPTCY CODE.

(a) RESTRICTED APPLICABILITY OF BANKRUPTCY STAY, DISCHARGE, AND PREFERENTIAL TRANSFER PROVISIONS TO CERTAIN MEDICARE DEBTS.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1143 the following:

"APPLICATION OF CERTAIN PROVISIONS OF THE BANKRUPTCY CODE

"SEC. 1144. (a) CERTAIN MEDICARE ACTIONS NOT STAYED BY BANKRUPTCY PROCEEDINGS.—The commencement or continuation of any action against a debtor (as defined in subsection (d)) under this title or title XVIII, including any action or proceeding to exclude or suspend such debtor from program participation, assess civil monetary penalties, recoup or set off overpayments, or deny or suspend payment of claims shall not be subject to a stay under section 362(a) of title 11, United States Code.

"(b) CERTAIN MEDICARE DEBT NOT DISCHARGEABLE IN BANKRUPTCY.—A debt owed to the United States or to a State by a debtor for an overpayment under title XVIII, or for a penalty, fine, or assessment under this title or title XVIII, shall not be dischargeable under any provision of title 11, United States Code.

"(c) REPAYMENT OF CERTAIN DEBTS CONSIDERED FINAL.—Payments made to repay a debt to the United States or to a State by a debtor with respect to items and services provided, or claims for payment made for such items and services, under title XVIII (including repayment of an overpayment), or to pay a penalty, fine, or assessment under this title or title XVIII, shall be considered final and not avoidable transfers under section 547 of title 11, United States Code.

"(d) DEBTOR DEFINED.—In this section, the term 'debtor' means a provider of services (as defined in section 1861(u)) that has commenced a case under title 11, United States Code.".

(b) MEDICARE RULES APPLICABLE TO BANKRUPTCY PROCEEDINGS OF A MEDICARE PROVIDER OF SERVICES.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following:

"APPLICATION OF PROVISIONS OF THE BANKRUPTCY CODE

"SEC. 1897. (a) USE OF MEDICARE STANDARDS AND PROCEDURES.—Notwithstanding any provision of title 11, United States Code, or any other provision of law, in the case of claims by a debtor (as defined in section 1144(d)) for payment under this title, the determination of whether the claim is allowable, and of the amount payable, shall be made in accordance with the provisions of this title, title XI, and implementing regulations.

"(b) NOTICE TO CREDITOR OF BANKRUPTCY PETITIONER.—In the case of a debt owed by a debtor (as so defined) to the United States with respect to items and services provided, or claims for payment made, under this title (including a debt arising from an overpayment or a penalty, fine, or assessment under title XI or this title), the notices to the creditor of bankruptcy petitions, proceedings, and relief required under title 11, United States Code (including under section 342 of that title and rule 2002(j) of the Federal Rules of Bankruptcy Procedure), shall be given to the Secretary. Provision of such notice to a fiscal agent of the Secretary shall not be considered to satisfy this requirement.

"(c) TURNOVER OF PROPERTY TO THE BANKRUPTCY ESTATE.—For purposes of section 542(b) of title 11, United States Code, a claim for payment under this title shall not be considered to be a matured debt payable to the estate of a debtor (as so defined) until such claim has been allowed by the Secretary in accordance with procedures established under this title.".

SEC. 10. STUDY AND REPORT TO CONGRESS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct a study on all matters relating to the appropriate home health services to be provided under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) to individuals with chronic conditions.

(2) MATTERS STUDIED.—The matters studied by the Secretary shall include—

(A) methods to strengthen the role of a physician in developing a plan of care for a beneficiary receiving home health benefits under this title; and

(B) the need for an individual or entity (other than the home health agency or the beneficiary's physician) to have responsibility for approving the type and quantity of home health services provided to the beneficiary.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under subsection (a). The Secretary shall include in the report such recommendations regarding the utilization of home health services under the medicare program as the Secretary determines to be appropriate.

SEC. 11. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the expiration of the date that is 180 calendar days after the date of enactment of this Act.

By Mr. GRASSLEY (for himself, Mr. BREAUX, and Mr. CONRAD):

S. 256. A bill to amend title XVIII of the Social Security Act to promote the use of universal product numbers on claims forms submitted for reimbursement under the Medicare program; read twice.

MEDICARE UNIVERSAL PRODUCT NUMBER ACT OF 1999

Mr. GRASSLEY. Mr. President, on behalf of Senator BREAUX and myself, I am introducing legislation today to require the use of universal product numbers (UPNs) for all durable medical equipment (DME) Medicare purchases. A similar bipartisan bill was introduced in the House of Representatives by Representatives AMO HOUGHTON and LOUISE SLAUGHTER. The purpose of this legislation is to improve the Health Care Financing Administration's (HCFA) ability to track and to appropriately assess the value of the durable medical equipment it pays for under the Medicare program. Very simply, our bill will ensure Medicare gets what it pays for.

According to a report by the General Accounting Office (GAO) and the Office of Inspector General's review of billing practices for specific medical supplies, the Medicare program is often paying greater than the market price for durable medical equipment and Medicare beneficiaries are not receiving the quality of care they should. HCFA currently does not require DME suppliers to identify specific products on their Medicare claims. Therefore it does not know for which products it is paying. HCFA's billing codes often cover a broad range of products of various types, qualities and market prices. For example, the GAO found that one Medicare billing code is used by the industry for more than 200 different urological catheters, with many of these products varying significantly in price, use, and quality.

Medicare's inability to accurately track and price medical equipment and supplies it purchases could be remedied with the use of product specific codes known as "bar codes" or "universal product numbers" (UPNs). These codes are similar to the codes you see on products you purchase at the grocery store. Use of such bar codes is already being required by the Department of Defense and several large private sector purchasing groups. The industry strongly supports such an initiative as well. I am submitting several letters of endorsement for the record on behalf of the National Association for Medical Equipment Services, the Health Industry Distributors Association, Premier Inc., and a joint letter from industry groups such as the Health Industry Business Communications Council, Healthcare EDI Coalition, Health Industry Purchasing Association, and Invacare Corporation.

This bill represents a common sense approach. It will improve the way Medicare monitors and reimburses suppliers for medical equipment and supplies. Patients will receive better care. And the Federal Government will save money. I ask that my colleagues on both sides of the aisle support this legislation which I am introducing today with my friend and colleague, Senator BREAUX.

I ask unanimous consent that a copy of the bill and the letters of endorsement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 256

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Universal Product Number Act of 1999".

SEC. 2. UNIVERSAL PRODUCT NUMBERS ON CLAIMS FORMS FOR REIMBURSEMENT UNDER THE MEDICARE PROGRAM.

(a) ACCOMMODATION OF UPNS ON MEDICARE CLAIMS FORMS.—Not later than February 1, 2001, all claims forms developed or used by the Secretary of Health and Human Services for reimbursement under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) shall accommodate the use of universal product numbers for a UPN covered item.

(b) REQUIREMENT FOR PAYMENT OF CLAIMS.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following:

"USE OF UNIVERSAL PRODUCT NUMBERS

"SEC. 1897. (a) IN GENERAL.—No payment shall be made under this title for any claim for reimbursement for any UPN covered item unless the claim contains the universal product number of the UPN covered item.

"(b) DEFINITIONS.—In this section:

"(1) UPN COVERED ITEM.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'UPN covered item' means—

"(i) a covered item as that term is defined in section 1834(a)(13);

"(ii) an item described in paragraph (8) or (9) of section 1861(s);

"(iii) an item described in paragraph (5) of section 1861(s); and

"(iv) any other item for which payment is made under this title that the Secretary determines to be appropriate.

"(B) EXCLUSION.—The term 'UPN covered item' does not include a customized item for which payment is made under this title.

"(2) UNIVERSAL PRODUCT NUMBER.—The term 'universal product number' means a number that is—

"(A) affixed by the manufacturer to each individual UPN covered item that uniquely identifies the item at each packaging level; and

"(B) based on commercially acceptable identification standards such as, but not limited to, standards established by the Uniform Code Council–International Article Numbering System or the Health Industry Business Communication Council.".

(c) DEVELOPMENT AND IMPLEMENTATION OF PROCEDURES.—

(1) INFORMATION INCLUDED IN UPN.—The Secretary of Health and Human Services, in consultation with manufacturers and entities with appropriate expertise, shall determine the relevant descriptive information appropriate for inclusion in a universal product number for a UPN covered item.

(2) REVIEW OF PROCEDURE.—From the information obtained by the use of universal product numbers on claims for reimbursement under the medicare program, the Secretary of Health and Human Services, in consultation with interested parties, shall periodically review the UPN covered items billed under the Health Care Financing Administration Common Procedure Coding System and adjust such coding system to ensure that functionally equivalent UPN covered items are billed and reimbursed under the same codes.

(d) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply to claims for reimbursement submitted on and after February 1, 2002.

SEC. 3. STUDY AND REPORTS TO CONGRESS.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study on the results of the implementation of the provisions in subsections (a) and (c) of section 2 and the amendment to the Social Security Act in subsection (b) of that section.

(b) REPORTS.—

(1) PROGRESS REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report to Congress that contains a detailed description of the progress of the matters studied pursuant to subsection (a).

(2) IMPLEMENTATION.—Not later than 18 months after the date of enactment of this Act, and annually thereafter for 3 years, the Secretary of Health and Human Services shall submit a report to Congress that contains a detailed description of the results of the study conducted pursuant to subsection (a), together with the Secretary's recommendations regarding the use of universal product numbers and the use of data obtained from the use of such numbers.

SEC. 4. DEFINITIONS.

In this Act:

(1) UPN COVERED ITEM.—The term "UPN covered item" has the meaning given such term in section 1897(b)(1) of the Social Security Act (as added by section 2(b)).

(2) UNIVERSAL PRODUCT NUMBER.—The term "universal product number" has the meaning given such term in section 1897(b)(2) of the Social Security Act (as added by section 2(b)).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

The are authorized to be appropriated such sums as may be necessary for the purpose of carrying out the provisions in subsections (a) and (c) of section 2, section 3, and section 1897 of the Social Security Act (as added by section 2(b)).

JANUARY 19, 1999.

Hon. CHARLES GRASSLEY,
Chairman, Special Committee on Aging, U.S. Senate, Washington, DC.

Hon. JOHN BREAUX,
Ranking Minority Member, Special Committee on Aging, U.S. Senate, Washington, DC.

DEAR SENATORS GRASSLEY AND BREAUX: We applaud you for introducing the Medicare Universal Product Number Act, which will require the inclusion of universal product numbers (UPNs) on Medicare Part B billings for medical equipment and supplies that are not customized. UPNs are codes that uniquely identify an individual medical product; they are often associated with the bar codes that allow scanners to process them. These codes are a major enabling factor in our efforts to minimize fraudulent billings and to automate the distribution process.

The Department of Defense (DoD) and the Veterans Administration have already taken a leadership position in promoting the implementation of the industry standard of UPNs. As a part of the decision to use commercial medical product distributors, the DoD has mandated the use of UPNs for all medical/surgical products delivered to DoD facilities. The VA is prepared to implement a similar requirement this year. Most private sector group purchasing organizations also require the use of UPNs.

We believe that the Medicare Program would also benefit greatly from the use of UPNs. By cross-referencing each UPN with the current HCFA Common Procedure Coding System (HCPCS) and requiring the inclusion of the UPN on each Medicare Part B claim for medical equipment and supplies, Medicare's ability to track utilization and combat fraud and abuse would be greatly enhanced. As UPNs provide a unique, unambiguous means of identifying medical products, Medicare would have an exact record of the specific product used by the beneficiary. For the first time, the Medicare Program could identify precisely what items are being billed. Unusual trends in product utilization and claims for "suspicious" items would be easily identifiable. HCPCS alone cannot provide this information, as many products of varying quality and cost are included in a single code.

In addition, problems with "upcoding" and miscoding could be greatly reduced through the implementation of UPNs. Upcoding occurs when Medicare is intentionally billed under a code that provides a higher reimbursement than the code corresponding to the item that was furnished to the beneficiary. Currently, upcoding is difficult to detect because HCPCS are so inexact. UPNs would correctly identify the specific medical product, thereby making it harder to misrepresent the cost and quality of the product. In addition, by cross-referencing each UPN to the appropriate HCPCS, legitimate confusion about HCFA's current coding system would be alleviated. As the General Accounting Office has reported (GAO/HEHS-98-102), the HCPCS system is needlessly ambiguous.

We believe that the Medicare Program and medical products industry would benefit greatly from the use of UPNs. This standard would not only increase Medicare's understanding of what it pays for, but also assist in the effective administration of the Program.

Again, thank you for introducing the Medicare Universal Product Number Act.

Sincerely,

Health Industry Business Communications Council.
Healthcare EDI Coalition.
Health Industry Distributors Association.
Health Industry Group Purchasing Association.
National Association for Medical Equipment Services.
Invacare Corp.
Premier Inc.

NATIONAL ASSOCIATION FOR
MEDICAL EQUIPMENT SERVICES,
Alexandria, VA, January 12, 1999.

Hon. CHARLES GRASSLEY,
Hon. JOHN BREAUX,
U.S. Senate,
Special Committee on Aging.

DEAR SENATORS GRASSLEY AND BREAUX: As you know, the National Association for Medical Equipment Services (NAMES) was pleased to endorse your bill, The Medicare Universal Product Number Act of 1997, S. 1362 in the 105th Congress. We understand you will re-introduce this bill in substantially the same form in the 106th Congress, and so, in concept, support that legislation.

Requiring universal product numbers on home medical equipment for product labeling and billing purposes would accomplish two key objectives. First, it would improve home medical equipment inventory control by creating a unique numbering system that easily permits computerized optical scanning of product information. Second, it would provide third-party payers with more information on equipment characteristics than does the current HCPCS coding system, thus allowing reimbursement rates to be set more appropriately.

While equipment manufacturers and retailers would need time to comply with the bill, we note that S. 1362 provided more than two years for compliance to be attained. We look forward to working with you as this bill proceeds through the legislative process.

Sincerely,

WILLIAM D. COUGHLAN, CAE,
President and Chief Executive Officer.

HEALTH INDUSTRY
DISTRIBUTORS ASSOCIATION,
Alexandria, VA, January 11, 1999.

Hon. CHARLES GRASSLEY,
Chairman, Special Committee on Aging, U.S. Senate, Washington, DC.

Hon. JOHN BREAUX,
Ranking Minority Member, Special Committee on Aging, U.S. Senate, Washington, DC.

DEAR SENATORS GRASSLEY AND BREAUX: On behalf of the Health Industry Distributors Association (HIDA), I applaud you for introducing the Medicare Universal Product Number Act. HIDA is the national trade association of home care companies and medical products distribution firms. Created in 1902, HIDA represents over 700 companies with approximately 2500 locations nationwide. HIDA Members provide value-added distribution services to virtually every hospital, physician's office, nursing facility, clinic, and other health care sites across the country, as well as to a growing number of home care patients.

HIDA has long supported the use of UPNs for medical equipment and supplies. By providing a standard, unique identifier for each product, UPNs supply the information needed to minimize fraudulent billings and streamline the health care product distribution process. The Department of Defense (DoD) has already recognized the many benefits resulting from the implementation of the industry standard of UPNs. As a part of their decisions to use commercial medical product distributors, DoD has mandated the use of UPNs for all medical/surgical products delivered to DoD facilities.

The Medicare Program could also benefit greatly from the use of UPNs. By using UPNs, the Medicare system would be able to correctly identify the specific items they are paying for, a crucial piece of information that the agency is now missing. As UPNs provide a unique, unambiguous means of identifying each product on the market, Medicare would have an exact record of the specific product used by each beneficiary. Unusual trends in product utilization and claims for "suspicious" items would be easily identifiable. The HCFA Common Procedure Coding System (HCPCS) can not provide this information, because many products of varying quality and cost are included in a single code.

In addition, problems with "upcoding" and miscoding could be greatly reduced through the implementation of UPNs. Upcoding occurs when Medicare is intentionally billed under a code that provides a higher reimbursement than the code corresponding to the item that was actually furnished to the beneficiary. Currently, upcoding is difficult to detect because HCPCS are so inexact. UPNs would correctly identify the specific medical product, thereby making it harder to misrepresent the cost and quality of the product. In addition, by cross-referencing each UPN to the appropriate HCPCS, legitimate confusion about HCFA's current coding system would be alleviated. As the General Accounting Office has reported (GAO/HEHS-98-102), the HCPCS system is needlessly ambiguous.

HIDA firmly believes that the Medicare Program and the medical equipment industry would benefit greatly from the use of UPNs. This standard would not only increase Medicare's understanding of what it pays for, but also assist in the effective administration of the Program.

Again, thank you for introducing the Medical Universal Product Number Act.

Sincerely,

S. WAYNE KAY.

PREMIER,
Washington, DC, January 20, 1999.

Hon. CHARLES GRASSLEY,
Hon. JOHN BREAUX,
U.S. Senate, Special Committee on Aging, Washington, DC.

DEAR SENATORS GRASSLEY AND BREAUX: On behalf of Premier, Inc., the nation's largest healthcare alliance, I am pleased to support the "Medicare Universal Product Number Act." The bill requires the use of universal product numbers (UPNs) for all durable medical equipment Medicare purchases by 2002.

Premier represents more than 200 owner hospitals and hospital systems that own or operate 800 healthcare institutions and have purchasing affiliations with another 1,100. Premier owners operate hospitals, HMOs and PPOs, skilled nursing facilities, rehabilitation facilities, home health agencies, and physician practices. Through participation in Premier, healthcare leaders can access cost reduction avenues, delivery system development and enhancement strategies, technology management, decision support tools, and a variety of opportunities for networking and knowledge transfer.

Premier welcomes federal government leadership in requiring manufacturers to label their products at each unit of inventory with a universal product number by the year 2002. The U.S. General Accounting Office (GAO) recommended in a May 1998 report to Congress that HCFA require suppliers include UPNs on their Medicare claims. This requirement will not only aid the Medicare program, but also will help the private sector reduce healthcare costs. A recent study conducted by Efficient Healthcare Consumer Response on improving the efficiency of the healthcare supply chain concluded that $11.6 billion could be saved through automation and integration of the product information stream from point of manufacture to point of use across the industry. UPN is a major component within that potential remarkable savings stream. Therefore, we believe that UPN will become as important to the medical industry as other bar code standards have become to grocery and other retail industries for many years.

This bill represents a common sense approach to reducing healhcare costs in the United States. Thank you Senators GRASSLEY and BREAUX for your leadership on this issue and we look forward to assisting you with your efforts to enact this legislation into law.

Sincerely,

JAMES L. SCOTT,
President.

Mr. BREAUX. Mr. President, I rise to commend Senator GRASSLEY for his leadership on the important issue of cutting waste, fraud and abuse in the Medicare program. As chairman of the National Bipartisan Commission on the Future of Medicare, I strongly support our legislation that will save federal dollars by modernizing an outdated and confusing billing system. The Medicare Universal Product Number Act of 1999 is a practical solution which will ensure that the Health Care Financing Administration (HCFA) knows what it is paying for when reimbursing for durable medical equipment (DME) under the Medicare program.

Currently, HCFA's billing system uses overly broad and sometimes outdated codes. These codes can cover a wide range of products which vary in price and quality, making it difficult for HCFA to track and price medical equipment accurately. By using Universal Product Numbers (UPNs), which provide a unique, unambiguous means of identifying each product on the market, HCFA will be able to track utilization more efficiently.

Because UPNs are unique identifiers, HCFA will be better equipped in combating fraud against the Medicare program. Currently the system is vulnerable to a type of fraud called "upcoding." This occurs when Medicare is billed for a product under an improper code. Perpetrators of fraud can use improper codes to receive higher reimbursement rates then those given for the products which they actually provide. By tracking utilization, made possible by UPNs, HCFA will know what product is provided to the beneficiary and how much that product costs.

There is widespread support for the use of UPNs in the Medicare program. A recent GAO report addresses the need to reform Medicare's billing system. The report found that HCFA "does not know specifically what Medicare is paying for when its contractors process claims for" medical equipment and supplies. The Department of Defense and the Veterans' Administration have already begun to require UPNs, as do many private sector purchasing groups. Moreover, the medical products industry recognizes the value of UPNs and strongly supports this legislation.

Medicare's current billing system is vulnerable to abuse. This legislation is a practical approach to help ensure that taxpayer dollars are protected and spent wisely. I thank Senator GRASSLEY for his leadership, and I encourage my colleagues to support this important legislation.

By Mr. COCHRAN (for himself, Mr. INOUYE, and Mr. HAGEL):

S. 257. A bill to state the policy of the United States regarding the deployment of a missile defense capable of defending the territory of the United States against limited ballistic missile attack; to the Committee on Armed Services.

NATIONAL MISSILE DEFENSE ACT OF 1999

Mr. COCHRAN. Mr. President, I am pleased to announce today we are introducing, again, the National Missile Defense Act of 1999, a bill to make it the policy of the United States to deploy, as soon as technologically possible, a system to defend the United States against limited ballistic missile attack. I am happy to be joined by my friend, the distinguished Senator from Hawaii, Mr. INOUYE, in introducing this bill. And I am pleased that we have just heard that the Secretary of Defense has announced that funds will be included in this year's budget to pay for deployment of the National Missile Defense System, acknowledging that the threat does exist, or soon will. So the administration is changing its policy now, faced with this push that was begun in the last Congress and is culminating now in the reintroduction of this legislation.

Ballistic missiles are being developed and tested by a growing number of nations, some of which are hostile to the United States.

Iran has declared itself self-sufficient in missile technology and expertise. It is building a missile system capable of striking Central Europe.

Last year, North Korea surprised experts with its test of the Taepo Dong-1, a three-stage missile which, according to published reports, may be capable of reaching Alaska. Last July, the Rumsfeld Commission concluded that the United States may have "little or no warning" of the development of intercontinental ballistic missile capability by a rogue state.

The United States has no defense against long-range ballistic missiles, and administration policy had been limited to development of a missile defense system and deployment only if a threat developed. Now the threat has become obvious to the administration.

I welcome the announcement this morning by the Secretary of Defense that the administration is acknowledging the need to proceed with a program to develop a missile defense system to meet this threat and to deploy it. The time has come to remove all doubts about the resolve of the United States on this issue. The National Missile Defense Act of 1999 confirms this resolve as national policy.

Mr. COVERDELL. I thank the Senator from Mississippi and now turn to the Senator from Nebraska and yield up to 5 minutes to the distinguished Senator.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Mr. President, I wish to associate myself with the remarks of my colleagues here this morning. I also wish to commend my friend, the senior Senator from Mississippi, for reintroducing his defense initiative. Missile defense is as critical a challenge as this country faces, not just for the short term, but for the long term, and I have been a strong proponent of what Senator COCHRAN is proposing. I wish, again, to be a cosponsor of that measure.

By Mr. MCCAIN (for himself, Mr. LEVIN, and Mr. ROBB):

S. 258. A bill to authorize additional rounds of base closures and realignments under the Defense Base Closure and Realignment Act of 1990 in 2001 and 2003, and for other purposes; to the Committee on Armed Services.

LEGISLATION TO AUTHORIZE TWO BASE REALIGNMENT AND CLOSURE ROUNDS TO OCCUR IN 2001 AND 2003

Mr. MCCAIN. Mr. President, I rise today to introduce legislation that authorizes two rounds of U.S. military installation realignment and closures to occur in 2001 and 2003. I am pleased to have Senator LEVIN and Senator ROBB as cosponsors of this bill.

Mr. President, we have heard over the last 4 months of the dire situation of our military forces. We have heard testimony of plunging readiness, modernization programs that are decades behind schedule, and quality of life deficiencies that are so great we cannot retain or recruit the personnel we need. As a result of this realization, there has been a groundswell of support in Congress for the Armed Forces, including a number of pay and retirement initiatives and the promise of a significant increase in defense spending.

All of these proposals are excellent starting points to help re-forge our military, but we must not forget that much of it will be in vain if the Department of Defense is obligated to maintain 23 percent excess capacity in infrastructure. When we actually look for the dollars to pay for these initiatives, it is unconscionable that some would not look to the billions of dollars to be saved by base realignment and closure. Secretary Cohen and the Joint Chiefs of Staff have stated repeatedly that they desire more opportunities to streamline the military's infrastructure. We cannot sit idly by and throw money and ideas at the problem when part of the solution is staring us in the face.

This proposed legislation offers two significant changes to present law. First, the process for the first round in 2001 is moved back two months to ensure there is no conflict of interest with a commission nominated under one administration but effectively working under the direction of the follow-on administration. Second, under this legislation, privatization in-place would be permitted only when explicitly recommended by the Commission. Additionally, the Secretary of Defense must consider local government input in preparing his list of desired base closures.

Total BRAC savings realized from the four previous rounds exceed total costs to date. The annual net savings for previous rounds will grow from almost $3 billion last year to $5.6–7.0 billion per year by 2001. These savings are real, they are coming sooner, and they are estimated to be greater than anticipated.

Mr. President, we can continue to maintain a military infrastructure that we do not need, or we can provide the necessary funds to ensure our military can fight and win future wars. Every dollar we spend on bases we do not need is a dollar we cannot spend on training our troops, keeping personnel quality of life at an appropriate level, maintaining force structure, replacing old weapons systems, and advancing our military technology.

We must finish the job we started by authorizing these two final rounds of base realignment and closure. I urge my colleagues to join us in support of this critical bill and to work diligently throughout the year to put aside local politics for what is clearly in the best interest of our military forces.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 258

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO CARRY OUT BASE CLOSURE ROUNDS IN 2001 AND 2003.

(a) COMMISSION MATTERS.—

(1) APPOINTMENT.—Subsection (c)(1) of section 2902 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(A) in subparagraph (B)—

(i) by striking "and" at the end of clause (ii);

(ii) by striking the period at the end of clause (iii) and inserting a semicolon; and

(iii) by adding at the end the following new clauses (iv) and (v):

"(iv) by no later than March 1, 2001, in the case of members of the Commission whose terms will expire at the end of the first session of the 107th Congress; and

"(v) by no later than January 3, 2003, in the case of members of the Commission whose terms will expire at the end of the first session of the 108th Congress."; and

(B) in subparagraph (C), by striking "or for 1995 in clause (iii) of such subparagraph" and inserting ", for 1995 in clause (iii) of that subparagraph, for 2001 in clause (iv) of that subparagraph, or for 2003 in clause (v) of that subparagraph".

(2) MEETINGS.—Subsection (e) of that section is amended by striking "and 1995" and inserting "1995, 2001, and 2003".

(3) STAFF.—Subsection (i)(6) of that section is amended in the matter preceding subparagraph (A) by striking "and 1994" and inserting ", 1994, and 2002".

(4) FUNDING.—Subsection (k) of that section is amended by adding at the end the following new paragraph (4):

"(4) If no funds are appropriated to the Commission by the end of the second session of the 106th Congress for the activities of the Commission in 2001 or 2003, the Secretary may transfer to the Commission for purposes of its activities under this part in either of those years such funds as the Commission may require to carry out such activities. The Secretary may transfer funds under the preceding sentence from any funds available to the Secretary. Funds so transferred shall remain available to the Commission for such purposes until expended.".

(5) TERMINATION.—Subsection (l) of that section is amended by striking "December 31, 1995" and inserting "December 31, 2003".

(b) PROCEDURES.—

(1) FORCE-STRUCTURE PLAN.—Subsection (a)(1) of section 2903 of that Act is amended by striking "and 1996," and inserting "1996, 2002, and 2004,".

(2) SELECTION CRITERIA.—Subsection (b) of such section 2903 is amended—

(A) in paragraph (1), by inserting "and by no later than January 28, 2001, for purposes of activities of the Commission under this part in 2001 and 2003," after "December 31, 1990,"; and

(B) in paragraph (2)(A)—

(i) in the first sentence, by inserting "and by no later than March 15, 2001, for purposes of activities of the Commission under this part in 2001 and 2003," after "February 15, 1991,"; and

(ii) in the second sentence, by inserting ", or enacted on or before April 15, 2001, in the case of criteria published and transmitted under the preceding sentence in 2001" after "March 15, 1991".

(3) DEPARTMENT OF DEFENSE RECOMMENDATIONS.—Subsection (c) of such section 2903 is amended—

(A) in paragraph (1), by striking "and March 1, 1995," and inserting "March 1, 1995, May 1, 2001, and March 1, 2003,";

(B) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively;

(C) by inserting after paragraph (3) the following new paragraph (4):

"(4)(A) In making recommendations to the Commission under this subsection in any year after 1999, the Secretary shall consider any notice received from a local government in the vicinity of a military installation that the government would approve of the closure or realignment of the installation.

"(B) Notwithstanding the requirement in subparagraph (A), the Secretary shall make the recommendations referred to in that subparagraph based on the force-structure plan and final criteria otherwise applicable to such recommendations under this section.

"(C) The recommendations made by the Secretary under this subsection in any year after 1999 shall include a statement of the result of the consideration of any notice described in subparagraph (A) that is received with respect to an installation covered by such recommendations. The statement shall set forth the reasons for the result."; and

(D) in paragraph (7), as so redesignated—

(i) in the first sentence, by striking "paragraph (5)(B)" and inserting "paragraph (6)(B)"; and

(ii) in the second sentence, by striking "24 hours" and inserting "48 hours".

(4) COMMISSION REVIEW AND RECOMMENDATIONS.—Subsection (d) of such section 2903 is amended—

(A) in paragraph (2)(A), by inserting "or by no later than September 1 in the case of recommendations in 2001," after "pursuant to subsection (c),";

(B) in paragraph (4), by inserting "or after September 1 in the case of recommendations in 2001," after "under this subsection,"; and

(C) in paragraph (5)(B), by inserting "or by no later than June 15 in the case of such recommendations in 2001," after "such recommendations,".

(5) REVIEW BY PRESIDENT.—Subsection (e) of such section 2903 is amended—

(A) in paragraph (1), by inserting "or by no later than September 15 in the case of recommendations in 2001," after "under subsection (d),";

(B) in the second sentence of paragraph (3), by inserting "or by no later than October 15 in the case of 2001," after "the year concerned,"; and

(C) in paragraph (5), by inserting "or by November 1 in the case of recommendations in 2001," after "under this part,".

(c) CLOSURE AND REALIGNMENT OF INSTALLATIONS.—Section 2904(a) of that Act is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) carry out the privatization in place of a military installation recommended for closure or realignment by the Commission in each such report after 1999 only if privatization in place is a method of closure or realignment of the installation specified in the recommendation of the Commission in such report and is determined to be the most-cost effective method of implementation of the recommendation;".

(d) RELATIONSHIP TO OTHER BASE CLOSURE AUTHORITY.—Section 2909(a) of that Act is amended by striking "December 31, 1995," and inserting "December 31, 2003,".

(e) TECHNICAL AND CLARIFYING AMENDMENTS.—

(1) COMMENCEMENT OF PERIOD FOR NOTICE OF INTEREST IN PROPERTY FOR HOMELESS.—Section 2905(b)(7)(D)(ii)(I) of that Act is amended by striking "that date" and inserting "the date of publication of such determination in a newspaper of general circulation in the communities in the vicinity of the installation under subparagraph (B)(i)(IV)".

(2) OTHER CLARIFYING AMENDMENTS.—

(A) That Act is further amended by inserting "or realignment" after "closure" each place it appears in the following provisions:

(i) Section 2905(b)(3).

(ii) Section 2905(b)(4)(B)(ii).

(iii) Section 2905(b)(5).

(iv) Section 2905(b)(7)(B)(iv).

(v) Section 2905(b)(7)(N).

(vi) Section 2910(10)(B).

(B) That Act is further amended by inserting "or realigned" after "closed" each place in appears in the following provisions:

(i) Section 2905(b)(3)(C)(ii).

(ii) Section 2905(b)(3)(D).

(iii) Section 2905(b)(3)(E).

(iv) Section 2905(b)(4)(A).

(v) Section 2905(b)(5)(A).

(vi) Section 2910(9).

(vii) Section 2910(10).

(C) Section 2905(e)(1)(B) of that Act is amended by inserting ", or realigned or to be realigned," after "closed or to be closed'.

Mr. LEVIN. Mr. President, I am pleased to once again join my colleagues from the Armed Services Committee, Senator MCCAIN and Senator ROBB, in introducing this legislation authorizing the Department of Defense to close excess, unneeded military bases.

For the past two years, Secretary of Defense Cohen has asked the Congress to authorize two additional base closure rounds. But Congress has not acted.

Secretary Cohen and General Shelton, the Chairman of the Joint Chiefs of Staff, have repeatedly said we need to close more military bases, and I am confident that they will once again ask us to close more bases when the President's budget is submitted next month.

The legislation we are introducing today is intended to start the debate, and I anticipate the administration will make a similar legislative proposal to the Congress.

This legislation calls for two additional base closure rounds, in 2001 and 2003, that would basically follow the same procedures that were used in 1991, 1993 and 1995, with two exceptions.

First, the whole process would start and finish two months later in 2001 than it did in previous rounds, to give the new President sufficient time to nominate commissioners.

Second, under our legislation privatization in place would not be permitted at closing installations unless the Base Closure Commission recommends it.

In a November 1998 report, the General Accounting Office listed five key elements of the base closure process that "contributed to the success of prior rounds". Our legislation retains all of those key elements. GAO also stated that they "have not identified any long-term readiness problems that were related to domestic base realignments and closures, that "DOD continues to retain excess capacity" and that "substantial savings are expected" from base closures.

Mr. President, every expert and every study agrees on the basic facts—the Defense Department has more bases than its needs, and closing bases saves substantial money in the long run.

The report the Department of Defense provided to the Congress last April clearly demonstrated these facts. As the Congressional Budget Office stated in a letter to me last July, "the report's basic message is consistent with CBO's own conclusions: past and future BRAC round will lead to significant savings for DoD."

Every year we delay another base closure round, we deny the Defense Department, and the taxpayers, about $1.5 billion in annual savings that we can never recoup. And every dollar we spend on bases we do not need is a dollar we cannot spend on things we do need.

Mr. President, I am not going to make any detailed judgments on the President's defense budget proposal until we see the details, but I am prepared to support an increase in defense spending if the money is spent wisely.

However, Congress should not use defense funding increases as an excuse to avoid tough choices. The addition of new resources cannot be a substitute for the billions of dollars of savings that would be generated by a new round of base closures. We cannot justify spending more for national defense unless we show our own willingness to make the best use of defense dollars by reducing unneeded defense infrastructure.

I urge my colleagues to support this legislation.

Mr. ROBB. Mr. President, last year I joined Senators MCCAIN and LEVIN in introducing legislation authorizing another base closure round. I argued then, as I do today, that failing to enact another BRAC round only makes the Congress look short-sighted and indecisive. I argued then that if we don't bite the bullet quickly, the cost of excess infrastructure will continue to drag down the readiness of our forces today and rob us of the resources so badly needed to modernize our forces for tomorrow.

For the first time since the late 1970's, military readiness is suffering significantly. Ships are undermanned, pilots are flying too many missions, reservists are being asked to leave family and job over and over. It doesn't take a budget expert to realize what we could do for the troops with billions in savings from cutting excess infrastructure.

This year we in the Congress will almost certainly add billions of dollars to the defense budget. This is a mixed blessing. While these adds will help resolve problems across the board, from recruiting to modernization to preparing for the future, they will also undermine any incentives to better manage the Department of Defense and to eliminate the wasteful assets and administrative inefficiencies that we the Congress are so determined to preserve.

BRAC failed in the past for reasons that have much to do with politics, but little to do with ensuring our every defense dollar is spent for maintaining and equipping our armed forces for the battlefields of the next century. Those politics are behind us now. We must move forward and authorize more BRAC rounds.

Keeping excess military posts open won't bring more firepower to bear in the next war. Keeping an unneeded R&D lab open won't recruit more talented young men and women to serve as the foundation for the world's finest fighting force. Keeping an underutilized training range open won't buy modern equipment so badly needed to replace systems now often older than the men and women using them.

Mr. President, I reemphasize a point I've made time and time again in the past—who suffers from Congressional inaction? In the end, we only punish those who most need the benefits of infrastructure savings. First, we punish the Nation's taxpayers when we fail to make the best use of the resources with which they entrust us. Second, we punish today's soldiers, sailors, airmen and marines whose readiness depends on sufficient, reliable resources for equipment, training and operations through the year. Finally, we punish tomorrow's force as we continue to mortgage research, development, and modernization of equipment necessary to keep America strong into the 21st century.

The bill we're introducing calls for a base closure round in 2001 and another in 2003. Like the provision we offered last year and the year before that, the bill should answer concerns over the politicization of future BRAC rounds. Language is included to allow privatization-in-place at a facility only if the BRAC Commission explicitly recommends privatization-in-place.

The long-term savings from the first four base closure rounds already are generating substantial savings—about three billion dollars a year. Each new round will save another 1.5 billion dollars per year. It is no surprise that scores of studies and organizations such as the Quadrennial Defense Review, Defense Restructure Initiative, National Defense Panel, and Business Executives for National Security have all concluded that more base closures are crucial to the future of our Armed Forces.

Mr. President, I urge my colleagues to do what is right for our armed forces, what is right for the taxpayer, and support this legislation.

By Mr. INOUYE:

S. 259. A bill to increase the role of the Secretary of Transportation in administering section 901 of the Merchant Marine Act, 1936, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TRANSPORTATION IN AMERICAN VESSELS OF GOVERNMENT PERSONNEL AND CERTAIN CARGOES

Mr. INOUYE. Mr. President, the legislation I am introducing today would centralize the authority to administer our Nation's cargo preference laws in the Department of Transportation. Cargo preference statutes assure U.S.-flag ships a minimum share of cargoes produced by U.S. government programs. They play an important role in ensuring our nation's economic security and the existence of a U.S.-flag merchant fleet to assist in national security during times of national emergencies. This tremendous benefit is achieved at a minimal cost. Under present law, cargo reservation is the only direct support a majority of the U.S. merchant fleet receives. I would also like to point out that a cargo preference policy is not unique. Other nations also provide their merchant fleet preference in carrying cargoes their governments generate.

The Maritime Administration, which is part of the Department of Transportation, has been tasked with the difficult duty of monitoring the administration of and compliance with U.S. cargo preference laws and regulations by Federal agencies with regard to programs generating ocean-born cargoes. Major programs monitored include humanitarian aid shipments provided by the U.S. Department of Agriculture and the U.S. Agency for International Development, commodities financed by the Export-Import Bank, foreign military sales, and Department of Defense cargo shipped by commercial ocean carriers. These are cargoes generated exclusively by our government.

In the past, compliance by federal agencies with the requirements of the cargo reservation laws has been chaotic, uneven and varied from agency to agency. In 1962, President John F. Kennedy, in issuing a directive to all executive branch departments and agencies, recognized the importance of our cargo preference policy in fostering a modern, privately owned, merchant marine capable of serving as a naval and military auxiliary in time of war or national emergency. At the time, President Kennedy stated that, "the achievement of this national policy is even more essential now because of the worldwide economic and defense burdens facing the United States." Never has this sentiment been more true than now.

Mr. President, this legislation will merely make certain that federal agencies adhere to existing cargo preference laws, and give the Maritime Administration authority to respond to violations with the proper penalties or sanctions. I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSPORTATION IN AMERICAN VESSELS OF GOVERNMENT PERSONNEL AND CERTAIN CARGOES.

Section 901(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C. App. 2141 (b)(2)), is amended to read as follows:

"(2)(A) Notwithstanding any other provision of law, the Secretary of Transportation shall have the sole responsibility for determining and designating the programs that are subject to the requirements of this subsection. Each department or agency that has responsibility for a program that is designated by the Secretary of Transportation pursuant to the preceding sentence shall, for the purposes of this subsection, administer such program pursuant to regulations promulgated by such Secretary.

"(B) The Secretary of Transportation shall—

"(i) review the administration of the programs referred to in subparagraph (A);

"(ii) resolve any question concerning the administration of those programs with respect to this section;

"(iii) provide for penalties and sanctions for violation of this Act; and

"(iv) on an annual basis, submit a report to Congress concerning the administration of such programs.".

SEC. 2. CONFORMING CARGO PREFERENCE YEAR TO FEDERAL FISCAL YEAR.

Section 901b(c)(2) of the Merchant Marine Act, 1936 (46 U.S.C App. 1241f(c)(2)) is amended by striking "1986." and inserting "1986, the 18-month period commencing April 1, 1999, and the 12-month period beginning on the first day of October in the year 2000 and each year thereafter.".

By Mr. GRASSLEY (for himself, Mr. DASCHLE, Mr. CRAIG, Mr. BROWNBACK, Mr. SESSIONS, Mr. ASHCROFT, and Mr. KOHL):

S. 260. A bill to make chapter 12 of title 1, United States Code, permanent, and for other purposes; to the Committee on the Judiciary.

SAFETY 2000

Mr. GRASSLEY. Mr. President, I rise today to introduce vitally important legislation to promote the well-being of America's family farms by extending chapter 12 of the Bankruptcy Code. This bill, which is known as "safety 2000," will also make needed changes to chapter 12 which will make it work better for family farmers. I'm pleased that Senator DASCHLE is joining with me in this effort to save family farms. In Iowa, pork prices recently hit an all time low. Pork producers are facing serious hardship, and we must make sure that those farmers who need bankruptcy relief to help save their farming operation have meaningful protections.

Last year, again with the distinguished minority leader, I introduced legislation to make chapter 12 permanent. That legislation passed the Senate by unanimous consent. However, the legislation was not enacted into law. On April 1 of this year, chapter 12 will expire. Mr. President, we cannot let this happen.

As the only family farmer in the Senate, I feel I have a unique responsibility to make sure that family farming remains a strong and vibrant part of American life. For generations, family farms have fed this country. But farming has always had rough periods.

Allowing chapter 12 to expire will repeat a fatal mistake of the past. During the great depression, Congress created special bankruptcy protections for farmers to help them ride out the severe economic conditions of that tragic era. However, Congress allowed these laws to lapse in the 1950s. So, when farmers in Iowa confronted the farm crisis of the mid-1980s, they were left without effective bankruptcy relief. By passing my legislation, we can prevent the mistakes of the past from occurring again.

I think it's very important to realize that chapter 12 is not a hand out or a "get out of debt free" card. Farmers are hard-working people who want the chance to learn their way. In fact, chapter 12 is modeled on chapter 13, where individuals set up plans to repay a portion of their debts.

By all accounts, chapter 12 has been wildly successful. So many times in Washington we develop programs and laws with the best of intentions. But when these programs get to the real world, they don't work well. chapter 12, on the other hand, has worked exactly as intended. According to Professor Neil Harl of Iowa State University, 74 percent of family farmers who filed Chapter 12 bankruptcy are still farming and 61 percent of farmers who went through Chapter 12 believe that Chapter 12 was helpful in getting them back on their feet.

But Chapter 12 can be made even better. "Safety 2000" will make Chapter 12 better. The bill expands the definition of family farmer so that more farmers can use Chapter 12. Under current law, family farmers can't use Chapter 12 to save their farms if a farmer has more than $1.5 million in debt. This is too restrictive, and my bill would let farmers who have up to $3 million in debt use Chapter 12.

"Safety 2000" also helps farmers to reorganize by keeping the tax collectors at bay. Under current law, farmers often face a crushing tax liability if they need to sell livestock or land in order to reorganize their business affairs. According to Joe Peiffer, a bankruptcy lawyer from Hiawatha, Iowa, who represents many family farmers, high taxes have caused farmers to lose their farms. Under the bankruptcy code, the I.R.S. must be paid in full for any tax liabilities generated during a bankruptcy reorganization. If the farmer can't pay the I.R.S. in full, then he can't keep his farm. This isn't sound policy. Why should the I.R.S. be allowed to veto a farmer's reorganization plan? "Safety 2000" takes this power away from the I.R.S. by reducing the priority of taxes during proceedings. This will free up capital for investment in the farm, and help farmers stay in the business of farming.

In conclusion, Chapter 12 works well and this legislation will make it work better. Let's make sure that we keep this safety net for family farmers in place. I urge my colleagues to think of this bill as a low-cost insurance policy for an important part of America's economy and America's heritage.

Mr. KOHL. Mr. President, I rise to join Senator GRASSLEY as a cosponsor of "Safeguarding America's Farms Entering the Year 2000." This measure would make permanent the bankruptcy code provisions that protect family farmers in hard times by giving them the ability to hold on to their farms while they reorganize their finances.

Without prompt action by Congress, the bankruptcy laws for family farmers, known as Chapter 12, will expire on April 1, 1999. When Congress first enacted Chapter 12 in 1986 for seven years, we intended to make Chapter 12 permanent if it proved successful. Already, Chapter 12 has been extended twice, in 1993 and again last year.

Family farmers need this permanent protection because Chapter 12 works. It takes into consideration the unique circumstances faced by family farmers. It recognizes our special interest in keeping family farms in the family, where possible. And in practice it pays off—according to the National Bankruptcy Review Commission, farmers in Chapter 12 are more likely to successfully reorganize than individuals filing under parallel chapters.

The continued success of the tens of thousands of family farmers in Wisconsin—and millions nationwide—is important to our national interest. But their well-being is too often jeopardized by elements out of their control. For example, many Wisconsin farmers now are facing distress due to unusually low prices for hogs, corn and soy beans. The opportunity to reorganize their business under Chapter 12 may be an important option in these difficult times. They deserve to know that this protection will always be available. Thank you.

By Mr. SPECTER (for himself, Mr. ROCKEFELLER, Mr. BYRD, Mr. DEWINE, Mr. HOLLINGS, Mr. SANTORUM, Ms. MIKULSKI, Mr. SARBANES, Mr. HUTCHINSON, Mr. DURBIN, Mr. KOHL, Mr. SESSIONS, and Mr. MOYNIHAN):

S. 261. A bill to amend the Trade Act of 1974, and for other purposes; to the Committee on Finance.

THE TRADE FAIRNESS ACT OF 1999

Mr. SPECTER. Mr. President, I have sought recognition today to introduce legislation to try to deal with a very serious surge of steel imports into the United States, which is threatening to decimate the steel industry and take thousands of jobs from American steelworkers in a way which is patently unfair and in violation of free trade practices. My bill is entitled the "Trade Fairness Act of 1999" because it would bring our laws in line with those established by the General Agreement on Tarriffs and provide relief to the flood of foreign steel imports dumped onto the American market.

On Monday, November 30, 1998, Senator ROCKEFELLER and I convened a hearing of the Senate Steel Caucus to look further into the continued dumping of foreign steel on the U.S. market and its affect on domestic producers. At that hearing, Hank Barnette, Chairman and CEO of Bethlehem Steel, and George Becker, President of the United Steelworkers of America, testified to the magnitude of the crisis, the continued loss of high-paying jobs and the alarming lack of capital investment by the industry over the last several months. They both expressed frustration at the lack of activity by the Clinton Administration to respond to illegal dumping of foreign steel.

On October 7, 1998, Senator JOHN D. ROCKEFELLER, Congressman RALPH REGULA and Congressman JIM OBERSTAR, and I met with representatives of the Clinton Administration, specifically Treasury Secretary Robert Rubin, Commerce Secretary William Daley, United States Trade Representative Ambassador Charlene Barshefsky and National Economic Council Advisor Gene Sperling, to discuss the steel import issue. At that meeting, representatives of the Clinton Administration assured us that they were looking into actions that the Administration could take to respond to the illegal dumping of foreign steel on the U.S. market but had yet to make a final decision on their response.

The urgency of this crisis and the failure of the Administration to take action was evident from testimony presented on September 10, 1998, where, as Chairman of the Senate Steel Caucus, I joined House Chairman REGULA in convening a joint meeting of the Senate and House Steel Caucuses to hear from members of the United Steelworkers of America and executives from a number of the nation's largest steel manufacturers about the current influx of imported steel into the United States. At that meeting, I expressed my profound concern regarding the impact on our steel companies and steelworkers of the current financial crises in Asia and Russia, which have generated surges in U.S. imports of Asian and Russian steel.

The United States has become the dumping ground for foreign steel. Russia has become the world's number one steel exporting nation and China is now the world's number one steel-producing nation, while enormous subsidies to foreign steel producers have continued. In fact, the Commerce Department revealed that Russia, one of the world's least efficient producers, was selling steel plate in the United States at more than 50 percent, or $110 per ton, below the constructed cost to make steel plate. The dumping of this cheap steel on the American market ultimately costs our steel companies in lost sales and results in fewer jobs for American workers.

Specifically, the October 1998 import level was the second highest monthly total ever, with 4.1 million net tons—an increase of 56 percent over October 1997 of 2.6 million net tons. Only August 1998 (4.4 million net tons) surpassed it. The October level, if annualized, would exceed 49 million net tons, or 48 percent of expected total U.S. domestic steel shipments for the entire year. Total imports in October were 35 percent of apparent consumption, up from 23 percent a year earlier.

Imports of steel from various countries have dramatically increased when the first six months of 1997 are compared to the first six months of 1998. The percent increases from four countries are as follows: Japan, 141 percent; South Africa, 124 percent; South Korea, 96 percent; Russia, 29 percent.

The following is an example of the layoffs and plant slowdowns since September, 1998:

Geneva Steel has laid off 460 workers;

U.S. Steel's Philadelphia operations have been reduced by 70 percent;

LTV Steel's plant closure has cost 320 jobs; and,

Weirton Steel has suffered 300 layoffs with 200 additional layoffs expected by January 1, 1999.

The American Iron and Steel Institute estimates that 5,000 steelworkers, nationwide, have been laid off since September, 1998. An additional 10,000 U.S. steelworkers' jobs are at risk of imminent layoffs.

I believe that the growing coalition of steel manufacturers, steelworkers, and Congress must work together to remedy this import crisis before it is too late and the U.S. steel industry is forced to endure an excruciatingly painful economic downturn. The United States has many of the tools at its disposal to protect our steel industry from unfair and illegally dumped steel; therefore, I introduced Senate Concurrent Resolution 121 on September 29, 1998, to call on the President to take all necessary measures to respond to the surge of steel imports resulting from the Asian and Russian financial crises. I am pleased to state that the resolution passed both houses of Congress on October 19, 1998. Unfortunately, the President's report to Congress failed to take the immediate action needed to stop the importation of foreign steel.

While this resolution was an appropriate way for Congress to express our concerns and request immediate actions by the Administration to respond to the steel import crisis, I think it is also important to give the Administration all the necessary tools to fight the surges of foreign steel. After reviewing the U.S. trade laws, I discovered that our trade laws place the United States at a disadvantage in the international trade arena. Our laws are more strict than those agreements made during the Uruguay Round negotiations on the General Agreement on Tariffs and Trade (GATT). That agreement, which the Senate considered and passed on December 1, 1994, established the World Trade Organization (WTO) to administer these trade agreements.

The GATT established rules for the application of safeguard measures. The agreement provides that a member of the WTO may apply a safeguard measure to a product if the member has determined that such product is being imported into its territory in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products. The comparable U.S. statute, referred to as safeguard actions, or Section 201 of the 1974 Trade Act, provide a procedure whereby the President has the discretion to grant temporary import relief to a domestic industry injured by increased imports. Our statute goes further than GATT by requiring that foreign imports are the substantial cause of the injury. It just does not make sense to hinder the Administration by placing this additional burden on it in evaluating a claim of injury due to surges of imports. We need to level the playing field so that all countries are playing by the same rules. This oversight is one example of the technical corrections that must be made to U.S. trade laws to bring them in line with WTO's rules.

For these reasons and to provide relief to the domestic steel industry injured by these overly strict laws, I am introducing the Trade Fairness Act of 1999, which seeks to: lower the threshold for establishing injury in safeguard actions under Section 201 of the 1974 Trade Act; and, establish an import monitoring program to monitor the influx of foreign steel on the U.S. market.

During the last days of the 105th Congress, I introduced the Trade Fairness Act of 1998 which sought to amend the Trade Act of 1974 by making technical corrections to our strict laws; the first section of the legislation I am introducing today is based on that bill. First, regarding safeguard actions, this legislation removes the requirement that imports must be a "substantial" cause of the serious injury by deleting the word "substantial." The WTO's Safeguards Agreement does not require that increased imports by a "substantial" cause of serious injury. This change will lower the threshold to prove that the influx of imports were the cause of injury to the affected industry and will make U.S. law consistent with the WTO rules.

Second, the legislation clarifies that the International Trade Commission (ITC) shall not attribute to imports injury caused by other factors in making a determination that imports are a cause of serious injury. This provision clarifies that there only needs to be a causal link between the imports and the injury in order to gain relief. This clarification is a more faithful implementation of the GATT Agreement and will prevent circumstances such as a recession from blocking invocation of Section 201 by the Administration.

Finally, this legislation brings the definition of "serious injury" in line with the definition codified in the GATT Agreement. The bill strikes the definition of serious injury and replaces it with the WTO's language regarding evaluation of whether increased imports have caused serious injury to a domestic industry. Specifically, it states "with respect to serious injury", the ITC should consider "the rate and amount of the increase in imports of the product concerned in absolute and relative terms; the share of the domestic market taken by increased imports; changes in the levels of sales; production; productivity; capacity utilization; profits and losses; and, employment." These factors are important guidance to the ITC in evaluating a petition of serious injury. Again, I think it is appropriate to be consistent with the WTO language as America increasingly interacts on a global scale.

Next, my legislation establishes a comprehensive steel import permit and monitoring program, which is modeled on similar systems currently in use in Canada and Mexico. The program created by this legislation requires importers to provide information regarding country of origin, quantity, value and Harmonized Tariff Schedule number. The program also requires the Administration to release the data collected to the public in aggregate form on an expedited basis. The information provided by the licensing program will allow the Commerce Department and the steel industry to monitor the influx of steel imports into the United States. Currently, unfairly traded imports can cause significant damage to the U.S. market long before the data is available for even preliminary analysis. This program will allow the U.S. government to receive and analyze critical data in a more timely manner and, as a result, allow the industry to determine more quickly whether unfairly traded imports are disrupting the market.

Specifically, the bill directs the Secretary of Commerce and the Secretary of Treasury to implement a steel import monitoring program that requires importers of all products classified within Chapters 72 and 73 of the Harmonized Tariff Schedule of the United States (HTSUS) to obtain an import permit prior to entering such products in the United States. In order to obtain an import permit, the importer is required to submit an import permit application containing specific information. An import permit is issued automatically upon receipt of the application and is valid for a period of thirty days.

This legislation will enhance U.S. law to better respond to surges of foreign imports that injure U.S. industries. It is important to note that, with the exception of the steel import licensing provisions, this legislation applies to all industries and is not limited to the steel industry. As such, other U.S. industries that are faced with an import crisis such as the steel industry is currently confronting would also benefit from these improvements to the U.S. trade laws.

The U.S. steel industry has become a world class industry with a very high-quality product. This has been achieved at a great cost: $50 billion in new investment to restructure and modernize; 40 million tons of capacity taken out of the industry; and a work force dramatically downsized from 500,000 to 170,000. With these technical changes, the Administration will be armed with ammunition to bring a self-initiated Section 201 action on behalf of the steel industry that has been harmed not only by the onslaught of cheap imports on a daily basis but by U.S. law that has prevented swift and immediate action by the U.S. government. This legislation is essential to allow the President to respond promptly to the current steel import crisis. It will allow steel companies to compete in a more fair trade environment, preventing bankruptcies that would cause the loss of thousands of high-paying jobs in the steel industry. Too many steelworkers have lost their jobs due to unfair cheap imports. I intend to stand up for the steel industry and prevent the loss of any more jobs.

For these reasons, I urge my colleagues to join me in supporting adoption of legislation to bring fairness to our trade laws and needed relief to the steel industry.

Mr. SESSIONS. Mr. President, I rise today to join my colleagues in introducing the "Trade Fairness Act of 1999" and thank Senator SPECTER for his hard work in crafting this legislation which will help alleviate the economic turmoil in our domestic steel industry caused by illegal dumping.

Recent trade data indicates that steel imports to the United States for the first ten months of 1998, ending in October, have reached an all time record of 34,628,000 tons. In contrast, imports to the United States in for the first ten months of 1997, which was itself a record year, equaled 26,708,000 tons. This represents a 30 percent increase.

The bill I am joining in cosponsoring with Senator SPECTER today will help make it easier for the President to enforce our existing trade laws in two ways; it will lower the threshold necessary for the President to take immediate action to stem the tide of illegal imports under section 201 of the Trade Act of 1974 and it will create an "Import Monitoring Program" for steel, similar to the systems in place in both Mexico and Canada, to identify the country of origin, value and quantity of steel imports into the United States.

These actions are in line with the General Agreement on Tarriffs and Trade (GATT) and will not hinder free trade with our international trading partners. The bill will provide necessary information, critical in determining whether illegal trade practices are occurring. This provision will ensure the President can take immediate, decisive action when those practices are identified.

The men and women who work in the United States steel business are the most efficient and hardest working people in the world. Given a fair shake, our domestic steel producers have and can continue to compete with any of our international trading partners. Illegal dumping has forced America's steel industry into jeopardy. The jobs of thousands of steel workers in my home state of Alabama and across the Nation are threatened. Our steel workers and companies deserve the protection afforded to them by United States trade law and the rigorous enforcement of those laws by our President.

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S. 262. A bill to make miscellaneous and technical changes to various trade laws, and for other purposes. A bill to make miscellaneous and technical changes to various trade laws, and for other purposes; to the Committee on Finance.

MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT OF 1999

Mr. ROTH. Mr. President, I rise today to introduce, on behalf of Senator MOYNIHAN and myself, the Miscellaneous Trade and Technical Corrections Act of 1999. This bill reflects unfinished business from the 105th Congress and I am hopeful that the Senate will quickly move to approve this legislation this year.

On September 29, the Finance Committee reported unanimously H.R. 4342, the Miscellaneous Tariff and Technical Corrections Act of 1998. On October 20, 1998, the House passed and sent to the Senate H.R. 4856, the identical bill with the addition of several provisions. Unfortunately, for reasons unrelated to the substance of the bill, the Senate was unable to pass either piece of legislation.

The bill I am introducing today with Senator MOYNIHAN is substantively identical to H.R. 4856, with only minor technical changes necessary because of the passage of time. This bill contains over 150 provisions temporarily suspending or reducing the applicable tariffs on a wide variety of products, including chemicals used to make anti-HIV, anti-AIDS and anti-cancer drugs, pigments, paints, herbicides and insecticides, certain machinery used in the production of textiles, and rocket engines.

In each instance, there was either no domestic production of the product in question or the domestic producers supported the measure. By suspending or reducing the duties, we can enable U.S. firms that use these products to produce goods in a more cost efficient manner, thereby helping create jobs for American workers and reducing costs for consumers.

The bill also contains a number of technical corrections and other minor modifications to the trade laws that enjoyed broad support. One such measure would help facilitate Customs Service clearance of athletes that participate in world athletic events, such as the upcoming Women's World Cup. Another measure would correct outdated references in the trade laws.

For each of the provisions included in this bill, the House and Senate has solicited comments from the public and from the Administration to ensure that there was no controversy or opposition. Only those measures that were noncontroversial were included in the bill.

The Finance Committee is scheduled to hold a mark-up of this bill on Friday, January 22nd. I hope that both the House and Senate will move to approve this legislation soon.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Miscellaneous Trade and Technical Corrections Act of 1999".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title.

TITLE I—MISCELLANEOUS TRADE CORRECTIONS

Sec. 1001. Clerical amendments.
Sec. 1002. Obsolete references to GATT.
Sec. 1003. Tariff classification of 13-inch televisions.

TITLE II—TEMPORARY DUTY SUSPENSIONS AND REDUCTIONS; OTHER TRADE PROVISIONS

Subtitle A—Temporary Duty Suspensions and Reductions

CHAPTER 1—REFERENCE

Sec. 2001. Reference.

CHAPTER 2—DUTY SUSPENSIONS AND REDUCTIONS

Sec. 2101. Diiodomethyl-*p*-tolylsulfone.
Sec. 2102. Racemic dl-menthol.
Sec. 2103. 2,4-Dichloro-5-hydrazinophenol monohydrochloride.
Sec. 2104. TAB.
Sec. 2105. Certain snowboard boots.
Sec. 2106. Ethofumesate singularly or in mixture with application adjuvants.
Sec. 2107. 3-Methoxycarbonylaminophenyl-3′-methylcarbanilate (phenmedipham).
Sec. 2108. 3-Ethoxycarbonylaminophenyl-N-phenylcarbamate (desmedipham).
Sec. 2109. 2-Amino-4-(4-aminobenzoylamino)benzenesulfonic acid, sodium salt.
Sec. 2110. 5-Amino-N-(2-hydroxyethyl)-2,3-xylenesul- fonamide.
Sec. 2111. 3-Amino-2′-(sulfatoethylsulfonyl) ethyl benzamide.
Sec. 2112. 4-Chloro-3-nitrobenzenesulfonic acid, monopotassium salt.
Sec. 2113. 2-Amino-5-nitrothiazole.
Sec. 2114. 4-Chloro-3-nitrobenzenesulfonic acid.
Sec. 2115. 6-Amino-1,3-naphthalenedisulfonic acid.
Sec. 2116. 4-Chloro-3-nitrobenzenesulfonic acid, monosodium salt.
Sec. 2117. 2-Methyl-5-nitrobenzenesulfonic acid.
Sec. 2118. 6-Amino-1,3-naphthalenedisulfonic acid, disodium salt.
Sec. 2119. 2-Amino-p-cresol.
Sec. 2120. 6-Bromo-2,4-dinitroaniline.
Sec. 2121. 7-Acetylamino-4-hydroxy-2-naphthalenesulfonic acid, monosodium salt.
Sec. 2122. Tannic acid.
Sec. 2123. 2-Amino-5-nitrobenzenesulfonic acid, monosodium salt.
Sec. 2124. 2-Amino-5-nitrobenzenesulfonic acid, monoammonium salt.
Sec. 2125. 2-Amino-5-nitrobenzenesulfonic acid.
Sec. 2126. 3-(4,5-Dihydro-3-methyl-5-oxo-1H-pyrazol-1-yl)benzenesulfonic acid.
Sec. 2127. 4-Benzoylamino-5-hydroxy-2,7-naphtha- lenedisulfonic acid.
Sec. 2128. 4-Benzoylamino-5-hydroxy-2,7-naphtha- lenedisulfonic acid, monosodium salt.
Sec. 2129. Pigment Yellow 151.
Sec. 2130. Pigment Yellow 181.
Sec. 2131. Pigment Yellow 154.
Sec. 2132. Pigment Yellow 175.
Sec. 2133. Pigment Yellow 180.
Sec. 2134. Pigment Yellow 191.
Sec. 2135. Pigment Red 187.
Sec. 2136. Pigment Red 247.
Sec. 2137. Pigment Orange 72.
Sec. 2138. Pigment Yellow 16.
Sec. 2139. Pigment Red 185.
Sec. 2140. Pigment Red 208.
Sec. 2141. Pigment Red 188.
Sec. 2142. 2,6-Dimethyl-m-dioxan-4-ol acetate.
Sec. 2143. β-Bromo-β-nitrostyrene.
Sec. 2144. Textile machinery.
Sec. 2145. Deltamethrin.
Sec. 2146. Diclofop-methyl.
Sec. 2147. Resmethrin.
Sec. 2148. N-phenyl-N'-1,2,3-thiadiazol-5-ylurea.
Sec. 2149. (1R,3S)3[(1′RS)(1′,2′,2′,2′,-Tetrabromoethyl)]-2,2-dimethylcyclopropanecarboxylic acid, (S)-α-cyano-3-phenoxybenzyl ester.
Sec. 2150. Pigment Yellow 109.
Sec. 2151. Pigment Yellow 110.
Sec. 2152. Pigment Red 177.
Sec. 2153. Textile printing machinery.
Sec. 2154. Substrates of synthetic quartz or synthetic fused silica.

Sec. 2155. 2-Methyl-4,6-bis[(octylthio)methyl]phenol.
Sec. 2156. 2-Methyl-4,6-bis[(octylthio)methyl]phenol; epoxidized triglyceride.
Sec. 2157. 4-[[4,6-Bis(octylthio)-1,3,5-triazin-2-yl]amino]-2,6-bis(1,1-dimethylethyl)phenol.
Sec. 2158. (2-Benzothiazolylthio)butanedioic acid.
Sec. 2159. Calcium bis[monoethyl(3,5-di-tert-butyl-4-hydroxybenzyl) phosphonate].
Sec. 2160. 4-Methyl-γ-oxo-benzenebutanoic acid compounded with 4-ethylmorpholine (2:1).
Sec. 2161. Weaving machines.
Sec. 2162. Certain weaving machines.
Sec. 2163. DEMT.
Sec. 2164. Benzenepropanal, 4-(1,1-dimethylethyl)-alpha-methyl-.
Sec. 2165. 2H–3,1-Benzoxazin-2-one, 6-chloro-4-(cyclopropylethynyl)-1,4-dihydro-4-(trifluoromethyl)-.
Sec. 2166. Tebufenozide.
Sec. 2167. Halofenozide.
Sec. 2168. Certain organic pigments and dyes.
Sec. 2169. 4-Hexylresorcinol.
Sec. 2170. Certain sensitizing dyes.
Sec. 2171. Skating boots for use in the manufacture of in-line roller skates.
Sec. 2172. Dibutylnaphthalenesulfonic acid, sodium salt.
Sec. 2173. O-(6-Chloro-3-phenyl-4-pyridazinyl)-S-octylcarbonothioate.
Sec. 2174. 4-Cyclopropyl-6-methyl-2-phenylaminopyrimidine.
Sec. 2175. O,O-Dimethyl-S-[5-methoxy-2-oxo-1,3,4-thiadiazol-3(2H)-yl-methyl]-dithiophosphate.
Sec. 2176. Ethyl [2-(4-phenoxyphenoxy)ethyl]carbamate.
Sec. 2177. [(2S,4R)/(2R,4S)]/[(2R,4R)/(2S,4S)]-1-[2-[4-(4-chlorophenoxy)-2-chlorophenyl]-4-methyl-1,3-dioxolan-2-ylmethyl]-1H-1,2,4-triazole.
Sec. 2178. 2,4-Dichloro-3,5-dinitrobenzotrifluoride.
Sec. 2179. 2-Chloro-N-[2,6-dinitro-4-(trifluoromethyl)phenyl]-N-ethyl-6-fluorobenzenemethanamine.
Sec. 2180. Chloroacetone.
Sec. 2181. Acetic acid, [(5-chloro-8-quinolinyl)oxy]-, 1-methylhexyl ester.
Sec. 2182. Propanoic acid, 2-[4-[(5-chloro-3-fluoro-2-pyridinyl)oxy]phenoxy]-, 2-propynyl ester.
Sec. 2183. Mucochloric acid.
Sec. 2184. Certain rocket engines.
Sec. 2185. Pigment Red 144.
Sec. 2186. Pigment Orange 64.
Sec. 2187. Pigment Yellow 95.
Sec. 2188. Pigment Yellow 93.
Sec. 2189. (S)-N-[[5-[2-(2-Amino-4,6,7,8-tetrahydro-4-oxo-1H-pyrimido[5,4-b] [1,4]thiazin-6-yl)ethyl]-2-thienyl]carbonyl]-l-glutamic acid, diethyl ester.
Sec. 2190. 4-Chloropyridine hydrochloride.
Sec. 2191. 4-Phenoxypyridine.
Sec. 2192. (3S)-2,2-Dimethyl-3-thiomorpholine carboxylic acid.
Sec. 2193. 2-Amino-5-bromo-6-methyl-4-(1H)-quinazolinone.
Sec. 2194. 2-Amino-6-methyl-5-(4-pyridinylthio)-4(1H)-quinazolinone.
Sec. 2195. (S)-N-[[5-[2-(2-amino-4,6,7,8-tetrahydro-4-oxo-1H-pyrimido[5,4-b][1,4]thiazin-6-yl)ethyl]-2-thienyl]carbonyl]-l-glutamic acid.
Sec. 2196. 2-Amino-6-methyl-5-(4-pyridinylthio)-4-(1H)-quinazolinone dihydrochloride.
Sec. 2197. 3-(Acetyloxy)-2-methylbenzoic acid.
Sec. 2198. [R-(R*,R*)]-1,2,3,4-butanetetrol-1,4-dimethanesulfonate.
Sec. 2199. 9-[2-[[Bis[(pivaloyloxy) methoxy]phosphinyl] methoxy] ethyl]adenine (also known as Adefovir Dipivoxil).
Sec. 2200. 9-[2-(R)-[[Bis[(isopropoxycarbonyl)oxymethoxy]phosphinoyl]methoxy]propyl]adenine fumarate (1:1).
Sec. 2201. (R)-9-(2-Phosphonomethoxypropyl)adenine.
Sec. 2202. (R)-1,3-Dioxolan-2-one, 4-methyl-.
Sec. 2203. 9-(2-Hydroxyethyl)adenine.
Sec. 2204. (R)-9H-Purine-9-ethanol, 6-amino-α-methyl-.
Sec. 2205. Chloromethyl-2-propyl carbonate.
Sec. 2206. (R)-1,2-Propanediol, 3-chloro-.
Sec. 2207. Oxirane, (S)-((triphenylmethoxy)methyl)-.
Sec. 2208. Chloromethyl pivalate.
Sec. 2209. Diethyl (((p-toluenesulfonyl)oxy)methyl)phosphonate.
Sec. 2210. Beta hydroxyalkylamide.
Sec. 2211. Grilamid tr90.
Sec. 2212. IN–W4280.
Sec. 2213. KL540.
Sec. 2214. Methyl thioglycolate.
Sec. 2215. DPX–E6758.
Sec. 2216. Ethylene, tetrafluoro copolymer with ethylene (ETFE).
Sec. 2217. 3-Mercapto-D-valine.
Sec. 2218. p-Ethylphenol.
Sec. 2219. Pantera.
Sec. 2220. p-Nitrobenzoic acid.
Sec. 2221. p-Toluenesulfonamide.
Sec. 2222. Polymers of tetrafluoroethylene, hexafluoropropylene, and vinylidene fluoride.
Sec. 2223. Methyl 2-[[[[[4-(dimethylamino)-6-(2,2,2-trifluoroethoxy)-1,3,5-triazin-2-yl]amino]-carbonyl]amino]sulfonyl]-3-methyl-benzoate (triflusulfuron methyl).
Sec. 2224. Certain manufacturing equipment.
Sec. 2225. Textured rolled glass sheets.
Sec. 2226. Certain HIV drug substances.
Sec. 2227. Rimsulfuron.
Sec. 2228. Carbamic acid (V–9069).
Sec. 2229. DPX–E9260.
Sec. 2230. Ziram.
Sec. 2231. Ferroboron.
Sec. 2232. Acetic acid, [[2-chloro-4-fluoro-5-[(tetrahydro-3-oxo-1H,3H-[1,3,4] thiadiazolo[3,4-a]pyridazin-1-ylidene)amino]phenyl]- thio]-, methyl ester.
Sec. 2233. Pentyl[2-chloro-5-(cyclohex-1-ene-1,2-dicarboximido)-4-fluorophenoxy]acetate.
Sec. 2234. Bentazon (3-isopropyl)-1H-2,1,3-benzo-thiadiazin-4(3H)-one-2,2-dioxide).
Sec. 2235. Certain high-performance loudspeakers not mounted in their enclosures.
Sec. 2236. Parts for use in the manufacture of certain high-performance loudspeakers.
Sec. 2237. 5-tert-Butyl-isophthalic acid.
Sec. 2238. Certain polymer.
Sec. 2239. 2-(4-Chlorophenyl)-3-ethyl-2,5-dihydro-5-oxo-4-pyridazine carboxylic acid, potassium salt.

CHAPTER 3—EFFECTIVE DATE

Sec. 2301. Effective date.

Subtitle B—Trade Provisions

Sec. 2401. Extension of United States insular possession program.
Sec. 2402. Tariff treatment for certain components of scientific instruments and apparatus.
Sec. 2403. Liquidation or reliquidation of certain entries.
Sec. 2404. Drawback and refund on packaging material.
Sec. 2405. Inclusion of commercial importation data from foreign-trade zones under the National Customs Automation Program.
Sec. 2406. Large yachts imported for sale at United States boat shows.
Sec. 2407. Review of protests against decisions of Customs Service.
Sec. 2408. Entries of NAFTA-origin goods.
Sec. 2409. Treatment of international travel merchandise held at customs-approved storage rooms.
Sec. 2410. Exception to 5-year reviews of countervailing duty or antidumping duty orders.
Sec. 2411. Water resistant wool trousers.
Sec. 2412. Reimportation of certain goods.
Sec. 2413. Treatment of personal effects of participants in certain world athletic events.
Sec. 2414. Reliquidation of certain entries of thermal transfer multifunction machines.
Sec. 2415. Reliquidation of certain drawback entries and refund of drawback payments.
Sec. 2416. Clarification of additional U.S. note 4 to chapter 91 of the Harmonized Tariff Schedule of the United States.
Sec. 2417. Duty-free sales enterprises.
Sec. 2418. Customs user fees.
Sec. 2419. Duty drawback for methyl tertiary-butyl ether ("MTBE").
Sec. 2420. Substitution of finished petroleum derivatives.
Sec. 2421. Duty on certain importations of mueslix cereals.
Sec. 2422. Expansion of Foreign Trade Zone No. 143.
Sec. 2423. Marking of certain silk products and containers.
Sec. 2424. Extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Mongolia.
Sec. 2425. Enhanced cargo inspection pilot program.
Sec. 2426. Payment of education costs of dependents of certain Customs Service personnel.

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986

Sec. 3001. Property subject to a liability treated in same manner as assumption of liability.

TITLE I—MISCELLANEOUS TRADE CORRECTIONS

SEC. 1001. CLERICAL AMENDMENTS.

(a) TRADE ACT OF 1974.—(1) Section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)) is amended—

(A) by aligning the text of paragraph (2) that precedes subparagraph (A) with the text of paragraph (1); and

(B) by aligning the text of subparagraphs (A) and (B) of paragraph (2) with the text of subparagraphs (A) and (B) of paragraph (3).

(2) Section 141(b) of the Trade Act of 1974 (19 U.S.C. 2171(b)) is amended—

(A) in paragraph (3) by striking "LIMITATION ON APPOINTMENTS.—"; and

(B) by aligning the text of paragraph (3) with the text of paragraph (2).

(3) The item relating to section 410 in the table of contents for the Trade Act of 1974 is repealed.

(4) Section 411 of the Trade Act of 1974 (19 U.S.C. 2441), and the item relating to section 411 in the table of contents for that Act, are repealed.

(5) Section 154(b) of the Trade Act of 1974 (19 U.S.C. 2194(b)) is amended by striking "For purposes of" and all that follows through "90-day period" and inserting "For purposes of sections 203(c) and 407(c)(2), the 90-day period".

(6) Section 406(e)(2) of the Trade Act of 1974 (19 U.S.C. 2436(e)(2)) is amended by moving subparagraphs (B) and (C) 2 ems to the left.

(7) Section 503(a)(2)(A)(ii) of the Trade Act of 1974 (19 U.S.C. 2463(a)(2)(A)(ii)) is amended by striking subclause (II) and inserting the following:

"(II) the direct costs of processing operations performed in such beneficiary developing country or such member countries,

is not less than 35 percent of the appraised value of such article at the time it is entered.".

(8) Section 802(b)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2492(b)(1)(A)) is amended—

(A) by striking "481(e)" and inserting "489"; and

(B) by inserting "(22 U.S.C. 2291h)" after "1961".

(9) Section 804 of the Trade Act of 1974 (19 U.S.C. 2494) is amended by striking "481(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(1))" and inserting "489 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291h)".

(10) Section 805(2) of the Trade Act of 1974 (19 U.S.C. 2495(2)) is amended by striking "and" after the semicolon.

(11) The table of contents for the Trade Act of 1974 is amended by adding at the end the following:

"TITLE VIII—TARIFF TREATMENT OF PRODUCTS OF, AND OTHER SANCTIONS AGAINST, UNCOOPERATIVE MAJOR DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES

"Sec. 801. Short title.
"Sec. 802. Tariff treatment of products of uncooperative major drug producing or drug-transit countries.
"Sec. 803. Sugar quota.
"Sec. 804. Progress reports.
"Sec. 805. Definitions.".

(b) Other Trade Laws.—(1) Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended—

(A) in subsection (e) by aligning the text of paragraph (1) with the text of paragraph (2); and

(B) in subsection (f)(3)—

(i) in subparagraph (A)(ii) by striking "subsection (a)(1) through (a)(8)" and inserting "paragraphs (1) through (8) of subsection (a)"; and

(ii) in subparagraph (C)(ii)(I) by striking "paragraph (A)(i)" and inserting "subparagraph (A)(i)".

(2) Section 3(a) of the Act of June 18, 1934 (commonly referred to as the "Foreign Trade Zones Act") (19 U.S.C. 81c(a)) is amended by striking the second period at the end of the last sentence.

(3) Section 9 of the Act of June 18, 1934 (commonly referred to as the "Foreign Trade Zones Act") (19 U.S.C. 81i) is amended by striking "Post Office Department, the Public Health Service, the Bureau of Immigration" and inserting "United States Postal Service, the Public Health Service, the Immigration and Naturalization Service".

(4) The table of contents for the Trade Agreements Act of 1979 is amended—

(A) in the item relating to section 411 by striking "Special Representative" and inserting "Trade Representative"; and

(B) by inserting after the items relating to subtitle D of title IV the following:

"Subtitle E—Standards and Measures Under the North American Free Trade Agreement

"Chapter 1—Sanitary and Phytosanitary Measures

"Sec. 461. General.
"Sec. 462. Inquiry point.
"Sec. 463. Chapter definitions.

"Chapter 2—Standards-related Measures

"Sec. 471. General.
"Sec. 472. Inquiry point.
"Sec. 473. Chapter definitions.

"Chapter 3—Subtitle Definitions

"Sec. 481. Definitions.

"Subtitle F—International Standard-Setting Activities

"Sec. 491. Notice of United States participation in international standard-setting activities.
"Sec. 492. Equivalence determinations.
"Sec. 493. Definitions.".

(5)(A) Section 3(a)(9) of the Miscellaneous Trade and Technical Corrections Act of 1996 is amended by striking "631(a)" and "1631(a)" and inserting "631" and "1631", respectively.

(B) Section 50(c)(2) of such Act is amended by striking "applied to entry" and inserting "applied to such entry".

(6) Section 8 of the Act of August 5, 1935 (19 U.S.C. 1708) is repealed.

(7) Section 584(a) of the Tariff Act of 1930 (19 U.S.C. 1584(a)) is amended—

(A) in the last sentence of paragraph (2), by striking "102(17) and 102(15), respectively, of the Controlled Substances Act" and inserting "102(18) and 102(16), respectively, of the Controlled Substances Act (21 U.S.C. 802(18) and 802(16))"; and

(B) in paragraph (3)—

(i) by striking "or which consists of any spirits," and all that follows through "be not shown,"; and

(ii) by striking ", and, if any manifested merchandise" and all that follows through the end and inserting a period.

(8) Section 621(4)(A) of the North American Free Trade Agreement Implementation Act, as amended by section 21(d)(12) of the Miscellaneous Trade and Technical Amendments Act of 1996, is amended by striking "disclosure within 30 days" and inserting "disclosure, or within 30 days".

(9) Section 558(b) of the Tariff Act of 1930 (19 U.S.C. 1558(b)) is amended by striking "(c)" each place it appears and inserting "(h)".

(10) Section 441 of the Tariff Act of 1930 (19 U.S.C. 1441) is amended by striking paragraph (6).

(11) General note 3(a)(ii) to the Harmonized Tariff Schedule of the United States is amended by striking "general most-favored-nation (MFN)" and by inserting in lieu thereof "general or normal trade relations (NTR)".

SEC. 1002. OBSOLETE REFERENCES TO GATT.

(a) Forest Resources Conservation and Shortage Relief Act of 1990.—(1) Section 488(b) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620(b)) is amended—

(A) in paragraph (3) by striking "General Agreement on Tariffs and Trade" and inserting "GATT 1994 (as defined in section 2(1)(B) of the Uruguay Round Agreements Act)" ; and

(B) in paragraph (5) by striking "General Agreement on Tariffs and Trade" and inserting "WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 2 of the Uruguay Round Agreements Act)".

(2) Section 491(g) of that Act (16 U.S.C. 620c(g)) is amended by striking "Contracting Parties to the General Agreement on Tariffs and Trade" and inserting "Dispute Settlement Body of the World Trade Organization (as the term 'World Trade Organization' is defined in section 2(8) of the Uruguay Round Agreements Act)".

(b) International Financial Institutions Act.—Section 1403(b) of the International Financial Institutions Act (22 U.S.C. 262n–2(b)) is amended—

(1) in paragraph (1)(A) by striking "General Agreement on Tariffs and Trade or Article 10" and all that follows through "Trade" and inserting "GATT 1994 as defined in section 2(1)(B) of the Uruguay Round Agreements Act, or Article 3.1(a) of the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of that Act"; and

(2) in paragraph (2)(B) by striking "Article 6" and all that follows through "Trade" and inserting "Article 15 of the Agreement on Subsidies and Countervailing Measures referred to in subparagraph (A)".

(c) Bretton Woods Agreements Act.—Section 49(a)(3) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(a)(3)) is amended by striking "GATT Secretariat" and inserting "Secretariat of the World Trade Organization (as the term 'World Trade Organization' is defined in section 2(8) of the Uruguay Round Agreements Act)".

(d) Fishermen's Protective Act of 1967.—Section 8(a)(4) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)(4)) is amended by striking "General Agreement on Tariffs and Trade" and inserting "World Trade Organization (as defined in section 2(8) of the Uruguay Round Agreements Act) or the multilateral trade agreements (as defined in section 2(4) of that Act)".

(e) United States-Hong Kong Policy Act of 1992.—Section 102(3) of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5712(3)) is amended—

(1) by striking "contracting party to the General Agreement on Tariffs and Trade" and inserting "WTO member country (as defined in section 2(10) of the Uruguay Round Agreements Act)"; and

(2) by striking "latter organization" and inserting "World Trade Organization (as defined in section 2(8) of that Act)".

(f) NOAA Fleet Modernization Act.—Section 607(b)(8) of the NOAA Fleet Modernization Act (33 U.S.C. 891e(b)(8)) is amended by striking "Agreement on Interpretation" and all that follows through "trade negotiations" and inserting "Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of the Uruguay Round Agreements Act, or any other export subsidy prohibited by that agreement".

(g) Energy Policy Act of 1992.—(1) Section 1011(b) of the Energy Policy Act of 1992 (42 U.S.C. 2296b(b)) is amended—

(A) by striking "General Agreement on Tariffs and Trade" and inserting "multilateral trade agreements (as defined in section 2(4) of the Uruguay Round Agreements Act)"; and

(B) by striking "United States-Canada Free Trade Agreement" and inserting "North American Free Trade Agreement".

(2) Section 1017(c) of such Act (42 U.S.C. 2296b–6(c)) is amended—

(A) by striking "General Agreement on Tariffs and Trade" and inserting "multilateral trade agreements (as defined in section 2(4) of the Uruguay Round Agreements Act)"; and

(B) by striking "United States-Canada Free Trade Agreement" and inserting "North American Free Trade Agreement".

(h) ENERGY POLICY CONSERVATION ACT.—Section 400AA(a)(3) of the Energy Policy Conservation Act (42 U.S.C. 6374(a)(3)) is amended in subparagraphs (F) and (G) by striking "General Agreement on Tariffs and Trade" each place it appears and inserting "multilateral trade agreements as defined in section 2(4) of the Uruguay Round Agreements Act".

(i) TITLE 49, UNITED STATES CODE.—Section 50103 of title 49, United States Code, is amended in subsections (c)(2) and (e)(2) by striking "General Agreement on Tariffs and Trade" and inserting "multilateral trade agreements (as defined in section 2(4) of the Uruguay Round Agreements Act)".

SEC. 1003. TARIFF CLASSIFICATION OF 13-INCH TELEVISIONS.

(a) IN GENERAL.—Each of the following subheadings of the Harmonized Tariff Schedule of the United States is amended by striking "33.02 cm" in the article description and inserting "34.29 cm":

(1) Subheading 8528.12.12.
(2) Subheading 8528.12.20.
(3) Subheading 8528.12.62.
(4) Subheading 8528.12.68.
(5) Subheading 8528.12.76.
(6) Subheading 8528.12.84.
(7) Subheading 8528.21.16.
(8) Subheading 8528.21.24.
(9) Subheading 8528.21.55.
(10) Subheading 8528.21.65.
(11) Subheading 8528.21.75.
(12) Subheading 8528.21.85.
(13) Subheading 8528.30.62.
(14) Subheading 8528.30.66.
(15) Subheading 8540.11.24.
(16) Subheading 8540.11.44.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section apply to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

(2) RETROACTIVE APPLICATION.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the Customs Service not later than 180 days after the date of enactment of this Act, any entry, or withdrawal from warehouse for consumption, of an article described in a subheading listed in paragraphs (1) through (16) of subsection (a)—

(A) that was made on or after January 1, 1995, and before the date that is 15 days after the date of enactment of this Act,

(B) with respect to which there would have been no duty or a lesser duty if the amendments made by subsection (a) applied to such entry, and

(C) that is—

(i) unliquidated,
(ii) under protest, or
(iii) otherwise not final,

shall be liquidated or reliquidated as though such amendment applied to such entry.

TITLE II—TEMPORARY DUTY SUSPENSIONS AND REDUCTIONS; OTHER TRADE PROVISIONS

Subtitle A—Temporary Duty Suspensions and Reductions

CHAPTER 1—REFERENCE

SEC. 2001. REFERENCE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision, the reference shall be considered to be made to a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007).

CHAPTER 2—DUTY SUSPENSIONS AND REDUCTIONS

SEC. 2101. DIIODOMETHYL-*P*-TOLYLSULFONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.90	Diiodomethyl-*p*-tolylsulfone (CAS No. 20018–09–1) (provided for in subheading 2930.90.10)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2102. RACEMIC dl-MENTHOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.29.06	Racemic dl-menthol (intermediate (E) for use in producing menthol) (CAS No. 15356–70–4) (provided for in subheading 2906.11.00)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2103. 2,4-DICHLORO-5-HYDRAZINOPHENOL MONOHY- DROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.29.28	2,4-Dichloro-5-hydrazinophenol monohy drochloride (CAS No. 189573–21–5) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2104. TAB.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.29.95	Phosphinic acid, [3-(acetyloxy)-3-cyanopropyl]methyl-, butyl ester (CAS No. 167004–78–6) (provided for in subheading 2931.00.90)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2105. CERTAIN SNOWBOARD BOOTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.64.04	Snowboard boots with uppers of textile materials (provided for in subheading 6404.11.90)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2106. ETHOFUMESATE SINGULARLY OR IN MIXTURE WITH APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.12	2-Ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl-methanesulfonate (ethofumesate) singularly or in mixture with application adjuvants (CAS No. 26225–79–6) (provided for in subheading 2932.99.08 or 3808.30.15)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2107. 3-METHOXYCARBONYLAMINOPHENYL-3′-METHYL-CARBANILATE (PHENMEDIPHAM).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.13	3-Methoxycarbonylamino-phenyl-3′-methylcarbanilate (phenmedipham) (CAS No. 13684–63–4) (provided for in subheading 2924.29.47)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2108. 3-ETHOXYCARBONYLAMINOPHENYL-N-PHENYL-CARBAMATE (DESMEDIPHAM).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.14	3-Ethoxycarbonylamino-phenyl-N-phenylcarbamate (desmedipham) (CAS No. 13684–56–5) (provided for in subheading 2924.29.41)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2109. 2-AMINO-4-(4-AMINOBENZOYLAMINO)BENZENE-SULFONIC ACID, SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.91	2-Amino-4-(4-aminobenzoyl-amino) benzenesulfonic acid, sodium salt (CAS No. 167614–37–1) (provided for in subheading 2930.90.29)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2110. 5-AMINO-N-(2-HYDROXYETHYL)-2,3-XYLENESUL- FONAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.31	5-Amino-N-(2-hydroxyethyl)-2,3-xylenesulfonamide (CAS No. 25797–78–8) (provided for in subheading 2935.00.95)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2111. 3-AMINO-2′-(SULFATOETHYLSULFONYL) ETHYL BENZAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.90	3-Amino-2′-(sulfatoethylsulfonyl) ethyl benzamide (CAS No. 121315–20–6) (provided for in subheading 2930.90.29)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2112. 4-CHLORO-3-NITROBENZENESULFONIC ACID, MONOPOTASSIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.92	4-Chloro-3-nitrobenzenesulfonic acid, monopotassium salt (CAS No. 6671–49–4) (provided for in subheading 2904.90.47)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2113. 2-AMINO-5-NITROTHIAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.29.46	2-Amino-5-nitrothiazole (CAS No. 121–66–4) (provided for in subheading 2934.10.90)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2114. 4-CHLORO-3-NITROBENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.04	4-Chloro-3-nitrobenzenesulfonic acid (CAS No. 121–18–6) (provided for in subheading 2904.90.47)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2115. 6-AMINO-1,3-NAPHTHALENEDISULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.21	6-Amino-1,3-naphthalenedisulfonic acid (CAS No. 118–33–2) (provided for in subheading 2921.45.90)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2116. 4-CHLORO-3-NITROBENZENESULFONIC ACID, MONOSODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.24	4-Chloro-3-nitrobenzenesulfonic acid, monosodium salt (CAS No. 17691–19–9) (provided for in subheading 2904.90.40)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2117. 2-METHYL-5-NITROBENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.23	2-Methyl-5-nitrobenzenesulfonic acid (CAS No. 121–03–9) (provided for in subheading 2904.90.20)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2118. 6-AMINO-1,3-NAPHTHALENEDISULFONIC ACID, DISODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.45	6-Amino-1,3-naphthalenedisulfonic acid, disodium salt (CAS No. 50976–35–7) (provided for in subheading 2921.45.90)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2119. 2-AMINO-P-CRESOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.20	2-Amino-p-cresol (CAS No. 95–84–1) (provided for in subheading 2922.29.10)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2120. 6-BROMO-2,4-DINITROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.43	6-Bromo-2,4-dinitroaniline (CAS No. 1817–73–8) (provided for in subheading 2921.42.90)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2121. 7-ACETYLAMINO-4-HYDROXY-2-NAPHTHALENE-SULFONIC ACID, MONOSODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.29	7-Acetylamino-4-hydroxy-2-naphthalenesulfonic acid, monosodium salt (CAS No. 42360–29–2) (provided for in subheading 2924.29.70)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2122. TANNIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.01	Tannic acid (CAS No. 1401–55–4) (provided for in subheading 3201.90.10)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2123. 2-AMINO-5-NITROBENZENESULFONIC ACID, MONOSODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.53	2-Amino-5-nitrobenzenesulfonic acid, monosodium salt (CAS No. 30693–53–9) (provided for in subheading 2921.42.90)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2124. 2-AMINO-5-NITROBENZENESULFONIC ACID, MONOAMMONIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.44	2-Amino-5-nitrobenzenesulfonic acid, monoammonium salt (CAS No. 4346–51–4) (provided for in subheading 2921.42.90)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2125. 2-AMINO-5-NITROBENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.54	2-Amino-5-nitrobenzenesulfonic acid (CAS No. 96–75–3) (provided for in subheading 2921.42.90)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2126. 3-(4,5-DIHYDRO-3-METHYL-5-OXO-1H-PYRAZOL-1-YL)BENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.33.19	3-(4,5-Dihydro-3-methyl-5-oxo-1H-pyrazol-1-yl)benzenesulfonic acid (CAS No. 119–17–5) (provided for in subheading 2933.19.43)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2127. 4-BENZOYLAMINO-5-HYDROXY-2,7-NAPHTHA- LENEDISULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.65	4-Benzoylamino-5-hydroxy-2,7-naphthalenedisulfonic acid (CAS No. 117–46–4) (provided for in subheading 2924.29.75)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2128. 4-BENZOYLAMINO-5-HYDROXY-2,7-NAPHTHA- LENEDISULFONIC ACID, MONOSODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.72	4-Benzoylamino-5-hydroxy-2,7-naphthalenedisulfonic acid, monosodium salt (CAS No. 79873–39–5) (provided for in subheading 2924.29.70)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2129. PIGMENT YELLOW 151.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.04	Pigment Yellow 151 (CAS No. 031837–42–0) (provided for in subheading 3204.17.90)	6.4%	No change	No change	On or before 12/31/2001	”.

SEC. 2130. PIGMENT YELLOW 181.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.17	Pigment Yellow 181 (CAS No. 074441–05–7) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2131. PIGMENT YELLOW 154.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.18	Pigment Yellow 154 (CAS No. 068134–22–5) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2132. PIGMENT YELLOW 175.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.19	Pigment Yellow 175 (CAS No. 035636–63–6) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2133. PIGMENT YELLOW 180.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.20	Pigment Yellow 180 (CAS No. 77804–81–0) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2134. PIGMENT YELLOW 191.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.21	Pigment Yellow 191 (CAS No. 129423–54–7) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2135. PIGMENT RED 187.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following heading:

“	9902.32.22	Pigment Red 187 (CAS No. 59487–23–9) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2136. PIGMENT RED 247.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.23	Pigment Red 247 (CAS No. 43035-18-3) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2137. PIGMENT ORANGE 72.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.24	Pigment Orange 72 (CAS No. 78245–94–0) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2138. PIGMENT YELLOW 16.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

1“	9902.32.25	Pigment Yellow 16 (CAS No. 5979–28–2) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2139. PIGMENT RED 185.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following heading:

“	9902.32.26	Pigment Red 185 (CAS No. 51920–12–8) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2140. PIGMENT RED 208.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.27	Pigment Red 208 (CAS No. 31778–10–6) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2141. PIGMENT RED 188.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.28	Pigment Red 188 (CAS No. 61847–48–1) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2142. 2,6-DIMETHYL-M-DIOXAN-4-OL ACETATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.94	2,6-Dimethyl-m-dioxan-4-ol acetate (CAS No. 000828–00–2) (provided for in subheading 2932.99.90)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2143. β-BROMO-β-NITROSTYRENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.92	β-Bromo-β-nitrostyrene (CAS No. 7166–19–0) (provided for in subheading 2904.90.47)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2144. TEXTILE MACHINERY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.84.43	Ink-jet textile printing machinery (provided for in subheading 8443.51.10)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2145. DELTAMETHRIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.30.18	(S)-α-Cyano-3-phenoxybenzyl (1R,3R)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate (deltamethrin) in bulk or in forms or packings for retail sale (CAS No. 52918–63–5) (provided for in subheading 2926.90.30 or 3808.10.25)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2146. DICLOFOP-METHYL.

Subchapter II of chapter 99 is amended by striking heading 9902.30.16 and inserting the following:

"	9902.30.16	Methyl 2-[4-(2,4-dichlorophenoxy)phenoxy] propionate (diclofop-methyl) in bulk or in forms or packages for retail sale containing no other pesticide products (CAS No. 51338–27–3) (provided for in subheading 2918.90.20 or 3808.30.15) ...	Free	No change	No change	On or before 12/31/2001	".

SEC. 2147. RESMETHRIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.29	([5-(Phenylmethyl)-3-furanyl] methyl 2,2-dimethyl-3-(2-methyl-1-propenyl) cyclopropanecarboxylate (resmethrin) (CAS No. 10453–86–8) (provided for in subheading 2932.19.10)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2148. N-PHENYL-N′-1,2,3-THIADIAZOL-5-YLUREA.

Subchapter II of chapter 99 is amended by striking heading 9902.30.17 and inserting the following:

"	9902.30.17	N-phenyl-N′-1,2,3-thiadiazol-5-ylurea (thidiazuron) in bulk or in forms or packages for retail sale (CAS No. 51707–55–2) (provided for in subheading 2934.90.15 or 3808.30.15)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2149. (1R,3S)3[(1′RS)(1′,2′,2′,2′,-TETRABROMOETHYL)]-2,2-DIMETHYLCYCLOPROPANECARBOXYLIC ACID, (S)-α-CYANO-3-PHENOXYBENZYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.19	(1R,3S)3[(1′RS)(1′,2′,2′,2′,-Tetrabromoethyl)]-2,2-dimethylcyclopropanecarboxylic acid, (S)-α-cyano-3-phenoxybenzyl ester in bulk or in forms or packages for retail sale (CAS No. 66841–25–6) (provided for in subheading 2926.90.30 or 3808.10.25)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2150. PIGMENT YELLOW 109.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.00	Pigment Yellow 109 (CAS No. 106276–79–3) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2151. PIGMENT YELLOW 110.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.05	Pigment Yellow 110 (CAS No. 106276–80–6) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2152. PIGMENT RED 177.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.58	Pigment Red 177 (CAS No. 4051–63–2) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2153. TEXTILE PRINTING MACHINERY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.20	Textile printing machinery (provided for in subheading 8443.59.10)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2154. SUBSTRATES OF SYNTHETIC QUARTZ OR SYNTHETIC FUSED SILICA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.70.06	Substrates of synthetic quartz or synthetic fused silica imported in bulk or in forms or packages for retail sale (provided for in subheading 7006.00.40)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2155. 2-METHYL-4,6-BIS[(OCTYLTHIO)METHYL]PHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.14	2-Methyl-4,6- bis[(octylthio) methyl]phenol (CAS No. 110553–27–0) (provided for in subheading 2930.90.29)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2156. 2-METHYL-4,6-BIS[(OCTYLTHIO)METHYL]PHENOL; EPOXIDIZED TRIGLYCERIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.38.12	2-Methyl-4,6- bis[(octylthio) methyl]phenol; epoxidized triglyceride (provided for in subheading 3812.30.60)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2157. 4-[[4,6-BIS(OCTYLTHIO)-1,3,5-TRIAZIN-2-YL]AMINO] -2,6-BIS(1,1-DIMETHYLETHYL)PHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.30	4-[[4,6-Bis(octylthio)-1,3,5-triazin-2-yl]amino]-2,6-bis(1,1-dimethylethyl)phenol (CAS No. 991–84–4) (provided for in subheading 2933.69.60)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2158. (2-BENZOTHIAZOLYLTHIO)BUTANEDIOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.31	(2-Benzothiazolylthio)butanedioic acid (CAS No. 95154–01–1) (provided for in subheading 2934.20.40)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2159. CALCIUM BIS[MONOETHYL(3,5-DI-TERT-BUTYL-4-HYDROXYBENZYL) PHOSPHONATE].

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.16	Calcium bis[monoethyl(3,5-di-tert-butyl-4-hydroxybenzyl) phosphonate] (CAS No. 65140–91–2) (provided for in subheading 2931.00.30)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2160. 4-METHYL-γ-OXO-BENZENEBUTANOIC ACID COMPOUNDED WITH 4-ETHYLMORPHOLINE (2:1).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.38.26	4-Methyl-γ-oxo-benzenebutanoic acid compounded with 4-ethylmorpholine (2:1) (CAS No. 171054–89–0) (provided for in subheading 3824.90.28)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2161. WEAVING MACHINES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.84.46	Weaving machines (looms), shuttleless type, for weaving fabrics of a width exceeding 30 cm but not exceeding 4.9 m (provided for in subheading 8446.30.50), entered without off-loom or large loom take-ups, drop wires, heddles, reeds, harness frames, or beams	3.3%	No change	No change	On or before 12/31/2001	”.

SEC. 2162. CERTAIN WEAVING MACHINES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.84.10	Power weaving machines (looms), shuttle type, for weaving fabrics of a width exceeding 30 cm but not exceeding 4.9m (provided for in subheading 8446.21.50), if entered without off-loom or large loom take-ups, drop wires, heddles, reeds, harness frames or beams	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2163. DEMT.

Subchapter II of chapter 99 is amended by striking heading 9902.32.12 and inserting the following:

“	9902.32.12	N,N-Diethyl-m-toluidine (DEMT) (CAS No. 91–67–8) (provided for in subheading 2921.43.80)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2164. BENZENEPROPANAL, 4-(1,1-DIMETHYLETHYL)-ALPHA-METHYL-.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.29.57	Benzenepropanal, 4-(1,1-dimethylethyl)-alpha-methyl- (CAS No. 80–54–6) (provided for in subheading 2912.29.60)	6%	No change	No change	On or before 12/31/2001	".

SEC. 2165. 2H-3,1-BENZOXAZIN-2-ONE, 6-CHLORO-4-(CYCLO-PROPYLETHYNYL)-1,4-DIHYDRO-4-(TRIFLUOROMETHYL)-.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.56	2H-3,1-Benzoxazin-2-one, 6-chloro-4-(cyclopropylethynyl)-1,4-dihydro-4-(trifluoromethyl)- (CAS No. 154598–52–4) (provided for in subheading 2934.90.30)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2166. TEBUFENOZIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.29.32	N-tert-Butyl-N'-(4-ethylbenzoyl)-3,5-Dimethylbenzoylhydrazide (Tebufenozide) (CAS No. 112410-23-8) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2167. HALOFENOZIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.29.36	Benzoic acid, 4-chloro-2-benzoyl-2-(1,1-dimethylethyl) hydrazide (Halofenozide) (CAS No. 112226-61-6) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2168. CERTAIN ORGANIC PIGMENTS AND DYES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.07	Organic luminescent pigments and dyes for security applications excluding daylight fluorescent pigments and dyes (provided for in subheading 3204.90.00)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2169. 4-HEXYLRESORCINOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.29.07	4-Hexylresorcinol (CAS No. 136–77–6) (provided for in subheading 2907.29.90)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2170. CERTAIN SENSITIZING DYES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.29.37	Polymethine photo-sensitizing dyes (provided for in subheadings 2933.19.30, 2933.19.90, 2933.90.24, 2934.10.90, 2934.20.40, 2934.90.20, and 2934.90.90)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2171. SKATING BOOTS FOR USE IN THE MANUFACTURE OF IN-LINE ROLLER SKATES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.64.05	Boots for use in the manufacture of in-line roller skates (provided for in subheadings 6402.19.90, 6403.19.40, 6403.19.70, and 6404.11.90)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2172. DIBUTYLNAPHTHALENESULFONIC ACID, SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.34.02	Surface active preparation containing 30 percent or more by weight of dibutylnaphthalenesulfonic acid, sodium salt (CAS No. 25638–17–9) (provided for in subheading 3402.90.30)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2173. O-(6-CHLORO-3-PHENYL-4-PYRIDAZINYL)-S-OCTYLCARBONOTHIOATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.38.08	O-(6-Chloro-3-phenyl-4-pyridazinyl)-S-octyl-carbonothioate (CAS No. 55512-33-9) (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2174. 4-CYCLOPROPYL-6-METHYL-2-PHENYLAMINOPY-RIMIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.50	4-Cyclopropyl-6-methyl-2-phenylaminopyrimidine (CAS No. 121552–61–2) (provided for in subheading 2933.59.15)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2175. O,O-DIMETHYL-S-[5-METHOXY-2-OXO-1,3,4-THIADI-AZOL-3(2H)-YL-METHYL]DITHIOPHOSPHATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.51	O,O-Dimethyl-S-[5-methoxy-2-oxo-1,3,4-thiadiazol-3(2H)-yl-methyl]dithiophosphate (CAS No. 950–37–8) (provided for in subheading 2934.90.90)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2176. ETHYL [2-(4-PHENOXY-PHENOXY) ETHYL] CARBAMATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.52	Ethyl [2-(4-phenoxyphenoxy)-ethyl]carbamate (CAS No. 79127–80–3) (provided for in subheading 2924.10.80)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2177. [(2S,4R)/(2R,4S)]/[(2R,4R)/(2S,4S)]-1-[2-[4-(4-CHLORO-PHENOXY)-2-CHLOROPHENYL]-4-METHYL-1,3-DIOXOLAN-2-YLMETHYL]-1H-1,2,4-TRIAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.74	[(2S,4R)/(2R,4S)]/[(2R,4R)/(2S,4S)]-1-[2-[4-(4-Chloro-phenoxy)-2-chlorophenyl]-4-methyl-1,3-dioxolan-2-yl- methyl]-1H-1,2,4-triazole (CAS No. 119446-68-3) (provided for in subheading 2934.90.12)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2178. 2,4-DICHLORO-3,5-DINITROBENZOTRIFLUORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.12	2,4-Dichloro-3,5-dinitrobenzotrifluoride (CAS No. 29091–09–6) (provided for in subheading 2910.90.20)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2179. 2-CHLORO-N-[2,6-DINITRO-4-(TRIFLUOROMETHYL) PHENYL]-N-ETHYL-6-FLUOROBENZENEMETHANAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.15	2-Chloro-N-[2,6-dinitro-4-(trifluoromethyl)phenyl]-N-ethyl-6-fluorobenzenemethanamine (CAS No. 62924–70–3) (provided for in subheading 2921.49.45)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2180. CHLOROACETONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.11	Chloroacetone (CAS No. 78–95–5) (provided for in subheading 2914.19.00)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2181. ACETIC ACID, [(5-CHLORO-8-QUINOLINYL)OXY]-, 1-METHYLHEXYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.60	Acetic acid, [(5-chloro-8-quinolinyl)oxy]-, 1-methylhexyl ester (CAS No. 99607–70–2) (provided for in subheading 2933.40.30)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2182. PROPANOIC ACID, 2-[4-[(5-CHLORO-3-FLUORO-2-PYRIDINYL)OXY]PHENOXY]-, 2-PROPYNYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.19	Propanoic acid, 2-[4-[(5-chloro-3-fluoro-2-pyridinyl)oxy]phenoxy]-, 2-propynyl ester (CAS No. 105512–06–9) (provided for in subheading 2933.39.25)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2183. MUCOCHLORIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.29.18	Mucochloric acid (CAS No. 87–56–9) (provided for in subheading 2918.30.90)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2184. CERTAIN ROCKET ENGINES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.84.12	Dual thrust chamber rocket engines each having a maximum static sea level thrust exceeding 3,550 kN and nozzle exit diameter exceeding 127 cm (provided for in subheading 8412.10.00)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2185. PIGMENT RED 144.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.11	Pigment Red 144 (CAS No. 5280–78–4) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2186. PIGMENT ORANGE 64.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.09	Pigment Orange 64 (CAS No. 72102–84–2) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2187. PIGMENT YELLOW 95.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.08	Pigment Yellow 95 (CAS No. 5280–80–8) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2188. PIGMENT YELLOW 93.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.13	Pigment Yellow 93 (CAS No. 5580–57–4) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2189. (S)-N-[[5-[2-(2-AMINO-4,6,7,8-TETRAHYDRO-4-OXO-1H-PYRIMIDO[5,4-B] [1,4]THIAZIN-6-YL)ETHYL]-2-THIENYL]CARBONYL]-L-GLUTAMIC ACID, DIETHYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.33	(S)-N-[[5-[2-(2-Amino-4,6,7,8-tetrahydro-4-oxo-1H-pyrimido[5,4-b] [1,4]thiazin-6-yl)ethyl]-2-thienyl]carbonyl]-L-glutamic acid, diethyl ester (CAS No. 177575–19–8) (provided for in subheading 2934.90.90)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2190. 4-CHLOROPYRIDINE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.34	4-Chloropyridine hydrochloride (CAS No. 7379–35–3) (provided for in subheading 2933.39.61)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2191. 4-PHENOXYPYRIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.32.35	4-Phenoxypyridine (CAS No. 4783–86–2) (provided for in subheading 2933.39.61)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2192. (3S)-2,2-DIMETHYL-3-THIOMORPHOLINE CARBOXYLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.36	(3S)-2,2-Dimethyl-3-thiomorpholine carboxylic acid (CAS No. 84915–43–5) (provided for in subheading 2934.90.90)	Free	No Change	No Change	On or before 12/31/2001	".

SEC. 2193. 2-AMINO-5-BROMO-6-METHYL-4-(1H)-QUINAZOLI-NONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.37	2-Amino-5-bromo-6-methyl-4-(1H)-quinazolinone (CAS No. 147149–89–1) (provided for in subheading 2933.59.70)	Free	No Change	No Change	On or before 12/31/2001	".

SEC. 2194. 2-AMINO-6-METHYL-5-(4-PYRIDINYLTHIO)-4(1H)-QUINAZOLINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.38	2-Amino-6-methyl-5-(4-pyridinylthio)-4(1H)-quinazolinone (CAS No. 147149–76–6) (provided for in subheading 2933.59.70)	Free	No Change	No Change	On or before 12/31/2001	".

SEC. 2195. (S)-N-[[5-[2-(2-AMINO-4,6,7,8-TETRAHYDRO-4-OXO-1H-PYRIMIDO[5,4-B][1,4]THIAZIN-6-YL)ETHYL]-2-THIENYL]CARBONYL]-L-GLUTAMIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.39	(S)-N-[[5-[2-(2-Amino-4,6,7,8-tetrahydro-4-oxo-1H-pyrimido[5,4-b][1,4]thiazin-6-yl)ethyl]-2-thienyl]carbonyl]-L-glutamic acid (CAS No. 177575–17–6) (provided for in subheading 2934.90.90)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2196. 2-AMINO-6-METHYL-5-(4-PYRIDINYLTHIO)-4-(1H)-QUINAZOLINONE DIHYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.40	2-Amino-6-methyl-5-(4-pyridinylthio)-4-(1H)-quinazolinone dihydrochloride (CAS No. 152946–68–4) (provided for in subheading 2933.59.70)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2197. 3-(ACETYLOXY)-2-METHYLBENZOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.41	3-(Acetyloxy)-2-methylbenzoic acid (CAS No. 168899–58–9) (provided for in subheading 2918.29.65)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2198. [R-(R*,R*)]-1,2,3,4-BUTANETETROL-1,4-DIMETH- ANESULFONATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.42	[R-(R*,R*)]-1,2,3,4-Butanetetrol-1,4-dimethanesulfonate (CAS No. 1947–62–2) (provided for in subheading 2905.49.50)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2199. 9-[2- [[BIS[(PIVALOYLOXY) METHOXY]PHOS- PHINYL]METHOXY] ETHYL]ADENINE (ALSO KNOWN AS ADEFOVIR DIPIVOXIL).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.33.01	9-[2- [[Bis[(pivaloyloxy)-methoxy]phosphinyl]- methoxy] ethyl]adenine (also known as Adefovir Dipivoxil) (CAS No. 142340–99–6) (provided for in subheading 2933.59.95)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2200. 9-[2-(R)-[[BIS[(ISOPROPOXYCARBONYL)OXY- METHOXY]-PHOSPHINOYL]METHOXY]-PROPYL]ADENINE FUMARATE (1:1).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.33.02	9-[2-(R)-[[Bis[(isopropoxy- carbonyl)oxymethoxy]-phosphinoyl]methoxy]-propyl]adenine fumarate (1:1) (CAS No. 202138-50-9) (provided for in subheading 2933.59.95)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2201. (R)-9-(2-PHOSPHONOMETHOXYPROPYL)ADE- NINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.33.03	(R)-9-(2-Phosphonomethoxypropyl)adenine (CAS No. 147127-20-6) (provided for in subheading 2933.59.95)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2202. (R)-1,3-DIOXOLAN-2-ONE, 4-METHYL-.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.33.04	(R)-1,3-Dioxolan-2-one, 4-methyl- (CAS No. 16606-55-6) (provided for in subheading 2920.90.50)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2203. 9-(2-HYDROXYETHYL)ADENINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.33.05	9-(2-Hydroxyethyl)adenine (CAS No. 707-99-3) (provided for in subheading 2933.59.95)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2204. (R)-9H-PURINE-9-ETHANOL, 6-AMINO-α-METHYL-.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.33.06	(R)-9H-Purine-9-ethanol, 6-amino-α-methyl- (CAS No. 14047-28-0) (provided for in subheading 2933.59.95)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2205. CHLOROMETHYL-2-PROPYL CARBONATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.33.07	Chloromethyl-2-propyl carbonate (CAS No. 35180-01-9) (provided for in subheading 2920.90.50)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2206. (R)-1,2-PROPANEDIOL, 3-CHLORO-.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.33.08	(R)-1,2-Propanediol, 3-chloro- (CAS No. 57090-45-6) (provided for in subheading 2905.50.60)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2207. OXIRANE, (S)-((TRIPHENYLMETHOXY)METHYL)-.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.33.09	Oxirane, (S)-((triphenylmethoxy)methyl)- (CAS No. 129940-50-7) (provided for in subheading 2910.90.20)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2208. CHLOROMETHYL PIVALATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.33.10	Chloromethyl pivalate (CAS No. 18997-19-8) (provided for in subheading 2915.90.50)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2209. DIETHYL (((P-TOLUENESULFONYL)OXY)- METHYL)PHOSPHONATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.33.11	Diethyl (((p-toluenesulfonyl)oxy)- methyl)phosphonate (CAS No. 31618-90-3) (provided for in subheading 2931.00.30)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2210. BETA HYDROXYALKYLAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.38.25	N,N,N',N'-Tetrakis-(2-hydroxyethyl)-hexane diamide (beta hydroxyalkylamide) (CAS No. 6334-25-4) (provided for in subheading 3824.90.90)	Free	No change	No change	On or before 12/31/2001	”.

SEC. 2211. GRILAMID TR90.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.12	Dodecanedioic acid, polymer with 4,4'-methylenebis (2-methylcyclohexanamine) (CAS No. 163800–66–6) (provided for in subheading 3908.90.70)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2212. IN–W4280.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.51	2,4-Dichloro-5-hydroxy-phenylhydrazine (CAS No. 39807–21–1) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2213. KL540.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.54	Methyl 4-trifluoromethoxyphenyl-N-(chlorocarbonyl) carbamate (CAS No. 173903–15–6) (provided for in subheading 2924.29.70)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2214. METHYL THIOGLYCOLATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.55	Methyl thioglycolate (CAS No. 2365–48–2) (provided for in subheading 2930.90.90)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2215. DPX–E6758.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.33.59	Phenyl (4,6-dimethoxy-pyrimidin-2-yl) carbamate (CAS No. 89392-03-0) (provided for in subheading 2933.59.70)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2216. ETHYLENE, TETRAFLUORO COPOLYMER WITH ETHYLENE (ETFE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.29.68	Ethylene-tetrafluoro ethylene copolymer (ETFE) (provided for in subheading 3904.69.50)	3.3%	No change	No change	On or before 12/31/2001	".

SEC. 2217. 3-MERCAPTO-D-VALINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.66	3-Mercapto-D-valine (CAS No. 52–67–5) (provided for in subheading 2930.90.45)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2218. P-ETHYLPHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.21	p-Ethylphenol (CAS No. 123–07–9) (provided for in subheading 2907.19.20)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2219. PANTERA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.29.09	(+/−)- Tetrahydrofurfuryl (R)-2[4-(6-chloroquinoxalin-2-yloxy)phenoxy] propanoate (CAS No. 119738–06–6) (provided for in subheading 2909.30.40) and any mixtures containing such compound (provided for in subheading 3808.30)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2220. P-NITROBENZOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.70	p-Nitrobenzoic acid (CAS No. 62-23–7) (provided for in subheading 2916.39.45)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2221. P-TOLUENESULFONAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.95	p-Toluenesulfonamide (CAS No. 70–55–3) (provided for in subheading 2935.00.95)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2222. POLYMERS OF TETRAFLUOROETHYLENE, HEXAFLUOROPROPYLENE, AND VINYLIDENE FLUORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.04	Polymers of tetrafluoroethylene (provided for in subheading 3904.61.00), hexafluoropropylene and vinylidene fluoride (provided for in subheading 3904.69.50)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2223. METHYL 2-[[[[4-(DIMETHYLAMINO)-6-(2,2,2- TRI- FLUOROETHOXY)-1,3,5-TRIAZIN-2-YL]AMINO]- CARBONYL]AMINO]SULFONYL]-3-METHYL- BENZOATE (TRIFLUSULFURON METHYL).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.38.11	Methyl 2-[[[[[4- (dimethylamino)-6-(2,2,2- trifluoroethoxy)- 1,3,5-triazin-2-yl]amino]carbonyl]-amino]sulfonyl]-3-methylbenzoate (triflusulfuron methyl) in mixture with application adjuvants. (CAS No. 126535–15–7) (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2224. CERTAIN MANUFACTURING EQUIPMENT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.84.79	Calendaring or other rolling machines for rubber to be used in the production of radial tires designed for off-the-highway use and with a rim measuring 86 cm or more in diameter (provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40), numerically controlled, or parts thereof (provided for in subheading 8420.10.90, 8420.91.90 or 8420.99.90) and material holding devices or similar attachments thereto	Free	No change	No change	On or before 12/31/2001
	9902.84.81	Shearing machines to be used to cut metallic tissue for use in the production of radial tires designed for off-the-highway use and with a rim measuring 86 cm or more in diameter (provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40), numerically controlled, or parts thereof (provided for in subheading 8462.31.00 or subheading 8466.94.85)	Free	No change	No change	On or before 12/31/2001
	9902.84.83	Machine tools for working wire of iron or steel to be used in the production of radial tires designed for off-the-highway use and with a rim measuring 86 cm or more in diameter (provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40), numerically controlled, or parts thereof (provided for in subheading 8463.30.00 or 8466.94.85)	Free	No change	No change	On or before 12/31/2001
	9902.84.85	Extruders to be used in the production of radial tires designed for off-the-highway use and with a rim measuring 86 cm or more in diameter (provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40), numerically controlled, or parts thereof (provided for in subheading 8477.20.00 or 8477.90.85)	Free	No change	No change	On or before 12/31/2001

9902.84.87	Machinery for molding, retreading, or otherwise forming uncured, unvulcanized rubber to be used in the production of radial tires designed for off-the-highway use and with a rim measuring 86 cm or more in diameter (provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40), numerically controlled, or parts thereof (provided for in subheading 8477.51.00 or 8477.90.85)	Free	No change	No change	On or before 12/31/2001
9902.84.89	Sector mold press machines to be used in the production of radial tires designed for off-the-highway use and with a rim measuring 86 cm or more in diameter (provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40), numerically controlled, or parts thereof (provided for in subheading 8477.51.00 or subheading 8477.90.85)	Free	No change	No change	On or before 12/31/2001
9902.84.91	Sawing machines to be used in the production of radial tires designed for off-the-highway use and with a rim measuring 86 cm or more in diameter (provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40), numerically controlled, or parts thereof (provided for in subheading 8465.91.00 or subheading 8466.92.50)	Free	No change	No change	On or before 12/31/2001

”.

SEC. 2225. TEXTURED ROLLED GLASS SHEETS.

Subchapter II of chapter 99 is amended by striking heading 9902.70.03 and inserting the following:

“

9902.70.03	Rolled glass in sheets, yellow-green in color, not finished or edged-worked, textured on one surface, suitable for incorporation in cooking stoves, ranges, or ovens described in subheadings 8516.60.40 (provided for in subheading 7003.12.00 or 7003.19.00)	Free	No change	No change	On or before 12/31/2001

”.

SEC. 2226. CERTAIN HIV DRUG SUBSTANCES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

“

9902.32.43	(S)-N-tert-Butyl-1,2,3,4-tetrahydro-3-isoquinoline carboxamide hydrochloride salt (CAS No. 149057–17–0)(provided for in subheading 2933.40.60)	Free	No change	No change	On or before 6/30/99
9902.32.44	(S)-N-tert-Butyl-1,2,3,4-tetrahydro-3-isoquinoline carboxamide sulfate salt (CAS No. 186537–30–4)(provided for in subheading 2933.40.60)	Free	No change	No change	On or before 6/30/99
9902.32.45	(3S)-1,2,3,4-Tetrahydroisoquinoline-3-carboxylic acid (CAS No. 74163–81–8)(provided for in subheading 2933.40.60)	Free	No change	No change	On or before 6/30/99

”.

SEC. 2227. RIMSULFURON.

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“

9902.33.60	N-[[(4,6-Dimethoxy-2-pyrimidinyl)amino] carbonyl]-3-(ethylsulfonyl)-2-pyridinesulfonamide (CAS No. 122931–48–0) (provided for in subheading 2935.00.75)	7.3%	No change	No change	On or before 12/31/99

”.

(b) RATE FOR 2000.—Heading 9902.33.60, as added by subsection (a), is amended—

(1) by striking "7.3%" and inserting "Free"; and

(2) by striking "12/31/99" and inserting "12/31/2000".

(c) EFFECTIVE DATE FOR ADJUSTMENT.—The amendments made by subsection (b) apply to goods entered, or withdrawn from warehouse for consumption, after December 31, 1999.

SEC. 2228. CARBAMIC ACID (V-9069).

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.33.61	((3-((Dimethylamino)carbonyl)-2-pyridinyl)sulfonyl) carbamic acid, phenyl ester (CAS No. 112006-94-7) (provided for in subheading 2935.00.75)	8.3%	No change	No change	On or before 12/31/99	".

(b) RATE ADJUSTMENT FOR 2000.—Heading 9902.33.61, as added by subsection (a), is amended—

(1) by striking "8.3%" and inserting "7.6%"; and

(2) by striking "12/31/99" and inserting "12/31/2000".

(c) EFFECTIVE DATE FOR ADJUSTMENT.—The amendments made by subsection (b) apply to goods entered, or withdrawn from warehouse for consumption, after December 31, 1999.

SEC. 2229. DPX-E9260.

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.33.63	3-(Ethylsulfonyl)-2-pyridinesulfonamide (CAS No. 117671-01-9) (provided for in subheading 2935.00.75)	6%	No change	No change	On or before 12/31/99	".

(b) RATE ADJUSTMENT.—Heading 9902.33.63, as added by subsection (a), is amended—

(1) by striking "6%" and inserting "5.3%"; and

(2) by striking "12/31/99" and inserting "12/31/2000".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) applies to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

(2) ADJUSTMENT.—The amendments made by subsection (b) apply to goods entered, or withdrawn from warehouse for consumption, after December 31, 1999.

SEC. 2230. ZIRAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.38.28	Ziram (provided for in subheading 3808.20.28)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2231. FERROBORON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.72.02	Ferroboron to be used for manufacturing amorphous metal strip (provided for in subheading 7202.99.50)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2232. ACETIC ACID, [[2-CHLORO-4-FLUORO-5-[(TETRA- HYDRO-3-OXO-1H,3H-[1,3,4]THIADIAZOLO[3,4-a]PYRIDAZIN-1-YLIDENE)AMINO]PHENYL]- THIO]-, METHYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.29.66	Acetic acid, [[2-chloro-4-fluoro-5-[(tetrahydro-3-oxo-1H,3H-[1,3,4]thiadiazolo- [3,4-a]pyridazin-1-ylidene)amino]phenyl]thio]-, methyl ester (CAS No. 117337-19-6) (provided for in subheading 2934.90.15)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2233. PENTYL[2-CHLORO-5-(CYCLOHEX-1-ENE-1,2-DI- CARBOXIMIDO)-4-FLUOROPHENOXY]ACETATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.33.66	Pentyl[2-chloro-5-(cyclohex-1-ene-1,2-dicarboximido)-4-fluorophenoxy]acetate (CAS No. 87546-18-7) (provided for in subheading 2925.19.40)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2234. BENTAZON (3-ISOPROPYL)-1H-2,1,3-BENZO-THIADIAZIN-4(3H)-ONE-2,2-DIOXIDE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.29.67	Bentazon (3-Isopropyl)-1H-2,1,3-benzothiadiazin-4(3H)-one-2,2-dioxide) (CAS No. 50723-80-3) (provided for in subheading 2934.90.11)	5.0%	No change	No change	On or before 12/31/2001	".

SEC. 2235. CERTAIN HIGH-PERFORMANCE LOUDSPEAKERS NOT MOUNTED IN THEIR ENCLOSURES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.85.20	Loudspeakers not mounted in their enclosures (provided for in subheading 8518.29.80), the foregoing which meet a performance standard of not more than 1.5 dB for the average level of 3 or more octave bands, when such loudspeakers are tested in a reverberant chamber	Free	No change	No change	On or before 12/31/2001	".

SEC. 2236. PARTS FOR USE IN THE MANUFACTURE OF CERTAIN HIGH-PERFORMANCE LOUDSPEAKERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.85.21	Parts for use in the manufacture of loudspeakers of a type described in subheading 9902.85.20 (provided for in subheading 8518.90.80)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2237. 5-TERT-BUTYL-ISOPHTHALIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.33.12	5-tert-Butyl-iso-phthalic acid (CAS No. 2359–09–3) (provided for in subheading 2917.39.70)	Free	No change	No change	On or before 12/31/ 2001	".

SEC. 2238. CERTAIN POLYMER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.07	A polymer of the following monomers: 1,4-benzenedicarboxylic acid, dimethyl ester (dimethyl terephthalate) (CAS No. 120-61-6); 1,3-Benzenedicarboxylic acid, 5-sulfo-, 1,3-dimethyl ester, sodium salt (sodium dimethyl sulfoisophthalate) (CAS No. 3965-55-7); 1,2-ethanediol (ethylene glycol) (CAS No. 107-21-1); and 1,2-propanediol (propylene glycol) (CAS No. 57-55-6); with terminal units from 2-(2-hydroxyethoxy) ethanesulfonic acid, sodium salt (CAS No. 53211-00-0) (provided for in subheading 3907.99.00)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2239. 2-(4-CHLOROPHENYL)-3-ETHYL-2, 5-DIHYDRO-5-OXO-4-PYRIDAZINE CARBOXYLIC ACID, POTASSIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.33.16	2-(4-Chlorophenyl)-3-ethyl-2, 5-dihydro-5-oxo-4-pyridazine carboxylic acid, potassium salt (CAS No. 82697–71–0) (provided for in subheading 2933.90.79)	Free	No change	No change	On or before 12/31/2001	".

CHAPTER 3—EFFECTIVE DATE

SEC. 2301. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, the amendments made by this subtitle apply to goods entered, or withdrawn from warehouse for consumption, after the date that is 15 days after the date of enactment of this Act.

Subtitle B—Other Trade Provisions

SEC. 2401. EXTENSION OF UNITED STATES INSULAR POSSESSION PROGRAM.

(a) IN GENERAL.—The additional U.S. notes to chapter 71 of the Harmonized Tariff Schedule of the United States are amended by adding at the end the following new note:

"3.(a) Notwithstanding any provision in additional U.S. note 5 to chapter 91, any article of jewelry provided for in heading 7113 which is the product of the Virgin Islands, Guam, or American Samoa (including any such article which contains any foreign component) shall be eligible for the benefits provided in paragraph (h) of additional U.S. note 5 to chapter 91, subject to the provisions and limitations of that note and of paragraphs (b), (c), and (d) of this note.

"(b) Nothing in this note shall result in an increase or a decrease in the aggregate amount referred to in paragraph (h)(iii) of, or the quantitative limitation otherwise established pursuant to the requirements of, additional U.S. note 5 to chapter 91.

"(c) Nothing in this note shall be construed to permit a reduction in the amount available to watch producers under paragraph (h)(iv) of additional U.S. note 5 to chapter 91.

"(d) The Secretary of Commerce and the Secretary of the Interior shall issue such regulations, not inconsistent with the provisions of this note and additional U.S. note 5 to chapter 91, as the Secretaries determine necessary to carry out their respective duties under this note. Such regulations shall not be inconsistent with substantial transformation requirements but may define the circumstances under which articles of jewelry shall be deemed to be 'units' for purposes of the benefits, provisions, and limitations of additional U.S. note 5 to chapter 91.

"(e) Notwithstanding any other provision of law, during the 2-year period beginning 45 days after the date of the enactment of this note, any article of jewelry provided for in heading 7113 that is assembled in the Virgin Islands, Guam, or American Samoa shall be treated as a product of the Virgin Islands, Guam, or American Samoa for purposes of this note and General Note 3(a)(iv) of this Schedule.''.

(b) CONFORMING AMENDMENT.—General Note 3(a)(iv)(A) of the Harmonized Tariff Schedule of the United States is amended by inserting "and additional U.S. note 3(e) of chapter 71," after "Tax Reform Act of 1986,".

(c) EFFECTIVE DATE.—The amendments made by this section take effect 45 days after the date of the enactment of this Act.

SEC. 2402. TARIFF TREATMENT FOR CERTAIN COMPONENTS OF SCIENTIFIC INSTRUMENTS AND APPARATUS.

(a) IN GENERAL.—U.S. note 6 of subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States is amended in subdivision (a) by adding at the end the following new sentence: "The term 'instruments and apparatus' under subheading 9810.00.60 includes separable components of an instrument or apparatus listed in this subdivision that are imported for assembly in the United States in such instrument or apparatus where the instrument or apparatus, due to its size, cannot be feasibly imported in its assembled state.''.

(b) APPLICATION OF DOMESTIC EQUIVALENCY TEST TO COMPONENTS.—U.S. note 6 of subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(1) by redesignating subdivisions (d) through (f) as subdivisions (e) through (g), respectively; and

(2) by inserting after subdivision (c) the following:

"(d)(i) If the Secretary of Commerce determines under this U.S. note that an instrument or apparatus is being manufactured in the United States that is of equivalent scientific value to a foreign-origin instrument or apparatus for which application is made (but which, due to its size, cannot be feasibly imported in its assembled state), the Secretary shall report the findings to the Secretary of the Treasury and to the applicant institution, and all components of such foreign-origin instrument or apparatus shall remain dutiable.

"(ii) If the Secretary of Commerce determines that the instrument or apparatus for which application is made is not being manufactured in the United States, the Secretary is authorized to determine further whether any component of such instrument or apparatus of a type that may be purchased, obtained, or imported separately is being manufactured in the United States and shall report the findings to the Secretary of the Treasury and to the applicant institution, and any component found to be domestically available shall remain dutiable.

"(iii) Any decision by the Secretary of the Treasury which allows for duty-free entry of a component of an instrument or apparatus which, due to its size cannot be feasibly imported in its assembled state, shall be effective for a specified maximum period, to be determined in consultation with the Secretary of Commerce, taking into account both the scientific needs of the importing institution and the potential for development of comparable domestic manufacturing capacity.''.

(c) MODIFICATIONS OF REGULATIONS.—The Secretary of the Treasury and the Secretary of Commerce shall make such modifications to their joint regulations as are necessary to carry out the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect beginning 120 days after the date of the enactment of this Act.

SEC. 2403. LIQUIDATION OR RELIQUIDATION OF CERTAIN ENTRIES.

(a) LIQUIDATION OR RELIQUIDATION OF ENTRIES.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520), or any other provision of law, the United States Customs Service shall, not later than 90 days after the date of the enactment of this Act, liquidate or reliquidate those entries made at Los Angeles, California, and New Orleans, Louisiana, which are listed in subsection (c), in accordance with the final decision of the International Trade Administration of the Department of Commerce for shipments entered between October 1, 1984, and December 14, 1987 (case number A–274–001).

(b) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid by the Customs Service within 90 days after such liquidation or reliquidation.

(c) ENTRY LIST.—The entries referred to in subsection (a) are the following:

Entry number	Date of entry	Port
322 00298563	12/11/86	Los Angeles, California
322 00300567	12/11/86	Los Angeles, California
86–2909242	9/2/86	New Orleans, Louisiana
87–05457388	1/9/87	New Orleans, Louisiana

SEC. 2404. DRAWBACK AND REFUND ON PACKAGING MATERIAL.

(a) IN GENERAL.—Section 313(q) of the Tariff Act of 1930 (19 U.S.C. 1313(q)) is further amended—

(1) by striking "Packaging material" and inserting the following:

"(1) IN GENERAL.—Packaging material"; and

(2) by adding at the end the following:

"(2) ADDITIONAL ELIGIBILITY.—Packaging material produced in the United States, which is used by the manufacturer or any other person on or for articles which are exported or destroyed under subsection (a) or (b), shall be eligible under such subsection for refund, as drawback, of 99 percent of any duty, tax, or fee imposed on the importation of such material used to manufacture or produce the packaging material.''.

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 2405. INCLUSION OF COMMERCIAL IMPORTATION DATA FROM FOREIGN-TRADE ZONES UNDER THE NATIONAL CUSTOMS AUTOMATION PROGRAM.

Section 411 of the Tariff Act of 1930 (19 U.S.C. 1411) is amended by adding at the end the following:

"(c) FOREIGN-TRADE ZONES.—Not later than January 1, 2000, the Secretary shall provide for the inclusion of commercial importation data from foreign-trade zones under the Program.''.

SEC. 2406. LARGE YACHTS IMPORTED FOR SALE AT UNITED STATES BOAT SHOWS.

(a) IN GENERAL.—The Tariff Act of 1930 (19 U.S.C. 1304 et seq.) is amended by inserting after section 484a the following:

"SEC. 484b. DEFERRAL OF DUTY ON LARGE YACHTS IMPORTED FOR SALE AT UNITED STATES BOAT SHOWS.

"(a) IN GENERAL.—Notwithstanding any other provision of law, any vessel meeting the definition of a large yacht as provided in subsection (b) and which is otherwise dutiable may be imported without the payment of duty if imported with the intention to offer for sale at a boat show in the United States. Payment of duty shall be deferred, in accordance with this section, until such large yacht is sold.

"(b) DEFINITION.—As used in this section, the term 'large yacht' means a vessel that exceeds 79 feet in length, is used primarily for recreation or pleasure, and has been previously sold by a manufacturer or dealer to a retail consumer.

"(c) DEFERRAL OF DUTY.—At the time of importation of any large yacht, if such large yacht is imported for sale at a boat show in the United States and is otherwise dutiable, duties shall not be assessed and collected if the importer of record—

"(1) certifies to the Customs Service that the large yacht is imported pursuant to this section for sale at a boat show in the United States; and

"(2) posts a bond, which shall have a duration of 6 months after the date of importation, in an amount equal to twice the amount of duty on the large yacht that would otherwise be imposed under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States.

"(d) PROCEDURES UPON SALE.—

"(1) DEPOSIT OF DUTY.—If any large yacht (which has been imported for sale at a boat show in the United States with the deferral of duties as provided in this section) is sold within the 6-month period after importation—

"(A) entry shall be completed and duty (calculated at the applicable rates provided for under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States and based upon the value of the large yacht at the time of importation) shall be deposited with the Customs Service; and

"(B) the bond posted as required by subsection (c)(2) shall be returned to the importer.

"(e) PROCEDURES UPON EXPIRATION OF BOND PERIOD.—

"(1) IN GENERAL.—If the large yacht entered with deferral of duties is neither sold nor exported within the 6-month period after importation—

"(A) entry shall be completed and duty (calculated at the applicable rates provided for under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States and based upon the value of the large yacht at the time of importation) shall be deposited with the Customs Service; and

"(B) the bond posted as required by subsection (c)(2) shall be returned to the importer.

"(2) ADDITIONAL REQUIREMENTS.—No extensions of the bond period shall be allowed. Any large yacht exported in compliance with the bond period may not be reentered for purposes of sale at a boat show in the United States (in order to receive duty deferral benefits) for a period of 3 months after such exportation.

"(f) REGULATIONS.—The Secretary of the Treasury is authorized to make such rules and regulations as may be necessary to carry out the provisions of this section.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any large yacht imported into the United States after the date that is 15 days after the date of the enactment of this Act.

SEC. 2407. REVIEW OF PROTESTS AGAINST DECISIONS OF CUSTOMS SERVICE.

Section 515(a) of the Tariff Act of 1930 (19 U.S.C. 1515(a)) is amended by inserting after the third sentence the following: "Within 30 days from the date an application for further review is filed, the appropriate customs officer shall allow or deny the application and, if allowed, the protest shall be forwarded to the customs officer who will be conducting the further review.".

SEC. 2408. ENTRIES OF NAFTA-ORIGIN GOODS.

(a) REFUND OF MERCHANDISE PROCESSING FEES.—Section 520(d) of the Tariff Act of 1930 (19 U.S.C. 1520(d)) is amended in the matter preceding paragraph (1) by inserting "(including any merchandise processing fees)" after "excess duties".

(b) PROTEST AGAINST DECISION OF CUSTOMS SERVICE RELATING TO NAFTA CLAIMS.—Section 514(a)(7) of such Act (19 U.S.C. 1514(a)(7)) is amended by striking "section 520(c)" and inserting "subsection (c) or (d) of section 520".

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 2409. TREATMENT OF INTERNATIONAL TRAVEL MERCHANDISE HELD AT CUSTOMS-APPROVED STORAGE ROOMS.

Section 557(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1557(a)(1)) is amended in the first sentence by inserting "(including international travel merchandise)" after "Any merchandise subject to duty".

SEC. 2410. EXCEPTION TO 5-YEAR REVIEWS OF COUNTERVAILING DUTY OR ANTIDUMPING DUTY ORDERS.

Section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) is amended by adding at the end the following:

"(7) EXCLUSIONS FROM COMPUTATIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), there shall be excluded from the computation of the 5-year period described in paragraph (1) and the periods described in paragraph (6) any period during which the importation of the subject merchandise is prohibited on account of the imposition, under the International Emergency Economic Powers Act or other provision of law, of sanctions by the United States against the country in which the subject merchandise originates.

"(B) APPLICATION OF EXCLUSION.—Subparagraph (A) shall apply only with respect to subject merchandise which originates in a country that is not a WTO member.".

SEC. 2411. WATER RESISTANT WOOL TROUSERS.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the Customs Service within 180 days after the date of enactment of this Act, any entry or withdrawal from warehouse for consumption—

(1) that was made after December 31, 1988, and before January 1, 1995; and

(2) that would have been classifiable under subheading 6203.41.05 or 6204.61.10 of the Harmonized Tariff Schedule of the United States and would have had a lower rate of duty, if such entry or withdrawal had been made on January 1, 1995,

shall be liquidated or reliquidated as if such entry or withdrawal had been made on January 1, 1995.

SEC. 2412. REIMPORTATION OF CERTAIN GOODS.

(a) IN GENERAL.—Subchapter I of chapter 98 is amended by inserting in numerical sequence the following new heading:

"	9801.00.26	Articles, previously imported, with respect to which the duty was paid upon such previous importation, if (1) exported within 3 years after the date of such previous importation, (2) sold for exportation and exported to individuals for personal use, (3) reimported without having been advanced in value or improved in condition by any process of manufacture or other means while abroad, (4) reimported as personal returns from those individuals, whether or not consolidated with other personal returns prior to reimportation, and (5) reimported by or for the account of the person who exported them from the United States within 1 year of such exportation	Free		Free	".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to goods described in heading 9801.00.26 of the Harmonized Tariff Schedule of the United States (as added by subsection (a)) that are reimported into the United States on or after the date that is 15 days after the date of enactment of this Act.

SEC. 2413. TREATMENT OF PERSONAL EFFECTS OF PARTICIPANTS IN CERTAIN WORLD ATHLETIC EVENTS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.98.08	Any of the following articles not intended for sale or distribution to the public: personal effects of aliens who are participants in, officials of, or accredited members of delegations to, the 1999 International Special Olympics, the 1999 Women's World Cup Soccer, the 2001 International Special Olympics, the 2002 Salt Lake City Winter Olympics, and the 2002 Winter Paralympic Games, and of persons who are immediate family members of or servants to any of the foregoing persons; equipment and materials imported in connection with the foregoing events by or on behalf of the foregoing persons or the organizing committees of such events; articles to be used in exhibitions depicting the culture of a country participating in any such event; and, if consistent with the foregoing, such other articles as the Secretary of Treasury may allow	Free	No change	Free	On or before 12/31/2002	".

(b) TAXES AND FEES NOT TO APPLY.—The articles described in heading 9902.98.08 of the Harmonized Tariff Schedule of the United States (as added by subsection (a)) shall be free of taxes and fees which may be otherwise applicable.

(c) NO EXEMPTION FROM CUSTOMS INSPECTIONS.—The articles described in heading 9902.98.08 of the Harmonized Tariff Schedule of the United States (as added by subsection (a)) shall not be free or otherwise exempt or excluded from routine or other inspections as may be required by the Customs Service.

(d) EFFECTIVE DATE.—The amendment made by this section applies to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 2414. RELIQUIDATION OF CERTAIN ENTRIES OF THERMAL TRANSFER MULTIFUNCTION MACHINES.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 180 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 8517.21.00 of the Harmonized Tariff Schedule of the United States (relating to indirect electrostatic copiers) or subheading 9009.12.00 of such Schedule (relating to indirect electrostatic copiers), at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 8471.60.65 of the Harmonized Tariff Schedule of the United States (relating to other automated data processing (ADP) thermal transfer printer units) on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefor is filed with the Customs Service within 90 days after the date of enactment of this Act and the request contains sufficient information to enable the Customs Service to locate the entry or reconstruct the entry if it cannot be located.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 180 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a), filed at the port of Los Angeles, are as follows:

Date of entry	Entry number	Liquidation date
01/17/97	112-9638417-3	02/21/97
01/10/97	112-9637684-9	03/07/97
01/03/97	112-9636723-6	04/18/97
01/07/97	112-9637561-9	04/25/97
01/10/97	112-9637686-4	03/07/97
02/21/97	112-9642157-9	09/12/97
02/14/97	112-9641619-9	06/06/97
02/14/97	112-9641693-4	06/06/97
02/21/97	112-9642156-1	09/12/97
02/28/97	112-9643326-9	09/12/97
03/18/97	112-9645336-6	09/19/97
03/21/97	112-9645682-3	09/19/97
03/21/97	112-9645681-5	09/19/97
03/21/97	112-9645698-9	09/19/97
03/14/97	112-9645026-3	09/19/97
03/14/97	112-9645041-2	09/19/97
03/20/97	112-9646075-9	09/19/97
03/14/97	112-9645026-3	09/19/97
04/04/97	112-9647309-1	09/19/97
04/04/97	112-9647312-5	09/19/97
04/04/97	112-9647316-6	09/19/97
04/11/97	112-9300151-5	10/31/97
04/11/97	112-9300287-7	09/26/97
04/11/97	112-9300308-1	02/20/98
04/10/97	112-9300356-0	09/26/97
04/16/97	112-9301387-4	09/26/97
04/22/97	112-9301602-6	09/26/97
04/18/97	112-9301627-3	09/26/97
04/21/97	112-9301615-8	09/26/97
04/25/97	112-9302445-9	10/31/97
04/25/97	112-9302298-2	09/26/97
04/25/97	112-9302205-7	09/26/97
04/04/97	112-9302371-7	09/26/97
05/26/97	112-9305730-1	09/26/97
05/21/97	112-9305527-1	09/26/97
05/30/97	112-9306718-5	09/26/97
05/19/97	112-9304958-9	09/26/97
05/16/97	112-9305030-6	09/26/97
05/07/97	112-9303702-2	09/26/97
05/09/97	112-9303707-1	09/26/97
05/10/97	112-9304256-8	09/26/97
05/31/97	112-9306470-3	09/26/97
05/02/97	112-9302717-1	09/19/97
06/20/97	112-9308793-6	09/26/97
06/18/97	112-9308717-5	09/26/97
06/16/97	112-9308538-5	09/26/97
06/09/97	112-9307568-3	09/26/97
06/06/97	112-9307144-3	09/26/97

SEC. 2415. RELIQUIDATION OF CERTAIN DRAWBACK ENTRIES AND REFUND OF DRAWBACK PAYMENTS.

(a) IN GENERAL.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 or any other provision of law, the Customs Service shall, not later than 180 days after the date of enactment of this Act, liquidate or reliquidate the entries described in subsection (b) and any amounts owed by the United States pursuant to the liquidation or reliquidation shall be refunded with interest, subject to the provisions of Treasury Decision 86-126(M) and Customs Service Ruling No. 224697, dated November 17, 1994.

(b) ENTRIES DESCRIBED.—The entries described in this subsection are the following:

Entry number:	**Date of entry:**
855218319	July 18, 1985
855218429	August 15, 1985
855218649	September 13, 1985
866000134	October 4, 1985
866000257	November 14, 1985
866000299	December 9, 1985
866000451	January 14, 1986
866001052	February 13, 1986
866001133	March 7, 1986
866001269	April 9, 1986
866001366	May 9, 1986
866001463	June 6, 1986
866001573	July 7, 1986
866001586	July 7, 1986
866001599	July 7, 1986
866001913	August 8, 1986
866002255	September 10, 1986
866002297	September 23, 1986
03200000010	October 3, 1986
03200000028	November 13, 1986
03200000036	November 26, 1986.

SEC. 2416. CLARIFICATION OF ADDITIONAL U.S. NOTE 4 TO CHAPTER 91 OF THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES.

Additional U.S. note 4 of chapter 91 of the Harmonized Tariff Schedule of the United States is amended in the matter preceding subdivision (a), by striking the comma after "stamping" and inserting "(including by means of indelible ink),".

SEC. 2417. DUTY-FREE SALES ENTERPRISES.

Section 555(b)(2) of the Tariff Act of 1930 (19 U.S.C. 1555(b)(2)) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(2) by adding at the end the following new subparagraph:

"(C) a port of entry, as established under section 1 of the Act of August 24, 1912 (37 Stat. 434), or within 25 statute miles of a staffed port of entry if reasonable assurance can be provided that duty-free merchandise sold by the enterprise will be exported by individuals departing from the customs territory through an international airport located within the customs territory.".

SEC. 2418. CUSTOMS USER FEES.

(a) ADDITIONAL PRECLEARANCE ACTIVITIES.—Section 13031(f)(3)(A)(iii) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)(A)(iii)) is amended to read as follows:

"(iii) to the extent funds remain available after making reimbursements under clause (ii), in providing salaries for up to 50 full-time equivalent inspectional positions to provide preclearance services.".

(b) COLLECTION OF FEES FOR PASSENGERS ABOARD COMMERCIAL VESSELS.—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended—

(1) in subsection (a), by amending paragraph (5) to read as follows:

"(5)(A) Subject to subparagraph (B), for the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the United States (other than a place referred to in subsection (b)(1)(A)(i) of this section), $5.

"(B) For the arrival of each passenger aboard a commercial vessel from a place referred to in subsection (b)(1)(A)(i) of this section, $1.75"; and

(2) in subsection (b)(1)(A), by striking "(A) No fee" and inserting "(A) Except as provided in subsection (a)(5)(B) of this section, no fee".

(c) USE OF MERCHANDISE PROCESSING FEES FOR AUTOMATED COMMERCIAL SYSTEMS.—Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended by adding at the end the following:

"(6) Of the amounts collected in fiscal year 1999 under paragraphs (9) and (10) of subsection (a), $50,000,000 shall be available to the Customs Service, subject to appropriations Acts, for automated commercial systems. Amounts made available under this paragraph shall remain available until expended.".

(d) ADVISORY COMMITTEE.—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended by adding at the end the following:

"(k) ADVISORY COMMITTEE.—The Commissioner of Customs shall establish an advisory committee whose membership shall consist of representatives from the airline, cruise ship, and other transportation industries who may be subject to fees under subsection (a). The advisory committee shall not be subject to termination under section 14 of the Federal Advisory Committee Act. The advisory committee shall meet on a periodic basis and shall advise the Commissioner on issues related to the performance of the inspectional services of the United States Customs Service. Such advice shall include, but not be limited to, such issues as the time periods during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. The Commissioner shall give consideration to the views of the advisory committee in the exercise of his or her duties.".

(e) National Customs Automation Test Regarding Reconciliation.—Section 505(c) of the Tariff Act of 1930 (19 U.S.C. 1505(c)) is amended by adding at the end the following: "For the period beginning on October 1, 1998, and ending on the date on which the 'Revised National Customs Automation Test Regarding Reconciliation' of the Customs Service is terminated, or October 1, 2000, whichever occurs earlier, the Secretary may prescribe an alternative mid-point interest accounting methodology, which may be employed by the importer, based upon aggregate data in lieu of accounting for such interest from each deposit data provided in this subsection.".

(f) Effective Date.—The amendments made by this section shall take effect 30 days after the date of the enactment of this Act.

SEC. 2419. DUTY DRAWBACK FOR METHYL TERTIARY-BUTYL ETHER ("MTBE").

(a) In General.—Section 313(p)(3)(A)(i)(I) of the Tariff Act of 1930 (19 U.S.C. 1313(p)(3)(A)(i)(I)) is amended by striking "and 2902" and inserting "2902, and 2909.19.14".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act, and shall apply to drawback claims filed on and after such date.

SEC. 2420. SUBSTITUTION OF FINISHED PETROLEUM DERIVATIVES.

(a) In General.—Section 313(p)(1) of the Tariff Act of 1930 (19 U.S.C. 1313(p)(1)) is amended in the matter following subparagraph (C) by striking "the amount of the duties paid on, or attributable to, such qualified article shall be refunded as drawback to the drawback claimant." and inserting "drawback shall be allowed as described in paragraph (4).".

(b) Requirements.—Section 313(p)(2) of such Act (19 U.S.C. 1313(p)(2)) is amended—

(1) in subparagraph (A)—

(A) in clauses (i), (ii), and (iii), by striking "the qualified article" each place it appears and inserting "a qualified article"; and

(B) in clause (iv), by striking "an imported' and inserting "a"; and

(2) in subparagraph (G), by inserting "transferor," after "importer,".

(c) Qualified Article Defined, Etc.—Section 313(p)(3) of such Act (19 U.S.C. 1313(p)(3)) is amended—

(1) in subparagraph (A)—

(A) in clause (i)(II), by striking "liquids, pastes, powders, granules, and flakes" and inserting "the primary forms provided under Note 6 to chapter 39 of the Harmonized Tariff Schedule of the United States"; and

(B) in clause (ii)—

(i) in subclause (I) by striking "or" at the end;

(ii) in subclause (II) by striking the period and inserting ", or"; and

(iii) by adding after subclause (II) the following:

"(III) an article of the same kind and quality as described in subparagraph (B), or any combination thereof, that is transferred, as so certified in a certificate of delivery or certificate of manufacture and delivery in a quantity not greater than the quantity of articles purchased or exchanged.

The transferred merchandise described in subclause (III), regardless of its origin, so designated on the certificate of delivery or certificate of manufacture and delivery shall be the qualified article for purposes of this section. A party who issues a certificate of delivery, or certificate of manufacture and delivery, shall also certify to the Commissioner of Customs that it has not, and will not, issue such certificates for a quantity greater than the amount eligible for drawback and that appropriate records will be maintained to demonstrate that fact.";

(2) in subparagraph (B), by striking "exported article" and inserting "article, including an imported, manufactured, substituted, or exported article,"; and

(3) in the first sentence of subparagraph (C), by striking "such article." and inserting "either the qualified article or the exported article.".

(d) Limitation on Drawback.—Section 313(p)(4)(B) of such Act (19 U.S.C. 1313(p)(4)(B)) is amended by inserting before the period at the end the following: "had the claim qualified for drawback under subsection (j)".

(e) Effective Date.—The amendments made by this section shall take effect as if included in the amendment made by section 632(a)(6) of the North American Free Trade Agreement Implementation Act. For purposes of section 632(b) of that Act, the 3-year requirement set forth in section 313(r) of the Tariff Act of 1930 shall not apply to any drawback claim filed within 6 months after the date of the enactment of this Act for which that 3-year period would have expired.

SEC. 2421. DUTY ON CERTAIN IMPORTATIONS OF MUESLIX CEREALS.

(a) Before January 1, 1996.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the Customs Service before the 90th day after the date of the enactment of this Act, any entry or withdrawal from warehouse for consumption made after December 31, 1991, and before January 1, 1996, of mueslix cereal, which was classified under the special column rate applicable for Canada in subheading 2008.92.10 of the Harmonized Tariff Schedule of the United States—

(1) shall be liquidated or reliquidated as if the special column rate applicable for Canada in subheading 1904.10.00 of such Schedule applied at the time of such entry or withdrawal; and

(2) any excess duties paid as a result of such liquidation or reliquidation shall be refunded, including interest at the appropriate applicable rate.

(b) After December 31, 1995.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the Customs Service before the 90th day after the date of the enactment of this Act, any entry or withdrawal from warehouse for consumption made after December 31, 1995, and before January 1, 1998, of mueslix cereal, which was classified under the special column rate applicable for Canada in subheading 1904.20.10 of the Harmonized Tariff Schedule of the United States—

(1) shall be liquidated or reliquidated as if the special column rate applicable for Canada in subheading 1904.10.00 of such Schedule applied at the time of such entry or withdrawal; and

(2) any excess duties paid as a result of such liquidation or reliquidation shall be refunded, including interest at the appropriate applicable rate.

SEC. 2422. EXPANSION OF FOREIGN TRADE ZONE NO. 143.

(a) Expansion of Foreign Trade Zone.—The Foreign Trade Zones Board shall expand Foreign Trade Zone No. 143 to include areas in the vicinity of the Chico Municipal Airport in accordance with the application submitted by the Sacramento-Yolo Port District of Sacramento, California, to the Board on March 11, 1997.

(b) Other Requirements Not Affected.—The expansion of Foreign Trade Zone No. 143 under subsection (a) shall not relieve the Port of Sacramento of any requirement under the Foreign Trade Zones Act, or under regulations of the Foreign Trade Zones Board, relating to such expansion.

SEC. 2423. MARKING OF CERTAIN SILK PRODUCTS AND CONTAINERS.

(a) In General.—Section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) is amended—

(1) by redesignating subsections (h), (i), (j), and (k) as subsections (i), (j), (k), and (l), respectively; and

(2) by inserting after subsection (g) the following new subsection:

"(h) Marking of Certain Silk Products.—The marking requirements of subsections (a) and (b) shall not apply either to—

"(1) articles provided for in subheading 6214.10.10 of the Harmonized Tariff Schedule of the United States, as in effect on January 1, 1997; or

"(2) articles provided for in heading 5007 of the Harmonized Tariff Schedule of the United States as in effect on January 1, 1997.".

(b) Conforming Amendment.—Section 304(j) of such Act, as redesignated by subsection (a)(1) of this section, is amended by striking "subsection (h)" and inserting "subsection (i)".

(c) Effective Date.—The amendments made by this section apply to goods entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of this Act.

SEC. 2424. EXTENSION OF NONDISCRIMINATORY TREATMENT (NORMAL TRADE RELATIONS TREATMENT) TO THE PRODUCTS OF MONGOLIA.

(a) Findings.—The Congress finds that Mongolia—

(1) has received normal trade relations treatment since 1991 and has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974;

(2) has emerged from nearly 70 years of communism and dependence on the former Soviet Union, approving a new constitution in 1992 which has established a modern parliamentary democracy charged with guaranteeing fundamental human rights, freedom of expression, and an independent judiciary;

(3) has held 4 national elections under the new constitution, 2 presidential and 2 parliamentary, thereby solidifying the nation's transition to democracy;

(4) has undertaken significant market-based economic reforms, including privatization, the reduction of government subsidies, the elimination of most price controls and virtually all import tariffs, and the closing of insolvent banks;

(5) has concluded a bilateral trade treaty with the United States in 1991, and a bilateral investment treaty in 1994;

(6) has acceded to the Agreement Establishing the World Trade Organization, and extension of unconditional normal trade relations treatment to the products of Mongolia would enable the United States to avail itself of all rights under the World Trade Organization with respect to Mongolia; and

(7) has demonstrated a strong desire to build friendly relationships and to cooperate fully with the United States on trade matters.

(b) Termination of Application of Title IV of the Trade Act of 1974 to Mongolia.—

(1) Presidential determinations and extensions of nondiscriminatory treatment.—Notwithstanding any provision of

title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(A) determine that such title should no longer apply to Mongolia; and

(B) after making a determination under subparagraph (A) with respect to Mongolia, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(2) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extension under paragraph (1)(B) of nondiscriminatory treatment to the products of Mongolia, title IV of the Trade Act of 1974 shall cease to apply to that country.

SEC. 2425. ENHANCED CARGO INSPECTION PILOT PROGRAM.

(a) IN GENERAL.—The Commissioner of the Customs Service is authorized to establish a pilot program for fiscal year 1999 to provide 24-hour cargo inspection service on a fee-for-service basis at an international airport described in subsection (b). The Commissioner may extend the pilot program for fiscal years after fiscal year 1999 if the Commissioner determines that the extension is warranted.

(b) AIRPORT DESCRIBED.—The international airport described in this subsection is a multi-modal international airport that—

(1) is located near a seaport; and

(2) serviced more than 185,000 tons of air cargo in 1997.

SEC. 2426. PAYMENT OF EDUCATION COSTS OF DEPENDENTS OF CERTAIN CUSTOMS SERVICE PERSONNEL.

Notwithstanding section 2164 of title 10, United States Code, the Department of Defense shall permit the dependent children of deceased United States Customs Aviation Group Supervisor Pedro J. Rodriquez attending the Antilles Consolidated School System at Fort Buchanan, Puerto Rico, to complete their primary and secondary education at this school system without cost to such children or any parent, relative, or guardian of such children. The United States Customs Service shall reimburse the Department of Defense for reasonable education expenses to cover these costs.

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986

SEC. 3001. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) REPEAL OF PROPERTY SUBJECT TO A LIABILITY TEST.—

(1) SECTION 357.—Section 357(a)(2) of the Internal Revenue Code of 1986 (relating to assumption of liability) is amended by striking ", or acquires from the taxpayer property subject to a liability".

(2) SECTION 358.—Section 358(d)(1) of such Code (relating to assumption of liability) is amended by striking "or acquired from the taxpayer property subject to a liability".

(3) SECTION 368.—

(A) Section 368(a)(1)(C) of such Code is amended by striking ", or the fact that property acquired is subject to a liability,".

(B) The last sentence of section 368(a)(2)(B) of such Code is amended by striking ", and the amount of any liability to which any property acquired from the acquiring corporation is subject,".

(b) CLARIFICATION OF ASSUMPTION OF LIABILITY.—

(1) IN GENERAL.—Section 357 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(d) DETERMINATION OF AMOUNT OF LIABILITY ASSUMED.—

"(1) IN GENERAL.—For purposes of this section, section 358(d), section 362(d), section 368(a)(1)(C), and section 368(a)(2)(B), except as provided in regulations—

"(A) a recourse liability (or portion thereof) shall be treated as having been assumed if, as determined on the basis of all facts and circumstances, the transferee has agreed to, and is expected to, satisfy such liability (or portion), whether or not the transferor has been relieved of such liability; and

"(B) except to the extent provided in paragraph (2), a nonrecourse liability shall be treated as having been assumed by the transferee of any asset subject to such liability.

"(2) EXCEPTION FOR NONRECOURSE LIABILITY.—The amount of the nonrecourse liability treated as described in paragraph (1)(B) shall be reduced by the lesser of—

"(A) the amount of such liability which an owner of other assets not transferred to the transferee and also subject to such liability has agreed with the transferee to, and is expected to, satisfy, or

"(B) the fair market value of such other assets (determined without regard to section 7701(g)).

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and section 362(d). The Secretary may also prescribe regulations which provide that the manner in which a liability is treated as assumed under this subsection is applied, where appropriate, elsewhere in this title."

(2) LIMITATION ON BASIS INCREASE ATTRIBUTABLE TO ASSUMPTION OF LIABILITY.—Section 362 of such Code is amended by adding at the end the following new subsection:

"(d) LIMITATION ON BASIS INCREASE ATTRIBUTABLE TO ASSUMPTION OF LIABILITY.—

"(1) IN GENERAL.—In no event shall the basis of any property be increased under subsection (a) or (b) above the fair market value of such property (determined without regard to section 7701(g)) by reason of any gain recognized to the transferor as a result of the assumption of a liability.

"(2) TREATMENT OF GAIN NOT SUBJECT TO TAX.—Except as provided in regulations, if—

"(A) gain is recognized to the transferor as a result of an assumption of a nonrecourse liability by a transferee which is also secured by assets not transferred to such transferee; and

"(B) no person is subject to tax under this title on such gain,

then, for purposes of determining basis under subsections (a) and (b), the amount of gain recognized by the transferor as a result of the assumption of the liability shall be determined as if the liability assumed by the transferee equaled such transferee's ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all of the assets subject to such liability.".

(c) APPLICATION TO PROVISIONS OTHER THAN SUBCHAPTER C.—

(1) SECTION 584.—Section 584(h)(3) of the Internal Revenue Code of 1986 is amended—

(A) by striking ", and the fact that any property transferred by the common trust fund is subject to a liability," in subparagraph (A); and

(B) by striking clause (ii) of subparagraph (B) and inserting:

"(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

"(C) ASSUMPTION.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(d) shall apply."

(2) SECTION 1031.—The last sentence of section 1031(d) of such Code is amended—

(A) by striking "assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability" and inserting "assumed (as determined under section 357(d)) a liability of the taxpayer"; and

(B) by striking "or acquisition (in the amount of the liability)".

(d) CONFORMING AMENDMENTS.—

(1) Section 351(h)(1) of the Internal Revenue Code of 1986 is amended by striking ", or acquires property subject to a liability,".

(2) Section 357 of such Code is amended by striking "or acquisition" each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) of such Code is amended by striking "or acquired".

(4) Section 357(c)(1) of such Code is amended by striking ", plus the amount of the liabilities to which the property is subject,".

(5) Section 357(c)(3) of such Code is amended by striking "or to which the property transferred is subject".

(6) Section 358(d)(1) of such Code is amended by striking "or acquisition (in the amount of the liability)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after October 18, 1998.

By Mr. ROTH:

S. 263. A bill to amend the Social Security Act to establish the Personal Retirement Accounts Program; to the Committee on Finance.

THE PERSONAL RETIREMENT ACCOUNTS ACT OF 1999

Mr. ROTH. Mr. President, I rise today to introduce the Personal Retirement Accounts Act of 1999. This legislation has a simple but powerful purpose—to establish personal retirement accounts for working Americans. In my view, these accounts promise to give working Americans not only a more secure retirement future but a new stake in the nation's economic growth. And, as I will describe, these accounts may provide the model for future Social Security reform.

Just a few years ago personal retirement accounts were an exotic and even controversial concept. But no longer! Today, personal retirement accounts are a bipartisan, even mainstream, idea.

In 1997, a majority of a Clinton administration task force on Social Security endorsed the concept.

In the last Congress, two comprehensive Social Security reform proposals, one introduced by Senator MOYNIHAN, the ranking Democrat on the Finance Committee; the other by Senators GREGG and BREAUX, had as a central element personal retirement accounts.

Mr. President, let me explain why retirement accounts find so much support—not only in Congress but among the American people. With even conservative investment, such accounts have the potential to provide Americans with a substantial retirement nest egg. And an estate that can be left to children and grandchildren.

Creating these accounts would also give the majority of Americans who do not own any investment assets a new stake in America's economic growth—because that growth will be returned directly to their benefit. More Americans will be the owners of capital—not just workers.

Creating these accounts may encourage Americans to save more. Today, Americans save less than people in almost every other industrial country. But personal retirement accounts will demonstrate to all Americans the magic of compound interest as even small savings grow significantly over time.

Lastly, creating these accounts will help Americans to better prepare for retirement. According to the Congressional Research Service, 60 percent of Americans are not actively participating in a retirement program other than Social Security. A recent survey found that only about 45 percent of working Americans have tried to calculate how much they will need for retirement. It is my belief that retirement accounts will prompt Americans—particularly Baby Boomers—to think more about retirement planning.

Mr. President, let me describe a few of the features of my bill. First, the program would run for 5 years, from 2000 to 2004, utilizing half the budget surplus projected by the Congressional Budget Office.

Each year, working Americans who earned a minimum of four quarters of Social Security coverage—$3,000 in 2000—would receive a deposit in his or her account. About 128 million Americans would receive a deposit in 2000.

The formula for sharing the surplus among the accounts is progressive. Each eligible individual would receive a minimum amount of $250 per year, plus an additional amount based on how much they paid in payroll taxes.

Over the life of the program, a minimum wage earner—someone earning $12,400 this year—would receive about $1,850. That amount is equal to a 35-percent rebate of his or her payroll taxes.

An average wage earner—earning $27,600—would receive about $2,590—equal to a 22-percent rebate of payroll taxes. And an individual who paid the maximum Social Security tax would get $4,560, a 16-percent rebate of payroll taxes. These figures do not include any investment income—or deductions for the costs of running the program.

Account holders would have three investment choices—prudent choices that balance risk and return. The three choices are a "stock index fund"—a mutual fund that reflects the overall performance of the stock market; a fund that invests in corporate bonds and other "fixed income" securities; and a fund that invests in U.S. Treasury bonds.

However, my legislation also provides for a study of additional investment options—of other types of investment funds and investment managers.

An account holder would become eligible for benefits when he or she signs up for Social Security. An individual could choose between an annuity or annual payments based on life expectancy.

The bill also provides a number of features to ensure the program is properly run. First, the program would be neither "on" budget nor "off" budget—instead, the program would be outside the Federal budget. The money in the program could be used for no other purpose than retirement benefits and the program's operating expenses.

Second, the program would be supervised by a new, independent Personal Retirement Board, with members appointed by the President and Congressional leaders and subject to Senate confirmation. Board officials would be fiduciaries, and required by law to act only in the best financial interests of beneficiaries.

Lastly, the stock funds would be managed by private sector investment managers. To insulate companies represented in the stock funds from politics, no Board official or other government employee and would be eligible to vote company proxies—only the investment managers.

Mr. President, the design of this personal retirement accounts plan follows a proven model—the Federal Thrift Savings Plan. Back in 1983, when I was Chairman of the Governmental Affairs Committee, the retirement program for Federal employees needed to be revamped. One of the new elements we added was the Federal Thrift Savings Plan—a defined contribution employee benefit plan—that has been a great success.

Many Americans will undoubtedly ask, "What size nest egg might grow in my personal account?" According to an analysis done by Social Security's actuaries, someone earning the minimum wage would have an account worth about $2,145 in 2004, assuming a 7.5 percent interest rate. For the average wage earner, the account would be worth about $2,990, and for the individual paying the maximum Social Security tax, about $5,250.

Of course, over the long-term, accounts can grow significantly. For the minimum wage earner after 40 years—in 2039, his or her account would be worth about $27,000. The average wage earner would have $38,000; and the person paying the maximum payroll tax, $66,000.

Mr. President, some might ask, "Why start with personal retirement accounts, rather than comprehensive Social Security reform?" Indeed, my bill will not affect the current Social Security program. Personal retirement accounts are an exciting concept, but still a big job, requiring careful work by the Finance Committee.

Personal retirement accounts also enjoy broad support, unlike many other Social Security reform proposals. So let's get these accounts up and running, proven and tested, while Congress considers carefully protecting and preserving Social Security for the long term.

Mr. President, in closing, let me add that personal retirement accounts have another big promise. Such accounts—if later made a part of Social Security or even as a permanent supplemental program—may help restore the confidence of the American people in this important national program. Polls show that Social Security is among the most popular government programs, deservedly so. But many Americans—particularly young Americans—seem to have lost confidence in Social Security. They believe that there will be no benefits for them when they retire. Personal retirement accounts will provide the accountability and assurances that Americans are asking for.

I encourage my colleagues to take a careful look at my bill, and I invite members to co-sponsor it.

By Mr. AKAKA:

S. 264. A bill to increase the Federal medical assistance percentage for Hawaii to 59.8 percent; to the Committee on Finance.

HAWAII FEDERAL MEDICAL ASSISTANCE PERCENTAGE ADJUSTMENT ACT

Mr. AKAKA. Mr. President, I rise today to reintroduce legislation I authored during the 105th Congress that would adjust the Federal Medical Assistance Percentage (FMAP) rate for Hawaii to reflect more fairly the state's ability to bear its share of Medicaid payments.

The federal share of Medicaid payments varies depending on each state's ability to pay—wealthier states bear a larger share of the cost of the program, and thus have lower FMAP rates. Per capita income is used as the measure of state wealth. Because per capita income in Hawaii is quite high, the state's FMAP rate is at the lowest level—50 percent. Hawaii is one of only a dozen states whose FMAP rate is at the 50 percent level. My bill would increase Hawaii's FMAP rate from 50 percent to 59.8 percent.

Because of our geographic location and other factors, the cost of living in Hawaii greatly exceeds the cost of living on the mainland. Per capita income is a poor measure of a state's ability to bear the cost of Medicaid services. An excellent analysis of this issue appears in the 21st edition of The Federal Budget and the States, a joint study conducted by the Taubman Center for State and Local Government at Harvard University's John F. Kennedy School of Government and the office of U.S. Senator DANIEL PATRICK MOYNIHAN. According to the study, if per capita income is measured in real terms, Hawaii ranks 47th at $19,755 compared to the national average of

$24,231. This sheds a totally different light on the state's financial status.

The cost of living in Honolulu is 83 percent higher than the average of the metropolitan areas tracked by the U.S. Census Bureau, based on 1995 data. Recent studies have shown that for the state as a whole, the cost of living is more than one-third higher than the rest of the U.S. In fact, Hawaii's Cost of Living Index ranks it as the highest in the country. Some government programs take the high cost of living in Hawaii into account and funding is adjusted accordingly. These include Medicare prospective payment rates, food stamp allocations, school lunch programs, housing insurance limits, and military living expenses.

These examples reflect the recognition that the higher cost of living in noncontiguous states should be taken into account in fashioning government policies. It is time for similar recognition of this factor in gauging Hawaii's ability to support its health care programs. My colleagues may recall that the Balanced Budget Act of 1997 included a provision increasing Alaska's FMAP rate to 59.8 percent. Setting a higher match rate would still leave Hawaii with a lower FMAP rate than a majority of the states, but would more accurately reflect Hawaii's ability to pay its fair share of the costs of the Medicaid program.

Despite the high cost of living, the Harvard-Moynihan study finds that Hawaii also has one of the highest poverty rates in the nation. The State's 16.9 percent poverty rate is eighth in the country, compared to the national average of 14.7 percent. These higher costs are reflected in state government expenditures and state taxation. Thus, on a per capita basis, state revenue and expenditures are far higher in Hawaii and Alaska, than in the 48 mainland states. The higher expenditure levels are necessary to assure an adequate level of public services which are more costly to provide in these states.

Of the top ten states with the highest poverty rates in the country, the Harvard-Moynihan study finds that only three others have an FMAP rate between 50–60 percent. The other six states have FMAP rates of 65 percent and higher. Even more astonishing is that of the top ten states with the lowest real per capita income, only Hawaii has a 50 percent FMAP rate.

To bring equity to this situation, Hawaii has sought an increase in its FMAP rate over the past several years. Just as we did for Alaska in 1997, Hawaii deserves equitable treatment. This change is long warranted. The same factors justifying an increase for Alaska apply to Hawaii. Recognition of this point was made by House and Senate conferees to the Balanced Budget Act. The conferees noted that poverty guidelines for Alaska and Hawaii are different than those for the rest of the nation, yet there is no variation from the national calculation in the FMAP. The conferees correctly noted that comparable adjustments are generally made for Alaska and Hawaii.

The case for an FMAP increase is especially compelling in Hawaii, which has a proud history of providing essential health services in an innovative and cost-effective manner. That commitment is not easy to fulfill. Unlike most states, Hawaii's Aid to Families with Dependent Children/Temporary Assistance for Needy Families (AFDC/TANF) caseloads have risen significantly in recent years. Since TANF block grants are based on historical spending levels, the increased demand has placed extreme pressure on state resources.

Hawaii has sought to maintain a social safety net while striving for more efficient delivery of government services. The most striking example is the QUEST medical assistance program, which operates under a federal waiver. QUEST has brought managed care and broader coverage to the state's otherwise uninsured populations. At the same time, Hawaii is the only state whose employers guarantee health care coverage to every full-time employee, a further example of Hawaii's commitment to a strong social support system.

There is a particularly strong need for a more suitable FMAP rate for Hawaii at this time. The state has not participated in the robust economic growth that has benefitted most of the rest of the nation. Hawaii's unemployment rate is above the national average and state tax revenues have fallen short of projected estimates. The need to fund 50 percent of the cost of the Medicaid program puts an increasing strain on the state's resources.

For all of these reasons, the FMAP rates for Hawaii should be adjusted to reflect more equitably the state's ability to support the Medicaid program. This will assure that the special problem of the noncontiguous states is dealt with in a principled manner.

I urge my colleagues in the Senate to support an upward adjustment in Hawaii's Federal Medical Assistance Percentage.

Mr. President, in closing, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 264

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASED FMAP FOR HAWAII.

(a) INCREASED FMAP.—The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(1) by striking "and (3)" and inserting "(3)"; and

(2) by inserting before the period at the end the following: ", and (4) for purposes of this title and title XXI, the Federal medical assistance percentage for Hawaii shall be 59.8 percent".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to—

(1) items and services furnished on or after October 1, 1998, under—

(A) a State plan or under a waiver of such plan under title XIX; and

(B) a State child health plan under title XXI of such Act;

(2) payments made on a capitation or other risk-basis for coverage occurring under plans under such titles on or after such date; and

(3) payments attributable to DSH allotments for Hawaii determined under section 1923(f) of such Act (42 U.S.C. 1396r–4(f)) for fiscal years beginning with fiscal year 1999.

By Mrs. FEINSTEIN (for herself and Ms. SNOWE):

S. 265. A bill entitled "Hospital Length of Stay Act of 1999"; to the Committee on Finance.

HOSPITAL LENGTH OF STAY ACT OF 1999

Mrs. FEINSTEIN. Mr. President, today, Senator OLYMPIA SNOWE and I are introducing a bill to guarantee that the decision of how long a patient receives care in the hospital is left to the attending physician. Our legislation would require health insurance plans to cover the length of hospital stay for any procedure or illness as determined by the attending physician,' in consultation with the patient, to be medically appropriate.

The bill is endorsed by the American Medical Association, the American College of Surgeons, the American College of Obstetricians and Gynecologists, the American Academy of Neurology, and the American Psychological Association.

Only a physician taking care of the patient, who understands the patient's history, medical condition and needs, should make the decision as to how much hospital care a person needs. Physicians are trained to evaluate all the unique needs and problems of each individual patient. Every patient's condition varies and the course of their illness also varies. Some patients are fragile or weak. Others do not respond well to general anesthesia. Complications arise. Each patient is a unique individual with varying degrees of health.

The American Medical Association, concerned that pre-determined length of stay criteria are "moving away from scientific, patient-focused principles of care," resulting in "quicker and sicker" discharges and poor patient outcomes, has developed patient-based discharge criteria. These criteria include considerations such as the patient's physiological, psychological, social and functional needs. The AMA criteria say: "Patients should not be discharged from the hospital when their disease or symptoms cannot be adequately treated or monitored in the discharge setting."

Lengths of stay should not be determined by insurance company clerks, actuaries or non-medical personnel. It is the attending physician, not a physician or other representative of an insurance company, that should decide when to admit and discharge someone.

A number of physicians and other health care providers have expressed to me their great frustration with the current health care climate, in which they feel they spend too much of their time trying to justify their decisions on medical necessity to insurance companies.

For example, Donna Damico, a nurse in a Maryland psychiatric unit of a hospital, told National Public Radio on October 1, 1997: "I spend my days watching the care on my unit be directed by faceless people from insurance companies on the other end of the phone. My hospital employs a full-time nurse whose entire job is to talk to insurance reviewers * * * The reviewer's background can range anywhere from high school graduate to nurse, social worker or even actual physicians."

In 1996, we addressed the problem of "drive-through" baby deliveries because insurance plans would only pay for one day of hospital car for childbirth. This was fraught with problems like jaundiced babies that had to be rehospitalized and mothers who developed problems which only worsened because they were sent home despite physicians' view that a mother's and baby's stability are not usually reached until the third post-partum day.

We have also been told of so-called "drive-through" mastectomies. Some HMO's have made mastectomy an outpatient procedure. Women who have had a radical mastectomy at 7:30 a.m. have been out on the street at 4:30 that afternoon, dizzy and weak, unable to cope with drainage tubes and disfigurement. Senator SNOWE and I are introducing a separate bill to address this.

A California pediatrician told me of a child with very bad asthma. The insurance plan authorized 3 days in the hospital; the doctor wanted 4–5 days. He told us about a baby with infant botulism (poisoning), a baby with a toxin that had spread from the intestine to the nervous system so that the child could not breathe. The doctor thought a 10–14 day hospital stay was medically necessary for the baby; the insurance plan insisted on one week.

A California neurologist told us about a seven-year-old girl with an ear infection who went to the doctor feverish. When her illness developed into pneumonia, she was admitted to the hospital. After two days she was sent home, but she then returned to the hospital three times because her insurance plan only covered a certain number of days. The third time she returned she had meningitis, which can be life threatening. The doctor said that if this girl had stayed in the hospital the first time for five to seven days, the antibiotics would have killed the infection, and the meningitis would never have developed.

A 27-year-old man from central California had a heart transplant and was forced out of the hospital after 4 days because his HMO would not pay for more days. He died.

Nurses in St. Luke's Hospital, San Francisco, say that women are being sent home after only two nights after a hysterectomy and two nights for a Caesarean section delivery, both of which are major abdominal surgeries, even though physicians think the women are not ready to go home.

Lisa Breakey, a San Jose speech pathologist, came to my office and told us that she is providing home health for stroke patients she used to see in the hospital. She sees patients in their homes who have tubes in their stomach for feeding and tracheotomy tubes in their throats for breathing. These trach tubes have an inflated balloon or cuff which a family member must deflate and inflate by using a needle. Family members are supposed to suction the patient's mouth and throat before they deflate the cuff. Families, she stressed, are providing intensive care, for which they are unprepared and untrained. Bedrooms have become hospital rooms.

Another California physician told us about a patient who needed total hip replacement because her hip had failed. The doctor believed a seven-day stay was warranted; the plan would only authorize five.

Representative GREG GANSKE, a physician serving in the House, told the story of a six-year-old child who nearly drowned. The child was put on a ventilator and it appeared that he would not live. The hospital got a call from the insurance company, asking if the doctor had considered sending the boy home because home ventilation is cheaper.

These cases can be summarized in the comments of a Chico, California, maternity ward nurse: "People's treatment depends on the type of insurance they have rather than what's best for them."

As I have mentioned, premature discharges can increase readmissions and medical complications.

On March 23, 1998, American Medical News (according to Dr. David Phillips) reported that the "shift toward outpatient treatment actually has come at quite a high price * * * an increased loss of lives." This University of California study found that medication errors are 3 times higher among outpatients than inpatients and medical personnel in outpatient care provide limited oversight of medications' side effects.

Ms. Damico, the nurse interviewed on NPR, said, "Patients return to us in acute states because their insurance will no longer pay the same amount for their outpatient treatment * * * [They] deteriorate to the point of suicidal thoughts or attempts and need to return to the hospital." She cited the example of a suicidal woman whose plan denied a hospital admission requested by her physician. After the doctor told her of the denial, she took twenty 50-milligram tabs of Benadryl, was then admitted, and the plan then had to pay for hospital care, an ambulance and emergency room fees.

So not only do premature discharges compromise health, they also ultimately cost the insurer more.

Physicians say they have to fight almost daily with insurance companies to give patients the hospital care they need and to justify their decisions about patient care.

An American Medical Association review of a managed care contract (Aetna US Healthcare) found that the contract gives "the company the unilateral authority to change material terms of the contract and to make determinations of medical necessity * * * without regard to physician determinations or scientific or clinical protocols. * * *," according to the January 19, 1998 American Medical News.

A study by the American Academy of Neurology found that the guidelines (Milliman and Robertson) used by many insurance companies on length of stay are "extraordinarily short in comparison to a large National Library of Medicine database * * * And that [the guidelines] do not relate to anything resembling the average hospital patient or attending physician * * *." The neurologists found that these guidelines were "statistically developed," and not scientifically sound or clinically relevant.

A study in the April 1997 Bulletin of the American College of Surgeons found that surgeons stated that the appropriate length of stay for an appendectomy is zero to five days, while insurance industry guidelines set a specific coverage limit of one day.

The arbitrary limits set by HMO's and insurance plans are resulting in unintended consequences. Some 7 in 10 physicians said that in dealing with managed care plans, they have exaggerated the severity of a patient's condition to "prevent him or her from being sent home from a hospital prematurely." Dr. David Schriger, at UCLA Medical Center in Los Angeles, said that he routinely has patients such as a frail, elderly woman with the flu, who is not in imminent danger but could encounter serious problems if she is sent home during the night. He told the Washington Post, "At this point I have to figure out a way to put her in the hospital. . . . And typically, I'll come up with a reason acceptable to the insurer," and orders a blood test and chest x ray to justify admission.

The Post article also cited Kaiser Permanente's Texas division, which "warned doctors in urgent care centers not to tell patients they required hospitalization," as one Kaiser administrator recalled. "We basically said [to] the UCC doctors, 'If you value your job, you won't say anything about hospitalization. All you'll say is, I think you need further evaluation. . . .' "

Ms. Damico, the psychiatric nurse interviewed on NPR said, "Our utilization review nurse gives all of us, including the doctors, good advice on how to chart so that our patients' care will be covered. . . . We all conspire quietly to make certain the charts look and sound bad enough."

On August 2, 1998, calling it the "brave new world of managed care," the San Jose Mercury News reported, "to cut costs HMOs are shifting the burden of caring for the sick from their staff and provider networks to patients themselves and their often ill-prepared family members," by reducing hospital stays. "Patients who used to be in the hospital for a week after a hip replacement now stay only three days; patients who had coronary artery bypass graft surgery are pushed out after four or five. Doctors are routinely performing operations in outpatient surgery centers, clinics or their offices, which were once done in the hospital." This article cited, as examples, mastectomies, knee surgery, parts of bone marrow transplants, and cancer chemotherapies.

The American College of Surgeons said it all when this prestigious organization wrote: "We believe very strongly that any health care system or plan that removes the surgeon and the patient from the medical decision-making process only undermines the quality of that patient's care and his or her health and well-being. . . . specific, single numbers [of days] cannot and should not be used to represent a length of stay for a given procedure." (April 24, 1997) ACS on March 5 wrote, "We believe very strongly that any health care system or plan that removes the surgeon and the patient from the medical decision making process only undermines the quality of that patient's care and his or her health and well being."

The American Medical Association wrote on May 20, 1998, "We are gratified that this bill would promote the fundamental concept, which the AMA has always endorsed, that medical decisions should be made by patients and their physicians, rather than by insurers or legislators. . . . We appreciate your initiative and ongoing efforts to protect patients by ensuring that physicians may identify medically appropriate lengths of stay, unfettered by third party payers."

The American Psychological Association, on March 4, 1998 wrote me, "We are pleased to support this legislation, which will require all health plans to follow the best judgment of the patient and attending provider when determining length of stay for inpatient treatment."

New treatments, particularly less invasive treatments, have shortened many hospital stays, but so also has pressure from insurers. Business and Health magazine reported in "The State of Health Care in America 1998" that "HMOs and capitated point-of-service plans" were associated with the lowest inpatient stays. Other studies reveal that in areas with high HMO competition, health care utilization is lower for the entire population." This study shows that for patients with traditional fee-for-service insurance, the average length of stay in 1995 was 4.9 days. For HMOs, it was 4.2 days. California Health Care Association data show that in my state, the average length of stay has declined from 5.70 days in 1986 to 4.45 in 1995. A study in the spring 1996 issue of Health Affairs concluded that the number of inpatient days per thousand residents is lower and has declined faster in California than the national average. The average length of stay in California in 1996 was 5.3 days, while nationally it was 6.4 days. For example, a woman getting a mastectomy in New York will stay in the hospital an average of 5.78 days, but a mastectomy patient in California is likely to stay 2.98 days. (Inquiry, winter 1997–1998).

Americans are disenchanted with the health insurance system in this country, as HMO hassles mount and physicians get effectively overruled by insurance companies. Arbitrary insurance company rules cannot address the subtleties of medical care. Three out of every four Americans are worried about their health care coverage and half say they are worried that doctors are basing treatment decisions strictly on what insurance plans will pay for.

This bill is one step toward returning medical decision-making to those medical professionals trained to make medical decisions.

SUMMARY OF THE HOSPITAL LENGTH OF STAY ACT OF 1998

Requires plans to cover hospital lengths of stay for all illnesses and conditions as determined by the physician, in consultation with the patient, to be medically appropriate.

Prohibits plans from requiring providers (physicians) to obtain a plan's prior authorization for a hospital length of stay.

Prohibits plans from denying eligibility or renewal for the purpose of avoiding these requirements.

Prohibits plans from penalizing or otherwise reducing or limiting reimbursement of the attending physician because the physician provided care in accordance with the requirements of the bill.

Prohibits plans from providing monetary or other incentives to induce a physician to provide care inconsistent with these requirements.

Includes language clarifying that—

Nothing in the bill requires individuals to stay in the hospital for a fixed period of time for any procedure;

Plans may require copayments but copayments for a hospital stay determined by the physician cannot exceed copayments for any preceding portion of the stay.

Does not pre-empt state laws that provide greater protection.

Applies to private insurance plans, Medicare, Medicaid, Medigap, federal employees' plans, Children's Health Insurance Plan, the Indian Health Service

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hospital Length of Stay Act of 1999".

SEC. 2. COVERAGE OF HOSPITAL LENGTH OF STAY.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(A) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following new section:

"SEC. 2707. STANDARDS RELATING TO COVERAGE OF HOSPITAL LENGTHS OF STAY.

"(a) REQUIREMENT.—A group health plan and a health insurance issuer offering group health insurance coverage in connection with a group health plan (including a self-insured issuer) that provides coverage for inpatient hospital services—

"(1) shall provide coverage for the length of an inpatient hospital stay as determined by the attending physician (or other attending health care provider to the extent permitted under State law) in consultation with the patient to be medically appropriate; and

"(2) may not require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under paragraph (1).

"(b) PROHIBITIONS.—A group health plan and a health insurance issuer offering group health insurance coverage in connection with a group health plan (including a self-insured issuer) may not—

"(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

"(2) provide monetary payments or rebates to an individual to encourage the individual to accept less than the minimum protections available under this section;

"(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

"(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

"(5) subject to subsection (c)(4), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

“(c) Rules of Construction.—

“(1) No requirement to stay.—Nothing in this section shall be construed to require an individual who is a participant or beneficiary to stay in the hospital for a fixed period of time for any procedure.

“(2) No effect on requirements for minimum hospital stay following birth.—Nothing in this section shall be construed as modifying the requirements of section 2704.

“(3) Nonapplicability.—This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer (including a self-insured issuer), which does not provide benefits for hospital lengths of stay.

“(4) Cost-sharing.—Nothing in this section shall be construed as preventing a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan (including a self-insured issuer), from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay under the plan, health insurance coverage offered in connection with a group health plan, or the supplemental policy, except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

“(d) Notice.—A group health plan under this part shall comply with the notice requirement under section 714(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.

“(e) Level and Type of Reimbursements.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage in connection with a group health plan (including a self-insured issuer) from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

“(f) Preemption; Exception for Health Insurance Coverage in Certain States.—

“(1) In general.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1)) for a State that regulates such coverage and provides greater protections to patients than those provided under this section.

“(2) Construction.—Section 2723(a)(1) shall not be construed as superseding a State law described in paragraph (1).”.

(B) Conforming amendment.—Section 2723(c) of the Public Health Service Act (42 U.S.C. 300gg–23(c)) is amended by striking “section 2704” and inserting “sections 2704 and 2707”.

(2) ERISA amendments.—

(A) In general.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

“SEC. 714. STANDARDS RELATING TO COVERAGE OF HOSPITAL LENGTHS OF STAY.

“(a) Requirement.—A group health plan and a health insurance issuer offering group health insurance coverage in connection with a group health plan (including a self-insured issuer), that provides coverage for inpatient hospital services—

“(1) shall provide coverage for the length of an inpatient hospital stay as determined by the attending physician (or other attending health care provider to the extent permitted under State law) in consultation with the patient to be medically appropriate; and

“(2) may not require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under paragraph (1).

“(b) Prohibitions.—A group health plan and a health insurance issuer offering group health insurance coverage in connection with a group health plan (including a self-insured issuer), may not—

“(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

“(2) provide monetary payments or rebates to an individual to encourage the individual to accept less than the minimum protections available under this section;

“(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

“(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

“(5) subject to subsection (c)(4), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

“(c) Rules of Construction.—

“(1) No requirement to stay.—Nothing in this section shall be construed to require an individual who is a participant or beneficiary to stay in the hospital for a fixed period of time for any procedure.

“(2) No effect on requirements for minimum hospital stay following birth.—Nothing in this section shall be construed as modifying the requirements of section 711.

“(3) Nonapplicability.—This section shall not apply with respect to any group health plan or any group health insurance coverage offered by a health insurance issuer (including a self-insured issuer), which does not provide benefits for hospital lengths of stay.

“(4) Cost-sharing.—Nothing in this section shall be construed as preventing a group health plan or a health insurance issuer offering group health insurance coverage in connection with a group health plan (including a self-insured issuer), from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay under the plan or health insurance coverage offered in connection with a group health plan, except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

“(d) Notice under Group Health Plan.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan; except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.

“(e) Level and Type of Reimbursements.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage in connection with a group health plan (including a self-insured issuer), from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

“(f) Preemption; Exception for Health Insurance Coverage in Certain States.—

“(1) In general.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 731(d)(1)) for a State that regulates such coverage and provides greater protections to patients than those provided under this section.

“(2) Construction.—Section 731(a)(1) shall not be construed as superseding a State law described in paragraph (1).”.

(B) Conforming amendments.—

(i) Section 731(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191(c)) is amended by striking “section 711” and inserting “sections 711 and 714”.

(ii) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a)), as amended by section 603(b)(2) of Public Law 104–204, is amended by striking “section 711” and inserting “sections 711 and 714”.

(iii) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following new item:

“Sec. 714. Standards relating to coverage of hospital lengths of stay.”.

(b) Individual Market.—Subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) is amended by adding at the end the following new section:

“SEC. 2753. STANDARDS RELATING TO COVERAGE OF HOSPITAL LENGTHS OF STAY.

“The provisions of section 2707 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.”.

(c) Effective Dates.—

(1) Group health plans.—Subject to paragraph (3), the amendments made by subsection (a) shall apply with respect to group health plans for plan years beginning on or after January 1, 2000.

(2) Health insurance coverage.—The amendment made by subsection (b) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after such date.

(3) Collective bargaining agreements.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made subsection (a) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 2000.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by subsection (a) shall not be treated as a termination of such collective bargaining agreement.

SEC. 3. APPLICATION TO MEDICARE AND MEDICAID BENEFICIARIES.

(a) Medicare.—

(1) In general.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following:

"STANDARDS RELATING TO COVERAGE OF HOSPITAL LENGTHS OF STAY

"Sec. 1897. (a) Application to Medicare.—Notwithstanding the limitation on benefits described in section 1812, or any other limitation on benefits imposed under this title, the provisions of section 2707 of the Public Health Service Act shall apply to the provision of items and services under this title.

"(b) Medicare+Choice and Eligible Organizations.—The Secretary may not enter into a contract with a Medicare+Choice organization under part C, or with an eligible organization with a risk-sharing contract under section 1876, unless the organization meets the requirements of section 2707 of the Public Health Service Act with respect to individuals enrolled with the organization.".

(2) Medicare supplemental policies.—

(A) In general.—Section 1882(c) of the Social Security Act (42 U.S.C. 1395ss(c)) is amended—

(i) in paragraph (4), by striking "and" at the end;

(ii) in paragraph (5), by striking the period and inserting ", and"; and

(iii) by adding at the end the following:

"(6) meets the requirements of section 2707 of the Public Health Service Act with respect to individuals enrolled under the policy.".

(B) Conforming amendment.—Section 1882(b)(1)(B) of the Social Security Act (42 U.S.C. 1395ss(b)(1)(B)) is amended by striking "(5)" and inserting "(6)".

(3) Cost Sharing.—Nothing in this subsection or section 2707(c) of the Public Health Service Act shall be construed as authorizing the imposition of cost sharing with respect to the coverage or benefits required to be provided under the amendments to the Social Security Act made by paragraphs (1) and (2) that is inconsistent with the cost sharing that is otherwise permitted under title XVIII of the Social Security Act.

(b) Medicaid.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1935 as section 1936 and by inserting after section 1934 the following:

"STANDARDS RELATING TO COVERAGE OF HOSPITAL LENGTHS OF STAY

"Sec. 1935. (a) In General.—A State plan may not be approved under this title unless the plan requires each health insurance issuer or other entity with a contract with such plan to provide coverage or benefits to individuals eligible for medical assistance under the plan, including a managed care entity, as defined in section 1932(a)(1)(B), to comply with the provisions of section 2707 of the Public Health Service Act with respect to such coverage or benefits.

"(b) Cost Sharing.—Nothing in this section or section 2707(c) of the Public Health Service Act shall be construed as authorizing a health insurance issuer or entity to impose cost sharing with respect to the coverage or benefits required to be provided under section 2707 of the Public Health Service Act that is inconsistent with the cost sharing that is otherwise permitted under this title.

"(c) Waivers Prohibited.—The requirement of subsection (a) may not be waived under section 1115 or section 1915(b) of the Social Security Act.".

(c) Effective Date.—The amendments made by this section apply to contract years under titles XVIII and XIX of the Social Security Act beginning on or after January 1, 2000.

(d) Medigap Transition Provisions.—

(1) In general.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by subsection (a)(2), the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC standards.—If, within 9 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the "NAIC") modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as modified pursuant to section 171(m)(2) of the Social Security Act Amendments of 1994 (Public Law 103–432) and as modified pursuant to section 1882(d)(3)(A)(vi)(IV) of the Social Security Act, as added by section 271(a) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) Secretary standards.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate Regulation for the purposes of such section.

(4) Date specified.—

(A) In general.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) Additional legislative action required.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 2000 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 2000. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 4. APPLICATION TO OTHER HEALTH CARE COVERAGE.

(a) FEHBP.—Chapter 89 of title 5, United States Code, is amended by adding at the end the following:

"§ 8915. Standards relating to coverage of hospital lengths of stay

"(a) The provisions of section 2707 of the Public Health Service Act shall apply to the provision of items and services under this chapter.

"(b) Nothing in this section or section 2707(c) of the Public Health Service Act shall be construed as authorizing a health insurance issuer or entity to impose cost sharing with respect to the coverage or benefits required to be provided under section 2707 of the Public Health Service Act that is inconsistent with the cost sharing that is otherwise permitted under this chapter.".

(b) Medical Care For Members and Certain Former Members of the Uniformed Services and Their Dependents.—Chapter 55 of title 10, United States Code, is amended by adding at the end the following:

"§ 1110. Standards relating to coverage of hospital lengths of stay

"(a) Application of Standards.—The provisions of section 2707 of the Public Health Service Act shall apply to the provision of items and services under this chapter.

"(b) Cost-Sharing.—Nothing in this section or section 2707(c) of the Public Health Service Act shall be construed as authorizing the imposition of cost sharing with respect to the coverage or benefits required to be provided under section 2707 of the Public Health Service Act that is inconsistent with the cost sharing that is otherwise permitted under this chapter.".

(c) Veterans.—Subchapter II of chapter 17 of title 38, United States Code, is amended by adding at the end the following:

"§ 1720E. Standards relating to coverage of hospital lengths of stay

"(a) The provisions of section 2707 of the Public Health Service Act shall apply to the provision of items and services under this chapter.

"(b) Nothing in this section or section 2707(c) of the Public Health Service Act shall be construed as authorizing the imposition of cost sharing with respect to the coverage or benefits required to be provided under section 2706 of the Public Health Service Act that is inconsistent with the cost sharing that is otherwise permitted under this chapter.".

(d) State Children's Health Insurance Program.—Section 2109 of the Social Security Act (42 U.S.C. 1397ii) is amended by adding at the end the following:

"(b) Application of Standards Relating to Coverage of Hospital Lengths of Stay.—

"(1) In general.—The provisions of section 2707 of the Public Health Service Act shall apply to the provision of items and services under this title.

"(2) Cost-sharing.—Nothing in this section or section 2707(c) of the Public Health Service Act shall be construed as authorizing a health insurance issuer or entity to impose cost sharing with respect to the coverage or benefits required to be provided under section 2707 of the Public Health Service Act that is inconsistent with the cost sharing that is otherwise permitted under this title.".

(e) Indian Health Service and Health Care Provided by Tribal Organizations.—Title VIII of the Indian Health Care Improvement Act (25 U.S.C. 1671 et seq.) is amended by adding at the end the following:

"STANDARDS RELATING TO COVERAGE OF HOSPITAL LENGTHS OF STAY

"Sec. 826. (a) The provisions of section 2707 of the Public Health Service Act shall apply to the provision of items and services under this Act by the Service or a tribal organization.

“(b) Nothing in this section or section 2707(c) of the Public Health Service Act shall be construed as authorizing the imposition of cost sharing with respect to the coverage or benefits required to be provided under section 2707 of the Public Health Service Act that is inconsistent with the cost sharing that is otherwise permitted under this Act.”.

(f) HEALTH CARE PROVIDED TO PEACE CORPS VOLUNTEERS.—Section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)) is amended by adding at the end the following: “The provisions of section 2707 of the Public Health Service Act shall apply to the provision of items and services under this section. Nothing in this section or section 2707(c) of the Public Health Service Act shall be construed as authorizing the imposition of cost sharing with respect to the coverage or benefits required to be provided under section 2707 of the Public Health Service Act that is inconsistent with the cost sharing that is otherwise permitted under this section.”.

By Mrs. FEINSTEIN:

S. 266. A bill to amend the Clean Air Act to permit the exclusive application of California State regulations regarding reformulated gasoline in certain areas within the State; to the Committee on Environment and Public Works.

S. 267. A bill to amend the Solid Waste Disposal Act to direct Administrator of Environmental Protection Agency to give highest priority to petroleum contaminants in drinking water in issuing corrective action orders under the response program for petroleum; to the Committee on Environment and Public Works.

S. 268. A bill to specify the effective date of and require an amendment to the final rule of the Environmental Protection Agency regulating exhaust emissions from new spark-ignition gasoline marine engines; to the Committee on Environment and Public Works.

ELIMINATE MTBE FROM CALIFORNIA'S DRINKING WATER

Mrs. FEINSTEIN. Mr. President, today I am introducing three bills to stop the contamination of California's drinking water by the gasoline additive MTBE.

First, I am introducing a bill to allow California to apply its own clean or reformulated gasoline rules as long as emissions reductions are equivalent or greater. California's rules are stricter than the federal rules and thus meet the air quality requirements of the federal Clean Air Act. This bill is the companion to H.R. 11 introduced by Representative BILBRAY on January 6, 1998.

MTBE or methyl tertiary butyl either is added to gasoline by some refiners in response to federal requirements that areas with the most serious air pollution problems use what is called “reformulated gasoline,” a type of cleaner-burning gasoline. The federal law requires that this gasoline contain 2 percent by weight oxygenate. MTBE has been the oxygenate of choice by some refiners.

The major source of MTBE in groundwater appears to be leaking underground storage tanks. In surface water, it is recreational gasoline-powered boating and personal watercraft, according to the California Environmental Protection Agency.

The second bill requires the U.S. Environmental Protection Agency to make petroleum releases into drinking water the highest priority in the federal underground storage tank cleanup program. This bill is needed because underground storage tanks are the major source of MTBE into drinking water and federal law does not give EPA specific guidance on cleanup priorities.

The third bill will move from 2006 to 2001 full implementation of EPA's current watercraft engine exhaust emissions requirements. The California Air Resources Board on December 10, 1998, adopted watercraft engine regulations in effect making the federal EPA rules effective in 2001, so this bill will make the deadline in the federal requirements consistent with California's deadlines. In addition, the bill will require an emissions label on these engines consistent with California's requirements so the consumer can make an informed purchasing choice. This bill is needed because watercraft engines have remained essentially unchanged since the 1930s and up to 30 percent of the gas that goes into the motor goes into water unburned.

These three bills represent three steps toward getting MTBE out of California's drinking water.

BILL 1: THE CALIFORNIA CLEAN GAS FORMULA

The Feinstein-Bilbray bill would provide that if a state's reformulated gasoline rules achieve equal or greater emissions reductions than federal regulations, a state's rules will take precedence. The bill would apply only to states which have received waivers under Section 209(b)(1) of the Clean Air Act. California is the only state currently eligible for this waiver, a waiver allowing California to set its own fuel standards. The other 49 states do not set their own fuel specifications.

This bill would exempt California from overlapping federal oxygenate requirements and give gasoline manufacturers the flexibility to reduce or even eliminate the use of MTBE, while not reducing our air quality.

In 1994, the CARB adopted a “predictive model,” which is a performance based program that allows refiners to use innovative fuel formulations to meet clean air requirements. The predictive model provides twice the clean air benefits required by the federal government. With this model, refiners can make cleaner burning gasoline with one percent oxygen or even no oxygen at all. The federal two percent oxygenate requirement limits this kind of innovation. In fact, Tosco and Shell are already making MTBE-free gasoline.

In addition, Chevron has said:

> MTBE is the best oxygenate of choice for blending CBG (clean burning gasoline) in California refineries. . . . However, consistent with our desire to reduce or eliminate MTBE from cleaner burning gas (CBG), we want the flexibility to be able to make prudent use of any oxygenate—MTBE, ethanol, or the use of no oxygenate—while meeting the emissions performance standards of reformulated gasolines. If the government allows this flexibility, Chevron would likely use more ethanol than now to efficiently provide cleaning burning gasoline.

The legislation allows that companies who serve California's gasoline needs to continue to adopt innovative formulas for cleaner burning gasoline without contaminating the water.

The University of California study, released in November, recommended phasing our MTBE and concluded that oil companies can make cleaner-burning gasoline that meets federal air standards without MTBE.

THE PROBLEM: DRINKING WATER CONTAMINATION

Contamination of California's drinking water by MTBE is growing almost daily. A December 14, 1998 San Francisco Chronicle headline calls MTBE a “Ticking Bomb.” The University of California study says, “If MTBE continues to be used at current levels and more sources become contaminated, the potential for regional degradation of water resources, especially groundwater basins, will increase. Severity of water shortages during drought years will be exacerbated.”

In higher concentrations, MTBE smells like turpentine and it tastes like paint thinner. Relatively low levels of MTBE can simply make drinking water simply undrinkable.

MTBE is a highly soluble organic compound which moves quickly through soil and gravel. It therefore poses a more rapid threat to water supplies than other constituents of gasoline when leaks occur. MTBE is easily traced, but is very difficult and expensive to cleanup. The Association of California Water Agencies estimates that it would cost as much as $1 million per well to install treatment technology to remove MTBE from drinking water. Without these funds, the only option is to shut down wells.

MTBE use has escalated from 12,000 barrels a day in 1980 to about 100,000 barrels today, according to CARB. EPA says that about 30 percent of the nation's gasoline is reformulated gas and MTBE is used in about 84 percent of reformulated gasoline. Two-thirds of California's gasoline is subject to the federal oxygenate requirement. This growth in use of MTBE is directly attributable to the requirements of the Federal Clean Air Act.

CONTAMINATION WIDESPREAD

A June 12, 1998 Lawrence Livermore National Laboratory study concluded that MTBE is a "frequent and widespread contaminant" in groundwater throughout California and does not degrade significantly once it is there. This study found that groundwater has been contaminated at over 10,000 shallow monitoring sites. The Livermore study says that "MTBE has the potential to impact regional groundwater resources and may present a cumulative contamination hazard."

Californians are more dependent on groundwater as a source of drinking water than most Americans. According to the U.S. Geological Survey, 69 percent of California's population relies on groundwater as their source of drinking water, while for the U.S. population at large, 53 percent of the population relies on groundwater.

Similarly, the Association of California Water Agencies reports that MTBE has impacted over 10,000 sites.

MTBE has been detected in drinking water supplies in a number of cities, including Santa Monica, Riverside, Anaheim, Los Angeles, San Francisco, Sebastopol, Manteca, and San Diego. MTBE has also been detected in numerous California reservoirs, including Lake Shasta in Redding, San Pablo and Cherry reservoirs in the Bay Area, and Coyote and Anderson reservoirs in Santa Clara.

Santa Monica lost 75 percent of its groundwater supply; the South Lake Tahoe Public Utility District has lost over one-third of drinking water wells. Drinking water wells in Santa Clara Valley (Great Oaks Water Company) and Sacramento (Fruitridge Vista Water Company) have been shut down because of MTBE contamination.

In addition, MTBE has been detected in the following surface water reservoirs: Lake Perris (Metropolitan Water District of Southern California), Anderson Reservoir (Santa Clara Valley Water District), Canyon Lake (Elsinore Valley Municipal Water District), Pardee Reservoir and San Pablo Reservoir (East Bay Municipal Utility District), Lake Berryessa (Solano County Water Agency).

The largest contamination occurred in the city of Santa Monica, which lost 75% of its groundwater supply as a result of MTBE leaking out of shallow gas tanks beneath the surface; MTBE has been discovered in publicly owned wells approximately 100 feet from City Council Chamber in South Lake Tahoe; In Glennvile, California, near Bakersfield, MTBE levels have been detected in groundwater as high as 190,000 parts per billion—dramatically exceeding the California Department of Health advisory of 35 parts per billion; and

DANGERS OF MTBE

The United States EPA has indicated that "MTBE is an animal carcinogen and has a human carcinogenic hazard potential."

Studies to assess hazards to animals have found that MTBE is carcinogenic in rodents in high doses. MTBE has been linked to leukemia and lymphomas in female rats and an increase in benign testicular tumors in male rats. Studies of inhalation exposure in rats have also shown increased incidence of kidney, testicular, and liver tumors. Inhalation exposure has also resulted in adverse effect on developing mouse fetuses.

The Alaska Department of Health and Social Services and the Centers for Disease Control monitored concentrations of MTBE in the air and in the blood of humans in 1992 and 1993. Blood levels of MTBE were analyzed in gasoline station and car-repair workers and commuters. People with higher blood levels of MTBE were significantly more likely to report more headaches, eye irritation, nausea, dizziness, burning of the nose and throat, coughing, disorientation and vomiting, compared with those who had lower blood levels. From these studies, EPA concluded, "MTBE can pose a hazard of non-cancer effects to humans at high doses. The data do not support confident quantitative estimations or risk at low exposure."

CALIFORNIA'S REGULATIONS CAN ACHIEVE WHAT FEDERAL LAW INTENDS

The federal gasoline oxygenate requirement went into effect in December 1994, affecting areas where the air quality is the worst. Today, reformulated gasoline is required by federal law in the following areas of California:

Year-round: Oxygenates are required to be used in the South Coast Air Basin (the counties of Los Angeles, Riverside, San Bernadino, Orange, Ventura) and the Sacramento metropolitan area (which includes all of Sacramento County and portions of Yolo, Placer and Eldorado County).

Wintertime: Oxygenates are required to be added to gasoline in the Southern California Air Basin (the entire counties of Los Angeles, Riverside, San Bernardino, Orange, and Ventura), Imperial County, Fresno and Lake Tahoe.

While federal Clean Air Act regulations were being promulgated, the California Air Resources Board developed more stringent air standards, using a "predictive model."

The Clean Air Act has no doubt helped reduce emissions throughout the United States, but the federal requirements have imposed limitations on the level of flexibility that U.S. EPA can grant to California. The overlapping applicability of both the federal and state reformulated gasoline rules has actually prohibited gasoline manufacturers from responding as effectively as possible to unforseen problems with their product. This bill addresses exactly this type of situation.

This legislation rewards California for its unique and effective approach in solving its own air quality problems by permitting it an exemption from federal oxygenate requirements as long as tough environmental standards are enforced. This bill does not weaken the Clean Air Act, but instead is a step in the right direction, towards sound environmental policy. It is a narrowly-targeted bill designed to make our drinking water clean to drink. With this bill, California is once again taking the initiative to lead the way in ensuring the protection of the air we breath, and the water we drink.

By allowing the companies that supply our state's gasoline to use good science and sound environmental policy, we can achieve the goals set forth by the Clean Air Act, without sacrificing California's clean water.

CALIFORNIA, A LEADER IN AIR CLEANUP

California's efforts to improve air quality predate similar federal efforts and have achieved marked success in reducing emissions, resulting in the cleanest air Californians have seen in decades.

Since the introduction of California Cleaner Burning Gasoline program, there has been a 300 ton per day decrease in ozone forming ingredients found in the air. This is the emission reduction equivalent of taking 3.5 million automobiles off the road. California reformulated gasoline reduces smog forming emissions from vehicles by 15 percent.

The state has also seen a marked decrease in first stage smog alerts, during which residents with respiratory ailments are encouraged to stay indoors.

John Dunlap, former Chairman of California's Air Board, who supports this legislation, has said:

> . . . our program has proven (to have) a significant effect on California's air quality. Following the introduction of California's gasoline program in the spring of 1996, monitored levels of ozone . . . were reduced by 10 percent in Northern California, and by 18 percent in the Los Angeles area. Benzene levels (have decreased) by more than 50 percent.

THIS BILL SHOULD BE ENACTED

There are several reasons to enact this bill:

1. Studies confirm need to eliminate MTBE.

The June 11, 1998 Lawrence Livermore study found MTBE at 10,000 sites and said it is "a frequent and widespread contaminant in shallow groundwater throughout California."

A five-volume University of California November 12, 1998 study concluded that MTBE provides "no significant air quality benefit" and that if its use is continued, "the potential for regional degradation of water resources, especially groundwater, will increase." The landmark UC study recommended that MTBE use be phased out and that refiners be given the flexibility of the state's clean gas regulations.

2. MTBE is not needed. California can meet federal clean air standards by using our own state clean gas regulations.

The California Air Resources Board has testified that we can have equivalent or greater reductions in emissions and improve air quality using California's regulations. These standards are more stringent than the federal requirements, but offer gasoline refiners more flexibility.

3. MTBE in drinking water poses health risks.

MTBE is an animal carcinogen and a potential human carcinogen. It tastes bad. It smells bad. It may have other harmful human health effects.

4. The dangers of MTBE were not considered when Congress last amended the Clear Air Act in 1990.

According to the Congressional Research Service, during Congress's consideration of the Clean Air Act Amendments, which became law in 1990, there was no discussion of the possible adverse impacts of MTBE as a gasoline additive. Likewise, CARB has said that when they were considering our state's reformulated gasoline regulations, "the concern over the use of oxygenates was not raised as an issue."

5. California needs water.

California cannot afford to lose any more of its drinking water. According to the Association of California Water Agencies, by the year 2020, California will be 4 million to 6 million acre-feet short of water each year without additional facilities and water management strategies.

5. Congress has long recognized that California is a unique case.

California's efforts to improve air quality predate similar federal efforts. We have our own clean gas program and U.S. EPA has given the state a waiver under section 209(b)(1) of the Clean Air Act to develop our own program.

WIDESPREAD SUPPORT

I am appending at the end of my statement a list of California local governments, water districts, air districts, statewide and other organizations that support my MTBE bill.

BILL 2: STOPPING UNDERGROUND TANK LEAKS

My second bill will make threats to drinking water the highest priority in the federal underground tank cleanup program at EPA.

In 1986, Congress created a Leaking Underground Storage Tank (LUST) Trust Fund, funded by a one-tenth of one cent tax on all petroleum products. These funds are available to enforce cleanup requirements; to conduct cleanups where there is no financially viable responsible party or where a responsible party fails to correct; to take corrective action in emergencies; and to bring actions against parties who fail to comply. There is approximately $1.5 billion currently in the fund.

Under current law, section 9003(h)(3) of the Solid Waste Disposal Act, EPA is required to give priority in corrective actions to petroleum releases from tanks which pose "the greatest threat to human health and the environment," a provision that I support. My bill would add simple clarifying language that in essence says that threats to drinking water are the most serious threats and should receive priority attention.

Leaking underground gasoline storage tank systems are the major source of MTBE into drinking water. The June 11, 1998 Lawrence Livermore Laboratory study that examined 236 tanks in 24 California counties found MTBE at 78 percent of these sites. These scientists said that a minimum estimate of the number of MTBE-impacted tank sites in my state is over 10,000. Federal law requires tanks to have protections against spills, overfills, and tank corrosion by December 22, 1998. Tank owners have had ten years to do this. EPA has estimated that half the nation's 600,000 tanks and 52 percent of California's 61,000 complied by the December 22 deadline.

Clearly, stopping these leaks is a big part of the solution of stopping the release of MTBE. Making threats to drinking water a top cleanup priority makes sense since clean drinking water is fundamental to human health.

BILL 3: MOTORCRAFT ENGINES

My third bill addresses a third source of MTBE into drinking water—watercraft engines. The Association of California Water Agencies says that MTBE in surface water reservoirs comes largely from recreational watercraft.

In October 1996, U.S. EPA published regulations, starting in model year 1998, requiring stricter emissions controls on personal watercraft engines to be fully implemented by 2006. On December 10, 1998, the California Air Resources Board adopted regulations very similar to EPA's in substance, but accelerating their effective date to 2001, five years earlier. In addition, California added two more "tiers" of emissions reductions that go beyond U.S. EPA's, reducing emissions by 20 percent more in 2004 and 65 percent more in 2008. Under the federal requirements, there would be a complete fleet turnover by 2050; in California, there would be a complete fleet turnover in 2024, 26 years earlier.

The federal and the California rules apply to (1) spark-ignition outboard marine and (2) personal watercraft engines, such as motorboats, jet skis and wave runners, beginning in model year 2001.

Outboard engines: In 1990, there were 373,200 gasoline-powered outboard engines in California. California sales of outboard engines represented ten percent of the U.S. market in 1997.

Personal watercraft: California sales of these engines were 12 percent of the 176,000 sales in the U.S. in 1995, numbers which have no doubt grown significantly. Personal watercraft like jet skis have increased by 240 percent since 1990 and these numbers are expected to double by 2020.

We need to curb emissions from these marine engines because (1) unlike automobiles which exhaust into the air, all marine engines exhaust directly into the water, and (2) 20 to 30 percent of the gas that goes in, comes out unburned. According to CARB, these engines "discharge an unburned fuel/oil mixture at levels approaching 20 to 30 percent of the fuel/oil mixture consumed. This unregulated discharge of fuel and oil threatens degradation of high quality waters . . ." CARB says that two hours of exhaust emissions from a jet ski is equivalent to the emission created by driving a 1998 automobile 130,000 miles. Some areas are considering banning jet skis and gas-powered boats.

My bill does two things: (1) It would make the EPA's existing regulations effective in 2001, instead of 2006, consistent with California's regulations. (2) It would direct EPA to make one addition to their current regulation, an engine labeling requirement, consistent with California's labeling requirement, designed to inform consumers of the relative emissions level of new engines.

Because these engines put MTBE and other constituents of gasoline into surface waters, I believe we need to accelerate the national rules to discourage people from "engine shopping" from state to state and bringing "dirty" engines into California. Because my state's relatively mild weather encourages boating, our air board concluded that we need more stringent standards than the national standards. Up to 30 percent of gasoline in these engines comes out unburned. In other words, of 10 gallons per hour used, about two and one half gallons of fuel goes into the water unburned in one hour. This has to stop.

The November 1998 University of California study recognizes the emissions of MTBE into surface waters from watercraft and says that technologies are available that will "significantly reduce MTBE loading," that the older carbureted two-stroke engines release much larger amounts of MTBE and other gasoline constituents than the fuel-injected engines or the four-stroke engines.

Millions of Californians should not have to drink water contaminated with MTBE. I believe we must take strong steps to end this contamination.

ADDITIONAL COSPONSORS

S. 3

At the request of Mr. GRAMS, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 3, a bill to amend the Internal Revenue Code of 1986 to reduce individual income tax rates by 10 percent.

S. 11

At the request of Mr. ABRAHAM, the names of the Senator from Ohio (Mr. DEWINE), the Senator from North Carolina (Mr. HELMS), the Senator from Colorado (Mr. ALLARD), the Senator from Wisconsin (Mr. FEINGOLD), and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 11, a bill for the relief of Wei Jingsheng.

S. 35

At the request of Mr. GRASSLEY, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 35, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for the long-term care insurance costs of all individuals who are not eligible to participate in employer-subsidized long-term care health plans.

At the request of Mr. GRASSLEY, the name of the Senator from Louisiana (Mr. BREAUX) was withdrawn as a cosponsor of S. 35, supra.

S. 36

At the request of Mr. GRASSLEY, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 36, a bill to amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance may be obtained by Federal employees and annuitants.

S. 52

At the request of Mr. BOND, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 52, a bill to provide a direct check for education.

S. 59

At the request of Mr. THOMPSON, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 59, a bill to provide Government-wide accounting of regulatory costs and benefits, and for other purposes.

S. 96

At the request of Mr. MCCAIN, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 96, a bill to regulate commerce between and among the several States by providing for the orderly resolution of disputes arising out of computer-based problems related to processing data that includes a 2-digit expression of that year's date.

S. 101

At the request of Mr. LUGAR, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 101, a bill to promote trade in United States agricultural commodities, livestock, and value-added products, and to prepare for future bilateral and multilateral trade negotiations.

S. 113

At the request of Mr. SMITH, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 113, a bill to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes.

S. 135

At the request of Mr. DURBIN, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 135, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for the health insurance costs of self-employed individuals, and for other purposes.

S. 149

At the request of Mr. KOHL, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from California (Mrs. FEINSTEIN), the Senator from California (Mrs. BOXER), and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 149, a bill to amend chapter 44 of title 18, United States Code, to require the provision of a child safety lock in connection with the transfer of a handgun.

S. 172

At the request of Mr. MOYNIHAN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 172, a bill to reduce acid deposition under the Clean Air Act, and for other purposes.

S. 193

At the request of Mrs. BOXER, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 193, a bill to apply the same quality and safety standards to domestically manufactured handguns that are currently applied to imported handguns.

S. 213

At the request of Mr. MOYNIHAN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 213, a bill to amend the Internal Revenue Code of 1986 to repeal the limitation of the cover over of tax on distilled spirits, and for other purposes.

S. 215

At the request of Mr. MOYNIHAN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 215, a bill to amend title XXI of the Social Security Act to increase the allotments for territories under the State Children's Health Insurance Program.

S. 248

At the request of Mr. HATCH, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 248, a bill to modify the procedures of the Federal courts in certain matters, to reform prisoner litigation, and for other purposes.

SENATE JOINT RESOLUTION 3

At the request of Mr. KYL, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of Senate Joint Resolution 3, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE JOINT RESOLUTION 6

At the request of Mr. HOLLINGS, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

SENATE RESOLUTION 22

At the request of Mr. CAMPBELL, the names of the Senator from New Hampshire (Mr. GREGG) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of Senate Resolution 22, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives serving as law enforcement officers.

SENATE CONCURRENT RESOLUTION 2—RECOMMENDING THE INTEGRATION OF LITHUANIA, LATVIA, AND ESTONIA IN THE NORTH ATLANTIC TREATY ORGANIZATION (NATO)

Mr. DURBIN submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 2

Whereas the Baltic states of Lithuania, Latvia, and Estonia are undergoing an historic process of democratic and free market transformation after emerging from decades of brutal Soviet occupation;

Whereas each of the Baltic states has conducted peaceful transfers of political power—in Lithuania since 1990 and in Latvia and Estonia since 1991;

Whereas each of the Baltic states has been exemplary and consistent in its respect for human rights and civil liberties;

Whereas the governments of the Baltic states have made consistent progress toward establishing civilian control of their militaries through active participation in the Partnership for Peace program and North Atlantic Treaty Organization (NATO) peace support operations;

Whereas Lithuania is participating in the NATO-led multinational military force in the Republic of Bosnia and Herzegovina (commonly referred to as "SFOR") and is consistently increasing its defense budget allocations with the goal of allocating at least 2 percent of its GDP for defense by 2001;

Whereas each of the Baltic states has clearly demonstrated its ability to operate with the military forces of NATO nations and under NATO standards;

Whereas former Secretary of Defense Perry stipulated five generalized standards for entrance into NATO: support for democracy, including toleration of ethnic diversity and respect for human rights; building a free market economy; civilian control of the military; promotion of good neighborly relations; and development of military interoperability with NATO; and

Whereas each of the Baltic states has satisfied these standards for entrance into NATO: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) Lithuania, Latvia, and Estonia are to be commended for their progress toward political and economic liberty and meeting the guidelines for prospective members of the North Atlantic Treaty Organization (NATO) set out in chapter 5 of the September 1995 Study on NATO Enlargement;

(2) Lithuania, Latvia, and Estonia would make an outstanding contribution toward furthering the goals of NATO should they become members;

(3) extension of full NATO membership to the Baltic states would contribute to stability, freedom, and peace in the Baltic region and Europe as a whole; and

(4) with complete satisfaction of NATO guidelines and criteria for membership, Lithuania, Latvia, and Estonia should be invited to become full members of NATO.

Mr. DURBIN. Mr. President, this past Saturday, January 16th, marked the one-year anniversary of the signing of the Baltic Charter.

I attended that historic ceremony at the White House and our efforts that day were important not only to Lithuania, Latvia, and Estonia but to the U.S. as well. This is an issue dear to me; my mother came to this country from Lithuania in 1911 and I've visited this country and the Baltic region several times.

Now Mr. President, the Baltic Charter solidified the international relationship between the U.S. and the Baltic nations by defining the political, economic, and security relations between our countries. It affirmed a shared commitment to promoting harmonious and equitable relations among individuals belonging to diverse ethnic and religious groups. It also stressed the promotion of close cooperative relationships throughout the Baltic region, on such issues as economics, trade, the environment, and transnational problems like the bilateral relations between the Baltics and its neighboring states.

President Clinton welcomed the Baltic nations' efforts to improve relations with Russia. The four presidents involved discussed developments in Northeastern Europe, and President Clinton pledged more U.S. involvement in that region's development and cooperation with its neighbors.

The Baltic Charter does not commit the Baltic states to NATO membership. I believe these nations would be included in NATO, but they will have to meet the same criteria and standards expected of other states that wish to join NATO.

A year ago I noted that this charter would bring the U.S. and the Baltic nations closer than ever before. And, Mr. President, I'm happy to report that the United States has made good on its promise to these nations and I hope we'll do everything we can to strengthen these great new democracies and reaffirm their desire to become full members of the European Union and NATO.

For over 50 years, we have recognized the sovereignty of the republics of Lithuania, Latvia, and Estonia. These great nations are now at the threshold of realizing their important role in the peace and security of Eastern Europe. Therefore, I am proud to submit S. Con. Res. 2 and hope that all members will seize this opportunity to support the Baltic states and their endeavors to further democracy and peace in the region.

SENATE RESOLUTION 26—RELATING TO TAIWAN'S PARTICIPATION IN THE WORLD HEALTH ORGANIZATION

Mr. MURKOWSKI (for himself, Mr. TORRICELLI, Mr. HELMS, Mr. THOMAS, Mr. MACK and Mr. SMITH of Oregon) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 26

Whereas good health is a basic right for every citizen of the world and access to the highest standards of health information and services is necessary to help guarantee this right;

Whereas direct and unobstructed participation in international health cooperation forums and programs is therefore crucial, especially with today's greater potential for the cross-border spread of various infectious diseases such as AIDS and Hong Kong bird flu through increase trade and travel;

Whereas the World Health Organization (WHO) set forth in the first chapter of its charter the objective of attaining the highest possible level of health for all people;

Whereas in 1977 the World Health Organization established "Health for all by the year 2000" as its overriding priority and reaffirmed that central vision with the initiation of its "Health For All" renewal process in 1995;

Whereas Taiwan's population of 21,000,000 people is larger than that of ¾ of the member states already in the World Health Organization and shares the noble goals of the organization;

Whereas Taiwan's achievements in the field of health are substantial, including one of the highest life expectancy levels in Asia, maternal and infant mortality rates comparable to those of western countries, the eradication of such infectious diseases as cholera, smallpox, and the plague, the first Asian nation to be rid of polio, and the first country in the world to provide children with free hepatitis B vaccinations;

Whereas prior to 1972 and its loss of membership in the World Health Organization, Taiwan sent specialists to serve in other member countries on countless health projects and its health experts held key positions in the organization, all to the benefit of the entire Pacific region;

Whereas the World Health Organization was unable to assist Taiwan with an outbreak of enterovirus 71 which killed 70 Taiwanese children and infected more than 1,100 Taiwanese children in 1998;

Whereas Taiwan is not allowed to participate in any WHO-organized forums and workshops concerning the latest technologies in the diagnosis, monitoring, and control of diseases;

Whereas in recent years both the Republic of China on Taiwan's Government and individual Taiwanese experts have expressed a willingness to assist financially or technically in WHO-supported international aid and health activities, but have ultimately been unable to render such assistance;

Whereas the World Health Organization allows observers to participate in the activities of the organization;

Whereas the United States, in 1994 Taiwan Policy Review, declared its intention to support Taiwan's participation in appropriate international organizations; and

Whereas in light of all of the benefits that Taiwan's participation in the World Health Organization could bring to the state of health not only in Taiwan, but also regionally and globally: Now, therefore, be it

Resolved by the Senate, That it is the sense of the Senate that—

(1) Taiwan and its 21,000,000 people should have appropriate and meaningful participation in the World Health Organization;

(2) the Secretary of State should report to the Senate Foreign Relations Committee by April 1, 1999 on the efforts of the Secretary to fulfill the commitment made in the 1994 Taiwan Policy Review to more actively support Taiwan's membership in international organizations that accept non-states as members, and to look for ways to have Taiwan's voice heard in international organizations; and

(3) the Secretary of State shall report to the Senate Foreign Relations Committee by April 1, 1999 on what action the United States will take at the May 1999 World Health Organization meeting in Geneva to support Taiwan's meaningful participation.

SENATE RESOLUTION 27—EXPRESSING THE SENSE OF THE SENATE REGARDING THE HUMAN RIGHTS SITUATION IN THE PEOPLE'S REPUBLIC OF CHINA

Mr. WELLSTONE submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 27

Whereas the annual meeting of the United Nations Commission on Human Rights in Geneva, Switzerland, provides a forum for discussing human rights and expressing international support for improved human rights performance;

Whereas according to the United States Department of State and international human rights organizations, the Government of the People's Republic of China continues to commit widespread and well-documented human rights abuses, in violation of internationally-accepted norms, stemming from the authorities' intolerance of dissent, fear of unrest, and the absence or inadequacy of laws protecting basic freedoms;

Whereas China is bound by the Universal Declaration of the Human Rights and recently signed the International Covenant on Civil and Political Rights, but has yet to take the necessary steps to make the covenant legally binding;

Whereas the Administration decided not to sponsor a resolution criticizing China at the U.N. Human Rights Commission in 1998 in consideration of Chinese commitments to sign the International Covenant on Civil and Political Rights and based on a belief that progress on human rights in China could be achieved through other means;

Whereas the Chinese authorities have recently escalated efforts to extinguish expressions of protest or criticism, and detained scores of citizens associated with attempts to organize a legal democratic opposition, as well as religious leaders, writers, and others who petitioned the authorities to release those arbitrarily arrested; and

Whereas these recent crackdowns underscore that the Chinese government has not retreated from its longstanding pattern of human rights abuses, despite expectations from two summit meetings between President Clinton and President Jiang, in which assurances of improvements in China's human rights record were made: Now, therefore, be it

Resolved, That it is the sense of the Senate that at the 54th Session of the United Nations Human Rights Commission in Geneva, the United States should introduce and make all efforts necessary to pass a resolution criticizing the People's Republic of China for its human rights abuses in China and Tibet.

Mr. WELLSTONE. Mr. President, today, I am submitting legislation to urge the President to sponsor a resolution condemning China's human rights record at the next session of the U.N. Commission on Human Rights this March and to begin immediately contacting other governments to urge them to cosponsor such a resolution.

When President Clinton formally delinked trade and human rights in 1994, he pledged, on the record, that the U.S. would "step up its efforts, in cooperation with other states, to insist that the United Nations Human Rights Commission pass a resolution dealing with the serious human rights abuses in China." While the U.S. has claimed an intention at least to speak out on human rights, the substance of United States-China relations—trade, military contacts, high level summits—go forward while Chinese leaders continue to crackdown on every last dissident in a country of over one billion people.

The Chinese government continues to commit widespread abuses, and since the President's visit in June, has taken actions that flagrantly violate the commitments it has made to respect internationally recognized human rights. Recently, it sentenced three of China's most prominent pro-democracy advocates, Xu Wenli, Wang Youcai, and Chin Yougmin, to a combined prison term of thirty-five years. These disgraceful arrests were part of a crackdown by the government on efforts to form the country's first opposition political party. Further, a businessman in Shanghai, Lin Hai, is now being tried for providing E-mail addresses to a prodemocracy internet magazine in the United States. Another democracy activist, Zhang Shanguang, was convicted and sentenced to ten years in prison for giving Radio Free Asia information about protests by farmers in Hunan province. These events are occurring against a backdrop of growing repression, such as the adoption of strict new regulations on the formation of non-governmental political and social organizations, and the imposition of tough new regulations on film directors, computer software developers, artists and the press if they "endanger social order" or attempt to "overthrow state power".

The arrested dissidents and their courageous supporters deserve our full backing, and the Administration's, in their historic struggle to bring democracy to China. At the June summit in Beijing, President Clinton engaged in a spirited debate on human rights with President Jiang Zemin. In light of this brutal, recent crackdown, I urge the Administration to bring a resolution at Geneva in March and to register its continuing deep concern on two issues President Clinton raised with President Jiang at the summit—the absence of freedom of expression and association, and the use of arbitrary detention in China. Past experience has demonstrated that, when the United States has applied sustained pressure, the Chinese authorities have responded in ways that signal their willingness to engage on the issue of human rights. This pressure needs to be exercised now. By sponsoring a resolution at the U.N. Human Rights Commission, the United States will demonstrate its commitment to securing China's adherence to international human rights standards.

On October 5, 1998, China signed the International Covenant on Civil and Political Rights, but it has yet to take the necessary steps to make it legally binding. The Administration agreed early in 1998 not to sponsor a resolution criticizing China at the U.N. Human Rights Commission in consideration of Chinese commitments on human rights, including the signing of this important covenant. Yet, the recent acts of intimidation and detention underscore that the Chinese government has not retreated from its longstanding pattern of serious human rights abuses.

It is time for the United States to provide the leadership which the people of China depend on. We must take action to submit a resolution on China in Geneva and build international support for its passage. The U.N. Human Rights Commission is the only international body which oversees the human rights conditions of all states. Even though the resolution may not pass, simply the debate of human rights in China and Tibet at the Commission will make an important difference.

I have had the great honor of knowing and becoming friends with Wei Jingsheng this past year. Mr. Wei is a Chinese dissident who has spent most of his life in Chinese prisons for his pro-democratic political writings. In an article published shortly after his release, Mr. Wei stated, "Democracy and freedom are among the loftiest ideals of humanity, and they are the most sacred rights of mankind. Those who already enjoy democracy, liberty and human rights, in particular, should not allow their own personal happiness to numb them into forgetting that many others who are still struggling against tyranny, slavery, and poverty, and all of those who are suffering from unimaginable forms of oppression, exploitation and massacres."

Mr. President, the United States must not take its freedom for granted. As Americans, we must take action and sponsor and lead the international effort to condemn the human rights situation in China and Tibet. I hope that my colleagues will join me in passing this resolution.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, January 27, 1999 at 9:30 a.m. in room SH-216 of the Hart Senate Office Building in Washington, D.C.

The purpose of this hearing is to receive testimony on the impacts on coastal states communities of off-shore activity.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Kelly Johnson at (202) 224-4971.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources. The purpose of this hearing is to receive testimony on the state of the petroleum industry.

The hearing will take place on Thursday, January 28, 1999, at 9:00 a.m. in room 216 of the Hart Senate Office Building in Washington, D.C.

Those who wish to testify or submit a written statement should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Julia McCaul or Howard Useem at (202) 224-8115 or Daniel Kish at (202) 224-8276.

ADDITIONAL STATEMENTS

TAX CUTS FOR ALL AMERICANS ACT

• Mr. ROTH. Mr. President, I am pleased to sponsor the Tax Cuts for All Americans Act with Senator ROD GRAMS, Senator LOTT, the distinguished Majority Leader, and other Members.

Let me begin by saying that this Congress holds the promise of being the most productive in recent memory because we have the opportunity to build on some notable successes. In just the past few years we reformed the IRS, provided tax relief, voted to ratify NATO enlargement, expanded health care for children, and created new opportunities for Americans to save—all while balancing the budget and strengthening Medicare.

Our agenda for the next two years must be to build on these successes. Accomplishing this will include tax reform, shoring up Social Security, and promoting economic opportunity for individuals and families.

It is wrong that in an era of every-increasing budget surpluses Americans are being taxed more than ever before. It is wrong that 20.5% of our GDP is going into federal coffers—the highest since World War II—that our families are finding it increasingly difficult to send their children to school, and to become self-reliant in retirement.

This Congress can do something about that. We will do something about it. With this legislation we offer Americans a ten percent across-the-board tax cut—a broad-based tax cut—one that will put money where it belongs, in the hands of those who earn it. The budget surplus will allow this. It allows us to do this and to shore up Social Security at the same time. Washington demonstrated last year that unless the surplus is given back to the taxpayer the government will spend it.

The Tax Cuts for All Americans Act is the right and necessary thing to do. The broad-based tax cut in this package is the simplest, fairest, and—I believe—most productive way to give the money back to the taxpayer and to see that the economic growth our nation is enjoying continues well into the future. Broad-based tax cuts will also be the best way to return hard-earned money to the taxpayer without increasing IRS intrusion into the lives of Americans.

Beyond this legislation, in this Congress we will also address the Alternative Minimum Tax—a set of rules in the code that has grown out of control. The AMT was originally intended to ensure that wealthy taxpayers were not able to use loopholes and shelters to arrive at a zero tax liability. Unfortunately, due to the fact that the AMT was not indexed it has turned into a debilitating liability with the code affecting millions of middle-income taxpayers. Something must be done.

These proposals are all about one thing: increasing personal and family financial security—helping Americans meet their needs today and prepare for their needs tomorrow. I intend to push this agenda by going beyond a broad-based tax cut and creating incentives to promote and strengthen pensions and personal retirement accounts. I have proposed a plan to increase IRA contributions to $5,000 a year, and to allow up to $2,000 a year to be placed into education savings accounts.

I will also introduce legislation to dedicate a portion of the ever-increasing budget surplus to creating Personal Retirement Accounts for every worker—giving individuals at all income levels an opportunity to own a piece of America's economic future.

This is the most important agenda we can have as we look to a new millennium—a millennium that I believe will be bright and prosperous, one that will hold great promise for all Americans if we stay focused, work cooperatively, and put the interests of hard-working taxpaying families before the interests of a big-spending, over-bearing government.•

TRIBUTE TO BENJAMIN H. HARDY, JR.

• Mr. CLELAND. Mr. President, I rise today to pay tribute to Benjamin H. Hardy, Jr., an outstanding Georgian whose insight and courage helped shape the course for U.S. foreign policy for decades and paved the way for the people of many nations to improve their lives.

On January 20th, 1949, precisely fifty years ago today, President Harry Truman gave his inaugural address to the nation and, in doing so, spelled out his four point plan for U.S. foreign policy. The first three points of the plan were consistent with President Truman's previous policies in support of the United Nations, the Marshall Plan and our NATO allies. The fourth point of the plan, however, was a "bold new program" to provide technical assistance to developing nations which subsequently became known as "Point Four." The idea for the new assistance program was developed by Mr. Hardy, who, at the time, was serving as a public affairs officer in the Department of State. Mr. Hardy had seen the rewards of technical assistance while working in Brazil and knew that this type of assistance was the key to unleashing the potential of so many developing countries.

According to various accounts, Mr. Hardy risked his career to bring his brilliant proposal to light and, ultimately, assisted in drafting the foreign policy portion of President Truman's address. Responding to a White House request for new initiatives in foreign affairs, Mr. Hardy produced his plan. However, his plan was not received favorably by the upper levels of the State Department and was sent back for "further review"—virtually killing the idea. Refusing to give up, Mr. Hardy bypassed the normal channels of bureaucratic red tape and policy review and went directly to a contact inside the White House. There, Mr. Hardy's development plan was greeted much more favorably and soon made its way to President Truman's desk and, later, into the President's State of the Union address.

Point Four received widespread acclaim and, soon after Truman's address, Congress created the Technical Cooperation Administration within the Department of State. Mr. Hardy went on to serve as chief of public affairs and chairman of the Administration's policy planning committee. On December 23rd of 1951 Mr. Hardy was killed in a plane crash along with the director of the Technical Cooperation Administration, Dr. Henry Bennet. Soon, the Technical Cooperation Administration was transformed into the agencies responsible for foreign aid but the Point Four idea, remains vibrant today. It survives in the U.S. Agency for International Development, the agency which works to develop, train, educate, and strengthen democracy in the most needy countries across the globe.

Were it not for the determination of Mr. Benjamin Hardy, these agencies, and their successes, may never have been realized. Benjamin Hardy is a wonderful example of one person making a difference in the world and I am honored today to recognize the indelible mark this distinguished Georgian has left upon the history of this nation and the people of the world.•

AIR TRANSPORTATION IMPROVEMENT ACT

• Mr. GORTON. Mr. President, I rise in support of the Air Transportation Improvement Act. This bill would provide a two-year authorization for the programs of the Federal Aviation Administration (FAA), including the Airport Improvement Program (AIP). As Senator McCain has noted, this bill is almost exactly the same as S. 2279, which the Senate passed last September by a vote of 92 to one. The only differences are technical in nature.

I would like to commend Senator McCain for moving quickly to deal with FAA reauthorization in a timely manner. If no action is taken, the AIP will expire on March 31, 1999, and airports will not receive much needed federal grants that would allow them to continue to operate both safely and efficiently. The Air Transportation Improvement Act would establish contract authority for the program. Without this authority in place, the FAA cannot distribute airport grants, regardless of whether an AIP appropriation is in place. A lapse in the AIP is unacceptable, and I will work tirelessly to ensure that this does not occur.

Mr. President, this bill reaffirms our commitment that the United States should continue to have the safest and most efficient air transportation system in the world. Although the role of Congress is vital, the FAA has the immediate responsibility for managing the national air transportation system. In very broad terms, the FAA is directly responsible for ensuring the safety, security, and efficiency of civil aviation, and for overseeing the development of a national airports system.

One critical activity being performed by the FAA is modernization of the air traffic control (ATC) system. This process has been ongoing for 15 years, and will continue for many years into the future. During my tenure as Chairman of the Aviation Subcommittee, I have learned that the modernization program is at a critical juncture. We can no longer allow the program to continue the "stops and starts" of the past. Improvements must get on track, or the growing demand for air services combined with outdated equipment will soon bring gridlock and serious concerns about safety.

I am encouraged that the FAA is working with industry to put the ATC modernization program on track and develop a plan to deliver equipment, on time and on budget, that will ensure increased safety and efficiency for all Americans. This bill will help ensure that these very important efforts continue. The FAA must spare no effort over the next few years to modernize the ATC system, as airlines will also be spending a great deal of money to purchase and install the components needed in their aircraft to use these new systems. All of this needs to be done right, and done now, to ensure continued safety and efficiency in the aviation industry.

Another matter requiring immediate attention is the FAA's progress in dealing with the Year 2000 problem. This issue has far reaching safety and economic implications, and has already been the subject of many hearings in Congress. It is imperative that the FAA makes the most out of limited time and resources, and Congress must ensure that this is a top priority. The public is aware of the Year 2000 problem and must be reassured beyond any doubt that it will be possible to fly and, most importantly, to fly in complete safety, on January 1, 2000.

As I already mentioned, this bill contains numerous provisions designed to improve competition and service in the airline industry. The inclusion of these measures in the bill does not in any way mean that airline deregulation has been unsuccessful. The overall benefits of airline deregulation are clear: fares are down significantly and service options have increased.

Many of the benefits of deregulation can be attributed to the entry of new airlines into the marketplace. The low fare carriers have increased competition, and have enabled more people to fly than ever before. Air traffic has grown as a result, and all predictions are that it will continue to grow steadily over the next several years.

In spite of the success of deregulation, many believe that competition can be improved. The competition provisions in the Air Transportation Improvement Act would ease some of the federally-imposed barriers that remain in the deregulated environment. These barriers include the slot controls at four major airports and the perimeter rule at Reagan National Airport.

Although this legislation is a positive step forward for our national aviation system, one of my main priorities, which is not included in the Air Transportation Improvement Act, will be to push for an increase in the Passenger Facility Charge (PFC) cap. We must address the widening infrastructure gap that threatens to hamstring our national aviation system. The independent National Civil Aviation Review Commission and the GAO also estimate that there is a backlog in airport improvements of approximately $3 billion per year. To ensure that our infrastructure deficit can be met, we must look for innovative solutions such as a PFC increase which allow local control and responsibly for improving our national aviation system.

I look forward to working with Senators McCAIN, HOLLINGS, and ROCKEFELLER to ensure that our common goals of providing a safe and secure aviation system for both commercial airlines and the general aviation community as well as providing adequate resources for the FAA to carry out this task are met.•

RECOGNITION OF BERNICE BARLOW

• Mr. LEVIN. Mr. President, I rise today to pay tribute to a remarkable person from Saginaw, Michigan, Mrs. Bernice Barlow. Mrs. Barlow is leaving her position as president of the Saginaw branch of the NAACP after thirty years.

As president of the Saginaw NAACP, Bernice Barlow has been a powerful advocate for equality and civil rights. Although her tireless efforts on behalf of the NAACP are admirable in their own right, Mrs. Barlow has not confined her community service to the NAACP. She has also served with distinction in leadership roles with organizations like the Saginaw Education Association, the Tri-County Fair Housing Association and the Saginaw County Mental Health Board.

Despite her retirement from the presidency of the Saginaw NAACP, Bernice Barlow will continue her service to the people of Saginaw. Her husband, Charles, and her four children will surely be pleased to have more of her time, but I have no doubt that they will support her continuing efforts to ensure that equality and justice are recognized as the birthrights of every citizen.

Mr. President, I am confident that my colleagues will join me in congratulating Bernice Barlow as she steps down from her position as president of the Saginaw NAACP, and in thanking her for her longstanding commitment to the people of the city of Saginaw.•

FOREIGN TRAVEL OF SENATOR ARLEN SPECTER

• Mr. SPECTER. Mr. President, during the winter recess, I had the opportunity to travel from Dec. 12 through Dec. 31, 1998, to 13 countries in Europe, the Mideast and the Gulf. I flew over with President Clinton on Air Force One, spent the first several days in Israel essentially working with the President's schedule, and then pursued my own agenda when he returned to Washington. I believe it is worthwhile to share with my colleagues some of my impressions from that trip, which I am placing in the CONGRESSIONAL RECORD on Jan. 19, 1999, the first day for statements in the 106th Congress.

ISRAEL

From December 12 through December 15, I traveled with President Clinton to the Middle East to encourage the advancement of the Israeli-Palestinian peace process in the wake of the accords reached in October at Wye Plantation. Although somewhat overshadowed by the pending impeachment process, the President's trip was useful, I believe, in applying pressure to both sides to abide by their commitments toward further progress.

SYRIA

When President Clinton returned to Washington, I proceeded to Damascus, Syria, where I met with Syrian President Hafez al-Assad, to examine the possibility of progress on the Israeli-Syrian track of the Mideast peace process. While I believe that progress between Israel and the Palestinians could be made with the resumption of a dialogue between Israel and Syria, the pending Israeli elections have rendered the prospect for that dialogue unlikely in the short run.

The big news while I talked with President Assad was the increasing tension between the United States and Iraq over the U.N. inspection of Iraq's weapons program. Because Syria shares a long border and cultural heritage—though certainly no great friendship—with Iraq, even the threat of military conflict between the U.S. and Baghdad produces immediate and tangible emotions among many Syrians.

That afternoon in December, the situation in Iraq seemed grave: the U.N. team had evacuated the country, and chief inspector Richard Butler was preparing to address the U.N. Security Council in an emergency session. I did not know that a strike was imminent, but President Assad and I speculated during our meeting on news reports concerning what the immediate future might hold.

Past midnight in Damascus, CNN carried live footage of anti-aircraft fire and air-raid sirens in Baghdad, only a few hundred miles away. The President's remarks from the Oval Office followed shortly thereafter, and, after a short night's rest, I was asked to comment on the bombing to an expectant Syrian press corps.

I told the press the same thing that I told President Assad in the previous day's meeting: I had written the President on November 12 urging him not to order the use of U.S. force against Iraq without first obtaining Congressional authorization as required by the United States Constitution. I believe that a missile strike is an act of war, and only the Congress of the United States under our Constitution has the authority to declare war.

Had the President taken the matter to the Congress, as President Bush did in 1991, I would have supported it. I believe that Saddam Hussein is a menace to the region and to the world. I believe it is true that he is developing weapons of mass destruction, and that he has demonstrated a willingness to employ chemical weapons for the most destructive and terrible purposes. Clearly, some forceful international action has to be taken.

I said I did not believe the President acted because of the pending impeachment vote. I indicated that, in my opinion, the President acted because he had put Saddam Hussein on notice in the past, and Ramadan was coming, as the President explained the previous evening. I said that I believe the House of Representatives was right in delaying the vote for a couple of days while we commenced a military strike on Iraq.

Constitutional requirements aside, there is a practical benefit to seeking Congressional approval for acts of war. When a President has the backing of Congress confirmed by way of a recorded vote, his hand is immediately strengthened in the eyes of the world. Absent that imprimatur of support, America's enemies or would-be enemies are left to poke and carp at the propriety and the purpose of the military action. And the attendant Congressional debate helps to sharpen the aims and follow-on goals of any action. Winning Congress' approval requires a President to spell out exactly what he hopes to accomplish through military force, and it forces him to keep those goals within the bounds of reality.

A recorded vote on military authorization is healthy for the Congress, as well. It puts Senators and Congressmen on the spot, up-or-down, on a matter of pivotal importance in national policy: deciding whether the goals of a military action justify the price in the blood and sweat of our troops. It is simply too easy for Congressional critics to bob and weave around taking a position on a given military action. If a particular campaign takes a difficult turn, critics emerge from the woodwork. If, on the other hand, our troops achieve dramatic, unforseen successes, prior Congressional critics of the action take to the floor in lavish praise.

Insisting on proper Congressional debate and authorization on future military acts would end this charade, while fulfilling a fundamental tenet of our Constitution: "The Congress . . . shall have power to declare war . . ."

EGYPT

Following the press conference, I departed Syria for Cairo, Egypt, to meet with President Hosni Mubarak. President Mubarak and I have met numerous times since his ascent to power following the assassination of President Anwar Sadat in 1981. Needless to say, our discussion this time centered around the U.S. military strike on Iraq. I made the same points about Congressional authorization for the use of force, and it was clear from the initial Egyptian reaction to the strike that our motives would have been clarified, and our hand strengthened, had the President sought and received the backing of Congress before attacking. Following my hour-long discussion with President Mubarak, I addressed the Egyptian press corps on the same points at the Presidential palace.

MACEDONIA

I then departed Egypt for Skopje, Macedonia. Upon arrival, I met with Ambassador Christopher R. Hill to discuss the situation in Kosovo and other issues affecting Bosnian regional stability.

Skopje is a beautiful, small city surrounded on all sides by mountains. The city was leveled almost completely by a post-WWII earthquake, as a result of which very little of the original Macedonian architecture remains. In place of the earlier buildings stand poured-concrete, Soviet-style structures that fail to reflect the rich heritage of the Macedonian people.

Formerly a sub-entity of Yugoslavia, Macedonia won its independence in the breakup of the former Soviet-bloc country that followed the end of the cold war. Macedonians are clearly hardworking people, and it is probably no surprise that the tiny republic's economy reportedly is doing better than that of most other Yugoslavian republics save Slovenia.

Ambassador Hill and I met that afternoon with the country's newly-installed 33-year-old Prime Minister, Ljubco Giorgievski. The youthful Mr. Giorgievski is obviously proud of the emergence of Macedonia as a stable entity in a clearly unstable region. Mindful of the threat that Serbia has posed to Bosnia and Kosovo, he is particularly anxious for his country to develop friendly, close alliances with NATO, the European Community, and the United States.

That evening, I met with Ambassador William Walker, the U.N. head of the OSCE Kosovo Verification Mission. Ambassador Walker described in detail the instability of the region, and his unease about the lack of a protective detail or even airlift assets for his U.N. mission there. He described the situation in Kosovo as very different from Bosnia: Kosovo is a small-scale guerilla war, with no front lines, and with both Serbs and Albanians fighting for public opinion in the region. Ambassador Walker said his chief frustration is the absence of a political settlement for the U.N. to implement in Kosovo, such as the one that was forged in Bosnia. Without such an agreement, he said, providing real stability to the region will remain extremely problematic, as the U.N. will not be able to move forward on training local authorities and local police forces to provide security to the region.

NETHERLANDS

The next morning, I proceeded to the Netherlands, where I held a working lunch with Ambassador Cynthia P. Schneider and three members of the Dutch Parliament who served as experts in their different parties on Middle East issues. A consensus emerged that the international community needs to work to replace Saddam Hussein as the leader of Iraq, but no one could point to a realistic way for the international community to get that done.

We also discussed the benefits to the United States' opening up a dialogue with Iran in the future. Interestingly, one of the Members of Parliament present, Geert Wilders, had traveled to Iran, and expressed frustration that the absence of a real dialogue between the United States and Iran meant that Russia is having a disproportionate influence on the government, especially by way of providing technological expertise for the development of weapons of mass destruction. That said, Mr. Wilders expressed the clear difficulty in developing a productive dialogue with a government that hold such irresponsible positions on regional and international security.

I then proceeded to the International Criminal Tribunal for the Former Yugoslavia, where I met with Chief Prosecutor Louise Arbour and President Judge Gabrielle McDonald. In contrast to my previous visits to the tribunal, Justice Arbour expressed a reasonable degree of satisfaction with the Tribunal's U.N. funding, up by $23 million from last year's level of $70 million. Not surprisingly, Justice Arbour views this manifold increase as a real endorsement of the Tribunal's work in bringing justice to the victims of atrocities in Bosnia. In particular, she described the success of the prosecutors' exhumation of mass grave sites in Bosnia as part of their search for evidence to support present trials and further indictments. Justice Arbour expressed her aim of indicting and prosecuting a handful of "top" officials in the Bosnian conflict through the prosecution of lower-level criminals at present.

Judge Gabrielle McDonald, a former U.S. District Court Judge in Houston, indicated a similar satisfaction with the work of the tribunal, but, for her part, feels somewhat understaffed in her chambers, particularly as the prosecutors bring more cases to trial. Also, Judge McDonald, as the Tribunal's Chief Judge, would like to publicize the court's work as a way both of letting victims know justice is being served, and of assuring those under indictment that they will receive a truly fair trial in The Hague, should they surrender themselves to the court.

As I left the Tribunal, the U.S. Embassy in The Hague was overrun by anti-war activists protesting the U.S. military strike against Iraq.

ENGLAND

During a stopover in London, I met with the country team headed by Deputy Chief of Mission Robert Bradtke, to discuss further fallout from the bombing. The evening of my arrival, the House of Representatives voted out two Articles of Impeachment on President Clinton. The next evening, I appeared on a live broadcast of CBS's Face the Nation from the network's London studio. The show came the day after the House voted to impeach President Clinton, and I discussed procedures and context for the impending Senate trial.

BELGIUM/NORTH ATLANTIC ASSEMBLY

Operation Desert Fox, the U.S. and British missile strikes on Iraq which ran four days during my travels, spurred anti-American demonstrations, attacks on U.S. Embassies and flag-burnings throughout Europe and the Mideast, including many of the nations to which I traveled. We had to switch hotels in Brussels upon arrival on Sunday, Dec. 20, because the American-owned Sheraton hotel where we had planned to stay was the site of a demonstration by some 200 Arabs, who seized and burned the hotel's American flag, and a bomb threat that forced the evacuation of the entire hotel. There had also been a demonstration during the day at the hotel where we did stay, but there was no more trouble that night.

Upon arrival Sunday evening Dec. 20 in Brussels, I met with U.S. Ambassador to NATO Alexander Vershbow for an informal briefing. On Monday morning at NATO headquarters, I met formally with the Ambassador and 11 members of the U.S. team. We discussed ways of activating NATO against Iraq, and I expressed my concern that the recent bombings of Iraq were a strictly United States-British operation, with no help from any of our other allies. Our team suggested that it takes too long to line up other nations and gives too much warning to Saddam. I rejected that proposition, given that we had signaled our intentions against Iraq after our near-strike in November.

We also discussed the Russian threat to Western Europe, stemming from Russian instability, and our efforts in Bosnia and Kosovo. As for NATO and United Nations missions, I commented that many Americans abhor the idea of putting U.S. troops under a foreign commander. I told our team about the protests I hear on the subject regularly at my open-house town meetings throughout Pennsylvania. Some of our team argued that, ultimately, all NATO troops are under an American supreme commander, even if they happen to also be under a European divisional commander.

I met next with the German Ambassador to NATO, Joachim Bitterlich, who had served previously as former German Chancellor Helmut Kohl's national security adviser. Ambassador Bitterlich began by assuring me that the United States-British strike against Iraq was the right thing to do. I took up the questions of Iraq, Iran and the Middle East with Ambassador Bitterlich, and we agreed that expanded dialog should be part of any strategy. Like many other policy setters, Ambassador Bitterlich said he struggling to find any leverage over Saddam Hussein.

I met next with Gen. Klaus Nauman, Chairman of the NATO Military Committee. Gen. Nauman likened Saddam Hussein and his oppressive regime to the Nazis, under whom Gen. Nauman had spent his early childhood. Such a repressive terrorist regime makes it very difficult to foster opposition forces from within, the General warned. As for Russia, Gen. Nauman agreed that western nations would be well advised to spend money to destroy Russia's nuclear and chemical weapons stockpile, as the United States and Germany have. But he cautioned that we must make sure the money goes for the purpose intended, and is not diverted, as past funds have been.

GREECE

We left Brussels early Monday morning and traveled most of the day, arriving in Athens late in the afternoon. I met with Ambassador R. Nicholas Burns. We discussed a variety of subjects, ranging from Greek-Turkish tension to the situations in Crete and Cyprus to local reaction to the Iraq bombings.

BAHRAIN

We left Athens early Tuesday morning, Dec. 22, and traveled to Bahrain. At a refueling stop at the Cairo airport, I met with two members of our country team to discuss recent intelligence about anti-American attacks in the region stemming from Operation Desert Fox. They briefed me on a mob attack on the U.S. Ambassador's residence in Damascus, in which the residence was destroyed and our Ambassador's wife was holed up in a steel-walled safe haven closet until Marines arrived to rescue her. Arriving late in the afternoon in Manama, Bahrain, I was met at the airport by Ambassador Johnny Young and Vice Admiral Charles "William" Moore and members of their teams. Admiral Moore, Commander of the Fifth Fleet, was in charge of much of the U.S. effort in Operation Desert Fox.

At the U.S. Embassy, Admiral Moore and several of his senior officers briefed me on details of Operation Desert Fox. The operation, as Admiral Moore summarized it, was a success in that our forces executed their objectives with zero allied casualties.

I met next with 13 area chiefs of UNSCOM, the United Nations program to check Iraq's weapons of mass destruction through inspections and destruction of materiel. The UNSCOM chiefs, mostly in their 30s, came primarily from the United States, Australia, New Zealand and Britain. They looked shell-shocked, and as though they had not slept in weeks. As I told them at the outset, the world owes them a debt of gratitude for the job they have done and for the risks they have taken.

UNSCOM's numbers have dwindled from a high of 186 inspectors to 112. Forty-seven of the inspectors had moved their base to Bahrain after evacuating from Iraq hours before the bombing. We discussed their assessments of Iraq's biological, chemical and nuclear weapons programs, the various delivery systems Iraq was developing or had built, and the difficulties in conducting inspections and in tracking weapons components and chemical precursors. They told me, for example, that they had found biological agents in far greater quantities than could be justified by legitimate uses. The UNSCOM chiefs all said they were "keen" to return to Iraq and continue their work, though that prospect remains in doubt.

OMAN

Early Wednesday morning, Dec. 23, we flew to Oman. Upon arrival in the capital city of Muscat, we drove for a meeting with Sheik Abdullah bin Ali Al-Qatabi, President of the Majlis As-Shura, or elected lower house of the national council. For the first 40 minutes, the Sheikh deflected my questions about threats to the region and the world by Iraq and Iran, reducing the meeting to small talk and an exchange of views on civics and bicameral legislatures. Then, when we took photographs and stood to leave, the Sheik could contain himself no longer and told me what was really on his mind, for nearly an hour as we stood at the center of his office.

The Sheik said Iraq did not pose the grave threat I suggested, arguing that Saddam Hussein had not used weapons of mass destruction during the Persian

Gulf War and probably would not again. Further, he argued, our operations would not eliminate Saddam Hussein, but would only hurt the Iraqi people, who depend on the infrastructure we destroy, and inflame passions throughout the region against the United States.

The Sheik was concerned that we had embarrassed the Sultan and the government of Oman through publicity about the use of Omani bases by U.S. aircraft during Operation Desert Fox. He used the word "embarrassment" four times, noting that such embarrassment made it more difficult for Omani leaders to pursue their genuine desires to continue warm relations with the United States. Oman was not embarrassed about the use of its bases for allied planes during Operation Desert Storm in 1991 because of Iraq's aggression against Kuwait, he said.

The Sheikh told me that he was being unusually frank out of friendship, and I assured him I appreciated his candor. I addressed his concerns, telling him that collateral damage to civilians is inevitable in any military strike, and that we minimized civilian casualties during Operation Desert Fox and very much regretted any losses.

I met next with U.S. Ambassador Frances Cook and members of her team. Ambassador Cook warned that anti-American opinion had been growing in Oman. Two demonstrations were held at the university, she noted; the only two in the school's 10-year history. From this visit and previous contacts, I believe Ambassador Cook has done an outstanding job.

I then met with Oman's Minister of Information, Abdulaziz Al-Rawwas, for what would prove another long and direct conversation. Minister Al-Rawwas also did not consider Iraq or Iran threats to the region, and also criticized our military efforts against Iraq as ineffective. He pressed me to consider an overture to Iran to warm US relations with that nation, such as dropping embargoes or allowing a planned Caspian oil pipeline to pass through Iran on a southern route to the Persian Gulf, rather than through a western route through southern Europe to the Black Sea, which the United States currently favors. I assured him I would study the matter.

Our party arrived at the Muscat airport shortly after 6 am the next morning, Thursday, to fly to Islamabad for a scheduled meeting with Pakistan's Prime Minister and for other meetings in Pakistan and India. I had wanted to discuss the nuclear stand-off in the region, and disarmament measures. But fog and smoke over most of the subcontinent made air travel impossible, for us and for all other commercial and official traffic into and out of the subcontinent. We had no better luck on Friday morning. We then tried to adjust our schedule, but were unable to get necessary clearances and make flight and meeting arrangements on Friday, Dec. 25, which was both Christmas Day and the first Friday of the Islamic holy month of Ramadan. We wound up staying in Oman until Saturday morning, Dec. 26, at which point we departed for Amman, Jordan.

JORDAN

Days before I arrived in Amman, Jordanian Parliamentarians, in a highly unusual move, surprised the Monarchy by convening a conference of Arab Parliamentarians on six days notice, to discuss the United States-British missile strikes on Iraq. Parliamentarians from 15 of the 16 countries in the Arab League dispatched representatives to Amman. Only Kuwait declined to attend. President Assad reportedly ordered the Syrian Speaker to attend personally.

After arriving in Amman, I met with Jordan's Foreign Minister, Abdul Illah Al Khatib, for an hour. Minister Khatib, whom I had met several times over the years both in Washington and Jordan, lamented the failure so far to implement the Wye River peace accord between Israel and the Palestinian Authority. Both sides, we agreed, were torn by factionalism. On the Israeli side, Prime Minister Netanyahu was mired in struggles with hard-liners and fighting to keep his job, while on the Palestinian side, Abu Mazen, the second-ranking official, had his house stoned for his efforts to effect the peace accord, leaving him reportedly so shaken that he wanted nothing more to do with the peace process. In the face of such factionalism, Al Khatib said, the parties and the process needed leadership from the United States.

Jordan's other pressing foreign policy problem, Al Khatib said, was Iraq. He noted that the Iraqi invasion of Kuwait, which sparked the Persian Gulf War, sent 400,000 Kuwaiti refugees to Jordan, swelling Jordan's population by 10 percent and buffeting Jordan's economy as it tries to house and absorb the new residents. The foreign minister said we should have a permanent monitoring system for Iraq's weapons efforts. In the evening, we met with Crown Prince El Hassan bin Talal, heir to the throne and brother of King Hussein, who was at the Mayo Clinic in Minnesota undergoing cancer therapy, and several of his ministers. The Crown Prince had been briefed on my meeting with the Foreign Minister, and we proceeded directly to discussing policy.

The next morning, Sunday, Dec. 27, I met with our embassy team for a briefing. Based on what they told me, I grew even more concerned that we had so badly misread regional public opinion in launching our strikes against Iraq.

Before leaving Washington, I had raised that specific question with an Administration Cabinet officer. He had replied the administration had no day-after plan; but that was not a reason not to launch the strikes. Disagreeing sharply, I said it was.

Our policy makers apparently based their assurances to the American public of Arab support on regional leaders who, eager for U.S. aid, told them what they thought the Americans wanted to hear. No longer can the United States talk only to government officials to gauge their nation's reaction. Nor can we count on Arab national leaders to suppress public reaction against our ill-planned acts.

In Amman, our experts told me that despite general ennui with Saddam Hussein, Jordanian public opinion about our missile strikes was very strongly pro-Saddam, a feeling exacerbated by the U.S. failure to articulate a post-strike plan. After my discussion with our embassy team, I met Sunday morning with Jordanian Prime Minister Fayez Tarawneh, who expressed the same criticisms of our recent strikes against Iraq. "We don't know what the military strike did," the Prime Minister said. "It seems he is better off." Our timing was poor, he said, just before the Islamic holy month of Ramadan and following what he perceived as Israel putting the Wye River accord "in the deep freeze."

As for Iraqi opposition to Saddam, the Prime Minister said, it is there, but it is fictionalized and lacks any acceptable leader. "It is a complicated matter, and every military strike makes it more complicated," he said.

When the Jordanian Prime Minister apologized for the Amman Parliamentarians' conference, I surprised him by expressing my view that it was a healthy sign to see Jordan's Parliamentarians expressing an independent view from the Jordanian government, even if it conflicted with U.S. policy.

"We have to do a much better job in the United States of taking into account what the public reaction will be," I conceded.

When I asked the Prime Minister to explain the Jordanian people's support for Iraq and Saddam, he said, "The people here do support Saddam. Jordanians do not believe in dictatorship. They are aware of the fact that this is a brutal regime. But this does not negate the fact that the Iraqis are our brothers."

IZMIR, TURKEY

From Amman, we flew to Izmir, Turkey, a city of 4 million that serves as headquarters for a NATO charged with ensuring the security and territory of NATO's southern and eastern flank. I spent much of the day Sunday with Maj. Gen. Reginal Clemmons, Commanding General of the U.S. Army Element of the Allied Land Forces-Southeastern Europe, members of Gen. Clemmons's staff, and U.S. Air Force officers from the 425th Air Base Squadron, based in downtown Izmir.

Over the course of several hours, we discussed Greek-Turkish tension, recently inflamed by plans to bring Russian-made S–300 missiles to the Greek island of Crete, and still hot over joint control of Cyprus; plans to create a Kurdish state in northern Iraq; a potential Caspian oil pipeline through Turkey; and realities of working with foreign military officers. Gen. Clemmons serves as deputy commander of the Izmir-based NATO post, under a four-star Turkish general.

GEORGIA

Before dawn Tuesday morning, we took off for Tbilisi, the capital of Georgia, one of the 15 former Soviet Republics. Rugged, mountainous and historically worn-torn, Georgia is famous as the home of former Soviet leader Joseph Stalin. Georgia endured several years of civil war recently, from the Soviet breakup until 1995. President Eduard Shevardnadze, the former Soviet Foreign Minister, survived two assassination attempts, and has led the effort to ally Georgia with the West and to foster democracy and a market economy. Georgia has been looking primarily to the United States for help.

I met first with U.S. Ambassador Kenneth Yalowitz and his team at the embassy for a full briefing on the nation of 5 million. We discussed Georgia's struggle toward democracy and a market economy, frustrated by corruption, civil war, and failure to collect taxes; Georgia's struggle with Russia, which seeks to control its former republic and thwart its efforts toward independence; Georgia's reliance on U.S. aid, which was $85 million this year, compared to the nation's $100 million budget; and advantages and disadvantages of running the Caspian oil pipeline through Georgia to the Black Sea.

I then met for an hour with President Shevardnadze. The President looked more somber than he had when I last saw him in Washington, but he still seemed vigorous and intense at not quite 71. Mr. Shevardnadze is largely responsible for the progress Georgia has made toward democratization and a market economy since the Soviet Union crumbled in 1991, but he was the first to say much more work remains to be done. Nation building was put off until 1995, after Georgia's post-Soviet civil war ended, he noted.

Russian instability poses perhaps the greatest threat to the region, Shevardnadze said. He brushed off my concern that an expanded NATO would give Russian hard-liners an excuse to seize control, saying extremists did not have an adequate base from which to take over. But President Shevardnadze said he did have a major concern: "The West failed to notice the Soviet Union's disintegration; the West was caught unaware," he said. "Make sure the formation of a new Soviet Union does not catch you similarly unaware."

In Russia, Shevardnadze warned, people of all political stripes support restoring the Soviet Union. He did not see a reunited Soviet Union as a benign force. "Gorbachev had a different vision; a vision of a democratic Soviet Union," Shevardnadze said. "But that was an illusion—or a delusion." If democracy were an option, he said, the former Soviet republics would opt for independence.

On the question of terrorism, Shevardnadze said the United States should pressure Russia to stop selling arms to rogue nations such as Iran, saying we should have leverage over Russia, considering the $18 billion we give them. Shevardnadze, not surprisingly, argued that the Caspian oil pipeline should run through Georgia and Turkey. The pipeline, by all accounts, offers a major strategic and economic plum for any nation through which it runs.

We met next with Georgia's Minister of State, the equivalent of the Prime Minister, Vazha Lordkipanidze. We discussed Georgia's economic reform efforts, including privatization, banking, liberalization of prices, decentralization of management; and the smuggling, shoddy tax collection and Russian meddling that have frustrated these economic reforms. Lordkipanidze also did not believe NATO expansion would provoke and strengthen Russian hard-liners, saying extremists would find another pretext if NATO did not expand. The West must foster democracy in Russia and in other former Soviet republics, he urged.

Our final meeting in Tbilisi was with Parliamentary Chairman, or Speaker, Zhurab Zhvania, who had just turned 35, and a 31-year-old Parliamentarian who had studied law at Columbia University. The Parliamentarians' English was fluent, and they were both very impressive, and encouraging for their nation's long-term prospects. We covered the same sweep of issues that I had discussed with President Shevardnadze and with the Prime Minister, and they offered similar views. They spoke passionately about Georgia's Constitution, the only Eastern national charter patterned on the U.S. Constitution; and about the nation's judicial reform, including competitive exams monitored by California Bar examiners that cleared out nearly all the previous political appointees. We differed on the death penalty, which I believe is a deterrent to crime, but which Georgia has abolished, the Speaker said, as a matter of moral philosophy.

ANKARA, TURKEY

From Tbilisi we flew to Ankara, the capital of Turkey, arriving Tuesday evening, Dec. 29. We met the next morning with U.S. Ambassador Mark Parris, a former foreign affairs adviser to President Clinton, and his team for an hour briefing on the political landscape. Turkey's government is fractionalized, and the Turkish military commands the most popular support, which Parris considered a mixed blessing. The military is honest and conservative, cracking down on threats to the secular state, Parris said, but the military also cracks down on free speech that advocates proscribed positions. National elections and elections in Turkey's three major cities, Istanbul, Ankara and Izmir, are all scheduled for April 1999.

I was particularly impressed that Turkey had succeeded in getting Syria to evict terrorist camps based near Syria's Turkish border that preyed on Turks. The Kurdish PKK movement, seeking a separate Kurdish state, has killed an estimated 30,000 Turks since the Soviet grip began to loosen around 1989. PKK leader Abdullah Ocalan was specifically evicted from Syria.

In my discussions with Parris and his team, we focused on the Caspian oil pipeline, beginning with the proposition that the Turks have come around to the American way of thinking: That the pipeline ought to run east-west to the Black Sea, through Turkey and Georgia, not south to the Persian Gulf through unstable and potentially hostile areas such as Iran. An east-west pipeline would tie central Asia to the West, and avoid giving Iran strategic leverage, the strategy holds.

I also remained impressed by Turkey's strong ties to Israel. The two nations conduct joint military exercises, trade and joint ventures on such items as insurance, leather goods and software. The collaboration began as a Turkish effort to win points with the United States, which was being pressed by Greek and other anti-Turkish lobbies. But the Turkish-Israeli collaboration soon warmed into a genuine symbiotic relationship apart from US politics, Parris said.

We met next with Ambassador Faruk Logoglu of the Turkish Ministry of Foreign Affairs. Logoglu had spent 13 years in the United States, attending college at Brandeis and graduate school at Princeton, teaching at Middlebury and serving at the United Nations before taking his post at the Turkish Foreign Ministry in 1971. Pressing for the east-west pipeline, Logoglu said, "The pipeline is an umbilical cord tying countries to the West."

My final meeting in Turkey was with President Suleyman Demirel. The President received us in a grand, wood-trimmed chamber in the Presidential palace, finished with red carpet and chandeliers. President Demirel spoke softly in perfect English.

I complimented the President on his warm relations with Israel, despite its risks of angering nations hostile to Israel. He replied that the Turkish-Israeli friendship had indeed angered some nations at Turkey. At an Islamic conference in Iran, the President said, he stood and said Turkey was a sovereign nation and could do whatever was necessary to pursue its interests. There was no response from representatives of the 55 nations present, he said.

As to Saddam Hussein, President Demirel said he had known him for about 24 years, but it was a "puzzle" as to how to deal with him. The United States should enlist allies in its efforts to influence Saddam, he urged.

I asked the President if he would accept an invitation to meet at the Oval Office with his Greek counterpart, with whom he does not talk, just as President Clinton had brought together Palestinian Chairman Yasser Arafat and Israeli Prime Minister Yitzhak Rabin. I had no authority to call such a meeting, I noted, but stressed the power of the U.S. Presidency. The President replied that Cypriots, both Greek and Turkish, should come to an agreement first, but he did not discount the possibility of an Oval Office meeting.

NAPLES, ITALY

From Ankara we flew to Naples, where I met with Lt. Gen. Jack Nix, in charge of the Army NATO troops, while we refueled. We spent most of our half hour discussing Bosnia. Gen. Nix cautioned that we can only reduce our troops so far; that we must maintain a baseline to allow both mobility and the ability to rescue other troops.

From Naples we flew to London, where we arrived in the evening, stayed overnight at an airport hotel, and flew back to the United States the next day. Our visits were facilitated and generally made pleasant by the assistance and cooperation of U.S. Embassies in the various countries.●

RECOGNITION OF DR. NICK HALL, JR.

● Mr. LEVIN. Mr. President, I rise today to pay tribute to an outstanding community leader in the City of Saginaw, Michigan, Dr. Nick Hall, Jr. Dr. Hall is being recognized at the 17th Annual "O Give Thanks" Banquet, hosted by The New Valley Mass Choir.

Dr. Hall has served as Pastor of Bethesda Missionary Baptist Church since 1952, and has earned a reputation as one of Saginaw's most respected religious leaders. Throughout his 46 years of service at Bethesda Missionary Baptist Church, Dr. Hall has consistently demonstrated a deep devotion to the spiritual well being of his congregation and of the people of Saginaw.

Dr. Hall's leadership has not been confined to his congregation. He served as a County Commissioner from 1992 to 1996, and has been a prominent member of civic organizations like Habitat for Humanity, the AIDS Committee of Saginaw, the Clergy Coalition Against Crack Cocaine, and the Saginaw Substance Abuse Advisory Board. Through his ministry and his community involvement, Dr. Hall has touched the lives of thousands of people.

Mr. President, Dr. Nick Hall, Jr., has demonstrated a laudable commitment to making Saginaw a better place to live for all of its residents. It is truly fitting that he is being recognized for his achievements at this year's "O Give Thanks" Banquet. I know my colleagues will join me in commending Dr. Hall for his leadership and his dedication to the people of Saginaw, Michigan.●

RULES OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

● Mr. CHAFEE. Mr. President, in accordance with the rules of the Senate, I ask that the rules of the Committee on Environment and Public Works, adopted by the committee January 20, 1999, be printed in the Record.

The rules follow:

RULES OF PROCEDURE

Rule 1. Committee Meetings in General

(a) Regular Meeting Days: For purposes of complying with paragraph 3 of Senate Rule XXVI, the regular meeting day of the committee is the first and third Thursday of each month at 10:00 A.M. If there is no business before the committee, the regular meeting shall be omitted.

(b) Additional Meetings: The chairman may call additional meetings, after consulting with the ranking minority member. Subcommittee chairmen may call meetings, with the concurrence of the chairman of the committee, after consulting with the ranking minority members of the subcommittee and the committee.

(c) Presiding Officer:

(1) The chairman shall preside at all meetings of the committee. If the chairman is not present, the ranking majority member who is present shall preside.

(2) Subcommittee chairmen shall preside at all meetings of their subcommittees. If the subcommittee chairman is not present, the Ranking Majority Member of the subcommittee who is present shall preside.

(3) Notwithstanding the rule prescribed by paragraphs (1) and (2), any member of the committee may preside at a hearing.

(d) Open Meetings: Meetings of the committee and subcommittees, including hearings and business meetings, are open to the public. A portion of a meeting may be closed to the public if the committee determines by rollcall vote of a majority of the members present that the matters to be discussed or the testimony to be taken—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) relate solely to matters of committee staff personnel or internal staff management or procedure; or

(3) constitute any other grounds for closure under paragraph 5(b) of Senate Rule XXVI.

(e) Broadcasting:

(1) Public meetings of the committee or a subcommittee may be televised, broadcast, or recorded by a member of the Senate press gallery or an employee of the Senate.

(2) Any member of the Senate Press Gallery or employee of the Senate wishing to televise, broadcast, or record a committee meeting must notify the staff director or the staff director's designee by 5:00 p.m. the day before the meeting.

(3) During public meetings, any person using a camera, microphone, or other electronic equipment may not position or use the equipment in a way that interferes with the seating, vision, or hearing of committee members or staff on the dais, or with the orderly process of the meeting.

Rule 2. Quorums

(a) Business Meetings: At committee business meetings, six members, at least two of whom are members of the minority party, constitute a quorum, except as provided in subsection (d).

(b) Subcommittee Meetings: At subcommittee business meetings, a majority of the subcommittee members, at least one of whom is a member of the minority party, constitutes a quorum for conducting business.

(c) Continuing Quorum: Once a quorum as prescribed in subsections (a) and (b) has been established, the committee or subcommittee may continue to conduct business.

(d) Reporting: No measure or matter may be reported by the committee unless a majority of committee members cast votes in person.

(e) Hearings: One member constitutes a quorum for conducting a hearing.

Rule 3. Hearings

(a) Announcements: Before the committee or a subcommittee holds a hearing, the chairman of the committee or subcommittee shall make a public announcement and provide notice to members of the date, place, time, and subject matter of the hearing. The announcement and notice shall be issued at least one week in advance of the hearing, unless the chairman of the committee or subcommittee, with the concurrence of the ranking minority member of the committee or subcommittee, determines that there is good cause to provide a shorter period, in which event the announcement and notice shall be issued at least twenty-four hours in advance of the hearing.

(b) Statements of Witnesses:

(1) A witness who is scheduled to testify at a hearing of the committee or a subcommittee shall file 100 copies of the written testimony at least 48 hours before the hearing. If a witness fails to comply with this requirement, the presiding officer may preclude the witness' testimony. This rule may be waived for field hearings, except for witnesses from the Federal Government.

(2) Any witness planning to use at a hearing any exhibit such as a chart, graph, diagram, photo, map, slide, or model must submit one identical copy of the exhibit (or representation of the exhibit in the case of a model) and 100 copies reduced to letter or legal paper size at least 48 hours before the hearing. Any exhibit described above that is not provided to the committee at least 48 hours prior to the hearing cannot be used for the purpose of presenting testimony to the committee and will not be included in the hearing record.

(3) The presiding officer at a hearing may have a witness confine the oral presentation to a summary of the written testimony.

Rule 4. Business Meetings: Notice and Filing Requirements

(a) Notice: The chairman of the committee or the subcommittee shall provide notice, the agenda of business to be discussed, and the text of agenda items to members of the committee or subcommittee at least 72 hours before a business meeting.

(b) Amendments: First-degree amendments must be filed with the chairman of the committee or the subcommittee at least 24 hours before a business meeting. After the filing deadline, the chairman shall promptly distribute all filed amendments to the members of the committee or subcommittee.

(c) MODIFICATIONS: The chairman of the committee or the subcommittee may modify the notice and filing requirements to meet special circumstances, with the concurrence of the ranking member of the committee or subcommittee.

RULE 5. BUSINESS MEETINGS: VOTING

(a) PROXY VOTING:

(1) Proxy voting is allowed on all measures, amendments, resolutions, or other matters before the committee or a subcommittee.

(2) A member who is unable to attend a business meeting may submit a proxy vote on any matter, in writing, orally, or through personal instructions.

(3) A proxy given in writing is valid until revoked. A proxy given orally or by personal instructions is valid only on the day given.

(b) SUBSEQUENT VOTING: Members who were not present at a business meeting and were unable to cast their votes by proxy may record their votes later, so long as they do so that same business day and their vote does not change the outcome.

(c) PUBLIC ANNOUNCEMENT:

(1) Whenever the committee conducts a rollcall vote, the chairman shall announce the results of the vote, including a tabulation of the votes cast in favor and the votes cast against the proposition by each member of the committee.

(2) Whenever the committee reports any measure or matter by rollcall vote, the report shall include a tabulation of the votes cast in favor of and the votes cast in opposition to the measure or matter by each member of the committee.

RULE 6. SUBCOMMITTEES

(a) REGULARLY ESTABLISHED SUBCOMMITTEES: The committee has four subcommittees: Transportation and Infrastructure; Clean Air, Wetlands, Private Property, and Nuclear Safety; Superfund, Waste Control, and Risk Assessment; and Fisheries, Wildlife, and Drinking Water.

(b) MEMBERSHIP: The committee chairman shall select members of the subcommittees, after consulting with the ranking minority member.

RULE 7. STATUTORY RESPONSIBILITIES AND OTHER MATTERS

(a) ENVIRONMENTAL IMPACT STATEMENTS: No project or legislation proposed by any executive branch agency may be approved or otherwise acted upon unless the committee has received a final environmental impact statement relative to it, in accordance with section 102(2)(C) of the National Environmental Policy Act, and the written comments of the Administrator of the Environmental Protection Agency, in accordance with section 309 of the Clean Air Act. This rule is not intended to broaden, narrow, or otherwise modify the class of projects or legislative proposals for which environmental impact statements are required under section 102(2)(C).

(b) PROJECT APPROVALS:

(1) Whenever the committee authorizes a project under Public Law 89-298, the Rivers and Harbors Act of 1965; Public Law 83-566, the Watershed Protection and Flood Prevention Act; or Public Law 86-249, the Public Buildings Act of 1959, as amended; the chairman shall submit for printing in the Congressional Record, and the committee shall publish periodically as a committee print, a report that describes the project and the reasons for its approval, together with any dissenting or individual views.

(2) Proponents of a committee resolution shall submit appropriate evidence in favor of the resolution.

(c) BUILDING PROSPECTUSES:

(1) When the General Services Administration submits a prospectus, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended, for construction (including construction of buildings for lease by the government), alteration and repair, or acquisition, the committee shall act with respect to the prospectus during the same session in which the prospectus is submitted. A prospectus rejected by majority vote of the committee or not reported to the Senate during the session in which it was submitted shall be returned to the GSA and must then be resubmitted in order to be considered by the committee during the next session of the Congress.

(2) A report of a building project survey submitted by the General Services Administration to the committee under section 11(b) of the Public Buildings Act of 1959, as amended, may not be considered by the committee as being a prospectus subject to approval by committee resolution in accordance with section 7(a) of that Act. A project described in the report may be considered for committee action only if it is submitted as a prospectus in accordance with section 7(a) and is subject to the provisions of paragraph (1) of this rule.

(d) NAMING PUBLIC FACILITIES: The committee may not name a building, structure or facility for any living person, except former Presidents or former Vice Presidents of the United States, former Members of Congress over 70 years of age, or former Justices of the United States Supreme Court over 70 years of age.

RULE 8. AMENDING THE RULES

The rules may be added to, modified, amended, or suspended by vote of a majority of committee members at a business meeting if a quorum is present.•

RECESS

Mr. COVERDELL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, at 12:55 p.m., the Senate, in legislative session, recessed until 1:05 p.m.; whereupon, the Senate, sitting as a Court of Impeachment, reassembled when called to order by the Chief Justice.

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

The CHIEF JUSTICE. The Senate will convene as a Court of Impeachment. The Senators may be seated, and the Deputy Sergeant at Arms will make the proclamation.

The Deputy Sergeant at Arms, Loretta Symms, made proclamation as follows:

> Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against William Jefferson Clinton, President of the United States.

The CHIEF JUSTICE. The majority leader is recognized.

Mr. LOTT. Mr. Chief Justice, it is my understanding that the White House counsel presentation today will last until sometime between 5 and 6 o'clock.

I have been informed that Mr. Greg Craig and Ms. Cheryl Mills will be making today's presentations. As we have done over the past week, we will take a couple of short breaks during the proceedings. I am not exactly sure how we will do that. We will keep an eye on everybody, the Chief Justice, and counsel. I assume that after about an hour, hour and 15 minutes, we will take a break; then we will take another one in the afternoon at some point so we will have an opportunity to stretch.

I remind all Senators, again, to remain standing at your desks each time the Chief Justice enters and departs the Chamber.

As a further reminder, on a different subject, the leader lecture series continues tonight, to be held at 6 p.m. in the Old Senate Chamber. Former President George Bush will be our guest speaker.

I yield the floor, and I understand that Counsel Greg Craig is going to be the first presenter.

THE JOURNAL

The CHIEF JUSTICE. The Journal of the proceedings of the trial are approved to date.

Pursuant to the provisions of Senate Resolution 16, counsel for the President have 21 hours 45 minutes remaining to make the presentation of their case. The Senate will now hear you.

The Chair recognizes Mr. Counsel Craig.

Mr. Counsel CRAIG. Mr. Chief Justice, ladies and gentlemen of the Senate, distinguished managers from the House, good afternoon. My name is Greg Craig and I am special counsel to the President. I am here today on behalf of President Clinton. I am here to argue that he is not guilty of the allegations of grand jury perjury set forth in article I.

I welcome this opportunity to speak for President Clinton. He has a strong and compelling case, one that is based on the facts in the record, on the law, and on the Constitution. But first and foremost, the President's defense is based on the grand jury transcript itself. I urge you to read that transcript and watch the videotape. You will see this President make painful, difficult admissions, beginning with his acknowledgment of an improper and wrongful relationship with Monica Lewinsky.

You will see that the President was truthful. And after reading, seeing, hearing, and studying the evidence for yourselves, not relying on what someone else says it is, not relying on someone else's description, characterization, or paraphrase of the President's testimony, we believe that you will conclude that what the President did and said in the grand jury was not unlawful, and that you must not remove him from office.

I plan to divide my presentation into three parts:

First, to tell you how really bad this article is, legally, structurally, and constitutionally, and to argue that it falls well below the most basic, minimal standards and should not be used to impeach and remove this President or any President from office; second, to address the various allegations directly; and third, to give you a few larger thoughts in response to some of the arguments from last week.

At the conclusion you will have had much more than 100 percent of your minimum daily requirements for lawyering, for which I apologize.

Article I accuses the President of having given perjurious, false, and misleading testimony to the grand jury concerning one or more of four different subject areas:

First, when he testified about the nature and details of the relationship with Ms. Lewinsky;

Second, when he testified about his testimony in the Jones deposition;

Third, when he testified about what happened during the Jones deposition when the President's lawyer, Robert Bennett, made certain representations about Monica Lewinsky's affidavit;

And, fourth, when he testified about alleged efforts to influence the testimony of witnesses and impede the discovery of evidence.

It is noteworthy that the second and third subject areas are attempts to revisit the President's deposition testimony in the Jones case. There was an article that was proposed alleging that the President also committed perjury in the Jones case in the Jones deposition. That article was rejected by the House of Representatives, and there were very many good reasons for the House to take that action. Those allegations have been dismissed, and you must not allow the managers to revive them. Last week they tried to do that. The managers mixed up and merged two sets of issues—allegations of perjury in the grand jury and allegations of perjury in the Jones case. These are very different matters. And I think the result was confusing and also unfair to the President.

You will notice that the third and the fourth subject areas correspond to, coincide, and overlap with many of the allegations of obstruction of justice in article II. This represents a kind of double charging that you might be familiar with if you have either been a prosecutor or a defense lawyer. One is, the defendant is charged with the core offense; second, the defendant is charged with denying the core offense under oath. This gives the managers two bites at the apple, and it is a dubious prosecutorial practice that is frowned upon by most courts.

The upshot, though, of this with respect to subparts 3 and 4 of this first article is that if you conclude, as I trust you will, that the evidence that the President engaged in obstruction of justice is insufficient to support that charge, it would follow logically that the President's denial that he engaged in any such activity would be respected, and he would be acquitted on the perjury charge. Simply put, if the President didn't obstruct justice, he didn't commit perjury when he denied it.

But the most striking thing about article I is what it does not say. It alleges the perjury generally. But it does not allege a single perjurious statement specifically. The majority drafted the article in this way despite pleas from other members of the committee and from counsel for the President that the article take care to be precise when it makes its allegations. Such specificity, as many of you know, is the standard practice of Federal prosecutors all across America. And that is the practice recommended by the Department of Justice in the manual distributed to the U.S. attorneys who enforce the criminal code in Federal courts throughout the Nation.

Take a look at the standard form. It is exhibit 5 in the exhibits that we handed to you. This is given to Federal prosecutors. This is the model that they are told to use to allege perjury in a criminal indictment in Federal court. There is a very simple reason why prosecutors identify the specific quotation that is alleged to be perjury, and why it is included in a perjury indictment. If they don't quote the specific statement that is alleged to be perjurious, courts will dismiss the indictment, concluding that the charge of perjury is too vague and that the defendant is not able to determine what precisely he is being charged with.

The requirement that a defendant be given adequate notice of what he is charged with carries constitutional dimensions, and the failure to provide that notice violates due process of law. This is something that applies to all criminal defendant offenses when they are charged. And you can understand why that kind of notice is required. Imagine a robbery indictment that failed to indicate who or what was robbed and what property was stolen. How could you possibly defend against the charge that you just stole something but you don't know what it is and it is nothing specific? Imagine a murder indictment without identifying a victim.

But this requirement is even more stringent for perjury prosecution. Description, paraphrase, or summary of testimony that is alleged to be perjurious are not acceptable. The quotation must be there, or the definition should be so close that there can be no doubt as to what is intended. In the past, when the House returned articles of impeachment alleging perjury with respect to Federal judges, you will see that the House has followed this practice. And if you go back to American history and review the articles that allege perjury and that have been proved by the House and the Senate, you will find that the statements that are alleged to be perjurious are specifically identified in the article.

Let me read from article I from the resolution of impeachment against Judge Walter Nixon. "The false or misleading statement was in substance that the Forest County District Attorney never discussed this case with Judge Nixon." There is no doubt about that. That is very clear. From the Alcee Hastings articles of impeachment, the false statement was, in substance, that Judge Hastings and William Borders never made any agreement to solicit a bribe from defendants in United States v. Romano, a case tried before Judge Hastings.

Why is it that in this case—surely the most serious perjury trial in American history—the House decided that specific allegations just aren't necessary? The failure of the House to be specific in its charge of perjury in fact violated the President's right to due process and fundamental fairness. And, as you will see as I go through the procedural history of these allegations, it puts us and the President at a significant disadvantage when we try to respond to the allegations that are now set forth in this article.

But there is yet another reason why this vagueness and lack of specificity is so very dangerous, and it raises a constitutional question that only this body can resolve.

Article I, section 2, clause 5, of the Constitution states, "The House of Representatives shall have the sole power of impeachment"—"the sole power of impeachment."

By failing to be specific in this article as to what it is precisely that the President said that should cause him to be removed from office, the House has effectively and unconstitutionally ceded its authority under this provision of the Constitution to the managers, who are not authorized to exercise that authority. By bringing general charges in this article, the House Judiciary Committee, and then the House of Representatives generally, gave enormous discretion, power, and authority to the floor managers and their lawyers to decide what precisely the President was going to be charged with. They didn't have that authority under the Constitution. Only the House of Representatives has that authority.

They have been allowed to pick and to choose what allegations will be leveled against the President of the United States.

It would be extremely dangerous to the integrity of the process if the House leveled such general charges against the President, creating "empty vessels," to use Mr. Ruff's term, to be filled by lawyers and floor managers. And this article, I think, will take on more importance as we take a closer look at the charges themselves and we see what kind of "witches' brew"—to use Mr. Ruff again—what kind of content was poured into these vessels, and find out where they came from and why and when.

I would like to talk about how these charges have been a moving target for us throughout this entire process. On September 9, when Kenneth Starr submitted his referral to the House of Representatives, he claimed that there was substantial and credible information to suggest that the President committed perjury in the grand jury on three separate occasions. To his credit, the Starr referral was moderately specific. We could understand what they were talking about in those allegations.

On October 5, when House majority counsel David Schippers first made his representation to the House Judiciary Committee, he discarded two of Mr. Starr's theories and invented a new one of his own. And he included only two counts in his presentation alleging perjury in the grand jury. Those two counts were unbelievably broad and included no specifics whatsoever.

On November 19, Mr. Starr appeared before the House Judiciary Committee and gave a 2-hour opening statement. In that statement he delivered one or two sentences on the subject of grand jury perjury.

Then, on December 9, when the committee majority released its four proposed articles of impeachment, the article that alleged perjury in the grand jury, which is the one we have before us today, failed to tell us or the American people what words the President actually used that should cause the Congress to remove him from office.

As you know, these proposed articles were released just as Mr. Ruff and the President's defense were being completed. In fact, it may have been 2 or 3 minutes before he completed his final argument before the committee. So we had no advance notice and no chance to discuss these articles, to respond to them, or in any way to react. In truth, I must say that because of the vagueness of the articles that were ultimately returned, had we been given such advance notice, it would not have made much difference because, simply put, there is a stunning lack of specificity in article I.

So where do we look for guidance? How do we know what to defend against in this case? After the Judiciary Committee had completed its deliberations, after the Members had voted to send four articles of impeachment to the full House, the majority issued its report on December 16th, only 3 days before the House took its final vote. It was never debated by, let alone approved by, the House of Representatives, and thus this report has no formal standing in these proceedings. But until the managers filed their trial brief and made their presentations just last week, the majority report, written by Mr. Schippers and his staff, was our only place to go to look for guidance as to what those four subparts of this first article really meant.

Now, when it comes to perjury before the grand jury, the majority report argued that the President had not made two, not three, but a whole host of perjurious statements before the grand jury, some statements that were not contained in the Starr referral and had never been identified, charged, discussed, or debated by the Members during the impeachment inquiry.

For example, the majority report alleged that the prepared statement that the President made and delivered to the grand jury at the start of his testimony admitting his relationship with Ms. Lewinsky was "perjurious, false, and misleading," an astonishing allegation that went far beyond anything that Kenneth Starr had claimed, and a claim that no member of the Judiciary Committee had ever made in the course of the committee's deliberations.

Obviously, we had no opportunity whatsoever to respond to this allegation before the committee or before the House; the allegation was never debated or discussed by members of the committee, nor was it discussed during the debate in the Chamber of the House.

The majority report also alleged that the President committed perjury in the grand jury when he testified that his "goal in the [Jones] deposition was to be truthful," and when he said that he believed he had managed to complete his testimony in that deposition "without violating the law."

Again, this allegation was brand new to us, never before made by Starr, not included in the Schippers closing argument, never mentioned by Chairman Hyde or by anyone else in the committee, never addressed by the President's counsel, never debated by members of the committee, never discussed on the floor.

The majority report made many other new allegations of the same kind and pedigree—all new, undiscussed, untested. They had not come, ladies and gentlemen of the Senate, these allegations did not come from Starr's referral, nor did they come from any evidence that had been gathered in the course of the impeachment inquiry, nor had they ever been unveiled during the impeachment inquirv to allow the President's counsel to respond, or the members of the Judiciary Committee to debate them. To our knowledge, many of these allegations were never discussed or debated by the members of the committee. And if you read the closing arguments of the members of the House Judiciary Committee, you will search in vain for any specific reference to any of these new allegations, the terms of which are the subject of article I.

Then we found ourselves in the Senate, our only guide being the articles themselves, which, as you know, are general, and the majority report, which has no formal standing but which was filled with allegations and theories, had never been discussed much less adopted.

As the trial in the Senate began—just 3 days before the managers were scheduled to open their case, on January 11th—the House managers filed their trial brief. We discovered that the allegations of grand jury perjury against the President were still changing, still expanding, still increasing in number.

The trial brief made eight proffers, incredibly presented "merely as examples" that still in general terms describe instances where the President allegedly provided "perjurious, false, and misleading testimony" to the grand jury.

But, we were warned, these proffers were only "salient examples" of grand jury perjury. The House managers said, "The [examples set forth in the trial brief] are merely highlights of the grand jury perjury. There are numerous additional examples." And when we heard Mr. Manager ROGAN'S presentation, we realized that the trial brief was absolutely right; Mr. ROGAN unveiled allegations that had not been included even in the trial brief.

The uncertainty, fluidity, the vagueness of the charges in this case and the unwillingness of the prosecutors ever to specify and be bound by the statements that are at issue has been an aspect of this process that, I submit, has been profoundly unfair to this President. It is also unconstitutional, from the arguments I gave you.

The articles had come to include specific allegations of grand jury perjury that did not come from the Starr referral and that never would have been approved by the House had the House been required to review them.

There is one other element of unfairness that Mr. Ruff referred to. Even as the House managers have consistently tried to stretch the scope of article I to cover allegations never considered by the House, they have tried to twist the scope of article I to cover allegations specifically rejected by the House.

Now, let me be clear here. I am not charging the managers with going beyond the record of the case. These new allegations come from the record in the case. They are not beyond the record. They are in the record. But the Starr referral did not find it suitable to make these allegations, and they were not made in a timely way before the House Judiciary Committee and, I would submit, in a timely way before the House of Representatives.

I go back to this second element of unfairness that has to do with the Jones article. When that Jones article was rejected, we would argue that rejection should have been recognized for what it was, a clear instruction from the House of Representatives not to argue that the President should be impeached and removed because of his testimony in the Jones deposition. But the managers have sought to merge the Jones testimony with the grand jury testimony, to confuse these two events, to blend and blur them together.

The Senate must understand that these two events were different in every way. In the President's testimony in the Jones case, the President was evasive, misleading, incomplete in his answers, and, as I said to the House Judiciary Committee, maddening. But in the Federal grand jury, President Clinton was forthright and forthcoming. He told the truth, the whole truth and nothing but the truth for 4 long hours, and the American people saw that testimony and they know that President Clinton, when he appeared before the grand jury, did not deny a sexual relationship with Ms. Lewinsky—he admitted to one.

They know that he did not deny that he was alone with Ms. Lewinsky; he repeatedly acknowledged that he had been alone with her on many occasions.

The managers argued that the Jones testimony is relevant because, they say, the President perjured himself when he told the grand jury that his testimony in the Jones case was truthful, and it wasn't, say the managers. That characterization of the President's testimony, they say, is simply not accurate. What he said was, "My goal in this deposition was to be truthful but not particularly helpful . . . I was determined to walk through the minefield of this deposition without violating the law, and I believe I did." These are opinions. He is characterizing his state of mind.

The House managers, on the basis of this testimony, must not be allowed to do what the House of Representatives told them they could not do, which is to argue about the President's testimony in the Jones case. Even if you believe that the President crossed the line in his Jones deposition, you cannot conclude that he should be removed for it.

He was not impeached for it. This case is about the grand jury and the grand jury alone.

Now, in fact, the vagueness and uncertainty as to the specific allegations of perjury, whether in the grand jury or in the Paula Jones deposition, have created enormous confusion in the public about the President's conduct and about his testimony. This confusion, I think, has done enormous damage to the President, because out of this confusion has emerged a wholly inaccurate conventional wisdom about what President Clinton said when he testified in the grand jury. And that conventional wisdom is based on certain common mischaracterizations of the President's testimony.

Last December 8, I gave an opening statement in the President's defense before the committee. And when it came time for me to talk about the charges of perjury, I urged the members of the committee to open their minds, and because of widespread misinformation about the facts, to focus on the record. I make the same plea to you again today. Keep an open mind and look at the real record. Read the transcript. Watch the videotape. Do not rely upon anyone else's version.

We speak from some disappointing experience on this issue. Over and over again, inaccurate descriptions of the President's grand jury testimony have been launched into the public debate—sometimes innocently, sometimes negligently. But the result has been the same. The President's critics have created a conventional wisdom about the President's grand jury that is based on myth and not reality. There has been a merging of the President's testimony in the Jones deposition with that of his testimony in the grand jury, and this dynamic has been unfair to the President.

We are at No. 6 with the exhibits. Let me just cite a few examples. There are many more available, but they are from people and sources that are familiar with the case and close to the evidence, and some coming from the presentations of just last week.

At the conclusion of the impeachment inquiry conducted by the Judiciary Committee, the final arguments before the votes were taken in front of the committee, Congressman McCollum stated:

> The President gave sworn testimony in the Jones case in which he swore he could not recall being alone with Monica Lewinsky and that he had not had sexual relations with her.
>
> He repeated those assertions a few months later to the grand jury, and the evidence shows he lied about both.

That is not an accurate characterization of the President's testimony before the grand jury. In the majority report, written by the majority counsel, the author stated repeatedly that President Clinton testified before the grand jury that he did not have sexual relations with Ms. Lewinsky. Members of the Senate, those descriptions of the President's grand jury testimony are absolutely false. When he appeared before the grand jury, the President admitted—he did not deny—an inappropriate, intimate, wrongful, personal relationship with Ms. Lewinsky. When he made this admission there was no doubt in anyone's mind what he meant. It meant, and the whole world knew that it meant that the President of the United States had engaged in some form of sexual activity or sexual contact with Ms. Lewinsky.

In his appearance on a national news program on CNN television, this is another example: Over the New Year's weekend Mr. Manager Graham was asked for the most glaring example of the President's alleged perjury before the grand jury. And he said:

> I think when the President said he wasn't alone with her, he lied.

That characterization of the President's grand jury testimony is not true. There can be absolutely no doubt that during his grand jury testimony, the President acknowledged—he did not deny, he repeatedly acknowledged—that he had been, on certain occasions, alone with Ms. Lewinsky. He acknowledged that fact in the opening sentence of his prepared statement to the grand jury. Let me read it. Let me read you the first words in the President's opening statement to the grand jury:

> When I was alone with Ms. Lewinsky on certain occasions in early 1996, and once in early 1997, I engaged in conduct that was wrong.

"When I was alone with Ms. Lewinsky," that is what the President of the United States said. That is what the transcript says. And no amount of eloquence or lawyerly skill from the managers can change that fact. Facts are stubborn.

He also engaged in a lengthy colloquy with the prosecutors about how many times he thought he had been alone with Ms. Lewinsky. And there can be no doubt in anyone's mind that he answered that he had been alone with Ms. Lewinsky on frequent occasions. He was asked, and he answered, and he said yes, and he made clear what he meant. He went on to say:

> I did what people do when they do the wrong thing. I tried to do it where nobody else was looking at it. I'd have to be an exhibitionist, not to have tried to exclude everyone else.

These are not the words of someone who is trying to hide the fact of his relationship with Ms. Lewinsky. And it is difficult to understand how reading these words, as well as the long and detailed testimony in front of the grand jury, how one can think or contend that the President repeated or ratified in his deposition before the grand jury about not ever being alone.

In the managers' trial brief issued just 3 days before they made their presentation to the statement, the brief makes the following statement. This is mischaracterization No. 4.

> [The President] falsely testified that he answered questions truthfully at his deposition concerning, among other subjects,

> whether he had been alone with Ms. Lewinsky.

Members of the Senate, as I just outlined in connection with Manager GRAHAM's statement, this characterization of the President's grand jury testimony is misleading. The lawyers for the Office of the Independent Counsel asked many questions and engaged in extensive colloquy with the President about being alone with Ms. Lewinsky. But they never asked him to explain, affirm, defend, or justify his testimony about that same topic in the Jones deposition. And he did not do so.

Members of the Senate, if justice is to be done, these misstatements and mischaracterizations must not be allowed to stand and must not be allowed to influence your judgment as you look at the evidence. So, please look at the real record. It is the record of the President's testimony, not the Jones deposition—his testimony before the grand jury that should be the Senate's sole concern.

Now, it is timely, I think, to talk a little bit about legalisms and technicalities and hairsplitting because those who have engaged in this process over the past months in this enterprise of defending the President have also been the subject of much criticism. The majority counsel accused us of "legal hairsplitting, prevarication and dissembling," and urged the Members of the Senate and the House to pay no attention to the "obfuscations and legalistic pyrotechnics of the President's defenders." And during his presentation just last week on January 15, Congressman MCCOLLUM implored you "not to get hung up on some of the absurd and contorted explanations of the President and his attorneys."

To the extent that we have relied on overly legal or technical arguments to defend the President from his attackers, we apologize to him, to you, and to the American public. We do the President no earthly good if, in the course of defending him, we offend both the judges, the jurors, and the American public. And Mr. Ruff had it just right when he expressed his concern to the members of the Judiciary Committee that our irresistible urge to practice our profession should not get in the way of securing a just result in this very grave proceeding for this very specific client.

But, when an individual—any individual—is accused of committing a crime such as perjury, the prosecutors must be put to their full proof. Every element of the crime must be proven. And if a criminal standard is going to be used here it must be proven beyond a reasonable doubt.

Now, the managers have taken it upon themselves directly and aggressively to accuse this President of criminal activity. They say that this criminal activity is at the heart of the effort to remove him from office. As Congressman MCCOLLUM said to you last week:

> The first thing you have to determine is whether or not the President committed crimes. If he didn't obstruct justice or witness tamper or commit perjury, no one believes [no one believes] he should be removed from office.

Allegations of legal crimes invite, indeed they call out for legal defenses. And you will not be surprised to learn that in defending the President of the United States, we intend and we will use all the legal defenses that are available to us, as they would be available to any other citizen of this country.

Teddy Roosevelt, quoted earlier in this proceeding, said it best: "No man is above the law and no man is below the law either." In fact, the mere act of alleging perjury, as those of you in this body know who have tried perjury cases, the mere act of alleging perjury invites precisely the kind of hairsplitting everyone seems to deplore. If it is the will of the Congress to change the crime of perjury, to modify it, to eliminate certain judicially created defenses to that offense, so be it. But the crime of perjury has developed the way it has for some very good reasons, and it has a long and distinguished pedigree.

Its essential elements are well and clearly established, and Manager CHABOT's presentation was clear on those points, although you will not be surprised to learn that I disagree with his conclusions. Courts have concluded that no one should be convicted of perjury without demonstrating that the testimony in question was, in fact, false; that the person testifying knew it to be false; and that the testimony involved an issue that is material to the case, one that could influence the outcome of the matter one way or another.

In addition, courts and prosecutors are in general agreement that prosecutions for perjury should not be brought on the basis of an oath against an oath. The Supreme Court has spoken on this issue, holding that a conviction for perjury "ought not to rest entirely upon an oath against an oath."

Ladies and gentlemen of the Senate, when we presented our case to the Judiciary Committee last December, we invited five experienced prosecutors to examine the record of this case and to give us their views as to whether they would bring charges of perjury and obstruction of justice against the President based on that record. These five attorneys are five of the best, the most experienced, the most tested prosecutors the country has ever seen. Three served as high officials in Republican Departments of Justice; two served during Democratic administrations. All were in agreement that no responsible prosecutor would bring this case against President Clinton.

I would like to run the tape recordings of testimony from two of the individuals who testified, Tom Sullivan, former U.S. attorney from the Northern District of Illinois, as he describes the law of perjury, and Richard Davis, an experienced trial lawyer with prosecutorial experience in the Department of Justice and the Department of the Treasury.

(Text of videotape presentation:)

> Mr. SULLIVAN. . . . The law of perjury can be particularly arcane, including the requirements that the government prove beyond a reasonable doubt that the defendant knew his testimony to be false at the time he or she testified, that the alleged false testimony was material, and that any ambiguity or uncertainty about what the question or answer meant must be construed in favor of the defendant.
>
> Both perjury and obstruction of justice are what are known as specific intent crimes, putting a heavy burden on the prosecutor to establish the defendant's state of mind. Furthermore, because perjury and obstruction charges often arise from private dealings with few observers, the courts have required either two witnesses who testified directly to the facts establishing the crime, or, if only one witness testifies to the facts constituting the alleged perjury, that there be substantial corroborating proof to establish guilt. Responsible prosecutors do not bring these charges lightly.

The next testimony you will hear is from Richard Davis, who is Acting Deputy Attorney General—excuse me, he was assistant from the Southern District of New York, task force leader for a Watergate special prosecution force and Assistant Secretary of Treasury for Enforcement and Operations from 1977 to 1981.

(Text of videotape presentation:)

> Mr. DAVIS. . . . In the context of perjury prosecutions, there are some specific considerations which are present when deciding whether such a case can be won. First, it is virtually unheard of to bring a perjury prosecution based solely on the conflicting testimony of two people. The inherent problems in bringing such a case are compounded to the extent that any credibility issues exist as to the government's sole witness.
>
> Second, questions and answers are often imprecise. Questions sometimes are vague, or used too narrowly to define terms, and interrogators frequently ask compound or inarticulate questions, and fail to follow up imprecise answerers. Witnesses often meander through an answer, wandering around a question, but never really answering it. In a perjury case, where the precise language of a question and answer are so relevant, this makes perjury prosecutions difficult, because the prosecutor must establish that the witness understood the question, intended to give a false, not simply an evasive answer, and in fact did so. The problem of establishing such intentional falsity is compounded, in civil cases, by the reality that lawyers routinely counsel their clients to answer only the question asked, not to volunteer, and not to help out an inarticulate questioner.

Legalistic though some of these legal defenses may be, these are the respectable and respected, acceptable and expected defenses available to anyone charged with this kind of a crime. So to accuse us of using legalisms to defend the President when he is being accused of perjury is only to accuse us of defending the President. We plead guilty to that charge, and the truth is that an attorney who failed to raise these defenses might well be guilty of malpractice.

But putting the legal defenses aside, it is not a legalistic issue to point out that the President did not say much of what he is accused of having said. It is not legalistic to point out that a witness did not say what some rely on her testimony to establish. And it is not too legalistic to point out that a President of the United States should not be convicted of perjury and removed from office over an argument, a dispute about what is and what is not the commonly accepted meaning of words in his testimony.

I would like to make one additional point about the Office of the Independent Counsel and the Starr prosecutors. They, as you know, have had a long and difficult relationship with the White House. It has been intense, adverse, frequently hostile. They were the ones who conducted the interrogation of the President before the grand jury. These attorneys from the Office of Independent Counsel were identified by Mr. Starr as being experienced and seasoned and professional.

In the referral that they sent over to the House of Representatives, they make three allegations of grand jury perjury, and the managers, based on my analysis of Mr. ROGAN's speech, appear to have adopted two of those allegations.

What is most remarkable is the fact that the managers make many, many allegations of grand jury perjury that the Independent Counsel declined to make, that were not included in the referral.

Think about it for a moment. The lawyers working for the Office of the Independent Counsel, they were in charge of this investigation. They were the ones who called the President. They were the ones running the grand jury. It was their grand jury. They conducted the questioning of the President. They picked the topics. They asked the follow-up questions.

You should remember one additional fact. Their standard for making a referral is presumably much lower than the standard you would expect from the managers in making a case for the removal of the President in an article of impeachment. The Independent Counsel Act calls upon the Independent Counsel to make a referral when there is credible and substantial information of potential impeachable offenses.

They looked at the record, the same record that the managers had, and they did make a referral and they did send recommendations to the House of Representatives.

But these lawyers, Mr. Starr and his fellow prosecutors, did not see fit to allege most of the charges that we are discussing today. It is fair for us to assume that the Office of Independent Counsel considered and declined to make the very allegations of perjury that the House managers presented to you last week. Apparently, the managers believe that Ken Starr and his prosecutors have been simply too soft on the President.

This should cause the Members of the Senate some concern and some additional reason to give very careful scrutiny to these charges. When you do, you will find the following: The allegations are frequently trivial, almost always technical, often immaterial and always insubstantial. Certainly not a good or justifiable basis for removing any President from office.

Finally, as we go through the allegations and the evidence that I will be discussing, please ask yourself, What witness do I want to hear about this issue? Will live witnesses really make a difference in the way that I think about this? Are they necessary for this case and this article to be understood and resolved?

Subpart 1 has to do with testimony about the nature and details of the relationship with Monica Lewinsky. And, once again, because article I does not identify with any specificity what the President said in the grand jury that is allegedly perjurious, the House managers have been free to include whatever specific allegations they—not the House of Representatives—have seen fit to level against the President.

And we have been left to guess—so this is my guesswork—we have been left to guess what the specific allegations are. And we have done so. And we have tried to identify the precise testimony at issue based on the managers' trial brief and on Mr. Manager ROGAN's presentation.

Now, as you will see in these allegations of subpart 1, it is the managers who resort to legalisms, who use convoluted definitions and word games to attack the President. It is the managers who employ technicalities and legal mumbo jumbo, who distort the true meaning of words and phrases in an effort to convict the President. And we are the ones who must cry "Foul." We are the ones who must point out what the managers are trying to do here. They seek to convict the President and remove him from office for perjury before a grand jury by transforming wholly innocent statements about immaterial issues into what are alleged to be "perjurious, false and misleading" testimony.

I begin with what is identified in the majority report as "direct lies." First, the managers' claim that the President perjured himself before the grand jury, that he told a direct lie and should be removed from office because in his prepared statement he acknowledged having inappropriate contact with Ms. Lewinsky on "certain occasions." This was a "direct lie," say the managers, because, according to Ms. Lewinsky, between November 15, 1995, and December 28, 1997, they were alone at least 20 times and had, she says, 11 sexual encounters. To use the words "on certain occasions" in this context is, according to the managers, "perjurious, false and misleading."

Now, this particular chart was not included in Mr. Starr's referral, and it was not debated by the members of the Judiciary Committee in the House of Representatives.

The managers also say that the President lied to the grand jury and should be removed from office because the President acknowledged that "on occasion" he had telephone conversations that included sexual banter—this is also in the prepared statement—when the managers say the President and Ms. Lewinsky had 17 such telephone conversations over a 2-year period of time. To use the words "on occasion" in this context, it is, according to the managers, a "direct lie" to the grand jury for which the President should be removed from office. Now, this charge was not included in Mr. Starr's referral. It was not debated by the members of the House Judiciary Committee. And it was not debated on the floor of the House.

In responding to these two charges, it may make some sense to begin with the dictionary definition of "occasional" to satisfy ourselves that the President's statement is, in fact, a more than reasonable and actually an accurate use of that word under the circumstances.

Now, there are 774 days in the time span between November 1995 and December 1997. I submit that it is not a distortion, it is not dishonest to describe their activity, which Ms. Lewinsky claims occurred on 11 different days—from our examination of her testimony, we can only locate 10, but she says 11—as having occurred "on certain occasions." Look at the calendar.

Now, that phrase, "on certain occasions," carries no inference of frequency or numerosity. Sort of means it happened every now and then. And the same could be said for the use of the words "on occasion" when they were talking about telephone conversations to describe 17 telephone conversations that included explicit sexual language.

Now, as you consider the second allegation having to do with the phone calls, you might also read the grand jury testimony of Ms. Lewinsky herself on August 20, 1998, at page 1111. There a grand juror asks her, how much of the time, and how often—when she was on the phone with the President—did they engage in these kinds of graphic conversations. Ms. Lewinsky answered, "Not always. On a few occasions." The managers are trying to remove the

President from office when he used the words "on occasions," when Ms. Lewinsky described that frequency or that event precisely the same way.

There is simply no way that the President's use of the words "on certain occasions" or "on occasion" can be used as an effort to mislead or deceive the members of the grand jury or to conceal anything. There is simply no way that a reasonable person can look at this testimony and conclude—or agree with the managers—that it is a "direct lie." What message do the managers send to America and to the rest of the world when they include these kinds of allegations as reasons to remove this President from office?

It is hard to take the charges seriously when in each case they boil down to arguments of semantics. Does anyone here really believe that Members of the House of Representatives would have voted to approve these allegations as the basis for impeaching and removing this President if they had been given the chance with specific, identified perjurious testimony in a proposed article of impeachment? But here we are in the well of the Senate defending the President of the United States against allegations that the managers believe and have seriously argued should cause the President to be removed from office and even prosecuted and convicted in a criminal court.

The President is also accused of lying before the grand jury—and the managers have asked you to convict him and remove him from office—because, in the prepared statement that he read to the grand jury in August, he acknowledged that he engaged in inappropriate conduct with Ms. Lewinsky "on certain occasions in early 1996 and once in 1997." The managers call this a "direct lie" because the President did not mention 1995. And in their Trial Memorandum they write: "Notice [the President] did not mention 1995. There was a reason: On three 'occasions' in 1995, Ms. Lewinsky said she engaged in sexual contact with the President."

Now, this was one allegation that the Office of the Independent Counsel did include in its referral to the House. And this charge was, in fact, discussed and debated by the members of the Judiciary Committee when they conducted their impeachment inquiry. Let me show you what two members of that committee—now managers for the House in this trial—thought about this particular charge of perjury when Congressman BARNEY FRANK ridiculed it during the debate.

The chairman of the Judiciary Committee, Mr. HYDE—we are missing an exhibit here; I think it is No. 10—said, "It doesn't strike me as a—as a terribly serious count." Congressman CANADY, in his closing argument in the final stage of that proceeding, said, "I freely acknowledge that reasonable people can disagree about the weight of the evidence on certain of the charges. For example, I think there is doubt about the allegations that the President willfully lied concerning the date his relationship with Ms. Lewinsky began."

This allegation involves an utterly meaningless disparity in testimony about dates that are of absolutely no consequence whatsoever. The most likely explanation here is that there was an honest difference in recollection. There is no dispute about the critical facts that Ms. Lewinsky was young, very young, too young, when she got involved with President Clinton. But her age didn't change between November 1995 and January 1996. Her birthday is in July. She was 22 years old in November and 22 years old in January, despite the fact that every manager persists in stating, erroneously—not perjuriously, erroneously—that she was 21 years old when she first became involved with the President. Nothing of any importance in the case took place between December 1995 and January 1996. She was an intern in the early stage of that period, and she became a Government employee. So it did not change the relationship that she had with the President. It modified her title. Any dispute over this immaterial issue is silly.

It is unreasonable to argue, as we heard from the House managers last week, that if you believe Ms. Lewinsky and disbelieve the President on this issue as to which date was the date that they began the relationship and had the inappropriate contact, that you must convict the President and remove him from office.

I confess, I find myself in agreement with Congressman HYDE when he says this allegation is not serious, not "terribly serious." And I agree with Congressman CANADY when he suggests "there is" room for "doubt" as to whether the President had any real reason or motive to lie about these things.

I truly wonder if the House of Representatives, had it been identified as a specific statement for them to consider, would have made and included this allegation in the articles of impeachment aimed at removing President Clinton from office.

Is this conflict in testimony really such a serious issue that, if you find the President is mistaken, he should be removed from office? And is it important enough to require the testimony of live witnesses? Is it material of anything of interest to the grand jury at the time this testimony was given? I don't think so.

Now, between the time of the vote in the House and the time that the managers filed their trial brief, the managers came up with another allegation of perjury and put it into the mix. They argue that this element of the President's grand jury testimony should also cause him to be removed from office. This allegation involves the President's statement that there was some period of friendship with Ms. Lewinsky that led to inappropriate contact. But it is immaterial, unimportant, and fundamentally frivolous as an allegation. And it was not, needless to say, included in the Starr referral. I am sure the attorneys in the Office of Independent Counsel knew about this statement and chose not to include it. It was never discussed by the members of the Judiciary Committee during the impeachment inquiry. We never heard about it, never saw it, never had a chance to deal with it. It was never mentioned on the floor of the House of Representatives.

According to my examination—which may be flawed—my thinking is that it made its first appearance in the matter only after the House of Representatives voted on the articles of impeachment when the managers filed their trial brief. Does anyone really believe that the House of Representatives would have voted to approve this allegation as a basis for convicting and removing this President from office?

Then the managers turn to what, in the majority report, they call "the heart of the perjury"; that is, the President's grand jury testimony that his encounters with Ms. Lewinsky did not constitute "sexual relations" as defined by the Jones lawyers in the Jones deposition.

Before dealing with this allegation, however, it is important to understand that in the course of his testimony the President was required to deploy two different definitions of "sexual relations." One was his own and the other was the definition supplied to him by the Jones lawyers and modified by Judge Susan Webber Wright during his deposition.

First, if you turn to exhibit No. 11, you will find the President's definition, his own personal definition, as reported to the grand jury.

Next, let me direct your attention to the transcript of the telephone conversation between Monica Lewinsky—I am talking here about exhibit 12—Monica Lewinsky and Linda Tripp, where Ms. Lewinsky explained her definition of "sexual relations." This conversation occurred, incidentally, many weeks before Ms. Lewinsky executed her affidavit for the Jones case.

Finally, look at the dictionaries and read their definitions. You can see that in exhibit 13.

By the way, exhibit 12, which includes Ms. Lewinsky's definition, is confirmed by other parts of the record where she talks to other individuals, FBI agents. She refers to this understanding and this definition in her proffer. So it is not just the one telephone conversation to establish what Monica Lewinsky says she thought at that time the definition was.

Although some might think that the President's definition is unduly limited and that both of them are splitting hairs, there is some reasonable basis and there is reputable authority to support their view. It seems clear that Ms. Lewinsky could think, and probably did think and reassure herself at the time she wrote and executed her affidavit, that the affidavit she submitted in the Jones case was, in fact, accurate. And thus, knowing Ms. Lewinsky's view of that situation and sharing her definition, the President could reasonably say, "Absolutely, yes," when Mr. Bennett asked the President if Ms. Lewinsky's affidavit stating she had never had sexual relations with the President was true.

How can you accept the argument of the House managers that the President should be removed from office because his definition, which is the dictionary definition, does not comport with theirs?

We are going to play the videotape. We are going to talk about the definition that was the second definition that was given to the President in the Jones deposition, which is also the subject of grand jury testimony, and we are going to play 14 minutes of that videotape at the beginning of the President's appearance, or at the time he was first handed the definition and sits at the table.

This may be a good time to take a break because it will be a 14-minute span of time.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

RECESS

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that we take a 10-minute recess at this time. I urge the Senators to relax a moment but come right back to the Chamber so we can proceed.

There being no objection, at 2:06 p.m., the Senate recessed until 2:24 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Senate will come to order.

The Chair recognizes the majority leader.

Mr. LOTT. Mr. Chief Justice, I believe we will be proceeding with Mr. Counsel Craig's video perhaps, or do you have something before that?

Mr. Counsel CRAIG. I have a little bit of production.

The CHIEF JUSTICE. The Chair recognizes Mr. Counsel Craig.

Mr. Counsel CRAIG. Thank you, Mr. Chief Justice.

Exhibit No. 14 in your collection of exhibits is the definition that the President was handed when he went into his deposition testimony—to give his deposition testimony. There are two or three things I would like to say about this exhibit before we go to the videotape.

The first is this: Many of the President's critics have accused the President of himself coming up with this tortured and convoluted definition so that he could get away with denying having sex with Ms. Lewinsky; that he was the one that came up with a bizarre and surreal definition that would give him some plausible deniability and allow him to conceal his relationship with Ms. Lewinsky from the Jones lawyers. But in truth this definition was not his idea, not his work product, not his own definition. And it is unfair and inaccurate to saddle him with inventing such a silly and truncated definition, and the event that flows from that.

My second point is this: The mere fact that the lawyers in Jones felt the need to use a definition for sexual relations is, by itself, standing alone, evidence to support the notion that at least they recognized that the precise meaning of the term can and does differ from person to person. It is precisely then, when there is some uncertainty or ambiguity about the meaning and common usage of words, that lawyers turn to create a definition in an effort to have clarity, uniformity and common understanding. And the very fact that the lawyers in Jones seem to think that a definition was needed means that without such a definition there is no commonly accepted, no universally agreed upon meaning of this phrase. And what is or is not included within the ambit of that definition becomes an argument and nothing more—certainly not perjury.

The third point to remember before we watch the President as he first sees this piece of paper is this:

To understand what is going on in the President's mind at the time he testified about this definition during the Jones deposition, you must look at what was deleted as well as looking at that part of the definition that was left behind.

You will see that in the third paragraph of the definition there is the description which, in fact, more closely approximates what went on between Ms. Lewinsky and the President within the first paragraph. And this part of the definition was deleted by the judge.

There is an additional point. On the tape you will hear the President's lawyer, Mr. Bennett—and Mr. Ruff referred to this yesterday—urging the Jones lawyers to abandon this definition, to leave it behind, and ask direct questions of the President as to what he did. The record would certainly have been clearer for all of us if he had followed Mr. Bennett's advice. And there is another voice that you will hear in addition to Mr. Bennett—Mr. Fisher, who was the Jones lawyer, the judge, Judge Wright, and the voice of the lawyer of the President's codefendant in the case of Danny Ferguson.

Let me just briefly tell you what to look for. The President first saw this definition when he entered the room and sat down to testify—not before. You will see him as he sits there and he is handed a piece of paper with the definition typed on it. Neither he nor his lawyer had ever seen that definition before. He was then required to sit down to study it, and to understand it.

And if you look at the next exhibit, this is what he says about what he thought and did later in the grand jury. I think this is the definition, exhibit No. 15. You will watch him as he says this.

I might also note that when I was given this and began to ask questions about it, I actually circled number one. This is my circle here. I remember doing that so I could focus only on those two lines, which is what I did.

This was the actual deposition exhibit with his circle around No. 1.

Let us remember finally what his testimony is about his intentions in this deposition. "My goal is to be truthful, but I didn't want to help them."

Let's watch what happened.

[Text of videotape presentation:]

A. Good morning.

Q. My name is Jim Fisher, sir, and I'm an attorney from Dallas, Texas, and I represent the Plaintiff, Paula Jones, in this case. Do you understand who I am and who I'm representing today?

A. Yes.

Q. And do you understand, sir, that your answers to my questions today are testimony that is being given under oath?

A. Yes.

Q. And your testimony is subject to the penalty of perjury; do you understand that, sir?

A. I do.

Q. Sir, I'd like to hand you what has been marked Deposition Exhibit 1. So that the record is clear today, and that we know that we are communicating, this is a definition of a term that will be used in the course of my questioning, and the term is "sexual relations." I will inform the Court that the wording of this definition is patterned after Federal Rule of Evidence 413. Would you please take whatever time you need to read this definition because when I use the term "sexual relations," this is what I mean today.

Mr. BENNETT. Is there a copy for the Court?

Mr. FISHER. Would you pass that, please?

Mr. BENNETT. Your Honor, as an introductory matter, I think this could really lead to confusion, and I think it's important that the record be clear. For example, it says, the last line, "contact means intentional touching, directly or through clothing," I mean just for example, one could have a completely innocent shake of the hand, and I don't want this record to reflect—I think we're here today for Counsel for the Plaintiff to ask the President what he knows about various things, what he did, what he didn't do, but I, I have a real problem with this definition which means all things to all people in this particular context, Your Honor.

Mr. BRISTOW. Your Honor, I think the wording of that is extremely erroneous. What this, what the deposing attorney should be looking at is exactly what occurred, and he can ask the witness to describe as exactly as possible what occurred, but to use this as an antecedent to his questions, it would put him in a position, if the

President admitted shaking hands with someone, then under this truncate deposition—or definition, he could say or somehow construe that to mean that that involves some sort of sexual relations, and I think it's very unfair. Frankly I think it's a political trick, and I've told you before how I feel about the political character of what this lawsuit is about.

Mr. FISHER. Your Honor, may I respond?

Judge WRIGHT. You may.

Mr. FISHER. The purpose of this is to avoid everything that they have expressed concern about. It is to allow us to be discreet and to make the record crystal clear. There is absolutely no way that this could ever be construed to include a shaking of the hand.

Mr. BENNETT. Well, Mr. Fisher, let me refer you to paragraph two. It says "contact between any part of the person's body or an object and the genitals or anus of another person."

What if the President patted me and said I had to lose ten pounds off my bottom? I—you could be arguing that I had sexual relations with him. Your Honor, this is going to lead to confusion. Why don't they ask the President what he did, what he didn't do, and then we can argue in Court later about what it means.

Judge WRIGHT. All right, let me make a ruling on this. It appears that this really is not the definition of contact under Rule 413 because Rule 413 deals with nonconsensual contact. This definition would encompass contact that is consensual, and of course the Court has ruled that some consensual contact is relevant in this case, and so let the record reflect that the Court disagrees with counsel that this is not, about it being the definition under Rule 413. It's not. It is more in keeping with, however, the Court's previous rules, but I certainly agree with the President's Counsel that this, the definition number two is too encompassing, it's too broad, and so is definition number three. Definition number one encompasses intent, and so that would be, but numbers two and three is just, are just too broad.

Mr. FISHER. All right, Your Honor.

Judge WRIGHT. And number one is not too broad, however, so I'll let you use that definition as long as we understand that that's not Rule 413, it's just the rule that would apply in this case to intentional sexual contact.

Mr. FISHER. Yes, Your Honor, and had I been allowed to develop this further, everyone would have seen that Deposition Exhibit 2 is actually the definition of sexual assault or offensive sexual assault, which is the term in Rule 413.

Mr. BENNETT. Your Honor, I object to this record being filled with these kinds of things. This is going to leak. Why don't they ask—they have got the President of the United States in this room for several hours. Why don't they ask him questions about what happened or didn't happen?

Judge WRIGHT. I will permit him to refer to definition number one, which encompasses knowing and intentional sexual contact for the purpose of arousing or gratifying sexual desire. I'll permit that. Go ahead.

Q. All right, Mr. President, in light of the Court's ruling, you may consider subparts two and three of Deposition Exhibit 1 to be stricken, and so when in my questions I use the term "sexual relations," sir, I'm talking only about part one in the definition of the body. Do you understand that, sir?

A. I do.

Q. I'm now handing you what has been marked Deposition Exhibit 2. Please take whatever time you need to read Deposition Exhibit 2.

Mr. BENNETT. Your Honor, again, what I am very worried about, Your Honor, is first of all, this, this, this appears to be a—I mean what I don't want to do is have him being asked questions and then we don't, we're all ships passing in the night. They're thinking of one thing, he's thinking of another. Are we talking criminal assault? I mean this is not what a deposition is for, Your Honor. He can ask the President, what did you do? He can ask him specifically in certain instances what he did, and isn't that what this deposition is for? It's not to sort of lay a trap for him, and I'm going to object, to the President answering and having to remember what's on this whole sheet of paper, and I just don't think it's fair. It's going to lend to confusion.

Judge WRIGHT. All right, do you agree with Mr. Bennett?

Mr. BRISTOW. I had one other point to add Your Honor.

Judge WRIGHT. All right.

Mr. BRISTOW. This is almost like in a typical automobile accident where the plaintiff's counsel wants to ask the defendant were you negligent. That's not factual.

Judge WRIGHT. Mr. Fisher, do you have a——

Mr. FISHER. Yes, Your Honor. What I'm trying to do is avoid having to ask the President a number of very salacious questions and to make this as discreet as possible. This definition, I think the Court will find, is taken directly from Rule 413 which I believe President Clinton signed into law, with the exception that I have narrowed subpart one to a particular section, which would be covered by Rule 413, and I have that section here to give the President so that there is no question what is intended. This will eliminate confusion, not cause it.

Mr. BENNETT. Your honor, I have no objection where the appropriate predicates are made for them to ask the President, did you know X, yes or no, what happened, what did you do, what didn't you do. We are—acknowledge that some embarrassing questions will be asked, but then we will know what we're talking about, but I do not want my client answering questions not understanding exactly what these folks are talking about.

Now, Your Honor, I told you that the President has a meeting at four o'clock, and we've already wasted twenty minutes, and Mr. Fisher has yet to ask his first factual question.

Judge WRIGHT. Well, I'm prepared to rule, and I will not permit this definition to be understood. Quite frankly there's several reasons. One is that the Court heretofore has not proceeded using these definitions. We have used, we've made numerous rulings or the Court has made numerous rulings in this case without specific reference to these definitions, and so if you want to know the truth, I don't know them very well. I would find it difficult to make rulings, and Mr. Bennett has made clear that he acknowledges that embarrassing questions will be asked, and if this is in fact an effort on, on the part of Plaintiff's Counsel to avoid using sexual terms and avoid going into great detail about what might or might not have occurred, then there's no need to worry about that, you may go into the detail.

Mr. BENNETT. If the predicates are met, have no objection to the detail.

Mr. FISHER. Thank you, Your Honor.

Judge WRIGHT. It's just going to make it very difficult for me to rule, if you want to know the truth, and I'm not sure Mr. Clinton knows all these definitions, anyway.

Did you hear that last statement from the judge? "I'm not sure Mr. Clinton knows all these definitions, anyway."

Now, before the grand jury the President discussed at some length and in great detail his interpretation of the definition that he was asked to apply during that deposition—the definition that he was asked to apply. And he gave lengthy and sustained answers. And when you read the grand jury testimony, as I urge you to do, you will see that they are consistent and they are logical and there is reason behind his conclusion that his activities with Ms. Lewinsky simply did not fall within that definition.

There is no mystery, no deception, no lying, no effort to conceal his view. His view is there for all to see. It is also reported from these limited excerpts from the grand jury testimony. It is a plain statement of his understanding. And to argue that the President, when he conveyed his understanding of that definition, doesn't really believe his argument, and to contend that he is committing perjury when he told the grand jury that he genuinely believed his interpretation of the definition—that is just speculation about what is in his mind and it is not the stuff or fuel of a perjury prosecution.

Now, I would like to return very briefly to the group of experienced prosecutors who gave their opinion about the President's testimony before the grand jury on this issue. They said that the President's interpretation was a reasonable one under the circumstances, but the managers claim that the President's explanation of the Jones definition, his interpretation, his understanding, and his argument with the lawyers from the Office of Independent Counsel, are the heart of the perjury.

Let's hear what the prosecutors said about this and read the transcript of their testimony when they testified before the House Judiciary Committee. And first we will listen to Tom Sullivan.

(Text of videotape presentation:)

Mr. SULLIVAN. Thank you very much, Mr. Hyde. It's clear to me that the president's interpretation is a reasonable one, especially because the words which seem to describe oral sex—the words which seem to describe directly oral sex were stricken from the definition by the judge. In a perjury prosecution, the government must prove beyond a reasonable doubt, that the defendant knew when he gave the testimony, he was telling a falsehood. The lying must be knowing and deliberate. It is not perjury for a witness to evade or obfuscate or answer nonresponsively. The evidence simply does not support the conclusion that the president knowingly committed perjury, and the case is so doubtful and weak that a responsible prosecutor would not present it to the grand jury.

We have one more excerpt from his testimony.

(Text of videotape presentation:)

Mr. SULLIVAN. . . . In perjury cases, you must prove that the person who made the statement made a knowingly false statement. Now, where I think the defect in this prosecution is, among others—and I don't think it would be brought, because it's ancillary to a civil deposition—is to establish that the president knew what he said was false. When he testified in his grand jury testimony, he explained what his mental process was in the Jones deposition, and he said the two definitions that would describe oral sex had been deleted by the trial judge from the definition of sexual relations and I understood the definition to mean sleeping with somebody. I don't want to get to particular here.

Rep. LOFGREN. Thank you.

Mr. SULLIVAN. But that is where this case, in my opinion, wouldn't go forward even if you found an errant prosecutor who would want to prosecute somebody for being a peripheral witness in a civil case that had been settled. That's my answer to that.

The managers place great emphasis and weight on the conflict in the testimony between President Clinton and Ms. Lewinsky over some specific intimate details related to their activity. There is a variance between the President's testimony and Ms. Lewinsky's testimony about the details of what they did. What do they disagree about? Not about whether the President and Ms. Lewinsky had a wrongful relationship—the President admitted that before the grand jury. Not about whether the President and Ms. Lewinsky were alone together—the President admitted that before the grand jury. Not about whether, when they were alone together, their relationship included inappropriate, intimate contact—the President admitted that before the grand jury. Not about whether they engaged in telephone conversations that included sexual banter—the President admitted that before the grand jury. Not about whether the President and Ms. Lewinsky wanted to keep their wrongful relationship a secret—the President admitted that before the grand jury.

The difference in their testimony about their relationship is limited to some very specific, very intimate details. And this is the heart of the entire matter, this disparity in their testimony. The true nub of the managers' allegation that the President committed perjury is that he described some of the contact one way and she describes it another.

Not surprisingly, the managers choose to believe Ms. Lewinsky's description of these events. And so, even in the absence of any evidence to the contrary, other than Ms. Lewinsky's own recollection of these events, the managers have concluded that the President lied under oath about the details of his sexual activity, that he somehow shortchanged the grand jury, and should be removed from office.

The possibility that the question of whether the President of the United States should be removed from his office—the fact that that might hinge on whether you believe him or her on this issue is a staggering thought. Ordinarily when dealing with disparity in testimony such as this, prosecutors will have nothing to do with it. Only two people were there. And, in truth, the real importance of the disparity in their testimony is questionable. Not all disparities or discrepancies in testimony are necessarily appropriate subjects for perjury prosecutions.

According to those experienced prosecutors who testified before the Judiciary Committee, there are two more points to be made about this. First, this is a classic oath on oath—he says, she says—swearing match, that, under ordinary custom and practice at the Department of Justice, never would be prosecuted without substantial corroborative proof. Such proof, say these experienced prosecutors, does not consist of testimony of friends and associates of Ms. Lewinsky who tell the FBI that Ms. Lewinsky contemporaneously told them about the activity, if it was going on. But the managers claim that these contemporaneous statements corroborate Ms. Lewinsky's testimony.

That claim is specious. Statements that Ms. Lewinsky makes to other people are not viewed as independent corroborative evidence. They come from the same source. They come from Ms. Lewinsky, as the source that gave that testimony to the grand jury. And no court and no prosecutor would accept the notion that such statements, standing alone, satisfy the requirement of substantial corroborative proof when there is a swearing match.

Now, let's see what the experienced prosecutors have to say about this issue and that claim.

(Text of videotape presentation:)

Rep. WEXLER. . . . What is the false statement?

Mr. SULLIVAN. Well, if you—it could be one of two. It could be when he denied having sexual relations and I've already addressed that, because he said, "I was defining the term as the judge told me to define it and as I understood it," which I think is a reasonable explanation. The other is whether or not he touched her—touched her breast or some other part of her body, not through her clothing, but directly. And he says, "I didn't," and she said, "I (sic) did," so it's who-shot-John. It's, it's, you know, it's a one on one. The corroborative evidence that the prosecutor would have to have there, which is required in a perjury case—you can't do it one on one, and no good prosecutor would bring a case with, you know, I say black, you say white—would be the fact that they were together alone and she performed oral sex on him. I think that is not sufficient under the circumstances of this case to demonstrate that there was any other touching by the president and therefore he committed this—you know, he violated this—and committed perjury.

Now the testimony from Richard Davis on this same point, and then we will move to subpart 2.

(The text of videotape presentation:)

Mr. DAVIS. * * * I will now turn to the issue of whether, from the perspective of a prosecutor, there exists a prosecutable case for perjury in front of the grand jury. The answer to me is clearly no. The president acknowledged to the grand jury the existence of an improper intimate relationship with Monica Lewinsky, but argued with the prosecutors questioning him, that his acknowledged conduct was not a sexual relationship as he understood the definition of that term being used in the Jones deposition. Engaging in such a debate, whether wise or unwise politically, simply does not form the basis for a perjury prosecution. Indeed, in the end, the entire basis for a grand jury perjury prosecution comes down to Monica Lewinsky's assertion that there was a reciprocal nature to their relationship, and that the president touched her private parts with the intent to arouse or gratify her, and the president's denial that he did so. Putting aside whether this is the type of difference of testimony which should justify an impeachment of a president, I do not believe that a case involving this kind of conflict between two witnesses would be brought by a prosecutor, since it would not be won at trial.

A prosecutor would understand the problem created by the fact that both individuals had an incentive to lie—the president to avoid acknowledging a false statement at his civil deposition, and Miss Lewinsky to avoid the demeaning nature of providing wholly unreciprocated sex. Indeed, this incentive existed when Miss Lewinsky described the relationship to the confidantes described in the independent counsel's referral. Equally as important, however, Mr. Starr has himself questioned the veracity of one witness, Miss Lewinsky, by questioning her testimony that his office suggested she tape record Ms. Currie, Mr. Jordan, and potentially the president. And in any trial, the independent counsel would also be arguing that other key points in Miss Lewinsky's testimony are false, including where she explicitly rejects the notion that she was asked to lie and that assistance in her job search was an inducement for her to do so.

The conclusion is clear: To make this case in any courtroom would be very difficult for a prosecutor. They point out that it is difficult, if not impossible, to put on a successful prosecution if the chief witness is deemed by the prosecutors to be unreliable on some issues, but presented as totally truthful on others.

Now let's move to subpart 2, and it is exhibit No. 18. The allegations of perjury here have to do with testimony that he gave at the grand jury about his deposition in the Jones case. And I begin by repeating a point that I made a little earlier, that the House of Representatives did not vote to approve the article that alleged that President Clinton committed perjury during his deposition in the Jones case. As I said before, there was good reason for that.

What are the reasons? There are many reasons. The President's testimony in the Jones deposition involved his relationship with a witness who was ancillary to the core issues of the Jones case. She was a witness in the case. She wasn't the plaintiff in the case, and she was ancillary to the core issues in the case, someone whose testimony was thereafter held to be unnecessary and perhaps inadmissible by

Judge Susan Webber Wright, someone whose truthful testimony would have been, in any event, of marginal relevance since her relationship with the President was entirely consensual. And, as you know, this was a case that ultimately was found to have no legal or factual merit. It was dismissed by the judge, and it is now being settled by the parties.

Moreover, the President was caught by surprise in that deposition and asked questions about matters that the Jones lawyers already knew the answers to. As you heard yesterday, the Jones lawyers had been briefed the night before by Linda Tripp. So they were asking questions of President Clinton in the course of this deposition about the relationship to which they already had the answers. That kind of ambush is profoundly unfair, and it is one reason that Congressman GRAHAM said that he voted against this article in committee—the surprise. He was the only Republican to do so. He was the only Republican to vote against any article, and the decision of the House to follow Congressman GRAHAM's leadership and to reject this article showed great wisdom and judgment.

But apparently that is not to be the end of the matter when it comes to allegations of perjury in the Jones deposition. In subpart 2 of article I, the managers seek to reintroduce the issue of the President's testimony in the case by alleging that when the President testified before the grand jury, he testified falsely when he said that he tried to testify truthfully in the Jones deposition. Congressman ROGAN, Mr. Manager ROGAN has claimed that the President's answers ratified and reaffirmed and put into issue all of his answers in the Jones deposition when he testified that he believed he did not violate the law in the Jones deposition.

"This is perjurious testimony," said Manager ROGAN, "because the record is clear"—I am quoting—that he did not testify truthfully in the deposition, and by that bootstrapping mechanism, we are now in a litigation about whether every single statement that the President made in the Jones deposition was or was not truthful to determine whether or not the President's testimony that he was truthful is or is not truthful.

But, in fact, President Clinton did not ratify, he did not reaffirm his Jones testimony when he testified before the grand jury, and you will see that when you read the transcript of his testimony. Quite the contrary is true. If you look at that transcript carefully, you will find that without admitting wrongdoing, the President elaborated, he modified, he amended and he clarified his testimony in Jones. And when Mr. Schippers made his closing argument to the House Judiciary Committee, I think he used the truthfulness, on one occasion, of the President's testimony before the grand jury to support his argument that the President lied in Jones.

But actually the specific wording of subpart 2 gives us no specific information and is not illuminating, and we turn to the managers' trial brief to ascertain precisely what the argument is. There the managers allege that the President falsely testified that he answered questions truthfully at his deposition concerning, among other things, whether he had been alone with Ms. Lewinsky. I begin by saying, again, this allegation was not included in the Starr referral. Why? Because it is based on a total misconception of the President's grand jury testimony.

As I referred to earlier, this is exhibit No. 7, I believe, and it shows you some evidence—this is not the complete evidence of his testimony about being alone. The prosecutors asked the President many questions about being alone with Ms. Lewinsky, but they never asked him about the Jones testimony. They asked him about whether he was alone; he never was asked about the Jones testimony:

"When I was alone with Ms. Lewinsky on certain occasions," it says right there—"When I was alone. . ."

> Let me ask you, Mr. President, you indicate in your statement that you were alone with Ms. Lewinsky. Is that right?
>
> Yes, sir.
>
> How many times were you alone with Ms. Lewinsky?
>
> Let me begin with the correct answer. I don't know for sure. But if you would like me to give an educated guess, I will do that. . . .

And then you will see over two or three pages of testimony he tries to recall times and incidents when he was alone with Ms. Lewinsky.

And so the prosecutor says, "So if I could summarize your testimony, approximately 5 times you saw her before she left the White House, approximately 9 times after she left the employment?" "I know there were several times in '97," the President said. "I would think that would sound about right."

This is not a man denying that he was alone with Ms. Lewinsky, but he was not asked about his testimony on that topic when he testified in the Jones case.

Now, the managers further allege that the President's testimony before the grand jury that he testified truthfully at his deposition was a lie. In fact, his testimony there that they quote as being false was this: "My goal in this deposition was to be truthful but not particularly helpful." "My goal in this deposition to be truthful," they say, is false. "I was determined to walk through the minefield of this deposition without violating the law, and I believe I did." His statement that "I believe I did," they say, means that everything that he said in the Jones deposition was true. The President's statement that he set a goal and believes—believes—he has met it is, according to the managers, perjurious for which he should be removed from office.

And it is through this device that the managers seek to achieve, by indirection, what they were specifically forbidden to do by the direct vote of the House of Representatives, by claiming that the President's assertions in the grand jury were false when he described his state of mind—"I believed," "I tried," "I was determined," "my goal was"—that he believed the managers seek to put out all of the President's evasive and misleading testimony in the Jones deposition in issue. That effort, I submit, should be rejected.

Let me cite one rather painful example in support of the President's testimony that he, in fact, tried to answer accurately when he testified in the grand jury. He was asked whether or not he ever had sexual relations with Gennifer Flowers, and he answered, "Yes," that he had, under the definition of sexual relations being used in the Jones case. He later said that he would rather have taken a whipping in public than to acknowledge that relation because he knew it would be leaked to the public, which it was.

Now, if he didn't care about telling the truth in that deposition, if he went into that deposition with the intention of denying anything and everything that was embarrassing, if he really had decided in his own mind that whatever the Jones lawyers asked him, he was not going to be truthful about it, he never would have testified the way he did about Gennifer Flowers.

Now, ladies and gentlemen of the Senate, the President does not claim—and he never was asked in front of the grand jury, and he never asserts in front of the grand jury—that all his testimony in the Jones deposition was truthful. His statement was that he tried to be accurate, that his goal was to be truthful, but that statement is not a broad reaffirmation of the accuracy of all his testimony, despite the House managers' desire to characterize it as such. Those were accurate descriptions of the President's state of mind at the time he testified.

The real issue here is not the truth of the underlying statements made by the President in the Jones deposition but the President's explanation of those statements, whether his description of his efforts to walk this fine line that he gave to the grand jury was accurate. Whether you agree or disagree with the President's view that he was or was not successful in his undertaking not to break the law and to be lawful, that argument is an argument. And it is not a secret argument. He has that out there open for everybody to see. That argument is hardly a proper subject for a perjury claim. And his simple restatement of his legal position to the members of the grand jury is hardly the stuff of a perjury prosecution.

Actually, if you look at the President's grand jury testimony, you will see that he provided much more complete, much more accurate, much more reliable testimony about many of the topics covered in Jones. And the notion that he reaffirmed, confirmed, or ratified his Jones testimony is just unsupported by the evidence.

It would be astonishing to think that the Senate would conclude that the President should be removed from office because in the grand jury he gave voice to a legal opinion and stated his own personal belief that his testimony in the Jones deposition did not break the law.

I submit to you that if that was the case, the Office of the Independent Counsel would have included that in the referral, and they did not. In fact, let me just say right now none of the rest of the allegations that we are going to be discussing in the article that we are talking about today are included in the Starr referral. The rest are entirely the product of the managers.

Subpart 3, which is the exhibit No. 19. This has to do with the President's testimony about statements he allowed his attorney to make to a Federal judge in the Jones case. And you saw the tape of that testimony last week.

According to the trial memorandum, the President remained silent during the Jones deposition at a time when his counsel, Mr. Bennett, made false and misleading representations to the court about Ms. Lewinsky's affidavit. Pointing to the Lewinsky affidavit, Bennett stated that Ms. Lewinsky had filed an affidavit "saying that there is absolutely no sex of any kind in any manner, shape or form with President Clinton." And when asked by the Independent Counsel about this moments before the grand jury, the President testified that he hadn't paid much attention, that he was thinking about his testimony. And he says this four or five times. This is not just once; he says this four or five times. He is emphatic that he didn't pay attention and the words went by him.

Now, in support of their claim that the President lied when he said he was not paying attention, the House managers point to the videotape record of the President's testimony which shows, they argue, that the President was "looking directly at Mr. Bennett, [and] paying close attention to his argument to Judge Wright."

This allegation, not included in the Starr Report, is even more curious than the previous one because it is based on a novel legal theory which jeopardizes all lawyers in this building, which is that a client has an enforceable obligation to correct his attorney's alleged misstatements. And if he doesn't make those corrections, he—the client—will be held liable to charges of perjury and obstruction of justice.

The charge is that the President misled the grand jury when he said that he was not paying attention. While the videotape shows that the President was looking in Bennett's direction, there is nothing that can be read in his face or in his body language to show that he is listening to, understanding, or affirming Mr. Bennett's statement—no nod of the head, no movement at all, no comment, nothing.

What happens is this: Mr. Bennett makes his comment and is interrupted by the judge. She says, "No, just a minute, let me make my ruling," before Mr. Bennett has a chance to complete his argument. And after interrupting Mr. Bennett, the judge makes a lengthy observation, followed by an intensive exchange between all counsel and the judge. The moment is fleeting. It goes by very, very quickly.

The moment occurs not at the beginning of the deposition, but well into it, after President Clinton has in fact been subjected to questions about Monica Lewinsky. Mr. Clinton, as you know, has been surprised by the direction the case has taken and the fact that the exclusive focus of these questions is on Lewinsky. He did not know this was coming. He did not expect it. As he put it in his grand jury testimony, "I had no way of knowing that they would ask me all these detailed questions. I did the best I could to answer them."

At that moment, because the questions had focused on Ms. Lewinsky—to the exclusion of everything and everybody else, including the Jones case—questions about the Jones case didn't occur until much, much later and near the end of the deposition. The President must have realized that the Jones attorneys probably knew about his relationship with Monica Lewinsky. He obviously had not taken any steps to prepare to answer questions about that relationship and he was clearly caught off guard.

It is not farfetched to think at that moment his mind was flooded with thoughts about how to get through the deposition. It is not implausible to think at that moment the President was preoccupied, watching his lawyer do his job, and not listening carefully and not tracking word by word the substance of the exchange.

Those of you who have practiced law and have represented individuals under stress at depositions know that this can happen. Is it really reasonable to think that you can tell beyond a reasonable doubt what is going on in the President's mind by looking at the videotape? And if you can and you are convinced he has heard, does he have any obligation to say anything? If he doesn't, then this case, this allegation, amounts to nothing.

It is hard to believe that the House managers—if it did, I think the Starr people would have brought it—it is hard to believe that the House managers believe that the Senate should conclude that the President committed perjury and should be removed from his office on the basis of his silence, his failure to speak.

Now, there is a second allegation associated with this incident, one that Congressman ROGAN asserted in his presentation, but is not discussed in the trial memorandum. This has to do with the President's now famous testimony about Mr. Bennett's statement about Ms. Lewinsky's affidavit. It depends upon what the meaning of "is" is. Let's talk about that just a minute.

While raising questions about the good faith of the Jones attorney in asking questions about Ms. Lewinsky—this is in the Jones deposition—while raising questions about the good faith of the Jones attorneys and asking questions about Ms. Lewinsky and not knowing if these same lawyers actually know the answers to the questions, Mr. Bennett said, referring to the Jones lawyers, "Counsel is fully aware that [Ms. Lewinsky] has filed an affidavit . . . saying that there is absolutely no sex." "There is absolutely no sex of any kind in any manner, shape or form with President Clinton."

Now, during his grand jury testimony, the independent counsel reads that statement to the President. He gets President Clinton to agree that the statement was made by the President's attorney in front of Judge Wright. And here is what the independent counsel says to President Clinton in the grand jury after reading Mr. Bennett's words:

> That statement is a completely false statement. Whether or not Mr. Bennett knew of your relationship with Ms. Lewinsky, the statement that there is "no sex of any kind, manner shape or form with President Clinton" was an utterly false statement.

And he asks the President, "Is that correct?" At that point, pausing just a moment for reflection, President Clinton gives his opinion and explains that opinion.

To understand the President's argument, you must know first that there has been no inappropriate contact with Ms. Lewinsky at the time of that deposition for, according to his recollection, almost a year; according to hers, 10 months. So it is not in dispute at that moment in time and for previous months there has been. And there is no sexual relationship currently, even though there had been one in 1995, 1996, and in the early part of 1997, some months back.

Now, the President makes a political mistake here and gives in to his instinct to play his own lawyer, to be his own advocate. You may find it frustrating, you may find it irritating, when you watch him do this, but he is not committing perjury; he is committing the offense of nit-picking and arguing with the prosecutors. He is arguing a point, and so he says that whether Mr. Bennett's statement is false depends on what the meaning of "is" is. Mr. Bennett's statement is true if "is" means an ongoing relationship, but Mr. Bennett's statement is false if "is" means at any time ever in time.

Now the President's answer to Mr. Bennett's question and the statements that follow it amount to an annoying argument over the interpretation of what Mr. Bennett said, focused on the tense of the verb. And the President is being his own lawyer. The grounds he has argued are fully stated, fully explained. There is no mystery. He is not concealing anything. Making this argument is not perjury.

There is one final point to make about this incident because, again, I think there was a mischaracterization of what the President actually said in the grand jury. He didn't say that at the time Mr. Bennett made that statement in the Jones deposition, he caught the word "is" and recognized, "Ah-ha, I've got an exit. That makes it accurate." Quite to the contrary. He is clear in front of the grand jury when he says that he didn't even notice this issue until he was reviewing the transcript in preparation for his grand jury testimony. He is clear in pointing out the argument that he is making is one that he just discovered.

Let me quote from that portion of his testimony which appears on pages 512 and 513 which make it clear that he wasn't ever claiming that he spotted that verb tense at the time in the Jones deposition and his silence or his answer was based on spotting the verb tense then. This is something he discovered, noticed, and, as a lawyer, argued in the grand jury. "I never even focused on that"—meaning that issue of a verb tense—"until I read it in this transcript in preparation for this testimony * * *" "I wasn't trying to give you a cute answer that I obviously wasn't involved in anything improper in the deposition. I was trying to tell you generally speaking in the present tense if someone said that, that would be true. But I don't know what Mr. Bennett had in mind. I don't know."

Now, the President was open and honest and obvious in what he was arguing, and that is precisely what he was doing on this occasion. He was arguing a point that, as a technical matter, Bennett's statement could be read as being accurate.

I point out again that this particular allegation was not included in Mr. Starr's referral. An argument that is identified as an argument, the grounds of which are clear to all, is not the basis for a perjury prosecution.

Subpart 4 of this article has to do with false and misleading testimony about the President's efforts, allegedly, to influence witnesses and to impede discovery in Jones. Now, as I have said before, at the beginning of my presentation, the fourth category of allegedly perjurious, false, and misleading grand jury testimony overlaps with article II of allegations of obstruction of justice.

I will say right now that Cheryl Mills will be appearing here when I have completed and David Kendall tomorrow to present the arguments on article II, why the President should not be found guilty and is not guilty of the allegations of obstruction of justice in article II.

According to the managers' trial brief, making this argument that he also perjured himself about these matters, they claim these lies are the most troubling as the President used them in an attempt to conceal his criminal actions. One begins with a self-evident proposition—at least, to us—that the President did not obstruct justice, and we hope you agree with us by the end of the day tomorrow when we explain the evidence. But his explanation, if that is so, of what he did or didn't do to the grand jury were always truthful. Put another way, if the President didn't obstruct justice, he also didn't commit perjury when he denied it.

According to the managers, the general language of this provision of subpart 4 is supposed to include a wide range of allegations, so we have some subparts of the subpart. But none of these allegations, let me say, ladies and gentlemen of the Senate, none of these was included or thought sufficiently credible to be included in the OIC referral, nor were these allegations included in Mr. Schippers' initial presentation to the Judiciary Committee. They are nothing more than an effort to inflate the number of perjury allegations by converting every answer that the President gave to the grand jury about the subject matter of article II into a new count of perjury, the double billing, if you will. All of these allegations are more properly part of our defense on the obstruction of justice allegation. But I will try to respond briefly to the allegation of perjury, his testimony about Monica Lewinsky's false affidavit. This grows out of the President's conversation with Ms. Lewinsky, allegedly, on December 17, in which he is said to have corruptly encouraged Ms. Lewinsky to execute a sworn affidavit that he knew to be perjurious, false, and misleading.

In that famous late-night telephone conversation, Ms. Lewinsky asked the President what she could do if she were subpoenaed in the Jones case. According to Ms. Lewinsky, the President responded, "Well, maybe you can sign an affidavit." That is what Ms. Lewinsky's recollection is.

Now, in the grand jury, the President was repeatedly questioned about this conversation and he repeatedly answered emphatically. This is another example where it is not once or twice, it is three or four times. He truly thought he said that she could have sworn out an honest affidavit. The managers claim that when he said that—that he thought that she could swear out an honest affidavit—the President perjured himself.

Now, the President's testimony in the grand jury on this point is not in any way cautious or qualified. He makes similar statements on four different occasions during that testimony, concluding with this tape:

> I have already told you that I felt strongly that she could issue—that she could execute an affidavit that would be factually truthful, that might get her out of having to testify. And did I hope she would be able to get out of testifying on the affidavit? Absolutely. Did I want her to execute a false affidavit? No, I did not.

Now, the heart of the managers' argument is that there was no way that an honest affidavit can achieve what the President and Ms. Lewinsky both wanted to have achieved, which was to avoid her having to testify. And so the managers claim the President's statement that he thought she could make out an honest affidavit and avoid testifying in the Jones case about her relationship with the President is perjury.

Once again, the managers claim that the President is guilty of perjury because he is testifying falsely about his state of mind. It wasn't true, they argued, that he really thought she could make out and sign and execute an honest affidavit; he could not have thought that; he wanted and expected her to lie in that affidavit, and that is why he suggested, "Well, you can always file an affidavit."

Now, Ms. Lewinsky's inappropriate contact with the President was consensual. An affidavit being sought in a case involving allegations of sexual harassment that says there was no harassment, no effort to impose unwanted sexual overtures, would have been an affidavit that Ms. Lewinsky could honestly execute—an affidavit stating that she had never been on the receiving end of any unwanted sexual overtures from the President and that she had never been harassed.

Second, both Ms. Lewinsky and the President had a definition of "sexual relations" that would have allowed Ms. Lewinsky, in her own mind, honestly and accurately, in their view, to swear an affidavit that she had never had sexual relations—meaning what she meant in the exhibits we distributed—with the President. She would have thought that was a factual and accurate affidavit, and so would the President at that time.

Third, it is clear that Ms. Lewinsky understood that it was not necessary to volunteer information in an affidavit, but, on the contrary, she would try to give only that small but true portion of the whole story. She talks about this at some length in her telephone conversation with Linda Tripp. In her words, the goal of an affidavit is to be as benign as possible, to avoid being deposed. She is her own operator; she knows what she is doing.

Please recognize what the managers are trying to do here. In article II, they accuse the President of obstructing justice by suggesting that Ms. Lewinsky should file an affidavit, knowing full well that the affidavit would have to be false. And when the President, under oath in the grand jury, denies that he believed that the affidavit would have to be false, they accuse him of perjury.

The two allegations are inextricably intermingled, and if you conclude, as you should, that there is no evidence to support the underlying allegation, that the underlying offense is based on nothing but pure conjecture, you will conclude that the perjury charge is nothing more than an attempt to get two bites at the same apple.

The second element is the President's testimony about the gifts. The managers' trial brief says that the President committed perjury when he testified that he told Ms. Lewinsky that if the Jones lawyers requested the gifts that he had given to her, she should provide them. Atypically, the brief quotes the President's precise language which is at issue in this particular allegation:

> And I told her that if they asked her for gifts, she would have to give them whatever she had. That's what the law was.

This testimony, the managers claim, is false. They say he never said that, and that when he said it in the grand jury, he is guilty of perjury.

Now, the only evidence offered to support the allegation that the President testified falsely before the grand jury on this topic is, A, that Ms. Lewinsky raised a question with the President as to what she should do with the gifts. You have heard a lot of testimony about that, which only establishes one thing—that the topic came up. That is totally consistent with the President's testimony and has no bearing whatsoever on whether the President did or did not say what he claims to have said.

The second piece of evidence is that Ms. Currie ended up picking up the gifts and taking them home with her, which, no matter how you might try to spin that, simply cannot be construed as evidence showing that the President perjured himself when he told the grand jury that he had given this advice to Ms. Lewinsky. "Tinkers to Evers to Chance."

This allegation is all conjecture and there is no evidence. It is really astonishing that the managers would seriously include it in their case. Kenneth Starr did not, and it was not discussed or debated by the House Judiciary Committee.

The majority's report makes another entirely different allegation about this matter. There, the House Republicans cite the President's denial—this is a denial, not an affirmation. The first has to do with testimony in front of the grand jury that he said something to Monica Lewinsky. The second has to do with a denial that he ever instructed Ms. Currie to pick up the gifts. From the transcript of the President's grand jury testimony, I quote:

> Question: After you gave Monica Lewinsky the gifts on December 28, did you speak with your secretary, Ms. Currie, and ask her to pick up a box of gifts that were some compilation of gifts that Ms. Lewinsky would have——
>
> Answer: No, sir, I didn't do that.
>
> Question: —to give to Ms. Currie?
>
> Answer: I did not do that.

According to the majority's report, this testimony was perjurious, false, and misleading. The problem is, this allegation is similar to the problem with the previous one, only greater. In the first allegation, there is no one who testified that the President did not say what he testified under oath he said, and in this allegation there is no one who testified that the President said what he testified under oath he did not say.

In other words, the House managers offer you this argument: Nobody says the President made this statement; we just think he did; so we are charging him with perjury for denying it, and you should remove him from office, despite the absence of evidence.

Again, this was not included in the Starr referral, and we wonder how this kind of an allegation can seriously be brought against the President of the United States.

The President's testimony about his January 18 conversation with Ms. Currie. The President's meeting and conversation with Betty Currie on Sunday, January 18, is an essential element in the allegation of obstruction as set forth in article II, and you will learn more about that from Cheryl Mills today. Because the Office of Independent Counsel spent so much time on this matter during President Clinton's grand jury testimony, they examined the President on this topic on four separate occasions during that 4-hour session—it was inevitable that the Managers would find some way, some how to include his testimony about this matter in Article I. Just parenthetically, this too is an allegation that the Office of Independent Counsel did not see fit to make in its Referral to the House.

And so, once again, we begin with a question: What is it precisely that the President said that is at the heart of this allegation of perjury. In his presentation last Thursday, Congressman ROGAN quoted lengthy passages from a number of President Clinton's answers on the subject but failed to identify anything specific. Finally Congressman ROGAN said this:

> When [the President] testified he was only making statements to Ms. Currie to ascertain what the facts were, trying to ascertain what Betty's perception was, this statement was false, and it was perjurious. We know it was perjury because the president called Ms. Currie into the White House the day after his deposition to tell her—not to ask her, to tell her—that he was never alone with Monica Lewinsky. To tell her that Ms. Currie could always hear or see them, and to tell her that he never touched Monica Lewinsky. These were false statements, and he knew that the statements were false at the time he made them to Betty Currie.

But that is not true; the President clearly asked her questions as well as made declarative statements.

I confess to some confusion about what perjury Congressman ROGAN is really alleging here.

It seems to me that he has moved from the world of perjury in article I to the world of obstruction, which is Cheryl and David's article two.

The trial brief is more specific. They claim that the testimony was false when the President went in and said that he was "trying to refresh [his] memory about what the facts were"; when he said that he wanted to "know what Betty's memory was about what she heard"; and when he said he was "trying to get as much information as he could." The purpose of the meeting and the conversation, according to the Trial Brief, was to influence Betty Currie's testimony, not to gather information.

In truth, the President gave a number of different reasons to the grand jury for seeking out Betty Currie and talking to her about Monica Lewinsky, and it is totally plausible to conclude that the last thing on the President's mind at that particular moment was Betty Currie's potential role as a witness in a federal court.

More simply, the facts are that in making this particular allegation, the managers have come up with two, three, or four different statements by the President that they claim are perjurious which makes it a total distortion of the President's answer. There were many questions, and many answers, and then the reasons he gave for seeking out Betty Currie. Kenneth Starr made no such claim in his referral.

Finally, the President's testimony about allegations that he influenced his aides; to influence; that he lied to his aide—let me get it right. The allegation is that when the President testified in front of the grand jury and denied that he misled his aides or told them false things, that it was "perjurious, false and misleading testimony" because he was really trying to use them to obstruct justice and influence the grand jury. The President testified in much greater detail on this topic about the details about his conversation with his aides than the managers suggest. And he never said that he only told them "true things."

In fact, if you look at that testimony—and I urge you to do so; it is another topic that will take up some time—the President acknowledged that he misled an aide and he apologized for it. And he testified that actually he couldn't remember much of what he told his aide. He never challenged or denied what John Podesta said that he told him. He told the grand jury. He told them. And he never challenged Sidney Blumenthal's version of what he said to Mr. Blumenthal. There is absolutely no evidence to suggest that the President intended to deceive the grand jury on this matter because he never denied saying what they said he told them about his relationship. And that is what he told them. It was not just true things. He told them inaccurate things. He did not give the testimony that Congressman ROGAN claims that he gave. He did not say that he did not mislead his aides. He said that he had, in fact, misled his aide. He does say that he tried to tell true things, but he does not conceal the nature of the true things he is talking about.

So you can make up your own mind whether you agree with his characterization that there are true things. He described them for all to see and understand. For example, he says that he told his aides, "I never had sex with her," as it was defined in his mind. You may disagree with his characterization of what he told them as being a true thing, but he certainly doesn't conceal the basis of his belief that it is true. He also said that he was not involved with Ms. Lewinsky in any sexual way. And he explains by use of the present tense he thought that was a true thing.

But the materiality of this alleged perjury is really a mystery. That the President misled his aide is not an issue. That his aides became witnesses before the grand jury and that the President knew they would probably be called, it is simply not in dispute. Nor does the President dispute the testimony of Podesta and Blumenthal. The only issue here is whether the President, when he discussed Monica Lewinsky with these aides, was seeking to influence the grand jury's proceedings by giving his aides false information. This is not a perjury challenge. This is a subject to be dealt with in the context of article II and obstruction of justice.

What does it all add up to? Mr. Ruff had it right. Beneath the surface of this article, this first article, there is really a witches' brew of allegations pulled from all corners of Bill Clinton's grand jury testimony. He has alleged to have lied to the grand jury when he used innocent words to tell about his improper contacts with Ms. Lewinsky. Truly, these are frivolous allegations. He has alleged to have lied about the date his improper activity with Ms. Lewinsky began, and whether it was preceded by any period of friendship. These, too, are frivolous allegations. The President didn't claim he said, but even if he did, the allegations are of no import. He has alleged to have lied when he explained his understanding of the Jones definition and testified that his genuine belief was that the definition did not include the activity that he and Ms. Lewinsky had engaged in.

Experienced prosecutors say that his interpretation was reasonable. He has alleged to have lied about the intimate details of his activity with Ms. Lewinsky. She says one thing; he says another. This is precisely the kind of oath against oath swearing match that is never prosecuted in the real world. Given the President's overall testimony before the grand jury, of what real significance is this disagreement? He is accused of ratifying his every sentence in the Jones deposition. And by saying that his goal was to be truthful, he is said to have lied. But no one should be charged with perjury for asserting innocence or proclaiming that he was trying to be truthful, particularly when all the evidence supports his claim.

And finally, he is accused of lying about a variety of actions aimed at concealing his improper and embarrassing relationship with Ms. Lewinsky when each one of those actions was motivated by nothing more than his desire to protect himself and his family from embarrassment, if not destruction.

Think just for a moment and ask yourself whether these allegations about this testimony is really an effort to vindicate the rule of law, or is it something else? Ask yourself what coming generations will think about these charges. If you convict and remove President Clinton on the basis of these allegations, no President of the United States will ever be safe from impeachment again—and it will happen—and people will look back at us, and they will say we should have stopped it then before it was too late. Don't let this happen to our country.

Before I conclude, I would like to respond to one specific argument that we heard last week. One of the arguments most frequently employed to urge the President's removal is that in the United States of America no one is above the law; that if the Senate does not take action against the President and convict him and remove him from office, we will not be keeping faith with that principle.

Members of the Senate, I could not disagree more with that formulation of this issue. The principle that "No one is above the law" is sacred. The idea that the wealthy or the powerful or the famous should receive preferential treatment under the law—treatment that is different from that accorded to the poor and the weak—is anathema to everything that is great and good and special about the United States. It is anathema to our values and to our national ideals.

I agree with Mr. HYDE. Our fathers and grandfathers—going back to the American Revolution—fought and died to defend the principle of "equal justice under law." This principle is not only at the core of Anglo-Saxon jurisprudence, it is part of the very foundation of our civic society.

But the framers, in their genius, did not design or intend the awesome power of impeachment and removal for the purpose of vindicating the rule of law. They believed that the power of impeachment and removal should be used for a different purpose—to protect the body politic, to protect the Government itself from a President whose conduct was so abusive as to constitute an assault on, a threat to the entire system.

We are all rereading the Constitution. We are all looking at the Federalist Papers again. And when we do that, we realize that the framers of the Constitution considered the question of what to do when the highest officials of Government, the President or the Vice President, are charged with misconduct. And back then they made an important distinction that we should recognize and respect today between conduct in official capacity and conduct in private capacity. They created two different ways of dealing with these two very different kinds of conduct. Impeachment was to protect the country from abuse of official power by an out-of-control President or by someone who was so abusive and assaultive on the system of Government that he had to be removed to protect the Government.

The criminal justice system was to vindicate the rule of law, and the clearest indication that one is not meant to be a substitute for the other can be found in article I, section 3, clause 7 of the Constitution:

> Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to Law.

If the President's conduct in his official capacity is so grave as to be a serious assault upon the system of Government, so serious as to subvert our constitutional order, so serious as to require the Nation to be protected from the damage that he would do if he were to continue in office, the remedy is impeachment and removal by a political process.

If, however, the President's conduct does not implicate the office or the powers of the Presidency, the remedy is a legal process involving prosecution, conviction, and punishment in the courts. In this fashion the principle is vindicated that "no man is above the law," for in the criminal justice system the President will be treated like any other citizen and accountable to the rule of law.

The great scholar and justice, James Wilson, said it best when he wrote:

> Far from being above the laws, [the President] is amenable to them in his private character as a citizen, and in his public character by impeachment.

And more recently, just last November, Senator SPECTER made the same point with equal eloquence when he proposed:

> . . . abandoning impeachment and, after the President leaves office, holding him accountable in the same way any other person would be; through indictment and prosecution for any Federal crimes established by the evidence.

President Clinton should not be above the law, he is not above the law, and he will not be above the law. As Senator SPECTER rightly stated, the criminal justice system stands ready to perform that function and to hold the President accountable at some later date. And like any other citizen, William Jefferson Clinton can be prosecuted for any crimes he is alleged to have committed throughout his term of office.

It would be a profound mistake with lasting consequences for the Members of this body, in the throes of a highly charged impeachment trial, to conclude that only the Senate rather than the criminal justice system should be the chosen instrument of the Constitution to fulfill that principle. It is not up to the Senate to remove the President from office for private conduct that does not involve abuse of Presidential power and does not seriously disrupt the President's capacity to function as Chief Executive of the United States. And it would be folly to think that to vindicate the rule of law in the United States the Senate is obliged to reverse a national election and remove a President from office before the completion of his term. If there is sufficient evidence to warrant a criminal prosecution, this President, when he returns to private life, can be indicted, prosecuted, and tried and, if convicted, punished like any other citizen.

I end by making a point that should never be far from our thoughts as we continue through this trial. There is no moment in our national public life more sacred than the ritual of casting one's vote in a Presidential election. It is amazing, almost miraculous, that so powerful and transforming an event can occur so quietly in a great and populous nation. The act is invisible to outside eyes. On one designated day, millions of Americans go to their local polling places—to schools, firehouses, police stations, and municipal buildings throughout the Nation—to cast their vote for President. It is a moment of high purpose, the only political act that we perform together as a nation.

And so it is that we believe, short of a declaration of war, there is nothing more serious for our elected representatives to contemplate than, through the process of impeachment, to undo the results of a national election and to remove the man chosen by the American people to be their President.

Over the past week, we have heard many speeches about the Constitution and the rule of law and the many sacrifices that the American people have made throughout their history to defend their rights and their freedoms. Surely, among the most important of those rights and freedoms is the right—freely, fairly, and openly—to cast one's vote in a Presidential election and have the results of that election respected and obeyed.

Can anyone imagine anything more damaging to the Constitution of the United States than for a Presidential election to be reversed for conduct that the vast majority of the American people does not believe warrants the President's removal from office?

In the entire history of the United States, we have never been at this juncture before. We have never come so close to the final act of removing an elected President than we are at this moment in time.

William Jefferson Clinton was elected freely, fairly, and openly by the American people to be President. We dare not reverse that decision without good and just cause. And we dare not take that step unless the people who spoke agree that such drastic action is justified. The damage to our political discourse for years, decades, would be terrible to contemplate.

In the course of this impeachment process, we have also devoted a good deal of time and attention to a discussion of precedents that involve the impeachment and removal of Federal judges. For the President, we have argued that when it comes to applying constitutional standards for impeachment, judges are different. We think that the Constitution implicitly recognizes that distinction.

I would like to change the focus for a moment and look at the way we think the legislative branch of our Government also recognizes that distinction. History shows, I think, that it has been easier for Congress to impeach and remove a Federal judge from office than to discharge a Member of the House or Senate, and maybe that is as it should be. When confronted with misconduct by one of its Members, Congress has rarely been willing to negate the popular will as expressed in congressional elections. In truth, the Congress has, for the most part, simply declined to take that step.

Perhaps rightly so, because of the greater deference paid to elected, as opposed to appointed, officials or judges. Perhaps because Presidents and Senators and Representatives are periodically elected to defined terms, as opposed to life terms, the Congress has chosen to rely upon the public to work its will through the electoral system. That deference is warranted, I submit, and it should be a factor in your deliberations.

In 210 years of history and throughout 105 Congresses, only 4 Members of the House have ever been expelled by that body. As for the Senate, 15 Senators—the first in 1797, the remaining 14 during the Civil War.

My point is a simple one. Because of the sanctity of elections and the regularity of elections, and because of the heavy burden that must be carried before reversing the will of the people, decisions to remove elected officeholders have been and should be, at least in some degree, based on factors that are different than the ones used for judges appointed for life and who serve for good behavior. By its own conduct throughout its own history, Congress seems to agree with this point.

I come from the State of Vermont, and if you have been to Vermont, you know that wherever you go across that State, from the smallest squares in the smallest towns to the larger parks, and what we like to think of as our cities, you come across monuments celebrating the American Union. One of the things that Vermont children learn first is that we were and are the 14th State of the Union and that our forebears fought to create this Nation and to preserve it.

So we in our history have shown that there are two things that we care about: We care about our American Union and we care about equal rights for all citizens under the law. And one of the rights that is most precious to every American is the right to choose our leaders in free elections. That right, the equal right to vote with confidence that the outcome will be respected, is fundamental to our values, to our national unity and identity.

Ladies and gentlemen of the Senate, you must do your duty as you see it, as you see the law and facts and the evidence. But, truly, these articles do not justify the nullification of the American people's free choice in a national election. I appeal to you, do not turn your back on those millions of Americans who cast their votes in the belief that they, and they alone, decide who will lead this country as President. Do not throw our politics into the darkness of endless recrimination. Do not inject a poison of bitter partisanship into the body politic which, like a virus, can move through our national bloodstream for years to come with results none can know or calculate.

Do not let this case and these charges, as flawed and as unfair as they are, destroy a fundamental underpinning of American democracy, the right of the people, and no one else, to select the President of the United States.

William Jefferson Clinton is not guilty of obstruction of justice. He is not guilty of perjury. He must not be removed.

Thank you very much.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

RECESS

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that we recess the proceedings now. We will begin promptly at 5 minutes after 4.

There being no objection, the Senate, at 3:53 p.m., recessed until 4:07 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Thank you, Mr. Chief Justice. I believe we are ready to resume with the presentation of Counsel Cheryl Mills.

The CHIEF JUSTICE. The Chair recognizes Ms. Counsel Mills.

Ms. Counsel MILLS. Mr. Chief Justice, managers from the House of Representatives, Members of the Senate, good afternoon. My name is Cheryl Mills, and I am deputy counsel to the President. I am honored to be here today on behalf of the President to address you.

Today, incidentally, marks my 6-year anniversary in the White House. I am very proud to have had the opportunity to serve our country and this President.

It is a particular honor for me to stand on the Senate floor today. I am an Army brat. My father served in the Army for 27 years. I grew up in the military world, where opportunity was a reality and not just a slogan. The very fact that the daughter of an Army officer from Richmond, VA, the very fact that I can represent the President of the United States on the floor of the Senate of the United States, is powerful proof that the American dream lives.

I am going to take some time to address two of the allegations of obstruction of justice against President Clinton in article II: First, the allegation related to the box of gifts that Ms. Lewinsky asked Ms. Currie to hold for her; second, the allegation related to the President's conversation with Ms. Currie after his deposition in the Jones case. Tomorrow my colleague, Mr. Kendall, will address the remaining allegations of obstruction of justice.

Over the course of the House managers' presentation last week, I confess I was struck by how often they referred to the significance of the rule of law. House Manager SENSENBRENNER, for example, quoted President Theodore Roosevelt stating, "No man is above the law and no man is below it . . . ." As a lawyer, as an American, and as an African American, it is a principle in which I believe to the very core of my being. It is what many have struggled and died for, the right to be equal before the law without regard to race or gender or ethnicity, disability, privilege, or station in life. The rule of law applies to the weak and the strong, the rich and the poor, the powerful and the powerless.

If you love the rule of law, you must love it in all of its applications. You cannot only love it when it provides the verdict you seek. You must love it when the verdict goes against you as well. We cannot uphold the rule of law only when it is consistent with our beliefs. We must uphold it even when it protects behavior that we don't like or is unattractive or is not admirable or that might even be hurtful. And we cannot say we love the rule of law but dismiss arguments that appeal to the rule of law as legalisms or legal hairsplitting.

I say all of this because not only the facts but the law of obstruction of justice protects the President. It does not condemn him. And the managers cannot deny the President the protection that is provided by the law and still insist that they are acting to uphold the law. His conduct, while clearly not attractive, or admirable, is not criminal. That is the rule of law in this case.

So as my colleagues and I discuss obstruction of justice against the President, we ask only that the rule of law be applied equally, neutrally, fairly, not emotionally or personally or politically. If it is applied equally, the rule of law exonerates Bill Clinton.

That said, I want to begin where Manager HUTCHINSON left off this weekend during a television program. The evidence does not support conviction of the President on any of the allegations of obstruction of justice. On the record now before the Senate, and that which was before the House, Manager HUTCHINSON said, "I don't think you could obtain a conviction or that I could fairly ask for a conviction." We agree. We agree. There are good reasons for Manager HUTCHINSON's judgment. And the most important, the evidence in the record and the law on the books, does not support the conclusion that the President obstructed justice.

Now, I know that Manager McCOLLUM begged you in his presentation to not pay attention to details when the President's case was put forward. He went so far as to implore you not to get hung up on some of the details when the President and his attorneys try to explain this stuff—"The big picture is what you need to keep in mind, not the compartmentalization." Manager McCOLLUM was telling you, in effect, not to pay attention to the evidence that exonerates the President—"Don't pay attention to the details that take this case out of the realm of activities that are prohibited by the law."

But the rule of law depends upon the details because it depends upon the facts and it depends upon the fairness of the persons called to judge the facts. I want to walk through the big picture and I want to walk through the facts.

I first want to discuss the real story, and then I want to focus on all those inconvenient details, or what Manager BUYER called those stubborn facts that didn't fit the big picture that the House managers want you to see.

Manager BARR suggested the fit between the facts and the law against the President in this case is as precise as the finely tuned mechanism of a Swiss watch. But when you put the facts together, they don't quite make out a Swiss watch; in fact, they might not even make good sausage.

So what is the big picture? The big picture is this: The President had a relationship with a young woman. His conduct was inappropriate. But it was not obstruction of justice. During the course of their relationship, the President and the young woman pledged not to talk about it with others. That is not obstruction of justice. The President ended their relationship before anyone knew about it. He ended it not because he thought it would place him in legal jeopardy; he ended it because he knew it was wrong. That is not obstruction of justice.

The President hoped that no one would find out about his indiscretion, about his lapse in judgment. That is not obstruction of justice, either. One day, however, long after he had ended the relationship, he was asked about it in an unrelated lawsuit, a lawsuit whose intent, at least as proclaimed by those who were pursuing it, was to politically damage him. That was their publicly announced goal. So he knew, the President knew that his secret would soon be exposed. And he was right.

It was revealed for public consumption, written large all over the world against his best efforts to have ended the relationship and to have put right what he had done wrong. That is the real big picture. That is the truth. And that is not obstruction of justice.

So let's talk about the allegation of obstruction of justice, about the box of gifts that Ms. Currie received from Ms. Lewinsky. I want to begin by telling you another true story, the real story of the now famous gifts.

It takes place on December 28, 1997. On that day the President gave Ms. Lewinsky holiday gifts. During her visit with the President, Ms. Lewinsky has said that she raised the subpoena that she had received from the Jones lawyers on the 19th and asked him, what should she do about the gifts. The President has said he told her, whenever it was that they discussed it, that she would have to give over whatever she had. He was not concerned about the gifts because he gives so many gifts to so many people. Unbeknownst to the President, however, Ms. Lewinsky had been worrying about what to do with the gifts ever since she got the subpoena. She was concerned that the Jones lawyers might even search her apartment so she wanted to get the gifts out of her home.

After Ms. Lewinsky's visit with the President, Ms. Currie walked her from the building. Then or later, either in person or on the phone, Ms. Lewinsky told Ms. Currie that she had a box of gifts that the President had given her that she wanted Ms. Currie to hold because people were asking questions. In the course of that conversation, they discussed other things as well. Ms. Currie agreed to hold the box of gifts. After their discussion, Ms. Lewinsky packed up some but not all of the gifts that the President had given her over time. She kept out presents of particular sentimental value as well as virtually all of the gifts he had given her that very day on the 28th.

Ms. Currie went by Ms. Lewinsky's home after leaving work, picked up the box that had a note on it that said, "Do not throw away," and she took it home. Ms. Currie did not raise Ms. Lewinsky's request with the President because she saw herself as doing a favor for a friend. Ms. Currie had no idea the gifts were under subpoena.

So Ms. Lewinsky's request hardly struck her as criminal.

This story that I just told you is obviously very different from the story presented by the House managers. How can I tell such a story that is so at odds with that which has been presented by the House managers? The answer lies in the selective reading of the record by the House managers. But theirs is not the only version of the facts that needs to be told. So what details did they downplay or discard or disregard in their presentation to create allegations of obstruction of justice?

To be fair, the House managers acknowledged up front that their case is largely circumstantial. They are right. Let's walk through the House managers' presentation of the key events which they gave to you last week. Let's look at exhibit 1 which is in the packet that has been handed out to you.

First key fact: On December 19, Monica Lewinsky was served with a subpoena in the Paula Jones case. The subpoena required that she testify at that deposition in January 1998 and also to produce each and every gift given to her by President Clinton.

Second event: On December 28, Ms. Lewinsky and the President met in the Oval Office to exchange Christmas gifts, at which time they discussed the fact that the lawyers in the Jones case had subpoenaed all of the President's gifts.

Third key fact: During the conversation on the 28th, Ms. Lewinsky asked the question whether she should put away outside her home or give to someone—maybe Betty—the gifts. At that time, according to Ms. Lewinsky, the President responded, "Let me think about it."

Fourth fact they presented to you. That answer led to action. Later that day, Ms. Lewinsky got a call at 3:32 p.m. from Ms. Currie who said, "I understand you have something to give me or that the President has said you have something for me." It was the President who initiated the retrieval of the gifts and the concealment of the evidence.

Fifth event they presented: Without asking any questions, Ms. Currie picked up the box of gifts from Ms. Lewinsky, drove to her home, and placed the box under her bed.

That is what the House managers told you last week. Now, let's go through their story piece by piece. On December 19, Monica Lewinsky was served with a subpoena in the Jones case. The subpoena required her to testify at a deposition in January 1998, and also to produce each and every gift given to her by the President. This statement is factually accurate. It does not, however, convey the entire state of affairs. Ms. Lewinsky told the FBI that when she got the subpoena she wanted the gifts out of her apartment. Why? Because she suspected that lawyers for Jones would break into her apartment looking for gifts. She was also concerned that the Jones people might tap her phone. Therefore, she wanted to put the gifts out of reach of the Jones lawyers, out of harms way. The managers entirely disregarded Ms. Lewinsky's own independent motivations for wanting to move the gifts.

Let's continue. On December 28, 1997, Ms. Lewinsky and the President met in the Oval Office to exchange Christmas gifts, at which time they discussed the fact that the lawyers in the Jones case had subpoenaed all of the gifts from the President to Ms. Lewinsky. During conversation on December 28, Ms. Lewinsky asked the President whether she should put away the gifts out of her house some place, or give them to someone, maybe Betty. At that time, according to Ms. Lewinsky, the President said, "Let me think about it."

The House managers have consistently described the December 28 meeting exactly this way, as did the majority counsel for the House Judiciary, as did the Office of Independent Counsel. It has been said so often that it has become conventional wisdom. But it is not the whole truth. It is not the full record. Ms. Lewinsky actually gave 10 renditions of her conversation with the President. All of them have been outlined in our chart. Invariably, the one most cited is the one least favorable to the President. But even in that version, the one that is least favorable to the President, no one claims he ordered, suggested, or even hinted that anyone obstruct justice. At most, the President says, "Let me think about it." That is not obstruction of justice.

But what about the nine other versions? Some of the other versions which I have never heard offered by the House managers, versions that maybe you, too, have never heard, are the ones that put the lie to the obstruction of justice elevation.

Let's look at exhibit 2 which is in your material. You may have never heard, for example, this version of their conversation. This is Ms. Lewinsky speaking.

> It was December 28th and I was there to get my Christmas gifts from him . . . and we spent maybe about 5 minutes or so, not very long, talking about the case. And I said to him, "Well, do you think" . . . and I don't think I said get rid of, but I said, "Do you think I should put away or maybe give to Betty or give someone the gifts?" And he—I don't remember his response. It was something like, "I don't know," or "hmm" or there was really no response.

You also may not have heard this version. This is a juror speaking, a grand juror speaking to Ms. Lewinsky.

> The JUROR: Now, did you bring up Betty's name or did the President bring up Betty's name?

And this is at the meeting on the 28th.

> Ms. LEWINSKY: I think I brought it up. The President wouldn't have brought up Betty's name because he really didn't—he really didn't discuss it . . . .

And you probably have not heard this version.

> Lewinsky advised that Clinton was sitting in a rocking chair in the study. Lewinsky asked Clinton what she should do with the gifts Clinton had given her and he either did not respond or responded "I don't know". Lewinsky is not sure exactly what was said, but she is certain that whatever Clinton said, she had no clear image in her mind of what to do next.

Why haven't we heard these versions? Because they weaken an already fragile circumstantial case. If Ms. Lewinsky says that the President doesn't respond at all, then there is absolutely no evidence for the House managers' obstruction of justice theory, even under their version of events. So these versions get disregarded to ensure that the House managers' big picture doesn't get cluttered by all those details. It is those facts, those stubborn facts, that just don't fit.

But the most significant detail the managers disregard because it doesn't fit is the President's testimony. The President testified that he told Ms. Lewinsky that she had to give the Jones lawyers whatever gifts she had. Why? As the House managers predicted we would ask, because it is a question that begs to be asked, why would the President give Ms. Lewinsky gifts if he wanted her to give them right back? The only real explanation is he truly was, as he testified, unconcerned about the gifts. The House managers want you to believe that this gift giving was a show of confidence; that he knew Ms. Lewinsky would conceal them. But then why, under their theory, ask Ms. Currie to go pick them up? Why not know that Ms. Lewinsky is just going to conceal them? Better still, why not just show her the gifts and tell her to come by after the subpoena date has passed?

It simply doesn't make sense. The President's actions entirely undermine the House managers' theory of obstruction of justice.

But let's continue with their version of events. That answer, the "Let-me-think-about-it" answer, that answer led to action. Later that day, Ms. Lewinsky got a call at 3:32 p.m. from Ms. Currie who said, "I understand you have something to give me or the President said you have something to give me." It was the President who initiated the retrieval of the gifts and the concealment of the evidence.

Here is where the House managers have dramatically shortchanged the truth because the whole truth demands that Ms. Currie's testimony be presented fairly.

In telling their story, the managers do concede that there is a conflict in the testimony between Ms. Lewinsky and Ms. Currie, but they strive mightily to get you to disregard Ms. Currie's testimony by telling you that her memory on the issue of how she came to pick up the gifts was "fuzzy"—fuzzy. In particular, Manager HUTCHINSON told you:

> I will concede there is a conflict in the testimony on this point with Ms. Currie. Ms. Currie, in her grand jury testimony, had a fuzzy memory, a little different recollection. She testified that, the best she can remember, Ms. Lewinsky called her, but when she was asked further, she said that maybe Ms. Lewinsky's memory is better than hers on that issue. That is what the House managers want to you believe about Ms. Currie. That is not playing fair by Ms. Currie. It is not playing fair by the facts. Why? Because Ms. Currie was asked about who initiated the gift pick-up five times. Her answer each time was unequivocal—5 times. From the first FBI interview just days after the story broke in the media, to her last grand jury appearance, Ms. Currie repeatedly and unwaveringly testified that it was Ms. Lewinsky who contacted her about the gifts.

Her memory on this issue is clear. What does she say? Let's look at exhibit 3, the first time she is asked:

> Lewinsky called Currie and advised she had returned all gifts Clinton had given to Lewinsky, as there was talk going around about the gifts.

The second time:

> Monica said she was getting concerned and she wanted to give me the stuff the President had given her, or give me a box of stuff. It was a box stuff.

Third time, and this was a prosecutor asking Ms. Currie the question:

> Just tell us for a moment how this issue first arose, and what you did about it, and what Ms. Lewinsky told you.
>
> Ms. CURRIE: The best I remember, it first arose with conversation. I don't know if it was over the phone or in person; I don't know. She asked me if I would pick up a box. She said Isikoff had been inquiring about the gifts.

The fourth time:

> The best I remember, she said she wanted me to hold these gifts—hold this—I'm sure she said gifts, a box of gifts—I don't remember—because people were asking questions, and I said fine.

The fifth time:

> The best I remember is, Monica called me and asked me if she can give me some gifts, if I would pick up some gifts for her.

The last time, the fifth time, when a grand juror completely misstated Ms. Currie's testimony regarding how the gift exchange was initiated by suggesting that the President had directed her to pick up the gifts, Ms. Currie was quick to correct the juror:

> Question. Ms. Currie, I want to come back for a second to the box of gifts and how they came to be in your possession. As I recall your earlier testimony the other day, you testified that the President asked you to telephone Ms. Lewinsky, is that correct?
>
> Answer. Pardon? The President asked me to telephone Ms. Lewinsky?
>
> JUROR. Is that correct?
>
> Ms. CURRIE. About?
>
> JUROR. About the box of gifts. I am trying to recall and understand exactly how the box of gifts came to be in your possession.
>
> Ms. CURRIE. I don't recall the President asking me to call about a box of gifts.
>
> JUROR. How did you come to be in possession of the box of gifts?
>
> Ms. CURRIE. The best I remember, Ms. Lewinsky called me and asked me if she can give me the gifts—if I would pick up some gifts for her.

The record reflects that Ms. Currie's testimony on this issue was clear—five times—every time she was asked.

What, then, are the managers talking about when they say that Ms. Currie concedes that Ms. Lewinsky might have a better memory than herself on this issue? They are talking about something a little different; that was whether she, Ms. Currie, had told the President that she had picked up the box of gifts from Ms. Lewinsky. Let's put it in context. After being asked the same question for the fourth time and reiterating for the fourth time that Ms. Lewinsky contacted her about the gifts, the prosecutor asked Ms. Currie:

> Well, what if Ms. Lewinsky said that Ms. Currie spoke to the President about receiving the gifts from Ms. Lewinsky?

Ms. Currie responds:

> Then she may remember better than I. I don't remember.

Not once did Ms. Currie equivocate on the central fact Ms. Lewinsky asked her to retrieve the gifts. The President testified, consistent with Ms. Currie's testimony, that he never asked Ms. Currie to retrieve the gifts from Ms. Lewinsky. So why is Ms. Currie's testimony distorted and discounted by the House managers?

They are asking you to make one of the most awesome decisions the Constitution contemplates. They owe you, they owe the President, they owe the Constitution, and they owe Betty Currie an accurate presentation of the facts.

But what about that supposedly corroborating cell phone call from Betty Currie to Monica Lewinsky on December 28? The managers highlighted this call, which they claim is the call in which Ms. Currie told Ms. Lewinsky that she understood she had something for her, the gifts. This, they say, is the linchpin that closes the deal on their version of the facts.

What the managers downplay, as Mr. Ruff discussed yesterday, is the fact that this call to arrange the pickup of the gifts comes after the time Ms. Lewinsky repeatedly testified that the gifts were picked up by Ms. Currie. In citing the cell phone record as corroboration, they also disregard Ms. Currie's testimony that she picked up the gifts leaving from work on her way home; that would have been from Washington to Arlington. That is inconsistent with the call from Arlington.

Most significantly, the managers purposely avoided telling you about the length of the call. As Mr. Ruff pointed out yesterday, the call is for 1 minute, or less. According to Ms. Lewinsky's own testimony, when she spoke to Ms. Currie to arrange the gift pickup, they talked about other matters, as well as the box. They had a conversation. That is a lot of talk: I have a box. When can you come pick it up? Where do you want me to meet you? And other chitchat. That is a lot of talk for a call that lasts 1 minute, or less. It is all but inconceivable that all this took place in the call. Since Ms. Currie placed a call to Ms. Lewinsky, though, the House managers want you to believe that.

What next? The House managers told you, without asking any questions, Ms. Currie picked up the box of gifts from Ms. Lewinsky, drove to her home, which, incidentally, is inconsistent with their theory because she is going in the wrong direction. She is supposed to be going to the hospital—if she picked up the gifts, on their theory—and she placed the box under her bed. Then they posit this question: Why would Ms. Currie pick up the gifts from Ms. Lewinsky? Why on earth would she do such a thing? Their answer: She must have been ordered to pick up the gifts by the President. They conclude, without any testimonial report, that there would be no reason for Betty Currie, out of the blue, to retrieve the gifts, unless instructed to do so by the President. Why else would she do it?

Well, the record before you offers the answer. As Ms. Currie told the FBI during her first interview in January of 1998, Ms. Lewinsky was a friend. She had been helpful and supportive when she was dealing with some very painful personal tragedies. Ms. Currie enjoyed what she saw as a motherly relationship with Ms. Lewinsky. They would often talk about each other's families, about their own activities, and other chitchat. Why does she agree to hold the box of gifts for Ms. Lewinsky? Because she is a friend. And that is not obstruction of justice.

Now, think about the story as I told it to you, and about the different story the managers presented. Ms. Lewinsky was concerned about the gifts after receiving a subpoena from the Jones lawyers. She was worried they might search her apartment and she wanted to get the gifts out of her home. She met with the President, and what does he do? He gives her more gifts—more gifts.

When she asked what to do about the gifts, at most she says, "Let me think about it." Those are the words that Lewinsky has acknowledged on several occasions, that he may have said nothing.

Ms. Lewinsky is still concerned about the gifts. She decides to put them away, keeping the gifts that have sentimental value, and giving to her lawyer the gifts she thinks the Jones lawyers are looking for, and giving to Ms. Currie those items that she really would like back but that she can live without. She tells Ms. Currie that she has some gifts from the President that she wants her to hold because there is talk going around about the gifts. Ms. Currie picks them up after work on her way home.

This story is consistent with the President's lack of concern about the gifts. The managers have tried to deflect the inexplicable contradiction created by their own theory. They want you to believe the President would really give Ms. Lewinsky gifts only to take them back on the very same day. Of course he wouldn't. No one would.

The only explanation they can conjure is torture: The President gave her gifts which he intended to take back that same afternoon to show his confidence that she would conceal the relationship. The facts clearly do not support their version of events. To believe the managers' version of events, you must not only disbelieve the President, you must also disbelieve Ms. Currie.

Ms. Currie has said that the President did not ask her to pick up the gifts. Ms. Currie has said that Ms. Lewinsky asked her to pick up the gifts. The managers have downplayed Ms. Currie's credibility in this incident. They have urged you to think of her as acting as "a loyal secretary to the President."

Of course she is loyal. But it is, may I say, an insult to Betty Currie and to millions of other loyal Americans to suggest that loyalty breeds despondency. If Ms. Currie was despondent, why would she have told the counsel about the conversation between the President and her that the managers have recounted as being so damaging? Why would she have said anything at all about that conversation? Why? Because she is honest. And loyalty and honesty are not mutually exclusive. Betty Currie is a loyal person, and Betty Currie is an honest person.

These are the facts. That is not obstruction of justice.

I believe I can best sum up by using the words of Manager BUYER who quoted President John Adams. "Facts are stubborn things. Whatever may be our issues, or inclinations, or the dictates of our passions, they cannot alter the state of the facts and the evidence."

Those stubborn facts. Manager BUYER went on to say, "I believe John Adams was right." Facts and evidence. Facts are stubborn things. You can color the facts, like calling Ms. Currie's memory fuzzy. You can shade the facts by not telling you the length of that supposed corroborating phone call. You can misrepresent the facts by giving only 1 of 10 versions of Ms. Lewinsky's testimony about the President's response to her question about the gifts. You can hide the facts, like not telling you of Ms. Lewinsky's personal motivation for wanting the gifts. But the truthful facts are stubborn; they won't go away. Like the telltale heart, they keep pounding. And they keep coming. They won't go away. Those stubborn, stubborn facts. They show that this was not obstruction of justice.

I now will talk about the President's conversation with Ms. Currie on January 18. It is not difficult to understand these events if you have lived a life in which you are the subject of extraordinary media attention and extraordinary media scrutiny. Most American lives are not like that. Our jobs and our personal lives are not usually the subject for daily media consumption. As Senators, you obviously know well what that life is like.

On January 18, the President talked to Ms. Currie about the Jones deposition and in particular about his surprise at some of the questions the Jones lawyers had asked about Ms. Lewinsky. In the course of their conversation, the President asked Ms. Currie a series of questions and made some statements about his relationship with Ms. Lewinsky, all of which seemed to seek her concurrence, or reaction, or her input.

The managers' theory is that the President, by his comments, corruptly tried to influence Ms. Currie's potential testimony in the Jones case in violation of the obstruction of justice law. They acknowledge that the President knew nothing about the independent counsel's investigation. So they have focused on the Jones case as the place to lodge their obstruction of justice allegation. Ms. Currie was not scheduled to be a witness in that case. And, as you will see, the President had other things on his mind.

Before I go into the facts surrounding these conversations, I want to first focus briefly on the law, as the managers did in their presentation. There are two relevant obstruction of justice statutes: 18 U.S.C., 1503, which is the general obstruction of justice statute; and 18 U.S.C. 1512, the more specific statute which prohibits witness tampering.

There are differences between these two statutes, but for our purpose, their essential elements are similar. Both require the Government to prove that the person being accused, one, acted knowingly; two, with specific intent; three, to corruptly affect and influence, in 1503, and corruptly persuade, in 1512, either the due administration of justice, under 1503, or the testimony of a person in an official proceeding, under 1512, to try to persuade the testimony of a person in an official proceeding. For conviction, each and every element must be proven beyond a reasonable doubt. If the prosecution fails to prove even one element, the jury is obliged to acquit. In this case, none of the elements is present.

First, a little more about the law. You have to do more than make false statements to someone who might or might not testify in a judicial proceeding to obstruct justice. In United States v. Aguilar, an opinion by Chief Justice Rehnquist and quoted by the House managers, the Supreme Court addressed the Government's requirement and showed that the defendant knew his actions were likely to affect a judicial proceeding. There, the U.S. district court judge was accused and convicted of lying to an FBI agent about a conversation with another judge and about what he said about his knowledge of some wiretapping. The Supreme Court reversed the conviction under 1502, the general obstruction of justice statute, holding that the facts were insufficient to make the case. They said in this material:

> We do not believe that uttering false statements to an investigative agent—and that seems to be all that was proved here—who might or might not testify before a grand jury is sufficient to make out a violation of the catch-all provision of 1503. . . . But what use will be made of false testimony given to an investigative agent who has not been subpoenaed or otherwise directed to appear before the grand jury is far more speculative. We think it cannot be said to have the "natural and probable effect" of interfering with the due administration of justice.

In responding to the defendant's criticism of the Court's holding, Mr. Chief Justice Rehnquist wrote, under the defense theory:

> A man could be found guilty of violating 1503 if he knew of a pending investigation and lied to his wife about his whereabouts at the time of the crime, thinking that an FBI agent might interview her and that she might in turn be influencing her statements to that agent about her husband's false accounts of where he was.

The intent to obstruct justice is indeed present, but the man's culpability is a good deal less clear from the statute than we would usually require in order to impose criminal liability.

So I want to begin by focusing on the "corruptly persuade" elements of witness tampering. What does it mean to corruptly persuade? The term is vague, and the legislative history on the specific point is not very clear. We do know it means more than harassing, which is described as badgering or pestering conduct, since 1512 makes intentional harassment a misdemeanor a lesser offense of "corruptly persuade," which is a felony. The U.S. Attorneys' Manual gives some guidance. A prosecution under 1512 would require the Government to prove beyond a reasonable doubt, one, an effort to threaten, force or intimidate another person and; two, an intent to influence the person's testimony. Thus, "corruptly persuade" for career prosecutors requires some element of threat or intimidation or pressure.

Keeping that overview in mind, let's look at the facts. On January 17, 1998, the President called Ms. Currie after his deposition and asked her to meet with him the following day. On January 18, the President and Ms. Currie met, and the President told her about some of those surprising questions he had been asked in his deposition about Ms. Lewinsky. In the course of their conversation, according to Ms. Currie, the President posed a series of questions and made statements including: You were always there when she was there, right? We were never really alone. You could see and hear everything. Monica came on to me, and I never touched her, right? And she wanted to have sex with me, and I can't do that.

Our analysis of this issue could stop here. There is no case for obstruction of justice. Why? There is no evidence whatsoever of any kind of threat or intimidation. And as we discussed, the U.S. Attorneys' Manual indicates that without a threat or intimidation, there is no corrupt influence. Without corrupt influence, there is no obstruction of justice. But the evidence reveals much more. Not only does the record lack any evidence of threat or intimidation, the record specifically contains Ms. Currie's undisputed testimony which exonerates the President of this charge. This is Ms. Currie's testimony and is the fourth exhibit in the materials.

Question to Ms. Currie:

> Now, back again to the four statements that you testified the President made to you that were presented as statements, did you feel you were pressured when he told you those statements?
>
> None whatsoever.
>
> Question: What did you think, or what was going through your mind about what he was doing?

Ms. Currie:

> At the time I felt that he was—I want to use the word shocked or surprised that this was an issue, and he was just talking.
>
> Question: That was your impression, that he wanted you to say—because he would end each of the statements with "Right?," with a question.

Ms. Currie:

> I do not remember that he wanted me to say "Right." He would say, "Right?" and I could have said, "Wrong."
>
> Question: But he would end each of these questions with a "Right?" and you could either say whether it was true or not true.
>
> Correct.
>
> Did you feel any pressure to agree with your boss?
>
> None.

The evidence on this issue is clear. There was no effort to intimidate or pressure Ms. Currie, and she testified that she did not feel pressured. Betty Currie's testimony unequivocally establishes that the managers' case lacks any element of threat or intimidation. There is no evidence, direct or circumstantial, that refutes this testimony. This is not obstruction of justice.

But let's not stop there. Let's look at the intent element of the obstruction of justice laws—in other words, whether the President had the intent to influence Ms. Currie's supposed testimony, or potential testimony.

In an attempt to satisfy this element of the law, the managers overreached in their presentation to create the appearance that the President had the necessary specific intent. They argue that, based upon the way he answered the questions in the Jones deposition, he purposely referred to Ms. Currie in the hopes that the Jones lawyers would call her as a corroborating witness. Therefore, according to their theory, he had the specific intent.

The facts belie their overreaching. The House managers suggested to you that the President increased the likelihood that Ms. Currie would be called as a witness by challenging the plaintiff's attorney to question Ms. Currie. A review of the transcript, however, shows that the President's few references to Ms. Currie were neither forced nor needlessly interposed. They were natural, appropriate; they were responsive. Indeed, the only occasion when he suggested the Jones lawyers speak to Ms. Currie is when they asked if it was typical for Ms. Currie to be in the White House after midnight. He understandably said, "You have to ask her." Hardly a challenge. It is a reasonable response to an inquiry about someone else's activities.

The managers' conjecture about the President's state of mind, however, fails on an even more basic level. If you believe the managers' theory, if you believe that the President went to great lengths to hide his relationship with Ms. Lewinsky, then why on Earth would he want Ms. Currie to be a witness in the Jones case? If there was one person who knew the extent of his contact with Ms. Lewinsky, it was Ms. Currie. While she did not know the nature of his relationship with Ms. Lewinsky, Ms. Currie did know and would have testified to Ms. Lewinsky's visits in 1997, the notes and messages that Ms. Lewinsky sent the President, the gifts that Ms. Lewinsky sent the President, and the President's support of the efforts to get Ms. Lewinsky a job. With just that information, it would have only been a matter of time before the Jones lawyers discovered the relationship—not that they needed Ms. Currie's testimony; they didn't need it for any of this. Ms. Tripp was already on the December 5, 1997, witness list, and she was already scheduled for a deposition.

So why would the President want her to testify? The answer is simple. He didn't. The President was not thinking about Ms. Currie becoming a witness in the Jones case. Indeed, she is the last person the President would have wanted the Jones lawyers to question. And even if the Jones lawyers had wanted to question Ms. Currie, it is highly unlikely they would have been allowed to do so, given the posture of the case at that time.

Judge Wright ordered the parties in August of 1997 to exchange names and addresses of all witnesses no later than December 5, 1997. Ms. Currie was not on their final witness list. Moreover, the cutoff date for all discovery was January 30. By the time the President's deposition was over, it was really too late to call Ms. Currie as a witness.

Finally, you need to remember that in the context of the Jones case Ms. Currie was, at best, a peripheral witness on a collateral matter that the court ultimately determined was not essential to the core issues in the case. She had only knowledge of a small aspect of a much larger case—all the more reason not to view her as a potential witness.

The President was not thinking about Ms. Currie becoming a witness in the Jones case. So what was the President thinking? The President explained to the grand jury why he spoke to Ms. Currie after the deposition. It had nothing to do with Ms. Currie being a potential witness. That was not his concern. The President was concerned that his secret was going to be exposed and the media would relentlessly inquire until the entire story and every shameful detail was public. The President's concern was heightened by an Internet report that morning that he spoke to Betty which alluded to Ms. Lewinsky and to Ms. Currie and to issues that the Jones lawyers had raised. The President was understandably concerned about media inquiries, a concern everyone who lives and serves in the public eye likely can understand.

In trying to prepare for what he saw as the inevitable media attention, he talked to Ms. Currie to see what her perceptions were and what she recalled. He talked to her to see what she knew.

Remember, some of the questions that the Jones lawyer asked the President were so off base. For example, they asked him about visits from Ms.

Lewinsky between midnight and 6 a.m. where Ms. Currie supposedly cleared her in. The President wanted to know whether or not Ms. Currie agreed with this perception or whether she had a different view, whether she agreed that Ms. Lewinsky was cleared in when he was present or had there been other occasions that he didn't know about. He also wanted to assess Ms. Currie's perception of the relationship. He knew the first person who would be questioned about media accounts, particularly given that she was in the Internet report, was going to be Ms. Currie.

The House managers did the President a disservice in suggesting in the end that his five pages of testimony about why he spoke to Ms. Currie ultimately amounts to a four-word sound bite to refresh his recollection. He obviously said a lot more.

Why did they say that? Because they needed to establish intent, and the testimony and the facts do not show intent. That is the truth. That is all of the facts.

The President's intent was never to obstruct justice in the Jones case. It was to manage a looming media firestorm, which he correctly foresaw. As the President told the grand jury, "I was trying to get the facts and trying to think of the best defense we could construct in the face of what I thought was going to be a media onslaught."

He was thinking about the media. That is the big picture. That is not obstruction of justice.

In the end, of course, you must make your own judgments about whether the managers have made a case for convicting the President of obstructing justice on either of these allegations. We believe they have not, because the facts, those stubborn facts, don't support the allegations. Neither does the rule of law. We are not alone in that conclusion.

We want to share with you some of the remarks from a bipartisan panel of prosecutors who spoke to the House Judiciary panel, some of which you saw earlier with Mr. Craig. I have taken a very brief clip of their testimony that dealt with allegations of obstruction of justice against the President for, as you will see, then Representative and now Senator SCHUMER focused in on one of the two allegations that I address today.

(Text of videotape presentation:)

Mr. SULLIVAN. Mrs. Currie testified that she did not feel that the president came and asked her some questions in a leading fashion—"Was this right? Is this right? Is this right?"—after his deposition was taken in the Jones case. And she testified that she did not feel pressured to agree with him and that she believed his statements were correct——

Rep. SCHUMER. Correct, right.

Mr. SULLIVAN [continuing]. And agreed with him. He—the quote is, "He would say, 'Right,' and I could have said, 'Wrong,'" Now that is not a case for obstruction of justice. It is very common for lawyers, before the witness gets on the stand, to say, "Now you're going to say this, you're going to say this, you're going to say this."

Rep. SCHUMER. Right.

Mr. SULLIVAN. Now it doesn't make a difference if you've got two participants to an event and you try to nail it down, so to say.

Rep. SCHUMER. Do all of you agree with that, with the Currie—the Currie——

Mr. WELD. Yeah.

Rep. SCHUMER. And on the other two, the Lewinsky parts of this, is there——

Mr. DAVIS. I think to some——

Rep. SCHUMER. I mean, I don't even understand how they could—how Starr could think that he would have a case, not with the President of the United States, but with anybody here, when it seems so natural and so obvious that there would be an overriding desire not to have this public and to have everybody—have the two of them coordinate their stories—that is, the President and Miss Lewinsky—if there were not the faintest scintilla of any legal proceeding coming about. It just strikes me as an overwhelming stretch. Am I wrong to characterize it that way? You gentlemen all have greater experience than I do.

Mr. DAVIS. I think you're right. And also, the problem a prosecutor would face would be that in these cases, there is relationship between these people unrelated to the existence of the Paula Jones case—the relationship. And that's the motivation——

Rep. SCHUMER. Correct.

And Mr. Weld, do you disagree with—do you agree with that?

Rep. SENSENBRENNER. The gentleman's time—the gentleman's time——

Rep. SCHUMER. Could I just ask Mr. Weld for a yes or no——

Rep. SENSENBRENNER. I'm sorry, Mr. Schumer. Mr. Schumer——

Rep. SCHUMER [continuing]. For a yes or no answer to that?

Can you answer that yes or no, Governor?

Mr. WELD. I think it's a little thin, Mr. Congressman.

Rep. SCHUMER. Thank you.

Mr. NOBLE. Again, it's a specific-intent crime, and the question is, what was the President thinking when he said this? We can look at his words and try and analyze his words. But Ms. Currie says that she didn't believe he was trying to influence her and that if she'd said something different from him, if she believed something different from him, she would have felt free to say it. So for that reason, I believe, you just don't have the specific intent necessary to prove obstruction of justice with regard to the comment that you just asked me.

Manager HUTCHINSON is keeping very good company. He, like the other prosecutors, does not believe the record before you establishes obstruction of justice. We agree.

Before I close, I do want to take a moment to address a theme that the House managers sounded throughout their presentation last week—civil rights. They suggested that by not removing the President from office, the entire house of civil rights might well fall. While acknowledging that the President is a good advocate for civil rights, they suggested that they had grave concerns because of the President's conduct in the Paula Jones case.

Some managers suggested that we all should be concerned should the Senate fail to convict the President, because it would send a message that our civil rights laws and our sexual harassment laws are unimportant.

I can't let their comments go unchallenged. I speak as but one woman, but I know I speak for others as well. I know I speak for the President.

Bill Clinton's grandfather owned a store. His store catered primarily to African Americans. Apparently, his grandfather was one of only four white people in town who would do business with African Americans. He taught his grandson that the African Americans who came into his store were good people and they worked hard and they deserved a better deal in life.

The President has taken his grandfather's teachings to heart, and he has worked every day to give all of us a better deal, an equal deal.

I am not worried about the future of civil rights. I am not worried because Ms. Jones had her day in court and Judge Wright determined that all of the matters we are discussing here today were not material to her case and ultimately decided that Ms. Jones, based on the facts and the law in that case, did not have a case against the President.

I am not worried, because we have had imperfect leaders in the past and will have imperfect leaders in the future, but their imperfections did not roll back, nor did they stop, the march for civil rights and equal opportunity for all of our citizens.

Thomas Jefferson, Frederick Douglass, Abraham Lincoln, John F. Kennedy, Martin Luther King, Jr.—we revere these men. We should. But they were not perfect men. They made human errors, but they struggled to do humanity good. I am not worried about civil rights because this President's record on civil rights, on women's rights, on all of our rights is unimpeachable.

Ladies and gentlemen of the Senate, you have an enormous decision to make. And in truth, there is little more I can do to lighten that burden. But I can do this: I can assure you that your decision to follow the facts and the law and the Constitution and acquit this President will not shake the foundation of the house of civil rights. The house of civil rights is strong because its foundation is strong.

And with all due respect, the foundation of the house of civil rights was never at the core of the Jones case. It was never at the heart of the Jones case. The foundation of the house of civil rights is in the voices of all the great civil rights leaders and the soul of every person who heard them. It is in the hands of every person who folded a leaflet for change. And it is in the courage of every person who changed. It is here in the Senate where men and women of courage and conviction stood for progress, where Senators—some of them still in this chamber; some of them who lost their careers—looked to the Constitution, listened to their conscience, and then did the right thing.

The foundation of the house of civil rights is in all of us who gathered up our will to raise it up and keep on building. I stand here before you today because others before me decided to take a stand, or as one of my law professors so eloquently says, "because someone claimed my opportunities for me, by fighting for my right to have the education I have, by fighting for my right to seek the employment I choose, by fighting for my right to be a lawyer," by sitting in and carrying signs and walking on long marches, riding freedom rides and putting their bodies on the line for civil rights.

I stand here before you today because America decided that the way things were was not how they were going to be. We, the people, decided that we all deserved a better deal. I stand here before you today because President Bill Clinton believed I could stand here for him.

Your decision whether to remove President Clinton from office, based on the articles of impeachment, I know, will be based on the law and the facts and the Constitution. It would be wrong to convict him on this record. You should acquit him on this record. And you must not let imagined harms to the house of civil rights persuade you otherwise. The President did not obstruct justice. The President did not commit perjury. The President must not be removed from office.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

LEADER LECTURE SERIES

Mr. LOTT. Once again, I invite all Senators to attend the leader lecture series this evening at 6 p.m. in the Old Senate Chamber. I have already announced former President George Bush will be the speaker.

ADJOURNMENT UNTIL 1 P.M. TOMORROW

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that the Senate now stand in adjournment under the previous order.

There being no objection, the Senate, at 5:14 p.m., sitting as a Court of Impeachment, adjourned until Thursday, January 21, 1999, at 1 p.m.

EXTENSIONS OF REMARKS

A STARK ASSESSMENT: U.S. REPRESENTATIVE PETE STARK SPEAKS OUT ON HEALTHCARE AND WELFARE REFORM

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. LEWIS of Georgia. Mr. Speaker, I insert the following for printing in the RECORD:

[From the World, Jan.–Feb. 1999]

(By David Reich)

When President Clinton signed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, more commonly known as the welfare reform bill, US Rep. Fortney Pete Stark didn't make a secret of his displeasure. "The president sold out children to get reelected. He's no better than the Republicans," fumed Stark, a longtime unitarian Universalist whose voting record in Congress regularly wins him 100 percent ratings from groups like the AFL–CIO and Americans for Democratic Action.

One of the Congress's resident experts on health and welfare policy, the northern California Democrat has earned a reputation for outspokenness, often showing a talent for colorful invective, not to say name-calling. First elected to the House as an anti-Vietnam War "bomb-thrower"(his term) in 1972, Stark has called Clinton healthcare guru Ira Magaziner "a latter-day Rasputin" and House Speaker Newt Gingrich "a messianic megalomaniac." When the American Medical Association lobbied Congress to raise Medicare payments to physicians, Stark, who chaired the Health Subcommittee of the powerful House Ways and Means Committee, called them "greedy troglodytes," unleashing a $600,000 AMA donation to Stark's next Republican opponent.

"I've gotten in a lot of trouble speaking my mind," the congressman admits with a rueful smile. For all his outspokenness on politics, Stark appears to have a droll sense of himself, and he tends to talk softly, his voice often trailing off at the ends of phrases or sentences.

Back in the 1960s, as a 30-something banker and nominal member of the Berkeley, California, Unitarian Universalist congregation, Stark upped his commitment to the UU movement after his minister asked him to give financial advice to Berkeley's Starr King School for the Ministry. "I think I was sandbagged," he theorizes. After a day of poring over Starr King's books ("The place was going broke," he says), he was invited by their board chair to serve as the seminary's treasurer. "I said, 'Okay,'" Stark recalls. He said, 'Then you have to join the board,' I said, 'I don't know. I guess I could.'"

The UUing of Pete Stark culminated at his first board meeting, when the long-serving board chair announced his resignation and Stark, to his astonishment, found himself elected to take the old chair's place. "There I was," he reminisces, his long, slim body curled up in a wing chair in a corner of his Capitol Hill office. "And I presided over a change in leadership and then spent a lot of time raising a lot of money for it and actually in the process had a lot of fun and met a lot of terrific people."

The World spoke with Stark in early October, as rumors of the possible impeachment of a president swirled around the capital. But aside from a few pro forma remarks about the presidential woes ("His behavior is despicable, but nothing in it rises to the level of impeachment"), our conversation mainly stuck to healthcare and welfare, the areas where Stark has made his mark in government.

World: You have strong feelings about the welfare reform bill. Do the specifics of the bill imply a particular theory of poverty?

PS: They imply that if you're poor, it's your fault, and if I'm not poor, it's because I belong to the right religion or have the right genes. That the poor are poor by choice, and we ought not to have to worry about them. It's akin to how people felt about lepers early in this century.

World: Does the welfare reform law also imply any thinking about women and their role in the world?

PS: Ronald Reagan for years defined welfare cheat as a black woman in a white ermine cape driving a white El Dorado convertible and commonly seen in food checkout lines using food stamps to buy caviar and filet mignon and champagne and then getting in her car and driving on to the next supermarket to load up again. And I want to tell you she was sighted by no less than 150 of my constituents in various supermarkets back in my district. They were all nuts. They were hallucinating. But they believed this garbage.

And then you've got the myth that, as one of my Republican neighbors put it, "these welfare women are nothing but breeders"—a different class of humanity.

World: You raised the idea of belonging to "the right religion." Do these views of poor people, and poor women in particular, come out of people's religious training?

PS: No, my sense of what makes a reactionary is that it's a person younger than me, a 40- or 50-year-old man who comes to realize he isn't going to become vice president of his firm. His kids aren't going to get into Stanford or Harvard or make the crew team. His wife is not very attractive-looking. His sex life is gone, and he's run to flab and alcohol.

World: So it's disappointment.

PS: Yes. And when the expectations you've been brought up with are not within your grasp, you look around for a scapegoat. "It's these big-spending congressmen" or "It's these women who have children just to get my tax dollar. The reason I'm not rich is that I pay so much in taxes; the reason my children don't respect me is that the moral fabric has been torn apart by schools that fail to teach religion."

And then there's a group that I've learned to call the modern-day Pharisees, people from the right wing of the Republican party who have decided the laws of the temple are the laws of the land.

World: Then religion figures into it, after all.

PS: Oh, yeah, but to me that's a religion of convenience. In my book those are people with little intellect who listen to the Bible on the radio when they're driving the tractor or whatever. But I do credit them with being seven-day-a-week activists unlike so many other Christians.

World: Going back to the welfare reform bill itself, how does it comport with the values implied by the UU Principles, especially the principle about equity and compassion in social relations?

PS: If you assume we have some obligation to help those who can't help themselves, if that's a role of society, then supporters of the welfare reform bill trample on those values. "I'm not sure that's the government's job," they would say. "It's the church's job or it's your job. Just don't take my money. I give my cleaning lady food scraps for her family and my castaway clothes to dress her children. I put money in the poor box. What more do you want?"

The bill we reported out, the president's bill, was motivated by the belief that paying money to people on public assistance was, one, squandering public funds and, two, preventing us from lowering the taxes on the overtaxed rich. I used to try and hammer at some of my colleagues, and occasionally, when I could show them they were harming children, they would relent a little, or at least they would blush.

World: Did you shame anyone into changing his or her vote or making some concessions on the language of the bill?

PS: We got a few concessions but not many. Allowing a young woman to complete high school before she had to look for a job, because she'd be more productive with a high school education—you could maybe shame them into technicalities like that. But beyond that they were convinced that if you just got off the dole and went to work, you would grow into—a Republican, I suppose.

World: It's been pointed out often that many people who supported the bill believe, as a matter of religious conviction, that women should be at home raising kids, yet the bill doesn't apply this standard to poor women. Can the bill's supporters resolve that apparent contradiction?

PS: Yes, I hate to lay out for you what you're obviously missing. The bill's supporters would say that if a woman had been married and the family had stayed together as God intended, with a father around to bring home the bacon, then the mother could stay home and do the household chores and raise the children. They miss the fact that they haven't divided the economic pie in such a manner that the father can make enough money to support mother and child.

Now, I do think young children benefit grandly, beyond belief, by having a mother in full-time attendance for at least the first four years of life. But given the reality that a single mother has to work, you have to move to the idea of reasonable care for that mother's child. And by reasonable care I do not mean a day care worker on minimum wage who's had four hours of instruction and doesn't know enough to wash his or her hands after changing diapers and before feeding the kid. Or who's been hired without a

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

criminal check to screen out pedophiles. Because it's that bad.

World: Did the welfare system as it existed before the 1996 bill need reform?

PS: Sure. The Stark theory—which I used to peddle a thousand years ago, when I chaired the House Public Assistance Committee—is that people have to be allowed to fail and try again and again—and again. We can't let people starve, but they've got to learn to budget money and not spend it all on frivolous things. So I'd have cashed out many of the benefits. For instance, instead of giving you food stamps worth 50 bucks, why don't I give you the 50 bucks? The theory behind food stamps was that you'd be so irresponsible you'd buy caviar and wine and beer and cigarettes and not have any money left for tuna fish and rice. And that kind of voucher doesn't give you the chance to learn.

We did a study, good Lord, in the 1960s in Contra Costa County, California. Our church was involved, along with the United Crusade charity, and some federal money went into it, too. We identified in the community some people who had never held a regular job—either women who had done day work or men who were nominally, say, real estate brokers but hadn't sold a house in years. And in this study we took maybe 20 of them and made them community organizers—without much to do but with an office and a job title. All this was to study what happened to those people when they had regular hours and a regular paycheck, having come from a neighborhood where people didn't necessarily leave for the office at every morning at 7:30.

And we found that these people suddenly became leaders, that people in the neighborhood came to them for advice. They even talked about going into politics, just because of the fact that they fit into the structure and what that did for their self-image and their neighbors' image of them.

Another part of that program: in the poorest parts of our community people were given loans to start new stores—wig shops and fingernail parlors and liquor stores and sub shops and soul food places and barbecue pits. The stores had little economic value but lots of social value. They were places where children of the families who owned them went after school, and people didn't sleep or piss in the doorways or leave their bottles there because the street with these shops became a community that had some cohesion—though when the funds were cut back, it reverted to boarded-up shops.

World: Are you suggesting that this kind of program might work for current welfare recipients?

PS: Absolutely. I don't believe for a minute that 99 percent of people, given the opportunity, wouldn't work. They see you and me and whoever—the cop on the beat, the school teacher, the factory worker, the sales clerk—going to work. People want to be part of that. It's just like kids won't stay home from school for very long. That's where the other kids are, that's where they talk about their social lives. That's where the athletics are. And so it is with adults: they want to be part of the fun, of the action.

Inefficient as some people's labor may be, as a last resort, bring them to work in the government. It would be so much more efficient than having to pay caseworkers and making sure they're spending their welfare checks the right way. Give them a living wage, damn it. They'll learn. And given time, their efficiency as economic engines will improve.

World: Do you have a clear sense of how the changes in the system are affecting welfare clients so far?

PS: No, and I'm having a major fight with our own administration over it. Olivia Golden, who until recently headed up the family, youth, and children office in the Health and Human Services Department, sat there blithely and told me "Welfare reform is working!" I said. "Olivia, what do you mean it's working?" "Well, people all over the country have told me—" "How many?" "Maybe 12." I said, "Are you kidding? You've talked to maybe 12 people?"

They won't give us the statistics. They say, "The states don't want to give them to us." All we know—the only figures we have—is how many people are being ticked off the rolls. What's happened to the people who leave the rolls? What's happened to the kids? The number of children in poverty is starting to go up—substantially, even when their family has gotten off welfare and is working.

World: One of the arguments in favor of the welfare bill involved "devolution." Do you accept the general proposition that states can provide welfare better than the federal government?

PS: Well, the states were always doing it, under federal guidelines. Now we've taken away the guidelines and given the states money with some broad limitations.

I have no problem with local communities running public assistance programs. They're much closer to the people and much more concerned, and somebody from Brooklyn doesn't know squat about what's needed in Monroe County, Wyoming, where an Indian reservation may be the sole source of your poverty population. But I want some standards—minimum standards for day care, minimum standards for job training. I'm talking about support standards, not punishment standards.

World: And the current bill has only punishment standards?

PS: Basically. It's a threat, it's a time limit, it's a plank to walk.

World: What about the idea that welfare reform would save the government money? How much money has been saved?

PS: I can get the budget figures for you, but I suspect we haven't saved one cent. I mean, do homeless people cost us? What is the cost in increased crime? We're building jails like they're going out of style. Does the welfare bill have anything to do with that? I don't know, but I wouldn't make the case that they're unrelated.

So if you take the societal costs—are we saving? And it's such a minuscule part of the budget anyway. It's like foreign aid. I could get standing applause in my district by saying, "I don't like foreign aid." And if I ask people what we're spending on it, they say, "Billions, billions!" We spend diddly on foreign aid. The same is true for welfare. Any one of the Defense Department's bomber programs far exceeds the total cost of welfare.

World: Is there any hope of improving the country's welfare system in the short of medium term, given that the 1996 bill did have bipartisan support?

PS: It had precious little bipartisan support, but it had the president. No, I don't think we're apt to make changes. And what's fascinating is that with the turn in global events our economy may have peaked out. We may be heading down. And while this welfare reform may have worked in a booming economy, when the economy turns down, those grants to the states won't begin to cover what we'll need.

World: If Congress isn't likely to do anything, what can people in religious communities do to make sure the system is humane?

PS: They can get active at the state and local level. Various states may do better things or have better programs or more humane programs. And the lower the level of jurisdiction, the easier it is to make the change, whether it's in local schools or local social service delivery programs.

The other thing is to take the lead in going to court. It's the courts that have saved us time after time—in education, women's rights, abortion rights. We need to look for those occasions where a welfare agency does something illegal—and there will be some—and take up the cause of children whose civil rights are being violated.

World: Let's shift over to healthcare. In the 1992 presidential campaign, the idea of a universal healthcare plan was seen as very popular with the voters. Why did the Clinton health plan fail?

PS: I'd like to blame it on Ira Magaziner and all the monkey business that went on at the White House—the secret meetings and this hundred-person panel that ignored the legislative process. Their proposal became discredited before it ever got to Congress. We paid no attention to it. My subcommittee wrote our own bill which accomplished what the president said he wanted. It provided universal coverage, it was budget-neutral, and it was paid for on a progressive basis.

World: And it did that by expanding Medicare?

PS: Basically it required every employer to pay, in effect, an increase in the minimum wage, to provide either a payment of so much an hour or add insurance. And if they couldn't buy private-insurance at a price equivalent to the minimum wage increase, they could buy into Medicare—at no cost to the government, on a budget-neutral basis. But the bill allowed private insurance to continue, with the government as insurer of last resort.

We got it out of committee by a vote or two, but then on the House floor, we couldn't get any Republican votes. They unified against it, so we never had the votes to bring it up.

The Harry and Louise ads beat us badly. People were convinced that government regulation was bad, per se. It was just the beginning of the free market in medical care, which we're seeing the culmination of now in the for-profit HMOs and the Medicare choice plans that are collapsing like houses of cards all over the country. But back in 1993 the idea was "Let the free market decide. HMOs will be created. They'll make a profit, they'll give people what they want. People will vote with their feet and the free market will apply its wonderful choice."

World: Did that bill's defeat doom universal healthcare for a long time to come?

PS: It certainly doomed it for this decade and things are only getting worse. We now have a couple of million more people uninsured. We're up to about 43.5 million uninsured, and we were talking about 41 million back in 1993. And people on employer-paid health plans are either paying higher copays or getting more and more restricted benefits. Plus early retirement benefits are disappearing so that if people retire before 65, they often can't get affordable insurance. It will have to get just a little worse before we'll have a popular rebellion. We're seeing in the managed care bill of rights issue where people are today. To me, that's the most potent force out there in the public.

World: In both areas we've been discussing assistance to the poor and health insurance, the US government is taking less responsibility than virtually all the other industrial democracies.

PS: Why take just democracies? Even in the fascist countries, everybody's got healthcare. We are the only nation extant that doesn't offer healthcare to everybody.

Take our neighbor Canada. There is no more conservative government on this continent, north or south. I've heard the wealthiest right-wing Canadian government minister say: "I went to private prep schools, but it never would occur to us Canadians to jump the queue, go to the head of the line in healthcare. We believe healthcare is universal. Now, we fight about spending levels, we fight about the bureaucracy, and we fight about how we're working the payment system." But they don't question it.

World: In the US we do question it—the right to healthcare, that is. Why?

PS: It's connected with this idea of independence. Where do we get the militias from, and those yahoos who run around in soldier suits and shoot paint guns at each other?

World: The frontier ethos?

PS: Maybe, maybe. And the American Medical Association is not exactly exempt from blame. The physicians are the most antigovernment group of all. They're the highest paid profession in America by far, and so they are protecting their economic interests. Though the government now looks a little better to them than the insurance industry because they have more control over government than over the insurance companies.

Look, the country was barely ready for Medicare when that went through. It just made it through Congress by a few votes. There are some of us who would have liked to see it include nursing home or long-term convalescent care. That can only be done through social insurance, but people won't admit it. They say, "There's got to be a better way." It's a mantra. On healthcare: "There's got to be a better way." Education: "There's got to be a better way."

They've yet to say it for defense though. I'm waiting for them to privatize the Defense Department and turn it over to Pinkerton. Although in a way they have. There's a bunch of retired generals right outside the Beltway making millions of dollars of government money training the armed forces in Bosnia. I was there and what a bunch of crackpots! They've got these former drill sergeants over there, including people out to try to start wars on our ticket.

World: A few more short questions. Have the culture and atmosphere of the House changed in the years since you arrived here?

PS: Yes, though I spent 22 years in the majority and now four in the minority, so I may just be remembering good old days that weren't so good. Back when I was trying to end the Vietnam War. I was in just as much of a minority as I am now, and I didn't have a subcommittee chair to give me any power or leverage.

On the other hand, look at the country now. Look at TV talk shows—they argue and shout and scream, and then they call it journalism. Maybe we're just following in their footsteps.

World: Is it a spiritual challenge for you to have to work with, or at least alongside, people with whom you disagree, sometimes violently?

PS: Yes, and I don't a very good job. My wife says, "When you retire, why don't you become an ambassador?" And I say, "Diplomacy doesn't run deep in these genes." But it's tough if you internalize your politics and believe in them.

Still, I like legislating—to make it all work, to take all the pieces that are pushing on you, to make the legislation fit, to accommodate and accomplish a goal. It really makes the job kind of fascinating. I once reformed the part of the income tax bill that applies to life insurance, and that's one of the most arcane and complex parts of the tax bill. It was fun—bringing people together and getting something like that. And actually writing that health bill was fun.

But not now. We don't have any committee hearings or meetings anymore. It's all done in back rooms. Under the Democratic leadership we used to go into the back room, but there were a lot of us in the room. Now they write bills in the speaker's office and avoid the committee system. I mean, it's done deals. We're not doing any legislating, or not very much.

World: Do you think about quitting?

PS: No, I don't think about quitting. I'd consider doing something else, but I don't know what that is. Secretary of health and human services? Sure, but don't hold your breath until I'm offered the job. Even in the minority, being in the Congress is fascinating, and as long as my health and faculties hold out. * * * I mean, I'm not much interested in shuffleboard or model airplanes.

MASS IMMIGRATION REDUCTION ACT

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. STUMP. Mr. Speaker, on January 6, with the support of 48 original cosponsors, I introduced the Mass Immigration Reduction Act. My bill, formerly called the Immigration Moratorium Act, provides for a significant, but temporary, cut in legal immigration to the United States.

Mr. Speaker, I believe that many Members of this body would be surprised to learn that the immigrant population is now growing faster than at any time in our nation's history. The number of immigrants living in the United States has almost tripled since 1970, from 9.6 million to 26.3 million. This profusion in immigrants has a profound and costly impact on our way of life. For example, the net annual current fiscal burden imposed on native households at all levels of government by immigrant households nationally is estimated to range from $14.8 to $20.2 billion. As troubling, the poverty rate for immigrants is nearly 50 percent higher than that of natives. This suggests that our immigration policies are not only unfair to citizens, but are a disservice to immigrants who come here looking for a better, more prosperous way of life. As federal legislators, we have an obligation to take a serious look at our immigration policies and the problems that stem from them. It is our duty to devise an immigration system that is in our nation's best interest.

Under my proposed legislation, immigration would be limited to the spouses and minor children of U.S. citizens, 25,000 refugees, 5,000 employment-based priority workers and a limited number of immigrants currently waiting in the immigration backlog. The changes would expire after five years, provided no adverse impact would result from an immigration increase. Total immigration under my bill would be around 300,000 per year, down from the current level of about one million annually. I should emphasize that my bill is not intended to serve as a permanent long-term immigration policy. It would provide a lull in legal immigration, during which time we would have an opportunity to reevaluate America's immigration needs and set up more appropriate conditions under which immigrants may become permanent residents of the United States.

In closing, Mr. Speaker, let me stress that we should continue to welcome immigrants to our great country. However, we should do so under a well-regulated policy that is based upon America's needs and interests. Currently, we lack such a policy. Our system allows for unmanageable levels of immigrants with little regard for the impact the levels have on our limited ability to absorb and assimilate newcomers. I strongly urge my colleagues to examine our immigration system and ask themselves whether it is in the best interests of their constituents to continue the unprecedented trend of mass immigration. I encourage Members to support my bill, and look forward to productive debate on this important issue.

LEGISLATION TO RAISE THE MANDATORY RETIREMENT AGE FOR U.S. CAPITOL POLICE OFFICERS FROM 57 TO 60

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. TRAFICANT. Mr. Speaker, on January 6, 1999 I introduced legislation to change the mandatory retirement age for U.S. Capitol Police Officers from 57 to 60. It is identical to legislation I introduced in the last Congress, and I urge all of my colleagues to support this important bill.

As every Member of Congress knows, the Capitol Police is one of the most professional and dedicated law enforcement agencies in the country. They perform a vital and important function. The force is blessed to have a large number of experienced and highly competent officers. Unfortunately, every year dozens of officers are forced to leave the force because of the mandatory retirement rule. Many of these officers are in excellent physical condition. Most important, they possess a wealth of experience and savvy that is difficult, if not impossible, to replace.

Raising the mandatory retirement age from 57 to 60 will provide the Capitol Police with the flexibility necessary to retain experienced, highly competent and dedicated officers. It will enhance and improve security by ensuring that the force experiences a slower rate of turnover.

I introduce this legislation at a time when the Capitol Police is struggling to increase the size of its force in the face of an increased workload. For example, I have spoken to a number of officers who are routinely working up to 56 hours of overtime a month. Plans by the Capitol Police Board to hire an additional 260 officers will not fully alleviate this serious problem. Raising the retirement age will certainly help to reduce the workload of the force.

Should this legislation become law, Capitol Police officers between the ages of 57 and 60 would still have to meet the standard requirements to remain on the force, including proficiency on the shooting range.

This legislation is a commonsense measure that will go a long way in improving and enhancing what is already one of the finest law enforcement agencies in the world. Once again, I urge my colleagues to support this bill.

DISTINGUISHED INDIVIDUALS FROM INDIANA'S FIRST CONGRESSIONAL DISTRICT

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. VISCLOSKY. Mr. Speaker, as we celebrate the birth of Dr. Martin Luther King, Jr., and reflect on his life and work, we are reminded of the challenges that democracy poses to us and the delicacy of liberty. Dr. King's life and, unfortunately, his vicious murder, remind us that we must continually work and, if necessary, fight to secure and protect our freedoms. Dr. King, in his courage to act, his willingness to meet challenges, and his ability to achieve, embodied all that is good and true in that battle for liberty.

The spirit of Dr. King lives on in many of the citizens in communities throughout our nation. It lives on in the people whose actions reflect the spirit of dedication and achievement that will help move our country into the future. In particular, several distinguished individuals from Indiana's First Congressional District will be recognized during the 20th Annual Dr. Martin Luther King, Jr. Memorial Breakfast on Monday, January 18, 1999, at the Gary Genesis Center in Gary, Indiana. In the past year, these individuals have, in their own ways, acted with courage, met challenges, and used their abilities to reach goals and enhance their communities.

Former Gary City Councilman Roosevelt Haywood will be honored with the 1999 "Marcher's Award" for his contributions to the struggle for equality of civil rights. As a leader of the Fair Share Organization, he worked diligently in his fight for the civil rights of all minorities. In addition, Mr. Clifford Minton will receive the prestigious 1999 Dr. Martin Luther King, Jr. "Drum Major Award" for his outstanding contributions to fighting segregation. Clifford was one of the founders of the Frontiers International Civic Club and is the former Director of the Urban League of Northwest Indiana. Both Roosevelt Haywood and Clifford Minton should be applauded for their civil rights efforts in Northwest Indiana.

I would also like to recognize several Gary Tolleston Junior High School students: Tynese Anderson; Kenneth Bonner; Breone Dupre; LaKisha Girder; LeYona Greer; Katina Haaland-Ramer; Floyd Hobson; Leah Johnson; Ayashia Muhammad; Brooklyn Rogers; Brannon Smith; Mason Smith; Whitney Sullivan; Sheena Tinner; Phyllis Walker; and Courtney Williams. These students are members of the Tolleston Junior High School Spell Bowl Team, which won its fifth consecutive State Spell Bowl Championship. The team's success is also a credit to the outstanding ability and leadership of its teachers. In particular, Margaret Hymes and Janice Williams should be commended for the devotion they have demonstrated as coaches for the Tolleston Junior High Spell Bowl Team. Additionally, Tolleston Principal Lucille Upshaw and Dr. Mary Guinn, Gary Superintendent of Schools, should be recognized for their support. The accomplishments of these outstanding individuals are a reflection of their hard work and dedication to scholarship. Their scholastic effort and rigorous approach to learning have made them the best in the state. They have also brought pride to themselves, their families, their schools and their communities.

Additionally, I would like to take this opportunity to commend Miss Andrea Ledbetter of Gary, Indiana. She has been selected for the People to People Student Ambassador Program as part of the delegation going to New Zealand. The roots of the Student Ambassador Program reach back to 1956, when U.S. President Dwight D. Eisenhower founded People to People. He believed that individuals reaching out in friendship to citizens of other countries could contribute significantly to world peace. This is an excellent opportunity for Andrea to experience unparalleled opportunities for personal growth through an enriching program of educational and cultural interaction in another country.

Though very different in nature, the achievements of all these individuals reflect many of the same attributes that Dr. King possessed, as well as the values he advocated. Like Dr. King, these individuals saw challenges and rose to the occasion. They set goals and worked to achieve them. Mr. Speaker, I urge you and my other colleagues to join me in commending their initiative, determination and dedication.

IN SUPPORT OF AMERICAN INDIAN HEALTH & SERVICES

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mrs. CAPPS. Mr. Speaker, today I rise in support of American Indian Health & Services. American Indian Health & Services is a nonprofit organization that has been providing needed health services to Native Americans in Santa Barbara County since 1995. The mission of the organization is to improve the health and general welfare status of urban American Indians by providing quality comprehensive health services that are culturally appropriate, accessible and socially responsive. The organization serves all members of tribes and nations in an atmosphere that respects individuality, culture and identity.

American Indian Health & Services is celebrating five years of care and has received Federal, State, County and private funding to provide alcohol and substance abuse counseling, medical and dental care, youth programs, elders programs, benefits counseling and disease prevention.

As a nurse, I am very pleased to join the Board of Directors, staff, and volunteers in celebrating five outstanding years of care.

HOUSE GIFT RULE AMENDMENT

SPEECH OF

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. FRANKS of New Jersey. Mr. Speaker, I rise today in strong opposition to the weakening of the Gift Ban in the House of Representatives.

For the past several years, the American people have become increasingly concerned about the power of special interests in Washington. They believe, sometimes correctly, that the day-to-day relationship between lobbyists and Members of Congress is simply too cozy. This has caused many Americans to wonder whose agenda is being pursued in Washington, the public's interest or the special interests?

For this reason, in October of 1995, I voluntarily instituted a Zero Tolerance Gift Ban on my office. Under this policy, my office no longer accepts any gifts from either constituents or special interests. All gifts that I or members of my staff receive have been returned or donated to a local charity. Meals paid by lobbyists are outlawed under my policy as well, and so are free tickets to sporting or commercialized cultural events. In addition to these restrictions, no junkets are allowed. A remarkable number of special interest groups still offer all-expense-paid trips for members of Congress and their staff. In my office, these invitations are rejected.

After voluntarily imposing my own Gift Ban, I supported legislation to institute a Gift Ban that applied to all House Members and their staff. This new House-wide policy went into effect on January 1, 1996. I was proud to support this much needed reform in the House of Representatives. However today, I am saddened to learn that House leadership has chosen to take steps backward in our reform efforts. The legislation quickly passed on the House floor today, without the opportunity for opposition from Members, begins to unravel the policy we enacted two years ago. Weakening the reforms we previously supported undermines our previous efforts and gives the American people reason to question our motives. Had I been given the opportunity to vote on this motion Mr. Speaker, I would have voted against diluting the House Gift Ban.

CONGRATULATIONS TO THE MONTGOMERY COUNTY SENIOR YOUTH ORCHESTRA

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mrs. MORELLA. Mr. Speaker, I rise today to honor the 115 outstanding young men and women in the Montgomery County Senior

Youth Orchestra. The members of this illustrious group have been selected to represent Montgomery County and the state of Maryland at the American Celebration of Music which will take place in Austria from June 18–27, 1999.

The Montgomery County Senior Youth Orchestra is one of a very select group of musical organizations in the United States who will be celebrating the rich musical and cultural heritage of Austria, and observing the centennial of Johann Strauss. Under the direction of Olivia W. Gutoff, the orchestra will perform in Austria's four imperial cities: Vienna, Salzburg, Innsbruck and Graz.

One of the oldest youth orchestra programs in the country, the Montgomery County Youth Orchestra program was founded in 1946. It enjoys an international reputation, having performed in England, Wales, Switzerland, and at the Mid-West International Band and Orchestra Clinic, the Music Educators National Conference, the Music Educators National Conference Eastern Division Conference and the Maryland Music Educators Conference. The Montgomery County Youth Orchestra's summer music program led to the formation of the Maryland Center for the Arts, which is now operated by the Maryland State Department of Education. Over the years, the Montgomery County Youth Orchestra program has grown from one orchestra to four. These four are the String Ensemble, Preparatory, Junior and Senior Orchestra.

Mr. Speaker, I congratulate the outstanding young men and women of the Montgomery County Senior Youth Orchestra and their conductor, Mrs. Olivia Gutoff. I thank them for the honor which has been bestowed upon Maryland as they represent us at the American Celebration of Music. I know they will represent my wonderful state, and my district, very well.

STUDENT PROTECTION FROM SEXUAL ABUSE ACT OF 1999

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Ms. NORTON. Mr. Speaker, I introduce the Student Protection from Sexual Abuse Act of 1999 today because the U.S. Supreme Court has asked for Congressional guidance on whether we intend Title IX to allow damages and/or injunctive relief when a 9th grade student is sexually assaulted and harassed. Like the four Members of the Supreme Court in the closely divided 1998 opinion, *Gebser* v. *Largo Vista School District*, I believe that Congress intended damages and injunctive relief when a child is sexually assaulted by a teacher while in school. I agree with Justice Stevens and the dissenting justices, as well as the Department of Education, that the Court's own prior rulings and the statute itself allows damages without meeting criteria that virtually guaranteed no Title IX remedy. The majority of the Court, however, concluded that it needed "further direction from Congress."

This bill provides that guidance. I believe that no Member would want to be responsible for the bizarre and unacceptable result that sexual harassment is now covered when a principal harasses a teacher but not when a teacher assaults or harasses an underaged student. I do not believe that Congress intends for a school system to be able to virtually immunize itself from damages even though a teacher repeatedly has had intercourse with a ninth grader. Further, my bill not only protects a child and her parents, but the school system as well by limiting damages to compensatory damages.

The Court says it's our fault. Twenty-seven years ago, when Title IX was written, Congress did not foresee what we see clearly today: cases of teacher-student sexual abuse are arising fast and often. The ball is in our court, and this is not child's play. The Supreme Court in the *Gebser* decision has given the Congress a virtual summons to remedy, or, if you prefer, to update our own language to correct a glaring child abuse gap in our law.

I ask for bipartisan support on this the Student Protection from Sexual Abuse Act of 1999 and for passage this year. The earlier we do so, the sooner school systems will take action to prevent sexual abuse of children committed to their charge, thus eliminating the need for court suits.

TRIBUTE TO LA.COM

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to LA.com and its founders, David Ezra and Martin Mizrahi.

As more and more Americans turn to the web as a source of information, LA.com provides comprehensive information on entertainment, business and consumer information affecting the LA area. In addition, it provides travel and tourism information, as well as traffic assistance. More importantly, it also provides free exposure for organizations to advertise their philanthropic and cultural events.

In offering a venue for various public service organizations, it provides these groups with an opportunity to share their services and information with a large audience they might not otherwise reach.

LA.com offers something for everyone looking for everything from critical information in or around Los Angeles, to entertainment and social happenings. In establishing this site, David Ezra and Marty Mizrahi have provided to a valuable resource the people who visit and live in Los Angeles by which they can be informed of important occurrences throughout the city.

Mr. Speaker, distinguished colleagues, please join me in commending these gentlemen. These innovative entrepreneurs are paving the way for other cities to follow in disseminating important information among the community.

SPECIAL RECOGNITION OF JUDGE JOHN R. EVANS UPON HIS RETIREMENT FROM PUBLIC SERVICE

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. OXLEY. Mr. Speaker, I rise to honor a true public servant and long time friend, Judge John Evans of Lima, Ohio. Judge Evans has served the good people of America and of Ohio ever since joining the United States Army Infantry in November of 1953.

Judge Evans was born in Lima on January 11, 1928. Upon his completion of high school in 1945, Judge Evans went on to Miami University, Oxford, Ohio where he graduated with a bachelor of science degree in mathematics. In 1949, he entered Ohio Northern University Law School where he received his degree in jurisprudence. While honorably serving in the United States Army he was awarded the American Spirit Honor Medal. After completing his military service, he returned to Lima where he entered private practice on January 2, 1955. Beginning January 1957, he served as Assistant Prosecuting Attorney for Allen County, Ohio until January 1962 when he became Director of Law for the City of Lima. Moreover, Judge Evans was Solicitor of the Village of Spencerville, Ohio.

In January 1963, Judge Evans became a partner in the law firm of Gooding, Evans & Huffman, where he practiced until January 1987. Judge Evans was elected to the Third District Court of Appeals and took his oath of office in February the same year.

In addition to his professional responsibilities and family, which include his wife, Joyce, and three sons, Judge Evans has served as trustee of the Ohio Forestry Association, a member of the Board of the Lima Symphony Orchestra, trustee of Woodlawn Cemetery Association and a member of the advisory committee of the Ohio Biological Survey. He also served as a member of the Civil Service Board for the City of Lima.

Mr. Speaker, as you can witness by this long list of public service and generosity to the people of Allen County, Judge Evans will be sorely missed after his retirement from the bench. I do know that he will continue to work on worthwhile community projects during his well deserved retirement. I commend Judge Evans and wish him and his wife, Joyce, all the best in this New Year.

IN MEMORY OF A. LEON HIGGINBOTHAM, JR.

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. CUMMINGS. Mr. Speaker, I rise to pay tribute to A. Leon Higginbotham, Jr.

Higginbotham, a noted civil rights defender who went on to become one of the country's most prominent African-American judges, recently died in Boston after suffering several strokes. He was 70.

Throughout his life, as a judge and scholar, Mr. Higginbotham was known as a passionate defender of civil rights. The late Supreme Court Justice Thurgood Marshall once called him "a great lawyer and a very great judge."

A native of Trenton, N.J., Higginbotham earned his law degree at Yale Law School.

In 1962, President John F. Kennedy named him to the Federal Trade Commission, making him the FTC's first African-American commissioner.

Higginbotham served as president of the Philadelphia chapter of the National Association for the Advancement of Colored People (NAACP) from 1960–1962.

In 1964, Higginbotham was appointed to the U.S. District Court in the Eastern District of Pennsylvania, becoming the third African-American federal district judge.

Four years later, President Lyndon Johnson appointed him vice chairman of the National Commission on the Causes and Prevention of Violence, to investigate the urban riots of the 1960's. The resulting Kerner Report blamed the growing polarization between blacks and whites for the violence.

Higgonbotham again broke new ground in 1969 when he became Yale's first African-American trustee.

In 1977, he was appointed by President Jimmy Carter as judge of the 3rd U.S. Circuit Court of Appeals. In 1989, he became chief judge of the U.S. Third Circuit Court of Appeals, which covers Pennsylvania, New Jersey and Delaware.

He retired from the bench in 1993 and became a public service professor of jurisprudence at Harvard's John F. Kennedy School of Government.

At the request of South African leader Nelson Mandela, Higginbotham became an international mediator for issues surrounding the 1994 national elections in which all South Africans could participate for the first time.

Mr. Higginbotham was awarded the nation's highest civilian award, the Presidential Medal of Freedom in 1995, a year after he was honored with the Raoul Wallenberg Humanitarian Award.

In 1995, the American Association of University Professors appointed Higginbotham to its panel to investigate the University of California Board of Regents' decision to end race-based affirmative action.

Recently, Mr. Higginbotham urged the House Judiciary Committee not to impeach President Clinton. "Perjury has graduations. Some are serious, some are less," he testifed. "If the president broke the 55-mph speed limit and said under oath he was going 49, that would not be an impeachable high crime. And neither is this."

Mr. Higginbotham is also acclaimed for his multivolume study of race, "Race and the American Legal Process." In those books, he examined how colonial law was linked to slavery and racism, and examined how the post emancipation legal system continued to perpetuate oppression of blacks.

At the time of his death, Higginbotham was working on an autobiography.

He leaves his wife, Evelyn Brooks Higginbotham, a professor of history and Afro-American studies at Harvard; two daughters, Karen and Nia; and two sons, Stephen and Kenneth.

RE-INTRODUCTION OF THE "CODE OF ELECTION ETHICS"

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. BALDACCI. Mr. Speaker, most campaign reform efforts are focused on the financing aspect. This is an important issue, and I have been a strong proponent of moving forward with campaign finance reform. However, while the American people are tired of the abuses in our campaign finance system, they are equally tired of the negative campaigns that seem to have become the norm. The tone of campaigns—as well as their financing—has an impact on public trust in government and citizen participation in the electoral process.

For that reason, I am today re-introducing legislation that would encourage congressional candidates to abide by a "Code of Election Ethics." It is based on the Maine Code of Election Conduct, which was developed by the Margaret Chase Smith Center for Public Policy at the University of Maine and the Center for Global Ethics in Camden, Maine. During the 1996 and 1998 general elections, all Maine Gubernatorial and Congressional candidates agreed to abide by the state Code. The Code worked well, and Maine voters benefited from generally positive, issue-based campaigns. Maine's voter participation rate was among the highest in the nation.

This Code of Election Ethics asks candidates to be "honest, fair, respectful, responsible and compassionate" in their campaigns. The bill requires the Clerk of the House and the Secretary of the Senate to make public the names of candidates who have agreed to the Code.

I believe that the American people want a campaign system they can be proud of. This has to include two parts. First, we must clean up the way in which campaigns are financed. And second, we must elevate the level of the debate between candidates, to ensure that we engage in civilized and substantive campaigns. The Code of Election Ethics will serve as a reminder to candidates, and provide the public with a yardstick by which to measure the performance of candidates.

Something must be done to enhance people's confidence in government and faith in our democracy. I believe this bill is a step in the right direction. I am proud to have Representatives ALLEN and HINCHEY joining me as original co-sponsors, and I hope that many of you will add your support to this effort to improve the quality of congressional campaigns.

SOFT MONEY BAN

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mrs. MINK of Hawaii. Mr. Speaker, last session, we came close to passing meaningful campaign finance reform that would have put integrity back in our election laws. Unfortunately, the final bill died in the House and the 1998 elections were business as usual.

When we look at the numbers of the 1998 election, they tell us the whole story: that money decided the winners and losers of the elections.

According to the Center for Responsive Politics, in 94 percent of Senate races and 95 percent of U.S. House races, the candidate who spent the most money was the winner on election day. In the House of Representatives, incumbent re-election rate was 98 percent—the highest rate since 1988 and one of the highest this century. This re-election rate was directly attributed to the amount of money spent.

We have got to take a stand now. If we do not, the race for money will only continue to grow and grow.

We can argue on the numerous provisions that should be included in comprehensive campaign finance reform, but one thing we should all agree on is the banning of soft money to National Parties.

My bill simply does that. It places the same limits on the contributions to the National Parties as is currently in effect for contributions made to all candidates for federal office.

Let's ban soft money this year. Let's take a stand and restore confidence in our government.

INTRODUCTION OF LEGISLATION TO HELP MEDICARE BENEFICIARIES HURT BY Y2K COMPUTER DELAYS IN HOSPITAL OUTPATIENT DEPARTMENT PAYMENT REFORM

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. STARK. Mr. Speaker, a number of Medicare provisions in the Balanced Budget Act have been delayed because of the Year 2000 computer "bug" problem. One delay involves postponing reforms in the way Medicare pays for beneficiaries who receive services in hospital outpatient departments (HOPDs).

This is as complicated and Byzantine an area of payment policy as exists in Medicare—but the bottom line is that the delay will cost seniors and the disabled $460 million in 1999 compared to what they would have saved if the HOPD reform that Congress intended and enacted had proceeded on course.

$460 million is a lot of money for seniors facing medical problems. Hopefully, HCFA's Y2K corrections will proceed on schedule and beneficiaries can begin saving money in 2001 when the HOPD changes are implemented. But in case there are problems, seniors could continue to see higher costs than they should well into year 2000.

This is a relatively simple problem to fix. I am introducing a bill today that will deliver on the BBA's promise to seniors of nearly half a billion in savings in 1999. I urge the Ways and Means and Senate Finance Committees to consider this proposal on an emergency basis. It will have no cost of Medicare—but it will provide much needed relief from HOPD overcharges. It has the support of the Administration.

Following is a technical explanation of the problem and the solution. Again, Mr. Speaker, we should not get lost in the turgidness of the issue—we should just keep our eyes on the fact that the half billion in promised savings can still be achieved.

PROPOSAL TO REDUCE MEDICARE OUTPATIENT DEPARTMENT COINSURANCE

CURRENT LAW

Coinsurance for hospital outpatient department (OPD) services is currently based on 20 percent of a hospital's charge. Under the prospective payment system (PPS) for hospital OPD services, coinsurance will no longer be based on charges. Instead, base copayment amounts will be established for each group of services based on the national median of charges for services in the group in 1996 and updated to 1999. These copayment amounts will be frozen until such time as coinsurance represents 20 percent of the total fee schedule amount. If the OPD PPS were implemented in 1999, calculation of the copayment amounts in such a fashion would result in coinsurance savings of $460 million for beneficiaries in 1999.

HCFA, however, will not be able to implement the OPD PPS in 1999 due to the intensive efforts and resources that must be devoted to achieving year 2000 compliance. It will be implemented as soon as possible after January 1, 2000. In the absence of the OPD PPS, coinsurance will continue to be based on 20 percent of charges.

PROPOSAL

Beginning on January 1, 1999 and until such time as the OPD PPS is implemented, coinsurance would be based on a specified percentage of charges, which will be lower than 20 percent. The specified percentage (e.g., 18% or 17.5%) would be calculated by the Secretary and specified in law so that the beneficiaries, in aggregate, would achieve coinsurance savings equal to $460 million in 1999. These savings are equal to the amount that would have been saved by beneficiaries in 1999 if the OPD PPS were implemented.

The Medicare payment, however, would continue to be calculated as if coinsurance were still based on 20 percent of charges. In so doing, the beneficiary coinsurance savings are not passed on to the Medicare program as a cost. Instead, the loss will be absorbed by hospitals, which is the same outcome that would have occurred in 1999 under the OPD PPS.

Under this proposal, hospitals would not be able to recoup their losses by increasing their charges. In fact, increasing their charges would result in a further loss. This is because higher charges cause an increase in coinsurance but an offsetting reduction in the Medicare payment since coinsurance is subtracted out in order to determine the Medicare payment. Furthermore, since the Medicare payment is calculated as if coinsurance is 20% (rather than 18%), the Medicare payment would go down by more than the increase in the coinsurance payment (which is based on a lower percentage).

SIKH LEADER WRITES ON REPRESSION OF CHRISTIANS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. TOWNS. Mr. Speaker, as you know, there has been a recent wave of attacks by Hindu Nationalists on Christian churches, prayer halls, and schools. This has followed the killings of priests, the raping of four nuns by a Hindu mob described by the Hindu Nationalist VHP as "patriotic youth." Just this week, more churches have been attacked. No action has been taken to stop the religious violence. This situation has made it clear to the world that India's claims of democracy and secularism are fraudulent.

In this light, it was encouraging to see a letter in the January 18 issue of the Washington Times by Dr. Gurmit Singh Aulakh, President of the council of Khalistan, that addresses this issue. We all know Dr. Aulakh to be a tough and fair advocate of independence for the Sikhs in Khalistan, who have also come under the tyranny of Indian "secularism." I would recommend to my colleagues that they read Dr. Aulakh's letter. It will give them a lot of information on the reality of religious repression in India. As Dr. Aulakh wrote, "These attacks show that religious freedom in India is a myth."

Christians, Sikhs, and Muslims have suffered at the hands of India's ruling elite. As the letter shows, they are all being murdered by the Indian government. That government has paid more than 41,000 cash bounties to police officers for killing Sikhs. Meanwhile, Amnesty International and other independent human-rights monitors have been kept out of India since 1978, even longer than Communist Cuba has kept them out.

A country that kills its minorities for their ethnic or religious identity is not a fit recipient of American support. As the only superpower and the leader of the world, we have a duty to do whatever we can to support the cause of freedom in South Asia.

We should cut off American aid and trade to India until human rights, including religious liberty, are secure and regularly practiced. We should declare India a violator of religious freedom and impose the sanctions appropriate to that status. And to ensure the safety of religious and political freedom in South Asia, we should declare our support for the 17 freedom movements within India's borders. We can start by calling for full self-determination for the Sikhs of Khalistan, the Muslims of Kashmir, and the Christians of Nagaland. These steps will help bring the people of South Asia the kind of freedom that we in America enjoy.

Mr. Speaker, I would like to introduce Dr. Aulakh's letter in the January 18 Washington Times into the RECORD.

[From the Washington Times, Jan. 18, 1999]

INDIA CONTINUES TO RESTRICT RELIGIOUS FREEDOM

(By Gurmit Singh Aulakh)

Thank you for your editorial ("Mother Teresa's children," Jan. 10) exposing more than 90 attacks on Christians since the Bharatiya Janata Party (BJP) came to power last year. These attacks show that religious freedom in India is a myth.

Just when we thought the recent wave of attacks on Christians in India was over, your editorial exposed the burning of two more churches by Hindu mobs affiliated with the Vishwa Hindu Parishad, part of the Rashtriya Swayamsevak Sangh, a militant Hindu nationalist organization that is also the parent organization of the ruling (BJP).

It is not just Christians who have suffered from persecution and violence in the hands of the Indian government. Sikhs and Muslims, among others, have been victimized as well. In August 1997, Narinder Singh, a spokesman for the Golden Temple in Amritsar, the center and seat of the Sikh religion, told National Public Radio: "The Indian government, all the time they boast that they're democratic, they're secular, but they have nothing to do with a democracy, they have nothing to do with secularism. They try to crush Sikhs just to please the majority."

The Indian government has killed more than 200,000 Christians since 1947. It has also murdered more than 250,000 Sikhs since 1984, over 60,000 Muslims in Kashmir since 1988 and tens of thousands of other religious and ethnic minorities. The most revered mosque in India has been destroyed to build a Hindu temple. Police murdered the highest Sikh spiritual and religious leader, Akal Takht Jathedar Gurdev Singh Kaunke, and human rights activist Jaswant Singh Khalra. There are police witnesses to both of these crimes. The U.S. State Department reported that between 1992 and 1994 the Indian government paid more than 41,000 cash bounties to police for killing Sikhs. Plainclothes police continue to occupy the Golden Temple. There have been more than 200 reported atrocities against Sikhs since the Akali/Dal/BJP government took power in March 1997.

It is not just the BJP that has practiced religious tyranny in pursuit of a Hindu theocracy in India. Many of these incidents came under the rule of the Congress Party. No matter who is in power, the minorities in India suffer from severe oppression. The only solution is to support self-determination for the peoples and nations of South Asia, so they can live in freedom, peace, prosperity and security.

India is not a single country; it is a polyglot empire that was thrown together by the British for their political convenience. Its breakup is inevitable. As the world's only superpower, the United States has a responsibility to make sure this process is peaceful, as it was for the Soviet Union and Czechoslovakia. Otherwise, a Bosnia will be created in South Asia.

Thank you for exposing the true nature of India's "secular democracy." Exposing these brutal practices will help bring true freedom to South Asia.

HOUSE CONSIDERATION OF H. RES. 611—IMPEACHMENT RESOLUTION

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. COYNE. Mr. Speaker, I rise today in opposition to this resolution, to these articles of impeachment, and to these unfair, partisan proceedings which deny Members the right to vote on the alternative of censure.

Mr. Speaker, we are all disappointed by the President's actions. The President himself has admitted that he acted improperly and then misled the public, his family, his staff, and others about those actions.

This debate today, however, is not simply about whether the President did something wrong, or even whether he did something illegal. Rather, the issue before us today is what, if any, action Congress should take in response. Specifically, the Members of the

House are being asked whether we believe that President Clinton's actions were so egregious that he should be impeached and removed from office. I do not believe that these misdeeds merit impeachment.

Impeachment is a statement by Congress that the President is unable to carry out the responsibilities of his office, or that he cannot be trusted to do so. The Constitution specifies "Treason, Bribery, or other high Crimes and Misdemeanors" as the proper grounds for impeachment. Impeachment, by removing the nation's highest elected official, nullifies a vote made by the American people—in President Clinton's case twice—and I believe that it should only be undertaken in the most dire of circumstances. Impeachment has historically been understood to be an option that should only be exercised when continuation of the President in office presents a clear and serious threat to our nation or our constitutional form of government. I do not believe that the President's offenses reach the threshold for impeachment.

Rather, I believe that censure of the President by the House and Senate is a more appropriate punishment. Censure would reflect for all time Congress and the public's disapproval of the President's behavior, and it would balance the need to punish the President with the public's desire to have him finish out his term.

Some have suggested that censure would allow the president to escape punishment for his misdeeds. That isn't the case. Others argue that censure of President Clinton, like the censure of President Andrew Jackson, could be overturned and would therefore be meaningless. To them, I can only observe that Americans are not fools. I believe that Americans in coming years will judge President Clinton, as well as the Members of the 105th Congress, wisely and with the perspective that only time can bring to this contentious issue. Let us hope that each of us here today will be able to meet history's more objective scrutiny.

Consequently, I will vote today against impeachment. It is unfortunate and unfair that my colleagues and I will not be given the opportunity to vote on a censure motion. I believe that we should have that choice. The Republican leadership is apparently afraid that a number of their Members, if given the opportunity, would vote for censure and against impeachment.

I will vote in favor of any procedural motions to allow a vote on censure, but I have little hope that such efforts will prevail. The majority leadership has made it known that all Republicans must support procedural votes on impeachment and censure, and that they will face serious repercussions if they do not toe the line. That is unfortunate. Every Member should be allowed to freely vote his or her conscience on an important question like this.

History will long remember what we do here today. These may be the most significant votes that we ever cast. They may be the votes by which many of us are remembered, and they will likely define our own individual legacies as well as the President's. I urge my colleagues to bear that in mind when they vote today.

IN MEMORY OF CHRISTINA WILLIAMS

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. FARR of California. Mr. Speaker, I rise today with a heavy heart and profound sadness. I am overcome by the emotions I feel as both a father and a Member of Congress.

On June 12, 1998, Christina Williams disappeared from her California neighborhood. Now seven months of waiting and worry have come to a sad end. This weekend we will bury Christina.

Our community knows now that what should have been a perfectly innocent, completely safe activity for a 13-year-old—walking the family dog—turned into something so horrible, so unimaginable, that we tremble to think of the fate that Christina met.

The coming weeks and continuing investigation will provide some answers. But we must ask greater ones.

Each and every one of us must ask what we can do to make this world a safer place for children. As an elected official, I know there are limits to what the law can do and the tragedies it can prevent. But I vow before you today that I will do all I can as a Congressman, a citizen and as a parent.

One of my first tasks is to thank the countless volunteers who have come to the aid of Christina's family during this tremendously painful ordeal. My heart is with the friends, relatives, community members and law enforcement officials who now face this tragedy after such dedication.

Yet our greater responsibility remains. We must join Christina's parents, Alice and Michael, and the Williams family in the great challenge that lies before them. Those who loved Christina have vowed to make her memory a call to action. To turn their anger and pain into a mission to make our country a safe place to raise loved, secure children.

My fellow Members of Congress, you must pledge that our federal government will do everything in its legislative and fiscal powers to bring a halt to crimes against children, especially those whose whereabouts are still unknown. Only then will every parent and every child live in a world made safer by Christina's ordeal.

To all watching us today, I ask for your continued prayers for the Williamses and the extended family that is the Central Coast of California. And I ask you to join us, when it is time to move from the mourning and grief, in the challenge that lies before us.

CRIME STOPPERS RESOLUTIONS

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mrs. MINK of Hawaii. Mr. Speaker, today I am introducing a resolution recognizing the success of Crime Stoppers worldwide.

Originally beginning in Albuquerque, New Mexico 23 years ago, today there are over 1,000 Crime Stoppers chapters throughout the world. Crime Stoppers International was established to support a worldwide network of Crime Stoppers programs. It provides a forum for leadership and training as well as fosters cooperation and information exchange between local Crime Stoppers programs across the globe.

Crime Stoppers is based on the principle that "someone other than the criminal has information that can solve a crime." Crime Stoppers combats the three major problems faced by law enforcement in generating that information: fear of reprisal, an attitude of apathy, and reluctance to get involved. By offering anonymity to people who provide information and by paying rewards Crime Stoppers combats these problems leading to arrest of the criminal.

This formula has resulted in a commendable record of success. Crime Stoppers programs worldwide have solved over half a million crimes and recovered over 3 billion dollars worth of stolen property and narcotics.

I urge my colleagues to join me in recognizing the success of Crime Stoppers and applaud Crime Stoppers International in its work to bring Crime Stoppers chapters worldwide together to fight crime.

THE VIOLENCE AGAINST WOMEN ACT OF 1999

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. CONYERS. Mr. Speaker, every year nearly 1.5 million women are the victims of domestic violence. Today I am proud to introduce the Violence Against Women Act of 1999. I am joined by Congresswomen CONSTANCE A. MORELLA and LUCILLE ROYBAL-ALLARD, along with 89 other original co-sponsors. Together, we take the first step that will make America safer for women.

Nearly 5 years ago, Congress passed the original Violence Against Women Act. In the original legislation, funding was provided for battered women's shelters and rape crisis centers as well as establishing a domestic violence hotline. Now we must work to continue those commitments.

I am hopeful for passage of this legislation in the 106th Congress. Last year, significant portions of this legislation were unanimously agreed to by the House of Representatives as an amendment to the Child Protection and Sexual Predators Punishment Act of 1998. I feel confident that this Congress can see fit to not only follow that lead, but do even more for victims of sexual abuse, domestic violence and rape.

One of the key titles of this landmark legislation is Violence Against Women and the Workplace. This section establishes a grant for a national clearinghouse and resource center to provide information and assistance to employers and labor organizations in their efforts to develop and implement responses to assist victims of domestic violence and sexual assault. Also found in this section is a tax credit for businesses implementing workplace safety programs to combat violence against women as well as establishing Victim's Employment Rights which prohibits employers from taking adverse job actions against an employee because they are the victim of violent crime.

The legislation makes important strides in improving the lives of not only women, but children as well. Title II, Limiting the Effects of Violence on Children, provides grants to create safe havens for children of victims of domestic violence. Children who witness domestic violence are at a high risk of anxiety and depression, and exhibit more aggressive, antisocial, inhibited and fearful behaviors. This title helps to ensure that children are protected from the effects of witnessing acts of domestic violence. Also, this title will provide funds to train child welfare workers to recognize the signs of domestic violence and sexual assault in the home.

Title III of VAWA '99 works to prevent sexual assault against women. It establishes a National Resource Center on Sexual Assault as well as increases funds for rape prevention and education. This title also includes the language of the Hate Crimes Prevention Act which amends federal hate crimes legislation to permit federal prosecution for bias crimes based on gender, sexual orientation, or disability. Furthermore, language concerning the prevention of custodial sexual assault by correctional staff will make sexual conduct between all prison custodial staff and inmates a federal crime and establish measures to ensure that those convicted of such crimes are prevented from becoming correctional staff in the future.

The Violence Against Women Act of 1999 includes other important provisions such as the rescheduling and classification of date-rape drugs; establishing grants for improved legal advocacy and representation of victims of sexual violence; and provisions to protect battered immigrant women.

Nearly one in every three adult women experience at least one physical assault by a partner during adulthood. I urge my colleagues to join me in the fight to protect women from sexual abuse and violence. I encourage all Members to become a co-sponsor of this legislation and work towards passage of the Violence Against Women Act of 1999.

THE VIOLENCE AGAINST WOMEN ACT OF 1999

SECTION BY SECTION JANUARY 1999

TITLE I.—Continuing the Commitment of the Violence Against Women Act

Subtitle A. Law Enforcement and Prosecution Grants to Combat Violence Against Women—reauthorizes and amends STOP grants to increase funds and to ensure that domestic violence and sexual assault advocates are involved in planning and implementation of programs; proposes new formula—35% to victim services, 20% each to prosecution and law enforcement, 10% to state courts, and 15% discretionary with language to ensure that there will be no harm to existing programs.

Subtitle B. National Domestic Violence Hotline—reauthorizes funding for the National Domestic Violence Hotline; includes additional oversight and review prior to reauthorization.

Subtitle C. Battered Women's Shelters and Services—amends Family Violence Prevention and Services Act to authorize $1 billion to battered women's shelters over the next five years; includes additional oversight and review; caps spending for training and technical assistance by State coalitions with the remaining money going to domestic violence programs; adds new proposals for training and technical assistance; allots money for tribal domestic violence coalitions.

Subtitle D. Grants for Community Initiatives—reauthorizes and increases funding for grants for community initiatives; includes additional oversight.

Subtitle E. Education and Training for Judges and Court Personnel—reauthorizes funding for federal and state judicial training on violence against women; adds a training component on domestic violence and child abuse in custody determinations.

Subtitle F. Grants to Encourage Arrest Policies—reauthorizes funding for implementation of proarrest policies in domestic violence cases; coordinates computer tracking of cases to ensure communication among police, prosecution and courts; strengthens legal advocacy programs for victims; adds set-aside for tribes.

Subtitle G. Rural Domestic Violence and Child Abuse Enforcement—reauthorizes funding for the establishment of cooperative efforts among law enforcement, prosecutors and victim advocacy groups to provide investigation, prosecution, counseling, treatment, and education with respect to domestic violence and child abuse in rural communities; adds set-aside for tribes.

Subtitle H. National Stalker and Domestic Violence Reduction—reauthorizes funding for the improvement of local, State and national crime databases for tracking stalking and domestic violence.

Subtitle I. Federal Victims' Counselors—reauthorizes funding for Victim/Witness Counselors in the prosecution of sex crimes and domestic violence under federal law.

Subtitle J. Education and Prevention Grants to Reduce Sexual Abuse of Runaway, Homeless, and Street Youth—reauthorizes funding for street-based outreach, education, treatment counseling and referral of runaway, homeless, and street youth who have been abused or are at risk of abuse; includes additional oversight mechanisms.

Subtitle K. Victims of Child Abuse Programs—reauthorizes funding for Court-appointed Special Advocates for victims of child abuse, for training programs on child abuse for judicial personnel and attorneys, for closed-circuit televising and video taping of child testimony to protect the child from the trauma of facing the abuser in court; includes additional oversight mechanisms.

TITLE II.—Limiting the Effects of Violence on Children

Subtitle A. Safe Havens for Children—grants to establish and operate supervised visitation centers to facilitate child visitation and visitation exchange.

Subtitle B.. Violence Against Women Prevention in Schools—grants to school systems to develop, modify and implement policies and programs in elementary, middle, and secondary schools which address domestic violence, sexual assault and stalking.

Subtitle C. Family Safety—amends the criminal component of the Parental Kidnaping Prevention Act (PKPA) to provide defenses in domestic violence and child sexual assault cases; amends the civil full faith and credit provisions of PKPA to include domestic violence, child sexual assault and stalking as factors in determining what state has jurisdiction of a custody case.

Subtitle D. Domestic Violence and Children—Sense of Congress calling for reforms of States laws on domestic violence and child custody.

Subtitle E. Child Welfare Workers Training on Domestic Violence and Sexual Assault—provides grants to enable child welfare service agencies to train staff and modify policies, procedures, and programs for the purpose of recognizing domestic violence and sexual assault as serious problems that threaten the safety and well-being of its child and adult victims.

Subtitle F. Child Abuse Accounability—permits private employee pension benefits to be assigned to satisfy a judgment against a person for physically, sexually or emotionally abusing a child.

TITLE III.—Sexual Assault Prevention

Subtitle A. Rape Prevention Education—establishes a National Resource Center on Sexual Assault; increases funds for rape prevention and education; helps States provide technical assistance, information dissemination and educational programs; allots money for the creation of tribal sexual assault coalitions.

Subtitle B. Standards of Practice and Training for Sexual Assault Examinations—directs the Attorney General and the Secretary of Health and Human Services to evaluate existing standards of training, practice and payment of forensic examinations and to recommend a national protocol.

Subtitle C. Violence Against Women Training for Health Professions—amends Title VII and Title VIII of the Public Health Services Act to give priority in funding to medical and training programs that require students to be trained in identifying, treating, and referring patents who are the victims of domestic violence or sexual assault.

Subtitle D. Prevention of Custodial Sexual Assault by Correctional Staff—directs the Attorney General to establish guidelines regarding the prevention of custodial sexual misconduct in prisons; prohibits individuals who have been convicted of or found civilly liable for sexual misconduct from becoming correctional staff; criminalizes sexual conduct between correctional staff and prisoners.

Subtitle E. Hate Crimes Prevention—amends federal hate crimes legislation to permit federal prosecution for bias crimes based on gender, sexual orientation, and disability; funds additional FBI and law enforcement personnel to assist State and local law enforcement.

Subtitle F. Rescheduling and Classification of Date-Rape Drugs—directs the Attorney General to amend the Controlled Substances Act by transferring flunitrazepam to schedule I and by adding Gamma y-hydroxybutyrate to schdule I and ketamine hydrochloride to schedule III.

Subtitle G. Access to Safety and Advocacy for Victims of Sexual Assault—makes grants available to enhance safety and justice for victims of sexual violence through access to the justice system and improved legal advocacy and representation.

TITLE IV.—Domestic Violence Prevention

Subtitle A. Domestic Violence and Sexual Assault Victims' Housing—amends the McKinney Homeless Assistance Act to make funding available for transitional housing services for domestic violence victims, including rental assistance for battered women seeking to establish permanent housing separate from their abuser.

Subtitle B. Full Faith and Credit for Protection Orders—clarifies VAWA's full faith and credit provisions to ensure meaningful enforcement by States and Tribes; provides grants to States and Tribes to improve enforcement and record keeping; reduces Byrne grants to law enforcement for failure to comply with the 1994 VAWA's full faith and credit provisions with significant safeguards to allow law enforcement to come into compliance before a penalty is assessed.

Subtitle C. Victims of Abuse Insurance Protection—prohibits discrimination in issuing and administering insurance policies to victims of domestic violence with uniform protection from insurance discrimination.

Subtitle D. National Summit on Sports and Violence—Sense of Congress that a national summit of sports, community, and media leaders with expertise in anti-violence advocacy and youth advocacy should be convened to develop a plan to deter acts of violence.

Subtitle E. Keeping Firearms from Intoxicated Persons—adds intoxication to the list of grounds for prohibiting sale of firearms.

Subtitle F. Access to Safety and Advocacy—issues grants to provide legal assistance, lay advocacy and referral services to victims of domestic violence who have inadequate access to sufficient financial resources for appropriate legal assistance; includes set-aside for tribes.

Subtitle G. Strengthening Enforcement to Reduce Violence Against Women—amends the Interstate Domestic Violence Statute to make it a crime to commit domestic violence or to violate a protection order in the course of travel in interstate commerce; criminalizes stalking in the course of travel in interstate commerce.

Subtitle H. Disclosure Protections—protects victims fleeing domestic violence from disclosure of their whereabouts through the federal child support locator service.

TITLE V.—Violence Against Women in the Military System

Subtitle A. Civilian Jurisdiction for Crimes of Sexual Assault and Domestice Violence—makes an employee or dependant of the military who commits an act while outside the United States that would be a punishable domestic violence or sexual assault offense if perpetrated within the United States subject to the same punishment as if it had been committed in the United States.

Subtitle B. Transitional Compensation and Health Care for Abused Dependents of Members of the Armed Forces—allows a resumption of transitional compensation benefits to an abused dependant who temporarily reconciles with the batterer.

Subtitle C. Confidentiality of Records—directs the Secretary of Defense to adopt regulations that provide confidentiality of communications between a military dependent who is a victim of sexual harassment, sexual assault or domestic violence and the victim's therapist, counselor, or advocate.

TITLE VI.—Preventing Violence Against Women in Underserved Communities

Subtitle A. Older Women's Protection from Violence—authorizes law school clinical programs on domestic violence against older women; authorizes training programs for law enforcement offices, social services and health providers on domestic violence against older women; authorizes community initiatives to combat domestic violence against older women; authorizes outreach programs targeted to older women who are victims of domestic violence.

Subtitle B. Protection Against Violence and Abuse for Women with Disabilities—ensures inclusion of women with disabilities in existing domestic violence and sexual assault programs; provides for judicial training on issues of violence against women with disabilities; authorizes training program for social service and health care providers; authorizes research and technical assistance to service providers.

Subtitle C. Battered Immigrant Women—Allows for adjustment of status for VAWA self-petitioners; prevents changes in abuser's status from undermining victim's petitions; provides for numerous waivers and exceptions to inadmissibility for VAWA eligible applicants; improves access to VAWA for battered immigrant women whose spouse is a member of the armed forces, who are married to bigamists, and/or are the victims of elder abuse; allows for discretionary waivers for good moral character determinations; removes public charge for VAWA applicants; gives VAWA applicants access to work authorization; allows VAWA applicants access to food stamps, housing and legal services; trains judges, immigration officials, armed forces supervisors and police on VAWA immigration provisions.

Subtitle D. Conforming Amendments to the Violence Against Women Act—amends the definitions of underserved in the Family Violence Prevention and Services Act and the Omnibus Crime Control and Law Enforcement Act in order to create consistent use of the term.

TITLE VII.—Violence Against Women and the Workplace

Subtitle A. National Clearinghouse on Domestic Violence and Sexual Assault and the Workplace Grant—establishes a clearinghouse and resource center to give information and assistance to employers and labor organizations in their efforts to develop and implement responses to assist victims of domestic violence and sexual assault.

Subtitle B. Victims' Employment Rights—prohibits employers from taking adverse job actions against an employee because they are the victim of violent crime.

Subtitle C. Workplace Violence Against Women Prevention Tax Credit—provides tax credits to businesses implementing workplace safety programs to combat violence against women.

Subtitle D. Battered Women's Employment Protection—ensures eligibility for unemployment compensation to women separated from their jobs due to circumstances directly resulting from domestic violence; requires employers who already provide leave to employees to allow employees to use that leave for the purpose of dealing with domestic violence and its aftermath; allows women to use their family and medical leave or existing leave under State law or a private benefits program to deal with domestic abuse, including going to the doctor for domestic violence injuries, seeking legal remedies, including court appearances, seeking orders of protection or meeting with a lawyer; provides for training of personnel involved in assessing unemployment claims based on domestic violence.

Subtitle E. Education and Training Grants to Promote Responses to Violence Against Women—authorizes grants for developing, testing, presenting and disseminating model programs to provide education and training to individuals who are likely to come in contact with victims of domestic violence and sexual assault in the course of their employment, including campus personnel, justice system professionals (including guardians ad litem, probation, parole and others), mental health professionals, clergy, caseworkers, supervisors, administrators and administrative law judges who are involved in federal and state benefit programs.

Subtitle F. Workers' Compensation—Sense of Congress that worker's compensation benefits should be provided to women that have been injured in the workplace, including full compensation for physical and non-physical injuries, and that women who survive crimes such as rape, domestic violence and sexual assault at work should be able to pursue other legal actions, based on the employers role in the workplace violence.

TITLE VIII.—Violence Against Women Intervention, Prevention and Educational Research

Directs the Attorney General and the Secretary of Health and Human Services to establish a multi-agency task force to coordinate research on violence against women; provides grants to support research on causes of violence against women and the effectiveness of education, prevention and intervention programs; provides grants to address gaps in research on violence against women, particularly violence against women in underserved communities and instances where domestic violence is a factor in a divorce/child custody case; mandates a study and report by the U.S. Sentencing Commission on sentences given in crimes of domestic violence; issues grants to conduct research on the experiences of women and girls in the health care, judicial and social services systems who become pregnant as a result of sexual assault; authorizes a study and report on the uniformity of laws among States and their effectiveness in prosecuting rape and sexual assault offenses; directs the Secretary of Health and Human Services and the Attorney General to establish three research centers to develop and coordinate research on violence against women.

TRIBUTE TO FLORA WALKER

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. LEVIN. Mr. Speaker, I rise to honor Ms. Flora Walker, Past President of Michigan's American Federation of State, County and Municipal Employees (AFSCME) Council 25 on the occasion of her retirement.

Flo Walker has served this organization as President with dedication and devotion for the past six years, and will be honored at a retirement tribute on January 29, 1999. While at the helm she has contributed to building a strong and united statewide Council, and forgoing a renewal of solidarity and unity of purpose.

Under Flo Walker's leadership, numerous programs and initiatives were developed which look toward the 21st century. These include streamlining and updating the Arbitration Department; overhauling the entire Council 25's legal operation; adding more Council servicing staff and new computer equipment, and developing a new Web page.

Flo Walker has led the Council in the purchase of an additional building in Flint, the Organizing Annex, and the former Chamber of Commerce Building in Detroit. The Detroit building includes an auditorium, and a radio/television studio.

And the list goes on with the expansion of Council 25's Education Department, offering seminars and workshops for its members, and instituting an annual charitable golf outing to benefit the Mental Health Association. Ms. Walker has also led efforts to increase voter awareness and participation in the electoral process.

Mr. Speaker, I ask my colleagues to join me in expressing our gratitude to Flora Walker for so much that has been accomplished under her presidency, and to wish her good health and happiness for the future.

INTRODUCTION OF LEGISLATION TO AMEND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to introduce legislation to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). My bill would restrict the liability of local educational agencies in the clean-up of Superfund sites.

Mr. Speaker, this change makes sense given the fact that hundreds of school boards are affected. In New Jersey alone, 57 school districts have been affected by Superfund's liability reach and have been assessed for liability under Superfund. According to the National School Boards Association, over 200 school districts nationwide have been named as defendants in lawsuits related to Superfund cases.

Most often, school boards dispose of ordinary garbage—papers, pencils, or school lunches. These materials are hardly toxic or hazardous, and in all cases, the waste is disposed of legally. In one case in New Jersey, involving the Gloucester Environmental Management Services Landfill (GEMS), 53 school boards were assessed $15,000 each, not including additional money associated with legal costs. As a result of the tangled Superfund liability web, these precious dollars in a school's budget were diverted away from educating children and into the Superfund coffers.

Mr. Speaker, that is why I am introducing this legislation today, to exempt school boards from Superfund liability. I believe that my bill will help schools use their money the most effective way possible: in the classrooms.

INTRODUCTION OF THE RONALD V. DELLUMS FEDERAL BUILDING BILL

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. GEORGE MILLER of California. Mr. Speaker, today I am introducing legislation to name the Federal building in Oakland, CA after our distinguished former colleague Ronald V. Dellums.

Ron came to Congress in 1971 with a plan to change the system and improve the Nation. In many ways he accomplished just that. He saved us from many weapons systems that we did not need, could not afford, and probably could not control. And more than any other Member of Congress, he helped to clearly illustrate how an overfed military budget was literally starving our children, our schools, and our communities. He brought the titans of apartheid to their knees and dragged a reluctant American Government along the way. He fought for the civil rights of all Americans.

Ron Dellums was truly a unique Member of Congress. His passion was his fuel, but his passion did not blind him. He was clear, incisive, instructional, and inspirational. He was a tireless champion for peace and justice. Ron Dellums will always be remembered as one of Congress' great orators, colorfully and articulately dancing in the well of the House to draw support for his positions.

Naming this Federal building in Oakland for Ron Dellums will serve as an opportunity to rededicate ourselves to the challenges that our colleague championed. If we learn to carry the convictions of a more just society with us to work every day as he did, perhaps we will be able to make America an even better place and the world a bit safer.

I would like to thank my colleague from California, JERRY LEWIS, for his coauthorship of this bill, and the 104 members who are original cosponsors. In addition, I extend my thanks to the members of the House who approved this bill in the 105th Congress. Unfortunately we were not able to secure passage of the bill before the end of the session. But I introduce this legislation again today with confidence that it will reach the President's desk for signature. Ron will finally be recognized with a fitting monument for his 27 years of service to this institution and to our country.

The people who will go in and out of this building with Ron's name on it can take pride in knowing that he cared about them, he fought for them, and he left a mark in Congress and in this country in their names.

HONORING MR. WILLIAM R. SNODGRASS, FOR HIS SERVICE AS THE COMPTROLLER OF THE TREASURY FOR THE STATE OF TENNESSEE

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. CLEMENT. Mr. Speaker, I rise today in honor of Mr. William R. Snodgrass, and his service to the State of Tennessee, as Comptroller of the Treasury.

Mr. Snodgrass will retire from the State of Tennessee after fifty-two years of faithful service, on January 22, 1999. Forty-four of the fifty-two years he served as the Comptroller of the Treasury, which is an unprecedented feat. He will be greatly missed.

Mr. Snodgrass, a native Tennessean from White County, Tennessee, was elected Comptroller of the Treasury by the Tennessee General Assembly in January 1955, and continually reelected each successive General Assembly through the 100th General Assembly, after which he announced his retirement.

William Snodgrass graduated from David Lipscomb College in 1942, and then left for service in the U.S. Military forces from 1943–1946. Upon returning from his tour of duty, he continued his education, and received a B.S. in Accounting from the University of Tennessee in 1947. He began his career as an appointed research assistant at the University of Tennessee the same year. In 1953, Mr. Snodgrass was appointed director of Budget and director of Local Finance for the State of Tennessee.

William Snodgrass began his service as Comptroller of the Treasury for the state of Tennessee under my father, Governor Frank G. Clement in 1955. His friendship to my family over the years has been invaluable. As a young man I admired William Snodgrass for his work ethic, his tremendous loyalty to friends and family, and his dedication to the State of Tennessee. Today, I continue to admire him for these same qualities.

Mr. Snodgrass has faithfully served the citizens of the State of Tennessee for the past fifty-two years. His achievements have not gone unnoticed, for William Snodgrass has been recognized by his peers as well, receiving the Outstanding Municipal Performance Audit Award from the Council on Municipal Performance in 1980; the Donald L. Scantlebury Memorial Award for Distinguished Leadership in Financial Management for Joint Financial Improvement Program in 1988, the Distinguished Leadership Award from the Association of Government Accountants in 1988; and the Award for Excellence in Governmental Auditor Training Seminars from Government Finance Officers Association in 1988.

William Snodgrass has served as an outstanding example of faithfulness to his peers, his family, and the citizens of Tennessee. I wish him the best in his retirement.

INTRODUCTION OF LEGISLATION

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to introduce a bill to provide improved administrative procedures for the Federal recognition to certain Indian groups.

Mr. Speaker, I have been working on this issue now for over seven years. In 1994, the House passed similar legislation but that effort died in the Senate. Although this legislation was defeated in the House late last year, we are still faced with an expensive, unfair process through which Indian groups seeking federal recognition must go. I still wish to help address the historical wrongs that the two hundred unrecognized tribes in this nation have faced. This bill streamlines the existing procedures for extending federal recognition to Indian tribes, removes the tremendous bureaucratic maze and subjective standards the Bureau of Indian Affairs has placed against recognizing Indian tribes, but also provides due process, equity and fairness to the whole problem of Indian recognition.

Mr. Speaker, a broad coalition of unrecognized Indian tribes has advocated reform for years for several reasons. First, the BIA's budget limitations over the years have, in fact, created a certain bias against recognizing new Indian tribes. Second, the process has always been too expensive, costing some tribes well over $500,000, and most of these tribes just do not have this kind of money to spend. I need not remind my colleagues of the fact that Native American Indians today have the worst statistics in the nation when it comes to education, economic activity and social development. Indeed, Mr. Speaker, the recognition process for the First Americans has been an embarrassment to our government and certainly to the people of America. If only the American people can ever feel and realize the pain and suffering that the Native Americans have long endured, there would probably be another American revolution.

Mr. Speaker, the process to provide federal recognition to Native American tribes simply takes too long. The Bureau of Indian Affairs has been completing an average of 1.3 petitions per year. At this rate, it will take over 100 years to resolve questions on all tribes which have expressed an intent to be recognized.

Mr. Speaker, the current process does not provide petitioners with due process—for example, the opportunity to cross examine witnesses and on-the-record hearings. The same experts who conduct research on a petitioner's case are also the "judge and jury" in the process!

In 1996, in the case of *Greene v. Babbitt*, 943 F. Supp. 1278 (W. Dist. Wash), the federal court found that the current procedures for recognition were "marred by both lengthy delays and a pattern of serious procedural due process violations. The decision to recognize the Samish took over twenty-five years, and the Department has twice disregarded the procedures mandated by the APA, the Constitution, and this Court," (p. 1288). Among other statements contained in Judge Thomas Zilly's opinion were: "The Samish people's quest for federal recognition as an Indian tribe has a protracted and tortuous history . . . made more difficult by excessive delays and governmental misconduct." (p. 1281) And again at pp. 1288–1289, "Under these limited circumstances, where the agency has repeatedly demonstrated a complete lack of regard for the substantive and procedural rights of the petitioning party, and the agency's decision maker has failed to maintain her role as an impartial and disinterested adjudicator . . ." Sadly, the Samish's administrative and legal conflict—much of which was at public expense—could have been avoided were it not for a clerical error of the Bureau of Indian Affairs which 29 years ago, inadvertently left the Samish Tribe's name off the list of recognized tribes in Washington.

With a record like this, it is little wonder that many tribes have lost faith in the Government's recent recognition procedures. President Clinton has acknowledged the problem. In a 1996 letter to the Chinook Tribe of Washington, the President wrote, "I agree that the current federal acknowledgment process must be improved." He said that some progress has been made, "but much more must be done."

To those who say we should retain the current criteria, and not permit tribes which have been rejected under the current administrative procedure to apply for reconsideration, I say read the Greene case. It is rare that a court is so critical of an executive agency, but in this case there clearly is a problem. This bill addresses the problem directly.

Mr. Speaker, the legislation I am introducing today will eliminate the above concerns by establishing an independent three member commission which will work within the Department of the Interior to review petitions for recognition. This legislation will provide tribes with the opportunity for public, trial-type hearings and sets strict time limits for action on pending petitions. In addition, the bill streamlines and makes more objective the federal recognition criteria by aligning them with the legal standards in place prior to 1978, as laid out by the father of Indian Law, Felix S. Cohen in 1942.

Some have expressed concern that this bill will open the door for more tribes to conduct gambling operations on new reservations. While I cannot say that no new gambling operations will result from this bill, I do believe that this bill will have only a minimal impact in this area. I would like to remind my colleagues that: unlike state-sponsored gaming operations, Indian gaming is highly regulated by the Indian Gaming Regulatory Act; before gaming can be conducted, the tribes must reach an agreement with the state in which the gaming would be conducted; under IGRA (the Indian Gaming and Regulatory Act) gaming can only be conducted on land held in trust by the federal government; and any gaming profits can only be used for tribal development, such as water and sewer systems, schools, and housing.

The point I want to make is even if an Indian group wanted to obtain recognition to start a gambling operation, they couldn't do it just for that purpose. Ninety percent of the substance of the current criteria are unchanged in the bill before us today. For a group to obtain federal recognition, it would still have to prove its origins, cultural heritage, existence of governmental structure, and everything else currently required.

Should that burden be overcome, a tribe would need a reservation or land held in trust by the federal government. This bill makes no effort to provide land to any group being recognized.

If the land issue is overcome, under the Indian Gaming Regulatory Act, a tribe cannot conduct gaming operations unless it has an agreement to do so with the state government. A prior Congress put this into the law in an effort to balance the rights of the states to control gambling activity within its borders, and the rights of sovereign tribal nations to conduct activities on their land. The difficulty in obtaining gaming compacts with states made the national news for months last year because of the almost absolute veto power the states have under current law. The U.S. Supreme Court affirmed this reading of the law in *Seminole Tribe of Florida v. Florida*, 517 U.S. 44 (1996).

I want to emphasize this point—this is not a gambling bill, this is a bill to create a fair, objective process by which Indian groups can be evaluated for possible federal recognition.

Mr. Speaker, this bill is not perfect in every form, but it is the result of many hours of consultations. I have sought to work with the tribes and with the Administration to come up with sound, careful changes that recognize the historical struggles the unrecognized tribes have gone through, yet at the same time recognizes the hard work the Bureau of Indian Affairs has done lately in making positive changes through regulations to address these problems. We have reached agreement on almost every major issue, and these changes have been incorporated into this bill.

In conclusion, Mr. Speaker, I hope we can take final action on the issue of Indian recognition before this century ends and start the next century by addressing at least some of the wrongs of the past two centuries.

BANNING UNSECURED LOANS IN FEDERAL CAMPAIGNS

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mrs. MINK of Hawaii. Mr. Speaker, we must restore accountability to our elections. One way we can do this is to close a loophole where candidates may obtain unlimited, unsecured loans from banks to finance their campaigns. Banks are able to bankroll their chosen candidates by obtaining a mere signature on a loan form without obtaining security for repayment, as is customary in their normal course of business. In effect, candidates favored by a bank and its officers are given an unfair advantage.

The legislation I have introduced today puts an end to that. Under this legislation, banks will no longer be able to circumvent the current prohibition against making direct contributions to candidates.

Specifically, this legislation: prohibits all federal candidates from receiving an unsecured loan; requires repayment of any existing unsecured loan within 90 days of this bill's enactment; and prohibits candidates who have such unsecured loans from accepting personal funds from a board member or officer of the bank holding the loan.

I urge my colleagues to join me in closing this loophole. Let's not allow banks to bankroll any election.This ability of banks, using depositors' money to advance moneys to a chosen candidate is wrong and invites corruption. I urge my colleagues to co-sponsor my legislation that outlaws this practice.

INTRODUCTION OF LEGISLATION TO AMEND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to introduce legislation to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

(CERCLA). My bill would remove the authority for contracting oversight from the purview of the Environmental Protection Agency and place it solely under the jurisdiction of the Army Corps of Engineers.

Mr. Speaker, this change makes sense given the expertise of each agency. The Army Corps of Engineers is far better suited to handle contracting work and oversight of construction at a Superfund site than the more technical, environmental orientation of the EPA.

The reason why I am introducing this legislation today is in direct response to an incident that happened in my district during an already lengthy and tumultuous cleanup. Hopefully, passage of this legislation will prevent future situations, such as the one I am about to describe, from happening again.

The asbestos dump site in Millington, NJ is comprised of two residential farms and part of the Great Swamp National Wildlife Reserve. It contains large amounts of asbestos that was dumped on the property. On one of these two residential sites, the homeowners (a family of five), were involved in a lengthy clean-up with the EPA and had been relocated several times, for months at a time. The EPA had contracted out for the construction of the design. The EPA's contractor then hired a subcontractor, with a less than perfect track history, to complete construction of the design.

The EPA subcontractors, instead of bringing in clean fill to top the asbestos on the family's property, brought in contaminated soil from another site. This horrendous mistake has added additional years to the cleanup.

Mr. Speaker, again, I believe that the Army Corps is far better equipped to handle the details of the physical cleanup and to oversee the contracting work of these Superfund sites. This mistake in Millington added not only time and money, but additional grief for a family who wanted nothing less than to raise their children in the home of their dreams. I believe that my bill would prevent more situations like this and improve the efficiency of site cleanups.

MILOSEVIC DEFIES INTERNATIONAL COMMUNITY ON KOSOVO

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. GILMAN. Mr. Speaker, this past weekend we once again heard of despicable, unspeakable crimes committed by Serbian police against unarmed men, women, and children. More than 40 ethnic Albanians were murdered in cold blood in the village of Racak in southern Kosovo. Now, in further defiance, Milosevic has ordered Ambassador William Walker, the American diplomat who heads the OSCE's Kosovo Verification Mission (KVM) to leave Serbia.

Milosevic's actions represent a complete rupture of the agreement he reached with Ambassador Richard Holbrooke, an agreement that led to the withdrawal of a NATO threat to bomb Serbia. Unless the international community responds to these acts, our word and our credibility will be deemed to be utterly worthless, and Milosevic will believe he can commit further atrocities with impunity.

I returned yesterday with a senior Congressional delegation that I led to meet with our friends and allies in Europe. We were briefed by General Wes Clark, the Supreme Allied Commander for Europe, who told us that Milosevic will never respond to anything other than the credible threat of force. General Clark is at present in Belgrade awaiting a meeting to deliver a strong message to Milosevic.

If Milosevic does not immediately fully comply with the agreement he made with Ambassador Holbrooke, the international community must respond swiftly and forcefully. We must not allow the situation in Kosovo to continue to deteriorate, nor allow the humanitarian situation there to return to the point of disaster that we experienced last summer.

INDIA REPUBLIC DAY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. PALLONE. Mr. Speaker, I rise today to pay tribute to one of the most important dates on the calendar for the people of India, as well as for the people of Indian descent who have settled in the U.S. and around the world. January 26 is Republic Day, an occasion that inspires pride and patriotism for the people of India.

On January 26, 1950, India became a republic devoted to the principles of democracy and secularism. At that time, Dr. Rajendra Prasad was elected as the nation's first president. Since then, despite the challenges of sustaining economic development while reconciling her many ethnic, religious and linguistic communities, India has stuck to the path of free and fair elections, a multi-party political system and the orderly transfer of power from one government to its successor.

Mr. Speaker, India's population of nearly a billion people represents approximately one-sixth of the human race. The people of India have lived under a democratic form of government for more than half a century. In 1997, worldwide attention was focused on India as she celebrated the 50th anniversary of her independence. But, many Americans remain largely unfamiliar with the anniversary that Indians celebrate today. Yet, Mr. Speaker, it should be noted that there is a rich tradition of shared values between the United States and India. India derived key aspects of her Constitution, particularly its statement of Fundamental Rights, from our own Bill of Rights. India and the United States both proclaimed their independence from British colonial rule. The Indian independence movement under the leadership of Mahatma Gandhi had strong moral support from American intellectuals, political leaders and journalists. Just yesterday, we paid tribute to one of our greatest American leaders, Martin Luther King, Jr. Dr. King derived many of his ideas of non-violent resistance to injustice from the teachings and the actions of Mahatma Gandhi. Last year, Mr. Speaker, I am proud that legislation was approved by Congress and signed by the President authorizing the Government of India to establish a memorial to honor Mahatma Gandhi here in Washington, D.C., near the Indian Embassy on Embassy Row. The proposed statue will no doubt be a most fitting addition to the landscape of our nation's capital.

Mr. Speaker, there is a growing need for India and the United States, the two largest democracies of the world, to come closer and work together on a wide variety of initiatives. India and the U.S. do not always agree on every issue, as we saw in 1998. But I regret that the scant coverage that India receives in our media, and even from our top policy makers, tends to focus only on the disagreements. In fact, our national interests coincide on many of the most important concerns, such as fighting the scourge of international terrorism and controlling the transfer of nuclear and other weapons technology to unstable regimes. Given India's size and long-term record of democratic stability, I believe that India should be made a permanent member of the United Nations Security Council—a goal that I hope the United States will come to support. India's vast middle class represents a significant and growing market for U.S. trade, while the country's infrastructure needs represent a tremendous opportunity for many American firms, large, small and mid-size. U.S. sanctions imposed on India last year have subsequently been relaxed, and I believe we should continue to work to preserve or re-start economic relations that have developed during this decade of major change, while creating a positive atmosphere for new economic relations. At the same time, I hope that we can continue to build upon educational, cultural and other people to people ties that have developed between our two countries. I look forward to seeing the Indian-American community, more than one million strong, continue to serve as a human "bridge" between our two countries.

In closing, Mr. Speaker, let me again congratulate the people of India on the occasion of Republic Day. I hope that 1999 will witness a U.S.-India relationship that lives up to the great potential offered by our shared commitment to democracy.

MOVE RADIOACTIVE WASTES FROM COLORADO RIVER

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. GEORGE MILLER of California. Mr. Speaker, ten and a half million tons of toxic wastes generated by the now-defunct Atlas Mine are stored in a tailings pond located immediately adjacent to the Colorado River near Moab, Utah. These tailings are radioactive and contain high concentrations of ammonia, arsenic, lead, vanadium, selenium, mercury, molybdenum, nickel, and other toxic metals left by the leaching process used to separate uranium from ore.

The tailings pond, built in the 1950's, is not lined, and as a result, these radioactive and toxic wastes are seeping down through the aquifer into the Colorado River. Water from the Colorado River makes up a significant part of the drinking water supply for Los Angeles, San Diego, Las Vegas, Phoenix and Tucson, and is used additionally to irrigate hundreds of thousands of acres of agricultural lands. Moreover, the tailings pond, which has been designated as critical habitat for four endangered species, is situated between Canyonlands and Arches National Parks.

Leaving a huge, leaking tailings pile adjacent to the Colorado River does not make sense. In the event of flood, the Colorado River could easily be contaminated. Lacking regulatory and financial alternatives, the Nuclear Regulatory Commission (NRC) is ready to approve the Atlas Corporation's inadequate plan to reclaim the site by simply placing a dirt cap over the top of the pile rather than by requiring removal to a safer location. This plan will not stop contamination of the Colorado River, which is expected to continue for hundreds of years.

Moving the tailings will remove the source of the contamination. By placing the tailings in a more modern and technologically safe situation, the threats from earthquakes, high water, flooding will be eliminated. In every similar case under the jurisdiction of the Department of Energy, uranium tailings have been moved away from riverbeds to lined and protected areas. Sadly, the NRC has seems determined to perpetuate rather than resolve this dangerous situation in the case of the Atlas site.

The National Park Service, the Environmental Protection Agency, the Fish and Wildlife Service, and many state and local government agencies have all expressed concerns about the quality of scientific data and information upon which NRC decisions have been based.

Today, Representatives FILNER, PELOSI, GUTIERREZ, and I are introducing legislation to require the Department of Energy to move the tailings to a safe location. Once this has been accomplished, the Attorney General would be charged with ascertaining the extent of the Atlas Corporation liability, and its parent companies, to secure reimbursement as appropriate.

A WORD OF PRAISE AND THANKS TO CAROLE KING, DAVID BALL, AND MARY CHAPIN CARPENTER

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. MURTHA. Mr. Speaker, during Christmas week I went with Senator DANIEL K. INOUYE and Secretary of Defense Bill Cohen to the Middle East to congratulate our troops on the great work they've done in the region and to let them know America was remembering their efforts during the Holidays when so many had to be away from their families.

We found wonderful morale among the troops and a strong commitment to continuing to meet U.S. goals in the region.

I also want to praise three entertainers who gave up part of their Holidays to join us. As we visited in Saudi Arabia and Kuwait, and abroad the U.S.S. *Enterprise*, the troops were entertained by Mary Chapin Carpenter, Carole King, and David Ball. The troops thoroughly enjoyed meeting the entertainers and listening to their music. Several soldiers commented on how much the show brightened their holidays noting it was the highlight of the last 4½ months.

These three patriotic Americans gave up part of their Christmas Week to deliver a message of support and concern to our troops. They clearly showed their support for our Nation, our troops, and our spirit of uniting as Americans.

We left on a Sunday, returned on Christmas Eve, and were greeted by an ice storm that made travel difficult. Carole King traveled from Washington back to Idaho by air, then drove three hours to her home; David Ball missed his flight home, drove to Baltimore, and finally got to Nashville the next morning; Mary Chapin Carpenter lives in the Washington area, but it's the second straight Christmas she's visited troops, last year in Italy, Macedonia, and Bosnia.

It's a pleasure for me to recognize the commitment and caring of these three fine Americans, and to restate the thanks of our troops and our Nation for their patriotism.

TRIBUTE TO KRISTINA KIEHL

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Ms. NORTON. Mr. Speaker, I rise today to join many Americans across the country who would want to honor Kristina Kiehl, a founder and co-chair of Voters for Choice. Later this week, we will celebrate the 26th anniversary of the historic Supreme Court decision, *Roe* v. *Wade*. Kristina Kiehl, a Californian, will celebrate her 50th birthday on Saturday, January 23. Kristina has spent most of those 50 years working to ensure reproductive choice, equality and human rights for all Americans, regardless of race, sex, ethnic background, sexual orientation or, other characteristics irrelevant to merit.

As a founder of Voters for Choice, a national bi-partisan organization dedicated to protecting and expanding reproductive choice for women, Kristina has been a pioneer in protecting the reproductive rights and health of women. With her leadership, Voters for Choice has helped to develop leaders across our country on choice issues; to educate Americans about reproductive issues; and to train advocates for this important work. For 18 years, Voters for Choice has been a superbly effective organization that has led the fight for many women's health issues, in no small part because of Kristina's commitment, dedication, energy and leadership.

Mr. Speaker, I am especially pleased and very proud to honor and recognize the accomplishments of Kristina Kiehl, a national leader who has dedicated her life to improving the health and protecting the reproductive rights of Americans. I urge my colleagues in this House to join me in saluting Kristina Kiehl.

COLLECTIONS OF INFORMATION ANTIPIRACY ACT

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. COBLE. Mr. Speaker, today I am proud to introduce the "Collections of Information Antipiracy Act," a bill to encourage continued investment in the production and distribution of valuable new collections of information.

Electronic collections, and other collections of factual material, are absolutely indispensable to the American economy on the verge of the new century. These information products put a wealth of data at the fingertips of business people, professionals, scientists, scholars, and consumers, and enable them to retrieve from this haystack of information the specific factual needle that they need to solve a particular economic, research, or educational problem. Whether they focus on financial, scientific, legal, medical, bibliographic, news, or other information, collections of information are essential tools for improving productivity, advancing education and training, and creating a more informed citizenry. They are also the linchpins of a dynamic commercial information industry in the United States.

Developing, compiling, distributing, and maintaining commercially significant collections requires substantial investments of time, personnel, and money. Information companies must dedicate massive resources when gathering and verifying factual material, presenting it in a user-friendly way, and keeping it current for and useful to customers. U.S. firms have been the world leaders in this field. They have brought to market a wide range of valuable collections of information that meet the information needs of businesses, professionals, researchers, and consumers worldwide. But several recent legal and technological developments threaten to cast a pall over this progress, by eroding the incentives for the continued investment needed to maintain and build upon the U.S. lead in world markets for electronic information resources.

Producers are also concerned that several recent cases may also cast doubt on the ability of a proprietor to use contractual provisions to protect itself against unfair competition from such "free riders." In cyberspace, technological developments represent a threat as well as an opportunity for collections of information, just as for other kinds of works. Copying factual material from another's proprietary collection, and rearranging it to form a competing information production—just the kind of behaviors that copyright protection may not effectively prevent—is cheaper and easier than ever through digital technology that is now in widespread use. More and more we are seeing actual instances where American companies fall victim to such piracy, or where they refrain from placing complete collections into the public discourse, for fear of piracy.

When all these factors are added together, the bottom line is clear: it is time to consider new federal legislation to protect developers who place their materials in interstate commerce against piracy and unfair competition, and thus encourage continued investment in the production and distribution of valuable commercial collections of information.

While copyright, on the federal level, and state contract law underlying licensing agreements remain essential tools for protecting the enormous investment in collections of information, there are gaps in the protection that can best be filled by a new federal statute which will complement copyright law. The "Collections of Information Antipiracy Act" would prohibit the misappropriation of valuable commercial collections of information by unscrupulous competitors who grab data collected by others, repackage it, and market a product that threatens competitive injury to the original collection. This new federal protection is modeled in part on the Lanham Act, which already makes similar kinds of unfair competition a civil wrong under federal law. Importantly, this bill maintains existing protections for collections of information afforded by copyright and contract rights. It is intended to supplement these legal rights, not replace them.

Throughout the last session of Congress, we worked countless hours trying to fashion a bill that would be acceptable to all interested parties. Some would like to see stronger protections, while others advocate no legislation at all. I promise once again to listen to every constructive suggestion, and use every effort to craft a solution which bridges the producer and user communities. But I am committed to seeing this valuable legislation become law.

While this bill is almost identical to the legislation which passed the House of Representatives last Congress, I have made changes to clarify and embody fair use, and to address the issue of perpetual protection. These two changes address key concerns voiced by the nonprofit scientific, educational, and research communities during our consideration last term.

During the last Congress, we were able to pass the legislation through the House of Representatives not once, but twice. I look forward to working with Senator ORRIN HATCH and Senator PATRICK LEAHY, who have indicated this necessary legislation will be a priority for them this legislative session. I also welcome the input of Representative HOWARD BERMAN, the new Ranking Member of the Subcommittee, as this legislation moves forward.

The Collections of Information Antipiracy Act is a balanced proposal. It is aimed at actual or threatened competitive injury from misappropriation of collections of information or their contents, not at uses which do not affect marketability or competitiveness. The goal is to stimulate the creation of even more collections, and to encourage even more competition among them. The bill avoids conferring any monopoly on facts, or taking any other steps that might be inconsistent with these goals.

This legislation provides the basis for legislative activity on an important and complex subject. I look forward to hearing the suggestions and reactions of interested parties, and of my colleagues.

THE RETURN OF THE "LINCOLN BANNER" TO NORWICH, CONNECTICUT

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. GEJDENSON. Mr. Speaker, I rise to commemorate a momentous event in the history of Norwich, Connecticut. On January 22, 1999, the fully-restored "Lincoln Banner" will be unveiled. The story surrounding the discovery and restoration of this 138 year old artifact is a testament to the spirit of volunteerism and pride in our history which have long distinguished Americans.

The "Lincoln Banner" is so named because it depicts Abraham Lincoln, without his beard, at approximately age 51 on a 6 by 8 foot silk banner. A portrait of Lincoln graces the center of the banner and is surrounded by the following inscription—"In hoc signo Vincemus. Ubi Libertas, Ibi Patria"—which roughly translates to "In this sign we are victorious. One for liberty under the fatherland." "Norwich" is inscribed in capital letters across the bottom.

The origins and exact use of the banner are known conclusively only to history herself. However, most in Norwich believe it was produced for Lincoln's presidential campaign and displayed during his visit to the community on March 9, 1860. Mr. Lincoln did not come to Norwich seeking support for his election. Instead, he came to help a fellow Republican—Governor William Buckingham—who was seeking reelection. Local historians believe the banner hung outside the Wauregan Hotel where Lincoln stayed.

Following Mr. Lincoln's visit, the banner essentially vanished for more than 135 years. Then, in 1997, officials in Norwich received a telephone call from an auction house in my state indicating that it had recently been contacted by an individual who wished to sell the banner. A spontaneous, grassroots effort, initiated by John Marasco, a city employee, who went on local radio station WICH with personality Johnny London to urge listeners to contribute, raised nearly $41,000 from residents, businesses and others in the community. As a result of this tremendous amount of support, the City was able to purchase the banner and bring it back to its rightful home.

After nearly 140 years, the banner was in poor condition. It was torn and tattered and in need of restoration. With more assistance from the community and significant support from the City of Norwich, a group formed to preserve the banner—the Norwich-Lincoln Homecoming Committee—was able to send it to be expertly restored by the Textile Conservation Center at the American Textile Museum in Lowell, Massachusetts. On January 22, the banner will be returned permanently to Norwich. It will become the centerpiece of an exhibit at the Slater Museum entitled "Norwich, Lincoln and the Civil War." After the exhibit closes, the banner will be displayed in City Hall for all to see.

Mr. Speaker, the return of the "Lincoln Banner" to Norwich brings the community full circle and closes an important loop in its history. The effort to purchase and preserve the banner demonstrates that pride in the community and our heritage is alive and well in America today. I believe President Lincoln would be proud of, and probably more than a little humbled by, the community's efforts to preserve an important part of the past. I know I speak for the entire community when I say "Welcome Back, Mr. President."

INTRODUCTION OF LEGISLATION

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mrs. MINK of Hawaii. Mr. Speaker, today I am introducing the Plant Genetic Conservation Appropriations Act of 2000 that provides $1.5 million for a genetic plant conservation project that collects and preserves genetic material from our Nation's endangered plants.

While the Fish and Wildlife Service continues to make strides in battling the war against further extinction of endangered species, we must do more. As of 1997 when I originally introduced this legislation, there were 513 plants listed as Endangered and 101 as threatened under the Endangered Species Act. Today, there are 567 plants listed as endangered and 135 as threatened. The need to supplement the Fish and Wildlife Services work is critical.

I believe a crucial part of the solution to save our endangered species is the genetic plant conservation project, which can help save and catalog genetic material for later propagation. As genetic technology develops, we will have saved the essential materials necessary to restore plant populations.

The Plant Genetic Conservation Appropriations Act of 2000 requests $1.5 million for activities such as rare plant monitoring and sampling, seed bank upgrade and curation, propagation of endangered plant collections, expanded greenhouse capacity, nursery construction, cryogenic storage research, and invitro storage expansion.

In my home state of Hawaii, the endangered plant population sadly comprises 46 percent of the total U.S. plants listed as endangered. And our endangered plant list continues to grow. We cannot afford to wait any longer. By allocating the resources and allowing scientists to collect the genetic samples now, we can ensure our endangered plants will survive.

I strongly urge my colleagues to support the Plant Genetic Conservation Appropriations Act 2000. This necessary bill can lead us to preserving plants that many of our ecosystems cannot afford to lose.

TRIBUTE TO THE NEW HAVEN LIONS CLUB

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. BONIOR. Mr. Speaker, I am honored to have the opportunity to recognize the achievements of a very special organization. I ask my colleagues to join me in saluting the Lions Club of New Haven, Michigan as they celebrate their 50th Anniversary on January 23, 1999.

In 1948, the New Haven Lions Club was organized by the Richmond Lions Club and chartered with thirty-three members. Though their membership has grown and changed, their goal has remained the same: to dedicate their talents to people in need. During the 1996–97 year they assisted other local clubs in building a fully handicapped accessible cottage at the Bear Lake Lions Visually Impaired Youth Camp. In 1983, the club organized the New Haven Goodfellows. Each year during the holidays, they assist many families by providing food and toys for the children. The club is dedicated to community service through their membership.

During the last fifty years, members of the Lions Club have contributed their time and resources to the betterment of their community. Among their many contributions include building the Lenox Library, purchasing eye exams and glasses for area residents, sponsoring the Lioness Club, and funding scholarships for New Haven High School graduates. The members have also been strong supporters of Boy Scouts, the Juvenile Diabetes Foundation, and Leader Dogs for the Blind. The club has loaned out wheel chairs, walkers, crutches, canes and hospital beds. I would like to thank all of the members, past and present, who have donated their various talents to improve the quality of life in the New Haven community.

The self sacrificing qualities of the Lions Club members are what makes our communities successful. I ask my colleagues to join me in wishing the Lions Club of New Haven a Joyful 50th Anniversary. Their legacy of public service is sure to last well beyond another fifty years.

OVERDUE FOR OVERALL—THE MINING LAW OF 1872

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. GEORGE MILLER of California. Mr. Speaker, later this year, on May 10, the General Mining Law will be 127 years old—yet, it remains on the books without change in regard to gold, silver and other "hard rock" minerals. Lack of Congressional action to reform this archaic law is indefensible—albeit a testament to the strength of the mining industry's influence on certain key Members who have consistently blocked any attempt to amend or replace the law during the past two Congresses. Written to encourage settlement of the West during the last century, the Mining Law of 1872 provides an automatic legal right to our Nation's hard rock mineral wealth to those interested in developing it. The law is long overdue for a major overhaul to save taxpayers and the environment from further losses.

This antiquated relic allows mining operators nearly unlimited access to our Nation's hard rock minerals, no matter what other values (such as fish and wildlife habitat) may also be present. The law lets mining companies extract the minerals without paying a royalty or other production fee to the Federal Government. Finally, the lucky prospector who discovers gold or another hard rock mineral has the right to "patent" (purchase) the land and the minerals without paying fair market value.

Since Ulysses S. Grant signed the law in 1872, American taxpayers have lost about 3.2 million acres of public land containing more than $231 billion in gold, silver and valuable minerals without benefit of royalties or other fees. This is corporate welfare that subsidizes both foreign and domestic mining companies and should be stopped.

Under the 1872 mining law, the U.S. cannot collect a royalty or fee on the production value of hard rock minerals extracted from public lands. This differs from Federal policy toward coal, oil and gas industries operating on public lands, the laws and regulations of state governments, and leasing arrangements in the private sector. The U.S. collects a 12.5 percent royalty on coal, oil and gas (and an even higher royalty is collected from offshore petroleum development). The Federal Government collects production royalties on "leasable minerals" such as phosphate, potassium, sodium and sulphur. We also require a royalty on all minerals extracted from "acquired lands," which are lands that the federal government has purchased, condemned or received as a gift.

All western States collect a royalty or production fee from minerals removed from State lands, collecting between 2 percent and 10 percent on the gross income from mineral production. Besides a royalty, 10 western States also collect a severance tax on certain minerals extracted from any land in the States, whether it is Federal, State or privately-owned. On private lands, royalties are usually similar to those imposed on federal and state lands and are usually set at 2 percent to 8 percent of gross income.

As Stuart Udall, former Secretary of the Interior, has noted, hard rock mining has made many men wealthy, built great corporations and caused cities to spring up in the wilderness. But this prosperity has come with a price. Over the past century, irresponsible and unwise mining operators have devastated over half a million acres of land—by acting without thought for the future or by simply walking away from played-out mines. According to the U.S. Environmental Protection Agency (EPA), mine wastes have polluted more than 12,000 miles of our Nation's waterways and 180,000 acres of lakes and reservoirs. Abandoned mines threaten public safety and health while creating long-lasting environmental hazards. Toxic mine wastes endanger people, destroy aquatic habitat, and contaminate vital ground water resources. The Mineral Policy Center estimates that clean-up will cost between $32 billion and $72 billion.

The only mining law reform bill Congress has sent to the President in recent years was part of the fiscal year 1995 budget reconciliation bill that President Clinton properly vetoed in December 1995, for reasons well beyond the scope of the 1872 mining law. That reform proposal, which all of the longtime mining reform advocates opposed, would have reserved a 5 percent "net proceeds" royalty on future mining operations on public lands. But, it also provided so many exorbitant and absurd loopholes that most mines could have avoided paying the royalty. Therefore, the Congressional Budget Office (CBO) scored the royalty at just $12 million over seven years as compared to nearly $420 million attributed to the royalty provision passed on a 3–1 margin by the House in 1993.

Today, I am introducing three bills, in addition to Rep. Nick Rahall's (D–WVA) comprehensive bill to reform the Mining Law of 1872. These three bills, identical to ones that former Senator Dale Bumpers (D–AR) and I introduced in the 105th Congress would:

(1) Impose a 5 percent net smelter return royalty on all hard rock minerals mined from public lands, eliminate patents, and permanently extend the rental fee,

(2) Impose a sliding scale net proceeds reclamation fee on all hard rock minerals mined from lands that have been removed from the public domain under the 1872 Mining Law, and

(3) Close the depletion allowance loophole on all lands subject to the 1872 Mining Law.

Reservation of a royalty would mean that Americans would receive a fair return on the extraction of hard rock minerals from public lands.

Imposition of a reclamation fee on lands removed from the public domain under the 1872 law would give the public a fair return on the value of hard rock minerals mined from those lands. All these revenues would be used to clean up the environment disaster we inherited from past mining operators.

The majority refused to even hold hearings on these bills during the last Congress, instead focusing on crushing Clinton administration policies that would have made miners accountable for their actions and decreased the level of environmental destruction that accompanies mining activities. I therefore call on Chairman Young to allow these bills a fair and open hearing this year.

Now is the time to act. The Federal royalty base is already small and is rapidly diminishing as mining operations go to patent. The GAO believes that nearly $65 billion worth of gold, silver, copper, and certain other hard rock minerals still exist in economically recoverable reserves on western Federal lands. But, the longer Congress delays, the smaller the royalty base will become as ever more mining conglomerates push through the patent process.

Mining reform is long overdue. The effort to update the 1872 law has enjoyed vigorous, bipartisan support in the House of Representatives for many years. Public opinion—even in Western states with large mining activities—is strongly in favor of mining reform that includes a royalty that raises substantial revenues to be used for abandoned mine clean-up. Four out of five Americans support mining reform, according to a 1994 nationwide bipartisan survey. In 1994, the House and Senate came close during a Conference to crafting an acceptable agreement only to be derailed by the threat of a filibuster during the last days of the session. The mining industry and a few Senators have repeatedly blocked reform from enactment during the last decade.

The 106th Congress should impose a reasonable net smelter royalty on hard rock minerals extracted from public lands, dedicating the revenues to cleaning up abandoned mine sites, permanently extend the $100 rental fee, and close the depletion allowance loophole.

TRIBUTE TO ANTHONY S. GOVERNALE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me today in paying tribute to Anthony S. Governale, one of San Mateo County's most dedicated public servants. Tony passed away on December 29, 1998, leaving behind a legacy of community service that made a significant difference in the lives of innumerable Bay Area residents. He will be sorely missed by all of us who knew him and all of us who benefited from his lifetime of public service.

Many people talk about the frustration of politics and about the inability of a single individual to effect change through government. Tony Governale's life stands as a strong rebuttal to these skeptics. Tony did not merely talk about building a more vibrant America for his children and grandchildren—he volunteered his time and his considerable energy and his insight on behalf of political candidates who shared his progressive beliefs. He masterminded a number of important campaigns, and he served for some time as the president of the San Mateo County Democratic Council.

When his reputation as a community leader provided him with the opportunity to assist his beloved City of San Bruno in an official capacity, he seized that challenge. Tony served as a member of the City Council for eight years, and for two years of that time he served as mayor. He was a key figure in guiding San Bruno through a decade of growth and progress. His commitment to performing his public responsibilities, as well as his tireless efforts to reach out and involve the entire community in the decisions of its government, made him one of San Mateo County's most beloved citizens.

Tony's public service was by no means confined to politics and government. As the longtime executive director of the Daly City-Colma Chamber of Commerce, he used his organizational skills and persuasive talents to foster the development of one of California's most dynamic business areas. He was instrumental in the establishment of the San Mateo County Health Center Foundation, which raises funds to improve the lives of patients at the San Mateo County General Hospital. He served on the governing board of the Shelter Network of San Mateo County, on the Board of Directors of the San Mateo County Fair, and as an active participant in many other civic organizations throughout the Bay Area.

Mr. Speaker, I invite my colleagues to join me in acknowledging the extraordinary life and accomplishments of Tony Governale and in extending condolences to his wife, Helen, and his fine family. It is my hope that Tony's family can take comfort in the realization that his important contributions to our community are an outstanding and a fitting memorial to him for generations to come.

INTRODUCTION OF THE FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT OF 1999

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. PORTMAN. Mr. Speaker, I rise to day with my colleague, Mr. HOYER, to introduce the Federal Financial Assistance Management Improvement Act of 1999. Mr. Speaker, this bill is identical to legislation sponsored by Senator Glenn and THOMPSON that passed the Senate in the unanimous consent in the waning hours of last Session.

Mr. Speaker, I often hear from state and local governments and constituents involved in non-profit organizations who, in an attempt to gain assistance for many worthy programs, are frustrated by the miles of red tape, regulations and duplicative procedures they encounter. Applying for the grant is not the only problem. The administrative and reporting requirements attached to certain grants often makes these entities question the cost effectiveness of entering the program in the first place.

To address this concern we have introduced this short and straight forward legislation. It requires relevant Federal agencies, with oversight from OMB, to develop plans within 18 months that do the following: streamline application, administrative, and reporting requirements; develop a uniform application (or set of applications) for related programs; develop and expand the use of electronic applications and reporting via the Internet; demonstrate interagency coordination in simplifying requirements for cross-cutting programs; and set annual goals to further the purposes of the Act. Agencies would consult with outside parties in the development of the plans. Plans and follow-up annual reports would be submitted to Congress and the Director and could be included as part of other management reports required under law.

In addition to overseeing and coordinating agency activities, OMB would be responsible for developing common rules that cut across program and agency lines by creating a release form that allows grant information to be shared by programs. The bill sunsets in five years and The National Academy for Public Administrators (NAPA) would submit an evaluation just prior to its sunsetting.

The bill builds on past efforts to improve program performance through the Government Performance Results Act and to reduce Federal burdens through the Paperwork Reduction & Unfunded Mandates Acts. It has been endorsed by state and local organizations such as the National Governors Association, the National Conference of State Legislators, the National Association of Counties, and the National League of Cities. I want to thank the gentleman from Maryland, Mr. HOYER and the other original cosponsors for joining me in this effort and I encourage my colleagues to join in support of this bipartisan effort.

INTRODUCTION OF THE TRADE FAIRNESS ACT OF 1999

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. REGULA. Mr. Speaker, as you are aware, steel imports continues to pour into the United States at very low prices and are threatening steel worker jobs and the health of the U.S. steel industry.

As was acknowledged in the President's recent steel report, this is a severe crisis that has resulted in a 30 percent surge in steel imports during the first 10 months of 1998 and has resulted in the loss of 10,000 steel worker jobs.

Surprisingly, the President's steel report does not contain any significant measures that will provide immediate relief to the industry and protect steel worker jobs.

The report only rehashes discussions he and administration officials have had with offending country officials asking them to cut back on their steel exports to the U.S., and revises measures that have been taken to expedite recent trade cases.

The only new proposals in the President's report are $300 million in tax relief for steel companies allowing them to carry back losses for 5 years, and a high level administration coordinator to assist communities once they have already suffered job losses.

Since the administration does not appear ready to take decisive and immediate action to solve the steel import crisis, it is up to the Congress to look at various options.

I am introducing today the Trade Fairness Act of 1999 which is but one option in trying to solve the steel import crisis. It may not be the most expeditious option, but the bill contains two provisions that would significantly improve current law to better respond to import surges.

The bill lowers the threshold for establishing injury in safeguard actions under section 201 of the 1974 Trade Act to bring the standard in line with World Trade Organization rules. Section 201 allows the President to provide appropriate relief, including duties and quotas, when an industry is injured by import surges. The injury standard in this type of action should not remain unjustifiably high, thereby precluding the use of section 201 to respond to import surges.

Second, the bill establishes a steel import permit and monitoring program, similar to programs in Canada and Mexico. This monitoring program will provide the Administration and industry with timely import data to determine more quickly if the marketplace is being disrupted by unfair imports.

This bill represents only one option. You will see other bills introduced in the near future responding to the steel import crisis, including a bill I am drafting to require the President to negotiate Voluntary Restraint Agreements with offending nations. This program was extremely effective in the 1980's in allowing the industry to restructure and become world competitive.

But, even the most competitive industry cannot compete against unfair imports. We must look for an effective solution to stop these unfair steel imports. Below is a more detailed explanation of the Trade Fairness Act of 1999.

EXPLANATION OF THE TRADE FAIRNESS ACT OF 1999

(INTRODUCED BY CONGRESSMAN RALPH REGULA)

The Emergency Steel Relief Act of 1999 is one option to enhance U.S. law to better respond to surges of foreign imports that injure U.S. industries and their workers. This legislation makes prospective changes in U.S. trade laws to bring these laws in line with World Trade Organization (WTO) rules and establishes an import monitoring program for steel.

The Trade Fairness Act of 1999 consists of the following two sections: first, the legislation lowers the threshold for establishing injury in safeguard actions under Section 201 of the 1974 Trade Act; and second, it establishes an import monitoring program to monitor the amount of foreign steel coming into the U.S. on a more timely basis.

1. Safeguard Actions: The legislation amends Section 201 of the 1974 Trade Act, which allows the President to provide appropriate relief to a U.S. industry if the International Trade Commission (ITC) finds that the industry has been seriously injured and that injury has been substantially caused by imports.

Current law requires that imports are a substantial cause of injury to U.S. industry. Our WTO obligation requires only that imports be a cause of injury (i.e. it need not be a 'substantial' cause). The bill deletes the term 'substantial' from the causation standard.

Current law requires that imports are "not less than any other cause" of injury. This is an unnecessarily high standard. The bill clarifies that in order to gain relief there only needs to be a causal link between imports and the injury.

The bill also includes in U.S. law the factors to be considered by the ITC, as established by the WTO, to determine whether the U.S. industry has suffered serious injury. These factors include: the rate and amount of the increase in imports of the product concerned in absolute and relative terms; the share of the domestic market taken by increased imports; changes in the levels of sales; production; productivity; capacity utilization; profits and losses; and, employment.

2. Steel Import Monitoring Program: The bill establishes a steel import permit and monitoring program. In order to gain relief under U.S. trade laws, domestic industries must demonstrate that unfairly traded imports have caused injury. This requires complex factual and economic analysis of import data. Currently, such data has not been available on a timely basis. This data has become public several months after the imports have arrived in the U.S., thus allowing unfairly traded imports to cause significant damage in many cases before the data is available for even a preliminary analysis.

The steel import permit and monitoring system, which is modeled on similar systems currently in use in Canada and Mexico, would allow the U.S. government to receive and analyze critical import data in a more timely manner and allow industry to determine more quickly whether unfair imports are disrupting the market.

MIAMI BEACH REMEMBERS COMMISSIONER ABE RISNICK

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Ms. ROS-LEHTINEN. Mr. Speaker, a special tribute was held at the Holocaust Memorial in Miami Beach in memory of former Miami Beach Commissioner Abe Resnick who passed away late last year after decades of great contributions to the South Florida community.

Commissioner Resnick's life exemplifies the achievement of the American dream through hard work, perseverance and dedication. Born in Lithuania in 1924, Commissioner Resnick was a survivor of the Holocaust after successfully escaping from a Nazi concentration camp in Lithuania. Not forgetting those who continue suffering under Nazi repression, he joined the Resistance and bravely fought to defeat the Nazi regime. Commissioner Resnick later left Europe with his family to settle in Cuba where years later he had to flee repression again, this time from the Communist regime of Fidel Castro.

Arriving in the United States, he soon began a prominent and successful career as a leading real estate developer in South Florida, while remaining an active participant of the Jewish and Cuban-American communities of South Florida. One of his achievements was the realization of the construction of a Holocaust Memorial in Miami Beach that will forever serve as a shrine to all those who perished in that tragic period of human history.

In 1985, Mr. Resnick was elected as commissioner of the city of Miami Beach and later also served as vice-mayor of the city where he continued his good works for the progress of our community.

South Florida will forever remember the positive and lasting contributions of Commissioner Abe Resnick.

TRIBUTE TO FORMER CALIFORNIA STATE SENATOR QUENTIN L. KOPP

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me today in paying tribute to one of the most remarkable legislators in the history of the great golden State of California—the Honorable Quentin L. Kopp.

An independent by political affiliation and by personal nature, Quentin Kopp is a San Francisco institution. His 27 years in public office began with his service as a member of the San Francisco Board of Supervisors. He has served on virtually every local government policy-making body in the Bay Area, in addition to his accomplished career as a practicing trial lawyer. Quentin's record includes a herculean effort to bring the 1985 Superbowl and the summer Olympic Games to our area. He continued his distinguished public service as a member of the California State Senate, where his prodigious 12-year tenure was only curtailed this past year by voter-mandated term limits.

A fiscal conservative, Quentin guards the public purse as zealously as he guards his own. He is a public reformer who has insisted upon open government, campaigns that fully disclose contributions, and the elimination of conflicts of interest. Furthermore, he possesses a vocabulary that dwarfs Noah Webster's and a rhetorical style that rival Daniel Webster's. He is rightly renowned for his ability to simultaneously please, baffle, inspire, and incite his loyal constituency.

Mr. Speaker, as Chairman of the State Senate Committee on Transportation, Quentin Kopp has amassed an enviable legislative record: creation of the California High Speed Rail Authority, development of the 1989 Transportation Blueprint for the 21st Century, coordination of public transit agencies in the San Francisco Bay Area, and securing funding for the seismic retrofitting of the Bay Area's bridges. Senator Kopp's longtime and articulate advocacy of the extension of the Bay Area Rapid Transit system to San Francisco International Airport—a critical issue which has involved many of our colleagues in this House—has been vital in assuring Bay Area residents their desire to have Bart to the Airport!

Quentin Kopp's imposing height, unforgettable visage, and booming voice, infused with tones of his native Syracuse, New York, heralds his legendary tardy public appearances. But all of us have found that it is worth the wait to hear Quentin's views on public issues. He has an innate understanding of Abraham Lincoln's caution that "you cannot please all of the people all of the time," and this has produced in him the predilection for honest and unedited dialogue which is so appreciated by his constituents.

Mr. Speaker, the legislative branch's loss is the judicial branch's gain. Senator Quentin Kopp is now addressed as the Honorable Quentin Kopp, Judge of the Superior Court of San Mateo County, a position to which he was appointed on January 2 of this year. Quentin does not need the judicial robe to augment his commanding, magisterial presence, but all of us in San Mateo County will benefit from his willingness to exercise wit and wisdom in his new post.

It is my sincere wish, Mr. Speaker, that Judge Kopp will find intellectual satisfaction, professional fulfillment and personal happiness in this new opportunity to continue his public service.

INTRODUCTION OF THE HOUSING PRESERVATION MATCHING GRANT OF 1999

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. VENTO. Mr. Speaker, today I am introducing the Housing Preservation Matching Grant of 1999, which would authorize the Secretary of HUD to make grants to States to supplement State assistance for the preservation of affordable housing for low-income families. The bill would allocate resources to match the efforts of States in preserving affordable housing units across this Nation. With this kind of commitment, the Federal Government would be able to help States and more importantly, communities to achieve the long-term preservation of those housing units as affordable housing.

We are facing a dire situation with regard to affordable housing needs in this country. Low- to moderate-income residents receiving housing assistance are on the cusp of a crisis and Congress must act to attempt to avert the breakdown and loss of the national public and assisted housing stock. Without preservation, the best of the worst case scenarios is a "vouchering out" of what little affordable housing remains.

Some States are allocating resources to save federally subsidized housing for the future. In Minnesota, where 10 percent of the roughly 50,000 units of assisted housing are at risk, $10 million was appropriated for 1999 for an Affordable Rental Investment Fund to finance the acquisition, rehabilitation and debt restructuring of federally assisted rental property and for making equity take-out loans. This laudable effort, however, is only one State and even there, the resources allocated cannot match the great need for affordable housing, especially for seniors and those with special needs.

This Vento bill recognizes these kinds of commitments and matches them with two Federal dollars for every State dollar. While I support funding for the Federal Low Income Housing Preservation and Resident Homeownership Act (LIHPRHA), if there is not to be funding, perhaps this new Housing Preservation Matching Grant can encourage a forestallment of prepayment, which places low-income families at risk of losing their homes. With enactment of this bill this year, we could provide a benchmark for States and local communities to work from and with as they produce their own initiatives to avert this pending national crisis in affordable housing.

A section-by-section of the bill follows:

SECTION 1. SHORT TITLE.—The short title of the Act is the "Housing Preservation Matching Grant Act of 1999"

SECTION 2. FINDINGS AND PURPOSE—(a) FINDINGS.—The Congress finds that—(1) more than 55,300 affordable housing dwelling units in the United States have been lost through termination of low income affordability requirements, which usually involves the prepayment of the outstanding principal balance under the mortgage on the project in which such units are located;

(2) more than 265,000 affordable housing dwelling units in the United States are currently at risk of prepayment;

(3) the loss of the privately owned, federally assisted affordable housing, which is occurring during a period when rents for unassisted housing are increasing and few units of additional affordable housing are being developed, will cause unacceptable harm on current tenants of affordable housing and will precipitate a national crisis in the supply of housing for low-income households;

(4) the demand for affordable housing far exceeds the supply of such housing, as evidenced by studies in 1998 that found that (A) 5,300,000 households (one-seventh of all renters in the Nation) have worst-case housing needs; and (B) the number of families with at least one full-time worker and having worst-case housing needs increased from 1991 to 1995 by 265,000 (24 percent) to almost 1,400,000;

(5) the shortage of affordable housing in the United States reached a record high in 1995, when the number of low-income households exceeded the number of low-cost rental dwelling units by 4,400,000;

(6) between 1990 and 1995, the shortage of affordable housing in the United States increased by 1,000,000 dwelling units, as the supply of low-cost units decreased by 100,000 and the number of low-income renter households increased by 900,000;

(7) there are nearly 2 low-income renters in the United States for every low-cost rental dwelling unit;

(8) 2 of every 3 low-income renters receive no housing assistance and about 2,000,000 low-income households remain on waiting lists for affordable housing;

(9) the shortage of affordable housing dwelling units results in low-income households that are not able to acquire low-cost rental units paying large proportions of their income for rent; and

(10) in 1995, 82 percent of low-income renter households were paying more than 30 percent of their incomes for rent and utilities.

(b) PURPOSE.—It is the purpose of this Act—

(1) to promote the preservation of affordable housing units by providing matching grants to States that have developed and funded programs for the preservation of privately owned housing that is affordable to low-income families and persons and was produced for such purpose with Federal assistance;

(2) to minimize the involuntary displacement of tenants who are currently residing in such housing, many of whom are elderly or disabled persons; and

(3) to continue the partnerships among the Federal Government, State and local governments, and the private sector in operating and assisting housing that is affordable to low-income Americans.

SECTION 3. AUTHORITY. Provides the Secretary of HUD with the authority to make grants to the States for low-income housing preservation.

SECTION 4. USE OF GRANTS. (a) IN GENERAL.—Grants can only be used for assistance for acquisition, preservation incentives, operating cost, and capital expenditures for the housing projects that meet the requirements in (b), (c) or (d) below.

(b) PROJECTS WITH HUD-INSURED MORTGAGES.

(1) The project is financed by a loan or mortgage that is—(A) insured or held by the Secretary under 221(d)(3) of National Housing Act and receiving loan management assistance under Section 8 of the U.S. Housing Act of 1937 due to a conversions for section 101 of the Housing and Urban Development Act of 1965; (B) insured or held by the Secretary and bears interest at a rate determined under 221(d)(5) of the National Housing Act; (C) insured, assisted, or held by the Secretary or a State or State Agency under Section 236 of the National Housing Act; or (D) held by the Secretary and formerly insured under a program referred to in (A), (B) or (C);

(2) the project is subject to an unconditional waiver of, with respect to the mortgage referred to in paragraph (1)—

(A) all rights to any prepayment of the mortgage; and (B) all rights to any voluntary termination of the mortage insurance contract for the mortgage; and

(3) the owner of the project has entered into binding commitments (applicable to any subsequent owner) to extend all low-income affordability restrictions imposed because of any contract for project-based assistance for the project.

(c) PROJECTS WITH SECTION 8 PROJECT-BASED ASSISTANCE. A project meets the requirements under this subsection only if—

(1) the project is subject to a contract for project-based assistance; and

(2) the owner has entered into binding commitments (applicable to any subsequent owner) to extend such assistance for a maximum period under law and to extend any low-income affordability restrictions applicable to the project.

(d) PROJECTS PURCHASED BY RESIDENTS.—A project meets the requirements under this subsection only if the project—

(1) is or was eligible housing under LIHPRHA of 1990; and

(2) has been purchased by a resident council for the housing or is approved by HUD for such purchase, for conversion to homeownership housing as under LIHPRHA of 1990.

(e) COMBINATION OF ASSISTANCE.—Notwithstanding subsection (a), any project that is otherwise eligible for assistance with grant amounts under (b) or (c) and also meets the requirements of the (1) in either of the other subsections—that is, it is a 221(d)(3), 221(d)(5), or a 236 building, or, is subject to a contract for project-based assistance—will be eligible for such assistance only if it complies with all the requirements under the other subsection.

SECTION 5. GRANT AMOUNT LIMITATION.—The Secretary can limit grants to States based upon the proportion of such State's need compared to the aggregate need among all States approved for such assistance for such a fiscal year.

SECTION 6. MATCHING REQUIREMENT.—(a) IN GENERAL—The Secretary of HUD cannot make a grant that exceeds twice the amount the State certifies that the State will contribute for a fiscal year, or has contributed since January 1, 1999, from non-Federal sources for preservation of affordable housing as described in Section 4(a).

(b) TREATMENT OF PREVIOUS CONTRIBUTIONS.—Any portion of amounts contributed after 1.1.99, that are counted for a fiscal year, may not be counted for any subsequent fiscal year.

(c) TREATMENT OF TAX CREDITS.—Low Income Housing Tax Credits (LIHTC) and proceeds from the sale of tax-exempt bonds shall not be considered non-federal sources for purposes of this section.

SECTION 7. TREATMENT OF SUBSIDY LAYERING REQUIREMENTS.—Neither section 6 nor any other provision of this Act should prevent using the Low Income Housing Tax Credit in connection with housing assisted under this Act, subject to following Section 102(d) of the HUD Reform of 1989 and section 911 of the Housing and Community Development Act of 1992.

SECTION 8. APPLICATIONS.—The Secretary shall provide for States to submit applications for grants under this Act with such information and certifications that are necessary.

SECTION 9. DEFINITIONS.—For this Act, the following definitions apply:

(1) LOW-INCOME AFFORDABILITY RESTRICTIONS.—With respect to a housing project, any limitations imposed by regulation or agreement on rents for tenants of the project, rent contributions for tenants of the project, or income-eligibility for occupany in the project.

(2) Project-based assistance.—Is as defined in section 16(c) of the U.S. Housing Act of 1937, except that such term includes assistance under any successor programs to the programs referred to in that section.

(3) Secretary.—Means the Secretary of the Department of Housing and Urban Development.

(4) State.—Means the States of the U.S., DC, Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the U.S.

Section 10. Gives the Secretary authority to issue any necessary regulations.

Section 11. Authorizes such sums as necessary from 2000 through 2004 for grants under this Act.

ENGLISH LANGUAGE AMENDMENT

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. DOOLITTLE. Mr. Speaker, I rise today to introduce the English Language Amendment to the Constitution. It is my belief that this legislation is critically needed at this day and hour. It is time for Congress to stand up and reaffirm that this nation of immigrants requires the unity of a national language.

Mr. Speaker, for over 200 years, America has made a home for immigrants from all over the globe. The newest American citizen is considered just as good an American as the citizen whose ancestors can be traced to the Mayflower. The United States has managed to accomplish what few nations have even dared to attempt: we are one nation even though each of us may have ancestors who fought against each other in generations past.

This has been made possible by our common flag and our common language. The immigrant struggling to learn English in order to become a citizen is an ancestor of many of the Members of this House. The child of immigrants, going to school, learning English and playing baseball is the ancestor of many of us as well. And others here are that child a few years later, having the honor of representing many other Americans as a U.S. Congressman.

Learning English was not always easy. And America has not always lived up to its high ideal that we are E Pluribus Unum—"out of many, one." But for most of our Nation's history, the English language was both the language of opportunity and the language of unity.

During the 1960's, the notion of our common language came under attack. There were those who felt America had nothing worthy of pride. Some of these people gave the impression that they did not think the United States of America itself was a good idea.

While those days are over, many of the ideas of that period are part of federal law. One of the most divisive of those notions was government multilingualism and multiculturalism. These ideas have infiltrated government at all levels. Yet these ideas were opposed and then and remain opposed to now by a vast majority of Americans.

Mr. Speaker, I believe we would all concede that notions like bilingual ballots and bilingual education were well meant when they were proposed. But also believe that it is time that we ended this failed experiment in official multilingualism.

I believe this experiment should be ended because government multilingualism is divisive. It seems that no amount of translation services is ever sufficient. Michigan offers its driver test in 20 languages. There are 100 languages spoken in the Chicago school system. Yet hard-pressed taxpayers know that they are one lawsuit away from yet another mandatory translation requirement.

There are those who say that this amendment is not necessary. I would remind them that right across the street the Supreme Court will decide whether any official English legislation is Constitutional. Even though we may desire less comprehensive approaches to this issue, the actions of this Court, or a future Court, may well undercut any official English legislation short of the English Language Amendment (ELA).

In 1996, I spoke with pride on behalf of the official English bill originally introduced by my colleague from the great State of California, Duke Cunningham. That was a good bill and would have made a good beginning.

However, given that groups like the American Civil Liberties Union with their legions of lawyers stand ready to haul any official English legislation into court, I believe that we must accept the fact that Congress will be continually forced to revisit this issue until we successfully add the ELA to our Constitution.

The path of a Constitutional amendment is not easy. The Founding Fathers made certain that only the most important issues could succeed in achieving Constitutional protection.

Mr. Speaker, I submit that preserving our national unity through making English this Nation's official language is just such a critical issue. Look around the world. Neighbor fights with neighbor even when they speak a common language. Linguistic divisions swiftly lead to other divisions.

Mr. Speaker, if the ELA is adopted, states like my own will save money. Under our current laws, the minute an immigrant sets foot on U.S. soil, he and his family are entitled to a multitude of government services, each provided in that immigrant's native tongue. When their children start school, we cannot give them English classes—instead California and other States must provide schooling to these children in the language of their parents. Bilingual education alone is an unfunded $8 billion mandate on State and local taxpayers.

There is a sense in this body when the time has come for certain legislation. I submit that the time has indeed come for the English Language Amendment and I urge its adoption.

INTRODUCTION OF H.R. 168, THE GOLDEN GATE NATIONAL RECREATION AREA BOUNDARY ADJUSTMENT ACT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. LANTOS. Mr. Speaker, the Golden Gate National Recreation Area (GGNRA) is a true national treasure. It provides open space and recreation in the midst of a densely populated urban area, and it is one of our Nation's most heavily used national parks. I urge my colleagues to support my legislation, H.R. 168, which would expand the boundaries of the GGNRA to include an additional 1,300 critical acres of land adjacent to existing GGNRA parkland.

Mr. Speaker, this legislation has the bipartisan support of the entire Bay Area Congressional Delegation. Joining me as cosponsors of this legislation are our colleagues Nancy Pelosi, Anna Eshoo, Tom Campbell, George Miller, Lynn Woolsey, Pete Stark, Ellen Tauscher, Barbara Lee, and Zoe Lofgren.

H.R. 168, the Golden Gate National Recreation Area Boundary Adjustment Act, will permit the National Park Service to acquire carefully selected critical natural areas in San Mateo County, primarily in the area around the City of Pacifica. National Park Service officials in the Bay Area conducted a boundary study to evaluate the desirability of including additional lands in and around Pacifica within the GGNRA. During the preparation of the Park Service study, a public forum was held to gather comments from area residents, and local input was reflected in the final study. The Pacifica City Council adopted a resolution endorsing the addition of these areas to the GGNRA. The GGNRA and the Point Reyes National Seashore Advisory Commission also urged the addition of these new areas to the park.

Mr. Speaker, this legislation has the strong support of local environmental advocacy and preservation groups. The Loma Prieta Chapter of the Sierra Club contacted me to express support for this important legislation. In a letter endorsing this bill, the Sierra Club wrote that "by expanding the boundaries of the GGNRA, the legislation would allow acquisition of parcels which are natural extensions of the park." The letter continued that this legislation "would protect both views and habitats as well as provide additional recreational opportunities for local residents as well as visitors to the Bay Area. The open spaces and the vistas from these sites are national treasures and it is appropriate to include them in the Golden Gate National Recreation Area. By including them in GGNRA, visitors to the Bay Area will be given a chance to experience their wonder."

H.R. 168 would expand the boundary of GGNRA to permit the inclusion of lands directly adjacent to existing parkland as well as nearby lands along the Pacific Ocean. The upper parcels of land offer beautiful vistas, sweeping coastal views, and spectacular headland scenery. Inclusion of these lands would also protect the important habitats of several species of rare or endangered plants and animals. The legislation offers improved access to existing trails and beach paths and would protect important ecosystems from encroaching development.

The GGNRA Boundary Adjustment Act would also permit the inclusion of beautiful headlands along the coast into GGNRA. The coastal headlands of San Pedro Point, the Rockaway Headland, Northern Coastal Bluffs, and the Bowl & Fish would be included in the GGNRA under this legislation. These parcels would offer park visitors scenic panoramas up and down the coast, views of tide pools and offshore rocks, sweeping views of GGNRA ridges to the east, as well as additional access to the Pacific Ocean.

Mr. Speaker, throughout my service in Congress, I have had a strong interest in preserving the unique natural areas of the Peninsula. In the early 1980's, I fought for the inclusion in GGNRA of Sweeney Ridge, which includes the site from which Spanish explorers first sighted the San Francisco Bay in the 18th century. The ridge affords a unique panorama of the entire Bay. In 1984, in the face of a long and hard battle waged by myself and former Congressmen Leo Ryan and Phil Burton, the Reagan Administration acquiesced, and Sweeney Ridge became a part of our protected natural heritage.

In the early 1990's, I authored and secured passage of legislation to add the Phleger Estate to the GGNRA. The Phleger Estate includes over a thousand acres of pristine second-growth redwoods and evergreen forests adjacent to the Crystal Springs watershed in the mid-Peninsula. The Federal Government paid one-half of the cost of acquiring the Phleger Estate. The other half of the cost was paid for through private contributions raised by the Peninsula Open Space Trust (POST). Our distinguished colleague, Congresswoman ANNA ESHOO, played a key role in winning congressional approval of the Federal Government's share of the purchase. The Phleger Estate is now part of the GGNRA and it has become an important hiking and recreation area on the Peninsula.

Mr. Speaker, preserving our country's unique natural areas must be one of our highest national priorities, and it is one of my highest priorities as a Member of Congress. We must preserve and protect these areas for our children and our grandchildren today or they will be lost forever. Adding these new lands in and around Pacifica to the GGNRA will allow us to protect these fragile areas from development or other inappropriate uses which would destroy the scenic beauty and natural character of this key part of the Bay Area. I urge my colleagues to support passage of H.R. 168, the Golden Gate National Recreation Area Boundary Adjustment Act.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, January 21, 1999 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 22

9:30 a.m.
Budget
To resume hearings on certain Social Security issues in the 21st Century.
SD–608

10 a.m.
Finance
To hold an organizational meeting; and to consider the proposed Miscellaneous Trade and Technical Corrections Act of 1999 and pending nominations.
SD–215

JANUARY 25

10 a.m.
Budget
To hold hearings on national defense budget issues.
SD–608

JANUARY 26

Time to be announced
Finance
To hold hearings on U.S. trade policy issues, focusing on international economic and export promotion programs.
SD–215

9:30 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine opportunities to improve education.
SD–430

JANUARY 27

Time to be announced
Finance
To continue hearings on U.S. trade policy issues, focusing on agricultural, service and manufacturing programs and the U.S. steel industry during the global financial crisis.
SD–215

8:30 a.m.
Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings to examine the Echostar/MCI satellite-cable competition deal.
SD–226

9:30 a.m.
Budget
Governmental Affairs
To hold hearings on S. 92, to provide for biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government; and S. 93, to improve and strengthen the budget process.
SD–106

Energy and Natural Resources
To hold oversight hearings on the impacts of outer continental shelf activity on coastal states and communities.
SH–216

JANUARY 28

Time to be announced
Finance
To continue hearings on U.S. trade policy issues, focusing on labor and environmental standards.
SD–215

9 a.m.
Energy and Natural Resources
To hold oversight hearings on the state of the petroleum industry.
SH–216

FEBRUARY 10

8:30 a.m.
Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings to review competition and antitrust issues relating to the Telecom Act.
SD–226

SENATE—*Thursday, January 21, 1999*

The Senate met at 1:01 p.m., and was called to order by the Chief Justice of the United States.

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

The CHIEF JUSTICE. The Senate will convene as a Court of Impeachment. The Chaplain will offer a prayer.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, You know what we need before we ask You but, in the asking, our minds and hearts are prepared to receive Your answer. In this impeachment trial, we have learned again that really listening over a prolonged period of time is hard work. Often it is difficult to hear what is being said because of differing convictions. Dissonance causes discordant static. Sometimes our preconceptions about what we think will be said keep us from hearing what actually is said. Thank You for the commitment of the men and women of this Senate to serve You and our Nation by accepting the demanding responsibility of listening for and evaluating truth. Grant them renewed energy, sensitive audio nerves, and discerning minds. For Your glory and the good of America. Amen.

The CHIEF JUSTICE. The Sergeant at Arms will make a proclamation.

The Sergeant at Arms, James W. Ziglar, made proclamation as follows:

> Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against William Jefferson Clinton, President of the United States.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Thank you, Mr. Chief Justice.

ORDER OF PROCEDURE

Mr. LOTT. Today, we will conclude the presentation of the White House counsel. I understand that the presentation will last approximately 4½ hours. As we have done previously, we will take periodic breaks throughout the proceedings, with the first one coming in approximately 1 hour and 15 minutes. I believe that will be approximately midway in the presentation of Mr. Counsel Kendall. Then we would probably take at least one more break so that the Senators and Chief Justice would have a chance to stretch and so we will have some logical break in the presentations. As a reminder, we will convene tomorrow at 1 p.m. to resume consideration of the articles.

At this point, I ask the indulgence of the Chief Justice and all Senators as we take up some routine matters before we resume consideration of articles. These have been precleared.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. I ask unanimous consent, notwithstanding the consideration of articles, that it be in order at this time to conduct several routine legislative matters.

The CHIEF JUSTICE. Without objection, it is so ordered.

MEASURES READ FOR THE FIRST TIME—S. 269, 270, AND 271

Mr. LOTT. Mr. Chief Justice, there are three bills at the desk. I ask the bills be considered read the first time. I further ask the bills be read a second time en bloc, and I object to my own request.

The CHIEF JUSTICE. Without objection, it is so ordered.

Mr. LOTT. The bills will be read a second time on the next legislative date, as I understand it.

The CHIEF JUSTICE. The leader is correct.

The bills read the first time are as follows:

> S. 269, a bill to state the policy of the United States regarding the deployment of a missile defense system capable of defending the territory of the United States against limited ballistic missile attack;
>
> S. 270, a bill to improve pay and retirement equity for members of the Armed Forces; and for other purposes;
>
> S. 271, a bill to provide for education flexibility partnerships.

AMENDING PARAGRAPH 1(m)(1) OF RULE XXV

Mr. LOTT. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 28 which would change the words "Handicapped individuals" to "Individuals with disabilities" in Rule XXV.

I further ask consent the resolution be agreed to and the motion to reconsider be laid upon the table.

The CHIEF JUSTICE. Is there objection?

Without objection, it is so ordered.

The resolution (S. Res. 28) was agreed to as follows:

> S. RES. 28
>
> *Resolved,* That paragraph 1(m)(1) of Rule XXV is amended as follows:
>
> Strike "Committee on Labor and Human Resources" and insert in lieu thereof "Committee on Health, Education, Labor, and Pensions".
>
> Strike "Handicapped individuals" and insert in lieu thereof "Individuals with disabilities".

Mr. LOTT. That concludes our regular business.

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

Mr. LOTT. I believe we are prepared for the concluding presentation by the White House counsel.

I yield the floor, Mr. Chief Justice.

THE JOURNAL

The CHIEF JUSTICE. If there is no objection, the Journal of proceedings of the trial are approved to date. Under the provisions of Senate Resolution 16, the counsel for the President have 18 hours and 9 minutes remaining to make their presentation of their case.

The Presiding Officer now recognizes Mr. Counsel Kendall.

Mr. Counsel KENDALL. Mr. Chief Justice, Members of the Senate, managers from the House of Representatives, good afternoon. I am David Kendall of the law firm of Williams & Connolly. Since 1993 it has been my privilege to represent the President in the tortuous and meandering Whitewater investigation which, approximately a year ago, was transformed in a remarkable way into the Lewinsky investigation.

I want to address this afternoon certain allegations of obstruction of justice contained in article II of the articles of impeachment. Mr. Manager SENSENBRENNER remarked that no prior article allegation of obstruction of justice has ever reached this Chamber. So this is a case of first impression.

Deputy Counsel Cheryl Mills yesterday addressed the parts of article II pertaining to gifts and the President's conversations with Ms. Currie. I will cover, this afternoon, the remaining five subparts of article II. The evidence plainly shows that the President did not obstruct justice in any way and there is nothing in this article which would warrant his removal from office.

As I begin, I want to thank you for your open minds, for your attention, for your withholding judgment until you have heard all of our evidentiary presentation. There are a lot of myths about what the evidence is in this case. Some of them are misunderstandings based upon erroneous media reports, some spring from confusion in the evidence itself, and some are the result of concerted partisan distortion.

I want to talk to you this afternoon about what the record is and what the evidence actually shows. I apologize to you in advance if the process is tedious. What I think I have to request from you is your common sense and some uncommon patience. But the evidence—those stubborn facts—is critically important to inform your ultimate vote on these articles. I will do my best to avoid repetition and lawyer talk—although I am a lawyer.

In our trial memorandum, we gave you the citations to the evidence I am going to be referencing, so you can check the facts there. I want to say that I welcome your scrutiny.

My presentation this morning consists of six parts. I would like, if I could, to give you those as milestones. I want to make some remarks generally about evidence, and then I want to consider the specific evidence which is relevant to each of the five subparts I am going to be talking about. I am going to do them out of numerical order but what I hope is in a logical order. I am going to cover article I first, then article II, then article V, article VII, and article IV. Ms. Mills, yesterday, has already covered III and VI.

First of all, a few words about evidence. We have heard a great deal about the rule of law in the various presentations of the House managers. But what is at issue here—and I think Mr. Manager GRAHAM made this point very well—it is a solemn obligation, which is constitutionally committed to this body. Your decision, whatever it is, is not going to have some kind of domino effect that ineluctably leads to that midnight knock at the door. The rule of law is more than rhetoric. It means that in proceedings like these, where important rights are being adjudicated, that evidence matters, fairness matters, rules of procedural regularity matter, the presumption of innocence matters, and proportionality matters. The rule of law is not the monopoly of the House managers, and it ought to be practiced in these proceedings, as well as talked about in speeches.

We have heard a lot of pejorative rhetoric about legal hairsplitting that the President and his legal team have engaged in. As a member of that legal team, I paid attention to that rhetoric. But as I sat there listening to the various presentations, they struck me as somewhat odd, because one of the hallmarks of the rule of law is careful procedures and explicit laws which try to define rights for every citizen.

It is not legal hairsplitting to raise available defenses, or to point out gaps in the evidence, or to make legal arguments based upon precedent, however technical and politically unpopular some of those arguments may be. And I think it is particularly important in a proceeding like this where the charge is an accusation of a crime. Mr. Manager McCOLLUM was quite explicit in his argument that the first thing you have to determine here is whether the President committed any crimes.

I am going to try to focus on the facts and the evidence concerning obstruction of justice. I don't think there is a need for me to go into the law; we have set forth the relevant legal principles in our trial memorandum. Mr. Ruff and Ms. Mills very ably covered some of the governing principles, and Ms. Mills played some videotape excerpts of experts, and the law on obstruction of justice is relatively settled. Indeed, our primary disagreement with the very able House managers concerns the evidence and what it shows.

Now, in December the Judiciary Committee of the House of Representatives reported four articles of impeachment to the floor. Two of those—one alleging perjury in the President's January 17, 1998, deposition in the Paula Jones case, and one alleging abuse of power—were specifically considered by the House and just as specifically rejected, although the House managers had very cleverly attempted to weave into their discussion of the two articles that were adopted some of the rejected allegations.

Now, on the chart, article II alleges that the President has, in some way, impeded or covered up the existence of evidence relevant to the Paula Jones case. That is the whole focus of this article. It focuses on the alleged impact on the Paula Jones case. It is important because when we get to subpart (7), we will see that there is no way the allegations there could be a part of this article or impact the Paula Jones case.

The President supposedly accomplished this obstruction of justice through—and here I quote—"one or more of the following acts . . ."

Here, I think I should observe that this "one or more" menu, as it were, is plainly defective in a constitutional sense because, as we have pointed out in our answer and in our trial memorandum, and as Mr. Ruff has made clear in his presentation, such a format makes it impossible to assure that the constitutionally required two-thirds of Senators voting concur on any particular ground that is alleged. Since the Senate rules provide that you can't split up this menu—you have to cover all seven allegations together—it would be possible for the President to be convicted without that requisite two-thirds majority, because you might get 9 or 10 votes in favor of the article based on each of the 7 different grounds.

The Constitution, of course, gives the House of Representatives the sole power of impeachment and has exercised that power to adopt article II. However, several of the allegations about what the President did to obstruct justice, supposedly in the House managers' presentation, are nowhere contained in these seven subparts; they are simply not there.

For example, you heard repeatedly about the President's use in his deposition of the term "alone"—was he ever alone with Ms. Lewinsky. The managers claim that that somehow obstructed justice. The allegation that this consisted of an impeachable offense, however, was rejected when the House of Representatives voted down one of the four articles alleging deposition perjury.

You have also heard reference to the President's allegedly false and misleading answers to the 81 interrogatories sent to the President in November by the House Judiciary Committee. Again, an article based upon those interrogatory answers was voted down in the House of Representatives.

I would like you to bear in mind an image which Mr. Manager HUTCHINSON and Counsel Ruff share in some way. You will see that they didn't share it entirely. Mr. Manager HUTCHINSON referred to the "seven pillars of obstruction." Mr. White House Counsel Ruff referred to the seven shifting "sand castles of speculation." It won't surprise you that I agree with Mr. Ruff's characterization. But the important point is that there are 7 grounds in this article; there are not 8, there are not 19, there are 7 charges. That is what the House enacted and that is what we are going to address and rebut.

Before considering the five subparts of article II that I am going to be addressing, I would like to say a few words about the different kinds of evidence you are going to have to consider. There is, first, direct evidence. Now, this isn't the most probative kind of evidence, because it is the least ambiguous. It comes directly from the five senses of the witness. For example, when the witness testifies about something the witness did, that is direct evidence.

From the House managers' very skillful presentation, you would not be aware of the large amount of direct evidence which is in the record which refutes and contradicts the allegations of obstruction of justice. I am going to cover that in detail this afternoon.

The second kind of evidence is what the law calls circumstantial, and this describes any evidence which is probative only if a certain conclusion or inference is drawn from the evidence. Circumstantial evidence is admissible, but, by its definition, it is to some degree ambiguous because it is not direct. Its probative power—or its value—depends upon the strength of the inference you can logically draw from it.

Let me give you an example. You walk out of your house in the morning and you see the sidewalk is completely wet. You might conclude that it has rained the night before and you might be reasonably confident in that conclusion. However, were your sharp eyes to focus further and observe your neighbor's sprinkler sitting right by the sidewalk, dripping from the sprinkler head, you might want to revise your conclusion.

Circumstantial evidence is often subject to several different interpretations, and for this reason it has to be viewed very carefully. As one court has stated, "Circumstantial evidence presents a danger that the trier of fact may leave logical gaps in the proof offered and draw unwarranted conclusions based on probabilities of low degree."

If a criminal charge is to be based on conclusions drawn from circumstantial evidence rather than on direct evidence, those conclusions have got to be virtually unavoidable. Most of the obstruction case presented—and they have recognized this, and Mr. Manager HUTCHINSON recognized it on Saturday—is based on circumstantial evidence, and that evidence is, at best, profoundly ambiguous. They told you that they have painted a picture with circumstantial evidence. I think what they have in fact done is given you a Rorschach test.

I would like to now turn to the five subparts of article I which I intend to cover. And I want to describe, as to each, the relevant direct evidence in the record, the circumstantial evidence, and the portions of the managers' presentation which do not in fact constitute either kind of evidence but in fact represent speculation, theorizing, and hypothesis. What I believe you will find is that the direct evidence disproves the charges of obstruction and the managers have had to rely on contradictory and unpersuasive circumstantial evidence to try to make their case.

Subpart (1) of article II alleges that the President encouraged Ms. Lewinsky to execute an affidavit in the Paula Jones case "that he knew to be perjurious, false and misleading." The House managers allege that during a December 17 telephone conversation Ms. Lewinsky asked the President what she could do if she were subpoenaed in the Jones case and the President responded, "Well, maybe you could sign an affidavit." And that is a statement the President does not dispute making.

It is hard to believe, but this statement of the President to Ms. Lewinsky, advising her of the possibility of totally lawful conduct, is the House managers' entire factual basis for supporting the first allegation in subpart (1). The managers don't claim that the President advised her to file a false affidavit. That is not what subpart (1) alleges. And there is no evidence in the record anywhere to support such an allegation. Nor do the managers allege he even told her, advised her, urged her, or suggested to her what to put in her affidavit. The charge which the managers have spun out of this single statement by the President is refuted by the direct evidence.

First of all, Ms. Lewinsky has repeatedly and forcefully denied any and all suggestion that the President ever asked her to lie. In her proffer—and a proffer, of course, is an offer made to a prosecutor to try to get immunity—she made in her own handwriting on February 1, 1998, she stated explicitly that, "Neither the President nor anyone on his behalf asked or encouraged Ms. Lewinsky to lie."

In an FBI interview conducted on July 27, she made two similar statements. And you see them up here on the chart: "Neither the President or Jordan ever told Lewinsky that she had to lie."

"Neither the President nor anyone ever directed Lewinsky to say anything or to lie."

And it was the FBI agent who transcribed those two comments.

I would like to focus upon the fact that she told the FBI the President never directed her "to say anything or to lie."

I think that is particularly telling as the direct evidence in the context of this allegation that the President supposedly urged her to file an affidavit that he knew would be false.

Finally, in Ms. Lewinsky's August 20 grand jury testimony, she stated—and she had to volunteer to do it—"No one ever asked me to lie and I was never promised a job for my silence."

"No one ever asked me to lie and I was never promised a job for my silence."

Is there something difficult to understand here?

It is interesting to see how the House managers try to establish that somehow the President asked Ms. Lewinsky to file a false affidavit. But their argument essentially begs the question. They argue that the President in fact somehow encouraged her to lie because both parties knew the affidavit would have to be false and misleading to accomplish the desired result.

But again there is no evidence to support this conjecture, and in fact the opposite is true. Both Ms. Lewinsky and the President have testified repeatedly that, given the particular claims being made in the Jones case, they both honestly believe that a truthful, albeit limited, affidavit might—"might"—establish that Ms. Lewinsky had nothing relevant to offer in the way of testimony in the Jones case.

The President explained in his grand jury testimony on at least five occasions in response to the prosecutor's question that he believed Ms. Lewinsky could execute a truthful but limited affidavit that would have established there was no basis for calling her as a witness to testify in the Jones case.

For example, the President told the grand jury, "But I'm just telling you that it's certainly true what she says here, that we didn't have—there was no employment, no benefit in exchange, there was nothing having to do with sexual harassment. And if she defined sexual relationship in the way I think most Americans do . . . then she told the truth."

Or again, the President told the grand jury:

> I've already told you that I felt strongly that she could issue, that she could execute an affidavit that would be factually truthful, that might get her out of having to testify. . . . And did I hope she's be able to get out of testifying on an affidavit? Absolutely. Did I want her to execute a false affidavit? No, I did not.

It is important to bear in mind that the Paula Jones case was a sexual harassment case, although it turned out to be legally groundless, and it involved allegations of nonconsensual sexual solicitations. Ms. Lewinsky's relationship to the President had been consensual. She knew nothing whatsoever about the allegations in the Jones case. There is no evidence in the record that she had ever been in Arkansas in her life. And in any event, the Jones case arose out of factual allegations dating from May of 1991 when the President was Governor of Arkansas, long before Ms. Lewinsky had even met the President.

Now, it is not simply the President who believed that in the circumstances here Ms. Lewinsky could have filed an affidavit which could have been truthful and which might have gotten her released from testifying in a Jones case deposition. Ms. Lewinsky also has testified that she might have been able to file a truthful affidavit which would have accomplished that purpose. For example, she told the FBI in an interview after she obtained immunity on July 29 that she had told Linda Tripp that the purpose of an affidavit was to avoid being deposed, and that she thought one could do this by giving only a portion of the whole story so the Jones lawyers would not think the person giving the affidavit added anything of relevance to their case.

Again, in the same interview with the FBI, Ms. Lewinsky stated that the goal of such an affidavit was to be as benign as possible so as to avoid being deposed.

Again, in her grand jury testimony on August 6, Ms. Lewinsky testified that:

> I thought that signing an affidavit could range from anywhere—the point of it would be to deter or to prevent me from being deposed and so that there could range from anywhere between maybe just somehow somehow mentioning, you know, innocuous things.

It is not disputed that the President showed no interest in viewing a draft of Ms. Lewinsky's affidavit, did not review it, and, according to Ms. Lewinsky, said he did not need to see it. This fact is obviously exculpatory.

If the President were truly concerned about what was going into Ms. Lewinsky's affidavit, surely he would have wanted to review it prior to his summation.

Now, to counter this inference, the House managers offer speculation. Mr. Manager MCCOLLUM tried to downplay the significance of this fact by asking you to engage in sheer surmise. He said on Friday:

> I doubt seriously [the President] was talking about 15 other affidavits of somebody else and didn't like looking at affidavits anymore. I suspect and I would suggest to you that he was talking about 15 other drafts of this proposed affidavit since it had been around the Horn a lot of rounds.

Well, as the able House manager himself stated, this suggestion is mere suspicion, speculation; it flies in the face of Ms. Lewinsky's direct testimony. There is evidence of only a few drafts, and there is no evidence that the President ever saw any draft.

Now, Ms. Lewinsky was under no obligation to volunteer to the Paula Jones lawyers every last detail about her relationship with the President, and the fact that the President did not advise her or instruct her to do so is neither wrong nor an obstruction of justice. The fact is that the limited truthful affidavit might have established that Ms. Lewinsky's testimony was simply not relevant to the Jones case.

The President knew and had told Ms. Lewinsky that a great many other women he knew who had been subpoenaed by the Paula Jones lawyers had tried to avoid the burden, the expense, and the humiliation of a deposition by filing an affidavit in support of a motion to quash the deposition subpoena and by arguing in the affidavit that the subpoenaed woman had no relevant evidence for the Jones case. The Jones lawyers were casting a very wide net for evidence that they could use to embarrass the President. The discovery cutoff in the case was fast approaching—that is the point at which you can't take any more discovery—and there was some chance both Ms. Lewinsky and the President felt that she could escape deposition through an accurate but limited affidavit.

Moreover, there is significant evidence in the record that at the time she executed her affidavit, Ms. Lewinsky honestly could believe, honestly believed that she could deny a sexual relationship given what she believed to be the definition of that term. In an audiotape conversation which Linda Tripp, secretly recorded, Ms. Lewinsky declared:

> I never even came close to sleeping with the President. We didn't have sex.

Again, I would remind you of Mr. Craig's presentation yesterday concerning Ms. Lewinsky's understanding of the term "sexual relations," which was the same as the President's.

There is another part of the chronology here—and a circumstantial evidence case often rests heavily on chronology—that the House managers simply ignore in their attempt to fit some of the facts into a sinister pattern. Ms. Lewinsky's name appeared on the Paula Jones witness list which, the managers tell us accurately, the President's lawyers reviewed with him on Saturday, December 6. She was one of a great many people named on the witness list.

Now, if the President's concern was so intense about the appearance of her name on the list, would he have waited until December 17 to talk to her? There is no explanation for this delay, which is consistent with intense concern on the President's part, except that her appearance with a lot of others was not particularly troubling to him. The main reason for his phone call on December 17 to Ms. Lewinsky, the unrebutted evidence shows, is that he wanted to tell Ms. Lewinsky that Betty Currie's brother had died. Indeed, 3 days after that telephone call, Ms. Lewinsky attended the funeral of Ms. Currie's brother on December 20.

Now, insofar as you want to draw inferences from the chronology of events in December, this long delay is circumstantial evidence that the President felt no particular urgency either to alert Ms. Lewinsky that her name was on the witness list or make any suggestions to her about an affidavit. Remember her repeated testimony which is direct evidence: No one ever asked her to lie.

Now, subpart (2) of article II alleges that the President obstructed justice by encouraging Ms. Lewinsky, in that same late night telephone call—two of these articles rest on that same telephone call—to give perjurious, false and misleading testimony if and when she was called to testify personally in the Jones litigation.

Now, it was interesting to me that a couple of days ago the House managers released a response to our presentation and they concede here that the President and Ms. Lewinsky did not discuss the deposition that evening of December 17 because Monica—they call her Monica—had not been subpoenaed.

Well, that is true. There was no deposition subpoena received by Ms. Lewinsky until 2 days later. Now, the lawyers in the room know something about what witness lists are and what they contain that the civilian part of the world may not know. As lawyers get ready to go to trial, and the judge requires them to put their witnesses on the witness list, you put every witness you can think of who might conceivably be relevant—from Mr. Aardvark to Ms. Zanzibar. All of them go on the witness list. And that is what had happened here. It wasn't until you get something like a subpoena for a deposition that you know a witness is really going to be a significant player in the trial.

Well, let's look at the allegations here. And remember, these allegations focus on December 17, 2 days before Ms. Lewinsky is going to receive her subpoena. I think you logically begin with the direct evidence, and the direct evidence is the testimony of the two people involved in the telephone conversation, Ms. Lewinsky and the President. Ms. Lewinsky has repeatedly stated that no one ever urged her to lie and that this plainly applies to this December 17 conversation. She said, in her handwritten proffer that I had on the chart earlier, that the President did not ask her or encourage her to lie. She made that statement when talking to the independent counsel, when her fate was in the hands of the independent counsel, when her immunity agreement could be broken and she could be prosecuted. She has, nevertheless, continued to maintain that nobody asked her ever to lie. She said in the July 27 FBI interview neither the President nor Mr. Jordan ever told her she had to lie, and she said that in her grand jury testimony.

It is interesting to hear all the ways that the House managers—and they are very skillful—try to minimize the importance of this direct evidence. You would think Ms. Lewinsky's statements under oath were irrelevant to this case. She gave this testimony, for the most part, when she was subject to prosecution for perjury. It simply cannot be blandly dismissed because it was given under this threat. Indeed, Mr. Manager HUTCHINSON—and I would like to quote him—shares this same belief with me. He told you, standing right here, "that Ms. Lewinsky's testimony is credible and she has the motive to tell the truth because of her immunity agreement with the independent counsel, where she gets in trouble only if she lies."

Likewise, the President has consistently insisted he never asked Ms. Lewinsky to lie. In his grand jury testimony last August, he said that he and Ms. Lewinsky "might have talked about what to do in a non-legal context at some point in the past," if anybody inquired about their relationship, although he had no specific memory of such a conversation. And he testified that they did not talk about this in connection with Ms. Lewinsky's testimony in the Jones case.

He was asked by one of the prosecutors:

> In that conversation, [on December 17] or in any conversation in which you informed her she was on the witness list, did you tell her, you know, you can always say that you were coming to see Betty or bringing me letters? Did you tell her anything like that?
>
> [The President:] I don't remember. She was coming to see Betty. I can tell you this. I absolutely never asked her to lie.

There is, thus, no direct testimony from anybody that on December 17 the

President asked Ms. Lewinsky to lie if called to testify in the Jones case. Here the House managers don't really even rely on circumstantial evidence to refute the direct testimony of the two relevant witnesses. They rely, instead, on what they assert is logic. They claim that while the President maybe didn't specifically tell her to lie, he somehow suggested that she give a false account of their relationship. What you should infer, according to them, is based upon what they may have said about their relations at other times, previous times to this late night December 17 phone call, the President somehow suggested that she say the same thing at her deposition, something like, "You know, you can always say you were coming to see Betty, or that you were bringing me letters."

Their claim boils down, however, to the inferences to be drawn from the uncontested fact that in the past, before this time, before this December 17 phone call, the President and Ms. Lewinsky had discussions about what she should say if asked about the visits to the Oval Office.

Both have acknowledged that. Not surprisingly, at the time these conversations occurred they were both concerned to conceal their improper relationship from others while it was going on. Cover stories are an almost inevitable part of every improper relationship between two human beings. By its very nature the relationship is one that has to be concealed and, therefore, misleading cover stories inevitably accompanied that relationship.

Now, to say that is not to excuse it or to exonerate it or justify it; but, rather, to emphasize that the testimony about "visiting Betty" or "bringing me letters" is in the record, but it is not linked in any way to the December 17 phone call or to any testimony or affidavit with regard to the Jones case. Here again, I want to go to the direct evidence that is relevant on count 2, because it undercuts the managers' suggestion that this discussion of the cover stories actually occurred in the context of discussion about the Paula Jones case.

Now, here on a chart we have a blow-up of Ms. Lewinsky's—part of Ms. Lewinsky's handwritten proffer to the independent counsel on February 1, which makes it clear that she does recall having a discussion with the President in which he said that if anyone questioned her about visiting him, she should say she was either bringing him letters or visiting Betty Currie. But Ms. Lewinsky states, "there is truth to both of these statements." It was a cover story but there was some truth in it.

She also went out of her way in this proffer to emphasize that, while she did not recall precisely when the discussions about cover stories occurred, they occurred "prior to the subpoena in the Paula Jones case." That is what you see in her paragraph 11. Her paragraph 11 refers back to paragraph 2. And her point is that, while she and the President did have these discussions, it was not in the context of her testimony.

In paragraph 4 also, as you see from the chart or from your handout, as to the contents of any possible testimony, Ms. Lewinsky wrote that to the best of her recollection she did not believe she discussed the content of any deposition during the December 17 conversation with the President.

Now, in an FBI interview on July 31, after she had received immunity from the independent counsel, the FBI agent noted what Ms. Lewinsky had told him:

> Lewinsky advised, though they did not discuss the issue in specific relation[ship] to the Jones matter, she and Clinton had discussed what to say when asked about Lewinsky's visits to the White House.

This is direct evidence. Nobody denies that there was discussion of cover stories early in the relation, but there is no evidence that it occurred in connection in any way with the Jones case.

Again, despite Ms. Lewinsky's direct and unrefuted testimony about the December 17 telephone call, the House managers asked you to conclude that the President must have asked her to testify falsely, because she had, by her own account, on prior occasions, assured the President that she would deny the relationship.

Think for a moment about that: They ask you to accept their speculation, in the face of contradictory evidence from both parties, and use that as a basis on which to remove the President. Again, Ms. Lewinsky never stated that she told the President anything about denying their relationship on December 17, or at any other time, after she had been identified as a witness. Indeed, she testified in the grand jury that that discussion did not take place after she learned she was a witness in the Jones case. And, again, we have her grand jury testimony displayed on the chart. A grand juror is asking a question.

Question:

> Is it possible that you also had these discussions [about cover stories denying the relationship] after you learned that you were a witness in the Paula Jones case?
>
> [Ms. Lewinsky]: I don't believe so.

A juror—and these jurors were very good at questioning witnesses throughout this proceeding:

> Can you exclude that possibility?
>
> [Ms. Lewinsky]: I pretty much can. I really don't remember it.

Direct testimony given when Ms. Lewinsky was covered by an immunity agreement that can only be divested by her perjuring herself.

There is another thing that I think is relevant here, and that is that Ms. Lewinsky has stated several times that while these were cover stories, they were not untrue. In her handwritten proffer, as you have seen, she stated that she asked the President what to say if anyone asked her about her visits. He said you could mention Betty Currie or bringing me letters. And she added there was truth to both of these statements and that "[n]either of those statements [was] untrue." Indeed, she testified to the grand jury that she did, in fact, bring papers to the President and that on some occasions, she visited the Oval Office only to see Ms. Currie.

Question by a grand juror:

> Did you actually bring the President papers at all?
>
> Yes.
>
> All right. Tell us a little bit about that.
>
> It varied. Sometimes it was just actually copies of letters . . .

Again, in her August 6, 1998, grand jury appearance, Ms. Lewinsky testified:

> I saw Betty every time that I was there . . . most of the time my purpose was to see the President, but there were some times when I did just go see Betty but the President wasn't in the office.

Ms. Lewinsky and Ms. Currie were friends, and they did have a separate social relationship.

The managers assert that these stories were misleading, and the House committee report on the articles of impeachment declared that these stories about Ms. Currie and delivering papers was a "ruse that had no legitimate business purpose." In other words, while the so-called stories were literally true, the explanations might have been misleading. But the literal truth here, while it may appear legalistic and hairsplitting, is, in fact, a defense to both the perjury and the obstruction of justice charges under the rule of law. While the President and Ms. Lewinsky had discussed cover stories while their improper relationship was in progress, there is simply no evidence that they discussed this at any time when Ms. Lewinsky was a witness in the Jones case.

The next subpart I want to consider is subpart (5). Subpart (5) alleges that at the deposition, the President allowed his attorney to make false and misleading statements to a Federal judge characterizing an affidavit in order to prevent questioning deemed relevant by the judge.

It alleges obstruction solely because the President did not say anything when his attorney, Mr. Bennett, cited Ms. Lewinsky's affidavit in an unsuccessful argument to Judge Wright that evidence concerning Ms. Lewinsky should not be admitted at that point because it was irrelevant to the Jones case. At one point, Mr. Bennett, the President's lawyer, states that, according to the affidavit, "there is no sex of any kind in any manner, shape or form."

This claim, which also is presented in the perjury section, as Mr. Craig pointed out, is deficient as an allegation of obstruction, both as a matter of fact and as a matter of law.

But I will say one thing. The direct evidence on this point is uniquely available because there is only one witness who can testify about what was in his thoughts at a given moment, and the President has testified at great length in his grand jury testimony about what he was thinking at this point.

The President told the grand jury that he was simply not focusing closely on the exchange between the lawyers, but was instead concentrating on his own testimony.

He said:

> I'm not even sure I paid much attention to what he [Mr. Bennett] was saying. I was thinking. I was ready to get on with my testimony here and they were having these constant discussions all through the deposition.

And again the President testifies:

> I didn't pay any attention to this colloquy that went on. I was waiting for my instructions as a witness to go forward. I was worried about my own testimony.

I think Mr. Craig provided you with a background yesterday that I won't repeat here, but I would refer you to, about what was on the President's mind at the time.

Mr. Manager McCOLLUM made a very polished and articulate presentation to you, and he predicted that the President's lawyers were going to argue that the President sat in silence because he wasn't paying attention. We have, indeed, argued this, and it is the truth based upon what the President has testified he was thinking about. But Mr. McCOLLUM went on to argue that there was circumstantial evidence available from the videotape of the President at this deposition.

He stated:

> We've already seen the video. And you know that he was looking so intently. Remember, he was intensely following the conversation with his eyes. I don't know how anybody can say this man wasn't paying attention. He certainly wasn't thinking about anything else. That was very obvious from looking at the video.

We all saw the video during the House managers' presentations, and we saw a lot of the President at the deposition yesterday when Mr. Craig played the first part of it. If you observe the President throughout the time you have seen him on the video in the deposition, you will conclude that the look on his face was no different from what it was during other discussions or arguments of counsel about evidentiary or procedural matters. The videotape does not, fairly considered, indicate that the President was, in fact, focusing on the lengthy colloquy among the lawyers or that he knowingly made a decision not to correct his own lawyer.

The President has received a great deal of criticism, because at one point in his grand jury testimony, when asked about Mr. Bennett's statement, the President responds to the prosecutor that whether Mr. Bennett's statement is true depends on what the meaning of the word "is" is. That is, "there is no sex of any kind."

That has gotten its share of laughs. But when you read the President's grand jury transcript in context, this was a serious matter, and it is apparent that the President was not in any way describing what was in his own mind at the time of the deposition, but he rather was discussing Mr. Bennett's statement from the vantage point of the President's later grand jury testimony. He is interpreting what his own lawyer was saying. Mr. Craig pointed this out yesterday.

That interpretation is not perjury in article I, and it is not obstruction of justice in article II. What the exchange was was that the President, in response to one of the prosecutors, explains why, on one reading Mr. Bennett's statement, it may not be false.

Now, it may be hairsplitting and it may be professorial and it may be technical, but the important thing is it is a retrospective assessment. The President is not talking about himself. He is talking about how to construe Mr. Bennett's statement. And what he says is, there is a way in which Mr. Bennett's statement at the deposition is accurate; that is, if Mr. Bennett was referring to the relationship between the President and Ms. Lewinsky on that date, it was an accurate statement because the improper relationship was over a long time earlier.

Now, the relevant point here is that the President's disquisition on the word "is" and its meaning was not an attempt to explain his own thinking at the time of the deposition, but was rather his later interpretation of what Mr. Bennett had said at the deposition.

In light of the President's direct unequivocal testimony, this speculation about what was in his mind is simply baseless, and there is, in fact, no evidence to support the charge leveled in subpart (5) of article II.

There is another reason to reject the charge; and that is, that the law imposes no obligation on the client to monitor his or her lawyer's every statement and representation, particularly in a civil deposition, in which the client is being questioned, clients are routinely advised to focus on the questions posed, think carefully about the answer, answer only the question asked and ignore distractions. And sometimes, sad to say, the statements of one's own lawyer can be a distraction. And those of you who are lawyers and have defended people in depositions know that that is the advice you give the client.

There was good reason for the President to be thinking about his own testimony and leave the legal fencing to the lawyers, because whatever else may be said about him, there can be no doubt that the Jones case itself was a vehicle for partisan attack on the President and that he was going to be facing a series of hostile and difficult questions at the deposition.

Now, Judge Wright ultimately ruled that, giving Ms. Jones every benefit of the doubt, she had failed both legally and factually to present allegations that merited going to trial. But while it was legally meritless, while it was going on, the case did impose a significant toll on the President both personally and politically.

And let's be clear about one other thing while we are looking at this deposition and while you review the significance of the President listening in silence to Mr. Bennett's conduct. As Mr. Craig described yesterday, Judge Wright, in fact, interrupted Mr. Bennett in mid sentence as he was describing Ms. Jones' affidavit. She didn't allow him to complete his objection in which he cited the Lewinsky affidavit. She quickly interjected—and this is sometimes what judges do to the most learned of lawyers—she quickly interjected and said, "No, just a moment, let me make my ruling." And then she proceeded to allow the very line of questioning that Mr. Bennett was trying to prevent. So the President's silence, whatever motivated it, had absolutely no impact on the conduct of the Jones deposition.

And also let's be clear about one other thing: Nothing about this interchange between Mr. Bennett and Judge Wright blocked the ability of the Jones lawyers to obtain information about the President's relationship with Ms. Lewinsky because the Jones lawyers had been briefed the night before in great detail by Ms. Linda Tripp. Ms. Tripp had already gotten her own immunity agreement from the Office of Independent Counsel and had set up a lunch with Ms. Lewinsky at the Ritz-Carlton Hotel the day before the deposition, Friday, January 16. And at that lunch, of course, Ms. Lewinsky was apprehended by the Office of Independent Counsel and held for the next 12 hours. In the meantime, however, Ms. Tripp goes back to her home where she meets with the Jones lawyers that Friday night before the deposition and loads them up with all the information she has obtained from her illegal, secret audiotaping of Ms. Lewinsky. That is why they were able to ask the questions they did with such specificity and conviction.

Indeed, there is one point in the examination of the President where he says to the Jones lawyer who is examining him, Mr. Fisher—he asked the question. And Fisher says, "Sir, I think this will come"—he asked a question about "Can you tell me why you are asking these specific questions?" and Fisher replies, "Sir, I think this will come to light shortly, and you'll understand."

Well, how ironic that I am making a presentation today on January 21 because it did come to light—just as Mr. Fisher knew it would; just as Ms. Tripp knew it would—it came to light 1 year ago exactly when the story broke in the Washington Post. This fleeting exchange between Mr. Bennett and Judge Wright before she overruled his objection could not and didn't have any impact on the Jones lawyers' conduct.

Now, I want to look briefly at one other part of subpart (5) because it alleges—continues to make one other allegation: Such false and misleading statements at the deposition by Mr. Bennett allegedly were subsequently acknowledged by Mr. Bennett in a communication with the judge.

Now, if you look at Mr. Bennett's letter, however, that is not at all what the letter says. Mr. Bennett wrote to the judge on September 30 of last year. This is after the referral had come to Congress and after the House of Representatives had seen fit to release Ms. Lewinsky's grand jury testimony. Mr. Bennett does not, as the article alleges, acknowledge that he himself made false and misleading statements or that the President, either by his word or silence, made such statements. What Mr. Bennett does do in this letter, as you can see, is call the court's attention to the fact that Ms. Lewinsky herself had testified before a Federal grand jury in August. And—contrary to her earlier statements—she stated that portions of her affidavit were, according to her, false and misleading. Mr. Bennett's letter, bringing this to the judge's attention, was a matter of professional obligation and responsibility. It in no way is evidence supporting subpart (5).

Take a break?

The CHIEF JUSTICE. The Chair recognizes the majority leader.

RECESS

Mr. LOTT. Mr. Chief Justice, Mr. Kendall, indicating that he is about halfway through his presentation——

Mr. Counsel KENDALL. That is correct, sir.

Mr. LOTT. I would, then, ask unanimous consent we have a temporary recess for 15 minutes.

There being no objection, at 2:09 p.m., the Senate recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

Mr. CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Mr. Chief Justice, I believe the Senate is ready to proceed now with the presentation by Counsel Kendall.

The CHIEF JUSTICE. The Chair recognizes Counsel Kendall.

Mr. Counsel KENDALL. Thank you, Mr. Chief Justice.

Subpart (7)—we have two more subparts to go. I will take them out of order. Subpart (7) of article II alleges that the President obstructed justice when he relayed or told certain White House officials things about his relationship with Ms. Lewinsky that were false and misleading. This is another example of double billing in the two articles. This charge is leveled in article I, and it appears here in article II. Yesterday, Mr. Craig explained why these statements didn't constitute perjury, and I would like to take just a few minutes this afternoon to explain why they don't constitute an obstruction of justice, either.

First of all, and most obviously, there is no way—I said this in the beginning—there is no way that the statements of the aides could be in any way part of a scheme to deny Ms. Jones of evidence. I think on this ground alone subpart (7) fails, because if you look at what is alleged in article II, it is that the President obstructed justice in order to delay, impede, et cetera, existence of testimony related to Ms. Jones' lawsuit. There is no way here that whatever the President said to an aide could have done that.

The statements, which this subpart (7) addresses, were statements that the President made very shortly after the Lewinsky publicity had broken to Mr. Bowles, Mr. Podesta, Mr. Blumenthal and Mr. Ickes, none of whom were witnesses in the Paula Jones case. They were on none of the witness lists, and they had no evidence at all relevant to the Paula Jones case since they had been working for the President. They weren't working for the President when he was Governor of Arkansas in May of 1991, and they weren't individuals subject to discovery. So these four aides just had no evidence whatsoever that they could contribute to the Paula Jones case.

But there is another more fundamental reason why this article is flawed as a matter both of the evidence and the law. The President has admitted misleading his family, his staff, and the Nation about his conduct with Ms. Lewinsky. And he has expressed profound regret for that conduct. Subpart (7), however, alleges that he should be impeached and removed from office simply because he failed to be candid with these particular four White House aides and misled them about the nature of his relationship with Ms. Lewinsky.

These allegedly impeachable denials to the four aides occurred, as I said, right after the publicity broke. And one of them occurred on January 21, last year, and then also on the 23rd and the 26th. This was at the very time the President denied he had had sexual relations with Ms. Lewinsky in nearly identical terms on national television to whoever throughout the United States happened to be watching at that time.

Having made this denial to the entire country, it simply is absurd to regard it any differently when made to four aides in the White House directly and person-to-person rather than through the medium of television. The President talked to these individuals about the Lewinsky matter because of his personal relationship and his direct professional exposure to them on a daily basis. He spoke to them, however, misleadingly in an attempt to allay their concern once the allegations about Ms. Lewinsky become public.

No discovery here—never yet found a place in which discovery would benefit the case for either side—but no discovery here is going to illuminate the record in any way. These four witnesses have testified before the independent counsel's grand jury on several occasions.

I think it is important to observe also that there is no way this interchange between the President and his aides could have affected evidence because his statements to them were hearsay which they would have reported accurately to the grand jury when asked. And by "hearsay," all they can testify to is what the President told them, and they could do that accurately. But their own testimony, based on whatever knowledge or observation or direct sensory evidence they might have, was not affected in any way by the President's statement. None of these aides had any independent knowledge of the relationship between the President and Ms. Lewinsky and, therefore, the only evidence they do offer would be a hearsay repetition of what the President had told them. And that was the same public denial that he had told everyone, including, presumably, any member of the grand jury who had his or her television set on on that Monday, January 26.

But under the strained theory—you really have to focus on this—under this theory, any citizen of the United States who heard that denial could form the basis for an allegation of impeachable conduct and removal of the President from office.

I think this subpart (7) of article II fails for a number of reasons not related to the Paula Jones case, and it violates common sense.

Let me turn to subpart (4). This subpart alleges that the President obstructed justice when he intensified and succeeded in an effort to secure job assistance for Ms. Lewinsky in order to corruptly prevent her truthful testimony. The claim here is of a quid pro quo, a "this for that." His job assistance was allegedly in order to prevent her truthful testimony.

I want to note a couple of things here. First of all, this word "intensified"—this word "intensified" is a pretty slippery word. It doesn't say "originated" or "began." It says "intensified." And that allegation implicitly recognizes—it tries to avoid the thrust of its own logic—it recognizes that the job search Ms. Lewinsky was conducting had begun long before there was any connection to the Paula Jones case, and the undisputed facts are going to reveal that Vernon Jordan and others were trying to help her long before she appeared on the list of witnesses Ms. Jones was considering calling.

The second thing I want to emphasize is the quid pro quo nature of the allegation. Quid pro quo is a good Latin term meaning "this for that." In "order to" is the allegation of subpart (4). The job assistance was "in order to" prevent Ms. Lewinsky's truthful testimony.

Well, I want to review the evidence a bit because there is not only no evidence in the record; there is a lot of contradictory evidence, both direct and circumstantial. We have heard a great deal in the various presentations about Mr. Jordan's assistance to Ms. Lewinsky. But I was surprised to sit right over there through 11 hours 52 minutes, by my watch, of the House managers' very able presentation, and I heard almost nothing about what actually happened in New York City as a result of Mr. Jordan's efforts. But when we review the evidence—and it is all right here. Don't worry, I am not going to review every page of it. But it is all here. When we review this evidence which is available—all you have to do is read it—we get a very different picture from what we got from the able House managers. There is no secret about it, nor is there any conflict in the testimony of these witnesses. There is no need for further discovery here, as I will show, because the testimony is consistent.

Now, the proof that is in the record is that there was no corrupt linkage, no assistance whatsoever which was designed and focused to get Ms. Lewinsky to do anything—nothing which tied the job assistance to what was going on in the Jones case. Mr. Jordan did help open doors, and Ms. Lewinsky went through those doors, and she either succeeded or failed on her own merits. Two of the companies declined to offer her a job, and at the third she did get an entry-level job, which she received on her own merits.

There was no fix, no quid pro quo, no link to the Jones case. And also there was no urgency to Mr. Jordan's assistance to her. He started assisting her well before she showed up on the Jones witness list, and he helped her whenever he could, consistent with his own heavy travel schedule. There is the allegation of a quid pro quo, but there is nothing in the evidence to support the "pro" part of it.

What the House managers have tried to do—and they are skillful prosecutors, they are able, they are experienced, they are polished, and they know what they are doing—they have tried to juxtapose unrelated events and, by a selective chronology, tried to establish causation between two wholly unrelated sets of events. And there an old logical fallacy—you have had enough Latin today—that just because something comes after something, it was caused by the preceding event. It is like the rooster crowing and taking credit for the sun coming up. When you look at the House managers' case, there is a lot of that going on, because we will see there is no real existence of causal connection and we will also see that a lot of the chronology you have been given is erroneous.

As I said earlier, there is no evidence, either direct or circumstantial, to support this quid pro quo allegation.

Now, let's start with the direct evidence, the most logical place to begin. It could not be more unequivocal. Let's start with Ms. Lewinsky. First of all, her New York job search began on her own initiative long before any involvement in the Jones case. Moving to New York was her own idea, and it was one she raised in July of 1997. This geographical move did not affect in any way her exposure to a subpoena in the Paula Jones case.

Under the Federal Rules of Civil Procedure, of course, a witness can be subpoenaed in any Federal district, no matter where the case is pending. And, indeed, a great many of the depositions in the Paula Jones case took place outside the State of Arkansas. For this reason, Mr. Manager BARR's assertion that the President wanted Ms. Lewinsky to go to New York because it would "make her much more difficult, if not impossible, to reach as a witness in the Jones case" is entirely untenable; she was just as vulnerable to subpoena in New York as she was in Washington. And, indeed, she was already under subpoena in January when she was finalizing her move. This contention just does not withstand scrutiny.

Now, Ms. Lewinsky testified:

> I was never promised a job for my silence.

You can't get any plainer than that. She testified that her job search had no relation to anything that she might do in the Jones case. In her July 27 interview with the FBI, the FBI agent recorded her statement that there was no agreement with the President, with Mr. Jordan, or anyone else that she had to sign a Jones affidavit before getting a job in New York. She told the FBI agent explicitly that she had never demanded from Mr. Jordan a job in exchange for a favorable affidavit and neither the President nor Mr. Jordan nor anyone else had ever made this proposition to her.

Now, Mr. Jordan, who is an eloquent and exceedingly articulate man, took care of that claim in his own grand jury testimony. He was asked about any connection between the job search and the affidavit. He said there was absolutely none. He said on March 5 as far as he was concerned these were two entirely separate matters. And in his grand jury appearance on May 5 he was asked whether the two were connected, and Mr. Jordan said, "Unequivocally, indubitably, no."

The President has likewise testified that there was no connection between the Jones case and Ms. Lewinsky's job search. He told the grand jury:

> I was not trying to buy her silence or get Vernon Jordan to buy her silence. I thought she was a good person. She had not been involved with me for a long time in any improper way, several months, and I wanted to help her get on with her life. It is just as simple as that.

Quid pro quo? No. The uncontested facts bear out these categorical denials of the three most involved people. Ms. Lewinsky began looking for a job in July of 1997, and the event which hardened her resolve to move to New York was a report by her ostensible good friend, Ms. Linda Tripp, on or about October 6 that one of Ms. Tripp's friends at the National Security Council said that Ms. Lewinsky would never ever get a job in the White House again.

Now, it turns out that this disclosure, like so much else Ms. Tripp said, is false. Ms. Tripp's NSC friend said no such thing. But it did have a profound impact on Ms. Lewinsky, who described it as the straw that broke the camel's back. It was plain to her then that she was never going to be able to get another White House job.

Mr. Jordan's assistance of Ms. Lewinsky began about a month before Ms. Lewinsky learned—about 6 weeks before she learned she was a possible witness in the Jones case. Ms. Lewinsky testified that she had discussed with Linda Tripp sometime in late September or early October the idea of asking for Mr. Jordan's assistance, and Ms. Lewinsky indicated she could not recall if it were her idea or Linda Tripp's idea, but in any event Mr. Jordan became involved sometime later at the direction not of the President but of Ms. Currie, who was a longtime friend of Mr. Jordan and who had discussed with Ms. Lewinsky her job search. Now, Ms. Currie had previously assisted Ms. Lewinsky in making contact with Ambassador Bill Richardson at the U.N. Ms. Lewinsky's first meeting was with Mr. Jordan on November 5, and Ms. Lewinsky testified that the meeting lasted about 20 minutes and that they had discussed a list of possible employers she was interested in. She never told Mr. Jordan that there was any time constraint on his assistance, and both she and Mr. Jordan traveled a great deal out of the country and in the country in that November-December period.

Now, Mr. Jordan testified unequivocally that he never, at any time, felt any particular pressure to get Ms. Lewinsky a job. This is plain and powerful and unrebutted testimony. He was asked in the grand jury if you recall any "kind of a heightened sense of urgency by Ms. Currie or anyone at the White House" about helping Ms. Lewinsky during the first half of December?

And he replied, "Oh, no, I do not recall any heightened sense of urgency. What I do recall is that I dealt with it as I had time to do it."

Now, let me just pause here and observe that if there had been any improper motive or any sinister effort to silence Ms. Lewinsky, it would have been extremely easy for the President to have arranged for her to be hired at the White House. If there were some corrupt intent to silence her, that was an obvious solution because she very much wanted to go back to work at the White House. It mattered to her a great deal. But, while she was interviewed a couple of times by White House officials in the summer of 1997, those interviews never resulted in a job offer. The fix was not in. There was no corrupt effort to bring Ms. Lewinsky back, give her a White House job or, indeed, transfer her in any way from her Pentagon job.

Now, she continued her job search efforts with the assistance of some of the White House people. In late October or early November, she told her boss at the Pentagon, Mr. Kenneth Bacon, that she wanted to leave and move to New York City. She enlisted his assistance in trying to help her get a private sector job, and he helped her because she had done good work for him. He had a positive impression and testified that he wanted to do whatever he could for her.

In November of 1997, her supervisor at the Pentagon indicated that Ms. Lewinsky gave notice of an intention to quit her Pentagon job at the year end.

Now, before we get to the private sector firms that Ms. Lewinsky went to, I want to pause and make the point that she had a United Nations delegation job in her back pocket. Back pocket is a male image—perhaps in her purse. She had it in her hand and available, all during this period.

In early October at the request of Ms. Currie, Mr. Podesta—John Podesta, who was then the White House Deputy Chief of Staff—had asked Ambassador Bill Richardson to consider Ms. Lewinsky for a position at the U.N. The Ambassador testified that he did not take this as a "pressure call." He said "there was no pressure anywhere by anybody" to hire Ms. Lewinsky.

Ms. Currie testified to the grand jury, without contradiction, that she was acting on her own, as Ms. Lewinsky's friend, in trying to help her.

Now, Ms. Lewinsky interviewed for the U.N. position on October 31 with Ambassador Richardson. And he, through his staff, offered her a job on November 3. Ambassador Richardson testified to the grand jury that he never spoke to the President or Mr. Jordan about Ms. Lewinsky, that he was impressed by her, that he made the offer on the merits, and that no one had pressured him to hire her.

He testified specifically to the grand jury on April 30, "This was my decision to hire her. I did not do it under any pressure or anything. I felt that she would be suitable for the job, and I didn't feel I had to report to anybody. It's not in my nature. I don't take pressure well on personnel matters. I'm a Cabinet member. I don't have to account for anything. This was mine, my choice, my decision. And I stand behind it."

He also declared, "What I did was routine."

This fact was highly significant, because although this job was not precisely the job Ms. Lewinsky wanted, it was a job in New York, and she kept this open until January 5 when she finally turned it down. Now, it was Mr. Manager BRYANT who referred to this in passing—just kind of walked around it. He disparaged it in the way a good trial lawyer does—recognize it is there, but then move around and away from it. But it is an important fact and it tears a very large hole in their circumstantial evidence case. Because she had in her hand, I will say, this job offer all through this period of November and December and into January. It wasn't precisely what she wanted but it was a good job. It was in New York City. And there was no urgent necessity for her, connected with her private sector job search. Once again, quid pro quo? No.

Now, there is a lot of further direct evidence concerning her job search. And this is contained in a great many interviews in grand jury transcript from the people at the various New York firms Mr. Jordan contacted on Ms. Lewinsky's behalf. Again, there is simply no direct evidence whatsoever from any of these people of any kind of quid pro quo treatment. While Mr. Jordan made the contacts on her behalf, there was no urgency about them. There was no pressure, and they were wholly unrelated to the Jones case.

Let's recognize the obvious here. The President's relation, improper relation with Ms. Lewinsky, had been over for many months. He continued to see her from time to time. He did what he could to be of assistance to her as she sought employment in New York because, as he testified, she was a good person, and he was trying to help her get on with her life.

Mr. Jordan was able to open some doors, but once open, there was no inappropriate pressure. He really opened three doors for her: at American Express, at Young & Rubicam, and at Revlon. And she batted one for three. And actually in job searches, as in baseball, I, at least, will take that batting average any day of the week. But she succeeded on her own once she was through the door, and her getting through the door had no relation to the Paula Jones case.

Let's, first of all, take a look at what happened with American Express and see whether in direct or circumstantial evidence there is any evidence of a quid pro quo here. The independent counsel conducted a very large number of interviews and also summoned a great many witnesses from each of these three sets of companies. Mr. Jordan was a member of the American Express board of directors, and he telephoned a Ms. Ursula Fairbairn, the Executive Vice President of Human Resources at American Express on December 10 or 11. And he told Ms. Fairbairn that he wanted to send her the resume of a talented young woman in Washington, to see whether she matched up to any openings at American Express.

Ms. Fairbairn told the FBI that it was not at all unusual for American Express board members or other company officers to recommend young people for employment. Ms. Fairbairn said Mr. Jordan did not, in fact, mention any White House connection that the applicant had, and he exerted no pressure at all on her to hire the applicant. Ms. Fairbairn recalled that Mr. Jordan made another employment recommendation about 2 months earlier and indicated this was simply not an unusual request.

Now, the Office of Independent Counsel also—you see it on the chart—interviewed Thomas Schick at American Express. He is the Executive Vice President for Corporate Affairs and Communications.

Ms. Fairbairn had sent the name and resume to Mr. Schick because she thought that is where Ms. Lewinsky might fit in, and he interviewed Ms. Lewinsky on December 23 in Washington. He decided after this interview not to hire Ms. Lewinsky because she was—he felt she was lacking in experience and he also thought that American Express was probably not the right kind of company for her, given what she had told him she was interested in at the interview, and that she probably would be better off going to a public relations firm.

The decision not to hire, he told the FBI, was entirely his own. He felt no pressure to either hire or not hire Ms. Lewinsky and never talked to Mr. Jordan at any time during this process. Once again, quid pro quo? No.

The second company—actually two companies. It is Young & Rubicam and Burson-Marsteller. Mr. Jordan called Peter Georgescu, the chairman and CEO of Young & Rubicam, the large New York advertising agency. Mr. Jordan had no formal connection with the company, but he had been a friend of Mr. Georgescu's for over 20 years.

Mr. Georgescu was interviewed by investigators of the Office of Independent Counsel and said that sometime in December 1997, Mr. Jordan had telephoned him and had asked him to take a look at a young person from the White House for possible work in the New York area.

Mr. Georgescu had responded, "We'll take a look at her in the usual way." And he stated that that was a kind of a code between him and Mr. Jordan, and it meant that if there was an opening for which she was qualified, she would be interviewed and hired, but there would be no special treatment. He testified that Mr. Jordan understood that, and he also said that Mr. Jordan did not engage in any kind of sales pitch about Lewinsky.

Mr. Georgescu said that he then initiated an interview on behalf of Ms. Lewinsky, but his own involvement was arm's length, and that she succeeded or failed totally on her own merits.

He recalled that Mr. Jordan had made another similar request on a previous occasion, and he said that he and Mr. Jordan frequently exchanged opinions about people in the advertising business on an informal basis.

As a result of this telephone call, Ms. Lewinsky was interviewed by another person, a Ms. Celia Berk, who was the managing director of human resources at Burson-Marsteller, a public relations firm that was a division of Young & Rubicam. According to Ms. Berk, this interview was handled "by the book," and while Ms. Lewinsky's interviews were a little bit accelerated, they went through the normal steps.

Ms. Berk testified that nobody put any pressure on her. She said that while both she and the director of corporate practice at Burson-Marsteller, Erin Mills, and another corporate practice associate, Ziad Toubassy, had all liked Ms. Lewinsky and felt she was well qualified, the chairman of the corporate practice group, Mr. Gus Weill had decided not to hire Lewinsky.

Ms. Mills testified that the procedure under which Ms. Lewinsky was considered involved nothing out of the ordinary. Not a single one of these witnesses testified there was any urgency connected with Mr. Jordan's request.

Ms. Mills also told the FBI that despite the fact that Ms. Lewinsky had been referred by the chairman of Young & Rubicam, their consideration of her was entirely objective. She thought that Ms. Lewinsky was poised and qualified for an entry-level position, but Mr. Weill decided to take a pass. Once again, quid pro quo? No.

Mr. Jordan was a member of the board of directors of Revlon, a company wholly owned by MacAndrews & Forbes Holding company, and Mr. Jordan's law firm had done legal work for both of these companies.

The corporate structure here is complicated, but I will be talking basically about two firms: Revlon—I think we all know what Revlon does—and its parent company, MacAndrews & Forbes Holding.

Mr. Jordan telephoned his old friend, Mr. Richard Halperin, at the holding company on December 11 and said that he had an interviewee or he had an applicant that he wanted to recommend, and he gave Mr. Halperin some information about her. Mr. Halperin testified to the grand jury that it wasn't unusual for Mr. Jordan to call him with an employment recommendation. He had done so at least three other times that Mr. Halperin could recall.

On this occasion, Mr. Jordan told Mr. Halperin on the telephone that Ms. Lewinsky was bright, energetic, enthusiastic, and he encouraged Mr. Halperin to meet with her. Mr. Halperin didn't think there was anything unusual about Mr. Jordan's request, and he testified that in the telephone call Mr. Jordan did not ask him to consider Ms. Lewinsky on any particular timetable, no acceleration of any kind. Indeed, far from there being some heightened sense of urgency, Mr. Halperin explicitly told the FBI that there was no implied time constraint or requirement for fast action.

Ms. Lewinsky came up to New York City and she interviewed with Mr. Halperin on December 18, 1997. Mr. Halperin described her as follows: As a "typical young, capable, enthusiastic Washington, DC-type individual." I don't know if that is pejorative or not——

(Laughter.)

Who described her primary interest as being in public relations. He and Ms. Lewinsky talked about the various companies that MacAndrews & Forbes controlled, and Ms. Lewinsky identified Revlon as a company that she would like to be considered at, and Mr. Halperin decided to send her there for an interview.

Mr. Halperin sent her resume to another person at the holding company—not at Revlon, at the holding company—to a Mr. Jaymie Durnan who was a senior vice president there. He got the resume in mid-December, and he decided to interview her in early January.

You have at the holding company two sets of interviews of Ms. Lewinsky going on. When he returned in early January, Mr. Durnan also scheduled an interview. He met with Ms. Lewinsky on January 8. His decision was made entirely independently of Mr. Halperin's decision, and he wasn't even aware Mr. Halperin had seen Ms. Lewinsky when he met with her on January 8.

Mr. Durnan met with Ms. Lewinsky in the morning and he thought—now there is his view and you are going to get two views of this interview—Mr. Durnan thought she was an impressive applicant for entry-level work. He was impressed with her, particularly by her work experience at the Pentagon, he told the FBI. He felt she would fit in with the parent company, but there were not any openings there.

Based upon what she had said her interests were, he decided to send her resume over to Revlon, because he thought it matched up well with her interests. He sent the resume over, and he left a message—and now we are going to come to a Revlon person—he left a message with Ms. Allyn Seidman, who was the senior vice president of corporate communications at Revlon.

Now cut to Ms. Lewinsky. Ms. Lewinsky had had a very good interview with Mr. Halperin, both she and Mr. Halperin thought. However, for reasons the record doesn't make clear, Ms. Lewinsky's impression of the Durnan interview was dismal. She thought the interview had not gone well. She thought it had gone poorly. She described herself as being upset and distressed. She had no idea of his positive reaction to her. And this is not just a late analysis. He had already sent the resume. He sent the resume over to Revlon immediately after their interview. But in any event, Ms. Lewinsky was afraid it had gone poorly, that she had embarrassed Mr. Jordan. So she called up Mr. Jordan.

And on that same day—later—January 8, Mr. Jordan spoke, by telephone, to the CEO of MacAndrews & Forbes, his friend, Mr. Ronald Perelman. He mentioned to Mr. Perelman that Ms. Lewinsky had interviewed at MacAndrews & Forbes, but he made no specific request and he did not ask Mr. Perelman to specifically intervene in any way.

Now, later that day—and I know this is complicated—Mr. Durnan happened to speak—Mr. Durnan is the second interviewer that Ms. Lewinsky happened to speak to—happened to speak to Mr. Perelman, and Perelman mentioned he had a call from Mr. Jordan about a job candidate. Perelman then said to Durnan, "Let's see what we can do." And Durnan indicated he already, on his own initiative, had been working on this, had talked to Ms. Lewinsky, had sent her resume over to Revlon.

Mr. Perelman, later that day, phoned Mr. Jordan back to say everything is all right, she appeared to be doing a good job, the resume was over at Revlon. Mr. Jordan expressed no urgency, no time constraints. Mr. Perelman didn't say anything out of the ordinary had happened, because it had not.

Now, later that same day, after speaking to Mr. Perelman, Mr. Durnan phoned Ms. Seidman at Revlon, and sent the resume over earlier in the day. He didn't say that Mr. Perelman had mentioned Ms. Lewinsky to him. He simply said to Ms. Seidman: Look, I sent you a resume. I have met with the young woman. If you think she is good, you should hire her.

According to Mr. Durnan, Mr. Perelman never said or implied that Ms. Lewinsky had to be hired. And indeed, Mr. Durnan had already interviewed her and formed a positive impression. According to Ms. Seidman, who is at Revlon, Mr. Durnan gave her a similar account that he gave to the grand jury. He said she ought to interview Ms. Lewinsky, make her own decision, hire her if she thought she was a good candidate only.

The record is crystal clear that Ms. Seidman over at Revlon had no knowledge that Mr. Perelman had ever spoken to anyone about Ms. Lewinsky. Ms. Seidman testified that she made an independent assessment of Ms. Lewinsky. She interviewed her the next day. She told the grand jury that she found Ms. Lewinsky to be "a talented, enthusiastic, bright young woman who was very eager. I liked that in my department."

At the conclusion of the interview, she intended to make an offer to Ms. Lewinsky, but it was contingent on the opinion of two other people—a Ms. Jenna Sheldon, who is the manager of human resources at Revlon, and Ms. Nancy Risdon, who is the manager of public relations for corporate affairs. Ms. Seidman testified that after they both interviewed Ms. Lewinsky, Ms. Risdon told her that she found her very impressive, and Ms. Sheldon had also been very impressed. Ms. Risdon told the FBI that she had been impressed with Ms. Lewinsky who, although she had no public relations experience, was "bright and articulate." On the basis of all this, Ms. Seidman decided to offer Ms. Lewinsky an entry-level job as public relations administrator. The offer was made, and Ms. Lewinsky accepted. And, I repeat, the record evidence is uncontradicted that the fix was not on at all in this process.

This was the third company Ms. Lewinsky had interviewed with, and on this series of interviews she was successful. Nobody in any of these companies suggested there was any quid pro quo link. The only person—the only person—in this record who talked about trying to have Ms. Lewinsky use signing of the affidavit as leverage to get a job was none other than Linda Tripp, that paragon of fateful friendship.

On the audiotapes, it is Ms. Tripp who frequently urges Ms. Lewinsky not to sign an affidavit until she has a job in New York. It is not clear if Ms. Tripp knew about the UN job that Ms. Lewinsky had. She—on the audiotape, Ms. Lewinsky sometimes professes agreement with Ms. Tripp's advice, saying she will not sign an affidavit until she has a job. But, as Ms. Lewinsky testified to the grand jury—and, again, Ms. Lewinsky is testifying under the threat of perjury, which will blow away her immunity agreement—she was lying to Ms. Tripp when she said she would wait to sign the affidavit until she got a job.

As Ms. Lewinsky testified to the grand jury, her statement to Ms. Tripp about Mr. Jordan assisting her in a quid pro quo sense was not true. She said it only because Ms. Tripp was insisting that she promise her not to do this. But, in fact, the affidavit was already signed when Ms. Lewinsky made that promise. Once again, quid pro quo? No. That is some of the direct evidence.

Now, let's look at the circumstantial evidence, the alleged circumstantial evidence. The quid pro quo theory rests on assumptions about why things happened and, on the facts, about when things happened. The former requires logic, but the second is a matter of fact.

I mentioned previously that article II of the subpart (4) here uses the word "intensified." It didn't say that the job search began as an effort to silence Ms. Lewinsky. It only says that it "intensified" as a result of that process.

The original charge made by the independent counsel—and it is there in the independent counsel's referral at page 181—was an allegation that the President helped Ms. Lewinsky obtain a job in New York at a time when she would have been a witness against him. However, the House committee looked at the evidence I think in the five volumes and, even though they have not referred to it here very much, decided that that theory would not get off the runway. So they revised their claim and gave us a kind of wimpified version, alleging not initiation but intensification.

Now, under the right circumstances, it is plain that helping somebody find a job is a perfectly acceptable thing to do. There is nothing wrong with it. Mr. Manager HUTCHINSON told you that —and I quote here—"There is nothing wrong with helping somebody get a job. But we all know there is one thing forbidden in public office: we must avoid quid pro quo, which is: This for that."

Now, he went on to assert that the President's conduct "crossed the line," as he put it, when the job search assistance became "tied and interconnected"—those are his words—with the President's desire to get a false affidavit. And then he went on to say, "You will see"—that is a prediction that Mr. Manager HUTCHINSON made to you—"You will see that they are totally interconnected, intertwined, interrelated; and that is where the line has crossed into obstruction."

Now, Mr. Manager HUTCHINSON pointed to a critical event for their quid pro quo theory, and that is the entry on December 11, 1997, by Judge Wright, the judge in the Paula Jones case, of an order pertaining to discovery in the Paula Jones case. This is the critical event, according to the managers. But let's look closely at this so-called "critical event" because it's the only claim—only factual claim—the managers make of some causal relationship between the job search and the Jones case. And that claim is dead wrong; and it is demonstrably dead wrong.

The managers have argued that what brought Mr. Jordan into action to help Ms. Lewinsky find a job, what really jump-started the process, was Judge Wright's December 11 order. And that order concerned discovery of relationships the President had—allegedly had—during the search period of time with women who were State or Federal employees.

In the House, Chief Counsel Schippers powerfully made the point about how important this December 11 order was. ". . . why the sudden interest," he asked, "why the total change in focus and effort? Nobody but Betty Currie really cared about helping Ms. Lewinsky throughout November, even after the President learned that her name was on the prospective witness list. Did something happen [that moved] the job search from a low to a high priority on that day?

Oh, yes, something happened. On the morning of December 11, 1997, Judge Susan Webber Wright ordered that Paula Jones was entitled to information regarding" these other women.

Now, Mr. Manager HUTCHINSON, again, emphasized the impact of this December 11 order was dramatic. He stood here and told you that the President's attitude suddenly changed, and what started out as a favor for Betty Currie in finding Ms. Lewinsky a job dramatically changed into something sinister after Ms. Lewinsky became a witness.

> And so what triggers [this is Manager HUTCHINSON]—let's look at the chain of events: The judge—the witness list came in, the judge's order came in, that triggered the President into action and the President triggered Vernon Jordan into action. That chain reaction here is what moved the job search along . . . remember what else happened on that [December 11] again. That was the same day that Judge Wright ruled that the questions about other relationships could be asked by the Jones attorneys.

Mr. Manager HUTCHINSON presented in his very polished and able presentation a chart. It was exhibit 1. I have taken the liberty of borrowing it for our own purposes. You see the key is outlined in detail what happened on December 11. The very first item is that "Judge Susan Webber issues order allowing testimony on Lewinsky." The second meeting between Lewinsky and Jordan, "leads provided/recommendation calls placed," and then, later, the "President and Jordan talk about a job for Lewinsky."

Well, that is what the chart says. But when you look at the uncontested facts, this isn't even smoke and mirrors. It is worse.

First of all, Ms. Lewinsky entered Mr. Jordan's building for their meeting at 12:57 on December 11. As we see here from the chart, the entry chart of Mr. Jordan's law firm, Ms. Lewinsky's name is misspelled, and she identified this as her entry into the law firm. But this did not spring from, magically, the entry of the judge's order. It was scheduled 3 days earlier, on December 8. And even that telephone call was pursuant to an agreement made between Ms. Lewinsky and Mr. Jordan two weekends before then. It had nothing, whatever, to do with the judge's order.

Indeed, after her first meeting with Mr. Jordan on November 5, Ms. Lewinsky testified that she had a follow-up conversation by telephone with Mr. Jordan around Thanksgiving, and he advised her he was working on the job search as he had time for it. He asked her to call him back in early December. Mr. Jordan testified he was out of the country from the day after Thanksgiving until December 4. He also testified that on December 5—this is before the witness list—Ms. Currie called and reminded him that Ms. Lewinsky was expecting his call. He asked Ms. Currie to have Ms. Lewinsky call him. She does so on December 8 and they agreed to meet at Mr. Jordan's office on December 11.

So this meeting, this sinister meeting, was arranged by three people who had no knowledge whatever about the Paula Jones witness list at the time they acted. Now, Ms. Lewinsky herself was also out of Washington for most of the period from Thanksgiving to December 4, first in Los Angeles and then overseas.

Inexplicably, but I think significantly, because it says something about the strength of the case, the House managers ignore this key piece of testimony that when the meeting was set up it is uncontradicted. The point is that the contact between Mr. Jordan and Ms. Lewinsky resumed in December not because of something having to do with the order, but because they had agreed it would. The gap is attributable—the gap in timing—to Mr. Jordan's travel schedule.

Now, let's look at when this discovery order was entered. It was, in fact, entered late in the day of December 11 after the conclusion of a conference call among all the counsel in the Paula Jones case. We have here on the chart a blowup of the clerk's minutes.

Now, it is a great accommodation to lawyers when in a case a judge will have conference telephone calls because it means you don't have to travel to a different city. There were a number of these held in the Jones case. This was a conference call that began, as the clerk's minutes indicate, at 5:33 p.m. Little Rock time, in the afternoon. That would be 6:33 in Washington, DC. It ended at 6:50 p.m. in Little Rock, or 7:50 in Washington, DC.

Now, quite late in the conference call Judge Wright took up other matters and advised counsel that an order on the plaintiff's motion to compel testimony had been filed and Barry—Barry Ward, the judge's clerk—will fax a copy of the order on that motion to compel counsel. So, some time after 7:50 p.m. counsel get the witness list. Notice that this proceeding is so late in the day, I don't know if you can see it, but when the clerk's minutes are filed, they are filed not on December 11, but on December 12.

Finally, while we don't even have evidence of a telephone call between the President and Mr. Jordan—we are back now to Mr. Manager HUTCHINSON's chart No. 1—we don't have any evidence that the President, in fact, ever placed a call to Mr. Jordan on this date. The President was out of the city. But if the call occurred, it must have occurred by 5:55 p.m.

Now, let's, again, look at this chart. December 11 is so important that the managers have put it on the chart twice. It is the only date on the chart that appears twice. "The President and Jordan talk about a job for Lewinsky." Clearly what they are telling you is that first you get the order. That energizes, that jump starts the process, and then the President talks to Vernon Jordan. As I said, if a call occurred on that day, the earliest you could have had any knowledge of the order would have been 7:50 p.m.

There is a problem, though, when you think that maybe the President and Vernon Jordan talked on this date, even if we don't have evidence of it. And the problem is that at 7:50 p.m., Mr. Vernon Jordan was high over the Atlantic Ocean in an airplane. He was on his way to Amsterdam. He testified that "I left on United Flight 946 at 5:55 from Dulles Airport." That is where Mr. Jordan was on the evening of December 11. He had taken off even before the conference call.

This makes no sense. The managers' theory just makes no sense. His meeting with Ms. Lewinsky and his calls on her behalf had taken place earlier in the day. The President could not have spoken to him about the entry of Judge Wright's discovery order. The entry of that order had nothing whatever to do with Mr. Jordan's assistance to Ms. Lewinsky. This claim of a causal relation totally collapses when you look a the evidence.

Now, the charts purporting to show causation are also riddled with error. I only want to show a few of them. Again, we borrowed the chart from Mr. Manager HUTCHINSON, his chart No. 7. Now he showed you this chart and it purports to be an account of what happened on January 5, 1998. You see how the President and Ms. Lewinsky appear to be conferring about the affidavit that she is going to be filing in the Jones case. But when you look at the real facts, the chart becomes a fiction.

Mr. Manager HUTCHINSON told you:

> Let's go to January 5th. This is a sort of summary of what happened on that day.
>
> Ms. Lewinsky meets with her attorney, Mr. Carter, for an hour. Carter drafts the affidavit for Ms. Lewinsky just a few minutes later . . .

And Mr. Manager HUTCHINSON continued:

> Frank Carter drafts the affidavit. She is so concerned about it, she calls the President. The President returns Ms. Lewinsky's phone call.

Now, the suggestion here—and this is our old circumstantial evidence problem—the suggestion from this fact pattern is that Ms. Lewinsky obtained a draft affidavit from her lawyer, Mr. Carter, on January 5, and then in a call with the President later that day she offered it to him for his review.

Possible? Yes. True? No. The facts here simply do not bear out this chart. Why is that? Well, it is because Mr. Carter's grand jury testimony is very clear that he drafted the affidavit on the morning of January 6, and he even billed for it on that morning. He did not draft it, and Ms. Lewinsky did not have it, on January 5. There is no causation here, no linkage. The theory on this chart doesn't stand up, and if I may take something else from the House managers—not simply their chart, but to borrow Mr. Manager BRYANT's expression, "that dog won't hunt."

Ms. Lewinsky could not have offered to show the President a draft affidavit she herself could not have had on January 5. The idea that the telephone call on that day is about that affidavit is sheer, unsupported speculation and, even worse, it is speculation demolished by fact.

Let's kick the tires of another exhibit. Chart No. 8, which was shown to you by Mr. Manager HUTCHINSON, purports to describe the events of January 6. Again, it sets forth a chain of events which makes it look as though Mr. Jordan was himself intimately involved in drafting Ms. Lewinsky's affidavit. Mr. Manager HUTCHINSON told you when he showed you this chart—and I want to quote his exact words:

> The next exhibit is January 6. On this particular day, Ms. Lewinsky picks up the draft affidavit. At 2:08 to 2:10 p.m., she delivers that affidavit. To whom? Mr. Jordan. . . . At 3:48, he telephones Ms. Lewinsky about the draft affidavit, and at 3:49—you will see in red—both agree to delete a portion of the affidavit that created some implication that maybe she had been alone with the President.
>
> So Mr. Jordan was very involved in the drafting of the affidavit and the contents of that.

That is the theory proposed by the chart. That is the hypothesis they offer on the basis of the circumstantial evidence. But there are problems that absolutely destroy that because when we look beyond the suggestive juxtaposition and consider material overlooked by the managers, a very different picture emerges.

The key "fact" that chart 8 tries to establish is the statement that at 3:49 Mr. Jordan telephoned Ms. Lewinsky to discuss the draft affidavit, and they allegedly agreed "to delete an implication that she had been alone with the President."

There is a very serious difficulty with this "theory." The chart blithely states that "both agree[d] to delete [the] implications that she had been alone with the President." But that is not what evidence shows.

Ms. Lewinsky testified that she spoke to Mr. Jordan because she had concerns about the draft affidavit. According to her testimony, when asked whether Mr. Jordan agreed with what were clearly Ms. Lewinsky's ideas about changes in the affidavit, Ms. Lewinsky said, "Yes, I believe so."

Now, Mr. Jordan recalled the conversation in which Ms. Lewinsky raised the subject of her draft affidavit. He remembered her saying that she "had some questions about the draft of the affidavit." But his testimony was emphatic that he was "not interested in the details," that the "problems she had with what had been drafted for her signature [were] for her to work out with her counsel," and that "you [Ms. Lewinsky] have to talk to your lawyer about it." And Ms. Lewinsky did talk to her lawyer about it.

The record is perfectly clear about that. Indeed, it could not be clearer, although you would not know this from chart 8, that the idea of deleting the reference to her being alone with the President came from her own lawyer, Mr. Carter. He testified to the grand jury—this is the lawyer who actually drafted the affidavit. He was referring to a passage about Ms. Lewinsky being alone with the President and he said:

> Paragraph 6 has in its [draft] form as the last part of the last sentence "and would not have been a 'private meeting, that is not behind closed doors'. . . ."

According to Mr. Carter:

> This paragraph was modified when we sat down in my office [on January 7], the day after the events described on chart 8.

Mr. Carter further testified that "before the meeting on the 7th, it was my opinion that I did not want to give Paula Jones' attorney any kind of a hint of a one-on-one meeting. What I told Monica was, "If they ask you about it, you will tell them about it. But I'm not putting it in the affidavit. I am not going to give them that lead to go after in the affidavit, because my objective is not to have you be deposed."

It is clearly Mr. Carter who deleted the reference to being alone with the President. The bottom line is that the insinuations on that chart just don't survive scrutiny.

I want to say a final thing about all the charts involving circumstantial evidence. You remember how many telephone calls were up on these charts. I am going to let you in on a little secret—a secret that a lot of you who are lawyers know. It is pretty easy to get telephone call records and to identify telephone calls. But it is a common trick to put them up, even though you don't know what is going on in the telephone calls, and ask people to assume some insidious relationship between events and the telephone call. No matter how many telephone calls are listed on the chart, you don't know, without testimony, what was happening in that phone call, unless the mere existence—and there are cases where the mere existence of a phone call is probative, but not in these cases. Here they are trying to weave a web, and no particular call is of significant importance.

The incontroverted evidence shows that, in fact, Mr. Jordan spoke to the President on many, many, many occasions. He was a friend; he has been a friend of the President since 1973, and a call between them was a common occurrence. When asked in the grand jury if Mr. Jordan believed that the pattern of telephone calls to the President was "striking," Mr. Jordan replied, "It depends on your point of view. I talk to the President of the United States all the time, and so it's not striking to me."

Mr. Jordan also testified that he never had a telephone conversation with the President in which Ms. Lewinsky was the only topic.

The House managers ask you to believe, simply on faith, that if two things happen on the same day, they are related. This relation may be logical, but it is not necessarily factual. I just want to make this point with a couple of telephone calls. Take Mr. Manager HUTCHINSON's chart for January 17, 1998, the day of the President's deposition in the Jones case.

This chart suggests that there are two calls between Mr. Jordan and the President after the President had concluded his deposition. One call is at 5:38, and the other is at 7:02. The chart does not tell you several important things. First, these two calls each lasted 2 minutes. Second, and more significantly, Mr. Jordan testified to the grand jury as to both telephone conversations:

> On Saturday, the 17th, in the two conversations I had with the President of the United States, we did not talk about Monica Lewinsky or his testimony in the deposition.

Mr. Jordan was asked:

> Or [about] the questions asked of him in the deposition?

And he replied:

> That is correct.

In another exchange, the prosecutors asked Mr. Jordan:

> Did the President ever indicate to you [in the January 17 telephone conversations] that Monica Lewinsky was one of the topics that had come up?

Jordan replied:

> He did not.

The prosecutors asked:

> Did the President ever indicate to you [in these two conversations] that your name had come up in the deposition as it related to Monica Lewinsky?

And Mr. Jordan answered:

> He did not.

The managers, in the absence of evidence that anyone endeavored to obtain Ms. Lewinsky a job in exchange for her silence, indeed, in the face of direct testimony of all of those involved that this did not happen, ask you to simply speculate. They ask you to speculate that since they have thrown a lot of telephone calls up there, they must have some sinister meaning. And they ask you to speculate that a lot of those phone calls must have been about Ms. Lewinsky, and they ask you to speculate further that in one of those unidentified, unknown phone calls, somebody must have said, "Let's get Ms. Lewinsky a job in exchange for her silence."

There is no evidence for that. It is not there. It is just a theory.

With regard to all this evidence about the job search, when you look at these dates, when you have the right chronology in mind, and when you look at the relevant and uncontested facts, these facts are there; they don't have to be discovered: There is no, no evidence of wrongdoing of any kind in connection with Ms. Lewinsky's job search effort in New York City. This is not a case of the managers' presentation resting on even circumstantial as opposed to direct evidence. They don't even have circumstantial evidence here. All they have is a theory about what happened, which isn't based on any evidence either direct or circumstantial.

Nothing in this evidence is really contested when you get right down to it; strictly as a matter of who said what to whom when. When lawyers ask you to "keep your eye on the big picture," when they ask you, "don't lose the forest for the trees," or "don't get lost in the details," that is usually because the details—the stubborn facts—refute and contradict the big picture.

So it is here. You can keep adding zero to zero to zero for a very long time, and indeed forever, and you will still have zero. The big picture here just doesn't exist. And no matter how many times the House managers keep making the assertion, there is just no evidence of any kind.

I realize that it has taken us a good bit of time and painstaking—perhaps even painful—attention for each one of you to walk through these facts in a lawyerly manner. I am also keenly aware of the old saying that when all is said and done with a lawyer, there is more said than done. But we needed to take a look carefully and specifically at this evidentiary material with regard to these five grounds in the same way that Ms. Mills took you through very specifically yesterday with regard to the other two grounds to try and dispel the popular misconception that we were either unwilling or unable to rebut the facts. We have rebutted the facts.

The simple fact is that there is no evidence indirectly to support the allegation that the President obstructed justice in his December 17 telephone call with Ms. Lewinsky, in his statements to his aides, in his statements to Betty Currie with relation to gifts, or the job search. It sometimes has been claimed by the managers that we have adopted a "so what" defense trying to take lightly or to justify the improper actions that are at the root of this case. Well, Senators, with all respect, that argument is easy to assert, but it is false, a straw man asserted, only to be knocked down.

We have tried in our presentations the last few days and today to treat the evidence in a fair and a candid and a realistic way about the facts as the record reveals them. We have tried to show you that the core charges of obstruction of justice and perjury cannot be proven. We are not saying that the alleged conduct doesn't matter. We are saying that perjury didn't occur, and obstruction of justice didn't happen.

We haven't tried to sugar-coat or excuse conduct that is wrong. I think that Mr. Manager BUYER used the right phrase when he referred to "self-inflicted wounds." There is no doubt that there are self-inflicted wounds here, wounds that are very real and very painful and very troubling. There is just no question about that. The question before you is whether these self-inflicted wounds rise to such a level of lawless and unconstitutional conduct that they leave you no alternative, no choice but to assume the awesome responsibility for reversing the results of two national elections.

On that question, what the situation demands is not eloquence, which the very able managers have in abundance, but rather a relentless focus on the facts, the law, and the Constitution, all of which are on the side of the President.

It is a great honor for me to stand here. This body has been called "the anchor of the Republic." And it is that constitutional ability, that political sanity, that is needed now. There is a story, which is perhaps apocryphal, that when Thomas Jefferson returned from France where he served as Ambassador while his colleagues were writing the Constitution, that he met with George Washington, and he asked Washington why they had found it necessary to create the Senate. Washington is said to have silently removed the saucer from his teacup and poured the tea into the saucer and told Jefferson that like the act he had just performed, the Senate would be designed to cool the passion of the moment. Historically, this place has been really a haven of sanity, balance, wisdom in debating controversial issues which have been passionately felt, with candor, with courage, and civility.

So once again, I think it is your responsibility and yours alone, committed to you by the Constitution, to make a very somber judgment. The President has spoken powerfully and personally of his remorse for what he has done.

Others have pointed out the poisonous partisanship that led the other body to argue for impeachment on the most narrowly partisan vote in its history.

I think that the bipartisan manner, however, in which you have conducted this impeachment trial is a welcome change from the events of the last year.

We ask only that you give this case and give this country constitutional stability and the political sanity which this country deserves. The President did not commit perjury. He did not obstruct justice, and there are no grounds to remove him from office.

Thank you.

RECESS

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that we recess the proceedings for 15 minutes, but that Senators be prepared to resume at 5 minutes after 4, because we have to hear the eloquence of one of our former colleagues.

There being no objection, at 3:49 p.m., the Senate recessed until 4:10 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Thank you, Mr. Chief Justice. I believe the Senate is prepared now to hear the final presentation to be made by White House counsel, and at the conclusion of that, I will have a brief wrapup, a statement to make about how we hope to proceed on Friday and generally on Saturday. I will do that at the close of this presentation. I yield the floor, Mr. Chief Justice.

The CHIEF JUSTICE. The Chair recognizes Mr. Counsel Bumpers to continue the presentation in the case of the President.

Mr. COUNSEL BUMPERS. Mr. Chief Justice, my distinguished House managers from the House of Representatives, colleagues, I have seen the look of disappointment on many faces, because I know a lot of people really thought they would be rid of me once and for all. (Laughter.)

I have taken a lot of ribbing this afternoon. But I have seriously negotiated with some people, particularly on this side, about an offer to walk out and not deliver this speech in exchange for a few votes. (Laughter.)

I understand three have it under active consideration. (Laughter.)

It is a great joy to see you, and it is especially pleasant to see an audience which represents about the size of the cumulative audience I had over a period of 24 years. (Laughter.)

I came here today for a lot of reasons. One was that I was promised a 40-foot cord. I have been shorted 28 feet. CHRIS DODD said he didn't want me in his lap. I assume he arranged for the cord to be shortened.

I want to especially thank some of you for your kind comments in the press when it received some publicity that I would be here to close the debate on behalf of the White House counsel and the President.

I was a little dismayed by Senator BENNETT's remark. He said, "Yes, Senator Bumpers is a great speaker, but he was never persuasive with me because I never agreed with him." (Laughter.)

I thought he could have done better than that. (Laughter.)

You can take some comfort, colleagues, in the fact that I am not being paid, and when I finish, you will probably think the White House got their money's worth. (Laughter.)

I have told audiences that over 24 years, I went home almost every weekend and returned usually about dusk on Sunday evening. And you know the plane ride into National Airport, when you can see the magnificent Washington Monument and this building from the window of the airplane—I have told these students at the university, a small liberal arts school at home, Hendrix—after 24 years of that, literally hundreds of times, I never failed to get goose bumps.

The same thing is true about this Chamber. I can still remember as though it was yesterday the awe I felt when I first stepped into this magnificent Chamber so full of history, so beautiful. And last Tuesday, as I returned, after only a short 3-week absence, I still felt that same sense of awe that I did the first time I walked in this Chamber.

Colleagues, I come here with some sense of reluctance. The President and I have been close friends for 25 years. We fought so many battles back home together in our beloved Arkansas. We tried mightily all of my years as Governor and his, and all of my years in the Senate when he was Governor, to raise the living standard in the delta area of Mississippi, Arkansas and Louisiana, where poverty is unspeakable, with some measure of success; not nearly enough.

We tried to provide health care for the lesser among us, for those who are well off enough they can't get on welfare, but not making enough to buy health insurance. We have fought about everything else to improve the educational standards for a State that for so many years was at the bottom of the list, or near the bottom of the list, of income, and we have stood side by side to save beautiful pristine areas in our State from environmental degradation.

We even crashed a twin engine Beech Bonanza trying to get to the Gillett coon supper, a political event that one misses at his own risk. We crashed this plane on a snowy evening at a rural airport off the runway sailing out across the snow, jumped out—jumped out—and ran away unscathed, to the dismay of every politician in Arkansas. (Laughter.)

The President and I have been together hundreds of times at parades, dedications, political events, social events, and in all of those years and all of those hundreds of times we have been together, both in public and in private, I have never one time seen the President conduct himself in a way that did not reflect the highest credit on him, his family, his State and his beloved Nation.

The reason I came here today with some reluctance—please don't misconstrue that, it has nothing to do with my feelings about the President, as I have already said—but it is because we are from the same State, and we are long friends. I know that necessarily diminishes to some extent the effectiveness of my words. So if Bill Clinton, the man, Bill Clinton, the friend, were the issue here, I am quite sure I would not be doing this. But it is the weight of history on all of us, and it is my reverence for that great document—you have heard me rail about it for 24 years—that we call our Constitution, the most sacred document to me next to the Holy Bible.

These proceedings go right to the heart of our Constitution where it deals with impeachment, the part that provides the gravest punishment for just about anybody—the President—even though the framers said we are putting this in to protect the public, not to punish the President.

Ah, colleagues, you have such an awesome responsibility. My good friend, the senior Senator from New York, has said it well. He says a decision to convict holds the potential for destabilizing the Office of the Presidency. And those 400 historians—and I know some have made light about those historians, are they just friends of Bill?

Last evening, I went over that list of historians, many of whom I know, among them C. Vann Woodward. In the South we love him. He is the preeminent southern historian in the Nation. I promise you—he may be a Democrat, he may even be a friend of the President, but when you talk about integrity, he is the walking personification, exemplification of integrity.

Well, colleagues, I have heard so many adjectives to describe this gallery and these proceedings—historic, memorable, unprecedented, awesome. All of those words, all of those descriptions are apt. And to those, I would add the word "dangerous," dangerous not only for the reasons I just stated, but because it is dangerous to the political process. And it is dangerous to the unique mix of pure democracy and republican government Madison and his colleagues so brilliantly crafted and which has sustained us for 210 years.

Mr. Chief Justice, this is what we lawyers call "dicta"—this costs you nothing. It is extra. But the more I study that document, and those 4 months at Philadelphia in 1787, the more awed I am. And you know what Madison did—the brilliance was in its simplicity—he simply said: Man's nature is to get other people to dance to their tune. Man's nature is to abuse his fellow man sometimes. And he said: The way to make sure that the majorities don't abuse the minorities, and the way to make sure that the bullies don't run over the weaklings, is to provide the same rights for everybody. And I had to think about that a long time before I delivered my first lecture at the University of Arkansas last week. And it made so much sense to me.

But the danger, as I say, is to the political process, and dangerous for reasons feared by the framers about legislative control of the Executive. That single issue and how to deal with impeachment was debated off and on for the entire 4 months of the Constitutional Convention. But the word "dangerous" is not mine. It is Alexander Hamilton's—brilliant, good-looking guy—Mr. Ruff quoted extensively on Tuesday afternoon in his brilliant statement here. He quoted Alexander Hamilton precisely, and it is a little arcane. It isn't easy to understand.

So if I may, at the expense of being slightly repetitious, let me paraphrase what Hamilton said. He said: The Senate had a unique role in participating with the executive branch in appointments; and, two, it had a role—it had a role—in participating with the executive in the character of a court for the trial of impeachments. But he said—and I must say this; and you all know it—he said it would be difficult to get a, what he called, well-constituted court from wholly elected Members. He said: Passions would agitate the whole community and divide it between those who were friendly and those who had inimical interests to the accused; namely, the President. Then he said—and these are his words: The greatest danger was that the decision would be based on the comparative strength of the parties rather than the innocence or guilt of the President.

You have a solemn oath, you have taken a solemn oath, to be fair and impartial. I know you all. I know you as friends, and I know you as honorable men. And I am perfectly satisfied to put that in your hands, under your oath.

This is the only caustic thing I will say in these remarks this afternoon, but the question is, How do we come to be here? We are here because of a 5-year, relentless, unending investigation of the President, $50 million, hundreds of FBI agents fanning across the Nation, examining in detail the microscopic lives of people—maybe the most intense investigation not only of a President, but of anybody ever.

I feel strongly about this because of my State and what we have endured. So you will have to excuse me, but that investigation has also shown that the judicial system in this country can and does get out of kilter unless it is controlled. Because there are innocent people—innocent people—who have been financially and mentally bankrupt.

One woman told me 2 years ago that her legal fees were $95,000. She said, "I don't have $95,000. And the only asset I have is the equity in my home, which just happens to correspond to my legal fees of $95,000." And she said, "The only thing I can think of to do is to deed my home." This woman was innocent, never charged, testified before a grand jury a number of times. And since that time she has accumulated an additional $200,000 in attorney fees.

Javert's pursuit of Jean Valjean in Les Miserables pales by comparison. I doubt there are few people—maybe nobody in this body—who could withstand such scrutiny. And in this case those summoned were terrified, not because of their guilt, but because they felt guilt or innocence was not really relevant. But after all of those years, and $50 million of Whitewater, Travelgate, Filegate—you name it—nothing, nothing. The President was found guilty of nothing—official or personal.

We are here today because the President suffered a terrible moral lapse of marital infidelity—not a breach of the public trust, not a crime against society, the two things Hamilton talked about in Federalist Paper No. 65—I recommend it to you before you vote—but it was a breach of his marriage vows. It was a breach of his family trust. It is a sex scandal. H.L. Mencken one time said, "When you hear somebody say, 'This is not about money,' it's about money." (Laughter)

And when you hear somebody say, "This is not about sex," it's about sex.

You pick your own adjective to describe the President's conduct. Here are some that I would use: indefensible, outrageous, unforgivable, shameless. I promise you the President would not contest any of those or any others.

But there is a human element in this case that has not even been mentioned. That is, the President and Hillary and Chelsea are human beings. This is intended only as a mild criticism of our distinguished friends from the House. But as I listened to the presenters, to the managers, make their opening statements, they were remarkably well prepared and they spoke eloquently—more eloquently than I really had hoped.

But when I talk about the human element, I talk about what I thought was, on occasion, an unnecessarily harsh, pejorative description of the President. I thought that the language should have been tempered somewhat to acknowledge that he is the President. To say constantly that the President lied about this and lied about that—as I say, I thought that was too much for a family that has already been about as decimated as a family can get. The relationship between husband and wife, father and child, has been incredibly strained, if not destroyed. There has been nothing but sleepless nights, mental agony, for this family, for almost 5 years, day after day, from accusations of having Vince Foster assassinated, on down. It has been bizarre.

I didn't sense any compassion. And perhaps none is deserved. The President has said for all to hear that he misled, he deceived, he did not want to be helpful to the prosecution, and he did all of those things to his family, to his friends, to his staff, to his Cabinet, and to the American people. Why would he do that? Well, he knew this whole affair was about to bring unspeakable embarrassment and humiliation on himself, his wife whom he adored, and a child that he worshipped with every fiber of his body and for whom he would happily have died to spare her or to ameliorate her shame and her grief.

The House managers have said shame, an embarrassment is no excuse for lying. The question about lying—that is your decision. But I can tell you, put yourself in his position—and you have already had this big moral lapse—as to what you would do. We are, none of us, perfect. Sure, you say, he should have thought of all that beforehand. And indeed he should, just as Adam and Eve should have, just as you and you and you and you and millions of other people who have been caught in similar circumstances should have thought of it before. As I say, none of us is perfect.

I remember, Chaplain—the Chaplain is not here; too bad, he ought to hear this story. This evangelist was holding this great revival meeting and in the close of one of his meetings he said, "Is there anybody in this audience who has ever known anybody who even comes close to the perfection of our Lord and Savior, Jesus Christ?" Nothing. He repeated the challenge and, finally, a little-bitty guy in the back held up his hand. "Are you saying you have known such a person? Stand up." He stood up and said, "Tell us, who was it?" He said, "My wife's first husband."

Make no mistake about it: Removal from office is punishment. It is unbelievable punishment, even though the framers didn't quite see it that way. Again, they said—and it bears repeating over and over again—they said they wanted to protect the people. But I can tell you this: The punishment of removing Bill Clinton from office would pale compared to the punishment he has already inflicted on himself. There is a feeling in this country that somehow or another Bill Clinton has gotten away with something. Mr. Leader, I can tell you, he hasn't gotten away with anything. And the people are saying: "Please don't protect us from this man." Seventy-six percent of us think he is doing a fine job; 65 to 70 percent of us don't want him removed from office.

Some have said we are not respected on the world scene. The truth of the matter is, this Nation has never enjoyed greater prestige in the world than we do right now. I saw Carlos Menem, President of Argentina, a guest here recently, who said to the President, "Mr. President, the world needs you." The war in Bosnia is under control; the President has been as tenacious as anybody could be about Middle East peace; and in Ireland, actual peace; and maybe the Middle East will make it; and he has the Indians and the Pakistanis talking to each other as they have never talked to each other in recent times.

Vaclav Havel said, "Mr. President, for the enlargement of the North Atlantic Treaty Organization, there is no doubt in my mind that it was your personal leadership that made this historic development possible." King Hussein: "Mr. President, I've had the privilege of being a friend of the United States and Presidents since the late President Eisenhower, and throughout all the years in the past I have kept in touch, but on the subject of peace, the peace we are seeking, I have never, with all due respect and all the affection I held for your predecessors, known someone with your dedication, clear-headedness, focus, and determination to help resolve this issue in the best way possible."

I have Nelson Mandela and other world leaders who have said similar things in the last 6 months. Our prestige, I promise you, in the world, is as high as it has ever been.

When it comes to the question of perjury, you know, there is perjury and then there is perjury. Let me ask you if you think this is perjury: On November 23, 1997, President Clinton went to Vancouver, BC. And when he returned, Monica Lewinsky was at the White House at some point, and he gave her a carved marble bear. I don't know how big it was. The question before the grand jury, August 6, 1998:

> What was the Christmas present or presents that he got for you?
>
> Answer: Everything was packaged in the Big Black Dog or big canvas bag from the Black Dog store in Martha's Vineyard and he got me a marble bear's head carving. Sort of, you know, a little sculpture, I guess you would call, maybe.
>
> Was that the item from Vancouver?
>
> Yes.

Question, on the same day of the same grand jury,

> When the President gave you the Vancouver bear on the 28th, did he say anything about what it means?
>
> Answer: Hmm.
>
> Question: Well, what did he say?
>
> Answer: I think he—I believe he said that the bear is the—maybe an Indian symbol for strength—you know, to be strong like a bear.
>
> Question: And did you interpret that to be strong in your decision to continue to conceal the relationship?
>
> Answer: No.

The House Judiciary Committee report to the full House, on the other hand, knowing the subpoena requested gifts, is giving Ms. Lewinsky more gifts on December 28 seems odd. But Ms. Lewinsky's testimony reveals why he did so. She said that she "never questioned that we would not ever do anything but keep this private, and that meant to take whatever appropriate steps needed to be taken to keep it quiet."

They say:

> The only logical inference is that the gifts, including the bear symbolizing strength, were a tacit reminder to Ms. Lewinsky that they would deny the relationship, even in the face of a Federal subpoena.

She just got through saying "no." Yet, this report says that is the only logical inference. And then the brief that came over here accompanying the articles of impeachment said, "On the other hand, more gifts on December 28 . . ." Ms. Lewinsky's testimony reveals her answer. She said that she "never questioned that we were ever going to do anything but keep this private, and that meant to take whatever appropriate steps needed to be taken to keep it quiet."

Again, they say in their brief:

> The only logical inference is that the gifts, including the bear symbolizing strength, were a tacit reminder to Ms. Lewinsky that they would deny the relationship even in the face of a Federal subpoena.

Is it perjury to say the only logical inference is something when the only shred of testimony in the record is, "No, that was not my interpretation. I didn't infer that." Yet, here you have it in the committee report and you have it in the brief. Of course, that is not perjury.

First of all, it is not under oath. But I am a trial lawyer and I will tell you what it is; it is wanting to win too badly. I have tried 300, 400, maybe 500 divorce cases. Incidentally, you are being addressed by the entire South Franklin County, Arkansas Bar Association. I can't believe there were that many cases in that little town, but I had a practice in surrounding communities, too. In all those divorce cases, I would guess that in 80 percent of the contested cases perjury was committed. Do you know what it was about? Sex. Extramarital affairs. But there is a very big difference in perjury about a marital infidelity in a divorce case and perjury about whether I bought the murder weapon, or whether I concealed the murder weapon or not. And to charge somebody with the first and punish them as though it were the second stands our sense of justice on its head.

There is a total lack of proportionality, a total lack of balance in this thing. The charge and the punishment are totally out of sync. All of you have heard or read the testimony of the five prosecutors who testified before the House Judiciary Committee—five seasoned prosecutors. Each one of them, veterans, said that under the identical circumstances of this case, they would never charge anybody because they would know they couldn't get a conviction. In this case, the charges brought and the punishment sought are totally out of sync. There is no balance; there is no proportionality.

But even stranger—you think about it—even if this case had originated in the courthouse rather than the Capitol, you would never have heard of it. How do you reconcile what the prosecutors said with what we are doing here? Impeachment was debated off and on in Philadelphia for the entire 4 months, as I said. The key players were Governor Morris, a brilliant Pennsylvanian; George Mason, the only man reputedly to be so brilliant that Thomas Jefferson actually deferred to him; he refused to sign the Constitution, incidentally, even though he was a delegate because they didn't deal with slavery and he was a strict abolitionist. Then there was Charles Pinckney from South Carolina, a youngster at 29 years old; Edmund Randolph from Virginia, who had a big role in the Constitution in the beginning; and then, of course, James Madison, the craftsman. They were all key players in drafting this impeachment provision.

Uppermost in their minds during the entire time they were composing it was that they did not want any kings. They had lived under despots, under kings, and under autocrats, and they didn't want anymore of that. And they succeeded very admirably. We have had 46 Presidents and no kings. But they kept talking about corruption. Maybe that ought to be the reason for impeachment, because they feared some President would corrupt the political process. That is what the debate was about—corrupting the political process and ensconcing one's self through a phony election; maybe that is something close to a king.

They followed the British rule on impeachment, because the British said the House of Commons may impeach and the House of Lords must convict. And every one of the colonies had the same procedure—the House and the Senate. In all fairness, Alexander Hamilton was not very keen on the House participating. But here were the sequence of events in Philadelphia that brought us here today. They started out with maladministration and Madison said, "That is too vague; what does that mean?" So they dropped that. They went from that to corruption, and they dropped that. Then they went to malpractice, and they decided that was not definitive enough. And they went to treason, bribery, and corruption. They decided that still didn't suit them.

Bear in mind one thing: During this entire process, they are narrowing the things you can impeach a President for. They were making it tougher. Madison said, "If we aren't careful, the President will serve at the pleasure of the Senate." And then they went to treason and bribery. Somebody said that still is not quite enough, so they went to treason and bribery. And George Mason added, "or other high crimes and misdemeanors against the United States." They voted on it, and on September 10 they sent the entire Constitution to a committee they called the Committee on Style and Arrangement, which was the committee that would draft the language in a way that everybody would understand—that is, well crafted from a grammatical standpoint. But that committee, which was dominated by Madison and Hamilton, dropped "against the United States." And the stories will tell you that the reason they did that was because they were redundant, because that committee had no right to change the substance of anything, and they would not have dropped it if they had not felt that it was redundant. Then they put it in for good measure. And we can always be grateful for the two-thirds majority.

This is one of the most important points of this entire presentation. First of all, the term "treason and bribery"—nobody quarrels with that. We are not debating treason and bribery here in this Chamber. We are talking about other high crimes and misdemeanors. And where did "high crimes and misdemeanors" come from? It came from the English law. And they found it in English law under a category which said distinctly "political" offenses against the state.

Let me repeat that. They said "high crimes and misdemeanors" was to be because they took it from English law where they found it in the category that said offenses distinctly "political" against the state.

So, colleagues, please, for just one moment, forget the complexities of the facts and the tortured legalisms—and we have heard them all brilliantly presented on both sides. And I am not getting into that.

But ponder this: If high crimes and misdemeanors was taken from English law by George Madison, which listed high crimes and misdemeanors as "political" offenses against the state, what are we doing here? If, as Hamilton said, it had to be a crime against society or a breach of the public trust, what are we doing here? Even perjury, concealing, or deceiving an unfaithful relationship does not even come close to being an impeachable offense. Nobody has suggested that Bill Clinton committed a political crime against the state.

So, colleagues, if you are to honor the Constitution, you must look at the history of the Constitution and how we got to the impeachment clause. And, if you do that, and you do that honestly, according to the oath you took, you cannot—you can censor Bill Clinton, you can hand him over to the prosecutor for him to be prosecuted, but you cannot convict him. You cannot indulge yourselves the luxury or the right to ignore this history.

There has been a suggestion that a vote to acquit would be something of a breach of faith with those who lie in Flanders field, Anzio, Bunker Hill, Gettysburg, and wherever. I did not hear that. I read about it. But I want to say, and, incidentally, I think it was Chairman HYDE who alluded to this and said those men fought and died for the rule of law.

I can remember a cold November 3 morning in my little hometown of Charleston, AR. I was 18 years old. I had just gotten one semester in at the university when I went into the Marine Corps. So I was to report to Little Rock to be inducted. My it was cold. The drugstore was the bus stop. I had to be there by 8 o'clock to be sworn in. And I had to catch the bus down at the drugstore at 3 o'clock in the morning. So my mother and father and I got up at 2 o'clock, got dressed, and went down there. I am not sure I can tell you this story. And the bus came over the hill. I was rather frightened anyway about going. I was quite sure I was going to be killed, only slightly less frightened that Betty would find somebody else when I was gone.

The bus came over the schoolhouse hill and my parents started crying. I had never seen my father cry. I knew I was in some difficulty. Now, as a parent, at my age, I know he thought he was giving not his only begotten son, but one of his begotten sons. Can you imagine? You know that scene. It was repeated across this Nation millions of times. Then, happily, I survived that war, saw no combat, was on my way to Japan when it all ended. I had never had a terrible problem with dropping the bomb, though that has been a terrible moral dilemma for me because the estimates were that we would lose as many as a million men in that invasion.

But I came home to a generous government which provided me under the GI bill an education in a fairly prestigious law school, which my father could never have afforded. I practiced law in this little town for 18 years, loved every minute of it. But I didn't practice constitutional law. And I knew very little about the Constitution. But when I went into law school, I did study constitutional law, Mr. Chief Justice. It was very arcane to me. And trying to read the Federalist Papers, de Tocqueville, all of those things that law students are expected to do, that was tough for me. I confess.

So after 18 years of law practice, I jumped up and ran for Governor. I served as Governor for 4 years. I guess I knew what the rule of law was, but I still didn't really have much reverence for the Constitution. I just did not understand any of the things I am discussing and telling you. No. My love for that document came day after day and debate after debate right here in this Chamber.

Some of you read an op-ed piece I did a couple of weeks ago when I said I was perfectly happy for my legacy, that during my 24 years here I never voted for a constitutional amendment. And it isn't that I wouldn't. I think they were mistaken not giving you fellows 4 years. (Laughter.)

You are about to cause me to rethink that one. (Laughter.)

The reason I developed this love of it is because I saw Madison's magic working time and time again, keeping bullies from running over weak people, keeping majorities from running over minorities, and I thought about all of the unfettered freedoms we had. The oldest organic law in existence made us the envy of the world.

Mr. Chairman, we have also learned that the rule of law includes Presidential elections. That is a part of the rule of law in this country. We have an event, a quadrennial event, in this country which we call a Presidential election, and that is the day when we reach across this aisle and hold hands, Democrats and Republicans, and we say, win or lose, we will abide by the decision. It is a solemn event, a Presidential election, and it should not be undone lightly or just because one side has the clout and the other one doesn't.

And if you want to know what men fought for in World War II, for example, in Vietnam, ask Senator INOUYE. He left an arm in Italy. He and I were with the Presidents at Normandy, on the 50th anniversary, but we started off in Anzio. Senator DOMENICI, were you with us? It was one of the most awesome experiences I have ever had in my life. Certified war hero. I think his relatives were in an internment camp. So ask him, what was he fighting for? Or ask BOB KERREY, certified Medal of Honor winner, what was he fighting for? Probably get a quite different answer. Or Senator CHAFEE, one of the finest men ever to grace this body and certified Marine hero of Guadalcanal, ask him. And Senator MCCAIN, a genuine hero, ask him. You don't have to guess; they are with us, and they are living, and they can tell you. And one who is not with us in the Senate anymore, Robert Dole, ask Senator Dole what he was fighting for. Senator Dole had what I thought was a very reasonable solution to this whole thing that would handle it fairly and expeditiously.

The American people are now and for some time have been asking to be allowed a good night's sleep. They are asking for an end to this nightmare. It is a legitimate request. I am not suggesting that you vote for or against the polls. I understand that. Nobody should vote against the polls just to show their mettle and their courage. I have cast plenty of votes against the polls, and it has cost me politically a lot of times. This has been going on for a year, though.

In that same op-ed piece, I talked about meeting Harry Truman my first year as Governor of Arkansas. I spent an hour with him—an indelible experience. People at home kid me about this because I very seldom make a speech that I don't mention this meeting. But I will never forget what he said: "Put your faith in the people. Trust the people. They can handle it." They have shown conclusively time and time again that they can handle it.

Colleagues, this is easily the most important vote you will ever cast. If you have difficulty because of an intense dislike of the President—and that is understandable—rise above it. He is not the issue. He will be gone. You won't. So don't leave a precedent from which we may never recover and almost surely will regret.

If you vote to acquit, Mr. Leader, you know exactly what is going to happen. You are going to go back to your committees. You are going to get on with this legislative agenda. You are going to start dealing with Medicare, Social Security, tax cuts, and all those things which the people of this country have a nonnegotiable demand that you do. If you vote to acquit, you go immediately to the people's agenda. But if you vote to convict, you can't be sure what is going to happen.

James G. Blaine was a Member of the Senate when Andrew Johnson was tried in 1868, and 20 years later he recanted. He said, "I made a bad mistake." And he said, "As I reflect back on it, all I can think about is that having convicted Andrew Johnson would have caused much more chaos and confusion in this country than Andrew Johnson could ever conceivably have created."

And so it is with William Jefferson Clinton. If you vote to convict, in my opinion, you are going to be creating more havoc than he could ever possibly create. After all, he has only got 2 years left. So don't, for God sakes, heighten the people's alienation, which is at an all-time high, toward their Government. The people have a right, and they are calling on you to rise above politics, rise above partisanship. They are calling on you to do your solemn duty, and I pray you will.

Thank you, Mr. Chief Justice.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. LOTT. Mr. Chief Justice, I believe that that concludes the White House presentation. I remind all Senators that we will reconvene tomorrow beginning at 1 p.m. On Friday, under the provisions of Senate Resolution 16, we will begin the question and answer period for not to exceed 16 hours. The majority will begin the questioning, and as we go forward in that process, we will alternate back and forth across the aisle. I have discussed this proposition, obviously, with Senator DASCHLE, and we have discussed it in our conferences. We looked at a number of other alternatives, but we thought that this would be a fair way to proceed, that we would begin from this side with a Senator who will be named, and go to the other side, back and forth.

We think this provides fairness and I hope all Members will entrust the Chief Justice to be fair during this portion of the deliberations, and for the managers and counsel to, of course, be succinct in their answers and respond to the question that is actually asked.

At this time I would anticipate approximately 5 hours of questions and answers being used tomorrow, Friday. We would then reconvene on Saturday at 10 a.m., and again resume questioning, alternating back and forth. We have not set any definite time for Saturday. We will need to see how the questions go. We don't really know whether we will need 5 hours or 10 hours or the full 16. But if we reach a point on Saturday where we need to conclude the day's proceedings and we feel there are still more questions that would need to be asked, then after communication on both sides of the aisle we would decide how to go forward.

It is my hope that we can complete this questioning period during the day Friday and Saturday and conclude it Saturday. I hope the Senators will be thoughtful in their questions. They must be in writing. Please be brief with your written presentation. Dissertations would not be appreciated in writing at this point. And we will do our best, Mr. Chief Justice, to deal with the question of repetition or redundancy, and try to have some process that Senator DASCHLE and I will use to get the Senators' questions to the Chief Justice.

I thank all Senators for their attention during the past 2 weeks, both in the presentation of the case by the House managers and the presentation by the White House counsel. Obviously, the Senators have been here, attentive. We have listened. I think we have learned a great deal, and I appreciate the way the Senate has conducted itself.

(The following notices of intent were received on Wednesday, January 20, 1999:)

Notice of Intent To Suspend the Rules of the Senate by Senators Harkin and Wellstone

In accordance to Rule V of the Standing Rules of the Senate, I (for myself and for Mr. Wellstone) hereby give notice in writing that it is my intention to move to suspend the following portions of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials in regard to debate by Senators on any motion to dismiss, any motion to subpoena witnesses and/or to present any evidence not in the record during the trial of President William Jefferson Clinton:

(1) The phrase "without debate" in Rule VII;

(2) The following portion of Rule XX: ", unless the Senate directs shall direct the doors to be closed while deliberating upon its decisions. A motion to close the doors may be acted upon without objection, or, if objection is heard, the motion shall be voted on without debate by the yeas and nays, which shall be entered on the record"; and

(3) In Rule XXIV, the phrase "without debate", "except when the doors shall be closed for deliberation, and in that case" and ", to be had without debate".

Notice of Intent To Suspend the Rules of the Senate by Senators Wellstone and Harkin

In accordance to Rule V of the Standing Rules of the Senate, I (for myself and for Mr. Harkin) hereby give notice in writing that it is my intention to move to suspend the following portions of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials in regard to debate by Senators on any motion to dismiss, any motion to subpoena witnesses and/or to present any evidence not in the record during the trial of President William Jefferson Clinton:

(1) The phrase "without debate" in Rule VII;

(2) The following portion of Rule XX: ", unless the Senate directs shall direct the doors to be closed while deliberating upon its decisions. A motion to close the doors may be acted upon without objection, or, if objection is heard, the motion shall be voted on without debate by the yeas and nays, which shall be entered on the record"; and

(3) In Rule XXIV, the phrases "without debate", "except when the doors shall be closed for deliberation, and in that case" and ", to be had without debate".

Notice of Intent To Suspend the Rules of the Senate by Senators Harkin and Wellstone

In accordance to Rule V of the Standing Rules of the Senate, I (for myself and for Mr. Wellstone) hereby give notice in writing that it is my intention to move to suspend the following portions of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials in regard to debate by Senators on a motion to dismiss during the trial of President William Jefferson Clinton:

(1) The phrase "without debate" in Rule VII;

(2) The following portion of Rule XX: ", unless the Senate directs shall direct the doors to be closed while deliberating upon its decisions. A motion to close the doors may be acted upon without objection, or; if objection is heard, the motion shall be voted on without debate by the yeas and nays, which shall be entered on the record"; and

(3) In Rule XXIV, the phrases "without debate", "except when the doors shall be closed for deliberation, and in that case" and ", to be had without debate".

Notice of Intent To Suspend the Rules of the Senate by Senators Wellstone and Harkin

In accordance to Rule V of the Standing Rules of the Senate, I (for myself and for Mr. Harkin) hereby give notice in writing that it is my intention to move to suspend the following portions of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials in regard to debate by Senators on a motion to dismiss during the trial of President William Jefferson Clinton:

(1) The phrase "without debate" in Rule VII;

(2) The following portion of Rule XX: ", unless the Senate directs shall direct the doors to be closed while deliberating upon its decisions. A motion to close the doors may be acted upon without objection, or, if objection is heard, the motion shall be voted on without debate by the yeas and nays, which shall be entered on the record"; and

(3) In Rule XXIV, the phrases "without debate", "except when the doors shall be closed for deliberation, and in that case" and ", to be had without debate".

Notice of Intent To Suspend the Rules of the Senate by Senators Harkin and Wellstone

In accordance to Rule V of the Standing Rules of the Senate, I (for myself and for Mr. Wellstone) hereby give notice in writing that it is my intention to move to suspend the following portions of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials in regard to debate by Senators on a motion during the trial of President William Jefferson Clinton:

(1) The phrase "without debate" in Rule VII;

(2) The following portion of Rule XX: ", unless the Senate directs shall direct the doors to be closed while deliberating upon its decisions. A motion to close the doors may be acted upon without objection, or, if objection is heard, the motion shall be voted on without debate by the yeas and nays, which shall be entered on the record"; and

(3) In Rule XXIV, the phrases "without debate", "except when the doors shall be closed for deliberation, and in that case" and ", to be had without debate".

Notice of Intent To Suspend the Rules of the Senate by Senators Wellstone and Harkin

In accordance to Rule V of the Standing Rules of the Senate, I (for myself and for Mr. Harkin) hereby give notice in writing that it is my intention to move to suspend the following portions of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials in regard to debate by Senators on a motion during the trial of President William Jefferson Clinton:

(1) The phrase "without debate" in Rule VII;

(2) The following portion of Rule XX: ", unless the Senate directs shall direct the doors to be closed while deliberating upon its decisions. A motion to close the doors may be acted upon without objection, or, if objection is heard, the motion shall be voted on without debate by the yeas and nays, which shall be entered on the record"; and

(3) In Rule XXIV, the phrases "without debate", "except when the doors shall be closed for deliberation, and in that case" and ", to be had without debate".

ADJOURNMENT UNTIL 1 P.M. TOMORROW

Mr. LOTT. I move the Senate stand in adjournment under the previous order.

The motion was agreed to; and at 5:10 p.m., the Senate, sitting as a Court of Impeachment, adjourned until Friday, January 22, 1999, at 1 p.m.

(Under the order of Wednesday, January 20, 1999, the following material was submitted at the desk during today's session:)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–834. A communication from the President of the United States, transmitting, pursuant to law, the Annual Report on Foreign Economic Collection and Industrial Espionage; to the Select Committee on Intelligence.

EC–835. A communication from the Comptroller General of the United States, transmitting, a report of historical information and statistics regarding rescissions proposed by the executive branch and recissions enacted by Congress through October 1, 1998; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations and to the Committee on the Budget.

EC–836. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals dated November 17, 1998; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Energy and Natural Resources, and to the Committee on Foreign Relations.

EC–837. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report of estimates of the status of discretionary spending and the discretionary limits; transmitted jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Armed Services, to the Committee on Banking, Housing, and Urban Affairs, to the Committee on Commerce, Science, and Technology, to the Committee on Energy and Natural Resources, to the Committee on Environment and Public Works, to the Committee on Finance, to the to the Committee on Foreign Relations, to the Committee on Governmental Affairs, to the Committee on the Judiciary, the Committee on Health, Education, Labor, and Pensions, to the Committee on Small Business, to the Committee on Veterans Affairs, to the Committee on Indian Affairs, and to the Select Committee on Intelligence.

EC–838. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's annual report on performance goals related to prescription drug user fees; to the Committee on Health, Education, Labor, and Pensions.

EC–839. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Food and Drug Administration's report on the modernization of tracking systems used to support the Administration's review process; to the Committee on Health, Education, Labor, and Pensions.

EC–840. A communication from the Assistant Secretary of State for Legislative Affairs, transmitting, pursuant to law, the report of a rule entitled "Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates; Final Rule" (Notice 2711) received on December 21, 1998; to the Committee on Foreign Relations.

EC–841. A communication from the Assistant Secretary of State for Legislative Affairs, transmitting, pursuant to law, the report of a rule entitled "Passport Procedures—Amendment to Validity of Passports Regulation" (Notice 2720) received on December 21, 1998; to the Committee on Foreign Relations.

EC–842. A communication from the Director of the Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Designation of Offenses Subject to Sex Offender Release Notification" (RIN1120–AA85) received on December 16, 1998; to the Committee on the Judiciary.

EC–843. A communication from the Deputy Under Secretary for Natural Resources and Environment, Department of Agriculture, transmitting, pursuant to law, the report of a rule regarding the use and occupancy of National Forest System lands (RIN0596–AB35) received on November 30, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–844. A communication from the Administrator of the Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Fees for Official Inspection and Weighing Services" (RIN0580–AA66) received on December 18, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–845. A communication from the Chairman of the Advisory Council on Historic Preservation, transmitting, pursuant to law, the Council's annual report for fiscal years 1996 and 1997; to the Committee on Energy and Natural Resources.

EC–846. A communication from the Executive Director of the Presidio Trust, transmitting, pursuant to law, the report of a rule entitled "Management of the Presidio: Freedom of Information Act, Privacy Act, and Federal Tort Claims Act" (RIN3212–AA01) received on December 21, 1998; to the Committee on Energy and Natural Resources.

EC–847. A communication from the Assistant Secretary for Installations, Logistics, and Environment, Department of the Army, transmitting, pursuant to law, a report on the emergency detonation of a chemical agent filled round at Dugway Proving Ground, Utah; to the Committee on Armed Services.

EC–848. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison on the C4 Computer Systems Support functions at Offutt Air Force Base, Nebraska; to the Committee on Armed Services.

EC–849. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the Office's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–850. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, the Agency's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–851. A communication from the President of the United States, transmitting, pursuant to law, a report on the emigration laws and policies of Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; to the Committee on Finance.

EC–852. A communication from the Commissioner of Social Security, transmitting, pursuant to law, a report on the efficacy of providing certain Social Security beneficiaries with individualized information about their Social Security contributions and benefits; to the Committee on Finance.

EC–853. A communication from the Chief of the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Land Border Carrier Initiative Program" (RIN1515–AC16) received on December 29, 1998; to the Committee on Finance.

EC–854. A communication from the Chief of the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Exemption of Israeli Products From Certain Customs User Fees" (RIN1515–AC39) received on December 22, 1998; to the Committee on Finance.

EC–855. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Preparer Due Diligence Requirements for Determining Earned Income Credit Eligibility" (RIN1545–AW74) received on December 18, 1998; to the Committee on Finance.

EC–856. A communication from the Executive Secretary of the Harry Truman Scholarship Foundation, transmitting, pursuant to law, the Foundation's consolidated annual report under the Inspector General Act and the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COCHRAN (for himself and Mr. Inouye):

S. 269. A bill to state the policy of the United States regarding the deployment of a missile defense system capable of defending the territory of the United States against limited ballistic missile attack; read the first time.

By Mr. WARNER (for himself, Mr. Thurmond, Mr. McCain, Mr. Smith of New Hampshire, Mr. Inhofe, Ms. Snowe, Mr. Roberts, Mr. Allard, Mr. Hutchinson, Mr. Sessions, Mr. Santorum, and Mr. Lott):

S. 270. A bill to improve pay and retirement equity for members of the Armed Forces; and for other purposes; read the first time.

By Mr. FRIST (for himself, Mr. Wyden, Mr. Abraham, Mr. Allard, Mr. Ashcroft, Mr. Bayh, Mr. Bennett, Mr. Brownback, Ms. Collins, Mr. Coverdell, Mr. DeWine, Mr. Gorton, Mr. Gregg, Mr. Hatch, Mrs. Hutchison, Mr. Kerrey, Mr. Levin, Mr. McCain, Mr. McConnell, Mr. Murkowski, Mr. Smith of Oregon, Mr. Thompson, and Mr. Voinovich):

S. 271. A bill to provide for education flexibility partnerships; read the first time.

By Mrs. BOXER (for herself and Mrs. Feinstein):

S. 272. A bill to designate the Federal building located at 1301 Clay Street in Oakland, California, as the "Ronald V. Dellums Federal Building"; to the Committee on Environment and Public Works.

By Mrs. FEINSTEIN:

S. 273. A bill for the relief of Oleg Rasulyevich Rafikova, Alfia Fanilevna Rafikova, Evgenia Olegovna Rafikova, and Ruslan Khamitovich Yagudin; to the Committee on the Judiciary.

By Mr. COVERDELL (for himself, Mr. McCain, and Mr. Torricelli):

S. 274. A bill to amend the Internal Revenue Code of 1986 to increase the maximum taxable income for the 15 percent rate bracket; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 275. A bill for the relief of Suchada Kwong; to the Committee on the Judiciary.

S. 276. A bill for the relief of Sergio Lozano, Faurico Lozano and Ana Lozano; to the Committee on the Judiciary.

By Mr. COVERDELL (for himself, Mr. Lott, Mr. Craig, Mr. Mack, Mr. Gregg, and Mr. Sessions):

S. 277. A bill to improve elementary and secondary education; to the Committee on Finance.

By Mr. DOMENICI (for himself and Mr. Bingaman):

S. 278. A bill to direct the Secretary of the Interior to convey certain lands to the county of Rio Arriba, New Mexico; to the Committee on Energy and Natural Resources.

By Mr. McCAIN (for himself, Mr. Kyl, and Mr. Helms):

S. 279. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age; to the Committee on Finance.

By Mr. FRIST (for himself, Ms. Collins, Mrs. Hutchison, Mr. Gorton, Mr. Brownback, Mr. Voinovich, Mr. Abraham, Mr. Hatch, Mr. Smith of Oregon, Mr. Gregg, Mr. Thompson, Mr. Murkowski, Mr. Coverdell, Mr. Allard, Mr. DeWine, Mr. Bennett, Mr. McCain, Mr. McConnell, Mr. Ashcroft, Mr. Wyden, Mr. Levin, Mr. Kerrey, Mr. Bayh, Mrs. Lincoln, Mr. Hutchinson, Mr. Breaux, and Mr. Thomas):

S. 280. A bill to provide for education flexibility partnerships; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HARKIN:

S. 281. A bill to amend the Tariff Act of 1930 to clarify that forced or indentured labor includes forced or indentured child labor; to the Committee on Finance.

By Mr. MACK (for himself and Mr. Graham):

S. 282. A bill to provide that no electric utility shall be required to enter into a new contract or obligation to purchase or to sell electricity or capacity under section 210 of the Public Utility Regulatory Policies Act of 1978; to the Committee on Energy and Natural Resources.

By Mr. McCAIN:

S. 283. A bill to amend the Internal Revenue Code of 1986 to provide a partial exclusion from gross income for individuals and interest received by individuals; to the Committee on Finance.

S. 284. A bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty by increasing the standard deduction for married individuals filing joint returns to twice the standard deduction for unmarried individuals; to the Committee on Finance.

By Mr. McCAIN (for himself, Mr. DeWine, Ms. Landrieu, Mr. Durbin, Mr. Cleland, Mr. Hagel, Mr. Wellstone, and Mr. Breaux):

S. 285. A bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test; to the Committee on Finance.

By Mr. McCAIN:

S. 286. A bill to amend the Internal Revenue Code to repeal the increase in the tax on social security benefits; to the Committee on Finance.

By Mr. ROTH (for himself and Mr. Biden):

S. 287. A bill to amend the Small Business Act to require the establishment of a regional or branch office of the Small Business Administration in each State; to the Committee on Small Business.

By Mr. JEFFORDS (for himself, Mr. Hatch, Mr. Kennedy, Mr. Smith of Oregon, Mr. Leahy, Mr. Kerrey, and Mr. Durbin):

S. 288. A bill to amend the Internal Revenue Code of 1986 to exclude from income certain amounts received under the National Health Service Corps Scholarship Program and F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program; to the Committee on Finance.

By Mr. ABRAHAM (for himself, Mr. Coverdell, Mr. Hutchinson, and Mr. Sessions):

S. 289. A bill to amend the Public Health Service Act to permit faith-based substance abuse treatment centers to receive Federal assistance, to permit individuals receiving Federal drug treatment assistance to select private and religiously oriented treatment, and to protect the rights of individuals from being required to receive religiously oriented treatment; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ABRAHAM (for himself and Ms. Landrieu):

S. 290. A bill to establish an adoption awareness program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DOMENICI (for himself and Mr. Bingaman):

S. 291. A bill to convey certain real property within the Carlsbad Project in New Mexico to the Carlsbad Irrigation District; to the Committee on Energy and Natural Resources.

S. 292. A bill to preserve the cultural resources of the Route 66 corridor and to authorize the Secretary of the Interior to provide assistance; to the Committee on Energy and Natural Resources.

S. 293. A bill to direct the Secretaries of Agriculture and the Interior to convey certain lands in San Juan County, New Mexico, to San Juan College; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT:

S. Res. 28. A resolution amending paragraph 1(m)(1) of Rule XXV; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FRIST (for himself, Mr. Wyden, Mr. Abraham, Mr. Allard, Mr. Ashcroft, Mr. Bayh, Mr. Bennett, Mr. Brownback, Ms. Collins, Mr. Coverdell, Mr. DeWine, Mr. Gorton, Mr. Gregg, Mr. Hatch, Mrs. Hutchison, Mr. Kerrey, Mr. Levin, Mr. McCain, Mr. McConnell, Mr. Murkowski, Mr. Smith of Oregon, Mr. Thompson, and Mr. Voinovich):

S. 271. A bill to provide for education flexibility partnerships; read the first time.

THE EDUCATION FLEXIBILITY PARTNERSHIP ACT OF 1999

• Mr. FRIST. Mr. President, I rise today to introduce, with my colleague from Oregon, Senator Wyden, The Education Flexibility Partnership Act of 1999. This bipartisan measure will expand the immensely popular and highly successful Ed-Flex program to all 50 states in the country. As you may know, Ed-Flex is currently a demonstration program, available only to 12 states. Under the Frist-Wyden bill, all states would have the option to participate in the program.

States and localities have waged a war on poor student performance and they need our help. For too long, Washington has dictated a plan riddled with red tape and regulation. Stagnant student performance has been the result. The longer a child is in an American school, the more his math and science skills deteriorate compared to the skills of his international peers, according to the Third International Math and Science Study (TIMSS). Out of 21 countries, the United States ranked 19th in math and 16th in science for twelfth graders.

To help our states and localities, Washington must give them the flexibility that they need in order to find creative solutions that make sense in their own communities. When localities find ideas that work, the federal government should either get out of the way or lend a helping hand. The last thing that our schools need is more bureaucracy and federal intrusion. Education dollars should be spent in the classroom, not in the front office.

Ed-Flex frees states from the burden of unnecessary, time-consuming Washington regulations, so long as states are complying with certain core federal principles, such as civil rights, and so long as the states are making progress toward improving their students' results. Under the Ed-Flex program, the Department of Education delegates to the states its power to grant individual school districts temporary waivers from certain federal requirements that interfere with state and local efforts to improve education. To be eligible, a state must waive its own regulations on schools. It must also hold schools accountable for results. The 12 states that currently participate in Ed-Flex have used this flexibility to allow school districts to innovate and better use federal resources to improve student outcomes.

For instance, the Phelps Luck Elementary School in Howard County, Maryland used its waiver to provide one-on-one tutoring for reading students who have the greatest need in grades 1–5. They also used their waiver to lower the average student/teacher ratio in mathematics and reading from 25/1 to 12/1. By granting localities more flexibility to use resources already allocated, Ed-Flex allows local decision-makers to decide for themselves how to best tailor federal programs to meet the needs of their own schools.

As the Chairman of the Senate Budget Committee Task Force on Education, formed by Budget Chairman Pete Domenici, I heard first-hand accounts of the success of the Ed-Flex program and the need for flexibility for our states that are overburdened by federal requirements. Secretary Riley told the Task Force that, "through our Ed-Flex demonstration initiative, we are giving State-level officials broad authority to waive federal requirements that present an obstacle to innovation in their schools." The Department of Education further notes, "Ed-Flex can help participating states and local school districts use federal funds in ways that provide maximum support for effective school reform based on challenging academic standards for all students."

Recent GAO reports have questioned whether Ed-Flex has addressed or can address all of the concerns that local schools and school districts have regarding the regulatory and administrative requirements that federal education programs impose. GAO is definitive in its answer: Ed-Flex hasn't and it won't. We certainly do not believe that Ed-Flex is a panacea to our nation's educational system's woes. Nor do we believe that the complexity, redundancy and rigidity that are the unfortunate hallmarks of our federal education effort will magically disappear. But it is a good first step. Not all states will be as active with Ed-Flex waiver authority as front-runners like Texas, but they all deserve the opportunity to try.

The time has come for this common sense reform. In the Senate, the Ed-Flex expansion bill had 21 bipartisan cosponsors last year. The Labor Committee passed the bill by a vote of 17–1. In the House, Representatives CASTLE (R–DE) and ROEMER (D–IN) introduced companion legislation with 25 House cosponsors. The National Governors' Association has made Ed-Flex expansion a top priority and both the White House and the Department of Education support Ed-Flex expansion. Last year, there obviously was a convergence of support from all corners; nevertheless, the usual end-of-the-session morass claimed Ed-Flex as one of its many victims.

We must do better in the 106th Congress. Ed-Flex is a bi-partisan proposal with broad-based support. Even so, Ed-Flex expansion will again face an uphill battle. Some in Congress want to delay real reform by attaching poison pill amendments or waiting for the reauthorization of the far-reaching Elementary and Secondary Education Act (ESEA) scheduled for 1999. If history is any guide, Congress will be lucky to have completed the reauthorization process for K–12 education programs two years from now. Ed-Flex expansion should not get bogged down in this partisan embroglio. Delay is not the answer to our education crisis. The jury is in on Ed-Flex. Let's not allow partisanship to stop us from improving the public education system. We hope that Congress will rise to meet the challenge of helping our children sooner rather than later.

Mr. President, I believe that passage of this legislation is a strong first step for improving our public education system. Let's give states and localities the flexibility that they need to address the many needs of our students. I am hopeful that we will move this bill quickly in a bipartisan way. I strongly urge passage of this bill.•

• Mr. WYDEN. Mr. President, today I rise to introduce the Education Flexibility Partnership Act of 1999 with my colleague Senator BILL FRIST of Tennessee. This bill encourages innovation in our schools by expanding the Ed-Flex demonstration program from a handful of states to all states. Mr. President, education dollars should be spent in the classroom, not the front office. That common-sense philosophy is at the heart of an exciting new education program known as education flexibility, or Ed-Flex.

In the raging debate over the federal government's role in education, Ed-Flex defines a third-way approach—allowing local schools to receive federal assistance while being freed from the burden of unnecessary, time-consuming Washington resolutions. Local school boards, principals, teachers, and parents have the flexibility to find creative solutions that make sense in their own communities, and are held accountable for achieving real results. Ed-Flex accomplishes this by giving states the authority to grant waivers from federal regulations to individual schools or local education agencies, in exchange for agreeing to meet specific targets for student improvement.

In other words, a school that agrees to meet high standards can receive federal aid without having to worry about complying with the hundreds and hundreds of pages of regulations, and filling out the voluminous forms that usually go along with that assistance. Virtually every school district in the country, for example, employs staff whose job is to make sure that the schools are in compliance with rules for the government's Title I program. Ed-Flex could allow school districts to use fewer compliance officers and hire more teachers instead.

Ed-Flex is currently being tried as a pilot program in a dozen states around the country, and the results have been impressive:

Oregon community colleges and high schools work together to streamline their vocational education programs. As a result, more students are learning technical skills, such as computer programming, and graduating from high school.

The Phelps Luck Elementary School in Howard County, Maryland has used its waiver to provide one-on-one tutoring for reading students who have the greatest need in grades 1–5. They also used their waiver to lower the average student/teacher ratio in mathematics and reading from 25 to 1 to 12 to 1.

Achievement scores from Texas, the state which has implemented Ed-Flex most broadly, confirm that Ed-Flex can improve academic performance. After only two years of implementation, preliminary statewide results on the Texas Assessment of Academic Skills show that districts with Ed-Flex waivers outperformed districts that didn't take advantage of the program by a full three points in reading and more than two in math.

For African-American students, the gains were even greater. At Westlawn Elementary School in LaMarque, Texas, for example, African-American students improved almost 23% over their 1996 math test scores, after the school put an Ed-Flex waiver into practice.

Ed-Flex will help schools raise achievement levels by giving them a powerful weapon to cut through the red tape that sometimes keeps teachers and principals tied up in knots. This frees them up to focus full time on giving children the best possible education. The Ohio Department of Education wrote in an annual report that Ed-Flex helps create an environment which "encourages creativity, thoughtful planning, and innovation." And in Oregon, the nation's first Ed-Flex state, the program has brought "greater flexibility and better coordination to federal education programs."

At the heart of all this innovation is accountability. Schools need to demonstrate that what they are doing produces results. If it doesn't, Ed-Flex provides an opportunity to move on to something else that might be more effective. Parents and taxpayers should rightfully demand that schools be responsible for meeting the goals that are set for them.

Last year, Senator FRIST and I introduced legislation to expand Ed-Flex nationwide, and broaden its use in the states where it's already in place. With the support of a bipartisan group of 21 cosponsors, the bill passed almost unanimously through the Senate Labor Committee. In the House, Representatives CASTLE and ROEMER introduced a companion bill with 25 cosponsors. Unfortunately, the bills fell victim to legislative gridlock at the end of the 105th Congress. But today, at the beginning of the 106th Congress, we are reintroducing the bill with an eye toward its passage. The National Governors' Association has made expansion of Ed-Flex a top priority, and both President Clinton and Education Secretary Riley have announced their support for Ed-Flex. The time for action is near.

Every hour school officials spend filling out a government form is an hour that could be spent giving special attention to a child. Every dollar spent on complying with unproductive mandates from Washington, DC, is a dollar that could be spent on something that works. With a good education more important than ever, and confidence in our schools at an all-time low, it's time to try something different. Flexibility and accountability can be the key to a brighter future. Congress should expand Ed-Flex, and allow a flurry of creativity across our entire country to give our children a brighter future.•

• Mr. ASHCROFT. Mr. President, I am pleased to join with Senator FRIST and others today to introduce the "Education Flexibility Partnership Act of 1999." I commend the Senator from Tennessee for his leadership on this proposal, which will allow states to waive various federal education regulations and give them more flexibility and authority over their use of federal resources to educate their students.

Mr. President, we all want our nation's children to get a first-class education that boosts student achievement and elevates them to excellence. Our role at the federal level should be to help states and local school districts provide the best education possible for their students.

Unfortunately, many of our federal education programs, while well-intentioned, are steeped in so many rules and regulations that states and local schools consume precious time and resources to stay in compliance with the federal programs. As a former governor, I have experienced first-hand the frustration of having to jump through a lot of federal hoops to obtain and keep federal dollars designated for various programs. I have also heard of examples around the country demonstrating this same problem I experienced.

For example, a 1990 study found that 52% of the paperwork required of an Ohio school district was related to participation in federal programs, while federal dollars provided less than 5% of total education funding in Ohio. In Florida, 374 employees administer $8 billion in state funds. However, 297 state employees are needed to oversee only $1 billion in federal funds—six times as many per dollar.

The Federal Department of Education requires over 48.6 million hours worth of paperwork to receive federal dollars. This bureaucratic maze takes up to 35% of every federal education dollar. Clearly, states and local school districts need relief from excessive federal regulations, which take away precious dollars and teacher time from our children.

The Education Flexibility Partnership Act of 1999 will help to relieve administrative burdens and save federal resources by providing states with more flexibility to operate their education programs through the waiver of certain federal and state regulations. The bill expands to all states the highly successful Education Flexibility Partnership Demonstration Program that is currently operating in 12 states and is producing great results. This legislation will help to reduce excessive bureaucratic oversight over education and return more control to the state and local levels.

Again, I appreciate Senator FRIST's dedication to providing greater flexibility to the states and I look forward to working with him to pass the Education Flexibility Partnership Act of 1999. We in Congress should support proposals—such as this one—that return decision-making authority back to state and local decision-makers, where parents, teachers, and school boards have the greatest opportunity to participate in determining priorities, developing curriculum, and making other important education-related decisions.●

By Mrs. FEINSTEIN:

S. 273. A bill for the relief of Oleg Rasulyevich Rafikova, Alfia Fanilevna Rafikova, Evgenia Olegovna Rafikova, and Ruslan Khamitovich Yagudin; to the Committee on the Judiciary.

PRIVATE RELIEF BILL

● Mrs. FEINSTEIN. Mr. President, I am introducing a private relief bill that provides permanent residency to Oleg Rasulyevich Rafikova, Alfia Fanilevna Rafikova, and their children, Evgenia Olegovna Rafikova and Ruslan Khamitovich Yagudin, who without this legislation, would have to return to Russia and face possible threats of blackmail and kidnaping.

The Rafikova family came to the United States on August 28, 1997, from Ufa, Russia, on a visitor's visa to receive their inheritance from Alfia's uncle, the famous ballet dancer, Rudolf Nureyev. The Rafikova's now fear returning to their home country because they fear that the local Mafia would try to extort their inheritance from them.

According to Alfia, everything changed for the family in Ufa, Russia, when the local media announced the death of her uncle, Rudolf Nureyev and exaggerated the amount of her inheritance and falsely made assertions that the family already had the money. Alfia claims that she and her husband started getting harassing phone calls, threats of kidnaping their children for ransom, and death threats. The events escalated to a day when they were robbed of everything except the clothes they were wearing.

Alfia's inheritance is substantial enough that she and her family will not be a public charge. In fact, Alfia and her husband Oleg, who is a chef by training, would like to start a restaurant in San Francisco, providing jobs for Americans. Alfia's two children are attending school in San Francisco and look forward to the day they could call the United States their new home.

I urge all my colleagues to support this legislation so we can give the Rafikova family a chance to restart their life in the United States.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENT STATUS FOR OLEG RASULYEVICH RAFIKOVA, ALFIA FANILEVNA RAFIKOVA, EVGENIA OLEGOVNA RAFIKOVA, AND RUSLAN KHAMITOVICH YAGUDIN.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Oleg Rasulyevich Rafikova, Alfia Fanilevna Rafikova, Evgenia Olegovna Rafikova, and Ruslan Khamitovich Yagudin shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Oleg Rasulyevich Rafikova, Alfia Fanilevna Rafikova, Evgenia Olegovna Rafikova, or Ruslan Khamitovich Yagudin enters the United States before the filing deadline specified in subsection (c), he or she shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Oleg Rasulyevich Rafikova, Alfia Fanilevna Rafikova, Evgenia Olegovna Rafikova, and Ruslan Khamitovich Yagudin, the Secretary of State shall instruct the proper officer to reduce by 4, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 202(e) of such Act.●

By Mr. COVERDELL (for himself, Mr. MCCAIN, and Mr. TORRICELLI):

S. 274. A bill to amend the Internal Revenue Code of 1986 to increase the maximum taxable income for the 15-percent rate bracket; to the Committee on Finance.

MIDDLE CLASS TAX RELIEF ACT OF 1999

● Mr. COVERDELL. Mr. President, I rise today, along with Senators MCCAIN and TORRICELLI, to introduce the Middle Class Tax Relief Act of 1999. The Senate's agenda on tax relief is premised on the realization that political leaders need to create policies that unleash the creativity, innovation and expertise of the American people. We should reject Washington-based solutions and instead, seek to move power, money and decision-making back to the people of this nation.

Now is the time for us to consider sweeping middle class tax relief. This tax relief proposal accomplishes several goals. First, it directs the vast majority of the relief to those who feel the tax squeeze the most: middle-income taxpayers.

Second, because it is across-the-board relief, every middle class taxpayer wins. Every American earning $25,000 in taxable income or more would see relief. Estimates by the Joint Committee on Taxation show that approximately 29 million taxpayers would see tax relief this year.

Third, it provides modest marriage penalty relief without adding complexity to the tax code.

Fourth, it is a realistic proposal that is also entirely consistent with the long-term goal of achieving a flatter, simpler tax code.

My proposal, the Middle Class Tax Relief Act, achieves these goals by raising the roof on the 15% individual income tax bracket. In other words, it returns middle class taxpayers to the lowest individual income bracket. It would increase the income threshold between the 15% and the 28% income tax rate brackets by $10,000 for married couples—$5,000 for singles—over a five year period.

If the Middle Class Tax Relief Act were fully in place today, it would mean that a family of four who earned $71,250 or less would be taxed at the 15% rate. It would mean such families could expect up to $1,300 in tax relief annually. That amounts to increasing their take-home pay by more than $100 a month and that is real relief.

In the coming weeks, a great deal of discussion will focus on providing the American people with the tax relief they need and deserve, and how that is to be accomplished. There are a number of proposals providing tax relief, some of which I support. However, I believe the Middle Class Tax Relief Act will be successful ultimately because we can actually achieve it during this Congress. I ask my colleagues to join me in this effort.●

● Mr. MCCAIN. Mr. President, I am proud to cosponsor The Middle Class Tax Relief Act of 1999 with Senators COVERDELL and Senator TORRICELLI. This bill would deliver sweeping tax relief to lower- and middle-income taxpayers. The bill incrementally increases the number of individuals who pay the lowest tax rate, which is 15%. If this bill had been law in 1998, approximately millions of taxpayers now in the 28% tax-bracket would have paid taxes at the 15% rate. In addition, this bill significantly lessens the effect of one of the Tax Code's most inequitable provisions: the Marriage Penalty.

Mr. President, before I proceed, I want to congratulate Senator COVERDELL for his leadership and his tireless work in crafting this historic legislation. This bill recognizes the need to maintain the momentum toward fundamental tax reform evidenced by the Taxpayer Relief Act of 1997.

This bill is the only major tax relief proposal focused directly on addressing the middle-class tax squeeze. According to preliminary estimates by the Tax Foundation, 29 million taxpayers would benefit from this broad-based, middle-class tax relief in 1998 alone.

Mr. President, I support this legislation because: First, it is a step toward further reform; second, it helps ordinary middle-class families who are struggling to make ends meet without asking the government to help out, and third, it promotes future economic prosperity by increasing the amount of money taxpayers have available for their own savings and investment.

It is essential that we provide American families with relief from the excessive rate of taxation that saps job growth and robs them of the opportunity to provide for their needs and save for the future. Over a five-year period, this bill would deliver sweeping tax relief to middle-class taxpayers by increasing the number of individuals who pay the lowest tax rate. In addition, this bill is simple, and it calculates tax relief based upon income alone, not on factors such as the number of school-age children.

This bill benefits our citizens in several ways. It focuses tax relief on the individuals who feel the tax squeeze the most: lower- and middle-income taxpayers. Under this bill, unmarried individuals will be able to make $35,000 and married individuals can make $70,000, and still be in the lowest tax bracket.

This measure also results in taxpayers being able to keep more of the money they earn. This extra income will allow individuals to save and invest more. Increased savings and investment are key to sustaining our current economic growth.

In sum, the measure is a win for individuals, and a win for America as a whole. Millions of Americans would realize some tax savings from this legislation. Citizens will be able to keep more of what they earn, which will ensure that Americans have more of the resources they need to invest in their own individual futures, and America's future.

Mr. President, on a broader scale, I believe we should abandon our existing tax code altogether and create a new system. This new system should have one tax rate, which taxes income only one time. This system should also reduce the time to prepare tax returns from days to minutes, and the expense to prepare tax returns from thousands of dollars to pennies.

The 1997 Taxpayer Relief Act was a step in the right direction to provide tax relief to lower- and middle-income families. The Middle Class Tax Relief Act of 1999 represents an important further step toward a flatter, fairer tax system, which also provides immediate tax relief for hard-working Americans and families.

Mr. President, on behalf of the millions of Americans in need of relief from over-taxation, I urge my colleagues to support this important measure.●

By Mrs. FEINSTEIN:

S. 275. A bill for the relief of Suchada Kwong; to the Committee on the Judiciary.

PRIVATE RELIEF BILL

● Mrs. FEINSTEIN. Mr. President, I am offering today, a legislation that previously passed the Senate by unanimous consent but failed to be enacted because the bill was not considered by the House during last Congress.

This legislation provides permanent residency to Suchada Kwong, a recently widowed young mother of a U.S. citizen child who faces the devastation of being separated from her child and family here in the U.S.

Suchada Kwong's U.S. citizen husband, Jimmy Kwong, was tragically killed in an automobile accident in June of 1996, leaving a 3-month-old U.S.-born son and his 29-year-old bride.

Because current law does not allow Suchada to adjust her status to permanent residency without her husband, Suchada now faces deportation.

Suchada and Jimmy Kwong met in Bangkok, Thailand, through a mutual friend in 1993. He communicated with her frequently by phone and visited her every time he was in Bangkok. They fell in love and were married in September 1995 and Suchada gave birth to Ryan Stephen Kwong in May 1996.

Suchada was supposed to have her INS interview on August 15, 1996. However, Jimmy was killed in an accident in June, less than 3 weeks after his son was born and 2 months short of the INS interview. Now, because the petitioner is deceased, Suchada is ineligible to adjust her status. While the immigration law provides for widows of U.S. citizens to self-petition, that provision is only available for people who have been married for over 2 years.

Suchada's deportation will not only cause hardship to her and her young child but to Suchada's mother-in-law, Mrs. Kwong, who faces losing her grandson, only a short time after she lost her only son.

Mrs. Kwong is elderly, and though she is financially capable, could not care for her grandson herself. Mrs. Kwong is proud to be self-supporting, having owned and worked in a small business until her retirement. The family has never used public assistance, and through Jimmy's job, the family has sufficient resources to support Suchada and Ryan. It would also be difficult for Suchada as a single mother in Thailand. Here in the United States, she has the support of Mrs. Kwong and their church.

Suchada was previously granted voluntary departure for one year on October 1996 to explore other options or prepare to leave the United States. During that time period, Suchada and her family have explored all options but failed. Now, the voluntary departure period has expired and Suchada must leave the country immediately, leaving behind her young child and her family here in the U.S.

Suchada has done everything she could to become a permanent resident of this country—except for the tragedy of her husband's death 2 months before she could become a permanent resident. I hope you support this bill so that we can help Suchada rebuild her life in the United States.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENT STATUS FOR SUCHADA KWONG.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Suchada Kwong shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Suchada Kwong enters the United States before the filing deadline specified in subsection (c), she shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the applications for issuance of immigrant visas or the applications for adjustment of status are filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence of Suchada Kwong, the Secretary of State shall instruct the proper officer to reduce by one, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 202(e) of such Act.●

By Mrs. FEINSTEIN:

S. 276. A bill for the relief of Sergio Lozano, Fauricio Lozano and Ana Lozano; to the Committee on the Judiciary.

PRIVATE RELIEF BILL

● Mrs. FEINSTEIN. Mr. President, I am introducing today a legislation that previously passed the Senate by unanimous consent but failed to be enacted because it was never considered by the House during last Congress.

The bill provides permanent resident status to three children, Sergio (18 years old), Fauricio (16 years old), and Ana Lozano (15 years old) who now face deportation because they lost their mother in 1997 and the immigration law prohibits permanent legal residency to minor children under the age of twenty-one without their parents.

The Lozano children face a dire situation without this legislation since despite the fact that they came into the country legally, they could be deported because they were orphaned.

The children lived with their mother, Ana Ruth Lozano, until February 1997 when she died of complications developed from typhoid fever. Since their mother's death, the children have been living with their closest relative, their U.S. citizen grandmother, who currently lives in Los Angeles, California.

Without their mother, these children can be deported by the INS despite the fact the children have no family who will take care of them in El Salvador except their estranged father who cannot be located by the family.

Without this bill, the children will most likely be sent to an orphanage in El Salvador. Here in the U.S., the children have their U.S. citizen grandmother and uncles who will give them a loving home.

I have previously sought administrative relief for the Lozano children by asking the INS District Office in Los Angeles and Commissioner Meissner if any humanitarian exemptions could be made in their case. INS has told my staff that there is nothing further they can do administratively and a private relief bill may be the only way to protect the children from deportation.

I urge all the members to support this bill so that we can help the Lozano children rebuild their lives in the United States.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENT STATUS FOR SERGIO LOZANO, FAURICIO LOZANO AND ANA LOZANO.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Sergio Lozano, Fauricio Lozano and Ana Lozano shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Sergio Lozano, Fauricio Lozano and Ana Lozano enter the United States before the filing deadline specified in subsection (c), they shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and nationality Act as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the applications for issuance of immigrant visas or the applications for adjustment of status are filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Sergio Lozano, Fauricio Lozano and Ana Lozano, the Secretary of State shall instruct the proper officer to reduce by three, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 202(e) of such Act.●

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 278. A bill to direct the Secretary of the Interior to convey certain lands to the county of Rio Arriba, New Mexico; to the Committee on Energy and Natural Resources.

THE RIO ARRIBA, NEW MEXICO LAND CONVEYANCE ACT OF 1999

● Mr. DOMENICI. Mr. President, today I rise to introduce legislation that will provide long-term benefits for the people of Rio Arriba County, New Mexico. In November of 1997, I introduced the Rio Arriba, New Mexico Land Conveyance Act of 1998. The bill would have transferred unwanted federal land and facilities to a community desperately seeking the ability to grow. The bill had bipartisan support, and created a win-win situation. After incorporating suggested changes from the Administration, the Senate Energy and Natural Resources Committee reported the bill unanimously in May 1998, and the Senate passed S. 1510 on July 17, 1998.

Unfortunately, despite the logic and benefit of the legislation, the bill failed to pass the House of Representatives in the waning days of the 105th Congress. I am hoping that this body can promptly pass this needed legislation again, and that the House will agree that this type of transfer is logical and should be quickly passed since it provides facilities and lands for community use while removing unwanted and unused land and facilities from federal ownership.

Over one-third of the land in New Mexico is owned by the federal government, and therefore finding appropriate sites for community and educational purposes can be difficult. More than seventy percent of Rio Arriba County is in federal ownership. Communities in this area have found themselves unable to grow or find available property necessary to provide local services. This legislation allows for transfer by the Secretary of the Interior real property and improvements at an abandoned and surplus ranger station for the Carson National Forest to Rio Arriba County. The site is known as the Old Coyote Administrative Site, near the small town of Coyote, New Mexico.

The Coyote Station will continue to be used for public purposes for the County, potentially including a community center and a fire substation. Some of the buildings will also be available for the County to use for storage and repair of road maintenance equipment and other County vehicles.

Mr. President, the Forest Service has determined that this site is of no further use to them, since they have recently completed construction of a new administrative facility for the Coyote Ranger District. The Forest Service reported to the General Services Administration that the improvements on the site were considered surplus, and would be available for disposal under their administrative procedures. At this particular site, however, the land on which the facilities have been built is withdrawn public domain land, under the jurisdiction of the Bureau of Land Management.

I worked closely in the last Congress with the Forest Service and Bureau of Land Management to make this transfer a reality. The Administration is supportive of the legislation and the changes made to the bill at their suggestion. Since neither the Bureau of Land Management nor the Forest Service have any interest in maintaining Federal ownership of this land and the surplus facilities, and Rio Arriba County desperately needs them, passage of this bill is a win-win situation for both the federal government, New Mexico, and the people of Rio Arriba County. I look forward to prompt passage of this legislation again in the Senate, the House's agreement, and Presidential signature as soon as possible.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OLD COYOTE ADMINISTRATIVE SITE.

(a) CONVEYANCE OF PROPERTY.—Not later than one year after the date of enactment of this Act, the Secretary of the Interior (herein "the Secretary") shall convey to the County of Rio Arriba, New Mexico (herein "the County"), subject to the terms and conditions stated in subsection (b), all right, title, and interest of the United States in and to the land (including all improvements on the land) known as the "Old Coyote Administrative Site" located approximately ½ mile east of the Village of Coyote, New Mexico, on State Road 96, comprising one tract of 130.27 acres (as described in Public Land Order 3730), and one tract of 276.76 acres (as described in Executive Order 4599).

(b) TERMS AND CONDITIONS.—

(1) Consideration for the conveyance described in subsection (a) shall be—

(A) an amount that is consistent with the special pricing program for Governmental entities under the Recreation and Public Purposes Act; and

(B) an agreement between the Secretary and the County indemnifying the Government of the United States from all liability of the Government that arises from the property.

(2) The lands conveyed by this Act shall be used for public purposes. If such lands cease to be used for public purposes, at the option of the United States, such lands will revert to the United States.

(c) LAND WITHDRAWALS.—Land withdrawals under Public Land Order 3730 and Executive Order 4599 as extended in the Federal Register on May 25, 1989 (54 F.R. 22629) shall be revoked simultaneous with the conveyance of the property under subsection (a).●

By Mr. MCCAIN (for himself, Mr. KYL, and Mr. HELMS):

S. 279. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age; to the Committee on Finance.

THE SENIOR CITIZENS FREEDOM TO WORK ACT OF 1999

● Mr. KYL. Mr. President, I rise to join Senator JOHN MCCAIN as an original cosponsor of the Senior Citizens Freedom to Work Act of 1999. Senator MCCAIN's legislation would give seniors relief from the Social Security earnings limitation contained in current law.

During the 1992 presidential campaign, President Clinton said that America must "lift the Social Security earnings test limitation so that older Americans are able to help rebuild our economy and create a better future for us all." I could not agree more. Yet, despite 6 years of urging from many members of Congress and millions of Americans, the President appears reluctant to make good on this campaign promise. So, it has fallen to Senator MCCAIN to pursue this issue, as he has for several years.

The Social Security Earnings Limitation (SSEL) was created during the Depression in order to move older workers out of the labor force and to create job opportunities for younger workers. Obviously, this situation no longer exists.

In an effort to address this problem, legislation was enacted in 1996, which I supported, which will raise the Social Security earnings limitation to $30,000 by 2002. However, I believe we must do more. Senator MCCAIN's bill would repeal the entire limitation immediately.

Currently, under the SSEL, senior citizens aged 62 to 64 lose $1 in benefits for every $2 they earn over the $9,600 limit. Seniors aged 65–99 lose $1 in benefits for every $3 they earn over $15,500 annually. When combined with federal and state taxes, a senior citizen earning just over $14,000 per year faces an effective marginal tax rate of 56 percent.

However, when combined with the President's tax on Social Security benefits passed in 1993, a senior's marginal tax rate can reach 88 percent—twice the rate millionaires pay!

Some lawmakers apparently forget the Social Security is not an insurance policy intended to offset some unforeseen future occurrence; rather, it is a pension with a fixed sum paid regularly to the retirees who made regular contributions throughout their working lives. Social Security is a planned savings program to supplement income during an individual's retirement years.

I believe no American should be discouraged from working. Such a policy violates the principles of self-reliance and personal responsibility on which America was founded. Regrettably, American's senior citizens re severely penalized for attempting to be financially independent. When senior citizens work to pay for the high cost of health care, pharmaceuticals and housing, they are penalized like no other group in our society.

Senior citizens possess a wealth of experience and expertise acquired through decades of productivity in the work place. Companies hiring seniors have noted their strong work ethic, punctuality, flexibility. Their participation in the workforce can add billions of dollars to our Nation's economy. To remain competitive in the global marketplace, America needs for its senior citizens to be involved in the economy: Working, producing, and paying taxes to the federal government. A law which discourages this is not just bad law, it's wrong—and it hurts not only seniors but all Americans.

I will work with Senator MCCAIN in the 106th Congress to enact this legislation which will lift the unjust and counterproductive burden from the backs of our senior citizens.●

● Mr. MCCAIN. Mr. President, I rise today with Senators KYL and HELMS to introduce again this year the Senior Citizen's Freedom to Work Act. Our bill would fully repeal the erroneous Social Security Earnings test.

Since coming to the Senate in 1987, I have been working to eliminate the discriminatory and unfair earnings test.

I am pleased that in 1996, Congress passed and President Clinton signed into law my bill, the Senior Citizens Right to Work Act. This legislation took a step in the right direction by increasing the earning threshold for senior citizens from $11,520 to $30,000 by the year 2002. Now it is time to eliminate the unjust earnings test in its entirety.

Most Americans are shocked and appalled when they discover that older Americans are penalized for working. Nobody should be penalized for working or discouraged from engaging in work. Yet, this is exactly what the Social Security earnings test does to our nation's senior citizens. The Social Security earnings test punishes Americans between the ages of 65 and 70 for their attempts to remain productive after retirement.

The Social Security earnings test mandates that, for every $3 earned by a retiree over the established limit of $15,500 in 1999, the retiree loses $1 in Social Security benefits. This is clearly age discrimination, and it is very wrong. Due to this cap on earnings, our senior citizens, many of whom exist on fixed, low-incomes, are burdened with a

33.3 percent tax on their earned income. When this is combined with Federal, State, local, and other Social Security taxes, it amounts to an outrageous 55 to 65 percent tax bite or and even higher.

This earnings limit is punitive and serves as a tremendous disincentive to work. An individual who is struggling to make ends meet on approximately $15,500 a year should not be faced with an effective marginal tax rate which exceeds 55 percent.

The Social Security earnings test is a relic of the Great Depression, designed to move older people out of the workforce and create employment for younger individuals. This is an archaic policy and should no longer be our goal. Many senior citizens can make a significant contribution, and often their knowledge and experience compliments or exceeds that of younger employees. Tens of millions of Americans are over the age of 65, and together they have over a billion years of cumulative work experience. These individuals have valuable experience to offer our society, and we need them.

In addition experts predict a labor shortage when the "baby boom" generation ages, and it is evident that employers will have to develop new sources of labor as our elderly population continues to grow much faster than the number of workers entering the workforce. According to the U.S. Chamber of Commerce, "retaining older workers is a priority in labor intensive industries, and will become even more critical as we approach the year 2000." It seems counterproductive and foolish to keep willing, diligent workers out of the American workforce. Our country must continue to support pro-work, not pro-welfare policies.

More importantly, many of the older Americans penalized by the earnings test need to work in order to cover their basic expenses: Health care, housing and food. Many seniors do not have significant savings or a private pension. For this reason, low-income workers are particularly hard-hit by the earnings test.

It is important to note that wealthy seniors, who have lucrative investments, stocks, and substantial savings, are not affected by the earnings limit. Their supplemental "unearned" income is not subject to the earnings threshold. The earnings limit only affects seniors who must work and depend on their earned income for survival.

Finally, let me stress that repealing the burdensome and unfair earnings test would not jeopardize the solvency of the Social Security funds. Opponents who claim otherwise are engaging in cruel scare tactics. The Social Security benefits which working seniors are losing due to the earnings test penalty are benefits they have rightfully earned by contributing to the system throughout their working years before retiring. These are benefits which they should not be losing because they are trying to survive by supplementing their Social Security income. Furthermore, certain studies indicate that repealing the earnings test would actually result in a net increase of $140 million in federal revenue because more seniors would be earning wages and paying income taxes on these wages.

Mr. President, there is no compelling justification for denying economic opportunity to an individual on the basis of age. It is quite evident that the earnings test is outdated, unjust and discriminatory.

I am pleased that this Congress will be focusing on the overall structure of the Social Security system and working together for solutions which would strengthen the system for the seniors of today and tomorrow without placing an unfair burden on working Americans. It is absolutely crucial that we include elimination of the unfair earnings test in any Social Security bill we enact this year.

I find it encouraging that President Clinton indicated in his State of the Union Address that he is finally ready to address this issue and allow seniors the freedom to work without being unfairly penalized. As many of my colleagues may recall, this was a campaign initiative of President Clinton in 1992 and I am pleased that it appears that we may finally have a bipartisan victory for eliminating this unfair penalty on working seniors in 1999. I urge my colleagues on both sides of the aisle to work with me to get this accomplished for America's seniors.

Mr. President, I ask unanimous consent that a letter in support of the bill be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE 60 PLUS ASSOCIATION,
Arlington, VA, January 20, 1999.

Hon. JOHN McCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR McCAIN: Congratulations on your legislation to repeal the Social Security earnings test.

The 60 Plus Association has been a longtime advocate of removing this provision which penalizes those senior citizens who work or want to work while receiving Social Security benefits. It is unfair to penalize them by mandating that for every $3 earned over the established limit (in 1998, a total of $14,500) the senior works, he or she suffers the loss of $1 in Social Security benefits. Seniors are denied by this penalty the opportunity to continue contributing productively to our economy. And it is a case of age discrimination against ambitious seniors, and seniors who need to continue working.

You demonstrate that you are a real friend of all senior citizens by sponsoring this legislation to repeal the Social Security earnings limit. You may be sure we at the 60 Plus Association will work diligently to support this legislation and hope it will soon be enacted into law.

Sincerely,

JAMES L. MARTIN,
President.●

By Mr. HARKIN:

S. 281. A bill to amend the Tariff Act of 1930 to clarify that forced or indentured labor includes forced or indentured child labor; to the Committee on Finance.

TARIFF ACT AMENDMENTS

● Mr. HARKIN. Mr. President, I ask unanimous consent that the text of S. 281, to amend the Tariff Act of 1930 to clarify that forced or indentured labor includes forced or indentured child labor be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 281

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FORCED OR INDENTURED CHILD LABOR.

Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended by adding at the end the following new sentence: "For purposes of this section, the term 'forced labor or/and indentured labor' includes forced or indentured child labor.".●

By Mr. McCAIN:

S. 283. A bill to amend the Internal Revenue Code of 1986 to provide a partial exclusion from gross income for individuals and interest received by individuals; to the Committee on Finance.

THE MIDDLE-INCOME SAVINGS AND INVESTMENT ACT OF 1999

● Mr. McCAIN. Mr. President, today I am introducing the Middle-Income Savings and Investment Act of 1999. This bill is designed to encourage lower- and middle-income Americans to save and invest more of their hard-earned dollars, by allowing taxpayers to earn $200 ($400 for joint filers) of interest and dividend income tax-free. This bill also lessens the impact of one of the most nefarious aspects of our current tax code—double taxation.

Mr. President, this legislation is important. Consumers can do three things with their income: spend it, pay taxes, or save it. Unfortunately, Americans are not doing enough of the latter.

America's personal savings rate is at an all-time low. Furthermore, the U.S. national savings rate ranks among the lowest of the G–7 countries. According to the Department of Commerce, in September 1998, the personal savings rate was 0%. In other words, we saved nothing. In October 1998, things got worse and our personal savings rate fell to −2%. Americans spent more that month than they earned.

Other countries have high tax rates, but their citizens still manage to save more of their hard-earned dollars than most Americans. Economists say that this is because many other countries provide a tax incentive for small savers by exempting some portion or all of their interest or dividend income from tax. In contrast, the U.S. tax code taxes the savings twice, once when the individual earns the income, and again when the small savers earn interest or dividends generated by the savings or investments.

Congress can not place the blame entirely on the American consumer for our nation's record low savings rates. Our current tax code discourages savings and investment. Income is taxed first when it is earned. If the income is spent, then it is not taxed again. However, if the income is saved or invested, the returns on the savings are taxed once again. Thus, savings and investment are taxed twice.

The multiple layers of taxation on savings increase the cost of savings, which leads to a smaller supply of capital, and a decreased personal savings rate. A fairer tax code would not penalize savings relative to consumption. This legislation is not a cure for all of the ills of our overly complicated burdensome tax code, but it is an important step to eradicating the double taxation inherent in our antiquated tax code.

The Middle-Income Savings and Investment Act provides some tax relief to taxpayers by allowing individuals to earn up to $200 in interest or dividend income tax-free; a married couple could earn up to $400 in interest and dividends tax-free. $200 may not sound like much money, but it represents an important first step in eliminating the bias against savings and investment.

This legislation would provide tax relief to the majority of Americans. However, because of the low $200 and $400 exemption levels, this legislation will particularly benefit lower- and middle-income taxpayers, and boost savings incentives among non-savers and small-savers alike. The vast majority of moderate-income savers would not be taxed on any of their interest or dividend income under this legislation. The Congressional Joint Economic Committee estimates that this type of interest and dividend exclusion would affect 57% of all taxpayers, with more than 30 million taxpayers not paying any tax on interest and dividend income.

It is vital that we create further incentives to encourage moderate-income Americans to save and invest more of their hard-earned dollars. Policy makers and economists have long been concerned about the adequacy of savings in the United States. These fears address both the financial well-being of individuals, and the fiscal stability of the national economy.

Increased savings and investment are an essential element of low- to moderate-income Americans' financial well-being. Savings impact taxpayers' ability to save for emergencies, education, home buying and most importantly, for retirement.

Consumer spending is powering the United States economy at a brisk rate of growth, even as we struggle with diminished export sales and slumping economies in Asia, Russia, and Latin America. However, as demonstrated by the low levels of personal savings in September and October of 1998, we are raiding our savings to purchase homes, consumer goods, and other products. Consumers cannot raid their wealth forever.

The recent devaluation of the Brazilian currency and other geopolitical instability could result in a potential economic downturn in the United States. In the event this does happen, increased personal savings will give Americans a financial cushion to weather any potential downturn.

Retirement looms around the corner for many baby boomers. While I am confident Congress will ensure that the Social Security trust funds will be solvent when the baby boomers retire, Social Security alone may not be sufficient to maintain the boomers' current standard of living. Personal savings must make up this gap. Since personal savings are at an all-time low, it is unlikely that a substantial number of baby boomers will have sufficient personal savings to supplement their social security benefits to make up this income gap. Tax reform which encourages savings and investment can be an important tool to ensure that retiring Americans have sufficient personal savings to maintain their current standard of living.

Increased personal savings and investment are also good for the nation's fiscal well-being. The money financial institutions lend or invest does not grow on trees. This capital comes from the funds everyday Americans deposit or invest in these institutions. Thus, savings are important because they are a key element of capital formation. Capital formation is necessary for economic growth and rising wages.

We must increase the savings rate if we wish to continue our current economic expansion. Without savings, it is impossible to build factories, purchase equipment, conduct research, or develop technology. Savings allow businesses to purchase equipment, and new equipment allows factories to be more productive, which in turn raises the income of workers and owners.

This link between savings rates and capital formation is not rocket science. Workers are more productive when they are working with modern equipment. More productive workers earn higher real wages. Higher real wages are the beginning of higher standards of living. But, the key is capital. American industry must have access to a readily available supply of affordable domestic capital to purchase this productivity enhancing equipment.

The bottom line is that capital formation is necessary for economic growth and rising wages. Further incentives for savings and investment will increase capital formation. The Middle-Class Savings and Investment Act provides a necessary incentive to get low- to moderate-income Americans to save and invest more.

At present, America is not suffering from its current savings dilemma. However, we must act now to increase the personal savings rate to prepare for the challenges of the next millennium.

Mr. President, the Congressional Budget Office estimates a budget surplus of $80 billion for fiscal year 1999. Informal estimates by the Joint Committee on Taxation indicate that this bill will only cost $15 billion over 5 years. What better way to use a small portion of the surplus than to return it to the American people in the form of much-needed middle-class tax relief.•

By Mr. McCAIN:

S. 284. A bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty by increasing the standard deduction for married individuals filing joint returns to twice the standard deduction for unmarried individuals; to the Committee on Finance.

MARRIAGE PENALTY ELIMINATION ACT OF 1999

• Mr. McCAIN. Mr. President, I am proud to introduce the Marriage Penalty Elimination Act of 1999. This bill would deliver sweeping tax relief to millions of lower- and middle-income Americans by eliminating the marriage penalty. The bill is simple: it incrementally increases the standard deduction over a 5-year period, until the joint filer's standard deduction is equal to 2 times the individual filer's deduction.

This bill significantly lessens the effect of one of the Tax Code's most inequitable provisions, the marriage penalty. Under today's Tax Code, the marriage penalty occurs when the sum of the tax liabilities of two unmarried individuals filing their own tax returns is less than their tax liability would be under a joint return if they were married. The Marriage Penalty Elimination Act would allow a married couple to claim the same amount of the standard deduction as two individuals. It seems logical that a married couple would be eligible to take two times the standard deduction that an individual can take. This is not the case. Under current law, joint filers are only eligible to take approximately 1.67 times the standard deduction of single filers.

Because CBO has estimated that federal budget surpluses will total more than $700 billion over the next 10 years, there could be no better time for Congress to focus our attention on relieving the tax burden on the American people. There is no better time than now to provide relief to the taxpayers who have been overtaxed and overburdened with our antiquated tax system.

Mr. President, as Congress is well aware, it is essential to provide relief to the ordinary, hard-working, middle-class American families who are struggling to make ends meet. This bill focuses directly on lower- and middle-income taxpayers, because the disparity between a married couple's standard deduction and an unmarried couple's combined standard deduction is most discriminating to the lower- and middle-income level taxpayers.

The current standard deduction for joint returns is currently 1.67 times that of single returns for tax bracket rates of 15%, 28% and 31%. However, the disparity narrows at the 36% bracket for joint filers to 1.2 times that of individual filers. And, at the highest bracket rate of 39.6%, the standard deduction for married and unmarried couples is equal. These figures make clear the discrimination that our present Tax Code imposes on lower- and middle-income taxpayers.

This bill would eliminate the unjust disparity between the standard deduction afforded a married couple and an unmarried couple. It is vital to our Nation that Congress work to foster strength among American families. By enacting the Marriage Penalty Elimination Act, this Congress would not only be addressing the tax concerns of the American people, but also providing an incentive for the American family. As the Tax Code is written now, couples are punished with an undue financial burden just for being married. In effect, the marriage penalty taxes marriage, one of our most fundamental institutions. There can be no doubt that this kind of disincentive for marriage is wrong.

In addition to the overriding moral objection to a marriage penalty, there exists a basic question of fairness. Not only is it debilitating to our society to penalize those who enter into the sacred institution of marriage to create a family, but it is fundamentally unjust to impose a greater tax burden on two married people than on two unmarried people who live together.

Mr. President, on behalf of the millions of lower- and middle-income American families, I urge my colleagues to support this important bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 284

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Marriage Penalty Elimination Act of 1999".

(b) ELIMINATION OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. ELIMINATION OF MARRIAGE PENALTY IN STANDARD DEDUCTION.

(a) IN GENERAL.—Section 63(c) (relating to standard deduction) is amended by adding at the end the following new paragraph:

"(7) ELIMINATION OF MARRIAGE PENALTY FOR JOINT FILERS.—

"(A) IN GENERAL.—In the case of a joint return or a surviving spouse (as defined in section 2(a)), the basic standard deduction under paragraph (2)(A) shall be increased by an amount equal to the applicable percentage of the excess of—

"(i) 200 percent of the basic standard deduction in effect for the taxable year under paragraph (2)(C), over

"(ii) the basic standard deduction in effect for the taxable year under paragraph (2)(A) (without regard to this paragraph).

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined as follows:

"For taxable years beginning in calendar year:	The applicable percentage is:
1999	20
2000	40
2001	60
2002	80
2003 and thereafter	100."

(b) CONFORMING AMENDMENT.—Section 63(c)(2)(A) is amended by inserting "except as provided in paragraph (7)," before "$5,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.●

By Mr. MCCAIN (for himself, Mr. DEWINE, Ms. LANDRIEU, Mr. DURBIN, Mr. CLELAND, Mr. HAGEL, Mr. WELLSTONE, and Mr. BREAUX):

S. 285. A bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test; to the Committee on Finance.

BLIND PERSONS EARNINGS EQUITY ACT

● Mr. MCCAIN. Mr. President, I rise today to introduce an important piece of legislation which would have a tremendous impact on the lives of many blind people. This bill restores the 20-year link between blind people and senior citizens in regards to the Social Security earnings limit which has helped many blind people become self-sufficient and productive.

When the Congress passed the Senior Citizens Freedom to Work Act in 1996, we unfortunately broke the long-standing linkage in the treatment of blind people and seniors under Social Security, which resulted in allowing the earnings limit to be raised for seniors only and did not give blind people the same opportunity to increase their earnings without penalizing their Social Security benefits.

My intent when I sponsored the Senior Citizens Freedom to Work Act was not to break the link between the blind people and the senior population. In 1996, time constraints and fiscal considerations forced me to focus solely on raising the unfair and burdensome earnings limit for seniors. I am happy to say that the Senior Citizens Freedom to Work Act became law in 1996, and the earnings exemption for seniors is being raised in annual increments until it reaches $30,000 in the year 2002. This law is allowing millions of seniors to continue contributing to society as productive workers.

Now we should work together in the spirit of fairness to ensure that this same opportunity is given to the blind population. We should provide blind people the opportunity to be productive and "make it" on their own. We should not continue policies which discourage these individuals from working and contributing to society.

The bill I am introducing today is identical to one I sponsored in the last Congress. It would reunite the earnings exemption amount for blind people with the exemption amount for senior citizens. If we do not reinstate this link, blind people will be restricted to earning $14,800 in the year 2002 in order to protect their Social Security benefits, compared to the $30,000 which seniors will be permitted to earn.

There are very strong and convincing arguments in favor of reestablishing the link between these two groups and increasing the earnings limit for blind people.

First, the earnings test treatment of our blind and senior populations has historically been identical. Since 1977, blind people and senior citizens have shared the identical earnings exemption threshold under Title II of the Social Security Act. Now, senior citizens will be given greater opportunity to increase their earnings without losing a portion of their Social Security benefits; the blind, however, will not have the same opportunity.

The Social Security earnings test imposes as great a work disincentive for blind people as it does for senior citizens. In fact, the earnings test probably provides a greater aggregate disincentive for blind individuals since many blind beneficiaries are of working age (18–65) and are capable of productive work.

Blindness is often associated with adverse social and economic consequences. It is often tremendously difficult for blind individuals to find sustained employment or any employment at all, but they do want to work. They take great pride in being able to work and becoming productive members of society. By linking the blind with seniors in 1977, Congress provided a great deal of hope and incentive for blind people in this country to enter the work force. Now, we are taking that hope away from them by not allowing them the same opportunity to increase their earnings as senior citizens.

Blind people are likely to respond favorably to an increase in the earnings test by working more, which will increase their tax payments and their purchasing power and allow the blind to make a greater contribution to the general economy. In addition, encouraging the blind to work and allowing them to work more without being penalized would bring additional revenue into the Social Security trust funds as well as the Federal Treasury. In short, restoring the link between blind people and senior citizens for treatment of Social Security benefits would help many blind people become self-sufficient, productive members of society.

I am pleased that this Congress will be focusing on the overall structure of the Social Security system and working together for solutions which would strengthen the system for seniors of today and tomorrow without placing an unfair burden on working Americans. It is absolutely crucial that we include raising the earnings test for blind individuals as a part of any Social Security bill we enact this year.

I urge each of my colleagues to join me in sponsoring this important measure to restore fair and equitable treatment for our blind citizens and to give the blind community increased financial independence. Our nation would be better served if we restore equality for the blind and provide them with the same freedom, opportunities and fairness as our nation's seniors.●

By Mr. McCAIN:

S. 286. A bill to amend the Internal Revenue Code to repeal the increase in the tax on Social Security benefits; to the Committee on Finance.

SENIOR CITIZENS' EQUITY ACT

● Mr. McCAIN. Mr. President, I rise today to introduce legislation to repeal the increase in tax on Social Security benefits. As my colleagues know, the 1993 Omnibus Budget Reconciliation Act increased the taxable portion of Social Security benefits from 50% to 85% for Social Security recipients whose threshold incomes exceed $34,000 (single) and $44,000 (couples). The legislation I am introducing today simply phases out this increase gradually over a four-year period. In 1999, the applicable percentage would be 75 percent; in 2000, 65 percent: in 2001, 60 percent; in 2002, 55 percent; and finally in 2001, the taxable percentage would return to 50%.

I believe the increase in the taxable portion of Social Security benefits was blatantly unfair because it changed the rules in the middle of the game. Responsible senior citizens who had carefully planned for their retirement were penalized and saw their income fall while their marginal tax rate skyrocketed. Nearly 9,000 seniors representing 23.4 percent of recipients are affected by this provision. These seniors relied on and based their decisions on the old law, and they cannot now go back in time to change these decisions.

Clearly, we should be encouraging all Americans to save and invest for the future. We can not be sure that Social Security benefits will take care of all our retirement needs. If Congress continues to change the rules after plans and investment decisions have been made, we will diminish the incentive for Americans to prepare for the future and plan accordingly.

I am consistently amazed by the perverse disincentives Congress enacts. Aside being patently unfair, taxing 85% of Social Security benefits above the current income levels creates a tremendous disincentive for seniors to work. It simply does not make sense to work if every dollar you earn over the threshold drastically reduces your Social Security benefits.

This legislation is supported by the National Committee to Preserve Social Security and Medicare, the Seniors Coalition and Sixty-Plus.

I am pleased that this Congress will be focusing on strengthening and restructuring our nation's Social Security system for the seniors of today and tomorrow without placing an unfair burden on American workers. As we continue working together for a solution to our nation's retirement system I will push to include this provision in any Social Security bill we enact this year.

Finally, I am sure many of my colleagues note that the problems with this additional tax on Social Security benefits are strikingly similar to the Social Security earnings limit. It is my strong hope that we will act expeditiously on this legislation as well as my legislation to fully repeal the unfair earnings test.

Mr. President, I ask unanimous consent that letters of support be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL COMMITTEE TO PRESERVE
SOCIAL SECURITY AND MEDICARE,
Washington, DC, January 20, 1999.
Hon. JOHN McCAIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR McCAIN: The National Committee to Preserve Social Security and Medicare is pleased to endorse your legislation to repeal the inequitable tax increase on Social Security benefits enacted as part of the 1993 budget reconciliation bill.

The Omnibus Budget Reconciliation Act of 1993 increased the amount of Social Security benefits subject to tax from 50 percent to 85 percent for individual beneficiaries with income above $34,000 or for couples with income above $44,000. The "Senior Citizens' Equity Act" would gradually phase out this increase and return the taxable percentage to 50 percent.

The 1993 tax increase affects not only wealthy seniors but also middle income seniors. Over time, many more moderate and low income retirees will see their income pushed over the thresholds because the thresholds are not indexed. Taxing 85 percent of Social Security benefits over the current income thresholds unfairly penalizes responsible older Americans who planned for their retirement through employment, saving, and investment. Many National Committee Members need or want to work, but they also deserve to receive their hard-earned retirement benefits. The increased tax rate only discourages work and retirement savings.

Moreover, a Price-Waterhouse analysis demonstrated that the 1993 legislation targeted seniors by increasing their tax burden more than non-seniors in every income category—on average twice as great for senior families as for non-senior families. Middle income seniors experienced a disproportionately large tax increase under the 1993 bill, and your legislation will provide them with much needed relief.

The 5.5 million members and supporters of the National Committee thank you for your efforts on behalf of older Americans.

Sincerely,

MARTHA A. MCSTEEN,
President.

THE 60 PLUS ASSOCIATION,
Arlington, VA, January 20, 1999.
Hon. JOHN McCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR McCAIN: I commend you for introducing the Senior Citizens' Equity Act, which would repeal the previously enacted tax on Social Security benefits.

A great inequity hit senior citizens when President Clinton's 1993 Omnibus Budget Reconciliation Act increased the taxable proportion of Social Security benefits from 50% to 85%. It hit seniors whose income was as low as $34,000 (single) and $44,000 (couples). This placed an unfair burden on our seniors who were suddenly singled out and had the income for which they had worked subject to a burdensome increase in taxes. Almost one-third of our seniors were dealt this blow.

Your Senior Citizens' Equity Act will help seniors while restoring fairness to the tax system for them. I hope Congress will act quickly to pass your legislation and that the President will sign it. We owe that much to our seniors.

Sincerely,

JAMES L. MARTIN, *President.*●

By Mr. ROTH (for himself and Mr. BIDEN):

S. 287. A bill to amend the Small Business Act to require the establishment of a regional or branch office of the Small Business Administration in each State; to the Committee on Small Business.

SMALL BUSINESS ADMINISTRATION EQUAL REPRESENTATION ACT

● Mr. ROTH. Mr. President, I come to the floor today to introduce legislation to ensure that the federal government provides Delaware small businesses with the same treatment as those in other states. Delaware is the only state in which the Small Business Administration does not maintain a district office. As a result, Delaware small businesses are being shortchanged.

The primary function of Small Business Administration district offices is the approval of Small Business Administration loan guarantee applications. Without a district office, Delaware applications must be processed out of state. As a result, community benefit, interviews, and local outlook cannot be considered with loan guarantee paperwork as is common in other states, and applications take longer to process. Small Business Administration district offices will also provide Delaware's Small Business community with more effective outreach and awareness of Small Business Administration programs and services.

The bill I am introducing today, with the cosponsorship of Senator BIDEN, will correct this inequity. This bill, the Small Business Administration Equal Representation Act, specifies that each state is entitled to a single Small Business Administration district office. But it will do so without authorizing any additional appropriations.

Mr. President, Delaware small businesses deserve the same level of support from the Small Business Administration as is found in every other state. Even Puerto Rico benefits from having a Small Business Administration district office. The Small Business Administration Equal Representation Act will assure that Delaware receives from the Small Business Administration the level of support it deserves.•

• Mr. BIDEN. Mr. President, I am pleased to join BILL ROTH, my good friend and colleague from Delaware, the distinguished chairman of the Finance Committee, in introducing legislation important to our State.

Small businesses are the cornerstone of our economy—in Delaware and across the rest of the country. They are key players in the record economic expansion we have enjoyed over the last seven years. They are engines of job growth and technical innovation, and they deserve not only our praise, but our support as well.

The Small Business Administration has many programs that can provide that support—including loan guarantee—through a national network of district offices. However, Delaware remains the only State in the Union that is without a Small Business Administration district office. The higher hurdles between Delaware small businesses and the services of the Small Business Administration reduce the value of those services to Delawareans.

That is why Senator ROTH and I are introducing this legislation, that will guarantee that every state—including Delaware—will have its own Small Business Administration district office. This can be accomplished without any additional expenditures under the current Small Business Administration budget.

A district office in Delaware will make sure that Delaware businesses will enjoy the same access to Small Business Administration programs that their counterparts in other States now have. I look forward to working with BILL ROTH, and Congressman MIKE CASTLE in the House, to make this fair and sensible proposal a success in this session of Congress.•

By Mr. JEFFORDS (for himself, Mr. HATCH, Mr. KENNEDY, Mr. SMITH of Oregon, Mr. LEAHY, Mr. KERREY, and Mr. DURBIN):

S. 288. A bill to amend the Internal Revenue Code of 1986 to exclude from income certain amounts received under the National Health Service Corps Scholarship Program and F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program; to the Committee on Finance.

TAX LEGISLATION

•Mr. JEFFORDS. Mr. President, today I am introducing a bill to amend our tax law's treatment of scholarships awarded under the National Health Service Corps (NHSC) scholarship program. Although, as a general rule, scholarships are excludable from income, the Internal Revenue Service has taken the position that NHSC scholarships are includible in income. Imposing taxes on the scholarships could have disastrous effects on a program that for over 20 years has helped funnel doctors, nurse-practitioners, physician assistants, and other health professionals into medically underserved communities.

Under the National Health Service Corps program, health professions students are given a scholarship covering the cost of tuition and fees, together with a monthly stipend covering living expenses. For each year of scholarship funding, NHSC scholars are obligated, upon completion of their training, to provide a year of full-time primary health care in one of 2,000 designated health professions shortage areas. These shortage areas include the nation's neediest communities, both rural areas and inner cities. NHSC scholars who renege on their service obligations are required to re-pay an amount equal to three times the scholarship, plus interest.

Generally, the Internal Revenue Code provides that amounts received as scholarships are not includible in a recipient's gross income. There is an exception to this rule, however, when a scholarship is provided in exchange for services or a promise to perform services. Without such an exception, an employer could disguise compensation as a scholarship. National Health Corps Service scholarships, however, are not disguised compensation. Upon completion of their studies, the large majority of NHSC scholars do not work for the Federal government, which awarded them the scholarship. Instead, they work at places like low-income clinics or inner-city hospitals. Consequently, this is not a situation where an employer is transforming compensation into a scholarship.

I introduced a bill similar to this one during the last Congress. It was passed by the Senate as part of the Education Savings and School Excellence Act of 1998, and was included in the conference agreement for that bill. This bill was vetoed by the president, so the problem still exists. The conference committee also determined that amounts received under the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program should also be eligible for tax-free treatment. This is a program similar to the National Health Service Corps available to members of the armed forces. The bill I am introducing today also provides for exclusion from income for scholarships received under this program.

Last year, the Joint Committee on Taxation estimated that providing an exclusion from income for amounts received under these two scholarship programs would have a negligible effect on budget receipts. I do not expect any change in that analysis, and I urge my colleagues to join me in support of this bill.•

By Mr. ABRAHAM (for himself, Mr. COVERDELL, Mr. HUTCHINSON, and Mr. SESSIONS):

S. 289. A bill to amend the Public Health Service Act to permit faith-based substance abuse treatment centers to receive Federal assistance, to permit individuals receiving Federal drug treatment assistance to select private and religiously oriented treatment, and to protect the rights of individuals from being required to receive religiously oriented treatment; to the Committee on Health, Education, Labor, and Pensions.

FAITH-BASED DRUG TREATMENT ENHANCEMENT ACT

• Mr. ABRAHAM. Mr. President, today, I, along with my colleagues Senators COVERDELL, HUTCHINSON, and SESSIONS introduced the "Faith-Based Drug Treatment Enhancement Act." The purpose of this legislation is to make successful faith-based drug and alcohol treatment programs eligible for federal substance abuse treatment dollars. It will allow faith-based programs to stand on an equal footing with other treatment programs which receive federal aid, allowing them to compete for federal funds without changing the religious nature of the help they provide. This is important because it is the religious character of the program to which program recipients often point as the reason for their success in overcoming their addiction.

Many faith-based treatment centers have astounding treatment success rates, particularly when compared with the single-digit success rates of many government-sponsored secular programs. One faith-based organization, the Mel Trotter Ministry, is located in my state of Michigan. This ministry points to the accountability demanded of addicts entering its faith-based program as a reason for its success. Another contributing factor to Mel Trotter's astounding 70 percent success rate is the program's ability to provide recipients with an incentive to change. The drug addict finds a new life at Mel Trotter Ministries and is finally able to overcome his or her addiction.

A similar program in my state, the Detroit Rescue Mission Ministries, boasts a 78 percent success rate for its substance abuse programs. One of the program recipients describes his experience at Detroit Rescue Mission Ministries this way: "I was in and out of jail. During the winter of 1995, I was exposed to arctic cold with a resulting case of frostbite so severe I was threatened with amputation. Released from probation for the sixth time, I found Detroit Rescue Mission Ministries' Oasis shelter on Woodward Avenue and stayed 22 nights. There I found more than a shelter—I found a relationship with God and a new life of service for Him."

Mel Trotter Ministry and Detroit Rescue Mission Ministries are examples of substance abuse treatment programs with proven success records. These programs and programs like them should be allowed to provide the crucial assistance needed for individuals to overcome their substance abuse once and for all.

This legislation builds on the charitable choice provision Senator ASHCROFT fought to have included in the historic welfare reform bill. That provision allows faith based charities to contract with government to supply social services without having to give up their religious character. No longer will religious groups have to literally hide the Bibles in order to help people.

Where sterile, bureaucratic government run programs fail, faith based programs can succeed, and are succeeding already. I urge my colleagues to support these efforts by supporting this legislation.•

By Mr. ABRAHAM (for himself and Ms. LANDRIEU):

S. 290. A bill to establish an adoption awareness program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

ADOPTION PROMOTION ACT

• Mr. ABRAHAM. Mr. President, I rise to urge my colleagues' support for The Adoption Promotion Act. This legislation will work to provide important information on adoption to women facing unplanned pregnancies.

Mr. President, each year more than a million couples eagerly await the opportunity to adopt a child. Unfortunately, only 50,000 domestic, non-related adoptions occur each year. Couples waiting to adopt are willing and able to provide loving homes. Some of them have for one reason or another found themselves incapable of having children of their own. Others simply wish to share their lives and their homes with another child. Every one of them could nurture and give a good upbringing to whatever youngster is lucky enough to get them as parents. Unfortunately, the would-be parents often must wait several years for the opportunity to adopt a healthy child. For the anxious parents, the waiting seems to last an eternity.

There are many reasons for the sharp disparity between the relatively limited number of children available for adoption and the growing number of families anxiously waiting to adopt a child. Crucial is the fact that many women are not provided adequate information about adoption when they are making the important decision of how to deal with an unexpected pregnancy. Too few women are fully informed concerning the adoption option.

We know that providing information to women on adoption as a choice can increase the number of adoptions that occur each year and decrease the number of abortions. I believe that this is an important goal. For this reason, I have introduced, along with my colleague, Senator LANDRIEU, legislation that authorizes an Adoption Promotion program. This program will provide $25 million in grants to be used for adoption promotion activity. It will also require recipients to contribute $25 million of in-kind donations. The total amount going to adoption promotion will, therefore, be $50 million. This amount will allow for a thorough information campaign to take place—reaching women all over the country.

The legislation provides for grants to be used for public service announcements on print, radio, TV, and billboards. Grants will also be provided for the development and distribution of brochures regarding adoption through federally funded Title X clinics. These provisions will enable women to have accurate and clear information on adoption as an alternative when at a crucial point in their pregnancies. Further, the campaign will help to raise the level of awareness around the country about the importance of adoption.

Mr. President, I believe that each and every one of us, whether pro-life or pro-choice, should be working to reduce the number of abortions that occur each year. Indeed, I have often heard on this floor that abortion should be "safe, legal and rare." I take my colleagues at their word and urge them to join me in this voluntary information program; a program designed to inform women of all their choices regarding any unexpected pregnancy.

Too many women in America feel abandoned and helpless in the face of an unexpected pregnancy. The father of the child may have left, the woman's family and friends even may desert her. Even those who stay with her may simply pressure her to end an embarrassing and troublesome situation.

Too often, then, our women, in a vulnerable state, are left without full, unbiased information and guidance concerning their options. I think it is crucial in these circumstances that we keep these women fully informed of all their options—including the option of releasing their child into the arms of a welcoming couple, anxious to become loving parents.

If we truly are committed to making every child a wanted child, Mr. President, I believe it is our duty to see to it that pregnant women know that there are couples out there who would love to care for their children. It is time for us, as a nation, to make clear our commitment to truly full information for expectant mothers, information that includes the availability of safe, loving homes for their children.•

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 291. A bill to convey certain real property within the Carlsbad Project in New Mexico to the Carlsbad Irrigation District; to the Committee on Energy and Natural Resources.

THE CARLSBAD IRRIGATION PROJECT ACQUIRED LAND TRANSFER ACT

• Mr. DOMENICI. Mr. President, I am again introducing the Carlsbad Irrigation Project Acquired Land Transfer Act. I, along with Congressman SKEEN, have been working to convey tracts of land—paid for by Carlsbad Irrigation District and referred to as "acquired lands"—back to the district, during the past several congresses.

I introduced this bill in May of 1997 in order to transfer lands back to the rightful owners. This legislation transfers acquired land without affecting operations at the New Mexico state park at Brantley Dam, or the operations and ownership of the dam itself. Furthermore, the bill allows the Carlsbad Irrigation District to utilize proceeds from oil and gas leases on the transferred lands and moves land management responsibilities from the federal government to a local entity.

The Carlsbad Irrigation Project is a single-purpose project created in 1905 by the Bureau of Reclamation. The district has had operations and maintenance responsibilities for the irrigation and drainage system since 1932. This legislation directs the Carlsbad Irrigation District to continue to manage the lands as they have been in the past, for the purposes for which the project was constructed. It met all the repayment obligations to the government in 1991, and it's about time we let Carlsbad Irrigation District have what is rightfully theirs.

This is a fair and equitable bill that has been developed over years of negotiations. This legislation accomplishes three things: conveys title of acquired lands and facilities to Carlsbad Irrigation District; allows the District to assume management of leases and the benefits of the receipts from these acquired lands; and sets a 180 day deadline for the transfer, establishing a 50-50 cost-sharing standard for carrying out the transfer.

This bill passed the Senate near the end of the 105th Congress, but unfortunately did not get through the House of Representatives due to political wrangling at the end of the session. However, this bill has strong bipartisan and administration support, and it is about time that we pass this legislation to provide the Bureau of Reclamation with the ability to accomplish their stated goal of logical transfer such as this.

This transfer shifts responsibility from the federal government back to a local entity, and creates opportunity for the district to improve and enhance the management of these lands. I hope that both the Senate and the House of Representatives will act quickly on this legislation so that the Carlsbad Irrigation District will promptly begin getting the benefits for that which they have paid.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Carlsbad Irrigation Project Acquired Land Transfer Act".

SEC. 2. CONVEYANCE.

(a) LANDS AND FACILITIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), and subject to subsection (c), the Secretary of the Interior (in this Act referred to as the "Secretary") may convey to the Carlsbad Irrigation District (a quasi-municipal corporation formed under the laws of the State of New Mexico and in this Act referred to as the "District"), all right, title, and interest of the United States in and to the lands described in subsection (b) (in this Act referred to as the "acquired lands") and all interests the United States holds in the irrigation and drainage system of the Carlsbad Project and all related lands including ditch rider houses, maintenance shop and buildings, and Pecos River Flume.

(2) LIMITATION.—

(A) RETAINED SURFACE RIGHTS.—The Secretary shall retain title to the surface estate (but not the mineral estate) of such acquired lands which are located under the footprint of Brantley and Avalon dams or any other project dam or reservoir division structure.

(B) STORAGE AND FLOW EASEMENT.—The Secretary shall retain storage and flow easements for any tracts located under the maximum spillway elevations of Avalon and Brantley Reservoirs.

(b) ACQUIRED LANDS DESCRIBED.—The lands referred to in subsection (a) are those lands (including the surface and mineral estate) in Eddy County, New Mexico, described as the acquired lands and in section (7) of the "Status of Lands and Title Report: Carlsbad Project" as reported by the Bureau of Reclamation in 1978.

(c) TERMS AND CONDITIONS OF CONVEYANCE.—Any conveyance of the acquired lands under this Act shall be subject to the following terms and conditions:

(1) MANAGEMENT AND USE, GENERALLY.—The conveyed lands shall continue to be managed and used by the District for the purposes for which the Carlsbad Project was authorized, based on historic operations and consistent with the management of other adjacent project lands.

(2) ASSUMED RIGHTS AND OBLIGATIONS.—Except as provided in paragraph (3), the District shall assume all rights and obligations of the United States under—

(A) the agreement dated July 28, 1994, between the United States and the Director, New Mexico Department of Game and Fish (Document No. 2-LM-40-00640), relating to management of certain lands near Brantley Reservoir for fish and wildlife purposes; and

(B) the agreement dated March 9, 1977, between the United States and the New Mexico Department of Energy, Minerals, and Natural Resources (Contract No. 7-07-57-X0888) for the management and operation of Brantley Lake State Park.

(3) EXCEPTIONS.—In relation to agreements referred to in paragraph (2)—

(A) the District shall not be obligated for any financial support agreed to by the Secretary, or the Secretary's designee, in either agreement; and

(B) the District shall not be entitled to any receipts for revenues generated as a result of either agreement.

(d) COMPLETION OF CONVEYANCE.—If the Secretary does not complete the conveyance within 180 days from the date of enactment of this Act, the Secretary shall submit a report to the Congress within 30 days after that period that includes a detailed explanation of problems that have been encountered in completing the conveyance, and specific steps that the Secretary has taken or will take to complete the conveyance.

SEC. 3. LEASE MANAGEMENT AND PAST REVENUES COLLECTED FROM THE ACQUIRED LANDS.

(a) IDENTIFICATION AND NOTIFICATION OF LEASEHOLDERS.—Within 120 days after the date of enactment of this Act, the Secretary of the Interior shall—

(1) provide to the District a written identification of all mineral and grazing leases in effect on the acquired lands on the date of enactment of this Act; and

(2) notify all leaseholders of the conveyance authorized by this Act.

(b) MANAGEMENT OF MINERAL AND GRAZING LEASES, LICENSES, AND PERMITS.—The District shall assume all rights and obligations of the United States for all mineral and grazing leases, licenses, and permits existing on the acquired lands conveyed under section 2, and shall be entitled to any receipts from such leases, licenses, and permits accruing after the date of conveyance. All such receipts shall be used for purposes for which the Project was authorized and for financing the portion of operations, maintenance, and replacement of the Summer Dam which, prior to conveyance, was the responsibility of the Bureau of Reclamation, with the exception of major maintenance programs in progress prior to conveyance which shall be funded through the cost share formulas in place at the time of conveyance. The District shall continue to adhere to the current Bureau of Reclamation mineral leasing stipulations for the Carlsbad Project.

(c) AVAILABILITY OF AMOUNTS PAID INTO RECLAMATION FUND.—

(1) EXISTING RECEIPTS.—Receipts in the reclamation fund on the date of enactment of this Act which exist as construction credits to the Carlsbad Project under the terms of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351-359) shall be deposited in the General Treasury and credited to deficit reduction or retirement of the Federal debt.

(2) RECEIPTS AFTER ENACTMENT.—Of the receipts from mineral and grazing leases, licenses, and permits on acquired lands to be conveyed under section 2, that are received by the United States after the date of enactment and before the date of conveyance—

(A) not to exceed $200,000 shall be available to the Secretary for the actual costs of implementing this Act with any additional costs shared equally between the Secretary and the District; and

(B) the remainder shall be deposited into the General Treasury of the United States and credited to deficit reduction or retirement of the Federal debt.

SEC. 4. VOLUNTARY WATER CONSERVATION PRACTICES.

Nothing in this Act shall be construed to limit the ability of the District to voluntarily implement water conservation practices.

SEC. 5. LIABILITY.

Effective on the date of conveyance of any lands and facilities authorized by this Act, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed property, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors, prior to conveyance. Nothing in this section shall be considered to increase the liability of the United States beyond that provided under chapter 171 of title 28, United States Code, popularly known as the Federal Tort Claims Act.

SEC. 6. FUTURE BENEFITS.

Effective upon transfer, the lands and facilities transferred pursuant to this Act shall not be entitled to receive any further Reclamation benefits pursuant to the Reclamation Act of June 17, 1902, and Acts supplementary thereof or amendatory thereto attributable to their status as part of a Reclamation Project.●

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 292. A bill to preserve the cultural resources of the Route 66 corridor and to authorize the Secretary of the Interior to provide assistance; to the Committee on Energy and Natural Resources.

ROUTE 66 CORRIDOR PRESERVATION ACT

● Mr. DOMENICI. Mr. President, today I introduce a bill which will help preserve an important part of American history for future generations—Route 66. This legislation, which passed in the Senate at the end of the 105th Congress, will protect the unique cultural resources along the famous Route 66 corridor and authorize the Interior Secretary to provide assistance through the Park Service. Congresswoman HEATHER WILSON of Albuquerque, New Mexico, has reintroduced a companion bill (H.R. 66) in the House of Representatives, and we hope this Congress will act promptly in passing this legislation aiding grassroots efforts to maintain this important part of American culture.

The road system of a nation links its people together. Without such a road, the movement of goods and services would be impossible. History is replete with examples of pioneers, such as those that forged the Santa Fe Trail, trying to find passage across this great country.

John Steinbeck referred to Route 66 as the "Mother Road" in "The Grapes of Wrath," and many in this Chamber may recall traveling across country on this road in their youth. New Mexico added to the aura of Route 66, giving new generations of Americans their first experience of our colorful culture and heritage. Starting in Chicago, Illinois, and winding 2,200 miles across the United States to Santa Monica, California, Route 66 linked the urban centers of the Midwest and West. Services sprung up along the route to provide for travelers crossing the heart of the country.

It rolled through eight American states, and in New Mexico, it went through the communities of Tucumcari, Santa Rosa, Albuquerque, Grants and Gallup. Route 66 allowed generations of vacationers to travel to previously remote areas and experience the natural beauty and cultures of the Southwest and Far West. Route 66 symbolized freedom and mobility for an entire generation of Americans in their automobiles. This bill will facilitate greater coordination in federal, state and private efforts to preserve structures and other cultural resources of the historic Route 66 corridor, the 20th Century route equivalent to the Santa Fe Trail.

I introduced the Route 66 Study Act of 1990, which directed the National Park Service to determine the best ways to preserve, commemorate and interpret Route 66. The study, which was completed in 1995, determined that Route 66 had historic national significance, and the structures along the disappearing asphalt should be preserved. As a result, I introduced a bill last June authorizing the National Park Service to join with federal, state and private efforts to preserve aspects of the historic Route 66 corridor, the nation's most important thoroughfare for east-west migration in the 20th century.

The Administration testified in favor of this legislation, with some modifications. We made some good changes to the bill, which passed the Senate, and prompt passage will ensure success of this Park Service program. This legislation authorizes a funding level over 10 years and stresses that we want the federal government to support grassroots efforts to preserve aspects of this historic highway.

This bill authorizes the National Park Service to support state, local and private efforts to preserve the Route 66 corridor by providing technical assistance, participating in cost-sharing programs, and making grants. The Park Service will also act as a clearing house for communication among federal, state, local, private and American Indian entities interested in the preservation of the Route 66 corridor.

As we draw to the close of this century, there is more interest in trying to save Route 66. I once again ask this body to promptly pass this legislation, and sincerely hope the House of Representatives follows suit. The time is now to provide tangible means of assistance to preserve this special part of Americana.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 292

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

In this Act:

(1) ROUTE 66 CORRIDOR.—The term "Route 66 corridor" means structures and other cultural resources described in paragraph (3), including—

(A) public land within the immediate vicinity of those portions of the highway formerly designated as United States Route 66; and

(B) private land within that immediate vicinity that is owned by persons or entities that are willing to participate in the programs authorized by this Act.

(2) CULTURAL RESOURCE PROGRAMS.—The term "Cultural Resource Programs" means the programs established and administered by the National Park Service for the benefit of and in support of preservation of the Route 66 corridor, either directly or indirectly.

(3) PRESERVATION OF THE ROUTE 66 CORRIDOR.—The term "preservation of the Route 66 corridor" means the preservation or restoration of structures or other cultural resources of businesses, sites of interest, and other contributing resources that—

(A) are located within the land described in paragraph (1);

(B) existed during the route's period of outstanding historic significance (principally between 1933 and 1970), as defined by the study prepared by the National Park Service and entitled "Special Resource Study of Route 66", dated July 1995; and

(C) remain in existence as of the date of enactment of this Act.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Cultural Resource Programs at the National Park Service.

(5) STATE.—The term "State" means a State in which a portion of the Route 66 corridor is located.

SEC. 2. MANAGEMENT.

(a) IN GENERAL.—The Secretary, in collaboration with the entities described in subsection (c), shall facilitate the development of guidelines and a program of technical assistance and grants that will set priorities for the preservation of the Route 66 corridor.

(b) DESIGNATION OF OFFICIALS.—The Secretary shall designate officials of the National Park Service stationed at locations convenient to the States to perform the functions of the Cultural Resource Programs under this Act.

(c) GENERAL FUNCTIONS.—The Secretary shall—

(1) support efforts of State and local public and private persons, nonprofit Route 66 preservation entities, Indian tribes, State Historic Preservation Offices, and entities in the States for the preservation of the Route 66 corridor by providing technical assistance, participating in cost-sharing programs, and making grants;

(2) act as a clearinghouse for communication among Federal, State, and local agencies, nonprofit Route 66 preservation entities, Indian tribes, State Historic Preservation Offices, and private persons and entities interested in the preservation of the Route 66 corridor; and

(3) assist the States in determining the appropriate form of and establishing and supporting a non-Federal entity or entities to perform the functions of the Cultural Resource Programs after those programs are terminated.

(d) AUTHORITIES.—In carrying out this Act, the Secretary may—

(1) enter into cooperative agreements, including, but not limited to study, planning, preservation, rehabilitation and restoration;

(2) accept donations;

(3) provide cost-share grants and information;

(4) provide technical assistance in historic preservation; and

(5) conduct research.

(e) PRESERVATION ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall provide assistance in the preservation of the Route 66 corridor in a manner that is compatible with the idiosyncratic nature of the Route 66 corridor.

(2) PLANNING.—The Secretary shall not prepare or require preparation of an overall management plan for the Route 66 corridor, but shall cooperate with the States and local public and private persons and entities, State Historic Preservation Offices, nonprofit Route 66 preservation entities, and Indian tribes in developing local preservation plans to guide efforts to protect the most important or representative resources of the Route 66 corridor.

SEC. 3. RESOURCE TREATMENT.

(a) TECHNICAL ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary shall develop a program of technical assistance in the preservation of the Route 66 corridor.

(2) GUIDELINES FOR PRESERVATION NEEDS.—

(A) IN GENERAL.—As part of the program under paragraph (1), the Secretary shall establish guidelines for setting priorities for preservation needs.

(B) BASIS.—The guidelines under subparagraph (A) may be based on national register standards, modified as appropriate to meet the needs for preservation of the Route 66 corridor.

(b) PROGRAM FOR COORDINATION OF ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall coordinate a program of historic research, curation, preservation strategies, and the collection of oral and video histories of events that occurred along the Route 66 corridor.

(2) DESIGN.—The program under paragraph (1) shall be designed for continuing use and implementation by other organizations after the Cultural Resource Programs are terminated.

(c) GRANTS.—The Secretary shall—

(1) make cost-share grants for preservation of the Route 66 corridor available for resources that meet the guidelines under subsection (a); and

(2) provide information about existing cost-share opportunities.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $10,000,000 for the period of fiscal years 2000 through 2009 to carry out the purposes of this Act.●

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 293. A bill to direct the Secretaries of Agriculture and Interior and to convey certain lands in San Juan County, New Mexico, to San Juan College; to the Committee on Energy and Natural Resources.

THE OLD JICARILLA SITE CONVEYANCE ACT OF 1999

● Mr. DOMENICI. Mr. President, I rise to again introduce important legislation allowing for a transfer of an unwanted piece of federal property to an educational institution which needs it. The Old Jicarilla Site Conveyance Act of 1999 allows for transfer by the Secretaries of Agriculture and Interior of real property and improvements at an abandoned and surplus ranger station to San Juan College. The site is in the Carson National Forest near the village of Gobernador, New Mexico. The Jicarilla Site will continue to be used for public purposes, including educational and recreational purposes of the college.

Over one third of the land in New Mexico is owned by the federal government, and therefore finding appropriate sites for community and educational purposes can be difficult. The Forest Service determined that these ten acres are of no further use to them because a new administrative facility has been located in the town of Bloomfield, New Mexico. In fact, the facility has had no occupants for several years, and the Forest Service testified last year that enactment of this bill would "provide long-term benefits for the people of San Juan County and the students and faculty of San Juan College."

I am hoping this bill will again move swiftly through this body. Clearly, this legislation deserves prompt approval in the House and signature by the President because it is noncontroversial and the land can readily be put to good use for San Juan College and the area residents. We also need to put this property in the hands of the college so it can protect the area from further deterioration and fire.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 293

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OLD JICARILLA ADMINISTRATIVE SITE.

(a) CONVEYANCE OF PROPERTY.—Not later than one year after the date of enactment of this Act, the Secretaries of Agriculture and Interior (herein "the Secretaries") shall convey to San Juan College, in Farmington, New Mexico, subject to the terms and conditions under subsection (c), all right, title, and interest of the United States in and to a parcel of real property (including any improvements on the land) consisting of approximately ten acres known as the "Old Jicarilla Site" located in San Juan County, New Mexico (T29N; R5W; portions of Sections 29 and 30).

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretaries and the President of San Juan College. The cost of the survey shall be borne by San Juan College.

(c) TERMS AND CONDITIONS.—

(1) Notwithstanding exceptions of application under the Recreation and Public Purposes Act (43 U.S.C. 869(c)), consideration for the conveyance described in subsection (a) shall be—

(A) an amount that is consistent with the Bureau of Land Management special pricing program for Governmental entities under the Recreation and Public Purposes Act; and

(B) an agreement between the Secretaries and San Juan College indemnifying the Government of the United States from all liability of the Government that arises from the property.

(2) The lands conveyed by this Act shall be used for educational and recreational purposes. If such lands cease to be used for such purposes, at the option of the United States, such lands will revert to the United States.

(d) LAND WITHDRAWALS.—Public Land Order 3443, only insofar as it pertains to lands described in subsections (a) and (b) above, shall be revoked simultaneous with the conveyance of the property under subsection (a).●

ADDITIONAL COSPONSORS

S. 3

At the request of Mr. GRAMS, the names of the Senator from Tennessee (Mr. THOMPSON) and the Senator from Florida (Mr. MACK) were added as cosponsors of S. 3, a bill to amend the Internal Revenue Code of 1986 to reduce individual income tax rates by 10 percent.

S. 4

At the request of Mr. WARNER, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 4, a bill to improve pay and retirement equity for members of the Armed Forces; and for other purposes.

S. 5

At the request of Mr. DEWINE, the names of the Senator from Florida (Mr. MACK) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 5, a bill to reduce the transportation and distribution of illegal drugs and to strengthen domestic demand reduction, and for other purposes.

S. 13

At the request of Mr. SESSIONS, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 13, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives for education.

S. 17

At the request of Mr. DODD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 17, a bill to increase the availability, affordability, and quality of child care.

S. 18

At the request of Mr. HARKIN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 18, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through enhanced enforcement.

S. 74

At the request of Mr. DASCHLE, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 74, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 89

At the request of Mr. HUTCHINSON, the names of the Senator from Michigan (Mr. ABRAHAM), the Senator from North Carolina (Mr. HELMS), and the Senator from Arizona (Mr. KYL) were added as cosponsors of S. 89, a bill to state the policy of the United States with respect to certain activities of the People's Republic of China, to impose certain restrictions and limitations on activities of and with respect to the People's Republic of China, and for other purposes.

S. 92

At the request of Mr. DOMENICI, the names of the Senator from Florida (Mr. MACK), the Senator from Ohio (Mr. VOINOVICH), the Senator from Nebraska (Mr. HAGEL), the Senator from Utah (Mr. HATCH), and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 92, a bill to provide for biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government.

S. 102

At the request of Mr. ABRAHAM, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 102, a bill to provide that the Secretary of the Senate and the Clerk of the House of Representatives shall include an estimate of Federal retirement benefits for each Member of Congress in their semiannual reports, and for other purposes.

S. 146

At the request of Mr. ABRAHAM, the names of the Senator from Kentucky (Mr. MCCONNELL) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 146, a bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes.

S. 185

At the request of Mr. ASHCROFT, the names of the Senator from Idaho (Mr.

CRAIG) and the Senator from Virginia (Mr. ROBB) were added as cosponsors of S. 185, a bill to establish a Chief Agricultural Negotiator in the Office of the United States Trade Representative.

S. 201

At the request of Mr. DODD, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 201, a bill to amend the Family and Medical Leave Act of 1993 to apply the act to a greater percentage of the United States workforce, and for other purposes.

S. 223

At the request of Mr. LAUTENBERG, the names of the Senator from Nevada (Mr. REID) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 223, a bill to help communities modernize public school facilities, and for other purposes.

S. 227

At the request of Mr. COVERDELL, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Missouri (Mr. ASHCROFT) were added as cosponsors of S. 227, a bill to prohibit the expenditure of Federal funds to provide or support programs to provide individuals with hypodermic needles or syringes for the use of illegal drugs.

S. 254

At the request of Mr. HATCH, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 254, a bill to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes.

S. 258

At the request of Mr. MCCAIN, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 258, a bill to authorize additional rounds of base closures and realignments under the Defense Base Closure and Realignment Act of 1990 in 2001 and 2003, and for other purposes.

SENATE RESOLUTION 22

At the request of Mr. CAMPBELL, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of Senate Resolution 22, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives serving as law enforcement officers.

SENATE RESOLUTION 26

At the request of Mr. MURKOWSKI, the names of the Senator from Arizona (Mr. KYL) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of Senate Resolution 26, a resolution relating to Taiwan's Participation in the World Health Organization.

SENATE RESOLUTION 28—RELATIVE TO RULE XXV

Mr. LOTT submitted the following resolution; which was considered and agreed to;

S. RES. 28

Resolved, That paragraph 1(m)(1) of Rule XXV is amended as follows:

Strike "Committee on Labor and Human Resources" and insert in lieu thereof "Committee on Health, Education, Labor, and Pensions".

Strike "Handicapped individuals" and insert in lieu thereof "Individuals with disabilities".

ADDITIONAL STATEMENTS

TRIBUTE TO SENATE PAGES

• Mr. DASCHLE. Mr. President, the Senate must bid goodbye today to an excellent group of young men and women who served as United States Senate Pages this last fall and winter.

This group of pages observed a number of important and historic debates in the last few months. Since the beginning of last fall, the Senate has debated measures to reform our nation's bankruptcy laws, to govern commerce over the Internet, and to provide funding for the varied programs of the United States government, among others. Of course, in the last few weeks, these pages have seen history being made in the impeachment trial of a President for only the second time since our government was founded. But pages are not just passive observers. They are active participants in the daily operations of the United States Senate.

Mr. President, a page's life is certainly not easy. They are up before dawn, at page school at 6:15 am, then here in the Senate for the rest of the day. While they are here, their duties run the gamut. They help set up the chamber, deliver messages all over the Capitol complex, and help things function smoothly here on the Senate floor and in the cloakrooms. During their limited down time, they often try to sneak in a few minutes of homework. At the end of their long day, it is back to the dorm for more homework, a little down time, and a little sleep before they wake up and do it again the next day.

On behalf of all Democratic Senators, I would like to thank this fall and winter's pages for their hard work and contributions to the Senate, and I ask that a list of the 1998 fall and winter pages be printed in the RECORD at the conclusion of my remarks.

I hope each member of this page class takes back to his or her home state a better knowledge of how their government works and a better appreciation of the need to work together to achieve a common goal. These young people are our future leaders. Measured by their brief service here in the United States Senate, we should all feel confident about our country's future. Perhaps someday, one or more of them will return as Members of the United States Senate.

The list follows:

1998 FALL SENATE PAGES

DEMOCRATIC

Hilary Davis, Virginia.
George Etheridge, Michigan.
Mark Hadley, Virginia.
Jennifer Johnston, Vermont.
Cara Lane, South Dakota.
Lauren Luellwitz, Wisconsin.
Andrew Mezvinsky, Pennsylvania.
Anna Santiago, Illinois.

REPUBLICAN

Erin Anderson, Vermont.
Molly Arico, Rhode Island.
Rick Carroll, Delaware.
Jessica Day, New Hampshire.
Denise Foye, South Carolina.
Courtney Johnson, Arkansas.
Lauren Martindale, Georgia.
John Natter, Alabama.
Mejken Poore, Utah.
Michael Rohrbaugh, Missouri.
Russell Sample, Idaho.
Tim Shumaker, Kentucky.
Erin Tankersley, Mississippi.
Sara Van Doren, Washington.
Trenton Young, Utah.•

THOMAS G. PELLIKAAN RETIREMENT

• Mr. LOTT. Mr. President, today the Senate loses another member of its family to retirement. Tom Pellikaan began his Senate Career on June 1, 1963. After over 35 years of service, today he will end his lengthy and productive career by retiring to his country home in Culpeper, VA.

Tom began working in the Senate as the Senate press liaison. In 1977 he began work in the Office of Daily Digest, where he has served as editor since 1989. I would note that there are only four original Senators serving in this body since Tom began working in the U.S. Senate. I know I speak for all Senators in thanking Tom for his loyal service to this institution and we wish him all the best as he tends to his horses at Brookhill Farm. I close by saying although Tom may be departing our Senate family today, we know he will always be a part of this institution and we look forward to his visits.•

TRADE FAIRNESS ACT

• Mr. SARBANES. Mr. President, I am pleased to join with my colleagues on the Senate Steel Caucus in sponsoring the Trade Fairness Act of 1999. This legislation seeks to respond to the current steel import crisis and prevent future crises by amending U.S. trade law and creating a comprehensive steel import monitoring system.

Within the past year, foreign steel has been imported into the United States at unprecedented levels and at prices far below cost. As economic markets have failed in Russia and Asia, foreign steel manufacturers have increasingly turned to the United States to sell their product and, in return, obtain hard currency. In fact, the import rate rose 30 percent in the first ten months of 1998, as compared with the same period last year, and U.S. steel imports this past October were the second highest in history.

As a result, U.S. steel manufacturers are faced with a real crisis, one that threatens to undermine a key sector of our economy. Plants across the country have been forced to shorten shifts, lay-off workers and, in some cases, declare bankruptcy. In my own state, workers at Bethlehem Steel's Sparrows Point Division have been subjected to shorter hours, shorter shifts and even the shutting down of Sparrows Point's galvanized steel line.

Mr. President, for the past fifteen years, the U.S. steel industry has worked aggressively to streamline its operations, improve productivity and cut costs, but it cannot compete against illegally dumped steel. It is, in fact, time for this Congress to Stand Up For Steel.

With this legislation, we can begin to do just that. The Trade Fairness Act of 1999 is comprised of two sections which will enhance the ability of the Administration to take action on this crisis. The first of these sections amends the emergency safeguards provisions, Section 201, of the 1974 Trade Act which allows the President to grant temporary import relief to a domestic industry which the International Trade Commission finds has been seriously injured by increased imports. This section seeks not only to ensure that the steel industry is treated equitably, but that all domestic industries may be allowed to compete fairly in the global marketplace.

The second section creates a comprehensive steel import monitoring program which requires importers to provide information including the name and address of the importer, supplier and producer of the goods to be imported, the country of origin of the goods, the expected date of entry of the goods, a description of the goods, including the classification of these goods under the Harmonized Tariff Schedule of the United States, and the quantity of the goods to be imported. This information will aid the Administration in monitoring the amount of steel brought into the United States and allow these numbers to be tabulated and released at a rate faster than at present.

Mr. President, as you know, on January 7, the Administration submitted the "Report to Congress on a Comprehensive Plan for Responding to the Increase in Steel Imports." I am disappointed that this report appears largely to be a recital of things already done by the Administration, rather than new steps planned to address the problem. The Administration should be focusing on keeping America's steelworkers in their line of work, instead of in line collecting unemployment. For over a century, the steel industry has stood tall and served as a foundation of the American economy. The time for the Administration to Stand Up For Steel is now. The U.S. steel industry and the 226,000 Americans employed by it deserve nothing less than the full support of their country.

The Trade Fairness Act of 1999 would allow the Administration to provide strong support for the American steel industry. I strongly urge my colleagues to support its passage.•

TRIBUTE TO THE PENNSYLVANIA ASSOCIATION OF STUDENT ASSISTANCE PROFESSIONALS

• Mr. SANTORUM. Mr. President, I rise today to pay tribute to the Pennsylvania Association of Student Assistance Professionals (PASAP), who will be holding their ninth annual conference in Pittsburgh from March 14–16. The PASAP is a state-wide organization comprised of school officials, teachers, treatment center and medical personnel, psychologists and other professionals who address the influence of alcohol, drugs and mental health issues on students in the 501 Pennsylvania school districts.

The theme of this year's conference, "Help is Just Down the Hall—Building Resilience, Building Partners, Building America's Future," will focus on parental involvement, crisis response in a school setting and other issues focusing on the at-risk student population.

According to state statistics, more than 61,000 students were directly helped during the last school year as a result of the Student Assistance program process.

The PASAP provide a state forum for sharing resources, common needs, experience and outcomes and promote the development of joint school and community programs for youth. The PASAP also provide leadership and training on national, regional, state and local levels as well as advocate for increased local, state and federal support for student assistance programs, treatment services and related personnel in the public and private sector.

Mr. President, the PASAP has altered the course of many lives among Pennsylvania's youth. I ask my colleagues to join with me in commending the PASAP for their committed efforts to the well-being of the youth in Pennsylvania and the future of our country.•

TAIWAN'S PARTICIPATION IN THE WORLD HEALTH ORGANIZATION

• Mr. TORRICELLI. Mr. President, Senator MURKOWSKI and I have submitted a resolution that is critical to the future health and well-being of the people of Taiwan and the rest of the world. I rise today to express my support for the resolution regarding the Republic of China on Taiwan's participation in the World Health Organization (WHO). Improving health care in Asia, and around the world, is one of the most important issues facing the international community as we move into the 21st century. Despite the fact that many people are better off today than their parents and grandparents were years ago, we still face tremendous obstacles to establishing basic health care in a number of regions around the world. To this date, children are still not vaccinated, clean water and sanitation are still not available to hundreds of millions of people, curative drugs and treatments are still inaccessible, and over 500,000 mothers die unnecessarily each year in childbirth.

The WHO has been instrumental in helping to draw attention to these issues, and to bring needed relief to some of the most underprivileged people in the world. As we all know, sickness and disease span across borders and can affect anyone, regardless of where he or she lives. Here in the United States, we have been lucky enough to enjoy relatively easy access to the newest advances in medical technology and knowledge. However, the people of Taiwan have not been so fortunate. The 21 million citizens of Taiwan are currently barred from accessing the same technologies and techniques through the WHO that many other nations benefit from.

In addition, Taiwan has been frustrated in its attempts to share its own medical knowledge with the rest of the world. Until Taiwan gains membership in the WHO, it cannot contribute its substantial expertise in health care to furthering the organization's goals. We can all benefit from the advances Taiwan has made on its own, and Taiwan can, in turn, improve its own situation by accessing the resources amassed by the WHO. The resolution that Senator MURKOWSKI and I have submitted addresses an issue of basic human decency, and I urge my colleagues to support our efforts to help Taiwan become a member of the WHO.•

TRIBUTE TO GUS OWEN, FORMER SURFACE TRANSPORTATION BOARD MEMBER

• Mr. LOTT. Mr. President, I rise to congratulate Gus Owen, the immediate past Vice Chairman of the Surface Transportation Board (STB), for his outstanding service to the nation. Gus Owen completed his term of service on the STB on December 31, 1998, after more than four years of public service. It is most fitting that we recognize Mr. Owen's service because he met the challenge at a critical time in the history of railroad regulation.

As the last Commissioner sworn in to serve on the Interstate Commerce Commission, Mr. Owen was instrumental in shaping the direction of the STB, the ICC's successor. Mr. Owen's vision of a more streamlined deregulated transportation industry is reflected in his many accomplishments while serving on the ICC and the STB. As the 104th Congress began consideration of overhauling Government oversight of the surface transportation industry, Mr. Owen prepared a "Blueprint for Further Deregulation of the Surface Transportation Industry." This plan contained a 34-point analysis of the industry that endorsed market-based solutions over government regulation. Much of Mr. Owen's plan served as a basis for the ICC Termination Act of 1995, which authorized the replacement of the ICC with the more streamlined STB.

In his capacity as STB Member, Mr. Owen reviewed and voted on cases involving complicated antitrust, service, competition, environment, and labor issues, including the three largest railroad mergers in the history of the United States. These were the 1995 Burlington Northern-Santa Fe merger, the 1996 Union Pacific-Southern Pacific merger, and the 1998 CSX-Norfolk Southern-Conrail merger. Mr. Owen's insight, judgment, and expertise were key to the Board's successful adjudication of these incredibly complex cases.

Gus Owen has returned to the private sector and his family in California after an extremely successful four years of public service. The Nation has lost a talented, pragmatic, and respected STB Member, whose work with the transportation industry will have a significant and beneficial impact on that industry and our economy. We take pride in his record and wish him well in his return to private life.•

AMERICAN STEEL WORKERS CRISIS

• Mr. ABRAHAM. Mr. President, today I rise to address the topic of steel imports. The dramatic reduction in the price of imported steel poses a significant challenge to America's steel industry. In the first ten months of 1998 alone (October is the last month for which figures are available), Japan more than doubled the level of imports compared to their year-end total for all of 1997. Japan's 882,000 net tons imported in October appears to be an all-time monthly record. However, Japan is not solely responsible for the surge in imports. The total October 1998 steel import level was the second highest monthly total ever, with over 4.1 million net tons—an increase of 56% over October 1997 levels.

Earlier this month, a representative of the United Steelworkers of America union claimed that 5,000 steelworkers had already received layoff notices and another 20,000 were working reduced hours because of these imports. More recent reports indicate the number of laid-off workers is fast approaching 10,000. The American Iron and Steel Institute recently released figures which demonstrate that U.S. domestic steel production had been nearly decimated by the unprecedented surge in imports. In November 1998, U.S. steel mills shipped approximately 7.4 million net tons. This represents a decrease of 12.8% from the roughly 8.5 million net tons shipped the previous November. Of even more concern is that November 1998 shipments were down 10.6% just from the previous month! And as the import figures outlined above indicate, the magnitude of the situation is growing, not diminishing.

Mr. President, there are several factors behind this surge in low-priced steel imports. First, the general deflationary trends in the global economy have caused all commodity prices—including steel prices—to plummet. In my judgment, the Federal Reserve's tight monetary policy in 1997 and most of 1998 is to blame. While the Fed has taken corrective action to reduce short-term interest rates in recent months, commodity prices have yet to rebound. Second, the economic crisis in Asia and Russia has forced these countries to rely almost exclusively on exports to keep their economies afloat. Given the size of our manufacturing sector and our comparatively robust economic climate, the United States is an obvious, attractive export target for these nations. In many instances, the International Monetary Fund is to blame because it convinced these countries to either raise interest rates or devalue their currencies, which in turn allowed foreign steel to undercut American steel prices.

Against this macroeconomic backdrop of generally falling prices, some foreign steel companies may have engaged in the practice of "dumping"—that is, selling steel below the cost of production. While we are eager to offer economic assistance to these struggling countries—and in many cases we have offered direct and indirect economic assistance to them—there is no reason we should have to compromise or ignore our trade laws.

So the question that confronts us today is: What do we—the Administration, the Congress—do about this serious problem? The Administration's lack of decisive action reportedly is due to their not wanting to risk subjecting the fragile economies in Asia, Russia and Brazil to further challenges. However, our willingness to assist our allies and trading partners ought not translate into requiring us to ignore unfair trading practices—and our own trade laws—or deleterious effects these practices have on our workers and domestic industry.

On the macroeconomic level, the Federal Reserve should focus on achieving price stability—and that means addressing deflation as well as inflation. The Clinton Administration must take decisive action on this matter quickly. Promising to talk to our trading partners in the hope of getting their cooperation in cutting back the import levels is not sufficient at this late date. In the international arena, the Administration must exert more leadership in arguing against currency devaluations. In the trade arena, the Administration must take firm action in enforcing our anti-dumping laws.

To this end, I have cosponsored S. 61, a bill introduced yesterday by Senator DEWINE, that would eliminate existing disincentives for fair trade in our trade laws. Specifically, under current trade law, duties and fines imposed on those engaged in dumping go directly to the U.S Treasury. However, under the DEWINE bill, the duties or fines collected would be transferred to the affected industries, not to the U.S. Treasury. Therefore, continuation of unfair trade practices would result in the perpetrators of such activities effectively financially aiding their U.S. competitors.

It is important to note that this legislation does not create new duties or penalties, nor does it increase existing duties or penalties. Frankly, this legislation will not mandate that importers raise the price of steel one single penny, and therefore, it should not directly affect the market for underpriced steel. However, in the long run, producers who engage in dumping will have to seriously rethink their unfair trade practices. Because by continuing such practices, they only succeed in subsidizing those among our domestic industries that are being hurt by their illegal actions.

Mr. President, the recent surge in imported steel and the resulting job loss and scaled back production at U.S. steel plants may be a demonstration that current law does not effectively discourage unfair trade practices such as these. I have long been an ardent supporter of free and open trade. However, my support of free trade is prefaced on the notion that our trading partners will not engage in unfair trading practices, such as dumping, and that when our Nation is confronted by unfair trading practices, we will seek remedy, whether by invoking provisions in our own trade laws designed to combat such unfair trade practices or pursuing means of redress through international trade tribunals such as the World Trading Organization.

As long as our trade laws prohibit dumping, it is imperative for the Administration to adhere to them and to implement them where and when the circumstances require it. To fail to do so will have consequences, both for American workers and industry and for the principle of free trade that I believe is so important. More and more steel workers may be laid off and steel plants may begin to shut down. Our domestic steel industry, which has done so much over the last two decades to modernize and become competitive on an international basis, could become irreparably harmed.

If things deteriorate, we will see calls for quotas on steel imports. We will also see a political backlash against free trade, just at the time when we should be entering into free trade agreements with some of these very regions—Asia, Pacific Rim, and South America. This will only serve to set us back further from being the dominant player on the global marketplace in the next century.

Finally, let me pay tribute to the individuals and groups that have travelled all the way to Washington, D.C. to attend today's "Stand Up for Steel" rally. These people are here to raise our consciousness about the steel import situation. In my office alone, we have already received an estimated 15,000 letters on this issue. My constituents are rightly concerned by the situation. It is my hope that after attending the rally held at the Capitol this afternoon and after learning of legislation being introduced by interested Senators, such as S. 61, that these people will return home knowing that we in Congress are not ignorant of this crisis or of their concern.●

A TRIBUTE TO WILLIAM B. RUGER

● Mr. GREGG. Mr. President, on October 29th last year, one of New Hampshire's outstanding citizens, William B. Ruger, Chairman and Chief Executive Officer, Sturm, Ruger & Company, Inc., was honored by The Camp Fire Club of America.

The Camp Fire Club of America is one of the most prestigious hunting and conservation organizations in the country. Its code of ethics stresses that the wildlife of today is not ours to do with as we please, but was given to us in trust for the benefit both of the present and the future. They also believe that it is the duty of every person who finds pleasure in the wilderness or in the pursuit of game to actively support the protection of forests and wildlife.

The Camp Fire Club awarded its Medal of Honor—its highest tribute—to William B. Ruger. This Medal is awarded to "one person, who in the judgment of the Board of Governors, has merited such recognition by his career or special work in forest or game protection, or along other lines which are in accord with the object and aims of the club."

Mr. President, several former recipients of this high honor by The Camp Fire Club are: Colonel Theodore Roosevelt in 1910; Carl Rungius, the outstanding painter in 1931; Horace Albright, former Director of National Parks in 1961; and Laurance Rockefeller in 1967.

Mr. President, it gives me great pleasure to bring to your attention the tribute below, made to Bill Ruger on the occasion of his being awarded The Camp Fire Club Medal of Honor.

MEDAL OF HONOR, WILLIAM B. RUGER, 29 OCTOBER 1998

I welcome to this room of honor, five former presidents of Camp Fire seated at the head table, the officers and governors (both past and present), family members, friends and special guests.

It is a tradition of the Club at the Board of Governors' meetings to take a moment to remember those who are no longer with us. At such a momentous occasion as this, it is also appropriate to take a moment of silence for all our friends, family and companions that have crossed the Great Divide. You may remain seated.

At our formal dinners at the turn of the century, the founder of Camp Fire established several principles which they and we have been unable to uphold. To name a few, they were: no drinking, no smoking, no swearing and no long speeches. I will observe one of these this evening and get right to the matter.

The Club through its By-Laws permits the active President to award the Presidential Citation for meritorious service. The Board of Governors has the power to recognize members through the Medal of Valor and the John E. Hammett Award for work in conservation. But it is only the membership of the organization that can bestow our highest expression of admiration. In this particular instance, it began with a whisper over ten years ago, and through the Board of Governors ended in the hands of the entire membership's approval.

In 1906, the first Medal of Honor was presented and since that time only 24 recipients have been named. They have experienced many walks of life. To name a few, they have included conservationists, preservationists, a painter, a forester (the country's first), a writer, a bird lover, a Senator, an Olympian, an explorer (Polar), a rifleman, a rider of the Chisholm Trail, Founder of the Boy Scouts and a United States President. They all exemplified the spirit and the fellowship that is Camp Fire today. We honor them because we admire their perseverance, fortitude and courage.

Like each of the recipients before him, Mr. William B. Ruger has shown this same fortitude and courage to lead. He has willingly accepted these challenges and leads with dignity. He has the unique ability to explain in a clear manner not only to us, who are supporters, but to opponents the importance of retaining personal freedom and our firearm heritage. He embodies a natural sense of justice and a passion for exploration, not only in the traditional sense but in a business sense as well. Through the various and substantial endowments he has created, he has established a way to train and educate the youth in the importance of personal responsibility, conservation and truth; and at the same time has illuminated the way for us.

By his generosity, future generations may enjoy the advantages, benefits and pleasures of the outdoor experience and better understand the importance of wildlife and wilderness protection.

His distinguished service to the nation, while visible today, will be more fully appreciated and comprehended in the years to come.

The Medal of Honor is paramount in its absolute justice. It is a justice free from all influence whether it be of favor, political or sentimental. It is a symbol of life, of loyalty, of integrity and of self reliance. But most of all it is a badge of inspiration, not only to the one who has the honor to wear it, but for those who gaze upon it.

The inscription on the back of this gold medallion reads: "William B. Ruger—Inventor, Manufacturer, Industrialist—In recognition of his dedication to conservation and the Spirit of Camp Fire—29 October 1998."

As President of The Camp Fire Club of America and representative of the entire membership, it is our great pleasure to bestow upon you the Medal of Honor. Congratulations.

THE CAMP FIRE CLUB OF AMERICA,
SCOTT T. SUTTON,
President.

I would like to add my personal congratulations to my good friend, Bill Ruger.●

TRIBUTE TO PHILLIP C. CUNNINGHAM

● Mr. LOTT. Mr. President, as the 106th Congress begins its legislative process this week, I want to first take a moment and recognize a very special Mississippian.

We have all heard stories about individuals who give generously or leave the bulk of their estates to causes and charities that are dear to them. This story is yet another example that the kindred American spirit is alive and well.

Mr. Phillip Cunningham of Tupelo worked hard all his life, doing what he loved to do best—gardening. His profession provided a modest living, but most certainly a rewarding one. Working with his hands in the garden was very important to Mr. Cunningham who, for over 25 years, was a personal gardener for a local Tupelo family, Bill and Doyce Deas. In his "spare" time, he was caretaker for the school district. "I've always been interested in growing things" was his personal motto.

Over the years, Mr. Cunningham accumulated savings. He recognized that a college education is important, and wanted others who shared his calling to have the chance to cultivate their green thumbs. This unselfish commitment led to the ultimate establishment of an endowed scholarship fund bearing his name—the Cunningham Scholarship Fund—to do just that. His gift of $38,000 will support students at Mississippi State University majoring in lawn-care related fields. Here was a modest man who made a significant contribution.

Not only was this 85-year-old a skilled gardener with, as some affectionately would say, "the midas touch", but also a dear friend. According to Mrs. Deas, he was "part of the family and a wonderful role model to our children. He enriched our lives in many ways.'' In fact, Mrs. Deas' late father's foundation, the L.D. Hancock Foundation, will match the generous gift.

Mr. President, I thank my colleagues for letting me share this inspiring story and pay tribute to this fine gentleman. The landscapes he worked on will ''bear fruit'' for years to come, and so will the students who benefit from his scholarship. They, too, will blossom.●

SENATE—*Friday, January 22, 1999*

The Senate met at 1:03 p.m. and was called to order by the Chief Justice of the United States.

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

The CHIEF JUSTICE. The Senate will convene as a Court of Impeachment. The Chaplain will offer a prayer.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Spirit of the living God, fall afresh on us. We need Your strength. The wells of our own resources run dry. We need Your strength to fill up our diminished reserves—silent strength that flows into us with artesian resourcefulness, quietly filling us with renewed power. You alone can provide strength to think clearly and to decide decisively.

Bless the Senators today as they trust You as Lord in the inner tribunal of their own hearts. You are Sovereign of this land, but You are also Sovereign of the inner person inside each Senator. May these hours of questions bring exposure of truth and resolution of uncertainties. O God of righteousness and grace, guide this Senate at this decisive hour. You are our Lord and Saviour. Amen.

The CHIEF JUSTICE. Senators may be seated. The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, James W. Ziglar, made proclamation as follows:

> Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against William Jefferson Clinton, President of the United States.

THE JOURNAL

The CHIEF JUSTICE. If there is no objection, the Journal of proceedings of the trial are approved to date.

Pursuant to the provisions of Senate Resolution 16, the Senate is provided up to 16 hours during which Senators may submit questions in writing directed to either the managers, on the part of the House of Representatives, or counsel for the President. The Chair recognizes the majority leader.

Mr. LOTT. Thank you, Mr. Chief Justice.

ORDER OF PROCEDURE

Mr. LOTT. This afternoon, the Senate will begin the question-and-answer period for not to exceed 16 hours, as provided in Senate Resolution 16. I have consulted several times about this procedure with Senator DASCHLE and others, and we have determined that the majority will begin the questioning process with the first question, and we will then alternate back and forth.

As I noted yesterday, this has not been done in quite a while, so we will just have to go forward in a way that we feel is fair and comfortable. We ask that you give the benefit of the doubt to us in how we send the questions up to the Chief Justice. Senator DASCHLE and I will try to make sure that the time stays pretty close to even as we go through the day. Of course, the Chief Justice, I am sure, will make sure the deliberations and the answers are fair. We hope the answers will be succinct and that they will respond to the questions.

One question that has arisen from Senators on both sides is, can we direct a question to both sides, the White House counsel and the House managers, simultaneously, and the answer is no. Under our rules, we will direct the question to one side or the other, and our questions for either side may go to either one of the parties, but only one can answer that question.

Of course, there is the possibility for a followup question that might be directed to one side or the other. We will just deal with that as we go forward.

I expect, for the information of all Senators, that we will go approximately 5 hours today. I don't know how many questions we can get done in an hour, but I suspect by 6 o'clock on Friday we will have exhausted a series of questions that will entitle us to a break at that point. But, again, we will just have to see how we feel about it. We would not stop, obviously, in the middle of a question.

We will resume again on Saturday at 10 a.m., alternating between both sides. The schedule at this point is undecided. We need to see how many questions are left that Senators really feel need to be asked and, again, we will have to see how the day progresses.

I did have Senators come up to me yesterday and talk to me about we need some reasonable limit on that. But I am thinking in general terms of not going beyond 4 o'clock on Saturday. We will converse and make those announcements after consultation as we go forward tomorrow or during the day even tomorrow.

I hope we can complete our questioning period by the close of business tomorrow, but if we go with the times I basically mentioned, we are talking about 10 hours, not 16. So we will have to consult and determine if we ask the basic questions or if we want to continue it later or even over on Monday.

I believe, Mr. Chief Justice, that completed the explanation that I wanted to give at this time.

I do have the first question prepared to send to the Chief Justice, but I thought perhaps he had some further business he might want to address before I did that.

The CHIEF JUSTICE. Yes. I would like to advise counsel on both sides that the Chair will operate on a rebuttable presumption that each question can be fully and fairly answered in 5 minutes or less. (Laughter.)

Mr. LOTT. Mr. Chief Justice, I do send the first question to the desk.

The CHIEF JUSTICE. Senators ALLARD, BUNNING, COVERDELL and CRAIG ask the House managers:

> Is it the opinion of the House Managers that the President's defense team, in the presentation, mischaracterized any factual or legal issue in this case? If so, please explain.

Mr. Manager BRYANT. Mr. Chief Justice, distinguished colleagues, and Members of the Senate, there are—first of all, let me thank you for the opportunity to respond to questions. We hope we can do that in a succinct manner today.

There are a number of mischaracterizations in statements that we disagree with that the President's defense team made. I will not attempt to cover all of these. And I would like to highlight just a few of these, and perhaps might, in a short manner, exceed the rebuttal presumption of 5 minutes.

Mr. Craig made the argument on behalf of the President that this is a lot about an oath versus oath perjury case. Article I is the perjury allegation—one word against another person's word, "he said, she said." However, we would submit that there was not discussed in their presentation the fact that there is ample corroboration which is provided for under the law as it being necessary.

But we believe factually there was much corroboration; that is, another person or other evidence to support the fact that the President did commit the perjury, and particularly those aspects of the perjury charge that deal with the personal relationship that Ms. Lewinsky and the President had.

Very clearly, White House records and phone logs, along with Ms. Lewinsky's incredible recollection of particular names and events, and the circumstances surrounding these particular occasions, that have already been highlighted in the past—and we all know about those types of telephone conversations. And she was very

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

clear in the facts. The people have all corroborated her on her presence in the White House at certain times.

No. 2, the Secret Service testimony that placed her inside the Oval Office, on occasion alone; the fact that there have been contemporaneous statements made by Ms. Lewinsky describing the details of this relationship. And as we all know, the law permits this contemporaneous statement to, in this case, at least eight friends and two professional counselors detailing the particular relationship while it was ongoing.

The blue dress is very clearly corroboration, and the DNA testing that resulted from that. Also, the transfer of Ms. Lewinsky from the White House, and the later surreptitious efforts with Ms. Currie to sneak her back into the White House, again, indication that efforts had been made to move her, to relocate her, away from the President to protect him from those circumstances.

Also, the President's prepared statement in the grand jury is another example that was not mentioned. And in particular, I highlight the statement that he made that would lead you to believe that this relationship evolved over a period of time, and that being that he was sorry that what had started out as a friendship turned into this type of relationship, where, in fact, Ms. Lewinsky's testimony is very clear that that relationship began immediately, the very first day that he actually spoke to her.

Mr. Ruff's statement that the managers' case was misleading is also incorrect, I believe. He used words like "fudging the facts," "a witches' brew," and "be wary of a prosecutor who feels like he must deceive the court." And this comes to somewhat of a surprise to many of us at this table who know that Mr. Ruff is familiar with the facts of this case.

And just last month, when he testified before the Judiciary Committee, he said: I have no doubt that the President walked up to that line that he thought he understood. Reasonable people—reasonable people—and you may have reached that conclusion that he could have crossed over that line and that what for him was truthful but misleading or nonresponsive or misleading and evasive was in fact false.

Now, he didn't tell you in his presentation that just a month ago he took the position that reasonable people can disagree, and yet before this Senate, and the audience that we have watching, he asserts that anyone who would accuse his client of perjury is guilty of "fudging the facts," "brewing a witches' brew," and "deception." And even Mr. Craig, unfortunately, borrowed many of those same words in that characterization. It may be good theater, but it is simply not the case that these managers are engaged in that type of practice before the Senate and the American people.

White House Counsel Cheryl Mills spoke in a similar manner and tone to this House about inconvenient and stubborn facts—oh, those stubborn facts. In her meticulous presentation, she passed over—she completely missed—the second occasion wherein President Clinton attempted to coach Ms. Currie.

Did anyone hear about the second event? As carefully as she tried to make innocent the wrongful effort of the President to tamper with the potential witness, she just as carefully skirted the entire similar episode 2 or 3 days after the first one where he again tampered with her testimony. According—according to Ms. Currie—he spoke with her, just recapitulating. Remember that in our presentation?

Likewise, in her review of witness tampering, she mischaracterized the law—the law—stating that a threat—an actual threat was required. 18 U.S.C. 1503 states that obstruction of justice occurs when a person corruptly endeavors to influence the testimony of another person. And "corruptly" has been interpreted by the District Court here in D.C. to mean acting for an improper purpose.

And, clearly, this was an improper purpose when the President was trying to get her to testify falsely, but a threat is not a part of the law and not needed.

And I will just quickly, if I might, just mention two more quick ones.

Mr. Ruff stated the President gave the same denial to his aides that he gave to his country and family. You recall him specifically saying that he just has said nothing different to the American public and his family that he told the aides that we talked about—John Podesta, Sidney Blumenthal.

Well, that's not right. "He told"—the President told Mr. Podesta—and this is Mr. Podesta talking—"He told me that he never had sex with her and that he never asked—you know, he repeated the denial. But he was extremely explicit in saying he never had sex with her in any way whatsoever, that they had not had oral sex."

And Blumenthal—Mr. Blumenthal—he told Mr. Blumenthal an entirely different story, that "Monica Lewinsky came at me and made a sexual demand on me. [And I, the President,] rebuffed her." He said that "I've gone down that road before [and] . . . caused pain for a lot of people and I'm not going to do that again."

"She threatened him." Ms. Lewinsky threatened the President. And "[s]he said that she would tell [other] people [that she] had an affair, that she was known as a stalker among her peers, and that she hated [that], and if she had an affair . . . [with the President] she wouldn't be . . . anymore."

That is not the story that he told the American people and that he told his family. These are embellishments that are very important, because he anticipated that they would go into the grand jury and repeat those misstatements.

And finally, the affidavit of Monica Lewinsky. White House defense lawyers spoke so eloquently about the procurement of this affidavit—as he glided through how the President believed that Monica Lewinsky could have filed a truthful affidavit while still skirting their sexual relationship sufficiently to—sufficiently to—avoid testifying in the Paula Jones case.

This is an important issue. As it was specifically raised in the answer before this Senate, the President's lawyers brought this statement into this Senate as part of their answer that he could have advised her that she could have filed an affidavit that would have been truthful while still at the same time denying a sexual relationship sufficiently that she would not be called as a witness.

I know opposing counsel makes light of the hairsplitting and the legal gymnastics that people have talked about here, but that is an incredible statement that you can do the twister enough to go into a deposition where the purpose of being there is to discover this type of information, who you might have had an affair with, and have her tell a truthful affidavit and still not to be able to testify.

Had she told a truthful affidavit, she would have been immediately called. Plus, the President was given an opportunity by Ms. Lewinsky to review the affidavit.

Remember the statement that he didn't need to, he had seen 15 just like it? If he had that "out" for her where she could have told the truth and still not been able to testify, don't you think he owed it to her to cause her not to have to commit perjury in that affidavit—which she did—not to have to commit a crime? Wouldn't he have shared that with her if he had that information at that time?

I suggest that he didn't. I have others that I would like to talk to, but in the interest of time and fairness I will stop my presentation at this point.

I thank the Senate.

Mr. DASCHLE. Mr. Chief Justice.

The CHIEF JUSTICE. I recognize the minority leader.

Mr. DASCHLE. Could I inquire as to the length of time that response took.

The CHIEF JUSTICE. Approximately 9 minutes.

Senator SARBANES asks:

Would you please comment on any of the legal or factual assertions made by the managers in their response to the previous question from Senators ALLARD, BUNNING, COVERDELL and CRAIG?

Mr. Counsel RUFF. Thank you, Mr. Chief Justice.

It may be that I will need to call on some of my colleagues to be of assistance here, but let me begin, and we will strive mightily to stay within the rebuttal of 5 minutes.

Mr. Manager BRYANT began by suggesting that there really is corroboration on the key issue that he focussed on, which as you know, is the nature of the specific details of the relationship between the President and Ms. Lewinsky. And he suggested that among the corroborating matters that he would point to were her recollection of events, which is alleged to be detailed; records reflecting that she was, indeed, in the White House on particular days; Secret Service records; DNA testing. None of those have anything to do with the essential issue that Congressman BRYANT raised, because nobody disputes the fact that Ms. Lewinsky was in the White House engaged in inappropriate conduct with the President on a particular day.

The only point that I think the manager raises that is new and needs to be addressed is this notion that contemporary, consistent statements made to third parties about these events are somehow corroborative of Ms. Lewinsky's testimony in this regard. And as all of you who had the pain of suffering through an evidence course will know, or have had the pain of trying lawsuits in which this issue arises, so-called prior consistent statements are not, in fact, viewed as some corroborating evidence that can be introduced by the prosecutors in this Senate; for they know, and I am sure those of you who suffered through these pangs know, as well, that the law rejects the notion that merely because you tell the same story many times it is corroborative of the underlying credibility of the witness' version, and that there are only certain very limited areas in which prior consistent statements are, in fact, admissible.

A couple of others and I will turn this briefly over to Ms. Mills.

Manager BRYANT suggests that I have somehow gone too far in suggesting that the prosecutors here have in my words "engaged in fudging." I have never suggested that the entire presentation is so, and I made very clear in my comments to the Senate the other day the specific examples which I think we documented quite fully. But beyond that, let me go back to his reference to my earlier testimony before the House Judiciary Committee in which I did, indeed, in response to questions, comment that the President may well have walked up to the line believing he didn't cross it, but that reasonable people might conclude otherwise.

The only problem with that example, as broached by Mr. Manager BRYANT, is that I was talking there—and the record is very clear—I was talking about his testimony in the Jones deposition which, as everyone in this room will fully understand, is not before you because the House of Representatives specifically decided that the President's testimony in the Jones deposition was not a basis for impeachment.

With that, without having used, I hope, all of my time, Mr. Chief Justice, I will allow Ms. Mills, if she would, to come forward and respond specifically to the point raised with respect to her presentation.

Ms. Counsel MILLS. Thank you.

I just want to address briefly two issues that the House managers raised. With regard to the statute on obstruction of justice, with respect to witness tampering, the House managers focused on 1512, with respect to Ms. Currie which does require a threat or intimidation and, indeed, specifically addressed that—they wanted to focus on 1512—when they were addressing her and the situation where the President spoke with her.

With regard to 1503, though, to the extent that the House managers suggest that the President's actions and his conversation with Ms. Lewinsky violated 1503, I think probably you all might recall from my presentation that we discussed the Aguilar case in which it is clearly necessary that you have a nexus between the actual conduct and the official proceeding that would be going forward. In that case, we had a judge who lied to an FBI agent who indicated that he was going to—that this might, might come up in a grand jury proceeding, and Mr. Chief Justice, in his opinion, indicated that was insufficient to find the nexus that was necessary to violate 1503.

And if you all have my package, you can look back. I provided you with a specific quotation. So in this instance, we clearly wouldn't have the nexus between the President's conversation with Ms. Currie, who was not yet a witness. There was no suggestion that she was going to be a witness in the Jones case; indeed, no one even mentioned that fact to him, as you actually did have in Aguilar.

In addition, with regard to both statutes, the specific intent is not fulfilled. That is something we spoke about when I gave my presentation before.

With regard to the President's conversation with Ms. Currie, which happened on the 18th and again on a subsequent day, in that instance it also happened prior to all of the media attention and other matters that came out. So in effect, all of the same issues apply because there was no—at that point—no indication that the independent counsel was involved in this matter, and the President still was concerned about the Jones proceeding; indeed, he was concerned that the media attention would be significant, and he was accurate as it began to grow and grow.

Thank you.

Mr. LOTT. Mr. Chief Justice, we send our next question to the desk.

The CHIEF JUSTICE. Senators ENZI and COVERDELL ask the House managers:

> Please elaborate on whether the President's defense team failed to respond to any allegations made by the House managers.

Mr. Manager HUTCHINSON. Mr. Chief Justice, ladies and gentlemen of the Senate, as to the areas that were not covered by the President's defense team, I think that my fellow Manager BRYANT already mentioned one, but I thought it was significant that in the questioning of Ms. Currie, or the statements made to Betty Currie after the President's deposition on January 17 where he brought her into the office and he went through that series of questions—"I was never alone, right," and that series of questions everybody is so familiar with, they discussed that primarily in the terms that she was not a witness. But during 3 days of presentation they never discussed the fact that it was 2 days later that the same series of questions or statements or coaching were addressed to Ms. Currie.

So the President's defense that, "Well, I was just trying to refresh my recollection on the facts so I could respond to media inquiries," does not make sense in light of the fact that it was done on one day—the series of questions. But Betty Currie testified that 2 days later she was called into the office, the same series of statements, declarations, coaching was made to her, and the only possible explanation for that is that the President was trying to make a very clear statement to her—"This is what I remember; this is what I want you to do," and for 3 days, for 3 days of presentations, the President's defense lawyers never, never mentioned that.

Now, I want to come back to what Ms. Mills just said because this was a big issue in the presentation of Mr. Ruff. In fact, I have the quotes here. I hope that that will be turned over to you. But whenever Betty Currie was questioned, they say, well, she wasn't a witness. There was never any clue she was going to be a witness, that the Jones lawyers never anticipated she was going to be a witness, and that it was never put at all on the witness list. That's very significant.

I just want to drive this point home. This is Mr. Ruff—talk about prosecutorial fudging; how about defense fudging? Mr. Ruff said this:

> Ms. Currie was neither an actual nor prospective witness.
>
> In the entire history of the Jones case, Ms. Currie's name had not appeared on any witness list, nor was there any reason to suspect that Ms. Currie would play a role in the Jones case.
>
> Discovery was down to its final days.

That was Counsel Ruff.

> Yet, in the days and weeks following the deposition, the Jones lawyers never listed her, never contacted her, never added her to any witness list.

That was the presentation of Mr. Ruff, and it was also that of Ms. Mills. Yet, if you look at the facts in the

Jones case, the deposition was concluded on January 17. There was a holiday on the 18th. In fact, on January 22, within 5 days of the deposition, a subpoena was issued for Betty Currie. Within 5 days, a subpoena was issued for Betty Currie, and, in fact, on the 23rd, there was a supplement to the witness list by the Jones lawyers, which included Betty Currie's name as 163. This was served on Mr. Bennett and the other lawyers for the President.

In addition, I have—which I will distribute to you—the actual subpoena that was issued for Betty Currie, as I indicated, which was issued on January 22nd, and the proof of service in which Betty Currie was served as a witness in that case on January 27—the proof of service. So the statements by Mr. Ruff that there was never any indication that the Jones people knew she was going to be a witness is totally not within the record. In fact, it is clear that the subpoena was issued; it was served.

Whenever that deposition was over of the President, both the President left there and the Jones lawyers left there knowing immediately that Betty Currie was going to be a witness. She had to be a witness, with the President asserting, "ask Betty, ask Betty, ask Betty," so many times during that. That is why the President came back and had to deal with Betty Currie being a witness, and the Jones lawyer went out and immediately amended the witness list so as to do that, and then issued a subpoena, which was served on Betty Currie. That is the record. Those are the facts. We will distribute this to you.

The CHIEF JUSTICE. Senator LEVIN asks White House counsel:

> Would you please comment on any of the legal or factual assertions made by the managers in their response to the previous question?

Mr. Counsel RUFF. Thank you, Mr. Chief Justice. Let me respond very briefly to Manager HUTCHINSON's last remarks, because I owe him indeed an explanation and he is correct in one respect. I did not accurately reflect the fact that after the January 21 story in the Washington Post, the Jones lawyers did, in fact, attempt to track the entire independent counsel investigation. And I think Mr. HUTCHINSON will tell you, they indeed issued a long list of subpoenas. For that misleading statement, I apologize, and I trust we will hear equally candid assessments from the managers. But more importantly, let me return to the substance of that issue because it is important to note, without the chart being up there, that indeed, at the moment, which is the critical moment, when the President was talking about Betty Currie, whether it be on the 18th or on the 20th or 21st—the 21st, you remember, is when the story breaks. The answer is the same. He had no reason to believe at that stage—and that is the critical stage because that's what's in his mind and that is what you have to ask if you are talking about obstruction of justice or witness tampering—at that stage, he had no more reason to know that Ms. Currie was going to be a witness than he did, as we explained it, both I and Ms. Mills, in our earlier presentations.

The fact that the Jones lawyers, once this story became a matter of public knowledge, which it did on the 21st, thereafter dumped a series of subpoenas and deposition notices literally in the closing days of discovery does not bear on the question of what was in the President's mind, which is the critical moment for testing his intent, at the moment when he first had his conversations with Betty Currie.

Thank you, Mr. Chief Justice.

The CHIEF JUSTICE. Senators THURMOND, GRASSLEY, CHAFEE and CRAIG direct to the House managers:

> President Clinton has raised concerns about whether the articles of impeachment are overly vague and whether they charge more than one offense in the same article. How do you respond to this concern?

Mr. Manager CANADY. Mr. Chief Justice and Members of the Senate, I will be pleased to do my best to address this question.

The President has made two claims against the forum in which the articles of impeachment have been drafted. I submit to you that neither of these claims has any merit, and I will be pleased to address both claims as briefly as I can.

First, the President claims that the two articles of impeachment are vague and lack specificity and, therefore, prevent him from knowing what he has been charged with.

Second, the President asserts that the articles are flawed because they charge multiple defenses in a single article. With respect to the first claim, it is clear in the President's trial memorandum and his presentation here that President Clinton and his counsel know exactly what he is being charged with. And I submit to you that if President Clinton had suffered from any lack of specificity in the articles, he could have filed a motion for a bill of particulars. He did not choose to do so.

Moreover, articles of impeachment have never been required to be drafted with the specificity of indictments. After all, this proceeding is not a criminal trial. If it were, then we, as the prosecutors, would not only be entitled to call witnesses, but would be required to call them to prove our case. We would certainly not be put in the position of defending the appropriateness of witnesses.

President Clinton wants all the benefits of a criminal trial without bearing any of its burdens. Impeachment is a political and not a criminal proceeding. That has been clear from the institution of this proceeding in our Constitution. As recognized by Justice Joseph Story, the Constitution's greatest interpreter during the 19th century, "Impeachment is designed not to punish an offender by threatening deprivation of his life, liberty, or property, but to secure the State by divesting him of his political capacity." Justice Story thus found the analogy of articles of impeachment to an indictment to be invalid. I quote what Justice Story had to say, which is directly pertinent to this question:

> The articles need not and indeed do not pursue the strict form and accuracy of an indictment. They are sometimes quite general in the form of the allegations, but ought to contain certainty as to enable the party to put himself upon the proper defense, and also in the case of acquittal, to avail himself of it as a bar to another impeachment.

Indeed Alexander Hamilton had commented on the same point in the Federalist. We have heard many references to Federalist number 65, and in this trial today I will refer once again to what Alexander Hamilton said in the Federalist on this particular point. There Alexander Hamilton stated that impeachment proceedings:

> . . . can never be tied down by such strict rules, either in the delineation of the offense by the prosecutors, or in the construction of it by the judges, as in common cases served to limit the discretion of courts in favor of personal security.

By that, he means in criminal cases. I think this statement from Alexander Hamilton refutes the argument of the President's counsel directly.

I also point out that unlike the judicial impeachments in the 1980s, President Clinton has not committed a handful of specific misdeeds that can be easily listed in separate articles of impeachment. In order to encompass the whole assortment of misdeeds that caused the House of Representatives to impeach the President, the Judiciary Committee looked to the more analogous case, that of President Nixon. In 1974, in the proceedings with respect to President Nixon, the committee also was faced with drafting articles of impeachment of a reasonable length against a President who had committed a series of improper acts designed to achieve an illicit end.

The first article against President Nixon charged that in order to cover up an unlawful entry into the headquarters of the Democratic National Committee and to delay, impede, and obstruct the consequent investigation and for certain other purposes, he engaged in a series of acts such as "making or causing to be made false or misleading statements to lawfully authorized investigative officers, endeavoring to misuse the Central Intelligence Agency, and endeavoring to cause prospective defendants and individuals, duly tried and convicted, to expect favored treatment and consideration in return for their silence or false testimony.

The articles did not—I repeat "did not"—list each false or misleading statement, did not list each misuse of the CIA, and did not list each respective defendant and what they were promised. That is the record. Anyone who is familiar with the Nixon case—President Nixon case—is familiar with those facts.

In like fashion, the articles of impeachment against President Clinton charged him with providing perjurious, false, and misleading testimony concerning four subjects, such as sexual relations with a subordinate government employee, engaging in a course of conduct designed to prevent, obstruct, impede the administration of justice, which of course included four general acts, such as an effort to secure job assistance for that employee.

I would submit to you that an argument can be made that the articles of impeachment against President Clinton were drafted with more specificity than the articles that were drafted against President Nixon.

I will do my best to briefly address the second claim which has been asserted by the President's lawyers against the form of the articles of impeachment; that is, that they are invalid, charging multiple offenses in one article. The articles of impeachment allege that President Clinton made one or more perjurious, false and misleading statements to the grand jury and committed one or more acts in which he obstructed justice.

Once again, these articles are modeled after the articles adopted by the House Committee on the Judiciary against President Nixon and were drafted with the rules of the Senate. Specifically in mind, the Senate rules explicitly contemplate that the House may draft articles of impeachment in this manner and prior rules of the Senate have held that such drafting is not sufficient and will not support a motion to dismiss.

Rule XXIII of the Rules of Procedure and Practice in the Senate When Sitting On Impeachment Trials now states that an article of impeachment "shall not be divisible for the purpose of voting thereon at any time during trial." When the Senate Committee on Rules and Administration amended rule XXIII in 1986, it explained that. And I quote this at length. And this goes right to the heart of the matter. This is what the Rules Committee in its report said. It said:

> The portion of the amendment effectively enjoining the division of an article into separate specifications is proposed to permit the most judicious and efficacious handling of the final question both as a general matter and, in particular, with respect to the form of the articles that proposed the impeachment of President Richard M. Nixon. The latter did not follow the more familiar pattern of embodying an impeachable offense in an individual article but, in respect to the first and second of those articles, set out broadly based charges alleging constitutional improprieties followed by a recital of transactions illustrative or supportive of such charges. The wording of Articles I and II expressly provided that a conviction could be had thereunder if supported by "one or more of the enumerated specifications. . . . [I]t was agreed to write into the proposed rules language which would allow each Senator to vote to convict under either the first or second articles if he were convinced that the person impeached was 'guilty' of one or more of the enumerated specifications."

The Senate rules themselves, thus, specifically contemplate that an article of impeachment may include multiple specifications of impeachable conduct as in the case of President Nixon. The Senate itself has recognized the articles against President Nixon as an appropriate model to be followed. The House has, in the articles now before the Senate, simply followed that model.

Moreover, I would point out in conclusion that the Senate has convicted a number of judges on such omnibus articles, including Judges Archibald, Louderback and Claiborne.

I would submit to the Members of the Senate that the articles of impeachment against President Clinton present his offenses and their consequences in an appropriately transparent and understandable manner. They are not constitutionally deficient.

Thank you.

The CHIEF JUSTICE. This question is sent by Senators DODD and LEAHY:

> Would you please comment on any of the legal or factual assertions made by the managers in their response to the previous question by Senators Thurmond, Grassley, Chafee, and Craig; particularly what would have stopped or limited the House in specifying precisely the statements on which the articles were based?

Mr. Counsel CRAIG. In our case, we are talking about an allegation of perjury. In the Nixon case—in the 1974 Nixon case—he was not charged with perjury. I think our argument was that perjury is a different kind of thing. You have to be very specific in what you charge, and you have to be very clear as to what the statement is when you are charging perjury. And that is the tradition of our criminal justice system and of our jurisprudence.

The danger here is that if you do not, if you are overly broad, as we contend in article I, that at any given moment you can fill the vessel with what your meaning is.

Let me give you a little history of these allegations of grand jury perjury against the President.

The Starr referral had three allegations. The Starr referral was September 9. Mr. Schippers, when he made his presentation to the Judiciary Committee, had two allegations. One was different. He incorporated one of Starr's. When Starr appeared and testified on November 19 in front of the Judiciary Committee, he almost spent no time on this at all—one or two sentences. But he added a new charge, which was that the President was not truthful when he testified that he had been truthful in the deposition.

Then, we appeared and made our representations and our defense on behalf of the President on the basis of what Mr. Starr had written in his referral and what Mr. Schippers had presented to the Judiciary Committee and in addition to what Mr. Starr had said when he appeared. But then when Mr. Schippers gave his closing argument the following day, we saw the new articles. We had, by my count, 10 allegations from Mr. Schippers. Two had to do with the definition of sexual relations. Three had to do with the prepared statement. Two had to do with things that were never alleged again and never surfaced again in the course of the case. And they had to do with Mr. Bennett and his proffer of the Lewinsky affidavit.

Then, on December 16 we had a whole new additional collection of reports of allegations. And on January 11, the file brief here set forth eight examples.

Just to highlight the danger of not being specific, of not tying yourself to a definition, let me compare, for example, the trial brief that was submitted by the House managers 3 days before Mr. Rogan made his presentation.

The precise statement that the President is accused of testifying falsely in front of a grand jury was that he was lying when he said that the reason that he was seeing Betty Currie was to refresh his recollection. In the trial brief—they make that reference one, two, three, four times—that the statement that is specific here in the trial brief is he lied when he said he was going to refresh his recollection. That is not even mentioned in Mr. ROGAN's presentation. He changes it. And he says he lied when he said he wanted to ascertain what the facts were, trying to ascertain what Betty's perception was—a very different statement requiring a very different defense. And 2 days before, 3 days before we even hear the allegations on the floor of the Senate, we still don't know precisely what they are.

Mr. Counsel RUFF. Mr. Chief Justice, if I may absorb whatever rebuttal time is still available to us, may I for just a moment, sir?

The CHIEF JUSTICE. Sure.

Mr. Counsel RUFF. Thank you.

I want to talk briefly about just two aspects of Manager CANADY's presentation.

First of all, he asks why didn't we seek a bill of particulars. Well, let me all remind the Senators, although I don't think any of you were here at the time of the trial of Judge Louderback who also saw a bill of particulars, and the House of Representatives at the time made it clear that the managers do not have the authority to rewrite the articles, though they certainly have, I suggest, attempted to do so on the fly, but that it would have required a remand to the House of Representatives in order to have a bill of particulars to judge what they themselves meant when they had passed these articles.

Second, just very briefly, I spoke to the issue of multiplicity, duplicity, the other day, and the question of whether the rule 23 revision makes any difference. As I pointed out—and I won't embarrass him any further—one Member of this body spoke at length about the importance of not loading up multiple offenses into one count well after the revision of rule 23, clearly with no sense that this body had been precluded from dealing with the critical issue of whether a two-thirds vote can sensibly be taken on an article that contains multiple and, particularly as my colleague, Mr. Craig, indicated, multiple nonspecific violations.

Thank you, Mr. Chief Justice.

The CHIEF JUSTICE. Senators THOMPSON and GRASSLEY, THURMOND, ALLARD, FRIST, BURNS, and INHOFE direct this question to the President's counsel:

> If the President were a Federal judge accused of committing the same acts of perjury and obstruction of justice and the Senate found sufficient evidence that the acts alleged were committed, should the Senate vote to convict?

Mr. Counsel RUFF. This will sound half hearted, but it is not. I am glad you asked that question. This really goes right to the heart of the managers' argument here, which is that there is no difference in the consideration of the impeachment process between an allegation against a Federal judge and an allegation against the President of the United States.

I will not repeat the extended discussion of this subject of a few days ago, but let me try to summarize very briefly. It is absolutely crystal clear from the history of the drafting of the impeachment clause that the concern of the framers was, is there such action as to subvert our Government that we can no longer persist in permitting, in their case, the President of the United States to remain in office. That question must be dramatically different when you ask it about the conduct of 1 of 1,000 judges.

Beyond that, it is also clear that there has been extended debate in many forums and at many times in the past 210 years about, indeed, just what the standard is for the impeachment of judges.

I hesitate to do this, and I do it apologetically, Mr. Chief Justice, but the Chief Justice himself in an earlier time and an earlier guise spoke to this issue and made it clear—this during his tenure as assistant attorney general for the Office of Legal Counsel—when the issue was being debated whether there was a nonconstitutional, nonimpeachment device for disposing of judges alleged to have engaged in misconduct that may not fall within the high crimes and misdemeanors provision of the impeachment clause, that, indeed, the good behavior standard for judges was something far broader than the standard to be applied under the high crimes and misdemeanors standard. And, indeed, that debate was resumed many years later in the context of a further effort to establish a nonconstitutional device for removing judges.

That history, and just the core question, do you ask the same questions about the trauma that the Nation suffers when you are removing a judge and you are removing a President, the answer must be no. You must ask, what is the nature of the perjury that has been committed? What is the nature of the offense that has been committed? What is the factual setting in which it occurs? And, ultimately, does it so subvert the accused's ability to perform the duties of his office that you must remove him?

That question for Judge Nixon, convicted and imprisoned, has got to be different from—"different" is much too mild a word—stunningly different from the question you ask against the backdrop of our history when you ask whether the President of the United States should be removed and the will of the electorate overturned.

Thank you, Mr. Chief Justice.

The CHIEF JUSTICE. Senators DORGAN and BAUCUS and SCHUMER to the President's counsel:

> In Counselor Ruff's presentation, he set forth a time line that undermined the managers' theory that Judge Wright's December 11 discovery letter triggered an intensification of the President's and Jordan's efforts to assist Lewinsky in finding a job. In response to Mr. Ruff's presentation, the managers handed out a press release outside the Senate Chamber asserting that it was the December 5 issuance of the witness list in the Jones case and not the judge's discovery order on the 11th that triggered the intensification of the job search. It does not appear consistent with assertions made by the House managers in their trial brief and oral presentations. Please comment.

Mr. Counsel KENDALL. It was the assertion very clearly voiced in Mr. Manager HUTCHINSON's presentation and very clearly made in the trial brief of the House managers that it was, indeed, the December 11 order that—I used the word "jump-started" yesterday—that catalyzed, that pushed forward, the job search.

If you look at page 21 of the House managers' brief, you see them say this sudden interest was inspired by a court order entered on December 11, 1997. Now, their position could not have been clearer until we began our presentations, and then, all of a sudden, it wasn't the December 11 order; it was, instead, the December 5 witness list.

Well, there are a number of things to be said about that. One of them is that they have very clearly said that there was no urgency at all after the witness list arrived to help Ms. Lewinsky. They have said that Mr. Jordan met with the President on December 5 but that meeting had nothing to do with Ms. Lewinsky. This was in the majority report at page 11. They said that very clearly.

So they have now suddenly—because it has been clear that the December 11 order was entered at a time when Mr. Jordan was flying to Europe, he could not have known about it. He had met with Ms. Lewinsky earlier that day. And, indeed, that December 11 meeting had sprung from actions taken by Ms. Lewinsky in a phone call with Mr. Jordan in November. They had set that—they agreed that when Mr. Jordan returned to the country, they would set up a meeting. They did that on December 5, or she tried to get in touch on December 5. They tried to get—they finally succeeded in getting in touch on December 8, and that was not at a time she knew she was on the witness list.

So the point is these were two entirely separate chains of events going forward—the job search and the witness list. And nothing supports the intensification theory presented by the managers, certainly not this new, "Well, it wasn't the December 11th order; it was the December 5th order."

The CHIEF JUSTICE. Senators ASHCROFT and HATCH—is there anyone on the floor who can't hear me? This is for the House managers:

> The White House makes much of the fact that Vernon Jordan was on a flight to Holland on December 11 before Judge Wright ruled that afternoon that other women who may have had relationships while in President Clinton's employ were relevant to the Jones suit. However, the President was faxed a witness list on December 5 and actually reviewed it no later than the 8th. Thus, isn't the White House argument that the President had no incentive to assist Ms. Lewinsky's job search until December 11 just a red herring?

Mr. Manager HUTCHINSON. Thank you, Mr. Chief Justice. And I appreciate the opportunity to respond here.

Just let me say, by way of preface, that we are lawyers. We are trying to do three things at once. Usually you have an opening statement where you outline where you want to go in a case, then you have a presentation of the evidence, then you have a closing argument. And we are trying to do it all at the same time.

It is for that reason, as I said at the very beginning of my presentation, that you need to pay attention to the record and to the facts. That is what you depend upon. And I get carried away in my argument. I am arguing, just as they are arguing their theory of the case. We are both arguing a point of view here, and it is up to you to make the determination.

I have great respect for these counselors. They are admirable. They are doing a great job for their client, and they are presenting their theory of the case. We are arguing our point of view, and it is the facts that make the determination.

Now, let me go back to—and you have it in front of you—my presentation, exhibit C, which I guess is the third exhibit, which is really the White House exhibit that Mr. Ruff had up here for a number of days, because they were really trying to hammer home this statement that I made in my presentation. I hope you all have that.

Mr. GRAMM. Just tell us.

Mr. Manager HUTCHINSON. I will tell it to you then. Thank you.

Exhibit C—which I hope you have; we asked them to distribute that—is a statement that Mr. Ruff portrayed, from me, which in my presentation I said: "The judge—the witness list came in, the judge's order came in, that triggered the president into action and the president triggered Vernon Jordan into action."

Now there are two things that I am pointing to as the trigger mechanisms for the job search intensification. One of them is the witness list that comes in on December 5, the President knows about, at the latest, on December 6. The other thing that intensified that effort was the judge's order on December 11.

They went through this long circumstance of Mr. Jordan being in Holland and the time of the phone call with the judge and all of that, showing that the judge's order of December 11 could not have triggered any action on the 11th. There is no question about that. That is obvious from the facts, as it was obvious when I made my presentation. The meetings on the 11th, with Vernon Jordan and Monica Lewinsky, were triggered by the witness list coming on the 5th, that the President knew about on the 6th, that he discussed with Vernon Jordan as well.

Now, we say that the judge's order of the 11th, which was filed that day—the only thing that was filed on the 12th was their memorandum of that telephone conversation—that triggered additional action down the road. The job search was not over; the activity continued into January. And, so, that all put pressure on the ultimate fact, in January when the job was obtained, the false affidavit was filed.

Now let me just point to a couple of other things along that line. We need to look at this because they basically make the point that there is not any connection between the false affidavit—and that is my characterization—that was filed, and the job search. But if you look at the testimony of Vernon Jordan, and that is exhibit—I think they are giving them out now—F, that I am presenting to you, the sworn testimony of Vernon Jordan which was on March 3 of 1998, he testifies in answer to a question:

> Counselor, the lady comes to me with a subpoena in the Paula Jones case that I know, as I have testified here today was about sexual harassment. . . . you didn't have to be an Einstein to know that that was a question that had to be asked by me at that particular time because heretofore this discussion was about a job.

And then he says, "The subpoena changed the circumstances." And I think this is important, that Mr. Jordan, who is filled with common sense, he says you don't have to be an Einstein. You don't have to be learned, like Mr. Ruff or any of the other White House counsel, to apply common sense. Common sense tells you that whenever he knew about the subpoena, it escalated to a new arena and obviously the witness list would have the same impact.

And, so, Mr. Jordan himself makes the connection, the job search was one thing but whenever she became a witness in the Jones case, that changed everything. That changed the circumstances. And let me tell you, that is a friend of the President who is making that statement.

And, so, we have to take this picture, that they were related as they were going two tracks, they became interconnected and became one track.

The final point—and this was raised on the job search issue—that the call by Mr. Jordan to Mr. Perelman, the CEO of the parent company of Revlon, really had no impact on Monica Lewinsky getting a job because there is a misinterpretation as to how well she did on the interview. But if you look back to the testimony, the grand jury testimony, there was a connection, because Mr. Jordan calls Mr. Perelman and, as he characterized it: Make it happen if it can happen. Mr. Perelman then calls Mr. Durnan, and then Mr. Durnan calls Ms. Seidman, who was actually doing the interview the next day with Monica Lewinsky.

So the person who was going to make the decision whether to hire Monica Lewinsky got the word down through the channel before that interview took place and before the decision was made. And of course the important thing is: What was the intent? Not the result, but the intent. And I think that you can see that there was an intent to make sure that Monica Lewinsky was taken care of. Again she was on board, part of the team, before she actually would have to give testimony or the President would have to give testimony.

The CHIEF JUSTICE. This question from Senator BOXER, and it is to counsel for the President:

> In light of the concession of Manager HUTCHINSON that Judge Wright's order had no bearing on the "intensity" of the job search, can you comment on the balance of his claim on the previous question?

Mr. Manager HUTCHINSON. Mr. Chief Justice, could I object to the form of the question? That was not proper characterizing what I just stated.

The CHIEF JUSTICE. I don't think managers—I am not sure whether the managers—can the managers object to a question? (Laughter.)

Mr. Manager HUTCHINSON. I withdraw my objection.

The CHIEF JUSTICE. Very well. I think—the Parliamentarian says they can only object to an answer, not to a question, which is kind of an unusual thing, but——

Mr. Counsel RUFF. Mr. Chief Justice, I was going to remark that they can if they have the courage.

I want to link up my response to Manager HUTCHINSON's most recent comments with the previous discussion about vagueness. If there was ever a moving target, we have just seen it in motion: Well, it really wasn't December 11, because now we know it didn't happen on December 11, so let's go to December 19, or maybe January 8, and somewhere in there we are going to find the right answer.

I suggest to you that that is reflective of both the difficulty we have had in coming to grips with these charges and, candidly, the difficulty that the House might have had figuring out what those charges really were.

Let me just respond briefly to Mr. Manager HUTCHINSON's argument. And let me focus, first, on another portion of his presentation in which he states, and there—and he is referring now to Ms. Lewinsky—she is referring to a December 6 meeting with the President in which, as you will recall, she has testified that there was a brief discussion about her efforts to get a job through Mr. Jordan and the President sort of vaguely said, "Yes, I'll do something about that." And this is Mr. Manager HUTCHINSON's characterization of that moment. December 6, you will recall, is the day after the witness list comes out and the day on which she learns of it:

> So you can see from that that it was not a high priority for the President either. It was, "Sure, I'll get to that, I will do that." But then the President's attitude suddenly changed. What started out as a favor for Betty Currie dramatically changed after Ms. Lewinsky became a witness and the judge's order was issued again on December 11.

But to the extent the managers now seek to drag the intensification process back into the December 5 or 6 period, which is when Ms. Lewinsky went onto the witness list, you must look at what they say.

Page 11, majority brief, Mr. Jordan met President Clinton the next day, December 7, but they didn't discuss the job at all. Now, it is absolutely clear that the President knew that Ms. Lewinsky was on the witness list when he met with Mr. Jordan on December 7, and yet the issue of Monica Lewinsky didn't even surface.

I am getting some help here.

"The first"—"the first," their words, page 11, majority brief, majority report—"The first activity calculated to help Ms. Lewinsky actually get a job took place on December 11. There was no urgency."

It is possible, of course, as their trial brief reflects, to bob and weave and dodge around the facts here, but their trial brief says:

> There was obviously—

Referring to the period after she appears on the witness list—

> There was obviously still no urgency to help Ms. Lewinsky.

And even they acknowledge that the December 7 meeting with Mr. Jordan was unrelated to Ms. Lewinsky.

But let me point, because I think this really goes to the heart of it, to what the managers ask you to think about in this context in which now, whether we call it a confession or simply an acknowledgment, what they asked you to do when you heard the recitation about the December 11 events. We now know Mr. Jordan is flying over the Atlantic at the critical moment, and here is what Mr. Manager HUTCHINSON asks you to do with Vernon Jordan, distinguished citizen, distinguished lawyer:

> Now, if we had Mr. Jordan on the witness stand—which I hope to be able to call Mr. Jordan—you would need to probe where his loyalties lie, listen to the tone of his voice, look into his eyes and determine the truthfulness of his statements. You must decide whether he is telling the truth or withholding information.

There is only one message there: Vernon Jordan must have been lying or at least there is enough question about his credibility and his honesty and his decency to explore whether he was lying. If you predicate that question on the, shall we say, erroneous recitation of events on December 11, you need to know nothing more about what the time line and the chronology and the managers' theory of this case is all about.

Thank you, Mr. Chief Justice.

Mr. CHIEF JUSTICE. This question is from Senators SESSIONS, GRAMM of Texas, SMITH of New Hampshire, INHOFE, ALLARD, and ROBERTS. It is directed to the House managers:

> In defense of the President, Ms. Mills has repeatedly stated, and has just reiterated, that the crime of witness tampering requires some element of threat, intimidation or pressure. Isn't it true that section 1512(b) criminalizes anyone who corruptly persuades or engages in misleading conduct with the intent to influence the testimony of any person in an official proceeding? Please explain.

Mr. Manager BARR. Mr. Chief Justice, we appreciate the question from the Senators, since it bears on a number of different questions and a great deal of the evidence that you all have heard in this case.

One can talk around the law, one can talk about the law, one can ignore the law and, as we have seen, one can break the law, but one has to deal with the law in court and in these proceedings. And that is why throughout these proceedings the Senators have heard us, as the House managers on behalf of the House of Representatives, and as the presenters of this case against the President, refer repeatedly and explicitly to the actual language of the statutes which form the basis for the articles of impeachment against President William Jefferson Clinton.

Counsel Mills has, in fact, misrepresented the law of tampering with witnesses as set forth very explicitly in section 1512 of title 18 of the United States Code. In her arguments 2 days ago, Ms. Mills quite expressly stated that one of the elements that a prosecutor must charge and that must be found here, if, indeed, article II, which is obstruction of justice, should lie as the basis for a conviction thereon, one must find that tampering under 1512 requires threats or coercion. Nothing could be further from the truth.

Now, if, in fact, Ms. Mills had stated to this body that one of the bases, one of several bases on which a prosecutor or we, as House managers, could, indeed, show this body that tampering with a witness would lie, includes, as an alternative, as an option, threats or coercion, she would have, instead of being misleading, been absolutely correct. That was not her position.

Section 1512 of the United States Code expressly does not require threats of force, intimidation or coercion. It may be based on the person corruptly persuading another person or engaging in misleading conduct toward another person, both of which are terms, the definitions for which are not found in the ether but are found, yet further reading, in title 18. Neither of them requires threats, intimidation or coercion.

Moreover, in considering whether or not section 1512 or, indeed, its companion section, 1503, also obstruction of justice under the U.S. Criminal Code, which also does not require for a conviction to lie thereon threats of force, intimidation or coercion, but also may be and is based on corruptly influencing, those terms are expressly defined and dealt with not only in the definitional provisions of title 18, and including specifically definitions that apply to these provisions, these sections, but also in the case law.

We would respectfully direct the attention of the Senators in reviewing the law of obstruction of justice and the law of tampering with witnesses to some of the very cases cited by the attorneys for the President in their effort to deflect attention away from these particular provisions of the law as they apply to the conduct of the President.

For example, in her presentation, Presidential Counsel Mills relied on the Supreme Court case of United States versus Aguilar in her statements. In that case, the Court held that a lie told to a criminal investigator was insufficient to prove witness tampering.

What Ms. Mills failed to disclose, however, was that the Court's decision in that case, in that Aguilar case, was based on a specific finding not applicable to the facts of this case that the evidence was insufficient to prove that the defendant could have even thought that the investigator was a potential witness at the time that he lied to him.

The overwhelming body of evidence in this case, as we have heard yet this morning, most recently in response to questions, is that not only could the President, and the President did in fact reasonably presume, indeed almost invite, the lawyers in the Jones case to subpoena Ms. Currie as a witness, but we have found, contrary to the prior misleading statements of Counsel Ruff, she was, in fact, subpoenaed and called as a witness.

Therefore, we believe that on both arguments raised by counsel for the President seeking to deflect attention away from and render inapplicable both obstruction provisions, 1503 and 1512, because they, one, require—as we have shown they do not—but they would argue they require coercion, threats, intimidation or force or, two, they are inapplicable because the President could not have reasonably believed or did not know that Ms. Currie was a witness, could reasonably be expected to be a witness at the time the coercion took place.

I would yield for 1 minute to House Manager GRAHAM.

The CHIEF JUSTICE. I believe the House managers' time has expired.

Mr. Manager BARR. I will not yield to House Manager GRAHAM.

The CHIEF JUSTICE. Senator BYRD, to the President's counsel:

> Alexander Hamilton, in Federalist essay No. 65, states that "The subjects of impeachment are "those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust." Putting aside the specific legal questions concerning perjury and obstruction of justice, how does the President defend against the charge that, by giving false and misleading statements under oath, such "misconduct" abused or violated "some public trust"?

Mr. Counsel RUFF. Mr. Chief Justice, this, too, goes to the very heart of the deliberations in which you must engage at the end of these proceedings. As I have tried to make clear in my earlier arguments, it is not enough simply, I think, to ask does a particular generic form of misconduct, however serious it may be, lead inexorably to the conclusion that the President of the United States has committed an impeachable offense?

As the framers made clear, and I think the history that lay behind their deliberations and the history that has followed make clear, when we speak of the kind of political—in caps, which is what it was in Federalist 65—offenses against the man in his public role, we speak of offenses which this body must ultimately judge as being so violative of his public responsibilities that our system cannot abide his continuing in office.

Let us assume for a moment—and we will disagree with each and every element of the accusation—but let us assume for a moment that this body were to conclude that the President lied in the grand jury about his relationship with Ms. Lewinsky. That in and of itself does not lead to the judgment, and in our view must not lead to the judgment, that he needs to be removed from office. It must give you pause. You must think carefully about it.

But ultimately you must ask, despite our rejection of any such conduct—whether it be a judge or a President or any other civil officer—have the framers instructed us to remove from his office, and overturn the will of the electorate, a President who, admittedly, if you conclude that he did violate the law in this regard, has violated a public trust in the broadest sense, as each of us does who serves the public, if we do anything other than that which are our properly assigned responsibilities, and do them with the utmost of integrity? Each of us violates that trust if we don't meet that standard.

But the one thing we can be certain of is that the framers understood the frailties with which they were dealing. They understood the nature of the offense that had been the background of impeachment proceedings in England. And certainly the framers, in their debate, made it clear that it has to be at the highest level of public trust—the breach of the public trust that is embodied in the words "treason," "bribery," "selling your office" and similar other high crimes and misdemeanors.

And so all I ask the Senators in this regard is not to simply leap, as the managers would have you do it, from the definition of the offense or the statute governing their conduct, but to ask the constitutional question, as I know you will, the framers' question. If we have not convinced you on the facts, I hope we will convince you that the framers would have asked: Is our system so endangered that we must not only turn the President over to the same rule of law that any other citizen would be put under, after he leaves office, but must we cut short his term and overturn the will of the Nation? And in our view, in the worst case scenario, you can find the answer to that question must still be no.

Thank you, Mr. Chief Justice.

The CHIEF JUSTICE. Senator LOTT asks the House managers:

Do the managers wish to respond to the answer just given by the President's counsel?

Mr. Manager CANADY. Mr. Chief Justice, Members of the Senate, we would briefly respond to the response just given by counsel for the President. We believe that the response and the position taken by the counsel for the President here really involves two great errors. One error is in establishing a standard of conduct for the Presidency that is too low. The other error is in attempting to minimize the significance of the offenses that this President has been charged with and which we submit to you the evidence supports the charges.

Now, we do not submit that any President—this President, whoever it may be—should be impeached and removed from office for trivial or insubstantial offenses. We believe that an essential part of the focus of your inquiry must be on whether there was a serious, corrupt intent involved in the underlying conduct.

A President should not be impeached and removed from office for a mistake of judgment. He should not be impeached and removed for a momentary lapse. Instead, he should be impeached and removed if he engages in a conscious and deliberate and settled choice to do wrong, a conscious and deliberate and settled choice to violate the laws of this land.

We submit that he must be impeached and removed if he does that, because in doing so he has violated his oath of office and in doing so he has turned away from the unique role which he has under our Constitution, as the Chief Executive, charged with ensuring that the laws be faithfully executed. He steps aside from that role and takes on the role of one who attacks the rule of law. And it is for that reason that we believe that this President should be removed. And we would further submit that the attempt to minimize the significance of the conduct of this President does a disservice to the laws of this land.

The attempt to minimize this course of conduct, which started out as an effort to deprive a plaintiff in a civil rights case of her just day in court, is a serious course of conduct, a course of conduct which brings disrespect on the office of the Presidency and, indeed, undermines the integrity of the office of the Presidency, the integrity of the judicial system. And it is for all of those reasons that we would submit to you that the President's counsels' efforts to persuade you that this course of conduct is not impeachable are not persuasive and should not be accepted by the Senate in this case.

The CHIEF JUSTICE. Senators TORRICELLI and ROCKEFELLER ask, to the President's counsel:

The House managers have made the overly broad argument that "[n]othing in the text, structure, or history of the Constitution suggests officials are subject to impeachment only for official conduct." Can this unbending argument be reconciled with the following statement from Justice James Wilson: "Our President . . . is amenable to [the laws] in his private character as a citizen, and in his public character by impeachment"—and with the standard adopted by a bipartisan majority in the Watergate proceedings?

Mr. Counsel RUFF. Mr. Chief Justice, Senators, I could probably simply say no, given the articulate framing of that question, and I would have said as much as needed to be said.

I think the managers have, in their strawman-building role, tried to suggest that our position somehow is so distant from constitutional realities and the realities of the operations of our Government that we could not conceive of a situation in which private conduct, no matter how egregious, would lead to removal. Of course, that is not the case. None of us could contemplate a setting in which even personal conduct—and I need not go through any examples—was so egregious that the people simply could not contemplate the notion of a President remaining in office.

But other than that, if there is one message that comes out, not only of Judge Wilson but of the entire debate of 1787 and all of the commentary since then, it is that, indeed, the focus of attention must be—and this goes back to, in large measure to Senator BYRD's question—must be on the public character of the man; the political, in a broader sense, character of the man; and of his acts.

And if you look back at the 1974 writings of the House Judiciary Committee, both majority and minority, this is not a partisan view. It makes it absolutely—they make it absolutely clear that the House then believed something which they must either not believe today or have ignored as they engaged in their discussions, which is that the test to be applied is whether the President in this case has so abused the public trust, so abused the powers of his office, that he goes to the very heart of what the framers had in mind in 1787 when they carefully confined and carefully limited the range of activity that could lead to contemplation of removal, and that is not a range of activity that, with all due respect, touches anywhere near the conduct that you have before you today.

The CHIEF JUSTICE. Senator NICKLES asks the House managers:

President's counsel stated the President did not commit perjury. Please respond.

Mr. Manager ROGAN. Mr. Chief Justice, I trust that the presumption of 5 minutes is a rebuttable one, correct? I will do my best not to have to go beyond the time. I thank the Senator for the question.

First, just as a predicate, obviously in 5 minutes I could not do a comprehensive review on the perjury aspects of this case, so let me just start with a preliminary issue and we can move on with different questions and revisit the issue at another time. If anybody wants a lesson in legal schizophrenia, please read the President's trial brief on this very subject. They skirt the issue by saying nowhere in the President's grand jury deposition did he ever affirm the truth of his civil deposition testimony. But they won't come out and say he lied, they won't come out and say he perjured himself, and they try to ignore the actual fact of when the President was asked questions about his oath that he took during the grand jury.

I read, therefrom:

Question to the President:

> You understand the oath required you to give the whole truth that is a complete answer to each question, sir.
>
> Answer: I will answer each question as accurately and fully as I can.

Question to the President:

> Now, you took the same oath to tell the truth, the whole truth, and nothing but the truth, on January 17, 1998, in a deposition in the Paula Jones litigation, is that correct, sir?
>
> Answer: I did take an oath there.
>
> Question: Did the oath you took on that occasion mean the same to you then as it does today?
>
> Answer: I believed then that I had to answer the questions truthfully, that's correct.

The colloquy goes on. It is in your materials.

They attempt to say that that somehow inoculates the President from having to admit that he perjured himself during the Paula Jones deposition.

But let's take a quick look at some of the answers he gave during the Paula Jones deposition that he affirmed in his grand jury testimony that we now know is false.

Question to the President:

> If she [Monica Lewinsky] told someone she had a sexual affair with you beginning in November 1995, would that be a lie?
>
> Answer: It certainly would not be the truth.
>
> Question: I think I used the term "sexual affair;" and so the record is completely clear, have you ever had sexual relations with Monica Lewinsky as that term is defined in deposition exhibit No. 1?
>
> Answer: I have never had sexual relations with Monica Lewinsky. I've never had an affair with her.

Then they go on to ask:

> Is it true that when Monica Lewinsky worked at the White House, she met with you several times?
>
> Answer: I don't know about "several times." There was a period when the Republican Congress shut the government down. The whole White House staff was being run by interns. She was assigned to work back in the Chief of Staff's Office. We were all working there. I saw her on two or three occasions then. And then when she worked at the White House I think there were one or two times when she brought some documents down to me.
>
> Question: At any time were you and Monica Lewinsky in the hallway between the oval office and the kitchen area?
>
> Answer: I don't believe so unless we were walking back to the dining room with pizzas. I just don't remember. I don't believe we were in the hallway, no.

This colloquy goes on and on. I invite the Senate to review the President's deposition testimony.

He clearly was giving answers that were false. They were not part of the record. He wasn't doing it to protect himself from embarrassment; he was doing it to defeat Paula Jones' sexual harassment case. When the President testified in August before the grand jury, he never denied the truth of those testimonies. He refused to admit he lied during the deposition. He reiterated the truth of those because he knew he would be subject to perjury.

The question for the President's counsel is this, and it is a simple question: Did the President lie under oath on January 17 when he was asked questions about the nature of his relationship with Monica Lewinsky? Did he lie when the U.S. Supreme Court had said Paula Jones had a right to proceed in a sexual harassment case? Did he lie when Judge Susan Webber Wright ordered him to answer those basic questions under oath? And if the answer to that question is yes, then we have an incredible admission; if the answer is no, I invite them to point to the record where that is demonstrated.

The CHIEF JUSTICE. To the President's counsel from Senators CONRAD and TORRICELLI:

> The House of Representatives rejected two proposed articles of impeachment, including an article of alleged perjury in the Jones deposition. Do you believe that the Senate may, consistent with its constitutional role, convict and remove the President based on the allegations under the rejected articles, including the allegations of perjury?

Mr. Counsel CRAIG. Mr. Chief Justice, article II was defeated. But more importantly, article I specifically incorporates by reference, or tries to incorporate by reference, all the elements of article II. And the House of Representatives, when they voted to reject article II, I think, voted also to eliminate these issues that you have just heard about.

Now, we predicted—and our prediction has come true—that the managers would like to argue this case. If you look at—if you look at the majority point that comes out before the vote occurs on all four articles and you go to article I and you try to find out where in article I they define those perjurious statements that compose subpart (2), the civil deposition, you will see in the majority report they say go look at article II—which is the argument about the civil deposition—and the House of Representatives specifically voted to take out all those accusations and allegations of misconduct with respect to the civil deposition.

Now, I have testified, as did Mr. Ruff, before the Judiciary Committee on this issue. I said that the President's responses in the Jones deposition were surely evasive, that they surely were incomplete, that they surely were intended to mislead; and it was wrong for him to do all that. But they were not perjurious.

If you want to try a perjury case about all of the things and the statements that the House of Representatives did not want to accuse him of, that would be inconsistent, I think, with your duty as members of this court. You cannot impeach the President on the issues that are included in article II. He was not impeached; you cannot remove.

Mr. LOTT. Mr. Chief Justice, I believe we have had an equal number of questions, although the timing may not be exactly equal.

I ask unanimous consent that we take a 15 minute recess at this point.

There being no objection, at 2:41 p.m., the Senate recessed until 3:01 p.m.; whereupon the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Mr. Chief Justice, I believe we are ready to resume the questions, and I believe this will be question No. 16. We send the question to the Chief Justice.

The CHIEF JUSTICE. This is a question from Senators SANTORUM, SMITH of Oregon, and THOMAS to the House managers:

> Please respond to the presentation made by counsel to the President, including the argument made by Mr. Craig, to the effect that the rejection of article II had the effect of eliminating that portion of article I. Did the House conclude that lying in a civil deposition is not impeachable, but that lying to the grand jury about whether the witness lied in a civil deposition is impeachable?

Mr. Manager ROGAN. Mr. Chief Justice, I thank the Senators for the question and for the opportunity to rebut the presentation a few minutes ago by counsel for the President, Mr. Craig.

In his response he asks the Senate to do specifically what none of the attorneys can do in their presentations, and that is go beyond the record. Specifically, Mr. Craig is asking the Senate to make assumptions as to why the House of Representatives defeated what was then known as article II, a stand-alone article of impeachment that the President lied during the civil deposition. And he goes so far in his presentation to say because the House of Representatives defeated what was then article II, the Senate should not consider any of the language relating to the President's perjury during the civil deposition.

First, I ask the Senate not to make those assumptions because if there was any reasonable inference to be drawn, it would be that it was cumulative. Why is it cumulative? Why did the House not want this to be a stand-alone article? It is cumulative because, if Mr. Craig would read article I, he would see that one of the allegations of perjury is that the President committed perjury in the grand jury when he referenced his civil deposition answers and reiterated those to the grand jury. And so the House made a decision not to use a separate stand-alone article. But I would respectfully submit to this body that that is the only inference that can be drawn.

The other thing that I want to mention briefly about Mr. Craig's presentation on that issue is what I found to be a startling admission on his part. Assuming, of course, that the Senate is going to look at article I as it was drafted and passed by the House and is presented to you dealing with civil deposition perjury, Mr. Craig said that the President's testimony in the Jones case was evasive and incomplete.

He goes even further in his testimony, or statement to the Senate a couple days ago, and I am quoting. He said, "The President's testimony in the Jones case, the President was evasive, misleading, incomplete in his answers."

That begs the question. What kind of oath did the President take in the civil deposition? Did he take an oath, did he raise his hand and swear to tell the truth, the evasive truth, and nothing but the evasive truth? Did he take an oath to tell the truth, the misleading truth, and nothing but the misleading truth? Did he take an oath to tell the truth, the incomplete truth, and nothing but the incomplete truth? Because, if he did, if that was the language that the President used when he took his oath and testified, then perhaps Mr. Craig's position is well taken. But a brief review of the oath that the President took clearly states that he took an oath and was obliged under the law to tell the truth, the whole truth, and nothing but the truth—not the incomplete or misleading truth, the truth, the whole truth, and nothing but the truth.

And so this body has to make a determination when they review that testimony, both given during the civil deposition and reiterated during the grand jury, whether the President fulfilled his legal obligation in a sexual harassment lawsuit. And if he did, then clearly that should be stricken, and you should not consider that. But if he did not, if you find that in fact he testified, as Mr. Craig says he testified, incompletely, evasively, and misleadingly, then I believe this body has an obligation to cast a vote accordingly.

The CHIEF JUSTICE. Senator REED of Rhode Island asks the White House counsel:

> Would you please comment on any of the legal or factual assertions made by the managers in their response to the previous question.

Mr. Counsel RUFF. I thank you, Mr. Chief Justice.

You know, Mr. Manager ROGAN asked you not to make assumptions about what the actions of the House mean, and then proceeded to make a series of assumptions about what the House might have meant.

The problem with Mr. Manager ROGAN's analysis is twofold: One, he and his colleagues in the House on the Judiciary Committee drafted these four articles. They believed, at least 20 of the majority believed, that it should be an impeachable offense, as he now puts it: did he fulfill, did the President fulfill his obligation in the Jones deposition? You don't need to make a lot of assumptions to understand merely on the face of the action that was taken that the full House said, no, it is not, even if we were to conclude, as the House Judiciary majority wishes us to conclude, an impeachable offense.

And so the managers have had to find a way to drag back into article I all of the problems that they see in the President's testimony in the Jones deposition. The problem is that—and you can listen to it in the language that Mr. Manager ROGAN has used not only today but earlier and that is used in the brief filed by the House managers—that the President, in his words, referenced and reiterated his testimony in the Jones case. Senators, that is not so.

Now, they try to hook onto a statement, as best we are able to tell in searching their position and their writings on the subject, the managers hook onto a statement in which the President said, I tried to walk through the minefield of the Jones deposition without violating the law and think I did. And, on that frail hook—which is clearly a statement of the President's state of mind about whether he succeeded or didn't succeed in testifying without violating the law in the Jones case—on that hook they hang every single item. They didn't tell us what they were—but they hang every single item that the House rejected out of hand in article II.

Now, wholly apart from the inadequacy of the predicate that they lay, if there was ever an example of a situation that Mr. Craig talked about earlier and that I talked about on Tuesday, in which I challenge anybody in this room to tell me how you would have known coming into this Chamber what it was that the managers were alleging with respect to the Jones deposition, this is it.

If you listened—look at the trial brief. If you look at Manager ROGAN's presentation of the other day, if you listened to his presentation today, where, amongst all that, do we pick and choose to find the statements? Even if you agree with Mr. Manager CANADY that it is all right just to sort of generally charge, as a constitutional proposition—and I firmly disagree with that. I don't care under what level you are operating—the lowest trial court in the country—nobody would ever say: Now, Mr. Defendant, I want you to understand that you are being charged with what you'll find at page, whatever it is, of the majority report where we refer you over to this list of other things that was rejected by—just let us say the grand jury—and somewhere in there you are going to find the charges to which we ask you to respond.

The bottom line is, you can go down that list. Some of them you will never hear mentioned in this Chamber—haven't heard them mentioned yet. I defy anybody in this Chamber, including the managers, to justify asking the President of the United States to defend against a reference from one page of a brief to another in order to tell the charges that he has been accused of.

If you read his grand jury testimony, you see he addressed a number of issues that he addressed in the Jones deposition. He clarified. He elaborated. He told the truth in the grand jury. Not once was he ever asked by the independent counsel and all his lawyers there who had been pursuing this investigation for 7 months when they had him in the grand jury—not once did they ask him this simple question: Is everything you testified to in the Jones deposition true? Or, go down the list and say: Is what you testified to on page 6, or page 8, or page 87 true?

And when they got through with that deposition, 4 hours, professional prosecutors, and they went back and spent from August 18 to September 9, when they sent their referral up, looking back, using a fine-tooth comb on that transcript, and they went back and said—where are the violations? Even they don't say that there is some sort of wholesale importation of the Jones deposition into the grand jury. And, yet, not the House but the Judiciary Committee majority report and the managers, with that big, vacant, empty spot in the middle, the rejection of article II by the House of Representatives, would have you believe that, indeed, what the independent counsel's office didn't believe happened and didn't force to make happen, did happen. And they are asking you to remove the President from office on that kind of logic.

Thank you, Mr. Chief Justice.

The CHIEF JUSTICE. This is from Senators SHELBY and SNOWE to the House managers.

> There has been much debate regarding the nature of the offenses that fit within the definition of "high crimes and misdemeanors." When employing this phrase in the Constitution, the Framers relied on precedents supplied by Colonial and English common law to provide context and meaning. Please explain whether or not the offenses charged in the two Articles fit within the types of impeachable offenses contemplated by the Framers as they interpreted Colonial and English common law precedent.

Mr. Manager CANADY. Mr. Chief Justice and Members of the Senate, I will be happy to respond to this question because it is a question that goes to the heart of the matter that is before us.

On Saturday I made a presentation which focused on the history of the impeachment process in Great Britain and the way in which that serves as a backdrop for the work of the framers. I would like to refer you, again, to a document to which I made reference during the course of the proceedings on Saturday. This is a document which has also been referred to repeatedly by counsel for the President. It is the report prepared by the staff of the impeachment inquiry in the case of President Nixon entitled "Constitutional Grounds for Presidential Impeachment."

I believe that in that report they grapple with the very issue that you have now raised. And in characterizing the background of impeachment and characterizing the things that the framers focused on both in the course of the Constitutional Convention and in the ratification debates and also—it goes a little beyond your question—the course of impeachment proceedings over the last 200 years here in the House of Representatives and in the Senate, they came to this conclusion, and this is what they said. They said:

> The emphasis has been on the significant effects of the conduct—undermining the integrity of office, disregard of constitutional duties and oath of office, arrogation of power, abuse of the governmental process, adverse impact on the system of government.

They went on to say: "Impeachment was evolved by Parliament to cope with both the inadequacy of criminal standards"—and one of the issues that they were concerned with was whether there had to be a criminal violation in order for there to be a high crime or misdemeanor, and they concluded, I believe rightly, that there need not be a criminal offense, but they said, "Impeachment was evolved by Parliament to cope with both the inadequacy of criminal standards and the impotence of courts to deal with the conduct of great public figures."

They concluded, then, by saying, "Because impeachment of a President is a grave step for the nation"—which all of us in this Chamber concede—"it is to be predicated only upon conduct seriously incompatible with either the constitutional form and principles of our government or the proper performance of constitutional duties of the Presidential office."

That is the standard which they set forth, which I believe encapsulates the whole history of the experience of the English Parliament, as well as the discussions in the Constitutional Convention and the ratification debates as well as anything I have seen.

Let me point out that this was a product of the staff of the Rodino committee. This is not something that the House managers here today have come up with to support our case; it is there as part of the record.

Let me refer to another part of the—that particular report, which I think gets to the essence of the matter here. They said, "Each of the thirteen American impeachments"—of course, there have been more impeachments since the time this was written—"involved charges of misconduct incompatible with the official position of the officeholder. This conduct falls into three broad categories."

I think that this is a very sensible division of the types of conduct that may fall—the types of conduct that constitute high crimes and misdemeanors.

> (1) exceeding the constitutional bounds of the powers of the office in derogation of the powers of another branch of government; (2) behaving in a manner grossly incompatible with the proper function and purpose of the office; and (3) employing the power of the office for an improper purpose or for personal gain.

I would submit to you, in conclusion, that what we have before the Senate in this case is conduct that clearly falls within the scope of category 2, which I just read, which I will repeat—"behaving in a manner grossly incompatible with the proper function and purpose of the office"—for the very reasons I explained a few moments ago. When the President of the United States, who has taken an oath of office to support and defend the Constitution, who has a constitutional duty to take care that the laws be faithfully executed, engages in a calculated course of criminal conduct, he has, in the most direct, immediate, and culpable manner, violated his oath of office, breached his duty under the Constitution, and for that reason has behaved in a way that is grossly incompatible with the proper function and role of the high office to which he has been entrusted—which has been entrusted to him by the people of the United States.

The CHIEF JUSTICE. This question from Senator BINGAMAN to White House counsel:

> Would you please comment on any of the legal or factual assertions made by the Managers in their response to the previous question?

Mr. Counsel RUFF. Mr. Chief Justice, Senators, let me make a couple of points, if I might. The question that was put to the managers started by asking what we can learn from looking back into English roots of impeachment and how that might bear on the decisions that you face in the coming days.

I will not, in any sense, hold myself out as a scholar or at least enough of one to be able to answer the question with any specificity, but I do know enough about the parliamentary form of government and its experience with impeachment to know that a couple of lessons can be drawn from it.

First, that impeachment was a developing tool over the course of the 14th, 15th, 16th and 17th centuries as a weapon in the battle between the Parliament and the Crown. It was one of the ways—indeed, one of the very few ways—the Parliament could reach out and remove the King's ministers or the Queen's ministers, and that was really where the battleground was.

Even in that setting, when it was an avowed political tool, history, I think, will tell us that Parliament did ask itself, Was the conduct of the minister at issue—whoever that minister might be—so subversive of the constitutional form of government that removal of the minister, or in some cases even more severe sanctions, was necessary?

If you transport that into the experience of the framers, it does two things, I believe: One, it tells you what the framers knew of the seriousness of the offenses that had to be addressed through impeachment and what the need for impeachment was as the ultimate solution to the ultimate problem.

But it also tells you very clearly that the framers did not want to bring that English experience in wholesale because they recognized it for what it was, which was, indeed, a weapon in the battle between the Parliament and the Crown, and the government that they had created needed balance among the legislature and the executive and the judicial branch. The use of impeachment, as it was reflected over the four or five centuries that had been developed, was not consistent with what these framers were creating. And so they very carefully chose, and the debates reflect that, to limit the scope of impeachment and to use it as they viewed it: only as a matter of constitutional last resort.

In doing so, they foretold, I think, the positions staked out both by the majority and the minority at the time of Watergate. And let me pause here just for a moment to say that I will not go into detail respecting the conduct engaged in by former President Nixon, except to say and suggest to you that it is so far distant from anything that has been charged here that it doesn't belong in the same sentence, paragraph, or certainly article.

But if you look at what came out of the House Judiciary Committee in 1974, I agree entirely with the theme of the majority staff report at the time, as did the minority. Their theme was the theme that I hope I have sounded, probably too often, over the last few days. And I am going to read to you again—I apologize to you—something I read to you earlier, which is the minority view on the meaning of impeachment:

> It is our judgment, based upon this constitutional history, that the framers of the United States Constitution intended that the President should be removable but by the legislative branch only for serious misconduct dangerous to the system of Government established by this Constitution. Absent the element of danger to the State, we believe the delegates to the Federal Convention of 1787—

I will skip over a little language here—

> struck the balance in favor of stability in the executive branch.

Thank you, Mr. Chief Justice.

The CHIEF JUSTICE. Senators GRASSLEY, SMITH of New Hampshire, BUNNING and CRAIG ask the House managers:

> In your presentation, you made the case that the Senate should call witnesses. In light of the White House's response to this argument, do you still hold this position? Please elaborate.

Mr. Manager McCOLLUM. Mr. Chief Justice and Senators, the House definitely holds to the position that we should call witnesses. But I think the issue here is what has been related to us in anything we have heard in the past few days by the White House counsel that would say we don't need them, or I think just the contrary, what have we heard that says we are more likely to need them, or you are more likely to need them. First of all, I would like to point out to you that the White House counsel is trying to have it both ways.

They have been arguing to you on a lot of technicalities of the law, the criminal law, for the last few days, and that is understandable.

As I said to you a few days ago, I think this is a two-stage process. We, the managers, do. You have to determine if the President committed crimes, and if he did, should he be removed from office: two separate questions. They have argued to you that you should use the standard, beyond a reasonable doubt, which is a criminal standard, and I might add that standard is only for facts, it is not for whether you remove; it isn't to determine law.

You wear the hat as finders of fact as well as the judges, finders of the law, and so forth. But if you choose to use that standard, you need to know, A, that it doesn't mean it excludes any doubt. You probably need to hear a jury instruction, which we can provide at some reasonable point for you, about how a Federal court would charge a jury about that.

But the point I am making is that they have claimed that, and they claim there is a lack of specificity in the charges. We are not in court in the sense of a real trial here. We don't have to be specific like that. The whole history of the articles of impeachment that have come over here in the past on judges have never gotten down into the technical specificity of a courtroom and been thrown out because they were not exactly right.

My point is they have gone and built up a whole case about we ought to follow these rules and have a criminal proceeding and judge the crimes on that basis, and yet they have said you wouldn't have witnesses or we shouldn't call witnesses.

In any criminal trial, you are going to call witnesses; you need to judge their credibility. I want to walk through what else they have said to you in the last couple of days that makes that point very clear with regard to testimony, with regard to judging who you believe or who you don't believe and how important that is.

First of all, let's just take a few glimpses, but as we do this, remember the big picture is the scheme the President has engaged in. The whole basis for our discussion here today in each of these two articles of impeachment involves the questions of the President trying to thwart the Jones court will, trying to hide evidence from the court and planning not to tell the truth in that deposition in January. Whether that is over here on a perjury count or not is irrelevant. It is critical to this case for both obstruction of justice and perjury that you accept and understand, as I think clearly you do from listening to all of this, that the President lied many times in that deposition in the Jones case because he didn't want them to get the facts, the true facts of his relationship with Monica Lewinsky.

Well, in that process of looking at that, he needed Monica, if you recall, to file a false affidavit. He needed to obscure the fact that there were gifts there. He needed to obscure the trail that led to him in any detailed relationship with her.

So let's take, for example, the gift-exchange discussion counsel had out here a couple of days ago with us. They were pointing out to you—the White House counsel—that on December 28, that Monica Lewinsky, in her grand jury testimony, testified that the President said to her—with respect to what she should do about those gifts, and she raised giving them to maybe Betty Currie—I don't know or let me think about that.

The counsel said, well, let's go back and look at 10 different times where she said about that subject all kinds of different ways. I submit to you that her grand jury testimony, after she got the immunity to testify, is clearly the most credible. We presented that to you, and that is what the President said.

It is significant what he said, because that is part of your chain you have to lead down the road to figure out whether or not he had the requisite intent to go and influence the outcome of what was done with the gifts.

The reality of this is that when you look at it, you have to question her testimony; you have to question her believability. You ought to bring her out here. She should be brought out here, if they are going to challenge her like this, and give an opportunity for us to examine her on both sides and determine what is her best testimony about that, if that is important to you, and apparently it is to White House counsel.

The same thing is true of the questions with regard to Ms. Currie and the phone call dealing with the question of coming over to get the gifts. There White House counsel is saying, in essence, Ms. Lewinsky is not telling the truth; Ms. Currie is. If you don't have them here to listen to, who are you going to believe? I suspect if Ms. Lewinsky came out here, that 1-minute phone conversation, which was not part of the Starr referral—we discovered that subsequent to that—would be something she could comment on and explain, and maybe Ms. Currie could, too. But we do not have that. And they made a big to-do over that in the last couple days.

Last, but not least, what I put up on the chart here is dealing with this affidavit. Now, this affidavit is very important. It is a central part of the obstruction of justice. It is the very first obstruction of justice and the question of truthfulness. And who you believe in this pattern is very, very important.

The White House counsel have been arguing the last few days that, indeed, with regard to the cover stories, that there was no discussion of cover stories in a timely way during the December 17 phone conversation when the President suggested Monica Lewinsky file an affidavit, and that the cover story idea somehow isn't tied into the issue of putting into her head that she should tell a lie.

Well, I call your attention to what I read to you the other day. It is up here on this board. And I refer it back to you on the chart. This is one of the charts where she testified before the grand jury—Monica Lewinsky did:

> At some point in the conversation, and I don't know if it was before or after the subject of the affidavit came up—

I don't know if it was before or after, but it was during that conversation on December 17 when the affidavit did come up—

> he sort of said, "You know, you can always say you were coming to see Betty or that you were bringing me letters." Which I understood was really a reminder of things that we had discussed before.

And she went on to say the famous quote: "And I knew exactly what he meant [by this]."

And if you remember—I read that to you the other day—she also said: "It was the pattern of the relationship, to sort of conceal it."

I am not going to put the other board up here, but in the same context they have been saying, with respect to this affidavit issue again, "No one asked me to lie." Remember that was repeated over and over and over again. And I, again, point out to you that you need to bring her in here, I think, based on what they are saying and arguing, to find out for yourself if she is going to corroborate this.

She said in the grand jury testimony:

> For me, the best way to explain how I feel what happened was, you know, no one asked or encouraged me to lie, but no one discouraged me either.

And she went on to say: "And by him not calling me and saying that"—that she shouldn't lie; I didn't read the whole paragraph—"I knew what [he] meant."

"Did you understand all along that he would deny the relationship also?"

She says: "Mm-hmmm. Yes."

The question: "And when you say you understood what it meant when he didn't say, 'Oh, you know, you must tell the truth,' what did you understand that to mean?"

She says: "That—that—as we had on every other occasion and every other instance of this relationship, we would deny it."

If you believe her, then the President is not telling the truth. The affidavit clearly is something he was trying to get her to file falsely. It makes sense that he would, because he relied on it in the deposition. He patterned it after the cover stories in the affidavit—what he had to say—the lies he told about the relationship. It makes common sense to me.

The CHIEF JUSTICE. Mr. McCOLLUM, I think you have answered the question.

Mr. Manager McCOLLUM. Thank you very much.

My point is, you ought to bring the witnesses.

The CHIEF JUSTICE. The question from Senator BRYAN to the White House counsel:

> Would you please comment on any of the legal or factual assertions made by the managers in their response to the previous question, focusing on the need for witnesses and the time likely required to prepare for and conduct discovery?

Mr. Counsel KENDALL. Mr. Chief Justice, the first question to ask about the need to call witnesses is, What would the witnesses add? That has not been described. What you have heard are vague expressions of credibility and hope. You have not heard specifically what these witnesses would add. And the answer to that is, they would add nothing to what is not already there.

Yesterday, I held up the five volumes of testimony, thousands and thousands of pages. You have it before you. Now, those five volumes represent 8 or 9 months of activity by the independent counsel. The independent counsel called many, many, many witnesses, many, many, many times. They proceeded with no limitation on their budget, on their resources. They turned things upside down. And they repeatedly—I think abusively—but they repeatedly called witnesses—like Ms. Currie, Mr. Jordan, Ms. Lewinsky—back to the grand jury for repeated interviews. It is all right there. And the managers have really told you nothing that could be added to this record.

Second, they have not made a representation about what the witnesses would really say that is different. And the reason they have not is that they themselves don't know. They themselves have done no investigation. They don't know what these witnesses would say. They are hoping that maybe something will turn up.

Now, what they have done, they have taken those five volumes, and more, from the independent counsel. And I am reminded of the old bureau that many newspapers had called "Rewrite." That was not a bureau which did independent reporting. When an editor read something that was incomprehensible, he or she would say, "Get me Rewrite." So what the House has done is gotten "Rewrite" to write up its own report. They cannot tell you—they can tell you what they hope—they cannot make a representation or a proffer to you about what any witnesses would say.

Now, their third, and really their only argument, is the credibility argument—got to see these witnesses. Well, in point of fact, in the real world, when you have witnesses, their stories often differ in some ways. They differ not because anybody is lying; they differ only because people don't always have precisely the same recollection of things. Now, that doesn't mean that looking at them will add anything other than getting for you the 6th, 7th, 8th, 9th, 10th account of what some witnesses said.

For example, in our trial brief, we quote—and Mr. McCOLLUM referred to this—at pages 66 to 67, 11 accounts that Ms. Lewinsky has given on the gift exchange. Now, I do not think you are going to learn anything from a 12th account. And by the way, with respect to the question of, well, she might have testified differently after she got immunity, 9 out of 11 of these accounts were given, as you will see from the dates and the testimony, after she got immunity. Calling witnesses will add nothing to the record now before you. All the major witnesses have testified, and their testimony is right there.

Now, in response to the question of how long it will take, I must tell you, we have never had a chance to call witnesses ourselves, to examine them, to cross-examine them, to subpoena documentary evidence—at no point in this process. It would be malpractice for any lawyer to try even a small civil case, let alone represent the President of the United States when the issue is his removal from office, without an adequate opportunity for discovery.

And I think if they are going to begin calling witnesses, and going outside the record, which we have right now—I think the record is complete; and we are dealing with it as best we can without having had an ability ourselves to subpoena people and cross-examine them and depose them—but I think you are looking realistically at a process of many months to have a fair discovery process.

The CHIEF JUSTICE. This question is from Senator CHAFEE. It is to the House managers:

> The White House defense team makes a lot out of Monica Lewinsky's statement that she delivered the presents to Betty Currie around 2:00 or 2:30 and about the fact that the phone call came from Betty Currie at 3:32. Isn't it reasonable to assume that Ms. Currie meant that she delivered the presents to Ms. Currie in the afternoon? If the President was unconcerned about the presents, as he said in his grand jury testimony, why didn't he simply tell Ms. Lewinsky not to worry about it?

Mr. Manager HUTCHINSON. Thank you, Mr. Chief Justice.

Let me just broadly review the whole gift issue and the discrepancy in the testimony.

First of all, I want to go back to Mr. Ruff's presentation during the last 3 days.

He argued that I unfairly characterized Betty Currie as having a fuzzy memory whenever she was unclear. And she was clear that it was her memory that Monica Lewinsky called to initiate the retrieval of the gifts. And of course that is in conflict with the testimony of Monica Lewinsky.

Further, they argue that Monica Lewinsky's time sequence as to when she went to pick up the gifts, when Betty Currie went to pick up the gifts, destroys her credibility. Her time sequence does not fit. Let's look at her testimony on this particular point. This is what Betty Currie has testified to, and this is exhibit H–A in your folder on my presentation; exhibit A. These are statements of Betty Currie in her deposition testimony about when she picked up the gifts.

Now the first one is her testimony on January 27, 1998. She was asked when she picked up the gifts, and she said, "Sometime in the last 6 months;"

Now, in May she was asked when she picked up the gifts, and she said, "A couple of weeks" [after the December 28 meeting]; in the May 6 testimony, it was after the 28th meeting; and then in her last testimony, July 22, in the "fall maybe."

That is Betty Currie's testimony. Contrast that to that of Monica Lewinsky.

This is her recollection as to when Betty Currie came to pick up the gifts. You will see that she has testified in her proffer of February 1, "Later that afternoon"; July 27, she said Currie called "several hours after leaving the White House;" "about 2 o'clock"; "Later in the day"; and August 6, called "several hours" after Lewinsky left the White House. Her memory is fairly good about this.

The question is, the cell phone call, which really corroborates what Monica Lewinsky said, that it was Betty Currie who called to retrieve the gifts, and said the President said, "You have something for me," or something to that effect. That came about 3:30. The cell phone record was retrieved after Monica Lewinsky's testimony.

Now, does this destroy her credibility, particularly in contrast to that of Betty Currie? I think it reflects that you are trying to remember—you remember that it was a call specifically from Betty Currie to retrieve the gifts. At the time, she said it was in the afternoon. I think it corroborates her because she has never had an opportunity to look at the cell phone record—neither has Betty Currie—to refresh her recollection and trigger it and see what that produces.

Now, that is on the gift issue.

I think they say, well, what would it add to call witnesses? How are you going to determine the truthfulness of this issue? Juries across the country do it by calling witnesses.

Now in this particular case, it should be noted that all other testimony of Betty Currie—I think her last one was about July 27 before the grand jury—all of it preceded the testimony of William Jefferson Clinton which was in August before the grand jury. The point is, because of the rush, the push, the independent counsel didn't call anybody back to the grand jury to requestion them after the information received from William Jefferson Clinton.

So there are a lot of unanswered questions, perhaps, that were generated by his testimony. The 1-minute call was raised: How in the world could this be expressed in 1 minute—the conversation that Betty Currie called to retrieve the gifts? If you look at Monica Lewinsky's description of that call—excuse me, let me read from her grand jury transcript. She was asked about the call, and her answer was,

> What I was reminded a little bit, jumping back to the July 14th incident where I was supposed to call back Betty the next day, but not getting into the details with her that this was along the same lines.

Question to Monica Lewinsky:

> Did you feel any need to explain to her what was going to happen?

Her answer:

> No.

In other words, this was a cell phone call. It was a cryptic call. It was about retrieving gifts that were under subpoena. It was a short conversation. It doesn't take a minute to say, "The President indicated you had something for me"—Monica knows what she is talking about—"Come over," and that is the end of the conversation—certainly would not take 1 minute.

So all of the evidence is consistent with Monica's testimony.

But let's look at the big picture on the gifts. The evidence was concealed under the bed. It was evidence that was concealed in a civil rights case; secondly, it was under subpoena; thirdly, the President knew it was under subpoena; and fourthly, Monica Lewinsky's testimony indicates that it was, the call from Betty Currie, at the direction of the President—and I am arguing there, a little; please understand that—which initiated the retrieval of the evidence that was under subpoena.

That is the big picture on this. I believe we have made our case on that, and I believe it is strong, and I think it also justified the hearing of the testimony to resolve the remaining conflict.

The CHIEF JUSTICE. This is to the President's counsel from Senators LEAHY, SCHUMER, and WYDEN:

> Notwithstanding the previous response by the House manager, does not the evidence show:
>
> (a) Ms. Lewinsky's testimony; it was her idea to give the gifts to Betty Currie?
>
> (b) the President's testimony; that he never told Betty Currie to retrieve the gifts from Ms. Lewinsky?
>
> (c) Betty Currie's testimony; that it was Ms. Lewinsky, not the President, who asked her to pick up the gifts? And,
>
> (d) the fact that the President gave Ms. Lewinsky additional gifts on the very morning that he is alleged to have asked for them back?

Mr. Counsel RUFF. Mr. Chief Justice, I am not sure I managed to capture all four subpoints of that question but I will do my best.

It is interesting that the managers now suggest that the great discovery of the 3:32 phone call that was so much the heart and soul of Mr. Schippers' presentation and ultimately of theirs is really just a slight glitch in the timetable.

Yes, it is perfectly possible, I suppose, that Ms. Lewinsky could have just missed by an hour and a half, but she did say, three times, once under oath, and twice to the FBI, which is almost the same, that it was 2 o'clock, not 3:30.

So if you are going to ask, consistency, good memory, as Ms. Lewinsky is supposed to have on this matter, she was consistent, but you have to ask, if it really happened at 2 o'clock as she recalled, what is the meaning of the 3:32 call?

Putting aside that dispute, the question itself reflects the essence of our position on this. First of all, there are only two people present at the moment in which, theoretically, the managers would have that the President urged Betty Currie to go off and pick up the gifts. The President of the United States and Betty Currie, they both testified, flatly, that such a conversation did not occur. Do the managers really anticipate if Ms. Currie were brought into the well of the Senate and looked straight in the eye by one of the prosecutors on this team, she would say, "You got me, I had it wrong. The President really did tell me to do something but I have testified straightforwardly and honestly"?

He didn't say, as my colleague Mr. Kendall indicated—that is wish and hope, and it has no basis in the allegation.

And of course the managers have thought up a good excuse for why it is that the President is giving Ms. Lewinsky more gifts on the very day when he is conspiring with her to hide them: That somehow it is a gesture, a message being sent, that because of these gifts she is still—she is someone who is being roped into a conspiracy of silence.

Aside from the fact that there is not one single, not one single, iota of evidence to support that wishful thinking, is it really likely, even given the managers' perception of this matter, that by giving Ms. Lewinsky the bear that my brief but important colleague Senator Bumpers referred to yesterday, and a pin of the New York skyline, and a couple of other things, including a Radio City Music Hall scarf—I may have missed some—that some great message was being sent to Ms. Lewinsky, that this collection of "valuable" items was a message to keep the faith, stay inside a conspiracy? I don't think so.

Thank you, Mr. Chief Justice.

Mr. LOTT. Mr. Chief Justice, may I inquire about the time that has been used on each side?

The CHIEF JUSTICE. I will ask the Parliamentarian.

The counsel for the White House has consumed 57 minutes. The counsel for the managers have consumed 54 minutes.

Mr. LOTT. I believe we have a question at the desk.

The CHIEF JUSTICE. This question is directed to the House managers, proposed by Senators SNOWE, ASHCROFT, ENZI, BURNS, SMITH of New Hampshire, and CRAIG:

> At the end of the Jones deposition, Judge Wright admonished the parties that, "This case is subject to a protective order regarding all discovery, and all parties present, including the witness, are not to say anything whatsoever about the questions they were asked, the substance of the deposition . . . any details, and this is extremely important to this court." Within hours of Judge Wright's admonition to all parties not to discuss details of the deposition, didn't the President telephone Betty Currie to ask her to make a rare Sunday visit to the Oval Office?

Before answering, the Chair wishes to make a correction in response to the inquiry from the majority leader. The time used by the House managers is 64 minutes, rather than 54 minutes.

Mr. Manager ROGAN. I trust that doesn't mean I have to sit down, Mr. Chief Justice.

The CHIEF JUSTICE. It is not retroactive.

Mr. Manager ROGAN. Maybe I should quit while I am ahead.

I thank the Senators for their question. That is absolutely true, and we know that because Betty Currie testified to that. She said it was very rare to receive a phone call from the President to ask her to come down to the White House on Sunday. A day after the President testified in a deposition, when he was specifically admonished by the judge that he was not to discuss the deposition, he was not to detail it with anybody, he was not to go into any of those factors, the President called Betty Currie down to the White House and he made some specific statements to her. He said to her:

> I was never really alone with Monica, right?
>
> You were always there when Monica was there, right?
>
> Monica came on to me and I never touched her, right?
>
> She wanted to have sex with me, and I cannot do that.

When the President was asked 8 months later:

> Why did you call Betty Currie down to the White House and pose not questions, but statements to her?

When he was asked why he called Betty Currie down to the White House and said that to her, this is how the President responded:

> I was trying to figure out what the facts were. I was trying to remember.

That is patently false because in August when the President testified, embarrassment was no longer on the table. The President was admitting that he had, as he called it, an improper relationship with Ms. Lewinsky. So why did he call Betty Currie down there? He called her down there that day after the deposition, in violation of the judge's order, because throughout his deposition he kept referring to Betty Currie as the fountain of information. If you read the deposition testimony, you see the President reiterating over and over, "Monica came to see Betty," and, "You would have to ask Betty." He made innumerable references to Betty Currie.

That was his invitation to the Jones lawyers to depose Betty Currie, and we know from Mr. Manager HUTCHINSON's presentation earlier that that is what happened. Betty Currie ended up with a subpoena from the Jones lawyers, and the President could not waste any time; he had to make sure, with discovery closing, that he got to Betty Currie right away, to make sure that the story was straight.

How can one possibly say that he was posing the statements to Betty Currie to remember, when the President knew that in fact he was alone with Monica, that Betty wasn't always there with him when Monica was in the Oval Office with him? She would not be able to tell him that Monica came on to him and not the other way around. This is patently ludicrous. There is no reasonable explanation.

Mr. Chief Justice, if I have a minute left, I would like to yield to Mr. Manager HUTCHINSON.

The CHIEF JUSTICE. Yes.

Mr. Manager HUTCHINSON. Thank you. Just a quick point on that, because there was a question raised that the testimony of Betty Currie in that circumstance was that she, I believe, did not feel pressured. The President's counsel makes a big issue of that, as if this is a fatal defect. It is not a fatal defect.

In fact, it is really irrelevant because the issue is witness tampering, obstruction of justice. The question is the President's intent, not how Betty Currie felt under that circumstance. She can characterize what she wishes. To me, it is an example like, if you as a lawmaker are presented a bribe of $100,000 to cast your vote in a particular way, you might not be tempted in the slightest. You might say, "Go your own way." But it is still attempted bribery, attempted obstruction of justice. So that is a critical question. This is one element of obstruction of justice where each element has been met. The proof is clear, without any question of a doubt, as well as the rest of it.

Thank you, Mr. Chief Justice.

The CHIEF JUSTICE. This is a question to White House counsel from Senator KENNEDY:

> Would you please comment on any of the legal or factual assertions made by the managers in their response to the previous question?

Mr. Counsel RUFF. Thank you, Mr. Chief Justice. Let me start by actually responding briefly to the question that was asked, which is whether in fact the President violated the gag order. I think it is important that we be very direct and candid on this so the record is clear.

There is no question that a gag order was issued, that it had been in existence for some 3 months, and it applied to the parties and lawyers. It is important, I think, to understand the purpose for which it was entered.

During the months of litigation in the Jones case, we have seen a veritable flood of leakage out of the deposition, all of which was adverse to the President. The judge made very clear that her concerns were revelations to the press.

I think it is fair to say that even if one might argue that the President talking to his secretary on the day after a deposition was somehow talking to a person that he should not after his deposition, I suggest that any person covered by—certainly a party covered by a gag order, particularly the President of the United States, is free to speak with those from whom he needs assistance in the preparation of his defense. That, of course, is at least in part what the President has said here.

But let me be very clear that, to the extent President overstepped his bounds in terms of this gag order, that is a matter of concern that the judge could take up, or the parties could take up. And as far as I know—probably because their sense of shame would not permit it—the parties on the other side of the Jones case have never suggested that this was a problem. Indeed, it was not a problem until we heard about it recently in this Chamber.

More specifically, with respect to the substance of Mr. Manager ROGAN's response, and Manager HUTCHINSON's response, my colleague, Ms. Mills, told you what the essential human dynamic was that was going on with the President, who had just gone through a deposition in which his worst fears were being realized—his life, in terms of his relations with his family, was beginning to unravel. He could see it coming. He could see the press coming at him. They were already on the Internet. There was no question in his mind that his worst fears of public disclosure were about to be realized.

Put yourselves in a comparably traumatic human situation and ask whether you wouldn't reach out to have this kind of conversation with the one person you knew who was the most familiar with the facts that Monica Lewinsky had, indeed, been in and out of the White House, exchanged gifts, and done all the other things that Betty knew about, even though she didn't know about the primary extent of their relationship. But ask yourself also whether, in fact, under any circumstances, either on the 18th of January when the first conversation occurred, or on the 20th of January when we believe the second conversation occurred, if there is really any reason to believe that the President had somehow invited Jones lawyers to make Betty Currie a witness, because, as my colleague, Ms. Mills, put it most sharply and most clearly, the last thing in the world the President of the United States wanted to do was to invite anybody to depose or have testify the one woman who knew that, indeed, there had been gifts exchanged, and visits, and letters. It simply doesn't make sense.

Lastly, let me, I suppose, just ask as the question has been put to you on a couple of occasions, what is it that would come from calling witnesses in the case? Ms. Currie has testified not just once, but a multiple of occasions about the events, no new facts had come out, and the only thing that you would hear would be a repetition of the bottom-line assessment. I could have said wrong when he said right and I was under no pressure whatsoever.

Thank you.

The CHIEF JUSTICE. This is from Senators GRAMM of Texas and SMITH of New Hampshire to White House counsel:

> If you said that our oath to impartial justice required us to allow the President to have a handful of witnesses to defend himself, don't you believe that all 100 Senators would say "yes"? How can we do impartial

justice by turning around and denying the House that same right?

Mr. Counsel RUFF. Thank you, Mr. Chief Justice.

Senators, the answer to that question, I think, is really very straightforward and easy and the fog of some of the discussion which has been had on the subject over the last days and weeks ought not to get in the way of this.

The House of Representatives, at least as they are described by the managers they sent to you—I don't know how to put this gently—violated their constitutional responsibility in the handling of this matter. They characterized themselves as nothing more than a grand jury, nothing more than a screening device between the allegations transported to them by the independent counsel, and the ultimate vote a month and 3 days ago. They felt, as they have reiterated constantly during that process, that they knew everything they needed to know not to make the judgment; that it was, you know, worth sending on to the Senate for them to think about. But they knew everything they needed to know, as you heard them say so eloquently and so forcefully here, to remove the President of the United States from office. Now they are saying to you, "Well, maybe not. There really isn't enough here to make that important critical judgment."

So having abandoned—not to put it too sharply—what I view and I think most would view as their obligation to do the right constitutional thing a month ago, they turn to us and say, "Well, protect our managers rights to just add a little bit and see if we can make it, and then we will turn to you and see if you want to call witnesses in response."

Senators, I really think they should have done it right the first time. And they have told you—not back then, but they have told you now—that they have done it right, because otherwise they wouldn't, as a matter of their responsibility, be able to stand in the Well of this Senate and urge you to remove the President of the United States. How could they make that recommendation if they had any uncertainty? If they didn't believe what was in those five volumes was sufficient under the day, they couldn't. They couldn't.

Our rights are these for the President of the United States: He is entitled to ask you whether when the House of Representatives voted to impeach him they had enough evidence to make one of the most serious constitutional judgments that is entrusted to them. And it can't be that because they didn't do it right then, that you and we are now asked to extend this process just so that maybe if they go to the right person and ask the right question, or find the right document something will emerge that translates those five volumes into something that really is a constitutional basis for the removal of the President.

The CHIEF JUSTICE. This is from Senator FEINGOLD to the House managers.

In light of the allegations in the articles of impeachment that the President is guilty of providing "perjurious" statements to a grand jury and has "obstructed . . . the administration of justice," is the appropriate burden of proof for these particular articles "beyond the reasonable doubt," as it would be in an ordinary criminal proceeding? Should a Senator vote to convict the President based on his allegedly committing these Federal statutory crimes if each of the elements of the crimes have not been proven beyond a reasonable doubt?

Mr. Manager BUYER. Thank you, Mr. Chief Justice. And I would say to Mr. Ruff I violated no oath nor the Constitution, and I think the House managers, in fact, followed the Constitution when we served the articles of impeachment. And I also note, for historical note as well, Mr. Ruff, you know that in the impeachment trial of Andrew Johnson, the House didn't even hold a single hearing.

So I just want to be very up front and fair here.

With regard to the question that was asked by the gentleman, the Constitution does not discuss the standard of proof for impeachment trials. It simply states that the Senate shall have the power to try all impeachments. Because the Constitution is silent on the matter, it is appropriate to look at past practice of the Senate.

Historically, the Senate has never set a standard of proof for impeachment trials. In the final analysis to the question, one which historically has been answered by individual Senators guided by your individual conscience. Now, you will note that earlier one of the White House counsel stood up—and they like to talk to you about criminal statutes and cite that it requires the proof beyond a reasonable doubt. That is not so. This argument has been rejected by the Senate historically.

For instance, in the impeachment trial of Judge Harry Claiborne, at that time the counsel for Judge Claiborne moved to designate beyond a reasonable doubt as the standard of proof for conviction. The Senate overwhelmingly rejected the motion by a vote of 17 to 75. You rejected that as a standard of proof.

In the floor debate on the motion, the House managers emphasized that the Senate has historically allowed each Member to exercise his personal judgment in these cases. And during the impeachment of Judge HASTINGS, Senator Rudman, in response to a question about the historical practice regarding this standard of proof that there has been no specific standard, "You are not going to find it. It is what is in the mind of every Senator, and I think it is what everybody decides for themselves."

The criminal standard of proof again is inappropriate for impeachment trials. The result of conviction in an impeachment trial is removal from office, not punishment. As the House argued in the trial of Judge Claiborne, the reasonable doubt standard was designed to protect criminal defendants who risked forfeitures of life, liberty, and property. This standard is inappropriate here because the Constitution limits the consequences of a Senate impeachment trial to removal from office and disqualification from holding office in the future, explicitly preserving in the Constitution the option for a subsequent trial in the courts.

In addition, the House argued in the Claiborne trial the criminal standard is inappropriate because impeachment is, by its nature, a proceeding where the public interest weighs more heavily than the interest of the individual. Again, the criminal standard of proof, i.e., beyond a reasonable doubt, is inappropriate in an impeachment trial and, Senators, you are to be guided by your own conscience in your decision.

The CHIEF JUSTICE. The President's counsel are asked by Senators THOMPSON, SNOWE, ENZI, FRIST, CRAIG, DEWINE, and HATCH:

Four days after the President's Paula Jones testimony, wherein he testified under oath about Ms. Lewinsky, why would Dick Morris conduct a poll on whether the American people would forgive the President for committing perjury and obstruction of justice?

Mr. Counsel RUFF. I couldn't find any volunteers. (Laughter.)

You know, I think the honest answer has two pieces to it. I don't have a clue, and it ultimately—although I know it rings all sorts of bells and the use of that name conjures up all sorts of images, and that is why I am sure it finds its way into this process from the managers' side. But if you look at the record, other than the value that may come to the managers of making reference to that conversation—and I have no idea whether the conversation ever occurred or not—it seems to me of absolutely no relevance whatsoever because, as far as I am able to represent to you, and if the conversation occurred, there is nothing in this record that suggests that it had any impact on the conduct of the President or any other person. We know that he did wrong. We know that he misled the American people when he said that he had not had relations with Ms. Lewinsky.

I am not sure what a conversation with Mr. Morris, if it occurred, or a poll, if it was asked for, or what the motivation behind that poll means once you come to grips with the fact that the President of the United States was deceiving his family, his child, his wife, his colleagues, and the American people in that period in January.

Beyond that puzzlement about relevance, other than the surmise that there must be some dark linkage between the poll and some legal issue before you—and I haven't seen it—I am really otherwise unable to answer your question.

The CHIEF JUSTICE. Senator LIEBERMAN asks the House managers:

The House managers argue that the President should be removed from office because of the inconsistency between his actions and the President's duty to faithfully execute the laws. Given that any criminal act would arguably be at odds with the President's duty to execute the law, is it your position that the President may be impeached and removed for committing any criminal act, regardless of the type of crime it is? If the President were convicted of driving while intoxicated, would that be grounds for removal? What if he were convicted of assault?

Mr. Manager GRAHAM. Thank you, Mr. Chief Justice. Excellent question.

The answer is no, I would not want my President removed for any criminal wrongdoing. I would want my President removed only when there was a clear case that points to the right decision for the future of the country. Just remember this. Our past is America's future in terms of the law. I would not want my President removed for trivial offenses, and that is the heart of the matter here.

I think I know why he took a poll. I think I know very well what he was up to: That his political and legal interests were so paramount in his mind, the law be damned and anybody who got in his way be damned.

Those are strong statements, but I think they are borne out by the facts in this case, and that is what I would look for. I would look for a violation of the law that is the dark side of politics. I would look for something like Richard Nixon did. Richard Nixon lost faith with the American electoral process. He believed his enemies justified being cheated; that when his people broke into the other side's office, when confronted with that wrongdoing, he legitimized it. He didn't trust the American people to get it right, and he went out in shame.

My belief is that this President did not trust the American legal system to vindicate his interest without cheating. My belief is that when he went back to his secretary, it is not reasonable that he was trying to refresh his memory and get his thoughts together. My belief is that he tried to set up a scenario that was going to make a young lady pay a price if she ever decided to cooperate with the other side. I believe he did not need to refresh his memory whether or not Monica Lewinsky wanted to have sex with him and he couldn't. I don't believe he was refreshing his memory when he asked his secretary: I never touched her, did I?

I believe that you should only remove a President who, in a calculated fashion, puts the legal and political interests of himself over the good of the Nation in a selfish way, that you only should remove a President who, after being begged by everybody in the country, don't go into a grand jury and lie, and he in fact lied. Nothing trivial should remove my President. We need to try this case, ladies and gentlemen, because you need to know who your President is.

Thank you.

Mr. LOTT addressed the Chair.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. I would like to note that in the response to the previous question, question probably No. 28, that it was not filed by the managers; it was filed by a group of Senators.

RECESS

Mr. LOTT. With that, I would ask unanimous consent that we take another brief recess of 15 minutes.

There being no objection, at 4:18 p.m., the Senate recessed until 4:40 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Thank you, Mr. Chief Justice. Mr. Chief Justice, I had indicated that we would probably go 5 hours today, which would take us to approximately 6 o'clock. But I think we would certainly go for at least another hour or so, perhaps not quite all the way to 6 o'clock, but we will talk to each other and look for a signal from the Chief Justice about exactly when we would end the day's proceedings.

At this point, Mr. Chief Justice, I believe we are ready for the next question. I believe the previous question came from Senator LIEBERMAN; therefore, I send the next question to the desk.

The CHIEF JUSTICE. This question is from Senators THOMPSON and SNOWE, to the House managers:

Do the managers wish to respond to the answer given by the President's counsel with regard to the poll taken by Dick Morris?

Mr. Manager BRYANT. Thank you, Mr. Chief Justice.

Just before we recessed, there was a question directed to the President's defense attorneys regarding the Dick Morris poll. One of the responses to it was that it was basically irrelevant. I think it is one of the more important things that has occurred in this case, because—and I think it is very important—because we get a look inside that window that is blocked for the most part throughout these proceedings. We really get an eye into the minds that are working here. Not only does it say volumes about a person who has to take a poll and decide whether or not to tell the truth, it also provides a great deal of information toward the actual state of mind, the actual willfulness, the actual intent of the actor in this case who has had the poll taken.

Let me just read briefly from the referral regarding this incident. It talks about how Mr. Morris tells the President that this country has a great capacity for forgiveness and we should consider tapping into it. The President responds, "Well, what about that legal thing, you know, the legal thing, you know, Starr and the perjury and all?" And they go on and have a discussion and decide to take a poll that night. Now this is January 21.

And in all fairness to the President, it is not clear from the record that I have that he had had a conversation with Sidney Blumenthal and John Podesta that day, before this effort—the poll was taken, and the results reported that same day, late that evening—or whether the conversation with Mr. Podesta and Mr. Blumenthal occurred afterwards. Those are the ones, in essence, where he questioned what went on, and also with Mr. Blumenthal fairly well attempted to discredit Ms. Lewinsky, too. And you will see how that may or may not tie in, again, depending on the chronology. But certainly all those events happened the same day.

Mr. Morris takes the poll and reports later that day, later that evening, the same evening, the 21st, the results of that, and basically says the voters are willing to forgive the President for adultery but not for the perjury or the obstruction of justice. And then according to Mr. Morris, the President answers, "Well, we['ll] just have to win, then." And later the next day the President has a followup conversation with Mr. Morris, in the evening, and says that he is considering holding a press conference to blast Monica Lewinsky out of the water. But Mr. Morris urges caution. He says, "Be careful." According to Mr. Morris, he warned the President not to be too hard on Ms. Lewinsky because "there's some slight chance that she may not be cooperating with Starr, and we don't want to alienate her by anything we're going to put out."

That is chilling. It truly is chilling that our chief law enforcement officer, the person who sends our soldiers off as Commander in Chief, to possibly die, the person who appoints the Federal judges, nominates Supreme Court Justices, appoints U.S. attorneys around the country who try 50,000 cases a year, has that mentality. And it goes to the state of mind here. And the willfulness and the intentions, from that point forward, certainly are reflected in the perjury and the efforts to continue the obstruction, the pattern, the overall pattern—not just one little incident.

And I urge you, Senators, as you consider this, to consider it carefully. And as I said in my opening remarks, do not isolate little facts here and there and take the spins. But in every—every—alleged act, ask yourselves the two questions—whether it is the hiding of the gifts, the filing of the false affidavit, letting Bob Bennett use that false affidavit while sitting still, talking to Sidney Blumenthal and John Podesta about what did not really happen, the job search—ask them, every one of those, What was the result, what was the result of those actions?

I think in every case you will see that something occurs to block the Paula Jones case, the discovery of evidence, the receipt of truthful testimony. And ask yourselves the second question: Who benefits from that? And I will guarantee you every time, in every one of those instances, it is the President who benefits, who derives the effect of that. And he is either the luckiest man in the world because of this and having people willing to commit crimes for him or he is somewhere in the background orchestrating this.

The CHIEF JUSTICE. This is from Senators LEAHY, HARKIN, DORGAN, and REID of Nevada, to the President's counsel:

> In his opening remarks to the Senate, Manager MCCOLLUM stated, "I don't know what the witnesses will say, but I assume if they are consistent, they'll say the same thing that's in here," referring to the 60,000 page record currently before the Senate. I see no reason to call witnesses to provide redundant testimony.
>
> Could you comment on Mr. MCCOLLUM's statement and clarify also the timetable which might have to be considered for discovery if witnesses are called?

Mr. Counsel KENDALL. Mr. Chief Justice, I think, as I said in an earlier question, that the answers the witnesses would provide are already contained in the five volumes of testimony. As I am sure you are aware, when I say five volumes, that is not really five volumes, because on many of the pages the grand jury transcript is shrunk, called a miniscript, so you get 6 pages of testimony per page. Your eyesight may fail you before you get through. The witness testimony is there. I don't think calling the witnesses again will add anything to that.

In terms of a discovery schedule, it is hard to say, because we have had no opportunity to shape the record. We don't know what we will need. We would need documents. We would need testimony. One deposition could lead to another. I think we are talking a matter of a few months to finally get through it.

But I think the real question is, What questions are there that have not been asked? I think if you ask that question, What questions are there that have not been asked, you will find there are no questions. In fact, there are questions that have been asked a number of times.

Now, Mr. Manager HUTCHINSON told you that, Well, the independent counsel didn't have a chance to ask questions after the President's testimony. Indeed he did. You will see that Ms. Lewinsky was examined after the President testified, both in the grand jury and in FBI interviews. I don't think that witness interviews or further evidentiary proceedings will add in any measurable way to the record before you.

The CHIEF JUSTICE. This question is directed to the House managers by Senators HATCH, THOMPSON, DEWINE, and WARNER:

> The unanimous consent agreement pending before the Senate permits the filing of a motion to dismiss next week. What legal standard should the Senate apply, and applying that standard to this case, what specific acts of Presidential misconduct would a Senator deem unworthy of impeachment by voting for a motion to dismiss?

Mr. Manager HYDE. Mr. Chief Justice, Members of the Senate, the President wants all of the protections of the criminal trial beyond a reasonable doubt, standard of proof, strict pleadings, but yet deny us the right to call any witnesses.

You know, in the House we did not call witnesses and there is a reason. There are several reasons for that. First of all, we were operating under time constraints which were self-imposed but I promised my colleagues to finish it before the end of the year. I didn't want it to drag out. We had an election intervene, we had Christmas, but we did—because we had 60,000 pages of sworn testimony, transcripts, depositions, grand jury testimony, and we had a lower threshold.

The threshold in the House was for impeachment, which is to seek a trial in the Senate. We could not try the case in the House. The Constitution gives the Senate the exclusive right to try the case. All we could do was present evidence sufficient to convince our colleagues that there ought to be a trial over here in the Senate. And we did that.

But now that we are over here—by the way, we were roundly criticized for not producing any witnesses. And I might add, Mr. Kendall has said repeatedly they did not have a fair discovery process; they didn't have any witnesses and weren't permitted to cross-examine.

I want to tell you, repeatedly—repeatedly—I invited the President's lawyers, the staff of the Democrats on the House Judiciary Committee: Any witnesses you want, call them; give me their name and we will bring them in and you can cross-examine them to your heart's content.

No, they never did. Finally, they brought in some professors and Mr. Ruff testified, Mr. Craig testified. But they didn't want, in fact, any witnesses. That is the last thing they wanted. They had full opportunity to call them, and I really, really, bristle when they say, "You were unfair." We wanted to be fair. We tried to be fair because we understand you need a two-thirds vote to remove the President. We needed Democratic support. So far we had none. That is OK. Let the process play itself out. But we were fair.

And when Mr. Kendall says they had no opportunity, he means they didn't avail themselves of an abundant opportunity to call witnesses.

Now, a motion in lieu of a trial should provide that all inferences, all fact, questions, be resolved in favor of the respondent, the House managers. I don't think that is going to happen. I think by dismissing the articles of impeachment before you have a complete trial, you are sending a terrible message to the people of the country. You are saying, I guess, perjury is OK, if it is about sex; obstruction is OK, even though it is an effort to deny a citizen her right to a fair trial. You are going to say that even when judges have been impeached for perjury—and, by the way, the different standards between judges and the President: This country can survive with a few bad judges, a few corrupt judges; we can make it; but a corrupt President, survival is a little tougher there. So there is a difference, and the standard ought to be better and more sensitive for the President because the President is such an important person.

Look, the consequences of cavalier treatment of our articles of impeachment, your articles of impeachment: You throw out the window the fact that the President's lies and stonewalling have cost millions of dollars that could have been obviated. The damage to sexual harassment laws—you think they are not going to be damaged? They are, seriously, making it more difficult to prosecute people in the military or elsewhere for perjury who lie under oath. Those are serious consequences.

I know, oh, do I know, what an annoyance we are in the bosom of this great body, but we are a constitutional annoyance, and I remind you of that fact.

Thank you.

The CHIEF JUSTICE. This question is from Senator DURBIN to counsel for the President:

> Can you comment on Manager HYDE's contention that the President was free to call witnesses before the House, but that the House did not have the time to do so, or to call any witnesses?

Mr. Counsel RUFF. Mr. Chief Justice, I think it is important to understand the reality of what is going on in the House. Most of you know something of it by simply the virtue of press coverage. But let me tell you what it was like from the perspective of the President.

From the very first moment when we began to speak with representatives of the Judiciary Committee—whether senior staff or the chairman, who is always gracious—the one thing we said was, "Please tell us what we are charged with, please." And we went from Mr. Schippers' extensive opening discussion of 15 possible violations of law to an ever-shifting body.

It wasn't until I was within literally a few minutes of completing my testimony on December 9 that we were ever honored with anything that looked like a description of the violations that the President was charged with, and those came in the form of hard draft articles of impeachment.

I think, indeed, if you will all remember back—if any of you were watching that day—I was actually given a draft copy of those articles just as I was completing my testimony, and then they were snatched back because it was premature for the President's counsel at 4:30 in the afternoon on December 9 to know what the President was charged with.

Now, one thing you generally like to know as a litigator in any forum, before you start thinking about producing exculpatory evidence, as we were asked to do, or thinking about calling witnesses, is to sort of know what you have to defend against. In any forum, whether it is criminal or civil or legislative, the accused generally has that right.

Beyond that, as you all know—indeed, as Mr. Manager HYDE has indicated—we were operating on a very fast track. We asked, for example, when the issue arose as to whether or not the staff of the committee would take depositions, whether we would be entitled to be present, because we knew that none of them was on the calendar to be called in any open hearing, and we were denied that opportunity, theoretically because under the policies of the committee it was not appropriate for the President's counsel to be present at the only opportunity that certain witnesses would ever have to testify under oath.

It seems odd to me, when you come right down to it, that we should be accused of failing in our duty, with the burden on the House Judiciary Committee to make its case and our right to respond, that the House, having determined never to call a witness who knew anything firsthand, we should somehow be charged with having to fit into this discovery process. Discovery is very different, as all of you understand, from calling a witness—whoever it may be—in public, before the full Judiciary Committee, and having the opportunity to examine. We were excluded from whatever true discovery process might have been involved, and left only with this notion that, in the absence of any specific charges, we were to call witnesses to defend ourselves. I suggest to you that in any setting that we are used to, whether those of you who are litigators or those of you who are simple observers of the justice system, that is a very long process, indeed.

The CHIEF JUSTICE. This question is from Senator NICKLES to the House managers:

> Which of the President's statements not already discussed today do you believe to be of particular importance to the perjury charge?

Mr. Manager ROGAN. Thank you, Mr. Chief Justice. I thank the Senator for the question. I will keep one eye on the clock and stay within the 5-minute rule, so obviously I won't be able to give a comprehensive list of that which we submit to the Senate is perjurious. Let me try to get through at least one or two.

One example that I invite the Senate's attention to is the answers the President gave in the grand jury about his attorney using Monica Lewinsky's false affidavit. Bear in mind, again, the predicate facts for this. Judge Susan Webber Wright, in the deposition, had ordered the President to answer questions relating to whether he ever had sexual relationships with subordinate female employees in the workplace as Governor or as President, because that is fair game in any sexual harassment suit. Victims of harassment in the workplace are entitled to discover that information.

The President was able to get Monica Lewinsky to file a false affidavit in the Jones deposition. And when that affidavit was in hand and filed, as soon as the attorney for Paula Jones asked the first question about Monica Lewinsky, the President's attorney, Mr. Bennett, put forth that affidavit and objected to the attorneys even asking the question. He said, "There is no good-faith belief that this question should be asked because of the affidavit." And the President did absolutely nothing to correct the record.

When this came up in the grand jury, the President was asked about the affidavit and the statement that Mr. Bennett made to Judge Wright that "there was no sex of any kind, in any manner, shape or form." And the attorney, Mr. Bittman, at the grand jury, referred to that and said to the President, "That statement is a completely false statement," and asked the President to explain. This was the President's answer:

> It depends on what the meaning of the word "is" is. If the—if he—if "is" means is and never has been, that is not—that is one thing. If it means there is none, that was a completely true statement.

Then the President went on to say:

> I was not paying a great deal of attention to this exchange. I was focusing on my own testimony.

Now, rather than simply give a truthful and complete answer to the grand jury in their criminal investigation, the President gave a bifurcated answer that essentially invited the grand jury to accept one of two explanations.

Explanation No. 1: I wasn't paying attention to my attorney when he said that. I was busy thinking of other things.

Or, if you don't like that explanation: I was paying such specific attention to what my attorney was saying that I focused on the tense of what the word "is" meant—as if to suggest when Mr. Bennett said that there is no sex of any kind, he meant there was no sex that day because he was there being deposed before Judge Wright. Under either scenario, the President absolutely failed in his obligation to provide the grand jury conducting a criminal investigation into possible obstruction in the Paula Jones case—he failed in his obligation to tell the truth, the whole truth, and nothing but the truth.

You have seen the evidence just from the initial presentation. No. 1, when the President said he wasn't paying attention, that was negated by watching the videotape. The President was paying very close attention. Why was he paying such close attention? Because the fate of his Presidency hung on the answer to that question. This is the most important question in the President's political life. Is he going to have to disclose information that he thought would help destroy his Presidency?

You don't even have to accept the representation from the videotape to know the President testified falsely, because Mr. Bennett did us the favor of not asking us simply to rely on watching the President pay attention to the testimony. Mr. Bennett then read the President the portion of Ms. Lewinsky's affidavit in which she denied having a sexual relationship with the President, and he asked the President if Ms. Lewinsky's statement was true and accurate. The President said, "That is absolutely true."

Now, on August 6, Monica Lewinsky, incidentally, testified before the grand jury, and she didn't play these games with the grand jury, like "it all depends what 'is' means," or "I wasn't paying attention." She was asked a straightforward question:

> Paragraph 8 of the affidavit says, "I have never had a sexual relationship with the President." Is that true?

Answer by Monica Lewinsky:

> No.

Mr. Chief Justice, I see my time has expired. I will be happy to invite additional questions relating to additional specific examples.

The CHIEF JUSTICE. This is to the President's counsel from Senator SCHUMER and Senator KERREY of Nebraska:

> Isn't it true that the alleged perjurious statements have changed in number and substance since the OIC first delivered its referral to the House, and that the referral, Mr. Schippers' presentation before the House, the majority report, the trial brief, and the managers' statements before this body contain different allegations of what constitutes the alleged perjurious statements?

Mr. Counsel CRAIG. Thank you, Mr. Chief Justice. The answer to that question is, yes. They were changing right up until the time we met, the very first day of this trial when Mr. Manager ROGAN made his presentation. What he said when he described perjurious statements alleged against the President was different from what was appearing in the trial brief before. And that was the end of a long period of time where every time we heard what the allegations were, at least when it came to the issue of perjury, they changed.

There were allegations added; there were allegations subtracted. Two of the allegations that Mr. Schippers presented when he made his statement to the Judiciary Committee were withdrawn. So it was a process where we never had a chance to sit down, as you should in a very serious and fair and evenhanded exercise, and focus on what precisely it was that the President said in the grand jury that was perjurious.

Now, as to the specifics of the allegation that we have been discussing just now, when I first opened this discussion, I said it is very important to look at the record. Do not allow anyone to misrepresent the record because you are setting up the President's statement and saying that is perjurious, when the President's statement may well be something very different in the record.

Now, when Mr. ROGAN first made his argument on this issue, he misrepresented the record as to what the President said in this case. I tried to correct him about what the President actually said. He never claimed, at the moment these questions were being asked back and forth, that he thought about the current tense. Even as I was speaking, Mr. ROGAN was out talking to the television cameras, saying precisely the same thing. Now we have this same misrepresentation the third time.

I will say it one more time. He answered the question. He wasn't focusing on it. He answered that four times the same way. It was not a bifurcated answer; it was one answer. He was not paying attention at that particular moment. It moved very quickly; the moment was passed and they were into the judge talking and debating with the lawyers. That was his answer. There was no other answer.

Then, at the grand jury some 7 months later, he was read that statement by the special prosecutor. The question was, "And this statement was false, isn't that true?" The answer the President gave was that, well, in fact, it depends on the meaning of the word "is."

He didn't claim that that was what he was thinking at the time in the Jones deposition. He said very clearly, "I never even focused on that issue until I read it in this transcript in preparation for this testimony." It is on page 512, Mr. ROGAN. "I never focused on that issue until I read it in this transcript in preparation for this testimony." There was not a bifurcated answer. He answered directly. He wasn't focusing on it.

That is a problem we have had throughout this case when it comes to perjury the allegation. It was a problem we had with the earlier one. If you don't have the specific statement quoted, it is impossible to defend it. It is unfair.

Thank you, very much.

The CHIEF JUSTICE. This question from Senator LOTT to the House managers:

> Do you wish to respond to the answers just given by the President's counsel?

Mr. Counsel ROGAN. Mr. Chief Justice, I am not sure if I wish to respond or I feel the need to respond. But in either event I will take advantage of the opportunity. I thank the Senator for posing the question.

Try as they might, the facts are clear. The President, in his August deposition, attempted to justify away, attempted to explain away his perjurious conduct on January 17 when he was deposed. And I am not going to stand and quibble with Mr. Craig over this beyond what was already noted.

What I prefer to respond to is the bigger question that the White House attorneys have raised on a number of occasions—the idea that the President has been treated unfairly because he hasn't had sufficient notice as to what the allegations are against him.

Contemplate that for just one moment. Because, were that to be true, the President of the United States would have to be not a human. He would be an ostrich with his neck so far down in the sand—that which every schoolchild now in America knows, that which every person in America with a television or a radio or Internet access knows, and is obvious to everybody which they claim is not obvious to the President.

When the President of the United States testified at the deposition and before the grand jury—that brought us into late August of 1998, about a month after that—the Office of Independent Counsel filed a report. The binder was about 445 pages. The written document was a little more than 200 pages. But within the four corners of that report are all of the allegations, are all of the facts, and all of the circumstances that were forwarded to the House of Representatives for review. The House Judiciary Committee, specifically at the request of the White House and at the request of our Democrat caucus, did not go beyond the four corners of Judge Starr's report. Not only did the President have the benefit of Judge Starr's report, he also has the benefit of the written report from the House Judiciary Committee—same facts, same circumstances, nothing changed.

And, by the time we came here to the Senate to try this case, the President had the benefit of the resolution passed by this body that said at the initial presentations "we will not go beyond the record already established"—the record that was established in the Office of Independent Counsel report, in the committee's report, and in our hearings. And for a party to be aggrieved, as the White House counsel suggests, to have been given no notice, it is amazing to me how within minutes of Judge Starr's report being filed they had already filed a response. And I believe there were two supplemental responses within 48 or 72 hours. They have always beaten us to the punch on the response. They have an army of lawyers here able to stand up on a moment's notice and respond. And I just do not understand how they can make the case fairly that this is all now a product of a surprise; that they have not been given a proper opportunity to review the facts. They have seen these facts since Judge Starr submitted his report to Congress some 5 months ago. The facts haven't changed. The circumstances haven't changed. The quotations haven't changed. The transcripts haven't changed. Nothing has changed except their attempt to wiggle out from under the truth.

The CHIEF JUSTICE. This question is from Senators BOXER, SCHUMER and KOHL to the President's counsel:

> To the best of your knowledge, has the United States Department of Justice ever brought a perjury prosecution where the alleged perjury was inferred from the direction in which the defendant was looking?

Mr. Counsel RUFF. Mr. Chief Justice, the answer is, not to my knowledge. I will not go further than that because somebody in the army of people on the other side might dodge one up, but I doubt it very much.

I think, if I may impose on the kindness of the authors of that last question, I will take just a moment to comment briefly on Mr. Manager ROGAN's rejoinder to our response to whatever—particularly because Mr. Manager ROGAN has been a judge, prosecutor, and others have as well, it does seem mildly odd to me that the answer to the question your charges aren't known or are vague is, look at that pile. You will find them right in there. You fellows, you guys did a good job responding to what you could. So you must be perfectly well prepared to defend against whatever charges we bring. I don't think there is a judge anywhere in the United States, from the highest court or the lowest court, who would accept either explanation from a prosecutor.

The CHIEF JUSTICE. This question is directed to the House managers by Senators HATCH and BURNS:

> The President's lawyers cite in their brief Professor Michael Gerhardt for the proposition that for an act to be impeachable there must be a nexus between the misconduct of an impeachable official and the latter's official duties. But isn't it true that

> Professor Gerhardt also stated that impeachment may lie for conduct unrelated to official duties if such conduct is outrageous and harms the reputation of the office?

And this citation is to the testimony of Mr. Gerhardt.

> Would the House managers care to respond to this?

Mr. Manager CANADY. Mr. Chief Justice, Members of the Senate, I do appreciate the opportunity to respond to this point. I think this is a very important point.

I have a great deal of respect for Professor Gerhardt. He has said a number of different things on this subject. But the point in the question is directly on point.

I would also like to quote something else that Professor Gerhardt has said that I made reference to without specifically naming him as the source in this statement which I gave to the Senate on Saturday.

He said in a Law Review article, which he wrote a few years back:

> There are certain statutory crimes that if committed by public officials reflect such lapses of judgments with such disregard for the welfare of the state, and such lack of respect for the law and the office held that the occupants may be impeached and removed for lacking the minimal level of integrity and judgment sufficient to discharge the responsibilities of office.

I believe that what Professor Gerhardt makes reference to there is exactly what we have before the Senate in this case. What we have before the Senate in this case is a case where the President of the United States has engaged in a course of conduct involving violations of the criminal law. By doing so, he has evidenced a lack of respect for the law, that demonstrates a lack of the minimal level of integrity that we are entitled to expect of the Chief Executive of the United States, of the person who, under our system, is given the preeminent responsibility to take care that the laws will be faithfully executed.

The CHIEF JUSTICE. This question is from Senator DODD to the counsel for the President:

> Given the election of a President of the United States is the most important and solemn political act in which we as citizens engage, how much weight should the Senate give to the fact that conviction and removal by the Senate of the President would undo that decision?

Mr. Counsel RUFF. That question, of course, goes right to the heart of what the framers were thinking, and the standards that I suggest every sensible analyst of this problem has arrived at, whether they might be called supporters or opponents of the President. There is one critical issue that everyone has to address, which is that removal and undoing the will of the people.

Mr. Manager GRAHAM acknowledged that that's what we were all about here, whether we should undo an election. But if you go back to the very basic debates of the framers in 1787, and you recall both Mr. Manager CANADY and I talked about the moment in time in which it was suggested by Mr. Mason that perhaps the scope of the standard for impeachment could be broadened, and the response made then and clearly the principle underlying everything that the framers spoke about in 1787 was: We cure almost all our problems with an elected official through the electoral process.

And even if you look at what President Ford had to say 29 years ago on the subject, which I also cited to you as he spoke about the difference between judges and Presidents, he said for the Senate to remove—the House to impeach and the Senate to remove the President or Vice President as opposed to a judge in midterm would require proof of the most serious offenses, and we know that those most serious offenses, the only ones the framers contemplated as a basis for overturning the will of the people, were those that, as the minority said in 1974 in its report on the subject, were a danger to the state—a danger to the state. That is all that can justify overturning the voice of the people.

The CHIEF JUSTICE. This question is from Senator LOTT. It is addressed to the House managers:

> Didn't the framers of the Constitution understand in 1787 that the conviction and removal from office of a President would, under the system they devised, reverse the result of a national election by elevating, not a President's Vice Presidential running mate, as we would do today, but the person who had received the second highest number of electoral votes?

Mr. Manager HYDE. Mr. Chief Justice, the statement has been made with some fervor that if the President were removed upon a finding of conviction of the articles or an article of impeachment, it would reverse a national election. I just respectfully say that is not true. The election is provided for in the Constitution and so is impeachment. They are processes of equal constitutional validity. And should the Senate remove the President, Bob Dole will not become President, Jack Kemp will not become Vice President, but Mr. GORE will move up to be President, and the same party, the same programs, I dare say, will continue. It will not reverse an election; it will fulfill a constitutional process that our Founding Fathers were wise enough to provide for.

The CHIEF JUSTICE. Senator EDWARDS asks the House managers:

> Are there any statements contained in the exhibits used during the managers' presentations or omissions from those exhibits that you believe, in the interest of fairness or justice, should be corrected at this time? If so, please do so now.

Mr. Manager BUYER. Mr. Chief Justice, with regard to our own exhibits?

The CHIEF JUSTICE. Perhaps I should ask Senator EDWARDS.

Mr. EDWARDS. Yes, Mr. Chief Justice, with regard to their exhibits.

Mr. Manager HUTCHINSON. Mr. Chief Justice, I would be happy to take advantage of the 5 minutes, but I have talked to the other managers and we are not aware of any corrections that need to be made on any of our exhibits we have offered to the Senate.

Mr. KERRY addressed the Chair.

The CHIEF JUSTICE. The Chair recognizes the Senator from Massachusetts.

Mr. KERRY. I would simply ask whether or not that answer was in fact fully responsive to the question. I believe the question also asked whether or not there were any omissions.

The CHIEF JUSTICE. The Parliamentarian advises me this is a nondebatable period and the inquiry is out of order, and I so rule.

This is from Senator ROBERTS. It is directed to the House managers.

> Given the fact that the White House characterizes the assistance that Monica Lewinsky received as "routine," does the record reflect that any other White House interns other than Monica Lewinsky received the same level of job assistance from Vernon Jordan, John Podesta, Betty Currie, and then-Ambassador Richardson?

Mr. Manager McCOLLUM. Mr. Chief Justice, if I might, as far as we know as House managers, in the record the only comments about assisting anybody else other than Monica Lewinsky, of any nature, were made in testimony by Vernon Jordan. He did assist other people. But I don't believe there is anything, to the best of our knowledge and recollection—of course, we have a lot of paperwork here—that he referred to assisting another intern or anyone in a like position. And certainly there was no indication that the kind of intensity of that assistance occurred in the kind of manner in which the proceedings did with developing her job opportunities, that is, somebody in this direct involvement with the President, or certainly nobody with a close relationship and interest on the part of the President. There certainly was nothing in the record to show that, and that is, of course, central to this entire case as far as the job search part of this obstruction of justice is concerned.

Thank you.

Mr. ROBERTS addressed the Chair.

The CHIEF JUSTICE. The Chair recognizes the Senator from Kansas.

Mr. ROBERTS. I had directed that question, sir, to the White House counsel. It was my intent to direct it to White House counsel. I do not know what the proper procedure would be at this time.

The CHIEF JUSTICE. Is there any objection to the White House counsel answering the question at this time?

Without objection, the White House counsel may answer.

Mr. Counsel RUFF. Thank you, Mr. Chief Justice. This may be a moment worth noting in the proceedings because in essence I think we are in agreement with Mr. Manager McCOLLUM.

I would perhaps only do this, and that is, to note with some greater emphasis Mr. Jordan's testimony, which we will be glad to highlight if we have another opportunity here, that indeed he has regularly and frequently assisted young people, and not-so-young people, in finding jobs.

Again, I couldn't tell you whether any of them had been an intern at any time. I would only note that, of course, Ms. Lewinsky was not an intern at the time Mr. Jordan was helping her, but rather was an employee of the Pentagon.

But beyond that, and perhaps with somewhat greater emphasis on Mr. Jordan's emphasis on behalf of young people in the city, I am in essential agreement with Manager McCOLLUM.

The CHIEF JUSTICE. This is a question from Senators DODD and LEVIN to the House managers:

On page 11 of House committee report accompanying H. Res. 611, the report states that Judge Susan Webber Wright issued her order "on the morning of December 11th." Will the managers now acknowledge that the report was factually incorrect? Yes or no?

Mr. Manager HUTCHINSON. Thank you, Mr. Chief Justice. If I look back at the facts of this—of course, I have explained earlier today that the action on the 11th was initiated or triggered by the witness list that came in on December 5, that the President knew about it at the latest on December 6.

On the 11th, Judge Wright entered an order in that case which allowed the Jones lawyers an opportunity to ask questions about the prior relationships with other Federal employees or State employees.

Mr. DODD addressed the Chair.

The CHIEF JUSTICE. The Chair recognizes the Senator from Connecticut.

Mr. DODD. Mr. Chief Justice, as one of the authors of the question, a yes or no answer was requested and I object to the answer.

The CHIEF JUSTICE. The Chair has not tried to police the responsiveness of the answers to the questions so I am going to overrule that objection.

Mr. Manager HUTCHINSON. I am not trying to be evasive at all to the Senator, but I did want to lay the groundwork for this and also to get my thoughts so that I would be as accurate as possible.

The order that Judge Wright entered was on December 11. I do not know the precise time. I believe it was in the afternoon that it was entered, and it was followed by the telephone call with the participants. So I believe that it was entered in the afternoon of the 11th, and not in the morning of the 11th.

And, of course, that was not in my presentation. My presentation referred to the order being entered on December 11, and that the action on the 11th, of course, was triggered by the witness list on December 5.

I think that completely answers that question. If there is some other—I would be happy to respond to anything more specific on that issue.

The CHIEF JUSTICE. This question is directed to the House managers from Senators DOMENICI, FRIST, McCAIN and WARNER.

What is the historical significance and legal import of taking an oath for performance in public office? What is the historical significance and legal import of taking an oath to tell the truth in a legal proceeding? Please discuss whether oath-taking in such circumstances is a public matter.

Mr. Manager HYDE. Mr. Chief Justice, Members of the Senate, the taking of an oath is a formalization, a solemnization of truth. You call upon God to witness to the truth of what you are saying. In the long march of civilization, the oath has taken the place of trial by fire, trial by combat, trial by ordeal. It says, in the most sober way: You can trust me. You can believe in me. It is verbal honesty. Our legal system depends on it and our justice system depends on it. The oath underscores our humanity. The oath is an aspect of our sacred honor.

The CHIEF JUSTICE. This is from Senator KERRY of Massachusetts to the counsel for the President:

Is it fair to say that the articles and manager presentations stress the Jones perjury allegations rejected by the House, because they cannot credibly, on the law, satisfy the elements and argue perjury in the grand jury investigation?

Mr. Manager RUFF. Mr. Chief Justice, I am a little bit troubled at answering that question, not because I don't feel strongly about what the answer is but I do not want to suggest in any way that the motivation of the managers is less than professional and appropriate. But I do think that, indeed, they know, as they think through the proof that they have or that they even might ever contemplate, that the President of the United States, when he began his grand jury testimony by making the most painful admission a human being could ever make, and thereafter did his best—albeit in the face of tough and probing and repetitive questioning for 4 hours—did his best to tell the truth.

That they had a very difficult, indeed virtually impossible, task to persuade any dispassionate trier of fact and law that he had intentionally given false testimony, and you can see that evidenced, I think most clearly, if you look at some of the first allegations made as to what constitutes perjury—things like the use of the words "on certain occasions" or "occasionally" to describe a battle over whether 11 or 20 or 17 fit within that description. It does seem fair to say that they would not be fighting those battles in this Chamber if they had any real confidence in their cause on article I, and thus they do seek, for whatever tactical or other purpose, to try to bring in those things which so many of their colleagues rejected out of hand in the House of Representatives.

The CHIEF JUSTICE. This question is directed to the House managers from Senators HATCH, THOMPSON and DEWINE:

In her presentation to the Senate, Ms. Mills emphasized that Ms. Lewinsky testified on ten different times about the subject of gifts. Did she ever testify that the President told her that she must turn over the gifts because that is what the law requires?

Mr. Manager McCOLLUM. Mr. Chief Justice, in response to that question the answer is no, she did not. As a matter of fact, that was and is the central point on the part of the gift question. At no time, she says, did the President instruct her to turn those gifts over. I think that is a telling point. In fact, it is a telling point throughout the entire process of the scheme and all the things that happened and why you have to follow, in my judgment, Senators, the issue of this whole process through the scheme that was devised at the beginning, all the way to the end.

The President was going to ultimately lie to conceal from that case, that court in the Jones case, the truth of his relationship with Monica Lewinsky and, therefore, he had to set it up for the affidavit, the gifts, et cetera. At no point in time, she says in her testimony, did he ever ask her to come clean. Until the time the affidavit was discussed, on the night of December 17, he never suggested she tell the truth there. If you remember we put that up here several times to you. Even though he may not have directly told her to lie, he certainly gave her every indication, she said, from the standpoint of the background that they had had before and what he said that night about the cover stories.

And with regard to the gifts, the same thing is true. She gave him an opportunity on the day of December 28. Whether there are 10 statements or however many there might be—and they say there are 10; I trust the judgment of the White House counsel—there were 10 different statements, the most significant of which, of course, is the grand jury testimony she gave on the subject of what happened that day when she discussed the gifts with the President because that is when her recollection had been best refreshed. She had been over it a lot of times. She had had much preparation for that, and I submit to you that barring bringing her in, which we of course would suggest you do, and let us ask her to confirm all of this again, you must assume the logical thing to do is to assume the grand jury testimony, the most perfected testimony you have, is the most accurate and most reliable, and on that occasion particularly she emphasizes the fact that with regard to the gifts there certainly was no request by the President that she reveal those gifts.

Now, of course he says he did. He says he did later. But that is absolutely contradicted by her testimony.

The CHIEF JUSTICE. Senator REID of Nevada sends this question for White House counsel:

> Would you please comment on any of the legal or factual assertions made by the managers in their response to the previous question?

Ms. Counsel MILLS. There is, obviously, a conflict in the testimony between the President, who said he directed Ms. Lewinsky to turn over whatever she had, and Ms. Lewinsky's statements. I would just like to read to you, given the House managers' reference that we must credit her grand jury testimony, the version of her grand jury testimony, which you all will no doubt remember it as one of the ones I read to you that was never presented by the House managers, and that is on August 20, 1998, after the President had testified:

> It was December 28th. I was there to get my Christmas gifts from him, and we spent about 5 minutes or so, not very long, talking about the case. And I said, "Well, do you think"—and at one point I said, "Well, do you think I should?" And I don't think I said, "Get rid of, but do you think I should put away, give to Betty or someone the gifts"—and he—I don't remember his response. I think it was something like "I don't know" or hmm or there was really no response.

On that same day when she was asked that same question, if it is her grand jury testimony that is to be addressed, she also said:

> A JUROR. Now, did you bring up Betty's name or did the President bring up Betty's name?
>
> The WITNESS. I think I brought it up. The President wouldn't have brought up Betty's name because he didn't—he didn't really discuss it.

All of those are in her grand jury testimony. So her grand jury testimony is the testimony that states he might not have given any response. So, to the extent the House managers' theory is that "Let me think about it" leads to obstruction of justice, her grand jury testimony does not state that.

The CHIEF JUSTICE. Senators SPECTER, HELMS, ABRAHAM, ASHCROFT, and STEVENS direct this question to the President's counsel:

> President Clinton testified before the grand jury that he was merely trying to "refresh" his memory when he made these statements to Betty Currie. How can someone "refresh" their recollection by making statements they know are false?

Ms. Counsel MILLS. I think one of the things I tried to address in addressing what the President's testimony was with respect to his conversation with Ms. Currie was obviously he was understandably concerned about the media attention that he knew was impending. And in particular, as he walked through the questions, he was thinking about his own thoughts and seeking, as I think I talked about, concurrence or input or some type of reaction from Ms. Currie.

I think in making those statements, he was asking questions to see what her understanding was based on some of the questions that had been posed to him by the Jones lawyers, because some of them were so off base. And so he was asking from Ms. Currie essentially what her perception was, what her thoughts were.

I think as you walk through each one of those questions, he was expressing what his own thoughts and feelings were with regard to this and was seeking some concurrence or affirmation from her. I think he was agitated. I think he was concerned. He knew what was going to happen, and I think that is why he posed the question in the way that he did.

The CHIEF JUSTICE. A question from Senator BAYH to counsel for the President:

> Can you comment on the importance of "proportionality" to the rule of law?

Mr. Counsel RUFF. How much time do we have? Thank you, Senator.

I think proportionality, in all its many guises, is an issue that has given us some pause, going well back into the investigative phase of this matter, and I think many who have watched and who have made their lives and careers as professional prosecutors, indeed many who have been criminal defense lawyers or just plain sensible citizens watching, have asked whether the resources and the energy and the time devoted to this matter and the manner in which it has been treated at every stage before it ever got to the House of Representatives does, in fact, reflect an appropriate assessment of the conduct being investigated and the seriousness of the conduct, which is not ever to suggest that we condone perjury or obstruction of justice.

We all recognize, if those offenses have been committed, they are worth pursuing. But one only need look at the testimony and the professional prosecutors who testified before the Judiciary Committee to get a sense of what the world of professional prosecutors would do faced with these kinds of allegations in this kind of setting, and that really is the key: How many prosecutors would ever reach into the middle of an ongoing civil litigation and bring these kinds of charges?

The proportionality, obviously, has other implications and certainly goes right to the heart of the role played by this body. That is, what is the proportional response to whatever you think of the President as a man, whatever you think of his conduct. Even if you should conclude—although we do not believe you should—that he violated the law in some respect, what is the constitutionally proportional response to your judgment. And there you go right back to the essence of what the framers were talking about, which is responding with the ultimate sanction only when the ultimate problem is posed to you.

I suggest, as I have on too many occasions, I fear, that if that is the proportionality question you are asking—and all must at some point ask that question—the answer has to be clear, that no one ever thought in 1787 and, I suggest to you, in the intervening 212 years that it would be a proportional response to the conduct alleged here to remove a President.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. LOTT. Mr. Chief Justice, I believe we have reached a point where we can take a break. I think we have had responses to approximately 50 questions today. Now we will have a chance to assess, on all sides, what additional questions might be needed to be asked tomorrow. I remind my colleagues that we are scheduled to resume at 10 a.m. on Saturday.

NOTICE OF INTENT TO SUSPEND THE RULES OF THE SENATE BY SENATOR HUTCHISON, SENATOR SPECTER, SENATOR LIEBERMAN, SENATOR HAGEL, SENATOR COLLINS, AND SENATOR SNOWE

In accordance with Rule V of the Standing Rules of the Senate, I (for myself and for Mr. SPECTER, Mr. LIEBERMAN, Mr. HAGEL, Ms. COLLINS, and Ms. SNOWE) hereby give notice in writing that it is my intention to move to suspend the following portions of the *Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials* for the final deliberation on the articles of impeachment of the trial of President William Jefferson Clinton:

(1) The following portion of Rule XX: ", unless the Senate shall direct the doors to be closed while deliberating upon its decisions. A motion to close the doors may be acted upon without objection, or, if objection is heard, the motion shall be voted on without debate by the yeas and nays, which shall be entered on the Record"; and

(2) In Rule XXIV, the phrases "without debate", "except when the doors shall be closed for deliberation, and in that case" and ", to be had without debate".

ADJOURNMENT

Mr. LOTT. If there is nothing further, I move we adjourn, Mr. Chief Justice.

The motion was agreed to; and at 5:49 p.m., the Senate, sitting as a Court of Impeachment, adjourned until Saturday, January 23, 1999, at 10 a.m.

LEGISLATIVE SESSION

The PRESIDING OFFICER (Mr. ENZI). The Chair recognizes the majority leader.

MEASURES PLACED ON THE CALENDAR—S. 254, S. 269, S. 270, AND S. 271

Mr. LOTT. Mr. President, there are four bills at the desk that are due for their second reading. Therefore, I ask unanimous consent that the bills be considered read a second time and placed on the Calendar, and that the reading be shown separately in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bills placed on the Calendar are as follows:

S. 254, a bill to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes.

S. 269, a bill to state the policy of the United States regarding the deployment of a missile defense system capable of defending the territory of the United States against limited ballistic missile attack.

S. 270, a bill to improve pay and retirement equity for members of the Armed Forces, and for other purposes.

S. 271, a bill to provide for education flexibility partnerships.

UNANIMOUS-CONSENT AGREEMENT—NOMINATIONS OF INSPECTORS GENERAL

Mr. LOTT. Mr. President, I ask unanimous consent that the nominations to the Office of Inspector General, excepting the Office of Inspector of the Central Intelligence Agency, be referred in each case to the committee having substantive jurisdiction over the Department, Agency, or entity, and if and when reported in each case, then to the Committee on Governmental Affairs for not to exceed 20 days. I finally ask unanimous consent that if not reported after that 20-day period, the nomination be automatically discharged and placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time and placed on the calendar:

S. 254. A bill to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes.

S. 269. A bill to state the policy of the United States regarding the deployment of a missile defense system capable of defending the territory of the United States against limited ballistic missile attack.

S. 270. A bill to improve pay and retirement equity for members of the Armed Forces, and for other purposes.

S. 271. A bill to provide for education flexibility partnerships.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-857. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Increase In Cash-Out Limit Under Sections 411(a)(7), 411(a)(11), and 417(e)(1) for Qualified Retirement Plans" (RIN1545-AW58) received on December 18, 1998; to the Committee on Finance.

EC-858. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Exemption of Returns and Claims for Refund, Credit or Abatement; Determination of Correct Tax Liability" (Rev. Proc. 98-62) received on December 18, 1998; to the Committee on Finance.

EC-859. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Examination of Returns and Claims for Refund, Credit or Abatement; Determination of Correct Tax Liability" (Rev. Proc. 98-64) received on December 18, 1998; to the Committee on Finance.

EC-860. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rulings and Determination Letters" (Rev. Proc. 99-3) received on December 21, 1998; to the Committee on Finance.

EC-861. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Modification of Rev. Proc. 65-17, 1965-1 C.B. 833" (Announcement 99-1) received on December 21, 1998; to the Committee on Finance.

EC-862. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property" (Rev. Rul. 99-2) received on December 21, 1998; to the Committee on Finance.

EC-863. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Optional Standard Mileage Rates for Employees, Self-employed Individuals, and Other Taxpayers Used in Computing Deductible Costs" (Announcement 99-7) received on December 29, 1998; to the Committee on Finance.

EC-864. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Examination of Returns and Claims for Refund, Credit, or Abatement; Determination of Correct Tax Liability" (Rev. Proc. 99-7) received on December 29, 1998; to the Committee on Finance.

EC-865. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Eligible Rollover Distributions" (Notice 99-5) received on December 28, 1998; to the Committee on Finance.

EC-866. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Alternative Methods for Reporting 1998 and 1999 IRA Recharacterizations and Reconversions" (Announcement 99-5) received on December 28, 1998; to the Committee on Finance.

EC-867. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Reduction in Certain Deductions of Mutual Life Insurance Companies" (Rev. Rul. 99-3) received on December 22, 1998; to the Committee on Finance.

EC-868. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Penalty and Interest Study" (Notice 99-4) received on December 22, 1998; to the Committee on Finance.

EC-869. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plan; Louisiana; Nonattainment Major Stationary Source Revision" (FRL6207-8) received on December 29, 1998; to the Committee on Environment and Public Works.

EC-870. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Antelope Valley Air Pollution Control District" (FRL6214-1) received on December 29, 1998; to the Committee on Environment and Public Works.

EC-871. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Kentucky; Approval of Revisions to Basic Motor Vehicle Inspection and Maintenance Program" (FRL6199-1) received on December 29, 1998; to the Committee on Environment and Public Works.

EC-872. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "1998 Reporting Notice and Amendment; Partial Updating of TSCA Inventory Data Base, Production and Site Reports" (FRL6052-7) received on December 29, 1998; to the Committee on Environment and Public Works.

EC-873. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Antelope Valley Air Pollution Control District" (FRL6211-2) received on December 29, 1998; to the Committee on Environment and Public Works.

EC-874. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Mojave Desert Air Quality Management District" (FRL6211-1) received on December 29, 1998; to the Committee on Environment and Public Works.

EC-875. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "California State

Implementation Plan Revision; Interim Final Determination That State Has Corrected Deficiencies" (FRL6211–9) received on December 29, 1998; to the Committee on Environment and Public Work.

EC–876. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Dicamba; Pesticide Tolerance" (FRL6049–2) received on December 29, 1998; to the Committee on Environment and Public Works.

EC–877. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Copper-ethylenediamine complex; Exemption from the Requirement of a Tolerance" (FRL6052–5) received on December 29, 1998; to the Committee on Environment and Public Works.

EC–878. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Announcement of Competition for EPA's Brownfields Job Training and Development Demonstration Pilots" (FRL6208–1) received on December 22, 1998; to the Committee on Environment and Public Works.

EC–879. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Tennessee: Approval of Revisions to the Nashville/Davidson County Portion of the Tennessee SIP" (FRL6208–5) received on December 22, 1998; to the Committee on Environment and Public Works.

EC–880. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Monterey Bay Unified Air Pollution Control District" (FRL6203–7) received on December 22, 1998; to the Committee on Environment an Public Works.

EC–881. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "OMB Approval Numbers Under the Paperwork Reduction Act and Technical Correction to Consumer Confidence Report Rule" (FRL6210–7) received on December 22, 1998; to the Committee on Environment and Public Works.

EC–882. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of North Carolina: Approval of Miscellaneous Revisions to the Forsyth County Air Quality Control Ordinance and Technical Code" (FRL6207–3) received on December 22, 1998; to the Committee on Environment and Public Works.

EC–883. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting pursuant to law, the report of a rule entitled "Correction and Clarification to the Finding of Significant Contribution and Rulemaking for Purposes of Reducing Regional Transport of Ozone" (FRL6198–1) received on December 21, 1998; to the Committee on Environment and Public Works.

EC–884. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Source Categories: Pulp and Paper Production" (FRL6210–5) received on December 21, 1998; to the Committee on Environment and Public Works.

EC–885. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Wood Furniture Manufacturing Operations" (FRL6210–3) received on December 21, 1998; to the Committee on Environment and Public Works.

EC–886. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting pursuant to law, the report of a rule entitled "Universal Waste Rule (Hazardous Waste Management Systems; Modification of the Hazardous Waste Recycling Regulatory Program)" (FRL6207–7) received on December 18, 1998; to the Committee on Environment and Public Works.

EC–887. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting pursuant to law, the report of a rule entitled "Procedures Applicable to Proceedings for the Issuance of Licenses for the Receipt of High-Level Radioactive Waste at a Geographic Repository" (RIN3150–AF88) received on December 29, 1998; to the Committee on Environment and Public Works.

EC–888. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting pursuant to law, the report of a rule entitled "Policy and Procedure for Enforcement Actions; Fuel Cycle Facilities Civil Penalties and Notices of Enforcement Discretion" (NUREG 1600) received on December 29, 1998; to the Committee on Environment and Public Works.

EC–889. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Random Drug and Alcohol Testing: Determination of 1999 Minimum Testing Rate" (RIN21230–AB31) received on December 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–890. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "'Maintenance' Under Definition of Safety-Sensitive Functions in Drug and Alcohol Rules" (RIN2132–AB61) received on December 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–891. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Annual Adjustment of Monetary Threshold for Reporting Rail Equipment Accidents/Incidents" (RIN2130–AB30) received on December 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–892. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Truck Size and Weight; Technical Corrections" (RIN2125–AE47) received on December 21, 1998; to the Committee on Commerce, Science, and Transportation.

EC–893. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29417) received on December 21, 1998; to the Committee on Commerce, Science, and Transportation.

EC–894. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29416) received on December 21, 1998; to the Committee on Commerce, Science, and Transportation.

EC–895. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29404) received on December 21, 1998; to the Committee on Commerce, Science, and Transportation.

EC–896. A communication from the Director of the Office of Legislative and International Affairs, Federal Communications Commission, transmitting, pursuant to law, the Commission's report entitled "Status of Competition in the Markets for the Delivery of Video Programming"; to the Committee on Commerce, Science, and Transportation.

EC–897. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Guides for the Decorative Wall Paneling Industry" received on December 21, 1998; to the Committee on Commerce, Science, and Transportation.

EC–898. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Guides Against Deceptive Labeling and Advertising of Adhesive Compositions" received on December 21, 1998; to the Committee on Commerce, Science, and Transportation.

EC–899. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities" (Docket 94–149) received on December 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–900. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Restrictions on Over-the-Air Reception Devices; Television Broadcast Multichannel Multipoint Distribution and Direct Broadcast Satellite Services" (Docket 96–83) received on December 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–901. A communication from the Under Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, notice of foreign policy-based export controls relative to certain terrorist organizations; to the Committee on Banking, Housing, and Urban Affairs.

EC–902. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled

"Expansion of License Exception CIV Eligibility for 'Microprocessors' Controlled by Eccn 3A001" (RIN0694-AB83) received on December 22, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-903. A communication from the Acting Director of the Office of Federal Housing Enterprise Oversight, transmitting, pursuant to law, the report of a rule entitled "Releasing Information" (RIN2550-AA01) received on December 18, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-904. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Rent Control Preemption for Supportive Housing for the Elderly and Persons with Disabilities" received on December 15, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-905. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "Organization and Operations of Federal Credit Unions" received on December 28, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-906. A communication from the Regulatory Policy Official, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled "Privacy Act Regulations" (3095-AA66) received on December 22, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-907. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the Department's report entitled "Equity Sharing Under the Multifamily Assisted Housing Reform and Affordability Act of 1997"; to the Committee on Banking, Housing, and Urban Affairs.

EC-908. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Indirect Food Additives: Paper and Paperboard Components" (Docket 95F-0255) received on December 30, 1998; to the Committee on Health, Education, Labor, and Pensions.

EC-909. A communication from the Deputy Executive Director of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "Trading Hours" received on January 4, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-910. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Walnuts Grown in California; Increased Assessment Rate" (Docket FV99-984-1 FR) received on January 4, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-911. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Change in Disease Status of Liechtenstein Because of BSE" (Docket 98-119-1) received on December 30, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-912. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the Agency's report entitled "The Superfund Innovative Technology Evaluation Program: Annual Report to Congress FY 1997" received on January 4, 1998; to the Committee on Environment and Public Works.

EC-913. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper Bag Limit Reduction" (I.D. 122298A) received on January 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC-914. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Special Management Zones" (I.D. 061298A) received on January 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC-915. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries" (I.D. 101498B) received on January 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC-916. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Final 1999 Fishing Quotas for Atlantic Surf Clams, Ocean Quahogs, and Maine Mahogany Quahogs" (I.D. 100898A) received on January 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC-917. A communication from the Director of the National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the Service's Southeastern United States Shrimp Trawl Bycatch Program Report; to the Committee on Commerce, Science, and Transportation.

EC-918. A communication from the Acting Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Administrative Revisions to the NASA FAR Supplement, Mid-Range Procurement Procedures" received on January 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC-919. A communication from the Chairman of the Postal Rate Commission, transmitting, pursuant to law, the Commission's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC-920. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the Commission's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC-921. A communication from the President of the United States Institute of Peace, transmitting, pursuant to law, the Institute's consolidated annual report under the Inspector General Act and the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC-922. A communication from the Secretary of Energy, transmitting, pursuant to law, the Department's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC-923. A communication from the Secretary of Commerce, transmitting, pursuant to law, the Department's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC-924. A communication from the Interim District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Statutory Audit of Advisory Neighborhood Commission 2C for the Period October 1, 1995 through December 31, 1997"; to the Committee on Governmental Affairs.

EC-925. A communication from the Executive Director of the Committee for Purchase From People who are Blind or Severely Disabled, transmitting, pursuant to law, a list of additions to and deletions from the Committee's Procurement List dated December 22, 1998; to the Committee on Governmental Affairs.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. ROTH, from the Committee on Finance:

Susan G. Esserman, of Maryland, to be Deputy United States Trade Representative, with the rank of Ambassador.

Timothy F. Geithner, of New York, to be an Under Secretary of the Treasury.

Gary Gensler, of Maryland, to be an Under Secretary of the Treasury.

Edwin M. Truman, of Maryland, to be a Deputy Under Secretary of the Treasury.

David C. Williams, of Maryland, to be Inspector General for Tax Administration, Department of the Treasury. (New Position)

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 294. A bill to direct the Secretary of the Army to develop and implement a comprehensive program for fish screens and passage devices; to the Committee on Environment and Public Works.

By Mr. LUGAR:

S. 295. A bill to amend part S of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to permit the use of certain amounts for assistance to jail-based substance treatment programs, and for other purposes; to the Committee on the Judiciary.

By Mr. FRIST (for himself, Mr. ROCKEFELLER, Mr. DOMENICI, Mr. LIEBERMAN, Mr. GRAMM, Mr. BINGAMAN, Mr. BURNS, Mr. BREAUX, Mrs.

Hutchison, Mr. Cleland, Mr. Thompson, Mr. Kerry, Mr. DeWine, Mr. Kerrey, Mr. Abraham, Mr. Akaka, Mr. Allard, Mrs. Boxer, Mr. Roberts, and Mr. Robb):

S. 296. A bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SHELBY:

S. 297. A bill to amend title 37, United States Code, to authorize members of the uniformed services to participate in the Thrift Savings Plan, and for other purposes; to the Committee on Governmental Affairs.

S. 298. A bill to amend the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) to clarify that donations of hard and soft money by foreign nationals are prohibited; to the Committee on Rules and Administration.

By Mr. McCAIN (for himself, Mr. Inouye, and Mr. Conrad):

S. 299. A bill to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes; to the Committee on Indian Affairs.

By Mr. LOTT (for himself, Mr. Nickles, Ms. Collins, Mr. Frist, Mr. Gramm, Mr. Hagel, Mr. Jeffords, Mr. Roth, Mr. Santorum, Mr. Mack, Mr. Craig, Mr. Coverdell, Mr. McConnell, Mr. Abraham, Mr. Allard, Mr. Ashcroft, Mr. Bennett, Mr. Bond, Mr. Brownback, Mr. Bunning, Mr. Burns, Mr. Campbell, Mr. Cochran, Mr. DeWine, Mr. Domenici, Mr. Enzi, Mr. Gorton, Mr. Grams, Mr. Grassley, Mr. Gregg, Mr. Hatch, Mr. Helms, Mr. Hutchinson, Mrs. Hutchison, Mr. Inhofe, Mr. Lugar, Mr. McCain, Mr. Murkowski, Mr. Roberts, Mr. Sessions, Mr. Shelby, Mr. Smith of New Hampshire, Mr. Smith of Oregon, Ms. Snowe, Mr. Stevens, Mr. Thomas, Mr. Thompson, Mr. Thurmond, Mr. Voinovich, and Mr. Warner):

S. 300. A bill to improve access and choice of patients to quality, affordable health care; to the Committee on Finance.

By Mr. CAMPBELL:

S. 301. A bill to amend title 39, United States Code, relating to mailability, false representations, civil penalties, and for other purposes; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROBB (for himself and Mr. Campbell):

S. Res. 29. A resolution to designate the week of May 2, 1999, as "National Correctional Officers and Employees Week"; to the Committee on the Judiciary.

By Mr. DeWINE (for himself, Mr. Graham, Mr. Helms, and Mr. Coverdell):

S. Con. Res. 3. A concurrent resolution condemning the irregular interruption of the democratic political institutional process in Haiti; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN (for himself and Mr. Smith of Oregon):

S. 294. A bill to direct the Secretary of the Army to develop and implement a comprehensive program for fish screens and passage devices; to the Committee on Environment and Public Works.

WATER DIVERSION PROTECTION AND FISHERIES ENHANCEMENT PROGRAM

• Mr. WYDEN. Mr. President, the legislation I introduce today will help the people of the Pacific Northwest address one of the most important natural resource issues in the region: the restoration of our majestic salmon runs. This bill will lend a much-needed hand to Oregonians and other Northwesterners who have been working together to find common sense solutions to preserve this precious natural resource.

As many people know, any effort to recover these salmon runs must be both creative and comprehensive, due to the complex nature of the salmon life cycle. Salmon are hatched in fresh water, migrate down streams and rivers to the sea to grow and mature, and then return to the streams of their birth to spawn. This complex life cycle exposes the fish to many hazards which threaten their survival. If we are to achieve our goal of restoring salmon runs to healthy levels, we must identify and address the various causes of salmon mortality.

One of the hazards facing salmon and other fish is the diversion of water from streams and rivers to irrigate agricultural crops. Migrating juvenile fish, including endangered salmon and bull trout, are killed when they are diverted from rivers and streams along with water used for irrigation.

The common-sense solution to this pervasive problem is to safely screen the points of water diversion: to allow water through while keeping fish out. Despite existing State and Federal programs to assist with the installation of fish screens, unscreened diversions continue to be a significant problem for endangered fish in the Pacific Northwest.

My home state of Oregon has identified fish mortality caused by water diversions as a priority problem. One of Oregon's primary goals relating to salmon restoration is to encourage the installation of fish screens and passage devices for water diversions on streams and rivers. Oregon has developed a cooperative program to assist in screening smaller diversions used on family farms. However, the State cannot afford to provide similar assistance for larger sized diversions. That's where the Federal government can help.

This bill gives the U.S. Army Corps of Engineers new authority to help irrigators make their water systems safer for fish. Participation by irrigators in the program will be voluntary and will require a sharing of the cost.

I believe this legislation will be very effective because irrigators from Oregon and the other Northwest states have told me they want to make their water systems more fish-friendly, but they need help to do so. This bill will give them the help they need and will greatly benefit the current efforts of local irrigation districts and watershed councils to conserve and protect our fish runs.

I am pleased that this legislation is cosponsored by Senator Gordon Smith and has support from all the Northwest irrigation groups and literally dozens of Northwest and national conservation and sport fishing groups, including National Audubon Society, Natural Resources Defense Council, Oregon Trout, Trout Unlimited, American Rivers, Pacific Coast Federation of Fishermen's Associations, and Northwest Sportfishing Industries Association.

Despite our best efforts to restore these salmon runs, they continue to decline year after year. We need a fresh approach to this problem—one that involves the participation of the local folks who are affected by conservation efforts. This bill takes that approach.

Of course, a fish screen program alone is not the missing clue to solve our salmon problem. But this program, along with others like the Clean Water bill I introduced last session with Senator Burns are pieces of the complete puzzle.

Ultimately, it will take the integrated efforts of all interests in our region to recover our salmon successfully. State, Tribal and local governments, local watershed councils, private landowners and the Federal government will all need to work together. Initiatives like this fish screen bill will help forge the partnerships upon which successful salmon recovery will be based. I urge your support for this legislation, so that the people of the Pacific Northwest can continue their important work to restore this precious natural resource.•

By Mr. LUGAR:

S. 295. A bill to amend part S of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to permit the use of certain amounts for assistance to jail-based substance treatment programs, and for other purposes; to the Committee on the Judiciary.

JAIL-BASED SUBSTANCE ABUSE TREATMENT PROGRAM

• Mr. LUGAR. Mr. President, I rise today to offer legislation amending the Residential Substance Abuse Treatment program, known as R-SAT, to enable jurisdictions below the state level to realize greater benefits from the program. The R-SAT program allows the Attorney General to make grants for the establishment of treatment programs within local correctional facilities, but only a few jurisdictions have been able to take advantage of these grants.

The legislation I am offering today will solve this problem by establishing a separate Jail-Based Substance Abuse Treatment Program, or J-SAT. Under this new program, states will be explicitly authorized to devote up to ten percent of the funds they receive under R-SAT to qualifying J-SAT programs.

This legislation will provide matching funds to jail-based treatment programs that meet several criteria. First, the program must be at least three months in length. This is the minimum amount of time for a treatment program to have the desired effect. To qualify for funding, a program must also have been in existence for at least two years. This criterion is intended to ensure that jurisdictions which have already demonstrated a commitment to treatment programs at the local level receive first priority for funding. It also ensures that scarce treatment resources are allocated to programs with a demonstrable track record of success. The third criterion for programs seeking J-SAT funding is that the treatment regimen must include regular drug testing. This is necessary to ensure that some objective measure of the program's success is available. Grant recipients are also encouraged to provide the widest range of aftercare services possible, including job training, education and self-help programs. These steps are necessary to leverage the resources devoted to solving the problem of substance abuse, and to give individuals involved in treatment the best possible chance for successful rehabilitation.

I am offering this legislation because substance abuse and problems arising from it are putting a severe strain on the resources of local jurisdictions throughout the nation. This is not a minor problem. The Office of National Drug Control Policy indicates that approximately three-fourths of prison inmates—and over half of those in jails or on probation—are substance abusers, yet only a small percentage of inmates participate in treatment programs while they are incarcerated. The time during which drug-using offenders are in custody or under post-release correctional supervision presents a unique opportunity to reduce drug use and crime through effective drug testing and treatment programs.

Research indicates that programs like J-SAT can help to reduce the strain on our communities by cutting drug use in half; by reducing other criminal activity like shoplifting, assault, and drug sales by up to 80 percent; and by reducing arrests for all crimes by up to 64 percent.

I would also note that jail-based treatment programs are cost effective. In 1994, the American Correctional Association estimated the annual cost of incarceration at $18,330. The Office of National Drug Control Policy states that treatment while in prison and under post-incarceration supervision can reduce recidivism by roughly 50 percent. Thus, for every $1,800 the government invests in treatment, it saves more than $9,000. Former Assistant Health Secretary Philip Lee has estimated that every dollar invested in treatment can save $7 in societal and medical costs.

For these reasons, I ask my colleagues to support the Jail-Based Substance Abuse Treatment legislation I am introducing today. I also ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 295

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JAIL-BASED SUBSTANCE ABUSE TREATMENT PROGRAMS.

(a) In General.—Part S of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff et seq.) is amended by adding at the end the following:

"SEC. 1906. JAIL-BASED SUBSTANCE ABUSE TREATMENT.

"(a) Definitions.—In this section—

"(1) the term 'jail-based substance abuse treatment program' means a course of individual and group activities, lasting for a period of not less than 3 months, in an area of a correctional facility set apart from the general population of the correctional facility, if those activities are—

"(A) directed at the substance abuse problems of prisoners; and

"(B) intended to develop the cognitive, behavioral, social, vocational, and other skills of prisoners in order to address the substance abuse and related problems of prisoners; and

"(2) the term 'local correctional facility' means any correctional facility operated by a unit of local government.

"(b) Authorization.—

"(1) In general.—Not less than 10 percent of the total amount made available to a State under section 1904(a) for any fiscal year may be used by the State to make grants to local correctional facilities in the State for the purpose of assisting jail-based substance abuse treatment programs established by those local correctional facilities.

"(2) Federal share.—The Federal share of a grant made by a State under this section to a local correctional facility may not exceed 75 percent of the total cost of the jail-based substance abuse treatment program described in the application submitted under subsection (c) for the fiscal year for which the program receives assistance under this section.

"(c) Applications.—

"(1) In general.—To be eligible to receive a grant from a State under this section for a jail-based substance abuse treatment program, the chief executive of a local correctional facility shall submit to the State, in such form and containing such information as the State may reasonably require, an application that meets the requirements of paragraph (2).

"(2) Application requirements.—Each application submitted under paragraph (1) shall include—

"(A) with respect to the jail-based substance abuse treatment program for which assistance is sought, a description of the program and a written certification that—

"(i) the program has been in effect for not less than 2 consecutive years before the date on which the application is submitted; and

"(ii) the local correctional facility will—

"(I) coordinate the design and implementation of the program between local correctional facility representatives and the appropriate State and local alcohol and substance abuse agencies;

"(II) implement (or continue to require) urinalysis or other proven reliable forms of substance abuse testing of individuals participating in the program, including the testing of individuals released from the jail-based substance abuse treatment program who remain in the custody of the local correctional facility; and

"(III) carry out the program in accordance with guidelines, which shall be established by the State, in order to guarantee each participant in the program access to consistent, continual care if transferred to a different local correctional facility within the State;

"(B) written assurances that Federal funds received by the local correctional facility from the State under this section will be used to supplement, and not to supplant, non-Federal funds that would otherwise be available for jail-based substance abuse treatment programs assisted with amounts made available to the local correctional facility under this section; and

"(C) a description of the manner in which amounts received by the local correctional facility from the State under this section will be coordinated with Federal assistance for substance abuse treatment and aftercare services provided to the local correctional facility by the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services.

"(d) Review of Applications.—

"(1) In general.—Upon receipt of an application under subsection (c), the State shall—

"(A) review the application to ensure that the application, and the jail-based residential substance abuse treatment program for which a grant under this section is sought, meet the requirements of this section; and

"(B) if so, make an affirmative finding in writing that the jail-based substance abuse treatment program for which assistance is sought meets the requirements of this section.

"(2) Approval.—Based on the review conducted under paragraph (1), not later than 90 days after the date on which an application is submitted under subsection (c), the State shall—

"(A) approve the application, disapprove the application, or request a continued evaluation of the application for an additional period of 90 days; and

"(B) notify the applicant of the action taken under subparagraph (A) and, with respect to any denial of an application under subparagraph (A), afford the applicant an opportunity for reconsideration.

"(3) Eligibility for preference with aftercare component.—

"(A) In general.—In making grants under this section, a State shall give preference to applications from local correctional facilities that ensure that each participant in the jail-based substance abuse treatment program for which a grant under this section is sought, is required to participate in an aftercare services program that meets the requirements of subparagraph (B), for a period of not less than 1 year following the earlier of—

"(i) the date on which the participant completes the jail-based substance abuse treatment program; or

"(ii) the date on which the participant is released from the correctional facility at the end of the participant's sentence or is released on parole.

"(B) AFTERCARE SERVICES PROGRAM REQUIREMENTS.—For purposes of subparagraph (A), an aftercare services program meets the requirements of this paragraph if the program—

"(i) in selecting individuals for participation in the program, gives priority to individuals who have completed a jail-based substance abuse treatment program;

"(ii) requires each participant in the program to submit to periodic substance abuse testing; and

"(iii) involves the coordination between the jail-based substance abuse treatment program and other human service and rehabilitation programs that may assist in the rehabilitation of program participants, such as—

"(I) educational and job training programs;

"(II) parole supervision programs;

"(III) half-way house programs; and

"(IV) participation in self-help and peer group programs; and

"(iv) assists in placing jail-based substance abuse treatment program participants with appropriate community substance abuse treatment facilities upon release from the correctional facility at the end of a sentence or on parole.

"(e) COORDINATION AND CONSULTATION.—

"(1) COORDINATION.—Each State that makes 1 or more grants under this section in any fiscal year shall, to the maximum extent practicable, implement a statewide communications network with the capacity to track the participants in jail-based substance abuse treatment programs established by local correctional facilities in the State as those participants move between local correctional facilities within the State.

"(2) CONSULTATION.—Each State described in paragraph (1) shall consult with the Attorney General and the Secretary of Health and Human Services to ensure that each jail-based substance abuse treatment program assisted with a grant made by the State under this section incorporates applicable components of comprehensive approaches, including relapse prevention and aftercare services.

"(f) USE OF GRANT AMOUNTS.—

"(1) IN GENERAL.—Each local correctional facility that receives a grant under this section shall use the grant amount solely for the purpose of carrying out the jail-based substance abuse treatment program described in the application submitted under subsection (c).

"(2) ADMINISTRATION.—Each local correctional facility that receives a grant under this section shall carry out all activities relating to the administration of the grant amount, including reviewing the manner in which the amount is expended, processing, monitoring the progress of the program assisted, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"(3) RESTRICTION.—A local correctional facility may not use any amount of a grant under this section for land acquisition or a construction project.

"(g) REPORTING REQUIREMENT; PERFORMANCE REVIEW.—

"(1) REPORTING REQUIREMENT.—Not later than March 1 of each year, each local correctional facility that receives a grant under this section shall submit to the Attorney General, through the State, a description and evaluation of the jail-based substance abuse treatment program carried out by the local correctional facility with the grant amount, in such form and containing such information as the Attorney General may reasonably require.

"(2) PERFORMANCE REVIEW.—The Attorney General shall conduct an annual review of each jail-based substance abuse treatment program assisted under this section, in order to verify the compliance of local correctional facilities with the requirements of this section.

"(h) NO EFFECT ON STATE ALLOCATION.—Nothing in this section shall be construed to affect the allocation of amounts to States under section 1904(a).".

(b) TECHNICAL AMENDMENT.—The table of contents for title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended, in the matter relating to part S, by adding at the end the following:

"1906. Jail-based substance abuse treatment.".●

By Mr. FRIST (for himself, Mr. ROCKEFELLER, Mr. DOMENICI, Mr. LIEBERMAN, Mr. GRAMM, Mr. BINGAMAN, Mr. BURNS, Mr. BREAUX, Mrs. HUTCHISON, Mr. CLELAND, Mr. THOMPSON, Mr. KERRY, Mr. DEWINE, Mr. KERREY, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mrs. BOXER, Mr. ROBERTS, and Mr. ROBB):

S. 296. A bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FEDERAL RESEARCH INVESTMENT ACT OF 1999

● Mr. FRIST. Mr. President, I rise today to introduce legislation that would elevate Congress' commitment to technological innovation and long-term economic growth. The Federal Research Investment Act specifically targets federally-funded, civilian research and development (R&D), while establishing greater accountability mechanisms for both Congress and the White House. The bill would bolster the aggregate amount of federal funding for R&D over an 11-year period. Although this legislation passed the Senate by unanimous consent last year, the rush to finish the 1999 federal budget kept it from reaching the floor of the House of Representatives and the President's desk.

Senator ROCKEFELLER, my partner in this endeavor, and I are not discouraged. We believe that we laid a solid foundation to build on by getting this legislation through the Senate last year. Now, we intend to persistently advocate for increased funding levels for basic R&D until they are realized. This legislation is the product of numerous hearings, caucus events, forums, and meetings with scientists and scholars from across the country. We have been working closely together on this legislation and feel that now, more than ever, Congress must advocate for greater R&D funding to preserve the future economic prosperity of our nation.

Innovation is a key element of economic growth in the United States. Economists widely agree that more than 50 percent of our economic growth is directly linked to technological innovation. It is the principle driving force behind our long-term growth and our rising standard of living. Technology contributes to economic growth through the creation of new jobs, new goods and services, new capital and even new industries.

The Federal Government plays a critical role in driving the innovation process in the United States. The majority of the Federal Government's basic R&D is directed toward critical missions to serve the public interest in areas including health, environmental pollution control, space exploration, and national defense. Federal funds support nearly 60 percent of the nation's basic research, with a similar share performed in colleges and universities. Congressional support reflects a consensus that although basic research is the foundation for many innovations, the rate of return to society generated by investments in R&D is significantly larger than the benefits that can be captured by the performing institution.

The National Institutes of Health (NIH) received the largest dollar increase in history in the fiscal year (FY) 1999 federal budget. The agency received a record 14.1 percent increase in its R&D budget, nearly $2 billion. Due to steady increases every year, the NIH R&D budget is now 28 percent larger in inflationary-adjusted terms than it was in FY 1994.

NIH's overwhelming support by Congress reflects a growing popular movement both in the Senate and House to double funding for NIH over the next five years. Many of my colleagues, eager to fund the biotechnology that enables our citizens to live longer, more healthy lives, are embracing this crusade. I believe, however, many of them are missing the critical link that exists between the breakthrough advances we are experiencing today and what has enabled them to occur. The funding surge of R&D in the sciences in the 1960's created a wealth of research opportunities for scientists throughout the nation. Since that time though, funding has declined steadily with no hint of a reversal of that downward trend. If we are to dedicate ourselves to advancement of biotechnology and all the benefits that it will afford, we must support it with solid funding for the basic sciences. One truly depends upon the other. And that critical link, I believe, has been lost in the revolution of health care policy.

Fiscal constraints due to recent efforts to balance the federal budget threaten the U.S. R&D infrastructure. This is due to both a long-term problem of the ever-increasing level of mandatory spending of discretionary funding that must be allocated across an increasing range of programs. Now, for the first time in nearly three decades, the Federal Government has attained a budget surplus of $70 billion in 1998. Additionally, the Congressional Budget Office estimates a budget surplus of approximately $1.5 trillion over the next ten years. As Congress debates how to allocate surplus funds, serious consideration must be given to federal research and development investment.

As a result of the current monetary environment in Congress and the desire to utilize the surplus prudently, I am confident that investing in basic R&D, and in turn the technological innovation of the future, is a proper use of the federal taxpayers dollars. Furthermore, the increased funding called for in this legislation is coupled with a judicious strategy for federal investment and strong accountability mechanisms to help guide the Administration and Congress. Nothing less is acceptable.

Mr. President, despite its modest share of total U.S. R&D funding, the Federal Government continues to play a vital role in the nation's R&D enterprise. With dramatic decreases in U.S. defense R&D spending in the post Cold-War era, devoting attention to civilian basic research is more critical now than ever before. This pivotal need for a resurgence in basic R&D investments is evident when we further consider our nation's increased dependency on technology and the global competition that threatens our sustained leadership position. R&D drives the innovation process, which in turn drives the U.S. economy. Now is not the time to turn our backs on the nation's future prosperity.●

● Mr. ROCKEFELLER. Mr. President, I would like to join Senator FRIST and other distinguished colleagues in introducing the Federal Research Investment Act. This legislation will set a long-term vision for federal funding of research and development programs so that the United States can continue to be the world leader in high-tech industries.

One only needs to look as far as the front page of the newspaper to see the effect of high-technology on our country. New drugs are becoming available for fighting cancer; new communication hardware is allowing more people to connect to the internet; and advances in fuel-cell technology are leading to low-emission, high-efficiency alternative fuel vehicles. In fact, seventy percent of all patent applications cite non-profit or federally-funded research as a core component to the innovation being patented. People are living longer, with a higher quality of life, in a better economy due to processes, procedures, and equipment which are based on federally-funded research.

What I am afraid of is that many people are not aware that these products do not simply appear out of nowhere. They are the result of a basis of knowledge which has been built up by researchers supported by federal funding. American companies pull from this knowledge base in order to develop the latest high-tech products which you and I read about in the paper and see on our store shelves every day.

I view this knowledge base as a bank. The U.S. government puts in modest amounts of funding in the form of support for scientific research. The payback comes from the economic growth which is produced as this knowledge is turned into actual products by American companies.

In fact, a large part of the current rosy economic situation is due to our dominant high-tech industries. High-tech companies are currently responsible for one-third of our economic output and half of our economic growth. However, if we are to continue at this pace, we need to support the fundamental, pre-competitive research critical to these industries, at the necessary levels, and in a stable manner from year to year, and we need to do so now.

In the last session of the 105th Congress Senators FRIST, BINGAMAN, DOMENICI, GRAMM, BREAUX, BURNS, and I introduced S. 2217, the Federal Research Investment Act, and previous to that Senators DOMENICI and BINGAMAN, introduced S. 1305, the National Research Investment Act. Both S. 1305 and S. 2217 have been extremely successful in galvanizing members of the scientific and engineering community to pull together and work constructively towards a common ideal. In addition, it has brought together the cosponsors of these bills and moved them forward as a group with their original idea. S. 2217 passed without dissent in the Senate at the end of last session, and gained 36 co-sponsors—18 Democrats and 18 Republicans. Our aim, in re-introducing the Federal Research Investment Act, is to now take the next step in this process, bringing to fruition the goals of our bill.

The Federal Research Investment Act is a long-term vision for federal R&D funding. It creates legislative language which stresses the importance of R&D funding to the strength of our nation's innovation infrastructure. It also sets out guidelines for Congress to use in prioritizing funding decisions.

Just three years ago, federal science funding was in a serious decline and fewer than half a dozen members of Congress gave it any attention, but now as a significant consequence of both S. 1305 and S. 2217 the trend, at least in the last two years, seems to have reversed and a universal spirit of cooperation for strong R&D funding is developing on all fronts. In the last two years the science budget has increased above inflation. In particular, for Fiscal Year 1999, an unprecedented 10% increase in civilian R&D funding was appropriated. Yet, we appear to be in a crisis situation once again due to unexpected budgetary constraints resulting from last year's appropriations. Thus, we need to continue our fight to implement the R&D budgetary guidelines in our bill. This uncertainty in the level of R&D funding from year to year can be as detrimental to the health of the scientific enterprise as a lack of adequate funding levels. It will be a sad day for our nation, and its future economic prosperity, if we manage to lose what progress we have made to date.

Based on a careful review and analysis of our past history, our bill authorizes an annual funding increase of 5.5%, starting in the year 2000 and going through 2010, for federally-funded, civilian, R&D programs. This would increase federal R&D spending to 2.6% of total, overall budget by 2010, a near doubling in R&D funding from 1998 levels. In order to make sure that these increases are fully incorporated into budgetary process we request that the President include these increases in his annual budget request to Congress.

We are currently in an economic upturn. This continues to be a perfect time to increase funding for R&D so that we can continue this growth. I have faith that, as long as the economic situation allows it, my thoughtful and wise colleagues will support increasing R&D funding to the levels that we have laid out in this bill. However, I am also a realist. I realize that the economy may not always remain as strong as it is right now. That is why we have introduced a funding firewall. Without this firewall I am seriously concerned that history will repeat itself. In the past, R&D funding is one of the first things that has been cut during times of crisis. This is the wrong approach. I believe that cutting R&D funding levels below a bare minimum level causes serious, long-term harm to the R&D infrastructure in the United States. Our firewall would not allow this to happen. It is not meant as a goal, it is meant as a bare minimum which should only be implemented in the leanest of years.

Many, if not most, recent 'quantum leaps' in knowledge have occurred at the interface between traditional disciplines of research. Therefore, we legislatively mandate that this funding increase must be macroscopically balanced, so that there is not preferential growth of one agency, program or field of study at the expense of other, equally qualified and deserving agencies. One of the original reasons that I started to get involved with technology issues such as EPSCoR and EPSCoT, was because I believe that technology should be shared by everyone, not just those in Silicon Valley or the Route 128 corridor in Boston. Therefore, this bill should not be seen as a means of promoting elitist science but as a mechanism for allowing for diversity in our national innovation infrastructure.

Finally, so that we are able to assure other Members of Congress and the general public that this money authorized by this Act would be well spent, we have included accountability measures which will assure that there is no waste of federal money on out-dated, or ill-conceived projects. This bill puts into place a system of accountability for each affected agency. Our bill institutes a study by the National Academy of Sciences to determine how to effectively measure the progress of R&D based agencies and then have them institute performance measures based on these metrics. This will allow increases in funding without concerns over wasteful spending being generated.

In conclusion, with the help of Senators GRAMM, LIEBERMAN, DOMENICI, and BINGAMAN, Senator FRIST and I have put together a long-term vision for federal R&D funding which we hope will instigate real increases in federal funding for research and development. Federally-funded research has been, and will continue to be, a driving power behind our economic success. If we are to maintain and enhance our current economic prosperity we must make sure that research programs are funded at adequate levels in a consistent long-term manner. I urge my colleagues to support this bill.●

● Mr. DOMENICI. Mr. President, I'm pleased to see the Federal Research Investment Act introduced in the 106th Congress. This bill is one that I've supported throughout its history, because it addresses the health of our nation's science and technology base.

Our science and technology base is vital to the nation's future. Any number of studies have confirmed its importance. As one excellent example, the National Innovation Summit, organized by MIT last March with the Council on Competitiveness, confirmed that the integrity of that base is one of the cornerstones to our future economic prosperity. At that Summit, many of the nation's top CEOs emphasized that the nation's climate for innovation is a major determinant of our ability to maintain and advance our high standard of living and strong economy.

Advanced technologies are responsible for driving half of our economic growth since World War II, and that growth has developed our economy into the envy of the world. We need to continually refresh our stock of new products and processes that enable good jobs for our citizens in the face of increasing global challenges to all our principal industries.

This bill emphasizes a broad range of research targets, from fundamental and frontier exploration, through precompetitive engineering research. This emphasis on a spectrum of research maturity is absolutely critical. The nation is not well served by a focus on so-called "basic" research that can open new fields, but then leave those fields without resources to develop new ideas to a pre-competitive stage applicable to future commercial products and processes.

The new bill addresses a spectrum of research fields with its emphasis on expanding S&T funding in many agencies. We need technical advances in many fields simultaneously. In more and more cases, the best new ideas are not flowing from explorations in a single narrow field, but instead are coming from inter-disciplinary studies that bring experts from diverse fields together for fruitful collaboration. This is especially evident in medical and health fields, where combinations of medical science with many other specialities are critical to the latest health care advances.

This new bill has additional features that were critical components of last year's S. 2217. It proposes to utilize the National Academy of Science in developing approaches to evaluation of program and project performance. This should lead to better understanding of how Government Performance Results Act goals and scientific programs can be best coordinated. The new role for the National Academy can help define criteria to guide decisions on continued and future funding. The bill also sets up procedures to use these evaluations to terminate federal programs that are not performing at acceptable levels.

The new bill incorporates a set of well-developed principles for federal funding of science and technology. These principles were developed by our Senate Science and Technology Caucus. Those principles, when carefully applied, can lead to better choices among the many opportunities for federal S&T funding. The new bill also incorporates recommendations for independent merit-based review of federal S&T programs, which should further strengthen them.

Many aspects of the Federal Research Investment Act support and compliment key points in the study released by Representative VERN EHLERS last year. His study, "Unlocking our Future," will serve as an important focal point for continuing discussions on the critical goal of strengthening our nation's science and technology base.

This Federal Research Investment Act continues the goals expressed in S. 1305 last year. That was followed by S. 2217 that proposed a more realistic time scale for achieving this expanded support, added GPRA performance goals, and included language that recognized the importance of the budgets caps. This new bill is very similar to S. 2217.

The new Federal Research Investment Act builds and improves on the goals of the previous bills. With this act, we will build stronger federal Science and Technology programs that will underpin our nation's ability to compete effectively in the global marketplace of the 21st century.●

By Mr. SHELBY:

S. 297. A bill to amend title 37, United States Code, to authorize members of the uniformed services to participate in the Thrift Savings Plan, and for other purposes; to the Committee on Governmental Affairs.

THRIFT SAVINGS PLAN (TSP) LEGISLATION

● Mr. SHELBY. Mr. President, I rise today to introduce legislation to increase the retirement benefits for military personnel by allowing them to participate in the Thrift Savings Plan (TSP).

Many of us are concerned about the current state of readiness in our military forces, and rightly so. In the last decade, the number of Americans wearing their nation's uniform has decreased precipitously along with the funding that pays for their weapons, aircraft, ships, wages, housing, and benefits. Tragically, as the defense budget withers, our military's operational tempo soars. Overseas deployments have steadily increased in number, scope, and duration. Our troops are working harder than ever and yet, we have failed to support them. In addition to inadequately funding much needed weapons modernization, we have kept their wages low and slowly eroded their benefits. As we make it less and less attractive to serve, we will not be able to recruit high quality people and those that now serve will continue to leave. Recruiting and retention are the backbone of our military services. Without either there is no readiness. Our service men and women are being stretched to the breaking point, and they are voting with their feet. We must act now.

Senior Pentagon officials have determined that retirement benefits are a key consideration in the decision to pursue a military career and therefore are critical to the retention of our best people. Because of reduced retirement benefits—commonly referred to as "Redux"—an increasing number of mid-career personnel are deciding to leave the military. In recent testimony to the Senate, General Henry Shelton, the Chairman of the Joint Chiefs of Staff, stated that "that is why, among a number of pressing needs, reforming military retirement and military pay remains the Joint Chiefs' highest priority."

The bill I am introducing today is simple and straightforward. It shores up the military retirement system by allowing military personnel to supplement direct benefits through participation in the Thrift Saving Plan (TSP). This legislation will provide ALL military personnel a retirement benefit that is available to federal employees and all of us in the Senate and our staffs. Furthermore, the inherent flexibility of TSP will give military personnel and their families greater control over their retirement benefits. For these reasons, this legislation is a priority for the leadership in the Senate.

Specifically, my bill will allow members of the armed services to contribute up to 5 percent of basic pay in a tax-deferred individual account where the funds are held in trust and invested and can later be withdrawn at retirement. As an additional incentive for a military career, personnel will be qualified to contribute up to 10 percent of their basic pay after 10 years of service. As is the case with the Federal Employee Retirement System (FERS), the government would provide up to 5 percent to match the individual's contribution.

So often we marvel over our high-tech weapons systems and we forget that they are useless without highly skilled and professional Americans to operate them. If the services continue to hemorrhage qualified people at current rates, there will be a reckoning the magnitude of which we are not prepared to endure. We must take action now to slow the exodus of qualified personnel from the military. I believe that this bill will be a powerful tool to assist the services in retaining personnel, and I urge my colleagues to cosponsor this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 297

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PARTICIPATION OF MEMBERS OF THE UNIFORMED SERVICES IN THE THRIFT SAVINGS PLAN.

(b) Authority.—(1) Chapter 3 of title 37, United States Code, is amended by adding at the end the following:

"§211. Participation in Thrift Savings Plan

"(a) Participation Authorized.—(1) A member of the uniformed services may contribute to the Thrift Savings Fund out of basic pay.

"(2) An election to contribute to the Thrift Savings Fund under paragraph (1) may be made only during a period provided under section 8432(b) of title 5 for individuals subject to chapter 84 of such title.

"(b) Applicability of Thrift Savings Plan Provisions.—Except as otherwise provided in this section, the provisions of subchapters III and VII of chapter 84 of title 5 shall apply with respect to members of the uniformed services making contributions to the Thrift Savings Fund as if such members were employees within the meaning of section 8401(11) of such title.

"(c) Maximum Contribution From Basic Pay.—(1) The amount contributed by a member of the uniformed services for any pay period out of basic pay may not exceed the amount equal to the maximum allowable percent of such member's basic pay for such pay period.

"(2) For the purposes of paragraph (1), the maximum allowable percent of basic pay applicable to a member with respect to a pay period is as follows:

"(A) If the member has less than 5 years of service computed under section 205 of title 37 on or before the last day of the pay period, 5 percent.

"(B) If the member has at least 5 years of service computed under section 205 of title 37 on or before the last day of the pay period, 10 percent.

"(d) Agency Contributions.—Contributions shall be made under paragraph (2), but not any other paragraph, of section 8432(c) of title 5 for the benefit of a member of the uniformed services making contributions to the Thrift Savings Fund under subsection (a). For the purposes of this subsection, the reference in paragraph (2) of such section to contributions under paragraph (1) of such section does not apply.

"(e) Rules of Construction.—The following rules of construction apply for the purposes of this section:

"(1) In applying section 8433 of title 5 to a member of the uniformed services who has an account balance in the Thrift Savings Fund, any reference in such section to separation from Government employment shall be construed to refer to the following actions:

"(A) Release of the member from active-duty service (not followed by a resumption of active-duty service within 30 days after the effective date of the release).

"(B) Transfer of the member to an inactive status.

"(C) Transfer of the member by the Secretary concerned to a retired list maintained by the Secretary.

"(2) The reference in section 8433(g)(1) of title 5 to contributions made under section 8432(a) of such title shall be treated as being a reference to contributions made to the Fund by the member, whether made under this section or section 8351 or 8432(a) of title 5.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"211. Participation in Thrift Savings Plan.".

(b) Relationship to Participation Under Other Authority.—Section 8432b(b)(2)(B) of title 5, United States Code, is amended by inserting after "section 8432(a)" the following "of this title or section 211 of title 37".●

By Mr. SHELBY:

S. 298. A bill to amend the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) to clarify that donations of hard and soft money by foreign nationals are prohibited; to the Committee on Rules and Administration.

PROHIBITION OF DONATIONS BY FOREIGN NATIONALS

● Mr. SHELBY. Mr. President, I rise today to speak in support of legislation that I am introducing which is intended to prevent foreign nationals from making financial contributions to federal elections.

Last October, in the trial of Charlie Trie, Judge Paul L. Friedman ruled that the Federal Election Campaign Act (FECA) does not prohibit foreigners from making campaign donations to political parties or Congressional Campaign Committees. The holding of this case is based on an extremely narrow reading of the language of the FECA. Judge Friedman ruled that because the FECA specifically prohibits foreign nationals from making direct contributions to the campaigns of candidates for federal office but does not specifically prohibit donations, or "soft money" expenditures to the parties, such donations are not prohibited by the FECA. While we can argue the merits of this decision and question whether it merely tracks the letter rather than the entire spirit of the FECA, it is quite clear that this ruling opens up our system of federal elections to the possibility of foreign influence.

My bill clarifies the law by amending the FECA to prohibit donations by foreign nationals to "a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose." This new provision along with the existing prohibition of direct contributions by foreign nationals, will provide the Federal Election Commission with the ability to prosecute those who illegally attempt to influence federal elections. Ultimately, my bill will get us closer to achieving the desired effect originally contemplated by the FECA—ensuring that federal campaigns are free of foreign money.

Mr. President, regardless of any member's views concerning the direction that campaign finance reform should take, I believe that amending the FECA to prohibit foreign influence in federal campaigns requires swift action.●

By Mr. McCAIN (for himself, Mr. Inouye, and Mr. Conrad):

S. 299. A bill to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes; to the Committee on Indian Affairs.

ASSISTANT SECRETARY FOR INDIAN HEALTH ACT OF 1999

● Mr. McCAIN. Mr. President, I rise to introduce legislation that will establish the Director of the Indian Health Service within the Department of Health and Human Services as an Assistant Secretary for Indian Health. My colleagues, Senators Inouye and Conrad, are joining me in this effort as original co-sponsors. I am pleased to note that Congressman Nethercutt from Washington introduced companion legislation on the House side.

Last year, we came very close to successful passage of this same bill, but the legislative clock expired. It is our hope that we can move this legislation forward expeditiously this year as this bill enjoys widespread support from Indian tribes nationwide and the Administration.

The history of this legislation spans back several years. Every year, the Congress deliberates on how best to raise the standard of health care for all Americans. Yet, in nearly every debate, the health care needs of Indian people are either marginalized or ignored. The need for this legislation arose out of the continuing frustration expressed by the tribes that their health concerns were not adequately addressed under the existing administrative policy and budgetary processes.

As the primary health care delivery system, the Indian Health Service is the principal advocate for Indian health care needs, both on the reservation level and for urban populations. More than 1.3 million Indian people are served every year by the IHS. At its current capacity, the IHS estimates that it can only meet 62 percent of tribal health care needs. The IHS will continue to be challenged by a growing Indian population as well as an increasing disparity between the health status of Indian people as compared to other Americans. Thousands of Indian people continue to suffer from the worst imaginable health care conditions in Indian country—from diabetes to cancer to infant mortality. In nearly every category, the health status of Native Americans falls far below the national standard.

The purpose of this bill can be simplified to three primary needs. Indian people desire a stronger leadership and policy role within the primary health care agency, the Department of Health and Human Services. The Assistant Secretary for Indian Health will ensure that critical policy and budgetary decisions will be made with the full involvement and consultation of not only the Indian Health Service, but also the direct involvement of the Tribal governments.

Second, the enactment of this legislation is consistent with the unique government-to-government relationship between federally recognized Indian tribes and the federal government. This legislation is long overdue in bringing focus and national attention to the health care status of Indian people and fulfilling the federal trust responsibility toward Indian tribes.

Finally, passage of this legislation is critical as the Congress is set to deliberate several pieces of Indian health policy. Reauthorization of the Indian Health Care Improvement Act and development of legislation to permanently extend tribal self-governance authority to tribes will be vital components of Indian health care in the future. Implementation of this bill is intended to support the long-standing policies of Indian self-determination and tribal self-governance and assist Indian tribes who are making positive strides in providing direct health care to their own communities.

At this critical time, the IHS is in dire need of a senior policy official who is knowledgeable about the programs administered by the IHS and who can provide the leadership for the health care needs of American Indians and Alaska Natives. We continue to pursue passage of this legislation as many believe that the priority of Indian health issues within the Department should be raised to the highest levels within our federal government.

I look forward to working with my colleagues on both sides of the aisle to ensure prompt passage of this legislation. I ask unanimous consent that the full text and section-by-section analysis of this bill be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 299

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFICE OF ASSISTANT SECRETARY FOR INDIAN HEALTH.

(a) ESTABLISHMENT.—There is established within the Department of Health and Human Services the Office of the Assistant Secretary for Indian Health in order to, in a manner consistent with the government-to-government relationship between the United States and Indian tribes—

(1) facilitate advocacy for the development of appropriate Indian health policy; and

(2) promote consultation on matters related to Indian health.

(b) ASSISTANT SECRETARY FOR INDIAN HEALTH.—In addition to the functions performed on the date of enactment of this Act by the Director of the Indian Health Service, the Assistant Secretary for Indian Health shall perform such functions as the Secretary of Health and Human Services (referred to in this section as the "Secretary") may designate. The Assistant Secretary for Indian Health shall—

(1) report directly to the Secretary concerning all policy- and budget-related matters affecting Indian health;

(2) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

(3) advise each Assistant Secretary of the Department of Health and Human Services concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

(4) advise the heads of other agencies and programs of the Department of Health and Human Services concerning matters of Indian health with respect to which those heads have authority and responsibility; and

(5) coordinate the activities of the Department of Health and Human Services concerning matters of Indian health.

(c) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Director of the Indian Health Service shall be deemed to refer to the Assistant Secretary for Indian Health.

(d) RATE OF PAY.—

(1) POSITIONS AT LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(A) by striking the following:

"Assistant Secretaries of Health and Human Services (6)."; and

(B) by inserting the following:

"Assistant Secretaries of Health and Human Services (7).".

(2) POSITIONS AT LEVEL V.—Section 5316 of title 5, United States Code, is amended by striking the following:

"Director, Indian Health Service, Department of Health and Human Services.".

(e) DUTIES OF ASSISTANT SECRETARY FOR INDIAN HEALTH.—Section 601(a) of the Indian Health Care Improvement Act (25 U.S.C. 1661(a)) is amended—

(1) by inserting "(1)" after "(a)";

(2) in the second sentence of paragraph (1), as so designated, by striking "a Director," and inserting "the Assistant Secretary for Indian Health,"; and

(3) by striking the third sentence of paragraph (1) and all that follows through the end of the subsection and inserting the following: "The Assistant Secretary for Indian Health shall carry out the duties specified in paragraph (2).

"(2) The Assistant Secretary for Indian Health shall—

"(A) report directly to the Secretary concerning all policy- and budget-related matters affecting Indian health;

"(B) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

"(C) advise each Assistant Secretary of the Department of Health and Human Services concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

"(D) advise the heads of other agencies and programs of the Department of Health and Human Services concerning matters of Indian health with respect to which those heads have authority and responsibility; and

"(E) coordinate the activities of the Department of Health and Human Services concerning matters of Indian health.".

(f) CONTINUED SERVICE BY INCUMBENT.—The individual serving in the position of Director of the Indian Health Service on the date preceding the date of enactment of this Act may serve as Assistant Secretary for Indian Health, at the pleasure of the President after the date of enactment of this Act.

(g) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO INDIAN HEALTH CARE IMPROVEMENT ACT.—The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended—

(A) in section 601—

(i) in subsection (c), by striking "Director of the Indian Health Service" both places it appears and inserting "Assistant Secretary for Indian Health"; and

(ii) in subsection (d), by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health"; and

(B) in section 816(c)(1), by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(2) AMENDMENTS TO OTHER PROVISIONS OF LAW.—The following provisions are each amended by striking "Director of the Indian Health Service" each place it appears and inserting "Assistant Secretary for Indian Health":

(A) Section 203(a)(1) of the Rehabilitation Act of 1973.

(B) Subsections (b) and (e) of section 518 of the Federal Water Pollution Control Act (33 U.S.C. 1377 (b) and (e)).

(C) Section 803B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2991b-2(d)(1)).

SECTION-BY-SECTION ANALYSIS

Subsection (a) provides that the Office of Assistant Secretary for Indian Health is established within the Department of Health and Human Services.

Subsection (b) requires that the Assistant Secretary for Indian Health shall perform functions designated by the Secretary of Health and Human Services in addition to the functions of the Director of Indian Health. The Assistant Secretary for Indian Health shall report directly to the Secretary of HHS and shall also consult with the Assistant Secretary of Health and other Assistant Secretaries on all matters pertaining to Indian health policy.

Subsection (c) provides that any references to the Director of Indian Health Service in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document shall be deemed to refer to the Assistant Secretary for Indian Health.

Subsection (d)(1) amends Title 5 section 5315 of the U.S.C. by striking "Assistant Secretaries of Health and Human Services (6)" and inserting "Assistant Secretaries of Health and Human Services (7)." Subsection (d)(1) further amends section 5316 of title 5 by striking "Director, Indian Health Service, Department of Health and Human Services."

Subsection (d)(2) abolishes the position of the Director of Indian Health Service.

Subsection (e) amends section 601 of the Indian Health Care Improvement Act, 25 U.S.C. 1661, and other Acts by deleting all provisions referring to the "Director" or "Director of Indian Health Service" and inserting in lieu thereof "the Assistant Secretary for Indian Health."

Subsection 601 of 25 U.S.C. 1661(a), as amended by subsection (b), is further amended by striking the term limits for the Assistant Secretary for Indian Health.●

By Mr. LOTT (for himself, Mr. NICKLES, Ms. COLLINS, Mr. FRIST, Mr. GRAMM, Mr. HAGEL, Mr. JEFFORDS, Mr. ROTH, Mr. SANTORUM, Mr. MACK, Mr. CRAIG, Mr. COVERDELL, Mr. MCCONNELL, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. BENNETT, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. CAMPBELL, Mr. COCHRAN, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. GORTON, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HATCH, Mr. HELMS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. LUGAR, Mr. MCCAIN, Mr. MURKOWSKI, Mr. ROBERTS, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, Ms. SNOWE, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. VOINOVICH, and Mr. WARNER):

S. 300. A bill to improve access and choice of patients to quality, affordable health care; to the Committee on Finance.

PATIENTS' BILL OF RIGHTS PLUS ACT

● Mr. NICKLES. Mr. President, today I am introducing the Senate Republican Patients' Bill of Rights Plus. Joining me in this effort are 49 of my colleagues who recognize the importance of ensuring that all Americans are able to not only receive the care they have been promised, but also the highest quality of care available. The foundation of this proposal is to address some of the very real concerns that patients have about their health care needs and to provide significant opportunities for all consumers in choosing their doctors and health plans.

We know that many Americans have believed they were denied coverage that their plans were supposed to cover. We recognize that some individuals fear that their health care plans will not give them access to specialists when they need them. We know that some Americans think their health care plans care more about cost than they do about quality.

Last January, the Majority Leader asked me to put together a group of colleagues to address the issue of health care quality. For over eight months, Senators FRIST, COLLINS, HAGEL, ROTH, JEFFORDS, COATS, SANTORUM, and GRAMM worked tirelessly to put together a responsible, credible package that would preserve what is best about our nation's health care while at the same time determine ways to improve upon—without stifling—the quality of care our nation delivers. We set out to rationally examine the issues and develop reasonable solutions without injuring patient access to affordable, high quality care.

This was no easy task. We spent month after month talking to experts who understand the difficulty and complexity of our system. We met with representatives from all aspects of the industry including the Mayo Clinic, the Henry Ford Health Systems, the American Medical Association, the American Hospital Association, the National Committee for Quality Assurance, the Joint Commission on the Accreditation of Healthcare Organizations, Corporate Medical Directors, Commissioners from the President's Quality Commission, Purchasers, Families USA, the Employee Benefit Research Institute, and many others.

After many, many months of dissecting serious questions about our system, we determined that there were indeed some areas in which we could improve patient access and quality.

Together, we have written an innovative plan that will answer the problems that exist in the industry, while at the same time preserving affordability, which is of utmost importance. After all, Mr. President, I think you agree that if someone loses their health insurance because a politician playing doctor drives prices to an unaffordable level, you have hardly given them more rights or better quality health care.

We are proud of what we have been able to accomplish. For the first time, patients can choose to be unencumbered in their relationship with their doctor. They will be able to choose their own doctor and get the middle man out of the way. There will be no corporate bureaucrat, no government bureaucrat and no lawyer standing between a patient and their doctor. In addition our legislation does what no other bill has done. It provides the patient with more choice in their health plans.

Mr. President the bill we introduce today:

Protects consumers in employer-sponsored plans that are exempt from state regulation. People enrolled in such plans will have the right to:

Choose their doctors. Our bill contains both "point-of-service" and "continuity of care" requirements that will enhance consumer choice.

See their ob-gyns and pediatricians without referral. Guarantees parents and families peace of mind by giving patients direct access to pediatricians and ob-gyns without prior referral from a "gatekeeper."

Have a "prudent layperson" standard applied to their claims for emergency care. Our bill will require health plans to cover—without prior authorization—emergency care that a "prudent layperson" would consider medically necessary.

Communicate openly with their doctors without "gag" clauses.

Holds health plans accountable for their decisions.

Extends to enrollees in ERISA health plans and their doctors the right to appeal adverse coverage decisions to a physician who was not involved in the initial coverage determination.

Allows enrollees to appeal adverse coverage determinations to independent medical experts who have no affiliation with the health plan. Determinations by these experts will be binding on the health plan.

Requires health plans to disclose to enrollees consumer information, including what's covered, what's not, how much they'll have to pay in deductibles and coinsurance, and how to appeal adverse coverage decisions to independent medical experts.

Guarantees consumers access to their medical records.

Requires health care providers, health plans, employers, health and life insurers, and schools and universities to permit an individual to inspect, copy and amend his or her own medical information.

Requires health care providers, health plans, health oversight agencies, public health authorities, employers, health and life insurers, health researchers, law enforcement officials, and schools and universities to establish appropriate safeguards to protect the confidentiality, security, accuracy and integrity of protected health information and notify enrollees of these safeguards.

Protects patients from genetic discrimination in health insurance. Prohibits health plans from collecting or using predictive genetic information about a patient to deny health insurance coverage or set premium rates.

Promotes quality improvement by supporting research to give patients and physicians better information regarding quality.

Establishes the Agency for Healthcare Quality Research (AHQR), whose purpose is to foster overall improvement in healthcare quality and bridge the gap between what we know and what we do in healthcare today. The Agency is built on the platform of the current Agency for Health Care Policy and Research, but is refocused and enhanced to become the hub and driving force of federal efforts to improve the quality of healthcare in all practice environments—not just managed care.

The role of the Agency is not to mandate a national definition of quality, but to support the science necessary to provide information to patients regarding the quality of the care they receive, to allow physicians to compare their quality outcomes with their peers, and to enable employers and individuals to be prudent purchasers based on quality.

Makes health insurance more accessible and affordable by:

Allowing self-employed people to deduct the full amount of their health care premiums.

Making medical savings accounts available to everyone.

Reforming flexibility spending accounts to let consumers save for future health care costs.

Mr. President, this bill is a comprehensive bill of rights that will benefit all Americans, and I am proud to join with so many of my colleagues in introducing it. This legislation is built around several basic principles which distinguishes it from other proposals.

First and foremost, it recognizes that regulation adds costs and not value. The legislation places a priority on ensuring that we will not increase the number of uninsured or make health care unaffordable through excessive regulation.

Second, our legislation rightly places patients ahead of trial lawyers. The inclusion of a strong, internal and external appeals provision holds HMOs accountable, while guaranteeing that patients get the care they need when they need it.

Third, our legislation protects the historic and traditional role of states to regulate private health insurance. States are best equipped to determine the needs of their citizens. Our legislation ensures that the Federal Government and HCFA will not be empowered to expand their reach into the private market. The creation of new federal bureaucracies will only serve to stagnate and destroy what is best about our health care system.

Finally, our legislation places a high priority on choice. Unlike every other proposal our bill will give every American the right to fire their HMO. Every patient will have their choice of doctor and health plan.

Our bill empowers an independent medical expert to order an insurance company to pay for medically necessary care so that patients suffer no harm. Theirs allows professional trial lawyers to sue health plans after harm is done.

Mr. President, when my insurance company tells me that they won't cover a service for my family, I want the ability to appeal that decision to a doctor who doesn't work for my insurance company. And I want that appeal handled promptly, so that my family receives the benefit. That is what our bill requires.

Other bills create new ways for trial lawyers to make money. According to a June 1998 study by Multinational Business Services, the Democrats' bill would create 56 new Federal causes of action—56 new reasons to sue people in Federal court.

That's fine for trial lawyers, but it doesn't do much for patients. Patients want their claim disputes handled promptly and fairly. According to a study by the General Accounting Office, it takes an average 25 months—more than two years—to resolve a malpractice suit. One case that the GAO studied took 11 years to resolve! I'm sure the lawyers who handled that case did quite well for themselves. But what about the patient?

Under our bill, patients can appeal directly to an outside medical expert for a prompt review of their claim—without having to incur any legal expenses. In medical malpractice litigation, patients receive an average of only 43 cents of every dollar awarded. The rest goes to lawyers and court fees.

Our bill assures that health care dollars are used to serve patients. It does not divert dollars away from patients and into the pockets of trial lawyers.

Mr. President, another big difference between our bill and others proposed is that their bill takes a "big government" approach to health reform.

Our bill relies on State Insurance Commissioners to protect those Americans who are enrolled in state-regulated plans. We protect the unprotected by providing new federal safeguards to the 48 million Americans who are enrolled in plans that the states are not permitted to regulate.

Another problem: Some bills impose a risky and complicated scheme that relies on federal bureaucrats at the Health Care Financing Administration (HCFA) to enforce patients' rights in states that do not conform to the federal mandates in their bill.

HCFA is the agency that oversees the federal Medicare and Medicaid programs. Last year, in the Balanced Budget Act, Congress created new consumer protections for Medicare beneficiaries—a "Patients' Bill of Rights" for the 38.5 million senior citizens and disabled Americans who rely on Medicare for their health care.

We asked HCFA to protect those rights. How have they done? I regret to say, Mr. President, that they have not done very well at all.

On July 16, 1998, a GAO witness testified before the Ways and Means Committee on how well HCFA was doing in implementing the Balanced Budget Act and enforcing the Medicare patients' bill of rights. According to GAO, HCFA has "missed 25 percent of the implementation deadlines, including the quality-of-care medical review process for skilled nursing facilities. It is clear that HCFA will continue to miss implementation deadlines as it attempts to balance the resource demands generated by the Balanced Budget Act with other competing objectives."

Mr. President, I won't detail all of the ways that HCFA has failed—the fact that it is delaying implementation of a prostate screening program to which Medicare beneficiaries are entitled, the fact that it has failed to establish a quality-of-care medical review process for skilled nursing facilities, the fact that it is far behind schedule in developing a new payment system for home health services. The list goes on and on.

But let me focus on one failure that is especially relevant. All of us agree that people have the right to information about their health plans. When they have the choice of more than one plan, accurate information that compares the plans is critical.

Last year, Congress allocated $95 million to HCFA to develop an information and education program for Medicare beneficiaries. This money was to be used for publishing and mailing handbooks containing comparative plan information to seniors, establishing a toll-free number and Internet website, and sponsoring health information fairs.

Well, there haven't been any information fairs and the toll-free number isn't operational. They do have a website, but they've decided to mail comparative information handbooks only to seniors in 5 states: Washington, Oregon, Ohio, Florida and Arizona. So for the pricey sum of $95 million, only about 5.5 million seniors will receive important information about their health plans, leaving 32.5 million seniors without these handbooks. At that rate, HCFA would need more than $1 billion each year just for handbooks.

Mr. President, if this agency is struggling to protect the rights of 38.5 million Medicare beneficiaries, how can we ask it to protect the rights of up to as many as 100 million people enrolled in private health plans?

We believe that consumer protections are too important to entrust to a cumbersome and inefficient federal government. State governments have long been in the business of insurance regulation and the federal government should not usurp their role.

One just has to look at HCFAs record on the Health Insurance and Portability and Accountability Act

(HIPAA). This Act gave HCFA enforcement authority in states that do not meet federal health standards. But how has HCFA done in the enforcement of HIPAA? A GAO report analyzing HCFA's success states that HCFA has done very little in this area. HCFA's activities, to date, have been "limited primarily to responding to consumer queries and complaints and providing guidance" to carriers in 4 of the 5 states that are not in compliance.

The GAO report goes on to say that even HCFA admits "the agency has thus far pursued a "Band Aid" or minimalist approach to regulating HIPAA. The failure to fully address this regulatory responsibility is due to the fact that HCFA lacks the "appropriate experience" in the regulating of the private health insurance market.

The federal government should protect those who are enrolled in plans that are exempt from state regulation and those enrolled in the programs it runs, like Medicare and Medicaid. The federal government should start protecting the rights of senior citizens under Medicare, instead of meddling in areas where it doesn't belong.

Mr. President, our bill is a truly comprehensive bill of rights for patients, providing new consumer protections for the 48 million Americans who are unprotected by state law, giving the 124 million Americans enrolled in employer-sponsored plans new rights to appeal adverse coverage decisions, protecting the civil rights of consumers to gain access to their medical records, protecting consumers against discrimination based on genetic tests, promoting quality improvement, establishing a new women's health initiative, and giving millions of Americans access to affordable health insurance through medical savings accounts.

The doctor-patient relationship is one of the most important in people's lives. Our legislation preserves and protects that relationship, while taking many common-sense steps forward to affirm and expand quality and access.

I look forward to a deliberative, thoughtful process this year on examining the complex issues addressed in our Patients Bill of Rights PLUS. Last year, the debate surrounding this legislation was extremely politicized and resulted in a partisan standoff. That was unfortunate.

I am hopeful that the Committees will work this year to examine these issues completely and substantively. Health care costs are rising everyday, Mr. President. We must balance the need to protect patients with the need to make health care accessible. The Committees will need to examine the current trends in the market place and evaluate any legislation on all fronts, not just political rhetoric. Health care is just too important to politicize.

Mr. President, I ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 300

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Patients' Bill of Rights Plus Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PATIENTS' BILL OF RIGHTS

Subtitle A—Right to Advice and Care

Sec. 101. Patient right to medical advice and care.

"SUBPART C—PATIENT RIGHT TO MEDICAL ADVICE AND CARE

"Sec. 721. Patient access to emergency medical care.
"Sec. 722. Offering of choice of coverage options.
"Sec. 723. Patient access to obstetric and gynecological care.
"Sec. 724. Patient access to pediatric care.
"Sec. 725. Continuity of care.
"Sec. 726. Protection of patient-provider communications.
"Sec. 727. Generally applicable provision.

Sec. 102. Effective date and related rules.

Subtitle B—Right to Information About Plans and Providers

Sec. 111. Information about plans.
Sec. 112. Information about providers.

Subtitle C—Right to Hold Health Plans Accountable

Sec. 121. Amendment to Employee Retirement Income Security Act of 1974.

Subtitle D—Miscellaneous Provisions

Sec. 131. Amendments to the Internal Revenue Code of 1986.

TITLE II—INDIVIDUAL RIGHTS WITH RESPECT TO PERSONAL MEDICAL INFORMATION

Sec. 201. Short title.

Subtitle A—Access to Medical Records

Sec. 211. Inspection and copying of protected health information.
Sec. 212. Amendment of protected health information.
Sec. 213. Notice of confidentiality practices.

Subtitle B—Establishment of Safeguards

Sec. 221. Establishment of safeguards.

Subtitle C—Enforcement; Definitions

Sec. 231. Civil penalty.
Sec. 232. Definitions.
Sec. 233. Effective date.

TITLE III—GENETIC INFORMATION AND SERVICES

Sec. 301. Short title.
Sec. 302. Amendments to Employee Retirement Income Security Act of 1974.
Sec. 303. Amendments to the Public Health Service Act.
Sec. 304. Amendments to the Internal Revenue Code of 1986.

TITLE IV—HEALTHCARE RESEARCH AND QUALITY

Sec. 401. Short title.
Sec. 402. Amendment to the Public Health Service Act.

"TITLE IX—AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

"PART A—ESTABLISHMENT AND GENERAL DUTIES

"Sec. 901. Mission and duties.
"Sec. 902. General authorities.

"PART B—HEALTHCARE IMPROVEMENT RESEARCH

"Sec. 911. Healthcare outcome improvement research.
"Sec. 912. Private-public partnerships to improve organization and delivery.
"Sec. 913. Information on quality and cost of care.
"Sec. 914. Information systems for healthcare improvement.
"Sec. 915. Research supporting primary care and access in underserved areas.
"Sec. 916. Clinical practice and technology innovation.
"Sec. 917. Coordination of Federal Government quality improvement efforts.

"PART C—GENERAL PROVISIONS

"Sec. 921. Advisory Council for Healthcare Research and Quality.
"Sec. 922. Peer review with respect to grants and contracts.
"Sec. 923. Certain provisions with respect to development, collection, and dissemination of data.
"Sec. 924. Dissemination of information.
"Sec. 925. Additional provisions with respect to grants and contracts.
"Sec. 926. Certain administrative authorities.
"Sec. 927. Funding.
"Sec. 928. Definitions.

Sec. 403. References.
Sec. 404. Study.

TITLE V—ENHANCED ACCESS TO HEALTH INSURANCE COVERAGE

Sec. 501. Full deduction of health insurance costs for self-employed individuals.
Sec. 502. Full availability of medical savings accounts.
Sec. 503. Carryover of unused benefits from cafeteria plans, flexible spending arrangements, and health flexible spending accounts.
Sec. 504. Permitting contribution towards medical savings account through Federal employees health benefits program (FEHBP).

TITLE I—PATIENTS' BILL OF RIGHTS

Subtitle A—Right to Advice and Care

SEC. 101. PATIENT RIGHT TO MEDICAL ADVICE AND CARE.

(a) IN GENERAL.—Part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended—

(1) by redesignating subpart C as subpart D; and

(2) by inserting after subpart B the following:

"Subpart C—Patient Right to Medical Advice and Care

"SEC. 721. PATIENT ACCESS TO EMERGENCY MEDICAL CARE.

"(a) IN GENERAL.—To the extent that the group health plan (other than a fully insured group health plan) provides coverage for benefits consisting of emergency medical care (as defined in subsection (c)), except for items or services specifically excluded—

"(1) the plan shall provide coverage for benefits, without requiring preauthorization, for appropriate emergency medical screening examinations (within the capability of the emergency facility, including ancillary services routinely available to the emergency facility) to the extent that a prudent layperson, who possesses an average knowledge of health and medicine, would determine such examinations to be necessary to determine whether emergency medical care (as so defined) is necessary, and

"(2) the plan shall provide coverage for benefits for additional emergency medical care to stabilize an emergency medical condition following an emergency medical screening examination (if determined necessary under paragraph (1)), pursuant to the definition of stabilize under section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)).

"(b) Uniform Cost-Sharing Required.—Nothing in this section shall be construed as preventing a group health plan (other than a fully insured group health plan) from imposing any form of cost-sharing applicable to any participant or beneficiary (including coinsurance, copayments, deductibles, and any other charges) in relation to coverage for benefits described in subsection (a), if such form of cost-sharing is uniformly applied under such plan, with respect to similarly situated participants and beneficiaries, to all benefits consisting of emergency medical care (as defined in subsection (c)) provided to such similarly situated participants and beneficiaries under the plan.

"(c) Definition of Emergency Medical Care.—In this section:

"(1) In general.—The term "emergency medical care" means, with respect to a participant or beneficiary under a group health plan (other than a fully insured group health plan), covered inpatient and outpatient services that—

"(A) are furnished by any provider, including a nonparticipating provider, that is qualified to furnish such services; and

"(B) are needed to evaluate or stabilize (as such term is defined in section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd)) an emergency medical condition (as defined in paragraph (2)).

"(2) Emergency medical condition.—The term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

"(A) placing the health of the participant or beneficiary (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

"SEC. 722. OFFERING OF CHOICE OF COVERAGE OPTIONS.

"(a) Requirement.—

"(1) Offering of point-of-service coverage option.—Except as provided in paragraph (2), if a group health plan (other than a fully insured group health plan) provides coverage for benefits only through a defined set of participating health care professionals, the plan shall offer the participant the option to purchase point-of-service coverage (as defined in subsection (b)) for all such benefits for which coverage is otherwise so limited. Such option shall be made available to the participant at the time of enrollment under the plan and at such other times as the plan offers the participant a choice of coverage options.

"(2) Exception in the case of multiple issuer or coverage options.—Paragraph (1) shall not apply with respect to a participant in a group health plan (other than a fully insured group health plan) if the plan offers the participant—

"(A) a choice of health insurance coverage through more than one health insurance issuer; or

"(B) two or more coverage options that differ significantly with respect to the use of participating health care professionals or the networks of such professionals that are used.

"(b) Point-of-Service Coverage Defined.—In this section, the term 'point-of-service coverage' means, with respect to benefits covered under a group health plan (other than a fully insured group health plan), coverage of such benefits when provided by a nonparticipating health care professional.

"(c) Small Employer Exemption.—

"(1) In general.—This section shall not apply to any group health plan (other than a fully insured group health plan) of a small employer.

"(2) Small employer.—For purposes of paragraph (1), the term 'small employer' means, in connection with a group health plan (other than a fully insured group health plan) with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year. For purposes of this paragraph, the provisions of subparagraph (C) of section 712(c)(1) shall apply in determining employer size.

"(d) Rule of Construction.—Nothing in this section shall be construed—

"(1) as requiring coverage for benefits for a particular type of health care professional;

"(2) as requiring an employer to pay any costs as a result of this section or to make equal contributions with respect to different health coverage options;

"(3) as preventing a group health plan (other than a fully insured group health plan) from imposing higher premiums or cost-sharing on a participant for the exercise of a point-of-service coverage option; or

"(4) to require that a group health plan (other than a fully insured group health plan) include coverage of health care professionals that the plan excludes because of fraud, quality of care, or other similar reasons with respect to such professionals.

"SEC. 723. PATIENT ACCESS TO OBSTETRIC AND GYNECOLOGICAL CARE.

"(a) In General.—In any case in which a group health plan (other than a fully insured group health plan)—

"(1) provides coverage for benefits consisting of—

"(A) gynecological care (such as preventive women's health examinations); or

"(B) obstetric care (such as pregnancy-related services);

provided by a participating physician who specializes in such care; and

"(2) requires or provides for designation by a participant or beneficiary of a participating primary care provider;

if the primary care provider designated by such a participant or beneficiary is not such a physician as described in paragraph (1), then the plan shall meet the requirements of subsection (b).

"(b) Requirements.—A group health plan (other than a fully insured group health plan) meets the requirements of this subsection, in connection with the coverage of benefits described in subsection (a) consisting of care described in subparagraph (A) or (B) of subsection (a)(1), if the plan—

"(1) does not require authorization or a referral by the primary care provider in order to obtain coverage for such benefits, and

"(2) treats the ordering of other routine care related to the care described in subparagraph (A) or (B) of subsection (a)(1), by the participating physician providing the care described in either such subparagraph, as the authorization of the primary care provider with respect to such care.

"(c) Rule of Construction.—Nothing in subsection (b)(2) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological or obstetric care so ordered. Nothing in subsection (b) shall be construed to preclude the health plan from requiring that the obstetrician or gynecologist notify the primary care provider or the plan of treatment decisions.

"SEC. 724. PATIENT ACCESS TO PEDIATRIC CARE.

"(a) In General.—In any case in which a group health plan (other than a fully insured group health plan)—

"(1) provides coverage for benefits consisting of pediatric care by a participating pediatrician; and

"(2) requires or provides for designation by a participant or beneficiary of a participating primary care provider;

if the primary care provider designated by such a participant or beneficiary is not a physician as described in paragraph (1), then the plan shall meet the requirements of subsection (b).

"(b) Requirements.—A group health plan (other than a fully insured group health plan) meets the requirements of this subsection, in connection with the coverage of benefits described in subsection (a) consisting of care described in subsection (a)(1), if the plan—

"(1) does not require authorization or a referral by the primary care provider in order to obtain coverage for such benefits, and

"(2) treats the ordering of other routine care of the same type, by the participating physician providing the care described in subsection (a)(1), as the authorization of the primary care provider with respect to such care.

"(c) Construction.—Nothing in subsection (b)(2) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of pediatric care so ordered.

"SEC. 725. CONTINUITY OF CARE.

"(a) In General.—

"(1) Termination of provider.—If a contract between a group health plan (other than a fully insured group health plan) and a health care provider is terminated (as defined in paragraph (2)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in such group health plan, and an individual who is a participant or beneficiary in the plan is undergoing a course of treatment from the provider at the time of such termination, the plan shall—

"(A) notify the individual on a timely basis of such termination;

"(B) provide the individual with an opportunity to notify the plan of a need for transitional care; and

"(C) in the case of termination described in paragraph (2), (3), or (4) of subsection (b), and subject to subsection (c), permit the individual to continue or be covered with respect to the course of treatment with the provider's consent during a transitional period (as provided under subsection (b)).

"(2) Terminated.—In this section, the term 'terminated' includes, with respect to a contract, the expiration or nonrenewal of the contract by the group health plan, but does not include a termination of the contract by the plan for failure to meet applicable quality standards or for fraud.

“(3) CONTRACTS.—For purposes of this section, the term ‘contract between a group health plan (other than a fully insured group health plan) and a health care provider’ shall include a contract between such a plan and an organized network of providers.

“(b) TRANSITIONAL PERIOD.—

“(1) GENERAL RULE.—Except as provided in paragraph (3), the transitional period under this subsection shall extend for up to 90 days from the date of the notice described in subsection (a)(1)(A) of the provider's termination.

“(2) INSTITUTIONAL CARE.—Subject to paragraph (1), the transitional period under this subsection for institutional or inpatient care from a provider shall extend until the discharge or termination of the period of institutionalization and also shall include institutional care provided within a reasonable time of the date of termination of the provider status if the care was scheduled before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such care.

“(3) PREGNANCY.—Notwithstanding paragraph (1), if—

“(A) a participant or beneficiary has entered the second trimester of pregnancy at the time of a provider's termination of participation; and

“(B) the provider was treating the pregnancy before the date of the termination;

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

“(4) TERMINAL ILLNESS.—Subject to paragraph (1), if—

“(A) a participant or beneficiary was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) prior to a provider's termination of participation; and

“(B) the provider was treating the terminal illness before the date of termination;

the transitional period under this subsection shall be for care directly related to the treatment of the terminal illness.

“(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan (other than a fully insured group health plan) may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the provider agreeing to the following terms and conditions:

“(1) The provider agrees to accept reimbursement from the plan and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (b)(2), at the rates applicable under the replacement plan after the date of the termination of the contract with the group health plan) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

“(2) The provider agrees to adhere to the quality assurance standards of the plan responsible for payment under paragraph (1) and to provide to such plan necessary medical information related to the care provided.

“(3) The provider agrees otherwise to adhere to such plan's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan.

“(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

“(e) DEFINITION.—In this section, the term ‘health care provider’ or ‘provider’ means—

“(1) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State; and

“(2) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

“SEC. 726. PROTECTION OF PATIENT-PROVIDER COMMUNICATIONS.

“(a) IN GENERAL.—Subject to subsection (b), a group health plan (other than a fully insured group health plan and in relation to a participant or beneficiary) shall not prohibit or otherwise restrict a health care professional from advising such a participant or beneficiary who is a patient of the professional about the health status of the participant or beneficiary or medical care or treatment for the condition or disease of the participant or beneficiary, regardless of whether coverage for such care or treatment are provided under the contract, if the professional is acting within the lawful scope of practice.

“(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as requiring a group health plan (other than a fully insured group health plan) to provide specific benefits under the terms of such plan.

“SEC. 727. GENERALLY APPLICABLE PROVISION.

“In the case of a group health plan that provides benefits under 2 or more coverage options, the requirements of sections 721, 723, 724, 725 and 726 shall apply separately with respect to each coverage option.”.

(b) RULE WITH RESPECT TO CERTAIN PLANS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, health insurance issuers may offer, and eligible individuals may purchase, high deductible health plans described in section 220(c)(2)(A) of the Internal Revenue Code of 1986. Effective for the 4-year period beginning on the date of the enactment of this Act, such health plans shall not be required to provide payment for any health care items or services that are exempt from the plan's deductible.

(2) EXISTING STATE LAWS.—A State law relating to payment for health care items and services in effect on the date of enactment of this Act that is preempted under paragraph (1), shall not apply to high deductible health plans after the expiration of the 4-year period described in such paragraph unless the State reenacts such law after such period.

(c) DEFINITION.—Section 733(a) of the Employee Retirement Income Security Act of 1974 (42 U.S.C. 1186(a)) is amended by adding at the end the following:

“(3) FULLY INSURED GROUP HEALTH PLAN.—The term ‘fully insured group health plan’ means a group health plan where benefits are provided pursuant to the terms of an arrangement between a group health plan and a health insurance issuer and are guaranteed by the health insurance issuer under a contract or policy of insurance.”.

(d) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended—

(1) in the item relating to subpart C, by striking “Subpart C” and inserting “Subpart D”; and

(2) by adding at the end of the items relating to subpart B of part 7 of subtitle B of title I of such Act the following new items:

“SUBPART C—PATIENT RIGHT TO MEDICAL ADVICE AND CARE

“Sec. 721. Patient access to emergency medical care.
“Sec. 722. Offering of choice of coverage options.
“Sec. 723. Patient access to obstetric and gynecological care.
“Sec. 724. Patient access to pediatric care.
“Sec. 725. Continuity of care.
“Sec. 726. Protection of patient-provider communications.
“Sec. 727. Generally applicable provisions.”.

SEC. 102. EFFECTIVE DATE AND RELATED RULES.

(a) IN GENERAL.—The amendments made by this subtitle shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The Secretary shall issue all regulations necessary to carry out the amendments made by this section before the effective date thereof.

(b) LIMITATION ON ENFORCEMENT ACTIONS.—No enforcement action shall be taken, pursuant to the amendments made by this subtitle, against a group health plan with respect to a violation of a requirement imposed by such amendments before the date of issuance of regulations issued in connection with such requirement, if the plan has sought to comply in good faith with such requirement.

Subtitle B—Right to Information About Plans and Providers

SEC. 111. INFORMATION ABOUT PLANS.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by adding at the end the following:

“SEC. 714. HEALTH PLAN COMPARATIVE INFORMATION.

“(a) REQUIREMENT.—A group health plan, or health insurance issuer in connection with group health insurance coverage, shall, not later than 12 months after the date of enactment of this section, provide for the disclosure, in a clear and accurate form to each enrollee, or upon request to a potential enrollee eligible to receive benefits under the plan, or plan sponsor with which the plan or issuer has contracted, of the information described in subsection (b).

“(b) REQUIRED INFORMATION.—The informational materials to be distributed under this section shall include for each health benefit plan the following:

“(1) A description of the covered items and services under each such plan and any in- and out-of-network features of each such plan.

“(2) A description of any cost-sharing, including premiums, deductibles, coinsurance, and copayment amounts, for which the enrollee will be responsible, including any annual or lifetime limits on benefits, for each such plan.

“(3) A description of any optional supplemental benefits offered by each such plan and the terms and conditions (including premiums or cost-sharing) for such supplemental coverage.

“(4) A description of any restrictions on payments for services furnished to an enrollee by a health care professional that is not a participating professional and the liability of the enrollee for additional payments for these services.

“(5) A description of the service area of each such plan, including the provision of any out-of-area coverage.

“(6) A description of the extent to which enrollees may select the primary care provider of their choice, including providers both within the network and outside the network of each such plan (if the plan permits out-of-network services).

“(7) A description of the procedures for advance directives and organ donation decisions if the plan maintains such procedures.

“(8) A description of the requirements and procedures to be used to obtain preauthorization for health services (including telephone numbers and mailing addresses), including referrals for specialty care.

“(9) A summary of the rules and methods for appealing coverage decisions and filing grievances (including telephone numbers and mailing addresses), as well as other available remedies.

“(10) A summary of the rules for access to emergency room care. Also, any available educational material regarding proper use of emergency services.

“(11) A description of whether or not coverage is provided for experimental treatments, investigational treatments, or clinical trials and the circumstances under which access to such treatments or trials is made available.

“(12) A description of the specific preventative services covered under the plan if such services are covered.

“(13) A statement regarding—

“(A) the manner in which an enrollee may access an obstetrician, gynecologist, or pediatrician in accordance with section 723 or 724;

“(B) the manner in which an enrollee obtains continuity of care as provided for in section 725; and

“(C) the manner in which an enrollee has access to the medical records of the enrollee in accordance with subtitle A of title II of the Patients' Bill of Rights Plus Act.

“(14) A statement that the following information, and instructions on obtaining such information (including telephone numbers and, if available, Internet websites), shall be made available upon request:

“(A) The names, addresses, telephone numbers, and State licensure status of the plan's participating health care professionals and participating health care facilities, and, if available, the education, training, speciality qualifications or certifications of such professionals.

“(B) A summary description of the methods used for compensating participating health care professionals, such as capitation, fee-for-service, salary, or a combination thereof. The requirement of this subparagraph shall not be construed as requiring plans to provide information concerning proprietary payment methodology.

“(C) A summary description of the methods used for compensating health care facilities, including per diem, fee-for-service, capitation, bundled payments, or a combination thereof. The requirement of this subparagraph shall not be construed as requiring plans to provide information concerning proprietary payment methodology.

“(D) A summary description of the procedures used for utilization review.

“(E) The list of the specific prescription medications included in the formulary of the plan, if the plan uses a defined formulary, and any provision for obtaining off-formulary medications.

“(F) A description of the specific exclusions from coverage under the plan.

“(G) Any available information related to the availability of translation or interpretation services for non-English speakers and people with communication disabilities, including the availability of audio tapes or information in Braille.

“(H) Any information that is made public by accrediting organizations in the process of accreditation if the plan is accredited, or any additional quality indicators that the plan makes available.

“(c) MANNER OF DISTRIBUTION.—

“(1) IN GENERAL.—The information described in this section shall be distributed in an accessible format that is understandable to an average plan enrollee.

“(2) RULE OF CONSTRUCTION.—For purposes of this section, a group health plan, or health insurance issuer in connection with group health insurance coverage, in reliance on records maintained by the plan or issuer, shall be deemed to have met the requirements of this section if the plan or issuer provides the information requested under this section—

“(A) in the case of the plan, to participants and beneficiaries at the address contained in such records with respect to such participants and beneficiaries; or

“(B) in the case of the issuer, to the employer of a participant if the employer provides for the coverage of such participant under the plan involved or to participants and beneficiaries at the address contained in such records with respect to such participants and beneficiaries.

“(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prohibit a group health plan, or health insurance issuer in connection with group health insurance coverage, from distributing any other additional information determined by the plan or issuer to be important or necessary in assisting participants and beneficiaries enrollees or upon request potential participants in the selection of a health plan or from providing information under subsection (b)(13) as part of the required information.

“(e) HEALTH CARE PROFESSIONAL.—In this section, the term ‘health care professional’ means a physician (as defined in section 1861(r) of the Social Security Act) or other health care professional if coverage for the professional's services is provided under the health plan involved for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech-language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse-midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185(a)) is amended by striking “section 711, and inserting “sections 711 and 714”.

(2) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001) is amended by inserting after the item relating to section 713, the following:

“Sec. 714. Health plan comparative information.”.

SEC. 112. INFORMATION ABOUT PROVIDERS.

(a) STUDY.—The Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the conduct of a study, and the submission to the Secretary of a report, that includes—

(1) an analysis of information concerning health care professionals that is currently available to patients, consumers, States, and professional societies, nationally and on a State-by-State basis, including patient preferences with respect to information about such professionals and their competencies;

(2) an evaluation of the legal and other barriers to the sharing of information concerning health care professionals; and

(3) recommendations for the disclosure of information on health care professionals, including the competencies and professional qualifications of such practitioners, to better facilitate patient choice, quality improvement, and market competition.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall forward to the appropriate committees of Congress a copy of the report and study conducted under subsection (a).

Subtitle C—Right to Hold Health Plans Accountable

SEC. 121. AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended to read as follows:

“SEC. 503. CLAIMS PROCEDURE, COVERAGE DETERMINATION, GRIEVANCES AND APPEALS.

“(a) CLAIMS PROCEDURE.—In accordance with regulations of the Secretary, every employee benefit plan shall—

“(1) provide adequate notice in writing to any participant or beneficiary whose claim for benefits under the plan has been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the participant, and

“(2) afford a reasonable opportunity to any participant whose claim for benefits has been denied for a full and fair review by the appropriate named fiduciary of the decision denying the claim.

“(b) COVERAGE DETERMINATIONS UNDER GROUP HEALTH PLANS.—

“(1) PROCEDURES.—

“(A) IN GENERAL.—A group health plan or health insurance issuer conducting utilization review shall ensure that procedures are in place for—

“(i) making determinations regarding whether an enrollee is eligible to receive a payment or coverage for health services under the plan or coverage involved and any cost-sharing amount that the enrollee is required to pay with respect to such service;

“(ii) notifying covered enrollees (or the legal representative of such enrollees) and the treating health care professionals involved regarding determinations made under the plan or issuer and any additional payments that the enrollee may be required to make with respect to such service; and

“(iii) responding to requests, either written or oral, for coverage determinations or for internal appeals from an enrollee (or the legal representative of such enrollee) or the treating health care professional.

“(B) ORAL REQUESTS.—With respect to an oral request described in subparagraph (A)(iii), a group health plan or health insurance issuer may require that the requesting individual provide written evidence of such request.

"(2) TIMELINE FOR MAKING DETERMINATIONS.—

"(A) ROUTINE DETERMINATION.—A group health plan or a health insurance issuer shall maintain procedures to ensure that prior authorization determinations concerning the provision of non-emergency items or services are made within 30 days from the date on which the request for a determination is submitted, except that such period may be extended where certain circumstances exist that are determined by the Secretary to be beyond control of the plan or issuer.

"(B) EXPEDITED DETERMINATION.—

"(i) IN GENERAL.—A prior authorization determination under this subsection shall be made within 72 hours after a request is received by the plan or issuer under clause (ii) or (iii).

"(ii) REQUEST BY ENROLLEE.—A plan or issuer shall maintain procedures for expediting a prior authorization determination under this subsection upon the request of an enrollee if, based on such a request, the plan or issuer determines that the normal time for making such a determination could seriously jeopardize the life or health of the enrollee.

"(iii) DOCUMENTATION BY HEALTH CARE PROFESSIONAL.—A plan or issuer shall maintain procedures for expediting a prior authorization determination under this subsection if the request involved indicates that the treating health care professional has documented, based on the medical exigencies, that a determination under the procedures described in subparagraph (A) could seriously jeopardize the life or health of the enrollee.

"(C) CONCURRENT DETERMINATIONS.—A plan or issuer shall maintain procedures to certify or deny coverage of an extended stay or additional services.

"(D) RETROSPECTIVE DETERMINATION.—A plan or issuer shall maintain procedures to ensure that, with respect to the retrospective review of a determination made under paragraph (1), the determination shall be made within 30 working days of the date on which the plan or issuer receives all necessary information.

"(3) NOTICE OF DETERMINATIONS.—

"(A) ROUTINE DETERMINATION.—With respect to a coverage determination of a plan or issuer under paragraph (2)(A), the plan or issuer shall issue notice of such determination to the enrollee (or the legal representative of the enrollee), and consistent with the medical exigencies of the case, to the treating health care professional involved not later than 2 working days after the date on which the determination is made.

"(B) EXPEDITED DETERMINATION.—With respect to a coverage determination of a plan or issuer under paragraph (2)(B), the plan or issuer shall issue notice of such determination to the enrollee (or the legal representative of the enrollee), and consistent with the medical exigencies of the case, to the treating health care professional involved within the 72 hour period described in paragraph (2)(B).

"(C) CONCURRENT REVIEWS.—With respect to the determination under a plan or issuer under paragraph (1) to certify or deny coverage of an extended stay or additional services, the plan or issuer shall issue notice of such determination to the treating health care professional and to the enrollee involved (or the legal representative of the enrollee) within 1 working day of the date on which the initial notice was issued.

"(D) RETROSPECTIVE REVIEWS.—With respect to the retrospective review under a plan or issuer of a determination made under paragraph (1), a determination shall be made within 30 working days of the date on which the plan or issuer receives all necessary information. The plan or issuer shall issue written notice of an approval or disapproval of a determination under this subparagraph to the enrollee (or the legal representative of the enrollee) and health care provider involved within 5 working days of the date on which such determination is made.

"(E) REQUIREMENTS OF NOTICE OF ADVERSE COVERAGE DETERMINATIONS.—A written or electronic notice of an adverse coverage determination under this subsection, or of an expedited adverse coverage determination under paragraph (2)(B), shall be provided to the enrollee (or the legal representative of the enrollee) and treating health care professional (if any) involved and shall include—

"(i) the reasons for the determination (including the clinical or scientific-evidence based rationale used in making the determination) written in a manner to be understandable to the average enrollee;

"(ii) the procedures for obtaining additional information concerning the determination; and

"(iii) notification of the right to appeal the determination and instructions on how to initiate an appeal in accordance with subsection (d).

"(c) GRIEVANCES.—A group health plan or a health insurance issuer shall have written procedures for addressing grievances between the plan and enrollees. Determinations under such procedures shall be non-appealable.

"(d) INTERNAL APPEAL OF COVERAGE DETERMINATIONS.—

"(1) IN GENERAL.—An enrollee (or the legal representative of the enrollee) and the treating health care professional with the consent of the enrollee (or the legal representative of the enrollee), may appeal any adverse coverage determination under subsection (b) under the procedures described in this subsection.

"(2) RECORDS.—A group health plan and a health insurance issuer shall maintain written records, for at least 6 years, with respect to any appeal under this subsection for purposes of internal quality assurance and improvement.

"(3) ROUTINE DETERMINATIONS.—A group health plan or a health insurance issuer shall provide for the consideration of an appeal of an adverse routine determination under this subsection not later than 30 working days after the date on which a request for such appeal is received.

"(4) EXPEDITED DETERMINATION.—

"(A) IN GENERAL.—An expedited determination with respect to an appeal under this subsection shall be made in accordance with the medical exigencies of the case, but in no case more than 72 hours after the request for such appeal is received by the plan or issuer under subparagraph (B) or (C).

"(B) REQUEST BY ENROLLEE.—A plan or issuer shall maintain procedures for expediting a prior authorization determination under this subsection upon the request of an enrollee if, based on such a request, the plan or issuer determines that the normal time for making such a determination could seriously jeopardize the life or health of the enrollee.

"(C) DOCUMENTATION BY HEALTH CARE PROFESSIONAL.—A plan or issuer shall maintain procedures for expediting a prior authorization determination under this subsection if the request involved indicates that the treating health care professional has documented, based on the medical exigencies that a determination under the procedures described in paragraph (2) could seriously jeopardize the life or health of the enrollee.

"(5) CONDUCT OF REVIEW.—A review of an adverse coverage determination under this subsection shall be conducted by an individual with appropriate expertise who was not involved in the initial determination.

"(6) LACK OF MEDICAL NECESSITY.—A review of an appeal under this subsection relating to a determination to deny coverage based on a lack of medical necessity or appropriateness, or based on an experimental or investigational treatment, shall be made only by a physician with appropriate expertise in the field of medicine involved who was not involved in the initial determination.

"(7) NOTICE.—

"(A) IN GENERAL.—Written notice of a determination made under an internal review process shall be issued to the enrollee (or the legal representative of the enrollee) and the treating health care professional not later than 2 working days after the completion of the review (or within the 72-hour period referred to in paragraph (4) if applicable).

"(B) ADVERSE COVERAGE DETERMINATIONS.—With respect to an adverse coverage determination made under this subsection, the notice described in subparagraph (A) shall include—

"(i) the reasons for the determination (including the clinical or scientific-evidence based rationale used in making the determination) written in a manner to be understandable to the average enrollee;

"(ii) the procedures for obtaining additional information concerning the determination; and

"(iii) notification of the right to an external review under subsection (e) and instructions on how to initiate such a review.

"(e) EXTERNAL REVIEW.—

"(1) IN GENERAL.—A group health plan or a health insurance issuer shall have written procedures to permit an enrollee (or the legal representative of the enrollee) access to an external review with respect to a coverage determination concerning a particular item or service where—

"(A) the particular item or service involved, when medically appropriate and necessary, is a covered benefit under the terms and conditions of the contract between the plan or issuer and the enrollee;

"(B) the coverage determination involved denied coverage for such item or service because the provision of such item or service—

"(i) does not meet the plan's or issuer's requirements for medical appropriateness or necessity and the amount involved exceeds a significant financial threshold; or

"(ii) would constitute experimental or investigational treatment and there is a significant risk of placing the life or health of the enrollee in jeopardy; and

"(C) the enrollee has completed the internal appeals process with respect to such determination.

"(2) INITIATION OF THE EXTERNAL REVIEW PROCESS.—

"(A) FILING OF REQUEST.—An enrollee (or the legal representative of the enrollee) who desires to have an external review conducted under this subsection shall file a written request for such a review with the plan or issuer involved not later than 30 working days after the receipt of a final denial of a claim under subsection (d). Any such request shall include the consent of the enrollee (or the legal representative of the enrollee) for the release of medical information and records to external reviewers regarding the enrollee if such information is necessary for the proper conduct of the external review.

"(B) INFORMATION AND NOTICE.—Not later than 5 working days after the receipt of a request under subparagraph (A), or earlier in accordance with the medical exigencies of the case, the plan or issuer involved shall select an external appeals entity under paragraph (3)(A) that shall be responsible for designating an external reviewer under paragraph (3)(B).

"(C) PROVISION OF INFORMATION.—The plan or issuer involved shall forward all necessary information (including medical records, any relevant review criteria, the clinical rationale consistent with the terms and conditions of the contract between the plan or issuer and the enrollee for the coverage denial, and evidence of the enrollee's coverage) to the external reviewer selected under paragraph (3)(B).

"(D) NOTIFICATION.—The plan or issuer involved shall send a written notification to the enrollee (or the legal representative of the enrollee) and the plan administrator, indicating that an external review has been initiated.

"(3) CONDUCT OF EXTERNAL REVIEW.—

"(A) DESIGNATION OF EXTERNAL APPEALS ENTITY BY PLAN OR ISSUER.—A plan or issuer that receives a request for an external review under paragraph (2)(A) shall designate one of the following entities to serve as the external appeals entity:

"(i) An external review entity licensed or credentialed by a State.

"(ii) A State agency established for the purpose of conducting independent external reviews.

"(iii) Any entity under contract with the Federal Government to provide external review services.

"(iv) Any entity accredited as an external review entity by an accrediting body recognized by the Secretary for such purpose.

"(v) Any fully accredited teaching hospital.

"(vi) Any other entity meeting criteria established by the Secretary for purposes of this subparagraph.

"(B) DESIGNATION OF EXTERNAL REVIEWER BY EXTERNAL APPEALS ENTITY.—The external appeals entity designated under subparagraph (A) shall, not later than 30 days after the date on which such entity is designated under subparagraph (A), or earlier in accordance with the medical exigencies of the case, designate one or more individuals to serve as external reviewers with respect to a request received under paragraph (2)(A). Such reviewers shall be independent medical experts who shall—

"(i) be appropriately credentialed or licensed in any State to deliver health care services;

"(ii) not have any material, professional, familial, or financial affiliation with the case under review, the enrollee involved, the treating health care professional, the institution where the treatment would take place, or the manufacturer of any drug, device, procedure, or other therapy proposed for the enrollee whose treatment is under review;

"(iii) be experts in the diagnosis or treatment under review and, when reasonably available, be of the same speciality of the physician prescribing the treatment in question;

"(iv) receive only reasonable and customary compensation from the group health plan or health insurance issuer in connection with the external review that is not contingent on the decision rendered by the reviewer; and

"(v) not be held liable for decisions regarding medical determinations (but may be held liable for actions that are arbitrary and capricious).

"(4) STANDARD OF REVIEW.—

"(A) IN GENERAL.—An external reviewer shall—

"(i) make a determination based on the medical necessity, appropriateness, experimental or investigational nature of the coverage denial;

"(ii) take into consideration any evidence-based decision making or clinical practice guidelines used by the group health plan or health insurance issuer in conducting utilization review; and

"(iii) submit a report on the final determinations of the review involved to—

"(I) the plan or issuer involved;

"(II) the enrollee involved (or the legal representative of the enrollee); and

"(III) the health care professional involved.

"(B) NOTICE.—The plan or issuer involved shall ensure that the enrollee receives notice, within 30 days after the determination of the independent medical expert, regarding the actions of the plan or issuer with respect to the determination of such expert under the external review.

"(5) TIMEFRAME FOR REVIEW.—

"(A) IN GENERAL.—An external reviewer shall complete a review of an adverse coverage determination in accordance with the medical exigencies of the case.

"(B) LIMITATION.—Notwithstanding subparagraph (A), a review described in such subparagraph shall be completed not later than 30 working days after the later of—

"(i) the date on which such reviewer is designated; or

"(ii) the date on which all information necessary to completing such review is received.

"(6) BINDING DETERMINATION.—The determination of an external reviewer under this subsection shall be binding upon the plan or issuer if the provisions of this subsection or the procedures implemented under such provisions were complied with by the external reviewer.

"(7) STUDY.—Not later than 2 years after the date of enactment of this section, the General Accounting Office shall conduct a study of a statistically appropriate sample of completed external reviews. Such study shall include an assessment of the process involved during an external review and the basis of decisionmaking by the external reviewer. The results of such study shall be submitted to the appropriate committees of Congress.

"(8) EFFECT ON CERTAIN PROVISIONS.—Nothing in this section shall be construed as affecting or modifying section 514 of this Act with respect to a group health plan.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a plan administrator or plan fiduciary or health plan medical director from requesting an external review by an external reviewer without first completing the internal review process.

"(g) DEFINITIONS.—In this section:

"(1) ADVERSE COVERAGE DETERMINATION.—The term 'adverse coverage determination' means a coverage determination under the plan which results in a denial of coverage or reimbursement.

"(2) COVERAGE DETERMINATION.—The term 'coverage determination' means with respect to items and services for which coverage may be provided under a health plan, a determination of whether or not such items and services are covered or reimbursable under the coverage and terms of the contract.

"(3) ENROLLEE.—The term enrollee means a participant or beneficiary.

"(4) GRIEVANCE.—The term 'grievance' means any enrollee complaint that does not involve a coverage determination.

"(5) GROUP HEALTH PLAN.—The term 'group health plan' shall have the meaning given such term in section 733(a). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

"(6) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term in section 733(b)(1). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

"(7) HEALTH INSURER.—The term 'health insurer' means an insurance company, insurance service, or an insurance organization that meets the requirements of section 733(b)(2) and that offers health insurance coverage in connection with a group health plan.

"(8) PRIOR AUTHORIZATION DETERMINATION.—The term 'prior authorization determination' means a coverage determination prior to the provision of the items and services as a condition of coverage of the items and services under the coverage.

"(9) TREATING HEALTH CARE PROFESSIONAL.—The term 'treating health care professional' with respect to a group health plan, health insurance issuer or provider sponsored organization means a practitioner who is acting within the scope of their State licensure or certification for the delivery of health care services and who is primarily responsible for delivering those services to the enrollee.

"(10) UTILIZATION REVIEW.—The term 'utilization review' with respect to a group health plan or health insurance coverage means a set of formal techniques designed to monitor the use of, or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of, health care services, procedures, or settings. Techniques may include ambulatory review, prospective review, second opinion, certification, concurrent review, case management, discharge planning or retrospective review."

(b) ENFORCEMENT.—Section 502(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(1)) is amended by inserting after "or section 101(e)(1)" the following: ", or fails to comply with a coverage determination as required under section 503(e)(6),".

(c) CONFORMING AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by striking the item relating to section 503 and inserting the following new item:

"Sec. 503. Claims procedures, coverage determination, grievances and appeals.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after 1 year after the date of enactment of this Act. The Secretary shall issue all regulations necessary to carry out the amendments made by this section before the effective date thereof.

Subtitle D—Miscellaneous Provisions

SEC. 131. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (as amended by section 1531(a) of the Taxpayer Relief Act of 1997) is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Standard relating to Patients' bill of rights."; and

(2) by inserting after section 9812 the following:

"SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

"A group health plan shall comply with the requirements of section 714 and subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as in effect as of the date of the enactment of the Patients' Bill of Rights Plus Act), and such requirements shall be deemed to be incorporated into this section.".

TITLE II—INDIVIDUAL RIGHTS WITH RESPECT TO PERSONAL MEDICAL INFORMATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Personal Medical Information Access Act".

Subtitle A—Access to Medical Records

SEC. 211. INSPECTION AND COPYING OF PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—At the request of an individual and except as provided in subsection (b), a health care provider, health plan, employer, health or life insurer, school, or university shall permit an individual who is the subject of protected health information or the individual's designee, to inspect and copy protected health information concerning the individual, including records created under section 212 that such entity maintains. Such entity may set forth appropriate procedures to be followed for such inspection or copying and may require an individual to pay reasonable costs associated with such inspection or copying.

(b) EXCEPTIONS.—Unless ordered by a court of competent jurisdiction, an entity described in subsection (a) is not required to permit the inspection or copying of protected health information if any of the following conditions are met:

(1) ENDANGERMENT TO LIFE OR SAFETY.—The entity determines that the disclosure of the information could reasonably be expected to endanger the life or physical safety of an individual.

(2) CONFIDENTIAL SOURCE.—The information identifies, or could reasonably lead to the identification of, a person who provided information under a promise of confidentiality concerning the individual who is the subject of the information.

(3) INFORMATION COMPILED IN ANTICIPATION OF LITIGATION.—The information is compiled principally—

(A) in the reasonable anticipation of a civil, criminal, or administrative action or proceeding; or

(B) for use in such an action or proceeding.

(4) RESEARCH PURPOSES.—The information was collected for a research project monitored by an institutional review board, such project is not complete, and the researcher involved reasonably believes that access to such information would harm the conduct of the research or invalidate or undermine the validity of the research.

(c) DENIAL OF A REQUEST FOR INSPECTION OR COPYING.—If an entity described in subsection (a) denies a request for inspection or copying pursuant to subsection (b), the entity shall inform the individual in writing of—

(1) the reasons for the denial of the request for inspection or copying;

(2) any procedures for further review of the denial; and

(3) the individual's right to file with the entity a concise statement setting forth the request for inspection or copying.

(d) STATEMENT REGARDING REQUEST.—If an individual has filed a statement under subsection (c)(3), the entity in any subsequent disclosure of the portion of the information requested under subsection (a) shall include—

(1) a copy of the individual's statement; and

(2) a concise statement of the reasons for denying the request for inspection or copying.

(e) INSPECTION AND COPYING OF SEGREGABLE PORTION.—An entity described in subsection (a) shall permit the inspection and copying under subsection (a) of any reasonably segregable portion of protected health information after deletion of any portion that is exempt under subsection (b).

(f) DEADLINE.—An entity described in subsection (a) shall comply with or deny, in accordance with subsection (c), a request for inspection or copying of protected health information under this section not later than 45 days after the date on which the entity receives the request.

(g) RULES GOVERNING AGENTS.—An agent of an entity described in subsection (a) shall not be required to provide for the inspection and copying of protected health information, except where—

(1) the protected health information is retained by the agent; and

(2) the agent has received in writing a request from the entity involved to fulfill the requirements of this section;

at which time such information shall be provided to the requesting entity. Such requesting entity shall comply with subsection (f) with respect to any such information.

(h) RULE OF CONSTRUCTION.—This section shall not be construed to require an entity described in subsection (a) to conduct a formal, informal, or other hearing or proceeding concerning a request for inspection or copying of protected health information.

SEC. 212. AMENDMENT OF PROTECTED HEALTH INFORMATION.

(a) REQUIREMENT.—

(1) IN GENERAL.—Except as provided in subsection (b) and subject to paragraph (2), a health care provider, health plan, employer, health or life insurer, school, or university that receives from an individual a request in writing to amend protected health information shall—

(A) amend such information as requested;

(B) inform the individual of the amendment that has been made; and

(C) make reasonable efforts to inform any person to whom the unamended portion of the information was previously disclosed, of any nontechnical amendment that has been made.

(2) COMPLIANCE.—An entity described in paragraph (1) shall comply with the requirements of such paragraph within 45 days of the date on which the request involved is received if the entity—

(A) created the protected health information involved; and

(B) determines that such information is in fact inaccurate.

(b) REFUSAL TO AMEND.—If an entity described in subsection (a) refuses to make the amendment requested under such subsection, the entity shall inform the individual in writing of—

(1) the reasons for the refusal to make the amendment;

(2) any procedures for further review of the refusal; and

(3) the individual's right to file with the entity a concise statement setting forth the requested amendment and the individual's reasons for disagreeing with the refusal.

(c) STATEMENT OF DISAGREEMENT.—If an individual has filed a statement of disagreement under subsection (b)(3), the entity involved, in any subsequent disclosure of the disputed portion of the information—

(1) shall include a copy of the individual's statement; and

(2) may include a concise statement of the reasons for not making the requested amendment.

(d) RULES GOVERNING AGENTS.—The agent of an entity described in subsection (a) shall not be required to make amendments to protected health information, except where—

(1) the protected health information is retained by the agent; and

(2) the agent has been asked by such entity to fulfill the requirements of this section.

If the agent is required to comply with this section as provided for in paragraph (2), such agent shall be subject to the 45-day deadline described in subsection (a).

(e) REPEATED REQUESTS FOR AMENDMENTS.—If an entity described in subsection (a) receives a request for an amendment of information as provided for in such subsection and a statement of disagreement has been filed pursuant to subsection (c), the entity shall inform the individual of such filing and shall not be required to carry out the procedures required under this section.

(f) RULES OF CONSTRUCTION.—This section shall not be construed to—

(1) require that an entity described in subsection (a) conduct a formal, informal, or other hearing or proceeding concerning a request for an amendment to protected health information;

(2) require a provider to amend an individual's protected health information as to the type, duration, or quality of treatment the individual believes he or she should have been provided; or

(3) permit any deletions or alterations of the original information.

SEC. 213. NOTICE OF CONFIDENTIALITY PRACTICES.

(a) PREPARATION OF WRITTEN NOTICE.—A health care provider, health plan, health oversight agency, public health authority, employer, health or life insurer, health researcher, school or university shall post or provide, in writing and in a clear and conspicuous manner, notice of the entity's confidentiality practices, that shall include—

(1) a description of an individual's rights with respect to protected health information;

(2) the procedures established by the entity for the exercise of the individual's rights; and

(3) the right to obtain a copy of the notice of the confidentiality practices required under this subtitle.

(b) MODEL NOTICE.—The Secretary, in consultation with the National Committee on Vital and Health Statistics and the National Association of Insurance Commissioners, and after notice and opportunity for public comment, shall develop and disseminate model notices of confidentiality practices. Use of the model notice shall serve as a defense against claims of receiving inappropriate notice.

Subtitle B—Establishment of Safeguards

SEC. 221. ESTABLISHMENT OF SAFEGUARDS.

A health care provider, health plan, health oversight agency, public health authority, employer, health or life insurer, health researcher, law enforcement official, school or university shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of protected health information created, received, obtained, maintained, used, transmitted, or disposed of by such entity.

Subtitle C—Enforcement; Definitions

SEC. 231. CIVIL PENALTY.

(a) VIOLATION.—A health care provider, health researcher, health plan, health oversight agency, public health agency, law enforcement agency, employer, health or life insurer, school, or university, or the agent of any such individual or entity, who the Secretary, in consultation with the Attorney General, determines has substantially and materially failed to comply with this Act shall, for a violation of this title, be subject, in addition to any other penalties that may be prescribed by law, to a civil penalty of not more than $500 for each such violation, but not to exceed $5,000 in the aggregate for multiple violations.

(b) PROCEDURES FOR IMPOSITION OF PENALTIES.—Section 1128A of the Social Security Act, other than subsections (a) and (b) and the second sentence of subsection (f) of that section, shall apply to the imposition of a civil, monetary, or exclusionary penalty under this section in the same manner as such provisions apply with respect to the imposition of a penalty under section 1128A of such Act.

SEC. 232. DEFINITIONS.

In this title:

(1) AGENT.—The term "agent" means a person who represents and acts for another under the contract or relation of agency, or whose function is to bring about, modify, affect, accept performance of, or terminate contractual obligations between the principal and a third person, including a contractor.

(2) DISCLOSE.—The term "disclose" means to release, transfer, provide access to, or otherwise divulge protected health information to any person other than the individual who is the subject of such information. Such term includes the initial disclosure and any subsequent redisclosures of protected health information.

(3) EMPLOYER.—The term "employer" has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of 2 or more employees.

(4) HEALTH CARE PROVIDER.—The term "health care provider" means a person who, with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of—

(A) a person who is licensed, certified, registered, or otherwise authorized by Federal or State law to provide an item or service that constitutes health care in the ordinary course of business, or practice of a profession;

(B) a Federal, State, or employer-sponsored program that directly provides items or services that constitute health care to beneficiaries; or

(C) an officer, employee, or agent of a person described in subparagraph (A) or (B).

(5) HEALTH OR LIFE INSURER.—The term "health or life insurer" means a health insurance issuer as defined in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91) or a life insurance company as defined in section 816 of the Internal Revenue Code of 1986.

(6) HEALTH PLAN.—The term "health plan" means any health insurance plan, including any hospital or medical service plan, dental or other health service plan or health maintenance organization plan, provider sponsored organization, or other program providing or arranging for the provision of health benefits, whether or not funded through the purchase of insurance.

(7) PERSON.—The term "person" means a government, governmental subdivision, agency or authority; corporation; company; association; firm; partnership; society; estate; trust; joint venture; individual; individual representative; tribal government; and any other legal entity.

(8) PROTECTED HEALTH INFORMATION.—The term "protected health information" means any information (including demographic information) whether or not recorded in any form or medium—

(A) that relates to the past, present or future—

(i) physical or mental health or condition of an individual (including the condition or other attributes of individual cells or their components);

(ii) provision of health care to an individual; or

(iii) payment for the provision of health care to an individual;

(B) that is created by a health care provider, health plan, health researcher, health oversight agency, public health authority, employer, law enforcement official, health or life insurer, school or university; and

(C) that is not nonidentifiable health information.

(9) SCHOOL OR UNIVERSITY.—The term "school or university" means an institution or place for instruction or education, including an elementary school, secondary school, or institution of higher learning, a college, or an assemblage of colleges united under one corporate organization or government.

(10) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(11) WRITING.—The term "writing" means writing in either a paper-based or computer-based form, including electronic signatures.

SEC. 233. EFFECTIVE DATE.

The provisions of this title shall become effective beginning on the date that is 1 year after the date of enactment of this Act. The Secretary shall issue regulations necessary to carry out this title before the effective date thereof.

TITLE III—GENETIC INFORMATION AND SERVICES

SEC. 301. SHORT TITLE.

This title may be cited as the "Genetic Information Nondiscrimination in Health Insurance Act of 1999".

SEC. 302. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 702(a)(1)(F) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(a)(1)(F)) is amended by inserting before the period the following: "(including information about a request for or receipt of genetic services)".

(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON PREDICTIVE GENETIC INFORMATION.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) (as amended by section 111) is further amended by adding at the end the following:

"SEC. 714. PROHIBITING PREMIUM DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

"A group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not adjust premium or contribution amounts for a group on the basis of predictive genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services).".

(3) CONFORMING AMENDMENT.—Section 702(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(b)) is amended by adding at the end the following:

"(3) REFERENCE TO RELATED PROVISION.—For a provision prohibiting the adjustment of premium or contribution amounts for a group under a group health plan on the basis of predictive genetic information (including information about a request for or receipt of genetic services), see section 714.".

(b) LIMITATION ON COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Section 702 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182) is amended by adding at the end the following:

"(c) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—

"(1) LIMITATION ON REQUESTING OR REQUIRING PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require predictive genetic information concerning an individual or a family member of the individual (including information about a request for or receipt of genetic services).

"(2) INFORMATION NEEDED FOR DIAGNOSIS, TREATMENT, OR PAYMENT.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), a group health plan or health insurance issuer that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

"(B) NOTICE OF CONFIDENTIALITY PRACTICES AND DESCRIPTION OF SAFEGUARDS.—As a part of a request under subparagraph (A), the group health plan or health insurance issuer shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in sections 213 and 221 of the Patients' Bill of Rights Plus Act, of such individually identifiable information.".

(c) DEFINITIONS.—Section 733(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(d)) is amended by adding at the end the following:

"(5) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

"(A) the spouse of the individual;

"(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

"(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

"(6) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member (including information about a request for or receipt of genetic services).

"(7) Genetic services.—The term 'genetic services' means health services provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

"(8) Predictive genetic information.—

"(A) In general.—The term 'predictive genetic information' means—

"(i) information about an individual's genetic tests which are associated with a statistically significant increased risk of developing a disease or disorder;

"(ii) information about genetic tests of family members of the individual; or

"(iii) information about the occurrence of a disease or disorder in family members that predicts a statistically significant increased risk of a disease or disorder in the individual.

"(B) Exceptions.—The term 'predictive genetic information' shall not include—

"(i) information about the sex or age of the individual;

"(ii) information derived from routine physical tests, such as the chemical, blood, or urine analyses of the individual, unless such analyses are genetic tests; and

"(iii) information about physical exams of the individual and other information relevant to determining the current health status of the individual so long as such information does not include information described in clauses (i), (ii), or (iii) of subparagraph (A).

"(9) Genetic test.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites, in order to detect disease-related genotypes, mutations, phenotypes, or karyotypes.".

(d) Effective Date.—Except as provided in this section, this section and the amendments made by this section shall apply with respect to group health plans for plan years beginning 1 year after the date of the enactment of this Act.

SEC. 303. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) Amendments Relating to the Group Market.—

(1) Prohibition of health discrimination on the basis of genetic information in the group market.—

(A) In general.—Subpart 2 of part A of title XXVII of the Public Health Service Act, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by adding at the end the following new section:

"SEC. 2707. PROHIBITING PREMIUM DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION IN THE GROUP MARKET.

"A group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan shall not adjust premium or contribution amounts for a group on the basis of predictive genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services).".

(B) Conforming amendment.—Section 2702(b) of the Public Health Service Act (42 U.S.C. 300gg–1(b)) is amended by adding at the end the following:

"(3) Reference to related provision.—For a provision prohibiting the adjustment of premium or contribution amounts for a group under a group health plan on the basis of predictive genetic information (including information about a request for or receipt of genetic services), see section 2707.".

(C) Limitation on collection and disclosure of predictive genetic information.—Section 2702 of the Public Health Service Act (42 U.S.C. 300gg–1) is amended by adding at the end the following:

"(c) Collection of Predictive Genetic Information.—

"(1) Limitation on requesting or requiring predictive genetic information.—Except as provided in paragraph (2), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require predictive genetic information concerning an individual or a family member of the individual (including information about a request for or receipt of genetic services).

"(2) Information needed for diagnosis, treatment, or payment.—

"(A) In general.—Notwithstanding paragraph (1), a group health plan or health insurance issuer that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

"(B) Notice of confidentiality practices and description of safeguards.—As a part of a request under subparagraph (A), the group health plan or health insurance issuer shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in sections 213 and 221 of the Patients' Bill of Rights Plus Act, of such individually identifiable information.".

(2) Definitions.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg–91(d)) is amended by adding at the end the following:

"(15) Family member.—The term 'family member' means, with respect to an individual—

"(A) the spouse of the individual;

"(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

"(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

"(16) Genetic information.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member.

"(17) Genetic services.—The term 'genetic services' means health services provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

"(18) Predictive genetic information.—

"(A) In general.—The term 'predictive genetic information' means—

"(i) information about an individual's genetic tests which is associated with a statistically significant increased risk of developing a disease or disorder;

"(ii) information about genetic tests of family members of the individual; or

"(iii) information about the occurrence of a disease or disorder in family members that predicts a statistically significant increased risk of a disease or disorder in the individual.

"(B) Exceptions.—The term 'predictive genetic information' shall not include—

"(i) information about the sex or age of the individual;

"(ii) information derived from routine physical tests, such as the chemical, blood, or urine analyses of the individual, unless such analyses are genetic tests; and

"(iii) information about physical exams of the individual and other information relevant to determining the current health status of the individual so long as such information does not include information described in clauses (i), (ii), or (iii) of subparagraph (A).

"(19) Genetic test.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites, in order to detect disease-related genotypes, mutations, phenotypes, or karyotypes.".

(b) Amendment Relating to the Individual Market.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–11 et seq.) (relating to other requirements), as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277) is amended—

(1) by redesignating such subpart as subpart 2; and

(2) by adding at the end the following:

"SEC. 2753. PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

"(a) Prohibition on Predictive Genetic Information as a Condition of Eligibility.—A health insurance issuer offering health insurance coverage in the individual market may not use predictive genetic information as a condition of eligibility of an individual to enroll in individual health insurance coverage (including information about a request for or receipt of genetic services).

"(b) Prohibition on Predictive Genetic Information in Setting Premium Rates.—A health insurance issuer offering health insurance coverage in the individual market shall not adjust premium rates for individuals on the basis of predictive genetic information concerning such an enrollee or a family member of the enrollee (including information about a request for or receipt of genetic services).

"(c) Collection of Predictive Genetic Information.—

"(1) Limitation on requesting or requiring predictive genetic information.—Except as provided in paragraph (2), a health insurance issuer offering health insurance coverage in the individual market shall not request or require predictive genetic information concerning an individual or a family member of the individual (including information about a request for or receipt of genetic services).

"(2) Information needed for diagnosis, treatment, or payment.—

"(A) in general.—Notwithstanding paragraph (1), a health insurance issuer that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

"(B) Notice of confidentiality practices and description of safeguards.—As a part of a request under subparagraph (A), the health insurance issuer shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in sections 213 and

221 of the Patients' Bill of Rights Plus Act, of such individually identifiable information.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to—

(1) group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after 1 year after the date of enactment of this Act; and

(2) health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after 1 year after the date of enactment of this Act.

SEC. 304. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.—

(1) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (as amended by section 131) is further amended by adding at the end the following:

"SEC. 9814. PROHIBITING HEALTH DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

"A group health plan shall not adjust premium or contribution amounts for a group on the basis of predictive genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services).''.

(2) CONFORMING AMENDMENT.—Section 9802(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"(3) REFERENCE TO RELATED PROVISION.—For a provision prohibiting the adjustment of premium or contribution amounts for a group under a group health plan on the basis of predictive genetic information (including information about a request for or the receipt of genetic services), see section 9814.''.

(3) AMENDMENT TO TABLE OF SECTIONS.—The table of sections for subchapter B of chapter 100 of the Internal Revenue Code of 1986 (as amended by section 131) is further amended by adding at the end the following:

"Sec. 9814. Prohibiting premium discrimination against groups on the basis of predictive genetic information.''.

(b) LIMITATION ON COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Section 9802 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"(c) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—

"(1) LIMITATION ON REQUESTING OR REQUIRING PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan shall not request or require predictive genetic information concerning an individual or a family member of the individual (including information about a request for or receipt of genetic services).

"(2) INFORMATION NEEDED FOR DIAGNOSIS, TREATMENT, OR PAYMENT.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), a group health plan that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

"(B) NOTICE OF CONFIDENTIALITY PRACTICES; DESCRIPTION OF SAFEGUARDS.—As a part of a request under subparagraph (A), the group health plan shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in sections 213 and 221 of the Patients' Bill of Rights Plus Act, of such individually identifiable information.''.

(c) DEFINITIONS.—Section 9832(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"(6) FAMILY MEMBER.—The term 'family member' means, with respect to an individual—

"(A) the spouse of the individual;

"(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

"(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

"(7) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member.

"(8) GENETIC SERVICES.—The term 'genetic services' means health services provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

"(9) PREDICTIVE GENETIC INFORMATION.—

"(A) IN GENERAL.—The term 'predictive genetic information' means—

"(i) information about an individual's genetic tests which is associated with a statistically significant increased risk of developing a disease or disorder;

"(ii) information about genetic tests of family members of the individual; or

"(iii) information about the occurrence of a disease or disorder in family members that predicts a statistically significant increased risk of a disease or disorder in the individual.

"(B) EXCEPTIONS.—The term 'predictive genetic information' shall not include—

"(i) information about the sex or age of the individual;

"(ii) information derived from routine physical tests, such as the chemical, blood, or urine analyses of the individual, unless such analyses are genetic tests; and

"(iii) information about physical exams of the individual and other information relevant to determining the current health status of the individual so long as such information does not include information described in clauses (i), (ii), or (iii) of subparagraph (A).

"(10) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites, in order to detect disease-related genotypes, mutations, phenotypes, or karyotypes.''.

(d) EFFECTIVE DATE.—Except as provided in this section, this section and the amendments made by this section shall apply with respect to group health plans for plan years beginning after 1 year after the date of the enactment of this Act.

TITLE IV—HEALTHCARE RESEARCH AND QUALITY

SEC. 401. SHORT TITLE.

This title may be cited as the "Healthcare Research and Quality Act of 1999".

SEC. 402. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.

Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended to read as follows:

"TITLE IX—AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

"PART A—ESTABLISHMENT AND GENERAL DUTIES

"SEC. 901. MISSION AND DUTIES.

"(a) IN GENERAL.—There is established within the Public Health Service an agency to be known as the Agency for Healthcare Research and Quality. In carrying out this subsection, the Secretary shall redesignate the Agency for Health Care Policy and Research as the Agency for Healthcare Research and Quality.

"(b) MISSION.—The purpose of the Agency is to enhance the quality, appropriateness, and effectiveness of healthcare services, and access to such services, through the establishment of a broad base of scientific research and through the promotion of improvements in clinical and health system practice, including the prevention of diseases and other health conditions. The Agency shall promote healthcare quality improvement by—

"(1) conducting and supporting research that develops and presents scientific evidence regarding all aspects of healthcare, including—

"(A) the development and assessment of methods for enhancing patient participation in their own care and for facilitating shared patient-physician decision-making;

"(B) the outcomes, effectiveness, and cost-effectiveness of healthcare practices, including preventive measures and primary, acute and long-term care;

"(C) existing and innovative technologies;

"(D) the costs and utilization of, and access to healthcare;

"(E) the ways in which healthcare services are organized, delivered, and financed and the interaction and impact of these factors on the quality of patient care;

"(F) methods for measuring quality and strategies for improving quality; and

"(G) ways in which patients, consumers, purchasers, and practitioners acquire new information about best practices and health benefits, the determinants and impact of their use of this information;

"(2) synthesizing and disseminating available scientific evidence for use by patients, consumers, practitioners, providers, purchasers, policy makers, and educators; and

"(3) advancing private and public efforts to improve healthcare quality.

"(c) REQUIREMENTS WITH RESPECT TO RURAL AREAS AND PRIORITY POPULATIONS.—In carrying out subsection (b), the Director shall undertake and support research, demonstration projects, and evaluations with respect to—

"(1) the delivery of health services in rural areas (including frontier areas);

"(2) health services for low-income groups, and minority groups;

"(3) the health of children;

"(4) the elderly; and

"(5) people with special healthcare needs, including disabilities, chronic care and end-of-life healthcare.

"(d) APPOINTMENT OF DIRECTOR.—There shall be at the head of the Agency an official to be known as the Director for Healthcare Research and Quality. The Director shall be appointed by the Secretary. The Secretary, acting through the Director, shall carry out the authorities and duties established in this title.

"SEC. 902. GENERAL AUTHORITIES.

"(a) IN GENERAL.—In carrying out section 901(b), the Director shall support demonstration projects, conduct and support research, evaluations, training, research networks, multi-disciplinary centers, technical assistance, and the dissemination of information, on healthcare, and on systems for the delivery of such care, including activities with respect to—

“(1) the quality, effectiveness, efficiency, appropriateness and value of healthcare services;

“(2) quality measurement and improvement;

“(3) the outcomes, cost, cost-effectiveness, and use of healthcare services and access to such services;

“(4) clinical practice, including primary care and practice-oriented research;

“(5) healthcare technologies, facilities, and equipment;

“(6) healthcare costs, productivity, organization, and market forces;

“(7) health promotion and disease prevention, including clinical preventive services;

“(8) health statistics, surveys, database development, and epidemiology; and

“(9) medical liability.

“(b) Health Services Training Grants.—

“(1) In general.—The Director may provide training grants in the field of health services research related to activities authorized under subsection (a), to include pre- and post-doctoral fellowships and training programs, young investigator awards, and other programs and activities as appropriate. In carrying out this subsection, the Director shall make use of funds made available under section 487.

“(2) Requirements.—In developing priorities for the allocation of training funds under this subsection, the Director shall take into consideration shortages in the number of trained researchers addressing the priority populations.

“(c) Multidisciplinary Centers.—The Director may provide financial assistance to assist in meeting the costs of planning and establishing new centers, and operating existing and new centers, for multidisciplinary health services research, demonstration projects, evaluations, training, and policy analysis with respect to the matters referred to in subsection (a).

“(d) Relation to Certain Authorities Regarding Social Security.—Activities authorized in this section may include, and shall be appropriately coordinated with experiments, demonstration projects, and other related activities authorized by the Social Security Act and the Social Security Amendments of 1967. Activities under subsection (a)(2) of this section that affect the programs under titles XVIII, XIX and XXI of the Social Security Act shall be carried out consistent with section 1142 of such Act.

“(e) Disclaimer.—The Agency shall not mandate national standards of clinical practice or quality healthcare standards. Recommendations resulting from projects funded and published by the Agency shall include a corresponding disclaimer.

“(f) Rule of Construction.—Nothing in this section shall be construed to imply that the Agency's role is to mandate a national standard or specific approach to quality measurement and reporting. In research and quality improvement activities, the Agency shall consider a wide range of choices, providers, healthcare delivery systems, and individual preferences.

“PART B—HEALTHCARE IMPROVEMENT RESEARCH

“SEC. 911. HEALTHCARE OUTCOME IMPROVEMENT RESEARCH.

“(a) Evidence Rating Systems.—In collaboration with experts from the public and private sector, the Agency shall identify and disseminate methods or systems used to assess healthcare research results, particularly to rate the strength of the scientific evidence behind healthcare practice, recommendations in the research literature, and technology assessments. The Agency shall make methods or systems for evidence rating widely available. Agency publications containing healthcare recommendations shall indicate the level of substantiating evidence using such methods or systems.

“(b) Healthcare Improvement Research Centers and Provider-Based Research Networks.—

“(1) In general.—In order to address the full continuum of care and outcomes research, to link research to practice improvement, and to speed the dissemination of research findings to community practice settings, the Agency shall employ research strategies and mechanisms that will link research directly with clinical practice in geographically diverse locations throughout the United States, including—

“(A) Healthcare Improvement Research Centers that combine demonstrated multidisciplinary expertise in outcomes or quality improvement research with linkages to relevant sites of care;

“(B) Provider-based Research Networks, including plan, facility, or delivery system sites of care (especially primary care), that can evaluate and promote quality improvement; and

“(C) other innovative mechanisms or strategies to link research with clinical practice.

“(2) Requirements.—The Director is authorized to establish the requirements for entities applying for grants under this subsection.

“SEC. 912. PRIVATE-PUBLIC PARTNERSHIPS TO IMPROVE ORGANIZATION AND DELIVERY.

“(a) Support for Efforts To Develop Information on Quality.—

“(1) Scientific and technical support.—In its role as the principal agency for healthcare research and quality, the Agency may provide scientific and technical support for private and public efforts to improve healthcare quality, including the activities of accrediting organizations.

“(2) Role of the agency.—With respect to paragraph (1), the role of the Agency shall include—

“(A) the identification and assessment of—

“(i) methods for the evaluation of the health of enrollees in health plans by type of plan, provider, and provider arrangements; and

“(ii) other populations, including those receiving long-term care services;

“(B) the ongoing development, testing, and dissemination of quality measures, including measures of health and functional outcomes;

“(C) the compilation and dissemination of healthcare quality measures developed in the private and public sector;

“(D) assistance in the development of improved healthcare information systems;

“(E) the development of survey tools for the purpose of measuring participant and beneficiary assessments of their healthcare; and

“(F) identifying and disseminating information on mechanisms for the integration of information on quality into purchaser and consumer decision-making processes.

“(b) Centers for Education and Research on Therapeutics.—

“(1) In general.—The Secretary, acting through the Director and in consultation with the Commissioner of Food and Drugs, shall establish a program for the purpose of making one or more grants for the establishment and operation of one or more centers to carry out the activities specified in paragraph (2).

“(2) Required activities.—The activities referred to in this paragraph are the following:

“(A) The conduct of state-of-the-art clinical research for the following purposes:

“(i) To increase awareness of—

“(I) new uses of drugs, biological products, and devices;

“(II) ways to improve the effective use of drugs, biological products, and devices; and

“(III) risks of new uses and risks of combinations of drugs and biological products.

“(ii) To provide objective clinical information to the following individuals and entities:

“(I) Healthcare practitioners and other providers of healthcare goods or services.

“(II) Pharmacists, pharmacy benefit managers and purchasers.

“(III) Health maintenance organizations and other managed healthcare organizations.

“(IV) Healthcare insurers and governmental agencies.

“(V) Patients and consumers.

“(iii) To improve the quality of healthcare while reducing the cost of healthcare through—

“(I) an increase in the appropriate use of drugs, biological products, or devices; and

“(II) the prevention of adverse effects of drugs, biological products, and devices and the consequences of such effects, such as unnecessary hospitalizations.

“(B) The conduct of research on the comparative effectiveness, cost-effectiveness, and safety of drugs, biological products, and devices.

“(C) Such other activities as the Secretary determines to be appropriate, except that a grant may not be expended to assist the Secretary in the review of new drugs.

“(c) Reducing Errors in Medicine.—The Director shall conduct and support research and build private-public partnerships to—

“(1) identify the causes of preventable healthcare errors and patient injury in healthcare delivery;

“(2) develop, demonstrate, and evaluate strategies for reducing errors and improving patient safety; and

“(3) promote the implementation of effective strategies throughout the healthcare industry.

“SEC. 913. INFORMATION ON QUALITY AND COST OF CARE.

“(a) In General.—In carrying out 902(a), the Director shall—

“(1) collect data on a nationally representative sample of the population on the cost, use and, for fiscal year 2000 and subsequent fiscal years, quality of healthcare, including the types of healthcare services Americans use, their access to healthcare services, frequency of use, how much is paid for the services used, the source of those payments, the types and costs of private health insurance, access, satisfaction, and quality of care for the general population and also for children, uninsured persons, poor and near-poor individuals, and persons with special healthcare needs;

“(2) develop databases and tools that enable States to track the quality, access, and use of healthcare services provided to their residents; and

“(3) enter into agreements with public or private entities to use, link, or acquire databases for research authorized under this title.

“(b) Quality and Outcomes Information.—

"(1) IN GENERAL.—To enhance the understanding of the quality of care, the determinants of health outcomes and functional status, the needs of special populations as well as an understanding of these changes over time, their relationship to healthcare access and use, and to monitor the overall national impact of Federal and State policy changes on healthcare, the Director, beginning in fiscal year 2000, shall ensure that the survey conducted under subsection (a)(1) will—

"(A) provide information on the quality of care and patient outcomes for frequently occurring clinical conditions for a nationally representative sample of the population; and

"(B) provide reliable national estimates for children and persons with special healthcare needs through the use of supplements or periodic expansions of the survey. In expanding the Medical Expenditure Panel Survey, as in existence on the date of enactment of this title) in fiscal year 2000 to collect information on the quality of care, the Director shall take into account any outcomes measurements generally collected by private sector accreditation organizations.

"(2) ANNUAL REPORT.—Beginning in fiscal year 2002, the Secretary, acting through the Director, shall submit to Congress an annual report on national trends in the quality of healthcare provided to the American people.

"SEC. 914. INFORMATION SYSTEMS FOR HEALTHCARE IMPROVEMENT.

"In order to foster a range of innovative approaches to the management and communication of health information, the Agency shall support research, evaluations and initiatives to advance—

"(1) the use of information systems for the study of healthcare quality, including the generation of both individual provider and plan-level comparative performance data;

"(2) training for healthcare practitioners and researchers in the use of information systems;

"(3) the creation of effective linkages between various sources of health information, including the development of information networks;

"(4) the delivery and coordination of evidence-based healthcare services, including the use of real-time healthcare decision-support programs;

"(5) the structure, content, definition, and coding of health information data and medical vocabularies in consultation with appropriate Federal and private entities;

"(6) the use of computer-based health records in outpatient and inpatient settings as a personal health record for individual health assessment and maintenance, and for monitoring public health and outcomes of care within populations; and

"(7) the protection of individually identifiable information in health services research and healthcare quality improvement.

"SEC. 915. RESEARCH SUPPORTING PRIMARY CARE AND ACCESS IN UNDERSERVED AREAS.

"(a) PREVENTIVE SERVICES TASK FORCE.—

"(1) PURPOSE.—The Agency shall provide ongoing administrative, research, and technical support for the operation of the Preventive Services Task Force. The Agency shall coordinate and support the dissemination of the Preventive Services Task Force recommendations.

"(2) OPERATION.—The Preventive Services Task Force shall review the scientific evidence related to the effectiveness, appropriateness, and cost-effectiveness of clinical preventive services for the purpose of developing recommendations, and updating previous recommendations, regarding their usefulness in daily clinical practice. In carrying out its responsibilities under paragraph (1), the Task Force shall not be subject to the provisions of Appendix 2 of title 5, United States Code.

"(b) PRIMARY CARE RESEARCH.—

"(1) IN GENERAL.—There is established within the Agency a Center for Primary Care Research (referred to in this subsection as the 'Center') that shall serve as the principal source of funding for primary care research in the Department of Health and Human Services. For purposes of this paragraph, primary care research focuses on the first contact when illness or health concerns arise, the diagnosis, treatment or referral to specialty care, preventive care, and the relationship between the clinician and the patient in the context of the family and community.

"(2) RESEARCH.—In carrying out this section, the Center shall conduct and support research on—

"(A) the nature and characteristics of primary care practice;

"(B) the management of commonly occurring clinical problems;

"(C) the management of undifferentiated clinical problems; and

"(D) the continuity and coordination of health services.

"(3) DEMONSTRATION.—The Agency shall support demonstrations into the use of new information tools aimed at improving shared decision-making between patients and their care-givers.

"SEC. 916. CLINICAL PRACTICE AND TECHNOLOGY INNOVATION.

"(a) IN GENERAL.—The Director shall promote innovation in evidence-based clinical practice and healthcare technologies by—

"(1) conducting and supporting research on the development, diffusion, and use of healthcare technology;

"(2) developing, evaluating, and disseminating methodologies for assessments of healthcare practices and healthcare technologies;

"(3) conducting intramural and supporting extramural assessments of existing and new healthcare practices and technologies;

"(4) promoting education, training, and providing technical assistance in the use of healthcare practice and healthcare technology assessment methodologies and results; and

"(5) working with the National Library of Medicine and the public and private sector to develop an electronic clearinghouse of currently available assessments and those in progress.

"(b) SPECIFICATION OF PROCESS.—

"(1) IN GENERAL.—Not later than December 31, 2000, the Director shall develop and publish a description of the methods used by the Agency and its contractors for practice and technology assessment.

"(2) CONSULTATIONS.—In carrying out this subsection, the Director shall cooperate and consult with the Assistance Secretary for Health, the Administrator of the Health Care Financing Administration, the Director of the National Institutes of Health, the Commissioner of Food and Drugs, and the heads of any other interested Federal department or agency, professional societies, and other private and public entities.

"(3) METHODOLOGY.—The methods employed in practice and technology assessments under paragraph (1) shall consider—

"(A) safety, efficacy, and effectiveness;

"(B) legal, social, and ethical implications;

"(C) costs, benefits, and cost-effectiveness;

"(D) comparisons to alternative technologies and practices; and

"(E) requirements of Food and Drug Administration approval to avoid duplication.

"(c) SPECIFIC ASSESSMENTS.—

"(1) IN GENERAL.—The Director shall conduct or support specific assessments of healthcare technologies and practices.

"(2) REQUESTS FOR ASSESSMENTS.—The Director is authorized to conduct or support assessments, on a reimbursable basis, for the Health Care Financing Administration, the Department of Defense, the Department of Veterans Affairs, the Office of Personnel Management, and other public or private entities.

"(3) GRANTS AND CONTRACTS.—In addition to conducting assessments, the Director may make grants to, or enter into cooperative agreements or contracts with, entities described in paragraph (4) for the purpose of conducting assessments of experimental, emerging, existing, or potentially outmoded healthcare technologies, and for related activities.

"(4) ELIGIBLE ENTITIES.—An entity described in this paragraph is an entity that is determined to be appropriate by the Director, including academic medical centers, research institutions, professional organizations, third party payers, other governmental agencies, and consortia of appropriate research entities established for the purpose of conducting technology assessments.

"SEC. 917. COORDINATION OF FEDERAL GOVERNMENT QUALITY IMPROVEMENT EFFORTS.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—To avoid duplication and ensure that Federal resources are used efficiently and effectively, the Secretary, acting through the Director, shall coordinate all research, evaluations, and demonstrations related to health services research and quality measurement and improvement activities undertaken and supported by the Federal Government.

"(2) SPECIFIC ACTIVITIES.—The Director, in collaboration with the appropriate Federal officials representing all concerned executive agencies and departments, shall develop and manage a process to—

"(A) improve interagency coordination, priority setting, and the use and sharing of research findings and data pertaining to Federal quality improvement programs and health services research;

"(B) strengthen the research information infrastructure, including databases, pertaining to Federal health services research and healthcare quality improvement initiatives;

"(C) set specific goals for participating agencies and departments to further health services research and healthcare quality improvement; and

"(D) strengthen the management of Federal healthcare quality improvement programs.

"(b) STUDY BY THE INSTITUTE OF MEDICINE.—

"(1) IN GENERAL.—To provide the Department of Health and Human Services with an independent, external review of its quality oversight, and quality research programs, the Secretary shall enter into a contract with the Institute of Medicine—

"(A) to describe and evaluate current quality improvement research and monitoring processes through—

"(i) an overview of pertinent health services research activities and quality improvement efforts including those currently performed by the peer review organizations and the exploration of additional activities that could be undertaken by the peer review organizations to improve quality;

“(ii) an analysis of the various partnership activities that the Department of Health and Human Services has pursued with private sector accreditation and other quality measurement organizations;

“(iii) the exploration of programmatic areas where partnership activities between the Federal Government and the private sector or within the Federal Government could be pursued to improve quality oversight of the medicare, medicaid and child health insurance programs under titles XVIII, XIX and XXI of the Social Security Act; and

“(iv) an identification of opportunities for enhancing health system efficiency through simplification and reduction in redundancy of Federal agency quality improvement efforts, including areas in which Federal efforts unnecessarily duplicate existing private sector efforts; and

“(B) to identify options and make recommendations to improve the efficiency and effectiveness of such quality improvement programs through—

“(i) the improved coordination of activities across the medicare, medicaid and child health insurance programs under titles XVIII, XIX and XXI of the Social Security Act and various health services research programs;

“(ii) the strengthening of patient choice and participation by incorporating state-of-the-art quality monitoring tools and making information on quality available; and

“(iii) the enhancement of the most effective programs, consolidation as appropriate, and elimination of duplicative activities within various federal agencies.

“(2) REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary shall enter into a contract with the Institute of Medicine for the preparation—

“(i) not later than 12 months after the date of enactment of this title, of a report providing an overview of the quality improvement programs of the Department of Health and Human Services for the medicare, medicaid, and CHIP programs under titles XVIII, XIX, and XXI of the Social Security Act; and

“(ii) not later than 24 months after the date of enactment of this title, of a final report containing recommendations.

“(B) REPORTS.—The Secretary shall submit the reports described in subparagraph (A) to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Commerce of the House of Representatives.

“PART C—GENERAL PROVISIONS

“SEC. 921. ADVISORY COUNCIL FOR HEALTHCARE RESEARCH AND QUALITY.

“(a) ESTABLISHMENT.—There is established an advisory council to be known as the Advisory Council for Healthcare Research and Quality.

“(b) DUTIES.—

“(1) IN GENERAL.—The Advisory Council shall advise the Secretary and the Director with respect to activities proposed or undertaken to carry out the purpose of the Agency under section 901(b).

“(2) CERTAIN RECOMMENDATIONS.—Activities of the Advisory Council under paragraph (1) shall include making recommendations to the Director regarding—

“(A) priorities regarding healthcare research, especially studies related to quality, outcomes, cost and the utilization of, and access to, healthcare services;

“(B) the field of healthcare research and related disciplines, especially issues related to training needs, and dissemination of information pertaining to healthcare quality; and

“(C) the appropriate role of the Agency in each of these areas in light of private sector activity and identification of opportunities for public-private sector partnerships.

“(c) MEMBERSHIP.—

“(1) IN GENERAL.—The Advisory Council shall, in accordance with this subsection, be composed of appointed members and ex officio members. All members of the Advisory Council shall be voting members other than the individuals designated under paragraph (3)(B) as ex officio members.

“(2) APPOINTED MEMBERS.—The Secretary shall appoint to the Advisory Council 21 appropriately qualified individuals. At least 17 members of the Advisory Council shall be representatives of the public who are not officers or employees of the United States. The Secretary shall ensure that the appointed members of the Council, as a group, are representative of professions and entities concerned with, or affected by, activities under this title and under section 1142 of the Social Security Act. Of such members—

“(A) 4 shall be individuals distinguished in the conduct of research, demonstration projects, and evaluations with respect to healthcare;

“(B) 4 shall be individuals distinguished in the practice of medicine of which at least 1 shall be a primary care practitioner;

“(C) 3 shall be individuals distinguished in the other health professions;

“(D) 4 shall be individuals either representing the private healthcare sector, including health plans, providers, and purchasers or individuals distinguished as administrators of healthcare delivery systems;

“(E) 4 shall be individuals distinguished in the fields of healthcare quality improvement, economics, information systems, law, ethics, business, or public policy; and

“(F) 2 shall be individuals representing the interests of patients and consumers of healthcare.

“(3) EX OFFICIO MEMBERS.—The Secretary shall designate as ex officio members of the Advisory Council—

“(A) the Assistant Secretary for Health, the Director of the National Institutes of Health, the Director of the Centers for Disease Control and Prevention, the Administrator of the Health Care Financing Administration, the Assistant Secretary of Defense (Health Affairs), and the Chief Medical Officer of the Department of Veterans Affairs; and

“(B) such other Federal officials as the Secretary may consider appropriate.

“(d) TERMS.—Members of the Advisory Council appointed under subsection (c)(2) shall serve for a term of 3 years. A member of the Council appointed under such subsection may continue to serve after the expiration of the term of the members until a successor is appointed.

“(e) VACANCIES.—If a member of the Advisory Council appointed under subsection (c)(2) does not serve the full term applicable under subsection (d), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

“(f) CHAIR.—The Director shall, from among the members of the Advisory Council appointed under subsection (c)(2), designate an individual to serve as the chair of the Advisory Council.

“(g) MEETINGS.—The Advisory Council shall meet not less than once during each discrete 4-month period and shall otherwise meet at the call of the Director or the chair.

“(h) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—

“(1) APPOINTED MEMBERS.—Members of the Advisory Council appointed under subsection (c)(2) shall receive compensation for each day (including travel time) engaged in carrying out the duties of the Advisory Council unless declined by the member. Such compensation may not be in an amount in excess of the maximum rate of basic pay payable for GS–18 of the General Schedule.

“(2) EX OFFICIO MEMBERS.—Officials designated under subsection (c)(3) as ex officio members of the Advisory Council may not receive compensation for service on the Advisory Council in addition to the compensation otherwise received for duties carried out as officers of the United States.

“(i) STAFF.—The Director shall provide to the Advisory Council such staff, information, and other assistance as may be necessary to carry out the duties of the Council.

“SEC. 922. PEER REVIEW WITH RESPECT TO GRANTS AND CONTRACTS.

“(a) REQUIREMENT OF REVIEW.—

“(1) IN GENERAL.—Appropriate technical and scientific peer review shall be conducted with respect to each application for a grant, cooperative agreement, or contract under this title.

“(2) REPORTS TO DIRECTOR.—Each peer review group to which an application is submitted pursuant to paragraph (1) shall report its finding and recommendations respecting the application to the Director in such form and in such manner as the Director shall require.

“(b) APPROVAL AS PRECONDITION OF AWARDS.—The Director may not approve an application described in subsection (a)(1) unless the application is recommended for approval by a peer review group established under subsection (c).

“(c) ESTABLISHMENT OF PEER REVIEW GROUPS.—

“(1) IN GENERAL.—The Director shall establish such technical and scientific peer review groups as may be necessary to carry out this section. Such groups shall be established without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and without regard to the provisions of chapter 51, and subchapter III of chapter 53, of such title that relate to classification and pay rates under the General Schedule.

“(2) MEMBERSHIP.—The members of any peer review group established under this section shall be appointed from among individuals who by virtue of their training or experience are eminently qualified to carry out the duties of such peer review group. Officers and employees of the United States may not constitute more than 25 percent of the membership of any such group. Such officers and employees may not receive compensation for service on such groups in addition to the compensation otherwise received for these duties carried out as such officers and employees.

“(3) DURATION.—Notwithstanding section 14(a) of the Federal Advisory Committee Act, peer review groups established under this section may continue in existence until otherwise provided by law.

“(4) QUALIFICATIONS.—Members of any peer-review group shall, at a minimum, meet the following requirements:

“(A) Such members shall agree in writing to treat information received, pursuant to their work for the group, as confidential information, except that this subparagraph shall not apply to public records and public information.

"(B) Such members shall agree in writing to recuse themselves from participation in the peer-review of specific applications which present a potential personal conflict of interest or appearance of such conflict, including employment in a directly affected organization, stock ownership, or any financial or other arrangement that might introduce bias in the process of peer-review.

"(d) AUTHORITY FOR PROCEDURAL ADJUSTMENTS IN CERTAIN CASES.—In the case of applications for financial assistance whose direct costs will not exceed $100,000, the Director may make appropriate adjustments in the procedures otherwise established by the Director for the conduct of peer review under this section. Such adjustments may be made for the purpose of encouraging the entry of individuals into the field of research, for the purpose of encouraging clinical practice-oriented or provider-based research, and for such other purposes as the Director may determine to be appropriate.

"(e) REGULATIONS.—The Director may shall issue regulations for the conduct of peer review under this section.

"SEC. 923. CERTAIN PROVISIONS WITH RESPECT TO DEVELOPMENT, COLLECTION, AND DISSEMINATION OF DATA.

"(a) STANDARDS WITH RESPECT TO UTILITY OF DATA.—

"(1) IN GENERAL.—To ensure the utility, accuracy, and sufficiency of data collected by or for the Agency for the purpose described in section 901(b), the Director shall establish standards and methods for developing and collecting such data, taking into consideration—

"(A) other Federal health data collection standards; and

"(B) the differences between types of healthcare plans, delivery systems, healthcare providers, and provider arrangements.

"(2) RELATIONSHIP WITH OTHER DEPARTMENT PROGRAMS.—In any case where standards under paragraph (1) may affect the administration of other programs carried out by the Department of Health and Human Services, including the programs under titles XVIII, XIX and XXI of the Social Security Act, they shall be in the form of recommendations to the Secretary for such program.

"(b) STATISTICS AND ANALYSES.—The Director shall—

"(1) take appropriate action to ensure that statistics and analyses developed under this title are of high quality, timely, and duly comprehensive, and that the statistics are specific, standardized, and adequately analyzed and indexed; and

"(2) publish, make available, and disseminate such statistics and analyses on as wide a basis as is practicable.

"(c) AUTHORITY REGARDING CERTAIN REQUESTS.—Upon request of a public or private entity, the Director may conduct or support research or analyses otherwise authorized by this title pursuant to arrangements under which such entity will pay the cost of the services provided. Amounts received by the Director under such arrangements shall be available to the Director for obligation until expended.

"SEC. 924. DISSEMINATION OF INFORMATION.

"(a) IN GENERAL.—The Director shall—

"(1) without regard to section 501 of title 44, United States Code, promptly publish, make available, and otherwise disseminate, in a form understandable and on as broad a basis as practicable so as to maximize its use, the results of research, demonstration projects, and evaluations conducted or supported under this title;

"(2) ensure that information disseminated by the Agency is science-based and objective and undertakes consultation as necessary to assess the appropriateness and usefulness of the presentation of information that is targeted to specific audiences;

"(3) promptly make available to the public data developed in such research, demonstration projects, and evaluations;

"(4) provide, in collaboration with the National Library of Medicine where appropriate, indexing, abstracting, translating, publishing, and other services leading to a more effective and timely dissemination of information on research, demonstration projects, and evaluations with respect to healthcare to public and private entities and individuals engaged in the improvement of healthcare delivery and the general public, and undertake programs to develop new or improved methods for making such information available; and

"(5) as appropriate, provide technical assistance to State and local government and health agencies and conduct liaison activities to such agencies to foster dissemination.

"(b) PROHIBITION AGAINST RESTRICTIONS.—Except as provided in subsection (c), the Director may not restrict the publication or dissemination of data from, or the results of, projects conducted or supported under this title.

"(c) LIMITATION ON USE OF CERTAIN INFORMATION.—No information, if an establishment or person supplying the information or described in it is identifiable, obtained in the course of activities undertaken or supported under this title may be used for any purpose other than the purpose for which it was supplied unless such establishment or person has consented (as determined under regulations of the Secretary) to its use for such other purpose. Such information may not be published or released in other form if the person who supplied the information or who is described in it is identifiable unless such person has consented (as determined under regulations of the Secretary) to its publication or release in other form.

"(d) PENALTY.—Any person who violates subsection (c) shall be subject to a civil monetary penalty of not more than $10,000 for each such violation involved. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A of the Social Security Act are imposed and collected.

"SEC. 925. ADDITIONAL PROVISIONS WITH RESPECT TO GRANTS AND CONTRACTS.

"(a) FINANCIAL CONFLICTS OF INTEREST.—With respect to projects for which awards of grants, cooperative agreements, or contracts are authorized to be made under this title, the Director shall by regulation define—

"(1) the specific circumstances that constitute financial interests in such projects that will, or may be reasonably expected to, create a bias in favor of obtaining results in the projects that are consistent with such interests; and

"(2) the actions that will be taken by the Director in response to any such interests identified by the Director.

"(b) REQUIREMENT OF APPLICATION.—The Director may not, with respect to any program under this title authorizing the provision of grants, cooperative agreements, or contracts, provide any such financial assistance unless an application for the assistance is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out the program in involved.

"(c) PROVISION OF SUPPLIES AND SERVICES IN LIEU OF FUNDS.—

"(1) IN GENERAL.—Upon the request of an entity receiving a grant, cooperative agreement, or contract under this title, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the entity in carrying out the project involved and, for such purpose, may detail to the entity any officer or employee of the Department of Health and Human Services.

"(2) CORRESPONDING REDUCTION IN FUNDS.—With respect to a request described in paragraph (1), the Secretary shall reduce the amount of the financial assistance involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Director. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"(d) APPLICABILITY OF CERTAIN PROVISIONS WITH RESPECT TO CONTRACTS.—Contracts may be entered into under this part without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"SEC. 926. CERTAIN ADMINISTRATIVE AUTHORITIES.

"(a) DEPUTY DIRECTOR AND OTHER OFFICERS AND EMPLOYEES.—

"(1) DEPUTY DIRECTOR.—The Director may appoint a deputy director for the Agency.

"(2) OTHER OFFICERS AND EMPLOYEES.—The Director may appoint and fix the compensation of such officers and employees as may be necessary to carry out this title. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

"(b) FACILITIES.—The Secretary, in carrying out this title—

"(1) may acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Director of General Services, buildings or portions of buildings in the District of Columbia or communities located adjacent to the District of Columbia for use for a period not to exceed 10 years; and

"(2) may acquire, construct, improve, repair, operate, and maintain laboratory, research, and other necessary facilities and equipment, and such other real or personal property (including patents) as the Secretary deems necessary.

"(c) PROVISION OF FINANCIAL ASSISTANCE.—The Director, in carrying out this title, may make grants to public and nonprofit entities and individuals, and may enter into cooperative agreements or contracts with public and private entities and individuals.

"(d) UTILIZATION OF CERTAIN PERSONNEL AND RESOURCES.—

"(1) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The Director, in carrying out this title, may utilize personnel and equipment, facilities, and other physical resources of the Department of Health and Human Services, permit appropriate (as determined by the Secretary) entities and individuals to utilize the physical resources of such Department, and provide technical assistance and advice.

"(2) OTHER AGENCIES.—The Director, in carrying out this title, may use, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, or of any foreign government, with or without reimbursement of such agencies.

"(e) Consultants.—The Secretary, in carrying out this title, may secure, from time to time and for such periods as the Director deems advisable but in accordance with section 3109 of title 5, United States Code, the assistance and advice of consultants from the United States or abroad.

"(f) Experts.—

"(1) In general.—The Secretary may, in carrying out this title, obtain the services of not more than 50 experts or consultants who have appropriate scientific or professional qualifications. Such experts or consultants shall be obtained in accordance with section 3109 of title 5, United States Code, except that the limitation in such section on the duration of service shall not apply.

"(2) Travel expenses.—

"(A) In general.—Experts and consultants whose services are obtained under paragraph (1) shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accordance with sections 5724, 5724a(a), 5724a(c), and 5726(C) of title 5, United States Code.

"(B) Limitation.—Expenses specified in subparagraph (A) may not be allowed in connection with the assignment of an expert or consultant whose services are obtained under paragraph (1) unless and until the expert agrees in writing to complete the entire period of assignment, or 1 year, whichever is shorter, unless separated or reassigned for reasons that are beyond the control of the expert or consultant and that are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for the expenses specified in subparagraph (A) is recoverable from the expert or consultant as a statutory obligation owed to the United States. The Secretary may waive in whole or in part a right of recovery under this subparagraph.

"(g) Voluntary and Uncompensated Services.—The Director, in carrying out this title, may accept voluntary and uncompensated services.

"SEC. 927. FUNDING.

"(a) Intent.—To ensure that the United States's investment in biomedical research is rapidly translated into improvements in the quality of patient care, there must be a corresponding investment in research on the most effective clinical and organizational strategies for use of these findings in daily practice. The authorization levels in subsections (b) and (c) provide for a proportionate increase in healthcare research as the United State's investment in biomedical research increases.

"(b) Authorization of Appropriations.—For the purpose of carrying out this title, there are authorized to be appropriated $185,000,000 for fiscal year 2000, and such sums as may be necessary for each of the fiscal years 2001 through 2006.

"(c) Evaluations.—In addition to amounts available pursuant to subsection (b) for carrying out this title, there shall be made available for such purpose, from the amounts made available pursuant to section 241 (relating to evaluations), an amount equal to 40 percent of the maximum amount authorized in such section 241 to be made available for a fiscal year.

"SEC. 929. DEFINITIONS.

"In this title:

"(1) Advisory council.—The term 'Advisory Council' means the Advisory Council on Healthcare Research and Quality established under section 921.

"(2) Agency.—The term 'Agency' means the Agency for Healthcare Research and Quality.

"(3) Director.—The term 'Director' means the Director for the Agency for Healthcare Research and Quality.".

SEC. 403. REFERENCES.

Effective upon the date of enactment of this Act, any reference in law to the "Agency for Health Care Policy and Research" shall be deemed to be a reference to the "Agency for Healthcare Research and Quality".

SEC. 404. STUDY.

(a) Study.—Not later than 30 days after the date of enactment of any Act providing for a qualifying health care benefit (as defined in subsection (b), the Secretary of Health and Human Services, in consultation with the Agency for Healthcare Research and Quality, the National Institutes of Health, and the Institute of Medicine, shall conduct a study concerning such benefit that scientifically evaluates—

(1) the safety and efficacy of the benefit, particularly the effect of the benefit on outcomes of care;

(2) the cost, benefits and value of such benefit;

(3) the benefit in comparison to alternative approaches in improving care; and

(4) the overall impact that such benefit will have on health care as measured through research.

(b) Qualifying Health Care Benefit.—In this section, the term "qualifying health care benefit" means a health care benefit that—

(1) is disease- or health condition-specific;

(2) requires the provision of or coverage for health care items or services;

(3) applies to group health plan, individual health plans, or health insurance issuers under part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181 et seq.) or under title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.); and

(4) was provided under an Act (or amendment) enacted on or after January 1, 1999.

(c) Reports.—Not later than 3 years after the date of enactment of any Act described in subsection (a), the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report based on the study conducted under such subsection with respect to the qualifying health care benefit involved.

TITLE V—ENHANCED ACCESS TO HEALTH INSURANCE COVERAGE

SEC. 501. FULL DEDUCTION OF HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS.

(a) In General.—Section 162(l)(1) of the Internal Revenue Code of 1986 (relating to allowance of deductions) is amended to read as follows:

"(1) Allowance of deduction.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and his dependents."

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 502. FULL AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) Availability Not Limited To Accounts for Employees of Small Employers and Self-Employed Individuals.—

(1) In general.—Section 220(c)(1)(A) of the Internal Revenue Code of 1986 (relating to eligible individual) is amended to read as follows:

"(A) In general.—The term 'eligible individual' means, with respect to any month, any individual if—

"(i) such individual is covered under a high deductible health plan as of the 1st day of such month, and

"(ii) such individual is not, while covered under a high deductible health plan, covered under any health plan—

"(I) which is not a high deductible health plan, and

"(II) which provides coverage for any benefit which is covered under the high deductible health plan.".

(2) Conforming amendments.—

(A) Section 220(c)(1) of such Code is amended by striking subparagraphs (C) and (D).

(B) Section 220(c) of such Code is amended by striking paragraph (4) (defining small employer) and by redesignating paragraph (5) as paragraph (4).

(C) Section 220(b) of such Code is amended by striking paragraph (4) (relating to deduction limited by compensation) and by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(b) Removal of Limitation on Number of Taxpayers Having Medical Savings Accounts.—

(1) In general.—Section 220 of the Internal Revenue Code of 1986 (relating to medical savings accounts) is amended by striking subsections (i) and (j).

(2) Medicare+choice.—Section 138 of such Code (relating to Medicare+Choice MSA) is amended by striking subsection (f).

(c) Reduction in High Deductible Plan Minimum Annual Deductible.—Section 220(c)(2)(A) of the Internal Revenue Code of 1986 (relating to high deductible health plan) is amended—

(1) by striking "$1.500" in clause (i) and inserting "$1,000", and

(2) by striking "$3,000" in clause (ii) and inserting "$2,000".

(d) Increase in Contribution Limit to 100 Percent of Annual Deductible.—

(1) In general.—Section 220(b)(2) of the Internal Revenue Code of 1986 (relating to monthly limitation) is amended to read as follows:

"(2) Monthly limitation.—The monthly limitation for any month is the amount equal to $\frac{1}{12}$ of the annual deductible of the high deductible health plan of the individual."

(2) Conforming amendment.—Section 220(d)(1)(A) of such Code is amended by striking "75 percent of".

(e) Limitation on Additional Tax on Distributions Not Used for Qualified Medical Expenses.—Section 220(f)(4) of the Internal Revenue Code of 1986 (relating to additional tax on distributions not used for qualified medical expenses) is amended by adding at the end the following:

"(D) Exception in case of sufficient account balance.—Subparagraph (A) shall not apply to any payment or distribution in any taxable year, but only to the extent such payment or distribution does not reduce the fair market value of the assets of the medical savings account to an amount less than the annual deductible for the high deductible health plan of the account holder (determined as of January 1 of the calendar year in which the taxable year begins).".

(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 503. CARRYOVER OF UNUSED BENEFITS FROM CAFETERIA PLANS, FLEXIBLE SPENDING ARRANGEMENTS, AND HEALTH FLEXIBLE SPENDING ACCOUNTS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j) and by inserting after subsection (g) the following new subsection:

"(h) ALLOWANCE OF CARRYOVERS OF UNUSED BENEFITS TO LATER TAXABLE YEARS.—

"(1) IN GENERAL.—For purposes of this title—

"(A) notwithstanding subsection (d)(2), a plan or other arrangement shall not fail to be treated as a cafeteria plan or flexible spending or similar arrangement, and

"(B) no amount shall be required to be included in gross income by reason of this section or any other provision of this chapter,

solely because under such plan or other arrangement any nontaxable benefit which is unused as of the close of a taxable year may be carried forward to 1 or more succeeding taxable years.

"(2) LIMITATION.—Paragraph (1) shall not apply to amounts carried from a plan to the extent such amounts exceed $500 (applied on an annual basis). For purposes of this paragraph, all plans and arrangements maintained by an employer or any related person shall be treated as 1 plan.

"(3) ALLOWANCE OF ROLLOVER.—

"(A) IN GENERAL.—In the case of any unused benefit described in paragraph (1) which consists of amounts in a health flexible spending account or dependent care flexible spending account, the plan or arrangement shall provide that a participant may elect, in lieu of such carryover, to have such amounts distributed to the participant.

"(B) AMOUNTS NOT INCLUDED IN INCOME.—Any distribution under subparagraph (A) shall not be included in gross income to the extent that such amount is transferred in a trustee-to-trustee transfer, or is contributed within 60 days of the date of the distribution, to—

"(i) a qualified cash or deferred arrangement described in section 401(k),

"(ii) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b),

"(iii) an eligible deferred compensation plan described in section 457, or

"(iv) a medical savings account (within the meaning of section 220).

Any amount rolled over under this subparagraph shall be treated as a rollover contribution for the taxable year from which the unused amount would otherwise be carried.

"(C) TREATMENT OF ROLLOVER.—Any amount rolled over under subparagraph (B) shall be treated as an eligible rollover under section 220, 401(k), 403(b), or 457, whichever is applicable, and shall be taken into account in applying any limitation (or participation requirement) on employer or employee contributions under such section or any other provision of this chapter for the taxable year of the rollover.

"(4) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1999, the $500 amount under paragraph (2) shall be adjusted at the same time and in the same manner as under section 415(d)(2), except that the base period taken into account shall be the calendar quarter beginning October 1, 1998, and any increase which is not a multiple of $50 shall be rounded to the next lowest multiple of $50.

"(5) APPLICABILITY.—This subsection shall apply to taxable years beginning after December 31, 1999."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 504. PERMITTING CONTRIBUTION TOWARDS MEDICAL SAVINGS ACCOUNT THROUGH FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP).

(a) GOVERNMENT CONTRIBUTION TO MEDICAL SAVINGS ACCOUNT.—

(1) IN GENERAL.—Section 8906 of title 5, United States Code, is amended by adding at the end the following:

"(j)(1) In the case of an employee or annuitant who is enrolled in a catastrophic plan described by section 8903(5), there shall be a Government contribution under this subsection to a medical savings account established or maintained for the benefit of the individual. The contribution under this subsection shall be in addition to the Government contribution under subsection (b).

"(2) The amount of the Government contribution under this subsection with respect to an individual is equal to the amount by which—

"(A) the maximum contribution allowed under subsection (b)(1) with respect to any employee or annuitant, exceeds

"(B) the amount of the Government contribution actually made with respect to the individual under subsection (b) for coverage under the catastrophic plan.

"(3) The Government contributions under this subsection shall be paid into a medical savings account (designated by the individual involved) in a manner that is specified by the Office and consistent with the timing of contributions under subsection (b).

"(4) Subsections (f) and (g) shall apply to contributions under this section in the same manner as they apply to contributions under subsection (b).

"(5) For the purpose of this subsection, the term 'medical savings account' has the meaning given such term by section 220(d) of the Internal Revenue Code of 1986.".

(2) ALLOWING PAYMENT OF FULL AMOUNT OF CHARGE FOR CATASTROPHIC PLAN.—Section 8906(b)(2) of such title is amended by inserting "(or 100 percent of the subscription charge in the case of a catastrophic plan)" after "75 percent of the subscription charge".

(b) OFFERING OF CATASTROPHIC PLANS.—

(1) IN GENERAL.—Section 8903 of title 5, United States Code, is amended by adding at the end the following:

"(5) CATASTROPHIC PLANS.—One or more plans described in paragraph (1), (2), or (3), but which provide benefits of the types referred to by paragraph (5) of section 8904(a), instead of the types referred to in paragraphs (1), (2), and (3) of such section.".

(2) TYPES OF BENEFITS.—Section 8904(a) of such title is amended by inserting after paragraph (4) the following new paragraph:

"(5) CATASTROPHIC PLANS.—Benefits of the types named under paragraph (1) or (2) of this subsection or both, to the extent expenses covered by the plan exceed $500.".

(3) DETERMINING LEVEL OF GOVERNMENT CONTRIBUTIONS.—Section 8906(b) of such title is amended by adding at the end the following: "Subscription charges for medical savings accounts shall be deemed to be the amount of Government contributions made under subsection (j)(2).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contract terms beginning on or after January 1, 2000.

SUMMARY OF SENATE REPUBLICAN PATIENTS' BILL OF RIGHTS

The Senate Republican bill has six major components that will provide consumer protections, enhance health care quality and increase access. These are:

1. Consumer protection standards for self-funded plans.

2. Appeals standards for all group health plans.

3. Access to and confidentiality of medical information.

4. Ban on the use of genetic information for all plans.

5. New quality focus and expended research activities for the Agency for Health Care Policy and Research.

6. Improved access to health insurance coverage by allowing full deduction of health insurance for the self-employed and expansion of MSAs.

The following summarizes the key aspects of the bill:

1. Consumer protection standards for self-funded plans: Since States are responsible for regulating insured health plans, the bill provides that the following standards would apply only to self-funded plans governed by ERISA.

Emergency Care: Plans would be required to use the "prudent layperson" standard for providing initial emergency screening exams and "additional emergency services" determined necessary by a "prudent emergency medical professional."

Mandatory Point of Service: Plans that offer network-only plans would be required to offer enrollees the option to purchase point-of-service coverage. Small employers with 50 or fewer workers would be exempt. Also exempt would be group plans that offer a choice of two or more health insurance options or two or more options with significantly different providers. Plans could charge higher premiums and cost sharing for the POS option.

OB–GYN/Pediatricians: Health plans would be required to allow direct access to obstetricians/gynecologist and pediatricians without referrals.

Continuity of Care: Plans who terminate or non renew providers from their networks would be required to notify enrollees and allow continued use of the provider (at the same payment and cost-sharing rates) for up to 90 days if: the enrollee is receiving institutional care, is in the second (or late) trimester of pregnancy, or is terminally ill.

Gag Rules: Plans would be prohibited from including "gag rules" in providers' contracts.

Comparative Information: Plans would be required to provide a wide range of information about health insurance options, such as descriptions of the networks, premium and cost-sharing information. Quality outcomes data and information is not mandated.

Effective Dates: The new rules would become effective for group plan years beginning on or after January 1 of the second calendar year following the date of enactment. In other words, the effective date would be January, 2001, assuming enactment in 1999.

2. Grievance and Appeals: Plans would be required to have written grievance procedures and have both an internal and external appeals procedure. Grievances would not be appealable.

Prior Authorization: Routine requests would need to be completed within 30 days, and expedited requests for care that could jeopardize enrollee's health would have to be handled within 72 hours.

Qualification of Doctors for Internal Appeals: Appeals for coverage determinations based on lack of medical necessity or experimental treatment must be by a doctor "with appropriate expertise in field of medicine involved" who was not involved in the initial decision.

External Appeals: Enrollees and providers could appeal to independent medical reviewers for amounts above a significant financial threshold for issues based on medical necessity or for services that involve an experimental treatment where the enrollees' life is in jeopardy. External reviews could include those licensed by the State or under Federal contract for this purpose, a teaching hospital, or entities meeting specific criteria. External review is binding on plans and issuers.

3. Patient medical records: Plans, providers, schools, and others would be required to:

Permit enrollees to inspect and copy their own medical records, except when such information could endanger a person's physical safety.

Disclose their confidentiality practices and to establish appropriate safeguards for patient information.

Civil money penalties would be imposed for violations.

4. Genetic Information: All plans—self-funded and insured group plans, as well as individual plans—would be prohibited from denying coverage, or adjusting premiums or contribution amounts based on "predictive genetic information." The term "predictive genetic information" includes individual's genetic tests, genetic tests of family members, or information about family medical history.

5. Refocusing AHCPR on Quality Improvement: The bill would refocus AHCPR (and rename it the Agency for Healthcare Quality Research) to encourage overall improvement of quality in the nation's health care systems. The new agency would facilitate support of state-of-the-art information systems, support of primary care research, technology assessment and coordination of the Federal Government's own quality improvement efforts.

6. Improved Access to Health Insurance: The bill includes three provisions to improve access:

Allows full deduction of health insurance for self-employed individuals.

Gives individuals the ability to carry forward up to $500 in their flexible spending accounts from one year to the next or to be deposited into an IRA, and MSA, or a 401(k) plan.

Lifts the caps for MSAs and would allow all individuals, including Federal employees, the option to purchase these plans.•

• Ms. COLLINS. Mr. President, I am pleased to be joining my colleagues in introducing this Patients' Bill of Rights, which is the product of more than a year's worth of intensive work and negotiations by the Senate Republican Health Care Task Force on which I serve.

This comprehensive legislation has three major purposes. First, it will protect patients' rights and hold HMOs accountable for providing the care they have promised. Second, it will expand consumer choice and access to affordable care. And third, it will improve health care quality and outcomes.

Mr. President, there is a growing unease across our country about changes in how we receive our health care. People worry that if they or their loved ones become seriously ill, their HMO will deny them coverage and force them to accept either inadequate care or financial ruin—or perhaps both.

They feel that vital decisions affecting their lives will be made, not by a supportive family doctor, but by an unfeeling bureaucracy. The American people, known for taking charge of their destiny, feel increasingly powerless about their health care. Our bill will ensure that medical decisions remain in the hands of patients and physicians, not HMO accountants and trial lawyers.

All of us agree that medically-necessary patient care should not be sacrificed to the bottom line. However, according to a 1997 study by Lewin, every one percent increase in health care premiums results in as many as 400,000 uninsured Americans. I have therefore been alarmed by reports that American businesses everywhere—from large multinational corporations to the corner store—are facing huge hikes in health insurance premiums in 1999, ranging from about 8 percent on average, to 20 percent or more. This is a remarkable contrast to the last few years, when premiums rose less than 2 or 3 percent, if at all.

We are engaged in an extremely delicate balancing act as we attempt to respond to concerns about quality, without resorting to unduly burdensome federal controls and mandates that will further drive up costs, causing thousands of Americans to lose their coverage and pushing health insurance further out of reach for many uninsured Americans.

Our Patients' Bill of Rights does not pre-empt, but rather builds upon the good work that states have done in the area of patients' rights and protections. Congress agreed that states should have primary responsibility for the regulation of health insurance when it passed the McCarran-Ferguson Act in 1945. And, as someone who has overseen a Bureau of Insurance in state government, I think state regulators have done a good job of responding to the needs and concerns of their citizens. For instance, at my last count, 44 states had passed laws prohibiting "gag clauses" that restrict communications between patients and their doctors, and the remaining six had bills pending in their legislatures. States acted without any mandate or prod from Washington to protect consumers.

Moreover, one size does not fit all, and what may be appropriate for one state may not be necessary in another. Florida, for instance, provides for direct access to a dermatologist, which is understandable, given the high rate of skin cancer in that state. But in a state like Maine this may not be so important.

So why does Congress need to act? The answer is that federal law prohibits states from regulating the self-funded, employer-sponsored health plans that cover 48 million Americans.

Our bill extends many of the same rights and protections to these individuals and their families that Americans in state-regulated plans already enjoy. For the first time, they will be guaranteed the right to talk freely and openly with their doctors about their treatment options without being subject to "gag clauses" that limit communications. They will be guaranteed coverage for emergency room care that a "prudent layperson" would consider medically necessary without prior authorization from their health plan. They will be able to see their OB-GYN or pediatrician without a referral from their plan's "gatekeeper," and they will have the option of seeing a doctor who is not a part of their HMO's network. They will also have some assurance of continuity of care if their health plan terminates its contract with their doctor or hospital.

Moreover, all patients will be given the right to review their medical records and will have added protections to ensure that this information will be kept confidential. Finally, insurers will be prohibited from collecting or using predictive genetic information about a patient to deny coverage or set premium rates.

Mr. President, the states are way ahead of the federal government in the area of insurance reform, and the State of Maine has already enacted many of these same consumer rights and protections—a ban on gag clauses, a prudent layperson definition for emergency care, and direct access to OB/GYNs. Our bill would extend these and other rights to the nearly 220,000 Maine citizens in health plans that are not subject to state regulation and who currently do not enjoy these protections.

A key provision of our bill would give all 125 million Americans in employer-sponsored plans assurance that they will get the care that they need, when they need it. This includes 535,735 people in Maine who are in fully-insured ERISA plans. For the first time, these individuals will be entitled to clear and complete information about their health plan—about what it does and does not cover, about any cost-sharing requirements, and about the plan's providers. Helping patients understand their coverage before they need to use it will help to avoid coverage disputes later.

The goal of any patient protection legislation should be to solve disputes about coverage up from, when the care is needed. Not months, or even years later, in a court room.

Our bill would accomplish this goal by creating both an internal and external review process. First, patients or doctors who are unhappy with an HMO's decision could appeal it internally through a review conducted by individuals with "appropriate expertise" who were not involved in the initial decision. Moreover, this review would have to be conducted by a physician if the coverage denial is based on a determination that the service is not medically necessary or is an experimental treatment. Patients could expect results from this review within 30 days, or 72 hours in cases when delay poses a serious risk to the patient's life or health.

Patients turned down by this internal review would then have the right to a free, external review by medical experts who are completely independent of their health plan. This review must be completed within thirty days—and even faster in a medical emergency or when delay would be detrimental to the patient's health. Moreover, the decision of these outside reviewers is binding on the health plan, but not on the patient. If the patient is not satisfied, they retain the right to sue in federal or state court for attorneys' fees, court costs, the value of the benefit and injunctive relief.

Our bill differs from the Democrats' bill in a fundamental respect: it places treatment decisions in the hands of doctors, not lawyers. If your HMO denies you treatment that your doctor believes is medically necessary, you should not have to resort to a costly and lengthy court battle to get the care you need. After all, doesn't it make more sense to put medical care in the hands of doctors, not lawyers? You should not have to resort to hiring a lawyer and filing an expensive lawsuit to get the treatment. You just can't sue your way to quality health care.

The purpose of our bill is to solve problems up-front when the care is needed, not months or even years later after the harm has occurred. According to the GAO, it takes an average of 33 months to resolve malpractice cases. One case in the study took 11 years. This does absolutely nothing to ensure a patient's right to timely and appropriate care. Moreover, patients only receive 43 cents out of every dollar awarded in malpractice cases. The rest winds up in the pockets of the trial lawyers and administrators of the court and insurance systems.

Finally, more lawsuits are certain to mean higher health care costs. According to the Barents Group of KPMG Peat Marwick, increased lawsuits could drive up premiums as much as 8.6 percent, forcing businesses to pay $94.1 billion ($1,284 per worker) in extra premiums over five years. Close to two million Americans could lose their health insurance next year as increased costs force many employers to eliminate coverage altogether, or to pass on higher premiums and out-of-pocket costs to employees who can't afford them.

Last fall I met with a group of Maine employers who expressed their serious concerns about the Democrats' proposal to expand liability for health plans and employers. The Assistant Director for Human Resources at Bowdoin College talked about how moving to a self-funded, ERISA plan enabled them to continue to offer affordable coverage to Bowdoin employees when premiums for their fully-insured plan skyrocketed in the late 1980s. Since they self-funded, they have actually been able to lower premiums for their employees, while at the same time, enhance their benefit designs with such features as well-baby care, free annual physicals, and prescription drug cards with low copayments. They told me that the Democrats' proposal to expand liability seriously jeopardizes their ability to offer affordable coverage for their employees. Similar concerns were expressed by the Maine Municipal Association, L.L. Bean, Bath Iron Works, and others.

Mr. President, our bill also contains important provisions to improve health care quality and outcomes for all Americans.

For example, I am particularly pleased that our bill contains the proposal introduced by my colleague from Maine, Senator SNOWE, that prohibits insurers from discriminating on the basis of predictive genetic information.

Genetic testing holds tremendous promise for individuals who have a genetic predisposition to beat cancer and other diseases and conditions with a genetic link. However, this promise is significantly threatened when insurance companies use the results of such testing to deny or limit coverage to consumers on the basis of genetic information. In addition to the potentially devastating consequences of being denied health insurance on the basis of genetic information, the fear of discrimination may discourage individuals who might benefit from having this information from ever getting tested.

And finally, our bill will make health insurance more affordable by allowing self-employed individuals to deduct the full amount of their health care premiums beginning not in 2003, as in current law, but next year.

Establishing parity in the tax treatment of health insurance costs between the self-employed and those working for large businesses is a matter of basic equity, and it will also help to reduce the number of uninsured, but working, Americans. It will make health insurance more affordable for the 82,000 people in Maine who are self-employed. They include our lobstermen, our hairdressers, our electricians, our plumbers, and the many owners of mom-and-pop stores that dot communities throughout the state.

Mr. President, I believe that our plan strikes the right balance as we effectively address concerns about quality and choice without resorting to unduly burdensome federal controls and mandates that would further drive up costs and cause some Americans to lose their health insurance altogether. I urge all of my colleagues to join us in cosponsoring this proposal.•

• Mr. FRIST. Mr. President, I rise to voice my support for the bill we are introducing today and to urge my colleagues to pass a strong Patients' Bill of Rights this year. Our Patients' Bill of Rights is a good bill that will improve the quality of health care for patients in this country.

We have the benefit of starting off in a new Congress. The partisan rhetoric of elections is behind us. Today, we are here to convey our genuine interest to pass managed care reform this year as well as to provide the necessary building blocks to improve health care quality.

Not much attention was given in last year's debate to the many areas of agreement between the Republican and Democratic proposals. It is my hope that we can work together this year in a deliberative, thoughtful manner to pass bipartisan legislation. For example, there is bipartisan support to enact strong patient protection standards including coverage for emergency screening exams and services; allowing continuity of care so that patients may keep their physician, even if he or she is dropped from the plan, during a terminal illness, institutional care or pregnancy; and to prohibit plans from including gag clauses in their contracts. There is also strong consensus that we must require health plans to provide comparative information about their plans and to hold plans accountable for their decisions by allowing patients to appeal coverage denials to an independent medical expert, including expedited reviews, and receive a timely response.

In addition, I am pleased that many provisions that are in the Senate Republican bill also have received bipartisan support. Our bill last year included the "Women's Health Research and Prevention Amendments," which I also introduced as S. 1722, that passed the Senate unanimously at the end of last year. These programs provide a broad spectrum of activities to improve the quality of women's health; including research, prevention, treatment, education and data collection.

We must remember that the central focus of this debate—the genesis for the entire debate—is to embark on a national discussion of how we can truly improve real quality of care for patients. Our bill this year will again contain two measures which have broad bipartisan support and will greatly improve the quality of health care in this country.

Title III of our bill prohibits genetic discrimination against individuals in health insurance. Prohibiting genetic discrimination translates into a patient's right to quality care. Genuine quality care means that patients and practitioners have the very best information available to them when they make health care decisions. Patients should not be afraid to benefit from new genetic technologies, or share personal information that has immense potential to improve care and save lives. This is not a political or partisan issue. Our 49 Republican cosponsors last year, several of our Democratic colleagues, and President Clinton all support enacting legislation to prohibit genetic discrimination.

Title IV of our bill refocuses the Agency for Health Care Policy and Research to support our federal efforts to improve health care quality through a vigorous research agenda. I also introduced this proposal as a stand alone bill (S. 2208) last year which had broad bipartisan support. Our goal is to enhance the agency to become the driving force of our federal efforts to support the science necessary to provide patients with information about the quality of care they receive and to provide physicians with research data to improve health care outcomes for their patients.

There is no question Congress will need to revisit some issues in the managed care debate. However, we will work deliberatively and in a bipartisan manner through our committee work this year to pass comprehensive legislation because we all share the ultimate goal of improving health care quality for patients.•

• Mr. JEFFORDS. Mr. President, I want to begin by commending Senator NICKLES and all of the members who participated in putting the legislation together. I think it is solid legislation that will result in a greatly improved health care system for Americans, and I am proud to be a co-sponsor of the "Patients' Bill of Rights Plus."

As Chairman of the Committee on Health, Education, Labor, and Pensions, with its jurisdiction of private health insurance and public health programs, I anticipate that the Committee will have an active health care agenda during the 106th Congress. In fact, on January 20th, the Committee held a hearing on health plan information requirements and internal and external appeals rights. And, this hearing builds on the foundation of fourteen related hearings that my Committee held during the 105th Congress.

People need to know what their plan will cover and how they will get their health care. The "Patients' Bill of Rights Plus" requires full information disclosure by an employer about the health plans he or she offers to employees. Patients also need to know how adverse decisions by the plan can be appealed, both internally and externally, to an independent medical reviewer.

The limited set of standards under the Employee Retirement and Income Security Act (ERISA) may have worked well for the simple payment of health insurance claims under the fee-for-service system in 1974. Today, however, our system is much more complex, and there are many types of decisions being made—from routine reimbursements to pre-authorizations for hospital stays. And it is in the context of these changes, particularly the evolution of managed care, that ERISA needs to be amended in order to give participants and beneficiaries the right to appeal adverse coverage or medical necessity decisions to an independent medical expert.

The provision of our bill giving consumers a new right of an external grievance and appeals process is one of which I am particularly proud, since it is the cornerstone of S. 1712, the Health Care QUEST Act, which I introduced with Senator LIEBERMAN during the last Congress. Under the "Patients' Bill of Rights Plus," enrollees will get timely decisions about what will be covered. Furthermore, if an individual disagrees with the plan's decision, that individual may appeal the decision to an independent, external reviewer. The reviewer's decision will be binding on the health plan. However, the patient maintains his or her current rights to go to court.

As the Health and Education Committee works on health care quality legislation, I will keep in mind three goals. First, to give families the protections they want and need. Second, to ensure that medical decisions are made by physicians in consultation with their patients. And, finally, to keep the cost of this legislation low so that it displaces no one from getting health care coverage.

Our goal is to give Americans the protections they want and need in a package that they can afford and that we can enact. This is why I hope the "Patients' Bill of Rights Plus" we have introduced today will be enacted and signed into law by the President.•

• Mr. CRAIG. Mr. President, today, Senate Republicans are responding to America's number one health care concern: the high cost of health insurance and medical care. By granting all Americans access to tax-free medical savings accounts; by allowing self-employed Americans to deduct 100 percent of the cost of their health insurance premiums; and by allowing workers with flexible savings accounts to keep some of the money in those accounts, our "Patients' Bill of Rights—Plus" will tear down the barriers that government has put in the way of affordable health coverage and care.

Our proposal stands in stark contrast to those offered by others in Congress. With millions of Americans unable to afford insurance because of the unfairness of the federal tax code, some members of Congress want to force consumers to buy government-prescribed benefits—including many that are giveaways to special interests—even if it causes millions more to lose their health coverage.

While other so-called "patients' rights" bills contain nothing but expensive mandates, hidden taxes and costly lawsuits, our bill will deliver quality health insurance to millions of Americans. Our bill will make a down payment on serious health care reform that puts patients first—not doctors, not lawyers, not insurance companies, and certainly not government bureaucrats.

Rather than support a patients' bill of rights minus access, I urge my colleagues to take a step forward by making health insurance accessible instead of taking a step backward by making it more expensive.•

• Mr. BURNS. Mr. President, I am pleased to support and co-sponsor patient protection legislation. There is nothing more important than protecting the patient-doctor relationship and guaranteeing our citizens the right to choose their own doctor. It is important to make sure patients have the information they need to make decisions about their health care and make sure doctors, not accountants or lawyers, decide which medical services are needed.

Under Senator NICKLES' Patients' Bill of Rights Act, no health plan will be beyond the scope of federal or state patient safeguards. The bill will expand access to doctors, incuding guaranteed access to obstetrical and gynecological care and pediatric care, and require managed care plans to offer patients the option to receive care outside a plan's network of doctors.

In addition, health plans would have to provide patients with information on covered services, cost-sharing requirements, payment restrictions for services from out-of-network providers, rules for out-of-area coverage, preauthorization requirements and procedures, and rules for grievence and appeals filings. Health plans would be required to have both an internal appeal and external third-party review of coverage for any service that is denied. Plans would also be required to safeguard patients' medical information or face civil penalties.

The Patients' Bill of Rights Act will also make it easier for many Americans to afford health care. Over 3 million self-employed individuals and their families will benefit from increasing the tax deductibility of health insurance to 100 percent, the same deduction most companies take for their employees. This bill also gives every American the right to have medical savings accounts (MSA's) and puts MSA's on an equal tax treatment footing with standard health care insurance. These flexible savings plans allow you to save money for health expenses tax-free as long as you have a high-deductible health insurance plan. MSA's are currently only available for employees in companies with 50 or fewer employees.

In this era of managed care, patients need a Bill of Rights to make sure they get quality health care and not a plan that will lead to higher costs and greater numbers of uninsured. I am happy to cosponsor this important legislation.•

• Mr. DOMENICI. Mr. President, I rise today in support of the recently introduced Republican Patients' Bill of Rights.

I would like to begin by making an observation about the impact of any potential changes to the managed care system.

I would submit that whether a decision relating to health care is made by business or the government, the results will always have consequences on the those actually utilizing the system. Let me put that another way, we must always proceed with what the impact of any changes will mean to families and beneficiaries.

Thus, when decisions are made, they must be thought out and done so in a responsible manner. And I believe the Republican Patients' Bill of Rights does just that by: holding HMO's accountable, increasing access, improving quality and, expanding choice.

At the same time we must work to ensure that: costs are not unnecessarily increased, more Americans are not forced into the ranks of the uninsured and, additional layers of bureaucracy are not placed between patients and their doctors.

Let me take just a moment to talk about the state of health care in New Mexico.

Health care is close to a $5 billion a year industry in New Mexico. Almost 3,000 physicians practice in the state and overall the industry employs close to 52,000 New Mexicans. Over 600,000 New Mexicans are enrolled in managed care plans.

With this in mind, I would like to make several points about New Mexico as a whole, that are relevant to any debate relating to managed care: 78% of New Mexico businesses have 10 or fewer employees and 96% of all businesses have 50 or fewer employees. New Mexico ranks 40th in the nation in terms of the number of people uninsured, a full 25% of the population.

The preceding merely emphasizes a point that we must take into consideration and that is the potential impact upon a state and its people.

I think everyone would agree that the managed care system is not perfect and we have all heard one or another of those so called HMO horror stories. As a result, there is now a debate going on here and around the country about the need for HMO/Managed Care reform.

I also want to take a moment to point out that New Mexico is already at the forefront of HMO/Managed Care Reform.

New Mexico has already implemented many of the so called "patient protections" like: no gag clauses; a prudent layperson standard for emergency care; direct access to an OB/GYN; choice of providers; access to prescription drugs; confidentiality of medical records and; a grievance and appeals procedure.

I think it is important to stop and make a point that I believe is extremely important in light of the large number of small employers and high rate of uninsured not only in New Mexico, but the rest of the country. For every 1% increase in premium costs, 400,000 individuals will lose their health insurance coverage.

That is an extremely sobering thought when one realizes that small employers often have the most difficult time providing insurance for their employees because of the already high cost.

The Republican bill simply addresses Americans' concerns that their rights be assured in health care coverage, in addition to increasing access to care, improving quality of care, and expanding choice.

However, there is one thing the Bill will not do, create a new right to go into the courts and sue managed care companies for unlimited damages. I believe that we on this side of the aisle have adopted a sense about health care and it says: lawyers and lawsuits do not deliver health care. Rather, lawyers and lawsuits generally make health care cost more.

I also think that it is very important to note that under the Employee Retirement Income Security Act (ERISA) a participant or beneficiary can already sue a managed care company. Let me repeat that, the right to sue a HMO is already available.

Now why would we want to create even more lawsuits, when for years we have been attempting to enact tort reform.

I know many New Mexicans share in the fears expressed by many Americans about the availability and quality of their health care. That is why I support the Republican Patients' Bill of Rights because it will ensure that patients receive: more affordable care and more choices; greater access to more and better information about health plans, benefits and the doctors that provide their care; and the advantages of a system that holds health plans accountable for medical decisions through a strong internal and external appeals process.

The Bill reforms the Agency for Health Care Policy and Research, renaming it the Agency for Healthcare Quality Research (AHQR). It will make annual reports on the state of quality and cost of America's health care, support primary care research in underserved rural and urban areas, provide technology assessment, and coordinate federal quality improvement efforts.

Furthermore, the Bill includes a provision that will prohibit insurance plans from using predictive genetic information to deny coverage or to set premium rates.

Finally, the Bill would provide relief to those New Mexicans and Americans who are self-employed by allowing them to deduct 100% of their health insurance costs. More than 25 million people live in families headed by a self-employed individual (5.1 million of whom are currently uninsured).

In closing, I believe that the key to improving our health care system and to improving our HMO/Managed Care System is to work together.

As I have said, we must find a solution that would most benefit not only New Mexicans, but everyone across our country. However, at the same time we must remember that our decisions cannot affect these same people in an adverse manner.•

By Mr. CAMPBELL:

S. 301. A bill to amend title 39, United States Code, relating to mailability, false representations, civil penalties, and for other purposes; to the Committee on Governmental Affairs.

HONESTY IN SWEEPSTAKES ACT OF 1999

• Mr. CAMPBELL. Mr. President, today I introduce the Honesty in Sweepstakes Act of 1999. This bill addresses one of the most troubling and persistent consumer abuse issues we face today: highly deceptive, and all too often financially damaging, sweepstakes and other mass mail promotions.

Our nation's seniors and other vulnerable consumers are clearly being taken advantage of, and in some cases seriously financially harmed, by intentionally misleading sweepstakes promotions. Thousands of nationwide victims are being deliberately misled into believing that they have just won or are likely to win a sweepstakes when in fact they have neither won nor are in fact likely to win such a prize.

Each year American consumers also receive hundreds of millions of cashier's check look-alikes that deceptively masquerade as real cashier's checks while actually being worthless. These ploys unfairly prey upon some people's hopes and dreams.

Over the years sweepstakes have become increasingly sophisticated and deceptive. While these promotional tactics may be technically legal they are designed to skirt the intentions and outer limits of the law. These deceptive tactics run counter to core American values of honesty and forthrightness. There is abundant evidence, including the deceptive sweepstakes and other promotions each of us receives in our mailboxes on a regular basis, that current laws aimed at stopping these deceptive promotions simply are not working. Something needs to be done.

This bill addresses these deceptive sweepstakes and cashier's checks look-alikes by requiring up-front, clear and easy to read Honesty in Sweepstakes disclosures that will help protect consumers by counterbalancing false promises and deception. While honest and straight-forward sweepstakes promoters have nothing to fear from this bill, those promotions that revert to false and deceptive tactics will feel the heat.

The Honesty in Sweepstakes Act of 1999 is a refined version of my original legislation, S. 2141, that I introduced during the 105th Congress. The bill I am introducing today incorporates valuable input I received during a Senate hearing on S. 2141 and from productive discussions and negotiations involving key interested parties. Included among those who have made valuable contributions are: my Senate colleagues; the U.S. Postal Service; the General Accounting Office; Attorneys General from several states including Colorado, Florida, Michigan and New York; the American Association of Retired Persons; the Consumer Federation of America; the National Consumers League; the Direct Marketing Association; the Magazine Publishers of America and other industry representatives and experts. I want to thank them for their contributions to the Honesty in Sweepstakes Act of 1999.

The AARP has informed me that "Research has shown that older Americans may be particularly vulnerable to techniques used by sweepstakes companies. At times they end up purchasing products that they do not want in the hopes of improving their chances of winning. Additionally, it has been shown that participation in these sweepstakes can lead to a rise in the number of telemarketing calls a person receives as well as an increase in mailed solicitations."

The Honesty in Sweepstakes Act of 1999 will go a long way toward protecting our nation's seniors and other vulnerable consumers from misleading and deceptive sweepstakes promotions. The most vulnerable consumers among us deserve this protection. I urge my colleagues to support this legislation.

I ask unanimous consent that this bill and a letter from the AARP be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HONESTY IN SWEEPSTAKES ACT OF 1999.

(a) SHORT TITLE.—This Act may be cited as the "Honesty in Sweepstakes Act of 1999".

(b) UNMAILABLE MATTER.—Section 3001 of title 39, United States Code, is amended by—

(1) redesignating subsections (j) and (k) as subsections (l) and (m), respectively; and

(2) inserting after subsection (i) the following:

"(j)(1) Matter otherwise legally acceptable in the mails that—

"(A) constitutes a solicitation or offer in connection with the sales promotion for a product or service (including any sweepstakes) that includes the chance or opportunity to win anything of value; and

"(B) contains words or symbols that suggest that—

"(i) the recipient has or will receive anything of value if that recipient has in fact not won that thing of value; or

"(ii) the recipient is likely to receive anything of value if statistically the recipient is not likely to receive anything of value,

shall not be carried or delivered by mail, and may be disposed of as the Postal Service directs, unless such matter bears the notice described in paragraph (2).

"(2)(A) The notice referred to in paragraph (1) is the following notice:

"(i) 'This is a game of chance (or sweepstakes, if applicable). You have not automatically won. Your chances of winning are (inserting corresponding mathematical probability for each prize shown). No purchase is required either to win a prize or enhance your chances of winning a prize.', or a notice to the same effect in words which the Postal Service may prescribe; or

"(ii) a standardized Postal Service designed warning label to the same effect as the Postal Service may prescribe.

"(B) The notice described in subparagraph (A) shall be in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations that the Postal Service shall prescribe and be prominently displayed on the first page of the enclosed printed material and on any other pages enclosed.

"(C) If the matter described in paragraph (1) is an envelope, the face of the envelope shall bear the notice described in subparagraph (A).

"(D) If the matter described in paragraph (1) is an order entry device, the face of the order entry device shall bear the following notice:

"'This is a game of chance (or sweepstakes, if applicable). No purchase is required either to win a prize or enhance your chances of winning a prize.', or a notice to the same effect in words which the Postal Service may prescribe.

"(k) Matter otherwise legally acceptable in the mails that constitutes a solicitation or offer in connection with the sales promotion for a product or service that uses any matter resembling a negotiable instrument shall not be carried or delivered by mail, and may be disposed of as the Postal Service directs, unless such matter bears on the face of the negotiable instrument in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe the following notice: 'This is not a check (or negotiable instrument). This has no cash value.', or a notice to the same effect in words which the Postal Service may prescribe.".

(c) TECHNICAL AMENDMENT.—Section 3005(a) of title 39, United States Code, is amended by—

(1) striking "or" after "(h)," both places it appears; and

(2) inserting ", (j), or (k)" after "(i)".

(d) PENALTIES.—

(1) IN GENERAL.—Section 3012 of title 39, United States Code, is amended—

(A) by redesignating subsections (b), (c), and (d), as subsections (c), (d), and (e), respectively;

(B) by inserting after subsection (a) the following:

"(b) Any person who, through use of the mail, sends any matter which is nonmailable under sections 3001 (a) through (k), 3014, or 3015 of this title, shall be liable to the United States for a civil penalty in accordance with regulations the Postal Service shall prescribe. The civil penalty shall not exceed $50,000 for each mailing of less than 50,000 pieces; $100,000 for each mailing of 50,000 to 100,000 pieces; with an additional $10,000 for each additional 10,000 pieces above 100,000, not to exceed $2,000,000.";

(C) in subsection (c)(1) and (2), as redesignated, by inserting after "of subsection (a)" the following: "or subsection (b),"; and

(D) in subsection (d), as redesignated, by striking "Treasury of the United States" and inserting "Postal Service Fund established by section 2003 of this title".

(2) ALLOCATION OF FUNDS.—It is the sense of Congress that civil penalties collected through the enforcement of the amendment made by paragraph (1) should be allocated by the Postal Service to increase consumer awareness of misleading solicitations received through the mail, including releasing an annual listing of the top 10 offenders of the Honesty in Sweepstakes Act of 1999.

(e) NO PREEMPTION.—Nothing in this Act shall preempt any State law that regulates advertising or sales promotions or goods and services that includes the chance or opportunity to win anything of value.

AARP,
Washington, DC, January 22, 1999.

Hon. BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR CAMPBELL: AARP thanks you for drawing attention to the problem of deceptive and misleading sweepstakes solicitations by introducing the "Honesty in Sweepstakes Act of 1999." Research has shown that older Americans may be particularly vulnerable to techniques used by sweepstakes companies. At times they end up purchasing products that they do not want in the hopes of improving their chances of winning. Additionally, it has been shown that participation in these sweepstakes can lead to a rise in the number of telemarketing calls a person receives as well as an increase in mailed solicitations.

AARP appreciates your efforts on behalf of consumers to eradicate the practice of fraudulent sweepstakes mailings through the introduction of the "Honesty in Sweepstakes Act of 1999." We look forward to working with you and other Members on a bi-partisan basis to address this issue in the 106th Congress.

Sincerely,

HORACE B. DEETS.●

ADDITIONAL COSPONSORS

S. 6

At the request of Mr. DASCHLE, the names of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 6, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

S. 10

At the request of Mr. DASCHLE, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 10, a bill to provide health protection and needed assistance for older Americans, including access to health insurance for 55 to 65 year olds, assistance for individuals with long-term care needs, and social services for older Americans.

S. 16

At the request of Mr. DASCHLE, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 16, a bill to reform the Federal election campaign laws applicable to Congress.

S. 17

At the request of Mr. DODD, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 17, a bill to increase the availability, affordability, and quality of child care.

S. 18

At the request of Mr. HARKIN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 18, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through enhanced enforcement.

S. 49

At the request of Mr. MURKOWSKI, his name was added as a cosponsor of S. 49, a bill to amend the wetlands program under the Federal Water Pollution Control Act to provide credit for the low wetlands loss rate in Alaska and recognize the significant extent of wetlands conservation in Alaska property owners, and to ease the burden on overly regulated Alaskan cities, boroughs, municipalities, and villages.

S. 56

At the request of Mr. KYL, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 56, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 75

At the request of Mr. LUGAR, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 75, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 76

At the request of Mr. LUGAR, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 76, a bill to phase-out and repeal the Federal estate and gift taxes and the tax on generational-skipping transfers.

S. 77

At the request of Mr. LUGAR, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 77, a bill to increase the unified estate and gift tax credit to exempt small businesses and farmers from estate taxes.

S. 78

At the request of Mr. LUGAR, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 78, a bill to amend the Internal Revenue Code of 1986 to increase the gift tax exclusion to $25,000.

S. 241

At the request of Mr. JOHNSON, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. 241, a bill to amend the Federal Meat Inspection Act to provide that a quality grade label issued by the Secretary of Agriculture for beef and lamb may not be used for imported beef or imported lamb.

S. 242

At the request of Mr. JOHNSON, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. 242, a bill to amend the Federal Meat Inspection Act to require the labeling of imported meat and meat food products.

S. 254

At the request of Mr. HATCH, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 254, a bill to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes.

S. 258

At the request of Mr. MCCAIN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 258, a bill to authorize additional rounds of base closures and realignments under the Defense Base Closure and Realignment Act of 1990 in 2001 and 2003, and for other purposes.

S. 271

At the request of Mr. FRIST, the names of the Senator from Oklahoma (Mr. NICKLES), the Senator from Alabama (Mr. SESSIONS), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Wyoming (Mr. THOMAS), the Senator from Arkansas (Mrs. LINCOLN), and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 271, a bill to provide for education flexibility partnerships.

S. 277

At the request of Mr. COVERDELL, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 277, a bill to improve elementary and secondary education.

S. 280

At the request of Mr. FRIST, the names of the Senator from Oklahoma (Mr. NICKLES) and the Senator from Alabama (Mr. SESSIONS) were added as a cosponsor of S. 280, a bill to provide for education flexibility partnerships.

SENATE JOINT RESOLUTION 2

At the request of Mr. KYL, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of Senate Joint Resolution 2, a joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for increasing taxes.

SENATE JOINT RESOLUTION 3

At the request of Mr. KYL, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of Senate Joint Resolution 3, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE RESOLUTION 22

At the request of Mr. CAMPBELL, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of Senate Resolution 22, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives serving as law enforcement officers.

SENATE CONCURRENT RESOLUTION 3—CONDEMNING THE IRREGULAR INTERRUPTION OF THE DEMOCRATIC POLITICAL INSTITUTIONAL PROCESS IN HAITI

Mr. DEWINE (for himself, Mr. GRAHAM, Mr. HELMS, and Mr. COVERDELL) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 3

Whereas, in 1991 at Santiago, Chile, the Organization of American States (OAS) approved Resolution 1080 to deter irregular interruptions of the democratic political institutional process within countries having democratically elected governments;

Whereas the OAS invoked Resolution 1080 (1991) and called for a meeting of the foreign ministers in 1991 to determine appropriate actions in response to the coup d'etat against Haiti's elected President Jean-Bertrand Aristide;

Whereas the legacy of fiat and abuse of the Duvalier dictatorship led the framers of the 1987 Haitian constitution to provide for clear separation of powers;

Whereas the 1987 Haitian constitution permanently vests all legislative authority in the National Assembly and does not provide for rule by decree by the president;

Whereas on January 11, 1999, President Preval seized dictatorial powers by effectively dissolving Haiti's parliament and announcing he will rule by decree; and

Whereas this irregular interruption of the democratic political institutional process requires immediate international attention and action to bring about a return to democracy in that country: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Senate—

(1) condemns the irregular interruption of the democratic political institutional process and considers that interruption to be a serious blow to democracy in Haiti and a serious threat to democracy in the Caribbean region and the Hemisphere;

(2) calls on the Government of Haiti forthwith to fully restore the legitimate exercise

of power by a democratically elected National Assembly and to ensure full respect for internationally recognized human rights;

(3) urges the Organization of American States (OAS) to send a fact-finding mission headed by the Secretary General to Haiti and, under Resolution 1080, to call a meeting of the foreign ministers of the OAS member countries in order to consider joint actions to bring about a return to democracy in that country.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President of the United States with the request that he further transmit such copy to the Secretary General of the Organization of American States.

• Mr. DEWINE. Mr. President, today, it is with distress that I rise to submit and seek the Senate's approval on a concurrent resolution to express the deep concern of Congress over the deteriorating situation in Haiti. My colleagues from Florida, Senator **GRAHAM**; North Carolina, Senator **HELMS**; and Georgia, Senator **COVERDELL** have joined me in cosponsoring this important and timely resolution. The Chairman of the House International Relations Committee, **BENJAMIN GILMAN** and Chairman of the House Select Intelligence Committee, **PORTER GOSS** intend to introduce this same resolution in the House very soon.

Mr. President, twelve days ago, Haiti's drawn out crisis took a very troubling turn when Haitian President Rene Preval announced that the Haitian National Assembly's term had expired and he would proceed to install a government by "executive order." What he means, of course, is to ignore Haiti's parliament and rule by decree.

To understand the present situation, one must first comprehend the series of events in the past year and a half which have led to this unfortunate circumstance. The seriously flawed April 6, 1997 elections, which attracted less than 5 percent of the Haitian electorate, provoked the resignation in June 1997 of Prime Minister Rosney Smarth. For twenty months, a political deadlock has existed between President Preval and the majority party in parliament over the contested April elections and recently over President Preval's nominee for Prime Minister, Jacques Edouard Alexis. The political crisis has virtually paralyzed the government and delayed millions of dollars in international aid to Haiti.

During this period, the President dispatched a series of high-level emissaries, including the Secretary of State and the First Lady, to help defuse the crisis. Former National Security Advisor Anthony Lake has undertaken many missions to help mediate among the parties; most recently in the days leading up to the January 11 announcement.

Only on December 16 did the Haitian Senate ratify Mr. Alexis' credentials. On December 18, the Chamber of Deputies followed suit. Negotiations for the final approval of Mr. Alexis as Prime Minister, however, proved fruitless. President Preval and Mr. Alexis either failed or refused to secure agreement on a cabinet that would allow the prime minister to present his program to parliament for a vote of confidence.

This much is clear: Despite the extraordinary efforts of the Administration's emissaries, President Preval refused to accept any solution to this crisis that left Haiti's parliament in place. The present moment in Haiti is fraught with danger. Micha Gaillard, a Haitian social democrat who was closely associated with the internal efforts to restore then President Aristide to power in the early 1990's following the coup attempt against him wrote on January 16 that:

> What is going on today, according to those who were there, is the same as happened in the years 1963–64 when Francios Duvalier was maneuvering to be proclaimed president-for-life. [This] . . . formula has been reviewed and updated. Here it is important that we . . . disavow and condemn far and wide the means employed—usurpations of power, intimidation, violence, and corruption—to subvert the functioning of all the democratic institutions, which are the sole guarantee against dictatorship.

The resolution I submit today puts the United States Congress on record that the irregular interruption of the democratic political institutional process in Haiti must, without further delay, be addressed through Organization of American States Resolution 1080.

In 1991 at Santiago, Chile, the Organization of American States approved Resolution 1080 specifically to deter irregular interruptions of the democratic political institutional process within countries having democratically elected governments. When invoked, a meeting of the Permanent Council of the OAS and the foreign ministers of the OAS member countries is in order to consider joint actions to bring about a return to democracy in that country.

Resolution 1080 has been invoked several times in the past decade. The OAS invoked the resolution in 1991 to determine appropriate actions in response to the coup d'etat against Haiti's elected President Aristide. It was also invoked in Guatemala in 1993 when Guatemala President Jorge Serrano dissolved the Parliament and the courts; in Paraguay in 1996 when a Paraguayan general attempted a coup d'etat against Paraguayan President Wasmosy; and in 1992 in Peru after President Alberto Fujimori announced the dissolution of the Congress and the courts.

Mr. President, I have visited Haiti seven times in the past three years. I am extremely concerned about the current situation there. Mr. President, I urge my colleagues to support and pass this important resolution.•

SENATE RESOLUTION 29—DESIGNATING NATIONAL CORRECTIONAL OFFICERS AND EMPLOYEES WEEK

Mr. ROBB (for himself and Mr. CAMPBELL) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 29

Whereas the operation of correctional facilities represents a crucial component of our criminal justice system;

Whereas correctional personnel play a vital role in protecting the rights of the public to be safeguarded from criminal activity;

Whereas correctional personnel are responsible for the care, custody, and dignity of the human beings charged to their care; and

Whereas correctional personnel work under demanding circumstances and face danger in their daily work lives: Now, therefore, be it

Resolved, That the Senate designates the week of May 2, 1999, as "National Correctional Officers and Employees Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will meet on Tuesday, January 26, 1999 in SR–328A at 9:00 a.m. The purpose of this meeting will be to review economic concentration in agribusiness.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Improving Education Opportunities: Senators' Perspective during the session of the Senate on Tuesday, January 26, 1999, at 9:30 a.m.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday, January 27, 1999, at 9:30 a.m.

ADDITIONAL STATEMENTS

PROTECTING OUR UNDERGROUND INFRASTRUCTURE

• Mr. LOTT. Mr. President, the last Congress enacted legislation which protects our nation's vital underground infrastructure. Power cables, telephone lines, water mains and pipelines affect our daily lives, and it is essential that they are given the best protection possible. This legislation, based on S. 1115, the Comprehensive One-Call Notification Act, does just that. It provides incentives for states to improve their notification systems—systems which provide for accurate marking of underground facilities, and systems which prevent damage during excavation. This bill became law as part of the Transportation Equity Act for the 21st Century, TEA 21.

I am pleased to report that the response to the one-call legislation has been extremely positive. The truely bipartisan spirit that characterized Congress' approach to the legislation has been carried over into the cooperative spirit of the participants in implementing the bill.

The bill's first mandate convened a study on the best practices in one-call notification. This study will be submitted to Congress in June of this year, and is being carried out by the Office of Pipeline Safety (OPS) of the Department of Transportation. I have received reports that OPS has fully involved those affected by the law in all phases of the design and implementation of the best practices. This has proven to be an excellent model for conducting a cooperative effort between the public and private sectors. Mr. President, I am particularly pleased by the leadership the excavation community has shown in working with one-call center representatives, underground facility operators and others interested in underground infrastructure protection by moving this study process forward.

This study is a bottom-up effort with emphasis on letting those with hands-on experience play leading roles. After a public meeting last August to bring together interested parties, the participants formed nine teams covering various aspects of underground infrastructure protection: one-call center practices, excavation, mapping, locating and marketing, compliance, planning and design, reporting and evaluation, public education, and emerging technologies. The teams are currently gathering information, receiving and discussing any and all comments, and will produce the first drafts of the chapters for the final report. Team meetings are completely open to interested members of the public. Infact, schedules and minutes are being published on the OPS web page, http://ops.dot.gov, under "damage prevention."

Mr. President, the affected parties have checked their differences at the door, have worked together with openness and goodwill, have solved a very important infrastructure problem, and, because there was real world input, it will improve practices in the real world.

Looking ahead, the second phase of the bill calls for the Secretary of Transportation to offer grants to states which encourage improvements in their states' one-call notification systems. I expect the best practices study to significantly help devise criteria for awarding these grants. I hope the President's budget proposal funds these grant activities from general revenues in full recognition of the broad public benefit that accrues from effective underground infrastructure protection.

Mr. President, the process moving forward within the Department of Transportation has enlightened federalism through a government-industry partnership. I congratulate the monitoring the additional steps in the inclusive process to implement the protection of our vital underground infrastructure.●

TRIBUTE TO FAIRCHILD AFB KC–135 CREW

● Mrs. MURRAY. Mr. President, on January 13th, a Fairchild based KC–135 crashed near Geilenkirchen Air Base in Germany. Today, Team Fairchild and its many supporters gathered at the Spokane Opera House to grieve and to honor the memories of four members of the Washington Air National Guard who perished aboard the KC–135 in the service to our country.

I have had the pleasure of traveling to Fairchild Air Force Base on numerous occasions and meeting with the fine men and women there. They provide an indispensable part of our nation's defense and serve with pride and professionalism. I know that this tragedy hits especially hard on that close-knit community, and so it is with a heavy heart that I join them in their grief.

The four who died in the crash were members of the Washington Air National Guard 141st Air Refueling Wing, based at Fairchild Air Force Base near Spokane, Washington. Members of the 141st Air Refueling Wing were in Germany for training purposes and were participating in a routine NATO flight to refuel surveillance planes. The fallen men were all from Washington state, all family men, and all heroes.

Major David W. Fite, the pilot of the KC–135, was a resident of Bellevue, Washington. He began his service in the Washington Air National Guard in 1991. He is survived by his wife, a brother and his parents.

Captain Kenneth F. Thiele, co-pilot, was a resident of Spokane, Washington and served in the Washington Air National Guard since September 1998. He is survived by his wife.

Major Matthew F. Laiho, navigator, was a resident of Spokane, Washington and served in the Washington Air National Guard since 1989. He is survived by his wife, two children and his parents.

Technical Sergeant Richard D. Visintainer, boom operator, was also a resident of Spokane, Washington. His service in the Washington Air National Guard began in 1972. He is survived by his former wife and children.

Colonel James Wynne, the Wing Commander, was quoted. "The guard is such a close-knit extended family that this will certainly send a wave of grief throughout the unit. This is a tragic loss." Colonel Wynne is right. Fairchild grieves today, its spirit challenged by tragedy. I know Team Fairchild will serve as a comfort to grieving families and fellow Air Force personnel.

My thoughts and prayers are with the families of Major Fite, Captain Thiele, Major Laiho and Sergeant Visintainer. Each will be missed. Each will be remembered.●

EDUCATION OPPORTUNITIES AND EXCELLENCE ACT OF 1999

● Mr. COVERDELL. Mr. President, yesterday, I introduced the Educational Opportunities and Excellence Act of 1999. This legislation represents the Republican vision how we can improve educational opportunities for every American child.

Last year, Congressional Republicans passed an educational agenda to provide every child in America with first-class learning opportunities in safe, secure schools, to give parents new choices and more decision-making power over their children's education, and to bring common-sense reforms to a myriad of redundant and antiquated federal education programs. Unfortunately, the special interests in Washington were resistant to change and fought desperately against our reform efforts. This is what happened:

WHAT WE PROPOSED AND WHAT HAPPENED

(1) A+ Accounts—President vetoed.

(2) Block Grants—Passed Senate, dropped in conference.

(3) Charter Schools—Signed into law.

(4) School Choice Pilot Program—President vetoed.

(5) Teacher Testing/Merit Pay—President vetoed.

(6) Reading Excellence—Signed into law.

(7) Teacher and Student Safety—President vetoed.

(8) Full Funding of IDEA—Increased Funding by over $500 million.

Despite the fierce opposition of our opponents, we will continue our fight to bring the best education possible within the reach of every American child. Our mission is to ensure that our children are among the best educated in the world, and we will not be dissuaded from accomplishing that goal by any amount of opposition.

Today, we are introducing the Educational Opportunities and Excellence Act of 1999 to build on the Successes of the 105th Congress, and to jump start the much needed debate on increasing the ability of our nation's children to obtain a quality education.

The Educational Opportunities and Excellence Act of 1999 is a broad effort to offer new reforms to K-12 education, and provide incentives for families to save for higher education. It is made up of several titles:

Title 1—The Education savings Account Act of 1999—Under this title, parents will have more control over their children's education through IRA-style savings accounts that allow parents to save money tax-free for elementary and secondary education expenses. This legislation allows parents, grandparents, or scholarship sponsors to contribute up to $2,000 (post-tax dollars) a year per child for educational expenses while at public, private, religious or home schools—from kindergarten through high school. Last year, this proposal passed both the House and the Senate, but was vetoed by President Clinton.

Title II—Dollars to the Classroom Act—consolidates over 30 separate education programs and sends the money directly to state and local officials to be used to improve educational achievement and learning. The bill requires that 95% of federal education dollars are spent on classroom activities, rather than Washington based bureaucracies.

Title III—Merit Act—provides for an incentive grant program for States to establish and administer periodic teacher testing and merit pay programs for elementary and secondary school teachers.

Title IV—Additional Funding for the Individuals with Disabilities Education—provides additional funding to states to meet the federal mandate under the Individuals with Disabilities Education Act.

Title V—K-12 Community Participation Act—amends the IRS code to allow for a tax credit for elementary and secondary school expenses and for charitable contributions to organizations which provide scholarship to attend private schools. The maximum credit allow is up to $200 per person in 1999; $150 in 2000; $200 in 2001; and $250 thereafter.

Title VI—Collegiate Learning and Student Savings—extends tax-free treatment to all accumulations of interests and withdrawals from pre-paid college tuition plans.

With the Educational Opportunities and Excellence Act of 1999, we want to lead the Congress in taking the first steps necessary to improve educational opportunities dramatically for every American child. Our agenda—parental control and involvement, dollars to the classroom, state and local authority, and a return to basic academics—will be fully embraced by parents, teachers and administrators, governors and mayors across the country.•

THE AIR TRANSPORTATION IMPROVEMENT ACT

• Mr. DORGAN. Mr. President, earlier this week, I joined the Chairman and Ranking Democrat on the Senate Committee on Commerce, Science, and Transportation in introducing the Air Transportation Improvement Act. While I am pleased to be a cosponsor of this legislation, I am sorry that we are in the position of introducing a bill that should have been passed last year. Due to a number of unfortunate circumstances, including the unqualified mess at the end of the 105th Congress where 8 out of the 13 appropriations bills had to be lumped into a single massive bill, the Congress failed to complete its duty to reauthorize the Federal Aviation Administration (FAA) and related programs in the regular order of doing business. As a result, the FAA and important infrastructure programs such as the Airport Improvement Programs, were only extended until the end of March 1999. Thus, we are forced to begin the new Congress by taking up last year's business.

The FAA bill introduced yesterday needs to be one of the first priorities of this Congress. This is the case not only because of the pressing deadline of the short term extension, but also because this legislation contains some very important policy initiatives that will inject more airline competition and improve air service to small communities. While I support the general thrust of this legislation, I still believe that we need to consider some adjustments to this legislation. In particular, I believe that the Small Community Air Service Development Program established under this legislation is too modest in size to have much of an impact. Since the deregulation of the airline industry two decades ago, hundreds of small communities have experienced service degradation and many have lost service altogether. Vast geographic regions of our country have suffered unacceptable geographic isolation as the airlines have withdrawn service in smaller communities. This trend needs the serious attention of the Congress and the Department of Transportation.

Thanks to the bipartisan cooperation on this legislation among the leadership of the Senate Commerce Committee, we have developed the Small Community Air Service Development Program which could go a long way to address the small community air service problems. However, the authorization level proposed in the legislation introduced yesterday does not provide adequate enough resources for this demonstration program to make much of a difference. I hope that as the Commerce Committee works on this bill that we will be able to increase the authorization levels for this important new program.

I also realize that there is some serious controversy surrounding some provisions in this bill. It is my hope that we will be able to reach some fair compromises over the contentious provisions and that this bill will pass the Congress in very short order.

I want to commend Chairman McCAIN and Senator HOLLINGS for their leadership on this legislation. I know that there is a strong desire on both sides of the aisle to work on this legislation and pass it as soon as possible.•

TRIBUTE TO DAVID W. DENNIS

• Mr. LUGAR. Mr. President, I rise to pay tribute to a much-loved and respected Hoosier statesman, David Worth Dennis, who passed away on January 6, 1999, at the age of 86. David Dennis represented the eastern section of the State of Indiana in the United States House of Representatives from 1969 to 1975. He served with great courage and distinction on the House Judiciary Committee during the difficult Watergate period.

David Dennis' commitment to public service began before and extended beyond his three terms in the House of Representatives. After his graduation from Earlham College and Harvard Law School, he began his career practicing law in Richmond, Indiana. He then served as the prosecuting attorney for Wayne County, Indiana, and then as a First Lieutenant in the JAG Corps of the U.S. Army. He served in the Pacific theater at the end of World War II. Shortly after he came home to Indiana in 1946, he won a seat in the Indiana General Assembly, where he served a total of four terms.

I first met Dave during his service in the Indiana House of Representatives, and I frequently corresponded with him during his United States Congressional service. I was pushing the extension of the "New Federlism," in which states and cities obtained and exercised more responsibility. I also was advocating general revenue sharing in which the federal government would send money to states and cities without strings attached in order that the discharge of these additional responsibilities could be paid for. Dave was enthusiastic about diminishing federal prerogatives, but somewhat less enthusiastic about a distribution of federal revenues.

Our coming together on the campaign trail in 1974 led to enormous mutual respect. The Judiciary Committee was a battleground for efforts to impeach President Richard Nixon. Dave was a very loyal Republican but, even more importantly, he was a scholarly and thoughtful legislator who believed that insufficient evidence had been produced to vote for articles of impeachment in the Committee. As additional evidence withheld by President Nixon became known, Dave became outspoken in his condemnation of the cover-up and in his demand that President Nixon should resign.

I was privileged to watch at close range a courageous public servant at work who, even in the midst of a partisan election campaign, was never in doubt that he should speak the truth as he saw it and let the chips fall where they may.

Neither Dave nor I were successful in the 1974 campaign, but I looked forward throughout subsequent years to our meetings. We not only reminisced about battles of the past, we discussed the future with expectations that great things could occur in our country through constructive leadership.

David Dennis remained a leader after returning in 1975 to practice law in Richmond, Indiana. Still active in Republican politics, he continued his career as an attorney, where he was loved and respected by the Richmond community. He was known for his fairness and his dedication to the practice of law. Describing Dave's legal calling, a friend quoted in the Richmond Palladium-Item summed up his dedication: "He understood it as a service to the community. In the same way, David Dennis saw politics as a profession, not a way to get ahead." Dave was truly an advocate who loved the roles he played in both the legislative and the judicial systems of our country.

I last saw David Dennis at a Republican dinner in Richmond during the 1994 campaign. He was introduced and received a wonderful ovation from Wayne County Republicans, who revered his service and were so grateful for his continuing citizenship in the community he loved. I was able to keep in touch with news of Dave through his son, William C. Dennis II, who served as a remarkably energetic professor at my alma mater, Denison University.

In addition to his extensive public service, David Dennis is remembered by friends and family as an engaging storyteller and a skilled tennis player. Most of all, he is remembered as a loyal friend and loving husband and father.

My sympathy is with his children, Bill and Ellen, as well as with his four grandchildren as they remember and celebrate the life of an exemplary Hoosier statesman. This standard bearer of a great Quaker tradition at Earlham College added something very special to Indiana Political life. We will miss his wisdom and grace.•

AMERICAN WORKER LONG TERM CARE AFFORDABILITY ACT OF 1999

• Mr. GRAHAM. Mr. President, on Tuesday of this week, Senator GRASSLEY and I introduced S. 36, The American Worker Long Term Care Affordability Act of 1999, a bill creating a model long-term care insurance program for federal employees. Today, I would like to comment on a related long term care bill also introduced on Tuesday by Senator GRASSLEY and myself. S. 35, The Long Term Care Affordability and Availability Act of 1999, would give all Americans a tax deduction for the premiums they pay for long term care insurance.

The cost of long term care has risen to astonishing levels in recent years. In 1995, it averaged $37,000 per year. What this means is that a chronic illness requiring long term care can represent a financial catastrophe for retired Americans and their families. A retired couple might have a pension and basic health care, but the couple is not secure in retirement so long as their financial resources can be depleted by long term care bills.

Many Americans think Medicare covers the cost of long term care. In fact, it covers only the first 100 days of care following a hospital stay. Yet the average nursing home stay is 2.5 years.

Medicaid, unlike Medicare, does cover long term care—but only for beneficiaries who use up their life savings and income first. Medicaid, after all, is a program for the poor, and long term care beneficiaries must become impoverished to qualify. Furthermore, beneficiaries who rely on Medicaid must use providers that are chosen for them—not providers of their own choice. Even with these restrictions, Medicaid currently pays more than $30 billion per year for nursing home care.

The budgetary challenges provided by Medicare and Medicaid are on course to become ever more acute in coming years, as the baby boom generation ages. By 2030, as the number of people over 65 doubles, fully 32 states will have the demographics that Florida has today. The fastest growing segment of the population will be those over 85 with an expected 143% increase by 2030. People over 85 are at least 5 times more likely to reside in a nursing home than people who are 65. In real terms, nursing home expenditures are expected to quadruple in the next three decades.

Mr. President, given the accelerating cost of long term care and the demographic pressures on Medicare and Medicaid and other entitlement programs, Congress started several years ago to provide incentives for people to plan ahead for their own needs. The way most Americans plan ahead for long term care is by purchasing long term care insurance. With insurance, people can be confident that they won't have to impoverish themselves to deal with a chronic illness. They won't have to fall back on the Medicaid program or family members.

In the Kennedy-Kassenbaum health reform legislation in 1996, Congress permitted the deduction of premiums on long term care insurance in the same manner as health expenses. The trouble is that few people—other than the self-employed—can deduct health expenses since the tax code allows only the portion of health expenses over 7.5% of income to be deducted, and then only as an itemized deduction. Thus, a typical employee planning ahead for retirement cannot purchase long term care insurance on a tax deductible basis.

The bill we are introducing today would improve on Kennedy-Kassebaum by allowing Americans to deduct long term care insurance premiums regardless of whether or not they are self-employed or whether they itemize deductions or have any other health expense. Effectively, the bill would put long term care insurance on a par with pensions. Just as everyone can save for a pension on a tax deductible basis, everyone should be able to purchase long term care insurance in the same fashion.

A better deduction for long term care insurance premiums could also help us by encouraging younger Americans to purchase insurance now, when the coverage is readily affordable. For example, a quality long term care insurance policy purchased at age forty, can cost less than $50 per month.

Mr. President, every person who is covered by long term care insurance is one fewer potential Medicaid claimant. A recent study by the American Council for Life Insurance indicates that long term care insurance has the potential to reduce future out of pocket expenditures on long term care by 40 percent and future Medicaid long term care expenditures by more than 20%. In other words, long term care insurance has the capacity both to protect seniors from financial catastrophe, and to help protect entitlement programs from long term insolvency.

Mr. President, I also want to applaud the President's long term care initiative, which he announced two weeks ago. In proposing a tax credit for individuals who provide long term care to dependents, President Clinton also pledged to increase efforts to educate Americans about the importance of long term care. Both of these proposals are consistent with the legislative effort that Senator GRASSLEY and I are undertaking, and I look forward to working with the White House on this important issue.•

BMC ANTHONY LAWRENCE PETIT AND THE SCOTCH CAP LIGHTHOUSE

• Mr. MURKOWSKI. Mr. President, I rise today to honor the five heros who perished in the Scotch Cap Lighthouse disaster of April 1, 1946—five Coast Guardsmen who gave their lives so that others would survive. The lighthouse keeper was Chief Boatswain's Mate Anthony Lawrence Petit. His crew included Fireman 1st Class Jack Colvin, Seaman 1st Class Dewey Dykstra, Motor Machinist's Mate 2nd Class Leonard Pickering, and Seaman 1st Class Paul James Ness.

Lighthouses will always have a place in our history. They have warned mariners of danger, their crews have rescued survivors in the worst conditions imaginable, and their brilliant lamps have comforted and reassured those who are bound homeward at last.

In 1903, Scotch Cap Light Station was the first light put in place on the outside coast of Alaska. Located at the western end of Unimak Island, approximately 425 miles southwest of Anchorage, the light marks the entrance to Unimak Pass. Its only contact with the outside world was—every three months or so—a visit from a buoytender bringing supplies.

It was, and is, one of the most isolated places imaginable, especially in the winter, and its hardships were legendary—one lighthouse keeper froze both his hands just trying to go from the lighthouse tower to his quarters during a blizzard. It was so hazardous that no families were allowed, and in the early days, lighthouse keepers were allowed a full year off for every three years they spent on the island.

In 1940, the original building was replaced by a brand-new, reinforced-concrete structure built on a bluff near the shore, raising the light to 90 feet over the ocean, and protected by a concrete sea wall. But it wasn't enough.

The disaster began early, on April 1, 1946. At 1:30 a.m., the crew woke to an earthquake lasting about 30 seconds, strong enough to knock things off shelves. After the quake, the watchstander at a radio-direction-finding (RDF) installation—built a little farther up the hill during World War II—radioed the lighthouse crew and was told there was no major damage.

Then, just before two o'clock in the morning, a second quake hit. The second tremor was expected, but not the million-ton wall of water—a tsunami—that quickly followed it.

The RDF station logbook reported: "Terrific roaring from ocean heard, followed immediately by terrific sea, top of which rose above cliff and struck station, causing considerable damages."

The watchstander again used his radio to contact the lighthouse. This time, there was no reply. This time, he wrote in the logbook: "Light extinguished and horn silent."

The wave from the second earthquake is now estimated to have been over 100 feet high. It completely erased the concrete lighthouse, killing the five crewmen instantly, and leaving only wreckage. The bodies of Chief Anthony Petit and his crew were gone. They washed ashore again a few days later, identifiable only by their bridgework and jewelry.

Chief Anthony Lawrence Petit was just a man—an ordinary man—but his life and death offer a glimpse at the thousands of ordinary men and women who join the Coast Guard and serve their fellow citizens in extraordinary ways. He was born and raised on Michigan's Upper Peninsula, in the town of Hancock, on a ship canal crossing the Keweenaw Peninsula. As a boy, he would have known the ships well, along with the Coast Guard buoy tenders and lighthouses that kept them safe. Petit enlisted in the Coast Guard as a young man in 1926. He never married, and served faithfully in the Coast Guard for the next 20 years. And we know that just before his final transfer to Scotch Cap, he was quoted saying, "I hope to serve at as many Coast Guard ships and stations as I can before I retire in ten years." We know that in the end, he died doing the job he loved; keeping the light burning for those in peril on the sea. And we know his life was not wasted, nor forgotten—and we celebrate the christening of the USCGC Anthony Petit this 30th day of January, in the year of our Lord 1999.•

TRIBUTE TO RON AND BEVERLY GENDRON OF MANCHESTER ON THEIR RETIREMENT

• Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Ronald and Beverly Gendron, two remarkable people who have been dedicated to making a difference in the lives of the less fortunate for over ten years in the city of Manchester, New Hampshire.

Ronald and Beverly founded the Helping Hands Outreach Center over ten years ago and have been committed to helping New Hampshire's needy ever since. Ronald and Beverly have now retired from the Helping Hands Outreach Center and are continuing their dedication to helping others by organizing a new outreach center in Laconia, New Hampshire.

Ronald and Beverly Gendron founded the Helping Hands Outreach Center of Manchester in 1986. The Center is dedicated to assisting in the problems of homelessness, hunger, and drug and alcohol addictions.

Ronald and Beverly have retired from Helping Hands of Manchester to embark on a new endeavor. They are organizing a new social service organization in Laconia, New Hampshire. With the Gendrons' help, the Open Arms Outreach Center of Laconia will be a ministry dedicated to providing assistance to troubled families. Ronald and Beverly will work closely with Laconia and State officials to offer housing and shelter in the Greater Laconia area.

Mr. President, the Gendrons have devoted their time and their hearts for over ten years to serve the homeless and suffering in the Greater Manchester Area. Ronald and Beverly served southern New Hampshire's needy well.

I would like to extend my best wishes to them as they embark on their new endeavor to assist in the lives of the needy in the Lakes Region of New Hampshire. It is people like the Gendrons that help make New Hampshire a special place to live. It is an honor to represent them in the United States Senate.•

WRECKED CARS, ON THE ROAD AGAIN

• Mr. LOTT. Mr. President, I rise today to call our colleagues attention to an article that appeared in the January 8, 1999, edition of the Washington Post. It is important because it touched on a serious and growing problem plaguing our nation's consumers and motorists everywhere. Under the title, "Wrecked Cars, On the Road Again," the Post writer detailed how easy it is for a person to unwittingly purchase a rebuilt salvage vehicle completely unaware of the car's previous damage history.

At this time Mr. President, I ask unanimous consent to have printed in the Record the January 8, 1999, article from the Washington Post.

The article follows:

[From the Washington Post, Jan. 9, 1999]

Wrecked Cars, On the Road Again—Repaired U.S. Test Vehicles Pose Safety Problems for Unsuspecting Owners

(By Cindy Skrzycki)

The huge concrete barrier rolled down a track at 20 miles an hour and smashed into the 1996 Mustang GT convertible. The Mustang fishtailed, the windshield shattered and the side of the car was heavily damaged.

This Mustang was essentially cannon fodder in a regular series of safety tests conducted by the government—in this case, to determine whether the fuel system would stay intact in an accident. The car passed the National Highway Traffic Safety Administration test and, as usual, the Government Services Administration sold it at an auction on July 2, 1997. Stamped at the bottom of the GSA's sales receipt: "Salvage Only—Not to be Titled for Highway Use (wrecked/inoperable)."

So why did David Staber end up tooling around Cadott, Wis., in the Mustang after paying $9,500 for it? And why did Daniel Mencheski of Green Bay, Wis., sink $22,000 into a 1995 Chevrolet Tahoe that had been rear-ended by a moving barrier in another government test?

You have to go back to Arkansas, where investigators believe a car salesman figured out how to doctor the bills of sale from the GSA and pass the cars off as any other damaged used car. In other words, cars sacrificed to the altar of safety by the government are illegally finding their way back to the street—where they constitute a safety hazard.

"All of these cars have gone through some form of destructive testing and have extensive to severe damage. There's no assurance they could be repaired or meet safety standards," said Philip Recht, deputy administrator of the NHTSA, who called it "the ultimate contradiction of our mission and whole compliance program."

It's a problem that happens all too often in the used car business, in which unsuspecting buyers purchase cars with "washed" titles that remove any warnings that the cars may have been in accidents and sustained damages that would make them junk in some states.

Bernard Brown, a Kansas City, Mo., lawyer who specializes in car fraud, said there may be as many as a million vehicles totaled, rebuilt and resold to unsuspecting consumers every year.

The NHTSA case also highlights the patchwork of state laws and requirements for obtaining a vehicle title that allow it to be driven and considered safe.

"We have handled cases of persons suffering severe injuries in accidents caused by improperly rebuilt wrecks. We have had experts examining large numbers of unsafe, rebuilt wrecks. We have seen documentation on tens of thousands of rebuilt, totaled wrecks retitled by states with 'clean titles' that show nothing of the cars' salvage histories," Brown said.

Overall, since the inception of the crash-test program in the 1970s, NHTSA has damaged 7,120 vehicles at four test sites. No one has traced the history of all of those cars, but there may be many more back in commerce, posing unknown safety problems for their owners.

The agency alerted the Department of Transportation's inspector general's office, which is handling the case.

Carfax Inc., a computerized vehicle-history service in Fairfax, has been working with NHTSA to identify how many cars and trucks are likely to have been fraudulently titled. It reviewed the histories of 494 cars that NHTSA crashed from 1995 to 1998, coming up with the 25 that were repaired, retitled, and sold to unsuspecting owners.

Carfax found another 67 that were retitled, but some of those may be "branded" as salvage. That means they may be driven in some states and, in others, they could be used only for parts. Scott Fredericks, Carfax director of consumer marketing, said it's likely that "a goodly number [of the 67] are back on the road, which is a hazard to consumers."

Legislation stipulates that funds from the GSA auction sales be returned to NHTSA to help pay for more vehicles for its crash-test programs, which cost $2.7 million in 1997. The auctions raised about $290,000 in 1996 and nearly $570,000 in 1997.

In the case of the Mustang, the GSA sold it to Ben Still of Century Auto Sales in Benton, Ark., who paid $5,037 by check. Century Auto, in turn, sold the vehicle to a used car and salvage dealer in Hortonville, Wis., with what appeared to be a "clean" Arkansas title, according to documents acquired by the Post. Still's name is on the GSA official receipt, according to a copy obtained by the Post.

Investigators said the Wisconsin dealer then sold the car for $9,500 to Staber, who took ownership on Nov. 6, 1997. The Mustang had only 720 miles on the odometer.

Staber, who owns Cadott Auto Recyclers and buys as many as 500 damaged vehicles a year, said he spent another $8,000 to repair and repaint the car, which retailed for about $28,500.

"I know what I'm doing, but this one got me," said Staber, who is suing the Wisconsin dealer from whom he bought the car. "I saw the title and I never suspected the fraud. I don't like losing $18,000. I work too hard for my money."

Mencheski's Tahoe also was bought from a GSA auction by the same Arkansas dealer for $6,678, according to the receipt from the auction sale. It then took a circuitous route through northern Michigan before reaching Green Bay, Wis., where Mencheski bought it.

The vehicle now sits in Mencheski's driveway without a title and is undrivable. Mencheski said it will cost him $400 a month in loan payments for the next six years; he borrowed against his 401(k) retirement account to buy a used minivan to replace the useless sport-utility vehicle.

He, too, is suing the dealers who handled the Tahoe before he bought it.

"I wanted one with a clean title," said Mencheski, who is a lineman for Wisconsin Electric Power Co. "It had less than 100 miles on it."

Here's how the process worked: Over time, investigators said, Century Auto made 13 purchases at GSA auctions. Century Auto then sold three of those cars—Staber's Mustang, another Mustang and Mencheski's Tahoe—to Michael Schmidt, president of Schmidt's New London Auto Salvage Inc. in Hortonville. Those transactions are documented in the official paper trail that followed the cars from the auctions to titling in Wisconsin.

"Our investigation indicates Century Sales fraudulently obtained an Arkansas clean title, number 9720521491, on July 24, 1997, by submitting a fictitious GSA purchaser's receipt and authority to release property. The document submitted did not have the language that was on the original document," said a letter that the Wisconsin Department of Transportation sent to Staber. Mencheski got a similar letter.

The warning on the bottom of the receipt saying the car was for salvage only had been erased.

Investigators believe Century Auto made up "new" GSA bills of sale, excluding the warning. At the bottom of those, the company allegedly stated the make, model year, the vehicle identification number and odometer reading. A few signatures and dates also were altered, the receipts show.

Still did not return phone calls. His lawyer in Little Rock had no comment.

What apparently happened next was that Still or his associates took the "clean" sales receipts to get Arkansas titles for the cars—and got them with no problem.

Roger Duren, of the Arkansas Office of Motor Vehicles, said either the GSA bill of sale or another government form known as "Certificate to Obtain Title to Vehicle," which transfers a vehicle from government ownership to the auction buyer, is acceptable.

The title certificate is supposed to be stamped by GSA "Not to be Titled for Highway Use" and would have been a flag to state examiners. In the case of the Mustang, at least, the form mistakenly did not carry that warning, GSA officials said, and Still or his associates did not present that form.

Still—in Arkansas—then told Schmidt he had three cars with collision damage that were drivable, Schmidt said. Still advised that they would go fast. He wanted the money in advance, sight unseen. He promised clean Arkansas titles, according to Schmidt.

"As soon as we saw them, we knew they were crash-test stuff," said Schmidt. But the titles didn't arrive until Schmidt agreed to sign "as is" forms and accept the cars. Schmidt said that when Still wouldn't take them back, he decided to sell the Mustang and the Tahoe.

Schmidt sent the Mustang convertible to a salvage auction in Appleton, Wis., and Staber was the high bidder. Schmidt said he told Staber everything he knew about the Mustang. "At the time, I didn't know you couldn't drive a crash-test car," he said.

The Tahoe was sold at a private salvage auction to a dealer in Michigan, who took it to a repair shop in Green Bay owned by Mencheski's brother-in-law. The brother-in-law thought the Tahoe would be just the four-wheel-drive his sister and her husband were looking for.

The other vehicle bought by Schmidt was a Mustang coupe, which he sold for parts.

"So, who should be at fault? I'm just the guy in the middle," said Schmidt, who believes the blame lies with "the people who issue the titles."

As for Still, investigators are looking at whether he forged the signature of a federal official, altered a federal document and gave false information to the Arkansas Office of Motor Vehicles.

Staber and NHTSA learned about the Mustang's unlawful title when Staber had transmission problems and took the Mustang to Jim Carter Ford in Eau Claire, Wis. Ford Motor Co. checked the vehicle identification number and found it was a NHTSA test vehicle, which voided the warranty coverage, according to documents from the investigation.

A month later, the Wisconsin Department of Transportation told Staber he was driving a fraudulently titled government test vehicle.

In the wake of the discovery, NHTSA has alerted consumers on its World Wide Web site to vehicles that have been in the crash-test program for the years 1996 through 1998.

Mr. LOTT. In this case, the vehicle had been totaled as part of a government crash test. After being demolished by the National Highway Traffic Safety Administration (NHTSA), the vehicle, which the Post called "cannon fodder," was sold at an auto auction. It was then rebuilt and sold to a used car buyer in Wisconsin who had no way of knowing that he purchased a crash test car. Apparently, as the article suggests, he is not alone. There may be thousands of government crashed vehicles that have been returned to the road for normal highway driving. Think about that. Thousands of NHTSA crash-tested cars back on America's roads and highways.

This consumer, like millions of other used-car purchasers across the country, fell victim to the fraudulent practice known as "title washing." In the Wisconsin case, a clean title was easily obtained bearing no indication of the vehicle's previous damage history. Since the vehicle's checkered past was concealed, the buyer ended-up paying thousands of dollars for a structurally unsafe car that posed a threat not only to his well-being, but to the safety of everyone with whom he shares the road.

Mr. President, during the last Congress, Senator Wendell Ford (D-Ky.), and I co-authored The National Salvage Motor Vehicle Protection Act to begin closing the dangerous loopholes that allow unscrupulous rebuilders to take advantage of used car consumers. The Act would have dramatically improved public disclosure by requiring that totaled vehicles be designated "salvage vehicles." It also required that rebuilt salvage vehicles be inspected to ensure that stolen parts were not used in the repair. Additionally, "rebuilt salvage vehicles" would have a decal permanently affixed to the driver's side door jamb. The bill also contained a provision requiring all previous brands on a vehicle to be carried forward to each state retitling the vehicle.

As my colleagues are aware, the practice of selling rebuilt salvage vehicles as undamaged used cars costs consumers and the auto industry nearly $4 billion annually. It is estimated that every year, as many as one million vehicles are "totaled," rebuilt, and placed back into used car commerce. In some states, as many as 70 percent of all "totaled" vehicles may return to the roads after being purchased by unsuspecting citizens. While most states require some type of disclosure on a vehicle's title to indicate its history, the requirements vary from state to state, and it is the resulting hodgepodge of conflicting state laws that allows dishonest rebuilders to obtain "clean" titles.

When a title has been laundered, all future purchasers are deprived of important information alerting them to potential problems with the vehicle. These later buyers may include private purchasers or automobile dealers. Dealers typically purchase used vehicles from auctions and from their customers as trade-ins, and then sell them to used car consumers. In such cases, both parties are victims.

Congress acted on this problem by adopting legislation in 1992 directing the creation of a task force to examine the problems associated with salvage vehicles. The task force included a diverse group of stakeholders who concluded that the lack of uniformity in state laws allows unscrupulous rebuilders to easily wash titles and to subsequently sell rebuilt vehicles as undamaged. It also noted that rebuilt vehicles could be a risk to the driving public. Among the task force's recommendations was the development of federal legislation to create uniform definitions and procedures for titling salvage vehicles.

The National Salvage Motor Vehicle Protection Act was based largely on the task force's recommendations. I do not want the recommendations of a federal task force to collect dust. All too often, Congress does not follow through with the recommendations of commissions it creates. Here is one of those instances where Congress wants to implement them—a majority of both chambers want to enact them. A widely diverse bipartisan group.

This much needed legislation received the formal support of 57 Senators, including the distinguished Minority Leader, TOM DASCHLE, Senator MCCAIN, Chairman of the Commerce Committee, HARRY REID, and other colleagues from both sides of the aisle. It also garnered broad bipartisan support in the House of Representatives which approved similar title branding legislation by a vote of 333 to 72. Even though this non-partisan consumer-friendly legislation was widely supported by both chambers of Congress, it fell victim to a steady stream of misrepresentation. Throughout the legislative process in both chambers, a number of significant changes were made to address the concerns of state attorneys general and consumer groups. Unfortunately, even after these changes were adopted, the National Highway Traffic Safety Administration, a direct contributor to this national problem, opposed this modest but important bill as a bargaining chip for its own agenda.

Mr. President, it is my intention to reintroduce auto salvage legislation during this session. I have given NHTSA the opportunity to review and comment on the proposed bill. I welcome NHTSA's input and I am hopeful that the Administration will join with us, and the American Association of Motor Vehicle Administrators, the experts on titling matters, to foster national uniform titling requirements.

It is time to put politics aside to protect the public from the practice of title washing and the greed of dishonest rebuilders.●

ORDERS FOR SATURDAY, JANUARY 23, 1999

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Saturday, January 23, and that the Senate then immediately resume consideration of the articles of impeachment. I further ask unanimous consent that following Saturday's proceedings, the Senate stand in adjournment until 1 p.m. on Monday to then resume consideration of the articles of impeachment.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, I remind my colleagues that we will continue the questions on Saturday beginning at 10. We don't know exactly how long it will go. It depends on the feeling in the Senate and whether or not we asked the questions we need to have answers to. I hope, though, it will not exceed 4 p.m. on Saturday. I thank my colleagues for their attention and participation today.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:53 p.m., adjourned until Saturday, January 23, 1999, at 10 a.m.

SENATE—*Saturday, January 23, 1999*

The Senate met at 10:05 a.m. and was called to order by the Chief Justice of the United States.

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

The CHIEF JUSTICE. The Senate will convene as a Court of Impeachment. The Chaplain will offer a prayer.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, You have taught us to seek and maintain unity. You've also taught us that this unity is so precious that we should be willing to sacrifice anything in order to maintain it—except the truth. Help us to affirm the great undeniable truths that twine the bond of oneness: We are one Nation under Your sovereignty; our patriotism binds us together inseparably; our commitment to the Constitution is unswerving. In these bonds that cannot be broken, this Senate has been able to deal with the arguments, issues, and opinions of this impeachment trial. Continue to inspire the Senators with civility as they work through answers to the questions raised today.

Refresh and rejuvenate those who may be weary or burdened. Dear God, preserve the unity of this Senate for its future leadership of our beloved Nation. In Your Holy Name. Amen.

The CHIEF JUSTICE. The Deputy Sergeant at Arms will make the proclamation.

The Deputy Sergeant at Arms, Loretta Symms, made proclamation as follows:

> Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against William Jefferson Clinton, President of the United States.

THE JOURNAL

The CHIEF JUSTICE. If there is no objection, the Journal of proceedings of the trial are approved to date.

Pursuant to the provisions of Senate Resolution 16, there are 11 hours 54 minutes remaining during which Senators may submit questions in writing directed to either the managers, on the part of the House of Representatives, or the counsel for the President.

The majority leader is recognized.

Mr. LOTT. Thank you, Mr. Chief Justice.

And thank you, Chaplain, for your opening prayer. I know we all listened and appreciated the admonitions that were given in that prayer.

ORDER OF PROCEDURE

I want to say, again, I appreciate the participation of all the Senators yesterday. Fifty questions were asked, I think a lot of good questions, and obviously good responses. We have a considerable amount of time left for questions. But, again, it is our intent to go today as long as the Senators feel that they have a need for further questions. It is up to 16 hours; it doesn't require 16 hours. So I think we should go forward and try to ask the needed questions, and then get a sense of where we are as we go through the day.

But at any rate, it would be our intent not to go later than 4 p.m. We hope to take a 1-hour lunch break sometime around 12 or 12:30, but it will depend on how the questions are going. We will also take a break here in an hour, hour and a half, something like that.

Following today's session, the Senate will reconvene on Monday at 1 p.m. and resume consideration of the articles of impeachment. All Members will be notified of the details of Monday's schedule, and beyond that, once we have had an opportunity for a consultation between Senator DASCHLE and myself and we get a feel for exactly what Senate Resolution 16 provides in terms of activities on Monday and Tuesday. In a continuing effort to make this as bipartisan and as fair as possible, you will note yesterday while we alternated back and forth, some of the questions were directed from this side to the President's counsel and the reverse. I am sure that will happen again some today. We began the first question yesterday and you concluded; so today we would reverse that. Senator DASCHLE will ask the first question and then we will go through the process until we complete those questions, with us ending with the last question sometime today.

With that, Mr. Chief Justice, I yield the floor.

The CHIEF JUSTICE. This question is directed to the House managers from Senator REID of Nevada.

> Would you please tell us whether you provided notice to counsel for the President, or to any official of the United States Senate, of the managers' discussions with the Office of Independent Counsel regarding an informal interview of Ms. Lewinsky, and the intention of the Office of Independent Counsel to file a motion in court to compel Ms. Lewinsky to meet with the managers? If you provided no such notice to counsel for the President or the Senate, please tell us why not.

Mr. Manager BRYANT. Mr. Chief Justice and Senators, distinguished colleagues, no, the answer to your question. I am not aware of any such notice that was provided as described in the question.

I would like to make some clarification on this in terms of the witness, Monica Lewinsky—potential witness. As we have been in an evolving discussion over the last few weeks in terms of if we are allowed to call witnesses by the Senate, who those witnesses might be, what our list might look like, obviously, the name of Monica Lewinsky comes up as a potentially very important witness to these proceedings.

As many of us in this Chamber have had experience in the law, we very much would like to talk to some of these witnesses. The core group that we have considered, however, are, in essence, in the White House control; they are either employed by the White House or close friends and associates of the White House. I am sure the White House, with the attorneys, would be very willing to cooperate with us in making those people available.

However, Ms. Lewinsky presents a very unique situation in that she is geographically some other place. I am not sure where she is—Los Angeles, New York, maybe Washington. But she has attorneys we have to deal with. It would be very critical, as any attorney in this body knows, that before you actually talk to a witness, and a witness of that importance to this proceeding, that before you produce her for that testimony, that you talk to her. It was intended to be a conversation to discuss it with her.

I have personally not seen the immunity agreement that she has, but we understand there is a cooperation proceeding and that that agreement is between her, her attorneys, and the independent counsel, the OIC—not Congress, not the managers, not the Senate. So we have no duty, no legal standing, as I understand it, to go in and enforce that agreement, were she not to want to meet with us and cooperate pursuant to the terms of those agreements, to the agreement.

We did contact the OIC to arrange that meeting, and once we understood that the attorneys did not want to cooperate and furnish their client to meet with us, we asked the OIC to pursue, further, the effort to have Ms. Lewinsky come in and meet with us on an informal basis as, again, anyone would do in preparation for calling a witness at a trial.

Thank you.

The CHIEF JUSTICE. This is a question from Senators FITZGERALD, HATCH, Mr. SMITH of Oregon, and Senator THURMOND, directed to the House managers.

How do you address the White House's argument that removal is a disproportionate remedy for the alleged acts of perjury and obstruction of justice and should there be any particular concern about establishing a precedent that a President can commit felonies while in office and remain President of the United States?

Mr. Manager BUYER. I think the proportionality question yesterday was very good in that there is a psychology to be used in judicial decisions. I think there are different factors that will influence that decisionmaking process and the ideals that you, as a sitting judge and juror, will use to strive to attain them. It is important, I think, also, to have reasonableness and just solutions if you are going to individualize the case, as some may hope to do.

I think as a society, if you take a step backward, we are kind of caught in two diverse trends at the moment. You have one trend whereby judges like to seek individualized solutions to particularized cases; and the other trend is we will apply the law to individualized cases.

So, let me give you two best examples of both of those. With regard to the best example of individualized solutions to a particular case would be our juvenile justice system. That is where the court would come in and use a variety of means because reformation is, in fact, the goal, and that is what we do in the juvenile court system.

As a side note of that, I think in society, with regard to—it could be an act of a firing, it could be an administrative hearing for removal, it could even be a Governor who had an employee who had an illicit affair and it was a political appointee and that Governor decided, maybe he decided applying the proportionality that he remove his own political appointee for having an affair. So the individualization can occur out there.

The other example I will comment on is the justice according to law, and that other trend out there caught in our society—a legislature is not only here in Washington but across in our State jurisdictions; you have legislatures that are beginning to take some of the decisionmaking processes away from judges and they are saying, specifically, in Federal sentencing guidelines, as an example, that if in fact a person is convicted of a particular crime or possession of cocaine, the legislature is now telling these judges exactly: This is, in fact, what your sentence will be.

So, we are kind of caught, I want you to know, as you are sitting as judges and jurors, in this diverse trend that is occurring in our society. I know as you listen to lectures even from the Supreme Court Justices, they are well aware of these trends, and so you are sitting and you have to come in your own conscience on how best to make that particular decision. I will note, though, that we have stressed the latter. We have stressed that the rule of law and its importance to our society not only to serve the public and social interests, but you are the guardian. When, in fact, there are crimes against the State, who is there to serve the public interest? Especially if, in fact, it is the President, the Vice President, a judicial officer, or other civil officers. Here where you have the President of the United States who has been accused of perjury and obstruction of justice, which are crimes against the State, and as Blackstone said, "are side by side with bribery," who is the guardian, then, of the public interest? So in the question of proportionality, it is you; it is you.

So when Mr. Craig began by arguing that this trial is not about vindicating the rule of law, that only criminal courts are charged with that duty, I would respectfully submit that the President's counsel is confusing the punishment of a particular criminal case or controversy in a court with your duty as Congress to ensure that future officers entrusted with power granted by the people may not, while their offices eviscerate the proper administration of justice which is a cornerstone of our Republic.

I now yield to Mr. GRAHAM.

Mr. Manager GRAHAM. I know I have a minute. Great minds can differ on this one: Can you have a high crime, and for the good of the nation removal is not appropriate? I was asked that yesterday, and I kind of wanted to make a case about why I think this is not true. This is a great question.

The problem we have here is that you run into the judge cases. When you find that a judge perjured himself, you remove the judge. The President is different than the judge; I will certainly concede that. But we don't want, I think, in the use of proportionality, to create a standard that doesn't make any sense, that confuses people. The law loves repentance. Baptists love repentance. I am a Baptist. In my church, everybody gets saved about every other week. The idea that if you will come forward and admit you are wrong, you will get a different result, is loved in the law.

Another thing to consider about proportionality is the impact on society. I think you should consider that. I think very much you should consider, even if this is a high crime, the impact on our society, if you decided to make the ultimate punishment. The death penalty of a political crime is removal from office. I started that train of thought 3 months ago. Impeachment is equivalent to the political death penalty. Every felony doesn't allow you to have a death penalty. What I hope you will be able to do, as a wise body, is not leave this confusion behind—whether or not it is a crime.

Ladies and gentlemen of the Senate, it can be a high crime, and you then have to decide the impact on society. But if you leave us confused about whether or not this is a crime, the impact on society is far greater than if you make the decision that it is a crime, but proportionally it is not what the death penalty would call for. It would not be a political death penalty case. Thank you very much.

The CHIEF JUSTICE. This question is from Senator LEAHY to the House managers:

Did any of the managers consult with any Member of the Senate before seeking aid from Kenneth Starr to speak with Ms. Lewinsky? Did you discuss whether this violated the Senate's 100–0 vote on trial procedure?

Mr. Manager McCOLLUM. Thank you, Mr. Chief Justice. The question is a valid question to ask. We did not consult with any Senators about this. We don't think that what we wanted to do, to talk to Ms. Lewinsky, has anything to do with the rule you passed. We don't want to violate those rules and we don't think we have.

As anybody who knows, if you have a witness that you are going to produce, you have a right to prepare that witness. It is as plain and simple as that.

I have practiced a lot of trial law before I came to Congress, and a number of you have. If you are going to have a deposition given, it is going to be your witness. You are going to go down and try to talk to that witness and prepare that witness. You have a right and obligation to do that. It has nothing to do with the formal proceeding of taking the deposition, which is covered by the rules that you have passed, as to how and when depositions will be taken, and it has nothing to do with the issue of her testimony actually here, where the opposing counsel would have a right to be present. It has everything to do with the right of anyone to prepare their witness, to get to know their witness, to shake hands, say hello, to put a face on that. It is normal practice to do this.

We see in no way how that abrogates this rule, or in any way violates what you have set forth. As a matter of fact, we think we would have been incompetent and derelict as presenters of the witnesses, if we get a chance to present them, if we couldn't talk to her. We tried to do this some time ago. We suggested to her attorneys that it would be appropriate to quietly have this discussion, to meet her, as you normally would. I think they were apprehensive. They wanted a court order, I guess, to force this to occur, and that is why we eventually have gone to do that.

Thank you.

The CHIEF JUSTICE. This question is from Senators LOTT and THURMOND to the House managers:

Please give specific examples of conflicting testimony or an incomplete record where the calling of witnesses would prove beneficial to the Senate.

Mr. Manager HUTCHINSON. Thank you, Mr. Chief Justice. Good morning, everyone. I want to echo what my colleagues have said—that we are trying to be prepared. We are trying to move through this process expeditiously. But we do believe that we need to call witnesses; and secondly, that we should be prepared, without any delay, to proceed forward in the event we are granted that opportunity.

One of the reasons that the calling of witnesses is important is because there exists conflicts in the testimony. The White House counselors, the President of the United States, has denied each and every allegation under the two articles that have been submitted to this body. I focused on the obstruction of justice, and each of the seven elements of the obstruction of justice has been denied by the President. This puts it all in issue.

For example, let's start with the issue of lying to the aides. The President said he was truthful with his aides, Mr. Podesta and Sidney Blumenthal. Yet, if you look at the testimony of John Podesta, where he says the President came in and denied having sex of any kind with Ms. Lewinsky and goes into the details of that, that is in direct conflict with the testimony of the President of the United States. The same thing is true of the testimony of Mr. Blumenthal versus the testimony of the President of the United States.

Another conflict in the testimony is between the President and Ms. Lewinsky—in a number of different areas. First of all, in regard to the gifts, the President said, "And I told her that if they asked for gifts, she had to give them." That is the President's testimony. Yet, Ms. Lewinsky says that in that conversation the President said, when asked about the gifts, "Give them to Betty." Then he says, "I don't know," or "Let me think about it." Again, that is a direct conflict between Monica Lewinsky and the President.

In regard to Monica Lewinsky, he was coaching her testimony or suggesting to her that "Maybe you can sign an affidavit," or "You can always say you were coming to see Betty, or that you were bringing me letters." This is the testimony of Monica Lewinsky. What does the President say regarding that? He said that he never talked to her about a cover story in a legal context. In other words, it is a denial of obstruction of witness tampering, in contrast to the testimony of Monica Lewinsky. Obviously, there is a conflict in the details of the relationship.

There is a conflict between the testimony of Monica Lewinsky and Vernon Jordan in three different areas. Ms. Lewinsky said she shared with Mr. Jordan some details of the relationship. Mr. Jordan says that was not accurate. Ms. Lewinsky says in a particular meeting that Mr. Jordan—where they discussed about notes she had been keeping, Mr. Jordan said, "Go home and make sure they're not there." But Mr. Jordan denies that.

In another area, on the affidavit, Ms. Lewinsky says that she brought to Mr. Jordan the affidavit, and he assisted in making some corrections. Mr. Jordan does not recall that. So there are conflicts between Ms. Lewinsky and Mr. Jordan.

There are conflicts between Ms. Currie and the President in regard to the coaching incident. Ms. Currie said the statements were made and taken in the sense that "the President wished me to agree with the statement." The President says, "I was trying to get as much information as quickly as I could." Obviously, Betty Currie testified before the grand jury before the President did, and there were never any follow-up questions. I would want to ask her: What did you say in response? Did you provide any information that the President was soliciting at that particular moment, according to the defense he has asserted? So there is conflict there.

There is a conflict between the President and a witness that we would offer from the deposition. The President denies that he focused on what Attorney Bennett was stating in reference to the false affidavit. I believe that we can offer a witness—it could be in the form of an affidavit or deposition—that would testify that he was focusing, paying attention.

So there is clear conflict in the record that can only be established through the presenting of additional questions or additional witnesses.

The need for witnesses is so basic and fundamental to our truth-seeking system of justice in this country that words fail me in making the case that we should call witnesses and then you should permit it in this proceeding.

We are sympathetic totally with the timeframe and the time constraint of the U.S. Senate, and for that reason we will prepare our witness list, we will accommodate a quick session. The White House counselor said this is going to drag on for months. If it drags on for months, it is because they want it to drag on for months. We will do all that we can to end this in a timely fashion, and the American people and the U.S. Senate need to understand that.

Why are the White House counselors so concerned about witnesses? Many of these witnesses are friendly to them. We are in a truth-seeking endeavor, and I would respectfully submit that the calling of witnesses would help resolve the conflicts that I have recited.

The CHIEF JUSTICE. This question is from Senator DODD to the counsel for the President:

> Do you believe that a fundamental question of fairness and due process has been raised by the failure of the House managers to notify you of the proposed Lewinsky interview or by your exclusion from that interview? And do you wish also to respond to Mr. HUTCHINSON's comments?

Mr. Counsel RUFF. If I may, Mr. Chief Justice, I will use most of my time on the first part of that question and try to perhaps weave in a few comments on the second part.

I am not going to seek here this morning to vindicate the interests of this body; that is for others. But I do think it useful to speak for a bit about the interests of the accused, the President of the United States.

It is odd as I think we listen to the managers explain what they were seeking to do to put that in the context of what we know was actually happening here. It was suggested that they wanted to just have a conversation like any lawyer getting ready for a trial would want to have a conversation with a witness before he or she put the witness into a deposition or on trial—that it was sort of normal for a trial lawyer to do this.

I think one of the managers suggested they just wanted to say "hello" to put a face on it. And they even suggested that counsel for Ms. Lewinsky wanted a court order to force their client to testify. Well, as we will all see once the record is made available to everyone, that last point is sheer nonsense.

But I suggest that earlier suggestions that just a friendly little chat was all they were looking for is belied by the notion of what we have here is the managers using their "institutional role" to get the independent counsel to join with them and use the authority that he has under the immunity agreement to threaten Ms. Lewinsky with jail, to threaten her with violation of her immunity agreement, and opening up the prospect of prosecution if they do not meet in a friendly little conversation, just say hello, just like to meet you, gathering with the managers.

Can you imagine what that little conversation is going to look like, held in the independent counsel's office, with the people there who have the capacity to put Ms. Lewinsky in jail, while there is this friendly little conversation, just say "hello," normal everyday discussion between the trial lawyer and the witness he would like to get to know?

From the perspective of my client for the moment, putting aside the rules which you all agreed on as to how we ought to proceed, can we really say that is just normal, just OK, to have one side using the might and majesty of the independent counsel's office, threatening a witness with violation of an immunity agreement if she doesn't agree to fly across the country and meet for this friendly little chat? I think not.

I don't know whether I have a minute or two left. But on the issue of conflicts, this is, of course, something that has been the subject of much discourse over the last few days. Let me just take a couple of examples put to you by Manager HUTCHINSON.

On the issue of the statements made by the President, Mr. Podesta, and Mr. Blumenthal, there is no conflict in the testimony here. The President indeed said that he was trying to keep his aides from becoming witnesses. He even said that he didn't even remember his conversation with Mr. Podesta but he took as true—this is what he said to the grand jury—he accepted as true that Mr. Blumenthal said this is what that conversation sounded like. Mr. Podesta said that is what the conversation was. There was no conflict. The President indeed adopted in the grand jury what those people would say. And of course he didn't put them into the grand jury in order to repeat some or to mislead the grand jury as to their knowledge of what they told him. They testified truthfully in the grand jury when they recited their conversations with the President.

But I want to move just a second to something you have never heard before in the entire days that we have been sitting here. We heard little hints about how Vernon Jordan might be a liar because of what he said about December 11. All of a sudden just 5 minutes ago, this body heard for the first time he not only may be a liar about the job search, he may be a liar about destroying evidence. Words fail me.

The CHIEF JUSTICE. This is a question from Senator ABRAHAM to the President's counsel:

> Is it your position that Ms. Lewinsky was lying in her grand jury testimony, her grand jury deposition, and her FBI interviews when she said that the President engaged in conduct with her that constituted "sexual relations" even under his narrow interpretation of the term in the Jones deposition? Is it your position that she was also lying when she gave essentially the same account contemporaneously with the occurrence of the events to her friends and counselors?

Mr. Counsel CRAIG. Senator, our position is not that she is lying. Our position is that there are two different versions of what happened, and there is a discrepancy.

In my presentation to the Senate, I acknowledged that there was a disparity between what the President had recounted and what Ms. Lewinsky said happened when it came to recalling and reporting these specific rather graphic and intimate details concerning their activities. I pointed out that, with respect to other essential elements of the relationship, there was no disagreement that they acknowledge that there was a relationship, that they tried to conceal it. But I also suggested—and I suggest to you today—that not every disagreement, not every discrepancy, is the foodstuff or the subject of a perjury charge.

I also made the observation that perhaps this kind of conflict of testimony as to who touched who, when, where, and why, was not the kind of conflict that this institution would want to resolve through testimony on the floor. If you have any doubts about that point, I would suggest you read Ms. Lewinsky's August 20 testimony before the grand jury which is very complete and entirely and vigorously dedicated to eliciting every single gritty detail of what went on between them. I said also that I thought that this disagreement, this disparity, was of questionable materiality. Let me explain why.

On January 29, Judge Wright ruled that Ms. Lewinsky's testimony about her relationship with President Clinton was unnecessary and maybe even inadmissible; that she had had no information relating to the core issues of the case. She made that ruling after all the allegations about that relationship had been made public. And the judge knew what had been reported in the newspapers and what was generally understood about it at that point. She had been there when the President testified about this. And she concluded that Ms. Lewinsky's testimony was not required, at least for the Paula Jones case. In truth, Ms. Lewinsky was an ancillary or peripheral witness in the Paula Jones case. She had absolutely no firsthand knowledge about what happened in the Excelsior Hotel when Ms. Jones claimed that then-Governor Clinton made an unwelcome sexual overture to her. Ms. Lewinsky had nothing to add or subtract, no ability to testify about that issue.

So on the issue of the materiality to the Jones case as to the truth of what actually happened between them, it is clear it is of questionable, if no, materiality whatsoever. She was a peripheral witness on issues not having to do with the core issues of the case, and the case had no legal merit.

Please recall that the judge concluded that the case had no legal or evidentiary merit. Please also remember that the Jones lawyers, when they were asking these questions of President Clinton, presumably knew the answers to these questions about the relationship because they had been fully briefed the night before.

Now, as to the question of the materiality of this testimony and this issue of who touched whom, when, where and why to the grand jury, let me just say this: The House managers claim that one or the other must be lying because both cannot be correct. They argue that if you believe Monica Lewinsky on this issue, you must disbelieve Bill Clinton, and if you disbelieve Bill Clinton, you must conclude that he knowingly perjured himself when he denied under oath having this kind of contact with Ms. Lewinsky.

Now, this direct issue was addressed by the panel of expert prosecutors that we brought to testify before the Judiciary Committee, and they all agreed that this kind of issue would never be the subject of a perjury prosecution. I would urge you to go back and look at some of the testimony that they gave to the Judiciary Committee. They talked about the oath-on-oath issue, they talked about what is independent corroborative evidence and what is not, and they concluded that no reasonable, though responsible, prosecutor would bring this kind of case based on that kind of an issue.

We are not arguing with the managers about the law. We are not arguing with the managers about the disparity. We are talking about prosecutorial practices, what in reality would be a criminal prosecution, and I submit to you that no reasonable, no responsible prosecutor would bring this kind of a case based on that kind of evidence.

Thank you.

The CHIEF JUSTICE. This is a question from Senator DASCHLE addressed to counsel for the President:

> Do you believe that it is a requirement of due process and fairness that you be allowed to participate in the Lewinsky witness debriefing sought by the managers, and do you believe that the House would have asked for the same right if the White House had attempted to interview Ms. Lewinsky?

Mr. Counsel RUFF. Mr. Chief Justice, that question raises an interesting mix of issues, because I think in one respect the House managers are correct, that once the Senate determines that it is prepared to go forward—I trust it will not—but if it does determine that it is prepared to go forward in some way with respect to the depositions of witnesses, at that point, with the Senate having made that decision, it would be appropriate for both sides to seek a voluntary, consensual, typical opportunity to meet with any witness in a setting that doesn't involve having the prosecutor with life and death authority over that witness doing the debriefing or being present while you talk to the witness.

Thus, although I will take the opportunity of offering to sit in on any meeting between the managers and the independent counsel and any witness, because I would certainly like to know what the mood and the atmosphere of that process really sounded like, the issue here, I think, is not so much whether it would be nice to sit in on that meeting but whether there can be any hope for due process, fairness and opportunity for both sides, or certainly my side—I won't speak for the managers—to have an opportunity for a reasonable, fair and open discussion voluntarily with any witness who will talk with us, not—not to be too rhetorical about this—with the looming presence of the prosecutors sitting in the room with us.

As everyone who practices in this district knows, indeed, it is a matter of law that a prosecutor may never interfere with the access of any witness to defense counsel. I can't think of much more interference than being required to sit in the room with the prosecutor and with another prosecutor while that kind of discussion goes on.

So the answer is, fairness, no. But if it is my only opportunity to meet with Ms. Lewinsky, I will take it. But I trust that as a matter of due process it will not be.

The CHIEF JUSTICE. This is a question from Senators DEWINE, COLLINS and MURKOWSKI to the House managers:

> With all of the conflicting testimony that exists on the record between Monica Lewinsky and Betty Currie, for example, how are we to resolve the questions of perjury and obstruction of justice without observing the demeanor of witnesses?

Mr. Manager HUTCHINSON. I do not think there is any way to resolve the conflicts in their testimony without calling witnesses. You can read the transcripts and you can look at those and you can try to determine whether there is any corroborating evidence, how you can believe it, make some of those kinds of evaluations. But particularly whoever you are looking at, whether it is Monica Lewinsky or Betty Currie, there are followup questions and there is the demeanor that allows you to determine who is telling the truth and who you believe.

And in contrast, Mr. Ruff tries to make the point that somebody is lying here, and maybe somebody is lying, but a jury—in this case the Senators—can look at this and say, well, someone is not recalling the same way, someone is more believable because their recollection is better, it is corroborated, or you could conclude that someone is lying. It doesn't always break down that simply, but you have to evaluate that. And that is how you resolve it.

But let me just come back—I think what we see here today is the White House counsel do not want to talk about the facts. They do not want to talk about this case. They do not want to talk about obstruction of justice; just like in the House, they want to talk about the process. They want to talk about everything that is going on except for the case of obstruction of justice. And it probably will be the news story later on today, the questions that they have raised about this.

But the fact is, it is very simple that they have access to Betty Currie. Every time the President has talked to and tried to coach Betty Currie, I don't think the President invited the independent counsel in when this was under investigation, or the Paula Jones lawyers. I don't think that happened. I don't think that—at least from the news clips, when I saw Betty Currie hugging the President, I don't think he invited the House managers in. I didn't necessarily expect him to. But we have to be prepared.

And I will just tell you right now, so nobody is surprised, if we get to call Vernon Jordan, I don't want to delay the U.S. Senate in order to be prepared for that, so I confess today that I called up William Hundley, the lawyer for Vernon Jordan, to visit with him.

Now, I hope that if you talk to any witnesses, that if you feel it is fair, that you will give us a chance to join with you in that. But, obviously, this is an adversary process we are engaged in, and I think that we today in this question and answer session that you all so graciously extended to us should focus on the obstruction of justice charges because that is what you have to determine—on the perjury allegation, because that is what we have to determine today.

I thank the Chief Justice and the Senators.

The CHIEF JUSTICE. This question is from Senators KOHL and EDWARDS. To whom is it addressed? Oh, it is to the House managers:

> Throughout this trial both sides have spoken in "absolutes"; that is, if the President engaged in this conduct, prosecutors claim he must be convicted and removed from office, while the President's lawyers argue that such conduct does not in any way rise to an impeachable offense. It strikes many of us as a closer call. So let me ask you this: Even if the President engaged in the alleged conduct, can reasonable people disagree with the conclusion that, as a matter of law, he must be convicted and removed from office—yes or no?

Mr. Manager GRAHAM. Absolutely. And this is a hard case in a couple of areas, and I think it is an easy case in many areas.

The Constitution reads that upon conviction, the person shall be removed. You have to put it in the context of the judge cases, because that is where it gets to be hard for this body. Because of the precedents of the body when you apply the same legal standard of high crimes and misdemeanors to the fact that a judge who was convicted of perjury was removed by the body, and you conclude in your mind that the President committed perjury, you have a dynamic you have to work through.

Mr. Bumpers says there is perjury, then there is perjury. I would suggest to you that the allegations of perjury and obstruction of justice in this case are not trivial. It is not about a speeding ticket or a trivial matter. It is about the activity of the President when he was defendant in a lawsuit, a sexual harassment lawsuit, when he was told by the Supreme Court you have to play and you have to play fairly.

If you determine that he committed the crime of perjury and you determine that he committed the crime of obstruction of justice, based on the precedents of the Senate I think you would have a hard time saying under the situation of this case that that is not a high crime. But I would be the first to admit that the Constitution is silent on this question about whether or not every high crime has to result in removal.

If I was sitting where you are, I would probably get down on my knees before I made that decision. Because the impact on society is going to be real either way. If you find this President guilty in your mind, from the facts, that he is a perjurer and that he obstructed justice, you have to somehow reconcile continued service in light of that event.

I think it is important for this body to not have a disposition plan that doesn't take in consideration the good of this Nation. I have argued to you that when you found that a judge was a perjurer, you couldn't in good conscience send him back in the courtroom because everybody that came in that courtroom thereafter would have a real serious doubt.

I will argue to you that when you find this President guilty of perjury, if you do, that he has violated his oath and that by a consequence of that, some public trust has been lost. And I would show to you the body of evidence from this question, "Do you trust William Jefferson Clinton?"—the American people will tell you—three out of four say no. But the American people will also tell you that I understand what happened here and some want him removed and some don't. And you have to consider what is best for this Nation.

I will yield to Mr. BUYER in a second, but the point that I am trying to make, not as articulately as I can, is that I know how hard that decision is. It has also been hard for me.

It has never been hard to find out whether Bill Clinton committed perjury or whether he obstructed justice. That "ain't" a hard one for me. But when you take the good of this Nation, the upside and the downside, reasonable people can disagree on what we should do.

Mr. Manager BUYER. I would just like to remind all of you that the impeachment process is intended to cleanse the executive or the judicial office when it is plagued with such a cancer as perjury or obstruction of justice, which violates the oath required to hold those high offices.

Now, what may be turning in the gut of some of you are the precedents of the Senate, when in fact you have turned out of office, you have exercised your judgments of proportionality when these judges violated their oaths and had perjury, you said they shall be removed from office.

Now there are some that are going, well, I am uneasy in this case with the President. That is what may create a little problem here. I would suggest to you that you actually have findings of fact; that the Senate has findings of fact that the President, in fact—he lied or he did not lie or he committed an obstruction; that you actually have findings of fact. And then you can move beyond to the questions of application of the law.

But when the Senate has performed such a cleansing and removed Judges Nixon, Claiborne and HASTINGS, all three of them impeached for perjury in some form—and in Judge HASTINGS' case even though he had been acquitted of the criminal case—the Congress, in particular the Senate, you have a duty to preserve the integrity of public office, and that is what impeachment was precisely designed to do.

The CHIEF JUSTICE. This is a question from Senators VOINOVICH, JEFFORDS and CHAFEE to the House managers:

> In her interviews with the Office of the Independent Counsel, Ms. Lewinsky stated that on January 5, 1998, the President told her not to worry about the affidavit because he had seen 15 others. Did the President mean that he had seen previous drafts of Ms. Lewinsky's affidavit, or did the President mean that he had seen drafts of other affidavits that were in some way connected to the Paula Jones matter?

Mr. Manager MCCOLLUM. Thank you, Mr. Chief Justice. You can take that either way. But I believe in the context—and I presented this to you the other day—in which the President uttered those words, that the most logical conclusion is that he had seen 15 other drafts of hers. If you remember, she was discussing with him the issue of whether he wanted to see this particular draft of her affidavit. And at that particular moment he said, "No, I don't want to. I have seen 15 others."

Technically speaking, he could have seen 15 other affidavits in his life somewhere back in Arkansas, who knows? But it strikes me that the logical conclusion, the commonsense conclusion in the context of everything else that you see this President was intent on and had in his mind, and the interest that he had already shown from all the conversations that he had had with Vernon Jordan and others to make sure that this affidavit was on track, and knowing that he was going to testify in a few days himself in the Jones case, and rely on it and in fact did go in and tell the same cover stories that were in this affidavit to the court, untruthfully, that the probabilities are pretty good, that common sense says that he was saying he had seen 15 other drafts of this version of this affidavit. But that is for you to decide. That is a judgment call for the triers of fact. Thank you.

The CHIEF JUSTICE. This is a question from Senator LEAHY to counsel for the President:

> Could you reply to the statement just made by Manager MCCOLLUM.

Mr. Counsel KENDALL. Mr. Chief Justice, on Thursday afternoon I went over, in perhaps tedious detail, the facts relating to the affidavits. I pointed out that there was no way in which—there was no evidence that the President saw any affidavit draft. Mr. Manager MCCOLLUM just now, I think, admitted that he has only a speculation. He doesn't have any record evidence. The President denied seeing any affidavit draft. I pointed out in the managers' chart 7 that their theory about when Ms. Lewinsky could have gotten an affidavit was simply wrong because their theory was she got it on January 5. This is a single affidavit draft. The evidence plainly shows that she could not have gotten it until January 6. There is simply nothing in the record—and the independent counsel interviewed Ms. Lewinsky extensively, both in interviews and before the grand jury—and there is simply no evidence whatsoever that the President saw any drafts or, indeed, that there were 15 drafts.

Let me say a word about whether or not we are addressing the facts. I am not going to frighten you. I am not going to go back through the obstruction of justice evidence. But I think if you will remember the presentation—first by Mr. Craig who addressed in detail the evidence with regard to perjury, then if you will recall what Ms. Mills said addressing two of the seven allegations of obstruction of justice, and with what I said to you on Thursday afternoon for almost 3 hours—and I thank you for your uncommon patience; you were attentive all the way through that exercise—you know that we have addressed the facts. What we had yesterday, what Mr. Ruff has already addressed, is, again, I will use the word "remarkable" occurrence involving the independent counsel.

We have addressed the facts, and there is simply nothing to support in all this record, this heavy, long record, that the President had any review of any affidavit or, indeed, that there were more than one or two drafts of Ms. Lewinsky's affidavit.

The CHIEF JUSTICE. This question is from Senators DEWINE, SANTORUM, and FITZGERALD to the President's counsel:

> If we are to assume that the various allegations as to obstruction of justice are in fact true, is it your contention that if the President tampered with witnesses, encouraged the hiding of evidence, and corruptly influenced the filing of a false affidavit by a witness, that these acts do not rise to the level of an impeachable offense?

Mr. Counsel RUFF. Mr. Chief Justice, this is something I won't have an opportunity to say very often, but I believe that Mr. Manager GRAHAM has, in fact, stated for you the essential of the role that this body must play. We will probably differ as to what the right answer to the question is, but as to the process and as to the question that must be asked, I think he stated it well.

I believe that the facts do not support the conclusions that are embodied in the question. But not only can reasonable people differ on the facts, but reasonable people may differ on the outcome. And if, indeed, reasonable people can differ, doesn't that mean, by the very statement of that proposition, that this body cannot meet its constitutional heavy mandate, which is to determine whether or not, whatever conduct you believe the President committed, as outlined by these managers over the last many days—can you legitimately determine that he ought to be removed from office.

And all I can do, I suppose, is to remind you, as I have too frequently, I am sure, that if you try to put yourself in the minds and the hearts of the men who created our system of Government, they wanted to know only really one answer to one question, as framed in many different ways, but the essence remains the same: Is there a sufficient danger to the state—danger to the state—to warrant what my colleagues across the aisle here have called the political death penalty. And I think the answer to that is no.

The CHIEF JUSTICE. This is a question from Senator WELLSTONE to counsel for the President:

> To what extent should the views of the American people be taken into account in considering whether a President should be removed from office?

Mr. Counsel RUFF. Mr. Chief Justice, I think that the answer to that question is not the polls that you read in the newspapers or that you see on your evening news, whatever those numbers may be; that is only one clue as to what the American people are thinking. And each of you knows the people in your jurisdiction far better than any polltaker does and that certainly I do.

But surely one way to test the ultimate question that I just described in response to the last inquiry from the Republican side of the House, is to ask yourself, on the basis of experience over the last year, on the basis of your experience in the political—and by that I mean political in the very best constitutional sense of the term as used by Alexander Hamilton—as to your sense of the political structure of this country and what the people are saying to you and what your sense of their needs is: Do they need the kind of cleansing that Manager BUYER spoke about?

I think the answer to that, if you look within the body of people you are most familiar with, must be no. This isn't to say that it is a popularity contest, that we ought to go out and have a referendum or another poll before you all decide on this. But surely the sense of the people, the will of the people, the belief of the people in this President's ability to govern must educate each of you, not mandate a result, but surely guide the result that you reach in this proceeding.

The CHIEF JUSTICE. This is a question from Senator COLLINS to the House managers:

> The President's counsel has made much of Ms. Lewinsky's statement that no one "promised" her a job for her silence. She did not testify, however, that no one promised her a job in return for a false affidavit—or, for that matter, that no one implied that she would get a job for her cooperation. Can you think of any reason why we should not call Ms. Lewinsky to help clarify such ambiguous testimony?

Mr. Manager HUTCHINSON. Thank you, Mr. Chief Justice. That is an excellent question and really goes to the heart of some of the disputes.

I think as you read the testimony of Ms. Lewinsky, as you read some of the other areas of testimony, questions come to your mind. You would like to follow up, you would like to ask her a question, and that one comes out and flags you that that is a question that would like to be asked: No one promised her a job for her silence, and that is the testimony that she gave in response to a question in the grand jury.

But I believe this is a case in which actions speak louder than words. I think that actions and what took place and the commonsense understanding of what is happening here demonstrate the case that there was a false affidavit that was obtained and that was in conjunction with the obtaining of a job for Monica Lewinsky.

So I think that is a natural question, and I think that also if you read, if you look at the testimony of Monica Lewinsky, I think it is clear that the case is made that she was encouraged to lie and she was also encouraged to sign a false affidavit and she was also provided a job coincidentally at the same time.

I would like to take the opportunity, if I might, Mr. Chief Justice, in further answering a question that was raised earlier; it was on the false affidavit. That is, I think, related to the question as well.

During Mr. Kendall's presentation a few days ago, he made this statement:

> The idea that the telephone call [between Lewinsky and Clinton on January 5] is about that affidavit is sheer, unsupported speculation and, even worse, it is speculation demolished by fact.

This is the statement that Mr. Kendall gave the other day on this floor, as cited in the CONGRESSIONAL RECORD, summarizing his presentation that the idea that Clinton and Lewinsky talked about the affidavit "is sheer, unsupported speculation and . . . demolished by fact."

Well, the record demonstrates that Monica Lewinsky's testimony is that she had a conversation with the President on the telephone in which she asked questions about the affidavit. She was concerned about signing that affidavit. And according to Ms. Lewinsky, the President said, "Well, you could always say the people in Legislative Affairs got it for you or helped you get it." And that is in reference to a paragraph in the particular affidavit.

Now, my question to Mr. Kendall is, Would you agree, Mr. Kendall, that your assertion that there is no support for it in the record is that you are totally rejecting the testimony of Monica Lewinsky as totally unbelievable? And once again you have a conflict that is presented in the testimony, and there is only one way to resolve it, and that is to hear from the key witnesses.

The CHIEF JUSTICE. This is a question from Senator LAUTENBERG to counsel for the President:

> Could you reply to the question put by the manager?

Mr. Counsel KENDALL. Mr. Chief Justice, let me address the first part of Mr. Manager HUTCHINSON's response; and that is, whether the statement by Ms. Lewinsky that "Nobody ever promised me a job for my silence" covered other possible promises to her. And it is quite clear, when you read all the interviews that were done of her by the independent counsel, all the grand jury testimony, that she unequivocally testified there were no promises made to her, there were no assistances given to her, that were in any way conditioned upon her testifying a certain way or giving a certain kind of affidavit. And she is unequivocal about that.

Now, in the statement that she made that I quoted, she does not say nobody ever did these other things, but she said that in her previous testimony. She uses the offer of a job as simply a proxy for anything that would connect the assistance she would receive with testifying in a certain way. There is simply no evidence anywhere in the record. And the independent counsel covered that with her in detail. She felt compelled to volunteer her statement at the end of the process because they had left some innuendo in the record that she had been provided assistance. But her testimony is unequivocal. I have quoted it.

Now, the only testimony in the record about linking the job to some assistance in the Jones case comes from the Linda Tripp audiotapes. And, again, Ms. Lewinsky could not be clearer in her grand jury testimony what she told Linda Tripp was false. There was no connection there whatsoever. Her proffer, which I put up on the board, was quite unconditional. And this you have in your materials. This is in her own handwriting: Neither the President nor Mr. Jordan nor anyone on their behalf asked or encouraged her to lie.

So with regard to the first part of Mr. Manager HUTCHINSON's question, there is simply no evidence, again, that any kind of assistance to Ms. Lewinsky was conditioned on her performance in any way in the Jones case.

Now, with regard to the affidavit, I stand on what I said before you on Thursday. And I want to be very clear about what Mr. HUTCHINSON's presentation was in chart No. 7 that I was responding to. And I think it is quite important to recall yesterday that a question was addressed to the House managers whether there were any statements contained in their exhibits which contained misrepresentations or omissions that, in the interest of fairness to justice, they would like to correct; and Mr. Manager HUTCHINSON said, "We are not aware of any corrections that need to be made on any of our exhibits offered to the Senate."

I would simply rest on the presentation. I am not going to take you through, again, the many errors in the charts. Those were not refuted in any way. They rested on their charts. I leave that to your judgment.

But with regard to chart 7, what Mr. Manager HUTCHINSON told you almost a week ago was that chart 7 was a summary of what happened on January 5: Ms. Lewinsky meets with her attorney, Mr. Carter, for an hour; Carter drafts the affidavit for Ms. Lewinsky; she calls the President; the President returns Ms. Lewinsky's call; and then they had a discussion about this draft affidavit.

The point of my demonstration through Mr. Carter's testimony and through his billing records was in fact that the affidavit had been drafted the next day. They could not have had a discussion about the affidavit on that date. And I think the record is quite clear on that.

The CHIEF JUSTICE. This is a question from Senator LOTT to the House managers:

> Do you have any comment on the answer given by the President's counsel with regard to the views of the American people?

Mr. Manager HYDE. Mr. Chief Justice, distinguished Senators, this is a fascinating question. Edmund Burke was asked that once, and he said that a member of Parliament owes the highest degree of fidelity to his constituents, but he doesn't owe his conscience to anybody.

We have, or we have not, a representative democracy. We are not delegates who are sent here to weigh our mail every day and then to vote accordingly. Our work here is not an ongoing plebiscite. We are elected to bring our judgment, our experience, and our consciences with us here.

I have always believed—and I believe more firmly than ever; and this experience confirms me in that belief—there are issues of transcendent importance that you have to be willing to lose your office over. I can think of several that I am willing to lose my office over—abortion is one; national defense is another; strengthening, not emasculating, the concept of equal justice under the law. My life is devoted, as a lawyer —I have been on the Judiciary Committee; this is my 25th year—and equal justice under the law is what moves me and animates me and consumes me. And I am willing to lose my seat any day in the week rather than sell out on those issues.

Despite all the polls and all the hostile editorials, America is hungry for people who believe in something. You may disagree with us, but we believe in something.

RECESS

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that we recess the proceedings for 15 minutes.

There being no objection, at 11:19 a.m., the Senate recessed until 11:36 a.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The majority leader is recognized.

Mr. LOTT. Thank you, Mr. Chief Justice. We will go approximately another hour, if questions are still available—and I assume they will be—and then we will break for about an hour for lunch.

The CHIEF JUSTICE. This is a question from Senator BIDEN to the House managers:

> If a Senator believes that the President may have lied to the American people, his family and his aides, and that some of his answers before the grand jury were misleading or half-truths, but that he could not be convicted in a court of law for either perjury or obstruction of justice, is it the opinion of the House managers that his actions still justify removing the President from office?

Mr. Manager BARR. Thank you, Mr. Chief Justice. I have taken two public oaths in my career in the service of the people of this great land. One was as a Member of Congress; the other was as a U.S. attorney. As a U.S. attorney, it was my job on behalf of the people of the United States to prosecute cases against individuals and other entities that violated the Criminal Code of the United States of America. That Criminal Code, as you are well aware, includes the offenses of perjury and obstruction of justice.

That Criminal Code does not include the offenses of lying to one's family. That is not what brings us here today. What brings us here today is the belief by the House of Representatives in lawful public vote that this President violated, in numerous respects, his oath of office and the Criminal Code of the United States of America—in particular, that he committed perjury and obstruction of justice.

I can tell you, as a U.S. attorney serving under two Presidents, that I would prosecute these cases, because I did prosecute such cases. I prosecuted cases against people, including members of the body from which we as managers come, who appeared before grand juries and lied, who appeared before grand juries and misled grand juries, people who obstructed justice, people who tampered with witnesses in precisely the same way that this President has committed perjury, tampered with witnesses and obstructed justice.

We respectfully submit to the Senators of the United States of America assembled here today that these are prosecutable cases, that they are cases that have been prosecuted, and that the question before this body, we respectfully submit, in the House of Representatives' articles of impeachment, is not that the President lied to his family. What is before this body, we respectfully submit, as contained in the two articles of impeachment passed by the House of Representatives, is that this President violated his oath of office and committed the offenses of perjury and obstruction of justice, which we firmly believe on behalf of the people of the United States of America provide a sufficient basis on which this body, exercising its deliberative power and its legitimate jurisdiction, may find that this President, as people in courts of law similarly but not identically situated, are indeed found guilty and removed from positions of trust, as this President ought to be for committing the perjury and obstruction of justice—not lying to his family.

Thank you.

The CHIEF JUSTICE. This is a question from Senators SNOWE, MACK, CHAFEE, BURNS, and CRAIG to the House managers:

> Before Ms. Lewinsky was subpoenaed in the Jones case, the President refused on five separate occasions—November 3, November 10, November 12, November 17, and December 6—to produce information about gifts from Lewinsky. The President's counsel argued the President was unconcerned about these gifts. If that is the case, why didn't he produce these gifts in November and December?

Mr. Manager ROGAN. Mr. Chief Justice, I thank the Senators for the question. This case needs to be looked at for the mosaic that it is.

There is a reason why the President never produced gifts. There is a reason why the President continued to give Ms. Lewinsky gifts. It is because he believed that she would never produce them. We know that from her testimony.

In my presentation to the Senate a week ago, I quoted from the transcript where she said, "Nobody ever asked me to lie." But then she also said there was never any doubt but that "we" would deny the relationship if asked.

We see that throughout the entire proceeding. We see that before Monica Lewinsky's name appeared on the list—on December 5—on the witness list. And we especially see it after. In fact, Monica Lewinsky went to the President and said, "I've been subpoenaed. They are asking for gifts. What should I do? Maybe I should give them to Betty." And the President said, "Let me think about that." And we all know by now that within a few hours Betty Currie called Monica Lewinsky and came and retrieved the gifts, not to give them to the Jones lawyers pursuant to the subpoena, not to cooperate with the sexual harassment lawsuit; she took the gifts and she put them under her bed.

Members of this body, it begs common sense for any interpretation of that conduct to be somehow cooperative with the legal proceedings in the sexual harassment case. Every piece of this puzzle, when put together, demonstrates a very clear pattern of obstructing justice, not to cover up personal affairs, not to cover up an indiscretion, but to destroy Paula Jones' rights under the sexual harassment laws of this country to have her day in court. That is the ultimate question that this body is going to have to address.

Yes, reasonable minds can differ on this case as to whether the President should be removed office. But reasonable minds can only differ if those reasonable minds come to the conclusion that enforcement of the sexual harassment laws in this country are less important than the preservation of this man in the office of the Presidency. And that is the ultimate question that this body is going to have to answer. What is more important—the survival of Bill Clinton's Presidency in the face of perjury and obstruction of justice, or the protection of the sexual harassment laws in this country?

And imagine, every victim in the workplace will be waiting for your answer.

The CHIEF JUSTICE. This is from Senator DASCHLE to the House managers:

> Will you agree to arrange to have prepared a verbatim, unedited transcript of any debriefing which may occur with Ms. Lewinsky for immediate distribution to the Senate? And will you agree also to provide for the inclusion of any such debriefing of representatives of the Senate, one selected by the majority and one by the minority?

Mr. Manager McCOLLUM. Mr. Chief Justice and Members of the Senate, it is not our intent to be doing a deposition, a formal presentation, a preparation for the Senate, if we talk to Ms. Lewinsky. It is our intent to do what any good attorney would do in preparing to go to trial, presuming—we don't know that you are going to allow us to have witnesses—but presuming we are going to be able to depose and have witnesses, and that is to meet with the witness, talk with the witness, and prepare the witness. And any good attorney who does that is going to meet his or her witness in their own confidences, in their own quiet respite. We discover things that way. We are not prepared. No. The answer to your question is no, we are not prepared to say we are going to give you our work product, which is what that would be.

"Work product" is a technical term of law which, for anybody who is out in the public, is what lawyers do all the time. And they work on their case, and they prepare what they are going to do, and then they present it. That is the system we have.

Somebody said—I think it was Mr. HUTCHINSON who said earlier—this is an adversarial position. The White House counsel will have their chance to talk to witnesses that they are going to present; we will have our chance to talk to ours. Then there is the opportunity for the depositions, which is what comes next, which is the formal proceedings when we both have a chance to talk with them. Then, of course, if you let us call them as witnesses here, they will be here, and they will get cross-examined, and examined, and all the questions you can imagine will be asked. That is the traditional American system of justice.

So, no, we would not give you our work product notes. We have no idea what would be in them. We don't think that is appropriate. We think that a lot is being made out of this. We attempted to do this a couple of weeks ago. We would have liked to have talked to her earlier. It has not worked, that we have been permitted to, for reasons that we are not sure. But the reality is, this is the normal process. We would talk to any other witness despite however the White House counsel wants to argue about it. They do the same thing.

I yield what time I have left to Mr. GRAHAM.

Mr. Manager GRAHAM. I would like to echo the work product analogy.

But let me just say this as directly as I know how to say it—that if this body as a whole believes we are going to do anything improper, then whatever rule you need to fashion to make sure we don't, you do it, because nobody should ever doubt whether a witness comes into this body in this case with anything other than testimony that was truthful. If you want to go down the road of the atmosphere that people were approached and how they were treated about being witnesses, let's go down that road together. Let's bring in people in this body and let's see how they were approached when they were asked to participate in this trial, what the atmosphere and the mood was, when it comes to their time to be identified as witnesses.

So I would just say as strongly as I know how that if you have any doubt about us and what we are up to, you fashion rules so we do not create an unfairness in this body; but please, when we ask for witnesses and we raise doubt about how people may have been treated, that you give us the same opportunity to explore the moods and atmosphere of those witnesses.

The CHIEF JUSTICE. This question is to the House managers from Senators MURKOWSKI, GREGG, GRAMS, THOMAS, CRAPO, THOMPSON and HATCH:

> The President's counsel rely upon the President's statements in many instances. Therefore, the President's credibility is at issue. Is the President's credibility affected by the fact that, until the DNA evidence surfaced, the President denied any improper relationship with Ms. Lewinsky?

Mr. Manager ROGAN. Mr. Chief Justice, I thank the Senators.

First, I don't think it was a compliment to me from my colleagues that as soon as the issue of DNA came up, they all pointed to me and told me to come up and answer the question. I will do my best.

Obviously, as the triers of fact, Members of this body individually will have to make determinations respecting credibility of the President as well as the other witnesses. It is indisputable, however, that from January 1998, when he spoke at the deposition, until August 17, when he made a quasi-admission before the grand jury, there were intervening factors that required him to change his position.

We saw from the moment the story first broke in the press about Monica Lewinsky the President making denials in the most emphatic of ways, and not only doing it repeatedly himself but sending out his Cabinet and his aides and his friends to do it on his behalf. That continued up until the eve of the deposition. Was it because the President suddenly had a change of heart? Was it because his conscience was suddenly bearing down upon him? Or were there other reasons? Well, let's see.

Just before his deposition testimony, Monica Lewinsky decided to cooperate with the Office of Independent Counsel. Monica Lewinsky suddenly turned over a blue dress. And that is fascinating because, as you know from the record and you have heard from the presentations, the President was prepared to take Monica Lewinsky and trash her in a very public way until the dress was turned over to the FBI. Remember what he said to Sidney Blumenthal. He called her a stalker. He said that she was threatening him. But he no longer could make these presentations publicly or privately once he knew there was potential physical evidence.

So I think there are a number of factors Members of this body can look at with respect to credibility just from the cold record. But if that is not enough, if Members of this body are not satisfied that they are able to resolve these issues of credibility, then the way to handle this is to follow the dictates of the Constitution and our Framers who understood the value of trial and bringing witnesses forward, placing them under oath and giving the triers of fact the opportunity to see the witnesses, to hear their testimony, to gauge their credibility.

That is what the purpose of a trial is for. And the House managers entrust this body to make sure that at the end of the day this is more than a proceeding; this is an arena where the truth will be determined not just for our time but for history.

The CHIEF JUSTICE. This question is from Senator MURRAY to counsel for the President:

> Could you reply to the comments of Manager ROGAN?

Mr. Counsel RUFF. The existence of DNA or any other evidence or any other events before the President's grand jury testimony had no bearing whatsoever on his determination which he carried out on that day in the middle of August to answer the grand jurors' questions truthfully. He did so. It may be that the managers can speculate about, well, there must have been some reason why in the middle of August, after some months of denying to the Nation and his family any misconduct, he changed his mind and told the truth. But there was one reason why he did that. Because he went before the grand jury for the United States District Court of the District of Columbia and told the truth.

Now, it has been suggested by many of the managers over the last day that the President was somehow anxious to—or contemplated the prospect of, as they put it, trashing Ms. Lewinsky. This issue was raised yesterday and has been raised again by Mr. Manager ROGAN. I think it is time to set that record straight.

Mr. Manager BRYANT yesterday, as he was discussing the Dick Morris issue, purported to recite from the independent counsel's referral and purported to describe a conversation between the President and Mr. Morris in which, to quote from Mr. Manager BRYANT, "According to Morris, the President warned him"—that is, Mr. Morris, he warned the President—excuse me. Let me start before that.

> Later the next day, the President has a followup conversation with Mr. Morris, in the evening, and says that he—

That is, the President—

> is considering holding a press conference to blast Monica Lewinsky out of the water. But Mr. Morris urges caution. He says, "Be careful."

And that he warned the President not to be too hard on her.

Well, 180 degrees off from that description, let me read you what, in fact, the independent counsel's office referral says, and I am sure it was just a slip of the read that you heard yesterday.

> The President had a followup conversation with Mr. Morris during the evening of January 22nd, 1998—

This is page 127 of the independent counsel's referral—

> when Mr. Morris was considering holding a press conference to "blast Monica Lewinsky 'out of the water.'" The President told Mr. Morris to "be careful." According to Mr. Morris, the President warned him not to "be too hard on [Ms. Lewinsky]". . .

Close. Close. One hundred eighty degrees off. Beyond that, let me be very clear about one proposition which has been a subtheme running through some of the comments of the managers over the last many days. The White House, the President, the President's agents, the President's spokespersons, no one has ever trashed threatened, maligned or done anything else to Monica Lewinsky—no one.

The CHIEF JUSTICE. This is a question from Senators HUTCHISON of Texas, SNOWE, ALLARD, COLLINS and HATCH to the House managers:

> The counsel for the President have said that the heart of this case is private consensual sex. A tenet of sexual harassment law, however, is that the implied power relationship between a supervisor (in this case, the President), and a subordinate (in this case an intern), is enough to constitute sexual harassment.
>
> This is well settled in military law and is developing along this line in the civilian sector. In your view, how might acquittal of this case affect laws regarding sexual harassment?

Mr. Manager ROGAN. Mr. Chief Justice, the law of sexual harassment is a relatively new genre. If somebody wanted to make a case before the Congress had stepped in and improved upon the law, it essentially reduced women in the workplace, for instance, who had been harassed into what has been referred to as a "he said-she said" type of argument, and so the law has improved upon that type of argument because the law recognizes today that sometimes there can be evidence of a pattern of conduct, and that conduct is relevant to prove how somebody may have behaved.

Consider what would happen if victims of the workplace get a message from the Congress of the United States that what the President did with Paula Jones, or allegedly did with Paula Jones, is of no constitutional significance here. It would send a message to every woman in the workplace that if they have a complaint against an employer who is attempting to use a position of power and authority to pursue improper advancement, the message would be that you might as well just keep quiet about it because the person can lie in court and suffer no recrimination. First, they will probably never be discovered, because most of the time DNA evidence doesn't suddenly appear, but even if DNA evidence does appear to corroborate the victim, the message is that as long as he is appropriately apologetic and the lie was, after all, only about sex, it is of no import with respect to removing them from their job or having them suffer any legal consequences. I think that would be a horrible message.

The reason the law allows this pattern-of-conduct evidence is because sexual harassers operate in a unique way. They get their victims alone. They typically don't commit these crimes under the glare of klieg lights or in front of television cameras or where witnesses can testify. They get their victims alone for one reason—because they know through intimidation and fear one of two things will happen. Through intimidation or fear, the victim will submit; or through intimidation or fear, the victim will not submit but will keep their mouth shut about it.

What is the message to these victims who do brave losing their job, being destroyed publicly, having their reputations destroyed? What is the message to them if, when they come forward and they want to pursue their case, we take the legal view that somebody can perjure themselves, somebody can lie, somebody can obstruct justice, somebody in the greatest position of power in our country can take whatever steps are necessary to destroy that woman's claim in a court of law where she is entitled to pursue it if at the end of all of this we say: Well, you know, he was embarrassed, he did lie but it was only about sex? Lies in sexual harassment cases, Members of the Senate, are always only about sex.

The question before this body is, what type of validity are we going to give these laws and what sort of message are we going to send to victims in the workplace? I pray that we can put personal relationships aside with respect to how people individually feel about this President personally and how they feel about his administration and focus on what is the ultimate conclusion legally and what is the precedent that would be set if we turned a blind eye to this sort of conduct.

The CHIEF JUSTICE. This is a question from Senators BOXER, FEINSTEIN, LANDRIEU, MIKULSKI and MURRAY to counsel for the President.

> Has Ms. Lewinsky ever claimed the relationship was other than consensual and was not Ms. Jones' case dismissed as having no claim recognized by law?

Mr. Counsel RUFF. No. And yes. Indeed, as Mr. Manager ROGAN has told you, and others before him on the managers' side, our sexual harassment laws and our civil rights laws are of critical importance to all of us. My colleague, Ms. Mills, spoke eloquently on that subject a couple of days ago.

But it is important to understand, I believe, with no sense at all that we are in any way diminishing the importance of those laws and of the rights of every American citizen to seek justice under those laws, that we are talking about a case in which the trial judge determined that on all the evidence that had been gathered and all the claims that plaintiff had made and all the discovery that had been taken, there was no case. That is justice. That is the way the system works. The plaintiff brings the claim, the process moves ahead, and a judge ultimately makes the decision. And this didn't have anything to do with what President Clinton said in his deposition on January 17. What the judge ruled was, first, that that evidence was irrelevant to her consideration; and then ultimately, in April of last year, that there simply was no case.

We accept the results of the justice system whether they go against us or whether they go for us. In either event, it is justice.

The CHIEF JUSTICE. This is a question from Senator THOMPSON to the House managers:

> Is there any reason to believe that there is any relationship between the President telling Mr. Blumenthal that Ms. Lewinsky was a stalker and expressing his frustration about not being able to get his story out with the fact that shortly thereafter negative stories about Ms. Lewinsky, including the allegation that she was a stalker, began to appear in news articles quoting sources at the White House?

Mr. Manager HUTCHINSON. Well, I appreciate that question. And thank you, Mr. Chief Justice. Because I made a note of Mr. Ruff's statement that no one—and I believe he specified the President, his aides, or no one has ever trashed or spoken ill—used some other words—of Monica Lewinsky. It really caught me as striking, in light of the sworn grand jury testimony of Sidney Blumenthal. And, of course, he is testifying as to what the President told him. And, of course, in that conversation the President told Sidney Blumenthal, as described by Mr. Blumenthal, that: Monica Lewinsky came at me and made a sexual demand on me. I rebuffed her. The President said: I have gone down that road before, I have caused pain for a lot of people. I am not going to do that again. She, referring to Monica Lewinsky, threatened the President. This is the President's statement. It goes on and describes it; she was known as a stalker.

In my understanding that is trashing, that is speaking ill, that is being very critical and doing everything you can to basically destroy her reputation.

Now, why was he telling Sidney Blumenthal that? Was he trying to use Sidney Blumenthal to get the message out to the public and to the grand jury, who might hear this, that she is not a believable person? That the whole idea is that she came on to him, that threatened the President of the United States? I think—I don't understand Mr. Ruff's representation to the Senators that no one, including the President or aides, has ever trashed Monica Lewinsky.

Now, I think it is important also, at that particular point in time, the President knew that Sidney Blumenthal and John Podesta would be a witness before the grand jury. That was his testimony. That is what the President of the United States admitted to. He said he knew that they were going to be witnesses. And, clearly, that constitutes obstruction of justice; when he knows that they are going to be a witness, he gives them false information knowing they are going to repeat it to the grand jury, and that is an element of one of the pillars of obstruction.

I want to come back to some things that have been said about the Jones case. First of all, it has been characterized as a "no win" case—that Judge Susan Webber Wright issued that order.

Well, if the truth had been known, what we know now about the relationship, about the pattern of conduct, would that have made a difference? And, of course, when those facts came out it was right before a decision by the Eighth Circuit Court of Appeals that might have reversed Judge Wright's order that the President of the United States made a decision he could settle this case for eight hundred and something thousand dollars.

What would have happened? Maybe Paula Jones would not have had to have gone through that many years of litigation if the truth had just come out.

But there was a pattern of obstruction of justice, of lying, of coaching witnesses, of tampering with witnesses, which ultimately led to a defeat of that case and the truth not coming out. But when it came out, it made a difference; it made a difference for that plaintiff in that civil rights case.

Senator HUTCHISON asked a question about whether the power of the position makes the difference in sexual harassment cases. Let me assure you, if there is any chief executive officer of any company, whether it was consensual or not, with an intern or a young person half of the officer's age and whether it was—whatever they termed it at that point, whether it was a subordinate employee—and that is the key language, "subordinate employee," then, yes, Senator, it does make a difference, and that is the crux of many cases that are brought into court to protect women against sexual harassment in the workplace. I think it is a linchpin of this act that this Congress passed. So I think that when you look at the overall picture, there is that pattern of obstruction of justice.

Senator BIDEN asked a question, Would any prosecutor bring this case forward? Let me tell you, it would be easier—and I say this with great deference to the Senate—but it would be easier to win a conviction beyond any reasonable doubt, and I could win a conviction beyond a reasonable doubt in a court in this country on obstruction of justice because I know that common sense permeates a jury panel whenever they hear this case and the perjury—they are not going to buy, they are not going to accept what "is" is. They understand what these words mean, and common sense will apply. And I know that common sense exists in the Senate of the United States.

But let me assure you that this is a case that I would bring forth without any hesitation, and I believe the proof would demonstrate a conviction beyond a reasonable doubt.

The CHIEF JUSTICE. This question is from Senator KENNEDY to the counsel for the President:

> Could you reply to Mr. HUTCHINSON's allegations?

Mr. Counsel RUFF. I think it important because the question put to the House managers, Mr. Chief Justice, was whether there was some effort or some relationship between Ms. Lewinsky and a series of articles or stories that supposedly appeared in the early days following the revelation of this investigation. I think it is important to recognize what the real facts are here.

This was the point made at the very end of my testimony before the House Judiciary Committee on December 9. One of the members of that committee spoke at great length and quite heatedly about what he believed to have been a plan to disseminate unfavorable information in the press, and he submitted for the record a number of newspaper articles.

The articles that he submitted, which were largely spun off of one Associated Press story, did not contain two—at least two—statements that made it very clear that the accusation that there was some effort on the part of the White House to disseminate disparaging information were simply false.

In an Associated Press story of January 31, which was used by a member of the House Judiciary Committee as one of his examples of how the White House was supposedly coordinating such an attack, there was omitted the following portion. This is a statement by Ann Lewis, who is the White House communications director:

> To anyone who was saying such things about Ms. Lewinsky, either it reflected a lack of coordination or thought or adult judgment. We are not going down that road. It is not the issue. A discussion of other people is not appropriate.

That is on January 31. Retrospectively, when Ms. Lewinsky had already begun to cooperate with the independent counsel, the Los Angeles Times wrote the following:

> From the beginning, the White House has been careful about what it has said of Ms. Lewinsky. The week the Lewinsky story broke in January, Clinton's press secretary, Mike McCurry, signaled the tone the White House would take by deflecting questions about whether the 24-year-old intern was less than stable.

Mr. McCurry:

> "I can't imagine anyone in a responsible position at the White House would be making such an assertion. I've heard some expressions of sympathy for what clearly someone who is a young person would be going through at a moment like this." And McCurry quickly signaled that the marching orders had not changed once Lewinsky made a deal with the independent counsel, Kenneth Starr, for immunity from prosecution.

I think it is important that the record be clear that the stories about which the managers were asked in their last question simply never reflected any plan, coordinated or uncoordinated, to do anything other than treat Ms. Lewinsky with respect.

The CHIEF JUSTICE. This question doesn't show which Senators are submitting it.

Mr. LOTT. Senator HATCH.

The CHIEF JUSTICE. This is a question from Senator HATCH:

> Isn't it true that Chief Federal District Judge Johnson ruled today—in an order that she authorized to be released to the public—that Ms. Lewinsky's immunity agreement, which requires her "to make herself available for any interviews upon reasonable requests," compels her to submit to an interview with the House? What light does this shed on the earlier debate on this matter?

I am sorry, it is addressed to the House managers.

Mr. Manager BRYANT. Mr. Chief Justice, I think certainly having come from an experience of practicing law and learned so much over the years and trying cases and putting together cases in an ethical and appropriate fashion, to come into a political proceeding, and as we have dealt with this, and I think as the lawyers to my left had to deal with the same type of situation, in a political realm, not just in the Senate, but months and weeks before we came in to here, is very difficult.

What we have seen this morning is a completely innocent standard practice of sitting down with a potential witness before you have to list your witnesses Monday and deciding whether or not you want to use her.

They have talked about lawyers committing malpractice by not taking depositions. I submit it would be close to that if you don't talk to a witness before you call that witness. Certainly, while the OIC has had communication with her over some time, we have not. We have not had contact with any of these witnesses.

I alluded earlier to the White House and the other witnesses that work for the White House that we might be looking at calling. I must presume by this conversation in this area of questioning that they have not had any contact about this case with Ms. Currie and Mr. Podesta and Mr. Blumenthal, and that even a friend of the White House, Mr. Vernon Jordan. We are not asking we be privy to every time they say hello in the hallway to these people or may sit down and talk with them. We understand the realities of life. We simply just wanted that crazy idea that maybe we ought to talk to a witness before we decide whether or not we want to list that witness.

I think to answer that question—and I will sit down—Judge Johnson clearly vindicated this right to do that, to accomplish that through the immunity agreement. I apologize if we have offended the Senators. We certainly didn't intend to do that. We certainly didn't intend to break any rules about this, and we don't think we did.

Certainly, if we are going to go down that road, and if you see it is appropriate that we have a rule you can agree on, we would be happy to abide by that, but we would simply like equal treatment with the other witnesses, also with the White House and their attorneys. Thank you.

The CHIEF JUSTICE. This question is to the House managers from Senators COLLINS and FEINGOLD:

> On the basis of the President's and Betty Currie's testimony concerning their conversation on Sunday, January 18, 1998, have each of the elements of obstruction of justice under 18 U.S.C., section 1503, or witness tampering under 18 U.S.C., section 1512, been met? We are particularly interested in your analysis of whether the Senate can infer that President Clinton intended to corruptly influence or persuade Ms. Currie to testify falsely and the weight to be given Ms. Currie's testimony in that regard.

Mr. Manager HUTCHINSON. The answer is that, under 18 U.S.C. section 1503, there is a case for witness tampering in the conversation between President Clinton and Betty Currie.

I want to refer you to a case, United States v. Shannon, which is an Eighth Circuit Court of Appeals case decided October 12, 1987. And for you lawyers here, it has been Shepardized. It is good law, and it really puts this into perspective.

In the case, the defendant contended that the evidence did not support a conviction under 18 U.S.C. section 1503 because the Government did not prove that the witness in this case, Gray, was ever a witness before the grand jury or that the defendant knew that that person was going to be a witness before the grand jury. And this is what the court said:

> This argument is . . . without merit. A conviction under section 1503 for attempting to influence a witness is appropriate so long as there is a possibility that the target of the defendant's activities will be called upon to testify in an official proceeding.

Now, this gentleman, this defendant, Mr. Shannon, went to jail. He made the defense that, "Well, I didn't—you know, that person was never called as a witness, it was never an official proceeding," and it didn't fly. He was convicted. It was affirmed by the Court of the land and, presumably, he went to jail. Now, that is the law of the land in the criminal courts of our country. And so there would be a conviction under 18 U.S.C. section 1503.

In this case you have much more because, as I pointed out yesterday in reference to Betty Currie, Betty Currie was clearly a witness. They left that deposition knowing she would be a witness. The Jones attorneys went back and immediately worked on issuing a subpoena for her because they had to have her because the President asserted her name continually through that. The President knew she was going to be a witness. He came back and engaged in one conversation where he coached her testimony. He tampered with her testimony. It wasn't enough, so 2 days later he brought her back in again and did the exact same thing. The legal question is, As a prospective witness, is she covered under the obstruction of justice statute? The answer is, yes, because other people go to jail for exactly the same thing.

But I think we need to take a step back a moment. This U.S. Senate is not bound by the strictures of the U.S. Criminal Code. If I came in here today and said, "Well, under the criminal procedures of the land, I'm entitled to bring witnesses and I'm entitled to cross-examine, and I'm entitled to do this, and we need to follow the criminal procedure code," you would say, "No. This is the Senate of the United States." And you would rightfully say that. You set your own rules in this.

And the same thing is true with the criminal law of the land. I think that we make a criminal case for obstruction of justice that can be prosecuted, as other people are in every courtroom in this land. But that is not the burden here. The issue is, Is this an impeachable offense? And something that is much higher is at stake, and that is the public trust, the integrity of our Government, much more than in United States v. Shannon. And that is what you are dealing with.

So we can debate the criminal code all day—and we win all that—but we have to talk about the public trust, the integrity of our system. And that is what our country needs you to win for them.

The CHIEF JUSTICE. This question is from Senators THURMOND and BUNNING to the counsel for the President:

> If there was no case and the White House accepted the results of the justice system, why then did the President pay nearly $1 million to Paula Jones?

Mr. Counsel RUFF. I say this with all due respect, truly. As I think everyone knows in this Chamber, and outside this Chamber, who has practiced law, litigated difficult cases, the judgment of a defendant to settle a case, to pay whatever sum may be required to settle it, is, in all candor, I think, for all of us, not reflective of any belief that he was wrong, that the other side was right. It reflects in this case, very candidly, a judgment by the President, which he has stated publicly, that in the midst of the many matters that he is responsible for, including, I must say, this matter, as well as all those matters of state on which he spends his time and to which he devotes his energy, he could no longer spend any of that time and any of that energy on the Jones case.

I am so hesitant to say this, but I really believe—please take it in the spirit it is meant—that to ask whether the settlement of this case reflects substantively on the merits of Ms. Jones' claim is not fair. The merits of Ms. Jones' claim were decided by Judge Wright. She concluded that there were none. And I really do believe that to ask whether the President's decision to settle is somehow a reflection on the merits, contrary to those reached by Judge Wright, is simply not the case.

The CHIEF JUSTICE. This is a question to the White House counsel from Senators JOHNSON and LEAHY:

> A few minutes ago, Manager HUTCHINSON stated that he would be more confident of obtaining a conviction for obstruction of justice in a court than he is in the Senate. Can that statement be reconciled with the following exchange that occurred on the Sunday program "This Week" on January 17, 1999, in which Manager HUTCHINSON was asked, "On the case that you have against the President on obstruction of justice, not the perjury, would you be confident of a conviction in a criminal court," and Manager HUTCHINSON said, "No, I would not"?

Mr. Manager HUTCHINSON. Mr. Chief Justice——

The CHIEF JUSTICE. It's addressed to the President's—is it the President's counsel? It is addressed to the President's counsel.

Mr. Manager HUTCHINSON. I believe under your ruling yesterday I can't object to questions.

The CHIEF JUSTICE. That is correct.

Mr. Manager HUTCHINSON. I would——

Mr. LEVIN. Objection.

Mr. REID. Objection.

Mr. LEVIN. I object to this, if he is unable to object, to make an objection in any other form.

The CHIEF JUSTICE. The Parliamentarian advises me that the manager may make an objection to the question being answered.

Mr. REID. Nothing being answered.

The CHIEF JUSTICE. I have second thoughts, frankly. That ruling is based on a very Delphic, almost incomprehensible statement that Salmon Chase made during the trial of Andrew Johnson. And I think the correct response is that the managers do not have a right to object to a question by the Senator. So I rule the objection out of order.

Mrs. BOXER. Regular order.

Ms. Counsel MILLS. I just wanted to address, for a second, Manager HUTCHINSON's comments with regard to 1503. And he cited a 1987 case. In 1995, I think, as we talked a little bit about, and the House managers had discussed, Aguilar came down. And in that case the issue was, Was there sufficient nexus between the actual conduct of the person involved and the proceeding? And in particular, I am just going to read to you for 1 minute from the case law.

> The Government argues that respondent "understood that his false statements would be provided to the grand jury" and that he made [these] statements . . . to thwart the grand jury investigation and not just the FBI investigation. . . . The Government supports its argument with . . . the transcript . . .

They go through the discussion that was between the judge and the agent in which the judge specifically asked whether or not he was a target for the grand jury investigation, and the agent responded:

> There is a grand jury meeting. Convening I guess that's the correct word. . . . [E]vidence will be heard . . . I'm sure on this issue.

So, in other words, the person making the statement knew at that point that there was potentially the possibility that his testimony would be presented to the grand jury, and the court ruled, as I talked to you a little bit about during my presentation before, that that was an insufficient nexus for there to prove a violation of 1503.

The CHIEF JUSTICE. This question is from Senators HELMS and STEVENS to the House managers.

> Do you have any comment upon the answer just given by the President's counsel?

Mr. Manager HUTCHINSON. Thank you, Mr. Chief Justice.

First, I want to thank Ms. Mills for the courtesy she extended to me just a moment ago. And in our exchange, and Mr. Chief Justice, what I started to state my objection was, was really not to the question at that point, but I was just going to make the reference to the anticipated answer that the statement on "This Week with Sam and Cokie" was not exactly a part of this record. We are to be debating the facts of this case, and Ms. Mills was kind enough not to go into that. I think she was going to make the point that the answer I made was in reference to the need to call witnesses; that how confident can you be in any case without calling a witness so the jury can hear it?

Let me go back to what Ms. Mills said. She did cite the United States v. Aguilar, and I wish the Chief Justice—since he wrote the opinion—could give us a lecture on that particular decision. I feel maybe we should not be talking about this. But I read that opinion as totally consistent with the United States v. Shannon and that the law is clear, that if this body were to apply 18 U.S.C., section 1503, that a conviction would obtain, but again this is a body gathered for the purpose of consideration of an impeachable offense.

I also yield to Mr. GRAHAM on that point.

Mr. Manager GRAHAM. This is Saturday at 12:30 and a lot of people are probably watching with interest what is going on. Let's talk about the law just for a moment in a way that we all can understand when this thing is over with.

It is a long time since I have been in law school, but I liked the exchange between the professor and the students because you kind of understood what the law was about at the end of the day. Witness tampering is designed—the statute is designed to do what? As Senator BUMPERS and I would say in Arkansas and South Carolina, "messin' with people." We can elevate that a little bit and say that the witness tampering statutes that we are talking about here are designed to make sure we get to the truth. Section 1512 is in the conjunctive, part (B): "Whoever knowingly uses intimidation or physical force."

That is one thing you don't want to happen here. You never want anybody to go up to a potential witness and threaten through force or intimidation to tell something that is not true. So that is out of bounds. That is illegal.

Or "corruptly persuades"—now, what does that mean? There are some cases that talk about what that means. That means if the person has an intent, an evil intent or an improper purpose to persuade somebody without force or intimidation, that that is a crime.

Or listen to this: "Engages in misleading conduct toward another person with the intent to influence or prevent the testimony of any person in an official proceeding."

What are we getting to there, ladies and gentlemen? What the law says, if you go to a person who likes you, who is your friend, who trusts you, and you try to get them to tell a story —through misleading them—that is not true, that is a crime.

The marvelous thing about the law is that it is based in common sense. It is very obvious to us we don't want somebody to tell a story that is not true. It is also obvious to us that we don't want to take personal relationships and misuse them to get false testimony out into a courtroom.

So if you go back to your secretary—who trusts you, who likes you, who admires you—and you try to mislead them by telling a scenario that is not true, and you believe that they may appear in court one day, what you have done is very wrong, because what you have done is you have planted the seed of a lie in a way that we say is illegal.

So, if you believe the President of the United States was not refreshing his memory when he told Betty Currie, "She wanted to have sex with me and I couldn't do that. I never touched her, did I, Betty?" If you believe that is not to refresh his memory, if you believe that was misleading, and you believe that he had reason to believe she was going to be a witness because of his own conduct, then he is guilty.

The CHIEF JUSTICE. This question is from Senator KERREY of Nebraska to the counsel for the President.

> Could you elaborate on your comments about the settlement of the Jones case, focusing on the reality, for example, that corporations in this country routinely settle cases they regard as utterly without merit, simply to spare the costs of defense, public embarrassment, and for other reasons?

Mr. Counsel RUFF. Mr. Chief Justice, I think far better than I did, the Senator from Nebraska has already elaborated on my answer. I think all of us who have been involved, either as lawyers or as parties, unhappily, in litigation know the burden that it imposes, and one can only imagine—I am barely able to—a special burden that it places on a President to be immersed in this kind of litigation.

We take, I think, as a basic understanding in our jurisprudence that, as a matter of law, the settlement of a case is not probative of any belief on either side about the strengths or weaknesses, but what it is, as a matter of law, is probably less relevant than what it is to this body or to the American public's perception.

But underlying the law about what one can do in litigation in using a decision to settle is, I think, a commonsense judgment that everybody, whether it be a large corporation or individual or the President of the United States, makes a judgment about where his or her resources should be expended—and I don't mean simply resources in terms of dollars, although they are secondly important—but resources in terms of energy, time, worry, interference with the day-to-day business that all of us have to conduct.

And I think it is fair to say that it is those factors, those very commonsense factors, the ones we would all weigh, in different circumstances at different settings if we were caught up in litigation, that inform your judgment about what you should or, in my judgment, should not take from the fact that the President settled this case.

The CHIEF JUSTICE. This question is from Senators NICKLES, WARNER, HELMS, INHOFE, and THURMOND to counsel for the President.

> Members of the armed services are presently removed from service for improper sexual conduct and/or for perjury. If the President is acquitted by the Senate, would not it result in a lower standard of conduct for the Commander in Chief than the other 1.3 million members of the armed services?

Mr. Counsel RUFF. Mr. Chief Justice, this, of course, is a question legitimately asked but I also think legitimately answered no. We all understand entirely what rules are imposed on members of the armed services. Indeed, every member of the Federal civil service, every member of a private company, when they engage in certain conduct, may be sanctioned for it.

In the military, I understand—as do the Senators who have much greater personal and institutional experience with our Armed Forces than I—the importance of maintaining due order and discipline in the armed services, and also the importance of believing that nothing that the Commander in Chief does or says should ever undermine the strength of our Armed Forces, their cohesiveness, or their belief in the rules and integrity of the rules that govern them.

But, that said, A, I do not believe, as a matter of what will flow from an acquittal of the President, who is, indeed, Commander in Chief, that that will in fact undermine the good order and discipline of the Army. But if I am wrong in some fashion about that, if my understanding of the process is flawed —and it may well be—we, nonetheless, have to ask the question which I think is implicit in the question that was put to me: Because of the rules that apply to members of the Armed Forces, does it follow that because a sergeant, or a lieutenant, or a general, or an admiral will suffer in his career, that we must go back to the framers who wrote the impeachment clause and say they must have expected that the Commander in Chief, the President, would be removed for the same conduct? They had an Armed Forces then. Indeed, they were probably more intimately involved with that, having just come through the Revolution, than Presidents and leaders of the country have been in the following 210 years. They surely understood that there was a constitutional and societal difference between the President in his role as Commander in Chief and the President in his role as the leader of the country, on the one hand, and those to whom rules of discipline had to apply in order to secure the strongest and best Armed Forces that we could secure.

It is, in a sense, I suppose, not an easy answer to give, because members of the Armed Forces put their lives on the line, and we want them to feel that they are being treated fairly. But at the end of the day, it cannot be that the President of the United States is removable for conduct that would adversely affect a career of a member of the military.

There may be occasions on which the President engages in such horrific conduct that he ought to be removed, and the same would happen to an admiral, or a general, or the Chief of Staff of the Joint Chiefs, or the highest military member that you can contemplate. But that doesn't mean that this conduct is transposed from the world of the military into the world of the Constitution in such a way that the President, even if he is our Commander in Chief, should be removed from office, because I think that judgment would be inconsistent with the judgment made by the framers.

RECESS

Mr. LOTT. Mr. Chief Justice, I suggest that this would be an excellent time to take a 1-hour break for lunch.

There being no objection, at 12:44 p.m., the Senate recessed until 1:57 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Thank you, Mr. Chief Justice.

Mr. Chief Justice, we are ready momentarily to begin with the questioning period again. I believe the first question will come through Senator DASCHLE.

I do want to say to our colleagues that any Senator is entitled to propound a question on both sides, and so we will give you every opportunity to do that. Again, it is our intent to go today not later than 4 o'clock, and if additional time is needed for questions, it will have to go over until Monday. We have some questions that have already been propounded that we would like to put to one side or the other, but at some point I think we will have a sense that maybe the basic questions have been asked.

So if any Senator on either side feels strongly about a particular question, he or she may want to be thinking about how and when they insist that it be offered. But I think a lot of ground has been covered. I hope that within a reasonable period of time the questions that Senators have will be given and we will have a response, and then we will make a decision on how to proceed from there.

I yield, Mr. Chief Justice.

The CHIEF JUSTICE. This is a question from Senator BINGAMAN to counsel for the President.

> When Samuel Dash resigned as adviser to the independent counsel, he wrote in the letter of resignation that he was doing so because the independent counsel had become an advocate and had "unlawfully intruded on the power of impeachment which the Constitution gives solely to the House."
>
> In using his power to assist one party to the pending impeachment trial before the Senate, do you believe he has unlawfully intruded on the power of the Senate to try impeachments?

Mr. Counsel RUFF. Mr. Chief Justice, Senators, the independent counsel statute gives the independent counsel in some sense almost unbounded power to investigate the President and other high officials of Government. It does not give him and has never given him unbounded power even to the extent that he has become immersed in the impeachment proceedings in the House. For the statute itself says not you shall become the 436th Member of the House, not that impeachment is vested in the independent counsel, but that impeachment is vested in the House and trial in the Senate.

We were, obviously, dismayed at the role that the independent counsel chose to follow rather than simply sending information to the House that might bear on possible impeachable offenses but, rather, to drive his van up to the building and unload unscreened, undiluted boxes of information which thereafter made their way, at least in part, into the public domain.

But surely it was a shock to all of us, at least on this side, to learn yesterday evening that playing a role in the House proceedings had now become a role in this Chamber, that the independent counsel was using not only his powers of coercion but calling on the U.S. district court to assist him and, in turn, enabling the managers not simply, as they would have it, to do a little work product, to do a little meeting and greeting, to do a little saying hello and a little chatting with someone who may be a witness before this body but, rather, saying to this witness: I hold your life in my hands and I'm going to transfer that power to the managers for the House of Representatives.

The managers have said we are engaged in an adversary process here, and they themselves have talked long and loud today about letting them play out the process that any lawyer would play out preparing for trial. Well, no other lawyer that I know of gets to have a prosecutor sitting in a room with him and saying to the witness: Talk to these people or your immunity deal is gone and you may go to jail.

Now, we have been accused by Manager HUTCHINSON and others of always talking about process, of always falling back on process. Well, I suggest, Senators, that process is what our justice system is all about. Process is what we have always relied on to protect everyone against the vaunted power of the state in this case; not just the managers, but the state embodied in the independent counsel.

But in this case it is more than just a call for due process, for fairness, because it is going to have a direct and immediate impact on the facts as we learn them, as they learn them, and most importantly as you learn them. Can you imagine—can you imagine what it is going to be like for Monica Lewinsky to be sitting in a room with the 13 managers, or however many there are, and the independent counsel, and his lawyers, knowing the threat that she is under, knowing how she got into that room? Can we have any reason to believe that what comes out of that process will be the fair, unvarnished truth? Or will she, of necessity, be looking over her shoulder and saying I better not put one foot wrong because the independent counsel is sitting there watching, and he has already told me that this deal is gone if I don't cooperate with the House managers.

Process and truth, they are inextricably linked, but not—not if the independent counsel moves to that side of the room and becomes the moving force in the development of the truth and the facts as this body is entitled to know them.

Accuse us of talking about process if you will; accuse us, if you will, of falling back on process. We do it proudly because process is what this is all about, because process leads to truth. But not that way.

The CHIEF JUSTICE. This is a question from Senators SPECTER, FRIST, SMITH of New Hampshire, INHOFE, LUGAR, BROWNBACK, ROTH, and CRAPO to counsel for the President:

In arguing that an impeachable offense involves only a public duty, what is your best argument that a public duty is not involved in the President's constitutional duty to execute the laws? At a minimum, doesn't the President have a duty not to violate the laws under the constitutional responsibility to execute the laws?

Mr. Counsel RUFF. It can't be. It can't be that if the President violates the law and thus violates his duty faithfully to carry out the laws, he is removed from office. Because that would literally encompass virtually every law, every regulation, every policy, every guideline that you could imagine that he is responsible for carrying out in the executive branch. If that were so, it would have been very simple for the framers to say the President shall be impeached for treason, bribery and failure to carry out his oath faithfully to execute the laws. They wrote that. They could have incorporated it into the impeachment clause if they had wished, and they chose not to.

So that if, in fact, you suggest that a failure to faithfully execute the laws inevitably leads to a decision that an impeachable and removable offense has been committed, I suggest with all respect that you have simply eliminated the impact of the words "treason, bribery and other high crimes and misdemeanors."

Now, you may well judge within that setting—that is, within that constitutional standard "other high crimes and misdemeanors"—that some particular violation of law warrants removal. But it surely can't be, just looking back at what the framers did and what the words themselves mean, that any violation, even if you were to find one, must lead you to conclude that having therefore violated his responsibility to faithfully execute the laws, removal must follow.

The framers knew what the other parts of the Constitution said, and they specifically chose the words they chose, intending that they cover only the most egregious violations of the public law and public trust that they could conceive of.

The CHIEF JUSTICE. This is from Senator GRAHAM to counsel for President Clinton:

In the event the Senate determines the removal of the President is not warranted, are there any constitutional impediments to the following action: (1) a formal motion of censure; (2) a motion other than censure incorporating the Senate's acknowledgement and disapproval of the President's conduct; (3) a motion requiring a formal Presidential apology or any other statement accepting the judgment of the Senate; or (4) a motion requiring the President to state that he will not accept a pardon for any previous criminal activities.

Assuming that one or more of the above actions are constitutional, are there any other serious policy concerns about the advisability of the Senate formally adopting a legislative sanction of the President that falls outside the scope of the constitutional sanction of removal from office?

Mr. GRAMM addressed the Chair.

The CHIEF JUSTICE. The Chair recognizes the Senator from Texas.

Mr. GRAMM. Mr. President, I would like the record to show that that was Senator GRAHAM of Florida. (Laughter.)

The CHIEF JUSTICE. The record may so show.

Mr. Counsel RUFF. Senator GRAMM, my apologies. I assumed since Senator DASCHLE sent it up it was probably from this side, but I am glad you clarified the record.

That question probably requires much more constitutional learning to answer in great detail than I possess, but let me give it a try. And the easiest one for me to answer is the fourth part: Would it be appropriate for, in some fashion, for the President formally to state that he would not accept a pardon?

I have stated formally on behalf of the President in response to a very specific question by the House Judiciary Committee that he would not, and, indeed, we have said in this Chamber, and we have said in other places, that the President is subject to the rule of law like any other citizen and would continue to be on January 21, 2001, and that he would submit himself to whatever law and whatever sanction or whatever prosecution the law would impose on him. He is prepared to defend himself in that forum at any time following the end of his tenure. And I committed on his behalf, and I have no doubt that he would so state himself, that he would not seek or accept a pardon.

I will not even begin to tread on the territory that is the Senate's jurisdiction and the issues that it takes unto itself, much less give it advice about what it is possible or not possible to do, except to venture this. I see no constitutional barrier, certainly, to the Senate's passing a censure motion in whatever form it chooses—whether adopting language from the articles or creating language of its own. We might at the end of the day disagree with you about whether the language is justified or whether it accurately reflects the facts, but there is nothing in the Constitution, I believe, that prevents this body from undertaking that task.

With respect to a formal acknowledgment, there I suppose the interplay between the legislative and the executive branch becomes more tenuous. But to the extent that whatever the Senate chooses to say in such a document needs to be acknowledged or recognized by the President, that can be done without trenching on the separation of powers in that special uncertain area between the legislative and executive branches. I have no doubt that some process can be worked out that meets the Senate's needs. I say this all in the sort of vast limbo of hypothesis, because obviously I am answering both somewhat off the cuff and without knowing what language we are talking about.

But the core position, as we see it, is that nothing stands in the way of this body from voicing its sentiments. Indeed, I have said in the House of Representatives that I thought a censure was an appropriate response, and the President has said he is prepared to accept the censure. I have no doubt, although that was said in the context of the proceedings in the House, it surely is applicable as well to anything that this body chooses to do.

The CHIEF JUSTICE. This is a question from Senator THOMPSON to the House managers:

Do you have any comment on the answer given by the President's counsel with regard to the Office of Independent Counsel?

Mr. Manager McCOLLUM. Mr. Chief Justice, Senators, thank you for that question. It is our judgment—and I think a fair judgment—that we should be allowed and are permitted, under any of the rules normal to this, to request of the Office of Independent Counsel the opportunity to talk to Monica Lewinsky, which we otherwise apparently were not going to be able to have as a normal course of preparation.

It makes me wonder—with all of the complaints that are going on here from the White House attorneys about this and their desire not to have witnesses—what they are afraid of. Are they afraid of our talking to Monica Lewinsky? Are they afraid of the deposition of Monica Lewinsky? Are they afraid of what she might say out here? I don't think they should be, but they appear to be.

We are not doing anything abnormal. We are exercising our privileges, our rights. If it were a prosecutor and you had a prosecutorial arm, which you do in the case of the Independent Counsel Office, that had an immunity agreement, as there is in this case, you certainly would not hesitate if you had a recalcitrant witness who you needed to call to utilize that immunity agreement and have the opportunity to discuss the matter with that witness, and you certainly would not hesitate if you needed to use that immunity agreement to assure truthful testimony in any proceeding that was going on.

After all, that is the purpose of the immunity agreement. It means that the witness is probably much more likely to be telling the truth than under any other circumstances, which is why counsels frequently argue immunity agreements as a reason why a particular witness is more credible than they might otherwise be if it were not for that agreement.

So I think there is an awful lot being said today about our meeting that we want to have with Ms. Lewinsky to prepare her as a witness. I want to tell you all it is being done, in my judgment, with all due respect to those who are doing it, principally because of the concerns they don't want us to have that opportunity or they want to cast some aspersion or doubt, or whatever.

We are not about to do anything improper. We can assure you of that. We would never do that. We are going to follow regular order and do this as good counsels would do in good faith, and in no way would we wish to do it otherwise, nor have we. Thank you.

The CHIEF JUSTICE. This is a question of Senator BAUCUS to the House managers:

> In view of the direct election of the President, his popularity, and short duration of his term, and in view of the fact that, as House Manager GRAHAM stated, "reasonable people can differ in this case," please explain, precisely, how acquitting the President will result in an immediate threat to the stability of our Government.

Mr. Manager HYDE. Mr. Chief Justice, ladies and gentlemen of the Senate, I don't think anyone contends that if the President is acquitted that suddenly it is apocalypse now or the Republic will be threatened from without or from within. I think erosion can happen very slowly and very deliberately. The problem that I have is with this office being fulfilled by someone who has a double responsibility.

The first responsibility is to take care that the laws be faithfully executed. He is the only person in the country, in the world, who has that compact with the American people. The other, of course, is his oath to preserve, protect and defend the Constitution. He is the national role model, he is the man, he is the flagbearer in front of our country. He is the person, his office is the person every parent says to their little child, "I hope you grow up and be President of the United States some day." We do nothing as important as raising our kids, and the President is the role model for every kid in the country.

When you have a President who lies and lies and lies under oath—and that is the key phrase, "under oath." I don't care about his private life or matters that are not public. But when he takes an oath to tell the truth, the whole truth, nothing but the truth and then lies and lies and lies, what kind of a lesson is that for our kids and our grandkids? What does it do to the rule of law?

Injustice is a terrible thing. The longer you live, the more you can encounter it. Injustice, abuse, oppression, and the law is what protects you; the law, having resort to an objective standard of morality in action. And when you are sworn to take care that the laws are faithfully executed, how do you reconcile the conduct of perjury and obstruction of justice with that obligation?

I have a suggestion. Let's just tear it out of the Constitution. Tear out that "take care to see that the laws are faithfully executed." It is wrong. It is an example we are setting for millions of kids that if the President can do it, you can do it. What do you say to master sergeants who have their careers destroyed because they hit on an inferior member of the military? We are setting the parameters of permissible Presidential conduct for the one office that ought to gleam in the sunlight. And the kids, that is what moves me, the kids.

The CHIEF JUSTICE. This question is from Senators NICKLES, WARNER, CRAPO, HELMS, INHOFE, and THURMOND to the House managers:

> Would you like to comment on the remarks of Counsel Ruff concerning the impact of an acquittal of the President accused of improper sexual conduct and/or perjury and obstruction on the Armed Forces?

Mr. Manager BUYER. Mr. Chief Justice, I would like to thank the Senators for the question, because I believe it is also insightful.

The question of double standards or establishing lower standards, I believe, is extraordinarily important. The defense asserted—and it is hard for me to believe—but they are asking you to set a higher standard for judges and a lower standard for a President who nominates them to you, asking you—they think that we can set a higher standard for law enforcement, yet establish a lower standard for the Chief Executive or the chief law enforcement officer that has the duty to faithfully see that the laws are executed; set a higher standard for military personnel, and then a lower standard for the Commander in Chief who must make the painful decisions to send them into battle.

Now, the precedents in impeachment trials here in the Senate, the judgment of the Armed Services Committee and the Senate regarding the standards for promotion, have been otherwise than that which Mr. Ruff has asserted.

We must confront the fact that the President is the Commander in Chief. And I believe that it is perfectly acceptable of the American people to demand of the military the highest standard, which also means that those of whom find themselves in positions of responsibility in the Pentagon of whom are in civilian leadership must also live by such exemplary conduct and standards. The high character of military officers is a safeguard of the character of a nation.

The Senate, who must ratify the officers' promotion list, has repeatedly found that anything less than exemplary conduct is therefore unworthy of a commission or further promotion. I recall when I first came to Congress in 1992, there were many making a big todo over Tailhook. Remember? And it was serious. There are still remnants around of Tailhook because there are still those who are screening the officers' promotion. If you were within 100 miles of Tailhook, look out for your career. That needs to be put to bed.

Then I was given a duty to ensure that after Aberdeen broke and the sexual misconduct in the military—whether it was at Fort Jackson, Aberdeen, or at other places—I spent 18 months out on the road to ensure that the policies of the military were fair and the treatment of equal dignity in the workplace among men and women. We cannot forget that.

You see, we also must recognize and must be candid with the harsh reality that the officers and NCOs are human and not without fault, folly, and failings. I believe, though, it is the aspirations of high ideals that are important for each of us, but more so to the military in order to keep the trust and the public faith of the military. You see, a soldier, a sailor, an airman or marine is prepared to lay down his or her life to defend the Constitution. And it is the devotion and the fidelity to the oath without mental reservation that is the epitome of character.

Now, the President is not and should not be subject to the Uniform Code of Military Justice. And I concur with Mr. Ruff when he made that point. And the President is not an actual member of the military. But we have a unique system in the world. We have that civilian control of the military, and it works. But we also must recognize and be cognizant that the President, however, is at the pinnacle, he is at the top of the chain of command. And that is what I learned about, being on the road for 18 months, and How do we make corrections? and How do you set the proper dignity in the workplace?

It doesn't matter if it is your own office or, in fact, if you are the President as Commander in Chief. Whoever leads you sets the tenor of those who must follow. You see, the message is that the military personnel do look to the Commander in Chief to set the high standard of moral and ethical behavior. The military personnel are required to set a high standard of conduct in order to set the example to those they lead. Adherence to high standards is the fabric of good order and discipline. When military leaders fall short of this ideal, then there is confusion and disruption in the ranks. And today many do see a double standard. There is a double standard because the Commander in Chief has allegedly conducted himself in a manner that would be a court-martial offense for military personnel having been alleged of the very same thing.

The President's actions have had an intangible and coercive impact upon military personnel. To turn a blind eye and a deaf ear to it would be shame on us. The question soldiers and sailors ask is: I took an oath to swear to tell the truth. And I also took an oath to uphold the Constitution. How can this President take the same oath and not be truthful and remain in office? If I were to have done what the President did, I would be court-martialed.

You see, we also have to recognize that each of the services are recruiting young people all across the Nation. At boot camp they infuse these young people with the moral values of honor, courage and commitment, and they're teaching self-restraint, discipline and self-sacrifice. Military leaders are required to provide a good example to those young recruits, yet when they look up the chain of command, all the way to the Commander in Chief, they see a double standard at the top. Again, it is the President that sets the tone and tenor in the military, just as he does for law enforcement.

I believe the President has violated this sacred trust between the leaders and those of whom he was entrusted to lead. I also spoke in my presentation that it was the President's self-inflicted wounds that have called his own credibility into question not only in his decisionmaking process, but with regard to security policies.

The CHIEF JUSTICE. The Chair has the view that you have answered the question.

Mr. Manager BUYER. Thank you, Mr. Chief Justice.

The CHIEF JUSTICE. This is a question from Senators TORRICELLI and KOHL to the President's counsel:

> At the outset of the House proceedings, a member of the majority, now a manager, stated: "The solemn duty that confronts us requires that we attain a heroic level of bipartisanship and that we conduct our deliberations in a fair, full and independent manner. . . . The American people deserve a competent, independent, and bipartisan review of the Independent Counsel's report. They must have confidence in the process. Politics must be checked at the door."
>
> In evaluating the case against the President, should the Senate take into account: (a) the partisan nature of the proceedings in the House, or (b) the public's "lack of confidence" in the proceedings thus far?

Mr. Counsel KENDALL. Mr. Chief Justice, I think that this body has got to take into consideration what brought these articles here, and that is the action both of the independent counsel and the House of Representatives. I think when fairly considered, when you look at the actions of both, you find an absence of fairness and bipartisanship.

The independent counsel investigated this case for 8 months. It developed every bit of evidence it could that was negative, derogatory, or prejudicial, and it put them into those five volumes. It did not pursue exculpatory leads. It did not follow up evidence that might lead to evidence of innocence. And it downplayed, when it came to write the referral, significant testimony which was exculpatory or helpful.

I think the independent counsel's process was really epitomized by Ms. Lewinsky's statement that nobody asked her to lie or had promised her a job for silence. You see, the independent counsel didn't bring out that testimony. In fact, it came out when the independent counsel was through examining Ms. Lewinsky in the grand jury. I want to read you a very short part of that, page 1161 of the appendix.

Independent counsel prosecutor says, "We don't have any further questions," and a grand juror pipes up, "Could I ask one?"

> Monica, is there anything that you would like to add to your prior testimony, either today or the last time you were here, or anything that you think needs to be amplified on or clarified? I just want to give you the fullest opportunity.

Here is what Ms. Lewinsky says:

> I would. I think because of the public nature of how this investigation has been and what the charges aired, that I would just like to say that no one ever asked me to lie and I was never promised a job for my silence. And that I'm sorry. I'm really sorry for everything that's happened.

Now, we requested the independent counsel, before he sent the referral to the House of Representatives, for an opportunity to review that. We were denied this.

I think if you compare what happened here with what happened in 1974 when Special Prosecutor Jaworski sent a transmission of evidence to the House Judiciary Committee, the comparison is very revealing. Then Special Prosecutor Jaworski sent only a road map of the evidence, a description of what was in the record. Judge Sirica reviewed that at a hearing where White House counsel were present. Judge Sirica then said it was a fair, impartial summary and transmitted it on to the House Judiciary Committee. Here, without review either by the presiding judge or the grand jury, a referral was sent to the House that was a one-sided, unfair prosecutorial summary.

When the House managers speak of the need for discovery, they have no such need. Everything prejudicial that could be found through an unlimited budget and seemingly endless investigation has been found and put there, tied up with a red ribbon for you.

In terms of bipartisanship in the House, I think that speaks for itself. I don't think this was a bipartisan process. I don't think it was a bipartisan result. I think, though, it rests with this body to try the case. It is clear under the Constitution that this body has the power, the sole power, to try impeachment. The Chief Justice in the Nixon case made that very clear.

I am not going to comment on the independent counsel's assistance to the House manager with Ms. Lewinsky. I think that is for you to decide whether that is consonant with how you decide the case ought to be tried. But I think that the presentation of the articles to this body has been neither fair nor bipartisan.

The CHIEF JUSTICE. This is a question from Senator LOTT to the House managers:

> Do you have any comment on the answer just given by the President's counsel?

Mr. Manager HYDE. Mr. Chief Justice, Members of the Senate, I welcome this opportunity to fill in a considerable gap in the record.

Mr. Counsel Kendall said earlier today or perhaps yesterday—it was yesterday—"We never had a chance to call witnesses ourselves, to examine them, to cross-examine them, to subpoena documentary evidence, at no point in this process."

On October 5, 1998, the House Judiciary Committee passed House Resolution 581 by voice vote, the impeachment inquiry procedure, which included the right to call witnesses for the President.

On October 21, the House Judiciary Committee staff met with Mr. Ruff, Mr. Kendall, and Mr. Craig. At that time, the Judiciary Committee staff asked the White House to provide any exculpatory information, provide a list of any witnesses they wanted to call, without result.

On November 9, the House Judiciary Committee wrote to Messrs. Ruff, Kendall, and Craig and again informed them of the President's right to call witnesses.

On November 19, Independent Counsel Starr testified 12 hours before the House Committee on the Judiciary. President's counsel was given the opportunity to question the independent counsel. He did not ask a single question relating to the facts of the independent counsel's allegations against the President. Now, the Democrats have Mr. Kendall, they had Abbe Lowell; we had Dave Schippers. That is not an invidious comparison.

On November 25, I wrote a letter to the President asking the President, among other things, to provide any exculpatory information and inform the committee of any witnesses it wanted to call, without success.

On December 4, two working days before the presentation of the President to the Judiciary Committee, counsel for the President requested to put on 15 witnesses. The White House was allowed to present all 15 witnesses. Not a single one of those was a fact witness.

Lastly, I quote from a letter from Mr. Kendall to Mr. Bittman. It is in volume 3, part 2 of 2, page 2326:

> That you now request we submit exculpatory evidence is perfectly consonant with the occasionally "Alice in Wonderland" nature of this whole enterprise. I am not aware of anything that the President needs to exculpate.

The CHIEF JUSTICE. This question is from Senator LEAHY to the White House counsel:

> The managers argued in response to a previous question that would set a bad example for the military to acquit the President. Given that argument, how could you reconcile the statement by Manager HYDE after Caspar Weinberger was pardoned by President Bush of multiple criminal violations,

including perjury, that, "I'm glad the President had the chutzpa to do it. The prosecution of Weinberger was political in nature, an effort to get at Ronald Reagan. I just wish us out of this mess, the 6 years and this $30 or $40 million that has been spent by independent counsel Lawrence E. Walsh"?

Mr. Counsel RUFF. The question, in virtually every respect, speaks for itself.

But I would make this point because I think it fleshes out a bit my earlier answer and responds in some fashion to the argument made by the managers on this very issue. I was probably too lawyerly, as is my wont, in responding to the earlier question on this issue by Senators WARNER and THURMOND, because I think the one point that needs to be made in the context of Senator LEAHY's question which goes to the leadership of the Secretary of Defense and the issue of what it means to undertake the removal of a President, the distinction that I think we all need to hold on to that I probably glided over too rapidly in my earlier answer, is that the President of the United States is elected by the people of the United States.

He appoints the Secretary of Defense; he appoints the officers in the military; he appoints the judges. And the Senate plays a role in that process by approving his choices, or occasionally not approving his choices. But there is only one person who is put in his job with the voice of the people, and however we may be concerned, as rightly we should, if that person oversteps the bounds either of his office or his personal conduct, to say that there is some one-to-one, or any other number you can think of, comparison between the impact of enforcing the law on those civilian and military personnel who serve our country and the very different question of whether the voice of the people will be stilled by removing the President is the point on which I think this body needs to focus.

The CHIEF JUSTICE. This question is from Senators KYL and MACK to counsel for the President:

Mr. Ruff said President Clinton was never asked in the grand jury whether everything he testified to in the Jones deposition was true. If he were asked, would he say it was all true? Would the President be willing to answer an interrogatory from the Senate asking that question?

Mr. Counsel CRAIG. Senator, it is true that he testified that he tried to be truthful in the Jones deposition, that it was his purpose to be accurate in the Jones deposition. He tried to navigate his way through a minefield without violating the law, and believes that he did. There is no statement in that testimony in the grand jury that reaffirms, ratifies, and confirms all of his testimony in the Jones deposition.

Now, we would be happy to take questions and get responses to you, consult the President, if you would like to submit them.

The CHIEF JUSTICE. This is a question from Senator MURRAY to the White House counsel:

Has Ms. Lewinsky ever claimed that she was sexually harassed by the President?

Mr. Counsel KENDALL. Mr. Chief Justice, Ms. Lewinsky has made no such claim. What happened between the President and her was improper, but it was consensual. To say that does not excuse it or sugarcoat it or justify it, but it does, I think, put it in the proper context. She has never claimed that she has any evidence at all relevant to sexual harassment by the President. When the President—and I went through this on Thursday in respect to the obstruction of justice allegation, about the President stating that she could file an affidavit. The President and Ms. Lewinsky reasonably believe that she could have filed a limited but truthful affidavit.

And I think you have to look to the fact that the Jones case was not a class action. It was a suit only about what Ms. Jones claimed happened in May 1991 in a Little Rock hotel room. The December 11 ruling on discovery was a ruling not only on admissibility, but discovery. The President believed that an affidavit—a truthful affidavit—might be successful—not that it would, but that it might be.

Now, in filing such an affidavit, in preparing it, no particular form was necessary. There was nothing to dictate what had to go in and what had to go out of it. There were many witnesses on the witness list. The end of discovery was approaching, and there was at least some chance, they thought, that a factual affidavit, which was limited, might accomplish the purpose. And I think this is confirmed by the fact that when Judge Wright considered whether to order Ms. Lewinsky's deposition, she issued a ruling on January 29 saying that the deposition would not go forward because evidence from Ms. Lewinsky would not be admissible at the Paula Jones trial because it was both irrelevant to the court allegations and it was inadmissible as extrinsic evidence of other facts.

So I think that Ms. Lewinsky had nothing whatsoever to offer on the critical issue in the Paula Jones case, which was an issue of sexual harassment.

The CHIEF JUSTICE. This is a question by Senator SHELBY to the House managers:

Would a verdict of not guilty be a stronger message of vindication for the President than a motion to dismiss, or, in the alternative, a motion to adjourn? And what are the constitutional implications, if any, if a motion to dismiss prevailed, short of concluding the trial?

Mr. Manager HYDE. Mr. Chief Justice, Members of the Senate, there are various options. It is really a misdirected question, if I may say, to ask us to suggest the consequences of solutions to this dilemma that we are in. I think the beauty—and that is not the word—I think the advantage of proceeding with the articles of impeachment is it is consonant with the Constitution. It is simple; it is clean: either guilty or not guilty.

The consequences of that verdict, of course, are up to any individual who casts a vote. Now, I have heard the word "censure" sometime before. You gentlemen and ladies do anything you want to do. It is your power, it is your authority, it is in your yard, but you have to deal with the Constitution, no matter what you do.

You have a problem of a bill of attainder, a problem of the separation of powers, and you have a problem that any censure, to be meaningful, has to at least damage the President's reputation; and that becomes, in my judgment, a bill of attainder, but that, again, is up to you. The consequences, I don't think, will harm us, whatever you do. We have done our best. We have lived up to our responsibility under the Constitution, and all we ask is that you live up to your responsibilities under the Constitution and give us a trial. I am sure you will.

The CHIEF JUSTICE. This is a question to the President's counsel from Senator LEVIN:

Monica Lewinsky has explicitly said in her handwritten proffer that "no one encouraged" her to lie. Yet, House Manager ASA HUTCHINSON claimed to the Senate, using inferences, that Ms. Lewinsky was "encouraged" to lie. Do the House managers argue that such inferences are as credible as Ms. Lewinsky's direct testimony to the contrary?

Mr. Counsel RUFF. I think Senator LEVIN's question goes to the heart of much of what we have been saying for the last few days. If, in fact, you look at the five volumes stacked up in front of my colleague, Mr. Kendall, you will see Ms. Lewinsky say not just once, but many times, in essence: I was never told to, never encouraged to lie, never traded an affidavit for a job, never did any of the things that lie at the very heart of the managers' case. And so what do we have, then? We have the managers trying to snatch a bit of evidence here, a bit of speculation there, or a bit of extrapolation over there, and say, well, she really didn't mean it when she said several times quite directly, "Nobody ever told me or encouraged me to lie."

It is possible, of course, whenever one deals with circumstantial evidence, to make reasonable leaps from that evidence to some viable conclusion. But I think most courts that we are familiar with—and those of you who practice law are familiar with—would have a good deal of difficulty in concluding that if I take a little bit here and a little bit there and a little bit over there, pull them all together into some vast speculation about what was really in someone's mind, and on the other side I have the person saying what is in her mind and saying the opposite, I don't think that case would ever get to the jury.

And maybe it is one of the things that worries me just a little bit about the normal, everyday—we do it all the time in conference between the managers and the independent counsel and Ms. Lewinsky—that maybe in that setting, to the independent counsel gently patting Ms. Lewinsky on the back and telling her it is time to cooperate, maybe the message will become closer to their side and their speculation, don't stay where you were, which is what you told the grand jury, the FBI, and us under oath and not under oath on multiple occasions, which is, indeed, "Nobody told me to, nobody encouraged me to lie."

The CHIEF JUSTICE. This is a question from Senator BOND to the House managers:

> When Ms. Mills described the President's testimony before the Jones grand jury, she said the President was "surprised" by questions about Ms. Lewinsky. What evidence is there of the President's knowledge that Lewinsky questions would be asked? Is there evidence that he knew in advance the details of the Lewinsky affidavit which his counsel presented at the Jones deposition?

Mr. Manager HUTCHINSON. Thank you, Mr. Chief Justice.

There are numerous evidences in the record to show that the President was not surprised about the questions pertaining to Monica Lewinsky at the January 17 deposition. First of all, in regard to the affidavit testimony of Monica Lewinsky—I believe it was January 6—5th or 6th—is that she discussed that with the President, signing that affidavit, and the content of the affidavit. That is whenever he made his statement, "I don't need to see it. I have seen 15 of them."

Again, we don't know what he is referring to in reference to that "15." But clearly, according to Monica Lewinsky's testimony, she went over the contents of that, even though she might not have had it in hand, with the President.

Also, circumstantially, there is a conversation between Mr. Jordan and the President during this time.

But in addition, let me just recall something I made in my presentation—that a few days before the President's deposition testimony, that it was Michael Isikoff of a national publication called Betty Currie and asked about courier records on the gifts. This startled Betty Currie, obviously, because the gifts at that point were under her bed. As she recalled, she probably told the President that. And then second, she went to see Vernon Jordan about that issue.

All of that leads you to believe, clearly, that the President fully knew that when he went into the deposition on January 17, that he would be asked time and time again about the specifics of his relationship with Monica Lewinsky.

So I think that addresses part of that question.

Let me remark on what Mr. Ruff just said—I am just constantly amazed—about our effort to interview witnesses, because yesterday Mr. Ruff—I believe it was; it might have been Mr. Kendall; excuse me if I have gotten the attribution wrong—but criticized us, saying they want to call witnesses but they have no clue what these witnesses would say. Do you recall that? That was the argument yesterday. And so, if we make an effort to determine what these witnesses would say, then we are criticized for trying to find out what they would say.

So I think that again it is more convenient to talk about what the managers are doing, what the process is, rather than the facts of obstruction.

The CHIEF JUSTICE. This is a question to the White House counsel from Senator KENNEDY:

> Would you please respond to Manager HYDE's suggestion that an acquittal would send a bad message to the children of the country, and to Manager HYDE's statements regarding the fairness of the process in the House of Representatives?

Mr. Counsel CRAIG. Mr. Chief Justice, thank you for that question.

Children—what do we tell the children? Well, ladies and gentlemen of the Senate, that is not an academic question for me and for my wife. I assume that is the case for many, many families all over this country. We happen to have quite a few children, and they are very young; they are under 12. And we talk about what is going on here. We talk about how important it is to tell the truth, and we talk about how wrong it was for the President of the United States not to tell the truth. And we think that we have learned a lot by going through that process. We have talked about what President Clinton did and why it was wrong.

With all due respect to the chairman of the House Judiciary Committee, I and my wife—and I don't think many parents when they raise their children rely every day on messages or resolutions from the Congress of the United States to tell them that it is important to teach children the importance of truth telling.

I am a little bit disappointed in the inference of the argument that those of us who oppose impeachment, for the reasons that you understand, somehow are sending a message that it is OK to kids not to tell the truth. I am a little bit disappointed in that argument, because I don't think that is the way the parents of this country feel. That is certainly not the way I feel. And I don't believe that impeachment is a question of what you tell your children about truth telling. Of course you tell your children to tell the truth. Of course you tell your children the difference between right and wrong. I am surprised that it is an issue here.

The second part of your question, Senator: I went through that House of Representatives experience, and I must say that I was disappointed in it, because we had been promised bipartisanship. When the Office of Independent Counsel sent its referral to the House of Representatives, White House counsel did not have access to that document before it was released to the world. When the Office of Independent Counsel sent its 60,000 pages, 19 boxes of evidence, to the House of Representatives, we were not given access, the way Members of the Judiciary Committee were, to all that material. We were given access to a very limited amount of material in the course of that process. In fact, much of that material we never had access to on behalf of the President.

We were disappointed that there was no actual discussion of the constitutional standards for impeachment before they went forward to vote on an impeachment inquiry. We thought that was the cart before the horse.

We were disappointed and we regretted that grand jury materials provided with promises of confidentiality were dumped into the public with salacious material, unfiltered by the House of Representatives and the Judiciary Committee, and we saw party line vote after party line vote after party line vote over and over and over again in the Judiciary Committee. We were disappointed that the depositions went forward without our participation. We were disappointed there was no definition of the scope of the inquiry. We were disappointed that there was no term of time, no limitation on either the scope or the time of this inquiry. And we were disappointed that there was no adequate notice of the charges.

There were two events that happened near the end of this process that I think were particularly disappointing to us. One was that while the debate was underway on the House floor, Members of the House of Representatives were taken into the evidence room and shown evidence that was not in this record, that had not been included in the discussion in the House Judiciary Committee, that had never been shown to counsel for the President, that was not in the referral and became a factor in the decisionmaking at least of some Members of the House—unfairly so, I think.

And finally, we were disappointed that the Members of the House of Representatives were denied the right and the opportunity to vote for censure. They were promised the right to vote their conscience. They were told they could vote their conscience. And if they had been given that right to vote their conscience, we may not be here today. We might have had the resolution of censure and this thing might have been resolved, and that was the greatest disappointment of all.

Thank you.

The CHIEF JUSTICE. This is a question from Senators BENNETT, BROWNBACK, CAMPBELL, HAGEL, ROTH, SPECTER and MCCONNELL to the House managers:

> Would each of the managers who have been prosecutors prior to being elected to the House of Representatives please state briefly whether he believes he would have sought an indictment and obtained a conviction of an individual who had engaged in the conduct of which the President is accused?

Mr. Manager BRYANT. Mr. Chief Justice, I know there are several, probably not only at our table, but all across this Senate, who have had some experience somewhere in prosecution of cases. I would just briefly say that—and I think it has probably been said very well today more eloquently than I will say it, not only from some of the people on our side, but even some of the people on the President's side have talked about this same concept of justice and the rule of law—it is so important in our system of justice that the American people have confidence in that.

And one of the ways that I found in my experience that confidence sometimes suffered were phone calls that occasionally you would receive where there had been an allegation that someone in an elected office or some public official in particular had, allegedly again, committed a crime or perhaps been charged with a crime with allegations of coverup because of who that person was—there was not equal justice out there, people were being treated differently and specially. And that happens, that comes with our territory. We are very visible people. Certainly the President of the United States is the most visible of us.

As I said in my opening remarks, he is a role model for many people. And certainly when these kinds of allegations come up against the President, people raise these kinds of thoughts and complaints.

As a prosecutor, I would find this type of charge particularly of concern not only because of the perjury, which is so important because, as I said earlier, too, truth underpins our whole system, but I find it equally compelling as a prosecutor that a person of this visibility, of this responsibility not only commits a crime himself, but he brings someone else into that. He ensnares another person, actually other people into this, the coverup, the obstruction part—Monica Lewinsky, Betty Currie, Vernon Jordan, all the White House people that we have talked about. He brings other people into this and causes other people to commit crimes. I would view that even more seriously because of the fact that he made other people commit types of crimes. And because of that, I think as a prosecutor, were this another person, a John Doe of some visibility, a local district attorney, a local mayor or someone like that, there would be no doubt that the allegations would have to go to court.

And I might add in line with this that we have heard of this selecting the President out of this process by saying, well, we should not consider him like we would a Federal judge or like a general that we are talking about maybe promoting to head the Joint Chiefs of Staff or a captain for promotion to major or really anyone else here. It almost seems that—yes, he is different, but it almost seems that we want to treat him like a king because he is the only person we have got here, and because he is the only one, we can't look at him like a thousand judges or 200 generals or other public officials.

I think that is a fallacious argument. If the facts are there, no matter if this man is the President, to me that is what the Constitution is about. I think they set up this process to avoid a king and a kingdom.

I will yield time to Mr. MCCOLLUM.

Mr. Manager MCCOLLUM. I will be much briefer in answering that question, Mr. Chief Justice.

I served as a military judge advocate for 4 years on active duty, 20 more years in the Reserves. I was a prosecutor, defense attorney and military judge. I think this is a very compelling case on the evidence. I would never hesitate to take this to trial if I were prosecuting the crimes of perjury, obstruction of justice, or any of the military offenses that might be included in here. But just on the criminal charges which are in the UCMJ, I would certainly do so if given the opportunity for all the reasons and then some that Mr. BRYANT gave.

Mr. Manager BARR. Mr. Chief Justice, to me this is not a hypothetical question in any sense of the word. As a United States attorney under two Presidents, I had the opportunity not only to contemplate bringing such cases based on the evidence and the law but actually having the responsibility of carrying those cases out and prosecuting them, including a case that probably cost me a primary election in the Republican Party for prosecuting a Member of Congress for precisely the activity which brings us here today; that is, perjury, misleading a grand jury.

So the answer to the question, Mr. Majority Leader, is not only yes but absolutely yes.

The CHIEF JUSTICE. Mr. HUTCHINSON.

Mr. Manager HUTCHINSON. I know we have run out of time. The facts and law support it, and the answer is yes. And may I add that Mr. ROGAN who has certainly prosecuted, Mr. LINDSEY GRAHAM, and Mr. GEKAS, all would—if you would like to join in that. Otherwise, we all would affirm that the answer is yes.

The CHIEF JUSTICE. This is a question to the President's counsel from Senators BOXER and JOHNSON:

> The managers repeatedly assert that if the Senate acquits President Clinton, the Senate will be making the statement that the President of the United States should be held above the law. If, as the managers concede, President Clinton may be held accountable in court for the charges alleged in the House articles regardless of the outcome of the Senate trial, how could a Senate vote to acquit the President be characterized as a vote to place him above the law?

Mr. Counsel RUFF. I suppose the one quote that has been heard most often throughout these proceedings in the House and in this body is Theodore Roosevelt's, and I won't repeat it except to go to the heart of this question. The fact that we are having this trial in this Chamber, the fact that we had an impeachment proceeding in the House, is itself part of our rule of law. The President is immersed in the application of the rule of law at this very moment. And the rule of law, as I think my colleague, Ms. Mills, said, is neither a sword nor a shield, depending on your perspective. We are all subject to it and we live with its outcome, if it is fair and is consistent with the system of justice that we have developed in the last 210 years.

And, so, the verdict here, if it is "not guilty" as I trust it will be, or if this trial is ended appropriately through some other legal motion or mechanism, as long as it is done within the rule of law, will have met all of our obligations. And most importantly, it will have ensured that the President is treated neither above nor below.

But certainly the one issue that is raised in this question is important to focus on, because this is not a situation in which the President walks away scot-free no matter what happens, not to mention the personal pain and the pain that has been suffered in going through this process. The President has said, and I have said on his behalf, that he will not use his powers, or ask anyone else to use their powers, to protect him against the application of the rule of law. Moreover, just in case it has slipped anyone's mind—and it has occasionally been misstated in other forums—the statute that has allowed the independent counsel to pursue the President for the last 4-plus years specifically provides that he retains jurisdiction over the President for a year after the President has left office.

So there can be no argument that, oh, this will just fall into the cracks, or this will disappear into the ether somewhere. The President will be at risk. We trust that reasonable judgments will be made and a determination will be reached that it is not appropriate to pursue him. But that, too, will be pursued under the rule of law to which he is subject.

The CHIEF JUSTICE. This is a question from Senators CAMPBELL, HAGEL and SPECTER to the House managers:

> White House counsel have several times asserted that the grand jury perjury charge is just a "he says, she says" case and that we cannot consider corroborating witnesses you cite. What is it about the President's grand jury testimony that convinces you he should be removed from office?

Mr. Manager McCOLLUM. Mr. Chief Justice, that question goes to the heart of what we are here about today. We have had a great deal of discussion about a lot of peripheral questions and issues, but the fact of the matter is, the simplest portion of this deals with grand jury perjury, and I assume the question principally is directed to the first of four points under the grand jury perjury article, because, for example, the second point with respect to the President having the goal or the intent of being truthful—which he said he did in the grand jury in the Jones deposition—there isn't a "he says, she says" question.

That is just very simple. The President lied multiple times in that civil deposition, and if he said in the grand jury to the grand jurors, "My goal was to be truthful," it is pretty self-evident that that was a lie and he perjured himself. So that is not a "he says, she says."

But the question that the counsel over here has tried to bring up several times, saying the part with respect particularly to Monica Lewinsky saying that the President touched her in certain parts of her body which would have been covered by the Jones definition of sexual relations, and the President who said explicitly in his grand jury testimony, "I didn't touch those parts," and, "Yes, I agree that would have been and is part of the definition of sexual relations in the Jones case"—that is, whether you believe her or him, and they say that is a "he says, she says," and it is not.

But even if it were, you could listen to it and accept it. I think there is some confusion about the law. The law of grand jury perjury does not require two witnesses. Nor does it require the corroborating testimony of anybody else. It does not. That is why, in 1970, it was changed, and most prosecutions today for perjury, including people who are in Federal prison today for perjury in civil cases for lying about matters related to sex—and there are several, a couple of whom testified before us in the Judiciary Committee during our process and hearings—are based upon that 1970 law that does not require any corroboration.

In this case, you have Monica Lewinsky, who is a very credible witness by other reasons, so that you don't even have to get to those corroborating witnesses on those points. No. 1, she was under immunity under the threat of prosecution when she testified that way. No. 2, she has consistent statements throughout, many times over. She didn't say she had sexual intercourse with him. She could have made that up, but she didn't. Everything she says is believable about that portion of it. And third, and not last in all of this, is that she did make very contemporaneous statements to at least six other people who were her friends and counselors, describing in detail exactly the same thing she testified to under oath before the grand jury in this respect.

Now they say, the counselors here, you can't consider that under the Federal Rules of Evidence because that is, presumably, hearsay. Well, there are at least three exceptions to that hearsay rule which could be brought out in a courtroom. They have gone about trying to carefully say we have never said that Monica Lewinsky lied.

I remember, I think it was Mr. Kendall or maybe it was Mr. Craig up there a little earlier, saying when asked that question, "Did she lie in this instance or in any other?" and they say it is just a different version of the truth. If she is saying it as explicitly as she is about this nine times or four times or whatever, and the President is saying I never did that, I don't see how they can fudge around, challenging her truthfulness and credibility.

That is what they have been doing. And in any courtroom I have ever been in, once that has occurred you can certainly bring in her prior consistent statements, and you don't even have to go with the rules of evidence on this. You are not bound by those rules of evidence. And common sense says she had no motive to be lying to her friends in those numerous telephone conversations or her meetings with her counselors when she described in detail these things the President says he didn't do, because all of those statements occurred, all of those discussions occurred before she ever was knowingly on a witness list or likely to have to testify in any other way.

She is very credible. Those prior consistent statements are very believable, and I submit to you they would be admissible in a court in the kind of contest that would be involved in a situation like this. It goes to the very heart of what we are here about—grand jury perjury, the simplest, clearest one. The President lied. Monica Lewinsky told the truth about it. And it is profound and it is important and it is critical to this case. And that is the principal one of the perjuries that we have been drawing your attention to because it is so clear. Thank you.

The CHIEF JUSTICE. This is a question from Senator DORGAN to counsel for the President:

> How can the House claim that its function is accusatory only, when the articles it voted call for the President's removal?

Mr. Counsel RUFF. This, of course, takes us back to the very heart of the argument that raged for a small time here yesterday and on previous days, the notion that the House of Representatives viewed itself during the month of December as merely—I won't even say that it rose in their mind to the level of an accusatory body that we would think of when we think of the grand jury, but to a body whose job it was, as one of the managers said at one point, simply to find probable cause to believe that the President had committed these acts.

Perhaps there has been some extraordinary transposition from the mood and the tenor of the comments made during those days when the Judiciary Committee was doing its work to the days when these managers have appeared in the well of the Senate, something that has transformed the mere probable cause screening finding that they allegedly viewed as the role of the House and the Judiciary Committee into the certainty that you hear today.

It is a good question, as to how, then, given the role they saw for themselves, they could go so far, not only to seek the removal of the President but, indeed, to add in all their prosecutorial vigor something that has never been sought before, a bar against holding any future office, at the level of certainty that they must have achieved given the standard that they held themselves to. What happened between December 19 and today that allows these managers to come before you not saying, "Well, we were certain then and we're more certain now," or "We only found probable cause back in 1998, but in 1999 we are sufficiently certain that we ought to shut down the public will as expressed in the elections of 1996."

I haven't yet found an answer to that question.

The CHIEF JUSTICE. This question is from Senators BOND, BROWNBACK, CAMPBELL, HAGEL, LUGAR, HUTCHISON of Texas, ROTH and STEVENS. It is directed to the House managers:

> After everything you have heard over the last several weeks from the President's counsel, do you still believe that the facts support the charges of obstruction of justice alleged in the articles of impeachment? Specifically, what allegations of improper conduct has the President's counsel failed to undermine?

The question is also from Senators SPECTER and McCONNELL.

Mr. Manager HUTCHINSON. Thank you, Mr. Chief Justice. First of all, why is obstruction of justice important to begin with? I think back on an opportunity I had at a hearing once to question a member of the Colombian drug cartel. I asked him: "What is the greatest weapon that law enforcement has that you fear?"

His answer was very quickly, "Extradition."

I said, "Explain. Why is extradition feared?"

He said, "Because in Colombia, you can fix the system, but in America you can't."

That is why I think the obstruction of justice charge is so important to the administration of justice. Money, position, power does not corrupt, should not corrupt the administration of justice.

The question is, Where has the President attacked, counselors attacked credibly the allegations of obstruction? The first one is that the President personally encouraged a witness, Monica Lewinsky, to lie. This is on December 17 at 2 a.m. in the morning when the President calls Monica to tell her that she is a witness on the list—2 a.m. in the morning. At that time, of course, she is nervous, she is a witness and asked, "Well, what am I going to say?" And the President offers, according to Monica Lewinsky, you can always say you came to see Betty or you came to deliver papers.

The President's counselor attacked this by saying, "Well, remember what Monica said, 'I was never told to lie.'" I refer you to a Tenth Circuit case, United States v. Tranakos, Tenth Circuit, 1990. The law is that the request to lie need not be a direct statement. As the court held:

> The statute prohibits elliptical suggestions as much as it does direct commands.

That is common sense. That is logic. That is what a jury applies—common sense. And here, of course, in this case, Monica Lewinsky testified that she was told, in essence, to lie. The President didn't say, "Monica, I need you to go in and lie for me." He told her the cover story in a legal context that she could use that would cover for him that, in essence, would be a lie. We all know that is what it is.

Of course, the President says—well, he denies that. Of course, he said, I never told her to use the cover stories in a legal context, directly in conflict, but clearly the President's counselors have not attacked that obstruction of justice.

The second one is the jobs and the false affidavit. They say there is absolutely no connection in these two, none whatsoever. Of course, I pointed out the testimony of Vernon Jordan who testified it doesn't take an Einstein to know that whenever he found out she was a witness, she was under subpoena, that the subpoena changed the circumstances. That is the testimony of Vernon Jordan. They say there is no connection. Vernon Jordan, the President's friend, says the circumstances change whenever you are talking about getting a job with somebody who is also under subpoena in a case that is very important to the President of the United States.

Of course, Vernon Jordan also indicated the President's personal involvement when he testified before the grand jury in June. He said he was interested in this matter: "He"—referring to the President—"was the source of it coming to my attention in the first place."

He further testified: "The President asked me to get Monica Lewinsky a job."

The President was personally involved in the obtaining of a job. He was personally concerned about the false affidavit, and Vernon Jordan acknowledges that when those are combined, the circumstances are different.

The third area of obstruction is tampering with the witness, Betty Currie, on January 18 and January 20 when the questions were posed after the deposition. The President's counselor challenged this and said, Well, she wasn't a witness. Even the Jones lawyers never had any clue that she was going to be a witness in this case. The President couldn't know that she was going to be a witness.

They hoped that we would never find the subpoena, because Mr. Ruff made that statement early on, which he very professionally expressed regret that he made that misrepresentation, but we found the subpoena. We found the subpoena that was actually issued a few days after the deposition for Betty Currie. She was a witness; she was not just a prospective witness. She was there, she had to be ready to go and the President knew this and the Jones lawyer knew it. So that stands. The pillar of obstruction stands.

The false statements to the grand jury—that has been covered. There has never been any holes that have been poked into that, but it was to continue the coverup of the false statements that were made in the civil rights case.

Another area of obstruction was December 28 when the gifts were retrieved, and this has been challenged. I will admit, as I always have, that there is a dispute in the testimony. But I believe the case is made through the circumstances, the motivation, the testimony of Monica Lewinsky as to what Betty Currie said when she called and the corroborating evidence. I don't believe they have poked a hole in that. I believe it stands. We would like to hear the witnesses to make you feel more comfortable in resolving that conflict and determine the credibility of those witnesses.

But the gifts that were subpoenaed were evidence in a trial; they were needed in a civil rights case. The President knew they were under subpoena; he had the most to gain, and they were retrieved. And I believe the testimony indicates that it was based upon the actions of Betty Currie that would have been directed by the President.

There are other areas of obstruction, including the President allowing his attorney, Robert Bennett, to make false representations to the Federal district judge in the deposition. The President's defense is that there is no proof whatsoever that he was paying any attention. We offered the videotape that shows he is believed to be looking at the attorney, but we would offer a witness in that regard to show that he was attentive. That is simply something that can be substantiated.

We believe that you can evaluate that, that he was paying attention, but that is an element of obstruction because he was allowing his attorney to make a false representation to the court that was totally untrue, that would aid in the coverup and that was presented.

The CHIEF JUSTICE. Mr. HUTCHINSON, I think you have answered the question.

Mr. Manager HUTCHINSON. I thank the Chief Justice.

The CHIEF JUSTICE. This is a question from Senator LEVIN to counsel for the White House:

> In their brief to the Senate, the House managers said that there was "no urgency" to help Ms. Lewinsky until December 11, 1997, and that on that day "sudden interest was inspired" by a court order, which the House managers had represented was issued in the morning of December 11, before the Vernon Jordan/Monica Lewinsky meeting that afternoon.
>
> It took some doing yesterday to get the House managers to finally acknowledge that the court order was not issued in the morning, but in the afternoon of December 11. Why were the House managers so reluctant to make that acknowledgment?

Mr. Counsel KENDALL. Mr. Chief Justice, well, I think they were reluctant to make the acknowledgement because they were in cement due to their trial brief, which at page 20, as the question indicates, said, as to this particular time period after the December 6 meeting, "There was obviously"—there was obviously—"still no urgency to help Ms. Lewinsky." They thought that they had a chronology that was consistent with the inference of causation. But when you look at the true time of the events, that dissolves.

Now, Mr. Manager HUTCHINSON used a word repeatedly, a phrase I would like to call your attention to, as he was summarizing the evidence. He used the phrase: "In essence." Now, that is another phrase that is kind of a weasel word. When you hear that, it means that the evidence isn't really quite there, but if you look at the big picture maybe you can see what is there "in essence." It doesn't work here. It doesn't work because of the evidence.

Just a week ago, Mr. Manager HUTCHINSON, on this obstruction of justice question, was asked very clearly: "On the case that you have against the President on obstruction of justice, not the perjury, would you be confident of a conviction in a criminal court?" And he said, "No, I would not."

Now, I am not going to walk through each and every element that he identified. I think we have repeatedly dealt with them. And I am not going to step on your patience to do that again each time.

I would like to make two points. That is, in terms of encouraging Ms. Lewinsky to lie, were these cover stories an attempt to encourage her to lie? As I tried to indicate, there is testimony in the record that at a certain time in the relation these cover stories were discussed. There is not any evidence, however, from Ms. Lewinsky, the President, or anyone else, that these were discussed in connection with the testimony, in connection with the affidavit. You remember Ms. Lewinsky, when asked if she could exclude that possibility, said, "I pretty much can."

Now, the testimony that Mr. HUTCHINSON mentioned with Mr. Jordan on December 19, you remember he quoted Mr. Jordan. He said the discovery of the subpoena at that point changed the circumstances. Well, it did, but just in the opposite way that Mr. Manager HUTCHINSON would have you infer, because when Mr. Jordan discovered, on December 19, that Ms. Lewinsky had a subpoena, was going to testify in the Jones case as a witness, unless she could get it quashed, he went to her and went to the President to seek assurance that the job assistance he was engaging in could not at any time be said to be improper because of the presence of an improper relationship. Both parties assured him there was no such relationship. This observation by Mr. Jordan cuts just the opposite way.

Thank you.

Mr. LOTT addressed the Chair.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. LOTT. Mr. Chief Justice, I do have another question I will send to the desk momentarily, but I would like for the Senators to know that we have had some 104 or 105 questions now that have been asked. I believe that is correct—104. Senator DASCHLE and I conferred. We want to thank the Senators for their participation and their questions. We do want to make it clear we are not seeking questions. (Laughter.)

So don't feel like you need to help us by sending them down. But under your rights as Senators, under the Senate Resolution 16 and the rules we are proceeding under, every and each Senator is entitled to submit a question if he or she feels it is important, but I hope that it will be one that you think really is essential that has not been touched on somewhere already in the answers to the questions and also would hope—and that the RECORD be made clear—that we, in a bipartisan way, have tried very hard to make sure that this proceeding here and the question period, and all we have done, has been fair both to the President's counsel and the House managers. And we will continue to work in that vein.

With that observation, and if we do need to continue going forward with questions, we would have to give some consideration of taking a break and going longer, although I had indicated I hoped we could quit at 4. Maybe after this question and, if necessary, one or two more, we could end for the day and then get together and see if we need more time on Monday for additional questions.

I send the next question to the desk.

The CHIEF JUSTICE. This is a question from Senators COCHRAN, ROTH, CAMPBELL and FRIST to the House managers:

> The President's counsel has suggested that the Senate has considered a "good behavior" standard in impeachment cases involving Federal judges. The removal of judges seems to have been based by the Senate on the impeachment power whose standard for removal is the same for both Federal judges and executive branch officials. Is the counsel for the President asking us to use a different test for removal of this President than we did in the case of Judge Walter Nixon? Please explain.

Mr. Manager CANADY. Mr. Chief Justice, Members of the Senate, I appreciate the opportunity to answer this question. It is an important question. And it is true that counsel for the President are asking that you use a different standard in this case than the standard you have already established, not in just one case but, in fact, in a series of cases involving Federal judges who were before the Senate in the 1980s. There was a succession of three cases in the Senate, all dealing with the question of whether a Federal judge who had lied under oath should be removed from office because the Federal judge had lied under oath. In all three cases, the Senate decided that the Federal judge should be convicted and removed.

Now, the President's counsel have the burden of establishing that those recent and very clear precedents of the Senate should not apply to this case where the President is charged with lying under oath. And they attempt to do that in a number of ways. But I would suggest, as you evaluate their attempt to distinguish away those precedents, that you look first and last to the Constitution.

The Constitution should be your guide. And I would suggest to you that there is nothing in the Constitution which establishes a different standard for the President—for any reason. There is not something in the Constitution that says he is subject to a different standard because he is elected. That argument had been advanced. If you look in the Constitution, you simply will not find that. And to argue for a different standard because the President is elected, I would submit to you, is to impose something on the Constitution that is entirely alien to the document itself.

The Constitution contains a single standard for the application of the impeachment and removal power. I have read it before, but I will read it again. Article II, section 4 provides:

> The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Now, reference was made in the question, and reference has been made by the President's counsel, to the good behavior clause. That is found in article III, section 1. That clause does not alter the standard I have just read to you, however. Rather than creating an altered standard for removal of Federal judges, the good behavior clause merely establishes that the term of office for judicial officers is life.

Now, I wouldn't ask you to take my word for this. Let me refer again to the 1974 report by the staff of the Nixon impeachment inquiry. There they asked the question: "Does Article III, Section 1 of the Constitution, which states that judges 'shall hold their Offices during good Behaviour,' limit the relevance of the. . .impeachments of judges with respect to presidential impeachment standards as has been argued by some?" That is essentially the question before the Senate now. Their answer was: "It does not." It does not. ". . .the only impeachment provision"—they go on to say—"discussed in the [Constitutional] Convention and [indeed]. . .in the Constitution is Article II, Section 4, which by its expressed terms, applies to all civil officers, including judges. . ."

Now, I would go on to note, it is very interesting that at the Constitutional Convention, on August 27, 1787, an attempt was made to amend the good behavior clause by adding a provision for the removal of judges by the executive on the application by the Senate and House of Representatives. Now, this proposal, which was offered by John Dickinson, was based on the English parliamentary practice of removal of judges by address, a practice also utilized by several American States. And under this process, judges could be removed for misconduct, falling short of the level of seriousness that would justify impeachment.

Now, the proposal offered by Dickinson was overwhelmingly rejected. It was overwhelmingly rejected by the Convention. Thus, the sole provision for removal and the sole standard for removal is that which I have referred to in article II, section (4).

Now, mention has been made, and I want to respond to this, because mention has been made of efforts of Congress to establish a separate procedure for the removal of Federal judges, a procedure separate and apart from the impeachment and removal process.

Specific mention has also been made of testimony given in 1970 by the Chief Justice, who was then an assistant attorney general, regarding a proposal to establish a separate removal procedure.

The testimony given by the Chief Justice at that time related to the constitutionality of the provisions of the bill relating to the removal of judges by methods other than impeachment.

Now, my own view, quite candidly, is that such a removal procedure raises serious constitutional questions—serious questions about maintaining the independence of the judiciary. Putting that question aside, and regardless of the standards that might be applied in such a separate removal procedure, it is clear that the single constitutional standard for impeachment and removal would remain the same. That is what is in the Constitution. That can't be changed by any statute or anything set up apart from the constitutional procedures.

Now, one thing I want to say as I move toward concluding my response: It should be recognized that some specific acts might be a breach of duty if done by a judge but not a breach of duty if done by the President of the United States. That is an important distinction that we all should bear in mind. For example, it would be serious misconduct for a judge to engage in repeated ex parte meetings with parties who have an interest in a matter pending before that judge; but it is typical for the President to engage in such ex parte meetings with persons who have an interest in matters on which he will decide. For a judge, such conduct constitutes a breach of duty; for the President, it does not constitute a breach of duty.

The CHIEF JUSTICE. Mr. CANADY, I think you have answered the question.

This question from Senator HARKIN is to counsel for the President:

> There are three contradictions in the record: One, who touched whom on what parts of the body; two, when the relationship began; three, who called whom to get the gifts, Ms. Currie or Ms. Lewinsky.
>
> How will these witnesses clear up the contradiction?

Mr. Counsel CRAIG. Mr. Chief Justice, Senator HARKIN, it is difficult for me to explain how, after you have gotten 19 interviews, 2 grand jury appearances, and 1 deposition to cover that precise territory, any further kind of inquiry along those lines would be of any help.

The House managers have argued that they need to call witnesses for the purposes of resolving inconsistencies, conflicts, and discrepancies in testimony. And they have, in fact, identified Monica Lewinsky in particular as having given testimony in conflict with the testimony of the President, with Betty Currie and Vernon Jordan.

But it would be well to remember that the lawyers for the Office of Independent Counsel certainly are not seeking to elicit testimony that is favorable to the President, that those lawyers have already done a great deal of this precise kind of inquiry at some great length. Those lawyers—no friends of the President—have already explored inconsistencies, they have already tested memory, they have already laboriously and at great length subjected these witnesses to searching scrutiny, and their work is available for all to see in the record of this case before the Senate today.

Let me be very specific and very concrete. Monica Lewinsky was interviewed by the lawyers for the Office of Independent Counsel or testified before the grand jury on 20 different occasions after Betty Currie and Vernon Jordan had given their testimony before the grand jury. And contrary to the assertions of the House managers, Monica Lewinsky was interviewed six times and testified twice—one time before the grand jury and once in a sworn deposition after the President had given his testimony before the grand jury on August 17.

On August 19, she was interviewed by the FBI and by lawyers for the special counsel. She testified before the grand jury—Ms. Lewinsky testified before the grand jury on August 20. She was interviewed by lawyers and FBI agents for the independent counsel on August 24. She was interviewed on August 26. She appeared for a deposition held in the conference room of the Office of Independent Counsel on August 26. She was interviewed pursuant to her immunity agreement with independent counsel and FBI agents on September 5. She was also interviewed—excuse me; that was September 3. She appeared and listened to tapes with the FBI present on many occasions during the period September 3 through September 6. She appeared and was interviewed by special counsel, independent counsel, on September 7 and September 5 and September 6.

So it raises a question as to whether or not the desire to interview Monica Lewinsky stems from a desire to resolve conflicts that she has with other people, because certainly these occasions gave the lawyers for the independent counsel an opportunity to do so.

I would simply submit that within the bounds of ethical behavior, I am sure, because I respect the professionalism of the House managers, but I would suspect that one of the reasons they want to inquire of Ms. Lewinsky is not to resolve discrepancies and disputes, it is to perhaps challenge her testimony when it is helpful to the President and perhaps bolster her testimony when it is not helpful to the President. The House managers are not neutral investigators, they are neutral interrogators.

It raises questions about what the managers' true purpose is in calling Vernon Jordan and Betty Currie forward as witnesses, what they want to inquire about if they conduct an interview of them. I suggest that this is also a bit of a fishing expedition, looking for evidence that will be damaging to the President.

We are not afraid of witnesses, but we do want fairness, and we don't think it is fair in this process. If you are going to have a real trial, then we want to have a real defense, and to have a real defense requires real discovery and real opportunity to have access to documents and witnesses and evidence that has been in the custody and the control of the House of Representatives, that has never been made available to us, that is in the custody and control of the Office of Independent Counsel, that has not been made available to us.

I suggest, as we have seen from the statements made by the managers to this body yesterday and today about Vernon Jordan suggesting—actually suggesting that he did not tell the truth when he testified numerous times before the grand jury, which is an outrageous suggestion, and suggesting, which happened today—implying that he destroyed evidence, which not even the independent counsel had suggested, they seek to do nothing more than to attack, attack, attack the best friend of the United States, the President of the United States, and his personal secretary.

That is the reason they want to talk to these people. I think it is an improper reason. It is wanting to win too much. I don't think the U.S. Senate should be part of it.

The CHIEF JUSTICE. This question is from Senators HAGEL, ABRAHAM, and HATCH to the House managers:

> White House counsel has indicated their opposition to calling witnesses, asserting that calling witnesses would not shed light on the facts and would unnecessarily prolong the proceedings. But it is the responsibility of the Senate to find the truth. And if any Senators reasonably believe that hearing witnesses would assist in finding the truth, why shouldn't they be called?

Mr. Manager McCOLLUM. Thank you, Mr. Chief Justice.

"Methinks thou doth protest too much." I think that is what White House counsel has been doing. I don't know why, but they, frankly, don't want witnesses. They don't want what you normally have in a trial. We can paint this with any kinds of colors you want to have, but a trial without witnesses, when it involves a criminal accusation, a criminal matter, is not a true trial; it really isn't. It is not what I think of, and I guarantee it is not what any of my friends sitting over here who have been counsel, prosecutors and defense lawyers, think of. It is remotely conceivable, but certainly not where you have had the inferences and the conclusions that we draw logically from the entire sequence of events that are painted from the very day when the President got word of Monica Lewinsky being on the witness list, and all the way through his testimony in the Jones case, all the way through the grand jury testimony, when they challenge every inference that you should logically draw from the record, and then suggest that, oh, but we should not have anybody in here; so you who are going to judge ultimately whether our representations are persuasive or not about those inferences, whether you should be able to judge—and I think you should—what the witnesses actually are saying.

I will give you one illustration. I don't know how many times—two or three times—I put up here on the board, or I have said to you—and I know a couple of my colleagues said to you—that during the discussion with regard to the affidavit that Monica Lewinsky had in front of the grand jury, she explicitly said: No, the President didn't tell me to lie, but he didn't discourage me either. He didn't encourage me or discourage me.

You need to have her say that to you. They have even been whacking away at that, confusing everything they can, talking about the job searches at the same time they are talking about the affidavit, what she said here, there, or anywhere else. Witnesses are a logical thing. There are a lot of conflicts that are here.

When we get to the point—which we presume we will get that opportunity to do—to argue our case on why we should have witnesses, maybe Monday or perhaps Tuesday—I think that even though you have a motion to dismiss, we will get that chance—we will lay out a lot of these things. There are a lot of them out there. But the point is, overall, you need to have the witnesses to judge what any trier of fact judges about any one of these.

I would be happy to yield to Mr. GRAHAM or Mr. ROGAN if they wish—neither one. That is fair enough.

Mr. LOTT addressed the Chair.

The CHIEF JUSTICE. The majority leader is recognized.

Mr. LOTT. Mr. Chief Justice, it now approaches the hour that we had indicated we would conclude our work on Saturday. There may still be some questions that Senators would like to have offered. I have talked to Senator DASCHLE.

One suggestion made is that maybe on Monday we would ask that questions could be submitted for the RECORD in writing. I think that is a common practice. We don't want to cut it off. At this point, I would not be prepared to do that. But I would like to suggest that we go ahead and conclude our business today, and if there is a need by a Senator on either side to have another question, or two or three, we will certainly consult with each other and see how we can handle that, perhaps on Monday, and even see if it would be appropriate to prepare a motion with regard to being able to submit questions for the RECORD, which would be answered. We would not want to abuse that and cause that to be a protracted process.

In view of the time spent here—in fact, we have had around 106 questions, and we are about 10 hours into this now—I think we should conclude for this Saturday. We will resume at 1 p.m. on Monday and continue in accordance with the provisions of S. Res. 16. I will update all Members as to the specific schedule when it becomes clear.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. I ask unanimous consent that in the RECORD following today's proceedings there appear a period of morning business to accommodate bills and statements that have been submitted during the day by Senators. I thank my colleagues for their attentiveness during the proceedings.

The CHIEF JUSTICE. Without objection, it is so ordered.

ADJOURNMENT UNTIL 1 P.M. MONDAY, JANUARY 25, 1999

Mr. LOTT. Mr. Chief Justice, I ask that the Senate stand in adjournment under the previous order.

Mr. HARKIN. I object.

Mr. LOTT. Mr. Chief Justice, I move that the Senate stand in adjournment under the previous order.

Mr. HARKIN. Mr. Chief Justice, I seek recognition.

The CHIEF JUSTICE. The question is on the motion to adjourn.

The motion was agreed to.

Thereupon, at 3:55 p.m., the Senate, sitting as a Court of Impeachment, adjourned until Monday, January 25, 1999, at 1 p.m.

(The following statements were submitted at the desk during today's session:)

LEADER'S LECTURE SERIES

• Mr. LOTT. Mr. President, in the past several months, through the Leader's Lecture Series, we have been honored to hear from some of America's most outstanding leaders. Speaking just down the hall in the stately Old Senate Chamber, these distinguished guests have shared recollections and observations of life in the Senate, in politics, in this great country. Their imparted wisdom allows us not only to add to the historical archive of this institution, but also to gain perspective on our own roles here. As sponsor of the series and a student of recent history, I am especially appreciative of their participation.

At the conclusion of each Congress, the Senate will publish the collected addresses of these respected speakers and make them available to the public. But their words should be recorded prior to that time. For this reason, Mr. President, I now request that the presentations of our most recent lectures—former President George Bush, who was here Wednesday night, and Senator ROBERT BYRD of West Virginia, who spoke in the fall—be printed in the RECORD.

The material follows:

REMARKS BY U.S. SENATOR ROBERT C. BYRD: THE SENATE'S HISTORIC ROLE IN TIMES OF CRISIS

Clio being my favorite muse, let me begin this evening with a look backward over the well traveled road of history. History always turns our faces backward, and this is as it should be, so that we might be better informed and prepared to exercise wisdom in dealing with future events.

"To be ignorant of what happened before you were born," admonished Cicero, "is to remain always a child."

So, for a little while, as we meet together in this hallowed place, let us turn our faces backward.

Look about you. We meet tonight in the Senate Chamber. Not the Chamber in which we do business each day, but the Old Senate Chamber where our predecessors wrote the laws before the Civil War. Here, in this room, Daniel Webster orated, Henry Clay forged compromises, and John C. Calhoun stood on principle. Here, Henry Foote of Mississippi pulled a pistol on Thomas Benton of Missouri. Senator Benton ripped open his coat, puffed out his chest, and shouted, "Stand out of the way and let the assassin fire!" Here the eccentric Virginia Senator John Randolph brought his hunting dogs into the Chamber, and the dashing Texas Senator, Sam Houston, sat at his desk whittling hearts for ladies in the gallery. Here, seated at his desk in the back row, Massachusetts Senator Charles Sumner was beaten violently over the head with a cane wielded by Representative Preston Brooks of South Carolina, who objected to Sumner's strongly abolitionist speeches and the vituperation that he had heaped upon Brooks' uncle, Senator Butler of South Carolina.

The Senate first met here in 1810, but, because our British cousins chose to set fire to the Capitol during the War of 1812, Congress was forced to move into the Patent Office Building in downtown Washington, and later into a building known as the Brick Capitol, located on the present site of the Supreme Court Building. Hence, it was December 1819 before Senators were able to return to this restored and elegant Chamber. They met here for 40 years, and it was during that exhilarating period that the Senate experienced its "Golden Age."

Here, in this room, the Senate tried to deal with the emotional and destructive issue of slavery by passing the Missouri Compromise of 1820. That act drew a line across the United States, and asserted that the peculiar institution of slavery should remain to the south of the line and not spread to the north. The Missouri Compromise also set the precedent that for every slave state admitted to the Union, a free state should be admitted as well, and vice versa. What this meant in practical political terms, was that the North and the South would be exactly equal in voting strength in the Senate, and that any settlement of the explosive issue of slavery would have to originate in the Senate. As a result, the nation's most talented and ambitious legislators began to leave the House of Representatives to take seats in the Senate. Here, they fought to hold the Union together through the omnibus compromise of 1850, only to overturn these efforts by passing the fateful Kansas-Nebraska Act of 1854.

The Senators moved out of this room in 1859, on the eve of the Civil War. When they marched in procession from this Chamber to the current Chamber, it marked the last time that leaders of the North and South would march together. The next year, the South seceded and Senators who had walked shoulder to shoulder here became military officers and political leaders of the Union and of the Confederacy.

This old Chamber that they left behind is not just a smaller version of the current Chamber. Here the center aisle divides the two parties, but there are an equal number of desks on either side, not because the two parties were evenly divided but because there was not room to move desks back and forth depending on the size of the majority, as we do today. That meant that some members of the majority party had to sit with members of the minority. It did not matter to them. The two desks in the front row on the center aisle were not reserved for the majority and minority leaders as they are now, because there were no party floor leaders. No Senator spoke for his party; every Senator spoke for himself. There were recognized leaders among the Senators, but only unofficially. Everyone knew, for example, that Henry Clay led the Whigs, but he would never claim that honor. Clay generally sat in the last row at the far end of the Chamber.

The Senate left this Chamber because it outgrew the space. When they first met here in 1810 there were 32 Senators. So many states were added over the next four decades that when they left in 1859, there were 64 Senators. Yet, while the Senate had increased in size, it was essentially the same institution that the Founders had created in the Constitution. Today, another century and four decades later, and having grown to 100 Senators, it is still essentially the same institution. The actors have changed; the issues have changed; but the Senate, which emerged from the Great Compromise of July 16, 1787, remains the great forum of the states.

This is so, largely, because as a nation, we were fortunate to have wise, cautious people draft and implement our Constitution. They were pragmatists rather than idealists. James Madison, particularly, had a shrewd view of human nature. He did not believe in man's perfectability. He assumed that those who achieved power would always try to amass more power and that political factions would always compete out of self-interest. In *The Federalist Papers*, Madison reasoned that "in framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and, in the next place, oblige it to control itself." Madison and other framers of the Constitution divided power so that no one person or branch of government could gain complete power. As Madison explained it: "Ambition must be made to counteract ambition."

However, ambition has not always counteracted ambition, as we saw in the enactment by Congress of the line item veto in 1996. Just as the Roman Senate ceded its power over the purse to the Roman dictators, Sulla and Caesar, and to the later emperors, thus surrendering its power to check tyranny, so did the American Congress, the Senate included. By passing the Line Item Veto Act the Congress surrendered its control over the purse, control which had been vested by the Constitution in the legislative branch.

This brings me to the first point that I would like to leave with you this evening. It is this: the legislative branch must be eternally vigilant over the powers and authorities vested in it by the Constitution. This is vitally important to the security of our constitutional system of checks and balances and separation of powers. George Washington, in his Farewell Address of September 17, 1796, emphasized the importance of such vigilance:

"It is important likewise, that the habits of thinking in a free country should inspire caution in those intrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. . . . The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions of the others, has been evinced by experiments ancient and modern. . . . To preserve them must be as necessary as to institute them."

Each Member of this body must be ever mindful of the fundamental duty to uphold the institutional prerogatives of the Senate if we are to preserve the vital balance which Washington so eloquently endorsed.

During my 46 years in Congress, and particularly in more recent years, I have seen an inclination on the part of many legislators in both parties to regard a chief executive in a role more elevated than the framers of the Constitution intended. We, as legislators, have a responsibility to work with the chief executive, but it is intended to be a two-way street. The Framers did not envision the office of President as having the attributes of royalty. We must recognize the heavy burden that any President bears, and wherever and whenever we can, we must cooperate with the chief executive in the interest of all the people. But let us keep in mind Madison's admonition: "Ambition must be made to counteract ambition."

As Majority Leader in the Senate during the Carter years, I worked hard to help President Carter to enact his programs. But I publicly stated that I was not the "President's man"; I was a Senate man. For example, in July 1977, I opposed President Carter's plan to sell the AWACS (Airborne Warning and Control System) to Iran. Iran was then a military ally of the United States, but I was troubled over the potential security risks involved and the possibility of compromising highly sophisticated technology in that volatile region. I was concerned that the sale ran contrary to our national interests in maintaining a stable military balance and limited arms proliferation in the Middle East. Both Houses of Congress had to vote disapproval resolutions to stop the sale. I enlisted the support of the Republican Minority Leader, Howard Baker. Senator Baker was someone who could rise above political party when he believed that the national interests required it, just as he did during the Panama Canal debate. The Carter Administration chose to withdraw the sale of AWACS temporarily. Shortly afterwards, the Iranian Revolution occurred and the Shah was deposed. Had the sale gone through as planned, those sophisticated aircraft would have fallen into the hands of an unfriendly government. As so often has happened in our history, individual courage and character again charted our course.

This brings me to my second point. On the great issues, the Senate has always been blessed with Senators who were able to rise above party, and consider first and foremost the national interest. There are worthy examples in Senate history.

When I came to the Senate in 1959, artists were at work painting five porthole portraits in the Senate reception room. The Senate had appointed a special Committee chaired by Senator John F. Kennedy to select the five most significant Senators in Senate history. This was no easy task, because there were many potential candidates. In setting the criteria, the Committee looked to Senators who had stood firm for principle, who had not blown with the prevailing political winds, and who had made personal sacrifices for the national good. They were not saints or perfect men. Daniel Webster's personal financial dealings left an eternal blot on his record; yet, he deserved to have his portrait in the Senate reception room, not simply as a great orator but as a man who sacrificed his own political standing by endorsing the compromise of 1850, which was deeply unpopular in his home state of Massachusetts, but which he realized was the best chance to hold the Union together.

In my almost 46 years in Congress, I have seen other courageous Senators. I have already referred to the courage demonstrated by former Senator Howard Baker during the Panama Canal debates. Without Senator Baker's support, the Panama Canal Treaties would never have been approved by the Senate. The killing of American servicemen in Panama would have gone on, but Senator Baker threw his shoulder behind the wheel and helped to construct what he and I referred to as leadership amendments, amendments which protected U.S. interests in that region, and we both worked shoulder to shoulder against great odds, as indicated by the polls. We did so because we believed, after careful study, that the Treaties were in the best interests of the United States.

Howard Baker knew what Mike Mansfield and all students of the Senate's institutional role know. Political polarization—too much emphasis on which side of the aisle one sits, is not now, and has never been, a good thing for the Senate. I am talking about politics when it becomes gamesmanship or when it becomes mean-spirited or when it becomes overly manipulative, simply to gain advantage. I am not talking about honestly held views or differing philosophical positions. Those things enrich our system. Americans have always loved a good debate. And that is what I believe they wish for now—more substantive and stimulating debate and less pure politics and imagery. But I well understand history and its ebb and flow, and I well know that we live in an age of imagery. It is simply my wish that, sometime soon, the rising tide of imagery and partisanship will begin to ebb rather than to flow quite so freely.

Washington, in his farewell address, warned us against the "baneful effects of the spirit of party" when he said:

". . . in governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent its bursting into a flame, lest instead of warming, it should consume."

I believe that the American people are more than tired of partisan warfare. I believe they wish for less of it from the Congress, especially in the Senate, where more statesmanship and a longer view are still expected.

Declining participation in elections, and repeated public surveys which indicate weariness, distrust, and alienation within our system ought to serve as a harbinger to be ignored at our peril.

It must be a matter of concern to all of us that all too few Americans look to officeholders for inspiration in these troubled and turbulent times. How can we attract the talent needed to serve in public office in future years if elected officials continue to be held in such low esteem? I would very much like to see a rekindling of basic faith in our leaders, and a renewal of interest in politics and in public service. But the existence of inspiring leadership by public officials is fundamental to a shoring up of that faith.

In short, I think the American people are in desperate need of some old-fashioned heroes. Now, it seems, today's heroes, if we want to loosely use the term, are merely celebrities—rock stars who spout deplorable messages, or sports figures who amass fortunes advertising baggy clothes at exorbitant prices. Not much to look up to here, I say. Not much to build dreams on. Look hard at the content of our popular culture. There is really nothing much to inspire and uplift. And regrettably there also is not much to counter the empty commercialism which is so prevalent today. It has become the norm.

So where are we in all of this? What is our role? What part can we as Senators—authority figures, statesmen representing the people—play while we simultaneously endeavor to carry out our 200-year-old mandate, bequeathed to us by some of the most brilliant men of their age, or of any age before or since?

Well, we have our prescribed and our tangential duties, we can show up for roll call votes, carry out our committee assignments, issue the obligatory press releases, dutifully follow up on constituent requests, and answer our mail. All of these are necessary and to a greater or lesser degree important. But a reemphasis by the Senate on our strict institutional role is certainly something which I would like to see. It is a sobering and heavy responsibility all by itself, and its very weightiness tends to cool the over-heated passions of political demagoguery. After all, that role is, in a Constitutional sense, the reason we are here. The Framers expected a zealous defense of our powers to keep the tyrants at bay.

But there is still another role—an intangible something—that we who are privileged to sit in this body, and indeed leaders in the private sector, as well as those who write and reflect upon the news, are called upon to play. I call it the duty beyond our duties. The duty I am talking about is the duty to endeavor to inspire others and to demonstrate, through personal example, that public service of all types ought to be an honorable calling. Contrary to what many believe, it is absolutely the wrong place for the slick and the insincere.

Serving the public in a leadership role demands honesty, hard work, sacrifice, and dedication from those who dare to ask the people for such an awesome trust. Those who ask to shoulder that mantle also shoulder a much larger personal obligation than many of us may regularly contemplate. We all have a clear responsibility to serve as role models to inspire our people, and particularly our young people, to be and to do their best. On that score, we politicians, as a group, generally miss the mark. Perhaps it's because power, whether it be the power of political office, or the power to run giant corporations, or the power to report and analyze events, is a very heady thing. It can lead to arrogance, self aggrandizement, disregard for playing by the rules, and contempt for the people. It can lead us to forget that we are servants, not masters.

In the real world, exemplary personal conduct can sometimes achieve much more than any political agenda. Comity, courtesy, charitable treatment of even our political opposites, combined with a concerted effort to not just occupy our offices, but to bring honor to them, will do more to inspire our people and restore their faith in us, their leaders, than millions of dollars of 30-second spots or glitzy puff-pieces concocted by spin meisters.

These are troubling times for our nation and our people on both the national and international fronts. For our country to weather the rough seas ahead, we must use most tempered judgments and seek out our best and most noble instincts. Our example here can be a healing element—a balm to salve the trauma of distrust and disillusionment too long endured by a good people. Let each of us follow his or her own conscience when it comes to issues, but as we do so, may we be ever mindful of the sublimely uplifting part which the example of simple dignity, decency, decorum, and dedication to duty can play in the life of a nation.

Let us also remember that even after two hundred years, the Senate is still the anchor of the Republic, the morning and evening star in the American constitutional constellation. It has had its giants and its little men, its Websters and its Bilbos, its Calhouns and its McCarthys. It has been the stage of high drama, of comedy and of tragedy, and its players have been the great and the near great, those who think they are great, and those who will never be great. It has weathered the storms of adversity, withstood the barbs of cynics and the attacks of critics, and provided stability and strength to the nation during periods of civil strife and uncertainty, panics and depressions. In war and in peace, it has been the sure refuge and protector of the rights of the states and of a political minority because great and courageous Senators have always been there to stay the course and keep the faith. As long as we are ever blessed in this august body with those who hear the clear tones of the bell of duty, the Senate will continue to stand—the great forum of constitutional American liberty!

Remarks by President George Bush

Senator Lott, Senator Daschle, Senators Thurmond and Byrd, distinguished guests, ladies and gentlemen:

What a special pleasure it is to look around this room and see so many respected former colleagues—and friends. As a former member of the extended Senate family, tonight has a certain homecoming feel to it. It's nice to be back.

It is particularly an honor to follow in the footsteps of the distinguished leaders who preceded me as lecturers for this series. Mike Mansfield, Howard Baker, and Robert Byrd are true giants in the Senate's history—each, in his own way, "a Senator's Senator." In this room, it doesn't get any better than that.

It being apparent that a quorum is present, I feel it only proper to establish a single ground rule. I am ill suited to "lecture" anyone here about the Senate. As the resident expert on ancient Greek history, not to mention the Senate itself, Senator Byrd can tell you what happened to Socrates. Socrates was the great philosopher who used to go around lecturing everybody . . . until they poisoned him.

So to be clear, this is not a lecture. *Nor* is it a filibuster.

Speaking of filibusters, Barbara is sorry she couldn't be here this evening.

Yesterday, we were in Austin to see our son, George W., sworn in for his second term as Texas Governor. And two weeks ago, we were in Tallahassee to see our other politically-active son, Jeb, sworn in as Governor of Florida.

Today, the boys are sworn in . . . and their parents are worn out.

(My politics today relate to our two sons. I think this is my first visit to the Senate since leaving Washington on January 20, 1993—six years ago today.)

Of course, 18 years ago today, Barbara and I were participating in another inauguration—one that brought us back to Washington, and back to Capitol Hill.

It's funny, I ran for the Senate twice—both times with a spectacular lack of success. But for eight years, and then four more after that, all the Senators called me "Mr. President."

When I reported to the Senate in 1981, without a doubt the biggest influence made on me in terms of the Senate came from my father's 11 years of service here. My Dad loved the Senate. He had come out of a business background, and had done his civic duty serving as Town Moderator of Greenwich, Connecticut.

He respected his fellow Senators. He found the Senate a civil place to be. The term "gentleman," he felt, applied far more often than not—just as term "gentle lady" applied to Margaret Chase Smith of Maine and other distinguished women who have called the Senate home.

My Dad and LBJ could be cross-threaded, as we say in the oil business, often disagreeing on issues. But on more than one occasion he told me he respected LBJ's leadership. I'll never forget it. He said: "Lyndon's word was good. If he said a vote would be at a certain time, you could bet your bottom dollar that that was what would happen." Dad felt that LBJ as leader was fair to the minority and ran a tight ship.

Like my Dad, my predecessor in the Vice Presidency and the White House, Harry Truman, loved the Senate. Truman called the 10 years he spent here in the Senate the "happiest of his life"—and I have to say I enjoyed my eight years here, too.

In letters written to his beloved wife, Bess, then-Senator Truman confided it took a while to learn the ropes. Along the way, one valuable piece of advice he received came from Ham Lewis of Illinois, the second-longest serving Democratic Whip. Said Lewis to the Missouri freshman: "For the first six months you'll wonder how you got here. After that, you'll wonder how the rest of us got here."

Later, Truman would write: "I soon found that, among my 95 colleagues, the real business of the Senate was carried on by unassuming and conscientious men—not by those who managed to get the most publicity." Clearly, this was before the days of C-SPAN.

As for me, I loved interacting with Senators from both parties. Of course, it was easier for me, better, as Vice President. For one thing, with Howard Baker at the helm, my Party controlled the Senate for my first six years here—that helped. But after I moved down the street to the White House, my dealings with the Senate seemed to involve more raw politics.

As President of the Senate, the primary constitutional role I served was breaking tie votes. I cast seven tie-breaking votes as VP—three times alone on the esoteric matter of nerve gas. (Most unpopular, those tie-breakers were.)

A myth arose from one of those votes that my mother bawled me out. Well, she didn't quite do that. She did give advice, however. After attending my first State of the Union speech as Vice President, for example, Mother called to say she had noticed that I was talking to Tip O'Neill while President Reagan was addressing the country. "He started it," was all I could think to say.

"Another thing," she continued. "You should try smiling more."

"But Mum, the President was talking about nuclear annihilation."

Everyone belittles the job of Vice President. The saying goes that the daily duties of the Vice President include presiding over the Senate and checking the health of the President. Theodore Roosevelt derided it as a "stepping stone to oblivion." FDR's first VP, "Cactus" Jack Garner, said the vice presidency "wasn't worth a warm pitcher of spit"—lovely thought, that.

(Historian Arthur Schlesinger, Jr. went so far as to suggest abolishing the office altogether, but then old Sam Rayburn would be quick to note that Arthur had "never run for sheriff" himself.)

When asked his thoughts on the Vice Presidency, LBJ, who was Majority Leader at the time, said: "I wouldn't want to trade a vote for a gavel, and I certainly wouldn't want to trade the active position of leadership of the greatest deliberative body in the world for the part-time job of presiding."

In fact, LBJ wielded so much power as Majority Leader that, when John Kennedy introduced him at a 1959 Boston dinner, he observed that: "Some people say our speaker might be President in 1960, but, frankly, I don't see why he should take the demotion."

A year later, Kennedy became only the second Senator to be elected President directly from the Senate—and as we now know, LBJ traded his vote for the gavel. Explaining his acquiescence to accepting the Number Two spot on the ticket, he said: "I felt that it offered opportunities that I had really never had before in either . . . the House or the Senate."

The truth is: Many pundits and press people ridicule the Vice Presidency to this day, but most Members of Congress would readily take the job. As Presidents delegate more responsibilities to their VPs, the job has become more productive. And, TR's critique notwithstanding, it has proven to be a fairly good stepping stone to the Presidency—or at least the Party nomination.

Just as LBJ became a revered role model for students of the Senate, I also learned from his example when I became President.

In his memoirs, LBJ stated he was "determined, from the time I became President, to seek the fullest support of Congress for any major action that I took." I shared his desire to achieve consensus where possible.

When I raised my right hand and took the Oath of Office 10 years ago today, I meant it when I held out my hand and pledged to work with the leadership here on Capitol Hill. And despite the ugliness that erupted early on over the Tower nomination—and later over the nomination of Justice Thomas—I was generally pleased with much of what we accomplished during the first two years. Both the Clean Air Acts and the ADA were landmark pieces of legislation that became a reality only after the White House and the Senate demonstrated bipartisanship and compromise.

Of course, every so often, an issue would trigger the tensions built into Mr. Madison's system of checks and balance. When it did, progress necessarily became more difficult to achieve. The irony is: Many observers would look at this so-called "gridlock" and think the system was broken—when it was actually performing its "salutary check on the government," just as the Framers intended.

Then came the Fall of 1990, when two major issues came to the fore: The budget, and the Gulf crisis. From the beginning, I wanted bipartisanship on both issues—and consensus. But I soon found out that consensus, on either matter, would not be easy to achieve.

For example, there was a fundamental difference of opinion between the Senate and the White House over the Senate's role in declaring war—one that dated back to the War Powers Act. Like all of my predecessors, I believe the War Powers Act to be unconstitutional; but as President, I still felt an obligation to consult fully with the Senate. In my mind, not agreeing with the War Powers Act did not mean "failure to consult."

And during the course of the Gulf crisis, I consulted with the Congressional leadership and bipartisan groups on more than 20 occasions—not including individual meetings and phone calls. I always remembered how LBJ had gone the extra mile to work with Congress at the time of the Gulf of Tonkin Resolution in 1964. As he candidly confided that August 4th, during a meeting with nine Senators (led by Mike Mansfield) and seven House leaders in the Cabinet Room, he said he didn't want to "go in unless Congress goes in with me." The resolution subsequently passed the House unanimously—416 to none. In the Senate, the tally was 88 to 2 in favor.

(Incidentally, LBJ thought Truman had made a mistake not asking for a resolution of support from Congress when he went into Korea. It wasn't until the Formosa Straits crisis erupted early in 1955 that a President would reach out to Congress in such a fashion. On January 24, 1955, the House took but an hour to consider President Eisenhower's message requesting a resolution before it passed 410 to 3. Four days later, the Senate followed suit by an 83 to 3 margin.)

If I had to pick one vote, I'd say the Senate vote in January 1991 on the resolution authorizing me to use "any means necessary" in order to liberate Kuwait was the key Senate vote during my Presidency. To be honest, for weeks we debated whether to try and pass such a resolution in the Senate. I'm glad we did bring it here, and pleased that it passed. But the 52-47 margin was the slimmest Senate margin ever to vote for war, and naturally I regret that we couldn't convince more in the Majority to help us send a clear and united signal to Saddam, and the world, about our resolve to lead.

Before the resolution passed, my respected friend, Sen. Inouye came to me and warned that "if things go wrong (on the use of force), you could well be impeached." I'll never forget that. As it was, several House members had already filed papers of impeachment.

But we stayed the course, and I hope history will say not only that we won—but that we won with honor. And when our troops came home, this time they were welcomed with cheers—not jeers. It was a united country that saluted our troops, united by a new respect for our military and for U.S. world leadership.

Prior to the commencement of Desert Storm, we honored Congress' right to be heard, and to cast their votes, before a single shot was fired. In ending the war when we did, after Kuwait had been liberated, we also kept our word to our coalition partners—and abided by the international authority under which we agreed to operate. Our principled leadership and restraint enhanced our credibility in the region, and earned us a windfall of political capital—which we, in turn, used to jump-start the peace process.

As President, it fell to me to lead this effort; but let me note for the record that no President was ever more blessed by a superb team. "Excellence" best describes the people I had at my side.

I also want to note the special role played by one of your future speakers in this outstanding series, Bob Dole. It is well-known that Bob and I went head-to-head a time or two on the campaign trail—but when the dust of political combat settled, we were always able to put it behind us, and close ranks. It's a good thing, too, for during my four years as President, I earned the distinction as only the second Chief Executive to serve a full term without Party control in either House of Congress. As a result, I came to rely heavily on Bob Dole—and not once did he let me down.

He was the model Party leader in the Senate—never putting his agenda ahead of the President's. In my opinion, you could write a textbook based on the way he handled a tough job. Through it all, he showed great class, and courage, and leadership.

In the final analysis, I had my chance to serve, and did my best. I messed some things up, and maybe got a few things right. For four years, I was up against a Senate Majority that looked very differently at some of the key issues I faced as President, but I never felt that it wasn't within their right. That's just the way it was, and I am quite content to step aside and let history judge the merits of our actions.

Now, since leaving Office, I have stayed away from Washington—but that does not mean I lack interest in events here. I have refrained from commenting on the serious matter now before the Senate—and will continue to do so. But like Howard Baker and many others, I confess that the lack of civility in our political debate and official dealings with one another concerns me.

I worry, too, about sleaze—about excessive intrusion into private lives. I worry about once-great news organizations reduced to tabloid journalism—giving us sensationalism at best, smut at worst. (I have to be careful: I used to go around bashing the media, to standing ovations I might add, until a friend wrote and told me to stop it. So I joined Press Bashers Anonymous . . . and I've been clean for six months now.) But I do think the press needs to be more accountable.

All in all, it seems to me that, whereas the problems looming over this town dealt more with budget deficits in times past, today we are confronted with a deficit of decency—one that deepens by the day. Washington is a place for big ideas, and doing big things; but it's also a small town in many respects, too small for the bitter rancor that has divided us as people in recent times.

Having said that, as a former President, I don't believe in placing outside pressure on the Senate. I have felt it is better for the Senate to chart its own course and do its business without my intervention.

It is a popular notion, in some quarters, to name former Presidents as "senators-for-life." After seeing what has happened to General Pinochet, I'd rather pass on that. I am not one who feels that former residents of 1600 Pennsylvania must be consulted, or that some office must be created to use their expertise.

Writing in his book *Mr. Citizen* after he left Office, President Truman suggested designating former Presidents as "Free" members of Congress—with the right to sit in the Congress, take part in the debate, and sit in on any committee meetings, *but* with no right to vote. (This from a dangerously titled chapter, "What to do with Former Presidents?") I have great respect for President Truman, but no interest in such a concept.

Besides, should I speak up on a hot or controversial issue, some enterprising reporter would go to one of my sons and say: "Your nutty father feels this way, Governor. How do you feel?"

They don't need that grief—nor do I.

It was Thomas Jefferson who said: "There is a fullness of time when men should go, and not occupy too long the high ground to which others have the right to advance."

So it is for the Bush family, just as it is here in the Senate family.

In his 1963 book, "A Senate Diary," journalist Allen Drury published the daily diary he kept from 1943 to 1945 when he was a newly assigned reporter covering Capitol Hill. It's an extraordinary book that recorded his initial impressions, and captured the essence of the daily proceedings—particularly in the Senate.

Of the Senators themselves, Drury summarized: "You will find them very human, and you can thank God they are. You will find that they consume a lot of time arguing, and you can thank God they do. You will find that the way they do things is occasionally brilliant but slow and uncertain, and you can thank God that it is . . . That is their greatness and their strength; that is what makes (the Senate) the most powerful guarantor of human liberties free men have devised."

One last thought about the Senate.

Fifty years ago, I was starting out in the oil business—out on the dusty expanse of West Texas. In those days, in that place, a man's word was his bond. So much so, in fact, that much of our business was done on a handshake.

There aren't many places where you can still do business on a handshake. But you can still do it in the United States Senate.

Indeed, gathered as we are in this solemn setting, we not only marvel at how the universe outside these hallowed walls has changed over the last 189 years—we also take comfort at how much the world inside these walls has remained the same—how a timeless code of duty and honor has endured. And we can thank Almighty God that it has.

In this light, it is fitting to close with the words Aaron Burr used to close his career in the Senate. In his retirement address of 1805, Burr eloquently noted: "It is here, in this exalted refuge; here, if anywhere, will resistance be made to the storms of political frenzy and the silent arts of corruption . . ."

As long as there exists a Senate, there will exist a place of constancy, of Madisonian firmness—a place unlike any other, where the sacred principles of freedom and justice are eternally safeguarded. As with this majestic chamber, may we always be humbled before it—and cherish it ever more.

Thank you very much.•

RETIREMENT OF THOMAS G. PELLIKAAN

• Mr. DASCHLE. Mr. President, Thursday, January 21 marked the end of Thomas Pellikaan's Senate career.

Over the past 35 years, Tom Pellikaan served the Senate with distinction in various capacities—first as Senate press liaison and then at the Office of the Daily Digest, where he spent the majority of his Capitol Hill career. He advanced from a staff assistant in the Daily Digest office to serve as Editor of the Daily Digest since 1989.

Tom's attention to detail is well known around the Halls of the Senate. His office has the responsibility of ensuring that the information contained in the Daily Digest section of the CONGRESSIONAL RECORD reflects the actions taken on any given day in the Senate. The Daily Digest is an important and useful tool for the Senate family. Tom and his staff are to be complimented for the excellent job they have done and will continue to do.

While Tom has left the Senate, I am sure his interest in the Senate will continue. On behalf of my Democratic colleagues, we wish him well as he enjoys the "country life" on his farm in Culpeper, VA.•

SENATE—*Monday, January 25, 1999*

The Senate met at 1:04 p.m. and was called to order by the Chief Justice of the United States.

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

The CHIEF JUSTICE. The Senate will convene as a Court of Impeachment. The Chaplain will offer a prayer.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, we are moved by Your accessibility to us and our accountability to You. We hear Your promise sounding in our souls, "Be not afraid, I am with you." We place our trust in Your problem-solving power, Your conflict-resolving presence, and Your anxiety-dissolving peace. So we report in to You for duty. What You desire, You inspire. What You guide, You provide.

This is Your Nation; we are here to serve You. Just as Daniel Webster said that the greatest conviction of his life was that he was accountable to You, we press on with a heightened awareness that You are the unseen Lord of this Chamber, the silent Listener to every word that is spoken, and the Judge of our deliberations and decisions.

Bless the Senators with the assurance that Your work, done with total trust in You and respect for each other, will not lack Your resources. Surpass any impasse with divinely inspired solutions. You are our Lord and Saviour. Amen.

The CHIEF JUSTICE. The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, James W. Ziglar, made proclamation as follows:

> Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against William Jefferson Clinton, President of the United States.

THE JOURNAL

The CHIEF JUSTICE. If there is no objection, the Journal of proceedings of the trial are approved to date.

Pursuant to the provisions of Senate Resolution 16, there are 6 hours 33 minutes remaining during which Senators may submit questions in writing directed to either the managers, on the part of the House of Representatives, or the counsel for the President.

The majority leader is recognized.

Mr. LOTT. Thank you, Mr. Chief Justice.

ORDER OF PROCEDURE

Mr. LOTT. As is obvious by the absence of the managers and counsel, and a number of the Senators, the two parties are still meeting in conference at this time. I believe we are close to reaching an agreement which would outline today's impeachment proceedings. It will probably be an hour or so before we can complete that because we need to explain it in detail to our respective conference, and also make sure that we reduce it to writing so we understand exactly what we are agreeing to.

I will in a moment ask that the Senate stand in recess until 2 p.m. I apologize for any inconvenience to Senators and the Chief Justice. But I think that what we are discussing in the long run would save some time and lead us to a fair procedure through the balance of the day and how we begin tomorrow.

RECESS

Therefore, I now ask unanimous consent that the Senate stand in recess until 2 p.m.

Mr. GREGG. Mr. Chief Justice, reserving the right to object——

The CHIEF JUSTICE. The Senator from New Hampshire.

Mr. GREGG. Mr. Chief Justice, I have a parliamentary inquiry that I would like to share.

The CHIEF JUSTICE. The Parliamentarian says it takes unanimous consent.

Mr. GREGG. I ask unanimous consent to——

Mr. LEAHY. Reserving the right to object, I believe that if it is going to be made, Mr. Chief Justice, if it requires unanimous consent, that it would be wise if it can be done at a time when both leaders are on the floor.

Mr. GREGG. I withdraw the unanimous consent.

There being no objection, at 1:08 p.m., the Senate recessed until 2:06 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Mr. Chief Justice, it is my understanding that the question and answer period is now completed. In a moment I will propound a unanimous consent agreement that will outline the next steps in this process.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. In the meantime, I would ask unanimous consent that Senators be allowed to submit statements and introduce legislation at the desk today. I further ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 1 p.m. on Tuesday to resume the articles of impeachment.

The CHIEF JUSTICE. Without objection, it is so ordered.

Ms. MIKULSKI. Reserving the right to object, I note that the Democratic leader is not in the Chamber.

May I inquire, has this been cleared?

Mr. LOTT. I just want to observe, Mr. Chief Justice, that there are still some discussions underway. You will note that Senator DASCHLE is not here, and unless there is objection to what I just did, I am prepared to note the absence of a quorum so that we can have time for Senators to return to the Chamber.

Ms. MIKULSKI. Point of clarification for the majority leader. Did the Senator say that we would come in tomorrow at 1 p.m.?

Mr. LOTT. I did. If I might respond, Mr. Chief Justice, there had been some discussion about coming in earlier, but because of a number of conflicts, I understand, from the House managers and concerns that we would need that time to continue to have discussions, we thought we would go ahead and come in at 1. But let me add that if during the process of the day there is a decision that we need to change that to either earlier or later, we could revise that request. This is just to move the process forward, as we have announced each day we would come in at 1 except on Saturday. But if there is a need to change the time, we will certainly be prepared to consider that request.

Ms. MIKULSKI. Mr. Chief Justice, I thank the majority leader.

Mr. LOTT. Mr. Chief Justice, I suggest the absence of a quorum.

The CHIEF JUSTICE. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that the order for the quorum call be rescinded.

The CHIEF JUSTICE. Without objection, it is so ordered.

Mr. LOTT. Mr. Chief Justice, I had earlier asked a couple of unanimous consent requests, but the Democratic leader was not on the floor, and it was not officially objected to or officially ruled as not having been objected to. So I am going to assume that is all null and void, and we are going to start over again.

The CHIEF JUSTICE. The requests are withdrawn.

Mr. LOTT. Now, to repeat what we had earlier discussed and to make sure Members understand it, it is our understanding and our agreement that the question and answer period is now completed.

ORDER FOR SUBMISSION OF STATEMENTS AND INTRODUCTION OF LEGISLATION

Mr. LOTT. I ask unanimous consent that Senators be allowed to submit

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

statements and introduce legislation at the desk today.

The CHIEF JUSTICE. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. LOTT. With regard to the time that will be involved today and the time that we will come in on Tuesday, we will have further discussions on that, and we will have a consent request on that later in the day or at the close of business.

Now I have a unanimous-consent request that will allow us to have a clear understanding and an orderly procedure for the balance of the day. I have discussed this with my counterpart on the other side of the aisle, both conferences have had a chance to talk about it, and I think it is a fair way to proceed, where we would have a chance to discuss the issues that are before us and get us to a conclusion of this part of the impeachment proceedings in a logical way.

UNANIMOUS-CONSENT REQUEST

Mr. LOTT. First, Mr. Chief Justice, I ask unanimous consent that following the conclusion of the arguments by the managers and the counsel today on the motion to dismiss—and I note that the next order of business is 2 hours equally divided, 1 hour on each side, on a motion to dismiss when and if it is filed by any Senator—and after that, it be in order for Senator HARKIN to make a motion to open all debate pursuant to his motion timely filed and that the Senate proceed immediately to the vote pursuant to the impeachment rules.

I further ask that following that vote, if defeated, it be in order to move to close the session for deliberations on the motion to dismiss, as provided under the impeachment rules, and the Senate proceed to an immediate vote.

I further ask that if the Senate votes to proceed to closed session, that those deliberations must conclude by the close of business today, notwithstanding the 10-minute rule allocated under the impeachment rule.

The CHIEF JUSTICE. Is there objection?

Mr. HARKIN. I object.

Mr. FEINGOLD addressed the Chair.

The CHIEF JUSTICE. The Senator from Iowa.

Mr. HARKIN. Reserving the right to object.

Mr. LOTT. Mr. Chief Justice, does he reserve the right to object or did he object?

The CHIEF JUSTICE. The Parliamentarian tells me the Senator does not have the right to reserve the right to object.

Mr. FEINGOLD addressed the Chair.

Mr. HARKIN. I just have a modification that I would like to discuss with the leader, a brief modification of that, that would not engender an objection.

Mr. LOTT. Mr. Chief Justice, so we can proceed with this in an appropriate manner, I suggest the absence of a quorum.

The CHIEF JUSTICE. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that the order for the quorum call be rescinded.

The CHIEF JUSTICE. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. Chief Justice, I renew my request as previously outlined, with one change; that is, that it say in the first sentence "unanimous consent that following the conclusion of the arguments by the managers and the counsel today on the motion to dismiss, that it be in order for Senator HARKIN to make a motion to open that debate." Instead of "all," the word is "that" debate.

With that and no other changes, I renew that request.

Mr. HARKIN. Mr. Chief Justice, I reserve the right to object.

OK, I don't have any——

Mr. LOTT. The reservation is withdrawn, I believe.

Mr. FEINGOLD. Mr. Chief Justice, I object.

The CHIEF JUSTICE. Objection is heard.

Mr. FEINGOLD addressed the Chair.

Mr. LOTT. Mr. Chief Justice, I suggest the absence of a quorum.

The CHIEF JUSTICE. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. Chief Justice, welcome to the operations of the U.S. Senate.

I ask unanimous consent that the order for the quorum call be rescinded.

The CHIEF JUSTICE. Without objection, it is so ordered.

Mr. LOTT. Mr. Chief Justice, was the unanimous consent agreement agreed to?

The CHIEF JUSTICE. Not yet.

Mr. LOTT. I renew my request.

Mr. FEINGOLD addressed the Chair.

The CHIEF JUSTICE. Objection is heard.

Mr. FEINGOLD. Mr. Chief Justice, I and Senator COLLINS, the junior Senator from Maine, ask unanimous consent that when the Senate consider the anticipated motion to dismiss, that it shall vote on two separate questions: First, whether to dismiss article I of the articles of impeachment; and, second, whether to dismiss article II.

Mr. GRAMM. I object.

The CHIEF JUSTICE. There is a pending request for unanimous consent by the majority leader, who has not surrendered the floor.

Mr. LOTT. Under his reservation, if the Senator would yield to me, I believe if we can get this agreed to, he can make his request and then it can be ruled on.

Mr. Chief Justice, I yield the floor if the Senator would like to proceed in that fashion.

I renew my request, again, for the unanimous consent as outlined earlier.

The CHIEF JUSTICE. Is there objection? In the absence of an objection, it is so ordered.

Mr. FEINGOLD. Mr. Chief Justice, I renew my request, along with the junior Senator from Maine—the unanimous consent request that when the Senate proceeds to vote on the anticipated motion to dismiss, that the question be divided into a separate vote on article I of the articles of impeachment, and then a separate vote on article II of the articles of impeachment.

Mr. GRAMM. I object.

The CHIEF JUSTICE. Objection is heard.

Mr. LOTT. Mr. Chief Justice, now, if I could, I will outline the result of our efforts there. I thank Senator DASCHLE and my colleagues on his side of the aisle and this side of the aisle for trying to come up with a process that is fair and that would give us an opportunity today to debate this important issue. It is never easy to get 100 Senators to agree on a method to proceed, so I think this was a good accomplishment. I thank one and all.

I understand that now Senator BYRD will offer the motion to dismiss. For the information of all Members, once that motion is offered, there will then be 2 hours for debate. The House managers will be recognized to open the debate, and following that will be the White House arguments. Then the House managers will be recognized again for closing remarks. At that point, the consent agreement would apply.

I anticipate taking our first break at the conclusion of the first 2 hours of arguments by the managers and White House counsel, unless there is an urgent need to do so earlier. Then we will go forward with this agreement, which will require a vote on the Harkin motion to open the debate; the vote on the amendment to close debate on the motion to dismiss; and then the debate which would go on, the 10-minute rule notwithstanding, until the close of business today.

I yield the floor.

Mr. BYRD addressed the Chair.

The CHIEF JUSTICE. The Chair recognizes the Senator from West Virginia.

MOTION TO DISMISS

Mr. BYRD. Mr. Chief Justice, I send a motion in writing to the desk.

The CHIEF JUSTICE. The clerk will read the motion.

The legislative clerk read as follows:

> The Senator from West Virginia, Mr. BYRD, moves that the impeachment proceedings against William Jefferson Clinton, President of the United States, be, and the same are, duly dismissed.

The CHIEF JUSTICE. Pursuant to Rule XXI of the Senate Rules on Impeachment, the managers on the part of the House of Representatives and the counsel for the President each have up to 1 hour to argue the motion.

The Chair recognizes the House managers.

Mr. Manager CANADY. Mr. Chief Justice, Members of the Senate, on behalf of the House of Representatives, I rise to speak in opposition to the motion to dismiss. During the hour allotted to the managers, I will offer a few introductory comments concerning why adoption of the motion would be inconsistent with constitutional standards and harmful to the institutions of our Government. Mr. HUTCHINSON, Mr. GRAHAM, and Mr. GEKAS will present arguments concerning the facts and the law, and then Mr. HYDE will close.

At the outset, I must urge you to consider the fact that this motion to dismiss is without precedent. The Senate has never—not once in the more than 200-year history of our Constitution—dismissed a proceeding against an official who remained in office after impeachment by the House of Representatives. I humbly urge you not to depart from the Senate's well-established practice of fully considering cases of impeachment and rendering a judgment of either conviction or acquittal.

In the midst of the great differences between the President's counsel and the House managers, there actually is at least a little common ground. Both sides agree that the impeachment and removal power is designed to protect the well-being of the institutions of our Government. But there is a critical difference that divides us, as is obvious from the argument that has gone before.

The managers have argued that this power—the power of impeachment and removal—is a positive power granted by the Constitution to maintain the integrity of Government, a power to preserve, protect, and strengthen our constitutional system against the misconduct of officials that would subvert, undermine, or weaken the institutions of our Government.

The President's lawyers, on the other hand, advance a much narrower view of the role of the impeachment power in protecting our institutions. Their case rests on the argument that it is a power to be used only in response to conduct threatening devastating harm to the system of Government—at least when it is used against a President.

But I submit to you that Alexander Hamilton did not contemplate that the impeachment process would be so restricted when he spoke of it as a "method of national inquest into the conduct of public men." And James Iredell did not have such a narrow view in mind when he spoke of the accountability through impeachment of anyone who "willfully abuses his trust." Iredell did not have such a limited view when he spoke of the impeachment of a President who, as he said, "acted from some corrupt motive or other."

Under the standards urged by the President's lawyers, the misdeeds of Richard Nixon would not be the threshold for impeachment and removal. What he did was corrupt. The legal rights of citizens were treated with contempt. President Nixon showed an egregious lack of respect for the law. But all these misdeeds did not threaten the sort of ruinous harm to the system of Government that the President's lawyers argue would be required to justify conviction and removal. After all, the core charges against President Nixon related to the coverup of a third-rate burglary.

Members of the Senate, as you consider the motion to dismiss, I ask you to pause and reflect on the consequences of the standard advocated by the President's lawyers. Consider the consequences for the system of justice of allowing the President's dangerous example of lawlessness to stand. Consider the consequences for the Presidency itself.

I respectfully submit to you that the standard advocated by President Clinton's lawyers will debase and degrade the institution of the Presidency. I know that is not the intention of the President's lawyers, but it is the necessary consequence of their position.

Only 42 men have held the office of President of the United States. Some of them have been ordinary men of limited talent. A handful of our Presidents have been great men. Most have been capable men who brought special skills to the office. No matter what our individual judgments may be concerning President Clinton, it is clear that he is one of the most intellectually gifted and politically skilled men to hold the office of President.

He was raised to this great eminence—the most powerful office in the greatest Nation in the history of the world—an unparalleled opportunity, honor and privilege. And in this position of eminence and honor, and in this position of trust, what did he do? He made a series of choices that has brought us to this day. He made the choice to violate the law—and he made that choice repeatedly. He knew what he was doing. He reflected on it. Perhaps he struggled with his conscience. But when the time came to decide, he deliberately and willfully chose to violate the laws of this land. He chose to turn his back on the very law he was sworn to uphold. He chose to turn his back on his solemn oath of office. He chose to turn his back on his constitutional duty.

As you deliberate on this motion, I ask you to consider what William Jefferson Clinton has done to the integrity of the great office he holds as a trust. I ask you to consider the harm he has caused, the indignity he has brought to the institution of the Presidency.

Some have asked of us, "Where is the compassion and where is the spirit of forgiveness?" Let me say that I, for one, believe in forgiveness. Without forgiveness, what hope would there be for any of us? But forgiveness requires repentance; it requires contrition. And so I must ask, where is the repentance? Where is the contrition?

It is true that the President has expressed regret for his personal misconduct. But he has never—he has never—accepted responsibility for breaking the law. He has never taken that essential step, as the argument advanced so vigorously by his counsel makes clear. He has refused to accept responsibility for breaking the law. He has stubbornly resisted any effort to be held accountable for his violations of the law, for his violations of his constitutional oath, and his violation of his duty as President. To this day, he remains adamantly unrepentant. And, of course, under our system of justice, even sincere repentance, which is so lacking here, does not eliminate all accountability.

In the discussion thus far, the debate has brought the concept of proportionality to the fore from time to time. You have been urged to reject your own precedents—the clear precedents establishing that crimes such as lying under oath justify conviction and removal. The principle of proportionality, it has been urged, requires that the rule you have applied to Federal judges not be applied to the President of the United States.

I will be the first to concede that removing a President of the United States is, without doubt, a more momentous decision than removing one of the hundreds of Federal judges who hold office in this country. When the Chief Executive is removed, the gravity of the matter undeniably reaches a higher level. But it is also true—and it must not be forgotten—that when the President engages in a calculated and sustained course of conduct involving obstruction of justice and perjury, the gravity of the consequences for the Nation also reaches a far higher level. Such lawless conduct by the President does immeasurably more to subvert public respect for the law than does the misconduct of any Federal judge or any other Federal official.

As has been pointed out more than once, the Constitution contains a single standard for impeachment and removal of all civil officers; there is not one standard for the President and another standard for everyone else. There is nothing in the Constitution that requires you—or allows you—to set a lower standard of integrity for the President than the standard you have set for other officials who have been convicted and removed by your solemn action.

Although they can point to nothing in the Constitution, the President's lawyers assert that the President is simply different because he is elected. So let me say this. The Senate itself has established a standard of integrity for its own elected Members that President Clinton could not meet. As recently as 1995, an elected Senator resigned under imminent threat of expulsion for offenses that included acts similar to the acts of obstruction of justice committed by President Clinton.

Senator Robert Packwood was elected, yet he was on his way to certain expulsion. Listen to what the Senate Select Committee on Ethics had to say about Senator Packwood's conduct. He was guilty, the committee found, of

> * * * withholding, altering and destroying relevant evidence . . . conduct which is expressly prohibited by 18 United States Code, section 1505. . . . Senator Packwood's illegal acts constitute a violation of his duty of trust to the Senate and an abuse of his position as a United States Senator, reflecting discredit upon the United States Senate.

The statute referred to by the committee in the Packwood case is closely analogous to the obstruction of justice statute the President has violated. Senator Packwood unlawfully sought to impede the discovery of evidence. President Clinton has done the same thing. For his violation of the law, Senator Packwood, an elected Senator, was judged worthy of expulsion from the Senate.

But the President's lawyers argue the President should be held to a lower standard of integrity than the standard you have set for yourselves as Members of the Senate. According to them, the Constitution establishes a lower standard of integrity for the President than the standard for Senators, a lower standard than the standard for Federal judges, and a lower standard than the standard for members of the Armed Forces of the United States.

Ladies and gentlemen of the Senate, I submit to you that the President's lawyers, honorable as they are, are simply wrong. They advocate an arbitrary standard that would insulate the President from the proper accountability for his misconduct under our Constitution. Our Constitution does not establish a lower standard of integrity for the President of the United States.

The Senate, I respectfully submit to you, should follow the well established precedents. The Senate should reject the motion to dismiss.

The CHIEF JUSTICE. The Chair recognizes Mr. HUTCHINSON.

Mr. Manager HUTCHINSON. Mr. Chief Justice, how much time has expired?

The CHIEF JUSTICE. Twelve minutes.

Mr. Manager HUTCHINSON. Mr. Chief Justice, ladies and gentlemen of the Senate, in my former life, when I tried cases, the defense counsel would routinely offer a motion to dismiss and my clients would always ask me how they could argue to dismiss a case before we had a chance to put on our evidence. I would always explain that there was more than sufficient evidence to get this case to a jury and they didn't have to worry.

We all know that granting a motion to dismiss is a weapon that is rarely used in court. It is a severe remedy that cuts off an individual's right to seek justice in court. For that reason, a motion to dismiss must fail if there is any substantial evidence to support the case. In addition, as you evaluate evidence under a motion to dismiss, the facts are to be considered in a way that is most favorable to the respondent—in this case the House managers.

For example, if there is a dispute between the testimony of Ms. Lewinsky and the President in consideration of this, I would urge you to—and believe that under proper rules you should—consider that in the favor of the theory of the articles of impeachment.

It has been explained to me many times that standard courtroom rules do not apply in the U.S. Senate. But, still, granting a motion to dismiss by the Senate has the same effect—to cut short the trial and avoid the development of the facts—as it would in any State court case. In this case of impeachment, the House of Representatives found that there was substantial evidence to support these articles. And the Senate should not summarily dismiss the charges.

I might add that, despite Mr. Ruff's references, the House standard for the articles of impeachment was not simply probable cause. My colleagues on the Judiciary Committee looked at a much higher standard of clear and convincing evidence.

But, coming back to the Senate, to dismiss the case would be unprecedented from a historical standpoint, because it has never been done before; it would be damaging to the Constitution, because the Senate would fail to try the case; it would be harmful to the body politic, because there is no resolution of the issues of the case; but, most importantly, it would show willful blindness to the evidentiary record that has thus far been presented.

An appropriate question, you might ask, is: How should you decide whether this motion should be granted? I would contend that you should decide this issue based upon the facts that you have before you in the record and not on any other criteria. A motion to dismiss should not be granted because you do not think there are presently enough votes for conviction.

Let me assure you that I want this over. As Bruce Lindsey, sitting over here, will probably attest, this is bad for me politically. I am from Arkansas, the State Bill Clinton dominated politically for years, and certainly its most influential politician. But we do have our responsibilities, and I happen to believe that we should follow the process which is dictated by the Constitution and the facts.

I know I am making legal arguments to this Court of Impeachment, in which I understand you make your own rules, and I respect that. But, as opposing counsel pointed out on many occasions, there are reasons for these rules of procedure and they have relevance to your deliberations today. Again, your decision should be based upon the facts, and so let's discuss the facts.

Does the record support the charges of obstruction of justice and perjury? To look at this from a different angle, because we talked about it at length, let's examine how the President responded to critical developments in the Federal civil rights case in which he was a defendant.

First, how did he handle those people he knew to be witnesses? The President did not want them to testify, and, if they did testify, he did not want them to testify truthfully. Two of those witnesses were Monica Lewinsky and Betty Currie.

Clearly, he did not want them to testify in the Federal civil rights case and, likewise, his lawyers today do not want those witnesses to testify before this body.

Now, let's look at what happened when the President learned that Monica Lewinsky was on the witness list. Very quickly, it was December 5 that the witness list came in. He learned about it probably the next day, December 6. Monica Lewinsky visited with him and said Vernon Jordan was not doing very much on the job front. The President's response is, okay, I will talk to him. I will get on it.

Now, Ms. Lewinsky assumed that was a brushoff, but he was serious about it because he later learned that day that at the latest—he learned later that day that Monica was on the witness list when he met with the lawyers.

After that, the next day, he meets with Vernon Jordan at the White House. And even though Mr. Jordan says he thinks it was unlikely that the job situation was discussed, Mr. Jordan makes it clear that he ultimately went to work to get Ms. Lewinsky a job at the direction of the President. According to Mr. Jordan's grand jury testimony on June 9, he testified, "The President asked me to get Monica Lewinsky a job." That is undisputed. He had testified to the same grand jury, "He," referring to the President, "is the source of it coming to my attention in the first place."

And so as the result of the President's request, Vernon Jordan got to work, met with Ms. Lewinsky, assisted her in securing key job interviews and kept the President informed. The job search became critical when she was put on the witness list on December 5, and the December 11 order of Judge

Wright served to reinforce the urgency of the matter.

Now, all of this was happening when the President knew she was a witness in the civil rights case, but the individuals affected by the President's unlawful scheme of obstruction may not have been privy to his plans. He kept Ms. Lewinsky in the dark about her being a witness until he had the job search well underway. And Mr. Jordan indicates that he was simply trying to get Ms. Lewinsky a job at the direction of the President without any clue that she was a witness until she got the subpoena on December 19.

Now, the President kept his information about Ms. Lewinsky being on the list away from her until he called her at 2 a.m. in the morning on December 17 to let her know the news.

So how does the President handle witnesses in the judicial system that are a danger to him? He wanted to make sure that they were taken care of and cooperative in concealing the truth from the courts.

The next critical step for the President to assure that Ms. Lewinsky sticks with her predesigned cover stories was that she would not deviate from that even though they were now in the court system. Vernon Jordan testified in the grand jury that "it didn't take an Einstein to know when she was under subpoena the circumstances changed," and, of course, that is clear.

When Ms. Lewinsky was placed on the witness list, the truth became a threat to the President. He tried to avoid the truth at all costs and was willing to obstruct the legal processes of the judicial system in order to protect himself. The obstruction started with the job favors and then continued through the December 17 conversation with the President when the President encouraged her to keep using the cover stories even though she would be under oath as a witness, encouraged her to sign a false affidavit, and then on December 28, according to the testimony of Ms. Lewinsky, the President sent Betty Currie to retrieve items of evidence for the purpose of concealment and with the obvious effect of obstructing the truth.

Despite the concerted effort of the President in keeping Monica Lewinsky from being a truthful witness, the President was not yet home free. He still had to go through the hurdle of his own deposition on January 17. And even though he knew there were going to be questions about Monica Lewinsky, he was hopeful that the false affidavit, the representations of his attorney, Robert Bennett, and the President's own affirmation of the false affidavit would be sufficient to prevent questioning about Ms. Lewinsky. But it didn't work. Despite this effort, the Federal district court judge ordered the President to respond to the questions. At that point he had a choice. He could tell the truth under oath, or he could provide false statements. He chose the latter, and that decision forced a continued pattern of obstruction.

During the deposition, he asserted the name of Betty Currie at least six times, and by doing so he dared the plaintiff's lawyers to question Ms. Currie as a witness. They knew it, and he knew it. When the Jones lawyers returned from the deposition, they immediately set about issuing a subpoena for Betty Currie. And what did the President do? He immediately set about attempting to assure that Betty Currie would not state the truth when called as a witness.

They defended that she wasn't a witness, she wasn't a prospective witness, but yet we produced the subpoena that she was a prospective witness, and they wanted her to testify and everyone knew it. The President called her at home, arranged for her to come in the next day, and put her through the questioning: He was never alone with Monica, trying to establish that; that Monica was the aggressor and that the President did nothing wrong. That is what he was trying to accomplish through his questioning of Betty Currie.

Can you imagine how uncomfortable Betty Currie was, must have felt on that occasion, being called in to see her boss, then having the President recreate a fictional account in order to prevent the truth from coming out in a court of law. But once was not enough, and 2 days later Ms. Betty Currie was brought in for the same series of questions. The message was clear. You have got to cover for the President even though the purpose was unlawful.

And so we see a pattern developing. When it comes to a witness, whether it is Monica Lewinsky or Betty Currie, the choice is made. The President encouraged the witness to lie, and the President chose to impede the administration of justice rather than assuring that the laws be faithfully executed.

But the President had one final choice, and that was in his grand jury testimony in August. At this point, the embarrassment of the relationship was public, and that could no longer serve as an excuse not to tell the truth. But, once again, the President chose not to abide by his oath but to evade the truth and provide false statements; not to protect his family, not to preserve the dignity of the Presidency, but to prevent the grand jury from knowing the truth in their investigation and to continue the coverup began during the truth-seeking process in the civil rights case.

I do not have time to cover all the facts, but they are more than substantial, they are compelling, and they are convicting.

Let me leave you with some questions. First of all, who asked Vernon Jordan to get Monica Lewinsky a job? The answer? It was the President.

Secondly, who suggested that Monica Lewinsky sign an affidavit to avoid testifying in the civil rights case, which by its nature had to be false? The answer? It was the President. Who obstructed the truth when Monica Lewinsky was subpoenaed as a witness? It was the President. Who impeded the gathering of evidence when the Federal court subpoena called for the production of gifts? The answer? It was the President. Who tampered with the testimony of Betty Currie when it was clear she was a witness in the case? It was the President. Who took an oath and failed to tell the truth before the courts of our land? It was the President.

I state these facts with sadness, but these facts are true. The motion should be defeated.

I thank the Senate. On behalf of the managers, Mr. Chief Justice, I reserve the remainder of the time.

The CHIEF JUSTICE. Very well. The Chair recognizes counsel for the President.

Ms. Counsel SELIGMAN. Mr. Chief Justice, ladies and gentlemen of the Senate, distinguished House managers, good afternoon. My name is Nicole Seligman. I am a member of the law firm of Williams & Connolly here in Washington, DC. I have been privileged to represent President Clinton as personal counsel since 1994.

I am honored to stand before you today to argue in support of the motion to dismiss the impeachment proceedings that has been offered by the senior Senator from West Virginia, Senator BYRD.

The Constitution reposes in this body and nowhere else the sole authority to try impeachments. It has placed in your hands alone the decision whether to dismiss now or to go forward. There is no judicial review. There is no judicial guidance other than that which each of you, in your wisdom, may choose to apply by analogy from judicial experience. There are no particular rules of civil or criminal procedure that you must follow. The Constitution has freed you from that. It has wisely placed in your hands alone the ability to make a sound judgment in the manner you think best for the reasons you think best, based on your wisdom and experience, as to what is best for this Nation at this moment in the proceedings.

We submit to you that the moment has arrived where the best interests of the Nation, the wise prescription of the framers, and the failure of the managers' proof, all point to dismissal. You have listened. You have heard. The case cannot be made. It is time to end it.

Without presuming to infringe on the constitutional authority that is yours alone, and without repeating at undue length the arguments that you heard over the past few weeks, I do want to set out briefly the reasons that we believe to be some of the grounds on which an early and fair disposition of this difficult matter might rest. There are at least four such grounds. Each one stands by itself as sufficient reason to vote for the motion of Senator BYRD.

The first ground is the core constitutional issue before you, the failure of the articles to charge impeachable offenses. They do not do so. They do not allege conduct that, if proven, violated the public trust in the manner the framers intended when they wrote the words "treason, bribery, or other high crimes and misdemeanors." For absent an element of immediate danger to the state, a danger of such magnitude that it cannot await resolution by the electorate in the normal cycle, the framers intended restraint. There is no such danger to the state here. No one has made that claim, or could, or would. A vote for the motion is a vote for constitutional stability.

Impeachment was never meant to be just another weapon in the arsenal of partisanship. By definition, a partisan split like that which accompanied these articles from the House of Representatives creates doubt that makes plain a constitutional error of the course that we are on. As Senator William Pitt Fessenden wrote 130 years ago on a great and decisive historical occasion, the impeachment trial of Andrew Johnson:

> Conviction upon impeachment should be free from the taint of party and leave no ground for suspicion upon the motives of those who inflict the penalty.

His words echoed those of Alexander Hamilton who, in the much quoted Federalist 65, had warned, in his words, of "the greatest danger that the decision"—that is the decision by the Senate—"will be regulated more by the comparative strength of the parties than by the real demonstrations of innocence or guilt."

Now, Mr. Manager GRAHAM has candidly acknowledged that reasonable people could disagree about the propriety of removal. He said they absolutely could. We suggest to you that there can be no removal when even the prosecutor agrees that such reasonable doubts exist. If reasonable people can disagree, we suggest to you that reasonable Senators should dismiss. The constitutional standard for impeachment is not met here.

The second and third grounds we offer to you relate to the deeply flawed drafting of the articles by the House of Representatives. They have left the House managers free to fill what Mr. Ruff described as "an empty vessel," to define for the House of Representatives what it really had in mind when it impeached the President. But that is not a role that the Constitution allows to be delegated to the House managers. It is not a role that the Constitution allows them to fill. It is a role that is explicitly and uniquely reserved to the full House of Representatives which, under our Constitution, has the sole power to impeach.

The articles also are unconstitutionally defective for yet another reason, because each article combines a menu of charges, and the managers invite the Members of this body to convict on one or more of the charges they list. The result is the deeply troubling prospect that the President might be convicted and removed from office without two-thirds of the Senate agreeing on what the President actually did. Such a result would be in conflict with the requirement that the President cannot be convicted unless two-thirds of this body concurs. The requirement of a two-thirds supermajority is at the core of the constitutional protection afforded the President and the American people. The Founding Fathers were wise to guarantee that protection, and it has protected the Presidency for more than two centuries. The House must not be allowed to erode that protection today. The articles, as drafted, are unconstitutional.

The fourth ground for the motion is based on the facts. Mr. Manager MCCOLLUM has twice asserted that this body must first determine whether the President committed crimes, and then move on to the question of removal from office. Recognizing that each Senator is free to choose the standard of proof that his or her conscience dictates, we submit that if the question is, as the managers would have it, whether the President has committed a crime, that standard should be proof beyond a reasonable doubt. And it is clear that such a standard, that is, proof to the level of certainty necessary to make the most significant decisions you face in life, cannot possibly be met here. The presentations last week demonstrated that the record is full of exculpatory facts and deeply ambiguous circumstantial evidence that will make it impossible for the managers to meet this standard or, in fact, any standard that you might in good conscience choose to apply here.

Now, the managers have with great ingenuity spun out theories of wrongdoing that they have advanced repeatedly, persistently, passionately. But mere repetition, no matter how dogged, cannot create a reality where there is none. The factual record is before you. We submit that it does not approach the kind of case that you would need to justify the conviction and removal of the President from office. And calling witnesses is not the answer. All the evidence you need to make your decision is before you, documented in thousands of pages of testimony given under oath or to the FBI agents and Mr. Starr's prosecutors under penalty of law.

These, then, are the four grounds for the motion to dismiss. I know many of these arguments are not new to you, and I will try to be brief as I review them.

The question before this body requires solemnity on all of our parts. It inevitably creates no small measure of apprehension. In our Nation's political history, in our legal history, it is fair to say that few decisions of such overwhelming magnitude have been confronted by this body. There could be no matter more clearly placed in your hands alone by the Constitution, and on its resolution rests more than the political fate of William Clinton; there rests the course of our democracy in the coming years of the new century and for untold years thereafter.

Constitutional history confirms that the decision before you was meant to be significant and difficult to make. It demonstrates that only the most extraordinary of charges warrants the most extraordinary of outcomes. Any question, any doubt, must be resolved in favor of the electoral will, for it is the will of the people, the people who have all sovereignty in our law, that in the end is the foundation of our democracy. And we submit that the doubt here is pervasive: Doubt about whether the charged conduct, efforts to conceal a private personal embarrassment, could reasonably be deemed a violation against the state at all, let alone a violation so severe as to compel removal; doubt about the constitutionality of the articles as drafted; doubt about the sufficiency of the managers' case; and that doubt upon doubt upon doubt makes a vote to dismiss the only fair choice.

Let me turn then to the fundamental constitutional argument.

The impeachment power was meant to remove the President of the United States from office only for the most serious abuses of official power or for misbehavior of such magnitude that the collective wisdom of the people would compel immediate discharge. One of America's leading professors of constitutional law, Professor Akhil Amar of the Yale Law School, has framed the problem poignantly and concisely, stating:

> The question to ask is whether [President Clinton's] misconduct is so serious and malignant as to justify undoing a national election [and] canceling the votes of millions.

We know the answer. It was provided by Charles Black in his classic book on impeachment when he wrote that:

> Impeachment and removal should be reserved only for offenses that so seriously threaten the order of political society as to make pestilent and dangerous the continuance in power of their perpetrator.

James Madison made much the same point two centuries earlier, stating that an impeachment provision of some kind was "indispensable" because a President's "loss of capacity or corruption . . . might be fatal to the Republic."

The statements and writings of the framers of our Constitution and centuries of scholarship and the meaning of that brief but so significant phrase, "high crimes and misdemeanors," enable us to establish with solid assurance that the conduct charged against the President does not amount to an impeachable offense.

Our argument today is a simple one: Ordinary civil and criminal wrongs may be addressed through ordinary civil and criminal processes, and ordinary political wrongs may be addressed at the ballot box or by public opinion. Only the most serious public misconduct, aggravated abuse of Executive power, is meant to be addressed through exercise of the Presidential impeachment power.

The conduct here arises out of a private lawsuit. Let me talk for a moment about that lawsuit which is the backdrop for these proceedings.

The Jones case arose out of an alleged incident that predated the President's first term as President. The charges at issue here arise out of the President's conduct in that lawsuit. No charge relates to his official conduct as President. Indeed, as we know, the Supreme Court told President Clinton that he could not delay defending the Jones lawsuit until he was out of office. And when it ruled that way, the Court emphasized just this very point. It made clear that he might have been able to delay or avoid the lawsuit if it had related to his official conduct, because the law provides various immunities for such lawsuits; but precisely because it related to his private actions, it would be allowed to go forward.

In drawing that conclusion, interestingly, the Supreme Court actually looked to the wisdom of James Wilson, a framer, a Supreme Court Justice, and a constitutional commentator, and cited the distinction he drew between a President's acts performed in his "public character," for which he might be impeached, according to Justice Wilson, and acts performed in his private character, to which the President is answerable, as any other citizen, in court.

We agree that there might be extreme cases where private conduct would so paralyze the President's ability to govern that the impeachment power must be exercised, where the certainty of guilt and the gravity of the charge would leave no choice. But charges arising out of the President's efforts to keep an admittedly wrongful relationship secret are, by no analysis, of that caliber.

Some have suggested that making this argument is the same as arguing that the President is above the law. That simply is not so. The often repeated statement that no man—or woman, I should add—is above the law is, of course, true. Once he leaves office, the President is as amenable to the law as any citizen, including for private conduct during his term of office. As my colleagues Mr. Ruff and Mr. Craig argued to you last week, if a grand jury should choose to consider charges against this President, his status as a former President will not prevent that consideration.

But here is the point: Impeachment is not meant to punish an individual; it is a protection for the people; in Alexander Hamilton's words, a remedy for great "injuries done to the society itself." It is, as your 19th century predecessor, Senator Garrett Davis, pointed out in the Andrew Johnson proceedings, "the extreme remedy . . . intended for the worst political disorders of the executive department."

The House managers appear to argue that the President must be removed nonetheless, because to do otherwise places him above the law. But there is one thing that can be said with certainty about the impeachment power. Although it may have that result, it is not meant to punish the man, to set an example, or to provide a "cleansing" of the political process; it is meant to protect the state. If it is punishment the House managers seek, they are in the wrong place, in the wrong job, at the wrong time, and for the wrong reasons.

A question has arisen whether, as a general matter, any violation of law demands removal because it would be a violation of the President's duty to take care that the laws be faithfully executed or a breach of the public trust. But, again, the history of the clause makes clear that the framers intentionally chose not to make all crimes or even all felonies impeachable.

I suggest we would all agree that, in the broadest possible sense, a proven violation of criminal law is a violation of a public trust. But the framers consciously elected not to make impeachment the remedy for "all crimes and misdemeanors." When the framers wished to address all crimes, they knew how to do it, and they did it. In article IV, section 2, the Constitution states that, "A Person charged in any State with Treason, Felony, or other Crime" is susceptible to extradition—"or other crime." The framers knew how to say it, but they didn't say it about impeachment, because that is not what they meant.

Some also have argued that the experience of judicial impeachments in this body undermines this argument. They claim that judges have been removed for purely private conduct and that a President should be treated no differently. This argument completely misses the mark as well.

By constitutional design, judges are very different from a President. Presidents are elected for a fixed term, while Federal judges serve with life tenure. Presidents are elected by the people in one of the great periodic exercises of national will, and their tenure is blessed as the choice of the people.

Judges, on the other hand, are appointed and confirmed by the representatives of the people, but their selection does not represent a direct expression of the will of the people. Judges' tenure is conditioned on good behavior, while that of a President is not. And there is an obvious reason for this distinction. Life tenure, which was designed to assure judicial independence, plainly becomes a problem in the event of a judge who is not fit to serve. A President may be voted out by the people, a judge may not; hence the good behavior requirement and the duty upon the Congress to enforce it in those exceptional cases where it must be enforced.

It is possible to debate forever whether the good behavior clause represents an independent basis for impeachment or whether, in the case of judges, it is a factor to be weighed when this body exercises its sound judgment to decide what constitutes a high crime or misdemeanor. But there is no need to resolve that dispute here. Either way, it is clear, as the Watergate impeachment inquiry report established, that the term "high crimes and misdemeanors" is given content by the context of the charge and the office at issue. Because of issues of legitimacy, accountability, and tenure, the framers decided that Federal judges needed the additional check of the good behavior clause—language they left out of the articles creating Congress and the Presidency.

And the Presidency is, of course, different. Alexander Hamilton said, in Federalist 79, that a judge could be impeached for malconduct. But in the words of the Watergate Impeachment Inquiry Report—a report I remind you that Mr. Manager CANADY has commended to your consideration—Presidential impeachment is distinctive. The report stated—and I quote, because it is an important quote—"Because impeachment of a President is a grave step for the nation, it is to be predicated only upon conduct seriously incompatible with either the constitutional form and principles of our government or the proper performance of the constitutional duties of the presidential office. . . . The facts must be considered as a whole in the context of the office," the report concludes. The office matters. For judges, the good behavior standard comes in one way or the other. For the President, the standard is different.

As I mentioned, Mr. Manager GRAHAM candidly acknowledged last Saturday that reasonable people could disagree as to whether this President should be removed from office, even if they believe he acted as charged—reasonable people could disagree. In this connection, consider, if you will, the words of Senator William Pitt Fessenden, written 130 years ago. Senator Fessenden was one of the seven brave Republicans who crossed party lines to vote against the conviction of President Johnson in his 1868 impeachment trial. He wrote—and I quote—"the offense for which a Chief Magistrate is removed from office . . . should be of such a character as to commend itself at once to the minds of all right thinking men as, beyond all question, an adequate cause." Think about that phrase—"beyond all question." Where there is room for reasonable disagreement, there is no place for conviction.

If many in this Chamber and in this Nation believe that these charges do not meet the bar of high crimes and misdemeanors, then the question must be asked, Why prolong this process?

I would like to turn briefly now to two grounds for dismissal based on the manner in which the House drafted these articles. The first is that each of the articles contain several quite different charges. The House compounded its charges. It is tempting to ask how, in a matter of such importance, we can urge what might appear to be a procedural, highly technical argument like this one.

There are several answers to that. The first is that it is neither "procedural" nor "highly technical." It goes to the very heart of our constitutional protections and raises concerns about fairness and the appearance of fairness in this proceeding as so many Senators have so eloquently noted in the past when the issue has arisen.

As Senator KOHL stated in the Judge Nixon impeachment matter, in which a similar omnibus article was defeated—and I quote:

> The House is telling us it's OK to convict Judge Nixon on Article III even if we have different visions of what he did wrong. But that's not fair to Judge Nixon, to the Senate, or to the American people. Let's say we do convict on Article III. The American people—to say nothing of history—would never know exactly which of Judge Nixon's statements we regarded as untrue. They'd have to guess. What's more, this ambiguity would prevent us from being totally accountable to the voters for our decision.

As the Senator said, that is an unacceptable outcome, one that was "not fair to Judge Nixon, to the Senate, or to the American people."

Judge Nixon was acquitted on this article. We suggest to you that the House is now asking this Senate to convict President Clinton on just such articles. And that is not fair either to President Clinton, to this Senate, or to the American people.

The second response is that—even if this troubling problem were procedural—fair, constitutional procedures go to the heart of the rule of law. As the Supreme Court has stated, "The history of liberty has largely been the history of observance of procedural safeguards." It would, indeed, be ironic if, in the course of this proceeding in which the vindication of the rule of law has so often been invoked, this body were to ignore an important procedural flaw.

The legal basis for this argument is by now well known. Article I, section 3 of the Constitution provides that on articles of impeachment "no Person shall be convicted without the Concurrence of two-thirds of the Members present." This requirement is plain. There must be, in the language of the Constitution, "Concurrence," which is to say, genuine, reliably manifested agreement among those voting to convict.

Without clarity on exactly what the President would be convicted for, there can be no concurrence. These requirements of concurrence and a two-thirds vote are the twin safeguards of the framers' plain intent to assure that conviction not come easily.

And let there be no doubt, these articles present textbook examples of a prosecutorial grab bag. Look at article II, which, by its terms, charges obstruction of the Jones litigation. It presents six topics related to the Jones litigation and one related to the very separate issue of grand jury obstruction. The first six acts alleged are unrelated in time or alleged intent to the seventh. Under no conceivable theory are they part of the same scheme, and no one ever has claimed them to be. But as it is drafted, and as it must be voted on by this body, under the Senate rules, the article would allow certain Senators to convict on obstruction of the Jones case and others on grand jury obstruction. That is not concurrence in a vote on an article, as the Constitution demands it. An indictment against any American drafted like these articles could not go near the jury. It would be dismissed. And no lesser standard should apply here.

A second fatal flaw in the drafting is their complete lack of specificity, which makes it impossible to know precisely what the President is alleged to have done wrong. This defect is most troublesome in the article I perjury charges, which never simply state what the President said that was allegedly perjurious. The defect is a plain and obvious constitutional one: The House of Representatives has unconstitutionally neglected its "sole" power to impeach and delegated to the House managers that which cannot constitutionally be delegated—the power to decide what the House meant. The result has been what can charitably be described as a fluid approach to the identification of charges against the President. The House majority and its managers have sought to add, delete, amend, expand and contract the list as this matter has proceeded from Mr. Starr, to the committee, to the full House, to this body.

They also, mystifyingly, have insisted on couching their charges as examples. How on Earth can an accused defend against examples? Where is the notice? Where is the due process? And no sooner was this very concern raised here by Mr. Ruff than they did it again. This is quite extraordinary.

In response to Mr. Ruff's challenge, the managers put out a press release, on January 19, purporting to list allegedly perjurious statements on which you are to vote. And what did they say? They offered more examples. They said in response—and I quote—"Here are four examples of perjurious statements made to the grand jury:"

Ladies and gentlemen, almost 40 years ago, the Supreme Court made clear that this kind of charging is unacceptable. When an indictment leaves so much to the imagination of individuals, other than the constitutionally designated charging body, it must be dismissed. Again, no lesser standard should apply here.

Our fourth ground for dismissal is based on the facts. The evidence, in the tens of thousands of pages before you, establishes that the case against the President cannot be proven with any acceptable degree of certainty. The record is filled with too much that is exculpatory, too much that is ambiguous, too much from the managers that requires unfounded speculation.

A very brief look at the articles and the facts makes clear that in light of the uncontested exculpatory facts, such as the direct denials from Ms. Currie, from Mr. Jordan, and from Ms. Lewinsky of various alleged misconduct, the managers cannot possibly meet their burden of proof here. Look briefly at article I: Much of it challenges the President's assertions of his own state of mind, his understanding of the definition given to him, his understanding of the meaning of a word, his legal opinion of his Jones testimony, his mindset during statements of his lawyer, Robert Bennett. The managers offer speculation and theories about these matters, but you are not here to try speculation and theories. You are here to try facts. And the facts do not support their theories.

Other claims in article I are so insubstantial as to be frivolous and unworthy of the time and attention of this historic body. Certain answers about the particulars of the admitted intimate relationship between the President and Ms. Lewinsky—whether their admitted inappropriate encounters were properly characterized as occurring on "certain occasions" is but one example—could not possibly have had any bearing on the Starr investigation. These answers were even irrelevant, immaterial, to Mr. Starr.

Remember, in the grand jury the President admitted to the relationship, admitted it was improper, admitted it occurs over time, admitted he had sought to hide it, admitted he had misled his wife, his staff, his friends, the country. But how it began, exactly when it began, how many intimate encounters there were, whether there were 11 or 17 or some other number and with what frequency, these are details irrelevant to the Starr investigation, and I must say, irrelevant to your decision whether to remove the freely elected President of the United States.

There has been much discussion about the Jones deposition here and whether it, too, is a part of article I. The point is a simple one. The House of Representatives exercised its constitutional authority, and in a bipartisan vote defeated an article of impeachment based on the answers in the Jones deposition. Those answers are not before you and the managers' sleight of hand cannot now put them back into article I. The article charges only the statements made in the grand jury about that deposition. The managers ask you to look at one response: The President's lawyerly assertion that the Jones deposition was not legally perjurious, however frustrating or misleading, and to read that as an affirmation of every answer he gave. But the grand jury testimony must be read as a whole.

What did the President convey during that testimony? Certainly not that he was standing behind every word in the Jones deposition as the whole truth. He spent 4 hours in the grand jury explaining that testimony—adding to it, clarifying it, discussing the confusing deposition questions and answers, and pointing out his efforts to be literally truthful, if not forthcoming, explaining what he had tried to do, the line he had tried to walk, however successfully or unsuccessfully. He laid it all out. He was not asked by Mr. Starr to reaffirm or adopt the earlier testimony, and he did not reaffirm or adopt it.

This brings us to the last issue in article I, the so-called touching issue. My colleague, Mr. Craig, has talked at length about the legal and practical obstacles to a case based on an oath against an oath. Whether compelled by law or practice, the rule reflects the commonsense proposition that there will always be a reasonable doubt as to the truth when the case rests merely on an oath against an oath. That is why seasoned prosecutors said in the House of Representatives that they would never bring such a case. That is why you need no more information to conclude that conviction on that basis will not be possible.

The evidence also undermines the allegations of article II. My colleagues, Ms. Mills and Mr. Kendall, made a detailed review of the allegations in each of the seven subparts of article II. They went over the evidence in great detail, and I am certainly not going to repeat that here. They pointed to the significant amount of direct evidence in the record that controverts the claims made in this article, most notably the consistent statements by Ms. Lewinsky that no one ever asked, suggested, or encouraged her to lie, and that no one ever promised her a job for her silence.

They demonstrated that with regard to the transfer of gifts, the testimony of Ms. Lewinsky and Ms. Currie has consistently been inconsistent, but that even Ms. Lewinsky has acknowledged it was she who was concerned about the gifts and who raised the issue with the President. And the fact that the President gave Ms. Lewinsky more gifts on December 28 simply cannot be reconciled with any theory of the managers' case.

Ms. Mills reviewed the evidence concerning the President's conversation with Ms. Currie on the Sunday after the Paula Jones deposition. However ill-advised that conversation might have been under the circumstances, it was not criminal. The President was motivated by his own anxieties and by a desire to find out what Ms. Currie knew in anticipation of the media storm he feared would break, as it surely did. Contrary to the suggestion of Mr. Manager HUTCHINSON, Ms. Currie had not yet been subpoenaed at the time of that conversation. Ms. Currie was not on any Jones case witness list at the time of the conversation. She testified that she felt absolutely no pressure to change her account during that conversation. She never testified that she felt uncomfortable—again, contrary to the suggestion of Mr. Manager HUTCHINSON. She was not a witness. There was no pressure. There is a completely reasonable explanation.

Let me be clear here: There is no evidence that the President ever asked Ms. Lewinsky to file a false affidavit or told her to give false testimony if she appeared as a witness. Both believed Ms. Lewinsky could file a limited but true affidavit that might—might—avoid a deposition in the Jones case. While the two had discussed cover stories to explain Ms. Lewinsky's visits, Ms. Lewinsky never testified that they discussed the cover stories in the context of the possibility of her testifying personally, as article II alleges.

Now you have heard in detail from Mr. Craig and Mr. Kendall about the fleeting moment in the Jones deposition when Mr. Bennett tried unsuccessfully to prevent the President being questioned about Ms. Lewinsky by citing her affidavit. The judge immediately overruled the objection. It did not obstruct in any way the Jones lawyers' ability to question the President.

The statement had no effect. And the tape of the President cannot disprove the President's testimony that he wasn't paying attention. He doesn't comment, concur, or even nod. With a weak case at hand, the managers have tried to turn a blank stare into a high crime.

The last subpart of article II is flawed in many respects: The article alleges obstruction of the Jones case, but the President's misleading statements to his White House aides about Ms. Lewinsky had no effect on that case at all. In any event, the effect of the President's statements on his aides was no different than on the millions of Americans who had heard and seen the President make similar denials on television.

And finally, the subpart claims obstruction of the grand jury, whereas the whole point of article II is alleged obstruction of the Jones case. As I asked before, what is it doing here?

As to Ms. Lewinsky's job search, all the managers have presented it is a theory, a hypothesis in search of factual support.

The direct evidence is clear and uncontradicted. Ms. Lewinsky, Mr. Jordan, the President, and people at the New York City companies Ms. Lewinsky contacted all testified that there was no relation of any of the job search activity to the Jones case—none. Not a single witness supports the managers' theory. As we demonstrated, their core theory that the job assistance intensified after the Court's December 11 order was based on plain and simple error. And without that support, the theory collapsed.

No doubt, the managers' response will be that that is why witnesses are needed, to help the managers make their case. But witnesses will not fill the void in the evidence:

First, because the evidence, as we have shown, is overwhelmingly uncontested. If there is no dispute, why do witnesses have to be questioned at all? House Majority Counsel Schippers himself made this point when speaking of the very same transcripts and FBI interviews that you all have before you. He stated to the Judiciary Committee: "As it stands, all of the factual witnesses are uncontradicted and amply corroborated."

Second, because the actual disagreements—for example, what was in the President's mind in his deposition?—are about conclusions that must be drawn from the undisputed evidence, not disputes in the evidence itself. More evidence will not inform a judgment on the President's state of mind.

Third, because those witnesses with testimony pertinent to the charges have already repeated their testimony again and again and again—in some instances, 5 or 10 times—over and over and over to FBI agents, to prosecutors, to grand jurors. Experienced career prosecutors, trying to make their best case against the President, questioned scores of witnesses. They compiled tens of thousands of pages of evidence. They questioned Ms. Lewinsky on at least 22 separate occasions. They questioned Mr. Jordan on at least five occasions. They questioned Ms. Currie on at least eight occasions. On one day alone—July 22, 1998—prosecutors asked Ms.

Currie more than 850 questions, and that was only 1 of her 5 appearances before the grand jury or FBI agents. And they did, in fact—contrary to the suggestion of the managers—question witnesses, including Ms. Lewinsky, after the President's testimony to the grand jury.

These witnesses whom I have mentioned, who were questioned repeatedly, are not alone. They could not possibly add to their testimony, or amend it, in any significant way that could alter the judgment you could make today. Yet, it is the hope that these witnesses will be forced to change their testimony, to provide evidence where there now is none, that drives the current desire to question them.

Let me make a few final points about this witness issue. "Bringing in witnesses to rehash testimony that's already concretely in the record would be a waste of time and serve no purpose at all." That is our argument, but those are not my words, they are the words of Mr. Manager GEKAS, spoken just last fall, talking about this same factual record you have before you.

And Mr. Manager GEKAS was correct. "We had 60,000 pages of testimony from the grand jury, from depositions, from statements under oath. That is testimony that we can believe and accept. Why re-interview Betty Currie to take another statement when we already have her statement? Why interview Monica Lewinsky when we had her statement under oath, and with a grant of immunity that, if she lied, she would forfeit?"

Again, that is our argument, but, again, those are not my words, those are the words of Chairman HYDE. He, too, was correct. Those words apply with equal force today. The witnesses are on the record. Their testimony is known. There is no need to put them through the ordeal of testimony again.

The House managers, no doubt, will answer that that was then, this is now. But that is not good enough. The House had a constitutional duty to gather and assess evidence and testimony and come to a judgment as to whether it believed the President should be removed from office—not to casually and passively serve as a conveyor belt between Ken Starr and the U.S. Senate, not to ask this body to do the work the House failed to do.

The actual power to remove the President resides here, of course. But the power to take that first step rests with the House. And the House exercised it: The articles explicitly find that certain conduct occurred and that that conduct warrants "removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States." If there was any doubt about the testimony on which they based their judgment in reaching that conclusion, such doubt should have been resolved before any Member rose to say "aye" to an article of impeachment calling, for the first time in 130 years, for the Senate to decide on the removal of the President.

The President did not obstruct justice. The President did not commit perjury. The President must not be removed. The facts do not permit it.

Now, ladies and gentlemen of the Senate, I hope I have outlined clearly for you some of the many valid grounds on which you might base a decision to vote for the motion offered by Senator BYRD.

On constitutional grounds, the matters simply don't meet the test of high crimes and misdemeanors, as specified by the framers or interpreted by hundreds of historians. As a matter of law, these articles are defective. In a court, they would be dismissed in a heartbeat for vagueness and for being prosecutorial grab bags.

The evidence itself, after being gathered in what may be one of the largest criminal investigations in this country's history, fails to offer a compelling case and is based largely on weak inferences from circumstantial evidence. Each of these is reason enough to end this trial now, without further proceedings.

As Senator Bumpers said more personally and eloquently than I could hope to, the President has been punished; he is being punished still—as a man, as a husband, as a father, as a public figure. Beyond his family, you have been reminded that the criminal law will still have jurisdiction over Bill Clinton the day he leaves office. And while I am confident the case would have no merit in a court of law, that is the venue in which justice may be sought against an individual.

So the sole question you are faced with is the most important one: Do you, for the first time in 210 years of our freedom, set aside the ultimate expression of a free people and exercise your power to remove the one national leader selected by all of us?

If you don't believe this body should remove the President, or if you believe that no amount of requestioning of witnesses or torturing facts will change enough minds to garner the two-thirds majority necessary to remove the President, or if you simply have heard enough to make up your mind, then the time to end this is now.

The President has expressed many times how very sorry he is for what he did and for what he said. He knows full well that his failings have landed us in this place, and he is doing all he can to set right what he has done wrong.

The entire Nation—indeed the world—is now looking to this body, to this Chamber, to this floor, for sound judgment, and we are asking you not to answer a serious personal wrong with a grievous constitutional wrong. When we ask you to vote for Senator BYRD's motion to dismiss, we do not mean that nothing ever happened, that this is no big deal—and that is where we lawyers have done a disservice to the language—because this is a big deal. It is a very big deal. Punishment will be found elsewhere. Judgment will be found elsewhere. Legacies will be written elsewhere. None of that will be dismissed. None of that can ever be dismissed.

We ask you to end this case now so that a sense of proportionality can be put back into a process that seems long ago to have lost all sense of proportionality. We also ask you to end the case now so that the family members and others who did no wrong can be spared further public embarrassment.

We also ask you to end this case now so that the poisonous arrows of partisanship can be buried and the will of the people can be done—allowing all of you to spend your full days on the most pressing issues of the country.

You have heard the charges in full; heard the defense. Now is the time to define how the national interests can best be served by extending this matter indefinitely or ending it now. We submit that it is truly in the best interest of this Nation to end this ordeal in this Chamber at this time and in this way.

Thank you.

Mr. LOTT addressed the Chair.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Could I inquire? Is there further presentation from the White House counsel, or will the time be used for concluding remarks by the House managers?

The CHIEF JUSTICE. The White House counsel has 6 minutes remaining; the managers have reserved 36 minutes.

Mr. Counsel RUFF. There will be no further presentation, Mr. Chief Justice.

RECESS

Mr. LOTT. In view of that, Mr. Chief Justice, I understand the White House counsel will have no further presentation to make, so what is left would be the concluding remarks by the House managers. I would like for us, when that is concluded, to go right into the votes.

In view of that, I think it would be a good idea to take a 15-minute break at this point. And I ask for that.

There being no objection, at 4:12 p.m., the Senate recessed until 4:38 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Mr. Chief Justice, I believe we are ready now for the closing part of the argument by the House managers on the motion to dismiss.

The CHIEF JUSTICE. The Chair recognizes the House managers. Mr. HUTCHINSON.

Mr. Manager HUTCHINSON. Thank you, Mr. Chief Justice, Senators. My fellow Manager GRAHAM has extended me a few minutes before he comes up here just to allow me to respond to a couple of factual assertions by the White House counselors during the recent presentation. I know that there was a reference made to the impeachment proceedings of former President Nixon, and there were various articles that were considered. But one of them that I don't believe was talked about was obstruction of justice, and I believe that the Senators in this Chamber would agree that obstruction of justice has historically been a basis for impeachment of public officials because of the impact that it has on the administration of justice. And that was historically true during the time of the impeachment of President Nixon. It was an issue during that time and it should be no less of a concern this year, in 1999.

Now, when I listen to a defense attorney make a presentation, oftentimes I will listen to what they didn't cover as much as what they did cover. And you always have to go back to that because many times that points to a big gap of something they just can't explain. As I listened to the presentation, of course they addressed the assertion that Ms. Currie, Ms. Betty Currie was, in fact, not a witness at the time the President called her in and went through the questioning of her after his deposition on January 17. But, yet, it has been clearly established that she was a known witness at the time. Now, they hoped, they prayed, they wished, they counted for the fact that that subpoena would never be uncovered. But the subpoena was uncovered. The fact was established that she was put on the witness list and that she was a known witness at the time. But the fact is, it does not matter. She was a prospective witness, and that was what the President did when he came back and talked to her.

But what has never been addressed—has never been addressed—is why in the world did the President believe he needed to talk to her a second time. It was one time the questioning, but 2 days later she was brought in and taken through the same paces. The answer was, "Well, he explained it." Well, he tried to explain why he did it the first time, he was trying to get information. There could be no explanation for the second instance of which she was called in and questioned. She was a witness, she was a known witness and she had to be talked to, and it was done twice.

Another thing that I do not recall ever being mentioned, they argue that, "Well, there is no evidence of favors on a job search," and I believe that is not supported by the record. How many times has the President's attorneys discussed the description and the report by Mr. Vernon Jordan to the President, "Mission accomplished"? I do not believe they have ever discussed that particular terminology. I do not believe they have ever discussed the terminology, the call from Mr. Vernon Jordan to Mr. Perelman saying, "Make it happen if it can happen."

So I think there are some gaps in their defense and, clearly, you understand that the facts have supported each of the allegations of obstruction that we have set forth.

They argue that, "Well, there was no evidence of any false affidavit." Whether it is evidence that an affidavit was encouraged by the President of the United States, he suggested the affidavit and, as of necessity, it would have to be false if it was going to be accomplishing the intended purpose.

They are asking you in this motion to dismiss to ignore the evidence that we have presented, to ignore the testimony, the documentary evidence, to ignore the common sense and simply to accept the denials of the President of the United States. That is not what a motion to dismiss is about. We ask that we move forward to consider the full development of these facts.

I yield to Mr. GRAHAM.

The CHIEF JUSTICE. The Chair recognizes Mr. GRAHAM.

Mr. Manager GRAHAM. Thank you, Mr. Chief Justice. How much time do we have left?

The CHIEF JUSTICE. The House managers have 32 minutes remaining.

Mr. Manager GRAHAM. Thank you, Mr. Chief Justice. To my colleagues, my chairman wants 11 minutes. So, for my own sake, please let me know when we get close.

(Laughter.)

We meet again to discuss a very, very important event in our Nation's history. To dismiss an impeachment trial under these facts and under these circumstances would be unbelievable, in my opinion, and do a lot of damage to the law and to the ultimate decision this body has to make: whether or not Bill Clinton should be our President.

As I understand the general nature of the law, the facts and the law break our way for this motion. What I would like to discuss with you is whether or not a reasonable person could believe that Bill Clinton should not be our President and the facts that have been presented rise to the level of creating serious doubts about whether he is a criminal, not just a bad man who did bad things. For he is a good man in some ways, as all of us are, and he has done some things that everybody in this body will condemn roundly.

America needs no more lectures about Bill Clinton's misconduct, about his inappropriate relationship. We need no more lectures about his sins. We all have those. We need to resolve, Is our President a criminal? That is harsh, but the facts bear out those statements.

When you dismissed the judges for perjury and filing statements under oath, some of you said some very harsh things about those judges, not because you are harsh people, but because their conduct warranted it.

One thing I am not going to say, and I will quit this job before I do this, is, I am not going to run over anybody's conscience when they are exercising it as they deem appropriate for the good of this Nation. My name has been brought up a couple of times about whether or not reasonable people can disagree with me and still be reasonable about what we should do in this case. I have told you the best I can that there is no doubt these are high crimes, in my opinion. This is a hard decision for our country, but when I first spoke to you, I thought we would be better off if Bill Clinton left office, and I want the chance to prove to you why. Give me a chance to prove to you why I believe that, why my colleagues voted our conscience to get this case to where it should be, not swept under a rug, but in a trial to a disposition.

I have lost no sleep worrying about the fact that Bill Clinton may have to be removed from office because of his conduct. I have lost tons of sleep thinking he may get away with what he did. But the question was: Could you disagree with LINDSEY GRAHAM and be a good American, in essence? Absolutely. You can disagree with me on abortion, and Mr. Hyde, and I am not going to trample on who you are, because I know that the liberal wing of the Democratic Party and the moderate wing of the Republican Party have different views than I do.

But I didn't come up here to run you down. I came up here to build my country up the way I think it needs to be built up.

Ladies and gentlemen of the Senate, if you will listen to our case, if you will let us explain why we have lost no sleep asking for this President to be removed and why we voted to get it here and you disagree with me at the end of the day, I will never ever say you don't love your country as much as I do. That is what that statement was meant to convey, and it will convey that until I am dead and gone.

The idea that 130 years ago a Senator took a vote and made a statement that the only way you can remove a President is it has to be unquestionable in anybody's mind tells me he sure thought a lot of himself. I am glad to see that stopped in the Senate. One hundred thirty years later, we don't have people like that anymore. What that conveyed to me was that a person made a hard decision and tried to create a standard that slams somebody else who came out differently.

I hope that is not what this is all about. He goes down in history, but I wouldn't want that as part of my epitaph, that when I voted my conscience, I reached a level that if you didn't go where I was, there is something wrong with you.

What did Bill Clinton do, and why are we all here? Are we here because of Ken Starr, because of LINDSEY GRAHAM, because of—why are we here? We are here because William Jefferson Clinton, in my opinion—we are here because on our watch in the House, the President of the United States, when he was a defendant in a lawsuit, instead of trusting the legal system to get it right, did everything possible, in my opinion, to undermine the rule of law, including going to a grand jury in August of last year and committing perjury after people in this body and prominent Americans said, "Stop it." And now we are here to say, "Well, we really didn't mean it. The motion to dismiss means we're sort of just kidding, Mr. President."

If you believe he is not guilty of these offenses based on this stage of the trial, then you ought to grant the motion to dismiss, but you will be changing the law as we know it today. We haven't had a chance to present our case, really, and all the facts should break our way. You can believe this if you would like. They stood up here and argued that the conversation between President Clinton and his secretary, Betty Currie, was to find out what she knew to refresh his memory. If you think that when the President goes to Betty Currie and makes the following statement, "Monica wanted to have sex with me and I couldn't do that," that he is trying to figure out what she knew and is trying to refresh his memory, you can do that. I would suggest that "ain't" reasonable. If you believe that he wanted to figure out whether he was alone or not with her and he had to ask Betty, that is not reasonable. That is a crime.

Let me tell you the subtleties of this case, things that really tell you a lot about why we are here—William Jefferson Clinton. Before we get into the subtleties of this case, Senator Bumpers made a very eloquent speech about the ups and the downs of this case and about his relationship with the President and how close it was, and the human nature of what is going on here. But here is what he said:

> You pick your own adjective to describe the President's conduct. Here are some that I would use: indefensible, outrageous, unforgivable, shameless.

How about illegal?

And he says:

> I promise you the President would not contest any of those or any others.

When you put in the word "illegal," everything is a big misunderstanding.

Take this case to a conclusion, so America will not be confused as to whether or not their President committed crimes. There will be people watching what we do here, and they will be confused as to whether or not the conversation between President Clinton and Ms. Currie was illegal or not. Let us know. That is so important.

Let us know—when he went to Monica Lewinsky and talked about a cover story—if that is what we want to go on here every day. And a trial 20 months from now does us no good, because this happened when he was President, ladies and gentlemen. This happened when he raised the defense, "You can't sue me because I'm President."

And what did he do after that defense was taken away from him by the Supreme Court? He went back to somebody who is very loyal to him, somebody who admires him, somebody whom you and I pay her salary—his secretary. And he put her in a situation, through misleading her, that she was going to pass on his lies. That is not what we pay her to do. He put her in a situation where she was going to incur legal costs because he cared more about himself than he did his secretary. He put his Cabinet Members, he put the people who work for him, in a horrible spot.

The subtleties of this case. Let me tell you one of the subtleties of this case. And this was read by the defense in this case:

> The President had a followup conversation with Mr. Morris during the evening of January 22, 1998, when Mr. Morris was considering holding a press conference to blast Monica Lewinsky out of the water. The President told Mr. Morris to be careful. According to Mr. Morris, the President warned him not to be too hard on Ms. Lewinsky because "there's some slight chance that she may not be cooperating with Starr and we don't want to alienate her by anything we're going to put out."

And they were trying to tell you that "ain't" bad, that is a good thing. The best you can get from that statement is the President, when approached with the idea of blasting her, said, "Let's wait."

The subtleties in this case. Who is this young lady? His consensual lover. But this case started not about consensual loving. This case started about something far from consensual loving. This case started about something like a Senator who ran into problems with you all. And if you will let us develop our case, you may have a hard time reconciling those two decisions. But that is up to you.

Please don't dismiss this case. For the good of this country, for the good of the law, let us get to what happened here.

John Podesta—the subtleties of this case—he talked to him about what happened, and he said, "I had no relationship with her whatever." Everybody who went into that grand jury, who talked to Bill Clinton, was lied to. And they passed those lies on to a Federal grand jury. You know what? In America that is a crime, even if you are President. And you need to address whether that happened or not. Don't dismiss this case.

But you know what is even more subtle is that John Podesta, somebody who is very close to him, once he said nothing happened, felt the need to ask one more question—and pardon me for saying this—"Does that include oral sex?" That says a lot about what Mr. Podesta thinks about Mr. Clinton, because he felt he had to go one step further, and in his grand jury testimony he tells us the President took that behavior off the table.

Some of you are worried about the perjury charge in this case. Let me tell you right now, you should have no worries, because you have a dilemma on your hands that is easy to resolve in terms of whether or not the President committed perjury in the grand jury. If you believe that he said that he was truthful when he said, "I never lied," or, "I was always truthful to my subordinates, to the people that work for me, to my aides," then when he told John Podesta, "Our relationship did not include oral sex," he was being truthful. If he was being truthful to John Podesta, he lied through his teeth about everything else in the grand jury when he considered or when he approached the grand jury with the idea that, "Our relationship was of one kind of sex but not the other." He told John Podesta it wasn't there at all.

You pick the lie, but it is there. And if you can reconcile that, you are better than I am. That is up to you all. And does it really matter? So what? I think it matters a great deal if you are suing for sexually harassing somebody, and they are on to the fact that you can't control yourself enough to stop it 4 or 5 years after you are sued, and you are doing it in the White House with somebody half your age. I think that would matter. Maybe that is the difference between getting bamboozled in court and having to pay $850,000.

People are going to be confused if we don't bring this case to a conclusion. I suggest to you, it matters a great deal, that any major CEO, any low-level employee of any business in the country, would have been tossed out for something like that. But I know he is the President. Electing somebody should not distance them from common decency and the rule of law to the point that, when it is all over with, you don't know what you have got left in this country.

Is that what you want to do in this case? Just to save this man, to ignore the facts, to have a different legal standard, to make excuses that are bleeding this country dry?

The effect of this case is hurting us more than we will ever know. Do not dismiss this case. Find out who our President is. Come to the conclusion, not that it was just bad behavior, it was illegal behavior. Tell us what is right. Tell us what is wrong. Give us some guidance. Under our Constitution, you don't impeach people at the ballot box, you trust the U.S. Senate. And I am willing to do that. Rise to the occasion for the good of the Nation.

Thank you very much.

The CHIEF JUSTICE. Do the House managers have any additional presentation?

Mr. Manager GRAHAM. Yes. I am sorry. Mr. Chief Justice, I now yield to Manager HYDE.

The CHIEF JUSTICE. The Chair recognizes Manager HYDE.

Mr. Manager HYDE. Thank you, Mr. Chief Justice.

Mr. Ruff, and counsel, and distinguished Senators, I want to be very candid with you, and that may involve diplomatic breaches because I am parliamentarily illiterate. But nonetheless, I looked at this motion to dismiss and I was astounded, really. If the Senate had said something similar to the House, it would certainly have received such treatment as comports with comity, and I don't know enough about comity to wave that flag, but I don't want to waive my rights to raise that issue, anyway.

I know Black's Law Dictionary is a resource book for all of us, but I looked in the Thesaurus about "dismiss" and I came up with "disregard, ignore, brush off." I just was surprised that this motion is here now before we conclude the case.

Some years ago when I was trying lawsuits, I appeared before a judge in Chicago. My opponent was an oldtimer who was just mean—a good lawyer, but he was mean—and the judge interrupted him in one tirade and he said, "Counsel, I have a lot of respect for you. I wish you had a little respect for this court." I sort of feel that way. I sort of feel that we have fallen short in the respect side because of the fact that we represent the House, the other body, kind of blue-collar people, and we are over here trying to survive with our impeachment articles.

The most salient reason for defeating this motion is article I, section 3 of the Constitution which says that the Senate shall have the sole power to try—to try—all impeachments. Now, a trial, as I understand it, is a search for truth, and it should not be trumped by a search for an exit strategy.

It seems to me this motion elevates convenience over constitutional process and by implication ratifies an unusual extension of sovereign immunity. If these articles are dismissed, all inferences in support of the respondents, in support of us, the managers, should be allowed; and if you allow all reasonable inferences in our favor, what kind of a message does it send to America to dismiss the articles of impeachment? Charges of perjury, obstruction of justice are summarily dismissed—disregarded, ignored, brushed off. These are charges that send ordinary folk to jail every day of the week and remove Federal judges. But I can see this President is different. But if the double standard is to flourish on Capitol Hill, I don't think we have accomplished a great deal.

Yes, it is cumbersome. These proceedings are archaic in many ways. The question period was something out of the Old Bailey, I guess. I don't know. But democracy is untidy. I will stipulate that. It is untidy. But it is also a blessing. Impeachment and trial by the Senate were devised by our framers to make this difficult process as definitive as possible.

"Let's get the matter behind us." That is a mantra. That is a cliche. We all say it. You won't get it behind you if you dismiss this without voting on the articles. You guarantee contention. You will never get it behind us. Vote these articles up or down. That is the only way they really get it behind us.

What this is—this motion—is a legal way of saying, "so what" to the charges that we levied here. Now, look at what these charges are. So what that the President violated his oath of office and willfully corrupted and manipulated the judicial process for his personal gain and exoneration. So what that President Clinton willfully provided perjurious, false, and misleading testimony to the grand jury on several topics. So what that the President corruptly encouraged a witness in a Federal civil rights action brought against him to execute a sworn affidavit in that proceeding that he knew to be perjurious, false, and misleading. So what that the President encouraged a witness to lie to the grand jury and conceal evidence. So what that the President has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive to the rule of law and justice, to the manifest injury of the people of the United States.

That is an awful lot to dismiss with a brushoff, to ignore with a mere "so what."

No, it may be routine. We certainly don't have enough experience in these impeachment matters, and thank God for that. It may be routine to file a motion to dismiss. But I take very seriously a motion to dismiss, especially when it is offered by the very distinguished Senator who did that. But I hope in a bipartisan way, I would hope some Democrats would support the rejection of this motion, as difficult as it is, because I don't think this whole sad, sad, drama will end. We will never get it behind us until you vote up or down on the articles. And when you do, however you vote, we will all collect our papers, bow from the waist, thank you for your courtesy, and leave and go gently into the night. But let us finish our job.

Thank you.

Mr. WELLSTONE addressed the Chair.

Mr. LOTT. Parliamentary inquiry, Mr. Chief Justice Rehnquist.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. I believe under the agreement we entered into the next order of business, then, would be the vote on the motion by Senator HARKIN to go into open session; is that correct?

The CHIEF JUSTICE. The managers have used their time. The Chair recognizes the Senator from Iowa, Mr. HARKIN.

MOTION TO SUSPEND THE RULES

Mr. HARKIN. Mr. Chief Justice, in accordance with rule V of the Senate Standing Rules, I and Mr. WELLSTONE filed a notice of intent to move to suspend the rules solely regarding the debate by Senators on the motion to dismiss, so Senators can have open rather than a closed debate on this issue.

This motion is offered on behalf of myself and Senators WELLSTONE, FEINGOLD, LEAHY, LIEBERMAN, JOHNSON, INOUYE, SCHUMER, WYDEN, KERREY, BAYH, TORRICELLI, LAUTENBERG, ROBB, DODD, MURRAY, DORGAN, CONRAD, KENNEDY, KERRY, DURBIN, BOXER, GRAHAM, BRYAN, LANDRIEU, and MIKULSKI.

My motion is at the desk. However, Mr. Chief Justice, I send a corrected copy of my motion to the desk. There were two typos in it; I want to have it corrected.

Mr. LOTT addressed the Chair.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. If it is appropriate at this point, I ask the Senators if they would remain at their desks so we can go through this vote, and I ask unanimous consent, since we are all here, to reduce the time for the vote from 15 minutes to 10 minutes.

The CHIEF JUSTICE. Without objection, it is so ordered.

Is there objection to the Senator from Iowa modifying his motion?

Without objection, it is modified.

The clerk will report the motion.

The legislative clerk read the motion, as modified, as follows:

> I move to suspend the following portions of the Rules and Procedure and Practice in the Senate When Sitting on Impeachment Trials in regard to debate by Senators on a motion to dismiss during the trial of President William Jefferson Clinton:
>
> (1) The phrase "without debate" in Rule VII;
>
> (2) The following portion of Rule XX: ", unless the Senate shall direct the doors to be closed while deliberating upon its decisions. A motion to close the doors may be acted upon without objection, or, if objection is heard, the motion shall be voted on without debate by the yeas and nays, which shall be entered on the record"; and
>
> (3) In Rule XXIV, the phrases "without debate", "except when the doors shall be closed for deliberation, and in that case" and ", to be had without debate".

Mr. HARKIN. Mr. Chief Justice, I ask for the yeas and nays.

The CHIEF JUSTICE. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The CHIEF JUSTICE. The clerk will call the roll.

The legislative clerk called the roll.

The CHIEF JUSTICE. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 57, as follows:

[Rollcall Vote No. 2]

[Subject: Harkin motion to suspend the rules]

YEAS—43

Akaka
Bayh
Biden
Bingaman
Boxer
Breaux
Bryan
Cleland
Collins
Conrad
Daschle
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Hutchison
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moynihan
Murray
Reed
Reid
Robb
Schumer
Specter
Torricelli
Wellstone
Wyden

NAYS—57

Abraham
Allard
Ashcroft
Baucus
Bennett
Bond
Brownback
Bunning
Burns
Byrd
Campbell
Chafee
Cochran
Coverdell
Craig
Crapo
DeWine
Domenici
Enzi
Fitzgerald
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Inhofe
Jeffords
Kyl
Lincoln
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

The CHIEF JUSTICE. Are there any other Senators wishing to vote or change their vote? If not, on this vote the yeas are 43, and the nays are 57. Two-thirds of the Senators voting, and a quorum being present, not having voted in the affirmative, the motion is rejected.

Mr. REID addressed the Chair.

The CHIEF JUSTICE. The Chair recognizes the Senator from Nevada.

Mr. REID. May we have order in the Chamber, please?

The CHIEF JUSTICE. The Senate will be in order.

ORDER FOR CLOSED SESSION

Mr. LOTT. Mr. President, I move that we now go into closed session for the purpose of Senators debating the motion to dismiss.

The motion was agreed to.

The CHIEF JUSTICE. The Chair, pursuant to rule XXXV, now directs the Sergeant-at-Arms to clear the galleries, close the doors of the Chamber, and exclude all the officials of the Senate not sworn to secrecy.

RECESS

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that we take a 10-minute break for the purposes of closing the doors and preparing for the debate.

There being no objection, at 5:23 p.m., the Senate recessed until 5:50 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

CLOSED SESSION

(At 5:50 p.m., the doors of the Chamber were closed. The proceedings of the Senate were held in closed session until 9:51 p.m., at which time, the following occurred.)

OPEN SESSION

(At 9:51 p.m., the doors of the Chamber were opened and the Senate resumed proceedings in open session.)

Mr. NICKLES. I ask unanimous consent that the Senate now return to open session.

The CHIEF JUSTICE. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. NICKLES. I ask unanimous consent that when the Senate adjourns, it stand in adjournment until the hour of 12 noon on Tuesday, and I further ask consent that during the remainder of the trial it be in order for Members to submit unanswered questions to the Chair.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

PROGRAM

Mr. NICKLES. On tomorrow, we will resume and begin debate on the motion to subpoena. I now ask unanimous consent that the time for argument be reduced to 4 hours, equally divided, as provided for under Senate resolution 16.

The CHIEF JUSTICE. Is there objection? It is so ordered.

Mr. NICKLES. Mr. Chief Justice, for the information of all colleagues, tomorrow we will begin the debate at 12 noon instead of 1 o'clock.

ADJOURNMENT UNTIL TOMORROW

Mr. NICKLES. I ask that the Senate stand in adjournment as under the previous order.

There being no objection, at 9:51 p.m., the Senate, sitting as a Court of Impeachment, adjourned until Tuesday, January 26, 1999, at 12 noon.

(Under a previous order, the following material was submitted at the desk during today's session.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–926. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on recissions and deferrals dated December 30, 1998; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, and to the Committee on Foreign Relations.

EC–927. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on two violations of the Antideficiency Act involving the Occupational Safety and Health Administration Salaries and Expenses Account and the Working Capitol Fund Account; to the Committee on Appropriations.

EC–928. A communication from the Executive Director of the Northeast Low-Level Radioactive Waste Commission, transmitting, pursuant to law, the Commission's annual report for fiscal year 1998; to the Committee on Energy and Natural Resources.

EC–929. A communication from the Director of the Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Board of Veteran's Appeals: Rules of Practice-Revision of Decisions on Grounds of Clear and Unmistakable Error" (RIN2900–AJ15) received on January 12, 1999; to the Committee on Veterans' Affairs.

EC–930. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of an unauthorized transfer of U.S.-origin defense articles to a private firm by the Government of Israel; to the Committee on Foreign Relations.

EC–931. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a list of international agreements other than treaties entered into by the United States (98–186 to 98–189); to the Committee on Foreign Relations.

EC–932. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the text of international agreements other than treaties entered into by the United States (99–1 to 99–4); to the Committee on Foreign Relations.

EC–933. A communication from the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the Department's report on Defense purchases from foreign entities for fiscal year 1998; to the Committee on Armed Services.

EC–934. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Order for Supplies or Services" (Case 97–D024) received on January 12, 1999; to the Committee on Armed Services.

EC–935. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Para-Aramid Fibers and Yarns" (Case 98–D310) received on January 12, 1999; to the Committee on Armed Services.

EC–936. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Simplified Acquisition Procedures" (Case 97–D306) received on January 12, 1999; to the Committee on Armed Services.

EC–937. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Announcement of Proposal Deadline for the Competition for the 1999 Brownfields Cleanup Revolving Loan Fund Pilots" (FRL6220–7) received on January 12, 1999; to the Committee on Environment and Public Works.

EC–938. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Ventura County Air Pollution Control District" (FRL6213–9) received on January 12, 1999; to the Committee on Environment and Public Works.

EC–939. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Illinois" (FRL6216–4) received on January 12, 1999; to the Committee on Environment and Public Works.

EC–940. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Illinois" (FRL6215–3) received on January 12, 1999; to the Committee on Environment and Public Works.

EC–941. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Joaquin Valley Unified Air Pollution Control District" (FRL6214–5) received on January 12, 1999; to the Committee on Environment and Public Works.

EC–942. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Priorities List for Uncontrolled Hazardous Waste Sites" (FRL6220–6) received on January 12, 1999; to the Committee on Environment and Public Works.

EC–943. A communication from the Chief of the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Mandatory Seizure of Certain Plastic Explosives" (RIN1515–AC33) received on January 5, 1999; to the Committee on Finance.

EC–944. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Employee Stock Ownership Plans; Section 411(d)(6) Protected Benefits (Taxpayer Relief Act of 1997); Qualified Retirement Plan Benefits" (RIN1545–AV94) received on January 8, 1999; to the Committee on Finance.

EC–945. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Allocation of Loss With Respect to Stock and Other Personal Property; Application of Selection 904 to Income Subject to Separate Limitations" (RIN1545–AQ43) received on January 8, 1999; to the Committee on Finance.

EC–946. A communication from the President of the United States, transmitting, pursuant to law, a report on Administration actions and expenses related to the national emergency with respect to the Governments of the Federal Republic of Yugoslavia (Serbia and Montenegro), and the Republic of Serbia with respect to Kosova (Executive Order 13088); to the Committee on Banking, Housing, and Urban Affairs.

EC–947. A communication from the Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Rulemaking for the EDGAR System" (RIN3235–AG97) received on January 12, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–948. A communication from the Federal Register Liaison Officer, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Capital Distributions" (RIN1550–AA72) received on January 12, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–949. A communication from the Federal Register Liaison Officer, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Technical Amendments" (No. 98–121) received on January 5, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–950. A communication from the Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Segment Reporting" (RIN3235–AH43) received on January 5, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–951. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Financial Disclosure by Clinical Investigators" (RIN0910–AB77) received on January 5, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–952. A communication from the Secretary of Education, transmitting, pursuant to law, the annual report of the National Advisory Committee on Institutional Quality and Integrity for fiscal year 1998; to the Committee on Health, Education, Labor, and Pensions.

EC–953. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, an audit of the American Red Cross for the year ended June 30, 1998; to the Committee on Health, Education, Labor, and Pensions.

EC–954. A communication from the Associate General Counsel of the Corporation for National Service, transmitting, pursuant to law, the report of a rule entitled "Administrative Costs for Learn and Serve America and Americorps Grants Programs" received on January 12, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–955. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Dental Devices; Effective Date of Requirement for Premarket Approval; Temporomandibular Joint Prostheses" (Docket 97N–0239) received on January 5, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–956. A communication from the Director of the Office of Government Ethics, transmitting, pursuant to law, the report of a rule entitled "Corrections and Updating to Certain Regulations of the Office of Government Ethics" (RIN3209–AA00) received on January 8, 1999; to the Committee on Governmental Affairs.

EC–957. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a report on the extension of locality-based comparability payments to categories of positions that are in more than one executive agency; to the Committee on Governmental Affairs.

EC–958. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the Commission's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–959. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the Administration's annual report for fiscal years 1998 and 1997; to the Committee on Governmental Affairs.

EC–960. A communication from the Special Counsel, U.S. Office of Special Council, transmitting, pursuant to law, the Office's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–961. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the Agency's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–962. A communication from the Chairman and the General Counsel of the National Labor Relations Board, transmitting, pursuant to law, the Board's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–963. A communication from the Chairman and the General Counsel of the National Labor Relations Board, transmitting, pursuant to law, the Board's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–964. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, the Administration's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–965. A communication from the Chairman of the United States Consumer Product Safety Commission, transmitting, pursuant to law, the Commission's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–966. A communication from the Director of the Policy and Communications Staff, National Archives and Records Administration, transmitting, pursuant to law, the Administration's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–967. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports issued or released in November 1998; to the Committee on Governmental Affairs.

EC–968. A communication from the Secretary of the Smithsonian Institution, transmitting, pursuant to law, the Institution's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–969. A communication from the President of the National Endowment for Democracy, transmitting, pursuant to law, the Endowment's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–970. A communication from the Acting Director of the Office of Federal Housing Enterprise Oversight, transmitting, pursuant to law, the Office's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–971. A communication from the Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, the Endowment's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–972. A communication from the Office of Administration, Director of the Executive Office of the President, transmitting, pursuant to law, a report on the personnel employed in the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Office of Policy Development (Domestic Policy Staff) and the Office of Administration; to the Committee on Governmental Affairs.

EC–973. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–974. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–975. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Hazardous Duty Pay" (RIN3206–AI) received on January 12, 1999; to the Committee on Governmental Affairs.

EC–976. A communication from the Acting Director of the Federal Mediation and Conciliation Service, transmitting, pursuant to law, the Service's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–977. A communication from the Chairman of the Board of Governors of the United States Postal Service, transmitting, pursuant to law, the Service's annual report under the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC–978. A communication from the Administrator of the Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tolerances for Moisture Meters" (RIN0580–AA60) received on January 5, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–979. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Milk in the Nebraska-Western Iowa Marketing Area; Termination of Certain Provisions of the Order" (Docket DA–98–11) received on January 5, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–980. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Revised Quality and Handling Requirements and Entry Procedures for Imported Peanuts for 1999 and Subsequent Import Periods" (Docket FV98–999–1 FR) received on January 5, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–981. A communication from the Manager of the Federal Crop Insurance Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "General Administrative Regulations; Interpretations of Statutory and Regulatory Provisions" received on January 12, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–982. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Export Certification; Accreditation of Non-Government Facilities" (Docket 95–071–2) received on January 5, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–983. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pseudorabies in Swine; Payment of Indemnity" (Docket 98–123–2) received on January 12, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–984. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Veterinary Services User Fees; Embryo Collection Center Approval Fee" (Docket 98–005–2) received on January 5, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–985. A communication from the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the Administration's report on aircraft cabin air quality; to the Committee on Commerce, Science, and Transportation.

EC–986. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Fees for Ancillary or Supplementary Use of Digital Television Spectrum Pursuant to Section 336(e)(1) of the Telecommunications Act of 1996" (Docket 97–247) received on January 5, 1999; to the Committee on Commerce, Science, and Transportation.

EC–987. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "High Seas Fishing Compliance Act; Vessel Identification and Reporting Requirements; OMB Control Numbers" (I.D. 040197B) received on January 5, 1999; to the Committee on Commerce, Science, and Transportation.

EC–988. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; 1999 Specifications" (I.D. 101598B) received on January 12, 1999; to the Committee on Commerce, Science, and Transportation.

EC–989. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Interim 1999 Harvest Specifications for Groundfish" (I.D. 122198A) received on January 5, 1999; to the Committee on Commerce, Science, and Transportation.

EC–990. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Interim 1999 Harvest Specifications" (I.D. 121698B) received on January 5, 1999; to the Committee on Commerce, Science, and Transportation.

EC–991. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Atlantic Surf Clam and Ocean Quahog Fishery; Minimum Clam Size for 1999" (I.D. 122398E) received on January 5, 1999; to the Committee on Commerce, Science, and Transportation.

EC–992. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Closures of Specific Groundfish Fisheries in the Gulf of Alaska" (I.D. 122898B) received on January 5, 1999; to the Committee on Commerce, Science, and Transportation.

EC–993. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Closures of Specified Groundfish Fisheries in the Bering Sea and Aleutian Islands" (I.D. 122898C) received on January 5, 1999; to the Committee on Commerce, Science, and Transportation.

EC–994. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Last-in, First-out Inventories" (Rev. Rul. 99–4) received on January 5, 1999; to the Committee on Finance.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. TORRICELLI:

S. 302. A bill for the relief of Kerantha Poole-Christian; to the Committee on Health, Education, Labor, and Pensions.

By Mr. McCAIN (for himself and Mr. BURNS):

S. 303. A bill to amend the Communications Act of 1934 to enhance the ability of direct broadcast satellite and other multichannel video providers to compete effectively with cable television systems, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. FRIST:

S. 304. A bill to improve air transportation service available to small communities; to the Committee on Commerce, Science, and Transportation.

By Mr. McCAIN (for himself and Mr. BRYAN):

S. 305. A bill to reform unfair and anticompetitive practices in the professional boxing industry; to the Committee on Commerce, Science, and Transportation.

By Mr. FRIST:

S. 306. A bill to regulate commercial air tours overflying the Great Smokey Mountains National Park, and for other purposes;

to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN (for himself and Mr. BURNS):

S. 303. A bill to amend the Communications Act of 1934 to enhance the ability of direct broadcast satellite and other multichannel video providers to compete effectively with cable television systems, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE SATELLITE TELEVISION ACT OF 1999

• Mr. McCAIN. Mr. President, over the past several years some satellite TV companies routinely broke the law by selling customers distant network stations when they weren't authorized to.

These customers bought the service in good faith. For many, especially those in rural areas, these distant network stations are the only source of decent network TV reception. For others, they provide a window on life in a distant city.

Despite the fact that these satellite TV customers had no intention of breaking the law, and despite the fact that many welcome the added diversity these distant network stations provide, and despite the fact that the law prevents satellite TV companies from transmitting local network stations, many of these customers—perhaps as many as two million of them—are within weeks of losing their distant network stations, thanks to a court order secured by local TV stations and TV network broadcasters. And the way the law is written, there's not much the FCC or anybody else can do to stop it—unless we change the law.

Mr. President, that's what I propose to do. Today, with the cosponsorship of Senator CONRAD BURNS, I am introducing the Satellite Television Act of 1999. Together with legislation introduced earlier this week by myself and Senators HATCH, LEAHY, DEWINE, KOHL, and LOTT, this legislation will settle, in a fair and rational way, the ongoing dispute between broadcasters and satellite TV companies about how and when satellite TV customers can receive local and distant network TV stations.

It should come as no surprise that telecommunications law, like the notoriously failed 1996 Telecommunications Act, often seems to work against the interests of the average consumer: the plain but sorry fact is that the interests of big telecommunications companies, not average Americans, are the ones that the laws are really drafted to serve. And why is that? because these companies often successfully argue that serving their interests is serving the consumer's interests.

That just doesn't wash in this case, however. For example, how can anybody argue with a straight face that it's really serves the consumer's interests to keep satellite TV companies from carrying local stations? Or to allow broadcasters to force satellite TV companies to drop all their distant network stations—even if local broadcasters aren't suffering any meaningful loss of audience or revenue as a result, and if the local market doesn't even have a station that broadcasts the same network shows?

This legislation will change the law and avoid these unfair results. It would allow satellite TV companies to carry local signals, and to continue carrying distant network stations in three situations: when a local network affiliate doesn't exist, when a local affiliate can't be received off-air, or when carriage of the distant signals will not cause local stations any significant loss of revenue. The FCC would be ordered to determine, on an expedited, bipartisan basis, those situations in which the lack of adverse impact would justify continued carriage of distant network stations, and whether any program blackout rules should be applied to their carriage. In the interim, satellite TV subscribers located at a greater distance from the local stations would be permitted to continue carrying the distant network stations they currently offer. Those located close to the core of the local station's market, however, would be subject to having their distant network stations withdrawn by the broadcasters' enforcement of their outstanding judgment. This will appropriately punish the satellite TV companies that most likely deliberately broke the law, and these consumers are highly likely to receive full network service from local network station affiliates.

Mr. President, this bill attempts to strike a fair compromise between the warring corporate interests of the satellite TV and broadcast TV interests, so that we can, at least this time, avoid having consumers bear the consequences of bad law and corporate selfishness.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Satellite Television Act of 1999".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) In the Cable Television Consumer Protection and Competition Act of 1992, Congress stated its policy of promoting competition in cable services and making available to the public a diversity of views and information through cable television and other video media.

(2) In the Telecommunications Act of 1996, Congress stated its policy of securing lower prices and higher quality service for American telecommunications consumers and encouraging the rapid deployment of new telecommunications technologies.

(3) In most places throughout America, cable television system operators still do not face effective competition from other providers of multichannel video service.

(4) Absent effective competition, the market power exercised by cable television operators enables them to raise the price of cable service to consumers, and to control the price and availability of cable programming services to other multichannel video service providers. Current Federal Communications Commission rules have been inadequate in constraining cable price increases.

(5) Direct Broadcast Satellite service has over 8 million subscribers and constitutes the most significant competitive alternative to cable television service.

(6) Direct Broadcast Satellite Service currently suffers from a number of statutory, regulatory, and technical barriers that keep it from being an effective competitor to cable television in the provision of multichannel video services.

(7) The most prominent of these barriers is the inability to provide subscribers with local television broadcast signals by satellite.

(8) Permitting providers of direct broadcast satellite service to retransmit local television signals to their subscribers would greatly enhance the ability of direct broadcast satellite service to compete more effectively in the provision of multichannel video services.

(9) Due to capacity limitations and in the interest of providing service in as many markets as possible, providers of direct broadcast satellite service, unlike cable television systems, cannot at this time carry all local television broadcast signals in all the local television markets they seek to serve.

(10) It would be in the public interest for providers of direct broadcast satellite service to fully comply with the mandatory signal carriage rules at the earliest possible date. In the interim, requiring full compliance with the mandatory signal carriage rules would substantially limit the ability of direct broadcast satellite service providers to compete in the provision of multichannel video services and would not serve the public interest.

(11) Maintaining the viability of free, over-the-air local television service is a matter of preeminent public interest.

(12) All subscribers to multichannel video services should be able to receive the signal of at least one station affiliated with each of the major broadcast television networks.

(13) Millions of subscribers to direct broadcast satellite service currently receive the signals of network-affiliated stations not located in these subscribers' local television markets. In those cases where cable service is not available and where conventional rooftop antennas are not effective distant network signals may be these subscribers' only source of network television service.

(14) There is a direct link between the widespread carriage of distant network stations in local network affiliates' markets and a local affiliate's loss of audience share and revenues, which could in turn harm the station's ability to serve its local community.

(15) Abrupt termination of satellite carriers' provision of distant network signals could have a negative impact on the ability

of direct broadcast satellite service to compete effectively in the provision of multichannel video services.

(16) The public interest would be served by permitting direct broadcast satellite service providers to continue existing carriage of a distant network affiliate station's signal where—

(A) there is no local network affiliate;

(B) the local network affiliate cannot be adequately received off-air; or

(C) continued carriage would not be likely to materially harm local television service.

SEC. 3. PURPOSE.

The purpose of this Act is to permit subscribers of Direct Broadcast Satellite service who currently receive distant network stations to continue to receive this service to the extent that the Federal Communications Commission affirmatively finds that no local station would be likely to sustain audience and revenue loss that would materially affect that station's ability to continue to serve its local audience.

SEC. 4. MUST-CARRY FOR SATELLITE CARRIERS RETRANSMITTING TELEVISION BROADCAST SIGNALS.

Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end thereof the following:

"SEC. 337. CARRIAGE OF LOCAL TELEVISION SIGNALS BY SATELLITE CARRIERS.

"(a) Purpose.—The purpose of this section is to promote competition in the provision of multichannel video services while protecting the availability of free, over-the-air television, particularly for the 40 percent of American television households that do not subscribe to any multichannel video programming service, by—

"(1) enabling providers of direct broadcast service to offer their subscribers the signals of local television stations;

"(2) protecting the availability of free, over-the-air television broadcasting by requiring satellite carriers who rely on a compulsory copyright license to carry all local stations; and

"(3) accommodating, for an interim period, the inability of providers of direct broadcast service from carrying all local signals in all local television markets they seek to serve.

"(b) Application of Mandatory Carriage to Satellite Carriers.—The mandatory carriage provisions of sections 614 and 615 of the Communications Act will apply in a local market no later than January 1, 2002, to satellite carriers retransmitting any television broadcast station in that local market and pursuant to the compulsory license provided by section 122 of title 17, United States Code.

"(c) Good Signal Required.—A local television broadcast station eligible for carriage under subsection (b) may be required to bear the costs associated with delivering a good quality signal to the designated local receive facility of the satellite carrier. The selection of a local receive facility by a satellite carrier shall not be made in a manner that frustrates the purposes of this Act. The Commission shall promulgate any regulations necessary to assure that selection of local receive facilities is made in compliance with the intent of this Act.

"(d) Rulemaking Required.—

"(1) Single rulemaking required.—The Commission shall institute a single rulemaking, compliant with subchapter II of chapter 5 of title 5, United States Code, to examine the extent to which carriage of distant network stations already provided to subscribers on March 1, 1998, may continue without causing a projected loss of audience and revenue of such magnitude as to cause material harm to the viability of local stations.

"(2) Determination required.—As part of the rulemaking required by this subsection, the Commission shall determine whether the application of network exclusivity, syndicated exclusivity, or sports exclusivity rules to carriage of distant network stations would serve the public interest.

"(3) Timeframe.—The Commission shall complete all actions necessary to prescribe regulations it may adopt as a result of this rulemaking to be effective within 180 days after the enactment of the Satellite Television Act of 1999. Direct broadcast satellite service providers may continue existing carriage of distant network stations within local stations' Grade B contours until the effective date of such new regulations.

"(4) Two-thirds vote required.—Any regulations adopted under this subsection must be adopted by an affirmative vote of at least two-thirds of the members of the Commission.

"(5) Certain DBS signals.—Direct broadcast satellite service providers may continue to carry the signals of distant network stations without regard to the provisions of this subsection in any situation in which such carriage would be consistent with rules adopted by the Commission in CS Docket 98-201.

"(e) Cable Television System Digital Signal Carriage Not Covered.—Nothing in this section applies to the carriage of the digital signals of television broadcast stations by cable television systems.

"(f) No Remission of Liability.—No action taken by the Commission pursuant to subsection (d) shall relieve any person from any liability for any violation of title 17, United States Code, or from the imposition of any remedy therefor.

"(g) Definitions.—In this section:

"(1) Television broadcast station.—The term 'television broadcast station' means a full power local television broadcast station, but does not include a low-power or translator television broadcast station.

"(2) Broadcasting network.—The term 'broadcasting network' means a television network in the United States which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated broadcast stations in 10 or more States.

"(3) Network station.—The term 'network station' means a television broadcast station that is owned or operated by, or affiliated with, a broadcasting network.

"(4) Local market.—The term 'local market' means the designated market area in which a station is located. For a noncommercial educational television broadcast station, the local market includes any station that is licensed to a community within the same designated market area as the noncommercial educational television broadcast station.

"(5) Local receive facility.—The term 'local receive facility' means the reception point in the local market of a television broadcast station or in a market contiguous to the local market of a television broadcast station at which a satellite carrier initially receives the signal of the station for purposes of transmission of such signals to the facility which uplinks the signals to the carrier's satellites for secondary transmission to the satellite carrier's subscribers.

"(6) Satellite carrier.—The term 'satellite carrier' has the meaning given it by section 119(d) of title 17, United States Code.".

SEC. 5. RETRANSMISSION CONSENT.

(a) Amendment of Section 325(b).—Section 325(b) of the Communications Act of 1934 (47 U.S.C. 325(b)) is amended striking the subsection designation and paragraphs (1) and (2) and inserting the following:

"(b)(1) No cable system or other multichannel video programming distributor shall retransmit the signal of a broadcasting station, or any part thereof, except—

"(A) with the express authority of the station; or

"(B) pursuant to section 614 or section 615, in the case of a station electing, in accordance with this subsection, to assert the right to carriage under such section.

"(2) The provisions of this subsection shall not apply to—

"(A) retransmission of the signal of a television broadcast station outside the station's local market by a satellite carrier directly to subscribers if—

"(i) such station was a superstation on May 1, 1991; and

"(ii) as of July 1, 1998, such station was transmitted under the compulsory license of section 119 of title 17, United States Code, by satellite carriers directly to at least 250,000 subscribers;

"(B) retransmission of the distant signal of a broadcasting station that is owned or operated by, or affiliated with, a broadcasting network directly to a home satellite antenna, if the subscriber resides in an unserved household; or

"(C) retransmission by a cable operator or other multichannel video programming distributor (other than by a satellite carrier direct to its subscribers) of the signal of a television broadcast station outside the station's local market, if such signal was obtained from a satellite carrier and—

"(i) the originating station was a superstation on May 1, 1991; and

"(ii) the originating station was a network station on December 31, 1997, and its signal was retransmitted by a satellite carrier directly to subscribers.

"(3) Any term used in this subsection that is defined in section 337(g) of this Act has the meaning given to it by that section.".

(b) Effective Date.—The amendments made by subsection (a) take effect on January 1, 1999.

SEC. 6. DESIGNATED MARKET AREAS.

Nothing in this Act, or in the amendments made by this Act, prevents the Federal Communications Commission from revising the listing of designated market areas (as defined in this Act) or reassigning such areas if the revision or reassignment is done in the same manner and to the same extent as the Commission's cable television mandatory carriage rules provide.

SEC. 7. SEVERABILITY.

If any provision of this Act or section 325(b) or 337 of the Communications Act of 1934 (47 U.S.C. 325(b), 337), or the application of that provision to any person or circumstance, is held by a court of competent jurisdiction to violate any provision of the Constitution of the United States, then the other provisions of that section, and the application of that provision to other persons and circumstances, shall not be affected.

SEC. 8. DEFINITIONS.

In this Act:

(1) Terms defined in Communications Act of 1934.—Any term used in this Act that is defined in section 337(g) of the Communications Act of 1934, as added by section 4 of this Act, has the meaning given to it by that section.

(7) DESIGNATED MARKET AREA.—The term "designated market area" means a designated market area, as determined by Nielsen Media Research and published in the DMA Market and Demographic Report.•

By Mr. FRIST:

S. 304. A bill to improve air transportation service available to small communities; to the Committee on Commerce, Science, and Transportation.

THE SMALL COMMUNITIES AIR SERVICE ACT OF 1999

By Mr. FRIST:

S. 306. A bill to regulate commercial air tours overflying the Great Smokey Mountains National Park, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE GREAT SMOKEY NATIONAL PARK OVERFLIGHTS ACT

• Mr. FRIST. Mr. President, I rise today to introduce two pieces of aviation legislation that I believe will improve the quality of life for Tennesseans. First, I would like to introduce "The Great Smoky Mountains National Park Overflights Act."

Last year, I was an original sponsor of the "National Parks Overflights Act" along with my colleague and Chairman of the Commerce Committee, Senator JOHN MCCAIN. I was proud to have my name associated with this legislation. But, in spite of overwhelming bipartisan support for this legislation in the Senate, an unrelated dispute in the conference committee with the House of Representatives led to its demise in the 105th Congress.

Last year's legislation would have affected many National Parks from coast to coast and even Hawaii. The legislation I am introducing today will only affect the Smokies. I am advancing a more limited approach because I believe the preservation of the Smokies and the safety of park visitors are far too important to include with other more contentious legislative efforts.

As the air tour industry in many parks continues to grow, safety concerns also increase. By addressing safety now, before tragic accidents occur, we can assure the public that we have taken every precaution to protect visitors in our parks. Under this legislation, the Federal Aviation Administrator will work in tandem with the Secretary of the Interior to ensure public health and safety goals are met while concurrently maintaining the natural beauty and serenity of our Smoky Mountains National Park. This bill makes park overflight passenger safety a paramount concern for the Federal Aviation Administrator, who, in consultation with the Secretary of the Interior, will set minimum altitudes for overflights and will prohibit flights below those minimum altitudes where necessary to meet safety goals.

This legislation also takes a crucial first step toward restoring and preserving a vital resource within the Smokies—natural quiet. The natural ambient sound condition found in a park, or natural quiet, as it is commonly called, is precisely what many Americans seek to experience when they visit some of our most treasured national parks. Natural quiet is as crucial an element of the natural beauty and splendor of certain parks as those resources that we visually observe and appreciate.

I believe that this critical environmental legislation strikes a careful balance between the reasonable concerns of those in the air tour industry and the environmental necessity of preserving the natural quiet of the Smokies. I am a pilot and I know well the beauty and thrill of flying low. The Smokies beg for more restraint. They must be enjoyed from a responsible altitude where the noise of our aircraft does not disturb the life and majesty below our wings.

The second piece of legislation that I would like to introduce today is the Air Service Improvement Act of 1999. As many of my colleagues know, I have spent considerable time working with airport managers, airlines and many others attempting to solve the problems of underserved small communities. It became clear to me early on that there is no silver bullet solution. Rather, a learning process has taken place where we have discovered what has worked best for the individual communities in question. Moreover, the problems of small communities are related to the competition issues at larger, well-served airports. Tennessee is experiencing both problems.

In Memphis, there is certainly adequate service, but limited competition results in high fares. In the eastern part of our State, there are several communities that have little competition and limited service. We can do better.

It is critical that we remember that deregulation has been remarkably successful in spite of the "pockets of pain" in some communities. Therefore any changes must be made with an emphasis on the free market and not be reregulatory in nature. Deregulation has served most Americans well and should not be dismantled.

With that prologue, I would like to go through some of the provisions of the Small Communities Air Services Act. For most small and medium sized communities that are underserved, access is the key. These airports must have access to major hubs that provide network benefits. When travelers in the Tri-Cities have jet service to Chicago they can conveniently connect to nearly any city in the world. And indeed, much of the improvements the underserved markets of Chattanooga and the Tri-Cities have seen over the past two years has been from the Department of Transportation adding slots that created additional access to Chicago.

With access to the Nation's four slot-controlled airports as a primary goal, I am proposing that the Secretary of Transportation be required to approve all applications from underserved small and medium-sized communities that partner with an air carrier that is willing to serve their market. The Secretary will retain the right to deny applications only if the Federal Aviation Administration certifies that the increase in operations is unsafe or if increase in operations violates the National Environmental Policy Act. In short, if an additional flight from an underserved area is safe and does not have adverse environmental effects the slot shall be awarded.

Additionally, I am introducing provisions that I worked closely with Chairman MCCAIN on last year. These include a grant program for small communities, an in-depth study on market-based incentives using regional jets, and numerous safety programs affecting small communities including an FAA tower program. It is my belief that collectively, this initiative will diminish many of the challenges that underserved communities now face.

Again, it is my strong belief that both the Overflights legislation and the Air Service Act will improve significantly the quality of life for Tennesseans. I thank my colleagues for their consideration of these proposals, but I would especially like to thank the Majority Leader TRENT LOTT and Chairman JOHN MCCAIN for their considerable assistance.•

By Mr. MCCAIN (for himself and Mr. BRYAN):

S. 305. A bill to reform unfair and anticompetitive practices in the professional boxing industry; to the Committee on Commerce, Science, and Transportation.

MUHAMMAD ALI BOXING REFORM ACT

• Mr. MCCAIN. Mr. President, I am introducing the Muhammad Ali Boxing Reform Act in the 106th Congress. This legislation would establish a series of practical reforms to reduce interstate restraints of trade in the industry; protect boxers from exploitative business practices; reduce arbitrary practices by sanctioning organizations; and increase financial disclosure requirements to prevent misconduct by promoters and sanctioning bodies. The legislation I am introducing today is the same version of the Ali Act that was reported out of the Senate Commerce Committee and passed by the Senate last year.

I am pleased to again have the cosponsorship and sound counsel of my colleague from Nevada, Senator RICHARD BRYAN. He has a strong interest and long record of promoting responsible oversight of the professional boxing industry. Boxing is of course a major industry in Nevada, and Senator BRYAN has worked closely with his State's athletic commission to assess and propose effective measure to make boxing a more respected and healthy industry.

I have attached a summary of the Ali Act to concisely describe its major provisions. The bill is a modest and practical proposal which would simply curb some of the most egregious and anti-competitive practices which have exploited athletes and undermined the integrity of the boxing industry. Senator BRYAN and I worked with state commissioners and credible boxing industry leaders from across the U.S. to develop the Ali Act. It requires no public funding and would create no new bureaucracy at any level of government. This legislation instead requires adherence to fair business practices and public disclosure requirements designed to significantly reduce abusive practices in the sport.

It is worth noting that the public response to the Ali Act has been tremendous. We have received strong praise for this legislation from every sector of the industry and, most importantly, from boxers themselves. It is to be expected that certain vested interests in professional boxing industry will not welcome any reforms of anti-competitive and confiscatory business practices in the sport. However, the Ali Act will clearly improve the sport in the public interest, and will not inhibit any legitimate business practices. If enacted, the professional boxing industry will not only be free of certain types of abusive and unethical business practices, but competition should surely increase. Competition is the heart of any sport, and fair, open competition is the key to a sport's success. I look forward to the day when boxing achieves the reputation of credible competition and fair business practices for its athletes.

I will work with members of the Senate Commerce Committee to promptly bring the Ali Act before the full Senate this year. With the Ali Act also being introduced in the House of Representatives in the near future, I am hopeful that 1999 will be the year the professional boxing industry in America embarks on a new path of fair business practices, legitimate rankings, and enhanced integrity.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE MUHAMMAD ALI BOXING REFORM ACT

PROTECTING BOXERS FROM EXPLOITATION

(a) Declares that all contracts between boxers and promoters must contain specific terms regarding the length of time it covers, and the minimum number of bouts per year for the boxer.

(b) Limits certain "option" contracts between boxers and promoters to one year. (Those where a boxer is forced to provide options to a promoter, as a condition of getting a particular bout. Prevents promoter from controlling a weight division by coercing options from all boxers.)

(c) Prohibits a promoter from forcing a boxer to hire an associate, relative, or any other individual, as the boxer's manager, or in any other employment capacity. (This stops a promoter from grabbing another 33% of a boxer's purse; mirrors the regulation of most state commissions.)

(d) Prohibits conflicts of interest between managers of a boxer and the promoter. (Managers should be an independent advocate for the boxer—not serve the financial interests of promoter.)

SANCTIONING ORGANIZATION INTEGRITY REFORMS

(e) Sanctioning organizations (abbreviation: "SO") conducting business in the U.S. must establish objective and consistent criteria for the ratings of professional boxers.

(f) Each year, SO's must provide the following information either on a publicly accessible website, or to the FTC; their bylaws, ratings criteria, and roster of officials who vote on their ratings.

(g) When an SO changes their rating of a U.S. boxer, it must inform the boxer in writing of the reason for the change. Each SO must establish an appeals process (i.e. exchange of correspondence) for boxers in the U.S. to contest their ranking in writing.

(h) No SO can receive payments or compensation from a promoter, boxer, or manager, except for the established sanctioning fee and expenses they receive for sanctioning a bout, which must be reported to the relevant State commission.

PUBLIC INTEREST DISCLOSURES TO STATE BOXING COMMISSIONS

(i) SO's must disclose to a state boxing commission all charges and fees they will impose on the boxer(s) competing in the event, as well as all payments and revenues the SO receives.

(j) The promoter(s) affiliated with each event shall file a complete and accurate copy of all contracts they have with the boxer pertaining to the event, with the boxing commission prior to the event, and disclose in writing all fees and costs they will assess on the boxer(s). Club level boxing events (those less than 10 rounds) are excluded. No burden on small business.

ENFORCEMENT

(k) Civil and Criminal penalties similar to the existing federal boxing law, but fines are higher to deter major promoters from violations. Also, allows enforcement by State Attorney Generals.

NOTES

1. The Ali Act requires no federal or state funds and creates no new federal bureaucracy.●

ADDITIONAL COSPONSORS

S. 3

At the request of Mr. GRAMS, the names of the Senator from Nebraska [Mr. HAGEL] and the Senator from Colorado [Mr. ALLARD] were added as cosponsors of S. 3, a bill to amend the Internal Revenue Code of 1986 to reduce individual income tax rates by 10 percent.

S. 5

At the request of Mr. DEWINE, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 5, a bill to reduce the transportation and distribution of illegal drugs and to strengthen domestic demand reduction, and for other purposes.

S. 7

At the request of Mr. DASCHLE, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 7, a bill to modernize public schools for the 21st century.

S. 11

At the request of Mr. ABRAHAM, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 11, a bill for the relief of Wei Jingsheng.

S. 14

At the request of Mr. COVERDELL, the names of the Senator from Mississippi [Mr. LOTT], and the Senator from Alabama [Mr. SESSIONS] were added as cosponsors of S. 14, a bill to amend the Internal Revenue Code of 1986 to expand the use of education individual retirement accounts, and for other purposes.

S. 19

At the request of Mr. DASCHLE, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 19, a bill to restore an economic safety net for agricultural producers, to increase market transparency in agricultural markets domestically and abroad, and for other purposes.

S. 30

At the request of Mr. DASCHLE, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 30, a bill to provide countercyclical income loss protection to offset extreme losses resulting from severe economic and weather-related events, and for other purposes.

S. 38

At the request of Mr. CAMPBELL, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 38, a bill to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period.

S. 92

At the request of Mr. DOMENICI, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 92, a bill to provide for biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government.

S. 94

At the request of Mr. MCCAIN, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 94, a bill to repeal the telephone excise tax.

S. 99

At the request of Mr. MCCAIN, the name of the Senator from Mississippi

[Mr. LOTT] was added as a cosponsor of S. 99, a bill to provide for continuing in the absence of regular appropriations for fiscal year 2000.

S. 135

At the request of Mr. DURBIN, the name of the Senator from Kansas [Mr. ROBERTS] was added as a cosponsor of S. 135, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for the health insurance costs of self-employed individuals, and for other purposes.

S. 148

At the request of Mr. ABRAHAM, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 148, a bill to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds.

S. 192

At the request of Mr. KENNEDY, the name of the Senator from Indiana [Mr. BAYH] was added as a cosponsor of S. 192, a bill to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage.

S. 241

At the request of Mr. JOHNSON, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 241, a bill to amend the Federal Meat Inspection Act to provide that a quality grade label issued by the Secretary of Agriculture for beef and lamb may not be used for imported beef or imported lamb.

S. 246

At the request of Mr. HAGEL, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 246, a bill to protect private property rights guaranteed by the fifth amendment to the Constitution by requiring Federal agencies to prepare private property taking impact analyses and by allowing expanded access to Federal courts.

S. 271

At the request of Mr. FRIST, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 271, a bill to provide for education flexibility partnerships.

S. 280

At the request of Mr. FRIST, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 280, a bill to provide for education flexibility partnerships.

S. 289

At the request of Mr. ABRAHAM, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 289, a bill to amend the Public Health Service Act to permit faith-based substance abuse treatment centers to receive Federal assistance, to permit individuals receiving Federal drug treatment assistance to select private and religiously oriented treatment, and to protect the rights of individuals from being required to receive religiously oriented treatment.

S. 292

At the request of Mr. DOMENICI, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 292, a bill to preserve the cultural resources of the Route 66 corridor and to authorize the Secretary of the Interior to provide assistance.

SENATE JOINT RESOLUTION 2

At the request of Mr. KYL, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Joint Resolution 2, a joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for increasing taxes.

SENATE RESOLUTION 22

At the request of Mr. CAMPBELL, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Resolution 22, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives serving as law enforcement officers.

NOTICE OF HEARING

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will meet on Tuesday, January 26, 1999, in SR–328A at 8 a.m. The purpose of this meeting will be to review economic concentration in agribusiness. This hearing was originally scheduled to begin at 9 a.m.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Andrew Fish:									
England	Pound	189	315.00	184.50	307.51				622.51
Denmark	Dollar		190.00						190.00
Netherlands	Dollar		270.00						270.00
United States	Dollar		216.00		1,699.44				1,915.44
Senator Tom Harkin:									
England	Pound	189	315.00	184.50	307.51				622.51
Denmark	Dollar		190.00						190.00
Netherlands	Dollar		270.00						270.00
United States	Dollar				4,556.27				4,556.27
Total			1,766.00		6,870.73				8,636.73

RICHARD G. LUGAR,
Chairman, Committee on Agriculture, Nutrition, and Forestry, Sept. 24, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22 , P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM JULY 1, TO SEPT. 30, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Robin Cleveland:									
Bosnia-Herzegovina	Dollar		1,750.00		5,435.57				7,185.57

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22 , P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM JULY 1, TO SEPT. 30, 1998—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Ted Stevens:									
England	Pound	880	1,460.00					880	1,460.00
Senator Thad Cochran:									
England	Pound	660	1,095.00					660	1,095.00
Senator Richard Shelby:									
England	Pound	880	1,460.00					880	1,460.00
Steve Cortese:									
England	Pound	880	1,460.00					880	1,460.00
M. Sidney Ashworth:									
England	Pound	880	1,460.00					880	1,460.00
John J. Young:									
England	Pound	880	1,460.00					880	1,460.00
Wally Burnett:									
England	Pound	880	1,460.00					880	1,460.00
Total			11,605.00		5,435.57				17,040.57

TED STEVENS,
Chairman, Committee on Appropriations, Oct. 5, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Max Cleland:									
Canada	Dollar	723.04	496.63					723.04	496.63
United States	Dollar				1,056.09				1,056.09
Simon Sargent:									
Canada	Dollar	782.91	537.76					782.91	537.76
	Dollar			552.98	373.03			552.98	373.03
United States	Dollar				634.15				634.15
Bert K. Mizusawa:									
Panama	Dollar		429.00						429.00
Panama	Dollar						177.00		177.00
United States	Dollar				656.00				656.00
Senator John W. Warner:									
England	Pound	880	1,460.00					880	1,460.00
Macedonia	Dollar		339.09						339.09
Total			3,262.48		2,719.27		177.00		6,158.75

STROM THURMOND,
Chairman, Committtee on Armed Services, Oct. 1, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE BUDGET FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Pete Domenici:									
United States	Dollar		292.00						292.00
France	Franc	3,763.40	620.00					3,763.40	620.00
Russia	Dollar		621.00						621.00
Germany	Mark	274.06	142.00					274.06	142.00
Senator Rod Grams:									
United States	Dollar		347.00						347.00
France	Franc	3,763.40	620.00					3,763.40	620.00
Russia	Dollar		676.00						676.00
Germany	Mark	283.71	147.00					283.71	147.00
John Revier:									
United States	Dollar		227.00						227.00
France	Franc	3,763.40	620.00					3,763.40	620.00
Russia	Dollar		552.00						552.00
Germany	Mark	465.13	241.00					465.13	241.00
Elizabeth Turpen:									
United States	Dollar		331.50						331.50
France	Franc	3,763.40	620.00					3,763.40	620.00
Russia	Dollar		406.00						406.00
Germany	Mark	322.31	167.00					322.31	167.00
The following people traveled under authorization of Committee on Governmental Affairs: Senator Fred Thompson and Elizabeth Wood; The Majority Leader; Sally Walsh; Committee on Appropriations: Alex Flint: [1]									
France							4,267.20		4,267.20
Russia							15,300.62		15,300.62
Germany							1,616.58		1,616.58
Total			6,629.50				21.184.40		27,813.90

[1] Delegation expenses include direct payments and reimbursements to the Department of State and to the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179, agreed to May 25, 1977.

PETE V. DOMENICI,
Chairman, Committee on the Budget, Oct. 13, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Max Baucus:									
Chile	Dollar		597.00						597.00
Brazil	Dollar		584.00						584.00
Argentina	Dollar		509.00						509.00
United States	Dollar				5,199.00				5,199.00
Christine Niedermeier:									
Chile	Dollar		362.00						362.00
Brazil	Dollar		527.52						527.52
Argentina	Dollar		313.00						313.00
United States	Dollar				4,026.50				4,026.50
William Lombardi:									
Chile	Dollar		714.74						714.74
Argentina	Dollar		636.45						636.45
Brazil	Dollar		977.14						977.14
United States	Dollar				2,783.50				2,783.50
Angela Marshall:									
Chile	Dollar		676.34						676.34
Argentina	Dollar		1,010.52						1,010.52
Brazil	Dollar		558.99						558.99
Uruguay	Dollar		481.32						481.32
United States	Dollar				2,850.00		152.10		3,002.10
Ashley Miller:									
England	Pound	1,120	1,825.00						1,825.00
United States	Dollar				580.71				580.71
Daniel Bob:									
Peru	Sole	1,900.68	633.56						633.56
United States	Dollar				834.00				834.00
Total			10,406.78		16,273.71		152.10		26,832.59

WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance, Oct. 7, 1998.

ADDENDUM.—CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator William Roth:									
Korea	Won	229,299	128.10					229,299	128.10
Malaysia	Ringget	1911.95	420.21					1911.95	420.21
Thailand	Baht	16,692.74	300.77					16,692.74	300.77
Japan	Yen	108,185.05	826.85					108,185.05	826.85
Daniel Bob:									
Korea	Won	413,078.30	230.77					413,078.30	230.77
Malaysia	Ringget	712.03	156.49					712.03	156.49
Thailand	Baht	4847.35	87.34					4847.35	87.34
Japan	Yen	220,596	1686.00					220,596	1,686.00
United States	Dollar				581.40				581.40
Total			3,836.53		581.40				4,417.93

WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance, Oct. 7, 1998.

ADDENDUM.—CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Angela Marshall:									
Japan			259.92						259.92
Philippines	Peso	24,826.20	708.88						708.88
Brunei	Brunei Dollar	498.25	788.23						788.23
Indonesia	Rupia	1,687,305	426.53						426.53
Thailand	Baht	13,123.68	316.23						316.23
United States	Dollar		188.18		3,442.00				188.18
Total			2,687.97		3,442.00				6,129.97

WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance, Oct. 7, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Joseph Biden:									
Israel	Dollar		1,648.00						1,648.00
Egypt	Pound	424	152.55					424	152.55

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1998—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	Dollar				4,836.17				4,836.17
Senator Sam Brownback:									
India	Dollar		588.00						588.00
Pakistan	Dollar		116.00						116.00
United States	Dollar				6,493.00				6,493.88
Senator Chuck Hagel:									
Israel	Dollar		526.00						526.00
Egypt	Dollar		222.00						222.00
Lebanon	Dollar		208.00						208.00
Syria	Dollar		356.00						356.00
Saudi Arabia	Dollar		143.00						143.00
United States	Dollar				3,641.69				3,641.69
Senator Charles Robb:									
India	Rupee	28,625.16	678.00					28,625.16	678.00
Pakistan	Rupee	9,167	206.00					9,167	206.00
Stephen Biegun:									
Germany	Dollar		900.00						900.00
United States	Dollar				715.09				715.09
Lithuania	Dollar		400.00						400.00
Latvia	Dollar		400.00						400.00
United States	Dollar				4,586.39				4,586.39
Marshall Billingslea:									
Lithuania	Dollar		400.00						400.00
Latvia	Dollar		400.00						400.00
United States	Dollar				4,586.39				4,586.39
Michael Haltzel:									
Croatia	Dollar		1,002.00						1,002.00
Slovenia	Dollar		448.00						448.00
United States	Dollar				4,427.40				4,427.40
Brian McKeon:									
Italy	Dollar		1,122.00						1,122.00
United States	Dollar				2,833.49				2,833.49
Patricia McNerney:									
Italy	Dollar		1,800.00						1,800.00
United States	Dollar				2,833.49				2,833.49
Roger Noriega:									
Italy	Dollar		1,850.00						1,850.00
United States	Dollar				2,833.49				2,833.49
Panama	Dollar		236.00						236.00
United States	Dollar				608.00				608.00
Kenneth Peel:									
Israel	Dollar		526.00						526.00
Egypt	Dollar		222.00						222.00
Lebanon	Dollar		208.00						208.00
Syria	Dollar		356.00						356.00
Saudi Arabia	Dollar		143.00						143.00
United States	Dollar				3,641.69				3,641.69
Christina Rocca:									
India	Dollar		678.00						678.00
Pakistan	Dollar		206.00						206.00
United States	Dollar				6,493.88				6,493.88
Puneet Talwar:									
Pakistan	Dollar		228.00						228.00
India	Dollar		565.00						565.00
United States	Dollar				6,493.88				6,493.00
Egypt	Dollar		191.00						191.00
Israel	Dollar		1,540.00						1,540.00
United States	Dollar				6,134.89				6,134.89
Christopher Walker:									
Lithuania	Dollar		650.00						650.00
Latvia	Dollar		650.00						650.00
Germany	Dollar		650.00						650.00
United States	Dollar				5,024.00				5,024.00
Mark Thiessen:									
Italy	Dollar		1,800.00						1,800.00
United States	Dollar				2,833.49				2,833.49
Pam Weimann:									
Italy	Dollar		1,300.00						1,300.00
United States	Dollar				2,833.49				2,833.49
Total			23,714.55		71,850.80				95,565.35

JESSE HELMS,
Chairman, Committee on Foreign Relations, Nov. 13, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Louis Dupart:									
United States	Dollar				3,701.,06				3,701.06
England	Pound	413.33	670.00						607.00
France	Franc	1,693.54	289.00						289.00
Belgium	Franc	19,866	550.00						550.00
Louis Dupart:									
Mexico	Peso	2,332.90	281.75						281.75
El Salvador	Colonnes	1,312.50	150.00						150.00
Nicaragua	Dollar		354.25						354.25
Senator Robert Torricelli:									
South Korea	Dollar				6,206.00		1,680.00		7,886.00
Richard Nuccio:									
South Korea	Dollar				3,295.00				3,295.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1997—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Total			2,295.00		13,202.06		1,680.00		17,114.06

ORRIN HATCH,
Chairman, Committee on the Judiciary, Nov. 4, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
[redacted]:									
United States	Dollar		1,000.00		7,429.44				8,429.44
Ivory Coast	Dollar		956.00						956.00
Italy	Dollar		308.00						308.00
Elizabeth Kessler:									
United States	Dollar		1,000.00		7,429.44				8,429.44
Ivory Coast	Dollar		956.00						956.00
Italy	Dollar		308.00						308.00
Victoria Bassetti:									
United States	Dollar		1,000.00		7,429.44				8,429.44
Ivory Coast	Dollar		956.00						956.00
Italy	Dollar		308.00						308.00
Total			6,792.00		22,288.32				29,080.32

ORRIN HATCH,
Chairman, Committee on the Judiciary, Nov. 4, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON GOVERNMENTAL AFFAIRS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Fred Thompson:									
United States	Dollar				7,691.00				7,691.00
France	Franc	1881.70	310.00					1881.70	310.00
Russia	Dollar		964.00						964.00
Elizabeth Wood:									
United States	Dollar				4,462.00				4,462.00
France	Franc	1881.70	310.00					1881.70	310.00
Russia	Dollar		1,014.00						1,014.00
Leonard Weiss:									
United States	Dollar				103.05				103.05
France	Franc	9284.50	1,550.00		1,481.16			9284.50	3,031.16
Switzerland	Swiss Franc		1,288.00						1,288.00
Total			5,436.00		13,737.21				19,173.21

FRED THOMPSON,
Chairman, Committee on Governmental Affairs, Oct. 1, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON GOVERNMENTAL AFFAIRS FOR TRAVEL FROM APR. 1 TO JUNE 30, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
[redacted]:									
Guatemala	Dollar		695.00		635.00				1,330.00
Stephanie Smith:									
Guatemala	Dollar		487.72		642.00				1,129.72
Dennis Ward:									
Italy	Dollar		800.00		3,634.32				4,434.32
Total			1,982.72		4,911.32				6,894.04

FRED THOMPSON,
Chairman, Committee on Governmental Affairs, Oct. 9, 1998.

ADDENDUM.—CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM APR. 1 TO JUNE 30, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Taylor W. Lawrence			844.00		1,526.00				2,370.00
Peter Cleveland			884.00						884.00

ADDENDUM.—CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM APR. 1 TO JUNE 30, 1998—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Total			1,728.00		1,526.00				3,254.00

RICHARD SHELBY,
Chairman, Select Committee on Intelligence, Sept. 30, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Richard Shelby			5,295.00				460.42		5,755.42
Taylor W. Lawrence			5,948.00						5,948.00
Kathleen Casey			5,454.00						5,454.00
Vicki Cox			5,681.00						5,681.00
Senator Richard Shelby			2,824.00						2,824.00
Joan V. Grimson			2,685.00						2,685.00
Senator Pat Roberts			2,841.00						2,841.00
Pete Dorn			2,841.00						2,841.00
Alan McCurry			2,841.00						2,841.00
Senator Frank Lautenberg			717.24		3,430.90				4,148.14
Lorenzo Goco			669.00		3,966.90				4,635.90
Sharon Waxman			665.00		3,966.90				4,631.90
Kenneth Myers			1,029.00		5,488.39				6,517.39
Senator Richard Lugar			2,301.00		5,488.39				7,789.39
Alfred Cumming			100.00		1,351.24				1,451.24
Donald Mitchell			140.00		1,351.24				1,491.24
William Duhnke			1,228.00						1,228.00
Total			43,259.24		25,043.96		460.42		68,763.62

RICHARD SHELBY,
Chairman, Select Committee on Intelligence, Sept. 30, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Congressman Pete Stark									
Germany	Dollar				733.90				733.90
Total					733.90				733.90

JIM SAXTON,
Chairman, Joint Economic Committee, Sept. 17, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Elizabeth Campbell:									
United States	Dollar				2,215.32				2,215.32
Bosnia-Herzegovina	Dollar		824.00						824.00
Orest Deychakiwsky:									
United States	Dollar				2,860.46				2,860.46
Slovakia	Dollar		1,080.00						1,080.00
Robert Hand:									
United States	Dollar				2,215.32				2,215.32
Bosnia-Herzegovina	Dollar		950.00						950.00
Janice Helwig:									
United States	Dollar				5,329.94				5,329.94
Austria	Dollar		13,515.96						13,515.96
Karen Lord:									
United States	Dollar				4,182.96				4,182.96
Norway	Dollar		1,000.00						1,000.00
Erika Schlager:									
United States	Dollar				2,091.41				2,091.41
Denmark	Dollar		1,422.00						1,422.00
Hungary	Dollar		1,153.00						1,153.00
			19,944.96		18,895.41				38,840.37

ALFONSE D'AMATO,
Chairman, Commission on
Security and Cooperation in Europe, Sept. 30, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER FROM JULY 1, TO SEPT. 30, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Tim Hutchinson:									
Turkey	Dollar		261.00						261.00
India	Rupee	55,902	1,320.00					55,902	1,320.00
Pakistan	Rupee	21,872	476.00					21,872	476.00
United States	Dollar				1,729.75				1,729.75
A. Christopher Bryant:									
Germany	Dollar		836.13						836.13
United States	Dollar				686.70				686.70
Sally Walsh:									
France	Franc	3,763.40	620.00					3,763.40	620.00
Russia	Dollar		626.00						626.00
Germany	Mark	426.53	221.00					426.53	221.00
United States	Dollar		297.00						297.00
Randy Scheunemann:									
India	Rupee	165,334.4	3904.00					165,334.4	3904.00
Turkey	Dollar		261.00						261.00
Randy Scheunemann:									
Pakistan	Rupee	21,872	476.00					21,872	476.00
Nepal	Dollar		530.00						530.00
Ireland	Pound	181.84	254.00					181.84	254.00
Sri Lanka	Rupee	10,732.50	162.00					10,732.50	162.00
Syria	Dollar		234.00						234.00
Total			10,478.13		2,416.45				12,894.58

TRENT LOTT, Majority Leader, Dec. 18, 1998.

ADDITIONAL STATEMENTS

TRIBUTE TO LEO CHERNE

● Mr. MOYNIHAN. Mr. President, I rise today with bittersweet feelings to pay tribute to a dear friend, Leo Cherne. Leo died on January 12, 1999 at the age of 86. What a huge loss we mourn, but what an exemplary life we commemorate. Indeed, I think it safe to say Leo Cherne's life helped to redeem the 20th century.

I met Leo in 1954 when I became director of public relations for the International Rescue Committee (IRC). Leo, an enormously successful lawyer, economist, and businessman, had become chairman of the IRC in 1951 (after joining the board of directors in 1946). He took over for Reinhold Niebuhr, one of this century's greatest theologians. Leo served as chairman for over forty years. Then, indefatigable as he was, he served as chairman emeritus until his death.

Under Leo's stewardship, the IRC grew into the largest refugee relief and resettlement organization in the world. His commitment to refugees and human rights was steadfast, and made a difference in the lives of hundreds of thousands of forsaken people over the last half century. I guess he took to heart Niebuhr's observation that "Life has no meaning except in terms of responsibility."

Leo co-founded the Research Institute of America in 1936; it grew out of his efforts to advise businessmen on how to comply with the new Social Security law. He served as its executive director for approximately 50 years. At the end of World War II he accompanied General Douglas MacArthur to Japan to assist with economic recovery there. In 1953, Leo—a fierce anti-Communist—excoriated Senator Joseph McCarthy for his demagoguery and disregard for civil rights. In 1956, when Soviet tanks rumbled into Budapest to crush the Hungarian uprising, Leo was at the border to help desperate Hungarians flee their country, and to bear witness. He advised presidents from Franklin Roosevelt to George Bush. He served as a member of the President's Foreign Intelligence Advisory Board from 1973 to 1991.

In 1984, President Reagan conferred upon Leo the highest award a civilian can receive: the United States Medal of Freedom. President Reagan's citation stated,

> Since the 1930s, Leo Cherne has stepped forward with brilliance, energy and moral passion, and helped this nation overcome countless challenges. His lifetime devotion to aiding his country and to serving the cause of human freedom, especially through his work on behalf of refugees, reflects the strong and generous character of a man who deserves the respect and gratitude of all Americans.

In 1989 Elie Wiesel nominated Leo for the Nobel Peace Prize; he deserved that too. He did receive France's Legion of Honor award, Germany's Commander Cross, and the United Nations' Gold Medal of Peace.

All the while he was an accomplished sculptor! His bust of Abraham Lincoln was in the White House. His bust of Eleanor Roosevelt is in the White House. His bust of John Kennedy is in the Berlin square Kennedy made famous with his "Ich Bin Ein Berliner" speech. One bust, of Robert Frost, resides in the Department of the Interior, while another, of Albert Schweitzer, is in the Smithsonian.

How fondly I recall, when I was with the IRC, the evenings Leo and I would spend at the White Horse Tavern after work! We recited the poem Dylan Thomas wrote to his father, who was dying, "Do Not Go Gentle into That Good Night":

DO NOT GO GENTLE INTO THAT GOOD NIGHT

Do not go gentle into that good night,
Old age should burn and rave at close of day;
Rage, rage against the dying of the light.

Though wise men at their end know dark is right,
Because their words had forked no lightning they
Do not go gentle into that good night.

Good men, the last wave by, crying how bright
Their frail deeds might have danced in a green bay,
Rage, rage against the dying of the light.

Wild men who caught and sang the sun in flight,
And learn, too late, they grieved it on its way,
Do not go gentle into that good night.

Grave men, near death, who see with blinding sight
Blind eyes could blaze like meteors and be gay,
Rage, rage against the dying of the light.

And you, my father, there on the sad height,
Curse, bless, me now with your fierce tears, I pray.
Do not go gentle into that good night.
Rage, rage against the dying of the light.

Leo did not "go gentle into that good night." He fought pronounced illnesses for many years while he continued to live a productive life. He raged against the "dying of the light" with the same tenacity he showed fighting totalitarianism as one of our very best "Cold Warriors".

My wife, Liz, and I miss Leo dearly. Leo is survived by his brother, Jack Cherne, and by his daughter, Gail Gambino, and his granddaughter Erica Lynn Gambino. All are in our thoughts and prayers. The contributions he made to society cannot be overstated and are not likely to be duplicated. He was a giant among men.●

IN HONOR OF THE 10TH ANNIVERSARY OF THE GATESWORTH AT ONE McKNIGHT PLACE

• Mr. ASHCROFT. Mr. President, as a U.S. Senator from Missouri, I take great pleasure in honoring The Gatesworth at One McKnight Place as it celebrates its 10th anniversary. The Gatesworth is to be commended for its outstanding work in providing the highest quality of services, social programs, and activities to senior adults in the St. Louis community.

This organization and those individuals associated with it have demonstrated the true spirit of benevolence. The Gatesworth's commitment to serving our seniors through integrity, innovation, and vision is truly an inspiration. The staff of the Gatesworth is to be commended for its hard work and dedication to providing gracious hospitality and a strong tradition of valued service. Your example of compassion and generosity serves as a model for all Missourians.

Again, let me congratulate The Gatesworth at One McKnight Place as it celebrates its 10th year. I wish this organization continued success.•

SUPPORT OF THE WELLSTONE/HARKIN "SUNSHINE" MOTION

• Ms. MIKULSKI. Mr. President, I rise today in strong support of the Wellstone/Harkin motion. This motion would allow open Senate debate during the Impeachment trial. Mr. Chief Justice, the American people should not be excluded from one of the most important Senate deliberations in United States history.

The result of the debates and discussions over the next days or weeks could require the removal of the President of the United States for the first time in our nation's 222-year history. In our deliberations, my colleagues and I will contemplate no less than reversing the outcome of an election in which nearly 100 million Americans cast their vote. Such a significant decision, a decision with such profound consequences, should not be reached behind closed doors.

I believe my constituents and all Americans deserve to hear Senate deliberations from Senators—not leakers and speculators and commentators.

From my earliest days as a Baltimore social worker to my tenure as a United States Senator, I have lived by the principle that the public has a right to know and a right to be heard. This principle is no less important when a Presidential Impeachment trial is underway. It is more important than ever.

Now, some of my colleagues have said that these deliberations should be closed because we are jurors and jurors' deliberations are kept secret in a court of law. But let me tell you that this Senate tribunal cannot be compared to a simple court of law. Of course, the law is the foundation for our work in the Senate. But as my colleague from Iowa, Senator HARKIN, noted during the trial, we are more than jurors.

We are representatives of our nation. We are given responsibilities to deliberate on matters of public importance and vote in the public interest. Never was that more true than in the Senate Trial in which we are now engaged.

The United States Senate is, ultimately, the public's institution—not ours. It is for them we work and it is to them we owe our continued service. I hope and believe we serve the institution well and that our stewardship gives credit and credence to the wisdom of our Founding Fathers. By keeping our deliberations open, we will do service to the American public we serve, this institution we cherish, and those Founding Fathers we revere.

I absolutely will not support closing the doors to the public and hope that my colleagues will join me in supporting the Sunshine motion.•

INCREASING U.S. MARITIME COMPETITIVENESS

• Mr. LOTT. Mr. President, Congressional and Administrative action is needed to strengthen the U.S. maritime industry and level the playing field in the international shipping arena.

This vital industry serves our nation's security by providing essential elements of our sealift capability—loyal crews and commercial ships. This sealift capability is required to project and sustain power abroad and preserve U.S. access to world trade. Two hundred years ago, protecting the U.S. merchant marine was one of the Navy's important missions. Today, the threat to the U.S. maritime industry is just as real. It may not come not from Barbary pirates, but the competitive disadvantages imposed by both this country and other countries are just as dangerous.

Mr. President, the U.S. maritime industry has been the world leader in innovation over the last 30 years. It had to be, because it competes in the world arena with one hand tied behind its back. International maritime trade has become increasingly dominated by foreign flags-of-convenience. A number of small countries have decided to generate revenue by creating ship registries and tax havens that impose few responsibilities or costs on their users. Unfortunately, this has also resulted in poor compliance with international safety standards and evasion of pollution liability.

America's fleet meets the most stringent safety standards and operates in a higher tax environment, and has steadily lost ground to these flag-convenience fleets. This situation is reaching the point where the U.S. commercial fleet's ability to meet our national security requirements may soon be in jeopardy.

Mr. President, the solution to this problem has two parts. First, we must hold other countries accountable for providing reciprocity in access to maritime trade and meeting international standards for vessel safety, crew training, and preventing pollution. The United States places very few restrictions on the use of our ports to facilitate international trade. Some countries, such as China, however, have imposed unfair burdens on United States and other foreign vessels conducting business there in an effort to protect their own businesses. The FMC, under Chairman Hal Creel's leadership, appropriately moved to head off problems in Japan's ports during the 105th Congress and is increasingly concerned about the situations in China and Brazil.

While our Nation encourages open competition in the commercial maritime sector, America only demands that it be fair and meet minimum standards for protecting our environment and our citizens. However, as a January 3, 1999, New York Times article reported, flag-of-convenience ship are using their foreign status and the lax oversight of their flag states to escape punishment for their intentional dumping of oil in the ocean not far from our coast. America should not allow the unscrupulous operation of unsafe ships with ill-trained crews to threaten the oceans, our coastlines, or our citizens.

I challenge the Administration to aggressively combat these actions to the fullest extent of U.S. law. Under the leadership of Senators KAY BAILEY HUTCHISON and JOHN MCCAIN, the 105th Congress provided the FMC with increased authority to address unfair foreign shipping practices. I invited the Administration to work with the 106th Congress to provide increased legislative authority to counter attempts by foreign-flag ships to escape punishment for such unconscionable behavior.

Second, we must level the playing field for U.S. companies competing in the commercial maritime arena. On the financial side, U.S. shipping companies provide equal or higher quality service than their foreign competitors at a similar cost, yet foreign shipping companies are growing and U.S. shipping companies are shrinking. This happens because, unlike U.S. shipping companies, most foreign shipping companies pay little or no income taxes. In this capital intensive business, investments are flowing to those companies which provide a better return on investment, and the tax differential tilts this flow toward foreign shipping companies. This is why foreign shipping companies are buying their U.S. counterparts instead of the other way around. This Nation's tax policies should promote business growth, not stifle it. We need to level the playing field for U.S. shipping companies in the international marketplace. I look forward to working with Senator JOHN BREAUX to develop specific provisions. My colleague and friend shares an interest in maritime policy, and together we serve on both the Commerce and Finance Committees. This provides us with an ability to shape maritime policy in the regulatory, tax, and trade environments.

Mr. President, U.S. shipping companies can compete and succeed in the world's international trade marketplace when competition is fair.•

U.S.S. "PHAON"

• Mrs. BOXER. Mr. President, today I ask the Senate to join me in commending those brave Americans who served aboard the U.S.S. *Phaon*.

During World War II, the *Phaon* compiled an outstanding record as a battle damage repair ship. She was part of three major battles and helped the U.S. fleet to remain in action throughout the Central Pacific campaign.

The *Phaon* was an important part of mobile Service Squadron Ten, whose battle role was to remain within the battle area and conduct repairs—keeping fighting vessels in action, preventing the loss of damaged vessels by making them seaworthy, and returning repaired vessels to action as soon as possible. To accomplish this, the Navy converted tank transports into battle damage repair ships.

The *Phaon* was one of the original mobile service squadron vessels that arrived in the Central Pacific in late 1943 to test new concepts in naval logistics and mobile repair. Their work began under fire at Majuro with restoration of all types of craft from the invasion of Tarawa and repairs to the battleships *Washington* and *Indiana*.

By early 1944, the *Phaon's* crew was skilled, experienced, and ready to participate in the campaigns to advance across the Pacific. In March, she was with the fleet at Kwajalein and Eniwetok. In June, she joined the invasion of Saipan. In July, she was at Tinian. She was subject to more than sixty air raids while working.

Time and again, the *Phaon* heroically entered the fray to repair a damaged ship. At Saipan, the destroyer *Phelps* was hit while engaged in ground support shore bombardment. She called the *Phaon*, and the two ships tied bow to stern. While the *Phelps* continued to bomb the shore, the *Phaon* repaired her damage and replenished her ammunition. At the same time, the *Phaon* dispatched several off-ship repair crews to other vessels and had alongside for repairs a tank landing craft, a minesweeper, and the destroyer U.S.S. *Shaw*. One month later, at Tinian, the *Phaon* performed similar feats to repair the destroyer *Norman Scott* and the battleship *Colorado*.

By the war's end, the *Phaon* had repaired at least 96 ships and more than 2,000 vessels and crafts of all types. She played a major role in the success of Service Squadron Ten, of which Rear Admiral W.R. Carter said:

> Had it failed, the war would have lasted much longer at much greater cost in blood and dollars. . . . It was a never-ending job, and the men and officers . . . were as much a part of the fleet which defeated Japan as were . . . any battleship, carrier, cruiser, or destroyer.

Admiral Raymond A. Spruance, Commander of the Central Pacific Force, called the record of the *Phaon* and Service Squadron Ten achievements of which all Americans can be justly proud, but about which most of them have little or no knowledge.

Mr. President, I hope that these remarks increase our knowledge and respect for the critical role that damage repair ships played in the Pacific campaigns. I know you will join me and every American in saluting the brave crew of the U.S.S. *Phaon*.•

THE 1999 MISS USA PAGEANT

• Mr. ASHCROFT. Mr. President, it is an honor and privilege to rise today to acknowledge and honor the nearly 400 Missouri volunteers of my home state who have donated countless hours and resources to the 1999 Miss USA pageant being held in Branson, Missouri, in February.

The volunteer corps is made up of many talented people who have worked in food services, secretarial and administrative positions, provided transportation, medical and emergency services, salon services, and entertainment. The "behind the scenes" efforts of these volunteers have done much to make this pageant a great success.

The people of Branson and the surrounding area have come together with their many diverse talents and abilities to assure the success of the 1999 Miss USA Pageant. Millions of people around the world will focus their eyes on Branson and Missouri on Friday, February 5, 1999 when the new Miss USA is crowned.

The people of Branson have made a significant contribution to the pageant, and deserve recognition and gratitude for their efforts. These volunteers embody the best of the American spirit. Mr. President, I ask that members of the Senate join me in recognizing and honoring the great work of these volunteers.•

TRIBUTE TO LT. GEN. NORMAND G. LEZY, USAF

• Mr. ALLARD. Mr. President, I rise today to recognize the contributions of Lieutenant General Normand G. Lezy of the United States Air Force, who will retire on March 1st after more than three decades of outstanding service to our nation. Norm Lezy is an extraordinary officer whose leadership skills, professionalism and service before self are a tribute to our country's military.

General Lezy is a native of Rhode Island, and was commissioned into the Air Force in November 1964 through the Reserve Officer Training Corps program. Throughout his career, General Lezy has earned a well-deserved reputation as a leader who truly cares about people. Whether he was commanding his student training squadron, a Minuteman I combat missile launch crew, an air base squadron, a combat support group or working in his many key staff assignments, Norm Lezy made people his priority.

In addition to his many tours of duty around the world, General Lezy has served as Director of Administration and Information Management for the Secretary of the Air Force; the Deputy Chief of Staff for Personnel, Headquarters Pacific Air Force; and the Director of Services, Headquarters U.S. Air Force. Many here in the Senate first came to know Norm when he was the Director of Legislative Liaison for the Secretary of the Air Force. With his exceptional knowledge of all aspects of Air Force operations and his keen awareness of the legislative process, General Lezy dramatically improved communication between the United States Congress and the United States Air Force. He was the driving force in gaining Congressional support for critical Air Force programs such as the C–17, B–2, and F–22 weapon systems, all of which will have a significant impact on the future of the United States Air Force and the security of our nation.

In his most recent assignment as the Deputy Assistant Secretary of Defense (Military Personnel Policy), General Lezy was directly responsible for the establishment of all policies concerning military personnel matters. Specifically, he focused on accessing and retaining military personnel in all services; pay, compensation and benefits; and the classification, assignment, and career development for the 1.4 million service members of the Department of Defense. True to his reputation, General Lezy fought for increased support for service members and worked to develop personnel policies that will successfully guide our armed forces well into the next century. Some of the more significant efforts he undertook include conducting a complete review of the military pay and retirement system, improving recruiting policies and advertising programs, enhancing Professional Military Education, and streamlining the Department of Defense Disability Evaluation System.

Throughout his distinguished career, General Lezy's tireless and sincere dedication to the men and women in uniform has vastly improved their quality of life and mission readiness. As General Norm Lezy retires from the United States Air Force, he will leave behind a tremendous legacy.

Mr. President, General Norm Lezy is a great credit to the Air Force and the Nation. He will certainly be missed by many, both in the Pentagon and in Congress. I salute him for his many years of selfless service to our country, and offer my gratitude to Norm, his wife Prudence, and their son Chip on the occasion of his retirement from the United States Air Force.●

WISHING MICHAEL O'HURLEY-PITTS WELL AS HE DEPARTS ST. PATRICK'S OLD CATHEDRAL AND NEW YORK

● Mr. MOYNIHAN. Mr. President, I rise today to express my deep gratitude to a constituent, Michael O'Hurley-Pitts, for his distinguished record of public service and to wish him well as he ventures North to Toronto in pursuit of new challenges and opportunities.

As a young man, Michael served admirably as a paratrooper in the 82nd Airborne Division and as an Airborne Ranger with the 1st Battalion (RANGER), 75th Infantry. No ordinary soldier, Michael was decorated with the Bronze Star Medal for Valor in combat and received numerous awards, including the Army Commendation Medal and the Army Achievement Medal with Three Oak Leaf Clusters.

Following his tenure in the military, Michael continued to devote himself to the service of others. He became the Executive Director of the Children's Rights Council, contributed to parenting education programs in Washington DC, and championed the cause of peace and justice in his native-born Ireland. He also came to Capitol Hill, where he established himself as a respected congressional aide and counsel.

It was through his work on behalf of two venerable New York institutions, St. Patrick's Old Cathedral and St. Patrick's Old Cathedral School, that I first learned of Michael's talents and commitment to public service. As St. Patrick's Old Cathedral Development Officer, Michael has been hugely successful in ensuring that its rich history is preserved and that the School's tradition of excellence continues into its third century.

Saturday, January 16, 1999, marked the culmination of those efforts—a grand celebration of the famed Irish Brigade soldiers of the Civil War, many of whom were immigrants and first-generation Irish-American parishioners of St. Patrick's Old Cathedral. The event included a Requiem Mass, a reenactment of their 1861 march to join Union forces, and a benefit concert by Irish legend Tommy Makem to be broadcast to a national audience by PBS on St. Patrick's Day weekend. While detained and unable to attend as I had hoped, I have learned that the celebration was magnificent and that there is strong interest in making it an annual event. Mission accomplished.

I was saddened to hear that New York will soon lose the gifts of Michael O'Hurley-Pitts, but I wish him the best as he prepares for new challenges in Canada. Mr. President, I yield the floor.●

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, January 26, 1999 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

January 27

8:30 a.m.
Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings to examine the Echostar/MCI satellite-cable competition deal.
SD-226

9 a.m.
Armed Services
Closed business meeting to markup S.4, to improve pay and retirement equity for members of the Armed Forces; and S.169, to improve pay, retirement, and educational assistance benefits for members of the Armed Forces.
SR-222

9:30 a.m.
Aging
To hold an organizational meeting to consider the committee's rules of procedure for the 106th Congress.
SD-608

Energy and Natural Resources
To hold oversight hearings on the impacts of outer continental shelf activity on coastal states and communities.
SH-216

Budget
Governmental Affairs
To hold hearings on S.92, to provide for biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government; and S.93, to improve and strengthen the budget process.
SD-106

Health, Education, Labor, and Pensions
Business Meeting to markup the proposed Education Flexibility Partnership Act of 1999.
SD-430

10 a.m.
Foreign Relations
International Economic Policy, Export and Trade Promotion Subcommittee
To hold a briefing on International Monetary Fund reform and the global financial crisis.
SD-419

Finance
To continue hearings on U.S. trade policy issues, focusing on agricultural, service and manufacturing programs and the U.S. steel industry during the global financial crisis.
SD-215

January 28

Time to be announced
Budget
To hold hearings on the United States long-term fiscal outlook.
SD-608

9 a.m.
Energy and Natural Resources
To hold oversight hearings on the state of the petroleum industry.
SH-216

9:15 a.m.
Finance
To continue hearings on U.S. trade policy issues, focusing on labor and environmental standards.
SD-215

9:30 a.m.
Appropriations
Defense Subcommittee
Foreign Operations Subcommittee
To hold hearings to examine hurricane Mitch relief efforts.
SD-192

Judiciary
To hold hearings on S.247, to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals.
SD-226

January 29

Time to be announced
Budget
To hold hearings on the Congressional Budget Office economic and budget outlook for fiscal year 2000.
SD-608

10 a.m.
Veterans Affairs
To hold hearings on the Dole Commission (Commission on Service Members and Veterans Transition Assistance) Report, and on Medicare subvention, third-party collections, and other nonappropriated funding sources for the Department of Veterans Affairs.
SH-216

February 2

10 a.m.
Budget
To hold hearings on the President's proposed budget request for fiscal year 2000.
SD-608

February 3

9:30 a.m.
Armed Services
To hold hearings on proposed legislation authorizing funds for fiscal year 2000 for the Department of Defense, and the future years defense program.
SH-216

10 a.m.
Commerce, Science, and Transportation
Business Meeting to markup S.82, to authorize appropriations for Federal Aviation Administration.
SR-253

February 5

8:30 a.m.
YEAR 2000 TECHNOLOGY PROBLEM
To hold hearings to examine information technology as it applies to the food sector in the Year 2000.
SD-192

February 11

8:30 a.m.
YEAR 2000 TECHNOLOGY PROBLEM
To hold hearings to examine information technology as it applies to the food sector in the Year 2000.
SD-192

February 12

9:30 a.m.
Budget
To hold hearings on national defense budget issues.
SD-608

February 25

9:30 a.m.
Veterans Affairs
To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of the Military Order of the Purple Heart, the Fleet Reserve, the Retired Enlisted Association, the Gold Star Wives of America, and the Air Force Sergeants Association.
345, Cannon Building

March 2

9:30 a.m.
Veterans Affairs
To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of the Veterans of Foreign Wars.
345, Cannon Building

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

March 4

9:30 a.m.
Veterans Affairs
To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of the Veterans of World War I of the USA, Non-Commissioned Officers Association, Paralyzed Veterans of America, Jewish War Veterans, and the Blinded Veterans Association.
345, Cannon Building

March 17

10 a.m.
Veterans Affairs
To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of the Disabled American Veterans.
345, Cannon Building

March 24

10 a.m.
Veterans Affairs
To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of the American Ex-Prisoners of War, AMVETS, Vietnam Veterans of America, and the Retired Officers Association.
345, Cannon Building

September 28

9:30 a.m.
Veterans Affairs
To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of the American Legion.
345, Cannon Building

POSTPONEMENTS

January 27

10 a.m.
Transportation Subcommittee
To hold oversight hearings on Department of Transportation management issues.
SD–124

February 10

8:30 a.m.
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings to review competition and antitrust issues relating to the Telecom Act.
SD–226

SENATE—*Tuesday, January 26, 1999*

The Senate met at 12:02 p.m. and was called to order by the Chief Justice of the United States.

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

The CHIEF JUSTICE. The Senate will convene as a Court of Impeachment. The Chaplain will offer a prayer.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, You not only guide our steps, You order our stops for quiet times of prayer. We hear Your words spoken through the psalmist. "Be still and know that I am God; I will be exalted among the nations, I will be exalted in the earth"—Psalm 46:10. Help us absorb the true meaning of these words translating the original Hebrew. You call us to let up, leave off, let go, and truly know that You are God. You are in control. We cannot be still inside until we reaffirm that You are in control of us, this Nation, and this Senate. We exalt You El Shaddai, all-sufficient one; Adonai, our Lord; Jehovah-raah, our Shepherd who guides; Jehovah-rapha, who heals our bodies and our relationships; Jehovah-shammah, God who is here. Strengthen the Senators as they seek to exalt You, as these pages of American history are written during this trial. You bless the Nation that exalts You! Through Him who taught us to seek first Your kingdom and Your righteousness. Amen.

The CHIEF JUSTICE. The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, James W. Ziglar, made proclamation as follows:

> Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against William Jefferson Clinton, President of the United States.

THE JOURNAL

The CHIEF JUSTICE. If there is no objection, the Journal of proceedings of the trial are approved to date.

The Chair recognizes the majority leader.

Mr. LOTT. Thank you, Mr. Chief Justice.

ORDER OF PROCEDURE

Mr. LOTT. For the information of all Senators, we are now prepared to hear arguments regarding the subpoenaing of witnesses and the taking of their depositions. I understand the House managers will submit the list and begin their argument; the White House counsel will then state their arguments, with the House managers making the final closing statement. This period has been limited to 4 hours instead of the 6 hours that had been earlier indicated.

I also expect a motion may be offered again to close the session with regard to deliberations by the Senators. I need some further consultation with Senator DASCHLE to confirm that. It could be that we could work it out without having to do the recorded vote. Therefore, votes could occur this evening—probably between 4:30 p.m. and 5 o'clock.

As always, we expect to take a break after about an hour and a half in the proceedings, and it may be a little bit longer than usual, so that if Senators were not able to grab a quick bite, they might be able to grab a little something in the cloakroom during that first break. So it might be a little longer than ordinary. And I expect that will occur sometime around 1:30 approximately.

Before we begin, since I see that there are still a few Senators who are not in the Chamber, I suggest the absence of a quorum, Mr. Chief Justice.

The CHIEF JUSTICE. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that the order for the quorum call be rescinded.

The CHIEF JUSTICE. Without objection, it is so ordered.

Mr. LOTT. If all Senators, counsel and managers would return to their desks, I believe we are ready to begin.

Mr. Chief Justice, again, just for the information of all Senators, what happens next is I believe that a manager will be recognized on behalf of the House to present a motion with regard to subpoenaing witnesses and then the presentations will begin first by the House managers and then by the White House counsel and then closed by the House managers to be spread over 4 hours, but that at approximately 1:30 we will take a break so that we can assess how to proceed the balance of the day, and perhaps even get a bite to eat if Senators hadn't had that opportunity. It won't be an extended break, but it will be longer than normal.

I believe we are ready to proceed, Mr. Chief Justice.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager BRYANT on behalf of the House managers.

MOTION FOR APPEARANCE OF WITNESSES AND ADMISSION OF EVIDENCE

Mr. Manager BRYANT. Mr. Chief Justice, I have a motion to present.

The CHIEF JUSTICE. The manager will send the motion to the desk. The clerk will read the motion.

The legislative clerk read as follows:

> Motion of the United States House of Representatives for the appearance of witnesses at a deposition and to admit evidence not in the Record.
>
> Now comes the United States House of Representatives, by and through its duly authorized Managers, and respectfully submits to the United States Senate its motion for the appearance of witnesses at a deposition and to admit evidence not in the record in connection with the Impeachment Trial of William Jefferson Clinton, President of the United States.
>
> The House moves that the Senate authorize and issue subpoenas for the appearance of the following witnesses at a deposition for the purpose of providing testimony related to the Impeachment Trial:
>
> 1. Monica S. Lewinsky;
> 2. Vernon Jordan; and
> 3. Sidney Blumenthal.
>
> Further, the House moves that the Senate admit into evidence the following material not currently in the record:
>
> 1. the affidavit of Barry Ward, Law Clerk to the Honorable Susan Webber Wright, U.S. District Court Judge for the Eastern District of Arkansas;
> 2. the sworn declaration of T. Wesley Holmes, and attachments thereto; and
> 3. certain telephone records which document conversations between Monica S. Lewinsky and William Jefferson Clinton, including a 56-minute exchange on December 6, 1997.
>
> Additionally, the House petitions the Senate to request the appearance of William Jefferson Clinton, President of the United States, at a deposition, for the purpose of providing testimony related to the Impeachment Trial.

The CHIEF JUSTICE. Pursuant to Senate Resolution 16, as modified by the order of January 25, the managers on the part of the House of Representatives and counsel for the President each have 2 hours to present their arguments on this motion.

The Chair recognizes Mr. Manager BRYANT.

Mr. Manager MCCOLLUM.

Mr. Manager MCCOLLUM. Thank you, Mr. Chief Justice.

Mr. Chief Justice and Members of the Senate, we are here today to argue for the presentation of witnesses, and I want to state at the outset a couple of observations of mine regarding this.

The House managers have always understood the Senate's sense of the rules on these matters, and we don't question that fact. But I think it is important, to set the record clear here today, to say at the outset that we have always believed, and we still do believe, that 10 or 12 witnesses are what we should have and should have been permitted to call to prove our case. We have estimated that this could be done in a matter of 2 weeks at the outside, including all cross-examination. That is what we think the normal order would have been; it is what we think it should have been. But we have been told again and again, and we believe it is true, that if we made such a request it would not be approved. And a few weeks ago we thought—maybe even a few days ago—that we could submit a list of maybe five or six witnesses and there would be a reasonable chance that for deposition they would be approved and maybe two or three of them actually could be presented here live in the Chamber.

Now we have been led to believe, and we think it is an accurate assessment, that in order to get a vote to approve the opportunity to take depositions alone, whether or not anyone is called, we cannot submit more than two or three witnesses to you.

That is what we have done today. We have submitted a motion for simply three witnesses: Monica Lewinsky, Vernon Jordan, and Sidney Blumenthal.

The two people who know the most about this are Monica Lewinsky and President William Jefferson Clinton, and while we have not submitted to you today the name of President Clinton in our motion, we strongly urge that if you allow us to have witnesses, which we believe you should, that you, in addition—or even if you don't—on your own call President Clinton here to testify. We think that it is exceedingly important that you have an opportunity, we have an opportunity for you to examine him and these other witnesses to get at the truth of this matter and to end all the speculation that would resolve this matter and let you draw the proper inferences and conclusions.

I will simply say that I am going to make a brief outline of the matter of why we should have witnesses for you, the three we are asking for, and I will be followed in order, so you can get some sequence to this, by Manager BRYANT, who will discuss in detail the reason why we think it is appropriate to call specifically Monica Lewinsky; Manager HUTCHINSON, who will discuss Mr. Jordan as a witness; and Manager ROGAN, who will discuss Mr. Blumenthal.

If our motion is granted—I want to make this very, very clear—at no point will we ask any questions of Monica Lewinsky about her explicit sexual relations with the President, either in deposition or, if we are permitted, on the floor of the Senate. They will not be asked. That, of course, assumes that White House counsel does not enter into that discussion, and we doubt that they would.

Secondly, we do not see why the entire process of deposing and calling all of these witnesses right here live would have to take more than just a very few days, 2, 3, 4, 5, maybe early next week at the latest. There is no reason why it has to be longer than that. We absolutely reject the argument that some were making—and I do not know why they were making it—that somehow, if we have a single witness out here, it is going to mean weeks and weeks of protracted delay in this trial.

That is not so, and certainly not so with the three witnesses we are asking you today to permit us to present.

I also want to address the argument that has been made by some that witnesses should only be permitted if there is new evidence.

Now, we believe, we managers, that we will present to you new evidence with the witnesses that we have asked you to let us depose, but think through this with me for one moment. Under the rules you have set up, if we take depositions, which we are required to do, of every one of these witnesses, at the end of the day when those depositions are completed, all the new evidence that we could imagine certainly will be—from those three witnesses—in those depositions, and the argument will be made, I am sure, that there is no reason to have a live witness out here at all.

That had to be a preconceived notion by somebody who thought of that in the first place. If that is the argument, that should not be the standard. It should be one of the standards but not the standard, not the sole standard. There is a lot more to a witness, and the reason why you need to have a witness out here, than simply new evidence.

In real criminal trials, virtually all witnesses are deposed before they are brought to trial, and then the counsel on each side decide which witnesses they will call. They are called. They are examined. They are cross-examined. And unless a witness is deceased or laid up or there is some other extraordinary reason why that witness isn't there, especially a key witness, then the witness normally is here live.

It is especially true in a case like this where much of the evidence, not necessarily all of it—there is quite a bit of direct evidence—but much of the evidence is circumstantial and requires you to draw, as many finders of fact do all across this country every day, inferences and conclusions that involve the credibility of the witness, that involve the way it is said, that involve inflections and spontaneity of the witness, the exchange of the counsel asking the question and the witness, and a description and flavor of which you simply can't get without having the person here to observe.

That is what jurors do all the time. I think it is especially important, as well, because there is conflicting testimony.

Now, I do not suppose we have a stand here today, but you have in front of you a credibility of witness instruction I think we passed out. We would like for you to keep it. It is a credibility of witness instruction that—here it is over here on this side. It is a credibility of witness instruction that is longer than that. I just excerpted a part of it and put it up here on this board. I know you can't all see that but you should have this sheet. If you don't, please ask for it. This is a jury instruction that is given in the District of Columbia. It is something that is given here as a part of our Federal system. And it is important, I think, for this particular paragraph, to read it, to understand it, because you wouldn't even write this jury instruction if you didn't expect to have live witnesses:

> In reaching a conclusion as to the credibility of any witness, you may consider any matter that may have a bearing on the subject.

That is part of the instruction.

> You may consider the demeanor and behavior of the witness.

I think that is important. It is the third paragraph you looked at, the bottom paragraph.

> You may consider the demeanor and the behavior of the witness on the witness stand; the witness' manner of testifying; whether the witness impresses you as a truthful person; whether the witness impresses you as having an accurate memory and recollection; whether the witness has any motive for not telling the truth; whether the witness had a full opportunity to observe the matters about which he or she has testified; whether the witness has any interest in the outcome of this case or friendship or hostility toward other people concerned with this case.

Demeanor, manner, truthfulness, how the witness impresses you—if you don't have that witness here, and it is a critical witness, there is no way as a trier of fact you can make those judgments fairly. There just isn't any way. We think that it is terribly critical, not only that we are permitted to depose these witnesses, but with respect particularly to Monica Lewinsky and perhaps all three of them, that we be permitted to bring those witnesses here at the end of the day and examine them and let the President's counsel examine them.

The arguments of the President's counsel have been, to some extent, to you and to me—and I have heard it repeated several times—that somehow circumstantial evidence is not that important, that it is somehow inferior to direct evidence. I am not going to pass out a jury instruction on that again. You have already heard us talk about that. The reality is the jury instruction, if we passed one out to you today, would say exactly what we said before: Circumstantial evidence is given the same weight, the same weight as direct evidence. Inferences have to be drawn.

I don't know any case in this country in a criminal matter—or rarely; I should not say "any." I suppose there is a confession that always you get once in a while and you read about it in the paper. But in almost every criminal case, you have to draw inferences; there has to be circumstantial evidence of some sort. There is nothing wrong with that. President's counsel has said that somehow the nature of the evidence means that you should automatically acquit him. I just don't buy that at all.

What are inferences? Let's put inferences up for a second so you can look at that. Inferences are on this side. This is another jury instruction. I don't know if you have got this one, but we will give it to you. This is another one that is given out:

> An inference is a deduction or a conclusion which you . . . as finders of facts—are permitted to draw . . . from the facts which have been established by either direct or circumstantial evidence. In drawing inferences you should exercise your common sense. . . . You are permitted to draw from the facts which you find to be proven, such reasonable inferences as would be justified in light of your experience.

A few days ago one of the White House counsel, Mr. Kendall, attempted to make you think it was very difficult to prove a crime by circumstantial evidence. You may remember Mr. Kendall told the story about a fellow who came out of his house one morning and he saw his driveway was wet and he immediately thought it must have rained last night. But, Mr. Kendall said, this man noticed right after that that his neighbor's water sprinkler was dripping and he thought, well, maybe the water sprinkler caused it to be wet. And he used that illustration—ended the story right there—of how difficult circumstantial evidence is and how likely you might draw the wrong conclusion from inferences.

Mr. Kendall didn't allow you to proceed with the next commonsense step that shows how powerful circumstantial evidence can be. Let's suppose the man got up in the morning, he walked out of his house, he saw that his driveway was wet, he thought maybe it had rained. He immediately observed the water sprinkler was dripping. He thought, well, maybe the water sprinkler caused it and he looked down the street then and looked at not only his neighbor's sidewalk where it was wet as well as his, and the driveway, but he looked at his neighbor's. And he looked at several others all around his neighborhood and they were dry.

The obvious conclusion from circumstantial evidence is the neighbor's water sprinkler caused his sidewalk or his driveway to be wet and it didn't rain. It is a kind of a reasonable, commonsense, inferential, circumstantial conclusion you are allowed to draw. You are the finders of fact, and I think that that suggestion was wrong.

But this is why we need witnesses. You need to be able to see the temperament, you need to be able to have the background, you need to be able to have the feel or the flavor to draw those inferences properly.

In the impeachment case before you, you have both direct and circumstantial evidence that the President engaged in a pattern of obstruction, perjury, and witness tampering designed to deny the court in the Jones case what Judge Wright had determined that Jones had a right to discover in order to prove her claim. You have to use your common sense to get at this. Seeing, hearing, observing those live witnesses is important.

If you remember at the outset of this case, at the outset of these proceedings, I tried to draw your attention to what this was about in a nutshell. Some have said it is a theory of the case. The White House wants to call it speculation. It is not speculation. It is what, from all the evidence—especially once you have heard Monica Lewinsky and Vernon Jordan and Sidney Blumenthal, I think adding the flavor that you need to have, adding the body language you need to observe, adding the credibility that you need to establish in this—I think that is the proper inference and the proper conclusion you need to draw.

What was that nutshell? I won't bore you with going into every detail again, but I want to remind you what the record, we think, shows that this additional witness presentation would augment and be very important to. It shows the President had a well-thought-out scheme. He resented the Jones lawsuit. He was alarmed when Monica Lewinsky's name appeared on the witness list and even more alarmed when Judge Wright issued her order signaling the court would hear the evidence of the relationship.

To keep his relationship with Monica Lewinsky from the court once it was apparent to him he was going to have to testify, he knew he would have to lie to the court. To succeed at this, he decided he had to get Monica Lewinsky to file a false affidavit to try to avoid her testifying. He needed to get her a job to make her happy, to make sure she executed the affidavit and then stick with her lies if questioned.

Then the gifts were subpoenaed. He had to have her hide the gifts, the only tangible evidence that could link him to her. She came up with the idea of giving them to Betty Currie and the President seized on that. Who would think to ask Betty? Then he would be free to lie to the court in the deposition. But after this, he realized he had to make sure Betty would lie and cover for him. He got his aides convinced to repeat his lies to the grand jury and the public, and all this worked until the dress showed up. Then he lied to the grand jury to try to cover up and explain away his prior crimes.

The President knowingly, intentionally, willfully set out on a course of conduct in December 1997 to lie to the Jones court, to hide his relationship, and to encourage others to lie and hide evidence to conceal the relationship with Monica Lewinsky from the court.

That is the straightforward case that we presented. It is there. But it is very important that you recognize this is not speculation but it is supported by the evidence. But it needs to have the witnesses here.

I am not going to go into every one of the articles. I am not going to go over all that again. You have them in front of you. But you know there are four provisions, four different provisions of the perjury article, and there are seven counts in the obstruction article. And, in addition to the seven counts, we believe you have the right to consider the lies the President made in the civil Paula Jones deposition as a part of his obstruction of justice, as written in the body of that article.

Why do I raise what is there on the table? Well, you can find the President guilty of any one of the perjury or obstruction of justice charges. In our judgment, if you find him guilty of any one, you can convict him and you can remove him from office. We think that is appropriate. We think that you should, that every one of them rises to that level.

I want to make a point to you, too, for example, about the first one in the perjury, about the nature and details of his relationship with Monica Lewinsky. Let's just say for a minute, so you will get this one clear, if I could beg your indulgence, there were a lot of questions raised out here about particular statements that might be perjurious, some of which may have sounded a little bit more stretched to you than others did. But the body and the gravamen of that is that they are all grand jury perjury about that relationship. Cumulatively, that is what you are voting on. You are not voting on each and every one of these; particularly "the" singular lie that hangs the President of the United States. And there are four—there are three more in addition to that to look at. So, please, look at all of them.

We also strongly believe that each of these constitutes high crimes and misdemeanors. It is very hard for us to conceive that there is a different standard for impeaching the President and impeaching a judge. We know that has been argued to you out here, but it is very hard for us to conceive of this. On the other hand, I am aware that many of you believe, and I am sure some of you at least do—I hope it is not many, but I said many—that no matter whether or not the President is guilty of the perjury and obstruction of justice, everything that is in here in great detail, everything we have told you, there are some of you who believe that none of that rises to the level of a high crime and misdemeanor and that the President should not be removed from office.

On the other hand, I think that the majority of you do believe that, if the President committed all of this, surely it would rise to the level of high crimes and misdemeanors. How can you leave a man in office who is President of the United States who has so intentionally, through his scheme that he has concocted to deny the court justice, deny information to a person who is trying to plead their case, gone through it systematically and lied again and again and again and then went intentionally, calculatingly, and lied to the grand jury about it again?

It is very hard to conceive of that. But I also suspect that most of you at the end of the day will question some of these and, as I said earlier, you don't have to conclude that he committed all of them to convict him, certainly not to find him guilty of the charges, but somewhere in between. Is it 50 percent of them? Is it seven-eighths of them? How many of them does it take? What is the weight for some of you? Each one of you will be judging this differently.

But in that process, there is no doubt in my mind that you need to go through the process of looking and hearing from these witnesses to make that decision, and if you have a doubt, not in your own mind, maybe some of you have no doubt at all that he is guilty of any and all of these crimes, but if you think one of your other colleagues does have that doubt at this moment, for gosh sakes, let's let the witnesses come here and let us have the chance to erase that doubt in the way you normally do in a trial.

For a few of the criminal charges under the articles of impeachment, under both of them, it is our judgment that the President's guilt is so clear and convincing and compelling that we don't think that any witnesses are needed to be called in deposition or in person.

First, contrary to the impressions that the White House counsel would like to leave you, it should be clear to anybody reading the record that the President committed perjury before the grand jury when he told that he never touched certain body parts of Ms. Lewinsky, which touching the President admitted would clearly be within the definition of sexual relations in the Jones case.

Ms. Lewinsky testified that he touched these parts on a number of different occasions in a manner clearly within the President's understanding of that definition. The record contains testimony from at least six different friends and counselors with whom Ms. Lewinsky spoke and described these details contemporaneously as they occurred.

White House counsel has repeatedly tried to dismiss this absolutely clear perjury by claiming that Ms. Lewinsky's testimony is uncorroborated and, therefore, you couldn't prove perjury to the court. They say again and again and again, it is a "he says-she says" situation.

This is a gross misstatement of the law. Even if there were no corroborating witnesses—and there are in this case—a person could be and would be convicted of perjury before any court in this country based on the evidence that is in this record now. We don't have to bring anything else in here, and we are not planning to do so to prove that.

The law covering grand jury perjury, which has been on the books since 1970, does not require a corroborating witness and does not require corroborating evidence. There are more than 100 people serving in Federal prison today who have been convicted under this 1970 grand jury statute for perjury where it is one person's word against another, several of them for lies about sexual relations.

All you need to convict is to accept Monica Lewinsky had no motive to lie about this, the President did, and you have to draw the inferences you logically can from the chain of events that are in this record. But even though you don't need any corroborating testimony, there is corroborating testimony. There are the six people—friends and counselors—with whom she talked about this contemporaneously. Again, the White House counselors have tried to persuade you, wrongly, that you should not consider this, that this would not be admissible, these corroborating witnesses in any courtroom in the country, they say, and that is not true.

There are at least three exceptions to the hearsay rule which would, in all probability, permit those prior consistent statements to come in and corroborate that testimony.

The bottom line is the perjury of the President in this case is as plain as day on the record, and we don't need to call any witnesses on this matter. And we also believe there are a number of other perjuries in that grand jury, that I am not going to go into detail about, that are just as plain on the record. We don't need to call witnesses that he perjured himself when he told the grand jury it was his goal to be truthful in the Jones deposition. That is what he told the grand jury. It was his goal to be truthful.

The record is replete with many lies that he told in that deposition and, in the face of telling the grand jury that his goal was to be truthful, he committed perjury.

Nor do we believe that any witness needs to be called to further establish the President's guilt of the crime that is obstruction of justice and witness tampering in the case where he met Betty Currie on the day after his Jones deposition and suggested to her all those false declaratory statements that we have been over so many times in here.

Betty Currie's testimony in this matter is undisputed on the record. The White House counsel's argument that the President was just refreshing his memory is absurd on its face.

The same is true of the obstruction of justice and perjury charges related to allowing his attorney during the Jones deposition to make false and misleading statements with regard to Ms. Lewinsky's affidavit and then lying about not even paying attention to the attorneys' exchange with the judge on this matter. The record is clear. You watched the videotape on it. Inferences are perfectly appropriate to be drawn from body language. You saw it on the videotape. You saw it. No more witnesses are needed. The President committed these crimes.

On the other hand, we believe that you do need—we need to bring in witnesses to resolve conflicting testimony to give you a true picture of the President's scheme to lie and conceal evidence for the other obstruction of justice charges and certainly for the last perjury charge. They are more complex. They are more dependent on circumstantial evidence and inferences you logically have to draw. And that is why you need to hear from Monica Lewinsky, Vernon Jordan and Sidney Blumenthal, to tell you about these things themselves.

When you do, you are just plain going to get a different flavor; you are going to feel the sense of this. We believe you will find at the end of the day, once you have done that, even though you don't need to use this standard, that the President is guilty of the entire scheme we presented to you in every detail beyond a reasonable doubt.

Remember, you don't need to convict him to find him guilty of all of the crimes we have suggested by any stretch of the imagination. You don't need to use the beyond a reasonable doubt standard. That is not required of you. But we can understand why many of you or some of you might.

The reality is that we are in a position—you are in a position—where you need, though, to make these determinations, and to make them you need to have the witnesses. In any courtroom where you are going to certainly judge something beyond a reasonable doubt, you need to assess the credibility of the witnesses where you have conflicting testimony.

One point in that regard, too, is, we have heard White House counsel say a number of times that somehow the fact that there is so much conflicting testimony makes our case weaker. That is not so. Again, unless the bad guy admits he is guilty, when you go to trial in a criminal case you always have conflicting testimony, at least you certainly have the accused denying it, and very, very frequently, most often, you have a lot of other people who are conflicting.

The fact that there is conflict is something for the triers of fact to resolve, but, again, resolve by listening to the witnesses, checking their demeanor, watching their body language, determining their credibility, feeling the case-flow, seeing how it fits together, watching.

I am not going to be the one describing what Monica Lewinsky is going to show you if she comes in here. I am going to tell you, even if we depose her, having had the opportunity to talk with this intelligent and very impressionable young woman the other day, I can tell you that she herself will convey this story to you in a way that it cannot be conveyed off a piece of paper. It just cannot be.

I suppose that is why the White House counselors are so afraid of our calling any witnesses. They don't want you to have the opportunity to see that, an opportunity you can only get the full flavor of if not only you let us take the depositions, but you at least let us call her live here on the floor, preferably with our other two witnesses as well.

They know that the written record conceals this. There is no way to lift that out. There is no way for you to see the relationship, how she responds to the questions, how she answers, how she conducts herself in making it very apparent what the President's true meaning and intent was.

If you remember, a lot of this is his state of mind. In the not too distant future, Monica Lewinsky is going to be free of the gag order and is going to go out and talk to people freely. She should. At that point in time, she is going to have the public judging her, and they are going to be judging this case, as will history, and I suggest that the public at that point in history as well will be judging you and not judging the Senate well if it doesn't let her come here and testify.

Let me briefly turn to the last thing I want to do. I want to describe, so you know what it is, the three additional pieces of new evidence we would like admitted in this motion.

First is the affidavit of Barry W. Ward who had been a law clerk to Judge Wright during the consideration of the Jones case. None of this, I think, should be controversial, but we do have it, and I want to cover it briefly. In his affidavit, he attests to the fact that at President Clinton's deposition in the Jones case, that he, Mr. Ward, was sitting at the conference table next to Judge Wright, that he was able to observe the colloquy between the judge and Mr. Bennett.

You recall, Mr. Bennett was engaged in this colloquy about the affidavit of Monica Lewinsky. And that is what you saw, the film footage of the President and the questions. Was the President observant? Was he watching? Was he keen? And that affidavit goes to that point. And it is the testimony of Mr. Ward with regard to the fact that the President was observant.

Secondly, we have a piece of new evidence, and that is the declaration of the Jones attorney, T. Wesley Holmes, and the attached copies of the subpoena in that case, the subpoena in that case to Betty Currie, dated January 22, 1998, along with proof of service, dated January 27, 1998.

Mr. LEAHY addressed the Chair.

The CHIEF JUSTICE. The Chair recognizes the Senator from Vermont.

Mr. LEAHY. Mr. President, parliamentary inquiry. It is my understanding that Senate Resolution 16 says——

The CHIEF JUSTICE. The Senator from Vermont is advised it takes unanimous consent to allow a parliamentary inquiry in the proceeding.

Mr. LEAHY. Mr. Chief Justice, I object to the references the manager is making to new information. It is my understanding that from Senate Resolution 16, the material outside the record may only be presented in connection with a motion to expand the record. This new information—we have skirted it already with the Lewinsky interview this weekend, but now the latest that Mr. Manager MCCOLLUM states, I would say respectfully, expands that record and, indeed, we are not at that point.

The CHIEF JUSTICE. Yes. I think the motion that the managers have made is a motion to authorize the presentation of evidence that is not in the record. And so I think that is a fair comment. I overrule the objection.

Mr. LEAHY. I thank the Chief Justice.

Mr. Manager MCCOLLUM. Thank you, Mr. Chief Justice.

The attachments to Mr. Holmes' declaration is the proof of the subpoena being issued to Betty Currie in January, on January 22, 1998, along with service in the Jones case on January 27, 1998, and a copy of the supplemental witness list, including the name of Betty Currie, which was served on January 23, 1998. And in his declaration, Mr. Holmes explains that Ms. Currie was subpoenaed because of testimony given by President Clinton in his deposition and because of reliable information which the attorneys had received to this effect—that Ms. Currie was an instrumental person in facilitating Monica Lewinsky's meetings with the President and central to their "cover story," as Mr. Holmes refers to it. He explicitly denies that any "Washington Post" article played any part in the decision of the Jones attorneys to subpoena Ms. Currie.

And in the third and final piece of new evidence that we ask you to take in and accept is a declaration and accompanying documents with regard to a telephone conversation showing that a conversation occurred on December 6 for 56 minutes between the President and Ms. Lewinsky, which we believe that is what it shows. Obviously, the phone records show the phone records. And they state what they are. But we suggest to you that that is relevant information because it confirms what we think the testimony in the record otherwise would lead you to believe.

At this point in time, having given you an overview and having given you this amount of new evidence, I want to turn the microphone over and yield to my colleague, Mr. BRYANT, the rest of the time.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager BRYANT.

Mr. Manager BRYANT. Mr. Chief Justice, may I inquire as to our time remaining?

The CHIEF JUSTICE. Just under 90 minutes.

Mr. Manager BRYANT. Thank you, Mr. Chief Justice.

Distinguished Senators, a recent letter from Manager HYDE to Senator DASCHLE stated that it has always been the position of the House managers that a trial with the benefit of relevant witnesses is in the best interest of the Senate and the American people. The defense attorneys for the President, as well as others in this body, have publicly stated that they do not want witnesses.

Through the question-and-answer session that we have just participated in over the last few days, some in this body have made it clear that they would prefer a few sharply focused witnesses limited only to the most relevant witnesses. We heard this. And as a result of our submission this morning, you will see that we have proposed three witnesses.

Now, as background, we have brought this down from some 15 witnesses that we initially thought we would like to call. We eliminated, obviously, many witnesses that we would still like to call. But with respect for this body, and certainly the sensitivity that we feel, we heard that three witnesses would be probably the best situation.

I think from, again, the tone of many of the questions, the directness of many of the questions, we did get that message clearly. And from these three witnesses we feel that we have the broadest coverage of the two articles of impeachment.

Within the obstruction article, there are in essence seven so-called counts, seven instances that we allege. And with these three witnesses, we managed to cover six of those seven, with the one that we don't quite cover being the tampering with Betty Currie. As you will note she is not on that list. But, again, bringing this down to three, we had to eliminate, again, some witnesses we would have preferred to call.

Also, based on what we have read and what we have heard, it is clear that a very few have already determined that even assuming the truth of the articles of impeachment—the perjury and obstruction of justice—that they are insufficient to convict this President of high crimes and misdemeanors. Since each of you, as Senators, must consider this matter and vote your own conscience with impartial justice, that is apparently your individual decision, although with all due respect, I would suggest a premature decision before all the proof and all the arguments are made.

One example of not having heard a complete case is Ms. Lewinsky. She is probably the most relevant witness, that is, aside from the President himself who so far has indicated through his counsel that he will not testify; and I might add also has not answered the questions that at least some Senators sent to the White House for his answering, based on his attorney's statement that he would be willing to answer questions.

So with that aside, Ms. Lewinsky is probably the most important witness left. And wouldn't you at least like to see and hear from her on this? As the triers of fact, wouldn't you want to observe the demeanor of Ms. Lewinsky and test her credibility—as I say, look into the eyes and test the credibility of these witnesses? Compare her version of the testimony to the contested events. And remember, the President's attorneys, in numerous ways, in their vigorous defense of the President, have challenged Ms. Lewinsky's version of the facts.

I believe the majority of other Senators have not yet reached a final determination, and it is to you now that I make this further proposition. If there is one witness you and the American people honestly do need to hear, it is Ms. Lewinsky. As you probably read in the newspapers, her lawyers don't want her to testify. They are good lawyers, and they don't want to have her out here.

And despite the protestations of the White House and their attorneys during the House hearings that they wanted to hear fact witnesses, we now know absolutely and without a doubt the White House does not want to hear Ms. Lewinsky—does not want you to hear Ms. Lewinsky. And Ms. Lewinsky, if the truth be known, probably does not want to come in here and testify.

These are not our witnesses. We didn't get this case in a brown envelope. We sort of didn't have any choice in selecting the witnesses. The witnesses are all out there—basically White House employees, friends of the White House, or former employees. These are not going to be our friends if they come in and testify. They are not going to be sympathetic to us, although we can anticipate that they would tell the truth. And that certainly would be our belief with Ms. Lewinsky if she were called.

We believe she understands her responsibility, despite any feelings that she might have about the President, or the job that he is doing as President, that she understands the responsibility to tell the truth.

And Senators, she does have a story to tell. And given the link that she has, that common thread that she has in most of the charges of these articles of impeachment, I would suggest that she should be permitted to testify.

I would go further to say that a closure of this case is somehow necessary, and without the direct presentation by Ms. Lewinsky, we all—political and public—would be denied the complete picture that she should be able to give us to better sort this out. As Manager GRAHAM said yesterday, please don't leave us all hanging for the answers we so dearly need.

Is this good, is it bad or is it ugly? We managers believe that it is bad, ugly and illegal. We all like to talk about the Constitution, and it is a great document. The opportunity to confront witnesses is present in that Constitution, and it can be argued that this principle of confrontation of witnesses against you should apply to these proceedings. While we realize that confrontational right is one that belongs to the criminal defendant in the Constitution, in this case apparently any right to confront Ms. Lewinsky and other witnesses is being waived by the President and his lawyers since they don't want to call witnesses in these proceedings.

Isn't it time, though, for the rest of us to make that choice that we do want to see and hear some witnesses? Her testimony, in particular, would be extraordinarily enlightening in resolving factual disputes about the very charges for which we ask you to convict the President of the United States for the felonies of perjury and obstruction of justice. These particular charges go to the very heart of our cobranch of government, the Judiciary. And Members of the Senate, in terms of the impact on our judicial system in the search for truth, there is no difference between a person lying, which is perjury, and a person paying another person to lie, which is bribery. The bribery is in the Constitution and the perjury is not specifically mentioned.

In terms of this proposition of proportionality, is the 106th Senate prepared to have as its record of sexual harassment laws that perjury about sex is not illegal? After all, that is what this whole proportionality argument is about, that if it is about sex it is OK to lie. Because Senator Bumpers said that upwards of 80 percent of his divorce cases from his Arkansas practice of law involve lying, that does not legitimize perjury, nor should it provide any authority for this Senate to somehow legitimize perjury if it is just about sex.

We allege that the President, in a reasoned and in a calculated manner, prevented Paula Jones from obtaining truthful testimony and evidence that might have helped her lawsuit. At the time the President attempted his coverup efforts, he, obviously, felt the disclosure of that information in the Paula Jones case would be material and helpful to her. The President not only committed himself to illegal actions, but he enlisted others to assist, some knowingly, and others, perhaps, unknowingly.

Ms. Lewinsky is one of these who, interestingly enough, might fit into both categories of knowing and unknowingly at different times. She would be able to share with this Senate the so-called tone and tenor of her conversations with the President. Who else can do that but she or the President?

This tone and tenor and observing her demeanor and listening to her talk about that filing of the affidavit and those things, and how the President talked to her and how she read what he said and exactly what he did say, these are all very important, because as we know in Washington, and so many other places where there is a lot of power and prestige and so forth, there are actions that can be prompted without even a direct specific order. Things can get done even without it being said just by the tone and tenor, the gestures, the appearance and so forth of certain things. Often these direct words, as I said, are not necessary. And Ms. Lewinsky can tell you about some of these occasions.

An appropriate examination—and an appropriate cross-examination, I might add; let's don't limit the White House attorneys here—of Ms. Lewinsky on the factual disputes of the affidavit and their cover story, wouldn't that be nice to hear? The concealment of gifts—what really happened there and the job search—why did she get the job within 48 hours of the affidavit, after months of unsuccess? Wouldn't it be nice to hear Ms. Lewinsky's version of this when it is so important to the overall case of obstruction of justice?

These are just a few examples where the Senate could be helped by her testimony, and it very well could be dispositive, and it is even possible that she could help the President in some ways. But I assure you that she is an impressive young lady, and I suspect that she still very much does admire the President and the work that he is doing for this country. Yet, she would be a person who in all likelihood would be forthcoming.

If you have not made up your mind, and, indeed, if you have further interest in resolving many of the facts here, I do commend Ms. Lewinsky for your consideration. It would be my intent to lead her through direct examination, the perjury charge, as it is alleged with the President, by having her simply affirm those provisions of her written testimony which are the ones that are generally referred to as salacious, without specifically mentioning those words.

On the more complicated obstruction of justice, the pattern of obstruction of justice which does not involve these salacious details and matters, they will be addressed more specifically. It would be my intent for immediate clarification and to dissolve discrepancies and different inferences that have been drawn by House managers and defense counsel for the President, to ask her about the December 28 transfer of Ms. Lewinsky's gifts from the President—transfer to Ms. Currie, particularly the cellular telephone call that has been put into issue by the defense team, about her conversation with the President and her offer to allow him to review this false affidavit before she submitted it to her lawyer and eventually to the court, and his comment that he didn't need to review it because he had seen 15 others just like it. Wouldn't you like to know what are we talking about—15 others? Fifteen drafts or 15 other type of affidavits in other cases?

She would also be asked about her job interviews and her discussions with the President about these job interviews over a period of time, which are very important, her discussions with Vernon Jordan, and specifically why she felt that the interview that she did with Revlon the day after she signed the affidavit, her impression that it went poorly, whereas we heard—not testimony, but statements in the presentation of White House lawyers that, in fact, it didn't go poorly, it went very well, but she felt it went so poorly that she went immediately out to call Vernon Jordan. Why? Why not hear her come in and tell us why she did that?

There will, of course, be other matters of record that she can clarify, and certainly being available to the White House defense team she will be vigorously cross-examined. I am sure that might also clarify other matters.

It is my feeling that a fair and comprehensive examination without interruption could be conducted of Ms. Lewinsky in 2 to 4 hours, and depending on the length of cross-examination by White House attorneys, we may not need any redirect examination.

While defense counsel for the President and others for the President—I heard it so many times, I am not sure exactly who said this so I don't want to attribute to defense counsel, and maybe they haven't even said it, but there has been word out of the White House that if we call one witness, we might as well settle into a siege here in the Senate; we will be here for months and months and months. I suggest that is an outrageous statement, that we will need that amount of time to pursue this case if witnesses are called.

We are confident that that, basically in its best case, is an attempt to discourage you from calling witnesses; and in its worst case, unfortunately, is a veiled threat that they will be dilatory and drag this out for months and months if the Senate would allow.

House managers are establishing a good-faith effort to cut our witnesses, as I said, down to three people, and to commit to reasonable times of examination with the assurance that we will finish this as quickly as we can and we will hope and perhaps the Senate their defense team.

Witnesses can be called and a fair trial could be accomplished if all concerned would agree. Would the Senate consider requesting the President's defense team to also select 3 or fewer witnesses in an effort to move this process along? And we think, too, that the depositions, while they are important, if they are solely for the purpose of discovery, I ask, why would the White House need to discover what Vernon Jordan has to say, what Betty Currie has to say, or Sidney Blumenthal, or John Podesta—any of these witnesses? They would have to take Monica Lewinsky's deposition, but any other discovery deposition, it seems to me, they have complete access to already.

As I close, I want to leave you with some words that have been of some comfort to me, and I think we have all needed some comfort at times during these proceedings. It is a very short quote of the opening remarks of Judiciary Committee Chairman Peter Rodino in 1974. Again, in part, he says:

> We know that the very real security of this Nation lies in the integrity of its institutions and the informed confidence of its people.

He talked about the Nixon hearings.

> We will conduct our deliberations in that spirit. It has been said that our country, troubled by too many crises in recent years, is too tired to consider this one. In the first year of the Republic, Thomas Paine wrote, "Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it."

Back to Rodino:

> Now for almost 200 years, Americans have undergone the stress of preserving their freedom and the Constitution that protects it. It is now our turn.

Ladies and gentlemen of the Senate, I respectfully ask you to permit the House managers to call these 3 named witnesses and add this additional evidence. I thank you. I yield to Mr. Manager HUTCHINSON.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager HUTCHINSON.

Mr. Manager HUTCHINSON. Mr. Chief Justice, ladies and gentlemen of the Senate, my responsibility is to address the testimony of Vernon Jordan and the need to call him as a witness in this case.

Before I go into the details of that, let me just reflect for a moment on the Senate trial process. I said many days ago that I had confidence in the United States Senate, and I thought that at this particular juncture it might be good if I reassured you that I still had confidence in the United States Senate. When I think about the trial process that we are going through, I have to compliment you on the fact that you have structured a bipartisan process. I think that is important because you gave this process credibility. So you did the right thing, and I, for one, am pleased with what you were able to accomplish in that endeavor.

Now, whenever you achieve a bipartisan process, you have to make compromises along the way. And the result is a format that is not particularly helpful to the trial managers, the House managers, who wish to call witnesses. We have struggled through that. But notwithstanding the present difficulty, I still compliment you and thank you for what you have done in achieving that bipartisan consensus. I think back to that meeting that I had early on, and some other managers, with the bipartisan group of Senators from this body—and I now look at some from both sides of the aisle—and I went in there with this high-minded thought that we could make a case for witnesses because of what the other managers have described as the tone and demeanor of witnesses. Well, that was quickly brushed aside by them saying, "No, no, no, we want to hear about what conflicts exist in the testimony; just tell us what the conflicts are because that is a strong case for calling witnesses." Well, that threw me back on my heels. So I went back and, as you know, in the question and answer session I addressed the question of conflicts. I think we did a good job of outlining the conflicts between various witnesses.

Well, then I was informed that, "We really are not as interested in the conflicts because the conflicts exist in the current transcript. Therefore, really, we want to know what new information and what dynamic these witnesses can add." That threw me back for a curve. So we looked at this again and we tried to make a case.

I'm going to show you what new dynamics and questions can be asked. Ultimately, when you take the depositions, many of those questions are going to be answered. So you come back full circle to where we started in the beginning—that ultimately I hope witnesses are called so you can evaluate their credibility, determine their demeanor, and assess the truth in this case. I think that is important. I know people talk about me as being a former Federal prosecutor. Actually, at one time, I confess, I represented a defendant in a murder case. This gentleman was charged with murder, and the prosecution in Logan County, Arkansas

—near Senator Bumpers' hometown—decided they wanted to handle one of the key witnesses by deposition, as that person was out of State. I objected and objected, because I thought that witness ought to be in the courtroom. The judge overruled me and said, "You can go take the deposition and the defense counsel will be there to cross-examination." So we traipsed off to the other State and took this witness' deposition, and she made a lousy witness. I said she would not be believed for anything because of the way she appeared. Well, we brought the transcript back to the courtroom. The prosecution, over my objection, put the transcript into the record and, all of a sudden, that cold transcript was believable—particularly when they had it read by another witness that didn't look anything like the original lady. My client was convicted, but that case was reversed in the Arkansas supreme court because the court said it was important that the jury look into the eyes of the witness, see the demeanor of that witness and determine the credibility.

So ultimately, we come back to that same point—that somehow you are going to have to resolve the conflicts. I know of only one way to do it. We have tried to be extraordinarily helpful and cooperative with the United States Senate. I came in with this idea that we were going to present this case with 14 or 15 witnesses. Clearly, that is off the table. We have narrowed this down to 3 witnesses; that is tough to decide, but we believe that represents the basic heart of the obstruction of justice case and gets to at least 6 of the 7 elements, so that you can evaluate that. But we want to assist you, clearly, in getting to the truth, but also to bring this matter to a conclusion fairly and as expeditiously as possible.

Now, let's look to Mr. Vernon Jordan. Should he be called as a witness in this case? His testimony goes to the heart of one of the elements of obstruction of justice—that is, the job search and the false affidavit, and the interconnection between those. I have tried, during my presentation of this case, to present portions of his testimony—excerpts, if you will, from his testimony. But you will see that he has testified 5 times before the Federal grand jury. I have read all of this. I am not going to ask for a show of hands, but how many of you have read all of this? And so you have had to rely upon a trial—an ordeal by lawyers, rather than a trial by witnesses because I have had to present the testimony of Vernon Jordan in excerpt fashion with limited quotes here and there—as the defense counsel has done likewise. That makes it difficult because the problem is, one, you are hearing it from her, but, second, it is not a story, it is excerpts, and there is no way you can assess the truth because of that.

If you look at the times that Mr. Jordan has testified before the grand jury: March 3, 1998; March 5, 1998; May 28, and June 9; the last time he ever testified was June 9, 1998—let's look at what has happened since then, since Mr. Jordan last testified before the grand jury. I believe these charts are in front of you.

July 22, Ms. Currie testified before the grand jury. So any of the facts we gain from Ms. Currie were not utilized in the last examination of Vernon Jordan.

August 6, what happened on that date? Ms. Lewinsky testified before the grand jury and she revealed some new facts during that time that Mr. Jordan has never had an opportunity to explain, respond to, or answer. I will go into that. One of them is about disposing of notes. The second one is about drafting the affidavit. And, of course, by that time the DNA on the dress had been revealed.

Then the next thing that happened was the President's revelation to the Nation that this relationship did exist. And then he testified before the grand jury. All of the facts revealed from those instances were not revealed at the time Vernon Jordan last testified before the grand jury.

Obviously, any lawyer would understand there are naturally questions that arise from each of those incidents that could be posed to Mr. Jordan. Why has that not been done? Quite frankly, I have talked to, as I mentioned the other day, the attorney for Mr. Jordan. I have not talked to Mr. Jordan personally. I think that clearly the Senate does not want us to do that until we get past this next hurdle. But those are the things that need to be resolved.

Let me address briefly three areas of conflicts and testimony between Mr. Jordan and Ms. Lewinsky that point up other areas of questioning that would be appropriate that he should have the opportunity to explain.

I have been accused of being harsh to Mr. Jordan, and I don't mean to be that way. There have been certain things that have been stated by witnesses in this case that ought to be explained, that ought to be questioned of Mr. Jordan. But we need to have good answers to these questions. We need to know those answers.

The first conflict—I will get to that—is between Mr. Jordan's testimony and Ms. Lewinsky's testimony about whether Mr. Jordan knew the true nature of the relationship with the President.

In Mr. Jordan's testimony of May 28, he was asked a question, "You're saying no one to your recollection ever suggested or alleged a sexual relationship prior to the 18th of January between Monica Lewinsky and the President." The answer: "That is correct."

That was on May 28. Ms. Lewinsky was asked the same series of questions months later—in August of 1998—and she indicated, she testified, "And I remarked that I really didn't look at him as the President"—that, "I saw him more as a man and reacted to him more as a man and got angry at him like a man and just a regular person. Mr. Jordan asked me what I got angry at the President about. So I told him when he doesn't call me enough or see me enough."

Another statement:

> And so after we had the conversation I was just talking about with Mr. Jordan, he said to me, "Well, you know what your problem is," and I said, "What?" He said, "Don't deny it," and he said, "You're in love. That's what your problem is."

This is Monica Lewinsky referring to what Mr. Jordan had said.

So clearly those are relevant questions that need to be readdressed to Mr. Jordan because they were raised by Ms. Lewinsky in subsequent testimony that have never been asked to him in that fashion.

There is a conflict in the testimony between Mr. Jordan and Ms. Lewinsky about whether the subpoena was discussed at the December 22 meeting. Mr. Jordan testified in March that, "We did not talk about the subpoena. She wanted to know about her job. That was the purpose of her coming." And the question was, "Anything beyond that?" The answer was, "No."

And that is March 6 of 1998. Ms. Lewinsky testified contrary.

Let's turn our attention then to December 22, which is the day she met with Frank Carter. "And I think you said you were going to meet with Mr. Jordan." Answer: "So I came to see Mr. Jordan earlier, and I also wanted to find out if he had in fact told the President that I had been subpoenaed."

That was her testimony which is in direct conflict—that the subpoena was discussed on the same day that she went to see Mr. Carter about the representation.

Where is the relevance in this?

If you recall, Mr. Jordan said it didn't take an Einstein to figure out that, whenever you combine whenever she got the subpoena, that it changed the circumstances.

Here you have three problems. You have a job search, you have a witness in court, and if you combine that with the knowledge of a relationship, those are three dynamite issues combining together that should cause anyone—not just one change of circumstances but it elevates it to a higher level of danger because of the correlation between each of those three separate facts—each of these conflicts, and the testimony of Monica Lewinsky goes to those key fundamental issues. And Mr. Jordan has never been asked sufficiently about those areas.

The third conflict—this is key—is the testimony of Monica Lewinsky. Mr. Jordan testified that he never talked to Ms. Lewinsky about Linda Tripp. That is his March 5, 1998, testimony.

But Ms. Lewinsky testifies in her August 6 testimony about a meeting with Mr. Jordan on December 31.

This is the third exhibit. I will read that:

> And I met Mr. Jordan for breakfast on . . . the morning of [December] 31st, at the Park Hyatt Hotel. And in the course of the conversation I told him that I had had this friend, Linda Tripp . . . and I was a little bit concerned because she had spent the night at my home a few times and I thought—I told Mr. Jordan, I said, well, maybe she's heard some—you know—I mean, maybe she saw some notes lying around. And Mr. Jordan said, "Notes from the President to you?" And I said, "No, notes from me to the President." And he said, "Go home and make sure they're not there."

This is Ms. Lewinsky's testimony of August 6 before the grand jury.

And before anything is said, I am not accusing anyone of anything. But let me tell you, it would be significant if Mr. Jordan is asked a question if that is a true statement and he says yes. It is significant to the case. If he says no, that is significant because there is a clear conflict in the testimony of Ms. Lewinsky. And her testimony goes to the heart of the issue. If he says, "I don't remember," which is a third alternative—by the way, I hate giving these prospective witnesses all my questions—but if he says, "I don't remember," that does not put the issue in dispute with Ms. Lewinsky and establishes really her recollection of the incident.

So I could go through more. I could go through more conflict with Ms. Lewinsky about whether Mr. Jordan saw the unsigned draft copy of her affidavit, a key issue in this case. Ms. Lewinsky testifies one way. Mr. Jordan did not have the benefit of Ms. Lewinsky's testimony when he was asked earlier in the grand jury. So that needs to be addressed with him.

There is a conflict with Ms. Lewinsky on whether they discussed the contents of the affidavit—not just whether they saw the signed affidavit, but whether the contents were discussed. The question to Mr. Jordan was, "Did you ever discuss with Ms. Lewinsky what she was going to include in the affidavit?" Answer: "I was not Ms. Lewinsky's lawyer. The answer to that is no."

But he goes on and elaborates on that. Ms. Lewinsky testified that she and Jordan did have a conversation about deleting a certain sentence in the affidavit and reworking that.

That is what I just covered on the contents of the affidavit.

Let me just go to one other on the conflict where the affidavit was discussed at their last meeting. Mr. Jordan testified in March that she came into the office:

> She gave me a tie. I said, "Monica, I am really busy, thank you." And she thanked me, and she is gone.

"Any subsequent conversation?" The answer: "No."

Ms. Lewinsky's testimony is:

> I stopped in to see him for five minutes to thank him for giving me the job, and I gave him a tie.

She further testified,

> I believe I showed him a copy of the affidavit.

Clear conflict, very important, once again showing a connection between the job, the false affidavit, and, of course, if you tie in the other aspect about the relationship, it gets very significant and something that needs to be further inquired about.

So there are some of the conflicts between the testimony, and an area that we need to inquire of Mr. Jordan about.

The notes to the President that Ms. Lewinsky said she had a conversation with him about, that has never been addressed to Mr. Jordan whatsoever.

The December 19 meeting we need to explore more with Mr. Jordan. This is the meeting when Ms. Lewinsky was subpoenaed. She called Mr. Jordan. He says, "Come over." She goes over there to meet with Mr. Jordan, and during that meeting, according to the telephone logs, Mr. Jordan received a call from the President of the United States. Mr. Jordan has testified that he told the President that Ms. Lewinsky got subpoenaed.

That appears to be exactly during the meeting—the conversation he is having with Ms. Lewinsky.

I think appropriate questions to Mr. Jordan are: Did you excuse Ms. Lewinsky from the meeting? Did you have a private conversation with the President about the subject that you were talking to Ms. Lewinsky about? And when you renewed your conversation with Ms. Lewinsky, did you in fact tell her about your conversation with the President? If Ms. Lewinsky was not told about that conversation, I think there is some significance there, that things were going on that people were compartmentalizing and not sharing with the other interested parties, and I think that is significant and that needs to be explored. His involvement with reviewing the affidavit needs to be developed, and the conflicts, his knowledge of the nature of the relationship with Ms. Lewinsky.

So all of these need to be further explored. There are a number of unanswered questions.

One final area. I obviously have a number, but I don't want to belabor this point. There was testimony I mentioned about Mr. Isikoff and how Betty Currie felt compelled to go see Mr. Jordan about Mr. Isikoff inquiring about the courier records on the gifts from Ms. Lewinsky to the President. There is some indication that that information might have been shared with Mr. Frank Carter because Ms. Lewinsky testified that she received a page from Mr. Carter, her attorney, about the Isikoff call, the Isikoff request. How did that information get to Mr. Carter? I think there are some legitimate questions that should be asked there.

So we would respectfully ask the Senate to permit us to call Mr. Jordan as a witness, to depose him. But, further, we hope we will be able to call him so that you can evaluate the conflicts that I am sure exist now, that very likely will exist later on as well. The story needs to be told. The truth should be determined. Justice should be accomplished. That is done not through lawyers up here talking, it is not done through transcripts, but through witnesses. Edmund Burke said that to fail to hear the evidence is to fail to hear the cause. I know that you have transcripts, but I would contend to you that to fail to hear these witnesses is in essence to fail to hear the cause.

RECESS

Mr. LOTT. Mr. Chief Justice, could I inquire about the balance of the time remaining for the House managers?

The CHIEF JUSTICE. Yes. The managers have 52 minutes remaining.

Mr. LOTT. Do they intend to use more of their time now?

Well, Mr. Chief Justice, I ask unanimous consent that we take a 30-minute break at this point.

There being no objection, at 1:22 p.m., the Senate recessed until 1:59 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. Chief Justice, I have a unanimous consent request to propound. We have discussed this with Senator DASCHLE and it has been cleared.

I ask unanimous consent that following the conclusion of the arguments by the managers and the White House counsel today on the motion to subpoena witnesses, it be in order at that point only for Senator HARKIN or Senator WELLSTONE to make a motion to open that debate pursuant to his motion timely filed, and that the Senate proceed immediately to the vote, pursuant to the impeachment rules.

I further ask that following that vote, if defeated, it be in order to move to close the session for deliberations on the motion to subpoena witnesses, as provided under the impeachment rules of the Senate and proceed to immediate vote.

If we have any change in either one of these, certainly we would have to ask for consent on that and would notify Members to that effect.

I further ask that if the Senate votes to proceed to closed session, those deliberations be limited to 3 hours equally divided between the two leaders, notwithstanding the 5-minute allocation of time under the impeachment rule.

I further ask unanimous consent that when the Senate concludes its business today, it stand in adjournment until 1 p.m. on Wednesday, January 27.

Finally, I ask unanimous consent that pursuant to S. Res. 16, the votes occur immediately upon convening on Wednesday, first on the motion to dismiss, and if defeated, the motion to subpoena witnesses without intervening action or debate.

The CHIEF JUSTICE. In the absence of objection, it is so ordered.

Mr. LOTT. I believe, Mr. Chief Justice, we are ready to proceed with White House counsel.

The CHIEF JUSTICE. The Chair recognizes Mr. Counsel Kendall.

Mr. Manager ROGAN. Mr. Chief Justice, we reserve our time.

The CHIEF JUSTICE. Very well.

Mr. Kendall.

You are going to use it now? You have 52 minutes remaining. The Chair recognizes Mr. Manager ROGAN.

Mr. Manager ROGAN. Thank you, Mr. Chief Justice, Members of the Senate. When I was a trial judge back in California, there was something I had to do in every single case, whether it was a criminal or civil case, and that was to advise the triers of fact —in that particular case, the jury—that what the lawyers say is not evidence. This is a universal warning that is given in courtrooms throughout the country to the triers of fact, because the law prefers that those people who have to make the determination as to what the facts are make that determination based not only on interpretation of the evidence, but based upon what the evidence actually is. And that has been the underpinning of our argument before this body from the very first day as to why witnesses are needed—not to accommodate us, but for the Senate to be able to make the ultimate conclusion as to what is the truth.

A perfect example of why the evidence should come from witnesses rather than lawyers can be seen from the fact that throughout these proceedings lawyers on both sides have tried to characterize what is the evidence and tried to characterize the interpretation that this body should adopt.

I am reminded when we were before the Judiciary Committee, just before we voted articles of impeachment, White House counsel suggested to our committee, as they do before this body, that the President's state of mind during his various statements under oath were intended to mislead people but to be truthful. They say the President didn't lie. Instead, they say he carefully crafted these hypertechnical definitions to protect himself from any perjury charge.

We believe the evidence will show that by so doing, Paula Jones was denied the information a Federal judge said she was entitled to have and, thereby, perjury and obstruction of justice lie.

Before the Judiciary Committee, Mr. Ruff reaffirmed this was the President's strategy. This is what Mr. Ruff told our committee:

Question to Mr. Ruff:

> I do want to make sure I understand your position. From the beginning, the President has taken the position that he never lied to the American people or lied while giving testimony under oath. Essentially claims he simply misled [them] with a different definition, and he was sending the same message both to the American people and the court.

Answer by Mr. Ruff:

> I think that is fair, Congressman. Yes.

Question:

> And he did that intentionally, because in his own mind he drew a distinction between the technical definition of "sexual relations" and the definition of "improper relationship," or something along those lines, which is how he now characterizes his relationship with Monica Lewinsky?

Answer by Mr. Ruff:

> Yes, I think that's correct.

Question:

> You suggested earlier in your testimony this distinction is one he has drawn since the Jones deposition. My notes indicate you said the definitions are one that he held in his mind in January and in August and he has so testified.

Answer by Mr. Ruff:

> Yes.

Question:

> In determining whether the President either perjured himself or lied under oath in this matter, you are asking the committee to look to his state of mind from the beginning of this whole episode and make that determination?

Answer:

> Yes.

Members of this body, we suggest that the evidence has shown, and the evidence will further show by the calling of the witnesses that we propose, that the President denied under oath specific facts that were relevant to the case, relevant to the Jones case, relevant to the perjury and obstruction investigation by the grand jury, and, in so doing, among the other lies that my colleagues have pointed out, we will show that he lied to his aides.

This is important, because he, the President, admitted he knew that his aides were potential witnesses in a criminal investigation before the grand jury. This is the portion of the grand jury transcript where the President testified about his conversations with key aides once the Monica Lewinsky story became public.

Question to the President:

> Did you deny it to them or not, Mr. President?
>
> Answer: . . . I did not want to mislead my friends, but I wanted to find language where I could say that. I also, frankly, did not want to turn any of them into witnesses, because I—and, sure enough, they all became witnesses.
>
> Question: Well, you knew they might be witnesses, didn't you?
>
> Answer: And so I said to them things that were true about this relationship. That I used—in the language I used, I said, there's nothing going on between us. That was true. I said, I have not had sex with her as I defined it. That was true. And did I hope that I would never have to be here on this day giving this testimony? Of course. But I also didn't want to do anything to complicate this matter further. So, I said things that were true. . . .

The President's position is they were misleading, but they were true. No lies, and that is precisely what Mr. Ruff told the Judiciary Committee, and that is the position that White House counsel takes before this body.

Remember, the grand jury was conducting a criminal investigation. They were seeking evidence of possible perjury and obstruction of justice, and the White House contends before this body that the President did nothing to obstruct their investigation. The evidence shows that he did. One of those witnesses who will demonstrate that to this body is the President's own aide, Sidney Blumenthal. That is why we request this body to allow Mr. Blumenthal to be deposed, and, further, we hope that you will allow him the opportunity to testify before you so that you can gauge his credibility and his demeanor as he presents the answers that we expect he will give.

Mr. Blumenthal's testimony puts him in direct conflict with the claims of the President and shatters the myth of the President's truthful but misleading answers given under oath.

Just for a quick way of background, Mr. Blumenthal, on January 21, 1998, was an assistant to the President. That was the day the Monica Lewinsky story broke in the national press through the Washington Post. That story broke in the morning.

Later the same day, Mr. Blumenthal met both with the First Lady and then with the President to discuss these news revelations. One month later, Mr. Blumenthal was called to testify before the grand jury. His testimony was not particularly helpful during that time because, through most of the questioning that involved conversations that he had at the White House, Mr. Blumenthal claimed executive privilege.

That issue was apparently litigated, and then he returned in June to testify before the grand jury twice, on June 4 and on June 25, 1998.

When Mr. Blumenthal was free to share his recollections of the events, this is how Mr. Blumenthal characterized his meetings with President and Mrs. Clinton before the grand jury. It is interesting to note, by the way, that there was a dual lie going on here from the President. The President was lying to his wife, who could never be called as a witness against him, but he was also lying to his aides whom he admitted could be called.

This is from Mr. Blumenthal's testimony on June 4.

> The First Lady said that she was distressed that the President was being attacked, in

> her view, for political motives, for his ministry of a troubled person. She said that the President ministers to troubled people all the time . . . and he does so out of religious conviction and personal temperament.
>
> * * * * *
>
> And the First Lady said he had done this dozens if not hundreds of times with people, the President came from a broken home and this was very hard to prevent him from trying to minister to these troubled people.
>
> So I related that conversation to the President. . . . And I said to him that I understand that you . . . want to minister to troubled people, that you feel compassionate, but that part of the problem with troubled people is that they're . . . troubled. . . .
>
> I said, "However, you're President and these troubled people can just get you in incredible messes . . . you have to cut yourself off from them."
>
> And he said, [meaning the President, he said,] "It's very difficult for me to do that, given how I am. I want to help people."

Then Mr. Blumenthal testified that the President said Dick Morris suggested that the President go on television and admit in a national address whatever he may have done wrong.

Once again Mr. Blumenthal testified:

> And I said to the President, "What have you done wrong?" And he said, "Nothing. I haven't done anything wrong." [And] I said, "Well, then, that's one of the stupidest ideas I've ever heard. Why would you do that if you've done nothing wrong?"
>
> And it was at that point that he gave his account of what happened to me and he said that Monica—and it came very fast. He said, "Monica Lewinsky came at me and made a sexual demand on me." He rebuffed her. He said, "I've gone down that road before, I've caused pain for a lot of people and I'm not going to do that again."
>
> She threatened him. She said that she would tell people they'd had an affair, that she was known as the stalker among her peers, and that she hated it and if she had an affair or said she had an affair then she wouldn't be the stalker anymore.
>
> And I repeated to the President that he really needed never to be near people who were troubled like this, that it was just—he needed not to be near troubled people like this. And I said, "You need to find some sure footing here, some solid ground."
>
> And he said, "I feel like a character in a novel. I feel like somebody who is surrounded by an oppressive force that is creating a lie about me and I can't get the truth out. I feel like the character in the novel Darkness at Noon."
>
> And I said to him, I said, "When this happened with Monica Lewinsky, were you alone?" He said, "Well, I was within eyesight or earshot of someone."
>
> I said, "You know, there are press reports that you made phone calls to her and that there's voice mail. Did you make phone calls to her?"
>
> He said that he remembered calling her when Betty Currie's brother died and that he left a message on her voice machine that Betty's brother had died and he said she was close to Betty and had been very kind to Betty. And that's what he recalled.

And then in his June 24 deposition, Mr. Blumenthal expanded on this thinking. He was asked the question:

> In your conversation with the President when he stated that Monica Lewinsky threatened to disclose an affair, or fabricate an affair in a public disclosure, did you understand him to be saying that if the President didn't concede or didn't agree to have some [type] of sexual contact with her, that she would report an affair?
>
> Answer: My understanding was that she demanded to have sexual relations. He rejected her. And she said that—this is —I recall him saying—that, "They called me the Stalker." That's what Lewinsky said. "And if I can say we had an affair, then they won't call me that," something like that.
>
> Question: Now, you previously characterized Ms. Lewinsky's comments to the President as a threat, if you will?
>
> Answer: Right, yeah, I would interpret—that's my understanding.

Then Mr. Blumenthal told the grand jury about the impact the President's emphatic denials had upon his state of mind— the mind of a potential grand jury witness.

> Question: In response to my question how you responded to the President's story about a threat or discussion about a threat from Ms. Lewinsky, you mentioned you didn't recall specifically. Do you recall generally the nature of your response to the President?

Answer by Mr. Blumenthal:

> It was generally sympathetic to the President. And I certainly believed his story. It was a very heartfelt story, he was pouring out his heart, and I believed him.
>
> * * * * *
>
> Question: Did the President explain to you what Monica Lewinsky's trouble was that he was helping?
>
> Answer: No.
>
> Question: And you never asked him?
>
> Answer: No.
>
> Question: Did anyone else, including the First Lady, tell you what Monica Lewinsky's trouble was that the President was ministering about?
>
> Answer: No.
>
> * * * * *
>
> Question: What did you understand the President to mean by, he had done nothing wrong?
>
> Answer: My understanding was that the accusation against him, which appeared in the press that day, was false, that he had not done anything wrong.
>
> Question: That he had not had any sort of sexual relationship?
>
> Answer: He had not had a sexual relationship with her and had not sought to obstruct justice or suborn perjury.

Mr. Blumenthal then went on to say he then asked the President about some of these reports that there were phone calls between him and Monica Lewinsky.

> Question: Did the President say anything to you about telephone calls with Monica Lewinsky?
>
> Answer: As I testified, I had said to him that there were reports that his voice was on her voice mail, her tape machine at home to take message—message machine. And he said to me that he could recall that after Betty's brother died he may have called Monica because Monica had been very close to Betty. And Betty didn't have a way of relating to her that her brother had died, so that he had called and left a message that Betty's brother died.
>
> Question: Did he suggest to you that that was the only call he had ever made to Monica Lewinsky?
>
> Answer: That's the only one he told me about.
>
> Question: Did you ask him if there were any more calls than that?
>
> Answer: He said that's the only one he could remember.

Well, we now know certainly from White House logs that "the only one the President remembered" isn't quite true, that in fact I believe it was over 50 telephone conversations between the President and Monica Lewinsky. And it begs the question: Why was the President, on the day this story broke, pulling his aides in to relay information that the President knew was patently false when he knew that they were potential witnesses before the grand jury?

Now, it is important to remember that this testimony from Mr. Blumenthal was given 1 month before Monica Lewinsky decided to opt to cooperate with the Office of Independent Counsel. Thus, these questions were asked of him in a vacuum without the benefit of Ms. Lewinsky's extensive testimony, as well as the President's own grand jury testimony. And the House managers agree that these and other areas need to be more fully explored with the gentleman under oath in light of the later revelations that occurred surrounding this case.

Now, we know a couple of things. We know that the Monica Lewinsky story broke on January 21. We know that the President spoke to Sidney Blumenthal the very same day. We know that the President said he knew his aides could be potential witnesses before the grand jury. And we also know that Mr. Blumenthal was called three times before the grand jury—once in February, twice in June.

There is an important question that was never asked Mr. Blumenthal during his testimony. It could not have been asked because at the time he testified, the revelation that the President shared with America in August and Monica Lewinsky's revelation had not yet been aired. If the President knew that Mr. Blumenthal was going to be a witness, a potential witness before the grand jury, if 6 months after this story broke the President presumably knew that his aide had gone down, not once but twice, to the grand jury, I would like to know from Mr. Blumenthal: Did the President ever come up to you and say something to you? Did he ever say to you: Do you remember that story I told you back in January? Well, now that you're actually going to be a witness, I know that you're going down to testify before the grand jury, I don't want you to give the grand jury a false impression. I don't want you to give false information to the grand jury. I don't want you to be a cog in the wheel of an obstruction of giving the grand jury the opportunity to hear the truth. I need to recant for you what I told you.

There is no evidence of that. And we would like to find that out. And the only way we can do that is by deposing Mr. Blumenthal and hopefully bringing him in and sharing that information with this body.

Another area we would like to inquire about is the area of a potential plan to destroy Monica Lewinsky if she ever decided to cooperate with law enforcement authorities. Mr. Blumenthal told the grand jury that, following the Monica Lewinsky news revelations, White House aides held twice-a-day staff briefings, at 8:30 in the morning and at 6:45 in the evening, every day to discuss, among other topics, the media impact of the Lewinsky scandal and how to deal with it in the press.

Mr. Blumenthal testified that the primary purpose of these meetings was to discuss press strategy.

In making his presentation to the Judiciary Committee last month, chief investigative counsel, David Schippers, related some of the quotes that emanated in the press following the Lewinsky story. I want to read a few paragraphs from Mr. Schippers' presentation:

> Worst of all, in order to win, it was necessary to convince the public, and hopefully, those grand jurors who read the newspapers, that Monica Lewinsky was unworthy of belief. If the account given by Monica to Linda Tripp was believed, then there would be a tawdry affair in and near the oval office. Moreover, the President's own perjury and that of Monica Lewinsky would surface. How do you do this? Congressman GRAHAM showed you. You employ the full power and credibility of the White House and the press corps of the White House to destroy the witness.

Mr. Schippers then quoted from several news sources. Now, this is just a few days after the President told Mr. Blumenthal that Monica was known as "the stalker."

> Inside the White House, the debate goes on about the best way to destroy "that woman" as President Clinton called Monica Lewinsky. Should they paint her as a friendly fanaticist or as a malicious stalker?

Again, January 30th:

> It's always very easy to take a mirror's eye view of this thing, look at this thing from a completely different direction and take the same evidence and posit a totally innocent relationship in which the President was a victim of someone, rather like the woman who followed David Letterman around.

From another source, "One White House aide called reporters. . ."

> One White House aide called reporters to offer information about Monica Lewinsky's past, her weight problem, and what the aide said was her nickname "the stalker."

Just hours after the story broke, one White House source made unsolicited calls offering that Lewinsky was the troubled product of divorced parents.

And the reference goes on and on. You can find the complete reference in the committee report.

Now the question is, Was this a mere coincidence that the President's false statements to Mr. Blumenthal about Monica Lewinsky being a "stalker" quickly found their way into press accounts, even though those accounts are attributed by the press to sources inside the White House? The answer to the question is, yes, it is a coincidence, according to White House counsel. And we heard that from them just 3 days ago. Mr. Ruff said in his presentation, and I am quoting:

> The White House, the President, the President's agents, the President's spokespersons, no one has ever trashed, threatened, maligned, or done anything else to Monica Lewinsky. No one.

Mr. Blumenthal needs to be questioned now under the light of the facts as we now know them. All we have from Mr. Blumenthal are the facts as he testified before the revelations saw the light of day, and he needs to be questioned for the benefit of those who must make a determination of credibility and the determination of guilt or innocence. This is the reason we have included Mr. Blumenthal on our proposed list. He is just one example of several aides whose testimony is already before you in the record. But we feel it would be beneficial not only for the body to hear him, but certainly to question him in light of the revelations that occurred following his grand jury testimony.

Mr. Chief Justice, with that, we reserve the balance of our time.

The CHIEF JUSTICE. Very well, the Chair recognizes Mr. Counsel Kendall for the White House.

Mr. Counsel KENDALL. Mr. Chief Justice, ladies and gentleman of the Senate, House managers, the purpose of the managers' motion and what I am going to address, is whether you need to add any evidence to the record before you. And that is all I am going to address. Now, I am tempted—it is like waving a red flag at the bull to take on the substantive arguments that have been presented here as to why the President is guilty. I am going to refrain from doing that, but my refraining from doing that is not because I agree with them, but that we have already addressed them. I think here that the proper procedure is just address the need for new evidence to add to the record before you.

The managers' case is in no way—no way—harmed by being unable to call witnesses at this point. The independent counsel conducted a wide-ranging investigation. It was intense. It was comprehensive of every conceivable allegation against the President after the Lewinsky publicity erupted on January 21, 1998. In the record of publicly available materials, which the Senate has asked the House managers to certify, the actual number of pages is somewhat understated, because as I mentioned before, frequently four or five pages of transcript are reproduced on a single page of the bound. But, in fact, there are over 10,000 pages of grand jury testimony, over 800 pages of other testimony such as depositions, 3,400 pages of documentary evidence, 1,800 pages of audio transcripts, and 800-some pages of FBI interviews.

The Office of Independent Counsel has an unlimited budget with unlimited investigative resources, ranging from the FBI to private investigators. Its agents interviewed people all over the country, used several different grand juries, conducted hundreds of interviews, even called people back from abroad. If the OIC could have turned up anything that was negative or prejudicial, it would be in those volumes. You can rest assured that they did their best to find that evidence.

And the Starr team has been fully supportive of the pro impeachment forces in the House of Representatives; indeed, so supportive that the independent counsel's ethics advisory professor, Sam Dash, resigned to protest Mr. Starr's zealous advocacy of the impeachment of the President.

Just this week, Mr. Starr and his staff have aggressively continued to support the House managers during these Senate proceedings. Some commentators have commented that the independent counsel is, perhaps, the honorary 14th House manager.

Now, I rehash this all not to cast aspersions at Mr. Starr, but to remind the Senate that after 5 years and $50 million President Clinton may be the most investigated person in America. I would certainly say this for Mr. Starr: He is thorough. He is thorough. After all the work that has been done for them by the independent counsel, there is simply no way that the House managers are prejudiced by not being able to add to this record at this point.

Now, Mr. Manager MCCOLLUM repeated this morning that we are afraid of witnesses. We are not. We have reviewed in detail in our presentations what the evidence shows about both the perjury and the obstruction of justice allegation. We are not at all afraid of what the witnesses would say. Indeed, we know what they are going to say because it is all right there in the volumes before you. We think that you have everything there on the basis in which you can make a fair judgment and achieve a fair resolution. The managers' hope to call more witnesses is simply a product of their desire, their hope, their prayer, that something will come to rescue their case.

Let's be clear about one thing: Any delay in the process necessary for us to have fair discovery is on their heads. Our point here is that there is simply no need to go outside this record, because what you have before you is voluminous, and it is a completely adequate basis for your decision.

As I pointed out the other day in the questioning period, the only thing left out of this record is evidence that might be exculpatory or helpful to the President. And if we must, we will as conscientious lawyers, seek out that helpful additional evidence through discovery.

This body has been scrupulously fair in these proceedings, and I am confident it will be fair concerning our need for discovery if the "genie" of discovery is let out of the bottle and live witnesses are deemed to be appropriate. Then we are going to need a fair period of time for our own discovery.

But, again, the point today on this motion is that the managers have simply identified no particular need for witnesses, no specific areas of testimony that might contribute to what is already in the record and, indeed, no material questions—you can always think of questions that were unasked—but no material questions, given the allegation in the two articles that are not in the record before you.

Just recall, in the House the managers believed that this was an adequate record to come to you and urge removal of the President. They rested on that record in the House, and they impeached an elected President on the basis of that record. They cannot now complain that it is, for some reason, unfair to submit this same record to you for judgment at this point. We are not afraid of or reluctant to call witnesses, but we think that at the end of the day, the addition of more testimony from the three witnesses you have heard about won't affect any evidentiary judgment you have to make.

Mr. Manager BARR declared during his presentation a week ago Friday, on January 15, that this was in fact a relatively simple case, although we, the White House lawyers, would try to nitpick the evidence. He told you that what we have before us, Senators and Mr. Chief Justice, is really not complex—critically important, yes, but not essentially complex. The able House managers have kept insisting on their need for witnesses, but they haven't indicated what substantial, material, and relevant questions the witnesses would be asked, which haven't already been asked, or why such questions are essential or even relevant to the resolution of this proceeding.

Frankly, I think this is because there just aren't that many more questions to ask of these witnesses. Mr. Manager McCOLLUM kind of let the cat out of the bag on this one when, a week ago Friday, he told you, "I don't know what the witnesses will say, but I assume if they are consistent, they will say the same thing that's in here."

I was surprised at some of the statements the managers made during the questioning period on Friday and Saturday. Mr. BRYANT said, "We would very much like to talk to some of these witnesses." And he added, "It is very critical that you talk to the witness before having that witness testify." Mr. Manager McCOLLUM stated, "As a matter of fact, we think we would have been incompetent and derelict as presenters of the evidence if we hadn't talked to them first." Just this Sunday Mr. Manager HYDE, on "Meet the Press," observed that the purpose of the court-ordered Office of Independent Counsel's chaperoned interview of Ms. Lewinsky last Sunday was to get a sense of what kind of a witness she would make.

I say this respectfully, but I am duty-bound to observe that it is, in fact, a dereliction of duty to have come this far in the process, to have made this serious set of charges as have been made against the President to seek his removal, and not to have talked to the witnesses on whom they purport to rely. How can they have come this far and now tell you: Oh, yes, we now need to meet face to face with the witnesses? We don't know what they sound like, how credible they will be, but we have rested our judgment on this. We need to see them personally.

This procedure, I submit to you, is just backward. First, they filed the charges, which have been spoon fed by Mr. Starr. They don't bother to check these out; they take them at face value, and now they finally want to talk to the witnesses, and they again use Mr. Starr to threaten Ms. Lewinsky with imprisonment unless she cooperates with them.

Now, it is no answer to say that the witnesses didn't want to talk to us. There was a way to talk to them in the House of Representatives, and that was through the subpoena power that the House could have used if they had wanted to talk to their witnesses, if they had fulfilled the obligation they had before they proffered these charges to you.

This has been a partisan process on the part of the House managers. In the House, they had the votes. They didn't think they needed to talk to witnesses. When you have the votes and the independent counsel on your side, you don't need to independently develop the evidence. Indeed, Sunday, on CNN, Mr. Manager CANNON provided some insight——

Mr. HUTCHINSON addressed the Chair.

The CHIEF JUSTICE. The Senator from Arkansas.

Mr. HUTCHINSON. I object to White House counsel's continual reference to comments made on television programs which are outside the record before the Senate.

The CHIEF JUSTICE. This is on a motion to call additional witnesses, and the argument has been very free form and kind of far reaching. I think this is a permissible comment, so I overrule the objection.

Mr. Counsel KENDALL. Thank you, Mr. Chief Justice. I think Mr. Manager CANNON's comments did provide some insight into the need for witnesses or the justification for witnesses here. He noted that the Republicans had lost five seats in the November election, and he went on to say that, accordingly, the Republicans felt a need to speedily complete impeachment in the lame duck session before the 106th began its session. He said, "Republicans on the Judiciary Committee were committed to being done by the time we got done," and that is where we got on that track with no witnesses.

Now, they are trying to take a different track, and I think it comes from desperation. You have had the case analyzed before you; you have had the evidence in the case assessed. I think it has been demolished in an adversary proceeding.

The House managers are like the character in David Copperfield, Mr. Micawber, who was always hoping that something would turn up. They continue to hope that something will turn up for them. They don't know what it is, but they believe they will know it when they see it and they hope if, for the first time in these proceedings, they actually talk to the witnesses on whom they have relied, they will find something to persuade you to overcome the evidence in the record.

Now the managers have said, "Well, we told the White House that they could have called witnesses in the House if they wanted to, and they chose not to do so, so it is really their fault." I respectfully submit to you that only in the world of Franz Kafka do you have to present evidence of your own innocence before you even hear the charges or the allegations against you.

It was the burden of the House to establish, by an adequate evidentiary basis, a case for impeaching the President. They failed to do that, I respectfully submit. They are a little like a blackjack player who sees 20 on the table and has 19 and is going to try to draw that 2, hoping against the odds. Here they are simply gambling. And gambling may have its place as a recreation, but I don't think it has a place in this impeachment trial when the fate of the President is at stake.

Now, I don't want to be uncharitable to the House managers—and they are able—but I think it is perhaps appropriate to remind you, as my partner Ms. Seligman did in her argument yesterday, that in their own Chamber the House managers sang a very different song about the need for witnesses. And to be fair, this was not just one manager; they sang as kind of a barbershop chorus. Most of them are on the record to this effect, and I think the very best witnesses you have about the need for witnesses are the House managers themselves.

Let's listen to some of the comments of the managers on whether live witnesses needed to be heard to supplement the evidence in the many volumes already gathered by the independent counsel.

For example, on November 5, Mr. Manager HYDE said:

> We believe the most relevant witnesses have already testified at length about the matters in issue, and in the interest of finishing our expeditious inquiry we will not require most of them to come before us to repeat their testimony.

He added that, "[Monica Lewinsky and Linda Tripp] have already testified under oath. We have their testimony. We don't need to reinvent the wheel."

The very next day, on November 6, Mr. Manager GEKAS stated:

> Bringing in witnesses to rehash testimony that's already concretely in the record would be a waste of time and serve no purpose at all.

On December 1, during a hearing before the House Judiciary Committee to which the committee received testimony concerning the consequences of perjury and related crime, Mr. Manager CHABOT stated:

> We could call more and more and more witnesses. We are trying to get this wrapped up as expeditiously as possible. I think both sides want to do that. If we call more witnesses and drag this on into next year, then they are going to scream because they say we are on a fishing expedition, we have already got enough evidence.

At that same period, Mr. Manager CANADY said, of the need for witnesses:

> Now, we do have a responsibility to make certain that we act on a solid basis. We should not move forward with articles of impeachment on the basis of insubstantial evidence. I think all of us agree on that. The fact of the matter is that we have a mountain of sworn testimony. . . .

On December 9, Congressman COBLE, who was a member of the House Judiciary Committee, told us during our presentation on behalf of the White House:

> Mr. Ruff, I want to address a couple of myths and one myth is that we have no evidence because there have been no fact witnesses called . . .

Five volumes sit alongside me. These are the same five volumes that are at our table that contain sworn testimony before a criminal grand jury, FBI interviews, depositions and other materials.

Mr. Manager HYDE made two statements on the floor of the House of Representatives during the debate over the articles of impeachment which I think bear quotation here.

On December 18, Mr. Manager HYDE stated:

> We had the facts, and we had them under oath. We had Ms. Lewinsky's heavily corroborated testimony under a grant of immunity that would be revoked if she lied; we accepted that . . .

And then the next day, on Saturday, December 19, Mr. Manager HYDE stated:

> No fact witnesses, I have heard that repeated again and again. Look, we had 60,000 pages of testimony from the grand jury, from depositions, from statements under oath. That is testimony that we can believe and accept. We chose to believe it and accept it. Why reinterview Betty Currie to take another statement when we already have her statement? Why interview Monica Lewinsky when we had her statement under oath, and with a grant of immunity that if she lied, she would forfeit?

"Why interview Monica Lewinsky when we had her statement under oath, and with a grant of immunity that if she lied, she would forfeit."

After the House voted its two articles of impeachment, the House managers still sought no need for live witnesses. On December 29, Mr. Manager GEKAS stated:

> We are going to make the case that there is already enough testimony under oath, in one grand jury testimony and affidavits.

Then again, a week later, Mr. Manager GEKAS stated:

> In my judgment, there might not be any real rationale for calling Linda Tripp or Betty Currie or Vernon Jordan if the testimony of Monica Lewinsky is accepted as being what she offered on grand jury terms.

Rollcall reported on January 7 that Mr. Manager CANNON stated, regarding calling Ms. Currie as a witness in the Senate trial:

> I am reluctant to call [Ms. Currie] because it's a rotten, nasty thing to do to a public servant.

When confronted with this inconsistency, the managers, who are talented attorneys and successful Congressmen, have all argued, "Oh, well. The forum has changed," as if it is no big deal for the House to impeach a President without witnesses. But it would be unconscionable for the Senate to acquit the President without first doing the "rotten, nasty thing"—Mr. Manager CANNON's phrase—to some witnesses. How can you have a trial, they protest, without witnesses? One might ask, How can you have a hearing without witnesses? But the House did. How can you impeach a President without witnesses? The House showed you.

Finally, it is instructive to note that when the managers were presenting their case in the House in the Judiciary Committee, they did not declare that they would insist on witnesses when they got to the Senate. They did not tell their colleagues, We will not need witnesses in the House because we will have them in the Senate. No. They rushed this through the House because they had the votes and now they want to delay in the Senate because they are afraid they don't have the votes.

There is no reason, we respectfully submit, to delay this Chamber, to drag out these proceedings and defer doing the business of the American people.

I would like to discuss each of the five categories. I will call them categories. There are three witnesses. Then there are the two affidavits, and then there are the telephone records. There are really six. I would like to discuss these in terms of whether they add anything, or whether the managers have made a proffer that they add anything to the record which is now before you, because I think that is the question you have to determine.

On this motion, you are not voting whether substantively to convict the President. You are simply determining, Is the record adequate?

Let's first take Ms. Lewinsky. On Sunday the House managers, with the gentle assistance of the independent counsel prosecutors, were able to interview Ms. Lewinsky after schlepping her across the country from California. They did so despite the fact that the Senate had established by a 100-to-0 vote a procedure for the orderly calling of witnesses after discussion and debate. They did so after declining to interview Ms. Lewinsky at any time during the House proceedings when they could have compelled her appearance by the House subpoena power. And they did so without providing us here with any reliable record for what that "talk-fest" on Sunday may have produced.

Newspaper reports indicate that the managers did not take notes. You will recall, of course, that during the questioning period on Saturday they explicitly rejected a request they received during the question period that they provide either an unedited transcript or a videotape of that interview to be sure that the interview would be open to scrutiny for fairness, and ascertain whether Ms. Lewinsky in that interview really did add anything to the record. They declined to do that. But when they emerged from the Mayflower Hotel on Sunday, after meeting for their sidewalk press conference, we heard some general statements generally commending Ms. Lewinsky. Mr. Manager BRYANT called her "an impressive person." Mr. Manager HUTCHINSON praised her "intelligence and poise."

I thought to myself, where have we heard that before about Ms. Lewinsky? It was deja vu all over again. Of course, we heard from Mr. Jordan, from Ambassador Richardson, and from the people who interviewed Ms. Lewinsky for a job in New York. It is helpful that the House managers have now at least confirmed those observations in the record.

At their press conference we heard the managers make some abstract pronouncements about what Ms. Lewinsky was going to add—she would be a valuable witness; she would be a helpful witness; and it was a productive meeting and a benefit to our case.

That is what we heard. But Ms. Lewinsky's lawyer, Mr. Plato Cacheris threw, if I might say, some cold water on those happy and optimistic pronouncements. It could not have been clearer in his comments that, not surprisingly, nothing new whatsoever had emerged from that session. You really didn't hear that. I think the House managers were quite honest about the session, because you heard nothing about what had emerged from that today.

Mr. Cacheris told the press conference—some of you may have seen it: Ms. Lewinsky answered all their questions; there was nothing new; she added nothing to the record that is already sitting before the Senate. She shouldn't be called to the Senate to testify.

The New York Times reported yesterday that after the interview, Ms. Lewinsky told a friend: It went really well; I feel positive about it, but I didn't have anything new to say.

Now, according to the Washington Post, the managers were focused on making sure Ms. Lewinsky had no intention of changing her testimony. The Washington Post went on to confirm that she did not indicate any desire to change her testimony in any way. And the Post article continues that, in fact, Lewinsky reaffirmed her grand jury statement that no one ever asked her to lie or offered her a job in exchange for a false affidavit in the Jones case.

Now, as you are well aware, Ms. Lewinsky was interviewed extensively by the Office of Independent Counsel. She testified twice before the grand jury. She gave a lengthy deposition to the prosecutors. She was extensively interviewed by the agents. There are over 20 interview reports.

I should also add that a great deal of this comes after the President was examined in the grand jury on August 17. Ms. Lewinsky has given detailed and explicit testimony, particularly in her August 26 deposition, as to her account of the physical relationship she had with the President. Nothing at all would be added by further interrogation of her. Nothing could be gained by repetition in a Senate deposition or in the well of this body by a repetition of that testimony.

I confess I don't fully understand—I seem to hear Mr. Manager BRYANT and Mr. Manager MCCOLLUM say slightly different things about what they intended to present in the way of Ms. Lewinsky's testimony. The record on that is what it is. But whenever I hear somebody tell me, as the very able Mr. Manager BRYANT did, they don't need to cross-examine, really, I am reminded of what Senator Bumpers said, and he got it from H.L. Mencken, who probably got it from somebody else: The more they say they don't have to cross-examine, the more need I feel to cross-examine.

I don't know what they intended to do there, but in the grand jury the President plainly acknowledged an improper relationship with Ms. Lewinsky. He declined to answer further key questions about that. The Office of Independent Counsel did not seek either to compel him or it didn't seek to issue a new grand jury subpoena which would cause the President to come back and go through those explicit details.

The testimony is what it is, and I don't think anything further from Ms. Lewinsky is going to in any material way affect it or even add to it.

With regard to some of the conflicts that are there, I think we have addressed those in the question period. I am not going to go over them again in full. Did the improper relationship begin in November? Did it begin 6 or 7 weeks later? That conflict is utterly immaterial, I respectfully submit, in view of what the parties have acknowledged. Mr. Manager HYDE, indeed, stated in a House Judiciary Committee hearing on December 1 that that particular point did not strike him as a terribly serious count, and I agree with that.

The managers have claimed, Mr. Manager HUTCHINSON claimed this morning, that there is a contradiction in the President, in the testimony of the President and Ms. Lewinsky with regard to cover stories. This is not true. We have gone over that again and again. There is nothing that links this testimony to any deposition in the Jones case. These were discussed, the record shows, in a nonlegal context.

I don't think there is anything further to be gained from Ms. Lewinsky's testimony that is not already there in the record.

Now, Mr. Vernon Jordan, let's take him. Mr. Manager HUTCHINSON was kind enough to leave up here his copies of Mr. Vernon Jordan's five appearances before the grand jury. He held them up on a chart. I think it is proper to point out that Mr. Jordan's testimony runs over 900 pages. On March 3, the transcript is 196 pages; 2 days later, on March 5, with the transcript running to 212 pages, Mr. Jordan emerged from the grand jury, and he made the following statement which I would like to play for you:

(Text of videotape presentation:)

> First of all it is a fact that I helped Monica Lewinsky find private employment in New York. Secondly, it is a fact that I took Monica Lewinsky to a very competent lawyer, Frank Carter, here in Washington, D.C. And thirdly, it is a fact that I kept the President of the United States informed about my activities. I want to say two further things. One is I did not in any way tell her, encourage her, to lie. And secondly that my efforts to find her a job were not a quid pro quo for the affidavit that she signed.

Mr. Jordan testified a third time before the grand jury on May 5, and that transcript runs to 285 pages. Finally, he testified two more times, on May 28, for 128 pages, and he observed as he exited the grand jury room, if we could have the videotape again:

(Text of videotape presentation:)

> For the fourth time I have answered every question over and over and over again. I suspect, however that I will have to answer the same questions over and over and over again.

And guess what. Mr. Jordan was clairvoyant because he was called back to the grand jury for a fifth time on June 9. He said as he exited:

(Text of videotape presentation:)

> When I came here in March, early March, I said that I helped Ms. Lewinsky get a lawyer. I helped her get a job. I had assurances that there was no sexual relationship and I did not tell her to lie. That was the truth then. And that is the truth today. And I've testified five times, over and over again to those truths.

One of the justifications Mr. Manager HUTCHINSON offered for calling Mr. Jordan was to explore an alleged conflict between Mr. Jordan and Ms. Lewinsky over whether Mr. Jordan had told her to go home and make sure that notes she had been keeping were not there. Here, I think Mr. Manager HUTCHINSON is referencing a statement that Ms. Lewinsky made in her proffer to the Office of Independent Counsel describing her recollection of a breakfast she believed she had with Mr. Jordan. It is in the appendix volume at page 716.

Now, the thing to note, ladies and gentlemen, about this statement is its date. Ms. Lewinsky said this on February 1, 1998. She had written then that she expressed concern about Ms. Tripp to Mr. Jordan and that Ms. Tripp may have seen notes when she was in Ms. Lewinsky's house. According to the offer, "Mr. Jordan asked if the notes were from the President. Ms. Lewinsky said that they were notes to the President. Mr. Jordan suggested to Ms. Lewinsky," the proffer says, "that she check to make sure they were not there, or something to that effect," from Ms. Lewinsky.

Now, contrary to this supposed conflict, Mr. Jordan was never asked in the grand jury on any of the five occasions he was there—all of which, I remind you, were after this February 1 proffer about this matter. He wasn't asked about it. It doesn't concern the President, in any event. And I think, most importantly, it is nowhere alleged, if you look in the actual articles—if you look at article II, nowhere is this conversation alleged in any way as a basis for impeachment, a basis for charging the President with obstruction. I think in fact it is a gratuitous smear of Mr. Jordan. And it certainly does not provide a basis for extending this proceeding to ask him questions about it.

Now, Mr. Manager HUTCHINSON also claims that there is a conflict between the testimony of Ms. Lewinsky and Mr. Jordan on the issue of whether they discussed specific changes that were subsequently made in her affidavit. He said to you that he thought that was a basis for calling them as witnesses. However, the record is clear, it could not be clearer, that the idea of certain deletions in the affidavit came from Ms. Lewinsky's lawyer, Mr. Frank Carter.

As I mentioned in my presentation on Thursday, Ms. Lewinsky discussed that she had talked to Mr. Jordan about some affidavit changes and he told her: Go talk to your lawyer.

In any event, Ms. Lewinsky's lawyer, Mr. Frank Carter, testified unequivocally to the grand jury: I don't recall Vernon ever asking me the substance of what Monica told me or tried to talk about the substance of what Monica told me. He clearly never told me how I should proceed or what I should do.

Mr. Carter further testified that paragraph 6 of the affidavit in its draft form, the last part of the sentence, "has certain words about the private meeting."

That paragraph, Mr. Carter—Ms. Lewinsky's lawyer—testified, was modified when we sat down in my office on January 7. He further testified that it was his idea before that meeting to take it out because he didn't want to give Ms. Jones' lawyers any hint of a one-on-one meeting.

There is simply no basis to call Mr. Vernon Jordan once again to have him go through the things he has testified about a great many times already.

Now we come to Sidney Blumenthal. Mr. Manager ROGAN very ably argued that there was a need to call Mr. Blumenthal because of Mr. Blumenthal's testimony as to what the President had told him, Sidney Blumenthal, in the aftermath of the explosion of publicity over the Lewinsky matter in January a year ago.

First of all, there is no conflict here that is material because the President has never disputed Mr. Blumenthal or his aide's accounts of this conversation. Any dispute is wholly immaterial as to the two counts—the two articles of impeachment. The President was examined extensively about this subject in his own grand jury testimony and he testified as to what he tried to say. But he also added that in this period things were a "blur," is a term he used one time; "a blizzard" was a term he used another time—that he had discussions with a number of his aides, including Mr. Blumenthal, he tried to be careful in what he said, he thought he was technically accurate, but he would not dispute and did not dispute their characterizations of what they recalled of the conversations with him.

Again, Mr. Blumenthal—Mr. ROGAN pointed this out—testified three times before the grand jury. His recollection of his conversations with the President has been analyzed in detail and a further round of deposition would add nothing of substance to that testimony. Indeed, the President's speech to the Nation the day of his grand jury testimony, when he spoke to the Nation on the evening of August 17, also represented an acknowledgment by the President that he had misled his aides, such as Sidney Blumenthal.

As I indicated last Thursday, however, any statements to the White House staff could have had no impact whatsoever on the Paula Jones case, as article II alleges each of the seven grounds has, because Mr. Blumenthal had no firsthand knowledge of the President's relation with Ms. Lewinsky. He could only report to the grand jury what the President had told him, however misleading those statements of the President may have been at the time. There is no dispute here, there is no material reason to call Mr. Blumenthal, except to try to embarrass the President by the presentation of testimony from a member of his senior staff.

Now, the next two things that the managers would seek to add to the record are not, they tell you, live witness testimony. But don't let that fool you. They want to put in two sworn declarations—like an affidavit—from two people. One of them is a Mr. Wesley Holmes, a lawyer for Ms. Paula Jones, and the other is Mr. Barry Ward.

Now, I don't have the pleasure of knowing Mr. Wesley Holmes, but I do know Mr. Barry Ward. He is a very intelligent, very hard-working and knowledgeable young lawyer in Little Rock, AR, who works as a law clerk for Chief Judge Wright. He has got an encyclopedic knowledge of Razorback athletic lore. He has a lot of fine characteristics. He is very helpful as a law clerk and gets information to you and back very efficiently. But there is one thing Mr. Ward is not, and I am sure he would agree with that, he is not a mind reader. He is not a mind reader. There were a number of people in the room at the deposition. None of them were mind readers. They could all give their testimony about what they thought was going through the President's mind. The President has addressed that a number of times. You have seen the videotape.

Now, the second witness is exceedingly interesting, and that is Mr. Holmes. And Mr. Holmes would give a sworn declaration to, among other things, say what he had in mind when he issued the witness subpoena to Betty Currie which was several days—which was days after the President's conversation with her on December 18.

Well, he would be a very interesting witness to depose, let me tell you. This is one of Paula Jones' lawyers talking about offering a declaration about his litigation strategy. And I think the opportunity to depose him would provide a great deal of information about what really motivated the events of January 1998. I think we could show that there were a number of connections between the independent counsel, Linda Tripp, and the Paula Jones lawyers. But I don't think you need to get into that briar patch because Mr. Holmes is not a mind reader any more than Mr. Ward is. You simply don't need that testimony to illuminate the record.

Now, the last category—let me just, before I leave that, make the point that while the managers would like very much to throw in a couple of sworn declarations, you should be assured of our need to take discovery and, in Mr. Holmes' case, take comprehensive discovery. I don't think anything in S. Res. 16—I don't know if you have gotten to this, but I don't read the resolution as authorizing simple hearsay evidence.

We would need to depose the Paula Jones lawyers in some detail, and I think they have now waived significant legal protections that would make that possible.

Finally, there was a category of telephone records. It is a little hard to address that category. Those are just documents. I don't think the record need be expanded by their addition, and I will tell you why.

Telephone records, as I said the other day, really tell you nothing, unless—it is very important to time, to date a particular call. They really are inscrutable. You have to have the witness testify about what they mean. I don't see anything in there that would justify opening the record to add certain telephone records.

Finally, I want to be candid with you. I don't want to be alarmist, I want to be honest, though, about what opening the door for discovery will mean for this process. I said before that the Senate had been fair in these proceedings, and it has been fair. I think the identification of a specific record which the parties could agree on, have in the sunlight, talk about, argue about, was the fair thing to do and the right thing to do. I think if discovery is inevitable, we will anticipate and believe that you will be fair in allowing us the discovery we are going to need.

I ask you, if you would, to read our trial memorandum, because at pages 124 to 130 we have set forth there our need for discovery. It is not a new invention. Should the Senate decide to authorize the House managers to call additional witnesses live in this proceeding or have the depositions taken, we will be faced with a critical need for the discovery of evidence useful to our defense.

I made the point that the discovery of evidence in the Office of the Independent Counsel proceeding was—not to put too fine a point on it—not aimed at getting us exculpatory or helpful evidence. We need to be able to do that. We have never had the kind of compulsory process, the kind of ability to subpoena documents and witnesses that you will have in a garden variety civil case. We have not had access to a great deal, many thousands of pages of evidence which is, first of all, in the hands of the House managers that they got from the Office of Independent Counsel, but did not put into the public record, did not print up. We also need discovery of those other documents, witness testimony transcripts, interview notes, other materials, which may be helpful or exculpatory that are in the hands of the independent counsel.

Our dilemma is this: We do not know what we do not know. That is what discovery means. You have to get discovery so you can find out what is available. It may not necessarily prolong a trial, but it makes you available to defend your client in the way you have to be able to do as a lawyer. It doesn't turn on the number of witnesses.

The calling of these witnesses produces a need in us to be ready to examine them, to cross-examine them. It initiates a process that leaves us unprepared and exposed unless we have adequate discovery. This is a proceeding, I need not remind you—I know everyone recognizes its gravity—to remove the President of the United States. You have to give us, and I believe you will, the discovery that will enable us to represent the President adequately, competently and effectively.

The sequence of discovery is also important. I want to be clear about that. It is all very well and I recognize how it happens for one side to say, "Well, we are going to put on three witnesses and they can put on three witnesses." Ladies and gentlemen of the Senate, we don't know right now how to make a reasoned choice because we haven't had the discovery you would normally have to do that. We would first need to obtain and review the relevant documents. I have indicated where those are. We would then need to be able to depose relevant witnesses. We need to know whether the witness depositions that the House managers had taken would need to lead to other depositions there. Only at that point when we have had discovery of our witnesses will we be able to identify the witnesses we might want to call.

This is a logical procedure, and I think those of you who have tried cases will recognize it as such. It is simply impossible from where we now are to see how a witness designated by the House managers can be fairly rebutted without ourselves having access to all of the available evidence.

Given what is at stake, I think fundamental fairness requires fair discovery. We will be expeditious, but in the event the genie is out of the bottle, we need time, we need access to defend the President in the way any client ought to be defended.

I think the Senate has wisely elected to proceed on a voluminous record, a record that is available for public scrutiny that was assembled by people not favorable to the President. I think you have enough evidence to make your decision on the basis of that record.

But in the event you decide to expand it, affording us adequate discovery is essential if we are really going to practice the rule of law as I believe the Senate would intend for that rule of law to be practiced in its proceedings.

But let me conclude by saying that I don't think, and I respectfully submit to you, that there is a need to prolong this process. We hope that you will render your decision in a manner that is speedy, and we are confident that you will decide to make that decision in a manner that is fair, and that this body will, as so often it has done in past times of crisis, be able to bring to the country both the closure and reconciliation that the country wants so very much. Thank you.

The CHIEF JUSTICE. Does counsel for the President have any more presentation?

Mr. Counsel KENDALL. If I may, Mr. Chief Justice, I reserve the remainder of my time.

The CHIEF JUSTICE. No, you can't reserve it. It is open, respond and rebuttal.

Mr. Counsel KENDALL. I will then quitclaim the rest of my time.

The CHIEF JUSTICE. Very well.

(Laughter.)

Mr. Manager BRYANT. Mr. Chief Justice, may I inquire how much rebuttal time we have remaining?

The CHIEF JUSTICE. Thirty minutes.

Mr. Manager BRYANT. Thank you, Mr. Chief Justice. I will be brief and ask other managers to come up and follow me. I have four quick points to make.

Before I get into that, I want to thank my distinguished colleague from DC, Mr. Kendall. Over my practice of law for several years, I have received a number of jabs before in the courtroom, but never so gentle and never so eloquently, and I thank you.

I think his presentation was very good, but probably makes the best illustration of why witnesses are needed in that he has chosen to use selective quotes. He likes to use those quotes and point to the managers over there where we were quoted without a real context and certainly that is what this hearing has been about so far, both sides picking and choosing among quotes that best illustrate the point we want to make at the time.

Really, what we need is the big picture, the entire, complete picture that witnesses and only witnesses can provide in this case.

Let me go back to a couple of the selective quotes, and that is the quotes that we made back in the House when we were involved in the proceedings, which I would remind each one of you involved these very same stacks of books here, the record, that they have shown you in the past in a very, I guess very often form, that this is the record here; why do we need to go outside the record? That very same record was there in the House, and it was at that time Mr. Lowell, the minority counsel, was representing the President's interests, but also Mr. Kendall was there. In fact, both together examined Mr. Starr. That was when they were making the request for the witnesses, based on this very same record. Notwithstanding that, we need witnesses. I simply point that out to you to show you that Mr. Kendall and his very talented staff do not have a monopoly on consistency.

Another example of selective quoting has to do with quotes made about our occasion to visit Ms. Lewinsky, to talk to her. This was the one witness we have not been able to talk to. He pulled those quotes out as if we need to talk to all the witnesses. We don't need to talk to all the witnesses, but we just need to sit down and talk with her. I might tell you she was ably represented by three attorneys. She had as many lawyers there as we did and perhaps more. So she was not imposed upon.

I think in terms of my statement about discovery, I think I perhaps was misunderstood, but I certainly conceded the White House might want discovery to depose Ms. Lewinsky, but I still have a hard time determining why they would need to discover what Ms. Currie might want to say, who sits right outside the President's office every day, or what Mr. Jordan might say, who plays golf with Mr. Clinton every day, or Mr. Podesta, his former Chief of Staff.

I am just trying to save this Senate some time and question why we would need to go through discovery of those types of people.

My last point I would like to make before I bring Mr. HUTCHINSON in is Mr. Kendall makes a point, and I am not sure where they were going in perhaps trying to worse case this situation, in terms of taking forever and a day to conclude all kinds of witnesses. He alluded we needed to take all the lawyers of Paula Jones and question her motivation. I suggest to you that a real clue for her motivation for this lawsuit, we could say, was the 850,000 reasons motivation she received the other day. But let me end with that note and bring up Mr. HUTCHINSON who will continue this process.

Thank you.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager HUTCHINSON.

Mr. Manager HUTCHINSON. I thank you, Mr. Chief Justice. I will just take a moment.

Mr. Kendall did an outstanding job, as he always does, of making his case for not calling witnesses. I thought the most compelling example as to why we need witnesses was the fact that he called a live witness, Vernon Jordan. Mr. Jordan testified here in this Chamber. Why did they not present a transcript? Why did he want to bring a live witness? Because it was real. It was alive. He was more meaningful than a transcript. He told the story in short, concise ways that I have not been able to do during my presentation during the last week. We would like to have the same opportunity, not through video, but to present a live witness so that he could cross-examine, so that we could question. I think that is a fair proceeding.

Now, Mr. Kendall raised the point that the statements about the notes that Ms. Lewinsky testified she discussed with Mr. Jordan were referenced in her February 1998 proffer. When I was making my point, I was referencing her August grand jury testimony, not the February proffer, because my recollection is that the February proffer that was submitted by Mr. Ginsburg had subsequently become a subject of litigation because we were not able to reach an immunity agreement. So perhaps that was the reason that subject was not inquired into by the independent counsel. For whatever reason, my review of the transcripts is that that subject was never broached with Mr. Jordan. I do not profess perfect knowledge of it, but that is my understanding of it.

And then finally I want to also look at the discovery that Mr. BRYANT referenced. There was a gambling illustration that Mr. Kendall used about blackjack. But another part of poker is bluffs. And I don't know whether they are bluffing. I don't know whether they are serious about all the discovery that they need to have. But I know that lawyers do that sometimes to intimidate, to scare you away.

But I think even more important is that the House managers have submitted to the rules of the Senate. We were not particularly happy about all of them, but we recognized it was important to have legitimacy in this process. We accept that. We move on.

I hope that whatever rules of discovery, whatever limitations you wish to put, whatever timeframes you wish to put, that the White House counsel will be as amenable to the desire of this Senate and this Nation to conclude this as we have been in adopting what our desires are to your schedule.

I yield to Mr. McCOLLUM.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager McCOLLUM.

Mr. Manager McCOLLUM. Mr. Chief Justice, thank you very much.

I want to make a couple of observations, and one of them seems pretty apparent. Mr. Kendall says they are not afraid and I was wrong in characterizing them as being afraid—the White House counsel—of calling witnesses. But I am going to tell you, I cannot rationalize any other way why he would be out here to make the pitch as hard as he is against witnesses, especially the sort of threat that this is going to go on and on and on if we open the door and we call three witnesses. You know, we are down from thinking we ought to have 10, 12, maybe 15 witnesses, to 3—Monica Lewinsky, Vernon Jordan, and Sidney Blumenthal. And we have introduced three—or proposed to introduce three very simple pieces of new evidence. That can't take a lot of discovery, the need to go further than that. You know, if he wants to produce witnesses, that is fine. But I just can't imagine why that opens that door.

Mr. Holmes, he talks about, the attorney. What is the significance of that declaration or affidavit, that sworn declaration that we would like you to take in that says, "well, we have to depose Mr. Holmes. That was put in very simply because the counsel on the other side—I don't accuse them of doing it intentionally—but the other day they misled us, I think unintentionally misled you, on the idea that the President, at the time he left the deposition in the Jones case and went over to talk to Betty Currie the next day, didn't and couldn't have had any idea that she was going to be called as a witness. In fact, I think they said she never was on the witness list and she never was subpoenaed.

What Mr. Holmes' declaration does, as I said earlier, is bring into the record the subpoena that in fact was issued within a day or so of that time of when Betty Currie was talked to. Remember, she was talked to twice, the notice about it and her name being put on the witness list—that is what that is all about—and a general explanation of why they chose, as attorneys, to make that case, why they chose to put her name out there, and subpoena her, so it is clear on the record.

Very simple. If you look at it—and I am sure you will have it before you—his declaration is very short. It is like three paragraphs. And it goes straight to the point. And it encloses these accompanying documents.

I don't think you should, for one minute, think it opens the door to some great big, gigantic discovery period. That is simply an idle threat to intimidate, in my judgment—with a proper intimidation effort, proper tactic; I don't accuse him of anything improper—to try to discourage you from letting us have these three witnesses.

Second, I want to point out that with respect to some of the things that I said, one thing I did say earlier is I don't know what all the witnesses would say if we called them. I don't know what they all would say, certainly. But I would expect them all to be consistent with what they have already said in their sworn testimony. And there is nothing inconsistent with my expecting them to be consistent on the facts.

We already know with that sworn testimony in the case of Monica Lewinsky—she has immunity—that if she deviates and goes off of it, she can get herself in trouble. But by no means does my expectation that the testimony you already have will remain true mean that I don't think there are new things to be brought out or that you shouldn't have live witnesses here.

And I thought it interesting that Mr. Kendall totally ignored the one thing that was most significant, in my mind, and that is, the whole idea that there is a need for witnesses out here to determine their credibility, to check their demeanor, to see how they respond to questioning, to do all of those things that I described earlier, that any reasonable attorney in any courtroom setting in this country in a criminal case—and you do have to decide whether the crimes were committed or not—would expect to do. So you can, as my colleagues have said, look them in the eye and make that determination yourself. He didn't even address that. And I think that that alone is sufficiently good reason to have a live witness here, as I said before to you.

So with that in mind, I will yield to Mr. ROGAN.

The CHIEF JUSTICE. The Chair recognizes Mr. ROGAN.

Mr. Manager ROGAN. Mr. Chief Justice, Members of the Senate, Mr. Kendall made a very able and strong presentation. It was particularly effective when he brought up a series of quotations from House Members and House managers talking about the need for witnesses or the lack thereof. It would be more effective if it were presented in context, but it could not be, because the context of every single one of those quotations was in reference to the distinction between the House's function as the accusatory body versus the Senate's constitutional function of being the body where an impeachment case is tried. There he blurs the distinction. That is why in the Constitution a President is impeached solely on the majority vote. But removal requires at the trial a two-thirds vote.

Now, Mr. Kendall's presentation begs the question, did the founders get it wrong when they designed this process? Did the founders simply intend for us to waste our resources rather than conserve them and simply do the very same thing, first in one body and then in the other, with the sole distinction that the only difference would be the ultimate vote? That was not their intent. That was not the procedure established by the Constitution. And it is not the procedure recognized throughout the country in court proceedings.

There is a reason why courts of inferior jurisdiction will be able to hold a defendant in a criminal case to answer for trial at a preliminary hearing based on hearsay testimony, based on transcripts, based solely on police reports.

But that defendant at a trial has a constitutional right to come forward. And the right to confront and cross-examine witnesses is supremely guaranteed in the Constitution, because the Framers understood the difference, even if White House counsel refuses to acknowledge the difference.

Now the argument they have really isn't with the House managers. Their argument is with the precedence of the House. Their argument, in fact, is with people like the venerable Barbara Jordan, our late distinguished former colleague. She understood the difference between the House's function in an impeachment role versus the Senate's function. She said during the Rodino hearings in establishing the division between the two branches of the legislature, the House and the Senate:

> Assigning to one the right to accuse and to the other the right to judge, the Framers of the Constitution were very astute. They did not make the accusers and the judges the same person.

Now, in the words of Yogi Berra, "I fear that we are going through deja vu all over again" with Mr. Kendall's able proceeding, because what he has accentuated in this presentation has been accentuated by White House counsel ever since they first rose to address this body at the lectern, and that is the complaint that no witnesses were called before the House Judiciary Committee, and how wrong it is for members of the House managers now to assert the need and the right to have witnesses before this body when, in fact, no witnesses were called before the Judiciary Committee.

Once again, he mistakes the function of the two Houses. But I would invite the Members of this body, if that is an issue concerning them, to go back and review the voluminous transcripts during the Judiciary Committee where Chairman HYDE did everything but get on his knees and beg the members of the President's defense team, beg our colleagues on the other side of the aisle, to identify for us which witnesses they wished to dispute, what facts they wanted to challenge, let us know who the witnesses are where there is a contention in the evidence, and despite their complaining, and despite their griping and despite their anger over a supposedly unfair process, they never once identified in the factual record whose testimony they wished to challenge.

What we heard repeatedly, day after day in the hearing and outside before the cameras, was an attack upon the process rather than an identification of the issues where there are factual disputes. In fact, they refused to identify, despite the repeated pleas of Chairman HYDE, who those witnesses were that they felt were appropriate, because the chairman said, "Tell us who they are, we will call them."

They champion the cause of witnesses in word but they do not champion the cause of witnesses in deed, at least not in the House, because the same people who were complaining of the unfairness in the House for not having witnesses suddenly have an allergic reaction to the concept of witnesses being called before this body where it counts the most, where the ultimate decision is to be made, where the triers of fact have to make the constitutional decision whether the case is sufficient for removal of the President.

And Mr. Kendall's repeated hints and statements that somehow they were denied some form of due process in the House by not being able to call witnesses is patently unfair and does not withstand the test of the record. Chairman HYDE alluded to it a couple of days ago, and based upon Mr. Kendall's presentation, I feel it is worth a minute or two of this body's time. Mr. Kendall has stated in these proceedings, and I am quoting:

> We have never had the chance to call witnesses ourselves, to examine them, to cross-examine them, to subpoena documentary evidence—at no point in this process.

The record is to the contrary:

On October 5, the House passed a procedure by a voice vote which included the right to call witnesses. On October 21, the House Judiciary Committee staff met with Messrs. Ruff, Kendall and Craig. At that time, Judiciary Committee staff asked the White House to provide any exculpatory information and provide a list of any witnesses the President wished to call. On November 9, the House Judiciary Committee staff wrote to Messrs. Ruff, Kendall and Craig and again informed them of the President's right to call witnesses. On November 19, Independent Counsel Starr testified before the House Judiciary Committee. The President's counsel was given the opportunity to question the independent counsel. The President's counsel did not ask a question relating to the facts of the independent counsel's report and allegations against the President. On November 25, Chairman HYDE wrote a letter to the President asking the President, among other things, to provide any exculpatory information and inform the committee of any witnesses he wished to call. On December 4, 2 working days before the presentation of the President to the Judiciary Committee, counsel for the President requested to put on 15 witnesses. The White House was allowed to present all 15 witnesses, and not a single one of the 15 witnesses did they wish to call, that they asked to call, were factual witnesses.

And so the complaints of unfairness are unfair.

One other point I want to make, because again I see a reversal in roles, is that Mr. Kendall can't seem to decide in what type of "ogre" role he wants to portray us, because he said in his presentation just a few minutes ago that we were somehow—at least he alluded to the fact we were somehow tools of Judge Starr and the Office of Independent Counsel. I was a little surprised to hear him suggest that Judge Starr spoon-fed us the charges, and that Judge Starr spoon-fed them to us to the point where he didn't know whether Judge Starr should be deemed an honorary member of the House management team.

Well, that is an interesting proposition, because it seemed to me just a day or two ago the same lawyers who are now making this allegation were claiming constitutional unfairness before this body and asking that this body dismiss the articles of impeachment. Why? Because the House Judiciary Committee and the managers didn't present the exact same charges that the independent counsel suggested. You can't have it both ways. You can't fashion the argument depending on what the result is being sought, and yet that is exactly what the managers with the White House counsel are attempting to do.

Yesterday we were renegades who didn't follow the strict rules of Judge Starr and didn't give them proper notice. Now, of course, he is the marionette and we are the puppets doing his will.

Members of this body, it is the job of the House of Representatives, it is the constitutional obligation of the House of Representatives, to act as the accusatory body in an impeachment proceeding. The Constitution gives the authority to this body the right to try that case. This is the place for trial. This is the place to determine guilt. This is the place to determine credibility. This is the place for witnesses.

Mr. Chief Justice, I yield the remainder of our time to our distinguished chairman of the House Judiciary Committee.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager HYDE. Mr. Manager HYDE, you have 9 minutes remaining.

Mr. Manager HYDE. I won't use the entire 9 minutes.

Mr. Chief Justice, distinguished counsel and Senators, I will be very brief. Mr. ROGAN and my colleagues have handled this very well, but there are just a couple of things I want to talk about.

It is disturbing, it is annoying, it is irritating when I hear that the counsel for the President had been cut off from information, that we have sequestered things. I pleaded with them to produce witnesses, made the subpoenas available to them. They have a positive allergy to fact witnesses.

Oh, they will come up with academics. We saw a parade of professors. You know what an intellectual is? It is someone who is educated beyond their intelligence. I certainly don't mean that of some of those Harvard professors who they paraded out, even though we disagreed with them, but you would get eye strain looking for a fact witness.

And it is remarkable, the flexibility they have, that they complain that we called no witnesses in the House. Now they are complaining that we are calling witnesses in the Senate as though they don't understand the difference in the threshold. There we had to prove we had enough to submit to the Senate for a trial but not try it over there. And a majority vote prevails over there. Here, you have an extraordinary mountain to climb: a two-thirds vote and the trial is here, and that is the difference.

And witnesses help you. They won't help me. I know the record. I am satisfied a compelling case is here for removal of the President. But they will help you. And we aren't dragging this out. We have been as swift as decency will let us be throughout this entire situation.

Their defense has never been on the facts. If they can come up with a good fact witness that has something to say, we will see a reenactment of the Indian rope trick, it seems to me. We will see professors, though, if past is prologue. I don't know. But the threat of prolonged hearings, I suppose, is supposed to make you tremble. It doesn't to me, but then different things—different strokes, I guess, for different folks. Their defense has been to demonize Mr. Starr to a fare-thee-well and then yell about the process. That is their defense.

I will be frank with you. I am not sure I could stand a lot more of that. But that is what they will do. As far as the information not available to them, maybe not. Maybe some of the stuff we got from the independent counsel was held in executive session, but it was available to Mr. CONYERS, available to Abbe Lowell, available to every Democrat on the Judiciary Committee, and they went through it. I wrote with Mr. CONYERS to Mr. Starr a letter saying, "Show us what you didn't send us. Let's look at what you have over there. There might be some exculpatory material." Mr. CONYERS sent his people over and they looked and they looked and they looked, and I would assume they were in touch with you folks. I would assume they were. If they weren't, they should have been. That is a breakdown in communication.

We have a good case. We have an excellent case without the witnesses. But the witnesses help you. We have narrowed it down to three—a pitiful three. I should think you would want to proceed with that minimum testimony, and Mr. Kendall can try his cross-examination skills on them, and that I want to watch.

Thank you.

The CHIEF JUSTICE. The time of both sides has now expired. The Chair recognizes the majority leader.

RECESS

Mr. LOTT. Mr. Chief Justice, in view of the time that we have been in without a break, the next pending business is that we would want to have a motion by Senator HARKIN or Senator WELLSTONE. Before we do that, I suggest that, without objection, we take a 15-minute break.

There being no objection, at 3:42 p.m., the Senate recessed until 4:04 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that during each day the Senate sits as a Court of Impeachment, it be in order for Senators to submit to the desk statements and introduce legislation.

The CHIEF JUSTICE. In the absence of objection, it is so ordered.

Mr. LOTT. Now, Mr. Chief Justice, I believe at this point it would be in order for a motion to be made that we go into open debate, if any, and then when that is dispensed with, we would go to the move to close and would deal with that issue, and then we would begin the closed session. And so I believe we are ready for a motion to be offered, if any, at this time.

The CHIEF JUSTICE. The Chair recognizes the Senator from Iowa, Mr. HARKIN.

MOTION TO SUSPEND THE RULES

Mr. HARKIN. Mr. Chief Justice, in accordance with rule V of the Senate's Standing Rules, I filed a motion of intent to move to suspend the rules to open debate on this motion to subpoena witnesses. The motion is at the desk. It is No. 5, I believe.

The CHIEF JUSTICE. The clerk will report the motion.

The legislative clerk read as follows:

> The Senator from Iowa, Mr. HARKIN, for himself and Mr. WELLSTONE, moves to suspend the following portions of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials in regard to debate by Senators on a motion to subpoena witnesses during the trial of President William Jefferson Clinton.
>
> (1) The phrase "without debate" in rule VII.
>
> (2) The following portion of rule XX: ", unless the Senate shall direct the doors to be closed while deliberating upon its decisions. A motion to close the doors may be acted upon without objection, or, if objection is heard, the motion shall be voted on without debate and by yeas and nays, which shall be entered on the record"; and
>
> (3) In rule XXIV, the phrases, "without debate except when the doors shall be closed for deliberation in that case" and ", to be had without debate."

Mr. HARKIN addressed the Chair.

The CHIEF JUSTICE. The Senator from Iowa.

Mr. HARKIN. I ask for the yeas and nays.

The CHIEF JUSTICE. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The CHIEF JUSTICE. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Maryland (Ms. MIKULSKI) is absent due to illness.

The yeas and nays resulted—yeas 41, nays 58, as follows:

[Rollcall Vote No. 3]

[Subject Harkin motion to suspend the rules]

YEAS—41

Akaka
Bayh
Biden
Bingaman
Boxer
Breaux
Bryan
Cleland
Collins
Conrad
Daschle
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Hutchison
Inouye
Johnson
Kennedy
Kerrey
Kohl
Lautenberg
Leahy
Levin
Lieberman
Moynihan
Murray
Reed
Reid
Robb
Sarbanes
Schumer
Specter
Torricelli
Wellstone
Wyden

NAYS—58

Abraham
Allard
Ashcroft
Baucus
Bennett
Bond
Brownback
Bunning
Burns
Byrd
Campbell
Chafee
Cochran
Coverdell
Craig
Crapo
DeWine
Domenici
Enzi
Fitzgerald
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Inhofe
Jeffords
Kerry
Kyl
Landrieu
Lincoln
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Rockefeller
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—1

Mikulski

The CHIEF JUSTICE. On this vote the yeas are 41, the nays are 58. Two-thirds of those Senators voting, a quorum being present, not having voted in the affirmative, the motion is not agreed to.

The Chair recognizes the majority leader.

Mr. LOTT. Mr. Chief Justice, that motion being defeated, I believe it is now in order to move to close the session so we can have debate on the question of the motion to subpoena witnesses.

The CHIEF JUSTICE. The majority leader is correct.

Mr. LOTT. I so move, Mr. Chief Justice.

The CHIEF JUSTICE. The question is on the motion.

The motion was agreed to.

The CHIEF JUSTICE. The motion carries.

Mr. LOTT. Mr. Chief Justice, I would like to ask that Senators remain at their place, but I will put in a request for a quorum just momentarily so the appropriate arrangements can be made for the closed session.

Mr. Chief Justice, I suggest the absence of a quorum.

The CHIEF JUSTICE. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

CLOSED SESSION

(At 4:29 p.m., the quorum was dispensed with and the doors of the Chamber were closed. The proceedings of the

Senate were held in closed session until 8:01 p.m., at which time the following occurred:)

OPEN SESSION

(At 8:01 p.m., the doors of the Chamber were opened and the Senate resumed proceedings in open session.)

Mr. LOTT. Mr. Chief Justice, I now ask unanimous consent that the Senate return to open session.

The CHIEF JUSTICE. In the absence of an objection, it is so ordered.

ADJOURNMENT UNTIL 1 P.M. TOMORROW

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that the Senate stand in adjournment as under the previous order.

There being no objection, at 8:02 p.m., the Senate, sitting as a Court of Impeachment, adjourned until Wednesday, January 27, 1999, at 1 p.m.

(Under a previous order, the following material was submitted at the desk during today's session.)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 307. A bill to amend title XVIII of the Social Security Act to eliminate the budget neutrality adjustment factor used in calculating the blended capitation rate for Medicare + Choice organizations; to the Committee on Finance.

By Mr. COVERDELL (for himself, Mr. LEVIN, Mr. MCCAIN, Mr. TORRICELLI, Mrs. HUTCHISON, and Mr. CLELAND):

S. 308. A bill to amend the Internal Revenue Code of 1986 to provide a 2- month extension for the due date for filing a tax return for any member of a uniformed service on a tour of duty outside the United States for a period which includes the normal due date for such a filing; to the Committee on Finance.

By Mr. MCCAIN (for himself and Mr. THURMOND):

S. 309. A bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence; to the Committee on Finance.

By Mr. COVERDELL (for himself and Mr. CLELAND):

S. 310. A bill provide for a Dekalb-Peachtree Airport buyout initiative; to the Committee on Commerce, Science, and Transportation.

By Mr. MCCAIN (for himself, Mr. COVERDELL, Mr. CLELAND, and Mr. KERREY):

S. 311. A bill to authorize the Disabled Veterans' LIFE Memorial Foundation to establish a memorial in the District of Columbia or its environs, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN (for himself, Mr. COVERDELL, and Mr. HAGEL):

S. 312. A bill to require certain entities that operate homeless shelters to identify and provide certain counseling to homeless veterans, and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ASHCROFT (for himself and Mr. BAUCUS):

S. Con. Res. 4. A concurrent resolution expressing the sense of Congress that assistance to South Korea should be conditioned on South Korea's compliance with its international trade commitments and on South Korea's termination of its unfair trade practices and subsidies; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 307. A bill to amend title XVIII of the Social Security Act to eliminate the budget neutrality adjustment factor used in calculating the blended capitation rate for Medicare+Choice organizations; to the Committee on Finance.

MEDICARE+CHOICE PAYMENT EQUITY ACT OF 1999

● Mr. WYDEN. Mr. President, my colleague from Oregon Senator GORDON SMITH, and I are introducing this legislation today to correct an inequity in the payment formula for Medicare+Choice plans. In states like Oregon, with historically low cost health care systems, these inequities leave many Medicare beneficiaries with few or no choices in their health care services.

The Balanced Budget Act of 1997 contained a promise to provide seniors with more choices, but that promise has gone unfulfilled because of these inequities.

The legislation that Senator SMITH and I are introducing today will fulfill that promise by fully funding what is known as the "blend" portion of the formula used to determine payment rates. The legislation brings parity to areas that have been historically efficient in delivering health care services. Under the current system, the Medicare payment formula has not rewarded these areas for their efficiency and low costs. As a result, beneficiaries in these areas have not received the range of benefits available in areas with less efficient and more costly health care systems.

This legislation also assures beneficiaries will no longer be penalized because they live in a rural or low-cost area. We must assure that seniors living in Oregon and other low cost areas receive the full promise of Medicare+Choice.

With managed care playing a larger role in Medicare, this bill is needed now more than ever. Nearly 100 plans elected to drop out of the Medicare program for 1999. Many of those plans served seniors in low cost and rural areas, leaving too many beneficiaries not only without choice but also out in the cold. Other managed care plans made benefit changes that limit the promise we all had hoped would occur through Medicare+Choice.

We need to make sure that all seniors are included in the Medicare+Choice promise and that managed care plans in Oregon, Iowa and other low-cost areas are no longer penalized because of their historic efficiency. Senator SMITH and I urge our colleagues to support this bill.

I would like to thank Senator SMITH and his staff for their assistance, and ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare+Choice Payment Equity Act of 1999".

SEC. 2. ELIMINATION OF BUDGET NEUTRALITY ADJUSTMENT FACTOR IN CALCULATING THE BLENDED CAPITATION RATE FOR MEDICARE+CHOICE ORGANIZATIONS.

(a) IN GENERAL.—Section 1853(c) of the Social Security Act (42 U.S.C. 1395w–23(c)) is amended—

(1) in paragraph (1)(A), by striking the comma at the end of clause (ii) and all that follows before the period at the end; and

(2) by striking paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6) respectively.

(b) CONFORMING AMENDMENTS.—Part C of title XVIII of the Social Security Act (42 U.S.C. 1395w–21 et seq.) is amended—

(1) in section 1853(c)—

(A) in the matter preceding subparagraph (A) of paragraph (1), by striking "(6)(C) and (7)" and inserting "(5)(C) and (6)"; and

(B) in paragraphs (1)(B)(ii) and (3)(A)(i), by striking "(6)(A)" and inserting "(5)(A)"; and

(2) in subsections (b)(3)(B)(ii) and (c)(3) of section 1859, by striking "1853(c)(6)" and inserting "1853(c)(5)".

(c) SUBMISSION TO CONGRESS.—Not later than 20 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a legislative proposal that provides for aggregate decreases in Federal expenditures under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as are equal to the aggregate increases in such expenditures under such program resulting from the amendments to the Social Security Act made by subsections (a) and (b).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made for periods beginning on or after January 1, 2000.•

By Mr. COVERDELL (for himself, Mr. LEVIN, Mr. MCCAIN, Mr. TORRICELLI, Mrs. HUTCHISON, and Mr. CLELAND):

S. 308. A bill to amend the Internal Revenue Code of 1986 to provide a 2-month extension for the due date for filing a tax return for any member of a uniformed service on a tour of duty outside the United States for a period which includes the normal due date for such a filing; to the Committee on Finance.

THE UNIFORMED SERVICES FILING FAIRNESS ACT

• Mr. COVERDELL. Mr. President, American soldiers in the modern military operate under a great deal of strain. Forced to work harder with fewer resources, our men and women in uniform bear a heavy burden defending our nation. This is especially true for those deployed overseas. Not only must these troops defend American interests, but they also live under constant threat of attack and must spend months away from their homes and their families.

In addition to their duty to protect our nation's security, American service men and women still must fulfill obligations back home, including paying their taxes. However, in an incredible cart-before-the-horse scheme that could only be found in our nation's tax code, the federal government extends for our troops abroad the deadline for filing income tax forms by 2 months, but requires that service men and women still pay interest and penalties during the extension period. Mr. President, this is unconscionable.

The Uniformed Services Filing Fairness Act, which I introduce today with Senators LEVIN, MCCAIN, TORRICELLI, HUTCHISON, and CLELAND is simple. It codifies the current two-month extension period available to our troops and eliminates the interest and penalties that would otherwise be charged. The Joint Committee on Taxation has estimated the cost of this commonsense correction at just $4 million over 10 years. Mr. President, how can we not afford to pass this bill?

We must show our nation's soldiers that we support them through concrete action. The bill I introduce today will help make the lives of soldiers deployed overseas a little easier. I hope my colleagues will join me in this simple, inexpensive correction of an unfair tax law.•

By Mr. MCCAIN (for himself and Mr. THURMOND):

S. 309. A bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services shall be treated as using a principal residence while away from home or qualified official extended duty in determining the exclusion of gain from the sale of such residence; to the Committee on Finance.

THE UNIFORMED SERVICES HOME SALES ACT OF 1999

• Mr. MCCAIN. Mr. President, I, along with Senator THURMOND, and others are proud to sponsor this bill to allow members of the Uniformed Services, who are away on extended active duty, to qualify for the same tax relief on the profit generated when they sell their main residence as other Americans.

This bill will not create a new tax benefit; it merely modifies current law to include the time members of the Uniformed Services are away from home on active duty when calculating the number of years the homeowners has lived in their primary residence. In short, this bill is narrowly tailored to remedy a specific dilemma.

The Taxpayer Relief Act of 1997 delivered sweeping tax relief to millions of Americans through a wide variety of important tax changes that affect individuals, families, investors and businesses. It was also one of the most complex tax laws enacted in recent history.

Mr. President, as with any complex legislation, there are winners and losers. But in this instance, there are unintended losers: members of the Uniformed Services.

The 1997 act gives taxpayers who sell their principal residence a much-needed tax break. Prior to the 1997 act, taxpayers received a one-time exclusion on the profit they made when they sold their principal residence, but the taxpayer had to be at least 55 years old and live in the residence for 2 of the 5 years preceding the sale. This provision primarily benefitted elderly taxpayers, while not providing any relief to younger taxpayers and their families.

Fortunately, the 1997 act addressed this issue. Under this law, taxpayers who sell their principal residence on or after May 7, 1997, are not taxed on the first $250,000 of profit from the sale, joint filers are not taxed on the first $500,000 of profit they make from selling their principal residence. The taxpayer must meet two requirements to qualify for this tax relief. The taxpayer must (1) own the home for at least 2 of the 5 years preceding the sale, and (2) live in the home as their main home for at least 2 years of the last 5 years.

Mr. President, I applaud the bipartisan cooperation that resulted in this much-needed form of tax relief. The home sales provision sounds great, and it is. Unfortunately, the second part of this eligibility test unintentionally and unfairly prohibits many of our women and men in the armed forces from qualifying for this beneficial tax relief.

Constant travel across the United States and abroad is inherent in the Uniformed Services. Nonetheless, some members of the Uniformed Services choose to purchase a home in a certain locale, even though they will not live there much of the time. Under the new law, if a serviceman does not have a spouse who resides in the house during his absence or the spouse is also in the military and also must travel, that service member will not qualify for the full benefit of the new home sales provision, because no one "lives" in the home for the required period of time. The law is prejudiced against dual-military couples who are often away on active duty. They would not qualify for the home sales exclusion because neither spouse "live" in the house for enough time to qualify for the exclusion.

This bill simply remedies an inequality in the 1997 law. The bill amends the Internal Revenue Code so that members of the Uniformed Services will be considered to be using their house as their main residence for any period that they are away on extended active duty. In short, members of the Uniformed Service will be deemed to be using their house as their main home, even if they are stationed in Bosnia, the Persian Gulf, in the "no man's land," commonly called the DMZ between North and South Korea, or anywhere else on active duty orders.

In 1998 alone, the United States had approximately 37,000 men and women deployed to the Persian Gulf region, preparing to go into combat, if so ordered. There were also 8,000 American troops deployed in Bosnia, and another 70,000 U.S. military personnel deployed in support of other commitments worldwide. That is a total of 108,000 women and men deployed outside of the United States, away from their primary home, protecting and furthering the freedoms we Americans hold so dear.

We are in a period of robust growth. Many Americans are reaping the benefits of our country's growth by investing in the stock market. Many of our nation's recent millionaires became millionaires through the stock market. However, many middle- and lower-income Americans do not hold vast amounts of stocks, bonds, mutual funds, and the like. Therefore, how does the average American participate in our nation's robust growth? Through home ownership.

Appreciation in the value of a home because of our country's overall economic growth allows everyday Americans to participate in our country's prosperity. Fortunately, the Taxpayer Relief Act of 1997 recognized this and provided this break to lessen the amount of tax most Americans will pay on the profit they make when they sell their homes.

The 1997 home sale provision unintentionally discourages home ownership among members of the Uniformed Services, which is bad fiscal policy. Home ownership has numerous benefits for communities and individual homeowners. Having a fixed home provides Americans with a sense of community and adds stability to our nation's neighborhoods. Home ownership also generates valuable property taxes for our nation's communities.

We also cannot afford to discourage military service by penalizing military personnel with higher taxes merely because they are doing their job. Military service entails sacrifice, such as long periods of time away from friends and family and the constant threat of mobilization into hostile territory. We must not use the tax code to heap additional burdens upon our women and men in uniform.

In my view, the way to decrease the likelihood of further inequalities in the tax code, intentional or otherwise, is to adopt a fairer, flatter tax system that is far less complicated than our current system. But, in the meantime, we must insure that the Tax Code is as fair and equitable as possible.

The Taxpayers' Relief Act of 1997 was designed to provide sweeping tax relief to all Americans, including our women and men in uniform. Yes, it is true that there are winners and losers in any tax code, but, this inequity was unintended, Enacting this narrowly tailored remedy to grant equal tax relief to the members of our Uniformed Services restores fairness and consistency to our increasingly complex Tax Code.●

By Mr. COVERDELL (for himself and Mr. CLELAND):

S. 310. A bill to provide for a Dekalb-Peachtree Airport Buyout initiative; to the Committee on Commerce, Science, and Transportation.

DEKALB-PEACHTREE AIRPORT BUYOUT COMPLETION ACT

● Mr. COVERDELL. Mr. President, I rise today to introduce legislation—the Dekalb-Peachtree Airport Buyout Completion Act—which accelerates the long-awaited buy-out of homes and businesses around Georgia's second busiest airport. Specifically, this legislation grants a priority airport designation for the Dekalb-Peachtree Airport and authorizes the FAA to make available $35 million for the buyout initiative.

This is a very import project to the citizens of Dekalb County, Georgia. In the 1990s, the Federal Aviation Administration proposed to buy the businesses and residential properties located in the Dekalb-Peachtree Airport's Runway Protection Zone. This was the result of FAA studies that found increased operations at the airport too noisy and too unsafe for residents and businesses in the northern vicinity. While the citizens of Georgia and myself are grateful that the FAA has assisted in purchasing some of the properties, this financial assistance has been extremely slow. The FAA's failure to provide the remaining federal financial assistance in a timely manner has caused local residents and businesses to remain in limbo and very upset. Businesses cannot expand and poorer residents cannot afford to move out until the buyout is complete. Those residents who have moved out are leasing their homes to lower-income individuals and families. These circumstances have also caused the crime rate in the area to substantially go up.

My proposed legislation would help alleviate this problem by authorizing the federal funds necessary to complete the buyout of the remaining residential and business properties. I look forward to working with my colleagues in the Senate on this important proposal and urge its speedy consideration.●

By Mr. McCAIN (for himself, Mr. COVERDELL, Mr. CLELAND, and Mr. KERREY):

S. 311. A bill to authorize the Disabled Veterans' LIFE Memorial Foundation to establish a memorial in the District of Columbia or its environs, and for other purposes; to the Committee on Energy and Natural Resources.

DISABLED VETERANS MEMORIAL LEGISLATION

● Mr. McCAIN. Mr. President, I rise to offer legislation to authorize the Disabled Veterans' LIFE Memorial Foundation to establish a memorial on Federal land in the District of Columbia to honor all disabled American veterans. This legislation is not controversial, costs nothing, and deserves prompt consideration and passage during the first session of the 106th Congress.

As a nation, we owe a debt of gratitude to all Americans who have worn their country's uniform in the defense of her core ideals and interests. We honor their service with holidays, like Veterans Day and Memorial Day, and with memorials, including the Vietnam Wall and the Iwo Jima Memorial. But nowhere in Washington can be found a material tribute to those veterans whose physical or psychological well-being was forever lost to a sniper's bullet, a landmine, a mortar round, or the pure terror of modern warfare.

To these individuals, we owe a measure of devotion beyond that accorded those who served honorably but without permanent damage to limb or spirit. For these individuals, a memorial in Washington, D.C. would stand as testament to the sum of their sacrifices, and as proof that the country they served values their contribution to its cause.

We cannot restore the health of those Americans who incurred a disability as a result of their military service. It is within our power, however, to authorize a memorial that would clearly signal the nation's gratitude to all whose disabilities serve as a living reminder of the toll war takes on its victims.

Under the terms of this legislation, the Disabled Veterans' LIFE Memorial Foundation would be solely responsible for raising the necessary funding. Our bill explicitly requires that no Federal funds be used to pay any expense for the memorial's establishment.

I urge my colleagues to join me and Senators COVERDELL, CLELAND, and KERREY in support of this legislation. America's disabled veterans, of whom Senator CLELAND himself is one of our most distinguished, deserve a lasting tribute to their sacrifice. They honored us with their service; let us honor them with our support today.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.

(a) IN GENERAL.—The Disabled Veterans' LIFE Memorial Foundation is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor disabled American veterans who have served in the Armed Forces of the United States.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial authorized by subsection (a) shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001 et seq.).

SEC. 2. PAYMENT OF EXPENSES.

The Disabled Veterans' LIFE Memorial Foundation shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial authorized by section 1(a). No Federal funds may be used to pay any expense of the establishment of the memorial.

SEC. 3. DEPOSIT OF EXCESS FUNDS.

If, upon payment of all expenses of the establishment of the memorial authorized by section 1(a) (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in section 1(b)), or upon expiration of the authority for the memorial under section 10(b) of such Act, there remains a balance of funds received for the establishment of the memorial, the Disabled Veterans' LIFE Memorial Foundation shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of such Act.●

By Mr. McCAIN (for himself, Mr. COVERDELL and Mr. HAGEL):

S. 312. A bill to require certain entities that operate homeless shelters to identify and provide certain counseling to homeless veterans, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS LEGISLATION

● Mr. McCAIN. Mr. President, I rise to introduce legislation to assist homeless veterans and eliminate some of the suffering of these less fortunate Americans who served their country in uniform. This legislation would develop better methods for identifying veterans who utilize federally funded homeless shelters so that they can be educated about veteran benefits to which they are entitled, including Department of Veterans Affairs health care.

A homeless shelter which receives federal funding would be required to inquire if a person entering the shelter is a veteran. This information would be used solely to assist in tracking the number of homeless veterans and providing counseling to the veteran regarding all available benefits, including job search, veterans preference rights, and medical benefits. Additionally, the Secretary of Veterans Affairs and the Secretary of Housing and Urban Development would coordinate these activities and specify a schedule for notifying the Department of Veterans Affairs of the status of these homeless veterans. It is the intent of this legislation to require homeless shelters to follow this procedure if they are to be eligible for additional Federal grants.

It goes without saying that this country owes a great deal to the men and women who bore arms to keep America free. Today there is no easy way to ensure that veterans who are homeless have access to the benefits they have earned. We do not even know how many of our veterans are homeless. I find this astonishing. The Department of Veterans Affairs estimates the number of homeless veterans to be between 275,000 and 500,000 over the course of a year. Conservatively, one out of every three individuals who is sleeping in a doorway, alley, or box in our cities and rural communities has worn a uniform and served our country. Mr. President, the time is right, right now, to give a helping hand.

Based on the figures the Department of Veterans Affairs does have, homeless veterans are mostly male; about three percent are women. The vast majority are single; most come from poor, disadvantaged communities; forty percent suffer from mental illness; and half have substance abuse problems. More than seventy-five percent served our country for at least four years, and Vietnam veterans account for more than forty percent of the total number estimated.

Mr. President, there are many complex factors affecting all homelessness: extreme shortage of affordable housing, poverty, high unemployment in big cities, and disability. A large number of displaced and at-risk veterans live with the lingering effects of post traumatic stress disorder (PTSD) and substance abuse, compounded by a lack of family and social support networks.

I do not mean to be critical of the Secretary of Veterans Affairs or the Secretary of Housing and Urban Development in offering this legislation. To a great degree, the Department of Veterans Affairs has been very responsive in taking care of some homeless veterans. But the ones who are receiving critical medical treatment and veterans benefits are those who know that such programs exist. It is incumbent on our government to reach out to all veterans, particularly those who are homeless. However, to do that, there must be a process in place.

Homeless veterans need a coordinated effort, between the Secretaries of Veterans Affairs and Housing and Urban Development, that provides secure housing and nutritional meals, essential physical health care, substance abuse aftercare, and mental health counseling. They may need job assessment, training, and placement assistance. To those who may argue that this is a new entitlement program, I would say that these rights and benefits currently exist for veterans today. Why would we as a nation not do everything in our power to provide this help for those less fortunate veterans?

Mr. President, our veterans deserve no less. I hope my colleagues will support this legislation and support our veterans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 312

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REQUIREMENT TO IDENTIFY AND PROVIDE COUNSELING TO HOMELESS VETERANS.

(a) REQUIREMENT.—Each entity that receives a grant from the Federal Government for purposes of providing emergency shelter for homeless individuals shall—

(1) identify whether or not each adult individual seeking such shelter from such entity is a veteran; and

(2) provide each such individual who is a veteran such counseling relating to the availability of veterans benefits (including employment assistance, health care benefits, and other benefits) as the Secretary of Veterans Affairs considers appropriate.

(b) COORDINATION OF ACTIVITIES.—The Secretary of Veterans Affairs and the Secretary of Housing and Urban Development shall jointly coordinate the activities required by subsection (a).

(c) NOTIFICATION.—(1) Entities referred to in subsection (a) shall notify the Secretary of Veterans Affairs of the number and identity of the veterans identified under paragraph (1) of that subsection.

(2) Such entities shall make such notification with such frequency and in such form as the Secretary shall specify.

(d) PROHIBITION ON FUNDS FOR NONCOMPLIANCE.—Notwithstanding any other provision of law, an entity referred to subsection (a) that fails to meet the requirements specified in that subsection shall not be eligible for additional grants or other Federal funds for purposes of carrying out activities relating to emergency shelter for homeless individuals.●

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. WARNER, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 4, a bill to improve pay and retirement equity for members of the Armed Forces; and for other purposes.

S. 13

At the request of Mr. SESSIONS, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 13, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives for education.

S. 26

At the request of Mr. FEINGOLD, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 26, a bill entitled the "Bipartisan Campaign Reform Act of 1999."

S. 135

At the request of Mr. DURBIN, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Minnesota (Mr. WELLSTONE), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 135, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for the health insurance costs of self-employed individuals, and for other purposes.

S. 146

At the request of Mr. ABRAHAM, the name of the Senator from Arizona (Mr. McCAIN) was added as a cosponsor of S. 146, a bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes.

S. 185

At the request of Mr. ASHCROFT, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 185, a bill to establish a Chief Agricultural Negotiator in the Office of the United States Trade Representative.

S. 285

At the request of Mr. McCAIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 285, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

SENATE RESOLUTION 26

At the request of Mr. MURKOWSKI, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of Senate Resolution 26, a resolution relating to Taiwan's Participation in the World Health Organization.

SENATE CONCURRENT RESOLUTION—EXPRESSING THE SENSE OF CONGRESS THAT ASSISTANCE TO SOUTH KOREA SHOULD BE CONDITIONED ON SOUTH KOREA'S COMPLIANCE WITH ITS INTERNATIONAL TRADE COMMITMENTS AND ON SOUTH KOREA'S TERMINATION OF ITS UNFAIR TRADE PRACTICES AND SUBSIDIES

Mr. ASHCROFT (for himself and Mr. BAUCUS) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 4

Whereas Asia is the largest regional export market for America's farmers and ranchers, traditionally purchasing approximately 40 percent of all U.S. agricultural exports;

Whereas the Department of Agriculture forecasts that over the next year American agricultural exports to Asian countries will decline by several billion dollars due to the Asian financial crisis;

Whereas the United States is the producer of the safest agricultural products from farm to table, customizing goods to meet the needs of customers worldwide, and has established the image and reputation as the world's best provider of agricultural products;

Whereas American farmers and ranchers, and more specifically, American pork and beef producers, are dependent on secure, open, and competitive Asian export markets for their product;

Whereas United States pork and beef producers not only have faced the adverse effects of depreciated and unstable currencies and lowered demand due to the Asian financial crisis, but also have been confronted with South Korea's pork subsidies and its failure to keep commitments on market access for beef;

Whereas it is the policy of the United States to prohibit south Korea from using United States and International Monetary Fund assistance to subsidize targeted industries and compete unfairly for market share against U.S. products;

Whereas the South Korean Government has been subsidizing its pork exports to Japan, resulting in a 973 percent increase in its exports to Japan since 1992, and a 71 percent increase in the last year;

Whereas pork already comprises 70 percent of South Korea's agriculture exports to Japan, yet the South Korean Government has announced plans to invest 100,000,000 won in its agricultural sector in order to flood the Japanese market with even more South Korean pork;

Whereas the South Korean Ministry of Agriculture and Fisheries reportedly has earmarked 25,000,000,000 won for loans to Korea's pork processors in order for them to purchase more Korean pork and to increase exports to Japan;

Whereas any export subsidies on pork, including those on exports from South Korea to Japan, would violate South Korea's international trade agreements and may be actionable under the World Trade Organization;

Whereas South Korea's subsidies are hindering U.S. pork and beef producers from capturing their full potential in the Japanese market, which is the largest export market for U.S. pork and beef, importing nearly $700,000,000 of U.S. pork and over $1,500,000,000 of U.S. beef last year alone;

Whereas under the United States-Korea 1993 Record of Understanding on Market Access for Beef, which was negotiated pursuant to a 1989 GATT Panel decision against Korea, South Korea was allowed to delay full liberalization of its beef market (in an exception to WTO rules) if it would agree to import increasing minimum quantities of beef each year until the year 2001;

Whereas South Korea fell woefully short of its beef market access commitment for 1998; and,

Whereas United States pork and beef producers are not able to compete fairly with Korean livestock producers, who have a high cost of production, because South Korea has violated trade agreements and implemented protectionist policies: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) Believes strongly that while a stable global marketplace is in the best interest of America's farmers and ranchers, the United States should seek a mutually beneficial relationship without hindering the competitiveness of American agriculture;

(2) Calls on South Korea to abide by its trade commitments;

(3) Calls on the Secretary of the Treasury to instruct the United States Executive Director of the International Monetary Fund to promote vigorously policies that encourage the opening of markets for beef and pork products by requiring South Korea to abide by its existing international trade commitments and to reduce trade barriers, tariffs, and export subsidies;

(4) Calls on the President and the Secretaries of the Treasury and Agriculture to monitor and report to Congress that resources will not be used to stabilize the South Korean market at the expense of U.S. agricultural goods or services; and

(5) Requests the United States Trade Representative and the U.S. Department of Agriculture to continue bilateral consultations with the Government of South Korea on its failure to abide by its international trade commitments on beef market access, to consider whether Korea's reported plans for subsidizing its pork industry would violate any of its international trade commitments, and to determine what impact Korea's subsidy plans would have on U.S. agricultural interests, especially in Japan.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a full committee hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, February 2, 1999, at 9:30 a.m. in room SD–106 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to consider the nomination of Carolyn L. Huntoon to be an Assistant Secretary of the Department of Energy for Environmental Management.

For further information, please contact David Dye of the committee staff at (202) 224–0624.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the full Committee on Energy and Natural Resources. The purpose of this hearing is to review the Recreation Fee Demonstration Program.

The hearing will take place on Thursday, February 4, 1999, at 10 a.m. in room SD–106 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the committee staff at (202) 224–6969.

ADDITIONAL STATEMENTS

UNIFORMED SERVICES FILING FAIRNESS ACT

• Mr. McCAIN. Mr. President, I am proud to cosponsor this bill, with Senator COVERDELL and others, to provide a 2-month extension to file Federal taxes for U.S. military personnel who are on duty abroad.

Current Treasury regulations allow military personnel to file Federal tax forms on June 15 rather than April 15. However, filers who elect to use this exception are still subject to interest and penalties during that two-month grace period.

This legislation codifies the existing Treasury regulations and adds a waiver of the interest and penalties that could be charged during the two-month grace period against military personnel who elect to take the filing exception.

Military personnel, serving their country overseas are often isolated from the resources necessary to prepare their tax returns. The Internal Revenue Service and the Department of the Treasury recognized this reality and provided our nation's military personnel with a much-needed two-month grace period to file their taxes.

However, it is inconsistent to grant a grace period for filers, but to penalize those who take it. These brave men and women have not committed any wrongdoing; all they are doing is serving their country.

Travel to remote regions is inherent to military service. In 1998 alone, the United States had approximately 37,000 men and women deployed to the Persian Gulf region, preparing to go into combat, if so ordered. There were also 8,000 American troops deployed in Bosnia, and another 70,000 U.S. military personnel deployed in support of other commitments worldwide. That is a total of 108,000 women and men deployed outside of the United States, away from their primary home, protecting and furthering the freedoms we Americans hold so dear.

We cannot afford to discourage military service by penalizing military personnel with interest and penalties merely because the unique characteristics of their job makes it difficult to file their taxes on time. Military service entails sacrifice, such as long periods of time away from friends and family and the constant threat of mobilization into hostile territory. We must not use the tax code to heap additional burdens upon our women and men in uniform.

This measure will restore equity and consistency to this tax provision, and, at the same time, provide a small measure of tax relief to our men and women in the military.

I urge my colleagues to join me and my other cosponsors to support this much-needed measure.●

TRIBUTE TO MAJ. GEN. WILLIAM P. BLAND, JR.

● Mr. CLELAND. Mr. President, I rise today to honor Major General William P. Bland, Jr., a native of Statesboro, Georgia, who after more than four decades of dedicated service to the State of Georgia and to this country as an officer in the Georgia National Guard, is retiring and coming home to the Savannah area. On January 31, 1999, Maj. Gen. Bland will be honored during a retirement ceremony at the 165th Airlift Wing's headquarters in Savannah, where he started his career with the Georgia Air National Guard in 1962.

General Bland began his military service with the 165th Tactical Airlift Group in Savannah and later served as Deputy Commander of the Air National Guard at Air National Guard Support Center at Andrews Air Force Base. During the past eight years he has served as the Adjutant General for Georgia during which time he and his staff responded to blizzards and floods, directed 15,000 National Guardsmen for Olympic security, beefed up training for Guard volunteers, upgraded the state's military capabilities and reorganized the state defense department. As adjutant general, Bland led the Georgia Department of Defense and commanded more than 12,000 volunteer and full-time members of the Georgia Army and Air National Guards.

Bill's most challenging year as adjutant general came in 1996. He supervised the largest relocation of an Air National Guard unit in history with the move of the 116th Bomb Wing, which included 1,000 people and eight B–1 bomber airplanes, to Robins Air Force Base near Macon. The bomb wing's move helps ensure Robins' future as a military base because the B–1 is one of the Air Force's newest bombers and will remain in active service for many years to come. Bland also oversaw the 48th Infantry Brigade's deployment to the National Training Center at Fort Irwin, California, and witnessed the deployment of two units of the Georgia Army National Guard to Bosnia.

However, the most demanding duty in Bland's career came with the 1996 Olympics in Atlanta when he organized 15,000 National Guard volunteers from 47 States to help with security. Most recently he restructured the state Department of Defense by changing the department's contracting system and placing the Army and Air Guard recruiting under one office.

General Bland has made a positive impact on the lives of many Americans and personifies the definition of a true and loyal American who sets the standard for all citizens to live by. He is an outstanding example to his family and friends, and has been an asset to the many communities, states and nations that he has touched over the years.

Mr. President, I would like to honor and commend Major General William Bland for his outstanding and innumerable contributions over the years to the State of Georgia and to our entire nation, and I ask my colleagues to join me in saluting and congratulating Bill on his retirement and in wishing him many more joyous and successful years to come.●

SOLDIERS, SAILORS, AND AIRMEN'S BILL OF RIGHTS

● Mr. BURNS. Mr. President, I am pleased to join my colleagues on the Armed Services Committee in sponsoring the Soldiers, Sailors, and Airmen's Bill of Rights. This legislation addresses the critical need of improving retention in our military services. The President's Budget has too long ignored the challenges facing our military recruiters as they competed against the civilian sector for highly skilled personnel. For too long, we have spend tax dollars training recruits in critical skills such as aviation maintenance, nuclear engineering, and medicine only to have these skills transferred to civilian companies. We need to stop the hemorrhaging and address the problems that underlie this issue.

First, we need to raise the pay of service personnel to keep salaries competitive with civilian equivalents. This bill raises base pay by 4.8% in 2000, with additional pay raises tied to the Employment Cost Index. Second, we need to provide incentives for active duty personnel to keep longer service commitments. To do this, we need to repair the damage done in 1986 to the military retirement system. This bill re-establishes the pre-1986 retirement system for military personnel who commit to serving their country for 15 years or more. Finally, we need to provide service members with the opportunity to save for their retirement. This bill would allow service members to contribute up to 5% of their base pay, before taxes, into the Thrift Savings Plan. This is the same plan available to all government civilian employees and has already encouraged thousands of government employees to take an active step in their retirement planning. By extending this benefit to the military, we encourage them to think ahead and to save for their retirements.

The quality of our uniformed service is second to none in the world. We owe it to the people standing on the front lines to ensure that their commitment to our country does not include a commitment to debt and poverty. This bill is an overdue first step in improving the quality of life for all of the men and women who serve in uniform. We owe it to them; we owe it to their families. I strongly encourage my colleagues to support its passage.●

CLARK CLIFFORD

● Mr. MOYNIHAN. Mr. President, at a time when we risk the ever coarsening of our pubic affairs, we would do well to remember a man whose service to this country was distinguished as no other for civility and elegance. I ask that this tribute to Clark M. Clifford by Sander Vanocur be printed in the RECORD.

The tribute follows

TRIBUTE TO CLARK CLIFFORD

(By Sander Vanocur at the Washington National Cathedral, November 19, 1998)

The following anonymous poem was sent to Clark Clifford's daughters, Joyce and Randall, by their sister, Faith, who could not be here today:

Think of stepping on shore
 and finding it Heaven,
Of taking hold of a hand
 and finding it God's,
Of breathing new air,
 and finding its celestial air,
Of feeling invigorated
 and finding it immortality,
Of passing from storm and tempest
 to an unbroken calm,
Of waking up,
 and finding it Home.

In the secular sense, Clark Clifford found that home in Washington more than fifty years ago. And having found that home, let it be said that while he was here, he graced this place.

It was a much different place when he and Marny came here, smaller in size but larger in imagination, made larger in imagination by World War II. It may have been, then and for a good time after, as John F. Kennedy once noted, a city of Southern efficiency and Northern charm. But it was also at least then, a place where dreams could be fashioned into reality. Being an intensely political city, dreams, as always, had to be fashioned by reality. And it was in this art of political compromise where Clark Clifford flourished. He was known as the consummate Washington insider. Quite often the term was used in the pejorative sense. It should not have been. If you believe as he did in what George Orwell meant when he wrote that in the end everything is political, it should be a cause for celebration rather than lamentation that he played the role, for if he had not played this role who else of his generation could have played it quite so well, especially when the time came to tell a President of the United States, who was also a very old friend, that the national interests of this nation could no longer be served by our continuing involvement in Vietnam?

We know of his public triumphs. Some of use also know of his personal kindnesses. Many years ago, at a very bleak period in both my personal and professional life—you know in this city it is bleak when your phone calls are not returned by people you have known for years—there were two individuals in this city who faithfully returned my calls. One was Ben Bradlee. The other was Clark Clifford. When Clark first invited me to his office during this bleak period to offer encouragement and guidance, he closed the door, took no phone calls, sat behind his desk, his hands forming the legendary steeple and listened and advised. On that first visit to his office I looked down on his desk where there appeared to be at least fifty messages, topped by what seemed to be inaugural medallions. I thought to myself on that first visit that Clark Clifford had put the world on hold just to listen to me. But the third time I came to his office, it occurred to me that it was just possible those messages had been there for twenty years.

Clark Clifford's final years were not what he would have wished for himself nor what his friends would have wished for him and for his family. They seemed to echo the first lines in Chapter Nine of Henry Adam's novel "Democracy," perhaps the best novel ever written about this city. The lines are: "Whenever a man reaches to the top of the political ladder, his enemies unite to pull him down. His friends become critical and exacting." On this occasion, I cannot speak of this enemies, but I can say that his friends will not be critical or exacting. We will think, instead, of Othello's words just before he dies:

"Soft you; a word or two before you go.

"I have done the state some service, and they know it—

"No more of that. I pray you, in your letters,

"When you shall these unlucky deeds relate.

"Speak of me as I am; nothing extenuate.

"Nor set down aught in malice."

We who loved Clark Clifford will do that and more. We will say now and henceforth: Clark Clifford did the state some service and we know it.●

NOMINATIONS

Executive nominations received by the Secretary of the Senate January 26, 1999, under authority of the order of the Senate of January 6, 1999:

THE JUDICIARY

MARSHA L. BERZON, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE JOHN T. NOONAN, JR., RETIRED.

LEGROME D. DAVIS, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE EDMUND V. LUDWIG, RETIRED.

BARBARA DURHAM, OF WASHINGTON, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE BETTY BINNS FLETCHER, RETIRED.

TIMOTHY B. DYK, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT, VICE GLENN L. ARCHER, JR., RETIRED.

KEITH P. ELLISON, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS, VICE NORMAN W. BLACK, RETIRED.

GARY ALLEN FEESS, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE JAMES M. IDEMAN, RETIRED.

BARRY P. GOODE, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE CHARLES E. WIGGINS, RETIRED.

RONALD M. GOULD, OF WASHINGTON, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE ROBERT R. BEEZER, RETIRED.

WILLIAM J. HIBBLER, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS, VICE JAMES H. ALESIA, RETIRED.

MATTHEW F. KENNELLY, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS, VICE PAUL E. PLUNKETT, RETIRED.

LYNETTE NORTON, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA, VICE MAURICE B. COHILL, JR., RETIRED.

RICHARD A. PAEZ, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE CECIL F. POOLE, RESIGNED.

VIRGINIA A. PHILLIPS, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE WILLIAM M. BYRNE, JR., RETIRED.

STEFAN R. UNDERHILL, OF CONNECTICUT, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT, VICE PETER C. DORSEY, RETIRED.

T. JOHN WARD, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TEXAS, VICE WILLIAM WAYNE JUSTICE, RETIRED.

HELENE N. WHITE, OF MICHIGAN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE DAMON J. KEITH, RETIRED.

RONNIE L. WHITE, OF MISSOURI, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI, VICE GEORGE F. GUNN, JR., RETIRED.

SENATE—*Wednesday, January 27, 1999*

The Senate met at 1:07 p.m. and was called to order by the Chief Justice of the United States.

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

The CHIEF JUSTICE. The Senate will convene as a Court of Impeachment. The Chaplain will offer a prayer.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, leadership has its defining days in which crucial decisions must be made. You know that this is an important one of those days. In a few moments, votes must be cast. Now in the quiet, the Senators wait to be counted. It is a lonely time. Beyond party loyalties, those on both sides of the aisle long to do what ultimately is best for our Nation. Debate has led to firm convictions. Give the Senators the courage of these convictions and the assurance that, if they are true to whatever they now believe is best, You will bless them with peace. We intercede for them and the heavy responsibility they must carry. Imbue them with Your calming Spirit and strengthen them with Your gift of faith to trust You to maintain unity once the votes are tallied. We commit the results to You. Our times are in Your hands. Through our Lord and Saviour. Amen.

The CHIEF JUSTICE. The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, James W. Ziglar, made proclamation as follows.

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against William Jefferson Clinton, President of the United States.

THE JOURNAL

The CHIEF JUSTICE. If there is no objection, the Journal of proceedings of the trial are approved to date.

The majority leader is recognized.

ORDER OF PROCEDURE

Mr. LOTT. Mr. Chief Justice, in a moment we will begin two consecutive votes. The first will be on the motion to dismiss. That will be followed by an immediate vote on the motion to subpoena. Following those votes, there will be an opportunity to describe how we would go forward from there with the depositions. I have discussed this with Senator DASCHLE. It is likely that we would take a break at that point so that we could have further discussions with our conferences to make sure we understand how that subpoena and deposition process would go forward. I have a resolution prepared. We have some simpler ones that we can consider. But we would want to discuss those with each other during the vote, and perhaps even after the two votes occur, depending on what the results are.

The idea is that we have now before us Senate Resolution 16, which has brought us to the point to these two votes. We need to give some consideration to making sure we understand how the process will go forward to a conclusion after that.

I thank my colleagues for their attention. I believe we are ready for the votes, Mr. Chief Justice.

VOTE ON MOTION TO DISMISS

The CHIEF JUSTICE. The question occurs on the motion to dismiss the impeachment proceedings offered by the Senator from West Virginia, Mr. BYRD. The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 44, nays 56, as follows:

[Rollcall Vote No. 4]

[Subject: Byrd motion to dismiss the impeachment proceedings]

YEAS—44

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Bryan
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Edwards
Feinstein
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Schumer
Torricelli
Wellstone
Wyden

NAYS—56

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Coverdell
Craig
Crapo
DeWine
Domenici
Enzi
Feingold
Fitzgerald
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

The motion was rejected.

VOTE ON MOTION FOR APPEARANCE OF WITNESSES AND ADMISSION OF EVIDENCE

The CHIEF JUSTICE. Now the question occurs on the motion requesting the appearance of witnesses at depositions to admit evidence offered by the managers on the part of the House of Representatives. On this question, the yeas and nays are required, and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 56, nays 44, as follows:

[Rollcall Vote No. 5]

[Subject: House managers motion to subpoena witnesses and admit evidence not in record]

YEAS—56

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Coverdell
Craig
Crapo
DeWine
Domenici
Enzi
Feingold
Fitzgerald
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—44

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Bryan
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Edwards
Feinstein
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Schumer
Torricelli
Wellstone
Wyden

The motion was agreed to.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Mr. Chief Justice, as I indicated earlier, we are attempting now to clarify exactly how this will proceed and to reach agreement with regard to the remaining procedure and the beginning of the deposition process.

We are acting in good faith, but we want to make sure we are at least going to try to think about all contingencies, and we are exchanging resolutions and suggestions between Senator DASCHLE and myself at this time. We may be asked to vote later on today on a procedure. We will let you know if that is necessary today. It could happen tomorrow. But we don't want it to go much longer than that because we need to make sure this procedure is going forward.

Of course, if we don't have a resolution, I presume we will begin to go forward anyway, but we would like to have some orderly procedure as we have had in the past. My thinking at this time is that we would just stand in recess subject to the call of the Chair while we talk this through. It may not be necessary to do anything further as far as a recorded vote but it may be. So we just wanted Senators to be on notice of that.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Therefore, I ask unanimous consent, Mr. Chief Justice, that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 1:33 p.m., the Senate recessed subject to the call of the Chair.

The Senate reassembled at 4:47 p.m. when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Thank you, Mr. Chief Justice.

First, I thank all the Members, all concerned, for their patience throughout this process. We have had a productive day, and I believe this recess that we have been experiencing has been helpful in allowing further discussions to occur and to clarify what the procedures will be from here through the subpoena and deposition process and, hopefully, even to a conclusion.

Senator DASCHLE and I have traded proposals which outline those procedures for the remainder of the trial, and although I won't go into detail at this time, I will say that both proposals bring us to a final vote on the pending articles of impeachment in an expeditious manner. We have been narrowing the questions that are involved, and we are now working on what I hope will be the final draft. But it is not going to be possible to complete that this afternoon. We hope to be able to do it when we reconvene at 1 p.m. on Thursday.

There will be conferences of the two parties in the morning so that we can go over this with all the Senators. It is not enough just that the leaders understand or agree; we have to make sure every Senator understands it and agrees with the procedure that we would go forward with.

ADJOURNMENT UNTIL 1 P.M. TOMORROW

Mr. LOTT. I now ask unanimous consent that the Court of Impeachment stand in adjournment until the hour of 1 p.m. on Thursday.

There being no objection, at 4:47 p.m., the Senate, sitting as a Court of Impeachment, adjourned until Thursday, January 28, 1999, at 1 p.m.

(Under a previous order, the following material was submitted at the desk during today's session.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–995. A communication from the Comptroller General of the United States, transmitting, an updated report on statistics regarding rescissions proposed by the executive branch and rescissions enacted by the Congress through October 1, 1998; transmitted jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations and to the Committee on the Budget.

EC–996. A communication from the Administrator of the U.S. Agency for International Development, transmitting, pursuant to law, the Agency's report on activities under Title XII-Famine Prevention and Freedom From Hunger; to the Committee on Foreign Relations.

EC–997. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "North Dakota Regulatory Program" (ND–037–FOR) received on January 5, 1999; to the Committee on Energy and Natural Resources.

EC–998. A communication from the Chairman of the National Safety Council, transmitting, pursuant to law, the Council's combined financial statements for the years ended June 30, 1998 and 1997; to the Committee on the Judiciary.

EC–999. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report of fund transfers for fiscal years 1997 and 1998; to the Committee on Armed Services.

EC–1000. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Prevailing Rate Systems; Lead Agency Responsibility" (RIN3206–AI48) received on January 4, 1999; to the Committee on Governmental Affairs.

EC–1001. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Pay Administration (General); Collection by Offset from Indebted Government Employees" (RIN3206–AH63) received on January 4, 1999; to the Committee on Governmental Affairs.

EC–1002. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the Endowment's annual report under the Integrity Act for calendar year 1998; to the Committee on Governmental Affairs.

EC–1003. A communication from the Administrator of the Rural Utilities Service, transmitting, pursuant to law, the report of a rule entitled "Electric Overhead Distribution Lines; Specifications and Drawings for 24.9/14.4 kV Line Construction" received on January 4, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1004. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pine Shoot Beetle; Addition to Quarantined Areas" (Docket 98–113–1) received on January 5, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1005. A communication from the Secretary of Labor, transmitting, pursuant to law, the report of a rule entitled "Protection of Individual Privacy in Records" (RIN1290–AA16) received on November 6, 1998; to the Committee on Health, Education, Labor, and Pensions.

EC–1006. A communication from the Secretary of Labor, transmitting, pursuant to law, the report of a rule entitled "Process for Electing State Agency Representatives for Consultations with Department of Labor Relating to Nationwide Employment Statistics System" (RIN1290–AA19) received on December 30, 1998; to the Committee on Health, Education, Labor, and Pensions.

EC–1007. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (63 FR28268) received on January 4, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–1008. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "India and Pakistan Sanctions and Other Measures" (RIN0694–AB73) received on November 16, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–1009. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Encryption Items" (0694–AB80) received on January 4, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–1010. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Welfare-to-Work Data Collection" (RIN0970–AB92) received on November 6, 1998; to the Committee on Finance.

EC–1011. A communication from the Chief Counsel of the Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Fee Structure for the Transfer of U.S. Treasury Book-Entry Securities Held on the National Book-Entry System" received on November 17, 1998; to the Committee on Finance.

EC–1012. A communication from the Federal Register Certifying Officer, Financial Management Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Offset of Tax Refund Payments to Collect Past-Due Support" (RIN1510–AA63) received on December 30, 1998; to the Committee on Finance.

EC–1013. A communication from the Regulatory Policy Officer, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Johannisberg Riesling; Deferral of Compliance Date" (RIN1512–AB81) received on January 5, 1999; to the Committee on Finance.

EC–1014. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "1999 Limitations Adjusted As Provided in Section 415(d), Etc." (Notice 98–53) received on November 17, 1998; to the Committee on Finance.

EC–1015. A communication from the Assistant Secretary for Communications and Information, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding the availability of funds under the Telecommunications and Information Infrastructure Assistance Program (RIN0660–ZA06) received on January 4, 1999; to the

Committee on Commerce, Science, and Transportation.

EC–1016. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule entitled "Expedited Relief for Service Inadequacies" (STB Ex No. 628) received on January 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1017. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule entitled "Market Dominance Determinations—Product and Geographic Competition" (STB Ex No. 627) received on January 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1018. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Export of River Otters Taken in Missouri in the 1998–1999 and Subsequent Seasons" (RIN1018–AF23) received on January 4, 1999; to the Committee on Environment and Public Works.

EC–1019. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "NRC Enforcement Policy; Discretion Involving Natural Events" (NUREG–1600, Rev. 1) received on January 5, 1999; to the Committee on Environment and Public Works.

EC–1020. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Consolidated Guidance About Materials Licenses: Program-Specific Guidance about Fixed Gauge Licenses" (NUREG–1556, V.4) received on January 5, 1999; to the Committee on Environment and Public Works.

EC–1021. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Consolidated Guidance About Materials Licenses: Program-Specific Guidance about Exempt Distribution Licenses" (NUREG–1556, V.8) received on January 5, 1999; to the Committee on Environment and Public Works.

EC–1022. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Consolidated Guidance About Materials Licenses: Program-Specific Guidance about Self-Shielded Irradiator Licenses" (NUREG–1556, V.58) received on January 5, 1999; to the Committee on Environment and Public Works.

EC–1023. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Illinois" (FRL6216–2) received on January 4, 1999; to the Committee on Environment and Public Works.

EC–1024. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Protection of Stratospheric Ozone: Allocation of 1999 Essential-Use Allowances" (FRL6217–1) received on January 4, 1999; to the Committee on Environment and Public Works.

EC–1025. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Suspension of Unregulated Contaminant Monitoring Requirements for Small Public Water Systems" (FRL6216–9) received on January 4, 1999; to the Committee on Environment and Public Works.

EC–1026. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tebuconazole; Pesticide Tolerance" (FRL6050–5) received on January 4, 1999; to the Committee on Environment and Public Works.

EC–1027. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Debt Collection" (63 FR1063) received on January 4, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–1028. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "National Flood Insurance Program; Removal of Form" (63 FR27856) received on January 4, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–1029. A communication from the President of the United States, transmitting, pursuant to law, notice that the national emergency with respect to Libya is to continue in effect beyond January 7, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–1030. A communication from the President of the United States, transmitting, pursuant to law, a report on the national emergency with respect to Libya dated December 30, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–1031. A communication from the Chairman of the Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the Board's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1032. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the Commission's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1033. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Billfishes; Atlantic Blue Marlin and Atlantic White Marlin Size Limits; Billfish Tournament Notification Requirements" (I.D. 020398B) received on December 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–1034. A communication from the Associate Managing Director for Performance Evaluation and Records Management, transmitting, pursuant to law, the report of a rule entitled "Direct Broadcast Satellite Public Interest Obligations" (Docket 93–25) received on December 29, 1998; to the Committee on Commerce, Science, and Transportation.

EC–1035. A communication from the Secretary of Labor, transmitting, pursuant to law, the Department's report on Regular Trade Adjustment Assistance for the fourth quarter of fiscal year 1998; to the Committee on Finance.

EC–1036. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule regarding the withholding of income tax on certain U.S. source income payments to foreign persons (RIN1545–AW39) received on January 4, 1999; to the Committee on Finance.

EC–1037. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Arbitrage Restrictions on Tax-Exempt Bonds" (RIN1545–AU39) received on January 4, 1999; to the Committee on Finance.

EC–1038. A communication from the Secretary of Labor, transmitting, pursuant to law, the Department's report on the Employment Retirement Income Security Act for calendar years 1995–1997; to the Committee on Health, Education, Labor, and Pensions.

EC–1039. A communication from the Chief Executive Officer, Corporation for National Service, transmitting, pursuant to law, the Corporation's annual report for 1997; to the Committee on Health, Education, Labor, and Pensions.

EC–1040. A communication from the Secretary of the Army, transmitting, pursuant to law, notice of the intention to interchange jurisdiction of civil works and national forest lands at Table Rock Lake, Missouri; to the Committee on Environment and Public Works.

EC–1041. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Accidental Release Prevention Requirements; Risk Management Programs Under Clean Air Section 112(r)(7); Amendments" (FRL6214–9) received on January 4, 1999; to the Committee on Environment and Public Works.

EC–1042. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Designation of Areas for Air Quality Planning Purposes; Florida: Redesignation of the Duval County Sulfur Dioxide Unclassifiable Area to Attainment" (FRL6196–8) received on January 4, 1999; to the Committee on Environment and Public Works.

EC–1043. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Picloram; Time-Limited Pesticide Tolerances" (FRL6039–4) received on January 4, 1999; to the Committee on Environment and Public Works.

EC–1044. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Withdrawal of the National Primary Drinking Water Regulations: Analytical Methods for Regulated Drinking Water Contaminants; Direct Final Rule" (FRL6212–4) received on January 4, 1999; to the Committee on Environment and Public Works.

EC–1045. A communication from the Secretary of Defense, transmitting, pursuant to law, the Department's 1999 report on National Defense Stockpile Requirements; to the Committee on Armed Services.

EC–1046. A communication from the Under Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, a foreign policy report regarding firearms and explosives control changes received on January 8, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–1047. A communication from the Deputy Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Technical Amendments Under the Investment Advisers Act of 1940" (RIN3235–AH59) received on January 11, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–1048. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Import of Polar Bear Trophies from Canada: Addition of Populations to the List of Areas Approved for Import" (RIN1018–AE26) received on January 5, 1999; to the Committee on Environment and Public Works.

EC–1049. A communication from the Deputy Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the Bureau of Justice Assistance's annual report for fiscal year 1997; to the Committee on the Judiciary.

EC–1050. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Oklahoma Regulatory Program" (SPATS No. OK–024–FOR) received on January 14, 1999; to the Committee on Energy and Natural Resources.

EC–1051. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Illinois Abandoned Mine Land Reclamation Plan" (SPATS No. IL–093–FOR) received on January 14, 1999; to the Committee on Energy and Natural Resources.

EC–1052. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, transmitting, pursuant to law, the report of a rule entitled "Montana Regulatory Program and Abandoned Mine Land Reclamation Plan" (SPATS No. MT–017–FOR) received on January 14, 1999; to the Committee on Energy and Natural Resources.

EC–1053. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Montana Regulatory Program" (SPATS No. MT–018–FOR) received on January 14, 1999; to the Committee on Energy and Natural Resources.

EC–1054. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits" received on January 12, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–1055. A communication from the Executive Director of the United States Architectural and Transportation Barriers Compliance Board, transmitting, pursuant to law, the report of a rule entitled "Americans With Disabilities Act; Accessibility Guidelines; Detectable Warnings" (RIN3014–AA24) received on December 1, 1998; to the Committee on Health, Education, Labor, and Pensions.

EC–1056. A communication from the Executive Director of the United States Architectural and Transportation Barriers Compliance Board, transmitting, pursuant to law, the report of a rule entitled "Transportation for Individuals with Disabilities" (RIN2105–AC00) received on October 20, 1998; to the Committee on Health, Education, Labor, and Pensions.

EC–1057. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a draft of proposed legislation entitled "The Federal Employees Group Long-Term Care Insurance Act"; to the Committee on Governmental Affairs.

EC–1058. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the Administration's report regarding the implementation of, and compliance with, the Federal Advisory Committee Act; to the Committee on Governmental Affairs.

EC–1059. A communication from the Secretary of Commerce, transmitting, pursuant to law, the Department's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1060. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the Commission's report on smokeless tobacco sales, advertising, and promotional expenditures data for 1996 and 1997; to the Committee on Commerce, Science, and Transportation.

EC–1061. A communication from the Associate Managing Director for Performance Evaluation and Records Management, transmitting, pursuant to law, the report of a rule regarding the 1998 Biennial Regulatory Review of Broadcast Station Call Sign Assignments (Docket 98–98) received on January 12, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1062. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding the allocation of Spectrum for Fixed-Satellite Services, Wireless Services, and Government Operations (Docket 97–95) received on January 14, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1063. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Federal-State Joint Board on Universal Service" (Docket 96–45) received on January 14, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1064. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Summer Flounder, Scup and Black Sea Bass Fisheries: Summer Flounder Commercial Quota Transfer From North Carolina to Virginia" (I.D. 121598I) received on December 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–1065. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tart Cherries Grown in Michigan, et al.; Final Free and Restricted Percentages for the 1998–99 Crop Year for Tart Cherries" (Docket FV98–930–1 FR) received on January 11, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1066. A communication from the Deputy Under Secretary for Natural Resources and Environment, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Small Business Timber Sale Set-Aside Program; Appeal Procedures on Recomputation of Shares" (RIN0596–AB62) received on January 11, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1067. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Disaster Set-Aside Program—Second Installment Set-Aside" (RIN0560–AF65) received on January 11, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1068. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tuberculosis in Captive Cervids" (Docket 92–076–2) received on January 5, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1069. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Importation of Fruits and Vegetables" (Docket 97–107–3) received on January 15, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1070. A communication from the President of the United States, transmitting, pursuant to law, the Administration's report on a comprehensive plan for responding to the increase in steel imports; to the Committee on Finance.

EC–1071. A communication from the Chief of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Procedures For The Issuance, Denial, And Revocation Of Certificates Of Label Approval, Certificates Of Exemption From Label Approval, And Distinctive Liquor Bottle Approvals" (RIN1512–AB34) received on January 11, 1999; to the Committee on Finance.

EC–1072. A communication from the Chief Counsel of the Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Regulations Governing Book-Entry Treasury Bonds, Notes and Bills" (No. 2–86) received on January 7, 1999; to the Committee on Finance.

EC–1073. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Permitted Disparity with Respect to Employer-Provided Contributions or Benefits" (Rev. Rul. 98–53) received on November 17, 1998; to the Committee on Finance.

EC–1074. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rulings and Determination Letters" (Rev. Proc. 99–8) received on January 4, 1999; to the Committee on Finance.

EC–1075. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Examination of Returns and Claims for Refund, Credit, or Abatement; Determination of Correct Tax Liability" (Rev. Proc. 99–2) received on January 4, 1999; to the Committee on Finance.

EC–1076. A communication from the Chief of the Regulations Unit, Internal Revenue

Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rulings and Determination Letters" (Rev. Proc. 99-5) received on January 4, 1999; to the Committee on Finance.

EC-1077. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Payment of Employment Taxes with Respect to Disregarded Entities" (Rev. Proc. 99-6) received on January 5, 1999; to the Committee on Finance.

EC-1078. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rulings and Determination Letters" (Rev. Proc. 99-1) received on January 5, 1999; to the Committee on Finance.

EC-1079. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rulings and Determination Letters" (Rev. Proc. 99-6) received on January 5, 1999; to the Committee on Finance.

EC-1080. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Low-Income Housing Credit" (Rev. Rul. 99-1) received on January 11, 1999; to the Committee on Finance.

EC-1081. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Proposed Changes to Final Withholding Regulations Under Section 1441; Proposed Model Qualified Intermediary Withholding Agreement" (Notice 99-8) received on January 15, 1999; to the Committee on Finance.

EC-1082. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Closing Agreements" (Rev. Proc. 99-13) received on January 15, 1999; to the Committee on Finance.

EC-1083. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Traveling Expenses" (Rev. Proc. 99-7) received on January 15, 1999; to the Committee on Finance.

EC-1084. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Timely Mailing Treated as Timely Filing/Electronic Postmark" (RIN1545-AW82) received on January 15, 1999; to the Committee on Finance.

EC-1085. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the United States Government Annual Report for fiscal year 1998; to the Committee on Finance.

EC-1086. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Low-Income Housing Credit" (Rev. Proc. 99-1) received on January 11, 1999; to the Committee on Finance.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SHELBY (for himself, Mr. DODD, Mr. GRAMM, Mr. SARBANES, Mr. MURKOWSKI, Mr. LOTT, Mr. MACK, Mr. CRAIG, and Mr. BROWNBACK):

S. 313. A bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1999, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BOND (for himself, Mr. KERRY, Mr. BENNETT, Mr. DODD, Ms. SNOWE, and Mr. MOYNIHAN):

S. 314. A bill to provide for a loan guarantee program to address the Year 2000 computer problems of small business concerns, and for other purposes; to the Committee on Small Business.

By Mr. ASHCROFT (for himself, Mr. HARKIN, Mr. BOND, Mr. BAUCUS, Mr. BURNS, Mr. DURBIN, Mr. GORTON, Mr. GRAMS, Mr. HAGEL, and Mr. INHOFE):

S. 315. A bill to amend the Agricultural Trade Act of 1978 to require the President to report to Congress on any selective embargo on agricultural commodities, to provide a termination date for the embargo, to provide greater assurances for contract sanctity, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KENNEDY (for himself, Ms. MIKULSKI, Mr. WELLSTONE, and Mr. KERRY):

S. 316. A bill to amend the Child Care and Development Block Grant Act of 1990 to improve the availability of child care and development services during periods outside normal school hours, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SHELBY (for himself, Mr. DODD, Mr. GRAMM, Mr. SARBANES, Mr. MURKOWSKI, Mr. LOTT, Mr. MACK, Mr. CRAIG, and Mr. BROWNBACK):

S. 313. A bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1999, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

PUBLIC UTILITY HOLDING COMPANY ACT OF 1999

• Mr. SHELBY. Mr. President, I rise today to introduce the Public Utility Holding Company Act of 1999. This bipartisan bill is designed to help America's energy consumers by repealing an antiquated law that is keeping the benefits of competition from reaching our citizens. I am pleased to be joined by Senator DODD, Senators GRAMM and SARBANES, Chairman and Ranking Member of the Committee on Banking, Housing and Urban Affairs, Senator MURKOWSKI, Chairman of the Energy and Natural Resources Committee, Majority Leader LOTT, and Senators MACK, CRAIG, and BROWNBACK in introducing this important legislation. Our bill, which is identical to legislation voted out of the Senate Banking Committee with bipartisan support in the 105th Congress, repeals the Public Utility Holding Company Act of 1935 (PUHCA).

The original PUHCA legislation passed over 60 years ago in 1935. At that time, a few large holding companies controlled a great majority of the electric utilities and gas pipelines. No longer is a majority of the utility service offered by so few a provider. In fact, over 80 percent of the utility holding companies are currently exempt from PUHCA.

This legislation implements the recommendations of the Securities and Exchange Commission (SEC) made first in 1981 and then again in 1995 following an extensive study of the effects of this antiquated law on our energy markets. In the 1995 report entitled, "The Regulation of Public-Utility Holding Companies," the Division of Investment Management recommended that Congress conditionally repeal the Act since "the current regulatory system imposes significant costs, indirect administrative charges and foregone economies of scale and scope . . ."

The regulatory restraints imposed by PUHCA on our electric and gas industries are counterproductive in today's global competitive environment and are based on historical assumptions and industry models that are no longer valid. Repeal will not create regulatory gaps; the ability of the States to regulate holding company systems, together with the Federal Energy Regulatory Commission's powers under the Federal Power Act and the Natural Gas Act render PUHCA redundant

Our bill assures the FERC and the States access to the books and records of holding company systems that are relevant to the costs incurred by jurisdictional public utility companies. As a result, the regulatory framework to protect consumers is not only protected in this bill, but enhanced.

In the competitive environment that we now find ourselves, it is imperative to remove a major bottleneck that constrains the ability of American gas and electric utilities to compete.

This bill has been reported out of the Senate Banking Committee in the last two Congresses, but due to time constraints, was never voted on in the full Senate. I am confident that we have the votes to pass this legislation this session. While it is unclear that a sufficient consensus exists to ensure legislative progress on comprehensive reform of the electric and gas industry, it is very clear that the first step to comprehensive reform is the repeal of PUHCA. I am pleased to announce, Mr. President, that a broad consensus for PUHCA repeal does exist, and the Senate should act on this very important legislation as soon as possible.•

By Mr. BOND (for himself, Mr. KERRY, Mr. BENNETT, Mr. DODD, Ms. SNOWE, and Mr. MOYNIHAN):

S. 314. A bill to provide a loan guarantee program to address the Year 2000 computer problems of small business concerns, and for other purposes; to the Committee on Small Business.

SMALL BUSINESS YEAR 2000 READINESS ACT

• Mr. BOND. Mr. President, I rise today to introduce the Small Business Year 2000 Readiness Act along with my colleagues Senators BENNETT, SNOWE, DODD, KERRY, and MOYNIHAN. This bill provides small businesses with the resources necessary to repair Year 2000 computer problems. Last year I introduced a similar bill that the Committee on Small Business adopted by an 18–0 vote and that the full Senate approved by unanimous consent. Unfortunately, the House of Representatives did not act on the legislation prior to adjournment. I am reintroducing this bill because the consequences of Congress not taking action to assist small business with their Y2K problems are too severe to ignore.

Given the effects a substantial number of small business failures will have on our nation's economy, it is imperative that Congress promptly pass legislation that ensures that small businesses are aware of the Y2K problem and have access to capital to fix such problems. Moreover, it is imperative that Congress pass such legislation before the problem occurs, not after it has already happened. It is, therefore, with a sense of urgency that I am introducing the Small Business Year 2000 Readiness Act.

The problem is that certain computers and processors in automated systems will fail because such systems will not recognize the Year 2000. In fact, a small business is at risk if it uses any computers in its business, if it has customized software, if it is conducting e-commerce, if it accepts credit card payments, if it uses a service bureau for its payroll, if it depends on a data bank for information, if it has automated equipment for communicating with its sales or service force or if it has automated manufacturing equipment.

Last June, the Committee on Small Business, which I chair, held hearings on the effect the Y2K problem will have on small businesses. The outlook is not good—in fact it is poor at best. The Committee received testimony that the entities most at risk from Y2K failures are small and medium-sized companies, not larger companies. The major reason for this anomaly is that many small companies have not begun to realize how much of a problem Y2K failure will be, and many may not have the access to capital to cure such problems before they cause disastrous results.

A study on Small Business and the Y2K Problem sponsored by Wells Fargo Bank and the NFIB found that an estimated 4.75 million small employers are subject to the Y2K problem. This equals approximately 82 percent of all small businesses that have at least two employees. The Committee has also received information indicating that approximately 750,000 small businesses may either shut down due to the Y2K problem or be severely crippled if they do not take action to cure their Y2K problems. Such failures will affect not only the employees and owners or failed small businesses, but also their creditors, suppliers and customers. Lenders will face significant losses if their small business borrowers either go out of business or have a sustained period in which they cannot operate. Most importantly, however, is the fact that up to 7.5 million families may face the loss of paychecks for a sustained period of time if small businesses do not remedy their Y2K problems. Given these facts, it is easy to forecast that there will be severe economic consequences if small businesses do not become Y2K compliant in time and there are only 11 months to go. Indeed the countdown is on.

A good example of how small businesses are dramatically affected by the Y2K problem is the experience of Lloyd Davis, the owner of Golden Plains Agricultural Technologies, Inc., a farm equipment manufacturer in Colby, Kansas. Like many small business owners, Mr. Davis' business depends on trailing technology purchased over the years, including 386 computers running custom software. Mr. Davis uses his equipment to run his entire business, including handling the company's payroll, inventory control, and maintenance of large databases on his customers and their specific needs. In addition, Golden Fields has a web site and sells the farm equipment it manufacturers over the internet.

Unlike many small business owners, however, Mr. Davis is aware of the Y2K problem and tested his equipment to see if it could handle the Year 2000. His tests confirmed his fear—the equipment and software could not process the year 2000 date and would not work properly after December 31, 1999. That is when Mr. Davis's problem began. Golden Fields had to purchase an upgraded software package. That cost $16,000. Of course, the upgraded software would not run on 386 computers, so Golden Fields had to upgrade to new hardware. Golden Fields had a computer on each of its 11 employees' desks, so that each employee could access the program that essentially ran the company and assist filling the internet orders the company received. Replacing all the hardware would have cost Golden Fields $55,000. Therefore, Golden Fields needed to expend $71,000 just to put itself in the same position it was in before the Y2K problem.

Like many small business owners facing a large expenditure, Mr. Davis went to his bank to obtain a loan to pay for the necessary upgrades. Because Golden Fields was not already Y2K compliant, his bank refused him a loan because it had rated his company's existing loans as "high-risk". Golden Fields was clearly caught in a Catch-22 situation. Nevertheless, Mr. Davis scrambled to save his company. He decided to lease the new hardware instead of purchasing it, but he will pay a price that ultimately will be more expensive than conventional financing. Moreover, instead of replacing 11 computers, Golden Fields only replaced six at a cost of approximately $23,000. Golden Fields will be less efficient as a result. The experience of Mr. Davis and Golden Fields has been and will continue to be repeated across the country as small businesses realize the impact the Y2K problem will have on their business.

A recent survey conducted by Arthur Andersen's Enterprise Group on behalf of National Small Business United indicates that, like Golden Fields, many small businesses will incur significant costs to become Y2K compliant and are very concerned about it. The survey found that to become Y2K compliant, 29 percent of small- to medium-sized businesses will purchase additional hardware, 24 percent will replace existing hardware and 17 percent will need to convert their entire computer system. When then asked their most difficult challenge relating to their information technology, more than 54% of the businesses surveyed cited "affording the cost." Congress must ensure that these businesses do not have the same trouble obtaining financing for their Y2K corrections as Mr. Davis and Golden Fields Agricultural Technologies. Moreover, Congress must deal with the concerns that have recently been raised that there may be a "credit crunch" this year with businesses, especially small businesses, unable to obtain financing for any purposes if they are not Y2K compliant.

In addition to the costs involved, there is abundant evidence that small businesses are, to date, generally unprepared for, and in certain circumstances, unaware of the Y2K problem. The NFIB's most recent survey indicates that 40 percent of small businesses don't plan on taking action or do not believe the problem is serious enough to worry about.

The Small Business Year 2000 Readiness Act that I am introducing today will serve the dual purpose of providing small businesses with the means to continue operating successfully after January 1, 2000, and making lenders and small firms more aware of the dangers that lie ahead. The Act requires the Small Business Administration to establish a limited-term loan program whereby SBA guarantees the principal amount of a loan made by a private lender to assist small businesses in correcting Year 2000 computer problems.

Each lender that participates in the SBA's 7(a) business loan program is eligible to participate in the Y2K loan program. This includes more than 6,000 lenders located across the country. To ensure that the SBA can roll out the loan program promptly, the Act permits a lender to process Y2K loans pursuant to any of the procedures that the SBA has already authorized for that lender. Moreover, to assist small businesses that may have difficulty sustaining sufficient cash flows while developing Y2K solutions, the loan program will permit flexible financing terms so small businesses are able to service the new debt with available cash flow. For example, under certain circumstances, a borrower may defer principal payments for up to a year. Once the Y2K problem is behind us, the Act provides that the loan program will sunset.

To assure that the loan program is made available to those small businesses that need it and to increase awareness of the Y2K problem, the legislation requires SBA to market this program aggressively to all eligible lenders. Awareness of this loan program's availability is of paramount importance. Financial institutions are currently required by Federal banking regulators to contact their customers to ensure that they are Y2K compliant. The existence of a loan program designed to finance Y2K corrections will give financial institutions a specific solution to offer small companies that may not be eligible for additional private capital and will focus the attention of financial institutions and, in turn, their small business customers to the Y2K problem.

This loan program is of vital importance and we must ensure that there are sufficient funds to pay for it. Because the Y2K loan program would be part of the existing 7(a) business loan program, funds that have already been appropriated for the 7(a) program for fiscal year 1999 may be used for the Y2K loan program. Nevertheless, I intend to watch the 7(a) loan program carefully to determine whether the Y2K loan program will cause the 7(a) loan program to run short of funds. If the appropriated amount will not support the expected loan volume of the general 7(a) loan program and the new Y2K loan program, I intend to work with my colleagues on the Appropriations Committee to attempt to secure additional funds targeted specifically for the Y2K loan program.

The Small Business Year 2000 Readiness Act is a necessary step to ensure that the economic health of this country is not marred by a substantial number of small business failures following January 1, 2000, and that small businesses continue to be the fastest growing segment of our economy in the Year 2000 and beyond.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 314

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Year 2000 Readiness Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the failure of many computer programs to recognize the Year 2000 may have extreme negative financial consequences in the Year 2000, and in subsequent years for both large and small businesses;

(2) small businesses are well behind larger businesses in implementing corrective changes to their automated systems;

(3) many small businesses do not have access to capital to fix mission critical automated systems, which could result in severe financial distress or failure for small businesses; and

(4) the failure of a large number of small businesses due to the Year 2000 computer problem would have a highly detrimental effect on the economy in the Year 2000 and in subsequent years.

SEC. 3. YEAR 2000 COMPUTER PROBLEM LOAN GUARANTEE PROGRAM.

(a) PROGRAM ESTABLISHED.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

"(27) YEAR 2000 COMPUTER PROBLEM PROGRAM.—

"(A) DEFINITIONS.—In this paragraph—

"(i) the term 'eligible lender' means any lender designated by the Administration as eligible to participate in the general business loan program under this subsection; and

"(ii) the term 'Year 2000 computer problem' means, with respect to information technology, and embedded systems, any problem that adversely effects the processing (including calculating, comparing, sequencing, displaying, or storing), transmitting, or receiving of date-dependent data—

"(I) from, into, or between—

"(aa) the 20th or 21st centuries; or

"(bb) the years 1999 and 2000; or

"(II) with regard to leap year calculations.

"(B) ESTABLISHMENT OF PROGRAM.—The Administration shall—

"(i) establish a loan guarantee program, under which the Administration may, during the period beginning on the date of enactment of this paragraph and ending on December 31, 2000, guarantee loans made by eligible lenders to small business concerns in accordance with this paragraph; and

"(ii) notify each eligible lender of the establishment of the program under this paragraph, and otherwise take such actions as may be necessary to aggressively market the program under this paragraph.

"(C) USE OF FUNDS.—A small business concern that receives a loan guaranteed under this paragraph shall only use the proceeds of the loan to—

"(i) address the Year 2000 computer problems of that small business concern, including the repair and acquisition of information technology systems, the purchase and repair of software, the purchase of consulting and other third party services, and related expenses; and

"(ii) provide relief for a substantial economic injury incurred by the small business concern as a direct result of the Year 2000 computer problems of the small business concern or of any other entity (including any service provider or supplier of the small business concern), if such economic injury has not been compensated for by insurance or otherwise.

"(D) LOAN AMOUNTS.—

"(i) IN GENERAL.—Notwithstanding paragraph (3)(A) and subject to clause (ii) of this subparagraph, a loan may be made to a borrower under this paragraph even if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund, the business guaranty loan financing account, and the business direct loan financing account would thereby exceed $750,000.

"(ii) EXCEPTION.—A loan may not be made to a borrower under this paragraph if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund, the business guaranty loan financing account, and the business direct loan financing account would thereby exceed $1,000,000.

"(E) ADMINISTRATION PARTICIPATION.—Notwithstanding paragraph (2)(A), in an agreement to participate in a loan under this paragraph, participation by the Administration shall not exceed—

"(i) 85 percent of the balance of the financing outstanding at the time of disbursement of the loan, if the balance exceeds $100,000;

"(ii) 90 percent of the balance of the financing outstanding at the time of disbursement of the loan, if the balance is less than or equal to $100,000; and

"(iii) notwithstanding clauses (i) and (ii), in any case in which the subject loan is processed in accordance with the requirements applicable to the SBAExpress Pilot Program, 50 percent of the balance outstanding at the time of disbursement of the loan.

"(F) PERIODIC REVIEWS.—The Inspector General of the Administration shall periodically review a representative sample of loans guaranteed under this paragraph to mitigate the risk of fraud and ensure the safety and soundness of the loan program.

"(G) ANNUAL REPORT.—The Administration shall annually submit to the Committees on Small Business of the House of Representatives and the Senate a report on the results of the program carried out under this paragraph during the preceding 12-month period, which shall include information relating to—

"(i) the total number of loans guaranteed under this paragraph;

"(ii) with respect to each loan guaranteed under this paragraph—

"(I) the amount of the loan;

"(II) the geographic location of the borrower; and

"(III) whether the loan was made to repair or replace information technology and other automated systems or to remedy an economic injury; and

"(iii) the total number of eligible lenders participating in the program.".

(b) GUIDELINES.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall issue guidelines to carry out the program under section 7(a)(27) of the Small Business Act, as added by this section.

(2) REQUIREMENTS.—Except to the extent that it would be inconsistent with this section or section 7(a)(27) of the Small Business Act, as added by this section, the guidelines issued under this subsection shall, with respect to the loan program established under section 7(a)(27) of the Small Business Act, as added by this section—

(A) provide maximum flexibility in the establishment of terms and conditions of loans originated under the loan program so that such loans may be structured in a manner that enhances the ability of the applicant to repay the debt;

(B) if appropriate to facilitate repayment, establish a moratorium on principal payments under the loan program for up to 1 year beginning on the date of the origination of the loan;

(C) provide that any reasonable doubts regarding a loan applicant's ability to service the debt be resolved in favor of the loan applicant; and

(D) authorize an eligible lender (as defined in section 7(a)(27)(A) of the Small Business Act, as added by this section) to process a loan under the loan program in accordance with the requirements applicable to loans originated under another loan program established pursuant to section 7(a) of the Small Business Act (including the general business loan program, the Preferred Lender Program, the Certified Lender Program, the Low Documentation Loan Program, and the SBAExpress Pilot Program), if—

(i) the eligible lender is eligible to participate in such other loan program; and

(ii) the terms of the loan, including the principal amount of the loan, are consistent with the requirements applicable to loans originated under such other loan program.

(c) REPEAL.—Effective on December 31, 2000, this section and the amendments made by this section are repealed.●

● Mr. KERRY. Mr. President, today I join my colleagues—Chairman BOND of the Small Business Committee and Senators BENNETT and DODD of the Special Committee on the Year 2000 Technology Problem—to introduce a bill that provides affordable loans to small businesses preparing for or responding to the Year 2000 computer problem.

As Ranking Member of the Committee on Small Business, I believe it is in our economic best interest to make sure that our small businesses, some 20 million if we include the self-employed, are still up and running, creating jobs and providing services, on and after January 1, 2000.

Will the new year bring national "hiccups" or "worldwide recession"? It depends on who you ask. Peter de Jager, considered one of the first Year-2000 crusaders, believes there will be problems, but not devastation. As published in the December 31, 1998 issue of "ITAA's (Information Technology Association of America) Year 2000 Outlook": De Jager says "a blackout across North America is 'inconceivable' and power brown-outs, should they occur, will be localized."

However, if you ask a particular senior executive at Barclays about the millennium computer bug, his advice would be to sell your home, stockpile cash and buy gold in case of a global economic collapse. He and other international bank managers fear a run on deposits.

Because our economy is inter-dependent and most of our technology is date-dependent, either scenario concerns me, particularly for small businesses. National surveys and conversations with Y2K consultants and commercial lenders in Massachusetts tell a story that varies from ignorance to denial to paralysis to apathy.

That's serious when you consider a 1998 Arthur Andersen Enterprise Group and National Small Business United survey that found 94 percent of all small and mid-sized businesses have computers, and only 62 percent of all small and mid-sized businesses, regardless of whether they rely on computers or date-dependent equipment, have "begun addressing" Y2K issues. The good news is that a greater percentage of small and mid-sized businesses are preparing for Y2K than last summer; the bad news is that they've only "begun" and a significant group is taking a wait-and-see approach.

And what about those who have been slow to act or have no plans to act? How do we reach them and facilitate assessment and remediation of their businesses? By making the solution affordable.

The Andersen and NSBU study showed that 54 percent of all respondents said "affording the cost [was the] most difficult challenge in dealing with information technology." Cost is a legitimate, albeit risky, reason to delay addressing the Y2K problem—saving till you're a little ahead or waiting until the last possible moment to take on new debt to finance changes are strategies many small businesses are forced to adopt.

Most of the media attention has been on big business, the challenges they face and the costs they are bearing to fix the problem. Small businesses face the same effects of the Y2K problem as big businesses, but, as the study found, they often have little or no resources to devote to detecting the extent of the problem or developing a workable and cost-effective solution. If you own your facility, is the HVAC (Heating Ventilation and Air Conditioning) system in compliance and how much will it cost to fix a system that serves 5,000 square feet? Does the security system need an upgrade or to be replaced? If you own a dry cleaner and you hire a consultant to assess your equipment in your franchise, will remediation eat all your profits or set you back? These are questions to which some business owners can't afford to hear the answers. It may come down to a choice between debt or dissolution.

The Year 2000 Readiness Act gives eligible business owners a viable option. To make it easy for lenders and timely for borrowers, this Act, like the Y2K small business loan bill I introduced last Congress, expands the 7(a) loan program, one of the U.S. Small Business Administration's most popular and successful guaranteed lending programs.

Currently, the 7(a) program is intended to give small businesses credit and capital, including working capital to grow their companies. If the Year 2000 Readiness Act is enacted, that program could be used until the end of the year 2000 to address Y2K problems through assessment, planning, remediation and testing computers and equipment, or to provide relief for substantial economic injury a small business suffers as a direct result of Y2K problems, such as a brown-out or a temporarily incapacitated supplier.

The terms of 7(a) loans are familiar to lenders and small-business owners alike and, therefore, the loans are easy to apply for and process. They are structured to be approved or denied, in most cases, in less than 48 hours. We expect the average Y2K 7(a) loan to be less than $100,000.

To give lenders an incentive to make 7(a) loans to small businesses for Y2K problems and related economic injury, this Act raises the government guaranties of the existing 7(a) program by ten percent. Under special circumstances, it also raises the dollar cap of loan guaranties from $750,000 to $1 million for these Y2K small business loans.

For Y2K 7(a) loans of more than $100,000, the government will guarantee 85 percent, and for such loans of $100,000 or less, the government will guarantee 90 percent. For those lenders with special authority to approve their loans, this Act allows them to use the SBA Express Pilot Program—a pilot that makes it easy for lenders to process loans worth up to $150,000 using their own paperwork and making same-day approval—for Y2K loans. SBA Express loans are guaranteed at 50 percent.

This legislation encourages lenders to work with small businesses addressing Y2K-related problems by arranging for affordable financing. When quality of credit comes into question, lenders are directed to resolve reasonable doubts about the applicant's ability to repay the debt in favor of the borrower. And when appropriate, to establish a moratorium for up to one year on principal payments on Y2K 7(a) loans, beginning when the loans are originated.

To protect against fraud, abuse or double compensation, this Act prohibits a business from qualifying for a Y2K 7(a) loan if it has already received insurance proceeds for Y2K problems or economic injury related to Y2K problems.

As important as this Y2K loan program is, it must be available in addition to, and not in lieu of, the existing 7(a) program. The 7(a) program is a vital capital source for small businesses, providing more than 42,000 loans in 1998, totaling $9 billion. Nine hundred sixty-six of those loans went to small businesses in Massachusetts. With defaults down, recoveries up and the government's true cost, called the subsidy rate, at 1.39 percent, we should not create burdens that would slow or reverse this trend. To protect the existing 7(a) program, we need to make sure that it is adequately funded for fiscal years 1999 and 2000. Because the Y2K loan program would be part of the existing 7(a) business loan program, funds that have already been appropriated for the 7(a) program may be used for the Y2K loan program. As of two weeks past the end of the first quarter of fiscal year 1999, SBA's records show that the program has already used $2.5 billion (roughly 23 percent) of the total $10 billion appropriated. Typically the demand for these loans increases by as much as ten percent in the spring and summer. If this holds true for this fiscal year, it is an indication that the program will need nearly all of its funds to meet the regular loan demand.

Under these circumstances, we must be diligent about monitoring the 7(a) loan program to make sure the Y2K loans don't drain the program and cause it to run out of money. If we do find that the appropriated amount is inadequate to support the general 7(a) loan program and the new Y2K loan program, we will need to get more funding. Though it's never easy to get more money, Chairman BOND, who also serves on the Committee on Appropriations and is chairman of one of the Appropriation subcommittees, has agreed to attempt to secure additional funds targeted specifically for the Y2K loan program. I thank Chairman BOND for his commitment, and offer my help if the need arises.

I am hopeful that this legislation can be passed in the Small Business Committee and the full Senate as quickly as possible to begin assisting small businesses in need of this important initiative. This is a good program, which with adequate funding, will help many small businesses get a strong start in 2000 and the new millennium.●

● Mr. DODD, Mr. President, I rise today to join my colleagues in supporting this very important legislation. Together with Senators BOND, KERRY, and BENNETT, I recognize the necessity of strengthening the ability of America's small businesses to negotiate the complex challenges related to the Year 2000 computer problem. This legislation is designed to assist the 14.5 million small businesses that may have Y2K concerns. According to various studies, almost half of all of the small businesses in America are not ready to respond to the possible effects of the Y2K computer problem.

I would like to take a moment and thank Chairman BOND and Ranking Member JOHN KERRY of the Small Business Committee for their leadership and cooperation with the Special Committee on the Year 2000, on which I serve as Vice-Chair. The object of this cooperation between our two Committees is to strengthen the economic backbone of America, small businesses, as they face a potentially devastating threat to their very existence. This is not to alarm anyone, but merely to warn of a possible danger. As I have said on numerous occasions, I believe very strongly that we must prepare and plan for any Y2K contingency. We must be vigilant and provide assistance for small businesses. Unfortunately, many small businesses do not consider themselves in danger from the effects of the Y2K problem and so have taken little, if any, steps to address problems that may arise. This extends to reviewing whether all of their suppliers, customers and financial institutions are free from the Y2K glitch. Even if our small enterprises were aware of all problems that face them, not all of them have access to the necessary funds to take corrective measures.

This legislation helps our nation's small enterprises in two ways. First, if a company wants to remediate or fix its own equipment that is not Y2K compliant, this bill provides easier access to loans. Hopefully, this will encourage the small business owners to learn of their companies deficiencies, and then correct them in a timely manner so that company does not stop working.

Second, if a company faces economic disruption due to outside Y2K related problems, then that company may apply for funds to assist it. This is the area to which I am especially sensitive. We do not know exactly what will work and what will need immediate attention so that our lives, our jobs, our economic well being, can continue. To address that lack of knowledge, this bill will allow small business owners access to financial support guaranteed by the Small Business Administration until December 31, 2000. This is very important. Our concern is not just January 1, 2000, but the continual smooth operation of our nation and our nation's small businesses throughout this momentous year.

Less than one-third of small businesses have checked the Y2K preparedness of the companies that they depend upon to continue to function everyday. Though only half of the small businesses in America classify themselves as dependent upon computers, many of the small businesses in America are dependent on other businesses, which are dependent upon computers. Like a cog in the wheel of our nation's economy, if one small business suddenly ceases to function, its effects may be felt across the country. That is why I am glad to support this legislation to assist the United States small business community.

An ounce of prevention is worth a pound of cure. We must help our nation's small businesses regardless of when they become aware of the problems facing them. This legislation is designed to do exactly that.●

● Mr. MOYNIHAN. Mr. President, I am pleased to join the Chairman and Ranking Members of the Committee on Small Business and the Special Committee on the Year 2000 Technology Problem—CHRISTOPHER S. BOND, JOHN F. KERRY, ROBERT F. BENNETT, and CHRISTOPHER J. DODD,—and Senator OLYMPIA SNOWE—in introducing the Small Business Year 2000 Readiness Act. I began warning about the Y2K problem three years ago. Since that time, people have begun to listen and progress has been made on the Y2K front. The Federal Government and large corporations are expected to have their computers functioning on January 1, 2000. Good news indeed. But small businesses and state and local governments are lagging behind in fixing the millennium computer problem.

Last week, Chairman BENNETT, Senator DODD, and I introduced the Y2K State and Local Government Assistance Programs Act of 1999. This bill provides a matching grant for states to work on the millennium computer problem. Failure of state computers could have a devastating effect on those individuals who rely on essential state-administered poverty programs, such as Medicaid, food stamps, and child welfare and support. These individuals cannot go a day, a week, or a month if these programs are not working properly. Similarly, the collapse of small businesses' computer systems could have the same paralyzing effect on society as a collapse of state and local government's computer systems.

The Small Business Year 2000 Readiness Act, which we are introducing today, will assist small businesses in preparing for the year 2000. It expands the Small Business Administration's 7(a) loan program to provide guaranteed loans to small businesses to address the Y2K problem. This bill raises the government guaranties of the existing 7(a) program by ten percent. For Y2K 7(a) loans of more than $100,000, the government will guarantee 85 percent, and for such loans of $100,000 or less, the government will guarantee 90 percent. The increase in the loan guarantee is to encourage lenders to make Y2K-related loans to small businesses. And the numbers show that small businesses need a great deal of assistance.

A Wells Fargo Bank survey in December of 1998 found that "Y2K is not a priority for most small business owners and for as many as one-third of all owners who are vulnerable to the millennium bug, it is not a priority." The report goes on to say that "it is likely that over one million small employers, and perhaps as high as 1.5 million, exposed to the Y2K problem will enter the next century having taken no preventive measures." The GartnerGroup found that as of the third quarter of 1998, small companies have just five percent of their computers remediated, and only 30 percent of small businesses have begun testing. The GartnerGroup expects that 50 percent to 60 percent of small companies will experience at least one mission critical system failure. We must not let this happen.

Historically the fin de siècle has caused quite a stir. Prophets, prelates, monks, mathematicians, and soothsayers warn Anno Domini 2000 will draw the world to its catastrophic conclusion. I am confident that the Y2K problem will not play a part in this. But we must continue to work on this problem with purpose and dedication. Benjamin Disraeli wrote: "Man is not the creature of circumstances. Circumstances are the creatures of men." We created the Y2K problem and we must fix it. •

By Mr. ASHCROFT (for himself, Mr. HARKIN, Mr. BOND, Mr. BAUCUS, Mr. BURNS, Mr. DURBIN, Mr. GORTON, Mr. GRAMS, Mr. HAGEL, and Mr. INHOFE):

S. 315. A bill to amend the Agricultural Trade Act of 1978 to require the President to report to Congress on any selective embargo on agricultural commodities, to provide a termination date for the embargo, to provide greater assurances for contract sanctity, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

• Mr. BURNS. Mr. President, I rise today as a co-sponsor of a bill that I envision as just one piece in Congressional efforts to correct the inequitable treatment our Federal government forces on our nation's farmers. How many times do we need to impress upon this Administration that agriculture is a foundation for our economy? Agriculture producers are at the beginning of the food chain—they provide the food that feeds our nation and we, as American consumers of these products, enjoy the world's best food distribution system in the world.

This bill, the Selective Agriculture Embargoes Act of 1999, requires the President to report to Congress on any selective embargo on agricultural commodities and also provides a termination date for the embargo. In the past, we've seen this Administration take steps to sanction a foreign country in an attempt to coerce that country's policy or behavior. I question the effectiveness of these measures in today's global environment—what may have worked forty years ago may not be today's solution.

The Administration's use of this negotiating tool has an economic impact, not only on the country being sanctioned, but also on the rest of the global economy. And that is the important issue—not what we are trying to accomplish with the sanction, but what impact such actions are having on other nations' exporters at the expense of America's exporters.

In Montana, and other states that rely on farmers and ranchers to fuel our nation's economy, the sanctioning process has a very substantial impact. Last year, Congress recognized an embargo on Pakistan based on it's nuclear policies was a bad policy decision and corrected the Administration's policy. Pakistan was recently ranked as the fifth largest importer of United States wheat and in recent years has emerged as the single largest buyer of soft wheat from the United States.

Think about the impact on our producers when you reduce United States wheat exports by 1.7 million metric tons and that's just to Pakistan alone.

Let's back up a little bit and talk about what has happened to farm exports, and especially to farmers in the Northwest. We need to keep in mind the global economy has helped to bring U.S. agriculture to it's knees over the past couple of years and in very short period of time.

I am overwhelmed to think that the financial collapse of the economies in Japan, Indonesia, Malaysia, Thailand and South Korea could put a farmer in Shelby, Montana out of business. But that's the reality of this situation—we are so tied into the global economy that every foreign policy decision made has an impact on our domestic economy. That's a powerful notion, but again, it's a reality. If you don't believe me, go talk to my farming friends in Montana.

Prior to the plague of the Asian flu, I was very convinced that you cannot let the economies in four major importing countries of agricultural products cave in and it not affect this country. Sadly, I was correct. So our exports to that part of the world have decreased dramatically. Then the President came along with sanctions.

Let me tell you a little about sanctions. I have never been convinced that sanctions on agriculture commodities really work. I will tell you in an instant that if we unilaterally sanction a country on American agricultural exports, the following will occur: that country is still capable of buying a supply from somebody else in the world. However, the market is aware of these sanctions; therefore, the rest of the world maybe increases the price per bushel of wheat by 1 or 2 cents. Now, 1 or 2 cents doesn't sound like a lot for a bushel of wheat that weighs 60 pounds, but when you're buying 300,000 metric tons, it is a lot of money. To the farmer, it is the difference between making the land payment and not making the land payment—that's the value of 2 cents a bushel.

Once that sale is made to the country that we have sanctioned, other wheat exporting nations pour the rest of their crop on the world market. So our farmers compete for fewer markets at a lesser price. That is not right. Sanctions do not deny a country of a food supply for the people who live there, but it has denied our farmers entry into the marketplace a place to compete.

In the last 4 years the United States has imposed 61 unilateral economic sanctions on 35 countries containing 40 percent of the world's population. Now, what action does that country take in reaction to the sanction? It retaliates: I am not going to buy American products at any price.

So, in essence, we have denied our grain producers access to that market to even be considered to compete. We are talking about food here—I realize that to some folks that is not very important—until it comes suppertime. But to a farmer who only gets one or two paychecks a year, that is how he makes his payment on his operation, his fertilizer, his machinery, his land payment. It contributes to his community, his county, his state and his nation.

U.S. farmers have developed export markets because of two factors: quantity and reliability. We are a reliable trade partner. We approach trade policy from a free market perspective—we compete against subsidized grain from many of the world's major exporters. We don't pool our wheat and we don't sell our wheat on the international market by a decision made by Government.

So I ask my colleagues to support this bill and support the American farmer and, in turn, support the U.S. economy.•

• Mr. HAGEL. Mr. President I rise today in support of this measure which will inject some much-needed common-sense into our nation's agricultural trade policy. This measure amends the Agricultural Trade Act of 1978 and restricts the President's ability to single out agriculture when foreign embargoes are imposed.

Food is basic humanitarian need and should not be included in economic embargoes or sanctions imposed by the United States. Our relationships with other nations must not be held captive to one issue. But our relationships with other nations are complicated. They include trade and commerce. They include U.S. interests abroad, national defense, human rights, and humanitarian efforts. But we must not allow one dynamic of our relationship with all other nations on this globe to be held captive to just one issue.

Trade and U.S. agriculture are virtually indistinguishable. The Soviet grain embargo of 1976 cost the U.S. $2.3 billion in lost farm exports and USDA compensation to farmers. When the U.S. cut off sales of wheat to protest Soviet invasion of Afghanistan—France, Canada, Australia, and Argentina stepped in to claim this market and the former Soviet states have been timid buyers of U.S. farm products ever since.

In recent months, Nebraska farmers, on many occasions, discussing the negative effects of the Carter grain embargo and many fear that a similar action could happen again. With more focus on sanctions and foreign policy, an anti-agriculture embargo measure is timely.

History has shown, Mr. President, that trade and commerce engagement in reaching out does more to change attitudes and alter behavior than any one thing. Why? It improves diets; it improve standards of living; it opens society; it exposes people who have lived under totalitarian rule, who have had limited exposure to freedom, to liberty, to economic freedom, products, choice, consumerism. That is what trade does. Not one among us believes that just trade alone is all we need. But it is an important, integral part of our relationships around the world.

We live in a very dynamic time. The light of change today in the world is unprecedented in modern history, and maybe all of history. Food, fiber, and trade are common denominators of mutual interests of all the peoples of the world.

We must not isolate ourselves. Trade embargoes isolate those who impose trade embargoes. We need dynamic policies for dynamic times. The world is not static.

This is a strong step forward. This is the beginning of the larger debate that this Congress will have and must have about the role of the United States in the world and how we intend to engage the world, and trade is a very important part of that.

Embargoes and sanctions without the support of our allies only hurt us. From a foreign policy perspective, embargoes rarely achieve their goal. Their real harm is on U.S. agricultural producers. It's estimated that sanctions and embargoes cost the U.S. economy more than $20 billion each year. We have got to bring some common sense to our trade policy.

American agriculture and the U.S. government must send a strong message to our many customers and our competitors. U.S. farmers, ranchers, and agribusinesses are a consistent and reliable supplier of quality and plentiful agricultural products. Support of the Agriculture-Specific Embargo Act will send a strong message that U.S. agriculture will be once again considered a reliable supplier of food and fiber around the globe.

Mr. President, I am very proud to join my friends and colleagues who have worked on these issues diligently, who will continue to provide leadership, not just to this body but to the country, to the world, and to our farmers and our ranchers, our producers, and our citizens.

I encourage all of my colleagues to support this very important measure. Again, I say to my colleagues that this is an engagement we must be a part of today.•

By Mr. KENNEDY (for himself, Ms. MIKULSKI, Mr. WELLSTONE, and Mr. KERRY):

S. 316. A bill to amend the Child Care and Development Block Grant Act of 1990 to improve the availability of child care and development services during periods outside normal school hours, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

AMERICA AFTER SCHOOL ACT

• Mr. KENNEDY. Mr. President, today Senators MIKULSKI, WELLSTONE, KERRY, and I are introducing the America After School Act. With this legislation, the nation can do much more to provide the care and activities that children need when they are not in school.

Over 17 million parents rely on others to care for their children before and after the school bell rings each day. Over 5 million children are left home alone after school. The need for responsible after-school activities is urgent. Hundreds of thousands of families are on waiting lists across the country for such programs.

Today's students deserve the best and brightest future possible. After school programs provide a unique opportunity to help to meet this challenge. Tutoring, mentoring, recreational, and cultural activities are all key components of strong, stimulating after school programs. These activities can help young men and women strengthen their computer skills, explore prospective careers, learn about the arts, and develop their physical fitness. They are an investment in education, children, and our future.

After school programs help reduce crime. Police across the nation report that juvenile delinquency peaks between 3 and 8 p.m. each day. We know that unsupervised children are more likely to engage in destructive behavior. Effective after school programs help keep young people off the streets, away from gangs, and out of trouble. All children deserve a safe and productive environment in which to spend their time out of school.

Parents want safe, effective after school programs for their children, and this legislation helps meet that need. The legislation significantly expands after school care for low-income families by increasing the Child Care and Development Block Grant. Title I of the bill authorizes a $3 billion increase in such grants over the next 5 years. With this higher level of investment, we can reduce waiting lists and provide after school care to hundreds of thousands of additional children from low-income working families. Communities with high concentrations of poverty and at-risk youth will receive priority for this funding, so that the help will be available where it is needed most. The needs of children with disabilities are also specifically addressed.

After school programs should challenge children, stimulate their curiosity, and enhance their creativity. We get what we pay for. On the average, child care providers earn less than bus drivers and garbage collectors. We need stronger incentives to develop and retain skilled child care providers. Our bill designates 25 percent of the increase for indirect services that include salary incentives for training care givers.

Our bill also strengthens and expands the 21st Century Learning Centers program. In the last Congress, we provided $200 million to expand this worthwhile program and increase after school programs to serve up to a half million more children. This action was an important step forward—but even with this increase, a tremendous need remains.

To address this problem, President Clinton has proposed to triple the federal investment in these centers: The additional funds will ensure that one million more youths will be in safe, effective after school care. Our America After School Act builds on this momentum. By strengthening the 21st Century Learning Centers program, we will provide greater opportunities for hundreds of thousands more children and their families. This additional funding will support mentoring programs, academic assistance programs, and drug, alcohol, and gang prevention activities.

Title III of this bill provides $1.25 billion over the next five years to expand grants by the Justice Department for after-school programs to prevent juvenile delinquency. Both public and private agencies will be eligible to apply for these grants, and awards will be made on a matching basis. To maximize its effectiveness, recipients must coordinate their efforts with state and local law enforcement officials. After school educational and recreational programs in high crime neighborhoods will receive priority, since children in these neighborhoods face the highest risk.

We must do all we can to prepare students for the future. Providing safe and worthwhile afterschool activities is an essential part of achieving this goal. We owe our children no less.•

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. WARNER, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 4, a bill to improve pay and retirement equity for members of the Armed Forces; and for other purposes.

S. 9

At the request of Mr. DASCHLE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 9, a bill to combat violent and gang-related crime in schools and on the streets, to reform the juvenile justice system, target international crime, promote effective drug and other crime prevention programs, assist crime victims, and for other purposes.

S. 89

At the request of Mr. HUTCHINSON, the name of the Senator from New

Hampshire (Mr. SMITH) was added as a cosponsor of S. 89, a bill to state the policy of the United States with respect to certain activities of the People's Republic of China, to impose certain restrictions and limitations on activities of and with respect to the People's Republic of China, and for other purposes.

S. 136

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 136, a bill to provide for teacher excellence and classroom help.

S. 223

At the request of Mr. LAUTENBERG, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 223, a bill to help communities modernize public school facilities, and for other purposes.

S. 264

At the request of Mr. AKAKA, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 264, a bill to increase the Federal medical assistance percentage for Hawaii to 59.8 percent.

S. 270

At the request of Mr. WARNER, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Texas (Mr. GRAMM) were added as cosponsors of S. 270, a bill to improve pay and retirement equity for members of the Armed Forces, and for other purposes.

SENATE JOINT RESOLUTION 6

At the request of Mr. HOLLINGS, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of Senate Joint Resolution 6, A joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

ADDITIONAL STATEMENTS

SENATOR BYRD'S FINEST HOUR

• Mr. HOLLINGS. Mr. President, on behalf of myself, Senator STEVENS and Senator DODD: George Santayana stated, "Those who disregard the lessons of history are bound to repeat them." The United States Senate is too politically charged and it would be more so were it not for the distinguished Senator from West Virginia, ROBERT C. BYRD. A couple of weeks ago the Senate was about to go over the precipice of partisanship. Fortunately, we agreed to have an off-the-record session of all Senators. That alone would not have prevented our reckless course, but it did give all Senators an opportunity to hear Senator BYRD at his finest hour. He commenced by thanking Senator DANIEL AKAKA for leading us in prayer, harkening the time Benjamin Franklin took to the floor of the Continental Convention to call on divine guidance for cooperation and bipartisanship. Then Senator BYRD continued to calm partisan zeal and give us all a sense of historic perspective. We started talking sense instead of politics. It got us together. We could have gone the way of the House, but Senator BYRD is the one who put us on the right path. In appreciation for his leadership, we think the country could benefit by reading Senator BYRD's comments. I ask that the full text of Senator BYRD's remarks be printed in the RECORD.

The remarks follow:

REMARKS OF SENATOR ROBERT C. BYRD—BIPARTISAN CONFERENCE IN THE OLD SENATE CHAMBER, JANUARY 8

My colleagues, I thank the Majority Leader and the Minority Leader for bringing us together in this joint caucus. Mr. Daschle asked me last evening to be prepared to speak this morning following the remarks of the two leaders. I am flattered and honored to do so. Having a proclivity to speak at length on subjects that are close to my heart and about which I feel deeply, I have taken the precaution this morning to prepare some remarks in order that I might present them in an organized fashion and thus avoid speaking as long as I might otherwise be wont to do. I shall, however, add some extemporaneous remarks as the spirit of the occasion leads me.

Before proceeding with the thoughts that I have put in writing, I wish to remind ourselves that we do, indeed, have not only the standing rules of the Senate, but we also have the standing rules for our guidance in impeachment trials. This bound copy of rules governing impeachment trials that I hold in my hand was published in 1986 as a result of a resolution which former Senator Robert Dole and I offered for referral to the Rules Committee, at which time we called on that Committee to update and provide any proposed modifications or revisions to the rules that had been in existence from the year 1868 when the impeachment trial of President Andrew Johnson took place.

The rules which the Senate approved in 1986 were followed during the impeachment trials of the three Federal judges: Claiborne, Hastings, and Walter Nixon. In listening to some of the comments on television last evening, I noted that when news reporters interviewed tourists, those visitors to this city were under the impression that the Senate was proceeding into a trial without any rules for guidance. Some of the representatives of the news media were also under this mistaken impression. I am concerned about the public perception that we are proceeding to a trial without any rules to guide us. Therefore, I trust that we will all make it clear as we work with the press that the Senate, indeed, has a set of standing rules to guide us in this trial.

Before I begin my prepared remarks, I wish to thank the Majority Leader and the Minority Leader for calling on Senator Akaka to deliver prayer. They chose the right Senator to lead us in prayer, and I thank Danny. His prayer set just the right tone and the right spirit for his occasion. In the midst of Danny's prayer, I recalled that day which came during the Constitutional Convention in Philadelphia, when the Framers were encountering difficult problems, and their spirits were at a low ebb. There was dissension and divisiveness, and their hopes for success in achieving their goal were fading. Things seemed to be falling apart. Their dreams of fashioning a new Constitution—the Articles of Confederation being our first national Constitution—appeared to be growing dim. The new Ship of State which they hoped to launch was floundering in troubled waters with rocks and shoals upon every hand. Dark clouds of despair were closing in upon them, and the Framers were brought face-to-face with the stark possibility of failure.

It was then, at that fateful moment, that the oldest man at the Convention, Benjamin Franklin, stood to his feet and addressed the chair in which sat General George Washington: "Sir, I have lived a long time, and the longer I live the more convincing proofs I see that God still governs in the affairs of men. And if a sparrow cannot fall to the ground without our Father's notice, is it probable that we can build an empire without our Father's aid? We have been assured, sir, in the sacred writings, that, 'Except the Lord build the house, they labor in vain that build it; except the Lord keep the city, the watchman waketh but in vain.' I firmly believe this; and I also believe that without our Father's aid, we shall succeed in this political building no better than did the builders of Babel. I, therefore, beg leave, sir, to move that, henceforth, prayers imploring the assistance of heaven and its blessings on our deliberations be held in this assembly every morning before we proceed to business, and that one or more of the clergy of this city be requested to officiate in that service."

Franklin's motion was seconded by Mr. Sherman.

My colleagues, let us proceed in these deliberations this morning in a spirit of prayerfulness and cooperation and bipartisanship, and see if we, too, in our generation may produce something worthy of being remembered.

I speak from the viewpoint of having a long and varied experience in legislative bodies. I was born during the Woodrow Wilson Administration. I was sworn in as a new member of the House of Representatives during the final days of the Truman Administration. He is my favorite Democratic President in my lifetime. I having been sworn in as a new member of Congress in January 1953, I have served longer in Congress than has any man or woman in either House of Congress today. Dizzy Dean said that it is alright to brag if you've done it. Well I have done it! No member of Congress in either House today was here when I first became a member 46 years ago.

I also try to take the long view of the history that is yet before us. This country has a long history ahead of it, and the things we do here, the service we perform, our words and our deeds will be long remembered and long recorded.

As we proceed to the unpleasant task that awaits us in the days ahead, let us remember that this is not a trial in a court of law. It is not a criminal trial. It is a political trial. The Nation will be watching us, and I implore us all to conduct ourselves in a way that will bring honor to this body. I view the immediate future with considerable dread. There is a poison in the air, and it is not the flu virus, and there is no antibiotic that can be prescribed for it. It is a bitter political partisanship, and if we let it control us in the impeachment trial, we will find it to be lethal, and we will die together.

From time to time there occur events which rise above the everyday, and sorely test the leaders of men and the institutions they create.

This is such a time. For it is not only William Jefferson Clinton who is on trial. It is this August body and all of us who carry the title of Senator.

The White House has sullied itself. The House of Representatives has fallen into the black pit of partisan self-indulgence. The Senate is teetering on the brink of that same black pit.

Meanwhile, the American people look in vain for the order and leadership promised to them by the Constitution. Of one thing I am sure: the public trust in all of the institutions of government has severely suffered.

Senators, this is the headline, I had so hoped we could avoid. I have in my hand this morning's Washington Times bearing the headline: "Trial Opens Amid Pomp, Partisanship." It is the word "partisanship" that is troubling.

Any of you who have read your mail or the phoned-in comments from your constituents knows that the anger and disappointment is only growing in intensity with each day that we prolong this painful ordeal.

I have always believed that whatever the crisis and whatever the age, the Senate would always attract and produce men and women of the quality and character needed to step up and calm the angry and dangerous seas which might threaten the Ship of State, and dash it on the rocks and shoals.

I still believe that. I still believe that the Senate can restore some order to the anger which has overtaken this country and the chaos which threatens this city. I believe in all of you. I believe that all of the courage and conviction needed to handle any crisis is present right in this room.

But, at this moment, we look very bad. We appear to be dithering and posturing and slowly disintegrating into the political quicksand. And it is no fault of our leaders. Our two leaders have done their level best to get us started toward lancing this inflamed boil in an honorable and orderly way. Left alone, without all of us to contend with, they would have worked these arrangements out long ago.

Of course, I am very fond and proud of my own Leader, Tom Daschle. But, may I say to my Republican friends that I am also very fond and proud of our Majority Leader, Mr. Lott. However, I have been a Majority Leader in this body, and I know too well who gets the blame when important matters flounder in the Senate. It is the Majority Leader and, to a lesser degree, the Minority Leader. And when that happens, neither party looks good.

I feel it to be appropriate at this point to digress from my prepared statement and bring to your recollection Chaucer's "Canterbury Tales," and I shall refer to the "Pardoner's Tale," which most, if not all, of you will remember having read in your school days. The setting took place in Flanders, where, once, there sat drinking in a tavern three young men who were given to folly. As they sat, they heard a small bell clink before a corpse being carried to the grave, whereupon, one of them called to his knave and ordered him to go and find out the name of the corpse that was passing by.

The boy answered that he already knew, and that it was an old comrade of the roisterers who had been slain while drunk by an unseen thief called Death, who had slain others in recent days.

Out into the road the three young ruffians went in search of this monster called death. They came upon an old man, and seized him and with rough language demanded that he tell them where they could find this cowardly adversary who was taking the lives of their good friends in the countryside.

The old man pointed to a great oak tree on a nearby knoll, saying, "There, under that tree, you will find Death." In a drunken rage, the three roisterers set off in a run 'til they came to the tree, and there they found a pile of gold—eight basketfuls, of florins, newly minted, round coins. Forgotten was the monster called Death, as they pondered their good fortune, and they decided that they should remain with the gold until nightfall when they would divide it among themselves and take it to their homes. It would be unsafe, they thought, to attempt to do so in broad daylight, as they might be fallen upon by thieves who would take their treasure from them.

It was proposed that they draw straws, and the person who drew the shortest cut would go into the nearby village and purchase some bread and wine which they could enjoy as they whiled away the daylight hours. Off towards the village the young man went. When he was out of sight, the remaining two decided that there was no good reason why this fortune should be divided among three individuals, so one of them said to the other: "When he returns, you throw your arm around him as if in jest, and I will rive him with my dagger. And, with your dagger, you can do the same. Then, all of this gold will be divided just between you and me."

Meanwhile, the youngest rouge, as he made way into the town, thought what a shame it was that the gold would be divided among three, when it could so easily belong only to the ownership of one. Therefore, in town, the young man went directly to an apothecary and asked to be sold some poison for large rats and for a polecat that had been killing his chickens. The apothecary quickly provided some poison, saying that as much as equalled only a grain of wheat would result in sudden death for the creature that drank the mixture.

Having purchased the poison, the young villain crossed the street to a winery where he purchased three bottles—two for his friends, one for himself. After he left the village, he sat down, opened two bottles and deposited an equal portion in each, and then returned to the oak tree, where the two older men did as they had planned. One threw his arm playfully around the shoulders of the third, they buried their daggers in him, and he fell dead on the pile of gold. The other two then sat down, cut the bread and opened the wine. Each took a good, deep swallow, and, suffering a most excruciating pain, both fell upon the body of the third, across the pile of gold. All three were dead.

Their avarice, their greed for gain had destroyed them. There is a lesson here. The strong temptation for political partisanship can tear the Senate apart, and can tear the Nation apart, and confront all of us with destruction.

I ask everyone here who might be tempted, to step back from the brink of political gamesmanship. I ask everyone here who might harbor such feelings to abandon any thought of mean-spirted, destructive, vengeful, partisan warfare. It is easy to get caught up in the poison of bitter, self-consuming partisanship when faced with such situations as the one which confronts us now.

Witnesses are the main sticking point. I try to put myself in the shoes of our GOP friends. At least 13 House members are pushing you.

They had the opportunity to call witnesses but didn't. I watched all House proceedings. It seems to me that with such a mass of evidence, nothing new will be added. We must avoid a repetition of what the House has just gone through.

I urge all of us to step back and think about it. What can possibly be served in this unique court of impeachment by having a repeat of what we have already seen?

I implore us all to endeavor to lift our eyes to higher things. We can perform some much needed healing on the body politic. We can start by disdaining any more of the salacious muck which has already soiled the gowns of too many. If we can come together in a dignified way to orderly and expeditiously dispose of this matter, then perhaps we can yet salvage a bit of respect and trust from the American people for all of us, for the Senate, and for their institutions of government.

There have been only 1,851 Senators from the beginning of this Republic, and that includes all of us. We have a duty at this critical time to rise above politics-as-usual, in which we eat one another and, in so doing, eat ourselves. Let us put the nation first. The American people want us to do that. In the long run, that is how we will be judged, and, more importantly, it is how the Senate will be judged. The Constitution makes no reference to political party. The constitutional provision concerning impeachment makes no mention of political party. There were no political parties at the time the Constitution was written.

When this is all over and this matter is behind us—and that time will surely come—then we can be politically partisan if we wish, as various legislative matters come before us. That is all in the natural course of things. Republicans and Democrats can go at each others throats politically if that is what they desire. But this is not a time for political partisanship. We will be sitting in judgment of a President. And we should be guided by our oath that, in all things appertaining to the trial of William Jefferson Clinton, we shall do impartial justice according to the Constitution and the laws.

Let us be guided by higher motives, by what is best for the Republic, and by how future history will judge us. We need a surer foundation than political partisanship, and that sure foundation is the Constitution.

The Senate was the preeminent spark of genius by the Framers. It was here that passions would be cooled. The Senate would be the stabilizing element when confronted with the storms of political frenzy and the silent arts of corruption.

Let us be true to the faith of our fathers and to the expectations of those who founded this Republic. The coming days will test us. Let us go forward together, hoping that in the end, the Senate will be perceived as having stood the test. And may we—both Republicans and Democrats—when our work is done, be judged by the American people and by the pages of future history as having done our duty and done it well. Our supreme duty is not to any particular person or party, but to the people of the Nation and to the future of this Republic.

It is in this spirit that we may do well to remember the words of Benjamin Hill, a great United States Senator from the State of Georgia, inscribed, as they are, upon his monument:

Who saves his country
Saves all things,
Saves himself
  and all things saved do bless him.

Who lets his country die
Let's all things die,
Dies himself ignobly,
And all things dying curse him.

Thank you, my friends, thank you.●

MOTION TO DISMISS ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

• Mr. ABRAHAM. Mr. President, I rise to oppose the motion offered in the Court of Impeachment to dismiss the Articles of Impeachment against President Clinton. To support the motion would undermine the precedents and history of the impeachment process laid out in the Constitution. To my knowledge, the only instances in our history that the Senate has dismissed a Resolution of Impeachment without voting up or down on at least one of the Articles sent over by the House was when the impeached officer resigned before the Senate had the opportunity to act. I do not think we should deviate from our precedents on this occasion.

In voting on the motion to dismiss, we are supposed to assume that even if the President did everything the House claims he did, we should still dismiss the Articles. So for purposes of this motion, we have to assume that he committed every act of obstruction of justice and witness tampering the House has claimed and every instance of perjury before the grand jury that the House claims. This would include perjury before a grand jury sitting to help the Congress determine whether the President committed impeachable offenses.

Mr. President, I have by no means decided whether President Clinton has done everything the House alleges. But if I am to assume all these allegations are correct, I cannot see how in good conscience I can support the motion to dismiss and permit the President to stay in office.•

SUPPORT OF THE MOTION TO DISMISS THE ARTICLES OF IMPEACHMENT AGAINST PRESIDENT CLINTON

• Mr. LIEBERMAN. Mr. President, each Member of the Senate is obligated today to render a judgment, a profound judgment, about the conduct of President William Jefferson Clinton and the call of the House of Representatives to remove him from office. A motion to dismiss the two articles of impeachment lodged against the President has been put before us, and so we must now determine whether there are sufficient grounds to continue with the impeachment trial, or whether we know enough to reach a conclusion and end these proceedings.

I know enough from the record the House forwarded to us and the public record to reach certain conclusions about the President's conduct. President Clinton had an extramarital sexual relationship with a young White House employee, which, though consensual, was reckless and immoral, and thus raised a series of questions about his judgment and his respect for the office. He then made false and misleading statements about that relationship to the American people, to a Federal district court judge in a civil deposition, and to a Federal grand jury; in so doing, he betrayed not only his family but the public's trust, and undermined his public credibility.

But the judgment we must now make is not about the rightness or wrongness of the President's relationship with Monica Lewinsky and his efforts to conceal it. Nor is that judgment about whether the President is guilty of committing a specific crime. That may be determined by a criminal court, which the Senate clearly is not, after he leaves office.

The question before us now is whether the President's wrongdoing—as outlined in the two articles of impeachment—was more than reprehensible, more than harmful, and in this case, more than strictly criminal. We must now decide whether the President's wrongdoing makes his continuance in office a threat to our government, our people, and the national interest. That to me is the extraordinarily high bar the Framers set for removal of a duly-elected President, and it is that standard we must apply to the facts to determine whether the President is guilty of "high Crimes and Misdemeanors."

This trial has now proceeded for 10 session days. Each side has had ample opportunity to present its case, illuminating the voluminous record from the House, and we Senators have been able to ask wide-ranging questions of both parties. I have listened intently throughout, and both the House Managers and the counsel for the President have been very impressive. The House Managers, for their part, have presented the facts and argued the Constitution so effectively that they impelled me more than once to seriously consider voting for removal.

But after much reflection and review of the extensive evidence before us, of the meaning of high crimes and misdemeanors, and, most importantly, of what I believe to be in the best interests of the nation, I have concluded that the facts do not meet the high standard the Founders established and do not justify removing this President from office.

It was for this reason that I decided today to vote in favor of dismissing the articles of impeachment against President Clinton, and against the motion to allow for the testimony of live witnesses. I plan to submit a more detailed statement explaining exactly how I arrived at these decisions when the final votes are taken on the articles of impeachment. But I do think it is important at this point to summarize my arguments for voting to end the trial now.

I start from the indisputable premise that the Founders intended impeachment to be a measure of extreme last resort, because it would disrupt the democratic process they so carefully calibrated and would supersede the right of the people to choose their leaders, which was at the heart of their vision of the new democracy they were creating. That is why I believe that the Constitutional standard in question here—"high Crimes and Misdemeanors"—demands clear and convincing evidence that the President committed offenses that, to borrow from the words of Alexander Hamilton and James Madison respectively, proceed from "the abuse or violation of some public trust," and that demonstrate a "loss of capacity or corruption." A review of the constitutional history convinces me that impeachment was not meant to supplant the criminal justice system but to provide a political remedy for offenses so egregious and damaging that the President can no longer be trusted to serve the national interest.

The House Managers therefore had the burden of proving in a clear and convincing way that the behavior on which the articles of impeachment are based has irreparably compromised the President's capacity to govern in the nation's best interest. I conclude that, as unsettling as their arguments have been, they have not met that burden.

I base that conclusion in part on the factual context of the President's actions. As the record makes abundantly clear, the President's false and misleading statements under oath and his broader deception and cover-up stemmed directly from his private sexual misconduct, something that no other sitting American president to my knowledge has ever been questioned about in a legal setting. On each occasion when I came close to the brink of deciding to vote for one of the articles of impeachment, I invariably came back to this question of context and asked myself: does this sordid story justify, for the first time in our nation's history, taking out of office the person the American people chose to lead the country? Each time I answered, "no."

The record shows that the President was not trying to conceal public malfeasance or some heinous crime, like murder, and I believe that distinction, while not determinative, does matter. The American people, according to most public surveys, also think that distinction matters—which helps us to understand why the overwhelming majority of them can simultaneously hold the views that the President has demeaned his office and yet should not be evicted from it.

In noting this, I recognize that it would be a dereliction of our duty to substitute public opinion polls for our reasoned judgment in resolving this Constitutional crisis. But it would also be a serious error to ignore the people's voice, because in exercising our authority as a court of impeachment we are standing in the place of the voters who re-elected the President two years ago.

In this case, the prevailing public opposition to impeachment has particular relevance, for it provides substantial evidence that the President's misconduct, while harmful to his moral authority and his personal credibility, has not been so harmful as to shatter the public's faith in his ability to fulfill his Presidential duties and act in their interest. Nearly two-thirds of them say repeatedly that they approve of the job that President Clinton is doing and that they oppose his removal, which means that, though they are deeply disaffected by his personal behavior, they do not believe that he has lost his capacity to govern in the national interest.

In reaching my conclusion, I first had to determine that the request of the House Managers to bring witnesses to the floor would not add to the record and the arguments that have been made, or change my conclusion or the outcome of this trial, which most Senators and observers agree will not end in the President's removal. It is true that witnesses may add demeanor evidence, but they will subtract from the Senate's demeanor, and unnecessarily extend the trial for some time, preventing the Senate from returning to the other pressing business of the nation.

Am I content to have this trial end in the articles failing to receive the required two-thirds vote of the Senate for removal? The truth is that nothing about this terrible national experience leaves me comfortable. But an unequivocal, bipartisan statement of censure by Congress would, at least, fulfill our responsibility to our children and our posterity to speak to the common values the President has violated, and make clear what our expectations are for future Presidents. Such a censure would bring better closure to this demeaning and divisive episode, and help us begin to heal the injuries the President's misconduct and the impeachment process's partisanship have done to the American body politic, and to the soul of the nation.•

MOTION TO TAKE DEPOSITIONS OF WITNESSES IN COURT OF IMPEACHMENT OF WILLIAM JEFFERSON CLINTON

• Mr. ABRAHAM. Mr. President, there is a lot about this impeachment process that is new and unfamiliar to all of us. That is all the more reason why we should allow ourselves to be guided by the Constitution and historical precedents in deciding how we proceed. The Constitution's requirement that the Senate "shall have the sole Power to try all Impeachments" certainly suggests that the Senate will ordinarily do more than simply look at the record made by the House in deciding whether to send us Articles of impeachment, and that has generally been the Senate's practice.

Moreover, the Senate sitting as a court of impeachment is charged with seeking the truth in this trial. If any Senators reasonably believe that hearing witnesses would assist in finding the truth, then I believe both the President and the House should have the opportunity to call witnesses. Based on the record before us and the arguments we have heard, it is clear that at least on some of the House's charges, there are factual issues in dispute that the witnesses whom this motion proposes to subpoena for depositions could help us resolve.

It is for this reason, Mr. President, that I support the motion to allow both sides to depose these three witnesses. I do not see why this limited discovery should in any way cause this matter to be drawn out for any extended period of time. Rather, I believe it can be conducted very expeditiously without in any way jeopardizing the Senate's ability to conduct other important legislative business.•

RCRA REFORM LEGISLATION

• Mr. LOTT. Mr. President, for years the Administration has expressed a need for targeted legislation which will provide necessary, regulatory flexibility for successful cleanup goals of the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has unsuccessfully tried several times to address those needs through regulatory reform. While those efforts have attempted to speed cleanup and make more rational requirements, these attempts have repeatedly been met with legal challenges. These challenges severely limit the Agency's ability to effectively address this concern. Furthermore, a General Accounting Office (GAO) study concluded that EPA cannot achieve comprehensive reform through the regulatory process. GAO also believes that such reform can best be achieved by revising the underlying law.

Indeed, my colleagues and I have been working with the Administration and stakeholders for several years to try to give EPA the flexibility it needs. We recognize that Americans are fed up with ineffective environmental programs that do little for cleanup. Americans want their hard-earned dollars used wisely and effectively.

RCRA's goals are very important. RCRA involves cleanup of properties contaminated with hazardous waste, at more than the 5000 sites. Therefore, the barriers to cleanup are a great concern. The GAO report echoes these concerns, noting that EPA believes that current RCRA requirements can lead parties to select cleanup remedies that are either too stringent or not stringent enough—given the risks posed by the wastes. Ultimately these requirements can discourage the cleanup of sites.

The current RCRA cleanup program potentially affects all state cleanups, including the cleanup of "brownfield sites." Brownfields are abandoned, idled, or under-used industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination. As Brownfield redevelopment activities have increased, it has come to our attention that the hazardous waste management and permitting requirements under RCRA either preclude the redevelopment of these properties altogether or significantly add to the cost and time of their redevelopment.

Late last year, EPA attempted once more to address the need for regulatory flexibility to speed effective RCRA cleanups. This new rule, called the Hazardous Waste Identification Rule, addresses several of the disincentives to clean up. We applaud the Agency for its efforts. Nonetheless, EPA notes with certainty that additional reform is needed.

The Administration is sending a clear message. RCRA reforms are desired. EPA will do what it can, and should be commended for their most recent effort. However, legislative reforms are needed this year.

I commend Senators CHAFEE, SMITH, LAUTENBERG, BAUCUS, and BREAUX for their past efforts to address this problem. I have given them my full support in their plans to definitively fix the problem and given certainty to recent agency actions. Thank you for your leadership in recognizing the need for action. This effort addresses a real need, focusing on expediting clean ups. This need can be readily met if we continue to work in a bipartisan manner.•

• Mr. CHAFEE. Mr. President, there are over 6000 contaminated sites across the country waiting to be cleaned up under the Resource Conservation and Recovery Act (RCRA). These sites include active industrial facilities, unused urban lots well suited for redevelopment, and many other sites that have contaminated soil or groundwater. No one disputes that these sites should be cleaned up. But RCRA itself, and certain regulations implementing RCRA, are making it difficult—and unnecessarily costly—to get these sites cleaned up. As a result, cleanups at many sites are delayed for years and, in a number of cases, not performed at all. The waste remains in place, untreated and untouched.

This is an issue where legislative action can both improve the environment and save money. The Government Accounting Office (GAO) issued a report in late 1997 that identified three key requirements under RCRA that pose barriers to cleanups. The GAO concluded EPA's land disposal restrictions, minimum technological requirements for disposal facilities, and permitting requirements, when applied to remediation waste, can significantly increase the cost of a cleanup action and even act as an incentive for parties to abandon cleanups altogether. Tailoring these requirements to address the specific characteristics of remediation waste would eliminate this incentive, facilitating the actual cleanup of thousands of sites, and, according to GAO's estimate, save up $2 billion a year without negatively impacting human health or the environment.

This is an environmental problem that we can and should address. And it is one that we can resolve in a bipartisan manner.

During the 105th Congress, the Majority Leader, Senator BOB SMITH, and I worked with our colleagues on the Environment and Public Works Committee, the Administration, and interested parties to reform RCRA to remove the major regulatory obstacles that currently impede the timely remediation of many contaminated sites. There was a broad consensus that changes needed to be made to make RCRA work better to clean up sites in an environmentally protective manner more quickly and more cost effectively. Unfortunately, we ran out of time before we were able to reach agreement on specific legislation.

The Environmental Protection Agency has issued regulations, including the recently finalized "Hazardous Waste Identification Rule for Contaminated Media," to address some of the regulatory burdens that we sought to eliminate through legislation. I applaud the Agency for its efforts. I believe, however, that there is still a need for legislation in this area to complete the reform the EPA has started. Therefore, I intend to make RCRA remediation waste legislation a priority for the Environment and Public Works Committee this year. Building on the progress that we made in the last Congress, I believe we can draft a bill early this year that will address the remaining regulatory obstacles that exist to achieving environmentally protective and cost effective remediations.

I look forward to working, under Senator LOTT's leadership, on a bipartisan basis, with all parties interested in RCRA reform. I know that Senator SMITH, Chairman of the Environment and Public Works Subcommittee on Superfund, Waste Control and Risk Assessment, shares my commitment to reforming RCRA. This is an issue on which everyone agrees—reform is necessary, and it can be done in a way that will save money without posing a threat to human health or the environment.•

• Mr. SMITH of New Hampshire. Mr. President, I am here today to join my colleagues, Majority Leader TRENT LOTT and Environment Committee Chairman JOHN CHAFEE, in expressing support for enacting legislation this year to reform the remediation waste provisions of the Resource Conservation and Recovery Act (RCRA).

As many of my colleagues know, since I assumed the chairmanship of the Superfund, Waste Control and Risk Assessment Subcommittee, which has jurisdiction over RCRA, I have worked to bring some rational reforms to this hazardous waste law. It is well known that hazardous waste cleanups in this country take too long, are too costly, and inhibit the redevelopment of industrial brownfield sites.

Since I first introduced RCRA remediation legislation in the 104th Congress, I have worked with Senators LOTT, CHAFEE, BREAUX, BAUCUS, and LAUTENBERG, with the Clinton Administration, state governments and members of the industrial and environmental communities to achieve a bipartisan fix to this confusing and burdensome law. Despite our best efforts, we were not able to come to an agreement before the close of the 105th Congress.

However, I am eager to press forward and reach a bipartisan agreement this year. There is simply too much time and money being wasted under the current regulatory process for Congress not to take action on this important issue. In fact, according to a GAO report, as much as $2 billion per year could be saved by making certain common sense legislative fixes to RCRA. In addition to cost savings, cleanups would be accelerated by removing bureaucratic roadblocks. Such reforms mean a win for the economy and a win for the environment.

In closing, I want to reiterate my pledge to working with Senators LOTT, CHAFEE, BAUCUS, and LAUTENBERG to reach consensus on much needed reforms to the RCRA program this year. It will certainly be one of my subcommittee's top priorities.•

TRIBUTE TO MATTHEW CONOR REPETA ON ACHIEVING THE RANK OF EAGLE SCOUT

• Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Matthew Conor Repeta, of Bedford, New Hampshire, on achieving the rank of Eagle Scout. This first-rate young man was awarded the rank of Eagle Scout on September 9, 1998, by the District Eagle Board.

Matthew began scouting at the age of seven in Eagan, Minnesota, as a Tiger Cub. He advanced through the Cub Scout ranks of Bobcat, Wolf, Bear and Webelos. Matthew joined Bedford Troop 414 in 1991. While in Troop 414, he was an Assistant Patrol Leader and a Patrol Leader.

I want to commend Matthew for receiving the highest award that is attainable in Scouting. For his Eagle Project, Matthew built a handicap ramp for a local museum with other scouts from his troop. This example of service demonstrates the ideals for which scouting stands. Matthew exemplifies these qualities for which all Scouts strive: Honor, Loyalty, Courage, Cheerfulness and Service. For all of Matthew's hard work and devotion to these ideals, he has earned this coveted recognition. As the father of two former Scouts, I understand the time and effort that is involved in fulfilling the ideals of being a Scout.

I know that Matthew will continue to be a positive role model among his peers, a leader in his community, a friend to those in need and an inspiration to all. I want to extend my sincerest congratulations and best wishes to Matthew. His achievement of Eagle Scout and significant contributions to the Bedford community are truly outstanding. It is an honor to represent him in the United States Senate.•

DEATH OF MR. VICTOR STELLO, JR.

• Mr. THURMOND. Mr. President, I have the sad duty to inform the Senate of the untimely death of Victor Stello, Jr., an honored civil servant who had a very great influence on the safe operation of commercial nuclear power plants and Department of Energy nuclear facilities.

Mr. Stello came from a family of coal miners in Pennsylvania. It was from seeing the terrible toll on the health of friends and relatives in the mines that he became convinced that safe, clean nuclear power would be a great boon to our country. He worked tirelessly throughout his career to make nuclear power plants safer and safer. At the Nuclear Regulatory Commission he rose through the ranks because his singular ability and forceful personality made it clear that he was a man who got things done. In turn, he was Director of the Division of Reactor Operations, the Office of Safety and Enforcement, and the task force that investigated the Three Mile Island reactor accident. Eventually he reached the highest civil service position at the Nuclear Regulatory Commission, becoming the Executive Director for Operations.

In 1989 because of his reputation for fixing problems, President Bush nominated him to be Assistant Secretary for Defense Programs at the Department of Energy. Despite the pleas of the Secretary of Energy, James Watkins, a group of antinuclear activists delayed his confirmation. Due to this delay and a subsequent serious leg injury, President Bush reluctantly acceded to Mr. Stello's request that the nomination be withdrawn.

Despite this setback, Secretary Watkins persuaded Mr. Stello to join the

Department of Energy as the Principal Deputy Assistant Secretary for Safety and Quality, whose primary duty was to ferret out potentially unsafe practices in Department of Energy nuclear weapons facilities. With his forceful personality, coupled with Secretary Watkins' support and the high responsibility delegated to him by a succession of Assistant Secretaries for Defense Programs, Mr. Stello was able to break through previously impenetrable institutional barriers to effect real and lasting change.

Mr. President, it is because of Mr. Stello's tireless efforts that the Department of Energy reached a high level of safe operations, so that the Nation's critical nuclear deterrent would not become unsafe or unreliable, and that the facilities needed to maintain that deterrent could continue to operate safely.

Mr. President, I ask the Senate to join me in expressing to Mrs. Stello and the children our heartfelt condolences.●

BOZEMAN HIGH SCHOOL MARCHING BAND

● Mr. BURNS. Mr. President, I rise today to recognize the outstanding achievements of Montana's Bozeman High School marching band. On January 1, 1999, two hundred and ninety-eight of Montana's finest students performed in front of an estimated 425 million spectators in the Rose Parade in Pasadena, California.

Each New Year's Day, the world focuses its attention on Pasadena for the Tournament of Roses Parade and Rose Bowl Game. It's a celebration that is more than a century old complete with flowers, music, and sports, unequaled anywhere in the world. This is why it is such an honor to be chosen to perform on this festive day. I want to commend the accomplishments of our young folks.

The Bozeman High School Band program has a history of success in competitions statewide and across the nation. This is to the credit of Director Russ Newbury. In 1998, the band placed second overall at the Mountain West Marching Band Competition in Idaho with the Color Guard winning the show. In Spokane, Washington, Bozeman High placed second two years consecutively at the Lilac Festival Marching Band competition. There are countless other victories for this organization, all of which tell volumes about the quality of students we raise in good ole' Montana.

I stand in front of the nation today to say "congratulations" and "a job well done" to each and every student that represented the State of Montana in this year's Rose Bowl Parade.●

COMMISSIONER ROY C. HOWES RETIRES

● Mr. ABRAHAM. Mr. President, I rise today to honor Roy C. Howes as he celebrates his retirement on January 30, 1999, from the Manistee County Board of Commissioners after forty-five years of service.

Mr. Howes possesses a unique dedication to his community evidenced by his remarkable history of achievements. Since his first term as county commissioner in the 1950's, he has witnessed first hand the dramatic changes in county government and has helped prepare Manistee County for the new millennium. Most notably, Mr. Howes drew upon his experience as a forest farmer and timber operator to institute proper forest management techniques leading to increased county revenue.

In addition to his position as county commissioner, Mr. Howes served on the Michigan Association of Township Supervisors for almost a decade, as well as the state committee that drafted a new Michigan constitution. It was his desire to help older citizens with social security and income tax issues that prompted his initial interest in politics. Mr. Howes continues his good work today by assisting disabled children and students in need of loans as chairman of the board of directors for the Michigan Rural Rehabilitation Corporation.

It is with great admiration that I salute Mr. Howes' contributions to Manistee County and the entire state of Michigan. His work inspires us all to serve to the best of our ability and reassures us that each individual can positively impact his community. I wish Mr. Howes the best of luck for his future.●

OFFICE OF COMPLIANCE REPORT TO CONGRESS

● Mr. THURMOND. Mr. President, pursuant to Section 102(b) of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1302(b)), the Board of Directors of the Office of Compliance have submitted a report to Congress. This document is titled a "Review and Report on the Applicability to the Legislative Branch of Federal Laws Relating to Terms and Conditions of Employment and Access to Public Services and Public Accommodations."

Section 102(b) requires this report to be printed in the Congressional Record, and referred to committees with jurisdiction. Therefore, I ask that the report be printed in the Record.

The report follows:

Office of Compliance—Section 102(b) Report—Review and Report on the Applicability to the Legislative Branch of Federal Laws Relating to Terms and Conditions of Employment and Access to Public Services and Public Accommodations

Prepared by the Board of Directors of the Office of Compliance Pursuant to Section 102(b) of the Congressional Accountability Act of 1995, 2 U.S.C. §1302(b), December 31, 1998

GLOSSARY OF ACRONYMS AND DEFINED TERMS

The following acronyms and defined terms are used in this Report and Appendices:

1996 Section 102(b) Report—the first biennial report mandated by §102(b) of the Congressional Accountability Act of 1995, which was issued by the Board of Directors of the Office of Compliance in December of 1996.

1998 Section 102(b) Report—this, the second biennial report mandated under §102(b) of the Congressional Accountability Act of 1995, which is issued by the Board of Directors of the Office of Compliance on December 31, 1998.

ADA—Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq.

ADEA—Age Discrimination in Employment Act of 1967, 29 U.S.C. §621 et seq.

ADR—Alternative Dispute Resolution.

AG—Attorney General.

Board—Board of Directors of the Office of Compliance.

CAA—Congressional Accountability Act of 1995, 2 U.S.C. §1301 et seq.

CAA laws—the eleven laws, applicable in the federal and private sectors, that are made applicable to the legislative branch by the CAA and are listed in section 102(a) of that Act.

CG—Comptroller General.

Chapter 71—Chapter 71 of title 5, United States Code.

DoL—Department of Labor.

EEO—Equal Employment Opportunity.

EEOC—Equal Employment Opportunity Commission.

EPA—Equal Pay Act provisions of the Fair Labor Standards Act, 29 U.S.C. §206(d).

EPPA—Employee Polygraph Protection Act of 1988, 29 U.S.C. §2001 et seq.

FLRA—Federal Labor Relations Authority.

FLSA—Fair Labor Standards Act of 1938, 29 U.S.C. §201 et seq.

FMLA—Family and Medical Leave Act of 1993, 29 U.S.C. §2611 et seq.

GAO—General Accounting Office.

GAOPA—General Accounting Office Personnel Act of 1980, 31 U.S.C. §731 et seq.

GC—General Counsel. Depending on the context, "GC" may refer to the General Counsel of the Office of Compliance or to the General Counsel of the GAO Personnel Appeals Board.

GPO—Government Printing Office.

Library—Library of Congress.

MSPB—Merit Systems Protection Board.

NLRA—National Labor Relations Act.

NLRB—National Labor Relations Board.

OC—Office of Compliance.

Office—Office of Compliance.

OPM—Office of Personnel Management.

OSH—Occupational Safety and Health.

OSHAct—Occupational Safety and Health Act of 1970, 29 U.S.C. §651 et seq.

PAB—Personnel Appeals Board of the General Accounting Office.

PPA—Portal-to-Portal Act of 1947, 29 U.S.C. §251 et seq.

RIF—Reduction in Force.

Section 230 Study—the study mandated by section 230 of the Congressional Accountability Act of 1995, which was issued by the Board of Directors of the Office of Compliance in December of 1996.

Title VII—Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq.

ULP—Unfair Labor Practice.

USERRA—Section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. chapter 43.

VEOA—Veterans Employment Opportunities Act of 1998, Pub. Law No. 105-339.

WARN Act—Worker Adjustment and Retraining Notification Act, 29 U.S.C. §2101 et seq.

EXECUTIVE SUMMARY

In this Report, issued under section 102(b) of the Congressional Accountability Act of 1995 ("CAA"), the Board of Directors of the Office of Compliance reviews new statutes or statutory amendments enacted after the Board's 1996 Report was prepared, and recommends that certain other inapplicable laws should be made applicable to the legislative branch. In the second part of this Report, the Board reviews inapplicable provisions of the private-sector laws generally made applicable by the CAA (the "CAA laws"),[1] and reports on whether and to what degree these provisions should be made applicable to the legislative branch. Finally, the Board reviews and makes recommendations on whether to make the CAA or another body of laws applicable to the General Accounting Office ("GAO"), the Government Printing Office ("GPO"), and the Library of Congress ("Library").

Part I

After reviewing all federal laws and amendments relating to terms and conditions of employment or access to public accommodations and services passed since October, 1996, the Board concludes that no new provisions of law should be made applicable to the legislative branch. Two laws relating to terms and conditions of employment were amended, but substantial provisions of each law have already been made applicable to the legislative branch. However, the provisions of private-sector law which the Board identified in 1996 in its first Section 102(b) Report as having little or no application in the legislative branch have not yet been made applicable, and the Board's experience in the administration and enforcement of the Act in the two years since that first report was submitted to Congress has raised several new issues.

Based on the work of the 1996 Section 102(b) Report, the Board makes the following two sets of recommendations.

(1) The Board resubmits the recommendations made in the 1996 Section 102(b) Report that the following provisions of laws be applied to employing offices within the legislative branch: Prohibition Against Discrimination on the Basis of Bankruptcy (11 U.S.C. §525); Prohibition Against Discharge from Employment by Reason of Garnishment (15 U.S.C. §1674(a)); Prohibition Against Discrimination on the Basis of Jury Duty (28 U.S.C. §1875); Titles II and III of the Civil Rights Act of 1964 (42 U.S.C. §§2000(a) to 2000a-6, 2000b to 2000b-3) (prohibiting discrimination on the basis of race, color, religion, or national origin regarding the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation as defined in the Act).

(2) After further study of the whistleblower provisions of the environmental laws (15 U.S.C. §2622; 33 U.S.C. §1367; 42 U.S.C. §§300j-9(i), 5851, 6971, 7622, 9610) on which the Board had previously deferred decision, the Board now concludes that the better construction of these provisions is that they cover the legislative branch. However, because arguments could be made to the contrary, the Board recommends that language should be added to make clear that all entities within the legislative branch are covered by these provisions.

Based on its experience in the administration and enforcement of the Act and employee inquiry since the 1996 Report was issued, the Board makes the following two recommendations:

(1) Employee "whistleblower" protections, comparable to those generally available to employees covered by 5 U.S.C. §2302(b)(8), should be made applicable to the legislative branch[2] to further the institutional and public policy interest in preventing reprisal or intimidation for the disclosure of information which evidences fraud, waste, or abuse or a violation of applicable statute or regulation.

(2) The Board has found that Congress has created a number of special-purpose study commissions in which some or all members are appointed by the Congress. These commissions are not listed as employing offices under the CAA and, in some cases, such commissions may not be covered by other, comparable protections. The Board therefore believes that the coverage of such special-purpose study commissions should be clarified.

Part II

Having reviewed all the inapplicable provisions of the private-sector CAA laws,[3] the Board focuses its recommendations on enforcement,[4] the area in which Congress made the most significant departures from the private-sector provisions of the CAA laws.

The Board makes the following specific recommendations of changes to the CAA:

(1) grant the Office the authority to investigate and prosecute violations of section 207 of the CAA, which prohibits intimidation or reprisal for opposing any practice made unlawful by the Act or for participation in any proceeding under the Act;

(2) clarify that section 215(b) of the CAA, which makes applicable the remedies set forth in section 13(a) of the Occupational Safety and Health Act of 1970 ("OSHAct"), gives the General Counsel the authority to seek a restraining order in district court in the case of imminent danger to health or safety; and

(3) make the record-keeping and notice-posting requirements of the private-sector laws applicable under the CAA.

The Board also makes the following general recommendations:

(4) extend the benefits of the model alternative dispute resolution system created by the CAA to the private and federal sectors to provide them with the same efficient and effective method of resolving disputes that the legislative branch now enjoys; and

(5) grant the Office the other enforcement authorities exercised by the agencies which implement those CAA laws for the private sector in order to ensure that the legislative branch experiences the same burdens as the private sector.

The Board further suggests that, to realize fully the goals of the CAA—to assure that "congressional employees will have the civil rights and social legislation that has ensured fair treatment of workers in the private sector" and to "ensure that Members of Congress will know firsthand the burdens that the private sector lives with"[5]—all inapplicable provisions of the CAA laws should, over time, be made applicable.

Part III

The Board identifies three principal options for coverage of the three instrumentalities:

(1) CAA Option—Coverage under the CAA, including the authority of the Office of Compliance as it administers and enforces the CAA (as the CAA would be modified by enactment of the recommendations made in Part II of this Report.)

(2) Federal-Sector Option—Coverage under the statutory and regulatory regime that applies generally in the executive branch of the federal sector, including the authority of executive-branch agencies as they administer and enforce the laws in the federal sector.

(3) Private-Sector Option—Coverage under the statutory and regulatory regimes that apply generally in the private sector, including the authority of the executive-branch agencies as they administer and enforce the laws in the private sector.[6]

The Board compared these options with the current regimes at GAO, GPO, and the Library, identifying the significant effects of applying each option.[7]

The Board concludes that coverage under the private-sector regime is not the best of the options it considered. Members Adler and Seitz recommend that the three instrumentalities be covered under the CAA, with certain modifications, and Chairman Nager and Member Hunter recommend that the three instrumentalities be made fully subject to the laws and regulations generally applicable in the executive branch of the federal sector.

The analysis and conclusions in this report are being made solely for the purposes set forth in section 102(b) of the Congressional Accountability Act of 1995. Nothing in this report is intended or should be construed as a definitive interpretation of any factual or legal question by the Office of Compliance or its Board of Directors.

The Board of Directors of the Office of Compliance gratefully acknowledges the contributions of Lawrence B. Novey and Eugenie N. Barton for their work on this report.

---

[1] This report uses the term "CAA laws" to refer to the eleven laws, applicable in the federal and private sectors, made applicable to the legislative branch by the CAA and listed in section 102(a) of that Act.

[2] Such protections are already generally available to employees at GAO and GPO.

[3] The table of the private-sector provisions of the CAA laws not made applicable by the CAA, set forth in Appendix I to this Report, details these exceptions.

[4] The private-sector enforcement authority tables, set forth in Appendix II to this Report, summarize the enforcement authorities afforded to the implementing executive-branch agencies under the private-sector laws made applicable by the CAA in those areas in which the CAA does not already grant enforcement authority to the Office.

[5] 141 Cong. Rec. S441 (daily ed. Jan. 9, 1995) (statement of Senator Grassley).

[6] The coverage described in each of the three options would supersede only provisions of law which provide substantive rights analogous to those provided under the CAA or which establish analogous administrative, judicial, or rulemaking processes to implement, remedy, or enforce such rights. Substantive rights under federal-sector or other laws having no analogue in the CAA, and processes used to implement, remedy, or enforce such rights, would not be affected by the coverage described in the three options.

[7] The comparisons, which are presented in detail in tables set forth in Appendix III to this Report, cover the CAA, the laws made applicable by the CAA, analogous laws that apply in the federal sector and the private sector, and mechanisms for applying and enforcing them.

SECTION 102(b) REPORT

INTRODUCTION

Congress enacted the Congressional Accountability Act of 1995 ("CAA") so that there would no longer be "one set of protections for people in the private sector whose employees are protected by the employment, safety and civil rights laws, but no protection, or very little protection, for employees on Capitol Hill,"[8] and to "ensure that Members of Congress will know firsthand the burdens that the private sector lives with."[9] Thus, the CAA provides employees of the Congress and certain congressional instrumentalities with the protections of specified provisions of eleven federal employment, labor, and public access laws. (This Report refers to those laws as the "CAA laws").[10] Further, the Act generally applies the same substantive provisions and judicial remedies of the CAA laws as govern employment and public access in the private sector to ensure that Congress would live under the same laws as the rest of the nation's citizens.

However, the Act departed from the private-sector model in a number of significant respects. New institutional, adjudicatory, and rulemaking models were created. Concerns about subjecting itself to regulation, enforcement or administrative adjudication by executive-branch agencies led Congress to establish an independent administrative agency in the legislative branch, the Office of Compliance (the "OC" or the "Office"), to administer and enforce the Act. The Office's administrative and enforcement authorities differ significantly from those in place at the executive-branch agencies which administer and enforce the eleven CAA laws for the private sector and/or the federal-sector. Most notably, the Act did not grant the OC independent investigation and prosecutorial authority comparable to that of analogous executive-branch agencies. Instead, the Act created new, confidential administrative dispute resolution procedures, including compulsory mediation, as a prerequisite to access to the courts. Finally, the Act granted the OC limited substantive rulemaking authority. Substantive regulations under the CAA are adopted by the Board of Directors (the "Board"). The House and Senate retained the right to approve those regulations, but the CAA provides that, in the absence of Board action and congressional approval, the applicable private-sector regulations or federal-sector regulations apply, with one exception involving labor-management relations.[11]

In terms of substantive law, the Act did not include some potentially applicable laws and made applicable only certain provisions of the CAA laws. Moreover, the Act applied the Federal Labor-Management Relations Act, 5 U.S.C. chapter 71 ("Chapter 71"), rather than the private-sector model, and gave the Board authority to create further exclusions from labor-management coverage if the Board found such exclusions necessary because of conflict of interest or Congress's constitutional responsibilities.[12]

Finally, the CAA was not made applicable throughout the legislative branch. The CAA only partially covered the three largest instrumentalities of the Congress, the General Accounting Office ("GAO"), the Government Printing Office ("GPO"), and the Library of Congress (the "Library"), which were already covered in large part by a variety of different provisions of federal-sector laws, administered by the three instrumentalities themselves and/or executive-branch agencies.

Congress left certain areas to be addressed later, after further study and recommendation, as provided for by sections 102(b) and 230 of the Act. To promote the continuing accountability of Congress, section 102(b) of the CAA required the Board to review biennially all provisions of federal law and regulations relating to the terms and conditions of employment and access to public services and accommodations; to report on whether or to what degree the provisions reviewed are applicable or inapplicable to the legislative branch; and to recommend whether those provisions should be made applicable to the legislative branch. Additionally, section 230 of the CAA mandated a study of the status of the application of the eleven CAA laws to GAO, GPO, and the Library, to "evaluate whether the rights, protections, and procedures, including administrative and judicial relief, applicable to [these instrumentalities] . . . are comprehensive and effective . . . includ[ing] recommendations for any improvements in regulations or legislation."[13] These reports were to review aspects of legislative-branch coverage which required further study and recommendation to the Congress once the OC and its Board had gained experience in the administration of the Act and Congress had gained experience in living under the Act.

1996 Section 102(b) Report. In December of 1996, the Board completed its first biennial report mandated under section 102(b) of the CAA (the "1996 Section 102(b) Report"), which reviewed and analyzed the universe of federal law relating to labor, employment and public access, made the Board's initial recommendations, and set priorities for future reports.[14] To conduct its analysis, the Board organized the provisions of federal law in tabular form according to the kinds of entities to which they applied, and systematically analyzed whether and to what extent they were already applicable to the legislative branch or whether the legislative branch was already covered by other comparable legislation. This generated four tables: the first listed and reviewed those provisions of law generally applicable in the private sector and/or in state and local government that also are already applicable to entities in the legislative branch, a category which included nine of the laws made applicable by the CAA. The second table contained and reviewed those provisions of law that apply only in the federal sector, a category which included the two exclusively federal-sector laws applied to the legislative branch by the CAA. The third table listed and reviewed five private-sector and/or state- and local-government provisions of law that do not apply in the legislative branch, but govern areas in which Congress has already applied to itself other, comparable provisions of law. The last table listed and reviewed thirteen other private-sector laws which do not apply or have only very limited application in the legislative branch.

The Board then turned to its task of recommending which statutes should be applied to the legislative branch. In light of the large body of statutes that the Board had identified and reviewed, the Board determined that it could not make recommendations concerning every possible change in legislative-branch coverage, for "that would be the work of many years and many hands."[15] The Board further recognized that biennial nature of report, as well as the history and structure of the CAA, argued "for accomplishing such statutory change on an incremental basis."[16]

In setting its priorities for making recommendations from among the categories of statutes that the Board had identified for analysis and review, the Board sought to mirror the priorities of the CAA. Because legislative history suggested that highest priority of the CAA was the application of private-sector protections to congressional employees where those employees had little or no protection, the Board focused its recommendations in its first report on applying the private-sector laws not currently applicable to the legislative branch. The Board determined that, because of the CAA's focus on coverage of the Congress under private-sector laws, the Board's next priority should be to review the inapplicable provisions of the private-sector laws generally made applicable by the CAA.

The laws detailed in the other two tables were given a lower priority. Because determining whether and to what degree federal-sector provisions of law should be made applicable to the legislative branch "involve[s], in part, weighing the merits of the protections afforded by the CAA against those provided under other statutory schemes, the Board determined that, in . . . its first year of administering the CAA, [the Board determined that] it would be premature for the Board to make such comparative judgments."[17] Additionally, among the patchwork of federal-sector laws, which had come to cover some of the instrumentalities of the Congress, were laws the effectiveness and efficiency of which were then (and remain) under review by the Executive Branch. Similarly, the Board deferred consideration of laws that were not applicable, but where the Congress had applied a comparable provision, because the Board concluded that "as the Board gains rulemaking and adjudicatory experience in the application of the

---

[8] 141 Cong. Rec. S622 (daily ed. Jan. 9, 1995) (statement of Senator Grassley).

[9] *Id.* at S441.

[10] The nine private-sector laws made applicable by the CAA are: the Fair Labor Standards Act of 1938 (29 U.S.C. §201 et seq.) ("FLSA"), Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e et seq.) ("Title VII"), the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) ("ADA"), the Age Discrimination in Employment Act of 1967 (29 U.S.C. §621 et seq.) ("ADEA"), the Family and Medical Leave Act of 1993 (29 U.S.C. §2611 et seq.) ("FMLA"), the Occupational Safety and Health Act of 1970 (29 U.S.C. §651 et seq.) ("OSHAct"), the Employee Polygraph Protection Act of 1988 (29 U.S.C. §2001 et seq.) ("EPPA"), the Worker Adjustment and Retraining Notification Act (29 U.S.C. §2101 et seq.) ("WARN Act"), and section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"). The two federal-sector laws made applicable by the CAA are: Chapter 71 of title 5, United States Code (relating to federal service labor-management relations) ("Chapter 71"), and the Rehabilitation Act of 1973 (29 U.S.C. §701 et seq.).

[11] With respect to the offices listed in §220(e)(2) of the CAA, the application of rights under Chapter 71 shall become effective only after regulations regarding those offices are adopted by the Board and approved by the House and Senate. *See* §§220(f)(2), 411, of the CAA.

[12] *See* §220(e) of the CAA.

[13] 2 U.S.C. §1371(c). Originally, the Administrative Conference of the United States was charged with carrying out the study and making recommendations for improvements in the laws and regulations governing the instrumentalities, but when the Conference lost its funding, the responsibility for the study was transferred to the Board.

[14] Section 102(b) Report: Review and Report of the Applicability to the Legislative Branch of Federal Law Relating to Terms and Conditions of Employment and Access to Public Services and Accommodations (Dec. 31, 1996).

[15] *Id.* at 3.

[16] *Id.*

[17] *Id.* at 4.

CAA to the legislative branch, the Board will be better situated to formulate recommendations about appropriate changes in those different statutory schemes."[18] In sum, the Board determined to follow the apparent priorities of the CAA itself, turning first to the application of currently inapplicable private-sector laws, and next in this, its second Section 102(b) Report, reviewing the omissions in coverage of the laws made applicable by the CAA and making recommendations for change.

Section 230 Study. At the same time as it completed its first report under section 102(b), the Board in its study mandated under section 230 of the CAA (the "Section 230 Study")[19] analyzed the application of labor, employment and public access laws to GAO, GPO, and the Library, evaluating the statutory and regulatory regimes in place at these instrumentalities to determine whether they were "comprehensive and effective."[20] To do so, the Board had to establish a point of comparison, and determined that the CAA itself was the benchmark intended by Congress. Further, the Board gave content to the terms "comprehensive and effective," defining those terms according to the Board's statutory charge to examine the adequacy of "rights, protections, and procedures, including administrative and judicial relief."[21] Four categories were examined—substantive law; administrative processes and relief; judicial processes and relief; and substantive regulations—to determine whether the regimes at the instrumentalities were "comprehensive and effective" according to: (1) the nature of the substantive rights and protections afforded to employees, both as guaranteed by statute and as applied by rules and regulations; (2) the adequacy of administrative processes, including: (*a*) adequate enforcement mechanisms for monitoring compliance and detecting and correcting violations, and (*b*) a fair and independent mechanism for informally resolving or, if necessary, investigating, adjudicating, and appealing disputes; (3) the availability and adequacy of judicial processes and relief; and (4) the adequacy of any process for issuing substantive regulations specific to an instrumentality, including proposal and adoption by an independent regulatory authority under appropriate statutory criteria.[22]

The Board concluded that "overall, the rights, protections, procedures and [judicial and administrative] relief afforded to employees" were "comprehensive and effective when compared to those afforded to other legislative-branch employees under the CAA," but pointed out several gaps and a number of significant differences in coverage.[23] However, the Board explained that it was "premature" to make recommendations at that "early stage of its administration of the Act,"[24] as to whether changes were necessary in the coverage applicable in these instrumentalities. The Board further stated that its ongoing reporting requirement under section 102(b) argued for accomplishing such statutory change on an incremental basis as the Board gained experience in the administration of the CAA. The conclusions in the Section 230 Study thus properly would serve at the appropriate time as "the foundation for recommendations for change" in a subsequent report under section 102(b) of the CAA.[25]

The time is now ripe for the Board to make recommendations for change in the coverage of the three instrumentalities which are appropriately included as part of this Report. The Board has had over three years' experience in the administration of the rights, protections and procedures made applicable to the legislative branch by the CAA. This experience in administering and enforcing the CAA and assessing its strengths and weaknesses in making recommendations respecting changes in the CAA to make the Act comprehensive and effective with respect to those parts of the legislative branch already covered under the CAA has augmented the structural foundation set down in the Section 230 Study. Thus, the Board has both the substantive and experiential bricks and mortar to model the options for changes in the regimes covering the three largest instrumentalities. Moreover, procedural rulemaking to extend the Procedural Rules of the Office of Compliance to cover proceedings commenced by GAO and Library employees alleging violations of sections 204–207 of the CAA raised questions as to the current status of substantive and procedural coverage of the instrumentalities under the Act, demonstrating an immediate need for Congress to clarify the relationship between the CAA and the instrumentalities.

Accordingly, this Report has three parts. In the first, the Board fulfills its general responsibility under section 102(b), by presenting a review of laws enacted after the 1996 Section 102(b) Report and recommendations as to which laws should be made applicable to the legislative branch. The second part analyzes which private-sector provisions of the CAA laws do not apply to the legislative branch and which should be made applicable. The third part reviews current coverage of GAO, GPO, and the Library of Congress under the laws made applicable by the CAA and presents the Board's recommendations for change.

I. REVIEW OF LAWS ENACTED AFTER THE 1996 SECTION 102(b) REPORT, AND REPORT RECOMMENDING THAT CERTAIN OTHER INAPPLICABLE LAWS SHOULD BE MADE APPLICABLE

A. Background

Section 102(b) of the CAA directs the Board of Directors of the Office of Compliance to—

> review provisions of Federal law (including regulations) relating to (A) the terms and conditions of employment (including hiring, promotion, demotion, termination, salary, wages, overtime compensation, benefits, work assignments or reassignments, grievance and disciplinary procedures, protection from discrimination in personnel actions, occupational health and safety, and family and medical and other leave) of employees, and (B) access to public services and accommodations.

And, on the basis of this review—beginning on December 31, 1996, and every 2 years thereafter, the Board shall report on (A) whether or to what degree the provisions described in paragraph (1) are applicable or inapplicable to the legislative branch, and (B) with respect to provisions inapplicable to the legislative branch, whether such provisions should be made applicable to the legislative branch.

In preparing this part of the 1998 Section 102(b) Report, all federal laws and amendments passed since October 1996 were reviewed to identify any new laws and changes in existing laws relating to terms and conditions of employment or access to public accommodations and services. The results of that review are reported here.[26] Further, in this part of the current Section 102(b) Report, the Board addresses the question of coverage of the legislative branch under the environmental whistleblower provisions which the Board deferred in the previous, 1996 Report. The Board also notes that the provisions of private-sector law which the Board identified in that Section 102(b) Report as having little or no application in the legislative branch have not yet been made applicable, and the Board therefore also resubmits its recommendations regarding those provisions here. Based on experience in the administration and enforcement of the Act in the two years since that first report was submitted to Congress, the Board addresses two other areas—whistleblower protection and coverage of special study commissions—which, due to employee inquiry, the Board believes merit attention now.

B. Review and Report on Laws Passed Since October 1996

With two exceptions, the Congress did not pass a new law or significantly amend an existing law relating to terms and conditions of employment or access to public accommodations since the 1996 Section 102(b) Report. The first exception is the Postal Employees Safety Enhancement Act, Pub. L. No. 105–241, which amends the OSHAct to apply it to the United States Postal Service. The second exception is the Veterans Employment Opportunities Act of 1997 ("VEOA"), Pub. L. No. 105–339, which provides for expanded veterans' preference eligibility and retention in the executive branch and for those legislative-branch employees who are in the competitive service.

Both the OSHAct and the VEOA already apply to a substantial extent to the legislative branch. The OSHAct was made generally applicable to the legislative branch by section 215 of the CAA, and, in Parts II and III of this 1998 Section 102(b) Report, the Board has reviewed the extent to which specific provisions of the OSHAct apply within the legislative branch, and has made recommendations.

As to the VEOA, selected provisions of the Act apply to employees meeting the definition of "covered employee" under the CAA, excluding those employees whose appointment is made by a Member or Committee of Congress, and the VEOA assigns responsibility to the Board to implement veterans' preference requirements as to these employees. It is premature for the Board now, two months after enactment of the VEOA, to express any views about the extent to which veterans' preference rights do, or should, apply in the legislative branch, but the

---

[18] *Id.*

[19] Section 230 Study: Study of Laws, Regulations, and Procedures at the General Accounting Office, the Government Printing Office and the Library of Congress (Dec. 1996) at iii.

[20] 2 U.S.C. §1371(c).

[21] *Id.*

[22] Section 230 Study at ii.

[23] *Id.*

[24] *Id.*

[25] *Id.*

[26] As in the 1996 Section 102(b) Report, excluded from consideration were those laws that, although employment-related, (1) are specific to narrow or specialized industries or types of employment not found in the legislative branch (*e.g.*, employment in maritime or mining industries, or the armed forces, or employment in a project funded by federal grants or contracts); or (2) establish government programs of research, data-collection, advocacy, or training, but do not establish correlative rights and responsibilities for employees and employers (*e.g.*, statutes authorizing the Women's Bureau or the Bureau of Labor Statistics); or (3) authorize, but do not require, that employers provide benefits to employees, (*e.g.* so-called "cafeteria plans" authorized by 26 U.S.C. §125).

Board may decide to do so in a subsequent biennial report under section 102(b).

C. Report and Recommendations Respecting Laws Addressed in the 1996 Section 102(b) Report

1. Resubmission of Earlier Recommendations

The Board of Directors resubmits the following recommendations made in the 1996 Section 102(b) Report:

(a) Prohibition against discrimination on the basis of bankruptcy (11 U.S.C. §525). Section 525(a) provides that "a governmental unit" may not deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under the bankruptcy statutes. This provision currently does not apply to the legislative branch. For the reasons stated in the 1996 Section 102(b) Report, the Board reports that the rights and protections against discrimination on this basis should be applied to employing offices within the legislative branch.

(b) Prohibition against discharge from employment by reason of garnishment (15 U.S.C. §1674(a)). Section 1674(a) prohibits discharge of any employee because his or her earnings "have been subject to garnishment for any one indebtedness." This section is limited to private employers, so it currently has no application to the legislative branch. For the reason set forth in the 1996 Section 102(b) Report, the Board has determined that the rights and protections against discrimination on this basis should be applied to employing offices within the legislative branch.

(c) Prohibition against discrimination on the basis of jury duty (28 U.S.C. §1875). Section 1875 provides that no employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service, in any court of the United States. This section currently does not cover legislative-branch employment. For the reason set forth in the 1996 Section 102(b) Report, the Board has determined that the rights and protections against discrimination on this basis should be applied to employing offices within the legislative branch.

(d) Titles II and III of the Civil Rights Act of 1964 (42 U.S.C. §§2000a to 2000a–6, 2000b to 2000b–3). These titles prohibit discrimination or segregation on the basis of race, color, religion, or national origin regarding the goods, services, facilities, privileges, advantages, and accommodations of "any place of public accommodation" as defined in the Act. Although the CAA incorporated the protections of titles II and III of the ADA, which prohibit discrimination on the basis of disability with respect to access to public services and accommodations, it does not extend protection against discrimination based upon race, color, religion, or national origin with respect to access to public services and accommodations. For the reasons set forth in the 1996 Section 102(b) Report, the Board has determined that the rights and protections afforded by titles II and III of the Civil Rights Act of 1964 against discrimination with respect to places of public accommodation should be applied to employing offices within the legislative branch.

2. Employee Protection Provisions of Environmental Statutes

(a) Report. The Board adds a recommendation respecting coverage under the employee protection provisions of the environmental protection statutes. The employee protection provisions in the environmental protection statutes (15 U.S.C. §2622; 33 U.S.C. §1367; 42 U.S.C. §§300j–9(i), 5851, 6971, 7622, 9610) generally protect an employee from discrimination in employment because the employee commences proceedings under the applicable statutes, testifies in any such proceeding, or assists or participates in any way in such a proceeding or in any other action to carry out the purposes of the statutes. In the 1996 Report the Board reviewed and analyzed these provisions but "reserve[d] judgement on whether or not these provision should be made applicable to the legislative branch at this time" because, among other things, it was "unclear to what extent, if any, these provisions apply to entities in the legislative branch."[27]

Upon further review, applying the principles stated in the 1996 Report,[28] the Board has now concluded that there is sound reason to construe these provisions as applicable to the legislative branch. However, because it is possible to construe certain of these provisions as inapplicable, the Board recommends that Congress should adopt legislation clarifying that the employee protection provisions in the environmental protection statutes apply to all entities within the legislative branch.

(b) Recommendation: Legislation should be adopted clarifying that the employee protection provisions in the environmental protection statutes apply to all entities within the legislative branch.

D. Report and Recommendations in Areas Identified by Experience

1. Employee "Whistleblower" Protection

(a) Report. Civil service law[29] provides broad protection to "whistleblowers" in the executive branch and at GAO and GPO, but these provisions do not apply otherwise in the legislative branch. Employees subject to these provisions are generally protected against retaliation for having disclosed any information the employee reasonably believes evidences a violation of law or regulation, gross mismanagement or abuse of authority, or substantial danger to public health or safety. (In the private sector, whistleblowers are also often protected by provisions of specific federal laws.[30]) The Office has received a number of inquiries from congressional employees concerned about protection against possible retaliation by an employing office for the disclosure of what the employee perceives to be such information. The absence of specific statutory protection such as that provided under 5 U.S.C. §2302(b)(8) chills the disclosure of such information. Granting "whistleblower" protection could significantly improve the rights and protections afforded to legislative-branch employees in an area fundamental to the institutional integrity of the legislative branch.

(b) Recommendation: Congress should provide whistleblower protection to legislative-branch employees comparable to that provided to executive-branch employees under 5 U.S.C. §2302(b)(8).

2. Coverage of Special-Purpose Study Commissions

(a) Report. The Office has been asked questions respecting the coverage of certain special-purpose study commissions that include members appointed by Congress or by officers of Congressional instrumentalities. Such commissions are not expressly listed in section 101(9) of the CAA in the definition of "employing offices" covered under the CAA, and in some cases it is unclear whether commission employees are covered under rights and protections comparable to those granted by the CAA. The Board believes that the coverage of such special-purpose study commissions should be clarified.

(b) Recommendation: Congress should specifically designate the coverage under employment, labor, and public access laws that it intends, both when it creates special-purpose study commissions that include members appointed by Congress or by legislative-branch officials, and for such commissions already in existence.

II. REVIEW OF INAPPLICABLE PRIVATE-SECTOR PROVISIONS OF CAA LAWS AND REPORT ON WHETHER THOSE PROVISIONS SHOULD BE MADE APPLICABLE

A. Background

In its first Section 102(b) Report,[31] the Board determined that it should, in future section 102(b) reports, proceed incrementally to review and report on currently inapplicable provisions of law, and recommend whether these provisions should be made applicable, as experience was gained in the administration and enforcement of the Act. The next report to Congress would be an "in depth study of the specific exceptions created by Congress"[32] from the nine private-sector laws made applicable by the CAA[33] because the application of these private-sector laws was the highest priority in enacting the CAA.[34]

Part II of this second Section 102(b) Report considers these specific exceptions,[35] focusing on enforcement, the area in which Congress made the most significant departures from the private-sector provisions of the CAA laws. In this part of the Report, the Board reviews the remedial schemes provided under the CAA with respect to the nine private-sector laws made applicable, evaluates their efficacy in light of three years of experience in the administration and enforcement of the Act, and compares these CAA remedial schemes with those authorities provided for the vindication of the CAA laws in the private sector.[36] Based on this review and analysis and the Board's statutory charge to recommend whether inapplicable provisions of law "should be made applicable to the legislative branch,"[37] the Board makes a number of recommendations respecting the application of these currently inapplicable enforcement provisions.

---

[27] 1996 Section 102(b) Report at 6.

[28] The Board stated in the 1996 Section 102(b) Report: "The Board has generally followed the principle that coverage must be clearly and unambiguously stated." Section 102(b) Report at 2. Furthermore, as to private-sector provisions, the Board stated: "Because a major goal of the CAA was to achieve parity with the private sector, the Board has determined that, if our review reveals no impediment to applying the provision in question to the legislative branch, it should be made applicable." *Id.* at 4–5.

[29] *See, e.g.*, 5 U.S.C. §2302(b)(8).

[30] *See, e.g.*, 15 U.S.C. §2622; 33 U.S.C. §1367; 42 U.S.C. §§300j-9(i), 5851, 6971, 7622, 9610 (the employee protection provisions of various environmental statutes), discussed on page 13 above. Other whistleblower protection may be provided through state statute or state common law, which are outside the scope of this Report.

[31] *See* 1996 section 102(b) report.

[32] *Id.* at 4.

[33] The private-sector laws made applicable by the CAA are listed in note 10, at page 5, above.

[34] *See* 1996 section 102(b) report at 3.

[35] The table of significant provisions of the private-sector CAA laws not yet made applicable by the CAA, set forth in Appendix I to this Report, details these exceptions.

[36] The private-sector enforcement authority tables, set forth in Appendix II to this Report, summarize the enforcement authorities afforded to the implementing executive-branch agencies under the private-sector laws made applicable by the CAA in those areas in which the CAA does not already grant enforcement authority to the Office.

[37] Section 102(b)(2)(B) of the CAA.

The statute provides no direct guidance to the Board in recommending whether a provision "should be made applicable."[38] The Board has therefore made these recommendations in light of its experience and expertise with respect to both the application of these laws to the private sector[39] and the administration and enforcement of the Act, as well as its understanding of the general purposes and goals of the Act. In particular, the Board intends that these recommendations should further a central goal of the CAA to create parity with the private sector so that employers and employees in the legislative branch would experience the same benefits and burdens as the rest of the nation's citizens.

B. Recommendations

The Board makes the following three specific recommendations of changes to the CAA respecting the application of these currently inapplicable enforcement provisions:[40]

1. Grant the Office the authority to investigate and prosecute violations of §207 of the CAA, which prohibits intimidation and reprisal

The Board recommends that the Office should be granted enforcement authority with respect to section 207 of the CAA because of the strong institutional interest in protecting employees against intimidation or reprisal for the exercise of the rights provided by the CAA or for participation in the CAA's processes. Investigation and prosecution by the Office would more effectively vindicate those rights, dispel the chilling effect that intimidation and reprisal create, and protect the integrity of the Act and its processes.

As the tables indicate, enforcement authority with respect to intimidation or reprisal is provided to the agencies that administer and enforce the CAA laws in the private sector.[41] In contrast, under the CAA, the rights and protections provided by section 207 are vindicated only if the employee, after counseling and mediation, pursues his or her claim before a hearing officer or in district court. Experience in the administration and enforcement of the CAA argues that the Office should be granted comparable authority to that exercised by the executive-branch agencies that implement the CAA laws in the private sector. Covered employees who have sought information from the Office respecting their substantive rights under the Act and the processes available for vindicating these rights have expressed concern about their exposure in coming forward to bring a claim, as well as a reluctance and an inability to shoulder the entire litigation burden without the support of agency investigation or prosecution. Moreover, employees who have already brought their original dispute to the counseling and mediation processes of the Office and then perceive a reprisal for that action may be more reluctant to use once again the very processes that led to the claimed reprisal.

Whatever the reasons a particular employee does not bring a claim of intimidation or reprisal, such unresolved claims threaten to undermine the efficacy of the CAA. Particularly detrimental is the chilling effect on other employees who may wish to bring a claim or who are potential witnesses in other actions under the CAA. Without effective enforcement against intimidation and reprisal, the promise of the CAA that "congressional employees will have the civil rights and social legislation that ensure fair treatment of workers in the private sector"[42] is rendered illusory.

Therefore, in order to preserve confidence in the Act and to avoid chilling legislative branch-employees from exercising their rights or supporting others who do, the Board has concluded that the Congress should grant the Office the authority to investigate and prosecute allegations of intimidation or reprisal as they would be investigated and prosecuted in the private sector by the implementing agency. Enforcement authority can be exercised in harmony with the alternative dispute resolution process and the private right of action provided by the CAA, and will further the purposes of section 207 of the Act.

2. Clarify that §215(b) of the CAA, which makes applicable the remedies set forth in §13(a) of the OSHAct, gives the General Counsel the authority to seek a restraining order in district court in case of imminent danger to health or safety

With respect to the substantive provisions for which the Office already has enforcement authority,[43] the Board's experience to date has illuminated a need to revisit only one area, section 215(b) of the CAA which provides the remedy for a violation of the substantive provisions of the OSHAct made applicable by the CAA.[44] Under section 215(b) the remedy for a violation of the CAA shall be a corrective order, "including such order as would be appropriate if issued under section 13(a)" of the OSHAct. Among other things, the OSHAct authorizes the Secretary of Labor to seek a temporary restraining order in district court in the case of imminent danger. The General Counsel of the Office of Compliance, who enforces the OSHAct provisions as made applicable by the CAA, takes the position that section 213(b), by its terms, gives him the same standing to petition the district court for a temporary restraining order in a case of imminent danger as the Labor Department has under the OSHAct. However, it has been suggested that the language of section 213(b) does not clearly provide that authority.

Although it has not yet proven necessary to resolve a case of imminent danger by means of court order because compliance with the provisions of section 5 of the OSHAct has been achieved through other means,[45] the express authority to seek preliminary injunctive relief is essential to the Office's ability promptly to eliminate all potential workplace hazards. If it should become necessary to prosecute a case of imminent danger by means of district court order, action must be swift and sure. Therefore, the Board recommends that the CAA be amended to clarify that the General Counsel has the standing to seek a temporary restraining order in federal district court and that the court has jurisdiction to issue the order.

3. Make applicable the record-keeping and notice-posting requirements of the private-sector CAA laws

Experience in the administration of the Act leads the Board to recommend that all currently inapplicable record-keeping and notice-posting provisions be made applicable under the CAA. The Board recommends that the Office be granted the authority to require that records be kept and notices posted in the same manner as required by the agencies that enforce the provisions of law made applicable by the CAA in the private sector.

As the tables illustrate,[46] most of the laws made generally applicable by the CAA authorize the enforcing agency to require the keeping of pertinent records and the posting of notices in the work place. Experience has demonstrated that where employing offices have voluntarily kept records, these records have greatly assisted in the speedy resolution of disputed matters. Especially where the law has not been violated, employing offices can more readily demonstrate compliance if adequate records have been made and preserved. Moreover, based upon its experience and expertise, the Board has concluded that effective record keeping is not only beneficial to the employer, but in many cases is necessary to the effective vindication of the rights of employees.

Additionally, living with the same record-keeping and notice-posting requirements as apply in the private sector will give Congress the practical knowledge of the costs and benefits of these requirements. Congress will be able to determine experientially whether the benefits of each record-keeping and notice-posting requirement outweigh the burdens. Application of the record-keeping and notice-posting requirements will thus achieve one of the primary goals of the CAA, that the legislative branch live under the same laws as the rest of the nation's citizens.

In addition to these specific recommendations, the Board makes the following two general recommendations which derive from the comparison between the CAA's remedial schemes and those authorities provided for the administration and enforcement of the CAA laws in the private sector:

---

[38] Section 102(b) directs the Board to: "review provisions of Federal law (including regulations) relating to (A) the terms and conditions of employment (including hiring, promotion, demotion, termination, salary, wages, overtime compensation, benefits, work assignments or reassignments, grievance and disciplinary procedures, protection from discrimination in personnel actions, occupational health and safety, and family and medical and other leave) of employees, and (B) access to public services and accommodations." On the basis of this review, section 102(b) requires the Board biennially to: "report on (A) whether or to what degree the provisions described in paragraph (1) are applicable or inapplicable to the legislative branch, and (B) with respect to provisions inapplicable to the legislative branch, whether such provisions should be made applicable to the legislative branch."

[39] Section 301(d)(1) of the CAA requires that "[m]embers of the Board shall have training or experience in the application of the rights, protections, and remedies under one or more of the laws made applicable by [the CAA]."

[40] The Board also notes that several problems have been encountered in the enforcement of settlements requiring on-going or prospective action by a party. The Board does not, at this time, recommend legislative change because the Executive Director, as part of her plenary authority to approve settlements, can require a self- enforcing provision in certain cases and will now do so, as appropriate.

[41] The only exception is the WARN Act, which has no enforcement authorities.

[42] 141 Cong. Rec. S441 (daily ed. Jan. 9, 1995) (statement of Senator Grassley).

[43] The CAA provides enforcement authority with respect to two private-sector laws, the OSHAct and the provisions of the ADA relating to public services and accommodations. The CAA adopts much of the enforcement scheme provided under the OSHAct; it creates an enforcement scheme with respect to the ADA which is analogous to that provided under the private-sector provisions but is sui generis.

[44] Section 215(b) of the CAA reads as follows: "Remedy."The remedy for a violation of subsection (a) shall be an order to correct the violation, including such order as would be appropriate if issued under section 13(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. §662(a))."

[45] See generally General Counsel of the Office of Compliance, Report on Safety & Health Inspections Conducted Under the Congressional Accountability Act (Nov. 1998).

[46] See generally the tables of enforcement authorities set forth in Appendix II to this Report.

4. Extend the benefits of the model alternative dispute resolution system created by the CAA to the private and the federal sectors

The CAA largely replaces the enforcement schemes used to administer and enforce the CAA laws in the private sector with a model alternative dispute resolution system that mandates counseling and mediation prior to pursuing a claim before a hearing officer or in district court. Experience with this system has shown that most disputes under the CAA are resolved by means of counseling and mediation. There are substantial advantages in resolving disputes in their earliest stages, before litigation. Positions have not hardened; liability, if any, is generally at a minimum; and the maintenance of amicable workplace relations is most likely. Therefore, the Board recommends that Congress extend the alternative dispute resolution system created by the CAA to the private and federal sectors so that these sectors will have parity with the Congress in the use of this effective and efficient method of resolving disputes. The Board believes that the use of this alternative dispute resolution system can be harmonized with the administrative and enforcement regimes in place in both the federal and private sectors.

5. Grant the Office the other enforcement authorities exercised by the agencies that implement the CAA laws for the private sector

To further the goal of parity, the Board also recommends that Congress grant the Office the remaining enforcement authorities that executive-branch agencies utilize to administer and enforce the provisions of law made applicable by the CAA in the private sector. As the tables show, the implementing agencies have investigatory and prosecutorial authorities with respect to all of the private-sector CAA laws, except the WARN Act.[47] Based on the experience and expertise of Members of the Board, granting the Office the same enforcement authorities as the agencies that administer and enforce these substantive provisions in the private sector would make the CAA more comprehensive and effective. The Office can harmonize the exercise of investigatory and prosecutorial authorities with the use of the model alternative dispute resolution system that the CAA creates. By taking these steps to live under full agency enforcement authority, the Congress will strengthen the bond that the CAA created between the legislator and the legislated: "This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them that communion of interests . . . without which every government degenerates into tyranny."[48]

C. Conclusion

The biennial reporting requirement of section 102(b) provides the opportunity for Congress to review the comprehensiveness and effectiveness of the CAA in light of the Board's recommendations and make the legislative changes it deems necessary. The CAA was enacted in the spirit of "the framers of our constitution" to take "care to provide that the laws shall bind equally on all, especially those who make them."[49] Acknowledging that reaching that goal was to be a continuing process, section 102(b) mandated the periodic process of re-examination of which this Report and its recommendations are a part.

The CAA took a giant step toward achieving parity and providing comprehensive and effective coverage of the legislative branch by applying certain substantive provisions of law and by providing new administrative and judicial remedies. However, the Board's review of all the currently inapplicable provisions of the CAA laws, as set forth in the accompanying table,[50] has demonstrated that significant gaps remain in the laws made applicable, particularly with respect to the manner in which these laws are enforced under the CAA as compared with the private sector. Based on its expertise in the application of the CAA laws, its three years of experience in the administration and enforcement of the Act, and its understanding that the general purposes and goals of the Act were to achieve parity in the application of laws and to provide the legislative branch with comprehensive and effective protections, the Board recommends that Congress now take the steps of implementing the legislative changes discussed above. The Board further advises the Congress that to realize fully the goals of the CAA—to assure that "congressional employees will have the civil rights and social legislation that ensure fair treatment of workers in the private sector" and "to ensure that members of Congress will know firsthand the burdens that the private sector lives with"[51]—all inapplicable provisions of the CAA laws should, over time, be made applicable.

III. LEGISLATIVE OPTIONS AND RECOMMENDATIONS ON THE APPLICATION OF LAWS TO GAO, GPO, AND THE LIBRARY OF CONGRESS

A. Background

Congress sought "to bring order to the chaos of the way the relevant laws apply to congressional instrumentalities"[52] when, in enacting the CAA, it applied the CAA to the smaller instrumentalities, but not to GAO, GPO, and the Library. Instead, the CAA clarified and extended existing coverage of the three largest instrumentalities in certain respects[53] and, in section 230, required the Board to conduct a study evaluating whether the "rights, protections, and procedures, including administrative and judicial relief" now in place at these instrumentalities were "comprehensive and effective" and to make "recommendations for any improvements in regulations or legislation."[54]

The legislative history explains why Congress covered some instrumentalities under the CAA but not others. Applying the CAA to the smaller instrumentalities and their employees would—extend to these employees, for the first time, the right to bargain collectively, and it will provide a means of enforcing compliance with these laws [made applicable by the CAA] that is independent from the management of these instrumentalities. . . . [B]y strengthening the enforcement mechanisms, the [CAA] attempts to transform the patchwork of hortatory promises of coverage into a truly enforceable application of these laws.[55]

By contrast, GAO, GPO, and the Library—already have coverage and enforcement systems that are identical or closely analogous to the executive-branch agencies.

Notably, employees in each of these agencies already have the right to seek relief in the Federal courts for violations of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Fair Labor Standards Act, and they are covered under the same provisions of the Family and Medical Leave Act as executive-branch employees.

Employees in each of these instrumentalities also already are assured of the right to bargain collectively, with a credible enforcement mechanism to protect that right. For these three instrumentalities, [the CAA] clarifies existing coverage in certain respects, and expands coverage under the Americans with Disabilities Act.[56]

Furthermore, legislative history explained that extending the CAA to cover the smaller instrumentalities would have the advantage of "using the apparatus that will already be necessary to apply these [CAA] laws to the 20,000 employees of the House and Senate [to also apply these laws] to the remaining approximately 3,000 employees of the Architect [of the Capitol]" and other smaller instrumentalities.[57] On the other hand, the CAA would "reduce the adjudicatory burden on the new office by excluding from its jurisdiction the approximately 15,000 employees of GAO, GPO and the Library of Congress."[58]

On December 30, 1996, the Board transmitted its study mandated by section 230 of the CAA to Congress. This Section 230 Study explained that, to fulfill the statutory mandate to assess whether the "rights, protections, and procedures, including administrative and judicial relief,"[59] at GAO, GPO, and the Library were "comprehensive and effective," the Board first had to establish a point of comparison, and the Board decided that the CAA itself was the appropriate benchmark. To give further content to the term "comprehensive and effective," the Board identified four "key aspects of the current statutory and regulatory regimes,"[60] which the Board reviewed in evaluating the comprehensiveness and effectiveness of the rights, protections, and procedures at the three instrumentalities:

(1) the nature of the substantive rights and protections afforded to employees, both as guaranteed by statute and as applied by rules and regulations;

(2) the adequacy of administrative processes, including: (a) adequate enforcement

---

[47] The particular authorities afforded to the implementing executive-branch agencies under the private-sector laws made applicable by the CAA are summarized in the private-sector enforcement authority tables set forth in Appendix II to this Report.

[48] The Federalist No. 57, at 42 (James Madison) (Franklin Library ed., 1984).

[49] Thomas Jefferson, *A Manual of Parliamentary Practice: for the Use of the Senate of the United States*, in Jefferson's Parliamentary Writings 359 (Wilbur S. Howell ed., 1988) (2d ed. 1812).

[50] *See* table of the significant provisions of the CAA laws not yet made applicable by the CAA, set forth as Appendix I to this Report.

[51] 141 Cong. Rec. S441 (daily ed. Jan. 9, 1995) (statement of Senator Grassley).

[52] 141 Cong. Rec. S445 (daily ed. Jan. 9, 1995) (statement of Senator Grassley).

[53] The CAA—*(i)* affirmed that GAO and GPO are covered under Title VII and the ADEA and extended coverage under those laws to additional employees at GPO; *(ii)* established new procedures for enforcing existing ADA rights at GAO, GPO, and the Library; *(iii)* removed GAO and the Library from coverage under FMLA provisions generally applicable in the federal sector and placed those instrumentalities under FMLA provisions generally applicable in the private sector; and *(iv)* affirmed that GPO is covered under the FLSA and extended coverage under that law to additional employees at GPO. See §§201(c), 202(c), 203(d), 210(g) of the CAA.

[54] Originally, the Administrative Conference of the United States was charged with conducting the study and making recommendations for improvements in the laws and regulations governing the three instrumentalities, but when Congress ceased funding the Conference, Congress also transferred its responsibility for the Study to the Board.

[55] 141 Cong. Rec. S445 (daily ed. Jan. 9, 1995) (statement of Senator Grassley).

[56] *Id.*

[57] *Id.*

[58] *Id.*

[59] §230(c) of the CAA.

[60] Section 230 Study at ii.

mechanisms for monitoring compliance and detecting and correcting violations, and (b) a fair and independent mechanism for informally resolving or, if necessary, investigating, adjudicating, and appealing disputes;

(3) the availability and adequacy of judicial processes and relief; and

(4) the adequacy of any process for issuing substantive regulations specific to an instrumentality, including proposal and adoption by an independent regulatory authority under appropriate statutory criteria.[61]

After reviewing and analyzing the statutory and regulatory regimes in place at the three instrumentalities, the Board concluded that—overall, the rights, protections, procedures and relief afforded to employees at the GAO, the GPO and the Library under the twelve laws listed in section 230(b) are, in general, comprehensive and effective when compared to those afforded other legislative branch employees covered under the CAA.[62]

However, the Board also found—The rights, protections, procedures and relief applicable to the three instrumentalities are different in some respects from those afforded under the CAA, in part because employment at the instrumentalities is governed either directly under civil service statutes and regulations or under laws and regulations modeled on civil service law.[63]

These civil-service provisions, which apply generally in the federal sector, apply at the three instrumentalities subject to numerous exceptions. In some instances where federal-sector provisions do not apply, these instrumentalities are covered under the CAA, and, in a few instances, under the statutory provisions that apply generally in the private sector. The result is what the Board called a "patchwork of coverages and exemptions."[64]

However, the Board decided that it would be "premature" at that "early stage of its administration of the Act"[65] to make recommendations as to whether changes were necessary in the statutory and regulatory regimes applicable in these instrumentalities.[66] The ongoing nature of its reporting requirement under section 102(b) argued for making recommendations for statutory change on an incremental basis as the Board gained experience in the administration of the CAA, and the conclusions in the Section 230 Study would serve at the appropriate time as "the foundation for recommendations for change" in a subsequent report under section 102(b) of the CAA.[67]

Pursuant to the CAA, several of its provisions became effective with respect to GAO and the Library on December 30, 1997, which was one year after the Section 230 Study was transmitted to Congress.[68] On October 1, 1997, in anticipation of the December 30 effective date, the Office of Compliance published a notice proposing to extend its Procedural Rules to cover claims alleging that GAO or the Library violated applicable CAA requirements.[69] Comments in response to this notice, and to a supplemental notice published on January 28, 1998,[70] raised questions as to whether the CAA authorizes GAO and Library employees to use the procedures established by the Act to seek remedies for alleged violations of sections 204-207 of the Act. (These sections apply the EPPA, WARN Act, and USERRA and prohibit retaliation for asserting CAA rights.) The Office decided to terminate the rulemaking and, instead, "to recommend that the Office's Board of Directors prepare and submit to Congress legislative proposals to resolve questions raised by the comments."[71]

The Board has decided that this Section 102(b) Report, focusing on omissions in coverage of the legislative branch under the laws made generally applicable by the CAA, provides the appropriate time and place to make recommendations regarding coverage of GAO, GPO, and the Library under those laws. As anticipated in the Section 230 Study, enough experience has now been gained in implementing the CAA to enable the Board to make recommendations for improvements in legislation applicable to these instrumentalities. Moreover, resolution of uncertainty as to whether employees alleging violations of sections 204-207 may use CAA procedures is an additional reason to include in this Report recommendations about coverage of the three instrumentalities.

B. Principal Options for Coverage of the Three Instrumentalities

On the basis of the findings and analysis in the Section 230 Study, the Board has identified three principal options for coverage of these instrumentalities:

(1) *CAA Option* —Coverage under the CAA, including the authority of the Office of Compliance as it administers and enforces the CAA. (The Board here takes as its model the CAA as it would be modified by enactment of the recommendations made in Part II of this Report.)

(2) *Federal-Sector Option*—Coverage under the statutory and regulatory regime that applies generally in the federal sector, including the authority of executive-branch agencies as they administer and enforce the laws in the federal sector.

(3) *Private-Sector Option*—Coverage under the statutory and regulatory regimes that apply generally in the private sector, including the authority of the executive-branch agencies as they administer and enforce the laws in the private sector.[72]

These options are compared with the current regimes at GAO, GPO, and the Library, identifying the significant effects of applying each option.

The comparisons are presented in tables set forth in Appendix III to this Report and are summarized and discussed in narrative form below. Insofar as federal-sector employers, private-sector employers, or the three instrumentalities are covered by laws affording substantive rights that have no analogue in the CAA, this Report does not discuss or chart these rights.[73] In defining the coverage described in the three options, the Board decided that, so as not to create duplicative rights and remedies, the application of the CAA or of analogous federal-sector or private-sector provisions should supersede existing provisions affording substantially similar substantive rights or establishing administrative, judicial, or rulemaking processes to implement, remedy, or enforce such rights. However, substantive rights under federal-sector or other laws having no analogue in the CAA, and processes used to implement, remedy, or enforce such rights, would not be affected by the coverage described in the three options.

In comparing each option for coverage with the regime in place at each instrumentality, the Board has analyzed the differences under the four general categories used in the Section 230 Study: Substantive Rights, Administrative Remedial and Enforcement Processes, Judicial Processes and Relief, and Substantive Rulemaking Process. The narrative comparisons highlight the main differences in each area. The appended tables make a more detailed comparison of differences between each option and the existing regimes at the instrumentalities in each of the above-defined areas.

The examination of the consequences of applying the three options demonstrates that each has advantages and disadvantages with regard to "comprehensiveness" and "effectiveness," particularly in the area of administrative processes and enforcement. A particular administrative/enforcement scheme arguably may be more "comprehensive" than another because it includes more avenues for the redress of grievances, but the very multiplicity of avenues arguably may make that scheme less "effective" than a more streamlined system. Because all three options largely provide the same substantive rights, determining whether to advocate the option of applying the CAA, the federal-sector model, or the private-sector model depends largely on weighing the costs and benefits of administrative systems for resolving disputes either primarily through a single-agency alternative dispute resolution system, an internal-agency investigation and multi-agency adjudicatory system, or a multi-agency investigation and enforcement system.

The Board found that the question of which option to recommend is by no means simple. Sensible arguments support the application of each model. GAO, GPO, and the Library can be analogized to either the other employing offices in the legislative branch, of which these instrumentalities are by statute a part, the executive branch, to which GAO, GPO, and the Library have many functional similarities, or the private sector, which the legislative history of the CAA portrays as the intended workplace model for the legislative branch.

---

[61] *Id.*

[62] *Id.*

[63] *Id.*

[64] *Id.* at iv.

[65] *Id.*

[66] The Board's institutional role, functions, and resources were also very different from those of the Administrative Conference, to which Congress originally assigned the task of preparing the study under section 230. *See* footnote 54 at page 23, above. The Conference in performing the study and making recommendations would have been acting in accordance with its institutional mandate to study administrative agencies and make recommendations for improvements in their procedures.

[67] Section 230 Study at iii.

[68] *See* §§204(d)(2), 205(d)(2), 206(d)(2), 215(g)(2) of the CAA.

[69] 143 Cong. Rec. S10291 (daily ed. Oct. 1, 1997) (Notice of Proposed Rulemaking).

[70] 144 Cong. Rec. S86 (daily ed. Jan. 28, 1998) (Supplementary Notice of Proposed Rulemaking).

[71] 144 Cong. Rec. S4818, S4819 (daily ed. May 13, 1998) (Notice of Decision to Terminate Rulemaking).

[72] To be sure, other, hybrid models could be developed, based on normative judgments respecting particular provisions of law. Or, it would be possible to leave the "patchwork" of coverages and exemptions currently in place at the three instrumentalities and fill serious gaps in coverage on a piecemeal basis. However, presentation of such models would cloud the central question of which is the most appropriate model for the instrumentalities.

[73] In evaluating these options, the Board is not considering the veterans' preference statutory provisions that apply generally in the federal sector and that, under the Veterans Employment Opportunity Act of 1998 ("VEOA"), were recently made applicable to certain employing offices of the legislative branch. Veterans' preference requirements, which were not made applicable by the CAA as enacted in 1995 or listed for study under section 230, were not analyzed in the Board's study under that section. Enacted on October 31, 1998, the VEOA assigned responsibility to the Board to implement veterans' preference requirements as to certain employing offices. It is premature for the Board now to express any views about the extent to which veterans' preference rights do, or should, apply to GAO, GPO, and the Library, but the Board may decide to do so in a subsequent biennial report under section 102(b).

Arguably, the legislative-branch model of the CAA, administered and enforced by the Office of Compliance, is the most appropriate to the instrumentalities, in that Congress has already placed not only the employing offices of the House and Senate, but also the instrumentalities of the Office of the Architect of the Capitol, the Capitol Police, the Congressional Budget Office, and the Office of Compliance under the CAA. Furthermore, as the legislative history of the CAA makes clear, the authors of the Act expected the Board to use the CAA as the benchmark in evaluating the comprehensiveness and effectiveness of the regimes in place at GAO, GPO, and the Library. Moreover, GAO, GPO, and the Library are considered instrumentalities of the Congress for many purposes, and some offices of these instrumentalities work directly with Members and staff of Congress in the legislative process, which legislative functions some Members of Congress perceived as creating tension with executive-branch agency coverage.

On the other hand, federal-sector laws and regulations, administered and enforced in part by executive-branch agencies, are already in place at the three instrumentalities in many respects. In addition, the special circumstances attendant to Congressional offices that warranted administration and enforcement under the CAA by a separate legislative-branch office, and that justified certain limitations on rights and procedures under the CAA as compared to those generally available in the federal sector, are attenuated when applied to GAO, GPO, and the Library. Moreover, as noted in Part II above, the Board has advised that the Congress over time should make all currently inapplicable provisions of the federal- and private-sector CAA laws applicable to itself; thus the instrumentalities should not become subject to those exemptions from coverage attendant upon application of the CAA model.

Finally, the private-sector model arguably best serves the goal of the CAA of achieving parity with the private sector whenever possible. By so doing, those in the legislative branch would live under the same legal regime as the private citizen.

C. Comparison of the Options for Change

1. CAA Option: Bring the three instrumentalities fully under the CAA, including the authority of the Office of Compliance as it administers and enforces the Act

(a) Substantive rights. Covering GAO, GPO, and the Library under the CAA would grant substantive rights that are generally the same as those now applicable at these instrumentalities. However, changes include: *(i)* GPO would become covered under the rights of the WARN Act and EPPA, which do not now apply at that instrumentality. *(ii)* Coverage under the CAA would afford a greater scope of appropriate bargaining units and collective bargaining than is now established at GAO under regulations issued by the Comptroller General under the GAO Personnel Act. *(iii)* Coverage under section 220(e)(2)(H) of the CAA would add a process by which the Board, with the approval of the House and Senate, can remove an office from coverage under labor-management provisions if exclusion is required because of conflict of interest or Congress's constitutional responsibilities; no such process applies now at the three instrumentalities. *(iv)* The CAA, applying private-sector FMLA rights, authorizes the employing office to recoup health insurance costs from a covered employee who does not return to work, to decline to restore "key" employees who take FMLA leave, and to elect whether an employee must use available paid annual or sick leave before taking leave without pay; GAO and the Library have already been granted these authorities, but coverage under the CAA would extend these authorities to GPO. *(v)* CAA provisions that apply FLSA rights would eliminate most use of compensatory time off, "credit hours," and compressed work schedules that may now be used at the three instrumentalities in lieu of FLSA overtime pay.

(b) Administrative and enforcement processes. In the Section 230 Study, the Board found that the three instrumentalities are subject to—a patchwork of coverages and exemptions. . . . The procedural regimes at the instrumentalities differ from one another, are different from the CAA and are different from that in the executive branch. . . . [T]he multiplicity of regulatory schemes means that, in some cases, employees have more procedural options available, and in some cases, fewer. Additional procedural steps may afford opportunities to employees in some cases, but may also be more time-consuming and inefficient.[74]

In a number of respects, coverage under the CAA would grant employees for the first time an avenue to have their claims resolved by an administrative entity outside of the employing instrumentality. Under present law, while employees of all the instrumentalities may seek a remedy for unlawful discrimination in federal district court, there are limitations on the administrative remedies available outside of their employing agency. At the Library, an employee alleging discrimination may pursue a complaint through internal Library procedures, but if the Librarian denies the complaint, the employee has no right of appeal to an outside administrative agency. Likewise, a GPO employee cannot appeal administratively from the Public Printer's decision on a complaint of discrimination on the basis of disability. The GAO Personnel Appeals Board ("PAB"), which hears GAO employee appeals, is administratively part of GAO, and its Members are appointed by the Comptroller General.

In the area of occupational safety and health, the CAA requires the General Counsel of the Office of Compliance to conduct inspections periodically and in response to charges and authorizes the prosecution of violations. Although these CAA provisions already cover GAO and the Library, they do not now cover GPO, where no outside agency has authority to inspect or prosecute occupational safety and health violations.

The application of the CAA would end the patchwork of administrative coverages and exemptions and extend an administrative mechanism for resolving complaints that is administered by an office independent of the employing instrumentalities. The counseling and mediation system of the Office provides a fair, swift, and independent mechanism for informally resolving disputes. The complaint and appeals process (along with the option of pursuing a civil action) provides an impartial method of adjudicating and appealing those disputes that cannot be resolved informally.

On the other hand, except in the areas of safety and health, labor-management, and public access, the investigatory and enforcement authorities now applicable at the three instrumentalities are more extensive than those under the CAA, especially without the authorities that the Board recommends should be added to the CAA in Part II of this Report. For example, internal procedures at the three instrumentalities provide for investigation of every discrimination complaint by the equal employment office of the employing agency and the results of those investigations are made available to the employee. Under the CAA, there is no agency investigation, and an employer is not required to disclose the results of any internal investigation to the employee. Applying the CAA to the three instrumentalities would not preclude continuing to make their internal administrative and investigative procedures available for employees who choose to use them, but employees might have to choose whether to forgo using the internal procedures and investigations in order to meet the time limits for administrative or judicial claims resolution under the CAA.

Furthermore, the PAB General Counsel for GAO and the Special Counsel for GPO provide for prosecution of discrimination and other violations under certain circumstances. The CAA does not now provide for prosecution of discrimination or most other kinds of violations.

The Board also observes that the three instrumentalities are now covered under federal-sector provisions of Title VII and the ADEA that require equal employment opportunity programs and affirmative employment plans, and that GAO's programs and plans are reviewed by the PAB and GPO's programs and plans are reviewed by the Equal Employment Opportunity Commission ("EEOC"). The CAA contains no comparable provisions.

(c) Judicial processes and relief. Coverage under the CAA would grant a private right of action that is not now available to GPO employees to remedy FMLA and USERRA violations and would clarify that GAO and Library employees may use CAA judicial procedures to remedy EPPA, WARN Act, and USERRA violations. The CAA would also grant the right to a jury trial in all situations where it would be available in the private sector, whereas a jury trial may not be available now at the three instrumentalities in actions under the ADEA, FMLA, or FLSA.

On the other hand, while the right to judicial appeal to the Federal Circuit is largely the same under the CAA as it is under the provisions of labor-management law currently applicable at the three instrumentalities, the CAA does not allow the charging party to take appeals from unfair labor practice decisions and does not provide for appeal of arbitral awards involving adverse actions or performance-based actions.

(d) Substantive Rulemaking Process. GAO and the Library are already subject to substantive regulations promulgated by the Board under CAA provisions applying rights under the EPPA, WARN Act, and OSHAct, and the full application of CAA coverage would also subject these two instrumentalities to the Board's regulations implementing FLSA, FMLA, Chapter 71, and ADA public access rights, and would subject GPO to all substantive regulations under the CAA. Substantive regulations are issued under section 304 of the CAA, which authorizes the Board to issue regulations subject to approval by the House and Senate. These regulations under the CAA must generally be the same as those adopted by executive-branch agencies under the laws made applicable by the CAA for the private sector (or, under Chapter 71, for the federal sector), or, if regulations are not adopted by the Office and approved by the House and Senate, those executive-branch agency regulations themselves are applied under the CAA in most instances.[75] The regulatory requirements made applicable by the CAA are therefore established by regulatory agencies independent of the employers being regulated.

---

[74] Section 230 Study at iv.

Currently, for the subject areas where the three instrumentalities are not now subject to CAA regulations, the substantive rights of employees at the three instrumentalities are defined in most respects by government-wide regulations adopted by executive-branch agencies. However, in a few areas, the heads of these instrumentalities are granted the authority to define and delimit rights for their employees by regulation. For example, the GAO Personnel Act authorizes the Comptroller General to establish a labor-management program "consistent" with Chapter 71, and GAO's order under this authority includes limits on appropriate bargaining units and on the scope of bargaining that are more restrictive than those in Chapter 71, as made applicable by the CAA. The Comptroller General and the Librarian of Congress have authority to promulgate substantive regulations under the FMLA. The Public Printer is not bound to apply the Labor Department's occupational safety and health standards, provided he provides conditions "consistent with" those standards. By contrast, if the CAA applied, these instrumentalities would become subject to regulatory requirements established by regulatory agencies independent of the instrumentalities.

2. Federal-Sector Option: Bring the three instrumentalities fully under federal-sector provisions of law, including the authority of executive-branch agencies as they administer and enforce those provisions

(a) Substantive rights. The substantive rights now available at the three instrumentalities are mostly the same as those that would become available under federal-sector coverage. However, some changes would occur. For instance, (*i*) Under the federal-sector regime, GAO and the Library would no longer be covered under CAA provisions making applicable the rights under the EPPA or WARN Act. (*ii*) GAO and the Library would have coverage under the federal-sector provisions of the FMLA, which do not allow the employer to recoup health insurance costs from an employee who does not return to work; or to limit the application of FMLA restoration rights to "key" employees; or to elect whether an employee must use available paid annual or sick leave before taking leave without pay. (*iii*) Coverage under Chapter 71 would afford a greater scope of appropriate bargaining units and collective bargaining than is now provided at GAO under regulations issued by the Comptroller General under the GAO Personnel Act.

(b) Administrative and enforcement processes. The administrative processes now in place at GAO, GPO, and the Library are similar to, and, in many instances, the same as, those in effect generally for the federal sector. Of the three, GPO has the most federal-sector coverage, being already subject, in most areas, to the authority of the EEOC, Merit Systems Protection Board ("MSPB"), and Special Counsel, which investigate, bring enforcement actions, and hear appeals arising out of executive-branch agencies, and the Office of Personnel Management ("OPM"), which promulgates government-wide regulations under the FLSA and FMLA and investigates and resolves FLSA complaints. Choosing the federal-sector option at GPO would extend this existing situation across the board. Furthermore, whereas GPO employees' ADA complaints are now investigated and resolved by GPO management without any right of appeal to, or investigation and prosecution by, any outside agency or office, federal-sector coverage would bring such complaints under the authority of executive-branch agencies. Also, regarding occupational safety and health at GPO, whereas no outside agency can now conduct inspections, consider employee complaints, require compliance, or resolve disputes regarding occupational safety and health, application of federal-sector coverage would cause these functions to be performed by the Department of Labor. In addition, while GPO, GAO, and the Library are currently required to have internal mechanisms for investigating and resolving public-access complaints under the ADA, applying the federal-sector regime would extend the Attorney General's authority under Executive Order 12250 to review the three instrumentalities' regulations, to coordinate implementation, and to bring enforcement actions.

GAO is not now subject to executive-branch agencies' authority in most respects, but was originally considered part of the executive branch and remained subject to the authority of the executive-branch agencies until the 1980 enactment of the GAO Personnel Act, which consolidated the appellate, enforcement, and oversight functions that in the executive branch are performed by the EEOC, the MSPB, and the Special Counsel into the function of the GAO PAB and its General Counsel.[76] Applying federal-sector coverage would, with respect to the CAA laws, restore the PAB's responsibilities to the EEOC, MSPB, and Special Counsel, which, unlike the PAB, are fully separate and independent from regulated employing agencies. GAO is already subject to OPM's government-wide regulations and claims-resolution authority under the FLSA.

The Library's internal claims processes are largely modeled on those required and applied by executive-branch employing agencies, but the Library has been exempted from the authority of executive-branch agencies in most respects, with the principal exception being FLRA authority over labor-management relations.[77] Application of federal-sector coverage would, with respect to the CAA laws, extend the authority of the EEOC, MSPB, the Special Counsel, and OPM to include the Library and its employees.

(c) Judicial processes and relief. In most instances, employees at the three instrumentalities are already covered by the same judicial processes as federal-sector employees. However, whereas PAB decisions may be reviewed only by appeal to the Federal Circuit, federal-sector procedures would allow suit and trial de novo after exhausting all administrative remedies, even after decision on appeal to the EEOC or the MSPB. On the other hand, GAO and Library employees would no longer have a private right of action under FMLA, and, unlike the CAA, which now provides for judicial review of OSHAct decisions regarding GAO and the Library, final occupational safety and health decisions under the federal-sector scheme are made by the President.

(d) Substantive rulemaking process. In a number of areas, the three instrumentalities are already subject to the same government-wide regulations as are in place in the federal sector. GAO and GPO are subject to OPM's regulations under the FLSA, GPO is subject to OPM's regulations under the FMLA, and GPO and the Library are subject to FLRA's regulations under Chapter 71. However, in a number of instances the three instrumentalities are currently able to issue their own regulations without reference to the regulations in the federal sector, as described at page 33 above in the discussion of the substantive rulemaking process under the CAA option. Coverage by the federal-sector regime would subject the three instrumentalities to uniform government-wide regulations in all areas.

3. Private-Sector Option: Bring the three instrumentalities fully under private-sector provisions of law, including the authority of executive-branch agencies as they administer and enforce those provisions

(a) Substantive rights. The substantive rights and responsibilities under the current regimes at the three instrumentalities are generally similar to what would be provided under private-sector provisions of law, with the notable exception of the area of labor-management relations where application of private-sector substantive law would grant to employees at the three instrumentalities certain rights, such as the right to strike, unavailable to other federal government employees. There are also a number of other differences between private-sector provisions and the substantive provisions of law currently applicable at the three instrumentalities. For example, the application of private-sector provisions of the FLSA would eliminate most use of compensatory time in lieu of overtime pay. Also, private-sector FMLA provisions would apply at GPO, which allow the employer to recoup health insurance costs from an employee who does not return to work; to limit the application of FMLA restoration rights to "key" employees; and to elect whether an employee must use available paid annual or sick leave before taking leave without pay. Finally, GPO, which is not now covered by WARN Act or EPPA rights, would become subject to those laws.

(b) Administrative processes. If provisions of private-sector law were applied, the greatest impact would be in the area of administrative processes. Under private-sector schemes generally, with the exception of occupational safety and health and labor-management relations, the agency's responsibility is limited to investigation and prosecution, without administrative adjudication and appeal.

The consequences of application of private-sector administrative schemes would be different at each instrumentality. The most significant change would be at the Library, where outside agencies now have little role in either investigation and prosecution or in administrative adjudication and appeals. If private-sector coverage applied, an agency outside of the Library would have authority to investigate and prosecute discrimination, FLSA, FMLA, and other laws. At GAO and GPO, the present adjudicatory and prosecutory schemes would be replaced by a new prosecutorial regime handled by agencies ordinarily responsible for private-sector enforcement. For example, FLSA and FMLA enforcement would be handled by the Labor Department in its investigatory and prosecutorial role, rather than OPM and the PAB at GAO and OPM and MSPB at GPO. However, under the currently applicable provisions of law and regulation that govern the federal sector with respect to the FLSA, OPM has authority to direct GPO and GAO to comply, whereas under the provisions of law and regulation that govern the private sector, the Labor Department would have to bring suit to enforce compliance. In the area of discrimination at GPO, rather than appeal rights to EEOC and MSPB, there would be investigation and prosecution by the EEOC, while at GAO, the PAB's role would be replaced by EEOC investigation and prosecution. In the area of occupational safety and health, the enforcement responsibilities for GAO and the Library would be transferred from the OC to the Labor Department, and the Labor Department would also assume these responsibilities for GPO, where currently no outside agency exercises these responsibilities.

---

[75] To date, regulations have been adopted and submitted to the House and Senate but not approved in the following areas: OSHAct, public access under the ADA, application of labor-management rights to offices listed in §220(e) of the CAA, and coverage of GAO and the Library under substantive regulations with respect to EPPA, WARN Act, and OSHAct. Regulations adopted by executive-branch agencies therefore apply in all of these areas except §220(e), because §411 of the CAA excepts from the default provision regulations regarding the offices listed under §220(e)(2). If the CAA covered the three instrumentalities, §220(e) could affect them only if the Board adopted regulations, approved by the House and Senate, to exclude "such other offices that perform comparable functions," within the meaning of §220(e)(2)(H).

[76] Legislative history explains that the GAO Personnel Act was enacted to enable GAO to audit the executive-branch personnel programs and agencies established under the Civil Service Reform Act of 1978 without being subject to those same programs and agencies. S. Rep. No. 96-540, 96th Cong. (Dec. 20, 1979) (Governmental Affairs Committee), *reprinted in* 1980 U.S. Code Cong. and Admin. News 50-53.

[77] In an another area that is significant, though not analogous to any of the laws made applicable by the CAA, the Library is also subject to OPM's authority over job classifications.

(c) Judicial processes and relief. In the area of judicial processes and relief, if private-sector laws were applied, a private right of action would be added under a number of provisions where it does not currently exist. For example, GPO employees would gain a private right of action under FMLA and USERRA. GAO and Library employees would gain an unambiguous private right of action under WARN, USERRA, and EPPA. Moreover, punitive damages are part of the private-sector remedial scheme, whereas they are currently unavailable at the three instrumentalities.

(d) Adoption of substantive regulations. Application to the three instrumentalities of the substantive rulemaking process governing the private sector would resolve concerns respecting independent rulemaking authority under the regimes currently in place at these instrumentalities. The agencies issuing regulations that govern the private sector have no employment relationship with the community they regulate, unlike the three instrumentalities themselves when they promulgate substantive rules. Moreover, a switch to private-sector coverage in the areas of OSHAct, WARN Act, and EPPA would remove GAO and the Library, which are currently subject to CAA substantive rules in those areas, from the section 304 process of adoption and issuance of substantive regulations.

The three instrumentalities are currently covered by a number of civil service and other protections which have no analogue in the CAA and which the Board does not undertake to review here. The Board determined that such substantive rights under federal-sector or other laws having no analogue in the CAA, and processes used to implement, remedy, or enforce such rights, should not be affected by the coverage under any of the options. However, to avoid creating duplicative rights and remedies, the application of the CAA or of analogous federal-sector or private-sector provisions should supersede existing provisions affording substantially similar substantive rights or establishing administrative, judicial, or rulemaking processes to implement, remedy, or enforce such rights.

D. Recommendations

1. The current "patchwork of coverages and exemptions"[78] *at GAO, GPO, and the Library should be replaced by coverage under either the CAA or the federal-sector regime*

In its Section 230 Study, the Board described the current systems in place at the instrumentalities, and stated: "Congressional decisions made over many years in different statutes subject the three instrumentalities to the authorities of certain executive-branch agencies with respect to certain laws, but exempt them from executive-branch authority with respect to others. . . . The result is a patchwork of coverages and exemptions from the procedures afforded under civil service law and the authority of executive-branch agencies, and from the procedures afforded under the CAA and the authority of the Office of Compliance."[79]

In preparing this 1998 Report, the Board considered whether to recommend that serious gaps in coverage at the three instrumentalities be filled without fundamentally changing the regimes already in place at each instrumentality. However, the Board unanimously rejected that piecemeal approach. The "patchwork" nature of existing coverages and exemptions yields complexity and areas of legal uncertainty in coverage at the three instrumentalities. Furthermore, in several areas, the three instrumentalities are not now subject to the authority of any outside regulatory or personnel agency to promulgate regulations, resolve claims, or exercise enforcement authorities.

Accordingly, the Board unanimously concluded that this current system is less comprehensive and effective than, and should be replaced by, coverage under one of the options described in the previous section. The Board also agreed unanimously that coverage under the private-sector regime is not the best of the three options it considered. However, the Board did not reach a consensus as to whether the CAA or the laws and regulations applicable in the federal sector should be made applicable to GAO, GPO, and the Library. Instead, for the reasons stated below, Members Adler and Seitz concluded that the three instrumentalities should be covered under the CAA, with certain modifications, and Chairman Nager and Member Hunter concluded that the three instrumentalities should be made fully subject to the laws and regulations generally applicable in the federal sector.

2. Members Adler and Seitz have concluded that GAO, GPO, and the Library should be covered under the CAA, including the authority of the Office of Compliance, and that the CAA, as applied to these instrumentalities, should be modified—(a) to add Office of Compliance enforcement authorities as recommended in Part II of this Report and (b) to preserve certain rights now applicable at the three instrumentalities.

Members Adler and Seitz concluded that the three instrumentalities should be brought under the CAA primarily for two reasons. As noted above, the Board in the Section 230 Study decided that its statutory mandate was to evaluate the "comprehensiveness and effectiveness" of the existing statutory and regulatory regimes at the three instrumentalities by comparing them to the regime under the CAA. The application of the CAA to the three instrumentalities would assure that this standard of "comprehensiveness and effectiveness" is achieved throughout the legislative branch.

Second, all laws made applicable by the CAA are administered by a single Office. The advantages of this unified structure are that employees can turn to a single place for assistance; efficient and uniform procedures under a model administrative dispute resolution system have been established for various types of complaints; and a single body of substantive regulations and decisions, which is as internally consistent as possible within the constraints of applicable law, is being developed. Extending the jurisdiction of the Office to include GAO, GPO, and the Library for all of the laws made applicable by the CAA will foster such efficient and consistent administration of the laws at the three instrumentalities, and will put the expertise and resources of the Office of Compliance to full use throughout the legislative branch.

The conclusions of Members Adler and Seitz are premised and dependent upon the CAA's being applied to the three instrumentalities with certain modifications. First, the Act should be amended to enlarge the Office of Compliance's enforcement authorities as recommended above in Part II of this Report. The Board there described its determination that certain additional provisions of CAA laws should be made applicable to all employing offices of the legislative branch that are now covered under the CAA, and, for the reasons discussed above, such additional provisions should be made applicable to GAO, GPO, and the Library as well.

Second, the rights extended by the CAA in the House and Senate and the smaller instrumentalities are subject to certain limitations that do not apply under the regimes now at GAO, GPO, and the Library. These limitations appear to have been included in the CAA to preserve the independence of the House and Senate, to protect against publicity attendant to complaints or litigation that Congress believed might unduly affect the legislative and electoral processes, and to avoid labor activities that Congress was concerned might, in certain situations, engender conflict of interest or interfere with fulfillment by Congress of its constitutional responsibilities. However sound these reasons may have been with respect to Congressional offices for which the CAA was principally designed, these reasons have less force as to GAO, GPO, and the Library in view of their respective roles in the legislative process.

Members Adler and Seitz therefore believe that limitations such as those imposed by sections 220(c)(2)(H) and 416 of the CAA should not apply at GAO, GPO, and the Library. Section 220(c)(2)(H) of the CAA establishes a process by which the Board, with the approval of the House and Senate, may remove an office from coverage under some or all provisions of labor-management law if "required because of—(i) a conflict of interest or appearance of a conflict of interest; or (ii) Congress' constitutional responsibilities."[80] No such process applies under labor-management law now applicable at GAO, GPO, and the Library, and none should be made applicable to them under the CAA. Section 416 of the CAA makes the counseling, mediation, and administrative hearing processes of the CAA "confidential." The

---

[78] Section 230 Study at iv.

[79] *Id.*

[80] Section 220(e)(1)(B) of the CAA.

CAA, in being made applicable to these three instrumentalities, should not impose confidentiality requirements except to the same extent that confidentiality is imposed in proceedings by the executive-branch agencies implementing the CAA laws and to the extent necessary to facilitate effective counseling and mediation under §§402 and 403 of the CAA.[81]

3. Chairman Nager and Member Hunter have concluded that the federal-sector model should apply, including the authority of executive-branch personnel-management and regulatory agencies to implement and enforce the laws.

Chairman Nager and Member Hunter have concluded that GAO, GPO, and the Library should be brought under the statutory and regulatory regime that applies generally in the federal sector, including the authority of executive-branch agencies as they administer and enforce laws in the federal sector, for several reasons. Insofar as the present statutory scheme is not "comprehensive and effective" because it does not provide employees access to an outside regulatory entity to promulgate regulations and resolve claims, this problem could be solved by extending the authority of the executive-branch agencies over the three instrumentalities.

GAO, GPO, and the Library are already subject to many of the same personnel statutes that apply generally in the federal sector and, in some instances, to the authority of executive-branch agencies as well. Making the federal-sector regime fully applicable would be less disruptive to the three instrumentalities than replacing the coverage already in effect with either the CAA or private-sector coverage.

Furthermore, employment at these three instrumentalities is more akin to the large civilian departments and agencies of the executive branch, for which federal-sector laws and regulations were designed, than the employing offices of the House and Senate, for which the CAA was primarily designed. For example, substantive provisions of federal-sector statutes and regulations in such areas as overtime pay, family and medical leave, and advance notification of layoffs are designed to dove-tail with merit-based retention systems, position-classification systems, leave policies, and other personnel practices that are found generally in both the executive branch and the three large instrumentalities, but that are not common in either House and Senate offices or the private sector. Also, while federal-sector law in some respects limits the right to sue, it also affords administrative procedures and remedies that exceed what are available under the CAA or in the private sector. Such procedures have traditionally been seen as appropriate to avoid politicized employment and to provide for accountability in large, apolitical bureaucracies. In congressional staff, where political appointment is generally seen as proper and where accountability is achieved through the electoral process, these federal-sector procedures and remedies have been considered inappropriate. However, the three instrumentalities have traditionally been seen as having many of the attributes of the large, apolitical bureaucracy, and employment practices have largely followed the federal-sector model.

Placing GAO, GPO, and the Library under federal-sector coverage would also have the salutary effect of giving Congress the experience of living under the laws that it enacts for the executive branch. According to the authors of the CAA, a principal goal of that Act was to make Congress live under the laws that it enacts for the private sector, so that Congress can better understand the consequences of those laws. Congress might likewise better understand the consequences of the laws that it enacts for the executive branch if the large instrumentalities of Congress were fully subject to those laws.

APPENDIX I—INAPPLICABLE PRIVATE-SECTOR PROVISIONS OF THE LAWS MADE APPLICABLE BY THE CAA

This table describes significant statutory provisions that are contained in the laws made applicable by the CAA (the "CAA laws") and that apply in the private sector, but that do not apply fully to the legislative branch. "Apply" means that a provision is referenced and incorporated by the CAA, or a substantially similar provision is set forth in the CAA, or the provision applies to the legislative branch by its own terms without regard to the CAA. Whether provisions apply to GAO, GPO, and the Library of Congress is not discussed in this table, but is analyzed in the tables contained in Appendix III of this Report.

TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 ("TITLE VII") AND 42 U.S.C. §§ 1981, 1981a

A. SUBSTANTIVE RIGHTS AND PROTECTIONS	
1. Employment discrimination against individuals employed by other employers. § 703(a)(1) of Title VII forbids employment discrimination by covered employers against "any individual." Courts have held that this prohibition extends beyond the immediate employer-employee relationship under certain circumstances, including where a defendant who does not employ an individual controls that individual's access to employment with another employer and denies access based on unlawful criteria.[1] Under the CAA, an employing office may only be charged with discrimination by a "covered employee," defined as an employee of the nine legislative-branch employers listed in § 101(3) of the CAA.	Secs. 703(a)(1); *42 U.S.C. §§ 2000e–2(a)(1).*
2. Publication of discriminatory notices or advertisements. Publication of discriminatory notices or advertisements is prohibited under § 704(b) of Title VII. Under the CAA, a notice or advertisement might be evidence of discriminatory animus, but § 704(b) of Title VII, which makes unlawful the mere publication of a discriminatory notice or advertisement, is not referenced by the CAA.	Sec. 704(b); *42 U.S.C. § 2000e–3(b).*
3. Coverage of unions. Discrimination by private-sector unions is forbidden by §§ 703(c) and 704 of Title VII and is subject to enforcement under § 706. The CAA does not make these provisions applicable against unions discriminating against legislative branch employees, because § 201 of the CAA forbids discrimination only in "personnel actions" and §§ 401–408 of the CAA allow complaints only against employing offices. (Unlawful discrimination by a union may be an unfair labor practice under § 220 of the CAA, but the procedures and remedies under that section are very different from those under Title VII and under the CAA for violations of Title VII rights and protections.) A similar situation exists in the executive branch, where § 717 of Title VII does not cover discrimination by unions against executive branch employees, but courts and the EEOC are divided as to whether the private-sector provisions of Title VII and 42 U.S.C. § 1981 apply by their own terms to such discrimination. See *generally* II Lindemann & Grossman, Employment Discrimination Law 1320, 1575 (3d ed. 1996). Similarly, differing views might be expressed with respect to whether these private-sector provisions apply by their own terms to forbid discrimination by unions against legislative-branch employees.	Secs. 703(c), 704, 706; *42 U.S.C. §§ 2000e–2(c), 2000e–3, 2000e–5.*
4. Consideration of political party, domicile, or political compatibility. Under the CAA, § 502 provides that consideration of political party, domicile, or political compatibility by Members, committees, or leadership offices shall not be a violation of § 201, which is the section that makes applicable the rights and protections of Title VII. Under Title VII, there is no specific immunity for consideration of political party, domicile, or political compatibility.	Sec. 703; *42 U.S.C. § 2000e–2.*
B. ENFORCEMENT	
Agency Enforcement Authorities:	
5. Agency responsibility to investigate charges filed by an employee or Commission Member. Title VII requires the EEOC to investigate charges filed by either an employee or a Member of the Commission. The CAA neither references these provisions nor sets forth similar provisions authorizing agency investigation.	Sec. 706(b); *42 U.S.C. § 2000e–5(b).*
6. Agency responsibility to "endeavor to eliminate" the violation by informal conciliation. Title VII requires that, upon the filing of a charge, if the EEOC determines that "there is reasonable cause to believe that the charge is true," the agency must "endeavor to eliminate any such alleged unlawful employment practice" by informal conference, conciliation, and persuasion. The CAA does not reference these provisions; it requires the mediation of allegations of discrimination and requires approval of settlements by the Executive Director, but does not require any person involved in the mediation or in approving the settlement to "endeavor to eliminate" the alleged discrimination.	Sec. 706(b); *42 U.S.C. § 2000e–5(b).*
7. Agency authority to bring judicial enforcement actions. Title VII authorizes the EEOC to bring a civil action. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to bring enforcement proceedings.	Sec. 706(f)(1); *42 U.S.C. § 2000e–5(f)(1).*
8. Agency authority to intervene in private civil action of general public importance. Under Title VII, the EEOC may intervene in a private action of general public importance. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to intervene in private actions.	Sec. 706(f)(1); *42 U.S.C. § 2000e–5(f)(1).*
9. Agency authority to apply to court for enforcement of judicial orders. Title VII authorizes the EEOC to commence judicial proceedings to compel compliance with judicial orders. The CAA does not reference these provisions. § 407(a)(2) of the CAA enables the Office of Compliance to petition the Court of Appeals to enforce final orders of a hearing officer or the Board, but the CAA sets forth no provision enabling an agency to seek the enforcement of judicial orders.	Sec. 706(i); *42 U.S.C. § 2000e–5(i).*
10. Grant of subpoena power and other powers for investigations and hearings. Title VII grants the EEOC powers to gain access to evidence, including subpoena powers, in support of its investigations and hearings. The CAA neither references these provisions nor sets forth similar provisions granting an agency investigatory powers. (§ 405(f) of the CAA grants subpoena powers to hearing officers, and § 408 authorizes civil actions in which courts may issue subpoenas, but these CAA provisions do not subpoena powers for use in agency investigation.)	Secs. 709(a), 710; *42 U.S.C. §§ 2000e–8(a), 2000e–9.*
11. Recordkeeping and reporting requirements. Title VII requires employers in the private sector to make and preserve such records and make such reports therefrom as the EEOC shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for enforcement. The CAA does not reference these provisions, and the Board, in issuing substantive regulations with respect to several other laws, found that recordkeeping and reporting requirements under those laws were not made applicable by the CAA.	Sec. 709(c); *42 U.S.C. § 2000e–8(c).*

---

[81] *Cf.* 5 U.S.C. §574 (duties of confidentiality in mediation or other proceedings under the Administrative Dispute Resolution Act).

TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 ("TITLE VII") AND 42 U.S.C. §§ 1981, 1981a—Continued

Administrative and Judicial Procedures and Remedies:	
12. Suing individuals as agent; possibility of individual liability. Because the definition of "employer" in Title VII includes "any agent," a plaintiff may choose to sue the employer by naming an appropriate individual in the capacity of agent. Furthermore, while many recent cases hold that individuals may not be held individually liable in discrimination cases, some cases hold to the contrary and the issue remains unresolved. *See generally* II Lindemann & Grossman, Employment Discrimination Law 1314–16 (3d ed. 1996). Under the CAA, individuals may be neither sued nor held individually liable, because only an employing office may be named as respondent or defendant under §§ 401–408 and all awards and settlements must generally be paid out of an account of the Office of Compliance under § 415(a).	Sec. 701(b); *42 U.S.C. § 2000e(b).*
13. Enforceability of subpoenas for information or documents within the jurisdiction of the House or Senate. Title VII authorizes civil actions in which courts exercise their ordinary subpoena authority. The CAA also authorizes civil actions, as well as administrative adjudications, but such authorization is subject to § 413 of the CAA, by which the House and Senate decline to waive "any power of either the Senate or the House of Representatives under the Constitution," including under the "Journal of Proceedings Clause," and under the rules of either House relating to records and information.	Sec. 706(f)(1); *42 U.S.C. § 2000e–5(f)(1).*
14. Appointment of counsel and waiver of fees. § 706(f)(1) of Title VII authorizes the court to appoint an attorney for the complainant in a private action and to waive costs. The CAA does not reference § 706(f)(1). In judicial proceedings under the CAA, the courts may exercise their general powers to authorize proceedings *in forma pauperis* and waive fees and costs and appoint counsel if a party is unable to pay. See 28 U.S.C. § 1915. In administrative proceedings under the CAA, there are no fees and costs to waive, but there is also no power to appoint counsel.	Sec. 706(f)(1); *42 U.S.C. § 2000e–5(f)(1).*
15. Agency authority to apply for TRO or preliminary relief. § 706(f)(2) of Title VII authorizes the EEOC to bring an action for a temporary restraining order ("TRO") or preliminary relief pending resolution of a charge. The CAA neither references § 706(f)(2) nor sets forth similar provisions authorizing TROs or preliminary relief, and the CAA does not allow a covered employee to commence an administrative complaint or civil action until after having completed periods of counseling and mediation and an additional period of at least 30 days	Sec. 706(f)(2); *42 U.S.C. § 2000e–5(f)(2).*
16. Private right to sue immediately, without having exhausted administrative remedies. An employee alleging race or color discrimination who prefers not to pursue a remedy through the EEOC may choose to sue immediately under 42 U.S.C. § 1981. The CAA allows a covered employee to file an administrative complaint or commence a civil action only after having completed periods of counseling and mediation and an additional period of at least 30 days..	42 U.S.C. § 1981.
Defense:	
17. Defense for good faith reliance on agency interpretations. § 713(b) of Title VII provides a defense for an employer who relies in good faith on an interpretation by the EEOC. The CAA does not specifically reference § 713(b), but the Board decided that a similar defense in the Portal-to-Portal Act ("PPA") was incorporated into § 203 of the CAA and applies where an employing office relies on an interpretation of the Wage and Hour Division.	Sec. 713(b); *42 U.S.C. § 2000e–12(b).*
Punitive Damages:	
18. Punitive damages. 42 U.S.C. § 1981a(b)(1) authorizes punitive damages in cases under Title VII where malice or reckless indifference is demonstrated, and under 42 U.S.C. § 1981 punitive damages may be warranted in cases of race or color discrimination. However, § 1981a(b)(1) is not referenced by the CAA at all, and § 1981 is referenced by § 201(b)(1)(B) of the CAA with respect to the awarding of "compensatory damages" only; furthermore, § 225(c) of the CAA expressly precludes the awarding of punitive damages.	42 U.S.C. §§ 1981, 1981a(b)(1).
C. OTHER AGENCY AUTHORITIES	
19. Notice-posting requirements. Title VII requires employers, employment agencies, and unions to post notices prepared or approved by the EEOC, and establishes fines for violation. The CAA does not reference these provisions, and the Board, in issuing substantive regulations with respect to several other laws, found that notice-posting requirements under those laws were not incorporated by the CAA.	Sec. 711; *42 U.S.C. § 2000e–10.*
20. Authority to issue interpretations and opinions. § 713(b) of Title VII establishes a defense for good-faith reliance on "any written interpretation and opinion" of the EEOC, and the EEOC has established a process by which "[a]ny interested person desiring a written title VII interpretation or opinion from the Commission may make such a request." 29 C.F.R. § 1601.91 *et seq.* The CAA does not reference § 713(b) specifically. Furthermore, as noted on page 4, row 17, above, the Board decided that the defense for good-faith reliance stated in the PPA, which is similar to the defense in § 713(b), was incorporated into § 203 of the CAA; but the Board also then stated that "it seems unwise, if not legally improper, for the Board to set forth its views on interpretive ambiguities in the regulations outside of the adjudicatory context of individual cases," and "the Board would in the exercise of its considered judgment decline to provide authoritative opinions to employing offices as part of its "education" and "information" programs." 142 Cong. Rec. S221, S222–S223 (daily ed. Jan. 22, 1996).	Sec. 713(b); *42 U.S.C. § 2000e–12(b).*

---

[1] See, e.g., *Sibley Memorial Hosp.* v. *Wilson*, 488 F.2d 1338, 1341 (D.C. Cir. 1973) ("nowhere are there words of limitation that restrict references in the Act to 'any individual' as comprehending only an employee of the employer," nor could the court perceive "any good reason to confine the meaning of 'any individual' to include only former employees and applicants for employment, in addition to present employees"); *Moland* v. *Bil-Mar Foods*, 994 F.Supp. 1061, 1075 (N.D. Iowa 1998) (interlocutory appeal certified) (trucking company's employee assigned to scale house on processing-plant premises could maintain sex discrimination complaint against processing company); *King* v. *Chrysler Corp.*, 812 F.Supp. 151, 153 (E.D. Mo. 1993) (cashier employed by cafeteria on automobile manufacturer's premises need not be employee of manufacturer to sue manufacturer under Title VII); *Pelech* v. *Klaff-Joss*, L.P., 815 F.Supp. 260, 263 (N.D. Ill. 1993) (cleaning company and its chairman held potentially liable under Title VII for causing a high-rise building to fire a security guard).

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967 ("ADEA")

A. SUBSTANTIVE RIGHTS AND PROTECTIONS	
1. Employment discrimination against individuals employed by other employers. §4(a)(1) of the ADEA forbids employment discrimination by covered employers against "any individual." As discussed at page 1, row 1, above, courts have held that a Title VII provision forbidding discrimination against "any individual" extends beyond the immediate employer-employee relationship under certain circumstances, including where a defendant who does not employ an individual controls that individual's access to employment with another employer and denies access based on unlawful criteria. Under the CAA, an employing office may only be charged with discrimination by a "covered employee," defined as an employee of the nine legislative-branch employers listed in §101(3).	Sec. 4(a)(1); *29 U.S.C. §623(a)(1).*
2. Reduction of wages to achieve compliance. §4(a)(3) of the ADEA forbids employers in the private sector to reduce the wage rate of any employee in order to comply with the ADEA. §4(a)(3) is not referenced by the CAA, and §15 of the ADEA, which is referenced by §201(a)(2) of the CAA, contains a subsection (f) that specifically precludes the application of any provision outside of §15.	Sec. 4(a)(3); *29 U.S.C. §623(a)(3).*
3. Publication of discriminatory notices or advertisements. Publication of discriminatory notices or advertisements is prohibited by §4(e) of the ADEA. Under the CAA, a notice or advertisement might be evidence of discriminatory animus, but §4(e) of the ADEA, which makes unlawful the mere publication of a discriminatory notice or advertisement, is not referenced by the CAA, and §15 of the ADEA, which is referenced by §201(a)(2) of the CAA, contains a subsection (f) that specifically precludes the application of any provision outside of §15.	Sec. 4(e); *29 U.S.C. §623(e).*
4. Coverage of unions. §4(c)-(e) of the ADEA forbids discrimination by unions in the private sector, and these provisions may be enforced against private-sector unions under §7 of the ADEA. The CAA does not make these provisions applicable to unions discriminating against legislative branch employees, because §201 of the CAA only forbids discrimination in "personnel actions" and §§401-408 allow complaints only against employing offices. (Unlawful discrimination by a union may be an unfair labor practice under §220 of the CAA, but the procedures and remedies under that section are very different from those under the ADEA and under the CAA for violations of ADEA rights and protections.) As noted at page 1, row 3, above, a similar situation exists in the executive branch, where §717 of Title VII does not cover discrimination by unions against executive branch employees, but courts and the EEOC are divided as to whether the private-sector provisions of Title VII and 42 U.S.C. §1981 apply by their own terms to such discrimination. Similarly, differing views might be expressed with respect to whether the private-sector provisions of the ADEA apply by their own terms to forbid discrimination by unions against legislative-branch employees.	Secs. 4(c)-(e), 7; *29 U.S.C. §§623(c)–(e), 626.*
5. Mandatory retirement for state and local police forces. §4(j) of the ADEA allows age-based hiring and firing of state and local law enforcement officers. The CAA does not reference §4(j) of the ADEA, and §15 of the ADEA, which is referenced by §201(a)(2) of the CAA, contains a subsection (f) that specifically precludes the application of any provision outside of §15. Furthermore, the CAA does not contain any provisions similar to §4(f) of the ADEA providing an exception for the Capitol Police. However, the Capitol Police Retirement Act ("CPRA'), 5 U.S.C. §8425, imposes age-based mandatory retirement for Capitol Police Officer. The CAA does not state expressly whether it repeals the CPRA, but the Federal Circuit held that the application of ADEA rights and protections by the Government Employee Rights Act, a predecessor to the CAA that applied certain rights and protections to the Senate, did not implicitly repeal the CPRA. *Riggin* v. *Office of Senate Fair Employment Practices*, 61 F.3d 1563 (Fed. Cir. 1995).	Sec. 4(j); *29 U.S.C. §623(j).*
6. State and local police officers entitlement to job-performance testing to continue employment after retirement age. Under §4(j) of the ADEA, after a study and rulemaking by the Labor Secretary are completed, state and local law enforcement officers who exceed mandatory retirement age will become entitled to an annual opportunity to demonstrate job fitness to continue employment. The CAA does not reference §4(j) of the ADEA, and §15 of the ADEA, which is referenced by §201(a)(2) of the CAA, contains a subsection (f) that specifically precludes the application of any provision outside of §15. (Whether the Capitol Police remain subject to mandatory retirement at all is discussed in row 5 above.).	Sec. 4(j); *29 U.S.C. §623(j).*
7. Age-based mandatory retirement of executives and high policy-makers. §12(c) of the ADEA allows aged-based mandatory retirement for bona fide executives and high policy-makers in the private sector. The CAA does not reference §12(c) of the ADEA, and §15 of the ADEA, which is referenced by §201(a)(2) of the CAA, contains a subsection (f) that specifically precludes the application of any provision outside of §15.	Sec. 12(c); *29 U.S.C. §631(c).*
8. Consideration of political party, domicile, or political compatibility. Under the CAA, §502 provides that consideration of political party, domicile, or political compatibility by Members, committees, or leadership offices shall not be a violation of §201, which is the section that makes applicable the rights and protections of the ADEA. Under the ADEA, there is no specific immunity for consideration of political party, domicile, or political compatibility.	Sec. 4; *29 U.S.C. §623.*
B. ENFORCEMENT.	

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967 ("ADEA")—Continued

Agency Enforcement Authorities:	
9. Grant of subpoena power and other powers for investigations and hearings. The ADEA grants the EEOC subpoena and other investigatory powers for use in investigations and hearings. The CAA neither references these provisions nor sets forth similar provisions granting an agency investigatory powers. (§405(f) of the CAA grants subpoena powers to hearing officers, and §408 authorizes civil actions in which courts may issue subpoenas, but these CAA provisions do not grant subpoena powers for use in agency investigation).	Sec. 7(a); *29 U.S.C. §626(a), referencing* §9 of FLSA, *29 U.S.C. §209.*
10. Authority to receive and investigate charges and complaints and to conduct investigations on agency's initiative. Under authority of §7 of the ADEA, the EEOC investigates employee charges of ADEA violations and initiates investigations on its own initiative. The CAA neither references these provisions nor sets forth similar provisions authorizing agency investigations.	Sec. 7(a), (d); *29 U.S.C. §626(a), (d), and referencing* §11(a) of FLSA, *29 U.S.C. §211(a).*
11. Recordkeeping and reporting requirements. The ADEA empowers the EEOC to require the keeping of necessary and appropriate records in accordance with the powers in §11 of the FLSA. That section requires employers in the private sector to make and preserve such records and make such reports therefrom as the agency shall prescribe by regulation or order as necessary or appropriate for enforcement. EEOC regulations specify the "payroll" records that employers must maintain and preserve for at least 3 years and the "personnel or employment" records that employers must maintain and preserve for at least 1 year. 29 C.F.R. §1627.3. EEOC regulations further require that each employer "shall make such extension, recomputation or transcriptions of his records and shall submit such reports concerning actions taken and limitations and classifications of individuals set forth in records" as the EEOC or its representative may request in writing. 29 C.F.R. §1627.7. The CAA does not reference these provisions, and the Board, in issuing substantive regulations with respect to several other laws, found that recordkeeping and reporting requirements under those laws were not made applicable by the CAA.	Secs. 7(a); *29 U.S.C. §626(a), referencing* §11(c) of FLSA, *29 U.S.C. §211(c).*
12. Agency authority to bring judicial enforcement actions. The ADEA authorizes the EEOC to bring an action in district court seeking damages, including liquidated damages, and injunctive relief. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to bring enforcement proceedings.	Sec. 7(b); *29 U.S.C. §626(a), referencing* §§16(c), 17 of FLSA, *29 U.S.C. §§216(c), 217.*
13. Agency responsibility to "seek to eliminate" the violation. The ADEA requires that, upon receiving a charge, the EEOC must "seek to eliminate any alleged unlawful practice" by informal conference, conciliation, and persuasion, and, before instituting a judicial action, the agency must use such conciliation to "attempt to eliminate the discriminatory practice or practices and to effect voluntary compliance." The CAA does not reference these provisions; it requires the mediation of allegations of discrimination and requires approval of settlements by the Executive Director, but does not require any person involved in the mediation or in approving the settlement to determine "reasonable cause" or to "endeavor to eliminate" the alleged discrimination.	Sec. 7(b), (d); *29 U.S.C. §626(b), (d).*
Administrative and Judicial Procedures and Remedies:	
14. Enforceability of subpoenas for information or documents within the jurisdiction of the House or Senate. The ADEA authorizes civil actions in which courts exercise their ordinary subpoena authority. The CAA also authorizes civil actions, as well as administrative adjudications, but such authorization is subject to §413 of the CAA, by which the House and Senate decline to waive certain powers relating to records and information, as discussed in connection with Title VII at page 3, row 13, above.	Sec. 7(b)-(c); *29 U.S.C. §626(c), referencing* §16(b)-(c) of FLSA, *29 U.S.C. §216(b)-(c).*
15. Suing individuals as agent; possibility of individual liability. Because the definition of "employer" in the ADEA includes any agent, a plaintiff may choose to sue the employer by naming an individual in the capacity of agent. Furthermore, as noted with respect to Title VII at page 3, row 12, above, while many recent cases hold that individuals may not be held individually liable in discrimination cases, some courts hold to the contrary and the issue remains unresolved. Under the CAA, however, individuals may be neither sued nor held individually liable, because only an employing office may be named as respondent or defendant under §§401-408 and all awards and settlements must generally be paid out of an account of the Office of Compliance under §415(a).	Sec. 11(b) *29 U.S.C. §630(b).*
Defense:	
16. Defense for good faith reliance on agency interpretations. §7(e) of the ADEA provides that §10 of the Portal-to-Portal Act ("PPA") shall apply to actions under the ADEA, and §10 of the PPA establishes a defense for an employer who relies in good faith on an interpretation by the EEOC. However, the CAA does not reference §7(e) of the ADEA, and §15 of the ADEA, which is referenced by §201(a)(2) of the CAA, contains a subsection (f) that specifically precludes the application of provisions outside of §15. The ADEA thus differs from Title VII, as discussed at page 4, row 17, above, because the Title VII provisions referenced by the CAA contain no provision like ADEA §15(f) precluding the application of other statutory provisions.	Sec. 7(e); *29 U.S.C. §626(e), referencing* §10 of PPA, *29 U.S.C. §259.*
Damages:	
17. Liquidated damages for retaliation. §4(d) of the ADEA forbids discrimination against employees for exercising ADEA rights, and §7(b) of the ADEA provides that liquidated damages, in an amount equal to the amount otherwise owing because of a violation, shall be payable in cases of willful violations. Under the CAA, §201(a)(2)(B) incorporates "such liquidated damages as would be appropriate if awarded under §7(b) of [the ADEA]," but only for "a violation of subsection (a)(2)." §201(a)(2) does not reference §4(d) of the ADEA, but rather, §201(a)(2) prohibits discrimination within the meaning of §15 of the ADEA, 29 U.S.C. §633a, and §15 does not prohibit retaliation either expressly or by implication. *See Tomasello* v. *Rubin*, 920 F. Supp. 4 (D.D.C. 1996); *Koslow* v. *Hundt*, 919 F. Supp. 18 (D.D.C. 1995). Retaliation is prohibited by §207(a) of the CAA, but the remedy under §207(b) is "such legal or equitable remedy as may be appropriate," with no express authority to award liquidated damages.	Secs. 4(d), 7(b); *29 U.S.C. §§623(d), 626(b), including reference* to §16(b) of FLSA, *29 U.S.C. §216(b).*
C. OTHER AGENCY AUTHORITIES.	
18. Authority to issue written interpretations and opinions. §7(e) of the ADEA, referencing §10 of the PPA, establishes a defense for good-faith reliance on "any written administrative regulation, order, ruling, approval, or interpretation" of the EEOC, and the EEOC has established a process by which a request for an opinion letter may be submitted to the Commission. See 29 C.F.R. §§1626.17-1626.18. However, as noted at page 9, row 16, above, the CAA does not reference §7(e). Furthermore, as discussed in connection with Title VII at page 5, row 20, above, the Board has decided that the PPA defense was incorporated into §203 of the CAA, but that the Board would not provide authoritative interpretations and opinions outside of adjudicating individual cases.	Sec. 7(e); *29 U.S.C. §626(e), referencing* §10 of PPA, *29 U.S.C. §259.*
19. Notice-posting requirements. The ADEA requires employers, employment agencies, and unions to post notices prepared or approved by the EEOC. The CAA does not reference these provisions, and the Board, in issuing substantive regulations as to several other laws, found that notice-posting requirements under those laws were not incorporated by the CAA.	Sec. 8; *29 U.S.C. §627.*
20. Substantive rulemaking authority. Under §9 of the ADEA, the EEOC promulgates substantive as well as procedural regulations applicable to the private sector. §9 is not referenced by the CAA, and §201 of the CAA, unlike most other CAA sections, does not require that the Board adopt implementing regulations. §304 of the CAA, which establishes the process by which the Board adopts substantive regulations, specifies that such regulations "shall include regulations the Board is required to issue under title II [of the CAA]," but does not state explicitly whether the Board has authority to promulgate regulations, at its discretion, that the Board is not required to issue. Furthermore, §201(a)(2) of the CAA references §15 of the ADEA, which, in subsection (b), requires the EEOC to issue regulations, orders, and instructions applicable to the executive branch and requires each federal agency covered by §15 to comply with them. The CAA does not state expressly whether the reference to §15 makes subsection (b) of that section applicable, and, specifically, whether employing offices must comply with regulations, orders, and instructions promulgated by the EEOC under §15(b), or whether the Board can exercise the authority of the EEOC under §15(b) to issue regulations, orders, and instructions binding on employing offices.	Sec. 9; *29 U.S.C. §628.*
21. Authority to grant "reasonable exemptions" in the "public interest." With respect to the private sector, §9 of the ADEA authorizes the EEOC to establish "reasonable exemptions" from the ADEA "as it may find necessary and proper in the public interest." §9 is not referenced by the CAA, and §15 of the ADEA, which is referenced by §201(a)(2) of the CAA, contains a subsection (f) that specifically precludes the application of any provision outside of §15. However, §15(b) of the ADEA authorizes the EEOC to establish "[r]easonable exemptions" for the executive branch upon determining that age is a BFOQ. The CAA does not state expressly whether the reference to §15 makes subsection (b) of that section applicable, and, specifically, whether any BFOQs granted by the EEOC under §15(b) would apply to employing offices, or whether the Board can exercise the authority of the EEOC under §15(b) to issue BFOQs applicable to employing offices.	Sec. 9; *29 U.S.C. §628.*

AMERICANS WITH DISABILITIES ACT OF 1990 ("ADA")

TITLE I—EMPLOYMENT

A. SUBSTANTIVE RIGHTS AND PROTECTIONS	
1. Employment discrimination against an individual employed by another employer. § 102(a) of the ADA forbids employment discrimination by covered employers against "a qualified individual with a disability." As discussed at page 1, row 1, above, courts have held that a Title VII provision forbidding discrimination against "any individual" extends, under certain circumstances, beyond the immediate employer-employee relationship, including where a defendant who does not employ an individual controls that individual's access to employment with another employer and denies access based on unlawful criteria. Under the CAA, an employing office may only be charged with discrimination by a "covered employee," defined as an employee of the nine legislative-branch employers listed in § 101(3).	Sec. 102(a); *42 U.S.C. § 12112(a).*
2. Coverage of unions. § 102 of the ADA forbids discrimination by unions in the private sector, and these provisions may be enforced against private-sector unions under § 107(a) of the ADA. The CAA does not make these provisions applicable to unions discriminating against legislative branch employees, because § 201 of the CAA only forbids discrimination in "personnel actions" and §§ 401–408 allow complaints only against employing offices. (Unlawful discrimination by a union may be an unfair labor practice under § 220 of the CAA, but the procedures and remedies under that section are very different from those under the ADA and under the CAA for violations of ADA rights and protections.) As noted at page 1, row 3, above, a similar situation exists in the executive branch, where § 717 of Title VII does not cover discrimination by unions against executive branch employees, but courts and the EEOC are divided as to whether the private-sector provisions of Title VII and 42 U.S.C. § 1981 apply by their own terms to such discrimination. Similarly differing views might be expressed with respect to whether the ADA applies by its own terms to forbid discrimination by unions against legislative-branch employees.	Secs. 102, 107(a); *42 U.S.C. §§ 12112, 12117(a).*

AMERICANS WITH DISABILITIES ACT OF 1990 ("ADA")—Continued

3. Consideration of political party, domicile, or political compatibility. Under the CAA, § 502 provides that consideration of political party, domicile, or political compatibility by Members, committees, or leadership offices shall not be a violation of § 201, which is the section that makes applicable the rights and protections of title I of the ADA. Under the ADA, there is no specific immunity for consideration of political party, domicile, or political compatibility.	Secs. 102–103; *42 U.S.C. § 12112–12113.*
B. ENFORCEMENT	
Agency Enforcement Authorities:	
4. Agency responsibility to investigate charges filed by an employee or Commission Member. The ADA requires the EEOC to investigate charges brought by an employee or by a Member of the Commission. The CAA neither references these provisions nor sets forth similar provisions authorizing agency investigation.	Sec. 107(a); *42 U.S.C. § 12117(a), referencing* § 706(b) of Title VII, *42 U.S.C. § 2000e–5(b).*
5. Agency responsibility to determine "reasonable cause" and to "endeavor to eliminate" the violation by informal conciliation. The ADA requires that, upon the filing of a charge, the EEOC must determine whether "there is reasonable cause to believe that the charge is true" and "endeavor to eliminate any such alleged unlawful employment practice" by informal conference, conciliation, and persuasion. The CAA does not reference these provisions; it requires the mediation of allegations of discrimination and requires approval of settlements by the Executive Director, but does not require any person involved in the mediation or in approving the settlement to determine "reasonable cause" or to "endeavor to eliminate" the alleged discrimination.	. . . *referencing* § 706(b) of Title VII, *42 U.S.C.* § 2000e–5(b).
6. Agency authority to bring judicial enforcement actions. The ADA authorizes the EEOC to bring a civil action. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to bring enforcement proceedings.	. . . *referencing* § 706(f)(1) of Title VII, *42 U.S.C. § 2000e–5(f)(1).*
7. Agency authority to intervene in private civil action of general public importance. Under the ADA, the EEOC may intervene in a private action of general public importance. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to intervene in private actions.	. . . *referencing* § 706(f)(1) of Title VII, *42 U.S.C. § 2000e–5(f)(1).*
8. Agency authority to apply to court for enforcement of judicial orders. The ADA authorizes the EEOC to commence judicial proceedings to compel compliance with judicial orders. The CAA does not reference these provisions. § 407(a)(2) of the CAA enables the Office of Compliance to petition the Court of Appeals to enforce final orders of a hearing officer or the Board, but the CAA sets forth no provision enabling an agency to seek the enforcement of judicial orders.	. . . *referencing* § 706(i) of Title VII, *42 U.S.C. § 2000e–5(i).*
9. Grant of subpoena power and other general powers for investigations and hearings. The ADA grants the EEOC access to evidence, including subpoena powers, in support of its investigations and hearings. The CAA neither references these provisions nor sets forth similar provisions granting an agency investigatory powers. (§ 405(f) of the CAA grants subpoena powers to hearing officers, and § 408 authorizes civil actions in which courts may issue subpoenas, but these CAA provisions do not grant subpoena powers for use in agency investigation.)	. . . *referencing* §§ 709(a), 710 of Title VII, *42 U.S.C. §§ 2000e–8(a), 2000e–9.*
10. Recordkeeping and reporting requirements. The ADA incorporates Title VII provisions requiring private-sector employers to make and preserve such records and make such reports therefrom as the EEOC shall prescribed by regulation or order, after public hearing, as reasonable, necessary, or appropriate for enforcement. EEOC regulations require that all personnel or employment records generally be preserved for 1 year and reserve the agency's right to impose special reporting requirements on individual employers or groups of employers. 29 C.F.R. § 1602.11. The CAA does not reference these provisions, and the Board, in issuing substantive regulations with respect to several other laws, found that recordkeeping and reporting requirements under those laws were not incorporated by the CAA.	. . . *referencing* § 709(c) of Title VII, *42 U.S.C. § 2000e–8(c).*
Administrative and Judicial Procedures and Remedies:	
11. Suing individuals as agent; possibility of individual liability. Because the definition of "employer" under the ADA includes any agent, a plaintiff may choose to sue the employer by naming an individual in the capacity of agent. Furthermore, as noted with respect to Title VII at page 3, row 12, above, while many recent cases hold that individuals may not be held individually liable in discrimination cases, some courts hold to the contrary and the issue remains unresolved. Under the CAA, individuals may be neither sued nor held individually liable, because only an employing office may be named as respondent or defendant under §§ 401–408 and all awards and settlements must generally be paid out of an account of the Office of Compliance under § 415(a).	Sec. 101(5)(A); *42 U.S.C. § 12111(5)(A).*
12. Enforceability of subpoenas for information or documents within the jurisdiction of the House or Senate. The ADA authorizes civil actions in which courts exercise their ordinary subpoena authority. The CAA also authorizes civil actions, as well as administrative adjudications, but such authorization is subject to § 413 of the CAA, by which the House and Senate decline to waive certain powers relating to records and information, as discussed in connection with Title VII at page 3, row 13, above.	Sec. 107(a); *42 U.S.C. § 12117(a), referencing* § 706(f)(1) of Title VII, *42 U.S.C. § 2000e–5(f)(1).*
13. Appointment of counsel and waiver of fees. The ADA authorizes the court to appoint an attorney for the complainant in a private action and to waive costs. The CAA does not reference these provisions. In judicial proceedings under the CAA, the courts may exercise their general powers to authorize proceedings *in forma pauperis* and waive fees and costs and appoint counsel if a party is unable to pay. See 28 U.S.C. § 1915. In administrative proceedings under the CAA, there are no fees and costs to waive, but there is also no power to appoint counsel.	. . . *referencing* § 706(f)(1) of Title VII, *42 U.S.C. § 2000e–5(f)(1).*
14. Agency authority to apply for TRO or preliminary relief. § 107(a) of the ADA, which references § 706(f)(1) of Title VII, authorizes the EEOC to bring an action for a TRO or preliminary relief pending resolution of a charge. The CAA neither references § 107(a) of the ADA nor sets forth similar provisions authorizing TROs or preliminary relief, and the CAA does not allow a covered employee to commence an administrative complaint or civil action until after having completed periods of counseling and mediation and an additional period of at least 30 days.	. . . *referencing* §706(f)(2) of Title VII, *42 U.S.C. § 2000e–5(f)(2).*
Punitive Damages:	
15. Punitive damages. Punitive damages are available in cases of malice or reckless indifference brought under title I of the ADA. The CAA does not reference this provision, and § 225(c) of the CAA expressly precludes the awarding of punitive damages.	42 U.S.C. § 1981a(b)(1).
OTHER AGENCY AUTHORITIES	
16. Notice-posting requirements. The ADA requires employers, employment agencies, and unions and joint labor-management committees to post notices prepared or approved by the EEOC. The CAA does not reference these provisions, and the Board, in issuing substantive regulations with respect to several other laws, found that notice-posting requirements under those laws were not incorporated by the CAA.	Sec. 105; *42 U.S.C. § 12115.*
17. Substantive rulemaking authority. Under § 106 of the ADA, the EEOC promulgates both procedural and substantive regulations. § 106 is not referenced by the CAA, and § 201, unlike most other sections of title II of the CAA, contains no requirement that the Board adopt implementing regulations. § 304 of the CAA, which establishes the process by which the Board adopts substantive regulations, specifies that such regulations "shall include regulations the Board is required to issue under title II," but does not state explicitly whether other regulations, which the Board is not required to issue, may be issued at the Board's discretion.	Sec. 106; *42 U.S.C. § 12116.*
TITLE II—PUBLIC SERVICES	
ENFORCEMENT	
Agency Enforcement Authorities:	
18. Agencies must investigate any alleged violation, even if not charged by a qualified person with a disability. Title II of the ADA affords the remedies, procedures, and rights set forth in § 505 of the Rehabilitation Act of 1973 to "any person alleging discrimination." The regulations of the Attorney General ("AG") implementing title II require that, if any "individual who believes that he or she or a specific class of individuals" has been subject to discrimination files a complaint, then the appropriate federal agency must investigate the complaint. 28 C.F.R. §§ 35.170(a), 35.172(a). Under the CAA, § 210(d)(1), (f) provides express authority for the General Counsel to investigate only when "[a] qualified person with a disability, . . . who alleges a violation[,] . . . file[s] a charge" and in "periodic inspections" that are "[o]n a regular basis, and at least once each Congress."	Sec. 203; *42 U.S.C. § 12133, referencing* § 505 of Rehabilitation Act of 1973, *29 U.S.C. § 794a.*
19. Agencies must issue "Letter of Findings" and endeavor to "secure compliance by voluntary means." Title II of the ADA affords the remedies, procedures, and rights of § 505 of the Rehabilitation Act, and § 505 incorporates the remedies, procedures and rights of titles VI and VII of the Civil Rights Act of 1964 ("CRA"). § 602 in title VI of the CRA provides that enforcement action may be taken only if the federal agency concerned "has determined that compliance cannot be secured by voluntary means." The AG's regulations implementing title II of the ADA require that the Federal agency investigating a complaint must issue a Letter of Findings, 28 C.F.R. § 35.172, and, if noncompliance is found, the agency must initiate negotiations "to secure voluntary compliance" and any compliance agreement must specify the action that will be taken "to come into compliance" and must "[p]rovide assurance that discrimination will not recur," 28 C.F.R. § 35.173. The CAA does not reference these provisions. Under the CAA, § 210(d)(2) authorizes the General Counsel to request mediation between the charging individual and the responsible entity, and the CAA requires approval of any settlement by the Executive Director. However, the General Counsel is specifically forbidden to participate in the mediation, and the CAA does not require any person involved in the mediation or in approving the settlement to make findings as to compliance or noncompliance or to endeavor "to secure voluntary compliance."	Sec. 203; *42 U.S.C. § 12133, referencing* § 602 of title VI of the CRA, *42 U.S.C. § 2000d–1.*
20. Attorney General's authority to bring enforcement proceeding without a charge by a qualified person with a disability. Under title II of the ADA and under regulations of the AG, if a federal agency receives a complaint from any individual who believes there has been discrimination and is unable to secure voluntary compliance, the agency may refer the matter to the AG for enforcement. 28 C.F.R. § 35.174; *see U.S.* v. *Denver*, 927 F. Supp. 1396, 1399–1400 (D. Col. 1996). Under the CAA, § 210(d)(3) authorizes the General Counsel to file an administrative complaint only after "[a] qualified person with a disability, . . . who alleges a violation[,] . . . file[s] a charge."	Sec. 203; *42 U.S.C. § 12133.*
21. Attorney General's authority to bring enforcement action in federal district court. The AG enforces against a violation of ADA title II by filing an action in federal district court. Under the CAA, § 210(d)(3) authorizes the General Counsel to enforce by filing an administrative complaint, but not by commencing an action in court.	Sec. 203; *42 U.S.C. § 12133.*
Judicial Procedures and Remedies:	
22. Private right of action. Under title II of the ADA, both employees and non-employees of a public entity may sue a public entity for discrimination on the basis of disability. Under the CAA, non-covered-employees have no right to sue or bring administrative proceedings under § 210 or any other section of the CAA. (As discussed at page 16, row 23, below, covered employees may sue or bring administrative complaints under § 201 and §§ 401–408 of the CAA.)	Sec. 203; *42 U.S.C. § 12133.*

AMERICANS WITH DISABILITIES ACT OF 1990 ("ADA")—Continued

23. Private right to sue immediately, without having exhausted administrative remedies. Both employees and non-employees of a non-federal public entity may sue under title II of the ADA immediately, regardless of whether administrative remedies have been exhausted.[1] Under the CAA, covered employees may not file an administrative complaint or commence a civil action until after having completed periods of counseling and mediation and an additional period of at least 30 days. (As discussed at page 15, row 22, above, non-covered-employees have no private right of action.)	Sec. 203; *42 U.S.C. § 12133.*
Damages:	
24. Monetary damages. § 203 of the ADA incorporates the remedies of titles VI and VII of the CRA, as noted in page 15, row 19, above. Title VII does not provide for damages other than back pay under § 706(g)(1) in connection with hiring or reinstatement, but, under title VI, courts have inferred a private right to recover damages for an intentional violation. *Franklin* v. *Gwinnett County Public Schools,* 503 U.S. 60, 70, 112 S. Ct. 1028, 1035 (1992). Under the CAA, § 210(c) incorporates the remedies under § 203 of the ADA. However, a court has held that the Federal Government is immune, under sovereign immunity principles, against the implied right to recover damages under title VI as incorporated by § 505 of the Rehabilitation Act. *Dorsey* v. *U.S. Dep't of Labor,* 41 F.3d 1551 (D.C. Cir. 1994).	Sec. 203; *42 U.S.C. § 12133, referencing* title VI and §§ 706(f)-(k), 716 of the CRA, *42 U.S.C. §§ 2000d et seq., 2000e-5(f)-(k), 2000e-16.*
TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES	
ENFORCEMENT	
Agency Enforcement Authorities.	
25. Attorney General may investigate whenever there is reason to believe there may be a violation, even if not charged by a qualified person with a disability. Title III of the ADA requires the AG to investigate alleged violations and to undertake periodic compliance reviews. The AG's regulations implementing title III specify that "[a]ny individual who believes that he or she or a specific class of persons" has been subject to discrimination may request an investigation, and that, whenever the AG "has reason to believe" there may be a violation, the AG may initiate a compliance review. 28 C.F.R. § 36.502. The CAA does not reference these provisions, and § 210(d)(1), (f) of the CAA provides express authority for the General Counsel to investigate only when "[a] qualified person with a disability, . . . who alleges a violation[,] . . . file[s] a charge" and in "periodic inspections" that are "[o]n a regular basis, and at least once each Congress.".	Sec. 308(b)(1)(A)(i); *42 U.S.C. § 12188(b)(1)(A)(i).*
26. Attorney General's authority to bring enforcement action without a charge by a qualified person with a disability. Under title III of the ADA, if the AG has reasonable cause to believe that there is discrimination that constitutes a pattern or practice of discrimination or that raises an issue of general public importance, the AG may commence a civil action. These provisions are not referenced by the CAA. § 210(d)(3) of the CAA authorizes the General Counsel to file an administrative complaint only in response to a charge filed by a qualified person with a disability who alleges a violation.	Sec. 308(b)(1)(B); *42 U.S.C. § 12188(b)(1)(B).*
27. Attorney General's authority to bring enforcement action in federal district court. The AG brings enforcement actions, as noted at page 17, row 26, above, by filing an action in federal district court. These provisions are not referenced by the CAA. § 210(d)(3) of the CAA authorizes the General Counsel may bring an enforcement action by filing an administrative complaint, but not by commencing an action in court.	Sec. 308(b)(1)(B); *42 U.S.C. § 12188(b)(1)(B).*
Judicial Procedures and Remedies:	
28. Private right of action. A private right of action is available for violations of title III of the ADA. The CAA neither references these provisions nor sets forth similar provisions establishing a private right to commence either an administrative or judicial proceedings.	Sec. 308(a); *42 U.S.C. § 12188(a).*
Damages and Penalties:	
29. Monetary damages. § 308(b)(2)(B) of the ADA provides that, when the AG brings a civil action, he or she may ask the court to award monetary damages to the person aggrieved. The CAA does not reference § 308(b)(2)(B), but, rather, § 210(c) of the CAA references the remedies under §§ 203 and 308(a) of the ADA. § 203 of the ADA references the remedies of titles VI and VII of the CRA, as noted in row 19 above, and § 308(a) of the ADA references the remedies of title II of the CRA, 42 U.S.C. §§ 2000a-3(a). Neither title II nor title VII of the CRA provides for damages, other than back pay under § 706(g)(1) of title VII in connection with hiring or reinstatement. Courts have inferred a private right to recover damages under title VI of the CRA, but, as discussed at page 16, row 24, above, the Federal Government may be immune. Furthermore, the remedies of title VI of the CRA are referenced by § 203 of title II of the ADA, not by § 308(a) of title III of the ADA, and might therefore not be available for a violation of title III rights and protections as made applicable by § 210 of the CAA.	Sec. 308(b)(2)(B); *42 U.S.C. § 12188(b)(2)(B).*
30. Civil penalties. In a civil action brought by the Attorney General under title III of the ADA, the court may assess a civil penalty. The CAA does not reference this provision and § 225(c) of the CAA specifically disallows the assessment of civil penalties.	Sec. 308(b)(2)(C); *42 U.S.C. § 12188(b)(2)(C).*
TITLE V—MISCELLANEOUS PROVISIONS	
SUBSTANTIVE RIGHTS AND PROTECTIONS	
31. Retaliation against employees of other employers. § 503 of the ADA protects "any individual" against retaliation for asserting, exercising, or enjoying rights under the ADA. Employers" obligations under this section are not expressly limited to their own employees, and, in the context of the retaliation provision in the OSHAct, the Labor Department has construed the term "any employee" to forbid employers to retaliate against employees of other employers, as discussed at page 32, row 1, below. § 503 is not referenced by the CAA, and § 207 of the CAA, which sets forth provisions prohibiting retaliation, applies by its terms to covered employees only.	Sec. 503; *42 U.S.C. § 12203.*
32. Retaliation against non-employees exercising rights with respect to public entities or public accommodations. § 503 of the ADA protects any individual against retaliation for asserting, exercising, or enjoying rights under the ADA. Such individuals may include non-employees who exercise or enjoy rights with respect to public entities under title II of the ADA or public accommodations under title III of the ADA. § 503 is not referenced by the CAA, and § 207 of the CAA, which sets forth provisions establishing retaliation protection, applies by its terms to covered employees only.	Sec. 503; *42 U.S.C. § 12203.*

FAMILY AND MEDICAL LEAVE ACT OF 1993 ("FMLA")

A. SUBSTANTIVE RIGHTS AND PROTECTIONS	
1. Duties owed by "secondary" employers to employees hired and paid by temp agencies and another "primary" employers. The FMLA defines "employer" to include any person "who acts, directly or indirectly, in the interest of an employer"; makes it unlawful for any employer to interfere with the exercise of FMLA rights; and forbids employers and other persons from retaliating against "any individual." The Labor Secretary, citing this statutory authority, promulgated regulations on "joint employment" that prohibit "secondary employers" from interfering with the exercise of FMLA rights by employees hired and paid by a "primary" employer, e.g., by a temporary help or leasing agency. 29 C.F.R. § 825.106(f); 60 Fed. Reg. 2180, 2183 (Jan. 8, 1995). Under the CAA, individuals who are not employees of the nine legislative-branch employers in § 101(3) are outside the definition of "covered employee" and are not covered by family and medical leave protection under § 202(a) or by retaliation protection under § 207(a), regardless of whether an employing office would be considered the "secondary employer" within the meaning of the Labor Secretary's regulations. The Board, in promulgating its implementing regulations, stated specifically that employees of temporary and leasing agencies are not covered by the CAA. 142 Cong. Rec. S196, S198 (daily ed. Jan. 22, 1996).	Secs. 101(4)(A)(ii)(I), 105(a)(1)-(2), (b); *29 U.S.C. §§ 2611(4)(A)(ii)(I), 2615(a)(1)-(2), (b).*
B. ENFORCEMENT	
Agency Enforcement Authorities:	
2. Agency's general authority to investigate to ensure compliance, and responsibility to investigate complaints of violations. § 106(a) of the FMLA authorizes the Labor Secretary generally to make investigations to ensure compliance, and § 107(b)(1) specifically requires the Labor Secretary to receive, investigate, and attempt to resolve complaints of violations. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to conduct investigations.	Sec. 106(a), 107(b)(1); *29 U.S.C. §§ 2616(a), 2617(b)(1).*
3. Grant of subpoena and other investigatory powers. The FMLA grants the Labor Secretary subpoena and other investigatory powers for any investigations. The CAA neither references these provisions nor sets forth similar provisions granting an agency investigatory powers. (§ 405(f) of the CAA grants subpoena powers to hearing officers, and § 408 authorizes civil actions in which courts may issue subpoenas, but these CAA provisions do not grant subpoena powers for use in agency investigation.)	Sec. 106(a), (d); *29 U.S.C. § 2616(a), (d).*
4. Recordkeeping and reporting requirements. The FMLA requires private-sector employers to make and preserve records pertaining to compliance in accordance with § 11(c) of the FLSA and in accordance with regulations issued by the Labor Secretary. § 11(c) of the FLSA requires every employer to make and preserve such records and to make such reports therefrom as the Wage and Hour administrator shall prescribe by regulation or order. The Secretary's FMLA regulations specify the records regarding payroll, benefits, and FMLA leave and disputes that employers must maintain and preserve for 3 years, and indicate that employers must submit records specifically requested by a Departmental official and must prepare extensions or transcriptions of information in the records upon request. 29 C.F.R. § 825.500(a)-(b). The CAA does not reference these statutory provisions, and the Board, in adopting implementing regulations under § 202 of the CAA, found that the CAA explicitly did not make these requirements applicable.	Sec. 106(b)-(c); *29 U.S.C. § 2616(b)-(c), referencing* § 11(c) of the FLSA, *29 U.S.C. § 211(c).*
5. Agency authority to bring judicial enforcement actions. The FMLA authorizes the Labor Secretary to bring a civil action to recover damages, and grants the district courts jurisdiction, upon application of the Labor Secretary, to restrain violations and to award other equitable relief. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to bring enforcement proceedings.	Sec. 107(b)(2), (d); *29 U.S.C. § 2617(b)(2), (d).*
Judicial Procedures and Remedies:	
6. Individual liability. Because the definition of "employer" under the FMLA includes any person who "acts, directly or indirectly, in the interest of an employer," the weight of authority is that individuals may be held individually liable in an action under § 107 of the FMLA.[1] Under the CAA, individuals may not be held individually liable, because only an employing office may be named as respondent or defendant under §§ 401-408 and all awards and settlements must generally be paid out of an account of the Office of Compliance under § 415(a).	Secs. 101(4)(A)(ii)(I), 107; *29 U.S.C. §§ 2611(4)(A)(ii)(I), 2617.*

---

[1] *See Tyler* v. *Manhattan,* 857 F. Supp. 800, 812 (D. Kan. 1994); *Ethridge* v. *Alabama,* 847 F. Supp. 903, 907 (M.D. Ala. 1993); *Noland* v. *Wheatley,* 835 F. Supp. 476, 482 (N.D. Ind. 1993); *Petersen* v. *University of Wisconsin,* 818 F. Supp. 1276, 1279 (W.D. Wis. 1993); *Bledsoe* v. *Palm Beach County Soil and Water Conserv. Dist.,* 133 F.3d 816, 824 (11th Cir. 1998) (dictum).

FAMILY AND MEDICAL LEAVE ACT OF 1993 ("FMLA")—Continued

7. Enforceability of subpoenas for information or documents within the jurisdiction of the House or Senate. The FMLA authorizes civil actions in which courts exercise their ordinary subpoena authority. The CAA also authorizes civil actions, as well as administrative adjudications, but such authorization is subject to § 413 of the CAA, by which the House and Senate decline to waive certain powers relating to records and information, as discussed in connection with Title VII at page 3, row 13, above.	Sec. 107(a)(2); *29 U.S.C. § 2617(a)(2).*
8. Private right to sue immediately, without having exhausted administrative remedies. An employee who alleges an FMLA violation may choose to sue immediately, without exhausting any administrative remedies. The CAA allows a covered employee to file an administrative complaint or commence a civil action only after having completed periods of counseling and mediation and an additional period of at least 30 days.	Sec. 107(a); *29 U.S.C. § 2617(a).*
9. Two- or 3-year statute of limitations. A civil action may be brought under the FMLA within two years after the violation ordinarily, or, in the case of a willful violation, within three years. Proceedings under the CAA must be commenced within 180 days after the alleged violation.	Sec. 107(c); *29 U.S.C. § 2617(c).*
C. Other Agency Authorities:	
10. Notice-posting requirements. The FMLA requires employers to post notices prepared or approved by the Labor Secretary, and establishes civil penalties for a violation. The CAA does not reference these provisions, and, in adopting implementing regulations, the Board found that the CAA explicitly did not incorporate these requirements.	Sec. 109; *29 U.S.C. § 2619.*

---

[1] *See Beyer* v. *Elkay Manufacturing Co.*, 1997 WL 587487 (N.D. Ill. Sept. 19, 1997) (No. 97-C-50067) (holding that the term "employer" in the FMLA should be construed the same as "employer" in the FLSA, which allows individual liability); *Knussman* v. *Maryland*, 935 F.Supp. 659, 664 (D. Md. 1996); *Johnson* v. *A.P. Products, Ltd.*, 934 F.Supp. 625 (S.D.N.Y. 1996); *Freeman* v. *Foley*, 911 F.Supp. 326, 330-32 (N.D. Ill. 1995); 29 C.F.R. § 825.104(d) (Labor Department regulations). *Contra Frizzell* v. *Southwest Motor Freight, Inc.*, 906 F.Supp. 441, 449 (E.D. Tenn. 1995) (holding that the term "employer" in FMLA should be construed the same as "employer" in Title VII, which does not allow individual liability).

FAIR LABOR STANDARDS ACT OF 1938 ("FLSA")

A. SUBSTANTIVE RIGHTS AND PROTECTIONS	
Prohibition against compensatory time off. Under the FLSA, employers generally may neither require nor allow employees to receive compensatory time off in lieu of overtime pay. § 203 of the CAA makes this prohibition generally applicable, but provisions of the CAA and other laws establish exceptions:	Sec. 7(a); *29 U.S.C. § 207(a).*
1. Coverage of Capitol Police officers. § 203(c)(4) of the CAA, as amended, allows Capitol Police officers to elect time off in lieu of overtime pay.	
2. Coverage of employees whose work schedules directly depend on the House and Senate schedules. § 203(c)(3) of the CAA requires the Board to issue regulations concerning overtime compensation for covered employees whose work schedule depends directly on the schedule of the House and Senate, and § 203(a)(3) provides that, under those regulations, employees may receive compensatory time off in lieu of overtime pay.	
3. Coverage of salaried employees of the Architect of the Capitol. 5 U.S.C. § 5543(b) provides that the Architect of the Capitol may grant salaried employees compensatory time off for overtime work. The CAA does not state expressly whether it repeals this authority.	
Interns are not covered. § 203(a)(2) of the CAA excludes "interns," as defined in regulations issued by the Board, from the coverage of all rights and protections of the FLSA:	
4. Minimum wage. Interns are excluded from coverage under the entitlement to the minimum wage	Sec. 6(a); *29 U.S.C. § 206(a).*
5. Entitlement to overtime pay. Interns are excluded from coverage under the entitlement receive overtime pay	Sec. 7(a); *29 U.S.C. § 207(a).*
6. Equal Pay Act provisions. Interns are excluded from coverage under Equal Pay provisions, prohibiting sex discrimination in the payment of wages	Sec. 6(d); *29 U.S.C. § 206(d).*
7. Child labor protections. Interns are excluded from coverage under child labor protections	Sec. 12(c); *29 U.S.C. § 212(c).*
8. Coverage of unions under Equal Pay provisions. The Equal Pay provisions at § 6(d)(2) of the FLSA forbid unions in the private-sector to cause or attempt to cause an employer to discriminate on the basis of sex in the payment of wages, and these provisions may be enforced against private-sector unions under § 16(b) of the FLSA. Under the CAA, § 203(a)(1) makes the rights and protections of § 6(d) of the FLSA applicable to covered employees, but no mechanism is expressly provided for enforcing these rights and protections against unions, because §§ 401–408 of the CAA allow complaints only against employing offices. (Unlawful discrimination by a union may be an unfair labor practice under § 220 of the CAA, but the procedures and remedies under that section are very different from those under the FLSA and under the CAA for violations of Equal Pay rights and protections.) As noted at page 1, row 3, above, a similar situation exists in the executive branch, where § 717 of Title VII does not cover discrimination by unions against executive branch employees, but courts and the EEOC are divided as to whether the private-sector provisions of Title VII and 42 U.S.C. § 1981 apply by their own terms to such discrimination. Similarly, differing views might be expressed with respect to whether §§ 6(d)(2) and 16(b) of the FLSA apply by their own terms to prohibit discrimination by unions against legislative-branch employees.	Secs. 6(d)(2), 16(b); *29 U.S.C. §§ 206(d), 216(b).*
9. Prohibition of retaliation by "persons," including unions, not acting as employers. § 15(a)(3) of the FLSA forbids retaliation by any "person" against an employee for exercising rights under the FLSA, and § 3(a) defines "person" broadly to include any "individual" and any "organized group of persons." This definition is broad enough to include a labor union, its officers, and members. *See Bowe* v. *Judson C. Burns, Inc.*, 137 F.2d 37 (3d Cir. 1943). The CAA does not reference § 15(a)(3) of the FLSA, and § 207 of the CAA forbids retaliation only by employing offices.	Sec. 15(a)(3); *29 U.S.C. § 215(a)(3).*
B. ENFORCEMENT	
Agency Enforcement Authorities:	
10. Grant of subpoena and other powers for use in investigations and hearings. § 9 of the FLSA grants the Labor Secretary subpoena and other investigatory powers for use in investigations and hearings. The CAA neither references these provisions nor sets forth similar provisions granting an agency investigatory powers. (§ 405(f) of the CAA grants subpoena powers to hearing officers, and § 408 authorizes civil actions in which courts may issue subpoenas, but these CAA provisions do not grant subpoena powers for use in agency investigation.)	Sec. 9; *29 U.S.C. § 209.*
11. Agency authority to investigate complaints of violations and to conduct agency initiated investigations. Under authority of § 11(a) of the FLSA, the Wage and Hour Division investigates complaints of violations and also conducts agency-initiated investigations. The CAA neither references these provisions nor sets forth similar provisions. authorizing agency investigation.	Sec. 11(a); *29 U.S.C. § 211(a).*
12. Recordkeeping and reporting requirements. The FLSA requires employers in the private sector to make and preserve such records and to make such records therefrom as the Wage and Hour Administrator shall prescribe by regulation or order as necessary or appropriate for enforcement. Labor Department regulations specify the "payroll" and other records that must be preserved for at least 3 years and the "employment and earnings" records that must be preserved for at least 2 years, and require each employer to make "such extension, recomputation, or transcription" of required records, and to submit such reports concerning matters set forth in the records, as the Administrator may request in writing. 29 C.F.R. §§ 516.5–516.8. As to the Equal Pay provisions, EEOC regulations require employers to keep records in accordance with The CAA does not reference these provisions, and, in adopting implementing regulations, the Board found that the CAA explicitly did not made these requirements applicable.	Sec. 11(c); *29 U.S.C. § 211(c).*
13. Agency authority to bring judicial enforcement actions. The FLSA authorizes the Labor Secretary to bring an action in district court to recover unpaid minimum wages or overtime compensation, and an equal amount of liquidated damages, and civil penalties, as well as injunctive relief. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to bring enforcement proceedings.	Secs. 16(c), 17; *29 U.S.C. §§ 216(c), 217.*
Judicial Procedures and Remedies:	
14. Individual liability. Because the definition of "employer" under the FLSA includes any person who "acts, directly or indirectly, in the interest of an employer," individuals may be held individually liable in an action under §16(b) of the FLSA. Under the CAA, individuals may not be held individually liable, because only an employing office may be named as respondent or defendant under §§ 401–408 and all awards and settlements must generally be paid out of an account of the Office of Compliance under § 415(a).	Secs. 3(d), 16(b); *29 U.S.C. §§ 203(d), 216(b).*
15. Private right to sue immediately, without having exhausted administrative remedies. An employee who alleges an FLSA violation may sue immediately, without exhausting any administrative remedies. The CAA allows a covered employee to file an administrative complaint or commence a civil action only after having completed periods of counseling and mediation and an additional period of at least 30 days.	Sec. 16(b); *29 U.S.C. § 216(b).*
16. Enforceability of subpoenas for information or documents within the jurisdiction of the House or Senate. The FLSA authorizes civil actions in which courts exercise their ordinary subpoena authority. The CAA also authorizes civil actions, as well as administrative adjudications, but such authorization is subject to § 413 of the CAA, by which the House and Senate decline to waive certain powers relating to records and information, as discussed in connection with Title VII at page 3, row 13, above.	Sec. 16; *29 U.S.C. § 216.*
17. Injunctive relief. § 17 of the FLSA grants jurisdiction to the district courts, upon the complaint of the Labor Secretary, to restrain violations. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to seek injunctive relief or granting a court or other tribunal jurisdiction to grant it.	Sec. 17; *29 U.S.C. § 217.*
18. Two- or 3-year statute of limitations. A civil action under the FLSA may be brought within two years after the violation ordinarily, or, in the case of a willful violation, within three years. Proceedings under the CAA must be commenced within 180 days after the alleged violation.	Secs. 6-7 of the Portal-to-Portal Act ("PPA"); *29 U.S.C. §§ 255–256.*
19. Remedy for a child labor violation. §§ 16(a), (e), and 17 of the FLSA provide for enforcement of child labor requirements through agency enforcement actions for civil penalties or injunction and by criminal prosecution. The CAA does not reference §§ 16(a), (e), or 17 of the FLSA. § 203(b) of the CAA references only the remedies of § 16(b) of the FLSA, and § 16(b) makes employers liable for: (*1*) damages if the employer violated minimum-wage or overtime requirements of the FLSA, and (*2*) legal or equitable relief if the employer violated the anti-retaliation requirements of the FLSA. The CAA thus does not expressly reference any FLSA provision establishing remedies for child labor violations.	Secs. 16(a), (e), 17; *29 U.S.C. §§ 216(a), (e), 217.*
Liquidated Damages; Civil and Criminal Penalties:	
20. Criminal penalties. The FLSA makes fines and imprisonment available for willful violations. The CAA neither references these provisions nor sets forth similar provisions imposing criminal penalties.	Sec. 16(a); *29 U.S.C. § 216(a).*

FAIR LABOR STANDARDS ACT OF 1938 ("FLSA")—Continued

21. Liquidated damages for retaliation. § 15(a)(3) of the FLSA prohibits discrimination against an employee for exercising FLSA rights, and § 16(b) provides that an employer who violates § 15(a)(3) is liable for legal or equitable relief and "an additional equal amount as liquidated damages." Under the CAA, § 203(b) incorporates the remedies of §16(b) of the FLSA and explicitly includes "liquidated damages," but only "for a violation of subsection (a)," and § 203(a) does not reference § 15(a)(3) of the FLSA or otherwise prohibit retaliation. Retaliation is prohibited by § 207(a) of the CAA, but the remedy under § 207(b) is "such legal or equitable remedy as may be appropriate," with no express authority to award liquidated damages.	Sec. 16(b); *29 U.S.C. § 216(b).*
22. Civil penalties. The FLSA authorizes the Labor Secretary or the court to assess civil penalties for child labor violations or for repeated or willful violations of the minimum wage or overtime requirements. The CAA does not reference these provisions, and § 225(c) of the CAA expressly precludes the awarding of civil penalties under the CAA.	Sec. 16(e); *29 U.S.C. §216(e).*
C. OTHER AGENCY AUTHORITIES	
23. Agency issuance of interpretative bulletins. The Wage and Hour Administrator has issued a number of interpretative bulletins and advisory opinions, and § 10 of the PPA, 29 U.S.C. § 259, in establishing a defense for good-faith reliance, refers to the "written administrative regulation, order, ruling, approval, or interpretation" of the Administrator. Under the CAA, in adopting regulations implementing § 203, the Board stated that the Wage and Hour Division's legal basis and practical ability to issue interpretive bulletins and advisory opinions arises from its investigatory and enforcement authorities, and that, absent such authorities, "it seems unwise, if not legally improper, for the Board to set forth its views on interpretive ambiguities in the regulations outside of the adjudicatory context of individual cases," and, further, that the Board "would in the exercise of its considered judgment decline to provide authoritative opinions" as part of its education and information programs. 142 Cong. Rec. S221, S222–S223 (daily ed. Jan. 22, 1996).	Secs. 9, 11, 16–17; *29 U.S.C. § 209, 211, 216–217.*
24. Requirements to post notices. Although the FLSA does not expressly require the posting of notices, the Labor Secretary promulgated regulations requiring employers to post notices informing employees of their rights. 29 C.F.R. § 516.4. In so doing, the Secretary relied on authority under § 11, which deals generally with the collection of information. 29 C.F.R. part 516 (statement of statutory authority). In adopting implementing regulations, the Board found that the CAA explicitly did not incorporate these notice-posting requirements.	Sec. 11; *29 U.S.C. § 211.*

[1] See, e.g., U.S. Dep't of Labor v. *Cole Enterprises*, 62 F.3d 775, 778 (6th Cir. 1995); *Reich* v. *Circle C. Investments, Inc.*, 998 F.2d 324, 329 (5th Cir. 1993); *Brock* v. *Hamad*, 867 F.2d 804, 809 n.6 (4th Cir. 1989); *Riordan* v. *Kempiners*, 831 F.2d 690, 694–95 (7th Cir. 1987); *Donovan* v. *Agnew*, 712 F.2d 1509, 1511 (1st Cir. 1983).

EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988 ("EPPA")

A. SUBSTANTIVE RIGHTS AND PROTECTIONS	
1. Coverage of Capitol Police. The EPPA applies to any employer in commerce, with no exception for private-sector police forces. Under the CAA, § 204(a)(3) authorizes the Capitol Police to use lie detectors in accordance with regulations issued by the Board under § 204(c), and the Board's regulations exempt the Capitol Police from EPPA requirements with respect to Capitol Police employees.	Secs. 2(1)–(2), 3(1)–(3), 7; *29 U.S.C. §§ 2001(1)–(2), 2002(1)–(3), 2006.*
B. ENFORCEMENT	
Agency Enforcement Authorities:	
2. Authority to make investigations and inspections. The EPPA authorizes the Labor Secretary to make investigations and inspections. The CAA neither references these provisions nor sets forth similar provisions authorizing investigations or inspections by an agency.	Sec. 5(a)(3); *29 U.S.C. § 2004(a)(3).*
3. Recordkeeping requirements. The EPPA authorizes the Labor Secretary to require the keeping of records necessary or appropriate for the administration of the Act. Labor Department regulations specify the records regarding any polygraph use that employers and examiners must maintain and preserve for 3 years. 29 C.F.R. § 801.30. The CAA does not reference these provisions, and, in adopting implementing regulations, the Board found that the CAA explicitly did not make these requirements applicable.	Sec. 5(a)(3); *29 U.S.C. § 2004(a)(3).*
4. Grant of subpoena and other powers for investigations and hearings. The EPPA grants the Labor Secretary subpoena and other investigatory powers for use in investigations and hearings. The CAA neither references these provisions nor sets forth similar provisions granting an agency investigatory powers. (§ 405(f) of the CAA grants subpoena powers to hearing officers, and § 408 authorizes civil actions in which courts may issue subpoenas, but these CAA authorities do not grant subpoena powers for use in agency investigation.).	Sec. 5(b); *29 U.S.C. § 2004(b).*
5. Agency authority to bring judicial enforcement actions. The EPPA authorizes the Labor Secretary to bring an action in district court to restrain violations or for other legal or equitable relief. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to bring enforcement proceedings.	Sec. 6(a)–(b); *29 U.S.C. § 2005(a)–(b).*
Judicial Procedures and Remedies:	
6. Individual liability. The definition of "employer" under the EPPA includes any person who "acts, directly or indirectly, in the interest of an employer." This definition is substantially the same as that in the FLSA and the FMLA. As discussed in connection with these laws at page 20, row 6, and page 24, row 14, above, individuals may be held individually liable under the FLSA, and, by the weight of authority, under the FMLA. Under the CAA, individuals may not be held individually liable, because only an employing office may be named as respondent or defendant under §§ 401–408 of the CAA and all awards and settlements must generally be paid out of an account of the Office of Compliance under § 415(a).	Secs. 2(2), 6; *29 U.S.C. §§ 2001(2), 2005.*
7. Enforceability of subpoenas for information or documents within the jurisdiction of the House or Senate. The EPPA authorizes civil actions in which courts exercise their ordinary subpoena authority. The CAA also authorizes civil actions, as well as administrative adjudications, but such authorization is subject to § 413 of the CAA, by which the House and Senate decline to waive certain powers relating to records and information, as discussed in connection with Title VII at page 3, row 13, above.	Sec. 6(c)(2); *29 U.S.C. § 2005(c)(2).*
8. Private right to sue immediately, without having exhausted administrative remedies. An employee who alleges an EPPA violation may sue immediately, without having exhausted any administrative remedies. The CAA allows a covered employee to file an administrative complaint or commence a civil action only after having completed periods of counseling and mediation and an additional period of at least 30 days.	Sec. 6(c)(2); *29 U.S.C. § 2005(c)(2).*
9. Three-year statute of limitations. A civil action under the EPPA may be brought within three years after the alleged violation. Proceedings under the CAA must be commenced within 180 days after the alleged violation.	Sec. 6(c)(2); *29 U.S.C. § 2005(c)(2).*
Civil Penalties:	
10. Civil penalties. The EPPA authorizes the assessment by the Labor Secretary of civil penalties for violations. The CAA does not reference these provisions, and § 225(c) of the CAA expressly precludes the awarding of civil penalties under the CAA.	Sec. 6(a); *29 U.S.C. § 2005(a).*
C. OTHER AGENCY AUTHORITIES	
11. Requirement to post notices. The EPPA requires employers to post notices prepared and distributed by the Labor Secretary. The CAA does not reference these provisions, and, in adopting implementing regulations, the Board found that the CAA explicitly did not incorporate these requirements	Sec. 4; *29 U.S.C. § 2003.*

WORKER ADJUSTMENT AND RETRAINING NOTIFICAITON ACT ("WARN Act")

A. SUBSTANTIVE RIGHTS AND PROTECTIONS	
1. Notification of state and local governments. The WARN Act requires the employer to notify not only affected employees, but also the state dislocated worker unit and the chief elected official of local government. Although § 205(a)(1) of the CAA references § 3 of the WARN Act for the purpose of incorporating the "meaning" of office closure and mass layoff, that section of the CAA sets forth provisions requiring notification of employees, but not of state and local governments.	Secs. 3(a), 5(a)(3); *29 U.S.C. §§ 2102(a), 2104(a)(3).*
B. ENFORCEMENT	
Judicial Procedures and Remedies:	
2. Representative of employees may bring civil action. The WARN Act allows a representative of employees to sue to enforce liability. The CAA does not reference these provisions, and §§ 401–408 of the CAA provide only for the commencement or proceedings by covered employees.	Sec. 5(a)(5); *29 U.S.C. § 2104(a)(5).*
3. Unit of local government may bring civil action. The WARN Act allows a unit of local government to sue to enforce liability. The CAA does not reference these provisions, and §§ 401–408 of the CAA provide only for the commencement or proceedings by covered employees.	Sec. 5(a)(5); *29 U.S.C. § 2104(a)(5).*
4. Private right to sue immediately, without having exhausted administrative remedies. An employee, union, or local government that alleges a WARN Act violation may sue immediately, without exhausting any administrative remedies. The CAA allows a covered employee to file an administrative complaint or commence a civil action only after having completed periods of counseling and mediation and an additional period of at least 30 days.	Sec. 5(a)(5); *29 U.S.C. § 2104(a)(5).*
5. Limitations period borrowed from state law. The WARN Act does not provide a limitations period for the civil actions authorized by § 5, and the Supreme Court has held that limitations periods borrowed from state law should be applied to WARN Act claims. *North Star Steel Co.* v. *Thomas*, 515 U.S. 29, 115 S.Ct. 1927 (1995). Courts have generally applied state limitations periods to WARN Act claims ranging between one and six years. *See id.*; 29 U.S.C.A. § 2104 notes of decisions (Note 17—Limitations) (1997 suppl. pamphlet). Under the CAA, proceedings must be commenced within 180 days after the alleged violation.	Sec. 5(a)(5); *29 U.S.C. § 2104(a)(5).*

UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994 ("USERRA')

ENFORCEMENT	
Agency Enforcement Authorities:	
1. Agency authority to bring judicial enforcement action. Under USERRA, if a private-sector employee files a complaint with the Labor Secretary, and if the Labor Secretary refers the complaint to the Attorney General, the Attorney General may commence an action in court on behalf of the employee. However, while the USERRA provisions establishing substantive rights and protections generally extend, by their own terms, to the legislative branch, the Attorney General's authority under USERRA does not. Furthermore, the CAA neither references the Attorney General's authority under the USERRA nor sets forth similar provisions authorizing an agency to bring enforcement proceedings.	38 U.S.C. § 4323(a)(1).
2. Grant of subpoena and other investigatory powers. Under USERRA, the Labor Secretary may receive and investigate complaints from private-sector employees, and may issue enforceable subpoenas in carrying out such an investigation. However, while the USERRA provisions authorizing the Secretary to receive and investigate complaints extend, by their own terms, to the legislative branch, the Secretary's power to issue subpoenas does not. Furthermore, the CAA neither references the Secretary's authority and powers under USERRA nor sets forth provisions granting an agency investigatory authority and powers. (§ 405(f) of the CAA grants subpoena powers to hearing officers, and § 408 authorizes civil actions in which courts may issue subpoenas, but these CAA authorities do not grant subpoena powers for use in agency investigation.).	38 U.S.C. § 4326(b)–(d).
Judicial Procedures and Remedies:	
3. Individual liability. Because 38 U.S.C. § 4303(4)(A)(1) defines an "employer" in the private sector to include a "person . . . to whom the employer has delegated the performance of employment-related responsibilities," two courts have held that individuals may be held individually liable in an action under 38 U.S.C. § 4323. *Jones* v. *Wolf Camera, Inc.*, Civ. A. No. 3:96–CV–2578–D, 1997 WL 22678, at *2 (N.D. Tex., Jan. 10, 1997); *Novak* v. *Mackintosh*, 919 F.Supp. 870, 878 (D.S.D. 1996). However, the USERRA provisions that authorize civil actions and damages do not, by their own terms, extend to the legislative branch. Under the CAA, while § 206(b) authorizes damages, individuals may not be held individually liable, because only an employing office may be named as respondent or defendant under §§ 401–408 of the CAA and all awards and settlements must generally be paid out of an account of the Office of Compliance under § 415(a) of the CAA.	38 U.S.C. §§ 4303(4)(A)(1), 4323.
4. Private right to sue immediately, without having exhausted administrative remedies. A private-sector employee alleging a USERRA violation may sue immediately, without exhausting any administrative remedies. However, USERRA does not, by its own terms, entitle legislative branch employees to either file an administrative complaint or commence a civil action. Under the CAA, a covered employee may file an administrative complaint or commence a civil action, but only after having completed periods of counseling and mediation and an additional period of at least 30 days.	38 U.S.C. § 4323(a)(2), (b).
5. Enforceability of subpoenas for information or documents within the jurisdiction of the House or Senate. USERRA authorizes civil actions against private-sector employees in which courts exercise their ordinary subpoena authority. As noted in row 4 above, USERRA does not, by its own terms, entitle legislative branch employees to either file an administrative complaint or commence a civil action. The CAA does authorize civil actions, as well as administrative adjudications, but such authorization is subject to § 413 of the CAA, by which the House and Senate decline to waive certain powers relating to records and information, as discussed in connection with Title VII at page 3, row 13, above.	38 U.S.C. § 4323(a)(2), (b).
6. Four-year statute of limitation. USERRA states that no state statute of limitations shall apply, but otherwise provides no statute of limitations. Under 28 U.S.C. § 1658, statutes like USERRA enacted after December 1, 1990, have a 4-year statute of limitations unless otherwise provided by law. As noted in row 4 above, USERRA does not entitle legislative branch employees to either file an administrative complaint or commence a civil action. Under the CAA, proceedings must be commenced within 180 days after the alleged violation.	38 U.S.C. § 4323(c)(6).
Damages:	
7. Liquidated damages. Under USERRA, 38 U.S.C. § 4323(c)(1)(A)(iii) grants the district courts jurisdiction to require a private-sector employer to pay not only compensatory damages, but also an equal amount of liquidated damages. This provision does not, by its own terms, extend to the legislative branch. Under the CAA, § 206(b) provides that the remedy for a violation of § 206(a) of the CAA shall include such remedy as would be appropriate if awarded under 38 U.S.C. § 4323(c)(1). However, the CAA does not state specifically whether the liquidated damages authorized by subparagraph (A)(iii) of § 4323(c)(1) are included among the remedies incorporated by § 206(a). By contrast, in the two other instances where a law made generally applicable by the CAA provides for liquidated damages, the CAA states specifically that the liquidated damages are incorporated. *See* § 201(b)(2)(B) of the CAA (authorizing the award of "such liquidated damages as would be appropriate if awarded under section 7(b) of [the ADEA]'); § 203(b) of the CAA (authorizing the award of "such remedy, including liquidated damages, as would be appropriate if awarded under section 16(b) of the [FLSA]").	38 U.S.C. § 4323(c)(1)(A)(iii).

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 ("OSHAct")

A. SUBSTANTIVE RIGHTS AND PROTECTIONS	
1. Employers may not retaliate against employees of other employers. § 11(c) of the OSHAct forbids retaliation against "any employee" for exercising rights under the OSHAct, and Labor Department regulations state that "because section 11(c) speaks in terms of any employee, it is also clear that the employee need not be an employee of the discriminator." 29 C.F.R. § 1977.5(b). Under the CAA, an employing office may be charged with retaliation under § 207 only by a "covered employee," defined as an employee of the nine legislative-branch employers listed in § 101(3).	Sec. 11(c); *29 U.S.C. § 660(c).*
2. Unions and other "persons" not acting as employers may not retaliate. § 11(c) of the OSHAct forbids retaliation against an employee by any "person," and § 3(4) defines "person" broadly to include "one or more individuals" or "any organized group of persons." Regulations of the Labor Secretary explain: "A person may be chargeable with discriminatory action against an employee of another person. § 11(c) would extend to such entities as organizations representing employees for collective bargaining purposes, employment agencies, or any other person in a position to discriminate against an employee." 29 C.F.R. § 1977.5(b). Under the CAA, § 207 forbids retaliation only by an employing office.	Secs. 3(4), 11(c); *29 U.S.C. §§ 652(4), 660(c).*
B. ENFORCEMENT	
Agency Enforcement Authorities:	
3. Authority to conduct *ad hoc* inspections without a formal request by an employing office or covered employee. § 8(a) of the OSHAct authorizes the Labor Secretary to conduct inspections in the private sector at any reasonable times. Under the CAA, § 215(c)(1), (e)(1) references § 8(a) of the OSHAct, but only for the purpose of authorizing the General Counsel to exercise the Secretary's authority in making inspections. However, § 215(c)(1), (e) only provides express authority to inspect "[u]pon written request of any employing office or covered employee" or in "periodic inspections" that are "[o]n a regular basis, and at least once each Congress.".	Sec. 8(a); *29 U.S.C. § 657(a).*
4. Grant of investigatory powers. The OSHAct empowers the Labor Secretary, in conducting an inspection or investigation, to compel the production of evidence under oath. The CAA neither references § 8(b) nor sets forth similar provisions granting compulsory process in the context of inspections and investigations. (§ 405(f) of the CAA grants subpoena powers to hearing officers, but these CAA authorities do not grant subpoena powers for use in agency inspection or investigation.).	Sec. 8(b); *29 U.S.C. § 657(b).*
5. Authority to require recordkeeping and reporting of general work-related injuries and illnesses. The OSHAct requires employers to make and preserve such records as the Labor Secretary, in consultation with the HHS Secretary, may prescribe by regulation as necessary or appropriate for enforcement, and to file such reports as the Secretary may prescribe by regulation. Employers must also maintain records and make periodic reports on work-related deaths, injuries, and illnesses, and maintain records of employee exposure to toxic materials. The CAA does not reference these provisions, and the Board, in adopting implementing regulations, determined that these requirements were not made applicable by the CAA. 143 Cong. Rec. S64 (Jan. 7, 1997). However, the Board did incorporate into its regulations several employee-notification requirements with respect to particular hazards that are contained in specific Labor Department standards.	Secs. 8(c), 24(e); *29 U.S.C. §§ 657(c), 673(e).*
6. Agency enforcement of the prohibition against retaliation. Under the OSHAct, an employee who has suffered retaliation may file a complaint with the Labor Secretary, who shall conduct an investigation and, if there was a violation, shall sue in district court. The CAA does not reference these provisions and no provision of the CAA sets forth similar provisions authorizing an agency to investigate a complaint of retaliation or to bring an enforcement proceeding.	Sec. 11(c)(2); *29 U.S.C. § 660(c)(2).*
Administrative and Judicial Procedures and Remedies:	
7. Individual liability for retaliation. Because § 11(c) of the OSHAct forbids retaliation by "any person," an employee's officer responsible for retaliation may be sued and, in appropriate circumstances, be held liable. *See Donovan* v. *Diplomat Envelope Corp.*, 587 F. Supp. 1417, 1425 (E.D.N.Y. 1984) ("We cannot rule out the possibility that damages might under some circumstances be appropriately imposed upon an employer's officer responsible for a discriminatory discharge.") The CAA does not reference § 11(c) of the OSHAct, and individuals may be neither sued nor held liable under the CAA because § 207 forbids retaliation only by an employing office, only an employing office may be named as respondent or defendant under §§ 401–408, and all awards and settlements must generally be paid out of an account of the Office of Compliance under § 415(a).	Sec. 11(c); *29 U.S.C. § 660(c).*
8. Employer's burden to contest a citation within 15 days. The OSHAct provides that the employer has the burden of contesting a citation within 15 days, or else the citation becomes final and unreviewable. The CAA does not reference these provisions, and § 215(c)(3) of the CAA places the burden of initiating proceedings on the General Counsel.	Sec. 10(a); *29 U.S.C. § 659(a).*
9. Employees' right to challenge the abatement period. The OSHAct gives employees or their representatives the right to challenge, in an adjudicatory hearing, the period of time fixed in a citation for the abatement of a violation. The CAA neither references these provisions nor sets forth similar provisions establishing a process by which employees or their representatives may challenge the abatement period.	Sec. 10(c); *29 U.S.C. § 659(c).*
10. Employees' right to participate as parties in hearings on citations. The OSHAct gives affected employees or their representatives the right to participate as parties in hearings on a citation. The CAA neither references these provisions nor sets forth similar provisions allowing employees or their representatives to participate as parties.	Sec. 10(c); *29 U.S.C. § 659(c).*

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 ("OSHAct")—Continued

11. Employees' right to take appeal from administrative orders on citations. The OSHAct gives "any person adversely affected or aggrieved" by an order on a citation the right to appeal to the U.S. Courts of Appeals. The CAA does not reference these provisions, and § 215 (c)(3), (5) sets forth authority for the employing office and the General Counsel to bring or participate in administrative or judicial appeals on a citation only.	Sec. 11(a); *29 U.S.C. § 660(a).*
12. Enforceability of subpoenas for information or documents within the jurisdiction of the House or Senate. The OSHAct grants subpoena power to the Occupational Safety and Health Review Commission, which holds adjudicatory hearings under the OSHAct. The CAA also authorizes administrative adjudications, but such authorization is subject to § 413 of the CAA, by which the House and Senate decline to waive certain powers relating to records and information, as discussed in connection with Title VII at page 3, row 13, above.	Sec. 12(h)–(i); *29 U.S.C. § 661(h)–(i).*
13. Court jurisdiction, upon petition of the agency, to restrain imminent danger. § 13(a) of the OSHAct grants jurisdiction to the district courts, upon petition of the Labor Secretary, to restrain an imminent danger. Under the CAA, § 215(b) references § 13(a) of the OSHAct to the extent of providing that "the remedy for a violation" shall be "an order to correct the violation, including such order as would be appropriate if issued under section 13(a)." However, the only process set forth in the CAA for the granting of remedies is the citation procedure under §§ 215(c)(2)–(3) and 405, culminating when the hearing officer issues a written decision that shall "order such remedies as are appropriate pursuant to title II [of the CAA]." Thus, the CAA does not expressly grant jurisdiction to courts to issue restraining orders authorized under § 215(b) and does not expressly authorize the General Counsel to petition for such restraining orders. However, § 4.12 of the Procedural Rules of the Office of Compliance states that, if the General Counsel's designee concludes that an imminent danger exists, "he or she shall inform the affected employees and the employing offices . . . that he or she is recommending the filing of a petition to restrain such conditions or practices . . . in accordance with section 13(a) of the OSHAct, as applied by section 215(b) of the CAA.	Sec. 13(a) *29 U.S.C. § 662.*
14. Employees' right to sue for mandamus compelling the Labor Secretary to seek a restraining order against an imminent danger. The OSHAct gives employees at risk or their representatives the right to sue for a writ of mandamus to compel the Secretary to seek a restraining order and for further appropriate relief. The CAA neither references these provisions nor sets forth similar provisions authorizing employees or their representatives to seek to compel an agency to act.	Sec. 13(d); *29 U.S.C. § 662(d)*
Civil and Criminal Penalties:	
15. Civil penalties for violation. Civil penalties may be assessed for violations of the OSHAct, graded in terms of seriousness and willfulness of the violation. The CAA does not reference these provisions, and § 225(c) of the CAA specifically precludes the awarding of civil penalties.	Sec. 17(a)–(d), (i)–(l); *29 U.S.C. § 666(a)–(d), (i)–(l).*
16. Criminal penalties for willful violation causing death. Under the OSHAct, fines and imprisonment may be imposed for a willful violation causing death. The CAA neither references these provisions nor sets forth similar provisions imposing criminal penalties.	Sec. 17(e); *29 U.S.C. § 666(e).*
17. Criminal penalties for giving unauthorized advance notice of inspection. Under the OSHAct, fines and imprisonment may be imposed for giving unauthorized advance notice of an inspection. The CAA does not reference these provisions or otherwise provide for criminal penalties. § 4.06 of the Procedural Rules of the Office of Compliance forbids giving advance notice of inspections except as authorized by the General Counsel in specified circumstances, but applicable penalties are not specified.	Sec. 17(f); *29 U.S.C. § 666(f).*
18. Criminal penalties for knowingly making false statements. Under the OSHAct, fines and imprisonment may be imposed for knowingly making false statements in any application, record, or report under the OSHAct. The CAA neither references these provisions nor sets forth similar provisions imposing criminal penalties.	Sec. 17(g); *29 U.S.C. § 666(g).*
C. OTHER AGENCY AUTHORITIES	
19. Requirement that citations be posted. § 9(b) of the OSHAct requires that each citation be posted at or near the place of violation, as prescribed by "regulations issued by the Secretary." The Secretary may enforce this requirement under §§ 9 and 17 of the OSHAct, which include authority to issue citations and to assess or seek civil and criminal penalties for a violation of any "regulations prescribed pursuant to" the OSHAct. Under the CAA, § 215(c)(2) references § 9 of the OSHAct, but only to the extent of granting the General Counsel the authorities of the Secretary "to issue" a citation or notice, and the CAA does not expressly state whether the employing office has a duty to post the citation. § 4.13 of the Procedural Rules of the Office of Compliance directs employing offices to post citations, but the Procedural Rules are issued under § 303 of the CAA, which authorizes the adoption of rules governing "the procedures of the Office [of Compliance]." Furthermore, as to whether a requirement to post citations is enforceable under the CAA, the only enforcement mechanism stated in § 215 is set forth in subsection (c)(2), which authorizes the General Counsel to issue citations "to any employing office responsible for correcting a violation of subsection (a)"; but subsection (a) does not expressly reference either § 9(b) of the OSHAct or the Office's Procedural Rules.	Sec. 9(b); *29 U.S.C. § 658(b).*

APPENDIX II—ENFORCEMENT REGIMES OF CERTAIN LAWS MADE APPLICABLE BY THE CAA

The tables in this Appendix show the elements of private-sector enforcement regimes for nine of the laws made applicable by the CAA: Title VII, ADEA, EPA, ADA title I, FMLA, FLSA, EPPA, WARN Act, and USERRA. (Because ADA title I incorporates powers and procedures from Title VII, these two laws are combined in a single table.) These nine are the laws for which the CAA does not grant investigatory or prosecutory authority to the Office of Compliance. ADA titles II–II, the OSHAct, and Chapter 71, for which the CAA does grant such enforcement authority to the Office of Compliance, are not included in these tables.

In each of the tables, agency enforcement authority is described in the following six categories:

1. Initiation of agency investigation, whether by receipt of a charge by an affected individual or by agency initiative.
2. Investigatory powers of the agency, including authority to conduct on-site investigations and power to issue and enforce subpoenas.
3. Authority to seek compliance by informal conference, conciliation, and persuasion.
4. Prosecutory authority, including power of an agency to commence civil actions, the remedies available, and the authority to seek fines or civil penalties.
5. Authority of the agency to issue advisory opinions.
6. Recordkeeping and reporting requirements.

TITLE VII AND AMERICANS WITH DISABILITIES ACT (TITLE I)

The ADA (title I) incorporates by reference the enforcement powers, remedies, and procedures of Title VII,[1] and is therefore summarized here in the same chart as Title VII.

1. Initiation of investigation. *Individual charges.* When an individual claimant files a charge, Title VII and the ADA require the EEOC to serve notice of the charge on the respondent and to investigate.[2] *Commissioner charges.* Title VII and the ADA also require the EEOC to serve notice and to investigate any charge filed by a Member of the EEOC.[3] Commissioner charges are ordinarily based on leads developed by EEOC field offices.

2. Investigatory powers.

On-site investigation. In connection with the investigation of an individual charge or a Commissioner charge, Title VII and the ADA authorize the EEOC and its representatives to "have access to, for purposes of examination, and the right to copy any evidence."[4] According to the EEOC Compliance Manual, this authority includes interviewing witnesses.[5]

Subpoenas. *Issuance.* Title VII and the ADA grant the EEOC the power to issue subpoenas, relying on authorities under the NLRA,[6] and EEOC regulations specify that subpoenas may be issued by any Commission member or any District Directors and certain other agency Directors and "any representatives designated by the Commission."[7] *Petitions for revocation or modification.* Under EEOC regulations, Title VII and ADA subpoenas may be challenged by petition to the Director who issued the subpoena, who shall either grant the petition in its entirety or submit a proposed determination to the Commission for final determination.[8] *Enforcement.* Title VII and the ADA also empower the EEOC to seek district court enforcement of such subpoenas under authorities of the NLRA,[9] and EEOC regulations specify that the General Counsel or his or her designee may institute such proceedings.[10]

3. "Reasonable cause" determination; Conciliation. Title VII and the ADA provide that, if the EEOC determines after investigation that there is "reasonable cause to believe that the charge is true," then the EEOC must "endeavor to eliminate any such alleged unlawful employment practice" by informal "conference, conciliation, and persuasion"; otherwise, the EEOC must dismiss the charge and send notice to the parties, including a right-to-sue letter to the person aggrieved.[11]

4. Prosecutory authority.

Civil enforcement actions. *Generally.* The EEOC has the authority to prosecute alleged private-sector Title VII and ADA violations in district court, after the Commission has found "reasonable cause" and has been unable to resolve the case through "conference, conciliation, and persuasion."[12] The EEOC General Counsel brings such civil actions on behalf of the EEOC. *Remedies.* The agency may request Title VII remedies (injunction, with or without back pay);[13] compensatory or punitive damages may be granted only in an "action brought by a complaining party."[14] Title VII and the ADA also authorize the EEOC to ask the district courts for temporary or preliminary relief.[15]

Relation with private right of action. If the EEOC sues, Title VII specifically authorizes the person aggrieved to intervene.[16] If the EEOC dismisses the charge, or fails to either enter into a conciliation agreement including the person aggrieved or commence a civil action within 180 days after the charge is filed, the EEOC must issue a right-to-sue letter to the person aggrieved, who may then sue; and the EEOC may then intervene if the case is of "general public importance."[17]

Fine for notice-posting violation. Title VII (though not the ADA) imposes a fine of not more than $100 for a willful violation of notice-posting requirements.[18] The EEOC Compliance Manual states that the EEOC district or area office can levy such a fine, and, if a respondent is unwilling to pay, "The Regional Attorney should be notified."[19]

---

[1] Endnotes at end of article.

5. Advisory opinions. *Title VII.* Title VII establishes a defense for good-faith reliance on "any written interpretation or opinion of the Commission."[20] EEOC regulations specify that the following may be relied upon as such: (i) an "opinion letter" of the Legal Counsel or the General Counsel approved by the Commission, (ii) a Federal Register publication designated as an "interpretation or opinion," or (iii) an "interpretation or opinion" included in a Commission determination of no reasonable cause.[21] *ADA.* Unlike the other discrimination laws, the ADA does not establish a defense for good-faith reliance on advisory opinions, and EEOC regulations do not provide for their issuance. Nevertheless, the EEOC appended "interpretive guidance" to its substantive regulations, stating that "the Commission will be guided by it when resolving charges of employment discrimination."[22]

6. Recordkeeping/reporting. Title VII and the ADA require employers to make and preserve records, and to make reports, as the EEOC shall prescribe "by regulation or order, after public hearing."[23] *Recordkeeping.* EEOC regulations require employers to preserve for one year "[a]ny personnel or employment record,"[24] and also reserve the right to impose specific recordkeeping requirements on individual employers or group of employers.[25] The EEOC's Title VII "Uniform Guidelines on Employee Selection Procedures" require that records be maintained by users of such procedures.[26] *Reporting.* EEOC regulations require employers having 100 or more employees to file an annual Title VII "Employer Information Report EEO-1,"[27] and also reserve the right to impose special or supplementary reporting requirements on individual employers or groups of employers under either Title VII or the ADA.[28] *Enforcement.* The EEOC may ask district courts to order compliance with Title VII and the ADA recordkeeping and reporting requirements.[29]

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

The ADEA is a procedural hybrid, modeling some of its procedures on Title VII, and incorporating other procedures from the FLSA. The ADEA was originally implemented and enforced by the Labor Department; the Secretary's functions were transferred to the EEOC by the Reorganization Plan in 1978,[30] and ADEA procedures were conformed in some respects to those of Title VII by the Civil Rights Act of 1991.

1. Initiation of investigation. *Individual charges.* Upon receiving any ADEA complaint, the EEOC must notify the respondent.[31] Unlike Title VII and the ADA, the ADEA does not specifically require the EEOC to investigate complaints, but the EEOC applies a uniform policy for all discrimination laws, conducting an investigation appropriate to each particular charge.[32] *Directed investigations.* Unlike Commissioner charges under Title VII or the ADA, directed investigations under the ADEA may be commenced without action by an EEOC Member or notice to the respondent.

2. Investigatory powers. The ADEA grants the EEOC broad investigatory power by reference to the FLSA.[33] With respect to subpoenas, the FLSA relies, in turn, on authorities of the FTC Act.[34]

On-site investigation. The EEOC and its representatives are authorized to investigate and gather data, enter and inspect an employer's premises and records, and question employees to "determine whether any person has violated" the ADEA or which may "aid in . . . enforcement."[35]

Subpoenas. *Issuance.* The ADEA, relying on authorities of the FTC Act, grants to the EEOC the power to issue subpoenas.[36] EEOC regulations, citing the agency's power to delegate under the ADEA, delegate subpoena power to agency Directors and the General Counsel or their designees.[37] Unlike under Title VII and the ADA, there is no procedure for asking the EEOC to reconsider or review a subpoena under the ADEA.[38] *Enforcement.* The ADEA authorizes the EEOC to invoke the aid of Federal courts to enforce subpoenas under authorities of the FTC Act,[39] and the EEOC Compliance Manual specifies that the Office of General Counsel and the Regional Attorneys may institute such proceedings.[40]

3. "Reasonable cause" determination; Conciliation. The ADEA provides that, upon receiving a charge, the EEOC must "seek to eliminate any alleged unlawful practice" by informal "conference, conciliation, and persuasion."[41] The ADEA, unlike Title VII and the ADA, does not require the Commission to make a "reasonable cause" determination as a prerequisite to conciliation, but EEOC regulations state that informal conciliation will be undertaken when the Commission has a "reasonable basis to conclude" that a violation has occurred or will occur.[42]

4. Prosecutory authority.

Civil actions. *Generally.* The EEOC has authority to prosecute alleged ADEA violations in district court if the EEOC is unable to "effect voluntary compliance" through informal conciliation.[43] The EEOC General Counsel brings such civil actions on behalf of the EEOC. *Remedies.* The agency may request amounts owing under the ADEA, including liquidated damages in case of willful violations, and an order restraining violations, including an order to pay compensation due.[44]

Relation with private right of action. An individual may bring a civil action 60 days after a charge is filed[45] and must sue within 90 days after receiving notice from the EEOC that the charge has been dismissed or proceedings otherwise terminated.[46] Thus, in contrast to Title VII and the ADA, the ADEA does not require that the EEOC issue a right to sue letter before an individual may sue.[47] As is the case under the FLSA, the EEOC's commencement of a suit on the individual's behalf terminates the individual's unexercised right to sue,[48] but most cases hold that an EEOC suit filed after an individual has commenced a suit does not terminate the individual's suit.[49]

5. Advisory opinions. The ADEA establishes a defense for good-faith reliance on "any written administrative regulation, order, ruling, approval, or interpretation" of the EEOC.[50] EEOC regulations specify that the following may be relied upon as such: (i) an "opinion letter" of the Legal Counsel or the General Counsel approved by the Commission, or (ii) a Federal Register publication designated as an "interpretation or opinion';[51] and the EEOC has codified a body of its ADEA interpretations in the Code of Federal Regulations.[52]

6. Recordkeeping/reporting. The ADEA empowers the EEOC to require the keeping of necessary and appropriate records in accordance with the powers in section 11 of the FLSA. *Recordkeeping.* EEOC regulations specify the "payroll" records that employers must maintain and preserve for at least 3 years and "personnel or employment" records that employers must maintain and preserve for at least 1 year.[53] *Reporting.* Although the ADEA does not specifically require employees to submit reports, it references FLSA provisions requiring every employer "to make such reports" from required records" as the Administrator shall prescribe.[54] EEOC regulations require each employer to make "such extension, recomputation, or transcription" of records and to submit "such reports concerning actions taken and limitations and classifications of individuals set forth in records" as the EEOC or its representative may request in writing.[55]

EQUAL PAY ACT

The enforcement regime for the Equal Pay Act ("EPA") is a hybrid between the FLSA model and the Title VII mode. The EPA legislation in 1963 added a new section 6(d) to the FLSA establishing substantive rights and responsibilities,[56] and relied on the existing FLSA provisions establishing enforcement powers, remedies, and procedures. The EPA was, at first, implemented and enforced by the Labor Department with the rest of the FLSA; the Secretary's EPA functions were transferred to the EEOC by the Reorganization Plan in 1978,[57] and the EEOC has conformed its EPA enforcement processes with those for Title VII in some respects.

1. Initiation of investigation. *Individual complaints.* Unlike the other discrimination laws, the FLSA, as amended by the EPA, does not require the EEOC to notify the respondent or to investigate complaints. However, the EEOC applies a uniform policy for all discrimination laws, conducting an investigation appropriate to each particular charge.[58] *Directed investigations.* Unlike Commissioner charges under Title VII and the ADA, directed investigations under the ADEA may be commenced without action by an EEOC Member or notice to the respondent.

2. Investigatory powers. The FLSA, of which the EPA is a part, grants the EEOC broad investigatory authority.[59] With respect to subpoenas, the FLSA relies, in turn, on authorities of the FTC Act.[60]

On-site investigation. The FLSA, as amended by the EPA, authorizes the EEOC and its representatives to investigate and gather data, enter and inspect an employer's premises and records, and question employees to "determine whether any person has violated" the EPA or which may "aid in . . . enforcement" of the EPA.[61]

Subpoenas. Under the FLSA, as amended by the EPA, the EEOC can issue and enforce subpoenas, relying on the authorities of the FTC Act.[62] *Issuance.* The power under the FLSA to issue subpoenas may not be delegated,[63] and EEOC regulations provide that subpoenas may be issued by any Member of the Commission.[64] *Enforcement.* The FLSA, as amended by the EPA, authorizes the EEOC to invoke the aid of Federal courts to enforce subpoenas,[65] and the EEOC Compliance Manual specifies that the Office of General Counsel and the Regional Attorneys may institute such proceedings.[66]

3. "Reasonable Cause" Determination; Conciliation. The FLSA, as amended by the EPA, does not require the EEOC to issue a written determination on each case or to undertake conciliation efforts. However, it is EEOC's uniform policy to issue "reasonable cause" letters for all laws, once a case has been found to meet the reasonable cause standard,[67] and EEOC office directors are granted discretion to invite a respondent to engage in conciliation negotiations when a "reasonable cause" letter is issued.[68]

4. Prosecutory authority.

Civil proceedings. *Generally.* The EEOC has the authority to prosecute alleged EPA violations in district court.[69] Unlike other discrimination laws, the FLSA, as amended by the EPA, authorizes the EEOC to sue without first having undertaken conciliation efforts. The EEOC General Counsel brings such civil actions on behalf of the EEOC. *Remedies*. The agency may request back wages, plus an equal amount in liquidated damages on behalf of aggrieved persons, and may also seek an injunction in federal district court restraining violations, including an order to pay compensation due, plus interest.[70]

Relation with private right of action. Unlike the other discrimination laws, the FLSA, as amended by the EPA, does not require an individual to first file a charge with the EEOC and await conciliation efforts before bringing a civil action.[71] If the EEOC first commences suit on the individual's behalf, the individual's right to bring suit terminates.[72]

5. Advisory opinions. The Portal-to-Portal Act ("PPA") establishes a defense for good-faith reliance on the "written administrative regulation, order, ruling, approval, or interpretation" of the Administrator.[73] The EEOC has published procedures for requesting opinion letters under the EPA, and has specified that the following may be relied upon as such: (i) an "opinion letter" of the Legal Counsel or the General Counsel approved by the Commission, or (ii) a Federal Register publication designated as an "interpretation or opinion."[74]

6. Recordkeeping/reporting. Under the FLSA, as amended by the EPA, every employer must make and preserve such records, and "make such reports therefrom," as the EEOC shall prescribe "by regulation or order."[75] *Recordkeeping*. The EEOC regulations adopt by reference the Labor Department's FLSA regulations specifying the "payroll" and other records that employers must maintain and preserve for at least 3 years and the "employment and earnings" records that employers must maintain and preserve for at least 2 years.[76] In addition, EEOC regulations require employers to preserve for 2 years any records made in the ordinary course of business that describe or explain any differential in wages paid to members of the opposite sex in the same establishment.[77] *Reporting*. The Labor Department's regulations, which are adopted by reference by EEOC's regulations, also require each employer to make "such extension, recomputation, or transcription" of required records, and to submit "such reports," as may be "require[d] in writing."[78]

FAMILY AND MEDICAL LEAVE ACT OF 1993

The FMLA incorporates much of the investigative authority set forth in the FLSA[79] and establishes prosecutorial powers modeled on those in the FLSA.[80] Furthermore, the FMLA specifically requires the Secretary to "receive, investigate, and attempt to resolve" complaints of violations "in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of [FLSA] violations."[81]

1. Initiation of investigation. *Individual complaints*. The FMLA requires that complaints be received and investigated in the same manner as FLSA complaints, even though the FLSA itself does not require the receipt and investigation of individual complaints. In practice, as the Wage and Hour Division receives and accepts complaints, which it analyzes and investigates on a worst-first priority basis,[82] the Division is required to do the same for FMLA complaints. *Directed investigations*. The FMLA references the investigatory power as the FLSA,[83] under which authority the Division conducts directed investigations.[84]

2. Investigatory powers.

On-site investigation. The FMLA references the investigatory power of the FLSA,[85] which affords authority to the Administrator and his representatives to investigate and gather data, enter and inspect an employer's premises and records, and question employees to "determine whether any person has violated" the FLSA or which may "aid in . . . enforcement" of the FLSA.[86]

Subpoenas. The FMLA incorporates the subpoena power set forth in the FLSA, under which the Secretary and the Administrator can issue and enforce subpoenas, relying on the authorities of the FTC Act.[87] *Issuance*. The power of the Secretary and the Administrator to issue subpoenas under the FLSA may not be delegated.[88] *Enforcement*. The FLSA authorizes the Secretary and the Administrator to invoke the aid of Federal courts to enforce subpoenas,[89] and that such civil litigation on behalf of the Department is handled by the Solicitor of Labor and the Regional Solicitors.

3. Conciliation. The FMLA requires the Secretary to "attempt to resolve" FMLA complaints in the same way as FLSA complaints, even though the FLSA does not require conciliation. In practice, however, where the FLSA violation appears to be minor and to involve only a single individual, the investigator will ask the employee for permission to use his or her name and will then telephone the employer to ask for a response to the charge, and, if there appears to be a violation, will close the matter upon the payment of back wages.[90]

4. Prosecutory authority.

Civil proceedings. *Generally*. The Secretary has the authority to prosecute alleged FMLA violations in district court.[91] The FMLA specifies that the Solicitor of Labor may represent the Secretary in any such litigation.[92] *Remedies*. The agency may seek: (i) damages, including liquidated damages, owing to an employee, and (ii) an order restraining violations, including an order to pay compensation due, or other equitable relief.[93]

Relation with private right of action. Unlike the discrimination laws, but like the FLSA, the FMLA does not require an individual to first file a charge with the agency and await conciliation efforts before bringing a civil action.[94] However, if the Labor Department first commences suit on the individual's behalf, the individual's right to bring suit terminates.[95]

Administrative assessment of civil penalties. Civil penalties for violation of notice-posting requirements[96] may be assessed, according to the Secretary's regulations, by any Labor Department representative, subject to appeal to the Wage and Hour Regional Administrator, and subject to judicial collection proceeding commenced by the Solicitor of Labor.[97]

5. Advisory opinions. Although the FMLA establishes a defense against liquidated damages for good-faith violations where the employer had reasonable cause to believe the conduct was not a violation,[98] the Act does not refer specifically to reliance on interpretations or opinions of the Secretary or the Administrator, and the Secretary's regulations contain neither FMLA interpretations or opinions designated as such nor procedures for requesting interpretations or opinions.

6. Recordkeeping/reporting. *Recordkeeping*. The FMLA requires employers to make, keep, and preserve records in accordance with regulations of the Secretary,[99] and those regulations specify the records regarding payroll, benefits, and FMLA leave and disputes that employers must maintain and preserve for 3 years.[100] *Reporting*. The FMLA references the recordkeeping authorities under the FLSA, which include the requirement that employers shall make "reports therefrom [from required records]" as the Administrator shall "prescribe by regulation or order."[101] The FMLA further provides that the Secretary may not require an employer to submit to the Secretary any books or records more than once in 12 months, unless the Secretary has reasonable cause to believe there may be a violation or is investigating an employee charge.[102] The Secretary's FMLA regulations indicate that employers must submit records "specifically requested by a Departmental official" and must prepare "extensions or transcriptions" of information in the records "upon request."[103]

FAIR LABOR STANDARDS ACT OF 1938

1. Initiation of investigation. *Individual complaints*. Unlike Title VII, the FLSA does not specifically require the investigation of individual complaints, but the Wage and Hour Division receives and accepts complaints, which it analyzes and investigates on a worst-first priority basis.[104] *Directed investigations*. The FLSA has no counterpart to the Commissioner charges under Title VII. Instead, the Division can conduct directed investigations without formal approval by the head of the agency, developing leads from a variety of sources.[105] The Division also conducts periodic compliance surveys, reviewing wages paid to a statistical sampling of employees at a random sample of employers, and may initiate a directed investigation when a violation is evident.[106]

2. Investigatory powers.

On-site investigation. The FLSA authorizes the Administrator and his representatives to investigate and gather data, enter and inspect an employer's premises and records, and question employees to "determine whether any person has violated" the FLSA or which may "aid in . . . enforcement" of the FLSA.[107]

Subpoenas. Under the FLSA, the Secretary and the Administrator can issue and enforce subpoenas, relying on the authorities of the FTC Act.[108] *Issuance*. The power of the Secretary and the Administrator to issue subpoenas under the FLSA may not be delegated.[109] *Enforcement*. The FLSA authorizes the Secretary and the Administrator to invoke the aid of Federal courts to enforce subpoenas,[110] and such civil litigation on behalf of the Department is handled by the Solicitor of Labor and the Regional Solicitors.

3. Conciliation. Unlike Title VII, the FLSA does not require "reasonable cause" determinations or conciliation. In practice, where the violation appears to be minor and to involve only a single individual, the investigatory will ask the employee for permission to use of his or her name and will then telephone the employer to ask for a response to the charge, and, if there appears to be a violation, will close the matter upon the payment of back wages.[111]

4. Prosecutory authority.

Civil proceedings. *Generally*. The Secretary has the authority to prosecute alleged FLSA violations in district court.[112] The Solicitor of Labor and Regional Solicitors are responsible for bringing litigation on behalf of the Administrator. *Remedies*. The agency may seek: (i) unpaid minimum wages or overtime compensation and liquidated damages owing to an employee, (ii) civil penalties, and (iii) an order restraining violations, including an order to pay compensation due.[113]

Relation with private right of action. Unlike the discrimination laws, the FLSA does not require an individual to first file a charge with the agency and await conciliation efforts before bringing a civil action.[114]

However, if the Labor Department first commences suit on the individual's behalf, the individual's right to bring suit terminates.[115]

Administrative assessment of civil penalties; criminal proceedings. Civil penalties for repeated or willful violations or for child labor violations are assessed initially by the Secretary, and, if the respondent takes exception, are decided through adjudication before an ALJ, subject to appeal to the Labor Secretary and judicial review in federal district court.[116] The FLSA also imposes fines and imprisonment for willful violations.[117]

5. Advisory opinions. The Portal-to-Portal Act establishes a defense for good-faith reliance on the "written administrative regulation, order, ruling, approval, or interpretation" of the Administrator.[118] The Administrator has issued interpretative bulletins and advisory opinions "to indicate the construction of the law which will guide the Administrator in the performance of his administrative duties."[119]

6. Recordkeeping/reporting. The FLSA requires every employer to make and preserve such records, and "to make such reports therefrom," as the Wage and Hour Administrator shall prescribe "by regulation or order."[120] *Recordkeeping*. Labor Department regulations specify the "payroll" and other records that employers must maintain and preserve for at least 3 years and the "employment and earnings" records that employers must maintain and preserve for at least 2 years.[121] *Reporting*. These regulations also require each employer to make "such extension, recomputation, or transcription" of required records, and to submit "such reports," as the Administrator may "request in writing."[122]

EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

The enforcement regime under the EPPA is similar to that under the FLSA in some respects, and in other respects is *sui generis*.

1. Initiation of investigation. *Individual complaints*. Like the FLSA and unlike Title VII, the EPPA does not specifically require the investigation of individual complaints. However, the Labor Secretary's regulations provide that the Wage and Hour Division will receive reports of violations from any person.[123] *Directed investigations*. Like the FLSA and unlike Title VII, the EPPA authorizes the Labor Department to conduct directed investigations without formal approval by the head of the agency.[124]

2. Investigatory powers.

On-site investigation. The EPPA authorizes the Secretary to make "necessary or appropriate" investigations and inspections.[125]

Subpoenas. Under the EPPA, as under the FLSA, the Secretary can issue and enforce subpoenas, relying on the authorities of the FTC Act.[126] The EPPA authorizes the Secretary to invoke the aid of Federal courts to enforce subpoenas,[127] and civil litigation on behalf of the Department is handled by the Solicitor of Labor.[128]

3. Conciliation. Like the FLSA and unlike Title VII, the EPPA does not require "reasonable cause" determinations or conciliation.

4. Prosecutory authority.

Civil proceedings. *Generally*. The EPPA authorizes the Labor Secretary to prosecute in alleged EPPA violations in district court.[129] The Solicitor of Labor may represent the Secretary in such litigation.[130] *Remedies*. The agency may seek temporary or permanent restraining orders and injunctions to require compliance, including incidental relief such as reinstatement and back pay and benefits.[131]

Relation with private right of action. Unlike the discrimination laws, and like the FLSA, the EPPA does not require an individual to first file a charge with the agency and await conciliation efforts before bringing a civil action.[132] However, unlike both the discrimination laws and the FLSA, the EPPA does not state that the individual's right to bring suit to terminates upon the filing of an enforcement action by the Secretary.[133]

Administrative assessment of civil penalties. Civil penalties for violations are assessed initially by the Secretary. Applying the procedures of the Migrant and Seasonal Agricultural Worker Protection Act, the EPPA provides that, if the respondent takes exception, the validity of the assessment is decided through adjudication before an ALJ, who renders an initial decision subject to modification by the Labor Secretary, and subject to judicial review in federal district court.[134]

5. Advisory opinions. Unlike both Title VII and the FLSA, the EPPA establishes no defense for good-faith reliance on agency advisory opinions, and the Labor Secretary's EPPA regulations contain neither EPPA interpretations or opinions designated as such nor procedures for requesting interpretations or opinions. However, the regulations contain provisions that the Secretary characterized as "interpretations regarding the effect of . . . the Act on other laws and collective bargaining agreements."[135]

6. Recordkeeping/reporting. *Recordkeeping*. The EPPA requires the keeping of records "necessary or appropriate for the administration" of the EPPA.[136] Labor Department regulations specify the records regarding any polygraph use that employers and examiners must maintain and preserved for 3 years.[137] *Reporting*. The EPPA and Labor Department regulations do not impose any reporting requirements.

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

The WARN Act establishes no agency investigative or enforcement authority, and is enforced solely through the private right of action.

1. Initiation of investigation. None.

2. Investigatory powers. None.

3. Conciliation. The WARN Act makes no provision for conciliation.

4. Prosecutory authority. None.

5. Advisory opinions. The WARN Act makes no provision for advisory opinions.

6. Recordkeeping/reporting. None.

UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994

1. Initiation of investigation. *Individual complaints*. When an employee files a complaint with the Secretary of Labor, the Secretary is required to investigate.[138] *Directed investigations*. The USERRA does not authorize investigations without an employee complaint.

2. Investigatory powers.

On-site investigation. In connection with the investigation of any complaint, USERRA authorizes the Secretary's "duly authorized representatives" to interview witnesses and to examine and copy any relevant documents.[139]

Subpoenas. *Issuance*. The Secretary can issue subpoenas under the USERRA.[140] *Enforcement*. The USERRA authorizes the Attorney General, upon the request of the Secretary, to invoke the aid of Federal courts to enforce subpoenas.[141]

3. Finding that violation occurred; conciliation. If the Secretary determines that the action alleged in a complaint occurred, the USERRA requires the Secretary to "attempt to resolve the complaint by making reasonable efforts to ensure" compliance.[142] If the Secretary is unable to resolve the complaint in this manner, the Secretary shall so notify the complaining employee.[143]

4. Prosecutory authority.

Civil proceedings. *Generally*. A complaining employee who receives notification that the Secretary could not resolve the complaint may ask the Secretary to refer the matter to the Attorney General, who, if reasonably satisfied that the complaint is meritorious, may prosecute the alleged USERRA violation in district court on behalf of the employee.[144] *Remedies*. The Attorney General may seek the same remedies as a private individual under USERRA: injunctions and orders requiring compliance, compensation for lost wages and benefits, and, for willful violations, liquidated damages.[145]

Relation with private right of action. Unlike the discrimination laws, the USERRA does not require an employee to first file an administrative complaint and await conciliation efforts before bringing a civil action.[146] If the employee does choose to file an administrative complaint, the employee may sue upon notification that the Secretary could not resolve the complaint informally, and may sue as well if the employee asks the Attorney General to take the case but the Attorney General declines.[147] If the employee asks the Attorney General to pursue the case and the Attorney General does so, the individual may not also pursue a private action.

5. Advisory opinions. The USERRA establishes no defense for good-faith reliance on agency advisory opinions, and the Labor Secretary has not promulgated in the Federal Register any interpretations or opinions designated as such nor procedures for requesting interpretations or opinions.

6. Recordkeeping/reporting. The USERRA imposes no recordkeeping or reporting requirements.

ENDNOTES

Notes regarding table 1—title VII & ADA (title I)

[1] §107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of §§705–707, 709, and 710 of Title VII, 42 U.S.C. §§2000e–4, 2000e–5, 2000e–6, 2000e–8, and 2000e–9).

[2] §706(b) of Title VII, 42 U.S.C. §2000e–5(b).

§107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[3] §706(b) of Title VII, 42 U.S.C. §2000e–5(b).

§107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[4] §709(a) of Title VII, 42 U.S.C. §2000e–8(a).

§107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[5] 1 EEOC Compliance Manual, Vol. 1—Investigative Procedures §25.1 (BNA) 25:0001 (6/87).

[6] §710 of Title VII, 42 U.S.C. §2000e–9 (applying authorities under §11 of the NLRA, including paragraph (1) thereof, 29 U.S.C. §161(1)).

§107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[7] 29 C.F.R. §1601.16(a).

[8] 29 C.F.R. §1601.16(b).

[9] §710 of Title VII, 42 U.S.C. §2000e–9 (applying §11 of the NLRA, including paragraph (2) thereof, 29 U.S.C. §161(2)).

§107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[10] 29 C.F.R. §1601.16(d).

[11] §706(b) of Title VII, 42 U.S.C. §2000e–5(b).

§107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[12] §706(f)(1) of Title VII, 42 U.S.C. §2000e–5(f)(1).

§107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[13] §706(g)(1) of Title VII, 42 U.S.C. §2000e–5(g)(1).

§107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[14] 42 U.S.C. §1981a(a)(1)–(2).

[15] §706(f)(2) of Title VII, 42 U.S.C. §2000e–5(f)(2).

§107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[16] §706(f)(1) of Title VII, 42 U.S.C. §2000e–5(f)(1).

§107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[17] §706(f)(1) of Title VII, 42 U.S.C. §2000e–5(f)(1).

§107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[18] §711(b) of Title VII, 42 U.S.C. §2000e–10(b).

[19] 2 EEOC Compliance Manual, Vol. 2—Interpretive Manual §25.1 (BNA) 632:0019 (1/87).

[20] §713(b) of Title VII, 42 U.S.C. §2000e–12(b).

[21] 29 C.F.R. §1601.93 *et seq.*

[22] 29 C.F.R. part 1630 Appendix.

[23] §709(c) of Title VII, 42 U.S.C. §2000e–8(c).

§107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[24] 29 C.F.R. §1602.14.

[25] 29 C.F.R. §1602.12.

[26] 29 C.F.R. §1607.4, 1607.15.

[27] 29 C.F.R. §1602.7.

[28] 29 C.F.R. §1602.11.

[29] §709(c) of Title VII, 42 U.S.C. §2000e–8(c).

§107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

Notes regarding table 2—ADEA

[30] Reorganization Plan No. 1 of 1978, §2, set out in 5 U.S.C. Appendix 1.

[31] §706(b) of Title VII, 42 U.S.C. §2000e–5(b).

[32] EEOC, *Priority Charge Handling Procedures* (June 20, 1995), *reprinted in* 3 EEOC Compliance Manual (BNA) N.3069, N.3070 (10/95).

[33] §7(a) of the ADEA, 29 U.S.C. §626(a) (granting the power to make investigations, in accordance with the powers and procedures provided in §§9 and 11 of the FLSA, 29 U.S.C. §§209, 211).

[34] §9 of the FLSA, 29 U.S.C. §209 (referencing §§9–10 of the Federal Trade Commission Act, 15 U.S.C. §§49–50.)

[35] §11(a) of the FLSA, 29 U.S.C. §211(a) (referenced by §7(a) of the ADEA, 29 U.S.C. §626(a)).

[36] §7(a) of the ADEA, 29 U.S.C. §626(a) (applying powers of §9 of the FLSA, 29 U.S.C. §209, which applies powers of §9 of the FTC Act, 15 U.S.C. §49).

[37] 29 C.F.R. §1626.16(b) (citing general authority to delegate under §6(a) of the ADEA, 29 U.S.C. §625(a)).

[38] 29 C.F.R. §1626.16(c).

[39] §7(a) of the ADEA, 29 U.S.C. §626(a) (applying powers of §9 of the FLSA, 29 U.S.C. §209, which applies powers of §§9–10 of the FTC Act, 15 U.S.C. §§49–50).

[40] 1 EEOC Compliance Manual, Vol. 1—Investigative Procedures §24.13 (BNA) 24:0009 (2/88).

[41] §7(b) of the ADEA, 29 U.S.C. §626(b).

[42] 29 C.F.R. §1626.15(b).

[43] §7(b) of the ADEA, 29 U.S.C. §626(b).

[44] *Id.*

[45] §7(d) of the ADEA, 29 U.S.C. §626(d).

[46] §7(e) of the ADEA, 29 U.S.C. §626(e).

[47] *See Crossman* v. *Crosson*, 905 F.Supp. 90, 93 n.1 (E.D.N.Y. 1995), *aff'd on other grounds*, 101 F.3d 684 (2nd Cir. 1996).

[48] §7(c)(1) of the ADEA, 29 U.S.C. §626(c)(1).

[49] *See* I Lindemann & Grossman, Employment Discrimination Law 574 (3d ed. 1996).

[50] §7(e) of the ADEA, 29 U.S.C. §626(e), referencing §10 of the Portal to Portal Act, 29 U.S.C. §259.

[51] 29 C.F.R. §1626.18.

[52] 29 C.F.R. §1625.1 *et seq.*

[53] 29 C.F.R. §1627.3(a)–(b).

[54] Sec. 11(c) of the FLSA, 29 U.S.C. §211(c).

[55] 29 C.F.R. §1627.7.

Notes regarding table 3—Equal Pay Act

[56] §6(d) of the FLSA, 29 U.S.C. §206(d), as added by Pub. L. 88–38, §3, 77 Stat. 56 (June 10, 1963).

[57] Reorganization Plan No. 1 of 1978, §2, set out in 5 U.S.C. Appendix 1.

[58] EEOC, *Priority Charge Handling Procedures* (June 20, 1995), *reprinted in* 3 EEOC Compliance Manual (BNA) N.3069, N.3070.

[59] §§9 and 11 of the FLSA, 29 U.S.C. §§209, 211.

[60] §9 of the FLSA, 29 U.S.C. §209 (referencing §§9–10 of the FTC Act, 15 U.S.C. §§49–50.)

[61] §11(a) of the FLSA, 29 U.S.C. §211(a).

[62] §9 of the FLSA, 29 U.S.C. §209 (referencing §§9–10 of the Federal Trade Commission ("FTC") Act, 15 U.S.C. §§49–50.)

[63] *See Cudahy Packing Co. of Louisiana, Ltd.*, v. *Holland*, 315 U.S. 357 (1942).

[64] 29 C.F.R. §1620.31.

[65] §9 of the FLSA, 29 U.S.C. §209 (applying the powers of §§9–10 of the FTC Act, 15 U.S.C. §§49–50.)

[66] 1 EEOC Compliance Manual, Vol. 1—Investigative Procedures §24.13 (BNA) 24:0009 (2/88).

[67] 1 EEOC Compliance Manual, Vol. 1—Investigative Procedures §40.1 (BNA) 40:0001 (2/88).

[68] 1 EEOC Compliance Manual, Vol. 1—Investigative Procedures §60.3(c) (BNA) 60:0001–60:0002 (2/88).

[69] §16(c), (e)(2), 17 of the FLSA, 29 U.S.C. §§216(c), (e)(2), 217.

[70] *Id.*

[71] §16(b) of the FLSA, 29 U.S.C. §216(b).

[72] *Id.*

[73] §10 of the Portal-to-Portal Act, 29 U.S.C. §259.

[74] 29 C.F.R. §1621.4.

[75] §11(c) of the FLSA, 29 U.S.C. §211(c).

[76] 29 C.F.R. §1620.32 (adopting by reference the Labor Department's regulations at 29 C.F.R. part 516).

[77] 29 C.F.R. §1620.32 (b)–(c).

[78] 29 C.F.R. §516.8.

Notes regarding table 4—FMLA

[79] §106(a)–(b), (d) of the FMLA, 29 U.S.C. §2616(a)–(b), (d) (referencing the investigatory authority of §11(a), the recordkeeping requirements of §11(c), and the subpoena authority of §9 of the FLSA, 29 U.S.C. §§209, 211(a), (c)).

[80] §107 of the FMLA, 29 U.S.C. §2617.

[81] §107(b)(1) of the FMLA, 29 U.S.C. §2617(b)(1).

[82] *See* Schneider & Stine, Wage & Hour Law: Compliance and Practice (Clark, Boardman, Callaghan, 1995), §19:02.

[83] §106(a) of the FMLA, 29 U.S.C. §2616(a) (referencing investigatory authority of §11(a), of the FLSA, 29 U.S.C. §211(a)).

[84] *See* Schneider & Stine, Wage & Hour Law: Compliance and Practice (Clark, Boardman, Callaghan, 1995), §19:02.

[85] §106(a) of the FMLA, 29 U.S.C. §2616(a).

[86] *See* §11(a) of the FLSA, 29 U.S.C. §211(a).

[87] *See* §9 of the FLSA, 29 U.S.C. §209 (referencing §§9–10 of the Federal Trade Commission ("FTC") Act, 15 U.S.C. §§49–50.)

[88] *See Cudahy Packing Co. of Louisiana, Ltd.*, v. *Holland*, 315 U.S. 357 (1942).

[89] *See* §9 of the FLSA, 29 U.S.C. §209 (applying the powers of §§9–10 of the FTC Act, 15 U.S.C. §§49–50.)

[90] *See* State and Federal Wage and Hour Compliance Guide, *supra*, ¶10.02[2][b], at 10–6.

[91] §107(b)(2)–(3), (d) of the FMLA, 29 U.S.C. §2617(b)(2)–(3), (d).

[92] §107(e) of the FMLA, 29 U.S.C. §2617(e).

[93] §107(b)(2)–(3), (d) of the FMLA, 29 U.S.C. §2617(b)(2)–(3), (d).

[94] §107(a) of the FMLA, 29 U.S.C. §2617(a).

[95] §107(a)(4) of the FMLA, 29 U.S.C. §2617(a)(4).

[96] §109(b) of the FMLA, 29 U.S.C. §2619(b).

[97] 29 C.F.R. §§825.402–825.404.

[98] §107(a)(1)(A)(iii) of the FMLA, 29 U.S.C. §2617(a)(1)(A)(iii).

[99] §106(b) of the FMLA, 29 U.S.C. §2616(b).

[100] 29 C.F.R. §825.500.

[101] §106(b) of the FMLA, 29 U.S.C. §2616(b) (referencing §11(c) of the FLSA, 29 U.S.C. §211(c)).

[102] *See* §106(c) of the FMLA, 29 U.S.C. §2616(c).

[103] 29 C.F.R. §825.500(a)—(b).

Notes regarding table 5—FLSA

[104] *See* Schneider & Stine, Wage & Hour Law: Compliance and Practice (Clark, Boardman, Callaghan, 1995), §19:02.

[105] *See id.*

[106] *See* State and Federal Wage and Hour Compliance Guide (Warren, Gorham & Lamont, 1996), ¶10.02[1][d], page 10–5.

[107] §11(a) of the FLSA, 29 U.S.C. §211(a).

[108] §9 of the FLSA, 29 U.S.C. §209 (referencing §§9–10 of the Federal Trade Commission ("FTC") Act, 15 U.S.C. §§49–50.)

[109] *See Cudahy Packing Co. of Louisiana, Ltd.*, v. *Holland*, 315 U.S. 357 (1942).

[110] §9 of the FLSA, 29 U.S.C. §209 (applying the powers of §§9–10 of the FTC Act, 15 U.S.C. §§49–50.)

[111] *See* State and Federal Wage and Hour Compliance Guide, *supra*, ¶10.02[2][b], at 10–6.

[112] §§16(c), (e)(2), 17 of the FLSA, 29 U.S.C. §§216(c), (e)(2), 217.

[113] *Id.*

[114] §16(b) of the FLSA, 29 U.S.C. §216(b).

[115] *Id.*

[116] §16(e) of the FLSA, 29 U.S.C. §216(e); 29 C.F.R. §580.13; 5 U.S.C. §§701–706.

[117] §16(a) of the FLSA, 29 U.S.C. §216(a).

[118] §10 of the PPA, 29 U.S.C. §259.

[119] 29 C.F.R. §775.1.

[120] §11(c) of the FLSA, 29 U.S.C. §211(c).

[121] 29 C.F.R. §§516.5—516.7.

[122] 29 C.F.R. §516.8.

Notes regarding table 6—EPPA

[123] 29 C.F.R. §801.7(d).

[124] §5(a)(3) of the EPPA, 29 U.S.C. §2004(a)(3).

[125] *Id.*

[126] §5(b) of the EPPA, 29 U.S.C. §2004(b) (applying the powers of §§9–10 of the FTC Act, 15 U.S.C. §§49–50.).

[127] *Id.*

[128] §6(b) of the EPPA, 29 U.S.C. §2005(b).

[129] *Id.*

[130] *Id.*

[131] *Id.*

[132] §6(c) of the EPPA, 29 U.S.C. §2005(c).

[133] *Id.*

[134] §6(a) of the EPPA, 29 U.S.C. §2005(a) (referencing penalty collection procedures of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. §1853(b)-(e)); 5 U.S.C. §§701–706.

[135] 29 C.F.R. §801.1(b).

[136] §5(a)(3) of the EPPA, 29 U.S.C. §2004(a)(3).

[137] 29 C.F.R. §801.30.

Notes regarding table 8—USERRA

[138] 38 U.S.C. §4322(a)-(d).

[139] 38 U.S.C. §4326(a).

[140] 38 U.S.C. §4326(b).

[141] 38 U.S.C. §4326(b)-(c).

[142] 38 U.S.C. §4322(d).

[143] 38 U.S.C. §4322(e).

[144] 38 U.S.C. §4323(a)(1).

[145] 38 U.S.C. §4323(c)(1).

[146] 38 U.S.C. §4323(a)(2)(A).

[147] 38 U.S.C. §4323(a)(2)(B)–(C).

Appendix III—Comparison of Options: Placing GAO, GPO, and the Library Under CAA Coverage, Federal-Sector Coverage, or Private-Sector Coverage

The tables in this Appendix detail the principal differences among the three options for coverage of GAO, GPO, and the Library analyzed in Part III of this Report:

(1) *CAA Option*—Coverage under the CAA, including the authority of the Office of Compliance as it administers and enforces the CAA. (The Board takes as its model the CAA as it would be modified by enactment of the recommendations made in Part II of this Report.)

(2) *Federal-Sector Option*—Coverage under the statutory and regulatory regime that applies generally in the federal sector, including the authority of executive-branch agencies as they administer and enforce those laws in the federal sector.

(3) *Private-Sector Option*—Coverage under the statutory and regulatory regimes that apply generally in the private sector, including the authority of the executive-branch agencies as they administer and enforce those laws in the private sector.

To make these comparisons, the tables use four side-by-side columns. The first column shows the current regime at each instrumentality, described in four categories: *(a)* substantive rights, *(b)* administrative processes, *(c)* judicial procedures, and *(d)* substantive rulemaking processes, if any. The other three columns compare the current regime with the CAA option, the federal-sector option, and the private-sector option.

Items in the charts are marked with the following codes:

"=" indicates rights and procedures now applicable at the instrumentality that would remain substantially the same if alternative provisions were applied.

"+" indicates rights and procedures not now applicable at the instrumentality that would apply if alternative provisions were applied.

"–" indicates rights and procedures now applicable at the instrumentality that would no longer apply if alternative provisions were applied.

"~" indicates other changes in rights and procedures that would result if alternative provisions were applied.

"{ }" indicates the amendments to the CAA proposed in the Board's three specific recommendations set forth in Part II of this Report, which are—

(1) Grant the Office the authority to investigate and prosecute violations of section 207 of the CAA, which prohibits intimidation and reprisal. *(2)* Clarify that section 215(b) of the CAA, which makes applicable the remedies set forth in section 13(a) of the OSHAct, gives the General Counsel the authority to seek a restraining order in district court in case of imminent danger to health or safety. *(3)* Make applicable the recordkeeping and notice-posting requirements of the private-sector CAA laws.[1]

The comparisons in these tables address the substantive rights afforded by the CAA or by the provisions of CAA laws[2] and other analogous provisions that apply to federal-sector employers, private-sector employers, or the three instrumentalities. Furthermore, in defining coverage under each option, the Board decided that the application of the CAA or of analogous federal-sector or private-sector provisions should supersede existing provisions affording substantially similar substantive rights or establishing processes and procedures to implement, remedy, or enforce such rights. Applicable provisions affording substantive rights having no analogue in the CAA, and processes to implement, remedy, or enforce such rights, would not be affected by the coverage described in the three options.

APPENDIX III, TABLE 1.—GENERAL ACCOUNTING OFFICE: TITLE VII, ADEA, AND EPA

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
Federal-sector provisions of Title VII (§ 717) and the ADEA (§ 15), as well as the EPA, apply to GAO	=Substantive rights under the CAA are generally the same as those at GAO	=Substantive rights under federal-sector provisions are generally the same as those at GAO	=Substantive rights under private-sector provisions are generally the same as those at GAO.
ADMINISTRATIVE PROCESSES			
GAO management investigates and decides complaints initially GAO employees may appeal to the PAB, where the PAB General Counsel may investigate and prosecute the action on behalf of employees GAO must maintain claims-resolution and affirmative-employment programs, which the PAB evaluates PAB is administratively part of GAO. Its Members are appointed by the Comptroller General ("CG"); and its General Counsel is selected by, and serves at the pleasure of, the PAB Chair, but is formally appointed by the CG.[1]	+Use of model ADR process under CAA is prerequisite to proceeding with complaint +Administrative processes are more streamlined under the CAA +The OC would adjudicate claims and appeals. GAO now does this through the PAB; see earlier reference to the institutional structure of the PAB within GAO (in "current regime" column) –The CAA does not provide for investigation and prosecution, which GAO and the PAB now conduct, *[but should do so as to retaliation]* *[The CAA should require recordkeeping and notice posting]* –CAA confidentiality rules would apply –The CAA does not require EEO programs, including affirmative employment, which are now required of GAO	=The processes at GAO are modeled generally on those in the federal sector +EEOC, MSPB, and Special Counsel hear appeals and prosecute violations in the federal sector. GAO now does this through the PAB; see earlier reference to the institutional structure of the PAB within GAO +GAO would be required to follow EEOC regulations governing agencies' internal claims-resolution procedures and affirmative-employment programs	+The EEOC investigates and prosecutes in the private sector. GAO now does this through the PAB; see earlier reference to the institutional structure of the PAB within GAO. –The EEOC may be unable to provide timely investigation of all individual charges. –Private-sector provisions do not provide for administrative adjudication and appeal. –Employers in the private sector are not required to have claims-resolution or affirmative-employment programs.
JUDICIAL PROCEDURES			
Title VII and ADEA allow suit and trial *de novo* after exhaustion of administrative remedies, provided the employee has not appealed to the PAB. (The employee may sue either after a final GAO decision or if there is no such decision 180 days after the complaint.) EPA allows suit without administrative remedies having been exhausted Jury trials are not available for ADEA and EPA claims	+The CAA provides shorter deadlines for exhaustion of administrative remedies and access to the courts +The CAA affords jury trials allowed under all laws, including ADEA and EPA	+Whereas PAB decisions may be reviewed only by appeal to the Federal Circuit, federal-sector procedures allow suit and trial *de novo* even after decision on appeal to the EEOC or MSPB	+Jury trials are available under private-sector procedures for all discrimination laws, including ADEA and EPA. –In the private sector, the EEOC can prosecute in district court, whereas prosecution under the GAOPA is before the PAB.

[1] *See generally* Section 230 Report at 27–29.

APPENDIX III, TABLE 2—GAO: ADA TITLE I AND REHABILITATION ACT

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
All substantive rights of the ADA apply to GAO, under § 509 of the ADA	=Substantive rights under the CAA are generally the same as those at GAO.	=Substantive rights under federal-sector provisions of the Rehabilitation Act, 29 U.S.C. § 791, are generally the same as those at GAO	=Substantive rights under private-sector provisions of the ADA are generally the same as those at GAO.
ADMINISTRATIVE PROCESSES			
GAO management investigates and decides complaints initially The GAOPA provides that GAO employees may appeal discrimination cases to the PAB, where the PAB GC would again investigate and prosecute the action on behalf of the employee; however, the CAA added a provision to the ADA assigning appellate authority to the Comptroller General, and this provision appears inconsistent with the GAOPA provision assigning appellate authority to the PAB.[1]	+Use of model ADR process under CAA is a prerequisite to proceeding with complaint +The OC would adjudicate claims and appeals. The GAOPA provides that this be done through the PAB; but see discussion in the "current regime" column on the apparent inconsistency between the ADA and the GAOPA regarding the PAB's appellate authority; see also the discussion in Table 1 on the institutional structure of the PAB within GAO +Administrative processes are more streamlined under the CAA –The CAA does not provide for investigation and prosecution, which GAO and, arguably, the PAB now conduct, *[but the CAA should do so as to retaliation]* *[The CAA should require recordkeeping and notice posting]* –CAA confidentiality rules would apply	=The processes at GAO are modeled generally on those in the federal sector +Federal sector provisions authorize EEOC, MSPB, and Special Counsel to hear appeals and prosecute; see earlier discussions regarding the PAB's appellate authority and the institutional structure of the PAB within GAO –Unlike ADA provisions now applicable at GAO, federal-sector provisions require affirmative-employment programs.	+The EEOC investigates in the private sector; see earlier discussions regarding the PAB's appellate authority and the institutional structure of the PAB within GAO –The EEOC may be unable to provide timely investigation of all individual charges. –Private-sector provisions do not provide for administrative adjudication and appeal.

---

[1] In Part II of the Report, in addition to these three specific recommendations, the Board also made two general recommendations, see Sections B.4 and B.5 of Part II, which are not described in the tables in this Appendix. Also not described in the tables are: the modifications that Members Adler and Seitz believe should be made to the CAA, as applied to GAO GPO, and the Library, in order to preserve certain rights now applicable at those instrumentalities, see Section D.2 of Part III of this Report; and the recommendations made in Part I of the Report, *see* Sections C.1, C.2.(b), D.1.(b), and D.2.(b) of Part I of the Report.

[2] The term "CAA laws" refers to the eleven laws, applicable in the federal and private sectors, made applicable to the legislative branch by the CAA. The nine private-sector CAA laws are: the Fair Labor Standards Act of 1938 (29 U.S.C. §201 et seq.) ("FLSA"), Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e et seq.) ("Title VII"), the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) ("ADA"), the Age Discrimination in Employment Act of 1967 (29 U.S.C. §621 et seq.) ("ADEA"), the Family and Medical Leave Act of 1993 (29 U.S.C. §2611 et seq.) ("FMLA"), the Occupational Safety and Health Act of 1970 (29 U.S.C. §651 et seq.) ("OSHAct"), the Employee Polygraph Protection Act of 1988 (29 U.S.C. §2001 et seq.) ("EPPA"), the Worker Adjustment and Retraining Notification Act (29 U.S.C. §2101 et seq.) ("WARN Act"), and section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"). The two federal-sector CAA laws are: Chapter 71 of title 5, United States Code (relating to federal service labor-management relations) ("Chapter 71"), and the Rehabilitation Act of 1973 (29 U.S.C. §701 et seq.).

APPENDIX III, TABLE 2—GAO: ADA TITLE I AND REHABILITATION ACT—Continued

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
JUDICIAL PROCEDURES			
§ 509 of the ADA allows suit and trial de novo after exhaustion of administrative remedies, provided the employee has not appealed to the PAB. (The employee may sue either after a final GAO decision or if there is no such decision 180 days after the complaint.) Jury trials and compensatory damages are arguably not available in disability suits against GAO.[2]	+The CAA provides shorter deadlines for exhaustion of administrative remedies and access to the courts +The CAA allows jury trials and compensatory damages, which are arguably not afforded at GAO	+Jury trials and compensatory damages, arguably not available in disability suits against GAO, are afforded under federal-sector provisions	+Jury trials and compensatory damages, arguably not available in disability suits against GAO, are afforded under private-sector provisions. +EEOC prosecutes private-sector violations in district court; as to GAO, there is no prosecution in district court, and it is uncertain whether the authority for prosecutions of ADA violations to be brought before the PAB is preserved in statute.

---

[1] The GAOPA provides, among other things, that the PAB will exercise the same authorities over appeals matters as are exercised by the EEOC. See 31 U.S.C. § 732(f)(2); see also § 3(g)(3) of Pub. Law No. 96–191, 94 Stat. 28–29 (Feb. 15, 1980) (GAOPA as enacted). However, § 509(a) of the ADA, 42 U.S.C. §12209(a), as added by § 201(c)(5) of the CAA, generally assigns authority for administrative appeals to the "chief official of the instrumentality of Congress." GAO, in comments submitted to assist the Board in preparing its Section 230 Study, noted this apparent statutory inconsistency and recommended that the relevant language of the ADA should be rescinded.

[2] 42 U.S.C. § 1981a(a)(2), which generally authorizes jury trials and compensatory damages in disability suits, does not reference § 509(a) of the ADA, 42 U.S.C. § 12209(a), as added by § 201(c)(5) CAA, which extends a private right of action for disability discrimination to GAO employees.

APPENDIX III, TABLE 3.—GAO: FAMILY AND MEDICAL LEAVE ACT

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
FMLA provisions for the private sector, 29 U.S.C. § 2611 et seq., apply to GAO	=Substantive rights under the CAA are generally the same as those at GAO +Eligibility would be portable if an employee transferred between GAO and another employing office covered under the CAA, but is not now portable to or from GAO	+Federal-sector provisions establish different employer prerogatives than do the private-sector provisions now applicable at GAO.[1] +Eligibility would be portable if an employee transferred between GAO and another employing agency under federal-sector coverage, but is not now portable to or from GAO	=Substantive FMLA provisions for the private sector apply at GAO.
ADMINISTRATIVE PROCESSES			
The FMLA provides no administrative procedures, but requires the Comptroller General ("CG") to exercise DoL's authority to investigate and prosecute FMLA violations Under the GAOPA, if a dispute is otherwise appealable (e.g., involving an "adverse action" or "prohibited personnel practice"), the PAB may remedy an FMLA violation, and the PAB GC will investigate and prosecute the complaint	+Use of model ADR process under CAA is a prerequisite to proceeding with complaint +Any FMLA complaint may be adjudicated under the CAA, whereas violations may now be remedied by the PAB only in adverse actions otherwise appealable –The CAA does not provide for investigation and prosecution, which the PAB GC conducts for cases before the PAB, *[but the CAA should do so as to retaliation]* –CAA does not require recordkeeping and notice posting, which are now required at the GAO, *but the CAA should do so* –CAA confidentiality rules would apply	+The MSPB remedies FMLA violations implicated in appealable adverse actions in the federal sector. Processes before the PAB are moldeled on those at the MSPB, but see discussion in Table 1 on the institutional structure of the PAB within GAO	+DoL receives compliants and investigates FMLA violations in the private sector. Now, GAO is responsible for exercising DoL's FMLA authorities for itself. –No administrative adjudication is afforded in the private sector. Now at GAO, the PAB adjudicates allegations of FMLA violation if the adverse action is appealable.[2] –Private-sector FMLA provisions require DoL to attempt to resolve complaints while they are under investigation, but does not establish a process of administrative adjudication, such as is provided by the PAB.
JUDICIAL PROCEDURES			
GAO employees may sue for FMLA violations, and are granted liquidated or other damages specified in the private-sector statute Jury trials, not being expressly provided by the FMLA, are arguably not allowed against the Federal government PAB decisions may be appealed to the Federal Circuit	+The CAA provides jury trials, which are arguably not available now against GAO	Federal-sector employees, unlike those at GAO, cannot sue under the FMLA, and can only obtain appellate judicial review of MSPB decisions in the Federal Circuit. Federal-sector employees cannot recover liquidated or other damages specified in private-sector statute, as can GAO employees	+Jury trials, arguably not available against GAO are allowed in the private sector. +DoL prosecutes violations in court; now GAO may exercise DoL's authorities for itself.
SUBSTANTIVE RULEMAKING PROCESS			
The CG exercises DoL's authority under the FMLA to adopt substantive regulations	+The OC Board adopts regulations, ordinarily the same as DoL's, for all employing offices; GAO is responsible currently for issuing its own regulations	+OPM's regulations apply Government-wide, whereas GAO is responsible for issuing its own FMLA regulations	+Regulations are issued by DoL for all private-sector employers, whereas GAO is responsible for issuing its own regulations.

---

[1] Under private-sector provisions applicable at GAO, but not under federal-sector provisions: (1) the employer may deny restoration to an employee who is a high-salary "key" employee; (2) an employer can make a binding election as to whether an employee taking FMLA leave must consume any available paid annual or sick leave or must, instead, to take unpaid leave; and (3) the employer can recoup health insurance costs from an employee who does not return to work after FMLA leave.

[2] This table assumes that, under the private sector option, the PAB's authority to remedy FMLA violations would not be retained, because administrative adjudication and appeal are not provided under private-sector laws.

APPENDIX III, TABLE 4.—GAO: FAIR LABOR STANDARDS ACT

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
GAO is covered by the FLSA and by OPM's FLSA regulations GAO is also covered by civil service statutes that authorize compensatory time off, credit hours, and compressed work schedules ("comp time") in exception to FLSA overtime pay	–The CAA would preclude receipt of comp time in lieu of FLSA overtime pay. –DoL's regulatory requirements would apply in lieu of OPM's, which are more specific and tailored to the federal civil service.	–GAO is covered by generally the same substantive, administrative, and judicial statutory provisions and OPM regulations and authorities as apply in the federal sector.	–Private-sector employers are not covered by civil service provisions authorizing receipt of comp time in lieu of FLSA overtime pay.[2] –Under private sector provisions, GAO would become subject to DoL's substantive regulations in lieu of OPM's, which are more specific and tailored to the federal civil service.
ADMINISTRATIVE PROCESSES			
A GAO employee who alleges an FLSA violation may submit a complaint to OPM, either immediately or after having first complained under GAO's administrative grievance procedures. GAO must provide any information re quested by OPM and is legally bound by OPM's administrative decision.	+Use of model ADR process under CAA is a prerequisite to proceeding with complaint. –Complaints may be submitted for administrative adjudication, unlike present FLSA complaints against GAO decided by OPM without adjudication. –Under the CAA, information is developed only through the parties' discovery; now OPM can request necessary information from GAO. *[The CAA should provide for investigation and prosecution as to retaliation.]* *[The CAA should require recordkeeping and notice posting.]* –CAA confidentiality rules would apply.		Whereas GAO is now bound by OPM's administrative decisions, private-sector employers are not bound by DoL's determinations unless DoL sues and prevails in court.
JUDICIAL PROCEDURES			
GAO employees may sue. Jury trials, not being expressly provided by the FLSA, are arguably not allowed against the Federal government.	+Jury trials are provided, which are arguably not now available against GAO.		+Jury trials, which are arguably not now available against GAO, are available under private-sector procedures.
SUBSTANTIVE RULEMAKING PROCESS			
GAO is subject to OPM's Government-wide substantive regulations implementing the FLSA and civil service provisions allowing comp time in lieu of FLSA pay.	–CAA substantive regulations are adopted for the legislative branch by the OC Board, subject to House and Senate approval; whereas GAO is now subject to regulations promulgated primarily for the executive branch by OPM, which is overseen by the President.[1]		–For the private sector, regulations are promulgated by DoL; whereas GAO is now subject to regulations promulgated by OPM.

---

[1] The head of OPM is appointed by, and serves at the pleasure of, the President, and acts for the President in many of OPM's personnel functions.

[2] This table assumes that, under the private-sector option, the receipt of comp time in lieu of overtime pay would generally not be allowed. Although the same FLSA provisions apply in the federal sector and the private sector, the civil service statutes that authorize the use of comp time apply only in the federal sector.

APPENDIX III, TABLE 5—GAO: EMPLOYEE POLYGRAPH PROTECTION ACT

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
§ 204 of the CAA extends the substantive rights of the EPPA to GAO	=GAO is covered under EPPA substantive rights as applied by the CAA	– EPPA rights do not apply generally in the federal sector.[1]	=GAO is covered under EPPA substantive rights as applied by the CAA.
ADMINISTRATIVE PROCESSES			
There is disagreement as to whether GAO employees alleging a violation of § 204 may use CAA administrative procedures There is disagreement whether GAO employees may seek a remedy for a § 204 violation from the PAB even when the adverse action is appealable under the GAOPA	+If CAA procedures applied, use of model ADR process would be prerequisite to proceeding with complaint +Applying CAA procedures would allow administrative adjudication by the OC and appeal to its Board, whereas adjudication and appeal by the PAB are permitted, if at all, only in an adverse action otherwise appealable – The CAA does not provide for investigation or prosecution, whereas the PAB GC now arguably can do so for cases appealable to the PAB. *[but the CAA should provide for investigation and prosecution as to retaliation]* –*[The CAA should require recordkeeping.]* –CAA confidentiality rules would apply		+Under private-sector procedures, DoL would receive complaints from GAO employees and investigate violations. – Private-sector provisions do not provide for administrative adjudication and appeal. Now there is disagreement whether these are available under the CAA, and whether the PAB may adjudicates CAA charges in appealable adverse actions.[2]
JUDICIAL PROCEDURES			
There is disagreement as to whether GAO employees may sue under the CAA If an employee seeks a remedy from the PAB in the case of an appealable adverse action, there may be disagreement whether the decision may be appealed to the Federal Circuit	+Applying CAA procedures would grant GAO employees the right to sue and, if pursuing an administrative claim, to obtain appellate judicial review		+Applying private-sector procedures would enable GAO employees to sue, whereas the right to sue under the CAA now is subject to dispute. +DoL can prosecute private-sector violations in court. Even if CAA or PAB procedures apply, they would not include prosecution in court.
SUBSTANTIVE RULEMAKING PROCESS			
The OC Board has issued EPPA regulations, substantially similar to those promulgated by DoL, and has extended the regulations to cover GAO, but the extension has not been approved by the House and Senate. Accordingly, § 411 of CAA would apply "the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding"	=Substantive regulations under the CAA are now promulgated by the same process for GAO as for other employing offices		–Regulations are promulgated by DoL for all private-sector employers; regulations now applicable to GAO, which must generally be the same as DoL's regulations, are adopted by the OC Board for all employing offices, subject to House and Senate approval.

[1] To our knowledge, the only federal-sector application of EPPA and WARN Act rights, other than under the CAA, is under the Presidential and Executive Office Accountability Act, 3 U.S.C. § 401 et seq., which generally covers Presidential and Vice Presidential offices. Administrative and judicial procedures and rulemaking processes with respect to EPPA and WARN Act rights under this law are similar to those under the CAA, except regulations are issued by the President or the President's designee, and administrative adjudication is before the MSPB.

[2] This table assumes that, under the private-sector option, the PAB would not have authority to remedy EPPA violations, since administrative adjudication and appeal are not provided under laws that apply in the private sector.

APPENDIX III, TABLE 6.—GAO: WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
§ 205 of the CAA extends the substantive rights of the WARN Act to GAO In addition, GAO regulations under the GAOPA require 60 days' advance notice to GAO employees affected by a RIF.[1]	=GAO is covered under WARN Act substantive rights as applied by the CAA	– WARN Act rights do not apply generally in the federal sector.[2] (Federal-sector employees in the competitive service are entitled to 60 days' notice of a RIF, pursuant to applicable civil service statutes and regulations. However, this table makes no assumptions as to whether GAO's existing regulations and remedies involving RIFs would be retained, or whether general civil service statutes and regulations governing RIFs would be applied to GAO. *See generally* footnote 1.)	=GAO is covered under WARN Act substantive rights as applied by the CAA.
ADMINISTRATIVE PROCESSES			
There is disagreement as to whether GAO employees alleging a violation of §205 may use CAA administrative procedures There is disagreement whether GAO employees may seek a remedy for a § 205 violation from the PAB even when the adverse action is appealable under the GAOPA	+If CAA procedures applied, use of model ADR process would be prerequisite to proceeding with complaint +Applying CAA procedures would allow administrative adjudication by the OC and appeal to its Board, whereas there is disagreement whether the PAB may adjudicate any CAA violation – The CAA does not provide for investigation or prosecution, whereas the PAB GC now arguably could do so for cases appealable to the PAB, *[but the CAA should provide for investigation and prosecution of retaliation]* –CAA confidentiality rules would apply		– Private-sector provisions do not provide for administrative adjudication and appeal. Now there is disagreement whether these are available under the CAA, and whether the PAB may adjudicate CAA complaints.[3]
JUDICIAL PROCEDURES			
There is disagreement whether GAO employees may sue under the CAA	+Applying CAA procedures would grant GAO employees the right to sue and, if they pursue an administrative claim, to obtain appellate judicial review.		+Applying private-sector procedures would enable GAO employees to sue, whereas the right to sue under the CAA now is subject to dispute.
SUBSTANTIVE RULEMAKING PROCESS			
The OC Board issued WARN Act regulations, substantially similar to those promulgated by DoL, and extended them to cover GAO, but the extension has not been approved by the House and Senate. Accordingly, § 411 of CAA would apply "the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding."	=Substantive regulations under the CAA are now promulgated by the same process for GAO as for other employing offices		–Regulations are promulgated by DoL for all private-sector employers; regulations now applicable to GAO, which must generally be the same as DoL's regulations, are adopted by the OC Board for all employing offices, subject to House and Senate approval.

[1] A GAO employee alleging defective notice under GAO's regulations may seek a remedy from the PAB, and the PAB GC will investigate and pursue the employee's complaint. There is no right to sue, but PAB decisions are appealable to the Federal Circuit. This table assumes that under either the CAA option or private-sector option, existing procedures for remedying violations of GAO's RIF regulations need not be changed. Notice rights under GAO's RIF regulations seem sufficiently distinct from WARN Act rights that the existing GAO procedures need not be superseded by application of WARN Act rights under the CAA or under the WARN Act itself.

[2] To our knowledge, the only federal-sector coverage other than the CAA is under the Presidential and Executive Office Accountability Act. *See* Table 5, note 1, above.

[3] This table assumes that, under the private-sector option, the PAB would not have authority to remedy WARN Act violations, since administrative adjudication and appeal are not provided under laws that apply in the private sector.

APPENDIX III, TABLE 7.—GAO: VETERANS EMPLOYMENT AND REEMPLOYMENT

—*Current Regime*	—*Compared to CAA Coverage*	—*Compared to Federal-Sector Coverage*	—Compared to Private-Sector Coverage
SUBSTANTIVE RIGHTS			
GAO employees, like all other public- and private-sector employees, are covered by USERRA In addition, § 206 of the CAA extends the substantive rights of USERRA to GAO	=GAO is covered under USERRA rights as applied by the CAA, as well as under USERRA itself, which applies substantially the same rights as the CAA	=GAO is covered under the same substantive USERRA provisions as apply generally to the federal sector, and is also covered under the CAA, which makes applicable substantially the same rights as the USERRA applies in the federal sector	Substantive USERRA provisions that apply to the private sector also apply to GAO, and generally the same rights are also made applicable to GAO by the CAA.
ADMINISTRATIVE PROCESSES			
Under USERRA, GAO employees may: (1) file a complaint with DoL, which investigates and informally seeks compliance, (2) ask the Special Counsel to prosecute the case, and/or (3) submit the case to the MSPB for adjudication There is disagreement as to whether a GAO employee alleging a § 206 violation may use CAA administrative procedures	+If CAA procedures applied, use of model ADR process would be a prerequisite to proceeding with complaint +Applying CAA procedures would provide counseling, mediation, and adjudication administered by the OC, *[and the CAA should also provide for investigation and prosecution of retaliation].* =These CAA procedures would be in addition to those under USERRA, by which GAO employees may now file claims seeking DoL investigation and may request prosecution by the Special Counsel and/or adjudication before the MSPB.[1] –CAA confidentiality rules would apply	=GAO employees may use the same USERRA procedures as used by federal-sector employees to file complaints seeking DoL investigation and ask the Special Counsel to prosecute and/or ask MSPB to adjudicate the case –However, it is arguable that GAO employees may also now use CAA counseling, mediation, and adjudicatory procedures, which are not available generally in the federal sector	=Private-sector employees, as well as GAO employees, may submit complaints to DoL, which investigates and informally seeks compliance. –Private-sector provisions do not provide for administrative adjudication of complaints. Now GAO employees may ask the Special Counsel to prosecute the complaint before the MSPB, and there is disagreement whether administrative adjudication and appeal are available under the CAA.
JUDICIAL PROCEDURES			
USERRA does not authorize Federal employees, including those at GAO, to sue, but MSPB decisions are appealable to the Federal Circuit There is disagreement as to whether GAO employees may sue under the CAA	+Applying CAA judicial procedures would grant GAO employees the right to sue for § 206 violations; GAO employees are not afforded a private right of action under USERRA	–There is no private right of action for federal-sector employees, whereas GAO employees may, at least arguably, sue under the CAA	+Applying private-sector procedures would enable GAO employees to sue, whereas the right of GAO employees to sue under the CAA is now subject to dispute. +Private-sector employees may ask the Attorney General to prosecute the complaint in court; now the Special Counsel may prosecute only before the MSPB.

[1] This table assumes that, under the CAA option, the existing remedial procedures under the USERRA would be retained. § 225(d) of the CAA states that a covered employee "may also utilize any provisions of . . . [USERRA] that are applicable to that employee."

APPENDIX III, TABLE 8.—GAO: ADA TITLES II–III

Current Regime	—*Compared to CAA Coverage*	—*Compared to Federal-Sector Coverage*	—*Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
All substantive rights of the ADA, including those involving public access, apply to GAO, under § 509 of the ADA	=Substantive rights under the CAA are generally the same as the public-access rights now at GAO under the ADA –The prohibition against retaliation, which applies now at GAO under the ADA to all individuals, is not granted under the CAA to members of the public	=For the federal sector, § 504 of the Rehabilitation Act applies substantive rights that are generally the same as the public-access rights now applicable to GAO under the ADA	=For the private sector, title III of the ADA applies generally the same substantive rights involving public access as are applicable to GAO under the ADA.
ADMINISTRATIVE PROCESSES			
GAO must maintain administrative procedures under which members of the public can seek redress for ADA violations. GAO investigates complaints and provides for appeal within the agency There is no administrative appeal to an entity outside of GAO, nor other outside agency oversight of compliance by GAO	+The CAA provides for mediation and adjudication administered by the OC; now, as to allegations against GAO, no such procedures are provided under authority of an entity outside of GAO +The CAA establishes an enforcement-based process, under which an administrative proceeding may be commenced only by the GC of the OC after receiving a charge. Enforcement at GAO now is by private action only –CAA confidentiality rules would apply to mediations, hearings, and deliberations	=In the federal sector, as at GAO, agencies have established internal procedures for investigating and resolving public-access complaints +The Attorney General is responsible under E.O. 12250 (reproduced at 42 U.S.C. § 2000d–1 note) for reviewing agency regulations and otherwise coordinating implementation and enforcement; now, as to GAO, no such authority has been granted to an entity outside of GAO	+Under title III of the ADA, the Attorney General investigates alleged violations in the private sector; now, as to allegations against GAO, no such authority has been granted to an entity outside of GAO.
JUDICIAL PROCEDURES			
After having exhausted administrative remedies, members of the public can sue and have a trial de novo. (An individual may sue either after a final GAO decision or if there is no such decision 180 days after the complaint.)	–The charging individual may not sue under the CAA. However, such individual, having intervened in the CAA administrative proceeding, may appeal to the Federal Circuit	=In the federal sector, as at GAO, members of the public alleging public-access violations by agencies may sue	In the private sector, as now at GAO, members of the public alleging public-access violations may sue. +The Attorney General may prosecute title III violations in court, whereas no agency may do so now as to GAO.
SUBSTANTIVE RULEMAKING PROCESS			
Substantive regulations promulgated by executive branch agencies under titles II–III of the ADA are not made applicable	+The OC Board promulgates regulations, generally the same as executive-branch agency regulations for the private sector, subject to House and Senate approval.[1] No entity outside of GAO now issues regulations applicable to GAO.	=In the federal sector, as at GAO, substantive regulations promulgated by executive branch agencies under titles II–III of the ADA are not made applicable	+Private-sector employers are subject to substantive regulations promulgated by the Attorney General. No entity outside of GAO now promulgates regulations for GAO.

[1] Because the regulations have not been approved, "the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding" would be applied, pursuant to § 411 of CAA.

APPENDIX III, TABLE 9.—GAO: OSHACT

Current Regime	—*Compared to CAA Coverage*	—*Compared to Federal-Sector Coverage*	—*Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
Section 215 of the CAA extends the substantive rights of the OSHAct to GAO, and requires compliance with occupational safety and health ("OSH") standards as established by DoL	=GAO is fully subject to the substantive, administrative, and judicial provisions of the CAA with respect to occupational safety and health, including the process for imposing regulatory requirements –*[The CAA should include recordkeeping and reporting requirements administered by the OC],* whereas law now applicable to GAO requires recordkeeping and reporting to DoL *[The CAA should provide for investigation and prosecution of retaliation.]*	=E.O. 12196 (reproduced at 5 U.S.C. § 7902 note) requires executive branch agencies to comply with the same DoL standards as are made applicable to employing offices, including GAO, under the CAA	=In the private sector, the OSHAct applies the same DoL standards as are made applicable to employing offices, including GAO, under the CAA.
ADMINISTRATIVE PROCESSES			
The administrative procedures of § 215 of the CAA apply fully to GAO Requirements to keep records and report to DoL are imposed by the OSHAct and civil service law		–E.O. 12196 requires DoL to inspect and consider employee complaints; the CAA is administered for all employing offices, including GAO, by the OC. Unlike the CAA, the E.O. also requires each agency to establish its own OSH program.[1] –If DoL and the employing agency disagree, there is no adjudicatory or other formal dispute resolution process under the E.O., as there is under the CAA. Rather, the disagreement is submitted to the President	=Administrative processes for the private sector are generally the same as those made applicable for employing offices, including GAO, by the CAA. –DoL administers the OSHAct in the private sector; the CAA is administered for employing offices, including GAO, by OC.

APPENDIX III, TABLE 9.—GAO: OSHACT—Continued

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
JUDICIAL PROCEDURES			
The judicial procedures of § 215 of the CAA apply fully to GAO		– There is no judicial review of actions or decisions under the E.O., unlike the CAA, which provides for appellate judicial review of administrative decisions	=Judicial review procedures in the private sector are generally the same as those made applicable for employing offices, including GAO, under the CAA. –DoL investigates and prosecutes private-sector retaliation. The CAA, which now covers GAO, grants no such authority, [*but it should*]; employees alleging retaliation can sue under the CAA, but cannot under private-sector provisions.
SUBSTANTIVE RULEMAKING PROCESS			
The OC Board has adopted substantive OSH regulations incorporating DoL's OSH standards, and has adopted an amendment extending those regulations to cover GAO. However, neither the regulations nor the amendment has been approved by the House and Senate. Accordingly, "the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding" would be applied, pursuant to § 411 of CAA		–The E.O was issued for the executive branch by the President; CAA regulations, which are applicable to GAO, are adopted by the OC Board, subject to approval by the House and Senate	–DoL promulgates standards for all private-sector employers. The OC Board adopts CAA regulations, generally the same as DoL regulations, but, as the House and Senate have not approved the Board's OSHAct regulations, § 411 of CAA would cause "the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding" to be applied.

---

[1] The program must include periodic inspections, responding to employee reports of hazard, preventing retaliation, and creating a joint labor-management Occupational Safety and Health Committee.

APPENDIX III, TABLE 10.—GAO: LABOR-MANAGEMENT RELATIONS

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
The GAOPA requires the Comptroller General to adopt a labor-management-relations program for GAO that assures each employee's right to join, or to refrain from joining, a union, and is otherwise "consistent" with Chapter 71	+The CAA affords greater scope to collective bargaining than GAO's order.[1] – The CAA empowers the Board, with House and Senate approval, to exclude offices from coverage under labor-management relations provisions if exclusion is required because of conflict of interest or Congress's constitutional responsibilities; the GAOPA has no such provision.	+Chapter 71 affords greater scope to collective bargaining than the GAO regulations. See footnote 1.	+Private-sector employees, covered by the National Labor Relations Act ("NLRA"), have the right to strike. –Unions and employers in the private sector may enter into union security agreements. –Unions in the private sector, if the employer agrees, may obtain exclusive recognition by card majority (*i.e.*, without secret ballot election).
ADMINISTRATIVE PROCESSES			
Under the GAOPA and the CG's implementing regulations, the PAB has authority to hear cases arising from representation matters, unfair labor practices ("ULPs"), and exceptions from arbitral awards under negotiated grievance procedures	=The OC Board under the CAA exercises a role generally similar to that of the PAB +See discussion in Table 1 on institutional structure of the PAB within GAO. – Under the CAA, unlike under the GAOPA, employees may not pursue ULP claims individually – The CAA, unlike the GAOPA, affords no administrative (or judicial) review of arbitral awards involving adverse or unacceptable-performance actions –CAA confidentiality rules would apply to hearings and deliberations	+The FLRA administers Chapter 71 in the federal sector. See discussion in Table 1 on institutional structure of the PAB within GAO –Chapter 71, unlike the GAOPA, provides that arbitral awards involving adverse agency actions may not be appealed administratively, but must be appealed directly to the Federal Circuit.	–Grievance procedures are not a required provision of any bargaining agreement in the private sector, as they are at GAO. –Awards under binding arbitration are not ordinarily subject to review, as they are under the GAOPA.
JUDICIAL PROCEDURES			
PAB decisions on matters other than representation may be appealed to the Federal Circuit Any person aggrieved, including an individual employee, may bring an appeal	– The CAA, unlike the GAOPA, precludes the charging party from appealing a ULP decision	=Chapter 71 provides for judicial appeal to the Federal Circuit generally, as does the GAOPA +Chapter 71, unlike the GAOPA, authorizes the FLRA to seek restraining orders	–NLRB decisions are appealable to the D.C. Circuit or the Circuit where the employer is located; under the GAOPA, PAB decisions are appealable to the Federal Circuit.
SUBSTANTIVE RULEMAKING PROCESS			
The CG, by order, established the substantive terms of GAO's labor- management relations program. The GAOPA requires generally that the program must be "consistent" with Chapter 71	+The OC Board adopts CAA regulations, ordinarily the same as the FLRA's regulations, for all employing offices; whereas GAO issues regulations for itself, "consistent" with Chapter 71.	+Under Chapter 71, substantive provisions applicable in the executive branch are established mostly by statute, and to a limited extent by FLRA regulation, which must conform to Chapter 71. GAO issues labor-management regulations for itself, which need be only "consistent" with Chapter 71	+The NLRB has authority to issue substantive regulations for the private sector; GAO issues labor-management regulations for itself, which need be only "consistent" with Chapter 71.

---

[1] For example, the following restrictions apply at GAO: (*a*) exclusion of pay and hours from bargaining, even insofar as the employer has statutory discretion, (*b*) exclusion from negotiated grievance procedures of disputes involving Title VII, ADEA, and ADA violations, or involving actions for unacceptable performance, and (*c*) pre-determined, broadly-drawn bargaining units.

APPENDIX III, TABLE 11.—GOVERNMENT PRINTING OFFICE: TITLE VII, ADEA, and EPA

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
Federal-sector provisions of Title VII (§ 717) and the ADEA (§ 15), as well as the EPA, apply to GPO.	=Substantive rights under the CAA are generally the same as those at GPO.	=The same substantive, administrative, and judicial provisions that apply generally in the federal sector cover GPO, and the authority of the EEOC, MSPB, and the Special Counsel extend to GPO	=Substantive rights under private sector provisions are generally the same as those at GPO.
ADMINISTRATIVE PROCESSES:			
GPO management investigates and decides complaints initially The EEOC and MSPB hear appeals, and the Special Counsel may investigate and prosecute against unlawful discrimination and retaliation that is a "prohibited personnel practice" Negotiated grievance procedures (binding arbitration and review by the FLRA or the Federal Circuit) may also be used GPO is subject to EEOC regulations governing claims-resolution and affirmative-employment programs, and EEOC evaluates GPO's performance	+Use of model ADR process under CAA is a prerequisite to proceeding with complaint –CAA claims are handled administratively by the OC, rather than by GPO management, EEOC, MSPB, and Special Counsel +Administrative processes are more streamlined under the CAA – The CAA does not provide for investigation and prosecution, which GPO and Special Counsel now conduct, *[but should do so as to retaliation]* *[The CAA should require recordkeeping and notice posting]* –CAA confidentiality rules would apply –The CAA does not require EEO programs, including affirmative employment, are now required at GPO		– The EEOC may be unable to provide timely investigation of all individual charges. – Private-sector provisions do not provide for administrative adjudication and appeal. –Employers in the private sector are not required to have claims resolution or affirmative-employment programs.

APPENDIX III, TABLE 11.—GOVERNMENT PRINTING OFFICE: TITLE VII, ADEA, and EPA—Continued

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
JUDICIAL PROCEDURES			
Title VII and ADEA allow suit and trial *de novo* after exhausting administrative remedies. (The employee may sue either after a final GPO decision, or after a final EEOC decision on appeal, or if there is no such decision 180 days after the complaint or appeal.)[1] EPA allows suit without having exhausted administrative remedies Jury trials are not available for ADEA and EPA claims	+The CAA provides shorter deadlines for exhaustion of administrative remedies and access to the courts +The CAA allows jury trials under all laws, including ADEA and EPA.		+Jury trials are available under private-sector procedures for all discrimination laws, including ADEA and EPA. –In the private sector, the EEOC can prosecute in court, whereas prosecution now at GPO is before the MSPB only.

---

[1] An employee asserting a "mixed case" complaint may also sue either if there is no GPO decision 120 days after the complaint, or after a final decision by the MSPB on appeal, or if there is no decision by the MSPB 120 days after an appeal to the MSPB.

APPENDIX III, TABLE 12.—GPO: ADA TITLE I AND REHABILITATION ACT

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
All substantive rights of the ADA apply to GPO, under § 509 of the ADA	=Substantive rights under the CAA are generally the same as those at GPO	=Substantive right under federal-sector provsions of the Rehabilitation Act, 29 U.S.C. § 791, are generally the same as those at GPO	=Substantive rights under private-sector provisions of the ADA are generally the same as those at GPO.
ADMINISTRATIVE PROCESSES			
GPO management investigates and decides complaints There is generally no administrative appeal from the Public Printer's final decision (apart from negotiated grievance procedures.) Negotiated grievance procedures (binding arbitration and review by the FLRA or the Federal Circuit) may also be used	+Use of model ADR process under CAA is a prerequisite to proceeding with complaint +The CAA provides for adjudication and appeal administered by the OC. Currently as to allegations against GPO, there is no administrative appeal to an entity outside of GPO +Administrative processes are more streamlined under the CAA –The CAA does not provide for investigation and prosecution, whereas GPO now investigates charges, *[but the CAA should provide for investigation and prosecution of retaliation]* *[The CAA should require recordkeeping and notice posting]* –CAA confidentiality rules would apply	=The processes at GPO are modeled generally on those in the federal sector +Federal sector provisions authorize EEOC, MSPB, and Special Counsel to hear appeals and prosecute. Currently as to allegations against GPO, no such authorities have been granted to an entity outside of GPO –Federal-sector provisions, unlike ADA provisions now applicable to GPO, require affirmative-employment programs	+Private-sector provisions authorize the EEOC to investigate and prosecute. Now as to allegations against GPO, no such authorities have been granted to an entity outside of GPO. – The EEOC may be unable to provide timely investigation of all individual charges. – Private-sector provisions do not provide for administrative adjudication.
JUDICIAL PROCEDURES			
§ 509 of the ADA allows suit and trial *de novo* after exhausting administrative remedies. (The employee may sue either after a final GPO decision or if there is no such decision 180 days after the complaint.) Jury trials and compensatory damages are arguably not available in disability suits against GPO.[1]	+The CAA provides shorter deadlines for exhaustion of administrative remedies and access to the courts +The CAA provides jury trials and compensatory damages in disability suits, which are arguably not afforded against GPO	=The right to sue GPO is generally the same as in the federal sector +Jury trials and compensatory damages, which are arguably not available in disability suits against GPO, are afforded under federal-sector provisions	+Jury trials and compensatory damages, arguably not available in disability suits against GPO, are afforded under private=sector provisions. +In the private sector, the EEOC can prosecute in court.

---

[1] 42 U.S.C. § 1981a(a)(2), which generally authorizes jury trials and compensatory damages in disability suites, does not reference § 509(a) of the ADA, 42 U.S.C. § 12209(a), as added by § 201(c)(5) of the CAA, which extends a private right of action for disability discrimination to GPO employees.

APPENDIX III, TABLE 13.—GPO: FAMILY AND MEDICAL LEAVE ACT

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
FMLA provisions for the federal sector, 5 U.S.C. § 6381 *et seq.*, as well as OPM's substantive FMLA regulations, apply	– The CAA establishes different employer prerogatives than the federal-sector provisions now at GPO.[1]	=With respect to FMLA rights, GPO is under the same substantive, administrative, and judicial statutory provisions as are executive branch agencies, and is subject to the authority of MSPB like executive-branch agencies.	– Private-sector law establishes different employer prerogatives than the federal-sector provisions now at GPO (*see* footnote 1).
ADMINISTRATIVE PROCESSES			
The FMLA provides no administrative remedy, but GPO employees may seek a remedy through GPO's administrative grievance procedure, or from the MSPB if the agency action is appealable under civil service law (*e.g.*, involving an "adverse action" or "performance-based action" or "prohibited personnel practice"). Negotiated grievance procedures may also be used.	+Use of model ADR process under CAA is a prerequisite to proceeding with complaint +CAA provides adjudication of any FMLA complaint, whereas now at GPO, the MSPB remedies FMLA violations only if the agency action is otherwise appealable – Retaliation by GPO is now investigated and prosecuted by the Special Counsel. The CAA does not now provide for investigation and prosecution of retaliation, *[but it should]* *[The CAA should require recordkeeping and notice posting]* –CAA confidentiality rules would apply		–Under private-sector provisions, DoL receives complaints and investigates FMLA violations, but does not afford administrative adjudication of complaints; whereas now the MSPB adjudicates alleged FMLA violations at GPO, but only if the adverse action is otherwise appealable under civil service law.[2]
JUDICIAL PROCEDURES			
Applicable FMLA provisions do not provide the right to sue and do not grant liquidated or other damages specified in the FMLA for private sector employees Decisions of the MSPB are appealable to the Federal Circuit under general civil service law	+The CAA affords a private right of action, which is not available now at GPO		+Private-sector provisions afford a private right of action, which is not available now at GPO +DoL prosecutes violations in court. No agency does so now as to allegations of violation in the federal sector, including at GPO.
SUBSTANTIVE RULEMAKING PROCESS			
GPO is subject to OPM's Government-wide substantive regulations implementing the federal-sector FMLA provisions	–CAA substantive regulations are adopted for the legislative branch by the OC Board, subject to House and Senate approval; whereas GPO is now subject to regulations adopted primarily for the executive branch by OPM, which is overseen by the President. (On OPM, *see* footnote at page 4, note 1, above.)		–For the private sector, regulations are promulgated by DoL, which is overseen by the President; whereas GPO is now subject to regulations promulgated by OPM, which is also overseen by the President. (*See* Table 4, footnote 1, on OPM.)

---

[1] Under private-sector provisions made applicable under the CAA, but not under federal-sector provisions at GPO: *(1)* the employer may deny restoration to an employee who is a high-salary "key" employee; *(2)* an employer can make a binding election as to whether an employee taking FMLA leave must consume any available paid annual or sick leave or must, instead, take unpaid leave; and *(3)* the employer can recoup health insurance costs from an employee who does not return to work after FMLA leave.

[2] This table assumes that, under private-sector coverage, the MSPB would not retain authority to remedy FMLA violations at GPO, because the MSPB has no such authority in the private sector.

APPENDIX III, TABLE 14.—GPO: FAIR LABOR STANDARDS ACT

Current Regime	—Compared to CAA Coverage	—Compared to Federal-Sector Coverage	—Compared to Private-Sector Coverage
SUBSTANTIVE RIGHTS			
GPO is covered by the FLSA and by OPM's substantive FLSA regulations The Kiess Act, 44 U.S.C. § 305(b), allows GPO to pay salaried employees compensatory time off for overtime work GPO is also covered by civil service statutes authorizing credit hours and compressed work schedules in exception to FLSA overtime pay.	+The CAA would withdraw GPO's authority to require earning of comp time –The CAA would also preclude the receipt of comp time in lieu of FLSA overtime pay –DoL's regulatory requirements would apply in lieu of OPM's, which are more specific and tailored to the federal civil service	=GPO is covered by generally the same FLSA substantive statutory provisions and OPM's regulations and authorities as apply in the federal sector +Federal-sector employers cannot require employees to receive comp time in lieu of overtime pay, as GPO can do under the Kiess Act	+Private-sector employers cannot require employees to receive comp time in lieu of overtime pay, as GPO can do. –Private-sector employers are not covered by civil service provisions authorizing flexible schedules in exception to FLSA overtime pay requirements.[1] –Private-sector provisions would apply DoL's implementing regulations in lieu of OPM's, which are more specific and tailored to the Federal civil service.
ADMINISTRATIVE PROCESSES			
A GPO employee alleging a violation may complain to OPM, either immediately or after having first complained under GPO's administrative grievance process GPO must provide any information requested by OPM, and is legally bound by OPM's administrative decision Bargaining unit members must use negotiated grievance procedures	+Use of model ADR process under CAA is a prerequisite to proceeding with complaint –The CAA provides counseling, mediation, and adjudication administered by the OC, unlike complaints now against GPO, decided by OPM without adjudication. —Under the CAA, information is developed only through the parties' discovery; OPM can currently request necessary information from GPO. *{The CAA should provide for investigation and prosecution as to retaliation.}* *{The CAA should require recordkeeping and notice posting.}* –CAA confidentiality rules would apply	=GPO employees are covered under the same statutory and regulatory provisions governing OPM's receipt and resolution of complaints as federal-sector employees	–Whereas GPO is now bound by OPM's administrative decisions on individual complaints, employers under private-sector provisions are not bound by DoL's administrative decisions on complaints unless DoL sues and prevails in court.
JUDICIAL PROCEDURES			
GPO employees may sue for FLSA violations Jury trials, not being expressly provided by the FLSA, are arguably not allowed against the Federal government	+The CAA provides for jury trials, which are arguably not now available against GPO	=GPO employees are covered under the same provisions establishing a private right of action as federal-sector employees	+Jury trials, which are arguably not now available against GPO, are available under private-sector procedures.
SUBSTANTIVE RULEMAKING PROCESS			
GPO is subject to substantive regulations promulgated by OPM implementing the FLSA Government-wide	–CAA substantive regulations are adopted for the legislative branch by the OC Board, subject to House and Senate approval; GPO is subject to regulations issued primarily for the executive branch by OPM, which the President oversees. (See Table 4, note 1, on OPM.)	=GPO is covered by generally the same OPM regulations implementing the FLSA as apply in the federal sector +However, federal-sector employees are also subject to OPM's Government-wide regulations implementing civil service provisions authorizing comp time in lieu of FLSA overtime pay, whereas GPO can issue its own regulations on that subject	–For the private sector, regulations are promulgated by DoL; whereas GPO is now subject to regulations promulgated by OPM.

[1] This table assumes that, under the private-sector option, the receipt of comp time in lieu of overtime pay would be generally not allowed, because civil service statutes that authorize the use of comp time in exception to FLSA requirements apply only in the federal sector.

APPENDIX III, TABLE 15.—GPO: EMPLOYEE POLYGRAPH PROTECTION ACT

Current Regime	—Compared to CAA Coverage	—Compared to Federal-Sector Coverage	—Compared to Private-Sector Coverage
SUBSTANTIVE RIGHTS			
GPO is not covered under EPPA, under § 204 of the CAA, or under any other law making applicable the rights of the EPPA.	+Application of the CAA would extend EPPA substantive rights to GPO	=The rights of the EPPA do not apply generally in the executive branch[1]	+The substantive rights of the EPPA apply generally in the private sector.
ADMINISTRATIVE PROCESSES			
	+Use of model ADR process under CAA is a prerequisite to proceeding with complaint +Applying CAA procedures would provide counseling, mediation, and adjudication administered by the OC *{The CAA should provide for investigation and prosecution of retaliation}* *{The CAA should require recordkeeping}* –CAA confidentiality rules would apply		+Applying private-sector procedures would authorize DoL to receive complaints from GPO employees and to investigate violations.
JUDICIAL PROCEDURES			
	+Applying CAA procedures would grant GPO employees the right to sue and, if they pursue an administrative claim, to obtain appellate judicial review of a final administrative decision		+Applying private-sector procedures would enable GPO employees to sue +DoL can prosecute in court.
SUBSTANTIVE RULEMAKING PROCESS			
	+Under the CAA, substantive regulations would be promulgated for GPO under the same rulemaking process as for other employing offices		+Applying private-sector provisions would extend substantive regulations issued by DoL to cover GPO.

[1] To our knowledge, the only federal-sector coverage other than the CAA is under the Presidential and Executive Office Accountability Act. *See* Table 5, note 1, above.

APPENDIX III, TABLE 16.—GPO: WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

Current Regime	—Compared to CAA Coverage	—Compared to Federal-Sector Coverage	—Compared to Private-Sector Coverage
SUBSTANTIVE RIGHTS			
GPO is not covered under the WARN Act, under § 205 of the CAA, or under any other law making applicable the rights of the WARN Act (Most GPO employees are "competitive service" employees covered by OPM's RIF regulations and/or are members of bargaining units under collective bargaining agreements, both of which require 60 days' advance notice to employees affected by RIFs.[1])	+Application of the CAA would extend WARN Act substantive rights to GPO	–WARN Act rights do not apply generally in the federal sector.[2] (Federal-sector employees, like GPO employees in the competitive services are entitled to 60 days' notice of a RIF, pursuant to applicable civil service statutes and regulations.)	+The substantive rights of the WARN Act apply generally in the private sector.
ADMINISTRATIVE PROCESSES			
	+Use of model ADR process under CAA is a prerequisite to proceeding with complaint +Applying CAA procedures would provide counseling, mediation, and adjudication administered by the OC (The CAA should provide for investigation and prosecution of retaliation.) –CAA confidentiality rules would apply		=Private sector provisions do not provide for either investigation, prosecution, or administrative adjudication of complaints.
JUDICIAL PROCEDURES			
	+Applying CAA procedures would grant GPO employees the right to sue and, if they pursue an administrative claim, to obtain appellate judicial review		+Applying private-sector procedures would enable GPO employees to sue.

APPENDIX III, TABLE 16.—GPO: WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT—Continued

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RULEMAKING PROCESS			
	=Under the CAA, substantive regulations would be promulgated for GPO under the same rulemaking process as for other employing offices		+Applying private-sector provisions would extend substantive regulations issued by DoL to cover GPO.

[1] A GPO employee alleging defective notice under RIF regulations may seek a remedy from the MSPB. There is no right to sue, but MSPB decisions are appealable to the Federal Circuit. Bargaining unit members may seek a remedy through negotiated grievance procedures. This table assumes that, under either the CAA option or the private-sector option, the existing procedures for remedying violations of civil service RIF regulations need not be changed. Notice rights under civil service regulations seem sufficiently distinct from WARN Act rights that the existing procedures for remedying RIF notice violations need not be superseded by application of either the CAA or the private-sector provisions.

[2] To our knowledge, the only federal-sector coverage other than the CAA is under the Presidential and Executive Office Accountability Act. See Table 5, note 1, above.

APPENDIX III, TABLE 17.—GPO: VETERANS EMPLOYMENT AND REEMPLOYMENT

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
GPO employees, like all other public- and private-sector employees, are covered by USERRA GPO is not covered under § 206 of the CAA, which makes applicable the rights and protections of USERRA	=Substantive rights under § 206 of the CAA are substantially similar to those applicable to GPO under the USERRA	=GPO is covered under the same substantive USERRA provisions as apply generally to the federal sector	=GPO is covered under the same substantive USERRA provisions as private-sector employers.
ADMINISTRATIVE PROCESSES			
Under USERRA, GPO employees may file a complaint with DoL, which investigates and informally seeks compliance A GPO employee may seek a remedy through GPO's administrative grievance procedures or, if the agency action is appealable under civil service law, from the MSPB. Negotiated grievance procedures may also be used	+Use of model ADR process under CAA is a prerequisite to proceeding with complaint +Applying CAA procedures would provide counseling, mediation, and adjudication administered by the OC; whereas a GPO employee may now complain to the MSPB only if the agency action is otherwise appealable *[The CAA should provide for investigation and prosecution of retaliation.]* =CAA procedures would apply in addition to the right to file a claim with DoL under USERRA.[1] –CAA confidentiality rules would apply	=Employees under federal-sector provisions of USERRA, including GPO employees, may complain to DoL, which investigates and informally seeks compliance +USERRA generally authorizes federal-sector employees, but not GPO employees, to: *(1)* request the Special Counsel to pursue a case on the employee's behalf, and *(2)* have any alleged USERRA violation adjudicated by the MSPB	=Private-sector employees, like GPO employees, may submit complaints to DoL, which investigates and informally seeks compliance. – Private-sector provisions do not provide for administrative adjudication of complaints, whereas now GPO employees may complaint to the MSPB in an adverse action appealable under civil service law.
JUDICIAL PROCEDURES			
USERRA does not authorize Federal employees, including those at GPO, to sue, but MSPB decisions are appealable under civil service law to the Federal Circuit	+Applying CAA procedures would grant GPO employees the right to sue, which they may not now do under the USERRA	=Federal-sector employees, like GPO employees, may not [illegible]	+Applying private-sector procedures would grant GPO employees the right to sue, which they do not now have. +Private-sector employees, but not GPO employees, may ask the Attorney General to prosecute the violation in court.

[1] This table assumes that, under the CAA option, the existing remedial procedures under USERRA would be retained. § 225(d) of the CAA states that a covered employee "may also utilize any provisions of . . . [USERRA] that are applicable to that employee."

APPENDIX III, TABLE 18.—GPO: ADA TITLES II–III

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
All substantive rights of the ADA, including those involving public access, apply to GPO, under § 509 of the ADA.	=Substantive rights under the CAA are generally the same as the public-access rights now at GPO under the ADA. – The prohibition against retaliation, which applies now at GPO under the ADA to all individuals, is not granted under the CAA to members of the public.	=For the federal sector, § 504 of the Rehabilitation Act applies substantive rights that are generally the same as the public-access rights applicable to GPO under the ADA.	=For the private sector, title III of the ADA applies generally the same substantive rights involving public access as are applicable to GPO under the ADA.
ADMINISTRATIVE PROCESSES			
GPO must maintain administrative procedures under which members of the public can seek redress for ADA violations. GPO investigates complaints and provides for appeal within the agency. There is no administrative appeal to an entity outside of GPO, nor other outside agency oversight of compliance by GPO.	+The CAA provides for mediation and adjudication administered by the OC; now, as to allegations against GPO, no such procedures are provided under authority of an entity outside of GPO. +The CAA establishes an enforcement-based process, under which an administrative proceeding may be brought only by the OC GC, upon receiving a charge. Enforcement at GPO now is by private action only. –CAA confidentiality rules would apply to mediations, hearings, and deliberations.	=In the federal sector, as at GPO, agencies have established internal procedures for investigating and resolving public-access complaints. +The Attorney General is responsible under E.O. 12250 (reproduced at 42 U.S.C. § 2000d–1 note) for reviewing agency regulations and otherwise coordinating implementation and enforcement; now, as to allegations against GPO, no such authorities have been granted to an entity outside of GPO.	+Under title III of the ADA, the Attorney General investigates alleged violations in the private sector; now, as to allegations against GPO, no such authority has been granted to an agency outside of GPO.
JUDICIAL PROCEDURES			
After having exhausted administrative remedies, members of the public can sue and have a trial *de novo*. (An individual may sue either after a final GPO decision or if there is no such decision 180 days after the complaint.)	– The charging individual may not sue under the CAA. However, such individual, having intervened in the CAA administrative proceeding, may appeal to the Federal Circuit.	=In the federal sector, as at GPO, members of the public alleging public-access violations by agencies may sue.	=In the private sector, as now at GPO, members of the public alleging public-access violations may sue. +The Attorney General may prosecute title III violations in court, whereas no agency may do so now as to GPO.
SUBSTANTIVE RULEMAKING PROCESS			
Substantive regulations promulgated by executive branch agencies under titles II–III of the ADA are not made applicable.	+The OC Board adopts CAA regulations, generally the same as executive-branch agency regulations for the private sector, subject to House and Senate approval.[1] No entity outside of GPO now issues regulations applicable to GPO.	=In the federal sector, as at GPO, substantive regulations promulgated by executive branch agencies for the private sector are not made applicable.	+Private-sector employers are subject to substantive regulations promulgated by the Attorney General. No entity outside of GPO now promulgates regulations applicable to GPO.

[1] Because the Board's public access regulations have not been approved, "the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding" would be applied, pursuant to § 411 of CAA.

APPENDIX III, TABLE 19.—GPO: OSHACT

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
§ 19(a)(1) of the OSHAct requires all Federal agencies, including GPO, to provide safe and healthful conditions of employment "consistent with" DoL's OSH standards. GPO is not subject to either § 215 of the CAA or E.O. 12196 (reproduced at 5 U.S.C. § 7902 note), which establishes the executive branch occupational safety and health ("OSH") program. The Public Printer has adopted OSH standards that he has determined are "consistent."	+The CAA generally makes DoL's OSH standards applicable. Although GPO applies OSH standards that are generally the same as DoL's standards, present law only requires GPO to provide conditions "consistent with" those standards.	+E.O. 12196 requires executive-branch agencies to comply with DoL's OSH standards. Although GPO in fact applies OSH standards that are generally the same as DoL's standards, present law only requires GPO to provide conditions "consistent with" those standards.	+The OSHAct requires private-sector employers and employees to abide by DoL's OSH standards. Although GPO in fact applies OSH standards that are generally the same as DoL's standards, present law only requires GPO to provide conditions "consistent with" those standards.

APPENDIX III, TABLE 19.—GPO: OSHACT—Continued

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
ADMINISTRATIVE PROCESSES			
No agency outside of GPO has authority to inspection or require GPO compliance with OSH standards. GPO has established its own compliance procedures, including procedures for responding to employee complaints and regular inspections. Requirements to keep records and report to DoL are imposed by the OSHAct and civil service law (5 U.S.C. § 7902).	+The OC would adopt exceptions and variances, conduct inspections, enforce, and resolve disputes; no such authority is now granted to an entity outside of GPO. *[The CAA should require recordkeeping and reporting administered by the OC],* law now applicable to GPO requires recordkeeping and reporting to DoL. *[The CAA should provide for investigation and prosecution of retaliation.]* –CAA confidentiality rules would apply to deliberations of hearing officers and the Board.	+E.O. 12196 requires each covered agency to establish its own OSH compliance program, requires DoL to inspect and consider employee complaints, and, if DoL and the employer disagree, the President decides. At GPO, no agency outside of GPO is authorized to inspect, consider employee complaints, require compliance, or resolve disputes.	+The OSHAct authorizes DoL to adopt exceptions and variances, conduct inspections, enforce compliance, and resolve disputes; whereas now no entity outside of GPO has such authority.
JUDICIAL PROCEDURES			
No judicial procedures apply to GPO with respect to OSHAct compliance. +The CAA provides judicial review by the Federal Circuit and authorizes judicial compliance orders under some circumstances, whereas there is now no judicial review or enforcement at GPO.	=In the federal sector, as at GPO, there is no judicial enforcement or review.	+The OSHAct provides for appellate judicial review and authorizes judicial compliance orders under some circumstances. Now, as to GPO, there is no judicial review or enforcement.	
SUBSTANTIVE RULEMAKING PROCESS			
The Public Printer has issued health and safety standards in the form of "instructions."	+CAA regulations, generally the same as DoL's OSH standards, are issued by the OC Board subject to House and Senate approval.[1] GPO issues OSH standards for itself, and must afford conditions "consistent" with DoL's standards.	+E.O. 12196, adopted by the President for the entire executive branch, applies DoL's OSH standards, whereas GPO issues OSH standards for itself and must provide conditions "consistent" with DoL's OSH standards.	+DoL promulgates OSH standards for the entire private sector; whereas GPO issues OSH standards for itself and must provide conditions "consistent" with DoL's OSH standards.

[1] Because the Board's OSHAct regulations have not been approved, "the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding" would be applied, pursuant to § 411 of CAA.

APPENDIX III, TABLE 20.—GPO: LABOR-MANAGEMENT RELATIONS

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
GPO is covered by Chapter 71 and by the FLRA's regulations thereunder	=The CAA affords generally the same substantive rights as apply now at GPO under Chapter 71 – The CAA empowers the Board, with House and Senate approval, to exclude offices from coverage under labor-management relations provisions if exclusion is required because of conflict of interest or Congress's constitutional responsibilities; Chapter 71 has no such provision	=The same substantive, administrative, and judicial statutory provisions of Chapter 71 apply generally in the federal sector as apply now at GPO, and agencies in the federal sector are generally subject to the authority of the FLRA as is GPO	+Private-sector employees, covered by the National Labor Relations Act ("NLRA"), have the right to strike. –Unions and employers in the private sector may enter into union security agreements. –Unions in the private sector, if the employer agrees, may obtain exclusive recognition by card majority (i.e., without secret ballot election).
ADMINISTRATIVE PROCESSES			
Under Chapter 71, the FLRA hears cases arising from representation matters and unfair labor practices ("ULPs") at GPO Exceptions from arbitral awards may be taken to the FLRA (except for awards involving adverse or unacceptable-performance actions, which are subject to judicial review) Under the Kiess Act, the Joint Committee on Printing approves any wage agreement and, in case of impasse, decides on wages.[1]	=The OC Board under the CAA exercises a role generally similar to that of the FLRA –CAA confidentiality rules would apply to hearings and deliberations		–Grievance procedures are not a required provision of any bargaining agreement in the private sector, as they are under Chapter 71. –Awards under binding arbitration are not ordinarily subject to review, as they are under Chapter 71.
JUDICIAL PROCEDURES			
FLRA decisions on matters other than representation or exceptions from arbitral awards may be appealed to the Federal Circuit Any person aggrieved, including a GPO employee, may appeal FLRA decisions on exceptions to arbitral awards may not be further appealed unless they involve a ULP Arbitral awards involving adverse or unacceptable-performance actions, which may not be appealed to the FLRA, may be appealed to the Federal Circuit	– A charging party may not appeal a ULP decision –The CAA, unlike Chapter 71, affords no judicial review of arbitral awards involving adverse or unacceptable-performance actions (nor, under the CAA, is there administrative review of such actions) – The CAA, unlike Chapter 71, affords no authority for the OC to seek temporary relief or a restraining order		–NLRB decisions are appealable to the D.C. Circuit or the Circuit where the employer is located; under Chapter 71, FLRA decisions are appealable to the Federal Circuit.
SUBSTANTIVE RULEMAKING PROCESS			
GPO is subject to substantive regulations promulgated by the FLRA	–The OC Board adopts CAA regulations, ordinarily the same as FLRA regulations, subject to House and Senate approval; GPO is subject to regulations issued for the federal sector by the FLRA		–The NLRB has authority to issue substantive regulations for the private sector, as does the FLRA for the federal sector, including GPO.

[1] This table assumes that the Joint Committee's authority under this provision of the Kiess Act, 44 U.S.C. § 305(a), would not be displaced by coverage under any of the three coverage options.

APPENDIX III, TABLE 21.—LIBRARY OF CONGRESS: TITLE VII, ADEA, AND EPA

Current Regime	*—Compared to CAA Coverage*	*Compared to Federal-Sector Coverage*	*Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
Federal-sector provisions of Title VII (§ 717) and the ADEA (§ 15), as well as the EPA, apply to the Library	=Substantive rights under the CAA are generally the same as those at the Library	=Substantive rights in the federal sector are generally the same as those at the Library	=Substantive rights under private-sector provisions are generally the same as those at the Library.

APPENDIX III, TABLE 21.—LIBRARY OF CONGRESS: TITLE VII, ADEA, AND EPA—Continued

Current Regime	*—Compared to CAA Coverage*	*Compared to Federal-Sector Coverage*	*Compared to Private-Sector Coverage*
ADMINISTRATIVE PROCESSES			
Library management investigates and decides complaints There is no administrative appeal from the Librarian's final decision (apart from negotiated grievance procedures) Negotiated grievance procedures (binding arbitration and review by the FLRA or the Federal Circuit) may also be used The Library must maintain claims-resolution and affirmative-employment programs	+Use of model ADR process under CAA is a prerequisite to proceeding with complaint +The CAA provides for counseling, mediation, and adjudication administered by the OC. Now, as to allegations against the Library, no entity outside of the Library has such authorities +Administrative processes are more streamlined under the CAA –The CAA does not provide for investigation and prosecution, whereas the Library new investigates charges, *[but the CAA should provide for investigation and prosecution of retaliation.]* [The CAA should require recordkeeping and notice posting] –CAA confidentiality rules would apply –The CAA does not require EEO programs, including affirmative employment, which are now required of the Library	=The processes at the Library are modeled generally on those in the federal sector +Federal sector provisions provide for EEOC, MSPB, and Special Counsel to hear appeals and prosecute violations. Now, as to allegations against the Library, no entity outside of the Library has such authorities –The Library would be required to follow EEOC regulations governing agencies' internal claims-resolution procedures and affirmative-employment programs. Now the Library must maintain such programs, but no outside entity oversees or regulates the Library's performance	+Private sector provisions provide for the EEOC to investigate and prosecute. Now, as to allegations against the Library, no entity outside of the Library has such authorities. –The EEOC may be unable to provide timely investigation of all individual charges. –Employers in the private sector are not required to have claims-resolution or affirmative-employment programs.
JUDICIAL PROCEDURES			
Title VII and ADEA allow suit and trial *de novo* after exhausting administrative remedies. (Employees may sue either after a final Library decision or if there is no such decision 180 days after the complaint.) EPA allows suit without having exhausted administrative remedies Jury trials are not available for ADEA and EPA claims	+The CAA provides shorter deadlines for exhaustion of administrative remedies and access to the courts +The CAA allows jury trials under all laws, including ADEA and EPA	=Judicial remedies in the federal sector are the same as those at the Library	+Jury trials are available under private-sector procedures for all discrimination laws, including ADEA and EPA. +In the private sector, the EEOC can prosecute in court.

APPENDIX III, TABLE 22.—LIBRARY: ADA TITLE I AND REHABILITATION ACT

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
All substantive employee rights of the ADA apply to the Library, under § 509 of the ADA	=Substantive rights under the CAA are generally the same as those at the Library	=Substantive rights under federal-sector provisions of the Rehabilitation Act, 29 U.S.C. 791, are generally the same as those at the Library	=Substantive rights under private-sector provisions of the ADA are generally the same as those at the Library.
ADMINISTRATIVE PROCESSES			
The Library management investigates and decides complaints There is generally no administrative appeal from the Librarian's final decision (apart from negotiated grievance procedures) Negotiated grievance procedures (binding arbitration and review by the FLRA or the Federal Circuit) may also be used	+Use of model ADR process under CAA is a prerequisite to proceeding with complaint +The CAA provides for adjudication and appeal administered by the OC. Now, as to allegations against the Library, there is no right to appeal to an agency outside of the Library +Administrative processes are more streamlined under the CAA –The CAA does not provide for investigation and prosecution, whereas the Library now investigates charges, *[but the CAA should provide for investigation and prosecution of retaliation]* [The CAA should require recordkeeping and notice posting.] –CAA confidentiality rules would apply	=The processes at the Library are modeled generally on those in the federal sector +Federal sector provisions authorize EEOC, MSPB, and Special Counsel to hear appeals and prosecute violations. Now, as to allegations against the Library, no such authorities have been granted to an agency outside of the Library –Federal-sector provisions, unlike ADA provisions now applicable to the Library, require affirmative-employment programs	+Private sector provisions provide for an the EEOC to investigate and prosecute; now, as to allegations against the Library, no such authorities have been granted to an agency outside of the Library. –The EEOC may be unable to provide timely investigation of all individual charges. –Private-sector provisions do not provide for administrative adjudication.
JUDICIAL PROCEDURES			
§ 509 of the ADA allows suit and trial *de novo* after exhausting administrative remedies. (The employee may sue either after a final Library decision or if there is no such decision 180 days after the complaint.) Jury trials and compensatory damages are arguably not available in disability suits against the Library[1]	+The CAA provides shorter deadlines for exhaustion of administrative remedies and access to the courts +The CAA affords jury trials and compensatory damages in disability suits, which are arguably not available against the Library	=The right to sue the Library is generally the same as in the federal sector +Jury trials and compensatory damages, which are arguably not available in disability suits against the Library, are afforded under federal-sector provisions	+Jury trials and compensatory damages, arguably not available in disability suits against the Library, are afforded under private-sector provisions.

[1] 42 U.S.C. 1981a(a)(2), which generally authorizes jury trials and compensatory damages in disability suits, does not refer to § 509(a) of the ADA, 42 U.S.C. 12209(a), as added by § 201(c)(5) of the CAA, which extends a private right of action for disability discrimination to Library employees.

APPENDIX III, TABLE 23.—LIBRARY: FAMILY AND MEDICAL LEAVE ACT

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
FMLA provisions for the private sector, 29 U.S.C. § 2611 *et seq.*, apply to the Library.	=Substantive rights under the CAA generally are the same as those at the Library +Eligibility would be portable in transfers between the Library and other employing offices covered under the CAA, but is not now portable to or from the Library	+Federal-sector provisions establish different employer prerogatives than do the private-sector provisions now applicable at the Library[1] +Eligibility would be portable if an employee transferred between the Library and another employing agency under federal- sector coverage, but is not now portable to or from GAO	=Substantive FMLA provisions for the private sector apply at the Library
ADMINISTRATIVE PROCESSES			
There is no administrative appeal to an entity outside of the Library FMLA provides no administrative procedures, but requires the Librarian to exercise DoL's authority to investigate and prosecute FMLA violations	+Use of model ADR process under CAA is a prerequisite to proceeding with complaint +The CAA provides for adjudication and appeal administered by the OC. Now, as to allegations against the Library, there is no right to appeal to an agency outside of the Library –The CAA does not provide for agency investigation or prosecution, whereas DoL's authorities to investigate and prosecute are exercised by the Librarian, *[but the CAA should provide investigation and prosecution of retaliation]* –The CAA does not require recordkeeping and notice posting, which are now required at the Library, *[but the CAA should do so]* –CAA confidentiality rules would apply	+The MSPB remedies FMLA violations implicated in appealable adverse actions in the federal sector, whereas now the Library is responsible for exercising DoL's enforcement and other authorities with respect to itself.	–Under private-sector provisions, DoL receives complaints and investigates FMLA violations; now the Library is responsible for exercising DoL's FMLA authorities with respect to itself

APPENDIX III, TABLE 23.—LIBRARY: FAMILY AND MEDICAL LEAVE ACT—Continued

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
JUDICIAL PROCEDURES			
Library employees may sue for FMLA violations, and are granted liquidated or other damages specified in the private-sector statute However, jury trials, not being expressly provided by the FMLA, are arguably not allowed against the Federal government	+The CAA provides for jury trials, which are arguably not available at the Library	−Federal-sector employees, unlike those at the Library, cannot sue under the FMLA, and can only obtain appellate judicial review of MSPB decisions in the Federal Circuit −Federal-sector employees cannot recover liquidated or other damages specified in private-sector statute, as can Library employees	+Provisions applicable in the private sector provide for jury trials, which are arguably not now available against the Library. +DoL prosecutes violations; now the Library is responsible for exercising this authority with respect to itself.
SUBSTANTIVE RULEMAKING PROCESS			
The Librarian exercises DoL's authority under the FMLA to adopt substantive regulations	+The OC Board adopts regulations, ordinarily the same as DoL's, for all employing offices; the Library is responsible currently for issuing its own regulations	+OPM's FMLA regulations apply Government-wide, whereas the Library is responsible for issuing its own FMLA regulations	+Regulations for the private sector are issued by DoL for all employing offices, whereas the Library is responsible for issuing its own FMLA regulations.

[1] Under private-sector provisions applicable at GAO, but not under federal-sector provisions: (*1*) the employer may deny restoration to an employee who is a high-salary "key" employee; (*2*) an employer can make a binding election as to whether an employee taking FMLA leave must consume any available paid annual or sick leave or must, instead, to take unpaid leave; and (*3*) the employer can recoup health insurance costs from an employee who does not return to work after FMLA leave.

APPENDIX III, TABLE 24.—LIBRARY: FAIR LABOR STANDARDS ACT

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
The Library is covered by the FLSA, and by DoL's substantive FLSA regulations The Library is also covered by civil service statutes allowing compensatory time off, credit hours, and compressed work schedules ("comp time") in exception to FLSA overtime requirements	−The CAA would preclude receipt of comp time in lieu of FLSA overtime pay	−Federal-sector provisions would apply OPM's implementing regulations, which are more specific and tailored to the federal civil service that DoL's FLSA regulations, which now apply	=The Library is covered by generally the same FLSA substantive statutory provisions and DoL regulations as apply in the private sector. −Private-sector employers are not covered by the civil service provisions authorizing comp time in exception to FLSA pay.[1]
ADMINISTRATIVE PROCESSES			
A Library employee who alleges an FLSA violation may submit a complaint to the Librarian through administrative grievance procedures OPM can resolve claims for damages, but not other FLSA complaints, under its general claims-settlement authority	+Use of model ADR process under CAA is a prerequisite to proceeding with complaint +The CAA provides for mediation and adjudication administered by the OC for all FLSA complaints, whereas OPM may now resolve complaints against the Library only for settlement of damages +CAA procedures provide for administrative adjudication, whereas OPM can settle money claims without administrative adjudication and has no jurisdiction as to non-monetary FLSA claims at the Library *[The CAA should provide for investigation and prosecution of retaliation.]* *[The CAA should require recordkeeping and notice posting.]* −CAA confidentiality rules would apply	+OPM receives and resolves any FLSA complaints against federal-sector employers, whereas it may only settle claims against the Library for damages. +Federal-sector employers are subject to government-wide OPM regulations on the use of comp time in exception to FLSA requirements, whereas the Library now issues its own regulations on that subject	+DoL investigates and prosecutes alleged FLSA violations in the private sector, whereas OPM now receives complaints against the Library only for settlement of damages.
JUDICIAL PROCEDURES			
Library employees may sue Jury trials, not being expressly provided by the FLSA, are arguably not allowed against the Federal government	+The CAA provides for jury trials, which are arguably not available against the Library	=Library employees are covered under the federal-sector provisions establishing a private right of action	+Jury trials, which are arguably not now available against the Library, are available under private sector procedures.
SUBSTANTIVE RULEMAKING			
The Library is subject to OPM's substantive regulations implementing the FLSA Government-wide However, the Library is subject to its own regulations implementing exceptions from FLSA pay under civil service laws	−CAA substantive regulations are adopted by the OC Board, subject to approval of House and Senate; whereas the Library is now subject to regulations promulgated primarily for the private sector by DoL, which is overseen by the President	+Federal-sector employees are subject to OPM's Government-wide regulations implementing civil service provisions authorizing comp time in lieu of FLSA overtime pay, whereas the Library issues its own regulations on that subject	=The Library is covered by generally the same DoL regulations implementing the FLSA as apply in the private sector.

[1] This table assumes that, under the private-sector option, the receipt of comp time in lieu of overtime pay would generally not be allowed, because civil service statutes authorizing the use of comp time in exception to FLSA requirements apply only to the federal sector.

APPENDIX III, TABLE 25.—LIBRARY: EMPLOYEE POLYGRAPH PROTECTION ACT

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
§ 204 of the CAA extends the substantive rights of the EPPA to the Library	=The Library is covered under EPPA substantive rights as applied by the CAA	=EPPA rights do not apply generally in the federal sector[1]	=The Library is covered under EPPA substantive rights as applied by the CAA.
ADMINISTRATIVE PROCESSES			
There is disagreement as to whether Library employees alleging a violation of § 204 may use CAA procedures There may be disagreement as to whether Library employees may seek a remedy for a § 204 violation using the Library's administrative grievance procedures, or negotiated grievance procedures at the Library	+If CAA procedures applied, use of model ADR process would be prerequisite to proceeding with complaint. +Applying CAA procedures would provide counseling, mediation, and adjudication and appeal administered by the OC. Now no such procedures are provided under authority of an agency outside of the Library, unless under the CAA. *[The CAA should provide for investigation and prosecution of retaliation.]* *[The CAA should require recordkeeping.]* −CAA confidentiality rules would apply		+Applying private-sector procedures would authorize DoL to receive complaints from Library employees and to investigate violations. −Private-sector provisions do not provide for administrative adjudication and appeal. Now there is disagreement whether these are available under the CAA.
JUDICIAL PROCEDURES			
There is disagreement as to whether Library employees may sue under the CAA	+Applying CAA procedures would grant Library employees the right to sue and, if they pursue an administrative claim, to obtain appellate judicial review		+Applying private-sector procedures would enable Library employees to sue, whereas the right to sue under the CAA now is subject to dispute. +DoL can prosecute private-sector violations in court. Even if CAA procedures apply, they would not include prosecution in court.

APPENDIX III, TABLE 25.—LIBRARY: EMPLOYEE POLYGRAPH PROTECTION ACT—Continued

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RULEMAKING PROCESS			
The OC Board has issued EPPA regulations, substantially similar to those promulgated by DoL, and has extended the regulations to cover the Library, but the extension has not been approved by the House and Senate. Accordingly, "the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding" would be applied, pursuant to § 411 of CAA	=Substantive regulations under the CAA are now promulgated by the same process for the Library as for other employing offices		=The CAA provides that the Library shall be subject to generally the same regulatory requirements as under DoL's regulations for the private sector. –Regulations are promulgated by DoL for all private-sector employers, whereas regulations now applicable to the Library, which must generally be the same as DoL's regulations, are adopted by the OC Board for all employing offices, subject to approval by the House and Senate.

[1] To our knowledge, the only federal-sector coverage other than the CAA is under the Presidential and Executive Office Accountability Act. *See* Table 5, note 1, above.

APPENDIX III, TABLE 26.—LIBRARY: WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS:			
§ 205 of the CAA extends the substantive rights of the WARN Act to the Library In addition, Library regulations and collective bargaining agreements require 90 days' advance notice to employees affected by a RIF.[1]	=The Library is covered under WARN Act rights as applied by the CAA.	– WARN Act rights do not apply generally in the federal sector.[2] (Federal-sector employees in the competitive service are entitled to 60 days' notice of a RIF, pursuant to applicable civil service statutes and regulations. However, this table makes no assumptions as to whether the Library's existing regulations and remedies involving RIFs would be retained, or whether general civil service statutes and regulations governing RIFs would be applied to GAO. See *generally* footnote 1.)	=The Library is covered by WARN Act substantive rights as applied by the CAA.
ADMINISTRATIVE PROCESSES			
There is disagreement whether Library employees alleging § 205 violations may use CAA administrative procedures.	+If CAA procedures applied, use of model ADR process would be prerequisite to proceeding with complaint. +Applying CAA procedures would provide counseling, mediation, and adjudication administered by the OC. Now no such procedures are provided under authority of an agency outside of the Library, unless under the CAA. *[The CAA should provide for investigation and prosecution of retaliation.]* –CAA confidentiality rules would apply.		– Private-sector provisions do not provide for either investigation, prosecution, or administrative adjudication of complaints, whereas now there is disagreement whether counseling, mediation, and administrative adjudication are available under the CAA.
JUDICIAL PROCEDURES			
There is disagreement whether Library employees may sue under the CAA.	+Applying CAA procedures would grant Library employees the right to sue and, if they pursue an administrative claim, to obtain appellate judicial review of a final administrative decision.		+Applying private-sector procedures would enable Library employees to sue, whereas the right to sue under the CAA now is subject to dispute.
SUBSTANTIVE RULEMAKING PROCESS			
The OC Board has issued WARN Act regulations, substantially similar to those promulgated by DoL, and has extended the regulations to cover the Library, but the extension has not been approved by the House and Senate. Accordingly, "the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding" would be applied, pursuant to § 411 of CAA.	=Substantive regulations under the CAA are now promulgated by the same process for the Library as for other employing offices.		–Regulations are promulgated by DoL for all private-sector employers; regulations now applicable to the Library, which must generally be the same as DoL's regulations, are adopted by the OC Board for all employing offices, subject to approval by the House and Senate.

[1] This table assumes that, under either the CAA option or the private-sector option, the existing procedures for remedying violations of the Library's RIF regulations and collective bargaining agreements need not be changed. The notice rights under the Library's RIF regulations seem sufficiently distinct from WARN Act rights that the existing procedures for seeking a remedy for RIF notice violations need not be superseded by application of either the CAA or the private-sector provisions.

[2] To our knowledge, the only federal-sector coverage other than the CAA is under the Presidential and Executive Office Accountability Act. *See* Table 5, note 1, above.

APPENDIX III, TABLE 27.—LIBRARY: VETERANS EMPLOYMENT AND REEMPLOYMENT

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal Sector Coverage*	*—Compared to Private-Sector Coverage*
SUBSTANTIVE RIGHTS			
Library employees, like all other public- and private-sector employees, are covered by USERRA In addition, §206 of the CAA extends substantive rights of USERRA to the Library	=The Library is covered under USERRA rights as applied by the CAA, as well as under the USERRA itself, which applies substantially the same rights as the CAA	=The Library is covered under the same substantive USERRA provisions as apply generally to the federal sector, and is also covered under the CAA, which makes applicable substantially the same rights as the USERRA applies in the federal sector	=The Library is covered under the same substantive USERRA provisions as private-sector employers.
ADMINISTRATIVE PROCESSES			
Under USERRA, Library employees may file a complaint with DoL, which investigates and informally seeks compliance There is disagreement as to whether Library employees alleging a §206 violation may use CAA administrative procedures	+Applying CAA procedures would make the use of model ADR process a prerequisite to proceeding with complaint +Applying the administrative procedures of the CAA would provide counseling, mediation, and adjudication administered by the OC *[The CAA should provide for investigation and prosecution of retaliation.]* =These CAA procedures would apply in addition to the right to file a claim with DoL under USERRA [1] –CAA confidentiality rules would apply	=Employees under federal-sector provisions of USERRA, including Library employees, may complain to DoL, which investigates and informally seeks compliance +USERRA generally authorizes federal-sector employees, but not Library employees, to: (*1*) request the Special Counsel to pursue a case on the employee's behalf, and (*2*) have an alleged USERRA violation adjudicated by the MSPB	=Private-sector employees, like Library employees, may submit complaints to DoL, which investigates and informally seeks compliance.
JUDICIAL PROCEDURES			
USERRA does not authorize Federal employees, including those at the Library, to sue There is disagreement whether Library employees alleging a §206 violation may sue under the CAA	+Applying CAA procedures would grant Library employees the right to sue for § 206 violations; Library employees are not afforded a private right of action under USERRA	=Federal-sector employees, like Library employees, may not sue	+Applying private-sector procedures would afford Library employees the right to sue, whereas the right of Library employees to sue under the CAA is now subject to dispute +Private-sector employees may ask the Attorney General to prosecute the violation in court.

[1] This table assumes that, under the CAA option, the existing remedial procedures under USERRA would be retained. §225(d) of the CAA states that covered employees "may also utilize any provisions of . . . [USERRA] that are applicable to that employee."

APPENDIX III, TABLE 28.—LIBRARY: ADA TITLES II-III

Current Regime	—Compared to CAA Coverage	—Compared to Federal-Sector Coverage	—Compared to Private-Sector Coverage
SUBSTANTIVE RIGHTS			
All substantive rights of the ADA, including those involving public access, apply to the Library, under §509 of the ADA	=Substantive rights under the CAA are generally the same as the public-access rights now at the Library under the ADA – The prohibition against retaliation, which applies now at the Library under the ADA, is not granted under the CAA to members of the public	=For the federal sector, § 504 of the Rehabilitation Act applies substantive rights that are generally the same as the public-access rights applicable to the Library under the ADA	=For the private sector, title III of the ADA applies generally the same substantive rights involving public access as are applicable to the Library under the ADA.
ADMINISTRATIVE PROCESSES			
The Library must maintain administrative procedures under which members of the public can seek redress for ADA violations. The Library investigates complaints and provides for appeal within the agency There is no administrative appeal to an entity outside of the Library, nor other outside agency oversight of compliance by the Library	+The CAA provides for mediation and adjudication administered by the OC; now, there is no administrative appeal to an entity outside of the Library +The CAA establishes an enforcement-based process, under which an administrative proceeding may be brought only by the GC of the OC after receiving a charge. Enforcement at the Library is by private action only –CAA confidentiality rules would apply to mediations, hearings, and deliberations	=In the federal sector, as at the Library, agencies have generally established internal procedures for investigating and resolving public-access complaints +The Attorney General is responsible under E.O. 12250 (reproduced at 42 U.S.C. § 2000d–1 note) for reviewing agency regulations and otherwise coordinating implementation and enforcement; as to the Library, no entity outside of the Library exercises such functions	+Under title III of the ADA, the Attorney General investigates alleged violations in the private sector; as to the Library, no entity outside of the Library now investigates.
JUDICIAL PROCEDURES			
After having exhausted administrative remedies, members of the public can sue and have a trial de novo. (An individual may sue either after a final GAO decision or if there is no such decision 180 days after the complaint.)	– The charging individual may not sue under the CAA; but such individual, having intervened in the administrative proceeding, may appeal to the Federal Circuit	=In the federal sector, as at the Library, members of the public alleging public-access violations by agencies may sue	=In the private sector, as now at the Library, members of the public alleging public-access violations may sue. +The Attorney General may prosecute title III violations in court, whereas no agency may do so now as to the Library.
SUBSTANTIVE RULEMAKING PROCESS			
Substantive regulations promulgated by executive branch agencies under titles II–III of the ADA are not made applicable	+The OC Board adopts regulations, generally the same as executive-branch agency regulations for the private sector, subject to House and Senate approval.[1] No entity outside of the Library now issues regulations applicable to the Library	=In the federal sector, as at the Library, substantive regulations promulgated by executive branch agencies under titles II–III of the ADA are not made applicable	+Private-sector employers are subject to substantive regulations promulgated by the Attorney General. No entity outside of the Library now promulgates regulations applicable to the Library.

[1] Because the Board's public access regulations have not been approved, "the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding" would be applied, pursuant to § 411 of CAA.

APPENDIX III, TABLE 29.—LIBRARY: OSHACT

Current Regime	—Compared to CAA Coverage	—Compared to Federal-Sector Coverage	—Compared to Private-Sector Coverage
SUBSTANTIVE RIGHTS			
Section 215 of the CAA extends the substantive rights of the OSHAct to the Library and requires compliance with occupational safety and health ("OSH") standards as established by DoL	=The Library is fully subject to the substantive, administrative, and judicial provisions of the CAA with respect to occupational safety and health, including the process for establishing any regulatory requirements –[*Recordkeeping and reporting requirements should be applied, administered by the OC*]; whereas law now applicable to the Library requires recordkeeping and reporting to DoL [*The CAA should provide for investigation and prosecution of retaliation.*]	=E.O. 12196 (reproduced at 5 U.S.C. § 7902 note) requires executive-branch agencies to comply with the same DoL standards as are made applicable to employing offices, including the Library, under the CAA	=In the private sector, the OSHAct applies the same DoL standards as are made applicable to employing offices, including the Library, under the CAA.
ADMINISTRATIVE PROCESSES			
The administrative procedures of § 215 of the CAA apply fully to the Library Requirements to keep records and report to DoL are now imposed under OSHAct and civil service law		–E.O. 12196 requires DoL to inspect and consider employee complaints; the CAA is administered for employing offices, including the Library, by the OC. Unlike the CAA, the E.O. also requires each agency to establish its own OSH program[1] –If DoL and the employing agency disagree, there is no adjudicatory or other formal dispute resolution process under the E.O., as there is under the CAA. Rather, the disagreement is submitted to the President	=Administrative processes for the private sector are generally the same as those made applicable for employing offices, including the Library, by the CAA. –DoL administers the OSHAct in the private sector; the OC administers the CAA for employing offices, including the Library.
JUDICIAL PROCEDURES			
The judicial procedures of § 215 of the CAA apply fully to the Library		– There is no judicial review of actions or decisions under the E.O., unlike the CAA, which provides for appellate judicial review of administrative decisions	=Judicial review procedures in the private sector are generally the same as those made applicable for employing offices, including the Library, under the CAA. –DoL investigates and prosecutes private-sector retaliation. The CAA, which now covers the Library, has no such authority, [*but it should*]; employees alleging retaliation can sue under the CAA, but could not under private-sector OSHAct.
SUBSTANTIVE RULEMAKING PROCESS			
The OC Board has adopted substantive regulations incorporating DoL's standards, and has adopted an amendment extending those regulations to cover the Library. However, neither the regulations nor the amendment has been approved by the House and Senate. Accordingly, "the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding" would be applied, pursuant to § 411 of CAA		–The E.O. was issued for the executive branch by the President; CAA regulations, which are applicable to the Library, are adopted by the OC Board, subject to approval by the House and Senate	–DoL promulgates standards for all private- sector employers. The OC Board adopts CAA regulations, generally the same as DoL regulations. As the House and Senate have not approved, §411 of CAA would apply "the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding."

[1] The program must include periodic inspections, responding to employee reports of hazard, preventing retaliation, and creating a joint labor-management Occupational Safety and Health Committee.

APPENDIX III, TABLE 30.—LIBRARY: LABOR-MANAGEMENT RELATIONS

Current Regime	—Compared to CAA Coverage	—Compared to Federal-Sector Coverage	Compared to Private-Sector Coverage
SUBSTANTIVE RIGHTS			
The Library is covered by Chapter 71 and by the FLRA's regulations thereunder	=The CAA affords generally the same substantive rights as apply now at the Library under Chapter 71 The CAA empowers the Board, with House and Senate approval, to exclude offices from coverage under labor-management relations provisions if exclusion is required because of conflict of interest or Congress's constitutional responsibilities; Chapter 71 has no such provision	=The same substantive, administrative, and judicial statutory provisions of Chapter 71 apply generally in the federal sector as apply now at the Library, and agencies in the federal sector are generally subject to the authority of the FLRA as is the Library	+Private-sector employees, covered by the National Labor Relations Act ("NLRA"), have the right to strike. –Unions and employers in the private sector may enter into union security agreements. –Unions in the private sector, if the employer agrees, may obtain exclusive recognition by card majority (i.e., without secret ballot election).

APPENDIX III, TABLE 30.—LIBRARY: LABOR-MANAGEMENT RELATIONS—Continued

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*Compared to Private-Sector Coverage*
ADMINISTRATIVE PROCESSES			
Under Chapter 71, the FLRA hears cases arising from representation matters and unfair labor practices ("ULPs") at the Library Exceptions from arbitral awards may be taken to the FLRA (except for awards involving adverse and unacceptable-performance actions, which are subject to judicial review)	=The OC Board under the CAA exercises a role generally similar to that of the FLRA –CAA confidentiality rules would apply to hearings and deliberations		–Grievance procedures are not a required provision of any bargaining agreement in the private sector, as they are under Chapter 71. –Awards under binding arbitration are not ordinarily subject to review, as they are under Chapter 71.
JUDICIAL PROCEDURES			
FLRA decisions on matters other than representation or exceptions from arbitral awards may be appealed to the Federal Circuit Any person aggrieved, including a Library employee, may appeal FLRA decisions on exceptions to arbitral awards may not be further appealed unless they involve a ULP Arbitral awards involving adverse or unacceptable-performance actions, which may not be appealed to the FLRA, may be appealed to the Federal Circuit	–A charging party may not appeal a ULP decision –The CAA, unlike Chapter 71, affords no judicial review of arbitral awards involving adverse or unacceptable-performance actions (nor, under the CAA, is there administrative review of such actions) –The CAA, unlike Chapter 71, affords no authority to the OC to seek temporary relief or a restraining order		–NLRB decisions are appealable to the D.C. Circuit or the Circuit where the employer is located; under Chapter 71, FLRA decisions are appealable to the Federal Circuit.
SUBSTANTIVE RULEMAKING PROCESS			
The Library is subject to substantive regulations promulgated by the FLRA.	–The OC Board adopts CAA regulations, ordinarily the same as FLRA regulations, subject House and Senate approval; the Library is subject to regulations adopted for the federal sector by the FLRA.		=NLRB has authority to issue substantive regulations, as does the FLRA for the federal sector, including the Library, under Chapter 71.•

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, January 28, 1999 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 29

9 a.m.
Budget
To hold hearings on the Congressional Budget Office economic and budget outlook for fiscal year 2000.
SD–608

9:30 a.m.
Foreign Relations
To hold hearings on the nomination of Hassan Nemazee, of New York, to be Ambassador to Argentina.
S–116, Capitol

10 a.m.
Intelligence
Closed business meeting to consider pending intelligence matters.
SH–219

Veterans' Affairs
To hold hearings on the Dole Commission (Commission on Service Members and Veterans Transition Assistance) Report, and on Medicare subvention, third-party collections, and other non-appropriated funding sources for the Department of Veterans' Affairs.
SH–216

FEBRUARY 2

9:30 a.m.
Armed Services
To hold hearings, in open and closed (SH–219), on current and future worldwide threats to the national security of the United States.
SH–216

Energy and Natural Resources
To hold hearings on the nomination of Carolyn L. Huntoon, of Virginia, to be an Assistant Secretary of Energy (Environmental Management).
SD–106

10 a.m.
Finance
To hold hearings on the President's proposed budget request for fiscal year 2000 and tax proposals.
SD–215

Budget
To hold hearings on the President's proposed budget request for fiscal year 2000.
SD–608

FEBRUARY 3

9:30 a.m.
Commerce, Science, and Transportation
Business meeting to mark up S. 82, to authorize appropriations for Federal Aviation Administration.
SR–253

Armed Services
To hold hearings on proposed legislation authorizing funds for fiscal year 2000 for the Department of Defense, and the future years defense program.
SH–216

FEBRUARY 4

10 a.m.
Energy and Natural Resources
To hold oversight hearings to review the Recreation Fee Demonstration Program of the Department of the Interior.
SD–106

FEBRUARY 5

8:30 a.m.
YEAR 2000 TECHNOLOGY PROBLEM
To hold hearings to examine information technology as it applies to the food sector in the Year 2000.
SD–192

FEBRUARY 11

8:30 a.m.
YEAR 2000 TECHNOLOGY PROBLEM
To hold hearings to examine information technology as it applies to the food sector in the Year 2000.
SD–192

FEBRUARY 12

9:30 a.m.
Budget
To hold hearings on national defense budget issues.
SD–608

FEBRUARY 24

9:30 a.m.
Armed Services
Readiness Subcommittee
To hold hearings on the National Security ramifications of the Year 2000 computer problem.
SH–216

FEBRUARY 25

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Military Order of the Purple Heart, the Fleet Reserve, the Retired Enlisted Association, the Gold Star Wives of America, and the Air Force Sergeants Association.
345 Cannon Building

MARCH 2

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Veterans of Foreign Wars.
345 Cannon Building

MARCH 4

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Veterans of World War I of the USA, Non-Commissioned Officers Association, Paralyzed Veterans of America, Jewish War Veterans, and the Blinded Veterans Association.
345 Cannon Building

MARCH 17

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Disabled American Veterans.
345 Cannon Building

MARCH 24

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Ex-Prisoners of War, AMVETS, Vietnam Veterans of America, and the Retired Officers Association.
345 Cannon Building

SEPTEMBER 28

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.
345 Cannon Building

POSTPONEMENTS

FEBRUARY 10

8:30 a.m.
Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings to review competition and antitrust issues relating to the Telecom Act.
SD–226

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—*Thursday, January 28, 1999*

The Senate met at 1:04 p.m. and was called to order by the Chief Justice of the United States.

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

The CHIEF JUSTICE. The Senate will convene as a Court of Impeachment. The Chaplain will offer a prayer.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, thank You for the gift of vibrant confidence based on vital convictions. We are confident in Your unlimited power. Therefore, at no time are we helpless or hapless. Our confidence is rooted in Your Commandments. Therefore, we are strengthened by Your absolutes that give us enduring values. Our courage is based on the assurance of Your ever-present, guiding Spirit. Therefore, we will not fear. Our hope is rooted in trust in Your reliability. Therefore, we will not be anxious. Your interventions in trying times in the past have made us hopeful thinkers for the future. Therefore, we trust You.

You have called us to glorify You in the work here in this Senate. Therefore, we give You our best for this day's responsibilities. You have guided our beloved Nation through difficult periods of discord and division in the past. Therefore, we ask for Your help in the present deliberations of the impeachment trial. Thank You for the courage that flows from our unshakable confidence in You. Through our Lord and Saviour. Amen.

The CHIEF JUSTICE. Senators will be seated. The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, James W. Ziglar, made proclamation as follows:

> Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against William Jefferson Clinton, President of the United States.

THE JOURNAL

The CHIEF JUSTICE. If there is no objection, the Journal of proceedings of the trial are approved to date.

The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. LOTT. For the information of all of our colleagues—obviously, they have already received the word by the fact that they are not all present—but we are still attempting to reach an agreement with respect to the remaining procedures for the trial, particularly with regard to how and when the depositions will be taken.

We have been making progress, but it is something we need to be careful about. Hopefully, we will be able to reach an agreement yet today. If agreement is reached, I expect it very likely that a rollcall vote would be requested on that agreement and, therefore, all Members should be aware of that. We will notify them via the hotline system as the voting schedule becomes clear. Certainly we will keep the Chief Justice informed of our deliberations and when we anticipate the need to reconvene.

RECESS

Mr. LOTT. But in view of the continuing negotiations and conferences that are meeting at this time, I ask unanimous consent the Senate stand in recess until the hour of 2 p.m. today.

There being no objection, at 1:07 p.m., the Senate recessed until 2:02 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Thank you, again, Mr. Chief Justice.

ORDER OF PROCEDURE

Mr. LOTT. Mr. Chief Justice, in an effort to get an agreement on how to proceed, it is very important that all parties are aware of the procedures that we are outlining and that those include Senators on both sides of the aisle, the House managers, the White House, the attorneys for the witnesses. So it does take time.

Just as we were prepared to come in at 2 and move to a resolution, questions were raised about a couple specific points. We feel like those questions need to be clarified for certainty. Rather than continue to recess hour to hour, which I know is not fair to the Chief Justice, I think it would be better at this point to make sure Senators are aware that we are working to get an agreement on this procedure, and we need to get that done today so the depositions can get underway with the attorneys consulting with their clients Friday and Saturday, and hopefully, the depositions will begin on Sunday and Monday, and hopefully, completed by Tuesday. But we are working on the details of that.

This still could very well require a vote or two today or even tomorrow. But we will make that announcement once it is clear that it is going to take a recorded vote of one or more and exactly how that would work.

So, we will keep the Chief Justice notified of the expected timeframe, and as information becomes available as to exactly when we will come back into session, and whether or not or how many votes will be required. We will get that information to Senators.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. LOTT. In view of all that, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 2:03 p.m., the Senate recessed subject to the call of the Chair.

The Senate reassembled at 5:31 p.m., when called to order by the Chief Justice.

The CHIEF JUSTICE. The majority leader is recognized.

Mr. LOTT. Thank you, Mr. Chief Justice.

I thought we were ready to proceed. I see Senator DASCHLE is not on the floor. He should be back momentarily. Maybe I can explain a few details. He is returning now. We may still need a little more time.

We thank you for your patience, and our colleagues on both sides for their patience, as we have tried to work through the details of these resolutions and how to proceed with the depositions. There are a lot of details to it and everybody needs to be relatively comfortable they understand how that will work. That is why it has taken this additional time.

I think we are to the point where we are ready to proceed. I believe the way it will proceed is that we will have a resolution that I will send to the desk, followed by a substitute from Senator DASCHLE. Then Senator DASCHLE has indicated that they may want to have a motion to go straight to the articles of impeachment. That would require three votes. Then we also, at that point, would make it clear the depositions would begin on Monday, the 1st. It is our intent to then go to those three votes. I also understand that both sides are willing to waive—the parties—willing to waive the debate time on these issues.

With that explanation, I begin that process.

RELATING TO THE PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

Mr. LOTT. I send a resolution to the desk and ask that it be read in its entirety by the clerk, and time for the two parties be waived.

The CHIEF JUSTICE. The clerk will read the resolution in its entirety.

Mr. LOTT. I believe there was a request for unanimous consent.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The CHIEF JUSTICE. Without objection, the request is agreed to.

The legislative clerk read as follows:

A resolution (S. Res. 30) relative to the procedures concerning the Articles of Impeachment against William Jefferson Clinton.

Resolved,

TITLE I—PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

SEC. 101. That the deposition time for all witnesses be determined by the Senate Majority Leader and Minority Leader, as outlined in Senate Resolution 16, One Hundred Sixth Congress, First Session, and title II of this resolution and that all Senators have an opportunity to review all deposition material, which shall be made available at the earliest possible time.

SEC. 102. When the Senate reconvenes on the day after completion of the depositions, and the review period, it shall be in order for both the House Managers and the President's counsel to move to resolve any objections made during any deposition. After resolution of any such motions, it shall be in order for the House Managers and/or White House counsel to make a motion or motions to admit the depositions or portions thereof into evidence, whether transcribed or on video tape provided further for a presentation employing all or portions of such tape, and it shall then be in order for the two Leaders jointly, only to make motions for additional discovery because of new relevant evidence discovered during the depositions. Motions may also then be made for orders governing the presentation of evidence and/or the testifying of witnesses before the Senate.

SEC. 103. If no such motions are made, or following the completion of any procedures authorized as a result of the votes on any motions, the White House shall have up to 24 hours to make any motions dealing with testimony or evidence that the White House counsel deems appropriate, as described previously.

SEC. 104. If no such motions are made, or no witnesses are called to testify in the Senate, the Senate shall proceed to final arguments as provided in the impeachment rules waiving the two person rule contained in Rule XXII of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials for not to exceed six hours, to be equally divided. If motions are agreed to regarding new evidence or calling of new witnesses, this resolution is suspended.

SEC. 105. At the conclusion of the final arguments the parties shall proceed in accordance with the rules of impeachment: *Provided however*, That no motion with respect to reopening the record in the case shall be in order, and: *Provided further*, That it shall be in order for a Senator to offer a motion to suspend the rules to allow for open final deliberations with no amendments or motions to that motion in order; and the Senate shall proceed to vote on the motion to suspend the rules to provide for open Senate deliberations.

SEC. 106. Following that vote, and if no motions have been agreed to as provided in sections 102 and 103, and no motions are agreed to following the arguments, then the vote will occur on any pending motions and amendments thereto and then on the articles of impeachment no later than 12:00 noon on Friday, February 12, 1999.

TITLE II—TO AUTHORIZE ISSUANCE OF SUBPOENAS TO TAKE DEPOSITIONS IN THE TRIAL OF THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

SEC. 201. That, pursuant to Rules V and VI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, and S. Res. 16, 106th Congress, 1st Session, the Chief Justice of the United States, through the Secretary of the Senate, shall issue subpoenas for the taking of testimony on oral deposition to the following witnesses: Sidney Blumenthal, Monica S. Lewinsky, and Vernon E. Jordan, Jr.

SEC. 202. The Sergeant at Arms is authorized to utilize the services of the Deputy Sergeant at Arms or any other employee of the United States Senate in serving the subpoenas authorized to be issued by this resolution.

SEC. 203. Depositions authorized by this resolution shall be taken before, and presided over by, on behalf of the Senate, two Senators appointed by the Majority Leader and the Democratic Leader, acting jointly, one of whom shall administer to witnesses the oath prescribed by Rule XXV of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials. Acting jointly, the presiding officers shall have authority to rule, as an initial matter, upon any question arising out of the deposition. All objections to a question shall be noted by the presiding officers upon the record of the deposition, but the examination shall proceed, and the witness shall answer such question. A witness may refuse to answer a question only when necessary to preserve a legally-recognized privilege, and must identify such privilege cited if refusing to answer a question.

SEC. 204. Examination of witnesses at depositions shall be conducted by the Managers on the part of the House or their counsel, and by counsel for the President. Witnesses shall be examined by no more than two persons each on behalf of the Managers and counsel for the President. Witnesses may be accompanied by counsel. The scope of the examination by the Managers and counsel for both parties shall be limited to the subject matters reflected in the Senate record. The party taking a deposition shall present to the other party, at least 18 hours in advance of the deposition, copies of all exhibits which the deposing party intends to enter into the record during the deposition. No exhibits outside of the Senate record shall be employed, except for articles and materials in the press, including electronic media. Any party may interrogate any witness as if that witness were declared adverse.

SEC. 205. The depositions shall be videotaped and a transcript of the proceedings shall be made. The depositions shall be conducted in private. No person shall be admitted to any deposition except for the following: the witness, counsel for the witness, the Managers on the part of the House, counsel for the Managers, counsel for the President, and the presiding officers; further, such persons whose presence is required to make and preserve a record of the proceedings in videotaped and transcript forms, and employees of the Senate whose presence is required to assist the presiding officers in presiding over the depositions, or for other purposes, as determined after consultation by the Majority Leader with the Democratic Leader. All present must maintain the confidentiality of the proceedings.

SEC. 206. The presiding officers at the depositions shall file the videotaped and transcribed records of the depositions with the Secretary of the Senate, who shall maintain them as confidential proceedings of the Senate. The Sergeant at Arms is authorized to make available for review any of the videotaped or transcribed deposition records to Members of the Senate, one designated staff member per Senator, and the Chief Justice. The Senate may direct the Secretary of the Senate to distribute such materials, and to use whichever means of dissemination, including printing as Senate documents, printing in the *Congressional Record*, photo- and video-duplication, and electronic dissemination, he determines to be appropriate to accomplish any distribution of the videotaped or transcribed deposition records that he is directed to make pursuant to this section.

SEC. 207. The depositions authorized by this resolution shall be deemed to be proceedings before the Senate for purposes of Rule XXIX of the Standing Rules of the Senate, Senate Resolution 259, 100th Congress, 1st Session, 2 U.S.C. §§191, 192, 194, 288b, 288d, 288f, 18 U.S.C. §§6002, 6005, and 28 U.S.C. §1365. The Secretary shall arrange for stenographic assistance, including videotaping, to record the depositions as provided in section 5. Such expenses as may be necessary shall be paid from the Appropriation Account—Miscellaneous Items in the contingent fund of the Senate upon vouchers approved by the Secretary.

SEC. 208. The Secretary shall notify the Managers on the part of the House, and counsel for the President, of this resolution.

The CHIEF JUSTICE. The Chair recognizes the minority leader.

AMENDMENT NO. 1

Mr. DASCHLE. Mr. Chief Justice, I have an amendment that I send to the desk.

The CHIEF JUSTICE. The clerk will read the amendment.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 1.

In the resolution strike all after the word "that" in the first line and insert the following:

"the deposition time for all witnesses to be deposed be limited to no later than close of business Wednesday, February 3 and that all Senators have an opportunity to review all deposition material, which shall be made available at the earliest possible time.

"When the Senate reconvenes the trial at 10 a.m. on Saturday, February 6 it shall be in order to resolve any objections that may not be resolved regarding the depositions; after these deposition objections have been disposed of, it shall be in order for the House managers and/or the White House counsel to make a motion, or motions to admit the depositions or portions thereof into evidence, such motions shall be limited to transcribed deposition material only;

"On Monday, February 8 there shall be 4 hours equally divided for closing arguments; with the White House using the first 2 hours and the House Republican managers using the final 2 hours; that

"Upon the completion of the closing arguments the Senate shall begin final deliberation on the articles; a timely filed motion to suspend the rules and open these deliberation shall be in order; upon the completion of these deliberations the Senate shall, without any intervening action, amendment, motion or debate, vote on the articles of impeachment.

"*Provided further*, That the votes on the articles shall occur no later than 12 noon Friday, February 12."

The CHIEF JUSTICE. The Chair recognizes the Senator from Utah, Mr. HATCH.

Mr. HATCH. Parliamentary inquiry, Mr. Chief Justice: Does the majority leader's resolution, does that also keep open the right of Senators to file——

The CHIEF JUSTICE. The Parliamentarian says it takes a unanimous consent for a parliamentary inquiry.

Mr. HATCH. I ask unanimous consent I be permitted to ask one question.

The CHIEF JUSTICE. Is there objection?

Without objection, it is so ordered.

Mr. HATCH. Does the majority leader's resolution allow for the filing and consideration of motions that may not be mentioned in the resolution itself?

The CHIEF JUSTICE. The Parliamentarian tells me it is never the function of the Chair to interpret a resolution.

Mr. LOTT addressed the Chair.

The CHIEF JUSTICE. The majority leader.

Mr. LOTT. I believe the regular order is, now we would go to a vote on the two resolutions. Just for the information of the Senators, after that, Senator DASCHLE may have a motion, again, as I indicated earlier, just to go to a vote on the articles of impeachment.

So there could be three votes now, in order, without intervening debate. After that, Senator DASCHLE and I will formally lock in the beginning time for the depositions.

I yield the floor.

The CHIEF JUSTICE. The first vote will be on the amendment from the minority leader, the Senator from South Dakota.

The yeas and nays are required.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. ALLARD] is necessarily absent.

Mr. REID. I announce that the Senator from Maryland [Ms. MIKULSKI] is absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Ms. MIKULSKI] would vote "aye."

The result was announced—yeas 44, nays 54, as follows:

[Rollcall Vote No. 6]

[Subject: Daschle amendment No. 1 to S. Res. 30]

YEAS—44

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Bryan
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Schumer
Torricelli
Wellstone
Wyden

NAYS—54

Abraham
Ashcroft
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Coverdell
Craig
Crapo
DeWine
Domenici
Enzi
Fitzgerald
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—2

Allard
Mikulski

The amendment (No. 1) was rejected.

The CHIEF JUSTICE. The question is on agreeing to S. Res. 30, the resolution offered by Senator LOTT. On this question, the yeas and nays are called for.

Mr. DASCHLE addressed the Chair.

The CHIEF JUSTICE. The Chair recognizes the minority leader.

Mr. DODD. Mr. Chief Justice, the Senate is not in order.

The CHIEF JUSTICE. The Senate will be in order.

AMENDMENT NO. 2

Mr. DASCHLE. Mr. Chief Justice, I send an amendment to the desk.

The CHIEF JUSTICE. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. DASCHLE) proposes an amendment numbered 2.

In the resolution strike all after the word "that" in the first line and insert the following:

"the Senate now proceed to closing arguments; that there be 2 hours for the White House counsel followed by 2 hours for the House managers; and that at the conclusion of this time the Senate proceed to vote, on each of the articles, without intervening action, motion or debate, except for deliberations, if so decided by the Senate."

The CHIEF JUSTICE. The question is on the amendment just read. The yeas and nays are automatic. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. ALLARD] is necessarily absent.

Mr. REID. I announce that the Senator from Maryland [Ms. MIKULSKI] is absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Ms. MIKULSKI] would vote "aye."

The result was announced—yeas 43, nays 55, as follows:

[Rollcall Vote No. 7]

[Subject: Daschle amendment No. 2]

YEAS—43

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Bryan
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Edwards
Feinstein
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Schumer
Torricelli
Wellstone
Wyden

NAYS—55

Abraham
Ashcroft
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Coverdell
Craig
Crapo
DeWine
Domenici
Enzi
Feingold
Fitzgerald
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—2

Allard
Mikulski

The amendment (No. 2) was rejected.

The CHIEF JUSTICE. The majority leader.

Mr. LOTT. Mr. Chief Justice, I suggest the absence of a quorum.

The CHIEF JUSTICE. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that the order for the quorum call be rescinded.

The CHIEF JUSTICE. Without objection, it is so ordered.

Mr. LEAHY. Mr. Chief Justice, may we have order, please?

The CHIEF JUSTICE. The Senate will be in order.

AMENDMENT NO. 3

Mr. LOTT. Mr. Chief Justice, I send an amendment to the desk modifying the last paragraph of page 3.

The CHIEF JUSTICE. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 3.

On page 3, strike the words "any pending motions and amendments thereto and then on" and insert the following at the end of page 3 "strike the period and insert, if all motions are disposed of and final deliberations are completed."

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that the amendment be agreed to and that the motion to reconsider be laid upon the table.

The CHIEF JUSTICE. Without objection, it is so ordered.

The amendment (No. 3) was agreed to.

The CHIEF JUSTICE. The question is on the resolution, as amended. The yeas and nays are automatic. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. ALLARD] is necessarily absent.

Mr. REID. I announce that the Senator from Maryland [Ms. MIKULSKI] is absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Ms. MIKULSKI] would vote "no."

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 8]

[Subject: S. Res. 30 as amended]

YEAS—54

Abraham
Ashcroft
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Coverdell
Craig
Crapo
DeWine
Domenici
Enzi
Fitzgerald
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—44

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Bryan
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Schumer
Torricelli
Wellstone
Wyden

NOT VOTING—2

Allard
Mikulski

The resolution (S. Res. 30), as amended, was agreed to.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

MODIFICATION TO TITLE II

Mr. LOTT. Mr. Chief Justice, with regard to the beginning of the depositions, I ask unanimous consent that title II of S. Res. 30 be modified with the language I send to the desk.

The CHIEF JUSTICE. Without objection, it is so ordered.

The modification follows:

TITLE II—TO AUTHORIZE ISSUANCE OF SUBPOENAS TO TAKE DEPOSITIONS IN THE TRIAL OF THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

SEC. 201. That, pursuant to Rules V and VI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, and Senate Resolution 16, One Hundred Sixth Congress, First Session, the Chief Justice of the United States, through the Secretary of the Senate, shall issue subpoenas for the taking of testimony on oral deposition to the following witnesses: Sidney Blumenthal, Monica S. Lewinsky, and Vernon E. Jordon, Jr.

SEC. 202. The Sergeant at Arms is authorized to utilize the services of the Deputy Sergeant at Arms or any other employee of the United States Senate in serving the subpoenas authorized to be issued by this resolution.

SEC. 203. Depositions authorized by this resolution shall be taken before, and presided over by, on behalf of the Senate, two Senators appointed by the Majority Leader and the Democratic Leader, acting jointly, one of whom shall administer to witnesses the oath prescribed by Rule XXV of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials. Acting jointly, the presiding officers shall have authority to rule, as an initial matter, upon any question arising out of the deposition. All objections to a question shall be noted by the presiding officers upon the record of the deposition but the examination shall proceed, and the witness shall answer such question. A witness may refuse to answer a question only when necessary to preserve a legally-recognized privilege, or constitutional right, and must identify such privilege cited if refusing to answer a question.

SEC. 204. Examination of witnesses at depositions shall be conducted by the Managers on the part of the House or their counsel, and by counsel for the President. Witnesses shall be examined by no more than two persons each on behalf of the Managers and counsel for the President. Witnesses may be accompanied by counsel. The scope of the examination by the Managers and counsel for both parties shall be limited to the subject matters reflected in the Senate record. The party taking a deposition shall present to the other party, at least 18 hours in advance of the deposition, copies of all exhibits which the deposing party intends to enter into the deposition. No exhibits outside of the Senate record shall be employed, except for articles and materials in the press, including electronic media. Any party may interrogate any witness as if that witness were declared adverse.

SEC. 205. The depositions shall be videotaped and a transcript of the proceedings shall be made. The depositions shall be conducted in private. No person shall be admitted to any deposition except for the following: The witness, counsel for the witness, the Managers on the part of the House, counsel for the Managers, counsel for the President, and the presiding officers; further, such persons whose presence is required to make and preserve a record of the proceedings in videotaped and transcript forms, and Senate staff members whose presence is required to assist the presiding officers in presiding over the depositions, or for other purposes, as determined by the Majority Leader and the Democratic Leader. All present must maintain the confidentiality of the proceedings.

SEC. 206. The presiding officers at the depositions shall file the videotaped and transcribed records of the depositions with the Secretary of the Senate, who shall maintain them as confidential proceedings of the Senate. The Sergeant at Arms is authorized to make available for review at secure locations, any of the videotaped or transcribed deposition records to Members of the Senate, one designated staff member per Senator, and the Chief Justice. The Senate may direct the Secretary of the Senate to distribute such materials, and to use whichever means of dissemination, including printing as Senate documents, printing in the Congressional Record, photo- and video-duplication, and electronic dissemination, he determines to be appropriate to accomplish any distribution of the videotaped or transcribed deposition records that he is directed to make pursuant to this section.

SEC. 207. The depositions authorized by this resolution shall be deemed to be proceedings before the Senate for purposes of Rule XXIX of the Standing Rules of the Senate, Senate Resolution 259, One Hundredth Congress, First Session, sections 191, 192, 194, 288b, 288d, 288f of title 2, United States Code, sections 6002, 6005 of title 18, United States Code, and section 1365 of title 28, United States Code. The Secretary shall arrange for stenographic assistance, including videotaping, to record the depositions as provided in section 205. Such expenses as may be necessary shall be paid from the Appropriation Account—Miscellaneous Items in the contingent fund of the Senate upon vouchers approved by the Secretary.

SEC. 208. The Majority and Minority Leaders, acting jointly, may make other provisions for the orderly and fair conduct of these depositions as they seem appropriate.

SEC. 209. The Secretary shall notify the Managers on the part of the House, and counsel for the President, of this resolution.

The resolution (S. Res. 30), as amended, as modified, reads as follows:

S. RES. 30

Resolved,

TITLE I—PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

SEC. 101. That the deposition time for all witnesses be determined by the Senate Majority Leader and Minority Leader, as outlined in Senate Resolution 16, One Hundred Sixth Congress, First Session, and title II of this resolution and that all Senators have an opportunity to review all deposition material, which shall be made available at the earliest possible time.

SEC. 102. When the Senate reconvenes on the day after completion of the depositions, and the review period, it shall be in order for both the House Managers and the President's counsel to move to resolve any objections made during any deposition. After resolution of any such motions, it shall be in order for the House Managers and/or White House counsel to make a motion or motions to admit the depositions or portions thereof into evidence, whether transcribed or on videotape provided further for a presentation employing all or portions of such tape, and it shall then be in order for the two Leaders jointly, only to make motions for additional discovery because of new relevant evidence discovered during the depositions. Motions may also then be made for orders governing the presentation of evidence and/or the testifying of witnesses before the Senate.

SEC. 103. If no such motions are made, or following the completion of any procedures authorized as a result of the votes on any motions, the White House shall have up to 24 hours to make any motions dealing with testimony or evidence that the White House counsel deems appropriate, as described previously.

SEC. 104. If no such motions are made, or no witnesses are called to testify in the Senate, the Senate shall proceed to final arguments as provided in the impeachment rules waiving the two person rule contained in Rule XXII of the Rules of Procedure and

Practice in the Senate When Sitting on Impeachment Trials for not to exceed six hours, to be equally divided. If motions are agreed to regarding new evidence or calling of new witnesses, this resolution is suspended.

SEC. 105. At the conclusion of the final arguments the parties shall proceed in accordance with the rules of impeachment: *Provided however*, That no motion with respect to reopening the record in the case shall be in order, and: *Provided further*, That it shall be in order for a Senator to offer a motion to suspend the rules to allow for open final deliberations with no amendments or motions to that motion in order; and the Senate shall proceed to vote on the motion to suspend the rules to provide for open Senate deliberations.

SEC. 106. Following that vote, and if no motions have been agreed to as provided in sections 102 and 103, and no motions are agreed to following the arguments, then the vote will occur on the articles of impeachment no later than 12:00 noon on Friday, February 12, 1999, if all motions are disposed of and final deliberations are completed.

TITLE II—TO AUTHORIZE ISSUANCE OF SUBPOENAS TO TAKE DEPOSITIONS IN THE TRIAL OF THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

SEC. 201. That, pursuant to Rules V and VI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, and Senate Resolution 16, One Hundred Sixth Congress, First Session, the Chief Justice of the United States, through the Secretary of the Senate, shall issue subpoenas for the taking of testimony on oral deposition to the following witnesses: Sidney Blumenthal, Monica S. Lewinsky, and Vernon E. Jordon, Jr.

SEC. 202. The Sergeant at Arms is authorized to utilize the services of the Deputy Sergeant at Arms or any other employee of the United States Senate in serving the subpoenas authorized to be issued by this resolution.

SEC. 203. Depositions authorized by this resolution shall be taken before, and presided over by, on behalf of the Senate, two Senators appointed by the Majority Leader and the Democratic Leader, acting jointly, one of whom shall administer to witnesses the oath prescribed by Rule XXV of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials. Acting jointly, the presiding officers shall have authority to rule, as an initial matter, upon any question arising out of the deposition. All objections to a question shall be noted by the presiding officers upon the record of the deposition but the examination shall proceed, and the witness shall answer such question. A witness may refuse to answer a question only when necessary to preserve a legally-recognized privilege, or constitutional right, and must identify such privilege cited if refusing to answer a question.

SEC. 204. Examination of witnesses at depositions shall be conducted by the Managers on the part of the House or their counsel, and by counsel for the President. Witnesses shall be examined by no more than two persons each on behalf of the Managers and counsel for the President. Witnesses may be accompanied by counsel. The scope of the examination by the Managers and counsel for both parties shall be limited to the subject matters reflected in the Senate record. The party taking a deposition shall present to the other party, at least 18 hours in advance of the deposition, copies of all exhibits which the deposing party intends to enter into the deposition. No exhibits outside of the Senate record shall be employed, except for articles and materials in the press, including electronic media. Any party may interrogate any witness as if that witness were declared adverse.

SEC. 205. The depositions shall be videotaped and a transcript of the proceedings shall be made. The depositions shall be conducted in private. No person shall be admitted to any deposition except for the following: The witness, counsel for the witness, the Managers on the part of the House, counsel for the Managers, counsel for the President, and the presiding officers; further, such persons whose presence is required to make and preserve a record of the proceedings in videotaped and transcript forms, and Senate staff members whose presence is required to assist the presiding officers in presiding over the depositions, or for other purposes, as determined by the Majority Leader and the Democratic Leader. All present must maintain the confidentiality of the proceedings.

SEC. 206. The presiding officers at the depositions shall file the videotaped and transcribed records of the depositions with the Secretary of the Senate, who shall maintain them as confidential proceedings of the Senate. The Sergeant at Arms is authorized to make available for review at secure locations, any of the videotaped or transcribed deposition records to Members of the Senate, one designated staff member per Senator, and the Chief Justice. The Senate may direct the Secretary of the Senate to distribute such materials, and to use whichever means of dissemination, including printing as Senate documents, printing in the Congressional Record, photo- and video-duplication, and electronic dissemination, he determines to be appropriate to accomplish any distribution of the videotaped or transcribed deposition records that he is directed to make pursuant to this section.

SEC. 207. The depositions authorized by this resolution shall be deemed to be proceedings before the Senate for purposes of Rule XXIX of the Standing Rules of the Senate, Senate Resolution 259, One Hundredth Congress, First Session, sections 191, 192, 194, 288b, 288d, 288f of title 2, United States Code, sections 6002, 6005 of title 18, United States Code, and section 1365 of title 28, United States Code. The Secretary shall arrange for stenographic assistance, including videotaping, to record the depositions as provided in section 205. Such expenses as may be necessary shall be paid from the Appropriation Account—Miscellaneous Items in the contingent fund of the Senate upon vouchers approved by the Secretary.

SEC. 208. The Majority and Minority Leaders, acting jointly, may make other provisions for the orderly and fair conduct of these depositions as they seem appropriate.

SEC. 209. The Secretary shall notify the Managers on the part of the House, and counsel for the President, of this resolution.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that the unanimous consent agreement I send to the desk be agreed to. This all deals with the taking of depositions.

The CHIEF JUSTICE. Without objection, it is so ordered.

The text of the unanimous consent agreement reads as follows:

I ask unanimous consent that the time and place to take depositions in the trial of the articles of impeachment against William Jefferson Clinton be decided jointly by the majority leader, and the Democratic leader, and shall be set forth in each subpoena.

I further ask unanimous consent that the opportunity for taking depositions of Monica Lewinsky, Vernon Jordan and Sidney Blumenthal expires when the Senate convenes on Thursday, Feb. 4, 1999.

Finally I ask unanimous consent that each deposition may last no more than 8 hours, unless the majority leader, and the Democratic leader determine on a deposition-by-deposition basis, to extend the time of the deposition, and all the time allotted for examination shall be divided equally between the parties, and time consumed by objections shall not be charged to either objecting party.

Mr. LOTT. Now, I understand, Mr. Chief Justice, that the Democratic leader is prepared to agree that the depositions will begin on Monday, February 1, and with this having been decided, and the vote we just took, we have discussed the schedule for the remainder of the week. In view of the fact that at this point the parties will begin to prepare for depositions and the depositions will begin on Monday, Members will not be expected to be here for any business before Wednesday, but we could be required to have a session Wednesday afternoon.

I want to emphasize that as the deposition material becomes available, we will have the Sergeant at Arms have it in a room for Members to begin to review. So beginning Tuesday, Senators who would like to begin reviewing the depositions, the material in the depositions, it will be available in installments as it becomes available on Tuesday. So you would have that opportunity Tuesday and Wednesday. Not later than Thursday, then, we would go to the next phase of our agreement that we have voted on.

At this time, we are notifying the Members that there will be no further recorded votes and no further business while we await returning of the depositions through Friday, Saturday, Sunday, Monday, and Tuesday, but Members should expect to be here on Wednesday and they would need to be here on Wednesday, in order to begin to make sure they have had time to review the documents, the deposition material, so that we can proceed, then, on Thursday.

Mr. HARKIN. Will the Senator yield?

Mr. LOTT. I yield.

Mr. HARKIN. Are Senators allowed to attend these depositions or not?

Mr. LOTT. Under the agreement we just passed, Mr. Chief Justice, if I may proceed and respond to that question.

The CHIEF JUSTICE. Without objection.

Mr. LOTT. There will be a Senator from each side at the depositions who will preside over the depositions. Senator DASCHLE and I also will have certain staff there, but a Senator other than the two presiding Senators would not be in order to what we agreed to.

There will be one from each side who will be presiding and will actually make determinations when objections are made.

ADJOURNMENT

Mr. LOTT. I now ask unanimous consent that the Court of Impeachment stand in adjournment until the hour of 1 p.m. on Thursday, February 4.

The motion was agreed to; and at 6:34 p.m. the Senate, sitting as a Court of Impeachment, adjourned until Thursday, February 4, 1999, at 1 p.m.

LEGISLATIVE SESSION

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d–276g, as amended, appoints the Senator from Alaska (Mr. MURKOWSKI) as Chairman of the Senate Delegation to the Canada-U.S. Interparliamentary Group during the First Session of the 106th Congress.

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as amended, appoints the Senator from Georgia (Mr. COVERDELL) as the Chairman of the Senate Delegation to the Mexico-U.S. Interparliamentary Union during the 106th Congress.

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, in consultation with the ranking member of the Senate Committee on Finance, pursuant to Public Law 105–277, appoints the following individuals to the Trade Deficit Review Commission: Dimitri B. Papadimitriou of New York, C. Richard D'Amato of Maryland, and Lester C. Thurow of Massachusetts.

The Chair, on behalf of the President pro tempore, upon the recommendation of the Democratic leader, pursuant to Public Law 105–292, appoints the Most Reverend Theodore E. McCarrick, Archbishop of Newark, New Jersey, to the Commission on International Religious Freedom.

The Chair, on behalf of the President pro tempore, and upon the recommendations of the majority leader, pursuant to 22 U.S.C. 2761, as amended, appoints the Senator from Alaska (Mr. STEVENS) as Chairman of the Senate Delegation to the British-American Interparliamentary Group during the 106th Congress.

APPOINTMENTS BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 105–244, announces the appointment of the following individuals to serve as members of the Web-Based Education Commission: Patti S. Abraham, of Mississippi and George Bailey, of Montana.

The Chair, on behalf of the majority leader, pursuant to Public Law 105–277, announces the appointment of the following individuals to serve as members of the Commission on Online Child Protection:

Arthur Derosier, Jr., of Montana—Representative of academia with expertise in the field of technology;

Albert F. Ganier III, of Tennessee—Representative of a business providing Internet filtering or blocking services or software;

Donna Rice Hughes, of Virginia—Representative of a business making content available over the Internet;

C. Bradley Keirnes, of Colorado—Representative of a business providing Internet access services; and

Karen L. Talbert, of Texas—Representative of a business providing labeling or ratings services.

The Chair, on behalf of the majority leader, pursuant to Public law 105–277, announces the appointment of Manuel H. Johnson, of Virginia, to serve as a member of the International Financial Institution Advisory Commission.

APPOINTMENTS BY THE DEMOCRATIC LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Democratic leader, pursuant to Public Law 105–277, announces the appointment of the following individuals to serve as members of the National Commission on Terrorism: Richard Kevin Betts of New Jersey and Maurice Sonnenberg of New York.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1087. A communication from the Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "RUS Fidelity and Insurance Requirements for Electric and Telecommunications Borrowers" (RIN0572-AA86) received on January 14, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1088. A communication from the Deputy Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "Commission Records and Information; Open Commission Meetings" received on January 14, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1089. A communication from the Deputy Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "Temporary Licenses for Associated Persons, Floor Brokers, Floor Traders and Guaranteed Introducing Brokers" received on January 14, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1090. A communication from the Deputy Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "Voting by Interested Members of Self-Regulatory Organization Governing Boards and Committees" received on January 14, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1091. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, the Office's report entitled "Unauthorized Appropriations and Expiring Authorizations" dated January 8, 1999; to the Committee on Appropriations.

EC–1092. A communication from the Secretary of Defense, transmitting, notice of a routine military retirement in the Air Force; to the Committee on Armed Services.

EC–1093. A communication from the Secretary of the Air Force, transmitting, pursuant to law, notice of a cost comparison of the Educational and Training functions at Robins Air Force Base, Georgia; to the Committee on Armed Services.

EC–1094. A communication from the Secretary of the Air Force, transmitting, pursuant to law, notice of a cost comparison of the Base Training and Education functions at 18 Air Combat Command Bases; to the Committee on Armed Services.

EC–1095. A communication from the Principal Deputy Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the Department's annual report on the National Defense Stockpile for fiscal year 1998; to the Committee on Armed Services.

EC–1096. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Exports of High Performance Computers under License Exception CTP" (RIN0694-AB82) received on January 12, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–1097. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "Organization and Operations of Federal Credit Unions" received on January 11, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–1098. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "Organization and Operations of Federal Credit Unions" received on January 11, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–1099. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Magnuson Act Provisions; Foreign Fishing; Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures" (I.D. 212498A) received on January 11, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1100. A communication from the Acting Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Revision to the NASA FAR Supplement Coverage on Information to the Internal Revenue Service" received on January 11, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1101. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone off Alaska; Yellowfin Sole Fishery by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands" (I.D. 113098A) received on January 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1102. A communication from the Administrator of the Federal Aviation Administration, Department of Commerce, transmitting, pursuant to law, the Administration's report on Civil Aviation Security Responsibilities and Funding; to the Committee on Commerce, Science, and Transportation.

EC–1103. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Nationality Procedures—Amendment to Report of Birth Regulation Passport Procedures—Amendment to Revocation or Restriction of Passports Regulation" received on January 14, 1999; to the Committee on Foreign Relations.

EC–1104. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the Corps' report on environmental activities for 1997; to the Committee on Foreign Relations.

EC–1105. A communication from the Chairman of the National Capital Planning Commission, transmitting, pursuant to law, the Commission's consolidated annual report under the Inspector General Act and the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1106. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Finalizing Without Change the Interim Regulations that Added Visa Waiver Pilot Program Countries" (RIN1115-AB93) received on January 8, 1998; to the Committee on the Judiciary.

EC–1107. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's report on mechanisms for surveying and certifying renal dialysis facilities for compliance with the Medicare conditions and certain requirements of the Social Security Act; to the Committee on Finance.

EC–1108. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rulings and Determination Letters" (Rev. Proc. 99-7) received on January 5, 1999; to the Committee on Finance.

EC–1109. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Retention of Income Tax Return Preparers' Signatures" (RIN 1545-AW83) received on January 5, 1999; to the Committee on Finance.

EC–1110. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rulings and Determination Letters" (Rev. Proc. 99-4) received on January 5, 1999; to the Committee on Finance.

EC–1111. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Direct Food Substances Affirmed as Generally Recognized as Safe; Magnesium Hydroxide; Technical Amendment" (Docket 78N-0281) received on January 8, 1998; to the Committee on Health, Education, Labor, and Pensions.

EC–1112. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers" (Docket 97F-0504) received on January 8, 1998; to the Committee on Health, Education, Labor, and Pensions.

EC–1113. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medical Devices; Exemptions From Premarket Notification; Class II Devices" (Docket 98P-0506) received on January 14, 1998; to the Committee on Health, Education, Labor, and Pensions.

EC–1114. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of a rule entitled "Utah: Final Authorization of State Hazardous Waste Management Program Revisions" (FRL6217-7) received on January 6, 1999; to the Committee on Environment and Public Works.

EC–1115. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules entitled "FY 1999 MBE/WBE Terms and Conditions" and "Modification of the Ozone Monitoring Season for Washington and Oregon" (FRL6220-3) received on January 14, 1999; to the Committee on Environment and Public Works.

EC–1116. A communication from the Chairman of the Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the Commission's annual report under the Government in the Sunshine Act for calendar year 1998; to the Committee on Governmental Affairs.

EC–1117. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the Agency's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–1118. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the Administration's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–1119. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the Office's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1120. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the Office's annual report under the Federal Equal Opportunity Recruitment Program for fiscal year 1997; to the Committee on Governmental Affairs.

EC–1121. A communication from the Executive Director of the Committee for Purchase from People who are Blind or Severely Disabled, transmitting, pursuant to law, a list of additions to and deletions from the Committee's Procurement List dated January 5, 1999; to the Committee on Governmental Affairs.

EC–1122. A communication from the Secretary of Education, transmitting, pursuant to law, the Department's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1123. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, the Commission's annual report under the Government in the Sunshine Act for calendar year 1998; to the Committee on Governmental Affairs.

EC–1124. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the Office's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1125. A communication from the Attorney General, Department of Justice, transmitting, pursuant to law, the Department's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1126. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the Department's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–1127. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the Commission's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1128. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the Commission's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1129. A communication from the Administrator of the Panama Canal Commission, transmitting, pursuant to law, the Commission's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1130. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the Department's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1131. A communication from the Chairwoman of Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1132. A communication from the Members of the Centennial of Flight Commission, transmitting, a report on Constitutional and ethical issues relative to the Centennial of Flight Commemoration Act; to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DORGAN (for himself and Mr. HAGEL):

S. 317. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion for gain from the sale of farmland which is similar to the exclusion from gain on the sale of a principal residence; to the Committee on Finance.

By Mr. INOUYE:

S. 318. A bill to amend the Immigration and Nationality Act to facilitate the immigration to the United States of certain aliens born in the Philippines or Japan who were fathered by United States citizens; to the Committee on the Judiciary.

By Mr. LAUTENBERG:

S. 319. A bill to provide for childproof handguns, and for other purposes; to the Committee on the Judiciary.

By Mr. FEINGOLD:

S. 320. A bill to amend the Reclamation Reform Act of 1982 to clarify the acreage limitations and incorporate a means test for certain farm operations, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAIG:

S. 321. A bill to streamline, modernize, and enhance the authority of the Secretary of Agriculture relating to plant protection and quarantine, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CAMPBELL (for himself and Mr. BROWNBACK):

S. 322. A bill to amend title 4, United States Code, to add the Martin Luther King Jr. holiday to the list of days on which the flag should especially be displayed; to the Committee on the Judiciary.

By Mr. CAMPBELL:

S. 323. A bill to redesignate the Black Canyon of the Gunnison National Monument as a national park and establish the Gunnison Gorge National Conservation Area, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself, Mr. LEVIN, and Mr. MOYNIHAN):

S. 324. A bill to amend the Controlled Substances Act with respect to registration requirements for practitioners who dispense narcotic drugs in schedule IV or V for maintenance treatment or detoxification treatment; to the Committee on the Judiciary.

By Mrs. HUTCHISON (for herself, Mr. DOMENICI, Mr. NICKLES, Mr. MURKOWSKI, Mr. BINGAMAN, Mr. BREAUX, Mr. BROWNBACK, Mr. COCHRAN, Mr. CONRAD, Mr. ENZI, Mr. GRAMM, Mr. INHOFE, Ms. LANDRIEU, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. STEVENS, Mr. THOMAS, Mr. BURNS, and Mr. LOTT):

S. 325. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes; to the Committee on Finance.

By Mr. JEFFORDS (for himself, Mr. FRIST, Mr. DEWINE, Mr. ENZI, Mr. HUTCHINSON, Ms. COLLINS, Mr. BROWNBACK, Mr. HAGEL, and Mr. SESSIONS):

S. 326. A bill to improve the access and choice of patients to quality, affordable health care; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HAGEL (for himself, Mr. DODD, Mr. DORGAN, Mr. GRAMS, Mr. HARKIN, Mr. LUGAR, Mr. ROBERTS, and Mr. WARNER):

S. 327. A bill to exempt agricultural products, medicines, and medical products from U.S. economic sanctions; to the Committee on Foreign Relations.

By Mr. SMITH of New Hampshire:

S. 328. A bill to make permanent the moratorium on the imposition of taxes on the Internet; to the Committee on Commerce, Science, and Transportation.

By Mr. ROBB:

S. 329. A bill to amend title, United States Code, to extend eligibility for hospital care and medical services under chapter 17 of that title to veterans who have been awarded the Purple Heart, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. AKAKA (for himself, Mr. LOTT, Ms. LANDRIEU, Mr. CRAIG, and Mr. GRAHAM):

S. 330. A bill to promote the research, identification, assessment, exploration, and development of methane hydrate resources, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. ROTH, Mr. MOYNIHAN, Mr. CHAFEE, Mr. GRASSLEY, Mr. HATCH, Mr. MURKOWSKI, Mr. BREAUX, Mr. GRAHAM, Mr. KERREY, Mr. ROBB, Mr. ROCKEFELLER, Mr. BINGAMAN, Mrs. BOXER, Mr. CLELAND, Ms. COLLINS, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. DURBIN, Mr. ENZI, Mrs. FEINSTEIN, Mr. GRAMS, Mr. HARKIN, Mr. HOLLINGS, Mr. HUTCHINSON, Mr. INOUYE, Mr. JOHNSON, Mr. KERRY, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. REID, Mr. SARBANES, Ms. SNOWE, Mr. STEVENS, Mr. TORRICELLI, and Mr. WELLSTONE):

S. 331. A bill to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes; to the Committee on Finance.

By Mr. BROWNBACK (for himself, Mr. SMITH of Oregon, Mr. ROBB, and Mr. LUGAR):

S. 332. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Kyrgyzstan; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT:

S. Res. 30. A resolution relative to the procedures concerning the Articles of Impeachment against William Jefferson Clinton; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN (for himself and Mr. HAGEL):

S. 317. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion for gain from the sale of farmland which is similar to the exclusion from gain on the sale of a principal residence, to the Committee on Finance.

CAPITAL GAINS TAX FAIRNESS FOR FAMILY FARMERS

• Mr. DORGAN. Mr. President, today Senator HAGEL of Nebraska and I rise to introduce a bill to correct a fundamental flaw and inequity in the tax code that we need to fix immediately. This legislation is identical to a bill that I authored in the last Congress.

Too often, family farmers are not able to take full advantage of the $500,000 capital gains tax break that city folks get when they sell their homes. Today, this inequity is particularly onerous for thousands of family farmers who are being forced to sell their farms due to depressed commodity prices, crop disease and failed federal farm policies. Once family farmers have been beaten down and forced to sell the farm they've farmed for generations, they get a rude awakening. Many of them discover, as they leave the farm, that Uncle Sam is waiting for them at the end of the lane with a big tax bill.

One of the most popular provisions included in the major tax bill in 1997 permits families to exclude from federal income tax up to $500,000 of gain from the sale of their principal residences. That's a good deal, especially for most urban and suburban dwellers who have spent many years paying for their houses, and who regard their houses as both a home and a retirement account. For many middle income families, their home is their major financial asset, an asset the family can draw on for retirement. House prices in major growth markets such as Washington, D.C., New York, or California may start at hundreds of thousands of dollars. As a result, the urban dwellers who have owned their homes through many years of appreciation can often benefit from a large portion of this new $500,000 capital gains tax exclusion. Unfortunately this provision, as currently applied, is virtually useless to family farmers.

For farm families, their farm is their major financial asset. Unfortunately, family farmers under current law receive little or no benefit from the new $500,000 exclusion because the IRS separates the value of their homes from the value of the land the homes sit on. As people from my state of North Dakota know, houses out on the farmsteads of rural America are more commonly sold for $5,000 to $40,000. Most farmers plow any profits they make into the whole farm rather than into a house that will hold little or no value when the farm is sold. It's not surprising that the IRS often judges that homes far out in the country have very little value and thus farmers receive much less benefit from this $500,000 exclusion than do their urban and suburban counterparts. As a result, the capital gains exclusion is little or no help to farmers who are being forced out of business. They may immediately face a hefty capital gains tax bill from the IRS.

This is simply wrong, Mr. President. It is unfair. Federal farm policy helped create the hole that many of these farmers find themselves in. Federal tax policy shouldn't dig the hole deeper as they attempt to shovel their way out.

The Dorgan-Hagel bill recognizes the unique character and role of our family farmers and their important contributions to our economy. It expands the $500,000 capital gains tax exclusion for sales of principal residences to cover family farmers who sell their farmhouses or surrounding farmland, so long as they are actively engaged in farming prior to the sales. In this way, farmers may get some benefit from a tax break that would otherwise be unavailable to them.

Our bill is not a substitute for larger policy reforms that are needed to restore the economic health of our farm communities. This tax relief measure is just one of a number of policy initiatives we can use to ease the pain for family farmers as we pursue other initiatives to help turn around the crippled farm economy.

Specifically, the Dorgan-Hagel bill would expand the $500,000 tax exclusion for principle residences to cover the entire farm. This provision will allow a family or individual who has actively engaged in farming prior to the farm sale to exclude the gain from the sale up to the $500,000 maximum.

What does this relief mean to the thousands of farmers who are being forced to sell off the farm due to current economic conditions?

Take, for example, a farmer who is forced to leave today because of crop disease and slumping grain prices and sells his farmstead that his family has operated for decades. If he must report a gain of $10,000 on the sale of farm house, that is all he can exclude under current law. But if, for example, he sold 1000 acres surrounding the farm house for $400,000, and the capital gain was $200,000, he would be subject to $40,000 tax on that gain. Again, our provision excludes from tax the gain on the farmhouse and land up to the $500,000 maximum that is otherwise available to a family on the sale of its residence.

We must wage, on every federal and state policy front, the battle to stem the loss of family farmers. Reforming tax provisions has grown increasingly important as a tool in helping our farm families deal with drought, floods, crop disease and price swings.

We believe that Congress should move quickly to pass this legislation and other meaningful measures to get working capital into the hands of our family farmers in the Great Plains and all across the nation. Let's stop penalizing farmers who are forced out of agriculture. Let's allow farmers to benefit from the same kind of tax exclusion that most homeowners already receive. This is the right thing to do. And it's the fair thing to do.•

• Mr. HAGEL. Mr. President, today I rise with Senator DORGAN to introduce tax legislation that will help our family farmers cope with the economic crisis now affecting them.

Our tax code is full of provisions that are unfair and punitive. We need to overhaul our tax code to make it flatter, fairer and simpler. However, until the present tax code is overhauled, it is important that we fix specific provisions of the tax code to ensure that all taxpayers are treated fairly and equally.

In the 105th Congress we passed the Taxpayer Relief Act of 1997. This legislation included capital gains tax and federal estate tax relief. It was a good first step, but we can't stop there. We have much more to do. We need more capital gains tax relief, and I will keep pushing for more cuts and the eventual elimination of the tax. The federal estate tax also needs to be abolished. The estate tax is a leading cause for the break-up of family-run businesses, including farming, and I will continue to work for its elimination. Additionally, we need to provide all American taxpayers with an across-the-board tax cut.

We gave most Americans serious capital gains tax relief in 1997, but we neglected the family farmer. We now have the opportunity and obligation to correct this omission. The Taxpayer Relief Act of 1997 created a $500,000 exclusion for homeowners on the sale of a principal residence, but this does not adequately address the needs of family farmers. Most farmers put whatever profit they earn from their hard work back into the land, not their home. As a result, the $500,000 exclusion for the sale of a principal residence does not provide the same level of relief to the family farmer as it does for the vast majority of others. So, when family farmers are forced to sell their farms due to economic downturns, not only are they out of the farming business, but the federal government is waiting to take a large portion in taxes on the sale of their home and farmland.

The legislation that Senator DORGAN and I are introducing would help ease the financial burden associated with selling the farm. It would allow the family farmer to take advantage of capital gains tax relief. It expands the $500,000 capital gains tax exclusion for sales of principal residences to cover family farmers who sell their farmhouses and/or surrounding farmlands.

This legislation is not a cure-all solution to the many problems now affecting our family farmers and ranchers. However, it will help. There are many other things that can be done including more tax relief in the areas of the estate tax and capital gains tax. We need to continue to open new markets for our commodities and knock down unilateral economic sanctions that are unfairly punishing our farmers. The future of U.S. agriculture lies in export expansion and trade reform. This tax legislation starts the process, but we must continue to push forward to help our family farmers and ranchers.•

By Mr. INOUYE:

S. 318. A bill to amend the Immigration and Nationality Act to facilitate the immigration to the United States of certain aliens born in the Philippines or Japan who were fathered by United States citizens; to the Committee on the Judiciary.

THE AMERASIAN IMMIGRATION ACT AMENDMENT OF 1999

• Mr. INOUYE. Mr. President, today, I rise to introduce legislation which amends Public Law 97–359, the Amerasian Immigration Act, to include American children from the Philippines and Japan as eligible applicants. This legislation also expands the eligibility period for the Philippines to November 24, 1992, the date of the last United States military base closure and the date of enactment of the proposed legislation for Japan.

Under the Amerasian Immigration Act (Public Law 97-359) children born in Korea, Laos, Kampuchea, Thailand, and Vietnam after December 31, 1950, and before October 22, 1982, who were fathered by United States citizens, are allowed to immigrate to the United States. The initial legislation introduced in the 97th Congress included Amerasians born in the Philippines and Japan with no time limits on their births. The final version enacted by the Congress included only those areas where the U.S. had engaged in active military combat from the Korean War onward. Consequently, Amerasians from the Philippines and Japan were excluded from eligibility.

Although the Philippines and Japan were not considered war zones from 1950 to 1982, the extent and nature of U.S. military involvement in both countries are not dissimilar to U.S. military involvement in other Asian countries during the Korean and Vietnam conflicts. The role of the Philippines and Japan as vital supply and stationing bases brought tens of thousands of U.S. military personnel to these countries. As a result, interracial relations in both countries were common, leading to a significant number of Amerasian children being fathered by U.S. citizens. There are now more than 50,000 Amerasian children in the Philippines. According to the Embassy of

Japan, there are 6,000 Amerasian children in Japan born between 1987 and 1992.

Public Law 97-359 was enacted in the hope of redressing the situation of Amerasian children in Korea, Laos, Kampuchea, Thailand, and Vietnam who, due to their illegitimate or mixed ethnic make-up, their lack of a father or stable mother figure, or impoverished state, have little hope of escaping their plight. It became the ethical and social obligation of the United States to care for these children.

The stigmatization and ostracism felt by Amerasian children in those countries covered by the Amerasian Immigration Act also is felt by Amerasian children in the Philippines and Japan. These children of American citizens deserve the same viable opportunities of employment, education and family life that are afforded their counterparts from Korea, Laos, Kampuchea, Thailand, and Vietnam.

Mr. President, I ask unanimous consent that the text of my bill be printed in the Record.●

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 204(f)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(f)(2)(A)) is amended—

(1) by inserting “(I)” after “born”; and

(2) by inserting after “subsection,” the following “(II) in the Philippines after 1950 and before November 24, 1992, or (III) in Japan after 1950 and before the date of enactment of this subclause,”.

By Mr. LAUTENBERG:

S. 319. A bill to provide for childproof handguns, and for other purposes; to the Committee on the Judiciary.

THE CHILDPROOF HANDGUN ACT

● Mr. LAUTENBERG. Mr. President, I rise to introduce legislation that will help prevent the tragedies that occur when children gain access to firearms.

Each year, there are 10,000 injuries and deaths due to the accidental discharge or unauthorized use of a firearm. Many of these incidents involve children who have gained access to improperly stored guns.

Recently, a family in my home state of New Jersey suffered this type of tragedy. Akeen Williams, a 4-year-old boy from Lawnside, was visiting a relative with his 5-year-old sister, Gabrielle, and their 6-year-old brother, Phillip. Eventually, the children were put in a bedroom for an afternoon nap. But they found a gun stored in the room, and Akeen and Gabrielle began playing with it. The gun accidentally discharged, and Akeen was hit in the face by the ricocheting bullet.

Across the nation, similar stories have become all too common. Families in Jonesboro, Paducah, Pearl, Edinboro, and Springfield are still struggling to deal with the horrific shootings in their communities. We must find new ways to stop gun violence.

In many other areas the federal government has taken steps to protect consumer safety: cars are now sold with seat belts and airbags; drug containers have childproof caps; and lawn mowers have guards and automatic braking devices. It is hard to understand how anyone can oppose similar safety measures for deadly weapons. The time has come to hold firearm manufacturers to a higher standard of safety.

The bill I am introducing today will help prevent children from being killed or injured in firearm tragedies. My bill would require that all handguns be engineered so that they can only be fired by an authorized user. To give manufacturers time to comply, this requirement would not go into effect until 3 years after the bill is enacted. Additionally, to spur additional innovation and help lower the cost of the new handgun designs, my bill would also authorize the National Institute of Justice to provide grants for improvements in firearms safety. In order to prevent the unauthorized use of handguns and better protect children in the 3-year period before this regulation goes into effect, my bill would also require that, 90 days after enactment, all handguns be sold with a locking device and a warning concerning responsible firearm storage.

Despite what some members of the gun lobby may say, the technology to make handguns childproof exists today. Since 1976, more than 30 patents have been granted for various technologies that will prevent a handgun from being fired by anyone except the authorized user. For example, the SafTLok company in Florida manufactures a push-button combination lock that is incorporated into the grip of a handgun. If the buttons are not pushed in the proper sequence, the gun will not fire. These locks sell for $80 each, and the Boston police department recently announced that these locks will be standard equipment for its officers.

Similarly, the Fulton Arms Company in Texas has developed a revolver that cannot be fired unless the user is wearing a magnetic ring. And Colt Manufacturing in Connecticut has designed a prototype handgun that emits a radio signal and cannot be fired unless the user is wearing a small transponder that returns a coded radio signal.

In addition to making children safer, these technologies will also help law enforcement. Data from the Federal Bureau of Investigation shows that about 16 percent of the officers killed in the line of duty, as many as 19 in a single year, are killed by a suspect armed with either the officer's firearm or that of another officer. Because of the potential to stop these “take away” shootings, the National Institute of Justice has funded studies of these technologies and supported development of the Colt prototype. However, in order to ensure that the police have the weapons they need to protect the public, law enforcement entities are exempt from the requirements in the bill.

None of the provisions in this legislation will burden the vast majority of firearm owners who are already storing their handguns safely and securely. Of course, Congress cannot legislate responsibility. But we can and should take steps to lessen the likelihood that guns will fall into the wrong hands and be used improperly.

I urge my colleagues to work with me to pass this measure and help make homes, school, and communities safer for our children.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 319

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Childproof Handgun Act of 1999”.

SEC. 2. HANDGUN SAFETY.

(a) Definitions.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

“(35)(A) The term ‘childproof’ means, with respect to a firearm that is a handgun, a handgun that incorporates within its design and as part of its original manufacture technology that—

“(i) automatically limits the operational use of the handgun;

“(ii) is not capable of being readily deactivated; and

“(iii) ensures that the handgun may only be fired by an authorized or recognized user.

“(B) The technology referred to in subparagraph (A) includes—

“(i) radio tagging;

“(ii) touch memory;

“(iii) remote control;

“(iv) fingerprint;

“(v) magnetic encoding; and

“(vi) other automatic user identification systems that utilize biometrics, mechanical, or electronic systems.

“(36) The term ‘locking device’ means—

“(A) a device that, if installed on a firearm and secured by means of a key or a mechanically, electronically, or electromechanically operated combination lock, prevents the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically, or electromechanically operated combination lock; or

“(B) a locking mechanism incorporated into the design of a firearm that prevents discharge of the firearm by any person who does not have access to the key or other device designed to unlock the mechanism and thereby allow discharge of the firearm.”.

(b) Unlawful Acts.—Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

“(z) Childproof Handguns.—

“(1) In general.—Except as provided in paragraph (2), beginning 3 years after the date of enactment of the Childproof Handgun Act of 1999, it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than a licensed manufacturer, licensed importer, or licensed dealer, unless the handgun is childproof.

“(2) Exceptions.—Paragraph (1) does not apply to—

“(A) the—

“(i) manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a handgun; or

“(ii) transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off-duty); or

“(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State, of a handgun for purposes of law enforcement (whether on or off-duty).”.

“(aa) Locking Devices and Warnings.—

“(1) In general.—Except as provided in paragraph (2), beginning 90 days after the date of enactment of the Childproof Handgun Act of 1999, it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun—

“(A) to any person other than a licensed manufacturer, licensed importer, or licensed dealer, unless the transferee is provided with a locking device for that handgun; or

“(B) to any person, unless the handgun is accompanied by the following warning, which shall appear in conspicuous and legible type in capital letters, and which shall be printed on a label affixed to the gun and on a separate sheet of paper included within the packaging enclosing the handgun:

“‘THE USE OF A LOCKING DEVICE OR SAFETY LOCK IS ONLY ONE ASPECT OF RESPONSIBLE FIREARM STORAGE. FIREARMS SHOULD BE STORED UNLOADED AND LOCKED IN A LOCATION THAT IS BOTH SEPARATE FROM THEIR AMMUNITION AND INACCESSIBLE TO CHILDREN.

‘FAILURE TO PROPERLY LOCK AND STORE YOUR FIREARM MAY RESULT IN CIVIL OR CRIMINAL LIABILITY UNDER STATE LAW. IN ADDITION, FEDERAL LAW PROHIBITS THE POSSESSION OF A HANDGUN BY A MINOR IN MOST CIRCUMSTANCES.’

“(2) Exceptions.—Paragraph (1) does not apply to—

“(A) the—

“(i) manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a handgun; or

“(ii) transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off-duty); or

“(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State, of a handgun for purposes of law enforcement (whether on or off-duty).”.

(c) Civil Penalties.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking “or (f)” and inserting “(f) or (p)”; and

(2) by adding at the end the following:

“(p) Penalties Relating to Failure To Provide for Childproof Handguns or Locking Devices and Warnings.—

“(1) In general.—

“(A) Suspension or revocation of license; civil penalties.—With respect to each violation of subparagraph (A) or (B) of section 922(z)(1) or subparagraph (A) or (B) of section 922(aa)(1) by a licensee, the Secretary may, after notice and opportunity for hearing—

“(i) suspend or revoke any license issued to the licensee under this chapter; or

“(ii) subject the licensee to a civil penalty in an amount equal to not more than $10,000.

“(B) Review.—An action of the Secretary under this paragraph may be reviewed only as provided in section 923(f).

“(2) Administrative remedies.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Secretary.”.

SEC. 3. GRANTS TO IMPROVE GUN SAFETY.

(a) In General.—

(1) Grants.—Subject to the availability of appropriations, the Attorney General, acting through the Director of the National Institute of Justice (referred to in this section as the “Director”), shall make grants under this section for the purpose specified in paragraph (2) to applicants that submit an application that meets requirements that the Attorney General, acting through the Director, shall establish.

(2) Purpose.—The purpose of a grant under this section shall be to reduce violence caused by firearms through the improvement of firearm safety technology, weapon detection technology, or other technology.

(3) Consultation.—In making grants under this section, the Attorney General, acting through the Director, shall consult with appropriate employees of the National Institute of Justice with expertise in firearms and weapons technology.

(b) Period of Grant.—A grant under this section shall be for a period of not to exceed 3 years.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Department of Justice to carry out this section $10,000,000 for each of fiscal years 2000 through 2002.●

By Mr. FEINGOLD:

S. 320. A bill to amend the Reclamation Reform Act of 1982 to clarify the acreage limitations and incorporate a means test for certain farm operations, and for other purposes; to the Committee on Energy and Natural Resources.

IRRIGATION SUBSIDY REDUCTION ACT OF 1999

● Mr. FEINGOLD. Mr. President, I am introducing a measure that I sponsored in the 105th Congress to reduce the amount of federal irrigation subsidies received by large agribusiness interests. I believe that reforming federal water pricing policy by reducing subsidies is an important area to examine as a means to achieve our broader objectives of achieving a truly balanced budget. This legislation is also needed to curb fundamental abuses of reclamation law that cost the taxpayer millions of dollars every year.

In 1901, President Theodore Roosevelt proposed legislation, which came to be known as the Reclamation Act of 1902, to encourage development of family farms throughout the western United States. The idea was to provide needed water for areas that were otherwise dry and give small farms—those no larger than 160 acres—a chance, with a helping hand from the federal government, to establish themselves. According to a 1996 General Accounting Office report, since the passage of the Reclamation Act, the federal government has spent $21.8 billion to construct 133 water projects in the west which provide water for irrigation. Irrigators, and other project beneficiaries, are required under the law to repay to the federal government their allocated share of the costs of constructing these projects.

However, as a result of the subsidized financing provided by the federal government, some of the beneficiaries of federal water projects repay considerably less than their full share of these costs. According to the 1996 GAO report, irrigators generally receive the largest amount of federal financial assistance. Since the initiation of the irrigation program in 1902, construction costs associated with irrigation have been repaid without interest. The GAO further found, in reviewing the Bureau of Reclamation's financial reports, that $16.9 billion, or 78 percent, of the $21.8 billion of federal investment in water projects is considered to be reimbursable. Of the reimbursable costs, the largest share—$7.1 billion—is allocated to irrigators. As of September 30, 1994 irrigators have repaid only $941 million of the $7.1 billion they owe. GAO also found that the Bureau of Reclamation will likely shift $3.4 billion of the debt owed by irrigators to other users of the water projects for repayment.

There are several reasons why irrigators continue to receive such significant subsidies. Under the Reclamation Reform Act of 1982, Congress acted to expand the size of the farms that could receive subsidized water from 160 acres to 960 acres. The RRA of 1982 expressly prohibits farms that exceed 960 acres in size from receiving federally-subsidized water. These restrictions were added to the Reclamation law to close loopholes through which federal subsidies were flowing to large agribusinesses rather than the small family farmers that Reclamation projects were designed to serve. Agribusinesses were expected to pay full cost for all water received on land in excess of their 960 acre entitlement. Despite the express mandate of Congress, regulations promulgated under the Reclamation Reform Act of 1982 have failed to keep big agricultural water users from receiving federal subsidies. The General Accounting Office and the Inspector General of the Department of the

Interior continue to find that the acreage limits established in law are circumvented through the creation of arrangements such as farming trusts. These trusts, which in total acreage well exceed the 960 acre limit, are comprised of smaller units that are not subject to the reclamation acreage cap. These smaller units are farmed under a single management agreement often through a combination of leasing and ownership.

In a 1989 GAO report, the activities of six agribusiness trusts were fully explored. According to GAO, one 12,345 acre cotton farm (roughly 20 square miles), operating under a single partnership, was reorganized to avoid the 960 acre limitation into 15 separate land holdings through 18 partnerships, 24 corporations, and 11 trusts which were all operated as one large unit. A seventh trust very large trust was the sole topic of a 1990 GAO report. The Westhaven trust is a 23,238 acre farming operation in California's Central Valley. It was formed for the benefit of 326 salaried employees of the J.G. Boswell Company. Boswell, GAO found, had taken advantage of section 214 of the RRA, which exempts from its 960 acre limit land held for beneficiaries by a trustee in a fiduciary capacity, as long as no single beneficiary's interest exceeds the law's ownership limits. The RRA, as I have mentioned, does not preclude multiple land holdings from being operated collectively under a trust as one farm while qualifying individually for federally subsidized water. Accordingly, the J.G. Boswell Company re-organized 23,238 acres it held as the Boston Ranch by selling them to the Westhaven Trust, with the land holdings attributed to each beneficiary being eligible to receive federally subsidized water.

Before the land was sold to Westhaven Trust, the J.G. Boswell Company operated the acreage as one large farm and paid full cost for the federal irrigation water delivered for the 18-month period ending in May 1989. When the trust bought the land, due to the loopholes in the law, the entire acreage became eligible to receive federally subsidized water because the land holdings attributed to the 326 trust beneficiaries range from 21 acres to 547 acres—all well under the 960 acre limit.

In the six cases the GAO reviewed in 1989, owners or lessees paid a total of about $1.3 million less in 1987 for federal water then they would have paid if their collective land holdings were considered as large farms subject to the Reclamation Act acreage limits. Had Westhaven trust been required to pay full cost, GAO estimated in 1990, it would have paid $2 million more for its water. The GAO also found, in all seven of these cases, that reduced revenues are likely to continue unless Congress amends the Reclamation Act to close the loopholes allowing benefits for trusts.

The Department of the Interior has acknowledged that these problems do exist. Interior published a proposed rulemaking in the Federal Register on November 18, 1998. The proposed rulemaking requires farm operators who provide services to more than 960 nonexempt acres westwide, held by a single trust or legal entity or any combination of trusts and legal entities to submit RRA forms to the district(s) where such land is located. If the rule is finalized, the districts will be required to provide specific information about declaring farm operators to Interior annually. This information will be an important step toward enforcing the legislation that I am reintroducing today.

This legislation combines various elements of proposals introduced by other members of Congress to close loopholes in the 1982 legislation and to impose a $500,000 means test. This new approach limits the amount of subsidized irrigation water delivered to any operation in excess of the 960 acre limit which claimed $500,000 or more in gross income, as reported on their most recent IRS tax form. If the $500,000 threshold were exceeded, an income ratio would be used to determine how much of the water should be delivered to the user at the full-cost rate, and how much at the below-cost rate. For example, if a 961 acre operation earned $1 million dollars, a ratio of $500,000 (the means test value) divided by their gross income would determine the full cost rate, thus the water user would pay the full cost rate on half of their acreage and the below cost rate on the remaining half.

This means testing proposal is featured, for the fourth year in a row, in this year's 1999 Green Scissors report which is being released today. This report is compiled by Friends of the Earth and Taxpayers for Common Sense and supported by a number of environmental, consumer and taxpayer groups. I am pleased to join with the Senator from New Hampshire (Mr. GREGG) in distributing a copy of this report to all members of the Senate. The premise of the report is that there are a number of subsidies and projects that could be cut to both reduce the deficit and benefit the environment. This report underscores what I and many others in the Senate have long known: we must eliminate practices that can no longer be justified in light of our effort to achieve a truly balanced budget and eliminate our national debt. The Green Scissors recommendation on means testing water subsidies indicates that if a test is successful in reducing subsidy payments to the highest grossing 10% of farms, then the federal government would recover between $440 million and $1.1 billion per year, or at least $2.2 billion over five years.

When countless federal programs are subjected to various types of means tests to limit benefits to those who truly need assistance, it makes little sense to continue to allow large business interests to dip into a program intended to help small entities struggling to survive. Taxpayers have legitimate concerns when they learn that their hard earned tax dollars are being expended to assist large corporate interests in select regions of the country who benefit from these loopholes, particularly in tight budgetary times. Other users of federal water projects, such as the power recipients, should also be concerned when they learn that they will be expected to pick up the tab for a portion of the funds that irrigators were supposed to pay back. The federal water program was simply never intended to benefit these large interests, and I am hopeful that legislative efforts, such as the measure I am introducing today, will prompt Congress to fully reevaluate our federal water pricing policy.

In conclusion, Mr. President, it is clear that the conflicting policies of the federal government in this area are in need of reform, and that Congress should act. Large agribusinesses should not be able to continue to soak the taxpayers, and should pay their fair share. We should act to close these loopholes and increase the return to the treasury from irrigators as soon as possible. I ask unanimous consent that the text of the measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 320

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Irrigation Subsidy Reduction Act of 1999".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Federal reclamation program has been in existence for over 90 years, with an estimated taxpayer investment of over $70,000,000,000;

(2) the program has had and continues to have an enormous effect on the water resources and aquatic environments of the western States;

(3) irrigation water made available from Federal water projects in the West is a very valuable resource for which there are increasing and competing demands;

(4) the justification for providing water at less than full cost was to benefit and promote the development of small family farms and exclude large corporate farms, but this purpose has been frustrated over the years due to inadequate implementation of subsidy and acreage limits;

(5) below-cost water prices tend to encourage excessive use of scarce water supplies in the arid regions of the West, and reasonable price increases to the wealthiest western farmers would provide an economic incentive for greater water conservation;

(6) the Federal Government has increasingly applied eligibility tests based on income for Federal entitlement and subsidy

programs, measures that are consistent with the historic approach of the reclamation program's acreage limitations that seek to limit water subsidies to smaller farms; and

(7) including a means test based on gross income in the reclamation program will increase the effectiveness of carrying out the family farm goals of the Federal reclamation laws.

SEC. 3. AMENDMENTS.

(a) Definitions.—Section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb) is amended—

(1) by redesignating paragraphs (7), (8), (9), (10), and (11) as paragraphs (9), (10), (11), (12), and (13), respectively;

(2) in paragraph (6), by striking "owned or operated under a lease which" and inserting "that is owned, leased, or operated by an individual or legal entity and that";

(3) by inserting after paragraph (6) the following:

"(7) Legal entity.—The term 'legal entity' includes a corporation, association, partnership, trust, joint tenancy, or tenancy in common, or any other entity that owns, leases, or operates a farm operation for the benefit of more than 1 individual under any form of agreement or arrangement.

"(8) Operator.—

"(A) In general.—The term 'operator'—

"(i) means an individual or legal entity that operates a single farm operation on a parcel (or parcel) of land that is owned or leased by another person (or persons) under any form of agreement or arrangement (or agreements or arrangements); and

"(ii) if the individual or legal entity—

"(I) is an employee of an individual or legal entity, includes the individual or legal entity; or

"(II) is a legal entity that controls, is controlled by, or is under common control with another legal entity, includes each such other legal entity.

"(B) Operation of a farm operation.—For the purposes of subparagraph (A), an individual or legal entity shall be considered to operate a farm operation if the individual or legal entity is the person that performs the greatest proportion of the decisionmaking for and supervision of the agricultural enterprise on land served with irrigation water."; and

(4) by adding at the end the following:

"(14) Single farm operation.—

"(A) In general.—The term 'single farm operation' means the total acreage of land served with irrigation water for which an individual or legal entity is the operator.

"(B) Rules for determining whether separate parcels are operated as a single farm operation.—

"(i) Equipment- and labor-sharing activities.—The conduct of equipment- and labor-sharing activities on separate parcels of land by separate individuals or legal entities shall not by itself serve as a basis for concluding that the farming operations of the individuals or legal entities constitute a single farm operation.

"(ii) Performance of certain services.—The performance by an individual or legal entity of an agricultural chemical application, pruning, or harvesting for a farm operation on a parcel of land shall not by itself serve as a basis for concluding that the farm operation on that parcel of land is part of a single farm operation operated by the individual or entity on other parcels of land.".

(b) Identification of Owners, Lessees, and Operators and of Single Farm Operations.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) is amended by inserting after section 201 the following:

"SEC. 201A. IDENTIFICATION OF OWNERS, LESSEES, AND OPERATORS AND OF SINGLE FARM OPERATIONS.

"(a) In General.—Subject to subsection (b), for each parcel of land to which irrigation water is delivered or proposed to be delivered, the Secretary shall identify a single individual or legal entity as the owner, lessee, or operator.

"(b) Shared Decisionmaking and Supervision.—If the Secretary determines that no single individual or legal entity is the owner, lessee, or other individual that performs the greatest proportion of decisionmaking for and supervision of the agricultural enterprise on a parcel of land—

"(1) all individuals and legal entities that own, lease, or perform a proportion of decisionmaking and supervision that is equal as among themselves but greater than the proportion performed by any other individual or legal entity shall be considered jointly to be the owner, lessee, or operator; and

"(2) all parcels of land of which any such individual or legal entity is the owner, lessee, or operator shall be considered to be part of the single farm operation of the owner, lessee, or operator identified under subsection (1).

(c) Pricing.—Section 205 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ee) is amended by adding at the end the following:

"(d) Single Farm Operations Generating More Than $500,000 in Gross Farm Income.—

"(1) In general.—Notwithstanding subsections (a), (b), and (c), in the case of—

"(A) a qualified recipient that reports gross farm income from a single farm operation in excess of $500,000 for a taxable year; or

"(B) a limited recipient that received irrigation water on or before October 1, 1981, and that reports gross farm income from a single farm operation in excess of $500,000 for a taxable year;

irrigation water may be delivered to the single farm operation of the qualified recipient or limited recipient at less than full cost to a number of acres that does not exceed the number of acres determined under paragraph (2).

"(2) Maximum number of acres to which irrigation water may be delivered at less than full cost.—The number of acres determined under this subparagraph is the number equal to the number of acres of the single farm operation multiplied by a fraction, the numerator of which is $500,000 and the denominator of which is the amount of gross farm income reported by the qualified recipient or limited recipient in the most recent taxable year.

"(3) Inflation adjustment.—

"(A) In general.—The $500,000 amount under paragraphs (1) and (2) for any taxable year beginning in a calendar year after 1998 shall be equal to the product of—

"(i) $500,000, multiplied by

"(ii) the inflation adjustment factor for the taxable year.

"(B) Inflation adjustment factor.—The term 'inflation adjustment factor' means, with respect to any calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for 1998. Not later than April 1 of any calendar year, the Secretary shall publish the inflation adjustment factor for the preceding calendar year.

"(C) GDP implicit price deflator.—For purposes of subparagraph (B), the term 'GDP implicit price deflator' means the first revision of the implicit price deflator for the gross domestic product as computed and published by the Secretary of Commerce.

"(D) Rounding.—If any increase determined under subparagraph (A) is not a multiple of $100, the increase shall be rounded to the next lowest multiple of $100.".

(d) Certification of Compliance.—Section 206 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ff) is amended to read as follows:

"SEC. 206. CERTIFICATION OF COMPLIANCE.

"(a) In General.—As a condition to the receipt of irrigation water for land in a district that has a contract described in section 203, each owner, lessee, or operator in the district shall furnish the district, in a form prescribed by the Secretary, a certificate that the owner, lessee, or operator is in compliance with this title, including a statement of the number of acres owned, leased, or operated, the terms of any lease or agreement pertaining to the operation of a farm operation, and, in the case of a lessee or operator, a certification that the rent or other fees paid reflect the reasonable value of the irrigation water to the productivity of the land.

"(b) Documentation.—The Secretary may require a lessee or operator to submit for the Secretary's examination—

"(1) a complete copy of any lease or other agreement executed by each of the parties to the lease or other agreement; and

"(2) a copy of the return of income tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year in which the single farm operation of the lessee or operator received irrigation water at less than full cost.".

(e) Trusts.—Section 214 of the Reclamation Reform Act of 1982 (43 U.S.C. 390nn) is repealed.

(f) Administrative Provisions.—

(1) Penalties.—Section 224(c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(c)) is amended—

(A) by striking "(c) The Secretary" and inserting the following:

"(c) Regulations; Data Collection; Penalties.—

"(1) Regulations; data collection.—The Secretary"; and

(B) by adding at the end the following:

"(2) Penalties.—Notwithstanding any other provision of law, the Secretary shall establish appropriate and effective penalties for failure to comply with any provision of this Act or any regulation issued under this Act.".

(2) Interest.—Section 224(i) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(i)) is amended by striking the last sentence and inserting the following: "The interest rate applicable to underpayments shall be equal to the rate applicable to expenditures under section 202(3)(C).".

(g) Reporting.—Section 228 of the Reclamation Reform Act of 1982 (43 U.S.C. 390zz) is amended by inserting "operator or" before "contracting entity" each place it appears.

(h) Memorandum of Understanding.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) is amended—

(1) by redesignating sections 229 and 230 as sections 230 and 231; and

(2) by inserting after section 228 the following:

"SEC. 229. MEMORANDUM OF UNDERSTANDING.

"The Secretary, the Secretary of the Treasury, and the Secretary of Agriculture shall enter into a memorandum of understanding or other appropriate instrument to permit the Secretary, notwithstanding section 6103 of the Internal Revenue Code of 1986, to have access to and use of available information collected or maintained by the Department of the Treasury and the Department of Agriculture that would aid enforcement of the ownership and pricing limitations of Federal reclamation law.".•

By Mr. CRAIG:

S. 321. A bill to streamline, modernize, and enhance the authority of the Secretary of Agriculture relating to plant protection and quarantine, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE PLANT PROTECTION ACT OF 1999

• Mr. CRAIG. Mr. President, I rise today to introduce the "Plant Protection Act of 1999"—a comprehensive bill which will focus the effort of federal agencies in fighting noxious weeds and other plant pests.

Noxious weeds are a serious problem on both public and private lands across the nation. They are particularly troublesome in the West where much of our land is entrusted to the management of the federal government. A "slow burning wildfire," noxious weeds take land out of production, force native species off the land, and interrupt the commerce and activities of all those who rely on the land for their livelihoods—including farmers, ranchers, recreationists, and others.

The bill I introduce today will focus the efforts of the federal government to better fight this wildfire. It organizes and expands the functions of the Animal and Plant Health Inspection Service (APHIS) and appoints it as the lead government agency in this fight.

The bill was drafted with the assistance and advice of APHIS as well as several national agriculture organizations such as the American Nursery and Landscape Association, National Association of State Departments of Agriculture, National Christmas Tree Association, National Potato Council, and American Farm Bureau Federation. The Idaho Department of Agriculture and many concerned citizens from my state have also helped me shape the bill I introduce today.

Similar legislation will be introduced in the House of Representatives some time next month by Representative CANADY of Florida. The two bills have only one difference. The bill I introduce today lacks the section on federal preemption included in Mr. CANADY's legislation. This is an issue that will have to be addressed during the legislative process. I will admit that APHIS will not endorse the legislation without the preemption section. However, I am confident that, working together with all of those interested in fighting noxious weeds at the federal and state levels, we can resolve this matter in a way we might all agree to.

Working together is what this entire effort is about. Along that same vein, I know of several Senators with an interest in this issue, including Senator AKAKA who introduced legislation on this matter earlier this month, and I hope we can work together in finding a solution we can all support. In addition, I might mention that it is my understanding that the President and the Secretary of the Interior have expressed interest in noxious weeds and may be planning their own announcement. I invite them—indeed, I invite everyone interested in this matter—to work with me to find an approach which confronts this problem head on.

Mr. President, I believe we must focus our efforts to rid our lands of these noxious weeds and plant pests. We must reclaim the rangeland for natural species. We must return the acres of lost farmland to production. Doing so will require the combined efforts of the federal government, state governments, local weed control boards, and private land owners.

I believe the "Plant Protection Act of 1999" is the first step in this process.

Mr. President, I ask unaminous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 321

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Plant Protection Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—PLANT PROTECTION

Sec. 101. Regulation of movement of plant pests.
Sec. 102. Regulation of movement of plants, plant products, biological control organisms, noxious weeds, articles, and means of conveyance.
Sec. 103. Notification and holding requirements on arrival.
Sec. 104. General remedial measures for new plant pests and noxious weeds.
Sec. 105. Extraordinary emergencies.
Sec. 106. Recovery of compensation for unauthorized activities.
Sec. 107. Control of grasshoppers and Mormon crickets.
Sec. 108. Certification for exports.

TITLE II—INSPECTION AND ENFORCEMENT

Sec. 201. Inspections, seizures, and warrants.
Sec. 202. Collection of information.
Sec. 203. Subpoena authority.
Sec. 204. Penalties for violation.
Sec. 205. Enforcement actions of Attorney General.
Sec. 206. Court jurisdiction.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Cooperation.
Sec. 302. Buildings, land, people, claims, and agreements.
Sec. 303. Reimbursable agreements.
Sec. 304. Protection for mail carriers.
Sec. 305. Regulations and orders.
Sec. 306. Repeal of superseded laws.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

Sec. 401. Authorization of appropriations.
Sec. 402. Transfer authority.

SEC. 2. FINDINGS.

Congress finds that—

(1) the detection, control, eradication, suppression, prevention, and retardation of the spread of plant pests and noxious weeds is necessary for the protection of the agriculture, environment, and economy of the United States;

(2) biological control—

(A) is often a desirable, low-risk means of ridding crops and other plants of plant pests and noxious weeds; and

(B) should be facilitated by the Secretary of Agriculture, Federal agencies, and States, whenever feasible;

(3) the smooth movement of enterable plants, plant products, certain biological control organisms, or other articles into, out of, or within the United States is vital to the economy of the United States and should be facilitated to the extent practicable;

(4) markets could be severely impacted by the introduction or spread of plant pests or noxious weeds into or within the United States;

(5) the unregulated movement of plants, plant products, biological control organisms, plant pests, noxious weeds, and articles capable of harboring plant pests or noxious weeds would present an unacceptable risk of introducing or spreading plant pests or noxious weeds;

(6) the existence on any premises in the United States of a plant pest or noxious weed new to or not known to be widely prevalent in or distributed within and throughout the United States could threaten crops, other plants, and plant products of the United States and burden interstate commerce or foreign commerce; and

(7) all plants, plant products, biological control organisms, plant pests, noxious weeds, or articles capable of harboring plant pests or noxious weeds regulated under this Act are in or affect interstate commerce or foreign commerce.

SEC. 3. DEFINITIONS.

In this Act:

(1) ARTICLE.—The term "article" means a material or tangible object that could harbor a pest, disease, or noxious weed.

(2) BIOLOGICAL CONTROL ORGANISM.—The term "biological control organism" means an enemy, antagonist, or competitor organism used to control a plant pest or noxious weed.

(3) ENTER.—The term "enter" means to move into the commerce of the United States.

(4) ENTRY.—The term "entry" means the act of movement into the commerce of the United States.

(5) EXPORT.—The term "export" means to move from the United States to any place outside the United States.

(6) EXPORTATION.—The term "exportation" means the act of movement from the United States to any place outside the United States.

(7) IMPORT.—The term "import" means to move into the territorial limits of the United States.

(8) IMPORTATION.—The term "importation" means the act of movement into the territorial limits of the United States.

(9) INTERSTATE.—The term "interstate" means—

(A) from 1 State into or through any other State; or

(B) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(10) INTERSTATE COMMERCE.—The term "interstate commerce" means trade, traffic, movement, or other commerce—

(A) between a place in a State and a point in another State;

(B) between points within the same State but through any place outside the State; or

(C) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(11) MEANS OF CONVEYANCE.—The term "means of conveyance" means any personal property or means that could harbor a pest, disease, or noxious weed and that is used for or intended for use for the movement of any other personal property.

(12) MOVE.—The term "move" means to—

(A) carry, enter, import, mail, ship, or transport;

(B) aid, abet, cause, or induce the carrying, entering, importing, mailing, shipping, or transporting;

(C) offer to carry, enter, import, mail, ship, or transport;

(D) receive to carry, enter, import, mail, ship, or transport;

(E) release into the environment; or

(F) allow any of the activities referred to this paragraph to be conducted by a person under another person's control.

(13) MOVEMENT.—The term "move" means the act of—

(A) carrying, entering, importing, mailing, shipping, or transporting;

(B) aiding, abetting, causing, or inducing the carrying, entering, importing, mailing, shipping, or transporting;

(C) offering to carry, enter, import, mail, ship, or transport;

(D) receiving to carry, enter, import, mail, ship, or transport;

(E) releasing into the environment; or

(F) allowing any of the activities referred to this paragraph to be conducted by a person under another person's control.

(14) NOXIOUS WEED.—The term "noxious weed" means a plant or plant product that has the potential to directly or indirectly injure or cause damage to a plant or plant product through injury or damage to a crop (including nursery stock or a plant product), livestock, poultry, or other interest of agriculture (including irrigation), navigation, natural resources of the United States, public health, or the environment.

(15) PERMIT.—The term "permit" means a written (including electronic) or oral authorization by the Secretary to move a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance under conditions prescribed by the Secretary.

(16) PERSON.—The term "person" means an individual, partnership, corporation, association, joint venture, or other legal entity.

(17) PLANT.—The term "plant" means a plant (including a plant part) for or capable of propagation (including a tree, tissue culture, plantlet culture, pollen, shrub, vine, cutting, graft, scion, bud, bulb, root, and seed).

(18) PLANT PEST.—The term "plant pest" means—

(A) a living stage of a protozoan, invertebrate animal, parasitic plant, bacteria, fungus, virus, viroid, infection agent, or pathogen that has the potential to directly or indirectly injure or cause damage to, or cause disease in, a plant or plant product; or

(B) an article that is similar to or allied with an article referred to in subparagraph (A).

(19) PLANT PRODUCT.—The term "plant product" means—

(A) a flower, fruit, vegetable, root, bulb, seed, or other plant part that is not considered by the Secretary to be a plant; and

(B) a manufactured or processed plant or plant part.

(20) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(21) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(22) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

TITLE I—PLANT PROTECTION

SEC. 101. REGULATION OF MOVEMENT OF PLANT PESTS.

(a) PROHIBITION OF UNAUTHORIZED MOVEMENT OF PLANT PESTS.—Except as provided in subsection (b), no person shall import, enter, export, or move in interstate commerce a plant pest, unless the importation, entry, exportation, or movement is authorized under general or specific permit and is in accordance with such regulations as the Secretary may promulgate to prevent the introduction of plant pests into the United States or the dissemination of plant pests within the United States.

(b) AUTHORIZATION OF MOVEMENT OF PLANT PESTS BY REGULATION.—

(1) EXCEPTION TO PERMIT REQUIREMENT.—The Secretary may promulgate regulations to allow the importation, entry, exportation, or movement in interstate commerce of specified plant pests without further restriction if the Secretary finds that a permit under subsection (a) is not necessary.

(2) PETITION TO ADD OR REMOVE PLANT PESTS FROM REGULATION.—A person may petition the Secretary to add a plant pest to, or remove a plant pest from, the regulations promulgated under paragraph (1).

(3) RESPONSE TO PETITION BY THE SECRETARY.—In the case of a petition submitted under paragraph (2), the Secretary shall—

(A) act on the petition within a reasonable time; and

(B) notify the petitioner of the final action the Secretary takes on the petition.

(4) BASIS FOR DETERMINATION.—The determination of the Secretary on the petition shall be based on sound science.

(c) PROHIBITION OF UNAUTHORIZED MAILING OF PLANT PESTS.—

(1) IN GENERAL.—Subject to section 304, a letter, parcel, box, or other package containing a plant pest, whether sealed as letter-rate postal matter, is nonmailable, and a mail carrier shall not knowingly convey in the mail or deliver from a post office such a package, unless the package is mailed in compliance with such regulations as the Secretary may promulgate to prevent the dissemination of plant pests into the United States or interstate.

(2) APPLICATION OF POSTAL LAWS.—Nothing in this subsection authorizes a person to open a mailed letter or other mailed sealed matter except in accordance with the postal laws (including regulations).

(d) REGULATIONS.—Regulations promulgated by the Secretary to implement subsections (a), (b), or (c) may include provisions requiring that a plant pest imported, entered, to be exported, moved in interstate commerce, mailed, or delivered from a post office—

(1) be accompanied by a permit issued by the Secretary before the importation, entry, exportation, movement in interstate commerce, mailing, or delivery of the plant pest;

(2) be accompanied by a certificate of inspection issued (in a manner and form required by the Secretary) by appropriate officials of the country or State from which the plant pest is to be moved;

(3) be raised under post-entry quarantine conditions by or under the supervision of the Secretary for the purposes of determining whether the plant pest may be infested with other plant pests, may pose a significant risk of causing injury to, damage to, or disease in a plant or plant product, or may be a noxious weed; and

(4) be subject to such remedial measures as the Secretary determines are necessary to prevent the dissemination of plant pests.

SEC. 102. REGULATION OF MOVEMENT OF PLANTS, PLANT PRODUCTS, BIOLOGICAL CONTROL ORGANISMS, NOXIOUS WEEDS, ARTICLES, AND MEANS OF CONVEYANCE.

(a) IN GENERAL.—The Secretary may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of a plant, plant product, biological control organism, noxious weed, article, or means of conveyance, if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the dissemination of a plant pest or noxious weed within the United States.

(b) REGULATIONS.—The Secretary may promulgate regulations to carry out this section, including regulations requiring that a plant, plant product, biological control organism, noxious weed, article, or means of conveyance imported, entered, to be exported, or moved in interstate commerce—

(1) be accompanied by a permit issued by the Secretary prior to the importation, entry, exportation, or movement in interstate commerce;

(2) be accompanied by a certificate of inspection issued in a manner and form required by the Secretary or by appropriate official of the country or State from which the plant, plant product, biological control organism, noxious weed, article, or means of conveyance is to be moved;

(3) be subject to remedial measures the Secretary determines to be necessary to prevent the spread of plant pests or noxious weeds; and

(4) in the case of a plant or biological control organism, be grown or handled under post-entry quarantine conditions by or under the supervision of the Secretary for the purpose of determining whether the plant or biological control organism may be infested with a plant pest or noxious weed, or may be a plant pest or noxious weed.

(c) LIST OF RESTRICTED NOXIOUS WEEDS.—

(1) PUBLICATION.—The Secretary may publish, by regulation, a list of noxious weeds that are prohibited or restricted from entering the United States or that are subject to restrictions on interstate movement within the United States.

(2) PETITIONS TO ADD PLANT SPECIES TO OR REMOVE PLANT SPECIES FROM LIST.—

(A) IN GENERAL.—A person may petition the Secretary to add a plant species to, or remove a plant species from, the list authorized under paragraph (1).

(B) ACTION ON PETITION.—The Secretary shall—

(i) act on the petition within a reasonable time; and

(ii) notify the petitioner of the final action the Secretary takes on the petition.

(C) BASIS FOR DETERMINATION.—The determination of the Secretary on the petition shall be based on sound science.

(d) List of Biological Control Organisms.—

(1) Publication.—The Secretary may publish, by regulation, a list of biological control organisms the movement of which in interstate commerce is not prohibited or restricted.

(2) Distinctions.—In publishing the list, the Secretary may take into account distinctions between biological control organisms that are indigenous, nonindigenous, newly introduced, or commercially raised.

(3) Petitions to add biological control organisms to or remove biological control organisms from list.—

(A) In general.—A person may petition the Secretary to add a biological control organism to, or remove a biological control organism from, the list authorized under paragraph (1).

(B) Action on petition.—The Secretary shall—

(i) act on the petition within a reasonable time; and

(ii) notify the petitioner of the final action the Secretary takes on the petition.

(C) Basis for determination.—The determination of the Secretary on the petition shall be based on sound science.

SEC. 103. NOTIFICATION AND HOLDING REQUIREMENTS ON ARRIVAL.

(a) Duty of Secretary of the Treasury.—

(1) Notification.—The Secretary of the Treasury shall promptly notify the Secretary of the arrival of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance at a port of entry.

(2) Holding.—The Secretary of the Treasury shall hold a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance for which notification is made under paragraph (1) at the port of entry until the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is—

(A) inspected and authorized by the Secretary of Agriculture for entry into or movement through the United States; or

(B) otherwise released by the Secretary.

(3) Exceptions.—Paragraphs (1) and (2) shall not apply to a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance that is imported from a country or region of a country designated by the Secretary, by regulation, as exempt from the requirements of those paragraphs.

(b) Notification by Responsible Person.—The person responsible for a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance required to have a permit under section 101 or 102 shall promptly, on arrival at the port of entry and before the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is moved from the port of entry, notify the Secretary or, at the Secretary's direction, the proper official of the State to which the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is destined, or both, as the Secretary may prescribe, of—

(1) the name and address of the consignee;

(2) the nature and quantity of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance proposed to be moved; and

(3) the country and locality where the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance was grown, produced, or located.

(c) Prohibition of Movement of Items Without Inspection and Authorization.—No person shall move from a port of entry or interstate an imported plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance unless the imported plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance has been—

(1) inspected and authorized by the Secretary for entry into or movement through the United States; or

(2) otherwise released by the Secretary.

SEC. 104. GENERAL REMEDIAL MEASURES FOR NEW PLANT PESTS AND NOXIOUS WEEDS.

(a) Authority To Hold, Treat, or Destroy Items.—If the Secretary considers it necessary to prevent the dissemination of a plant pest or noxious weed that is new to or not known to be widely prevalent or distributed within and throughout the United States, the Secretary may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance that—

(1)(A) is moving into or through the United States or interstate, or has moved into or through the United States or interstate; and

(B)(i) the Secretary has reason to believe is a plant pest or noxious weed or is infested with a plant pest or noxious weed at the time of the movement; or

(ii) is or has been otherwise in violation of this Act;

(2) has not been maintained in compliance with a post-entry quarantine requirement; or

(3) is the progeny of a plant, plant product, biological control organism, plant pest, or noxious weed that is moving into or through the United States or interstate, or has moved into the United States or interstate, in violation of this Act.

(b) Authority To Order an Owner To Treat or Destroy.—

(1) In general.—The Secretary may order the owner of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance subject to action under subsection (a), or the owner's agent, to treat, apply other remedial measures to, destroy, or otherwise dispose of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance, without cost to the Federal Government and in a manner the Secretary considers appropriate.

(2) Failure to comply.—If the owner or agent of the owner fails to comply with an order of the Secretary under paragraph (1), the Secretary may take an action authorized by subsection (a) and recover from the owner or agent of the owner the costs of any care, handling, application of remedial measures, or disposal incurred by the Secretary in connection with actions taken under subsection (a).

(c) Classification System.—

(1) In general.—To facilitate control of noxious weeds, the Secretary may develop a classification system to describe the status and action levels for noxious weeds.

(2) Categories.—The classification system may include the geographic distribution, relative threat, and actions initiated to prevent introduction or distribution.

(3) Management plans.—In conjunction with the classification system, the Secretary may develop integrated management plans for noxious weeds for the geographic region or ecological range where the noxious weed is found in the United States.

(d) Application of Least Drastic Action.—No plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance shall be destroyed, exported, or returned to the shipping point of origin, or ordered to be destroyed, exported, or returned to the shipping point of origin under this section unless, in the opinion of the Secretary, there is no less drastic action that is feasible and that would be adequate to prevent the dissemination of any plant pest or noxious weed new to or not known to be widely prevalent or distributed within and throughout the United States.

SEC. 105. EXTRAORDINARY EMERGENCIES.

(a) Authority To Declare.—Subject to subsection (b), if the Secretary determines that an extraordinary emergency exists because of the presence of a plant pest or noxious weed that is new to or not known to be widely prevalent in or distributed within and throughout the United States and that the presence of the plant pest or noxious weed threatens plants or plant products of the United States, the Secretary may—

(1) hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, a plant, plant product, biological control organism, article, or means of conveyance that the Secretary has reason to believe is infested with the plant pest or noxious weed;

(2) quarantine, treat, or apply other remedial measures to any premises, including a plant, plant product, biological control organism, article, or means of conveyance on the premises, that the Secretary has reason to believe is infested with the plant pest or noxious weed;

(3) quarantine a State or portion of a State in which the Secretary finds the plant pest or noxious weed or a plant, plant product, biological control organism, article, or means of conveyance that the Secretary has reason to believe is infested with the plant pest or noxious weed; or

(4) prohibit or restrict the movement within a State of a plant, plant product, biological control organism, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of the plant pest or noxious weed or to eradicate the plant pest or noxious weed.

(b) Required Finding of Emergency.—The Secretary may take action under this section only on finding, after review and consultation with the Governor or other appropriate official of the State affected, that the measures being taken by the State are inadequate to prevent the dissemination of the plant pest or noxious weed or to eradicate the plant pest or noxious weed.

(c) Notification Procedures.—

(1) In general.—Except as provided in paragraph (2), before any action is taken in a State under this section, the Secretary shall—

(A) notify the Governor or another appropriate official of the State;

(B) issue a public announcement; and

(C) except as provided in paragraph (2), publish in the Federal Register a statement of—

(i) the findings of the Secretary;

(ii) the action the Secretary intends to take;

(iii) the reason for the intended action; and

(iv) if practicable, an estimate of the anticipated duration of the extraordinary emergency.

(2) Time sensitive actions.—If it is not practicable to publish a statement in the Federal Register under paragraph (1) before taking an action under this section, the Secretary shall publish the statement in the Federal Register within a reasonable period of time, not to exceed 10 business days, after commencement of the action.

(d) Application of Least Drastic Action.—No plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance shall be destroyed, exported, or returned to the shipping point of origin, or ordered to be destroyed, exported, or returned to the shipping point of origin under this section unless, in the opinion of the Secretary, there is no less drastic action that is feasible and that would be adequate to prevent the dissemination of a plant pest or noxious weed new to or not known to be widely prevalent or distributed within and throughout the United States.

(e) Payment of Compensation.—

(1) In general.—The Secretary may pay compensation to a person for economic losses incurred by the person as a result of action taken by the Secretary under this section.

(2) Amount.—The determination by the Secretary of the amount of any compensation to be paid under this subsection shall be final and shall not be subject to judicial review.

SEC. 106. RECOVERY OF COMPENSATION FOR UNAUTHORIZED ACTIVITIES.

(a) Recovery Action.—The owner of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance destroyed or otherwise disposed of by the Secretary under section 104 or 105 may bring an action against the United States to recover just compensation for the destruction or disposal of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance (not including compensation for loss due to delays incident to determining eligibility for importation, entry, exportation, movement in interstate commerce, or release into the environment) if the owner establishes that the destruction or disposal was not authorized under this Act.

(b) Time for Action; Location.—

(1) Time for action.—An action under this section shall be brought not later than 1 year after the destruction or disposal of the plant, plant product, biological control mechanism, plant pest, noxious weed, article, or means of conveyance involved.

(2) Location.—The action may be brought in a United States District Court where the owner is found, resides, transacts business, is licensed to do business, or is incorporated.

(c) Payment of Judgments.—A judgment in favor of the owner shall be paid out of any money in the Treasury appropriated for plant pest control activities of the Department of Agriculture.

SEC. 107. CONTROL OF GRASSHOPPERS AND MORMON CRICKETS.

(a) In General.—Subject to the availability of funds under this section, the Secretary shall carry out a program to control grasshoppers and Mormon Crickets on all Federal land to protect rangeland.

(b) Transfer Authority.—

(1) In general.—Subject to paragraph (3), on the request of the Secretary, the Secretary of the Interior shall transfer to the Secretary, from any no-year appropriations, funds for the prevention, suppression, and control of actual or potential grasshopper and Mormon Cricket outbreaks on Federal land under the jurisdiction of the Secretary of the Interior.

(2) Use.—The transferred funds shall be available only for the payment of obligations incurred on the Federal land.

(3) Transfer requests.—The Secretary shall make a request for the transfer of funds under this subsection as promptly as practicable.

(4) Limitation.—The Secretary may not use funds transferred under this subsection until funds specifically appropriated to the Secretary for grasshopper and Mormon Cricket control have been exhausted.

(5) Replenishment of transferred funds.—Funds transferred under this section shall be replenished by supplemental or regular appropriations, which the Secretary shall request as promptly as practicable.

(c) Treatment for Grasshoppers and Mormon Crickets.—

(1) In general.—Subject to the availability of funds under this section, on request of the head of the administering agency or the agriculture department of an affected State, the Secretary, to protect rangeland, shall immediately treat Federal, State, or private land that is infested with grasshoppers or Mormon Crickets at levels of economic infestation, unless the Secretary determines that delaying treatment will not cause greater economic damage to adjacent owners of rangeland.

(2) Other programs.—In carrying out this section, the Secretary shall work in conjunction with other Federal, State, and private prevention, control, or suppression efforts to protect rangeland.

(d) Federal Cost Share of Treatment.—

(1) Control on federal land.—Out of funds made available under this section, the Secretary shall pay 100 percent of the cost of grasshopper or Mormon Cricket control on Federal land to protect rangeland.

(2) Control on state land.—Out of funds made available under this section, the Secretary shall pay 50 percent of the cost of grasshopper or Mormon Cricket control on State land.

(3) Control on private land.—Out of funds made available under this section, the Secretary shall pay 33.3 percent of the cost of grasshopper or Mormon Cricket control on private land.

(e) Training.—From funds made available or transferred by the Secretary of the Interior to the Secretary to carry out this section, the Secretary shall provide adequate funding for a program to train personnel to accomplish effectively the purposes of this section.

SEC. 108. CERTIFICATION FOR EXPORTS.

The Secretary may certify a plant, plant product, or biological control organism as free from plant pests and noxious weeds, and exposure to plant pests and noxious weeds, according to the phytosanitary or other requirements of the countries to which the plant, plant product, or biological control organism may be exported.

TITLE II—INSPECTION AND ENFORCEMENT

SEC. 201. INSPECTIONS, SEIZURES, AND WARRANTS.

(a) In General.—Consistent with guidelines approved by the Attorney General, the Secretary may—

(1) stop and inspect, without a warrant, a person or means of conveyance moving into the United States to determine whether the person or means of conveyance is carrying a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance subject to this Act;

(2) stop and inspect, without a warrant, a person or means of conveyance moving in interstate commerce on probable cause to believe that the person or means of conveyance is carrying a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance subject to this Act;

(3) stop and inspect, without a warrant, a person or means of conveyance moving in intrastate commerce or on premises quarantined as part of an extraordinary emergency declared under section 105 on probable cause to believe that the person or means of conveyance is carrying a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance subject to this Act; and

(4) enter, with a warrant, a premises in the United States for the purpose of conducting investigations or making inspections and seizures under this Act.

(b) Warrants.—

(1) In general.—A United States judge, a judge of a court of record in the United States, or a United States magistrate judge may, on proper oath or affirmation showing probable cause to believe that there is on certain premises a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance regulated under this Act, issue a warrant for entry on the premises to conduct an investigation or make an inspection or seizure under this Act.

(2) Execution.—The warrant may be applied for and executed by the Secretary or a United States marshal.

SEC. 202. COLLECTION OF INFORMATION.

The Secretary may gather and compile information and conduct such investigations as the Secretary considers necessary for the administration and enforcement of this Act.

SEC. 203. SUBPOENA AUTHORITY.

(a) Authority to Issue.—The Secretary may require by subpoena—

(1) the attendance and testimony of a witness; and

(2) the production of all documentary evidence relating to the administration or enforcement of this Act or a matter under investigation in connection with this Act.

(b) Location of Production.—The attendance of a witness and production of documentary evidence may be required from any place in the United States at any designated place of hearing.

(c) Enforcement of Subpoena.—If a person fails to comply with a subpoena, the Secretary may request the Attorney General to invoke the aid of a court of the United States within the jurisdiction in which the investigation is conducted, or where the person resides, is found, transacts business, is licensed to do business, or is incorporated, in obtaining compliance.

(d) Fees and Mileage.—

(1) In general.—A witness summoned by the Secretary shall be paid the same fees and mileage that are paid to a witness in a court of the United States.

(2) Depositions.—A witness whose deposition is taken, and the person taking the deposition, shall be entitled to the same fees that are paid for similar services in a court of the United States.

(e) Procedures.—

(1) In general.—The Secretary shall publish procedures for the issuance of subpoenas under this section.

(2) Legal sufficiency.—The procedures shall include a requirement that a subpoena be reviewed for legal sufficiency and signed by the Secretary.

(3) DELEGATION.—If the authority to sign a subpoena is delegated, the agency receiving the delegation shall seek review for legal sufficiency outside that agency.

(f) SCOPE OF SUBPOENA.—A subpoena for a witness to attend a court in a judicial district or to testify or produce evidence at an administrative hearing in a judicial district in an action or proceeding arising under this Act may run to any other judicial district.

SEC. 204. PENALTIES FOR VIOLATION.

(a) CRIMINAL PENALTIES.—A person that knowingly violates this Act, or that knowingly forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys a certificate, permit, or other document provided under this Act shall be guilty of a misdemeanor, and, on conviction, shall be fined in accordance with title 18, United States Code, imprisoned not more than 1 year, or both.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—A person that violates this Act, or that forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys a certificate, permit, or other document provided under this Act may, after notice and opportunity for a hearing on the record, be assessed a civil penalty by the Secretary that does not exceed the greater of—

(A) $50,000 in the case of an individual (except that the civil penalty may not exceed $1,000 in the case of an initial violation of this Act by an individual moving regulated articles not for monetary gain), or $250,000 in the case of any other person for each violation, except the amount of penalties assessed under this subparagraph in a single proceeding shall not exceed $500,000; or

(B) twice the gross gain or gross loss for a violation or forgery, counterfeiting, or unauthorized use, defacing or destruction of a certificate, permit, or other document provided for in this Act that results in the person's deriving pecuniary gain or causing pecuniary loss to another person.

(2) FACTORS IN DETERMINING CIVIL PENALTY.—In determining the amount of a civil penalty, the Secretary—

(A) shall take into account the nature, circumstance, extent, and gravity of the violation; and

(B) may take into account the ability to pay, the effect on ability to continue to do business, any history of prior violations, the degree of culpability of the violator, and any other factors the Secretary considers appropriate.

(3) SETTLEMENT OF CIVIL PENALTIES.—The Secretary may compromise, modify, or remit, with or without conditions, a civil penalty that may be assessed under this subsection.

(4) FINALITY OF ORDERS.—

(A) IN GENERAL.—An order of the Secretary assessing a civil penalty shall be treated as a final order reviewable under chapter 158 of title 28, United States Code.

(B) COLLECTION ACTION.—The validity of an order of the Secretary may not be reviewed in an action to collect the civil penalty.

(C) INTEREST.—A civil penalty not paid in full when due under an order assessing the civil penalty shall (after the due date) accrue interest until paid at the rate of interest applicable to a civil judgment of the courts of the United States.

(c) LIABILITY FOR ACTS OF AN AGENT.—For purposes of this Act, the act, omission, or failure of an officer, agent, or person acting for or employed by any other person within the scope of employment or office of the officer, agent, or person, shall be considered to be the act, omission, or failure of the other person.

(d) GUIDELINES FOR CIVIL PENALTIES.—The Secretary shall coordinate with the Attorney General to establish guidelines to determine under what circumstances the Secretary may issue a civil penalty or suitable notice of warning in lieu of prosecution by the Attorney General of a violation of this Act.

SEC. 205. ENFORCEMENT ACTIONS OF ATTORNEY GENERAL.

The Attorney General may—

(1) prosecute, in the name of the United States, a criminal violation of this Act that is referred to the Attorney General by the Secretary or is brought to the notice of the Attorney General by any person;

(2) bring a civil action to enjoin the violation of or to compel compliance with this Act, or to enjoin any interference by a person with the Secretary in carrying out this Act, if the Attorney General has reason to believe that the person has violated or is about to violate this Act, or has interfered, or is about to interfere, with the Secretary; and

(3) bring a civil action for the recovery of an unpaid civil penalty, funds under a reimbursable agreement, late payment penalty, or interest assessed under this Act.

SEC. 206. COURT JURISDICTION.

(a) IN GENERAL.—Except as provided in section 204(b), a United States district court, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of other territories and possessions are vested with jurisdiction in all cases arising under this Act.

(b) LOCATION.—An action arising under this Act may be brought, and process may be served, in the judicial district where—

(1) a violation or interference occurred or is about to occur; or

(2) the person charged with the violation, interference, impending violation, impending interference, or failure to pay resides, is found, transacts business, is licensed to do business, or is incorporated.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. COOPERATION.

(a) IN GENERAL.—To carry out this Act, the Secretary may cooperate with—

(1) other Federal agencies or entities;

(2) States or political subdivisions of States;

(3) national governments;

(4) local governments of other nations;

(5) domestic or international organizations;

(6) domestic or international associations; and

(7) other persons.

(b) RESPONSIBILITY.—The individual or entity cooperating with the Secretary shall be responsible for conducting the operations or taking measures on all land and property within the foreign country or State, other than land and property owned or controlled by the United States, and for other facilities and means determined by the Secretary.

(c) TRANSFER OF BIOLOGICAL CONTROL METHODS.—The Secretary may transfer to a Federal or State agency or other person biological control methods using biological control organisms against plant pests or noxious weeds.

(d) COOPERATION IN PROGRAM ADMINISTRATION.—The Secretary may cooperate with State authorities or other persons in the administration of programs for the improvement of plants, plant products, and biological control organisms.

SEC. 302. BUILDINGS, LAND, PEOPLE, CLAIMS, AND AGREEMENTS.

(a) IN GENERAL.—The Secretary may acquire and maintain such real or personal property, and employ such persons, make such grants, and enter into such contracts, cooperative agreements, memoranda of understanding, or other agreements, as are necessary to carry out this Act.

(b) TORT CLAIMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may pay a tort claim (in the manner authorized in the first paragraph of section 2672 of title 28, United States Code) if the claim arises outside the United States in connection with an activity authorized under this Act.

(2) REQUIREMENTS OF CLAIM.—A claim may not be allowed under paragraph (1) unless the claim is presented in writing to the Secretary not later than 2 years after the claim arises.

SEC. 303. REIMBURSABLE AGREEMENTS.

(a) PRECLEARANCE.—

(1) IN GENERAL.—The Secretary may enter into a reimbursable fee agreement with a person for preclearance (at a location outside the United States) of plants, plant products, biological control organisms, articles, and means of conveyance for movement to the United States.

(2) ACCOUNT.—All funds collected under this subsection shall be credited to an account that may be established by the Secretary and shall remain available until expended without fiscal year limitation.

(b) OVERTIME.—

(1) IN GENERAL.—Notwithstanding any other law, the Secretary may pay an employee of the Department of Agriculture performing services under this Act relating to imports into and exports from the United States, for all overtime, night, or holiday work performed by the employee, at a rate of pay determined by the Secretary.

(2) REIMBURSEMENT OF SECRETARY.—The Secretary may require a person for whom the services are performed to reimburse the Secretary for funds paid by the Secretary for the services.

(3) ACCOUNT.—All funds collected under this subsection shall be credited to the account that incurs the costs and remain available until expended without fiscal year limitation.

(c) LATE PAYMENT PENALTY AND INTEREST.—

(1) COLLECTION.—On failure of a person to reimburse the Secretary in accordance with this section, the Secretary may assess a late payment penalty against the person.

(2) INTEREST.—Overdue funds due the Secretary under this section shall accrue interest in accordance with section 3717 of title 31, United States Code.

(3) ACCOUNT.—A late payment penalty and accrued interest shall be credited to the account that incurs the costs and shall remain available until expended without fiscal year limitation.

SEC. 304. PROTECTION FOR MAIL CARRIERS.

This Act shall not apply to an employee of the United States in the performance of the duties of the employee in handling the mail.

SEC. 305. REGULATIONS AND ORDERS.

The Secretary may promulgate such regulations, and issue such orders, as the Secretary considers necessary to carry out this Act.

SEC. 306. REPEAL OF SUPERSEDED LAWS.

(a) REPEAL.—The following provisions of law are repealed:

(1) Subsections (a) through (e) of section 102 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 147a).

(2) Section 1773 of the Food Security Act of 1985 (7 U.S.C. 148f).

(3) The Golden Nematode Act (7 U.S.C. 150 et seq.).

(4) The Federal Plant Pest Act (7 U.S.C. 150aa et seq.).

(5) The Joint Resolution of April 6, 1937 (56 Stat. 57, chapter 69; 7 U.S.C. 148 et seq.).

(6) The Act of January 31, 1942 (56 Stat. 40, chapter 31; 7 U.S.C. 149).

(7) The Act of August 20, 1912 (commonly known as the "Plant Quarantine Act") (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.).

(8) The Halogeton Glomeratus Control Act (7 U.S.C. 1651 et seq.).

(9) The Act of August 28, 1950 (64 Stat. 561, chapter 815; 7 U.S.C. 2260).

(10) The Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 et seq.), other than the first section and section 15 of that Act (7 U.S.C. 2801 note, 2814).

(b) EFFECT ON REGULATIONS.—Regulations promulgated under the authority of a provision of law repealed by subsection (a) shall remain in effect until such time as the Secretary promulgates a regulation under section 304 that supersedes the earlier regulation.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

(b) COMPENSATION.—Except as provided in section 106 and as specifically authorized by law, no part of the amounts appropriated under this section shall be used to provide compensation for property injured or destroyed by or at the direction of the Secretary.

SEC. 402. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER CERTAIN FUNDS.—In connection with an emergency in which a plant pest or noxious weed threatens a segment of the agricultural production of the United States, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department of Agriculture such amounts as the Secretary considers necessary to be available in the emergency for the arrest, control, eradication, and prevention of the dissemination of the plant pest or noxious weed and for related expenses.

(b) AVAILABILITY.—Any funds transferred under this section shall remain available for such purposes without fiscal year limitation.•

By Mr. CAMPBELL (for himself and Mr. BROWNBACK):

S. 322. A bill to amend title 4, United States Code, to add the Martin Luther King, Jr. holiday to the list of days on which the flag should especially be displayed; to the Committee on the Judiciary.

THE DR. MARTIN LUTHER KING, JR. DAY RECOGNITION ACT OF 1999

• Mr. CAMPBELL. Mr. President, today I am introducing legislation that would amend the "Flag Code" to add the Martin Luther King, Jr. holiday to the list of days on which the American flag should be displayed nationwide.

It is a testament to the greatness of Martin Luther King, Jr., that nearly every major city in the U.S. has a street or school named after him. I have to admit, I was surprised to learn that the American flag was not flown to commemorate the Dr. King holiday.

Dr. King, a minister, prolific writer and Nobel Prize winner originated the nonviolence strategy within the activist civil rights movement. He was one of the most important black leaders of his era and in American history.

When Dr. King was tragically assassinated on April 4, 1968, he had already transformed himself as a national hero and a pioneer in trying to unite a divided nation. He strove to build communities of hope and opportunity for all and recognized that all Americans must be free to truly have a great country.

Dr. King was a person who wanted all people to get along regardless of their race, color or creed. His holiday came about due to the work of many determined people who wanted all of us to pause to remember his legacy.

This legislation simply would make sure that we celebrate his birthday as a federal holiday in the fashion afforded to other great Americans whose birthdays are cause for national commemoration. I urge my colleagues to join me in supporting this important bill.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 322

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITION OF MARTIN LUTHER KING JR. HOLIDAY TO LIST OF DAYS.

Section 6(d) of title 4, United States Code, is amended by inserting "Martin Luther King Jr.'s birthday, third Monday in January;" after "January 20;".•

By Mr. CAMPBELL:

S. 323. A bill to redesignate the Black Canyon of the Gunnison National Monument as a national park and establish the Gunnison Gorge National Conservation Area, and for other purposes; to the Committee on Energy and Natural Resources.

BLACK CANYON NATIONAL PARK AND GUNNISON GORGE NATIONAL CONSERVATION AREA ACT OF 1999

• Mr. CAMPBELL. Mr. President, today I am introducing legislation to create the Black Canyon National Park. This bill is based on legislation which I introduced in the 104th Congress, but has been revised to include additional input from the Bureau of Land Management and the National Park Service. In 1996, as the former Chairman of the Subcommittee on Parks, Historic Preservation and Recreation, I conducted a field hearing and received input from local groups and individuals which I also incorporated into my new bill.

With its narrow opening, sheer walls, and scenic depths, the Black Canyon is a jewel in North America. Nearly everyone who has visited the site is struck by the breathtaking beauty of this 2,000 foot deep, nearly impenetrable canyon. The canyon is also home to a vast assortment of wildlife that range from chipmunks to black bear, from bobcats to coyotes. Its unique combination of geologic features makes the Black Canyon deserving of National Park status.

This legislation has been a long time coming to the State of Colorado, and in particular, the Western Slope of my state. My Black Canyon bill incorporates the input of the federal agencies involved and, in my view, represents an innovative approach to protecting unique natural resources for future generations in the most fiscally responsible manner possible.

This legislation does far more than simply create a new national park from what is now a national monument. This legislation establishes a cooperative approach to managing this natural resource and calls on all affected resource management agencies in the area to play key collaborative roles.

I want to stress that this legislation does not increase federal expenditures, and the collective management approach this legislation creates does not in any way require, imply, or contemplate an attempt by the Federal Government to usurp state water rights, state water law, or intrude upon private property rights.

The Secretary of the Interior will manage the entire area and will be able to utilize all available fiscal and human resources in the administration and management of this natural resource in a unique, money-saving manner. This legislation will also eliminate duplicate operations and form a coordinated, efficient and fiscally responsible management structure.

I have worked to forge consensus on this issue, and I am pleased to propose this cooperative management plan for this beautiful example of our natural heritage. I urge my colleagues to support passage of this bill. I ask unanimous consent that the bill and letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Black Canyon National Park and Gunnison Gorge National Conservation Area Act of 1999".

SEC. 2. FINDINGS.

Congress finds that—

(1) Black Canyon of the Gunnison National Monument was established for the preservation of its spectacular gorges and additional features of scenic, scientific, and educational interest;

(2) the Black Canyon and adjacent upland include a variety of unique ecological, geological, scenic, historical, and wildlife components enhanced by the serenity and rural western setting of the area;

(3) the Black Canyon and adjacent land provide extensive opportunities for educational and recreational activities, and are publicly used for hiking, camping, and fishing, and for wilderness value, including solitude;

(4) adjacent public land downstream of the Black Canyon of the Gunnison National Monument has wilderness value and offers unique geological, paleontological, scientific, educational, and recreational resources;

(5) public land adjacent to the Black Canyon of the Gunnison National Monument contributes to the protection of the wildlife, viewshed, and scenic qualities of the Black Canyon;

(6) some private land adjacent to the Black Canyon of the Gunnison National Monument has exceptional natural and scenic value, that, would be threatened by future development pressures;

(7) the benefits of designating public and private land surrounding the national monument as a national park include greater long-term protection of the resources and expanded visitor use opportunities; and

(8) land in and adjacent to the Black Canyon of the Gunnison Gorge is—

(A) recognized for offering exceptional multiple use opportunities;

(B) recognized for offering natural, cultural, scenic, wilderness, and recreational resources; and

(C) worthy of additional protection as a national conservation area, and with respect to the Gunnison Gorge itself, as a component of the national wilderness system.

SEC. 3. DEFINITIONS.

In this Act:

(1) Conservation area.—The term "Conservation Area" means the Gunnison Gorge National Conservation Area, consisting of approximately 57,725 acres surrounding the Gunnison Gorge as depicted on the Map.

(2) Map.—The term "Map" means the map entitled "Black Canyon National Park and Gunnison Gorge NCA—1/22/99".

(3) Park.—The term "Park" means the Black Canyon National Park established under section 4 and depicted on the Map.

(4) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. ESTABLISHMENT OF BLACK CANYON NATIONAL PARK.

(a) Establishment.—

(1) In general.—There is established the Black Canyon National Park in the State of Colorado, as generally depicted on the Map.

(2) Availability of map.—The Map shall be on file and available for public inspection in the offices of the National Park Service of the Department of the Interior.

(3) Redesignation of monument.—

(A) Termination of black canyon designation.—The designation of the Black Canyon of the Gunnison National Monument in existence on the date of enactment of this Act is terminated.

(B) Transfer.—All land and interests within the boundary of the Black Canyon of the Gunnison National Monument are incorporated in and made part of the Black Canyon National Park, including—

(i) land and interests within the boundary of the Black Canyon of the Gunnison National Monument as established by section 2(a) of the first section of Public Law 98–357; and

(ii) any land and interests identified on the Map and transferred by the Bureau of Land Management under this Act.

(C) Reference to park.—Any reference to the Black Canyon of the Gunnison National Monument shall be deemed a reference to Black Canyon National Park.

(D) Funds.—Any funds made available for the purposes of the Black Canyon of the Gunnison National Monument shall be available for purposes of the Park.

(b) Authority.—The Secretary, acting through the Director of the National Park Service, shall manage the Park subject to valid rights, in accordance with this Act and the provisions of law applicable to units of the National Park System, including—

(1) the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.);

(2) the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.); and

(3) other applicable provisions of law.

(c) Grazing.—

(1) Grazing permitted.—The Secretary may permit grazing within the Park, if the use of the Park for grazing is permitted on the date of enactment of this Act.

(2) Grazing plan.—The Secretary shall prepare a grazing management plan to administer any grazing activities within the Park.

SEC. 5. ACQUISITION OF PROPERTY AND MINOR BOUNDARY ADJUSTMENTS.

(a) Additional Acquisitions.—

(1) In general.—The Secretary may acquire land or interests in land depicted on the Map as proposed additions.

(2) Method of acquisition.—

(A) In general.—Land or interests in land may be acquired by—

(i) donation;

(ii) transfer;

(iii) purchase with donated or appropriated funds; or

(iv) exchange.

(B) Consent.—No land or interest in land may be acquired without the consent of the owner of the land.

(b) Boundary Revision.—After acquiring land for the Park, the Secretary shall—

(1) revise the boundary of the Park to include newly-acquired land within the boundary; and

(2) administer newly-acquired land subject to applicable laws (including regulations).

(c) Boundary Survey.—Not later than 5 years after the date of enactment of this Act, the Secretary shall complete an official boundary survey of the Park

(d) Hunting on Privately Owned Lands.—

(1) In general.—The Secretary may permit hunting on privately owned land added to the Park under this Act, subject to limitations, conditions, or regulations that may be prescribed by the Secretary.

(2) Termination of authority.—On the date that the Secretary acquires fee ownership of any privately owned land added to the Park under this Act, the authority under paragraph (1) shall terminate with respect to the privately owned land acquired.

SEC. 6. EXPANSION OF THE BLACK CANYON OF THE GUNNISON WILDERNESS.

(a) Expansion of Black Canyon.—The Black Canyon of the Gunnison Wilderness, as established by subsection (b) of the first section of Public Law 94–567 (90 Stat. 2692), is expanded to include the parcel of land depicted on the Map as "Tract A" and consisting of approximately 4,460 acres.

(b) Administration.—The Black Canyon of the Gunnison Wilderness shall be administered as a component of the Park.

SEC. 7. ESTABLISHMENT OF THE GUNNISON GORGE NATIONAL CONSERVATION AREA.

(a) In General.—There is established the Gunnison Gorge National Conservation Area, consisting of approximately 57,725 acres as generally depicted on the Map.

(b) Management of Conservation Area.—The Secretary, acting through the Director of the Bureau of Land Management, shall manage the Conservation Area to protect the resources of the Conservation Area in accordance with—

(1) this Act;

(2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(3) other applicable provisions of law.

(c) Withdrawal of Land.—Subject to valid rights in existence on the date of enactment of this Act, all Federal land and interests within the Conservation Area acquired by the United States are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing and geothermal leasing laws.

(d) Permitted Uses.—

(1) In general.—The Secretary shall permit hunting, trapping, and fishing within the Conservation Area in accordance with applicable laws (including regulations) of the United States and the State of Colorado.

(2) Exception.—The Secretary, after consultation with the Colorado Division of Wildlife, may issue regulations designating zones where and establishing periods when no hunting or trapping shall be permitted for reasons concerning—

(A) public safety;

(B) administration; or

(C) public use and enjoyment.

(e) Use of Motorized Vehicles.—In addition to the use of motorized vehicles on established roadways, the use of motorized vehicles in the Conservation Area shall be allowed—

(1) to the extent the use is compatible with off-highway vehicle designations as described in the management plan in effect on the date of enactment of this Act; or

(2) to the extent the use is practicable under a management plan prepared under this Act.

(f) Conservation Area Management Plan.—

(1) In general.—Not later than 4 years after the date of enactment of this Act, the Secretary shall—

(A) develop a comprehensive plan for the long-range protection and management of the Conservation Area; and

(B) transmit the plan to—

(i) the Committee on Energy and Natural Resources of the Senate; and

(ii) the Committee on Resources of the House of Representatives.

(2) Contents of plan.—The plan—

(A) shall describe the appropriate uses and management of the Conservation Area in accordance with this Act;

(B) may incorporate appropriate decisions contained in any management or activity plan for the area completed prior to the date of enactment of this Act;

(C) may incorporate appropriate wildlife habitat management plans or other plans prepared for the land within or adjacent to the Conservation Area prior to the date of enactment of this Act;

(D) shall be prepared in close consultation with appropriate Federal, State, county, and local agencies; and

(E) shall use information developed prior to the date of enactment of this Act in studies of the land within or adjacent to the Conservation Area.

(g) Boundary Revisions.—The Secretary may make revisions to the boundary of the Conservation Area following acquisition of land necessary to accomplish the purposes for which the Conservation Area was designated.

SEC. 8. DESIGNATION OF WILDERNESS WITHIN THE CONSERVATION AREA.

(a) Gunnison Gorge Wilderness.—

(1) In general.—Within the Conservation Area, there is designated as wilderness, and as a component of the National Wilderness Preservation System, the Gunnison Gorge Wilderness, consisting of approximately 17,700 acres, as generally depicted on the Map.

(2) Administration.—

(A) Wilderness study area exemption.—The approximately 300-acre portion of the wilderness study area depicted on the Map for release from section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) shall not be subject to section 603(c) of that Act.

(B) Incorporation into national conservation area.—The portion of the wilderness study area described in subparagraph (A) shall be incorporated into the Conservation Area.

(b) Administration.—Subject to valid rights in existence on the date of enactment of this Act, the wilderness areas designated under this Act shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.).

(c) State Responsibility.—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this Act or in the Wilderness Act shall affect the jurisdiction or responsibilities of the State of Colorado with respect to wildlife and fish on the public land located in that State.

SEC. 9. WITHDRAWAL.

The land identified as tract B on the Map, consisting of approximately 1,554 acres, is withdrawn—

(1) from all forms of entry, appropriation, or disposal under the public land laws;

(2) from location, entry, and patent under the mining laws; and

(3) from operation of the mineral leasing and geothermal leasing laws.

SEC. 10. WATER RIGHTS.

(a) Effect on Water Rights.—Nothing in this Act shall—

(1) constitute an express or implied reservation of water for any purpose; or

(2) affect any water rights in existence prior to the date of enactment of this Act, including any water rights held by the United States.

(b) Additional Water Rights.—Any new water right that the Secretary determines is necessary for the purposes of this Act shall be established in accordance with the procedural and substantive requirements of the laws of the State of Colorado.

SEC. 11. STUDY OF LANDS WITHIN AND ADJACENT TO CURECANTI NATIONAL RECREATION AREA.

(a) In General.—Not later than 2 years after the date of enactment of this Act, the Secretary, acting through the Director of the National Park Service, shall conduct a study concerning land protection and open space within and adjacent to the area administered as the Curecanti National Recreation Area.

(b) Purpose of Study.—The study required to be completed under subsection (a) shall—

(1) assess the natural, cultural, recreational and scenic resource value and character of the land within and surrounding the Curecanti National Recreation Area (including open vistas, wildlife habitat, and other public benefits);

(2) identify practicable alternatives that protect the resource value and character of the land within and surrounding the Curecanti National Recreation Area;

(3) recommend a variety of economically feasible and viable tools to achieve the purposes described in paragraphs (1) and (2); and

(4) estimate the costs of implementing the approaches recommended by the study.

(c) Submission of Report.—Not later than 3 years from the date of enactment of this Act, the Secretary shall submit a report to Congress that—

(1) contains the findings of the study required by subsection (a);

(2) makes recommendations to Congress with respect to the findings of the study required by subsection (a); and

(3) makes recommendations to Congress regarding action that may be taken with respect to the land described in the report.

(d) Acquisition of Additional Land and Interests in Land.—

(1) In general.—Prior to the completion of the study required by subsection (a), the Secretary may acquire certain private land or interests in land as depicted on the Map entitled "Proposed Additions to the Curecanti National Recreation Area," dated 09/15/98, totaling approximately 1,065 acres and entitled "Hall and Fitti properties".

(2) Method of acquisition.—

(A) In general.—Land or an interest in land under paragraph (1) may be acquired by—

(i) donation;

(ii) purchase with donated or appropriated funds; or

(iii) exchange.

(B) Consent.—No land or interest in land may be acquired without the consent of the owner of the land.

(C) Boundary revisions following acquisition.—Following the acquisition of land under paragraph (1), the Secretary shall—

(i) revise the boundary of the Curecanti National Recreation Area to include newly-acquired land; and

(ii) administer newly-acquired land according to applicable laws (including regulations).

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Montrose Chamber of Commerce,
Montrose, CO, January 26, 1999.

Hon. Ben Nighthorse Campbell,
Russell Senate Office Building,
Washington, DC.

Dear Senator Campbell: The Montrose Chamber of Commerce, Board of Directors, has been informed of your intent to introduce legislation regarding the Black Canyon National Park endeavor. We are writing to endorse the legislation. The Black Canyon is truly one of God's gifts to Colorado. By giving it National Park status, it receives the accolades it deserves.

Please keep us apprised as to the status of the legislation. If there is any way we can assist with your efforts please do not hesitate to ask. We thank you for your efforts and dedication to Western Colorado and its citizens.

Sincerely,

Marge Keehfuss,
Executive Director.

Board of County Commissioners,
Gunnison County, CO,
January 19, 1999.

Hon. Ben Nighthorse Campbell,
Senator, Washington, DC.

Dear Senator Campbell: As you are aware, the National Park Service administers the lands within Curecanti National Recreation Area under a 1965 agreement with the Bureau of Reclamation. Colorado State Highway 92 is one of the most scenic drives in Colorado as it skirts the Black Canyon on the Gunnison within and adjacent to Curecanti. This portion of the highway is also designated as a component of the West Elk Loop Scenic and Historic Byway. The preservation of the rural values now dominating Highway 92 will play an important role in maintaining the quality of life for area residents as well as providing a quality visitor experience worth remembering. The National Park Service has been working with two willing landowners that own property adjacent to Highway 92 and within the Curecanti National Recreation Area. Collectively, this ownership represents 1,065 acres and development of this significant amount of land would forever alter the scenic values.

We realize the National Park Service has very limited authority to acquire lands outside of its boundaries. This is especially true for the recreation area since its boundary has never been formally established. Therefore, it is our understanding that specific authority will need to be granted through legislation by Congress in order to adjust the boundary and acquire these lands.

The Gunnison County Board of Commissioners is very supportive of these properties being acquired by the National Park Service. The Board of Commissioners would encourage you to also support this acquisition and hopes you would consider sponsoring legislation to achieve this goal. If you have any questions regarding Gunnison County's support of this acquisition or its importance, please don't hesitate to contact my office.

Respectfully,

John DeVore,
County Manager.•

By Mr. HATCH (for himself, Mr. Levin, and Mr. Moynihan):

S. 324. A bill to amend the Controlled Substances Act with respect to registration requirements for practitioners who dispense narcotic drugs in schedule IV or V for maintenance treatment or detoxification treatment; to the Committee on the Judiciary.

THE DRUG ADDICTION TREATMENT ACT OF 1999

• Mr. HATCH. Mr. President, I rise to introduce S. 324, the "Drug Addiction Treatment Act of 1999"—the DATA Act. The goal in this bill is simple but it is important: S. 324 attempts to help make drug treatment more available and more effective.

In developing this legislation I have worked closely with Representative Thomas Bliley of Virginia, Chairman of the House Committee on Commerce who plans to introduce shortly the House counterpart of this bill. I am very pleased to report that in sponsoring this bi-partisan bill I am joined by two colleagues from across the aisle—Senator Levin from Michigan and Senator Moynihan from New York. Senators Levin and Moynihan and I have long shared an interest in speeding the development of anti-addiction medications.

One of the most troublesome problems that our Nation faces today is drug abuse. The spectrum of deleterious by-products of drug abuse include rampant and often violent crime, breakdown in family life and other fundamental social structures, and the inability of addicted individuals to reach their full potential as contributing members of American society. For example, a 1997 report by the Utah State Division of Substance Abuse, "Substance Abuse and Need for Treatment Among Juvenile Arrestees in Utah" cites literature reporting that heroin-using offenders committed 15 times more robberies, 20 times more burglaries, and 10 times more thefts than offenders who do not use drugs.

In my own state of Utah—I am sorry to report—a 1997 survey by the State Division of Substance Abuse reported that 9.6% of Utahns—one in ten of our citizens—used illicit drugs in the past month. That is simply too high.

Unfortunately, no state or city in our great Nation is immune from the dangers of illicit drugs. I want the children of Utah to grow up drug free so that they may realize their enormous potential. And I want to help my neighbors in Salt Lake and fellow citizens across Utah and throughout the country who are addicted to break the grip of this deadly epidemic.

The wide variety of negative behaviors associated with drug abuse require policymakers to employ a wide variety of techniques to cut down both the supply of and demand for illegal drugs. We must do all we can do to stop the criminal behavior involved in supplying the contraband products as well as taking steps to stop all Americans from starting or continuing to use drugs.

This legislation I am introducing today focuses on increasing the availability and effectiveness of drug treatment. The purpose of the Drug Addiction Treatment Act of 1999 is to allow qualified physicians, as determined by experts at the Department of Health and Human Services, to prescribe schedule IV and V anti-addiction medications in physicians' offices without an additional Drug Enforcement Administration (DEA) registration if certain conditions are met.

These conditions include certification by participating physicians that: they are licensed under state law and have the training and experience to treat opium addicts; they have the capacity to refer patients to counseling and other ancillary services; and they will not treat more than 20 in an office setting unless the Secretary of Health and Human Services adjusts this number.

The DATA provisions allow the Secretary, as appropriate, to add to these conditions and allow the Attorney General to terminate a physician's DEA registration if these conditions are violated. This program will continue after three years only if the Secretary and Attorney General determine that this new type of decentralized treatment should not continue based on a number of determinations. These determinations include whether the availability of drug treatment has significantly increased without adverse consequences to the public health and the extent to which covered drugs have been diverted or dispensed in violation of the law such as exceeding the initial 20-patient per doctor limitation. This bill would allow the Secretary and Attorney General to discontinue the program earlier than three years if, upon consideration of the specified factors, they determine that early termination is advisable.

Nothing in the waiver policy undertaken in the new bill is intended to change the rules pertaining to methadone clinics or other facilities or practitioners that conduct drug treatment services under the dual registration system imposed by current law.

In drafting the waiver provisions of the bill, the co-sponsors have consulted with the Drug Enforcement Agency, the Food and Drug Administration, and the National Institute on Drug Abuse. As well, this initiative is consistent with the recent announcement of the Director of the Office of National Drug Control Policy, General Barry McCaffrey, of the Administration's intent to work to decentralize methadone treatment.

In 1995, the Institute of Medicine of the National Academy of Sciences issued a report, "Development of Medications for Opiate and Cocaine Addictions: Issues for the Government and Private Sector." The study called for "(d)eveloping flexible, alternative means of controlling the dispensing of anti-addiction narcotic medications that would avoid the 'methadone model' of individually approved treatment centers."

The Drug Addiction Treatment Act—DATA—is exactly the kind of policy initiative that experts have called for in America's multifaceted response to the drug abuse epidemic. I recognize that the DATA legislation is just one mechanism to attack this problem and I plan to work with my colleagues to devise additional strategies to reduce both the supply and demand for drugs. I urge all my colleagues to support S. 324 because it promises to get more patients into treatment and back on the road to honest, productive lives.

I ask unanimous consent that the text of S. 324 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Addiction Treatment Act of 1999".

SEC. 2. AMENDMENT TO CONTROLLED SUBSTANCES ACT.

Section 303(g) of the Controlled Substances Act (21 U.S.C. 823(g)) is amended—

(1) in paragraph (2), by striking "(A) security" and inserting "(i) security", and by striking "(B) the maintenance" and inserting "(ii) the maintenance";

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by inserting "(1)" after "(g)";

(4) by striking "Practitioners who dispense" and inserting "Except as provided in paragraph (2), practitioners who dispense"; and

(5) by adding at the end the following:

"(2)(A) Subject to subparagraphs (D) and (G), the requirements of paragraph (1) are waived in the case of the dispensing, by a practitioner, of narcotic drugs in schedule IV or V or combinations of such drugs if the practitioner meets the conditions specified in subparagraph (B) and the narcotic drugs or combinations of such drugs meet the conditions specified in subparagraph (C).

"(B) For purposes of subparagraph (A), the conditions specified in this subparagraph with respect to a practitioner are that, before dispensing narcotic drugs in schedule IV or V, or combinations of such drugs, to patients for maintenance or detoxification treatment, the practitioner submit to the Secretary a notification of the intent of the practitioner to begin dispensing the drugs or combinations for such purpose, and that the notification contain the following certifications by the practitioner:

"(i) The practitioner is a physician licensed under State law, and the practitioner has, by training or experience, the ability to treat and manage opiate-dependent patients.

"(ii) With respect to patients to whom the practitioner will provide such drugs or combinations of drugs, the practitioner has the capacity to refer the patients for appropriate counseling and other appropriate ancillary services.

"(iii) In any case in which the practitioner is not in a group practice, the total number of such patients of the practitioner at any one time will not exceed the applicable number. For purposes of this clause, the applicable number is 20, except that the Secretary may by regulation change such total number.

"(iv) In any case in which the practitioner is in a group practice, the total number of such patients of the group practice at any one time will not exceed the applicable number. For purposes of this clause, the applicable number is 20, except that the Secretary may by regulation change such total number, and the Secretary for such purposes may by regulation establish different categories on the basis of the number of practitioners in a group practice and establish for the various categories different numerical limitations on the number of such patients that the group practice may have.

"(C) For purposes of subparagraph (A), the conditions specified in this subparagraph with respect to narcotic drugs in schedule IV or V or combinations of such drugs are as follows:

"(i) The drugs or combinations of drugs have, under the Federal Food, Drug and Cosmetic Act or section 351 of the Public Health Service Act, been approved for use in maintenance or detoxification treatment.

"(ii) The drugs or combinations of drugs have not been the subject of an adverse determination. For purposes of this clause, an adverse determination is a determination published in the Federal Register and made by the Secretary, after consultation with the Attorney General, that the use of the drugs or combinations of drugs for maintenance or detoxification treatment requires additional standards respecting the qualifications of practitioners to provide such treatment, or requires standards respecting the quantities of the drugs that may be provided for unsupervised use.

"(D)(i) A waiver under subparagraph (A) with respect to a practitioner is not in effect unless (in addition to conditions under subparagraphs (B) and (C)) the following conditions are met:

"(I) The notification under subparagraph (B) is in writing and states the name of the practitioner.

"(II) The notification identifies the registration issued for the practitioner pursuant to subsection (f).

"(III) If the practitioner is a member of a group practice, the notification states the names of the other practitioners in the practice and identifies the registrations issued for the other practitioners pursuant to subsection (f).

"(IV) A period of 30 days has elapsed after the date on which the notification was submitted, and during such period the practitioner does not receive from the Secretary a written notice that one or more of the conditions specified in subparagraph (B), subparagraph (C), or this subparagraph, have not been met.

"(ii) The Secretary shall provide to the Attorney General such information contained in notifications under subparagraph (B) as the Attorney General may request.

"(E) If in violation of subparagraph (A) a practitioner dispenses narcotic drugs in schedule IV or V or combinations of such drugs for maintenance treatment or detoxification treatment, the Attorney General may, for purposes of section 304(a)(4), consider the practitioner to have committed an act that renders the registration of the practitioner pursuant to subsection (f) to be inconsistent with the public interest.

"(F) In this paragraph, the term 'group practice' has the meaning given such term in section 1877(h)(4) of the Social Security Act.

"(G)(i) This paragraph takes effect on the date of enactment of the Drug Addiction Treatment Act of 1999, and remains in effect thereafter except as provided in clause (iii) (relating to a decision by the Secretary or the Attorney General that this paragraph should not remain in effect).

"(ii) For the purposes relating to clause (iii), the Secretary and the Attorney General shall, during the 3-year period beginning on the date of enactment of the Drug Addiction Treatment Act of 1999, make determinations in accordance with the following:

"(I)(aa) The Secretary shall—

"(aaa) make a determination of whether treatments provided under waivers under subparagraph (A) have been effective forms of maintenance treatment and detoxification treatment in clinical settings;

"(bbb) make a determination regarding whether such waivers have significantly increased (relative to the beginning of such period) the availability of maintenance treatment and detoxification treatment; and

"(ccc) make a determination regarding whether such waivers have adverse consequences for the public health.

"(bb) In making determinations under this subclause, the Secretary—

"(aa) may collect data from the practitioners for whom waivers under subparagraph (A) are in effect;

"(bb) shall promulgate regulations (in accordance with procedures for substantive rules under section 553 of title 5, United States Code) specifying the scope of the data that will be required to be provided under this subclause and the means through which the data will be collected; and

"(cc) shall, with respect to collecting such data, comply with applicable provisions of chapter 6 of title 5, United States Code (relating to a regulatory flexibility analysis) and of chapter 8 of such title (relating to congressional review of agency rulemaking).

"(II) The Attorney General shall—

"(aa) make a determination of the extent to which there have been violations of the numerical limitations established under subparagraph (B) for the number of individuals to whom a practitioner may provide treatment;

"(bb) make a determination regarding whether waivers under subparagraph (A) have increased (relative to the beginning of such period) the extent to which narcotic drugs in schedule IV or V or combinations of such drugs are being dispensed or possessed in violation of this Act; and

"(cc) make a determination regarding whether such waivers have adverse consequences for the public health.

"(iii) If, before the expiration of the period specified in clause (ii), the Secretary or the Attorney General publishes in the Federal Register a decision, made on the basis of determinations under such clause, that this paragraph should not remain in effect, this paragraph ceases to be in effect 60 days after the date on which the decision is so published. The Secretary shall, in making any such decision, consult with the Attorney General, and shall, in publishing the decision in the Federal Register, include any comments received from the Attorney General for inclusion in the publication. The Attorney General shall, in making any such decision, consult with the Secretary, and shall, in publishing the decision in the Federal Register, include any comments received from the Secretary for inclusion in the publication.

"(H) During the 3-year period beginning on the date of enactment of the Drug Addiction Treatment Act of 1999, a State may not preclude a practitioner from dispensing narcotic drugs in schedule IV or V, or combinations of such drugs, to patients for maintentance or detoxification treatment in accordance with the Drug Addiction Treatment Act of 1999, unless, before the expiration of that 3-year period, the State enacts a law prohibiting a practitioner from dispensing such drugs or combination of drugs.".

(e) CONFORMING AMENDMENT.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a), in the matter following paragraph (5), by striking "section 303(g)" each place the term appears and inserting "section 303(g)(1)"; and

(2) in subsection (d), by striking "section 303(g)" and inserting "section 303(g)(1)".

• Mr. LEVIN. Mr. President, the need for additional anti-addiction medications is a matter of great concern to me and an issue that I have been deeply involved with for a number of years. We must come up with new medications which block the craving of heroin. This is why I am very pleased to join with Senator HATCH and Senator MOYNIHAN in introducing legislation that would establish the infrastructure to enable qualified physicians to prescribe schedule IV and V anti-addiction medications in their offices without an additional DEA registration if certain conditions are met. This will allow for a promising new drug, buprenorphine, to be used in the treatment of opiate addiction in physicians' offices, under a separate registration from the Attorney General. Specific conditions would have to be met. These conditions include: Certification by participating physicians that they are licensed under state law and have the training and experience to treat heroin addicts; and that they have the capacity to refer patients to counseling and other ancillary services.

Mr. President, there are a number of reasons why this legislation is necessary. The Narcotic Addict Treatment Act of 1974, requires separate DEA registrations for physicians who want to use approved narcotics in drug abuse treatment and separate approvals of registrants by U.S. Department of Health and Human Services (HHS) and by state agencies. The result has been a treatment system consisting primarily of large methadone clinics located in big cities, and preventing physicians from treating patients in an office setting or in rural areas or small towns, thereby denying treatment to thousands in need of it. Additionally, experts say that many heroin addicts who want treatment are often deterred because of the stigma that is associated with such with such clinics.

The intent of our legislation is to exclude medications like buprenorphine from burdensome regulatory requirements of the Narcotic Treatment Act, in order to carry drug abuse treatment beyond the methadone clinics and into physicians' offices. In so doing, the legislation includes protections against abuse. These protections include the following: Physicians may not treat more than 20 patients in an office setting unless the HHS Secretary adjusts this number; the HHS Secretary, as appropriate, may add to these conditions and allow the Attorney General to terminate a physician's DEA registration if these conditions are violated; and the program will continue after three years only if the HHS Secretary and Attorney General determine that this new type of decentralized treatment should continue based on a number of determinations.

The National Institute on Drug Abuse [NIDA], under a Cooperative Research and Development Agreement with a pharmaceutical manufacturer, has helped to develop buprenorphine, which is expected to be approved by the Food and Drug Administration in the near future. The Congress, NIDA and the National Academy of Sciences Institute of Medicine (IOM) have long recognized the urgent need to develop new medications for drug addiction treatment. This is evident in the enactment of the Anti-Drug Abuse Act of 1988, which established the Medications Development Division of the National Institute on Drug Abuse, and the enactment of legislation requiring HHS and IOM to cooperate in the development of anti-addiction medications.

Recent data show that five out of six opiate addicts are currently not in treatment. This has contributed to a continuing public health crisis of significant proportions—the age of first heroin use is dropping; the number of heroin users is increasing; and the number of people becoming dependent on heroin is increasing. According to NIDA, the incidence of first-time use of heroin in the 12–17 year old group has increased fourfold from the 1980s to 1995.

These facts and sentiments were also expressed by experts in this field of critical importance to the Nation during a May 9, 1997 Drug Forum on Anti-addiction Research, which I convened along with Senator MOYNIHAN and Senator BOB KERREY. Forum participants, including distinguished experts such as Dr. Herbert Kleber and Dr. Donald Landry of Columbia University, Dr. Charles Schuster of Wayne State University and Dr. James Woods of the University of Michigan, made it crystal clear that time is of the essence—we must act expeditiously on new treatment discoveries. According to public health experts, the untreated population of opiate addicts (and other injection drug users) is the primary means for the spread of HIV, hepatitis B and C, and tuberculosis into the general population, not to mention the families of such addicted persons. Failure to block the craving for drugs along with failure to provide traditional treatment will most certainly continue the spiral of huge health care costs—costs that will largely be borne not by the addicts, not by insurance companies—but by the American taxpayer.

Buprenorphine, currently in Schedule V of the Controlled Substances Act, has a unique property—it has a ceiling effect, it is well tolerated by opiate addicted persons, and has a very low value for diversion on the street. Clinical trials conducted in 12 hospitals around the United States proved the new medication to be an extremely effective treatment medication. According to NIDA, of the 100,000 heroin addicts in France, between 40,000–50,000 addicts are being treated with buprenorphine without ill effects. Dr. Donald Wesson, Chairman of the American Society of Addiction Medicine (ASAM) Medication Development Committee wrote:

(The availability of buprenorphine in physicians' offices adds a needed level of care and is one avenue to expand current opioid treatment capacity. ASAM strongly supports federal legislation to enable buprenorphine to be prescribed in physicians' offices for treatment of opioid dependence . . . We are very pleased to see that the bill makes provisions for physician training and qualification.)

Mr. President, finally, there are a number of questions that I raised with NIDA regarding buprenorphine prior to the introduction of this legislation which I would like to share with my colleagues in the Senate. I would also like to share the informative memo on this subject which I received from The American Society of Addiction Medicine (ASAM). I ask unanimous consent that the October 5, 1998 reply from NIDA Director, Dr. Alan Leshner, and the October 8, 1998 memo from Dr. Donald R. Wesson of ASAM be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES, NATIONAL INSTITUTE ON DRUG ABUSE,
Rockville, MD, October 5, 1998.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: Thank you for your letter dated September 17 requesting the views of the National Institute on Drug Abuse (NIDA) regarding the use of buprenorphine and buprenorphine/naloxone for the treatment of opiate dependence. Your letter asked us to address three specific questions. Our answers are provided below.

Question No. 1. Is buprenorphine (alone and in combination) a safe and effective treatment for drug addiction?

While the ultimate decision concerning safety and efficacy rests with the Food and Drug Administration (FDA), NIDA has funded many studies that support the safety and efficacy of buprenorphine and the buprenorphine/naloxone combination for the treatment of opiate dependence. During the time NIDA has studied this medication, we have been impressed with its safety and efficacy as a treatment for opiate dependence. Over the last 5 years, NIDA has worked with Reckitt & Colman Pharmaceuticals, Inc., under a Cooperative Research and Development Agreement in an attempt to bring buprenorphine (which the FDA has designated as an orphan product), to a marketable status in the United States. These studies have been submitted by Reckitt & Colman to the FDA in support of a New Drug Application for buprenorphine products in the treatment of opiate dependence. The major studies of relevance have shown that buprenorphine is more effective than a low dose of methadone (Johnson et al, J.A.M.A., 1992), and that an orderly dose effect of buprenorphine on reduction of opiate use occurred (Ling et al, Addiction, 1998). Most recently, buprenorphine tablets (either buprenorphine alone or the combination with naxolone) were shown in a large clinical trial to be superior to placebo treatment in reducing opiate use (Fudala et al, CPDD, 1998). Additional clinical studies have shown that the addition of naxolone to the buprenorphine tablet decreased the response to buprenorphine when the combination is injected under controlled conditions. This means that when persons attempt to dissolve the tablets and inject them, they will either experience withdrawal or a diminished buprenorphine effect. These properties will make buprenorphine combined with naxolone undesirable for diversion to illicit use, especially when compared with other existing illegal and legal opiate products.

Pharmacologically, buprenorphine is related to morphine but is a partial agonist (possesses both agonist and antagonist properties). Partial agonists exhibit ceiling effects (i.e., increasing the dose only has effects to a certain level). Therefore, partial agonists usually have greater safety profiles than full agonists (such as heroin or morphine and certain analgesic products chemically related to morphine). This means that buprenorphine is less likely to cause respiratory depression, the major toxic effect of opiate drugs, in comparison to full agonists such as morphine or heroin. We believe this will translate into a greatly reduced chance of accidental or intentional overdose. Another benefit of buprenorphine is that the withdrawal syndrome seen upon discontinuation with buprenorphine is, at worst, mild to moderate and can often be managed without administration of narcotics.

Question No. 2. Do current regulations properly set forth the rules for administration, delivery, and use of these drugs?

There are no current regulations which address the use of buprenorphine or buprenorphine/naloxone for the treatment of opiate dependence because these products are not yet approved for this purpose by the FDA. The current regulations (21 CFR 291) for administration and delivery of narcotic medications in the treatment of narcotic dependent persons were written for the use of full agonist medications such as methadone with demonstrated abuse potential and do not take into account the unique pharmacological properties of these drugs. Therefore, these regulations would need to be reexamined and substantially rewritten in order to recognize the unique possibilities posed by buprenorphine/naloxone. Among these are the potential to administer buprenorphine and buprenorphine/naloxone in settings and situations other than the formal Narcotic Treatment Programs (NTPs) which have existed to date under existing regulations. As you may be aware, NTPs are the most highly regulated form of medicine practiced in the U.S., as they are subject to Federal, State, and local regulation. Under this regulatory burden, expansion of this system has been static for many years. This has resulted in a "treatment gap", which is defined as the difference between the number of opiate dependent persons and those in treatment. The gap currently is over 600,000 persons and represents 75–80% of all addicts.

It may be useful to note the status of the last new product introduced to the opiate dependence treatment market (levoacetyl methadol, tradename ORLAAM). ORLAAM was an orphan product developed by NIDA and a U.S. small business in the early 1990s for narcotic dependence. ORLAAM was approved by the FDA as a treatment medication for opiate dependence in July 1993. In the five years since its approval and dispensing under the more restrictive rules relating to the use of full agonist medications (21 CFR 291), ORLAAM has been poorly utilized to increase treatment for narcotic dependence. It is estimated that 2,000 of the estimated 120,000 patients in narcotic treatment programs are receiving ORLAAM. The failure of ORLAAM to make an appreciable impact under the more restrictive rules suggests that if buprenorphine is to make an appreciable impact on the "treatment gap" it must be delivered under different rules and regulations.

The issue then becomes why should buprenorphine products be delivered differently from ORLAAM and methadone. First, buprenorphine's different pharmacology should be kept in mind when rules and regulations are promulgated. The regulatory burden should be determined based on a review of the risks to individuals and society of this medication being dispensed by prescription and commensurate with its safety profile, as is the case with evaluation of all controlled substances. It is our understanding that the Drug Enforcement Administration has recognized the difference between buprenorphine treatment products and those currently subject to 21 CFR 291 and has communicated these views to your staff. Second, there are many narcotic addicts who refuse treatment under the current system. In a recent NIDA funded study (NIDA/VA #1008), approximately 50% of the subjects had never been in treatment before. Of that group, fully half maintained that they did not want treatment in the current narcotic treatment program system. The opportunity to participate in a new treatment regimen (buprenorphine) was a motivating factor. Fear of stigmatization is a very real factor holding back narcotic dependent individuals from entering treatment. Third, narcotic addiction is spreading from urban to suburban areas. The current system, which tends to be concentrated in urban areas, is a poor fit for the suburban spread of narcotic addiction. There are many communities whose zoning will not permit the establishment of narcotic treatment facilities, which has in part been responsible for the treatment gap described above. While narcotic treatment capacity has been static, there has been an increase in the amount of heroin of high purity. The high purity of this heroin has made it possible to nasally ingest (snort) or smoke heroin. This change in the route of heroin administration removes a major taboo, injection and its attendant use of needles, from initiation and experimentation with heroin use. The result of these new routes of administration is an increase in the number of younger Americans experimenting with, and becoming addicted to, heroin. The incidence of first-time use of heroin in the 12 to 17 year old group has increased fourfold from the 1980s to 1995. Treatment for adolescents should be accessible, and graduated to the level of dependence exhibited in the patient. Buprenorphine products will likely be the initial medication(s) for most of the heroin-dependent adolescents.

Question No. 3: Should more physicians be permitted to dispense these drugs under controlled circumstances?

It is our contention that more treatment should be made more widely available for the reasons stated above. The safety and effectiveness profiles for buprenorphine and buprenorphine/naloxone suggest they could be dispensed under controlled circumstances that would be delineated in the product labeling and associated rules and regulations. As currently envisioned, buprenorphine and buprenorphine/naloxone would be prescription, Schedule V controlled substances. The treatment of patients by physicians or group practice would allow office-based treatment to augment the current system, while placing an adequate level of control on the dispensing of these medications. Given the increased need for treatment, the relative safety and efficacy of the treatment product, and the development of a regulatory scheme satisfactory to the Department of Health and Human Services, we believe that these goals could be accomplished in a timely and effective manner.

Thank you for the opportunity to respond to your questions. Should you need additional information, please feel free to contact me again.

Sincerely,

ALAN I. LESHNER, PH.D,
Director.

CHAIRMAN, MEDICATION DEVELOPMENT COMMITTEE, THE AMERICAN SOCIETY OF ADDICTION MEDICINE, OCTOBER 8, 1998

(By Donald R. Wesson, M.D.)

Clinical experience within the context of narcotic treatment clinics, drug abuse treatment clinics, and private practice shows that opioid[1] abusers are very diverse in lifestyle, extent of involvement in the drug subculture, and criminal activities. Clinical experience has also established that many opioid abusers relapse to opioid use unless they are maintained on medications with opioid properties.

Opioid maintenance treatment, by blocking the effect of illicit opioids and stabilizing patients' emotional states, allows patients to receive outpatient treatment while making the life-style changes needed to remain abstinent. Most opioid abusers will relapse to illicit opioid abuse unless they are also provided drug counseling, group therapy or individual psychotherapy; however, all opioid abusers do not require the same level of drug abuse treatment services. Some need the highly-structured, behavior modification services and maintenance with methadone or LAAM. Others require less intensive drug abuse treatment and could be adequately treated with a less potent opioid maintenance medication, such as buprenorphine, provided within the context of physicians' offices in conjunction with an appropriate level of psychosocial services.

Treatment of opioid addiction has for many years been separated from mainstream medical practice. There is a body of specialized knowledge concerning treatment of opioid addiction that has evolved from clinical experience with methadone maintenance and from non-narcotic treatment of opioid addiction. Unlike most areas of medicine in which physicians voluntarily confine their medical practice to areas in which they have specialized training, treatment of drug abusers is unusual in that many physicians may assume competence that they may not, in fact, possess. At the present time, many physicians who are not addiction specialists do not understand addiction, particularly narcotic addiction. Further, there are no generally accepted practice guidelines for office-based narcotic addiction treatment.

The American Society on Addiction Medicine strongly supports the position that physicians appropriately trained and qualified in the treatment of opiate withdrawal and opiate dependence should be permitted to prescribe buprenorphine in the normal course of medical practice and in accordance with appropriate medical practice guidelines, and that federal controlled substance scheduling guidelines and other federal and state regulations should permit buprenorphine to be made available for physicians to prescribe to their patients in accordance with documented clinical indications.[2]

The American Society of Addiction Medicine (ASAM) has a certification examination in addiction medicine and the American Board of Psychiatry and Neurology has a certification examination in addiction psychiatry. The American Society of Addiction Medicine, the American Methadone Treatment Association and the American Academy of Addiction Psychiatry have agreed to develop guidelines and physician training for use of opioids in office-based physician practices.

It is highly desirable that physicians who plan to prescribe opioids from their offices be certified by one of the national organizations that offers training and certification in addiction medicine or psychiatry.

A problem with current federal regulation of opioid treatment is that opioid maintenance is viewed as a treatment of last resort and only possible within the context of specially licensed clinics with methadone or LAAM. Because of costs, or limited public sector treatment capacity, or because they do not meet state and federal requirements for maintenance with methadone or LAAM, many patients who need opioid medication treatment cannot access methadone or LAAM treatment. The availability of buprenorphine in physicians' offices adds a needed level of care and is one avenue to expand current opioid treatment capacity.●

By Mrs. HUTCHISON (for herself, Mr. DOMENICI, Mr. NICKLES, Mr. MURKOWSKI, Mr. BINGAMAN, Mr. BREAUX, Mr. BROWNBACK, Mr. COCHRAN, Mr. CONRAD, Mr. ENZI, Mr. GRAMM, Mr. INHOFE, Ms. LANDRIEU, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. STEVENS, Mr. THOMAS, Mr. BURNS, and Mr. LOTT):

S. 325. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes; to the Committee on Finance.

THE U.S. ENERGY ECONOMIC GROWTH ACT

● Mrs. HUTCHISON. Mr. President, today I am pleased to introduce the U.S. Energy Economic Growth Act.

Mr. President, the oil and gas industry in this country is in a state of crisis. In energy producing states, we are hearing daily from our constituents about this crisis.

This week the oil and gas rig count hit an all-time low of 588 rigs nationwide. This is down from nearly 5,000 rigs operating in 1981. Crude oil prices are at their lowest point in decades, and some think they will fall further.

According to the Texas Comptroller of Public Accounts, for every dollar drop in the price of oil, ten thousand Texas jobs are at risk. Last year, the energy industry lost 30,000 jobs in the United States.

Mr. President, not only is this an economic issue, it's a national security issue. We are importing more oil than we produce. This is not a healthy situation for shaping our foreign policy agenda.

To reverse these trends and increase our energy independence, I have worked, on a bi-partisan basis, to develop the U.S. Energy Economic Growth Act.

---

[1] Opioid is a broad term that covers drugs and medications with morphine-like effects. Technically, opiate refers to drugs or medications that are derived from the opium poppy plant. The most common abused opiate is heroin; however, synthetic medications with morphine-like effects, such a fentanyl, are also abused. Opioid is the more inclusive term. Opioid and opiate are often used interchangeably.

[2] Adopted by ASAM Board April 15, 1998.

This legislation provides tax incentives in two significant areas to boost U.S. oil production. First, the legislation would provide a $3 dollar a barrel tax credit, on the first three barrels that can offset the cost of keeping marginal wells operating at a time of low prices.

Marginal wells are those that produce 15 barrels a day or less. On average, they produce two barrels a day. There are close to 500,000 such wells across the U.S. that collectively produce 20 percent of America's oil. To put this in perspective, we import 20 percent of our oil from Saudia Arabia. Texas, alone, has 100,000 marginal wells. Regrettably, 48,000 wells have been idled or shut in the past year.

In recent months, some marginal well producers report prices as low as $6 per barrel. If we don't act soon, these producers—and the thousands they employ—will go out of business.

These marginal wells can still be profitable for all of us. In 1998, these low-volume wells generated $314 million in taxes paid annually to state governments.

Second, Mr. President, the bill would provide incentives to restart inactive wells by offering producers a tax exemption for the costs of doing so.

In Texas, a similar program has resulted in 6,000 wells being returned to production, injecting approximately $1.65 billion into the Texas economy.

Mr. President, improving the production and flow from both marginal wells and inactive wells will do a great deal to improve our energy production. This is vital to improving the state of the U.S. oil and gas industry.

I am pleased that this legislation has 18 co-sponsors from both sides of the aisle. I would invite all members of the Senate to join me as a co-sponsor.

This morning I testified before the Senate Energy Committee on this bill. Certainly that Committee recognizes the gravity of this situation. I would hope that, with the introduction of this bill, the Senate as a whole will begin to focus on this problem and we can begin finding solutions.•

• Mr. NICKLES. Mr. President, I rise today to join in offering the U.S. Energy and Economic Growth Act. This legislation is an effort to help revive our domestic oil and gas industry which plays such a vital role in our national security. If our domestic industry is to survive, then Congress needs to act now to provide tax incentives to encourage energy production in America.

Since the early 1980's, oil and gas extraction employment has been cut in half. Employment in the oil and gas industry has declined by almost 500,000 since 1984. Imports of crude oil products were $71 billion in 1977, and the import dependency ratio now exceeds fifty percent. From 1973 to 1998, crude oil production dropped 43% in the lower 48 states. We must take action now to save domestic production not only for the sake of the oil and gas industry but for the sake of the national security of this nation.

To date, the Clinton Administration has done nothing to encourage domestic production. In the President's State of the Union address, he named no initiatives to aid this troubled industry and recently, his Administration has conspired with the U.N. to almost double the amount of oil Iraq can export under the so-called food-for-oil program.

The U.S. Energy and Economic Growth Act is intended to do just what its name implies—preserve and revitalize the domestic oil and gas industry through economic incentives to production. This bill would accomplish these goals through specific tax proposals.

Marginal wells are those which produce less than 15 barrels per day or gas wells which produce less than 90 thousand cubic feet per day. The United States has over 500,000 marginal wells producing nearly 700 million barrels of oil each year and contributing 80,000 jobs and $14 billion to the annual economy.

This legislation provides incentives to keep these valuable wells in production through a $3 per barrel tax credit on the first three barrels of daily production, or $0.50 per mcf for the first 18 mcf of daily natural gas production. These credits would only apply when low market prices necessitated them for the survival of the industry, and are phased out when prices increase.

In an effort to reclaim oil lost to closed wells, this bill allows producers to exclude income attributable to oil and natural gas from a recovered inactive well. The provision only applies to wells which have been inactive for at least two years prior to the date of enactment, and which are recovered within five years from the date of enactment.

The U.S. Energy and Economic Growth Act would also allow current expensing of geological and geophysical costs incurred domestically including the Outer Continental Shelf. These costs are an important and integral part of exploration and production for oil and natural gas, and should be expensed.

Furthermore, this bill clarifies that delay rental payments are deductible, at the election of the taxpayer, as ordinary and necessary business expenses. This clarifies an otherwise gray area in Treasury regulations and eliminates costly administrative and compliance burdens on both taxpayers and the IRS.

Lastly, the legislation includes hydro injection and horizontal drilling as tertiary recovery methods for purposes of the Enhanced Oil Recovery Credit. Although the Treasury Department is tasked with continued evaluations and editions to the list of recovery methods covered under this credit, they have proven notably lax in pursuing this objective. By legislating this outcome, this bill keeps domestic production of our endangered marginal wells on the cutting edge of available technology.

Collectively, the provisions of this bill provide much needed incentives to an industry that is vital to our national security. The sooner the Administration and Congress acknowledge the critical importance of the domestic oil and gas industry and stop burdening this industry with high taxes and regulatory obstacles, the sooner we can take the necessary actions to preserve and revitalize this important sector of our economy. Passage of the U.S. Energy and Economic Growth Act would be a significant step in that direction. I urge my colleagues to support this legislation which will positively impact the domestic oil and gas industry by helping to bridge the gap in these lean economic times.•

• Mr. BURNS. Mr. President, I rise today to join Senator HUTCHISON, many members of the Energy and Natural Resources Committee, and other Senators who recognize the importance of our domestic energy market in presenting the United States Energy Economic Growth Act. This act is extremely important given the current state of our domestic oil and gas industry. The current market, coupled with government inaction and misguided regulation, has created an environment that is forcing many of our producers out of the energy market.

I have risen many times before, and unless things change I will rise many times again, to voice my concern over that fact that we are running our producers into the ground. Agriculture, timber, mining and energy; it doesn't seem to make a difference these days which natural resource market you work in, you don't get a fair price for an honest day's work.

This morning in the Energy and Natural Resource Committee, we had a hearing on this very problem. I must say, I heard some of the best testimony that I have ever heard before a Senate Committee. It just made good sense. We didn't have people asking for handouts. We didn't have people placing blame. We had some hard working oil and gas producers, state governors and representatives of oil and gas producing states outline the problem and offer solutions.

One of the biggest problems discussed was the loss of domestic production capability in the form of marginal wells. We are losing these wells at an alarming rate. As a result our reliance on foreign energy sources is skyrocketing. We are running our producers out of business, increasing our dependence on foreign oil, and throwing our trade balance askew.

This legislation will help our independent producers running marginal wells stay in business. Much more needs to be done, but this bill will help relax the heavy hand of government on an ailing industry. As pointed out this morning, the current administration stepped in to help the straw broom industry when less than a hundred jobs were at risk. It's time this Congress takes a stand, and hopefully the administration will join us, in supporting an industry where tens of thousands of jobs, our national security, and our economic well-being are all being placed at risk.•

By Mr. JEFFORDS (for himself, Mr. FRIST, Mr. DEWINE, Mr. ENZI, Mr. HUTCHINSON, Ms. COLLINS, Mr. BROWNBACK, Mr. HAGEL, and Mr. SESSIONS);

S. 326. A bill to improve the access and choice of patients to quality, affordable health care, to the Committee on Health, Education, Labor, and Pensions.

PATIENTS' BILL OF RIGHTS

• Mr. JEFFORDS. Mr. President, today, I am proud to join with eight other members of the Committee on Health, Education, Labor, and Pensions in introducing the "Patients' Bill of Rights." I think it is solid legislation that will result in a greatly improved health care system for Americans.

As Chairman of the Committee on Health, Education, Labor, and Pensions, with its jurisdiction of private health insurance and public health programs, I anticipate that the Committee will have an active health care agenda during the 106th Congress, including early consideration of patient protection legislation. In fact, on January 20th, the Committee held a hearing on the Department of Labor's proposed rules on health plan information requirements and internal and external appeals rights.

Last week's hearing builds on the foundation of 14 related hearings, which my Committee held during the 105th Congress. These included 11 hearings related to the issues of health care quality, confidentiality, genetic discrimination, and the Health Care Financing Administration's (HCFA) implementation of its new health insurance responsibilities. And Senator BILL FRIST's Public Health and Safety Subcommittee held three hearings on the work of the Agency for Health Care Policy and Research (AHCPR). Each of these hearings helped us in developing the separate pieces of legislation that are reflected in our "Patients' Bill of Rights."

People need to know what their plan will cover and how they will get their health care. The "Patients' Bill of Rights" requires full information disclosure by an employer about the health plans he or she offers to employees. Patients also need to know how adverse decisions by the plan can be appealed, both internally and externally, to an independent medical reviewer.

The limited set of standards under the Employee Retirement and Income Security Act (ERISA) may have worked well for the simple payment of health insurance claims under the fee-for-service system in 1974. We have moved from a system where an individual received a treatment or procedure, and the bill was simply paid. In our current system, an individual frequently obtains authorization before a treatment or procedure can be provided. And it is in the context of these changes that ERISA needs to be amended in order to give participants and beneficiaries the right to appeal adverse coverage or medical necessity decisions to an independent medical expert.

Under the "Patients' Bill of Rights," enrollees will get timely decisions about what will be covered. Furthermore, if an individual disagrees with the plan's decision, that individual may appeal the decision to an independent, external reviewer. The reviewer's decision will be binding on the health plan. However, the patient maintains his or her current rights to go to court. Timely utilization decisions and a defined process for appealing such decisions is the key to restoring trust in the health care system.

Another important provision of the "Patients' Bill of Rights" would limit the collection and use of predictive genetic information by group health plans and health insurance companies. As our body of scientific knowledge about genetics increases, so, too, do the concerns about how this information may be used. There is no question that our understanding of genetics has brought us to a new future. Our challenge as a Congress is to quickly enact legislation to help ensure that our society reaps the full health benefits of genetic testing, and also to put to rest any concerns that the information will be used as a new tool to discriminate against specific ethnic groups or individual Americans.

Our legislation addresses these concerns by prohibiting group health plans and health insurance companies in all markets from adjusting premiums on the basis of predictive genetic information; and it prohibits group health plans and health insurance companies from requesting predictive genetic information as a condition of enrollment.

Many of our colleagues argue that the current accountability structure of ERISA is insufficient to protect patients from bad decisions made by health plans. They would like to hold health plans accountable by removing the ERISA preemption and allowing group health plans to be sued in State court for damages resulting from personal injury or for wrongful death due to "the treatment of or the failure to treat a mental illness or disease."

Mr. President, patients already have the right to sue their health plan in State court. Patients can sue health plans for personal injury or wrongful death resulting from the delivery of substandard care or the failure to diagnose and properly treat an illness or disease. Furthermore, the courts have determined that health plans can be held liable for having policies that encourage providers to deliver inadequate medical care.

You simply cannot sue your way to better health. We believe that patients need to get the care they need when they need it. In the "Patients' Bill of Rights," we make sure each patient is afforded every opportunity to have the right treatment decision made by health care professionals. And, we make sure that a patient can appeal an adverse decision to an independent medical expert outside the health plan. This approach, Mr. President, puts teeth into ERISA and will assure that patients get the care they need. Prevention, not litigation, is the best medicine.

As the Health and Education Committee works on health care quality legislation, I will keep in mind three goals. First, to give families the protections they want and need. Second, to ensure that medical decisions are made by physicians in consultation with their patients. And, finally, to keep the cost of this legislation low, so that it displaces no one from getting health care coverage.

Our goal is to give Americans the protections they want and need in a package that they can afford and that we can enact. This is why I hope the "Patients' Bill of Rights" we have introduced today will be enacted and signed into law by the President.•

By Mr. HAGEL (for himself, Mr. DODD, Mr. DORGAN, Mr. GRAMS, Mr. HARKIN, Mr. LUGAR, Mr. ROBERTS, and Mr. WARNER):

S. 327. A bill to exempt agricultural products, medicines, and medical products from U.S. economic sanctions; to the Committee on Foreign Relations.

FOOD AND MEDICINE SANCTION RELIEF ACT OF 1999

• Mr. HAGEL. Mr. President, today Senator DODD and I are introducing the Food and Medicine Sanctions Relief Act of 1999. Joining us as cosponsors are our colleagues Senators DORGAN, GRAMS, HARKIN, LUGAR, ROBERTS, and WARNER.

This bill makes the simple statement that we should not include food and medicine in any unilateral sanction or embargo we may place on another country. Food and medicine are the most fundamental of human needs. Food and medicine should have no place in any sanctions we may impose on other countries because we do not like the policies of an aggressive or oppressive government.

We have gone too far in imposing unilateral economic sanctions on other nations. Sanctions can be a tool of foreign policy, but too often then have become a substitute for foreign policy.

From 1993 to 1996, the United States imposed 61 unilateral economic sanctions on 35 nations. We now have some form of sanctions on more than half of the world's population. It is time that we say "no more." This legislation says that we will no longer use farm policy as a foreign policy weapon.

The pace of change today is unprecedented in modern history, and maybe all of history. Trade, and particularly the trade in food and medicine, is the common denominator that ties together the nations of the world. American exports of food and medicine acts to build bridges around the world. It strengthens ties between people and demonstrates the basic humanitarian impulse of the American people.

We live in a dynamic, interconnected world. Sanctions without the support of our allies only hurt us. And from a foreign policy perspective, unilateral sanctions rarely achieve their goal. Their real harm is on U.S. producers. It's estimated that sanctions cost the U.S. economy more than $20 billion each year. If a nation can't purchase products from the United States, particularly agricultural products, other nations are more than ready to fill the needs of those markets.

American agriculture and the U.S. government must send a strong message to our customers and our competitors around the world—our agricultural producers are going to be consistent and reliable suppliers of quality and plentiful agricultural products.

Once foreign agricultural markets are lost—for whatever reason—it can take decades to restore them. In 1973, the U.S. banned soybean exports to Japan. What did that accomplish? It turned Brazil into a significant soybean producer, and America has never fully recovered its soybean market share in Japan . . . and for good reasons, because it raised questions about the reliability of America as an agricultural supplier. Another example is that the Soviet grain embargo of 1979 cost the U.S. $2.3 billion in lost farm exports and USDA compensation to farmers. When the U.S. cut off sales of wheat to protest the Soviet invasion of Afghanistan, France, Canada, Australia and Argentina stepped in to claim this market and the former Soviet states have been timid buyers of U.S. farm products ever since.

This is also the right thing to do. It's beneath this great nation to withhold medicine and food as a tool to implement its foreign policy. We are the most powerful nation on earth. Removing these items from the U.S. arsenal of economic sanctions will say to the poor and hungry of the world that they will not have to suffer the consequences of their government's actions.

I am from a Midwestern state, a large agriculture exporting state. But there is not a farmer or rancher in Nebraska who would say, "I would trade America's national or security interests just to sell more corn or beef." That is not the question. The question is whether we should place a humanitarian hardship on the people of other countries because of the actions of their governments. Doing this does not advance our country's interests. In fact, it hurts our national interest, just as it intensifies the hardship being faced today by America's agricultural producers.

History has shown, Mr. President, that trade and commerce does more to change attitudes and alter behaviors over time than any one thing. Why? It improves diets; it improves standards of living; it opens societies; it exposes people who lived under totalitarian rule to the concepts of personal freedom, economic freedom, and individual choice.

Ultimately, sanctions and embargoes mostly isolate ourselves. Trade embargoes isolate those who impose them. This bill is an important step forward, and is a part of the larger debate this Congress on the role of the U.S. in the world and how we intend to engage in the world. Trade is the keystone of our global engagement.

Mr. President, I encourage my colleagues to support this legislation, and to engage in the debate over the role of unilateral economic sanctions in American foreign policy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 327

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Food and Medicine Sanctions Relief Act of 1999".

SEC. 2. PURPOSE.

It is the purpose of this Act to exempt agricultural products, medicines and medical equipment from U.S. economic sanctions.

SEC. 3. FINDINGS.

(1) Prohibiting or otherwise restricting the donations or sales of food, other agricultural products, medicines or medical equipment in order to sanction a foreign government for actions or policies that the United States finds objectionable unnecessarily harms innocent populations in the targeted country and rarely causes the sanctioned government to alter its actions or policies.

(2) For the United States as a matter of U.S. policy to deny access to United States food, other agricultural products, medicines, and medical equipment by innocent men, women and children in other countries weakens the international leadership and moral authority of the United States.

(3) Sanctions on the sale or donations of American food, other agricultural products, medicine or medical equipment needlessly harm American farmers and workers employed in these sectors by foreclosing markets for these United States products.

SEC. 4. EXCLUSION FROM SANCTIONS.

(1) Notwithstanding any other provision of law, the President shall not restrict or otherwise prohibit any exports (including financing) of food, other agricultural products (including fertilizer), medicines or medical equipment as part of nay policy of existing or future unilateral economic sanctions imposed against a foreign government.

(2) Exceptions. Section 4(1) of this Act shall not apply to any regulations or restrictions of such products for health or safety purposes or during periods of domestic shortages of such products.

SEC. 5. EFFECTIVE DATE.

(1) The provisions of this Act shall become effective upon the enactment of this Act.●

By Mr. SMITH of New Hampshire:

S. 328. A bill to make permanent the moratorium on the imposition of taxes on the Internet; to the Committee on Commerce, Science, and Transportation.

INTERNET CONSUMER PROTECTION LEGISLATION

● Mr. SMITH of New Hampshire. Mr. President, last year, we enacted a three-year moratorium on new Internet sales taxes. Today, I am introducing a bill that would make this moratorium permanent.

Internet commerce has exploded in recent years. For example, U.S. sales on the Internet last year totaled $8 billion. This last Christmas season was about three times as busy as the previous one, with consumers spending about $3 billion on goods purchased over the Internet. A recent survey of American adults by the Pew Research Center suggests that 41% of American adults now uses the Internet.

For Americans who live in remote areas, such as residents of New Hampshire's North Country, the Internet offers major advantages. They now can shop by computer instead of driving several hours to the urban shopping malls or Main Street businesses. As noted by economist Larry Kudlow, other potential Internet shoppers include the elderly, busy executives, stay-at-home parents, the disabled and others.

Despite all of its benefits for our economy and American consumers, Internet commerce is at risk from state and local politicians seeking ever more tax revenues. Already, a number of states have imposed taxes on Internet sales. But there are several reasons why we should refuse to transform the Internet into a pot of gold for state and local tax collectors.

First, not only do all states and localities have other options for raising revenue—such as income taxes, use taxes and property taxes—but most are running budget surpluses. I asked the Congressional Research Service to analyze what has happened to traditional sales tax revenues over the past five years, when Internet use exploded. CRS reported that the growth in sales tax revenues has outpaced inflation in this period.

Second, a tax on Internet shopping is really just another tax on the American consumer. American consumers already pay taxes on their salaries, taxes on their capital gains, property taxes on their homes, taxes on the goods they purchase from instate vendors, and estate taxes on any property they have managed to save by the time of their death. Imposing yet another layer of taxes in cyberspace is simply unfair, especially because many Internet shoppers already pay shipping or handling costs in addition to the purchase price of the goods they buy.

Furthermore, imposing new taxes on Internet-related revenues could stifle the development of Internet commerce in the U.S. As reported in yesterday's Wall Street Journal, a University of Chicago economist who studied the buying decisions of 25,000 Internet shoppers found that applying sales taxes to Internet commerce "would reduce the number of online buyers by 25% and spending by more than 30%."

Some politicians would like to make each online business be a sales tax collector for every tax jurisdiction in the United States. Doing so simply would give Internet businesses—especially those whose profit margins are slim—a good incentive to move offshore. Geography is not important on the Internet, and many Internet vendors can relocate without disruption to their customers.

Finally, many Internet transactions are really interstate commerce. The Founding Fathers recognized the danger that each state might impose taxes or tariffs on goods produced in other states, so they authorized the Federal government to prevent interstate trade wars. In interpreting the Commerce Clause of the U.S. Constitution, the Supreme Court has held that commerce which crosses state boundaries should be subject to state sales taxes only when both seller and buyer are in the same state, or when the seller has a presence in the buyer's state.

There is little reason to fear, as some have claimed, that Main Street businesses are at risk from Internet vendors. I can think of nothing that would prevent these businesses from offering their own on-line shopping services. Some already have done so with great success. Moreover, the Internet likely will attract entirely new customers whose purchases will only increase total retail sales.

The purpose of the bill I am introducing today is to allow Internet commerce to continue to prosper in this country, by making permanent the three-year moratorium that we enacted last year. Under my bill, state and local governments could not impose new Internet sales taxes.

Mr. President, I hope that all of my colleagues will support this legislation, which is of great importance to the American consumer and our economy.●

By Mr. ROBB:

S. 329. A bill to amend title, United States Code, to extend eligibility for hospital care and medical services under chapter 17 of that title to veterans who have been awarded the Purple Heart, and for other purposes.

COMBAT VETERANS MEDICAL EQUITY ACT OF 1999

Mr. ROBB. Mr. President, I rise today to introduce the Combat Veterans Medical Equity Act of 1999, legislation which will serve to codify America's obligation to provide for the medical needs of our combat-wounded veterans.

Although we have long recognized the combat-wounded vet to be among our most deserving veterans, and although we have long distinguished the sacrifices of these veterans by awarding the Purple Heart medal, remarkably, there is nothing in current law that stipulates an entitlement to health care based upon this physical sacrifice. In fact, I believe most Americans would be surprised to learn that a combat-wounded Purple Heart recipient could be denied services for which a non-combat veteran, with a non-service-connected disability, would be eligible. This legislation would seek to remedy that situation.

Specifically, this bill establishes for VA hospital care and medical services based upon the award of the Purple Heart Medal. It also gives Purple Heart recipients an enrollment priority on par with former Prisoners of War and veterans with service-connected disabilities rated between 10 and 20%.

Mr. President, as a Vietnam Veteran who has been privileged to lead marines in combat, and as a member of the Senate Armed Services Committee, I have a keen appreciation for the sacrifices made by all of our men and women in uniform. At the same time, in the face of tighter budgets and greater competition for services, I believe strongly that Congress should ensure equity in disbursing of medical services for our most deserving veterans—the combat wounded. These veterans, who have shed their blood to keep our country safe and free, deserve no less.

Mr. President, I salute them, and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIGIBILITY FOR HOSPITAL CARE AND MEDICAL SERVICES BASED ON AWARD OF PURPLE HEART.

(a) ELIGIBILITY.—Section 1710(a)(2) of title 38, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following new subparagraph (G):

"(G) who has been awarded the Purple Heart; or".

(b) ENROLLMENT PRIORITY.—Section 1705(a)(3) of such title is amended—

(1) by striking "and veterans" and inserting "veterans"; and

(2) by inserting ", and veterans whose eligibility for care and services under this chapter is based solely on the award of the Purple Heart" before the period at the end.

(c) CONFORMING AMENDMENTS.—(1) Section 1722(a) of such title is amended by striking "section 1710(a)(2)(G)" and inserting "section 1710(a)(2)(H)".

(2) Section 5317(c)(3) of such title is amended by striking "subsections (a)(2)(G)," and inserting "subsections (a)(2)(H),".

By Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. ROTH, Mr. MOYNIHAN, Mr. CHAFEE, Mr. GRASSLEY, Mr. HATCH, Mr. MURKOWSKI, Mr. BREAUX, Mr. GRAHAM, Mr. KERREY, Mr. ROBB, Mr. ROCKEFELLER, Mr. BINGAMAN, Mrs. BOXER, Mr. CLELAND, Ms. COLLINS, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. DURBIN, Mr. ENZI, Mrs. FEINSTEIN, Mr. GRAMS, Mr. HARKIN, Mr. HOLLINGS, Mr. HUTCHINSON, Mr. INOUYE, Mr. JOHNSON, Mr. KERRY, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. REID, Mr. SARBANES, Ms. SNOWE, Mr. STEVENS, Mr. TORRICELLI, and Mr. WELLSTONE):

S. 331. A bill to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes; to the Committee on Finance.

WORK INCENTIVES IMPROVEMENT ACT OF 1999

Mr. JEFFORDS. Mr. President, today Senators KENNEDY, ROTH, MOYNIHAN, and I, joined by many of our colleagues are introducing the Work Incentives Improvement Act of 1999. The reason for this broad bipartisan effort is both compelling and simple. Currently, individuals with disabilities must choose between working or getting health care. Such a choice is absurd. But, current federal law forces individuals with disabilities to make that choice. Our legislation addresses this fundamental flaw.

The federal government helps individuals with significant disabilities, who earn under $500 a month. Individuals, who have less than $2,000 in assets and have not paid into Social Security, receive Supplemental Security Income (SSI) cash payments and access to Medicaid. Individuals, who have worked and paid into Social Security, receive Social Security Disability Insurance (SSDI) cash payments and access to Medicare. Yet, the current system offers no incentive for SSI and SSDI recipients to work to their full potential, to be taxpayers, to contribute to their well-being and that of their families. The facts bear out this assertion. Less than one half of one percent of the 7.5 million individuals on the Social Security disability rolls leave them.

Do these individuals really want to work? The answer is a resounding, "Yes." Over the last 10 years, national surveys consistently confirm that people with disabilities of working age want to work, but only about one-third are working.

Are the numbers low because of discrimination or because of lack of skills? Congress has tackled these issues. We passed the Americans with Disabilities Act in 1990. It is against the law to discriminate against an individual on the basis of disability in employment as well as in all other contexts. The Individuals with Disabilities Education Act, the Rehabilitation Act, and most recently the Workforce Investment Act of 1998 contribute to the access of individuals with disabilities to the education and training they need to become qualified workers.

However, protection against discrimination is not enough. Access to education and training is not enough. Colleagues, the biggest remaining barrier is health insurance. Individuals with significant disabilities who meet the rigorous eligibility criteria of the Social Security disability programs cannot often get reasonably priced, appropriate health insurance coverage from the private sector. These individuals can only get health insurance from the government, and the government gives it to them only if they stay home, or at best, work a minimal amount.

It is difficult to measure fully the effect of having a job on an individual's life. It has a positive impact on a person's identity and sense of self-worth. Having a job results in satisfaction associated with supporting oneself and one's family or at least not being a burden on it. If only one percent of the 7.5 million SSI and SSDI recipients go to work and forgo cash payments from the Social Security Administration (SSA), this would result in a cash savings of $3.5 billion to the federal Treasury over the lifetimes of these individuals. If we factor in the income taxes these individuals would pay, their lack of need for food stamps, subsidized housing, and other forms of assistance, that $3.5 billion dollar figure would be even higher.

Beyond the individual, there is another factor. Recently we learned that our unemployment rate, 4.3 percent, is the lowest it has been since 1956. Our economy, to stay vibrant and strong, needs access to a qualified and enthusiastic pool of potential workers from which to draw. SSI and SSDI recipients are an untapped resource. Many of the jobs that currently go unfilled, in the service sector and technology industry, are the very jobs that many SSI and SSDI recipients are ready and willing to fill, if only they could have access to health care.

The Work Incentives Improvement Act of 1999 is targeted, fiscally responsible legislation. It would enable individuals with significant disabilities to enter the work force for the first time, reenter the work force, or avoid leaving it in the first place. These individuals would need not worry about losing their health care if they choose to work a forty hour week, to put in overtime, to go for a career advancement or change with more income potential.

Under current law, a poor individual with a disability who has not worked and not paid into Social Security, who meets rigorous criteria, receives monthly SSI payments. Once eligible for SSI cash payments, these individuals have access to Medicaid. In some states these individuals may have coverage of personal assistance services and prescription drugs through Medicaid. An SSI recipient who chooses to earn income, and then exceeds his or her state's threshold for earned income for an SSI beneficiary, loses SSI cash payments and access to Medicaid.

Also under current law, an individual who has worked and paid into Social Security, has a disability, and meets rigorous criteria, receives SSDI payments. After 24 months, these individuals have access to Medicare. Medicare does not cover the cost of personal assistance services or prescription drugs, items an individual with a disability may need to work at all. To access coverage of these items, an individual must spend-down his or her resources until he or she has under $2,000. Then, the individual can become eligible for coverage of these items through Medicaid in states where they are offered. An SSDI recipient who chooses to work and earns $500 monthly in a 12 month period, loses SSDI cash payments. SSDI beneficiaries continue to receive Medicare coverage after returning to work throughout a 39-month extended period of eligibility, but afterwards must pay the full Medicare Part A premium, which is over $300 monthly.

The bill would allow states to expand Medicaid coverage to workers with disabilities. These options build on previous reforms including a recent provision enacted in the Balanced Budget Act of 1997 (BBA). The BBA provision permitted states to offer a Medicaid buy-in to those individuals with incomes below 250 percent of poverty who would be eligible for SSI disability benefits but for their income.

The first option in our legislation would build on the BBA provision. States may elect to offer a Medicaid buy-in to people with disabilities who work and have earnings above 250 percent of poverty. Even so, participating States may also set limits on an individual's unearned income, assets, and resources and may require cost-sharing and premiums on a sliding scale up to a full premium.

The second option in our legislation would allow states that elect to do so to cover individuals who continue to have a severe medically determinable impairment but lose eligibility for SSI or SSDI because of medical improvement. Although medical improvement for individuals with disabilities is inextricably linked to ongoing interventions made possible through insurance coverage, under current law improvement can jeopardize continued eligibility for that coverage.

The legislation requires that states not supplant existing state-only spending with Medicaid funding under either of these options and maintain current spending levels on eligible populations.

A state which elects to implement the first option or the first and second options would receive a grant to support the design, establishment and operation of infrastructures to support working individuals with disabilities. A total of $150 million would be available for five years, and annual amounts would be increased at the rate of inflation from 2004 through 2009. In 2009, the Secretary of Health and Human Services would recommend whether the program is still needed.

The bill includes a ten-year trial program that would permit SSDI beneficiaries to continue to receive Medicare coverage when they return to work. This option in effect extends the current 39-month extended period of eligibility.

The legislation includes a time-limited demonstration program that would allow states to extend Medicaid coverage to workers who have a disability which, without access to health care, would become severe enough to qualify them for SSI or SSDI. This demonstration would provide new information on the cost effectiveness of early health care intervention in keeping people with disabilities from becoming too disabled to work. Funding of $300 million would be available for the demonstration, which would sunset at the end of FY 2004.

The legislation eliminates other programmatic disincentives. It would encourage SSDI and SSI beneficiaries to return to work by providing assurance that cash benefits remain available if employment proves unsuccessful. Specifically, the legislation would prohibit using employment as the sole basis for scheduling a continuing disability review and would expedite eligibility determinations for those individuals that need to return to SSDI benefits after losing such benefits because of work.

We estimate the total cost of these health care-related provisions to be a total of $1.2 billion over five years.

Recognizing that some SSI and SSDI recipients will need training and job placement assistance and that they seek choices related to these activities, in our bill we include provisions modeled on Senator BUNNING's legislation that passed the House last year. These "ticket to work and self-sufficiency" provisions would give SSI and SSDI beneficiaries more choices in where to obtain vocational rehabilitation and employment services and would increase incentives to public and participating private providers serving these individuals. The "ticket" provisions would create a new payment system for employment services to SSI and SSDI beneficiaries that result in employment. For each beneficiary a provider assists, the provider would be reimbursed with a portion of benefits savings to the federal government that would occur when the beneficiary earns more than the current law Substantial Gainful Activity (SGA) standard of $500 per month. These ticket provisions have been estimated to cost a total of $17 million over five years.

To assist individuals with disabilities to understand the myriad options available to them and their interrelationship, the legislation would create a community-based outreach program to provide accurate information on work incentives programs to individuals with disabilities, and a state grant program to help people cut red tape to access work incentives. For the community-based work incentives outreach program, up to $23 million per year would be provided for grants to states or private organizations. SSA would have the authority to provide state grants ($7 million annually) to provide help to beneficiaries in accessing the "ticket to work" and other work incentives programs.

The legislation would reauthorize SSA's demonstration authority which expired June 10, 1996. In addition, through mandated demonstration projects SSA is to assess the effect of a gradual reduction in cash benefits and earnings increase. Under current law, SSI recipients have access to a gradual reduction in their cash payments, but SSDI recipients do not. SSDI recipients lose cash payments immediately after earning $500 monthly in a 12 month trial work period. SSDI recipients participating in the demonstration would lose one SSDI dollar for every $2 earned.

Finally, the legislation directs the General Accounting Office (GAO) to study three issues: (1) tax credits and other disability-related employment incentives under the Americans with Disabilities Act of 1990; (2) the coordination of SSI and SSDI benefits; and (3) the effects of the Substantial Gainful Activity (currently $500 monthly) standard on work incentives.

These provisions have been estimated to cost a total of $55 million over five years.

This legislation represents two years of work. It reflects what individuals with disabilities say they need. It was shaped by input across the philosophical spectrum. It was endorsed by the President in his State of the Union Address. It is an opportunity to bring responsible change to federal policy and eliminate a perverse dilemma for many Americans with disabilities—if you don't work, you get health care; if you do work, you don't.

This legislation is a vital link that will make the American dream a reality for many Americans with disabilities. Let's work together to make the Work Incentives Improvement Act of 1999 the first significant legislation enacted by the 106th Congress.

Ms. COLLINS. Mr. President, I am pleased to join Senators JEFFORDS, KENNEDY, ROTH, and MOYNIHAN in introducing this historic, bipartisan initiative that will help tear down the barriers that prevent Americans with disabilities who want to work from reaching their full potential and achieving economic independence.

Eight million Americans receive more than $50 billion a year in cash disability benefits under the Supplemental Security Income and Social Security Disability programs. While surveys show that the overwhelming majority of adults with disabilities want to work, fewer than ½ of 1 percent of them actually do.

Advances in medicine and technology coupled with tougher civil rights laws have made it possible for more and more people with physical and mental disabilities to enter the workforce. These are people who genuinely want to work. They have the skills and talents necessary to be productive members of the workforce. But they face a Catch-22. If they leave the disability rolls for a job, they risk losing the Medicare and Medicaid benefits that made it possible for them to enter the workforce in the first place. Moreover, many of these individuals' very lives depend on the prescription drugs, technology, personal assistance services, and medical care they receive.

Mr. President, no one should have to make a choice between a job and health care. The legislation we are introducing today will create and fund new options for States to encourage them to allow people with disabilities who enter the workforce to buy into the Medicaid program, so they can continue to receive the prescription drugs, personal assistance services, and medical care upon which they depend. It will also allow workers leaving the Social Security Disability Insurance program to extend their Medicare coverage for ten years. This is tremendously important since many people returning to work after having been on SSDI either work part time and are therefore not eligible for employer-based insurance, or they work in jobs that do not offer health insurance. Allowing these disabled individuals to maintain their Medicare coverage will serve as a tremendous incentive for them to return to the workforce.

Other provisions of the legislation we are introducing today incorporate a more "user-friendly" approach in programs providing job training and placement assistance to individuals with disabilities who want to work. Our bill gives disabled SSI and SSDI beneficiaries greater consumer choice by creating a "ticket" that enables them to choose whether they want to go to a public or private provider of vocational rehabilitation services. The bill also provides grants to States and organizations to help connect people with disabilities with appropriate services, and funds demonstrations and studies to better understand policies that will encourage and enable work.

Mr. President, the legislation we are introducing today is an investment in human potential that promises tremendous return. By ensuring that Americans with disabilities have access to affordable health insurance, we are removing the major barrier between them and the workplace. The Work Incentives Improvement Act of 1999 will both encourage and enable Americans with disabilities to be full participants in our nation's workforce and growing economy, and I urge all of my colleagues to join me in cosponsoring this important legislation.

Mr. KENNEDY. Mr. President, it is an honor to join my colleagues in introducing the Work Incentives Improvement Act to provide affordable and accessible health care for persons with disabilities so they can work and live independently.

Despite the extraordinary growth and prosperity the country is now enjoying, people with disabilities continue to struggle to live independently and become fully contributing members of their communities. We have made significant progress through special education programs that open new horizons for excellence in learning, and through rehabilitation programs that develop practical independent living skills.

Too often, however, the goal of independence is still out of reach. We need to do more to see that the benefits of our prosperous economy are truly available to all Americans, including those with disabilities. Disabled children and adults deserve access to the benefits and support they need to achieve their full potential.

Large numbers of the 54 million disabled Americans have the capacity to work and become productive citizens. But they are unable to do so because of the unnecessary barriers they face. For too long, people with disabilities have suffered from unfair penalties if they go to work. They are in danger of losing their cash benefits if they accept a paying job. They are in danger of losing the medical coverage, which may well mean the difference between life and death. Too often, they face a harsh choice between eating a decent meal and buying their needed medication.

The bipartisan legislation we are introducing today will help to remove these unfair barriers. It will make health insurance coverage more widely available, through opportunities to buy-in to Medicare and Medicaid at an affordable rate. It will phase out the loss of cash benefits as income rises—instead of the unfair sudden cut-off that so many workers with disabilities face today. It will bring greater access for people with disabilities to the services they need in order to become successfully employed.

Our goal is to restructure and improve existing disability programs so that they do more to encourage and support every disabled person's dream to work and live independently, and be productive and contributing members of their community. That goal should be the birthright of all Americans—and when we say all, we mean all.

This bill is the right thing to do, it is the cost effective thing to do, and now is the time to do it. For too long, our fellow disabled citizens have been left out and left behind. A new and brighter day is on the horizon for Americans with disabilities, and together we can make it a reality.

I especially commend Senator JEFFORDS, Senator ROTH and Senator MOYNIHAN for their impressive leadership on this issue. We look forward to working with all members of Congress to pass this landmark legislation that will give disabled persons across the country a better opportunity to fulfill their dreams and participate fully in the social and economic mainstream of the nation.

Mr. KERREY. Mr. President, it is with pleasure that I join Senators MOYNIHAN, ROTH, KENNEDY and JEFFORDS on their significant initiative to expand work opportunities for Americans with disabilities. As Americans, we value the opportunity to support ourselves and our families to the best of our abilities. In fact, we refer to this right and this responsibility as the American dream. But today, millions of Americans who want to work remain on various forms of public assistance, because they can't access the supports they need to begin and continue working.

People with disabilities face unique barriers to self-sufficiency. Many of them need certain types of health services, such as home health care and personal care services, in order to work—yet these services are rarely available under employer-sponsored health insurance. Many of them find private health insurance unavailable or unaffordable. Some need vocational rehabilitation services and help finding employment. Others need assistive technology in order to do their job.

Currently, health care coverage and other services are linked to two cash programs—Social Security Disability (SSDI) and Supplemental Security Income. So people with disabilities must choose whether they want to reach self-sufficiency and risk losing their health coverage and other supportive services, or retain their health insurance but remain dependent on these safety-net programs. At the same time, without personal attendants or other supportive services, they may not be able to work in the first place, or no longer be able to work if their health status is threatened by the loss of the services they can access through health coverage.

I do not believe that people who wish to work and support themselves should face this kind of agonizing choice and take these types of risks. However, we can change this Catch-22. The Work Incentives Improvement Act will make several important changes. Most significantly, it will provide new options for Medicaid and Medicare coverage for disabled individuals who enter the workforce, and expand access to employment services for disabled individuals who are building their employment skills.

By enabling workers with disabilities to buy-in to the Medicaid program, this legislation will permit Americans with disabilities to enter the workforce without worrying about losing the prescription drug coverage, personal care services, and other health care services they need to work in the first place. It also allows States to establish sliding-scale premiums for workers with higher incomes, therefore ensuring that as workers' income increases, they maintain their health coverage but are less financially dependent on public programs. This proposal will also allow States to continue covering people whose health condition has improved through treatment made possible through Medicaid coverage. Finally, through a ten-year demonstration, the Work Incentives Improvement Act will determine whether permitting SSDI beneficiaries to continue their Medicare coverage is a cost-effective strategy for providing health insurance to individuals who lose SSDI when they return to work.

This legislation will also reduce barriers to employment for Americans with disabilities by providing new mechanisms for these individuals to receive the vocational rehabilitation and employment services they need from the providers they choose. In addition, it will encourage SSDI and SSI beneficiaries to develop their skills and venture into the workplace by providing a new assurance that their cash benefits will remain available, if necessary. These individuals may still lose their cash benefits, depending on their working income, but they can be assured that their SSDI and SSI eligibility application would be expedited if their work experience ultimately proves unsuccessful.

As we look towards the next century, we know that America's economic strength and sense of national community are dependent on the contributions of each and every American. We need to take the necessary steps to ensure that all Americans will have a chance to enjoy the American dream. Americans with disabilities have the same dreams as the rest of us—including a productive and rewarding working life that enables them to support their families and achieve economic self-sufficiency. We should do our best to help make these dreams a reality.

Mr. MOYNIHAN. Mr. President, I join today with my colleagues Senators ROTH, KENNEDY and JEFFORDS to introduce The Work Incentives Improvement Act of 1999. This bill would address some of the barriers and disincentives that individuals enrolled in Federal disability programs face in returning to work.

Many persons with disabilities need the health coverage that accompanies their eligibility for cash benefits. (Social Security Disability Insurance (SSDI) beneficiaries are also covered under Medicare. Supplemental Security Income (SSI) beneficiaries receive Medicaid coverage). Disability is determined based on an inability to sustain gainful work activity, which is measured by an earned income threshold. Under current law, as they return to work and earn income, beneficiaries lose their cash benefits and, subsequently, their health coverage. The risk of losing health benefits may deter disabled individuals from returning to work and, instead, encourage them to continue to receive cash benefits despite their ability to work.

Less than one percent of SSDI and SSI beneficiaries leave the programs and return to work each year. A survey released by the National Organization on Disability showed that, currently, only 29 percent of all disabled adults are employed full-time or part-time, compared to 79 percent of the non-disabled adult population.

PAST INITIATIVES

Our former Majority Leader and Finance Committee Chairman, Senator Bob Dole, should be commended for pioneering legislation to address work disincentives for people with disabilities. On March 19, 1986, Senator Dole introduced The Employment Opportunities for Disabled Americans Act to permanently authorize an SSI demonstration that would allow SSI beneficiaries who return to work to continue to receive cash assistance and, most importantly, continue their Medicaid coverage. At a slightly higher income level, beneficiaries returning to work would have a phased down SSI benefit while maintaining their Medicaid coverage. I was an original cosponsor of that bill, which passed the Senate by a voice vote. On November 11, 1986, President Reagan signed the bill into law.

Most recently, under the Balanced Budget Act of 1997, states were given the option to provide Medicaid coverage on a sliding premium scale for disabled workers with net incomes up to 250 percent of poverty. This provision gave workers with disabilities an opportunity to buy into Medicaid coverage without leaving their job to qualify for SSI and Medicaid.

These initiatives were necessary first steps, yet several disincentives still exist.

THE WORK INCENTIVES IMPROVEMENT ACT OF 1999

The bill we introduce today would provide additional Medicare and Medicaid options for workers with disabilities, and would encourage SSI and SSDI beneficiaries to seek vocational rehabilitative services.

With regard to health coverage, the bill would allow states to lift the income and asset limits for the Medicaid buy-in program established in BBA. States would also have the option to continue Medicaid coverage for workers with disabilities that lose SSI benefits due to a medical improvement criteria. This bill would establish state demonstrations to provide the Medicaid buy-in for workers with disabilities that are not yet severe enough to end work but would be if they did not have comprehensive Medicaid coverage. In addition, as a ten-year trial period, SSDI beneficiaries who return to work may continue to receive Medicare coverage, despite losing SSDI benefits.

The bill would also create incentives for vocational rehabilitation providers to assist beneficiaries in finding work and achieving sufficient income. These providers would be paid a portion of the benefits saved by the beneficiaries returning to work. The bill would create several grant programs for outreach, advocacy, and planning and assistance for beneficiaries in work incentive programs.

Again, Senator Dole has offered his support for this legislation to continue the initiatives he began. My colleagues and I developed this proposal last year and would like to see it pass this year. Chairman ROTH and I are committed to marking up the bill in the Committee on Finance in early spring. At that time, the Chairman's mark will include offsets to the proposed spending. We urge all members to support this important legislation.

By Mr. AKAKA (for himself, Mr. LOTT, Ms. LANDRIEU, Mr. CRAIG, and Mr. GRAHAM):

S. 330. A bill to promote the research, identification, assessment, exploration, and development of methane hydrate resources, and for other purposes; to the Committee on Energy and Natural Resources.

METHANE HYDRATE RESEARCH AND DEVELOPMENT ACT OF 1999

• Mr. AKAKA. Mr. President, on behalf of Senators LOTT, LANDRIEU, CRAIG, and GRAHAM I am introducing the Methane Hydrate Research and Development Act of 1999.

Methane hydrates are rigid, ice-like solids of water surrounding a gas molecule. They remain solid at high pressure and low temperature. Such conditions are found in Arctic permafrost and in deep sea sediments. Methane hydrate has tremendous gas storage capacity: one volume of methane hydrate will expand to more than 160 volumes of methane under normal temperature and pressure conditions.

The data on this unlikely resource will surprise you. We are only beginning to quantify and characterize methane hydrate resources. Fundamental research on methane hydrates is urgently needed to serve our long-term energy supply needs, create short-term advances in conventional fuel extraction, and further the science of global climate change.

Significant, widespread quantities of gas hydrates have been detected, but not characterized, all over the world. In the United States, on-shore Arctic deposits are found in Alaska. Deep sea methane hydrate deposits are perhaps the most abundant source of methane, occurring at depths greater than 300 meters. Marine geologists have identified large deposits off the coasts of most of the U.S., including Alaska, Louisiana, Texas, New Jersey, Oregon, and North and South Carolina. However, we know very little about the quantity and nature of these deposits.

Worldwide, the estimated amount of methane trapped in gas hydrate form is 10,000 gigatons—twice the amount of carbon found in all other fossil fuels on Earth. This represents close to 3,000 times the amount of methane present in the atmosphere. Scientists estimate that 320,000 trillion cubic feet (tcf) of natural gas exists in hydrate form in the U.S.—a staggering resource. By comparison, we have an estimated reserve of 1,300 trillion cubic feet (tcf) of conventional natural gas.

The potential of methane hydrates as an energy resource is best described in terms of consumption. The U.S. consumes 22 trillion cubic feet of natural gas per year; U.S. gas reserves will likely supply gas for approximately 60 years at current consumption rates. However, gas consumption is expected to rise dramatically in the future. If the hydrate resource can be harvested, the amount of natural gas found in one deposit off the Carolina coast would satisfy our natural gas needs for over 70 years.

Can we produce natural gas from these vast reserves? Natural gas from methane hydrates will never be realized unless we undertake a serious methane hydrates research program. The U.S. is not doing enough to explore this exciting new energy source. Other nations, primarily Japan and India, have launched aggressive R&D programs to explore methane hydrates. Some believe that Japanese commercial production is only a decade away. Clearly we are falling behind in our efforts to understand this energy source. In the face of dwindling energy resources and increased reliance on energy imports, we can hardly afford to miss this important opportunity.

In addition to potential use as an energy source, methane hydrate deposits also represent a challenge to conventional oil and gas extraction. Hydrates influence physical properties of ocean sediments, particularly strength and stability. Characterizing hydrate formation and breakdown is important for the safety of deep offshore drilling and other deep sea operations.

Release of large quantities of methane to the atmosphere from hydrate deposits, and the sequestration methane in hydrate form, can also have significant effects on global climate change. The importance of the process in global climate regulation is relatively unknown, and demands investigation.

Even though this resource accounts for more potential energy than all other conventional fuels combined, has attracted significant foreign investment, challenges conventional oil and gas production, and holds unknown secrets about global climate, the Department of Energy budget is limited to $500,000 in FY 1999.

My bill establishes a small research and development program with the potential for major payback. It would direct the Department of Energy to conduct research and development in collaboration with the U.S. Geological Survey, National Science Foundation, and the Naval Research Laboratory. •

By Mr. BROWNBACK (for himself, Mr. SMITH of Oregon, Mr. ROBB, and Mr. LUGAR):

S. 332. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Kyrgyzstan; to the Committee on Finance.

NORMAL TRADE RELATIONS FOR KYRGYZSTAN

• Mr. BROWNBACK. Mr. President, I rise today to introduce a bill which would authorize "normal trade relations" treatment to the products of Kyrgyzstan.

In 1998, Kyrgyzstan acceeded into the World Trade Organization, one of two republics of the former Soviet Union to be granted membership. Only Latvia can join Kyrgyzstan in boasting of that accomplishment.

Admission to the World Trade Organization was an acknowledgement of the progress Kyrgyzstan has made in adopting and implementing economic and trade reforms since its independence from the Soviet Union. However, despite World Trade Organization membership, Kyrgyzstan remains subject to the Jackson-Vanik amendment to Title IV of the Trade Act of 1974.

As you are aware, Title IV is the provision of law governing the normal trade relations status of nonmarket economy countries. Under the present arrangement, Kyrgyzstan's compliance with the requirements of the Jackson-Vanik amendment must be assessed semiannually. The legislation that I am introducing would eliminate the twice yearly review by granting Kyrgyzstan permanent "normal trade relations" treatment.

Currently, the United States cannot extend unconditional and reciprocal treatment to Kyrgyzstan, nor can we apply the World Trade Organization agreements to Kyrgyzstan. Until granted "normal trade relations" treatment, transactions with Kyrgyzstan continue to be governed by the provisions of the bilateral trade agreement negotiated under Title IV.

It is important that Kyrgyzstan be extended unconditional "normal trade relations" treatment. It is important not only because the Kyrgyz Republic has met the criteria required by that designation, but also because Kyrgyzstan is deserving of that designation. It is also important because until accorded that status, neither Kyrgyzstan nor the United States can realize fully the benefits of Kyrgyzstan's World Trade Organization membership. Kyrgyzstan has complied with both the freedom-of-emigration and the bilateral commercial agreement requirements of Jackson-Vanik and Title IV.

Kyrgyzstan should graduate from Jackson-Vanik in recognition of the great strides the country has made in employing market-oriented reforms. The Kyrgyz Republic has served as a leader in economic and political reform in Central Asia and demonstrates the potential to serve as a model for other transforming economies.

Passage of this legislation would send a powerful message not only to Kyrgyzstan, but to all of Central Asia that a free-market economy is the path to prosperity. Permanent "normal trade relations" status for Kyrgyzstan would help advance further reform not only in that country, but would also serve as incentive for other countries in the region.

"Normal trade relations" is important for both Kyrgyzstan and the United States. I hope my colleagues will join me in acknowledging Kyrgyzstan's progress and support this bill.●

ADDITIONAL COSPONSORS

S. 3

At the request of Mr. GRAMS, the name of the Senator from Kansas [Mr. ROBERTS] was added as a cosponsor of S. 3, a bill to amend the Internal Revenue Code of 1986 to reduce individual income tax rates by 10 percent.

S. 4

At the request of Mr. BROWNBACK, his name was added as a cosponsor of S. 4, a bill to improve pay and retirement equity for members of the Armed Forces; and for other purposes.

At the request of Mr. WARNER, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 4, supra.

S. 5

At the request of Mr. DEWINE, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 5, a bill to reduce the transportation and distribution of illegal drugs and to strengthen domestic demand reduction, and for other purposes.

S. 20

At the request of Mr. LAUTENBERG, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from California [Mrs. FEINSTEIN], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 20, a bill to assist the States and local governments in assessing and remediating brownfield sites and encouraging environmental cleanup programs, and for other purposes.

S. 28

At the request of Mr. HATCH, the names of the Senator from Colorado [Mr. CAMPBELL], the Senator from New Mexico [Mr. DOMENICI], and the Senator from Colorado [Mr. ALLARD] were added as cosponsors of S. 28, a bill to authorize an interpretive center and related visitor facilities within the Four Corners Monument Tribal Park, and for other purposes.

S. 58

At the request of Ms. COLLINS, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 58, a bill to amend the Communications Act of 1934 to improve protections against telephone service "slamming" and provide protections against telephone billing "cramming", to provide the Federal Trade Commission jurisdiction over unfair and deceptive trade practices of telecommunications carriers, and for other purposes.

S. 89

At the request of Mr. HUTCHINSON, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 89, a bill to state the policy of the United States with respect to certain activities of the People's Republic of China, to impose certain restrictions and limitations on activities of and with respect to the People's Republic of China, and for other purposes.

S. 92

At the request of Mr. DOMENICI, the names of the Senator from Wyoming [Mr. ENZI], the Senator from Ohio [Mr. DEWINE], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Alabama [Mr. SESSIONS] were added as cosponsors of S. 92, a bill to provide for biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government.

S. 93

At the request of Mr. DOMENICI, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 93, a bill to improve and strengthen the budget process.

S. 98

At the request of Mr. MCCAIN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 98, a bill to authorize appropriations for the Surface Transportation Board for fiscal years 1999, 2000, 2001, and 2002, and for other purposes.

S. 135

At the request of Mr. DURBIN, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 135, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for the health insurance costs of self-employed individuals, and for other purposes.

S. 170

At the request of Mr. SMITH, of New Hampshire the names of the Senator from Iowa [Mr. HARKIN] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 170, a bill to permit revocation by members of the clergy of their exemption from Social Security coverage.

At the request of Mr. LOTT, his name was added as a cosponsor of S. 170, supra.

S. 171

At the request of Mr. MOYNIHAN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 171, a bill to amend the Clean Air Act to limit the concentration of sulfur in gasoline used in motor vehicles.

S. 260

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 260, a bill to make chapter 12 of title 11, United States Code, permanent, and for other purposes.

S. 271

At the request of Mr. FRIST, the name of the Senator from Idaho [Mr.

CRAIG] was added as a cosponsor of S. 271, a bill to provide for education flexibility partnerships.

S. 280

At the request of Mr. FRIST, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 280, a bill to provide for education flexibility partnerships.

S. 290

At the request of Mr. ABRAHAM, the names of the Senator from Georgia [Mr. COVERDELL] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 290, a bill to establish an adoption awareness program, and for other purposes.

S. 301

At the request of Mr. CAMPBELL, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of S. 301, a bill to amend title 39, United States Code, relating to mailability, false representations, civil penalties, and for other purposes.

S. 305

At the request of Mr. MCCAIN, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 305, a bill to reform unfair and anticompetitive practices in the professional boxing industry.

SENATE JOINT RESOLUTION 7

At the request of Mr. MCCAIN, his name was added as a cosponsor of Senate Joint Resolution 7, a joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget.

SENATE RESOLUTION 5

At the request of Mr. DOMENICI, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Resolution 5, a resolution to establish procedures for the consideration of emergency legislation in the Senate.

SENATE RESOLUTION 6

At the request of Mr. MCCAIN, his name was added as a cosponsor of Senate Resolution 6, a resolution to reform the Senate's consideration of budget measures.

SENATE RESOLUTION 8

At the request of Mr. MCCAIN, his name was added as a cosponsor of Senate Resolution 8, a resolution amending rule XVI of the Standing Rules of the Senate relating to amendments to general appropriation bills.

SENATE RESOLUTION 30—RELATIVE TO THE PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 30

Resolved,

TITLE I—PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

SEC. 101. That the deposition time for all witnesses be determined by the Senate Majority Leader and Minority Leader, as outlined in Senate Resolution 16, One Hundred Sixth Congress, First Session, and title II of this resolution and that all Senators have an opportunity to review all deposition material, which shall be made available at the earliest possible time.

SEC. 102. When the Senate reconvenes on the day after completion of the depositions, and the review period, it shall be in order for both the House Managers and the President's counsel to move to resolve any objections made during any deposition. After resolution of any such motions, it shall be in order for the House Managers and/or White House counsel to make a motion or motions to admit the depositions or portions thereof into evidence, whether transcribed or on videotape provided further for a presentation employing all or portions of such tape, and it shall then be in order for the two Leaders jointly, only to make motions for additional discovery because of new relevant evidence discovered during the depositions. Motions may also then be made for orders governing the presentation of evidence and/or the testifying of witnesses before the Senate.

SEC. 103. If no such motions are made, or following the completion of any procedures authorized as a result of the votes on any motions, the White House shall have up to 24 hours to make any motions dealing with testimony or evidence that the White House counsel deems appropriate, as described previously.

SEC. 104. If no such motions are made, or no witnesses are called to testify in the Senate, the Senate shall proceed to final arguments as provided in the impeachment rules waiving the two person rule contained in Rule XXII of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials for not to exceed six hours, to be equally divided. If motions are agreed to regarding new evidence or calling of new witnesses, this resolution is suspended.

SEC. 105. At the conclusion of the final arguments the parties shall proceed in accordance with the rules of impeachment: *Provided however*, That no motion with respect to reopening the record in the case shall be in order, and: *Provided further*, That it shall be in order for a Senator to offer a motion to suspend the rules to allow for open final deliberations with no amendments or motions to that motion in order; and the Senate shall proceed to vote on the motion to suspend the rules to provide for open Senate deliberations.

SEC. 106. Following that vote, and if no motions have been agreed to as provided in sections 102 and 103, and no motions are agreed to following the arguments, then the vote will occur on the articles of impeachment no later than 12:00 noon on Friday, February 12, 1999, if all motions are disposed of and final deliberations are completed.

TITLE II—TO AUTHORIZE ISSUANCE OF SUBPOENAS TO TAKE DEPOSITIONS IN THE TRIAL OF THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

SEC. 201. That, pursuant to Rules V and VI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, and Senate Resolution 16, One Hundred Sixth Congress, First Session, the Chief Justice of the United States, through the Secretary of the Senate, shall issue subpoenas for the taking of testimony on oral deposition to the following witnesses: Sidney Blumenthal, Monica S. Lewinsky, and Vernon E. Jordon, Jr.

SEC. 202. The Sergeant at Arms is authorized to utilize the services of the Deputy Sergeant at Arms or any other employee of the United States Senate in serving the subpoenas authorized to be issued by this resolution.

SEC. 203. Depositions authorized by this resolution shall be taken before, and presided over by, on behalf of the Senate, two Senators appointed by the Majority Leader and the Democratic Leader, acting jointly, one of whom shall administer to witnesses the oath prescribed by Rule XXV of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials. Acting jointly, the presiding officers shall have authority to rule, as an initial matter, upon any question arising out of the deposition. All objections to a question shall be noted by the presiding officers upon the record of the deposition but the examination shall proceed, and the witness shall answer such question. A witness may refuse to answer a question only when necessary to preserve a legally-recognized privilege, or constitutional right, and must identify such privilege cited if refusing to answer a question.

SEC. 204. Examination of witnesses at depositions shall be conducted by the Managers on the part of the House or their counsel, and by counsel for the President. Witnesses shall be examined by no more than two persons each on behalf of the Managers and counsel for the President. Witnesses may be accompanied by counsel. The scope of the examination by the Managers and counsel for both parties shall be limited to the subject matters reflected in the Senate record. The party taking a deposition shall present to the other party, at least 18 hours in advance of the deposition, copies of all exhibits which the deposing party intends to enter into the deposition. No exhibits outside of the Senate record shall be employed, except for articles and materials in the press, including electronic media. Any party may interrogate any witness as if that witness were declared adverse.

SEC. 205. The depositions shall be videotaped and a transcript of the proceedings shall be made. The depositions shall be conducted in private. No person shall be admitted to any deposition except for the following: The witness, counsel for the witness, the Managers on the part of the House, counsel for the Managers, counsel for the President, and the presiding officers; further, such persons whose presence is required to make and preserve a record of the proceedings in videotaped and transcript forms, and Senate staff members whose presence is required to assist the presiding officers in presiding over the depositions, or for other purposes, as determined by the Majority Leader and the Democratic Leader. All present must maintain the confidentiality of the proceedings.

SEC. 206. The presiding officers at the depositions shall file the videotaped and transcribed records of the depositions with the Secretary of the Senate, who shall maintain them as confidential proceedings of the Senate. The Sergeant at Arms is authorized to make available for review at secure locations, any of the videotaped or transcribed deposition records to Members of the Senate, one designated staff member per Senator, and the Chief Justice. The Senate may direct the Secretary of the Senate to distribute such materials, and to use whichever means of dissemination, including printing as Senate documents, printing in the Congressional Record, photo- and video-duplication, and electronic dissemination, he determines to be appropriate to accomplish any distribution of the videotaped or transcribed deposition records that he is directed to make pursuant to this section.

SEC. 207. The depositions authorized by this resolution shall be deemed to be proceedings before the Senate for purposes of Rule XXIX of the Standing Rules of the Senate, Senate Resolution 259, One Hundredth Congress, First Session, sections 191, 192, 194, 288b, 288d, 288f of title 2, United States Code, sections 6002, 6005 of title 18, United States Code, and section 1365 of title 28, United States Code. The Secretary shall arrange for stenographic assistance, including videotaping, to record the depositions as provided in section 205. Such expenses as may be necessary shall be paid from the Appropriation Account—Miscellaneous Items in the contingent fund of the Senate upon vouchers approved by the Secretary.

SEC. 208. The Majority and Minority Leaders, acting jointly, may make other provisions for the orderly and fair conduct of these depositions as they seem appropriate.

SEC. 209. The Secretary shall notify the Managers on the part of the House, and counsel for the President, of this resolution.

AMENDMENTS SUBMITTED

RELATIVE TO THE PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

DASCHLE AMENDMENT NO. 1

Mr. DASCHLE proposed an amendment to the resolution (S. Res. 30) relative to the procedures concerning the articles of impeachment against William Jefferson Clinton; as follows:

In the resolution strike all after the word "that" in the first line and insert the following:

"the deposition time for all witnesses to be deposed be limited to no later than close of business Wednesday, February 3 and that all Senators have an opportunity to review all deposition material, which shall be made available at the earliest possible time.

"When the Senate reconvenes the trial at 10 a.m. on Saturday, February 6 it shall be in order to resolve any objections that may not yet be resolved regarding the dispositions; after these deposition objections have been disposed of, it shall be in order for the House managers and/or the White House counsel to make a motion, or motions to admit the depositions or portions thereof into evidence, such motions shall be limited to transcribed deposition material only;

"On Monday, February 8 there shall be 4 hours equally divided for closing arguments; with the White House using the first 2 hours and the House Republican managers using the final 2 hours; that

"Upon the completion of the closing arguments the Senate shall begin final deliberation on the articles; a timely filed motion to suspend the rules and open these deliberations shall be in order; upon the completion of these deliberations the Senate shall, without any intervening action, amendment, motion or debate, vote on the articles of impeachment.

"*Provided further;* That the votes on the articles shall occur no later than 12 noon Friday, February 12."

DASCHLE AMENDMENT NO. 2

Mr. DASCHLE proposed an amendment to the resolution, S. Res. 30, supra; as follows:

In the resolution strike all after the word "that" in the first line and insert the following:

"the Senate now proceed to closing arguments; that there be 2 hours for the White House counsel followed by 2 hours for the House managers, and that at the conclusion of this time the Senate proceed to vote, on each of the articles, without intervening action, motion or debate, except for deliberations, if so decided by the Senate."

DASCHLE AMENDMENT NO. 3

Mr. DASCHLE proposed an amendment to the resolution, S. Res. 30, supra; as follows:

On page 3, strike the words "any pending motions and amendments thereto and then on" and insert the following at the end of page 3 ", strike the period and insert if all motions are disposed of and final deliberations are completed."

DEDICATION OF MONUMENT TO VETERANS OF THE BATTLE OF THE BULGE

● Mr. SANTORUM. Mr. President, on January 29, the World War II Historical Preservation Federation will dedicate a monument to Veterans of the Battle of the Bulge. This monument will honor 600,000 Americans who, in World War II, fought three German armies in the Ardennes Forest of Belgium and Luxembourg and won the largest land battle ever fought by the U.S. Army.

Veterans of the Battle of the Bulge is an educational veterans organization made up of veterans who fought in the battle as well as their families and history buffs. The organization was founded to perpetuate the memory of the sacrifices involved during the battle, to preserve historical data and sites relating to the battle, to foster international peace and good will and to promote friendship among the battle's survivors and descendants.

Mr. President, I ask my colleagues to join with me in saluting the veterans who fought through the fog, snow, rain and ice in the bitter cold winter of 1944–1945, in what Sir Winston Churchill deemed an "ever-famous American victory."●

REGAINING FARMER POWER WITH HELP FROM ALAN GUEBERT

● Mr. KERREY. Mr. President, while the nation's eyes are turned toward Washington and the Senate impeachment trial, I would like to briefly turn the nation's eyes away from Washington and toward the economic catastrophe that is devastating our family farmers.

Prices are falling at alarming rates, and family farms are perishing, as rural America faces its worst crisis since the Great Depression. And to some, it may appear as though Nero is fiddling while Rome burns.

So I want to assure my constituents—and indeed all family farmers across our great nation—that while Congress spends it time deciding the fate of the President, some members have not lost sight of their daily struggle to make ends meet, and their fate.

On Tuesday, along with Minority Leader Daschle and several other farm state Democratic Senators, we introduced the Agricultural Safety Net and Market Competitiveness Act of 1999. With this legislation we intend to restore an economic safety net to producers and rural communities so that they can remain vital during these times of economic hardship. As well, we proposed ways in which we can revitalize markets—both domestic and abroad—so that all American producers have a fair shot to compete in the marketplace. We also introduced a bill, S. 30, to offset extreme losses to our producers resulting from severe economic and weather-related events.

I want my constituents and all family farmers to know that I will welcome the day when we can turn our attentions toward doing the business of the American people, and more specifically American farmers.

In the January 18, 1999 edition of the Lincoln Journal Star, farm journalist Alan Guebert wrote a thought provoking piece describing 10 ways in which the average American and American farmer can help regain the power they have lost and continue to lose during this economic catastrophe.

I urge my colleagues to take a moment to read this very important article, and I ask that Mr. Guebert's article be printed in the RECORD.

The article follows.

[From the Lincoln Journal Star, January 18, 1999]

(By Alan Guebert)

In the nearly 100 farmer calls, letters, e-mails and faxes to this office in the first two weeks of 1999, the central theme in most was the same: farmer powerlessness.

Many correspondents cited farmers' dwindling share of the retail food dollar as evidence of their growing powerlessness. Others likened supersized, globalized businesses—packers and grain companies being the favored targets—to power-taking, farmer-breaking, peasant-making monsters. And still other suggested "free, but not fair trade" drains them of market power.

Despite the woe-filled times, farmers are not powerless. There are many things all can do individually to claim, or reclaim, the power they feel has been vacuumed from them. Here's a list of 10 actions farmers or ranchers can take to be empowered:

1. Get informed. If information is power—and it is—the inverse must be that ignorance

is powerlessness. Go to the library, get on the Internet, read the newspaper, turn off the television.

And don't read, listen or view just the ag press. We're some of the duller knives in the journalism drawer. Include nonag sources, too, such as The Wall Street Journal, The Washington Post Weekly Edition and National Public Radio's Morning Edition.

2. Sign a checkoff recall petition. Petitions are circulating for recall votes in both the pork and beef checkoffs. This year also should bring a recall petition for the soybean checkoff. It's your right to petition and your right to vote. Secure it, then exercise it.

3. Write your U.S. representatives and senators to demand full, open and immediate price reporting in all ag markets. Don't ask for it; demand it. The only entity that can make the present hide-and-seek system work are integrators. And not in just today's livestock markets. Tomorrow's grain markets will be equally messy if the current price reporting system is not pried open so all farmers have equal standing and full information when approaching the market.

4. Don't buy from firms that are destroying farm markets and rural communities. Holdover from the '60s, heh? Positively. You don't have to buy eggs from a sleazy company that violates every state pollution law on the books; you don't need to buy chicken from a firm that buys members of Congress and Cabinet members; and you don't have to buy livestock feed—at whatever price—from the integrated conglomerate that is building hog units and destroying your neighbors' businesses and families. And sure, withholding your nickels and dimes may not stop the inevitable. But it won't finance it either.

5. Join a farm organization—any of them—and get involved. You can't hit the game-winning home run if you're not a player.

6. Make 1999 the year you reclaim your co-ops, especially your regional co-ops. It—and as a stockholder, really you—should not be in the business of ruining the livestock industry and building a fabulously well-paid bureaucracy in the process. If you reshape it from its present vertical structure to a more horizontal structure—the co-op shape your grandfather envisioned—more of its profits will come back to co-op's owners. That's you.

7. Push, prod, poke, pound and humiliate Congress to pass tough, meaningful campaign finance reform. The present system is a dollar democracy, owned and operated by well-oiled influence peddlers and puppeteers who make politicians dance like an organ grinder's monkey.

It is the very rotten core of your growing powerlessness.

8. The United States grows billions of pounds of beef and not one pound of bananas. Yet this administration will fight for the handful of very rich U.S. banana exporters and not impose similar import tariffs on European goods in support of 900,000 U.S. cattlemen (See No. 7.) Every farm group and every farmer should make exposing this sham one of their top five priorities in 1999.

9. Draw the line and categorically oppose every new agribusiness merger. Every one. Why is the farmer's share of the food dollar dwindling? Largely because big—and getting bigger—corporations have strengthened their holds on choke points in the food chain until they choke their profits out of you.

10. Don't quit. To paraphrase an old axiom, all it takes for bad ideas to further dominate agriculture is for good people—you—to do nothing.●

TRIBUTE TO ROBERT J. SCHWINGHAMER

● Mr. SESSIONS. Mr. President, I rise today to recognize Mr. Robert Schwinghamer on the occasion of his retirement for his significant contributions to our nation's space and rocket program. He served most recently within the office of the Director as the Associate Director, Technical, at NASA's George C. Marshall Space Flight Center in Huntsville, Alabama. Bob Schwinghamer's legacy is one of outstanding leadership, unselfish professional service, and a steadfast dedication to America's space program. It is a personal honor for me to recognize the more than 40 years that Bob so willingly committed to our country. I salute the distinguished achievements of this remarkable Alabamian for what his service has meant to the State of Alabama, the Nation, and NASA.

Bob's splendid record of achievement speaks for itself. He has been the recipient of several NASA Outstanding Leadership and Distinguished Service Medals; the Presidential Rank Distinguished Executive Award from President George Bush in 1992; Top Engineer in NASA and one of the Top Ten Engineers in Federal Government in 1990 and 1992. He also received numerous Group Achievement and Sustained Superior Performance Awards. With an ebullient leadership style, Bob Schwinghamer also led NASA investigation teams through times of crisis. In 1973, he received the NASA Medal for Exceptional Service to the Apollo Program. In 1986, he led the Space Shuttle Challenger Accident Solid Rocket Motor Investigation Team. In 1998, he received the NASA Outstanding Leadership Medal for leadership in Returning the Space Shuttle Safely to Flight, and in 1990, he led the Space Shuttle Hydrogen Leak Investigation Team. His outstanding record of service and his unfailing loyalty to the U.S. space program cannot be paid its proper due with mere words.

Bob Schwinghamer received his Bachelor-of-Science Degree in Engineering from Purdue University in 1950 and then completed his Master of Science Degree in Management from the Massachusetts Institute of Technology in 1968. During his notable career, he served as a registered professional engineer in the States of Indiana, Ohio, and Alabama.

Bob is a member of several highly regarded professional and honorary societies including the American Society for Materials, International; American Institute of Aeronautics and Astronautics; Society of Manufacturing Engineers, and the Society for Advancement of Materials and Processes Engineering. His devotion to the field of science has earned him continuing recognition throughout the space and missile community all over the country.

Mr. Schwinghamer's professional prowess and outstanding leadership are certainly noteworthy, but he also deserves recognition for being a devoted husband and father and an involved citizen. As an active member of his community, he has given his efforts to outside activities including service as Vice President of Grissom High School's PTA, President of the Lily Flagg Club, and President of the MSFC Skeet Club. He has and continues to inspire individuals in his workplace, community, and home. Bob's generosity and willingness to serve others is a trait which endears him to all of us.

It is with warmest regards and best wishes that I offer Robert J. Schwinghamer and his family every happiness in all of their future endeavors. It is right that we honor and celebrate his retirement. I salute Bob Schwinghamer as he embarks on the beginning of the next chapter of his life. Our nation's space program will have to replace one of its finest. His presence and expertise will certainly be missed.●

NEW SHOREHAM POLICE CHIEF WILLIAM A. McCOMBE

● Mr. REED. Mr. President, today I wish to share with my colleagues the outstanding accomplishments of a great Rhode Islander, Mr. William A. McCombe, Chief of Police in the Town of New Shoreham on Block Island, Rhode Island.

Chief McCombe grew up in my hometown of Cranston, Rhode Island. He embarked on a long and successful career in public service by joining the New Shoreham Police Department in 1980 at the age of 20, attending the Rhode Island Police Academy the following year.

After being promoted to Sergeant in 1984, Mr. McCombe received a bachelors degree in Criminal Justice from Roger Williams University in 1987. In 1992, at 32 years of age, he was promoted to Chief of Police for the Town of New Shoreham. Two years later, Chief McCombe graduated from the FBI National Academy in Quantico, Virginia. He also has attended the Secret Service Diplomatic School in Washington, DC in 1998.

I have known Chief McCombe for a few years, but following President Clinton's decision to accept my invitation to visit Block Island, I worked closely with the Chief to ensure the President's short stay went smoothly. Chief McCombe's professionalism and attention to detail were exemplary and were essential in ensuring that the island's limited resources were not overwhelmed.

Chief McCombe has lived on Block Island for 21 years and has served on the police department for 19 of those years. He has devoted his life to preserving the public safety enjoyed by the people of the Town of New Shoreham and the entire state of Rhode Island. We are grateful for his continuing public service.•

OLIVE CHAPEL AFRICAN METHODIST EPISCOPAL CHURCH

• Mr. BOND. Mr. President, I rise today to pay tribute to the Olive Chapel African Methodist Episcopal Church in Kirkwood, Missouri. Although the congregation is 145 years old, they will celebrate their 100th anniversary in their present building on February 26, 27, and 28. This is especially significant considering the Olive Chapel A.M.E. Church is the second oldest A.M.E. church west of the Mississippi River, and the oldest Protestant church in Kirkwood.

I commend Olive Chapel A.M.E. Church for their perseverance throughout the last 100 years and hope they will continue to be a positive influence in the Kirkwood community for many years to come.•

THE IMPEACHMENT OF PRESIDENT WILLIAM JEFFERSON CLINTON

• Mr. CLELAND. Mr. President, let me begin by saying that the reason we are here today, the reason the United States Senate is being asked to exercise what Alexander Hamilton termed the "awful discretion" of impeachment, is because of the wrongful, reprehensible, indefensible conduct of one person, the President of the United States, William Jefferson Clinton. Indeed, I believe it is conduct deserving of the censure of the Senate, and I will support such a resolution when it comes before us.

The question before the Senate, however, is not whether the President's conduct was wrong, or immoral, or even censurable. We must decide solely as to whether or not he should be convicted of the allegations contained in the Articles of Impeachment and thus removed from office. In my opinion, the case for removal, presented in great detail in the massive 60,000 page report submitted by the House, in many hours of very capable but often repetitive presentations to the Senate by the House Managers and the President's defense team, and in many additional hours of Senators' questioning of the two sides, fails to meet the very high standards which we must demand with respect to Presidential impeachments. Therefore, I will vote to dismiss the impeachment case against William Jefferson Clinton, and to vote for the Senate resuming other necessary work for the American people.

To this very point, I have reserved my judgment on this question because of my Constitutional responsibility and Oath to "render impartial justice" in this case. Most of the same record presented in great detail to Senators in the course of the last several weeks has long been before the public, and indeed most of that public, including editorial boards, talk show hosts, and so forth, long ago reached their own conclusions as to the impeachment of President Clinton. But I have now heard enough to make my decision. With respect to the witnesses the House Managers apparently now wish to depose and call before the Senate, the existing record represents multiple interrogations by the Office of the Independent Counsel and its Grand Jury, with not only no cross-examinations by the President's counsel but, with the exception of the President's testimony, without even the presence of the witnesses' own counsel. It is difficult for me to see how that record would possibly be improved from the prosecution's standpoint. Thus, I will not support motions to depose or call witnesses.

In reaching my decision on impeachment, there are a number of factors which have been discussed or speculated about in the news media which were not a part of my calculations.

First of all, while as political creatures neither the Senate nor the House can or should be immune from public opinion, we have a very precise Constitutionally-prescribed responsibility in this matter, and popular opinion must not be a controlling consideration. I believe Republican Senator William Pitt Fessenden of Maine said it best during the only previous Presidential Impeachment Trial in 1868:

> To the suggestion that popular opinion demands the conviction of the President on these charges, I reply that he is not now on trial before the people, but before the Senate . . . The people have not heard the evidence as we have heard it. The responsibility is not on them, but upon us. They have not taken an oath to "do impartial justice according to the Constitution and the laws." I have taken that oath. I cannot render judgment upon their convictions, nor can they transfer to themselves my punishment if I violate my own. And I should consider myself undeserving of the confidence of that just and intelligent people who imposed upon me this great responsibility, and unworthy of a place among honorable men, if for any fear of public reprobation, and for the sake of securing popular favor, I should disregard the convictions of my judgment and my conscience.

Nor was my decision premised on the notion, suggested by some, that the stability of our government would be severely jeopardized by the impeachment of President Clinton. I have full faith in the strength of our government and its leaders and, more importantly, faith in the American people to cope successfully with whatever the Senate decides. There can be no doubt that the impeachment of a President would not be easy for the country but just in this Century, about to end, we have endured great depressions and world wars. Today, the U.S. economy is strong, the will of the people to move beyond this national nightmare is great, and we have an experienced and able Vice President who is more than capable of stepping up and assuming the role of the President.

Third, although we have heard much argument that the precedents of judicial impeachments should be controlling in this case, I have not been convinced and did not rely on such testimony in making my decision. After a review of the record, historical precedents, and consideration of the different roles of Presidents and federal judges, I have concluded that there is indeed a different legal standard for impeachment of Presidents and federal judges. Article 11, Section 4 of the Constitution provides that "the President, Vice President, and all civil officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." Article III, Section I of the Constitution indicates that judges "shall hold their Offices during good Behavior." Presidents are elected by the people and serve for a fixed term of years, while federal judges are appointed without public approval to serve a life tenure without any accountability to the public. Therefore, under our system, impeachment is the only way to remove a federal judge from office while Presidents serve for a specified term and face accountability to the public through elections. With respect to the differing impeachment standards themselves, Chief Justice Rehnquist once wrote, "the terms 'treason, bribery and other high crimes and misdemeanors' are narrower than the malfeasance in office and failure to perform the duties of the office, which may be grounds for forfeiture of office held during good behavior."

And my conclusions with respect to impeachment were not based upon considerations of the proper punishment of President Clinton for his misdeeds. During the impeachment of President Nixon, the Report by the Staff of the Impeachment Inquiry concluded that "impeachment is the first step in a remedial process—removal from office and possible disqualification from holding future office. The purpose of impeachment is not personal punishment; its function is primarily to maintain constitutional government." Regardless of the outcome of the Senate impeachment trial, President Clinton remains subject to censure by the House and Senate, and criminal prosecution for any crimes he may have committed. Whatever punishment President Clinton deserves for his misdeeds will be provided elsewhere.

Finally, I do not believe that perjury or obstruction of justice could never rise to the level of threatening grievous harm to the Republic, and thus represent adequate grounds for removal of a President. However, we must approach such a determination with the greatest of care. Impeachment of a President is, perhaps with the power to declare War, the gravest of Constitutional responsibilities bestowed upon the Congress. During the history of the United States, the Senate has only held impeachment trials for two Presidents, the 1868 trial of President Johnson, who had not been elected to that office, and now President Clinton. Although the Senate can look to impeachment trials of other public officials, primarily judicial, as I have already said, I do not believe that those precedents are or should be controlling in impeachment trials of Presidents, or indeed of other elected officials.

My decision was based on one overriding concern: the impact of this precedent-setting case on the future of the Presidency, and indeed of the Congress itself. It is not Bill Clinton who should occupy our only attention. He already stands rebuked by the House impeachment votes, and by the words of virtually every member of Congress of both political parties. And even if we do not remove him from office, he still stands liable to future criminal prosecution for his actions, as well as to the verdict of history. No, it is Mr. Clinton's successors, Republican, Democrat or any other Party, who should be our concern.

The Republican Senator, Edmund G. Ross of Kansas, who "looked down into my open grave" of political oblivion when he cast one of the decisive votes in acquitting Andrew Johnson in spite of his personal dislike of the President explained his motivation this way:

> . . . In a large sense, the independence of the executive office as a coordinate branch of the government was on trial . . . If . . . the President must step down . . . upon insufficient proofs and from partisan considerations, the office of President would be degraded, cease to be a coordinate branch of government, and ever after subordinated to the legislative will. It would practically have revolutionized our splendid political fabric into a partisan Congressional autocracy.

While our government is certainly on a stronger foundation now than in the aftermath of the Civil War, the basic point remains valid. If anything, in today's world of rapidly emerging events and threats, we need an effective, independent Presidency even more than did mid-19th Century Americans.

While in the history of the United States the U.S. Senate has never before considered impeachment articles against a sitting elected official, we do have numerous cases of each House exercising its Constitutional right to, "punish its Members for disorderly behavior, and, with the concurrence of two-thirds expel a Member." However, since the Civil War, while a variety of cases involving personal and private misconduct have been considered, the Senate has never voted to expel a member, choosing to censure instead on seven occasions, and the House has rarely chosen the ultimate sanction. Should the removal of a President be subject to greater punishment with lesser standards of evidence than the Congress has applied to itself when the Constitution appears to call for the reverse in limiting impeachment to cases of "treason, bribery and other high crimes or misdemeanors"? In my view, the answer must be NO.

Thus, for me, as one United States Senator, the bar for impeachment and removal from office of a President must be a high one, and I want the record to reflect that my vote to dismiss is based upon a standard of evidence equivalent to that used in criminal proceedings—that is, that guilt must be proven "beyond a reasonable doubt"—and a standard of impeachable offense which, in my view, conforms to the Founders' intentions that such an offense must be one which represents official misconduct threatening grievous harm to our whole system of government. To quote Federalist #65, Hamilton defined as impeachable, "those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated POLITICAL, as they relate chiefly to injuries done immediately to the society itself." As I have said before, I can conceive of instances in which both perjury and obstruction of justice would meet this test, and I certainly believe that most, if not all, capital crimes, including murder, would qualify for impeachment and removal from office. However, in my judgment, the current case does not reach the necessary high standard.

In the words of John F. Kennedy, "with a good conscience our only sure reward, with history the final judge of our deeds," I believe that dismissal of the impeachment case against William Jefferson Clinton is the appropriate action for the U.S. Senate. It is the action which will best preserve the system of government which has served us so well for over two hundred years, a system of checks and balances, with a strong and independent chief executive.

In closing, I wish to address those in the Senate and House, and among the American public, who have reached a different conclusion than have I in this case. I do not question the sincerity or legitimacy of your viewpoint. The process itself pushes us to make absolute judgments—yes or no to conviction and removal from office—and the nature of debate yields portraits of complex issues in stark black-and-white terms, but I believe it is possible for reasonable people to reach different conclusions on this matter. Indeed, I recognize that, while my decision seeks to avoid the dangers of setting the impeachment bar too low, setting that bar too high is not without risks. I believe the House Managers spoke eloquently about the need to preserve respect for the rule of law, including the critical principle that no one, not even the President of the United States, is above that rule. However, I have concluded that the threat to our system of a weakened Presidency, made in some ways subordinate to the will of the legislative branch, outweighs the potential harm to the rule of law, because that latter risk is mitigated by:

An intact, independent criminal justice system, which indeed will retain the ability to render final, legal judgment on the President's conduct;

A vigorous, independent press corps which remains perfectly capable of exposing such conduct, and of extracting a personal, professional and political price; and

An independent Congress which will presumably continue to have the will and means to oppose Presidents who threaten our system of government.

By the very nature of this situation, where I sit in judgment of a Democratic President as a Democratic Senator, I realize that my decision cannot convey the non-partisanship which is essential to achieve closure on this matter, one way or the other. Indeed, in words which could have been written today, the chief proponent among the Founding Fathers of a vigorous Chief Executive, Alexander Hamilton, wrote in 1788, in No. 65 of The Federalist Papers, that impeachments "will seldom fail to agitate the passions of the whole community, and to divide them into parties, more or less friendly or inimical, to the accused. In many cases, it will connect itself with the pre-existing factions, and will enlist all their animosities, partialities, influence and interest on one side, or on the other; and in such cases there will always be the greatest danger, that the decision will be regulated more by the comparative strength of the parties than by the real demonstration of guilt or innocence."

I have, however, in making my decision laid out for you the standards which I believe to be appropriate whenever the Congress considers the removal from office of an elected official, whether Executive Branch, or Legislative Branch. I will do my best to stand by those standards in all such cases to come before me while I have the privilege of representing the people of Georgia in the United States Senate, regardless of the party affiliation of the accused. I only hope and pray that no future President, of either Party, will ever again engage in conduct which provides any basis, including the basis of the current case, for the Congress to consider the grave question of impeachment.●

MOTIONS TO DISMISS AND TO SUBPOENA WITNESSES

• Mr. FEINGOLD. Mr. President, during yesterday's impeachment trial proceedings, I voted against the motion to dismiss offered by the senior Senator from West Virginia, Senator BYRD. I also voted in favor of allowing the House Managers to depose a limited number of witnesses in this case. I would like to explain the reasons for my votes.

Let me state first that I understand that this trial is a unique proceeding; it is not precisely a "trial" as we understand that term to be used in the criminal context. The Senate, for example, as the Chief Justice made clear in upholding Senator HARKIN's objection early in the trial, is both judge and jury, with the final authority to determine not only the "guilt" or "innocence" of the defendant, but also the legal standard to apply and what kind of evidence is relevant to the decision.

Nonetheless, Sen. BYRD's motion was a motion to dismiss, which I believe gives the motion a legal connotation we must not ignore. I believe that in order to dismiss the case at this point, a Senator should be of the opinion that it is not possible for the House Managers to show that the President has committed high crimes and misdemeanors, even if they are permitted to call the witnesses that they want to call. Even apart from the possibility of witness testimony, in order to vote for the motion, a Senator should believe that regardless of what occurs in the closing arguments by the parties and in deliberations in the Senate, that a Senator would not vote to convict.

So for me, this motion to dismiss was akin to asking the judge in this case not to send the case to the jury. In a criminal trial, there is a strong presumption against taking a case out of the hands of the jury, and a very high degree of certainty on the facts of the case is demanded before a judge will take that step. Indeed, a judge must decide that a reasonable juror viewing the evidence in the light most favorable to the prosecution could not vote to convict the defendant, before he will direct a judgment of acquittal.

My view, as of this moment, is that to dismiss this case would in appearance and in fact improperly "short circuit" this trial. I simply cannot say that the House Managers cannot prevail regardless of what witnesses might plausibly testify and regardless of what persuasive arguments might be offered either by the Managers or by Senators who support conviction. And when the history of this trial is written, I want it to be viewed as fair and comprehensive, not as having been shortened merely because the result seemed preordained.

As Senator COLLINS and I indicated in a letter to Senator BYRD on Saturday and in a unanimous consent request we offered on Monday, my preference would have been to divide the motion to dismiss and allow separate votes on the two articles of impeachment to more closely approximate the separate final votes on the two articles contemplated by the impeachment rules. It would have allowed the Senate to consider the strength of the evidence presented on the two separate articles and the possibility that one of the articles comes closer to the core meaning of high crimes and misdemeanors than the other.

I believe that many of my colleagues on the Republican side view the perjury article as less convincing than the obstruction article and might have voted to dismiss it had the opportunity to do that been made available. But we will never know. When a final vote is taken on the articles, and I now believe such votes will almost certainly occur, I hope that my colleagues who did not vote to dismiss the case today will carefully consider the two articles separately.

I want to be clear that my vote not to dismiss this case does not mean that I would vote to convict the President and remove him from office or that I am leaning in that direction. I have not reached a decision on that question. It is my inclination, however, to demand a very high standard of proof on this question. Because the House Managers have relied so heavily on the argument that the President has committed the federal crimes of perjury and obstruction of justice as the reason that his conduct rises to the level of high crimes and misdemeanors, they probably should be required to prove each element of those crimes beyond a reasonable doubt. That is the standard that juries in criminal proceedings must apply. In this case, where the "impeachability" question rests so much on a conclusion that the President's conduct was not only reprehensible but also criminal, I currently believe that standard is the most appropriate for a Senator to apply.

It is my view at this point that the House Managers' case has some serious problems, and I am not certain that it can be helped by further testimony from witnesses. But I believe it is possible that it can, and the Managers deserve the opportunity to take the depositions they have requested.

In voting against the motion to dismiss and to allow witnesses to be subpoenaed, I have not reached the important question of whether, even if the House Managers manage to prove their case beyond a reasonable doubt, the offenses charged would be "impeachable" and require the President to be removed from office. That is an important question that I decided should be addressed in the context of a final vote on the articles after the evidentiary record is complete. Therefore, I want to be clear that my vote against the motion does not mean I am leaning in favor of a final vote to convict the President. I am not.

But I have determined, after much thought, that we must continue to move forward and not truncate the proceeding at this point. I believe that it is appropriate for the House Managers, and if they so choose, the President's Counsel, to be able to depose and possibly to present the live testimony of at least a small number of witnesses. And I want to hear final arguments and deliberate with my colleagues before rendering a final verdict on the articles.

I reached my decision on witnesses for a number of reasons. First, although I recognize that this is not a typical, ordinary criminal trial, it is significant and in my mind persuasive that in almost all criminal trials witnesses are called by the prosecution in trying to prove its case. Because I have decided that the House Managers probably must be held to the highest standard of proof—beyond a reasonable doubt—I believe that they should have every reasonable opportunity to meet that standard and prove their case.

Furthermore, witnesses have been called every time in our history that the Senate has held an impeachment trial. (In two cases, the impeachment of Sen. Blount in 1797 and the impeachment of Judge English in 1926, articles of impeachment passed by the House were dismissed without a trial.) Now I recognize that an unusually exhaustive factual record has been assembled by the Independent Counsel, including numerous interviews with, and grand jury testimony from, key witnesses. That distinguishes this case from a number of past impeachments. But in at least the three judicial impeachments in the 1980s, the record of a full criminal trial (two resulting in conviction and one in acquittal) was available to the Senate and still witnesses testified.

In this case, the House Managers strenuously argued that witnesses should be called. It would call the fairness of the process into question were we to deny the House Managers the opportunity to depose at least those witnesses that might shed light on the facts in a few key areas of disagreement in this case. I regard this as a close case in some respects, and the best course to follow is to allow both sides a fair opportunity to make the case they wish to make.

This does not mean that I support an unlimited number of witnesses or an unnecessarily extended trial. Furthermore, at this point, I am reserving judgment on the question of whether live testimony on the Senate floor should be permitted. I believe the Senate has the power, and should exercise the power, to assure that any witnesses called to deliver live testimony have evidence that is truly relevant to present.

In this regard, I think we should allow somewhat greater latitude to the President's counsel since he is the defendant in this proceeding. I am inclined to give a great deal of deference to requests by the President's counsel to conduct discovery and even call additional witnesses if they feel that is necessary. But at least with respect to the House Manager's case, while we must be fair in allowing them to depose the witnesses they say they need to prove their case, we need not allow them to broaden their case beyond the acts alleged in the articles or inordinately extend the trial with witnesses who cannot reasonably be expected to provide evidence relevant to our decision on those articles.

Finally, let me reiterate. My vote against the motion to dismiss should not be interpreted as a signal that I intend to vote to convict the President. Nor does it mean that I would not support a motion to adjourn or a motion to dismiss offered at some later stage of this trial, although I strongly prefer that this trial conclude with a final vote on the articles. It only means that I do not believe that dismissing the case at this moment is the appropriate course for the Senate to follow.•

MOTION OF THE HOUSE MANAGERS FOR THE APPEARANCE OF WITNESSES AT DEPOSITIONS AND TO ADMIT EVIDENCE

• Mr. LEAHY. Mr. President, the House Managers want to conduct depositions of at least four people and their requests to admit affidavits could very well lead to the depositions of at least three others and, indeed, many more witnesses. The three people they expressly ask be subpoenaed are Monica Lewinsky, Vernon Jordan and Sidney Blumenthal. All three have previously testified before the Starr grand jury and Ms. Lewinsky has been interviewed or testified at least 23 times on these matters over the last year.

The fourth deponent requested by the House Managers is none other than the President of the United States. Although they characterize their request as a "petition" that the President be requested to appear, in their Memorandum, the House Republican Managers are less coy about their request. They note that "obtaining testimony from the witness named in the motion, and additionally from the President himself" is what they seek.

The House Managers' request is unprecedented in impeachments. The Senate has never formally requested or demanded that a respondent testify in his own impeachment trial. Should the President decide that he wants to speak to the Senate, that would be his choice. But I cannot support an effort that would have the Senate reject over 200 years of our jurisprudence and begin requiring an accused to prove his innocence.

The presumption of innocence is a core concept in our rule of law and should not be so cavalierly abandoned. The petition of the House Managers is a clever but destructive effort to stand this trial on its head. As a former prosecutor and trial attorney, I appreciate the temptation to turn the tables on an accused person to make up for a weak case, but the Senate should not condone it. The burden of proof is on the House to establish why the Senate should convict and remove from office the person the American people elected to serve as their President.

I commend President Clinton for focusing on his duties as President and on moving the country forward. That the Congress remains immersed in this impeachment trial is distraction enough from the functions of our federal government. We have heard hours of argument from the House Republican Managers and the response of the President's lawyers. Senator BYRD has, pursuant to our Unanimous Consent Resolution governing these proceedings, offered a motion to dismiss to bring this entire matter to conclusion. If, on the other hand, the majority in the Senate wishes to continue these proceedings, that is the majority's prerogative.

The House Managers apparently want to excuse the weaknesses in their case by blaming the Senate for not calling the President to the stand or the President for not volunteering to run the gauntlet of House Managers. Having had the House reject their proposed article of impeachment based on the President's deposition in the Jones case, the House Managers are left to pursue their shifting allegations of perjury before the grand jury. Their allegations of perjury have devolved to semantical differences and the choice of such words as "occasional" and "on certain occasions." Their view of perjury allows them to take a part of a statement out of context and say that it is actionable for not explicating all relevant facts and circumstances. They view perjury by a standard that would condemn most presentations, even some of their own presentations before the Senate.

In addition to their request that the President be deposed, the House Republican Managers also propose to include in this record affidavits and other materials apparently not part of the record provided by Mr. Starr or considered by the House. Ironically, in so doing, they have chosen to proceed by affidavit. They must know that by proffering the declaration of an attorney for Paula Jones about that case and the link between that now settled matter and the Starr investigation, they are necessarily opening this area to possible extensive discovery that could result in the depositions of additional witnesses, as well.

Does anyone think that the Senate record can fairly be limited to the proffered declaration of Mr. Holmes without giving the President an opportunity to depose him and other relevant witnesses after fair discovery? The links between the Jones case and the Starr investigation will be fair game for examination in the fullness of time if the Holmes declaration proffered by the House Managers is accepted.

The Holmes declaration is at variance with the House Managers' proffer. The declaration suggests that the Jones lawyers made a collective decision, whereas the House Managers suggest that the decision to subpoena Ms. Currie was Mr. Holmes' decision. Mr. Holmes declares that no Washington Post article played any part in his decisionmaking to subpoena Ms. Currie and that the "does not recall" any attorney in his firm saying anything about such an article "in the discussions in which we decided to subpoena Ms. Currie." This could lead to discovery from a number of Jones lawyers.

The Holmes declaration says that the Jones lawyers "had received what [they] considered to be reliable information that Ms. Currie was instrumental in facilitating Monica Lewinsky's meetings with Mr. Clinton and that Ms. Currie was central to the 'cover story' Mr. Clinton and Ms. Lewinsky had developed to use in the event their affair was discovered." That assertion was strongly omitted from the House Republican Managers' proffer. That assertion raises questions about what the Jones lawyers knew, when they knew it and whether there was any link to the Starr investigation. If the purpose of the declaration is to rebut the notion that Ms. Currie was subpoenaed because the Jones lawyers were following the activities of the Starr investigation, this declaration falls far short of the mark. It raises more questions that it resolves.

I am surprised to see a judicial clerk submit an affidavit in this case. The one thing that is clear from Mr. Ward's affidavit is that it does not support the conclusions drawn in the House Managers' proffer. Mr. Ward says only that President Clinton was looking directly at Mr. Bennett at one moment during the argument by the lawyers during the deposition. He does not aver, as the House Managers suggest he would competently testify, that "he saw President Clinton listening attentively to Mr. Bennett's remarks."

While the affidavit of Barry Ward cannot convert the President's silence into statements, it does provide one perspective on the President's deposition in the Jones case. Accepting that proffered evidence may, however, prompt the President's lawyers to want to examine other perspectives to give the Senate a more complete picture and a fairer opportunity to consider what was happening during the discussions among Judge Wright and the lawyers. For that purpose, is the Senate next going to authorize the deposition of Judge Wright and the other lawyers who attended the deposition? The circumstances under which Mr. Ward came to take such an affidavit and what he knows about the variety of issues mentioned in the House Managers' proffer on this item will undoubtedly be fair subjects of discovery by the President's lawyers if this is admitted.

The House Managers characterized documents as certain telephone records and the participants in various telephone calls whose identities are not revealed by the records. Indeed, those proffered documents are without authentification. The House Republican Managers' brief goes even farther, suggesting that the telephone records will prove what happened at the White House gate on December 6, and asserting the identity of those who participated in telephone calls and the content of those telephone calls and concluding that they prove meetings and conversations that were not even by telephone. The documents appear to be a series of numbers. Giving them content and context will require more than mere authentification and any such testimonial explanation can be expected to engender further discovery, as well.

Now let me turn to the witnesses that the House Managers have identified by name and for which they are expressly seeking subpoenas at the outset of this discovery period. I understand that under Senate Resolution 16 Senators must vote for or against the entire package of witnesses and discovery requested by the House.

The House Republican Managers have already interviewed Monica Lewinsky after Mr. Starr arranged for that interview and had her ordered to comply. In light of the circumstances under which she has already been forced to cooperate with the House Republican Managers, any doubt as to the coercion being exercised through her immunity agreement could not be more starkly seen. I seriously question Ms. Lewinsky's freedom to express herself in the present circumstances and suggest that her immunity situation will inevitably affect the credibility of anything that she might "add" to the House's case. Mr. Starr has the equivalent of a loaded gun to her head, along with her mother's and her father's.

Consider also the report in The Washington Post on Tuesday that Mr. Starr tore up her immunity agreement once before when she tried to clarify her February 1998 proffer to note that she and the President had talked about using a "cover story" before she was ever subpoenaed as a witness in the Jones case, not after. That is now a key point of the House Managers' proffer but it points now in the other direction by suggesting that she is now willing to testify that the President "instructed" her to invoke cover stories if questioned in connection with the Jones case. Would not such a shift in testimony necessarily lead to discovery into the impact of the immunity agreement on her testimony and the many twists and turns in the 7-month negotiation between Mr. Starr and Ms. Lewinsky's attorneys and the pressures exerted upon her over the last six months?

Moreover, press accounts of the celebrated interview of Ms. Lewinsky by the House Managers last weekend suggest that she may also have said things during that interview that were favorable to the President. The President's counsel are now in the untenable position of having to oppose the House Managers' motion without specific knowledge of any exculpatory information that Ms. Lewinsky may have provided that would weigh against the need to call her as a witness. That is unfair and contrary to basic precepts of our law. The House Managers created this circumstance and should not benefit from it.

The House Managers also insist that they must open discovery to take the deposition of Vernon Jordan. Mr. Jordan has been interviewed or testified under oath before Starr's grand jury at least five times already. The House Managers' proffer is merely that they expect that his live testimony will lead to reasonable and logical inferences that might help their case and somehow link the job search to discouraging her testimony in the Jones case. That is not a proffer of anything new but an attempt to take another shot at eliciting testimony that Mr. Starr could not.

The House Managers also insist that the Senate must depose Sidney Blumenthal. Mr. Blumenthal also testified before the Starr grand jury. The House Managers' proffer notes nothing new that he would be expected to provide.

If the President has been willing to forego the opportunity to cross examine the witnesses whose grand jury testimony has been relied upon by the House Managers, that removes the most pressing need for further discovery in this matter. After all, Ms. Lewinsky and Mr. Jordan, and to a lesser extent, Mr. Blumenthal, were interviewed for days and weeks by the FBI, trained investigators, Mr. Starr's lawyers and then testified, some repeatedly, before the Starr grand jury. That is about as one-sided as discovery gets—no cross examination, no opportunity to compare early statements with the way things are reconfigured and re-expressed after numerous preparation sessions with Mr. Starr's office.

These witnesses testified under threat of prosecution by Mr. Starr. Ms. Lewinsky remains under a very clear threat of prosecution, even though she has a limited grant of immunity from Starr. This special prosecutor has shown every willingness to threaten and prosecute.

If the President has not initiated efforts to obtain more discovery and witnesses and is willing to have the matter decided on the voluminous record submitted to the House, the House Managers carry a heavy burden to justify extending these proceedings further and requiring the reexamination of people who have already testified.

I heard over and over from the House Managers that there is no doubt, that the record established before the House and introduced into this Senate proceeding convinced the House to vote for articles of impeachment to require the removal of the President from office last month. The House Managers have told us that they have done a magnificent job and established their case.

Based on the House Managers' Motion and their proffer in justification, I do not believe that they have justified extending these proceedings into the future through additional depositions and additional evidence. Can anyone confidently predict how many witnesses will be needed to sort through the evidentiary supplement that the House proffers and the issues that it raises? Can anyone confidently predict how long that discovery will take and how long this trial will be extended? And for what? What is the significant and ultimate materiality to the fundamental issues being contested at this trial of the materials the House is moving now to include in the record? Although the House Managers can say that they only sought to depose three witnesses, does anyone think that in fairness the President's lawyers and the House Managers together will not end up deposing at least 10 people if the Senate were to grant the House motion?

The Senate should not extend these proceedings by a single day. The Senate runs a grave risk of being drawn down into the mire that stained the House impeachment proceedings. Republicans and Democrats have all told me that they do not believe that there is any possibility that this trial will end in the conviction of the President and his removal. In that light, the Senate should have proceeded to conclude this matter rather than extend it.•

MOTION TO DISMISS THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

• Mr. LEAHY. Mr. President, this Senate is the last of the 20th century. We begin this first session of the 106th Congress facing a challenge that no other Senate in over 100 years has been called upon to meet; namely, whether to remove from office the person the American people elected to serve as the President of the United States.

What we do in this impeachment of the President, in terms of the standards we apply and the judgments we make, will either follow the Constitution or alter the intent of the Framers for all time. I have heard more than one Senator acknowledge that in that sense it is not just the President but also the Senate that is on trial in this matter.

The Senate now has an opportunity, as provided in S. Res. 16, to vote on a motion to conclude these proceedings by adopting Senator BYRD'S motion to dismiss. I commend Senator BYRD and agree with him that such action is both appropriate and in the best interests of the nation. I do not believe that the House Managers have proven a case for conviction and removal of the President on the Articles of Impeachment sent by the House last year. I further suggest that those articles are improperly vague and duplicitous.

THE PRESIDENT'S CONDUCT

We can all agree that the President's conduct with a young woman in the White House was inexcusable. It was deeply disappointing, especially to those who know the President and who support the many good things he has done for this country. His conduct in trying to keep his illicit relationship secret from his wife and family, his friends and associates, and from the glare of a politically-charged lawsuit and from the American public, though understandable on a human level, has had terrible consequences for him personally and for the legacy of his presidency.

Last week Senator Bumpers reminded us of the human costs that have been paid by this President and his family. The underlying lawsuit has now been settled and a financial settlement of $850,000 has been paid on a case that the District Court judge had dismissed for failing to state a claim. The President has admitted terribly embarrassing personal conduct before a Federal grand jury, has seen a videotape of that grand jury testimony broadcast to the entire nation and had excerpts replayed over and over, again. Articles of Impeachment were reported by the House of Representatives against a President for only the second time in our history.

The question before the Senate is not whether William Jefferson Clinton has suffered, for surely he has as a result of his conduct. The question is not even whether William Jefferson Clinton should be punished and sent to jail on a criminal charge, for the Constitution does not confer that authority on this court of impeachment. The question, as framed by the House, is whether his conduct violated federal criminal laws and, if he did, whether those crimes constitute "other high crimes and misdemeanors" warranting his removal from the office of President to which he was reelected by the people of the United States in 1996.

SPECIAL PROSECUTOR STARR

Justice Robert Jackson, when he was Attorney General in 1940, observed that the most dangerous power of the prosecutor is the power to "pick people that he thinks he should get, rather than cases that need to be prosecuted." When this happens, he said, "it is not a question of discovering the commission of a crime and then looking for the man who has committed it, it is a question of picking the man and then . . . putting investigators to work, to pin some offense on him." "It is here," he concluded, "that law enforcement becomes personal, and the real crime becomes that of being unpopular with the predominant or governing group, being attached to the wrong political views, or being personally obnoxious to or in the way of the prosecutor himself."

In the case of President William Jefferson Clinton, things became personal a long time ago. I am not alone in questioning Mr. Starr's conduct. His own ethics advisor felt compelled to resign his position after Mr. Starr appeared before the House Judiciary Committee as the head cheerleader for impeachment.

It now appears that Mr. Starr has gone from head cheerleader to the chief prosecutor for impeachment. Over the last week he forced Ms. Lewinsky to cooperate with the House Republican managers as part of her immunity agreement. She must "cooperate" under the threat that Mr. Starr may decide to prosecute her, her mother or her father if he is not satisfied.

THE SENATE

It is now up to the Senate to restore sanity to this process, exercise judgment, do justice and act in the interests of the nation. We will be judged both today and by history on whether we resolve this case in a way that serves the good of the country, not the political ends of any political party or particular person.

I doubt that any Senator can impartially say that the case against the President has been established beyond a reasonable doubt. In this matter, my view is that is the appropriate standard of proof. Here the Senate is being asked to override the electoral judgment of the American people with respect to the person they elected to serve them as the President of the United States. In this matter the charges have not been established beyond a reasonable doubt in a criminal case.

The inferences the House Managers would draw from the facts are not compelled by the evidence. Indeed, the House Managers fail to take into account Ms. Lewinsky's admitted interest in keeping her relationship with President Clinton from the public and out of the Jones case. They ignore the role of Linda Tripp in Ms. Lewinsky's job search and the fact that it was Ms. Tripp who suggested that Ms. Lewinsky involve Vernon Jordan. In light of these and other fundamental flaws in the House Manager's case, I doubt whether many can vote that the articles have been established by clear and convincing evidence.

I know that Republican Senators as well as Democratic Senators have told me that they do not believe there is any realistic possibility that the Senate will convict the President and remove him from office. I agree. Having heard the arguments from both sides and considered the evidence, I do not believe that there is any possibility that the Senate will convict the President on the Articles of Impeachment and remove him from office. That being so, I believe that the interests of the nation are best served by ending this matter now, at the earliest opportunity.

As a consequence of the House's action, the impeachment process is continuing to preoccupy the Congress into this year. This unfinished business of constitutional dimension will necessarily displace the other important business facing the country until it is resolved. I believe this matter should be concluded and we should turn our attention to legislative matters.

History has judged harshly the Radical Republicans who pursued impeachment against President Andrew Johnson. I believe that history will likewise render a harsh judgment against those who have fomented this impeachment of William Jefferson Clinton on the charges brought forward by the House of Representatives. I do not believe those charges have been or can be proven. I do not believe that the House Managers have justified the Senate overriding the 1996 presidential election and ordering the duly elected President of the United States removed from office.

When the Chief Justice as presiding officer sustained objection to the House Managers' mischaracterization of the Senate in this matter, it highlighted the House Managers' misconceptions of the trial. Senators are not merely serving as petit jurors who will be instructed on the law by a judge and are asked to find facts. Senators have a greater role and a greater responsibility in this trial. As the Chief Justice properly observed: "The Senate is not simply a jury; it is a court in this case."

Our job is to do justice in this matter and to protect the Constitution. In that process, I believe we must serve the interests of the nation and fulfill our responsibilities to the American people. I believe that this impeachment trial should have been concluded now and that the Articles of Impeachment should be dismissed.●

ORDERS FOR JANUARY 29, FEBRUARY 2, AND FEBRUARY 3, 1999

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Friday, January 29, for a pro forma session only.

I further ask consent that immediately after convening on Friday, the Senate then adjourn over until Tuesday, February 2, at 10 a.m., for a pro forma session only.

I further ask that immediately upon convening on Tuesday, the Senate then adjourn automatically until 12 noon on Wednesday, February 3.

I ask unanimous consent that when the Senate convenes on Wednesday, immediately following the prayer, the Journal of the proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved, and there then be a period for morning business until the hour of 2 p.m. with the time divided as follows: 60 minutes under the control of the majority leader, or his designee; 60 minutes under the control of the minority leader, or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR COMMITTEES TO FILE LEGISLATIVE AND EXECUTIVE MATTERS

Mr. LOTT. I finally ask unanimous consent that, notwithstanding the pro forma sessions, it be in order for committees to file legislative and executive matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. As just announced, the Senate will be conducting pro forma sessions on Friday and Tuesday. No business will be transacted. The Senate will be in legislative session on Wednesday and may consider any legislative or executive items that may be available. The Court of Impeachment will next meet at 1 p.m. on Thursday.

Mr. ROBB addressed the Chair.

Mr. LOTT. I yield, Mr. President, the floor so that the Senator can offer a bill.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia.

Mr. ROBB. I thank the Chair.

(The remarks of Mr. ROBB pertaining to the introduction of S. 329 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:51 p.m., adjourned until 10 a.m. on Friday, January 29, 1999.

SENATE—*Friday, January 29, 1999*

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

ADJOURNMENT UNTIL 10 A.M., TUESDAY, FEBRUARY 2, 1999

The PRESIDENT pro tempore. Under the previous order, the Senate stands adjourned until 10 a.m. on Tuesday, February 2, 1999.

Thereupon, the Senate, at 10 o'clock and 22 seconds a.m., adjourned until Tuesday, February 2, 1999, at 10 a.m.

LIBRARY OF MICHIGAN

MAY 26 2004

U.S. DOCUMENT
RECEIVED DEPOSITORY